

Staff Briefing Papers

Meeting Date **October 4, 2018**

Agenda Item **4

Company Otter Tail Power Company (Otter Tail)

Docket No. **E017/M-18-119**

In the Matter of Otter Tail Power Company's 2018
Conservation Cost Recovery Adjustment and 2017 Electric
Demand Side Management Financial Incentive

- Issues
1. What December 31, 2017 tracker account balance should be approved by the Commission?
 2. What level of Shared Savings financial incentive should the Commission approve for Otter Tail's 2017 CIP achievements?
 3. Should the Commission approve a 2018/2019 Conservation Cost Recovery Adjustment (CCRA) of \$0.00600/kWh for bills rendered on and after October 1, 2018?
 4. Should the Commission approve the request for a variance to Minnesota Rule 7820.3500 (K) to allow Otter Tail to continue to combine the Fuel Clause Adjustment (FCA) with the Conservation Improvement Adjustment on customer bills? And
 5. Should the Commission require Otter Tail to submit a compliance filing, within 10 days of the issue date of the Order in the present docket, with revised tariff

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sheets reflecting the Commission's determinations in this matter?

Staff

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Relevant Documents

Date

Initial Filing – 2017 DSM Financial Incentive/CIP Project Rider and 2017 Conservation Improvement Project Status Report Correction filed April 5, 2018

March 30, 2018

Comments of Minnesota Department of Commerce (DOC)

May 30, 2018

Reply Comments Otter Tail Power

June 13, 2018

Response to Reply Comments-
Minnesota Department of Commerce (DOC)

July 3, 2018

Reply Comments of Otter Tail Power Company
Second Set of Reply Comments

July 13, 2018

Response to Second Set of Reply Comments-
Minnesota Department of Commerce (DOC)

August 1, 2018

I. Statement of the Issues

1. What December 31, 2017 tracker account balance should be approved by the Commission?
2. What level of Shared Savings financial incentive should the Commission approve for Otter Tail's 2017 CIP achievements?
3. Should the Commission approve a 2018/2019 Conservation Cost Recovery Adjustment (CCRA) of \$0.00600/kWh for bills rendered on and after October 1, 2018?
4. Should the Commission grant the request for a variance to Minnesota Rule 7820.3500 (K) and a variance to Minnesota Rules part 7825.2600 for one year after the issue date of the Commission's Order in the present docket to allow Otter Tail to continue to combine the Fuel Clause Adjustment (FCA) with the Conservation Improvement Adjustment on customer bills? And
5. Should the Commission require Otter Tail to submit a compliance filing, within 10 days of the issue date of the Order in the present docket, with revised tariff sheets reflecting the Commission's determinations in this matter?

II. Background

On March 30, 2018, Otter Tail Power Company (Otter Tail, OTP or the Company) submitted its annual Conservation Improvement Program (CIP) filing (Petition) for 2017 with the Minnesota Public Utilities Commission (Commission) in Docket No. E017/M-18-119. The Petition contains the following requests:

- approval of a Demand Side Management (DSM) financial incentive of \$2,642,360;
- approval to carry forward energy savings of 9,006,674 kWh and net benefits of \$4,053,482 from 2017 to 2018, for purposes of calculating the 2018 financial incentive;
- approval of proposed recoveries and expenditures in the Company's CIP tracker account during 2017 resulting in a year-end 2017 balance of \$7,362,345;
- approval of a 2018/2019 Conservation Cost Recovery Adjustment (CCRA) of \$0.00600 per kWh for bills rendered on and after October 1, 2018; and

- approval of a variance to Minnesota Rule 7820.3500 to allow Otter Tail to continue to combine the Fuel Clause Adjustment (FCA) with the Conservation Improvement Adjustment on customer bills.

On May 30, 2018, the Minnesota Department of Commerce filed reply comments. On June 13, 2018, Otter Tail filed reply comments. In those reply comments, Otter Tail modified its proposal. Rather than requesting that the Commission approve the carry-forward of net benefits from 2017 to 2018, the Company instead requested that the Commission approve the Company's 2017 budgeted expenditures of \$775,483 for its Company-Owned Street and Area LED Lighting Program (LED Program), rather than the Company's actual 2017 LED Program expenditures of \$0, for purposes of calculating the financial incentive.

On July 3, 2018, the DOC filed a response to Otter Tail's June 13th reply comments. On July 13, 2018, Otter Tail filed a second set of reply comments. The DOC filed a reply to Otter Tail's July 13th reply comments.

III. Parties' Comments

1. What December 31, 2017 tracker account balance should be approved by the Commission?

Otter Tail: Otter Tail recommends that the Commission approve Otter Tail's 2017 CIP tracker account resulting in a December 31, 2017 tracker balance of \$7,362,345.

DOC: The DOC recommends that the Commission approve Otter Tail's 2017 CIP tracker account, as summarized in Table 1 on page 9 of the Department's May 30, 2018 Comments, resulting in a December 31, 2017 tracker balance of \$7,362,345.

2. What level of Shared Savings financial incentive should the Commission approve for Otter Tail's 2017 CIP achievements?

Otter Tail: Otter Tail's 2017-2019 CIP triennial plan was initially approved in November 2016. This plan included a multi-year LED street light project to change out all company-owned street lights in Minnesota. Including the LED street light project in CIP was a creative concept by the Company to deliver net benefits to customers, deliver a requested product to customers, and was not to be included towards the financial incentive calculation since the project comprised of Company owned lights.

To implement the LED street light project, the Company first needed to update its rate schedules to accommodate the new LED fixtures. On February 22, 2017, the Company filed a

plan with the Minnesota Public Utilities Commission (MPUC) to update its Street and Area Lighting rate schedule and implementation plan, Docket No. E017/M-17-152. The Company believed the rate schedule changes would be approved in 2017 and implementation of the LED project would launch. Unfortunately, the administrative process took longer than expected with several extensions to the docket. The MPUC approved Otter Tail's LED with an order issued on December 13, 2017. With the approval very late in 2017 Otter Tail was unable to implement the program in 2017. The MPUC's order approved a spending cap on the LED project of \$775,483 in year one of the multi-year project.

Otter Tail's financial incentive was significantly impacted by the long administrative process for approval of the LED project. Otter Tail appreciates the work by all parties to gain approval of the LED project, but the Company did not intend the negative impacts to the Company's CIP financial performance incentive.

The Company's 2017 CIP net benefits of \$23,626,518 equated to a financial incentive of \$3,189,580, but with the new rule only allowing the financial incentive to be 40 percent of spending, Otter Tail's financial incentive was limited to \$2,642,360 based on \$6,605,899 spending in 2017.

The Company's 2017 CIP results provided \$23.6 million in customer net benefits. Otter Tail's requested performance incentive of \$2,938,110 is only 12.4 percent of total net benefits. This is less than the maximum payout of 13.5 percent of net benefits due to Otter Tail's effective management of CIP program expenses and due to the LED Street Lighting filing not being implemented. The performance incentive plan encourages Otter Tail to maximize cost-effective conservation above all other resources.

Otter Tail's 2017 CIP achievements are record setting and should not be limited by the unique circumstances created by the administrative process. Otter Tail requests the MPUC to allow the Company to include the MPUC approved budget of \$775,483 for the LED project towards the Company's spending in 2017 for calculations of the financial performance incentive. The Company made a good faith effort to offer a customer focused program in 2017 but did not believe the Company's financial incentive would be negatively impacted as a result.

Including the \$775,483 for the LED project on top of the Company's \$6,605,899 spending for 2017 equals a total of \$7,381,382. Forty percent cap on this amount equals a performance incentive of \$2,952,552 which is lower than the \$3.1M actual performance but higher than the \$2.6M with the 40 percent spending cap. Otter Tail believes this is a reasonable approach to reward the Company for record setting energy savings. This approach still applies the 40 percent spending cap, encourages the utility to pursue non-financial incentive customer focused energy saving programs in the future, and remedies the unique circumstances created by the administrative process.

Otter Tail argues its request does not conflict with Minnesota statute and the believes the MPUC has the authority to recognize the unique situation surrounding the Company's 2017 CIP and allow the inclusion of the LED Street Lighting project's year one budget within the

Company's 2017 CIP spending. The Company does not believe that its request conflicts with any CIP statutory provisions.

DOC: Utilities file annual CIP status updates with the Deputy Commissioner of Commerce; these status updates include actual spending. The Deputy Commissioner reviews these status updates, including the spending, and then approves, modifies or rejects them.

Minnesota Statute § 216B.241, Subd. 2b states: "The commission shall allow a utility to recover expenses resulting from a conservation improvement program required by the department and contributions and assessments to the energy and conservation account, unless the recovery would be inconsistent with a financial incentive proposal approved by the commission."

The Company's proposal that the Commission allow budgeted rather than only actual CIP expenditures to be used as a basis for the cap on the financial incentive could be seen as a divergence from the Deputy Commissioner's approved CIP spending. However, the Company's request is not for purposes of recovery of that spending; instead, the proposal is only for purposes of calculating the expenditures-based financial incentive cap.

Therefore, since the Company's proposal appears to relate solely to the financial incentive, the Department concludes that the Commission may have authority to grant or deny this request. However, since Minnesota Statutes do not explicitly address this situation specifically, the Department concludes that the Commission first needs to determine whether it has authority to shift a portion of Commerce Commissioner-approved CIP expenses to a different year for purposes of calculating the cap on a utility's financial incentive.

Minnesota Statute § 216B.16 subd. 6c outlines the factors the Commission must consider when approving incentive plans. If the Commission determines that it has authority in regards to the Company's proposal, the Commission could evaluate the merits of the proposal using the factors given in that statute. The Department provides the following analysis based on the criteria contained in Minnesota Statute § 216B.16, subd. 6c.

- (1) whether the plan is likely to increase utility investment in cost-effective energy conservation;

The Company's proposal does not meet this criteria. The Department notes that the Company has already begun cost-effective investment in the LED Program. Denying the Company's proposal would not halt the program, nor would it discourage the Company from achieving the greatest savings possible through the program. Approving Otter Tail's proposal will not increase investment in cost-effective savings.

- (2) whether the plan is compatible with the interest of utility ratepayers and other interested parties;

The Company's proposal does not meet this criteria because it provides a significantly higher incentive than calculated under approved rules without providing any additional value to ratepayers.

- (3) whether the plan links the incentive to the utility's performance in achieving cost-effective conservation;

This proposal does not meet this criteria. Otter Tail did not save energy from the LED Program in 2017, and so allowing budgeted spending in 2017 to count towards the financial incentive expenditure cap would actually de-link the incentive and the utility's performance.

- (4) whether the plan is in conflict with other provisions of this chapter.

The Company's proposal appears to meet this criteria. The Department is unaware of any conflicts with any other provisions of this chapter.

The Department concludes that Otter Tail's proposal to count the 2017 budgeted expenditures associated with the LED program in the Company's 2017 CIP expenditures for the purposes of calculating its financial incentive cap does not meet the criteria of Minnesota Statute § 216B.16 subd. 6c

3. Should the Commission approve a 2018/2019 Conservation Cost Recovery Adjustment (CCRA) of \$0.00600/kWh for bills rendered on and after October 1, 2018?

Otter Tail: Otter Tail recommends that the Commission approve a CCRA of \$0.00600 per kWh, to be effective October 1, 2018

DOC: The DOC recommends that the Commission approve a CCRA of \$0.00600 per kWh, to be effective October 1, 2018, or the first day of the month following the Commission's Order in this matter

4. Should the Commission grant the request for a variance to Minnesota Rule 7820.3500 (K) and a variance to Minnesota Rules part 7825.2600 for one year after the issue date of the Commission's Order in the present docket to allow Otter Tail to continue to combine the Fuel Clause Adjustment (FCA) with the Conservation Improvement Adjustment on customer bills?

Otter Tail: Otter Tail recommends that grant Otter Tail a variance to Minnesota Rules part 7820.3500 (K) and a variance to Minnesota Rules part 7825.2600 for one year after the issue date of the Commission's Order in the present docket

DOC: The DOC recommends that the Commission grant Otter Tail a variance to Minnesota Rules part 7820.3500 (K) and a variance to Minnesota Rules part 7825.2600 for one year after the issue date of the Commission's Order in the present docket.

5. **Should the Commission require Otter Tail to submit a compliance filing, within 10 days of the issue date of the Order in the present docket, with revised tariff sheets reflecting the Commission's determinations in this matter?**

Otter Tail: Otter Tail recommends that the Commission require Otter Tail to submit a compliance filing, within 10 days of the issue date of the Order in the present docket, with revised tariff sheets reflecting the Commission's determinations in this matter.

DOC: The DOC recommends that the Commission require Otter Tail to submit a compliance filing, within 10 days of the issue date of the Order in the present docket, with revised tariff sheets reflecting the Commission's determinations in this matter.

IV. Staff Analysis

Staff acknowledges that there is no controversy for issues 1, 3, 4, and 5. However, the issue of the basis and the level of financial incentive is an issue which requires Commission resolution. First, in making a determination on this issue, the commission should consider the timing of the LED Street Lighting proceeding, Docket No. E017/M-17- 152. It was filed on February 22, 2017 with the presumption that rate schedule changes would be approved in 2017 and implementation of the project would take place in 2017. The financial incentive was significantly impacted by the long administrative process for approval of the LED project.

The approved budget for the Otter Tail's 2017 CIP spending was \$7,381,382. Subsequently, this was adjusted down to \$7,345,274.¹ The actual 2017 CIP spending was \$6,605,899. The difference, \$739,375 was due to the delay in the LED Street lighting proceeding. Given the structure of the CIP incentive which caps the financial incentive at 40% of CIP spending, Otter Tail's financial incentive is \$2,642,360 if the \$739,375 is excluded. However if the Commission approves the use of the approved budgeted spending amount which includes the \$739,375, Otter Tail's incentive payment will be \$2,938,110.

The other portion of the CIP incentive which caps the financial incentive at 13.5% of net benefits is not binding in this circumstance. Given that the Otter Tail's 2017 net benefits from the CIP are \$23,626,518, the resulting incentive payment to Otter Tail would be \$3,189,580. As such, Otter Tail would receive a larger incentive payment had the only cap been the incentive payment as percentage of net benefits. Again, the Commission could consider this as part of its overall consideration of the reasonableness of Otter Tail's request.

¹ In the Company's July 13, 2018 reply comments, Otter Tail agreed with the DOC that any rate of return amounts on the LED lights should not be included as eligible CIP expenses. This results in a reduction of \$36,108 in eligible CIP expenses.

With respect to the Commission's authority to make such an adjustments to a utilities CIP financial incentive for a given year, none of the parties seriously challenged that authority.

Finally, the DOC raised the point that these expenditures do not vanish if not included in 2017. Otter Tail could include the LED Street Lighting expenses beginning in 2017 and each of the four years after that. Alternatively, the Company is able to recover those expenses beginning in 2018 and each of the four years after that. The LED Street Lighting is expected to incur costs for a total of five years. The incentive simply shifts to the years in which the costs are incurred.

With the above in mind, Staff reminds the Commission that the structure of the CIP incentive mechanism is scheduled to reduce the two caps in the following manner over the next two years of the program:

For All Utilities - The Following Net Benefit Caps:

1. 13.5 percent in 2017
2. 12.0 percent in 2018
3. 10.0 percent in 2019

For All Utilities - The Following Percent of CIP Expenditure Caps:

1. 40 percent in 2017
2. 35 percent in 2018
3. 30 percent in 2019

V. Decision Options

1. What December 31, 2017 tracker account balance should be approved by the Commission?
 - A. Approve Otter Tail's 2017 CIP tracker account resulting in a December 31, 2017 tracker balance of \$7,362,345 (Please see Table 1 page 9 of the DOC's May 30, 2018 comments).
 - B. Do not approve Otter Tail's 2017 CIP tracker account resulting in a December 31, 2017 tracker balance of \$7,362,345.
2. What level of Shared Savings financial incentive should the Commission approve for Otter Tail's 2017 CIP achievements?
 - A. Approve a Shared Savings financial incentive of \$2,642,360 for Otter Tail's 2017 CIP achievements which **does not** include the LED Street Lightings project's

- \$739,375 budget in 2017 CIP spending for the financial performance incentive (DOC recommendation).
- B. Approve a Shared Savings financial incentive of \$2,938,110 for Otter Tail's 2017 CIP achievements which **includes** the LED Street Lightings project's \$739,375 budget in 2017 CIP spending for the financial performance incentive (Otter Tail recommendation).
3. Should the Commission approve a 2018/2019 Conservation Cost Recovery Adjustment (CCRA) of \$0.00600/kWh for bills rendered on and after October 1, 2018?
- A. Approve a CCRA of \$0.00600 per kWh, to be effective October 1, 2018, or the first day of the month following the Commission's Order in this matter.
- B. Approve some other rate for a 2018/2019 Conservation Cost Recovery Adjustment (CCRA) for bills rendered on or after October 1, 2018.
4. Should the Commission grant the request for a variance to Minnesota Rule 7820.3500 (K) and a variance to Minnesota Rules part 7825.2600 for one year after the issue date of the Commission's Order in the present docket to allow Otter Tail to continue to combine the Fuel Clause Adjustment (FCA) with the Conservation Improvement Adjustment on customer bills?
- A. Grant Otter Tail a variance to Minnesota Rules part 7820.3500 (K) and a variance to Minnesota Rules part 7825.2600 for one year after the issue date of the Commission's Order in the present docket.
- B. Do not grant Otter Tail a variance to Minnesota Rules part 7820.3500 (K) and a variance to Minnesota Rules part 7825.2600 for one year after the issue date of the Commission's Order in the present docket.
5. Should the Commission require Otter Tail to submit a compliance filing, within 10 days of the issue date of the Order in the present docket, with revised tariff sheets reflecting the Commission's determinations in this matter?
- A. Require Otter Tail to submit a compliance filing, within 10 days of the issue date of the Order in the present docket, with revised tariff sheets reflecting the Commission's determinations in this matter.
- B. Require Otter Tail to submit a compliance filing, within a different number of days of the issue date of the Order in the present docket, with revised tariff sheets reflecting the Commission's determinations in this matter.

VI. Staff Recommendation

Staff recommends that the Commission adopt alternatives 1A, 3A, 4A, and 5A.