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July 21, 2017

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101-2147

**RE: In the Matter of a Commission Inquiry into the Creation of a Commission  
Subcommittee under Minn. Stat. §216A.03, subd. 8.  
Docket No. E999-CI-17-284  
Supplemental Comments**

Dear Mr. Wolf:

Otter Tail Power Company (Otter Tail) hereby submits Supplemental Comments to the Minnesota Public Utilities Commission (Commission) in the above referenced matter.

Otter Tail has electronically filed this document with the Commission and is serving a copy on all persons on the official service list for this docket. A Certificate of Service is also enclosed.

If you have any questions regarding this filing, please contact me at 218-739-8956 or at [cstephenson@otpc.com](mailto:cstephenson@otpc.com).

Sincerely,

*/s/ CARY STEPHENSON*  
Cary Stephenson  
Associate General Counsel

ljh  
Enclosures  
By electronic filing  
c: Service List

**STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION**

Nancy Lange	Chair
Dan Lipschultz	Commissioner
Matt Schuerger	Commissioner
Katie Sieben	Commissioner
John Tuma	Commissioner

In the Matter of a Commission  
Notice of Comment Period on Possible  
Distributed Generation Subcommittee  
under Minn. Stat. 216A.03, Subd. 8

Docket No. E999/CI-17-284

**Supplemental Comments of Otter Tail Power Company**

Otter Tail Power Company (Otter Tail) respectfully submits the following Supplemental Comments in response to the Minnesota Public Utilities Commission (Commission) July 6, 2017, Notice of Supplemental Comment Period.

Overall Otter Tail remains concerned that the delegation of issues to a newly created Distributed Generation Subcommittee (DG subcommittee) will not achieve meaningful efficiencies. Another layer of administrative process, even if narrowly defined, risks expanding rather than reducing the time necessary to resolve disputes. The current structures, while not without weaknesses, provide an incentive to parties to work out issues on their own. Another administrative process may reduce this incentive and push parties into an adversarial posture sooner than would otherwise be the case.

To the extent the Commission adopts changes to current procedures, Otter Tail agrees with other commenters urging an incremental approach. In that sense Otter Tail supports the Stakeholder Group proposal noted below in lieu of a DG subcommittee. Should a DG subcommittee go forward, Otter Tail supports the pilot program proposed by Xcel. Otter Tail's supplemental comments follow the outline provided in Attachment A-1 of the Commission's Notice.

## **1. Additional Work that Could be Delegated to Subcommittee**

Several commenters asked for further details on work that could be delegated to the proposed subcommittee. Staff offers the following options: objections to interventions in non-contested cases, requests for ALJs for discovery disputes, and requests for the OAH to conduct public hearings. Staff requests comments on these options.

Assuming for analysis that the Commission creates a DG subcommittee, Otter Tail favors an initial scope consistent with Minn. Rule 7829.1050 Subpart 1. As suggested by other commentators, the scope could be expanded as the DG subcommittee gains experience and the process matures. As to the additional work items, Otter Tail questions whether it would be worthwhile to delegate intervention issues to the DG Subcommittee. If a party objects to intervention under Minn. Rule 7829.0800 and that objection is denied, that party would presumably have recourse to the full Commission under Minn. Stat. §216A.03, subd. 8. If a party felt strongly enough to object before the DG subcommittee it would likely feel it necessary to ask for review by the full Commission. Consequently, there may be little time and effort saved by adding an intermediate administrative layer. Moreover, the grounds for intervention outlined in Minn. Rule 7829.0800 Subp. 2 can involve policy considerations and interpretations of statute that may be better addressed by the Commission. The delegation of requests for ALJ's in discovery disputes, and requests for the OAH to conduct public hearings appear less likely to involve interpretation of laws or application of policy issues, and would seem more suitable for delegation.

## **2. Create the Subcommittee as a Pilot, With Evaluation**

Xcel suggested that evaluations be performed on the subcommittee. One option is to create the subcommittee for only a period of 18 months, with the requirement that it end unless the Commission affirmatively decides to continue it beyond 18 months in a subsequent order. Staff suggests 18 months in order to allow the time for a full 12 months of evaluation. Staff requests comment on this option.

Otter Tail supports the above-described pilot program, especially if the Commission expands the issues to be addressed by the DG subcommittee beyond uncontested or undisputed matters. An incremental approach is better suited to safeguarding due process and fairness while allowing the Commission and interested parties in to assess what really works. Otter Tail supports the 18-

month time frame referenced in this Comment. This time-frame and structure compel an orderly and thorough assessment of the appropriate scope of issues referred to the DG Subcommittee.

### **3. Do Not Create a Subcommittee, and Post Additional Details on Complaints**

DEA suggests that the Commission instead report complaint information on its website. Staff notes that the Commission's rules already require utilities to file public complaint information with the Commission, annually, pursuant to Minnesota Rules 7820.0500. Staff requests comment on the option that the Commission revise its annual complaint form that utilities use, in order to separate out and provide more description on complaints involving DG as part of the reporting requirement in Minn. Rule 7820.0500, subp. B. Staff notes that under the data practices act, the identity of a complainant contacting the Commission or Department is nonpublic and only topics or general issues not involving persons' identities could be disclosed.

Otter Tail appreciates Staff's concerns. These concerns could be addressed in part by modifying the current complaint reporting format to add a section for DG-related complaints. Within this section the report could include a general summary of the character of the complaint and the disposition of the complaint. This data could then be compiled into topical categories and published. This combined with a FAQ of providing guidance on to include prior Commission determinations could provide valuable guidance to interested parties.

### **4. Adopt Processes Used by Other State Commissions**

Some commenters suggested that this Commission look to the complaint processes used by other state commissions. The Iowa Utilities Board authorizes its complaint staff to issue resolution letters to customers and utilities. The Commission's Rules on CAO do not preclude this approach, allowing staff to process informal complaints by "correspondence, mediation, arbitration, and other informal means." See Minn. Rule 7829.1600. The IUB allows either the customer or utility, if dissatisfied with staff's proposed resolution, to appeal to the Board for a decision by the Commissioners. Staff requests comments on this option or similar options.

Otter Tail believes it is worthwhile to examine the procedures used by other states, to include the procedures adopted by Iowa. Before incorporating or adopting Iowa's or another state's procedures a number of questions would need to be answered. As with the adoption of a DG subcommittee, a threshold question includes the scope of issues to be addressed outside of the regular Commission process.

## 5. Stakeholder Advisory Group

Some state and federal agencies use advisory groups to ensure their stakeholders have input into the agency's processes and operations. Another option, in lieu of or in addition to a subcommittee, is for the Commission to receive input from a stakeholder advisory group. Due to the Commission's quasi-judicial nature, the advisory group could only provide input on issues like the Commission's complaint processes, scheduling, resource allocation, and similar issues that do not involve substantive determinations of law or policy. Staff requests comments on this option.

Otter Tail would support the creation of a stakeholder advisor group to provide input on issues like the Commission's complaint processes, scheduling, resource allocation, and similar issues that do not involve substantive determinations of law or policy.

Respectfully submitted,

/s/CARY STEPHENSON

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Date: July 21, 2017

## CERTIFICATE OF SERVICE

RE: **In the Matter of a Commission Inquiry into the Creation of a Commission Subcommittee under Minn. Stat. §216A.03, subd. 8.**  
**Docket No. E999-CI-17-284**

I, Lindsay Hauer, hereby certify that I have this day served a copy of the following, or a summary thereof, on Daniel P. Wolf and Sharon Ferguson by e-filing, and to all other persons on the attached service list by electronic service or by First Class Mail.

**Otter Tail Power Company  
Supplemental Comments**

Dated this **21st** day of **July, 2017**.

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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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