

August 1, 2018

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

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E017/M-18-464

Dear Mr. Wolf:

Attached are the Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Petition of Otter Tail Power for Approval of the Annual Rate Update to its Environmental Upgrades Cost Recovery Rider (ECRR) Rate, Rate Schedule 13.08

The *Petition* was filed on July 3, 2018 by:

Bryce C. Haugen
Senior Rates Analyst
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56538-0496
(218) 739-8385

The Department requests that Otter Tail Power provide supplemental information in its reply comments. Conditioned upon review of Otter Tail Power's reply comments, the Department expects to recommend that the Commission approve OTP's proposed ECRR rate change and deny OTP's proposed methodologies for addressing any uncollected balance of the ECRR at the end of the proposed collection period.

Sincerely,

/s/ MICHAEL LONG
Rate Analyst

ML/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E-017/M-18-464

I. BACKGROUND

On January 23, 2012, the Minnesota Public Utilities Commission (Commission) issued its Order approving Otter Tail Power Company's (OTP or the Company) request for an Advanced Determination of Prudence regarding the installation of an Air Quality Control System (AQCS) at its Big Stone Generation Station Plant located near Milbank, South Dakota in Docket No. E017/M-10-1082. The Big Stone Plant is a multiple-owner plant that OTP owns with Montana Dakota Utilities and NorthWestern Energy. OTP owns 53.9 percent of the plant.

On December 18, 2013, the Commission issued its Order approving OTP's request to begin recovery of costs associated with the Big Stone Plant's AQCS under OTP's proposed Environmental Cost Recovery Rider (ECRR) in Docket No. E017/M-13-648.

On November 26, 2014, the Commission issued its Order approving OTP's first annual update to its ECRR in Docket No. E017/M-14-647.

On May 27, 2015, the Commission issued its Order denying OTP's request to recover reagent costs associated with the Mercury and Air Toxics Standards (MATS) rule through OTP's fuel clause adjustment rider in Docket No. E017/M-14-649. In addition, the Commission denied OTP's request for variances to allow the recovery of costs and revenues associated with emission allowances through OTP's fuel clause adjustment rider.

On March 9, 2016, the Commission issued its Order approving OTP's second annual update to its ECRR in Docket No. E017/M-15-719.

On July 5, 2016, the Commission issued its Order granting provisional approval of OTP's third annual update to its ECRR in Docket No. E017/M-16-373.

On October 30, 2017, the Commission issued its Order in OTP's 2015 rate case, Docket No. E017/GR-15-1033, incorporating the ECRR into OTP's base rates and resetting the ECRR rate to recover the remaining true up balance. Final rates became effective November 2017; the reset ECRR rate is set at (0.935) percent.

On July 13, 2018, OTP filed the petition requesting approval of its fourth annual update to the ECRR rate in Docket No. E017/M-18-464 (Petition).

II. SUMMARY OF FILING

OTP requests approval of its proposed ECRR rate change from (0.935) percent to zero percent, effective December 1, 2018. The ECRR tracker balance is forecasted to be near zero at the end of the collection period, with no additional projects remaining in the ECRR. The ECRR is applicable to electric service under all of OTP's Retail Rate Schedules and is calculated as a percent adder to a portion of each customer's bill, described as follows in OTP's tariff at Section 13.08:

There shall be included on each Minnesota Customer's monthly bill an Environmental Cost Recovery ("ECR") charge based on the applicable cost recovery factor multiplied by the Customer's monthly bill. The Customer's monthly bill shall be based on all applicable charges and credits under the Company's retail rate schedules in Sections 9, 10, 11, 12 and 14, except for Section 14.09 (TailWinds) and Section 14.11 (Released Energy). The Environmental Cost Recovery Charge will not apply to any Mandatory Riders or sales tax and any local assessments as provided in the General Rules and Regulations for the Company's electric service. The Environmental Cost Recovery charge will be included in the Resource Adjustment line item on the Customer's bill.

In addition to the rate change, the Petition requests the deferral of any remaining balance in the ECRR tracker to OTP's next rate case. Alternatively, the Company proposes the incorporation of any remaining balance into another rider, such as the Fuel Clause Adjustment (FCA) Rider. OTP forecasts an ECRR tracker balance of \$38,901 at the end of November, 2018.

III. DEPARTMENT ANALYSIS

A. STATUTORY REQUIREMENTS – ELIGIBILITY FOR ECR RIDER RECOVERY

Minn. Stat. § 216B.1692, subd. 1(b) states that:

Notwithstanding paragraph (a), a project may be approved for the emission reduction rate rider allowed in this section if the project is to be installed on existing large electric generating power plants, as

defined in section 216B.2421, subdivision 2, clause (1), that are located outside the state and are needed to comply with state or federal air quality standards, but only if the project has received an advance determination of prudence from the commission under section 216B.1695.

Minn. Stat. § 216B.1692 , subd. 3 states:

Filing petition to recover project costs. (a) A public utility may petition the commission for approval of an emissions-reduction rider to recover the costs of a qualifying emissions-reduction project outside of a general rate case proceeding under section 216B.16. In its filing, the public utility shall provide:

- (1) a description of the planned emissions-reduction project;
- (2) the activities involved in the project;
- (3) a schedule for implementation;
- (4) any analysis provided to the Pollution Control Agency regarding the project;
- (5) an assessment of alternatives to the project, including costs, environmental impact, and operational issues;
- (6) the proposed method of cost recovery;
- (7) any proposed recovery above cost; and
- (8) the projected emissions reductions from the project.

Pursuant to the Commission's Order on October 30, 2017 in Docket No. E017/GR-15-1033, the uncollected Big Stone AQCS project investment was removed from the ECRR and shifted to OTP's base rates. In the Petition, there are no proposed projects to be included in the ECRR.

B. REASONABLENESS OF REVENUE REQUIREMENTS, TRUE-UP AND CARRYING CHARGE

Pursuant to the Commission's Order in Docket No. E017/GR-15-1033, all uncollected investments from projects in the ECRR were transferred into OTP's base rates. There are no remaining project costs or associated revenue requirements recovered through the ECRR rate. The ECRR tracker balance through November, 2018 consists of a true up amount and a carrying charge. The true up amount is a credit to customers, resulting from a cumulative over collection. The monthly carrying charge is also a credit to customers, calculated at a rate of 1/12 of OTP's cost of capital.

On May 1, 2017, the Commission on page 56 of its *Findings of Fact, Conclusion and Order*, set OTP's cost of capital at 7.5056 percent in Docket No. E017/GR-15-1033. The revised rates for OTP went into effect in November, 2017. The Department notes that the carrying cost on the ECRR tracker remains at 8.61 percent for the collection period from November 2017 to October 2018. The Department recommends that OTP update the ECRR tracker to reflect its current cost of capital of 7.5056 percent, effective November 2017, as established by the Commission.

In the Petition, OTP forecasts a remaining balance in the tracker of \$38,901 at the end of November, 2018. The Company proposes two options to address the remaining balance, which are discussed herein under Section E. Once the remaining balance is addressed, OTP proposes an ECRR rate of zero, reflecting no remaining balance to be collected from or credited to customers.

C. TRACKER BALANCE

The Department notes that, in contrast to previous annual updates, the Petition does not include a monthly tracker balance for one year prior to the beginning of the new collection period, leaving a gap in the reported historical tracker activity. In OTP's most recent update, received on August 28, 2017 in Docket No. E017/M-16-373, the Company provided a tracker including actuals through July, 2017. This leaves a gap in the reported tracker balance for actuals from August to October of 2017. The Department requests that OTP provide actuals from the ECRR tracker for the missing months.

D. SPECIFIC REQUIREMENTS UNDER STATUTE 216B.1692, SUBD. 5(B)

Minn. Stat. § 216B.1692, subd. 5 (b) authorizes the Commission to approve a Rider that:

- (1) allows the utility to recover costs of qualifying emissions-reduction projects net of revenues attributable to the project;
- (2) allows an appropriate return on investment associated with qualifying emissions - reduction projects at the level established in the public utility's last general rate case;
- (3) allocates project costs appropriately between wholesale and retail customers;
- (4) provides a mechanism for recovery above cost, if necessary to improve the overall economics of the qualifying projects to ensure implementation;
- (5) recovers costs from retail customer classes in proportion to class energy consumption; and

- (6) terminates recovery once the costs of qualifying projects have been fully recovered.

Each of these requirements is discussed below.

- 1) *Costs Net of Revenues*

In its reply comments in Docket No. E017/M-16-373, OTP stated that it did not receive any offsetting revenues attributable to the ECRR, but that if any applicable revenues are received in the future, they will be included. Since OTP did not address this issue in the current Petition, the Department recommends that OTP explain in reply comments if it received any such revenues, such as those related to emission allowances or revenues or credits (such as tax credits), and whether these revenues have been included in the ECRR.

- 2) *Return on Investment*

Minn. Stat. 216B.1691, subd. 5(b)(2) allows a return on investment (ROI) at the level approved in the utility's last general rate case. Given that all projects from the ECRR were incorporated into OTP's rate base, there are no investments in the ECRR upon which to apply an ROI. However, as mentioned above, the Department recommends that OTP update the ECRR tracker to reflect its current cost of capital of 7.5056 percent, effective November 2017, as established by the Commission.

- 3) *Allocations*

Minn. Stat. 216B.1691, subd. 5(b)(3) allows the Commission to approve a Rider that allocates costs between wholesale and retail sectors. In past ECRRs, OTP used its energy (E1) and demand (D1) allocators to allocate costs to the Minnesota jurisdiction. As noted above, no projects will remain in the ECRR and OTP proposes a rate change to zero percent, effective December 1, at which point no costs would be allocated between wholesale and retail sectors.

- 4) *Recovery Above Cost*

Minn. Stat. 216B.1691, subd. 5(b)(4) allows the Commission to approve a rider that provides a mechanism for recovery above cost, if necessary to improve the overall economics of the qualifying projects to ensure implementation. The Department is not aware of any instances where OTP has requested, or the

Commission has approved, a mechanism for recovery above cost in OTP's ECRRs, or of any basis for allowing such recovery.

5) *Rate Design*

Minn. Stat. 216B.1691, subd. 5(b)(5) allows the Commission to approve a Rider that recovers costs from retail customer classes in proportion to class energy consumption. In past ECRR's, OTP has used the "percentage of bill" method to allocate costs between customer classes. As noted above, no projects remain in the ECRR and OTP proposes a rate change to zero percent, effective December 1, at which point no costs would be allocated among various retail customer classes.

6) *Termination upon Recovery*

Minn. Stat. 216B.1691, subd. 5(b)(6) allows the Commission to approve a Rider that terminates recovery once the costs of qualifying projects have been fully recovered. As noted above, the Commission approved the transfer of the AQCS project into base rates in Docket No. E017/GR-15-1033. As of November 1, 2017, no remaining project costs are being collected through the ECRR rate; rather, previous over-collections are being credited back to ratepayers.

E. *OPTIONS TO ADDRESS A REMAINING BALANCE*

The Company forecasts a remaining balance of \$38,901 due to OTP at the end of November, 2018. The Company then proposes two options in the Petition to address any remaining balance at the end of the collection period; (a) defer the balance to OTP's next rate case, or (b) transfer the balance to another rider, such as the FCA. The Department addresses these two options, below.

a. *Defer to Next Rate Case*

As mentioned in the Petition, this treatment for the remaining balance is consistent with the remaining balance for OTP's Renewable Resource Cost Recovery Rider, in Docket No. E017/M-12-708 (12-708 Docket). The uncollected balance in the 12-708 Docket was approximately \$60,000, a higher total amount than the uncollected balance of \$38,901 forecasted by OTP for the ECRR at the end of November, 2018.

The Department notes that deferral of an uncollected balance to a subsequent rate case would require deferred accounting treatment. In past dockets, the Commission has commented that in consideration of deferred accounting treatment, costs should be:

1. Related to utility operations for which ratepayers have incurred costs or received benefits;
2. Significant in amount;
3. Unusual or extraordinary items;
4. Subject to review for reasonableness and prudence.

The Department does not consider OTP's request to meet the second and third criteria. The Company forecasts an uncollected balance of \$38,901 at the end of the collection period, an amount that is unlikely to significantly impact either ratepayers or the Company, and is therefore *de minimis*. Furthermore, a small uncollected balance resulting from the termination of a rider rate is not unusual or extraordinary to normal electric utility business operations.

The application of deferred accounting treatment to any uncollected balance and transferring that amount into OTP's subsequent rate case may also impose an administrative burden on the Company and the Department that is likely to exceed any benefit. As mentioned above, the forecasted uncollected balance of \$38,901 is likely *de minimis*.

Given that the proposed request for deferred accounting does not meet the criteria set forth by the Commission and may impose an unnecessary administrative burden on both the Company and the Department, the Department does not recommend this method for addressing the uncollected balance at the end of November, 2018.

b. Transfer to Another Rider

As noted in Docket No. E999/CI-03-802 related to FCA reform, the Department is concerned with the continued practice of using the FCA for non-fuel related purposes. Specifically, OTP's proposal is contrary to Minnesota Statutes section 216B.16, subd. 7, which allows automatic adjustment of charges for the following:

- (1) federally regulated wholesale rates for energy delivered through interstate facilities;
- (2) direct costs for natural gas delivered;

- (3) costs for fuel used in generation of electricity or the manufacture of gas; or
- (4) prudent costs incurred by a public utility for sorbents, reagents, or chemicals used to control emissions from an electric generation facility, provided that these costs are not recovered elsewhere in rates. The utility must track and report annually the volumes and costs of sorbents, reagents, or chemicals using separate accounts by generating plant.

The statute does not contemplate allowing recovery of non-FCA Rider balances through the FCA. Therefore, the Department does not recommend this method for addressing the uncollected ECRR balance at the end of the currently proposed ECRR collection period.

Overall the Department considers the \$38,901 to be *de minimis* and does not support the need for additional cost recovery. However, if the Commission disagrees, the Department offers an alternative. As an alternative to the two options proposed by OTP, the Department recommends a one-time charge to customers to recover the remaining uncollected balance from the ECRR, or, in the event that the actual uncollected balance results in a credit to customers, OTP would instead issue a one-time credit to customers. The Company's 2016 Electric Jurisdictional Report indicates that OTP had 61,696 Minnesota retail customers in 2016.

The use of a one-time fee to address an uncollected balance forecasted to be \$38,901, using the same rate design and allocation methodology applied to the ECRR rate, is unlikely to significantly impact ratepayers. This methodology is consistent with the Commission's Order in Docket No. E002/M-15-1089 regarding refunding U.S. Department of Energy settlement funds to Minnesota customers. However, the Department notes that this refund was \$11.2 million and was a material amount.

F. PROPOSED CUSTOMER NOTICE

OTP proposed the following customer notice to be included in customer bills during December 2018:

Starting this month, the Resource Adjustment no longer includes the Environmental Cost Recovery Rider (ECRR) costs. The ECRR recovers costs associated with new environmental technologies at our Big Stone Plant that help to meet government requirements. The remaining costs are now included in base rates. For more

information contact Customer Service at 800-257-4044 or place an inquiry at otpco.com.

The Department concludes that the proposed notice is sufficiently clear and concise.

IV. SUMMARY AND RECOMMENDATIONS

The Department recommends that OTP provide the following information in its reply comments:

- An updated ECRR tracker reflecting OTP's current cost of capital of 7.5056 percent and containing actuals from the months of August to October of 2017; and
- An explanation regarding any revenues received attributable to projects recovered through the ECRR, such as those related to emission allowances or revenues or credits (such as tax credits), and whether these revenues have been included in the ECRR.

Conditioned upon review of OTP's reply comments, the Department expects to recommend that the Commission approve OTP's proposed rate change from (0.935) percent of a customer's bill to zero percent effective December 1, 2018.

The Department recommends that the Commission deny OTP's request for deferred accounting because the request fails two of the criteria the Commission uses to assess whether deferred accounting is reasonable. The Department also recommends that the Commission deny recovery of the ECRR tracker balance through the FCA rider because it is contrary to Minnesota Statutes. Finally, the \$38,901 estimated remaining uncollected balance of the ECRR at the end of the current collection period is a *de minimis* amount.

However, if the Commission decides to allow OTP to collect the remaining balance, the Department recommends a one-time charge to customers to recover the remaining balance, or, in the event that the actual uncollected balance results in a credit to customers, a one-time credit to customers.

/ja

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. E017/M-18-464

Dated this 1st day of August 2018

/s/Sharon Ferguson

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Ray	Choquette	rchoquette@agp.com	Ag Processing Inc.	12700 West Dodge Road PO Box 2047 Omaha, NE 68103-2047	Electronic Service	No	OFF_SL_18-464_M-18-464
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_18-464_M-18-464
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