

May 26, 2022

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> 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-22-174

Dear Mr. Seuffert:

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

Otter Tail Power Company's Petition for Approval of the Annual Update to its Energy-Intensive, Trade-Exposed Rider Surcharge Rate, Rate Schedule 13.09

The *Petition* was filed on April 11, 2022, by:

Paula Foster  
Supervisor, Regulatory Analysis  
Regulatory Administration  
Otter Tail Power Company  
215 South Cascade Street  
Fergus Falls, Minnesota 56538-0496

The Department recommends the Commission **approve Otter Tail's Petition with a modification**. The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ANGIE SKAYER  
Financial Analyst

/s/JOHN KUNDERT  
Financial Analyst

AS/JK/ja  
Attachment



## Before the Minnesota Public Utilities Commission

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### Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E017/M-22-174

#### I. INTRODUCTION

On April 11, 2022, Otter Tail Power Company (Otter Tail, OTP, or the Company) filed a petition for *Approval of the Annual Update to its Energy-Intensive, Trade-Exposed Rider Surcharge, Rate, Rate Schedule 13.09* with the Minnesota Public Utilities Commission (Commission) in Docket E017/M-22-174. The *Petition* contains the following OTP requests:

- Approve the proposed revenue requirement of \$970,403 for the December 1, 2022 through December 31, 2023 recovery period.
- Approve the proposed Energy-Intensive, Trade-Exposed Rider (EITE) Surcharge Rate, Schedule 13.09.
- Approve Otter Tail submitting its EITE update once every two years instead of annually, beginning with next year's filing.

#### II. BACKGROUND

On June 27, 2016, Otter Tail Power Company filed a petition with the Minnesota Public Utilities Commission in Docket No. E017/M-16-533 proposing discounts for certain energy-intensive, trade-exposed (EITE) customers and an associated Energy-Intensive, Trade-Exposed Rider (EITE Rider) to recover the cost of the discounts from Otter Tail's customers. The petition was filed pursuant to Minnesota Statutes § 216B.1696. On December 21, 2016, the Commission issued its *Order Denying Petition Without Prejudice*, which rejected Otter Tail's petition but allowed the Company to refile a petition.

On April 3, 2017, pursuant to Minnesota Statutes § 216B.1696, Otter Tail filed a second petition (Docket No. E017/M-17-257). Otter Tail again proposed discounts for certain EITE customers and an EITE Rider to recover the cost of the discounts from Otter Tail's customers. On November 17, 2017, the Commission issued its *Order Approving EITE Rate and Establishing Cost-recovery Proceeding* which approved Otter Tail's petition with conditions. Order point 6 states Otter Tail shall provide annual updates on the electric sales to and revenues from its EITE customers.

On December 18, 2017, Otter Tail made a compliance filing providing a detailed cost-recovery proposal (Docket No. E017/M-17-257).

On May 29, 2018, the Commission issued its *Order Authorizing Cost Recovery with Conditions* (May 29 Order) which approved Otter Tail's proposed cost-recovery proposal with conditions.

On June 13, 2019, in Docket No. E017/M-19-199, the Commission approved updates to Otter Tail's EITE Rider Surcharge Rate.

On May 22, 2020, in Docket No. E017/M-20-338, the Commission approved updates to Otter Tail's EITE Surcharge Rate and the EITE notice language.

On June 3, 2021, the Commission:<sup>1</sup>

- A. Approved Otter Tail Power Company's 2020 Annual EITE Update.
- B. Approved Otter Tail's request to renew its EITE Rider, decrease its baseline usage by 2.18%, and adopt the EITE discount rates for a four-year period.
- C. Approved Otter Tail's revised customer bill message for its new EITE surcharge.
- D. Directed Otter Tail to file, within 10 days, a revised EITE rider tariff language consistent with the June 3, 2021 *Order*.
- E. Directed Otter Tail to file documentation verifying that it has made a \$10,000 contribution to a low-income agency consistent with Minnesota Statutes § 216B.1696, subd. 3.
- F. Directed the Order to become effective immediately.

On June 8, 2021, Otter Tail Power Company submitted the following:

- A clean version of the Tariff Sheet, Section 13.09, EITE to reflect the updated surcharge rate effective December 1, 2021.
- A clean version of the customer bill insert.
- A copy of the check and submittal letter verifying Otter Tail's \$10,000 contribution to a low-income agency.<sup>2</sup>

### III. DEPARTMENT ANALYSIS

#### A. GOVERNING STATUTES AND RULES

The Company submitted the Petition to the Commission under Minnesota Statutes § 216B.1696 which states, in part:

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<sup>1</sup> Docket No. E017/M-21-99

<sup>2</sup> Contribution is consistent with Minnesota Statutes § 216B.1696, subd.3.

Upon approval of any EITE rate schedule, the utility shall create a separate account to track the difference in revenue between what would have been collected under the electric utility's applicable standard tariff and the EITE rate schedule. In its next general rate case or through an EITE cost recovery rate rider between general rate cases, the commission shall allow the utility to recover any costs, including reduced revenues, or refund any savings, including increased revenues, associated with providing service to a customer under an EITE rate schedule. The utility shall not recover any costs or refund any savings under this section from any energy-intensive trade-exposed customer or any low-income residential ratepayers as defined in Minnesota Statutes section 216B.16, subdivision 15.<sup>3</sup>

Also, the Petition qualifies as a miscellaneous tariff filing. Minnesota Rules 7829.1300 contains the complete requirements for miscellaneous filings. The Department reviewed the *Petition* for compliance with Minnesota Rules 7829.1300 and concludes the *Petition* is substantially complete.

**B. CALENDAR YEAR TRANSITION**

In this Petition, Otter Tail proposes to transition to a calendar year for their annual EITE Rider Rate Schedule. Currently, their annual update schedule is for the time period of December through November. According to Otter Tail, the Tracker will be simplified if it is on a calendar year basis. This transition means the current *Petition* is for thirteen months, rather than twelve, and will require Commission approval for the additional month in its calculation.

The Company's current EITE four-year period, as approved in Docket E017/M-21-99, expires on November 30, 2025.

The Department recommends approving Otter Tail's Petition to use December 2022 through December 2023 for the current Petition and transition to a calendar year basis for all future Petitions, with the final year incorporating only the final 11 months of the EITE four-year period.

**C. PROPOSED REVENUE REQUIREMENT**

The Company is proposing a net revenue requirement of \$970,403 covering the period of December 2022 through December 2023. This is a corrected amount due to an error the Department found on

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<sup>3</sup> Minnesota Statutes § 216B.16, subd. 15 defines "low-income residential ratepayers" as ratepayers who receive energy assistance from the Low-Income Home Energy Assistance Program (LIHEAP).

OTP's original Attachment 5.<sup>4</sup> As the Commission has not yet approved a change in time periods, the Department compared the net revenue requirements for the current time period of December 2022 through November 2023 and Otter Tail's proposed time period. The difference is a 9.6% increase or \$89,935 attributable to the calendar year transition. The Department recommends the Commission approve Otter Tail's proposed net revenue requirement of \$970,403.

Table 1 below shows Otter Tail's Proposed Revenue Requirement and the Department's calculation if the time period remained consistent.

**Table 1: Otter Tail Power Company Proposed Revenue Requirement**

Revenue Requirements	Otter Tail Proposed	Department Analyzed
	Dec 2022 - Dec 2023	Dec 2022 - Nov 2023
Revenue Requirement	\$ 1,041,371	956,657
Refund due to increased EITE customer revenues	(73,726)	(73,726)
Carrying (Credit Charge)	(1,084)	(1,305)
True-up	3,842	3,842
Net Revenue Requirement	\$ 970,403	\$ 885,468
Percentage Change	9.6%	

*D. 2021 ANNUAL SALES TO AND REVENUE FROM EITE CUSTOMERS*

Order points 5 and 6 from the Commission's May 29 Order outlined the following:

- Established a baseline sales number for EITE customers.
- Required any increased Company revenues resulting from the EITE discount to be refunded to customers paying the EITE Rider Surcharge Rate.
- Required the Company to provide annual sales data and revenue from EITE Customers.

The Company provided 2021 actual and weather-normalized annual sales data for EITE Customers in Attachment 6 of the Petition.<sup>5</sup> Otter Tail also provided a calculation of the variance from the baseline. Point 5 of the May 29 Order requires Otter tail to refund any increased EITE customer revenues from increased operations after the four-year discount term is complete. As the four-year term is not complete, the data are currently only for tracking purposes.

<sup>4</sup> See attached Information Request No. 6.

<sup>5</sup> E017/M-22-174 Attachment 6

*E. PROPOSED EITE RIDER SURCHARGE RATE*

The Department reviewed Otter Tail's *Petition* and Attachments to confirm the Company's calculations. The Company's current rate is in effect through November 2022. The Department notes the *Petition* is for the period of December 1, 2022 through December 30, 2023, thirteen months.

The Department sent the Company an inquiry via email regarding the inclusion of the additional month in their calculations.

The Otter Tail attachments for Revenue Requirement, Tracker, and Rate Design all are based on a 13-month time period, is this an error or is there another explanation?

In response to the email, Otter Tail stated the 13-month petition would allow future filings to be based on the calendar year, which would simplify the tracker.

The Department followed up to the Company's response with several Information Requests; the Information Requests and Responses are attached.<sup>6</sup>

In addition, the Department noted an incorrect formula on Attachment 5, Line No. 6; one of its EITE customers is not included in the calculation. The Department included the inquiry in its email to Otter Tail, to which Otter Tail responded as follows:

Line number 1, in Attachment 5, should have been included in the formula for the EITE Customer Total line. We will send a corrected tracker with our Reply Comments. This correction does not change the proposed rate per kWh of \$0.0034.

The Department reviewed the calculations for reasonableness for both the 12-month time period and 13-month time period and found Otter Tail's statement to be accurate. The rate per kWh remains \$0.0034 for both the current December 2022 through November 2023 time period and the proposed December 2022 through December 2023 time period.

Table 2 below shows the Company's EITE Rate calculation based on the proposed transition to a calendar year and the Department's calculation based on the current time period.

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<sup>6</sup> Information Request Nos. 4 - 6

**Table 2: Otter Tail Power Company Proposed EITE Rider Rate Design**

<b>Rate per kWh</b>	<b>Otter Tail (Proposed)</b>	<b>Department Analysis</b>
	<b>December 2022 – December 2023</b>	<b>December 2022 – November 2023</b>
Forecasted Retail Sales, all classes (Dec 2022 - Dec 2023)	2,856,430,031	2,606,353,489
Minnesota 12-month Revenue Requirement	\$970,403	\$885,468
Rate per kWh	\$0.00034	\$0.00034

The proposed rate is a decrease of \$0.00005 per kWh from the current rate of \$0.00039 per kWh. This proposal represents a 14.7% decrease from the current rate or about \$0.60 annually for a residential customer using 1,000 kWh per month. The Department recommends approval of the Proposed EITE Surcharge Rate.

**F. PROPOSAL FOR OTTER TAIL POWER COMPANY SUBMITTING EITE UPDATE BIENNIALLY**

In its Petition, Otter Tail requested approval to submit its annual EITE update biennially. In support of this request, the Company cited the small size of the EITE rate and cost savings for non-submission years for both Otter Tail and Commission Staff. The Company requested the biennial submission begin with next year's filing. Otter Tail states it will continue to calculate the rate change annually and provide an update, on an off year, should any material changes occur. In a non-filing year, Otter Tail estimates savings of \$14,725.<sup>7</sup> The Department reviewed the request and found the Commission provided direction to Otter Tail to submit annual updates in its May 29, 2018 *Order* (Docket No. E017/M-17-257, Item 6). Based on the Commission's previous *Order*, the Department recommends rejection of OTP's proposed biennial submission of the EITE updates.

**G. CUSTOMER NOTICE**

The Company proposed the following Customer Notice language in the Petition's Attachment 7:

The Minnesota Public Utilities Commission approved our request to decrease our Energy-Intensive Trade Exposed (EITE) Surcharge Rate. The approved rate of \$0.00032 per kWh will become effective December 1, 2022, for all classes of customers subject to the charge.

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<sup>7</sup> Information Request No. 3

The EITE rider recovers costs associated with the State of Minnesota's energy policy to ensure competitive electric rates for EITE customers.

For more information, contact Customer Service at 800-257-4044 or visit [otpc.com](http://otpc.com).

The Department reviewed the proposed Customer Notice language and notes that an incorrect rate is identified. The notice should read:

The Minnesota Public Utilities Commission approved our request to decrease our Energy-Intensive Trade Exposed (EITE) Surcharge Rate. The approved rate of \$0.00034 per kWh will become effective December 1, 2022, for all classes of customers subject to the charge.

The EITE rider recovers costs associated with the State of Minnesota's energy policy to ensure competitive electric rates for EITE customers.

For more information, contact Customer Service at 800-257-4044 or visit [otpc.com](http://otpc.com).

The Department recommends Otter Tail correct the rate amount from \$0.00032 to \$0.00034 in their Customer Notice.

#### **IV. DEPARTMENT RECOMMENDATIONS**

The Department recommends the Commission take the following action:

- 1) Approve Otter Tail's Petition to use December 2022 through December 2023 for the current Petition and transition to a calendar year basis for all future Petitions, with the final year incorporating only the final 11 months of the EITE four-year period.
- 2) Approve Otter Tail's EITE Surcharge Rate of \$0.00034 for the period of December 2022 through December 2023.
- 3) Approve Otter Tail's Proposed Revenue Requirement of \$970,403.
- 4) Require Otter Tail to correct the Rate on its Customer Notice from \$0.00032 to \$0.00034.
- 5) Reject Otter Tail's Proposal to submit its EITE update biennially as it would be non-compliant with the Commission's *May 29, 2018 Order*.



OTTER TAIL POWER COMPANY

Docket No: E017-M-22-174

Response to: MN Department of Commerce

Analyst: Angie Skayer, John Kundert

Date Received: April 26, 2022

Date Due: May 06, 2022

Date of Response: May 04, 2022

Responding Witness: Stuart Tommerdahl, Manager, Regulatory Administration, 218 739-8279

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Information Request:

Topic: Energy-Intensive, Trade-Exposed Rider Annual Filing

Reference(s): Filing page 7 - Proposal to Move to Biennial Filing

- a. Please quantify the administrative savings Otter Tail will receive filing its EITE biennially instead of annually. Please provide this in Excel format with all formulae and links intact.
- b. Has the Company performed a legal analysis to determine if this proposed procedural change is consistent with applicable Minnesota Statutes and Rules?
  - a. If so, please provide a copy of this analysis.
  - b. If not, please provide a statement to that effect.

Attachments: 1

Attachment 1 to IR MN-DOC-003.pdf

Response:

1. Annual labor costs associated with preparing and administering the EITE dockets have averaged approximately \$14,725 per year over the 2016–2021 time-frame.

Otter Tail also receives direct assessments from the PUC and DOC for their time spent on these dockets. Over the 2016-2021 timeframe, these costs were high when the initial rate and mechanism was developed in 2016 and 2017, and costs increased again in 2021 when the baseline was updated. Attachment 1 to IR MN-DOC-003 provides a summary of the annual amounts of both Otter Tail labor and Direct PUC and DOC Assessment costs.

Otter Tail advanced the idea of a potential biennial filing for those times when an eligibility determination is not needed, as a possible way to reduce regulatory work for all parties involved for a matter that historically has seen limited variability in rate impacts to customers. The proposed rate for this update of \$0.00034 per kWh is again in-line with the prior three rate updates as summarized below.

<b>Description</b>	<b>Docket</b>	<b>Surcharge Rate per kWh</b>
First Update	E017/M-19-199	\$0.00038
Second Update	E017/M-20-338	\$0.00033
Third Update	E017/M-21-099	\$0.00039
Fourth Update (This filing)	E017/M-22-174	\$0.00034

2. Otter Tail has not performed a comprehensive legal analysis with regard to its proposal. In making this filing OTP observed that nothing in the EITE statute or Minnesota Rules appeared to constrain the Commission from approving the proposed procedural change.

OTTER TAIL POWER COMPANY

Docket No: E017-M-22-174

Response to: MN Department of Commerce

Analyst: Angie Skayer

Date Received: May 13, 2022

Date Due: May 23, 2022

Date of Response: May 23, 2022

Responding Witness: Stuart Tommerdahl, Manager, Regulatory Administration, 218 739-8279

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Information Request:

Topic: EITE Rider Surcharge Rate, Rate Schedule 13.09

Reference(s): April 11, 2022, Filing, Formal Modification To Time-Period

Please respond if a formal request was made in last year's filing (docket EO017/M-21-99) to modify the time- period of the EITE to a calendar year from the current schedule of December through November.

Attachments: 0

Response:

Otter Tail did not make a formal request to modify the time period of the EITE to a calendar year in the 2021 filing.

OTTER TAIL POWER COMPANY

Docket No: E017-M-22-174

Response to: MN Department of Commerce

Analyst: Angie Skayer

Date Received: May 13, 2022

Date Due: May 23, 2022

Date of Response: May 23, 2022

Responding Witness: Stuart Tommerdahl, Manager, Regulatory Administration, 218 739-8279

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Information Request:

Topic: EITE Rider Surcharge Rate, Rate Schedule 13.09

Reference(s): April 11, 2022, Filing, 13 Month Time-Period

Please provide information/verification that the thirteen-month time-period for the revenue requirement transitioning to a calendar year will be a one-time adjustment and going forward will return to a twelve-month time-period.

Attachments: 0

Response:

Otter Tail proposes the 13-month revenue requirement for only this current filing. The period of December 2022 – December 2023 will simplify the tracker by shifting the dates to a calendar year going forward. Otter Tail proposes to maintain a calendar year filing beginning January 2024.

## OTTER TAIL POWER COMPANY

Docket No: E017-M-22-174

Response to: MN Department of Commerce

Analyst: Angie Skayer

Date Received: May 13, 2022

Date Due: May 23, 2022

Date of Response: May 23, 2022

Responding Witness: Stuart Tommerdahl, Manager, Regulatory Administration, 218 739-8279

Information Request:

Topic: EITE Rider Surcharge Rate, Rate Schedule 13.09

Reference(s): April 11, 2022, Filing Financial Impact

Please provide the rate and revenue requirement if the current time-period (December through November) were used.

Attachments: 0Response:

During the Department's review, it was noted that the EITE Customer Total on line 6 of Attachment 5 did not include line 1. Prior to calculating the 12-month revenue requirement and rate for this IR, the total line was corrected so it now includes line 1. With this initial correction, the rate remained the same at \$0.00034, and the total revenue requirement decreased from \$971,165 to \$970,403, a decrease of \$762.

The Net Revenue Requirement using the corrected tracker is shown below using both 12-month and 13-month calculations. Using the 13-month calculation, the Net Revenue Requirement for the full period increases by \$84,935 over the 12-month calculation. The rate remains constant at \$0.00034.

Line No.	Revenue Requirements	A	B	C
		12 Months (Dec 2022 - Nov 2023)	13 Months (Dec 2022 - Dec 2023)	Difference (B-A)
1	Revenue Requirement (Dec 2022 - Dec 2023)	\$ 956,657	\$ 1,041,371	\$ 84,714
2				
3	Refund due to increased EITE-customer revenues	(73,726)	(73,726)	0
4				
5	Carrying (Credit)/Charge	(1,305)	(1,084)	221
6				
7	True-Up	3,842	3,842	0
8				
9	Net Revenue Requirement	\$ 885,468	\$ 970,403	\$ 84,935

## **CERTIFICATE OF SERVICE**

I, Marcella Emeott, hereby certify that I have this day served copies of the following document on the attached list of persons by electronic filing, 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-22-174**

Dated this **26th** day of **May 2022**.

/s/Marcella Emeott

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Ray	Choquette	rchoquette@agp.com	Ag Processing Inc.	12700 West Dodge Road PO Box 2047 Omaha, NE 68103-2047	Electronic Service	No	OFF_SL_22-174_M-22-174
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400  St. Paul, MN 55101	Electronic Service	No	OFF_SL_22-174_M-22-174
Brooke	Cooper	bcooper@allete.com	Minnesota Power	30 W Superior St  Duluth, MN 558022191	Electronic Service	No	OFF_SL_22-174_M-22-174
James C.	Erickson	jericksonkbc@gmail.com	Kelly Bay Consulting	17 Quechee St  Superior, WI 54880-4421	Electronic Service	No	OFF_SL_22-174_M-22-174
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_22-174_M-22-174
Paula	Foster	pfoster@otpc.com	Otter Tail Power Company	215 S Cascade St PO Box 496 Fergus Falls, MN 56538-0496	Electronic Service	No	OFF_SL_22-174_M-22-174
Jessica	Fyhrie	jfyhrie@otpc.com	Otter Tail Power Company	PO Box 496  Fergus Falls, MN 56538-0496	Electronic Service	No	OFF_SL_22-174_M-22-174
Adam	Heinen	aheinen@dakotaelectric.com	Dakota Electric Association	4300 220th St W  Farmington, MN 55024	Electronic Service	No	OFF_SL_22-174_M-22-174
Nick	Kaneski	nick.kaneski@enbridge.com	Enbridge Energy Company, Inc.	11 East Superior St Ste 125  Duluth, MN 55802	Electronic Service	No	OFF_SL_22-174_M-22-174
James D.	Larson	james.larson@avantenergy.com	Avant Energy Services	220 S 6th St Ste 1300  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-174_M-22-174

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Kavita	Maini	kmaini@wi.rr.com	KM Energy Consulting, LLC	961 N Lost Woods Rd Oconomowoc, WI 53066	Electronic Service	No	OFF_SL_22-174_M-22-174
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-174_M-22-174
Matthew	Olsen	molsen@otpc.com	Otter Tail Power Company	215 South Cascade Street Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_22-174_M-22-174
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	No	OFF_SL_22-174_M-22-174
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	No	OFF_SL_22-174_M-22-174
Cary	Stephenson	cStephenson@otpc.com	Otter Tail Power Company	215 South Cascade Street Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_22-174_M-22-174
Stuart	Tommerdahl	stommerdahl@otpc.com	Otter Tail Power Company	215 S Cascade St PO Box 496 Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_22-174_M-22-174