

Staff Briefing Papers

Meeting Date	November 17, 2022	Agenda Item 3**
Company	Otter Tail Power Company	
Docket No.	E-017/M-22-174	
	In the Matter of 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	
Issues	Should the Commission approve Otter Tail's annual update to its EITE Rider Surcharge Rate?	
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Relevant Documents

Date

Otter Tail Power – Initial Petition	April 11, 2022
Department of Commerce – Comments	May 26, 2022
Otter Tail Power – Reply Comments	June 6, 2022

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

I. Statement of the Issues

Should the Commission approve Otter Tail's annual update to its EITE Rider Surcharge Rate?

II. Background

A. Current Docket

On April 11, 2022, Otter Tail Power Company (Otter Tail, OTP) filed a Petition with the Minnesota Public Utilities Commission (Commission) for approval of the annual update to its Energy-Intensive, Trade-Exposed (EITE) rider surcharge, rate, and rate schedule 13.09 under Minn. Stat. § 216B.1696.

On May 26, 2022, the Minnesota Department of Commerce, Division of Energy Resources (Department) submitted Comments recommending approval of Otter Tail's Petition with modification.

On June 26, 2022, OTP submitted Reply Comments in response to the Department's recommendations.

B. History

The Competitive Rate for Energy-Intensive, Trade-Exposed (EITE) Electric Utility Customer statute, enacted during the 2015 special session, was intended to provide a mechanism for applying Minnesota energy policy to the state's natural resources industries.¹ Specifically, the EITE statute was designed to provide economic relief to qualified firms in the iron ore, steel, and forest products sectors via discounted rates on electricity sales by investor-owned electric utilities. The desired result was to make Minnesota electricity rates competitive in globally competitive markets for qualified members of these industries. The statute authorized smaller investor-owned electric utilities such as Otter Tail Power to propose and offer special tariffs for the purpose of keeping electric rates competitive.

The competitive pressure of global competition was the impetus for offering tariffs to these resource industries. The prospect of large firms shutting down across northern Minnesota would have wide-ranging, harmful economic effects in many communities.

There are four kinds of EITE qualified companies, one of which is the forest products industry, which includes sawmills, paper mills, wood products manufacturer, or oriented strand board manufacturer. Membership in this category is sufficient for consideration of an invitation from the utility to apply for an EITE rate. The utility has the statutory ability to propose an EITE rate schedule that includes a variety of tariffs, including rates that encourage utilization of clean energy technology.

¹ Minn. Laws 2015, 1st Special Session, Ch. 1, Art. 3 § 26; codified at Minn. Stat. § 216B.1696.

Commission approval of an EITE tariff is contingent on a finding of net benefit to the utility or the state. The term “state” is understood to be Minnesota’s economy. The statute also gives the utility the authority to recover the cost of an EITE tariff from non-exempt ratepayers, which excludes the EITE customers and low-income residential customers. The cost to be recovered is equal to the difference between what would have been collected under the regular tariff and what was collected under the EITE tariff. Upon filing for the EITE tariff, the utility must deposit \$10,000 into a Commission-approved account for the expansion of outreach of the Commission-approved affordability program.

1. Initial Request for EITE rate – Docket 16-533

On June 27, 2016, OTP filed its first petition for approval of an EITE rate under the newly enacted statute. The Department and the Minnesota Office of the Attorney General – Residential Utilities Division (OAG) recommended against the petition because it lacked necessary detail or did not sufficiently prove net benefit to the utility or the state. The Commission found that OTP had not met the evidentiary burden showing net benefit. The Commission denied without prejudice the petition on the basis of insufficient evidence of a finding of ‘net benefit’. Although OTP spoke of general positive economic impacts to EITE customers, it did not address the overall net benefit to the utility or the state of the proposed EITE tariff.

2. Second Request for EITE rate – Docket 17-257

On April 3, 2017, OTP filed its second petition and 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 an order approving the petition, with conditions. The Commission found that OTP satisfied the eligibility criteria for its EITE rate application and provided sufficient evidence of net benefit to the utility or the state. Annual updates on the electric sales to and revenue from its EITE customers was required and the EITE discount was approved for three customers.²

3. EITE Rate Updates

On June 13, 2019, the Commission approved, in Docket 19-199, the annual updates to Otter Tail’s EITE Rider Surcharge Rate.

On May 22, 2020, the Commission approved, in Docket 20-338, the annual updates to Otter Tail’s EITE Rider Surcharge Rate.

On June 3, 2021, the Commission approved, in Docket 21-99, the annual updates to Otter Tail’s EITE Rider Surcharge Rate, renewal of its EITE rider, decrease its baseline usage by 2.18%, and adopting the EITE discount rates for a four-year period.

² Cass Forests Products, Norbord, and Potlatch-Deltic.

III. Parties' Comments

A. Otter Tail Initial Petition

Under Minn. Stat. § 216B.1696, on April 11, 2022, OTP filed its fourth petition under its EITE statute rider, effective for 13 months, from December 1, 2022, to December 31, 2023. The Company requested approval of a net revenue requirement of \$971,165 and EITE surcharge rate of \$0.00034 per kWh with a proposed effective date of December 1, 2022. Additionally, to reduce administrative burden and expenses, Otter Tail requested Commission approval to transition to a calendar year filing and to submit future EITE updates bi-annually instead of annually.

Regarding the proposed transition to a calendar year basis for the annual filing, Otter Tail noted that in previous filings the time frame was December 1st through November 30th. According to Otter Tail, the EITE tracker will be simplified if it's on a calendar year basis. The transition means the current Petition is for thirteen months, rather than twelve, and will require Commission approval for the additional month in its calculation.

As for Otter Tail's request to submit future EITE filings on a biannual basis, Otter Tail argued that, as shown in Table 1, below, because the annual change in the EITE rate is small, and to reduce administrative burden for all parties, Otter Tail requests approval to file its EITE update once every two years instead of annually, beginning with next year's filing. Otter Tail stated that it will continue to calculate the rate change annually and, should material changes occur that necessitate an "off-year" update, Otter Tail will make that filing to address those changes.

B. Department Comments

In its Comments, the Department found an error in OTP's documents. That triggered a correction to the net revenue requirement and updated the proposed amount from \$971,165 to \$970,403. The proposed EITE rider surcharge remained unchanged at \$0.00034 per kWh. The Department recommended approval of the proposed revenue requirement and EITE surcharge rate.

The Department recommended approval of Otter Tail's request to move to a calendar year basis for its annual filing. The Department noted that Otter Tail's current EITE four-year period, as approved in Docket E-017/M-21-99, expires on November 30, 2025. The Department recommended 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.

As for Otter Tail's request to submit future EITE filings on a biannual basis, the Department recommended the Commission reject OTP's request. The Department argued the Commission provided direction to Otter Tail to submit annual updates in its May 29, 2018, Order (Docket No. E-017/M-17-257, Ordering Paragraph 6). Based on the Commission's previous Order, the Department recommended rejection of OTP's proposed biennial submission of the EITE updates.

Finally, the Department identified an error in the proposed customer notice. It noted the EITE surcharge rate was listed as \$0.00032 per kWh rather than the correct amount of \$0.00034 per kWh. The Department recommended a correction to the customer notice. The notice should read:³

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.

C. Otter Tail Reply Comments

Otter Tail noted that the Department correctly identified an error in the original Revenue Requirement calculation and recommended the corrected Revenue Requirement be approved by the Commission. The correction of this error reduced the Revenue Requirement from the original \$971,165 to \$970,403, but the originally calculated surcharge rate of \$0.00034 per kWh remains the same.

Additionally, Otter Tail included a corrected version of the Customer Notice that reflects the \$0.00034 per kWh recovery factor.⁴

As for Otter Tail's request to submit future updates on a biannual basis, Otter Tail does not dispute the language in the 2018 Order, however, it does believe the May 2018 Order should be looked at in its entirety and the status of the current EITE surcharge process should be taken into account when considering this request. Otter Tail noted that the Commission, when it finds it to be appropriate, has the ability to update and change requirements for the EITE annual filings in its Orders. Otter Tail argued that, beginning with its 2023 filing, the instant Petition is an applicable venue to make a request to deviate from the annual update process. Otter Tail argued the lack of variability in the rate and the cost associated with annual filings makes biennial reporting in Otter Tail's and its customers', the Commission and its staff's, and Department staff's best interests. Specifically, Otter Tail stated:⁵

The May 2018 Order, referenced by the Department, laid out several terms for the ongoing requirements for the EITE filings and surcharge calculations, including the requirement that the current EITE process does not anticipate an annual refund to customers. The refund is set to be calculated at the end of a four-year

³ Department Comments at 7.

⁴ Otter Tail Reply Comments at Attachment 6.

⁵ Id. at 3.

period. However, as discussed on page five of the May 2018 Order, an annual update process was designed to “...alert the Commission to any unexpected increase in EITE-customer sales that may justify a more prompt refund of EITE surcharges.” As described in the Order, the annual updates would act as a trigger to issue substantial refunds to customers more quickly than the standard process. Otter Tail understands the importance of the ability to refund customers significant amounts prior to the end of the four-year term, however this circumstance has not occurred in the past four update filings.

Otter Tail stated the variability in rates has been minimal over the last four years and argued charging the same rate for two consecutive years would not be detrimental to customers. Table 1 summarizes the history of surcharge rates. If there is a change of 20% or more, OTP committed to submitting a filing in off years. Additionally, Otter Tail reiterated cost savings of \$14,725 but added that the Department and Commission staff would save \$5,224 based on average invoiced hours.⁶

Table 1 - OTP Surcharge Rates

Docket	Surcharge per kWh	\$ Change	% Change
E017/M-17-257	\$0.00055		
E017/M-19-199	\$0.00038	(\$0.00017)	-44.7%
E017/M-20-338	\$0.00033	(\$0.00005)	-15.2%
E017/M-21-099	\$0.00039	\$0.00006	15.4%
E017/M-22-174	\$0.00034	(\$0.00005)	-14.7%

Otter Tail continued to request approval to file the EITE update every two years starting in 2023.

IV. Staff Comments

Staff has reviewed the data provided by Otter Tail Power and supports the Department’s recommendation to approve the revenue requirement of \$970,403, surcharge rate of \$0.00034 per kWh, and transition to calendar year reporting. Regarding the transition to a biennial filing, Staff believes cost savings and minimal rate variability may give the Commission reasons to re-evaluate the timing of the filings.

⁶ Otter Tail Reply Comments at 4.

V. Decision Options

Calendar Year Change

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. (Department, OTP)
2. Approve Otter Tail's Petition to use December 2022 through December 2023 for the current Petition but deny the request to 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.

Revenue Requirement

3. Approve Otter Tail Power's revised revenue requirement of \$970,403. (Department, OTP)
4. Approve a different revenue requirement and determine what that amount should be.

EITE Surcharge Rate

(If decision option #3 is adopted, then decision option #5 should be adopted. Conversely, if #4 is adopted, then decision option #6 should be adopted)

5. Approve Otter Tail Power's proposed EITE Surcharge Rate of \$0.00034 per kWh for December 1, 2022, to December 31, 2023. (Department, OTP)
6. Approve an EITE Surcharge Rate that is based on the amount determined in decision option 4.

Annual Update Timing

7. Approve Otter Tail Power's request to submit its EITE update biennially beginning with the December 2023 filing. (OTP)
8. Do not approve the request to submit the EITE update biennially and continue to require annual filings. (Department)

Customer Notice

9. Approve Otter Tail Power's revised customer notice with the corrected surcharge rate of \$0.00034 per kWh. (Department, OTP)

Compliance Filing

10. Require Otter Tail to submit a compliance filing within ten days of the date of the order showing the final EITE surcharge rate, and all related tariff changes. (Staff)