

Staff Briefing Papers

Meeting Date March 21, 2024

Agenda Item 2**

Company Otter Tail Power Company

Docket No. **E-017/M-23-152**

In the Matter of Otter Tail Power Company's Petition for Approval of the Annual Rate Update to its Transmission Cost Recovery Rider Annual Adjustment

- Issues**
1. Should the Commission approve Otter Tail Power Company's (Otter Tail) Petition of the 8th annual rate update to its Transmission Cost Recovery Rider (TCRR) Annual Adjustment?
 2. Should the Commission find that Otter Tail's two new transmission projects are eligible for recovery through TCRR under Minn. Stat. § 216B.16, subd. 7b?

Staff Godwin Ubani godwin.ubani@state.mn.us 651-201-2191

✓ **Relevant Documents**

Date

Otter Tail Power Company – Initial Filing	April 7, 2023
Otter Tail Power Company – Supplemental Letter	May 26, 2023
Department of Commerce – Comments	August 14, 2023
Otter Tail Power Company – Reply Comments	September 28, 2023
Department of Commerce – Response to Reply Comments	November 13, 2023
Otter Tail Power Company – Supplemental Letter to Department's Response	January 31, 2023

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

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.

✓ **Relevant Documents**

Department of Commerce – Response Comments

Date

February 22, 2024

I. Statement of the Issues

1. Should the Commission approve Otter Tail Power Company's (Otter Tail) Petition of the 8th annual rate update to its Transmission Cost Recovery Rider (TCRR) Annual Adjustment?
2. Should the Commission find that Otter Tail's two new transmission projects are eligible for recovery through TCRR under Minn. Stat. § 216B.16, subd. 7b?

II. INTRODUCTION

Otter Tail's Petition seeks approval of its Transmission Cost Recovery Rider (TCRR) Annual Update under its electric rate schedule in section 13.05, which was originally approved on January 28, 2010.¹ The Petition also requested that, under Minn. Stat. § 216B.16, subd. 7b, two new transmission projects are eligible for recovery via TCRR. The two projects are the Oslo 115 kV Breaker Station-Oslo-Lake Ardoch 115 kV Line and the Winger 230/115 kV Transformer.

Otter Tail proposed a net revenue requirement of \$1,696,071 for the period of TCRR recovery from January 1, 2024, to December 31, 2024. This will result in a monthly bill reduction of \$1.69 for an average residential customer using 1000 kWh per month and \$281.30 per month bill reduction for a Large General Service (LGS) customer using 485 kW per month.

As shown in Table 1, this is Otter Tail's eighth (8th) annual TCRR update. In this update, Otter Tail seeks to implement new rates based on updated investment, expense, and revenue collections made since the last approved update in docket E-017/M-21-811.

Table 1: Otter Tail Prior TCRR Dockets²

Prior TCRR	Docket No.	Date Commission Approved	Effective Date
Initial TCRR Rate & Mechanism	M-09-881	January 28, 2010	February 1, 2010
1 st TCRR Update	M-10-1061	March 26, 2012	April 1, 2012
2 nd TCRR Update	M-13-103	June 24, 2014	No rate change
3 rd TCRR Update	M-14-375	February 18, 2015	March 1, 2015
4 th TCRR Update	M-15-874	March 9, 2016	April 1, 2016

¹ Docket No. E-017/M-09-881

² Petition, p. 5.

Prior TCRR	Docket No.	Date Commission Approved	Effective Date
5 th TCRR Update	M-16-374	November 10,2020	January 1, 2021
6 th TCRR Update	M-18-748	November 10, 2020	January 1,2021
7 th TCRR Update	M-21-811	July 12, 2021	January 1,2022
8 th TCRR Update	M-23-152	Work-in-process - Current docket	TBD

The Department of Commerce (Department) in its Comments recommended approval of Otter Tail' Supplementary Filing with modifications, which includes TCRR recovery denial for the Winger 230/115 kV Transformer #2.

III. Background

1. Brief History

On November 23, 2021, Otter Tail Power filed a petition requesting the Minnesota Public Utilities Commission (Commission) approve modifications to its seventh (7th) annual update of the Transmission Cost Recovery Rider (TCRR) in Section 13.05 of the Otter Tail' Electric Rate Schedule.

In the 2021 TCRR Docket, as in the current filing, Otter Tail also requested the Commission determine two new projects were eligible for TCRR Recovery as of January 1, 2022 – the Erie 230/115kV substation and the Hoot Lake 115/41.6/34.5 kV transformer.

On July 12, 2022, the Commission issued an Order in the 2021 TCRR Docket that reduced TCRR rates for most rate classes. In that Oder, the Commission through its consent calendar subcommittee approved Otter Tail's Petition without modifications.

On April 7, 2023, Otter Tail Power Company, filed ITS current Petition requesting approval to implement its revised TCRR adjustment factors.

Otter Tail requested the updated TCRR factors become effective January 1, 2024, or on the first day of the month following Commission approval.

On May 26, 2023, the Company, after identifying errors in its forecasts of 2023 MISO Schedules 26 and 26A revenue and Schedule 26A expense, submitted a Supplemental Filing requesting changes to its Petition. The revision reduced the revenue requirement by \$897,000 to \$799,143.

On August 14, 2023, the Department of Commerce (Department) submitted Comments recommending approval with modifications and requesting that the Company, in reply comments, provide additional information, including a description of its efforts to ensure the lowest costs to ratepayers for projects included in the TCRR, per Minn. Stat. §216B.16, subd. 7b(c)(4).³

On September 28, 2023, Otter Tail filed reply comments providing updated total cost estimates for three of the four TCRR projects and continued to request that the two new projects be approved as eligible for cost recovery through the TCRR.

On November 13, 2023, the Department filed response to Otter Tail's reply comments recommending denial of TCRR recovery for the 115 kV Oslo Breaker Station and Oslo - Lake Ardoch Line and the a Winger 230/115 kV Transformer projects.

On January 31, 2024 Otter Tail filed supplemental letter to provide additional evidence and information to its initial filing in reply to the Department's response comments.

On February 22, 2024 the Department filed supplemental comments recommending cost recovery approval of the Oslo/Lake Ardoch project under the TCRR.

2. Relevant Statutes

The Transmission cost adjustment statute, Minn. Stat. § 216B.16, subd. 7b, is the relevant statute for Otter Tail's TCRR.

Minn. Stat. §216B.16, Subd. 7b, states that the Commission may approve a tariff mechanism, for the automatic annual adjustment of charges that recover the Minnesota jurisdictional costs net of associated revenues of new transmission facilities not included in base rates. The statute also states the Commission shall approve annual rate adjustments to the TCR Rider provided that, after notice and comment, the costs included for recovery through the tariff were or are expected to be prudently incurred and achieve transmission system improvements at the lowest feasible and prudent cost to ratepayers.

In summary, the recovery of costs through rate riders is an exception to the traditional ratemaking process. Riders allow a utility to recover cost changes that arise outside of the test year used to establish the utility's authorized rates. The process for recovery through a rider involves two components: the utility must obtain approval to recover costs through a rider, and it must establish that the costs incurred were reasonable and prudent.

³ Department Comments, p. 13.

IV. Discussion

A. Parties' Comments

1. Otter Tail Power – Petition

Otter Tail's Petition seeks approval of actual and forecasted costs and collections related to two previously approved projects, as well as its two new transmission projects and including regional transmission expenses and revenues. The two new projects are the Oslo 115 kV Breaker Station and Oslo – Lake Ardoch 115 kV Line and the Winger 230/115 kV Transformer, which Otter Tail claimed would increase transmission system capacity, enhance regional reliability and facilitate the interconnection of generating facilities that satisfy the Minnesota Renewable Energy Objectives or some combination thereof.⁴

In the initial Petition, Otter Tail requested cost recovery net of MISO expenses and proposed a Minnesota projected revenue requirement for the TCRR period of January 1, 2024, to December 31, 2024, of \$1,696,071.

On May 26, 2023, Otter Tail submitted supplemental filing requesting changes to its initial Petition, by providing updates to Attachments 1-4 (of the petition) due to errors related to the 2023 MISO Schedule 26A Expense, Schedule 26 Revenue, and Schedule 26A Revenue resulting in a decrease of the original \$1,696,071 revenue requirement to \$799,173. Table 2 summarizes the updated revenue requirement:

Table 2: Otter Tail Proposed Revenue Requirement - Jan 1, 2024 to December 31, 2024

Line No.	Revenue Requirement	January - December 2024
1	Erie Substation	\$299,613
2	Hoot Lake Transformer	57,714
3	Oslo Lake Ardoch	75,795
4	Winger Transformer	212,253
5		
6	Schedule 26 Expense	5,622,295
7	Schedule 26A Expense	4,435,693
8		
9	Schedule 26 Revenue	(6,893,237)
10	Schedule 37 & 38 Revenue	(147,703)
11	Schedule 26A Revenue	(1,490,881)
12	MVP ARR Revenue	(25,757)
13		
14	Carrying Cost	0

⁴ Otter Tail's Petition, p. 2.

Line No.	Revenue Requirement	January - December 2024
15	True-Up	(1,346,642)
16		
17	Net Revenue Requirement	\$799,143

As part of the revision, Otter Tail's Attachment A updated its Rider Customer Notice:

The Minnesota Public Utilities Commission approved an adjustment to our Transmission Cost Recovery Rider, which is part of the Resource Adjustment line on your monthly electric service bill. This rider recovers costs related to transmission projects that help ensure we can continue to provide you with low-cost, reliable service. This table shows the prior and new rates, beginning January 1, 2024, for all classes of customers. A residential customer who uses 1,000 kWh per month will see a bill decrease of \$1.69.

Class	Prior Rate	Revised Rate January 1, 2024
Large General Service	\$0.905 per kW	\$0.151 per kW
Controlled Service	\$0.00050 per kWh	\$0.000008 per kWh
Lighting	\$0.00269 per kWh	\$0.00047 per kWh
All Other Service	\$0.00262 per kWh	\$0.00044 per kWh

a. 115 kV Oslo Breaker Station and Oslo - Lake Ardoch Line

Otter Tail's Petition stated that the Company and Minnkota Power Cooperative (MPC) are coordinating on a joint project to establish a new 230 kV source on the western side of the Northwest Minnesota transmission system. For this joint project, MPC is constructing a new Lake Ardoch 230/115 kV Substation just east of Ardoch, North Dakota, that will tap the existing Drayton to Prairie 230 kV line while Otter Tail will extend a new 115 kV line east from this new substation for approximately seven miles to a new Oslo 115 kV breaker station just west of Oslo, Minnesota. Otter Tail disclosed that transmission planning studies revealed that these new substations will increase the reliability of the transmission system and offer a more resilient system capable of meeting voltage criteria following an unplanned outage.

Otter Tail stated that it had coordinated with MPC on this project and received MISO approval

during MISO's 2019 Transmission Expansion Plan (MTEP19).⁵ Also, this project was approved by the North Dakota Public Service Commission in Docket Number PU-22-335 on December 14, 2022.⁶ Otter Tail's estimated the total cost of project at approximately \$6.6 million (OTP Total) with \$3.3 million in Minnesota jurisdiction (OTP MN).⁷

b. Winger 230/115 kV Transformer

Otter Tail's Petition stated that the second Winger 230/115 kV transformer creates a parallel 230 kV delivery at Winger, which not only addresses the overload concerns on the existing 230/115 kV transformer but also addresses reliability concerns (i.e. loading and voltage) involving an outage of the existing transformer. Otter Tail and MPC coordinated and, also in December 2019, received MISO approval for the Winger 230/115 kV Transformer 2 project through MISO's 2019 Transmission Expansion Plan (MTEP19).

The Winger Substation is co-owned by Otter Tail and MPC, with both parties owning discrete facilities within the substation. This Winger project was approved by the North Dakota Public Service Commission in Docket Number PU-20-383 on November 18, 2020. Otter Tail disclosed that, in order to accommodate the addition of a second 230/115 kV transformer at Winger, it will install the second transformer and expand the 115 kV bus, while MPC will be expanding the 230 kV bus. It also disclosed that its portion of the Winger Transformer 2 project is estimated at a total cost of \$4.8 million (OTP Total) with \$2.4 million for Minnesota jurisdiction (OTP MN) and planned complete installation by the end of 2023.

2. Department of Commerce – Comments

The Department filed its Comments to Otter Tail's Petition on August 14, 2023. The Department observed that, as required by Minnesota Statutes §216B.16, subdivision 7b(c)(4) (the TCRR Statute), Otter Tail's Petition did not include a description of its efforts to ensure the lowest costs to ratepayers for projects included in the TCRR. The Department requested that, in reply comments, Otter Tail address this issue.

The Department recommended that the Commission approve Otter Tail's request as presented in the May 26, 2023 Supplementary Filing with certain modifications. The Department recommended the Commission:

- find that the two new transmission projects are not eligible for cost recovery via the TCRR;
- if the Commission were to find the two new projects eligible, establish cost caps for purposes of cost recovery in the TCRR based on the total capital expenditure estimates

⁵ Petition, p.15. Also see Project Number 4232 in Appendix A of MISO's 2019 Transmission Expansion Plan, available at: <https://www.misoenergy.org/planning/planning/previous-mtepreports/#t=10&p=0&s=FileName&sd=desc>.

⁶ Id.

⁷ Id.

- provided in the Petition; and
- approve cost recovery for the two existing projects, but limited cost recovery via the TCRR based on cost caps for the projects established in prior Commission proceedings.

The Department also recommended the Commission require Otter Tail to file a compliance filing within 30 days of the Commission's Order in this Docket demonstrating the Company's recalculation of the TCRR to reflect the changes required by the Commission.

3. Otter Tail Power – Reply Comments

Regarding the Department's request for explanation of its efforts to ensure lowest costs to ratepayers for the projects it proposed to include in its TCRR, Otter Tails stated:

Otter Tail keeps prices low through alliance agreements and by competitively bidding large components of its transmission projects. Large components, including, but not limited to, transformers, site grading, and physical construction of new substations are generally procured through bidding processes. Alliance agreements provide more stable and predictable price options for common equipment and materials (breakers, switches, etc.). Alliance agreements, generally have terms of one to three years, depending on the price of materials subject to the contract.

4. Department of Commerce – Response to Reply Comments

The Department held that Otter Tail has reasonably satisfied the TCRR Statute's filing requirement.

B. Issues Before the Commission

1. Should the Commission find that Otter Tail's two new transmission projects are eligible for recovery through TCRR under Minn. Stat. § 216B.16, subd. 7b?

a. Criteria for TCRR Eligibility

Otter Tail's Petition stated that its two new transmission projects are eligible for cost recovery through TCRR per Minn. Stat. § 216B.16, subd. 7b paragraph (a)(1). Per paragraph (a)(1), new transmission facilities that have been separately filed and reviewed and approved by the commission under section 216B.243 or new transmission or distribution facilities that are certified as a priority project or deemed to be a priority transmission project under section 216B.2425 (in a Biennial Transmission Plan).

Based on the statute's requirements, the Department held that none of the two proposed projects has received a Certificate of Need nor has been certified as a priority under section 216B.2425. Therefore, the two new transmission projects are not eligible for TCRR cost recovery.

The Department noted that, in a later response to its Information Request 4 (IR4) Otter Tail clarified that none of the two projects is subject to Minnesota Certificate of Need (CN) and, as such, not eligible to qualify as priority projects section 216B.2425 of the TCRR statute.⁸

The Department made the above observation as a result of the following statement by Otter Tail:

To clarify further, the new projects proposed for inclusion in the TCRR are not subject to 216B.243 and therefore would not qualify as priority projects under 216B.2425.

The Oslo 115 kV breaker station and the Oslo – Lake Ardoch 115 kV line are located entirely within North Dakota. Additionally, the Winger 230/115 kV Transformer addition only involves construction within the existing Winger Substation and therefore does not fall under the requirements of 216B.243. As a result, Otter Tail agrees that the Oslo 115 kV breaker station and Oslo – Lake Ardoch 115 kV line do not satisfy the eligibility criterion of paragraph (a)(1) of the TCRR statute.

b. Oslo 115 kV breaker station and the Oslo – Lake Ardoch 115 kV line Project Eligibility

Otter Tail, in response to the Department's IR 4, indicated it would request to revise its TCRR filing to indicate that the Oslo 115 kV breaker station and the Oslo – Lake Ardoch 115 kV line proposed for inclusion in the TCRR satisfy the eligibility criterion of paragraph (a)(2) rather than Paragraph (a)(1) of the TCRR Statute. Otter Tail opted to satisfy eligibility under the above paragraph because the Oslo 115 kV breaker station and Oslo – Lake Ardoch 115 kV transmission line are located entirely within the state of North Dakota but are intended to address reliability needs in Northwestern Minnesota customers. The 115 kV line and the breaker station were approved by the North Dakota Public Service Commission in Docket No. PU-22-335 on December 14, 2022.

The Department, in comments, noted that Otter Tail argued that its Oslo 115 kV breaker station and Oslo – Lake Ardoch 115 kV line satisfy the eligibility criteria set forth in paragraph (a)(2) of the TCRR Statute.

However, the Department pointed out that Paragraph (a)(2) of the TCRR Statute provides two eligibility criteria, both of which must be satisfied:

- the proposed project must have been approved by the regulatory commission in the state in which it is to be constructed, and
- the proposed project must have been found by the Midcontinent Independent System Operator (MISO) to benefit the utility or integrated transmission system.

⁸ Department Comments, p.4. Also see Attachment 1 (IR4) TO THE Department's Comments.

Thus, the Department stated in that the projects have not met the first eligibility criterion:

With respect to the first criterion, the Company stated the project is located entirely within North Dakota, and the North Dakota Public Service Commission (“ND PSC”) approved the project in Case No. PU-22-335. The Department notes, however, that the Oslo/Lake Ardoch Project does not appear to have received all the necessary approvals from the ND PSC. While the ND PSC did approve cost recovery of the project in Case No. PU-22-335, the Oslo/Lake Ardoch project is the subject of an ongoing proceeding before the ND PSC in which Otter Tail has applied for, but not yet received, a Certificate of Public Convenience and Necessity (ND PSC Case No. PU-23-228). Because the Oslo/Lake Ardoch Project has not received all necessary approvals in the state in which it is to be constructed, the Department concludes that the project does not satisfy the first eligibility criterion.

Further, Otter Tail in response to the Department’s IR 8 addressed the second criterion of paragraph (a)(2), which requires a determination by MISO that the proposed project will benefit the utility or integrated transmission system.⁹ According to the Department, its effort to ascertain whether MISO has determined Lake Ardoch Line Project beneficial has been complicated by the conflicting information from MISO documents.

In fact, the Department noted that, initially, Minnkota Power Cooperative (MPC) was expected to construct and own the entire Oslo/Lake Ardoch Project. This meant that MPC and not Otter Tail submitted the project to MISO for review in MISO’s 2019 MISO Transmission Expansion Plan (MTEP19) process.¹⁰

According to the Department, Oslo/Lake Ardoch Project was not approved by MISO in MTEP19, but instead the project was included in Appendix B of the final MTEP19 report, and described by the report as follows:

MTEP Appendix B contains all projects that have been validated by MISO as the preferred solution to address an identified system need based on current information and forecasts, but where it is prudent to defer the final recommendation of a solution to a subsequent MTEP cycle. This generally occurs when the preferred project does not yet need a commitment based on anticipated lead-time and there is still some uncertainty as to the prudence of selecting this project over an alternative project given potential changes in projected future conditions. MTEP Appendix B is limited to Baseline Reliability Projects and Other Projects and will be reviewed by MISO in subsequent cycles.” (emphasis added)¹¹

The Department noted that, as shown in Table 4, the Oslo/Lake Ardoch project has four

⁹ Department Comments p.5.

¹⁰ Id.

¹¹ Department Comments, p.6.

discrete parts that are referred to as facilities¹² in MTEP documentation:

Table 4 Summary of Oslo/Lake Ardoch Project Facilities

MTEP Project ID	MTEP Facility ID	Facility Description	Initial Expected Owner	Current Expected Owner	Approximate Date of Ownership Transfer
17424	24551	Tap on Prairie-Drayton approximately 23.7 miles from Prairie	Minnkota Power Cooperative	Minnkota Power Cooperative	N/A
17424	24552	Substation at Lake Ardoch with 230 kV line breakers and a 115 kV line breaker	Minnkota Power Cooperative	Minnkota Power Cooperative	N/A
17424	24553	Four breaker ring at existing Oslo 115 kV site	Minnkota Power Cooperative	Otter Tail	2021
17424	24554	4.5-mile 115 kV line from Lake Ardoch to Oslo	Minnkota Power Cooperative	Otter Tail	After 2021

Otter Tail disclosed in IR 8 that, at the conclusion of MTEP19 process, it took over responsibility of the Oslo four breaker ring from MPC and immediately requested MISO update the MTEP documentation by transferring the facility from the Oslo/Lake Ardoch Project (Project ID 17424 in the MTEP documentation) to MTEP Project ID 4232, that was already approved by MISO in the MTEP 19 process.

The Department disclosed an email from Otter Tail of its communication with MPC and MISO to justify in some way that there is approval by MISO for Oslo/Lake Ardoch project:

After thorough investigation in regard to the Lake Ardoch/Oslo project. It is MISO's position that you can justify this project in its entirety by updating The Northwest Minnesota Project, it will cause the price to go up, but this is okay. As long as the portal is correctly updated with everything that we have discussed in this ongoing conversation, this project is justified. Other than that OTP does not need to do anything further in regard to this matter and that MPC not being a MISO member and the SPM3 presentation are acceptable enough to justify this project in its entirety.

The Department was not swayed by the contents of the email exchange and stated:

However, the full meaning of this email, and whether it implies the project has been

¹² Department Comments, p.6. Also see Attachment 2 and MTEP documentation available on MISO's website.

fully reviewed and approved per the requirements of MISO's MTEP review process, is unclear to the Department.

MTEP-related documentation published on MISO's website from MTEP cycles subsequent to MTEP19 also does not provide clear guidance regarding the approval status of either the Oslo four breaker ring or the other facility that Otter Tail has taken over responsibility for (the 4.5-mile 115 kV line from Lake Ardoch to Oslo).

Further, the Department noted that it did not find any reference to Project ID 17424, the Oslo four breaker ring, or the 4.5-mile 115 kV line from Lake Ardoch to Oslo in documentation from the MTEP20 cycle, including the MTEP20 Report Appendices. Similarly, Department was unable to find any reference to Project ID 17424 or Otter Tail's two pieces of it in any of the relevant MTEP22 Report Appendices

For MTEP21 cycle, the Department stated:

In the MTEP21 cycle, final MTEP21 Report included the full Oslo/Lake Ardoch Project (including both of OTP's proposed facilities), but the project was still identified as part of Project ID 17424 (not Otter Tail's Project ID 4232). Further adding to the confusion, Project ID 17424 was included in Appendix A3 of the final MTEP21 Report, titled "Previous Cycle-Approved Projects not yet in Service."¹³

Accordingly, the Department recommended the Commission deny Otter Tail's request to include the Oslo/Lake Ardoch Project in its TCRR because the project fail to satisfy any of the eligibility criteria under paragraph (a)(2) of the TCRR Statute.¹⁴

Otter Tail, in reply comments, maintained that the 115 kV Oslo Breaker Station and Oslo - Lake Ardoch Line (Oslo/Lake Ardoch Project) is eligible for TCRR recovery under paragraph (a)(2) of the TCRR statute. Otter Tail's reasserted its position because the ND PSC issued a Certificate of Public Convenience and Necessity for the project on September 6, 2023, thus satisfying the first requirement.¹⁵

The Department countered that, at the time of filing its Comments Otter Tail's project had not satisfied the two requirements, despite ND PSC's recent approval which only satisfied the first requirement of paragraph (a)(2). And based on information furnished in Otter Tail's Reply Comments, the project still appears not to satisfy the second requirement (i.e., the proposed project must have been found by the MISO to benefit the utility or integrated transmission system). Therefore, the Department held firm to its position that Commission deny Otter Tail's

¹³ Otter Tail's response to Department IR 8 states "[s]tarting in MTEP21, the Oslo 115 kV Breaker Station has been identified as Facility ID #26771 within Project 4232...." See Attachment 2. The Department reviewed the MTEP21 documentation, publicly available on MISO's website, and found that the Oslo breaker station was still included in the description of Project 17424.

¹⁴ Department Comments, p. 8.

¹⁵ Otter Tail Reply Comments, p. 2.

request to include the Oslo/Lake Ardoch Project in the TCRR.

However, in a subsequent filing on January 31, 2024, Otter Tail offered additional evidence that MISO had approved the Project and offered to arrange a meeting with MISO to clarify the Project's status. On February 8, 2024 Otter Tail and the Department met with MISO representatives who confirmed the project is fully approved and comparable to any other project included Appendix A of an MTEP report.

In light of the new evidence (MISO's confirmation of the project approval) the Department accepted that the Oslo/Lake Ardoch Project is eligible for cost recovery via the TCRR and recommended approval of Otter Tail's request to begin recovering the project costs at the level proposed in the Petition, or approximately \$76,000 per year based on total capital expenditures of \$4.2 million.

c. Winger 230/115 kV Transformer Project Eligibility

Despite the Department's denial recommendation related to the Winger project, Otter Tail continued to insist otherwise. Paragraph (a)(1) of TCRR Statute requires that a project either have been granted a Certificate of Need (CN) under Minn. Stat. § 216B.243 or been certified or deemed to be a priority transmission project under Minn. Stat. §216B.2425. Otter Tail acknowledged that the Winger 230/115 kV transformer addition, as a stand-alone project, would not qualify as a "large energy facilities" as defined by 216B.2425. However, Otter Tail noted that the Winger 230/115 kV transformer addition is part of a coordinated transmission plan, or a portfolio of projects required to maintain reliability for customers in Northwest Minnesota region. Otter Tail also stated that:

This portfolio approach offered flexibility in timing at a lower cost than the higher priced, but stand-alone single large project. Because of this approach to manage rate impact through an approach that incrementally met the projected area's needs, Otter Tail believes that paragraph (a) (1) was designed specifically for a scenario such as this portfolio approach.¹⁶

In response, the Department stated:

The Company seems to be implying that had the portfolio of projects been proposed as a single, large project, rather than broken into smaller pieces, it would have qualified as a large energy facility as defined by Minn. Stat. § 216B.2421, and therefore would have required a CN or certification as a priority, thus making it eligible for inclusion in TCRR. Otter Tail, however, offered no explanation of or support for this assertion, and based on its limited review of the projects and the statutory definition of "large energy facility," the Department does not believe Otter Tail's implied assertion is true.¹⁷

¹⁶ Otter Tail Reply Comments, p.6

¹⁷ Department Comments, p.3.

Further, in response to Otter Tail's Reply Comments, the Department argued that the TCRR Statute's plain language requires a project located in Minnesota has to be granted a certificate of need (CN) or be certified as a priority transmission project.

Staff agrees with the Department that the project has not been issued a CN or certified by an approving authority. And therefore, Staff supports the recommendation that Otter Tail's request to include the Winger Project in its TCRR be denied.

2. Should the Commission approve Otter Tail Power Company's (Otter Tail) Petition of the 8th annual rate update to its Transmission Cost Recovery Rider (TCRR) Annual Adjustment?

Otter Tail's Petition requested cost recovery through TCRR statute for Oslo 115 kV Breaker Station and Oslo – Lake Ardoch 115 kV Line, Winger 230/115 kV Transformer, Erie Substation and Hoot Lake 115/43/13.8 kV Transformer. The first two projects are new while the last two were previously approved projects from the 2021 TCRR filing. The Department, as discussed earlier above recommended the Commission approve Otter Tail's request to include the Oslo/Lake Ardoch but deny inclusion of Winger 230/115 kV Transformer Projects in its TCRR.

a. Oslo/Lake Ardoch Project

In its Petition, Otter Tail's estimated the total cost of project at approximately \$6.6 million (OTP Total) with \$3.3 million in Minnesota jurisdiction (OTP MN). This amount was confirmed by the Department as a match with the estimate the Company provided to the North Dakota Public Service Commission in Docket No. PU-22-335. Though confirming that the amounts match should not be construed as a change in Department's held position or recommendation discussed earlier in this briefing papers.

Regarding project cost, the Department pointed to the standard set evaluating TCRR project costs going forward in Xcel Energy's TCRR filing in Docket No. E-002/M-09-1048, that implied TCRR recovery for individual projects shall be limited to the initial estimates of the project's costs:

...the Commission finds that TCR project cost recovery through the rider should be limited to the amount of the initial cost estimates at the time the projects are approved as eligible projects, with the opportunity for the Company to seek recovery of excluded costs on a prospective basis in a subsequent rate case. A request to allow cost recovery for project costs above the amount of the initial estimate may be brought for Commission review only if unforeseen or extraordinary circumstances arise on a project.

Otter Tail's Reply Comment revised Oslo/Lake Ardoch total cost estimates which increased Initial Filing's amount from \$6.6 million (OTP Total), \$3.3 million (OTP MN) to \$11.9 million (OTP

Total), \$5.9 million (OTP MN). Otter Tail stated the reasons for the increase include:

- materials and contractor pricing increasing by at least 20 percent each year since the cost estimate provided in the Petition was produced, in June 2021;
- actual ground/soil conditions at the site being significantly different than assumed during the planning of the project;
- increased cost of the land due to commercial use; and
- increased easement costs for pole/line placement.¹⁸

The Department's November 13, 2023 Response to Otter Tail's reply comments stated that, amongst other things, the revenue requirements for the project may also be inaccurate:

First, the cost estimate provided in the text of the Company's Petition (\$6.6 million (OTP Total)) is out of date and inaccurate. More significantly, the project's revenue requirements for which the Company is seeking recovery reflect total capital expenditures of only \$4.2 million¹⁹ (OTP Total) through the end of 2024, by which time the project is expected to have been placed in-service. It seems unlikely that the project could be placed in service with only roughly one-third of the current estimated budget (\$11.9 million (OTP Total)) having been spent. Thus, the Department is concerned that the revenue requirements for the project included in Otter Tail's request are likely also inaccurate.

Also, the Department opined that Otter Tail's reasoning that materials and contractor pricing have been increasing for about two years since the Petition was filed should have been obvious to Otter Tail that its initial 2021 cost estimate was out of date and, at the very least, it should have tried to provide a qualitative discussion of the cost increases in its Petition.

Additionally, the Department noted:

..., while Otter Tail cited contractor and materials pricing increases as a primary driver of the increased cost estimate, the Company declined in Reply Comments to adjust its initial cost estimate to reflect the effects of inflation using a Handy-Whitman construction cost index, which is a common method for accounting for inflation in rider proceedings. The Company stated this inflation index normally used to make the adjustment, "is not the appropriate tool to use at this time due to the unusual inflationary period experienced over the past few years."²⁰ The Department's understanding is that the main point of using the Handy-Whitman index is to account for inflation in construction costs, and therefore the Department does not understand

¹⁸ Department Comments, p.4. Also Otter Tail Reply Comments, pp. 4-5.

¹⁹ Department Comments, p.4. See also, the \$4.2 million of capital expenditures are from the Company's response to DOC Information Request (IR) 1, which is a live spreadsheet version of Attachments 5-8 to the Petition, with supporting data.

²⁰ Id., p. 5.

or agree with Otter Tail's claim. The Company chose not to provide any further explanation or support for its position.

The Department further stated that Otter Tail identified inflation as a primary driver of the total cost increase, and other factors that are not related to inflation (such as the increase related to ground/soil conditions). But noted that, generally, cost recovery in riders is limited to initial cost estimates plus an adjustment for inflation, while cost increases due to assumptions made during the planning phase that turn out to be incorrect are not recoverable.

In fact, the Department held that, since the Company did not update its initial cost estimates with a Handy-Whitman construction cost index, it was not availed enough information to determine how much of the cost increase is attributable to inflation versus other factors.

Nevertheless, Department recommended that, based on total capital expenditures of \$4.2 million, Otter Tail be allowed to recover cost a revenue requirement of approximately \$76,000 per year.

b. Winger 230/115 kV Transformer Project

Otter Tail's Petition provided a total cost estimate for this project of approximately \$4.8 million (OTP Total) with \$2.4 million in Minnesota jurisdiction (OTP MN). This Department confirmed this amount matches the Company's estimate provided to the North Dakota Public Service Commission in Docket No. PU-20-383.

However, in reply comments, Otter Tail disclosed that its 2023 Initial Filing contained a typo error that resulted in outdated or incorrect estimate and clarified that the live tracker provided in the Department's IR 1, contained accurate information regarding the project cost, which indicated a budget of \$5.7 million. Otter Tail stated that, just like in the Oslo – Lake Ardoch Line project, there has been increase in the estimated cost of the Winger Transformer to approximately \$6.2 million²¹ due to the following reasons:

- materials and contractor pricing increasing by at least 20 percent each year since the original cost estimate (\$4.8 million (OTP Total)) was developed, in June 2020.
- Engineering consultants acquired to assist with electrical and civil design to meet project milestones.

The Department, similar to the Oslo/Lake Ardoch Project, expressed concerns that the Company's Petition and the revenue requirements calculations in the Petition's Attachment 1 of the Petition are also inaccurate. Also, the Company's cited drivers that are not related to inflation are not generally permitted to be recovered in a rider.²²

²¹ Otter Tail Reply Comments, p. 8.

²² Department Response Comments, p. 6.

The Department acknowledged that Winger Project's increase is significantly less than the Oslo/Lake Ardoch Project's and recognized that, despite the Company's lack of supporting information for its 20 percent annual inflation claim, inflation has likely driven up costs. Therefore, the Department recommended the same approach it recommended for the Oslo/Lake Ardoch Project and, based on \$5.7 million total capital expenditures, limit 2024 TCRR recovery for the Winger Project to \$212,000. Finally, the Department added that, if the Company wishes to seek cost recovery based on a higher capital expenditure level in the future, either in a rider proceeding or a rate case, it will have to justify the increase at that time.²³

Similar to the Oslo/Lake Ardoch Project's, Staff supports the Department's cost recovery recommendations related to the Winger Project.

c. Erie Substation Project

The Department noted that Otter Tail's Petition reflected total capital expenditures of \$8.2 million through the end of 2024 for the project, or \$1.8 million in excess of the costs approved in the 2021 TCRR Docket (Docket No. E-017/M-21-811).²⁴ However, in Reply Comments, Otter Tail²⁵ revised project costs to \$7.5 million (OTP Total) and requested that the projects costs be capped at that level for TCRR cost recovery purposes. Otter Tail stated that the reasons for the increase from \$6.6 million to \$7.5 million include:

- materials and contractor pricing increasing by at least 20 percent each year since the cost estimate provided in the Petition was produced, in June 2020
- assuming responsibility and ownership of certain parts of the project from Xcel Energy
- unforeseen transmission line relocations required by Great River Energy's Frazee substation.

The Department in response to Otter Tail disclosed that it was not able to tie the updated cost estimate of \$7.5 million to amount in the Otter Tail's initial Petition. But Otter Tail replied that this was due to error in the tracker and pledged to provide a revised tracker with updated approved amounts in its Compliance Filing.

In Response Comments, the Department noted that the increase from \$6.6 million to \$7.5 million over a period of three years represents inflation rate of approximately four percent annually which, given the recent inflationary environment, the Department considered to be generally reasonable. Therefore, the Department recommended approval of a \$7.5 million cost recovery.²⁶

²³ Id.

²⁴ Department Response Comments, p. 6.

²⁵ Otter Tail Reply Comments, p. 7.

²⁶ Department Response Comments, p. 6.

Staff supports the Department's recommendation and notes that Otter Tail agreed with the recommendation.

d. Hoot Lake 115/43/13.8 kV Transformer Project

In its Comments, the Department noted that total costs for the Hoot Lake 115/43/13.8 kV Transformer Project increased to \$1.3 million (OTP Total) which slightly exceeded the project's cost cap of \$1.2 million (OTP Total) and stated:

For the sake of consistency and predictability, the Department recommends the Commission maintain the total cost cap of \$1.2 million, before removing internal labor costs, established in the 2021 TCRR Docket. While the Department acknowledges the difference between that cap and the current total cost estimate is small, using the established cost cap will help prevent potentially time-consuming disagreements regarding whether and by how much projects in riders can exceed their cost caps before cost recovery is limited²⁷...

Otter Tail, in Reply Comments, did not oppose the Department's recommendation.²⁸

V. Staff Comments

Staff notes that the Department reviewed Otter Tail's revenue requirement for the four projects and reiterated its position to deny the request to include the Winger 230/115 kV Transformer Projects in its TCRR. But should the Commission decide and find the two new projects eligible for cost recovery through the TCRR statute, then the Department agreed that the Otter Tail's revenue requirements calculations are not unreasonable.

Staff agrees with the Department's position that the new evidence provided by Otter Tail on January 31, 2024 and subsequent approval confirmation by MISO that the Oslo/Lake Ardoch Project does satisfy two of the eligibility criteria established in paragraph (a)(2) of the TCRR Statute and agrees with the Department's recommendation that the Oslo/Lake Ardoch Project be included in the TCRR. Dissimilarly, the Department recommended the Commission deny Otter Tail's request to include its proposed Winger 230/115 kV Transformer project in the TCRR because the Project has neither been granted a Certificate of Need nor has it been certified as a priority project under the Biennial Transmission Plant Statute, therefore the project has not satisfied the requirements of paragraph (a)(1) of the TCRR Statute. Staff considers the Department's recommendation to not include the Winger 230/115 kV Transformer Project in the TCRR as reasonable.

²⁷ Department Comments, p.12.

²⁸ Otter Tail Reply Comments, p. 8.

Further, as the Department observed, there appeared to be scattered and conflicting information from MISO's documentation such that this created much doubt about the approval status of the new projects until the February 8, 2024 approval confirmation by MISO for one (Oslo/Lake Ardoch Project) of the two projects. In this vein, Staff agrees that it might be reasonable to resolve this doubt in favor of ratepayers, as required by Minn. Stat. § 216B.03, by finding that the Winger 230/115 kV Transformer project is not eligible to be included in the TCRR. The Project has neither not been granted a Certificate of Need nor been certified as a priority project under the Biennial Transmission Plant Statute, and therefore the project has not satisfied the requirements of paragraph (a)(1) of the TCRR.

VI. Decision Options

1. Approve Otter Tail's request as presented in its May 26, 2023 Supplemental Filing, with the following modifications:
 - a. Find Otter Tail's 115 kV Oslo Breaker Station and Oslo - Lake Ardoch Line project eligible for recovery through TCRR under Minn. Stat. § 216B.16, subd. 7b. (Otter Tail, DOC)
 - b. Find Otter Tail's Winger 230/115 kV Transformer project ineligible for recovery through TCRR under Minn. Stat. § 216B.16, subd. 7b. (DOC)
 - c. Require Otter Tail to cap cost recovery of the 115 kV Oslo Breaker Station and Oslo - Lake Ardoch Line project at the level proposed in the Company's Petition, or approximately \$76,000 per year based on total cost of \$4.2 million. (DOC)
 - d. Require Otter Tail to cap cost recovery of the Erie Substation project based on total costs of \$7.5 million. (DOC, Otter Tail)
 - e. Require Otter Tail to cap cost recovery of the Hoot Lake 115/43/13.8 kV Transformer Project based on total costs of \$1.2 million. (DOC, Otter Tail)
2. Require Otter Tail to file a compliance filing within 30 days of the Commission's Order in this Docket demonstrating the Company's recalculation of the TCRR to reflect the changes approved by the Commission. (DOC)