

# Minnesota Public Utilities Commission

## Staff Briefing Papers

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Meeting Date: March 12, 2015 .....\*\*Agenda Item # 8

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Company: Otter Tail Power Company. (OTP)

Docket No. E017/M-14-649  
In the Matter of OTP's Request for Approval to Revise Its Energy Adjustment Rider to Include Emission Controls Costs

Issues: Should the Commission approve OTP's request to include in its Fuel Clause Adjustment expenses associated with the purchase of emission allowances and reagent expenses that may be necessary to comply with the Cross State Air Pollution Rule and Mercury and Air Toxics Standards rules?

Staff: Sundra Bender .....651-201-2247  
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### ***Relevant Documents***

OTP – Initial Filing ..... July 31, 2014  
Department – Comments .....October 2, 2014  
OTP – Reply Comments .....October 20, 2014  
Department – Supplemental Comments ..... December 31, 2014

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## ***Statement of the Issues***

Should the Commission approve OTP's request to include in its Fuel Clause Adjustment expenses associated with the purchase of emission allowances and reagent expenses that may be necessary to comply with the Cross State Air Pollution Rule and Mercury and Air Toxics Standards rules?

## ***Introduction***

OTP requested Commission approval to revise its Energy Adjustment Rider ( or "Fuel Clause Adjustment" or "FCA") to include expenses associated with the purchase of emission allowances and reagent expenses that may be necessary to comply with the Federal Environmental Protection Agency's ("EPA") Cross State Air Pollution Rule ("CSAPR") and Mercury and Air Toxics Standards ("MATS") Rules.

OTP also requested that the Commission grant the Company a variance to Minn. Rule 7825.2500 to allow recovery of the cost of the purchased emission allowances through the FCA.

The Department recommended that the Commission not grant OTP a variance to Minnesota Rules and deny OTP's request for FCA recovery of emission allowances and reagent expenses.

## ***Relevant Statute and Rules***

Minnesota Statute § 216B.16, Subd. 7 authorizes, but does not require, the Commission to permit the automatic adjustment of charges for the specified costs. Minnesota Statute § 216B.16, Subd. 7 states (clause 4 below was added in 2011):

### **Subd. 7. Energy and emission control products cost adjustment.**

Notwithstanding any other provision of this chapter, the commission may permit a public utility to file rate schedules containing provisions for the automatic adjustment of charges for public utility service in direct relation to changes in:

- (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.

Minnesota Rules 7825.2390 through 7825.2850 apply to the automatic adjustment of charges. More specifically, 7825.2400 provides definitions for these rules and 7825.2500 provides the types of provisions automatic adjustment of charges must encompass.

## ***Background***

OTP initially filed for FCA recovery of purchased emissions allowances associated with the proposed implementation of the federal EPA's CSAPR in 2012. The filing was subsequently withdrawn in the fall of 2012 after CSAPR was vacated by the U.S. Court of Appeals for the D.C. Circuit. On April 29, 2014, the U.S. Supreme Court issued its opinion, reversing the 2012 D.C. Circuit Court decision to vacate CSAPR and on June 24, 2014, the U.S. Federal Government petitioned the D.C. Circuit Court to remove the stay.

On January 23, 2012 the Commission issued its ORDER GRANTING ADVANCE DETERMINATION OF PRUDENCE AND SETTING REPORTING REQUIREMENTS in Docket No. E017/M-10-1082. The Commission found that OTP met the requirements of Minn. Stat. § 216B.1695 and demonstrated the prudence and reasonableness of the proposed Big Stone air quality control system (AQCS) project, as modified to eliminate the baghouse component. The Commission granted the petition for an advance determination of prudence for the project, as modified.

On March 25, 2013, in its ORDER APPROVING BASELOAD DIVERSIFICATION STUDY AND SETTING REQUIREMENTS FOR NEXT RESOURCE PLAN, in Docket No. E017/RP-10-623, the Commission approved OTP's proposal to retrofit Hoot Lake in 2015 and shut the plant down in 2020.

The EPA's MATS rule, upheld in April, 2014, promulgates new emission standards for a number of listed hazardous air pollutants emitted by coal and oil-fired electric generating units. These standards regulate the emission of hazardous air pollutants such as mercury, arsenic and cyanide.

On July 31, 2014, OTP filed the current petition requesting approval to include in its Energy Adjustment Rider, commonly called the fuel clause adjustment (FCA), the expenses associated with the purchase of allowances that may be necessary to comply with CSAPR, and the cost of reagents purchased to comply with MATS.

On October 2, 2014, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed comments recommending that the Commission deny OTP's request for a variance to Minn. Rules 7825.2500 to permit recovery of purchased emission allowances costs in the FCA, and deny the FCA recovery of costs for reagent expenses associated with the EPA's MATS rules.

On October 20, 2014, OTP filed reply comments.

On December 31, 2014, the Department filed supplemental comments in which it continued to recommend that the Commission deny OTP's requests.

## ***Parties Positions***

### OTP

OTP requested Commission approval to revise its Energy Adjustment Rider to include expenses associated with the purchase of:

- emission allowances that may be necessary to comply with the EPA's CSAPR at its Hoot Lake and Solway generating plants; and
- reagents used in emissions reduction equipment being installed at Big Stone, Coyote and Hoot Lake Plants to comply with the EPA's MATS rules.

OTP also requested approval of a variance to Minn. Rules 7825.2500 to permit inclusion in the FCA, of costs for purchased emissions allowances that may be necessary to comply with the CSAPR.

OTP is now preparing for the re-instatement of CSAPR. CSAPR will apply to OTP's two fossil fuel generating plants located in Minnesota: the Solway gas peaking plant and the Hoot Lake Plant (HLP) units 2 and 3.

OTP requested the Commission grant approval of its Petition to recover reagent costs within OTP's Energy Adjustment Rider (FCA) mechanism and grant a variance for emissions allowance recovery through the same mechanism for the following reasons:

- Statutory authority exists to recover reagents through the FCA.
- FCA is the best long term mechanism for recovery of these types of costs.
- Cost incurrence is directly tied to operation of plant – characteristics just like fuel.
- New reagent and emissions allowance costs are incremental – No Double Recovery.
- Prudence established in the technologies being deployed (Advanced Determination of Prudence (ADP) for AQCS and Baseload Diversification Study) that contemplated the incurrence of these costs.
- Prudence established in Otter Tail's proactive efforts to secure supply and mitigate price volatility as much as possible.
- Customers and Otter Tail both benefit in that no over or under-recovery of cost occurs.
- Otter Tail supports returning any allowance sales back to customers through the FCA.

According to OTP:

The quantity of allowances and the consumption of reagents at the generating facilities will fluctuate directly in relation to the operation of those facilities, just like fuel costs.

These are new costs to Otter Tail, and the incurrence of these costs will phase in

over time. The HLP and Coyote Plant emissions equipment will be placed into service in the fall of 2014, and Big Stone's AQCS project will go into service in late 2015. Timing for the potential re-instatement of CSAPR is unknown at this time; however, Otter Tail anticipates that it is likely to be reinstated in the next 12-24 months.

Otter Tail currently estimates, based on known information today, that once all emissions equipment is placed into service, and allowances are required to be purchased, the annual cost to Minnesota customers will be approximately \$2.2 million, which would equate to an incremental increase in the FCA of approximately \$.00098/kWh. A number of factors exist that may cause these estimates to increase or decrease over time.

OTP recommended the following addition to paragraph 1 of its Energy Adjustment Rider, Section 13.01 of OTP's Rate Book:

The cost of energy shall be determined as follows:

1. The cost of fuel, as recorded in Account 151, used in the Company's generating plants, and the costs of reagents and emission allowances for the Company to operate its generating plants in compliance with the associated Federal Environmental Protection Agency rules and regulations.

According to OTP, the number of emission allowances that OTP may need to purchase for its Hoot Lake Plant is directly related to the number of tons of coal burned at the plant, and therefore, the cost of these emissions becomes a cost of the fuel for that plant. Nevertheless, OTP requested a variance from Minn. Rule 7825.2500 to ensure that this treatment of these costs is not inconsistent with a technical reading of the rules.

Assuming that the Solway and Hoot Lake Plants ultimately receive the same level of SO<sub>2</sub> and NO<sub>x</sub> allocations that they would have received in the vacated CSAPR rule, OTP estimates that the primary impact of the rule will be the necessity for HLP to acquire SO<sub>2</sub> allowances to continue operating at levels consistent with its standard historical operations. OTP estimates there will be no need to purchase additional emission allowances for Solway. Using estimated emissions levels and suggested market prices based on EPA modeling, OTP estimated the annual cost to be \$14,000 (\$7,000 Minnesota Jurisdictional share) for NO<sub>x</sub> allowances and \$1,100,000 (\$537,000 Minnesota jurisdictional share) for SO<sub>2</sub> allowances.

OTP states that the variance should be granted because:

...treating replacement energy costs differently from the allowance costs would serve as a disincentive to purchase allowances even when doing so would be less costly than curtailing plant operations and purchasing replacement energy. Therefore, strict adherence to the definition of "the cost of fossil fuel" in Minn. Rule 7825.2400, as the change in account 151 (implying only that definition), would place an excessive burden on Otter Tail that would favor uneconomic

operations of HLP. Granting the variance would for the same reason be in the public interest.

Minn. Stat. §216B.16, subd. 7, provides that the energy cost adjustment may include "charges for public utility service in direct relation to changes in ... (3) costs for fuel used in generation of electricity..." Therefore, granting the variance would not conflict with standards imposed by law. The variance would merely clarify that the strictest reading of the "the cost of fossil fuel" reference in Rule 7825.2400 does not limit FCA recovery of these costs.

OTP recommended that the Commission limit the variance to one year unless OTP reappplies for the variance within one year of the Commission's Order in this matter. The variance would then continue in effect until the Commission's subsequent Order.

OTP stated that two prior proceedings before the Commission served as catalysts with regard to OTP's need to incur the costs for which OTP seeks recovery in this Docket: Docket No. E017/M-10-1082 Advanced Determination of Prudence for Big Stone Plant's Air Quality Control System Project, and Docket No. E017/RP-10-623 Baseload Diversification Study where the Commission determined it was prudent to install emissions controls equipment on Hoot Lake Plant to comply with the MATS rule until 2020 when operation of the facility will be discontinued.

OTP included a representative amount of reagents expenses associated with its Coyote plant in base rates in its last rate case.

In response to the Department's question of possible double recovery of costs, OTP stated that it is only seeking FCA recovery for new reagent expenses. OTP is not seeking recovery of the Coyote pebble lime costs, a representative amount of which was included in base rates, through the FCA in this Petition because that would result in double recovery.

OTP provided a chart to show that OTP saw a reduction from test year reagent costs at the Coyote plant because of changes in the operation of the plant, not because of changes in the prices of lime. According to OTP, this helps further illustrate why the FCA is the right mechanism for recovery of the new reagent costs.

In response to a Department statement that the stringent acid gas regulation contained in MATS is likely to reduce the amount of SO<sub>2</sub> emissions substantially, particularly compared to the emissions reductions required by CSAPR, thereby diluting a large amount of the financial effects of CSAPR, OTP stated that "Hoot Lake Plant SO<sub>2</sub> and NO<sub>x</sub> emissions will not be reduced by any MATS compliance efforts. As a result, emissions allowances will be required for SO<sub>2</sub> and NO<sub>x</sub> compliance under CSAPR rules."

In response to a Department concern that OTP did not address the potential for revenues associated with reduced emissions, OTP stated that, "While Otter Tail does not currently anticipate selling any emissions allowances, Otter Tail does support the notion that any proceeds, from emissions allowance sales, should flow back through the FCA."

OTP proposed adding the following language to its Section 13.01 Energy Adjustment Rider tariff schedule:

9. Any allocable emission allowances sold shall be credited to (flow through) the Energy Adjustment Rider.

Regarding timing of CSAPR Compliance and Hoot Lake Life, OTP stated that:

Otter Tail notes that there is still some uncertainty of when CSAPR compliance will be required. In addition, Hoot Lake Plant is scheduled for retirement in 2020. Otter Tail believes the need to acquire CSAPR allowances will occur over a limited timeframe, ending when Hoot Lake Plant is retired. The most appropriate mechanism through which to recover these costs during this timeframe would be through the FCA. The FCA would allow Otter Tail to recover only actual costs when they are incurred, as well as allow those costs to be eliminated from the FCA once Hoot Lake Plant is retired and allowance purchases are no longer needed for that facility.

## Department

### *Reagent Expenses*

The Department opposed OTP's request to include reagent costs in its FCA for the following reasons:

- Potential double recovery—the current pebble lime reagent expenses built into base rates can reasonably be considered to be representative of OTP's pebble lime costs, just as any expense amount included in current rates are considered representative and should not be adjusted between rate cases, at least without making a showing that the costs are reasonable. Reagent costs are currently included in OTP's base rates. Allowing expected increase in these costs through the FCA is essentially allowing an ex-post (after-the-fact) adjustment of base rates.
- Allowing reagent costs to be recovered through the FCA or another rider, while allowed by statute, would reduce utility incentives for efficiency and cost minimization unless, at a minimum, OTP had an ongoing responsibility to show, prior to recovering the reagent costs, that the proposed costs recovery was reasonable.
- Allowing direct recovery of certain costs between rate cases can result in utilities failing to consider those costs critically as an integrated part of their cost of doing business.
- OTP has not proposed that potential revenues associated with reduced emissions be credited to their FCA.
- The currently anticipated additional reagent expense is both low, and fixed-price in

nature. Given that it does not seem that significant variation in reagent costs occur nor are driven by unpredictable or volatile generation levels, there appears to be minimal financial risk to OTP if the Company is not allowed to automatically recover those costs through the FCA.

The Department noted that the 2009 test year in OTP's last rate case included approximately \$504,448 of reagent expenses, associated with the cost of pebble lime at the Coyote station, in base rates. The Department further noted that actual reagent costs have been consistently lower than the level that has been recovered by OTP since its 2010 rate case.

The Department stated that "OTP must meet the burden of proof of showing that the costs it recovers from ratepayers in rates, including rider rates, are reasonable. OTP offers no mechanism for making such a showing."

According to the Department, it is possible that OTP's emission reductions may result in emission allowances. Allowing OTP to include reagent costs in its FCA, without also including associated revenues, would result in ratepayer responsibility for only the costs, without benefit of the revenues.

OTP's need to purchase reagents has not been analyzed in this docket and the Department has not examined the reasonableness of OTP's reagent costs since the threshold question is whether it is reasonable to recover any such costs in the FCA. The Department is concerned about the lack of a mechanism to ensure an adequate review of these costs, should they be allowed to pass through the FCA.

#### *Emissions Allowances*

The Department agrees with OTP that its request to include the cost of emissions allowances in the FCA is not consistent with the rules and would, therefore, require a rule variance.

The Department recommended that the Commission deny OTP's request for a variance to Minn. Rules 7825.2500 to permit recovery of purchased emission allowances costs in the FCA for the following reasons:

- Due to uncertainty about future allowance prices, the nature of the future CSAPR markets, the methodology used by the Company in projecting CSAPR compliance costs, and the yet unknown effects of MATS compliance on SO<sub>2</sub> emissions for CSAPR compliance at this time, the Department cannot conclude that the enforcement of this rule would result in an excessive financial burden for the Company, and therefore cannot conclude at this time that the criterion under Minn. Rule 7829.3200, subpart 1(A) is met.
- Granting the variance would remove OTP's incentive to minimize costs of emission allowances. Therefore, the Department cannot conclude that granting the variance would not adversely affect the public interest.
- OTP must still comply with Minnesota Statute section 216B.03. OTP has not provided a



mechanism to show that the costs that OTP proposes to recover through the FCA are reasonable. Moreover, OTP has not shown it to be reasonable not to include revenues from emission allowances as an offset to the costs. As a result, the Department cannot conclude that OTP's proposal is consistent with Minnesota Statutes.

Given the uncertainties with CSAPR and the allowance market, the Department does not support rider recovery at this time. According to the Department, filing a rate case would not only allow a more holistic view of all of OTP's costs and revenues, it would be more consistent with OTP's indication in its prior rate case (Docket No. E017/GR-10-239) that OTP would file a rate case in three years, by 2013.

## Summary

The Department recommended that the Commission:

- Deny OTP's petition to recover reagent costs through OTP's Energy Adjustment Rider (FCA) mechanism; and
- Deny OTP's request for a variance to Minn. Rules 7825.2400 and 7825.2500 to permit recovery of purchased emission allowances costs in the FCA. [Staff notes that in its initial comments the Department recommended that the Commission deny a variance to Minn. Rule 7825.2500, and in its supplemental comments the Department recommended that the Commission deny a variance to Minn. Rule 7825.2400. The requested variance was to Minn. Rule 7825.2500, but as discussed further below, staff believes OTP may need a variance to Minn. Rule 7825.2400 in order to consider the cost of purchased emissions allowances as a cost of fuel eligible for recovery through the FCA.]

## *Staff Comment*

The parties have stated their positions and staff will not repeat all of their arguments here. OTP argues that potential newly incurred costs to meet CSAPR and MATS requirements should be recovered through the FCA. The Department argues that potential emissions allowance costs and revenues, and additional reagent costs should be looked at in a general rate case where both the costs and revenues can be examined, instead of allowed through the FCA.

### Reagent costs

Staff believes OTP's proposal to recover some reagent costs through the FCA while others are included in base rates might be problematic. It would have been better if OTP had made proposals within the context of a general rate case filing about recovering all reagent costs and emissions allowance costs and revenues through the FCA. It doesn't make much sense to recover pebble lime reagent expenses for the Coyote plant one way (through base rates) and the other reagent costs another way (through the FCA). This would allow OTP to keep the difference between the Coyote plant reagent costs it included in base rates and the lower amounts it has been experiencing, while passing on the increases associated with the "new" reagent costs.

Staff notes that Xcel Energy appears to recover chemical costs in base rates.<sup>1</sup> Based on a review of Xcel Energy's, Minnesota Power's, and Interstate Power's tariffs for their fuel and energy adjustment riders, it does not appear any of these utilities included reagent or chemical costs in their FCAs. Thus, staff believes, if approved, this would be the first instance of a utility being allowed to recover sorbents, reagents, or chemicals used to control emissions through a rider. Staff notes that Minn. Stat. 216B.16, Subd. 7 permits, but does not require, the Commission to allow FCA recovery of reagents.

### Emission Allowances

OTP requested a variance to Minn. Rule 7825.2500 to permit certain specified costs for purchased emission allowances necessary to comply with CSAPR to be included in the FCA. In its initial comments the Department recommended that the Commission deny OTP's request for a variance to Minn. Rule 7825.2500, and in its supplemental comments, the Department recommended that the Commission deny a variance to Minn. Rule 7825.2400.

Unless the costs of purchased emissions allowances to comply with CSAPR can be defined as costs for fuel used in generation of electricity, it does not appear that Minn. Stat. 216B.16, Sub. 7 clauses 3 and 4 would allow for recovery through the FCA. Further, unless the costs of purchased emissions allowances, as well as reagent costs, can be defined as costs for fuel consumed in the generation of electricity, it appears that Minnesota Rules would not allow FCA recovery of either of these types of costs.

Minnesota Rule 7825.2500 states that "Provisions for automatic adjustment of charges must encompass...changes in the cost of fuel consumed in the generation of electricity..." Minnesota Statute § 216B.16, Subd. 7 (3) authorizes, but does not require, the Commission to permit a public utility to file rate schedules continuing provisions for the automatic adjustment of charges for public utility service in direct relation to changes in "costs for fuel used in generation of electricity...". The cost of purchasing emissions allowances does not meet the definition of the "cost of fuel consumed in the generation of electricity" contained in Minn. Rule 7825.2400, Subp. 8, 9 and 11. Further, the cost of reagents are not explicitly addressed in Minnesota Rules. The cost of fossil fuel is defined in Minn. Rule 7825.2400, Subp. 8 as "the current period withdrawals from account 151 as defined by the Minnesota uniform system of accounts..." The Minnesota uniform system of accounts is essentially the Federal Energy Regulatory Commission (FERC) Uniform System of Accounts (USOA). According to OTP:

The FERC's USOA requires the inventory of emission allowances to be carried in account 158.1 Allowance Inventory with changes expensed to account 509 Allowances. Therefore, while the cost of newly acquired emission allowances can reasonably be viewed as a "cost of fossil fuel," the definitions included in Minnesota Rule 7825.2400, subp. 8, for the cost of fossil fuel to be included in the

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<sup>1</sup> See pages 20-21 of the Commission's September 3, 2013 FINDINGS OF FACT, CONCLUSIONS, AND ORDER, Docket No. E002/GR-12-961, which discusses costs related to Sherco 3, including chemical costs. Also, see Xcel Energy's October 7, 2014 Final Issues List at page 20, item 15 Emissions Control Chemical Costs (2014) in Xcel Energy's current rate case, Docket No. E002/GR-13-868.

FCA appear to indicate that a rule variance may be necessary.

While OTP requested a variance to Minn. Rule 7825.2500, it appears that in order to consider emission allowances as a cost for fuel used in the generation of electricity (as authorized by statute), it may need a variance to the definition of the “cost of fossil fuel” as contained in Minn. Rule 7825.2400, Subp. 8.

Staff believes the Commission may want to consider whether it wishes to grant a variance to expand the definition of the “cost of fossil fuel” to include the cost (and revenues) associated with certain emissions allowances. If not, then it may deny OTP’s request to recover the cost of purchased emissions allowances, and return the revenues from sales of allocable emissions allowances, through the FCA.

### Additional Background on Emission Allowance Costs and Revenues

#### IPL

In its order<sup>2</sup> in the 2004 Annual Automatic Adjustment (AAA) proceeding, the Commission granted Interstate Power (IPL) a variance to Minn. Rules 7825.2500 to permit IPL to include credits from sulfur dioxide emission allowance in its fuel clause adjustment. This variance was set to expire on the earlier of December 31, 2006 or the resolution of the ongoing industry-wide fuel clause adjustment investigatory docket, E999/CI-03-802. In the AAA order, the Commission noted “that this variance applies only to *credits* associated with emissions allowances; the Company and the Department have agreed that any decision to pass through *costs* would require prior notice, which would likely lead to a miscellaneous tariff filing developing the issues surrounding the proposed pass-through.”

#### OTP

In the 2004 AAA proceeding, OTP acknowledged receiving payments from the EPA for allowances withheld from OTP and auctioned by the EPA. However, OTP stated that it believed these monies are the result of rate base resources rather than the cost of fuel in its fuel clause adjustment and it does not credit its fuel clause adjustment account for these transactions. Minnesota Power and Xcel also indicated that they do not include costs or credits associated with SO<sub>2</sub> emission allowances in their FCAs.

#### MP

However, in its 2008 rate case,<sup>3</sup> Minnesota Power proposed to exclude all revenue and expenses related to its SO<sub>2</sub> and NO<sub>x</sub> allowances in the test year, and to instead, include further revenues and expenses associated with the allowances in a separate cost recovery rider. The Commission’s Order noted that:

SO<sub>2</sub> allowances produce two potential revenue streams for a utility: 1) there can be proceeds from the EPA when it withholds allowances from utilities and sells

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<sup>2</sup> See the Commission’s December 7, 2005 ORDER ACTING ON GAS AND ELECTRIC UTILITIES’ 2004 ANNUAL AUTOMATIC ADJUSTMENT REPORTS AND SETTING FURTHER REQUIREMENTS at pages 4-5 and page 8 ordering paragraph 4.

<sup>3</sup> Docket No. E015/GR-08-415.

those allowances in the market, and 2) a utility can sell some of its allowances either directly or through a broker.

The Department argued that an annual representative amount of the net revenues received from the EPA's sales of Minnesota Power's SO<sub>2</sub> allowances should be included in (reduce) base rates. The Department agreed with Minnesota Power that revenues from the sales of future allowances which are sold through a broker should be returned to ratepayers through an existing cost recovery rider.

The Commission ultimately increased test year revenue by \$195,000 to represent the annual amount of revenues received from the EPA's sales of Minnesota Power's SO<sub>2</sub> allowances and authorized Minnesota Power to return revenues from the sale of SO<sub>2</sub> allowances and collect expenses from the purchase of SO<sub>2</sub> allowances through the fuel and purchase power adjustment rider.<sup>4</sup>

Minnesota Power's current Rider for Fuel and Purchased Energy Adjustment (FCA) reflects the fact that the cost of the purchase of SO<sub>2</sub> allowances, and the revenues from the sale of SO<sub>2</sub> allowances are included in the calculation of the rider rates. Staff believes Minnesota Power is the only utility currently authorized to recover emissions allowance costs and return emission allowance revenues through the FCA.

## ***Decision Alternatives***

### **Reagent Costs**

1. Approve OTP's Petition to recover new reagent costs through OTP's Energy Adjustment Rider (FCA) mechanism. [OTP]
2. Deny OTP's petition to recover reagent costs through OTP's Energy Adjustment Rider (FCA) mechanism. [Department]

If the Commission denies FCA recovery of reagent costs, it may wish to:

3. Clarify that OTP may seek FCA recovery of reagents in a future general rate case proceeding. [Staff]

### **Emissions Allowances - Costs**

4. Allow OTP to recover purchased SO<sub>2</sub> and NO<sub>x</sub> emissions allowance costs through OTP's Energy Adjustment Rider (FCA) mechanism. [OTP] AND

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<sup>4</sup> May 4, 2009 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER, and August 10, 2009 ORDER AFTER RECONSIDERATION, Docket No. E015/GR-08-415.

5. Grant OTP a variance to Minn. Rules 7825.2400 and 7825.2500 to allow OTP to recover purchased SO<sub>2</sub> and NO<sub>x</sub> emissions allowance costs through OTP's Energy Adjustment Rider (FCA) mechanism. Require that OTP reapply for the variance within one year of the Commission's Order in this matter if it wishes to continue FCA recovery of purchased emissions allowance costs. Clarify that if OTP reapplies within one year of the Commission's Order, the variance continues in effect until the Commission's subsequent Order. [OTP—with staff's addition of a variance to Minn. Rule 7825.2400.] OR
6. Do not grant a variance to Minn. Rules 7825.2400 and 7825.2500 and do not allow recovery of purchased emission allowances costs through OTP's Energy Adjustment Rider (FCA) mechanism. [Department]

If the Commission denies FCA recovery of purchased emission allowances, it may wish to:

7. Clarify that OTP may seek FCA recovery of emission allowance costs in a future general rate case proceeding. [Staff]

### **Emissions Allowances – Revenue**

8. Require OTP to credit the revenues from allocable emission allowance sales to the Energy Adjustment Rider.<sup>5</sup> [OTP Reply] AND
9. Grant OTP a variance to Minn. Rules 7825.2400 and 7825.2500 to allow OTP to return allocable emissions allowance revenues through OTP's Energy Adjustment Rider (FCA) mechanism. Require that OTP reapply for the variance within one year of the Commission's Order if it wishes to continue crediting the revenues from allocable emission allowance sales to the FCA. If OTP reapplies within one year of the Commission's Order, the variance continues in effect until the Commission's subsequent Order. [Staff] OR
10. Do not grant a variance to Minn. Rules 7825.2400 and 7825.2500 and do not allow FCA credits of revenues from allocable emission allowance sales.

If the Commission denies FCA credits of allocable emission allowance sales revenues, it may wish to:

11. Clarify that OTP may seek FCA crediting of allocable emission allowance sales revenues in a future general rate case proceeding. [Staff]

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<sup>5</sup> Initially, OTP did not propose flowing emission allowance revenues through the FCA, but in reply comments, OTP said that it supported the notion that any proceeds from emission allowance sales should flow back through the FCA.