

October 13, 2017

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

**RE: Letter from the Minnesota Department of Commerce, Division of Energy Resources (the Department) regarding Otter Tail Power Company's Petitions for Approval of the Annual Rate Adjustments to its Environmental Cost Recovery Rider Rate in Docket No. E017/M-16-373 and Transmission Cost Recovery Rider Rate in Docket No. E017/M-16-374 on October 19, 2017**

Dear Mr. Wolf:

On October 10, 2017, Otter Tail Power Company (OTP or the Company) filed reply comments with the Minnesota Public Utilities Commission (Commission) in the above-referenced dockets.<sup>1</sup> OTP disagreed with the Minnesota Department of Commerce's (Department) recommendations regarding income taxes. In addition, OTP disagreed with the Commission's 2015 Rate Case Order<sup>2</sup> requiring the Company to use the all-in allocation method and include its Big Stone Area Transmission (BSAT) – Ellendale and BSAT – Brookings transmission projects and their related MISO Schedule 26A revenues and expenses in its 2016 TCRR (Docket No. E017/M-16-374).

However, despite these disagreements, OTP recommended that the Commission provisionally approve its rider rates when the Commission addresses OTP's compliance filings for its 2015 Rate Case (Docket No. E017/GR-15-1033) at the Commission's Agenda hearing on October 19, 2017.

The Department notes that OTP's proposal is complicated, for several reasons. First, OTP already received provisional approval for these riders in July 2016.<sup>3</sup> Second, it is unclear what "provisional" approval means in this instance, where the facts are significantly different than in previous cases where provisional approval was granted.

For example, in this instance, the utility does not agree that rates should decrease; in fact, OTP vigorously opposes such an outcome. Would provisional approval then mean that OTP would be allowed to surcharge customers later? In addition, it is unclear what the implications of provisional

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<sup>1</sup> OTP did not file its response comments in the Company's rate case, Docket No. E017/GR-15-1033, even though the Company proposes that the Commission decide the rider petitions concurrent with the rate case.

<sup>2</sup> On May 1, 2017, the Commission issued its *Findings of Fact, Conclusions of Law, and Order* in OTP's 2015 Rate Case in Docket No. E017/GR-15-1033 (2015 Rate Case Order).

<sup>3</sup> See the Commission's July 5, 2016 Orders in Docket Nos. E017/M-16-373 and E017/M-16-374.

approval means, given that OTP filed to appeal the Commission's 2015 Rate Case Order requiring the Company to include the BSAT projects in its 2016 TCRR.<sup>4</sup> Third, parties have not had an opportunity to file comments or replies to OTP's comments on October 10, 2017 proposing that the Commission provisionally approve the riders at the same time that it makes further decisions regarding the rate case that is under appeal. The Department is not aware of any proceeding before the Commission where such circumstances have arisen.

Moreover, Commission Staff have not had an opportunity to develop briefing papers on the riders. Finally, OTP hasn't provided an adequate reason as to why it's imperative that these rider rates go into effect on November 1, 2017; the proposed rider rates have no effect on the rates set in the rate case, and riders, almost by definition, are implemented at a time other than when rates go into effect in a rate case.

Given the new facts that arose in the rate case and the appeal since parties first had an opportunity to file comments in the transmission rider, the Department recommends that the Commission set aside on October 19, 2017 any decision on OTP's riders – "provisional" or otherwise – until interested parties have the opportunity to respond to OTP's reply comments regarding the riders. In that way, the rider proceedings can develop as they normally would.

Sincerely,

/s/ MARK A. JOHNSON  
Financial Analyst

MJ/lt

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<sup>4</sup> On August 18, 2017, OTP filed a Writ of Certiorari with the State of Minnesota Court of Appeals, Docket A17-1300, challenging the Commission's Rate Case Order with respect to the BSAT projects. A copy of the Writ of Certiorari was filed by OTP on September 12, 2017 in OTP's 2015 Rate Case in Docket No. E017/GR-15-1033.

**CERTIFICATE OF SERVICE**

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

**MINNESOTA DEPARTMENT OF COMMERCE – RESPONSE TO REPLY  
COMMENTS**

Docket Nos. **E017/M-16-373**  
**E017/M-16-374**  
**E017/GR-15-1033**

Dated this **13th** day of **October, 2017**.

/s/Linda Chavez

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