

May 3, 2021

Mr. Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E017/M-21-201

Dear Mr. Seuffert,

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

In the Matter of an Inquiry into Utility Investments that May Assist in Minnesota's Economic Recovery from the COVID-19 Pandemic.

The petition was filed on March 3, 2021 by:

Stuart Tommerdahl, Manager, Regulatory Administration
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The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve Otter Tail Power Company's petition, with modifications**. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ NANCY CAMPBELL
Financial Analyst Coordinator

/s/ GEMMA MILTICH
Financial Analyst, CPA

NC/GM/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E017/M-21-201

I. BACKGROUND

On May 20, 2020, the Minnesota Public Utilities Commission (Commission) opened an *Inquiry into Utility Investments that May Assist Minnesota's Economic Recovery from the COVID-19 Pandemic*, and issued a *Notice of Reporting Required by Utilities* (Docket No. E,G999/CI-20-492) seeking information from all rate-regulated electric and gas utilities in Minnesota on ongoing, planned, or proposed investment projects that meet the following conditions:

- Provide significant utility system benefits;
- Are consistent with approved resource plans, approved natural gas distribution infrastructure or pipeline safety plans, triennial conservation plans and existing Commission orders;
- Reduce carbon or other pollutant emissions in the power sector or across energy sectors;
- Increase access to conservation and clean energy resources for Minnesotans;
- Create jobs or otherwise assist in economic recovery for Minnesotans; and
- Use woman, veteran, or minority owned businesses as much as possible and provide documentation of these efforts.

On June 17, 2020, Otter Tail Power Company (Otter Tail or the Company) made its initial filing in Docket No. E,G999/CI-20-492 and proposed twelve ongoing, planned, or possible projects that, according to the Company, met some of the above-listed criteria set forth by the Commission. On September 15, 2020, Otter Tail submitted a second filing in the same proceeding and reduced the number of its proposed economic recovery projects from twelve to five, because the Company found alternative cost recovery mechanisms through which to charge customers for seven of the twelve projects it had initially proposed.

Otter Tail's third filing in Docket No. E,G999/CI-20-492, submitted on March 3, 2021, further reduced the Company's proposed economic recovery projects from five to three, as the Company found other channels through which to recover the costs of two more of its originally proposed twelve projects. The Commission created a separate docket, Docket No. E017/M-21-201, for the evaluation of Otter Tail's March 3, 2021 filing (Petition). The instant comments address the Company's current economic recovery project proposals, as outlined in Otter Tail's Petition.

II. DEPARTMENT ANALYSIS

The Minnesota Department of Commerce, Division of Energy Resources (Department) reviewed Otter Tail's Petition to determine the reasonableness of the Company's proposals. The Department evaluated the Company's economic recovery project proposals against the criteria set forth by the Commission in Docket No. E,G999/CI-20-492 and considered whether the proposed projects would be in the public interest, support the Company's provision of safe, reliable service, and result in reasonable rates. The following sections discuss the Department's review of each of the three proposed economic recovery projects as well as the Company's request for deferred accounting.

A. OTTER TAIL'S PROPOSED ECONOMIC DEVELOPMENT PROJECTS

The following table summarizes the estimated cost for each of the three economic development projects Otter Tail proposes in the instant Petition:

**Department Table 1: Estimated Cost of Otter Tail's
Three Proposed Economic Recovery Projects¹**

<i>Proposed Project</i>	<i>Estimated Cost</i>
System Infrastructure and Reliability Improvement	\$10 - \$15 million
Acceleration of Distribution and Transmission Vegetation Management	\$4.52 million
Minnesota Building Maintenance	\$11.37 million

In response to a Department information request, Otter Tail provided the following statement regarding its approach to ensuring that the costs for the three proposed projects shown in Department Table 1 would be reasonable:

To ensure its customers are receiving the best price for the projects required to safely and [reliably] serve them, Otter Tail leverages best practices in sourcing material and vendors. This includes requesting competitive bids from multiple vendors for the construction services and materials. For distribution line hardware, Otter Tail utilizes its cost-plus material supply agreement with its key distributor that leverages all of their purchasing volume across Minnesota, North Dakota, South Dakota, and other Midwest states. This is a larger volume than what Otter Tail on its own purchases, thus providing Otter Tail lower prices.²

¹ Data in Department Table 1 retrieved from Petition Table 1.

² Department Attachment 5.

While the Department considers the cost control practices described by Otter Tail in the preceding quote to be relatively standard to the normal operations of large regulated utilities, we appreciate the Company's response. The following discussion provides additional details on each of the three proposed projects shown in Department Table 1.

(1) System Infrastructure and Reliability Improvement (SIRI): According to Otter Tail, its proposed \$10 - \$15 million in SIRI projects include ongoing and planned investments to replace older transmission and distribution (T&D) facilities throughout the Company's service territory. Otter Tail explained that it needs to increase the pace of these T&D replacements, because the Company's current replacement schedule is not progressing fast enough to address the anticipated rate of future T&D asset retirements. Specifically, the proposed SIRI investments would include transmission line replacement projects, cutout failure replacement programs, increased underground replacement programs, distribution substation replacement programs, distribution line replacement programs, and a variety of other smaller T&D construction projects.³

In its June 17, 2020 filing in Docket No. E,G999/CI-20-492, the Company explained whether and how the proposed SIRI investments meet the following criteria outlined by the Commission in the same proceeding:

- *Provides significant utility system benefits:* Replacement of aged infrastructure can increase reliability.
- *Consistent with approved resource plans and existing Commission orders:* Resource plans do not typically address T&D infrastructure replacement.
- *Reduce carbon or other pollutant emissions in the power sector:* Replacing T&D infrastructure does not affect carbon or other pollutant emissions.
- *Increase access to conservation and clean energy resources for Minnesotans:* Replacing T&D infrastructure does not increase access to conservation or clean energy resources, however, improved reliability can increase customer satisfaction and engagement, which can lead to greater customer interest in subscriptions to conservation and demand response programs.
- *Create jobs or otherwise assist in economic recovery for Minnesotans:* The project will create significant construction jobs throughout Otter Tail's service territory.
- *Use woman, veteran, or minority owned businesses as much as possible and provide documentation of these efforts:* Otter Tail will document its efforts to include woman, veteran and minority owned businesses in procurements for this project.⁴

The Department concludes that Otter Tail's proposed SIRI projects meet some, but not all, of the Commission's criteria. Specifically, the proposed investments would not reduce carbon or other pollutant emissions in the power sector or across energy sectors, and there is no compelling evidence in the record demonstrating that these investments would increase access to conservation and clean energy resources for Minnesotans. However, in general, projects that maintain or increase utility

³ Petition, pages 7 – 8.

⁴ Otter Tail's June 17, 2020 filing in Docket No. E,G999/CI-20-492, page 4.

system reliability, which the proposed SIRI investments are intended to do, are in the public interest. The Department understands that the proposed SIRI projects are essentially an acceleration of Otter Tail's existing, continuous process of investing in its system infrastructure and the reliability of its system. The Department concludes that it is reasonably plausible that Otter Tail's proposed acceleration of its SIRI projects will contribute to either maintaining or improving system reliability as well as be in the public interest.

Based on the information provided by Otter Tail at this time, the Department concludes that the Company's proposed SIRI projects are reasonable, and we recommend that the Commission approve this proposed investment. However, for the sake of clarity and to assist the Department in its future review of the Company's proposed SIRI investments, we ask that Otter Tail explain in reply comments how its existing SIRI investment schedule would change if the Commission were to approve the SIRI spending proposed in the instant Petition. The Department requests that Otter Tail provide, at a minimum, a comparison showing the difference between the existing and proposed SIRI capital expenditures, revenue requirements, and scope of work forecasted for 2022, 2023, and 2024.

(2) Acceleration of Distribution and Transmission Vegetation Management: Otter Tail explained that, while its vegetation management activities are ongoing and planned, accelerating the Company's vegetation management work can enhance system reliability. The \$4.52 million in accelerated vegetation management proposed in the instant Petition would focus on managing vegetation along the Company's distribution feeders and transmission systems as well as sterilizing substations for vegetation such as noxious weeds.⁵

In its June 17, 2020 filing in Docket No. E,G999/CI-20-492, the Company explained whether and how these proposed vegetation management investments meet the following criteria outlined by the Commission in the same proceeding:

- *Provides significant utility system benefits:* Preserving and increasing routine vegetation management levels would improve system and localized reliability. It would also reduce future reliability risks by allowing for expanded, aggressive vegetation management efforts.
- *Consistent with approved resource plans and existing Commission orders:* Resource plans do not generally address vegetation management.
- *Reduce carbon or other pollutant emissions in the power sector:* Changing vegetation management efforts will not generally result in changes to carbon or other pollutant emissions.
- *Increase access to conservation and clean energy resources for Minnesotans:* Increasing annual vegetation management efforts will not directly increase access to conservation and clean energy resources.
- *Create jobs or otherwise assist in economic recovery for Minnesotans:* Because vegetation management is a labor-intensive activity, increasing these budgets will create jobs and assist in economic recovery for Minnesota.

⁵ Petition, page 8.

- *Use woman, veteran, or minority owned businesses as much as possible and provide documentation of these efforts:* Otter Tail will document its efforts to include woman, veteran and minority owned businesses in procurements for this project.⁶

The Department concludes that Otter Tail's proposed vegetation management acceleration investments meet some, but not all, of the Commission's criteria. Specifically, the proposed investments would not reduce carbon or other pollutant emissions in the power sector or across energy sectors, nor would these investments increase access to conservation and clean energy resources for Minnesotans. However, in general, projects that maintain or increase localized and utility system reliability, which the proposed vegetation management investments are intended to do, are in the public interest. The Department concludes that it is reasonably plausible that Otter Tail's proposed accelerated vegetation management will contribute to either maintaining or improving localized and system reliability as well as be in the public interest. The Department notes, however, that Otter Tail has not provided substantive support demonstrating that the reliability benefits of the proposed accelerated vegetation management are incremental to the benefits of the Company's current vegetation management program. This concern is addressed later in the instant comments in the Department's recommended reporting requirements for Otter Tail's proposed projects.

In response to a Department information request, the Company explained that its intention to accelerate vegetation management activities during the winter season of 2021 was reasonable, because:

- The frozen ground allows crews to access places that may be inaccessible if the temperatures were warmer, such as wet spots.
- The frozen ground decreases the probability of crews causing damage to landowner yards.
- Road restrictions are typically not in place during these months allowing crews easier travel with equipment.
- There are no leaves on the trees during these months making cleanup quicker and easier.⁷

Based on the information provided by Otter Tail at this time, the Department concludes that the Company's proposed vegetation management investments are reasonable, and we recommend that the Commission approve this proposed investment.

(3) Minnesota Building Maintenance: Citing a combination of old age, general disrepair, and inadequate size/space, Otter Tail explained that many of the Company's 65 buildings throughout its service territory are in need of repair or replacement. According to the Company, its currently proposed building investments of \$11.37 million would provide more reasonable workspaces for Otter Tail employees and better storage for utility equipment and tools. The Company also expects that increasing the amount of its indoor storage space would improve its response times to power outages in severe weather by eliminating the delays caused by the need to clear snow and ice from

⁶ Otter Tail's June 17, 2020 filing in Docket No. E,G999/CI-20-492, page 9.

⁷ Department Attachment 4.

vehicles/equipment stored outdoors or load materials/equipment outdoors during storms before dispatching crews to address the power outages.⁸ Otter Tail stated that one-third of its buildings require replacement and provided the following list of some of the building maintenance investments included in the Company's current proposal:

- Replacement of 10 Minnesota service buildings
- Replacement of 5 area service building and customer service center roofs
- Storage racks/pole bunks
- New siding for area service buildings
- New lighting for area service buildings
- Area service building overhead and walk-through doors
- Pole yard fencing
- Area service building interior (flooring, ceilings, bathrooms, paint, etc.)
- Fergus Falls office building improvements (flooring, fire and sprinkler systems, HVAC, parking lots, lighting)⁹

In its June 17, 2020 filing in Docket No. E,G999/CI-20-492, the Company explained whether and how these proposed building maintenance investments meet the following criteria outlined by the Commission in the same proceeding:

- *Provides significant utility system benefits:* The proposed building repairs and replacements would provide more reasonable workspaces for Otter Tail employees and better storage for utility equipment and tools. The Company also expects that increasing the amount of its indoor storage space would improve its response times to power outages.
- *Consistent with approved resource plans and existing Commission orders:* Resource plans do not generally address the status of field buildings.
- *Reduce carbon or other pollutant emissions in the power sector:* Repairing and replacing buildings will not affect carbon or other pollutant emissions.
- *Increase access to conservation and clean energy resources for Minnesotans:* Repairing or replacing buildings will not increase access to conservation to clean energy resources.
- *Create jobs or otherwise assist in economic recovery for Minnesotans:* The required replacements and repairs are expected to be labor-intensive and will create jobs in the areas of the installations.
- *Use woman, veteran, or minority owned businesses as much as possible and provide documentation of these efforts:* Otter Tail will document its efforts to include woman, veteran and minority owned businesses in procurements for this project.¹⁰

⁸ Petition, pages 8 – 9.

⁹ Petition, page 9.

¹⁰ Otter Tail's June 17, 2020 filing in Docket No. E,G999/CI-20-492, page 15.

The Department concludes that Otter Tail's proposed building maintenance investments meet some, but not all, of the Commission's criteria. Specifically, the proposed investments would not reduce carbon or other pollutant emissions in the power sector or across energy sectors, nor would these investments increase access to conservation and clean energy resources for Minnesotans. However, if these building maintenance projects actually provide the benefits that Otter Tail expects (more reasonable workspaces for Otter Tail employees, better storage for utility equipment and tools, and improved Company response times to power outages), then the Department is persuaded that these investments could be in the public interest. The Department concludes that it is reasonably plausible that Otter Tail's proposed building maintenance will contribute to either maintaining or improving localized reliability as well as be in the public interest.

Based on the information provided by Otter Tail at this time, the Department concludes that the Company's proposed building maintenance investments are reasonable, and we recommend that the Commission approve this proposed investment.

B. FUTURE REPORTING ON PROPOSED PROJECTS

The Department recommends that, for each of Otter Tail's proposed economic recovery projects approved by the Commission, the Commission require the Company to submit annual compliance filings with the following information:

- A comparison showing the amount of capital costs and non-capital expenses incurred versus the amount budgeted; costs/expenses should be broken down by major category.
- A comparison showing the scope of proposed work versus scope of work completed.
- The total number of people employed for the project, with a breakdown showing the number of permanent versus temporary workers, the number of Company employees versus outside contractors, and the number of women, veterans, and BIPOC workers.
- Measures or metrics demonstrating whether and to what extent the Company's investments have resulted in improved system reliability and/or improved customer service. For the accelerated vegetation management, Otter Tail should include an analysis showing whether and to what extent this incremental vegetation management activity contributed to improved reliability. For the building maintenance investments, Otter Tail should include an analysis showing whether and to what extent its response time to power outages has improved. For the SIRI investments, Otter Tail should include an analysis of any relevant metrics that demonstrate that its system reliability has measurably improved.

C. DEFERRED ACCOUNTING

The Commission has broad authority under Minnesota Statutes, §216B.10 to address the necessary accounting, reporting, and auditing of public utilities under the Commission's jurisdiction. Additionally, Minn. Rule 7825.0300, Subparts 1 and 2 confirm the adoption of the Federal Energy Regulatory Commission (FERC)¹¹ Uniform System of Accounts (US of A), with some clarifications. The US of A FERC

¹¹ The Federal Power Commission is the predecessor of the Federal Energy Regulatory Commission.

Account 182.3 – *Other Regulatory Assets* allows for deferred accounting to create regulatory assets that result from the ratemaking actions of regulatory agencies.

Utilities have occasionally framed deferred accounting as an exception to the US of A under Minn. Rule 7825.0300, Subpart 4. Because the US of A – specifically, FERC Account 182.3 – does provide a mechanism for deferred accounting, the Department does not believe an exception to the US of A is needed. Nevertheless, the Code of Federal Regulations necessitates that utilities justify requests to use deferred accounting and obtain approval from the appropriate regulatory agency (in this instance, the Commission) in order to defer expenses and investments for possible future rate recovery under FERC Account 182.3.

1. Historical Summary of Deferred Accounting Criteria Used by the Commission

The Commission has exercised its authority to approve or deny deferred accounting in cases where utilities have met a substantial burden to justify potentially imposing a higher financial burden on consumers, beyond recovery of the costs that the Commission has determined to be just and reasonable. In previous cases, the Commission has evaluated deferred accounting proposals using various criteria, as discussed later in the instant comments.

Deferred accounting is special accounting treatment that is an exception to balanced and fair ratemaking. The Commission authorizes rates to allow a utility a reasonable opportunity to recover from consumers representative costs of providing utility service. Those rates remain in effect until the utility files a new rate case. Until then, utilities are not entitled to dollar-for-dollar recovery of all actual costs between rate cases; similarly, ratepayers receive no benefit when a utility reduces costs between rate cases. Instead, utilities are expected to make reasonable decisions to ensure that the funds they receive from consumers are spent prudently. Thus, normal ratemaking and allowing utilities to recover representative costs set in rate cases is the Commission's primary tool to ensure that utilities act in a prudent manner and that rates are just and reasonable, as required by Minnesota Statutes, §216B.03.

Deferred accounting, by contrast, allows a utility to postpone, or defer, the standard accounting treatment that would otherwise be required for the financial item or transaction in question. For example, for financial accounting purposes, a utility normally recognizes expenses as they are incurred, even if the expenses are incurred outside of a rate case test year and are not expressly included in established base rates. This approach is consistent with the ratemaking principles described above. Under deferred accounting, however, a utility would suspend the recognition of the relevant expense, record the expense in a separate deferral account (FERC Account 182.3 – *Other Regulatory Assets*), and subsequently seek recovery from ratepayers of the expense, typically over some amortization period, in a future rate case.

While an explicit statutory or rule-based test does not exist to evaluate public utility deferred accounting requests,¹² the Commission has previously described certain criteria and circumstances under which deferred accounting may be appropriately applied.¹³ A prior Commission order addressing deferred accounting summarized some of these criteria and circumstances with the following statement:

Deferred accounting is a regulatory tool used primarily to hold utilities harmless when they incur out-of-test-year expenses that, because of their nature or size, should be eligible for possible rate recovery as a matter of public policy. Traditionally, deferred accounting has been reserved for costs that are unusual, unforeseeable, and large enough to have significant impact on the utility's financial condition. Deferred accounting has also sometimes been permitted when utilities have incurred sizeable expenses to meet important public policy mandates.¹⁴

The Department agrees with the Commission that deferred accounting treatment can be a valuable regulatory tool when applied using strict standards, and we believe that it can be useful in addressing extraordinary circumstances that call for a departure from standard accounting principles. The Department supports granting deferred accounting when a utility meets its burden of demonstrating that it has met the criteria applied by the Commission in various prior proceedings to determine whether the costs for which deferred accounting is requested are (1) unusual, unforeseeable, and/or extraordinary (2) financially significant in amount, (3) related to utility operations, and (4) likely to provide or did provide ratepayer benefit.¹⁵ Using a specific set of criteria to evaluate utility requests for

¹² The Commission has previously addressed its process for reviewing deferred accounting requests by stating that "While the Commission has allowed deferred accounting of manufactured-gas-plant cleanup costs in the past, these prior decisions do not bind the Commission. Rather, in each case the Commission must decide whether the specific facts and circumstances support a finding of good cause to allow cost fluctuations occurring outside of a rate-case test year to be accounted for in a future rate proceeding." Commission's October 17, 2018 *Order*, at 4, Docket No. G002/M-17-894, *In the Matter of the Petition of Northern States Power Company for Approval of Deferred Accounting for Manufactured-Gas-Plant Cleanup Costs*. In reference to deferred accounting decisions, the Commission has also stated that "Each decision is unique, and must be based on the particular set of facts present before the Commission." Commission's January 10, 2017 *Order*, Docket No. E015/M-16-648, at 5, *In the Matter of a Petition for Approval of Deferred Accounting Treatment of Costs Related to the 2016 Storm Response and Recovery*.

¹³ Regarding its evaluation criteria for deferred accounting requests, the Commission has previously noted that "In the 1990s, the Commission permitted deferral of manufactured-gas-plant cleanup cost accounting in cases involving Minnegasco, Interstate Power Company, and Xcel. The Commission's rationale varied from case to case, but the most important factors were that the costs involved were (1) unusual and unforeseen, (2) substantial, (3) related to utility operations, and (4) likely to provide a ratepayer benefit." Commission's October 17, 2018 *Order*, Docket No. G002/M-17-894, at 2, footnote 1.

¹⁴ Commission's October 17, 2018 *Order*, Docket No. G002/M-17-894, at 2.

¹⁵ For example, while the Commission's evaluation criteria differed among the following listed dockets, the factors of primary importance were that the relevant costs were a combination of (1) unusual, unforeseen, and/or extraordinary (2) significant or substantial in amount, (3) related to utility operations, and (4) likely to provide or did provide ratepayer benefit:

- Commission's July 16, 2012 *Order* in Docket No. E002/M-11-1263, *In the Matter of Xcel Energy's Petition for Deferred Accounting for Property Tax Costs*;

deferred accounting is likely to result in more consistent analyses and outcomes across time and among proceedings than evaluations that are made without considering a set of criteria. The Department is also aware of circumstances in which the Commission has approved deferred accounting for significant expenses incurred pursuant to public policy mandates;¹⁶ as the Commission has previously stated, these approvals have “...generally been in cases where the Commission itself mandated the expenditure.”¹⁷ In addition, because deferred accounting has the potential to increase the financial burden on consumers, beyond the levels that the Commission previously determined to be just and reasonable, any request to defer costs should be offset by any and all sources of higher revenues, tax rebates, credits or other relevant sources of funds.

The Department notes that the wording and description of the criteria used in evaluating deferred accounting requests sometimes varies among the records in previous dockets. Thus, the Department emphasizes that its analysis of the applicable criteria in the instant docket is not intended to either capture every prior iteration or one specific instance of evaluating deferred accounting requests. Instead, our objective is to present the Commission with an analysis that captures the core ideas and considerations previously used and potentially relevant to the deferred accounting decision before the Commission in the current Petition.

2. *Deferred Accounting for Otter Tail’s Proposed Economic Recovery Projects*

Otter Tail requests that the Commission authorize the Company to use deferred accounting to accrue and track the costs associated with the three proposed projects until Otter Tail requests recovery of these investments in conjunction with a future rate case. In response to a Department information

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- Commission’s January 10, 2017 *Order* in Docket No. E015/M-16-648 *In the Matter of a Petition for Approval of Deferred Accounting Treatment of Costs Related to the 2016 Storm Response and Recovery*; and,
 - Commission’s November 30, 2017 *Order* in Docket No. G011/M-17-409, *In the Matter of a Petition by the Minnesota Energy Resources Corporation for Approval of Farm Tap Customer-Owned Fuel Line Replacement Plan, Tariff Amendments, and Deferred Accounting*. At pages 9 – 10 of this *Order*, the Commission explained that in addition to meeting the other criteria, the relevant costs were intended to serve public policy goals and would be subject to review for reasonableness and prudence in a future rate case. The Department notes however, that the process of creating a regulatory asset through deferred accounting automatically provides for a future opportunity for regulators to review the relevant costs for reasonableness and prudence, as recovery of these deferred costs are approved through a separate proceeding, such as a general rate case.

¹⁶ For example, the Commission approved deferred accounting in the following dockets for utility costs incurred pursuant to a Commission mandate:

- Commission’s February 25, 2005 *Order* in Docket No. E002/M-03-1462, *In the Matter of Northern States Power Company’s Petition for Approval of Deferred Accounting for Costs Incurred for the Web Tool and Time-of-Use Pilot Project*. At page 5 of this *Order* the Commission not only considered the fact that Xcel incurred costs to meet a Commission mandate, but the Commission also found that the “costs incurred were reasonable” and this was “not a case where the Company...should have foreseen [incurring these costs] in its last rate case.”
- Commission’s January 20, 1994 *Order* in Docket No. G011/M-91-989, *In the Matter of Peoples Natural Gas Company’s Request to Establish a Tariff for Repairing and Replacing Farm-Tap Lines*. In this *Order*, deferred accounting was granted in lieu of the current cost recovery requested by the utility for costs incurred in implementing a Commission-required safety inspection program.

¹⁷ Commission’s October 17, 2018 *Order*, Docket No. G002/M-17-894, at 5.

request, Otter Tail indicated that, in addition to the proposed capital expenditures, it is proposing to include the following items in the Company's proposed deferred accounting accrual:

- A return on the capital portion of the proposed projects, using the Company's cost of capital (cost of debt and equity).
- The Allowance for Funds Used During Construction (AFUDC) associated with the proposed projects, up until the Company places the projects into service.
- Depreciation expense associated with the proposed projects, after they are in-service.
- Operating & Maintenance (O&M) expenses approved in this docket.¹⁸

Because Otter Tail is requesting deferred accounting for these investments, the rate impact of the proposed projects would be determined when the Company requests cost recovery of these projects in a future rate case. In response to a Department information request, Otter Tail indicated that, if its current deferred accounting request is approved, the Company would plan to "...track actual expenditures by the three projects requested in this docket...[e]xpenditures incurred over what is approved in the Rate Case for these projects will accrue in a deferred account."¹⁹ Although the Company did not specifically discuss vegetation management or building maintenance costs in its most recent rate case, Docket No. E017/GR-20-719, Otter Tail explained that it included revenue requirement amounts in its 2021 test year in Docket No. E017/GR-20-719 for each of the proposed economic development projects. The following table summarizes these revenue requirements:

Department Table 2: Revenue Requirements Included in 2021 Test Year in Docket No. E017/GR-20-719 for Otter Tail's Proposed Economic Development Projects²⁰

<i>Proposed Project</i>	<i>2021 Test Year Minnesota Revenue Requirement (Docket No. E017/GR-20-719)</i>
System Infrastructure and Reliability Improvement	\$695,000
Acceleration of Distribution and Transmission Vegetation Management	\$945,000
Minnesota Building Maintenance	\$89,000

If the Commission approves Otter Tail's deferred accounting request in the instant docket, the revenue requirement figures documented in Department Table 2 could be used as a baseline from which to determine each project's annual incremental revenue requirement, the amount potentially eligible for future cost recovery. However, the Department is concerned that the amounts provided in Department Table 2 appear low for projects that Otter Tail now proposes as priority investments. Therefore, we ask that the Company provide in reply comments the specific citations or workpapers in Docket No. E017/GR-20-719 that support the amounts included in Department Table 2. Additionally, the Department requests that Otter Tail clarify in its reply comments whether the "Total OTP Cost" figures shown in Table 1 of Department Attachment 1 represent the overall Minnesota jurisdictional

¹⁸ Department Attachment 2.

¹⁹ Department Attachment 3.

²⁰ Data in Department Table 2 retrieved from Department Attachment 1.

spending included in Docket No. E017/GR-20-719 for the three proposed projects; if not, please provide the overall Minnesota jurisdictional spending included in Docket No. E017/GR-20-719 for the three proposed projects with specific citations that support those amounts. The requested information will allow the Department to (1) compare Otter Tail's current overall spending request (Department Table 1) to the overall corresponding spending included in the Company's most recent rate case and (2) determine whether the deferred revenue requirements included for recovery in future rate case are incremental to those already included in Docket No. E017/GR-20-719.

As noted earlier in the instant comments, the Department typically supports the use of deferred - accounting when spending is (1) unusual, unforeseeable, and/or extraordinary, (2) financially significant in amount, (3) related to utility operations, and (4) likely to provide or did provide ratepayer benefit. Whether the spending is pursuant to a public policy mandate is also a relevant factor to contemplate when evaluating a deferred accounting request. The Department considered how each of these criteria/factors apply to Otter Tail's current proposals, and we provide the following corresponding discussion:

- **Unusual/unforeseeable/extraordinary:** The proposed projects are unusual only in their timing, as they each represent accelerated spending for investments that the Company would plan to undertake through its normal course of operations, albeit over a longer period of time. Because they are part of the normal course of utility operations, the Department does not consider these projects to be unusual/unforeseeable/extraordinary.
- **Financially significant in amount:** With combined estimated expenditures between approximately \$26 and \$31 million, Otter Tail's proposed projects could be considered financially significant.
- **Related to utility operations:** As noted in the first bullet point of this list, Otter Tail's proposed projects may be unusual in their accelerated timing, but not in their purpose or nature. The Company makes investments in system infrastructure/reliability, vegetation management, and building maintenance as a part of its normal utility operations.
- **Likely to provide ratepayer benefit:** Otter Tail described the primary potential benefits of its proposed projects as including job creation and the maintenance/improvement of reliability. The likelihood and extent to which these potential benefits will be realized by ratepayers is unknown at this point.
- **Pursuant to public policy mandate:** On May 20, 2020, the Commission opened an *Inquiry into Utility Investments that May Assist Minnesota's Economic Recovery from the COVID-19 Pandemic* and issued a *Notice of Reporting Required by Utilities* in Docket No. E,G999/CI-20-492, seeking information from all rate-regulated electric and gas utilities in Minnesota on ongoing, planned, or proposed investment projects that meet certain criteria. Otter Tail submitted its current proposals in response to the Commission's directive.

The Department concludes that Otter Tail's proposals meet some of the criteria typically used to evaluate deferred accounting requests. If the Commission approves the Company's proposed projects and grants the Company's corresponding deferred accounting request, we recommend the Commission place the following limitations on the deferred accounting authorization:

- Only the capital costs and allowance for funds used during construction that are directly tied to the approved projects may be accrued in the deferred account.
- Only the project revenue requirements that are incremental to those approved in the Company's rate case proceeding in Docket No. E017/GR-20-719 will be considered eligible to be reviewed for eventual recovery.
- Otter Tail may not accrue in the deferred account a return on its capital expenditures for the approved projects.
- Otter Tail may not defer depreciation expense or other O&M expenses associated with the approved capital projects. However, the Company may defer the O&M expenses approved for the proposed vegetation management acceleration.

Regarding the last two bulleted items, the Department notes that in past deferred accounting requests, the Commission has not allowed utilities to accrue a return or carrying amount on these costs. The Commission has agreed with the Department that returns/carrying costs should not be allowed for deferred accounting purposes, as ordered in Point 4 of the Commission's November 4, 2020 *Order* in Docket Nos. E,G999/CI-20-425 and E,G999/M-20-427. Additionally, current base rates already include a representative level of depreciation and other O&M expenses and increases or decreases in these expenses that occur outside a rate case should, in general, not be deferred. Deferring depreciation and O&M expenses undermines the ratemaking process by allowing the Company to simultaneously recover representative levels of these expenses through base rates (regardless of whether actual expenses are higher or lower) *and* track the expenses through a deferral for future dollar-for-dollar recovery. In the instant Petition, however, the Department understands that Otter Tail's proposed vegetation management acceleration is an O&M expense. To accommodate the Company's proposed vegetation management, we added to our recommended deferred accounting limitation the language "...the Company may defer the O&M expenses approved for the proposed vegetation management acceleration."

IV. DEPARTMENT RECOMMENDATIONS

The Department concludes that Otter Tail's proposed economic recovery projects and the Company's corresponding request for deferred accounting are generally reasonable, with the modifications proposed by the Department. We recommend that the Commission take the following actions:

- Approve Otter Tail's proposed acceleration of the Company's System Infrastructure and Reliability Improvement program, vegetation management, and building maintenance investments.

- The Department recommends that, for each of Otter Tail's proposed economic recovery projects approved by the Commission, the Commission require the Company to submit annual compliance filings with the following information:
 - A comparison showing the amount of capital costs and non-capital expenses incurred versus the amount budgeted; costs/expenses should be broken down by major category.
 - A comparison showing the scope of proposed work versus scope of work completed.
 - The total number of people employed for the project, with a breakdown showing the number of permanent versus temporary workers, the number of Company employees versus outside contractors, and the number of women, veterans, and BIPOC workers.
 - Measures or metrics demonstrating whether and to what extent the Company's investments have resulted in improved system reliability and/or improved customer service. For the accelerated vegetation management, Otter Tail should include an analysis showing whether and to what extent this incremental vegetation management activity contributed to improved reliability. For the building maintenance investments, Otter Tail should include an analysis showing whether and to what extent its response time to power outages has improved. For the SIRI investments, Otter Tail should include an analysis of any relevant metrics that demonstrate that its system reliability has measurably improved.
- If the Commission approves the Company's proposed projects and grants the Company's corresponding deferred accounting request, we recommend the Commission place the following limitations on the deferred accounting authorization:
 - Only the capital costs and allowance for funds used during construction that are directly tied to the approved projects may be accrued in the deferred account.
 - Only the project revenue requirements that are incremental to those approved in the Company's rate case proceeding in Docket No. E017/GR-20-719 will be considered eligible to be reviewed for eventual recovery.
 - Otter Tail may not accrue in the deferred account a return on its capital expenditures for the approved projects.
 - Otter Tail may not defer depreciation expense or other O&M expenses associated with the approved capital projects. However, the Company may defer the O&M expenses approved for the proposed vegetation management acceleration.

The Department also asks that Otter Tail provide the following in its reply comments:

- An explanation of how its existing SIRI investment schedule would change if the Commission were to approve the SIRI projects/spending proposed in the instant Petition. The Department requests that Otter Tail provide, at a minimum, a comparison showing the difference between the existing and proposed SIRI capital expenditures, revenue requirements, and scope of work forecasted for 2022, 2023, and 2024.

- Specific citations or workpapers in Docket No. E017/GR-20-719 that support the amounts included in Department Table 2 in the instant comments.
- Clarify whether the “Total OTP Cost” figures shown in Table 1 of Department Attachment 1 (in the instant comments) represent the overall Minnesota jurisdictional spending included in Docket No. E017/GR-20-719 for the three proposed projects; if not, please provide the overall Minnesota jurisdictional spending included in Docket No. E017/GR-20-719 for the three proposed projects. Please also provide specific citations to Docket No. E017/GR-20-719 that support the overall Minnesota jurisdictional spending amounts.

/ja

OTTER TAIL POWER COMPANY

Docket No: EG999-CI-20-492

Response to: MN Department of Commerce

Analyst: Nancy Campbell and Gemma Miltich

Date Received: March 24, 2021

Date Due: April 05, 2021

Date of Response: April 02, 2021

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

Information Request:

Topic: Rate case revenue requirements

Reference(s): Otter Tail's March 3, 2021 filing in Docket No. EG999/CI-20-492

Please provide the dollar amounts of the annual revenue requirements included in Otter Tail's most recent general rate case (Docket No. E017/GR-20-719) for the System Infrastructure & Reliability, Building Maintenance, and Distribution & Transmission Vegetation Management project/maintenance categories. Please provide specific references to Docket No. E017/GR-20-719 that identify where the revenue requirements corresponding to these project/maintenance categories are documented in the Company's rate case.

Attachments: 0

Response:

Table 1 below breaks out the approximate annual revenue requirements applicable to the amounts included in the 2021 Test Year in the most recent general rate case (Docket No. E017/GR-20-719) for System Infrastructure & Reliability (SIRI), Building Maintenance, and Distribution & Transmission Vegetation Management. These revenue requirement estimates take into account timing of capital or O&M spend during the test year, associated depreciation, ADIT, taxes, and return based on the proposed test year rate of return.

Building maintenance is not directly discussed in the rate case docket but is included across multiple functional O&M expense and capital budget categories per the functional use of the facilities.

Distribution & Transmission Vegetation Management is not directly discussed but is included in the distribution and transmission O&M expense discussed on pages 10-11 of Ms. Christine Petersen's Direct Testimony.

The SIRI project is discussed on pages 27-28 of Mr. Stuart Tommerdahl's Direct Testimony in the rate case.

TABLE 1

A	B	C	D	E
	2021 Test Year General Rate Case E017-GR-20-719	Jurisdictional Factor	Total OTP Cost (Thousand)	Total MN Revenue Requirement (Thousand)
1	Acceleration of Distribution and Transmission Vegetation Management			
2	Total Revenue Requirements in 2021 Test Year (MN Rate Case)	Blended D2 and D4	43.27%	\$2,184
3	Building Maintenance			
4	Total Revenue Requirements in 2021 Test Year (MN Rate Case)	P90	49.22%	\$1,428
5	System Infrastructure & Reliability (SIRI)			
6	Total Revenue Requirements in 2021 Test Year (MN Rate Case)	Blended D2 and D4	43.70%	\$27,577

OTTER TAIL POWER COMPANY
Docket No: EG999-CI-20-492

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Analyst: Nancy Campbell and Gemma Miltich
Date Received: March 24, 2021
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Date of Response: April 02, 2021
Responding Witness: Stuart Tommerdahl, Manager, Regulatory Administration, 218 739-8279

Information Request:

Topic: Return on potential deferred accounting balance

Reference(s): Pages 6 – 7 of Otter Tail’s March 3, 2021 filing in Docket No. EG999/CI-20-492

In reference to its request for deferred accounting, Otter Tail stated that “Future rate impacts will be the then current annual revenue requirements of the projects in the test year of a future rate case and a portion of the deferred balance existing at that time.” Please clarify whether Otter Tail is proposing In its March 3, 2021 filing to earn a return on any portion of the potential future expenses/capital costs that would be deferred and accumulated by the Company if its current deferred accounting request is approved.

Attachments: 0

Response:

Otter Tail is proposing to apply its cost of capital to costs incurred for these capital projects until they can be recovered. The cost of capital includes the cost of debt and equity. Otter Tail proposes to accrue AFUDC on capital projects until they are put into service. At the time the capital projects are put in service; the cost of capital from the Company’s most recently approved rate case will be applied and deferred until recovered. The Company also proposes to defer depreciation expense for any capital projects put into service and the O&M expenses approved in this docket will also be included in the deferred balance.

OTTER TAIL POWER COMPANY

Docket No: EG999-CI-20-492

Response to: MN Department of Commerce

Analyst: Nancy Campbell and Gemma Miltich

Date Received: March 24, 2021

Date Due: April 05, 2021

Date of Response: April 02, 2021

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

Information Request:

Topic: Tracking of Costs

Reference(s): Otter Tail's March 3, 2021 filing in Docket No. EG999/CI-20-492

Please explain how OTP will track costs related to the three projects proposed on OTP's Table 2 to ensure only the costs directly related to these projects would be included in deferred accounting

Attachments: 0

Response:

Otter Tail's baseline will be the approved 2020 Minnesota rate case O&M and capital expenditures. Otter Tail will track actual expenditures by the three projects requested in this docket: Acceleration of Distribution and Transmission Vegetation Management, Building Maintenance and System Infrastructure and Reliability. Expenditures incurred over what is approved in the Rate Case for these projects will accrue in a deferred account.

OTTER TAIL POWER COMPANY
Docket No: EG999-CI-20-492

Response to: MN Department of Commerce
Analyst: Nancy Campbell and Gemma Miltich
Date Received: March 24, 2021
Date Due: April 05, 2021
Date of Response: April 02, 2021
Responding Witness: Stuart Tommerdahl, Manager, Regulatory Administration, 218 739-8279

Information Request:

Topic: Winter vegetation management

Reference(s): Table 1 of Otter Tail's March 3, 2021 filing in Docket No. EG999/CI-20-492

Please explain why it would be reasonable for Otter Tail to conduct its vegetation management activities beginning in the winter season of 2021, as opposed a Minnesota season that does not generally have significant snow cover and freezing temperatures.

Attachments: 0

Response:

Typically, the months of January-March work well for Otter Tail for Vegetation Management for the following reasons:

- The frozen ground allows crews to access places that may be inaccessible if the temperatures were warmer, such as wet spots.
- The frozen ground decreases the probability of crews causing damage to landowner yards.
- Road restrictions are typically not in place during these months allowing crews easier travel with equipment.
- There are no leaves on the trees during these months making cleanup quicker and easier.

Vegetation Management can still be completed during summer months, but because of the items listed above, it is more favorable to complete during the January-March months and later fall winter months.

OTTER TAIL POWER COMPANY

Docket No: EG999-CI-20-492

Response to: MN Department of Commerce

Analyst: Nancy Campbell and Gemma Miltich

Date Received: March 24, 2021

Date Due: April 05, 2021

Date of Response: April 02, 2021

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

Information Request:

Topic: Reasonable Rates

Reference(s): Otter Tail's March 3, 2021 filing in Docket No. EG999/CI-20-492

As a result of potential supply chain delays of building materials and other supplies, please explain how OTP will ensure costs incurred for the three projects shown in OTP's Table 2 are reasonable and will benefit customers.

Attachments: 0

Response:

To ensure its customers are receiving the best price for the projects required to safely and reliably serve them, Otter Tail leverages best practices in sourcing material and vendors. This includes requesting competitive bids from multiple vendors for the construction services and materials. For distribution line hardware, Otter Tail utilizes its cost-plus material supply agreement with its key distributor that leverages all of their purchasing volume across Minnesota, North Dakota, South Dakota, and other Midwest states. This is a larger volume than what Otter Tail on its own purchases, thus providing Otter Tail lower prices.

CERTIFICATE OF SERVICE

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

Minnesota Department of Commerce
Comments

Docket No. E017/M-21-201

Dated this 3rd day of May 2021

/s/Sharon Ferguson

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Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-201_M-21-201
Kevin	Reuther	kreuther@mncenter.org	MN Center for Environmental Advocacy	26 E Exchange St, Ste 206 St. Paul, MN 551011667	Electronic Service	No	OFF_SL_21-201_M-21-201
Susan	Romans	sromans@allete.com	Minnesota Power	30 West Superior Street Legal Dept Duluth, MN 55802	Electronic Service	No	OFF_SL_21-201_M-21-201
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750 St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-201_M-21-201
Larry L.	Schedin	Larry@LLSResources.com	LLS Resources, LLC	332 Minnesota St, Ste W1390 St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-201_M-21-201
Elizabeth	Schmiesing	eschmiesing@winthrop.com	Winthrop & Weinstine, P.A.	225 South Sixth Street Suite 3500 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-201_M-21-201

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Colleen	Sipiorski	Colleen.Sipiorski@wecenergygroup.com	Minnesota Energy Resources Corporation	700 North Adams St Green Bay, WI 54307	Electronic Service	No	OFF_SL_21-201_M-21-201
Ken	Smith	ken.smith@districtenergy.com	District Energy St. Paul Inc.	76 W Kellogg Blvd St. Paul, MN 55102	Electronic Service	No	OFF_SL_21-201_M-21-201
Amanda	Smith	amanda.smith@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd N St. Paul, MN 55155	Electronic Service	No	OFF_SL_21-201_M-21-201
Peggy	Sorum	peggy.sorum@centerpointenergy.com	CenterPoint Energy	505 Nicollet Mall Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-201_M-21-201
Jamez	Staples	jstaples@renewablepartners.com	Renewable Energy Partners	3033 Excelsior Blvd S Minneapolis, MN 55416	Electronic Service	No	OFF_SL_21-201_M-21-201
Byron E.	Starns	byron.starns@stinson.com	STINSON LLP	50 S 6th St Ste 2600 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-201_M-21-201
Richard	Stasik	richard.stasik@wecenergygroup.com	Minnesota Energy Resources Corporation (HOLDING)	231 West Michigan St - P321 Milwaukee, WI 53203	Electronic Service	No	OFF_SL_21-201_M-21-201
Kristin	Stastny	kstastny@taftlaw.com	Taft Stettinius & Hollister LLP	2200 IDS Center 80 South 8th St Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-201_M-21-201

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Stuart	Tommerdahl	stommerdahl@otpc.com	Otter Tail Power Company	215 S Cascade St PO Box 496 Fergus Falls, MN 56537	Electronic Service	Yes	OFF_SL_21-201_M-21-201
Thomas	Tynes	jjazynka@energyfreedomcoalition.com	Energy Freedom Coalition of America	101 Constitution Ave NW Ste 525 East Washington, DC 20001	Electronic Service	No	OFF_SL_21-201_M-21-201
Analeisha	Vang	avang@mnpower.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	OFF_SL_21-201_M-21-201
Lisa	Veith	lisa.veith@ci.stpaul.mn.us	City of St. Paul	400 City Hall and Courthouse 15 West Kellogg Blvd. St. Paul, MN 55102	Electronic Service	No	OFF_SL_21-201_M-21-201
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Patrick	Zomer	Pat.Zomer@lawmoss.com	Moss & Barnett a Professional Association	150 S. 5th Street, #1200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-201_M-21-201