

Staff Briefing Papers

Meeting Date	September 30, 2021	Agenda Item 3**
Company	Otter Tail Power Company	
Docket Nos.	E017/M-21-201 In the Matter of a Proposal by Otter Tail Power for Authorization to Recover Costs for Investments that May Assist in Minnesota's Economic Recovery from the COVID-19 Pandemic	
	E,G999/CI-20-492 In the Matter of an Inquiry into Utility Investments that May Assist in Minnesota's Economic Recovery from the COVID-19 Pandemic	
Issues	Should the Commission approve Otter Tail Power Company's proposal for authorization to recover costs for investments that may assist in Minnesota's economic recovery from the COVID-19 Pandemic?	
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Relevant Documents

Date

Otter Tail Power Company Initial Filing	March 3, 2021
Office of Attorney General Comments	May 3, 2021
Department of Commerce Comments	May 3, 2021
Otter Tail Power Company Reply Comments	June 1, 2021
Department of Commerce Response to Reply Comments	June 16, 2021

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

I. Statement of the Issues

Should the Commission approve Otter Tail Power Company's proposal for authorization to recover costs for investments that may assist in Minnesota's economic recovery from the COVID-19 Pandemic?

II. Background

On May 22, 2020, the Commission issued an order that, in part, directed the Executive Secretary to issue a notice requesting information from the regulated electric and gas utilities on investments that would assist in Minnesota's economic recovery from the COVID-19 pandemic. The order specified that utilities should identify investments that would:

- Provide significant utility system benefits;
- Be 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 economic sectors;
- Increase access to conservation and clean energy resources for all Minnesotans;
- Create jobs or otherwise assist in economic recovery for Minnesotans; and
- Use women, veteran, or minority-owned businesses to the extent possible, which can be documented for verification purposes.

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 August 12, 2020, the Commission issued a notice soliciting public comment on how the Commission should evaluate the utilities' filing of such investments. The notice also requested that utilities file the first tranche of investments, including projects that would begin construction in 2021 and would prioritize job growth. The notice directed utilities to describe how each project would meet the criteria in the May 22 Order, make a recommendation for the process and schedule for the first tranche of projects.

In Otter Tail's September 17, 2020 comments, an update was provided on the original 12 projects. Five projects remained on the list of COVID economic recovery projects: System Infrastructure and Reliability (SIRI), Telecommunications Projects, Acceleration of Distribution and Transmission Vegetation Management (VM), Ground Line Inspection, and Minnesota (MN) Buildings Maintenance remained as projects with a needed method for recovery.

On March 3, 2021, Otter Tail further refined its request to advance certain projects for purposes of stimulating economic recovery from the COVID-19 Pandemic to three of the five projects listed in its September 17, 2020 filing: SIRI, VM and MN Building Maintenance projects.

Otter Tail requested Commission approval of recovery of accelerated capital and O&M spending for the three projects.

On May 3, 2021, the Office of Attorney General (OAG) filed comments recommending the Commission should deny Otter Tail's request because the projects are not consistent with the Commission's request for stimulus proposals, they needed to serve ratepayers and they do not meet the traditional standard for granting deferred accounting.

On May 3, 2021, the Department of Commerce (Department) filed comments requesting additional information from Otter Tail in reply comments. The Department concluded that Otter Tail's proposed economic recovery projects and the Company's corresponding request for deferred accounting was generally reasonable, with modifications. In its comments, the Department recommended the Commission place limitations on deferred accounting authorization, including not allowing the depreciation expense associated with the proposed SIRI and building maintenance investments, and require Otter Tail to make annual compliance filings reporting a list of specific information.

On June 1, 2021, Otter Tail submitted reply comments disagreeing with the OAG's recommendation to deny Otter Tail's request. Otter Tail agreed to provide an annual compliance filing as recommended by the Department and requested the Commission allow the deferred accounting of costs for SIRI, Acceleration of Distribution and Transmission VM, and MN Buildings Maintenance, above the amounts included in the Company's current pending rate case which includes the annual depreciation expense, the annual costs of deployed capital (the return), and the annual O&M costs.

On June 16, 2021, the Department responded to Otter Tail's reply comments and retracted its prior objection to Otter Tail's request to defer the depreciation expense associated with the proposed SIRI and building maintenance investments. The Department continued to conclude Otter Tail's proposed economic recovery projects and the Company's corresponding request for deferred accounting are generally reasonable, with revised modifications.

III. Otter Tail Power Initial Filing

In its March 3, 2021 filing, Otter Tail requested approval of recovery of accelerated capital and O&M spending for three projects, which it determined could be advanced to help stimulate local economic recovery and meet critical needs for Otter Tail.¹¹

Table 1: Otter Tail Proposed COVID Projects

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

¹¹ Otter Tail Power Company Initial Filing, pp. 9-10.

Otter Tail requested approval of deferred accounting as a mechanism for recovery of the three proposed projects. Otter Tail assured by authorizing deferred accounting for the annual revenue requirements there will be no current impact and future rate impacts can be moderated in the rate case as circumstances dictate at that time. Otter Tail requested approval of deferred accounting authorization of the accelerated capital and O&M spending for the SRI, VM and MN Building Maintenance projects.

A. System Infrastructure and Reliability (SRI)

Otter Tail stated the bulk of the SRI projects represent replacement of aged transmission and distribution (T&D) facilities across its service territory and are a mix of both ongoing and planned projects. According to Otter Tail, there is a need to increase the rate of replacements, because its current replacement programs are not adequate to keep pace with the high rate of upcoming asset retirement. Otter Tail identified the following SRI projects in need of accelerated replacement: transmission line replacement projects, cutout failure replacement programs, increased underground replacement programs, distribution substation replacement programs, and distribution line replacement programs.²

B. Acceleration of Distribution and Transmission Vegetation Management (VM)

Otter Tail stated the acceleration of VM vegetation would be performed by contractors on Otter Tail's distribution feeders and transmission systems and may include removal of vegetation including noxious weeds from distribution and transmission substations. According to Otter Tail, all VM work to be completed is ongoing and planned, and Otter Tail generally sets routine annual budget amounts. Otter Tail asserted assuring adequate recovery by authorizing spending exceeding current budgeted amounts will accelerate VM work beyond typical annual projections and enhance reliability.³

C. Minnesota (MN) Buildings Maintenance –

According to Otter Tail, many of its buildings need repair or replacement due to age and being too small to fit larger sized equipment necessary for servicing Otter Tail's current system. In addition to increasing the size for newer larger trucks, Otter Tail insisted repairs are needed to keep out the elements at these remote buildings, such as new doors, windows, roofs, rusted and damaged siding, etc. Other repairs noted by Otter Tail included worn furnishings like flooring, ceilings, paint, etc. In some cases, Otter Tail stated it may be more cost effective to replace rather than repair and it has flagged one-third of its buildings as needing to be replaced. Otter Tail provided the following list MN Building Maintenance projects:

1. Replacement of 10 MN area service buildings- \$8M
2. Replacement of 5 building roofs- \$380k
3. Storage racks/ pole bunks- \$200k

² *Id.*, pp. 7-8.

³ *Id.*, p. 8.

4. New siding for area service buildings- \$300k
5. New lighting for area service buildings- \$80k
6. Area service building overhead and walk-through doors- \$60k
7. Pole yard fencing- \$100k
8. Area service building interior (flooring, ceilings, bathrooms, paint, etc.)- \$150k
9. Fergus Falls office building improvements (flooring, fire and sprinkler systems, HVAC, parking lots, lighting)- \$2M.⁴

IV. Parties' Comments

The OAG and the Department provided comments in response to Otter Tail's proposal for COVID economic recovery projects.

A. Office of Attorney General Comments

The OAG recommended the Commission deny Otter Tail's request for two reasons: 1) Otter Tail's projects are not consistent with the Commission's request for stimulus proposals, nor are they needed to serve ratepayers, and 2) these projects do not meet the traditional standard for granting deferred accounting. However, if the Commission does grant authorization for deferred accounting in this docket, it should not permit carrying charges.

1. *Otter Tail's stimulus projects are not consistent with the Commission's request for stimulus proposals as set forth in its May 22, 2020 Order.*

In the Commission's May 22, 2020 Order, the OAG noted projects should provide significant benefits to the utility's system. The OAG asserted Otter Tail's filings in this proceeding have not provided much information on the need for acceleration or the specific benefits that accelerated spending would bring to the utility system. The OAG argued ratepayers are being asked to pay more for Otter Tail to undertake routine maintenance before it is needed, without any clear showing of a benefit.⁵ The OAG also asserted Otter Tail did not provide any evidence that the projects would reduce carbon or other pollutant emissions, nor any evidence that they would measurably increase access to conservation or clean energy resources.⁶

The OAG claimed Otter Tail offered even less detail about the accelerated VM project. While Otter Tail noted accelerated VM can "enhance reliability," the OAG insisted Otter Tail did not provide any analysis the cost of additional spending on VM is balanced against the benefit of acceleration.⁷

2. *Otter Tail's Stimulus Projects Do Not Meet Standard for Deferred Accounting*

⁴ *Id.*, pp. 8-9.

⁵ The Office of Attorney General Comments, pp. 4-5

⁶ *Id.*, pp. 5-6.

⁷ *Id.*, p. 5.

While conceding the COVID-19 pandemic is an unusual and unexpected event, the OAG stated the Commission has already authorized utilities to defer pandemic-related costs that were incurred to maintain utility service. The OAG argued using deferred accounting for discretionary stimulus projects would represent a substantial departure from how the Commission has used this tool in the past and should not be done without careful consideration of the risk to ratepayers. According to the OAG, the Commission should only grant deferred accounting when a utility incurs costs that are unforeseen, unusual, and large enough to have a significant impact on the utility's financial condition. While the Commission has sometimes allowed deferred accounting for utility initiatives that serve an important public policy goal, the OAG argued the Commission has limited that use to cases where the goal is explicitly defined by the legislature and the Commission is given authority to further that goal.⁸

If the Commission grants deferred accounting for any projects, the OAG recommended the Commission prohibit the Company from collecting carrying charges on uncollected deferred costs. While Otter Tail frames its deferred-accounting proposal as mitigating the rate impacts of its stimulus projects, the OAG argued deferred accounting would serve to increase the total cost of the stimulus projects, rather than mitigate them. Therefore, the OAG recommended the Commission should expressly order that any deferral for ratepayer-funded stimulus will not include carrying charges.⁹

B. Department of Commerce Comments

In its May 3, 2021 comments, the Department stated it evaluated the Company's economic recovery project proposals against the criteria set by the Commission 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. In its Comments, the Department requested Otter Tail provide additional information in reply comments. However, based on the information provided by Otter Tail up to that point, the Department concluded the Company's proposed projects are reasonable and recommended the Commission approve the proposed investment projects (SIRI, accelerated VM, and MN Building Maintenance), with modifications.¹⁰

1. *Proposed projects*

The Department agreed with the OAG that the three proposed projects 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, the Department concluded the three projects, in general, maintain or increase reliability and are in the public interest.¹¹ The Department recommended, for each of Otter Tail's proposed economic recovery projects approved by the Commission, the Commission

⁸ *Id.*, pp. 6-7.

⁹ *Id.*, pp. 7-8.

¹⁰ The Department of Commerce Comments, pp. 2-7.

¹¹ *Id.*

require the Company to submit annual compliance filings providing a list of specific information.¹²

2. Deferred Accounting

The Department noted deferred accounting is a special accounting treatment that is an exception to traditional ratemaking and provided the following comparison between traditional rate making and deferred accounting.

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.¹³

The Department noted further there is not an explicit statutory or rule-based test to evaluate public utility deferred accounting requests. However, the Department stated the Commission has previously described when deferred accounting may be appropriately applied and it has articulated the review of deferred accounting requests is unique and must be based on the set of facts present before the Commission. 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.¹⁴ The

¹² *Id.*, p. 7.

¹³ *Id.*, p. 8.

¹⁴ *Id.*, p. 9 and fn. 12.

Department quoted the following from the Commission's October 17, 2018 *Order* in Docket No. G002/M-17-894 as follows:

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.¹⁵

The Department stated it 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. In addition, the Department noted the Commission has previously approved deferred accounting for significant expenses incurred pursuant to public policy mandates; as the Commission has previously stated, these approvals have "...generally been in cases where the Commission itself mandated the expenditure."¹⁶ The Department provided the following analysis of Otter Tail's proposed projects using the Commission's criteria:

- 1) **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.
- 2) **Financially significant in amount:** With combined estimated expenditures between approximately \$26 and \$31 million, Otter Tail's proposed projects could be considered financially significant.
- 3) **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.

¹⁵ *Id.*, p. 9. See also, fn 13 which quotes from the same Order "...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.'"

¹⁶ *Id.*, pp. 9-10. See also, fns 15-17.

- 4) **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.
- 5) **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.¹⁷

The Department summarized the revenue requirement amounts in its 2021 test year in Docket No. E017/GR-20-719 for each of the proposed economic development projects in the following table 2:

Table 2: Revenue Requirements Included in 2021 Test Year in Docket No. E017/GR-20-719 for Otter Tail's Proposed Economic Development Projects¹⁸

<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

The Department suggested the revenue requirement figures in 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, if the Commission approves Otter Tail's deferred accounting request. However, the Department requested Otter Tail clarify in reply comments the specific citations or workpapers in Docket No. E017/GR-20-719 that support the amounts included in Table 2. Additionally, the Department requested Otter Tail clarify in its reply comments the overall Minnesota jurisdictional spending included in Docket No. E017/GR-20-719 so the Department may (1) compare Otter Tail's current overall spending request 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-20-719.¹⁹

¹⁷ *Id.*, p. 12.

¹⁸ *Id.*, p. 11, Department Table 2.

¹⁹ *Id.*, pp. 11-12.

Finally, the Department recommended that if the Commission approves the Company's proposed projects and grants the Company's corresponding deferred accounting request, 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.²⁰

Regarding the last two bulleted items, the Department noted in past deferred accounting requests the Commission has not allowed utilities to accrue a return or carrying amount on these costs. The Department also explained 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. However, the Department acknowledged Otter Tail's proposed vegetation management acceleration is an O&M expense, and thus added "...the Company may defer the O&M expenses approved for the proposed vegetation management acceleration" to the last bullet point.²¹

C. Otter Tail Power Reply Comments

In its reply comments, Otter Tail responded to the Department's request for additional information, including a comparison showing the difference between the existing and proposed SIRI capital expenditures, revenue requirements, and scope of work forecasted for 2022, 2023, and 2024.²²

Otter Tail disagreed with the OAG's recommendation to deny Otter Tail's request. Regarding the OAG's primary objection that the projects proposed by Otter Tail meet only some, and not all, of the Commission's criteria, Otter Tail stated it does not interpret the Commission's application of criteria to be so constrained. Otter Tail argued such an interpretation would narrowly restrict qualified projects designed to have material beneficial impact on Otter Tail's service to customers and with a broad outreach to the communities served by Otter Tail in rural western and northwestern Minnesota. Otter Tail stated it felt it was important to focus on

²⁰ *Id.*, p. 13.

²¹ *Id.*

²² Otter Tail Power Company Reply Comments, pp. 5-8.

projects that could spur the economy as much as possible in its local communities, while meeting some of the Commission's criteria.²³

Otter Tail agreed to provide an annual compliance filing as recommended by the DOC, which will include the following information:

- A comparison showing the amount of capital costs and non-capital expenses incurred versus the amount budgeted; and costs/expenses will 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 will 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 will include an analysis showing whether and to what extent its response time to power outages has improved;
- For the SIRI investments, Otter Tail will include an analysis of any relevant metrics that demonstrate that its system reliability has measurably improved.²⁴

Regarding the Department's recommendation that the annual O&M costs for SIRI and building maintenance projects should not be authorized for deferral, Otter Tail argued this would result in no deferral at all for the SIRI and building maintenance projects. Otter Tail explained the annual revenue requirements of these capital investments are largely comprised of: 1) the annual depreciation expense; 2) the annual cost of the deployed capital; and 3) the annual O&M costs (including taxes, etc.). According to Otter Tail, the Department's recommendation limits Otter Tail to include only the depreciated capital costs and accrued allowance for funds used during construction (AFUDC) in future rate cases, which Otter Tail would not need any deferred accounting authority from the Commission. Otter Tail claimed, if the authorization for deferral excludes the annual depreciation expense, the cost of capital, and the O&M expenses, it would be the same as if the approval had not been granted and no financial path will exist to permit going forward with the projects. Therefore, Otter Tail argued, the purpose behind this docket will not be satisfied.²⁵

Otter Tail explained further the purpose of its request for the deferral of costs is to remove the financial constraint on capital deployment for the SIRI and building maintenance projects.

²³*Id.*, p. 5.

²⁴ *Id.*, pp. 2-3.

²⁵ *Id.*, p. 3.

According to Otter Tail, the financial constraint is rates are based on a representative amount of capital spend, and its requests for deferral of the annual revenue requirements for these specific projects is for the purpose of deploying capital above the representative amounts. Without this authority, Otter Tail stated it must continue to be constrained to the representative amount.²⁶

D. Department of Commerce Response to Reply Comments

In its response to Otter Tail's reply Comments, the Department continued to conclude that Otter Tail's proposed economic recovery projects and the Company's corresponding request for deferred accounting are generally reasonable, with the revised modifications proposed by the Department in its response comments.²⁷

Regarding Otter Tail's concern that the Department's recommended restrictions on deferred accounting would disallow too much of the potential future cost recovery available to the Company through its deferral of the proposed project costs, the Department conceded that allowing Otter Tail to defer depreciation expense for the proposed SIRI and building maintenance investments may be reasonable for the purpose of the instant docket. While the Department maintained deferring depreciation and other O&M expenses undermines the ratemaking process, the Department stated depreciation expense can be easily tied directly to and tracked for a specific capital investment, unlike other O&M expenses. Therefore, the Department retracted its prior objection to Otter Tail's request to defer the depreciation expense associated with the proposed SIRI and building maintenance investments for purposes of this Covid-related docket. The Department continued to recommend that the Commission not allow Otter Tail to accrue in the deferral a return on the capital expenditures for the approved projects.²⁸

The Department recommended 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, with the following spending caps:

Table 1: Otter Tail Proposed COVID Projects

<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

²⁶ *Id.*, p. 4.

²⁷ Department of Commerce Response to Reply Comments, p. 6.

²⁸ *Id.*, p. 5.

Minnesota Building Maintenance	\$11.37 million
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- Adopt the figures contained in the following Department Table 2, originally included in the Department’s May 3, 2021 Comments, to establish the baseline annual revenue requirements against which to evaluate whether Otter Tail has incurred incremental revenue requirements for the proposed economic development projects:

Table 2: Revenue Requirements for 2021 Test Year in Docket No. E017/GR-20-719

<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

- Require the Company to submit annual compliance filings with the following information for each of approved economic recovery project:
 - 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, the Commission place the following limitations on the deferred accounting authorization:
 - Only the capital costs and AFUDC 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 (see Department Table 2 on the previous page) 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 defer the depreciation expense, but not other O&M expenses, associated with the SIRI and building maintenance capital projects. When and if Otter Tail requests cost recovery of the deferred depreciation expense associated with the SIRI and building maintenance investments, the Company must also propose a reasonable amortization period over which to recover the expense as well as a sunset date at which the recovery will end. The Company may defer the O&M expenses approved for the proposed vegetation management acceleration.²⁹

V. Staff Analysis

Otter Tail's proposed projects were responsive to the Commission's May 22, 2020 in Docket No. E,G999/20-492, *In the Matter of an Inquiry into Utility Investments that May Assist in Minnesota's Economic Recovery from the COVID-19 Pandemic*. Regarding whether Otter Tail's three proposed projects meet the criteria of the May 22, 2020 Order and whether they are "appropriate," Staff notes the Commission faced a similar decision in Docket No. E,G-002/M-20-716, *In the Matter of a Proposal by Xcel Energy for Authorization to Recover Costs for Investments that May Assist in Minnesota's Economic Recovery from the COVID-19 Pandemic*. In its March 12, 2021 Order, the Commission determined Xcel's Tranche 1 proposals have the potential to be consistent with the Commission's request for proposals that could assist with economic recovery. However, the Commission Order stated it would make decisions about reasonableness, prudence, and cost recovery in a future rate proceeding for any Tranche 1 investments that Xcel chooses to move forward; and the acceleration of these projects alone would not be the sole basis for any disapproval in the future.³⁰ The Order states:

Although the Commission will not specifically find at this time that Xcel's proposed acceleration is "appropriate," the Commission will state that the proposals have the potential to be consistent with the factors in the May 22 Order. More information will be necessary before the Commission can make any decisions related to reasonableness, prudence, or cost recovery; however, it appears that Xcel's proposal has the potential to create jobs, assist in economic

²⁹ *Id.*, pp. 6-7.

³⁰ Docket No. E,G002/20-716, *In the Matter of a Proposal by Xcel Energy for Authorization to Recover Costs for Investments that May Assist in Minnesota's Economic Recovery from the COVID-19 Pandemic*, Order Determining that Proposals have the Potential to be Consistent with COVID-19 Economic Recovery, p. 7, Ordering Point 1 and 2.

recovery, and use women-, veteran-, and minority-owned businesses. Xcel may also demonstrate other factors once additional information is available.

In any case, any acceleration that Xcel chooses to pursue will not be the sole basis for any disapproval of the projects that may occur in the future. The Commission appreciates Xcel's efforts to respond to the May 22 Order and identify ways that the Company may be able to contribute to Minnesota's economic recovery from the COVID-19 pandemic. However, Xcel retains the burden of showing that these investments are prudent and reasonable in future proceedings.

The Commission will direct Xcel to track investment spending for any accelerated projects identified in this proceeding separately from base rates, and clearly delineate between portions that are included in base rates and those that are incremental to base rates. This tracking is consistent with requirements established in the general COVID-19 inquiry docket and will ensure that costs are not double-recovered. As discussed in the general COVID-19 inquiry docket, Xcel must also report on the metrics established in that docket for the projects identified in this proceeding.³¹

While Staff appreciates concerns raised by both the Department and the OAG in regard to Otter Tail's proposed projects, Staff suggests the Commission may consider a similar treatment for Otter Tail's proposed investments as it did with Xcel's proposed investments in Docket No. E,G-002/M-20-716, as described above.

Staff also notes Otter Tail submitted a quarterly report on July 30, 2021 using the template developed by the Commission in Docket No. E,G999/CI-20-492. Otter Tail listed the three proposed dockets in its quarterly report but did include data on the projects because the projects were not yet approved by the Commission. If the Commission approves the three proposed projects, it may be assumed Otter Tail will meet its requirement to submit data on the projects in its quarterly reports using the Commission's template in Docket No. E,G999/CI-20-492.

³¹ *Id.*, p. 6.

VI. Decision Options

- A. Approve Otter Tail Power Company's proposal for authorization to recover costs for investments that may assist in Minnesota's economic recovery from the COVID-19 Pandemic. (Otter Tail)
- B. Deny Otter Tail Power Company's proposal for authorization to recover costs for investments that may assist in Minnesota's economic recovery from the COVID-19 Pandemic. (OAG)
- C. If the Commission approves and grants deferred accounting for any project, do not allow Otter Tail to collect carrying charges on uncollected deferred costs. (OAG)
- D. Approve Otter Tail's proposed acceleration of the Company's System Infrastructure and Reliability Improvement program, vegetation management, and Minnesota building maintenance investments, with the following modifications. (Department)
 1. Adopt the following spending caps from Table 1 below:

Table 1: Otter Tail Proposed COVID Projects

<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

2. Adopt the figures contained in the following Table 2 to establish the baseline annual revenue requirements against which to evaluate whether Otter Tail has incurred incremental revenue requirements for the proposed economic development projects:

Table 2: Revenue Requirements for 2021 Test Year in Docket No. E017/GR-20-719

<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

3. Require the Company to submit annual compliance filings with the following information for each of approved economic recovery project:
 - a) 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.

- b) A comparison showing the scope of proposed work versus scope of work completed.
 - c) 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.
 - d) 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.
4. If the Commission approves the Company's proposed projects and grants the Company's corresponding deferred accounting request, the Commission place the following limitations on the deferred accounting authorization:
- a) 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.
 - b) 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 (see Department Table 2 on the previous page) will be considered eligible to be reviewed for eventual recovery.
 - c) Otter Tail may not accrue in the deferred account a return on its capital expenditures for the approved projects.
Otter Tail may defer the depreciation expense, but not other O&M expenses, associated with the SIRI and building maintenance capital projects. When and if Otter Tail requests cost recovery of the deferred depreciation expense associated with the SIRI and building maintenance investments, the Company must also propose a reasonable amortization period over which to recover the expense as well as a sunset date at which the recovery will end. The Company may defer the O&M expenses approved for the proposed vegetation management acceleration.³²

³² *Id.*, pp. 6-7.

E. Determine that (Staff):

1. Otter Tail Power's proposal for System Infrastructure and Reliability (SIRI), accelerated vegetation management, and Minnesota building maintenance have the potential to be consistent with the Commission's request for proposals that could assist with economic recovery in the May 22, 2020, Order in Docket No. E,G-999/CI-20-425;
2. the Commission will make decisions about reasonableness, prudence, and cost recovery in a future rate proceeding for Otter Tail's three proposed projects;
3. the acceleration of these projects alone will not be the sole basis for any disapproval in the future.
4. Otter Tail shall track investment spending for the acceleration of the three projects separately from base rates, with clear delineation between portions that are included in base rates and those that are incremental to base rates.