

DIVIDER

**STATE OF NORTH DAKOTA
INFORMATION TECHNOLOGY DEPARTMENT
SFN 2053 (4-2002)**

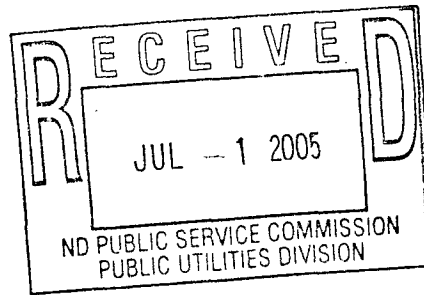
PU-401-00-36

**Otter Tail Power Company
Performance Based Regulation
Application
Filed 1/31/2000**

Closed 7/1/2005

00

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)



June 30, 2005

Ms. Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
State Capitol - 600 East Boulevard
Bismarck, ND 58505-0480

RE: Application of Otter Tail Power Company
to Extend PBR Plan

Dear Ms. Jeffcoat-Sacco:

Enclosed are an original and seven copies of an Application for Approval to Extend Performance-Based Ratemaking Plan through 2008. In this Application, Otter Tail Power Company proposes continuation of its current PBR Plan, with certain modifications. The proposed PBR Plan would become effective on January 1, 2006, and continue December 31, 2008. The only change contemplated during those three years will be updating the performance measures based on three-year rolling averages.

I am forwarding an electronic copy of the Application and this cover letter in pdf format by email to you at ijeffcoatsacco@state.nd.us and Sandi Scott at slscott@state.nd.us.

If you have questions on the information provided, don't hesitate to contact me at (218) 739-8289 or bbrutlag@otpc.com.

Very truly yours,

Bernadeen Brutlag
Manager, Regulatory Services

Enclosures

**STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of Otter Tail Corporation d/b/a
Otter Tail Power Company's Proposal
for Extension of Its Performance Based
Ratemaking Plan**

Case No. _____

**APPLICATION FOR APPROVAL TO EXTEND
PERFORMANCE-BASED RATEMAKING PLAN THROUGH 2008**

Pursuant to the Commission's Order dated December 29, 2000, in case No. PU-401-00-36, Otter Tail Corporation d/b/a Otter Tail Power Company ("Otter Tail") is currently operating under a Performance-Based Ratemaking Plan ("PBR Plan"), which expires on December 31, 2005. According to its provisions, if Otter Tail wishes to extend the PBR Plan, it must file a request with the Public Service Commission ("Commission") by July 1, 2005, with any proposed changes. By this application, Otter Tail requests approval to extend the PBR Plan through December 31, 2008, with certain changes described below.

I. GENERAL FILING INFORMATION.

A. Name, address, and telephone number of the utility making the filing.

Otter Tail Corporation d/b/a
Otter Tail Power Company
215 South Cascade Street
P.O. Box 496
Fergus Falls, MN 56538-0496
Phone (218) 739-8200

B. Name, address, and telephone number of the attorney for Otter Tail.

Bruce Gerhardson
Associate General Counsel
Otter Tail Corporation
215 South Cascade Street
P.O. Box 496
Fergus Falls, MN 56538-0496
Phone (218) 998-7108

C. Title of Utility Employee Responsible for Filing.

Bernadeen Brutlag
Manager, Regulatory Services
Otter Tail Power Company
215 South Cascade Street
P. O. Box 496
Fergus Falls, MN 56538-0496
(218) 739-8289

D. The date of the filing and the date that Otter Tail proposes the rate or service change to go into effect.

The date of this filing is June 30, 2005. Otter Tail proposes that the PBR Plan shall be effective as of January 1, 2006, and to continue for three years.

E. Other Requirements of North Dakota Rules Part 69-02-02-04.

A certified copy of Otter Tail's Articles of Incorporation is on file with the Commission, as is an original certificate of good standing.

II. BRIEF DESCRIPTION OF THE PBR PLAN.

As the Commission is well aware, two of the primary goals of performance-based ratemaking are to allow greater flexibility for regulated utilities and to minimize the time required for regulatory oversight. A well-designed PBR plan allows for the reliance on market-like forces, to the greatest extent possible, to create incentives for regulated utilities to operate efficiently and make investment in its business. A PBR plan accompanied by clear and well-

designed measures is likely to provide significant benefits over more traditional forms of cost-of-service regulation. It is important that the measures developed not be unduly burdensome to calculate and administer, either for the utility or for regulators.

While rate cases traditionally set an exact allowed return, it has become widely recognized that actual returns are measured within some designated range of reasonableness. In the case of PBR plans, this concept is expanded through the use of deadbands. In Otter Tail's Plan, we recognize this concept by using "acceptable ranges" around each of our performance standards or targets.

Since January 1, 2001, Otter Tail's PBR Plan has been very successful at achieving the above goals. The seven performance measures have provided a good balance for measuring efficient operation of the utility. Customers benefit from the plan because the performance measures focus on things important to customers: reliability, customer service, and price. In the first year of the plan, Otter Tail returned \$662,300 to North Dakota customers under the sharing provision. Shareholders benefit from the plan because the utility has the potential to earn a higher return on equity if it performs well on the performance measures. And during this period, Otter Tail's average residential rate in North Dakota has remained the lowest or second lowest compared with 30 utilities in a seven-state region.

III. THE PBR PROPOSAL.

Otter Tail requests approval to extend its PBR Plan through December 31, 2008, with some modifications, to become effective January 1, 2006. Otter Tail believes the current PBR Plan is working well, and therefore, the proposed modifications do not change the basic concept or operation of the current Plan. The following is a list of the areas where changes are proposed:

1. Change under "usual and existing practices" provision.
2. Acceptable range for return on equity modified.
3. Reliability measures – industry benchmark.
4. Customer satisfaction measures – replace transaction survey with call center response time measure.
5. Price change measure modified.
6. Extreme earnings provision to terminate plan modified.

Each of these proposed modifications to the current plan is separately discussed in detail below. Provisions of the PBR Plan not discussed here will remain in effect unchanged for the period January 1, 2006, through December 31, 2008.

IV. DETAILS OF REQUESTED MODIFICATIONS.

1. The PBR Plan includes in Section B. Reporting/Review the following provision:

"Otter Tail's operating results for each year will be based upon usual and existing practices, consistent with Commission practice in recent years."

Beginning with the PBR Plan extension in 2006, Otter Tail proposes to change the way that it treats non-asset based wholesale margins for retail revenue requirements. For several years, Otter Tail's wholesale electric sales have been of three types:

a) Asset-based transactions. These are sales of energy generated by Otter Tail's own generating plants and sold into the wholesale market at times when that energy was not needed for retail customers;

b) Buy/resell transactions. In these transactions, Otter Tail buys energy, schedules it into its control area, and resells that energy to another utility. The volume, volatility and

nature of these transactions has changed since the advent of FERC market-based rates.

Through the end of 2005, Otter Tail has included the margins from buy/resell transactions as a retail revenue requirements credit in North Dakota; and

c) "For billing only" or FBO transactions. These are financial transactions where no energy is scheduled into, out of, or across Otter Tail's control area. This type of wholesale transaction came into being in 2001 and at that time both Minnesota and North Dakota regulatory staffs agreed that the margins from these transactions should be excluded from retail revenue requirements for reporting purposes.

Otter Tail proposes to change the way buy/resell wholesale margins will be treated when calculating retail revenue requirements, beginning January 1, 2006. Under the "consistency" provision cited above, Otter Tail has been including buy/resell margins in its reported returns used for PBR during the initial five years of the PBR Plan. With the advent of the MISO Day 2 market, there is no longer a clear distinction between buy/resell and FBO transactions. All wholesale sales are either asset-based or non-asset based. It is much less clear whether the non-asset-based transactions have any impact on Otter Tail's control area. In addition, it appears that the MISO Day 2 market will significantly reduce the non-asset-based margins that Otter Tail is able to achieve. At this time, it is extremely difficult to predict the level of non-asset-based wholesale margins in the future. However, removing these margins will have some downward impact on Otter Tail's earned return on equity (ROE). As discussed in the next section, Otter Tail proposes a lower allowed ROE range for this reason, among others.

2. Acceptable range for return on equity (ROE). Otter Tail proposes an acceptable range for allowed ROE of 10.25 percent to 12.25 percent. This is a reduction from the ROE range in the 2001-2005 PBR Plan of 11.0 percent to 13.0 percent. In arriving at the proposed

range, Otter Tail has considered several items. First is the impact of removing non-asset-based wholesale margins from retail revenue requirements as discussed in the previous section. The size of past margins from these types of transactions is not predictive of the future, so any attempt to quantify the dollar impact of such a change would be highly speculative. However, it seems reasonable that removing these margins, even though the future value is expected to be much lower than the past, is likely to lower earned ROE by 50 to 75 basis points.

Second, when the ROE was set in the current plan, interest rates were higher and allowed returns around the country generally were slightly higher. When the Commission periodically reviewed Otter Tail's earnings prior to the PBR Plan, it had typically used 12 percent ROE as an acceptable earnings level. Using plus or minus 100 basis points to create a range allowed Otter Tail to earn 13 percent before applying the results of any performance measures. There have been a limited number of recent North Dakota rate cases to use as an indication of an acceptable ROE. The two most recent cases involve Montana-Dakota Utilities.¹ In these cases the Commission allowed 11.8 percent and 11.75 percent ROE. Otter Tail believes it is appropriate to recognize the desirable benefits of PBR through a slightly higher allowed ROE than the Commission allowed in recent general rate cases. Therefore, Otter Tail requests that the Commission approve a range of 10.25 percent to 12.25 percent ROE as reasonable for Otter Tail's PBR Plan.

3. Reliability performance measures. The reliability targets and ranges used in the 2001-2005 PBR Plan have been based on Otter Tail's own historic data. Because of a new

¹ Case No. PU-399-01-186, Findings of Fact, Conclusions of Law and Order dated April 24, 2002, and Case No. PU-399-03-296, Orders dated October 22, 2003, and December 18, 2003.

interruption monitoring system, that historic data will no longer be meaningful to set future measures.

In 2004 Otter Tail installed a new interruption monitoring system, based on wireless technology, utilizing Telemetric Equipment, to replace its aging Power Sentry System. One of the reasons for installing the new system is to comply with new Minnesota reliability reporting rules that define an outage as greater than five minutes.² This is the definition most commonly used by the electric industry to define an outage.³ Otter Tail's old interruption monitoring system, which will be discontinued at the end of this year, is incapable of separating outages by length of time. In other words, it included all outages in its reported results. When the definition of an outage changes to longer than five minutes, the frequency of outages (SAIFI) decreases, and the duration or length (CAIDI) increases. Since total minutes of outage per customer (SAIDI)⁴ is the product of frequency times duration, the total minutes of outage is not expected to change dramatically.

Otter Tail now faces the problem of having no company history with which to set a performance target. However, since Otter Tail's new system now recognizes an outage in a manner consistent with the industry definition, Otter Tail proposes to use information in the Edison Electric Institute's *Reliability Report* to develop new targets for the reliability performance measures. The most recent *Reliability Report*⁵ includes data collected from 68 companies. Otter Tail's reliability measures would be based on the average of the most recent three years from this

² Minnesota Rules 7826.0200, Subpart. 6.

³ Based on IEEE 1366 Reliability Reporting Standards and Definitions.

⁴ SAIDI is not used as a PBR performance measure.

⁵ Edison Electric Institute 2003 Reliability Report, October 2004 Revised.

report, and would be updated annually when new information is available. An acceptable range is calculated as plus or minus one standard deviation around the target using the data from the available years, in this case six years. Data supporting this calculation is included as Attachment 1. Otter Tail proposes the targets and ranges shown in Table 1 below as an example, but would update the targets and ranges for 2006 after EEI issues its 2004 Reliability Report.

MEASURE	AWARD THRESHOLD	STANDARD	PENALTY THRESHOLD
CAIDI	< 99 minutes	108 minutes	> 117 minutes
SAIFI	< 1.18 outages/yr.	1.25 outages/yr.	> 1.32 outages/yr.

Table 1

4. Customer satisfaction measures. The 2001-2005 PBR Plan uses two customer satisfaction measures – both based on customer surveys. One survey measures the customers' overall relationships with Otter Tail and the other measures of the satisfaction of customers who initiated direct contact with the Company.

While developing the PBR proposal in 2000, we learned from both our own research and from our consultant that measures based on surveys are subjective and should not be used for both of the customer satisfaction measures. In contrast to the subjectivity of surveys, an objective customer satisfaction measure is call center response time. In 2000 Otter Tail did not have the technology to measure call center response time.

In several stages since 2000, Otter Tail has installed a virtual call center that uses all of its eleven customer service centers to answer customers' phone calls. The full capability to measure response time has only been available for a few months. However, Minnesota now has service quality rules that require a utility, on an annual basis, to answer 80 percent of all calls to its

business offices during regular business hours within 20 seconds.⁶ It therefore seems reasonable to design a customer satisfaction performance measure for North Dakota around the same requirement. This measure will not have one target point, but will only employ an acceptable range: that 80 percent to 85 percent of all calls received by Otter Tail's customer service centers during regular business hours are answered within 20 seconds on an annual basis. In other words, a penalty will be imposed if Otter Tail falls below 80 percent and Otter Tail will receive an award if it exceeds 85 percent. This acceptable range would remain unchanged from year to year.

The other customer satisfaction performance measure will be the relationship survey. Otter Tail has chosen to retain the relationship measure and discontinue the transaction measure for two reasons: 1) the relationship survey already includes customers who have had a transaction with the Company making the transactional survey duplicative, and 2) the call center response time measure is a more objective measure related to customers' contacts with the Company. The relationship survey would continue to be conducted annually. The target will be the three-year historic rolling average, plus or minus three percentage points. Attachment 2 shows an example of the calculation of the standard and range based on the years 2002 through 2004. The target and range will be updated annually, based on the most recent data available, prior to the beginning of the year to which they will apply.

5. Price change measure. This measure has been redesigned once during the five-year plan. Initially, it measured Otter Tail's change in its residential price against the change for the lowest-priced utility in the seven-state region. For 2004 and 2005, the measure ranks all

⁶ Minnesota Rule 7826.1200.

regional utilities (about 30 IOUs) by the percent of change, then compares Otter Tail's residential rate change within that ranking.

Otter Tail now proposes to change this measure to simplify it and make it consistent with the measure used by Xcel in its PBR Plan. Otter Tail proposes a "price management" measure that compares the change from the previous year of Otter Tail's average residential rate with the average change in residential rates of the seven-state utility comparison group. The range each year is calculated to be plus or minus one standard deviation around the average change of the group, after removing the utility at each extreme of change: the largest increase and the largest decrease. The source for this data continues to be the *EI Typical Bills and Average Rates Report*, Winter edition.

6. Otter Tail's current PBR Plan includes several provisions in Section 5.B.

Suspension or Termination of the Plan that allow the Company or the Commission to adjust, suspend, or terminate the plan if certain events occur. The last bullet point of these events states:

"Material and sustained earnings extremes (defined as returns on equity +/- 5.0% from the acceptable ROE range, prior to sharing)"

Otter Tail proposes to change this provision to read:

"Material and sustained earnings extremes (defined as returns on equity +/- 3.0% from the baseline of the acceptable ROE range, prior to sharing)"

While Otter Tail's earnings have been relatively consistent in recent years, upward pressure on operating costs and employee medical and pension costs, among others, and stable retail revenues, coupled with the possible need to make capital investments to meet environmental quality requirements before the end of this Plan, prompts Otter Tail to request a less stringent requirement for terminating the Plan.

V. CONCLUSION

Otter Tail respectfully requests approval of the Performance-Based Ratemaking Plan, including the described modifications, to be effective as of January 1, 2006.

Date: June 30, 2005

Respectfully submitted:

OTTER TAIL POWER COMPANY



Bernadeen Brutlag
Manager, Regulatory Services
215 South Cascade Street
P.O. Box 496
Fergus Falls, MN 56538-0496
Phone (218) 739-8289

Bruce Gerhardson
Associate General Counsel
Otter Tail Corporation
215 South Cascade Street
P.O. Box 496
Fergus Falls, MN 56538-0496
Phone (218) 998-7108



Fargo office: 4334 18th Avenue S.W.
Suite 200, P.O. Box 9156
Fargo, ND
58106-9156
Fax: 701-232-4108

Fergus Falls office: 215 S. Cascade Street
P.O. Box 496
Fergus Falls, MN
56538-0496
Fax: 218-998-3165

1-866-410-8780 • www.ottertail.com

October 7, 2005

Reply to Fergus Falls office
Direct: 218-998-7108

Dr. Burl Haar, Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147



✓ Ms. Illona Jeffcoat-Sacco
Director, Public Utilities Division
North Dakota Public Service Commission
600 E Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

Ms. Pam Bonrud, Executive Director
South Dakota Public Utilities Commission
State Capitol
500 East Capitol Street
Pierre, SD 57501-5070

I am writing to inform you that the Federal Energy Regulatory Commission ("FERC") has recently commenced an operational audit at Otter Tail Power Company. The FERC has told us that it is a random and routine audit. It is our understanding that the FERC eventually intends to audit all utilities under its jurisdiction and that the Otter Tail Power Company audit will be concluded within approximately the next six months.

If you have any questions, please feel free to contact me at any time.

Sincerely,

Bruce Gerhardtson
Associate General Counsel
BG/dm

cc: Janet Gonzalez – Minnesota Public Utilities Commission
Nancy Campbell – Minnesota Department of Commerce
Ron Giteck – Minnesota Office of Attorney General
Mike Diller – North Dakota Public Service Commission

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88 PU-401-00-36

Pages: 1

C: Commissioners
PUD
Legal

Letter re FERC operational audit

by Otter Tail Power Company by

10/10/2005

CC: Comm Legal PUD (4) Mike

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

AFFIDAVIT OF SERVICE BY CERTIFIED AND ORDINARY MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **16th day of January, 2003**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

Order

The envelope was addressed as follows:

Bruce Gerhardson
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496
Cert. No. 7001 1940 0005 3425 2504

Sharon Helbling further deposes and says that on the **16th day of January, 2003**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

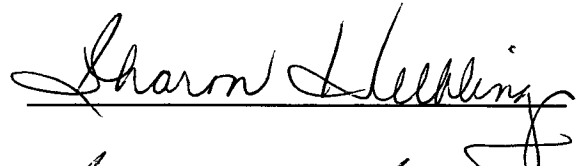
Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **16th day of January, 2003**.

SANDRA L. SCOTT
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires JUNE 11, 2004

SEAL



Notary Public

87 **PU-401-00-36**

Pages: 2

Affidavits of Service

by Public Service Commission

01/16/2003 CC: Comm Legal Illona, Pat, Jerry Mike

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

AFFIDAVIT OF SERVICE BY ORDINARY MAIL OR E-MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **16th day of January, 2003**, she deposited in the United States Mail, Bismarck, North Dakota, envelopes by first class mail, fully prepaid, securely sealed, each containing a photocopy of:

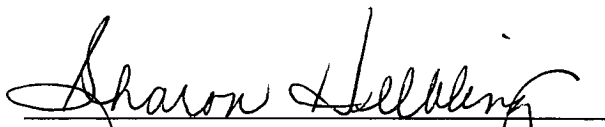
Order

The envelopes were addressed as follows:

See Attached List

Each address shown is the respective addressee's last reasonably ascertainable post office address.

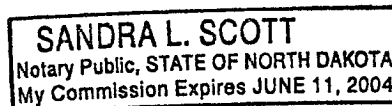
Subscribed and sworn to before me
this **16th day of January, 2003**.





Notary Public

SEAL



shandy@kwh.com
Scott Handy
Cass County Elec Coop Inc
P O Box 8
Kindred ND 58051

jason_gustafson@bobcat.com
Jason Gustafson
Melroe Company
P O Box 128
Gwinner ND 58040-0128

mbring@minnkota.com
Mark Bring
Minnkota Power Cooperative
Box 13200
Grand Forks ND 58208-3200

balld@mdu.mdures.com
Don Ball
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

rcarmody@otpc.com
Roger Carmody
Otter Tail Power Company

ghammer@otpc.com
Eugene Hammer
Otter Tail Power Company

sschultz@otpc.com
Steve Schultz
Otter Tail Power Company

pbeithon@otpc.com
Pete Beithon
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

bschmidt@kwn.com
Brad Schmidt
Cass County Electric Coop
4100 32nd Ave SW
Fargo ND 58104

craig_scott@bobcat.com
Craig Scott
Melroe Company
P O Box 128
Gwinner ND 58040-0128

tom.hopgood@mduresources.com
Tom Hopgood
Montana-Dakota Utilities Co

collinsk@mdu.mdures.com
Karen Collins
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

tgreene@otpc.com
Tim Greene
Otter Tail Power Company

dross@otpc.com
David Ross
Otter Tail Power Company

dweiby@otpc.com
Dan Weiby
Otter Tail Power Company

bbrutlag@otpc.com
Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

rdenault@otpc.com
Russel Denault
Otter Tail Power Company
Garrison ND 58540

gcoyne@otpc.com
Geri Coyne
Otter Tail Power Company
PO Box 410
Oakes ND 58474-0410

dcichos@otpc.com
Dave Cichos
Otter Tail Power Company
Rugby ND 58368

mdickers@state.nd.us
Marcy Dickerson
State Tax Department
State Capitol
Bismarck ND 58505

dave.sederquist@xcelenergy.com
Dave Sederquist
Xcel Energy
P O Box 2747
Fargo ND 58108-2747

Joseph Lamb
PO Box 196
Michigan ND 58259-0196

F James Moriarty
2333 Plum Grove Dr
O'Fallon MO 63366

Steven Tomac
2498 59th St
St Anthony ND 58566-9640

Vernon Baszler
Community Action Program Reg VII Inc
1825 S Grandview #15
Bismarck ND 58501

Will Kaul
Cooperative Power Association
P O Box 800
Elk River MN 55330-0800

Laurie Baranko
Dakota Resource Council
PO Box 1095
Dickinson ND 58602-1095

Mark Frederiksen
Economic Insights
416 Center St #365
Washington Grove MD 20880

Jay Casler
INDEPTH DATA INC
211 N Robinson Ave Ste S-1500
Oklahoma City OK 73102-7101

Karyn Grass
IPAMS
6620 Denver Club Bldg 518 17th St
Denver CO 80202-4167

Rick Jensen
KHND AM Radio
PO Box 6
Harvey ND 58341-0006

KMAV AM/FM RADIO
PO Box 216
Mayville ND 58257-0216

Myer Shark
Knollwood Place Apts #221
3630 Phillips Pkwy
St Louis Park MN 55426

Michel Murray
MCI WorldCom Inc
707 17th St Ste 3600
Denver CO 80202

Minnesota PUC
121 E 7th Pl Ste 350
St Paul MN 55101-2147

Mike Foley
NARUC
1101 Vermont Avenue NW Ste 200
Washington DC 20005

Robert Burns
National Regulatory Research Inst
406 Bevis Hall 1080 Carmack
Columbus OH 43210

Dennis Lavallee
Nat'l Assoc Plumbing-Htng-Cooling
PO Box 6808
Falls Church VA 22046-6808

Scott Speaker
Natural Gas Week
1401 New York Ave NW Ste 500
Washington DC 20005-2150

Kim Christianson
ND Department of Commerce
Division of Community Services
Bismarck ND

Everett Morris
NJ Public Service Electric & Gas
80 Park Pl
Newark NJ 07101

Cal Anderson
Otter Tail Power Company
P O Box 400
Devils Lake ND 58301

John MacFarlane
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Public Utilities Reports Inc
Law Dept
8229 Boone Blvd Ste 401
Vienna VA 22182
LeRoy Neubauer
Valley City Public Works
254 2nd Ave NE
Valley City ND 58072

Andrew Anderson
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Jay Myster
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

John Kapsner
The Vogel Law Firm
P O Box 2097
Bismarck ND 58502-2097

Paul Lehman
Xcel Energy
512 Nicollet Mall
Minneapolis MN 55402

APPROVED

MOTION

DATE: 1-15-03
KME

January 15, 2003

**Otter Tail Power company
Performance Based Regulation
Application**

Case No. PU-401-00-36

I move the Commission adopt the Supplemental Order in Otter Tail Power Company's application to reset the transactional customer satisfaction performance measure contained in its plan of performance based regulation, Case No. PU-401-00-36.

MRD/sdh

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

SUPPLEMENTAL ORDER

January 15, 2003

Preliminary Statement

On December 29, 2000, the commission issued an order approving a settlement agreement between the staff and Otter Tail Power Company (Otter Tail) implementing performance-based ratemaking.

Under performance-based ratemaking, Otter Tail's earnings in North Dakota are directly affected by its ability to satisfy specified performance standards. The performance standards include price of service, customer satisfaction, employee safety and service reliability. One of the performance measures related to customer satisfaction is the independent survey conducted biannually with customers that experienced a transaction with Otter Tail during the past year. A transaction includes such things as requesting a change in service, making payment arrangements, asking questions about bills and outages or other contacts between the customer and the company.

On June 12, 2002, Otter Tail filed its final 2001 annual report indicating that it had failed to meet its customer transaction performance measure. Failure to meet its performance measure resulted in a 25 basis point reduction in its North Dakota base-line earnings for the year ending 2001. The acceptable range of satisfaction agreed to by Otter Tail and ordered by the Commission is 71% to 77% and Otter Tail reported a 68.2% satisfaction rate for 2001.

On September 9, 2002, Otter Tail filed a petition for approval to update the transactional customer satisfaction performance measure.

The Commission issued a notice of opportunity for hearing on November 20, 2002, and no one commented or requested a hearing on this matter.

Analysis

In its petition, Otter Tail requests that the customer transaction performance measure be lowered from a range of 71% to 77% to a range of 65% to 71%. The

request is based on a weighted average of two surveys completed during 2001. Otter Tail chose to exclude the spring 2002 survey because of concerns about seasonal differences in survey results. Accordingly, Otter Tail elected to use the fall and spring surveys of 2001 rather than using all three surveys thereby causing a disproportionate reliance on spring surveys.

Staff reviewed Otter Tail's petition and recommends that the standard be reduced to a range of 67% to 73%. The difference between Otter Tail's request and staff's recommendation is that staff included the same 2001 surveys plus the additional 2002 survey for calculating a weighted average. Staff reasons that there has not been enough surveys conducted to claim seasonality differences and therefore the new standard should be based on all three surveys.

As the Commission and others noted during the initial proceeding of establishing the performance-based ratemaking plan, the standard was established with very limited data and experience. Everyone involved in the initial proceeding agreed to give consideration to new data as it became available. In addition, the performance plan is subject to a review process after two years of implementation.

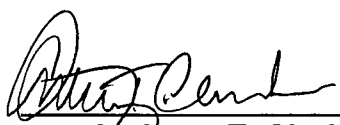
The Commission agrees with staff that an average of three surveys is better than two in developing the customer transaction satisfaction measure. Further, the Commission understands that Otter Tail has agreed to accept the staff's recommended performance range.

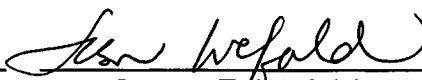
Order

The Commission orders:

1. Otter Tail's transactional customer satisfaction performance measure is lowered from the range of 71% to 77% to the range of 67% to 73%. Customer satisfaction levels below 67% will result in a financial penalty whereas performance levels above 73% will result in a financial reward.
2. This issue and other performance measures will be reviewed in the ensuing months as part of the two-year review process established in the initial performance-based ratemaking plan authorized by the Commission.

PUBLIC SERVICE COMMISSION


Anthony T. Clark
Commissioner

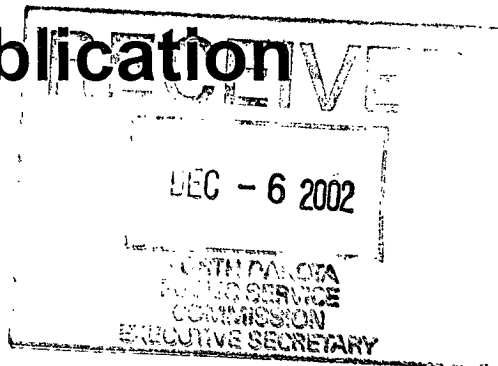

Susan E. Wefald
President


Leo M. Reinbold
Commissioner

Affidavit of Publication

State of North Dakota)

County of Burleigh)



Laurie Thiel

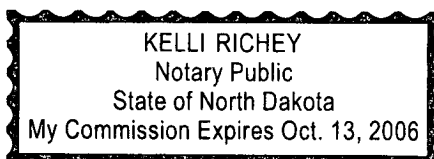
, being duly sworn, state as follows:

1. I am the designated agent, under the provisions and for the purposes of, Section 31-04-06, NDCC, for the newspapers listed on the attached exhibits.
2. The newspapers listed on the exhibits published the advertisement of:
Otter Tail, 1 time(s)
as required by law or ordinance.
3. All of the listed newspapers are legal newspapers in the State of North Dakota and, under the provisions of Section 46-05-01, NDCC, are qualified to publish any public notice or any matter required by law or ordinance to be printed or published in a newspaper in North Dakota.

Signed: [Signature]

Subscribed and sworn to before me this 4th day of December A.D. 2002.

Kelli Richey





North Dakota Newspaper Association

1435 Interstate Loop
Bismarck, ND 58503-0567
Ph (701) 223-6397 • Fax (701) 223-8185

INVOICE

Order **02121PP1-16929**

Invoice # **8928**

December 5, 2002

Attn: JONH. MIELKE
PUBLIC SERVICE COMMISSION
600 E. BOULEVARD AVE.
STATE CAPITOL
BISMARCK, ND 58505

Voice: 328-4076

Advertiser: **Public Service Commission**

P.O.#:

Amount Due **\$320.14**

Amount Paid

Please detach and return this portion with your payment

Public Service Commission Invoice # 02121PP1-16929-8928

Ad Size	Rate Type	Rate	Total	Discount	(%)	Caption	Page	Run Date
Bismarck Tribune (Bismarck ND)								
54.00	SPR2	0.64	34.56	0.00		Otter Tail		11/27/02
Devils Lake Daily Journal (Devils Lake ND)								
56.00	SPR2	0.00	0.00	0.00		Otter Tail		11/27/02
Dickinson Press (Dickinson ND)								
61.00	SPR2	0.57	34.77	0.00		Otter Tail		11/27/02
Fargo, The Forum (Fargo ND)								
55.00	SPR2	0.71	39.05	0.00		Otter Tail		12/02/02
Grand Forks Herald (Grand Forks ND)								
53.00	SPR2	0.69	36.57	0.00		Otter Tail		11/26/02
Jamestown Sun (Jamestown ND)								
64.00	SPR2	0.54	34.56	0.00		Otter Tail		11/30/02
Minot Daily News (Minot ND)								
65.00	SPR2	0.54	35.10	0.00		Otter Tail		11/27/02
Valley City Times-Record (Valley City ND)								
58.00	SPR3	0.61	35.38	0.00		Otter Tail		11/27/02
Wahpeton Daily News (Wahpeton ND)								
61.00	SPR2	0.57	34.77	0.00		Otter Tail		11/27/02
Williston Herald (Williston ND)								
58.00	SPR2	0.61	35.38	0.00		Otter Tail		11/27/02

Gross Advertising	320.14	Total Misc	0.00	Amount Paid	0.00
Agency Discount		Tax	0.00	Adjustments	0.00
Other Discount	0.00	Total Billed	320.14	Payment Date	
Service Charge	0.00	Unbilled	0.00	Balance Due	320.14

84 PU-401-00-36

Pages: 1

Affidavit of Publication

by North Dakota Advertising Service, Inc.

12/06/2002 CC: Comm Legal Illona, Pat, Jerry Mike

Case Number

PU-401-00-36

Action of Ad

Notice of Opportunity for Hearing

Name of Newspaper (in bold)

Ashley

Beach

Bismarck

Bottineau

Bowbells

Bowman

Cando

Carrington

Carson

Cavalier

Center

Cooperstown

Crosby

Devils Lake

Dickinson

Elgin

Ellendale

Fargo

Finley

Garrison

Grafton

Grand Forks

Harvey

Hazen

Hettinger

Jamestown

Killdeer

Lakota

Lamoure

Landon

Linton

Lisben

Mandan

Mayville

McClusky

Medora

Milnor

Minnewaukan

Minot

Mohall

Napolean

New England

New Rockford

Rolla

Rugby

Stanley

Steele

Towner

Valley City

Wahpeten

Watford

Williston

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

AFFIDAVIT OF SERVICE BY CERTIFIED AND ORDINARY MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **21st day of November, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

Notice of Opportunity for Hearing

The envelope was addressed as follows:

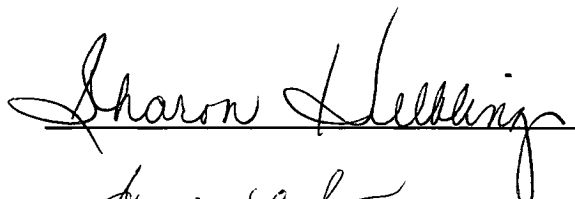
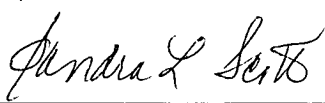
Bruce Gerhardson
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496
Cert. No. 7001 1940 0005 3425 2092

Sharon Helbling further deposes and says that on the **21st day of November, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

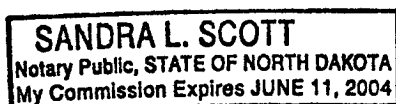
Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **21st day of November, 2001**.

Notary Public

SEAL



83 **PU-401-00-36**

Pages: 2

Affidavits of Service

by Public Service Commission

11/21/2002 CC: Comm Legal Ilona, Pat, Jerry Mike

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

AFFIDAVIT OF SERVICE BY ORDINARY MAIL OR E-MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **21st day of November, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, envelopes by first class mail, fully prepaid, securely sealed, each containing a photocopy of:

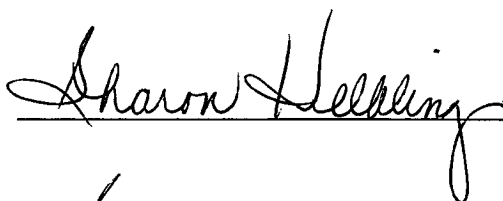
Notice of Opportunity for Hearing

The envelopes were addressed as follows:

See Attached List

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **21st day of November, 2001**.





Notary Public

SEAL



shandy@kwh.com
Scott Handy
Cass County Elec Coop Inc
P O Box 8
Kindred ND 58051

tgrove@greenergy.com
Terry Grove
Great River Energy
P O Box 800
Elk River MN 55330-0800

jason_gustafson@bobcat.com
Jason Gustafson
Melroe Company
P O Box 128
Gwinner ND 58040-0128

mbring@minnkota.com
Mark Bring
Minnkota Power Cooperative
Box 13200
Grand Forks ND 58208-3200

balld@mdu.mdures.com
Don Ball
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

rcarmody@otpc.com
Roger Carmody
Otter Tail Power Company

ghammer@otpc.com
Eugene Hammer
Otter Tail Power Company

sschultz@otpc.com
Steve Schultz
Otter Tail Power Company

bschmidt@kwh.com
Brad Schmidt
Cass County Electric Coop
4100 32nd Ave SW
Fargo ND 58104

richard.mattern@ndsu.nodak.edu
Rich Mattern
KDSU-FM Radio
PO Box 5347
Fargo ND 58105-5347

craig_scott@bobcat.com
Craig Scott
Melroe Company
P O Box 128
Gwinner ND 58040-0128

tom.hopgood@mduresources.com
Tom Hopgood
Montana-Dakota Utilities Co

collinsk@mdu.mdures.com
Karen Collins
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

tgreene@otpc.com
Tim Greene
Otter Tail Power Company

dross@otpc.com
David Ross
Otter Tail Power Company

dweiby@otpc.com
Dan Weiby
Otter Tail Power Company

pbeithon@otpc.com
Pete Beithon
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

llaugtug@otpc.com
Loren Lauqtug
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

gcoyne@otpc.com
Geri Coyne
Otter Tail Power Company
PO Box 410
Oakes ND 58474-0410

mdickers@state.nd.us
Marcy Dickerson
State Tax Department
State Capitol
Bismarck ND 58505

bbrutlag@otpc.com
Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

rdenault@otpc.com
Russel Denault
Otter Tail Power Company
Garrison ND 58540

dcichos@otpc.com
Dave Cichos
Otter Tail Power Company
Rugby ND 58368

dave.sederquist@xcelenergy.com
Dave Sederquist
Xcel Energy
P O Box 2747
Fargo ND 58108-2747

Joseph Lamb
PO Box 196
Michigan ND 58259-0196

F James Moriarty
2333 Plum Grove Dr
O'Fallon MO 63366

Steven Tomac
2498 59th St
St Anthony ND 58566-9640

Will Kaul
Cooperative Power Association
P O Box 800
Elk River MN 55330-0800

Patricia Estes
Daily News
PO Box 760
Wahpeton ND 58074-0760

Laurie Baranko
Dakota Resource Council
PO Box 1095
Dickinson ND 58602-1095

Mark Frederiksen
Economic Insights
416 Center St #365
Washington Grove MD 20880

Jay Casler
INDEPTH DATA INC
211 N Robinson Ave Ste S-1500
Oklahoma City OK 73102-7101

Karyn Grass
IPAMS
6620 Denver Club Bldg
518 17th ST
Denver CO 80202-4167

KBMR AM-KQDY FM
3500 E Rosser Ave
Bismarck ND 58501

KBMW-AM
PO Box 1115
Wahpeton ND 58074-1115

KCJB AM-FM & KXMC TV
PO Box 1686
Minot ND 58702-1686

KDAK AM
Box 50
Carrington ND 58421-0050

KDLR AM-FM
Box 190
Devils Lake ND 58301-0190

KFGO
Box 2966
Fargo ND 58102-2966

Rick Jensen
KHND AM Radio
PO Box 6
Harvey ND 58341-0006

KHRT AM
PO Box 1210
Minot ND 58702-1210

KKXL-AM/FM
PO Box 13598
Grand Forks ND 58208-3598

KMAV-AM
PO Box 36
Mayville ND 58257-0036

KMOT TV
Box 1120
Minot ND 58702-1120

KNDK-AM
HCR 5 Box 9
Langdon ND 58249

Myer Shark
Knollwood Place Apts #221
3630 Phillips Pkwy
St Louis Park MN 55426

KOVC-AM
PO Box 994
Valley City ND 58072-0994

KQWB-AM/FM Radio
PO Box 9919
Fargo ND 58106-9919

KTHI-TV
PO Box 1878
Fargo ND 58107-1878

KXMB TV
Box 1617
Bismarck ND 58502-1617

KXPO AM & FM Radio
856 W 12 St
Grafton ND 58237

Michel Murray
MCI WorldCom Inc
707 17th St Ste 3600
Denver CO 80202

Dennis Lavallee
Nat'l Assoc Plumbing-Htng-Cooling
PO Box 6808
Falls Church VA 22046-6808

Harlan Fuglesten
ND Association of RECs
PO Box 727
Mandan ND 58554-0727

Terry Hildestad
Knife River Coal Mining Company
1915 N Kaveney Dr
Bismarck ND 58501

KNOX-AM & KRRK-FM
PO Box 13638
Grand Forks ND 58208-3638

KQDJ-AM
PO Box 1170
Jamestown ND 58402-1170

KSJB AM and KSJZ FM Radio
PO Box 5180
Jamestown ND 58402-5180

KXJB-TV 4
4302 13th Ave S
Fargo ND 58103-3313

KXMC TV
Box 1686
Minot ND 58701-1686

KZZJ-AM
230 Highway 2 SE
Rugby ND 58368-2446

Mike Foley
NARUC
1101 Vermont Avenue NW Ste 200
Washington DC 20005

Scott Speaker
Natural Gas Week
1401 New York Ave NW Ste 500
Washington DC 20005-2150

Kim Christianson
ND Department of Commerce
Division of Community Services
Bismarck ND

Everett Morris
NJ Public Service Electric & Gas
80 Park Pl
Newark NJ 07101

Andrew Anderson
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Jay Myster
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Telecommunications Reports
1333 H St NW 11th Fl W Tower
Washington DC 20005

LeRoy Neubauer
Valley City Public Works
254 2nd Ave NE
Valley City ND 58072

WDAZ-TV
PO Box 12639
Grand Forks ND 58208-2639

Shelly Bauske
North Dakota Public Service Commission
State Capitol
600 East Boulevard, Dept. 408
Bismarck ND 58505-0480
John MacFarlane
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Public Utilities Reports Inc
Law Dept
8229 Boone Blvd Ste 401
Vienna VA 22182
John Kapsner
The Vogel Law Firm
P O Box 2097
Bismarck ND 58502-2097

WDAY AM-FM & TV
PO Box 2466
Fargo ND 58108-2466

Helbling, Sharon D.

From: Helbling, Sharon D.
Sent: Thursday, November 21, 2002 8:24 AM
To: ndna (E-mail)
Subject: Notice of Opportunity for Hearing, Case No. PU-401-00-36

**Colleen Park
North Dakota Newspaper Association**

Colleen:

Please have the attached Notice of Opportunity for Hearing published as a legal publication in the next issue of the ten North Dakota daily newspapers, and run it as a "News Item Only" article as well.

Send the bill to the Public Service Commission along with a tear sheet for billing purposes.

If you have any questions, please call me at 328-4076.

Thank you.

**Sharon Helbling
Public Utilities Division**

11/21/2002

82 PU-401-00-36

Pages: 1

Notice E-mailed to NDNA requesting
publication
by Public Service Commission

11/21/2002 CC: Comm Legal Illona, Pat, Jerry Mike .

APPROVED

MOTION

DATE: 11-20-02
KMF

November 20, 2002

**Otter Tail Power company
Performance Based Regulation
Application**

Case No. PU-401-00-36

I move the Commission issue a Notice of Opportunity for Hearing in Otter Tail Power Company's application to reset the transactional customer satisfaction performance measure contained in its plan of performance based regulation, Case No. PU-401-00-36.

JRL/sdh

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

NOTICE OF OPPORTUNITY FOR HEARING

November 20, 2002

On September 6, 2002, Otter Tail Power Company (Otter Tail) filed an application to decrease the transactional customer satisfaction performance measure that was previously set by the Commission as part of Otter Tail's plan of performance based regulation. This performance measure is one of seven used by the plan to annually establish Otter Tail's allowed earnings and rate of return on its North Dakota investment.

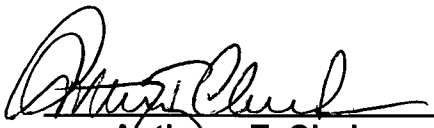
Otter Tail contends that the present standard is too high and was set based on only limited data and experience with transactional customer satisfaction surveys. Otter Tail provides additional data and seeks to reset the performance standard from 74% to 68% customer approval rating. The Public Service Commission staff contends that Otter Tail's additional data only supports changing the performance standard to 70%.

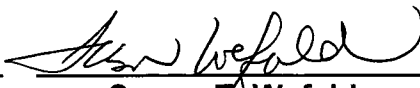
The issues to be considered in this proceeding are whether Otter Tail's transactional customer satisfaction performance measure should now be reset and if so, what should the new standard be.

Those interested are invited to comment on the application in writing. Persons desiring a hearing must file a written request identifying their interest in the proceeding and the reasons for requesting a hearing. Comments and requests for hearings must be received by **December 20, 2002**. If deemed appropriate, the Commission can determine the matter without a hearing.

For more information contact the Public Service Commission, State Capitol, Bismarck, North Dakota 58505, 701-328-2400; or Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials please notify Jon Mielke, Executive Secretary.

PUBLIC SERVICE COMMISSION


Anthony T. Clark
Commissioner


Susan E. Wefald
President


Leo M. Reinbold
Commissioner

**Retain for Nov. 6
Admin. Meeting**

Memo

To: Commissioners, Illona & Bill
From: Mike Diller
Date: October 24, 2002
Re: Otter Tail's Request to Change Performance Measure
Case No. PU-401-00-36

Otter Tail Power Company filed a petition for approval to update its transactional customer satisfaction performance measure. The request is well laid out and documents why the commission should give consideration to Otter Tail's request. I will not restate the Company's filing here.

Otter Tail seeks to reset the transactional performance measure on the first two transactional surveys and ignores the last survey completed in May 2002. Given their concerns about seasonal differences, Otter Tail elected to use the spring and fall surveys of 2001 rather than using all three surveys causing a disproportionate reliance on spring surveys.

I don't think there have been enough surveys conducted to claim seasonality differences and recommend that the commission reset the standard based on an average of all three surveys.

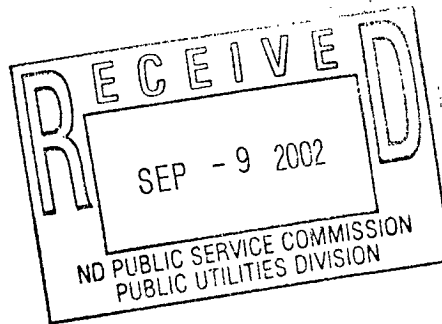
The current standard is set at 74% plus or minus three percentage points. Otter Tail requests to reset the standard at 68% plus or minus three percentage points. I recommend the commission adopt a standard of 70% plus or minus three percentage points based on a simple average of the 3 survey results. Changing the mid-point of the standard from 74% to 70% is a 5.4% reduction in the current performance standard.

I am placing this on the administrative agenda for discussion as to how the commission would like to proceed with this case.

C: Bernadeen Brutlag, OTP

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)

September 6, 2002



Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol - 600 East Boulevard
Bismarck, ND 58505-0480

**Re: Transactional Customer Satisfaction Measure for PBR Plan
Case No. PU-401-00-36**

Dear Mr. Mielke:

Enclosed are an original and ten copies of Otter Tail Power Company's Petition for Approval to Update the Transactional Customer Satisfaction Performance Measure. The standard for this performance measure was set on limited data and experience. The Commission's August 8, 2001, Order approving the standard allowed for the company to request a modification if later information indicated that the first customer survey may not be indicative of future results. The second 2001 survey produced significantly different results. The performance measure is based on annual results and Otter Tail is requesting that the standard should be updated based on 2001 annual results.

Otter Tail is also asking that two of the categories of customers used in this survey, small commercial and industrial and large commercial and industrial, be combined into one category of "commercial" due to the small number of contacts available for survey samples.

If you have questions, please feel free to call me at (218) 739-8289 or e-mail me at hbrutlag@otpc.com.

Yours very truly,

A handwritten signature in cursive script that reads "Bernadeen Brutlag".

Bernadeen Brutlag
Manager, Regulatory Services

Enclosures

78 PU-401-00-36

Pages: 1

Cover letter re filing

by Otter Tail Power Company

09/09/2002 CC: Comm Legal Ilona, Pat, Jerry Mike .

**STATE OF NORTH DAKOTA
FOR THE PUBLIC SERVICE COMMISSION**

Case No. PU-401-00-36

**Otter Tail Power Company
Performance Based Regulation
Application**

**PETITION FOR APPROVAL TO UPDATE
TRANSACTIONAL CUSTOMER SATISFACTION PERFORMANCE MEASURE**

I. INTRODUCTION

Otter Tail Power Company, a division of Otter Tail Corporation, requests approval to update its performance standard and acceptable range for the transactional customer satisfaction performance measure used in its approved Performance-Based Regulation Plan. On August 8, 2001, the Public Service Commission approved the current performance standard, based on the results of only one survey. Additional results are now available that would indicate that an updated standard is appropriate.

II. BACKGROUND

When the Commission issued its December 29, 2000 Findings of Fact, Conclusions of Law, and Order in the above matter, it recognized that a transactional customer satisfaction performance measure had yet to be developed. Otter Tail had no way to identify customers with whom it had recent contact. Therefore, we had no way to conduct a satisfaction survey of those customers and had no basis for setting a performance

standard. Otter Tail agreed to implement a system to identify such customers, to conduct such a survey, and to file with the Commission a proposed performance measure by July 1, 2001.

On June 29, 2001, Otter Tail filed its Petition for Approval of Customer Satisfaction Performance Measure. In that Petition, we explained that we had developed a system to record nine categories of customer contacts. The system appeared to be working well in that most customer contacts were being logged. We are continuing to monitor compliance by Otter Tail employees.

An independent research firm, DH Research, conducted the first telephone survey during June 2001 using a random sample of contacts from March, April, and May 2001. The results of that survey indicated that 74.55% of Otter Tail's customers' experience was "very good" or "excellent." Based on this first survey, Otter Tail proposed a performance standard of 74%, with an acceptable range of plus or minus 3 percent.

In Otter Tail's Petition, we stated:

Otter Tail Power will conduct a second survey in October. Since both the system of identifying customer contacts and the transactional survey are newly implemented, Otter Tail Power requests the opportunity to modify this performance measure after the October 2001 survey if those results indicate that the first survey may not be a good indicator of future results.

In Mike Diller's memo dated July 13, 2001, regarding Otter Tail's Petition to set this performance measure, he stated:

"In deciding to recommend approval, I was not overly critical of the company's proposal because it is a work-in-progress. ... this is a new measure with little experience and data. ... The benchmark will likely change as additional information becomes available."

In the Commission's Order dated August 8, 2001, approving the standard and acceptable range for this transactional customer satisfaction performance measure, the Commission said:

"Otter Tail will conduct a second survey in October 2001 and may request modification of its proposed performance standard if results indicate the first study may not be indicative of future results."

III. RESULTS OF MORE RECENT SURVEYS

Otter Tail conducted the second transactional survey in November of 2001. The results of the second survey was a satisfaction rate of 64.1%. A weighted average of these two surveys results is 68.2% satisfaction.

Otter Tail conducted a third transactional survey in May of 2002. The result of the third survey was a satisfaction rate of 72.0%. Attachment 1 summarizes the results of the three surveys.

IV. UPDATED PERFORMANCE STANDARD

The results of these three surveys indicate that there may be seasonal influence on this performance measure. Otter Tail has been unable to identify any specific, non-recurring cause for the lower score in the November 2001 survey. We believe that the types of contacts made during late summer may be different from those contacts received in late winter, and therefore cause different survey results. The performance measure is an annual weighted average. In order for the performance standard to be comparable to future performance results, the standard should also be based on an annual weighted average.

Based on the two customer satisfaction surveys conducted in 2001, Otter Tail requests the Commission set an updated transactional customer satisfaction standard of 68% with an acceptable range of plus or minus 3%, or a range of 65% to 71%, effective for the 2002 PBR results.

V. CUSTOMER CATEGORIES SURVEYED

This measure requires that three categories of customers should be surveyed: residential, small commercial and industrial, and large commercial and industrial. Otter Tail is finding that the number of contacts with the commercial and industrial groups is too small to pick an appropriate sample, so that the sample is actually all of these customers that had contact with the company. Therefore, Otter Tail sees little value in separating these two groups since the result is a weighted average. In order to facilitate sample selection for the surveys and for ease of calculating this measure, Otter Tail requests that the measure be a weighted average of two categories: residential and commercial customers.

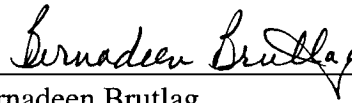
VI. CONCLUSION

Otter Tail respectfully requests approval from the Commission to use the updated transactional customer satisfaction performance standard of 68% of surveyed customers responding "4" or "5" beginning with the 2002 measure. The acceptable range would be 65% to 71%. The results will be the weighted average response from two annual surveys of residential and commercial customers.

Dated: September 6, 2002

Respectfully submitted,

OTTER TAIL POWER COMPANY



Bernadeen Brutlag
Manager, Regulatory Services
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, Minnesota 56538-0496
(218) 739-8289
bbrutlag@otpc.com

TRANSACTIONAL CUSTOMER SATISFACTION SURVEYS

Annual Results of 2001 Surveys						
	Survey	Total Customers Surveyed	Customers Responding		Total #4 & #5	Percent
			#4	#5		
Residential	May 2001	237	83	92	175	
	Nov 2001	398	157	93	250	
	Total	635			425	
Commercial	May 2001	42	17	16	33	
	Nov 2001	34	13	14	27	
	Total	76			60	
		711			485	
Annual weighted average						68.2%

	Survey #1	Total Customers Surveyed	Customers Responding		Total #4 & #5	Percent
			#4	#5		
Residential	May 2001	237	83	92	175	
Commercial	May 2001	42	17	16	33	
		279			208	
Weighted average						74.6%

	Survey #2	Total Customers Surveyed	Customers Responding		Total #4 & #5	Percent
			#4	#5		
Residential	Nov 2001	398	157	93	250	
Commercial	Nov 2001	34	13	14	27	
		432			277	
Weighted average						64.1%

	Survey #3	Total Customers Surveyed	Customers Responding		Total #4 & #5	Percent
			#4	#5		
Residential	May 2002	161	47	64	111	
Commercial	May 2002	57	17	29	46	
		218			157	
Weighted average						72.0%

Helbling, Sharon D.

00-36

From: Helbling, Sharon D.
Sent: Thursday, June 20, 2002 9:20 AM
To: 'bbrutlag@otpc.com'
Subject: Attached Motions

Bernadeen,

Attached are motions that were passed at yesterday's commission meeting.



6-19-02
Motion.doc



Revised
Motion.doc

76 PU-401-00-36

Pages: 1

Motion e-mailed to Otter Tail

by Public Service Commission

06/20/2002 CC: Comm Legal Illona, Pat, Jerry Mike .

MOTION
June 19, 2002

APPROVED
DATE: 6-19-02
KME

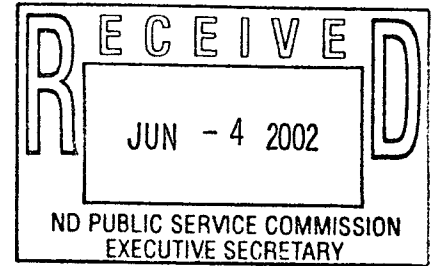
**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

I move the Commission acknowledge Otter Tail Power Company's request to withdraw its petition for waiver of penalty related to its performance based regulation plan in Case No. PU-401-00-36.

MRD/sdh

Memo



To: Jon Mielke, Executive Secretary
From: Mike Diller, Director of Accounting
Date: June 4, 2002
Re: Otter Tail Power Company's Petition for Waiver of Penalty
Case No. PU-401-00-36

I am writing to inform you that Otter Tail has agreed to withdraw its request for a waiver of penalty with regard to its performance-based regulation plan. Accordingly, Otter Tail will re-file its 2001 annual report resulting in additional refunds to its North Dakota customers of \$159,000.

The petition sought to avoid a penalty for a poor transactional customer satisfaction survey result in comparison to the first survey (used to establish the PBR benchmark).

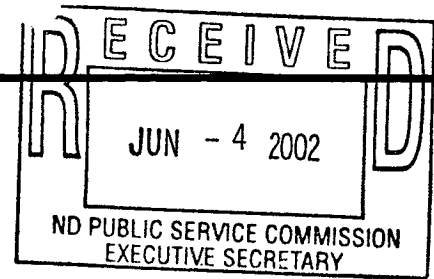
Because of the disparate results in the first two surveys, staff agreed to reconsider and support changes to the transactional benchmark if Otter Tail can further show that the benchmark or measurement process is flawed. Such consideration will not affect the 2001 annual report or associated refunds to be effective July 1, 2002.

Please docket this memo and the attached email message of Otter Tail to withdraw its petition for waiver.

C: Bernadeen Brutlag, Otter Tail Power Company

Scott, Sandi L.

From: BBrutlag@otpc.com
Sent: Monday, June 03, 2002 8:01 AM
To: Diller, Michael R.
Cc: CMacFarlane@otpc.com; JLegge@otpc.com
Subject: PBR



As we discussed this morning by phone, Otter Tail Power agrees to withdraw its Petition for Waiver of Penalty related to the 2001 results on the Transactional Customer Satisfaction measure in our PBR Plan, increasing the refund amount by approximately \$159,000. You indicated that you would recommend that the Commission allow Otter Tail to revisit and possibly reset this performance standard based on additional survey information received since the initial measure was approved in mid-2001.

I will file an amended 2001 PBR Report in the next few days.

Bernadeen Brutlag
Manager, Regulatory Services
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56538-0496

Phone: 218-739-8289
Fax: 218-739-8973
E-mail: bbrutlag@otpc.com

73 PU-401-00-36

Pages: 1

E-Mail Attachment to Staff Memo

by Public Service Commission by Mike Diller

06/04/2002 CC: Comm Legal Illona, Pat, Jerry Mike .

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)

December 21, 2001



Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol - 600 East Boulevard
Bismarck, ND 58505-0480

**Re: Transactional Customer Satisfaction Measure for PBR Plan
Case No. PU-401-00-36**

Dear Mr. Mielke:

Enclosed are an original and ten copies of Otter Tail Power Company's Petition for Waiver of Penalty on Customer Satisfaction Performance Measure. The standard for this performance measure was set on limited data and experience. The Commission's August 8, 2001, Order approving the standard allowed for the company to request a modification if later information indicated that the first customer survey may not be indicative of future results. A second survey has given significantly different results. Therefore, in the enclosed petition, Otter Tail requests that the indicated penalty be waived and suggests how to set an appropriate standard.

If you have questions, please feel free to call me at (218) 739-8289 or e-mail me at bbrutlag@otpc.com.

Yours very truly,

Bernadeen Brutlag
Manager, Regulatory Services

Enclosures

**STATE OF NORTH DAKOTA
FOR THE PUBLIC SERVICE COMMISSION**

**Otter Tail Power Company
Performance Based Regulation
Application**



Case No. PU-401-00-36

**PETITION FOR WAIVER OF PENALTY ON
CUSTOMER SATISFACTION PERFORMANCE MEASURE**

I. INTRODUCTION

For the first time in 2001, Otter Tail Power Company ("Otter Tail"), a division of Otter Tail Corporation, began doing customer satisfaction research with customers who have had recent transactions with the Company. This was instituted because of the Performance-Based Regulation ("PBR") Plan approved in North Dakota. Our PBR Plan requires us to complete two transactional customer satisfaction surveys each year and then average the results.

Our first transactional survey was completed in June of 2001. Based on the results of that first survey, we set our customer satisfaction goal at 74%, plus or minus 3%. We have recently completed the second survey. Our results were considerably lower at about 64%. The acceptable range for the measure is 71% to 77%. The summarized results of these surveys are attached to this Petition as Exhibit 1.

For the reasons explained herein, Otter Tail respectfully requests the North Dakota Public Service Commission (“Commission”) grant a waiver of the indicated penalty related to the transactional performance measure for customer satisfaction.

II. BACKGROUND

When the Commission issued its December 29, 2000 Findings of Fact, Conclusions of Law, and Order in the above matter, it recognized that a transactional customer satisfaction performance measure had yet to be developed. Otter Tail had no way to identify customers with whom it had recent contact. Therefore, we had no way to conduct a satisfaction survey of those customers and had no basis for setting a performance standard. Otter Tail agreed to implement a system to identify such customers, to conduct such a survey, and to file with the Commission a proposed performance measure by July 1, 2001.

On June 29, 2001, Otter Tail filed its Petition for Approval of Customer Satisfaction Performance Measure. In that Petition, we explained that we had developed a system to record nine categories of customer contacts. The residential system appeared to be working well in that most customer contacts were being logged. We continue to monitor compliance by Otter Tail employees. However, initially the Small Commercial and Large Commercial customer contact logging was somewhat less effective. We stated that would work to improve the method for tracking those contacts so that data would be available for the Fall 2001 survey.

An independent research firm, DH Research, conducted the first telephone survey during June using a random sample of contacts from March, April, and May 2001. The

results of that survey indicated that 74.55% of Otter Tail's customers' experience was "very good" or "excellent." Based on this first survey, Otter Tail proposed a performance standard of 74%, with an acceptable range of plus or minus 3 percent.

In Otter Tail's Petition, we stated:

Otter Tail Power will conduct a second survey in October. Since both the system of identifying customer contacts and the transactional survey are newly implemented, Otter Tail Power requests the opportunity to modify this performance measure after the October 2001 survey if those results indicate that the first survey may not be a good indicator of future results.

In Mike Diller's memo dated July 13, 2001, regarding Otter Tail's Petition to set this performance measure, he stated:

"In deciding to recommend approval, I was not overly critical of the company's proposal because it is a work-in-progress. ... this is a new measure with little experience and data. ... The benchmark will likely change as additional information becomes available."

In the Commission's Order dated August 8, 2001, approving the standard and acceptable range for this transactional customer satisfaction performance measure, the Commission said:

"Otter Tail will conduct a second survey in October 2001 and may request modification of its proposed performance standard if results indicate the first study may not be indicative of future results."

III. RESULTS OF OCTOBER 2001 SURVEY

Otter Tail conducted the second transactional survey in October of this year. The result of the second survey was a satisfaction rate of 64.1%. Averaged with the first survey, this results in 69.3% satisfaction. The acceptable range for this measure is 71.0% to 77.0%. Otter Tail would be penalized by 25 basis points on our allowed return on equity for 2001.

IV. SURVEY RESULTS NOT CONSISTENT

The large change in the satisfaction level was unexpected for two reasons: First, the time between the two surveys was very short – only six months. It would seem extremely difficult for us to impact a customer satisfaction measure, either positively or negatively, so much in such a short time. Secondly, we cannot identify any issues, major or minor, that have occurred during the second half of 2001 that could have had a significant impact on such a measure.

We have identified two possible causes for the dramatic change in the results of the survey. There was a change to the way the sample was selected and also, the time of the year may have contributed to the change.

First, we made a change to the way the sample of customers was selected. The change was made to reduce the cost of the telephone survey and at the same time increase the number of completed interviews, thereby increasing the accuracy of the survey. The system we put in place for recording customer contacts was new this year. After the first survey, the research firm we used said they had a large number of calls where the person responding said that they had not had a contact with Otter Tail. In fact, we had over 800 such calls on the first survey and we completed only 237 residential calls. An example of this would be where a realtor calls in to get the annual electric usage at a house. This would be registered as a customer contact in our system but when we would call the customer, s/he would not have any knowledge about the call.

The change we made was to compare the customer name to the name of the person making the call. If those names are different, we removed that contact from the sample. This change resulted in 398 completed calls, which decreased the margin of error from

about 7% to about 5%. Attached as Exhibit 2 is a letter from DH Research in Fargo discussing the change and stating that the change could have a significant impact on the results.

Secondly, Otter Tail believes that the time of the year could have an impact on the results of the survey. In the winter, we would have more negative contacts with increased size of bills, collections, etc.

Xcel's PBR Plan uses an acceptable range for their transactional customer satisfaction measure of 60% to 66%, an additional indication that Otter Tail's original performance measure may have been inappropriately high.

V. ESTABLISHING AN APPROPRIATE PERFORMANCE MEASURE

Because the results of the two surveys were 10 percentage points apart, Otter Tail suggests that a new standard should not be established now. Otter Tail suggests waiting until the next survey is conducted in May of 2002. The results of that survey should help determine an appropriate standard for this measure. Otter Tail would then file a recommendation with the Commission by July 1, 2002.

VI. CONCLUSION

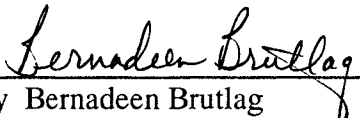
Because of the significant change in results along with methodology changes, Otter Tail Power Company respectfully requests that the Commission waive the indicated penalty for 2001 on the transactional customer service performance measure. We recommend that a more appropriate standard can be established after the May 2002 survey

has been conducted. Otter Tail will file its recommendations for an updated performance standard by July 1, 2002.

Dated: December 21, 2001

Respectfully submitted,

Otter Tail Power Company


By Bernadeen Brutlag
Manager, Regulatory Services
215 South Cascade Street
Fergus Falls, MN 56538-0496
(218) 739-8289

**Otter Tail Power Company
Transaction Survey - Summary of Results
Results of North Dakota Customer Satisfaction Survey
2001**

Percent of customers responding "4" or "5"

June 2001 Survey	74.6%
November 2001 Survey	<u>64.1%</u>
Average for 2001	<u><u>69.3%</u></u>

Performance measure	Penalty <	71.0%
	Target	74.0%
	Award >	77.0%

**Otter Tail Power Company
Transaction Survey
Results of North Dakota Customer Satisfaction Survey
June 2001**

Very Dissatisfied ----- Very Satisfied

	1		2		3		4		5	
Sample Size	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Residential	237	13 5.49%	7 2.95%		42 17.72%		83 35.02%		92 38.82%	
Small Commercial	35	1 2.86%	0 0.00%		5 14.29%		15 42.86%		14 40.00%	
Large Commercial	7	0 0.00%	1 14.29%		2 28.57%		2 28.57%		2 28.57%	
Totals	279	14 5.02%	8 2.87%		49 17.56%		100 35.84%		108 38.71%	

Sum of Categories "4", and "5"

208 74.55%

November 2001

Very Dissatisfied ----- Very Satisfied

	1		2		3		4		5	
Sample Size	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Residential	398	12 3.02%	17 4.27%		119 29.90%		157 39.45%		93 23.37%	
Small Commercial	22	0 0.00%	0 0.00%		3 13.64%		10 45.45%		9 40.91%	
Large Commercial	12	1 8.33%	1 8.33%		2 16.67%		3 25.00%		5 41.67%	
Totals	432	13 3.01%	18 4.17%		124 28.70%		170 39.35%		107 24.77%	

Sum of Categories "4", and "5"

277 64.12%

Question:

Thinking specifically of this entire recent interaction with Otter Tail Power Company, from the time you first contacted Otter Tail Power company until your issue was resolved, how would you rate the quality of service provided by Otter Tail Power Company?

December 10, 2001

Brian Draxten
Otter Tail Power Company
215 S. Cascade St.
Fergus Falls, MN 56537

Dear Brian:

I have reviewed the data from the most recent transactional survey DH Research completed for you in October 2001. There is no doubt that, even though the data reflect positively on Otter Tail Power, it presents a shift in satisfaction when compared to the data from June 2001.

When changes occur it is good to pause and take a look at why they occurred. Reflecting on this as a statistician I can think of several possible reasons the change may have occurred:

- Sampling error/changes
- Current events affecting the electric power industry
- Bias introduced by interviewers of DH Research
- Changes in the customer service process utilized by Otter Tail

I list the above reasons only to openly reflect upon factors that could affect service ratings. After reviewing the data collected as well as the survey process and timing I feel that the sampling process has probably had the greatest affect on the results of the October 2001 transactional survey.

In our discussions you mentioned that prior to providing DH with the list of potential contacts for the October 2001 survey period, Otter Tail made an effort to remove names from the list that really did not qualify to answer the question of satisfaction. An example being realtors that might contact a power company to obtain electric costs for a home they are trying to sell for their clients. The review was done to avoid the problem of higher survey costs due to non-qualifying contacts.

The list provided for the June 2001 period was not reviewed in this way. Anytime the list to be used for an ongoing, periodic survey is prepared differently, the risk of differing results is high.

I do believe that the changes in the list utilized by DH Research made the results of the October survey different from those of June. At this point the



1121 Westrac Drive, Suite 202

Fargo, ND 58103

Tel: 701.235.2303

Toll Free: 888.235.2303

Fax: 701.235.9483

Email: Results@dhresearch.com

www.dhresearch.com

affect of the change is not measurable. However, I do believe the change in the list preparation process was a step in the right direction.

Let me explain. First, the process removed many names that did not qualify to answer the questions. This directly affects the cost of the survey – less time spent by DH Research dialing useless telephone numbers.

Secondly, notice that this process resulted in a 68% increase in the number of completed interviews in the time allotted. The change allowed DH Research to obtain a more complete sampling of Otter Tail Power customers in North Dakota.

The other factors listed above could also have affected the results of this survey. The affect of each is also not measurable, but let me address them.

Current events can affect almost any research effort undertaken. At the time of the June 2001 survey, the nation was being reminded of the power concerns of states such as California where shortages were blamed on deregulation. Could this have had a reverse affect on North Dakota power users by making them feel more positive about their electric providers since they did not have to deal with the same problem? Possibly, but the affect is not measurable.

While DH Research prides itself in utilizing well-trained interviewers, I have no doubt that some of the interviewers making calls in October were different from those in June. Although I believe the bias introduced here is very small, it is still a possible factor in the change.

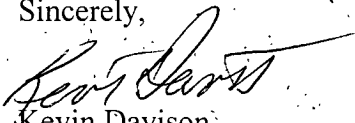
Likewise, any change in the policies or personnel utilized by Otter Tail Power Company to deal with customers could have had an affect on levels of satisfaction. The result is also not measurable.

My suggestion at this point is to use the same list preparation process completed in October for the next transactional survey period. This will remove much of the bias arising from list development and give a more true comparison of satisfaction over time.

If you have any questions about my thoughts please call me.

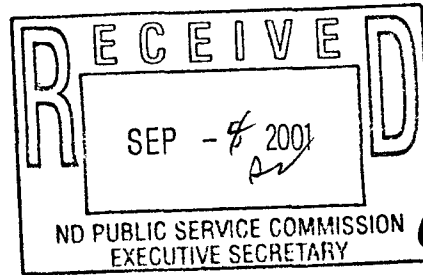
Thank you for allowing DH Research help you serve your customers better.

Sincerely,



Kevin Davison
Director of Research

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)



OTTER TAIL
Power Company

September 4, 2001

Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol - 600 East Boulevard
Bismarck, ND 58505-0480

Re: PBR Plan
Case No. PU-401-00-36

Dear Mr. Mielke:

Pursuant to the Commission's August 8, 2001, Order, I am enclosing six copies of Otter Tail's PBR Plan. This is a stand-alone document that incorporates all of the recent changes as approved by the Commission. By the time you receive this letter, you will already have received an electronic version of the Plan.

If you have questions, please feel free to call me at (218) 739-8289 or e-mail me at bbrutlag@otpc.com.

Yours very truly,

Bernadeen Brutlag
Manager, Regulatory Services

Enclosures

71 **PU-401-00-36**

Pages: 1

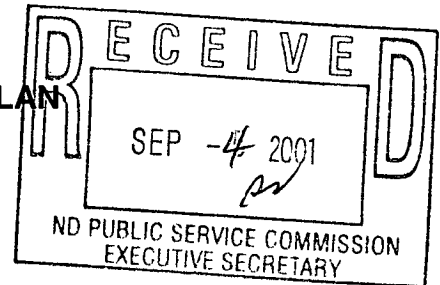
Cover letter re PBR Plan

by Otter Tail Power Company

09/04/2001 CC: Comm Legal Illona, Pat, Jerry Mike



OTTER TAIL POWER COMPANY
PERFORMANCE-BASED RATEMAKING PLAN



1. PBR Plan Terms

A. Implementation

The PBR Plan is effective on January 1, 2001. For purposes of initial PBR Plan implementation, the Company's electric rates in effect on January 1, 2001 are presumed to be just and reasonable.

The PBR Plan will remain in effect until December 31, 2005, unless renewed or further extended by order of the Commission, or suspended or terminated by the Company or the Commission, as provided herein. Prior to July 1, 2005, the Company will file for extension and/or modification of the Plan if so desired.

B. Reporting/Review

On or before May 1 of each year, Otter Tail will submit a comprehensive earnings and performance report for the previous calendar fiscal year period, which will include the following information:

1. Otter Tail's regulated electric earnings and return on equity (before and after any earnings sharing) in North Dakota for the calendar year just completed;
2. Summaries of operating revenue, expense, and regulated electric rate base;
3. Otter Tail's regulated capital structure including debt and equity ratios, cost of capital, and return on rate base;
4. Calculation of baseline ROE and the authorized earnings range for the review year;

5. Annual results, awards, and penalties related to Otter Tail's seven performance measures;
6. Amount of revenues subject to sharing -- the "performance-based dividend" or "surcharge;"
7. Comparison group average residential rates for the year in review;
8. The calculation of any changes in base rates; and
9. Proposed rate change percentage and typical bill impact for all customer classes.

Otter Tail's operating results for each year will be based upon usual and existing practices, consistent with Commission practice in recent years.

After May 1, 2003, but no later than June 30, 2003, the Commission will conduct an informal hearing for the purpose of assessing the overall success of the PBR Plan's first two years of operation.

2. Acceptable ROE Range/Revenue Sharing

A. Dynamic ROE

The initial baseline return on equity ("ROE") for purposes of the PBR Plan is 12.0%. An acceptable range of +/- 1.0% around the baseline is appropriate.

During the Plan term, the acceptable ROE range shall be subject to the annual dynamic ROE adjustments in terms of "basis points" depending on the Company's performance under each Plan performance standard, as provided herein. If the net performance basis points are positive (award), the upper end of the acceptable ROE range increases. If the net performance points are negative (penalty), the lower end of the ROE range is decreased. An example of this provision is shown in Attachment 1 to this Plan.

B. Revenue Sharing

If the Company's reported actual utility earnings fall within the acceptable range around the authorized ROE (as adjusted by the performance points) in a given Plan year, no revenue sharing will take place.

If the Company's actual reported earnings for any given Plan year exceed the acceptable range, the corresponding revenue "sufficiency" will be calculated, and 50% of this dollar amount will be refunded to customers during the July billing cycle of the following year. Customers of record on March 31 following the Plan-year will be issued refunds by bill credit prorated on the basis of their electric usage for the twelve months ending March 31.

If earnings are below the acceptable ROE range, 50% of the corresponding revenue deficiency may be recovered through a surcharge on the Company's electric rates effective no later than 24 months after the Plan year, as directed by the Financial Accounting Standards Board ("FASB"). However, Otter Tail will defer a reported fiscal year deficiency amount as a regulatory asset until the following Plan year revenue sharing amount, if any, is reported. If the prior year deficiency is fully offset by a current year reported revenue sufficiency, the sufficiency will be used to eliminate the regulatory asset, and no rate surcharge will be imposed. If the deficiency from the prior year is not fully offset, any remaining deficiency balance will be billed through a rate surcharge applicable to bills issued from July 1 through December 31 of the year following the Plan fiscal report year, unless otherwise requested by either the Company or Commission Staff and approved by the Commission.

The share of revenue or deficiency will be shown separately as a “performance-based dividend” or “performance-based surcharge” on customers’ bills.

Any deferred balance remaining at the end of this 5-year PBR Plan will first be considered as part of an on-going plan or alternatively, collected from customers through a surcharge.

PBR dividends paid or surcharges received will not affect the return on equity calculation of the year in which the said dividends or surcharges are actually implemented.

3. Performance Standards

A. Reliability

The PBR Plan uses two standards for purposes of measuring reliability: (1) Customer Average Interruption Duration Index (“CAIDI”), and (2) System Average Interruption Frequency Index (“SAIFI”). CAIDI and SAIFI are individual measures, the product of which is the System Average Interruption Duration Index or SAIDI. SAIDI is sometimes referred to as the “minutes of outage.”

By using both CAIDI and SAIFI as component standards, the Company will be measured on both the frequency of customer outages and the time it takes to restore power. Annual results for each measure will be storm adjusted using the methods established by the Company – e.g., Otter Tail proposes to exclude any outage longer than 24 continuous hours. Standards are based on achieving a SAIDI result of 83 minutes, which was developed using Otter Tail’s historical system-wide outage results. A more detailed description of these performance measures is contained in Attachment 2 to this Plan.

Each measure will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the revised performance standards for reliability:

Measure	Award Threshold	Standard	Penalty Threshold
CAIDI	< 3.4 minutes	4.0 minutes	> 4.6 minutes
SAIFI	< 17.7 outages/yr.	20.8 outages/yr.	> 23.9 outages/yr.

The above reliability performance standards are developed on the basis of Otter Tail's having only one year of information. Therefore, as additional information becomes available, Otter Tail agrees to update the standard so that it reflects an overall average and thereby provides a more accurate reflection of reliability over time.

B. Customer Satisfaction

This PBR Plan uses two survey standards for purposes of measuring customer satisfaction: (1) an average satisfaction score from the annual relationship surveys for all three customer classes (Residential, Small Commercial, Large Commercial), and (2) an average satisfaction score from two semi-annual transactional surveys. The survey scores will reflect the percentage of respondents who rate Otter Tail a "4" or "5" on a scale of "1" to "5," with "5" representing the highest level of satisfaction. A more detailed description of these performance measures is contained in Attachment 3 to this Plan.

Each of the two survey standards will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the Plan's initial performance standards for customer satisfaction:

Measure	Award Threshold	Standard	Penalty Threshold
Relationship positive response %	> 93.0%	90.0%	< 87.0%
Transaction positive response %	>77.0%	74.0%	<71.0%

C. Price Standard

The PBR Plan uses two price standards for purposes of measuring the competitiveness of the Company's prices: (1) the Company's average residential price per kWh compared to the Midwestern utility comparison group, and (2) the annual change in the average residential price relative to the change for the lowest priced utility in the comparison group. The price standards are calculated annually based on utility price data compiled in the Edison Electric Institute's publication entitled Typical Bills and Average Rate Report, issued twice per year. For purposes of this Agreement, the "winter" edition (reflecting the 12-month period ending December 31) will be used. A more detailed description of these performance measures is contained in Attachment 4 to this Plan. Should this publication be discontinued, the parties will use another mutually agreed on price data compilation(s).

Each of the two price measures will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the revised Plan performance standards for price:

Measure	Award Threshold	Standard	Penalty Threshold
Competitive residential price position	< 85% of standard	peer group avg. residential price/kWh	> 115% of standard
Annual change in residential average price	< (standard-.05¢/kwh)	annual change in lowest priced utility	> (standard+.05¢/kwh)

D. Employee Safety Standard

The PBR Plan includes an employee safety measurement based on the Occupational Safety and Health Agency ("OSHA") incident rate. The OSHA incident rate represents the number of safety-related incidents per 100 employees. The standard is based on historical results for Group 5 utilities (i.e., less than 1,000 employees) in the Edison Electric Institute Safety Survey. A more detailed description of this performance measure is contained in Attachment 5 to this Plan.

To be consistent with the other individual Plan standards, the measure carries a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the performance standards for safety:

Measure	Award Threshold	Standard	Penalty Threshold
OSHA incident rate	< 5.9	6.9	> 7.9

4. Changes in Base Rates

A. Price Cap Factor

The Plan calculates a Price Cap Factor by determining the lower of (1) the annual percentage change in the utility comparison group's average residential price

per kWh, and (2) 60% of the change in the Consumer Price Index (CPI) for the previous year (the CPI for the Plan-year is computed by averaging the CPI at the end of each quarter). The Price Cap Factor will determine the highest annual percentage rate increase allowed under the Plan, or the amount of a required rate decrease.

B. Rate Change Criteria

The PBR Plan imposes an electric rate freeze on the Company whenever (1) its previous fiscal year ROE exceeds the ROE rate increase threshold, described below, or (2) the Company's average residential rates are higher than the utility comparison group's average residential rate. If neither condition exists, the Company may change rates by an overall percentage not to exceed the Price Cap Factor.

Base rate changes will be across-the-board to all customer classes unless otherwise requested by the Company and approved by the Commission.

C. Required Rate Decrease Criteria

The Company shall reduce its retail electric rates if (1) the Company's reported ROE for the Plan reporting year exceeded the ROE rate decrease threshold, described below, (2) the Company's average residential rates are higher than the utility comparison group's average residential rate, and (3) the Price Cap Factor is negative.

D. ROE Threshold

The ROE threshold for determining a possible *rate increase* will be the baseline ROE (as adjusted pursuant to Section 7(A), Dynamic ROE) *minus* 100 basis points. The baseline ROE will be the midpoint of the acceptable ROE range as defined in Section 2(A) above. As shown for illustrative purposes in Attachment 1, the threshold in the extreme case of achieving an award on all seven performance measures would be

12.88% *minus* one hundred basis points or 11.88%. Likewise, in the other extreme where all performance were in a penalty situation, the threshold would be 11.13% *minus* one hundred basis points, or 10.13%. In these two examples, a rate freeze would be in effect if the Company's earnings are above 11.88% and 10.13%, respectively.

If the Company's performance is within the acceptable range for all of the Plan performance measures, and no adjustment was made to the ROE range pursuant to the dynamic ROE mechanisms, a base electric rate freeze would be in effect if Otter Tail's reported earnings in the prior Plan year exceeded 11.00%.

The ROE threshold for determining a required *rate decrease* will be the baseline ROE (as adjusted pursuant to Section 2(A), Dynamic ROE) *plus* 100 basis points. The baseline ROE will be the midpoint of the acceptable ROE range as defined in Section 2(A) above. Referring again to Attachment 1, the threshold in the extreme case of achieving an award on all seven performance measures would be 12.88% *plus* one hundred basis points or 13.88%. Likewise, in the other extreme where all performance were in a penalty situation, the threshold would be 11.13% *plus* one hundred basis points, or 12.13%. In these two examples, Otter Tail would not be required to reduce rates if the Company's earnings are below 13.88% and 12.13%, respectively.

If the Company's performance is within the acceptable range for all of the Plan performance measures, and no adjustment was made to the ROE range pursuant to the dynamic ROE mechanisms, no base electric rate decrease would be required if Otter Tail's reported earnings in the prior Plan year was below 13.00%.

E. Exogenous Events

Changes in base rates are subject to the price cap mechanisms included in this Plan. However, any increases or decreases in costs of electric service caused by governmentally imposed changes in taxes and/or accounting practices shall be implemented within 60 days of the effective date of the change.

F. Rate Change Procedure

To implement any permitted rate change pursuant to Section 4(B) or mandatory rate reduction pursuant to Section 4(C), the Company shall file a notice of rate change and the accompanying tariffs pursuant to N.D.C.C. § 49-05-05 not later than June 1 following completion of the Plan-year and submission of the Plan performance report on May 1. The revised rates shall be effective on or after July 1 following the Plan-year. Base rate changes will be across-the-board to all customer classes unless otherwise requested by the Company and approved by the Commission.

If the Staff investigation of the May 1 Plan performance report and the notice of rate change indicates the proposed rates are calculated consistent the Plan, the Staff has agreed it will not recommend the Commission suspend the notice of rate change. If a notice of rate change which would result in a rate increase is nonetheless suspended beyond July 1 by the Commission pursuant to N.D.C.C. 49-05-06, and the Commission determines after investigation a rate increase is consistent with the Plan terms, the Company may at the conclusion of the suspension period establish the rates necessary to recover the full annual increase over the remaining months of the Plan billing year.¹

¹ For example, assume the Company files a notice of rate change on June 1 proposing a \$1 million annual rate increase effective July 1, but the Commission suspends the rate increase until October 1. Assume the rate increase is 0.2 cents per kWh for all customer classes. If the Commission determines after investigation that the Plan would allow the Company to increase revenues by \$1 million annually, the

Rates established consistent with the Plan are presumed just and reasonable, and non-discriminatory.

This Section F does not apply to mandatory base rate changes prescribed in Section E.

5. Other Terms and Conditions

A. Fuel Clause Adjustment

This PBR Plan does not change the Company's existing fuel clause adjustment (FCA) mechanism in its North Dakota Electric Rate Book tariff schedules. The comparative price standard provided above shall be calculated using total Residential revenue per kWh including the fuel clause adjustments in effect during the Plan reporting year.

B. Suspension or Termination of the Plan

The PBR Plan will remain in effect for five years beginning January 1, 2001. The Company and Staff reserve the right to request adjustment, suspension, or termination of the Plan under the following events:

- Changes in federal and/or state tax law;
- Passage of retail access legislation at either the federal or state level;
- Merger and/or acquisition events affecting the Company's structure and operations;
- Natural disasters affecting the Company's North Dakota electric operations (e.g., major storms, floods, etc.);

Company may establish compliance rates effective October 1 (consisting of the filed increase of 0.2 cents/kWh plus a temporary surcharge) which would allow recovery of the \$1 million on its forecasted electric sales for the period October 1 through June 30. Similarly, if the Commission instead determined the Plan would allow the Company to increase revenues by \$0.5 million annually, the Company may

- Unusual events affecting the Company's operations (e.g., major generating plant failure, damage to major transmission or distribution lines, etc.);
- Material and sustained earnings extremes (defined as returns on equity +/- 5.0% from the acceptable ROE range, prior to sharing);

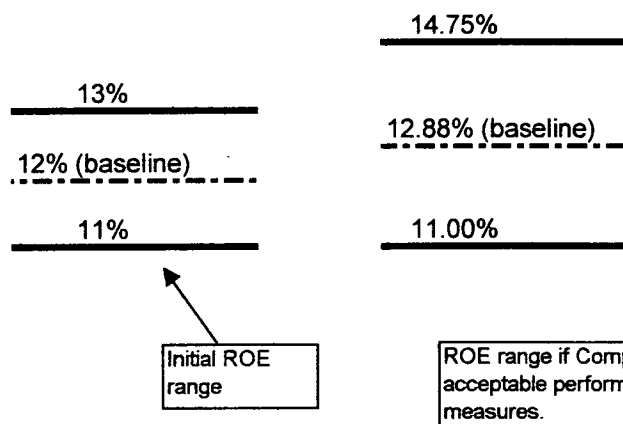
It is anticipated the Commission, Staff and the Company will make reasonable efforts to resolve any condition that could otherwise cause the Company, Staff or the Commission to seek adjustment, suspension, or termination of the Plan before any adjustment, suspension, or termination occurs.

establish compliance rates which would allow recovery of the \$0.5 million increase on its forecasted electric sales for the period October 1 to June 30.

The following are extreme examples for illustration purposes

Assume all 7 performance measures are exceeded, each worth 25 basis points

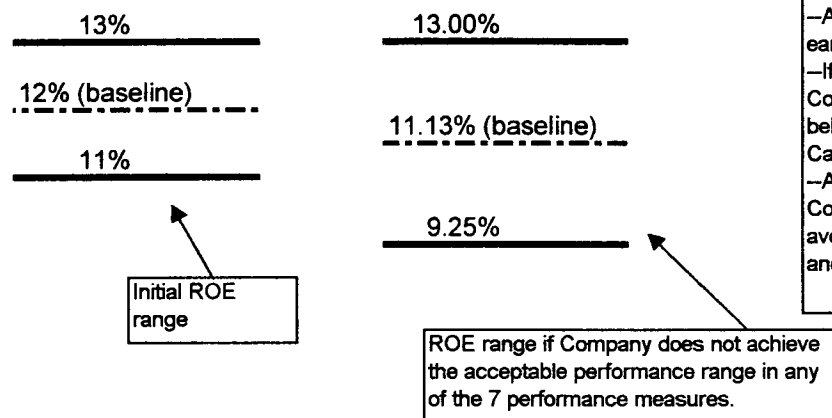
If net result of performance points is positive, only the *upper* limit of the acceptable ROE range increases.



—Earnings above 14.75% are shared.
 —A surcharge may be collected if earnings are below 11%.
 —A rate freeze is in effect if actual earnings are above 11.88%.*
 —If earnings are below 11.88%, the Company may raise rates if its price is below the regional average and the Price Cap Factor is positive.
 —A rate reduction could be required if the Company's price is above the regional average, the Price Cap Factor is negative and earnings are above 13.88%.*

Assume a penalty on all 7 performance measures, each worth 25 basis points

If net result of performance points is negative, only the *lower* limit of the acceptable ROE range is reduced.



—Earnings above 13% are shared.
 —A surcharge may be collected if earnings are below 9.25%.
 —A rate freeze is in effect if actual earnings are above 10.13%.**
 —If earnings are below 10.13%, the Company may raise rates if its price is below the regional average and the Price Cap Factor is positive.
 —A rate reduction could be required if the Company's price is above the regional average, the Price Cap Factor is negative and earnings are above 12.13%.**

* The rate increase threshold is equal to the baseline (12.88% in this example) minus 1.0%, or 11.88%; the rate decrease threshold is the baseline plus 1.0%, or 13.88%.

** The rate increase threshold is equal to the baseline (11.13% in this example) minus 1.0%, or 10.13%; the rate decrease threshold is the baseline plus 1.0%, or 12.13%.

**Otter Tail Power Company
Performance-Based Regulation Plan
Reliability Standards**

Performance Measures:

Outage Restoration Time (CAIDI)

This is the amount of time that a typical customer experiencing a sustained outage was out of power.

Restoration time = number of customer-minutes interrupted / number of customers interrupted

"CAIDI" stands for "Customer Average Interruption Duration Index"

Outage Frequency (SAIFI)

This is the average number of sustained outages that a typical customer experienced during the year.

Outage frequency = number of customer interruptions / number of customers served

"SAIFI" stands for "System Average Interruption Frequency Index"

The Performance Standard

Standards for reliability performance measures were developed using Otter Tail's system-wide average annual results for 1999 (the only year available), with additional years possibly added to the average as data becomes available.

While CAIDI and SAIFI are industry standard reliability measures, there are variations among utilities as to what constitutes an outage, how long an outage must last to be counted, and the process of normalizing outage data for weather. In addition, outage information is not readily accessible nor openly shared across the industry.

Ranges of acceptable performance will be constructed by determining boundaries which are + / - 15% of the standard. Outages included are those lasting more than one minute.

Otter Tail Power Company Results

Storm-Normalized¹			
	SAIFI	CAIDI	SAIDI
	(Outages)	(Minutes)	(Minutes)
1999	20.7898	3.9413	81.9000
Rounded for standard:			
	20.8	4.0	83.2

	SAIFI	CAIDI	SAIDI
Penalty >	23.9	4.6	96
Target	20.8	4.0	83
Award <	17.7	3.4	71

¹ Any outage longer than 24 continuous hours is excluded.

Note: CAIDI X SAIFI = SAIDI

**Otter Tail Power Company
Performance-Based Regulation Plan
Customer Satisfaction Standards**

Performance Measures: **Response % using scale of 1 to 5 where 5 = "Very Satisfied"**

Relationship Survey Response %

This is the average % of North Dakota customers who, in a random independent survey, responded very favorably (either of the top two answers) to the survey question: "I would like to know how you rate Otter Tail Power Company overall on a scale of '1' to '5' where '1' means 'very dissatisfied' and '5' means 'very satisfied.' The more satisfied you generally feel toward Otter Tail Power Company, the higher the number you would give." Relationship survey scores will be the average of residential, small commercial, and large commercial and industrial surveys.

Transactional Survey Response %

This uses a random independent survey of North Dakota customers who have had contact with Otter Tail. The sample is taken from a list of contacts in the most recent three months prior to the survey. The survey is conducted twice each year. The standard is the average % of ND customers who responded very favorably (either of the top two answers) to the survey question: "Thinking specifically of this entire recent transaction with Otter Tail Power Company, from the time you first contacted Otter Tail Power until your issue was resolved, how would you rate the quality of service provided by Otter Tail Power Company? Would you rate your overall experience as: 1. poor, 2. fair, 3. good, 4. very good, 5. excellent, or 6. don't know?"

Relationship survey scores will be the weighted average of residential, small commercial, and large commercial and industrial surveys.

The Performance Standard

Performance standards for customer satisfaction measures will be developed through consideration of current and future surveys, updating the measures as surveys for additional years become available.

Relationship Results

	<u>Res'l</u>	<u>Small C&I</u>	<u>Large C&I</u>	<u>Wtd Average</u>
2000	85.6%	95.5%	90.3%	90.5%

Transactional Results

	<u>Res'l</u>	<u>Small C&I</u>	<u>Large C&I</u>	<u>Wtd Average</u>
	73.8%	82.9%	57.1%	74.6%

Penalty <	87.0%
Target	90.0%
Award >	93.0%

Penalty <	71.0%
Target	74.0%
Award >	77.0%

**Otter Tail Power Company
Performance-Based Regulation Plan
Price Standards**

Performance measures:

Average Residential Revenue/kWh

This is the Otter Tail's average residential price per kWh compared to a group of regulated utilities in a seven-state region of the upper Midwest as reported in the EEI Typical Bills and Average Rate Report, Winter edition.

Annual change in price

This is the annual change in Otter Tail's price compared to the annual change in the price of the lowest priced utility in the comparison group.

The Performance Standard

Performance standards are updated each year based on most recent 12 months ending December 31. The acceptable range for the price per kWh is plus or minus 15%. The acceptable range for the annual change is plus or minus 0.05 cents/kWh. The following is an example of the data used for this standard.

IOU's in North Dakota, South Dakota, Montana, Wyoming, Minnesota, Iowa, Wisconsin

1999 Rank	Utility	Jurisdiction	1999 ¢/kWh	1998 ¢/kWh	% Change
1	Pacificorp	Wyoming	5.74	5.73	0.2%
2	Otter Tail Power Co.	North Dakota	6.03	6.09	-1.0%
3	NSP	North Dakota	6.11	6.07	0.7%
4	Cheyenne Light, Fuel, & Power	Wyoming	6.20	5.66	9.5%
5	Otter Tail Power Co.	South Dakota	6.25	6.30	-0.8%
6	Otter Tail Power Co.	Minnesota	6.48	6.56	-1.2%
7	Wisconsin Public Service	Wisconsin	6.68	6.28	6.4%
8	Minnesota Power	Minnesota	6.71	6.77	-0.9%
9	Wisconsin Power & Light (Alliant)	Wisconsin	6.87	6.72	2.2%
10	Black Hills Power & Light	Montana	7.09	7.22	-1.8%
11	Montana-Dakota Utilities	North Dakota	7.21	6.90	4.5%
12	NSP	Wisconsin	7.33	7.10	3.2%
13	Montana-Dakota Utilities	Wyoming	7.40	7.29	1.5%
14	Montana-Dakota Utilities	Montana	7.43	7.41	0.3%
15	NW Wisconsin Electric	Wisconsin	7.59	7.62	-0.4%
16	Northwest Public Service	South Dakota	7.79	7.45	4.6%
17	Black Hills Power & Light	Wyoming	7.80	7.84	-0.5%
18	Wisconsin Energy Co.	Wisconsin	7.81	7.79	0.3%
19	NSP	South Dakota	7.85	7.66	2.5%
20	Interstate Power Co.	Iowa	7.86	8.55	-8.1%
21	NSP	Minnesota	8.02	7.89	1.6%
22	Black Hills Power & Light	South Dakota	8.29	8.28	0.1%
23	Interstate Power Co.(Alliant)	Minnesota	8.30	8.62	-3.7%
24	Madison Gas & Electric	Wisconsin	8.41	7.81	7.7%
25	IES Utilities (Alliant)	Iowa	8.57	8.73	-1.8%
26	Montana-Dakota Utilities	South Dakota	9.17	8.96	2.3%
<u>Average residential rate (¢/kWh):</u>			7.35	7.28	0.89%

Source: Typical Bills and Average Rate Report, Edison Electric Inst, Winter 2000

**Otter Tail Power Company
Performance-Based Regulation Plan
Employee Safety Standard**

Performance Measure:

OSHA Incident Rate

This is the average number of OSHA incidences occurring per 100 electric employees.

OSHA incidences include medical treatment cases, restricted work day injuries, lost workday injuries, and fatalities. Otter Tail is using a system-wide number because employees routinely cross state lines in performance of their duties.

$$\text{OSHA} = \text{number of incidences} \times 200,000 \text{ hours} / \text{number of labor hours worked}$$

The Performance Standard

The OSHA rate target was developed using the average annual OSHA results for all of the "group 5" (less than 1,000 employees) utilities participating in the 1997 EEI Safety Survey. This revised target measures Otter Tail against a similar group and is only slightly higher than the standard originally proposed of 6.6 incidents.

The acceptable range is + / - 0.15%.

EEI OSHA Results (Group 5)

	<u>OSHA Index</u>
1994	7.33
1995	6.94
1996	6.47
1997	6.80
Average	6.89

Penalty >	7.9
Target	6.9
Award <	5.9

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **9th day of August, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

Order

The envelope was addressed as follows:

Bruce Gerhardson
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496
Cert. No. 7099 3220 0002 8481 1374

Sharon Helbling further deposes and says that on the **9th day of August, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

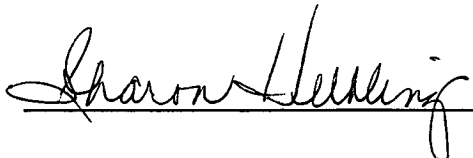
Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

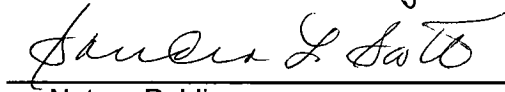
Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **9th day of August, 2001**.

SEAL







Notary Public

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

AFFIDAVIT OF SERVICE BY ORDINARY MAIL OR E-MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **9th day of August, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, envelopes by first class mail, fully prepaid, securely sealed, each containing a photocopy of:

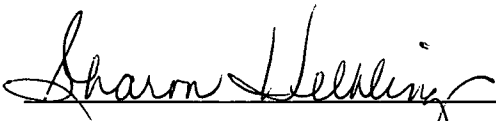
Order

The envelopes were addressed as follows:

See Attached List

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **9th day of August, 2001**.





Notary Public

SEAL



Lubka@rrnet.com
Lewis Lubka
1723 6th St S
Fargo ND 58103

craig_scott@bobcat.com
Craig Scott
Melroe Company
P O Box 128
Gwinner ND 58040-0128

shandy@kwh.com
Scott Handy
Cass County Elec Coop Inc
4100 32nd Ave SW
Fargo ND 58104

Michel Murray
MCI WorldCom Inc
707 17th St Ste 3600
Denver CO 80202

hopgoodt@mduresources.com
Tom Hopgood
Montana-Dakota Utilities Co.

tanousw@mduresources.com
Wayne Tanous
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

bbrutlag@otpc.com
Bernadine Brutlag
Otter Tail Power Company

dcichos@otpc.com
Dave Cichos
Otter Tail Power Company

jason_gusta@bobcat.com
Jason Gustarson
Melroe Company
P O Box 128
Gwinner ND 58040-0128

bbrutlag@otpc.com
Bernadeen Brutlag
Bernadeen Brutlag
Otter Tail Power Company
215 S Casacade St
Fergus Falls MN 56538-0496

Karyn Grass
IPAMS
6620 Denver Club Bldg
518 17th ST
Denver CO 80202-4167
collinsk@mdu.mdures.com
Karen Collins
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

balld@mdu.mdures.com
Don Ball
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

dave.sederquist@nspco.com
Dave Sederquist
Northern States Power Company
414 Nicollet Mall
Minneapolis MN 55401

rcarmody@otpc.com
Roger Carmody
Otter Tail Power Company

dgodel@otpc.com
Dean Godel
Otter Tail Power Company

tgreene@otpc.com
Tim Greene
Otter Tail Power Company

ghammer@otpc.com
Eugene Hammer
Otter Tail Power Company

dross@otpc.com
David Ross
Otter Tail Power Company

sschultz@otpc.com
Steve Schultz
Otter Tail Power Company

jspriggs@otpc.com
Janice Spriggs
Otter Tail Power Company

cvandevoort@otpc.com
Chris Van de Voort
Otter Tail Power Company

dweiby@otpc.com
Dan Weiby
Otter Tail Power Company

rdenault@otpc.com
Russel Denault
Otter Tail Power Company
Garrison ND 58540

mjohnson@otpc.com
Marlowe Johnson
Otter Tail Power Company
PO Box 2220
Jamestown ND 58402-2220

fjohnson@otpc.com
Francis Johnson
Otter Tail Power Company
Langdon ND 58249

gcoyne@otpc.com
Geri Coyne
Otter Tail Power Company
PO Box 410
Oakes ND 58474-0410

dcichos@otpc.com
Dave Cichos
Otter Tail Power Company
Rugby ND 58368

pbeithon@otpc.com
Pete Beithon
Pete Beithon
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

mdickers@state.nd.us
Marcy Dickerson
State Tax Department
State Capitol
Bismarck ND 58505

Joseph Lamb
PO Box 196
Michigan ND 58259-0196

F James I iarty
2333 Plum Grove Dr
O'Fallon MO 63366

Steven Tomac
2498 59th St
St Anthony ND 58566-9640

Myer Shark
Knollwood Place Apts #221
3630 Phillips Pkwy
St Louis Park MN 55426

Vernon Baszler
Community Action Program Reg VII Inc
1825 S Grandview #15
Bismarck ND 58501

Will Kaul
Cooperative Power Association
P O Box 800
Elk River MN 55330-0800

Laurie Baranko
Dakota Resource Council
PO Box 1095
Dickinson ND 58602-1095

Data Resource Center
Box 239
Denver CO 80201-0239

Mark Frederiksen
Economic Insights
416 Center St #365
Washington Grove MD 20880

Jay Casler
INDEPTH DATA INC
211 N Robinson Ave Ste S-1500
Oklahoma City OK 73102-7101

Connie Zimmerman
Inoco Inc
Box 177C Rte 4
Williston ND 58801

Rick Jensen
KHND Radio
PO Box 6
Harvey ND 58341-0006

Minnesota PUC
121 E 7th Pl Ste 350
St Paul MN 55101-2147

Mike Foley
NARUC
1101 Vermont Avenue NW Ste 200
Washington DC 20005

Robert Burns
National Regulatory Research Inst
406 Bevis Hall 1080 Carmack
Columbus OH 43210

Dennis Lavallee
Nat'l Assoc Plumbing-Htng-Cooling
PO Box 6808
Falls Church VA 22046-6808

Karin Sinclair
Nat'l Renewable Energy Lab
1617 Cole Blvd
Golden CO 80401

Scott Speaker
Natural Gas Week
1401 New York Ave NW Ste 500
Washington DC 20005-2150

Everett Morris
NJ Public Service Electric & Gas
80 Park Pl
Newark NJ 07101

Paul Lehman
Northern States Power Company
512 Nicollet Mall
Minneapolis MN 55402

Kim Christianson
Office of Intergovernmental Assist
14th Fl - State Capitol
Bismarck ND 58505-0170

Andrew Anderson
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Jay Myster
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

John Kapsner
The Vogel Law Firm
P O Box 2097
Bismarck ND 58502-2097

Cal Anderson
Otter Tail Power Company
P O Box 400
Devils Lake ND 58301

John MacFarlane
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Public Utilities Reports Inc
Law Dept
8229 Boone Blvd Ste 401
Vienna VA 22182
LeRoy Neubauer
Valley City Public Works
254 2nd Ave NE
Valley City ND 58072

APPROVED

DATE: 8-8-01
KME

MOTION

August 8, 2001

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

I move the Commission adopt the Order granting the petition of Otter Tail Power Company for approval of an interaction customer satisfaction performance measure for its performance-based regulation plan, Case No. PU-401-00-36.

JRL/sdh

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

ORDER

August 8, 2001

On December 29, 2000, the Commission issued its Findings of Fact, Conclusions of Law and Order approving a Settlement Agreement and Revised Performance-Based Ratemaking Plan filed by Otter Tail Power Company (Otter Tail) and Commission Staff in this proceeding. The agreement provided that Otter Tail would propose a standard and acceptable range for the plan's interaction customer satisfaction performance measure by July 1, 2001.

On July 2, 2001, Otter Tail filed a Petition for Approval of Customer Satisfaction Performance Measure. Otter Tail proposes to conduct two telephone surveys each year. An independent market research firm would conduct the surveys using a statistical sample of customer contacts that occurred during the most recent three months. The survey consists of the following question directed to the energy decision-maker for the household or company:

"Thinking specifically of this entire recent transactional with Otter Tail Power Company, from the time you first contacted Otter Tail Power Company until your issue was resolved, how would you rate the quality of service provided by Otter Tail Power Company? Would you rate your overall experience as:

1. Poor
2. Fair
3. Good
4. Very Good
5. Excellent
6. Don't Know"

The first of these surveys was conducted in June 2001. Based on the results of that survey, Otter Tail proposes an initial performance standard of 74% answering either "4" or "5", with an acceptable range of 71% to 77%. Otter Tail will conduct a second survey in October 2001 and may request modification of its proposed performance standard if results indicate the first study may not be indicative of future results.

On August 2, 2001, Commission Staff filed a memorandum in support of Otter Tail's petition.

67 PU-401-00-36

Pages: 2

Order

by Public Service Commission

08/08/2001 CC: Comm Legal Illona, Pat, Jerry Mike .

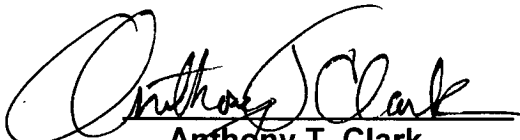
Having considered this matter, the Commission finds Otter Tail's proposed initial interaction customer satisfaction performance measure acceptable. Therefore, the Commission issues the following:

Order

The Commission Orders:

1. Otter Tail's Petition for Approval of Customer Satisfaction Performance Measure is GRANTED.
2. Otter Tail shall re-file its plan in the form of a stand-alone document that incorporates this performance measure and other previously-approved changes.

PUBLIC SERVICE COMMISSION


Anthony T. Clark
Commissioner
Susan E. Wefald
President
Leo M. Reinbold
Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

AFFIDAVIT OF SERVICE BY HAND

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Mike Diller deposes and says that:

he is over the age of 18 years and not a party to this action and, on the **2nd day of August, 2001**, he handed the following document:

Memo Supporting Customer Transaction Benchmark

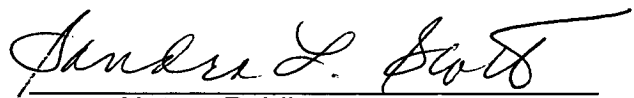
To:

Bernadeen Brutlag
Otter Tail Power Company

Subscribed and sworn to before me
this **2nd day of August, 2001**.

SEAL

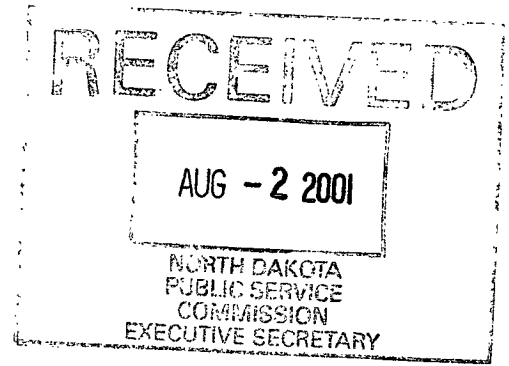




Notary Public



Memo



To: Commissioners, Illona & Bill

From: Mike Diller

Date: July 13, 2001

Re: Otter Tail's Proposed Customer Transaction Benchmark
Retain for Admin Agenda on July 25, 2001

On June 29, 2001, Otter Tail Power Company submitted a petition for approval of its transactional customer satisfaction performance measure to be used in its Performance-Based Plan. The commission on December 29, 2000, Case No PU-401-00-36, approved the plan. In its order, the commission adopted the settlement that allowed for the development of the transactional customer satisfaction measure during the first half of 2001.

Staff has reviewed the filing and recommends that the commission accept Otter Tail's proposal. If the commission is in agreement, staff will instruct the company to incorporate the new benchmark in its overall plan and submit a final and all-inclusive plan to be docketed.

In deciding to recommend approval, I was not overly critical of the company's proposal because it is a work-in-progress. For instance, the company's results show a 74.55% approval rating. Instead of rounding up, the company dropped the two decimal places and set the benchmark at plus or minus 3 percentage points. The plus or minus 3 percentage points is the same as NSP's plan but I would have rounded the results up to 75% for the mid-point rather than down to 74%. Still, this is a new measure with little experience and data. Therefore, I am comfortable with the Otter Tail's proposal. The benchmark will likely change as additional information becomes available.

Also, you will note on Attachment A of the company's filing that the size of the universe from which the sample was taken is noted as N/A or not applicable. The company explained to me that this was done because the process of keeping track of customer transactions is so new that not all of them were logged in to the computer. Otter Tail is working to improve the process to include every transaction but wanted the commission to know that every transaction had not been captured during the first 3 months. According to Brian Draxten, the survey results provide a 95% confidence level within plus or minus 6 percentage points.

65 PU-401-00-36

Pages: 1

Memo Supporting Customer Transaction
Benchmark
by Public Service Commission by Mike Diller

08/02/2001 CC: Comm Legal Illona, Pat, Jerry Mike .

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **26th day of July, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

Order Modifying Previous Decision and Approving Amended Settlement Agreement

The envelope was addressed as follows:

Bruce Gerhardson
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496
Cert. No. 7000 0520 0022 8655 2868

Sharon Helbling further deposes and says that on the **26th day of July, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

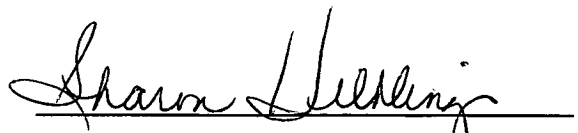
Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **26th day of July, 2001**.



SEAL



Notary Public

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

AFFIDAVIT OF SERVICE BY ORDINARY MAIL OR E-MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **26th day of July, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, envelopes by first class mail, fully prepaid, securely sealed, each containing a photocopy of:

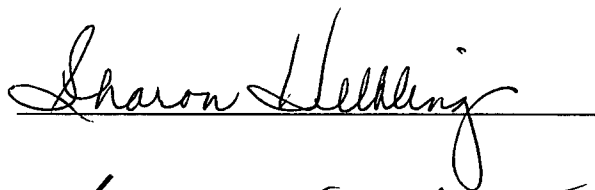
Modified Findings of Fact, Conclusions of Law and Order

The envelopes were addressed as follows:

See Attached List

Each address shown is the respective addressee's last reasonably ascertainable post office address.

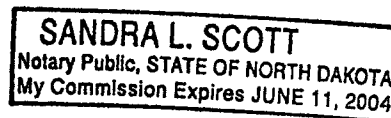
Subscribed and sworn to before me
this **26th day of July, 2001**.





Notary Public

SEAL



Lubka@rrnet.com
Lewis Lubka
1723 6th St S
Fargo ND 58103

craig_scott@bobcat.com
Craig Scott
Melroe Company
P O Box 128
Gwinner ND 58040-0128

shandy@kwh.com
Scott Handy
Cass County Elec Coop Inc
4100 32nd Ave SW
Fargo ND 58104

Michel Murray
MCI WorldCom Inc
707 17th St Ste 3600
Denver CO 80202

hopgoodt@mduresources.com
Tom Hopgood
Montana-Dakota Utilities Co.

tanousw@mduresources.com
Wayne Tanous
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

bbrutlag@otpc.com
Bernadine Brutlag
Otter Tail Power Company

dgodel@otpc.com
Dean Godel
Otter Tail Power Company

jason_gustafson@bobcat.com
Jason Gustafson
Melroe Company
P O Box 128
Gwinner ND 58040-0128

bbrutlag@otpc.com
Bernadeen Brutlag
Bernadeen Brutlag
Otter Tail Power Company
215 S Casacade St
Fergus Falls MN 56538-0496

Karyn Grass
IPAMS
6620 Denver Club Bldg
518 17th ST
Denver CO 80202-4167
collinsk@mdu.mdures.com
Karen Collins
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

balld@mdu.mdures.com
Don Ball
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

dave.sederquist@nspco.com
Dave Sederquist
Northern States Power Company
414 Nicollet Mall
Minneapolis MN 55401

rcarmody@otpc.com
Roger Carmody
Otter Tail Power Company

tgreene@otpc.com
Tim Greene
Otter Tail Power Company

ehammer@otpc.com
Eugene Hammer
Otter Tail Power Company

wjohnson@otpc.com
Wayne Johnson
Otter Tail Power Company

dross@otpc.com
David Ross
Otter Tail Power Company

sschultz@otpc.com
Steve Schultz
Otter Tail Power Company

jspriggs@otpc.com
Janice Spriggs
Otter Tail Power Company

cvandevoort@otpc.com
Chris Van de Voort
Otter Tail Power Company

dweiby@otpc.com
Dan Weiby
Otter Tail Power Company

rdenault@otpc.com
Russel Denault
Otter Tail Power Company
Garrison ND 58540

mjohnson@otpc.com
Marlowe Johnson
Otter Tail Power Company
PO Box 2220
Jamestown ND 58402-2220

fjohnson@otpc.com
Francis Johnson
Otter Tail Power Company
Langdon ND 58249

gcoyne@otpc.com
Geri Coyne
Otter Tail Power Company
PO Box 410
Oakes ND 58474-0410

dcichos@otpc.com
Dave Cichos
Otter Tail Power Company
Rugby ND 58368

pbeithon@otpc.com
Pete Beithon
Pete Beithon
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

mdickers@state.nd.us
Marcy Dickerson
State Tax Department
State Capitol
Bismarck ND 58505

Barbie Keiser

Tanya Reyr
4412 Spicewd Sprgs Rd Ste 700
Austin TX 78759

Joseph Lamb
PO Box 196
Michigan ND 58259-0196

F James Moriarty
2333 Plum Grove Dr
O'Fallon MO 63366

Steven Tomac
2498 59th St
St Anthony ND 58566-9640

Myer Shark
Knollwood Place Apts #221
3630 Phillips Pkwy
St Louis Park MN 55426

Vernon Baszler
Community Action Program Reg VII Inc
1825 S Grandview #15
Bismarck ND 58501

Will Kaul
Cooperative Power Association
P O Box 800
Elk River MN 55330-0800

Laurie Baranko
Dakota Resource Council
PO Box 1095
Dickinson ND 58602-1095

Data Resource Center
Box 239
Denver CO 80201-0239

Duff & Phelps Inc
Research Library
55 E Monroe St Ste 4000
Chicago IL 60603
Tom Reynolds
Electric Power Alert
PO Box 7167
Washington DC 20044-7167

Mark Frederiksen
Economic Insights
416 Center St #365
Washington Grove MD 20880

Jay Casler
INDEPTH DATA INC
211 N Robinson Ave Ste S-1500
Oklahoma City OK 73102-7101

Connie Zimmerman
Inoco Inc
Box 177C Rte 4
Williston ND 58801

Rick Jensen
KHND Radio
PO Box 6
Harvey ND 58341-0006

Minnesota PUC
121 E 7th Pl Ste 350
St Paul MN 55101-2147

Mike Foley
NARUC
1101 Vermont Avenue NW Ste 200
Washington DC 20005

Amy Garant
National Regulatory Research Inst
372 Bevis Hall 1080 Carmack
Columbus OH 43210

Dennis Lavallee
Nat'l Assoc Plumbing-Htng-Cooling
PO Box 6808
Falls Church VA 22046-6808

Karin Sinclair
Nat'l Renewable Energy Lab
1617 Cole Blvd
Golden CO 80401

Everett Morris
NJ Public Service Electric & Gas
80 Park Pl
Newark NJ 07101

Kim Christianson
Office of Intergovernmental Assist
14th Fl - State Capitol
Bismarck ND 58505-0170

Andrew Anderson
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Jay Myster
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

John Kapsner
The Vogel Law Firm
P O Box 2097
Bismarck ND 58502-2097

Scott Spear
Natural Gas Week
1401 New York Ave NW Ste 500
Washington DC 20005-2150

Paul Lehman
Northern States Power Company
512 Nicollet Mall
Minneapolis MN 55402

Cal Anderson
Otter Tail Power Company
P O Box 400
Devils Lake ND 58301

John MacFarlane
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Public Utilities Reports Inc
Law Dept
8229 Boone Blvd Ste 401
Vienna VA 22182
LeRoy Neubauer
Valley City Public Works
254 2nd Ave NE
Valley City ND 58072

APPROVED

MOTION

DATE: 7-25-01
KMF

July 25, 2001

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

I move the Commission adopt the Order Modifying Previous Decision and Approving Amended Settlement Agreement in the application by Otter Tail Power Company for approval of a performance based regulation plan, Case No. PU-401-00-36.

JRL/sdh

63 PU-401-00-36

Pages: 1

Motion

by Public Service Commission

07/25/2001 CC: Comm Legal Illona, Pat, Jerry Mike

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

**ORDER MODIFYING PREVIOUS DECISION AND APPROVING AMENDED
SETTLEMENT AGREEMENT**

July 25, 2001

On February 20, 2001, Otter Tail Power Company (Otter Tail) filed a motion requesting the Commission modify its December 29, 2000 Findings of Fact, Conclusions of Law and Order to make it consistent with the January 10, 2001 Findings of Fact, Conclusions of Law and Order in Case No. PU-401-00-195, an application by Northern States Power Company (NSP) for approval of a similar performance based regulation plan.

On March 28, 2001, the Commission issued a Notice of Motion to Modify Decision, which provided until May 4, 2001 for receiving comments or hearing requests. No response was received.

On July 12, 2001, Otter Tail and Commission Staff filed an Amended Settlement Agreement and Second Revised Performance-Based Ratemaking Plan reflecting these changes. This settlement incorporates changes to Paragraph 9.F of the original Settlement Agreement and Revised Performance-Based Ratemaking Plan, attached and made a part of the December 29 Order. These changes would make Otter Tail's rate change procedures in Paragraph 9.F the same as those in Section 4.D of NSP's Final Settlement Agreement, as approved by the Commission's January 10, 2001 Order.

Otter Tail requests that Finding of Fact #7 of the Commission's December 29 decision be modified so as to be consistent with the intent of its PBR plan. This finding describes the revenue sharing mechanism of the plan that allows a rate surcharge for recovering deficiencies. Otter Tail requests removal of language it believes was inadvertent and gives the impression that the surcharge would be subject to the plan's rate change procedures.

Having considered this matter, the Commission finds it appropriate that the rate change procedures for both companies be the same. Therefore the Commission issues the following:

Order

The Commission Orders:

1. Finding of Fact #7 of the Commission's December 29, 2000 Findings of Fact, Conclusions of Law and Order in this proceeding is modified to read as follows:

7. The proposed revenue sharing mechanism, as modified by the revised settlement agreement, is reasonable. This mechanism provides:

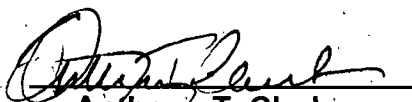
If Otter Tail's reported actual earnings fall within the ROE deadband around the authorized ROE (as adjusted by the performance points) in a plan year, no revenue sharing will take place.

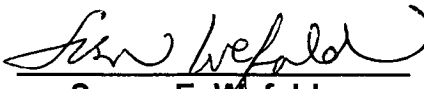
If Otter Tail's actual reported earnings for any plan year exceed the deadband, the corresponding revenue 'sufficiency' will be calculated, and 50% of this dollar amount will be refunded to customers during the July billing cycle of the following year. Customers of record on March 31 following the Plan year will be issued refunds by bill credit prorated on the basis of their electric usage for the twelve months ending March 31.

If Otter Tail's actual reported earnings for any plan year are below the deadband, 50% of the corresponding revenue "deficiency" may be recovered through a surcharge on Otter Tail's electric rates effective no later than 24 months after the Plan year. However, Otter Tail has agreed to defer recovery of a reported fiscal year deficiency by recording the amount as a regulatory asset until the following plan year revenue sharing amount, if any, is reported. If the prior year deficiency is fully offset by the current year reported revenue sufficiency, the sufficiency will be used to eliminate the regulatory asset, and no rate surcharge will be imposed. If the deficiency from the prior year is not fully offset, any remaining deficiency balance may be reflected in rates applicable to bills issued between the 18th and 24th month following the plan year when the deficiency occurred.

2. The Amended Settlement Agreement and Second Revised Performance-Based Ratemaking Plan entered into by Otter Tail and Commission Staff and filed with the Commission on July 12, 2001, is Approved.

PUBLIC SERVICE COMMISSION

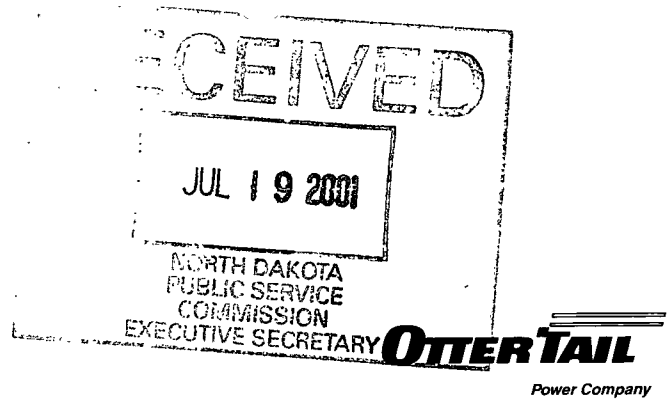

Anthony T. Clark
Commissioner


Susan E. Wefald
President


Leo M. Reinbold
Commissioner

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)

July 18, 2001



Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol - 600 East Boulevard
Bismarck, ND 58505-0480

**RE: Transactional Customer Satisfaction Measure for PBR Plan
Case No. PU-401-00-36**

Dear Mr. Mielke:

On June 29, 2001, Otter Tail Power Company filed its Petition in the above matter. Page 4 of that Petition inadvertently contained a misquote of the question used in the survey, in that the numbered order of the responses was reversed.

I am enclosing eleven (11) copies of a replacement page 4 for that Petition. I apologize for any confusion this error may have caused.

If you have questions, please feel free to call me at (218) 739-8289 or e-mail me at bbrutlag@otpc.com.

Your very truly,

A handwritten signature in cursive script that reads 'Bernadeen Brutlag'.

Bernadeen Brutlag
Manager, Regulatory Services

Enclosures

Cc: Dave Sederquist, Xcel Energy - ND

61 PU-401-00-36

Pages: 2

Corrected Page 4 of Petition
by Otter Tail Power Company

the following question after respondents have been screened to ensure they are the energy decision-maker for the household or company:

"Thinking specifically of this entire recent transactional with Otter Tail Power Company, from the time you first contacted Otter Tail Power Company until your issue was resolved, how would you rate the quality of service provided by Otter Tail Power Company? Would you rate your overall experience as:

1. Poor
2. Fair
3. Good
4. Very Good
5. Excellent
6. Don't know"

In June 2001 Otter Tail Power conducted the first of these surveys using a statistical sample of customer contacts which occurred in March, April, and May 2001.

V. PROPOSED PERFORMANCE MEASURE

A summary of the results of the survey is included with this Petition as Attachment A. The performance measure is based on the percentage of customers responding with a "4" or "5". Based on the results of this survey, Otter Tail Power proposes a performance standard of 74% percent answering either "4" or "5", with an acceptable range of 71% to 77%.

Otter Tail Power will conduct a second survey in October. Since both the system of identifying customer contacts and the transactional survey are newly implemented, Otter Tail Power requests the opportunity to modify this performance measure after the October 2001 survey if those results indicate that



Public Service Commission

State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Leo M. Reinbold
Anthony T. Clark

Executive Secretary
Jon H. Mielke

600 E Boulevard Ave. Dept. 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: sab@oracle.psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

July 12, 2001

Ms. Bernadeen Brutlag
Otter Tail Power Company
P. O. Box 496
Fergus Falls, MN 56538-0496

Re: Revised PBR Settlement Agreement
Case No. PU-401-00-36

Dear Bernadeen:

Enclosed is a signed Amended Settlement Agreement and Second Revised Performance-Based Ratemaking Plan.

We would appreciate an electronic version of both the amended agreement and the "red line" version. You can either send the documents on a diskette or e-mail them to me. My e-mail address is as follows.

sls@oracle.psc.state.nd.us

If you have any questions, please contact Bill Binek at 701-328-4088 or Sandi at 701-328-4081.

Thank you.

Sincerely,

Sandi Scott
Legal Division

/sls
Enclosure

60 PU-401-00-36

Pages: 1

Letter re signed Amended Settlement
Agreement
by Public Service Commission

07/12/2001 CC: Comm Legal Illona, Pat, Jerry Mike

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)

July 11, 2001

Jerry R. Lein
Public Service Commission
State of North Dakota
600 East Boulevard
Bismarck, ND 58505



Subject: Revised PBR Settlement Agreement
Case No. PU-401-00-36

Dear Jerry:

This follows our conversation regarding Otter Tail Power's Motion to amend the Findings and Settlement Agreement in our PBR Plan. Since we are asking to amend the Settlement Agreement, you suggested that a revised Settlement Agreement should be filed for the Commission to approve.

Enclosed are two signed copies of the *Amended Settlement Agreement and Second Revised Performance-Based Ratemaking Plan*. Also enclosed is an unsigned "red line" version that should be helpful to identify the changes. Let me know if you would like an electronic version of either document.

I have assumed that Bill will again sign for the Commission staff and that he or you will file the document.

If you have questions or need anything else from us on this matter, don't hesitate to contact me. Thank you for your help on our request.

Sincerely,

Bernadeen Brutlag
Manager
Regulatory Analysis & Compliance

Encs.

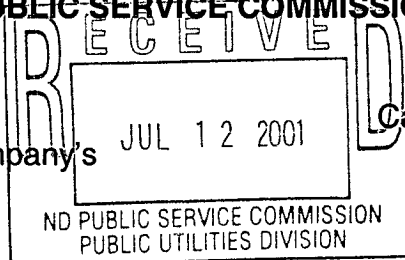
59 PU-401-00-36

Pages: 1

Letter re filing of Amended Agreement
by Otter Tail Power Company

**STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of Otter Tail Power Company's
Proposal to Implement
Performance-Based Regulation



Case No. PU-401-00-36

**AMENDED SETTLEMENT AGREEMENT AND
SECOND REVISED PERFORMANCE-BASED RATEMAKING PLAN**

This Amended Settlement Agreement and Second Revised Performance-Based Ratemaking ("PBR") Plan (collectively, the "Agreement") is entered into this 11th day of July, 2001, by and between Otter Tail Power Company, a Minnesota corporation ("Otter Tail" or "the Company") and the North Dakota Public Service Commission litigation staff ("Staff"). This Agreement resolves all outstanding issues in the above-captioned proceeding before the North Dakota Public Service Commission ("Commission") in a manner consistent with the public interest. The Agreement consolidates and incorporates all relevant provisions from the Company's January 31, 2000 PBR Plan, the November 30, 2000 Settlement Agreement, and the December 13, 2000 Amendment and Clarification to the November 30 Settlement Agreement. The Agreement also consolidates and incorporates all revisions agreed to by the Company, Xcel Energy, Inc. (Northern States Power Company, or NSP), Staff, and the Commission as a result of the hearing held in this matter, negotiations, and Commission-sponsored working sessions.

Paragraph 9.F. of the Settlement Agreement and Revised PBR Plan approved by the Commission on December 29, 2000, has been modified to provide for a procedure

in the event of the Commission's suspension of a rate increase that may be indicated by the Plan.

PRELIMINARY STATEMENT

1. Commission Alternative Regulation Guidelines, Case No. PU-439-94-590.

After conducting workshops and public input sessions to discuss alternative forms of regulation for electric utilities operating in the state, the Commission issued its "Guidelines for Filing Alternative Regulation Proposals" ("Guidelines") in Case No. PU-439-94-590 on September 20, 1995. The Guidelines indicated the Commission would consider proposals for alternative forms of regulation from traditional "cost-based rate of return" regulation. The Guidelines set forth both goals and criteria for alternative regulation proposals, which included among other things that proposals promote efficiencies, align customer and shareholder interests, minimize regulatory costs, be comprehensive yet administratively simple, and that proposals be flexible.

2. Summary of the Record.

On January 31, 2000, Otter Tail filed an "Application for Approval of a Performance-Based Ratemaking Plan" ("Application") in which it asked that its retail electric operations in North Dakota be subject to performance based regulation. The key components of the performance based regulation plan ("PBR Plan" or "Plan") include (1) a return on the Company's equity capital ("ROE") which can vary depending on the Company's performance, (2) a revenue sharing mechanism, (3) the establishment of service performance standards, and (4) price capping and the flexibility to adjust prices (rates) under specified circumstances. If approved, the PBR Plan would

create an alternative form of regulation for the Company's electric operations in North Dakota consistent with the Guidelines.

As stated by the Company in its Application, two primary goals of performance-based ratemaking are to allow regulated utilities greater flexibility in their operations and to minimize regulatory oversight. A well-designed PBR plan relies on competitive market-like forces, to the greatest extent possible, by creating incentives for a utility to operate more efficiently, invest in its business, and provide superior service to its customers. Performance based regulation plans accompanied by clear and well-designed measures are likely to provide significant benefits over more traditional forms of cost-of-service regulation. It is also important that measures developed to evaluate utility performance be thorough but not be unduly burdensome to calculate and administer.

On July 19, 2000, the Commission issued its "Notice of Hearing and Notice of Public Discussion Meeting" ("Notice") in the instant docket and in Case No. PU-400-00-195, a companion docket involving NSP's PBR PLUS Plan, a performance based regulation plan very similar to Otter Tail's plan. In its Notice, the Commission invited the public to discuss and participate in the development of both the Otter Tail and NSP plans.

On August 29, 2000 Administrative Law Judge Allen C. Hoberg issued a Pre-hearing Order which established procedural dates, hearing procedures, and other preliminary matters.

On September 6, 2000 the Commission conducted a Public Discussion Meeting in which it allowed the public to participate in the PBR plans through the use of ten

video conference sites located throughout Otter Tail's and NSP's service territories. At the Public Discussion Meetings, the Commission received no public comment opposing either the Otter Tail or NSP plans.

On September 29, Otter Tail submitted written direct testimony of the following Otter Tail employees: Ms. Bernadeen Brutlag (OTP Exhibit No. 1); Mr. Brian Draxten (OTP Ex. No. 2); Mr. Del Van Voorhis (OTP Ex. No. 3); and Mr. Steve Wevley (OTP Ex. No. 4). Otter Tail also jointly sponsored, along with NSP, the written direct testimony of Dr. Karl McDermott, Vice President of the National Economic Research Associates (Joint Ex. No. 1). Ms. Brutlag explained the central elements of the Company's PBR Plan and the plan's pricing performance measure. Mr. Draxten described the Company's proposed customer satisfaction performance measure. Mr. Van Voorhis described how Otter Tail's reliability measure was developed and Mr. Wevley described the proposed safety performance measure. Dr. McDermott, a nationally recognized expert on performance based and other alternative forms of regulation, offered the policy rationale for the two plans. He concluded that the plans would provide better incentives for cost reduction, service performance, and that the societal costs of regulating utilities would be reduced. Dr. McDermott also demonstrated how the PBR plans as submitted by the companies are consistent with the Commission's Guidelines.

On October 13, 2000, Staff submitted written direct testimony in which it generally supported the PBR Plan but recommended certain modifications. On October 20, 2000, Ms. Brutlag and Dr. McDermott submitted written rebuttal testimony (OTP Ex. No. 5 and Joint Ex. No. 2, respectively).

On October 23 and 24, 2000, the Commission conducted a joint evidentiary hearing in which it considered both Otter Tail's PBR Plan and NSP's PLUS Plan. Judge Hoberg presided and all three Commissioners were present. Staff and Otter Tail were each represented by counsel. At the hearing, the Commission considered the following issues: (1) Are the PBR plans as submitted consistent with the Guidelines? (2) Would the plans result in quality service and reasonable rates? (3) Do the plans support safe and reliable electric infrastructure and the financial viability of the utilities? And (4) Is implementation of the plans in the public interest?

The Application and pre-filed testimony of both companies and Staff was admitted into the record, and the witnesses were subject to cross examination and questions by the Commissioners.

At the conclusion of the evidentiary hearing but before the close of the record, the Commission urged the parties to initiate informal settlement discussions to resolve all issues of the plans where Staff and the companies differed. The companies and Staff agreed to provide the Commission with a final settlement agreement no later than December 1 if possible, for purposes of having the Commission approve any settlement agreement and/or the plans no later than December 31, 2000.

Staff, Otter Tail, and NSP held informal settlement discussions on November 2, 2000 in Jamestown, North Dakota and have held numerous telephone and electronic discussions since that date, each in an effort to reach a comprehensive settlement regarding performance based regulation in North Dakota. On November 20, 2000 the Commission conducted a working session with parties present in which the companies' plans and Staff's recommendations were discussed. Three additional working sessions,

on December 1, 11 and 15, 2000, were also held to discuss and resolve all issues in this matter.

3. The November 30 Settlement Agreement.

On November 30, 2000 Otter Tail and Staff entered into a Settlement Agreement that Otter Tail and Staff agreed resolved all outstanding issues in the above-captioned proceeding. The Settlement Agreement was presented to the Commission on December 1, 2000 for its approval at a regularly scheduled working session. Although the matter was discussed with both the Company and Staff present, the Settlement Agreement was not approved. On December 11, 2000 the Settlement Agreement was again the topic of discussion at a regularly scheduled working session, again with both the Company and Staff present. At the session, the Commission indicated that further clarifications and/or modifications to the Settlement Agreement and/or the Company's Performance Based Ratemaking Plan were warranted.

4. The December 13, 2000 Amendment and Clarification to the November 30, 2000 Settlement Agreement.

Based on the Commission's request to clarify and amend the November 30, 2000 Settlement Agreement, on December 13, 2000, Otter Tail and Staff submitted an Amendment and Clarification to the November 30, 2000 Settlement Agreement. At its December 15, 2000 working session, the Commission once again considered the matter along with NSP's PBR PLUS Plan. The Commission was satisfied with the settlement negotiations between the companies and Staff, including all proposed revisions. However, the Commission suggested that the companies consolidate and incorporate their PBR plans, settlement documents, and all revisions into one, single

document for presentation and approval by the Commission. That one, single document is this Agreement.

5. The Record, as Modified by this Agreement, Supports Adoption of the PBR Plan.

Both the Company and Staff submitted pre-filed and oral testimony that supports implementation of performance-based regulation for the Company's electric utility operations in North Dakota. Both the Company and Staff agree that having Otter Tail's utility operations regulated under a performance based regulation plan is in the Company's and North Dakota ratepayers' interest. Otter Tail and Staff agree that performance based regulation does the following: provides the Company with an incentive to become more efficient; makes price changes generally more understandable than under traditional, cost-of-service regulation; decreases the cost of regulation; promotes innovation; and allows for just and reasonable rates for electric service.

The Company and Staff did not agree on everything, however. At the hearing, the Company and Staff held slightly different views on the best performance standards to include in a PBR Plan and the criteria for rewarding and/or penalizing the Company based on its performance. For instance, the Company, through Dr. Karl McDermott's testimony, supports use of broad and balanced performance standards and symmetrical reward/penalty criteria, as the Company believes such performance standards are consistent with the Guidelines. Staff testified that it believed that the PBR Plan and NSP's PLUS Plan, as originally proposed, lacked symmetry – i.e., a price increase was more likely to occur than a price decrease. The companies and Staff disagreed on other matters too.

In any event, however, the companies and Staff were able to resolve their differences. The parties also recognize that the Commission is not required to approve all of the specific components of the PBR Plan or Staff's recommendations. Instead, the Commission is free to approve a plan that it believes is in the overall best interest of the public. In fact, Commissioner comments and questions at the evidentiary hearing supported consideration of possible alternative performance standards and Dr. McDermott's overall recommendation was that any final performance standards and reward/penalty criteria, as well as any overall performance based regulation plan, should reflect the policy objectives of the Commission. In negotiations subsequent to the hearing, the parties endeavored to develop a PBR plan that best met the Commission's policy objectives.

Based on the record in this matter, and all of the negotiations, working sessions, and proceedings to date, the Company and Staff believe this Agreement is supported by the record, is consistent with the public interest, is consistent with the Commission's Guidelines on for Filing Alternative Regulation Proposals, will result in quality service and reasonable rates to North Dakota ratepayers, supports the safe and reliable electric infrastructure and the financial viability of the Company, and that, as a result, implementation of the PBR Plan is in the public interest.

Accordingly, Otter Tail and Staff jointly request that the Commission promptly issue an order approving this Agreement in its entirety, without conditions or further modifications, and that it approve performance based regulation for Otter Tail's North Dakota electric operation, consistent with this Agreement.

SECOND REVISED PBR PLAN

6. PBR Plan Terms.

A. Implementation.

In its Application, Otter Tail proposed to commence its PBR Plan on January 1, 2000. In order to coincide with implementation of NSP's PLUS Plan, the parties agree that the PBR Plan will commence as of January 1, 2001. For purposes of initial PBR Plan implementation, the Company's electric rates in effect on January 1, 2001 are presumed to be just and reasonable.

The PBR Plan will remain in effect until December 31, 2005, unless renewed or further extended by order of the Commission, or suspended or terminated by the Company or the Commission, as provided herein. Prior to July 1, 2005, the Company will file for extension and/or modification of the Plan if so desired.

B. Reporting/Review.

On or before May 1 of each year, Otter Tail will submit a comprehensive earnings and performance report for the previous calendar fiscal year period, which will include the following information:

1. Otter Tail's regulated electric earnings and return on equity (before and after any earnings sharing) in North Dakota for the calendar year just completed;
2. Summaries of operating revenue, expense, and regulated electric rate base;
3. Otter Tail's regulated capital structure including debt and equity ratios, cost of capital, and return on rate base;
4. Calculation of baseline ROE and the authorized earnings range for the review year;
5. Annual results, awards, and penalties related to Otter Tail's seven performance measures;

6. Amount of revenues subject to sharing -- the "performance-based dividend" or "surcharge;"
7. Comparison group average residential rates for the year in review;
8. The calculation of any changes in base rates; and
9. Proposed rate change percentage and typical bill impact for all customer classes.

Otter Tail's operating results for each year will be based upon usual and existing practices, consistent with Commission practice in recent years.

After May 1, 2003, but no later than June 30, 2003, the Commission will conduct an informal hearing for the purpose of assessing the overall success of the PBR Plan's first two years of operation.

7. Acceptable ROE Range/Revenue Sharing.

A. Dynamic ROE.

The initial baseline return on equity ("ROE") for purposes of the PBR Plan will be 12.0%. An acceptable range of +/- 1.0% around the baseline is appropriate.

During the Plan term, the acceptable ROE range shall be subject to the annual dynamic ROE adjustments in terms of "basis points" depending on the Company's performance under each Plan performance standard, as provided herein. If the net performance basis points are positive (award), the upper end of the acceptable ROE range increases. If the net performance points are negative (penalty), the lower end of the ROE range is decreased. An example of this provision is shown in Attachment 1R, incorporated and made a part of this Agreement.

B. Revenue Sharing.

If the Company's reported actual utility earnings fall within the acceptable range around the authorized ROE (as adjusted by the performance points) in a given Plan year, no revenue sharing will take place.

If the Company's actual reported earnings for any given Plan year exceed the acceptable range, the corresponding revenue "sufficiency" will be calculated, and 50% of this dollar amount will be refunded to customers during the July billing cycle of the following year. Customers of record on March 31 following the Plan-year will be issued refunds by bill credit prorated on the basis of their electric usage for the twelve months ending March 31.

If earnings are below the acceptable ROE range, 50% of the corresponding revenue deficiency may be recovered through a surcharge on the Company's electric rates effective no later than 24 months after the Plan year, as directed by the Financial Accounting Standards Board ("FASB"). However, Otter Tail will defer a reported fiscal year deficiency amount as a regulatory asset until the following Plan year revenue sharing amount, if any, is reported. If the prior year deficiency is fully offset by a current year reported revenue sufficiency, the sufficiency will be used to eliminate the regulatory asset, and no rate surcharge will be imposed. If the deficiency from the prior year is not fully offset, any remaining deficiency balance will be billed through a rate surcharge applicable to bills issued from July 1 through December 31 of the year following the Plan fiscal report year, unless otherwise requested by either the Company or Commission Staff and approved by the Commission.

The share of revenue or deficiency will be shown separately as a "performance-based dividend" or "performance-based surcharge" on customers' bills.

Any deferred balance remaining at the end of this 5-year PBR Plan will first be considered as part of an on-going plan or alternatively, collected from customers through a surcharge.

PBR dividends paid or surcharges received will not affect the return on equity calculation of the year in which the said dividends or surcharges are actually implemented.

8. Revised Performance Standards.

A. Reliability.

The PBR Plan as set forth in the Application proposed a service reliability standard measurement using the storm adjusted minutes of outage or “System Average Interruption Duration Index” (“SAIDI”). In this Agreement, the revised PBR Plan will use two standards for purposes of measuring reliability: (1) customer average interruption duration index (“CAIDI”), and (2) system average interruption frequency index (“SAIFI”).

CAIDI and SAIFI are individual measures, the product of which is SAIDI. By using both component standards, the Company will be measured on both the frequency of customer outages and the time it takes to restore power. Annual results for each measure will be storm adjusted using the methods established by the Company – e.g., Otter Tail proposes to exclude any outage longer than 24 continuous hours. Standards are based on achieving a SAIDI result of 83 minutes, which was developed using Otter Tail’s historical system-wide outage results, and was part of the original Application. A more detailed description of these performance measures is contained in Attachment 2R, incorporated and made a part of this Agreement.

Each measure will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the revised performance standards for reliability:

Measure	Award Threshold	Standard	Penalty Threshold
CAIDI	< 3.4 minutes	4.0 minutes	> 4.6 minutes
SAIFI	< 17.7 outages/yr.	20.8 outages/yr.	> 23.9 outages/yr.

The above reliability performance standards are developed on the basis of Otter Tail's having only one year of information. Therefore, as additional information becomes available, Otter Tail agrees to update the standard so that it reflects an overall average and thereby provides a more accurate reflection of reliability over time.

B. Customer Satisfaction.

The Application, as supplemented by Mr. Draxten's testimony, proposed a single customer satisfaction measure. It was based on North Dakota customers' responses to a single question contained in the Company's relationship survey of all customer classes (Residential, Small Commercial and Large Commercial) and designed to gauge overall satisfaction with the Company. The Application proposed the standard for customer satisfaction be based on 95% of respondents rating Otter Tail "3" or higher on a scale of one ("1") to five ("5"), with five representing the highest degree of satisfaction. Staff recommended a customer satisfaction measure that used only the top two ratings ("4" and "5"). Staff also recommended the addition of a "transactional survey" – i.e., a survey that measures customer satisfaction in relation to a particular event, e.g., how the utility responded to a customer's complaint, answered its question, etc.

Pursuant to this Agreement, the Company's revised PBR Plan will use two survey standards for purposes of measuring customer satisfaction: (1) an average satisfaction score from the relationship surveys for all three customer classes (Residential, Small Commercial, Large Commercial), and (2) an average satisfaction score from two transactional surveys. The survey scores will reflect the percentage of respondents who rate Otter Tail a "4" or "5" on a scale of "1" to "5," with, once again, "5" representing the highest level of satisfaction. A more detailed description of these performance measures is contained in 3R, incorporated and made a part of this Agreement.

The parties acknowledge that Otter Tail does not presently have a method in place to identify all contacts with customers for transactional survey purposes. Otter Tail agrees to develop such method during the first quarter of 2001, to perform a survey based on contacts for three months, and to provide a report to the Commission by July 1, 2001 that suggests a transactional survey standard.

As the performance measure for the relationship survey is based on only one survey and the measure for the transactional survey is yet to be determined, the parties agree that Otter Tail will update these performance standards as necessary as survey information for additional years becomes available.

Each of the two survey standards will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the Plan's initial performance standards for customer satisfaction:

Measure	Award Threshold	Standard	Penalty Threshold
Relationship positive response %	> 93.0%	90.0%	< 87.0%
Transaction positive response %	To be determined	To be determined	To be determined

C. Price Standard.

The Application proposed a price standard that compared the Company's average residential electric revenue per kWh for the Plan-year to the average residential revenue/kWh of a comparison group of investor-owned utilities located throughout seven upper Midwest states. Staff proposed a price comparison that measured the change in the Company's residential electric revenue/kWh in the Plan-year to the change of the ten lowest-priced utilities in the comparison group.

Pursuant to this Agreement, the Company's revised PBR Plan will use two price standards for purposes of measuring the competitiveness of the Company's prices: (1) the Company's average residential price per kWh compared to the Midwestern utility comparison group, and (2) the annual change in the average residential price relative to the change for the lowest priced utility in the comparison group. The price standards are calculated annually based on utility price data compiled in the Edison Electric Institute's publication entitled Typical Bills and Average Rate Report, issued twice per year. For purposes of this Agreement, the "winter" edition (reflecting the 12-month period ending December 31) will be used. A more detailed description of these

performance measures is contained in 4R, incorporated and made a part of this Agreement. Should this publication be discontinued, the parties will use another mutually agreed on price data compilation(s).

Each of the two price measures will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the revised Plan performance standards for price:

Measure	Award Threshold	Standard	Penalty Threshold
Competitive residential price position	< 85% of standard	peer group avg. residential price/kWh	> 115% of standard
Annual change in residential average price	< (standard-.05¢/kwh)	annual change in lowest priced utility	> (standard+.05¢/kwh)

D. Employee Safety Standard.

The Application proposed an employee safety standard based on the Company's Occupational Safety and Health Agency ("OSHA") incident rate in the Plan-year compared against Otter Tail's own five-year average historic performance. The OSHA incident rate represents the number of safety-related incidents per 100 employees. The Application proposed a reward and/or penalty of a 50 basis point adjustment to the baseline ROE.

Pursuant to this Settlement Agreement, the revised PBR Plan will include an employee safety measurement based on the OSHA incident rate. The standard is based on historical results for Group 5 utilities (i.e., less than 1,000 employees) in the Edison Electric Institute Safety Survey. A more detailed description of this performance

measure is contained in Attachment 5R, incorporated and made a part of this Agreement.

To be consistent with the other individual Plan standards, the measure will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the performance standards for safety:

Measure	Award Threshold	Standard	Penalty Threshold
OSHA incident rate	< 5.9	6.9	> 7.9

9. Changes in Base Rates.

A. Price Cap Factor.

Pursuant to this Agreement, the revised Plan will calculate a Price Cap Factor by determining the lower of (1) the annual percentage change in the utility comparison group's average residential price per kWh, and (2) 60% of the change in the Consumer Price Index (CPI) for the previous year (the CPI for the Plan-year is computed by averaging the CPI at the end of each quarter). The Price Cap Factor will determine the highest annual percentage rate increase allowed under the Plan, or the amount of a required rate decrease.

B. Rate Change Criteria.

The PBR Plan imposes an electric rate freeze on the Company whenever (1) its previous fiscal year ROE exceeds the ROE rate increase threshold, described below, or (2) the Company's average residential rates are higher than the utility comparison group's average residential rate. If neither condition exists, the Company may change rates by an overall percentage not to exceed the Price Cap Factor.

Base rate changes will be across-the-board to all customer classes unless otherwise requested by the Company and approved by the Commission.

C. Required Rate Decrease Criteria.

The Company shall reduce its retail electric if (1) the Company's reported ROE for the Plan reporting year exceeded the ROE rate decrease threshold, described below, (2) the Company's average residential rates are higher than the utility comparison group's average residential rate, and (3) the Price Cap Factor is negative.

D. ROE Threshold.

The ROE threshold for determining a possible *rate increase* will be the baseline ROE (as adjusted pursuant to Section 7(A), Dynamic ROE) *minus* 100 basis points. The baseline ROE will be the midpoint of the acceptable ROE range as defined in Section 7(A) above. As shown for illustrative purposes in Attachment 1R, the threshold in the extreme case of achieving an award on all seven performance measures would be 12.88% *minus* one hundred basis points or 11.88%. Likewise, in the other extreme where all performance were in a penalty situation, the threshold would be 11.13% *minus* one hundred basis points, or 10.13%. In these two examples, a rate freeze would be in effect if the Company's earnings are above 11.88% and 10.13%, respectively.

If the Company's performance is within the acceptable range for all of the Plan performance measures, and no adjustment was made to the ROE range pursuant to the dynamic ROE mechanisms, a base electric rate freeze would be in effect if Otter Tail's reported earnings in the prior Plan year exceeded 11.00%.

The ROE threshold for determining a required *rate decrease* will be the baseline ROE (as adjusted pursuant to Section 7(A), Dynamic ROE) *plus* 100 basis points. The

baseline ROE will be the midpoint of the acceptable ROE range as defined in Section 7(A) above. Referring again to Attachment 1R, the threshold in the extreme case of achieving an award on all seven performance measures would be 12.88% *plus* one hundred basis points or 13.88%. Likewise, in the other extreme where all performance were in a penalty situation, the threshold would be 11.13% *plus* one hundred basis points, or 12.13%. In these two examples, Otter Tail would not be required to reduce rates if the Company's earnings are below 13.88% and 12.13%, respectively.

If the Company's performance is within the acceptable range for all of the Plan performance measures, and no adjustment was made to the ROE range pursuant to the dynamic ROE mechanisms, no base electric rate decrease would be required if Otter Tail's reported earnings in the prior Plan year was below 13.00%.

E. Exogenous Events.

Changes in base rates are subject to the price cap mechanisms included in this Agreement. However, for purposes of clarification, the parties expressly recognize that any increases or decreases in costs of electric service caused by governmentally imposed changes in taxes and/or accounting practices shall be implemented within 60 days of the effective date of the change.

F. Rate Change Procedure.

To implement any permitted rate change pursuant to Section 9(B) or mandatory rate reduction pursuant to Section 9(C), the Company shall file a notice of rate change and the accompanying tariffs pursuant to N.D.C.C. § 49-05-05 not later than June 1 following completion of the Plan-year and submission of the Plan performance report on May 1. The revised rates shall be effective on or after July 1 following the Plan-year.

Base rate changes will be across-the-board to all customer classes unless otherwise requested by the Company and approved by the Commission.

If the Staff investigation of the May 1 Plan performance report and the notice of rate change indicates the proposed rates are calculated consistent the Plan, the Staff agrees it will not recommend the Commission suspend the notice of rate change. If a notice of rate change which would result in a rate increase is nonetheless suspended beyond July 1 by the Commission pursuant to N.D.C.C. 49-05-06, and the Commission determines after investigation a rate increase is consistent with the Plan terms, the Company may at the conclusion of the suspension period establish the rates necessary to recover the full annual increase over the remaining months of the Plan billing year.¹

Rates established consistent with the Plan are presumed just and reasonable, and non-discriminatory.

This Section F does not apply to mandatory base rate changes prescribed in Section E.

10. Other Terms and Conditions.

A. Fuel Clause Adjustment.

This Agreement and the Company's revised PBR Plan does not change the Company's existing fuel clause adjustment (FCA) mechanism in its North Dakota Electric Rate Book tariff schedules. The comparative price standard provided above

¹ For example, assume the Company files a notice of rate change on June 1 proposing a \$1 million annual rate increase effective July 1, but the Commission suspends the rate increase until October 1. Assume the rate increase is 0.2 cents per kWh for all customer classes. If the Commission determines after investigation that the Plan would allow the Company to increase revenues by \$1 million annually, the Company may establish compliance rates effective October 1 (consisting of the filed increase of 0.2 cents/kWh plus a temporary surcharge) which would allow recovery of the \$1 million on its forecasted electric sales for the period October 1 through June 30. Similarly, if the Commission instead determined the Plan would allow the Company to increase revenues by \$0.5 million annually, the Company may

shall be calculated using total Residential revenue per kWh including the fuel clause adjustments in effect during the Plan reporting year.

B. Suspension or Termination of the Plan.

The PBR Plan will remain in effect for five years beginning January 1, 2001. The Company and Staff reserve the right to request adjustment, suspension, or termination of the Plan under the following events:

- Changes in federal and/or state tax law;
- Passage of retail access legislation at either the federal or state level;
- Merger and/or acquisition events affecting the Company's structure and operations;
- Natural disasters affecting the Company's North Dakota electric operations (e.g., major storms, floods, etc.);
- Unusual events affecting the Company's operations (e.g., major generating plant failure, damage to major transmission or distribution lines, etc.);
- Material and sustained earnings extremes (defined as returns on equity +/- 5.0% from the acceptable ROE range, prior to sharing);

It is anticipated the Commission, Staff and the Company will make reasonable efforts to resolve any condition that could otherwise cause the Company, Staff or the Commission to seek adjustment, suspension, or termination of the Plan before any adjustment, suspension, or termination occurs.

establish compliance rates which would allow recovery of the \$0.5 million increase on its forecasted electric sales for the period October 1 to June 30.

C. Applicability and Scope.

Each of the provisions of this Agreement is in consideration for each and every other provision. If this Agreement is not accepted and approved by the Commission in its entirety and without modification, at the option of Otter Tail, this Agreement shall be null and void.

This Agreement shall be binding on the parties hereto, and upon their successors, assigns, agents and representatives.

D. Effective Date.

This Agreement shall be effective on the date of the Commission's order approving it, but in no event later than January 1, 2001.

E. Effect of Settlement Negotiations.

It is understood and agreed that all offers of settlement and discussions related thereto are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Agreement, the Agreement shall not constitute part of the record in this proceeding and no part thereof may be used for any purpose in this proceeding or otherwise. This Agreement shall not in any respect constitute a determination by the parties hereto as to the merits of any specific allegations or contentions made by the parties in Case No. PU-401-00-36.

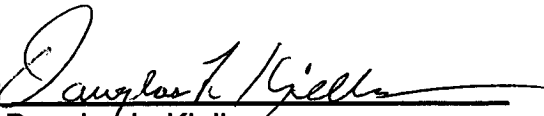
F. Counterparts.

This Settlement Agreement may be executed in separate, identical counterparts.

G. Agreement Drafted Jointly.

This Settlement Agreement shall be deemed to have been drafted jointly by Staff and Otter Tail for purposes of construing or interpreting the meaning of any provision of this Agreement.

Otter Tail Power Company

By: 
Douglas L. Kjellerup
Chief Operating Officer, Energy Delivery
Otter Tail Power Company

Date: July 11, 2001

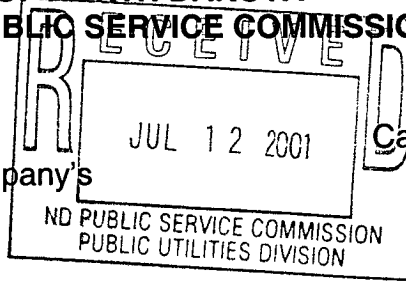
**North Dakota Public Service
Commission Staff**

By: 
William W. Binek
Chief Counsel
ND Public Service Commission

Date: July 12, 2001

**STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of Otter Tail Power Company's
Proposal to Implement
Performance-Based Regulation



Case No. PU-401-00-36

**AMENDED SETTLEMENT AGREEMENT AND
SECOND REVISED PERFORMANCE-BASED RATEMAKING PLAN**

This Amended Settlement Agreement and Second Revised Performance-Based Ratemaking ("PBR") Plan (collectively, the "Agreement") is entered into this ____ day of July, 2001, by and between Otter Tail Power Company, a Minnesota corporation ("Otter Tail" or "the Company") and the North Dakota Public Service Commission litigation staff ("Staff"). This Agreement resolves all outstanding issues in the above-captioned proceeding before the North Dakota Public Service Commission ("Commission") in a manner consistent with the public interest. The Agreement consolidates and incorporates all relevant provisions from the Company's January 31, 2000 PBR Plan, the November 30, 2000 Settlement Agreement, and the December 13, 2000 Amendment and Clarification to the November 30 Settlement Agreement. The Agreement also consolidates and incorporates all revisions agreed to by the Company, Xcel Energy, Inc. (Northern States Power Company, or NSP), Staff, and the Commission as a result of the hearing held in this matter, negotiations, and Commission-sponsored working sessions.

Paragraph 9.F. of the Settlement Agreement and Revised PBR Plan approved by the Commission on December 29, 2000, has been modified to provide for a procedure

in the event of the Commission's suspension of a rate increase that may be indicated by the Plan.

PRELIMINARY STATEMENT

1. Commission Alternative Regulation Guidelines, Case No. PU-439-94-590.

After conducting workshops and public input sessions to discuss alternative forms of regulation for electric utilities operating in the state, the Commission issued its "Guidelines for Filing Alternative Regulation Proposals" ("Guidelines") in Case No. PU-439-94-590 on September 20, 1995. The Guidelines indicated the Commission would consider proposals for alternative forms of regulation from traditional "cost-based rate of return" regulation. The Guidelines set forth both goals and criteria for alternative regulation proposals, which included among other things that proposals promote efficiencies, align customer and shareholder interests, minimize regulatory costs, be comprehensive yet administratively simple, and that proposals be flexible.

2. Summary of the Record.

On January 31, 2000, Otter Tail filed an "Application for Approval of a Performance-Based Ratemaking Plan" ("Application") in which it asked that its retail electric operations in North Dakota be subject to performance based regulation. The key components of the performance based regulation plan ("PBR Plan" or "Plan") include (1) a return on the Company's equity capital ("ROE") which can vary depending on the Company's performance, (2) a revenue sharing mechanism, (3) the establishment of service performance standards, and (4) price capping and the flexibility to adjust prices (rates) under specified circumstances. If approved, the PBR Plan would

create an alternative form of regulation for the Company's electric operations in North Dakota consistent with the Guidelines.

As stated by the Company in its Application, two primary goals of performance-based ratemaking are to allow regulated utilities greater flexibility in their operations and to minimize regulatory oversight. A well-designed PBR plan relies on competitive market-like forces, to the greatest extent possible, by creating incentives for a utility to operate more efficiently, invest in its business, and provide superior service to its customers. Performance based regulation plans accompanied by clear and well-designed measures are likely to provide significant benefits over more traditional forms of cost-of-service regulation. It is also important that measures developed to evaluate utility performance be thorough but not be unduly burdensome to calculate and administer.

On July 19, 2000, the Commission issued its "Notice of Hearing and Notice of Public Discussion Meeting" ("Notice") in the instant docket and in Case No. PU-400-00-195, a companion docket involving NSP's PBR PLUS Plan, a performance based regulation plan very similar to Otter Tail's plan. In its Notice, the Commission invited the public to discuss and participate in the development of both the Otter Tail and NSP plans.

On August 29, 2000 Administrative Law Judge Allen C. Hoberg issued a Pre-hearing Order which established procedural dates, hearing procedures, and other preliminary matters.

On September 6, 2000 the Commission conducted a Public Discussion Meeting in which it allowed the public to participate in the PBR plans through the use of ten

video conference sites located throughout Otter Tail's and NSP's service territories. At the Public Discussion Meetings, the Commission received no public comment opposing either the Otter Tail or NSP plans.

On September 29, Otter Tail submitted written direct testimony of the following Otter Tail employees: Ms. Bernadeen Brutlag (OTP Exhibit No. 1); Mr. Brian Draxten (OTP Ex. No. 2); Mr. Del Van Voorhis (OTP Ex. No. 3); and Mr. Steve Wevley (OTP Ex. No. 4). Otter Tail also jointly sponsored, along with NSP, the written direct testimony of Dr. Karl McDermott, Vice President of the National Economic Research Associates (Joint Ex. No. 1). Ms. Brutlag explained the central elements of the Company's PBR Plan and the plan's pricing performance measure. Mr. Draxten described the Company's proposed customer satisfaction performance measure. Mr. Van Voorhis described how Otter Tail's reliability measure was developed and Mr. Wevley described the proposed safety performance measure. Dr. McDermott, a nationally recognized expert on performance based and other alternative forms of regulation, offered the policy rationale for the two plans. He concluded that the plans would provide better incentives for cost reduction, service performance, and that the societal costs of regulating utilities would be reduced. Dr. McDermott also demonstrated how the PBR plans as submitted by the companies are consistent with the Commission's Guidelines.

On October 13, 2000, Staff submitted written direct testimony in which it generally supported the PBR Plan but recommended certain modifications. On October 20, 2000, Ms. Brutlag and Dr. McDermott submitted written rebuttal testimony (OTP Ex. No. 5 and Joint Ex. No. 2, respectively).

On October 23 and 24, 2000, the Commission conducted a joint evidentiary hearing in which it considered both Otter Tail's PBR Plan and NSP's PLUS Plan. Judge Hoberg presided and all three Commissioners were present. Staff and Otter Tail were each represented by counsel. At the hearing, the Commission considered the following issues: (1) Are the PBR plans as submitted consistent with the Guidelines? (2) Would the plans result in quality service and reasonable rates? (3) Do the plans support safe and reliable electric infrastructure and the financial viability of the utilities? And (4) Is implementation of the plans in the public interest?

The Application and pre-filed testimony of both companies and Staff was admitted into the record, and the witnesses were subject to cross examination and questions by the Commissioners.

At the conclusion of the evidentiary hearing but before the close of the record, the Commission urged the parties to initiate informal settlement discussions to resolve all issues of the plans where Staff and the companies differed. The companies and Staff agreed to provide the Commission with a final settlement agreement no later than December 1 if possible, for purposes of having the Commission approve any settlement agreement and/or the plans no later than December 31, 2000.

Staff, Otter Tail, and NSP held informal settlement discussions on November 2, 2000 in Jamestown, North Dakota and have held numerous telephone and electronic discussions since that date, each in an effort to reach a comprehensive settlement regarding performance based regulation in North Dakota. On November 20, 2000 the Commission conducted a working session with parties present in which the companies' plans and Staff's recommendations were discussed. Three additional working sessions,

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3. The November 30 Settlement Agreement.

On November 30, 2000 Otter Tail and Staff entered into a Settlement Agreement that Otter Tail and Staff agreed resolved all outstanding issues in the above-captioned proceeding. The Settlement Agreement was presented to the Commission on December 1, 2000 for its approval at a regularly scheduled working session. Although the matter was discussed with both the Company and Staff present, the Settlement Agreement was not approved. On December 11, 2000 the Settlement Agreement was again the topic of discussion at a regularly scheduled working session, again with both the Company and Staff present. At the session, the Commission indicated that further clarifications and/or modifications to the Settlement Agreement and/or the Company's Performance Based Ratemaking Plan were warranted.

4. The December 13, 2000 Amendment and Clarification to the November 30, 2000 Settlement Agreement.

Based on the Commission's request to clarify and amend the November 30, 2000 Settlement Agreement, on December 13, 2000, Otter Tail and Staff submitted an Amendment and Clarification to the November 30, 2000 Settlement Agreement. At its December 15, 2000 working session, the Commission once again considered the matter along with NSP's PBR PLUS Plan. The Commission was satisfied with the settlement negotiations between the companies and Staff, including all proposed revisions. However, the Commission suggested that the companies consolidate and incorporate their PBR plans, settlement documents, and all revisions into one, single

document for presentation and approval by the Commission. That one, single document is this Agreement.

5. The Record, as Modified by this Agreement, Supports Adoption of the PBR Plan.

Both the Company and Staff submitted pre-filed and oral testimony that supports implementation of performance-based regulation for the Company's electric utility operations in North Dakota. Both the Company and Staff agree that having Otter Tail's utility operations regulated under a performance based regulation plan is in the Company's and North Dakota ratepayers' interest. Otter Tail and Staff agree that performance based regulation does the following: provides the Company with an incentive to become more efficient; makes price changes generally more understandable than under traditional, cost-of-service regulation; decreases the cost of regulation; promotes innovation; and allows for just and reasonable rates for electric service.

The Company and Staff did not agree on everything, however. At the hearing, the Company and Staff held slightly different views on the best performance standards to include in a PBR Plan and the criteria for rewarding and/or penalizing the Company based on its performance. For instance, the Company, through Dr. Karl McDermott's testimony, supports use of broad and balanced performance standards and symmetrical reward/penalty criteria, as the Company believes such performance standards are consistent with the Guidelines. Staff testified that it believed that the PBR Plan and NSP's PLUS Plan, as originally proposed, lacked symmetry – i.e., a price increase was more likely to occur than a price decrease. The companies and Staff disagreed on other matters too.

In any event, however, the companies and Staff were able to resolve their differences. The parties also recognize that the Commission is not required to approve all of the specific components of the PBR Plan or Staff's recommendations. Instead, the Commission is free to approve a plan that it believes is in the overall best interest of the public. In fact, Commissioner comments and questions at the evidentiary hearing supported consideration of possible alternative performance standards and Dr. McDermott's overall recommendation was that any final performance standards and reward/penalty criteria, as well as any overall performance based regulation plan, should reflect the policy objectives of the Commission. In negotiations subsequent to the hearing, the parties endeavored to develop a PBR plan that best met the Commission's policy objectives.

Based on the record in this matter, and all of the negotiations, working sessions, and proceedings to date, the Company and Staff believe this Agreement is supported by the record, is consistent with the public interest, is consistent with the Commission's Guidelines on for Filing Alternative Regulation Proposals, will result in quality service and reasonable rates to North Dakota ratepayers, supports the safe and reliable electric infrastructure and the financial viability of the Company, and that, as a result, implementation of the PBR Plan is in the public interest.

Accordingly, Otter Tail and Staff jointly request that the Commission promptly issue an order approving this Agreement in its entirety, without conditions or further modifications, and that it approve performance based regulation for Otter Tail's North Dakota electric operation, consistent with this Agreement.

SECOND REVISED PBR PLAN

6. PBR Plan Terms.

A. Implementation.

In its Application, Otter Tail proposed to commence its PBR Plan on January 1, 2000. In order to coincide with implementation of NSP's PLUS Plan, the parties agree that the PBR Plan will commence as of January 1, 2001. For purposes of initial PBR Plan implementation, the Company's electric rates in effect on January 1, 2001 are presumed to be just and reasonable.

The PBR Plan will remain in effect until December 31, 2005, unless renewed or further extended by order of the Commission, or suspended or terminated by the Company or the Commission, as provided herein. Prior to July 1, 2005, the Company will file for extension and/or modification of the Plan if so desired.

B. Reporting/Review.

On or before May 1 of each year, Otter Tail will submit a comprehensive earnings and performance report for the previous calendar fiscal year period, which will include the following information:

1. Otter Tail's regulated electric earnings and return on equity (before and after any earnings sharing) in North Dakota for the calendar year just completed;
2. Summaries of operating revenue, expense, and regulated electric rate base;
3. Otter Tail's regulated capital structure including debt and equity ratios, cost of capital, and return on rate base;
4. Calculation of baseline ROE and the authorized earnings range for the review year;
5. Annual results, awards, and penalties related to Otter Tail's seven performance measures;

6. Amount of revenues subject to sharing -- the "performance-based dividend" or "surcharge;"
7. Comparison group average residential rates for the year in review;
8. The calculation of any changes in base rates; and
9. Proposed rate change percentage and typical bill impact for all customer classes.

Otter Tail's operating results for each year will be based upon usual and existing practices, consistent with Commission practice in recent years.

After May 1, 2003, but no later than June 30, 2003, the Commission will conduct an informal hearing for the purpose of assessing the overall success of the PBR Plan's first two years of operation.

7. Acceptable ROE Range/Revenue Sharing.

A. Dynamic ROE.

The initial baseline return on equity ("ROE") for purposes of the PBR Plan will be 12.0%. An acceptable range of +/- 1.0% around the baseline is appropriate.

During the Plan term, the acceptable ROE range shall be subject to the annual dynamic ROE adjustments in terms of "basis points" depending on the Company's performance under each Plan performance standard, as provided herein. If the net performance basis points are positive (award), the upper end of the acceptable ROE range increases. If the net performance points are negative (penalty), the lower end of the ROE range is decreased. An example of this provision is shown in Attachment 1R, incorporated and made a part of this Agreement.

B. Revenue Sharing.

If the Company's reported actual utility earnings fall within the acceptable range around the authorized ROE (as adjusted by the performance points) in a given Plan year, no revenue sharing will take place.

If the Company's actual reported earnings for any given Plan year exceed the acceptable range, the corresponding revenue "sufficiency" will be calculated, and 50% of this dollar amount will be refunded to customers during the July billing cycle of the following year. Customers of record on March 31 following the Plan-year will be issued refunds by bill credit prorated on the basis of their electric usage for the twelve months ending March 31.

If earnings are below the acceptable ROE range, 50% of the corresponding revenue deficiency may be recovered through a surcharge on the Company's electric rates effective no later than 24 months after the Plan year, as directed by the Financial Accounting Standards Board ("FASB"). However, Otter Tail will defer a reported fiscal year deficiency amount as a regulatory asset until the following Plan year revenue sharing amount, if any, is reported. If the prior year deficiency is fully offset by a current year reported revenue sufficiency, the sufficiency will be used to eliminate the regulatory asset, and no rate surcharge will be imposed. If the deficiency from the prior year is not fully offset, any remaining deficiency balance will be billed through a rate surcharge applicable to bills issued from July 1 through December 31 of the year following the Plan fiscal report year, unless otherwise requested by either the Company or Commission Staff and approved by the Commission.

The share of revenue or deficiency will be shown separately as a "performance-based dividend" or "performance-based surcharge" on customers' bills.

Any deferred balance remaining at the end of this 5-year PBR Plan will first be considered as part of an on-going plan or alternatively, collected from customers through a surcharge.

PBR dividends paid or surcharges received will not affect the return on equity calculation of the year in which the said dividends or surcharges are actually implemented.

8. Revised Performance Standards.

A. Reliability.

The PBR Plan as set forth in the Application proposed a service reliability standard measurement using the storm adjusted minutes of outage or “System Average Interruption Duration Index” (“SAIDI”). In this Agreement, the revised PBR Plan will use two standards for purposes of measuring reliability: (1) customer average interruption duration index (“CAIDI”), and (2) system average interruption frequency index (“SAIFI”).

CAIDI and SAIFI are individual measures, the product of which is SAIDI. By using both component standards, the Company will be measured on both the frequency of customer outages and the time it takes to restore power. Annual results for each measure will be storm adjusted using the methods established by the Company – e.g., Otter Tail proposes to exclude any outage longer than 24 continuous hours. Standards are based on achieving a SAIDI result of 83 minutes, which was developed using Otter Tail’s historical system-wide outage results, and was part of the original Application. A more detailed description of these performance measures is contained in Attachment 2R, incorporated and made a part of this Agreement.

Each measure will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the revised performance standards for reliability:

Measure	Award Threshold	Standard	Penalty Threshold
CAIDI	< 3.4 minutes	4.0 minutes	> 4.6 minutes
SAIFI	< 17.7 outages/yr.	20.8 outages/yr.	> 23.9 outages/yr.

The above reliability performance standards are developed on the basis of Otter Tail's having only one year of information. Therefore, as additional information becomes available, Otter Tail agrees to update the standard so that it reflects an overall average and thereby provides a more accurate reflection of reliability over time.

B. Customer Satisfaction.

The Application, as supplemented by Mr. Draxten's testimony, proposed a single customer satisfaction measure. It was based on North Dakota customers' responses to a single question contained in the Company's relationship survey of all customer classes (Residential, Small Commercial and Large Commercial) and designed to gauge overall satisfaction with the Company. The Application proposed the standard for customer satisfaction be based on 95% of respondents rating Otter Tail "3" or higher on a scale of one ("1") to five ("5"), with five representing the highest degree of satisfaction. Staff recommended a customer satisfaction measure that used only the top two ratings ("4" and "5"). Staff also recommended the addition of a "transactional survey" – i.e., a survey that measures customer satisfaction in relation to a particular event, e.g., how the utility responded to a customer's complaint, answered its question, etc.

Pursuant to this Agreement, the Company's revised PBR Plan will use two survey standards for purposes of measuring customer satisfaction: (1) an average satisfaction score from the relationship surveys for all three customer classes (Residential, Small Commercial, Large Commercial), and (2) an average satisfaction score from two transactional surveys. The survey scores will reflect the percentage of respondents who rate Otter Tail a "4" or "5" on a scale of "1" to "5," with, once again, "5" representing the highest level of satisfaction. A more detailed description of these performance measures is contained in 3R, incorporated and made a part of this Agreement.

The parties acknowledge that Otter Tail does not presently have a method in place to identify all contacts with customers for transactional survey purposes. Otter Tail agrees to develop such method during the first quarter of 2001, to perform a survey based on contacts for three months, and to provide a report to the Commission by July 1, 2001 that suggests a transactional survey standard.

As the performance measure for the relationship survey is based on only one survey and the measure for the transactional survey is yet to be determined, the parties agree that Otter Tail will update these performance standards as necessary as survey information for additional years becomes available.

Each of the two survey standards will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the Plan's initial performance standards for customer satisfaction:

Measure	Award Threshold	Standard	Penalty Threshold
Relationship positive response %	> 93.0%	90.0%	< 87.0%
Transaction positive response %	To be determined	To be determined	To be determined

C. Price Standard.

The Application proposed a price standard that compared the Company's average residential electric revenue per kWh for the Plan-year to the average residential revenue/kWh of a comparison group of investor-owned utilities located throughout seven upper Midwest states. Staff proposed a price comparison that measured the change in the Company's residential electric revenue/kWh in the Plan-year to the change of the ten lowest-priced utilities in the comparison group.

Pursuant to this Agreement, the Company's revised PBR Plan will use two price standards for purposes of measuring the competitiveness of the Company's prices: (1) the Company's average residential price per kWh compared to the Midwestern utility comparison group, and (2) the annual change in the average residential price relative to the change for the lowest priced utility in the comparison group. The price standards are calculated annually based on utility price data compiled in the Edison Electric Institute's publication entitled Typical Bills and Average Rate Report, issued twice per year. For purposes of this Agreement, the "winter" edition (reflecting the 12-month period ending December 31) will be used. A more detailed description of these

performance measures is contained in 4R, incorporated and made a part of this Agreement. Should this publication be discontinued, the parties will use another mutually agreed on price data compilation(s).

Each of the two price measures will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the revised Plan performance standards for price:

Measure	Award Threshold	Standard	Penalty Threshold
Competitive residential price position	< 85% of standard	peer group avg. residential price/kWh	> 115% of standard
Annual change in residential average price	< (standard-.05¢/kwh)	annual change in lowest priced utility	> (standard+.05¢/kwh)

D. Employee Safety Standard.

The Application proposed an employee safety standard based on the Company's Occupational Safety and Health Agency ("OSHA") incident rate in the Plan-year compared against Otter Tail's own five-year average historic performance. The OSHA incident rate represents the number of safety-related incidents per 100 employees. The Application proposed a reward and/or penalty of a 50 basis point adjustment to the baseline ROE.

Pursuant to this Settlement Agreement, the revised PBR Plan will include an employee safety measurement based on the OSHA incident rate. The standard is based on historical results for Group 5 utilities (i.e., less than 1,000 employees) in the Edison Electric Institute Safety Survey. A more detailed description of this performance

measure is contained in Attachment 5R, incorporated and made a part of this Agreement.

To be consistent with the other individual Plan standards, the measure will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the performance standards for safety:

Measure	Award Threshold	Standard	Penalty Threshold
OSHA incident rate	< 5.9	6.9	> 7.9

9. Changes in Base Rates.

A. Price Cap Factor.

Pursuant to this Agreement, the revised Plan will calculate a Price Cap Factor by determining the lower of (1) the annual percentage change in the utility comparison group's average residential price per kWh, and (2) 60% of the change in the Consumer Price Index (CPI) for the previous year (the CPI for the Plan-year is computed by averaging the CPI at the end of each quarter). The Price Cap Factor will determine the highest annual percentage rate increase allowed under the Plan, or the amount of a required rate decrease.

B. Rate Change Criteria.

The PBR Plan imposes an electric rate freeze on the Company whenever (1) its previous fiscal year ROE exceeds the ROE rate increase threshold, described below, or (2) the Company's average residential rates are higher than the utility comparison group's average residential rate. If neither condition exists, the Company may change rates by an overall percentage not to exceed the Price Cap Factor.

Base rate changes will be across-the-board to all customer classes unless otherwise requested by the Company and approved by the Commission.

C. Required Rate Decrease Criteria.

The Company shall reduce its retail electric if (1) the Company's reported ROE for the Plan reporting year exceeded the ROE rate decrease threshold, described below, (2) the Company's average residential rates are higher than the utility comparison group's average residential rate, and (3) the Price Cap Factor is negative.

D. ROE Threshold.

The ROE threshold for determining a possible *rate increase* will be the baseline ROE (as adjusted pursuant to Section 7(A), Dynamic ROE) *minus* 100 basis points. The baseline ROE will be the midpoint of the acceptable ROE range as defined in Section 7(A) above. As shown for illustrative purposes in Attachment 1R, the threshold in the extreme case of achieving an award on all seven performance measures would be 12.88% *minus* one hundred basis points or 11.88%. Likewise, in the other extreme where all performance were in a penalty situation, the threshold would be 11.13% *minus* one hundred basis points, or 10.13%. In these two examples, a rate freeze would be in effect if the Company's earnings are above 11.88% and 10.13%, respectively.

If the Company's performance is within the acceptable range for all of the Plan performance measures, and no adjustment was made to the ROE range pursuant to the dynamic ROE mechanisms, a base electric rate freeze would be in effect if Otter Tail's reported earnings in the prior Plan year exceeded 11.00%.

The ROE threshold for determining a required *rate decrease* will be the baseline ROE (as adjusted pursuant to Section 7(A), Dynamic ROE) *plus* 100 basis points. The

baseline ROE will be the midpoint of the acceptable ROE range as defined in Section 7(A) above. Referring again to Attachment 1R, the threshold in the extreme case of achieving an award on all seven performance measures would be 12.88% *plus* one hundred basis points or 13.88%. Likewise, in the other extreme where all performance were in a penalty situation, the threshold would be 11.13% *plus* one hundred basis points, or 12.13%. In these two examples, Otter Tail would not be required to reduce rates if the Company's earnings are below 13.88% and 12.13%, respectively.

If the Company's performance is within the acceptable range for all of the Plan performance measures, and no adjustment was made to the ROE range pursuant to the dynamic ROE mechanisms, no base electric rate decrease would be required if Otter Tail's reported earnings in the prior Plan year was below 13.00%.

E. Exogenous Events.

Changes in base rates are subject to the price cap mechanisms included in this Agreement. However, for purposes of clarification, the parties expressly recognize that any increases or decreases in costs of electric service caused by governmentally imposed changes in taxes and/or accounting practices shall be implemented within 60 days of the effective date of the change.

F. Rate Change Procedure.

To implement any permitted rate change pursuant to Section 9(B) or mandatory rate reduction pursuant to Section 9(C), the Company shall file a notice of rate change and the accompanying tariffs pursuant to N.D.C.C. § 49-05-05 not later than June 1 following completion of the Plan-year and submission of the Plan performance report on May 1. The revised rates shall be effective on or after July 1 following the Plan-year.

Base rate changes will be across-the-board to all customer classes unless otherwise requested by the Company and approved by the Commission.

If the Staff investigation of the May 1 Plan performance report and the notice of rate change indicates the proposed rates are calculated consistent the Plan, the Staff agrees it will not recommend the Commission suspend the notice of rate change. If a notice of rate change which would result in a rate increase is nonetheless suspended beyond July 1 by the Commission pursuant to N.D.C.C. 49-05-06, and the Commission determines after investigation a rate increase is consistent with the Plan terms, the Company may at the conclusion of the suspension period establish the rates necessary to recover the full annual increase over the remaining months of the Plan billing year.¹

Rates established consistent with the Plan are presumed just and reasonable, and non-discriminatory.

This Section F does not apply to mandatory base rate changes prescribed in Section E.

10. Other Terms and Conditions.

A. Fuel Clause Adjustment.

This Agreement and the Company's revised PBR Plan does not change the Company's existing fuel clause adjustment (FCA) mechanism in its North Dakota Electric Rate Book tariff schedules. The comparative price standard provided above

¹ For example, assume the Company files a notice of rate change on June 1 proposing a \$1 million annual rate increase effective July 1, but the Commission suspends the rate increase until October 1. Assume the rate increase is 0.2 cents per kWh for all customer classes. If the Commission determines after investigation that the Plan would allow the Company to increase revenues by \$1 million annually, the Company may establish compliance rates effective October 1 (consisting of the filed increase of 0.2 cents/kWh plus a temporary surcharge) which would allow recovery of the \$1 million on its forecasted electric sales for the period October 1 through June 30. Similarly, if the Commission instead determined the Plan would allow the Company to increase revenues by \$0.5 million annually, the Company may

shall be calculated using total Residential revenue per kWh including the fuel clause adjustments in effect during the Plan reporting year.

B. Suspension or Termination of the Plan.

The PBR Plan will remain in effect for five years beginning January 1, 2001. The Company and Staff reserve the right to request adjustment, suspension, or termination of the Plan under the following events:

- Changes in federal and/or state tax law;
- Passage of retail access legislation at either the federal or state level;
- Merger and/or acquisition events affecting the Company's structure and operations;
- Natural disasters affecting the Company's North Dakota electric operations (e.g., major storms, floods, etc.);
- Unusual events affecting the Company's operations (e.g., major generating plant failure, damage to major transmission or distribution lines, etc.);
- Material and sustained earnings extremes (defined as returns on equity +/- 5.0% from the acceptable ROE range, prior to sharing);

It is anticipated the Commission, Staff and the Company will make reasonable efforts to resolve any condition that could otherwise cause the Company, Staff or the Commission to seek adjustment, suspension, or termination of the Plan before any adjustment, suspension, or termination occurs.

establish compliance rates which would allow recovery of the \$0.5 million increase on its forecasted electric sales for the period October 1 to June 30.

C. Applicability and Scope.

Each of the provisions of this Agreement is in consideration for each and every other provision. If this Agreement is not accepted and approved by the Commission in its entirety and without modification, at the option of Otter Tail, this Agreement shall be null and void.

This Agreement shall be binding on the parties hereto, and upon their successors, assigns, agents and representatives.

D. Effective Date.

This Agreement shall be effective on the date of the Commission's order approving it, but in no event later than January 1, 2001.

E. Effect of Settlement Negotiations.

It is understood and agreed that all offers of settlement and discussions related thereto are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Agreement, the Agreement shall not constitute part of the record in this proceeding and no part thereof may be used for any purpose in this proceeding or otherwise. This Agreement shall not in any respect constitute a determination by the parties hereto as to the merits of any specific allegations or contentions made by the parties in Case No. PU-401-00-36.

F. Counterparts.

This Settlement Agreement may be executed in separate, identical counterparts.

G. Agreement Drafted Jointly.

This Settlement Agreement shall be deemed to have been drafted jointly by Staff and Otter Tail for purposes of construing or interpreting the meaning of any provision of this Agreement.

Otter Tail Power Company

By: _____
Douglas L. Kjellerup
Chief Operating Officer, Energy Delivery
Otter Tail Power Company

Date: July, 2001

**North Dakota Public Service
Commission Staff**

By: _____
William W. Binek
Chief Counsel
ND Public Service Commission

Date: July, 2001

PU-401-00-36

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bruce Gerhardsen
Otter Tail Power Company
215 S Cascade St
Fergus Falls Mn 56538-0496

2. Article Number (Copy from service label)

7000 0520 0022 8655 2868

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X *[Signature]* ☐ Agent ☒ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

Bruce Gerhardsen
Otter Tail Power Company
215 S Cascade St
Fergus Falls Mn 56538-0496

2. Article Number (Copy from service label)

7099 3220 0002 8481 1374

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

Russ Beske 8-13-01

C. Signature

X *[Signature]* ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bruce Gerhardsen
Otter Tail Power Company
215 S Cascade St
Fergus Falls Mn 56538-0496

2. Article Number

(Transfer from service label)

7001 1940 0005 3425 2092

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-10

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Signature]* ☐ Agent ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

NOV 25 2001

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

PU-401-C-036

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Bruce Richardson
Othe Sail Corporation
215 S Cascade St
Fergus Falls Mn 56538-0456*

2. Article Number

(Transfer from service label)

7001 1940 0005 3425 2504

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Russ Beske

☐ Agent

☐ Addressee

B. Received by: (Printed Name)

C. Date of Delivery

JAN 21 2003

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

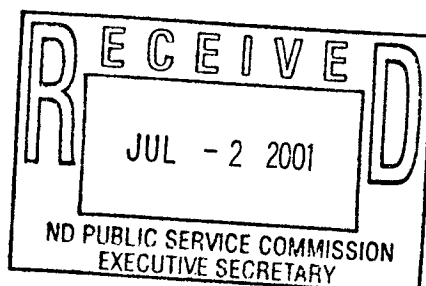
PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-10X

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)

June 29, 2001



Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol - 600 East Boulevard
Bismarck, ND 58505-0480

**Re: Transactional Customer Satisfaction Measure for PBR Plan
Case No. PU-401-00-36**

Dear Mr. Mielke:

Enclosed are an original and ten copies of Otter Tail Power Company's Petition for Approval of Customer Satisfaction Performance Measure. This Petition is made pursuant to the Settlement Agreement approved by the Commission on December 29, 2000, in the above matter. The Agreement required Otter Tail Power to propose a standard and acceptable range for the transactional customer satisfaction performance measure by July 1, 2001.

If you have questions, please feel free to call me at (218) 739-8289 or e-mail me at bbrutlag@otpc.com.

Yours very truly,

A handwritten signature in cursive script that reads "Bernadeen Brutlag".

Bernadeen Brutlag
Manager, Regulatory Services

Enclosures

c: Dave Sederquist, Xcel Energy – ND

56 PU-401-00-36

Pages: 1

Cover letter re Petition

by Otter Tail Power Company

07/02/2001 CC: Comm Legal Illona, Pat, Jerry Mike

**STATE OF NORTH DAKOTA
FOR THE PUBLIC SERVICE COMMISSION**

Case No. PU-401-00-36

**Otter Tail Power Company
Performance Based Regulation
Application**

**PETITION FOR APPROVAL OF
CUSTOMER SATISFACTION PERFORMANCE MEASURE**

I. INTRODUCTION

Otter Tail Power Company, a division of Otter Tail Corporation, requests approval of the proposed performance standard and acceptable range for the transactional customer satisfaction performance measure to be used in its Performance-Based Plan approved by the North Dakota Public Service Commission on December 29, 2000.

When the North Dakota Public Service Commission issued its December 29, 2000 Findings of Fact, Conclusions of Law, and Order in the above matter, it recognized that a transactional customer satisfaction performance measure had yet to be developed. Otter Tail Power had no way to identify customers with whom it had recent contact. Therefore, it had no way to conduct a satisfaction survey of those customers and had no basis for setting a performance standard. Otter Tail Power agreed to implement a system to identify such customers, to conduct such a survey, and to file with the Commission a proposed performance measure by July 1, 2001.

II. BACKGROUND

In its December 29 Order, Finding no. 9 states:

“9. The proposed customer satisfaction performance measures, as modified by the revised settlement agreement, are reasonable. Otter Tail will be measured based on both the relationship surveys for all three customer classes (Residential, Commercial, Large Industrial), and transactional surveys yet to be developed, as set forth in the Settlement Agreement. The survey scores will reflect the percentage of respondents who rate Otter Tail a “4” or “5” on a scale of “1” to “5”, “5” being the most satisfied. Each of the two survey standards will carry a potential reward or penalty of a 25 basis point adjustment to the authorized ROE deadband.”

The accompanying Settlement Agreement and Revised Performance-Based Ratemaking Plan included the following provision:

“The parties acknowledge that Otter Tail does not presently have a method in place to identify all contacts with customers for transactional survey purposes. Otter Tail agrees to develop such method during the first quarter of 2001, to perform a survey based on contacts for three months, and to provide a report to the Commission by July 1, 2001 that suggests a transactional survey standard.”

III. CUSTOMER CONTACT SYSTEM

Early in 2001 Otter Tail Power developed a method for identifying all contacts from customers. Customers are grouped into three categories: Residential, Small Commercial, and Large Commercial. The residential contacts are entered into the customer information system and separated into the following categories:

1. Turn on / turn off service orders

2. Check balances
3. Pay arrangements
4. Bill inquiries / requests
5. Marketing questions
6. Outages
7. Control Inquiries
8. Engineering assistance / fuel assistance inquiries
9. Other

Small Commercial and Large Commercial customer contacts are tracked by separate systems maintained by commercial customer sales representatives. The system was implemented on March 1, 2001.

The residential system worked quite well. We believe that most customer contacts are being logged. We will continue to monitor compliance by Otter Tail Power employees. However, the Small Commercial and Large Commercial customer contact logging was somewhat less effective. We will work to improve the method for tracking those contacts so that data is available for the Fall 2001 survey.

IV. CUSTOMER SATISFACTION SURVEY

As outlined in the Settlement Agreement, to implement the transactional customer satisfaction measure, Otter Tail Power plans to conduct two telephone surveys each year, each based on the most recent three months of contacts from customers. An independent market research firm will conduct the survey, using

the following question after respondents have been screened to ensure they are the energy decision-maker for the household or company:

"Thinking specifically of this entire recent transactional with Otter Tail Power Company, from the time you first contacted Otter Tail Power Company until your issue was resolved, how would you rate the quality of service provided by Otter Tail Power Company?
Would you rate your overall experience as:

1. Excellent
2. Very Good
3. Good
4. Fair
5. Poor
6. Don't know"

In June 2001 Otter Tail Power conducted the first of these surveys using a statistical sample of customer contacts which occurred in March, April, and May 2001.

V. PROPOSED PERFORMANCE MEASURE

A summary of the results of the survey is included with this Petition as Attachment A. The performance measure is based on the percentage of customers responding with a "4" or "5". Based on the results of this survey, Otter Tail Power proposes a performance standard of 74% percent answering either "4" or "5", with an acceptable range of 71% to 77%.

Otter Tail Power will conduct a second survey in October. Since both the system of identifying customer contacts and the transactional survey are newly implemented, Otter Tail Power requests the opportunity to modify this performance measure after the October 2001 survey if those results indicate that

the first survey may not be a good indicator of future results. You will note in Attachment A that there is only a total of 42 Small and Large Commercial included in the study. When there is a small sample size, the chance for sampling error increases. Because the universe was small, Otter Tail Power would appreciate the opportunity to confirm these results with the October 2001 survey.

CONCLUSION

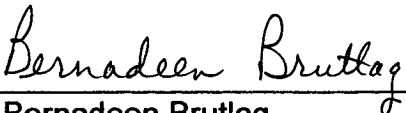
Otter Tail Power requests approval of the following transactional customer satisfaction performance measure for use in its Performance Based Regulation Plan: 74% percent of customers respond with a "4" or "5" regarding recent contacts with the company, with an acceptable range of 71% percent to 77% percent.

Otter Tail Power requests the opportunity to ask for modification of this performance measure if the results of a similar survey to be conducted in October 2001 indicate that the current survey may not be a good indicator of future results.

Dated: June 29, 2001

Respectfully submitted,

Otter Tail Power Company


By Bernadeen Brutlag
Manager, Regulatory Services
215 South Cascade Street
Fergus Falls, MN 56538-0496
(218) 739-8289

**Otter Tail Power Company
Results of North Dakota Customer Satisfaction Survey
June 2001**

Very Dissatisfied ----- Very Satisfied

	Universe	Sample Size	1		2		3		4		5	
			Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Residential	N/A	237	13	5.49%	7	2.95%	42	17.72%	83	35.02%	92	38.82%
Small Commercial	N/A	35	1	2.86%	0	0.00%	5	14.29%	15	42.86%	14	40.00%
Large Commercial	N/A	7	0	0.00%	1	14.29%	2	28.57%	2	28.57%	2	28.57%
Totals		279	14	5.02%	8	2.87%	49	17.56%	100	35.84%	108	38.71%

Sum of Categories "4", and "5"

208 74.55%

Question:

Thinking specifically of this entire recent interaction with Otter Tail Power Company, from the time you first contacted Otter Tail Power company until you issue was resolved, how would you rate the quality of service provided by Otter Tail Power Company?

Affidavit of Publication

State of North Dakota)

County of Burleigh)

Laurie Thiel, being duly sworn, state as follows:

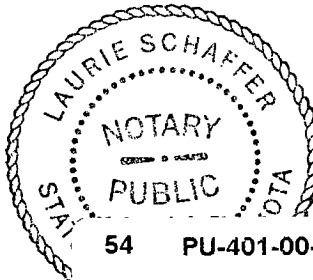
1. I am the designated agent, under the provisions and for the purposes of, Section 31-04-06, NDCC, for the newspapers listed on the attached exhibits.
2. The newspapers listed on the exhibits published the advertisement of:
Otter Tail Power, 1 time(s)
as required by law or ordinance.
3. All of the listed newspapers are legal newspapers in the State of North Dakota and, under the provisions of Section 46-05-01, NDCC, are qualified to publish any public notice or any matter required by law or ordinance to be printed or published in a newspaper in North Dakota.

Signed Laurie Thiel

Subscribed and sworn to before me this 24th day of April A.D. 2001.

Laurie Schaffer

LAURIE SCHAFFER
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires DEC. 1, 2005



54 PU-401-00-36

Pages: 11

Affidavit of Publication

by North Dakota Advertising Service, Inc.

05/08/2001 CC: Comm Legal Illona, Pat, Jerry Mike

NORTH DAKOTA ADVERTISING SERVICE, INC.

1435 Interstate Loop • Bismarck, ND 58501-4058 • PHONE (701) 223-6397 • FAX 223-8185

INVOICE

Date: 04/26/2001

Page: 1

To:

JON H. MIELKE
PUBLIC SERVICE COMMISSION
STATE CAPITOL
BISMARCK ND 58505

Client: Public Service Commission

Order: 01042PP3

Newspaper	Date	Inches	Rate	Amount
Bismarck Tribune	Otter Tail 04/02/2001	38.00 SPR2	0.61	23.18
Devils Lake Daily Journal	Otter Tail 04/02/2001	40.00 SPR2	0.57	22.80
Dickinson Press	Otter Tail 04/04/2001	40.00 SPR2	0.52	20.80
Fargo, The Forum	Otter Tail 04/09/2001	33.00 SPR2	0.73	24.09
Grand Forks Herald	Otter Tail 04/02/2001	38.00 SPR2	0.61	23.18
Jamestown Sun	Otter Tail 04/02/2001	45.00 SPR2	0.50	22.50
Minot Daily News	Otter Tail 04/02/2001	29.00 SPR2	0.42	12.18
Valley City Times-Record	Otter Tail 04/02/2001	42.00 SPR2	0.52	21.84
Wahpeton Daily News	Otter Tail 04/04/2001	40.00 SPR2	0.52	20.80
Williston Herald	Otter Tail 04/02/2001	41.00 SPR2	0.54	22.14

*** ADVERTISING TOTAL 213.51

*** TOTAL DUE 213.51

54 PU-401-00-36

Pages: 11

Affidavit of Publication

by North Dakota Advertising Service, Inc.

05/08/2001 CC: Comm Legal Illona, Pat, Jerry Mike .

This invoice is due and payable upon receipt. Unpaid items over 30 days from invoice date are subject to a finance charge. The finance charge is computed by a periodic rate of 1 3/4 percent per month (or a minimum charge of 50 cents for balances of under \$50), which is an annual percentage rate of 21 percent.

Total unpaid balance may be paid at any time.

Please pay from this invoice – No statement will be sent. Return duplicate with remittance to North Dakota Advertising Service, Inc.

Case Number

PU-401-00-36

Action of Ad

Noice of Motion to Modify Decision

Name of Newspaper (in bold)

Ashley

Beach

Bismarck

Bottineau

Bowbells

Bowman

Cando

Carrington

Carson

Cavalier

Center

Cooperstown

Crosby

Devils Lake

Dickinson

Elgin

Ellendale

Fargo

Finley

Garrison

Grafton

Grand Forks

Harvey

Hazen

Hettinger

Jamestown

Killdeer

Lakota

Lamoure

Landon

Linton

Lisben

Mandan

Mayville

McClusky

Medora

Milnor

Minnewaukan

Minot

Mohall

Napolean

New England

New Rockford

Rolla

Rugby

Stanley

Steele

Towner

Valley City

Wahpeten

Watford

Williston

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **29th day of March, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

Notice of Motion to Modify Decision

The envelope was addressed as follows:

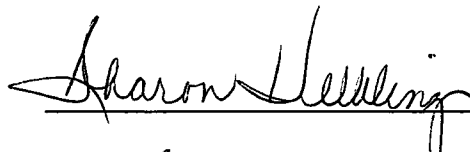
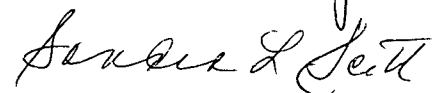
Kent Larson
Northern States Power Company
2302 Great Northern Dr
Fargo ND 58102
Cert. No. 7000 0520 0022 8654 2203

Dave Sederquist
Northern States Power Company
2302 Great Northern Dr
Fargo ND 58102
Cert. No. 7000 0520 0022 8654 2210

Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496
Cert. No. 7000 0520 0022 8654 2227

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **29th day of March, 2001**.

Notary Public

SANDRA L. SCOTT
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires JUNE 11, 2004

SEAL

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

AFFIDAVIT OF SERVICE BY ORDINARY MAIL OR E-MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **29th day of March, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, envelopes by first class mail, fully prepaid, securely sealed, each containing a photocopy of:

Notice of Motion to Modify Decision

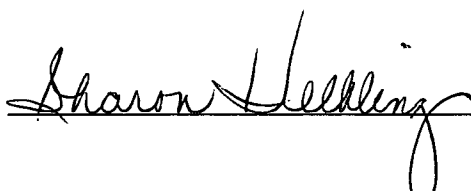
The envelopes were addressed as follows:

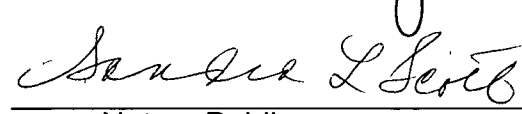
See Attached List

Each address shown is the respective addressee's last reasonably ascertainable post office address.

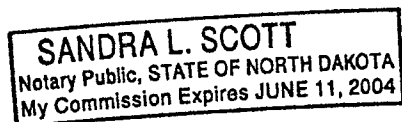
Subscribed and sworn to before me
this **29th day of March, 2001**.

SEAL





Notary Public



Lubka@rrnet.com
Lewis Lubka
1723 6th St S
Fargo ND 58103

craig_scott@bobcat.com
Craig Scott
Melroe Company
P O Box 128
Gwinner ND 58040-0128

shandy@kwh.com
Scott Handy
Cass County Elec Coop Inc
4100 32nd Ave SW
Fargo ND 58104

kgrass@ipams.org
Karyn Grass
IPAMS
6620 Denver Club Bldg
518 17th ST
Denver CO 80202-4167

Michel.Murray@wcom.com
Michel Murray
MCI WorldCom Inc
707 17th St Ste 3600
Denver CO 80202

collinsk@mdu.mudres.com
Karen Collins
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

balld@mdu.mdures.com
Don Ball
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

AhernM@moss-barnett.com
Mike Ahern
Moss & Barnett
90 S 7th Street #4800
Minneapolis MN 55402-4129

jason_gustaf @bobcat.com
Jason Gustafson
Melroe Company
P O Box 128
Gwinner ND 58040-0128

bbrutlag@otpc.com
Bernadeen Brutlag
Bernadeen Brutlag
Otter Tail Power Company
215 S Casacade St
Fergus Falls MN 56538-0496
itci@hcctel.net
Bruce Reuber
Interstate Telcom Consulting Inc
130 Birch Ave W
Hector MN 55342-0668

rmattern@badlands.nodak.edu
Rich Mattern
KDSU-FM Radio
PO Box 5347
Fargo ND 58105-5347

collinsk@mdu.mdures.com
Karen Collins
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

hopgoodt@mduresources.com
Tom Hopgood
Montana-Dakota Utilities Co.

tanousw@mduresources.com
Wayne Tanous
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

dave.sederquist@nspco.com
Dave Sederquist
Northern States Power Company
414 Nicollet Mall
Minneapolis MN 55401

brutlag@otpc.com
Bernadine Brutlag
Otter Tail Power Company

rcarmody@otpc.com
Roger Carmody
Otter Tail Power Company

dgodel@otpc.com
Dean Godel
Otter Tail Power Company

tgreene@otpc.com
Tim Greene
Otter Tail Power Company

tguerrero@otpc.com
Todd Guerrero
Otter Tail Power Company

ehammer@otpc.com
Eugene Hammer
Otter Tail Power Company

wjohnson@otpc.com
Wayne Johnson
Otter Tail Power Company

dross@otpc.com
David Ross
Otter Tail Power Company

sschultz@otpc.com
Steve Schultz
Otter Tail Power Company

jspriggs@otpc.com
Janice Spriggs
Otter Tail Power Company

cvandevoort@otpc.com
Chris Van de Voort
Otter Tail Power Company

dweiby@otpc.com
Dan Weiby
Otter Tail Power Company

rdenault@otpc.com
Russel Denault
Otter Tail Power Company
Garrison ND 58540

mjohnson@otpc.com
Marlowe Johnson
Otter Tail Power Company
PO Box 2220
Jamestown ND 58402-2220

fjohnson@otpc.com
Francis Johnson
Otter Tail Power Company
Langdon ND 58249

gcoyne@otpc.com
Geri Coyne
Otter Tail Power Company
PO Box 410
Oakes ND 58474-0410

dcichos@otpc.com
Dave Cichos
Otter Tail Power Company
Rugby ND 58368

mdickers@state.nd.us
Marcy Dickerson
State Tax Department
State Capitol
Bismarck ND 58505

pbeithon@otpc.com
Pete Beithon
Pete Beithon
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

Joseph Lamb
PO Box 196
Michigan ND 58259-0196

F James M Larty
2333 Plum Grove Dr
O'Fallon MO 63366

Steven Tomac
2498 59th St
St Anthony ND 58566-9640

Myer Shark
Knollwood Place Apts #221
3630 Phillips Pkwy
St Louis Park MN 55426

Peter Hoff
Arveson Donoho Lundeen Etc
125 S Mill St
Fergus Falls MN 56537

Will Kaul
Cooperative Power Association
P O Box 800
Elk River MN 55330-0800

Laurie Baranko
Dakota Resource Council
PO Box 1095
Dickinson ND 58602-1095

Data Resource Center
Box 239
Denver CO 80201-0239

Mark Frederiksen
Economic Insights
416 Center St #365
Washington Grove MD 20880

Tom Reynolds
Electric Power Alert
PO Box 7167
Washington DC 20044-7167

Jay Casler
INDEPTH DATA INC
211 N Robinson Ave Ste S-1500
Oklahoma City OK 73102-7101

Connie Zimmerman
Inoco Inc
Box 177C Rte 4
Williston ND 58801

KBMR AM-KQDY FM
3500 E Rosser Ave
Bismarck ND 58501

KBMW-AM
PO Box 1115
Wahpeton ND 58074-1115

KCJB AM-FM & KXMC TV
PO Box 1686
Minot ND 58702-1686

KDAK AM
Box 50
Carrington ND 58421-0050

KDLR AM-FM
Box 190
Devils Lake ND 58301-0190

KFGO
Box 2966
Fargo ND 58102-2966

Rick Jensen
KHND Radio
PO Box 6
Harvey ND 58341-0006

KHRT AM
PO Box 1210
Minot ND 58702-1210

KKXL-AM/FM
PO Box 13598
Grand Forks ND 58208-3598

KMAV-AM
PO Box 36
Mayville ND 58257-0036

KMOT TV
Box 1120
Minot ND 58702-1120

KNDK-AM
HCR 5 Box 9
Langdon ND 58249

Terry Hildestad
Knife River Coal Mining Company
1915 N Kaveney Dr
Bismarck ND 58501

KNOX-AM & KRRK-FM
PO Box 13638
Grand Forks ND 58208-3638

KOVC-AM
PO Box 994
Valley City ND 58072-0994

KQDJ-AM
PO Box 1170
Jamestown ND 58402-1170

KQWB-AM/FM Radio
PO Box 9919
Fargo ND 58106-9919

KSJB-AM/KSJZ-FM
PO Box 5180
Jamestown ND 58402-5180

KTHI-TV
PO Box 1878
Fargo ND 58107-1878

KXJB-TV 4
4302 13th Ave S
Fargo ND 58103-3313

KXMB TV
Box 1617
Bismarck ND 58502-1617

KXMC TV
Box 1686
Minot ND 58701-1686

KXPO AM & FM Radio
856 W 12 St
Grafton ND 58237

KZZJ-AM
230 Highway 2 SE
Rugby ND 58368-2446

Mike Foley
NARUC
1101 Vermont Avenue NW Ste 200
Washington DC 20005

Dennis Lavallee
Nat'l Assoc Plumbing-Htng-Cooling
PO Box 6808
Falls Church VA 22046-6808

Karin Sinclair
Nat'l Renewable Energy Lab
1617 Cole Blvd
Golden CO 80401

Scott Speaker
Natural Gas Week
1401 New York Ave NW Ste 500
Washington DC 20005-2150

Harlan Fuglesten
ND Association of RECs
PO Box 727
Mandan ND 58554-0727

Kim Christianson
Office of Intergovernmental Assist
14th Fl - State Capitol
Bismarck ND 58505-0170

John MacFarlane
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Patricia Estes
Prairie West Publications
PO Box 970
Wahpeton ND 58074-0970

Telecommunications Reports
1333 H St NW 11th Fl W Tower
Washington DC 20005

LeRoy Neubauer
Valley City Public Works
254 2nd Ave NE
Valley City ND 58072

WDAZ-TV
PO Box 12639
Grand Forks ND 58208-2639

Everett Mc .s
NJ Public Service Electric & Gas
80 Park Pl
Newark NJ 07101

Andrew Anderson
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Jay Myster
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Public Utilities Reports Inc
Law Dept
8229 Boone Blvd Ste 401
Vienna VA 22182
John Kapsner
The Vogel Law Firm
P O Box 2097
Bismarck ND 58502-2097

WDAY AM-FM & TV
PO Box 2466
Fargo ND 58108-2466

Helbling, Sharon D.
From: Helbling, Sharon D.
Sent: Thursday, March 29, 2001 7:45 AM
To: ndna (E-mail)
Subject: Attached Notice of Motion to Modify Decision

Please have the attached Notice of Motion to Modify Decision published as a legal publication in the next issue of the ten North Dakota daily newspapers, and run it as a "News Item Only" article as well.

Please send the bill to the Public Service Commission along with a tear sheet for billing purposes.

If you have any questions, please call me at 328-4076.

Thank you.

Sharon Helbling
Public Utilities Division



1.doc

APPROVED

MOTION

DATE: 3-28-01
KME

March 28, 2001

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

I move the Commission issue a Notice of Motion to Modify Decision in the application of Otter Tail Power Company for approval of a performance-based ratemaking plan, Case No. PU-401-00-36.

JRL/sdh

52 PU-401-00-36

Pages: 1

Motion

by Public Service Commission

03/28/2001 CC: Comm Legal Ilona, Pat, Jerry Mike .

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

NOTICE OF MOTION TO MODIFY DECISION

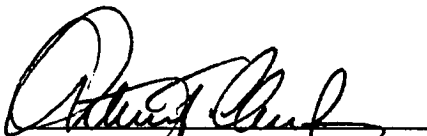
March 28, 2001

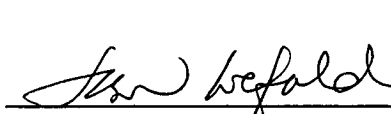
On December 29, 2000, the Commission issued its decision in this proceeding. On February 20, 2001, Otter Tail Power Company (Otter Tail) filed a motion requesting modifications to make the decision consistent with a decision issued in an application by Northern States Power Company for approval of a similar performance based regulation plan. Otter Tail further requests removal of language it believes was inadvertent.

Those interested are invited to comment in writing. Persons desiring a hearing must file a written request identifying their interest in the proceeding and the reasons for requesting a hearing. Comments and requests for hearings must be received by **May 4, 2001**. If appropriate, the Commission can determine the matter without hearings.

For more information contact the Public Service Commission, State Capitol, Bismarck, North Dakota 58505, 701-328-2400; or Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials please notify Jon Mielke, Executive Secretary.

PUBLIC SERVICE COMMISSION


Anthony T. Clark
Commissioner


Susan E. Wefald
President


Leo M. Reinbold
Commissioner

LINDQUIST & VENNUM P.L.L.P.

4200 IDS CENTER
80 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402
TELEPHONE: 612-371-3211
FAX: 612-371-3207

IN ST. PAUL:
LINDQUIST & VENNUM P.L.L.P.
444 CEDAR STREET, SUITE 1700
ST. PAUL, MN 55101
TELEPHONE: 651-312-1300
FAX: 651-223-5332

IN DENVER:
LINDQUIST, VENNUM & CHRISTENSEN P.L.L.P.
600 17TH STREET, SUITE 1800 SOUTH
DENVER, CO 80202
TELEPHONE: 303-573-5900
FAX: 303-573-1956

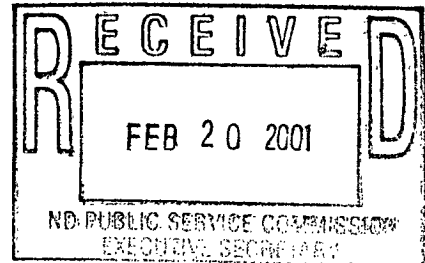
ATTORNEYS AT LAW

www.lindquist.com

TODD J. GUERRERO
612-371-3258
Tguerrero@Lindquist.com

February 16, 2001

Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard
Bismarck, ND 58505



**Re: Application of Otter Tail Power Company for Authority to Operate
Under Performance Based Regulation in North Dakota
Case No. PU-401-00-36**

Dear Mr. Mielke:

Enclosed please find an original and seven (7) copies of Otter Tail Power Company's Motion to Modify the December 29, 2000 Order in the above matter. Also enclosed is an Affidavit of Service. Two copies of this filing have been served on the Office of Administrative Hearings and two courtesy copies on Northern States Power Company d/b/a Xcel Energy, Inc. Please contact the undersigned at (612) 371-3258 or Ms. Bernadeen Brutlag at (218) 739-8289 with any questions.

Very truly yours,

LINDQUIST & VENNUM P.L.L.P.

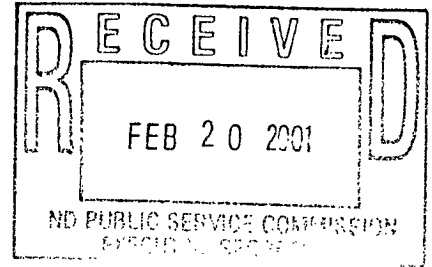
A handwritten signature in black ink, appearing to read "Todd J. Guerrero".

Todd J. Guerrero

TJG/tas
Enclosure

cc: Service List

AFFIDAVIT OF SERVICE



STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

**Re: Otter Tail Power Company Performance Based Regulation Application
 Case No. PU-401-00-36**

Patricia A. Shannon of the City of Minneapolis, County of Hennepin, State of Minnesota,
being first duly sworn, says that on the 16th day of February, 2001, she served the following:

Motion of Otter Tail Power Company

upon:

The Honorable Allen Hoberg
Administrative Law Judge
Office of Administrative Hearings
1701 North 9th Street
Bismarck, ND 58501-1882

Bernadeen Brutlag
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56538-0496

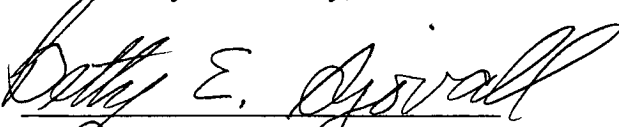
James Johnson
Xcel Energy Services, Inc.
800 Nicollet Mall, Suite 2900
Minneapolis, MN 55402

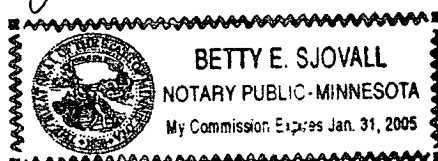
Dave Sederquist
Xcel Energy, Inc.
2302 Great Northern Drive
Fargo, ND 58102

by placing a true and correct copy of said documents in the United States Mail at Minneapolis,
Minnesota, addressed as listed above.

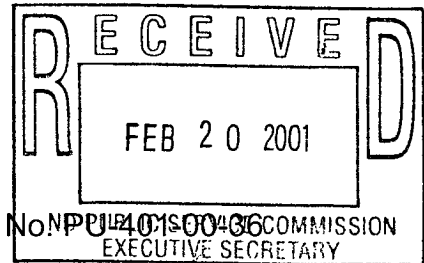

Patricia A. Shannon

Subscribed and sworn to before me
this 16th day of February, 2001.


Notary Public



**STATE OF NORTH DAKOTA
FOR THE PUBLIC SERVICE COMMISSION**



**Otter Tail Power Company
Performance Based Regulation
Application**

**MOTION OF OTTER TAIL POWER COMPANY
TO MODIFY THE DECEMBER 29, 2000 ORDER**

I. INTRODUCTION.

Pursuant to North Dakota Administrative Code § 69-02-02-08, Otter Tail Power Company hereby respectfully requests two things. First, we request the North Dakota Public Service Commission modify its December 29, 2000 Findings of Fact, Conclusions of Law, and Order ("December 29 Order") in the above matter consistent with the Commission's January 10, 2001 Findings of Fact and Order ("January 10 Order") in Case No. PU-401-195, Northern States Power Company's ("NSP") companion performance based regulation ("PBR") plan. Specifically, Otter Tail requests that Paragraph No. 9.F of the Company's Revised PBR Plan, attached and made a part of the December 29 Order, be made identical to Section 4.D of NSP's Final Settlement Agreement, as approved by the January 10 Order. The proposed new Paragraph 9.F is included as Attachment No. 1.

Second, we request that Finding No. 7 of the December 29 Order be modified so as to be consistent with the intent of the Company's PBR Plan. A copy of the proposed change is included as Attachment No. 2.

II. BACKGROUND.

In its December 29 Order, the Commission approved Otter Tail's PBR Plan, as modified by a Revised Settlement Agreement between the Company and Advocacy Staff.

On the same date, the Commission also issued Findings of Facts, Conclusions of Law and Order approving NSP's PLUS PBR Plan, as modified by a revised Final Settlement Agreement ("NSP Order"). In Finding No. 20 of the NSP Order, the Commission expressed concern with Section 4.D of the Final Settlement, the section that included the procedures NSP would follow when it sought to either increase or decrease rates under the plan. As originally proposed, Section 4.D would allow NSP to file a notice of rate change (increase or decrease) under N.D.C.C. § 49-05-05 no later than June 1st of the Plan Year, with new rates to be effective as of July 1st of the same year. While Section 4.D preserved the Commission's authority to investigate the changes and issue refunds if necessary, the rate changes were not intended to be subject to suspension.

In its Finding No. 20, however, the Commission stated that its statutory authority and responsibility to suspend rates when necessary could not be "contracted away" and that the present Commission could not bind future Commissions. As a result, the Commission did not approve Section 4.D "to the extent the section is inconsistent with this finding." NSP Order at 2.

Shortly thereafter, NSP filed a motion seeking to modify the NSP Order consistent with the intent of the NSP Settlement Agreement. NSP was concerned that Finding No. 20 upset the symmetry that the PBR Plus Plan and Settlement Agreement

sought to achieve. Specifically, NSP was concerned that Finding No. 20 could result in a situation where legitimate rate increases could be suspended by the Commission for an indefinite period, thereby delaying recovery of legitimate cost increases and negatively impacting earnings. On the other hand, a notice providing for a reduction in rates would most likely never be suspended.

Similarly, it was conceivable the Commission would rely on the language of Finding No. 20 to suspend not just changes in rates but also necessary and appropriate surcharges where company earnings fell below the Plan's acceptable ROE range. If the suspension lasted beyond the December termination date, any revenue deficiency already deferred by the company would effectively be unrecoverable. At the same time, the Plus Plan requires that revenues that contribute to equity returns above the ROE bandwidth be *automatically* shared with customers – i.e., without review or suspension. Again, NSP believed this resulted in asymmetrical treatment and was inconsistent with the intent of the Plus Plan and its Final Settlement Agreement.

Appreciating the concerns raised by NSP, the January 10 Order adopted a revised Section 4.D, the changes to which were agreed upon by NSP and Advocacy Staff. The revised Section 4.D is similar to the previous language in that it preserves the Commission's authority to suspend rates. Its significant modification, however, is that Section 4.D now provides the company with adequate assurance that it may recover its costs in the event the Commission subsequently determines the rate increase was consistent with the PBR Plan.

III. Motion.

A. Paragraph 9.F.

Otter Tail's first request is simple and straightforward. In short, we seek the same treatment as NSP. Specifically, we request that Paragraph No. 9.F of the Company's Revised PBR Plan, attached and made a part of the December 29 Order, be modified to make it consistent with NSP's Section 4.D. This would make the rate change procedures identical for both NSP and Otter Tail. Making the rate change procedures identical for both companies is consistent with the Commission's decision early on to handle the PBR plans together so as to promote their efficient administration. Advocacy Staff does not object to the request.

Included as Attachment No. 1 is a proposed new Paragraph 9.F.

B. Finding No. 7.

Our second request is also simple and straightforward. We request that Finding No. 7 of the December 29 Order be modified to make it consistent with the intent of the Revised PBR Plan.

As the Commission is aware, the Company's PBR Plan contains a revenue sharing mechanism. The December 29 Order addresses the mechanism at Finding No. 7, where it provides in part:

If Otter Tail's actual reported earnings for any plan year are below the deadband, 50% of the corresponding revenue "deficiency" may be recovered through a surcharge on Otter Tail's electric rates effective no later than 24 months after the Plan year. However, Otter Tail has agreed to defer recovery of a reported fiscal year deficiency by recording the amount as a regulatory asset until the following plan year revenue sharing amount, if any, is reported. If the prior year deficiency is fully offset by the current year reported revenue sufficiency, the sufficiency will be used to eliminate the regulatory asset, and no rate surcharge will be imposed. If

the deficiency from the prior year is not fully offset, any remaining deficiency balance may be reflected in rates applicable to bills issued between the 18th and 24th month following the plan year when the deficiency occurred, subject to the Rate Change procedures described herein.

Emphasis added.

Because the dependent clause “subject to the Rate Change procedures described herein” gives the misleading impression that any necessary surcharge is subject to the Plan’s Rate Change procedures – and thus subject to possible suspension and review by the Commission – it should be deleted. Where the Company’s actual reported earnings for any plan year are below the deadband, the Plan allows that 50% of the deficiency be recovered through an *automatic* surcharge. It was not the Plan’s intent that the surcharge (and presumably, where earnings exceed the deadband, refunds) be subject to Commission review. To allow ad hoc review of the Plan’s revenue sharing mechanism works against two of the Plan’s main goals: to minimize regulatory costs and that it be administratively simple. In discussing the matter with Staff, it appears the offending language contained in Finding No. 7 was inadvertent.

Included as Attachment No. 2 is a redlined version of the proposed new Finding No. 7.

III. Reconsideration is Unnecessary.

NSP brought its request as a Motion to Reconsider which, under the rules, must be brought within fifteen days after notice of the decision has been given. N.D.A.C. § 69-02-06-02. Typically, a motion for reconsideration seeks to overturn a

material part of the trier-of-fact's decision and is required to toll the time period for filing a notice of appeal. See, e.g., *Continental Cas. Co. v. Kinsey*, 499 N.W.2d 574 (N.D. 1993). In the instant motion, Otter Tail does not challenge the underlying basis of the December 29 Order and we certainly aren't seeking appeal. Instead, we view our requests as simply necessary to clarify the intent of the Company and Advocacy Staff. Accordingly, the fifteen-day limitation for motions for reconsideration does not apply. To the extent Commission Counsel believes otherwise and deems the instant motions to be ones seeking reconsideration, we respectfully request the Commission to exercise its authority under N.D.A.C. § 69-02-01-11 and suspend the operation of the fifteen-day period. Because neither the public nor any party will be prejudiced by the delay, suspension is appropriate.

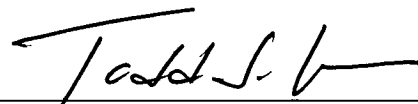
IV. Conclusion.

For the reasons set forth herein, Otter Tail Power Company respectfully requests that the Commission grant this motion in its entirety.

Date: February 16, 2001

Respectfully submitted,

OTTER TAIL POWER COMPANY



By Todd J. Guerrero
LINDQUIST & VENNUM, P.L.L.P.
4200 IDS Center
Minneapolis, MN 55402
(612) 371-3258

**Attorneys for Otter Tail Power
Company**

#1366910

**Paragraph 9.F to the Settlement Agreement and
Revised Performance-Based Ratemaking Plan**

F. Rate Change Procedure

To implement any permitted rate change pursuant to Section B or mandatory rate reduction pursuant to Section C, the Company shall file a notice of rate change and the accompanying tariffs pursuant to N.D.C.C. 49-05-05 not later than June 1, following completion of the Plan year and submission of the Plan performance report on May 1. The revised rates shall be effective on or after July 1 following the Plan year. Base rate changes will be across-the-board to all customer classes unless otherwise requested by the Company and approved by the Commission.

If the Staff investigation of the May 1 Plan performance report and the notice of rate change indicates the proposed rates are calculated consistent the Plan, the Staff agrees it will not recommend the Commission suspend the notice of rate change. If a notice of rate change which would result in a rate increase is nonetheless suspended beyond July 1 by the Commission pursuant to N.D.C.C. 49-05-06, and the Commission determines after investigation a rate increase is consistent with the Plan terms, the Company may at the conclusion of the suspension period establish the rates necessary to recover the full annual increase over the remaining months of the Plan billing year.¹

Rates established consistent with the Plan are presumed just and reasonable, and non-discriminatory.

This Section F does not apply to mandatory base rate changes prescribed in Section E.²

¹ For example, assume the Company files a notice of rate change on June 1 proposing a \$1 million annual rate increase effective July 1, but the Commission suspends the rate increase until October 1. Assume the rate increase is 0.2 cents per kWh for all customer classes. If the Commission determines after investigation that the Plan would allow the Company to increase revenues by \$1 million annually, the Company may establish compliance rates effective October 1 (consisting of the filed increase of 0.2 cents/kWh plus a temporary surcharge) which would allow recovery of the \$1 million on its forecasted electric sales for the period October 1 through June 30. Similarly, if the Commission instead determined the Plan would allow the Company to increase revenues by \$0.5 million annually, the Company may establish compliance rates which would allow recovery of the \$0.5 million increase on its forecasted electric sales for the period October 1 to June 30.

² This last sentence is not in NSP's Section 4.D but is in OTP's ¶ 9.F.

Attachment No. 2

If Otter Tail's actual reported earnings for any plan year are below the deadband, 50% of the corresponding revenue "deficiency" may be recovered through a surcharge on Otter Tail's electric rates effective no later than 24 months after the Plan year. However, Otter Tail has agreed to defer recovery of a reported fiscal year deficiency by recording the amount as a regulatory asset until the following plan year revenue sharing amount, if any, is reported. If the prior year deficiency is fully offset by the current year reported revenue sufficiency, the sufficiency will be used to eliminate the regulatory asset, and no rate surcharge will be imposed. If the deficiency from the prior year is not fully offset, any remaining deficiency balance may be reflected in rates applicable to bills issued between the 18th and 24th month following the plan year when the deficiency occurred, ~~subject to the Rate Change procedures described herein.~~

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

Northern States Power Company
Performance Based Regulation
Application

Case No. PU-400-00-195

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **2nd day of January, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, **three** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

Order

The envelopes were addressed as follows:

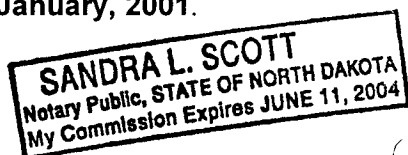
Kent Larson
Northern States Power Company
2302 Great Northern Dr
Fargo ND 58102
Cert. No. 7000 0520 0022 8653 3324

Dave Sederquist
Northern States Power Company
2302 Great Northern Dr
Fargo ND 58102
Cert. No. 7000 0520 0022 8653 3331

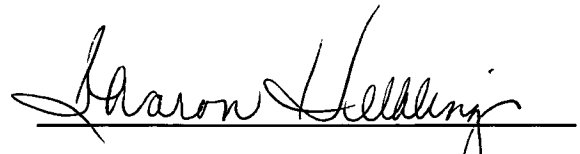
Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496
Cert. No. 7000 0520 0022 8653 3348

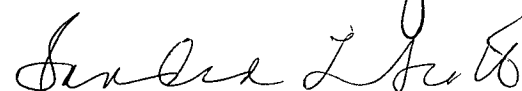
Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **2nd day of January, 2001**.



SEAL





Notary Public

48

PU-401-00-36

Pages: 8

Affidavits of Service

by Public Service Commission

01/02/2001 CC: Comm Legal Ilona, Pat, Jerry Mike .

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

Northern States Power Company
Performance Based Regulation
Application

Case No. PU-400-00-195

AFFIDAVIT OF SERVICE BY ORDINARY MAIL OR E-MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **2nd day of January, 2001**, she deposited in the United States Mail, Bismarck, North Dakota, envelopes by first class mail, fully prepaid, securely sealed, each containing a photocopy of:

Order

The envelopes were addressed as follows:

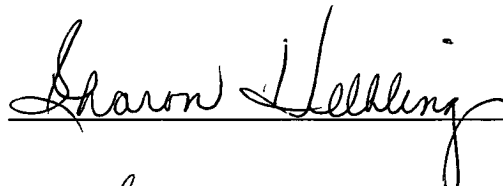
See Attached List

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **2nd day of January, 2001**.

SEAL







Notary Public

Lubka@rrnet.com
Lewis Lubka
1723 6th St S
Fargo ND 58103

craig_scott@bobcat.com
Craig Scott
Melroe Company
P O Box 128
Gwinner ND 58040-0128

shandy@kwh.com
Scott Handy
Cass County Elec Coop Inc
4100 32nd Ave SW
Fargo ND 58104

Michel.Murray@MCI.com
Michel Murray
MCI WorldCom Inc
707 17th St Ste 3600
Denver CO 80202

hopgoodt@mduresources.com
Tom Hopgood
Montana-Dakota Utilities Co.

tanousw@mduresources.com
Wayne Tanous
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

bruce.j.kopp@nspco.com
Bruce Kopp
Northern States Power Company
PO Box 13038
Grand Forks ND 58208-3038

bbrutlag@otpc.com
Bernadine Brutlag
Otter Tail Power Company

jason_gustaf @bobcat.com
Jason Gustafson
Melroe Company
P O Box 128
Gwinner ND 58040-0128

bbrutlag@otpc.com
Bernadeen Brutlag
Bernadeen Brutlag
Otter Tail Power Company
215 S Casacade St
Fergus Falls MN 56538-0496

kgrass@ipams.org
Karyn Grass
IPAMS
6620 Denver Club Bldg
518 17th ST
Denver CO 80202-4167
collinsk@mdu.mdures.com
Karen Collins
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

balld@mdu.mdures.com
Don Ball
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

michael.l.swenson@nspco.com
Mike Swenson
Northern States Power Company
PO Box 2747
Fargo ND 58107-2747

dave.sederquist@nspco.com
Dave Sederquist
Northern States Power Company
414 Nicollet Mall
Minneapolis MN 55401

rcarmody@otpc.com
Roger Carmody
Otter Tail Power Company

dgodel@otpc.com
Dean Godel
Otter Tail Power Company

tgreene@otpc.com
Tim Greene
Otter Tail Power Company

tguerrero@otpc.com
Todd Guerrero
Otter Tail Power Company

ehammer@otpc.com
Eugene Hammer
Otter Tail Power Company

wjohnson@otpc.com
Wayne Johnson
Otter Tail Power Company

dröss@otpc.com
David Ross
Otter Tail Power Company

sschultz@otpc.com
Steve Schultz
Otter Tail Power Company

jspriggs@otpc.com
Janice Spriggs
Otter Tail Power Company

cvandevoort@otpc.com
Chris Van de Voort
Otter Tail Power Company

dweiby@otpc.com
Dan Weiby
Otter Tail Power Company

rdenault@otpc.com
Russel Denault
Otter Tail Power Company
Garrison ND 58540

bellwein@otpc.com
Bernie Ellwein
Otter Tail Power Company
Garrison ND 58540

mjohnson@otpc.com
Marlowe Johnson
Otter Tail Power Company
PO Box 2220
Jamestown ND 58402-2220

fjohnson@otpc.com
Francis Johnson
Otter Tail Power Company
Langdon ND 58249

gcoyne@otpc.com
Geri Coyne
Otter Tail Power Company
PO Box 410
Oakes ND 58474-0410

dcichos@otpc.com
Dave Cichos
Otter Tail Power Company
Rugby ND 58368

pbeithon@otpc.com
Pete Beithon
Pete Beithon
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

mdickers@state.nd.us
Marcy Dickerson
State Tax Department
State Capitol
Bismarck ND 58505

dreading@midwest.net
Don Reading
Simplot
1227 El Pelar Dr
Boise ID 83702-1500

Jan Copeland
KN Energy Inc
PO Box 281304
Lakewood CO 80228-8304

Minnesota PUC
121 E 7th Pl Ste 350
St Paul MN 55101-2147

Amy Garant
National Regulatory Research Inst
372 Bevis Hall 1080 Carmack
Columbus OH 43210

Karin Sinclair
Nat'l Renewable Energy Lab
1617 Cole Blvd
Golden CO 80401

Everett Morris
NJ Public Service Electric & Gas
80 Park Pl
Newark NJ 07101

Kim Christianson
Office of Intergovernmental Assist
14th Fl - State Capitol
Bismarck ND 58505-0170

Andrew Anderson
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Jay Myster
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

John Kapsner
The Vogel Law Firm
P O Box 2097
Bismarck ND 58502-2097

KTHI-TV
PO Box 12427
Grand Forks ND 58208-2427

Mike Foley
NARUC
1101 Vermont Avenue NW Ste 200
Washington DC 20005

Dennis Lavallee
Nat'l Assoc Plumbing-Htng-Cooling
PO Box 6808
Falls Church VA 22046-6808

Scott Speaker
Natural Gas Week
1401 New York Ave NW Ste 500
Washington DC 20005-2150

Paul Lehman
Northern States Power Company
512 Nicollet Mall
Minneapolis MN 55402

Cal Anderson
Otter Tail Power Company
P O Box 400
Devils Lake ND 58301

John MacFarlane
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Public Utilities Reports Inc
Law Dept
8229 Boone Blvd Ste 401
Vienna VA 22182
LeRoy Neubauer
Valley City Public Works
254 2nd Ave NE
Valley City ND 58072

Barbie Keiser

Tanya Rey
4412 Spicewd Sprgs Rd Ste 700
Austin TX 78759

Joseph Lamb
PO Box 196
Michigan ND 58259-0196

F James Moriarty
2333 Plum Grove Dr
O'Fallon MO 63366

Myer Shark
2277 Gene Autry Trail Unit C
Palm Springs CA 92264

Steven Tomac
2498 59th St
St Anthony ND 58566-9640

Myer Shark
Knollwood Place Apts #221
3630 Phillips Pkwy
St Louis Park MN 55426

Scott Geston
Cable One of Fargo
P O Box 10624
Fargo ND 58106-0624

Vernon Baszler
Community Action Program Reg VII Inc
1825 S Grandview #15
Bismarck ND 58501

Will Kaul
Cooperative Power Association
P O Box 800
Elk River MN 55330-0800

Laurie Baranko
Dakota Resource Council
PO Box 1095
Dickinson ND 58602-1095

Data Resource Center
Box 239
Denver CO 80201-0239

Duff & Phelps Inc
Research Library
55 E Monroe St Ste 4000
Chicago IL 60603
Tom Reynolds
Electric Power Alert
PO Box 7167
Washington DC 20044-7167

Mark Frederiksen
Economic Insights
416 Center St #365
Washington Grove MD 20880

Jerry Tuchscherer
Grand Forks Board of Realtors
2508 S Washington St
Grand Forks ND 58201-6703

Jay Casler
INDEPTH DATA INC
211 N Robinson Ave Ste S-1500
Oklahoma City OK 73102-7101

Connie Zimmerman
Inoco Inc
Box 177C Rte 4
Williston ND 58801

KCJB AM-FM & KXMC TV
PO Box 1686
Minot ND 58702-1686

Rick Jensen
KHND Radio
PO Box 6
Harvey ND 58341-0006

PU-401-00-36

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MOTION

December 29, 2000

APPROVED:
DATE: 12-29-00
KMF

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

I move the Commission adopt the Findings of Fact, Conclusions of Law and
Order approving a performance-based ratemaking plan for Otter Tail Power Company,
Case No. PU-401-00-36.

JRL/sdh

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

December 29, 2000

Appearances

Commissioners Bruce Hagen, Leo M. Reinbold, Susan E. Wefald.

Todd J. Guerrero, Associate General Counsel, Otter Tail Power Company, 215 South Cascade Street, Fergus Falls, MN 56537, appearing on behalf of Otter Tail Power Company.

William W. Binek, Chief Counsel, Public Service Commission, State Capitol, 600 East Boulevard, Bismarck, ND 58505, appearing on behalf of the Public Service Commission Staff.

Allen C. Hoberg, Administrative Law Judge and Director, Office of Administrative Hearings, 1707 North 9th Street - Lower Level, Bismarck, ND 58501-1882, appearing as procedural Hearing Officer.

Preliminary Statement

On January 31, 2000 Otter Tail Power Company (Otter Tail) filed an application for approval of a Performance-Based Regulation (PBR) plan for purposes of regulating Otter Tail's retail electric operations in North Dakota. Otter Tail proposes the plan be in effect for a five year term from January 1, 2001 to December 31, 2005. If approved, the plan would create an alternative form of regulation for Otter Tail's electric operations in North Dakota. Otter Tail asserts the proposed plan would comply with the Commission's Guidelines for Filing Alternative Regulation Proposals issued September 20, 1995 in Case No. PU-439-94-590.

On July 19, 2000, the Commission issued a "Notice of Hearing and Notice of Public Discussion Meeting" in the instant case and in Case No. PU-400-00-195, a case involving a similar PBR plan filed by Northern States Power Company. The notice scheduled a public discussion meeting for September 6, 2000 and public hearings for October 23-24, 2000. The notice set forth the following issues to be considered:

1. Are the plans consistent with Commission guidelines?
2. Would the plans result in quality service and reasonable electric rates?
3. Would the plans support safe and reliable electric infrastructure and the financial viability of the utilities?
4. Would implementing the plans be in the public interest?

On September 6, 2000, the Commission conducted a public discussion meeting as scheduled, with public participation available through ten video conference sites at Belcourt, Bismarck, Bottineau, Devils Lake, Fargo, Fort Totten, Grand Forks, Jamestown, Minot and Wahpeton, North Dakota. Any written comments received from members of the public during the course of the proceeding were filed in the public input file in this case.

On October 23-24, 2000, the Commission conducted public hearings as scheduled. At the conclusion of the hearings, the Hearing Officer required the parties to submit briefs and proposed findings of fact and conclusions of law by December 1, 2000. Alternatively, in lieu of briefs, Otter Tail and Staff were permitted to submit a settlement agreement resolving the disputed issues.

On November 20, 2000, the Commission held an informal working session to discuss Otter Tail's proposal. On November 29, 2000, Otter Tail and Staff submitted a settlement agreement. The Commission held a second informal working session to discuss the agreement on December 1, 2000. On December 8, 2000 Otter Tail and Staff filed an amendment to the settlement agreement and the Commission held additional working sessions to discuss the amendment on December 11 and 15, 2000. Following those working sessions, Otter Tail and Staff submitted a revised settlement agreement on December 28, 2000.

Discussion

On September 20, 1995, after numerous workshops with industry and other interested parties, the Commission issued "Guidelines for Filing Alternative Regulation Proposals" (Guidelines) in Case No. PU-439-94-590. The Guidelines indicated the Commission would consider proposals for alternative forms of regulation from traditional "cost-based rate of return" regulation. The Guidelines set forth both goals and criteria for alternative regulation proposals, which include:

- Goals: a plan should (1) promote utility efficiencies; (2) align customer and shareholder interests; (3) maintain/improve customer service; (4) allow utilities to be flexible; (5) minimize regulatory costs; and (6) improve public participation.
- Criteria: a plan should be (1) comprehensive; (2) administratively simple; (3) easily communicated; (4) balanced; and (5) flexible.

- The guidelines indicated that any proposal (1) must show the utility's base rates are just and reasonable at the start of the alternative mechanism; (2) should be for a limited period of time, and include a review date; (3) provide for a periodic review of the utility's profits pursuant to criteria in the plan; (4) enable the Commission to judge the success of the plan at its completion; and (5) must not violate the Territorial Integrity Act.

Findings of Fact

1. Otter Tail is a Minnesota corporation providing electric and natural gas public utility service in North Dakota. Otter Tail provides electric public utility service in North Dakota pursuant to authorizations provided by North Dakota law or issued by the Commission. Otter Tail provides retail electric service under Commission jurisdiction throughout central and eastern North Dakota.

2. Otter Tail's application for approval of its plan was filed pursuant to a settlement agreement between Otter Tail and Commission staff (Staff) in Case Nos. PU-401-97-503, a Staff investigation of Otter Tail's earnings. This prior settlement agreement included rate adjustments and was approved by an October 6, 1999 Commission Order. The Commission has monitored Otter Tail's resulting earnings and finds just and reasonable initial rates at the time the plan is initiated.

3. The key components of Otter Tail's plan include 1) a "dynamic allowed ROE" range which can vary based on Company performance, 2) a revenue sharing mechanism, 3) establishment of service performance standards, and 4) price capping flexibility to adjust prices under specified circumstances.

4. Otter Tail proposes to implement its plan for the period January 1, 2001 to December 31, 2005. The Commission finds this term will allow sufficient time to evaluate operations under this alternative regulation plan.

5. The annual performance and financial reporting provisions of the plan, as modified by the revised settlement agreement, are reasonable. The interim review proposed for June 2003 is reasonable and consistent with the Guidelines.

6. The proposed baseline Return on Equity ("ROE") of 12.0%, the ROE deadband of +/- 1.0% around the baseline, and the annual dynamic ROE adjustments in terms of "basis points," subject to Otter Tail's performance under each performance standard, are reasonable. The baseline ROE is comparable to the ROE used to resolve utility earnings investigations over the past few years, and the +/- 1% deadband is within a zone of reasonableness.

7. The proposed revenue sharing mechanism, as modified by the revised settlement agreement, is reasonable. This mechanism provides:

If Otter Tail's reported actual earnings fall within the ROE deadband around the authorized ROE (as adjusted by the performance points) in a plan year, no revenue sharing will take place.

If Otter Tail's actual reported earnings for any plan year exceed the deadband, the corresponding revenue 'sufficiency' will be calculated, and 50% of this dollar amount will be refunded to customers during the July billing cycle of the following year. Customers of record on March 31 following the Plan year will be issued refunds by bill credit prorated on the basis of their electric usage for the twelve months ending March 31.

If Otter Tail's actual reported earnings for any plan year are below the deadband, 50% of the corresponding revenue "deficiency" may be recovered through a surcharge on Otter Tail's electric rates effective no later than 24 months after the Plan year. However, Otter Tail has agreed to defer recovery of a reported fiscal year deficiency by recording the amount as a regulatory asset until the following plan year revenue sharing amount, if any, is reported. If the prior year deficiency is fully offset by the current year reported revenue sufficiency, the sufficiency will be used to eliminate the regulatory asset, and no rate surcharge will be imposed. If the deficiency from the prior year is not fully offset, any remaining deficiency balance may be reflected in rates applicable to bills issued between the 18th and 24th month following the plan year when the deficiency occurred, subject to the Rate Change procedures described herein.

8. The proposed reliability performance measures and standards, as modified by the revised settlement agreement, are reasonable. The Customer Average Interruption Duration Index (CAIDI) and System Average Interruption Frequency Index (SAIFI) are individual reliability measures widely used in the electric utility industry, the product of which is the System Average Interruption Duration Index (SAIDI) reliability measure originally proposed by Otter Tail. By using both component standards, Otter Tail will be measured on both the frequency of customer outages and the time it takes to restore power. Each measure will carry a potential reward or penalty of a 25 basis point adjustment to the authorized ROE deadband.

9. The proposed customer satisfaction performance measures, as modified by the revised settlement agreement, are reasonable. Otter Tail will be measured based on both the relationship surveys for all three customer classes (Residential, Commercial, Large Industrial), and transactional surveys yet to be developed, as set forth in the Settlement Agreement. The survey scores will reflect the percentage of respondents who rate Otter Tail a "4" or "5" on a scale of "1" to "5", "5" being the most satisfied. Each of the two survey standards will carry a potential reward or penalty of a 25 basis point adjustment to the authorized ROE deadband.

10. The proposed pricing measures and standards, as modified by the revised settlement agreement, are reasonable. Otter Tail will be measured by 1) its average

residential price per kWh compared to the 26 jurisdiction mid-western utility peer group; and 2) the annual change in average residential price relative to the change for the lowest priced utility in the peer group. The price measures will be calculated annually based on utility price data compiled in the Edison Electric Institute's "Typical Bills and Average Rate Report" for the 12 month period ending December 31st. Each of the two price measures will carry a potential reward or penalty of a 25 basis point adjustment to the authorized ROE deadband.

11. The proposed employee safety measure and standards, are reasonable. To be consistent with the other individual plan standards, it is appropriate that the employee safety measure carry a potential reward or penalty of a 25 basis point adjustment to the authorized ROE deadband.

12. The proposed price cap factor, as modified by the revised settlement agreement, is reasonable. The price cap factor will be the lower of 1) the annual percentage change in the utility peer group's average residential price per kWh for the reporting year, or 2) 60% of the change in the Consumer Price Index (CPI) for the reporting year.

13. The proposed rate change criteria, as modified by the revised settlement agreement, are reasonable. The plan imposes an electric rate freeze on Otter Tail whenever: 1) its previous year reported ROE was higher than 100 basis points below the baseline ROE (as adjusted for performance), or 2) Otter Tail's average residential rates were higher than the utility peer group average residential rate. If neither condition exists, then Otter Tail may increase its electric rates by an overall percentage not to exceed the price cap factor, subject to the rate change procedures of the plan.

14. The proposed rate decrease criteria, as modified by the revised settlement agreement are reasonable. It is appropriate that Otter Tail be required to reduce its retail electric rates under the plan if: 1) Otter Tail's reported ROE for the plan reporting year was more than 100 basis points above the baseline ROE (as adjusted for performance), 2) Otter Tail's average residential rates are higher than the plan utility comparison group average residential rate, and 3) the price cap factor is negative.

15. The proposed rate change procedure described in the revised settlement agreement is reasonable and consistent with state law. To implement any permissive rate change or mandatory rate reduction, Otter Tail must file a notice of rate change and accompanying tariffs under N.D.C.C. § 49-05-05 after submission of the plan year performance report on May 1 but at least 30 days before the proposed effective date of the proposed rates.

16. Any increases or decreases in costs of electric service caused by governmentally imposed changes in taxes or accounting practices will be implemented within 60 days of the effective date of the change.

17. The plan procedures for suspension or termination of the plan during the five year term are reasonable because they provide protections for both North Dakota

electric customers and Otter Tail. As provided by the revised settlement agreement, Otter Tail may request, or the Commission may on its own motion initiate a proceeding, to suspend or terminate the Plan prior to December 31, 2005 in the event of:

- Passage of retail access legislation at either the federal or state level;
- Merger and acquisition events affecting Otter Tail's structure and operations;
- Natural disasters affecting Otter Tail's North Dakota electric operations (major storms, floods, etc.);
- Unusual events affecting Otter Tail's operations (major generating plant failure, damage to major transmission or distribution lines, etc.); or
- Material and sustained earnings extremes (defined as returns on equity +/- 5.0% from the ROE deadband, prior to sharing).

18. The plan is consistent with Commission guidelines.

19. The plan promotes quality service and reasonable electric rates.

20. The plan promotes safe and reliable electric infrastructure and the financial viability of the utility.

21. Implementing the plan is in the public interest.

From the foregoing Findings of Fact, the Commission makes its:

Conclusions Of Law

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding.

2. For purposes of initial plan implementation, Otter Tail's electric rates are just and reasonable, and non-discriminatory.

3. Rates established consistent with the plan during the plan term are appropriately presumed just and reasonable, and non-discriminatory.

4. The plan promotes quality service and reasonable electric rates.

5. The plan promotes safe and reliable electric infrastructure and the financial viability of the utility.

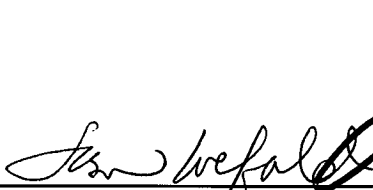
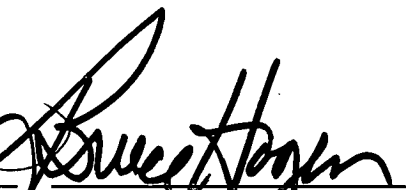
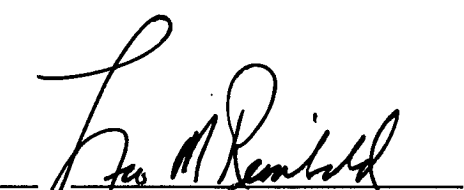
6. Implementing the plan is in the public interest.

Order

The Commission orders:

1. The attached revised settlement agreement is approved.
2. Otter Tail's plan, as modified by the attached revised settlement agreement, is approved.
3. Otter Tail is authorized to implement the plan as modified by the revised settlement agreement for its electric utility operations in the State of North Dakota for the term January 1, 2001 to December 31, 2005.
4. Otter Tail shall submit all annual performance and financial reports required by the plan (as modified) by May 1st of each plan year. The Commission may require interim reports during the plan term as necessary.
5. The plan is be subject to suspension or termination for good cause, as provided in the revised settlement agreement.
6. The Commission will review the operation and results of the plan upon receipt of reports for the 2002 plan year.

PUBLIC SERVICE COMMISSION

		
Susan E. Wefald Commissioner	Bruce Hagen President	Leo M. Reinbold Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

**Northern States Power Company
Performance Based Regulation
Application**

Case No. PU-400-00-195

**CONCURRING OPINION
COMMISSIONER SUSAN E. WEFALD**

December 29, 2000

Today the Commission is adopting Performance Based Regulation plans for purposes of regulating Northern States Power Company's and Ottertail's retail electric operations in North Dakota. This plan is the result of months of study and work by the Commission, Commission Staff, and utility representatives.

The plan promotes utility efficiencies, aligns customer and shareholder interests, works to maintain or improve customer service, allows utilities to be flexible, minimizes regulatory costs, and improves public participation. In other words, it is a win – win situation, good for consumers and good for NSP and Ottertail.

The companies will be measured on four areas of performance with this plan. These areas are reliability, customer satisfaction, price standards, and an employee safety standard.

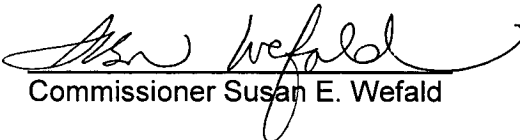
Customers should know that they play a role in determining the companies' performance each year. Each company will be doing several surveys of customers each year to determine the customers' satisfaction with their electric service.

Also, public input played a role in determining the provisions of the settlement. Ideas from letters received from the public were incorporated into the settlement.

The plan will be in place for 5 years and will be evaluated after 2 years.

These particular performance based regulation plans are unique to our state and our utilities. For anyone wishing to study the plans in more detail, the Commission order and the settlements will be available very soon on the Commission web site. The Commission and our staff will be happy to discuss the plans at any time.

I am proud of the work done by all parties on this project and am committed to the operational success of these plans.


Commissioner Susan E. Wefald

**STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION**

Case No. PU-401-00-36

In the Matter of Otter Tail Power Company's
Proposal to Implement
Performance-Based Regulation

**SETTLEMENT AGREEMENT AND
REVISED PERFORMANCE-BASED RATEMAKING PLAN**

This Settlement Agreement and Revised Performance-Based Ratemaking ("PBR") Plan (collectively, the "Agreement") is entered into this 28th day of December, 2000, by and between Otter Tail Power Company, a Minnesota corporation ("Otter Tail" or "the Company") and the North Dakota Public Service Commission litigation staff ("Staff"). This Agreement resolves all outstanding issues in the above-captioned proceeding before the North Dakota Public Service Commission ("Commission") in a manner consistent with the public interest. The Agreement consolidates and incorporates all relevant provisions from the Company's January 31, 2000 PBR Plan, the November 30, 2000 Settlement Agreement, and the December 13, 2000 Amendment and Clarification to the November 30 Settlement Agreement. The Agreement also consolidates and incorporates all revisions agreed to by the Company, Xcel Energy, Inc. (Northern States Power Company, or NSP), Staff, and the Commission as a result of the hearing held in this matter, negotiations, and Commission-sponsored working sessions.

PRELIMINARY STATEMENT

1. Commission Alternative Regulation Guidelines, Case No. PU-439-94-590.

After conducting workshops and public input sessions to discuss alternative forms of regulation for electric utilities operating in the state, the Commission issued its "Guidelines for Filing Alternative Regulation Proposals" ("Guidelines") in Case No. PU-439-94-590 on September 20, 1995. The Guidelines indicated the Commission would consider proposals for alternative forms of regulation from traditional "cost-based rate of return" regulation. The Guidelines set forth both goals and criteria for alternative regulation proposals, which included among other things that proposals promote efficiencies, align customer and shareholder interests, minimize regulatory costs, be comprehensive yet administratively simple, and that proposals be flexible.

2. Summary of the Record.

On January 31, 2000, Otter Tail filed an "Application for Approval of a Performance-Based Ratemaking Plan" ("Application") in which it asked that its retail electric operations in North Dakota be subject to performance based regulation. The key components of the performance based regulation plan ("PBR Plan" or "Plan") include (1) a return on the Company's equity capital ("ROE") which can vary depending on the Company's performance, (2) a revenue sharing mechanism, (3) the establishment of service performance standards, and (4) price capping and the flexibility to adjust prices (rates) under specified circumstances. If approved, the PBR Plan would create an alternative form of regulation for the Company's electric operations in North Dakota consistent with the Guidelines.

As stated by the Company in its Application, two primary goals of performance-based ratemaking are to allow regulated utilities greater flexibility in their operations and to minimize regulatory oversight. A well-designed PBR plan relies on competitive market-like forces, to the greatest extent possible, by creating incentives for a utility to operate more efficiently, invest in its business, and provide superior service to its customers. Performance based regulation plans accompanied by clear and well-designed measures are likely to provide significant benefits over more traditional forms of cost-of-service regulation. It is also important that measures developed to evaluate utility performance be thorough but not be unduly burdensome to calculate and administer.

On July 19, 2000, the Commission issued its "Notice of Hearing and Notice of Public Discussion Meeting" ("Notice") in the instant docket and in Case No. PU-400-00-195, a companion docket involving NSP's PBR PLUS Plan, a performance based regulation plan very similar to Otter Tail's plan. In its Notice, the Commission invited the public to discuss and participate in the development of both the Otter Tail and NSP plans.

On August 29, 2000 Administrative Law Judge Allen C. Hoberg issued a Pre-hearing Order which established procedural dates, hearing procedures, and other preliminary matters.

On September 6, 2000 the Commission conducted a Public Discussion Meeting in which it allowed the public to participate in the PBR plans through the use of ten video conference sites located throughout Otter Tail's and NSP's service territories. At

the Public Discussion Meetings, the Commission received no public comment opposing either the Otter Tail or NSP plans.

On September 29, Otter Tail submitted written direct testimony of the following Otter Tail employees: Ms. Bernadeen Brutlag (OTP Exhibit No. 1); Mr. Brian Draxten (OTP Ex. No. 2); Mr. Del Van Voorhis (OTP Ex. No. 3); and Mr. Steve Wevley (OTP Ex. No. 4). Otter Tail also jointly sponsored, along with NSP, the written direct testimony of Dr. Karl McDermott, Vice President of the National Economic Research Associates (Joint Ex. No. 1). Ms. Brutlag explained the central elements of the Company's PBR Plan and the plan's pricing performance measure. Mr. Draxten described the Company's proposed customer satisfaction performance measure. Mr. Van Voorhis described how Otter Tail's reliability measure was developed and Mr. Wevley described the proposed safety performance measure. Dr. McDermott, a nationally recognized expert on performance based and other alternative forms of regulation, offered the policy rationale for the two plans. He concluded that the plans would provide better incentives for cost reduction, service performance, and that the societal costs of regulating utilities would be reduced. Dr. McDermott also demonstrated how the PBR plans as submitted by the companies are consistent with the Commission's Guidelines.

On October 13, 2000, Staff submitted written direct testimony in which it generally supported the PBR Plan but recommended certain modifications. On October 20, 2000, Ms. Brutlag and Dr. McDermott submitted written rebuttal testimony (OTP Ex. No. 5 and Joint Ex. No. 2, respectively).

On October 23 and 24, 2000, the Commission conducted a joint evidentiary hearing in which it considered both Otter Tail's PBR Plan and NSP's PLUS Plan. Judge Hoberg presided and all three Commissioners were present. Staff and Otter Tail were each represented by counsel. At the hearing, the Commission considered the following issues: (1) Are the PBR plans as submitted consistent with the Guidelines? (2) Would the plans result in quality service and reasonable rates? (3) Do the plans support safe and reliable electric infrastructure and the financial viability of the utilities? And (4) Is implementation of the plans in the public interest?

The Application and pre-filed testimony of both companies and Staff was admitted into the record, and the witnesses were subject to cross examination and questions by the Commissioners.

At the conclusion of the evidentiary hearing but before the close of the record, the Commission urged the parties to initiate informal settlement discussions to resolve all issues of the plans where Staff and the companies differed. The companies and Staff agreed to provide the Commission with a final settlement agreement no later than December 1 if possible, for purposes of having the Commission approve any settlement agreement and/or the plans no later than December 31, 2000.

Staff, Otter Tail, and NSP held informal settlement discussions on November 2, 2000 in Jamestown, North Dakota and have held numerous telephone and electronic discussions since that date, each in an effort to reach a comprehensive settlement regarding performance based regulation in North Dakota. On November 20, 2000 the Commission conducted a working session with parties present in which the companies' plans and Staff's recommendations were discussed. Three additional working sessions,

on December 1, 11 and 15, 2000, were also held to discuss and resolve all issues in this matter.

3. The November 30 Settlement Agreement.

On November 30, 2000 Otter Tail and Staff entered into a Settlement Agreement that Otter Tail and Staff agreed resolved all outstanding issues in the above-captioned proceeding. The Settlement Agreement was presented to the Commission on December 1, 2000 for its approval at a regularly scheduled working session. Although the matter was discussed with both the Company and Staff present, the Settlement Agreement was not approved. On December 11, 2000 the Settlement Agreement was again the topic of discussion at a regularly scheduled working session, again with both the Company and Staff present. At the session, the Commission indicated that further clarifications and/or modifications to the Settlement Agreement and/or the Company's Performance Based Ratemaking Plan were warranted.

4. The December 13, 2000 Amendment and Clarification to the November 30, 2000 Settlement Agreement.

Based on the Commission's request to clarify and amend the November 30, 2000 Settlement Agreement, on December 13, 2000, Otter Tail and Staff submitted an Amendment and Clarification to the November 30, 2000 Settlement Agreement. At its December 15, 2000 working session, the Commission once again considered the matter along with NSP's PBR PLUS Plan. The Commission was satisfied with the settlement negotiations between the companies and Staff, including all proposed revisions. However, the Commission suggested that the companies consolidate and incorporate their PBR plans, settlement documents, and all revisions into one, single

document for presentation and approval by the Commission. That one, single document is this Agreement.

5. The Record, as Modified by this Agreement, Supports Adoption of the PBR Plan.

Both the Company and Staff submitted pre-filed and oral testimony that supports implementation of performance-based regulation for the Company's electric utility operations in North Dakota. Both the Company and Staff agree that having Otter Tail's utility operations regulated under a performance based regulation plan is in the Company's and North Dakota ratepayers' interest. Otter Tail and Staff agree that performance based regulation does the following: provides the Company with an incentive to become more efficient; makes price changes generally more understandable than under traditional, cost-of-service regulation; decreases the cost of regulation; promotes innovation; and allows for just and reasonable rates for electric service.

The Company and Staff did not agree on everything, however. At the hearing, the Company and Staff held slightly different views on the best performance standards to include in a PBR Plan and the criteria for rewarding and/or penalizing the Company based on its performance. For instance, the Company, through Dr. Karl McDermott's testimony, supports use of broad and balanced performance standards and symmetrical reward/penalty criteria, as the Company believes such performance standards are consistent with the Guidelines. Staff testified that it believed that the PBR Plan and NSP's PLUS Plan, as originally proposed, lacked symmetry – i.e., a price increase was more likely to occur than a price decrease. The companies and Staff disagreed on other matters too.

In any event, however, the companies and Staff were able to resolve their differences. The parties also recognize that the Commission is not required to approve all of the specific components of the PBR Plan or Staff's recommendations. Instead, the Commission is free to approve a plan that it believes is in the overall best interest of the public. In fact, Commissioner comments and questions at the evidentiary hearing supported consideration of possible alternative performance standards and Dr. McDermott's overall recommendation was that any final performance standards and reward/penalty criteria, as well as any overall performance based regulation plan, should reflect the policy objectives of the Commission. In negotiations subsequent to the hearing, the parties endeavored to develop a PBR plan that best met the Commission's policy objectives.

Based on the record in this matter, and all of the negotiations, working sessions, and proceedings to date, the Company and Staff believe this Agreement is supported by the record, is consistent with the public interest, is consistent with the Commission's Guidelines on for Filing Alternative Regulation Proposals, will result in quality service and reasonable rates to North Dakota ratepayers, supports the safe and reliable electric infrastructure and the financial viability of the Company, and that, as a result, implementation of the PBR Plan is in the public interest.

Accordingly, Otter Tail and Staff jointly request that the Commission promptly issue an order approving this Agreement in its entirety, without conditions or further modifications, and that it approve performance based regulation for Otter Tail's North Dakota electric operation, consistent with this Agreement.

REVISED PBR PLAN

6. PBR Plan Terms.

A. Implementation.

In its Application, Otter Tail proposed to commence its PBR Plan on January 1, 2000. In order to coincide with implementation of NSP's PLUS Plan, the parties agree that the PBR Plan will commence as of January 1, 2001. For purposes of initial PBR Plan implementation, the Company's electric rates in effect on January 1, 2001 are presumed to be just and reasonable.

The PBR Plan will remain in effect until December 31, 2005, unless renewed or further extended by order of the Commission, or suspended or terminated by the Company or the Commission, as provided herein. Prior to July 1, 2005, the Company will file for extension and/or modification of the Plan if so desired.

B. Reporting/Review.

On or before May 1 of each year, Otter Tail will submit a comprehensive earnings and performance report for the previous calendar fiscal year period, which will include the following information:

1. Otter Tail's regulated electric earnings and return on equity (before and after any earnings sharing) in North Dakota for the calendar year just completed;
2. Summaries of operating revenue, expense, and regulated electric rate base;
3. Otter Tail's regulated capital structure including debt and equity ratios, cost of capital, and return on rate base;
4. Calculation of baseline ROE and the authorized earnings range for the review year;
5. Annual results, awards, and penalties related to Otter Tail's seven performance measures;

6. Amount of revenues subject to sharing -- the "performance-based dividend" or "surcharge;"
7. Comparison group average residential rates for the year in review;
8. The calculation of any changes in base rates; and
9. Proposed rate change percentage and typical bill impact for all customer classes.

Otter Tail's operating results for each year will be based upon usual and existing practices, consistent with Commission practice in recent years.

After May 1, 2003, but no later than June 30, 2003, the Commission will conduct an informal hearing for the purpose of assessing the overall success of the PBR Plan's first two years of operation.

7. Acceptable ROE Range/Revenue Sharing.

A. Dynamic ROE.

The initial baseline return on equity ("ROE") for purposes of the PBR Plan will be 12.0%. An acceptable range of +/- 1.0% around the baseline is appropriate.

During the Plan term, the acceptable ROE range shall be subject to the annual dynamic ROE adjustments in terms of "basis points" depending on the Company's performance under each Plan performance standard, as provided herein. If the net performance basis points are positive (award), the upper end of the acceptable ROE range increases. If the net performance points are negative (penalty), the lower end of the ROE range is decreased. An example of this provision is shown in Attachment 1R, incorporated and made a part of this Agreement.

B. Revenue Sharing.

If the Company's reported actual utility earnings fall within the acceptable range around the authorized ROE (as adjusted by the performance points) in a given Plan year, no revenue sharing will take place.

If the Company's actual reported earnings for any given Plan year exceed the acceptable range, the corresponding revenue "sufficiency" will be calculated, and 50% of this dollar amount will be refunded to customers during the July billing cycle of the following year. Customers of record on March 31 following the Plan-year will be issued refunds by bill credit prorated on the basis of their electric usage for the twelve months ending March 31.

If earnings are below the acceptable ROE range, 50% of the corresponding revenue deficiency may be recovered through a surcharge on the Company's electric rates effective no later than 24 months after the Plan year, as directed by the Financial Accounting Standards Board ("FASB"). However, Otter Tail will defer a reported fiscal year deficiency amount as a regulatory asset until the following Plan year revenue sharing amount, if any, is reported. If the prior year deficiency is fully offset by a current year reported revenue sufficiency, the sufficiency will be used to eliminate the regulatory asset, and no rate surcharge will be imposed. If the deficiency from the prior year is not fully offset, any remaining deficiency balance will be billed through a rate surcharge applicable to bills issued from July 1 through December 31 of the year following the Plan fiscal report year, unless otherwise requested by either the Company or Commission Staff and approved by the Commission.

The share of revenue or deficiency will be shown separately as a “performance-based dividend” or “performance-based surcharge” on customers’ bills.

Any deferred balance remaining at the end of this 5-year PBR Plan will first be considered as part of an on-going plan or alternatively, collected from customers through a surcharge.

PBR dividends paid or surcharges received will not affect the return on equity calculation of the year in which the said dividends or surcharges are actually implemented.

8. Revised Performance Standards.

A. Reliability.

The PBR Plan as set forth in the Application proposed a service reliability standard measurement using the storm adjusted minutes of outage or “System Average Interruption Duration Index” (“SAIDI”). In this Agreement, the revised PBR Plan will use two standards for purposes of measuring reliability: (1) customer average interruption duration index (“CAIDI”), and (2) system average interruption frequency index (“SAIFI”).

CAIDI and SAIFI are individual measures, the product of which is SAIDI. By using both component standards, the Company will be measured on both the frequency of customer outages and the time it takes to restore power. Annual results for each measure will be storm adjusted using the methods established by the Company – e.g., Otter Tail proposes to exclude any outage longer than 24 continuous hours. Standards are based on achieving a SAIDI result of 83 minutes, which was developed using Otter Tail’s historical system-wide outage results, and was part of the original Application. A

more detailed description of these performance measures is contained in Attachment 2R, incorporated and made a part of this Agreement.

Each measure will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the revised performance standards for reliability:

Measure	Award Threshold	Standard	Penalty Threshold
CAIDI	< 3.4 minutes	4.0 minutes	> 4.6 minutes
SAIFI	< 17.7 outages/yr.	20.8 outages/yr.	> 23.9 outages/yr.

The above reliability performance standards are developed on the basis of Otter Tail's having only one year of information. Therefore, as additional information becomes available, Otter Tail agrees to update the standard so that it reflects an overall average and thereby provides a more accurate reflection of reliability over time.

B. Customer Satisfaction.

The Application, as supplemented by Mr. Draxten's testimony, proposed a single customer satisfaction measure. It was based on North Dakota customers' responses to a single question contained in the Company's relationship survey of all customer classes (Residential, Small Commercial and Large Commercial) and designed to gauge overall satisfaction with the Company. The Application proposed the standard for customer satisfaction be based on 95% of respondents rating Otter Tail "3" or higher on a scale of one ("1") to five ("5"), with five representing the highest degree of satisfaction. Staff recommended a customer satisfaction measure that used only the top two ratings ("4" and "5"). Staff also recommended the addition of a "transactional survey" – i.e., a

survey that measures customer satisfaction in relation to a particular event, e.g., how the utility responded to a customer's complaint, answered its question, etc.

Pursuant to this Agreement, the Company's revised PBR Plan will use two survey standards for purposes of measuring customer satisfaction: (1) an average satisfaction score from the relationship surveys for all three customer classes (Residential, Small Commercial, Large Commercial), and (2) an average satisfaction score from two transactional surveys. The survey scores will reflect the percentage of respondents who rate Otter Tail a "4" or "5" on a scale of "1" to "5," with, once again, "5" representing the highest level of satisfaction. A more detailed description of these performance measures is contained in 3R, incorporated and made a part of this Agreement.

The parties acknowledge that Otter Tail does not presently have a method in place to identify all contacts with customers for transactional survey purposes. Otter Tail agrees to develop such method during the first quarter of 2001, to perform a survey based on contacts for three months, and to provide a report to the Commission by July 1, 2001 that suggests a transactional survey standard.

As the performance measure for the relationship survey is based on only one survey and the measure for the transactional survey is yet to be determined, the parties agree that Otter Tail will update these performance standards as necessary as survey information for additional years becomes available.

Each of the two survey standards will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the Plan's initial performance standards for customer satisfaction:

Measure	Award Threshold	Standard	Penalty Threshold
Relationship positive response %	> 93.0%	90.0%	< 87.0%
Transaction positive response %	To be determined	To be determined	To be determined

C. Price Standard.

The Application proposed a price standard that compared the Company's average residential electric revenue per kWh for the Plan-year to the average residential revenue/kWh of a comparison group of investor-owned utilities located throughout seven upper Midwest states. Staff proposed a price comparison that measured the change in the Company's residential electric revenue/kWh in the Plan-year to the change of the ten lowest-priced utilities in the comparison group.

Pursuant to this Agreement, the Company's revised PBR Plan will use two price standards for purposes of measuring the competitiveness of the Company's prices: (1) the Company's average residential price per kWh compared to the Midwestern utility comparison group, and (2) the annual change in the average residential price relative to the change for the lowest priced utility in the comparison group. The price standards are calculated annually based on utility price data compiled in the Edison Electric Institute's publication entitled Typical Bills and Average Rate Report, issued twice per year. For purposes of this Agreement, the "winter" edition (reflecting the 12-month period ending December 31) will be used. A more detailed description of these performance measures is contained in 4R, incorporated and made a part of this

Agreement. Should this publication be discontinued, the parties will use another mutually agreed on price data compilation(s).

Each of the two price measures will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the revised Plan performance standards for price:

Measure	Award Threshold	Standard	Penalty Threshold
Competitive residential price position	< 85% of standard	peer group avg. residential price/kWh	> 115% of standard
Annual change in residential average price	< (standard-.05¢/kwh)	annual change in lowest priced utility	> (standard+.05¢/kwh)

D. Employee Safety Standard.

The Application proposed an employee safety standard based on the Company's Occupational Safety and Health Agency ("OSHA") incident rate in the Plan-year compared against Otter Tail's own five-year average historic performance. The OSHA incident rate represents the number of safety-related incidents per 100 employees. The Application proposed a reward and/or penalty of a 50 basis point adjustment to the baseline ROE.

Pursuant to this Settlement Agreement, the revised PBR Plan will include an employee safety measurement based on the OSHA incident rate. The standard is based on historical results for Group 5 utilities (i.e., less than 1,000 employees) in the Edison Electric Institute Safety Survey. A more detailed description of this performance measure is contained in Attachment 5R, incorporated and made a part of this Agreement.

To be consistent with the other individual Plan standards, the measure will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the performance standards for safety:

Measure	Award Threshold	Standard	Penalty Threshold
OSHA incident rate	< 5.9	6.9	> 7.9

9. Changes in Base Rates.

A. Price Cap Factor.

Pursuant to this Agreement, the revised Plan will calculate a Price Cap Factor by determining the lower of (1) the annual percentage change in the utility comparison group's average residential price per kWh, and (2) 60% of the change in the Consumer Price Index (CPI) for the previous year (the CPI for the Plan-year is computed by averaging the CPI at the end of each quarter). The Price Cap Factor will determine the highest annual percentage rate increase allowed under the Plan, or the amount of a required rate decrease.

B. Rate Change Criteria.

The PBR Plan imposes an electric rate freeze on the Company whenever (1) its previous fiscal year ROE exceeds the ROE rate increase threshold, described below, or (2) the Company's average residential rates are higher than the utility comparison group's average residential rate. If neither condition exists, the Company may change rates by an overall percentage not to exceed the Price Cap Factor.

Base rate changes will be across-the-board to all customer classes unless otherwise requested by the Company and approved by the Commission.

C. Required Rate Decrease Criteria.

The Company shall reduce its retail electric if (1) the Company's reported ROE for the Plan reporting year exceeded the ROE rate decrease threshold, described below, (2) the Company's average residential rates are higher than the utility comparison group's average residential rate, and (3) the Price Cap Factor is negative.

D. ROE Threshold.

The ROE threshold for determining a possible *rate increase* will be the baseline ROE (as adjusted pursuant to Section 7(A), Dynamic ROE) *minus* 100 basis points. The baseline ROE will be the midpoint of the acceptable ROE range as defined in Section 7(A) above. As shown for illustrative purposes in Attachment 1R, the threshold in the extreme case of achieving an award on all seven performance measures would be 12.88% *minus* one hundred basis points or 11.88%. Likewise, in the other extreme where all performance were in a penalty situation, the threshold would be 11.13% *minus* one hundred basis points, or 10.13%. In these two examples, a rate freeze would be in effect if the Company's earnings are above 11.88% and 10.13%, respectively.

If the Company's performance is within the acceptable range for all of the Plan performance measures, and no adjustment was made to the ROE range pursuant to the dynamic ROE mechanisms, a base electric rate freeze would be in effect if Otter Tail's reported earnings in the prior Plan year exceeded 11.00%.

The ROE threshold for determining a required *rate decrease* will be the baseline ROE (as adjusted pursuant to Section 7(A), Dynamic ROE) *plus* 100 basis points. The baseline ROE will be the midpoint of the acceptable ROE range as defined in Section 7(A) above. Referring again to Attachment 1R, the threshold in the extreme case of

achieving an award on all seven performance measures would be 12.88% *plus* one hundred basis points or 13.88%. Likewise, in the other extreme where all performance were in a penalty situation, the threshold would be 11.13% *plus* one hundred basis points, or 12.13%. In these two examples, Otter Tail would not be required to reduce rates if the Company's earnings are below 13.88% and 12.13%, respectively.

If the Company's performance is within the acceptable range for all of the Plan performance measures, and no adjustment was made to the ROE range pursuant to the dynamic ROE mechanisms, no base electric rate decrease would be required if Otter Tail's reported earnings in the prior Plan year was below 13.00%.

E. Exogenous Events.

Changes in base rates are subject to the price cap mechanisms included in this Agreement. However, for purposes of clarification, the parties expressly recognize that any increases or decreases in costs of electric service caused by governmentally imposed changes in taxes and/or accounting practices shall be implemented within 60 days of the effective date of the change.

F. Rate Change Procedure.

To implement any permitted rate change pursuant to Section 9(B) or mandatory rate reduction pursuant to Section 9(C), the Company shall file a notice of rate change and the accompanying tariffs pursuant to N.D.C.C. § 49-05-05 not later than June 1 following completion of the Plan-year and submission of the Plan performance report on May 1. The revised rates shall be effective on or after July 1 following the Plan-year.

This Section F does not apply to mandatory base rate changes prescribed in Section E.

10. Other Terms and Conditions.

A. Fuel Clause Adjustment.

This Agreement and the Company's revised PBR Plan does not change the Company's existing fuel clause adjustment (FCA) mechanism in its North Dakota Electric Rate Book tariff schedules. The comparative price standard provided above shall be calculated using total Residential revenue per kWh including the fuel clause adjustments in effect during the Plan reporting year.

B. Suspension or Termination of the Plan.

The PBR Plan will remain in effect for five years beginning January 1, 2001. The Company and Staff reserve the right to request adjustment, suspension, or termination of the Plan under the following events:

- Changes in federal and/or state tax law;
- Passage of retail access legislation at either the federal or state level;
- Merger and/or acquisition events affecting the Company's structure and operations;
- Natural disasters affecting the Company's North Dakota electric operations (e.g., major storms, floods, etc.);
- Unusual events affecting the Company's operations (e.g., major generating plant failure, damage to major transmission or distribution lines, etc.);
- Material and sustained earnings extremes (defined as returns on equity +/- 5.0% from the acceptable ROE range, prior to sharing);

It is anticipated the Commission, Staff and the Company will make reasonable efforts to resolve any condition that could otherwise cause the Company, Staff or the Commission

to seek adjustment, suspension, or termination of the Plan before any adjustment, suspension, or termination occurs.

C. Applicability and Scope.

Each of the provisions of this Agreement is in consideration for each and every other provision. If this Agreement is not accepted and approved by the Commission in its entirety and without modification, at the option of Otter Tail, this Agreement shall be null and void.

This Agreement shall be binding on the parties hereto, and upon their successors, assigns, agents and representatives.

D. Effective Date.

This Agreement shall be effective on the date of the Commission's order approving it; but in no event later than January 1, 2001.

E. Effect of Settlement Negotiations.

It is understood and agreed that all offers of settlement and discussions related thereto are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Agreement, the Agreement shall not constitute part of the record in this proceeding and no part thereof may be used for any purpose in this proceeding or otherwise. This Agreement shall not in any respect constitute a determination by the parties hereto as to the merits of any specific allegations or contentions made by the parties in Case No. PU-401-00-36.

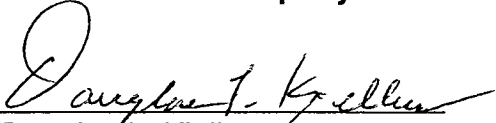
F. Counterparts.

This Settlement Agreement may be executed in separate, identical counterparts.

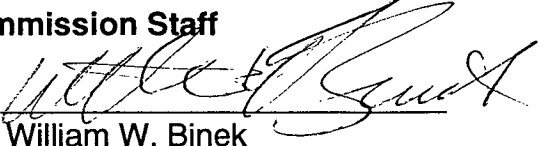
G. Agreement Drafted Jointly.

This Settlement Agreement shall be deemed to have been drafted jointly by Staff and Otter Tail for purposes of construing or interpreting the meaning of any provision of this Agreement.

Otter Tail Power Company

By: 
Douglas L. Kjellerup
Chief Operating Officer, Energy Delivery
Otter Tail Power Company

**North Dakota Public Service
Commission Staff**

By: 
William W. Binek
Chief Counsel
ND Public Service Commission

Date: December 27, 2000

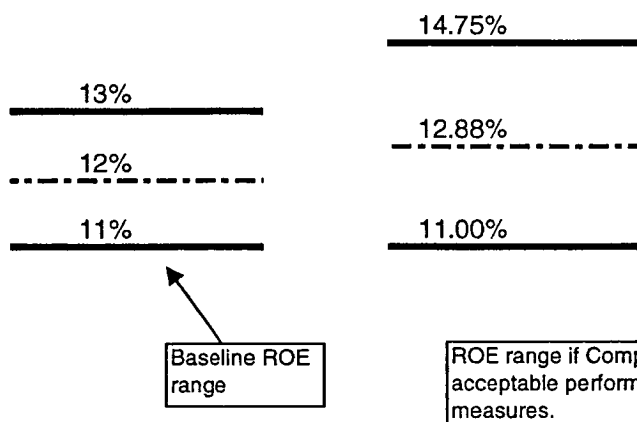
Date: December 28, 2000

Amended Settlement Proposal

The following are extreme examples for illustration purposes

Assume all 7 performance measures are exceeded, each worth 25 basis points

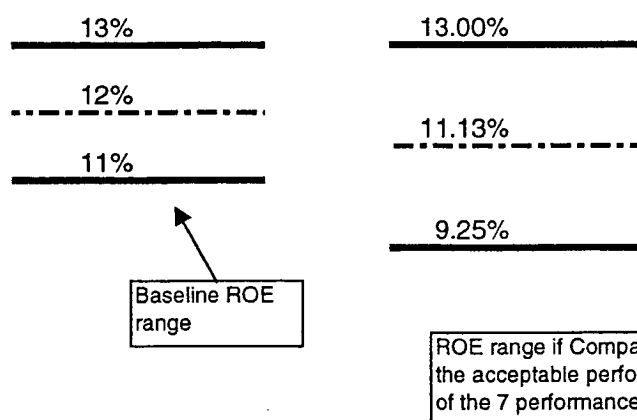
If net result of performance points is positive, only the *upper* limit of the acceptable ROE range increases.



--Earnings above 14.75% are shared.
--A surcharge may be collected if earnings are below 11%.
--A rate freeze is in effect if actual earnings are above 11.88%.
--If earnings are below 11.88%, the Company may raise rates if its price is below the regional average and the Price Cap Factor is positive.
--A rate reduction could be required if the Company's price is above the regional average, the Price Cap Factor is negative and earnings are above 13.88%.*

Assume a penalty on all 7 performance measures, each worth 25 basis points

If net result of performance points is negative, only the *lower* limit of the acceptable ROE range is reduced.



--Earnings above 13% are shared.
--A surcharge may be collected if earnings are below 9.25%.
--A rate freeze is in effect if actual earnings are above 10.13%.**
--If earnings are below 10.13%, the Company may raise rates if its price is below the regional average and the Price Cap Factor is positive.
--A rate reduction could be required if the Company's price is above the regional average, the Price Cap Factor is negative and earnings are above 12.13%.**

* The rate increase threshold is equal to the baseline (12.88% in this example) minus 1.0%, or 11.88%; the rate decrease threshold is the baseline plus 1.0%, or 13.88%.

** The rate increase threshold is equal to the baseline (11.13% in this example) minus 1.0%, or 10.13%; the rate decrease threshold is the baseline plus 1.0%, or 12.13%.

**Otter Tail Power Company
Performance-Based Regulation Plan
Reliability Standards (** REVISED **)**

Macro Measures:

Outage Restoration Time (CAIDI)

This is the amount of time that a typical customer experiencing a sustained outage was out of power.

Restoration time = number of customer-minutes interrupted / number of customers interrupted

"CAIDI" stands for "Customer Average Interruption Duration Index"

Outage Frequency (SAIFI)

This is the average number of sustained outages that a typical customer experienced during the year.

Outage frequency = number of customer interruptions / number of customers served

"SAIFI" stands for "System Average Interruption Frequency Index"

The Performance Standard

Standards for reliability performance measures will be developed using Otter Tail's system-wide average annual results for 1999 (the only year available), with additional years added to the average as data becomes available.

While CAIDI and SAIFI are industry standard reliability measures, there are variations among utilities as to what constitutes an outage, how long an outage must last to be counted, and the process of normalizing outage data for weather. In addition, outage information is not readily accessible nor openly shared across the industry.

Ranges of acceptable performance will be constructed by determining boundaries which are + / - 15% of the standard. Outages included are those lasting more than one minute.

Otter Tail Power Company Results

Storm-Normalized¹			
	SAIFI	CAIDI	SAIDI
	(Outages)	(Minutes)	(Minutes)
1999	20.7898	3.9413	81.9000
Rounded for standard:			
	20.8	4.0	83.2

	SAIFI	CAIDI	SAIDI
Penalty >	23.9	4.6	96
Target	20.8	4.0	83
Award <	17.7	3.4	71

¹ Any outage longer than 24 continuous hours is excluded.

Note: CAIDI X SAIFI = SAIDI

**Otter Tail Power Company
Performance-Based Regulation Plan
Customer Satisfaction Standards (** REVISED **)**

Macro Measures: Response % using scale of 1 to 5 where 5 = "Very Satisfied"

Relationship Survey Response %

This is the average % of North Dakota customers who, in a random independent survey, responded very favorably (either of the top two answers) to the survey question: "I would like to know how you rate Otter Tail Power Company overall on a scale of '1' to '5' where '1' means 'very dissatisfied' and '5' means 'very satisfied.' The more satisfied you generally feel toward Otter Tail Power Company, the higher the number you would give." Relationship survey scores will be the average of residential, small commercial, and large commercial and industrial surveys.

Transaction Survey Response %

Otter Tail at the present time does not have data available to conduct a transaction survey. However, in the first quarter of 2001, Otter Tail will develop a method to identify all contacts with North Dakota customers. A survey will be conducted based on three months and a report, including a suggested performance standard will be submitted to the Public Service Commission by July 1, 2001.

The Performance Standard

Performance standards for customer satisfaction measures will be developed through consideration of current and future surveys, updating the measures as surveys for additional years become available.

Relationship Results

Transaction Results

	<u>Res'l</u>	<u>Small C&I</u>	<u>Large C&I</u>	<u>Average</u>	
1999	85.6%	95.5%	90.3%	90.5%	To be determined

Penalty <	87.0%
Target	90.0%
Award >	93.0%

Penalty <	
Target	TBD
Award >	

**Otter Tail Power Company
Performance-Based Regulation Plan
Price Standards (** REVISED **)**

Macro measures:

Average Residential Revenue/kWh

This is the Otter Tail's average residential price per kWh compared to a group of regulated utilities in a seven-state region of the upper Midwest as reported in the EEI Typical Bills and Average Rate Report, Winter edition.

Annual change in price

This is the annual change in Otter Tail's price compared to the annual change in the price of the lowest priced utility in the comparison group.

The Performance Standard

Performance standards are updated each year based on most recent 12 months ending December 31. The acceptable range for the price per kWh is plus or minus 15%. The acceptable range for the annual change is plus or minus 0.05 cents/kWh. The following is an example of the data used for this standard.

IOU's in North Dakota, South Dakota, Montana, Wyoming, Minnesota, Iowa, Wisconsin

1999 Rank	Utility	Jurisdiction	1999 ¢/kWh	1998 ¢/kWh	% Change
1	Pacificorp	Wyoming	5.74	5.73	0.2%
2	Otter Tail Power Co.	North Dakota	6.03	6.09	-1.0%
3	NSP	North Dakota	6.11	6.07	0.7%
4	Cheyenne Light, Fuel, & Power	Wyoming	6.20	5.66	9.5%
5	Otter Tail Power Co.	South Dakota	6.25	6.30	-0.8%
6	Otter Tail Power Co.	Minnesota	6.48	6.56	-1.2%
7	Wisconsin Public Service	Wisconsin	6.68	6.28	6.4%
8	Minnesota Power	Minnesota	6.71	6.77	-0.9%
9	Wisconsin Power & Light (Alliant)	Wisconsin	6.87	6.72	2.2%
10	Black Hills Power & Light	Montana	7.09	7.22	-1.8%
11	Montana-Dakota Utilities	North Dakota	7.21	6.90	4.5%
12	NSP	Wisconsin	7.33	7.10	3.2%
13	Montana-Dakota Utilities	Wyoming	7.40	7.29	1.5%
14	Montana-Dakota Utilities	Montana	7.43	7.41	0.3%
15	NW Wisconsin Electric	Wisconsin	7.59	7.62	-0.4%
16	Northwest Public Service	South Dakota	7.79	7.45	4.6%
17	Black Hills Power & Light	Wyoming	7.80	7.84	-0.5%
18	Wisconsin Energy Co.	Wisconsin	7.81	7.79	0.3%
19	NSP	South Dakota	7.85	7.66	2.5%
20	Interstate Power Co.	Iowa	7.86	8.55	-8.1%
21	NSP	Minnesota	8.02	7.89	1.6%
22	Black Hills Power & Light	South Dakota	8.29	8.28	0.1%
23	Interstate Power Co.(Alliant)	Minnesota	8.30	8.62	-3.7%
24	Madison Gas & Electric	Wisconsin	8.41	7.81	7.7%
25	IES Utilities (Alliant)	Iowa	8.57	8.73	-1.8%
26	Montana-Dakota Utilities	South Dakota	9.17	8.96	2.3%
Average residential rate (¢/kWh):			7.35	7.28	0.89%

Source: Typical Bills and Average Rate Report, Edison Electric Inst, Winter 2000

**Otter Tail Power Company
Performance-Based Regulation Plan
Employee Safety Standard (** REVISED **)**

Macro Measure:

OSHA Incident Rate

This is the average number of OSHA incidences occurring per 100 electric employees.

OSHA incidences include medical treatment cases, restricted work day injuries, lost workday injuries, and fatalities. Otter Tail is using a system-wide number because employees routinely cross state lines in performance of their duties.

OSHA = number of incidences X 200,000 hours / number of labor hours worked

The Performance Standard

The OSHA rate target was developed using the average annual OSHA results for all of the "group 5" (less than 1,000 employees) utilities participating in the 1997 EEI Safety Survey. This revised target measures Otter Tail against a similar group and is only slightly higher than the standard originally proposed of 6.6 incidents.

The acceptable range is + / - 0.15%.

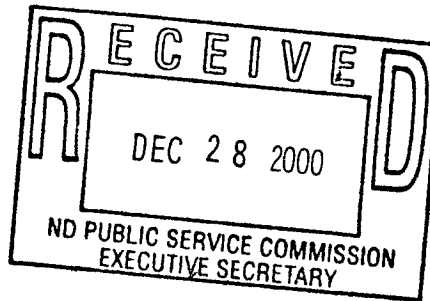
EEI OSHA Results (Group 5)

	OSHA Index
1994	7.33
1995	6.94
1996	6.47
1997	6.80
Average	6.89

Penalty >	7.9
Target	6.9
Award <	5.9

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)

December 27, 2000



William W. Binek
Chief Counsel
North Dakota Public Service Commission
State Capitol
600 East Boulevard
Bismarck, ND 58505

RE: Case No. PU-401-00-36, Performance Based Regulation Plan

Dear Bill:

As discussed by phone with Mike and you last week, I am enclosing two signed copies of the Otter Tail's Settlement Agreement and Revised Performance-Based Rate-making Plan in this matter. This document incorporates all provisions of previous documents and settlement discussions.

If you have any questions, don't hesitate to call me.

Sincerely,

Bernadeen Brutlag
Manager, Regulatory Services

Encs.

**STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION**

Case No. PU-401-00-36

In the Matter of Otter Tail Power Company's
Proposal to Implement
Performance-Based Regulation

**SETTLEMENT AGREEMENT AND
REVISED PERFORMANCE-BASED RATEMAKING PLAN**

This Settlement Agreement and Revised Performance-Based Ratemaking ("PBR") Plan (collectively, the "Agreement") is entered into this 28th day of December, 2000, by and between Otter Tail Power Company, a Minnesota corporation ("Otter Tail" or "the Company") and the North Dakota Public Service Commission litigation staff ("Staff"). This Agreement resolves all outstanding issues in the above-captioned proceeding before the North Dakota Public Service Commission ("Commission") in a manner consistent with the public interest. The Agreement consolidates and incorporates all relevant provisions from the Company's January 31, 2000 PBR Plan, the November 30, 2000 Settlement Agreement, and the December 13, 2000 Amendment and Clarification to the November 30 Settlement Agreement. The Agreement also consolidates and incorporates all revisions agreed to by the Company, Xcel Energy, Inc. (Northern States Power Company, or NSP), Staff, and the Commission as a result of the hearing held in this matter, negotiations, and Commission-sponsored working sessions.

PRELIMINARY STATEMENT

1. Commission Alternative Regulation Guidelines, Case No. PU-439-94-590.

After conducting workshops and public input sessions to discuss alternative forms of regulation for electric utilities operating in the state, the Commission issued its "Guidelines for Filing Alternative Regulation Proposals" ("Guidelines") in Case No. PU-439-94-590 on September 20, 1995. The Guidelines indicated the Commission would consider proposals for alternative forms of regulation from traditional "cost-based rate of return" regulation. The Guidelines set forth both goals and criteria for alternative regulation proposals, which included among other things that proposals promote efficiencies, align customer and shareholder interests, minimize regulatory costs, be comprehensive yet administratively simple, and that proposals be flexible.

2. Summary of the Record.

On January 31, 2000, Otter Tail filed an "Application for Approval of a Performance-Based Ratemaking Plan" ("Application") in which it asked that its retail electric operations in North Dakota be subject to performance based regulation. The key components of the performance based regulation plan ("PBR Plan" or "Plan") include (1) a return on the Company's equity capital ("ROE") which can vary depending on the Company's performance, (2) a revenue sharing mechanism, (3) the establishment of service performance standards, and (4) price capping and the flexibility to adjust prices (rates) under specified circumstances. If approved, the PBR Plan would create an alternative form of regulation for the Company's electric operations in North Dakota consistent with the Guidelines.

As stated by the Company in its Application, two primary goals of performance-based ratemaking are to allow regulated utilities greater flexibility in their operations and to minimize regulatory oversight. A well-designed PBR plan relies on competitive market-like forces, to the greatest extent possible, by creating incentives for a utility to operate more efficiently, invest in its business, and provide superior service to its customers. Performance based regulation plans accompanied by clear and well-designed measures are likely to provide significant benefits over more traditional forms of cost-of-service regulation. It is also important that measures developed to evaluate utility performance be thorough but not be unduly burdensome to calculate and administer.

On July 19, 2000, the Commission issued its "Notice of Hearing and Notice of Public Discussion Meeting" ("Notice") in the instant docket and in Case No. PU-400-00-195, a companion docket involving NSP's PBR PLUS Plan, a performance based regulation plan very similar to Otter Tail's plan. In its Notice, the Commission invited the public to discuss and participate in the development of both the Otter Tail and NSP plans.

On August 29, 2000 Administrative Law Judge Allen C. Hoberg issued a Pre-hearing Order which established procedural dates, hearing procedures, and other preliminary matters.

On September 6, 2000 the Commission conducted a Public Discussion Meeting in which it allowed the public to participate in the PBR plans through the use of ten video conference sites located throughout Otter Tail's and NSP's service territories. At

the Public Discussion Meetings, the Commission received no public comment opposing either the Otter Tail or NSP plans.

On September 29, Otter Tail submitted written direct testimony of the following Otter Tail employees: Ms. Bernadeen Brutlag (OTP Exhibit No. 1); Mr. Brian Draxten (OTP Ex. No. 2); Mr. Del Van Voorhis (OTP Ex. No. 3); and Mr. Steve Wevley (OTP Ex. No. 4). Otter Tail also jointly sponsored, along with NSP, the written direct testimony of Dr. Karl McDermott, Vice President of the National Economic Research Associates (Joint Ex. No. 1). Ms. Brutlag explained the central elements of the Company's PBR Plan and the plan's pricing performance measure. Mr. Draxten described the Company's proposed customer satisfaction performance measure. Mr. Van Voorhis described how Otter Tail's reliability measure was developed and Mr. Wevley described the proposed safety performance measure. Dr. McDermott, a nationally recognized expert on performance based and other alternative forms of regulation, offered the policy rationale for the two plans. He concluded that the plans would provide better incentives for cost reduction, service performance, and that the societal costs of regulating utilities would be reduced. Dr. McDermott also demonstrated how the PBR plans as submitted by the companies are consistent with the Commission's Guidelines.

On October 13, 2000, Staff submitted written direct testimony in which it generally supported the PBR Plan but recommended certain modifications. On October 20, 2000, Ms. Brutlag and Dr. McDermott submitted written rebuttal testimony (OTP Ex. No. 5 and Joint Ex. No. 2, respectively).

On October 23 and 24, 2000, the Commission conducted a joint evidentiary hearing in which it considered both Otter Tail's PBR Plan and NSP's PLUS Plan. Judge Hoberg presided and all three Commissioners were present. Staff and Otter Tail were each represented by counsel. At the hearing, the Commission considered the following issues: (1) Are the PBR plans as submitted consistent with the Guidelines? (2) Would the plans result in quality service and reasonable rates? (3) Do the plans support safe and reliable electric infrastructure and the financial viability of the utilities? And (4) Is implementation of the plans in the public interest?

The Application and pre-filed testimony of both companies and Staff was admitted into the record, and the witnesses were subject to cross examination and questions by the Commissioners.

At the conclusion of the evidentiary hearing but before the close of the record, the Commission urged the parties to initiate informal settlement discussions to resolve all issues of the plans where Staff and the companies differed. The companies and Staff agreed to provide the Commission with a final settlement agreement no later than December 1 if possible, for purposes of having the Commission approve any settlement agreement and/or the plans no later than December 31, 2000.

Staff, Otter Tail, and NSP held informal settlement discussions on November 2, 2000 in Jamestown, North Dakota and have held numerous telephone and electronic discussions since that date, each in an effort to reach a comprehensive settlement regarding performance based regulation in North Dakota. On November 20, 2000 the Commission conducted a working session with parties present in which the companies' plans and Staff's recommendations were discussed. Three additional working sessions,

on December 1, 11 and 15, 2000, were also held to discuss and resolve all issues in this matter.

3. The November 30 Settlement Agreement.

On November 30, 2000 Otter Tail and Staff entered into a Settlement Agreement that Otter Tail and Staff agreed resolved all outstanding issues in the above-captioned proceeding. The Settlement Agreement was presented to the Commission on December 1, 2000 for its approval at a regularly scheduled working session. Although the matter was discussed with both the Company and Staff present, the Settlement Agreement was not approved. On December 11, 2000 the Settlement Agreement was again the topic of discussion at a regularly scheduled working session, again with both the Company and Staff present. At the session, the Commission indicated that further clarifications and/or modifications to the Settlement Agreement and/or the Company's Performance Based Ratemaking Plan were warranted.

4. The December 13, 2000 Amendment and Clarification to the November 30, 2000 Settlement Agreement.

Based on the Commission's request to clarify and amend the November 30, 2000 Settlement Agreement, on December 13, 2000, Otter Tail and Staff submitted an Amendment and Clarification to the November 30, 2000 Settlement Agreement. At its December 15, 2000 working session, the Commission once again considered the matter along with NSP's PBR PLUS Plan. The Commission was satisfied with the settlement negotiations between the companies and Staff, including all proposed revisions. However, the Commission suggested that the companies consolidate and incorporate their PBR plans, settlement documents, and all revisions into one, single

document for presentation and approval by the Commission. That one, single document is this Agreement.

5. The Record, as Modified by this Agreement, Supports Adoption of the PBR Plan.

Both the Company and Staff submitted pre-filed and oral testimony that supports implementation of performance-based regulation for the Company's electric utility operations in North Dakota. Both the Company and Staff agree that having Otter Tail's utility operations regulated under a performance based regulation plan is in the Company's and North Dakota ratepayers' interest. Otter Tail and Staff agree that performance based regulation does the following: provides the Company with an incentive to become more efficient; makes price changes generally more understandable than under traditional, cost-of-service regulation; decreases the cost of regulation; promotes innovation; and allows for just and reasonable rates for electric service.

The Company and Staff did not agree on everything, however. At the hearing, the Company and Staff held slightly different views on the best performance standards to include in a PBR Plan and the criteria for rewarding and/or penalizing the Company based on its performance. For instance, the Company, through Dr. Karl McDermott's testimony, supports use of broad and balanced performance standards and symmetrical reward/penalty criteria, as the Company believes such performance standards are consistent with the Guidelines. Staff testified that it believed that the PBR Plan and NSP's PLUS Plan, as originally proposed, lacked symmetry – i.e., a price increase was more likely to occur than a price decrease. The companies and Staff disagreed on other matters too.

In any event, however, the companies and Staff were able to resolve their differences. The parties also recognize that the Commission is not required to approve all of the specific components of the PBR Plan or Staff's recommendations. Instead, the Commission is free to approve a plan that it believes is in the overall best interest of the public. In fact, Commissioner comments and questions at the evidentiary hearing supported consideration of possible alternative performance standards and Dr. McDermott's overall recommendation was that any final performance standards and reward/penalty criteria, as well as any overall performance based regulation plan, should reflect the policy objectives of the Commission. In negotiations subsequent to the hearing, the parties endeavored to develop a PBR plan that best met the Commission's policy objectives.

Based on the record in this matter, and all of the negotiations, working sessions, and proceedings to date, the Company and Staff believe this Agreement is supported by the record, is consistent with the public interest, is consistent with the Commission's Guidelines on for Filing Alternative Regulation Proposals, will result in quality service and reasonable rates to North Dakota ratepayers, supports the safe and reliable electric infrastructure and the financial viability of the Company, and that, as a result, implementation of the PBR Plan is in the public interest.

Accordingly, Otter Tail and Staff jointly request that the Commission promptly issue an order approving this Agreement in its entirety, without conditions or further modifications, and that it approve performance based regulation for Otter Tail's North Dakota electric operation, consistent with this Agreement.

REVISED PBR PLAN

6. PBR Plan Terms.

A. Implementation.

In its Application, Otter Tail proposed to commence its PBR Plan on January 1, 2000. In order to coincide with implementation of NSP's PLUS Plan, the parties agree that the PBR Plan will commence as of January 1, 2001. For purposes of initial PBR Plan implementation, the Company's electric rates in effect on January 1, 2001 are presumed to be just and reasonable.

The PBR Plan will remain in effect until December 31, 2005, unless renewed or further extended by order of the Commission, or suspended or terminated by the Company or the Commission, as provided herein. Prior to July 1, 2005, the Company will file for extension and/or modification of the Plan if so desired.

B. Reporting/Review.

On or before May 1 of each year, Otter Tail will submit a comprehensive earnings and performance report for the previous calendar fiscal year period, which will include the following information:

1. Otter Tail's regulated electric earnings and return on equity (before and after any earnings sharing) in North Dakota for the calendar year just completed;
2. Summaries of operating revenue, expense, and regulated electric rate base;
3. Otter Tail's regulated capital structure including debt and equity ratios, cost of capital, and return on rate base;
4. Calculation of baseline ROE and the authorized earnings range for the review year;
5. Annual results, awards, and penalties related to Otter Tail's seven performance measures;

6. Amount of revenues subject to sharing -- the "performance-based dividend" or "surcharge;"
7. Comparison group average residential rates for the year in review;
8. The calculation of any changes in base rates; and
9. Proposed rate change percentage and typical bill impact for all customer classes.

Otter Tail's operating results for each year will be based upon usual and existing practices, consistent with Commission practice in recent years.

After May 1, 2003, but no later than June 30, 2003, the Commission will conduct an informal hearing for the purpose of assessing the overall success of the PBR Plan's first two years of operation.

7. Acceptable ROE Range/Revenue Sharing.

A. Dynamic ROE.

The initial baseline return on equity ("ROE") for purposes of the PBR Plan will be 12.0%. An acceptable range of +/- 1.0% around the baseline is appropriate.

During the Plan term, the acceptable ROE range shall be subject to the annual dynamic ROE adjustments in terms of "basis points" depending on the Company's performance under each Plan performance standard, as provided herein. If the net performance basis points are positive (award), the upper end of the acceptable ROE range increases. If the net performance points are negative (penalty), the lower end of the ROE range is decreased. An example of this provision is shown in Attachment 1R, incorporated and made a part of this Agreement.

B. Revenue Sharing.

If the Company's reported actual utility earnings fall within the acceptable range around the authorized ROE (as adjusted by the performance points) in a given Plan year, no revenue sharing will take place.

If the Company's actual reported earnings for any given Plan year exceed the acceptable range, the corresponding revenue "sufficiency" will be calculated, and 50% of this dollar amount will be refunded to customers during the July billing cycle of the following year. Customers of record on March 31 following the Plan-year will be issued refunds by bill credit prorated on the basis of their electric usage for the twelve months ending March 31.

If earnings are below the acceptable ROE range, 50% of the corresponding revenue deficiency may be recovered through a surcharge on the Company's electric rates effective no later than 24 months after the Plan year, as directed by the Financial Accounting Standards Board ("FASB"). However, Otter Tail will defer a reported fiscal year deficiency amount as a regulatory asset until the following Plan year revenue sharing amount, if any, is reported. If the prior year deficiency is fully offset by a current year reported revenue sufficiency, the sufficiency will be used to eliminate the regulatory asset, and no rate surcharge will be imposed. If the deficiency from the prior year is not fully offset, any remaining deficiency balance will be billed through a rate surcharge applicable to bills issued from July 1 through December 31 of the year following the Plan fiscal report year, unless otherwise requested by either the Company or Commission Staff and approved by the Commission.

The share of revenue or deficiency will be shown separately as a “performance-based dividend” or “performance-based surcharge” on customers’ bills.

Any deferred balance remaining at the end of this 5-year PBR Plan will first be considered as part of an on-going plan or alternatively, collected from customers through a surcharge.

PBR dividends paid or surcharges received will not affect the return on equity calculation of the year in which the said dividends or surcharges are actually implemented.

8. Revised Performance Standards.

A. Reliability.

The PBR Plan as set forth in the Application proposed a service reliability standard measurement using the storm adjusted minutes of outage or “System Average Interruption Duration Index” (“SAIDI”). In this Agreement, the revised PBR Plan will use two standards for purposes of measuring reliability: (1) customer average interruption duration index (“CAIDI”), and (2) system average interruption frequency index (“SAIFI”).

CAIDI and SAIFI are individual measures, the product of which is SAIDI. By using both component standards, the Company will be measured on both the frequency of customer outages and the time it takes to restore power. Annual results for each measure will be storm adjusted using the methods established by the Company – e.g., Otter Tail proposes to exclude any outage longer than 24 continuous hours. Standards are based on achieving a SAIDI result of 83 minutes, which was developed using Otter Tail’s historical system-wide outage results, and was part of the original Application. A

more detailed description of these performance measures is contained in Attachment 2R, incorporated and made a part of this Agreement.

Each measure will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the revised performance standards for reliability:

Measure	Award Threshold	Standard	Penalty Threshold
CAIDI	< 3.4 minutes	4.0 minutes	> 4.6 minutes
SAIFI	< 17.7 outages/yr.	20.8 outages/yr.	> 23.9 outages/yr.

The above reliability performance standards are developed on the basis of Otter Tail's having only one year of information. Therefore, as additional information becomes available, Otter Tail agrees to update the standard so that it reflects an overall average and thereby provides a more accurate reflection of reliability over time.

B. Customer Satisfaction.

The Application, as supplemented by Mr. Draxten's testimony, proposed a single customer satisfaction measure. It was based on North Dakota customers' responses to a single question contained in the Company's relationship survey of all customer classes (Residential, Small Commercial and Large Commercial) and designed to gauge overall satisfaction with the Company. The Application proposed the standard for customer satisfaction be based on 95% of respondents rating Otter Tail "3" or higher on a scale of one ("1") to five ("5"), with five representing the highest degree of satisfaction. Staff recommended a customer satisfaction measure that used only the top two ratings ("4" and "5"). Staff also recommended the addition of a "transactional survey" – i.e., a

survey that measures customer satisfaction in relation to a particular event, e.g., how the utility responded to a customer's complaint, answered its question, etc.

Pursuant to this Agreement, the Company's revised PBR Plan will use two survey standards for purposes of measuring customer satisfaction: (1) an average satisfaction score from the relationship surveys for all three customer classes (Residential, Small Commercial, Large Commercial), and (2) an average satisfaction score from two transactional surveys. The survey scores will reflect the percentage of respondents who rate Otter Tail a "4" or "5" on a scale of "1" to "5," with, once again, "5" representing the highest level of satisfaction. A more detailed description of these performance measures is contained in 3R, incorporated and made a part of this Agreement.

The parties acknowledge that Otter Tail does not presently have a method in place to identify all contacts with customers for transactional survey purposes. Otter Tail agrees to develop such method during the first quarter of 2001, to perform a survey based on contacts for three months, and to provide a report to the Commission by July 1, 2001 that suggests a transactional survey standard.

As the performance measure for the relationship survey is based on only one survey and the measure for the transactional survey is yet to be determined, the parties agree that Otter Tail will update these performance standards as necessary as survey information for additional years becomes available.

Each of the two survey standards will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the Plan's initial performance standards for customer satisfaction:

Measure	Award Threshold	Standard	Penalty Threshold
Relationship positive response %	> 93.0%	90.0%	< 87.0%
Transaction positive response %	To be determined	To be determined	To be determined

C. Price Standard.

The Application proposed a price standard that compared the Company's average residential electric revenue per kWh for the Plan-year to the average residential revenue/kWh of a comparison group of investor-owned utilities located throughout seven upper Midwest states. Staff proposed a price comparison that measured the change in the Company's residential electric revenue/kWh in the Plan-year to the change of the ten lowest-priced utilities in the comparison group.

Pursuant to this Agreement, the Company's revised PBR Plan will use two price standards for purposes of measuring the competitiveness of the Company's prices: (1) the Company's average residential price per kWh compared to the Midwestern utility comparison group, and (2) the annual change in the average residential price relative to the change for the lowest priced utility in the comparison group. The price standards are calculated annually based on utility price data compiled in the Edison Electric Institute's publication entitled Typical Bills and Average Rate Report, issued twice per year. For purposes of this Agreement, the "winter" edition (reflecting the 12-month period ending December 31) will be used. A more detailed description of these performance measures is contained in 4R, incorporated and made a part of this

Agreement. Should this publication be discontinued, the parties will use another mutually agreed on price data compilation(s).

Each of the two price measures will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the revised Plan performance standards for price:

Measure	Award Threshold	Standard	Penalty Threshold
Competitive residential price position	< 85% of standard	peer group avg. residential price/kWh	> 115% of standard
Annual change in residential average price	< (standard-.05¢/kwh)	annual change in lowest priced utility	> (standard+.05¢/kwh)

D. Employee Safety Standard.

The Application proposed an employee safety standard based on the Company's Occupational Safety and Health Agency ("OSHA") incident rate in the Plan-year compared against Otter Tail's own five-year average historic performance. The OSHA incident rate represents the number of safety-related incidents per 100 employees. The Application proposed a reward and/or penalty of a 50 basis point adjustment to the baseline ROE.

Pursuant to this Settlement Agreement, the revised PBR Plan will include an employee safety measurement based on the OSHA incident rate. The standard is based on historical results for Group 5 utilities (i.e., less than 1,000 employees) in the Edison Electric Institute Safety Survey. A more detailed description of this performance measure is contained in Attachment 5R, incorporated and made a part of this Agreement.

To be consistent with the other individual Plan standards, the measure will carry a potential reward and/or penalty of a 25 basis point-adjustment to the dynamic ROE.

The following table defines the performance standards for safety:

Measure	Award Threshold	Standard	Penalty Threshold
OSHA incident rate	< 5.9	6.9	> 7.9

9. Changes in Base Rates.

A. Price Cap Factor.

Pursuant to this Agreement, the revised Plan will calculate a Price Cap Factor by determining the lower of (1) the annual percentage change in the utility comparison group's average residential price per kWh, and (2) 60% of the change in the Consumer Price Index (CPI) for the previous year (the CPI for the Plan-year is computed by averaging the CPI at the end of each quarter). The Price Cap Factor will determine the highest annual percentage rate increase allowed under the Plan, or the amount of a required rate decrease.

B. Rate Change Criteria.

The PBR Plan imposes an electric rate freeze on the Company whenever (1) its previous fiscal year ROE exceeds the ROE rate increase threshold, described below, or (2) the Company's average residential rates are higher than the utility comparison group's average residential rate. If neither condition exists, the Company may change rates by an overall percentage not to exceed the Price Cap Factor.

Base rate changes will be across-the-board to all customer classes unless otherwise requested by the Company and approved by the Commission.

C. Required Rate Decrease Criteria.

The Company shall reduce its retail electric if (1) the Company's reported ROE for the Plan reporting year exceeded the ROE rate decrease threshold, described below, (2) the Company's average residential rates are higher than the utility comparison group's average residential rate, and (3) the Price Cap Factor is negative.

D. ROE Threshold.

The ROE threshold for determining a possible *rate increase* will be the baseline ROE (as adjusted pursuant to Section 7(A), Dynamic ROE) *minus* 100 basis points. The baseline ROE will be the midpoint of the acceptable ROE range as defined in Section 7(A) above. As shown for illustrative purposes in Attachment 1R, the threshold in the extreme case of achieving an award on all seven performance measures would be 12.88% *minus* one hundred basis points or 11.88%. Likewise, in the other extreme where all performance were in a penalty situation, the threshold would be 11.13% *minus* one hundred basis points, or 10.13%. In these two examples, a rate freeze would be in effect if the Company's earnings are above 11.88% and 10.13%, respectively.

If the Company's performance is within the acceptable range for all of the Plan performance measures, and no adjustment was made to the ROE range pursuant to the dynamic ROE mechanisms, a base electric rate freeze would be in effect if Otter Tail's reported earnings in the prior Plan year exceeded 11.00%.

The ROE threshold for determining a required *rate decrease* will be the baseline ROE (as adjusted pursuant to Section 7(A), Dynamic ROE) *plus* 100 basis points. The baseline ROE will be the midpoint of the acceptable ROE range as defined in Section 7(A) above. Referring again to Attachment 1R, the threshold in the extreme case of

achieving an award on all seven performance measures would be 12.88% *plus* one hundred basis points or 13.88%. Likewise, in the other extreme where all performance were in a penalty situation, the threshold would be 11.13% *plus* one hundred basis points, or 12.13%. In these two examples, Otter Tail would not be required to reduce rates if the Company's earnings are below 13.88% and 12.13%, respectively.

If the Company's performance is within the acceptable range for all of the Plan performance measures, and no adjustment was made to the ROE range pursuant to the dynamic ROE mechanisms, no base electric rate decrease would be required if Otter Tail's reported earnings in the prior Plan year was below 13.00%.

E. Exogenous Events.

Changes in base rates are subject to the price cap mechanisms included in this Agreement. However, for purposes of clarification, the parties expressly recognize that any increases or decreases in costs of electric service caused by governmentally imposed changes in taxes and/or accounting practices shall be implemented within 60 days of the effective date of the change.

F. Rate Change Procedure.

To implement any permitted rate change pursuant to Section 9(B) or mandatory rate reduction pursuant to Section 9(C), the Company shall file a notice of rate change and the accompanying tariffs pursuant to N.D.C.C. § 49-05-05 not later than June 1 following completion of the Plan-year and submission of the Plan performance report on May 1. The revised rates shall be effective on or after July 1 following the Plan-year.

This Section F does not apply to mandatory base rate changes prescribed in Section E.

10. Other Terms and Conditions.

A. Fuel Clause Adjustment.

This Agreement and the Company's revised PBR Plan does not change the Company's existing fuel clause adjustment (FCA) mechanism in its North Dakota Electric Rate Book tariff schedules. The comparative price standard provided above shall be calculated using total Residential revenue per kWh including the fuel clause adjustments in effect during the Plan reporting year.

B. Suspension or Termination of the Plan.

The PBR Plan will remain in effect for five years beginning January 1, 2001. The Company and Staff reserve the right to request adjustment, suspension, or termination of the Plan under the following events:

- Changes in federal and/or state tax law;
- Passage of retail access legislation at either the federal or state level;
- Merger and/or acquisition events affecting the Company's structure and operations;
- Natural disasters affecting the Company's North Dakota electric operations (e.g., major storms, floods, etc.);
- Unusual events affecting the Company's operations (e.g., major generating plant failure, damage to major transmission or distribution lines, etc.);
- Material and sustained earnings extremes (defined as returns on equity +/- 5.0% from the acceptable ROE range, prior to sharing);

It is anticipated the Commission, Staff and the Company will make reasonable efforts to resolve any condition that could otherwise cause the Company, Staff or the Commission

to seek adjustment, suspension, or termination of the Plan before any adjustment, suspension, or termination occurs.

C. Applicability and Scope.

Each of the provisions of this Agreement is in consideration for each and every other provision. If this Agreement is not accepted and approved by the Commission in its entirety and without modification, at the option of Otter Tail, this Agreement shall be null and void.

This Agreement shall be binding on the parties hereto, and upon their successors, assigns, agents and representatives.

D. Effective Date.

This Agreement shall be effective on the date of the Commission's order approving it, but in no event later than January 1, 2001.

E. Effect of Settlement Negotiations.

It is understood and agreed that all offers of settlement and discussions related thereto are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Agreement, the Agreement shall not constitute part of the record in this proceeding and no part thereof may be used for any purpose in this proceeding or otherwise. This Agreement shall not in any respect constitute a determination by the parties hereto as to the merits of any specific allegations or contentions made by the parties in Case No. PU-401-00-36.

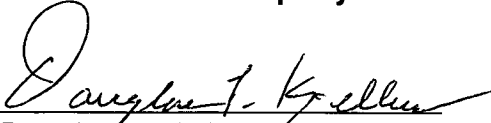
F. Counterparts.

This Settlement Agreement may be executed in separate, identical counterparts.

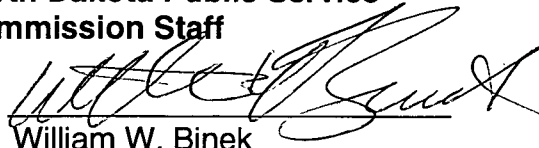
G. Agreement Drafted Jointly.

This Settlement Agreement shall be deemed to have been drafted jointly by Staff and Otter Tail for purposes of construing or interpreting the meaning of any provision of this Agreement.

Otter Tail Power Company

By: 
Douglas L. Kjellerup
Chief Operating Officer, Energy Delivery
Otter Tail Power Company

**North Dakota Public Service
Commission Staff**

By: 
William W. Binek
Chief Counsel
ND Public Service Commission

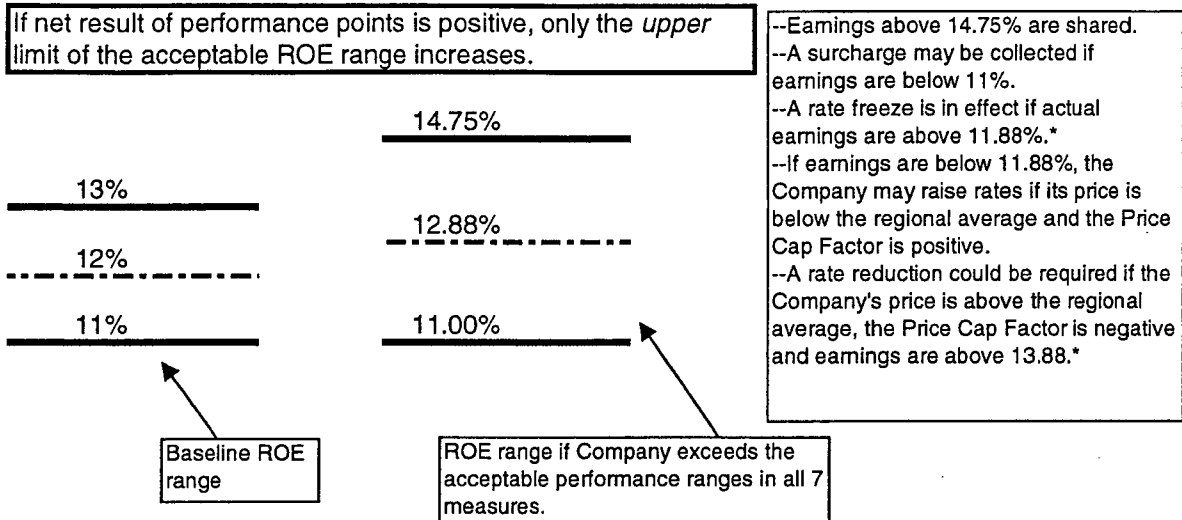
Date: December 27, 2000

Date: December 28, 2000

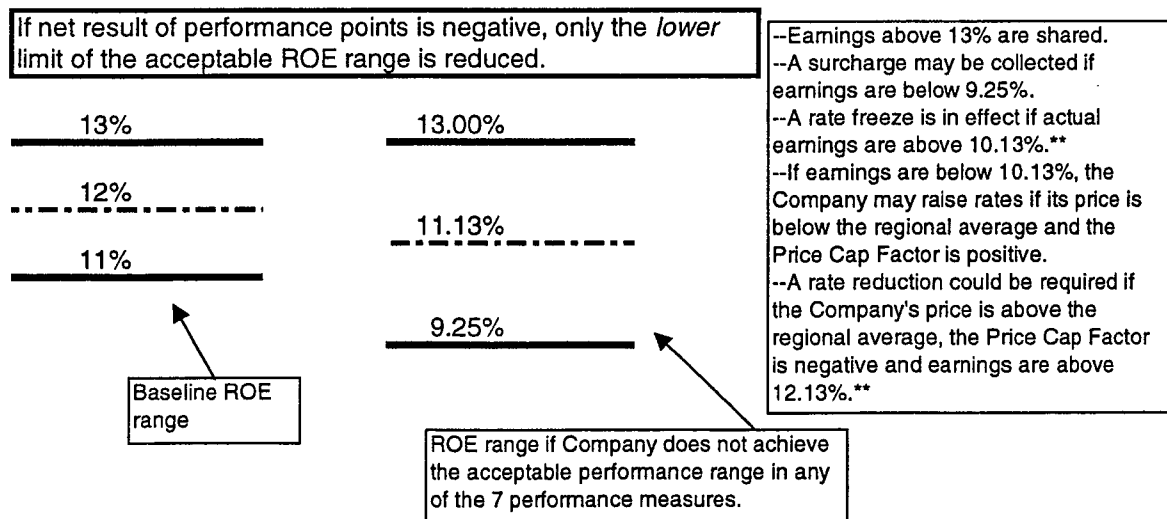
Amended Settlement Proposal

The following are extreme examples for illustration purposes

Assume all 7 performance measures are exceeded, each worth 25 basis points



Assume a penalty on all 7 performance measures, each worth 25 basis points



* The rate increase threshold is equal to the baseline (12.88% in this example) minus 1.0%, or 11.88%; the rate decrease threshold is the baseline plus 1.0%, or 13.88%.

** The rate increase threshold is equal to the baseline (11.13% in this example) minus 1.0%, or 10.13%; the rate decrease threshold is the baseline plus 1.0%, or 12.13%.

**Otter Tail Power Company
Performance-Based Regulation Plan
Reliability Standards (** REVISED **)**

Macro Measures:

Outage Restoration Time (CAIDI)

This is the amount of time that a typical customer experiencing a sustained outage was out of power.

Restoration time = number of customer-minutes interrupted / number of customers interrupted

"CAIDI" stands for "Customer Average Interruption Duration Index"

Outage Frequency (SAIFI)

This is the average number of sustained outages that a typical customer experienced during the year.

Outage frequency = number of customer interruptions / number of customers served

"SAIFI" stands for "System Average Interruption Frequency Index"

The Performance Standard

Standards for reliability performance measures will be developed using Otter Tail's system-wide average annual results for 1999 (the only year available), with additional years added to the average as data becomes available.

While CAIDI and SAIFI are industry standard reliability measures, there are variations among utilities as to what constitutes an outage, how long an outage must last to be counted, and the process of normalizing outage data for weather. In addition, outage information is not readily accessible nor openly shared across the industry.

Ranges of acceptable performance will be constructed by determining boundaries which are + / - 15% of the standard. Outages included are those lasting more than one minute.

Otter Tail Power Company Results

Storm-Normalized¹			
	SAIFI	CAIDI	SAIDI
	(Outages)	(Minutes)	(Minutes)
1999	20.7898	3.9413	81.9000
Rounded for standard:			
	20.8	4.0	83.2

	SAIFI	CAIDI	SAIDI
Penalty >	23.9	4.6	96
Target	20.8	4.0	83
Award <	17.7	3.4	71

¹ Any outage longer than 24 continuous hours is excluded.

Note: CAIDI X SAIFI = SAIDI

**Otter Tail Power Company
Performance-Based Regulation Plan
Customer Satisfaction Standards (** REVISED **)**

Macro Measures: Response % using scale of 1 to 5 where 5 = "Very Satisfied"

Relationship Survey Response %

This is the average % of North Dakota customers who, in a random independent survey, responded very favorably (either of the top two answers) to the survey question: "I would like to know how you rate Otter Tail Power Company overall on a scale of '1' to '5' where '1' means 'very dissatisfied' and '5' means 'very satisfied.' The more satisfied you generally feel toward Otter Tail Power Company, the higher the number you would give." Relationship survey scores will be the average of residential, small commercial, and large commercial and industrial surveys.

Transaction Survey Response %

Otter Tail at the present time does not have data available to conduct a transaction survey. However, in the first quarter of 2001, Otter Tail will develop a method to identify all contacts with North Dakota customers. A survey will be conducted based on three months and a report, including a suggested performance standard will be submitted to the Public Service Commission by July 1, 2001.

The Performance Standard

Performance standards for customer satisfaction measures will be developed through consideration of current and future surveys, updating the measures as surveys for additional years become available.

Relationship Results

Transaction Results

	<u>Res'l</u>	<u>Small C&I</u>	<u>Large C&I</u>	<u>Average</u>	
1999	85.6%	95.5%	90.3%	90.5%	To be determined

Penalty <	87.0%
Target	90.0%
Award >	93.0%

Penalty <	
Target	TBD
Award >	

**Otter Tail Power Company
Performance-Based Regulation Plan
Price Standards (** REVISED **)**

Macro measures:

Average Residential Revenue/kWh

This is the Otter Tail's average residential price per kWh compared to a group of regulated utilities in a seven-state region of the upper Midwest as reported in the EEI Typical Bills and Average Rate Report, Winter edition.

Annual change in price

This is the annual change in Otter Tail's price compared to the annual change in the price of the lowest priced utility in the comparison group.

The Performance Standard

Performance standards are updated each year based on most recent 12 months ending December 31. The acceptable range for the price per kWh is plus or minus 15%. The acceptable range for the annual change is plus or minus 0.05 cents/kWh. The following is an example of the data used for this standard.

IOU's in North Dakota, South Dakota, Montana, Wyoming, Minnesota, Iowa, Wisconsin

1999			1999	1998	%
Rank	Utility	Jurisdiction	¢/kWh	¢/kWh	Change
1	Pacificorp	Wyoming	5.74	5.73	0.2%
2	Otter Tail Power Co.	North Dakota	6.03	6.09	-1.0%
3	NSP	North Dakota	6.11	6.07	0.7%
4	Cheyenne Light, Fuel, & Power	Wyoming	6.20	5.66	9.5%
5	Otter Tail Power Co.	South Dakota	6.25	6.30	-0.8%
6	Otter Tail Power Co.	Minnesota	6.48	6.56	-1.2%
7	Wisconsin Public Service	Wisconsin	6.68	6.28	6.4%
8	Minnesota Power	Minnesota	6.71	6.77	-0.9%
9	Wisconsin Power & Light (Alliant)	Wisconsin	6.87	6.72	2.2%
10	Black Hills Power & Light	Montana	7.09	7.22	-1.8%
11	Montana-Dakota Utilities	North Dakota	7.21	6.90	4.5%
12	NSP	Wisconsin	7.33	7.10	3.2%
13	Montana-Dakota Utilities	Wyoming	7.40	7.29	1.5%
14	Montana-Dakota Utilities	Montana	7.43	7.41	0.3%
15	NW Wisconsin Electric	Wisconsin	7.59	7.62	-0.4%
16	Northwest Public Service	South Dakota	7.79	7.45	4.6%
17	Black Hills Power & Light	Wyoming	7.80	7.84	-0.5%
18	Wisconsin Energy Co.	Wisconsin	7.81	7.79	0.3%
19	NSP	South Dakota	7.85	7.66	2.5%
20	Interstate Power Co.	Iowa	7.86	8.55	-8.1%
21	NSP	Minnesota	8.02	7.89	1.6%
22	Black Hills Power & Light	South Dakota	8.29	8.28	0.1%
23	Interstate Power Co.(Alliant)	Minnesota	8.30	8.62	-3.7%
24	Madison Gas & Electric	Wisconsin	8.41	7.81	7.7%
25	IES Utilities (Alliant)	Iowa	8.57	8.73	-1.8%
26	Montana-Dakota Utilities	South Dakota	9.17	8.96	2.3%
Average residential rate (¢/kWh):			7.35	7.28	0.89%

Source: Typical Bills and Average Rate Report, Edison Electric Inst, Winter 2000

**Otter Tail Power Company
Performance-Based Regulation Plan
Employee Safety Standard (** REVISED **)**

Macro Measure:

OSHA Incident Rate

This is the average number of OSHA incidences occurring per 100 electric employees.

OSHA incidences include medical treatment cases, restricted work day injuries, lost workday injuries, and fatalities. Otter Tail is using a system-wide number because employees routinely cross state lines in performance of their duties.

OSHA = number of incidences X 200,000 hours / number of labor hours worked

The Performance Standard

The OSHA rate target was developed using the average annual OSHA results for all of the "group 5" (less than 1,000 employees) utilities participating in the 1997 EEI Safety Survey. This revised target measures Otter Tail against a similar group and is only slightly higher than the standard originally proposed of 6.6 incidents.

The acceptable range is + / - 0.15%.

EEI OSHA Results (Group 5)

	OSHA Index
1994	7.33
1995	6.94
1996	6.47
1997	6.80
Average	6.89

Penalty >	7.9
Target	6.9
Award <	5.9



Public Service Commission
State of North Dakota

COMMISSIONERS

Bruce Hagen
President
Susan E. Wefald
Leo M. Reinbold

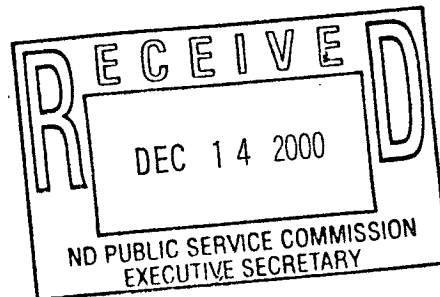
December 14, 2000

600 E Boulevard Ave. Dept. 408
Bismarck, North Dakota 58505-0480
e-mail: sab@oracle.psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

Executive Secretary
Jon H. Mielke

Mr. Jon Mielke
Executive Secretary
Public Service Commission
600 E. Blvd. Ave., Dept. 408
Bismarck, ND 58505-0480

Re: Case No. PU-401-00-36
Otter Tail Power Company
Performance Based Regulation
Application



Dear Mr. Mielke:

Enclosed for filing in the above case are the original and seven copies of the Amendment and Clarification to November 30, 2000 Settlement Agreement.

Thank you.

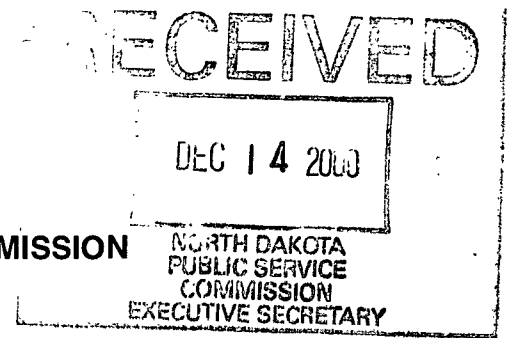
Sincerely,

William W. Binek
Chief Counsel

WWBsIs
Enclosure

C: Otter Tail Power Co.

**STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION**



In the Matter of Otter Tail Power Company's
Proposal to Implement
Performance-Based Regulation

Case No. PU-401-00-36

**AMENDMENT AND CLARIFICATION TO
NOVEMBER 30, 2000 SETTLEMENT AGREEMENT**

This Amendment and Clarification to the November 30, 2000 Settlement Agreement ("Amendment") is entered into this 14th day of December 2000, by and between Otter Tail Power Company ("Otter Tail" or the "Company") and the North Dakota Public Service Commission Litigation Staff ("Staff"). This Amendment hereby amends and clarifies the Settlement Agreement.

Background

A. On November 30, 2000 Otter Tail and Staff entered into a Settlement Agreement that Otter Tail and Staff agreed resolved all outstanding issues in the above-captioned proceeding.

B. The Settlement Agreement was presented to the Commission on December 1, 2000 for its approval at a regularly scheduled working session. Although the matter was discussed with both the Company and Staff present, the Settlement Agreement was not approved.

C. On December 11, 2000 the Settlement Agreement was again the topic of discussion at a regularly scheduled working session, again with both the Company and Staff present. At the session, the Commission indicated that further clarifications and/or

modifications to the Settlement Agreement and/or the Company's Performance Based Ratemaking Plan were warranted.

NOW, THEREFORE, in consideration of the foregoing, the parties agree on the following amendments and clarifications to the Settlement Agreement:

Amendments

1. ROE threshold for rate changes.

In the Settlement Agreement, the parties agreed that baseline Return on Equity ("ROE") threshold for determining whether rates can be increased or decreased could be anywhere between 11.13% and 12.88%, depending on Company's performance. This Amendment amends the threshold for rate changes as the baseline minus one percent. As shown for illustrative purposes in Attachment 1A, the extreme lower threshold could be 11.13% minus one hundred basis points or 10.13%. Likewise, the extreme upper threshold could be 12.88% minus one hundred basis points, or 11.88%. In these two examples, a rate freeze would be in effect if the Company's earnings are above 10.13% and 11.88%, respectively. Other provisions of the price cap mechanism remain in effect, as set forth in the Company's PBR Plan, as amended by the Settlement Agreement.

2. Productivity Factor.

The PBR Plan uses a Price Cap Factor, one component of which, as originally proposed, was 75% of Consumer Price Index ("CPI") as a surrogate for a productivity factor offset. The Settlement Agreement reduced the offsetting percent to 60% of CPI.

In response to concern expressed at the December 11, 2000 working session that this would result in a smaller rate reduction if CPI were negative, the parties agree to fix the productivity factor at 0.8. For example, if CPI is 2.2, this component of the Price Cap Factor would be 1.4. If CPI were a negative 1.8, this component would be negative 2.6.

Clarifications

3. Affect of exogenous events.

The parties agree that changes in base rates are subject to the price cap mechanisms included in the proposed PBR Plan, as amended by the Settlement Agreement and this Amendment. However, for purposes of clarification, the parties expressly recognize that any increases or decreases in costs of electric service caused by governmentally imposed changes in taxes and/or accounting practices shall be implemented within 60 days of the effective date of the change.

4. Plan Term.

The Plan remains in effect for five calendar years beginning January 1, 2001. Prior to July 1, 2005, the Company will file for extension and/or modification of the Plan if so desired.

5. Surcharge.

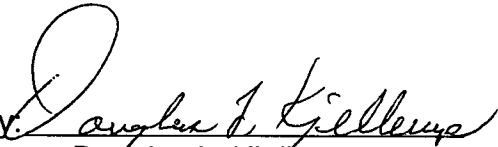
At the December 11 working session, there was some question that the Settlement Agreement did not adequately address the time period over which any indicated surcharge would be collected from customers. To clarify, any surcharge will be collected over a six-month period beginning July 1 of the applicable year, unless otherwise requested.

6. Survival of Agreement. The Agreement, as amended by this Amendment, shall remain in full force and effect.

7. Amendment subject to Approval. This Amendment is subject to the approval of the North Dakota Public Service Commission.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date set forth in the first paragraph.

Otter Tail Power Company

By: 
Douglas L. Kjellerup
Chief Operating Officer, Energy Delivery
Otter Tail Power Company

**North Dakota Public Service
Commission Staff**

By: 
William W. Birtek
Chief Counsel
ND Public Service Commission

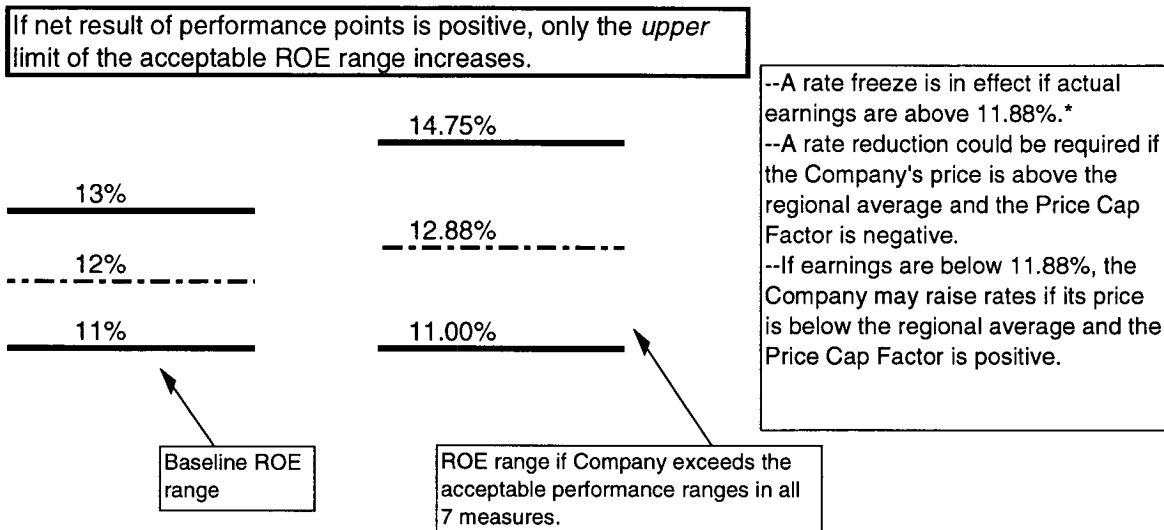
Date: December 13, 2000



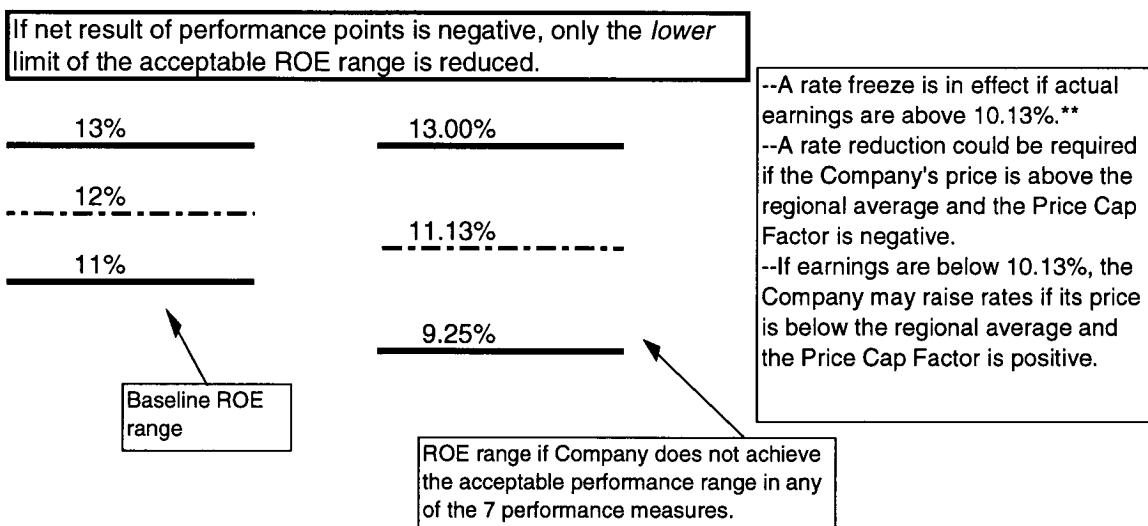
Amended Settlement Proposal

The following are extreme examples for illustration purposes

Assume all 7 performance measures are exceeded, each worth 25 basis points



Assume a penalty on all 7 performance measures, each worth 25 basis points



* The rate freeze threshold is equal to the baseline (12.88% in this example) minus 1.00%, or 11.88%

** The rate freeze threshold is equal to the baseline (11.13% in this example) minus 1.00%, or 10.13%

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

**Northern States Power Company
Performance Based Regulation
Application**

Case No. PU-400-00-195

AFFIDAVIT OF SERVICE

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sandra L. Scott deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **14th day of December, 2000**, she sent by regular mail:

**Amendment and Clarification to November 30, 2000
Settlement Agreement**

To:

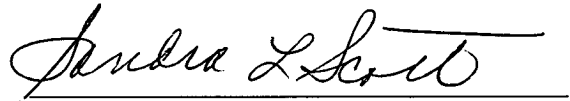
Dave Sederquist
Northern States Power Company
2302 Great Northern Dr
Fargo ND 58102

James P Johnson
Xcel Energy dba
Northern States Power Co.
800 Nicollet Mall Suite 2900
Minneapolis MN 55402

Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

Todd Guerrero
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

Each address shown is the respective addressee's last reasonably ascertainable address.



Subscribed and sworn to before me
this **14th day of December, 2000**.


Notary Public

SEAL



41 **PU-401-00-36**

Pages: 1

Affidavit of Service

by Public Service Commission

12/14/2000 CC: Comm Legal Ilona, Pat, Jerry Mike

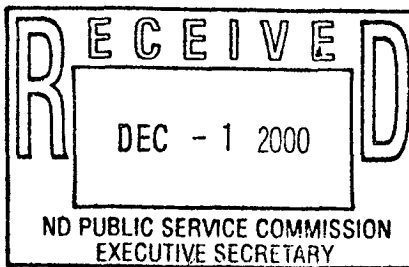
215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)

VIA OVERNIGHT MAIL



November 30, 2000

Mr. Jon H. Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol – 600 E. Boulevard
Bismarck, ND 58505-0480



**Re: In the Matter of Otter Tail Power Company's Application for
Approval of a Performance Based Ratemaking Plan
Case No. PU-401-00-36**

Dear Mr. Mielke:

Enclosed for filing please find the original, along with seven copies, of Otter Tail Power Company's Proposed Findings of Fact, Conclusions of Law, and Order in the above matter. A copy of the Proposed Findings was also provided to Mr. Mike Diller by email. Otter Tail will be present at the Commission's working session scheduled for tomorrow at 10:00 a.m. in which this matter will be discussed. Two copies have also been provided to Judge Allen Hoberg.

Should you have any questions, please feel free to contact the undersigned at 218-739-8289.

Thank you for your consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Bernadeen Brutlag".

Bernadeen Brutlag
Manager, Regulatory Services
BB:dm

Enclosures

c: Honorable Allen Hoberg

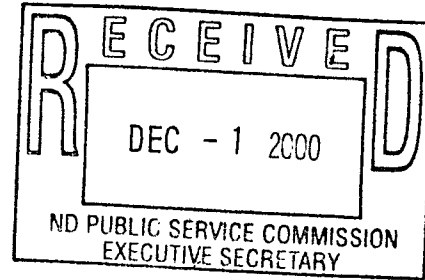
40 PU-401-00-36

Pages: 1

Cover letter re Proposed Findings
by Otter Tail Power Company

12/01/2000 CC: Comm Legal Illona, Pat, Jerry Mike

**STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION**



Case No. PU-401-00-36

In the Matter of Otter Tail Power Company's
Proposal to Implement
Performance-Based Regulation

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

December __, 2000

Appearances

Commissioners: Bruce Hagen, Leo M. Reinbold, Susan E. Wefald.

Todd J. Guerrero, Associate General Counsel, Otter Tail Power Company, 215 South Cascade Street, Fergus Falls, MN 56537, appearing for and on behalf of Otter Tail Power Company.

William W. Binek, Chief Counsel, Public Service Commission, State Capitol, 600 East Boulevard, Bismarck, ND 58505, appearing for the Public Service Commission Staff.

Allen C. Hoberg, Office of Administrative Hearings, 1707 North 9th Street - Lower Level, Bismarck, ND 58501-1882, presiding Administrative Law Judge.

Preliminary Statement

Procedural History

This matter came before the Commission on an application ("Application") filed on January 31, 2000 by Otter Tail Power Company ("Otter Tail" or "the Company") for approval of a "Proposal for a Performance-Based Regulation Plan." The Application asks the Commission to approve the Company's proposed performance based regulation ("PBR") plan, ("Plan" or "PBR Plan"), for purposes of regulating Otter Tail's retail electric operations in North Dakota. The Company proposes the Plan be in effect for a five year term from January 1, 2001 to December 31, 2005. If approved, the Plan would create an alternative form of regulation for the Company's electric operations in North Dakota. The Company asserts the proposed Plan would comply with the

Commission's "Guidelines for Filing Alternative Regulation Proposals" ("Guidelines") issued in Case No. PU-439-94-590 (September 20, 1995).

The Application was filed, *inter alia*, pursuant to the Commission's Order Approving Settlement Agreement in case PU-401-97-503, a Staff investigation of the Company's 1996 electric earnings, in which the Commission required that Otter Tail file a performance based ratemaking plan by December 31, 1999.¹

On July 19, 2000, the Commission issued a "Notice of Hearing and Notice of Public Discussion Meeting" ("Notice") in the instant docket and Case No. PU-401-00-195, a docket involving Northern States Power Company's PBR Plus Plan, a PBR plan from which Otter Tail modeled its Plan. As provided in the Notice, the Commission conducted a joint public hearing by video conference from 11:00 a.m. to 1:00 p.m. on September 6, 2000, with public participation available through ten video conference sites, including six in the Company's electric service area (Belcourt, Bottineau, Devils Lake, Fort Totten, Jamestown, and Wahpeton). No members of the public submitted oral comments opposing approval of the Plan at the public hearing.

The Notice also set a joint evidentiary hearing on the proposed Plan and NSP's Plus Plan for October 23-24, 2000. The Notice set forth the following issues to be considered at the hearing:

- (1) Are the PBR plans as submitted consistent with the Guidelines?
- (2) Would the plans result in quality service and reasonable rates?
- (3) Do the plans support safe and reliable electric infrastructure and the financial viability of the utilities? and
- (4) Is implementation of the plans in the public interest?

The hearing was assigned to the Office of Administrative Hearings. Administrative Law Judge Allen C. Hoberg was assigned to conduct the evidentiary hearing. No motions to intervene were filed.

On September 29, Otter Tail submitted written direct testimony of the following Otter Tail employees: Ms. Bernadeen Brutlag (OTP Exhibit No. 1); Mr. Brian Draxten (OTP Ex. No. 2); Mr. Del Van Voorhis (OTP Ex. No. 3); and Mr. Steve Wevley (OTP. Ex. No. 4). Otter Tail also jointly sponsored, along with NSP, the written direct testimony of Dr. Karl McDermott, Vice President of the National Economic Research Associates (Joint Ex. No. 1). Ms. Brutlag explained the central elements of the Company's PBR Plan and the plan's pricing performance measure. Mr. Draxten described the Company's proposed customer satisfaction performance measure. Mr. Van Voorhis described how Otter Tail's reliability measure was developed and Mr. Wevley described the proposed safety performance measure. Dr. McDermott, a nationally recognized expert on performance based and other alternative forms of

¹ Subsequently extended until January 31, 2000 by order of the Commission.

regulation, offered the policy rationale for the two plans.² Dr. McDermott also provided a historic overview of performance based regulation and an evaluation of the proposed Plan compared to PBR plans approved by regulatory commissions in other states. He concluded that the plans would provide better incentives for cost reduction, service performance, and that the societal costs of regulating utilities would be reduced. Dr. McDermott also demonstrated how the PBR plans as submitted by the companies are consistent with the Commission's Guidelines.

On October 13, 2000, the Staff submitted the written direct testimony of Mr. Mike Diller. Mr. Diller discussed certain policy considerations for the Commission to weigh in approval of any PBR plan and recommended certain modifications to the Plan. Mr. Diller argued the Plan as filed lacked symmetry in the price change provisions, and advocated changes to certain specific performance measures and standards.

On October 20, 2000, Ms. Brutlag and Dr. McDermott submitted written rebuttal testimony (OTP Ex. No. 5 and Joint Ex. No. 2, respectively).

On October 23-24, 2000, the Commission conducted a joint evidentiary hearing considering both Otter Tail's Plan and NSP's PBR Plus plan in Case No. PU-401-00-195. Judge Hoberg presided. The Application and pre-filed testimony of the Company and Staff were admitted into the record, and the witnesses were subject to cross examination by counsel and questions and comments by the Commissioners and advisory staff.

At the conclusion of the evidentiary hearing, the Presiding Judge required the Company and Staff to submit briefs and proposed findings of fact and conclusions of law by December 1, 2000. Alternatively, in lieu of briefs, the Company and Staff could submit a settlement agreement resolving the disputed issues.

Subsequent to the close of the hearing, the Company filed Ex. No. BCB-1 and Ex. No. DVV-1 as a late-filed exhibits to the evidentiary hearing record, as prescribed by the Presiding Judge.

On November 20 and December 1, 2000, the Commission held additional informal working sessions to discuss the Company's and NSP's plan proposals. In the period after the evidentiary hearing, the Company, Staff and NSP engaged in settlement discussions seeking to resolve the disputed issues.

On November 29, 2000, the Company and Staff submitted a Settlement Agreement, which they assert, would resolve all outstanding issues in the proceeding in a manner consistent with the public interest. This Company and Staff assert the Settlement Agreement along with its supporting documentation is supported by the

² Dr. McDermott is a former commissioner on the Illinois Commerce Commission ("ICC"), serving from 1992 to 1998.

administrative record in this case, complies with the 1995 Commission Guidelines, and will result in rates which are just and reasonable and not discriminatory during the proposed Plan term. The Company and Staff requested prompt Commission approval of the Settlement Agreement without modification. The Staff also submitted a memorandum in support of the Settlement Agreement.

On December 1, 2000, the Commission considered this matter at a specially scheduled working session.

Summary of Application and Hearing Record

The Application and the Company's testimony assert the key components of the original Plan include (1) a "dynamic allowed ROE" range which can vary based on Company performance, (2) a revenue sharing mechanism, (3) establishment of service performance standards, and (4) price capping and the flexibility to adjust prices under specified circumstances. In addition, the record shows the following:

- The Plan meets the stated goals and criteria identified by the 1995 Commission Guidelines.
- The Plan is an appropriate regulatory model because it provides benefits to customers and to North Dakota's economy which extend beyond traditional cost-based regulation, while at the same time ensuring that the Company's North Dakota electric rates are just and reasonable and the Company's operations have the opportunity to maintain financial strength.
- The Plan will work better than traditional cost-based regulation in that it will promote a balanced emphasis on utility efficiency and service quality, while maintaining the customer protections provided by traditional regulation.
- The Plan provides North Dakota regulation with an automatic, pre-defined mechanism to pass the benefits of a financially healthy utility on to its stakeholders. Unlike traditional, cost-based regulation, which can be a slow and adversarial, the Plan offers an efficient, win/win approach to utility regulation. The Plan places the regulatory focus more on results and less on process.
- As restructuring of the electric industry occurs, performance based regulation will play a role in facilitating the transition to a more competitive environment. The PBR Plan regulatory model better simulates a competitive market by creating meaningful incentives that promote high quality service and low cost.
- Since the Plan offers the Company the potential to achieve above-average returns on its North Dakota electric business if the Company's performance meets the thresholds set forth in the plan, the Plan will create an additional incentive for Otter Tail to invest its limited capital resources in North Dakota (other things being equal).

The Company asserts the record, particularly the written and oral testimony of Dr. McDermott, supports use of broad and balanced performance standards and symmetrical reward/penalty criteria. The Company asserts the Plan complies with Dr. McDermott's recommendations. However, the Company agrees with Dr. McDermott

that the performance measures and standards in any PBR plan approved by the Commission should be consistent with Commission policy, as expressed in the Guidelines.

The written and oral testimony of Staff witness Mr. Diller generally supported implementation of performance-based regulation for the Company's electric utility operations in North Dakota. However, Staff recommended various changes to the performance measures and standards proposed by the Company.

The rebuttal testimony of the Company opposed the Plan modifications proposed by Staff. At the hearing, however, the Company indicated its willingness to work with the Staff to attempt to resolve issues regarding the specific performance measures and standards in the Plan. In addition, Commissioner comments and questions at the evidentiary hearing and subsequent informal hearings suggested the parties consider alternative performance measures and standards. Specifically, the Commissioners and Advisory Staff cited the recommendations in *Performance-Based Ratemaking: Theory and Practice*, by Dr. Michael Schmidt regarding suggested measures and performance criteria and procedures for design and administration of PBR plans.

Summary of Settlement Agreement

Based on the evidentiary record, and the comments and questions of the Commission and Advisory Staff at the hearings, the Company and Staff agreed to a Settlement Agreement dated November 29, 2000, which would result in implementation of a modified Plan.

Legal Authority to Authorize and Regulate Alternative Regulation Plans

1. Statutory Requirements

N.D. Cent. Code §§ 49-02-03, 49-02-04, 49-05-05 and 49-05-06 govern the Commission's jurisdiction over the proposed PBR Plan. N.D. Cent. Code § 49-02-03 provides, in relevant part:

The Commission shall supervise the rates of all public utilities. It shall have the power, after notice and hearing, to originate, establish, modify, adjust, promulgate, and enforce tariffs, rates, ...and charges of all public utilities.

N.D. Cent. Code 49-02-04 provides, in relevant part:

The Commission shall prescribe, after hearing, rules and regulations for the performance of any service, or the furnishing of any commodity, of a character furnished or supplied by any public utility.

N.D. Cent. Code 49-05-05 provides, in relevant part:

No change shall be made by any public utility in any tariffs, rates,... schedules,...or service which have been filed and published by any public utility, except after thirty days notice to the commission. The notice shall plainly state the changes proposed.... The commission for good cause shown, may allow changes upon less than the notice herein specified, either in particular instances or by a general, order applicable to special or peculiar circumstances or conditions.

Finally, N.D. Cent. Code 49-05-06 provides, in relevant part:

Whenever a notice or any schedule stating an individual or joint rate, classification, contract, practice, rule or regulation, increasing or decreasing, or resulting in an increase or decrease in any rate, shall be filed with the commission, the commission may suspend by motion such rate...All such rates...not so suspended, on the expiration of thirty days from the filing of the same with the commission,...shall go into effect and be the established and effective rates,...subject to the power of the commission, after a hearing had on its own motion or upon complaint, to alter or modify the same.

The Company and Staff assert the PBR Plan, as modified by the Settlement Agreement, satisfies these statutory requirements. The testimony of Dr. McDermott states the Commission can insure just and reasonable rates during the Plan term (i) if the rates and services of the Company are just and reasonable rates when the Plan is implemented, and (ii) by prescribing an ongoing process to insure the Company's electric rates and services remain just and reasonable during the Plan term.

2. Commission Alternative Regulation Guidelines, Case No. PU-439-94-590

On September 20, 1995, the Commission issued "Guidelines for Filing Alternative Regulation Proposals" ("Guidelines") in Case No. PU-439-94-590, after conducting both a workshop and public input sessions to discuss different forms of regulation for electric utilities. The Guidelines indicated the Commission would consider proposals for alternative forms of regulation from traditional "cost-based rate of return" regulation. The Guidelines set forth both goals and criteria for alternative regulation proposals, which include:

- Goals: a plan should (1) promote utility efficiencies; (2) align customer and shareholder interests; (3) maintain/improve customer service; (4) allow utilities to be flexible; (5) minimize regulatory costs; and (6) improve public participation.
- Criteria: a plan should be (1) comprehensive; (2) administratively simple; (3) easily communicated; (4) balanced; and (5) flexible.

Other Considerations: the Guidelines indicate any proposal (1) must show the utility's base rates are just and reasonable at the start of the alternative mechanism; (2) should be for a limited period of time, and include a review date; (3) provide for a periodic review of the utility's profits pursuant to criteria in the plan; (4) enable the Commission to judge the success of the plan at its completion; and (5) must not violate the Territorial Integrity Act.

As described above, the Company and Staff assert the PBR Plan, as modified by the Settlement Agreement, complies with the Guidelines.

The Commission, having reviewed the evidence in the record, including the Settlement Agreement, makes the following:

FINDINGS OF FACT

The Company

1. Otter Tail is a Minnesota corporation providing electric public utility service in North Dakota. Otter Tail has continuously provided electric public utility service in North Dakota pursuant to authorizations provided by North Dakota law or issued by the Commission. Otter Tail provides retail electric service in throughout central and eastern North Dakota. Otter Tail's rates, tariffs and services are subject to Commission jurisdiction under, *inter alia*, North Dakota Century Code Chapters 49-02 and 49-05.

The Plan, as Modified by the Settlement Agreement, is Reasonable

2. As proposed by the Company and supported by Staff, the Company should be allowed to implement its Plan for the period January 1, 2001 to December 31, 2005. The record does not require the Commission to approval all of the specific components of the Company's original filed Plan or the modifications proposed by Staff. Instead, the Commission may apply its Guidelines, and its judgement and expertise based on the record, to approve a plan that serves the public interest. The Plan, including the modifications pursuant to the Settlement Agreement, would serve the public interest by providing implementation of a more balanced and symmetrical PBR plan.

3. The annual performance and financial reporting provisions of the Plan, as modified by the Settlement Agreement, are reasonable. The interim review hearing proposed for June 2003 is reasonable, although the Commission will determine the date and procedures for hearing in its discretion based on the information available to it at the time.

4. The baseline Plan Return on Equity ("ROE") of 12.0%, the acceptable range of +/- 1.0% around the baseline, and the annual dynamic ROE adjustments in terms of "basis points," subject to the Company's performance under each Plan performance

standard, are reasonable. The baseline ROE is comparable to the ROE used to resolve utility earnings investigations over the past few years, and the +/- 1% range is within the zone of reasonableness, as discussed by Dr. McDermott.

5. The proposed Revenue Sharing mechanism, as modified by the Settlement Agreement, is reasonable. If the Company's reported actual earnings fall within the ROE acceptable range around the authorized ROE (as adjusted by the performance points) in a given Plan year, no revenue sharing will take place. This mechanism provides as follows:

If the Company's actual reported earnings for any given Plan year exceed the acceptable range, the corresponding revenue 'sufficiency' will be calculated, and 50% of this dollar amount will be refunded to customers during the July billing cycle of the following year. Customers of record on March 31 following the Plan year will be issued refunds by bill credit prorated on the basis of their electric usage for the twelve months ending March 31.

If earnings are below the acceptable range, 50% of the corresponding revenue "deficiency" may be recovered through a surcharge on the Company's electric rates effective no later than 24 months after the Plan year. However, the Company shall defer a reported fiscal year deficiency amount as a regulatory asset until the following Plan year revenue sharing amount, if any, is reported. If the prior year deficiency is fully offset by a current year reported revenue sufficiency, the sufficiency will be used to eliminate the regulatory asset, and no rate surcharge will be imposed. If the deficiency from the prior year is not fully offset, any remaining deficiency balance may be reflected in rates applicable to bills issued between the 18th and 24th month following the Plan year when the deficiency occurred, subject to the Rate Change procedures described herein.

6. The proposed Reliability performance measures and standards, as modified by the Settlement Agreement, are reasonable. The Customer Average Interruption Duration Index ("CAIDI") and System Average Interruption Frequency Index ("SAIFI") are individual reliability measures widely used in the electric utility industry, the product of which is the SAIDI reliability measure originally proposed by the Company. By using both component standards, the Company will be measured on both the frequency of customer outages and the time it takes to restore power. Each measure will carry a potential reward and/or penalty of a 25 basis point adjustment to the authorized ROE acceptable range.

7. The proposed Customer Satisfaction performance measures, as modified by the Settlement Agreement, are reasonable. The Company will be measured based on the both the relationship survey for all three customer classes (Residential, Commercial, Large Commercial), and transaction surveys yet to be developed, as set forth in the Settlement Agreement. The survey scores will reflect the percentage of respondents who rate Otter Tail a "4" or "5" on a scale of "1" to "5", "5" being the most satisfied. Each

of the two survey standards will carry a potential reward and/or penalty of a 25 basis point adjustment to the authorized ROE acceptable range.

8. The proposed Pricing measures and standards, as modified by the Settlement Agreement, are reasonable. The Company will be measured by (1) its average residential price per kWh compared to a group of regulated utilities in the seven-state upper Midwest region; and (2) the annual change in average residential price relative to the change for the lowest priced utility in the comparison group. The price targets will be calculated annually based on utility price data compiled in the Edison Electric Institute Typical Bills and Average Rate Report for the 12-month period ending December 31st. Each of the two price measures will carry a potential reward and/or penalty of a 25 basis point adjustment to the authorized ROE acceptable range. It is appropriate the comparative price standard be calculated using the Company's total Residential revenue per kWh, including the Fuel Clause Adjustments (FCA), in effect during the Plan reporting year.

9. The proposed Employee Safety measure and standards are reasonable. The Commission agrees with the Company and Dr. McDermott that inclusion of an employee safety measure is appropriate. To be consistent with the other individual Plan standards, it is reasonable that the Employee Safety measure carry a potential reward and/or penalty of a 25 basis point adjustment to the authorized ROE acceptable range.

10. The proposed Plan Price Cap Factor, as modified by the Settlement Agreement, is reasonable. Pursuant to the Settlement Agreement, the Price Cap Factor will be determined by the lower of (1) the annual percentage change in the utility comparison group's average residential price per kWh, and (2) 60% of the change in the Consumer Price Index (CPI) for the previous year. It is appropriate that the Price Cap Factor determine the highest annual percentage rate increase allowed under the Plan, or the amount of a required rate decrease.

11. The proposed Plan Rate Change Criteria, as modified by the Settlement Agreement, are reasonable. It is appropriate that the Plan impose an electric rate freeze on the Company whenever (1) its previous fiscal year ROE exceeds the baseline ROE (as adjusted pursuant to the performance points), or (2) the Company's average residential rates are higher than the utility comparison group average residential rate. If neither condition exists, however, it is appropriate that the Company be allowed to change its electric rates by an overall percentage not to exceed the Price Cap Factor, subject to the Rate Change Procedure in the Plan.

12. The proposed Required Rate Decrease Criteria established by the Settlement Agreement are reasonable. It is appropriate that the Company reduce its retail electric rates pursuant to the Plan if (1) the Company's reported ROE for the Plan reporting year exceeded the baseline ROE (as adjusted pursuant to the performance points), (2) the Company's average residential rates are higher than the Plan utility comparison group average residential rate, and (3) the Price Cap Factor is negative.

13. The proposed Rate Change Procedure described in the Settlement Agreement is reasonable and consistent with the North Dakota Century Code. To implement any permissive rate change or mandatory rate reduction, it is appropriate that the Company file a notice of rate change and the accompanying tariffs pursuant to N.D.C.C. § 49-05-05 after submission of the Plan year performance report on May 1 but at least 30 days before the effective date of the proposed rates, i.e., July 1.

The Settlement Agreement contemplates such notice of rate change will not be suspended by the Commission under N.D.C.C. § 49-05-06, but the revised rates would be allowed to go into effect on the date proposed. Rates established consistent with the Plan are presumed just and reasonable, and non-discriminatory. However, the Plan appropriately retains the Commission's statutory authority to prospectively change the Company's rates after hearing, and also allows the Commission to order the Company to make a one-time billing "true up", if the Commission determines, after hearing, that the notice of rate change filed by the Company was not reflective of the Plan results or requirements.

14. The Plan procedures for suspension or termination of the Plan during the five year term are reasonable because they provide protections for both North Dakota electric ratepayers and the Company. As provided by the Settlement Agreement, the Company may request, or the Commission may on its own motion initiate a proceeding, to suspend or terminate the Plan prior to December 31, 2005 in the event of:

- Federal and/or state tax law changes;
- Passage of retail access legislation at either the federal or state level;
- Merger and acquisition events affecting the Company's structure and operations;
- Natural disasters affecting the Company's North Dakota electric operations (major storms, floods, etc.);
- Unusual events affecting the Company's operations (major generating plant failure, damage to major transmission or distribution lines, etc.); or
- Material and sustained earnings extremes (defined as returns on equity +/- 5.0% from the acceptable ROE range, prior to sharing).

However, the Commission agrees it would be appropriate for the Commission, Staff and Company to make reasonable efforts to resolve any condition that could otherwise trigger a Company application or Commission motion to suspend or terminate the Plan before issuance of any Commission order to suspend or terminate the Plan during the Plan term.

From the foregoing Findings of Fact, the Commission makes its:

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter, and jurisdiction over the retail electric rates and services of the Company in the State of North Dakota, pursuant to N.D. Cent. Code Chapters 49-02 and 49-05.
2. For purposes of initial Plan implementation, the Company's electric rates effective January 1, 2001 are deemed just and reasonable and non-discriminatory.
3. The Plan, as modified by the Settlement Agreement, meets the legal standards for ongoing regulation of the Company's electric rates and services during the Plan term under North Dakota Century Code Chapters 49-02 and 49-05, and complies with the "Guidelines for Filing Alternative Regulation Proposals" ("Guidelines") issued in Case No. PU-439-94-590 (September 20, 1995). Rates established consistent with the Plan procedures during the Plan term are appropriately presumed just and reasonable and non-discriminatory.
4. This order approving the Company's alternative regulation Plan shall constitute an "order applicable to special or peculiar circumstances or conditions" under North Dakota Century Code § 49-05-05.

ORDER

The Commission orders:

1. The Company's PBR Plan, as modified, and Settlement Agreement are approved in their entirety, without conditions or modifications. Otter Tail Power Company is authorized to implement the Plan, as modified, for its electric utility operations in the State of North Dakota for the term January 1, 2001 to December 31, 2005.
2. The Company shall submit all annual performance and financial reports required by the Plan (as modified) by May 1st of each Plan year.
3. Not more than annually, the Company may file a notice of rate change pursuant to North Dakota Century Code § 49-05-05 to change its rates, subject to all the requirements of the Plan, to be effective July 1 of such Plan year. Any such notice shall be filed at least 30 days prior to the effective date of the proposed change, and shall not be suspended by the Commission. However, if the Commission determines after investigation and hearing that the changed rates do not comply with the Plan terms as prescribed herein, the Commission may prospectively establish the rates it finds to be consistent with the Plan terms, and order a one-time billing true-up for the impact of the discrepancy since either the inception of the rate change or the previous 12 month period, whichever is less.
4. The Plan shall be subject to suspension or termination for good cause, as provided in the Settlement Agreement and described herein.

5. The Commission Staff is directed to prepare an interim report regarding the results of the Plan during 2001 and 2002. The interim report shall be submitted no later than June 1, 2003. The Commission will, if it deems necessary, conduct an informal or other hearing regarding the Plan results no later than June 30, 2003, or such other date as the Commission deems appropriate.

PUBLIC SERVICE COMMISSION

Susan E. Wefald
Commissioner

Bruce Hagen
President

Leo M. Reinbold
Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

Northern States Power Company
Performance Based Regulation
Application

Case No. PU-400-00-195

AFFIDAVIT OF SERVICE

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sandra L. Scott deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **30th day of November, 2000**, she sent by regular mail:

1. **Settlement Agreement – Case No. PU-400-00-195**
2. **Settlement Agreement – Case No. PU-401-00-36**

To:

Dave Sederquist
Northern States Power Company
2302 Great Northern Dr
Fargo ND 58102

James P Johnson
Xcel Energy dba
Northern States Power Co.
800 Nicollet Mall Suite 2900
Minneapolis MN 55402

Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

Todd Guerrero
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

Allen Hoberg
Office of Administrative Hearings
1701 North 9th Street
Bismarck ND 58501-1882

Each address shown is the respective addressee's last reasonably ascertainable address.

Subscribed and sworn to before me
this **30th day of November, 2000**.

SEAL



A handwritten signature of Sandra L. Scott in black ink, written over a horizontal line.

A handwritten signature of Susan K. Richter in black ink, written over a horizontal line.
Notary Public

38

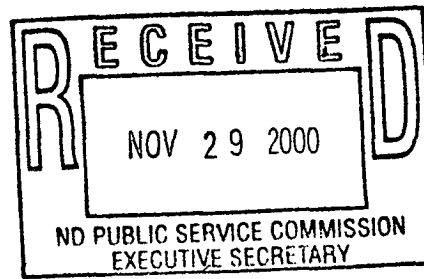
PU-401-00-36

Pages: 1

Affidavit of Service (serving Settlement
Agreement)
by Public Service Commission

11/30/2000 CC: Comm Legal Illona, Pat, Jerry Mike

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)



November 28, 2000



Mike Diller
Director of Accounting
North Dakota Public Service Commission
State Capitol
600 East Boulevard
Bismarck, ND 58505

RE: Case No. PU-401-00-36, Performance Based Regulation Plan

Dear Mike:

As we discussed by phone, I am enclosing two signed copies of the Settlement Agreement in this matter. This Agreement specifically takes the place of briefs on the matter which were due December 1, 2000.

We will draft a proposed approval Order for the Commission's consideration and e-mail it to you by Friday, December 1.

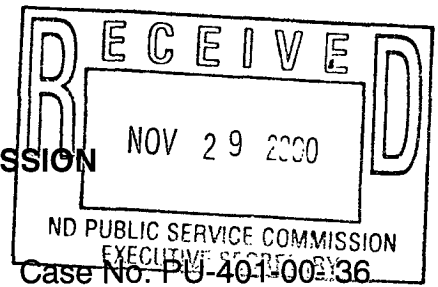
If you have any questions, don't hesitate to call me.

Sincerely,

Bernadeen Brutlag
Manager, Regulatory Services

Encs.

**STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION**



In the Matter of Otter Tail Power Company's
Proposal to Implement
Performance-Based Regulation

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 22th day of November, 2000, by and between Otter Tail Power Company, a Minnesota corporation ("Otter Tail" or "the Company") and the North Dakota Public Service Commission litigation staff ("Staff"). This Settlement Agreement resolves all outstanding issues in the above-captioned proceeding before the North Dakota Public Service Commission ("Commission") in a manner consistent with the public interest.

PRELIMINARY STATEMENT

1. Commission Alternative Regulation Guidelines, Case No. PU-439-94-590.

After conducting workshops and public input sessions to discuss alternative forms of regulation for electric utilities operating in the state, the Commission issued its "Guidelines for Filing Alternative Regulation Proposals" ("Guidelines") in Case No. PU-439-94-590 on September 20, 1995. The Guidelines indicated the Commission would consider proposals for alternative forms of regulation from traditional "cost-based rate of return" regulation. The Guidelines set forth both goals and criteria for alternative regulation proposals, which included among other things that proposals promote efficiencies, align customer and shareholder interests, minimize regulatory costs, be

comprehensive yet administratively simple, and that they be flexible.

2. Summary of the Record.

On January 31, 2000, Otter Tail filed an "Application for Approval of a Performance-Based Ratemaking Plan" ("Application") in which it asked that its retail electric operations in North Dakota be subject to performance based regulation. The key components of the performance based regulation plan ("PBR Plan" or "Plan") include (1) a return on the Company's equity capital ("ROE") which can vary depending on the Company's performance, (2) a revenue sharing mechanism, (3) the establishment of service performance standards, and (4) price capping and the flexibility to adjust prices (rates) under specified circumstances. If approved, the PBR Plan would create an alternative form of regulation for the Company's electric operations in North Dakota consistent with the Guidelines.

As stated by the Company in its Application, two primary goals of performance-based ratemaking are to allow regulated utilities greater flexibility in their operations and to minimize regulatory oversight. A well-designed PBR plan relies on competitive market-like forces, to the greatest extent possible, by creating incentives for a utility to operate more efficiently, invest in its business, and provide superior service to its customers. Performance based regulation plans accompanied by clear and well-designed measures are likely to provide significant benefits over more traditional forms of cost-of-service regulation. It is also important that measures developed to evaluate utility performance be thorough but not be unduly burdensome to calculate and administer.

On July 19, 2000, the Commission issued its "Notice of Hearing and Notice of Public Discussion Meeting" ("Notice") in the instant docket and in Case No. PU-400-00-195, a companion docket Northern States Power Company's ("NSP") PBR Plus Plan, a performance based regulation plan very similar to Otter Tail's plan. In its Notice, the Commission invited the public to discuss and participate in the development of both the Otter Tail and NSP plans.

On August 29, 2000 Administrative Law Judge Allen C. Hoberg issued a Pre-hearing Order which established procedural dates, hearing procedures, and other preliminary matters.

On September 6, 2000 the Commission conducted a Public Discussion Meeting in which it allowed the public to participate in the PBR plans through the use of ten video conference sites located throughout Otter Tail's and NSP's service territories. At the Public Discussion Meetings, the Commission received no public comment opposing either the Otter Tail or NSP plans.

On September 29, Otter Tail submitted written direct testimony of the following Otter Tail employees: Ms. Bernadeen Brutlag (OTP Exhibit No. 1); Mr. Brian Draxten (OTP Ex. No. 2); Mr. Del Van Voorhis (OTP Ex. No. 3); and Mr. Steve Wevley (OTP Ex. No. 4). Otter Tail also jointly sponsored, along with NSP, the written direct testimony of Dr. Karl McDermott, Vice President of the National Economic Research Associates (Joint Ex. No. 1). Ms. Brutlag explained the central elements of the Company's PBR Plan and the plan's pricing performance measure. Mr. Draxten described the Company's proposed customer satisfaction performance measure. Mr. Van Voorhis described how Otter Tail's reliability measure was developed and Mr.

Wevley described the proposed safety performance measure. Dr. McDermott, a nationally recognized expert on performance based and other alternative forms of regulation, offered the policy rationale for the two plans. He concluded that the plans would provide better incentives for cost reduction, service performance, and that the societal costs of regulating utilities would be reduced. Dr. McDermott also demonstrated how the PBR plans as submitted by the companies are consistent with the Commission's Guidelines.

On October 13, 2000, Staff submitted written direct testimony in which it generally supported the PBR Plan but recommended certain modifications. On October 20, 2000, Ms. Brutlag and Dr. McDermott submitted written rebuttal testimony (OTP Ex. No. 5 and Joint Ex. No. 2, respectively).

On October 23 and 24, 2000, the Commission conducted a joint evidentiary hearing in which it considered both Otter Tail's PBR Plan and NSP's PLUS Plan. Judge Hoberg presided and all three Commissioners were present. Staff and Otter Tail were each represented by counsel. At the hearing, the Commission considered the following issues: (1) Are the PBR plans as submitted consistent with the Guidelines? (2) Would the plans result in quality service and reasonable rates? (3) Do the plans support safe and reliable electric infrastructure and the financial viability of the utilities? And (4) Is implementation of the plans in the public interest?

The Application and pre-filed testimony of both companies and Staff was admitted into the record, and the witnesses were subject to cross examination and questions by the Commissioners.

At the conclusion of the evidentiary hearing but before the close of the record, the Commission urged the parties to initiate informal settlement discussions to resolve all issues of the plans where Staff and the companies differed. The companies and Staff agreed to provide the Commission with a final settlement agreement no later than December 1 if possible, for purposes of having the Commission approve any settlement agreement and/or the plans no later than December 31, 2000.

Staff, Otter Tail, and NSP held informal settlement discussions on November 2, 2000 in Jamestown, North Dakota and have had numerous telephone and electronic discussions since that date, each in an effort to reach a comprehensive settlement regarding performance based regulation in North Dakota. On November 20, 2000 the Commission conducted a working session with parties present in which the companies' plans and Staff's recommendations were discussed.

3. The Record, as Modified by this Settlement Agreement, Supports Adoption of the PBR Plan.

Both the Company and Staff submitted pre-filed and oral testimony that supports implementation of performance-based regulation for the Company's electric utility operations in North Dakota. Both the Company and Staff agree that having Otter Tail's utility operations regulated under a performance based regulation plan is in the Company's and North Dakota ratepayers' interest. Otter Tail and Staff agree that performance based regulation does the following: provides the Company with an incentive to become more efficient; makes price changes generally more understandable than under traditional, cost-of-service regulation; decreases the cost of

regulation; promotes innovation; and allows for just and reasonable rates for electric service. The Company and Staff held slightly different views, however, on the best performance standards to include in the PBR Plan and the criteria for rewarding and/or penalizing the Company based on its performance. For instance, Dr. Karl McDermott's testimony supports use of broad and balanced performance standards and symmetrical reward/penalty criteria, and such performance standards are consistent with the Guidelines. Staff testified that it believed that the PBR Plan and NSP's Plus Plan, as originally proposed, lacked symmetry – i.e., a price increase was more likely to occur than a price decrease. In any event, however, the record, as such, does not require the Commission to approve all of the specific components of the PBR Plan or Staff's recommendations. Instead, the Commission is free to approve a plan that it believes is in the overall best interest of the public. In fact, Commissioner comments and questions at the evidentiary hearing supported consideration of possible alternative performance standards and Dr. McDermott's overall recommendation was that any final performance standards and reward/penalty criteria, as well as any overall performance based regulation plan, should reflect the policy objectives of the Commission.

Based on the record in this matter, all of the proceedings to date, the Company and Staff believe this Settlement Agreement is supported by the record and that Otter Tail's PBR Plan, as modified and supplemented by this Settlement Agreement, is consistent with the public interest, is consistent with the Commission's Guidelines on for Filing Alternative Regulation Proposals, will result in quality service and reasonable rates to North Dakota ratepayers, supports the safe and reliable electric infrastructure

and the financial viability of the Company, and that, as a result, implementation of the PBR Plan is in the public interest.

Accordingly, Otter Tail and Staff jointly request that the Commission promptly issue an order approving this Settlement Agreement and PBR Plan as modified in its entirety, without conditions or further modifications.

TERMS OF SETTLEMENT

1. Revised PBR Plan Terms.

A. Implementation.

In its Application, Otter Tail proposed to commence its PBR Plan on January 1, 2000. In order to coincide with implementation of NSP's PLUS Plan, the parties agree that the PBR Plan will commence as of January 1, 2001. For purposes of initial PBR Plan implementation, the Company's electric rates in effect on January 1, 2001 are deemed to be just and reasonable.

The PBR Plan will remain in effect until December 31, 2005, unless renewed or further extended by order of the Commission, or suspended or terminated by the Company or the Commission, as provided herein.

B. Reporting/Review.

On or before May 1 of each year, Otter Tail will submit a comprehensive earnings and performance report for the previous calendar fiscal year period, as more fully set forth in its Application.

After May 1, 2003, but no later than June 30, 2003, the Commission will conduct an informal hearing for the purpose of assessing the overall success of the PBR Plan's first two years of operation.

2. Acceptable ROE Range/Revenue Sharing.

A. ROE.

The initial baseline return on equity ("ROE") for purposes of the PBR Plan will be 12.0%. An acceptable range of +/- 1.0% around the baseline is appropriate.

During the Plan term, the acceptable ROE range shall be subject to the annual dynamic ROE adjustments in terms of “basis points” depending on the Company’s performance under each Plan performance standard, as provided herein. If the net performance basis points are positive (award), the upper end of the acceptable ROE range increases. If the net performance points are negative (penalty), the lower end of the ROE range is decreased. An example of this provision is shown in Attachment 1.

B. Revenue Sharing.

If the Company’s reported actual utility earnings fall within the acceptable range around the authorized ROE (as adjusted by the performance points) in a given Plan year, no revenue sharing will take place.

If the Company’s actual reported earnings for any given Plan year exceed the acceptable range, the corresponding revenue “sufficiency” will be calculated, and 50% of this dollar amount will be refunded to customers during the July billing cycle of the following year. Customers of record on March 31 following the Plan-year will be issued refunds by bill credit prorated on the basis of their electric usage for the twelve months ending March 31.

If earnings are below the acceptable ROE range, 50% of the corresponding revenue deficiency may be recovered through a surcharge on the Company’s electric rates effective no later than 24 months after the Plan year, as directed by the Financial Accounting Standards Board (“FASB”). However, Otter Tail will defer a reported fiscal year deficiency amount as a regulatory asset until the following Plan year revenue sharing amount, if any, is reported. If the prior year deficiency is fully offset by a current year reported revenue sufficiency, the sufficiency will be used to eliminate the regulatory

asset, and no rate surcharge will be imposed. If the deficiency from the prior year is not fully offset, any remaining deficiency balance will be billed through a rate surcharge applicable to bills issued between the 18th and 24th month following the Plan-year when the deficiency occurred.

The timing and method for recovering any revenue deficiency is a simplification of Otter Tail's original proposal. The method outlined herein is identical to NSP's Plus Plan.

3. Revised Performance Standards.

A. Reliability.

The PBR Plan as set forth in the Application proposed a service reliability standard measurement using the storm adjusted minutes of outage or "System Average Interruption Duration Index" ("SAIDI"). Pursuant to this Settlement Agreement, two standards will be used in the PBR Plan for purposes of measuring reliability: (1) customer average interruption duration index ("CAIDI"), and (2) system average interruption frequency index ("SAIFI").

CAIDI and SAIFI are individual measures, the product of which is SAIDI. By using both component standards, the Company will be measured on both the frequency of customer outages and the time it takes to restore power. Annual results for each measure will be storm adjusted using the methods established by the Company – e.g., Otter Tail proposes to exclude any outage longer than 24 continuous hours. Standards are based on achieving a SAIDI result of 83 minutes, which was developed using Otter

Tail's historical system-wide outage results, and was part of the original Application. A more detailed description of these performance measures is contained in Attachment 2.

Each measure will carry a potential reward and/or penalty of a 25 basis point adjustment to the authorized ROE.

The following table defines the revised performance standards for reliability:

Measure	Award Threshold	Standard	Penalty Threshold
CAIDI	< 3.4 minutes	4.0 minutes	> 4.6 minutes
SAIFI	< 17.7 outages/yr.	20.8 outages/yr.	> 23.9 outages/yr.

The above reliability performance standards are developed on the basis of only one year of information. As a result, as additional information becomes available, Otter Tail agrees to update the standard so that it reflects an overall average and thereby provide a more accurate reflection of reliability over time.

B. Customer Satisfaction.

The Application, as supplemented by Mr. Draxten's testimony, proposed a single customer satisfaction measure. It was based on North Dakota customers' responses to a single question contained in the Company's relationship survey of all customer classes (Residential, Commercial and Large Commercial) and designed to gauge overall satisfaction with the Company. The Application proposed the standard for customer satisfaction be based on 95% of respondents rating Otter Tail "3" or higher on a scale of one ("1") to five ("5"), with five representing the highest degree of satisfaction. Staff recommended a customer satisfaction measure that used only the top two ratings ("4" and "5"). Staff also recommended the addition of a "transactional survey" – i.e., a

survey that measures customer satisfaction in relation to a particular event, e.g., how the utility responded to a customer's complaint, answered its question, etc.

Pursuant to this Settlement Agreement, the PBR Plan will use two survey standards for purposes of measuring customer satisfaction: (1) an average satisfaction score from the relationship surveys for all three customer classes (Residential, Commercial, Large Commercial), and (2) an average satisfaction score from two transactional surveys. The survey scores will reflect the percentage of respondents who rate Otter Tail a "4" or "5" on a scale of "1" to "5," with, once again, "5" representing the highest level of satisfaction. A more detailed description of these performance measures is contained in Attachment 3.

The parties acknowledge that Otter Tail does not presently have a method in place to identify all contacts with customers for transactional survey purposes. Otter Tail agrees to develop such method during the first quarter of 2001, to perform a survey based on contacts for three months, and to provide a report to the Commission by July 1, 2001 that suggests how a transactional survey standard should be developed.

As the performance measure for the relationship survey is based on only one survey and the measure for the transactional survey is yet to be determined, the parties agree that Otter Tail will update these performance standards as survey information for additional years becomes available.

Each of the two survey standards will carry a potential reward and/or penalty of a 25 basis point adjustment to the baseline ROE.

The following table defines the Plan's initial performance standards for customer satisfaction:

Measure	Award Threshold	Standard	Penalty Threshold
Relationship positive response %	> 93.0%	90.0%	< 87.0%
Transaction positive response %	To be determined	To be determined	To be determined

C. Price Standard.

The Application proposed a price standard that compared the Company's average residential electric revenue per kWh for the Plan-year to the average residential revenue/kWh of a comparison group of investor-owned utilities located throughout seven upper Midwest states. Staff proposed a price comparison that measured the change in the Company's residential electric revenue/kWh in the Plan-year to the change of the ten lowest-priced utilities in the comparison group.

Pursuant to this Settlement Agreement, two price standards will be used in the PBR Plan for purposes of measuring the competitiveness of the Company's prices: (1) the Company's average residential price per kWh compared to the Midwestern utility comparison group, and (2) the annual change in the average residential price relative to the change for the lowest priced utility in the comparison group. The price standards are calculated annually based on utility price data compiled in Edison Electric Institute publication entitled Typical Bills and Average Rate Report issued twice per year. For purposes of this PBR Plan, the "winter" edition (reflecting the 12-month period ending December 31) will be used. A more detailed description of these performance measures is contained in Attachment 4. Should this publication be discontinued, the parties will use another mutually agreed on price data compilation(s).

Each of the two price measures will carry a potential reward and/or penalty of a 25 basis point adjustment to the baseline ROE.

The following table defines the revised Plan performance standards for price:

Measure	Award Threshold	Standard	Penalty Threshold
Competitive residential price position	< 85% of standard	peer group avg. residential price/kWh	> 115% of standard
Annual change in residential average price	< (standard-.05¢/kwh)	annual change in lowest priced utility	> (standard+.05¢/kwh)

D. Employee Safety Standard.

The Application proposed an employee safety standard based on the Company's Occupational Safety and Health Agency ("OSHA") incident rate in the Plan-year compared against Otter Tail's own five-year average historic performance. The OSHA incident rate represents the number of safety-related incidents per 100 employees. The Application proposed a reward and/or penalty of a 50 basis point adjustment to the baseline ROE.

Pursuant to this Settlement Agreement, the PBR Plan will include an employee safety measurement based on the OSHA incident rate. The standard is based on historical results for Group 5 utilities (less than 1,000 employees) in the Edison Electric Institute safety survey. A more detailed description of this performance measure is contained in Attachment 5.

To be consistent with the other individual Plan standards, the measure will carry a potential reward and/or penalty of a 25 basis point adjustment to the baseline ROE.

The following table defines the performance standards for safety:

Measure	Award Threshold	Standard	Penalty Threshold
OSHA incident rate	< 5.9	6.9	> 7.9

4. Price Caps.

A. Price Cap Factor.

Pursuant to this Settlement Agreement, the Plan will calculate a Price Cap Factor by determining the lower of (1) the annual percentage change in the utility comparison group's average residential price per kWh, and (2) 60% of the change in the Consumer Price Index (CPI) for the previous year (the CPI for the Plan-year is computed by averaging the CPI at the end of each quarter). The Price Cap Factor will determine the highest annual percentage rate increase allowed under the Plan, or the amount of a required rate decrease.

B. Rate Change Criteria.

Pursuant to this Settlement Agreement, the PBR Plan imposes an electric rate freeze on the Company whenever (1) its previous fiscal year ROE exceeds the baseline ROE (as adjusted pursuant to the dynamic ROE), or (2) the Company's average residential rates are higher than the utility comparison group average residential rate. If neither condition exists, the Company may change rates by an overall percentage not to exceed the Price Cap Factor.

C. Required Rate Decrease Criteria.

The Company shall reduce its retail electric rates pursuant to the PBR Plan if (1) the Company's reported ROE for the Plan reporting year exceeded the baseline ROE

(as adjusted pursuant to the dynamic ROE), (2) the Company's average residential rates are higher than the utility comparison group average residential rate, and (3) the Price Cap Factor is negative.

D. Rate Change Procedure.

To implement any permitted rate change pursuant to Section B or mandatory rate reduction pursuant to Section C, the Company shall file a notice of rate change and the accompanying tariffs pursuant to N.D.C.C. 49-05-05 not later than June 1 following completion of the Plan-year and submission of the Plan performance report on May 1. The revised rates shall be effective on or after July 1 following the Plan-year.

The Commission under N.D.C.C. 49-05-06 will not suspend such rate change, but the revised rates shall be allowed to go into effect on the date proposed. If the Commission determines after investigation and hearing that the changed rates do not comply with the Plan terms as prescribed herein, the Commission may prospectively establish the rates it finds to be consistent with the Plan, and order a one-time billing true-up for the impact of the discrepancy since either the inception of the rate change or the previous 12-month period, whichever is less. Rates established consistent with the Plan are presumed just and reasonable, and non-discriminatory.

5. Other Terms and Conditions.

A. Fuel Clause Adjustment.

This Settlement Agreement or the PBR Plan does not change the Company's existing fuel clause adjustment (FCA) mechanism in its North Dakota Electric Rate Book tariff schedules. The comparative price standard provided above shall be calculated

using total Residential revenue per kWh including the FCA adjustments in effect during the Plan reporting year.

B. Suspension or Termination of the Plan.

The PBR Plan will remain in effect for five years beginning January 1, 2001. The Company and Staff reserves the right to request adjustment, suspension, or termination of the Plan under the following events:

- Changes in federal and/or state tax law;
- Passage of retail access legislation at either the federal or state level;
- Merger and/or acquisition events affecting the Company's structure and operations;
- Natural disasters affecting the Company's North Dakota electric operations (e.g., major storms, floods, etc.);
- Unusual events affecting the Company's operations (e.g., major generating plant failure, damage to major transmission or distribution lines, etc.);
- Material and sustained earnings extremes (defined as returns on equity +/- 5.0% from the acceptable ROE range, prior to sharing);

It is anticipated the Commission and Company will make reasonable efforts to resolve any condition that could otherwise cause the Company or Staff or the Commission on its own motion to request adjustment, suspension, or termination of the Plan before any adjustment, suspension, or termination occurs.

C. Applicability and Scope.

Each of the provisions of this Settlement Agreement is in consideration for each and every other provision. If this Settlement Agreement is not accepted and approved

by the Commission in its entirety and without modification, at the option of Otter Tail this Settlement Agreement shall be null and void.

This Settlement Agreement shall be binding on the parties hereto, and upon their successors, assigns, agents and representatives.

D. Effective Date.

This Settlement Agreement shall be effective on the date of the final Commission order approving the Settlement Agreement. However, this Settlement Agreement shall be deemed terminated if Otter Tail files a letter with the Commission prior to December 22, 2000 stating Otter Tail no longer seeks to proceed with implementation of the PBR Plan.

E. Effect of Settlement Negotiations.

It is understood and agreed that all offers of settlement and discussions related thereto are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Settlement Agreement, the Settlement Agreement shall not constitute part of the record in this proceeding and no part thereof may be used for any purpose in this proceeding or otherwise. This Settlement Agreement shall not in any respect constitute a determination by the parties hereto as to the merits of any specific allegations or contentions made by the parties in Case No. PU-401-00-36.

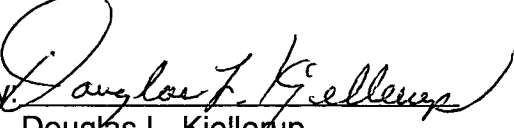
F. Counterparts.

This Settlement Agreement may be executed in separate, identical counterparts.

G. Agreement Drafted Jointly.

This Settlement Agreement shall be deemed to have been drafted jointly by Staff and Otter Tail for purposes of construing or interpreting the meaning of any provision of this Settlement Agreement.

Otter Tail Power Company

By: 
Douglas L. Kjellerup
Chief Operating Officer, Energy Delivery
Otter Tail Power Company

**North Dakota Public Service
Commission Staff**

By: 
William W. Binek
Chief Counsel
ND Public Service Commission

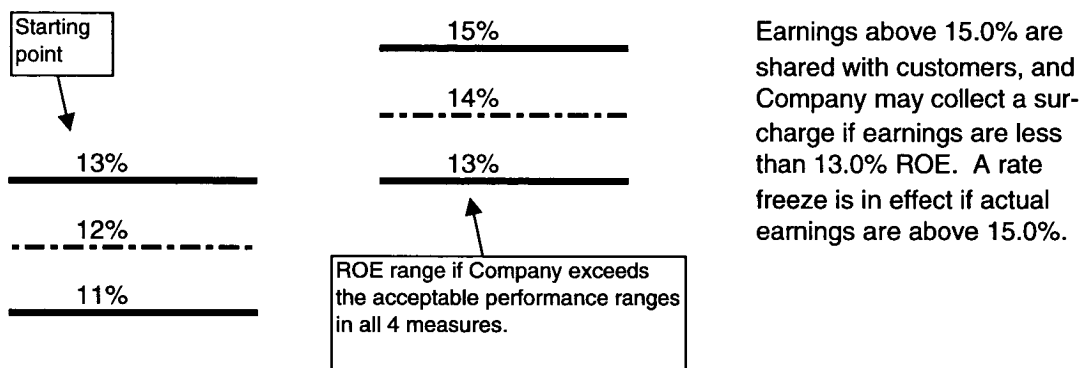
Date: November 28, 2000

Date: November 20, 2000

Example from Original PBR Proposal

4 performance measures, each worth 50 basis points.

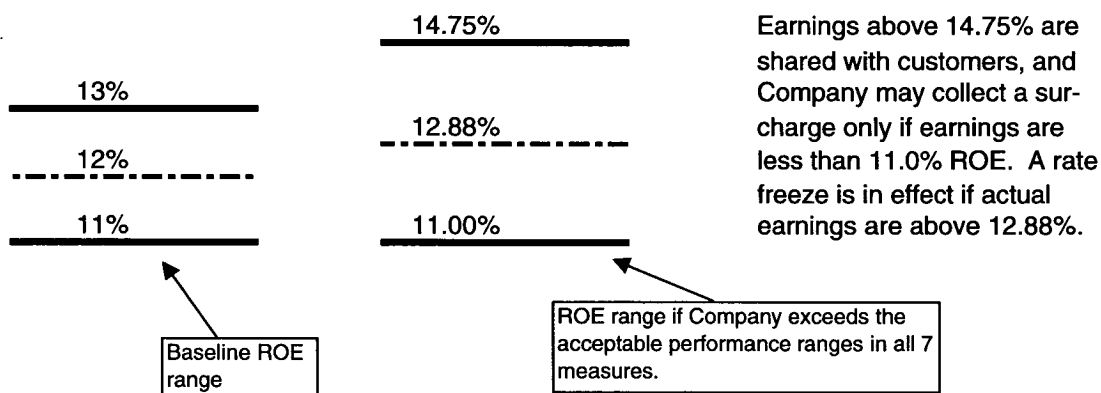
Based on the net result of performance points, the entire acceptable ROE range moves up or down.



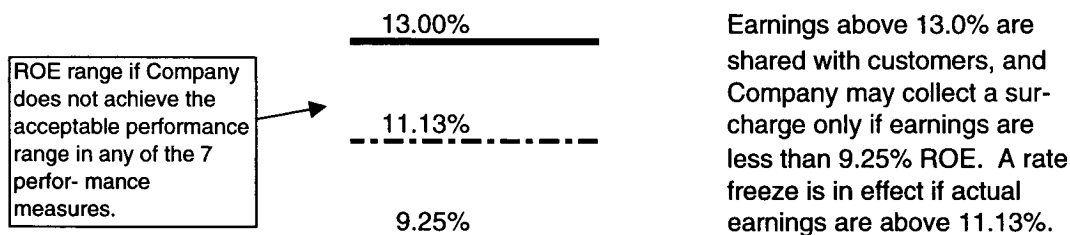
Example using Settlement Proposal

7 performance measures, each worth 25 basis points

If net result of performance points is positive, only the *upper* limit of the acceptable ROE range increases.



If net result of performance points is negative, only the *lower* limit of the acceptable ROE range decreases.



**Otter Tail Power Company
Performance-Based Regulation Plan
Reliability Standards (** REVISED **)**

Macro Measures:

Outage Restoration Time (CAIDI)

This is the amount of time that a typical customer experiencing a sustained outage was out of power.

Restoration time = number of customer-minutes interrupted / number of customers interrupted

"CAIDI" stands for "Customer Average Interruption Duration Index"

Outage Frequency (SAIFI)

This is the average number of sustained outages that a typical customer experienced during the year.

Outage frequency = number of customer interruptions / number of customers served

"SAIFI" stands for "System Average Interruption Frequency Index"

The Performance Standard

Standards for reliability performance measures will be developed using Otter Tail's system-wide average annual results for 1999 (the only year available), with additional years added to the average as data becomes available.

While CAIDI and SAIFI are industry standard reliability measures, there are variations among utilities as to what constitutes an outage, how long an outage must last to be counted, and the process of normalizing outage data for weather. In addition, outage information is not readily accessible nor openly shared across the industry.

Ranges of acceptable performance will be constructed by determining boundaries which are + / - 15% of the standard. Outages included are those lasting more than one minute.

Otter Tail Power Company Results

Storm-Normalized¹			
	SAIFI	CAIDI	SAIDI
	(Outages)	(Minutes)	(Minutes)
1999	20.7898	3.9413	81.9000
Rounded for standard:			
	20.8	4.0	83.2

	SAIFI	CAIDI	SAIDI
Penalty >	23.9	4.6	96
Target	20.8	4.0	83
Award <	17.7	3.4	71

¹ Any outage longer than 24 continuous hours is excluded.

Note: CAIDI X SAIFI = SAIDI

**Otter Tail Power Company
Performance-Based Regulation Plan
Customer Satisfaction Standards (** REVISED **)**

Macro Measures: Response % using scale of 1 to 5 where 5 = "Very Satisfied"

Relationship Survey Response %

This is the average % of North Dakota customers who, in a random independent survey, responded very favorably (either of the top two answers) to the survey question: "I would like to know how you rate Otter Tail Power Company overall on a scale of '1' to '5' where '1' means 'very dissatisfied' and '5' means 'very satisfied.' The more satisfied you generally feel toward Otter Tail Power Company, the higher the number you would give." Relationship survey scores will be the average of residential, small commercial, and large commercial and industrial surveys.

Transaction Survey Response %

Otter Tail at the present time does not have data available to conduct a transaction survey. However, in the first quarter of 2001, Otter Tail will develop a method to identify all contacts with North Dakota customers. A survey will be conducted based on three months and a report, including a suggested performance standard will be submitted to the Public Service Commission by July 1, 2001.

The Performance Standard

Performance standards for customer satisfaction measures will be developed through consideration of current and future surveys, updating the measures as surveys for additional years become available.

Relationship Results

Transaction Results

	<u>Res'l</u>	<u>Small C&I</u>	<u>Large C&I</u>	<u>Average</u>	
1999	85.6%	95.5%	90.3%	90.5%	To be determined

Penalty <	87.0%
Target	90.0%
Award >	93.0%

Penalty <	
Target	TBD
Award >	

**Otter Tail Power Company
Performance-Based Regulation Plan
Price Standards (** REVISED **)**

Macro measures:

Average Residential Revenue/kWh

This is the Otter Tail's average residential price per kWh compared to a group of regulated utilities in a seven-state region of the upper Midwest as reported in the EEI Typical Bills and Average Rate Report, Winter edition.

Annual change in price

This is the annual change in Otter Tail's price compared to the annual change in the price of the lowest priced utility in the comparison group.

The Performance Standard

Performance standards are updated each year based on most recent 12 months ending December 31. The acceptable range for the price per kWh is plus or minus 0.15%. The acceptable range for the annual change is plus or minus 0.05 cents/kWh. The following is an example of the data used for this standard.

IOU's in North Dakota, South Dakota, Montana, Wyoming, Minnesota, Iowa, Wisconsin

1999			1999	1998	%
Rank	Utility	Jurisdiction	¢/kWh	¢/kWh	Change
1	Pacificorp	Wyoming	5.74	5.73	0.2%
2	Otter Tail Power Co.	North Dakota	6.03	6.09	-1.0%
3	NSP	North Dakota	6.11	6.07	0.7%
4	Cheyenne Light, Fuel, & Power	Wyoming	6.20	5.66	9.5%
5	Otter Tail Power Co.	South Dakota	6.25	6.30	-0.8%
6	Otter Tail Power Co.	Minnesota	6.48	6.56	-1.2%
7	Wisconsin Public Service	Wisconsin	6.68	6.28	6.4%
8	Minnesota Power	Minnesota	6.71	6.77	-0.9%
9	Wisconsin Power & Light (Alliant)	Wisconsin	6.87	6.72	2.2%
10	Black Hills Power & Light	Montana	7.09	7.22	-1.8%
11	Montana-Dakota Utilities	North Dakota	7.21	6.90	4.5%
12	NSP	Wisconsin	7.33	7.10	3.2%
13	Montana-Dakota Utilities	Wyoming	7.40	7.29	1.5%
14	Montana-Dakota Utilities	Montana	7.43	7.41	0.3%
15	NW Wisconsin Electric	Wisconsin	7.59	7.62	-0.4%
16	Northwest Public Service	South Dakota	7.79	7.45	4.6%
17	Black Hills Power & Light	Wyoming	7.80	7.84	-0.5%
18	Wisconsin Energy Co.	Wisconsin	7.81	7.79	0.3%
19	NSP	South Dakota	7.85	7.66	2.5%
20	Interstate Power Co.	Iowa	7.86	8.55	-8.1%
21	NSP	Minnesota	8.02	7.89	1.6%
22	Black Hills Power & Light	South Dakota	8.29	8.28	0.1%
23	Interstate Power Co.(Alliant)	Minnesota	8.30	8.62	-3.7%
24	Madison Gas & Electric	Wisconsin	8.41	7.81	7.7%
25	IES Utilities (Alliant)	Iowa	8.57	8.73	-1.8%
26	Montana-Dakota Utilities	South Dakota	9.17	8.96	2.3%
Average residential rate (¢/kWh):			7.35	7.28	0.89%

Source: Typical Bills and Average Rate Report, Edison Electric Inst, Winter 2000

**Otter Tail Power Company
Performance-Based Regulation Plan
Employee Safety Standard (** REVISED **)**

Macro Measure:

OSHA Incident Rate

This is the average number of OSHA incidences occurring per 100 electric employees.

OSHA incidences include medical treatment cases, restricted work day injuries, lost workday injuries, and fatalities. Otter Tail is using a system-wide number because employees routinely cross state lines in performance of their duties.

OSHA = number of incidences X 200,000 hours / number of labor hours worked

The Performance Standard

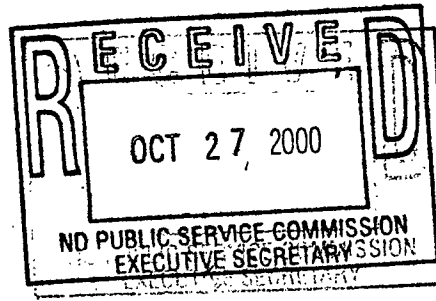
The OSHA rate target was developed using the average annual OSHA results for all of the "group 5" (less than 1,000 employees) utilities participating in the 1997 EEI Safety Survey. This revised target measures Otter Tail against a similar group and is only slightly higher than the standard originally proposed of 6.6 incidents. The acceptable range is + / - 0.15%.

EEI OSHA Results (Group 5)

	OSHA Index
1994	7.33
1995	6.94
1996	6.47
1997	6.80
Average	6.89

Penalty >	7.9
Target	6.9
Award <	5.9

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)



October 26, 2000

Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol – 12th Floor
Bismarck, ND 58501

Honorable Allen Hoberg
Administrative Law Judge
Office of Administrative Hearings
1701 North 9th Street
Bismarck, ND 58501-1882

**Re: Application of Otter Tail Power Company for Authority to Operate Under
Performance Based Regulation In North Dakota
Case No. PU-401-00-36**

Dear Mr. Mielke and Judge Hoberg:

Enclosed please find an original and seven (7) copies of late-filed Exhibit BCB-2, containing information about regional prices of Commercial and Industrial service.

Also enclosed please find an original and seven (7) copies of late-filed Exhibit DVV-1, showing minutes of outage used to develop the reliability measure.

These exhibits are being filed in response to questions that arose during the hearing on this matter held October 23 and 24, 2000.

Otter Tail will also serve two (2) copies of these exhibits on Judge Hoberg and two (2) copies on Xcel Energy.

Please direct any questions regarding this filing to the undersigned at 218-739-8350 or to Bernadeen Brutlag at 218-739-8289.

Very truly yours,

Todd J. Guerrero
Associate General Counsel
Otter Tail Power Company

Enclosures

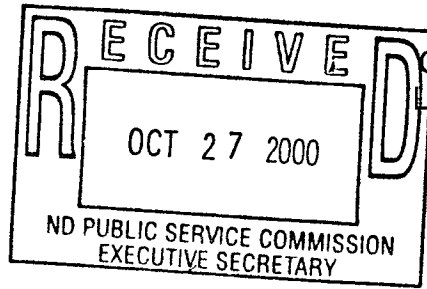
cc: Dave Sederquist
James P. Johnson
Xcel Energy

35 PU-401-00-36

Pages: 1

Cover letter re late filed exhibits

by Otter Tail Power Company by Todd J Guerrero, Attc
10/27/2000 CC: Comm Legal Illona, Pat, Jerry Mike



Case No. PU-401-00-36
Late Filed Exhibit BCB-2
Page 1 of 4

Otter Tail Power Company provides this information as late-filed Exhibit BCB-2, pages 1 through 4.

Pages 2 and 3 are lists of Commercial and Industrial prices in the seven-state upper Midwest region. The source is Edison Electric Institute's Typical Residential, Commercial and Industrial Bills report for Summer 1999. This is the same source used for information about residential prices in Exhibit BCB-1.

Page 4 is a list of average prices for all customers (residential, commercial and industrial). It is a simple average of the three prices and is not weighted in any way.

During the hearing, a question arose as to how EEI defines commercial and industrial customers in its Typical Bills report. Since that question relates to the data provided in this exhibit, the following explanation is also provided:

Participants in the EEI survey, which is the source for the Typical Bills report, receive a document entitled "Rules for Completing Typical Bills and Average Rates Survey Forms." This document includes the following definition: "Commercial electric service is that supplied to business establishments (such as stores, offices, restaurants, and garages) for lighting and power purposes." No definition of industrial service is included.

Utility Comparison Group
Average Commercial Revenue/Kwh

IOU's in North Dakota, South Dakota, Montana, Wyoming, Minnesota, Iowa, Wisconsin

1999			1999	1998	%
Rank	Utility	Jurisdiction	c/kwh	c/kwh	Change
1	Cheyenne Light, Fuel & Power Company	WY	4.64	4.52	2.7%
2	PacifiCorp	WY	4.72	4.81	-1.9%
3	Wisconsin Public Service Corporation	WI	4.72	4.70	0.4%
4	Montana-Dakota Utilities Company	WY	5.51	5.52	-0.2%
5	Madison Gas & Electric Company	WI	5.63	5.56	1.3%
6	Montana-Dakota Utilities Company	MT	5.65	5.65	0.0%
7	Wisconsin Power & Light Company	WI	5.87	5.74	2.3%
8	Minnesota Power Company	MN	5.91	5.93	-0.3%
9	Northern States Power Company	ND	5.94	5.93	0.2%
10	Montana Power Company	MT	6.04	5.97	1.2%
11	Northwestern Public Service Company	SD	6.20	5.89	5.3%
12	Northern States Power Company	WI	6.33	6.25	1.3%
13	Northern States Power Company	SD	6.34	6.27	1.1%
14	Wisconsin Electric Power Company	WI	6.38	6.11	4.4%
15	Montana-Dakota Utilities Company	ND	6.45	6.46	-0.2%
16	Otter Tail Power Company	SD	6.57	6.51	0.9%
17	Otter Tail Power Company	ND	6.59	6.54	0.8%
18	Northern States Power Company	MN	6.66	6.57	1.4%
19	Interstate Power Company	IA	6.77	7.15	-5.3%
20	Otter Tail Power Company	MN	6.80	6.73	1.0%
21	Interstate Power Company	MN	6.99	7.05	-0.9%
22	Black Hills Power & Light Company	SD	7.52	7.56	-0.5%
23	PacifiCorp - Wyoming West	WY	7.54	7.45	1.2%
24	Black Hills Power & Light Company	WY	7.63	7.61	0.3%
25	Montana-Dakota Utilities Company	SD	7.64	7.67	-0.4%
26	IES Utilities, Inc.	IA	8.26	8.46	-2.4%
27	Northwestern Wisconsin Electric Compa	WI	8.27	8.24	0.4%
28	Black Hills Power & Light Company	MT	9.09	8.78	3.5%
28	Average commercial rate (c/kwh):		6.59	6.56	0.51%

Source: Typical Residential, Commercial, and Industrial Bills, Edison Electric Institute.
Summer, 1999 (For the six months ending 6/30/99)

Utility Comparison Group
Average Industrial Revenue/Kwh

IOU's in North Dakota, South Dakota, Montana, Wyoming, Minnesota, Iowa, Wisconsin

1999 Rank	Utility	Jurisdiction	1999 ¢/kwh	1998 ¢/kwh	% Change
1	PacifiCorp	WY	3.04	3.13	-2.9%
2	Wisconsin Public Service Corporation	WI	3.04	3.00	1.3%
3	Cheyenne Light, Fuel & Power Company	WY	3.41	3.24	5.2%
4	Wisconsin Power & Light Company	WI	3.63	3.59	1.1%
5	Interstate Power Company	IA	3.66	4.54	-19.4%
6	Minnesota Power Company	MN	3.66	3.51	4.3%
7	PacifiCorp - Wyoming West	WY	3.66	3.66	0.0%
8	Madison Gas & Electric Company	WI	3.78	3.50	8.0%
9	IES Utilities, Inc.	IA	3.86	4.02	-4.0%
10	Otter Tail Power Company	MN	4.01	4.04	-0.7%
11	Wisconsin Electric Power Company	WI	4.17	4.11	1.5%
12	Montana Power Company	MT	4.18	4.09	2.2%
13	Montana-Dakota Utilities Company	MT	4.34	4.51	-3.8%
14	Northern States Power Company	ND	4.38	4.32	1.4%
15	Northern States Power Company	WI	4.53	4.45	1.8%
16	Otter Tail Power Company	ND	4.56	4.54	0.4%
17	Otter Tail Power Company	SD	4.59	4.48	2.5%
18	Northern States Power Company	SD	4.71	4.66	1.1%
19	Black Hills Power & Light Company	SD	4.72	4.71	0.2%
20	Black Hills Power & Light Company	MT	4.79	5.14	-6.8%
21	Northern States Power Company	MN	4.89	4.76	2.7%
22	Montana-Dakota Utilities Company	ND	5.08	5.02	1.2%
23	Interstate Power Company	MN	5.18	5.14	0.8%
24	Black Hills Power & Light Company	WY	5.43	5.46	-0.5%
25	Montana-Dakota Utilities Company	WY	5.55	5.42	2.4%
26	Montana-Dakota Utilities Company	SD	5.95	5.71	4.2%
27	Northwestern Wisconsin Electric Compa	WI	6.12	5.65	8.3%
28	Northwestern Public Service Company	SD	na	na	
28	Average Industrial rate (¢/kwh):		4.46	4.43	0.53%

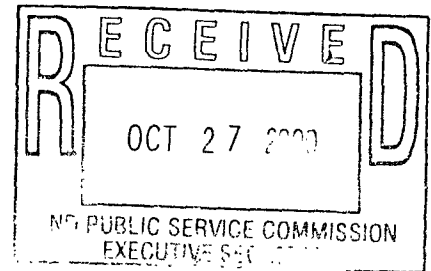
Source: Typical Residential, Commercial, and Industrial Bills, Edison Electric Institute.
Summer, 1999 (For the six months ending 6/30/99)

Utility Comparison Group
Average Revenue/Kwh - All Customers

IOU's in North Dakota, South Dakota, Montana, Wyoming, Minnesota, Iowa, Wisconsin

1999 Rank	Utility	Jurisdiction	1999 ¢/kwh	1998 ¢/kwh	% Change
1	PacifiCorp	WY	4.49	4.56	-1.5%
2	Cheyenne Light, Fuel & Power Company	WY	4.68	4.53	3.3%
3	Wisconsin Public Service Corporation	WI	4.73	4.67	1.3%
4	Wisconsin Power & Light Company	WI	5.42	5.33	1.7%
5	Minnesota Power Company	MN	5.44	5.39	0.9%
6	Northern States Power Company	ND	5.44	5.42	0.4%
7	Montana Power Company	MT	5.60	5.53	1.3%
8	Otter Tail Power Company	ND	5.72	5.70	0.4%
9	Otter Tail Power Company	MN	5.79	5.75	0.7%
10	Madison Gas & Electric Company	WI	5.80	5.61	3.4%
11	Montana-Dakota Utilities Company	MT	5.80	5.86	-1.0%
12	Otter Tail Power Company	SD	5.82	5.74	1.4%
13	Northern States Power Company	WI	6.03	5.91	2.0%
14	Montana-Dakota Utilities Company	WY	6.13	6.08	0.8%
15	Wisconsin Electric Power Company	WI	6.13	5.90	3.9%
16	Montana-Dakota Utilities Company	ND	6.14	6.12	0.3%
17	Interstate Power Company	IA	6.20	6.66	-6.9%
18	Northern States Power Company	SD	6.26	6.19	1.1%
19	PacifiCorp - Wyoming West	WY	6.31	6.27	0.6%
20	Northern States Power Company	MN	6.50	6.41	1.4%
21	Black Hills Power & Light Company	SD	6.84	6.85	-0.1%
22	Interstate Power Company	MN	6.89	6.90	-0.1%
23	IES Utilities, Inc.	IA	6.90	7.07	-2.4%
24	Northwestern Public Service Company	SD	6.95	6.64	4.7%
25	Black Hills Power & Light Company	WY	6.96	6.97	-0.1%
26	Black Hills Power & Light Company	MT	7.02	7.12	-1.4%
27	Northwestern Wisconsin Electric Compa	WI	7.33	7.16	2.4%
28	Montana-Dakota Utilities Company	SD	7.51	7.45	0.8%
28	Average rate (¢/kwh) - all customers		6.10	6.06	0.61%

Source: Typical Residential, Commercial, and Industrial Bills, Edison Electric Institute.
Summer, 1999 (For the six months ending 6/30/99)



Otter Tail Power Company

**Minutes of Outage per Customer
Used to Develop Reliability Measure**

Year	Outage Minutes
1995	91
1996	56
1997	77
1998	108 *
1999	<u>82</u>
Average	83

* Adjusted for storm



OFFICE OF ADMINISTRATIVE HEARINGS

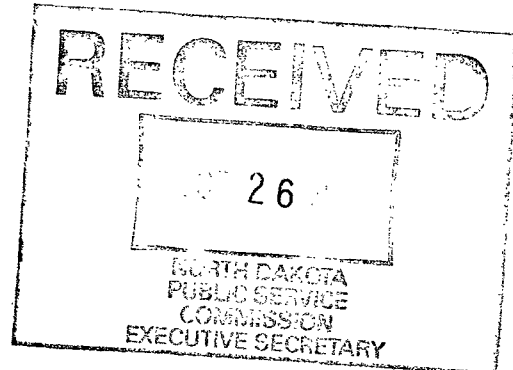
STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C. Hoberg
Director

701-328-3260
FAX 701-328-3254

October 25, 2000

Mr. William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480



Dear Mr. Binek:

On July 24, 2000, you requested the designation of an administrative law judge from the Office of Administrative Hearings to conduct a hearing in the matters of Otter Tail Power and Northern States Power (Performance Based Regulation Cases). I was designated as a procedural administrative law judge to conduct the combined hearing for these two matters, but not to make recommended findings of fact and conclusions of law, or issue recommended orders. The combined hearing on these two matters was held on October 23-24, 2000, and the hearing was closed. I understand that the agency will issue the appropriate orders, if necessary.

I am closing our files on these matters and returning that portion of the record from these matters and the hearing that I have in my possession to you for filing with the official agency record of these matters, as appropriate. Many of the documents are duplicates. I left the hearing tapes and the exhibits (except the late filed exhibits, to be filed by OTP and NSP) with Sandy, after the hearing. I am also enclosing an exhibit list, listing all of the exhibits from the hearing. If you have any questions about the record or the exhibit list, please contact me

Thank you for your attention to these matters.

Sincerely,

Allen C. Hoberg
Administrative Law Judge

ACH:klp
Enc.

32 PU-401-00-36

Pages: 1

Letter closing ALJ file

by Office of Administrative Hearings
10/26/2000 CC: Comm Legal Illona, Pat, Jerry Mike .

33 PU-400-00-195

Pages: 1

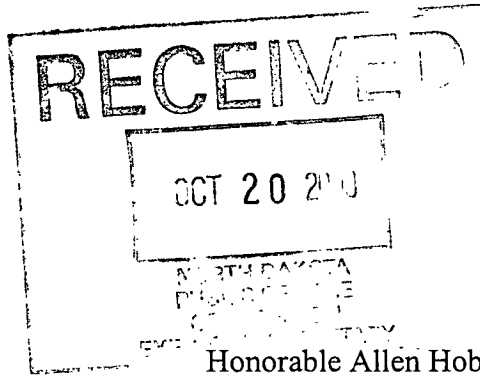
Letter closing ALJ file

by Office of Administrative Hearings
10/26/2000 CC: Comm Legal Illona, Pat, Jerry Mike .

RECEIVED

EXHIBIT LIST							
Matter	Otter Tail Power and Northern States Power (Excel) - Combined Hearing Case Nos. PU-401-00-36 and PU-400-00-195 - Public Service Commission						
Hearing	October 23-24, 2000						
No.	Description	Mkd	Idd	Ofd	W/D	Adm	Note
1	Direct - Karl McDermott	Blue		X		X	Joint sponsor - OTP & NSP
2	Rebuttal - Karl McDermott	Blue		X		X	Joint sponsor - OTP & NSP
3	Direct - David Sederquist	Blue		X		X	NSP
4	Rebuttal - David Sederquist	Blue		X		X	NSP
5	NSP Cust. Satis. Stds. - correction to Application	Blue		X		X	NSP
6	Direct - Pamela Bagley	Blue		X		X	NSP
6A	Attachment to Bagley - data re SADIE - example	Blue		X		X	Late filed - NSP - Requested by Commission
7	Direct - Heather Schander	Blue		X		X	NSP
8	Correction exhibit 7, p.6, lines 3-5	Blue		X		X	NSP
1	Direct - Bernadeen Brutlag	Yellow		X		X	OTP
5	Rebuttal - Bernadeen Brutlag	Yellow		X		X	OTP
BCB-2	Attachment to BCB direct - similar to BCB-1 (but Com/Ind info)	Yellow		X		X	Late Filed - OTP - Requested by Commission
9	Document similar to BCB-1 for NSP (but Com/Ind info)	Blue		X		X	Late Filed - NSP - Requested by Commission
2	Direct - Brian Draxten	Yellow		X		X	OTP

3	Direct - Del Van Voorhis	Yellow		X		X	OTP
DVV-1	From DVV Direct, Page 5, Line 2 (attachment)	Yellow		X		X	Late filed - OTP - Requested by Commission
4	Direct - Steve Wevley	Yellow		X		X	OTP
PSC1	Mike Diller Testimony	Red		X		X	PSC Staff



U.S. Bancorp Center
800 Nicollet Mall
Minneapolis, MN 55402-2023

October 20, 2000

Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard
Bismarck, ND 58505

Honorable Allen Hoberg
Administrative Law Judge
Office of Administrative Hearings
1701 North 9th Street
Bismarck, ND 58501-1882

Re: Application of Northern States Power Company d/b/a Xcel Energy for
Authority to Operate Under Performance Based Regulation In North Dakota
Case No. PU-400-00-195
Prepared Rebuttal Testimony of Xcel Energy

Dear Mr. Mielke and Judge Hoberg:

Enclosed please find an original and seven (7) copies of the prepared rebuttal testimony of Mr. David H. Sederquist in support of the April 20, 2000 petition of Northern States Power Company, now doing business in North Dakota as Xcel Energy ("Xcel Energy"), in the above captioned docket. This rebuttal testimony answers the direct testimony of Staff witness Mr. Mike Diller, filed on October 13, 2000.

In addition, enclosed please find an original and seven (7) copies of the prepared rebuttal testimony of Mr. Karl McDermott on behalf of both Xcel Energy in Case No. PU-400-00-195 and Otter Tail Power Company in Case No. PU-401-00-36. Mr. McDermott again addresses issues common to both PBR plans, responding to Staff.

Note: Xcel Energy is submitting this testimony electronically, as authorized by Judge Hoberg. We will serve the original and 7 copies on the Commission, plus two copies on Judge Hoberg, by hand early Monday morning, October 23, 2000, prior to the hearing.

Please direct any questions regarding this filing to the undersigned at (612) 215-4592 or to Mr. Dave Sederquist at (701) 241-8632.

Sincerely,


James P. Johnson
Assistant General Counsel

Enclosures

30

PU-401-00-36

Pages: 1

Cover Letter re McDermott Rebuttal
Testimony
by Otter Tail Power Company
10/20/2000 CC: Comm Legal PUD (3) Mike ALJ

29

PU-400-00-195

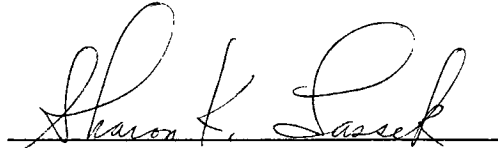
Pages: 1

Cover Letter re Rebuttal Testimony
by Northern States Power Company
10/20/2000 CC: Comm Legal PUD (3) Mike ALJ

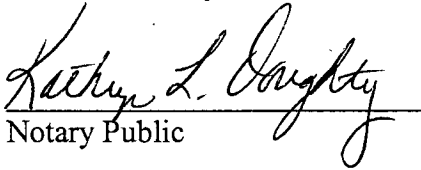
AFFIDAVIT OF SERVICE

I, Sharon K. Lassek, hereby certify that I have this day served the Rebuttal Testimony of David H. Sederquist and Karl McDermott on the parties listed below by placing in the U.S. mail at Minneapolis, Minnesota. Mr. Mielke and Judge Hoberg were served by hand.

Dated this 23rd day of October, 2000.



Subscribed and sworn to before
me this 23rd day of October, 2000.


Notary Public

Jon Mielke
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard
Bismarck, ND 58501

Honorable Allen Hoberg
Administrative Law Judge
Office of Administrative Hearings
1701 North 9th Street
Bismarck, ND 58501-1882

William Binek
North Dakota Public Service Commission
600 East Boulevard
Bismarck, ND 58501

Mike Diller
North Dakota Public Service Commission
600 East Boulevard
Bismarck, ND 58501

Todd Guerrero
Otter Tail Power Company
215 S. Cascade Street
Fergus Falls, MN 56538-0496

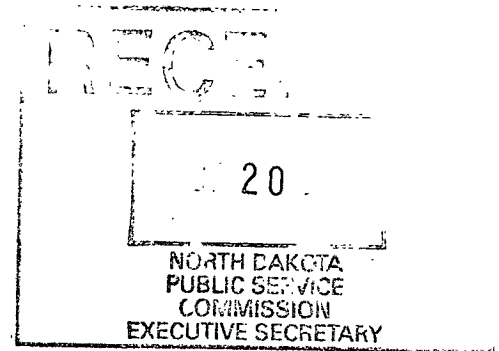
James P. Johnson
Xcel Energy d/b/a/
Northern States Power Company
800 Nicollet Mall, Suite 2900
Minneapolis, MN 55402

Karl A. McDermott
Vice President
National Economic Research Associates, Inc.
875 North Michigan Avenue, Suite 3650
Chicago, Illinois 60611

**NATIONAL ECONOMIC
RESEARCH ASSOCIATES**

875 NORTH MICHIGAN AVENUE, SUITE 3650
CHICAGO, ILLINOIS 60611
TEL: 312.573.2800 FAX: 312.573.2810
INTERNET: <http://www.nera.com>

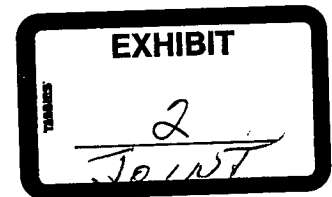
ner/a
Consulting Economists



REBUTTAL TESTIMONY OF KARL MCDERMOTT

Vice-President

October 20, 2000



29 PU-401-00-36 Pages: 16
Rebuttal Testimony of Karl McDermott
by Otter Tail Power Company
10/20/2000 **Exhibit # Joint 2**
CC: Comm Legal PUD (3) Mike ALJ .

28 PU-400-00-195 Pages: 16
Rebuttal Testimony of Karl McDermott
by Northern States Power Company
10/20/2000 CC: Comm Legal PUD (3) Mike ALJ .

TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY.....	1
II. STANDARD OF REVIEW.....	2
III. THE COMPANY'S PROPOSAL IS APPROPRIATE AT THIS TIME	4
A. COMPREHENSIVE NATURE OF THE BENCHMARKS.....	4
B. EQUAL WEIGHTING OF THE PERFORMANCE STANDARDS IS APPROPRIATE	5
C. ELIMINATING THE EMPLOYEE SAFETY STANDARD SENDS THE WRONG SIGNAL	9
D. THE MEASURE OF INFLATION	10
E. PRICE FLEXIBILITY	13
F. PRICE CAP	13
IV. CONCLUSION.....	14
TABLE OF CONTENTS	I

1 **PREPARED REBUTTAL TESTIMONY**

2 **OF**

3 **KARL A. MCDERMOTT**

4 **I.**

5 **INTRODUCTION AND SUMMARY**

6 Q. Please state your name, current position and business address.

7 A. My name is Karl McDermott. I am a Vice President at National Economic Research
8 Associates, Inc. (NERA). My business address is 875 North Michigan Avenue, Suite 3650,
9 Chicago, IL 60611.

10 Q. Are you the same Karl McDermott that provided direct testimony in this proceeding?

11 A. Yes I am.

12 Q. What is the purpose of your rebuttal testimony?

13 A. I will comment on and respond to the rebuttal testimony of North Dakota Public Service
14 Commission (NDPSC) Staff member Mike Diller.

15 Q. What are you conclusions in this phase of the proceeding?

16 A. Mr. Diller's conclusion appears to generally supports the move to performance-based
17 regulation. I believe that movement toward PBR in this case will create a set of
18 comprehensive conditions that will enable benefits to be generated that would not
19 necessarily arise under more traditional forms of regulation. While I appreciate Mr. Diller's
20 good faith effort to suggest adjustments to the PBR proposal before the Commission, the
21 fundamental issue before the Commission is whether this plan has a reasonable chance of
22 providing customers with benefits in the future. As I noted in my direct testimony, the
23 Company's proposal while not perfect, has a lot to offer as a total package. Given that the
24 design takes these components and their interaction as a whole, caution must be exercised
25 in the consideration of making changes to certain segments of the plan. I would recommend
26 that if Staff is concerned with certain aspects of the plan that they work with both
27 Companies to reach an agreement on constructive changes that all parties can accept. I base
28 this recommendation on my observation of plans implemented across the country that have
29 in the majority of cases benefited the customers in those states.

II.

Q. Do you agree with Mr. Diller's characterization of why the Commission should consider moving to PBR found on page 2 of his testimony?

A. Mr. Diller seems to be cautioning the Commission that movement away from rate of return regulation (RORR) should not be an easy decision. I agree that a movement away from RORR is not an easy decision. In the case of adopting your first PBR plan, there is a sense that any change involves risk. The difference in this case is that a significant number of states have employed performance regulation to good effect in both the electric and natural gas industry. I would simply caution the Commission not to take Mr. Diller's warnings with any more emphasis than he has placed on them. I would urge a slightly different interpretation of Mr. Diller's conclusion.

First, I am not in complete agreement that RORR has “stood the test of time.” Many of the high cost states that have been forced into restructuring operated under traditional regulation. The real issue for North Dakota is how to provide the appropriate incentive *going-forward* to bring the forces of competition to bear on these two North Dakota electric utilities. RORR or traditional regulation cannot keep up with the dynamic nature of the electric market today and therefore cannot stand the test of time moving forward.¹

Second, I would disagree slightly with Mr. Diller's characterization that a PBR plan should only be approved if "ratepayers will indeed benefit from the change." I caution the Commission against using such a strict standard, which I do not believe any reasonable plan could pass. My concern arises from the following: If we are to suggest that ratepayers *will benefit* from the change, how do we measure *a priori* whether customers *will indeed benefit* from the change? Moving to PBR entails costs and benefits, however so does staying with RORR. The appropriate standard the Commission should use should take into account the reasonable *expectation* that customers will benefit. This allows the Commission flexibility

¹ In addition, the regulation of public utilities in the past century has not been as critical as it is becoming in today's global marketplace. Attracting and retaining business is a function of the ability to obtain competitively supplied inputs more today than even 15 years ago. Electricity, and in particular, highly reliable electricity supply, is one of the key inputs into the so-called new economy businesses such as internet based companies.

1 in assigning *likely* outcomes to various scenarios and assessing the robustness of the plan
2 over time in meeting the variety of contingencies that develop. In addition, it sends the
3 signal that the “perfect will not be the enemy of the good.” The benefits of a reasonable
4 plan today out weigh, in my mind, the effort to create a perfect plan.

5 Q. On page 2 of his testimony Mr. Diller states “[P]roof that the PBR plan is not harmful to
6 ratepayers is not sufficient.” Do you agree with this assessment?

7 A. Not entirely. Again, while I don’t believe that Mr. Diller is attempting to use his policy
8 arguments to stop PBR from being implemented, I am concerned that such statements could
9 be interpreted as a reason to implement a standard that is much too stringent. The end result
10 of this standard, therefore would be to deny benefits to North Dakota of a reasonable plan.
11 Having said that, I believe that Mr. Diller is cautioning the Commission that the plan
12 should increase efficiency and not simply raise prices with no corresponding benefit.² I
13 think that this plan creates an opportunity to achieve that end.

14 Q. Did you conclude that the programs were appropriate and should be approved?

15 A. Yes. My direct testimony looked at the programs *as a whole*. In reviewing them in that light
16 I concluded that the public is likely to benefit from the programs and therefore they are in
17 the public interest. While it is true that I raised some questions that need reflection, as Mr.
18 Diller has in his testimony, the fact remains that as a whole the programs are in the public
19 interest. Even if a particular piece of the program might be improved upon, it is not at all
20 clear to me that the program as a whole is improved. I would caution against changing the
21 basic structure of the program. By changing the basic structure, the Commission runs the
22 risk of changing the parameters under which the Companies could accept the program.
23 Remember, in order to entice the Companies to move to PBR, there must be something in
24 the program that potentially benefits the stockholder as well as the customer. While I spoke
25 at great length about the program’s potential benefits to consumers in my direct testimony,
26 this street goes two ways. Adding additional risk to the program, without additional return

² Again, we need to be very careful in interpreting this standard. Price increases may result as a function of the plan, but if the *price path* is lower than under traditional regulation customers can still benefit from not being charged even higher prices that may be legitimately imposed under RORR.

1 could prompt utility management to reject the PBR program. As the plan is structured the
2 Commission has the opportunity to periodically review the plans effectiveness and with the
3 benefit of this experience recommend adjustments to the plan.

4 **III.**
5 **THE COMPANY'S PROPOSAL IS APPROPRIATE AT THIS TIME**

6 **A. Comprehensive Nature of the Benchmarks**

7 Q. At page 4 of his testimony, Mr. Diller notes that he was surprised that more comprehensive
8 plans are not in place around the country. Do you have any comments?

9 A. Of the 28 electric PBR plans I identified in the exhibits attached to my direct testimony, I
10 would consider 16 to be comprehensive. By comprehensive I mean any plan that forces the
11 company to manage its costs in their entirety. If Mr. Diller is tying the use of specific
12 benchmarks (e.g., service quality, price, reliability, etc.) to the term comprehensive, I would
13 agree that there are plans that employ price caps or rate freezes that do not have specific
14 benchmarks. However, that does not mean they are not comprehensive in nature.

15 Q. How does this relate to your discussion concerning the benchmarks?

16 A. If we are to take a comprehensive approach to PBR, which I have already noted is
17 appropriate, the benchmarks themselves should be comprehensive as well. The benchmarks
18 are in essence a control on certain variables the regulator deems important. They serve as a
19 constraint on the behavior of a firm, while allowing it to managing the overall performance
20 of costs. Generally benchmarks serve a method of ensuring that minimum standards of
21 service are maintained. Often the fear of moving to PBR is that the company will cut costs
22 in areas that will deteriorate quality and safety; by using benchmarks a target service level
23 can be maintained.

B. Equal Weighting of the Performance Standards is Appropriate

Q. Does Staff witness Diller agree that equal weighting is appropriate?

A. No. Mr. Diller suggests that equal weighting is “suspect” because this issue was addressed in my direct testimony.³

Q. Is this an appropriate interpretation of your testimony?

A. No. First, the simple fact that I addressed the issue should not be interpreted as a reason to question the validity of the equal weighting proposal. In fact, I addressed this issue to be responsive to Staff as they first brought up the issue in the list of questions provided to Northern States Power at an initial hearing in this proceeding. Second, my response to the question of the equal weighting issue stated the following:

While one could postulate that certain aspects of performance are more valuable to consumers than other aspects, the problem with attempting to perform some weighting analysis is two fold. First, weighting the standards obviously presents an incentive to the Company to meet those standards that have the highest weight. If one believes that these measures do measure overall performance, then equal weighting is appropriate as the Commission wants to send the signal that overall performance should be maintained and improved. Second, in practical terms, a weighting scheme would either be an estimate of the value placed on the standards by consumers or simply a judgement by the Commission. In the former case, such an estimate would be controversial to say the least and would take attention away from the real issues of designing a plan that best meets the public interest and is understandable. In the later case, any judgement would also be controversial. The best approach is the simplest in this case. By weighting each standard equally the Commission can send the signal that it expects the overall performance of the Companies to be maintained and improved. This is the appropriate signal to send.⁴

Mr. Diller’s conclusion that the customer satisfaction benchmark should not have equal weight with the other benchmarks⁵ suffers from the very problems that are identified in my response noted above.

³ Diller Rebuttal at 4.

⁴ McDermott Direct at 26-27.

⁵ Actually, Mr. Diller suggests that there should only be three benchmarks. I will address that issue later in this testimony.

1 Q. Why does Mr. Diller suggest that the customer satisfaction benchmark not be equally
2 weighted with the other benchmarks?

3 A. Mr. Diller suggests that 1) customers value the performance characteristics of the firm
4 differently; and 2) price and reliability are the main characteristics that customers value and
5 therefore satisfaction depends to a large degree on these factors.⁶

6 Q. How does Mr. Diller decide on the weighting factor applied to the customer satisfaction
7 benchmark?

8 A. Mr. Diller suggests that all customers are likely to value the different aspects of utility
9 service differently, but that “we should still be able to draw some broad conclusions as to
10 what is important to customers,” and that “[U]pon doing so, we should be able to assign a
11 value to each standard relative to its perceived value to customers.”⁷ He goes on to suggest
12 that because the price and reliability values are likely to be higher on a customer’s priority
13 list than the customer satisfaction value, it should receive only half the value.

14 Q. Is there a problem with this weighting allocation?

15 A. Mr. Diller’s proposal illustrates the issues I brought up in my direct testimony quoted
16 above. First, I agree with Mr. Diller that performance benchmarks create incentives, but
17 they also create constraints on the company. By weighting the benchmarks differently, the
18 Commission will be sending the signal that customer satisfaction is a lesser goal of the
19 program. I caution the Commission to consider the incentives such a weighting scheme
20 would send the Companies. Generally, customer service is a non-revenue expense. By that I
21 mean that the expenses associated with customer service do not necessarily have associated
22 revenues as higher reliability or better pricing might.⁸ Therefore, once the Companies are
23 taken off of RORR, the incentive to maintain customer service levels will be lessened
24 because any savings in customer service functions goes directly to the company either in

⁶ Diller Rebuttal at 6.

⁷ Id.

⁸ Reliability could also be a non-revenue expense and that is why it is important to maintain a reliability benchmark.

1 full or in part. Mr. Diller points out that in a competitive market, the market sets the
2 benchmark. This is true, however it is clear to me that one aspect of competitive markets is
3 that customer service is given an extremely high priority.⁹ As is noted below the customer
4 service aspect is extremely important in the utility industry as well.

5 Second, the weighting factor Mr. Diller uses is based on his *judgement*, not an estimate of
6 the *actual* value customers' place on satisfaction. This brings up a host of questions in my
7 mind. While I agree that price and reliability are clearly included in a customer's view of
8 their own satisfaction, it is unclear to me that customer satisfaction should be weighted as
9 only one-half as important. Why not one-quarter or one-eight or three-quarters? I am not at
10 all sure that customer satisfaction is a function of price and reliability only; in fact it is
11 highly likely that customer satisfaction, in and of itself, is a function of a variety of other
12 factors, some of which Mr. Diller notes in his testimony. The problem with attempting to
13 weight these factors differently should be apparent. Without complex and time-consuming
14 studies of customer willingness to pay for the various factors, the issue comes down to a
15 judgement call. Given the factors noted above, I caution the Commission in choosing an
16 uneven weighting scheme as such a scheme produces different incentives and without good
17 information on exactly what weight is correct, I believe the Commission would be taking an
18 unnecessary risk.

19 Q. What evidence do you have that customer satisfaction is likely as important as reliability or
20 price?

21 A. One of the main complaints people some time have with utilities is the lack of customer
22 service, beyond price and reliability. For example, recently SBC Communications has been
23 criticized in many of its Midwestern states (where it operates as Ameritech) for various
24 aspects of its service unrelated to price and reliability. An unprecedented regional
25 regulatory roundtable made up of seventeen Commissioners from the five Ameritech states
26 recently met in Chicago to discuss these problems with the CEO of SBC

⁹ Customer service becomes an even more important characteristic of a firm's product offering in markets where products have many substitutes.

1 Communications.¹⁰ Ameritech obviously realizes the importance of customer service as it
2 has set up a program to provide refunds to customers who have had to wait too long for
3 service calls.¹¹ I would hardly say that such items are of less concern to customers or
4 regulators than price or reliability.¹² In fact, often companies compete not on price or even
5 reliability, but on the customer service factors that make up the total package sold to a
6 customer.¹³

7 Further, items such as service transfer and bill clarity, as Mr. Diller points out, are not likely
8 to be caught by the other benchmarks. However, such items are only part of the story.
9 Customer service is a function of a variety of other issues such as:

- 10 • How does the utility respond when there is an outage?
- 11 • What is the backlog of non-emergency or non-reliability related repairs?
- 12 • How easy is it to talk to a live person when calling the company?
- 13 • How do company employees treat customers during service calls?
- 14 • Does the company make understanding service options easy?
- 15 • How does the company deal with metering reading, installation, etc.?
- 16 • How well does the company communicate with the public and public officials
- 17 during an emergency?
- 18

19 Last, customer service is clearly important for many companies. For example, United
20 Airlines has had well published customer service problems in the past year. This prompted
21 public apologies from the CEO of the parent company. According to a recent news release
22 from the airline, passenger traffic was down six percent in August of 2000 compared to
23 August of 1999.¹⁴ That same news release mentioned the “operational disruptions” as a

¹⁰ “Ameritech Woes Embarrassing SBC CEO Admits,” *Chicago Tribune*, Front Section, October 17, 2000.

¹¹ “Ameritech, SBC Vow Better Service,” *Chicago Sun-Times*, October 17, 2000.

¹² I can’t imagine the same type of regional conference of regulators being held concerning the prices Ameritech charges.

¹³ Many examples abound, computer and electronics stores, car dealers, banks and even telecommunications companies often advertise, not that their service is more reliable or is priced better than a competitor, but that their customer service is higher than a competitor.

¹⁴ “United Airline August Traffic Declines 6.0 Percent,” United Airlines Press release, September 6, 2000.

1 driving factor.¹⁵ Additionally, the airline has had to cut prices dramatically to entice
2 consumers back to the carrier. One can imagine how costly this has been to United Airlines
3 in terms of lost revenue and potentially lost customer base. While the market provides the
4 alternative for customers of airline carriers, customers of the utility cannot switch if
5 customer service declines and customer service declines tend to be the first problems that
6 show up when firms face more market-like signals.¹⁶ Therefore, the Commission should be
7 extremely careful in downplaying the role of customer service in the total package of
8 products and services provided to the customer.

9 **C. Eliminating the Employee Safety Standard Sends the Wrong Signal**

10 Q. Why does Mr. Diller believe that the worker safety benchmark should be removed from the
11 plan?

12 A. It appears that Mr. Diller has two main arguments. First he suggests that the competitive
13 market, for the most part, does not connect employee safety with earnings. Second, he
14 suggests that employee safety will be maintained, even under PBR, through a combination
15 of "moral" obligation and union and Federal government standards. Again I'd like to
16 emphasize that benchmarks establish constraints on firm behavior that reflect Commission
17 policy goals. In this case I believe safety is a reasonable goal.

18 Q. Do you agree with his assessment?

19 A. No. First, I believe there is a connection between employee safety and earnings in the
20 competitive market. Employee safety is simply another characteristic of a firm that an
21 employee will take into account when choosing a job. Companies with high ratings and
22 clear track records on employee safety tend to attract employees with higher productivity
23 levels. Therefore, higher worker safety, all else equal, helps attract the kind of employees
24 that a firm would like to attract. Second, while I agree that Companies have an obligation to

¹⁵ One might argue that these are "reliability" factors. There is clearly some of that involved in the disruptions. However, it is also clear that the customer service aspects of these disruptions played a major role in the problems faced by United this summer.

¹⁶ This has been true in the airline industry, telecommunications, electricity and other industries that begin to face greater competitive pressure.

1 comply with Federal safety standards, the incentive to maintain high worker safety
2 standards reinforces the Commission's commitment to worker safety as well as the
3 Companies'. Third, as Mr. Diller points out, these companies have met high standards for
4 safety. In the interest of maintaining the positive aspects of the current regulatory
5 paradigm, the Commission should carefully weigh the costs of potentially lower safety
6 records. However, this issue really boils down to a policy judgement. Does the Commission
7 want to send the signal to the Companies that worker safety is one of the areas where
8 aggressive cost cutting should be attempted? I believe, in the end, the prudent thing to do,
9 as other states have done, is to include worker safety as a benchmark. It aligns workers,
10 customer and management/shareholder interests better than leaving this benchmark out of
11 the plan.

12 Q. Doesn't eliminating the worker safety benchmark make the plan easier to understand and
13 administrate?

14 A. There is a trade-off between making a plan "too" simple and making it comprehensive
15 "enough." I believe that including the worker safety benchmark does not complicate the
16 plan all that much and preserves its comprehensiveness. The real question is this: Does the
17 plan gauge overall performance while maintaining understandability? I believe that one can
18 have four benchmarks, however weighted, and maintain understandability. Furthermore, the
19 Commission is making a policy statement that worker safety will not be compromised in
20 this new environment. Finally, the Commission has the opportunity to monitor this plan
21 over time and it has the ability to modify the benchmarks to assure that the goals of the plan
22 are being met.

23 **D. The Measure of Inflation**

24 Q. In your comments on inflation measures in your direct testimony did you raise any
25 significant issues with respect to the measure of inflation used by the Companies?

26 A. No, I don't believe that I did. Under the price change formula (referred to as Equation (A)
27 in my direct testimony) in the plan, the measure of inflation used is the Consumer Price
28 Index or the CPI. I suggested that often an estimate of total factor productivity (TFP) is

1 used to measure the so-called X factor and as such, an inflation measure that encompasses a
2 broader scope of goods and services (e.g., the GDPPI) is probably more appropriate.¹⁷
3 However, in this case, a much simpler, and probably just as effective, method (i.e.,
4 $0.75 \times \text{CPI}$) was used to measure productivity. This, to a great extent, alleviated much of my
5 concern with using a CPI versus a GDPPI or some other measure. In addition, the issue I
6 raised—that of using a broader scope of products and services to measure inflation—is
7 largely moot as it appears that the broader measures follow a path similar to the CPI.

8 Q. What is Mr. Diller's view of the inflation measure?

9 A. Mr. Diller suggests that the choice of the inflation measure is influenced by the objective or
10 the intended use of the measure.¹⁸ He suggests that the Producer Price Index (PPI) is a
11 better measure of inflation relative to the CPI, because it is a measure that relates more to
12 the price of electric service than the CPI.¹⁹

13 Q. Should the Commission accept Mr. Diller's proposal?

14 A. This is not as easy a question to answer as it might appear. Mr. Diller is correct that the PPI
15 does measure electric prices, but so does the CPI as energy is in the basket of goods
16 measured by the CPI. However, the PPI is not as broad of an index of inflation as the CPI
17 (or for that matter the GDPPI). For example, the PPI is used to measure changes in the
18 prices charged by manufacturing firms only. But the actual measurement of the "price" is
19 not as straightforward as using a comparison group. The measure of the price used by the
20 PPI is an estimate of the net revenues received by the seller, in the period observed, by
21 selling the product. This means that taxes, retail rebates and other impacts on revenues are
22 not included in the price of the product. If revenues go down, which might be a result of
23 costs going up, it would be reflected in a lower revenue per unit for the manufacturer and

¹⁷ See Equation (C) and the discussion surrounding it in my direct testimony.

¹⁸ Diller Rebuttal at 7.

¹⁹ Id. At 8.

1 hence the index would appear to be moving down, even though costs may moving up. In
2 the electric industry, this means that wholesale sales are also included in the PPI.²⁰

3 The price cap formula is used to limit the price increases based on a comparison of regional
4 utilities (i.e., competitive effects), whereas the price change formula is intended to send the
5 signal concerning overall inflation. By employing the peer group set the plan actually does
6 a better job of capturing the competitive issues that Mr. Diller seems to be concerned about.

7 Finally, in my review of price cap plans around the country, the PPI is used in the minority
8 of cases whereas the CPI or the GDPPI is used in the majority of cases. This illustrates the
9 usefulness of a broad measure of inflation in price cap plans.

10 Q. Why is the CPI useful in this case?

11 A. As I noted in my direct testimony, the CPI is not only used by other price cap plans, but it is
12 also probably the most understandable measure of inflation to the typical utility ratepayer.
13 For example, the CPI is used for everything from cost of living adjustments for state and
14 federal retirement benefits including Social Security, union collective bargaining
15 agreements, and to prevent so-called "bracket-creep" in the Federal income tax structure. In
16 addition, the CPI is clearly the most widely used measure of inflation in making economic
17 decisions over time. For example, when one suggests that energy prices have fallen in *real*
18 terms, one is generally referring to an index of energy prices that is *deflated* by the CPI.
19 Therefore, it is an understandable and relevant measure of inflation and if the Commission
20 used the CPI for the price change equation it would be perfectly consistent with other plans
21 adopted around the country.

22 Q. Is there any other reason why the CPI might be reasonable?

23 A. Yes. The price change formula is restrained by the price cap formula (referred to as
24 Equation (B) in my direct testimony). The concern that price inflation might be the wrong
25 tool to use to measure inflation is always tempered by the change in prices of the
26 comparison group of utilities.

²⁰ Some of the plans that use the PPI, use it to set rates for the largest customers (i.e., those customers whose load
(continued...)

E. Price Flexibility

Q. Mr. Diller has suggested that additional pricing flexibility is not necessary at this time. Do you agree?

A. As the Companies have not requested this additional flexibility, I would only add that I still support some form of flexibility as outlined in my direct testimony. I would note that while Mr. Diller is correct that the Companies have rates such as those to promote economic development and those that are "special" in nature to be approved by the Commission, such rates are generally used for a specific purpose such as avoiding uneconomic bypass. The flexibility that I was suggesting would not require the administrative costs of individually negotiating contracts with each customer, but would rather allow some flexibility in rate design. I would also add that under my proposal, the flexibility granted the Companies would still be severely limited.

F. Price Cap

Q. Does Mr. Diller support the price cap mechanism proposed by the Companies?

A. Not entirely. He suggests that due to the historic factors he reviewed the price change is unlikely to ever be negative (i.e., prices going down). He therefore suggests that a more "balanced" approach be taken that would start with the top end of the deadband, but drop the comparison group step and the productivity or stretch factor. Mr. Diller has provided a schematic of the two proposals attached to his testimony as Schedule MRD-6 and MRD-7.

Q. Do you concur with Mr. Diller's proposal?

A. No. The Companies proposed price cap and price change formulae incorporate a fairly conservative approach to setting up a price cap plan. There are safeguards for both the Companies and customers. For example, price increases can only occur if the Company does not exceed the upper end of its earnings band. While it is true that there are safeguards

(...continued)

shapes are more like a wholesale customer.)

1 for the Companies as well, such safeguards are important when experimenting with new
2 forms of regulation. Again, the Commission will have the opportunity to assess the
3 reasonableness of the price formulae over time.

4 **IV.**
5 **CONCLUSION**

6 Q. Do you have any final comments?

7 A. I would urge the Commission to make a decision based on the plan as a whole. The plan
8 fairly represents the interests of ratepayers, shareholders and workers and provides a good
9 starting point for moving to a new regulatory environment. Sometimes attempting to
10 address on particular part of a plan, while good intentioned, may cause other portions of the
11 plan to change in relative merit. In addition, the Commission will always have the
12 opportunity to review the program to determine its merits over time. If at some time in the
13 future, the Commission decides that the program should be modified, Staff should work
14 with the Companies and other interested parties to come to an agreement on which changes
15 would be beneficial to all.

16 Q. Does this conclude your rebuttal testimony?

17 A. Yes it does.

STATE OF NORTH DAKOTA
BEFORE THE
PUBLIC SERVICE COMMISSION

In the Matter of the Application of)
Northern States Power Company d/b/a)
Xcel Energy for Authority to Operate)
Under Performance-Based Regulation)
in North Dakota)

Case No. PU-400-00-195

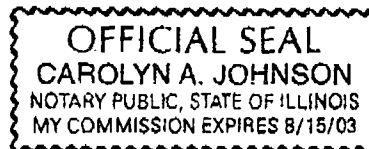
**AFFIDAVIT OF
KARL A. MCDERMOTT**

I, the undersigned, being duly sworn, depose and say that the foregoing is the testimony of the undersigned, and that such Rebuttal Testimony and the exhibits sponsored by me to the best of my knowledge, information and belief, are true, correct, accurate and complete, and I hereby adopt said testimony as if given by me in formal hearing, under oath.

Karl A. McDermott
Karl A. McDermott

Subscribed and sworn to before me, this 20 day of October, 2000.

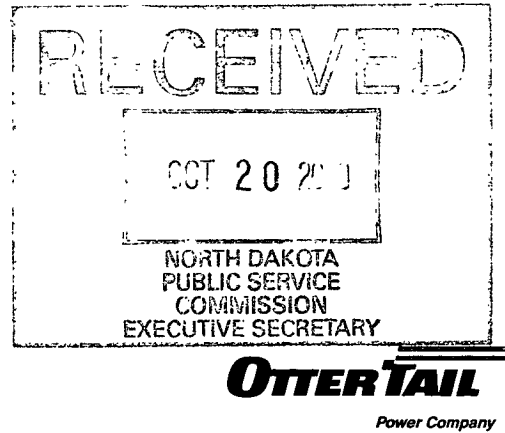
Carolyn A. Johnson
Notary Public



215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)

VIA OVERNIGHT MAIL

October 20, 2000



Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol – 12th Floor
Bismarck, ND 58501

Honorable Allen Hoberg
Administrative Law Judge
Office of Administrative Hearings
1701 North 9th Street
Bismarck, ND 58501-1882

**Re: Application of Otter Tail Power Company for Authority to Operate
Under Performance Based Regulation In North Dakota
Case No. PU-400-00-36**

Dear Mr. Mielke and Judge Hoberg:

Enclosed please find an original and seven (7) copies of the prepared rebuttal testimony of Ms. Bernadeen Brutlag, in support of Otter Tail's January 31, 2000 Application for Approval of a Performance Based Ratemaking Plan.

In addition, Otter Tail, along with Xcel Energy, Inc. (Northern States Power Company), has jointly sponsored the rebuttal testimony of Mr. Karl McDermott in the above case and in Case No. PU-400-00-195. While the two cases have not been officially consolidated, the Otter Tail and Xcel Energy performance-based regulation plans are similar and are subject to a joint evidentiary hearing scheduled for October 23-24, 2000. Xcel Energy has agreed to file Dr. McDermott's testimony on behalf of both parties.

Otter Tail will also serve two (2) copies of the rebuttal testimony on Judge Hoberg and two (2) copies on Xcel Energy. Copies of the testimony have also been served today on all parties by email.

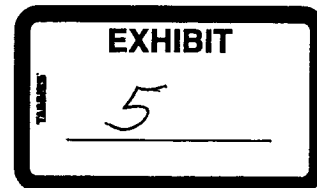
Please direct any questions regarding this filing to the undersigned at 218-739-8350.

Very truly yours,

Todd Guerrero
TJG

Todd J. Guerrero
Associate General Counsel

Enclosures



28 PU-401-00-36

Pages: 1

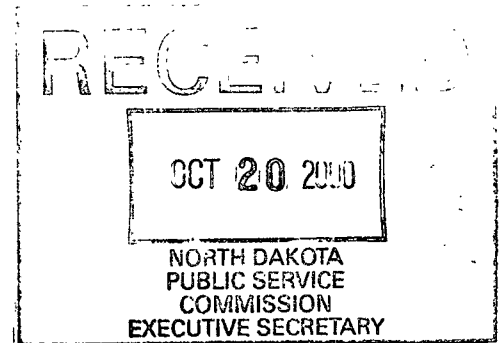
Cover letter re filing

by Otter Tail Power Company
Exhibit # 5

10/20/2000

CC: Comm Legal PUD (3) Mike ALJ

**Rebuttal Testimony
Bernadeen C. Brutlag
OTP Exhibit No. 5**



**Before the Public Service Commission of
the State of North Dakota**

**In the Matter of the Application of
Otter Tail Power Company
for Authority to Operate under Performance-Based Regulation
in North Dakota**

Case No. PU-401-00-36

October 20, 2000

27

PU-401-00-36

Pages: 9

Rebuttal Testimony of Bernadeen C
Brutlag
by Otter Tail Power Company

10/20/2000

CC: Comm Legal PUD (3) Mike ALJ .

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

President Bruce Hagen
Commissioner Susan E. Wefald
Commissioner Leo Reinbold

**In the Matter of the Application of
Otter Tail Power Company for Authority
to Operate under Performance-Based
Regulation in North Dakota**

Case No. PU-401-00-36

REBUTTAL TESTIMONY – BERNADEEN BRUTLAG

Q: Please state your name, position, and business address.

A: Bernadeen C. Brutlag, Manager, Regulatory Services, Otter Tail Power Company, 215
South Cascade Street, Fergus Falls, Minnesota 56538-0496

Q: Have you previously supplied testimony in this case?

A: Yes, on September 29, 2000 I filed written direct testimony that described Otter Tail's
PBR proposal.

Q: Explain the purpose of your response testimony.

A: I will respond to the following issues included in Commission Staff witness Michael
Diller's ("Staff") Rebuttal Testimony filed October 13, 2000:

- (1) equal weighting of performance measures;
- (2) exclusion of a safety performance measure;
- (3) design of the price performance measure; and
- (4) design of the price cap, or base rate change provision.

1 Dr. Karl McDermott will also be submitting rebuttal testimony on behalf of both Xcel
2 Energy and Otter Tail that will address several of these policy issues.

3
4 Otter Tail appreciates Staff's comments and ideas regarding the Company's Performance
5 Based Ratemaking Plan ("Plan"). While Otter Tail does not agree with several of the
6 recommendations, the ideas are nonetheless thoughtful and help facilitate a greater
7 understanding of both Otter Tail's and Xcel Energy's plans and performance-based
8 ratemaking in general.

9
10 Upon the close of the evidentiary hearing, Otter Tail is willing to sit down with Staff and
11 Xcel to develop and submit to the Commission a consensus proposal to the extent
12 necessary.

13
14 **Q: Staff suggests that the performance measures should not be weighted equally. Do**
15 **you agree?**

16 **A:** Staff agrees that depending on how Otter Tail performs in these categories, both price
17 and reliability should have the potential to move Otter Tail's ROE by 50 basis points.
18 He suggests, however, that the customer satisfaction benchmark should be worth only 25
19 basis points. And he suggests assigning no basis points to the Plan's Safety benchmark.
20 Otter Tail disagrees with these recommendations.

21
22 Staff suggests a lower basis point weighting for the customer satisfaction benchmark is
23 warranted because customer satisfaction depends primarily on a customer's perception of

two characteristics already being measured – reliability and price. Price and reliability do of course contribute to customer satisfaction. But as Staff acknowledges, a customer’s satisfaction is affected by many other factors – including, for instance, a utility’s community involvement; its commitment to economic development; simple courtesy, helpfulness, and patience; its tree trimming practices; its promptness and responsiveness to customers’ inquiries and complaints, to name just a few. The whole idea of weighting customer satisfaction equally with the other benchmarks is to provide an appropriate incentive for the company to perform well in these other important areas - and increases its profit only if and when its customers are *very* pleased with their level of service. Discounting customer satisfaction as Staff proposes sends the wrong signal in a performance-based regulation plan meant to gauge a company’s overall performance.

The first criteria of the *Commission’s Guidelines for Filing Alternative Regulation Proposals* is that the plan be comprehensive – i.e., plans should keep the focus on the overall economics of operating the utility and serving customers and avoid the overemphasis on specific aspects of the utility operation. I am afraid that Staff’s recommendation to discount customer satisfaction runs counter to this important guideline.

Q. Staff recommends a modest change in how the customer satisfaction performance standard is designed. Please comment.

R. The standard offered by both Otter Tail and Xcel Energy is based on the number of customers rating their electric utility a “3” or higher on a scale of 1 – 5. Because a “3”

rating represents only average performance, and the goal of the Plan is to reward exemplary performance, Staff suggests the standard be set at “4” and above instead. If this were to occur, however, the standard would have to be changed (presumably lowered) and Staff made no specific recommendation in this regard. Nonetheless, Staff’s suggestion has merit and Otter Tail is open to further consideration of this proposal should the Commission deem it necessary.

Q: Staff recommends eliminating employee safety as a performance measure. Please comment.

A: Employee safety is one of the commonly used performance measures in PBR plans throughout the country. This is because it is important that companies’ PBR efforts do not otherwise sacrifice safety on the alter of potential increased ROEs. Despite this, because he believes there is no connection between a competitive firm’s safety practices and its profitability, Staff recommends that the Plan’s employee safety benchmark be eliminated. Otter Tail does not agree with this rationale. One only needs to look at the recent troubles in the tire and automobile industries to find a strong correlation between safe practices and profitability. As with other industries, working smart and safely in a utility environment absolutely affects the overall quality of service. And again, the safety benchmark, as with the customer satisfaction benchmark, was incorporated into the Plan to achieve one of the principal tenets of the Commission’s guidelines – that plans be focused on the *overall* economics of operating the utility and serving customers and *not* on any one specific aspect. Eliminating safety entirely from consideration in the Plan is inconsistent with this important goal.

Q: What affect would following Staff's suggestions have on the Plan?

A: The primary result of following Staff's recommendations, while well intentioned, would be to severely constrict the overall comprehensiveness of the Plan. Rather than four equally weighted benchmarks, Staff's proposal effectively limits the Plan to two and one-half benchmarks. This is an insufficient number from which to evaluate the Company's overall performance. Consistent with the Commission's guidelines, a performance-based regulation plan should have an appropriate balance between benchmarks that measure overall performance and those that look only at specific results. Because Staff relies too heavily on just two indicators - reliability and price - from which to evaluate the Company's performance, I believe Staff's recommendations fail to meet the Guidelines' criteria that plans should be comprehensive.

Q: Staff suggests comparing Otter Tail's prices against the 10 lowest-priced companies in the region instead of the average price of the 27 utilities proposed by the Company. Please comment?

A: If this were a competitive industry, Otter Tail would be competing against all providers on price, and on many other factors. A competitive market would not arbitrarily eliminate two-thirds of the competition from any consideration by consumers.

The Comparison Group was used because each of the companies operate in a low-cost region and face similar operating challenges with respect to weather, fuel resources, and relatively low population density. To arbitrarily eliminate all but the 10 lowest-priced companies from which to gauge Otter Tail's price competitiveness unfairly penalizes

1 Otter Tail for already being among the lowest-cost of the group. And Staff's suggestion
2 to limit the measure to the *change* in average price of that group is inconsistent with the
3 goal of PBR. That is, if Otter Tail's residential rates fell less than the acceptable range
4 for change based on the already lowest-cost group, Otter Tail could be penalized, even
5 though its rates are still below the regional average. Mr. Dave Sederquist, Xcel Energy,
6 provides an excellent example in his rebuttal testimony of how the application of this
7 measure could work to unfairly penalize the companies.

8
9 In addition, Staff's suggested modification lacks the attributes of a competitive market.
10 In a competitive market, if a company is able to maintain its prices below those of its
11 competitors, it should be able to increase sales. If it can also lower corresponding costs, it
12 should be more profitable. As is explained in Mr. Sederquist's example, Staff's
13 suggested design of the measure could penalize Otter Tail if its price increases more than
14 the *average* of the group, even though it maintains its position in the price comparison of
15 regional companies.

16
17 **Q: Staff suggests some changes to the price cap rate adjustment mechanism. What is**
18 **your opinion of these changes?**

19 **A:** One of the changes Staff suggests is using PPI rather than CPI. Otter Tail and Xcel
20 Energy witness Dr. Karl McDermott will discuss the merits of using CPI versus PPI. I
21 would offer the general comment that CPI is a more familiar, therefore more easily
22 communicated and explained, measurement. It also appears to be a more stable
23 measurement, based on data supplied in MRD-1.

1

2 **Q: What other changes are suggested by Staff?**

3 A: The other important point to emphasize regarding Staff's testimony is his suggestion of
4 dropping the provision in the base-rate change mechanism that compares Otter Tail's
5 rates with the group of regional companies used in the price performance measure. Otter
6 Tail's Plan would not allow an increase in rates if the Company's rates were above the
7 regional average. Conversely, no rate decrease would be required if the company's rates
8 were below the regional average. Without this provision, Otter Tail could be forced to
9 lower its rates even though it already has one of the lowest residential rates in the region.
10 Again, this is inconsistent with the goals of PBR.

11

12 **Q: Does this conclude your reply testimony?**

13 A: Yes.

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

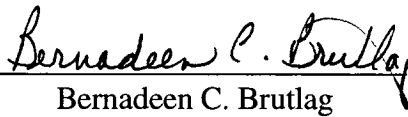
President Bruce Hagen
Commissioner Susan E. Wefald
Commissioner Leo Reinbold

**In the Matter of the Application of
Otter Tail Power Company for Authority
to Operate under Performance-Based
Regulation in North Dakota**

Case No. PU-401-00-36

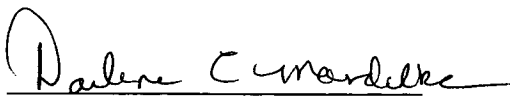
**AFFIDAVIT OF
BERNADEEN C. BRUTLAG**

I, the undersigned, being duly sworn, depose and say that the foregoing is the testimony of the undersigned, and that such Rebuttal Testimony and the exhibits sponsored by me to the best of my knowledge, information and belief, are true, correct, accurate and complete, and I hereby adopt said testimony as if given by me in formal hearing, under oath.


Bernadeen C. Brutlag



Subscribed and sworn to before me, this 20th day of October, 2000.

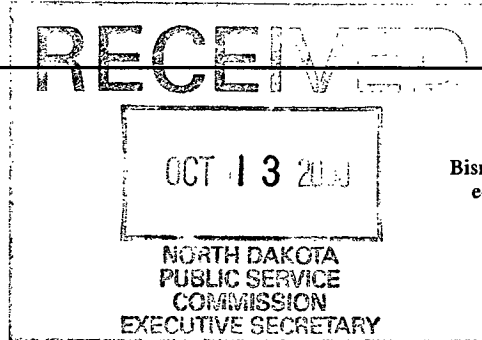

Notary Public



Public Service Commission
State of North Dakota

COMMISSIONERS

Bruce Hagen
President
Susan E. Wefald
Leo M. Reinbold



600 E Boulevard Ave. Dept. 408
Bismarck, North Dakota 58505-0480
e-mail: sab@oracle.psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

Executive Secretary
Jon H. Mielke

October 13, 2000



Mr. Jon H. Mielke
Public Service Commission
600 E Boulevard Ave. Dept. 408
Bismarck, ND 58505-0480

**RE: Northern States Power Company and
Otter Tail Power Company
Application for Performance-Based Regulation Plan
Case No.'s. PU-400-00-195 & PU-401-00-36**

Dear Jon:

Enclosed for filing in the above referenced cases is the original and seven copies of the **Staff Analysis of Application and Rebuttal Testimony**.

Thank you.

Sincerely,

William W. Binek
Chief Counsel

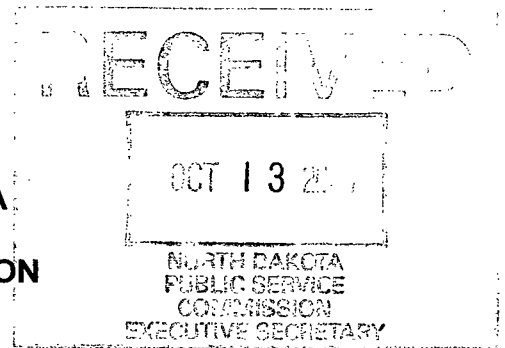
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Enclosure

C: Parties of Record

26 PU-401-00-36 Pages: 1
Cover letter re Rebuttal Testimony
by Public Service Commission
10/13/2000 Exhibit # PSC 1
CC: Comm Legal PUD (3) Mike ALJ

26 PU-400-00-195 Pages: 1
Cover letter re Rebuttal Testimony
by Public Service Commission
10/13/2000 CC: Comm Legal PUD (3) Mike ALJ

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**



**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

**Northern States Power Company
Performance Based Regulation
Application**

Case No. PU-400-00-195

AFFIDAVIT OF SERVICE

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sandra L. Scott deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **13th day of October, 2000**, she sent by regular mail:

STAFF ANALYSIS OF APPLICATION AND REBUTTAL TESTIMONY

To:

Dave Sederquist
Northern States Power Company
2302 Great Northern Dr
Fargo ND 58102

James P Johnson
Xcel Energy dba
Northern States Power Co.
800 Nicollet Mall Suite 2900
Minneapolis MN 55402

Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

Todd Guerrero
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496

Allen Hoberg
Office of Administrative Hearings
1701 North 9th Street
Bismarck ND 58501-1882

Each address shown is the respective addressee's last reasonably ascertainable address.

Sandra L. Scott

Subscribed and sworn to before me
this **13th day of October, 2000.**

Susan K. Richter

Notary Public

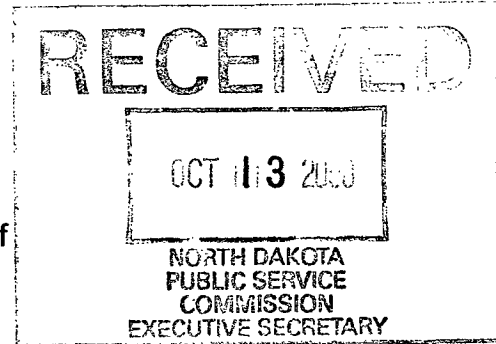
SEAL



Rebuttal Testimony

Mike Diller

Before the Public Service Commission of
the State of North Dakota



Northern States Power Company
and
Otter Tail Power Company

Application for Performance-Based Regulation
Case No.'s PU-400-00-195 & PU-401-00-36

Staff Analysis & Rebuttal

October 13, 2000

24 PU-401-00-36 Pages: 27
Rebuttal Testimony of Mike Diller
by Public Service Commission
10/13/2000 CC: Comm Legal PUD (3) Mike ALJ .

24 PU-400-00-195 Pages: 13
Rebuttal Testimony of Mike Diller
by Public Service Commission
10/13/2000 CC: Comm Legal PUD (3) Mike ALJ .

1 **Introduction**

2 Q: Provide your name and position with the Public Service Commission.

3 A: My name is Mike Diller and I am the Director of Accounting. I am
4 responsible for the Commission's accounting and data processing
5 operations and any assigned public utility matters.

6

7 Q: Provide a summary of your educational background and public utility
8 regulatory experience.

9 A: I have more than 17 years of public utility regulatory experience
10 including service for both the Oklahoma Corporation Commission and
11 the North Dakota Public Service Commission. I received a Bachelor
12 of Science Degree in Accounting from Oklahoma Christian College in
13 Edmond, Oklahoma in 1981. I am a Certified Public Accountant
14 licensed in the state of Oklahoma, and I am a member of the
15 American Institute of Certified Public Accountants.

16

17 Q: Have you provided testimony in North Dakota before?

18 A: Yes. I have testified before the Commission on telephone acquisition
19 proposals, rate cases, financial investigations and other issues.

20

21 Q: What is the purpose of your testimony?

22 A: I will provide an analysis of the performance-based regulation plans
23 as submitted by Northern States Power Company (NSP) and Otter
24 Tail Power Company (OTP). Because both plans are quite similar,
25 staff will address both plans together in this filing. The analysis will
26 take into consideration the applications and direct testimonies filed by
27 the applicants. I will provide suggestions and ideas for consideration.

28

1 Q: In your opinion, what events led to the filing of these plans?

2 A: First, it seems likely that the Commission's own activities of
3 developing guidelines for filing alternative regulation proposals and its
4 continued interest in alternative regulation has created a positive
5 environment for such filings. Several other events have occurred that
6 may have led to these filings including performance-based regulation
7 (PBR) activities in other states, profit motives of these two companies,
8 lack of progress by legislative bodies to restructure the electric
9 industry, a sense that PBR is coming sooner or later and perhaps
10 North Dakota provides an opportunity for a small-scale experiment.
11 The applicants have provided a number of reasons for this filing too.

12

13 **Why Performance-Based Regulation?**

14 Q: Why should the Commission consider moving away from rate of return
15 regulation in favor of another type of regulation?

16 A: Rate of return regulation has been used to regulate utilities for the last
17 100 years. It has stood the test of time and should not be abandoned
18 easily. Staff believes that the Commission should pursue PBR only if
19 it is convinced that ratepayers will indeed benefit from the change.
20 Proof that the PBR plan is not harmful to ratepayers is not sufficient.
21 Before a change is contemplated, the Commission should conclude
22 that ratepayers are indeed better off with PBR. Of secondary
23 importance, staff believes that if change in regulation is inevitable as
24 some suggest, it is better to be in the game rather than watching from
25 the sidelines.

26

27 **General Assessment of the Applications**

28 Q: Provide a general assessment of the applications.

1 A: Generally speaking, staff believes that the filings present a good
2 starting point for discussion. Like the applicants, staff believes that
3 any suitable PBR plan should be comprehensive yet relatively simple
4 to understand and administer. The plans include benchmarks and
5 clear means for measurement relative to price, reliability, customer
6 satisfaction and employee safety. These types of benchmarks are
7 commonly included in performance-based regulation plans.

8

9 **Highlights of Mr. McDermott's Testimony**

10 Q: What is your perception of Mr. McDermott's filed testimony?

11 A: I am glad that the applicants saw the need to hire him. He brings a lot
12 to the table of discussion and I look forward to meeting.

13

14 I appreciated his observation that "no plan is perfect" (page 3) and
15 that the Commission "needs to balance the pursuit of the perfect plan
16 with the realities of a regulatory proceeding" (page 19). Obviously,
17 rate of return regulation is not perfect and we should not expect that
18 PBR would be perfect either. A continued watch by the Commission
19 to ensure fair and reasonable rates is necessary under any plan until
20 such time that a competitive market exists.

21

22 Similarly, I appreciated his observation that "the trick to making
23 performance based regulation work is to design a set of incentives
24 such that the desired outcomes are likely to be realized." This is an
25 easy concept to understand but a difficult one for regulators to accept
26 and apply. Of course regulators want the companies to excel in the
27 areas of low prices, high reliability and good customer service.
28 However, those of us trained under rate of return regulation have

1 grown accustomed to holding companies to a specified rate of return
2 regardless of performance. The idea of a company having the
3 opportunity to retain higher levels of profits for higher levels of
4 performance will take some getting used to. Should PBR be approved
5 for use and the applicants are as successful as is hoped, higher
6 earnings levels may be achieved.

7
8 I also found his attachments helpful in trying to understand where the
9 rest of the country is in regard to PBR. I was quite surprised at the
10 small number of comprehensive plans currently in use. It appears that
11 these two cases are close to, if not on, the cutting edge of new
12 regulatory methods.

13
14 Q: You have highlighted some of the things you agree with, do you find
15 anything in Mr. McDermott's testimony that raises questions in your
16 mind?

17 A: Yes. I couldn't help but notice that towards the end of his testimony,
18 Mr. McDermott strays from what I will call "the company line." Mr.
19 McDermott (page 25) poses the question "Is it appropriate to weight
20 the standards equally?" The question itself and the response that
21 follows suggest to me that equal weighting is suspect. He supports
22 the equal weighting advocated by his clients but in my opinion leaves
23 the door open for additional consideration. Mr. McDermott (page 27)
24 also questions the use of the consumer price index (CPI) rather than a
25 broader economy wide price inflation factor. He further challenges the
26 pricing flexibility (page 28) supported by the applicants as well as the
27 price adjustment asymmetry (page 29) included in these plans. To

1 summarize, I believe Mr. McDermott raises some good questions that
2 need exploring.

- 3 ▪ Are the performance standards properly weighted?
- 4 ▪ Is CPI the best inflation index to use?
- 5 ▪ Should the applicants be given additional pricing flexibility?
- 6 ▪ Should price increase/decrease asymmetry be allowed?

7
8 **Equal Weighting of Performance Standards**

9 Q: What is your opinion regarding equal weighting for each of the
10 performance standards?

11 A: I agree with the applicants with respect to 50 basis points for the
12 rewards/penalties associated with the price and reliability standards. I
13 believe 25 basis points are in order for the customer satisfaction
14 standard and that no ROE baseline adjustment is necessary for
15 employee safety.

16
17 Performance benchmarks are used to create incentives for the
18 companies to perform at certain desirable levels. In a competitive
19 market, benchmarks are not necessary. If the prices charged relative
20 to the services rendered are too high, earnings suffer. If customer
21 service is shabby, earnings suffer. A competitive market place
22 actively links performance to profits without PBR.

23
24 Since a competitive market does not exist for electric service, a
25 surrogate for competition is necessary. An effective PBR plan
26 encourages companies to make market-like decisions to remain
27 competitive. That being the goal, it seems important to consider the
28 natural value of each performance measure to customers since the

1 market place makes similar judgments. It is doubtful that customers
2 value each equally as the 50 basis points for each performance
3 standard suggests. Every customer is different and therefore may
4 place a different value on each performance measure. Some would
5 place a greater value on reliability while others would be more
6 concerned about price. That being the case, we should still be able to
7 draw some broad conclusions as to what is important to customers.
8 Upon doing so, we should be able to assign a value to each standard
9 relative to its perceived value to customers. I believe that price and
10 reliability are the most important customer values and therefore place
11 a higher value on achieving those performance standards.

12
13 Customer satisfaction hinges directly and to a large degree on the
14 primary benchmarks of price and reliability and therefore warrants a
15 smaller incentive portion. Even though some overlapping occurs, it is
16 reasonable to think that sufficient other events and transactions occur
17 between utilities companies and customers to warrant its inclusion.
18 For example, bill clarity and readability would not influence the
19 outcome of the price or reliability standards yet are an important
20 monthly contact with consumers. While people may only move every
21 4 or 5 years, the experience related to the transfer of service or the
22 installation of new service is not quickly forgotten. Again, these types
23 of transactions are outside the measurable standards of price and
24 reliability, yet very important to customers. I believe transactional
25 surveys would be better and avoid some of the overlap that occurs in
26 the proposed relational surveys. However, my concerns are not great
27 and I understand the value of having relational survey history on hand
28 for implementing PBR.

1

2 **Eliminate Employee Safety Standard**

3 I am not convinced that an employee safety standard should be
4 included in the PBR plan. I am sympathetic to the desire to link
5 earnings with employee safety and the maintenance of a safe work
6 environment. However, including such a factor seems to step outside
7 the boundaries of trying to create a market-like environment. I believe
8 there are plenty of incentives to maintain worker safety without
9 building a profit motive into PBR. For the most part, such a
10 connection does not exist in a competitive market. Since we are
11 attempting to promote market conditions through the benchmarks, the
12 employee safety standard is not necessary. As the applicants'
13 testimony suggests, high safety standards are being maintained
14 without PBR. I believe similar results will be maintained under PBR
15 given management's moral obligations to their employees. If this is
16 not enough of an incentive, the federal government through the
17 Occupational Safety and Health Administration (OSHA), unions and
18 other watch dogs will inspire them. Further, lost productivity due to
19 injuries and accidents can negatively affect the three remaining
20 standards of price, reliability, and customer satisfaction.

21

22 **CPI or PPI**

23 Q: Is CPI the best inflation index to use for part of the price capping
24 mechanism?

25 A: I don't believe so. Deciding on which inflation index to use depends
26 on the objective or its intended use. The consumer price index
27 measures inflation experienced by consumers for day-to-day living
28 expenses. The types of costs driving the index include food and

1 beverages, housing, apparel, transportation, medical care, recreation,
2 education, communication and other goods and services. If the
3 purpose of using CPI is to limit potential price increases to a factor of
4 those experienced by urban consumers, then CPI is appropriate.

5
6 However, if the goal is to limit price increases to a broad index related
7 to electric prices, using an index like the producer price index (PPI)
8 would be more appropriate. The PPI is more of an industrial price
9 index rather than a consumer price index and includes specific
10 indexes for gas and electric utilities. The PPI is one of the oldest
11 indexing systems published by the Bureau of Labor and Statistics and
12 includes 10,000 indexes for specific products and product categories.
13 PPI maintains a countrywide index for electric power and natural gas
14 utilities, electric power, residential electric power, commercial electric
15 power, and industrial electric power. PPI indexes are also maintained
16 by region and by type of utility (investor owned or non-investor
17 owned). I have included Schedule MRD-1 to show a comparison of
18 PPI to CPI.

19
20 PPI is more representative of the changes in the prices of electric
21 power than is the CPI. Based on Schedule MRD-1, it makes little
22 difference in the long run whether the broader or more narrowly
23 defined PPI is used. According to the PPI, there has been little or no
24 inflation in providing electric service during the past 10 years. On the
25 other hand, consumer prices reflect a 2%-3% annual growth rate. Will
26 the near zero inflation of PPI continue? Probably not, but that is why
27 the use of an appropriate index factor is important. Inflation indexes

1 are not chosen to be punitive or to reward but to accurately reflect
2 price changes that are being experienced in the marketplace.

3
4 **Administering Price Changes**

5 Q: What is your understanding about how price increases/decreases will
6 be administered to the various customer classes?

7 A: Otter Tail does not address the issue in its filings. As I read NSP's
8 testimony on this matter (McDermott and Sederquist), there is very
9 little price flexibility in NSP's PBR plan. NSP's application states that
10 any price increases or decreases will be administered equally to all
11 customer classes unless the company requests something different.
12 Even then, according to Mr. Sederquist's testimony, the company is
13 restricted to asking for a rate design that assigns no more than the
14 overall percentage increase to each class. In other words, the
15 company may choose to forego part or all of an allowed price increase
16 to a particular customer class. According to Mr. Sederquist, price
17 decreases must be fully implemented across-the-board to all customer
18 classes unless the company would choose to lower rates even further
19 for a particular class of customers.

20
21 Q: Should NSP be given additional pricing flexibility, as Mr. McDermott
22 seems to suggest?

23 A: It is too early in the evolution of a competitive electric supply market to
24 give much on price flexing. I believe that the flexibility already granted
25 by the Commission through NSP's economic development tariff and
26 its ability to enter into Commission-approved contracts with individual
27 consumers provides enough freedom to pursue rates deemed
28 necessary by the company.

1

2 **Customer Satisfaction Standard**

3 Q: Do you have any comments regarding the customer satisfaction
4 performance standards advocated by the companies?

5 A: I think the companies have done a good job describing how customer
6 satisfaction will be measured and determined. There are some
7 differences between the two plans but I am primarily concerned with
8 the tightness of the band. Because the companies have traditionally
9 done a very good job at serving customers, including 3 out of the 5
10 answers as acceptable performance leaves little room for
11 improvement. Perhaps the plan should include the top 2 responses of
12 “very good” and “excellent” in developing the standard. After all, the
13 response “good” is really just average since it is in the middle of 5
14 possible answers. Shouldn’t the goal be higher than average?
15 Excluding the “good” responses from the benchmark would enable a
16 broader bandwidth and provide more room for improvement. For
17 example, assume 50% of customers currently rate a company “very
18 good” and “excellent.” Under this scenario, the company has 50% of
19 the customer base to work with as it tries to move perceived customer
20 service into the top two tiers. Changing the benchmark to only include
21 the top two responses also communicates to employees that the
22 company wants a higher level of service.

23

24 **Price Standard**

25 Q: Do you have any concerns about the price standard advanced by the
26 applicants?

27 A: Yes, I do. I believe the price standard will be too easily met. I
28 appreciate the view that ratepayers should be happy to have some of

1 the lowest rates in an already low cost region. However, our goal is to
2 promote a higher level of service, including price, beyond what we
3 already enjoy under rate of return regulation. While the price standard
4 is symmetrically structured, the possibility of incurring the penalty is
5 extremely remote while the chance of achieving the reward is very
6 good.

7
8 If the plan had been in effect during the past 6 years (1994 to 1999),
9 NSP would have claimed a reward of 50 basis points every year
10 except 1994 for exceeding the price standard. Even in 1994, NSP
11 would have missed the reward by only .04 cents per kWh. For
12 example, in 1994 the regional average less 15% was 5.92 cents per
13 kWh whereas NSP provided service for 5.96 cents per kWh. During
14 the past 5 years, NSP has on average exceeded the standard by .18
15 cents per kWh (see Schedule MRD-2 for details). By contrast, NSP
16 would have avoided the price penalty by an average of 2.33 cents
17 during the past 5 years. To put this in perspective, NSP recently
18 made a compliance filing because of a settlement reached in Case
19 Nos. PU-400-98-246 and PU-400-99-418 reducing electric rates by
20 \$261,000. The result of the compliance filing reduced residential
21 electric rates by .01 to .02 cents depending on the month service is
22 provided. Therefore, if it takes \$261,000 to move residential rates .02
23 cents, NSP North Dakota could raise its rates by \$30 million and still
24 receive a reward for exceeding the price standard. A similar analogy
25 could be made for OTP but the point is made.

26
27 A price standard could be developed to provide more of a market-like
28 stretch. For example, why not agree that no revenue sharing is

1 required for years in which a company achieves the lowest price per
2 kWh in the region. The only contingency necessary is that the
3 company must be within or above the bandwidth established for both
4 the customer satisfaction and reliability standards. I realize that both
5 applicants are within striking distance of meeting this objective but
6 only one can achieve it. Now that's market pressure!

7
8 In the mean time, it is necessary to tighten up the bandwidth so
9 meeting the price standard isn't quite so automatic. To this end, I
10 suggest we narrow the bandwidth by working off the average price
11 change of the previous year's top ten performers in the comparison
12 group. I recommend only the top ten because of the disparity
13 between prices within the region. Naturally, those companies with
14 high rates towards the bottom of the list have more of an opportunity
15 to reduce rates. Including only the top ten price performers will
16 present a fairer test of performance. For example, if the company
17 beats the average price change of the top 10 price performers by
18 more than .05 cents per kWh, 50 basis points are awarded. If on the
19 other hand, the limited comparison group beats the company by more
20 than .05 cents per kWh, 50 basis points are deducted. The bandwidth
21 then is arbitrarily set at .05 cents per kWh. For example, in 1999 the
22 limited comparison group averaged .12 cents per kWh increase over
23 1998. To participate in a reward, NSP would have had to provide
24 service for .07 cents less per kWh in 1999. To avoid a penalty of 50
25 basis points, NSP would have had to provide service for no more than
26 an additional .17 cents in 1999. Applying this type of system to the
27 last 6 years for both NSP and OTP, 50 basis points would have been
28 awarded to both companies 4 times, 50 basis points would have been

1 deducted in 1998 and no rewards would have been granted in 1994.
2 See Schedule MRD-3 for details.

3
4 Based on my historical application, it may seem unreasonable for the
5 applicants to benefit so regularly. However, it is hard to argue against
6 rewarding companies who are among the lowest in the region and still
7 beating the top price performers on a regular basis.

8
9 **12% ROE Baseline**

10 Q: Provide your thoughts on the suggested baseline return on equity.

11 A: Staff has been using a 12% return on equity in its investigations and
12 settlements for many years. The settlements were negotiated and
13 adopted by the Commission. Prior to the settlement era, the
14 Commission authorized similar returns. For instance, the Commission
15 last authorized an 11.5% return on equity for NSP's electric operations
16 in 1993. In 1991, the Commission authorized returns of 12% for both
17 MDU's and NSP's gas operations. Similar returns have been
18 authorized by the other jurisdictions regulating these applicants.
19 Further, a 12% return on equity is not unreasonable in comparison to
20 other rates being authorized throughout the country. Last, it is
21 important to remember that our goal is to achieve a fair end result.
22 The use of an 11% return on equity may be appropriate given certain
23 parameters. The use of a 13% return on equity may be appropriate
24 under different parameters. Based on the history of this Commission
25 and the returns authorized in other jurisdictions, staff believes that a
26 12% baseline return on equity is a reasonable starting point. For
27 specific returns authorized by various jurisdictions regulating NSP,
28 OTP and Montana-Dakota Utilities Co., see Schedule MRD-4.

1

2 **1% Deadband**

3 Q: Provide comments on using a 1% deadband around the return on
4 equity baseline.

5 A: I believe the proposed deadband is reasonable. In these applications
6 and without considering performance factors, a deadband of 1%
7 means that the companies would not share any earnings with
8 customers between a return on equity of 12% and 13%. Similarly, the
9 companies could not share any under-earnings with customers
10 between the baseline of 12% and 11%. To bring some perspective to
11 these numbers, a 1-percentage point change in equity equates to
12 about \$1.2 million in revenue requirements and 1% in total revenues
13 for the applicants. Therefore, revenues could vary as much as \$2.4
14 million from one year to the next and customers would be unaffected.

15

16 The deadband insures that customers are not affected by every factor
17 affecting the delivery of energy. Instead, the utilities are at risk for any
18 over or under-earnings within the band. In North Dakota, weather
19 extremes are a way of life and can greatly influence the earnings
20 capabilities of the electric companies. A deadband therefore puts the
21 utilities at risk for the swings in earnings caused by weather extremes.
22 Dead-bands provide a front line whereby the utilities are at risk for
23 both uncontrollable and controllable factors. Under PBR, a company
24 must affectively manage its embedded cost of debt and capital
25 structure to be successful. The company must manage its sales and
26 expenses to be successful. Some of the costs are controllable by the
27 company while others are more a matter of luck.

28

1 Under rate of return regulation, reported earnings on equity for OTP
2 have fluctuated between 10% and 14% during the past 5 years.
3 During the same period, reported earnings for NSP have fluctuated
4 between 11% and 17%. See Schedule MRD-5 for details of reported
5 earnings levels. At the close of each year, the Commission receives
6 annual reports from the utilities companies disclosing earnings levels.
7 Once received, the staff recommends to the Commission whether it
8 should open a financial investigation because of reported over-
9 earnings. Staff's investigations have typically focused on the use of a
10 12% return on equity. However, staff has not been inclined to suggest
11 opening an investigation unless reported earnings exceeded 13%
12 thereby recognizing a range of reasonableness similar to the dead
13 proposed by the applicants.

14
15 **Revenue Sharing**

16 Q: Otter Tail does not request an economic development component as
17 part of its revenue sharing plan. However, NSP suggests that 10% of
18 any revenue sharing be allocated to a dedicated economic
19 development fund. Comments?

20 A: I agree with the 50/50 sharing advocated by OTP. I don't believe it is
21 necessary to set up a specific mechanism to set aside economic
22 development funds. NSP can choose to participate or not participate
23 in economic development activities just like any other competitive
24 enterprise. However, each decision will impact the earnings of the
25 company. Under PBR, the company will pay for at least one-half of all
26 economic development activities. For earnings that would have fallen
27 within the bandwidth absent economic development expenditures,
28 NSP will pay 100% of the costs. For earnings that would have fallen

1 outside the bandwidth absent economic development expenditures,
2 NSP will pay for 50% of the costs. The fiduciary responsibility of
3 management to its stockholders will be strong and require thoughtful
4 consideration under PBR.

5
6 **Price Cap**

7 Q: What do you think about the price cap portion of the PBR plans?

8 A: Both companies support the same price cap calculation. Under the
9 plans, a price decrease is not likely to occur irrespective of earnings
10 levels achieved. On the other hand, the ability to raise prices under
11 PBR is likely to occur given the history of the determinants for a price
12 change, namely the applicants' rates in relation to those in the
13 comparison group, CPI, and the changes in the comparison group
14 prices. The last time the country saw a negative CPI for a December-
15 to-December comparison was in 1954. You might have to go back
16 just as far to find a period where applicants' North Dakota electric
17 rates were higher than the regional average. Therefore, two of the
18 three determinants strongly favor the applicants.

19
20 Q: What do you recommend?

21 A: I believe the decision making model should be adjusted to bring in a
22 more balanced approach. However, I agree with the starting point
23 that includes the top of the deadband. Under PBR, if the Commission
24 agrees that given certain parameters a particular company has earned
25 the right to earn a certain return on equity, before any sharing occurs,
26 then the price cap formula should begin at that point.

27

1 However, I suggest that the next decision level of whether rates are
2 higher or lower than the comparison group be dropped. Both NSP
3 and Otter Tail are more than a cent per kWh away from the
4 comparison group average providing little challenge or comparative
5 value. Inclusion of this standard in the price-flexing part of the plan
6 does little more than make price increases possible and price
7 decreases unlikely. See Schedule MRD-6 for applicants' decision-
8 making model.

9
10 I suggest that the CPI be replaced with an inflation index more closely
11 related to providing electricity. To this end, I suggest the use of the
12 broad PPI as discussed earlier. In consideration of the applicants'
13 already low rates, I don't believe a productivity offset or stretch factor
14 is necessary.

15
16 Last and in the interest of furthering symmetry and rate stability, I
17 suggest that the same negative and positive conclusion is made
18 possible. According to the companies' filings, when a rate decrease is
19 required the largest negative of the inflation index and the average
20 change in the comparison group prices must be used to adjust rates.
21 On the other hand, if a rate increase is allowed then the smallest
22 positive of the two indexes is used to adjust rates. I suggest that if a
23 price decrease is required, such a decrease be tempered to the
24 smaller of the two limiting indexes. Similarly, if a price increase is
25 allowed, such an increase is limited to the smaller of the two indexes.
26 See Schedule MRD-7 for staff's decision-making model.

27

1 In summary, staff advocates using the model developed by NSP with
2 a few adjustments. Staff's adjustments will add some symmetry to the
3 plan, eliminate a layer of the decision making model, and replace CPI
4 with a more relevant PPI index. These suggestions will limit price
5 increases and decreases to those experienced on average by both
6 the industry as a whole (PPI) and the companies in this particular
7 region (comparison group price change).

8
9 **Reliability Standard**

10 Q: Please comment on the reliability standard selected by the applicants.

11 A: I agree with the use of the system average interruption duration index
12 (SAIDI) for the reliability performance standard. There are other
13 indexes that could be considered or combined with the SAIDI but from
14 an overall perspective and for the sake of administrative ease, I
15 support the use of the SAIDI.

16
17 Q: What do you think about how the performance benchmark is
18 calculated?

19 A: Attachment D, Page 2 of the application provides the details of the
20 reliability standard advocated by NSP. Because consistent historical
21 information is not available for North Dakota prior to 1999, NSP's
22 proposal averages the averages of both North Dakota and Minnesota
23 indexes. I am leery about using Minnesota's index without any
24 support for its applicability to North Dakota. Instead, I suggest using
25 the North Dakota average of 1999 and 2000 (to be determined later)
26 plus or minus 15% for the initial bandwidth. For each year after that, I
27 suggest including last years index as part of the average. I'm not
28 entirely comfortable with either of these methods, but prefer a method

1 based on North Dakota results. That said, reliability is too important to
2 leave out of the PBR plan simply because good historical information
3 is not available. For 1999, NSP reported a North Dakota SAIDI index
4 of 74.

5
6 Otter Tail uses a straight 5-year system-wide average to develop its
7 standard of 83 minutes because of reporting difficulties on a state-by-
8 state basis. I would prefer a North Dakota basis but that type of
9 information is not available. Otter Tail is a much smaller company by
10 comparison to NSP and does much more of its business in North
11 Dakota. Therefore, staff is agreeable to using the system-wide
12 average supported by Otter Tail.

13
14 **Summary**

15 Q: Please summarize the PBR plan incorporating staff's suggested
16 revisions to NSP's plan.

17 A: Staff believes the 3 performance measures of price, reliability and
18 customer satisfaction are sufficient and recommends excluding the
19 employee safety standard. With regard to the performance measure
20 of price, staff recommends a bandwidth of plus or minus .05 cents
21 from the average of the prior year's top 10 price performers. Staff
22 agrees with the proposed reliability standard (SAIDI) but suggests that
23 NSP recalculate its index annually to reflect additional North Dakota
24 experience. Staff suggests that the companies consider including the
25 top two responses in the customer satisfaction standard rather than
26 the top three responses out of five. Staff believes that the proposed
27 return on equity baseline of 12% and a deadband of 1 percentage
28 point is a reasonable starting point. Rather than assigning 2

1 additional percentage points for meeting all four performance
2 standards, staff recommends an additional 1.25 percentage points for
3 meeting all three performance standards (.5 percentage points for
4 price and reliability and .25 percentage points for customer
5 satisfaction). With staff's revisions in place, the company has the
6 potential to earn 14.25% on equity before sharing any additional
7 profits with shareholders. However, to get there the company will
8 have to maintain its already low price status within the region, beat its
9 average system outages by 15% and serve customers very well. On
10 the flip side, if the company does not perform it has the potential to
11 earn as low as 9.75% return on equity before customers are expected
12 to share in its under earnings. Further, staff advocates no revenue
13 sharing if the company can secure the lowest price position in the
14 region and still maintain quality of service
15

16 Last and perhaps the most contentious are the price change schemes
17 advocated by staff and the companies. The companies recommend
18 plans that would make price decreases nearly impossible and price
19 increases quite possible--though limited to a factor of CPI or regional
20 price changes, whichever is smaller. On the other hand, staff argues
21 for a scheme that minimizes price changes of any kind.
22

23 Q: Does this conclude your testimony?

24 A: Yes, it does.
25

Comparison of CPI to PPI

Schedule MRD-1

Year	CPI		(1) Narrow PPI		(2) Broad PPI	
	Index	% Chg	Index	% Chg	Index	% Chg
1990	133.8	6.1%	100		100	
1991	137.9	3.1%	99.7	-0.3%	104.4	4.4%
1992	141.9	2.9%	100.1	0.4%	105.9	1.4%
1993	145.8	2.7%	99.9	-0.2%	107.1	1.1%
1994	149.7	2.7%	100	0.1%	109.1	1.9%
1995	153.5	2.5%	98.5	-1.5%	109.5	0.4%
1996	158.6	3.3%	99.2	0.7%	109.8	0.3%
1997	161.3	1.7%	99.9	0.7%	109.9	0.1%
1998	163.9	1.6%	100.4	0.5%	107.7	-2.0%
1999	168.3	2.7%	98.3	-2.1%	107.7	0.0%
Last 3 Yr Avg		2.0%		-0.3%		-0.6%
Last 9 Yr Avg		2.6%		-0.2%		0.8%

Source: The information pertaining to the CPI (Consumer Price Index) and the PPI (Producer Price Index) was taken from the U.S. Department of Labor's Bureau of Labor Statistics' website and includes the December index for each year.

(1) Includes the PPI for residential electric consumers in the West North Central Region. The West North Central Region includes the states of Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

(2) Includes the PPI for electric power nationwide.

Price Standard Analysis

Year	NSP	Cent/kwh Change	% Change	Region Average	Cent/kwh Change	% Change	Region Average less 15%	Cent/kwh Reward Margin	% Reward Margin	Region Average plus 15%	Cent/kwh Penalty Margin	% Penalty Margin
1993	5.91			7.05								
1994	5.96	0.05	0.85%	6.96	-0.09	-1.28%	5.92	-0.04	-0.74%	8.00	2.04	34.30%
1995	5.80	-0.16	-2.68%	7.00	0.04	0.57%	5.95	0.15	2.59%	8.05	2.25	38.79%
1996	5.75	-0.05	-0.86%	6.98	-0.02	-0.29%	5.93	0.18	3.18%	8.03	2.28	39.60%
1997	5.86	0.11	1.91%	7.21	0.23	3.30%	6.13	0.27	4.58%	8.29	2.43	41.49%
1998	6.07	0.21	3.58%	7.31	0.10	1.39%	6.21	0.14	2.36%	8.41	2.34	38.49%
1999	6.11	0.04	0.66%	7.35	0.04	0.55%	6.25	0.14	2.25%	8.45	2.34	38.34%
Average								0.14	2.37%		2.28	38.50%
Average of Last 5 Years								0.18			2.33	

Year	OTP	Cent/kwh Change	% Change	Region Average	Cent/kwh Change	% Change	Region Average less 15%	Cent/kwh Reward Margin	% Reward Margin	Region Average plus 15%	Cent/kwh Penalty Margin	% Penalty Margin
1993	6.04			7.05								
1994	6.08	0.04	0.66%	6.96	-0.09	-1.28%	5.92	-0.16	-2.70%	8.00	1.92	31.64%
1995	6.04	-0.04	-0.66%	7.00	0.04	0.57%	5.95	-0.09	-1.49%	8.05	2.01	33.28%
1996	5.91	-0.13	-2.15%	6.98	-0.02	-0.29%	5.93	0.02	0.39%	8.03	2.12	35.82%
1997	6.02	0.11	1.86%	7.21	0.23	3.30%	6.13	0.11	1.80%	8.29	2.27	37.73%
1998	6.09	0.07	1.16%	7.31	0.10	1.39%	6.21	0.12	2.03%	8.41	2.32	38.04%
1999	6.03	-0.06	-0.99%	7.35	0.04	0.55%	6.25	0.22	3.61%	8.45	2.42	40.17%
Average								0.04	0.61%		2.18	36.11%
Average of Last 5 Years								0.08			2.23	

Schedule MRD-2

Utility Comparison Group (Investor Owned Utilities)
Average Residential Revenue (Cents/Kwh)
North Dakota, South Dakota, Montana, Wyoming, Minnesota, Iowa, Wisconsin

<u>Utility Company by Jurisdiction</u>	<u>1999</u>	<u>Rank</u>	<u>1998</u>	<u>Rank</u>	<u>1997</u>	<u>Rank</u>	<u>1996</u>	<u>Rank</u>	<u>1995</u>	<u>Rank</u>	<u>1994</u>	<u>Rank</u>	<u>1993</u>	<u>Rank</u>
Pacificorp - Mont					5.03	1	5.01	1	5.03	1	5.07	1	4.78	1
Cheyenne Light, Fuel, & Power -Wyo	6.20	4	5.66	1	5.87	5	6.05	5	6.07	7	5.59	3	5.60	4
Pacificorp - Wyo	5.74	1	5.73	2	5.67	2	5.63	2	5.59	2	5.61	4	5.57	3
IES Utilities (IA Southern Util)					5.80	3								
NSP - ND	6.11	3	6.07	3	5.86	4	5.75	3	5.80	3	5.96	6	5.91	6
Ottertail Power Co. - ND	6.03	2	6.09	4	6.02	6	5.91	4	6.04	6	6.08	7	6.04	7
Superior Water & Light - Wisc.											6.16	9	6.56	11
Wisc. Public Service - Wis	6.68	7	6.28	5	6.39	8	6.61	11	6.62	11	6.80	12	7.07	
Ottertail Power Co. - SD	6.25	5	6.30	6	6.22	7	6.17	7	6.26	8	6.12	8	6.25	8
Ottertail Power Co. - Minn	6.48	6	6.56	7	6.42	9	6.35	9	6.39	10	6.46	11	6.43	9
Montana Power Co. - Mont			6.58	8	6.44	10	6.11	6	5.88	4	5.69	5	5.60	5
Wisconsin Power & Light (Alliant) - Wis	6.87	9	6.72	9	6.73	12	6.79	13	6.82	13	7.01		6.70	12
Minnesota Power - Minn	6.71	8	6.77	10	6.61	11	6.34	8	5.94	5	5.55	2	5.41	2
Montana-Dakota Utilities - ND	7.21	11	6.90	11	6.86	13	6.76	12	6.81	12	6.95	13	6.94	13
NSP - Wis	7.33	12	7.10	12	7.00		6.96	14	6.82	14	6.98	14	7.06	
Black Hills Power & Light - Mont	7.09	10	7.22	13	7.67		8.21		8.20		7.87		8.16	
Montana-Dakota Utilities - Wyo	7.40	13	7.29	14	7.16		6.35	10	6.34	9	6.39	10	6.43	10
Montana-Dakota Utilities - Mont	7.43	14	7.41	15	7.40		7.40		7.42		7.43		7.45	
Northwest Public Service - SD	7.79	16	7.45	16	7.35		7.35		7.43		7.57		7.60	
NW Wisconsin Electric - Wis	7.59	15	7.62	17	7.23		6.97	15	6.98	15	7.02		7.05	
NSP - SD	7.85	19	7.66	18	7.60		7.45		7.53		7.59		7.51	
Wisconsin Energy Co. - Wisc	7.81	18	7.79	19	7.08		7.04		7.19		7.25		7.16	
Madison Gas & Elec - Wisc	8.41	24	7.81	20	7.69		7.44		7.48		7.62		7.76	
Black Hills Power & Light - Wyo	7.80	17	7.84	21	7.81		7.76		7.39		7.28		6.96	15
NSP - Minn	8.02	21	7.89	22	7.87		7.70		7.69		7.49		7.37	
Black Hills Power & Light - SD	8.29	22	8.28	23	8.24		8.17		7.83		7.76		7.23	
Interstate Power Co. - Iowa	7.86	20	8.55	24	7.78		7.47		7.45		7.23		6.95	14
Interstate Power Co.(Alliant) - Minn	8.30	23	8.62	25	8.52		8.16		7.93		8.01		8.05	
IES Utilities (Alliant) - Iowa	8.57	25	8.73	26	9.70		8.08		8.15					
MidAmerican Energy - Iowa			8.88	27	8.83		8.85		9.17					
Montana-Dakota Utilities - SD	9.17	26	8.96	28	8.87		8.76		8.81		8.94		8.94	
Iowa Electric Light and Power - Iowa											8.05		9.64	
Midwest Power											8.48		9.32	
Iowa-Ill. Gas & Electric - Iowa											10.06		9.16	
Average Residential Rate	<u>7.35</u>		<u>7.31</u>		<u>7.12</u>		<u>7.02</u>		<u>7.00</u>		<u>7.03</u>		<u>7.05</u>	
Prior Years Top Ten Average Rate	6.43		6.31		6.13									

Comparison of Results

Comparison Group Average Change	0.04	0.19	0.10	0.02	(0.03)	(0.02)
Prior Years Top Ten Avg Rate Change	0.12	0.05	0.16	0.03	0.08	0.05
NSP's Change	0.04	0.21	0.11	(0.05)	(0.16)	0.05
OTP's Change	(0.06)	0.07	0.11	(0.13)	(0.04)	0.04

Bandwidth of .05 Cents Around Top Ten Performers

Winners	Both		Both	Both	Both	
Losers		Both				
Draws					Both	

**Authorized Returns on Equity
Investor Owned Gas & Electric Companies of North Dakota
By Company and Jurisdiction**

Schedule MRD-4

<u>MDU Electric</u>	<u>Year</u>	<u>ROE</u>
Montana	1987	12.30
N. Dakota	1987	12.71
S. Dakota	1986	13.00
Wyoming	1993	11.35

<u>MDU Gas</u>		
Montana	1996	12.00
N. Dakota	1991	12.00
S. Dakota	1994	11.50
Wyoming	1993	11.35

<u>NSP Electric</u>		
Michigan	1999	11.90
Minnesota	1993	11.47
N. Dakota	1993	11.50
Wisconsin	1999	11.90

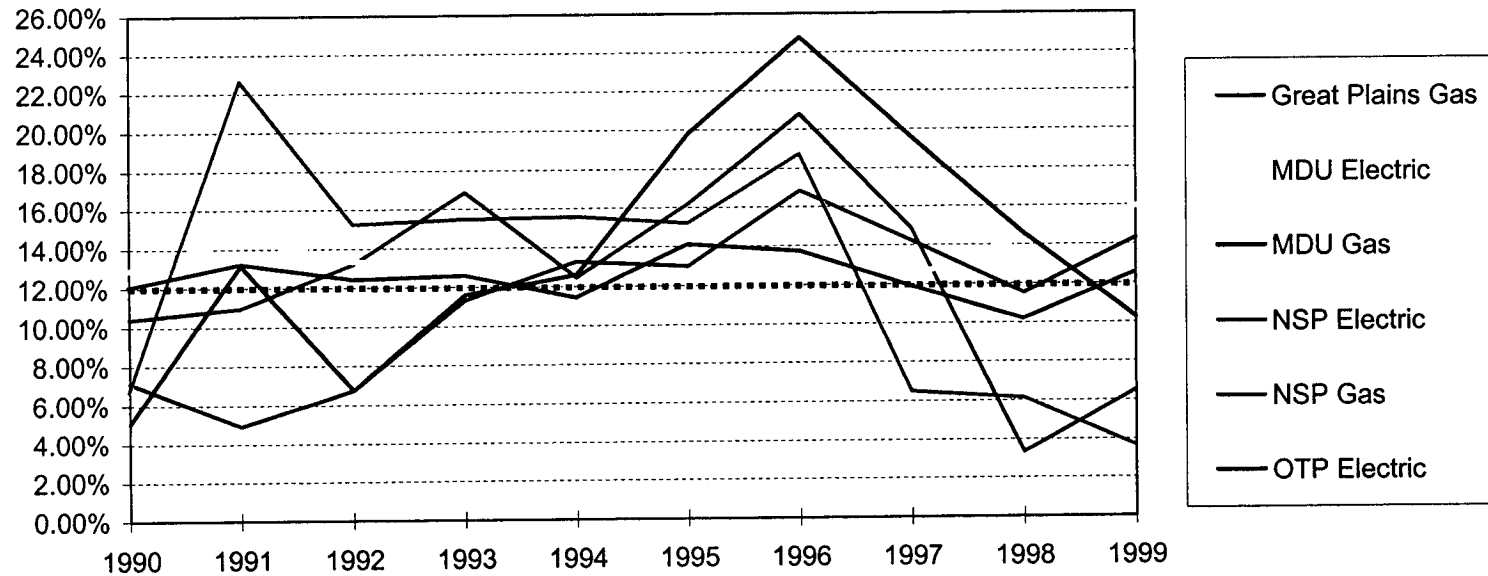
<u>NSP Gas</u>		
Michigan	1987	12.25
Minnesota	1998	11.40
N. Dakota	1991	12.00
Wisconsin	1999	11.90

<u>OTP</u>		
Minnesota	1986	12.00
N. Dakota	1984	14.84
S. Dakota	1986	11.75

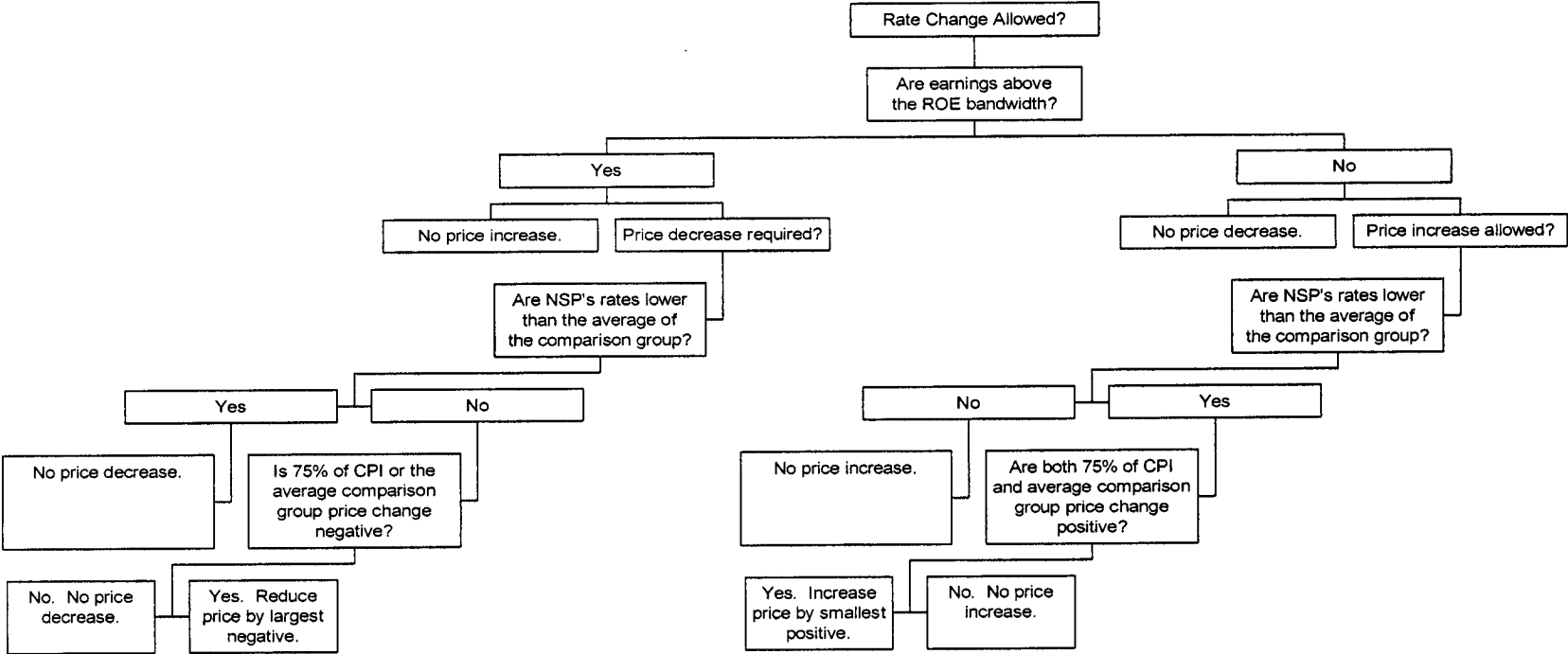
1995-2000 Average	11.82
1990-1994 Average	11.60
Average of All	12.06

**North Dakota
Investor Owned Gas & Electric Utilities
Reported Returns on Equity**

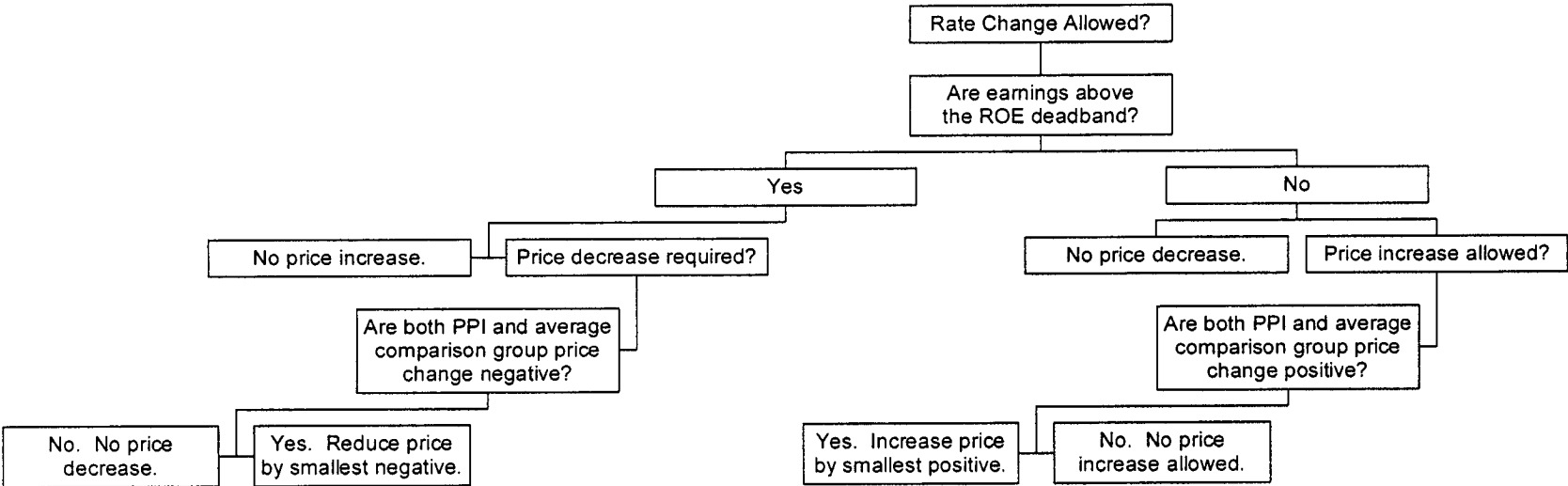
	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>Last 3 Year Average</u>	<u>10 Year Average</u>
Great Plains Gas	10.40%	10.95%	13.17%	16.84%	12.44%	16.17%	20.77%	14.83%	3.31%	6.50%	8.21%	12.54%
MDU Electric	12.91%	14.56%	13.33%	13.04%	10.96%	11.72%	12.19%	12.35%	14.37%	15.94%	14.22%	13.14%
MDU Gas	5.04%	13.14%	6.71%	11.58%	12.59%	19.78%	24.75%	19.55%	14.55%	10.25%	14.78%	13.79%
NSP Electric	7.11%	4.90%	6.71%	11.31%	13.25%	12.98%	16.82%	14.20%	11.50%	14.30%	13.33%	11.31%
NSP Gas	6.72%	22.64%	15.24%	15.48%	15.55%	15.19%	18.73%	6.48%	6.12%	3.64%	5.41%	12.58%
OTP Electric	12.04%	13.21%	12.42%	12.59%	11.41%	14.11%	13.72%	11.88%	10.18%	12.53%	11.53%	12.41%
Average	9.04%	13.23%	11.26%	13.47%	12.70%	14.99%	17.83%	13.22%	10.01%	10.53%	11.25%	12.63%



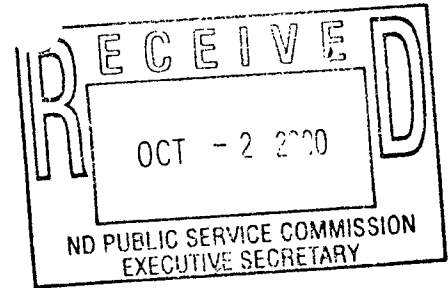
Applicants' Price Cap Proposal



Staff's Price Cap Proposal



215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)



VIA OVERNIGHT MAIL

September 29, 2000



Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol -- 12th Floor
Bismarck, ND 58501

Honorable Allen Hoberg
Administrative Law Judge
Office of Administrative Hearings
1701 North 9th Street
Bismarck, ND 58501-1882

**Re: Application of Otter Tail Power Company for Authority to Operate Under
Performance Based Regulation In North Dakota
Case No. PU-400-00-36**

Dear Mr. Mielke and Judge Hoberg:

Enclosed please find an original and seven (7) copies of the prepared direct testimony and attachments of Ms. Bernadeen Brutlag, Mr. Brian Draxten, Mr. Del Van Voorhis, and Mr. Steve J. Wevley in support of Otter Tail's January 31, 2000 Application for Approval of a Performance Based Ratemaking Plan.

In addition, Otter Tail, along with Xcel Energy, Inc. (Northern States Power Company), has jointly sponsored the prepared direct testimony and exhibits of Mr. Karl McDermott in the above case and in Case No. PU-400-00-195. While the two cases have not been officially consolidated, the Otter Tail and Xcel Energy performance based regulation plans are similar and are subject to a joint evidentiary hearing scheduled for October 23-24, 2000. Xcel Energy has agreed to file Dr. McDermott's testimony on behalf of both parties.

Otter Tail will also serve two copies of the direct testimony on Judge Hoberg and three copies on Excel Energy. Copies of the testimony have also been served today on all parties by email.

Please direct any questions regarding this filing to the undersigned at (218) 739-8218.

Very truly yours,

A handwritten signature in black ink, appearing to read "Todd J. Guerrero".

Todd J. Guerrero
Associate General Counsel

Enclosures

23 PU-401-00-36

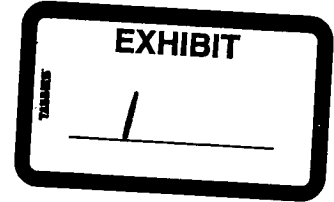
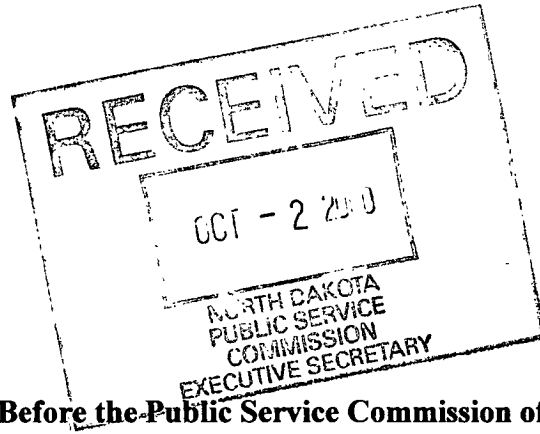
Pages: 1

Cover letter re filing

by Otter Tail Power Company

10/02/2000 CC: Comm Legal PUD (3) Mike ALJ

**Direct Testimony
Bernadeen C. Brutlag
OTP Exhibit No. 1**



**Before the Public Service Commission of
the State of North Dakota**

**In the Matter of the Application of
Otter Tail Power Company
for Authority to Operate under Performance-Based Regulation
in North Dakota**

Case No. PU-401-00-36

September 29,

22

PU-401-00-36

Pages: 16

Direct Testimony of Bernadeen C Brutlag

by Otter Tail Power Company

10/02/2000

Exhibit # 1

CC: Comm Legal PUD (3) Mike ALJ.

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

President Bruce Hagen
Commissioner Susan E. Wefald
Commissioner Leo Reinbold

**In the Matter of the Application of
Otter Tail Power Company for Authority
to Operate under Performance-Based
Regulation in North Dakota**

Case No. PU-401-00-36

DIRECT WRITTEN TESTIMONY – BERNADEEN BRUTLAG

I. INTRODUCTION

Q: Please state your name and business address.

A: Bernadeen C. Brutlag, 215 South Cascade Street, Fergus Falls, Minnesota 56538-0496

Q: By whom are you employed and in what capacity?

A: I am employed by Otter Tail Power Company as Manager, Regulatory Services.

Q: Please describe your educational background.

A: I received my B.S. in Accounting from Moorhead State University, now Minnesota State University, Moorhead, Minnesota, in 1984. I am also a Certified Public Accountant.

Q: Describe your professional experience.

A: I have been employed by Otter Tail since 1984. From 1984 until 1989 I was Depreciation Analyst responsible for conducting and obtaining approval for the results of depreciation studies required by regulatory commissions, primarily Minnesota. From 1989 until 1993 I was Senior Regulatory Analyst. My primary responsibility in this position was preparing annual cost of service studies for the three state jurisdictions, and other

1 regulatory and financial analysis. In 1993 I was named Manager of Regulatory Analysis
2 and Compliance. I am now Manager, Regulatory Services, with responsibility for the
3 Company's revenue requirements, rate administration, regulatory compliance, rate design
4 and overall regulatory policy.

5 **Q: Are you a member of any professional organizations?**

6 A: I am a member of the Minnesota Society of Certified Public Accountants and the Institute
7 of Management Accountants.

8 **II. PURPOSE OF TESTIMONY**

9 **Q: Explain the purpose of your testimony.**

10 A: The purpose of my testimony is two-fold. First, I describe the central elements of Otter
11 Tail's proposed Performance-Based Ratemaking Plan ("Plan"). The theoretical and
12 regulatory policies supporting the Plan are provided in the direct testimony of Dr. Karl
13 McDermott, jointly sponsored by Otter Tail and Northern States Power Company (d/b/a
14 as Xcel Energy, Inc.)("NSP"). Second, I explain the Plan's pricing performance measure
15 and how it was developed.

16 **III. PBR PLAN**

17 **Q: What is Otter Tail's involvement with alternative regulation in North Dakota?**

18 A: Otter Tail has been interested in pursuing some form of alternative or incentive-based
19 regulation for several years. In 1993, for instance, Otter Tail operated under a one-year
20 Incentive Regulation Agreement and Order, the result of which was that Otter Tail
21 returned \$450,000 to its North Dakota customers. In 1995, Otter Tail actively
22 participated in the development of the Commission's Guidelines for Filing Alternative
23 Regulation Proposals.

1 **Q: Please provide an overview of the current Plan.**

2 A: The Plan is modeled after the performance-based regulation plan that NSP has been
3 discussing with the Commission for some time now, also presently under consideration
4 by the Commission. The main tenet of the Plan revolves around allowing Otter Tail's
5 return on its equity capital ("ROE") to deviate within a pre-determined acceptable range
6 depending on how Otter Tail performs in four basic utility areas: (1) price
7 competitiveness, (2) system reliability, (3) customer satisfaction, and (4) employee safety.
8 Any revenues associated with equity returns either above or below the acceptable ROE
9 range (as established by the Plan) will be shared equally between customers and
10 shareholders. The system reliability, customer satisfaction, and employee safety
11 performance measures are described in more detail in other testimony.

12
13 The Plan also allows Otter Tail the ability to adjust its base rates slightly, either up or
14 down, outside of a formal ratecase or earnings review investigation – subject to
15 limitations in the Plan. The limitations are as follows:

16 (1) any possible increase in base rates would be the lower of the average annual
17 percentage changes in rates taken from the regional utilities group whose rates the Plan
18 uses to measure against Otter Tail's price competitiveness (the "Comparison Utilities") or
19 75 percent of the Consumer Price Index;

20 (2) but no rate increase would be allowed if Otter Tail's actual ROE exceeded the
21 range as defined by the Plan, and likewise, no reduction would be required if ROE fell
22 within or below that range; and

(3) no increase would be allowed if Otter Tail's average residential rate is higher than the average rates of the Comparison Utilities. Similarly, no decrease would be required if Otter Tail's residential rate fell below the Comparison Utilities' average.

Because of these limitations, we expect a change in Otter Tail's base rates to be unlikely. However, in the event of an increase, it is likely to be small because it is capped by 75% of inflation, as measured by the CPI.

Q: Explain how the Plan is similar to NSP's "Plus" PBR Plan.

A: For the most part, the Otter Tail Plan is identical to NSP's plan, with only slight modifications. It is safe to say that if one understands the NSP PBR plan – and NSP has taken the laboring oar on developing a PBR plan that makes sense for North Dakota – one will also understand our Plan. A major similarity is that both parties' plans recommend a 12% ROE standard with an acceptable range, or deadband, of one percent above and below. Both plans use similar performance measures, necessarily tailored to each company. Also, both plans provide sharing mechanisms whereby customers will be entitled to share in revenues that cause the utility to earn above the predetermined ROE and help make up the shortfall when the utility earnings fall below the range. Last, both include provisions for adjusting base rates outside of a ratecase.

Q: In what ways are the plans dissimilar?

A: One difference is NSP's proposal to contribute a percentage of revenues to economic development when ROE exceeds the acceptable range. Otter Tail's Plan contains no similar proposal.¹

Other differences are in the standards themselves. For instance, NSP uses a North Dakota index for its reliability standard, while Otter Tail proposes to use a system-wide measure. Likewise, for the employee safety measure, NSP proposes to use North Dakota information while Otter Tail uses a system-wide measure. These distinctions result from differences between the Otter Tail and NSP operations.

Q: What is Otter Tail's guiding philosophy in implementing a PBR Plan?

A: In developing and implementing PBR, the guiding philosophy was centered on four principal tenets: (1) that PBR be simple to administer, both for the Company and the Commission; (2) that it be easily understood by employees, customers, and the Commission; (3) that it balance rewards and penalties; and (4) that it include broad-based performance standards from which to measure overall quality of service. We also purposely wanted the Plan to be consistent with the Commission's Guidelines for Filing Alternative Regulation Proposals.²

¹ As part of a past settlement, the Commission ordered Otter Tail to spend a minimum of \$315,500 on economic development in North Dakota each year. Since that time, Otter Tail has spent an average of \$500,000 per year. Case No. PU-401-88-374, January 15, 1989. Otter Tail will continue abide by the terms of the Order.

² Case No. PU-439-94-590, September 20, 1995.

Q: Why does the Plan propose a 12 percent starting point for ROE?

A: The Commission and Staff have used 12 percent as an appropriate level of return on equity capital in Otter Tail's earnings reviews for at least the past ten years. For instance, in 1993, the Commission approved a return on equity of 12.23 percent.³ And in 1999, the Commission approved a return on equity of 12.5 percent.⁴ These are consistent with recent returns approved by the Commission.⁵ In addition, a 12% ROE (with a range of 11% - 13%) is fair and represents a reasonable proxy of the risk faced by Otter Tail in the capital equity markets.

Q: The Plan includes acceptable ranges, or "deadbands." How do these work?

A: The acceptable ranges represent ranges within which each performance measure – e.g., system reliability, etc. – can deviate. As long as the measure results are within this range, no change to the Plan is necessary. The main purpose of including ranges is to keep the administrative costs of the Plan to a minimum. Acceptable ranges recognize that actual results will always be different from the standards that are filed as part of a plan. The standards are meant as "pegs" around which actual performance can be measured. Acceptable ranges add flexibility, allowing the Plan to work by itself and ensuring that only meaningful deviations above or below the acceptable ranges will impact a company's earnings.

3 Agreement for Incentive Regulation, Case No. PU-401-93-520, September 22, 1993.

4 Case No. PU-401-97-503, October 6, 1999.

5 In 1996, the Commission authorized a return on equity of 12% for Northern States Power Company's gas operations. Case No. PU-400-95-559. Settlements in 1993 and 1994 between the Commission and MDU set ROE at 12%. Case Nos. PU-399-93-582, PU-399-94-297. More recently, the Commission and MDU settled on an 11.5% ROE, plus an additional basis point as a bonus based on management for a total ROE of 12.5%. Case No. PU-399-96-325. In 1991, the Commission authorized MDU's gas operations a 12% ROE. Case No. PU-399-90-820.

Revenue Sharing

Q: The Plan allows customers to share in gains that result from increased operational efficiencies. Likewise, the Plan also expects customers to share in earnings shortfalls. Please explain.

A. As with most well designed PBR Plans, the Plan allows the efficiency and operational gains achieved through PBR to be shared between shareholders and customers. Specifically, the Plan allows for equal sharing of any revenue associated with returns that fall outside the acceptable ROE range. If Otter Tail's ROE is above the acceptable ROE range, one-half of the revenue associated with that return will be returned to customers as a "Performance-Based Dividend." If Otter Tail's ROE falls below the range, the Plan imposes a surcharge on customers equal to one-half of the revenue needed to bring Otter Tail's earnings back to the acceptable range. The Plan proposes, however, that the surcharge will not be imposed immediately. Instead, the surcharge amount will be held in a deferred, interest-bearing account. The deferred surcharge will be offset by any future performance-based dividends. The deferred surcharge balance will be eliminated before distributing any performance-based dividend to customers

It should be noted, however, that if and when the deferred balance exceeds \$1 million, or when the account hasn't been offset with a dividend within twenty-four months after the deferred account is first determined and recorded, a surcharge will kick in and collect enough revenue to bring the account's balance under \$500,000. This mechanism is needed to satisfy Generally Accepted Accounting Principles. Any deferred balance

1 remaining at the termination of the Plan will first be considered as part of any future PBR
2 plan, or alternatively, collected from customers through a surcharge.

3
4 By deferring any shortfall and then using future shared earnings as an offset, the Plan
5 avoids a roller coaster effect caused by sharing earnings with customers in one year,
6 collecting for a shortfall the next year, sharing earnings the next, etc.

7
8 In situations where ROE exceeds the ROE range as set by the Plan, one-half of associated
9 revenues, net any past shortfall, will be returned to current customers as a dividend within
10 60 days of the Commission's order approving the prior year's operating results. This will
11 be done as a "lump sum," rather than spread out over the course of several months. The
12 share of the revenue or shortfall will be shown separately as a "Performance-Based
13 Dividend" or "Performance-Based Surcharge" on customers' bills.

14
15 **Performance Measures**

16 **Q: The Otter Tail Plan includes four performance measures, or benchmarks – prices**
17 **(rates), system reliability, customer satisfaction, and employee safety. Why were**
18 **these measures chosen over other possible performance measures?**

19 **A:** An electric utility's primary purpose is to provide reliable electric service to its customers
20 at a reasonable price. Three of the four performance measures are designed to evaluate the
21 company's ability to meet these obligations – system reliability, price, and customer
22 satisfaction. The fourth measure, employee safety, while not directly connected to the
23 customer-side of electric service, is nonetheless equally important given the dangerous

1 conditions present in the industry. Safe operations also affect costs and reliability over
2 time.

3
4 Otter Tail chose these four performance measures because they provide a good barometer
5 of the overall quality of service being provided by an electric utility company. These four
6 indicators are also some of the most widely used performance measures in performance-
7 based ratemaking plans throughout the United States, and thus the Commission should
8 have some comfort knowing these performance measures have been tested elsewhere.

9 **Q: Why are the performance measures pegged around a standard point?**

10 A: As I mentioned earlier, the benchmarks, or standards, serve as a starting point. Here, as
11 in most cases, the performance standard is based on some sort of reasonable average of
12 comparable activity. The goal of the Plan is that Otter Tail will have an incentive to
13 improve its performance in each of these areas. In addition, the standards were chosen
14 for their simplicity, their understandability, and the fact that data is readily available to
15 both Otter Tail and the Commission.

16 **Q: How will the results of the performance measures affect the Plan:**

17 A: Otter Tail's performance on these measures has the potential to raise or lower the
18 acceptable ROE range. Each performance measure can change ROE by 50 basis points,
19 or 0.50 percent. For instance, if the performance on two measures is above the
20 acceptable range, the allowed, or standard ROE for Otter Tail in that year would be 13.0
21 percent, along with a corresponding increase in the ROE's acceptable range, i.e., 12.0
22 percent to 14.0 percent.

IV. PRICING PERFORMANCE MEASURE

Q: Please explain the Plan's pricing performance measure.

A: The Plan proposes to measure Otter Tail's North Dakota residential rate against the average residential rates of other investor-owned electric utilities located throughout the upper Midwest. Attached as Attachment No. BCB-1 is a typical comparison group that compares Otter Tail's rates with twenty-seven other investor-owned utilities. The Plan refers to this as the Comparison Group. The Comparison Group may change from year to year as a result of mergers, acquisitions, or consolidations.⁶

The information on Attachment BCB-1 was compiled from the Summer 1999 Edison Electric Institute (EEI) report entitled *Typical Residential, Commercial, and Industrial Bills*. Otter Tail and other investor-owned utilities supply EEI with data for the report twice a year. The survey collects total residential revenues in dollars and total residential sales in megawatthours. The Report develops average residential rates as revenues and divides them by the amount of sales. The survey, which provides the basis for Attachment BCB-1, is simple and used uniformly by all of the reporting utilities.

The Comparison Group was chosen because the fuel source and general operating conditions are roughly similar throughout the upper Midwest. In addition, because the upper Midwest is generally a low-cost region, going head to head with other low cost

⁶ While it may have proved instructive to include prices from regional rural electric cooperatives and municipal electric utilities in the Comparison Group, comparable data was not readily available.

1 utilities provides Otter Tail with a competitive group and the Commission with
2 meaningful information.

3
4 The Plan proposes to benchmark the average residential rates for the Comparison Group,
5 and that the Comparison Group (and Otter Tail's) rates be adjusted annually so that the
6 most recent information available is always used. Adjusting the standard annually is
7 especially important these days given the increased demand and volatility in the
8 wholesale energy markets and its resulting impact on retail rates. The Plan proposes an
9 acceptable range of plus or minus fifteen percent around the price performance standard.
10 Attachment BCB-1 is included as an example of the Comparison Group. The average
11 residential price, as shown in Attachment BCB-1, is 7.28 cents per kilowatt-hour. In this
12 instance, the acceptable range would be 6.05 cents to 8.19 cents.

13 **Q: Why was the residential price used?**

14 A. Residential customers make up the largest customer group for Otter Tail. The residential
15 load factor and load profile tend to be similar. Prices for commercial and industrial
16 customers, on the other hand, are influenced by distinctive load factors and usage profiles.
17 As a result, average prices are less meaningful and therefore comparisons based on
18 averages are likewise less meaningful. In addition, residential customers tend to be a
19 fairly homogenous group for all utilities.

20
21 **V. GENERAL PROVISIONS**

22 **Q: What period are you proposing that the Plan be in effect?**

1 A: Otter Tail is requesting that the Plan be effective for five years, and that the Plan be
2 available for use in year 2000. In other words, the Plan would run from January 1, 2000,
3 until December 31, 2004.

4
5 **Q: How does Otter Tail intend to report its annual results to the Commission:**

6 A: Otter Tail will file a report of the prior year's operations by April 15. The report will
7 include the following information:

- 8 • Otter Tail's regulated electric earnings and return on equity (before and after any
9 earnings sharing) in North Dakota for the calendar year just completed;
- 10 • Summaries of operating revenue, expense, and regulated electric rate base;
- 11 • Otter Tail's regulated capital structure including debt and equity ratios, cost of capital,
12 and return on rate base;
- 13 • Calculation of baseline ROE and the authorized earnings range for the review year;
- 14 • Annual results, awards, and penalties related to Otter Tail's four performance
15 measures;
- 16 • Amount of revenues subject to sharing -- the "performance-based dividend" or
17 "surcharge;"
- 18 • Comparison group average residential rates for the year in review;
- 19 • The calculation of any changes in base rates; and
- 20 • Proposed rate change percentage and typical bill impact for all customer classes.

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30 **Q: Are there conditions and/or rights that you would like to reserve in the event the**
31 **Commission approves the Plan?**

32 A: Yes. We would like to reserve the following:

- 33 • The right to terminate the Plan if North Dakota or federal retail access legislation is
34 enacted;

- 1 • Otter Tail's operating results for each year will be based on usual and existing
2 practices, as consistent with Commission reviews in recent years. If new or unusual
3 events occur, Otter Tail will review these with Commission and Staff;
- 4 • Each year's results are subject to review and approval by the Commission. The report
5 of the prior year's operations will be filed by April 15;
- 6 • Any performance-base dividend shall be returned to customers within 60 days after
7 the Commission's order on Otter Tail's annual filing;
- 8 • Either Otter Tail or the Commission may initiate a review of the entire PBR Plan after
9 two years;
- 10 • Otter Tail may request adjustment, termination, or withdrawal of the Plan in the event
11 of changes in federal or state tax laws, merger, acquisition, or consolidation, or if the
12 Commission imposes conditions or modification to the Plan which Otter Tail deems
13 substantial;
- 14 • Otter Tail's fuel adjustment clause will continue to operate in the usual manner during
15 the term of the Plan.

16 **Q: Does this conclude your direct testimony?**

17 **A: Yes.**

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

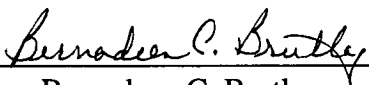
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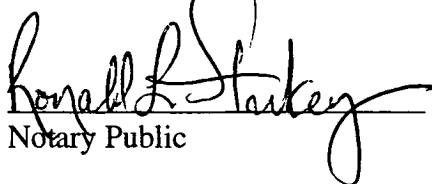
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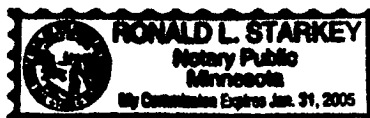
**AFFIDAVIT OF
BERNADEEN C. BRUTLAG**

I, the undersigned, being duly sworn, depose and say that the foregoing is the testimony of the undersigned, and that such Direct Testimony and the exhibits sponsored by me to the best of my knowledge, information and belief, are true, correct, accurate and complete, and I hereby adopt said testimony as if given by me in formal hearing, under oath.

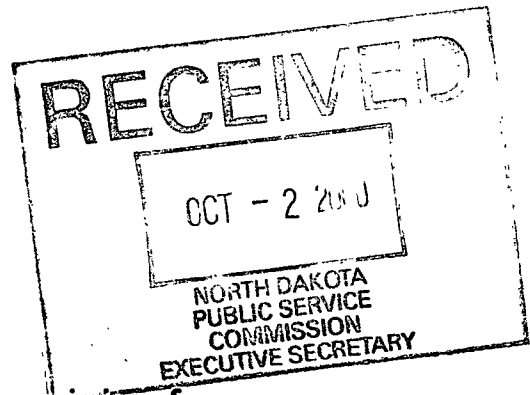

Bernadeen C. Brutlag

Subscribed and sworn to before me, this 29th day of September, 2000.


Notary Public



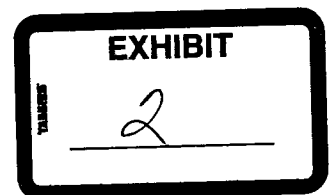
**Direct Testimony
Brian H. Draxten
OTP Exhibit No. 2**



**Before the Public Service Commission of
the State of North Dakota**

**In the Matter of the Application of
Otter Tail Power Company
for Authority to Operate under Performance-Based Regulation
in North Dakota**

Case No. PU-401-00-36



September 29,

21

PU-401-00-36

Pages: 13

Direct Testimony of Brian H Draxten

by Otter Tail Power Company

Exhibit # 2

10/02/2000

CC: Comm Legal PUD (3) Mike ALJ

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

President Bruce Hagen
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Commissioner Leo Reinbold

**In the Matter of the Application of
Otter Tail Power Company for Authority
to Operate under Performance-Based
Regulation in North Dakota**

Case No. PU-401-00-36

DIRECT TESTIMONY – BRIAN H. DRAXTEN

I. INTRODUCTION

Q: Please state your name and business address.

A: Brian H. Draxten, 215 South Cascade Street, Fergus Falls, Minnesota 56538-0496

Q: By whom are you employed and in what capacity?

A: I am employed by Otter Tail Power Company as Manager, Market & Load Research.

Q: Please describe your educational background.

A: I received a Bachelor of Science degree in Accounting, Business Finance minor, from Moorhead State University, 1979.

Q: Describe your professional experience.

A: From 1979-80 I was an accountant for Hydra-Mac, Inc., an equipment manufacturer in Thief River Falls, Minnesota. From 1980-1981 I was employed as an accountant for Minnesota Valley Engineering, a division of Beatrice Foods, New Prague, Minnesota. In 1981 I came to work at Otter Tail Power Company as a Rate Analyst. In that capacity, I assisted in the preparation of rate cases in Minnesota, North Dakota, South Dakota, and

1 the Federal Energy Regulatory Commission, including preparing and submitting
2 testimony. In 1990 I testified before the North Dakota Public Service Commission in
3 Docket No. PU-401-88-326, involving a territorial dispute over service to Dakota Tribal
4 Industries, located on the Spirit Lake (formerly Devils Lake) Reservation.

5
6 In 1989 I became Supervisor, Market Research. I have since been promoted to Manager,
7 Market & Load Research. In my present position I am responsible for conducting all
8 marketing and load research for the company.

9 **Q: Explain the purpose of market and load research.**

10 A: We use market research for a variety of purposes. It is important that we understand what
11 kind of market saturation there is or likely to be for products or services that we currently
12 offer or may want to offer. For instance, we need to know who is using our or our
13 competitors services and why. Market research provides insight into these questions. We
14 conduct marketing research through use of primary studies -- using telephone and mail
15 surveys, focus groups, and personal interviews, and also through secondary sources such
16 as the internet, Edison Electric Institute ("EEI") and Electric Power Research Institute
17 ("EPRI") reports, etc. Load research is performed primarily in designing electric service
18 rates. My load research responsibilities include overseeing sample design, data collection
19 and analysis, reporting, and load profiling.

20 **Q: Are you a member of any professional organizations?**

21 A: Yes. I am a member of the Energy Market Research Council. The purpose of this
22 organization is to provide a medium for the exchange of experience and opinions relating

1 to energy marketing research projects, allied techniques, and the appraisal of similar
2 problems among energy companies.

3 **II. PURPOSE OF TESTIMONY**

4 **Q: Briefly explain the purpose of your testimony.**

5 A: My testimony describes how Otter Tail conducted the independent telephone survey to be
6 used by the Commission in evaluating the Company's proposed Performance Based
7 Ratemaking Plan's ("Plan") customer satisfaction benchmark.

8 **III. COMPANY INFORMATION**

9 **Q: Does Otter Tail regularly carry out customer satisfaction surveys?**

10 A: Yes. However, customer satisfaction research has never been the sole purpose for a
11 survey. Instead, a portion of a survey is typically dedicated to customer satisfaction
12 research, and other parts are directed to other market research functions – aimed at new
13 product development, customers' disposition regarding conservation, etc.

14 **IV. CUSTOMER SATISFACTION BENCHMARK**

15 **Q: Are you familiar with Otter Tail's proposed customer satisfaction benchmark?**

16 A: Yes.

17 **Q: Please describe it.**

18 A: As part of the Plan, we have proposed to conduct annual, independent telephone surveys
19 using statistically designed samples of North Dakota residential, small commercial, and
20 large commercial customers. The surveys will measure overall customer satisfaction with
21 the company using a scale of "1" to "5," with "1" representing a low degree of
22 satisfaction and "5" representing a high degree of satisfaction. Otter Tail proposes that
23 the standard for customer satisfaction be set based on ninety-five percent of responses

OTP Exhibit No. 2

1 that rate Otter Tail a “3” or higher. The benchmark includes a range around which the
2 customer satisfaction benchmark can deviate by two percentage points. In other words, as
3 long as 93-97% of all customers rate Otter Tail a “3” or better, this benchmark will not
4 affect Otter Tail’s allowed ROE under the Plan. In order to minimize administrative
5 oversight of the Plan, Otter Tail proposes that the customer satisfaction benchmark
6 remain constant throughout the life of the Plan.

7 **Q: In what way are the surveys “independent?”**

8 A: Otter Tail has engaged the independent research firm DH Research of Fargo, North
9 Dakota, to conduct telephone surveys of Otter Tail customers. Otter Tail’s only role in
10 the surveys is to provide DH Research with the list of our North Dakota customers to be
11 surveyed – customers selected at random using a SAS computer program (a statistical
12 analysis software tool). The customers have been categorized into three groups:
13 residential, small commercial, and large commercial. DH Research recently conducted
14 this year’s survey earlier this month. Customers’ individual responses remain confidential.

15 **Q: What does the survey measure?**

16 A: The main purpose of the survey is to measure the overall satisfaction of customers.
17 While customer satisfaction can be broken down into attributes such as price, service
18 interruptions, friendly employees, product and service offerings, etc., the survey is really
19 meant to gauge what customers think of Otter Tail overall. A copy of the survey script
20 just used by DH Research this September is attached to my testimony as Attachment
21 BHD-1, and the results of the survey are attached as Attachment BHD-2. As can be seen
22 in Attachment BHD-1, one of the questions asked by the survey is as follows:

1 First, I would like to know how you rate Otter Tail
2 Power Company overall on a scale of 1 to 5, where
3 "1" means very dissatisfied and "5" means very
4 satisfied. The more satisfied you generally feel
5 toward Otter Tail Power Company, the higher the
6 number you would give.
7

8 **Q: How long, on average, does each phone call last?**

9 A: Approximately two minutes.

10 **Q: Are other questions asked?**

11 A: Yes. Please see Attachment BHD-1.

12 **Q: How can we be certain that the question asked provides a fair, unbiased indication**
13 **of customer's overall satisfaction with Otter Tail Power Company?**

14 A: As the Commission is aware, survey questions can be considered more art than science.
15 However, the survey was worded in a manner so as to be clear and understandable to the
16 respondent, and yet provide no hint of bias. The survey question used by DH Research is
17 the same question used by the Edison Electric Institute (EEI) in its National Residential
18 Customer Monitor. This semi-annual EEI survey is conducted by Research
19 International/Cambridge, a nationally respected research firm. I am confident that the
20 question accurately measures how customers feel overall toward Otter Tail without any
21 undue bias.

22 **Q: How many customers were included in the September 2000 survey?**

23 A: The survey included 402 residential customers, 404 small commercial customers, and
24 217 large commercial customers - for total of 1,023.
25
26

Q: What were the confidence levels and margins of error?

A: All three customer groups – residential, small commercial, and large commercial – have a confidence level of 95%. The residential and small commercial classes had a margin of error of +/- 5% and the large commercial had a margin of error of +/- 5.7%. This means that if the same survey were conducted again, 95 times out of 100 the results would be the same plus or minus 5%.

Q: What were the results of the September survey?

A: Attachment BHD-2 shows that 98.3% of our customers rate Otter Tail a “3” or higher.

Q: How was the calculation made?

A: Residential, small commercial, and large commercial customers’ responses were added together to get an overall company percentage. This is the simplest, most straightforward method of calculating the results.

Q: How do Otter Tail’s results compare to national results?

A: According to the Fall 1999 EEI Residential Survey Results, which are the most recent available, 88% of shareholder-owned utilities’ customers rated their electric company “4” or higher on a 7-point scale. This means that Otter Tail rates approximately ten percent higher than national average.

Q: Aren’t there other plausible benchmarks – such as customer complaints, call center responsiveness, etc. – that Otter Tail could have used for this benchmark?

A: Measuring customer satisfaction is inherently difficult. What may be satisfactory to one person may be entirely unsatisfactory to the next. One of the primary reasons Otter Tail is using independent surveys is because they are straightforward and easy to manage. This is consistent with the Company’s overall goal to keep the Plan simple and easy to

OTP Exhibit No. 2

1 administer. Otter Tail does not yet employ call centers, so this type of benchmark isn't
2 practicable for us. And, quite frankly, Otter Tail receives very few customer complaints.
3 Using a straightforward survey – and benchmarking performance based on a very high
4 degree of satisfaction – seemed as reasonable approach as any given the circumstances.

5 **Q: In what ways is PBR likely to impact Otter Tail's customer satisfaction?**

6 A: Otter Tail works hard to satisfy its customers. I believe the September survey is evidence
7 of that commitment. The link between customer satisfaction and financial goals has
8 always been unclear. The Plan provides Otter Tail and the Commission to establish that
9 link – something that we believe is win-win situation for our customers and for the
10 Company.

11 **Q: Does this conclude your direct testimony?**

12 A: Yes.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

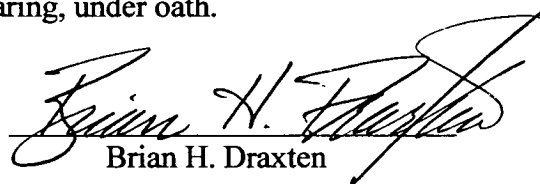
President Bruce Hagen
Commissioner Susan E. Wefald
Commissioner Leo Reinbold

In the Matter of the Application of
Otter Tail Power Company for Authority
to Operate under Performance-Based
Regulation in North Dakota

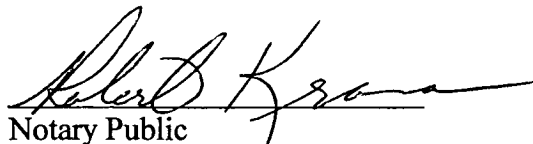
Case No. PU-401-00-36

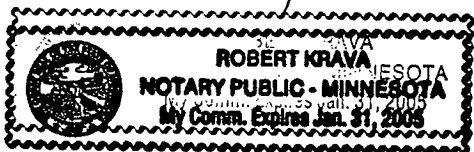
AFFIDAVIT OF
BRIAN H. DRAXTEN

I, the undersigned, being duly sworn, depose and say that the foregoing is the testimony of the undersigned, and that such Direct Testimony and the exhibits sponsored by me to the best of my knowledge, information and belief, are true, correct, accurate and complete, and I hereby adopt said testimony as if given by me in formal hearing, under oath.


Brian H. Draxten

Subscribed and sworn to before me, this 29th day of September, 2000.


Notary Public



Utility Comparison Group

Average Residential Revenue/Kwh

IOU's in North Dakota, South Dakota, Montana, Wyoming, Minnesota, Iowa, Wisconsin

1999 Rank	Utility	Jurisdiction	1999 ¢/kwh	1998 ¢/kwh	Percent Change
1	PacifiCorp	Wyoming	5.72	5.73	-0.2%
2	Cheyenne Light, Fuel & Power Company	Wyoming	5.98	5.82	2.7%
3	Northern States Power Company	North Dakota	6.00	6.02	-0.3%
4	Otter Tail Power Company	North Dakota	6.02	6.01	0.2%
5	Otter Tail Power Company	South Dakota	6.30	6.24	1.0%
6	Wisconsin Public Service Corporation	Wisconsin	6.44	6.30	2.2%
7	Otter Tail Power Company	Minnesota	6.55	6.47	1.2%
8	Montana Power Company	Montana	6.58	6.52	0.9%
9	Minnesota Power Company	Minnesota	6.74	6.72	0.3%
10	Wisconsin Power & Light Company	Wisconsin	6.77	6.67	1.5%
11	Montana-Dakota Utilities Company	North Dakota	6.90	6.89	0.1%
12	Black Hills Power & Light Company	Montana	7.17	7.45	-3.8%
13	Northern States Power Company	Wisconsin	7.22	7.04	2.6%
14	Montana-Dakota Utilities Company	Wyoming	7.34	7.29	0.7%
15	Montana-Dakota Utilities Company	Montana	7.41	7.43	-0.3%
16	Northwestern Wisconsin Electric Company	Wisconsin	7.59	7.60	-0.1%
17	Northwestern Public Service Company	South Dakota	7.69	7.38	4.2%
18	PacifiCorp - Wyoming West	Wyoming	7.72	7.69	0.4%
19	Northern States Power Company	South Dakota	7.73	7.65	1.0%
20	Black Hills Power & Light Company	Wyoming	7.83	7.84	-0.1%
21	Wisconsin Electric Power Company	Wisconsin	7.83	7.47	4.8%
22	Northern States Power Company	Minnesota	7.95	7.89	0.8%
23	Madison Gas & Electric Company	Wisconsin	8.00	7.77	3.0%
24	Interstate Power Company	Iowa	8.17	8.28	-1.3%
25	Black Hills Power & Light Company	South Dakota	8.27	8.29	-0.2%
26	Interstate Power Company	Minnesota	8.51	8.50	0.1%
27	IES Utilities, Inc.	Iowa	8.58	8.72	-1.6%
28	Montana-Dakota Utilities Company	South Dakota	8.95	8.97	-0.2%
28	Average residential rate (¢/kwh):		7.28	7.24	0.65%

Source: Typical Residential, Commercial, and Industrial Bills, Edison Electric Institute.
Summer, 1999 (For the six months ending 6/30/99)

ELECTRICITY SERVICES SURVEY

Residential

Good morning/afternoon/evening, this is _____ from DH Research in Fargo. We are contacting area residents to ask a few short questions regarding electricity provided by Otter Tail Power Company. This will take less than 5 minutes of your time, and your answers are strictly confidential. Are you one of the decision-makers for this household?

Yes – Continue

No – Ask if a decision maker is at home (if a child, ask for mom or dad)

1. First, I would like to know how you rate Otter Tail Power Company overall on a scale of "1" to "5" where "1" means "very dissatisfied" and "5" means "very satisfied." The more satisfied you generally feel toward Otter Tail Power Company, the higher the number you would give.

Very Dissatisfied					Very Satisfied	Not Sure
1	2	3	4	5	9	

2. On a scale of 1 to 5, with 5 being an Excellent Value, please rate the value you receive from your electric company in relation to the cost.
(Read Options)

Very Poor Value					Excellent Value	Not Sure
1	2	3	4	5	9	

3. Electrical power interruptions can occur for any length of time. Based on the experience of your household, how reliable do you feel your electrical supply is from Otter Tail Power? Please tell me on a scale of 1 to 5, with 5 being Very Reliable.

Not At All Reliable					Very Reliable	Not Sure
1	2	3	4	5	9	

4. In the past 12 months, have you had any contact with Otter Tail Power for any reason other than paying your bill?

1. Yes
2. No

Attachment BHD-1

5. Please tell me which of the following age groups you are a part of:

1. Under 20
2. 20 – 29
3. 30 – 39
4. 40 – 49
5. 50 – 59
6. 60 – 69
7. 70+
9. Refused

6. Division (Wire number from column 1 here!) _____

7. Gender (DO NOT ASK!) 1. Male 2. Female

OK, that's all I need to ask you. Thank you very much for your time!

ELECTRICITY SERVICES SURVEY

Small commercial

Large commercial

Good morning/afternoon/evening, this is _____ from DH Research in Fargo. We are contacting area businesses to ask a few short questions regarding electricity provided by Otter Tail Power Company. This will take less than 5 minutes of your time, and your answers are strictly confidential. Are you one of the decision-makers for (business name)?

Yes – Continue

No – Ask if a decision-maker is available

1. First, I would like to know how you rate Otter Tail Power Company overall on a scale of "1" to "5" where "1" means "very dissatisfied" and "5" means "very satisfied". The more satisfied you generally feel toward Otter Tail Power Company, the higher the number you would give.
2. On a scale of 1 to 5, with 5 being an Excellent Value, please rate the value you receive from your electric company in relation to the cost.
3. Electrical power interruptions can occur for any length of time. Based on the experience of your business, how reliable do you feel your electrical supply is from Otter Tail Power? Please tell me on a scale of 1 to 5, with 5 being Very Reliable.
4. In the past 12 months, have you had any contact with Otter Tail Power for any reason other than paying your bill?
5. Please tell me how many employees you have?
 1. 1
 2. 2 – 5
 3. 6 – 10
 4. 9 – 25
 5. 26 – 50
 6. More than 50
6. Division (**Write number from column 1 here!**)

OK, that's all I need to ask you. Thank you very much for your time!

**Otter Tail Power Company
Results of North Dakota Customer Satisfaction Survey
September 2000**

Very Dissatisfied ----- Very Satisfied

	Universe	Sample Size	1		2		3		4		5	
			Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Residential	45,534	402	6	1.49%	8	1.99%	44	10.95%	95	23.63%	249	61.94%
Small Commercial	10,143	404	0	0.00%	1	0.25%	17	4.21%	93	23.02%	293	72.52%
Large Commercial	741	217	1	0.46%	1	0.46%	19	8.76%	74	34.10%	122	56.22%
Totals	56,418	1,023	7	0.68%	10	0.98%	80	7.82%	262	25.61%	664	64.91%

Sum of Categories "3", "4", and "5"

1,006 98.34%

Question:

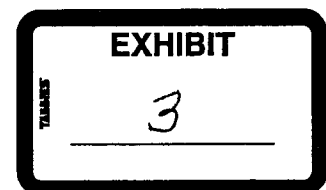
First, I would like to know how you rate Otter Tail Power Company overall on a scale of 1 to 5, where "1" means very dissatisfied and "5" means very satisfied. The more satisfied you generally feel toward Otter Tail Power Company, the higher the number you would give.

**Direct Testimony
Del D. Van Voorhis
OTP Exhibit No. 3**

**Before the Public Service Commission of
the State of North Dakota**

**In the Matter of the Application of
Otter Tail Power Company
for Authority to Operate under Performance-Based Regulation
in North Dakota**

Case No. PU-401-00-36



September 29, 20

20 PU-401-00-36

Pages: 7

Direct Testimony of Del D Van Voorhis

by Otter Tail Power Company
Exhibit # 3

10/02/2000

CC: Comm Legal PUD (3) Mike ALJ

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

President Bruce Hagen
Commissioner Susan E. Wefald
Commissioner Leo Reinbold

**In the Matter of the Application of
Otter Tail Power Company for Authority
to Operate under Performance-Based
Regulation in North Dakota**

Case No. PU-401-00-36

DIRECT WRITTEN TESTIMONY – DEL D. VAN VOORHIS

I. INTRODUCTION

Q: Please state your name and business address.

A: Del D. Van Voorhis, 215 South Cascade Street, Fergus Falls, Minnesota 56538-0496.

Q: By whom are you employed and in what capacity?

A: I am employed by Otter Tail Power Company as Director, Construction and Materials.

Q: Please describe your educational background.

**A: I graduated in 1964 from South Dakota State University with a Bachelors of Science
Degree in Mechanical Engineering**

Q: Describe your professional experience.

**A: I began my employment with Otter Tail in 1968 as a Staff Engineer. Over the last 30
years, I have held several engineering positions within Otter Tail, mostly as a Division
Engineer. For the last two and one-half years I have been Director of Distribution and
Sub-transmission Line and Substation Construction. Just recently, I was also assigned
responsibility over our Purchasing and Transportation Departments.**

Q: Are you a member of any professional organizations?

A: Yes, I am a member of the Institute of Electronic and Electrical Engineers (“IEEE”).

II. PURPOSE OF TESTIMONY

Q: Explain the purpose of your testimony.

A: Otter Tail has proposed system reliability as one of the benchmarks in its Performance Based Ratemaking Plan (“Plan”). I will explain how that benchmark is established.

II. RELIABILITY BENCHMARK

Q: How does Otter Tail measure service reliability?

A: For the distribution system, Otter Tail records the average number of minutes that each customer was without power in any one year. Distribution system outages are compiled from data collected from Otter Tail's Sentry Monitor units. The Sentry Monitor system records outages on each individual distribution line that emanates directly out of a substation. This information is collected in each of our 13 divisions. On the transmission side, outages are recorded and maintained by Otter Tail's System Operations Department, which acts as the Control Area Operator for the Otter Tail Control Area. Distribution and transmission outage data are then summed and averaged to provide an overall picture of Otter Tail's system reliability.

Q: What reliability benchmark does Otter Tail propose?

A: Otter Tail proposes using the five-year average number of minutes that customers located throughout the system were without power in any one year.

Q: Is this index commonly used in the industry?

A: Yes. The reliability index proposed by Otter Tail is the System Average Interruption Duration Index, better known as SAIDI. SAIDI is calculated as the total number of

customer minutes of outages divided by the number of customers served, or more simply, the average length of time that customers are without power in one year. SAIDI is a measure of the duration of outages experienced by customers each year, excluding major outage events. SAIDI measures one of the key things that electric service customers care about – how long they were without power. SAIDI is well-accepted and commonly used throughout the industry. For instance, a 1995 IEEE survey found that 52% of utilities used SAIDI as at least one of their reliability measures.

Q: Are there other possible benchmarks that Otter Tail could have used?

A: Theoretically yes, but not practically. There are several indices that utilities use to measure reliability. In addition to SAIDI, the System Average Interruption Frequency Index ("SAIFI") is the other most common index. SAIFI is calculated by taking the total number of customer interruptions divided by total number of customers served. SAIFI measures the other key thing customers care about – how often they were without power. Both SAIDI and SAIFI are customer-based indices that record the frequency and duration of outages of individual customers, and generally speaking are most informative in residential and small commercial areas.

Other reliability indices are also used, but to a lesser degree. One such measure is CAIDI – Customer Average Interruption Duration Index – which essentially is the average amount of time it takes to restore service. Another is ASAI – Average Service Availability Index – which represents the fraction of any time period in which a customer is without power.

1 There are many reasons why one company records outage information differently than the
2 next, including cost, historical factors, etc. The Plan uses SAIDI because we have
3 historically collected this information – although used only for intra-company purposes.
4 Using SAIDI eliminates the need to create other indices in order to implement PBR.
5 And, as the Commission is aware, SAIDI represents a solid, industry-accepted reliability
6 measure.

7 **Q: How does Otter Tail define, or measure an “outage?”**

8 A: We measure an outage as a customer having no power for longer than one continuous
9 minute.

10 **Q: Is this consistent with the industry defines it?**

11 A: No utility that I am aware of considers an outage to be anything less than one continuous
12 minute. However, some utilities consider the cutoff at something longer than one minute,
13 even up to five minutes.

14 **Q: How does the Plan address outages caused by large storms or other unusual events?**

15 A: The Plan proposes to exclude any outage longer than 24 continuous hours. Excluding
16 unusual outages for purposes of reliability indices is common.

17 **Q: Why is Otter Tail proposing to measure system reliability versus North Dakota
18 reliability?**

19 A: Otter Tail’s transmission, interconnection, and resource locations provide reliability on an
20 overall system basis. The outage information that we collect and analyze is not broken
21 down by state. As a result, attempting to measure reliability on a North Dakota-only basis
22 would be difficult and not reflect an accurate picture of how the system actually operates.
23 We believe that a system-wide index is more meaningful for Otter Tail.

1 **Q: What SAIDI does Otter Tail propose?**

2 **A: Otter Tail's five-year (1995-1999) average minutes of outage per customer is 83 minutes.**

3 That is, Otter Tail customers averaged 83 minutes of outages per year for the last five

4 years. We propose using this as our reliability benchmark, along with a dead-band of

5 fifteen percent above or below the standard. In other words, as long as Otter Tail's

6 SAIDI is between 71 and 95, this performance benchmark will have no impact on Otter

7 Tail's allowed ROE under the Plan.

8 **Q: How does 83 minutes compare against the industry?**

9 **A: A 1995 IEEE survey cited an industry average SAIDI of 120 outage minutes per**

10 customer. Based on this study, Otter Tail appears to be providing much more reliable

11 service than the average utility.

12 **Q: What, if any, affect will the Plan have on how Otter Tail operates its system?**

13 **A: Providing reliable and safe electric service will continue to be a high priority for Otter**

14 Tail. The Plan provides Otter Tail with an even greater incentive to meet our customers'

15 ever increasing expectation of reliable service.

16 **Q: Does this conclude your direct testimony?**

17 **A: Yes.**

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

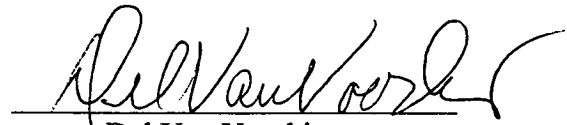
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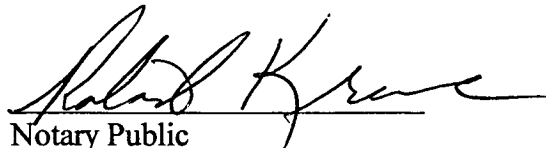
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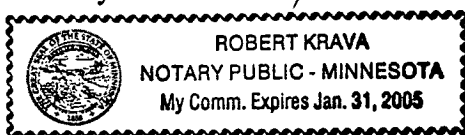
AFFIDAVIT OF
DEL VAN VOORHIS

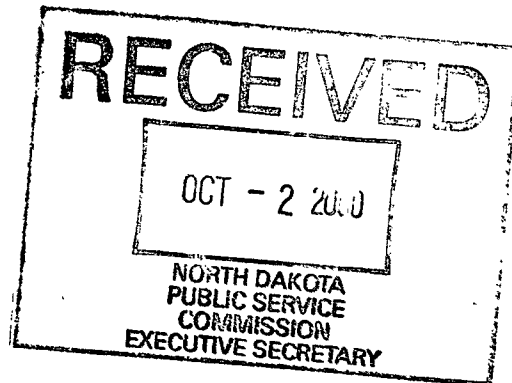
I, the undersigned, being duly sworn, depose and say that the foregoing is the testimony of the undersigned, and that such Direct Testimony sponsored by me to the best of my knowledge, information and belief, is true, correct, accurate and complete, and I hereby adopt said testimony as if given by me in formal hearing, under oath.


Del Van Voorhis

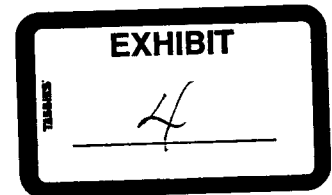
Subscribed and sworn to before me, this 29th day of September, 2000.


Notary Public





**Direct Testimony
Steve J. Wevley
OTP Exhibit No. 4**



**Before the Public Service Commission of
the State of North Dakota**

**In the Matter of the Application of
Otter Tail Power Company
for Authority to Operate under Performance-Based Regulation
in North Dakota**

Case No. PU-401-00-36

September 29

19 PU-401-00-36

Pages: 10

Direct Testimony of Steve J Wevley

by Otter Tail Power Company

10/02/2000

**Exhibit # 4
CC: Comm Legal PUD (3) Mike ALJ .**

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

President Bruce Hagen
Commissioner Susan E. Wefald
Commissioner Leo Reinbold

**In the Matter of the Application of
Otter Tail Power Company for Authority
to Operate under Performance-Based
Regulation in North Dakota**

Case No. PU-401-00-36

DIRECT TESTIMONY – STEVE J. WEVLEY

I. INTRODUCTION

Q: Please state your name and business address.

A: Steven J. Wevley. My business address is 215 South Cascade Street, Fergus Falls,
Minnesota 56538.

Q: By whom are you employed and in what capacity?

A: I am employed by Otter Tail Power Company as the Safety Supervisor for the Energy
Delivery business unit.

Q: Please describe your educational background.

A: I am a 1982 graduate of Southwestern Technical College, Jackson, Minnesota.

Q: Describe your professional experience.

A: I began my employment with Otter Tail in 1983. I have served as a Power Line
Electrician (4 years), Service Representative (13 years), Division Safety Committee
Chairman (2 years), and for the past year as Safety Supervisor, Energy Delivery.

1 **Q: Are you a member of any professional organizations?**

2 A: Yes, I am a member of the Safety Councils of the states of North Dakota, Minnesota, and
3 South Dakota. I am the 2001 Safety Committee Chair of the North Central Electric
4 Association, and am a member of the Inter Utility Overhead Training Association and the
5 Electric Utility Safety Task Force

6 **II. PURPOSE OF TESTIMONY AND COMPANY INFORMATION**

7 **Q: Briefly explain the purpose of your testimony.**

8 A: Because the Otter Tail Performance Based Ratemaking Plan ("Plan") uses employee
9 safety as one of its benchmarks to measure its overall performance, I have been asked to
10 explain that standard.

11 **Q: How is Otter Tail's Safety Department organized?**

12 A: The company has one Safety Department which consists of two Safety Supervisors -- one
13 for the Energy Supply business unit who is responsible for plant operations; and myself
14 for the Energy Delivery business unit. I handle all non-generation plant safety issues.
15 This includes safety responsibility for our transmission and distribution facilities, and all
16 Otter Tail buildings and equipment, including the General Office. The Divisions and the
17 General Office each have a Safety Committee consisting of four individuals—two
18 supervisory and two non-supervisory. These four individuals monitor and schedule all
19 safety meetings and training that take place in their respective work units. The Safety
20 Department provides training and technical assistance throughout the Company.

1 **Q: What is Otter Tail’s general approach to employee safety?**

2 A: Employee safety is paramount at Otter Tail. It is really quite simple - a safe employee is a
3 productive employee. Safety is intertwined with the all aspects of our business. For
4 starters, Otter Tail requires all new union employees to undertake a thorough safety
5 orientation program immediately following hiring. Otter Tail's management, including
6 officers, routinely stress that safety comes first. Our company Communicator (an internal
7 information publication) also regularly provides safety messages, and each edition of our
8 employee video updates also regularly address safety issues. Our employees provide
9 safety presentations to schools, service groups, and community organizations throughout
10 our three-state service area. In short, Otter Tail places a very high importance on worker
11 safety.

12 **Q: Has Otter Tail ever been recognized for its safety programs?**

13 A: Yes. The company has been recognized for a number of safety awards, most recently
14 receiving the 1999 Meritorious Achievement Award for excellence in injury prevention
15 performance from the Minnesota Safety Council. As further evidence of Otter Tail's
16 commitment to worker safety, the Hoot Lake Power Plant in Fergus Falls just ended a 12-
17 year streak without a single person missing work as a result of a injury workplace injury –
18 a remarkable accomplishment.

19 **Q: What agencies are involved in helping Otter Tail work safely?**

20 A: While many state and federal agencies provide rules and guidance on worker safety, the
21 rules of the federal Occupational Safety and Health Administration (“OSHA”) form the
22 primary basis for the company's safety rules and controls.

III. OSHA BENCHMARK

Q: Are you familiar with Otter Tail's proposed employee safety benchmark?

A: Yes.

Q: Please describe it.

A: For the employee safety benchmark, we propose using a five-year average of the number of "incidences" per 100 employees, per year. Incidences include any medical treatment cases, restricted workdays, lost time workday cases, and fatalities. This standard is based directly off of five years of data that Otter Tail collected for recording and reporting occupational injuries and illnesses to OSHA. Essentially, the safety benchmark proposed here is exactly how the OSHA tracks and evaluates occupational safety and health statistics – otherwise known as the "OSHA rate." The incident statistics used by Otter Tail are taken directly from its OSHA Log 200 – the form provided by OSHA to report workplace injuries and illnesses. The only variation to the OSHA rate proposed here is that Otter Tail intends to use a five-year average rather than a rate based on a single year. A five-year average provides a more accurate picture of Otter Tail's overall safety performance.

The OSHA rate is determined as follows:

$$\frac{\text{Number of incidences} \times \text{by } 200,000^1}{\text{number of labor hours worked}}$$

A detailed explanation of how the standard is attached to my testimony as Attachment SJW-1.

¹ 200,000 represents the amount of hours that 100 full-time employees work in one year, based on a forty-hour work week, fifty weeks per year.

1 Because Otter Tail employees regularly work in each of Otter Tail's three retail states, the
2 benchmark is based on the number of incidences throughout the Company three-state
3 area rather than limiting the information to North Dakota only. Using system-wide data,
4 we believe, provides a more realistic indication of the Company's overall performance.
5 In addition, because one of Otter Tail's primary goals in developing the Plan is that it be
6 easy to administer, we are recommending that the employee safety benchmark be
7 established at the Plan's adoption and not recalculated in each following year.

8 **Q: What is the Otter Tail OSHA rate?**

9 A: Otter Tail's average OSHA rate is 6.6. Again, this represents the average number of
10 incidences per one hundred employees, per year. The rate is derived from reported
11 incidents from 1995-1999.

12 **Q: Is there a deadband associated with the benchmark?**

13 A: Yes. We propose using a range of plus or minus fifteen percent around which the five-
14 year OSHA rate can deviate. In other words, as long as Otter Tail's OSHA rate is
15 between 5.6 to 7.6, this benchmark will not affect Otter Tail's allowable ROE under the
16 Plan.

17 **Q: Will safety performance be affected by the Plan?**

18 A: Yes. The Plan will positively impact the Company's overall safety performance. The
19 Plan provides Otter Tail with a tangible incentive to improve its emphasis and results in
20 employee safety. Although Otter Tail's tremendous safety record is a testament to its
21 progressive thinking on this issue, the Plan has the potential to transform safety from an a
22 program on the expense side of the ledger to an opportunity to increase shareholder return

1 through improved performance. In short, the Plan provides the Company with a tangible
2 incentive to maintain and improve employee safety.

3 **Q: Does this conclude your direct testimony?**

4 **A: Yes.**

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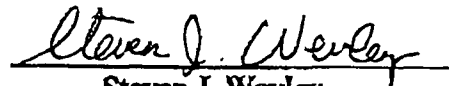
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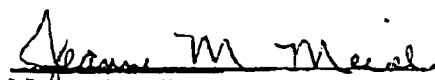
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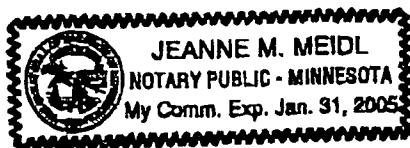
AFFIDAVIT OF
STEVEN J. WEVLEY

I, the undersigned, being duly sworn, depose and say that the foregoing is the testimony of the undersigned, and that such Direct Testimony and the exhibits sponsored by me to the best of my knowledge, information and belief, are true, correct, accurate and complete, and I hereby adopt said testimony as if given by me in formal hearing, under oath.


Steven J. Wevley

Subscribed and sworn to before me, this 29th day of September, 2000.


Notary Public



1 in part, designed to protect customers from the potential monopoly profits and
2 discriminatory pricing that could arise when an exclusive franchise was awarded to a
3 natural monopoly. In addition, the regulatory process attempted to balance the interests of
4 ratepayers and stockholders by reviewing the total costs incurred by the monopoly in
5 providing service. This was done to ensure that customers were not charged for imprudently
6 incurred costs while simultaneously providing the utility the opportunity to earn a fair rate
7 of return. Traditional regulation adopted a method of implementing these goals that relied
8 on a static model of the competitive process. This approach worked reasonably well as long
9 as the economy and the regulated industries remained generally stable. As the economy
10 becomes more subject to shocks, such as rapid and pronounced changes in input prices and
11 radical changes in technology, the traditional form of regulation begins to be a less effective
12 means of maximizing consumer welfare.

13 Q. Please elaborate.

14 A. The traditional regulatory process assumed a static “snapshot in time” in which total utility
15 costs were equal to total utility revenues. However, in a competitive market prices are
16 influenced by the existence of other firms that provides the incentive to minimize costs. But
17 the incentive to minimize costs extends beyond the current “state of technology.”¹² Firms in
18 competitive markets are constantly looking for methods that improve products (or create
19 new ones) and new techniques of production. Firms may experiment with new
20 organizations, new management styles, and may attempt to improvement both physical and
21 human capital all in a quest to become more “competitive.”¹³ The real business
22 environment is far more *dynamic* than traditional regulation assumed.

23
24
25

¹² The term “state of technology” simply refers to all of the aspects of production other than the physical inputs.
This could refer to management styles, organization, knowledge about production, etc.

1 Q. Could you please elaborate on the incentives inherent in the static ratemaking process under
2 traditional regulation?

3 A. Traditionally, regulation has relied on the so-called regulatory lag to provide the incentive
4 for utilities to reduce costs. The regulatory lag exists because prices are generally rigid over
5 some period of time and the regulator is generally confined by administrative procedure
6 from retroactively reducing rates due to higher than allowed earning. This incentive is weak
7 for at least two reasons. First, the regulatory lag can be a short period of time (possibly as
8 few as 6-12 months) relative to the life of utility assets. Any long-term cost reduction by the
9 utility is generally going to be captured in full by ratepayers in the next rate case, thereby
10 muting the incentive to undertake actions that increase long-term efficiency.¹⁴ Second, most
11 utilities seek to avoid rate hearings as they are costly and create uncertainty for investors.
12 Theoretically, this implies sub-optimal cost minimization.

13 Q. What aspect of “competition” is likely to be better emulated by performance-based
14 regulation as opposed to traditional regulation?

15 A. The most important aspect of competition in reality, as opposed to the simple textbook
16 version, is that it is a highly dynamic process as noted above. The reliance of traditional
17 regulation on the static approach to regulation based on rigid prices and an equilibrium
18 concept of profit or return on invested capital clearly contradicts the dynamic nature of
19 competition. Performance-based regulation recognizes the *dynamic* nature of the
20 competitive process and harnesses those forces to achieve the goals of regulation in a more
21 efficient manner.

22
23
24

(...continued)

¹³ By “more competitive” I simply mean that through these improvements in technology and products firms can better serve their customers and in the end remain viable as a commercial operation.

¹⁴ In economic terms, the consumer is the residual claimant to all cost savings.

1 Q. Specifically, what problematic aspects of the static regulatory approach (i.e., traditional
2 regulation) can be addressed by a performance-based regulation plan?

3 A. There are at least four.

4 First, the static approach attempts to justify a single return on equity (i.e., profit rate) based
5 on a snapshot in time. Competition, however, does not focus on a single return number, but
6 rather a range over which the market will reward a firm for operating efficiently (or being
7 lucky) or punish it for operating inefficiently (or being unlucky). Alternative regulation
8 that allows a *zone of reasonableness* better emulates the competitive market. Performance-
9 based regulatory plans often use a “deadband” of profit levels over which the company
10 cannot request a rate increase or, in the alternative, the regulator cannot order a rate
11 decrease (or revenue sharing).

12 Second, earning over the “allowed” rate of return may not indicate monopoly profits, but
13 rather may simply be compensation for additional risk taken on by the company. Standard
14 economic theory suggests that the so-called “normal” rate of profit¹⁵ is not a single number,
15 but rather is related to the risk undertaken by the firm. Alternative regulation allows the
16 firms to take more responsibility for recovering costs (i.e., allocates incremental risk to the
17 company) but also recognizes that such incremental risk must be compensated with
18 incremental return.

19 Third, regulatory lag is a weak incentive to lower costs over the long run. A dynamic
20 approach would recognize that costs factors, demand factors and revenue opportunities
21 fluctuate over time. Alternative regulation provides a mechanism that better mimics the ebb
22 and flow of competitive markets allowing the firm to optimize its cost structure.

23 Fourth, the static model implies price rigidity whereas dynamic models recognize the
24 consumer benefits of price flexibility. Alternative regulation generally allows for some

¹⁵ Generally the “normal” rate of profit in theory corresponds to the “allowed” rate of return in practice. However, as noted above, the allowed rate of return is rigid, whereas the normal profit level tends to fluctuate with the risk taken on by the company.

price flexibility by allowing the utility to begin to set prices, usually within certain pre-determined bounds, more in line with good business practice.

Q. Have other jurisdictions instituted performance-based regulation for public utilities?

A. Yes. I have attached to this testimony three exhibits entitled Exhibit KAM-1, Exhibit KAM-2 and Exhibit KAM-3. Exhibit KAM-1 provides a review of plans that are considered price or revenue cap plans and Exhibit KAM-2 provides an overview of plans that are not considered price or revenue cap plans. Exhibits KAM-1 and KAM-2 relate only to the electric industry. Exhibit KAM-3 provides a review of plans that incorporate deadbands for gas utilities. Note that about half of all states have or have had some form of a performance-based regulation plan for either gas or electric utilities.

C. Performance-based Regulation is Preferable to Traditional Regulation

Q. Generally speaking, what are the benefits from moving to performance-based regulation?

A. In general, PBR can produce multiple benefits. First, the firm has more of an incentive to operate like a competitive firm. Second, the direct cost of regulation is decreased through the automatic nature the plan. Third, the indirect cost of regulation, such as the cost associated with incomplete and asymmetric information, can be decreased. Fourth, the incentive to innovate is increased. Fifth, the incentive and ability to shift costs from unregulated services to regulated services is largely removed.

Q. What are the main constraints found in the typical regulatory environment?

A. The regulatory environment is characterized by three main constraints.

First, regulators often cannot obtain the appropriate level and detail of information needed to implement traditional regulation. Information concerning customer demand, utility costs and other pertinent information can be too complex to analyze in the time given, not available or too costly to obtain. In addition, as noted above this information changes over time and often is stale even by the end of a rate case. This is the *information constraint*.

1 Second, The regulatory environment imposes certain administrative costs that may or may
2 not be conducive to efficient operation of the business. This is the *administrative*
3 *constraint*.

4 Third, the regulatory compact that exists between the stakeholders cannot be completely
5 identified and specified. While certain parties may believe that certain actions are required
6 by other parties, there is always some ambiguity as to who has what responsibility. In
7 addition, one commission cannot generally commit future commissions to specific actions.
8 This constraint is referred to as the *transactional constraint*.

9 Q. Does traditional regulation generally deal well with these constraints?

10 A. Generally no. Clearly the information and administrative constraints are often not dealt with
11 effectively. Cost of service regulation requires detailed information concerning the firm's
12 costs and technology that is generally difficult for the regulatory body to obtain and verify.
13 But even if the regulatory body has perfect knowledge of the firm's cost structure, the
14 method by which traditional regulation sets prices—based on a test period—virtually
15 guarantees that prices will not reflect costs once the prices are set.¹⁶ The administrative
16 constraint can also hinder the ability of traditional regulation to produce efficient outcomes.
17 Administrative duties, formal filings and protracted rate cases can discourage the utility
18 from innovation and focuses management more on the regulatory function rather than the
19 provision of utility service. The transactional constraint can be problematic because the
20 regulator (or a legislature) generally cannot bind later incarnations of the commission or
21 legislation.

22 Q. How important is an understanding of the regulatory environment to designing
23 performance-based regulation?

24 A. It is extremely important. In order for a PBR plan to meet the public interest goals and be
25 an improvement over traditional regulation it must take into account and be consistent with
26 the ability of the firm and the regulatory agency to implement the plan. The plan must be

¹⁶ In addition, the fixed price methodology of traditional regulation also hinders its ability to produce efficient outcomes.

1 consistent with the information available to the firm and the regulator and use feasible
2 instruments to implement it.

3 Q. How does PBR generally handle the regulatory constraints?

4 A. PBR can be designed to directly address all three of these constraints. First, PBR generally
5 attempts to minimize the necessary information and attempts to use information that is
6 easily verifiable. The on-going informational requirements tend to depend on publicly
7 available data, such as the Consumer Price Index, or data that is determined in the rate case,
8 such as a productivity index. In addition, prices can be allowed to be flexible within a
9 certain range. This promotes economic efficiency without the regulatory body collecting
10 and analyzing complex information concerning consumer demand. In this way one can
11 avoid, to the greatest extent possible, the informational constraints while allowing the
12 regulatory body the necessary control to set the initial starting point. Second, through the
13 PBR plan the administrative constraint can also be minimized to only those administrative
14 procedures that are necessary for the on-going regulation of the utility. The parameters of
15 many alternative regulatory plans dictate minimal administration throughout the term of the
16 plan. Last, while the transactional constraint remains as a conceptual difficulty in any type
17 of regulation, PBR plans attempt to address the issue by making the parameters of the plan
18 clear and codified through a regulatory order.

19 Q. In your opinion is PBR preferable to traditional regulation?

20 A. Based on a fundamental understanding of the constraints placed on traditional regulation, I
21 am of the opinion that PBR makes better use of incentives, provides a better substitute for
22 competition, institutes a more efficient regulatory environment and, when properly
23 designed, represents a preferred regulatory mechanism relative to traditional regulation.

24 **D. Performance-based Regulation Promotes the Public Interest**

25 Q. Don't public utilities have the obligation under law to operate efficiently under traditional
26 regulation?

27 A. Generally there is a legislative goal of providing utility services in the most efficient
28 manner while providing the utility with the opportunity to recover its "cost of service."

1 However, as with all aspects of economic life, the firm will operate in a manner consistent
2 with the incentives inherent in the system. I have noted above that the incentives created by
3 traditional regulation have not been designed with full dynamic efficiency in mind. For
4 example, the administrative constraint placed on regulators does not have efficiency as a
5 goal, but rather has other goals such as openness, fairness, and due process that are
6 appropriate in an administrative environment, but may not be totally consistent with
7 economic efficiency. Therefore, one must temper ones interpretation of such legislative
8 mandates by realizing that a rational utility will operate as efficiently as it can given the
9 many constraints it faces.

10 Q. How is the public interest promoted by performance-based regulation?

11 A. There are five main ways that the public interest is promoted by PBR. First, unlike
12 traditional static approaches to regulation which are generally zero-sum games,¹⁷ alternative
13 regulation provides incentives for the utility to become more efficient and thereby creating
14 a non-zero sum game.¹⁸ This better aligns shareholder and ratepayer interests. Second, price
15 changes are more understandable under alternative regulation as they are linked to factors
16 that are more generally available and understandable to the public, such as the Consumer
17 Price Index. Traditional regulation relies on complex cost of service studies that the public
18 will not generally understand. Third, the direct and indirect cost of regulation is decreased.
19 Clearly direct costs such as the costs of regulatory hearings will be reduced. Indirect costs
20 such as those created by asymmetric and incomplete information, pricing errors, etc. can
21 also be reduced. Fourth, alternative regulation promotes innovation. As noted above,
22 traditional regulation tends to mute the incentive for innovation. As innovation is one of the
23 main drivers in creating a non-zero sum game, PBR that promotes innovation will also
24 promote the public interest. Fifth, rates remain just and reasonable. Generally PBR plans
25 use just and reasonable prices determined in a traditional rate case proceeding as a starting
26 point. Once the regulator has approved a PBR procedure as just and reasonable, the

¹⁷ A zero-sum game refers to a process by which one party gains directly at the expense of another party.

¹⁸ A non-zero sum game refers to a process by which one party gains but not at the expense of another party. This could also encompass a situation in which both parties gain.

1 resulting prices will also be just and reasonable. Additional protections such as earnings
2 sharing, plan monitoring and set plan periods also help assure that rates will remain just and
3 reasonable.

4 **III. ASSESSING THE XCEL ENERGY AND OTTER TAIL**
5 **PERFORMANCE-BASED REGULATION PLANS**

6 **A. Characteristics of an Appropriate Alternative Regulation Plan**

7 Q. Please describe the aspects of an appropriate PBR plan.

8 A. Briefly the characteristics that are most important in determining whether or not a PBR plan
9 is appropriate are as follows:

- 10 1. Simplicity and inexpensive to administer
- 11 2. Automatic operation
- 12 3. Symmetric
- 13 4. Employ identifiable and calculable benchmarks
- 14 5. Employ sufficient penalties and rewards
- 15 6. Operate for a sufficient length of time
- 16 7. Explicit recognition of exogenous events
- 17 8. Comprehensiveness
- 18 9. Flexibility

19
20
21 Q. Please explain how you compiled this list.

22 A. These are characteristics of a plan that address the problems with traditional regulation
23 identified previously in my testimony. For example, I noted that traditional regulation
24 suffered from informational constraints by relying heavily on complex cost of service
25 calculation. To counter such tendencies simplicity should be substituted for complexity
26 where possible. A further counter to the information problem is to use benchmarks that are
27 sufficiently easy to calculate and verify. I also noted that administrative constraints exist
28 under traditional regulation. To counter these constraints a PBR plan should be automatic,
29 operate for a sufficient length of time and provide for flexibility. In addition to these
30 constraints, the transactional constraint can be countered by explicitly recognizing the
31 potential for exogenous events as well as allowing the plan to operate over a period of time.
32 Further, a plan that is comprehensive in scope and employs symmetry in penalties and

rewards tends to counter the disincentives to efficient operation found in traditional regulation.

Q. Has the North Dakota Public Service Commission (NDPSC or Commission) addressed the issues of assessing a PBR plan?

A. Yes it has. In Case No. PU-139-94-590, the NDPSC issued a document entitled "Guidelines for Filing Alternative Regulation Proposals" (the Guidelines).

Q. What are the goals set forth by the Guidelines for a PBR plan?

A. The Guidelines note the following goals:

- Promote Utility Efficiencies
- Align customer and shareholder interests
- Maintain/Improve customer service
- Allow utilities to be flexible
- Minimize regulatory costs
- Improve public participation

Q. Are these goals met by the plan proposed by the Companies?

A. The plan proposed by the Companies meets these goals as will be shown below. I would also note that each of these goals could be reconciled with the list of characteristics I noted above.

Q. What are the criteria the Commission has set forth and how do they relate to your discussion of performance-based regulation?

A. The Commission identified five criteria:

- Comprehensive
- Administratively Simple
- Easily Communicated
- Balanced
- Flexible

These criteria are also completely consistent with the characteristics of an appropriate plan that I noted above.

1 Q. How should the criteria be weighted in reviewing the Companies proposals?

2 A. As with both the Commission's criteria for judging the plan and my stated characteristics of
3 an appropriate plan, some of the factors are not entirely consistent with one another. For
4 example, while simplicity is a goal of the plan, the plan should still produce just and
5 reasonable rates. Therefore, the Commission will need to judge which factors are likely to
6 be most important to the overall performance of the plan. For example, the Commission
7 may wish to weight administrative ease higher than flexibility because saving state
8 resources in monitoring and reviewing the plan may benefit the stakeholders more than
9 flexibility. In addition, the Commission also needs to balance the pursuit of the "perfect"
10 plan with the realities of a regulatory proceeding. In other words, if the Commission is
11 convinced that these plans are in the public interest as outlined above, it should not allow
12 the "perfect to be the enemy of the good." In the end, if the Commission is convinced that
13 the plans meet a significant portion of the goals and criteria set forth, it can judge the plan
14 as meeting the public interest.

15 **B. Description of the Xcel Energy and Otter Tail PBR Plan**

16 Q. Please provide an overview of the Companies proposed plans.

17 A. The Companies propose a relatively simple plan that would allow the Companies a zone of
18 reasonableness on their ROE that could change if certain performance standards are met. In
19 addition, prices are set through a formula that is based on the rate of consumer price
20 inflation.¹⁹ Price increases are limited to years in which earnings do not exceed the zone of
21 reasonableness and price decreases are limited to years in which earnings do not exceed the
22 upper limit of the zone.

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¹⁹ This is true if the CPI formula results in a price increase that is lower than the changes in prices for the comparison group, otherwise the price change is capped at the comparison group change.

Q. Please provide an overview of the salient features of the plans proposed by Otter Tail and Xcel Energy.

A. The key aspects of the plan are as follows;

(1) *Dynamic Return on Equity (ROE) Bandwidth*

(2) *Earnings Sharing*

(3) *Performance Standards*

(4) *Limited Price Flexibility*

In addition, the Xcel Energy plan provides for economic development investment.

C. The Salient Features of the Companies' Plans are Appropriate

1. Dynamic Return on Equity Bandwidth

Q. Please explain the function and role of the dynamic ROE bandwidth?

A. As noted above, alternative regulatory plans often provide a range on the profits a utility can make before either prices can be increased or reduced. The Companies propose that the ROE be set at 12% with an initial range²⁰ of plus or minus 1%. The Companies also propose that the ROE be based on performance. That is, if the Companies meet certain performance standards the ROE will move up or down based on the achievement of the Companies. The purpose of allowing the ROE to float based on the performance of the Companies is to provide the Companies the incentive to meet the performance standards so that increases in efficiency can be retained by the Company. Note that the earnings sharing portion of the plan, discussed below, is provided to allow customers to also benefit from increased efficiencies that cause earnings to exceed the ROE in any given year.

²⁰ This range is referred to as the "bandwidth" or the "deadband."

OSHA Rate Calculation

SJW-1

Employee Safety

Measure used: OSHA Rate

$$\text{OSHA RATE} = \frac{\text{Total Incidences} \times 200,000}{\text{Total Hours of Worked}}$$

Total Incidences = sum of Fatality, Restricted & Lost Work Days,
and Medical Incidences

Total Hours of Worked =
Total hours worked in a calendar year plus actual overtime hours

200,000 = The approximate number of hours that 100 employees
work in 1 year

CALCULATION

$$\frac{288 \times 200,000}{8,677,263} = 6.6$$

Total Company			
Year	Total Incidences	Total hours Worked	OSHA Rate
1995	60	1,734,311	6.9
1996	50	1,741,661	5.7
1997	58	1,731,369	6.7
1998	53	1,728,333	6.1
1999	67	1,741,589	7.7
Totals	288	8,677,263	6.6
5-year average		6.6	

**NATIONAL ECONOMIC
RESEARCH ASSOCIATES**

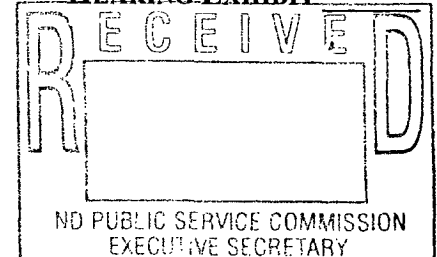
875 NORTH MICHIGAN AVENUE, SUITE 3650
CHICAGO, ILLINOIS 60611
TEL: 312.573.2800 FAX: 312.573.2810
INTERNET: <http://www.nera.com>

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Consulting Economists

**STATE OF NORTH DAKOTA
BEFORE THE
PUBLIC SERVICE COMMISSION**

**JOINT OTP/XCEL ENERGY
EXHIBIT No. 1**

HEARING EXHIBIT



In the Matter of the Application of)
Northern States Power Company d/b/a)
Xcel Energy for Authority to Operate)
Under Performance-Based Regulation)
in North Dakota)

Case No. PU-400-00-195

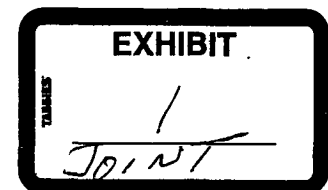
In the Matter of the Application of)
Otter Tail Power Company for)
Authority to Operate Under)
Performance Based Regulation)
in North Dakota)

Case No. PU-401-00-36

TESTIMONY OF KARL MCDERMOTT

Vice-President

September 29, 2000



18 PU-401-00-36

Pages: 57

Testimony of Karl McDermott

by Otter Tail Power Company
10/02/2000 **Exhibit # Joint 1**
CC: Comm Legal PUD (3) Mike ALJ .

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17 PU-400-00-195

Pages: 57

Testimony of Karl McDermott

by Northern States Power Company
10/02/2000 CC: Comm Legal PUD (3) Mike ALJ .

I. INTRODUCTION AND SUMMARY	1
II. PERFORMANCE-BASED REGULATION	3
A. PERFORMANCE-BASED REGULATION AND INCENTIVES	3
B. THE GOALS OF TRADITIONAL REGULATION ARE MORE LIKELY TO BE MET UNDER ALTERNATIVE REGULATION.	9
C. PERFORMANCE-BASED REGULATION IS PREFERABLE TO TRADITIONAL REGULATION.....	13
D. PERFORMANCE-BASED REGULATION PROMOTES THE PUBLIC INTEREST.....	15
III. ASSESSING THE XCEL ENERGY AND OTTER TAIL PERFORMANCE-BASED REGULATION PLANS	17
A. CHARACTERISTICS OF AN APPROPRIATE ALTERNATIVE REGULATION PLAN.....	17
B. DESCRIPTION OF THE XCEL ENERGY AND OTTER TAIL PBR PLAN	19
C. THE SALIENT FEATURES OF THE COMPANIES' PLANS ARE APPROPRIATE.....	20
1. <i>Dynamic Return on Equity Bandwidth</i>	20
2. <i>Earnings Sharing</i>	22
3. <i>Performance Standards</i>	24
4. <i>Limited Price Flexibility</i>	26
VI. THE PROPOSED PLAN IS IN THE PUBLIC INTEREST	30

1 **PREPARED DIRECT TESTIMONY**

2 **OF**

3 **KARL A. MCDERMOTT**

4 **I. INTRODUCTION AND SUMMARY**

5 Q. Please state your name, current position and business address.

6 A. My name is Karl McDermott. I am a Vice President at National Economic Research
7 Associates, Inc. (NERA). NERA is a firm of consulting economists with offices in the
8 United States, Europe and Australia. My business address is 875 North Michigan Avenue,
9 Suite 3650, Chicago, IL 60611.

10 Q. Please describe your qualifications.

11 A. I have been working in the field of public utility regulation for over twenty years. I received
12 a B.A. in economics from Indiana University of Pennsylvania, an M.A. in public utility
13 economics at the University of Wyoming and a Ph.D. in economics from the University of
14 Illinois at Urbana-Champaign. From April of 1992 until May of 1998, I served as a
15 Commissioner on the Illinois Commerce Commission. Prior to that, I was founder and
16 served as the President of the Center for Regulatory Studies (CRS), a not-for-profit
17 regulatory policy institute located on the campus of Illinois State University. CRS was
18 created to provide the Illinois regulatory environment with independent third-party research
19 and education on issues impacting the regulation of public utilities. Before founding the
20 CRS, I worked in numerous capacities including positions on the staff of the Illinois
21 Commerce Commission, the National Regulatory Research Institute (NRRI) and Argonne
22 National Laboratory. I have testified before state regulatory commissions in California,
23 Illinois, Indiana, Iowa, Kentucky, South Dakota and Wisconsin as well as before the
24 Federal Energy Regulatory Commission, the Federal Communications Commission and the
25 Iowa and Illinois General Assemblies. My current vita, detailing more fully my academic
26 and work experience, is attached as Appendix A.

1 Q. What is the purpose of your testimony?

2 A. I have been asked by Northern States Power Company d/b/a Xcel Energy (Xcel Energy)
3 and Otter Tail Power Company¹ (Otter Tail) to provide an overview of performance-based
4 regulation as it has been applied to public utilities and review and provide
5 recommendations on the overall design of their proposed performance-based regulation
6 plans.

7 Q. What is your experience with alternative regulation or performance-based regulation?

8 A. In the early 1980's I left NRRI for a position on the Staff of the Illinois Commerce
9 Commission (ICC). One of the reasons I was hired by the ICC was to address issues related
10 to incentive-based regulation. While at the ICC, I authored three reports on the application
11 of alternatives to traditional cost of service regulation. In addition, I testified before the ICC
12 as to the potential use of incentive-based regulation to control costs of power plant
13 construction. Since that time I have authored several publications and reports on the
14 applicability of performance-based regulation (PBR) to both economic and environmental
15 regulation. My curriculum vita cites these reports and publications. Later in my career,
16 while a Commissioner at the ICC, I had the opportunity to evaluate and vote on several
17 incentive proposals brought before the Commission. These proposals ranged across the
18 regulated industries including incentive programs for gas commodity procurement, gas
19 storage capacity projects, electric PBR and a price cap plan for Illinois Bell Telephone
20 Company (Ameritech). In addition, I have lectured and advised governments, regulators
21 and utilities in a number of Eastern European states on the applicability, design and
22 implementation of performance-based regulation in the natural gas and electric industries.

23 Since leaving the ICC, I have been retained by MidAmerican Energy Company to evaluate
24 and provide expert testimony on its gas purchasing performance plan in South Dakota and
25 Iowa. I have also been retained by Wisconsin Electric Power Company to assist in the

¹ When referring to both Otter Tail and Xcel Energy I will use the term "Companies," otherwise I will explicitly name the company I am referring to.

design of its electric performance-based regulation plan and provide expert testimony in support of that plan.

Q. Please summarize your conclusions in this proceeding.

A. The move to alternative forms of regulation has gained substantial momentum in the past decade. Policymakers, regulators and utilities are beginning to recognize the benefits of altering the poor incentive structure inherent in traditional forms of economic regulation. The Companies have proposed a plan² that meets many of the criteria commonly used to evaluate these plans. The plan will provide better incentives for cost reduction, service performance and will reduce the costs to society of regulating the Companies. The plan also provides a reasonable process for price changes that will result in just and reasonable rates. This conclusion is based on a review of the plan as a whole. While no plan is perfect, this plan represents a reasonable regulatory framework that provides these Companies with the appropriate incentives. The Commission should approve the plan as presented.

II. PERFORMANCE-BASED REGULATION

A. Performance-based Regulation and Incentives

Q. Could you please explain what you mean by “performance-based regulation?”

A. Performance-based regulation generally refers to a regulatory structure that explicitly incorporates standards of performance that may not exist in the traditional cost of service methodology.³ One also hears references to “alternative” or “incentive” regulation as well.⁴ I will use the term performance-based regulation (PBR) to describe the Companies proposed plan as that term provides the correct emphasis on performance. There are many forms of performance-based regulation including price caps and revenue caps, and earnings

² The two plans are similar enough that I will refer to them as one, however some differences will be noted throughout my testimony.

³ In the remainder of this testimony any reference to “traditional regulation” will mean cost of service or rate of return regulation and the process and procedures generally associated with these regulatory mechanisms.

⁴ Alternative regulation is a catchall phrase used to denote nearly any type of plan that differs from traditional regulation. Incentive regulation is somewhat of a misnomer as all regulation is incentive regulation. However
(continued...)

1 sharing. The purpose of these plans is to provide positive incentives that counter the well-
2 known disincentives to efficient performance found in the traditional regulation.

3 Q. Could you briefly describe the history of performance-based regulation?

4 A. PBR plans are not new. Regulators have worried about the incentives created by cost-based
5 regulation for many years. In England, as far back as 1855, Sheffield Gas operated under a
6 type of “sliding-scale” plan. Under that plan, dividends were permitted to rise or fall
7 depending on the price of gas delivered to customers. In the United States, the Commission
8 in Washington, DC adopted a sliding-scale plan for Potomac Electric Power in 1925, and it
9 lasted until 1955.

10 Q. What do you mean by “incentives?”

11 A. An incentive is the structure of an economic system that provides rewards or penalties for
12 certain types of behavior. For example, the pricing system is an incentive system. As prices
13 rise people tend to consume less, as prices fall they tend to consume more. The incentive of
14 “higher prices” or “lower prices” guides the behavior of “consuming less” or “consuming
15 more.” Another example is the legal system that establishes a set of rules identifying
16 behavior that will be punished in order to minimize its occurrence. There are many other
17 examples. Generally speaking we employ rewards and penalties to signal the firm or
18 individual the benefit or cost of particular actions. In this way we can encourage
19 modifications in behavior in order to achieve the goal that has been selected.

20 Q. What role do incentives play in improving the outcome of regulation?

21 A. First note that *all* regulation is “incentive” regulation in some form. Traditional cost of
22 service regulation sets up one type of incentive for the firm, whereas performance-based
23 regulation sets up an entirely different set of incentives. The role incentives play should be
24 clear from my discussion above. Altering the costs or benefits of certain types of behavior
25 will induce different behavior on the part of the firm. The trick to making performance-

(...continued)

the term is generally used to emphasize the use of specific incentive mechanism beyond those found in traditional regulation, as I will discuss below.

1 based regulation work is to design a set of incentives such that the desired outcomes are
2 likely to be realized.

3 Q. What is the purpose of performance-based regulation?

4 A. Performance-based regulation alters the incentives inherent in the regulatory system in an
5 attempt to alter the behavior of the regulated firm. By altering the firm's behavior
6 regulators can elicit benefits that can be shared by the firm and the customers.

7 Q. Are you suggesting that the behavior of the regulated firm under traditional regulation was
8 not appropriate?

9 A. No. What I am suggesting is that regulators cannot impose a desired level of effort or a
10 desired behavior on the part of a privately held (i.e., for profit) firm. Regulators can only
11 create an environment that is most likely to elicit the amount of effort deemed socially
12 acceptable. Traditionally, regulation used the "carrot" of restricted entry and an approved
13 return and the "stick" of prudence reviews and regulatory oversight to obtain a certain level
14 of effort from the firm. The firm behaved in a rational manner, given the incentives inherent
15 in the traditional system.

16 Q. What are the general categories of incentive plans used by regulators?

17 A. Incentive plans can be classified into two general types: specific and comprehensive.
18 Specific plans became popular with commissions in the United States in the late 1970's and
19 early 1980's. These plans were a response to the inflationary pressures affecting fuel costs
20 and the costs of building new power plants. A survey in 1986 identified 31 incentive
21 programs in 20 states.⁵ The majority of these plans involve targeting power plant
22 performance measures, such as plant capacity factors or availability factors, and tying
23 certain cost recovery treatment to achieving those targets. The emphasis was placed on the
24 tying of rewards or penalties to *performance* by linking rewards and penalties to specific
25 performance. By doing so, the state commission generated a clear logical connection
26 between the benefits of the project and the treatment of the utility.

1 Targeting continued to be the incentive mechanism of choice for state commissions into the
2 early 1990's. The emphasis of regulators shifted from traditional regulation to demand-side
3 management (DSM) and energy conservation programs. A NARUC report published in
4 1993 identified 28 states employing some form of incentive program for DSM and 6 states
5 in the process of approving a DSM incentive program.⁶

6 Q. Are there any problems with targeted incentives?

7 A. The problem with most specific or targeted incentives is that they can result in unintended
8 consequences for customers and companies. By singling out a specific activity to reward,
9 attention to and expenditures on other equally important activities may decrease. The result
10 could be, for example, that power plant availability rises by reducing maintenance outages.
11 At some point, equipment failures could impose significant costs on the customer and
12 company. Even if this adverse result occurs, the company may have satisfied the letter of
13 the incentive mechanism and be entitled to a reward for achieving the targeted result. This
14 type of perverse outcome is avoided by incentive mechanisms that adopt a more
15 comprehensive approach to cost control and performance.

16 Q. Could you please describe what you mean by the concept of a comprehensive mechanism?

17 A. Comprehensive plans enable a utility to examine the *overall* costs of providing service and
18 develop ways to reduce these costs and improve service. Comprehensive plans generally
19 identify a set of performance criteria and link the rewards or penalties to these criteria. The
20 difference between comprehensive and targeted incentives is that the performance criteria
21 are generally more "macro" oriented. That is, the criteria focus on price performance or
22 comparisons of system reliability or total cost control. Comprehensive mechanisms
23 typically take one or more of the following forms: earnings sharing, benchmarking, rate
24 freezes, and price caps.

(...continued)

⁵ See Paul Joskow and Richard Schmalensee, "Incentive Regulation for Electric Utilities," *Yale Journal on Regulation* Vol. 4, no 1, 1986

⁶ See *Incentives for Demand-side Management*, 2nd ed. March 1993 published by the National Association of Regulatory Utility Commissioners.

1 Comprehensive plans also streamline the regulatory process and reduce the cost to
2 customers of rate proceedings. An example of these savings is provided by Central Maine
3 Power, where the costs of rate proceedings were reduced from \$1.6 million to \$70,000. By
4 relying on formulae to determine the degree that prices will change and establishing an
5 automatic process for implementing these changes, the customer receives the benefits of
6 more timely downward adjustments in price and is protected from the full impact of price
7 increases by partial price adjustment formulas.

8 Q. Could you please describe the evolution of comprehensive incentive mechanisms?

9 A. Comprehensive incentive programs have followed a path that tracks more closely the
10 evolution of competition in each of the regulated industries. With the opening up of
11 telecommunications markets at the federal level after the 1984 divestiture of AT&T, the
12 Federal Communications Commission adopted a form of price cap regulation in 1989.⁷ The
13 proposals to deregulate natural gas and FERC's open access orders led to the FERC
14 commissioning a report on incentive regulation which was issued in November of 1989.⁸
15 As of March 1999, 24 states had adopted some form of incentive program for gas
16 commodity costs or base rates. In the electric industry to date, approximately 23
17 performance plans have been adopted; these plans include virtually the entire range of
18 comprehensive mechanisms identified above.

⁷ See Policy and Rules Concerning Rates for Dominant Carriers, Notice of Proposed Rulemaking, 2 FCC Red 5208(1987), Report and Order and Second Further Notice of Proposed Rulemaking 4 F.C.C.R. Rad.Reg.2d (P&F) (1989) and Second Report and Order, 5 F.C.C.R. Rad. Reg. 2d (P&F) (1990). For a complete survey of the evolution of the FCC price cap approach, see e.g., G. Vogt "Cap-Sized: How the Promise of Price Cap Voyage to Competition Was Lost in a Sea of Good Intentions" *Federal Communications Law Journal* Vol. 51, No. 2, March 1999. On the status of state programs, see D. Kridel, D Sappington and D Wiesman "The Effects of Incentive Regulation in the Telecommunications Industry: A Survey" *Journal of Regulatory Economics* Vol. 9 1996.

⁸ L. Brown, M. Einhorn and I. Vogelsang, *Incentive Regulation: A Research Report*, Office of Economic Policy Technical Report FERC 89-3, November 1989.

1 Q. Are there any other aspects of incentives that should be kept in mind when designing a
2 performance-based regulation plan?

3 A. Yes. First, we must remember that incentives only work when the outcomes are under
4 control of utility management. A plan that purports to provide incentives to management to
5 control costs and operate more efficiently but links the rewards to performance standards
6 that are largely out of the control of management is not likely to succeed. Second, we must
7 remember that the incentive structure should allow for the compensation for additional risk
8 born by the utility in moving away from traditional regulation. If the incremental cost of
9 taking on additional risk does not meet the incremental benefit it is highly unlikely that the
10 goals of the program will be achieved. Last, the incentive intensity⁹ is a function of the
11 ability of the utility to retain the incremental rewards from incremental effort.

12 Q. How does the customer benefit from performance-based regulation?

13 A. The customer will benefit from PBR in a number of ways depending on the design of the
14 mechanism. Incentives can be designed that incent the improvement in system reliability or
15 increase efficiency, or any number of other behaviors that are deemed appropriate by the
16 regulator. Practically any set of activities that a utility undertakes to provide service to
17 customers can be influenced in order to achieve benefits for ratepayers. As we will discuss
18 below there are advantages to designing incentive mechanisms that employ broader targets
19 such as total cost minimization as opposed to a single activity, such as demand side
20 management, because of the risks of distorting incentives that accompanies the use of
21 narrow measures.

⁹ The term “high-powered incentives” is often used to describe an incentive system that results in the firm retaining all the benefits of the behavior change. The term “low-powered incentives” result from consumers retaining the benefits. A sharing of claims on the benefits would result in “intermediate-powered incentives.” See e.g., *A Theory of Incentives in Procurement and Regulation*, J.J. Laffont and J. Tirole, MIT Press, Cambridge, p. 11.

B. The Goals of Traditional Regulation are More Likely to be met under Alternative Regulation.

Q. What is the goal of traditional regulation?

A. While it is not often articulated or made explicit, the traditional goal of regulation has been to provide an environment in which the regulated firm operates as much like a competitive firm as possible. This was perhaps best stated by Professor Bonbright who noted:

Regulation it is said, is a substitute for competition. Hence its objectives should be to compel a regulated enterprise, despite its possession of complete or partial monopoly, to charge rates approximating those which it would charge if free from regulation but subject to the market forces of competition. In short regulation should be not only a substitute for competition, but a closely imitative substitute.¹⁰

Therefore, the goal of the regulatory process, at least theoretically, is to provide an environment in which the firm operates in the most efficient manner possible. Baumol and Sidak expand on the concept

...that the proper role of regulation is that of a substitute for competitive market forces where those forces are weak or absent. The regulator's task then becomes a two-part undertaking: first to determine the rules of behavior that a regulated firm could have been expected to follow if it had operated free of regulation in market with fully effective competitive forces; second, to constrain the regulated firm to behave as it would in such a competitive market and to circumscribe its behavior no less and no more than this.¹¹

The reason for this emulation of the competitive market is our belief that the system of incentives embodied in the competitive market process result in the least cost production of goods and services. If regulation could duplicate these results then the public interest would be well served.

Q. Has traditional regulation achieved this goal?

A. No. An increasing number of policymakers are coming to the conclusion that performance-based regulation can increase customer welfare compared to traditional cost of service regulation. The reason for this is quite simple—traditional cost of service regulation was,

¹⁰ James Bonbright, *Principles of Public Utility Rates*, Columbia University Press, New York, 1961, p. 93.

¹¹ W. Baumol and G. Sidak, *Toward Competition in Local Telephony*, MIT Press, Cambridge, 1994, p.5.

1 Q. Why is it appropriate to have a deadband around earnings?

2 A. The deadband helps insulate both customers and the companies from small changes in
3 earnings due to the natural ebb and flow of general business conditions. In addition,
4 deadbands are very common in alternative regulation plans and serve an important role in
5 keeping the plan simple and easy to administer.

6 Q. Is the proposed deadband appropriate?

7 A. The proposed 100 basis point deadband is within a reasonable range based on my review of
8 other plans approved around the country. Exhibits KAM-1, KAM-2 illustrate this for the
9 electric industry and Exhibit KAM-3 provides an illustration for the gas industry.

10 Q. Is it appropriate for the deadband to be symmetric?

11 A. Yes it is. A symmetric deadband is one in which the allowed return is the same above the
12 target return as below it. As noted above, symmetry is one of the key aspects of an
13 appropriate alternative regulation plan. Without symmetry, either the company or the
14 ratepayer will be treated differently. This violates basic notions of fairness and sets up
15 incentives that may result in unintended circumstances. For example, if the deadband is
16 asymmetric in favor of the customers the Companies may simply refuse to implement the
17 plan if management believes its fiduciary responsibility to shareholders cannot be met. This
18 would deprive customers of benefits under the plan and re-institute the traditional
19 incentives under cost of service regulation.

20 Q. Is the proposed dynamic deadband an appropriate method of providing incentives for
21 efficiency?

22 A. Yes it is. In fact, such an approach is somewhat innovative in the realm of alternative
23 regulation as it bridges a gap between pure price cap plans and static earnings sharing plans.
24 The dynamic ROE bandwidth is appropriate for two main reasons. First, it sends the signal
25 to the Companies that superior performance will be rewarded. This alters the current
26 incentives inherent in the traditional regulatory paradigm toward providing superior service
27 Second, and most importantly, it provides high-powered incentives (i.e., the Companies
28 will be the residual claimant) to the Companies to reduce costs within the dynamic

1 deadband.²¹ This differs from many alternative regulatory plans that have earnings sharing
2 over a static deadband resulting in customers having some claim to refunds above those
3 ranges. The result of the Companies proposal will be two-fold. The Companies will strive
4 to meet the performance standards *and* will attempt to do so in a least-cost manner so it can
5 retain as much revenue as possible. This benefits customers through a more efficient utility
6 that provides service that meets customer expectations.

7 Q. Is the potential to adjust the ROE by 200 basis points appropriate?

8 A. Ideally, one would like to associate the adjustment in return to compensate for the increase
9 in risk the Companies are taking on by moving away from traditional regulation. However,
10 such a calculation would be difficult if not impossible to obtain objectively. Therefore, as
11 an alternative the Companies have proposed 200 basis points as a reasonable compensation.
12 The Commission must weigh the benefits of providing this additional incentive with its
13 costs. The benefits could be substantial, as noted above, while the costs relatively low. As
14 noted elsewhere in the plan, the price consumers pay will not rise as fast as inflation and
15 can only go up in certain relatively strict circumstances. In addition, the increases in
16 allowed ROE could only happen if the Companies meet the performance standards. Finally,
17 the Commission has the opportunity to review the operation of the program over time.
18 Given the safeguards in place and the relatively high level incentives provided by the
19 dynamic ROE, the 200 basis points (50 for each performance standard) is a reasonable
20 place to begin.

21 2. Earnings Sharing

22 Q. If the Companies retain all earnings in the dynamic bandwidth, how do ratepayers directly
23 benefit from the plan?

24 A. Beyond the benefits noted above within the dynamic deadband, ratepayers can directly
25 benefit from the second aspect of the plan and that is the earnings sharing. While the
26 Company has high-powered incentives within the dynamic ROE bandwidth, the incentives

²¹ It must be clear that the “dynamic” part of what I am calling the “dynamic deadband” is related to performance, i.e., the 50 basis points for each measure, whereas the deadband itself, i.e., the 100 basis points, remains static.

1 remain, although somewhat lessened, into the sharing range. Therefore, the Companies
2 have an incentive to reduce costs even if it results in rebating some money back to
3 customers because the Companies retain a portion of the earnings. As noted in the Xcel
4 Energy proposal, nearly \$700,000 could have been generated over the years 1994-1998 had
5 this plan been in place.²² These are real benefits that have been lost to consumers because
6 this plan was not in place.

7 Q. You noted that the incentives are lessened due to the earnings sharing. Is it appropriate to
8 have an earnings sharing mechanism (ESM) in the plan?

9 A. Yes it is. An ESM is important for three reasons. First, ESMs tends to mimic the
10 competitive market. Under a competitive regime, superior performing companies are
11 generally rewarded with superior returns. However, profit also invites entry by alternative
12 providers. Competition will eventually help drive prices down and consumers “share” in the
13 good fortune of the efficient firms through those price reductions. Second, even though the
14 plan is simple and can be implemented easily, mistakes can still be made. An ESM provides
15 a safeguard that mimics the regulatory review process. However, this mechanism is more
16 automatic, unlike an administrative rate case. Last, ESMs lends an air of fairness to the
17 program.²³ For example, companies may simply be the beneficiaries of “good luck.” If this
18 were to happen, customers would share in that good luck. In return, if the Companies
19 experience “bad luck” customers would not be hit with the full amount of the shortfall.

20 Q. Is it appropriate for the plans to provide for an equal sharing of earnings?

21 A. Yes it is. Sharing equally in the earnings meets our common notions of fairness and is
22 likely to be a result of a fairly determined game. For example, imagine a situation in which
23 two people have to decide how to allocate the last piece of cake between them. Further
24 assume that if given the opportunity each would take the full piece. One method of
25 allocation would be to allow one person to cut the cake, but allow the other to choose which

²² Northern States Power Company Petition at 3.

²³ The following example assumes that the Companies continue to meet the performance standards, but items beyond control of the managers alter the earnings either positively or negatively. Of course, this also assumes the earnings are outside of the deadband.

1 piece to take. The result will be a 50/50 sharing between the two people and each will feel
2 as if they were treated fairly. While one could make arguments for nearly any sharing
3 allocation, a 50/50 sharing meets the test of fairness better than any other allocation.

4 **3. Performance Standards**

5 Q. Please explain the function of the performance standards.

6 A. The Companies have proposed four performance standards that measure overall company
7 performance. The standards are: 1) Reliability; 2) Price; 3) Customer Satisfaction and 4)
8 Worker Safety. The performance standards function as surrogate for market-based service
9 standards. Firms in competitive markets not only have the incentive to minimize costs but
10 also to provide a level of service that meets the minimum standard set by the market. If a
11 firm cuts costs by lowering service below that standard, customers will switch suppliers or
12 new firms will enter to provide the level of service expected by consumers. As the utility
13 remains a monopoly, some surrogate for this mechanism must be designed. This allows the
14 Commission (through the plan) to reward the Companies if they maintain or improve
15 service while cutting costs, just as a competitive market would.

16 Q. Are the performance standards proposed by the Companies appropriate?

17 A. Yes they are. These standards are designed to measure performance in a very general way.
18 That is, the standards tend to measure overall company performance rather than attempting
19 to measure aspects that are too specific. This is appropriate because the Commission does
20 not want to provide an incentive for the Company to manage to specific targets; rather the
21 Commission should want the Companies to manage the overall business appropriately. In
22 addition, the standards are easily developed and monitored by the Commission. This adds
23 clarity to the regulatory process and avoids any misunderstanding as to what goals have
24 been set by the plan. Finally, these standards are linked to internal company goals also. This
25 sets up an appropriate incentive for employees to meet the internal standards that then
26 benefit customers through the maintenance and improvement of quality service.

1 Q. Is it appropriate to have deadbands around these standards?

2 A. Yes it is. As these standards measure performance on an ongoing basis one would expect
3 some random fluctuation in the performance of the Companies over time. Adding
4 deadbands around the performance standards recognizes that this is not an exact science,
5 but rather is an ongoing measure of company performance. By using the deadbands around
6 the performance measures the Commission can be reasonably assured that if a company
7 meets a target or misses a target it is because of actions on the part of the company and not
8 the random fluctuations that occur in the normal course of business.

9 Q. Are there additional measures that could be used?

10 A. One could always concoct different performance measures. However, unless the
11 Commission is sufficiently concerned with a specific area of performance that is not
12 measured by these indicators, it makes little sense to try and improve upon the performance
13 standards proposed by the Companies. This is so because these standards are general
14 enough to measure overall performance and any other measure would either simply
15 substitute for one of the proposed measures or inappropriately narrow the scope of the
16 measure such that the Companies could face perverse incentives to manage to that measure.
17 In the former case the plan is not improved but simply different; in the later case the plan
18 actually becomes less appropriate.

19 Q. Is it appropriate to weight the standards equally?

20 A. In this case I believe it is. While one could postulate that certain aspects of performance are
21 more valuable to consumers than other aspects, the problem with attempting to perform
22 some weighting analysis is two fold. First, weighting the standards obviously presents an
23 incentive to the Company to meet those standards that have the highest weight. If one
24 believes that these measures do measure overall performance, then equal weighting is
25 appropriate as the Commission wants to send the signal that overall performance should be
26 maintained and improved. Second, in practical terms, a weighting scheme would either be
27 an estimate of the value placed on the standards by consumers or simply a judgement by the
28 Commission. In the former case, such an estimate would be controversial to say the least
29 and would take attention away from the real issues of designing a plan that best meets the

public interest and is understandable. In the later case, any judgement would also be controversial. The best approach is the simplest in this case. By weighting each standard equally the Commission can send the signal that it expects the overall performance of the Companies to be maintained and improved. This is the appropriate signal to send.

4. Limited Price Flexibility

Q. Please describe the price flexibility aspect of the plan.

A. Under the proposed plan, prices are allowed to change according one of the following formulae:

$$P_{t+1} = P_t(1 + 0.75CPI) \quad (A)$$

$$P_{t+1} = P_t(1 + \Delta CGP) \quad (B)$$

Where P_{t+1} is the new price in the next year, P_t is the price in the current year, CPI is the Consumer Price Index and ΔCGP is the change in a comparison group price.²⁴ The actual price change is determined by the lower of ΔCGP or $0.75CPI$. That is, if $0.75CPI < \Delta CGP$ then equation (A) would be used, if $\Delta CGP < 0.75CPI$ then equation (B) would be used.

However, the new price is constrained by the following conditions:

- If price is higher than a comparison group²⁵ average, no price increase is allowed.
- If earnings exceed the ROE deadband then no price increase is allowed.
- If price is below the comparison group average, no price decrease is required.
- If earnings are in the deadband or below it no price decrease is required.

Any price changes are to be allocated across each rate class unless the Commission approves a Company proposed plan to change prices in a different manner.

²⁴ The comparison group is the average residential rate for a set of investor-owned utilities in a seven-state region in the Upper Midwest.

Q. Is the price change formula (i.e., equation (A)) reasonable?

A. Yes. Although as noted below, price cap plans tend to have formal productivity indexes estimated, in this case such an exercise would likely be costly and not benefit the plan a great deal. For example, under a price cap plan that had an explicit productivity number, the price would change according to the following formula.

$$P_{t+1} = P_t(1 + INF - X) \quad (C)$$

where *INF* is the measure of inflation and *X* is a measure of productivity.²⁶ For example, if inflation in a given time period was 2% and productivity 0.5%, the rate of change for the price would be 1.5%. Under equation (A) if the CPI increases by 2%, the price change would be 1.5% implying a productivity factor of 0.5%. The advantage to customers of using (A) over (C) is that in high inflation years the implicit productivity levels increase, unlike a set productivity number that would not increase with price inflation.

Q. Is it appropriate to use the consumer price index (CPI) rather than an alternative measure of inflation such as the Gross Domestic Product Price Index (GDPPI)?

A. In a traditional price cap plan such as under equation (C), generally a measure of total factor productivity (TFP) is used to estimate the productivity level and therefore a measure of total economy wide price inflation, rather than only consumer prices, is more theoretically sound. However, many analysts still argue for the CPI as it tends to be more understandable to consumers. While I believe that a more general approach, such as the GDPPI, is the more appropriate measure, the issue is somewhat minor, as there is no *a priori* reason to believe that one measure would produce a higher inflation level than the other. Since World War II, the CPI has grown at around 3.9% annually on average whereas the GDPPI has grown at about 3.7% on average annually. However, in nearly half of those years the GDPPI grew faster than the CPI. The Companies proposed use of the CPI to

(...continued)

²⁵ In this case the reference price is the average residential price.

²⁶ Often a Z factor will also be added in for exogenous factors.

measure inflation is a reasonable choice given that the price flexibility is limited and is not based on a traditional price cap formulation.

Q. Is the price cap formula based on the utility rates (i.e., equation (B)) reasonable?

A. If the Commission is interested in restraining prices beyond the restraints contained in equation (A), then equation (B) is a reasonable method to do so. Also note that one could interpret equation (B) as emulating the marketplace in that prices are constrained by the prices of other energy utilities.

Q. Is the construction of the comparison group reasonable?

A. Yes. The comparison group is reasonable as it simulates the “market” price for electricity in service territories that are similar to North Dakota. This means that the weather patterns and the composition of customers, i.e., urban/rural are similar. In addition, one could hardly argue that this group represents the high-cost electric utilities. Therefore, the price cap is based on prices that are already comparatively low. Such an index is reasonable to apply to the Companies.

R. Is this limited price flexibility reasonable?

A. Yes. Generally price caps plans are set indexed to inflation and productivity as in equation (A) above.²⁷ The price flexibility requested by the Companies in this case is much more limited than a “standard” price cap plan. The added complexity of calculating comparison group prices and setting price changes conditional on ROE calculations is not always contained in a price cap plan. In addition, while the Companies have the opportunity to request treatment of price changes in a manner other than across the board, the proposed method requires additional regulatory scrutiny that adds complicating factors in attempting to set prices in an appropriate manner. Many price cap plans allow the firm to set prices in line with good business practice within a certain range.

²⁷ While equation (A) does not have a specific “X-factor” the 0.75 coefficient on the CPI works in the same way as a productivity factor in the standard price cap formula.

One issue that arises when setting price as proposed by the Companies, i.e., placing constraints on the price formulae, is that random factors could artificially increase or decrease earnings in any one year may and impact the ability to change price. Yet using a price cap formula, such as equation (A) or (C), also constrains price changes. Earnings can reasonably be treated separate from the actual price changes. However, the constraints proposed by the Companies work in favor of the customers while at the same time allowing the Commission to move incrementally toward a true formula method of setting prices. While generally one would like to allow the formula to control price changes, when experimenting with alternative forms of regulation, it could be reasonable to limit the ability of prices to change as is proposed by the Companies.

In addition, there seems to be some asymmetry in that price can go up within the earnings bandwidth but cannot go down. Allowing prices to change (both up and down) within the bandwidth could be a reasonable approach. However this relatively minor issue can be reviewed over time to see if any changes in the plan are justified.

Q. Would some flexibility on the allocation of price changes to the various customer classes be a reasonable approach in this case?

A. Although the Companies are not asking for this, I believe that allowing the Companies to change rates within a predetermined boundary in accordance with good business practice, without requesting regulatory approval, would be a reasonable approach. This is reasonable because most utilities have historically had subsidies built into the rates either through explicit regulatory action or possibly through mistakes made in the allocation of costs. Allowing some price freedom, within predetermined bounds, allows the utility to correct some of these pricing flaws without disrupting the consistency of rates too much. While clearly this adds a bit more complexity to customer understanding of the rate changes, if the flexibility given is within reason, customers should not see much difference between the current plan and this type of a mechanism.

Q. How could the Commission implement additional price flexibility into the plans?

A. One method the Commission could use is to allow the Companies to allocate price changes without regulatory approval that are “close” to the changes indicated by the formulae in

1 equations (A) and (B). For example, under equation (A) the Commission could allow the
2 Companies to change prices such that no customer class sees a price change more than the
3 rate of inflation while some customer classes see price changes less than the rate of
4 inflation. For example, if the inflation rate were 2%, under the Companies proposal all
5 classes would see an increase of 1.5%. Under this more flexible alternative, the Companies
6 would be able to increase any customer class rates by as much as 2% as long as the total
7 revenue from the price change remained the same as if all customer classes saw an increase
8 of 1.5%.

9 If the price cap were to come into play, i.e., equation (B), either the original proposal could
10 be implemented (i.e., across the board) or the Commission could set a deadband under
11 which the Companies are allowed flexibility. For example, if the price indicated an increase
12 of only 1% the Commission could allow the Companies to have a 0.5% deadband in which
13 they could set rates as long as the expected revenue was no more than the price cap would
14 allow. Of course, this approach could be used for changes under both equation (A) and (B).

15 Under this proposal, the Companies are not gaining any additional revenue from the price
16 change, rather prices are allowed to float closer to what good business practice would
17 dictate. The rates of all customers would not increase any faster than rate of inflation and
18 the total rates recovered from customers would still rise at less than the rate of inflation. In
19 addition, residential customers would remain protected by the price performance standard.

20 VI. THE PROPOSED PLAN IS IN THE PUBLIC INTEREST

21 Q. How are you defining the public interest?

22 A. The public has an interest in assuring that utilities operate efficiently and provide safe,
23 reliable and adequate electric service. In this case, the public interest will be served if the
24 plan can induce the utility to operate more efficiently, while maintaining or improving the
25 service levels that consumers have grown accustomed to.

26 Q. Are the proposed plans in the public interest?

27 A. Yes they are.

1 Q. How did you arrive at that conclusion?

2 A. My conclusion is based on a review of the plans as a whole. The purpose of the plan is to
3 provide better incentives for efficient operation, these plans will do that. In addition the
4 plans allows for prices to change in a manner that is just and reasonable thereby creating
5 prices that are just and reasonable. Further, the plans also provide earnings sharing that will
6 benefit consumers while at the same time benefiting the utility shareholders. These aspects
7 of the plan indicate that it is in the public interest to approve it as filed.

8 Q. Do these plans send the right signal to the Company?

9 A. Yes they do. The Companies, under this plan, will have the incentive to provide reliable
10 service, maintain worker safety levels, maintain and improve customer service and continue
11 to provide a high quality energy value to consumers. Further this program sends the signal
12 that maintaining quality standards benefits shareholders as well as ratepayers and workers,
13 thus better aligning the interest of the these stakeholder groups.

14 Q. Does this plan send the right signal to consumers?

15 A. I think the signal this plan sends to consumers, as they get acquainted with it, is that their
16 service quality matters to the Companies. It matters because the plan explicitly includes
17 customers as a determining factor in utility profits. This is a good signal to send, not only to
18 the Companies, but also to customers. Consumers will generally see no change or an
19 increase in service quality and those price changes that do occur will be linked to variables
20 that are understandable to consumers. These are appropriate signals to be sending to
21 consumers.

22 Q. Does this conclude your direct testimony in this case?

23 A. Yes it does.

24

25

STATE OF NORTH DAKOTA
BEFORE THE
PUBLIC SERVICE COMMISSION

In the Matter of the Application of)
Northern States Power Company d/b/a)
Xcel Energy for Authority to Operate)
Under Performance-Based Regulation)
in North Dakota)

Case No. PU-400-00-195

In the Matter of the Application of)
Otter Tail Power Company for)
Authority to Operate Under)
Performance Based Regulation)
in North Dakota)

Case No. PU-401-00-36

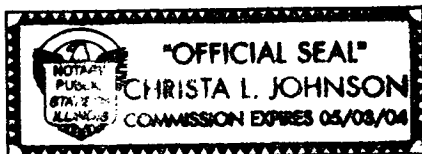
AFFIDAVIT OF
KARL MCDERMOTT

I, the undersigned, being duly sworn, depose and say that the foregoing is the testimony of the undersigned, and that such Direct Testimony and the exhibits sponsored by me to the best of my knowledge, information and belief, are true, correct, accurate and complete, and I hereby adopt said testimony as if given by me in formal hearing, under oath.


Karl McDermott

Subscribed and sworn to before me, this 28th day of September, 2000.


Notary Public



Price or Revenue Cap Plans in US

Name of State	Name of Utility	Type of Plan	Current Plan Begin Date	Current Plan End Date	Inflation Index	Authorized ROE	Productivity Offset (X)	Price Cap Formula	Earnings Sharing (Y/N)	Other Details
RI	Narragansett	Price Cap	1997	1998	CPI	11.00%	0.00%	$\Delta P = (CPI - X)$	Y	Companies can increase base rates by as much as CPI. Excess earnings b/w 0 and 1.5 percent above ROE are 50/50 shared; otherwise rate payers get 100 percent.
OR	Pacificorp	Price and Revenue Cap	1998	2000	GDP-PI	10.00%	0.30%	$\Delta P = (GDPPI - X)$	Y	If earnings are 250 basis points above or below the benchmark rate then Pacificorp has to adjust rates and prices to bring earnings back into the 250 point band. Revenue cap applies to temperature-adjusted sales revenues for each customer class: they are compared to a pre-determined revenue allocation for that class. Excess revenues are collected in a balancing account, to be allocated the following year.
ME	Central Maine Power	Price Cap	1995	1999	GDP-PI	10.55%	See Formula	1997-99: $(1 - 0.375) * (\text{Inflation} - 1\%)$	Y	There is 50/50 sharing if earned ROE is 350 points below or above authorized level.
NY	Niagara Mohawk Power	Price Cap	1995	1999	Not Defined			1995-97: Frozen 1998-1999: Increase of no more than 1 pc	N	There is a "generation incentive" plan under which the company collects "incentives" equal to varying percentages of its proceeds from generation divestiture. Goal is to maximize divestiture proceeds. Incentive is collected as a surcharge in years 1998,1999: the amount of the incentive is capped at "inflation less amounts authorized under the price caps filing and deferral recovery."
CA	San Diego Gas and Electric	Revenue Cap	1999	2002	Industry-specific escalation	10.60%	See Formula	$R\{n\} = (R\{(n-1)\}) * (1 + Esc - X) \pm Z$	Y	There is 75/25 sharing between customers/shareholders if ROE > 400 points above or below authorized levels.
CA	SCE	Revenue Cap	1997	2001	CPI	11.60%	1997: 1.2% 1998: 1.4% 1999: 1.6% 2000: 1.6% 2001: 1.6%	$\Delta P = (CPI - X)$	Y	Trigger Mechanism - return adjusted by 1/2 the change in bond index. No deadband, shareholder gets 100% up to ± 50bp, 25-100% at 50-300bp, ratepayer gets 100% at >300bp. Plan review at 600bp.
WA	Puget Sound Light and Power	Price Cap	1997	2001			Series of fixed rate increases of between 1 and 1.5%		N	Plan was approved as part of Puget Sound merger with Washington Natural Gas.

States with a PBR plan in place other than price/revenue caps

State	Utility	Incentive Plan	Type of Incentive Plan	Details	Plan Duration
AL	Alabama Power	Y	Rate Stabilization and Equalization Plan	AL Power has a rate freeze in effect till 2001. In theory, the company's regulation plan allows for the adjustment of rates such that any returns on equity below 13 or exceeding 14.5 percent are re-adjusted to 13.75 percent. In practice, there is a rate freeze/rate cap in effect: the company's rates do not get adjusted upward, but might get adjusted downward in the event of over-earnings.	Until 2001
CO	Public Service of Colorado	Y	Benchmarking/Earnings Sharing/Rate Freeze	There is a rate freeze in effect till 2001. PS Colorado is planning to merge with Southwestern Public Service. In addition, PS Colorado has a quality-of-service program under which its performance on price, reliability and customer service (measured by telephone response times) is assessed; if the company misses its quality-of-service targets it will be penalized. There is a penalty for failure. The penalty payments are returned to ratepayers in the form of a bill credit. There is also an earnings sharing plan wherein PS Colorado keeps 35% of equity earnings between 11 and 12 percent, but a higher ratio at higher earnings levels: 65% of equity earnings between 14 and 15 percent. With the rate freeze in effect, higher equity earnings represent superior cost performance, so the plan maximizes incentives for good cost performance.	
CT	United Illuminating; Connecticut Power and Light	Y	Earnings Sharing/Benchmarking	Conn. Lgt and Power has a conservation-targeted incentive mechanism. It was allowed premium equity earnings on conservation and load-management providing it met the goals that regulators had set for it in this area. Performance goals were measured by the kWh savings from energy conservation and DSM type programs. United Illuminating has an alternative regulation plan (ARP) under which it was allowed to retain half of its equity earnings above 11.5 percent. Customers receive a bill credit for the remainder of the excess earnings.	United Illuminating: 1996-2001
DC	PEPCO	Y	Targeted Incentive/DSM	PEPCO must meet performance targets (unspecified) for its DSM programs. For achieved performance between 80 and 105 percent of established targets there is no reward. For performance exceeding 105 percent, PEPCO will receive 10 percent of the savings above 80 percent; for performance below 80 percent, a penalty will be imposed.	
DE	Delmarva Power and Light	N		Delmarva did have power-plant linked performance incentives: for nuclear plants, the capacity factor was measured and based on the (varying) targets, the company was either penalized or rewarded, with the penalty or reward capped at 2% of the company's jurisdictional equity investment. The penalty or reward was applied to rates. For fossil plants, a similar incentive was in place, but the equivalent availability factor was used in lieu of the capacity factor. However, these programs, in common with other incentive proposals are being phased out in favor of restructuring.	
FL	TECO Florida Power and Light	Y	Targeted Incentive/DSM	Both TECO and FP&L have performance-adjusted plans. TECO, for example, keeps 20 percent of the profits from economy energy savings, with the remaining 80 percent being distributed to ratepayers in the form of bill credits.	
GA	Georgia Power	Y	Earnings Sharing	Georgia Power was allowed to retain 1/3rd of excess earnings, 2/3rds went to ratepayers. Large rate reductions required and amortization of regulatory assets required by the commission. Sharing to be applied through rate reductions on a going-forward basis.	1999-2001
HI	HECO	Y		There is no rate freeze or rate cap proposal. However, HECO's shareholders are permitted to retain 10 percent of after-tax savings from DSM programs. The commission calculates the present value of net savings from DSM and allows the company to recover 10 percent of this in the next year.	

States with a PBR plan in place other than price/revenue caps

State	Utility	Incentive Plan	Type of Incentive Plan	Details	Plan Duration
IA	Mid-American Energy	Y	Earnings Sharing	Mid-American Energy has an ROE sharing program; if the company's return on equity is between 12 and 14 percent, it will be allowed to retain 50 percent of the earnings between 12 and 14 percent. Only 17 percent of earnings in excess of a 14 percent return on equity may be retained. Sharing is flowed-through to ratepayers in the form of rate rebates.	1997-2001
IL	All Electrics	Y	Earnings Sharing	Rate reductions and freezes according to 1997 restructuring law. Utilities retain all earnings up to the average of the 30-year T-bond plus: 1998-1999: 4.0% or 8% if utility's average residential rate is 90% or less of Midwest average and serves between 150,000 and 250,000 customers; 2000-2004: 7.0% for utilities that serve over 1 million customers or 9% if utility's average residential rate is 90% or less of Midwest average and serves between 150,000 and 250,000 customers or 11% if utility's average residential rate is less than 90% of the Midwest average and allows open access for 33% of customers in certain classes or 5% for all other utilities or 7% for utilities that do not ask for stranded cost recovery beyond the mandated transition period. Beyond that deadband earnings are shared 50/50. A rate increase can be requested if earnings in a two-year period fall below the average of the 30-yr T-bond. But no increase in rates can be requested until Jan 2000.	1997-2004
KY	LG&E/KUT	N		Merger savings are to be flowed-through to ratepayers in the form of a rate rebate. KUT and LG&E are in a merger; 53 percent of savings go to LG&E ratepayers, the remainder to KUT ratepayers.	
LA	Entergy Louisiana	Y	Earnings Sharing	A rate freeze is under consideration. Details of sharing: above 11.3 percent, all excess earnings credited to ratepayers; between 9.7 and 11.3 percent there is a 60/40 sharing in favor of shareholders. Below 9.7 percent, the company may institute a rate case, but there is no guarantee of rate increases.	1998-2003
MA	Boston Edison; Eastern Edison; Mass. Electric	Y	Earnings Sharing	Boston Edison, Mass. Electric have very similar sharing plans: Boston Edison shares equity earnings representing returns of between 11 and 12.5 percent in a 50/50 ratio with ratepayers. All earnings in excess of 12.5 percent are flowed through to ratepayers. All sharing with ratepayers takes place in the form of rate reductions (in the per kWh charges). Eastern Edison, Mass. Electric have identical plans. There is no rate freeze in Mass; however, should earnings fall below the 6 percent return on investment level, the electric's can start a new rate case and might be allowed to increase their rates.	1997-2001
MD	Delmarva Power and Light	Y	Targeted Incentive/DSM	Proposed settlement agreement calls for a 7.5 percent rate reduction in the unbundled wires charges effective in 2000. Following that, there is a rate freeze for the next five years until 2004. However, for now, the only programs in effect for Delmarva are DSM incentive programs that allow for (varying) proportions of DSM savings to be retained.	2000-2004
MD	Allegheny Power	Y	Earnings Sharing/Targeted Incentive/DSM	Allegheny is the only utility in MD with an explicit sharing mechanism: 50 percent of earnings above 11.4 percent are retained, while 50 percent are given to customers. The sharing happens in the form of credits, and not rate changes. In addition to this, Allegheny is also allowed to retain some of its DSM savings.	
MD	BGE	Y	Targeted Incentive/DSM	Proposed settlement agreement incorporating rate freezes and reductions, effective 2000. Until then, there are modest DSM programs identical to those for Delmarva.	

States with a PBR plan in place other than price/revenue caps

State	Utility	Incentive Plan	Type of Incentive Plan	Details	Plan Duration
MD	PEPCO	Y	Targeted Incentive/DSM	Proposed settlement agreement incorporating rate freezes and reductions, effective 2000. Until then, there are modest DSM programs identical to those for Delmarva.	
MN	Otter Tail Power	Y	Targeted Incentive/DSM	DSM related savings similar with those of NSP	
MN	Northern States Power	Y	Targeted Incentive/DSM	Utilities allowed to retain 10 percent of DSM (varying performance goals set by the DPS). Penalties assessed if DSM savings less than 75 percent of set goal.	
MO	AmerenUE	Y	Earnings Sharings	For earnings between 12.61 and 14 percent there is a 50/50 share; all earnings over 14 percent are flowed-through to ratepayers	
MS	MS Power	Y	Benchmarking/Earnings Sharing	Miss. Power has a Performance Evaluation Plan that enables the company to earn a higher or lower Return on Equity depending on the utility's relative performance, as measured along the dimensions of price, reliability, and customer service. The commission determines their ROE as in normal rate-case setting, then it takes 10 percent of the performance index to calculate the final ROE for the company. The Commission also has a plan for earnings sharing: if the earned ROE is outside 50 basis points of the Performance-Based ROE then the company may retain varying proportions of the excess earnings depending on its CPR performance. No formal rate freeze in effect. Sharing is made through going-forward adjustments.	1994-1999
MS	Entergy Mississippi	Y	Benchmarking/Earnings Sharing	Formula rate plan is quite similar to MS Power. The company does have its ROE determined by its performance, and performance is measured similar to case of MS Power, but it shares its excess earnings in a fixed 50/50 ratio with ratepayers. Rate adjustments are also made on a going forward basis. No rate freeze in effect.	1994-?
NC	Duke Power	Y	Targeted Incentive/DSM	Duke has a DSM account into which savings from DSMs are put; it can earn up to 15 percent return on this account. However, recently DSM contributions have been dropping very fast.	Annual
NC	North Carolina Power	Y	Targeted Incentive/DSM	Plan very similar to Duke; also seeing DSM contributions dropping fast.	Annual
NJ	GPU Energy; PSE&G	N		GPU and PSE&G have filed settlement agreements with the New Jersey Board of Public Utilities; the BPU has ordered several large rate reductions, to applied to the rates effective April 30, 1997. GPU was also ordered to pay an additional 5% rate refund effective for the period from August 1, 2002 through July 31, 2003. Rate reductions were also ordered as part of PSE&G's settlement.	

States with a PBR plan in place other than price/revenue caps

State	Utility	Incentive Plan	Type of Incentive Plan	Details	Plan Duration
NY	Con Edison	Y	Earnings Sharing	ConEd can retain 50 percent of earnings over 12.9 percent. 25 percent will be applied to rate reductions; 25 percent to accelerated depreciation. If forecast ROE falls below 8 percent, ConEd can file a rate case.	Five-year period ending March 31, 2002
NY	Rochester Gas and Electric	Y	Earnings Sharing	If RGE's ROE goes above 11.80 percent, as determined for the entire term of the settlement (five years), then the company must use 50 percent of the excess earnings to write down deferrals accumulated during the course of the settlement; part of the other fifty percent goes toward rate reductions, while the remaining part goes to recovery of all deferrals and sunk costs.	1997-2002
NY	Niagara Mohawk Power	Y	Targeted Incentive/Stranded Cost	NIMO has a price cap plan and also an incentive program targeted at Stranded Costs. Under this plan, NIMO gets to keep a higher proportion of the proceeds from generation divestiture, the more it divests. Plan aims at maximizing divestiture.	1997-2002
OH	Dayton Power and Light	Y	Targeted Incentive/DSM	The company can retain everything up to 14 percent; b/w 14 and 15 percent, one-half of earnings must go to a DSM deferral account. All earnings above a 15 percent equity return are credited to the DSM deferral account.	
TX	All Electrics	N		Statewide rate freeze in effect as of 9/1/99 to continue until January 1, 2002. Then, the affiliated Distribution companies formed from the incumbent investor-owned Utilities will have their rates frozen within their own service territories for an additional 3 years for residential and small commercial customers.	1999-2005
VA	AEP-Virginia	Y	Earnings Sharing/Targeted Incentive/Stranded Cost/Rate Freeze	Earnings over 12.9 percent would a) be used to accelerate recovery of regulatory assets, and b) returned to ratepayers. AEP rates have been frozen till 2000.	1998-2000
VA	Virginia Power	Y	Earnings Sharing/Targeted Incentive/Stranded Cost/Rate Freeze	Earnings between 0 and 2.7 percent in excess of the 10.5 percent benchmark rate are to be split between shareholders and the recovery of regulatory assets. Above this earnings level, all excess earnings are allocated to regulatory asset recovery. Rates are frozen until 2002.	1998-2002

Performance Based Ratemaking Programs in the Natural Gas Industry

State	Company	Date Approved	Incentive	Benchmark	Tolerance Band	ROE Is Sharing Basis? (Y/N)	Sharing Mechanism (LDC / Customer)	Savings (LDC / Customer)	Program Term	Review Process	Other Issues
Alabama	Alabama Gas Corporation	1989	Rate Stabilization & Equalization Mechanism (RSE)	13.4% ROE "adjusting point"; LDC can file for rate increase annually if ROE falls below 13.15%, PSC can decrease rates quarterly if ROE goes above 13.65%	13.15% to 13.65% ROE	Y	n/a	n/a	Permanent	Quarterly	
Iowa	MidAmerican Energy	Pilot from 1995-1998	Performance based PGA, including commodity, transportation and storage; capacity release sharing; off-system sales incentive	PGA incentive: Weighted average of short-term spot index (BTU Daily) and long-term spot indices (inside FERC and Natural Gas Intelligence) based on weighting in LDCs portfolio; transportation and storage costs at pipeline max-rates	First 0.5% of savings a deadband	N	Savings: first 0.5% 0/100, next 3% 50/50, above 0/100; Loss: first 2.5% 0/100, next 3% 50/50, above 0/100; 30/70 on capacity release, 50/50 off-system sales	Savings confidential	3-year pilot	Report on savings / loss filed every six months	
Indiana	Northern Indiana Public Service Company (NIPSCO)	Approved 10/8/97	Gas Cost Incentive Mechanism (GCIM)	For first of month purchases, average of Natural Gas Week spot bid-week index and Gas Daily Monthly Contract Index; for purchases not made on first of month, average of Gas Daily's Daily Price Survey and NGI's Daily Gas Price Index "Cash Market Prices"; all indices are for Chicago supply hub	First 0-3% of savings 100% to customer	N	Savings: 0-3% 0/100, 3-4% 30/70, 4-6% 50/50, above 6% 100/0; Loss: 0-2% 30/70, 2-4% 50/50, above 4% 70/30		Permanent	Quarterly	This program was filed after the Indiana Senate passed SB637 in 1995 that allowed LDCs to offer alternative rate plans
Kentucky	Columbia Gas, Louisville G&E, and Western Kentucky Gas	1997	Gas cost incentives	Relevant supply areas for each LDC, based on index of spot prices		N			2-year programs with sunset provisions	2-year review process	
Michigan	Consumers Energy	Approved 12/97, effective 4/98	GCR Factor suspended, gas costs frozen at \$2.8364/Mcf; base rates frozen from levels of last rate case	11.5% authorized return; in addition, quality standards established that Consumers must meet: 1) Safety: maintain top-quartile status in AGA safety rankings, 2) Leak response: average 30 minutes or less, 3) Cathodic protection: maintain compliance with current 10-year plan, 4) Estimated meter reads: less than 27.7% of total reads	50% of gas cost savings does not go into calculation of authorized return	Y	11.5% authorized return, up to 13.5% LDC keeps 100%, 13.5% to 17.5% split 50/50, above 17.5% 25/75	8 months from 4/98 to 12/98, Consumers after-tax commodity gain of \$16 million	3-year pilot	Michigan PSC tracks LDC gas cost savings due to freeze	The freezing of base rates and gas cost is part of a larger customer choice deal

Performance Based Ratemaking Programs in the Natural Gas Industry

State	Company	Date Approved	Incentive	Benchmark	Tolerance Band	ROE Is Sharing Basis? (Y/N)	Sharing Mechanism (LDC / Customer)	Savings (LDC / Customer)	Program Term	Review Process	Other Issues
	Michigan Consolidated	Effective 1/1/99	GCR Factor suspended, gas costs frozen at \$2.95/Mcf; base rates frozen from levels of last rate case	11.6% authorized return; in addition, quality standards established that Consumers must meet: 1) Safety: maintain top-quartile status in AGA safety rankings, 2) Leak response: average 30 minutes or less, 3) Customer calls must be answered in 35 seconds or less, 4) Estimated meter reads: less than 29.6% of total reads	50% of gas cost savings does not go into calculation of authorized return	Y	11.6% authorized return, up to 13.5% LDC keeps 100%, 13.5% to 17.5% split 50/50, above 17.5% 25/75	No savings information available yet	3-year pilot	Michigan PSC tracks LDC gas cost savings due to freeze	The freezing of base rates and gas cost is part of a larger customer choice deal
	Semco	Effective 1/1/99	GCR Factor suspended, gas costs frozen at \$2.99/Mcf; base rates frozen from levels of last rate case	10.75% authorized return; in addition, quality standards established that Consumers must meet: 1) Safety: maintain top-quartile status in AGA safety rankings, 2) Leak response: average 30 minutes or less, 3) Protection of underground facilities: 100% of staking and clearing must be completed within limit of 3 working days, 4) Actual meter reads: 90% or higher	50% of gas cost savings does not go into calculation of authorized return	Y	10.75% authorized return, up to 12.75% LDC keeps 100%, 12.75% to 16.75% split 50/50, above 16.75% 25/75	No savings information available yet	3-year pilot	Michigan PSC tracks LDC gas cost savings due to freeze	The freezing of base rates and gas cost is part of a larger customer choice deal
Minnesota	Minnegasco	7/96 - 6/98	Performance based PGA	Two-part benchmark, equally weighted: 1) Minnegasco WACOG vs WACOG of 3 next largest LDCs in state; 2a) Commodity: Minnegasco vs bid-week Inside FERC index price at Ventura, Iowa del. pt.; 2b) Demand: demand entitlement annual increase/decrease	99.5% to 100.5%	N	50/50 up to 2% of Minnegasco's total gas costs	Minnegasco \$10.5 million over 3 years / customers \$16.5 million over 3 years	3-year pilot	Annual review in conjunction with PGA review	At end of 3 year pilot, Minnegasco and consumer advocate couldn't agree on re-setting of benchmark
Mississippi	Mississippi Valley Gas, Entex, and Wilmut Gas	Mississippi Valley Gas 1992, Entex 1996, and Wilmut 1999	Earnings sharing mechanism	Benchmark is target ROE set for each LDC	Varies, generally 50 basis points	Y	Varies, generally progressive (LDC keeps higher percentage of ROE at higher levels)		Permanent	Annual review of ROE	
Missouri	Missouri Gas Energy (Division of Southern Union Company)	8/1/1996	Gas Cost Incentive Mechanism; regressive capacity release sharing	Weighted average Inside FERC Gas Market Report index of monthly spot market first of month prices for 2 LDC pipeline supplies (70% Williams Texas/Oklahoma/Kansas and 30% Panhandle Texas/Oklahoma), plus 4% adder (adder is the historical premium of Missouri Gas Energy gas costs above the index)	Losses: first 4% above benchmark LDC is not penalized	N	Savings: LDC shares 50/50 on gas costs between 94 and 100% of benchmark; Losses: LDC penalized 50/50 for gas costs between 104% and 110% of benchmark		3-year pilot, expires 6/30/99	Monthly comparison of gas cost to benchmark	

Performance Based Ratemaking Programs in the Natural Gas Industry

State	Company	Date Approved	Incentive	Benchmark	Tolerance Band	ROE Is Sharing Basis? (Y/N)	Sharing Mechanism (LDC / Customer)	Savings (LDC / Customer)	Program Term	Review Process	Other Issues
	LaClede Natural Gas Company	10/1/1996	Gas Supply Incentive Plan (GSIP); progressive capacity release sharing; off-system sales incentive; pipeline max-rate discount incentive	Weighted average Inside FERC Gas Market Report index of monthly spot market first of month prices for 2 LDC pipeline supplies (60% NORAM Gas Transmission-East and 40% Trunkline-Louisiana), plus 3.2% adder (adder is the historical premium of Missouri Gas Energy gas costs above the index)	Losses: first 4% above benchmark LDC is not penalized	N	Exact same gas cost sharing as Missouri Gas Energy; also, 30/70 off-system sales, and 20/80 of pipeline discounts from max-rate		3-year pilot, expires 9/30/99	Monthly comparison of gas cost to benchmark	
	Union Electric Company		Progressive capacity release sharing; off-system sales incentive; pipeline max-rate discount incentive	n/a		N	LDC gets 10% of capacity release up to \$250,000, 30% thereafter; 30% of off-system sales; and 10% of pipeline discounts from max-rate			Annual review of sharing revenues	
New York	Niagara Mohawk	12/96 rate settlement	Incentive on commodity cost of gas	97% of average of NYMEX and Inside FERC spot price indices	1% deadband	N	Within deadband (96% to 98% of indices) 0/100, outside of band 50/50; \$2.25 million maximum LDC exposure		Rate settlement ends 10/31/99	Annual filing	
Pennsylvania	National Fuel Gas Distribution Co, Equitable, Peoples Gas Co, PECO Gas, Columbia of PA, UGI Gas	Incentive mechanisms approved 3 to 5 years ago	All six have performance based PGA	Regional spot market indices	Some have deadbands between 0 to 2%	N	Usually accumulates progressively to LDC		Permanent	Most have annual review with gas costs	
South Dakota	MidAmerican Energy	Order approved 11/8/95; 3-year pilot expired 10/98	MidAmerican's gas cost incentive program in Iowa was approved with the same parameters in South Dakota	See Iowa for benchmarks	Year 3: 0.5% deadband on savings	N	Year 3: Savings: first 0.5% 0/100, next 3% 50/50, above 0/100; Losses: first 2.5% 0/100, next 3% 50/50, above 6.5% 0/100	Savings confidential	3-year pilot	Report on savings / loss filed every six months, recovery lagged 6 months	
Tennessee	United Cities Gas	Pilot 4/95, permanent 4/99	Performance based PGA	Indices Basket (NYMEX, Inside FERC, Natural Gas Intelligence)	97.7% - 102%	N	50/50 on gas purchasing, 10/90 on capacity release		Permanent	Annual Review of Incentive Plan Account (IPA)	

Performance Based Ratemaking Programs in the Natural Gas Industry

State	Company	Date Approved	Incentive	Benchmark	Tolerance Band	ROE Is Sharing Basis? (Y/N)	Sharing Mechanism (LDC / Customer)	Savings (LDC / Customer)	Program Term	Review Process	Other Issues
	Nashville Gas Co. (Division of Piedmont Natural Gas)	Permanent 8/98	Performance based PGA	Inside FERC	97.7% - 102%	N	50/50 on gas purchasing, 10/90 on capacity release		Permanent	Annual Review of Incentive Plan Account (IPA)	
Washington			Washington issued a policy statement in 1997 giving LDCs the option to file performance-based ratemaking plans; established 15 guiding principles for gas adjustment incentive mechanisms								
	Puget Sound Energy	Approved 6/98	Performance based PGA	Weighted index of monthly average spot prices for three supply hubs of LDC + summer or winter adder (adder level is confidential, created by looking at three year historical difference between spot index prices vs. actual gas costs for LDC - it represents the premium for firm gas supplies)	LDC savings cannot exceed 1% of rate of return	Y	\$0-\$500,000 0/100; \$501,000-\$27 million 40/60; above \$27 million 33/67		3-year pilot	Washington guiding principle #7 states the incentives should be reviewed when the pilot ends	Historical averages for off- system sales and capacity release revenues reduce the adder
Wisconsin	8 largest LDCs	12/96 order	By a 12/96 Wisconsin PSC order, the 8 largest LDCs are required to file a Gas Cost Recovery Mechanism (GCRM), which is a plan for recovery of gas costs that includes incentives for the LDCs to lower their gas costs								
	Wisconsin Gas	Effective 11/1/1997	GCRM	5 benchmarks: 1) commodity cost based on weighted average of indices for 7 regions, 2) supplier reliability premiums of 2.5%, 3) storage costs, 4) pipeline capacity costs (negotiated pipeline discounts, capacity release, off-system sales), 5) risk management	1.5% deadband above and below	N	0-1.5% to customers, 1.5% to 4.0% 50/50, above 4.0% to customers 100%	Just filed, no data available yet	3-years; began 11/1/97 and terminates 10/31/2000	Annual review of gas costs	RFP used to establish a benchmark for capacity release volumes,

APPENDIX A
CURRICULUM VITA OF KARL MCDERMOTT

NATIONAL ECONOMIC RESEARCH ASSOCIATES

875 N. MICHIGAN AVE., SUITE 3650, CHICAGO, ILLINOIS 60611
TEL: 312.573.2800 FAX: 312.573.2810



KARL A. MCDERMOTT

BUSINESS ADDRESS

National Economic Research Associates, Inc.
875 North Michigan Avenue, Suite 3650
Chicago, Illinois 60611
312-573-2822
e-mail: karl.mcdermott@nera.com

Dr. Karl McDermott is a Vice President with National Economic Research Associates, specializing in public utility regulation. He served as Commissioner (1992 - 1998) on the Illinois Commerce Commission during the negotiation of the Illinois restructuring law. He has also assisted the country of Poland since 1994 with their efforts to privatize and restructure their electric supply industry. As a Commissioner, Dr. McDermott also lectured extensively in Eastern Europe and South America on regulatory reform and restructuring.

During the six years that he served as Commissioner he has had an opportunity to evaluate alternative regulation proposals and the economic and social impacts of a number of new policies presented to the Commission. As a Commissioner, Dr. McDermott initiated the Commission's investigation into the alternative restructuring options and has made a number of presentations on restructuring issues.

Since leaving the Commission, Dr. McDermott has advised the members of the Southern Companies, Wisconsin Electric Power Company and Bell Atlantic on issues regarding restructuring. He is the author of "Is There a Rational Path to Implementing Competition?" which appeared in the January/February 1996 issue of *The Electricity Journal*.

Dr. McDermott received a B.A. in Economics from Indiana University of Pennsylvania, his M.A. in Public Utility Economics at the University of Wyoming, and his Ph.D. in Economics at the University of Illinois.

EDUCATION

Ph.D. 1990, Economics, University of Illinois
M.A. 1978, Public Utility Economics, University of Wyoming
B.A. 1976, Economics, Indiana University of Pennsylvania

Dissertation Topic: The Monetary Theory of Production of
John Maynard Keynes

Additional Education

Michigan State Public Utility Course; Michigan State University

Seminar on Austrian Economics at Marquette University, Milwaukee, Wisconsin,
conducted by the Institute of Humane Studies, Menlo Park, California

State of Illinois; Certificates in SPSS and advanced SPSS Computer Software Classes
and TSO Operations

Illinois Bell Telephone Seminars on Separations and Settlements, Embedded Direct
Analysis (EDA), Costs and Demand Analysis, and Engineering Characteristics of
Telecommunication System

EMPLOYMENT

1999- NATIONAL ECONOMIC RESEARCH ASSOCIATES, INC.
Vice President.

1998-1999 MCDERMOTT ASSOCIATES
President. Worked for various clients in the electric, and telephone industry
including the Edison Electric Institute, Georgia Power Co., Bell Atlantic, and L. E.
Burgess Consultants.

1992-1998 ILLINOIS COMMERCE COMMISSION
Commissioner.
Domestic:
Served as Chairman of both the Telecommunications Policy Committee and
Electricity and Resource Planning Policy Committee of the Illinois Commission.
Served on the National Association of Regulatory Utility Commissioners (NARUC)
Energy Resources and Environment Committee as the Chairman of its environmental
subcommittee. Made over one-hundred presentations and speeches on
telecommunications, electricity, and natural gas industry topics. Served on the
President's Global Climate Change Task Force, the Federal Energy Regulatory

Commission's Pipeline Competition Task Force, and as a member of the Harvard Electric Policy Group.

International:

In addition to regular Commission duties, served as part of the United States Energy Association and USAID educational effort in Eastern Europe. Lectured in Argentina, the Czech Republic, Latvia, Poland, Romania, Russia, and Slovakia. Participated in two joint USEA/USAID and World Bank seminars in Vienna providing advanced regulatory training. In addition, the Illinois Commission has hosted visits with the above-listed countries as well as Bulgaria, Lithuania, and Estonia.

PROFESSIONAL ACTIVITIES

1985-1998 *Chairman of the Board*, Center for Regulatory Studies, Inc.

1985-1992 *President*, Center for Regulatory Studies, Inc.
One of three cofounders of the Center. Involved in fundraising, organization, and program development. Focused on the development of statewide energy planning options for the State of Illinois, the introduction of competition into the natural gas market, environmental issues in Illinois, and competition in the Illinois telecommunications market. Conducted research on the use of competitive bidding and avoided-cost pricing mechanisms to acquire electricity supplies, the role of demand-side management in electricity supply planning, and the use of incentive mechanisms and the role of incentive regulation in our current regulatory environment.

1988-1992 *Research Scientist*, Argonne National Laboratory

Served as an economic advisor to the office of Fossil Energy at DOE. Investigated possible ways to promote development of innovative emission control technologies in the electric utility industry as part of the Presidential Task Force on Regulatory Relief directed by Vice President Bush. Involved in writing a chapter in the State of Science and Technology Report No. 25 of the National Acid Precipitation Assessment Program (NAPAP) concerning the use of tradable emission permits to control acid rain. Performed work on incentive mechanisms to promote clean coal technology and the trading of greenhouse gas emissions.

Performed research on the nature of individual's risk perception regarding nuclear waste deposits on behalf of the office of Radioactive Civilian Waste Management at the Department of Energy.

- 1988-1990 *President Elect and President*, Illinois Economic Association
Organized the 1989 Illinois Economic Association annual meeting and presided over the meetings.
- 1989- *Instructor*, NARUC Introductory Regulatory Training Program
Instructed new public utility commission employees from various state commissions on the basic economic issues confronting regulators.
- 1986-1992 *Lecturer in Economics*, Department of Economics, Illinois State University
Taught both graduate and undergraduate public utility courses, Money and Banking, as well as introductory courses.
- 1984-1991 *Instructor in Economics*, Parkland Community College, Champaign, Illinois
Taught both Principles of Economics I and II, with a typical course load of two sections of 35-40 students per class.
- 1984-1986 *Teaching Assistant*, University of Illinois, Champaign, Illinois
Taught both Principles of Economics and Introduction to Econometrics. In the spring semester of 1985, was the supervisory assistant in charge of coordinating the Economics 101 assistance for Professor Fred Gotthiel.
- 1982-1988 Graduate School, University of Illinois, Champaign, Illinois
Completed all coursework towards Ph.D. and defended dissertation on 6/12/88. Fields of specialization were: Monetary Theory and Policy, Macroeconomic Theory, and the History of Economic Thought.
- 1983-1985 *Consultant*, Select Joint Subcommittee on Regulatory Reform, Illinois Legislature
Investigated the effects of the AT&T divestiture and FCC decisions upon Illinois telephone utilities and assisted in identifying issues that require legislative action. Presentation of issue reports to the telecommunications subcommittee and served on the local exchange subgroup in developing recommendations for a new Illinois Public Utilities Act.
- 1980-1982 *Consultant*, Governor's Sunset Task Force on Utility Regulatory Reform, Department of Energy and Natural Resources
Delivered both written and oral reports on the issues of power plant certification, monitoring of construction costs, and allocation of power plant cancellation costs.
- 1980-1983 *Economic Analyst III*, Policy Analysis and Research Division,
Illinois Commerce Commission

Conducted research investigating the development and use of incentive mechanisms in utility regulation. Prepared and presented testimony on the use of incentive mechanisms in power plant construction.

Conducted research and assisted in developing testimony on the cost of service for electric generation to meet PURPA requirements.

Assisted in the development of proposals for PURPA innovative rates projects on productivity and time-of-use pricing; cost-benefit analysis. Assisted in the managing of consultants conducting the TOD cost-benefit study. Prepared and presented testimony on the time-of-day pricing standards to meet the PURPA requirements.

Prepared and presented testimony regarding the use of q-ratios in determining rates-of-return for Illinois Bell Telephone Company and testimony regarding appropriate cost and pricing methodology and philosophy for Illinois Bell Telephone Company.

Assisted in the investigation of capacity expansion, lifeline rates, efficiency measurement, and impact of deregulation in electric generation, water rate design; and investigated the impact of investment tax credit changes on utilities.

- 1978-1979 *Senior Research Associate*, National Regulatory Research Institute
Ohio State University
Conducted research in the areas of telecommunication licensee contract fees and cost of service, the effects of budget billing plans on utilities and consumers, and methods of monitoring fuel adjustment clauses.
- Assisted in research regarding marginal and average cost pricing, time-of-use pricing, power plant productivity, and the examination of cost and price differences of Ohio municipal gas rates.
- Assisted in the management of consultant subcontractors as well as supervising the presentation of cost and load research seminars.
- 9/79-12/79 *Lecturer in Economics*, Department of Economics, Ohio State University
Taught Macro Economic Principles to a class of approximately 100 students.
- 1977-1978 *Cost Analyst*, Action Computing, Laramie, Wyoming
Developed cost data for competitive pricing of bids for the provision of computer services provided by Action Computing.
- 1976-1977 *Graduate Research Assistant*, University of Wyoming, Laramie, Wyoming
Assisted professors in conducting research and teaching of Principles of Economics, while completing a Masters degree in Economics with specialization in Public Utility Economics and Industrial Organization Theory.

AWARDS

- 1986 Alpha Lambda Delta Outstanding Teacher of Freshman Award
at the University of Illinois

- 1983 Thrift Prize at the University of Illinois for the paper entitled "*The Allocation of Savings: An Investigation of Portfolio Composition of Chicago Households*"

PROFESSIONAL SOCIETY ACTIVITIES

Alpha Lambda Delta Honorary Society
American Economic Association
Association for Social Economics
Canadian Economics Association
Econometric Society
Transportation Public Utilities Group of American Economic Association
Illinois Economic Association
History of Economics Society
Royal Economic Society

PUBLICATIONS

"Is There a Rational Path to Implementing Competition?" *The Electricity Journal*. Vol. 9:1 Jan-Feb 1996.

"Changing Regulatory Incentives" with G. Enholm and J. Robert Malko Eds., *Reinventing Electric Utility Regulation*. Public Utility Reports, Inc. Vienna, VA 1995.

"The Evolution of the "Investment Systems:" Keynes' Theory of Employment and Money Revisited." *Review of Social Economy*. Volume 51:1, Spring 1993.

Discussant. "The Urban Ozone Abatement Problem." *Cost Effective Control of Urban Smog*. R. Kosobud, W. Testa, and D. Hansan Eds. Federal Reserve Bank of Chicago. November 1993.

"Strategic Use of Incentive Mechanisms as a Regulatory Policy Tool." *The Electricity Journal*. Vol. 5, No. 10, December 1992.

"Electric Utilities: Control Cost Reducing Methods," Chapter 7 in David South ed. "Technologies and Other Measures for Controlling Emissions: Performance, Costs and Applicability." National Acid Precipitation Assessment Program, State-of-Science/Technology Report 25, January 1990.

"The Quantity Theory of Money of J. M. Keynes: From the Indian Currency to the General Theory" with Christopher Marne D., Walker Ed., *Perspectives on the History of Economics Thought*. Edward Edgar Publishing Co., Brookfield, VT (1989).

Computer Assisted Regulatory Analysis and Its Potential Application to the Colorado Public Utilities Commission with M. S. Gerber. The National Regulatory Research Institute (1979).

Towards an Analysis of Telephone License Contracts and Measured Rates with A. G. Buckalew, and D. Z. Czamanski. The National Regulatory Research Institute (1979).

Budget Billing Plans for Electric and Gas Utilities: An Analysis and Some Recommendations for Change with J-M Guldman, and C. Odle. The National Regulatory Institute (1979).

PUBLICATIONS: CONFERENCE PAPERS

The Use of Nontraditional Universal Service Programs in a Competitive Local Exchange Market with Cindi Schieber. Presented at the National Association of Regulatory Commissioners Biennial Conference (1996).

Incentive Mechanisms as a Strategic Option for Acid Rain Compliance with D. W. South, and K.A. Bailey. Presented to the Future of Incentive Regulation in the Electric Utility Industry (November 1991).

Role of Emission Allowances in Utility Compliance Decisions with D. W. South, and K. A. Bailey. Presented at the Eighth Annual International Pittsburgh Coal Conference (October 1991).

Clean Coal Technology and Emissions Trading: Is There a Future for High Sulfur Coal Under the Clean Air Act Amendments of 1990? With K. A. Bailey, and D.W. South. P. R. Dugan, D. R. Quigley, Y. A. Attia (eds.), Processing and Utilization of High Sulfur Coals IV, proceedings of the Fourth International Conference on Processing and Utilization of High Sulfur Coals, Idaho Falls, ID., sponsored by the U.S. Department of Energy, et al., Elsevier Science Publishing Co. Inc., New York, NY.

Incentive Mechanisms as a Strategic Option in the Design of Regulatory Policies with D. W. South. Presented at National Association of Regulatory Utility Commissioners, Committee on Electricity, Subcommittee on Strategic Issues, San Francisco (July 1991).

Achieving Efficiency Through Emissions Trading: Paradoxes, Misconceptions and Market Performance with D. W. South. Presented at National Association of Regulatory Utility Commissioners, Committee on Electricity, Subcommittee on Environment and Efficiency, San Francisco (July 1991).

To Mitigate or Not To Mitigate: Regulatory Treatment of Emissions Trading Decisions and Its Effect on Marketplace Incentives with D. W. South. Presented at 84th Annual Meeting and Exhibition, Air and Waste Management Association, Vancouver, British Columbia (June 1991).

Regulatory Incentives: A Means to Accelerate Clean Coal Technology Adoption for Acid Rain Compliance with D. W. South. Presented at Compliance and Emissions Trading Strategies: Facing Acid Rain Tradeoffs, Center for Regulatory Studies, Chicago, IL (June 1991).

Implementing Emissions Trading: Regulatory and Compliance Planning Issues with D. W. South. Presented at the Workshop on Implementing the Electric Utility Provisions of the Clean Air Act Amendments of 1990: Midwestern State Public Utility Commission Issues, National Regulatory Research Institute, Chicago, IL (May 1991).

Clean Coal Technology and Acid Rain Compliance: An Examination of Alternative Incentive Proposals with D. W. South. Presented at the American Power Conference, Chicago, IL. (April 1991).

Emissions Trading: Implications for Regulatory Policy with D. W. South. Presented at the 20th Annual Meeting of the Illinois Economic Association, Chicago, IL (October 1990).

The Future of Clean Coal Technology: An Evaluation of the Proposed CCT Incentives in S. 1630 with D. W. South. Presented at the 20th Annual Meeting of the Illinois Economic Association, Chicago, IL (October 1990).

The Future of Clean Coal Technology: An Evaluation of the Proposed Incentives in S. 1630 with D. W. South. Presented at the Seventh Annual International Pittsburgh Coal Conference, Pittsburgh, PA (September 1990).

The Future of Clean Coal Technology: An Evaluation of the Proposed Incentives in S. 1630 with D. W. South. Presented at the Seventh NARUC Biennial Regulatory Information Conference, Columbus, OH (September 1990).

Emissions Trading: Implications for Regulatory Policy with D. W. South. Presented at the Seventh NARUC Biennial Regulatory Information Conference, Columbus, OH (September 1990).

Alternatives to Rate of Return Regulation in the Telephone Industry: A Survey of the New Incentive Mechanism Proposals. Illinois Economic Association (October 1988).

Market Structures in the Local Communication Market: Fact and Fiction. Presented at the Intra-MSA Telecommunication Conference (September 1988).

The Quantity Theory of Money of J. M. Keynes: From the Tract to the General Theory with Christopher Marme. Proceedings of the 14th Annual Meeting of the History of Economics Society (June 1987).

Competitive Pricing and the Local Telephone Service Market: Some Problems of Balancing Equity and Efficiency. Illinois Economic Association (October 1986).

The Impact of Self-Selective Tariffs in Telecommunications Markets: The Design of an Experiment with M. J. Morey, and K. Costello. Proceedings of the Fifth NARUC Biennial Regulatory Conference (September 1986).

An Incentive Plan to Control Power Plant Construction Costs, Third NARUC Biennial Information Conference (September 1981).

The Measurement of Efficiency and the Application of Incentives to Regulated Industries with K. Costello. Proceedings of the Second NARUC Biennial Regulatory Information Conference (September 1980).

PUBLICATIONS: REPORTS

Avoided Cost Pricing: Theoretical Issues and Problems in Estimation. Prepared for the Illinois Department of Energy and Natural Resources (June 1990).

Least-Cost Planning in the Natural Gas Industry: An Overview of the Issues. Prepared for the Illinois Department of Energy and Natural Resources (December 1989).

Equity Issues in a Least-Cost Planning Environment. Prepared for the Illinois Department of Energy and Natural Resources (October 1989).

An Analysis of Prudency Evaluation Within a Least-Cost Planning Framework: The Case of Natural Gas Planning. Prepared for the Illinois Department of Energy and Natural Resources (October 1989).

Consumer Choice Under Risk and Uncertainty: The Role of Risk Perceptions as a Causal Factor in Consumer Decisionmaking. Prepared for the Energy and Environmental Systems Division, Argonne National Laboratory for U.S. DOE Office of Civilian Radioactive Waste Management (April 1989).

The Effects of Alternative Definitions of the Obligation to Serve on the Least-Cost Plans of Local Gas Distribution Companies. A Report for the Northern Illinois Alliance to Support Least-Cost Utility Planning (February 1989).

A Complete and Economic Study on Proposed IPCB Regulation R89-9: with J. L. Carlson, M. J. Morey, R. C. Hemphill, and W. Mikucki Waste Prohibitions. Prepared for the Illinois Department of Energy and Natural Resources.

The Role of Prices and the Pricing System Within the Regulatory Process. Prepared for the Illinois Department of Energy and Natural Resources (October 1986).

An Evaluation of the Minimization of Total Regional Requirements as an Objective in State-Wide Utility Planning Process. For the Illinois Department of Energy and Natural Resources (November 1986).

The Economic Incentives Provided by Section 9-215 (Excess Capacity Rule) of Proposed Illinois Public Utility Act. A Memorandum to the Joint Committee (June 1985).

An Analysis of the Issue of Cross-Subsidization in the Local Telephone Market. Prepared for the Joint Committee on Public Utility Regulation (May 1985).

A Survey of State Regulatory Actions and Legislative Developments Resulting from the Divestiture of AT&T. Prepared for the Joint Committee on Public Utility Regulations, Illinois State Legislature (March 1985).

A Memorandum to the Telecommunications Policy Working Group on the Concepts of Competing, Competition and Market Structure (September 1984).

The Evolution of Competition in the Telephone Industry and the Critical Issues Facing the Illinois Legislature on the Deregulation of Telephone Service. Prepared for the Select Joint Subcommittee on Regulatory Reform (July 1984).

The Review of Existing Power Plant Certificates, Monitoring of Power Plant Costs and the Allocation of Power Plant Cancellation Costs. Presented to the Sunset Task Force on Utility Regulatory Reform (January 1984).

Utility Efficiency Report Subtask IX - Final Report in Incentive Mechanisms. Prepared for the Illinois Commerce Commission (May 1981).

Utility Efficiency Report Subtask IV - Evaluation and Choice of Incentive Mechanisms. Illinois Commerce Commission for the U.S. Department of Energy (July 1980).

Utility Efficiency Report Subtask II - Review of Existing Incentive Mechanisms. Illinois Commerce Commission for the U.S. Department of Energy (March 1980).

Estimating Fuel Prices, a Memorandum to the Virginia State Corporation Commission with K. Kelly, National Regulatory Research Institute (1979).

Summary of Regulatory Commission Activities on Power Plant Productivity. The National Regulatory Research Institute draft report for the U.S. Department of Energy (1979).

UNPUBLISHED PAPERS

The Reichbanks' Reaction Function During the Hyperinflation: An Alternative Test of the Causes of the Hyperinflation. (December 1987)

How Real Was The German Hyperinflation: A Reexamination of the Demand for Money Employing a Fully Specified Demand Function. (October 1987)

Bubbles During the Hyperinflation: An Empirical Test of the Interaction of the Double Bubble in Exchange Markets and Prices in Germany. (September 1987)

Evaluating the Causes of the Hyperinflation: A Reexamination of Monetary Policy and Theoretical Debates Concerning the Factors Affecting the German Money Supply from 1919 to 1923. (August 1987)

Decentralization vs. Coordination: An Examination of the Options for Deregulating the Electric Supply Industry. (June 1985)

Applied Fairness Theory: The Case of Allocating Canceled Power Plant Costs. (October 1983)

Is the Rational Expectations Equilibrium Business Cycle Theory a Neo-Austrian Theory? (October 1983)

An Examination of the Policy Alternatives for a Small Open Economy Experiencing a Trade Boom: The Case of Sterilization, Credit Rationing and Profit Taxation. (August 1983)

The Transmission of Monetary Shocks to Real Variables in the Business Cycle. (July 1983)

The Economics of Revolutions: A Club Theoretic Approach and a Case Study of England, 1642-1649. (Summer 1983)

Interest Rates, Market Efficiency and Expectations: The Effectiveness of Monetary Policy. (April 1983)

Towards Developing a Framework for Evaluating Incentive Mechanisms, Performance Measures and Institutional Choice in Deregulation. (August 1981)

A Critique of the Averch-Johnson Bias and a Test of Some Alternative Hypotheses. Master Thesis submitted to the Graduate School of the University of Wyoming. (July 1978)

An Overview of the Theories of Regulation and Pricing Policies for Regulated Industries. The National Regulatory Institute. (1979)

PRESENTATIONS

A Conflict of Paradigms; The Future Role of State Regulation of the Natural Gas Industry. Presented to the Midwest Gas Association (November 6, 1991).

Exit and Entry: Who Will Bear the Risk in a Competitive Natural Gas Industry. Presented at the conference "At the Crossroads: Restructuring the Natural Gas Industry," held by the Center for Regulatory Studies (October 1991).

"To Serve Man" - The Golden Rule or a Visit to the Twilight Zone: How to Reconcile the Obligation to Serve with Competitive Market Forces. Presented to the Gas Policy Committee of the Illinois Commerce Commission (April 16, 1991).

Regulatory Treatment of Emissions Trading Decisions and Their Effect on Marketplace Incentives with D. W. South Presented at the Notice of Inquiry Public Hearing, Illinois Commerce Commission (March 1991).

The National Energy Strategy: Impacts on the Farm Sector. Presented to the Illinois Farm Bureau Leadership Conference (February 1991).

Emissions Trading in the CAAA of 1990: Regulatory, Compliance Planning and Implementation Issues with D. W. South. Presented to the Illinois Commerce Commission (January 1991).

Obligations to Serve and Competition in the Natural Gas Industry. Luncheon presentation at the conference "Assessing the Competitiveness of the Natural Gas Industry," held by the Center for Regulatory Studies (October 1990).

Pricing in an Age of Opportunism: The Cost of Being a Provider of Last Resort. Presented at the conference "Natural Gas Supply Planning: The Implications for Planning Pricing and Competition," held by the Center for Regulatory Studies (March 1990).

Public Utility Issues: Long and Short-Term Impacts. Presented to the Illinois Farm Bureau Leadership Conference (February 1990).

Uncertainty in the Least-Cost Planning Process: The Case of Natural Gas. Presented at the conference "Issues in Least Cost Planning in the Natural Gas Industry," held by the Center for Regulatory Studies (December 21, 1989).

How Real was the German Hyperinflation: An Examination of the Factors Determining the German Money Supply, Demand and Prices Between 1920 and 1923 with M. J. Morey. Presented to the Economic History Workshop at the University of Illinois (December 1986).

While at the Illinois Commerce Commission, Dr. McDermott gave over one-hundred presentations on a variety of topics in the telecommunications, electricity and natural gas industries.

TESTIMONY

Federal Energy Regulatory Commission, Docket No. EL99-90-000, *City of Wichita, Kansas v. Western Resources, Inc.* Direct testimony on behalf of the City of Topeka, Kansas focusing on cost causation issues and rate parity, September, 2000.

Indiana Utility Regulatory Commission, Cause No. 41753, Direct testimony on behalf of Southern Energy regarding approval of certification of power plant under reduced regulation, August 18, 2000.

California Public Utilities Commission, Application A.00-06-032, Direct testimony on behalf of Southern California Gas Company regarding the appropriateness of peaking rate for gas services. August 10, 2000.

Illinois Commerce Commission, Docket No. 99-0013, Rebuttal testimony on behalf of Commonwealth Edison regarding appropriate treatment of unbundled rates for meter service, June 5, 2000.

Indiana Utility Regulatory Commission, Cause No. 41590, Rebuttal testimony on behalf of Southern Energy regarding approval of certification of power plant under reduced regulation, June 2, 2000.

Kentucky Public Service Commission, Case No. 2000-095, Testimony on behalf of LG&E Energy Corp. regarding approval of a merger, March 15, 2000.

Illinois Commerce Commission, Docket No. 98-0195, Testimony on behalf of GTE North Inc. and GTE South Inc. regarding investigation into certain payphone issues as directed in Docket 97-0225, December 21, 1999.

Public Service Commission of Wisconsin, Docket No. 6630-UR-111, Testimony on behalf of Wisconsin Electric Power Company regarding performance-based regulation, September 1999.

South Dakota Public Utilities Commission, Docket No. NG98-010, Testimony on behalf of MidAmerican Energy Company for continuation of its incentive gas supply procurement program, June 1999.

Iowa Utilities Board, Docket No. RPU-94-3, Request for Confidential Treatment on behalf of MidAmerican Energy Company, April 7, 1999.

Federal Communications Commission, CC Docket No. 99-24, Affidavit and Reply Affidavit of Karl McDermott and William E. Taylor on behalf of Bell Atlantic Telephone Companies for forbearance from regulation as dominant carriers in Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Washington, DC, Vermont and Virginia, January 20, 1999 and April 8, 1999.

Testimony to Illinois General Assembly joint committee on electricity deregulation. Summer 1997.

Illinois Public Utilities Committee Telecommunications Subcommittee, Alternative Methods of Telecommunications Regulation, March 27, 1991.

Illinois Commerce Commission, Docket No. 80-0167, on the use of incentive mechanisms at Clinton Power Plant construction site.

Illinois Commerce Commission, Docket No. 80-0544, on the use of the variable return to CWIP incentive model in the Illinois Power rate case.

Illinois Commerce Commission, Docket No. 80-0167, rebuttal testimony to Dr. Pappas on the use of incentive mechanisms at the Clinton Power Plant site.

Illinois Commerce Commission, Docket No. 80-0367, on the treatment of the time of use pricing standards of the Public Utility Regulatory Policy Act (PURPA) for Iowa-Illinois Gas and Electric Company.

Illinois Commerce Commission, Docket No. 81-0478, on the use of q-ratios determining the appropriate rate of return for Illinois Bell Telephone Company.

Illinois Commerce Commission, Docket No. 81-0478, on the appropriate cost of service method for pricing telecommunication service under the transition to competition.

September, 2000

Tape filed in
PU-400-00-195

17 PU-401-00-36

Pages: 0

Video tape of Public Discussion Meeting
held 9-6-00
by Public Service Commission

09/06/2000 CC: Comm Legal PUD (3) Mike ALJ

16 PU-400-00-195

Pages: 0

Video tape of Public Discussion Meeting
held 9-6-00
by Public Service Commission

09/06/2000 CC: Comm Legal PUD (3) Mike ALJ



OFFICE OF ADMINISTRATIVE HEARINGS

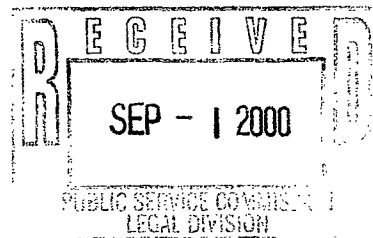
STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C. Hoberg
Director

August 29, 2000

701-328-3260
FAX 701-328-3254

Mr. William W. Binek, Esq.
Hearing Administrator
Office of Public Service Commission
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480



RE: Prehearing Conference Summary - Otter Tail Power Company and Northern States
Power Company Performance Based Regulation Applications (case nos. PU-401-00-36
and PU-400-00-195)

Dear Mr. Binek:

On August 29, 2000, at 2:00 p.m., via telephone, a prehearing conference was held to discuss procedural dates, hearing procedure, and other preliminary matters. After discussion the following was agreed to by Otter Tail, NSP, and Commission Staff:

Procedural Dates:

1. Otter Tail and NSP will pre-file all of their anticipated witnesses direct testimony with the Commission, Commission Staff, and the ALJ (copying the other party) no later than September 29, 2000 (received by that date).
2. Commission Staff will pre-file rebuttal testimony (response to OT and NSP direct testimony) with the Commission, the ALJ, and the other two parties no later than October 13, 2000.
3. Otter Tail and NSP will pre-file response testimony (response to Commission Staff rebuttal) no later than October 20, 2000.
4. The hearing is scheduled to begin on October 23, 2000, at 1:30 p.m. and will continue into October 24 (beginning at 8:30 a.m.), if necessary, until completed.
5. Otter Tail, NSP, and Commission Staff (if desired) will each file a proposed decision, *i.e.* findings of fact, conclusions of law, and order, and a post-hearing brief no later than November 17, 2000.

16 PU-401-00-36

Pages: 2

Letter confirming procedural dates,
hearing procedure & preliminary matters
by Office of Administrative Hearings by Allen Hoberg, A
09/01/2000 CC: Comm Legal PUD (3) Mike ALJ .

15 PU-400-00-195

Pages: 2

Letter confirming procedural dates,
hearing procedure & preliminary matters
by Office of Administrative Hearings by Allen Hoberg, A
09/01/2000 CC: Comm Legal PUD (3) Mike ALJ .

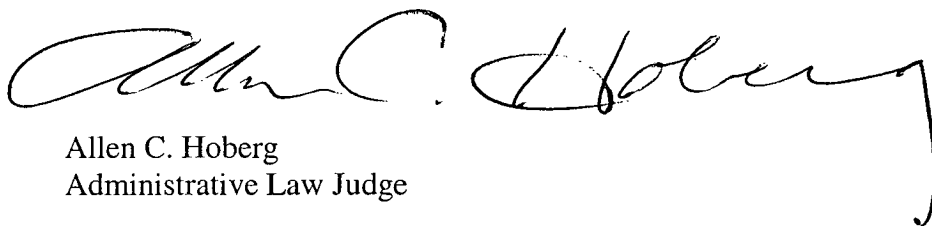
Mr. William W. Binek
Page Two
August 30, 2000

Hearing Procedure:

Although the Otter Tail and NSP filings are separate and have not been consolidated, the two matters are substantially similar and should be combined for hearing, for convenience sake. It was agreed by all the parties that the two matters should be heard contemporaneously as one overall case, but that they remain two separate matters with two separate orders being issued. Accordingly, the two matters will be combined into one hearing beginning October 23. Either, Otter Tail or NSP will proceed first (to be mutually agreed upon by the two companies, later). The first Company will present all of its direct witnesses (for brief direct, cross-examination, Commission questions, and further questioning). Then, the second Company will present all of its direct witnesses (direct-cross-Commission-further). Then, the Commission Staff will present its witness to respond to the two Companies (direct-cross-Commission -further). Then, the Companies will be allowed to present any necessary rebuttal witnesses not already called (first company - second company) and to recall any necessary rebuttal witnesses from those previously called. Finally, the hearing will close subject to the above post hearing filings.

If any party disagrees with any part of this prehearing conference summary, or wishes to add something significant that has been omitted, they must state their disagreement or addition in writing within seven days of receiving a copy of the summary.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen C. Hoberg". The signature is fluid and cursive, with a long, sweeping tail on the last letter.

Allen C. Hoberg
Administrative Law Judge

AH/ljc

cc: Mr. Todd J. Guerrero, Otter Tail
Mr. Jim Johnson, NSP

INFORMAL HEARING

19 June 2000

Northern States Power Company
Application for PBR
PU-400-00-195

Otter Tail Power Company
Application for PBR
PU-401-00-36

PURPOSE

The purpose of holding an informal hearing on these cases at this time is to discuss and determine the appropriate procedure to use to process the cases, a suggested time frame for processing the case, and identify potential issues relevant to a decision.

PROCEDURE

These cases present substitutes for rate cases, and adoption will likely result in rate changes sooner or later. For this reason, we recommend holding a **formal hearing** and issuing a **formal notice of hearing**. At this time, an informal hearing alone would seem to be inappropriate, although it may be appropriate later depending on how the cases evolve.

Due to the potential impact of these cases on customers, we recommend the participants and the Commission discuss the merits of also holding **public input sessions**, and of **other forms of notice**, including bill stuffers.

As will be discussed below, there are many and varied issues to be discussed in considering these applications. Consequently, we recommend **requesting input prior to issuing a notice of hearing** to determine what issues to notice and to consider any other matters of which we are made aware.

We recommend the **filing of both direct and responsive testimony prior to the hearing**. A discussion of what supporting information might be useful or appropriate would be helpful, including supporting information justifying the suggested performance measures as well as the return on equity standards.

It would also be appropriate to discuss available **hearing dates** and the potential length of the hearing, and a **target date for Commission decisions** on the applications.

TIME FRAME

Request Comments

Receive Comments

Issue Notices

Intervention Deadlines, if any

Testimony Filing Date(s)

Hearings

Post-Hearing Filings, if any

Decisions

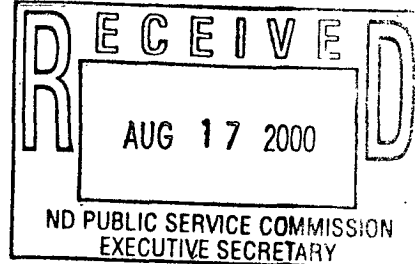
POTENTIAL ISSUES

1. How is the public interest served by a move from rate of return regulation to performance based regulation?
2. Are the four performance indicators appropriate?
3. Do these four indicators measure overall company performance?
4. Are there other indicators that should be included?
5. If so, what are they and how are they to be measured?
6. Are the measurement standards for the indicators appropriate?
7. If not, what standards should be used (SAIFI, Momentary Outage Index)?
8. Should the indicators be weighted equally?
9. What is the appropriate starting return on equity?
10. Does the plan send the correct signals to the company?
11. Does the plan send the correct signals to the customer?
12. Should there be a Dead Band?
13. Is the proposed Dead Band correct?
14. Should the Dead Band be symmetric?
15. Is it appropriate to adjust the baseline ROE and Dead Band based on the indicators?
16. If yes, is 2% appropriate?
17. Is it appropriate for the company and customers to share liability for company under earning?
18. Should liability be deferred?
19. If so, what interest should accrue?
20. Is it appropriate for the company and customers to share in over earnings?
21. What is the appropriate Rate Design for surcharges/dividends?
22. How should special contracts be recognized?

23. What is the impact per kWh for selected surcharges/dividends?
24. Is it appropriate for part of the over earnings to be contributed to economic development programs?
25. Is the price comparison group appropriate?
26. What factors are relevant to selecting an appropriate price comparison group?
27. Are the proposed reporting requirements appropriate?
28. Are the proposed reporting processes appropriate?
29. Are the proposed PBR plans reasonable?
30. Will the proposed PBR plans result in just and reasonable rates?

Affidavit of Publication

State of North Dakota)
County of Burleigh)



Laurie Thiel

, being duly sworn, state as follows:

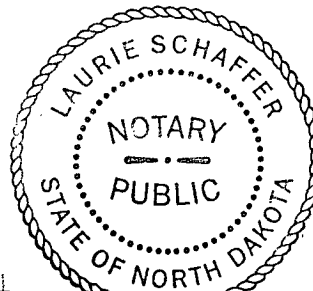
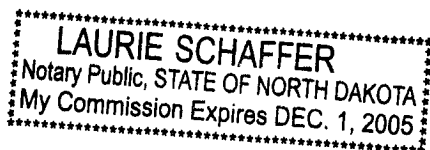
1. I am the designated agent, under the provisions and for the purposes of, Section 31-04-06, NDCC, for the newspapers listed on the attached exhibits.
2. The newspapers listed on the exhibits published the advertisement of:
Other Tail/Northern State, 1 time(s)
as required by law or ordinance.
3. All of the listed newspapers are legal newspapers in the State of North Dakota and, under the provisions of Section 46-05-01, NDCC, are qualified to publish any public notice or any matter required by law or ordinance to be printed or published in a newspaper in North Dakota.

Signed:

Laurie Thiel

Subscribed and sworn to before me this 15th day of August A.D. 2000

Laurie Schaffer



14 PU-401-00-36

Pages: 11

Affidavit of Publication

by North Dakota Advertising Service, Inc.

08/17/2000 CC: Comm Legal PUD (3) Mike ALJ

13 PU-400-00-195

Pages: 11

Affidavit of Publication

by North Dakota Advertising Service, Inc.

08/17/2000 CC: Comm Legal PUD (3) Mike ALJ

Case Number

PU-401-00-36

Action of Ad

Noice of Hearing and Notice of Public Discussion Meeting

Name of Newspaper (in bold)

Ashley

Beach

Bismarck

Bottineau

Bowbells

Bowman

Cando

Carrington

Carson

Cavalier

Center

Cooperstown

Crosby

Devils Lake

Dickinson

Elgin

Ellendale

Fargo

Finley

Garrison

Grafton

Grand Forks

Harvey

Hazen

Hettinger

Jamestown

Killdeer

Lakota

Lamoure

Landon

Linton

Lisben

Mandan

Mayville

McClusky

Medora

Milnor

Minnewaukan

Minot

Mohall

Napolean

New England

New Rockford

Rolla

Rugby

Stanley

Steele

Towner

Valley City

Wahpeten

Watford

Williston



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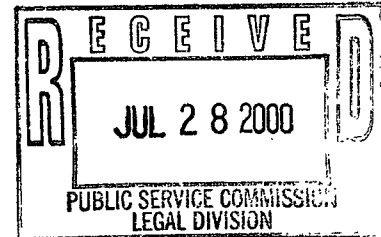
STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C. Hoberg
Director

July 27, 2000

701-328-3260
FAX 701-328-3254

Mr. William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480



Dear Mr. Binek:

Thank you for your July 24, 2000, request of the designation of an administrative law judge from the Office of Administrative Hearings to conduct a hearing in the matters of Otter Tail Power Company (PU-401-00-36) and North States Power Company (PU-400-00-195). I hereby designate myself to be assigned as an administrative law judge to conduct the hearing in regard to this matter. Because the administrative law judge will not be making recommended findings of fact and conclusions of law, or issuing a recommended order, the person or persons who will actually be making the final administrative decision in regard to this matter (i.e., agency head, deputy, board, commission) must actually be in attendance at the hearing.

Please send all additional relevant documents in regard to this matter (correspondence, and other pleadings and documents) to the designated administrative law judge in care of the Office of Administrative Hearings, 1707 North 9th Street, Lower Level, Bismarck, North Dakota 58501-1882. I understand a combined hearing will be held on October 23, 2000, at 1:30 p.m., in the Commission Hearing Room, 12th Floor, State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota. Because the administrative law judge is requested to conduct the hearing only, the agency must give proper notice of the hearing.

Sincerely,

Allen C. Hoberg
Allen C. Hoberg
Director

ACH:klp

c: Ms. Bernadeen Brutlag
Mr. Kent L. Larson
Mr. Dave Sederquist

12 PU-400-00-195

Pages: 1

07/28/2000

Office of Administrative Hearings

Allen Hoberg appointed Administrative Law
Judge

CC: Comm Legal PUD (3) Mike ALJ

13 PU-401-00-36

Pages: 1

07/28/2000

Office of Administrative Hearings

Allen Hoberg appointed Administrative Law
Judge

CC: Comm Legal PUD (3) Mike ALJ



Public Service Commission

State of North Dakota

COMMISSIONERS

Bruce Hagen
President
Susan E. Wefald
Leo M. Reinbold

600 E Boulevard Ave. Dept. 408
Bismarck, North Dakota 58505-0480
e-mail: sab@oracle.psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

Executive Secretary
Jon H. Mielke

July 25, 2000

Mr. Allen C. Hoberg
Office of Administrative Hearings
1707 North 9th Street, Lower Level
Bismarck, ND 58501

Re: Case No. PU-401-00-36
Otter Tail Power Company
Performance Based Regulation Application

Case No. PU-400-00-195
Northern States Power Company
Performance Based Regulation Application

Dear Mr. Hoberg:

Enclosed is a request for an administrative law judge in the above captioned cases. The Commission has scheduled a hearing for October 23, 2000, beginning at 1:30 p.m. in the Commission Hearing Room. The administrative law judge will serve as a procedural law judge, a court reporter will not be present and the hearing will be tape recorded. A copy of each case is enclosed.

Please provide the Commission with a copy of any correspondence issued by your office in this matter.

If you have any questions, please contact me at 328-4088. Thank you.

Sincerely,


William W. Binek
Hearing Administrator

WWBsIs
Enclosure

Cc: Kent Larson/Dave Sederquist, NSP
Bernadeen Brutlag, OTP

12 PU-401-00-36

Pages: 2

07/25/2000
Public Service Commission
Request for Administrative Law Judge

CC: Comm Legal PUD (3) Mike ALJ

11 PU-400-00-195

Pages: 2

07/25/2000
Public Service Commission
Request for Administrative Law Judge

CC: Comm Legal PUD (3) Mike ALJ



REQUEST FOR ADMINISTRATIVE LAW JUDGE--APPEAL, APPLICATION, OR PETITION
NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS
SFN 17819 (8-95)

Name of Agency, Board, or Commission
Public Service Commission

The above named agency, board, or commission requests designation of an administrative law judge from the Office of Administrative Hearings for the NSP Performance Based Regulation Application (Case No. PU-400-00-195) and OTP Performance Based Regulation Application (Case No. PU-401-00-36)

(e.g., application of [name], appeal of [name], petition of [name]). Authority for the administrative action is found in NDCC Title 49 (North Dakota Century Code and/or North Dakota Administrative Code).

Please attach related documents and correspondence.

The administrative action is more fully described as follows:

It requests designation of an administrative law judge (please check one):

- ☐ To conduct the hearing and issue recommended findings of fact, conclusions of law, and order.
- ☒ To serve as a procedural administrative law judge only (no recommended decision).
The agency head will be present at the hearing as required by NDCC 54-57-04(6).
- ☐ To conduct the hearing, issue findings of fact, conclusions of law, and a final order.

PLEASE MAKE A REQUEST FOR AN ADMINISTRATIVE LAW JUDGE AT LEAST ONE MONTH BEFORE THE HEARING.

Please list parties, including the agency if it is a Party, and Representation [attorney (or other)] if known, or Agency Contact: (Attach separate list if necessary.)

AGENCY	Address	Telephone Number
Representation	Address	Telephone Number
PARTY Northern States Power Co.	Address P. O. Box 2747, Fargo, ND 58108	Telephone Number 701-241-8607
Representation Kent L. Larson & Dave Sederquist	Address Same as above	Telephone Number
PARTY Otter Tail Power Co.	Address P. O. Box 496, Fergus Falls, MN	Telephone Number 218-739-8200
Representation Bernadeen Brutlag	Address Same as above	Telephone Number 56538-0496

Additional Comments

A combined hearing will be held October 23, 2000 at 1:30 PM in the Commission Hearing Room, 12th Floor, State Capitol, Bismarck, ND

(For agencies required to use OAH, notice of hearing will be issued by the administrative law judge, unless a procedural administrative law judge is requested. Other requesting agencies and agencies requesting a procedural administrative law judge should first contact OAH about scheduling a hearing. If notice has already been issued, attach a copy of the notice.)

Typed or Printed Name and Title of Requesting Person

Date

William W. Binek, Hearing Administrator

7-24-00

Signature of Requesting Person

Telephone Number

X

328-4088

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

Northern States Power Company
Performance Based Regulation
Application

Case No. PU-400-00-195

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **20th day of July, 2000**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

Notice of Hearing and Public Discussion Meeting

The envelope was addressed as follows:

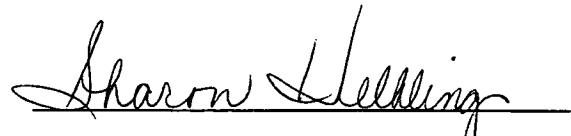
Kent Larson
Northern States Power Company
2302 Great Northern Dr
Fargo ND 58102
Cert. No. 7099 3220 0002 8476 8333

Dave Sederquist
Northern States Power Company
2302 Great Northern Dr
Fargo ND 58102
Cert. No. 7099 3220 0002 8476 8340

Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade St
Fergus Falls MN 56538-0496
Cert. No. 7099 3220 0002 8476 8357

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **20th day of July, 2000**.




SANDRA L. SCOTT
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires JUNE 11, 2004

Notary Public

SEAL

11 **PU-401-00-36**
07/20/2000
Public Service Commission
Affidavit of Service by Certified Mail

Pages: 1

CC: Comm Legal Illona. Pat, Jerry Mike .

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company
Performance Based Regulation
Application

Case No. PU-401-00-36

Northern States Power Company
Performance Based Regulation
Application

Case No. PU-400-00-195

AFFIDAVIT OF SERVICE BY ORDINARY MAIL OR E-MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **20th day of July, 2000**, she deposited in the United States Mail, Bismarck, North Dakota, envelopes by first class mail, fully prepaid, securely sealed, each containing a photocopy of:

Notice of Hearing and Public Discussion Meeting

The envelopes were addressed as follows:

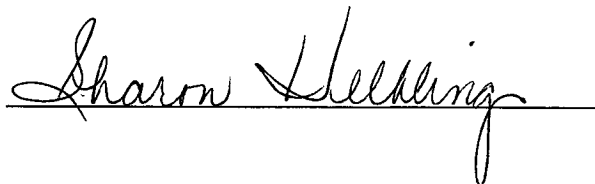
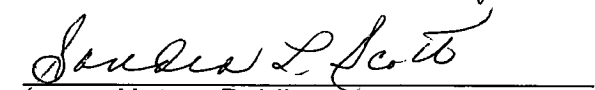
See Attached List

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **20th day of July, 2000**.

SANDRA L. SCOTT
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires JUNE 11, 2004

SEAL



Notary Public

akemp@tminc.com
Ann-Marie Kemp

wpp@pearce-dick.com
William Pearce
PO Box 400
Bismarck ND 58502-0400

Lubka@rrnet.com
Lewis Lubka
1723 6th St S
Fargo ND 58103

jason_gustafson@bobcat.com
Jason Gustafson
Melroe Company
P O Box 128
Gwinner ND 58040-0128

craig_scott@bobcat.com
Craig Scott
Melroe Company
P O Box 128
Gwinner ND 58040-0128

shandy@kwh.com
Scott Handy
Cass County Elec Coop Inc
4100 32nd Ave SW
Fargo ND 58104

Mark.Hanson@grandforks.af.mil
Mark Hanson
Grand Forks Air Force Base
319 ARW/JA
460 Steen Blvd Ste 201
Grand Forks ND 58205

itci@means.net
Bruce Reuber
Interstate Telcom Consulting Inc
130 Birch Ave W
Hector MN 55342-0668

kgrass@ipams.org
Karyn Grass
IPAMS
6620 Denver Club Bldg
518 17th ST
Denver CO 80202-4167

rmattern@badlands.nodak.edu
Rich Mattern
KDSU-FM Radio
PO Box 5347
Fargo ND 58105-5347

Michel.Murray@MCI.com
Michel Murray
MCI WorldCom Inc
707 17th St Ste 3600
Denver CO 80202

collinsk@mdu.mdres.com
Karen Collins
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

collinsk@mdu.mdres.com
Karen Collins
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

hopgoodt@mduresources.com
Tom Hopgood
Montana-Dakota Utilities Co.

balld@mdu.mdres.com
Don Ball
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

tanousw@mduresources.com
Wayne Tanous
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

AhernM@moss-barnett.com
Mike Ahern
Moss & Barnett
90 S 7th Street #4800
Minneapolis MN 55402-4129

michael.l.swenson@nspco.com
Mike Swenson
Northern States Power Company
PO Box 2747
Fargo ND 58107-2747

mary.k.brewster@nspco.com
Mary Brewster
Northern States Power Company
414 Nicollet Mall
Minneapolis MN 55401

john.d.winter@nspco.com
John D Winter
Northern States Power Company
414 Nicollet Mall
Minneapolis MN 55401

rcarmody@otpc.com
Roger Carmody
Otter Tail Power Company

tgreene@otpc.com
Tim Greene
Otter Tail Power Company

ehammer@otpc.com
Eugene Hammer
Otter Tail Power Company

dross@otpc.com
David Ross
Otter Tail Power Company

rlogsdon@navnet
Robert Logsdon
Nebraska Public Service Commission
PO Box 94927
Lincoln NE 68509-4927

bruce.j.kopp@nspco.com
Bruce Kopp
Northern States Power Company
PO Box 13038
Grand Forks ND 58208-3038

dave.sederquist@nspco.com
Dave Sederquist
Northern States Power Company
414 Nicollet Mall
Minneapolis MN 55401

bbrutlag@otpc.com
Bernadine Brutlag
Otter Tail Power Company

dgodel@otpc.com
Dean Godel
Otter Tail Power Company

tguerrero@otpc.com
Todd Guerrero
Otter Tail Power Company

wjohnson@otpc.com
Wayne Johnson
Otter Tail Power Company

sschultz@otpc.com
Steve Schultz
Otter Tail Power Company

jspriggs@otpc.com
Janice Spriggs
Otter Tail Power Company

cvandevoort@otpc.com
Chris Van de Voort
Otter Tail Power Company

dweiby@otpc.com
Dan Weiby
Otter Tail Power Company

rdenault@otpc.com
Russel Denault
Otter Tail Power Company
Garrison ND 58540

bellwein@otpc.com
Bernie Ellwein
Otter Tail Power Company
Garrison ND 58540

mjohnson@otpc.com
Marlowe Johnson
Otter Tail Power Company
PO Box 2220
Jamestown ND 58402-2220

fjohnson@otpc.com
Francis Johnson
Otter Tail Power Company
Langdon ND 58249

gcoyne@otpc.com
Geri Coyne
Otter Tail Power Company
PO Box 410
Oakes ND 58474-0410

dcichos@otpc.com
Dave Cichos
Otter Tail Power Company
Rugby ND 58368

dreading@micron.net
Don Reading
Simplot
1227 El Pelar Dr
Boise ID 83702-1500

mdickers@state.nd.us
Marcy Dickerson
State Tax Department
State Capitol
Bismarck ND 58505

Joseph Lamb
PO Box 196
Michigan ND 58259-0196

F James Mcarty
2333 Plum Grove Dr
O'Fallon MO 63366

Myer Shark
2277 Gene Autry Trail Unit C
Palm Springs CA 92264

Steven Tomac
2498 59th St
St Anthony ND 58566-9640

Myer Shark
Knollwood Place Apts #221
3630 Phillips Pkwy
St Louis Park MN 55426

Peter Hoff
Arveson Donoho Lundeen Etc
125 S Mill St
Fergus Falls MN 56537

Will Kaul
Cooperative Power Association
P O Box 800
Elk River MN 55330-0800

Laurie Baranko
Dakota Resource Council
PO Box 1095
Dickinson ND 58602-1095

Data Resource Center
Box 239
Denver CO 80201-0239

Mark Frederiksen
Economic Insights
416 Center St #365
Washington Grove MD 20880

Tom Reynolds
Electric Power Alert
PO Box 7167
Washington DC 20044-7167

Amy Sonne
First Albany Corporation
PO Box 52
Albany NY 12201-0052

Jerry Tuchscherer
Grand Forks Board of Realtors
2508 S Washington St
Grand Forks ND 58201-6703

Jay Casler
INDEPTH DATA INC
211 N Robinson Ave Ste S-1500
Oklahoma City OK 73102-7101

Connie Zimmerman
Inoco Inc
Box 177C Rte 4
Williston ND 58801

KBMR AM-KQDY FM
3500 E Rosser Ave
Bismarck ND 58501

KBMW-AM
PO Box 1115
Wahpeton ND 58074-1115

KCJB AM-FM & KXMC TV
PO Box 1686
Minot ND 58702-1686

KDAK AM
Box 50
Carrington ND 58421-0050

KDDR
Box 411
Oakes ND 58474-0411

Rod Kleinjan
KDIX Radio
119 2nd Ave W
Dickinson ND 58601-5115

KDLR AM-FM
Box 190
Devils Lake ND 58301-0190

KEYZ-AM
PO Box 2048
Williston ND 58802-2048

KFGO
Box 2966
Fargo ND 58102-2966

Jeff Alexander
KFYR-AM Radio
PO Box 1738
Bismarck ND 58502-1738

Rick Jensen
KHND Radio
PO Box 6
Harvey ND 58341-0006

KHRT AM
PO Box 1210
Minot ND 58702-1210

KKXL-AM/FM
PO Box 13598
Grand Forks ND 58208-3598

KLXX AM
4303 Memorial Hwy
Mandan ND 58554

KMAV-AM
PO Box 36
Mayville ND 58257-0036

KMOT TV
Box 1120
Minot ND 58702-1120

Jan Copeland
KN Energy Inc
PO Box 281304
Lakewood CO 80228-8304

KNDK-AM
HCR 5 Box 9
Langdon ND 58249

Terry Hildestad
Knife River Coal Mining Company
1915 N Kaveney Dr
Bismarck ND 58501

KNOX-AM & KRRK-FM
PO Box 13638
Grand Forks ND 58208-3638

KOVC-AM
PO Box 994
Valley City ND 58072-0994

KQDJ-AM
PO Box 1170
Jamestown ND 58402-1170

KQWB-AM/FM Radio
PO Box 9919
Fargo ND 58106-9919

KSJB-AM/KSJZ-FM
PO Box 1840
Jamestown ND 58402-1840

KTGO-AM
Box 457
Tioga ND 58852-0457

KTHI-TV
PO Box 1878
Fargo ND 58107-1878

KXJB-TV 4
PO Box 10399
Fargo ND 58106-0399

KXMB TV
Box 1617
Bismarck ND 58502-1617

KXMD-TV
PO Box 790
Williston ND 58802-0790

KZZJ-AM
PO Box 105
Rugby ND 58368-0105

Ron Tipton
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

Dennis Lavallee
Nat'l Assoc Plumbing-Htg-Cooling
PO Box 6808
Falls Church VA 22046-6808

Scott Speaker
Natural Gas Week
1401 New York Ave NW Ste 500
Washington DC 20005-2150

Everett Morris
NJ Public Service Electric & Gas
80 Park Pl
Newark NJ 07101

Andrew Anderson
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

KUMV-TV
PO Box 1287
Williston ND 58802-1287

News Director
KXMA-TV
Drawer B
Dickinson ND 58602

KXMC TV
Box 1686
Minot ND 58701-1686

KXPO AM & FM Radio
856 W 12 St
Grafton ND 58237

C W Fox
Montana-Dakota Utilities Co.
400 N 4th St
Bismarck ND 58501

Mike Foley
NARUC
1101 Vermont Avenue NW Ste 200
Washington DC 20005

Karin Sinclair
Nat'l Renewable Energy Lab
1617 Cole Blvd
Golden CO 80401

Harlan Fuglesten
ND Association of RECs
PO Box 727
Mandan ND 58554-0727

Kim Christianson
Office of Intergovernmental Assist
14th Fl - State Capitol
Bismarck ND 58505-0170

John MacFarlane
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Jay Myster
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Patricia E. S
Prairie West Publications
PO Box 970
Wahpeton ND 58074-0970

Public Utilities Reports Inc
Law Dept
8229 Boone Blvd Ste 401
Vienna VA 22182

Telecommunications Reports
1333 H St NW 11th Fl W Tower
Washington DC 20005

John Kapsner
The Vogel Law Firm
P O Box 2097
Bismarck ND 58502-2097

LeRoy Neubauer
Valley City Public Works
254 2nd Ave NE
Valley City ND 58072

WDAY AM-FM & TV
PO Box 2466
Fargo ND 58108-2466

WDAZ-TV
PO Box 12639
Grand Forks ND 58208-2639

PU-401-00-36

Copies To:

State Library (8 copies)

Historical Society

Associated Press

Helbling, Sharon D.

From: Helbling, Sharon D.
Sent: Thursday, July 20, 2000 11:13 AM
To: 'ndna'
Subject: Attached Notices

Please have the attached Notices published as legal publications in the ten North Dakota daily newspapers. Also run them as "News Item Only" articles.

Send the bill to the Public Service Commission, along with a tear sheet for billing purposes.

If you have any questions, give me a call at 328-4076.

Thank you.

Sharon Helbling
Public Utilities Division



9 PU-401-00-36

Pages: 1

07/20/2000

Public Service Commission

Notice e-mailed to NDNA for publication

CC: Comm Legal Illona, Pat, Jerry Mike

APPROVED:
DATE: 7-19-00
KMF

MOTION

July 19, 2000

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

**Northern States Power Company
Performance Based Regulation
Application**

Case No. PU-400-00-195

I move the Commission issue a Notice of Hearing and Notice of Public Discussion Meeting in the applications of Otter Tail Power Company and Northern States Power Company for approval of a performance-based ratemaking plan, Case Nos. PU-401-00-36 and PU-400-00-195.

JRL/sdh

000036-4.doc

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

**Northern States Power Company
Performance Based Regulation
Application**

Case No. PU-400-00-195

NOTICE OF HEARING AND NOTICE OF PUBLIC DISCUSSION MEETING

July 19, 2000

On January 31, 2000, in Case No. PU-401-00-36, Otter Tail Power Company filed an application for approval of a performance-based ratemaking plan. On April 24, 2000, in Case No. PU-400-00-195, Northern States Power Company (NSP) filed an application for approval of a similar performance-based ratemaking plan.

These plans propose an earnings range within which allowed utility earnings could vary annually based on utility performance. One-half of earnings greater than the allowed range would be credited to customers, except that NSP proposes to first donate 10% to economic development. If utility earnings were less than the allowed range, one half of the revenue shortfall would be billed to customers. The range of allowable utility earnings would be set annually by the Commission according to specified performance standards relating to price, reliability, customer service and safety.

A public hearing on these applications will be held beginning **October 23, 2000 at 1:30 p.m. (CDT)** in the Commission hearing room, State Capitol, 12th Floor, Bismarck, North Dakota 58505-0480. The issues to be considered are:

1. Are the plans consistent with Commission guidelines?
2. Would the plans result in quality service and reasonable electric rates?
3. Would the plans support safe and reliable electric infrastructure and the financial viability of the utilities?
4. Would implementing the plans be in the public interest?

A Public Discussion Meeting will be conducted via interactive television beginning at **12 noon (CDT) on September 6, 2000** at the following locations:

Bismarck State College (Host)
Vocational Technical Center
1200 College Drive, Rm 216
Bismarck, North Dakota

North Dakota State University
Walstar Hall, Rm 220
Albrecht Blvd. & 14th Ave. North
Fargo, North Dakota

Lake Region State College
Administration Bldg
1801 College Drive North, Rm 172
Devils Lake, North Dakota

Cankdeska Cikana Community College
(Little Hoop)
Higher Education Office
Fort Totten, ND

Minot State University
Administration Bldg, Rm 158
East Ctr. Campus, Next to Student Union
Minot, North Dakota

University of North Dakota
Gamble Hall, Room 130
Centennial Drive
Grand Forks, ND

North Dakota State College of Science
Allied Health Bldg, Rm 212
Wahpeton, North Dakota

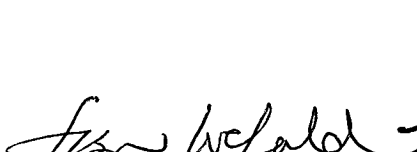
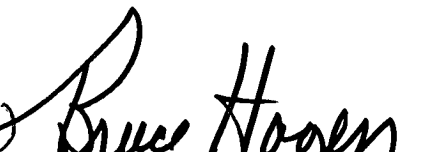
Jamestown State Hospital
Education (12 West) Building, 3rd Floor
Jamestown, ND

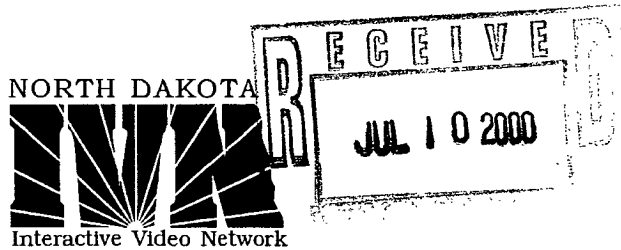
Minot State University – Bottineau
Student Union – Wold Room
Bottineau, North Dakota

Turtle Mountain Community College
Gailfus Building
Belcourt, ND

For more information contact the Public Service Commission, State Capitol, Bismarck, North Dakota 58505, 701-328-2400; or Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials please notify Jon Mielke, Executive Secretary, at least 24 hours prior to the hearing.

PUBLIC SERVICE COMMISSION

		
Susan E. Wefald Commissioner	Bruce Hagen President	Leo M. Reinbold Commissioner



North Dakota University System
Distance Education
UND, PO Box 8384
Grand Forks, ND 58202-8384
701-777-6486
Fax: 701-777-6353

Videoconference Confirmation

This is not a bill

July 7, 2000

Public Service Commission
600 E. Boulevard Avenue
Bismarck, ND 58505-0480

The following event has been scheduled on the North Dakota Interactive Video Network (IVN):

Date: September 6, 2000 Time: 12:00-1:50 Event: 2441520

Event Title: Ottertail Public Hearing

Site(s) Scheduled: Host - BSC 216; LRSC 172; MiSU Admin; NDSCS Allied Health 212;
MiSU-Bottineau--Wold Rm; NDSU Walster; State Hospital;
UND Gamble Hall 130; Little Hoop Comm. College;
Turtle Mountain Community College

Telephone Line Charges:	\$80 x2 hrs	\$ 160.00
Technical Charge:	\$10 x 2 hrs x 10 site(s)	<u>200.00</u>

Total Due NDUS Distance Education \$360.00

Events cancelled less than 24 hours before event will be charged the administration and site fee. Sites dropped less than 24 hours before an event will be charged the technical support fee.

6 **PU-401-00-36** Pages: 12
07/10/2000
North Dakota Interactive Video Network
Videoconference Confirmation

KOTA I

5 **PU-400-00-195** Pages: 12
07/10/2000
North Dakota Interactive Video Network
Videoconference Confirmation

CC: Comm Legal Illona, Pat, Jerry Mike .

CC: Comm Legal Illona, Pat, Jerry Mike .

IVN CLASSROOMS, PHONE/FAX NUMBERS

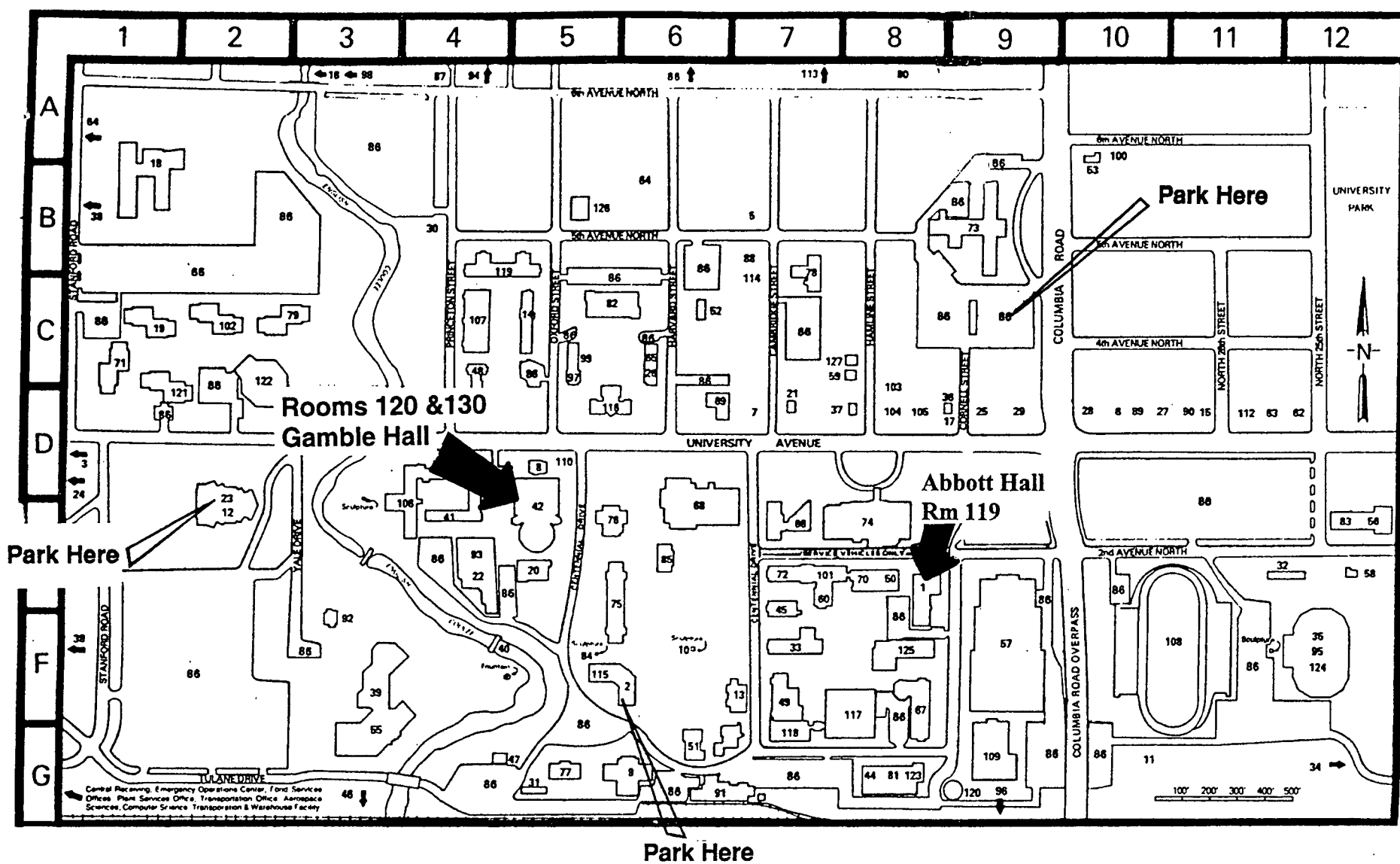
<u>Site</u>	<u>Address</u>	<u>VC Wizard Abbr.</u>	<u>CAP.</u>	<u>PHONE #</u>	<u>FAX #</u>
Belcourt-TMCC	Gallus Bldg.	TMCC	20	477-7904	477-6088
Bismarck-BSC	Vocational Technical Center, 1200 College Drive				
	Rm 216	BSC 216	28	224-5508	224-5507
	Rm 228	BSC 228	28	224-5641	224-5507
Bismarck-State Capitol	Fort Lincoln Room West Wing, Ground Floor 600 E. Boulevard Ave.	State Capitol	10	328-3270	328-2961
Bismarck-UTTC	UTTC - Skills Center	UTTC	30	255-3285 x 324	530-0602
Bottineau-MISU-B	Arntzen IVN Bldg., Rm 100 105 Smrall Blvd.	MISU BOTT	24	228-5421	228-5428
✓ Devils Lake-LRSC	✓✓✓ <i>Student Union - World Room</i> Administration Bldg. 1801 College Drive North			<i>228-5476</i>	<i>228-5401</i>
	Rm 171	LR 171	20	662-1588	662-1599
	Rm 172	LR 172	20	662-1595	662-1599
Dickinson-DSU	North Campus, Rm 104 1679 Sixth Ave. W.	DSU 104	27	483-2013	483-2028
	Klinefelter Hall, Rm 220 Corner of 2 nd St W & 10 th Ave W	DSU 220	27	483-2071	483-2160
✓ Fargo-NDSU	E. Morrow Lebedeff Bldg., Rm 183 Centennial Blvd.	NDSU EML	35	231-8523	231-6117
	Walster Hall, Rm 220	NDSU Walster	30	231-1997	231-6116
	Albrecht Blvd. & 14th Ave N. IACC, Rm 422	NDSU IACC	40	231-9455	231-6115
✓ Fort Totten-CCCC	Higher Education Office	LHCC	30	766-4980	766-1350
Fort Yates-SBC	Sitting Bull College, Rm 5	SBC	15	854-2140	854-3403
Grand Forks-UND	Gamble Hall, Centennial Drive				
	Rm 120	UND 120	30	777-4825	777-4750
	Rm 130	UND 130	50	777-4907	777-4750
	Abbott Hall, Rm 119 Corner of Campus Rd. & 2nd Ave N	UND 119	25	777-2357	777-2358
Jamestown State Hospital	Education (12 West) Building 3rd Floor	State Hospital	28	253-3205	253-3204
Mayville-MaSU	Library, Rm 115 330 3rd Street NE	MaSU	20	786-4638	786-4749
Minot-MiSU	Administration Bldg., Rm 158 E. Ctr. of Campus, next to Student Union	MiSU Admin	24	858-3487	858-3239
	Model Hall, Rm 113 University Ave. & 8th St. NW	MiSU Model	30	858-3984	858-3582
New Town-FBCC	Fort Berthold Community College	FBCC	20	627-4738 x 271	627-3018
Valley City-VCSU	Vangstad Hall, Rm 115 101 College Street	VCSU	24	845-7207	845-7121
✓ Wahpeton-NDSCS	Mildred Johnson Library, Rm 117	NDSCS	24	671-2606	671-2151
	<i>Allied Health Bldg.</i>	Allied Health	25	671-2409	671-2193
Williston-WSC	Main Building, Rm 120 <i>Rm 212</i> 1410 University Ave.	WSC MAIN	30	774-4250	774-4287
	Crichton Building, Rm 109	WSC CRTN	24	774-4297	774-4284

Network Trouble Shooting Beeper number 328-2004

1. Leave message after the tone including your name, phone number and a short description of the problem.
2. Stay off the phone until network technician calls.

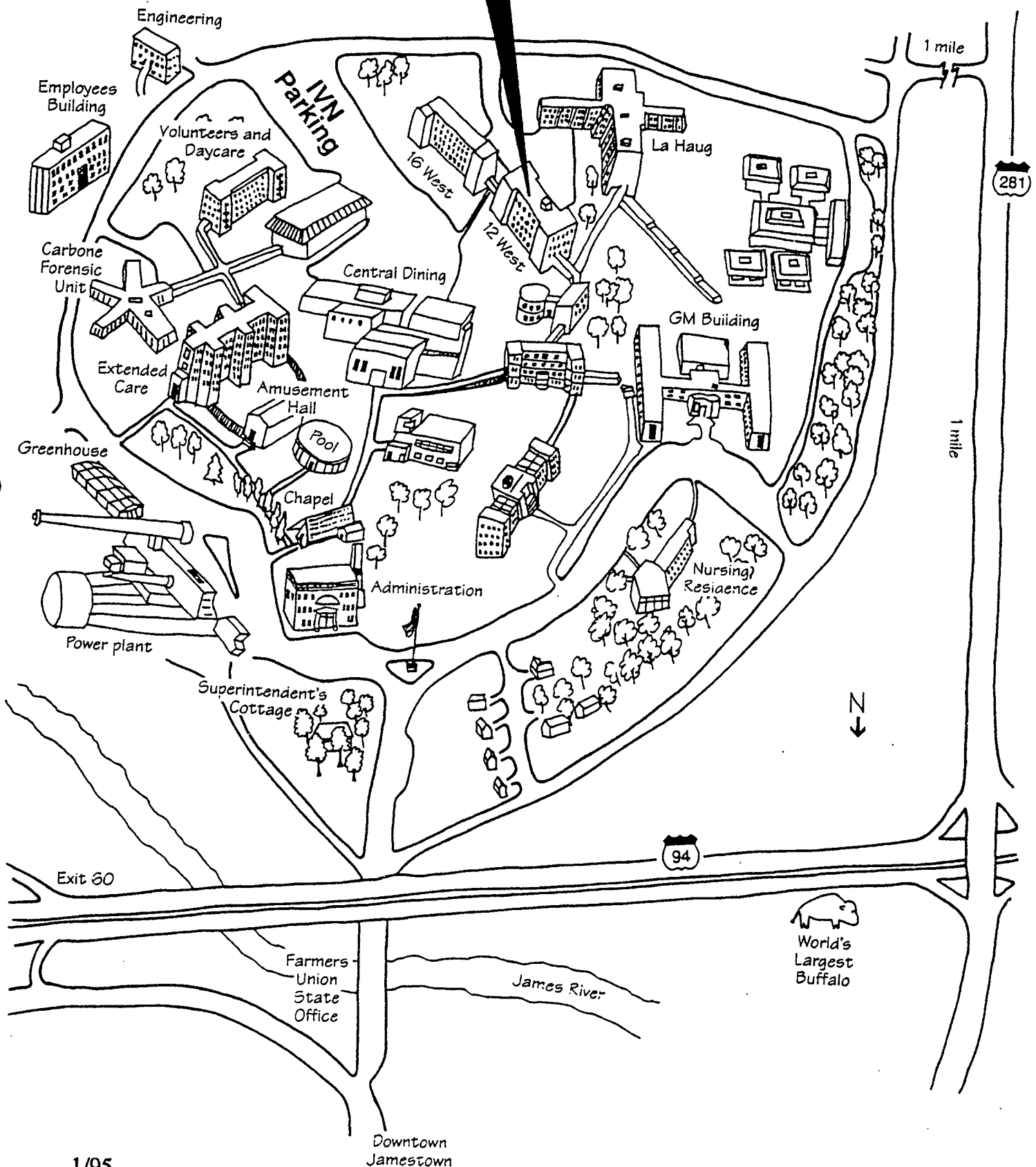
IVN Classroom Locations

UNIVERSITY OF NORTH DAKOTA - UND



IVN Classroom Location State Hospital, Jamestown, N.D.

IVN 3rd floor

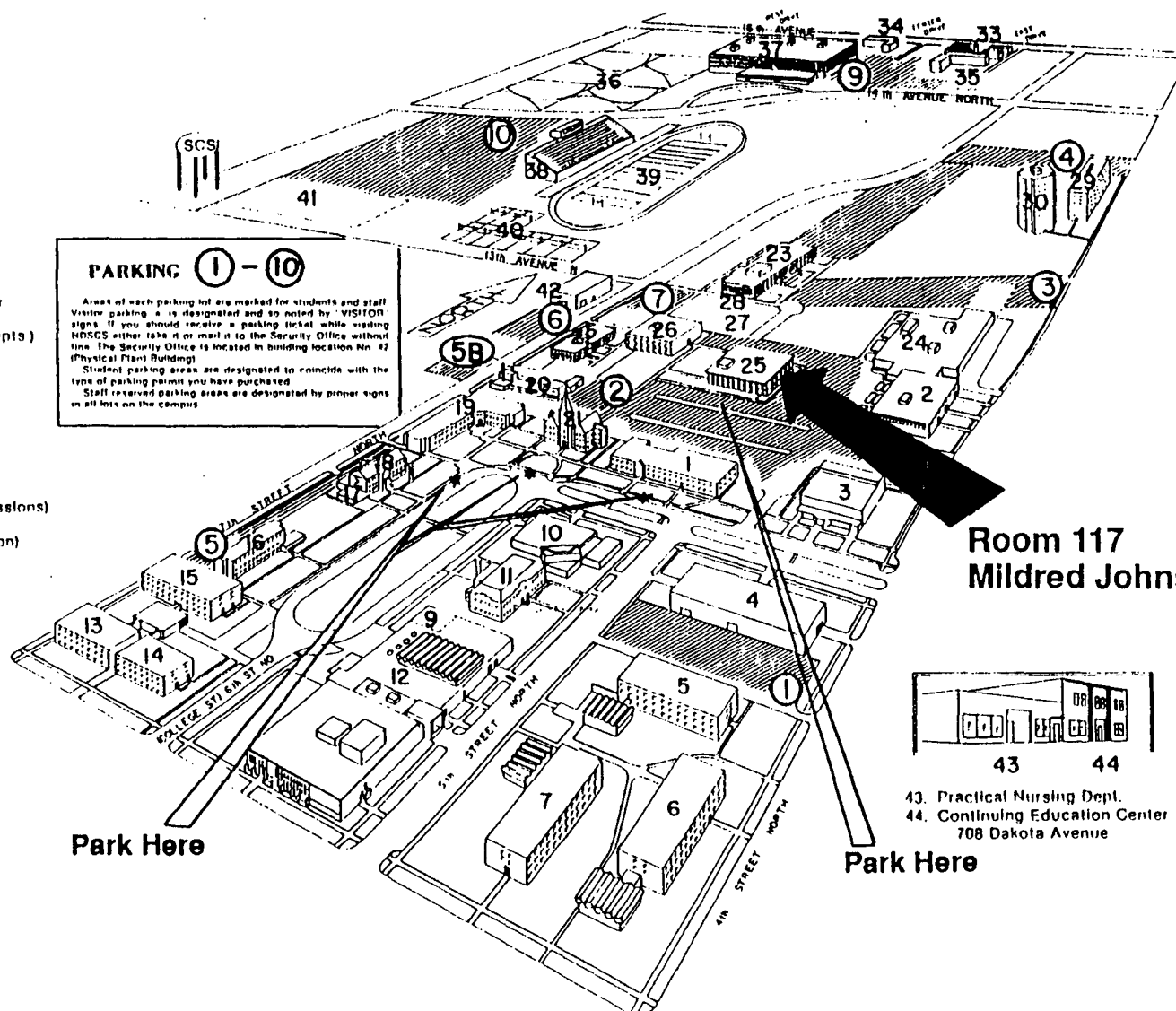


IVN Classroom Locations

NORTH DAKOTA STATE COLLEGE OF SCIENCE

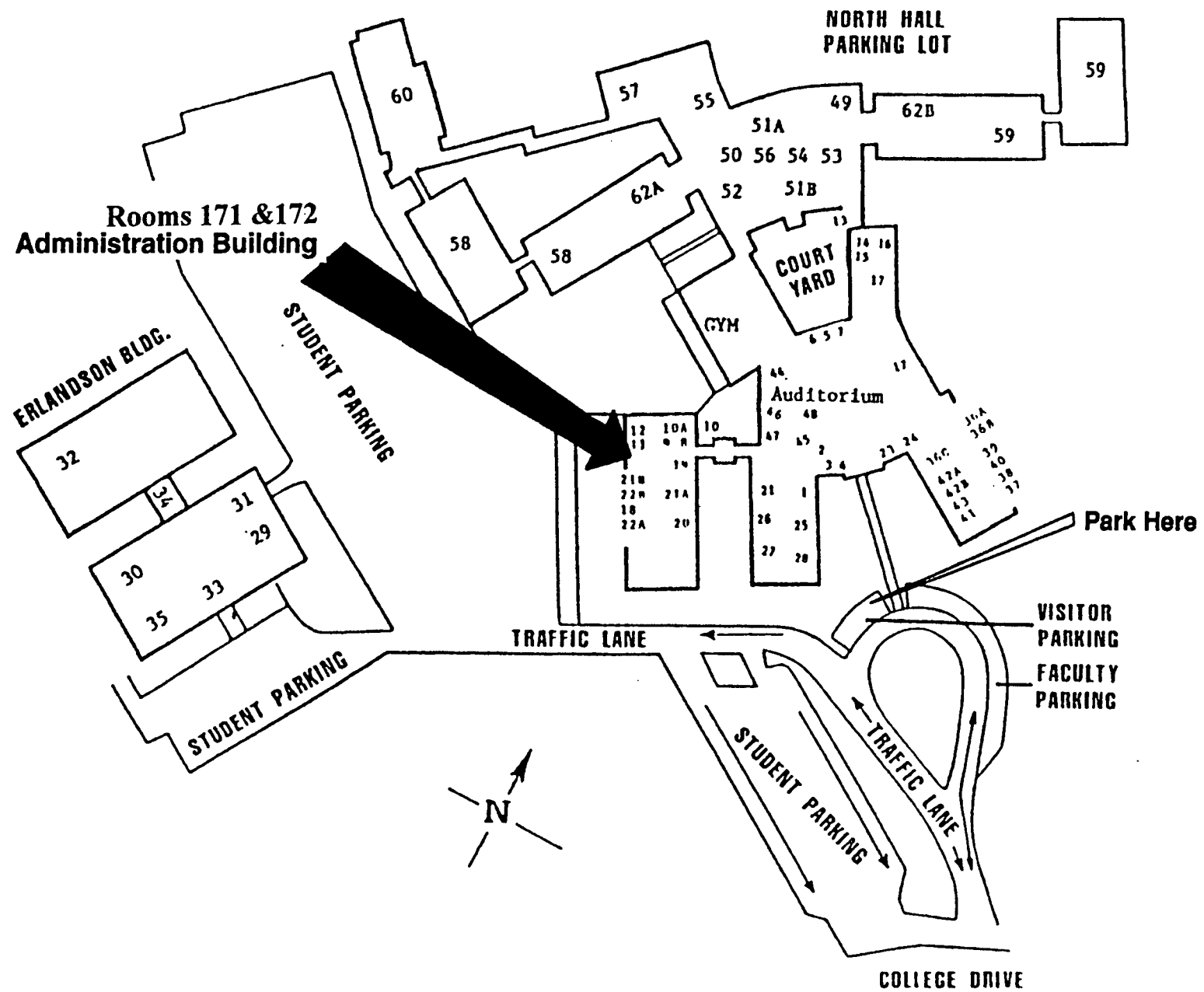
Legend

1. Horton Hall
(Trade-Technical No. 1)
2. Trade-Technical No. 2
(Machine Tooling/Welding)
3. Bute Gymnasium
4. Ballweber Hall
(Auto Collision Tech.)
5. Bahcock Hall (Men)
6. Salterlee Hall (Men)
7. McMahon Hall (Men)
- ①-⑩ Parking Areas
9. Health Center
10. Auditorium/Cultural Center
11. Hinkner Hall
(Dental Auxiliaries/OTA Depts.)
12. Student Center and
Food Service
13. Schulz Hall (Women)
14. Walton Hall (Women)
15. Forkner Hall (Women)
16. Riley Hall (Women)
17. ATEA Nat'l Hdqtrs.
18. Burch Hall (Men)
19. Haverly Hall
(Administration and Admissions)
20. Central Heating Plant
21. Old Main (Business Division)
22. Environmental Systems
(Plumbing, Sheet Metal,
Heating and Cooling)
23. Diesel Technology
24. Schuett Hall
(Auto Mechanics Tech.)
25. Mildred Johnson Library
26. Barnard Hall
(Electrical/Electronics/
Refrigeration)
- 27, 28. (To be designated)
29. Robertson Hall (Men)
30. Nordgaard Hall (Men)
- 31, 32. (To be designated)
33. College Complex
34. College Complex NW
35. College Complex SE
36. Activity Area
37. Activities Center
(Varsity/Intramural)
38. Alumni Stadium
39. Frank Vertin Field
40. Tennis Courts
41. Football Practice Field
42. Physical Plant/Storage/
Security Office
43. Practical Nursing Dept.
44. Continuing Education Center



Devils Lake, ND

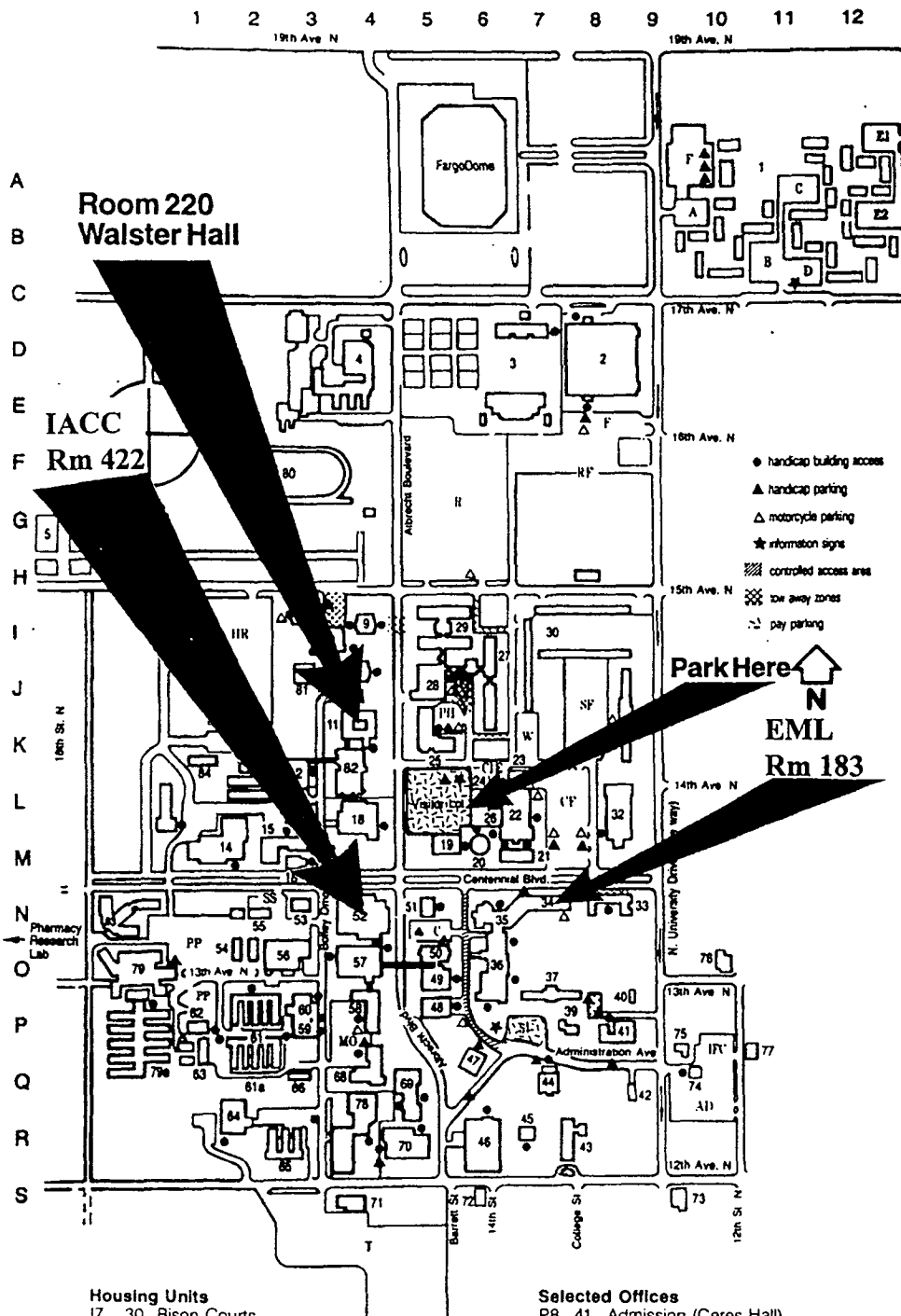
66/9



IVN Locations

NDSU

North Dakota State University,
Fargo, ND



Housing Units

- I7 30 Bison Courts
- R7 43 Burgum Hall
- N8 33 Churchill Hall
- O7 37 Dinan Hall
- J3 81 Pavak Hall
- I5 29 Reed-Johnson Halls
- I3 7 Seim Hall
- I4 9 Sevrinson Hall
- K8 31 Stockbridge Hall
- J4 10 Thompson Hall
- C11 1 University Village
- J6 27 Weible Halls (North & South)
- H2 6 West Trailer Courts

Selected Offices

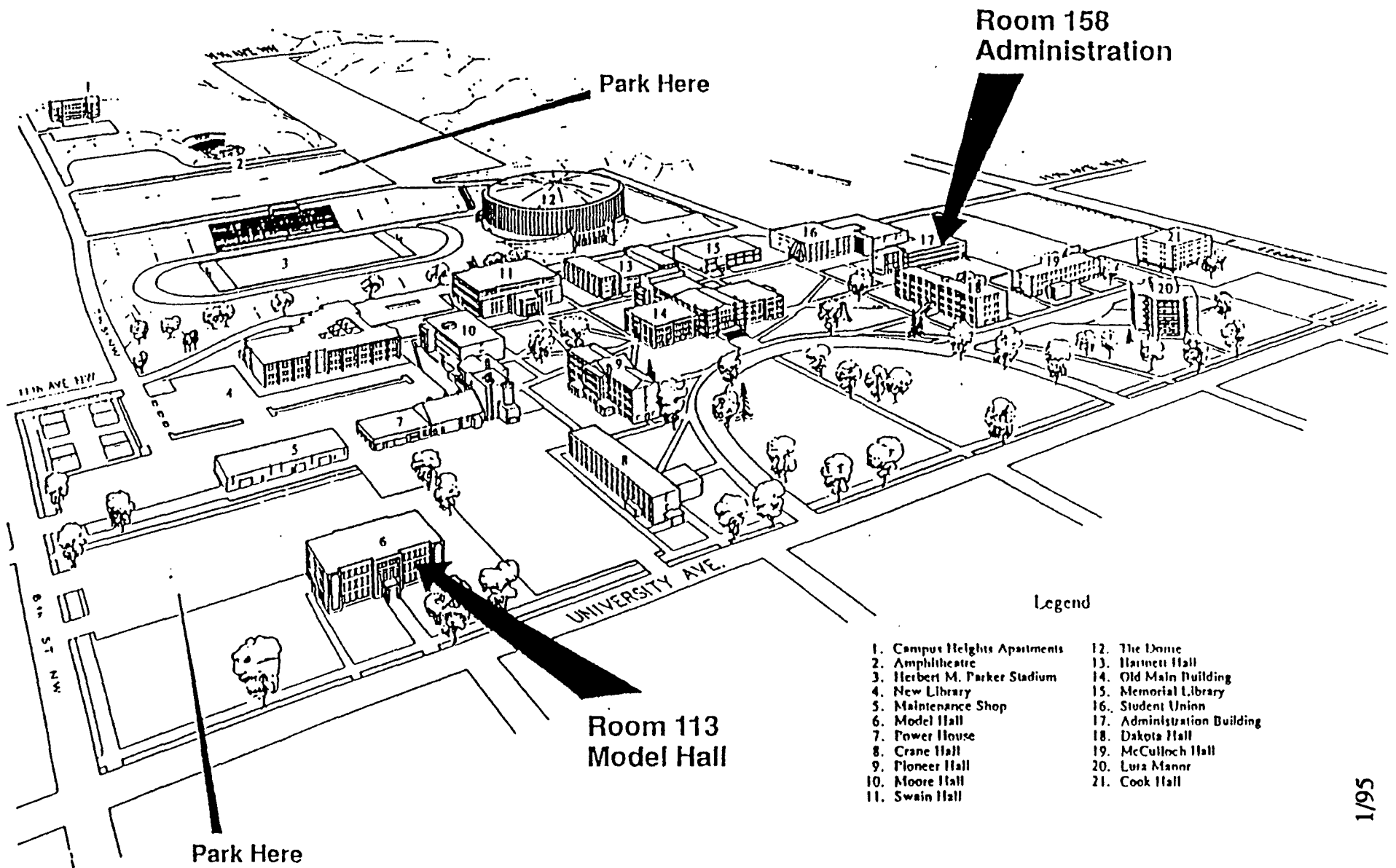
- P8 41 Admission (Ceres Hall)
- Q7 44 Business Office (Old Main)
- P8 41 Career Services (Ceres Hall)
- P8 41 Counseling (Ceres Hall)
- P8 41 Financial Aid (Ceres Hall)
- Q2 64 Housing (Aux. Ent.)
- Q7 44 Human Resources (Old Main)
- P8 41 Registrar, Student Academic Affairs (Ceres Hall)
- Q7 44 Student Affairs (Old Main)
- O3 56 Traffic (Thorson Maintenance Center)
- O6 36 Varsity Mart (Memorial Union)

NDSU Campus

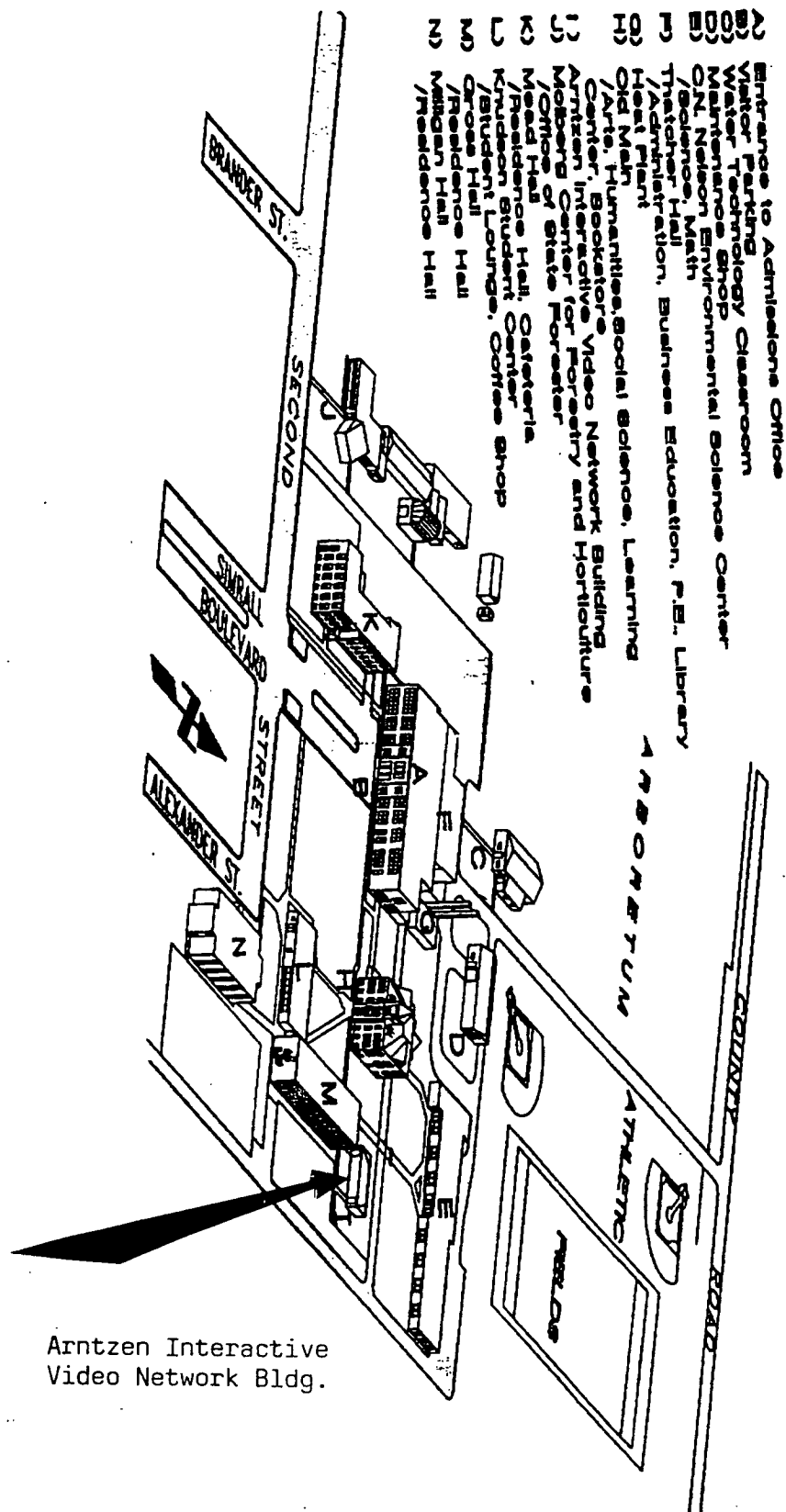
- P5 48 Agricultural Engineering
- P2 61 Agronomy Greenhouse Plant Diagnostic Lab
- P8 40 Alba Bales House (Family Studies Institute)
- P9 75 Alumni, Development Center
- M6 21 Architecture & Landscape Architecture
- L6 23 Architecture Quonset
- R3 65 Art
- R4 70 Askanase Hall (Little Country Theatre)
- Q2 64 Auxiliary Enterprises (Dining Services and Housing)
- E4 4 Biosciences Research Laboratory
- E8 2 Bison Sports Arena (Physical Education, Sports Information)
- Q3 66 Campus Laundry
- P8 41 Ceres Hall—(Admission, Financial Aid, Counseling, Career Services, Registrar, Student Academic Affairs)
- L6 24 Civil and Industrial Engineering
- L6 26 Construction Management
- S6 72 Credit Union (Northland Educators)
- P2 61 Crop and Weed Sciences Greenhouse
- E6 3 Dacotah Field
- L6 22 Dolve Hall (Mechanical Engineering)
- O5 50 Dunbar Laboratories (Biochemistry, Polymers and Coatings)
- M5 19 Electrical Engineering
- M6 20 Engineering Administration
- N5 51 Engineering and Technology
- N6 35 Family Life, 4-H Center (Education)
- P3 60 Harris Hall (Cereal Science and Food Technology)
- N3 53 Hastings Hall
- P4 68 Heating Plant
- N7 34 Home Economics (Human Development and Education)
- K4 82 Horticulture Science (Loftsgard Hall)
- P2 61a Horticulture and Plant Pathology Greenhouse
- O4 57 Hultz Hall (Animal & Range Sciences, Entomology)
- N4 52 Industrial Agriculture and Communications Center (Computer Center, Computer Network, Computer Science, and Industrial Agriculture)
- N1 83 Johansen Hall (State Seed Dept., Seed Research)
- O5 49 Ladd Hall (Chemistry)
- R6 46 Library (Publications Services)
- K4 82 Loftsgard Hall (Horticulture)
- N2 55 Longwell Building
- P2 61 Lord & Burnham Greenhouses
- O10 76 Lutheran Student Center
- N2 54 Maintenance Buildings
- O6 36 Memorial Union (Varsity Mart)
- Q4 69 Minard Hall (Humanities and Social Sciences)
- P4 58 Morrill Hall (Agriculture, Ag. Econ., University Studies)
- R4 78 Music Education Building (Festival Concert Hall)
- P7 39 Nelson Health Center
- P3 59 Northern Crops Institute
- O1 79 Northern Crops Science Lab (sunflowers, sugar beets)
- S6 72 Northland Educators Federal Credit Union
- Q7 44 Old Main (Administration, Business Office, Student Affairs, News and Media Services)
- L8 32 Physical Education Building (ROTC & Women's Athletics)
- P1 79a Plant Science Greenhouse
- Q9 74 Post Office
- P1 63 Potato Research-Pesticide Storage
- H1 5 Poultry Research Center
- Q8 42 President's House
- R7 45 Putnam Hall (Business)
- R4 78 Reineke Fine Arts Center (Music)
- J5 28 Residence Dining Center
- L1 14a Robinson Hall (Veterinary Research)
- F2 80 Running Track Facility
- K1 84 Service Center, Pilot Plant
- L4 18 Shepperd Arena
- P5 47 South Engineering (Physics)
- M3 16 Stevens Auditorium
- M3 15 Stevens Hall (Natural Sciences)
- S9 73 St. Paul's Chapel (Newman Center)
- K5 25 Sudro Hall (Pharmacy, Nursing)
- P1 62 Sugar Beet Research
- S4 71 Thordarson Hall (Independent Study, State Film Library)
- O3 56 Thorson Maintenance Center (Physical Plant)
- P10 77 United Campus Ministry, YMCA of NDSU
- M2 14 Van Es (Vet Science, Microbiology)
- K3 12 Waldron Laboratory (Agriculture, Soil Testing Lab, Statistics)
- K4 11 Walster Hall (Agriculture)
- I3 8 West Dining Center
- L3 17 Widadas Lab (Crop & Weed Sciences, Corn Seed House)

IVN Classroom Locations MINOT STATE UNIVERSITY

I.C.3.9

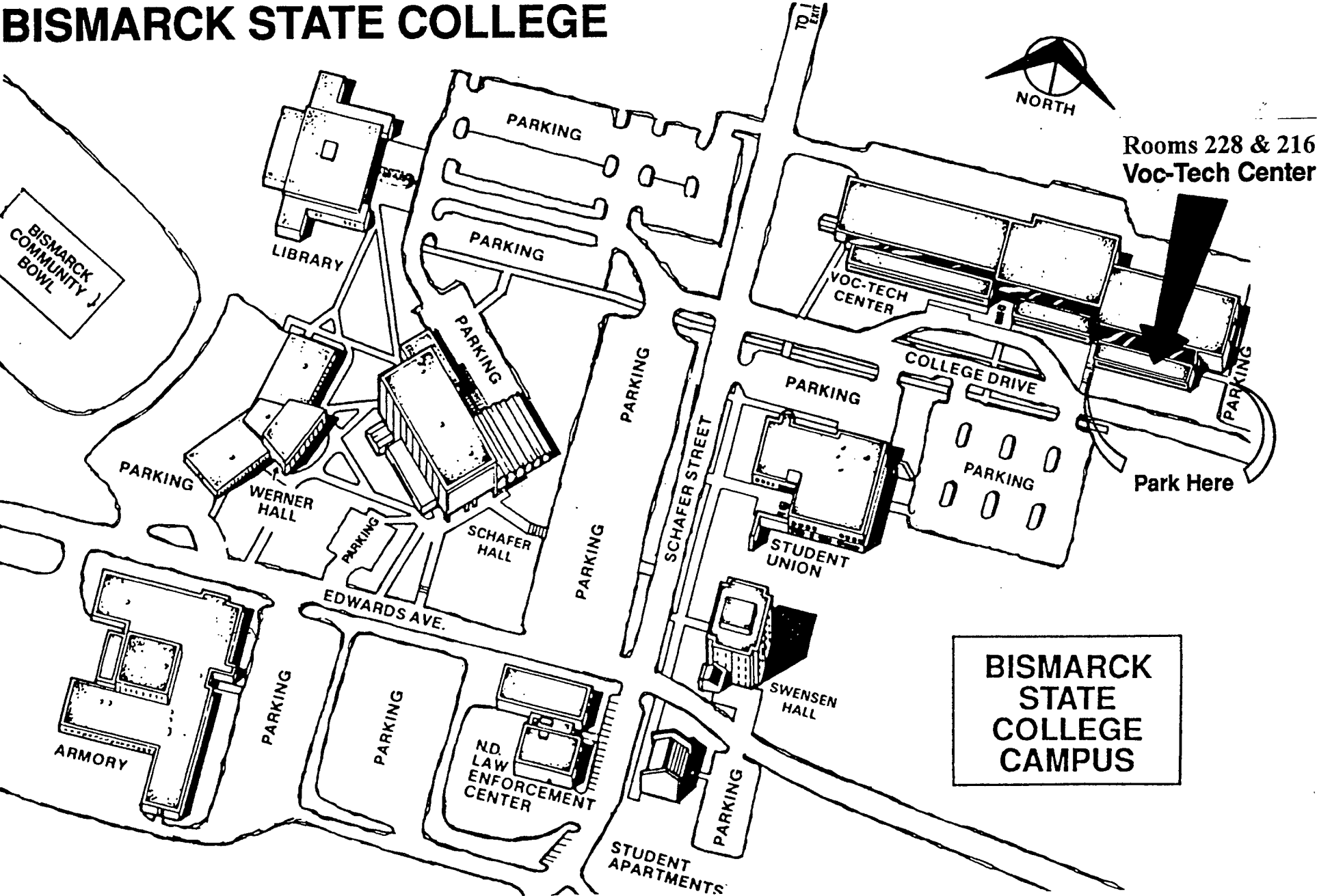


MISSOURI BOTTLINER CAMPUS MAP



IVN Classroom Locations

BISMARCK STATE COLLEGE



Site and Technical Coordinators List to Post

			<u>Phone</u>	<u>Fax</u>
Belcourt--TMCC		PO Box 340; Belcourt, ND 58316		
Site:	Bill Gourneau	bgourneau@giizis.turtle-mountain.cc.nd.us	477-7825	477-7807
Tech:	Tony Poitra	tpoitra@giizis.turtle-mountain.cc.nd.us	477-7904	477-7807
Bismarck--BSC		PO Box 5587; Bismarck, ND 58506-5587		
Site:	Pat Gross	jagross@gwmail.nodak.edu	224-5484	224-5507
Tech:	Lloyd Hieb	lhieb@badlands.nodak.edu	224-5610	224-5507
Bismarck--State Capitol		ITD; 600 E. Boulevard Ave.; Bismarck, ND 58505		
Site/Tech:	Norma Schacher	nschache@state.nd.us	328-3054	328-3000
Bismarck--UTTC		3315 University Dr.; Skills Center; Bismarck, ND 58504		
Site/Tech:	Liz Miller	dyhuman@hotmail.com	255-3285 ext. 316	530-0602
Bottineau--MiSU-B		Arntzen Interactive Video Building; Bottineau, ND 58318		
Site/Tech:	Nancy Underwood	underwon@warp6.cs.misu.nodak.edu	228-5421	228-5428
Devils Lake--LRSC		1801 College Drive North; Devils Lake, ND 58301-1598		
Site/Tech:	Marlene Jonas	jonasm.@lrsc.nodak.edu	662-1601	662-1599
Dickinson--DSU		291 Campus Dr.; Dickinson, ND 58601		
Site:	Marty Odermann-Gardner	moderman@eagle.dsu.nodak.edu	483-2166	483-2028
Tech:	Kathy Obritsch	kobritsc@eagle.dsu.nodak.edu	483-2129	483-2028
Fargo--NDSU		IACC Bldg., Room 206; Fargo, ND 58105		
Site:	Tammy Cummings	tammy_cummings@ndsu.nodak.edu	231-1090	234-8541
Tech:	Joel Writer	joel_writer@ndsu.nodak.edu	231-6247	231-8541
		Emergency number - 793-3105		
Fort Totten--CCCC		Cankdeska Cikana Comm. College; Ft. Totten, ND 58335		
Site/Tech:	Scott Jones	sajones@hoopster.little-hoop.cc.nd.us	766-4980	766-1350
Fort Yates--SBC		HC 1, Box 4; Fort Yates, ND 58538		
Site/Tech:	Rick Pelishek	rickp@sbcl.edu	854-2140	854-3403
Grand Forks--UND		PO Box 9021; Gustafson Hall; Grand Forks, ND 58202-9021		
Site:	CK Braun	ck_braun@mail.und.nodak.edu	777-3308	777-4282
Tech:	John Murphy	john_murphy@mail.und.nodak.edu	Cell: 741-8488 777-6452	777-4282
Great Western Network--GWN		Washburn High School; PO Box 280; Washburn, ND 58577		
Site/Tech:	Bill Strasser	strasser@sendit.nodak.edu	462-8260	462-3574
		Bismarck High School	221-3727	221-3730
Jamestown--State Hospital		PO Box 476; 1624 23rd St. SE; Jamestown, ND 58401		
Site/Tech:	Linda Bjone	bjonel@state.nd.us	253-3922	253-3204
Mayville--MaSU		330 3rd Street NE; Mayville, ND 58257		
Site:	Marjorie Fugleberg	marjorie_fugleberg@mail.masu.nodak.edu	786-4817	786-4846
Tech:	Jeanette Krogstad	jeanette_krogstad@mail.masu.nodak.edu	786-4817	786-4846

Minot--MiSU		500 University Avenue West; Minot, ND 58701		
Site:	Bob Larson	larsonb@warp6.cs.misu.nodak.edu	858-3186	858-3823
Tech:	Bob Feller	feller@warp6.cs.misu.nodak.edu	858-3210	839-6933
	Dick Debertin	rdebert@misu.nodak.edu	Cell: 720-0217	858-3984 858-3582
New Town--FBCC		PO Box 490; New Town, ND 58763		
Site:	Roberta Holds-The-Enemy	roberta@fbcc.bia.edu	627-4738	627-4677
			ext. 228	
Tech:	Mariam Packineau	mpack@fbcc.bia.edu	627-4738	627-3609
			ext. 225	
Valley City--VCSU		101 College Street; Valley City, ND 58072		
Site:	Bill Buck	bill_buck@mail.vcsu.nodak.edu	845-7417	845-7418
Tech:	Kathy Schlotman	kathy_schlotman@mail.vcsu.nodak.edu	845-4362	845-7245
Wahpeton--NDSCS		800 North 6th Street; Wahpeton, ND 58067		
Site:	Steve Krohn	krohn@plains.nodak.edu	671-2626	671-2613
Tech:	Tom Hickman	thickman@badlands.nodak.edu	671-2354	671-2613
Williston--WSC		1410 University Avenue; Williston, ND 58801		
Site:	Ken Quamme	kquamme@mail.wsc.nodak.edu	774-4207	774-4287
Tech:	Linda Clemes	lclemes@mail.wsc.nodak.edu	774-4276	774-4287

Network Trouble Line 701-328-2004. Leave a message after the tone including your name, phone number and a short description of the problem. Stay off the phone until the network technician returns your call.

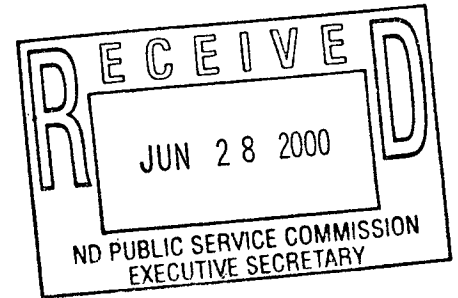


Northern States Power Company

2302 Great Northern Drive
Fargo, ND 58102
701-241-8632

June 23, 2000

Jon Mielke
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard Ave. Dept. 408
Bismarck, ND 58505-0480



Re: Northern States Power Company, Case No. PU-400-00-195
Otter Tail Power Company, Case No. PU-401-00-36

Dear Mr. Mielke:

At the Monday, June 19 informal hearing regarding Performance-Based Regulation (PBR) proposals filed by both NSP and OTP, the utilities were asked to provide comments on what issues should be included in a Notice of Opportunity for Hearing. These comments were to be submitted by Friday, June 23.

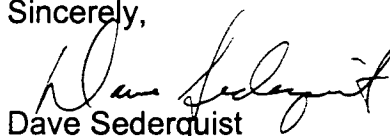
It is NSP's position that the following issues should be outlined in the notice:

- ☐ Are the performance-based regulation plans consistent with the 1995 Commission guidelines adopted for such plans?
- ☐ Will the PBR plans result in just and reasonable rates and maintain service quality for electric customers in North Dakota?
- ☐ Will the PBR plans support reliable and safe electric utility infrastructure and the financial health of utilities?

In our view, the lengthy list of potential topics presented by Staff at the informal hearing represent detailed questions which relate directly to the broader issues outlined above. They are topics which could be addressed in Staff litigation testimony, but need not be listed in the notice.

If you have any questions about the issues recommended in this submittal, please call me at 701-241-8632. Thank you.

Sincerely,


Dave Sederquist
Regulatory/Financial Consultant
NSP-North Dakota

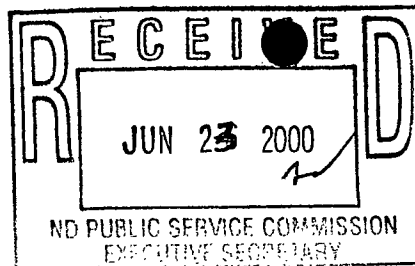
5 PU-401-00-36 Pages: 1
06/28/2000
Northern States Power Company
Comments

CC: Comm Legal Illona, Pat, Jerry Mike .

4 PU-400-00-195 Pages: 1
06/28/2000
Northern States Power Company
Comments

CC: Comm Legal Illona, Pat, Jerry Mike .

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)



June 23, 2000

E-MAIL & POSTAL MAIL

Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol - 600 East Boulevard
Bismarck, ND 58505-0480

RE: Otter Tail Power Company, Case No. PU-401-00-36
Northern States Power Company, Case No. PU-400-00-195

Dear Mr. Mielke:

On June 19 at the Informal Hearing on the above-captioned cases, the Commission asked both companies to provide comments, by June 23, on the issues that should be included in the Notice of Opportunity for Hearing.

Otter Tail Power suggests the following issues would be appropriate:

1. Is performance-based regulation (PBR) in the public interest?
2. Will the proposed PBR plans result in just and reasonable rates and maintain service quality?
3. Are the proposed PBR plans consistent with the guidelines adopted by the Commission?
4. Will the proposed PBR plans continue to support a safe and reliable electric infrastructure and the financial viability of the utilities?

The list of issues developed by staff will be extremely helpful in preparing testimony. However, I think the four items above encompass the items on that longer list.

If you have questions, don't hesitate to call me at (218) 739-8289 or e-mail me at bbrutlag@otpc.com.

Your very truly,

Bernadeen Brutlag, Manager
Regulatory Services

Cc: Illona Jeffcoat-Sacco
Dave Sederquist - NSP

4 **PU-401-00-36**
06/23/2000
Otter Tail Power Company
Comments

Pages: 1

CC: Comm Legal Illona, Pat, Jerry Mike

3 **PU-400-00-195**
06/23/2000
Otter Tail Power Company
Comments

Pages: 1

CC: Comm Legal Illona, Pat, Jerry Mike

MOTION

April 26, 2000

APPROVED:
DATE: 4-26-00
KME

**Otter Tail Power Company
Performance Based Regulation
Application**

Case No. PU-401-00-36

I move the Commission reassign Patrick Fahn as staff advisor, and Jerry Lein as Commission advisor in Case No. PU-401-00-36, Otter Tail Power Company's Performance Based Regulation application.

sdh

000036-2 doc

MOTION
February 9, 2000

APPROVED:
DATE: 2-9-00
KMF

**Otter Tail Power company
Performance Based Regulation
Application**

Case No. PU-401-00-36

I move the Commission appoint Mike Diller, Jerry Lein and Bill Binek as staff advisors, and Illona Jeffcoat-Sacco and Patrick Fahn as Commission advisors in Case No. PU-401-00-36, Otter Tail Power Company's Performance Based Regulation application.

sdh

000036-1 doc

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)



December 31, 2002



Jon Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol
Bismarck, ND 58505

Case No. PU-401-88-374, Annual Depreciation Rates

Dear Mr. Mielke:

Pursuant to the North Dakota Commission's June 23, 1992, Amended Order, I enclose Minnesota Public Utilities Commission Order Certifying Depreciation Rates and Methods dated December 20, 2002. The rates certified by this order are effective January 1, 2003.

Also included is a worksheet showing that the estimated impact on North Dakota of any changes in depreciation rates to be an increase in annual expense of \$36,653.

These items are filed for your information. If you have any questions, please contact me at 218-739-8289 or bbrutlag@otpc.com.

Very truly yours,

Bernadeen Brutlag
Manager, Regulatory Services

Encs.

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott
Ellen Gavin
Marshall Johnson
LeRoy Koppendrayner
Phyllis Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Otter Tail Power
Company's Request for Certification
of Depreciation Rates for 2002

ISSUE DATE: DEC 20 2002
DOCKET NO. E017/D-02-1442
ORDER CERTIFYING DEPRECIATION
RATES AND METHODS

PROCEDURAL HISTORY

On August 30, 2002, Otter Tail Power Company (Otter Tail or the Company) filed its 2002 Depreciation Study based on its annual review of depreciation rates under Minnesota Rules, part 7825.0700. The Energy Division of the Department of Commerce examined the study, including the Company's remaining lives and net salvage value estimate estimates, and recommended approval.

No party opposed approval.

FINDINGS AND CONCLUSIONS

The depreciation study submitted by the Company used the remaining-life technique and vintage-group procedure of straight-line depreciation to calculate depreciation accruals. Minnesota Rules, part 7825.0800 requires the straight-line depreciation method. The study also used accepted methods to determine the remaining lives and net salvage factors of the Company's property accounts. The Minnesota Public Utilities Commission (Commission) finds the resulting depreciation rates reasonable and proper under Minnesota Statutes, section 216B.11 and Minnesota Rules, part 7825.0600.

The Company requests to adjust its lives and net salvage percentages based upon its analysis. The Company proposes that the study be certified effective as of January 1, 2003. The net effect of the proposed adjustments is to increase the Company's annual accruals by \$55,302. The Company's records support the proposed adjustments.

The Company's proposed service lives, net salvage values, and resulting depreciation rates are certified as recommended by the Department, effective January 1, 2003. The Commission makes no finding modifying its historical practice of allowing the recovery of reasonable asset retirement costs through the use of straightline depreciation over the useful lives of the assets. The Commission does not address, in this preceding, the granting of regulatory assurance

supporting the recording of the differences, as regulatory assets or liabilities, between the amounts recorded under the certified depreciation rates and those recorded according to FAS 143. Such issues are more appropriately addressed in a rate proceeding, or at some time when the effects of the change in accounting have been quantified.

The depreciation rates and methods certified in this Order are binding on all future rate proceedings and remain in effect until the next depreciation certification or until otherwise changed by the Commission, Minnesota Rules, part 7825.0900. Specific dollar amounts of gross plant, depreciation reserve, annual accrual and dollars to be allowed as additional depreciation are subject to audit, however, and the inclusion of items in this Order for depreciation purposes does not guarantee their inclusion in rate base for ratemaking purposes.

Companies are required by law to review their depreciation rates annually to ensure that they are still generally appropriate, Minnesota Rules, pt. 7825.0600, subparts 2 and 3. The Commission will require the Company to file an annual depreciation petition based on its next review.

ORDER

1. The Commission certifies the following depreciation rates on the basis of the depreciation petition submitted by Otter Tail:

<u>Acct. No.</u>	<u>Account Description</u>	<u>Depreciation Life</u>	<u>Salvage Value</u>
Steam Production			
Big Stone			
311.00	Structures and Improvements	13.26	-6.1%
312.00	Boiler Plant Equipment	13.26	-6.1%
314.00	Turbo generator Units	13.26	-6.1%
315.00	Accessory Electric Equipment	13.26	-6.1%
316.00	Misc. Power Plant Equipment	13.26	-6.1%
Hoot Lake			
311.00	Structures and Improvements	8.40	-7.8%
312.00	Boiler Plant Equipment	8.41	-7.8%
314.00	Turbo generator Units	8.40	-7.8%
315.00	Accessory Electric Equipment	8.40	-7.8%
316.00	Misc. Power Plant Equipment	8.41	-7.8%
Coyote			
311.00	Structures and Improvements	18.05	-3.4%
312.00	Boiler Plant Equipment	18.05	-3.4%
314.00	Turbo generator Units	18.05	-3.4%
315.00	Accessory Electric Equipment	18.05	-3.4%
316.00	Misc. Power Plant Equipment	18.06	-3.4%

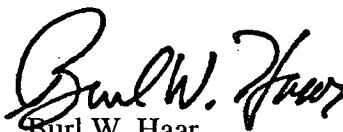
Hydraulic Production			
331.00	Structures and Improvements	18.99	0.0%
332.00	Reservoirs, Dams & Waterways	18.98	0.0%
333.00	Water Wheels, Turbines & Gen.	19.01	0.0%
334.00	Accessory Electric Equipment	19.01	0.0%
335.00	Misc. Power Plant Equipment	19.01	0.0%
Other Production			
Jamestown Unit 1			
341.00	Structures and Improvements	12.30	0.0%
342.00	Fuel Holders and Accessories	12.29	0.0%
343.00	Prime Movers	12.30	0.0%
345.00	Accessory Electric Equipment	12.29	0.0%
346.00	Misc. Power Plant Equipment	12.30	0.0%
Jamestown Unit 2			
341.00	Structures and Improvements	12.30	0.0%
342.00	Fuel Holders and Accessories	12.29	0.0%
343.00	Prime Movers	12.29	0.0%
345.00	Accessory Electric Equipment	12.30	0.0%
346.00	Misc. Power Plant Equipment	12.30	0.0%
Lake Preston			
341.00	Structures and Improvements	12.29	0.0%
342.00	Fuel Holders and Accessories	12.29	0.0%
343.00	Prime Movers	12.30	0.0%
345.00	Accessory Electric Equipment	12.29	0.0%
346.00	Misc. Power Plant Equipment	12.30	0.0%
Fergus Falls Control Center			
343.00	Prime Movers	27.47	0.0%
Solway Combustion Turbine (In anticipation of mid-2003 installation)			
341.00	Structures and Improvements	35.00	0.0%
342.00	Fuel Holders and Accessories	35.00	0.0%
343.00	Prime Movers	35.00	0.0%
345.00	Accessory Electric Equipment	35.00	0.0%
346.00	Misc. Power Plant Equipment	35.00	0.0%
Transmission			
353.00	Station Equipment	26.61	5.0%
354.00	Towers and Fixtures	26.90	0.0%
355.00	Poles and Fixtures	38.46	-10.0%
356.00	Overhead Conductors & Devices	38.98	-10.0%
358.00	Underground Conductors & Dvc	15.62	-5.0%
Distribution			
362.00	Station Equipment	21.17	5.0%
364.00	Poles and Fixtures	38.91	-50.0%
365.00	Overhead Conductors & Devices	38.71	-30.0%
366.00	Underground Conduit	29.73	0.0%

Acct. No.	Account Description	Depreciation Life	Salvage Value
367.00	Underground Conductors & Dvc	21.27	-5.0%
368.00	Transformers	24.26	0.0%
369.00	Overhead Services	27.89	-50.0%
369.10	Underground Services	21.23	-20.0%
370.00	Meters	20.59	0.0%
370.10	Load Management Switches	7.45	0.0%
371.00	Install. on Customers' Premises	4.26	0.0%
371.20	Other Private Lighting	12.49	5.0%
373.00	Street Lighting & Signal System	9.21	-5.0%
General Plant			
390.00	Structures and Improvements	34.78	10.0%
390.10	General Office Buildings	18.06	-5.0%
390.20	Fleet Service Center buildings	8.41	-5.0%
390.30	Central Stores Building	27.43	-5.0%
391.00	Office Furniture	15 Year Amortization	
391.10	Office Equipment	10 Year Amortization	
391.20	Duplicating Equipment	10 Year Amortization	
391.50	Computer Systems	5 Year Amortization	
391.60	Computer Related Equipment	5 Year Amortization	
393.00	Stores Equipment	15 Year Amortization	
394.00	Tools, Shop & Garage Equipment	15 Year Amortization	
394.10	Central Stores Tools	15 Year Amortization	
394.20	Automated Meter Reading Equip	15 Year Amortization	
395.00	Laboratory Equipment	15 Year Amortization	
396.00	Power Operated Equipment	8.04	20.0%
397.00	Communication Equipment	7.89	0.0%
397.10	Radio Telecommunication Equip	7.93	5.0%
397.20	Microwave Equipment	15.10	5.0%
397.30	Radio Load Control Equipment	4.79	5.0%
397.40	Communication Towers	9.06	5.0%

2. Accruals to the depreciation reserve for each account shall be determined by calculating an annual depreciation rate, using average service life and net salvage estimates, and multiplying that rate by the original cost of depreciable plant in the account.
3. In the event any class of plant shall become fully depreciated by the use of these rates, then no further depreciation accrual for such class of plant shall be made.
4. By September 1, 2003, the Company shall file its next five-year review.
5. The rates certified by this order are effective January 1, 2003.

6. delegation of authority granted under Minn. Statute 216A.03, subd. 8(a). Unless a party, a participant, or a Commissioner files an objection to this decision within ten days of receiving it, it will become the Order of the full Commission under Minn. Statute 216A.03, subd. 8(b).
7. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling 651-297-4596 (voice), 651-297-1200 (TTY), or 1-800-627-3529 (TTY relay service).

OTTER TAIL POWER COMPANY

Statement B

Comparison of Present and Proposed Accruals

Present: VG Procedure / RL Technique

Proposed: VG Procedure / RL Technique

Account Description	12-31-01 Plant Investment	North Dakota Allocation Factor	Present Annual Accrual		Proposed Annual Accrual		Difference	
			Total	North Dakota	Total	North Dakota	Total	North Dakota
A	B	C	D	E=C*D	F	G=C*F	H=F-D	I=G-E
STEAM PRODUCTION								
311.00 Structures and Improvements	\$58,660,082	0.39563772	\$1,619,745	\$640,832	\$1,625,651	\$643,169	\$5,906	\$2,337
312.00 Boiler Plant Equipment	168,675,262	0.39563772	5,236,242	2,071,655	5,333,471	2,110,122	97,229	38,467
314.00 Turbogenerator Units	46,427,786	0.39563772	1,370,020	542,032	1,398,023	553,111	28,003	11,079
315.00 Accessory Electric Equipment	17,754,909	0.39563772	443,770	175,572	456,349	180,549	12,579	4,977
316.00 Misc. Power Plant Equipment	4,674,029	0.39563772	174,123	68,890	180,360	71,357	6,237	2,467
Total Steam Production	\$296,192,068		\$8,843,900	\$3,498,981	\$8,993,854	\$3,558,308	\$149,954	\$59,327
HYDRAULIC PRODUCTION								
331.00 Structures and Improvements	\$168,157	0.39563772	\$2,220	\$878	\$2,220	\$878		
332.00 Reservoirs, Dams and Waterways	1,343,926	0.39563772	11,961	4,732	12,095	4,785	134	53
333.00 Water Wheels, Turbines & Generators	440,903	0.39563772	11,067	4,379	10,978	4,343	(89)	(36)
334.00 Accessory Electric Equipment	204,906	0.39563772	6,864	2,716	6,762	2,675	(102)	(41)
335.00 Misc. Power Plant Equipment	144,030	0.39563772	4,004	1,584	3,961	1,567	(43)	(17)
Total Hydraulic Production	\$2,301,922		\$36,116	\$14,289	\$36,016	\$14,248	(\$100)	(\$41)
OTHER PRODUCTION								
341.00 Structures and Improvements	\$427,329	0.40479310	\$13,535	\$5,479	\$13,637	\$5,520	\$102	\$41
342.00 Fuel Holders and Accessories	523,760	0.40479310	14,442	5,846	14,711	5,955	269	109
343.00 Prime Movers	9,960,490	0.40479310	294,407	119,174	320,722	129,826	26,315	10,652
345.00 Accessory Electric Equipment	343,085	0.40479310	10,467	4,237	10,605	4,293	138	56
346.00 Misc. Power Plant Equipment	87,674	0.40479310	2,929	1,186	2,962	1,199	33	13
Total Other Production	\$11,342,338		\$335,780	\$135,922	\$362,637	\$146,793	\$26,857	\$10,871
TRANSMISSION								
353.00 Station Equipment	\$46,713,308	0.40126957	\$1,055,721	\$423,629	\$1,041,707	\$418,005	(\$14,014)	(\$5,624)
354.00 Towers and Fixtures	4,692,263	0.40126957	97,599	39,164	97,130	38,975	(469)	(189)
355.00 Poles and Fixtures	57,107,637	0.40126957	1,102,177	442,270	1,096,467	439,979	(5,710)	(2,291)
356.00 Overhead Conductors & Devices	49,643,112	0.40126957	938,255	376,493	938,255	376,493		
358.00 Underground Conductors & Devices	69,529	0.40126957	1,863	748	1,856	745	(7)	(3)
Total Transmission	\$158,225,849		\$3,195,615	\$1,282,304	\$3,175,415	\$1,274,197	(\$20,200)	(\$8,107)

OTTER TAIL POWER COMPANY

Comparison of Present and Proposed Accruals

Present: VG Procedure / RL Technique

Proposed: VG Procedure / RL Technique

Statement B

Account Description	12-31-01 Plant Investment	North Dakota Allocation Factor	Present Annual Accrual		Proposed Annual Accrual		Difference	
			Total	North Dakota	Total	North Dakota	Total	North Dakota
A	B	C	D	E=C*D	F	G=C*F	H=F-D	I=G-E
DISTRIBUTION								
362.00 Station Equipment	\$39,733,981	0.45125324	\$1,195,993	\$539,696	\$1,188,046	\$536,110	(\$7,947)	(\$3,586)
364.00 Poles, Towers and Fixtures	43,004,043	0.45125324	1,169,710	527,835	1,165,410	525,895	(4,300)	(1,940)
365.00 Overhead Conductors and Devices	37,282,970	0.45125324	876,150	395,366	876,150	395,366		
366.00 Underground Conduit	22,203	0.45125324	431	194	429	194	(2)	
367.00 Underground Conductors & Devices	38,711,182	0.45125324	1,200,047	541,525	1,196,176	539,778	(3,871)	(1,747)
368.00 Line Transformers	42,605,021	0.45125324	1,086,428	490,254	1,082,168	488,332	(4,260)	(1,922)
369.00 Overhead Services	8,619,967	0.45125324	288,769	130,308	290,493	131,086	1,724	778
369.10 Underground Services	18,762,504	0.45125324	667,945	301,412	666,069	300,566	(1,876)	(846)
370.00 Meters	17,756,952	0.45125324	575,325	259,617	575,325	259,617		
370.10 Load Management Switches	4,856,329	0.45125324	228,247	102,997	222,906	100,587	(5,341)	(2,410)
371.00 Installations on Customers' Premises	2,382	0.45125324	65	29	59	27	(6)	(2)
371.20 Other Private Lighting	2,964,786	0.45125324	140,531	63,415	139,641	63,013	(890)	(402)
373.00 Street Lighting and Signal Systems	3,501,013	0.45125324	224,415	101,268	221,964	100,162	(2,451)	(1,106)
Total Distribution	\$257,823,333		\$7,654,056	\$3,453,916	\$7,624,836	\$3,440,733	(\$29,220)	(\$13,183)
GENERAL PLANT								
Depreciable								
390.00 Structures and Improvements	\$16,500,166	0.42409014	\$338,253	\$143,450	\$336,603	\$142,750	(\$1,650)	(\$700)
390.10 General Office Buildings	5,502,125	0.42409014	215,683	91,469	215,133	91,236	(550)	(233)
390.20 Fleet Service Center Buildings	781,047	0.42409014	47,878	20,305	48,112	20,404	234	99
390.30 Central Stores Building	3,873,258	0.42409014	99,155	42,051	97,606	41,394	(1,549)	(657)
396.00 Power Operated Equipment	593,352	0.42409014	35,542	15,073	35,364	14,998	(178)	(75)
397.00 Communication Equipment	1,148,943	0.42409014	100,533	42,635	97,545	41,368	(2,988)	(1,267)
397.10 Radio Telecommunication Equipment	3,967,782	0.42409014	309,884	131,419	296,393	125,697	(13,491)	(5,722)
397.20 Microwave Equipment	2,721,282	0.42409014	119,464	50,664	114,294	48,471	(5,170)	(2,193)
397.30 Radio Load Control Equipment	835,925	0.42409014	74,314	31,516	72,308	30,665	(2,006)	(851)
397.40 Communication Towers	1,036,465	0.42409014	57,835	24,527	56,384	23,912	(1,451)	(615)
Total Depreciable	\$36,960,345		\$1,398,541	\$593,109	\$1,369,742	\$580,895	(\$28,799)	(\$12,214)

OTTER TAIL POWER COMPANY

Comparison of Present and Proposed Accruals

Present: VG Procedure / RL Technique

Proposed: VG Procedure / RL Technique

Statement B

Account Description	12-31-01 Plant Investment	North Dakota Allocation Factor	Present Annual Accrual		Proposed Annual Accrual		Difference	
			Total	North Dakota	Total	North Dakota	Total	North Dakota
A	B	C	D	E=C*D	F	G=C*F	H=F-D	I=G-E
Amortizable								
391.00 Office Furniture	\$3,387,806	0.42409014	\$232,742	\$98,704	\$232,742	\$98,704		
391.10 Office Equipment	783,444	0.42409014	79,206	33,590	79,206	33,590		
391.20 Duplicating Equipment	1,048,342	0.42409014	106,512	45,171	106,512	45,171		
391.50 Computer Systems	1,608,137	0.42409014	345,749	146,629	345,749	146,629		
391.60 Computer Related Equipment	1,947,274	0.42409014	383,808	162,769	383,808	162,769		
393.00 Stores Equipment	129,492	0.42409014	8,236	3,493	8,236	3,493		
394.00 Tools, Shop & Garage Equipment	2,530,489	0.42409014	170,049	72,116	170,049	72,116		
394.10 Central Stores Tools	324	0.42409014	18	8	18	8		
394.20 Automated Meter Reading Equipment	504,053	0.42409014	34,124	14,472	34,124	14,472		
395.00 Laboratory Equipment	1,039,575	0.42409014	70,171	29,759	70,171	29,759		
Total Amortizable	\$12,978,936		\$1,430,615	\$606,711	\$1,430,615	\$606,711		
Total General Plant	\$49,939,281	0.424091142	\$2,829,156	\$1,199,820	\$2,800,357	\$1,187,606	(\$28,799)	(\$12,214)
TOTAL UTILITY	\$775,824,791	0.418667388	\$22,894,623	\$9,585,232	\$22,993,115	\$9,621,885	\$98,492	\$36,653
STEAM PRODUCTION								
Big Stone								
311.00 Structures and Improvements	\$21,668,451	0.39563772	\$634,886	\$251,185	\$634,886	\$251,185		
312.00 Boiler Plant Equipment	61,009,695	0.39563772	1,940,108	767,580	1,982,815	784,476	42,707	16,896
314.00 Turbogenerator Units	18,542,352	0.39563772	645,274	255,295	645,274	255,295		
315.00 Accessory Electric Equipment	7,236,178	0.39563772	184,523	73,004	187,417	74,149	2,894	1,145
316.00 Misc. Power Plant Equipment	2,418,696	0.39563772	91,910	36,363	93,604	37,033	1,694	670
Total Big Stone	\$110,875,372		\$3,496,701	\$1,383,427	\$3,543,996	\$1,402,138	\$47,295	\$18,711
Hoot Lake								
311.00 Structures and Improvements	\$5,515,678	0.39563772	\$100,385	\$39,716	\$103,143	\$40,807	\$2,758	\$1,091
312.00 Boiler Plant Equipment	22,222,306	0.39563772	775,558	306,840	804,447	318,270	28,889	11,430
314.00 Turbogenerator Units	9,338,823	0.39563772	203,586	80,546	229,735	90,892	26,149	10,346
315.00 Accessory Electric Equipment	1,961,925	0.39563772	23,935	9,470	32,764	12,963	8,829	3,493
316.00 Misc. Power Plant Equipment	430,637	0.39563772	22,910	9,064	23,986	9,490	1,076	426
Total Hoot Lake	\$39,469,369		\$1,126,374	\$445,636	\$1,194,075	\$472,422	\$67,701	\$26,786

OTTER TAIL POWER COMPANY

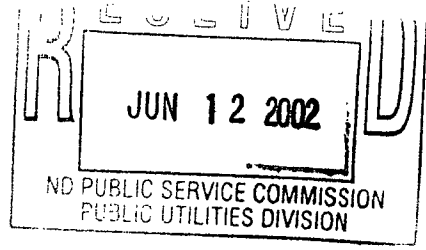
Comparison of Present and Proposed Accruals

Present: VG Procedure / RL Technique

Proposed: VG Procedure / RL Technique

Statement B

Account Description	12-31-01 Plant Investment	North Dakota Allocation Factor	Present Annual Accrual		Proposed Annual Accrual		Difference	
			Total	North Dakota	Total	North Dakota	Total	North Dakota
A	B	C	D	E=C*D	F	G=C*F	H=F-D	I=G-E
Coyote								
311.00 Structures and Improvements	\$31,475,953	0.39563772	\$884,474	\$349,931	\$887,622	\$351,177	\$3,148	\$1,246
312.00 Boiler Plant Equipment	85,443,261	0.39563772	2,520,576	997,235	2,546,209	1,007,376	25,633	10,141
314.00 Turbogenerator Units	18,546,611	0.39563772	521,160	206,191	523,014	206,924	1,854	733
315.00 Accessory Electric Equipment	8,556,806	0.39563772	235,312	93,098	236,168	93,437	856	339
316.00 Misc. Power Plant Equipment	1,824,696	0.39563772	59,303	23,463	62,770	24,834	3,467	1,371
Total Coyote	\$145,847,327		\$4,220,825	\$1,669,918	\$4,255,783	\$1,683,748	\$34,958	\$13,830
OTHER PRODUCTION								
Jamestown Unit 1								
341.00 Structures and Improvements	\$224,321	0.40479310	\$7,492	\$3,033	\$7,649	\$3,096	\$157	\$63
342.00 Fuel Holders and Accessories	185,286	0.40479310	4,577	1,853	4,669	1,890	92	37
343.00 Prime Movers	2,544,198	0.40479310	69,457	28,116	78,870	31,926	9,413	3,810
345.00 Accessory Electric Equipment	22,080	0.40479310	534	216	543	220	9	4
346.00 Misc. Power Plant Equipment	35,489	0.40479310	1,136	460	1,146	464	10	4
Total Jamestown Unit 1	\$3,011,374		\$83,196	\$33,678	\$92,877	\$37,596	\$9,681	\$3,918
Jamestown Unit 2								
341.00 Structures and Improvements	\$8,854	0.40479310	\$432	\$175	\$435	\$176	\$3	\$1
342.00 Fuel Holders and Accessories	36,769	0.40479310	1,327	537	1,383	560	56	23
343.00 Prime Movers	3,663,140	0.40479310	110,993	44,929	119,418	48,340	8,425	3,411
345.00 Accessory Electric Equipment	39,358	0.40479310	1,850	749	1,866	755	16	6
346.00 Misc. Power Plant Equipment	27,042	0.40479310	971	393	984	398	13	5
Total Jamestown Unit 2	\$3,775,163		\$115,573	\$46,783	\$124,086	\$50,229	\$8,513	\$3,446
Lake Preston								
341.00 Structures and Improvements	\$194,154	0.40479310	\$5,611	\$2,271	\$5,553	\$2,248	(\$58)	(\$23)
342.00 Fuel Holders and Accessories	301,705	0.40479310	8,538	3,456	8,659	3,505	121	49
343.00 Prime Movers	3,161,514	0.40479310	95,794	38,777	104,330	42,232	8,536	3,455
345.00 Accessory Electric Equipment	281,647	0.40479310	8,083	3,272	8,196	3,318	113	46
346.00 Misc. Power Plant Equipment	25,143	0.40479310	822	333	832	337	10	4
Total Lake Preston	\$3,964,163		\$118,848	\$48,109	\$127,570	\$51,640	\$8,722	\$3,531
Fergus Falls Control Center								
343.00 Prime Movers	\$591,638	0.40479310	\$18,163	\$7,352	\$18,104	\$7,328	(\$59)	(\$24)
Total Fergus Falls Control Center	\$591,638		\$18,163	\$7,352	\$18,104	\$7,328	(\$59)	(\$24)



**Amended
2001**

**Annual Regulatory Report
Of Electric Utility Operations**

for

**Otter Tail Power Company,
a division of Otter Tail Corporation
North Dakota Jurisdiction**

Results of

Performance-Based Regulation Plan

Approved by the North Dakota Public Service Commission

in Case No. PU-401-00-36 for years 2001-2005

**May 1, 2002
Amended June 5, 2002**

②
Pu-401-02-221

Table of Contents

	<u>Page</u>
<u>Executive Summary</u>	<u>2</u>
<u>Return on Equity</u>	<u>3</u>
<u>Operating Income</u>	<u>4</u>
<u>Rate Base</u>	<u>5</u>
<u>Cost of Capital</u>	<u>6</u>
<u>Baseline Return on Equity</u>	<u>7</u>
<u>Shared Earnings</u>	<u>8</u>
<u>Price Cap Factor</u>	<u>9</u>
<u>Operating Statistics</u>	<u>10</u>
<u>Reliability Performance Results</u>	<u>Appendix A</u>
<u>Customer Satisfaction Performance Results</u>	<u>Appendix B</u>
<u>Electric Rate Performance Results</u>	<u>Appendix C</u>
<u>Workforce Safety Performance Results</u>	<u>Appendix D</u>
<u>Utility Comparison Group</u>	<u>Appendix E</u>

Executive Summary

Financial Results

2001

1	Return on Equity (ROE) (page 3, line 8):	14.29%
2	Return on Rate Base (ROR) (page 3, line 3):	10.70%
3	Rate Base (page 5, line 13):	\$149,966,042
4	Common Equity Ratio (page 6, line 5):	51.29%
5	ROE deadband (page 7, lines 6, 7):	11.00% 13.25%
6	ROE deadband midpoint (page 7, line 8):	12.13%

Utility Performance

Total Pts: 25

2001

Perf. Pts.

7	Outage Duration Time per Customer (min.) (Appendix A):	5.1	-25
8	Outage Frequency per Customer (Appendix A):	18.1	0
9	Relationship Survey Score (Appendix B):	91.0%	0
10	Transaction Survey Score (Appendix B):	68.2%	-25
11	Average Residential Rate -- ¢ per Kwh (Appendix C):	6.16	25
12	Annual Change in Res'l Rate -- ¢ per Kwh (Appendix C):	0.08	25
13	Employee Safety -- OSHA Incident Rate (Appendix D):	5.4	25

Dividend Information

14	Total Customer Dividend (or deferred charge) (page 8, line 7a):	\$662,299
15	Typical residential customer dividend (or deferred charge):	\$5.78

Proposed Rate Changes

Effective July 2002

Proposed %
Rate ChangeAvg. Mo.
Bill Impact

	Price Increase Cap: 0.00%		
16	Residential (page 9, lines 9 and 14):	0.00%	N/A
17	Small commercial & industrial (page 9, lines 10 and 15):	0.00%	N/A
18	Large commercial & industrial (page 9, lines 11 and 16):	0.00%	N/A
19	Streetlighting (page 9, lines 12 and 17):	0.00%	N/A
20	Other public authorities (page 9, lines 13 and 18):	0.00%	N/A
21	Total proposed annual revenue increase (page 9, line 19):	0.00%	\$0

Other Miscellaneous

2001

22	Electric retail sales -- Mwh (page 10, line 8):	1,445,623
23	ND retail electric customers (page 10, line 14):	56,536

Return on Equity (ROE)

Return on Equity (ROE)	2001 Amount
1 Operating Income from Electric Operations (page 4, line 24):	\$16,048,306
2 Average Regulated Rate Base (page 5, line 13):	\$149,966,042
3 Rate of Return on Rate Base (ROR) (line 1 / line 2):	10.70%
4 Less Weighted Cost of Debt (page 6, line 3):	2.85%
5 Less Weighted Cost of Preferred Stock (page 6, line 4):	0.52%
6 Weighted Return on Equity (line 3 - line 4 - line 5):	7.33%
7 % of Equity in Capital Structure (page 6, line 5):	51.29%
8 Return on Equity (ROE) before sharing (line 6 / line 7):	14.29%
9 Shared After-Tax Earnings (page 8, line 5) x 50%	\$399,992
10 Adjusted Operating Income (line 1 - line 9)	\$15,648,314
11 Adjusted Rate of Return on Rate Base (line 10 / line 2)	10.43%
12 Adjusted Weighted Return on Equity (line 11 - line 4 - line 5)	7.06%
13 Adjusted Return on Equity after sharing (line 12 / line 7)	13.77%

Electric Operating Income

Line Item	2001 Total OTP	2001 N.D. Juris.	N. D. %	2000 N.D. Juris.	Annual Change
Operating Revenues:					
1 Residential	\$70,066,728	\$31,840,241	45.4%	\$30,213,970	5.4%
2 Small Comm. & Ind.	41,941,752	18,645,697	44.5%	18,069,208	3.2%
3 Large Comm. & Ind.	82,930,643	30,042,276	36.2%	28,241,273	6.4%
4 Other Retail	4,733,643	1,901,725	40.2%	1,847,928	2.9%
5 Total Retail Revenue	\$199,672,766	\$82,429,939	41.3%	\$78,372,378	5.2%
6 Other Electric Revenue	\$105,654,617	\$40,721,563	38.5%	\$27,553,880	47.8%
7 Total Revenues:	\$305,327,383	\$123,151,502	40.3%	\$105,926,258	16.3%
Operating Expenses:					
8 Production	\$160,621,560	\$64,303,156	40.0%	\$49,299,316	30.4%
9 Transmission	3,933,123	1,578,243	40.1%	2,039,744	-22.6%
10 Distribution	10,795,123	4,860,736	45.0%	5,420,955	-10.3%
11 Customer Accounting	7,769,210	3,432,518	44.2%	3,457,283	-0.7%
12 Customer Service	4,899,607	1,231,874	25.1%	1,218,045	1.1%
13 Sales & Marketing	907,785	486,853	53.6%	769,706	-36.7%
14 Admin. & General	28,084,965	11,649,370	41.5%	9,995,548	16.5%
15 Charitable Contributions	238,383	0	0.0%	0	
16 Depreciation	22,675,806	9,590,649	42.3%	9,555,997	0.4%
17 Property Taxes	9,702,187	4,030,144	41.5%	4,169,429	-3.3%
18 Total Operating Expenses	\$249,627,748	\$101,163,542	40.5%	\$85,926,022	17.7%
19 Total Before Tax Income	\$55,699,634	\$21,987,959	39.5%	\$20,000,236	9.9%
20 Investment Tax Credit	(\$1,151,788)	(\$478,843)	41.6%	(\$481,168)	-0.5%
21 Deferred Income Taxes	(2,045,632)	(1,086,514)	53.1%	(1,571,187)	-30.8%
22 Income Taxes	18,729,912	7,505,010	40.1%	6,889,353	8.9%
23 Total Income Taxes	\$15,532,492	\$5,939,653	38.2%	\$4,836,997	22.8%
24 Regulated Operating Income	\$40,167,142	\$16,048,306	40.0%	\$15,163,239	5.8%

Note:

Regulated operating income shown above does not reflect any shared earnings adjustments.

4. Operating Income

Electric Rate Base

Line Item	2001 Total OTP	2001 N.D. Juris.	N. D. %	2000 N.D. Juris.	Annual Change
1 Plant in Service	\$802,874,202	\$333,785,670	41.6%	\$328,839,308	1.5%
2 Big Stone Capitalized Items	395,448	362,686	91.7%	423,699	-14.4%
3 Accumulated Depreciation	(367,702,791)	(153,220,368)	41.7%	(146,788,228)	4.4%
4 Net Plant in Service	\$435,566,859	\$180,927,988	41.5%	\$182,474,779	-0.8%
5 Plant Held for Future Use	\$39,354	\$16,931	43.0%	\$18,688	-9.4%
6 Construct Work in Progress	16,931,919	2,104,299	12.4%	2,822,115	-25.4%
7 Materials and Supplies	9,988,872	4,207,534	42.1%	4,139,007	1.7%
8 Fuel Inventory	3,944,385	1,540,480	39.1%	1,302,607	18.3%
9 Prepayments	(12,584,578)	(5,227,446)	41.5%	(5,713,272)	-8.5%
10 Customer Advances	(382,719)	(158,976)	41.5%	(28,562)	456.6%
11 Cash Working Capital	(31,883)	(121,387)	380.7%	(891,324)	-86.4%
12 Accum. Deferred Taxes	(83,376,527)	(33,323,381)	40.0%	(34,734,900)	-4.1%
13 Total Average Rate Base	\$370,095,682	\$149,966,042	40.5%	\$149,389,138	0.4%

Cost of Capital

2001 (Actual, excluding shared earnings adjustments)

Line	Item	Amount	% of Total	Cost	Weighted Cost
1	Long-Term Debt	\$135,528,127	39.38%	7.24%	2.85%
2	Short-Term Debt	\$0	0.00%	0.00%	0.00%
3	Total Debt	\$135,528,127	39.38%		2.85%
4	Preferred Stock	\$32,115,385	9.33%	5.58%	0.52%
5	Common Equity	\$176,547,692	51.29%	14.29%	7.33%
6	Total Equity	\$208,663,077	60.62%		
7	Total Capital	\$344,191,204	100.00%		10.70%

Baseline Return on Equity

Baseline Return on Equity

<u>Line</u>		<u>Rate</u>
1	Baseline ROE:	12.00%
2	Baseline ROE deadband upper limit (line 1 + 1.0%):	13.00%
3	Baseline ROE deadband lower limit (line 1 - 1.0%):	11.00%

Calculation of Performance-Adjusted Return on Equity, Deadband

4	Performance award points (Appendices A - D):	25
5	ROE deadband adjustment (.01% per award point in line 4):	0.25%
6	Upper limit on ROE Deadband:	13.25%
7	Lower limit on ROE Deadband	11.00%
8	Deadband midpoint (used in price cap criteria - see Section 9)	12.13%

Note: If deadband adjustment (line 5) is > 0, it is added to baseline deadband upper limit (line 2).

If the deadband adjustment is < 0, it is subtracted from the baseline deadband lower limit (line 3).

Shared EarningsLine Item

1	Unadjusted earnings from electric operations (page 4, line 24):		\$16,048,306
2	Debt expense and preferred equity dividends:		
	a. Regulated average rate base (page 5, line 13):	\$149,966,042	
	b. Weighted cost of debt (page 6, line 3):	2.85%	
	c. Weighted preferred equity cost (page 6, line 4):	<u>0.52%</u>	
	d. Debt & pref. equity costs (line 2a X (line 2b+line 2c)):		\$5,056,048
3	Actual common equity earnings (line 1 - line 2d):		\$10,992,258
4	Baseline ROE deadband common equity earnings:		
	a. Regulated average rate base (page 5, line 13):	\$149,966,042	
	b. Equity ratio (page 6, line 5):	51.29%	
	c. Equity portion of average rate base (line 4a X line 4b):	\$76,922,822	
	d. Upper limit ROE and earnings (line 4c X upper ROE limit):	13.25%	\$10,192,274
	e. Lower limit ROE and earnings (line 4c X lower ROE limit):	11.00%	\$8,461,510
5	Actual common equity earnings over (under) ROE deadband (line 3 - line 4d or 4e)		\$799,984
6	Pre-tax multiplier (1 / {1-tax rate}):	Tax rate: 39.61%	1.65578
7	Pretax amount to share (line 5 X line 6):		\$1,324,598
	a. Customer dividend [deferred charge] (50% of line 7):	\$662,299	
	b. Retained by company (line 7 - line 7a):	\$662,299	
8	Total PBR Plan Customer Dividends issued (cumulative):		\$0
9	Current balance of deferred Service Cost Recovery up account ¹ :		\$0

⁽¹⁾ Indicates potential future surcharge

Price Cap Factor

Line Item

1 Utility comparison group change in res'l c/kwh (Appx E): 3.71%

	Inflation (CPI)	2000	2001	Change
2	March	171.2	176.2	2.92%
3	June	172.4	178.0	3.25%
4	September	173.7	178.3	2.65%
5	December	174.0	176.7	1.55%
6	Average:			2.59%

7 Inflation reduced by "efficiency commitment" adj. (60% X CPI): 1.56%

8 Maximum rate increase allowed 0.00%

Lower of line 1 and line 7, or 0.0% if:

a. line 1,7 >0, and {OTP ROE > midpt ROE-1% or OTP rates > group avg.}

b. line 1,7 <0, and {OTP ROE < midpt ROE+1% or OTP rates < group avg.}

Proposed Rate Changes-Effective July 1, 2002

	<u>Customer Class</u>	<u>Rate Change</u>
9	Residential	0.00%
10	Small commercial & industrial	0.00%
11	Large commercial & industrial	0.00%
12	Streetlighting	0.00%
13	Other public authorities	0.00%

	<u>Average Monthly Bill Impact</u>	<u>2002 Budgeted Ave. mo. bill</u>	<u>Proposed Change to Monthly Bill</u>
14	Residential	N/A	N/A
15	Small commercial & industrial	N/A	N/A
16	Large commercial & industrial	N/A	N/A
17	Streetlighting	N/A	N/A
18	Other public authorities	N/A	N/A

19 Estimated total annual revenue increase: \$0

Selected Operating and Financial Statistics

Line	ND Electric Sales (MWH's)	2001	2000	Annual Change	% Change
1	Residential	518,180	493,252	24,928	5.05%
2	Small commercial & industrial	277,044	269,093	7,951	2.95%
3	Large commercial & industrial	626,724	604,004	22,720	3.76%
4	Streetlighting	13,401	13,519	-118	-0.87%
5	Other Sales to Public Authorities	16,481	15,744	737	4.68%
6	Total Billed Retail Sales	1,451,830	1,395,612	56,218	4.03%
7	Unbilled sales	(6,207)	9,679	-15,886	
8	Total Delivered Retail Sales	1,445,623	1,405,291	40,332	2.87%
ND Retail Electric Customers					
9	Residential	44,240	44,562	-322	-0.72%
10	Small commercial & industrial	11,018	11,149	-131	-1.17%
11	Large commercial & industrial	754	738	16	2.17%
12	Streetlighting	224	223	1	0.45%
13	Other Sales to Public Authorities	300	302	-2	-0.66%
14	Total	56,536	56,974	-438	-0.77%
ND Customer Statistics					
15	Average ¢/Kwh charge-all retail	5.70	5.58	0.13	2.24%
16	Avg. residential mo. usage -Kwh	976	922	54	5.82%
17	Avg. residential mo. bill	\$59.98	\$56.50	\$3.47	6.15%

Performance Results

Reliability

Outage Duration (CAIDI)

Measure: For a typical customer experiencing an outage during the year, this is the average amount of time the customer was without power during the outage.

Measure Standard
(Minutes) 4.0

Result:

2001
5.1

	Standard	Award
15% better than target:	3.4	25 points
Acceptable range:		0 points
15% worse than target:	4.6	25 points

Points
-25

Outage Frequency (SAIFI)

Measure: The average number of outages that a typical customer experienced during the year.

Measure Standard
(outages) 20.8

Result:

2001
18.1

	Standard	Award
15% better than target:	17.7	25 points
Acceptable range:		0 points
15% worse than target:	23.9	25 points

Points
0

Total Reliability Award Points:	-25

Note: Results reflect storm-normalized data (excludes any outage longer than 24 continuous hours)

Performance Results

Customer Satisfaction

Relationship Surveys

Measure: Percent of survey respondents who rank Otter Tail's products and services either "excellent" or "very good" (top 2 responses on a 5 point scale).

Measure Standard
% giving top two 90.0%

Result: 2001
 91.0%

	Standard	Award
3 % better than target:	93.0%	25 points
Acceptable range:		0 points
3 % worse than target:	87.0%	25 points

Points
0

Res: 92.8%

SCI: 90.3%

LCI: 90.0%

Transaction Surveys

Measure: Percent of survey respondents who rank Otter Tail's products and services either "excellent" or "very good" (top 2 responses on a 5 point scale).
(weighted average)

Measure Standard
% giving top two 74.0%

Result: 2001
 68.2%

	Standard	Award
3 % better than target:	77.0%	25 points
Acceptable range:		0 points
3 % worse than target:	71.0%	25 points

Points
-25

Res: 66.9%

SCI: 84.2%

LCI: 63.2%

Percent of Total:

89.3%

8.0%

2.7%

Total Cust. Satisfaction Award Points: -25

Note: Relationship survey score reflects average of three random surveys of residential, commercial, and large commercial customers in North Dakota. Transaction surveys are conducted with customers who contact the company's customer service centers. Score is weighted average of surveys conducted twice a year.

Performance Results

Electric Rates

Competitive Position

Measure: Residential revenues divided by kwh sales to arrive at an average unit price.

Target is based on the annual comparison group res'l average (see Appendix C).

Measure
(¢/Kwh)

Standard
7.68

Result:

2001
6.16

	Standard	Award
15% better than target:	6.53	25 points
Acceptable range:		0 points
15% worse than target:	8.83	25 points

Points
25

Rate Stability

Measure: Change in average revenue per kwh's from the prior year. Target based on change of lowest priced utility* in the comparison group from previous year.

Measure
(¢/Kwh)

Standard
0.21 (PacifiCorp [Wyom])

Result:

2001
0.08

	Standard	Award
15% better than target:	0.16	25 points
Acceptable range:		0 points
15% worse than target:	0.26	25 points

Points
25

* Otter Tail is the lowest-priced utility; comparison is with next lowest-priced utility.

Total Rates Award Points: 50

Performance Results

Employee Safety

OSHA Incident Rate

Measure: Number of safety related incidents per 100 employees.

Measure Standard
OSHA rate 6.9

Result:

2001
5.4

	Standard	Award
15% better than target:	5.9	25 points
Acceptable range:		0 points
15% worse than target:	7.9	25 points

Points
25

Total Safety Award Points:	25

Grand Total Performance Award Points:	25

Utility Comparison Group

Average Residential Revenue/Kwh

IOU's in North Dakota, South Dakota, Montana, Wyoming, Minnesota, Iowa, Wisconsin

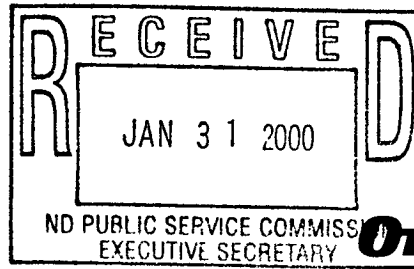
2001 Rank	Utility	Jurisdiction	2001 ¢/kwh	2000 ¢/kwh	% Change
1	Otter Tail Power Company	North Dakota	6.16	6.08	1.3%
2	PacifiCorp - Wyoming East	Wyoming	6.21	6.00	3.5%
3	Otter Tail Power Company	South Dakota	6.38	6.29	1.4%
4	Otter Tail Power Company	Minnesota	6.52	6.44	1.2%
5	Northern States Power Company	North Dakota	6.53	6.24	4.6%
6	Superior Water, Light & Power Company	Wisconsin	6.64	6.60	0.6%
7	Montana Power Company	Montana	6.75	6.46	4.5%
8	Montana-Dakota Utilities Company	North Dakota	6.86	6.75	1.6%
9	Minnesota Power Company	Minnesota	7.00	6.84	2.3%
10	Montana-Dakota Utilities Company	Montana	7.35	7.44	-1.2%
11	Wisconsin Public Service Corporation	Wisconsin	7.49	7.00	7.0%
12	Wisconsin Power & Light (Alliant)	Wisconsin	7.49	7.18	4.3%
13	Mid-American Energy	South Dakota	7.49	7.25	3.3%
14	Black Hills Power	Montana	7.51	7.24	3.7%
15	Northern States Power Company	Wisconsin	7.54	7.40	1.9%
16	Montana-Dakota Utilities Company	Wyoming	7.55	7.49	0.8%
17	Northwestern Public Service Company	South Dakota	7.74	7.53	2.8%
18	Black Hills Power & Light Company	Wyoming	7.80	7.79	0.1%
19	PacifiCorp - Wyoming West	Wyoming	7.94	7.91	0.4%
20	Cheyenne Light, Fuel & Power Company	Wyoming	7.99	6.82	17.2%
21	Northwestern Wisconsin Electric Company	Wisconsin	8.00	7.56	5.8%
22	Northern States Power Company	Minnesota	8.06	7.95	1.4%
23	Northern States Power Company	South Dakota	8.09	7.83	3.3%
24	Black Hills Power & Light Company	South Dakota	8.19	8.21	-0.2%
25	Alliant Energy - Interstate Power Company	Iowa	8.21	7.95	3.3%
26	Wisconsin Electric Power Company	Wisconsin	8.46	7.97	6.1%
27	IES Utilities (Alliant)	Iowa	8.85	8.60	2.9%
28	Montana-Dakota Utilities Company	South Dakota	8.86	8.78	0.9%
29	Alliant Energy - Interstate Power Company	Minnesota	8.94	8.54	4.7%
30	Madison Gas & Electric Company	Wisconsin	9.26	8.84	4.8%
31	Mid-American Energy	Iowa	10.12	8.49	19.2%

Average residential rate (¢/kwh):	7.68	7.40	3.7%

Source: Typical Residential, Commercial, and Industrial Bills, Edison Electric Institute.

Winter, 2001

215 South Cascade Street
PO Box 496
Fergus Falls, Minnesota 56538-0496
218 739-8200
www.otpc.com (web site)



VIA FAX & MAIL

January 31, 2000

Mr. Jon Mielke
Executive Secretary
North Dakota Public Service Commission
State Capitol - 600 East Boulevard
Bismarck, ND 58505-0480

Re: Application for Approval of a Performance Based Ratemaking Plan

Dear Mr. Mielke:

In compliance with the Commission's Order in Case No. PU-401-97-503, Otter Tail Power Company hereby submits an original and seven copies of its Application for Approval of a Performance Based Ratemaking Plan for North Dakota.

Also enclosed is our check for \$50.00 in payment of the filing fee.

*Returned \$50
2-1-00
[Signature]*

Sincerely,

Bernadeen Brutlag

Bernadeen Brutlag, Manager
Regulatory Services
BB:dm

Enclosures

cc: Dave Sederquist – NSP

1 **PU-401-00-36**

01/31/2000

Otter Tail Power Company

Application for Approval of a
Performance-Based Ratemaking Plan

CC: Comm Legal Ilona, Pat, Jerry Mike

Pages: 26

**STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION**

Case No. _____

**In the Matter of Otter Tail Power
Company's Proposal for Performance
Based Ratemaking**

**APPLICATION OF OTTER TAIL POWER COMPANY
FOR APPROVAL OF A PERFORMANCE-BASED RATEMAKING PLAN**

Pursuant to the Commission's Order Approving Settlement Agreement and Order granting a 30-day Extension , Case No. PU-401-97-503, Otter Tail Power Company (Otter Tail) hereby makes the following application for a Performance-Based Ratemaking (PBR) plan, as more fully described in the attached Exhibits 1 and 2.¹

I. GENERAL FILING INFORMATION.

A. Name, address, and telephone number of the utility making the filing.

Otter Tail Power Company
215 South Cascade Street
P.O. Box 496
Fergus Falls, MN 56538-0496
Phone (218) 739-8200

B. Name, address, and telephone number of the attorney for Otter Tail.

Todd J. Guerrero
Otter Tail Power Company
215 South Cascade Street
P.O. Box 496
Fergus Falls, MN 56538-0496

¹ For consistency within the state, Otter Tail 's PBR plan is modeled largely from the plan originally developed by Northern States Power Company ("NSP"), with only minor modifications. NSP's latest PBR proposal is part of its on-going settlement discussions with the Commission and therefore the details are not readily available to Otter Tail. Otter Tail requests the opportunity to amend this plan, as necessary, to keep it consistent with NSP's final PBR plan, which we understand will be filed sometime this Spring.

Phone (218) 739-8350
Fax (218) 739-8218

C. Title of Utility Employee Responsible for Filing.

Bernadeen Brutlag
Manager, Regulatory Services
Otter Tail Power Company
215 South Cascade Street
P. O. Box 496
Fergus Falls, MN 56538-0496
(218) 739-8289

D. The date of the filing and the date that Otter Tail proposes the rate or service change to go into effect.

The date of this filing is January 31, 2000. Otter Tail proposes that the PBR plan shall be effective as of January 1, 2000 and to continue for five years.

E. Other Requirements of North Dakota Rules Part 69-02-02-04.

1. Verification.

Enclosed with this Application is the Verification of Bernadeen Brutlag, attached as Exhibit No. 3.

2. Articles of Incorporation.

A certified copy of Otter Tail's Articles of Incorporation is on file with the Commission, as is an original certificate of good standing.

II. BRIEF DESCRIPTION OF PBR.

As the Commission is well aware, two of the primary goals of performance-based ratemaking are to allow greater flexibility for regulated utilities and to minimize the time required for regulatory oversight. A well-designed PBR plan allows for the reliance on market-like forces, to the greatest extent possible, to create incentives for regulated utilities to operate efficiently and make investment in its business. A PBR plan accompanied by clear and well-

designed measures is likely to provide significant benefits over more traditional forms of cost-of-service regulation. It is important that the measures developed not be unduly burdensome to calculate and administer, either for the utility or for regulators.

While rate cases traditionally set an exact allowed return, it has become widely recognized that actual returns are measured within some designated range of reasonableness. In the case of PBR plans, this concept is expanded through the use of deadbands. In Otter Tail's Plan, we recognize this concept by using "acceptable ranges" around each of our performance standards.

The PBR Proposal. A detailed narrative description of the proposed PBR Plan is included in Exhibit 1. An example of all calculations involved in the Plan is shown in Exhibit 2.

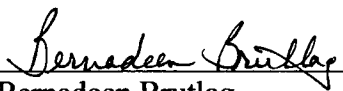
III. CONCLUSION

Based on the information provided herein, Otter Tail Power Company respectfully requests approval of the Performance-Based Ratemaking Plan, to be effective as of January 1, 2000.

Date: January 31, 2000

Respectfully submitted:

OTTER TAIL POWER COMPANY


Bernadeen Brutlag
Manager, Regulatory Services
215 South Cascade Street
P.O. Box 496
Fergus Falls, MN 56538-0496
Phone (218) 739-8289

OTTER TAIL POWER COMPANY**PERFORMANCE-BASED RATEMAKING PLAN FOR NORTH DAKOTA****Objectives of PBR**

The goals of performance-based ratemaking (PBR) are to allow greater flexibility for regulated utilities, to minimize the time required for regulatory oversight, and to provide utilities with incentives to increase efficiencies, performance, and ratepayer savings. In moving to any performance-based regulation plan, it is important that the measures adopted to gauge performance not be unduly burdensome to understand and administer - either for the utility or for regulators.

While rate cases traditionally set an exact allowed return, it has become recognized that a reasonable return falls within some acceptable range. Performance of a company in key areas should be considered when setting a reasonable return. A well-designed PBR plan should combine performance measures along with a range of allowed returns for the purpose of achieving a result that benefits both customers and shareholders.

Otter Tail's PBR Plan

Otter Tail's PBR Plan ("Plan") application and calculations are set forth in Exhibit 2, attached. The Plan uses 1997 financial and other data for illustrative purposes only. The performance standards the Plan incorporates are based on the latest information available, as described below.

Overview

Otter Tail proposes that the following described Plan should be used by the Commission in measuring Otter Tail's operations in North Dakota beginning in 2000 and continuing for five years. Because it will be less burdensome for the Commission in evaluating Otter Tail's Plan if

similar to the NSP PBR plan, the Otter Tail Plan is patterned after NSP's plan, with only minor modifications. NSP's plan was developed under its "Plus" Regulatory Framework.

In any PBR plan, it is critical that the rewards and penalties be set forth in advance based on known and measurable performance or quality control measures, often referred to as benchmarks. The Otter Tail Plan encompasses four such benchmarks – rates, system reliability, customer satisfaction, and employee safety. Each of these benchmarks is pegged initially to a standardized point against which the benchmark can be measured. This point is referred to in the Plan as the Standard benchmark, or Standard. In addition, the Plan proposes a Standard of 12.0 percent return on equity (ROE) as the earnings benchmark.¹ The standard ROE will move upwards or downwards depending on Otter Tail's performance in each of its four benchmark categories.

In order to build flexibility into the Plan, the Plan includes a deadband, or "Acceptable Range," around each Standard. In the case of ROE, the Plan proposes an Acceptable Range of plus or minus one percent around the 12%, i.e., 11.0 percent to 13.0 percent is within the Acceptable Range for ROE. The Standard for each performance measure, along with its Acceptable Range, is described below.

The four performance measures of the Plan include: (1) rates, (2) system reliability, (3) customer satisfaction, and (4) employee safety. A Standard for each performance measure is established at the outset of the Plan, along with an Acceptable Range around each Standard. By pegging ROE, Otter Tail is either rewarded or penalized if its performance falls outside of this Acceptable Range. Depending on its performance in each of the four categories, points are used

¹ While Otter Tail has not filed expert testimony on its cost of capital in any recent audits or settlements, the Commission and Staff have used 12.0 percent ROE as a reasonable allowed return in arriving at any rate adjustments in the settlement process.

to raise or lower the 12.0 percent ROE. Each performance measure is worth 50 basis points. So, for instance, if the performance of two benchmarks are above its Acceptable Range, the allowed, or Standard ROE for Otter Tail in that year would be 13.0 percent, along with a corresponding increase in the ROE's Acceptable Range, i.e., 12.0 percent to 14.0 percent.

The Plan Allows Sharing of Rewards

As with most well-designed PBR plans, the Plan allows the efficiency and operational gains achieved through PBR to be shared between shareholders and ratepayers. Specifically, the Plan allows for equal sharing of any amount of earnings that falls outside of the ROE's Acceptable Range. If Otter Tail's ROE falls below the Acceptable Range, one-half of that shortfall amount will be held in a deferred account to be offset by any future "PBR Dividends." If the deferred shortfall balance exceeds \$1 million or is not offset with a PBR Dividend within 24 months, Otter Tail proposes to collect the shortfall from customers through a surcharge up until the deferred balance is less than \$500,000.

One-half of any amount above the Acceptable Range for ROE, net of any past shortfall amount, will be returned to customers as a PBR Dividend within 60 days of the Commission's order approving the prior year's operating results. Any deferred balance remaining at the termination of the Plan will first be considered as part of an on-going plan or alternatively, collected from customers through a surcharge.

Performance Measures

Otter Tail's performance under the Plan will be tied to the following four benchmarks:

Rates Otter Tail proposes to benchmark its North Dakota residential rate with that of utilities in a seven-state region of the upper Midwest. Otter Tail was able to collect rate information on approximately 30 investor-owned electric utilities from the Edison Electric

Institute's report *Typical Residential, Commercial, and Industrial Bills*. See Appendix C of Exhibit 2. The Plan proposes that the rate Standard be set at the average residential rates for these 30 utilities, based on the most recent year available. As a result of the increased demand and volatility in the wholesale energy markets and its concomitant impact on retail rates, the Plan recommends that the rate Standard be adjusted each year based on the most recent data available. The Plan proposes an Acceptable Range around the Standard of plus or minus fifteen percent.

System Reliability – The Standard proposed for the reliability benchmark is the Otter Tail system five-year average minutes of outage per customer. Otter Tail has historically collected this information for internal performance measures only. Partly out of the need to minimize the burden of developing other reliability indices, and partly because reliability of Otter Tail's North Dakota system depends on its entire system, the Plan proposes an Otter Tail system measure rather than one tied specifically to Otter Tail's system in North Dakota. The reliability Standard would be adjusted to exclude unusual storm-related outages consistent with the way in which reliability indices are normally interpreted. Because recalculating system reliability averages requires additional administrative work and is of questionable value, the Plan proposes that the reliability Standard be set at the adoption of the Plan and based on the most recent information available, but that it not be recalculated each year.

As set forth in Exhibit 2, Appendix A, the average number of minutes of outages for the five-year period 1995 to 1999 is 83 minutes. We propose an Acceptable Range around the Standard of plus or minus fifteen percent.

Customer satisfaction – A third benchmark is customer satisfaction. Otter Tail proposes to conduct annual, independent telephone surveys using statistically designed samples of North Dakota residential, small commercial and large commercial customers. The surveys will measure

overall customer satisfaction with Otter Tail's services and products on a scale of "1" to "5," with "5" being the highest satisfaction. Otter Tail proposes that the Standard for customer satisfaction be set based on ninety-five percent of responses rating Otter Tail a "3" or higher. The Acceptable Range around the customer satisfaction Standard would be two percent. This Standard would remain constant throughout the duration of the Plan.

Employee safety – The last benchmark proposed in the Plan is employee safety. This measure is adopted in part from the OSHA Rate as defined in the EEI Safety Survey. The determination of the OSHA Rate is set forth in Appendix D of Exhibit 2. Because Otter Tail does not consistently participate in the EEI Survey, it would be inappropriate to use the actual survey results as the Standard. Instead, we recommend a Standard based on a five-year average using the most recent information available. Also, because employees often work in each of the three states included in Otter Tail's service territory, a Standard based on company-wide data seems more appropriate than limiting it to North Dakota data alone. Like system reliability, developing rolling averages for employee safety would require much additional work with little value in return. Accordingly, we recommend that the employee safety Standard be established at the Plan's adoption and not recalculated each year.

Otter Tail's average OSHA rate for the five-year period 1995 to 1999 is 6.6. We propose an Acceptable Range around this Standard of plus or minus fifteen percent.

General Provisions

1. The Plan is effective for the entire year of 2000, subject to approval of the North Dakota Public Service Commission. It will remain in effect for five years, ending December 31, 2004.

2. Otter Tail reserves the right to terminate the Plan if North Dakota or Federal retail access legislation is enacted.
3. Otter Tail's operating results for each year will be based upon usual and existing practices, as reviewed by the Commission staff in recent years.
4. Each year's results are subject to review and approval by the Commission. The report of the prior year's operations will be filed by April 15.
5. Any PBR Dividend shall be returned to customers within 60 days after the Commission's order on Otter Tail's annual filing.
6. Either Otter Tail or the Commission may initiate a review of the entire PBR Plan after two years.
7. Otter Tail may request adjustment, termination, or withdrawal of the Plan in the event of changes in federal or state tax laws, acquisition of or by another utility, if Otter Tail and Staff are unable to agree on a mutually acceptable PBR plan, or if the Commission imposes conditions or modification to the Plan which Otter Tail deems substantial.

Dated: January 31, 2000

1997

**Annual Regulatory Report
Of Electric Utility Operations**

for

Otter Tail Power Company
North Dakota Jurisdiction

****for illustration purposes****

**Utilizing the
"PLUS" Regulatory Framework
(Plan Linking Utility Stakeholders)***

**Filed with the North Dakota Public Service Commission
January 31, 2000**

*** Developed by Northern States Power Company**

**Otter Tail Power Company
North Dakota Annual Regulatory Report**

Table of Contents

	<u>Page</u>
<u>Executive Summary</u>	<u>2</u>
<u>Return on Equity</u>	<u>3</u>
<u>Operating Income</u>	<u>4</u>
<u>Rate Base</u>	<u>5</u>
<u>Cost of Capital</u>	<u>6</u>
<u>Baseline ROE</u>	<u>7</u>
<u>Shared Earnings</u>	<u>8</u>
<u>Price Cap Index</u>	<u>9</u>
<u>Operating Statistics</u>	<u>10</u>
<u>Rates, Reliability Performance</u>	<u>Appendix A</u>
<u>Satisfaction, Safety Performance</u>	<u>Appendix B</u>
<u>Utility Comparison Group</u>	<u>Appendix C</u>
<u>OSHA Rate</u>	<u>Appendix D</u>

Executive Summary

Financial Results

1997

1	Return on Equity (ROE) (page 3, line 10):	11.88%
2	Return on Rate Base (ROR) (page 3, line 5):	9.74%
3	Rate Base (page 5, line 16):	\$147,035,729
4	Common Equity Ratio (page 6, line 5):	49.98%
5	Baseline ROE (page 7, line 5):	12.50%
6	ROE Acceptable Range (line 5 +/- 1.0%):	11.50% 13.50%

Operating Performance

	1997 Result	Perf. Points
7	Average Residential Rate -- ¢ per Kwh (Appendix A):	6.02 50
8	Total Outage Time (min.) per Customer (Appendix A):	77.0 0
9	Customer Satisfaction Score (Appendix B):	95.0% 0
10	Employee Safety -- OSHA Index (Appendix B):	6.7 0
		50

Customer PBR Dividend Information

11	Amount of customer dividend (or add'n to reserve) (page 8, line 7a):	\$0
12	Typical residential cust. dividend (or deferred charge):	\$0.00

Rate Changes Effective: June, 1998

	Percent Rate Change	Typical Mo. Impact
Allowed: 0.00%		
13	Residential without space heat (page 9, lines 9 and 13):	0.00% \$0.00
14	Residential with space heat (page 9, lines 10 and 14):	0.00% \$0.00
15	Small commercial & industrial (page 9, lines 11 and 15):	0.00% \$0.00
16	Large commercial & industrial (page 9, lines 12 and 16):	0.00% \$0.00

Other Miscellaneous

	<u>1997</u>
17 Electric sales -- kWh (page 10, line 7):	1,346,575,658
18 Average electric customer count (page 10, line 12):	56,606

Return on Equity (ROE)

<u>Return on Equity (ROE)</u>		1997 <u>Amount</u>
1	Operating Income from Electric Operations (page 4, line 21):	\$14,323,178
2	Shared Earnings (page 8, line 7a X tax rate):	\$0
3	Adjusted Operating Income (line 1 + line 2):	\$14,323,178
4	Average Regulated Rate Base (page 5, line 16):	\$147,035,729
5	Rate of Return on Rate Base (ROR) (line 3 / line 4):	9.74%
6	Less Weighted Cost of Debt (page 6, line 3):	3.25%
7	Less Weighted Cost of Preferred Stock (page 6, line 4):	0.55%
8	Weighted Return on Equity (line 5 - line 6 - line 7):	5.94%
9	% of Equity in Capital Structure (page 6, line 5):	49.98%
10	Return on Equity (ROE) (line 8 / line 9):	11.88%

Electric Operating Income

<u>Line Item</u>	<u>1997 Total OTP</u>	<u>1997 N.D. Juris.</u>	<u>N. D. %</u>	<u>1996 N.D. Juris.</u>	<u>Annual Change</u>
<u>Operating Revenues:</u>					
1 Residential	\$65,135,188	\$30,036,658	46.1%	\$31,113,203	-3.5%
2 Commercial	\$39,747,417	\$17,817,577	44.8%	\$18,814,029	-5.3%
3 Industrial	\$74,697,392	\$25,183,263	33.7%	\$22,794,455	10.5%
4 Str. Lighting/Municipal	\$4,585,427	\$1,906,069	41.6%	\$1,807,621	5.4%
5 Sales for Resale	\$11,117,157	\$4,275,374	38.5%	\$3,862,864	10.7%
6 Other Electric Revenue	<u>\$7,243,726</u>	<u>\$2,464,342</u>	<u>34.0%</u>	<u>\$1,892,485</u>	<u>30.2%</u>
7 Total Revenues:	\$202,526,307	\$81,683,283	40.3%	\$80,284,657	1.7%
<u>Operating Expenses:</u>					
8 Production	\$71,587,718	\$27,797,776	38.8%	\$27,058,671	2.7%
9 Transmission	\$3,554,310	\$1,405,003	39.5%	\$1,392,257	0.9%
10 Distribution	\$8,910,459	\$4,035,502	45.3%	\$3,917,265	3.0%
11 Customer Billing	\$7,558,352	\$3,379,781	44.7%	\$2,755,894	22.6%
12 Customer Service	\$4,581,371	\$1,026,769	22.4%	\$840,712	22.1%
13 Sales & Marketing	\$1,848,910	\$908,588	49.1%	\$1,192,256	-23.8%
14 Admin. & General	\$25,057,544	\$10,292,135	41.1%	\$11,117,462	-7.4%
15 Charitable Contributions	\$118,697	\$0	0.0%	\$0	*
16 Depreciation	\$21,442,325	\$8,668,126	40.4%	\$6,788,312	27.7%
17 Property Taxes	\$10,819,259	\$4,435,692	41.0%	\$4,658,439	-4.8%
18 Income Taxes	\$15,084,260	\$6,241,688	41.4%	\$7,263,602	-14.1%
19 Deferred Income Taxes	<u>(\$2,207,779)</u>	<u>(\$830,955)</u>	<u>37.6%</u>	<u>(\$1,831,659)</u>	<u>-54.6%</u>
20 Total Expenses:	\$168,355,426	\$67,360,105	40.0%	\$65,153,211	3.4%
21 Regulated Operating Income	\$34,170,881	\$14,323,178	41.9%	\$15,131,446	-5.3%

Notes:

Regulated operating income shown above does not reflect any shared earnings adjustments.

Electric Rate Base

<u>Line Item</u>	<u>1997 Total OTP</u>	<u>1997 N.D. Juris.</u>	<u>N. D. %</u>	<u>1996 N.D. Juris.</u>	<u>Annual Change</u>
1 Plant in Service	\$ 750,261,042	\$ 305,199,108	40.7%	\$ 294,969,384	3.5%
2 Big Ston Capitalized Items	572,848	525,386	91.7%	566,061	-7.2%
3 Accumulated Depreciation	<u>(308,438,892)</u>	<u>(124,350,886)</u>	40.3%	<u>(120,291,301)</u>	3.4%
4 Net Plant in Service	\$ 442,394,998	\$ 181,373,608	41.0%	\$ 175,244,144	3.5%
5 Plant Held for Future Use	\$ 47,146	\$ 19,992	42.4%	\$ 16,967	17.8%
6 Construct Work in Progress	11,015,913	3,873,972	35.2%	3,920,161	-1.2%
7 Materials and Supplies	9,855,606	4,092,080	41.5%	3,798,295	7.7%
8 Fuel Inventory	2,967,910	1,098,730	37.0%	1,151,398	-4.6%
9 Prepayments	(5,464,483)	(2,240,335)	41.0%	(1,264,107)	77.2%
10 Customer Deposits	(50,565)	(20,731)	41.0%	(17,039)	21.7%
11 Unamortized Expenses	0	0	*	0	*
12 Cash Working Capital	(3,127,837)	(1,457,712)	46.6%	(1,829,011)	-20.3%
13 CIP Tracker Account	618,760	0	0.0%	0	*
14 Total Other Rate Base	<u>\$15,862,450</u>	<u>\$5,365,996</u>	33.8%	<u>\$5,776,664</u>	-7.1%
15 Less Accum. Deferred Taxes	<u>(\$99,670,844)</u>	<u>(\$39,703,875)</u>	39.8%	<u>(\$39,746,882)</u>	-0.1%
16 Total Average Rate Base	<u>\$358,586,604</u>	<u>\$147,035,729</u>	41.0%	<u>\$141,273,926</u>	4.1%

Cost of Capital

1997 (Actual, including shared earnings adjustments)

<u>Line</u>	<u>Item</u>	<u>Amount</u>	<u>% of Total</u>	<u>Cost</u>	<u>Weighted Cost</u>
1	Long-Term Debt	\$136,348,533	40.16%	8.09%	3.25%
2	Short-Term Debt	\$0	0.00%	0.00%	0.00%
3	Total Debt	\$136,348,533	40.16%		3.25%
4	Preferred Stock	\$33,500,000	9.87%	5.61%	0.55%
5	Common Equity	\$169,687,693	49.98%	11.88%	5.94%
6	Total Equity	\$203,187,693	59.84%		
7	Total Capital	\$339,536,226	100.00%		9.74%

1997 (Baseline)

<u>Line</u>	<u>Item</u>	<u>Amount</u>	<u>% of Total</u>	<u>Cost</u>	<u>Weighted Cost</u>
8	Long-Term Debt	\$136,348,533	40.16%	8.09%	3.25%
9	Short-Term Debt	\$0	0.00%	0.00%	0.00%
10	Total Debt	\$136,348,533	40.16%		3.25%
11	Preferred Stock	\$33,500,000	9.87%	5.61%	0.55%
12	Common Equity ⁽¹⁾	\$169,687,693	49.98%	12.50%	6.25%
13	Total Equity	\$203,187,693	59.84%		
14	Total Capital	\$339,536,226	100.00%		10.05%

⁽¹⁾ See page 7 for determination of standard common equity cost.

Baseline Return on Equity

Determination of Average 30 Year Bond Rate for Report Period

<u>Line</u>	<u>Rate</u>
1 Stipulated ROE Standard:	12.00%

Calculation of Return on Equity Deadband

2 Standard authorized ROE (line 1):	12.00%
3 Performance award points (Appendices A, B):	50
4 Performance adjustment (.01% per award pt. in line 3):	0.50%
5 Performance-Adjusted Standard ROE (line 2 + line 4)	12.50%

This ROE represents the Standard for earnings level. An Acceptable Range of +/- 1% around this Standard will constitute the range of ROE inside of which no earnings sharing will occur. Earnings outside of this range will result in a sharing between the company and its customers of either the revenue deficiency or excess.

6 Lower limit on ROE Deadband (line 5 - 1.0%):	11.50%
7 Upper limit on ROE Deadband (line 5 + 1.0%):	13.50%

ROE Standard -- Previous 3 Year History

<u>Year</u>	<u>Base ROE</u>	<u>Perf. Adj.</u>	<u>Baseline ROE</u>
1994			0.00%
1995		(plan not in place prior to 1998)	0.00%
1996			0.00%
1997	12.00%	0.50%	12.50%

Shared Earnings

Line Item

1	Unadjusted earnings from electric operations (page 4, line 21):			\$14,323,178
2	Debt expense and preferred equity dividends:			
	a. Regulated average rate base (page 5, line 16):	\$147,035,729		
	b. Weighted cost of debt (page 6, line 3):	3.25%		
	c. Weighted preferred equity cost (page 6, line 4):	0.55%		
	d. Debt & pref. equity costs ((line 2a X line 2b)+(line 2a X line 2c)):			\$5,590,636
3	Common equity earnings (line 1 - line 2d):			\$8,732,542
4	Common equity earnings standard and ROE range:			
	a. Regulated average rate base (page 5, line 16):	\$147,035,729		
	b. Equity ratio (page 6, line 12):	49.98%		
	c. Equity portion of average rate base (line 4a X line 4b):	\$73,483,039		
	d. Lower limit ROE and earnings (line 4c X lower ROE limit):	11.50%	\$8,450,549	
	e. Upper limit ROE and earnings (line 4c X upper ROE limit):	13.50%	\$9,920,210	
5	Common equity earnings over (under) Acceptable Range of earnings (line 3 - line 4d or 4e):			\$0
6	Pre-tax multiplier (1 / {1-tax rate}):	Tax rate: 39.61%	1.6559	
7	Pretax amount to share (line 5 X line 6):			\$0
	a. Customer PBR Dividend (deferred charge) (50% of line 7) ⁽¹⁾ :		\$0	
	b. Retained by company (line 7 - line 7a):		\$0	
8	Total PLUS Plan Customer Dividends issued (cumulative):			\$0
9	Current balance of Service Cost True-up account:			\$0

Notes:

⁽¹⁾ A negative number indicates an amount due from customers which will be held in the Service Cost True-up account by OTP, and will offset future customer PBR Dividends.

Indexed Pricing Worksheet

Calculation of Rate Index

Line Item

1 Comparison group annual change in res'l c/kwh (Appx C, line 31): 2.06%

	Inflation (CPI)	1996	1997	Change
2	March	155.7	160.0	2.76%
3	June	156.7	160.3	2.30%
4	September	157.8	161.2	2.15%
5	December	158.6	161.3	1.70%
6	Average			2.23%

7 Inflation with 40% productivity adjustment (75% X CPI): 1.67%

8 Maximum rate increase allowed 0.00%

Lower of line 1 and line 7, or 0.0% if:

a. line 8 > 0, and OTP ROE > ROE baseline - 2% or OTP rates > group avg.

b. line 8 < 0, and OTP ROE < ROE deadband or OTP rates < group avg.

Proposed Rate Changes -Effective June 1, 1998

	<u>Rate Change</u>
9 Residential	0.00%
10 Commercial	0.00%
11 Industrial	0.00%
12 Other	0.00%

Average Monthly Bill Impact of Proposed Rate Change

	1998 <u>Ave. mo. bill</u>	<u>Change to Monthly Bill</u>
13 Residential	\$60.96	\$0.00
14 Commercial	\$145.52	\$0.00
15 Industrial	\$2,956.25	\$0.00
16 Other	\$302.27	\$0.00

17 Estimated total OTP-ND annual revenue increase: \$0
0.00%

Electric Operating Statistics

Line	OTP-ND Retail Electric Sales (kWh)	1997	1996	Annual Change	% Change
1	Residential	508,270,287	519,285,169	(11,014,882)	-2.1%
2	Commercial	274,792,873	285,205,600	(10,412,727)	-3.7%
3	Industrial	548,143,167	476,044,271	72,098,896	15.1%
4	Other	32,043,331	29,149,119	2,894,212	9.9%
5	Subtotal	1,363,249,658	1,309,684,159	53,565,499	4.1%
6	Unbilled sales	(16,674,000)	19,894,000	(36,568,000)	-183.8%
7	Total	1,346,575,658	1,329,578,159	16,997,499	1.3%

OTP-ND Retail Electric Customers

8	Residential	44,229	44,260	(31)	-0.1%
9	Commercial	11,127	11,118	9	0.1%
10	Industrial	734	719	15	2.1%
11	Other	516	532	(16)	-3.0%
12	Total	56,606	56,629	(23)	0.0%

Customer Statistics

13	Average ¢/Kwh charge ⁽¹⁾	5.57	5.61	(0.04)	-0.7%
14	Ave. residential mo. usage -Kwh ⁽²⁾	957.65	977.72	(20.07)	-2.1%
15	Ave. residential mo. Bill ⁽³⁾	\$56.59	\$58.58	(\$1.99)	-3.4%

¹ Page 4, lines 1-4 / line 7

² Line 1 / line 8

³ Page 4, line 1 / line 8 x line 14

Key Operating Performance Results

Average Rates

Measure: Residential revenues divided by kwh sales.⁽¹⁾ Standard reflects average rate of comparison group (see Appendix C).

Measure
(¢/Kwh) Standard
7.12 cents

Result:

1997
6.02

Acceptable Range	Measure	Award
15% better than group average	6.06	50 points
Within +/- 15% of group average		0 points
15% worse than group average	8.19	-50 points

Points
50

System Reliability

Measure: Total time the average customer is without power during the year. Standard reflects OTP's 5 year average.⁽²⁾

Measure
(Minutes) Standard
83 minutes

Result:

1997
77

Acceptable Range	Measure	Award
15% better than Standard:	71	50 points
Within +/-15% of Standard:		0 points
15% worse than Standard:	95	-50 points

Points
0

⁽¹⁾ Excludes unbilled revenue and sales

⁽²⁾ Excludes impact of storms

Key Operating Performance Results (cont.)

Customer Satisfaction

Measure: Positive response % on relationship surveys of residential, small commercial, and large commercial customers

<u>Measure</u>	<u>Standard</u>
Positive Response	95%

Result:

1997
95.0%

Acceptable Range	Measure	Award
2% better than Standard:	97%	50 points
Within +/-1.5% of Standard:		0 points
2% worse than Standard:	93%	-50 points

Points
0

Res: 95%

SCI: 95%

LCI: 95%

Employee Safety

Measure: OSHA incident rate as defined in EEI Safety Survey. Standard reflects OTP's 5-year average rate.

<u>Measure</u>	<u>Standard</u>
OSHA	6.6

Result:

1997
6.7

Acceptable Range	Measure	Award
15% better than Standard:	5.6	50 points
Within +/-1.5% of Standard:		0 points
15% worse than Standard:	7.6	-50 points

Points
0

Total Award Points:	50

Utility Comparison Group

Average Residential Revenue/Kwh

IOU's in North Dakota, South Dakota, Montana, Wyoming, Minnesota, Iowa, Wisconsin

<u>1997 Rank</u>	<u>Utility</u>	<u>Jurisdiction</u>	<u>1997 ¢/kwh</u>	<u>1996 ¢/kwh</u>	<u>% Change</u>
1	Pacificorp ¹	Mont	5.03	5.01	0.4%
2	Pacificorp	Wyom	5.67	5.63	0.7%
3	IES Utilities (IA Southern Util) ²	Iowa	5.80	5.80	0.0%
4	NSP	ND	5.86	5.75	1.9%
5	Cheyenne Light, Fuel, & Power	Wyom	5.87	6.05	-3.0%
6	Otter Tail Power Co.	ND	6.02	5.91	1.9%
7	Otter Tail Power Co.	SD	6.22	6.17	0.8%
8	Wisc. Public Service	Wisc.	6.39	6.61	-3.3%
9	Otter Tail Power Co.	MN	6.42	6.35	1.1%
10	Montana Power Co.	Mont	6.44	6.11	5.4%
11	Minnesota Power	MN	6.61	6.34	4.3%
12	Wisconsin Power & Light	Wisc.	6.73	6.79	-0.9%
13	Montana-Dakota Utilities	ND	6.86	6.76	1.5%
14	NSP	Wisc.	7.00	6.96	0.6%
15	Wisconsin Energy Co.	Wisc.	7.08	7.04	0.6%
16	Montana-Dakota Utilities	Wyom	7.16	6.35	12.8%
17	NW Wisconsin Electric	Wisc.	7.23	6.97	3.7%
18	Northwest Public Service	SD	7.35	7.35	0.0%
19	Montana-Dakota Utilities	Mont	7.40	7.40	0.0%
20	NSP	SD	7.60	7.45	2.0%
21	Black Hills Power & Light	Mont	7.67	8.21	-6.6%
22	Madison Gas & Elec	Wisc.	7.69	7.44	3.4%
23	Interstate Power Co.	Iowa	7.78	7.47	4.1%
24	Black Hills Power & Light	Wyom	7.81	7.76	0.6%
25	NSP	MN	7.87	7.70	2.2%
26	Black Hills Power & Light	SD	8.24	8.17	0.9%
27	Interstate Power	MN	8.52	8.16	4.4%
28	MidAmerican Energy	Iowa	8.83	8.85	-0.2%
29	Montana-Dakota Utilities	SD	8.87	8.76	1.3%
30	IES Utilities (IA Elec L&P)	Iowa	9.70	8.08	20.0%
31	Average residential rate (¢/kwh):		7.12	6.98	2.06%

Source: Typical Residential, Commercial, and Industrial Bills, Edison Electric Institute.
Winter, 1998

¹ Sold operation to Flathead Electric Co-op in 1998

² Reported for first time in 1997; 1996 rev/kwh not available (use 1997 for 1996).

OSHA Rate Calculation

Employee Safety

Measure used: OSHA Rate as defined in the EEI Safety Survey

DEFINITION

$$\text{OSHA RATE} = \frac{\text{Total Cases} \times 200,000}{\text{Total Hours of Exposure}}$$

Total Cases = sum of Fatality, Restricted & Lost Work Day Cases, and Medical Cases

Total Hours of Exposure =

Average number of employees x 172 hours ⁽¹⁾ x 12 months
Plus actual overtime hours

Average number of employees =

Average reported number of employees (not FTE) ⁽²⁾

⁽¹⁾ EEI Survey uses 167 hours (7.5 hr day); OTP uses 172 hours (8 hr day)

⁽²⁾ Source: Payroll department (do not use employee count from financial statements)

CALCULATION

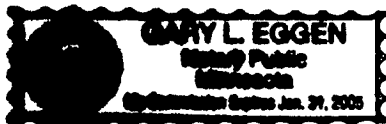
Constants: 200,000
 172 hours
 12 months

Year	Total Company			
	Total Cases	Average Employees	Overtime Hours	OSHA Rate
1995	60	824	33,575	6.9
1996	50	823	42,989	5.7
1997	58	816	47,145	6.7
1998	53	816	44,109	6.1
1999	67	824	40,853	7.7
5-year average		(1995-1999)		6.6

VERIFICATION OF BERNADEEN BRUTLAG

STATE OF MINNESOTA)
) SS
COUNTY OF OTTER TAIL)

I hereby verify that the information being provided in the attached Application of Otter Tail Power Company is true and correct to the best of my knowledge.



Bernadeen Brutlag
Bernadeen Brutlag

Subscribed and sworn to before me this
31st day of January, 2000.

GARY L. EGGEN
Notary Public

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bernadeen Bruttay
 Otter Tail Power Company
 215 S Cascade St
 ergus Falls MN 56538-0496

2. Article Number (Copy from service label)

7000 0520 0022 8653 ~~3348~~ 3348

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-178

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

JAN - 4 2001

C. Signature

X Russ Beske

☐ Agent☐ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bernadeen Bruttay
 Otter Tail Power Company
 215 S Cascade St
 ergus Falls MN 56538-0496

2. Article Number (Copy from service label)

7000 0520 0022 8654 2227

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

APR 02 2001

C. Signature

X Russ Beske

☐ Agent☐ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kent Larson
 NSP
 2302 Great Northern Dr
 Fargo ND 58102

2. Article Number (Copy from service label)

7000 0520 0022 8654 2203

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

Connie Bachmeier 4-2-01

C. Signature

X Connie Bachmeier

☐ Agent☐ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

PU-401-00-36

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 1. Article Addressed to: Dave Hedergust N.S.P. 2302 Great Northern Dr Gary IN 47802	A. Received by (Please Print Clearly): Connie Behmeir B. Date of Delivery: 4-2-01 C. Signature: x Connie Behmeir ☐ Agent ☒ Addressee D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No
2. Article Number (Copy from service label) 7000 0520 0022 8654 2210	3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (Extra Fee): ☐ Yes

PS Form 3811, July 1999
Domestic Return Receipt
102595-00-M-0952