

Felhaber Larson Fenlon & Vogt

A Professional Association – Attorneys at Law

MINNEAPOLIS
220 South Sixth Street | Suite 2200
Minneapolis, MN 55402-4504
612 339 6321 | Fax 612 338 0535

ST. PAUL
444 Cedar Street | Suite 2100
St. Paul, MN 55101-2136
651 222 6321 | Fax 651 222 8905

Richard J. Savelkoul
651-312-6042
Fax: 651-222-8905
E-mail: rsavelkoul@felhaber.com
Reply to St. Paul Office

March 12, 2010

Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard, Department 408
Bismarck, ND 58505-0480

VIA E-MAIL AND U.S. MAIL
ndpsc@nd.gov

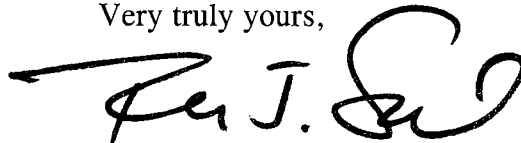
**RE: Otter Tail Power Company
2010 Renewable Resource Cost Recovery Adj. Factor Tariff
Case No.: PU-10-18
Our File No.: 24677.002**

Dear Secretary Nitschke:

Goodrich Corporation, Cargill Corporation, Cavendish Farms, Inc., Archer Daniels Midland Company, ComDel Innovation, Tharaldson Ethanol LLC, Bobcat Company and PrimeWood, Inc. (the Large Industrial Group) respectfully submits an original and seven copies its Comments in the above-referenced matter.

Also enclosed is a Certificate of Service. Should you have any other questions please do not hesitate to contact me.

Very truly yours,



Richard J. Savelkoul

Enclosure

cc: Persons on attached Certificate of Service

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Case Title: Otter Tail Power Company 2010 Renewable Resource Cost Recovery Adj. Factor Tariff	Case No.: PU-10-18 LIG COMMENTS
---	---

COMMENTS of the LARGE INDUSTRIAL GROUP

I. INTRODUCTION

Goodrich Corporation, Cargill Corporation, Cavendish Farms, Inc., Archer Daniels Midland Company, ComDel Innovation, Tharaldson Ethanol LLC, Bobcat Company and PrimeWood, Inc., the “LIG” or “Large Industrial Group,” appreciates this opportunity to provide Comments in this Renewable Resource Cost Recovery proceeding. The Large Industrial Group are ratepayers of Otter Tail Corporation (“OTP”) that will pay a significant portion of the proposed increase in rates submitted to the North Dakota Public Service Commission (the “Commission”) and, therefore, offer these Comments.

OTP’s Petition requests an effective date of April 1, 2010, for cost-recovery of company-owned renewable generation, specifically the Langdon Wind project, the Ashtabula Wind project, and the Luverne Wind project, all located within North Dakota. Based on our preliminary discussions with the Commission Advocacy Staff and OTP, the LIG is providing Comments now, with the anticipation of being able to settle the open issues. Because the areas where we differ do not involve material issues of fact, we believe the open issues can be resolved through an informal hearing (if not previously resolved by the parties without a hearing). We believe this process can be handled in the ordinary course without a delay in scheduling the hearing.

For the reasons discussed below, the LIG recommends that OTP: (1) correct the calculation of the North Dakota Tax Credit; (2) pass through the benefits of the North Dakota Tax Credit as received and provide detail about calculation of the Credit; (3) review inter and intra-class allocation; and (4) forecast and unbundle charges for Large General Service (“LGS”) customers.

Finally, while the LIG does not challenge the prudence of these projects (in light of North Dakota’s presumption of prudence for projects built in the state) and recognizes the cost per-MW of OTP’s projects compare favorably with other projects, we are concerned with the rapid pace of OTP’s addition of wind generation. The LIG is also concerned with the fact wind now constitutes such a large percentage of OTP’s total system generation. These additions were planned before regional transmission development and market reactions were known. The MISO system has already seen large fluctuations in Locational Market Prices (“LMPs”) where there are significant wind loads, in some cases resulting in negative prices. MISO is also in the process of developing changes to market rules at FERC, which will result in wind generation being exposed to RSG charges. Furthermore, based upon OTP’s responses to discovery requests, it appears to be challenging the LIG’s request that OTP fully identify the ancillary and other costs related to wind intermittency. The LIG, therefore, continues to struggle with OTP’s claims that wind generation is the least-cost option given OTP’s reluctance to disclose the true costs and benefits of its operations. Nonetheless, as stated above, the presumption of prudence in North Dakota does not make it worthwhile to fully develop these concerns. The appropriateness of N.D. Cent. Code § 45-05-16, subd. 6 (2010) – pursuant to which a utility enjoys a rebuttable presumption of prudence – should be reviewed.

THE LARGE INDUSTRIAL GROUP'S CONCERNS

1. North Dakota Investment Tax Credit.

A. Investment Tax Credit amount should be recalculated.

The LIG notes that on OTP's Attachment 3 of its initial filing in this matter, the North Dakota Investment Tax Credit ("ITC") for the Luverne Wind project is computed after the Federal Grant is deducted from the installed cost. The revenue requirements for the Luverne Wind project should be calculated by applying the North Dakota Investment Tax Credit to the investment, excluding the federal grant. OTP's answer to LIG Information Request ("IR") No. 15 indicates that the revised revenue requirements are as follows:

	<u>Original Filing</u>	<u>Revised Filing</u>
2009	(46,077)	(64,719)
2010	3,697,187	3,625,964
2011	3,615,171	3,549,595

The LIG respectfully requests that OTP file reply comments showing its recalculation of the proposed and revised rider charges.

2. North Dakota Investment Tax Credit.

B. Investment Tax Credit should be credited as received.

Additionally, OTP has amortized the ITC over 25 years. It is worth mention that the Production Tax Credit associated with the Langdon and Ashtabula Wind projects is immediately passed through to ratepayers. The Federal Grant received on the Luverne Wind project was credited to ratepayers when received and reduced rate base. Consistent with the Federal Production Tax Credit approach, the LIG recommends that the ITC also be passed to ratepayers immediately and not amortized over 25 years. Since OTP's revenue requirements are front-

loaded, existing ratepayers are paying more for OTP's current investment than future ratepayers, even if we ignore the time-value of current charges.

Without immediately crediting the ITC to ratepayers, OTP will unfairly earn a return on a much higher rate base than they are entitled to. By allowing OTP to earn on this difference, OTP will over-recover its existing return of 8.62% on the deferred amount.

The high front-end year costs of these Wind projects warrants passing these benefits through to ratepayers during the first 5 years of the project. OTP's response to LIG IR No. 16, (Attachment 1) demonstrates how severely the cost of these projects drop during the first several years of their construction.

However, if the charge is not directly passed through to customers – it should be applied to rate base/against the cost of the project, as received, similar to the grant on Luverne Wind project – rather than simply amortized. This will ensure that OTP does not continue to unfairly earn a return on the difference. This treatment will benefit current and future ratepayers.

This particular issue is one that may not be resolved by the parties amicably. As such, the LIG respectfully requests that OTP submit reply comments which provide a calculation showing the effect of passing these benefits directly back to ratepayers, as well as a calculation that shows a reduced rate base, so the parties can adequately address this issue at hearing.

3. The Calculation of the RRA Factor Should be Modified.

The LIG appreciates OTP's adoption of the inter and intra-class allocation as settled in the last rate case. The issue of how to allocate these charges is not a firm science. It should be noted that MISO's accredited capacity of 8% only applies to the 2010/2011 planning year, and when the settlement was entered it was 20%. MISO is continuing to work on a methodology to assess accredited capacity that is more location-specific as opposed to a footprint wide default

rate. Thus, it is safe to assume that the 8% value will – in all likelihood – change. Since the 8% is not a permanent change, it creates concern and unpredictability relative to these charges. Conversely, it may be more reasonable to continue using the existing allocation rate of 20%.

While the LIG is willing to remain with the MISO capacity to energy-split methodology, we would welcome continued discussion and consideration of other options. A methodology consistent with how interim rates are charged in a rate case is one that has developed in other jurisdictions, has merit, and may be considered here.

4. In Order to Improve Budgeting and Transparency For LGS Customers to Audit Their Bills, OTP Should Post Each Charge on its Website and Inform its Customers of Changes and Forecasts for the Riders.

The TCR, RR Rider charges, Energy Adjustment and Conservation Riders are all to be included in the Resource Adjustment line-item on customers' bills. Some of the LIG member companies conduct monthly audits of their electricity bills. Including all of these charges in one line-item in the bills makes it difficult to audit. Consequently, the LIG recommends that OTP maintain an updated listing on its website of such charges, and also inform customers of its location when these charges are updated.

Finally, many LIG customers conduct long-term planning and budgeting, given energy is a significant expense for many of these ratepayers. As such, OTP should provide 5 year forecasts to its customers.


CONCLUSION

The magnitude of this rider and its significant impact on ratepayers necessitate adjustments to OTP's Rider recovery and further discussion on the issues set forth above by the
LIG.

Respectfully submitted,

Dated: May 12, 2010

FELHABER, LARSON, FENLON & VOGT, P.A.

By: 
Jacob C. Hendricks, ND #06724
444 Cedar Street, Suite 2100
St. Paul, MN 5 5101
(651) 222-6321

ATTORNEYS FOR THE LARGE INDUSTRIAL
GROUP

CERTIFICATE OF SERVICE

Otter Tail Power Company 2010 Renewable Resource Cost Recover Adj. Factor Tariff	Case No. PU-10-18
--	-------------------

Deborah S. Murphy certifies that on the 12th day of May, 2010, she served a true and correct copy of the attached Comments of the "North Dakota Large Industrial Energy Group" by e-mailing and placing it in the United States mail with postage prepaid, addressed to the following individuals:

Bruce Gerhardson
Associate General Counsel
Otter Tail Corporation
215 South Cascade Street
P.O. Box 496
Fergus Falls, MN 56538
Email: bgerhardson@ottertail.com

Bernadeen Brutlag
Manager – Regulatory Services
Otter Tail Power Company
215 South Cascade Street
P.O. Box 496
Fergus Falls, MN 56538
Email: bbrutlag@otpc.com

Annette Bendish
North Dakota Public Service Commission
600 East Boulevard, Department 408
Bismarck, ND 58505-0480
abendish@nd.gov

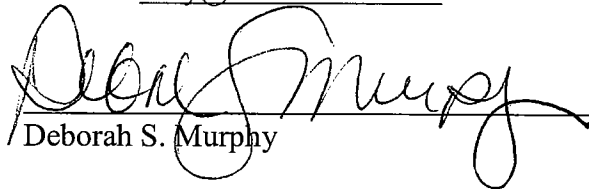
Mike Diller
North Dakota Public Service Commission
600 East Boulevard, Department 408
Bismarck, ND 58505-0480
mdiller@nd.gov

Richard J. Johnson, Attorney
Moss & Barnett
90 S. Seventh Street, Suite 4800
Minneapolis, MN 55402
Email: JohnsonR@moss-barnett.com

Kavita Maini
KM Energy Consulting LLC
961 North Lost Woods Road
Oconomowoc, WI 53066
Email: kmaini@wi.rr.com

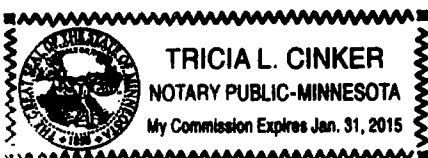
Thomas R. Brause, VP Administration
Otter Tail Power Company
P.O. Box 496
Fergus Falls, MN 56538-0496
Email: tbrause@ottertail.com

Larry Schedin
LLS Resources, LLC
12 South Sixth Street, Suite 1137
Minneapolis, MN 55402
Email: larry@llsresources.com


Deborah S. Murphy

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Subscribed and sworn to before me this 12th day of May, 2010.




Notary Public