

**Fahn, Patrick J.**

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**From:** bgerhardson@otpc.com  
**Sent:** Thursday, July 22, 2010 8:40 AM  
**To:** Fahn, Patrick J.  
**Cc:** rsavelkoul@felhaber.com  
**Subject:** Draft Proposed Order Case No. PU-10-18  
**Attachments:** ProposedOrder\_20100712\_inspected.docx

Pat:

As we discussed, I am sending you a draft proposed Order for the 2010 Renewable Rider RRA Factor update case.

I am also copying Rich Savelkoul, counsel for the intervenors for any comments he may have.

***BRUCE GERHARDSON***

Associate General Counsel

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**41**   **PU-10-18**   Filed: 7/22/2010   Pages: 8  
**Draft Proposed Order**

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

In the Matter of Otter Tail Power	)	
Company's Request for Approval of its	)	
2010 Renewable Resource Cost Recovery	)	Case No. PU-10-18
Adjustment Factor and Request for	)	
Determination of Prudence for Luverne	)	
Wind Project under N.D.C.C. §49-05-16	)	

**ORDER**

(Date)

**INTRODUCTION AND PROCEDURAL BACKGROUND**

On December 31, 2009, Otter Tail Power Company ("Otter Tail" or "OTP") filed an Application for approval of its 2010 Renewable Resource Cost Recovery Adjustment Factor ("RRA Factor") under the company's Renewable Resource Cost Recover Rider ("Renewable Rider").

On January 18, 2010, the company filed an Amendment to that Application removing a Request for an Advanced Determination of Prudence for the Luverne Wind Project and correcting an error from the original Application. The company's Amendment removing the Request for an Advanced Determination of Prudence for the Luverne Wind Project was made because the Luverne Project was already in service at that time and, therefore, no advanced determination was necessary.

On February 24, 2010, the Commission issued a Notice of Opportunity for Hearing, which provided until April 2, 2010, for petitions to intervene and May 12, 2010, for receiving written comments or requests for a hearing. The Notice identified the following issues to be considered:

1. Is Otter Tail's investment in the Luverne Wind Project used and useful for the service and convenience of the public in North Dakota?
2. Should costs associated with the Luverne Wind Project be included in the Factor (i.e., RRA)?
3. What factor is necessary to provide a just and reasonable rate of return on Otter Tail's commission-approved investment in wind farms, used and useful, for the service and convenience of the public in North Dakota?

On March 12, 2010, Goodrich Cooperation, Cargill Corporation, Cavendish Farms, Inc., Archer Daniels Midland Company, ComDel Innovation, Tharaldson Ethanol, LLC, Bobcat Company, and PrimeWood, Inc. (the "Large Industrial Group" or "LIG") filed a Petition to Intervene.

On March 24, 2010, the Commission issued an Order granting intervention to the North Dakota Large Industrial Group. Also on May 12, 2010, the Large Industrial Group filed Comments. Those Comments raised four issues:

1. Whether OTP should review the calculation of the North Dakota Investment Tax Credits ("NDITC") associated with the Luverne Wind Project to determine if the project might qualify for a larger credit;
2. Whether the NDITC associated with the wind project should be credited to the Renewable Rider, as those credits are used in OTP's tax returns instead of amortizing them over the life of the project – or, in the alternative, whether the unamortized balance of the NDITC should be reflected as a reduction to rate base;
3. Whether OTP should continue to review the inter- and intra-class allocations for the Renewable Rider; and

4. Whether OTP should provide information on the OTP website explaining the components of the resource adjustment line of customer bills.

On June 23, 2010, OTP filed Reply Comments and on June 29, 2010, OTP filed a Supplement to its Reply Comments. In its Reply Comments and Supplement Comments OTP explained that all issues raised in the Comments of the North Dakota Large Industrial Group had been resolved among the Parties, specifically, OTP agreed to recalculate the NDITC based on the total value of the Luverne Project (LIG issue No. 1). OTP also agreed it will continue to consider and discuss in its future annual rider filings the MISO capacity accreditation and any changes thereto, as that accreditation currently forms the basis for the inter- and intra-class allocations for the Rider (LIG issue No. 3). OTP also agreed it will make available on its company website information on the components of the energy and renewable adjustment line of customer bills (LIG issue No. 4). OTP explained in its Supplemental filing that the LIG had considered OTP's calculation of the amortization and timing used for reflecting the NDITC in OTP's RRA and the LIG informed OTP that it accept OTP's proposed amortization (LIG issue No. 2). Additionally, OTP explained in its Supplemental filing that the Parties had agreed to an implementation period beginning September 1, 2010, and running until March 31, 2012, for a total of 19 months.

On June 30, 2010, the Commission held an informal hearing to discuss Otter Tail's Application, and the Comments, Reply Comments, and other information supplied during the course of this case. During the informal hearing Otter Tail provided a history of the Renewable Rider and the Langdon, Ashtabula, and Luverne Wind Projects. Otter Tail also discussed the consensus resolution that was reached among the Parties and described in Otter Tail's Reply Comments and Supplemental Comments. At the hearing the LIG and Advocacy Staff confirmed that they are in agreement with the resolution described by Otter Tail. Advocacy Staff asked OTP to file the detailed financial information upon which its recalculated rate is based so that Advocacy Staff could independently verify the rate calculations. OTP filed the requested information on July 9, 2010.

On July 15, 2010, Advocacy Staff analyst Mike Diller filed a confirmation in this case stating that he had reviewed the information filed by Otter Tail and agrees that the documents sufficiently support the recalculated Renewable Resource Adjustment rider in conformity with the consensus of the parties. He also confirmed that staff supports the revised rider for deployment beginning September 1, 2010 through March 31, 2012.

### **BACKGROUND ON OTP'S RENEWABLE RIDER**

OTP's Renewable Rider was approved by the Commission by Order dated May 21, 2008 in Case No. PU-06-466 ("May 21, 2008 Order"). In that Order the Commission explained that under the Commission's policy at that time (prior to the Order) "purchased power costs are immediately passed through to customers via the fuel adjustment clause and therefore absent a rider there would be little incentive for Otter Tail to invest in a North Dakota wind farm without a rider to ensure the same kind of immediate cost recovery." (May 21, 2008 Order at page 1). Also in that Order, the Commission approved cost recovery through the Rider for OTP's investment in the 40.5 MW Langdon wind farm, which became operational in January 2008. The Commission made the following findings in support of its approval:

"The Commission finds that Otter Tail acted prudently in investing in the Langdon Wind Energy Center. It would have been easy for Otter Tail to simply purchase power at market prices and automatically pass through the costs to consumers in its cost of energy adjustment. Instead, the Company took on additional risk when investing in the wind farm in hopes that the Commission would agree with its decision. Because of Otter Tail's efforts, its customers have access to additional energy at a 10% discount."

(May 21, 2008 Order at page 2).

In an Order dated January 14, 2009, in Case No. PU-08-742 ("2009 RRA Factor case"), the Commission approved, on an interim basis, OTP's 2009 update to its RRA Factor ("January 14, 2009 Order"). The January 14, 2009 Order included approval of cost recovery for OTP's investment in the 48 MW Ashtabula wind generation project. The January 14, 2009 Order also combined the hearing on the case with the hearing on OTP's then-pending general rate increase application in Case No. PU-08-862. In an Order dated November 25, 2009, in Cases No. PU-08-742 and PU-08-862, the Commission approved a settlement reached by the parties in which all rate case and Renewable Rider issues were resolved, including that OTP's recoveries for its

investments in renewable generation should continue through the Rider. It was also agreed that OTP investment in the Ashtabula wind project was prudent, and the 2009 RRA Factor should be approved with adjustments. One of the agreed to adjustments was to remove from the 2009 RRA Factor, recoveries for the remaining amount of a specified unrecovered balance of 2008 costs for the purpose of recovering those costs over 48 months, beginning with the implementation of OTP's 2010 Annual Renewable Resource Cost Recovery Rate (November 25, 2009 Order at page 14). OTP's request in this case includes the commencement of recovery of these amounts amortized over 48 months as required by the Commission's November 25, 2009, Order.

### **COMMISSION FINDINGS**

Based upon the record herein, the Commission finds that the Luverne Wind Generation Project located in Steele County, North Dakota, approximately six miles north of Luverne, North Dakota. Otter Tail's Luverne Project comprises approximately 29% of the capacity of the Luverne Wind Energy Center, which consists of a total of 113 General Electric wind turbines, each of which has a nameplate capacity of 1.5 megawatts, for an aggregate of 169.5 megawatt nameplate capacity. The Luverne Wind Energy Center has been jointly developed by Otter Tail and NextEra (formally known as FPL Energy). Otter Tail's Luverne Project consists of 33 wind turbines with an aggregate nameplate capacity of 49.5 megawatts, tower foundations, operational equipment, electric collection circuit lines, project substation, approximately 13 miles of 230 kV line, and real property interests. The Luverne Project was permitted for the most part during 2008 and construction began in the second quarter of 2009. Construction was completed and the turbines became operational in mid-September 2009, ahead of schedule.

The Commission finds that Otter Tail has acted prudently in investing in and constructing its Luverne Wind Project. As the Commission has found in previous rider approvals, it would have been easy for Otter Tail to simply purchase power at market prices and automatically pass through the costs to consumers in its cost of energy adjustment. Instead, the company took on additional risk when investing in the Luverne Wind Project, with the expectation that it would recover the costs of the investment through its Renewable Rider. Because of Otter Tail's efforts,

its customers have had access to additional energy at a 10% discount. Furthermore, OTP's construction of the Luverne Wind Project was successful in that it was completed ahead of schedule and approximately 7% under budget. These cost savings are being passed through to customers.

The Commission finds that the unit cost (per kWh) of the Luverne project is very low, even lower than the cost of OTP's last approved project, the Ashtabula project. Additionally, the project qualified for a federal grant, made available through the American Recovery and Reinvestment Act that further reduced the capital cost of the project by 30 percent. OTP applied this grant as a reduction to this rate base investment when it was received. In addition to reducing the rate associated with this project, the grant allowed OTP to successfully finance this low-cost project during possibly the most difficult time in memory for financing such projects. By doing so, OTP was able to procure turbines and equipment at low prices and qualify for other incentives such as bonus tax depreciation.

The Commission finds that Otter Tail has responded appropriately to the desires of the North Dakota legislature encouraging investment in energy conversion facilities in North Dakota. Besides declaring that there is a rebuttable presumption that an energy conversion facility built in North Dakota is prudent, the State of North Dakota offers a significant investment tax credit for wind energy development of 3% per year for five years of dollars invested in North Dakota.

## **ORDER**

The Commission orders:

1. That OTP's investment in the Luverne Wind Project is used and useful for the service and convenience of the public in North Dakota.
2. That the costs associated with the Luverne Wind Project should be included in OTP's Renewable Resource Cost Recovery Adjustment Factor (RRA Factor).

3. That OTP's RRA Factor to be implemented beginning September 1, 2010, should be \$0.212 per kW and \$0.00473 per kWh for the large general service customer class; and \$0.00551 per kWh for all other customer classes; this RRA Factor will be in effect until a new factor is established by the Commission, and OTP will make its next RRA Factor update filing on or before December 31, 2011, with an expected implementation of April 1, 2012, to March 31, 2013.

4. OTP shall continue to provide information in future RRA Factor filings on capacity accreditation for wind projects.

5. OTP shall make information available to its North Dakota customers on the OTP website to explain the components of the energy and renewable resource adjustment line on customer bills.

PUBLIC SERVICE COMMISSION

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Tony Clark  
Commissioner

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Kevin Cramer  
Chairman

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Brian P. Kalk  
Commissioner