Fahn, Patrick J.

From: Richard J. Savelkoul [RSavelkoul@Felhaber.com]
Sent: Friday, July 23, 2010 3:20 PM
To: bgerhardson@otpco.com; Fahn, Patrick J.
Cc: PBeithon@otpco.com; bernadeenb@gmail.com; TBrause@otpco.com; Larry@LLSResources.com; kmaini@wi.rr.com; dmerz@otpco.com
Subject: RE: Draft Proposed Order Case No. PU-10-18
Attachments: 90912_1.doc

Follow Up Flag: Follow up
Flag Status: Flagged

Bruce and Pat -

A few more changes in the Findings - to clarify what is being said and still include what I believe is your intent.
Have a great weekend.

Thanks,
Rich

Richard J. Savelkoul
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From: bgerhardson@otpco.com [mailto:bgerhardson@otpco.com]
Sent: Friday, July 23, 2010 9:29 AM
To: Richard J. Savelkoul; PFahn@nd.gov
Cc: PBeithon@otpco.com; bernadeenb@gmail.com; TBrause@otpco.com; Larry@LLSResources.com; kmaini@wi.rr.com; dmerz@otpco.com
Subject: RE: Draft Proposed Order Case No. PU-10-18

I have attached a revised Order, which includes an explanation of the 19 -month recovery period (at the end of the 5th paragraph in the Commission Findings Section). I also accepted Rich's proposed revisions and cleaned up some minor typographical errors that I discovered (commas, spaces, etc). I removed the "10% savings" sentence from the second paragraph of the Commission Findings section, as I mentioned in my earlier email. I also paginated the document.

Let me know if you have any other questions or comments.

BRUCE GERHARDSON
Associate General Counsel

Otter Tail Power Company | 215 S Cascade St. | Fergus Falls, MN 56538-0496 | I

46 **PU-10-18** Filed: 7/23/2010 Pages: 12
Comments and revisions to further revised draft Order
North Dakota Large Industrial Group
Richard Savelkoul

From: Gerhardson, Bruce
Sent: Friday, July 23, 2010 6:58 AM
To: 'rsavelkoul@felhaber.com'; 'PFahn@nd.gov'
Cc: Beithon, Pete; 'bernadeenb@gmail.com'; Brause, Tom; 'Larry@LLSResources.com'; 'kmaini@wi.rr.com'
Subject: Re: Draft Proposed Order Case No. PU-10-18

I just realized I didn't add an explanation of the 19 month recovery period. I'll send that out a bit later this morning.

Bruce

From: Richard J. Savelkoul [mailto:RSavelkoul@felhaber.com]
Sent: Thursday, July 22, 2010 03:52 PM
To: Richard J. Savelkoul <RSavelkoul@felhaber.com>; Gerhardson, Bruce; Fahn, Pat
Cc: Beithon, Pete; bernadeenb@gmail.com <bernadeenb@gmail.com>; Brause, Tom; Larry Schedin <Larry@LLSResources.com>; kmaini@wi.rr.com <kmaini@wi.rr.com>
Subject: RE: Draft Proposed Order Case No. PU-10-18

oops - attached

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From: Richard J. Savelkoul
Sent: Thursday, July 22, 2010 3:50 PM
To: 'bgerhardson@otpco.com'; PFahn@nd.gov
Cc: PBeithon@otpco.com; bernadeenb@gmail.com; TBrause@otpco.com; 'Larry Schedin'; kmaini@wi.rr.com
Subject: RE: Draft Proposed Order Case No. PU-10-18

Please see the attached. Some I did not understand and some I did not think was supported by our record in this case, so changed it to what I thought would work.
Thanks,
Rich

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From: bgerhardson@otpco.com [mailto:bgerhardson@otpco.com]
Sent: Thursday, July 22, 2010 2:35 PM
To: PFahn@nd.gov; Richard J. Savelkoul
Cc: PBeithon@otpco.com; bernadeenb@gmail.com; TBrause@otpco.com
Subject: RE: Draft Proposed Order Case No. PU-10-18

Pat and Rich:

The attached is a revised draft Proposed Order for the Renewable Rider Case (PU-10-18).

The revisions reflect some additions Pat and I discussed earlier today. For your convenience I have also attached a redline version reflecting the changes so that you can do a comparison to the draft I sent this morning.

Let me know if you have additional questions or comments.

Bruce

From: Gerhardson, Bruce
Sent: Thursday, July 22, 2010 8:40 AM
To: 'pfahn@nd.gov'
Cc: 'rsavelkoul@felhaber.com'
Subject: Draft Proposed Order Case No. PU-10-18

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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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 Adjustment Factor and Request for Determination of Prudence for Luverne Wind Project under N.D.C.C. §49-05-16	))))))	Case No. PU-10-18

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. 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 ("ND ITC") associated with the Luverne Wind Project to determine if the project might qualify for a larger credit;

2. Whether the ND ITC 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 ND ITC 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 ND ITC 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). Finally, OTP 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 more fully explained in its Supplemental filing the calculation of the amortization and timing used for reflecting the ND ITC in OTP's RRA. The LIG informed the Commission that it accepted 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 is located in Steele County, North Dakota, approximately six miles north of Luverne, North Dakota. Otter Tail's Luverne Project comprises approximately 29 percent 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 in 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 OTP demonstrated at the hearing, Otter Tail has historically served its customers energy needs using both native generating resources and purchased energy, and OTP's customers energy needs have been growing as demonstrated in OTP's resource plans and energy forecasts. The energy generated by OTP's wind projects partially displaces the amount of purchased energy OTP requires to serve its retail customers, and therefore it partially displaces the higher cost energy that customers have paid through increasing Fuel Clause Adjustment (FCA) charges over the past several years. The cost savings of the wind projects can be seen in diminishing FCA charges. As explained by OTP at the hearing, the costs of the wind projects are reflected in the Rider RRA Factor, but the energy produced by the wind projects is reflected in the Company's FCA at zero cost to the FCA. This wind energy in the FCA displaces the need for purchased energy or fuel that would be reflected in the FCA at its purchase price.

For perspective, for the month of ____, there is a Energy Cost Adjustment Rider/FCA credit of approximately $0.009 per kWh, which is being offset by the energy produced from the wind projects and other factors. One component of the FCA is the RRA Factor of $.00551. There are several factors driving the FCA credit, including but not limited to; reduced energy and fuel purchases necessary as a result of this RRA, lower demand for energy resulting in fewer purchases for energy and fuel, lower prices for energy purchased from MISO as a result of lower demand, and margin sales credits. ~~Currently, there is a FCA credit of approximately $0.009 per kWh. This FCA credit more than offsets the price per kWh being paid for the wind through the proposed RRA Factor of $.00551 (and the savings are even greater for the LGS class, per the agreed upon rate design).~~

~~As the Commission has found in previous Rider approvals, it would have been easy for~~One alternative way to fulfill load requirements ~~to this power~~ was for Otter Tail to ~~simply~~ purchase power at market prices and ~~automatically~~ pass through the costs to consumers in its FCA. Instead, the Company on behalf of ratepayers, with a presumption of prudence, 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. No party challenged the prudence of the project. Furthermore, OTP's construction of the Luverne Wind Project was successful in that it was completed ahead of schedule and approximately 7 percent under budget. These cost savings are being passed through to customers. The Luverne project's contribution to OTP's customer's energy needs reflects that the project is used and useful for the service and convenience of the public in North Dakota.

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 percent per year for five years of dollars invested in North Dakota. In addition to the undisputed facts, described in the findings above, that demonstrate that the Luverne project is used and useful to OTP's North Dakota customers, the Commission also finds that the prudence of OTP's investment in the Luverne project has not been challenged by any party. Since it is a generation facility constructed in the State of North Dakota, the project satisfies North Dakota Century Code §49-05-16, which provides a rebuttable presumption that generation facilities located in the State of North Dakota are prudent.

The Commission finds that the recalculated RRA Factor resulting from this case, and as described below, provides a just and reasonable rate of return on Otter Tail's commission-approved investments in wind farms, including the Langdon, Ashtabula and Luverne wind farm investments. Specifically, the Commission finds that the RRA Factor includes the commencement of recovery of the amounts amortized over 48 months as required by the Commission's November 25, 2009, Order in Case No. PU-08-742; that the RRA Factor has been based on a recalculated ND ITC based on the total value of the Luverne Project; that the amortization and timing used for reflecting the ND ITC in the RRA Factor is appropriate; that the rate design and other calculations used for the RRA Factor are consistent with the

Commission's prior Orders on how OTP is to calculate its RRA Factor. The Commission also finds that the parties' proposal for a nineteen month recovery period for the RRA calculation is reasonable and appropriate. Using that period will result in a more consistent rate over a longer time-frame and will allow the "catch up" recoveries for the Luverne investment (those that have built up while this matter has been pending) to be spread over a longer period, thus mitigating their impact to customers.

Finally, the Commission finds that it is reasonable for OTP to continue to consider and discuss in its future annual rider filings the MISO capacity accreditation and any changes thereto or another appropriate methodology for allocating capacity and energy, as that accreditation currently forms the basis for the inter- and intra-class allocations for the RRA Factor. It is also reasonable to require OTP to make available on its company website information on the components of the energy and renewable adjustment line of customer bills as doing so will provide information from which customers may gain a greater understanding as to the costs and credits that make up their bills.

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

Tony Clark Commissioner	Kevin Cramer Chairman	Brian P. Kalk Commissioner