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RECEIVED

FEB 10 2012

February 10, 2012

PUBLIC SERVICE COMMISSION

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

Sent Via E-mail and U.S. Mail

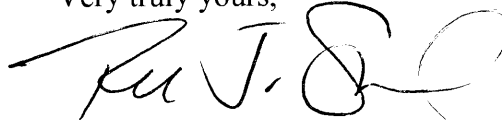
Re: Otter Tail Power Company's Application to Establish
A Transmission Cost Recovery Rates and Tariff
Case No.: PU-11-153
Case No.: PU-11-682

Dear Secretary Nitschke:

Goodrich Corporation, Cargill Corporation, Cavendish Farms, Inc., Archer Daniels Midland Company, ComDel Innovation, Tharaldson Ethanol LLC, Enbridge Pipelines (North Dakota) LLC, and PrimeWood, Inc. (the "North Dakota Large Industrial Energy Group" or "Large Industrial Group") respectfully submits the original and ten (10) copies of its Brief and Findings of Fact, Conclusions and Order.

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

Very truly yours,



Richard J. Savelkoul

RJS/dsm

Enclosures

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Brief and proposed Findings of Fact, Conclusions of Law and Order on contested issues
North Dakota Large Industrial Energy Group
Richard Savelkoul
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Brief and proposed Findings of Fact, Conclusions of Law and Order on contested issues
North Dakota Large Industrial Energy Group
Richard Savelkoul

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

In the Matter of Otter Tail Power Company's Application to Establish a Transmission Cost Recovery Rates	Case No.: PU-11-153
In the Matter of Otter Tail Power Company's Application to Establish a Transmission Cost Recovery Tariff	Case No.: PU-11-682

LARGE INDUSTRIAL GROUP'S POST HEARING BRIEF

The Parties to these Proceedings are Otter Tail Power Company ("OTP"), the North Dakota Large Industrial Group ("ND LIG") and the Advocacy Staff of the North Dakota Public Utilities Commission ("Advocacy Staff"). The ND LIG is a group of OTP's large industrial retail electric customers with locations in North Dakota, including Goodrich Corporation, Cargill Corporation, Cavendish Farms, Inc., Archer Daniels Midland Company, ComDel Innovation, Tharaldson Ethanol LLC, Enbridge energy LP and Primewood, Inc. Throughout these Findings, Conclusions and Order, OTP, the ND LIG and Advocacy Staff are referred to individually each as a Party and jointly as the Parties.

OTP filed certain Findings, Conclusions and Order points that were agreed to by the Parties, this Brief addresses the one issue that is not agreed to. The methodology for including the investments, the "All-in" method supported by ND LIG.

All-In Method Analysis

The All-in method results in results in the lowest cost to ratepayers in the current filing and over time results in the lowest cost to ratepayers, even with most conservative assumptions

for return and adder reductions at MISO/FERC.¹ OTP has agreed that LIG's calculations over the life of the projects are appropriate.² OTP investors have not paid for efforts that resulted in creation of this asset or opportunity at MISO.³ Ratepayers have taken the risk of this investment until this point, since OTP investors have not paid for investments in MISO proceedings and due to OTP's request for and order in the ADP proceeding, (PU 09-676).

OTP has not even formed an investment company nor proposed a sharing of costs associated with these assets in this case.

Use of the All-in method is simple and straight forward, compared to the split method which is more complicated.⁴

Historically for past investments, OTP ratepayers have paid for 100% of the costs of transmission and generation assets and have received 100% of revenues associated with these investments.⁵ Using generation resources as an example, OTP's investment in the Big Stone II investment grew as other utilities dropped out of the project, this is despite OTP determining a lower appropriate amount of power needed. In that case OTP's investors did not seek the investment opportunity – perhaps because there was not a virtually guaranteed return on that additional investment.

This investment could be viewed like a ten-year contract to purchase coal for serving ratepayer needs, then in year nine with coal prices significantly higher than the contract price, OTP proposes to allocate part of those rights to OTP investors based on the argument that all

¹ Evidentiary Hearing, January 24, 2012, (Maini LIG Comments).

² Evidentiary Hearing, January 24, 2012, (Anderson Testimony Cross).

³ Evidentiary Hearing, January 24, 2012, (Beithon Testimony Cross).

⁴ Evidentiary Hearing, January 24, 2012, (Rogelstad Testimony Cross).

⁵ Evidentiary Hearing, January 24, 2012, (Maini Testimony Direct) (identifying treatment of asset-based sales), See also, Biethon Testimony regarding OATT rates and Rogelstad Cross on past transmission investments.

of the coal is not needed to serve ratepayer needs. Under an argument that ratepayers should simply give up that portion of the asset and not take on the risk of additional purchase. Despite the ratepayers incurring all of the risk and development of the asset, OTP investors would get the benefit of those reduced prices. It would be inappropriate in that case and is inappropriate now.

It is because this is an asset that OTP investors want it. If it was a liability or if they did not want it, according to OTP, because it is a reliability project, ratepayers could be forced to make the investment anyway.⁶ North Dakota Century Code Section 49-05-04.3 allows ratepayers to make the investments and forces them to pay for it by requiring transmission recovery included assets to “improve the power delivery capability or reliability of the electric transmission system...” This should not be diverted to OTP investors simply because it is an asset with value.

Under this filing and current MISO tariffs, ratepayers will earn a larger return from MISO for all investments than ratepayers will pay under state tariffs, regardless of the level of rate base invested – so a larger offset will be earned for any additional ratepayer investment. All Parties, including OTP, to this proceeding agree that this investment is an asset that outweighs the risks associated with it.⁷

Since the All-in method: is consistent with past treatment of utility investments; ratepayers through MISO activities have paid for the costs associated with development/creation of these assets; is most transparent; has risk associated with this asset that is minimal compared to the opportunity; and that the cost-benefit analysis demonstrates

⁶ Evidentiary Hearing, January 24, 2012, (Rogelstad Testimony Cross).

⁷ Evidentiary Hearing, January 24, 2012, (Beithon Testimony Cross).

that the All-in method is least cost for ratepayers, the All-in is the appropriate method to use. It would be inappropriate to divert this asset to OTP Investors when ratepayers have paid for the costs and taken the risk up until this point.

CONCLUSIONS

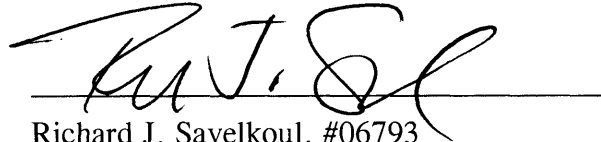
The historical treatment of these investments, the equities and risks, both past and present for these assets and investments are appropriate for and should use the All-in method.

Dated: February 10, 20120

Respectfully submitted,

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

By:

A handwritten signature in black ink, appearing to read "R.J. Savelkoul", is written over a horizontal line.

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**ATTORNEYS FOR THE NORTH DAKOTA LARGE
INDUSTRIAL GROUP**

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

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In the Matter of Otter Tail Power Company's Application to Establish a Transmission Cost Recovery Tariff	Case No.: PU-11-682

FINDINGS OF FACT, CONCLUSIONS AND ORDER

The Parties to these Proceedings are Otter Tail Power Company ("OTP"), the North Dakota Large Industrial Group ("ND LIG") and the Advocacy Staff of the North Dakota Public Utilities Commission ("Advocacy Staff"). The ND LIG is a group of OTP's large industrial retail electric customers with locations in North Dakota, including Goodrich Corporation, Cargill Corporation, Cavendish Farms, Inc., Archer Daniels Midland Company, ComDel Innovation, Tharaldson Ethanol LLC, Enbridge energy LP and Primewood, Inc. Throughout these Findings, Conclusions and Order, OTP, the ND LIG and Advocacy Staff are referred to individually each as a Party and jointly as the Parties.

OTP filed certain Findings, Conclusions and Order points that were agreed to, this filing supplements that filing to include appropriate Findings, Conclusions and Order paragraphs for selection of the "all-in" method supported by ND LIG.

FINDINGS

1. Ratepayers, through rates, have paid for Otter Tail Power Company's ("OTP") activities as MISO until this point.¹

2. OTP, on behalf of ratepayers, initiated proceedings that created the investment opportunity at issue in this case.² OTP's investors did not pay for any of these activities, the costs were expensed not capitalized.³

3. Historically, ratepayers have paid through rate base, one hundred percent of transmission investments. Ratepayers have historically received one hundred percent of the revenues associated with others using those lines, through sharing agreements, OATT rates at MISO and otherwise.⁴

4. OTP's investments in generating plant on behalf of ratepayers, are similar to the all-in method as generating plant often has excess capacity available. This excess generation capacity is bid into MISO and ratepayers receive the revenues from the sales of excess capacity.⁵

5. OTP Ratepayers are responsible for transmission construction costs in the event a line is needed and investors or OTP shareholders are not interested in making the investment.⁶

¹ Evidentiary Hearing, January 24, 2012, (Beithon Testimony Cross).

² Evidentiary Hearing, January 24, 2012, (Rogelstad Testimony Cross).

³ Evidentiary Hearing, January 24, 2012, (Beithon Testimony Cross).

⁴ Evidentiary Hearing, January 24, 2012, (Rogelstad Testimony Cross, see also Beithon Direct).

⁵ Evidentiary Hearing, January 24, 2012, (Maini Testimony Direct).

⁶ Evidentiary Hearing, January 24, 2012, (Rogelstad Testimony Direct).

6. OTP filed for an ADP and obtained an order for 100 percent of this investment that removed risk for them for the entire investment.⁷ Due to the ADP Order, ratepayers were at risk and responsible for the cost of constructing one hundred percent of these lines.

7. The entire investment opportunity has been created through OTP's actions at MISO on behalf of ratepayers. These MISO expenses have not been separately tracked or allocated to investors or these projects. These expenses include intervention and participation initiation or intervention in a proceeding that resulted in the cost sharing methodology that is in place for this proceeding, OTP's allocation of overhead staff, including transmission staff, regulatory staff, legal staff, etc., which have dedicated time to MISO proceedings or activities and this project, but not allocated that time or expensed to this project.⁸

8. Ratepayers will be paying a certain postage stamp portion of each reliability project within the MISO region, whether or not within OTP territory.⁹

9. The all-in method will result in ratepayers receiving additional Schedule 26 revenues for a portion of this project allocated to other MISO ratepayers and participants.¹⁰ These additional revenues will provide an offset to the postage stamp expenses that are coming from other projects throughout the MISO region.¹¹

10. If OTP withdraws from MISO, or MISO ceases to exist, OTP will have another mechanism to recover costs associated with these projects.¹² That mechanism is not able to be determined at this time.

⁷ Evidentiary Hearing, January 24, 2012, (Rogelstad Testimony Cross).

⁸ Evidentiary Hearing, January 24, 2012, (Rogelstad Testimony Cross).

⁹ Evidentiary Hearing, January 24, 2012, (Biethon Testimony Cross).

¹⁰ Evidentiary Hearing, January 24, 2012, (Biethon Testimony Cross).

¹¹ Evidentiary Hearing, January 24, 2012, (Maini LIG Comments).

¹² Evidentiary Hearing, January 24, 2012, (Biethon Testimony Cross).

11. OTP's motives, for profit, are in conflict with ratepayers' motives to minimize costs.

12. OTP's investment in transmission, independent of ratepayers' investment in the same assets, will put OTP's interests at MISO (for increasing ROE and increasing any O&M adder or similar attribute) in conflict with OTP ratepayers' motives to decrease those same mechanisms.

13. The All-In method has more transparency and simplifies future filings and auditing of expenses and revenues.¹³

14. LIG, by working with OTP, for analyzing the "all-in" versus "split" has developed the appropriate assumptions on revenues moving forward through the life of the project.

15. LIG has computed the net present value of the all-in method compared to the split method. In all scenarios – even removing all additional FERC incentives/adders (higher rate of return and O&M adder), based on LIG's analysis and reviewing all assumptions contemplated in this case, the all-in method has a positive economic impact and is least cost to ratepayers.¹⁴ OTP agreed with the numbers and assumptions used in this analysis.¹⁵

16. The Large Industrial Group "LIG" believes the opportunity and advantages for the entire investment outweighs the risks associated with the investment.¹⁶

17. The Public Service Commission Staff believes the opportunity for investment in the entire project outweighs the risks associated with the investment.

¹³ Evidentiary Hearing, January 24, 2012, (Maini LIG Comments).

¹⁴ Evidentiary Hearing, January 24, 2012, (Maini LIG Comments).

¹⁵ Evidentiary Hearing, January 24, 2012, (Anderson Testimony Cross).

¹⁶ Evidentiary Hearing, January 24, 2012, (Maini LIG Comments).

18. OTP views this transmission investment as an “opportunity” which they would like to have. OTP believes the opportunity outweighs the risks for this entire investment.¹⁷

19. OTP has not proposed a cost sharing mechanism for past expenses incurred by ratepayers that resulted in this asset and investment opportunity.

20. OTP has not created a for-profit subsidiary, nor an unregulated subsidiary, for investing in these assets.¹⁸

21. The Schedule 26 method would result in ratepayers paying more for these assets and a higher rate of return than authorized for OTP in North Dakota, and would result in an additional O&M adder above what would be charged under the all-in method.

CONCLUSIONS

1. The entire investment is now an asset which has been created through ratepayers’ investments/expenses at MISO in the past. These investments include intervention and participation initiation or intervention in a proceeding that resulted in the cost sharing methodology that is in place for this proceeding, OTP’s allocation of overhead staff, including transmission staff, regulatory staff, legal staff, etc., which have dedicated time to MISO proceedings or activities and this project, but not booked that time or expense directly to this project.

2. If OTP withdraws from MISO, or MISO ceases to exist, OTP will have another mechanism to recover costs associated with this project.

¹⁷ Evidentiary Hearing, January 24, 2012, (Beithon Testimony Cross).

¹⁸ Evidentiary Hearing, January 24, 2012, (Sem Testimony Cross).

3. OTP regularly makes investments on behalf of ratepayers which should be prudent. These investments in generation, transmission and otherwise seek to minimize costs or generate revenues in a prudent manner. OTP's investment of one hundred percent of the costs in this proceeding is a prudent investment to minimize costs and maximize revenues for ratepayers.

4. Any foregoing Finding which contains material which should be treated as a Conclusion is hereby adopted as a Conclusion.

ORDER

1. This proceeding has no precedential effect on decisions for future transmission investments, rules at MISO and FERC, as well as within the State of North Dakota, change over time. Each cost and investment must be prudent under the facts and circumstances of its incurrence. Each investment and transmission is extremely fact specific and often even under current rules varies significantly, whether a reliability multi-value project or otherwise.

(Additionally if Selection of "Split" Method)

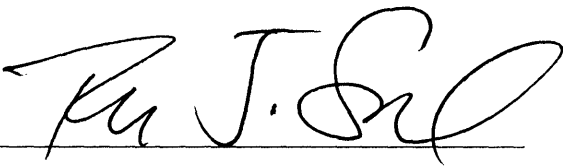
2. OTP must form a non-regulated subsidiary and propose a cost sharing agreement to reflect shared costs of overhead, efforts at MISO and otherwise that are appropriate to reimburse to ratepayers. These costs shall be accounted for through a tracker and shall include a division of costs in all MISO proceedings resulting in this asset that were invested or expensed in the past, proportionate costs in regulatory filings in the past, proportionate costs going into the future for administrative and overhead positions, and proportionate costs of any and all efforts at MISO or FERC related to transmission.

3. In OTP's next TCR filing, a methodology and the proposed amount for past and future ratepayer and investor MISO cost split shall be included.

Dated: February 10, 20120

Respectfully submitted,

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

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