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

October 25, 2022



Mr. Steve Kahl
Director of Administration/Executive Secretary
North Dakota Public Service Commission
State Capitol
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0408

**RE: Ashtabula III Wind Energy Center, Barnes County, ND
Case No. PU-22-
Wind Decommissioning Plan**

Dear Mr. Kahl:

Otter Tail Power Company (Otter Tail) hereby submits to the North Dakota Public Service Commission (Commission) its Wind Decommissioning Plan and Guaranty for the Ashtabula III Wind Energy Center (Ashtabula III) located in Barnes County, North Dakota.

Otter Tail is in the process of completing its purchase of Ashtabula III from a subsidiary of NextEra. We anticipate completing the transaction and commencing operations as the owner of Ashtabula III on or about January 3, 2023. We provide the enclosed Decommissioning Plan in compliance with N.D. Admin. Code 69-09-09-06 which states that “[p]rior to the commencement of operation of a facility, the owner must have an approved decommissioning plan.” We have also enclosed Otter Tail’s Guaranty as financial assurance of its decommissioning obligations as required by N.D. Admin. Code 69-09-09-08. The Guaranty is the same form and format approved by the Commission for our other wind generation facilities, the most recent being the Merricourt Wind Energy Center in Case No. PU-19-336.

An original and copies have been sent to you via USPS.

Please contact me at (218) 739-8956 or cstephenson@otpc.com if you have any questions regarding this filing.

Sincerely,

/S/ CARY STEPHENSON
Cary Stephenson
Associate General Counsel

sjw
Enclosures
By electronic filing and U.S. mail

24 PU-11-171 Filed 10/25/2022 Pages: 13
Decommissioning Plan and Financial Assurance Guaranty
Otter Tail Power Company
Cary Stephenson, Assoc. Gen. Counsel

An Equal Opportunity Employer

AN  OTTERTAIL COMPANY

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Otter Tail Power Company
Decommissioning Plan for
Ashtabula III Wind Energy Center**

Case. No. PU-22-

Decommissioning Plan

In accordance with N.D. Admin. Code Chapter 69-09-09, Otter Tail Power Company (Otter Tail) presents this Decommissioning Plan for the 62.4 MWh Ashtabula III Wind Energy Center (Ashtabula III), located in Barnes County, North Dakota.¹

Ashtabula III consists of 39 General Electric 1.6xle MW wind turbines that began commercial operations in December 2010. As of the date of this filing Ash III is owned and operated by Ashtabula III, LLC, a subsidiary of NextEra. Otter Tail will become the owner and operator of Ash III effective on or about January 3, 2023, pursuant to a Purchase Agreement filed with the Commission in Case No. PU-22-195.²

Anticipated Life of the Facility – N.D. Admin. Code 69-09-09-01 (6)(a)

Ashtabula III's 1.6 MW turbines have a depreciable life of at least 35 years (of which approximately 23 years remain). Anticipated technological updates allow the possibility for the wind site to continue to operate in an efficient manner beyond this time. In accordance with N.D. Admin. Code 69-09-09-04, decommissioning Ashtabula III Wind Facility shall begin within twelve months after the end of the useful life of the facility. Decommissioning shall be completed within twenty-four months after the end of the facility's useful life. Based on the operational date for Ash III of December 10, 2010, the 35-year analytical end of life is anticipated to occur on December 10, 2045, with decommissioning to begin no later than December 10, 2046, and be completed no later than December 10, 2047.

¹ This Decommissioning Plan is provided in accordance with N.D. Admin. Code 69-09-09-06 which states that “[p]rior to the commencement of operation of a facility, the owner must have an approved decommissioning plan.”

² The Commission issued Otter Tail Certificate of Public Convenience and Necessity No. 5966 to own and operate the Ashtabula III wind facility by an Order dated March 30, 2022, in Case No. PU-22-27. The Commission approved Ashtabula III, LLC and Otter Tail's joint application to transfer Certificate of Site Compatibility Number 17 to Otter Tail by an Order dated August 17, 2022, in Case No. PU-22-195. Otter Tail anticipates closing on its purchase of the Ashtabula III Wind Facility on January 3, 2023.

N.D. Administration Code 69-09-09-01 (6)(b) – Decommissioning Cost Estimate

The total estimated cost of decommissioning and restoration at the end of useful life for the facility is **\$10,268,310**, or **\$222,000** per turbine. These are gross figures exclusive of salvage value. When salvage value is considered, the total estimated net cost of decommissioning the facility is \$5,728,710 or \$146,890 per turbine.

These estimated costs are drawn from the attached Decommissioning Cost Estimate (attached as **Exhibit A**) prepared by a licensed North Dakota professional engineer as required by N.D. Admin. Code 69-09-09-06. All costs are presented in 2022 dollars.

Decommissioning Cost Estimate Method -N.D. Administration Code 69-09-09-01 (6)(c)

Please refer to the Decommissioning Cost Estimate for a description of methodology employed by the engineer preparing the estimate. The estimate is based on information gathered from historical data, the initial decommissioning estimate for Ashtabula III submitted by AE2S (November 28, 2017) on behalf of Ashtabula III, LLC., the cost estimate prepared by AE2S (November 5, 2019) for Otter Tail’s Luverne Wind facility,³ and construction cost indices for the period from 2019 to 2022.

Decommissioning Anticipated Activity - N.D. Administration Code 69-09-09-01 (6)(d)

Decommissioning of turbines and towers includes dismantling of turbine components and transportation of the dismantled components offsite. The costs and activities for the removal of the tower and wind turbine components, access roadways, meteorological towers and project substation have been evaluated. Specific activities include the following:

1. **Tower and Wind Turbine Components.** The turbines are GE 1.6xle (39 turbines) on tubular steel towers. Activities have been estimated for dismantling the turbines, tower sections and wind turbine blades. Removal of the tower wiring and transformer is also included. All components would be removed from the property. The composite materials used to construct the turbine blades currently have no salvage or recycling value. The root end metal fabrication component has scrap value and will likely be cut loose from the turbine blades prior to disposal. The composite materials of the blades

³ Otter Tail’s Luverne wind facility (a/k/a Ashtabula II) has similar GE wind turbines. The Commission approved the Luverne decommissioning plan and cost estimate in Case No. PU-18-343.

can be disposed as demolition waste and typical municipal waste landfills can accept the material. Therefore, special hauling costs or tipping fees are not included.

2. Tower and Transformer Foundations. Tower and transformer foundations, conduits and connections immediately at the tower foundation will be removed to a depth of at least three (3) feet below existing grade per North Dakota Admin. Code 69-09-09 (1)(c).⁴ This work will consist of sufficiently excavating around the foundations to provide access to, and a working platform around, the foundation. Each foundation is to be pulverized to the prescribed minimum depth, all exposed reinforcing steel is cut flush to the top surface of the remaining concrete and all demolition debris is properly disposed. All excavation is then backfilled full-depth with native soils and graded to match surrounding contours and will be restored to conditions that will support vegetation.
3. Tower Access Roads. It is feasible that the landowners may elect to leave the access roadways in place in lieu of removal during decommissioning (subject to Commission approval); however, the decommissioning plan and costs assume that access roadways will be completely removed and the site restored to its native predevelopment surface profile condition. The cost estimates assume that the aggregate surface road material will be stripped and removed from the site to an appropriate disposal location. In practice, the landowner will request that the aggregate surface material be stockpiled on the site for the landowner's future use. This practice has not been assumed in the cost estimates.

Typical practice to construct the access roads and aggregate surface pads is to fold the existing topsoil to the side and then to blend it into the existing grade. In theory, there is sufficient, recoverable quantities of topsoil on the site to completely restore the roads and foundation pad. However, an allowance for imported topsoil is included in the decommissioning costs.

Typical access roads are constructed with a geotextile fabric placed between the subgrade and the aggregate surface material. The geotextile fabric will also be removed and properly disposed. Remaining subgrade will be worked to provide decompaction and graded to match the existing contours. Roadway areas will be covered with topsoil

⁴ N.D. Admin. Code 69-09-09-05(1)(c) pertains to facilities constructed before July 1, 2017. For those facilities removal of foundations, building and ancillary equipment must be to a depth of three feet. The cost estimate prepared for Ashtabula III conservatively assumes a depth of four feet.

recovered from the site (or imported, as needed) and seeded to establish temporary vegetative cover.

The aggregate surface working pad around the foundations will be removed prior to excavation, and the surface will be restored in a manner similar to the access roads. The topsoil allowance for each turbine site will cover as-needed costs of imported topsoil.

4. Collection System and Cables. The cable trenches provide for a minimum cover of 40 inches over the cables, with at least 36 inches of earthen materials and topsoil in all areas other than road crossings. Due to the nature and depth of the cable trenches, the physical removal of the collection cabling is no longer viewed as a required activity. However, as a precaution costs have been included in this estimate. Underground collection conduit and cables from within the foundation excavation will be removed and disposed or more likely sold for salvage value. The costs are ancillary to the foundation removal and are included in the foundation removal costs. Scrap value is not explicitly considered.

Effects of Present and Future Natural Resource Development -- N.D. Administration Code 69-09-09-01 (6)(e)

Business operations at Ashtabula III focus on harnessing wind resources during the facility's useful life until that time when the site will be restored in accordance with Commission's rules through the decommissioning process. Ashtabula III has been developed to not impact the present or future development of natural resources during operation or decommissioning.

Detailed Financial Assurance or Self-Guarantee -- N.D. Admin. Code 69-09-09-01 (6)(f)

Included in this filing is Otter Tail's financial assurance for the decommissioning of Ashtabula III.

Harvey McMahan
Manager, Renewable Energy Construction
and Operations Wind Generation Development
Otter Tail Power Company

Signed: /s/ HARVEY MCMAHAN
Date: October 25, 2022



19 October 2022

North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

Regarding: Decommissioning Estimate - Ashtabula III 2022

North Dakota Public Service Commission,

Per the request of Ashtabula III Wind Energy Center, AE2S is pleased to submit the following Decommissioning Cost Estimate for the Ashtabula III Wind Energy Center located in Barnes County, North Dakota.

The estimate is based on information gathered from historical data, previous decommissioning estimates submitted by AE2S to the ND PSC, and construction cost indices to update the costs to 2022 net present worth.

AE2S team believes that the estimate is a conservative budgetary cost to complete the work.

Background: AE2S

AE2S is an employee-owned engineering firm headquartered in Grand Forks, ND with offices throughout ND, MT, SD, MN, MT and developing offices in CO, UT, WI. AE2S provides environmental engineering specializing in water and wastewater treatment, distribution, and collection; general civil engineering, with staff with civil engineering and structural engineering experience in a broad spectrum of commercial and industrial industries including the wind energy development sector.

AE2S routinely manages large rural water projects, which is an asset of experience for surface restoration of cultivated fields and other rural land use functions.

AE2S staff who prepared this report has been involved in wind energy development for 20+ years in various capacities and roles.

The Process:

During the initial phase of the work, AE2S compiled previous decommissioning reports and notes, and had discussions about experience and other similar projects. A draft version of the decommissioning report was developed and distributed for all parties to review. The final decommissioning estimate was created after discussion and agreement by all parties.

Methodology:

The estimate of cost was developed on a per turbine basis. AE2S had completed earlier decommissioning cost estimates for ND-based wind energy conversion systems (WECS's)

including the 2017 decommissioning update for Ashtabula III and the updated decommissioning report for Ashtabula II. AE2S used that historical data for the respective costs for each phase of the wind turbine decommissioning.

Please see the attached Exhibit A providing a detailed cost breakdown of the work required to complete the decommissioning process. Exhibit A presents the gross cost required for compliance with ND statues and regulations and a net cost for background and reference.

These breakdowns address the cost for each respective phase of the decommissioning process for the wind power facility. The decommissioning cost estimate is reasonable, and it is our conclusion that the costs include the scope of work needed to properly decommission the Ashtabula III Wind Energy Center.

Sincerely,


AE2S, LLC

Jay Kleven, PE (ND PE-4685)

Encl / Exhibit A - Gross and net Cost Estimates

EXHIBIT A

**Ashtabula III Wind / Otter Tail Power Co.
Decommissioning Cost Estimate 19 Oct 2022
Barnes County, ND**

ASHTABULA III WIND - BARNES COUNTY, ND



FACILITY INFORMATION

Facility Location:	Barnes County ND
Facility Size:	62.4 MW
Technology:	GE 1.6 XLE
Number of Turbines:	39

TURBINE COST BREAKDOWN

For (1) GE 1.6 XLE Wind Turbine & Associated Equipment

Removal Activity	Percentage of Cost (%)	Cost (2019)	Cost (2022) ^{Note 5}
Removal of Oil/Grease	4%	\$5,000	\$5,880
Nacelle & Hub Removals	35%	\$43,750	\$51,410
Tower Removal	15%	\$18,750	\$22,030
Down Tower Equipment Removal	3%	\$3,750	\$4,410
Removal of Underground Cables (24")	6%	\$7,500	\$8,810
Foundation Removals to base of pier ~4' Below Grade)	25%	\$31,250	\$36,720
Removal of Contaminated Soil	1%	\$1,250	\$1,470
Backfill, Topsoil, Seed	10%	\$12,500	\$14,690
Removal of Communication Tower	1%	\$1,250	\$1,470
Net Cost Per 1 Turbine ^{Note 1}		\$125,000	\$146,890
Scrap value credit ^{Note 2}		\$26,000	\$39,000
Prep/ transportation / disposal of materials ^{Note 3,6}		\$97,000	\$116,400
Differential Cost disposal in lieu of scrap ^{Note 4}		\$71,000	\$77,400
Gross cost per turbine, disposal		\$222,000	\$263,290

TOTAL DECOMMISSIONING GROSS COST - COMPLETE FACILITY

Gross Cost Per Turbine	Number of Turbines	Total Gross Cost (2019)	Total Gross Cost (2022)
\$263,290	39	\$8,658,000	\$10,268,310

TOTAL DECOMMISSIONING NET COST - COMPLETE FACILITY

Net Cost Per Turbine ^{Note 1}	Number of Turbines	Total Net Cost 2022
\$146,890	39	\$5,728,710

Notes:

Note 1 - Past experience implicitly includes net cost inclusive of scrap sales

Note 2 - The value is \$158/T (www.iScrap.com, 12 Oct 2022) for 247T of scrap. This scrap value was not deducted from the net cost per WTG value.

Note 3 - This is the value of transportation and disposal including onsite additional segmentation/processing, loading, permitting, trucking and landfill tipping fees. Material going to a landfill requires significantly more sizing and configuration control than that going to a scrap yard. The scrap is now a waste liability and not a credit.

Note 4 - This is the differential cost of disposal and preparation, relative to scrap

Note 5 - Cost escalation factor of 1.175 for the period 2019 through 2022

Note 6 - used 20% escalation due to disproportionate increases of transportation

OTTER TAIL POWER COMPANY
SELF-GUARANTY
(Ashtabula III Wind Energy Center)

THIS SELF-GUARANTY (this "**Guaranty**"), effective as of October 20, 2022 (the "**Effective Date**"), is made by OTTER TAIL POWER COMPANY, a Minnesota corporation ("**Guarantor**"), in favor of the NORTH DAKOTA PUBLIC SERVICE COMMISSION ("**Commission**").

RECITALS

A. WHEREAS, on or about January 3, 2023, Guarantor shall be the owner of 39 GE 1.6xle MW wind turbines and associated equipment known as the Ashtabula III Wind Energy Center (Ashtabula III), as more fully described in Case No. PU-22-27 and Case No. PU-22-195.

B. WHEREAS, as the owner of Ashtabula III Guarantor is required to provide the financial assurance to the Commission supporting the decommissioning of Ashtabula III pursuant to N.D.C.C. 49-02-07 and Section 69-09-09-08 of the North Dakota Administrative Code (the "**Statute**"); and

C. WHEREAS, Guarantor will directly or indirectly benefit from Ashtabula III; and

D. WHEREAS, Guarantor wishes to issue the Guaranty to Commission in compliance with the Statute.

E. NOW THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration, the receipts and sufficiency of which is hereby acknowledged, Guarantor hereby agrees for the benefit of Commission as follows:

1. **GUARANTY.** Subject to the terms and conditions hereof, Guarantor hereby absolutely and irrevocably guarantees the timely payment when due of all obligations owing to Commission under the Statute on or after the Effective Date (the "**Obligations**"). This Guaranty shall constitute a guarantee of payment and not of collection. The liability of Guarantor under the Guaranty shall be subject to the following limitations:

(a) Notwithstanding anything herein to the contrary, the maximum aggregate obligation and liability of Guarantor under the Guaranty, and the maximum recovery from Guarantor under this Guaranty, shall in no event exceed Ten Million Two Hundred Sixty-Eight Thousand Three Hundred Ten Dollars (U.S. \$10,268,310) (the "**Maximum Recovery Amount**").

(b) The obligation and liability of Guarantor under this Guaranty is specifically limited to payments due and owing, as well as costs of collection and enforcement of this Guaranty (including attorney's fees) to the extent reasonably and actually incurred by the Commission where the Commission is a prevailing party in an enforcement or collection action. Litigation and administrative costs are not limited by indebtedness reflected by the above listed financial assurance. In no event, however, shall Guarantor be liable for or obligated to pay any consequential, indirect, incidental, lost profit, special, exemplary, punitive, equitable or tort damages.

(c) In the event that the Guarantor no longer meets the financial assurance requirements set forth by the Statute provided as a condition for acceptance, or is disallowed from continuing as a guarantor, the obligor shall promptly notify the Commission by certified mail and establish alternative financial assurance acceptable to the Commission.

- (d) Guarantor agrees to notify the Commission by certified mail, of a voluntary or involuntary proceeding under the title 11 (Bankruptcy), United States Code, naming guarantor as debtor, within ten (10) days after commencement of the proceeding.
- (e) Guarantor agrees to remain to be bound under this guarantee notwithstanding any or all of the following: amendment or modification of the decommissioning plan, amendment or modification of the site certificate, the extension or reduction of the time of performance for decommissioning and remediation, or any other modification or alteration of the obligation of the owner or operator.

2. **DEMANDS AND PAYMENT.**

- (a) If obligor fails to complete the decommissioning and remediation as required by the Statute the terms and conditions of the site certificate, and to the reasonable satisfaction of the Commission, Commission may present a written demand to Guarantor calling for Guarantor's payment to be used for the decommissioning and remediation of the above-listed of the Project (a "**Payment Demand**"). Guarantor hereby agrees that demands for payment may be based and are payable on projection of costs or their actual accrual and the liability for payment is not contingent on the costs having been presently sustained. The Guarantor agrees to make prompt payment upon demand of the full amount, or portions thereof, requested by the Commission.
- (b) Guarantor's obligation hereunder to pay any particular Overdue Obligation(s) to Commission is conditioned upon Guarantor's receipt of a signed statement that the Commission has ordered the payment, in whole or in part, of the guaranty and accompany a Payment Demand. Such Payment Demand must reasonably identify the decommissioning and remediation obligation(s) the Obligor has failed to satisfy.
- (c) After issuing a Payment Demand in accordance with the requirement specified in Section 2(b) above, Commission shall not be required to issue any further notices or make any further demands with respect to the Overdue Obligation(s) specified in that Payment Demand, and Guarantor shall be required to make payment with respect to the Overdue Obligation(s) specified in that Payment Demand within five (5) Business Days after Guarantor receives such demand. As used herein, the term "**Business Days**" shall mean all weekdays (i.e. Monday through Friday) other than any weekdays during which commercial banks or financial institutions are authorized to be closed to the public in the State of North Dakota.

3. **REPRESENTATIONS AND WARRANTIES.** Guarantor represents and warrants that:

- (a) it is a corporation duly organized and validly existing under the laws of the State of Minnesota and has the corporate power and authority to execute, deliver and carry out the terms and provisions of the Guaranty;
- (b) no authorization, approval, consent or order of, or registration of filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of the Guaranty; and
- (c) this Guaranty constitutes a valid and legally binding agreement of Guarantor, enforceable against Guarantor in accordance with the terms hereof, except as the enforceability thereof may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditor's rights generally and by general principles of equity.

4. **RESERVATION OF CERTAIN DEFENSES.** Without limiting Guarantor's own defenses and rights hereunder, Guarantor reserves to itself all rights, setoffs, counterclaims and other defenses to which it is or may be entitled.

5. **AMENDMENT OF GUARANTY.** No term or provision of this Guaranty shall be amended, modified, altered, waived or supplemented except in a writing signed by Guarantor and Commission.

6. **WAIVERS AND CONSENTS.** Subject to and in accordance with the terms and provisions of Guaranty:

(a) Except as required in Section 2 above, Guarantor hereby waives (i) notice of appearance of this Guaranty; (ii) presentment and demand concerning the liabilities of Guarantor; and (iii) any right to require that any action or proceeding be brought against any other person, or to require that Commission seek enforcement of any performance against any other person, prior to any action against Guarantor under the terms hereof.

(b) No delay by Commission in the exercise of (or failure by Commission to exercise) any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights or a release of Guarantor from its obligations hereunder (with the understanding, however, that the foregoing shall not be deemed to constitute a waiver by Guarantor of any rights or defenses which Guarantor may at any time have pursuant to or in connection with any applicable statutes of limitation).

(c) Without notice to or the consent of Guarantor, and without impairing or releasing Guarantor's obligations under this Guaranty, Commission may; (i) change the manner, place or terms for payment of all or any of the Obligations (including renewals, extensions, or other alterations of the Obligations); (ii) release any person (other than Guarantor) from liability for payment of all or any of the Obligations; or (iii) receive, substitute, surrender, exchange or release any collateral or other security for any or all of the Obligations.

7. **TERMINATION.**

(a) Unless terminated earlier, this Guaranty and the Guarantor's obligations hereunder will terminate automatically and immediately at 11:59:59 p.m. Central Prevailing Time, December 10, 2048; three years after the predicted useful life of the facility), or upon complete decommissioning; *provided, however*, that no such termination shall affect Guarantor's liability with respect to any Obligation incurred prior to the time the termination is effective, which Obligation shall remain subject to the Guaranty.

(b) The Guarantor shall notify the Commission one (1) year prior to the above-listed termination date to ensure decommissioning has occurred to the satisfaction of the Statute of the Commission.

(c) Guarantor may terminate this guarantee by sending notice by certified mail to the Commission, provided that this guarantee may not be terminated unless and until the obligor obtains, and the Commission approves, alternative financial assurance.

8. **NOTICE.** Any Payment Demand, notice, request, instruction, correspondence or other document to be given hereunder (herein collectively called ("Notice") by Commission to Guarantor, or by Guarantor to Commission, as applicable, shall be in writing and may be delivered either by (i) U.S. Certified mail with postage prepaid and return receipt requested, or (ii) recognized nationwide courier service with delivery receipt requested, in either case to be delivered to the following address (or to such other U.S. address as may be specified via

Notice provided by Guarantor or Commission, as applicable, to the other in accordance with the requirements of this Section 8):

<p>TO GUARANTOR: Otter Tail Power Company 215 South Cascade Street Fergus Falls, MN 56538-0496 Attn: Treasurer</p>	<p>TO COMMISSION: North Dakota Public Service Commission 600 East Boulevard Avenue Bismarck, North Dakota 58505 Attn: Dept. 0408</p>
<p>[Tel: (218) 739-8200 for use in connection with courier deliveries]</p>	<p>[Tel: (701) 328-2400 for use in connection with courier deliveries]</p>

Any Notice given accordance with this Section 8 will (i) if delivered during the recipient's normal business hours on any given Business Day, be deemed received by the designated recipient on such date, and (ii) if not delivered during the recipients' normal business hours on any given Business Day, be deemed received by the designated recipient at the start of the recipient's normal business hours on the next Business Day after such delivery.

9. **MISCELLANEOUS.**

- (a) This Guaranty shall in all respects be governed by, and construed in accordance with, the law of the State of North Dakota, without regard to principles of conflicts of laws thereunder.
- (b) This Guaranty shall be binding upon Guarantor and its successors and permitted assigns and inure to the benefit of and be enforceable by Commission and its successors and permitted assigns. Guarantor may not assign this Guaranty in part or in whole without the prior written consent of Commission. Commission may not assign its rights or benefits under the Guaranty in part or in whole without the prior written consent of Guarantor.
- (c) This Guaranty embodies the entire agreement and understanding between Guarantor and Commission and supersedes all prior agreements and understandings relating to the subject matter hereof.
- (d) The headings in the Guaranty are for purposes of reference only and shall not affect the meaning hereof. Words importing and singular number hereunder shall include the plural number and vice versa, and any pronouns used herein shall be deemed to cover all genders. The term "person" as used herein means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated association, or government (or any agency or political subdivision thereof).
- (e) Commission (by its acceptance of this Guaranty) and Guarantor each hereby irrevocably: (i) consents and submits to the exclusive jurisdiction of the North Dakota District Court, Burleigh County for the purpose of any suit, action or other proceeding arising out of this Guaranty or the subject matter hereof or any of the transaction contemplated hereby brought by Commission, Guarantor or their respective successors or assigns; and (ii) waives (to the fullest extent permitted by applicable law) and agrees not to assert any claim that it is not personally subject to the jurisdiction of the above-named court, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Guaranty or the subject matter hereof may not be enforced in or by such court.

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty on October __, 2022, but it is effective as of the Effective Date.

OTTER TAIL POWER COMPANY

By:  _____

Name: Timothy J. Rogelstad

Its: President