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November 14, 2017

Darrell Nitschke  
Executive Secretary  
ND Public Service Commission  
600- East Boulevard Avenue  
Bismarck, ND 58505-0480

**RE: Otter Tail Power Company  
Case No. PU-17-96  
Minn-Kota Ag Products, Inc. - Richland County  
Public Convenience & Necessity  
Reply Briefs**

Dear Mr. Nitschke:

Otter Tail Power Company respectfully submits the enclosed Reply to Dakota Valley Electric Cooperative's Post Hearing Argument and Brief.

An electronic copy of this filing is also being sent to you at [dnitschk@nd.gov](mailto:dnitschk@nd.gov) and to the North Dakota Public Service Commission at [ndpsc@nd.gov](mailto:ndpsc@nd.gov). An original and seven copies will be mailed to your attention.

Please feel free to contact me at (218) 739-8956 or by email at [cstephenson@otpc.com](mailto:cstephenson@otpc.com) if you have any questions.

Sincerely,

*/s/Cary Stephenson*  
Cary Stephenson  
Associate General Counsel

kaw  
Enclosures  
Cc:  
ALJ Patrick J. Ward  
Kimberly J. Radermacher  
Zachary Pelham

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Otter Tail Power Company  
Minn-Kota Ag Products, Inc. - Richland County  
Public Convenience & Necessity**

**Case No. PU-17-96**

**Otter Tail Power Company's Reply  
to Dakota Valley Electric Cooperative's Closing Argument and Brief.**

Otter Tail Power Company (OTP or Company) submits the following response to Dakota Valley Electric Cooperatives' post hearing brief in the above-entitled matter. OTP's response is structured according to the issues set forth in the Commission's Notice of Hearing dated July 26, 2017. OTP has focused on key claims made by DVEC. To the extent OTP has not specifically addressed a point raised by DVEC does not signal agreement with DVEC. OTP believes an analysis of the 10 factors, giving proper weight to the key issues, supports the issuance of a Certificate of Public Convenience and Necessity (CPC&N) to OTP to serve Minn-Kota.

**1. From whom does the customer prefer electric service?**

DVEC attempts to reduce this issue to a matter of private preference based on cost vs. the public interest. A more accurate characterization is that OTP's rates, rate structure, and service extension plan are better suited to Minn-Kota's operational characteristics, and that OTP service will better enable Minn-Kota to capture and pass competitive benefits to local producers. Properly framed, this is an issue of public interest in whether a state of the art grain handling facility must take service under a DVEC rate design that features a high demand charge, when doing so will likely cause Minn-Kota's to suffer operational inefficiencies, to the detriment of Minn-Kota, producers, and area communities.

DVEC's post hearing brief does not address DVEC's demand charge structure. This is telling. To recap, DVEC made one service proposal to Minn-Kota. *See OTP Exhibit 8*. DVEC's proposal featured a demand charge structure poorly suited with the size and operating characters of Minn-Kota's planned facility. Whether intentional or not, DVEC effectively made

a take it or leave it offer to Minn-Kota. DVEC apparently did not explore different demand response options and rates better suited to Minn-Kota with Central Power Electric Cooperative (CPEC), DVEC's power supplier. Minn-Kota, which is making a \$20 million investment in southeastern North Dakota, understandably seeks service that will allow its facility to operate to its full potential, which in turn enables Minn-Kota to better serve local producers. It also better enables Minn-Kota to reinvest in and grow its facility and other operations – growth that benefits the general area including areas served by DVEC. In this context it is not reasonable to portray this matter as a case where Minn-Kota simply seeks to save a few dollars.

DVEC also dismisses the governing differences between OTP and DVEC as not worthy of consideration. The Commission, however, has considered governing differences between Commission regulated utilities and board regulated cooperative in other contested CPCN matters, most recently in Montana Dakota Utilities' (MDU) request to serve Menards.<sup>1</sup> The issue is relevant in this case where Minn-Kota must accept the rate DVEC's Board determines appropriate at the end of the nine-year discount set forth in DVEC's service proposal, assuming that DVEC's Board does not alter the discount and other terms at an earlier date.<sup>2</sup> In light of these facts it is appropriate to consider the greater stability and predictability provided from a rate regulated utility. Ignoring this issue could send adverse signals to others considering development of similar ag processing and handling facilities.

DVEC has also failed to address the operational flexibility that OTP provides in terms of required soft start devices. At hearing DVEC acknowledged its policy requiring Minn-Kota to install soft start devices on motors more than 30 horsepower. In contrast, the evidence at hearing established that under OTP service Minn-Kota would need install soft start devices on motors above 100 horsepower. In response, DVEC witness Seth Severson stated DVEC could likely waive its soft start threshold. Severson's testimony, however, was based on what DVEC claimed it had done with one or more other customers in the past. It was not based on a distribution study specific to Minn-Kota. In contrast, OTP's soft start threshold was based on a specific distribution study for Minn-Kota.

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<sup>1</sup> Case No. PU-13-871.

<sup>2</sup> It bears repeating that DVEC did not offer a contract locking in its proposal to Minn-Kota, and that DVEC's Seth Severson stated at hearing that DVEC typically reserves such contracts to larger loads.

In sum, OTP service to Minn-Kota is not simply a matter of private preference based on cost. There are numerous, well supported reasons for Minn-Kota seeking OTP that support the public's interest.

**2. What electric suppliers are operating in the general area?**

OTP concurs with DVEC that the Commission can reasonably find that this factor favors neither OTP or DVEC.

**3. What electric supply lines exist within at least a two-mile radius of the location to be served, and when were they constructed?**

OTP disagrees with DVEC that this factor favors DVEC. Instead, the Commission can reasonably find that this his factor favors neither party. The facts established at hearing:

- OTP has transmission service within two miles of the service location. DVEC does not. In fact, OTP's transmission supply is immediately adjacent the Minn-Kota point of service.
- Both parties have distribution lines within the 2 miles radius, with DVEC having more service points and distribution line.
- To serve Minn-Kota, both parties must install underground distribution line to Minn-Kota's point of service. In OTP's case it must install approximately 1000 feet of underground distribution. DVEC must install approximately 3/4 of a mile of new distribution service.

Summarized, within the 2-mile radius of the service location OTP has an advantage with respect to transmission supply facilities, DVEC has an advantage with respect to distribution supply facilities, and both parties must install new distribution facilities to serve Minn-Kota. These factors demonstrate that neither party has an advantage concerning supply lines within the two-mile radius of the Minn-Kota point of service.

**4. What customers are served by electric suppliers within at least a two-mile radius of the location to be served?**

DVEC has more customers within a two-mile radius of Minn-Kota's point of service than does OTP. In balancing the ten factors, however, the Commission can reasonably assign this

factor limited weight. DVEC's service points in the two-mile radius are rural residences and farmsteads. DVEC service to these customers is materially different than the service required by Minn-Kota's commercial grain handling facility in terms of necessary capacity and load. The Commission can also take notice that OTP serves many rural customers just beyond the two-mile boundary, and provides three phase service to grain elevators in Barney and Mooreton.

**5. What are the differences, if any, between the electric suppliers available to serve?  
The area with respect to reliability of service?**

This factor strongly favors OTP despite DVEC's claims to the contrary. There are different ways to measure reliability and restoration performance as noted by DVEC, but the industry standard is to evaluate SAIFI, SAIDI, and CAIDI metrics. DVEC contends that the Commission should not consider comparative CAIDI data "[b]ecause CAIDI looks at 'consumer' average and not 'system' average, [therefore] it would be unfair for the Commission to give the disparity in CAIDI numbers for Otter Tail and Dakota Valley much weight. Dakota Valley has less than 4200 members, as compared to Otter Tail's close to 60,000 members."<sup>3</sup> This argument reflects a basic misunderstanding of CAIDI. CAIDI is in fact a system average; an average of the duration of outages experienced by customers. CAIDI is not weighted or measured by customer densities in any manner whatsoever. Therefore, it is appropriate for the Commission to compare DVEC's five-year weather normalized CAIDI average of 114.18 with OTP's five-year weather normalized CAIDI average of 64.6. These figures demonstrate that OTP typically takes 64.6 minutes to restore an outage, whereas DVEC's average is approximately 2 hours. This difference was not lost on Minn-Kota representative George Schuler, who testified to the fines and commercial losses Minn-Kota is exposed to during extended down-time. DVEC may argue that its rural customer base, and the size of its service area necessarily results in higher outage duration times. The Commission, however, can take notice that OTP's North Dakota service area is substantially larger than DVEC or any cooperatives' service area for that matter. Also, as noted by OTP Exhibit 1, OTP serves rural customers in addition to customer located within municipalities – all of which supports comparing CAIDI figures.

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<sup>3</sup> Dakota Valley Electric Cooperative Closing Argument and Brief at p. 6.

Next DVEC attempts to argue the feeder it would use to serve Minn-Kota has a better outage history than OTP's Wahpeton substation, and that the Commission should weigh this rather than CAIDI figures. This however, is an inappropriate apple to oranges comparison. As noted at hearing, OTP's Wahpeton substation is a *transmission* substation. DVEC Mooreton substation, in contrast is a *distribution* substation. DVEC Exhibit 14 reflects certain transmission outages as measured from OTP's Wahpeton substation. DVEC Exhibit 11 purports to show distribution outages recorded at DVEC's Mooreton substation. The two are not the same, and DVEC provided little if no testimony to what extent a momentary transmission outage in one transmission substation would create a distribution outage. Therefore, it is inappropriate for DVEC to argue its system is more reliable on this comparison. Moreover, as noted at hearing, OTP transmission facilities serve DVEC's Mooreton substation. Given that OTP's transmission facilities connect to and serve DVEC's Mooreton substation, and are of the same vintage as the OTP transmission facilities abutting the Minn-Kota property, the Commission's reliability focus should be on OTP's and DVEC's respective distribution systems. Here there is ample evidence for the Commission to conclude that OTP's plan to serve Minn-Kota is inherently more reliable than DVEC's service plan.

OTP's distribution system serving Minn-Kota will extend approximately 1,000 feet underground from a new distribution substation located on the Minn-Kota property to the point of service. In contrast, DVEC intends to serve Minn-Kota from DVEC's Mooreton distribution substation over four miles from Minn-Kota's point of service. The fact is that OTP has substantially distribution line exposure than does DVEC.

In addition to the distribution line exposure as measured from each electric service provider's distribution substation, DVEC has *significantly* more distribution exposure overall. DVEC intends to extend service to Minn-Kota from an existing three phase cabinet located to the east<sup>4</sup> of the Minn-Kota property. See OTP Exhibit 5. That cabinet will connect Minn-Kota to DVEC's distribution system extending to the northwest and southeast. A fault or interruption at any point of this connected distribution system can impact Minn-Kota's service. In contrast to this risk, OTP will serve Minn-Kota with 1,000 feet of underground distribution line where Minn-Kota is the only distribution customer for the time being. It is important to note this is not

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<sup>4</sup> In its initial post-hearing filing OTP incorrectly described this cabinet as being located to the west of the Minn-Kota site.

an overhead vs. underground issue – is an issue of distribution line length and associated exposure.

This difference in distribution line exposure is also relevant to outage durations. OTP will have much less underground distribution line to examine in the event of a suspected fault than will DVEC, with all of OTP's distribution line located on readily accessible areas on Minn-Kota's site, whereas the miles and miles of DVEC's distribution lines are appearing to be in easements adjacent to public road right-of-way that may not have ready access points during the winter.

OTP has also noted that any in addition to distribution line exposure, Minn-Kota will share a transformer feeder at DVEC Mooreton substation with over 50 other DVEC customers, and share a transformer with over 250 other DVEC customers. OTP witness Ritchie Wolf testified that an outage or problem at anyone of these other distribution points can affect Minn-Kota service, and that Minn-Kota's service can affect these other DVEC customers. In contrast, Minn-Kota will be the only distribution customer served by OTP on-site distribution transformer for foreseeable future.

The record supports a Commission finding that there are material differences in reliability between OTP and DVEC, particularly as applied to service to Minn-Kota, and that these differences favor OTP serving Minn-Kota.

**6. Which of the available electric suppliers will be able to serve the location in question more economically and still earn an adequate return on its investment?**

DVEC argues “that the economics of this should [factor] come down to the cost of the investment by each entity to extend service to the proposed Minn-Kota elevator site and not any difference in rates.”<sup>5</sup> The Commission has not accepted that argument in the past, and should not do so now. In MDU's request to serve Medard, Inc. the Commission specifically determined that “[c]onsideration of the cost to serve the location includes consideration of not only the revenue requirement associated with the incremental investment to extend service, but also the other costs of electric distribution, transmission and generation as reflected in the service

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<sup>5</sup> Dakota Valley Electric Cooperative Closing Argument and Brief at p. 10.

providers rates for service.”<sup>6</sup> The Commission went on to document the difference in cost to the customer.

In this case there is a substantial difference in annual cost of service to the customer. DVEC argues that the difference is not material, but this argument is based on a waiver of charges and fees its policies otherwise require, and speculation about capital credits that are currently on a 15 year payout cycle. More importantly, DVEC’s argument that the cost differential is not material assumes 33 percent load factor for Minn-Kota. As previously noted, DVEC’s *own* analysis does not support a 33 percent load factor for Minn-Kota. DVEC’s initial brief does not address this point. The record supports a 23 percent load factor, which equates to a customer cost difference of approximately \$70,000 year assuming DVEC follows through on the waiver of power factor and other charges.

With respect to the basic cost to extend service, there is no dispute that OTP costs are greater than DVEC costs. This however, does not render DVEC’s service more economical. This point is demonstrated in part by the time it requires for each provider to recoup their initial investment to extend service. DVEC claims that it will recoup its investment in 5 years. This analysis assumes a 33 percent load factor. *See DVEC Late Filed Exhibit 3*. In contrast, whether one uses a 23 percent or 33 percent load factor, OTP recoups the cost to extend service in less than two years. *See OTP Exhibit 10; OTP Late Filed Exhibit 1*.

DVEC also argues that OTP cost to extend service reflects a best-case scenario and that OTP would use a depreciated transformer with a “sketchy” history. The record does not support these fanciful claims. OTP’s cost estimate (set forth in OTP Exhibits 3 & 4) is not a best-case scenario; it is an actual case scenario.

OTP has provided an itemized and thorough assessment of estimated costs, which includes the cost of a partially depreciated transformer. OTP engineering witness Ritchie Wolf testified that the partially depreciated transformer is in the queue for use, and that OTP’s normal practice would be to select that transformer<sup>7</sup>. DVEC suggest without support that this is unusual and a best-case scenario. The fact is that if something were to change, is just as likely that OTP

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<sup>6</sup> Finding of Fact, Conclusion of Law and Order, Case No. PU-13-17-871, Finding of Fact 20, p. 6. *See also* Montana-Dakota Utilities Co. Application for Certificates of Public Convenience and Necessity Consolidated Case Nos. Pu-08-345, PU-08-346, PU-08-347 and PU-08-693.

<sup>7</sup> In Case No. PU-13-871 the Commission accepted MDU’s estimated cost to serve Medard, Inc near McKenzie, North Dakota. MDU’s estimate assigned no cost to fully depreciated transformer MDU planned to install.

would deploy a different depreciated transformer from inventory (perhaps a fully depreciated unit) than a new transformer as suggested by DVEC. This would result in a lower cost to extend service. In terms of suitability of the transformer, OTP engineering witness Ritchie Wolf OTP's transformers are in good operating condition. There is nothing "sketchy" about it. It should also be noted that OTP's partially depreciated step-down transformer is significantly newer than the transformer DVEC intends to use to serve Minn-Kota. Also, while DVEC testified to the fitness of its Mooreton substation, it noted that it did not own the transformers in that substation (they are owned by CPEC), which calls into question the basis of DVEC testimony on this point.

DVEC also argues that in assessing this factor, the Commission should weigh difference between cooperative and public utility (IOU) service, specifically that it is difficult for cooperatives to compete with investor-owned utilities in rates because cooperatives have more line miles per customer and fewer commercial loads than investor-owned utilities. These points are not relevant to the Commission's analysis of which supplier will be able to serve the location in question more economically and still earn an adequate return on its investment. To the extent the Commission considers these claims, the Commission should also consider that unlike cooperatives, investor-owned utilities pay federal taxes, investor-owned utilities do not have access to federally-subsidized interest rates on borrowed capital, that investor-owned utilities are subject to Commission oversight and regulation, and that investor-owned utilities are statutorily prohibited from discrimination in service and rates. Finally, the Commission could consider, contrary to DVEC claims, that commercial loads are likely to develop outside municipal boundaries given the space requirements of entities like ag processing and commercial grain handling facilities. The intent of the foregoing is to simply point out that cooperatives and Commission-regulated utilities have unique challenges and differences, and that if these issues are to be considered both sides of the equation should be examined.

Finally, the record fully supports that OTP can earn an adequate return on its investment while providing more economical service than can DVEC. OTP is offering Minn-Kota a standard rate with no discounts<sup>8</sup>, and under any scenario OTP will easily earn its authorized rate of return, which reflects the weighted cost of capital (equity and debt) deployed to extend service to Minn-Kota. It is not clear what DVEC means when it refers to rate of return. What is clear is

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<sup>8</sup> Minn-Kota has requested service under OTP's General Service rate. Any deviation from OTP's Commission approved rates would require Commission approval.

that DVEC service produces very slim contribution to DVEC's overall costs (*See DVEC Late Filed Exhibit 3*), and that the slim contributions assume a 33 percent load factor for Minn-Kota and very little change in DVEC's energy costs over the next decade. If any of those assumptions prove inaccurate, DVEC risk having no contribution to its costs - or worse a negative contribution - while not earning the cost of capital deployed to extend service to Minn-Kota. In fact, the Commission can reasonably conclude that DVEC has extended a risky loss leader proposal to Minn-Kota, with the intent of capturing a sufficient revenue much later. This type of arrangement does not support DVEC's claim that it can serve more economically than OTP and still earn an adequate rate of return.

**7. Which supplier's extended electric service would best serve orderly and economic development of electric service in the general area?**

As previously noted, there is little need for the orderly and economic development of electric service in the general area absent economic growth and investment. The record supports the conclusion that OTP service will make it easier for Minn-Kota to reinvest in and expand its facility. Minn-Kota's new facility, if operated as designed, will benefit area producers, who in turn may invest in and grow their operations. This kind of growth benefits the general area, including Barney and Mooreton, as well as areas served by DVEC. The same cannot be said for DVEC service. This is where DVEC errs in claiming that OTP service to Minn-Kota benefits only Minn-Kota.

DVEC argument rests largely on the underground distribution that it has within the 2-mile radius of the Minn-Kota service site. That issue has already been addressed in Factors 3 & 4. DVEC also claims that OTP could not extend or grow service in the area. This is incorrect. Of course, OTP would require a CPCN to extend service outside of municipal boundaries. That has also been the case, and is not a consideration in which supplier would best serve the orderly and economic development of electric service in the general area. DVEC incorrectly claims, without any support in the record, that OTP would have to get permission from Minn-Kota to extend service from a distribution substation on property that OTP would purchase or lease from Minn-Kota. OTP Ritchie Wolf noted at the hearing that OTP will be able to serve other customers from this substation in the future. Here it is worth noting that OTP will have the ability to design service in a way that Minn-Kota will not be exposed to service interruptions.

The fact is that OTP service to Minn-Kota is consistent with its service in the general area, including service in nearby Moreton and Barney, and should there be growth in the area, OTP will be well positioned to design service that benefits the general area.

**8. Would approval of the applications result in wasteful duplication of investment or service?**

DVEC position on this point is that OTP's plan to install a distribution substation on property purchased or leased from Minn-Kota is wastefully duplicative and benefiting only Minn-Kota. This is incorrect. OTP's plan to extend service to Minn-Kota is fundamentally different than DVEC's plan, and is not duplicative of DVEC service or exiting OTP service. OTP's service extension plan taps power from a transmission source that is as close as possible to the point of service – in this case it abuts the point of service. This plan limits the length of distribution line necessary to serve Minn-Kota, and eliminates all the concerns associated with Minn-Kota being tied to a large distribution network. This fundamentally different approach is not duplicative of any existing DVEC service. OTP engineering witness Ritchie Wolf testified that OTP's internal analysis indicated its Minn-Kota plan was by far the lowest cost and best service option. In that sense OTP plan does not duplicate other OTP facilities.

**9. Is it probable that the location in question will be included within the corporate limits of a municipality within the foreseeable future?**

The testimony at hearing indicated it is unlikely that the Minn-Kota site will be incorporated into municipal boundaries of Barney or Mooreton in the foreseeable future. This factor has limited relevance to OTP's CPC&N request. The Commission can reasonably find this factor is either not directly relevant or that it favors neither party.

**10. Will service by either of the electric supplier in the area unreasonably interfere with the service or system of the other?**

Service as planned by OTP will not cross over or under DVEC facilities or interfere with DVEC's existing service. Likewise, service as planned by DVEC will not cross over or under or interfere with OTP's existing service. The Commission can reasonably find that this factor favors neither provider.

## CONCLUSION

OTP respectfully requests that the Commission determine that public convenience and necessity requires OTP to serve Minn-Kota's commercial grain handling facility. The weight of the ten factors favors the issuance of a CPC&N. The record demonstrates that OTP service will allow Minn-Kota to operate its new \$20 million facility more efficiently, with more flexibility, and with less risk than DVEC service, all to the benefit of Minn-Kota's customers and future investment in the general area.

Respectfully submitted this 14<sup>th</sup> day of November 2017.

OTTER TAIL POWER COMPANY

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