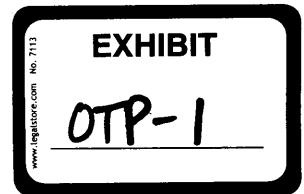


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July 6, 2018



Darrell Nitschke
Director of Administration/Executive Secretary
North Dakota Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480

**RE: Case No. PU-17-398
OAH File No. 20170622
In the Matter of the Application of Otter Tail Power Company for Authority to
Increase Rates for Electric Service in North Dakota.
Settlement Agreement**

Dear Mr. Nitschke:

Please find enclosed for filing a Settlement Agreement reached among Otter Tail Power Company, North Dakota Public Service Commission Advocacy Staff and Intervenors Midwest Large Energy Consumers and Wal-Mart Stores, Inc (collectively, the Parties) in the above-mentioned proceeding.

The Settlement Agreement represents a settlement of all contested issues raised during the pendency of this proceeding.

The Parties ask the Commission to approve the Settlement Agreement and are available to provide any additional information the Commission may require.

An original and ten copies of the Settlement Agreement are being sent via mail. Please contact me at (218) 739-8956, or cstephenson@otpco.com should you have any questions with respect to this filing.

Very truly yours,

A handwritten signature in black ink, appearing to read "Cary Stephenson".

Cary Stephenson
Associate General Counsel

jif
Enclosures
By electronic filing
c: Service List

STATE OF NORTH DAKOTA
BEFORE THE
PUBLIC SERVICE COMMISSION

Application of Otter Tail Power Company for
Authority to Increase Rates for Electric
Service in North Dakota

Case No. PU-17-398

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between the North Dakota Public Service Commission Advocacy Staff (Staff), Otter Tail Power Company (OTP or the Company), Intervenor Midwest Large Energy Consumers (MLEC), and Intervenor Wal-Mart Stores, Inc. (Walmart), collectively referred to as the “Parties”. This Settlement Agreement resolves all outstanding issues in the above-captioned proceedings in a manner consistent with the public interest and will result in just and reasonable rates for OTP’s retail electric operations in North Dakota.

PROCEDURAL HISTORY

On November 2, 2017, OTP filed with the North Dakota Public Service Commission (Commission) an Application for Authority to Increase Electric Rates in North Dakota seeking an annual increase of non-fuel base electric revenues of \$13,138,372 or 8.72 percent (Application). For its Test Year the Company used a projected calendar year ending December 31, 2018.

The Company’s Application included proposed revisions to its Transmission Cost Recovery Rider (TCRR), Renewable Resource Adjustment Rider (RRAR) and Environmental Cost Recovery Rider (ECRR) to reduce the rate of return and modify allocation factors. Without adjusting the TCRR, RRAR and ECRR to reduce the rate of return and modify allocation factors, the rate and tariff changes proposed by OTP would have resulted in an annual increase of non-fuel base electric revenues of \$15,715,320, or 10.61 percent.

The Company also filed an Alternative Petition for Interim Rates that would increase its Test Year revenues by \$12,800,479, or a 10.44 percent increase of present retail electric revenues, on and after January 1, 2018, if its request for final rates was suspended.¹ On November 29, 2017, the Commission suspended OTP's requested final rates.

On December 20, 2017, the Commission issued an Order approving interim rates as requested by OTP, with such interim rates effective for services rendered on or after January 1, 2018. On January 29, 2018 the Commission granted Walmart's Petition to Intervene. On February 5, 2018 the Commission granted MLEC's Petition to Intervene.

On February 15, 2017, OTP petitioned the Commission to decrease interim rates so that customers would receive the immediate benefit of the Tax Cut & Jobs Act (TCJA).² OTP requested a reduction of interim rates from 10.44% to 6.79%, which reflected a decrease in the revenue requirement for interim rates from \$12.8 million to \$8.3 million, a total reduction in interim revenue of \$4.5 million. OTP also proposed to reduce its ECRR, TCRR and RRAR annual revenues from \$26.5 million to \$24.8 million, a reduction of approximately \$1.7 million. OTP also requested authority to implement the decreased interim rates on less than 30-days notice, to be effective March 1, 2018.

On February 27, 2018, the Commission issued an Order approving the decrease in interim rates as requested by OTP for services rendered on or after March 1, 2018. Also, on February 27, 2018 the Commission issued its Notice of Public Input Sessions and Public Hearing setting public input sessions for April 3 and April 5, 2018. The Commission set April 20, 2018 as the deadline for Petitions to Intervene. The public input sessions were held as scheduled.

On March 23, 2018, OTP filed Supplemental Direct Testimony which updated its Application to reflect the impact of the TCJA and other updates, reducing OTP's revenue deficiency by \$6,005,205. Of this decrease, \$4,772,552 related to tax reform under the TCJA and \$1,232,653 related to other updates to 2018 Test Year costs of service. Stated as a

¹ The requested interim rates were exclusive of separately collected revenues related to franchise fees or gross earnings taxes imposed by local governmental units and the Company's TCRR, RRAR, and ECRR, to which the interim increase did not apply. During the period of interim rates, the riders would remain in effect at rates adjusted to match the rates stated in OTP's Application Notice until final rates become effective.

² On December 22, 2017, the TCJA, which enacted significant changes to the Internal Revenue Code, including a reduction in the maximum U.S. federal corporate income tax rate from 35 percent to 21 percent, became effective. On January 10, 2018, the Commission ordered an investigation to determine the effect of the TCJA on investor-owned utilities serving customers in North Dakota. OTP made a filing in Case No. PU-17-490 contemporaneously with its filing in PU-17-398.

percentage, OTP reduced the increase reflected in its Application from 10.61 percent to 6.64 percent.

Intervenors and Staff filed Direct Testimony on May 18, 2018. OTP and Intervenor MLEC filed Rebuttal Testimony on June 22, 2018.

The Parties have reached this Settlement Agreement through multiple settlement discussions. The Settlement Agreement is supported by the record, and the Parties jointly recommend the Commission issue an Order approving this Settlement Agreement without conditions or modifications.

BACKGROUND FOR SETTLEMENT

OTP provides retail electric service to approximately 131,500 customers in North Dakota, Minnesota, and South Dakota. In North Dakota, OTP serves approximately 59,000 customers in 245 communities. The average population of communities served by OTP is approximately 400, with Jamestown as the only community OTP serves in North Dakota with a population over 10,000. OTP's 70,000 square-mile service territory is approximately the size of Wisconsin. OTP is headquartered in Fergus Falls, Minnesota and is a subsidiary of Otter Tail Corporation, which has its headquarters in Fargo, North Dakota. Based on revenues, OTP is the second smallest investor-owned utility in the United States.³

OTP's current North Dakota base rates were set in a rate case filed in 2008 based on a 2007 Test Year (Case No. PU-08-862). OTP has made significant system investments since that case in 2008, with net plant-in-service doubling from 2007 Test Year levels. OTP's operations and maintenance (O&M) costs have also increased since the 2007 Test Year. OTP's sales have increased by just 2.5 percent over the sales used for setting OTP's rates in the 2007 Test Year, which is an annual average of 0.2 percent.⁴

OTP's average rates (reflecting an average of all customer classes and including all bill components) have been below national and regional averages and have been the lowest of all North Dakota investor-owned utilities since 2011.⁵ Rates for OTP's individual rate classes have varied in relation to national and regional averages, with OTP's average industrial rates being

³ See, Gerhardson Direct, pp. 4, 7-9

⁴ See, Gerhardson Direct, pp. 15-16, 20-21,

⁵ Gerhardson Direct, p. 10

higher than national and regional averages. As of July 1, 2017: (1) OTP's overall rates were 13 percent and 23 percent below regional and national averages; (2) OTP's average residential rates were 25 percent and 31 percent below regional and national averages; (3) OTP's average commercial rates were 3.5 percent and 14.5 percent below regional and national averages; and (4) OTP's industrial rates were 9.1 percent and 7.15 percent above regional and national averages.⁶ OTP's rates will remain the lowest, on average, among investor-owned utilities providing service in North Dakota after implementation of the rate increase described in this Settlement Agreement.⁷

OTP has been engaged in an extensive capital expenditure program since 2012 that is expected to continue through 2021. OTP invested approximately \$672 million (OTP Total) between 2012 and 2016 and is expected to invest an additional \$862 million (OTP Total) between 2017 and 2021. OTP's investments between 2012 and 2016 have focused on upgrading facilities and environmental compliance at generating plants, including the Air Quality Control System project ("AQCS Project") at the Big Stone plant, and strengthening OTP's transmission system, along with routine replacements, upgrades and extensions. OTP's significant capital expenditures through 2021 include the Astoria Natural Gas and Merricourt Wind Projects – projects that have each received an advance determination of prudence from the Commission. OTP will need access to significant levels of external debt and equity financing, as well as internally generated equity to complete these significant infrastructure investments.⁸

SETTLEMENT TERMS

The Parties agree to the provisions as defined below and supported by Attachments to this Settlement Agreement.

I. RATE BASE, REVENUE INCREASE, AND AGREED UPON ADJUSTMENTS

⁶ Maini Direct, p. 11-14.

⁷ This Settlement Agreement results in a 5.03 percent increase. (See, Section I. 2 below.) A 5.03 percent increase in OTP's overall base rates would lead to overall average customer costs for OTP below \$0.09 per kilowatt hour, which would be lower than the overall average customer costs for MDU-ND and Xcel-ND as of December, 2016.

⁸ See, Gerhardson Direct, pp. 6-7

1. **Rate Base.** The Parties agree that, for purposes of recovery in base rates, the value of OTP's rate base, including property used and useful, for the service and convenience of the public in North Dakota is \$364,759,818. OTP Rate Base includes the Rate Base adjustments described in the Rebuttal Testimony of OTP witness Tyler Ackerman concerning: (a) 2018 short-term Construction Work in Progress (CWIP); (b) OTP's new customer information system project (CISone) costs; and (c) Cash Working Capital, Lead/Lag Study and Interest Synchronization (including the effects of all adjustments reflected in this Settlement Agreement).

2. **Revenue Increase.** The Parties agree to an increase in OTP's non-fuel base revenue of \$7,364,336, or approximately 5.03 percent for retail customers in North Dakota, including the effects of all adjustments agreed to and described herein. The Parties agree that the revenue increase is necessary to provide OTP recovery of its costs of providing electric service to its customers in North Dakota, including a just and reasonable rate of return on its property, used and useful, for the service and convenience of the public in North Dakota.

3. **Rate of Return.** The Parties agree to an overall rate of return of 7.64 percent based upon a return on equity of 9.77 percent, an equity ratio of 52.50 percent, a long-term debt ratio of 45.86 percent and long term debt cost of 5.35 percent and short term debt ratio of 1.64 percent and short term debt cost of 3.84 percent.

4. **Expense Adjustments.** For this settlement, the following expense adjustments have been made to the 2018 Test Year amounts identified in OTP's Rebuttal Testimony and are reflected in the Revenue Increase identified in Section 2.

Table 1

Expense Items	Adjustments (Reductions)
Employee Gifts and Recognition Expense	(\$31,695)
Investor Relations Expense	(\$83,574)
Incentive Compensation Expense	(\$167,000)
Stock-Based Compensation	(\$647,049)
Non-Employee Director Restricted Stock Grants	(\$118,091)
Executive Survivor and Supplemental Retirement Plan	(\$144,416)

Rate Case Expense	(\$103,149) (5-year amortization)
Deferred Income Tax Expense Adjustment for Excess Federal Accrual on non-protected Assets	(\$88,802) (5-year amortization)

5. Riders & Compliance Filing

OTP’s final compliance filing will reflect: (1) inclusion of RRAR, TCRR and ECRR revenues, calculated at the 7.64 percent rate of return agreed to herein, in the calculation of present revenues;⁹ (2) allocation factors calculated using the Rate Base described in Section 1 and proposed revenues reflecting the revenue increase described in Section 2; (3) actual ECRR, RRAR and TCRR plant balances at the time of implementation of final rates;¹⁰ and (4) Midcontinent Independent System Operator expense and revenues remaining in the TCRR.

6. Other Necessary Adjustments As a result of the agreed-upon expense reductions reflected above, (1) total 2018 Test Year taxes are increased by \$227,644 because of income increases due to the reductions of the allowed expenses listed above; (2) the \$67,130 rate base portion of the excess deferred taxes; and (3) a decrease to cash working capital of \$66,317 as part of rate base.

II. REVENUE ALLOCATIONS AND RATE DESIGN

1. Class Allocations. All Parties recognize the importance of cost responsibilities to allocating revenues to customer classes.¹¹ At the same time, a purely-cost based allocation in this case would result in sudden or abrupt change in rates, contrary to the principles of gradualism and rate continuity.¹² For example, under a purely cost-based allocation, Residential class revenue allocation would increase by over 14%, while Large General Service (LGS) class revenue allocation would decrease by approximately 5%. The Parties agree that the proposed rate design, including the proposed revenue

⁹ See Haugen Direct, p. 4, 11, 19.

¹⁰ See Haugen Rebuttal, p. 14.

¹¹ Ice Direct, p. 11; Dismukes Direct, p. 52; Maini Direct, p. 22-24; Chriss, p. 18-21.

¹² Ice Direct, p. 11; Dismukes Direct, p. 52; Maini Direct, p. 22-24.

allocation, promotes gradualism while improving the competitiveness of OTP's industrial rates. The Parties agree that OTP's revenues shall be allocated to customer classes as shown in Table 2, below:

Table 2
Proposed Class Revenue Allocation

Class	Total Revenues ¹³	% increase
Residential	\$51,914,508	8.99%
Farms	\$2,818,540	9.51%
General Service	\$39,474,500	2.56%
Large General Service	\$42,748,013	0.32%
Irrigation	\$66,392	13.45%
Lighting	\$3,111,519	9.51%
OPA	\$1,301,725	9.51%
Controlled Service Water Heating	\$1,219,086	13.45%
Controlled Service Interruptible	\$9,412,430	13.45%
Controlled Service Deferred	\$1,571,349	4.29%
Total	\$153,638,061	5.03%

These class revenue allocations reflect the agreed-to adjustments to the base rate revenues contained in this Agreement, and modification of OTP's originally proposed class allocations.

2. Rate Design – Customer Charges. The Parties agree on the following Customer Charges.

¹³ Includes base and rider revenue.

Table 3
Proposed Customer Charges
(\$/Month)

<u>Class</u>	<u>Present</u>	<u>Proposed</u>
Residential	\$8.00	\$15.23
Residential – Demand Control	\$18.38	\$20.10
Farm Service – Single Phase	\$12.00	\$17.40
Farm Service – Three Phase	\$12.00	\$17.40
Small General Service	\$13.00	\$24.90
General Service (Secondary)	\$12.00	\$31.90
General Service – Time of Use	\$16.00	\$219.00
Large General Service (Secondary)	\$40.00	\$215.90
Large General Service – Time of Day (Primary)	\$60.00	\$282.00
Standby (Secondary)	\$199.00	\$242.24
Irrigation – Option 1	\$1.00	\$24.30
Irrigation – Option 2	\$5.00	\$24.30
Outdoor Lighting – Metered	\$2.00	\$2.00
Outdoor Lighting – Non-metered	\$0.00	\$0.00
Municipal Pumping (All)	\$4.00	\$26.50
Civil Defense	\$1.00	\$1.22
Water Heating	\$1.00	\$4.00
Real Time Pricing Rider	\$199.00	\$282.00
Controlled Service – Interruptible- Large #1	\$4.00	\$20.20
Controlled Service – Interruptible- Large #2	\$5.00	\$20.20
Controlled Service – Interruptible - Small	\$2.00	\$8.50
Deferred Load Service	\$3.00	\$8.80
Fixed Time of Service (Secondary)	\$1.00	\$6.70

3. Rate Design – General. OTP will provide rate schedules implementing this Settlement Agreement in a compliance filing. The Rate Schedules to be implemented include the following new rate proposals:

- a. Residential Time of Day – Pilot
- b. Super Large General Service (SLGS)
- c. Generation Cost Recovery Rider (GCRR)
- d. LED Street and Area Lighting – Dusk to Dawn
- e. Air Conditioner Rider

The Rate Schedules to be filed in a compliance filing by OTP will conform to OTP's Direct Testimony, (subject to any revisions in OTP's Supplemental Direct and Rebuttal Testimony), with OTP working with MLEC to establish the final intra-LGS class revenue allocation and rate elements as set forth in the Rebuttal Testimony of OTP Witness Mr. David Prazak. The Parties agree that the rate schedules set forth in this Settlement Agreement are designed in such a manner that they result in a basis of charge to OTP's customers that is just and reasonable without discrimination.

III. RELATED MATTERS

- 1. Tariff Changes other than Rates.** The Parties Agree to OTP's proposed changes to its Rules & Regulations.
- 2. Production Tax Credits/Accumulated Deferred Income Taxes.** The Production Tax Credit (PTC)-related portion of OTP's Accumulated Deferred Income Tax (ADIT) asset, as of the date the RRAR projects are rolled into final rates, will be tracked through the RRAR, and resulting changes to revenue requirements related to changes to the PTC-related portion of OTP's ADIT asset will be updated through the RRAR on an annual basis.
- 3. GCRR.** OTP will use a percent-of-bill rate design for the proposed GCRR, which is otherwise agreed to as OTP has proposed it. When OTP retires its Hoot Lake plant, retirement-related changes to costs of service will be evaluated and included as part of the calculation of the GCRR revenue requirements until those changes to costs are reflected in base rates in a general rate case.
- 4. Reagents and Emissions.** OTP will move recovery of environmental reagents and emissions allowance expenses out of base rates (and out of the Reagent and Emissions Allowance Rider) into the Energy Adjustment Rider at the end of this case. OTP will make the appropriate transfer of Coyote Station's lime expense out of base rate

Operations & Maintenance (O&M) expenses and into the Energy Adjustment Rider in conjunction with the Compliance Filing and development of final rates.¹⁴

5. **CISone Amortization.** OTP's amortization of CISone shall be 10 years, as reflected in OTP's Rebuttal Testimony.

IV. INTERIM RATES

1. **Duration.** The Parties agree the interim rates will remain in effect for bills rendered to all customer classes until final rates are implemented.
2. **Interim Rate Refund.** Refunds will be issued to customers within ninety (90) days of the implementation of final rates for the difference between the interim revenue level and the final revenue level agreed to in this Settlement Agreement.
3. **Calculations.** For the avoidance of doubt, the Parties agree that the Interim Rate Refund calculation will include the following:
 - a. The Interim Rate calculation shall include the impact of the TCJA for January and February 2018. OTP changed the Interim Rate calculation effective March 1, 2018 to include the effects of the TCJA.
 - b. The Interim Rate Refund shall be calculated to account for OTP having already removed PTCs from the 2018 Test Year and therefore PTCs should not have had a separate interim rate adjustment to remove the PTCs from interim rates.¹⁵
 - c. The Interim Rate Refund shall be calculated to include the actual amount of Economic Development Credit included in customer bills during the Interim Test Year as an offset to the interim rate revenues charged customers during that same time period. OTP will remove the credit from present revenues

¹⁴ Tommerdahl Supplemental Direct, p. 5-6.

¹⁵ Gerhardson Supplemental Direct, p. 4.

when calculating final rates for compliance and the Economic Development Credit Rider rate will be set to zero when final rates go into effect.¹⁶

- d. The Interim Rate Refund shall be calculated recognizing that CISone is scheduled to go into service October 1, 2018 and that CISone was not in rates during the interim rate period. CISone for purposes of final rates is determined in service at OTP's proposed amount; all CISone costs shall be backed out for purposes of determining the interim rate refund.

V. ISSUES TO BE ADDRESSED IN OTP'S FUTURE RATE CASES

OTP will address the following issues in its next rate case.

1. **Wind Turbine Maintenance.** In advance of OTP's next rate case, OTP and MLEC will work together to attempt to identify a reasonable means of making available wind turbine maintenance data or some proxy thereof in OTP's next rate case.
2. **LGS Embedded Cost of Service.** In advance of OTP's next rate case, OTP will, in consultation with MLEC, investigate the feasibility of unbundling the embedded costs to serve LGS customers at the secondary, primary and transmission voltage service levels. The investigation will primarily look into the feasibility of: (a) unbundling the distribution costs and (b) quantifying the loss differentials between secondary, primary and transmission service respectively.

VI. OTHER TERMS AND CONDITIONS

1. **Issues not Specifically Addressed.** Except as otherwise addressed in this Settlement Agreement, OTP's positions on issues as proposed in its Rebuttal Testimony shall be deemed to be adopted for purposes of this Settlement Agreement.
2. **Basis of Settlement Agreement.** It is agreed this Settlement Agreement is a negotiated

¹⁶ Tommerdahl Supplemental Direct, p. 4.

settlement agreement subject to approval by the Commission. This Settlement Agreement resolves disputed claims and does not establish any principle or precedent, nor adopt or recommend any specific type or amount of expense or rate base, for this or any future proceeding, nor any principle or precedent regarding rate design methodology.

- 3. Effect of the Settlement Negotiations.** It is understood and agreed that all offers of settlement and discussions related to this Settlement Agreement are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Settlement Agreement, this Settlement Agreement shall not constitute part of the record in this proceeding and no part thereof may be used by any party for any purpose in this case or in any other.
- 4. Applicability and Scope.** This Settlement Agreement shall be binding on the Parties, and their successors, assigns, agents, and representatives. Consistent with the Commission's settlement guidelines, this Settlement Agreement does not set policy or overturn precedent. This Settlement Agreement shall not in any respect constitute an agreement, admission or determination by any of the Parties as to the merits of any specific allegation or contention made by the Parties in this proceeding.
- 5. Effective Date.** This Settlement Agreement shall be effective on the date of the Commission Order approving the Settlement Agreement. The revised rates and tariff provisions agreed to by this Settlement Agreement shall be effective for all bills rendered on and after a date that shall be set by the Commission's Order approving the Settlement Agreement. The parties request that the effective date of final rates be the date OTP's CISone becomes operational, which is currently scheduled to take place on October 1, 2018.
- 6. Modification.** If the Commission Order modifies or conditions approval of this Settlement Agreement, it shall be deemed terminated if any Party files a letter with the Commission within three (3) business days of the date of such Order stating that a condition or modification to the Settlement Agreement is unacceptable to such Party. In

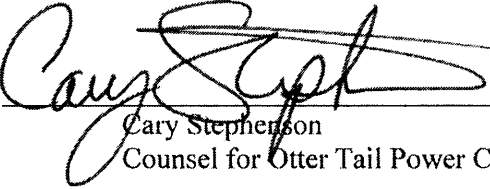
such event, this Settlement Agreement shall not constitute a part of the record in this proceeding and no part thereof may be used by any party for any purpose in this case or otherwise.

CONCLUSION

The Parties have agreed to the forgoing terms to resolve the contested issues in the electric rate case proceeding. These terms are a result of negotiations between the Parties, are in the public interest and will result in reasonable electric rates. For these reasons, the Parties urge the Commission to approve the Settlement Agreement.

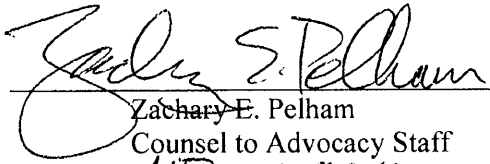
[Signature Pages Follow]

Otter Tail Power Company

By: 
Cary Stephenson
Counsel for Otter Tail Power Company


Dated this 6th day of July 2018.

North Dakota Public Service Commission Advocacy Staff

By: 
Zachary E. Pelham
Counsel to Advocacy Staff
ND 05904

Dated this 6th day of July 2018.

Midwest Large Energy Consumers Group

By: 
Richard Savelkoul
Counsel for Midwest Large Energy Consumers

Dated this 6th day of July 2018.

Wal-Mart Stores, Inc.

By: Rebecca L. Mann
Rebecca L. Mann
Counsel for Wal-Mart Stores, Inc.

Dated this 6th day of July 2018.

**STATE OF NORTH DAKOTA
BEFORE THE
NORTH DAKOTA PUBLIC SERVICE COMMISSION**

Case No. PU-17-398

In the Matter of Otter Tail Power
Company's Application for Authority
To Increase Rates for Electric Service
In North Dakota

CERTIFICATE OF SERVICE

Jessica J. Fyhrie certifies that on the 6th day of July, 2018, she served a true and correct copy of the attached SETTLEMENT AGREEMENT by email addressed to the following individuals:

Cary Stephenson
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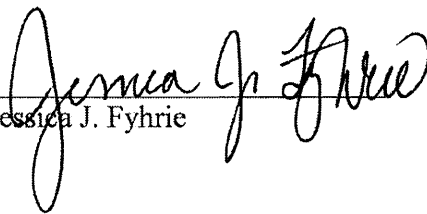
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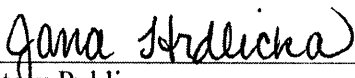


Jessica J. Fyhrie

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Kavita Maini
KM Energy Consulting, LLC
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kmmaini@visi.com

Subscribed and sworn to before me this
6 day of July, 2018



Notary Public

