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August 15, 2022

Mr. Steve Kahl  
Director of Administration/Executive Secretary **PUBLIC DOCUMENT – NOT PUBLIC**  
ND Public Service Commission **(OR PRIVILEGED) DATA HAS BEEN EXCISED**  
State Capitol  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505

**RE: In the Matter of Otter Tail Power Company's Application for Approval of  
Economic Development Rider Rate and Electric Service Agreement  
Case No. PU-22-322  
Supplemental Application for Trade Secret Protection**

Dear Mr. Kahl:

Otter Tail was recently contacted by Commission Staff asking for additional information in our Trade Secret Application. This request included the codes to open Trade Secret attachments provided on a USB storage drive. We have provided those codes to Commission Staff in a separate communication. Commission Staff also noted that we had sought trade secret protection for the entire proposed Electric Service Agreement (ESA), which is Attachment 3 of initial Trade Secret Application. Since the ESA is based on our Commission-approved ESA template, Commission Staff asked whether we could limit redactions to customer specific data. Staff also asked that we provide additional information concerning potential competitors that may use the data we seek to protect. To address these points please find enclosed a Supplemental Trade Secret Application and a Supplemental Attachment 3.

This filing contains trade secret information. In accordance with N.D. Admin. Code § 69-02-09-02, an Application for Trade Secret Protection is being provided along with a single copy of the trade secret version of the Application and supporting testimony in a sealed envelope marked **PROTECTED INFORMATION – PRIVATE**.

Enclosed please find an original and copies.

Mr. Kahl  
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An electronic copy of this filing is being sent to you at [ndpsc@nd.gov](mailto:ndpsc@nd.gov). Please feel free to contact me at [cstephenson@otpc.com](mailto:cstephenson@otpc.com) or 218-739-8956 with any questions.

Sincerely,

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

sjw  
Enclosures  
By electronic filing

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

**In the Matter of Otter Tail Power  
Company's Application for Approval of  
Economic Development Rider Rate and  
Electric Service Agreement**

**Case No. PU-22-322**

**SUPPLEMENTAL APPLICATION FOR TRADE SECRET PROTECTION**

Pursuant to N.D. Admin. Code Chapter 69-02-09, Otter Tail Power Company (Otter Tail) respectfully requests that the Commission issue a trade secret protective order in the above-referenced case. The purpose of the requested protective order is to protect against public disclosure of trade secret or proprietary information, as defined by NDCC §§ 47-25.1-01(4) and 44-04-18.4.

The information for which Otter Tail seeks protection from public disclosure falls in the following general categories:

1. Customer load, service and rate information set forth in the Application and the proposed Electric Service Agreement (ESA).
2. Otter Tail's Economic Development Pricing Model and all inputs and outputs thereto, including marginal pricing and the results of the application of Otter Tail's EDPM to the customer's load and service information, including Economic Development Rider rates.

**Customer Load, Service and Rate Information.**

The customer's projected load and demand information, certain service terms related to customer's operations, and the Economic Development Rate Rider (EDR) rate applicable to this customer<sup>1</sup> are individually and collectively confidential customer information Otter Tail is obligated to keep confidential under the EDR tariff, non-disclosure contractual obligations, and Company policies.

The above-referenced information is not publicly available, is confidential, and was provided by the customer for the specific purpose for seeking Commission approval of an EDR rate for this customer. Otter Tail's Commission-approved EDR under which this information is provided specifically states the information will be provided *only* to

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<sup>1</sup> This information is marked as Protected on page 3 of the Application and in customer-specific portions of the proposed Electric Service Agreement.

Commission and Commission Staff. The information, therefore, is not readily ascertainable by proper means by other persons.<sup>2</sup>

The customer intends to operate an agricultural processing facility. If publicly available, competitors at any level (international, national, regional, local) would have access to the customer's confidential pricing inputs (electric rates) and operational data in the form of projected load and demand data. It is reasonable to conclude that agricultural processing competitors could use information to their economic advantage in numerous ways, including but not limited to securing raw materials, product pricing, securing vendors and buyers for the processed materials, to the detriment of the customer and eventually to Otter Tail customers because of the erosion of net system benefits upon which the EDR is based.

### Otter Tail Confidential Information

In addition to Customer-related information noted above, Otter Tail seeks trade secret protection for the following:

1. Confidential not public information noted in the Application:
  - a) Company related marginal costs and investments necessary to serve the Customer which are components of Attachment 1 (pp. 3-4).
  - b) Cumulative five-year contribution of new customer to Otter Tail system which is also included in Attachment 2 (p. 5)
2. Otter Tail's EDMP, which is designated as Attachment 1 to Otter Tail's EDR and ESA application. Attachment 1, a spreadsheet provided on a USB storage drive, includes all company-related marginal costs and proposed investments to serve potential customers as well as estimates of customer billing determinants and related bill calculations.
3. Attachment 2, also provided on a USB storage drive, is Otter Tail's summary of net benefits stemming from pricing model output and allocation of the discount between the new customer and the contribution to existing customers.
4. Portions of Attachment 3 (the proposed ESA) setting forth the EDR rate and customer's operational details.
5. Certain references within the Application which contain references to information in the Attachments or that otherwise contain the customer's trade secret information.

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<sup>2</sup> Otter Tail Economic Development Rate Rider, [https://www.otpc.com/media/2631/nd\\_1413.pdf](https://www.otpc.com/media/2631/nd_1413.pdf)

The above-referenced information is not publicly available, is confidential business information, and was prepared specifically by Otter Tail with data inputs unique to Otter Tail. The confidentiality of this information has been maintained by Otter Tail. Otter Tail's Commission-approved tariff under which this information is being filed specifically states the information will be provided only to Commission and Commission Staff. The information, therefore, is not readily ascertainable by proper means by other persons.

The disclosure of this information could provide Otter Tail competitors valuable competitive information, specifically with regard to Otter Tail marginal pricing and calculations concerning net benefits. Vendors, competitors and prospective EDR eligible customers would have an opportunity to obtain economic value from disclosure or use of the information to the detriment of Otter Tail and the customers we serve.<sup>3</sup> Therefore it is appropriate to protect this information from public disclosure.

Dated: August 15, 2022

Respectfully submitted,

**OTTER TAIL POWER COMPANY**

/s/ CARY STEPHENSON

Cary Stephenson  
Associate General Counsel  
Otter Tail Power Company  
215 S. Cascade Street  
Fergus Falls, MN 56537  
(218) 739-8956

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<sup>3</sup> Competitors include other entities seeking to attract large agricultural and industrial loads, including electric cooperatives and other investor-owned utilities. This includes regional and national electric and gas utilities. Competitors can also include third party developers seeking to develop alternative generation resources. Moreover, access to OTP marginal pricing and inputs/outputs of the EDPM could be used by parties seeking to negotiate purchase power arrangements with OTP to the detriment of Otter Tail customers. The same is true of potential EDR customers, who would be better positioned to secure favorable terms to the detriment of Otter Tail's customers. Vendors could also use this information to target their procurement efforts with respect to the infrastructure investments necessary to serve this particular EDR customer.

## ELECTRIC SERVICE AGREEMENT

PROTECTED DATA BEGINS ...

- Overhead  
 Underground

Work Order No. \_\_\_\_\_  
 Electric Rate Schedule No. / 14.13  
 Rate Code No. / N690

... PROTECTED DATA ENDS

THIS AGREEMENT is made by and between North Dakota Soybean Processors, LLC of 2781 Bluff Road, Mt. Vernon, IN 47620 (the "Customer") and Otter Tail Power Company (the "Company"), a Minnesota corporation.

In consideration of the mutual promises contained below, the parties agree as follows:

1. The Customer agrees to purchase and receive from the Company electric energy in accordance with the terms of this Agreement and all terms and conditions and Rules and Regulations (the "Terms") established by the Company and filed in its tariff with the North Dakota Public Service Commission. These Terms shall include but not be limited to Customer's payment for electrical energy in accordance with the Company's rate schedule as filed with and approved by the North Dakota Public Service Commission, or such superseding rate(s) as may be filed in the future.

2. The Customer represents that it has provided accurate information to the Company and the Customer is eligible to receive electric service pursuant to the Electric Rate Schedule and Rate Code identified above. The Customer shall receive service at S1/2, S1/2 NE1/4 South of East-West Main Line BNI RR, except RR ROW, Tepi 1<sup>st</sup> Addition, other Tracts, Section 34, T140, R52 County of Cass, State of ND.

PROTECTED DATA BEGINS ...

3. The Company shall supply to the Customer phase electric service, at nominal volts, having a specific demand classification of or an estimated demand of \_\_\_\_\_ and having an estimated load factor of \_\_\_\_\_ (if any of the aforementioned is not applicable, so indicate). If applicable, the Company shall charge for and Customer shall pay any additional costs associated with Special Facilities as identified in Section 5.02 of the Rules and Regulations. The total cost of Special Facilities identified is \_\_\_\_\_

... PROTECTED DATA ENDS

4. The following service Riders apply to Customer's service at this location: The Customer at this location is subject to all mandatory riders in effect at the time of the execution of this agreement, any riders approved by the Commission after the execution of this agreement, and any voluntary riders that the customer chooses to participate in during the entire term of the agreement. This customer has elected to participate in the Economic Development Rate Rider. Details for the Economic Development Rate Rider are included in Attachment I.

5. Customer agrees that the Company shall not be liable for any losses, damages, or expenses (including but not limited to injury to persons, including death, or property damages) incurred by any persons for any delay, interruption, curtailment, suspension, disturbance or variability in its provision of electric service (including, but not limited to, any occurrence of voltage fluctuations or power surges) due to acts of God, or to any other cause whatsoever except the Company's own gross negligence or willful misconduct. The Company will not be liable for incidental or consequential damages, including, but not limited to, loss of profits resulting from the use of service or any delay, interruption, curtailment, suspension, disturbance or variability of electric service. The Company shall have the right to suspend temporarily the delivery of electric power hereunder for the purpose of making repairs or improvements of its system.

6. This agreement shall go into effect on the date of signing, with its term commencing June 1, 2024, and shall continue in effect for a period of 5 (60 months) years and thereafter shall remain in effect from year to year unless terminated by either party by notice given at least sixty (60) days in advance of termination.

PROTECTED DATA BEGINS ...

7. If applicable, in order to provide an adequate and proper net return on the additional investment to be made by the Company in providing service to Customer, it is agreed that the Customer will make minimum payments of \_\_\_\_\_ (A customer that is not billed on a calendar year basis, shall make minimum payments for the months of June, July,

... PROTECTED DATA ENDS

**PROTECTED DATA BEGINS ...**

August and September) per month for electric service received by the Customer at the service location, for a minimum period of sixty (60) months. If the Customer elects to discontinue, or otherwise not take, service prior to the commencement or end of the sixty (60) month period, or if the Customer is disconnected for any reason, the Customer agrees to pay the difference between the cumulative total paid for electric service prior to the date of discontinuation and the Minimum Total Payment, which is the Company's total investment of \_\_\_\_\_ The Customer agrees to make an advance payment in the amount of \_\_\_\_\_ prior to installation of service.

This advance payment shall be retained by the Company and will be returned with interest to the Customer upon the earlier of the completion of the minimum sixty (60) month period, provided that Customer has made the Minimum Total Payment as required, or when the Customer has made the Minimum Total Payment as required. If the Customer does not make the Minimum Total Payment, the Company shall apply the advance payment (if any) against any balance due on the Minimum Total Payment, and Customer shall be required to pay to the Company the unpaid balance of the Minimum Total Payment.

**... PROTECTED DATA ENDS**

- 8. The rights and obligations of this agreement shall extend to and be binding upon the respective heirs, executors, administrators, successors and assigns of the parties hereto.

**PROTECTED DATA BEGINS ...**

IN WITNESS WHEREOF, the parties execute this Agreement effective as of \_\_\_\_\_, 2022

**... PROTECTED DATA ENDS**

Stephen O'Nan  
Customer

OTTER TAIL POWER COMPANY

By: [Signature]

**ATTACHMENT 1**

Economic Development Rate Rider – Rate Discount Schedule

The following Rate Discount percentage levels will be offered to the Customer subject to and pending approval from the North Dakota Public Service Commission.

**PROTECTED DATA BEGINS ...**

Year 1:  
Year 2:  
Year 3:  
Year 4:  
Year 5:

**... PROTECTED DATA ENDS**

If approved by the North Dakota Public Service Commission, the Economic Development Rate Rider will go into effect June 1, 2024.