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March 24, 2023

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VIA EMAIL (NDPSC@ND.GOV) AND U.S. MAIL OVERNIGHT DELIVERY

Steve Kahl, Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480

RE: Otter Tail Power Company 2023 Renewable Resource Cost Recovery Adjustment Factor Rates
PSC Case No. PU-22-429

Otter Tail Power Company 2023 Fuel Clause Adjustment – EAR Tariff
PSC Case No. PU-23-27

Dear Mr. Kahl:

Enclosed please find an original and seven (7) copies of the Midwest Large Energy Consumers' Supplemental Comments ("MLEC") in the above-referenced proceedings.

Please add the following to the official service list for this matter:

Richard Savelkoul (ND ID #6793) Martin & Squires, P.A. 332 Minnesota Street, Suite W2750 St. Paul, MN 55101 rsavelkoul@marinsquires.com	Kavita Maini KM Energy Consulting, LLC 961 North Lost Woods Road Oconomowoc, WI 53066 kmaini@wi.rr.com

Also, attached is the Certificate of Service.

19 PU-22-429 Filed 03/27/2023 Pages: 13
Supplemental Comments of the Midwest Large Energy Consumers
Martin & Squires, P.A. / KM Energy Consulting, LLC
Richard Savelkoul / Kavita Maini

Thank you for your attention to this matter. Please let me know if you have any questions.

Very truly yours,

/s/

Richard J. Savelkoul

Enclosures
cc: Service List (w/encl)

STATE OF NORTH DAKOTA
BEFORE THE
NORTH DAKOTA PUBLIC SERVICE COMMISSION

Otter Tail Power Company	)	
2023 Renewable Resource Cost Recovery	)	Case No. PU-22-429
Adjustment Factor Rates	)	
	)	
Otter Tail Power Company	)	Case No. PU-23-27
2023 Fuel Clause Adjustment – EAR Tariff	)	

SUPPLEMENTAL COMMENTS OF MIDWEST LARGE ENERGY CONSUMERS

I. Introduction

Midwest Large Energy Consumers ("MLEC") appreciate the opportunity to provide these supplemental comments associated with the North Dakota Public Service Commission's ("Commission") Notice of Opportunity for Consolidated Hearing issued on February 8, 2023 ("Notice") in the above mentioned dockets.

MLEC provided comments on March 15, 2023 ('MLEC's Initial Comments"). The Commission held an informal hearing on March 16,2023 in which Otter Tail Power Company ("OTP" or "Company") and MLEC representatives participated. The Commission requested certain information from the Company related to cost allocation and margins associated with the 100 MW load addition served on the Super Large General Service ("SLGS") rate. The Company submitted a response to the Commission's request on March 23, 2023 ("OTP Follow Up"). MLEC's supplemental comments are aimed at responding to OTP's filing and providing quantitative support to MLEC's recommendations with or without jurisdictional cost allocation changes.

II. Detailed Comments

1. Principles for evaluating the reasonableness of cost allocation with or without changes to jurisdictional allocation.

In order to evaluate the reasonableness of any cost allocation method with or without jurisdictional allocation changes, it must fulfill the following two principles, which formed the basis of approving the Electric Sales Agreement ("ESA") with the SLGS customer:[1]

a. Current customers shall not be harmed as a result of the new SLGS customer; and

b. Current customers shall be materially advantaged by rider rate reductions as a result of the new customer on the SLGS rate.

The method that best demonstrates that the above principles are met, should be implemented.

2. OTP's March 23, 2023, Response to Commission's Request.

In the OTP Follow Up, the Company does not provide the quantitative impacts of the cost allocation methodology as MLEC recommended, nor the calculations that OTP found reasonable or acceptable at the hearing. While MLEC is unable to view any quantitative impacts due to the heavily redacted nature of OTP's response, the description of the method used under "Potential Rate Adjustment for Applied Digital" confirms a new cost allocation methodology and not the one MLEC recommended. In the absence of OTP providing the impacts using actual data under the MLEC recommended method, MLEC provides its estimates utilizing publicly available data in **Exhibit A**. We expect these results to be a close approximation of actual figures and are providing Commission Staff with the spreadsheet with formulae intact so that Staff could easily update with OTP numbers that are fully vetted and confirmed as accurate.

[1] See OTP Application in docket PU-21-366.

(i) ***Cost Allocation Assuming No Jurisdictional Allocation Change***.

According to OTP's Application in PU-22-429, Attachments 2 and 3, if there was no change in the jurisdictional allocator E2, the revenue requirement is $12.67 million and the percent of bill for all customers including the SLGS customer is approximately 11.6%. Under MLEC's approach, and including the SLGS customer, the percent of bill would be lower at 9.4% for current customers, as shown in **Exhibit A**. This **Exhibit A**, Page 1, MLEC's method consists of two steps:

> In the **<u>first</u>** step, allocate $12.67 million in revenue requirement between current customers and new SLGS customer using the E2 allocator. This step results in allocating $3.3 million to the SLGS customer and the remaining $9.36 million to current customers. As noted in MLEC's initial comments, the E2 allocation to the SLGS customer is appropriate because (a) this customer's load is unique, akin to a wholesale customer and (b) the ESA approving the specific rate was based on the condition of no harm and with net benefits, which can be best demonstrated through direct assignment of these costs to the SLGS customer.
>
> In the **<u>second</u>** step, MLEC calculated the percent of bill for current customers by dividing the $9.36 million by estimated base revenues without the SLGS customer related revenues since the first step already addresses the cost allocation to the SLGS customer. The resulting percent of bill for current customers is 9.4%.

If there was <u>no SLGS customer</u>, the percent of bill using the same revenue requirement of $12.67 million without a jurisdictional allocation change would result in 12.7%. This is calculated by dividing the revenue requirement of $12.67 million by base rate revenues excluding the SLGS customer. If there was no SLGS customer, the 12.7% of bill would be the same under MLEC and OTP method.

Without a jurisdictional E2 allocator change, both OTP and MLEC's method demonstrate no harm and in fact that customers benefit. However, under MLEC's direct assignment method, current customers fully and more substantially benefit by adding the SLGS customer (12.7%

without SLGS versus 9.4% with SLGS) compared to OTP's method (12.7% without SLGS versus 11.6% with SLGS).

While MLEC cannot provide a comparison with OTP's latest proposal due to the redacted nature of the Company's filing, the Commission should evaluate which method best addresses (a) no harm to current customers and (b) provides full benefits to current customers by addition of the SLGS load.

(ii). ***Cost Allocation Assuming Jurisdictional Allocation Change***.

According to OTP's original application in PU-22-429, the increase in jurisdictional allocation, if E2 were changed outside of a rate case, in 2022 and 2023 revenue requirements would increase by $4.4 million and current customers percent of bill would increase to 15.541%, up from 11.579% of bill without any changes to the jurisdictional E2 allocator. Clearly, given the increase in the revenue requirement and percent of bill for current customers, this method fails to demonstrate (1) no harm and (2) material benefit to current customers due to the addition of the SLGS customer.

Under MLEC's recommended direct assignment approach and using the same method discussed earlier, the E2 allocation to the SLGS customer in the first step not only ensures no harm, but in fact also demonstrates that the jurisdictional allocation increase of $4.4 million is directly allocated to the SLGS customer (see **Exhibit A**, page 2). In the second step, the resulting percent of bill is 12.63%, which is lower than OTP's 15.541%. While MLEC's cost allocation successfully addresses the no harm criteria or principle since the $4.4 million revenue requirement increase is diverted away from current customers, this allocation method by itself will not result in benefits to customers. In this regard, it is critical that if the Commission approves an increase in the jurisdictional allocation outside of a rate case setting, the

Commission must also require that OTP allocate the SLGS rate related margin to current customers to fulfill the second important principle of contemporaneously benefitting current customers.

In evaluating OTP's new method provided in the Follow Up, the Commission would need to evaluate if OTP's new method demonstrates no harm to customers by ensuring that the jurisdictional increase caused by adding the new SLGS customer is directed to this customer. It is important to note that since OTP gave assurances that there would be no harm and in fact material benefits in approving the SLGS rate, it makes the addition of this new SLGS different than any other new retail customer on OTP's system. Given the substantially large size of this load, which is akin to wholesale load and the unique circumstances and requirements behind the approval of the SLGS rate, MLEC believes that the E2 allocation to this customer is more appropriate and better demonstrates no harm to current customers compared to OTP's proposals.

(iii) ***Implementation:***

From an implementation perspective, OTP's follow up indicates no issues and confirms that (a) the rate to the SLGS customer could be different and achievable in the billing system and (b) no changes would be needed to the RCRR rider.

3. Verification of Base Rate Revenues with and without SLGS Customer. It is important that the Commission verify the base rate revenue estimates used by the Company with and without the SLGS customer since these revenues are used to calculate the percent of bill (revenue requirements divided by base rate revenues = percent of bill). The base rate revenue used to calculate the percent of bill method in the various RCRR updates up to the current petition are provided below.

Date of Filing	Case No.	Applicable Period	Base Rate Revenue
December 31, 2018	PU-19-17	April 2019 - March 2020	$105,212,560
December 31, 2019	PU-19-387	April 2020 - March 2021	$102,235,290
December 31, 2020	PU-21-30	April 2021 - March 2022	$99,439,612
December 31, 2021	PU-22-19	April 2022 - March 2023	$110,083,383
December 31, 2022	PU-22-429	April 2023 - March 2024	$109,430,057

For base rate revenue without SLGS, MLEC utilized the base revenue from Case No: PU-21-30 (i.e, $99,439,612), which was forecasted in December 2020 and prior to the SLGS customer addition. The Applied Blockchain ESA filing was submitted in August 2021 in PU-21-366. The Commission may want to cross verify and ensure that the projected revenues used for current customers without the SLGS customer is not understated. Further, it appears that Applied Digital had groundbreaking of a specialized processing facility which is expected to add an additional 5 MW facility on the existing Jamestown site. If this is the case, it is not clear why the base revenues are projected to be lower for the forward year in the current proceeding compared to the last filing in PU-22-19. The Commission may want to ask OTP to reconcile these issues.

4. Rate Case Best Captures Sales Forecast And Margin Revenues.

As discussed in MLEC's original comments, the jurisdictional allocators are traditionally updated in a rate case setting, where the revenues and costs can be properly matched. MLEC believes that given all the substantive changes in load, a rate case may well be the best way to reconcile the changes in allocations and revenues. However, if the Commission considers adopting an increase in the jurisdictional allocator in the current docket, MLEC strongly recommends that OTP's margins earned from the SLGS load must be allocated to retail customers to maintain consistency with the matching principle.

III. Conclusion

RCRR Modification to E2 and Allocation. MLEC believes that the increase to the E2 allocation outside of a rate case setting is susceptible to inconsistent treatment between costs and

revenues as well as other unintended consequences due to the piecemeal nature of adjusting one factor while not fully incorporating or recognizing impacts on other factors. Consequently, MLEC recommends that the jurisdictional allocators remain unchanged in the current proceeding and cost allocation between current customers and the SLGS customer be modified as discussed herein. In the alternative, if the adjustment to the E2 jurisdictional allocator is allowed outside of a rate case: 1) the increased cost of the SLGS resulting from the E2 allocation adjustment must be allocated to the SLGS customer using the E2 allocator and the remaining cost for the RCRR shall be allocated pursuant to the current percent of bill methodology; and 2) increased margins received by OTP, should be allocated to customers, excluding SLGS through the RCRR rider.

EAR tariff and PRA Credit. Not further addressed herein, but addressed in MLEC's Initial Comments. MLEC continues to support that this issue is not connected to the E2 modification in the RCRR and any decision should not be tied to the outcome of that proceeding. These profits are earned with assets paid for through firm service ratepayer's rates and should be passed through to the firm service ratepayers.

MLEC thanks the Commission for providing the opportunity to comment.

Respectfully submitted,

By: /s/

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By: /s/

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Dated: March 24, 2023

Exhibit A

1. No E2 Jurisdictional Allocation Change			Comments
Revenue Requirement WITH SLGS CUSTOMER	**$12,671,288**		See Attachment 2 of Application in PU-22-429
	MWH	**Percent Share**	
E2 MWH -North Dakota	1,980,855	73.87%	See Rate Case No. PU-17-398 Cost of Service Study for approved MWh that represent 37.577% Jurisdictional Allocation
E2 MWh-SLGS	700,800	26.13%	E2 allocation based on 100 MW load (public data from Applied Digital Website) and 80% load factor minimum threshold for SGLS
Total MWh	2,681,655	100.00%	
E2 Allocation	**All Customers except SLGS**	**SLGS**	
Proposed MLEC	$9,359,886	$3,311,402	Percent E2 share X $12,671,288 Revenue Requirement
% of Bill	9.41%		$9,359,886/$99,439,612; Denominator prior to adding SLGS customer from PU-21-30
	All Customers including SLGS		
Proposed OTP	$12,671,288 11.579%		$12,671,288/$109,430,057 ; Denominator includes SGLS Base Revenue; Estimated allocation to SLGS is approx. $1.16 million
Revenue Requirement WITHOUT SLGS CUSTOMER	**$12,671,288**		See Attachment 2 of Application in PU-22-429
Proposed MLEC	12.743%		
Proposed OTP	12.743%		$12,671,288/$99,439,612 - Revenue Req divided by Estimated Base Rate Revenue Without SLGS; Base Rate Revenue used in PU-21-30 prior to adding SLGS customer

2. E2 Jurisdictional Allocation Change increase of $4.4 million			Comments
Revenue Requirement **WITH SLGS CUSTOMER**	**$17,006,718**		See Attachment 2 of Application in PU-22-429
	MWH	**Percent Share**	
E2 MWH -North Dakota	1,980,855	73.87%	See Rate Case No. PU-17-398 Cost of Service Study for approved MWh that represent 37.577% Jurisdictional Allocation
E2 MWh-SLGS	700,800	26.13%	E2 allocation based on 100 MW load (public data from Applied Digital Website) and 80% load factor minimum threshold for SGLS
Total MWh	2,681,655	100.00%	
E2 Allocation	**All Customers except SLGS**	**SLGS**	
Proposed MLEC	$12,562,333	$4,444,385	Percent E2 share X $17,006,748 Revenue Requirement;revenue requirementto current customers should equal $12,671,288 (i.e.,no jurisdictional change); difference of ~$110k could be attributable due to rounding, true up or other adjustments
% of Bill	12.63%		$12,562,333/$99,439,612; Denominator prior to adding SLGS customer from PU-21-30
	All Customers including SLGS		
Proposed OTP	$17,006,718 15.541%		$12,671,288/$109,430,057 ; Denominator includes SGLS Base Revenue; Estimated allocation to SLGS is approx. $1.55 million assuming that the difference between current base rate revenue and base rate revenue prior to adding SLGS=SLGS revenue ($109,430,057 - $99,439,612)

CERTIFICATE OF SERVICE

I hereby certify that the original and seven (7) copies of the foregoing documents were hand delivered/mailed/e-mailed, on this 24th day of March 2023, to the following:

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With a single copy delivered via e-mail or mail to the following:

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