

April 11, 2023

VIA EMAIL (NDPSC@ND.GOV)

Steve Kahl, Executive Secretary
North Dakota Public Service Commission
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**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 Tarif
PSC Case No. PU-23-27**

Good afternoon,

Applied Digital (APLD) owns and operates a 100 MW blockchain facility located in Jamestown, North Dakota, and is a Super Large General Service Rate customer of Otter Tail Power (OTP), taking retail electric service from OTP pursuant to an Electric Service Agreement dated August 4, 2021. OTP recently filed two Applications with the North Dakota Public Service Commission (Commission). First, OTP filed a December 30, 2022 Application in Case No. PU-22-429 (2023 Renewable Resource Cost Recovery Rider); less than a month later on January 23, 2023, OTP filed its Application in Case No. PU-23-027 (Modifications to the Energy Adjustment Rider), which OTP indicated is conditioned on the Commission's approval of proposals in Case No. PU-22-429. The two cases have been consolidated, and as proposed, stand to substantially increase APLD's rates.

APLD is still in the preliminary stages of reviewing OTP's Applications in Case Nos. PU-22-429 and PU-23-027. By this letter APLD writes to provide its initial comments in response to the Applications and appreciates the Commission taking the time to consider them in advance of its work session on April 12. The following comments are not intended to identify every issue of concern to APLD in the consolidated proceedings, and APLD reserves the right to raise additional issues as may be appropriate.

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Comments of Applied Digital (APLD)
Holland & Hart LLP
Elizabeth Titus

The Renewable Resource Cost Recovery Rider Should Decrease As a Result of APLD's New Load

OTP's Application in Case No. PU-22-429 stands in direct contradiction to express statements it made to the Commission in Case No. PU-21-366, pursuant to which the Commission approved APLD's Energy Service Agreement. In that proceeding, OTP described to this Commission the benefits of APLD's new load on the system, representing to the Commission that its:

analysis indicates there would be no increase in the amount of costs for renewable energy resources associated with Otter Tail's sources of generation. In other words, there will be no increase in costs (the numerator), while there will be a significant increase in kWh sales (the denominator) to significantly reduce the applicable billing rate for this Rider. Otter Tail estimates this will result in \$1.1M benefit to all other customers.... All customers are materially advantaged from the addition of this new customer in the form of rider rate reductions and delays on base rate increases (and smaller future base rate increases when they occur)

(OTP Application in Case No. PU-21-366 at pp. 7-8; emphasis supplied).

Accordingly, the Commission should strictly scrutinize OTP's Applications in the consolidated proceedings for consistency with its past statements before this Commission. And as discussed below, the Commission should further consider whether OTP is using impermissible ratemaking techniques to extract additional revenues out of its ratepayers.

Improper Changes to the Jurisdictional Allocator under the Renewable Resource Cost Recovery Rider

The North Dakota share of the revenue requirement is currently 37.577% (E2 allocation factor) as a result of OTP's 2017 Rate Case (Case No. PU-17-398), which employed a 2018 Test Year. The jurisdictional allocation factor was one of just a myriad of issues raised in the 2017 Rate Case. Now OTP proposes to increase the E2 allocation factor to 41.783% in 2022, and to 43.489% in 2023 without having filed an application for a general rate increase. Jurisdictional allocation factors should only be adjusted as part of a general rate case in which interested parties have the opportunity to review all components of the proposed new revenue requirement, which would naturally include an analysis of the cost savings realized by OTP's ratepayers as a result of APLD's new load. Review of a jurisdictional allocation factor in a general rate case guards against the risks of single-issue ratemaking, which as a general matter is disfavored. Additionally, OTP is asking this Commission to set a single component of the revenue requirement, a jurisdictional allocation factor, based on data from one year, while at the same time have its rates set under a different test year (i.e., the 2018 Test Year). APLD has concerns that this would be an incongruous approach to ratemaking. APLD also believes that Commission should examine whether OTP will over collect if North Dakota's allocation factor is increased without a commensurate decrease in other jurisdictional allocation factors for the same timeframe. And finally, APLD believes OTP's proposal constitutes improper retroactive ratemaking, particularly with respect to the 2022

allocation factor. OTP should not be permitted to retroactively increase its rates when it is OTP's responsibility to control its costs between rate cases – it would be a pure money grab from North Dakota ratepayers.

The Midwest Large Energy Consumers' Proposal Improperly Proposes an Entirely New and Inchoate Class Cost of Service Proposal Solely for APLD

The Midwest Large Energy Consumers (MLEC) improperly proposes an entirely new and inchoate class cost of service analysis for APLD, and it should be flatly rejected by this Commission. See MLEC's March 15, 2023 Comments at pp. 7-8. Not only is it improper for this to be considered outside of a general rate case, but MLEC is selectively approaching how it believes APLD impacts Otter Tail's costs – and in doing so it entirely ignores the benefits of APLD's load on the system, which accrue to all customers including MLEC. By way of example, OTP stated in its Application in Case No. PU-21-366, "this customer requires only 5 MW of firm demand. Thus, its incremental capacity impact is negligible compared to the rate lowering benefit of spreading costs over many more megawatt-hours similar to the RCRR. Otter Tail estimates this will result in \$0.460M benefit to all other customers." (OTP Application in Case No. PU-21-366 at p. 7). Thus, MLEC's proposal is not only procedurally inappropriate, but also lacking in substantive support.

Again, APLD greatly appreciates the Commission's attention to its concerns with OTP's Applications in the consolidated dockets. The foregoing comments are not a comprehensive discussion or enumeration of every issue that APLD has been able to identify in the Applications, and APLD reserves the right to supplement these comments as appropriate.

Very truly yours,



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of Holland & Hart LLP

EHT:krr

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