

April 26, 2023

**VIA EMAIL (NDPSC@ND.GOV)**

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

**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 appreciates the Commission’s attention to this proceeding and restates its position, consistent with Commission’s discussion in its April 12th meeting, that Otter Tail Power (OTP) should not be permitted to change its E2 Allocator in this proceeding. Leaving the E2 Allocator unchanged at this time, and applying the same Renewable Resource Cost Recovery Rider (RRCRR or Rider) rate uniformly to all customers, as Otter Tail Power now indicates it will do, resolves all issues for Applied Digital in this proceeding.

Notwithstanding, Applied Digital opposes OTP’s request set out in its April 24, 2023 filing that the Commission “set the rider rate without reallocation at this time, but do so without prejudice so that the final determination on this point might be made following the assessment of net benefits conferred by the addition of Applied Digital.” It is unclear from OTP’s filing whether its request is to be able to reopen this docket, or whether its request is to raise such issues in a future RRCRR proceeding. Regardless, Applied Digital opposes any attempt by OTP to reopen this docket.

A significant portion of bottom-line costs for businesses such as Applied Digital are comprised of electric utility rates, and business planning and decisions are often made around what those rates (and costs to customers) will be. Customers deserve a certain amount of rate certainty from regulatory proceedings, and reopening this docket would undermine that rate certainty.

|    |           |                  |                                    |    |          |                  |                                    |
|----|-----------|------------------|------------------------------------|----|----------|------------------|------------------------------------|
| 36 | PU-22-429 | Filed 04/26/2023 | Pages: 2                           | 23 | PU-23-27 | Filed 04/26/2023 | Pages: 2                           |
|    |           |                  | Comments of Applied Digital (APLD) |    |          |                  | Comments of Applied Digital (APLD) |
|    |           |                  | Holland & Hart LLP                 |    |          |                  | Holland & Hart LLP                 |
|    |           |                  | Elizabeth Titus                    |    |          |                  | Elizabeth Titus                    |

**Location**  
555 17th Street, Suite 3200  
Denver, CO 80202-3921

**Mailing Address**  
P.O. Box 8749  
Denver, CO 80201-8749

**Contact**  
p: 303.295.8000 | f: 303.295.8261  
www.hollandhart.com

Moreover, Applied Digital is concerned that OTP is attempting to use its RRCRR for a purpose beyond the one approved by the Commission. OTP proposes to conduct an assessment of the net benefits conferred by the addition of Applied Digital, and then apparently use that assessment to propose a new RRCRR. When the rider was approved in Case No. PU-06-466, the Commission intended only to allow OTP to recover its costs to acquire an ownership position in the Langdon Wind Energy Center, which ownership position was encouraged by the North Dakota Legislature. See May 21, 2008 Order. Since that time additional wind resources have been acquired. To Applied Digital's knowledge, there is no indication that the Rider was intended to be used a mechanism to reconstitute OTP's recovery of its overall revenue requirement from ratepayers, or to track a single customer's net benefits. Treating the Rider in such away would depart from its intended purpose and undermine the bargain struck in Applied Digital's Electric Service Agreement with OTP. The issues raised in OTP's April 24, 2023 filing are better suited for a general rate case than an RRCRR proceeding.

Accordingly, Applied Digital respectfully requests the Commission approve the Rider as updated in OTP's April 24, 2023 comments and explicitly indicate OTP is not permitted to reopen this particular proceeding. To the extent the Commission permits OTP to raise any issues raised by it in this proceeding again or in a future proceeding, Applied Digital respectfully requests that the Commission also state that Applied Digital may raise any issues and arguments in response to such a filing.

Very truly yours,



Elizabeth H. Titus  
Partner  
of Holland & Hart LLP

EHT:krr

cc: Robert Frank – via email to [rfrank@nd.gov](mailto:rfrank@nd.gov)  
Victor Schock – via email to [vshock@nd.gov](mailto:vshock@nd.gov)

21374234