

Before the North Dakota Public Service Commission  
State of North Dakota

In the Matter of the Application of Otter Tail Power Company  
For Authority to Increase Rates for Electric Utility  
Service in North Dakota

Case No. PU-23-342

Exhibit\_\_\_\_

**TRANSITION OF CAPITAL PROJECTS FROM RIDERS TO BASE RATES**

Rebuttal Testimony and Schedules of

**PAULA M. FOSTER**

November 4, 2024

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1   **I.     INTRODUCTION AND QUALIFICATIONS**

2   Q.    PLEASE STATE YOUR NAME AND CURRENT EMPLOYER.

3   A.    My Name is Paula Foster. I am employed by Otter Tail Power Company (OTP).

5   Q.    DID YOU PREPARE DIRECT TESTIMONY IN THIS PROCEEDING?

6   A.    Yes. In my Direct Testimony, I described OTP's proposal regarding treatment of  
7        certain riders and associated costs in the 2024 Test Year and adjustments to those  
8        riders as the result of moving cost recovery from riders into base rates.

10  Q.    WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

11  A.    My Rebuttal Testimony responds to recommendations included in the October 4,  
12        2024 Direct Testimony of the following witnesses: (1) Kavita Maini on Behalf of  
13        Midwest Large Energy Consumers (MLEC) and (2) Dante Mugrace on behalf of  
14        the North Dakota Public Service Commission (the Commission) Advocacy Staff.  
15        Specifically, I address the following issues and recommendations:

- 16           •   Langdon Upgrade Project Costs
- 17           •   Cost Recovery for the Langdon Upgrade Project
- 18           •   Treatment of Production Tax Credits (PTCs).

19  **II.    REBUTTAL TESTIMONY UPDATES**

20       **A. Langdon Upgrade Project Costs (Staff-Mugrace)**

21  Q.    WHAT INFORMATION DID WITNESS MUGRACE REQUEST OTP PROVIDE  
22        FOR THE LANGDON UPGRADE PROJECT?

23  A.    Witness Mugrace requested that the Company provide actual costs related to the  
24        Langdon Upgrade Project when new information is received.<sup>1</sup>

26  Q.    WHAT IS YOUR RESPONSE TO MR. MUGRACE'S REQUEST?

27  A.    OTP will provide the most up-to-date actual costs for the Langdon Upgrade Project  
28        as part of its final rates compliance filing. I note that, as identified in discovery  
29        response MLEC-103 included as Exhibit\_\_\_\_(KM-1), Exhibit KM-1 to Witness  
30        Maini's Direct Testimony, those actual costs will include a correction to the

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<sup>1</sup> Direct Testimony of Dante Mugrace at 8:24-26.

1 remaining life of the Langdon Upgrade Project.<sup>2</sup> There will be an associated  
2 correction to the levelization of production tax credits, increasing annual credits  
3 provided in the Renewable Resource Cost Recovery (RRCR) rider.

### 4 **III. CONTESTED ISSUES**

#### 5 **A. Langdon Upgrade Project Cost Recovery (MLEC-Maini)**

6 Q. WHAT DID WITNESS MAINI RECOMMEND FOR COST RECOVERY  
7 ASSOCIATED WITH THE LANGDON UPGRADE PROJECT?

8 A. Witness Maini recommended that OTP recover the Langdon Upgrade Project costs  
9 through the RRCR rider.<sup>3</sup>

10  
11 Q. DO YOU AGREE WITH MS. MAINI'S RECOMMENDATION?

12 A. No. As explained by Mr. Bruce G. Gerhardson, rolling projects from riders into  
13 base rates during a rate case is a standard regulatory practice in North Dakota.<sup>4</sup>  
14 OTP witness Mr. Gerhardson also appropriately notes that leaving the projects in  
15 riders would require OTP to file more frequent rate cases.

16 Further, the basis for Ms. Maini's argument is not sound. Ms. Maini argues  
17 that the Langdon Upgrade Project should remain in the rider because OTP is  
18 proposing to continue recovery of costs for Ashtabula I, Ashtabula III, and Luverne  
19 Upgrade Projects through the rider. The Ashtabula, Ashtabula III, and Luverne  
20 Upgrade Projects are different from the Langdon Upgrade Project: the Ashtabula,  
21 Ashtabula III, and Luverne Upgrade Projects are not expected to be placed into  
22 service during the 2024 Test Year, while the Langdon Upgrade Project is  
23 anticipated to be placed into service before the end of 2024. Because of these  
24 timing differences, it makes sense for the Langdon Upgrade Project to be included  
25 in base rates, while the Ashtabula I, Ashtabula III, and Luverne Upgrade Projects  
26 remain in the rider until the next rate case, at which time they will be in service.  
27

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<sup>2</sup> Direct Testimony of Kavita Maini, Exhibit\_\_\_(KM-1), Exhibit KM-1.

<sup>3</sup> Direct Testimony of Kavita Maini at 5:7-10.

<sup>4</sup> Gerhardson Rebuttal at Section II.

**B. Regulatory Liability Associated with Levelizing Production Tax Credits (MLEC-Maini)**

Q. WHAT ARE PRODUCTION TAX CREDITS?

A. PTCs are federal tax credits earned when electricity is generated by a qualifying resource. Merricourt and the Upgrade Projects will earn PTCs based on the level of megawatt hours produced.

Q. WHAT DOES OTP DO WITH PTCS THAT ARE PRODUCED BY ITS WIND FACILITIES?

A. PTCs are passed on to our customers through the RRCR rider, which results in lower rate impacts for OTP's wind facilities. In its Order in Case No. PU-19-387, the Commission ordered OTP to levelize the PTCs produced by Merricourt over the life of the project. As a result, Merricourt will earn PTCs over the first ten years of its life, and the PTCs will be credited to customers over all 35 years of its life. The amount credited to customers is calculated to be the same each month of the life of the facility, based on production estimates. This number is compared to actual production in the RRCR rider and is trued up annually to ensure that all PTCs are ultimately credited to customers.

For tax purposes, earned PTCs are used to offset OTP's tax liability. The remaining PTCs are transferred to Otter Tail Corporation (OTC) to offset tax liability for OTC. In return, OTP receives cash.

Q. WHAT DID WITNESS MAINI RECOMMEND REGARDING TREATMENT OF PTCS?

A. Witness Maini recommends that OTP include a regulatory liability in the RRCR rider associated with PTCs that are earned but not yet credited to customers. This regulatory liability would offset rate base.<sup>5</sup> Witness Maini further recommends that the offset be credited through the RRCR rider in annual filings.<sup>6</sup>

Q. DO YOU AGREE WITH WITNESS MAINI'S RECOMMENDATION?

A. Yes. In practice, there can be differences between when costs are incurred and when they are recovered from customers. These timing differences typically are addressed by creating a regulatory liability (when costs are recovered from customers faster than they are incurred) or a regulatory asset (when costs are

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<sup>5</sup> Direct Testimony of Kavita Maini at 8:13-14.

<sup>6</sup> Direct Testimony of Kavita Maini at 8:21-9:1.

1 incurred faster than they are recovered from customers). It generally is standard  
2 to include the regulatory liability or regulatory asset in rate base.

3 Witness Maini identified that OTP does not currently have a regulatory  
4 liability to reflect the fact that we are accruing PTCs, and making use of them, faster  
5 than we are crediting the PTCs to customers. I agree with Witness Maini that this  
6 change should be made.

7  
8 Q. HOW SHOULD THE REGULATORY LIABILITY BE IMPLEMENTED?

9 A. To ensure proper tracking of current balances, the regulatory liability should be  
10 built into the RRCR rider. The regulatory liability will be included in the next RRCR  
11 rider filing.

12  
13 Q. DOES THIS RECOMMENDATION HAVE ANY IMPACT ON BASE RATES?

14 A. No. Including the regulatory liability in the RRCR rider will have no impact on the  
15 2024 Test Year revenue requirement or revenue deficiency because the RRCR rider  
16 operates outside of base rates.<sup>7</sup>

17 **IV. CONCLUSION**

18 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

19 A. Yes, it does.

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<sup>7</sup> I note that this approach will not have an impact on the calculation of the RRCR rider deferred tax asset. The deferred tax asset reflects PTCs as they are earned and is reduced as the PTCs are used on tax returns for OTP or sold to OTC. The reduction in the balance of the deferred tax asset is reflected in annual true-up filings for the RRCR rider.