

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\_\_\_\_

**CORPORATE COST ALLOCATION, LEAD LAG STUDY,  
ENERGY ADJUSTMENT RIDER AND  
OTHER REGULATORY ISSUES**

Surrebuttal Testimony and Schedules of

**CHRISTOPHER E. BYRNES**

November 25, 2024

## **TABLE OF CONTENTS**

I.	INTRODUCTION.....	1
II.	CONTESTED ISSUES.....	1
A.	Rate Case Expense (MLEC-Maini).....	1

1     **I.   INTRODUCTION**

2     Q.   PLEASE STATE YOUR NAME AND CURRENT EMPLOYER.

3     A.   My name is Christopher Byrnes. I am employed by Otter Tail Power Company  
4         (OTP or the Company).

5  
6     Q.   DID YOU PREPARE DIRECT AND REBUTTAL TESTIMONY IN THIS  
7         PROCEEDING?

8     A.   Yes. On November 2, 2023, I filed my Direct Testimony in this proceeding  
9         addressing several revenue requirement and regulatory issues, including corporate  
10        cost allocation, lead lag study, Energy Adjustment Rider (EAR), rate case expenses,  
11        advertising expenses, and electronic payment processing fees.

12           On November 4, 2024, I filed my Rebuttal Testimony addressing the  
13        contested issues of non-employee director restricted stock, investor relations,  
14        aviation, and Otter Tail Corporation (OTC) incentive-based compensation costs. I  
15        also agreed to an Advocacy Staff of the North Dakota Public Service Commission  
16        (the Commission) recommendation related to rate case expense.

17  
18    Q.   WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

19    A.   My Surrebuttal Testimony replies to the November 4, 2024 Rebuttal Testimony of  
20        Ms. Kavita Maini filed on behalf of the Midwest Large Energy Consumers (MLEC),  
21        specifically on the issue of rate case expense.

22    **II.   CONTESTED ISSUES**

23    **A.   Rate Case Expense (MLEC-Maini)**

24    Q.   WHAT IS THE COMPANY'S PROPOSAL REGARDING RATE CASE EXPENSE?

25    A.   As I explained in my Direct Testimony, the Company proposes to amortize rate  
26        case expense over three years. Three years is an appropriate time period over which  
27        to amortize these costs because, based on what we know at this time, it is likely that  
28        OTP will file its next rate case in three years.<sup>1</sup>

29  

---

1   Byrnes Direct at 16:29–34.

1 Q. WHAT POSITION DID ADVOCACY STAFF TAKE ON RATE CASE EXPENSE?

2 A. Advocacy Staff consultant Mr. Dante Mugrace accepted the Company's proposal to  
3 amortize rate case expense over there years and accepted the amount of rate case  
4 expense included in the 2024 Test Year.<sup>2</sup> Mr. Mugrace also requested that the  
5 Company provide an update of the balance of rate case expense.<sup>3</sup>

6  
7 Q. DID OTP AGREE TO PROVIDING UPDATED RATE CASE EXPENSE COSTS?

8 A. Yes. In my Rebuttal Testimony, I agreed that the amount of rate case expense  
9 included in the 2024 Test Year should be based on actual rate case expense and  
10 explained that OTP would provide actual rate case expense figures in the  
11 compliance filing used to set final rates at the close of this proceeding.<sup>4</sup>

12  
13 Q. WHAT DID MS. MAINI RECOMMEND IN HER REBUTTAL TESTIMONY?

14 A. Ms. Maini did not make a recommendation related to rate case expense in her  
15 Direct Testimony. Instead, Ms. Maini waited until her Rebuttal Testimony—by  
16 which point OTP and Staff had reached agreement on the issue—to raise her  
17 concerns.<sup>5</sup> In her Rebuttal Testimony, Ms. Maini argued for the first time that rate  
18 case expense should be amortized over five years, rather than three.

19  
20 Q. WHAT IS THE BASIS FOR MS. MAINI'S RECOMMENDATION?

21 A. Ms. Maini based her recommendation only on historical trends, noting that there  
22 had been more than three years between the last several rate cases.

23  
24 Q. DID MS. MAINI PROVIDE ANY FORWARD-LOOKING ANALYSIS TO SUPPORT  
25 HER RECOMMENDATION?

26 A. No, Ms. Maini did not provide any analysis suggesting that the pattern of rate case  
27 filings in past decades will continue in the future. While the Company has been  
28 able to avoid more frequent rate case filings in the past, the investments OTP needs  
29 to make in order to provide safe, reliable, and affordable service in the future mean

---

<sup>2</sup> Mugrace Final Direct at 26:8–21.

<sup>3</sup> *Id.*

<sup>4</sup> Byrnes Rebuttal at 2:1–4.

<sup>5</sup> OTP's position on rate case expense was made clear in my Direct Testimony filed on November 3, 2023. OTP started providing MLEC informal discovery in December 2023, a process that continued through January 2024. MLEC filed its petition to intervene July 15, 2024, and that petition was granted July 31, 2024. MLEC initiated formal discovery even before intervention was granted. It is unclear why MLEC chose to wait to raise this issue until more than a year had passed rather than raising it in Ms. Maini's Direct Testimony, as successive rounds of testimony are typically used to narrow, rather than expand, issues in controversy.

1 that the Company will likely need to file another rate case in three years. Further,  
2 Mr. Mugrace agreed that the three-year amortization period is reasonable. For  
3 these reasons, Ms. Maini's recommendation should be rejected.  
4

5 Q. IF THE AMORTIZATION PERIOD IS EXTENDED, WHAT OTHER CHANGES  
6 SHOULD BE IMPLEMENTED?

7 A. As I explained above, the three-year amortization period for rate case expense is  
8 reasonable and should be implemented. If the amortization period is extended, it  
9 would be reasonable to establish a tracker process to ensure that rate case expenses  
10 are appropriately recovered.  
11

12 Q. HOW WOULD THE TRACKER WORK?

13 A. OTP would establish a tracker account to capture the amount of rate case expense  
14 actually recovered. The tracker account would begin at the total amount of rate  
15 case expense. Each year, the tracker balance would be reduced by the amount  
16 collected (i.e. the annual expense, based on the established amortization period).

17 If rates are in effect for longer than the assumed amortization period,  
18 the tracker balance would become negative, and the resulting regulatory liability  
19 would be used to offset rate case expense in our next North Dakota rate case.  
20 Conversely, if rates are in effect for less than the assumed amortization period,  
21 then the Company would recover the remaining tracker balance in our next rate  
22 case over some assumed amortization period. In this way, OTP would neither  
23 over- nor under-recover rate case expense.  
24

25 Q. WHAT IS YOUR RECOMMENDATION REGARDING RATE CASE EXPENSE?

26 A. My recommendation is unchanged from my Direct Testimony. Based on what we  
27 know at this time, it is likely that OTP will file its next rate case in three years, so  
28 rate case expenses should be amortized over a three-year period. If the  
29 amortization period is extended beyond three years, a tracker should be  
30 implemented so that any under- or over-recovery of rate case expense is  
31 incorporated into rates as part of our next rate case.

32 Further, as I indicated in my Rebuttal Testimony, OTP will provide an  
33 update on rate case expenses in its compliance filing and will incorporate the  
34 actual rate case expense when setting final rates.  
35

- 1 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?
- 2 A. Yes, it does.