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December 19, 2024



Mr. Steve Kahl
Director of Administration/
Executive Secretary
North Dakota Public Service
Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480
ndpsc@nd.gov

Hope L. Hogan
Administrative Law Judge
Office of Administrative Hearings
2911 North 14th St., Suite 303
Bismarck, ND 58503
hlhogan@nd.gov

**RE: In the Matter of the Application and Notice of Otter Tail Power Company
for Authority to Increase Rates for Electric Service in North Dakota
Case No. PU-23-342
OAH File No. 20230373
Proposed Findings of Fact, Conclusions of Law and Order**

Dear Mr. Kahl and Judge Hogan:

Please find enclosed for filing the Proposed Findings of Fact, Conclusions of Law and Order in the above referenced proceeding of Otter Tail Power Company (OTP). OTP has incorporated recommendations of parties in the enclosed Proposed Findings of Fact, Conclusions of Law and Order.

An original and 7 copies will be mailed via USPS. If you have any questions regarding this filing, please contact me at Ldonofrio@otpc.com.

Sincerely,

/s/ LAUREN D. DONOFRIO
Lauren D. Donofrio
Senior Associate General Counsel – Regulatory

kaw
Enclosures
By electronic filing
c: Service List

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Proposed Findings of Fact, Conclusions of Law and Order

Otter Tail Power Company
Lauren Donofrio, Sen Assoc Gen Counsel

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Otter Tail Power Company
2023 Electric Rate Increase
Application**

Case No. PU-23-342

**PROPOSED
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

December ____, 2024

Appearances

Commissioners Randy Christmann, Julie Fedorchak and Sheri Haugen-Hoffart

Lauren D. Donofrio, Otter Tail Power Company, 215 South Cascade Street, Fergus Falls, MN 56538, Patrick T. Zomer, Moss & Barnett, P.A., 3800 Eighth Street North, Suite 102, St. Cloud, MN 56303 appearing on behalf of Otter Tail Power Company.

Mitchell D. Armstrong, Special Assistant Attorney General, 122 East Broadway, Bismarck, ND 58501, appearing on behalf of Public Service Commission Advocacy Staff.

Richard J. Savelkoul, Martin & Squires, P.A., 332 Minnesota Street, Suite W2750, St. Paul, MN 55101, appearing on behalf of Midwest Large Energy Consumers.

Abby Briggerman, Holland & Hart LLP, 555 Seventeenth Street, Suite 3200, Denver, CO 80202, appearing on behalf of Applied Digital.

John M. Schuh, General Counsel, Public Service Commission, State Capitol, 600 E. Boulevard Avenue, Bismarck, North Dakota 58505, appearing on behalf of the Public Service Commission Advisory Staff.

Hope L. Hogan, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On November 2, 2023, Otter Tail Power Company (OTP) filed with the Commission an application for an increase in rates for electric service. OTP requested a rate increase of \$17.358 million or 8.43 percent retail revenue increase for its provision of retail electric service in North Dakota.

Also on November 2, 2023, OTP filed an alternative petition for interim rates, requesting an interim rate increase of \$14.214 million or 6.03 percent of retail revenues.

On November 29, 2023, the Commission suspended OTP's tariffs and rates.

On December 13, 2023, the Commission approved OTP's proposed interim rates to be effective for service rendered on or after January 1, 2024.

On April 29, 2024, the Commission issued a Notice of Public Input Sessions and Public Hearing indicating that it would conduct public input sessions on June 20, 2024, and a public hearing beginning on July 29, 2024.

On May 8, 2024, Applied Digital (Applied) filed a Petition to Intervene, which was granted by the Administrative Law Judge (ALJ) on June 3, 2024.

On June 17, 2024, OTP filed a letter advising the Commission of its intention to file an amendment to its rate increase application by July 3, 2024.

On July 3, 2024, OTP filed an amendment to its rate increase application. OTP amended its application to request a rate increase of \$22.462 million or 10.9 percent retail revenue increase for its provision of retail electric service in North Dakota.

On July 15, 2024, Midwest Large Energy Consumers (MLEC) filed a Petition to Intervene, which was granted by the ALJ on July 31, 2024.

On August 28, 2024, the Commission issued a Notice of Public Hearing indicating that it would conduct a public hearing beginning on December 16, 2024. The Notice provided the following issues to be considered at the hearing:

1. What is the value of OTP's property, used and useful, for the service and convenience of the public in North Dakota?
2. What is OTP's rate of return on its property, used and useful, for the service and convenience of the public in North Dakota?
3. What is a just and reasonable rate of return on OTP's property, used and useful, for the service and convenience of the public in North Dakota?
4. What rates and charges are necessary to provide a just and reasonable rate of return on OTP's property, used and useful, for the service and convenience of the public in North Dakota?
5. Are OTP's rate schedules designed in such a manner that they result in a basis of charge to its customers that is just and reasonable without undue discrimination?

On October 4, 2024, Advocacy Staff and MLEC filed Direct Testimony identifying proposed adjustments on OTP's rate request.

On November 6, 2024, OTP and MLEC filed Rebuttal Testimony.

On November 25, 2024, OTP and MLEC filed Surrebuttal Testimony.

On December 11, 2024, OTP, MLEC, and Advocacy Staff filed with the Commission a Settlement Agreement reflecting the parties' negotiated agreement on revenue requirements, class cost of service study, revenue apportionment, and rate design.

On December 16, 2024, the Commission held the public hearing, as scheduled.

Having allowed all interested persons an opportunity to be heard and having heard and considered all testimony and evidence presented, the Commission makes the following.

Findings of Fact

1. OTP is an investor-owned electric utility authorized to provide public utility service in North Dakota under the regulatory jurisdiction of the Commission.
2. The Settlement Agreement provides for OTP's 2024 rate base to be set at \$701.7 million, which includes the following adjustments from OTP's rebuttal testimony rate base:
 - a. OTP's unused North Dakota investment tax credits (ITC) will be tracked and offset as they are used in the renewable resource cost recovery rider (RRCR).
 - b. OTP's short term construction work in process costs will be excluded from rate base.
3. The Settlement Agreement proposes an overall net revenue increase in OTP's base rate electric revenues for retail customers of \$13.1 million, or 6.18 percent. This agreed-upon amount represents a decrease of \$8.3 million from the \$21.5 million increase sought by OTP in its rebuttal testimony. This reduction includes the following adjustments.
 - a. Elimination of employee achievement award costs (\$96,966).
 - b. Elimination of non-employee director restricted stock costs (\$262,850).
 - c. Elimination of executive survivor and supplemental retirement plan costs (\$267,000).
 - d. Removal of 50% of investor relations costs (\$102,433).
 - e. Elimination of executive restoration plus plan costs (\$92,000).
 - f. Elimination of long-term incentive compensation costs (\$1,221,363).

- g. Removal of 50% of key performance plan financial award, people leaders, management plan, and presidential plan costs (\$454,959).
 - h. Removal of 50% of corporate incentive costs (\$137,680).
 - i. Revenue adjustments associated with Green Bison Soy Processing, ND Soy, Customer 2 and Customer 3 (\$6,458,746). The net effect of the sales and revenue changes for these customers reduces the net base rate revenue increase by \$679,136.
 - j. Amortization of rate case expense over five years rather than three years (\$143,761) with a tracker.
 - k. Movement of ND ITC from base rates to RRCR and movement of Langdon wind upgrade production tax credits from the RRCR to base rates with true up in RRCR (\$1,887,916). The net effect, including rate base, of moving ND ITC from base rates to the RRCR and moving Langdon wind upgrade production tax credits from the RRCR to base rates is a \$2,307,800 reduction to the net base rate revenue increase.
 - l. Reduction of return on equity (ROE) by 50 basis points (\$2,485,056).
4. The Settlement Agreement includes an agreed upon return on equity (ROE) of 10.1 percent, which is 0.50 percentage points lower than the ROE initially proposed by OTP in its direct testimony.
5. The Settlement Agreement provides that OTP's actual capital structure of 53.5 percent common equity, 43.52 percent long-term debt, and 2.98 percent short-term debt is reasonable and appropriate.
6. The Settlement Agreement provides for over earnings sharing, whereby 70 percent of actual earnings in excess of a 10.2 percent ROE will be returned to customers, with OTP retaining the remaining 30 percent.
7. The Settlement Agreement provides that OTP's RRCR shall include regulatory liability associated with production tax credit levelization.

8. The Settlement Agreement proposes a class revenue apportionment as follows:

Class	Settlement Relative Increase Ratio	Net Base Rate Revenue Change	Net Base Rate Revenue Change (Millions)
Residential	1.280	7.91%	\$4.6
Farms	1.280	7.91%	\$0.2
General Service	1.234	7.66%	\$3.4
Large General Service	0.640	3.96%	\$3.4
Irrigation	1.500	9.27%	\$0.0
Lighting	0.550	3.40%	\$0.1
OPA	1.500	9.27%	\$0.1
Controlled Service Deferred Load	1.280	7.91%	\$0.2
Controlled Service Interruptible	1.280	7.91%	\$1.0
Controlled Service Off- Peak	0.550	3.40%	\$0.0
Total		6.18%	\$13.1

9. The Settlement Agreement proposes base customer charges as follows:

Rate Schedule	Present Customer Charge	Settlement Customer Charge
Residential	\$14.00	\$17.00
Residential Demand Control	\$20.10	\$21.00
Farm	\$17.40	\$22.00
Small General Service - Secondary	\$24.90	\$24.90
General Service - Secondary	\$31.90	\$54.00
General Service - Primary	\$21.30	\$36.00
General Service - Time of Use	\$219.00	\$219.00

10. The Commission finds that the Settlement Agreement will result in just and reasonable rates without undue discrimination.

From the foregoing Findings of Fact, the Commission makes the following:

Conclusions of Law

1. The Commission has jurisdiction in these proceedings.
2. The Settlement Agreement provides a just and reasonable rate of return on OTP's property, used and useful, for the service and convenience of the public in North Dakota.
3. The rates proposed by the Settlement Agreement are designed to result in a basis of charge to customers that is just and reasonable without undue discrimination.
4. The Commission finds the Settlement Agreement is reasonable and provides just and reasonable resolution to all pending issues in this matter.

From the foregoing Findings of Fact and Conclusions of Law, the Commission makes the following:

Order

The Commission Orders:

1. The Settlement Agreement, a copy of which is attached to this Order, is adopted and approved in its entirety.
2. OTP shall file, for Commission approval, compliance rate schedules consistent with this Order within 30 days.
3. OTP shall file, for Commission approval, an interim rate refund plan within 30 days.

PUBLIC SERVICE COMMISSION

Sheri Haugen-Hoffart
Commissioner

Randy Christmann
Chair

Julie Fedorchak
Commissioner

**STATE OF NORTH DAKOTA
BEFORE THE
NORTH DAKOTA PUBLIC SERVICE COMMISSION**

In the Matter of Otter Tail Power
Company's Application for Authority
To Increase Rates for Electric Service
In North Dakota

Case No. PU-23-342

CERTIFICATE OF SERVICE

Kim Ward certifies that on the 19th day of December, 2024, she served a true and correct copy of the attached Proposed Findings of Fact, Conclusions of Law and Order by email addressed to the following individuals:

Steve Kahl
Director of Admin./Exec. Secretary
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ndpsc@nd.gov

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ND Public Service Commission
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Subscribed and sworn to before me this
19th day of December, 2024



Notary Public

