BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION OF OTTER TAIL POWER COMPANY FOR APPROVAL OF A RELEASED ENERGY TARIFF	**)))**	**ORDER APPROVING TARIFF REVISIONS EL00-018**

On May 12, 2000, Otter Tail Power Company, Fergus Falls, Minnesota (OTP), filed with the Public Utilities Commission (Commission) a proposed revision to its South Dakota Electric Rate Schedule, specifically the Released Energy Tariff:

Section No. 3, Volume I, Original Sheet No. 91, Rate Designation M-10S, Released Energy Tariff, Pages 1, 2 and 3

This Released Energy Tariff allows OTP to make energy purchases from its South Dakota customers who voluntarily agree to interrupt their firm load. OTP intends to use the Released Energy Program as an additional energy source to avoid high price energy in the wholesale markets or as an opportunity to make sales in these wholesale markets. When OTP purchases released energy to meet native firm energy requirements, OTP intends to pass the costs associated with the purchases through its fuel adjustment clause. OTP is also requesting a limited departure from its Fuel Adjustment Clause tariff, Section No. 3, Volume I, 5th Rev. Sheet No. 98-Super. 52 pursuant to ARSD 20:10:13:08.

On May 18, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of June 2, 2000, to interested individuals and entities. No petitions to intervene or comments were filed. At its regularly scheduled meeting of July 13, 2000, the Commission considered approval of the application. Commission Staff recommended approval with restrictions and reporting requirements as stated in Staff's memorandum dated July 12, 2000. These conditions include:

Usage Restrictions

When repurchasing customer energy for serving native load, OTP will:

1. first interrupt service to interruptible customers;

2. repurchase energy from firm service customers only (no repurchase may be made from interruptible customers);

3. not repurchase energy from customers when the negotiated repurchase price from the customer exceeds the wholesale market price, and;

Otter Tail agrees not to substitute, for purpose of fuel adjustment clause pass-through, higher cost energy that was purchased with the intent to sell in the wholesale market, for lower cost energy that was repurchased from participating Released Energy Tariff retail customers purchased for purpose of resale to remaining retail customers. As an example, assume that Otter Tail purchases 50MW at $30/mwh for purposes of reselling at $40/mwh in the wholesale market,

and at the same time purchases released energy at $25/mwh from a participating customer for purposes of reselling to native load. Under this example, the correct amount to be credited to the FAC is the $25 energy, and not the $30 energy. Otter Tail agrees to verify this practice if necessary.

Reporting Requirements

OTP shall file compliance reports by January 31, 2001. The compliance reports shall include:

1. a schedule of buy-back energy purchased from each South Dakota customer. This schedule shall include the date, time period, kWh or MWh purchased and the purchase price for each customer buy-back purchase;

2. the expected range of energy prices when the decision was made to purchase energy from the buy-back customers;

3. a representative after-the-fact market price of the energy during the period of the buy-back;

4. a schedule of the off-system sales. This schedule shall include the date, time period, kWh or MWh sold and the sell price for each off-system sale transactions overlapping the buy-back period reported above;

5. a schedule of margins (profits). This schedule shall individually report company margin (profit) for each customer energy buy-back transaction that is sold off-system;

6. fuel clause related costs allocated to off-system sales during a buy-back period.

Record Retention

OTP shall maintain, for a minimum period of one year after the above report is filed and provide upon request of the SDPUC Commission or Commission Staff, the customer detail usage information in determining the customer's "baseline" load profile and the actual energy usage used in determining the customer's actual load reduction for each buy-back period.

Regulatory Treatment of Margins

OTP will set up a tracking account that will track and accumulate the margins (profits) for each customer energy purchase that is sold off-system by OTP. OTP will continue to track and accumulate these margins (profits) until the next rate case. At that time OTP will include, with its rate case filing, company proposed treatment of these margins (profits). Proper treatment will be considered and decided on by the SDPUC Commissioners.

Margins for off-systems sales will be measured as the difference between the price for a specific amount of energy (measured in kw/h) paid to participating retail customers and the price at which Otter Tail sells the same energy off-system in the wholesale market.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-34A. The Commission voted to approve the tariff revisions with Staff's recommended restrictions and reporting requirements (Commissioner Nelson, dissenting). The Commission finds the revisions are just and reasonable. As the Commission's final decision in this matter, it is therefore

ORDERED, that OTP's revised tariffs, as described above, are approved with Staff's recommended restrictions and reporting requirements, also described above, and shall be effective for service rendered on and after the date of this Order. It is

FURTHER ORDERED, that this approved tariff as described above shall expire on December 31, 2000. In the future, should OTP wish to continue this program after this expiration date, OTP will have to come before the Commission in another proceeding. It is

FURTHER ORDERED, that the Commission finds good cause to grant the limited departure from OTP's Fuel Adjustment Clause tariff pursuant to ARSD 20:10:13:08 for use of the Released Energy Tariff.

Dated at Pierre, South Dakota, this 20th day of July, 2000.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By:_____

Date:_____

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

_____
JAMES A. BURG, Chairman

PAM NELSON, Commissioner, dissenting

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LASKA SCHOENFELDER, Commissioner

DISSENT OF COMMISSIONER NELSON

In a filing that nearly duplicates the Northern States Power Company (NSP) filing in Docket EL00-013, Otter Tail Power Company (OTP) has come to us requesting approval of a "buyback" program. Unlike NSP's filing that essentially shifts power supply from one customer group to another, OTP's filing would also allow the buyback power to be sold off-system. OTP will pay large customers to reduce consumption, thus enabling other customers, both on and off-system to use that power. The hope is that payment made to large customers will be either less than the cost of buying from another utility or power marketer or for what it can be sold off-system. The effect if the program is successful is: 1. Both customer groups will be better off than they would be without the program if it remains with system customers, and 2. OTP, large selling customers, and other system customers will benefit from profitable off-system sales.

A key consideration, as is true with the NSP program, is that no additional power supply results from this program. It merely shifts usage when the supply is sold on-system. One customer curtails while another customer uses more. In effect, OTP and the non-curtailing customers will pay large users for using less. This process bears a close resemblance to other past-approved programs, conservation programs, which also involved payment to customers as an incentive to use less.

For on-system sales there is one major difference between the buyback program and the "conservation" programs: Utilities recovered the cost of conservation programs in base rates, after rate case review. OTP now requests fuel clause recovery of buyback costs, at least for the buyback sales made on-system. The distinction is not trivial. The fuel clause by its very nature and intent is automatic cost recovery. It is true we can review cost components of the fuel clause, but we have an almost impossibly limited review period that allows the company to keep what they request until we decide otherwise. After a 10-day period following filing, any change we make would only apply prospectively. In my view, neither OTP nor staff offered adequate support to deviate from the past practice of placing conservation program costs in base rates. The fuel clause was created to fulfill a specific purpose and it's inappropriate to use it as a handy catchall for costs more appropriately considered in a rate case. While I wholeheartedly support programs to reduce consumer costs, I cannot support misuse of the fuel clause.

Proposed OTP off-system sales through usage of the buyback program needs a more thorough review before gaining our approval. We have not considered all cost of service implications raised by this program. We have not considered all potential supply impacts for on-system customers. We have not established cost-based guidelines for sharing of sales margins. I realize the program is new. Even so, I cannot approve this program without a more thorough review and consideration of basic policy questions.

On these bases, I dissent from the majority opinion that approves OTP's filing.

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Pam Nelson, Commissioner