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April 16, 2009

**Reply to Fergus Falls office
Direct: 218-998-7108**

VIA E-FILING

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
Capitol Building, 1st floor
500 East Capitol Avenue
Pierre, SD 57501

RE: Request for Authority to Use Current Rate Design when Implementing "Interim" Rate Increase Pursuant to SDCL Section 49-34A-17 on May 1, 2009, and Until Commission Makes Final Determination In the Matter of the Application of Otter Tail Corporation d/b/a Otter Tail Power Company for Authority to Increase Rates for Electric Utility Services in South Dakota

Docket No. EL08-030

Dear Ms. Van Gerpen:

Please find enclosed for filing with the Commission Otter Tail's Request for Authority to Use Current Rate Design when Implementing "Interim" Rate Increase Pursuant to SDCL Section 49-34A-17 on May 1, 2009, and Until Commission Makes Final Determination in regards to the above-entitled matter.

Also enclosed are an Affidavit of Service and Service List.

Should you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce Gerhardson", written over a horizontal line.

Bruce Gerhardson
Associate General Counsel
BG:nlo

Attachments

STATE OF MINNESOTA)
)
COUNTY OF OTTER TAIL)

AFFIDAVIT OF SERVICE

RE: Request for Authority to Use Current Rate Design when Implementing “Interim” Rate Increase Pursuant to SDCL Section 49-34A-17 on May 1, 2009, and Until Commission Makes Final Determination In the Matter of the Application of Otter Tail Corporation d/b/a Otter Tail Power Company for Authority to Increase Rates for Electric Utility Services in South Dakota

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Nancy L. Olson, being first duly sworn, deposes and says that on the 16th day of April, 2009, she served the attached filing in the above-referenced matter:

- by emailing to all persons at the email address provided and indicated on the attached Service List
- by personal service
- by facsimile transmission followed by first class mail
- by express mail
- by delivery service
- E-filing

/s/ Nancy L. Olson

Subscribed and sworn to before me this 16th day of April, 2009.

(NOTARIAL SEAL)

/s/ Penny Mosher, Notary Public

SERVICE LIST

RE: Request for Authority to Use Current Rate Design when Implementing “Interim” Rate Increase Pursuant to SDCL Section 49-34A-17 on May 1, 2009, and Until Commission Makes Final Determination In the Matter of the Application of Otter Tail Corporation d/b/a Otter Tail Power Company for Authority to Increase Rates for Electric Utility Services in South Dakota

Docket No. EL08-030

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**In the Matter of the Application of Otter Tail
Corporation d/b/a Otter Tail Power Company
For Authority to Increase Rates For Electric
Utility Service in South Dakota**

EL08-030

**REQUEST FOR AUTHORITY TO USE CURRENT RATE DESIGN WHEN
IMPLEMENTING “INTERIM” RATE INCREASE PURSUANT TO SDCL
SECTION 49-34A-17 ON MAY 1, 2009, AND UNTIL COMMISSION MAKES
FINAL DETERMINATION IN THIS MATTER.**

COMES NOW, Otter Tail Corporation d/b/a Otter Tail Power Company (“OTP”) and respectfully moves the South Dakota Public Utilities Commission (“the Commission”) for authority to use its current rate design when it implements a rate increase on May 1, 2009, pursuant to South Dakota Codified Laws Section 49-34A-14, (the “Interim Increase”) which shall be in effect until final rates are implemented following the Commission’s final determination in this docket.

1. Please refer all inquiries regarding this filing to:

Bruce Gerhardson
Associate General Council
Otter Tail Corporation
215 South Cascade Street
P. O. Box 496
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(218) 998-7108
bgerhardson@ottertail.com

2. OTP filed its petition to increase rates on October 31, 2008. Thereafter, on December 9, 2008 and February 13, 2009, the Commission suspended operation of OTP’s proposed rates, pursuant to South Dakota Codified Laws Section 49-34A-14. In each instance the Commission suspended operation of OTP’s rate increase for 90 days,

for a total of 180 days, and therefore pursuant to those suspension Orders and South Dakota Codified Laws Section 49-34A-14, OTP's proposed rate increase will no longer be subject to suspension after April 29, 2009.¹

3. Since OTP filed its petition to increase rates, OTP and Commission Staff have discussed OTP's request and have arrived at a settlement on revenue requirements and a tentative settlement on revisions to OTP's proposed rate design. OTP and Staff are currently working out the details of their agreement on rate design, and thereafter will file a request that the Commission approve the settlement.

4. South Dakota Codified Laws Section 49-34A-17 provides that a public utility may implement its proposed rate or practice if it is no longer subject to suspension and the Commission has not yet issued a final decision on the rate increase. In this case, because OTP and Staff have reached settlement on OTP's revenue requirement and are still working out final revisions to OTP's proposed rate design, OTP requests that it be allowed to implement its Interim Increase using its current rate design rather than its initially proposed rate design.

5. Implementing the Interim Increase using current rate design will be a relatively straightforward and simple matter. It will require only that a single percentage increase be added to each customer's bill based on the portion of the increase allocated to the rate under which the customer takes service. Also, implementing the Interim Increase using current rate design will simplify the first billing period after May 1, as this method of implementation will allow for a pro-ration of the bill between current rates and rates with

¹ South Dakota Codified Laws Section 49-34A-14 says that the Commission's "suspension may not last longer than one hundred eighty days after the proposed rate or practice was filed." In this instance, OTP intends to implement its increase as described herein as of May 1, 2009, in order to have the commencement of the increase correspond with a calendar month.

the Interim Increase (current rates for the period prior to May 1, and interim rates for the period on and after May 1—thereby preventing any increase prior to May 1, as required by the Commission’s suspension orders). OTP will implement the Interim Increase based on the revenue requirements and class and rate allocations which have been agreed to with Staff, rather than on the increase and allocations originally proposed, but OTP will not use the rate design being discussed with staff, as agreement on that design has not yet been finalized and it will not be finalized in time for a May 1 implementation.

6. Utilizing the current rate design will eliminate any need for refunds under South Dakota Codified Laws Sections 49-34A-17 and/or 49-34A-22, assuming the Commission approves OTP’s settlement with Staff. It will also simplify administration of refunds in the unlikely event that the Commission approves an increase less than that agreed upon by OTP and Staff. Implementing the Interim Increase on this basis will also expedite the transition from the interim rate to final rates, as final rates should be able to be implemented with all bills rendered after the Commission’s final decision in this matter, and therefore pro-rating bills upon implementation of final rates should not be required. This approach will reduce administrative costs and reduce the potential for customer confusion as final rates are implemented.

7. Implementing the Interim Increase using current rate design instead of the initially proposed rate design will also facilitate administration and review of the Interim Increase and the final rate increase for OTP and the Commission, and it will ensure that the rate design being used by OTP at all times is one that has received the express approval of the Commission.

8. If OTP were to implement the Interim Increase using the rate design it initially proposed, implementation and administration of the interim rates would be extremely difficult. This is because OTP and Staff have made significant revisions to many aspects of the initially proposed design, and in fact are still working out the final details of the design that will become part of their proposed settlement. If OTP were to implement its initially proposed design, it would look very different from both its current rate design and the final rate design that OTP expects will be approved by the Commission.

9. Careful implementation and administration of the transition from current rates to interim rates, and from interim rates to final rates is necessary because OTP will track the individual customer billing impacts during this interim period in case the Commission were to require a refund of the interim rates collected. South Dakota Codified Laws Section 49-34A-17 provides:

“In the case of a proposed increased rate, the Commission may, by order, require the public utility to keep an accurate account in detail of all amounts received by reason of the increase, specifying by whom and in whose behalf the amounts are paid. Upon completion of the hearings and decision, the commission may by further order require the public utility to refund, with interest, to customers, the portion of the increased rates found to be unjust, unreasonable, or discriminatory. The refund shall be carried out as provided in §§ 49-34A-22 and 49-34A-23. . . .”

While OTP believes it is likely that the Commission will approve its settlement with Staff, until the settlement is approved, it will be prudent to administer the Interim Increase in the most simple and straightforward manner. Retention of current rate design through the interim rate period will accomplish that goal. It will also reduce administrative costs for tracking the Interim Increase, and simplify the transitions between current, interim and final rates.

9. Additionally, prorating bills during the transition from current rates to interim rates to reflect the significant design differences between current rates and OTP's proposed rates could not be accomplished without extremely labor intensive and cost-prohibitive manual adjustments. Prorating the first bill with the Interim Increase is required in order to ensure that no increase occurs prior to the end of the suspension period (because that first bill will reflect some consumption prior to the end of the suspension period and some consumption after the end of the suspension period).² If significant rate design changes between the two pro-rated periods are added to the prorating, the calculations for this first bill reflecting the Interim Increase will be very complex. This complexity would require the creation of a bill for each customer during the transition month that includes a portion based on the old rate design and a portion based on the new rate design. To go to the expense of making these adjustments for the initially proposed rate designs would not make practical sense, given that the initially proposed rates are being revised significantly by OTP and Staff. This complexity would also increase the likelihood of customer confusion.

10. Implementing the Interim Increase using current rate design is consistent with the public interest, as such a practice will ensure that the rate design used by OTP during all periods will have received the express approval of the Commission. OTP's current rate design was approved as part of OTP's last rate case (Docket No. R-3691). OTP's final rates will also receive the Commission's approval. OTP's initially proposed rates, however, have been substantially revised during the course of OTP's and Staff's discussions, and therefore the initially proposed rate design will not become part of

² As noted above, the suspension period ends on April 29, but OTP intends to implement its Interim Increase May 1, to correspond with the beginning of the calendar month.

OTP's final rate increase. Therefore, while the current statutory provisions appear to allow for the implementation of proposed rates prior to the receipt of express Commission approval (following suspension), under the present circumstances, where the proposed rates will not become the final rates, it would appear more prudent and consistent with the public interest to implement the Interim Increase using current rate design.

For the foregoing reasons, OTP requests that the Commission issue an Order allowing it to use its current rate design when it implements its Interim Increase on May 1, 2009 and until final rates are implemented following the Commission's final order in this proceeding. OTP agrees that the granting of such an Order will not affect the Commission's authority to order a refund of the Interim Increase pursuant to South Dakota Codified Laws Sections 49-34A-17 and/or 49-34A-22, in the event the Commission determines a lower rate increase is appropriate for OTP.

Dated this 16th day of April, 2009

By: /s/ Bruce Gerhardson
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