

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER GRANTING MOTION
BY PATSY ALLYN, PEEVER, SOUTH DAKOTA,)	
AGAINST OTTER TAIL POWER COMPANY)	CE02-001
REGARDING BILLING AND TREE DAMAGE)	
)	

On April 1, 2002, the Public Utilities Commission (Commission) received a complaint filed by Patsy Allyn, Peever, South Dakota (Complainant), against Otter Tail Power Company (Otter Tail) regarding billing and tree damage.

On April 2, 2002, the complaint was faxed to Otter Tail. Pursuant to ARSD 20:10:01:09, Otter Tail was notified that it must satisfy the complaint or file an answer in writing with the Commission by April 22, 2002. On April 22, 2002, the Commission received an answer from Otter Tail. On April 26, 2002, the Commission received a response from Complainant. On May 2, 2002, the Commission received a motion to continue hearing to allow meter testing pursuant to tariff and for an order requiring Complainant to remove a lock from respondent's meter socket. A hearing in this matter had been scheduled for May 9, 2002. By order dated May 6, 2002, the hearing was cancelled.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-34A, specifically 49-34A-2, 49-34A-2.1, 49-34A-3, 49-34A-4, 49-34A-9, 49-34A-10, 49-34A-27, 49-34A-39, 49-34A-40, and 49-34A-58.

On May 9, 2002, at its regularly scheduled meeting, the Commission considered Otter Tail's motion. After hearing the arguments of the parties, the Commission finds and concludes that the Otter Tail tariff on file and in effect with the Commission, Section No. 3, Volume I, Original Sheet No. 98.4 (copy attached), specifies the procedure to be followed for meter tests upon the request of the customer, that such tarified procedure is consistent with ARSD 20:10:17:05, that the tarified procedure provides for Complainant to have an independent representative present for the meter test, that Otter Tail stated that it had no objection to Complainant or her representative being present to observe the removal, transportation, testing and reinstallation of the meter, that a competent independent expert is available to Complainant to observe the test procedure, that there is no evidence or indication that the Otter Tail test equipment will not accurately test the meter's performance, and that the test procedure specified in the tariff is a reasonable procedure. The Commission further finds that Complainant has pointed to no competent evidence, other than a meter test, to prove Complainant's allegations of metering inaccuracy and over-billing. The Commission further finds that the Otter Tail tariff on file and in effect with the Commission provides in the General Rules and Regulations, paragraph 12, Section No. 5, Volume I, 4th Rev. Sheet No. 99.9-Super. No. 1, Rules and Regulations, Page 3 of 6 (copy attached), that Company representatives shall have access to the customer's premises for the purposes of ". . . making inspections, removing the Company's property or for any other purpose incident to the service."

The Commission accordingly voted to grant Otter Tail's motion to continue further proceedings in the matter pending testing of its meter pursuant to its tariff and to allow Otter Tail access to its meter. It is therefore

ORDERED, that Otter Tail's motion for continuance is granted and hearing in this docket will be continued indefinitely, for a reasonable period of time, to afford Complainant an opportunity to request, and Otter Tail to perform, a meter test in accordance with Otter Tail's tariff and the provisions of this Order; it is further

ORDERED, that upon Complainant's request for a meter test as provided in the approved tariff, Otter Tail shall (i) perform a meter test on its meter serving Complainant's premises at its expense, and (ii) in performing such test, permit Complainant or her representative, at Complainant's expense, to be present during removal of the meter from Complainant's premises, transportation of the meter to the place of testing, actual testing of the meter and return and reinstallation of the meter to Complainant's premises; it is further

ORDERED, that if Complainant requests, a technician from the Commission staff shall be made available, at no charge to Complainant, to serve as Complainant's third party representative to observe the removal, transporting, testing and reinstallation of the meter; and it is further

ORDERED, that Complainant shall remove all locks or other restraints from Otter Tail's meter, refrain from placing locks or restraints on the meter and allow Otter Tail unencumbered access to its meter.

Dated at Pierre, South Dakota, this 16th day of May, 2002.

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>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.</p> <p>By: _____</p> <p>Date: _____</p> <p style="text-align: center;">(OFFICIAL SEAL)</p>

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

ROBERT K. SAHR, Commissioner