

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

IN THE MATTER OF THE PETITION OF OTTER )	ORDER FOR AND NOTICE
TAIL POWER COMPANY FOR APPROVAL OF )	OF HEARING
A DEPARTURE FROM ITS FUEL CLAUSE )	
ADJUSTMENT )	EL00-002

IN THE MATTER OF THE FILING BY )	
MONTANA-DAKOTA UTILITIES CO. FOR )	
APPROVAL OF WAIVER OF FUEL CLAUSE )	EL00-003
RATE 58 TO INCLUDE ARBITRATION COSTS )	

IN THE MATTER OF THE PETITION OF )	
NORTHWESTERN PUBLIC SERVICE FOR )	
APPROVAL OF PLAN TO UTILIZE ITS )	EL00-009
ADJUSTMENT CLAUSE TO CREDIT )	
CUSTOMERS FOR ARBITRATION AWARD )	
LESS COSTS )	

On January 27, 2000, the Public Utilities Commission (Commission) received a petition from Otter Tail Power Company (Otter Tail) for permission to depart from the specific wording of its Fuel Adjustment Clause to allow the pass-through of litigation expenses that have resulted in ratepayer savings. An intervention deadline of February 18, 2000, was set by the Commission. No petitions to intervene were filed.

On February 10, 2000, the Commission received a petition from Montana-Dakota Utilities Co. (MDU) for approval of a waiver of Fuel Clause Rate 58. The petition stated that "[t]he waiver is requested to allow the pass-through, in the fuel cost adjustment (FCA), of arbitration costs that have resulted in savings to retail customers." An intervention deadline of March 3, 2000, was set by the Commission. No petitions to intervene were filed.

On March 20, 2000, the Commission received a petition from NorthWestern Public Service (NWPS) for approval of its proposed plan to credit \$682,996.65 to its South Dakota retail electric customers. The credit is due to an arbitration proceeding involving a lignite coal contract. The petition stated that the "plan would utilize its adjustment clause to credit to its retail electric customers (all of whom it serves in South Dakota) the retail portion of the arbitration damage award and interest, less its costs related to its efforts in receiving not only the damage award, but also ongoing coal price reduction and other favorable Coal Agreement provision changes." An intervention deadline of April 7, 2000, was set by the Commission. No petitions to intervene were filed.

On April 27, 2000, the Commission received a Stipulation to Consolidate Dockets. The stipulation stated that Otter Tail, MDU, NWPS, and Commission Staff had agreed to consolidate the dockets due to common questions of law and fact.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-34A, specifically 49-34A-2, 49-34A-3, 49-34A-4, 49-34A-6, 49-34A-8, 49-34A-10, 49-34A-11, 49-34A-13, 49-34A-19.2, 49-34A-25, 49-34A-26, and 49-34A-27.

The Commission approves the consolidation of the dockets. A hearing shall be held on May 15, 2000, beginning at 10:00 o'clock A.M., CDT, in Room 412, State Capitol Building, 500 E. Capitol, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether the Commission shall approve, in whole or in part, the petitions filed by Otter Tail, NWPS, and MDU.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether to approve, in whole or in part, the petitions filed by Otter Tail, NWPS, and MDU. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that consolidation of the above listed dockets for purposes of the hearing is granted; and it is

FURTHER ORDERED, that a consolidated hearing shall be held at the time and place specified above on the issue of whether the Commission shall approve, in whole or in part, the petitions filed by Otter Tail, NWPS, and MDU.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 4<sup>th</sup> day of May, 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: Melanie Kalbo

Date: 5/4/00

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg  
JAMES A. BURG, Chairman

Pam Nelson  
PAM NELSON, Commissioner

Laska Schoenfelder  
LASKA SCHOENFELDER, Commissioner