

CE05-001

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VIA EMAIL AND REGULAR DELIVERY



September 23, 2005

RECEIVED

SEP 28 2005

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

Deb Gregg, Consumer Affairs Representative  
South Dakota Public Utilities Commission  
State Capitol  
500 East Capitol Street  
Pierre, SD 57501-5070

Re: Letter in response to your letter addressed to me dated September 16, 2005.

Dear Ms. Gregg:

This letter is in response to your letter to me dated September 16, 2005. The summary of our conversation on August 29, 2005 is accurate. However, after that phone conversation, I met with our attorney to discuss this situation and when our attorney learned the South Dakota customer wanted resolution to this issue yet this fall, we believed we needed to expedite a resolution to this issue. So we put together and presented an agreement to the Hendricks Golf Club ("Golf Club"), which is shown in Attachment 1. Sections A through J of the agreement provide a description of the situation and the reasoning for offering this agreement to the Golf Club. Sections 1 through 14 of the basic agreement address the following issues: Soft-Start Installation, Installation Costs, Ownership, Materials and Labor, Access to Premises, Additional Motor Load, Voltage Checks, Right to Discontinue Service, Disclaimer of Liability, Notices, Entire Agreement, Regulatory Agency, Warranty and Issue Resolved.

Some of the high points of the agreement terms and conditions consist of: Otter Tail Power ("Otter Tail") paying for the installation of the soft-start equipment on the current Golf Club irrigation motors, of which ownership will remain with the Golf Club. Any additional motor load added by the Golf Club shall be done after advanced notification by the Golf Club to Otter Tail and according to Otter Tail's motor starting policy with each motor being equipped with soft-start equipment. Otter Tail has also agreed to monitor the voltage before and after the installation of the soft-start equipment on the current 15 hp and 25 hp motors. The sole purpose of this agreement is to solve a multi-jurisdictional voltage flicker problem experienced by some South Dakota customers and the agreement is not an admission of guilt or fault by either party.

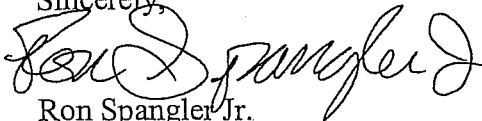
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On September 12, 2005, the Golf Club elected to accept the terms and conditions of this agreement and the President of the Golf Club signed the agreement. Otter Tail representatives received and signed the agreement on September 14, 2005. At which time Otter Tail made the appropriate arrangements to order and coordinate the installation of the soft-start equipment on the current irrigation motors. Otter Tail anticipates the soft-start equipment will be installed by October 11, 2005.

We believe this will close a sensitive issue for all of the parties involved.

If should have any questions, please contact me at 218-739-8838 or  
[rlspangler@otpc.com](mailto:rlspangler@otpc.com)

Sincerely,



Ron Spangler Jr.  
Regulatory Services

C: Jim Mehlhaff, Consumer Affairs Representative  
Sara Greff, South Dakota Public Utilities Commission Attorney  
Larry Fliss, Complainant  
Bruce Gerhardson, Associate General Counsel, Otter Tail Corporation  
Kevin Kouba, Area Manager, Otter Tail  
Bernadeen Brutlag, Manager, Regulatory Services, Otter Tail

## AGREEMENT

Agreement made on September 12, 2005, between Otter Tail Corporation d/b/a Otter Tail Power Company, having its principal place of business at 215 South Cascade Street, Fergus Falls, Minnesota, here referred to as the "Company," and the Hendricks Golf Club, having its principal place of business at 1035 N Shore Dr., Hendricks, Minnesota, here referred to as the "Golf Club."

The parties recite and declare as follows:

- A. The golf club owns and operates two electric motors, a 15 hp and 25 hp, as part of its irrigation system, which motors are located on the Company's Minnesota electric system and have been installed on the customer's side of the meter.
- B. The operation of these motors is interfering with electric service to other area customers, on the Company's electric service in South Dakota, by causing a "voltage flicker" when the Golf Club motors are started.
- C. On May 26, 2005, one of the affected South Dakota customers filed a formal service complaint with the South Dakota Public Utilities Commission.
- D. The Company believes the voltage flicker problem experienced by the Company's South Dakota customers will be eliminated by the installation of "soft-start" equipment on the irrigation motors at the Golf Club. The installation of the soft-start equipment will be on the customers' side of the meter and on Golf Club owned equipment.
- E. Company system modeling indicates that changes to the Company's distribution system would not solve the "flicker" problem experienced by South Dakota customers.
- F. The Company's Motor Starting Policy, Policy Manual Sheet Nos. 504-507, which provides Company personnel guidelines on dealing with customer owned equipment that interferes with or adversely affects the quality of service for other Company customers, requires the customer to install, at the customer's expense, equipment that will minimize the voltage flicker created by said equipment (motors). This policy was established pursuant to Section 10 of its General Rules and Regulations.
- G. The voltage flicker issue is within the jurisdiction of two state Public Utilities Commissions, South Dakota and Minnesota, thus causing a unique system service problem.

- H. In view of this cross-jurisdictional interest and the inimical relationship of the Golf Club and the Company when discussing the "flicker" issue, it is the desire of both parties to reach an amicable solution.
- I. For purpose of reaching an amicable agreement, the parties desire to add soft-start equipment to the Golf Club irrigation motors.
- J. The Company is willing to render such service to the Golf Club in accordance with the terms and conditions of this agreement.

For the reasons cited above and in consideration of the covenants and agreements stated below, the parties to this instrument mutually agree as follows:

#### Basic Agreement

1. **Soft-Start Installation.** The parties agree to the installation of soft-start equipment on the Golf Club irrigation motors located on the customer's side of the meter.
2. **Installation Costs.** The Company, at its sole expense, shall install, subcontract the installation of, or supervise a contractor (chosen by the Golf Club) installing soft-start equipment on the Golf Club motors. It has been Otter Tail's long-standing policy that the customer is responsible, at the customer's expense, for the installation of equipment on the customer's side of the meter. However, in view of the cross-jurisdictional interest in this matter and the time constraints, Otter Tail will make a one-time exception, with the Golf Club's consent, to cover the installation costs.
3. **Ownership.** The Company shall install the soft-start equipment without undue delay, and when installed the equipment shall become the property of the Golf Club and shall thereafter be properly maintained by the Golf Club in a good and substantial condition.
4. **Materials and Labor.** Company shall furnish all materials, do all the work, and provide all of the labor necessary for the performance of this agreement. The soft-start equipment shall be of a standard quality and kind and shall conform to the text of this agreement and shall meet the standards of good motor starting practice.
5. **Access to Premises.** Golf Club grants to Company all necessary access to the Golf Club premises during reasonable business hours for the sole purpose of installing the soft-start equipment and continued voltage monitoring.
6. **Additional Motor Load.** If from time to time the Golf Club desires to install, in addition to those existing, irrigation or other motor loads, it shall do so in conformity with the Company's motor starting policy and at its sole expense, soft-start equipment for each additional motor and shall notify the Company in advance of the planned installation.

7. **Voltage Checks.** The Company shall continue to monitor voltage fluctuations at three locations, one of which shall be on the Golf Club, before and following the installation of the soft-start equipment. The voltage monitoring will be done in the ordinary course of business and shall comprise a normal installation, including meters, as determined by the Company's standard practice. Voltage monitoring will be performed to ensure compliance with voltage flicker chart found in the GE Distribution Data Book #GET-1008L, Figure 24, page 30. This chart is accepted industry wide for determining voltage flicker visibility and irritation to customers.
8. **Right to Discontinue Service.** The Company reserves the right to discontinue its electric service to the Golf Club if the Golf Club fails to comply with or perform any of the conditions or obligations of this agreement. Golf Club shall be given thirty (30) days following receipt of notice of any such default or noncompliance to remedy any such default or noncompliance before service will be discontinued.
9. **Disclaimer of Liability.** Golf Club agrees that Company shall not be liable to the Golf Club or to third persons for personal injury resulting from the installation and use of the soft-start equipment or the presence of Company service equipment on Golf Club's premises, unless such injury was due to willful fault or neglect on the part of Company.
10. **Notices.** Any notice provided for or concerning this agreement shall be in writing and shall be deemed sufficiently given when sent to the Company's Milbank office and the Golf Club, Secretary to its Board of Directors.
11. **Entire Agreement.** This agreement constitutes the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding on either party except to the extent incorporated in this agreement.
12. **Regulatory Agency.** This agreement may be subject to the direction of the Minnesota Public Utilities Commission in the legitimate exercise of its authority.
13. **Warranty.** The company warrants that the work performed by it under this contract will be free from defects, not inherent in the quality required or permitted, in material, and in the quality of work performed for a period of 12 months from the date of installation of the soft-start equipment. Company's duty and the Golf Club remedy under this warranty is limited to the correction of any such defects the Golf Club reports to Company within the warranty period shall be, at the Company's sole option, repair or replacement.

The Company does not agree under the warranty set forth in this section to bear the cost of repairs or replacement due to vandalism, abuse, misuse, neglect, normal wear and tear, modifications not performed by the Company, improper or insufficient

maintenance by others, or any causes beyond the Company's control. The express warranties contained in this section are in lieu of all other warranties, express or implied, including any warranties of merchantability or fitness for a particular purpose.

14. Issue Resolved. This agreement is executed by the parties for the sole purpose of resolving the voltage flicker problem affecting South Dakota customers discussed in this agreement and it is expressly understood and agreed as a condition hereof, that this agreement shall not constitute or be construed to be an admission on any part by any party or an indication in any degree an admission of the truth or correctness of any claim asserted.

In witness of the above, each party to this agreement has caused it to be executed on the date indicated below.

<u>Robert E. Handem</u> Hendricks Golf Club	president	<u>09-12-2005</u> Date
<u>Charles K. Hubs</u> Operations Manager		<u>9/14/05</u> Date