

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

**In the Matter of the Application of Otter Tail
Power Company for Authority to Increase
Rates for Electric Service in South Dakota**

EL10-011

**AMENDED REQUEST FOR AUTHORITY TO USE CURRENT RATE DESIGN
AND TO IMPLEMENT A RATE LOWER THAN THE RATE AUTHORIZED BY
STATUTE WHEN IMPLEMENTING AN “INTERIM” RATE INCREASE
PURSUANT TO SDCL SECTION 49-34A-17 ON FEBRUARY 17, 2011, AND
UNTIL COMMISSION MAKES FINAL DETERMINATION IN THIS MATTER.**

COMES NOW, Otter Tail Power Company (“OTP”) and respectfully moves the South Dakota Public Utilities Commission (“the Commission”) for authority to use its current rate design and to implement an interim rate lower than the rate authorized by statute when it implements a rate increase on February 17, 2011, pursuant to South Dakota Codified Laws Section 49-34A-17, (the “Interim Increase”). The Interim Increase shall be in effect until final rates are implemented following the Commission’s final determination in this docket. This request is similar to the request approved by the Commission in OTP’s last general rate case, in its Order Approving Request for Authority to Use Current Rate Design dated May 8, 2009, in Docket No. EL08-030.

1. Please refer all inquiries regarding this filing to:

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2. OTP filed its petition to increase rates on August 20, 2010. Thereafter, on September 28, 2010, the Commission suspended operation of OTP's proposed rates, pursuant to South Dakota Codified Laws Section 49-34A-14. The Commission suspended operation of OTP's rate increase for a total of 180 days, and therefore pursuant to this suspension Order and South Dakota Codified Laws Section 49-34A-14, OTP's proposed rate increase will no longer be subject to suspension after February 16, 2011.¹

3. Since OTP filed its petition to increase rates, OTP and Commission Staff have discussed OTP's request and have not been able to arrive at a settlement on revenue requirements. OTP and Staff have, however, recently reached a verbal agreement on many revenue requirement issues and a written settlement agreement on those issues is being prepared so that it may be brought to the Commission for approval. OTP believes Commission Staff and OTP may also have a tentative agreement on rate design, but no formal agreement on rate design has been established. OTP will continue to work with Commission Staff on the possibility of reaching a settlement agreement on all revenue requirements issues and the details of an agreement on rate design. Any settlement agreement reached between the parties would be filed with the Commission for Commission approval.

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, OTP requests that it be allowed to implement its Interim Increase using its current rate design

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 February 17, 2010.

rather than its initially proposed rate design and that it be permitted to implement an interim rate lower than authorized by statute.

5. Implementing an interim rate lower than the increase authorized by statute will allow OTP to include in its Interim Increase calculation reductions relating to issues it has resolved with Staff. Implementing the lower Interim Increase is in the public interest as it will avoid the collection of revenues in excess of those likely to be approved in the case, and it will mitigate the impact of the Interim Increase, the potential for an interim rate refund, and the size of any refund should one be required at the end of the case. No customer will be harmed by OTP implementing an Interim Increase lower than that authorized by statute.

6. 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 on and after February 17, as this method of implementation will allow for a proration of the bill between current rates and rates with the Interim Increase (current rates for the period prior to February 17, and interim rates for the period on and after February 17—thereby preventing any increase prior to February 17, as required by the Commission's suspension order). OTP will implement the Interim Increase, reduced to reflect the lower revenue requirements resulting from the issues for which OTP and Staff have reached agreement, and based on class and rate allocations proportional to those originally proposed in this case and with

slight modification to the rate allocations (allocations within a class) based on agreements reached between OTP and Staff.

7. In the event that the Commission approves a final increase less than OTP's Interim Increase, utilizing the current rate design will simplify the administration of refunds as required under South Dakota Codified Laws Sections 49-34A-17 and/or 49-34A-22. Implementing the Interim Increase based on current rate design 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 prorating 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.

8. 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.

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. . . .”

OTP believes it is 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. This approach will also minimize customer confusion.

10. Additionally, prorating bills during the transition from current rates to interim rates using the proposed rate design could not be accomplished without labor intensive and costly 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 Even though OTP’s originally proposed rate design does not reflect significant changes, the calculations for this first bill reflecting the Interim Increase will be very complex if OTP were to use the proposed rate design. This complexity would require the creation of a bill for each customer during the transition month that includes a portion based on the current 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 and would also increase the likelihood of customer confusion. Implementing the Interim Increase using the current design based on a percentage increase by rate is a straightforward simple process.

² As noted above, the suspension period ends on February 16, 2011. OTP intends to implement its Interim Increase on February 17, 2011.

11. 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. EL08-030). OTP's final rates will also receive the Commission's approval. OTP's initially proposed rates, however, will likely be revised from the perspective of collection of fuel and purchased power costs, and to reflect the issues resolved between OTP and Staff, and therefore the initially proposed rate design will not become part of 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 likely 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 and using a revenue requirement calculation that reflects issues that have been resolved since the original proposal.

For the foregoing reasons, OTP requests that the Commission issue an Order allowing it to use its current rate design and to implement an Interim Increase lower than the rate authorized by statute when it implements its Interim Increase on February 17, 2011 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 final rate increase is appropriate for OTP.

Dated this 27th day of January 2011

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