

April 1, 2014

Ms. Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Re: ***Otter Tail Power Company, Docket No. ER14-\_\_\_\_-000***  
Submission of Revisions to Market-Based Rate Tariff to Clarify Category  
Status and Comply with Order No. 784

Dear Ms. Bose:

Otter Tail Power Company (“Otter Tail”), pursuant to section 205 of the Federal Power Act (“FPA”), 16 U.S.C. § 824d, and Part 35 of the Federal Energy Regulatory Commission’s (“Commission”) regulations, 18 C.F.R. Part 35, hereby submits revisions to its market-based rate tariff<sup>1</sup> to clarify its status as a “Category 1 Seller” in all regions established in Order No. 697<sup>2</sup> except for the Central Region. Otter Tail further submits, pursuant to Order No. 784,<sup>3</sup> revisions to its MBR Tariff provision concerning market-based rate sales of ancillary services to third parties. Finally, Otter Tail submits

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<sup>1</sup> Wholesale Market-Based Rate Tariff of Otter Tail Power Co., FERC Electric Tariff, First Revised Volume No. 9 (“MBR Tariff”).

<sup>2</sup> *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, 2006-2007 FERC Stats. & Regs., Regs. Preambles ¶ 31,252 (2007), *order on clarification*, Order No. 697-A, III FERC Stats. & Regs., Regs. Preambles ¶ 31,268, *order on reh’g*, Order No. 697-B, III FERC Stats. & Regs., Regs. Preambles ¶ 31,285 (2008), *order on reh’g*, Order No. 697-C, III FERC Stats. & Regs., Regs. Preambles ¶ 31,291 (2009), *order on reh’g*, Order No. 697-D, III FERC Stats. & Regs., Regs. Preambles ¶ 31,305 (2010).

<sup>3</sup> *Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, 2008-2013 FERC Stats. & Regs., Regs. Preambles ¶ 31,349 (2013), *modified by* Errata Notice, Docket Nos. RM11-24-000, et al. (July 25, 2013), *order on clarification*, Order No. 784-A, 146 FERC ¶ 61,114 (2014).

additional ministerial revisions as discussed below. Otter Tail requests an effective date of June 1, 2014 for the revisions proposed in this filing.

## I. BACKGROUND

Otter Tail is a Minnesota corporation headquartered in Fergus Falls, Minnesota that provides electricity to 422 communities with an average population of 300 in western Minnesota, northeastern South Dakota, and the eastern two-thirds of North Dakota. Otter Tail owns and operates approximately 5,300 miles of transmission facilities and owns approximately 800 megawatts of generation capacity in the three states, all located within the Central Region.<sup>4</sup> Otter Tail is a transmission-owning member of the Midcontinent Independent System Operator, Inc. (“MISO”), and it has transferred all of its transmission rated at 100 kV and greater to the functional control of MISO.<sup>5</sup> Otter Tail does not have a transmission tariff, and it does not evaluate requests for interconnection service or transmission service. All of those functions are performed by MISO, as Transmission Provider for Otter Tail.

On July 6, 2000 (as amended on August 10, 2000), Otter Tail submitted an application for authority to make sales of energy and ancillary services at market-based rates.<sup>6</sup> The Commission granted Otter Tail the authority to make market-based rate sales and accepted Otter Tail’s MBR Tariff on August 11, 2000.<sup>7</sup> On July 10, 2008 (as amended on August 11, 2008), Otter Tail submitted revisions to its MBR Tariff to comply with Order No. 697, including, among other revisions, adopting language stating that Otter Tail “is a Category 2 seller, as defined in 18 C.F.R. § 35.36(a)(3).”<sup>8</sup> The Commission accepted these revisions on September 3, 2008.<sup>9</sup>

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<sup>4</sup> All of Otter Tail’s generation is located in the Central Region, as defined by the Commission in Order No. 697. *See* Order No. 697 at Appendix D; *see also infra* note 18.

<sup>5</sup> *See Otter Tail Power Co.*, 97 FERC ¶ 61,226 (2001); *see also Otter Tail Power Co.*, 98 FERC ¶ 62,218 (2002).

<sup>6</sup> Wholesale Market-Based Rate Tariff Filing of Otter Tail Power Co., Docket No. ER00-3080-000 (July 6, 2000); Correct Tariff Sheets of Otter Tail Power Co., Docket No. ER00-3080-000 (Aug. 10, 2000).

<sup>7</sup> *Otter Tail Power Co.*, Letter Order, Docket No. ER00-3080-000 (Aug. 11, 2000).

<sup>8</sup> Revisions to FERC Electric Tariff of Otter Tail Power Co., Docket No. ER00-3080-003, at Revised Tariff § VIII (July 10, 2008); Revisions to FERC Electric Tariff, Docket No. ER00-3080-003 (Aug. 11, 2008).

<sup>9</sup> *Otter Tail Power Co.*, Letter Order, Docket No. ER00-3080-003 (Sept. 3, 2008).

On July 30, 2010,<sup>10</sup> Otter Tail submitted the baseline electronic tariff version of its MBR Tariff in compliance with Order No. 714.<sup>11</sup> The Commission accepted Otter Tail's baseline electronic MBR Tariff on September 15, 2010.<sup>12</sup>

On December 30, 2011<sup>13</sup> (as amended on March 9, 2012<sup>14</sup>), Otter Tail submitted its most recent updated market power analysis pursuant to Order No. 697, demonstrating its continuing eligibility to engage in sales at market-based rates. On April 25, 2012, the Commission accepted the December 2011 Filing, finding that Otter Tail continues to satisfy the Commission's requirements regarding horizontal and vertical market power sufficient to retain its market-based rate authority.<sup>15</sup>

## II. DESCRIPTION AND EXPLANATION OF TARIFF REVISIONS

### A. Revisions to Clarify Seller Status as Established in Order No. 697

As discussed above, Otter Tail submitted its updated market power analysis on December 30, 2011. In the December 2011 Filing and March 2012 Filing, Otter Tail demonstrated that it continues to be eligible to make wholesale power sales at market-based rates because it passes the Commission's horizontal<sup>16</sup> and vertical<sup>17</sup> tests for market power in the Central Region. Also, as Otter Tail demonstrated, all of its generation and

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<sup>10</sup> Baseline Electronic Tariff Filing of Otter Tail Power Co., Docket No. ER10-2063-000 (July 30, 2010).

<sup>11</sup> *Electronic Tariff Filings*, Order No. 714, III FERC Stats. & Regs., Regs. Preambles ¶ 31,276 (2008), as amended October 23, 2009.

<sup>12</sup> *Otter Tail Power Co.*, Letter Order, Docket No. ER10-2063-000 (Sept. 15, 2010).

<sup>13</sup> Updated Market Power Analysis of Otter Tail Power Co., Docket No. ER00-3080-007 (Dec. 30, 2011) ("December 2011 Filing").

<sup>14</sup> Updated Market Power Analysis – Corrected, Docket No. ER00-3080-007 (Mar. 9, 2012) ("March 2012 Filing").

<sup>15</sup> *Otter Tail Power Co.*, Letter Order, Docket No. ER00-3080-007 (Apr. 25, 2012) ("April 25 Letter Order").

<sup>16</sup> See March 2012 Filing at 6-8, Exhibit No. OTP-1 (Affidavit of David R. Lehrke) at 2-6, Exhibit No. OTP-3 (Market Share Analysis), Exhibit No. OTP-4 (Pivotal Supplier Analysis).

<sup>17</sup> See March 2012 Filing at 8-10, Exhibit No. OTP-1 (Affidavit of David R. Lehrke) at 7-8.

transmission assets are located in the Central Region.<sup>18</sup> In the April 25 Letter Order, the Commission determined that Otter Tail “satisfies the Commission’s requirements for market-based rate authority regarding horizontal market power,” and that based on Otter Tail’s representations, it also “satisfies the Commission’s requirements for market-based rate authority regarding vertical market power.”<sup>19</sup>

Subsequent to the submission of the December 2011 Filing, Commission Staff contacted Otter Tail to request that Otter Tail modify its MBR Tariff to clarify that Otter Tail is a Category 2 seller in the Central Region, and a Category 1 seller in all other regions.

In Order No. 697, the Commission established two categories of market-based rate sellers.<sup>20</sup> Category 1 sellers<sup>21</sup> are wholesale power marketers and wholesale power producers that: (1) own or control 500 MW or less of generation in aggregate per region; (2) do not own, operate, or control transmission facilities other than limited equipment necessary to connect individual generation facilities to the transmission grid (or have been granted a waiver of the requirements of Order No. 888<sup>22</sup>); (3) are not affiliated with anyone that owns, operates, or controls transmission facilities in the same region as the seller’s generation assets; (4) are not affiliated with a franchised public utility in the same region as the seller’s generation assets; and (5) do not raise other vertical market power

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<sup>18</sup> See March 2012 Filing, Exhibit No. OTP-1 (Affidavit of David R. Lehrke) at 3 (“All of Otter Tail’s generation facilities fall within the footprint of the MISO Market.”); see also December 2011 Filing, Exhibit No. OTP-5 (listing all Otter Tail generation and transmission assets and indicating that all are located within the MISO Balancing Authority Area and Central Region).

<sup>19</sup> April 25 Letter Order at 2.

<sup>20</sup> Order No. 697 at PP 848-50. The Commission’s regulations define a seller as “any person that has authorization to or seeks authorization to engage in sales for resale of electric energy, capacity or ancillary services at market-based rates under section 205 of the Federal Power Act.” 18 C.F.R. § 35.36(a)(1).

<sup>21</sup> See Order No. 697 at P 849 n.1000; 18 C.F.R. § 35.36(a)(2).

<sup>22</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 1991-1996 FERC Stats. & Regs., Regs. Preambles ¶ 31,036 (1996), *order on reh’g*, Order No. 888-A, 1996-2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,048, *order on reh’g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *reh’g denied*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff’d in part and remanded in part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff’d sub nom. New York v. FERC*, 535 U.S. 1 (2002).

issues. Category 2 includes any seller that does not qualify as a Category 1 seller.<sup>23</sup> Category 1 sellers are exempt from the Order No. 697 requirement to file updated market power analyses automatically on a triennial basis.<sup>24</sup>

As demonstrated in the December 2011 Filing, Otter Tail is a Category 2 seller in the Central Region. Otter Tail also meets the qualifications to be a Category 1 seller in the Northeast, Northwest, Southeast, Southwest, and Southwest Power Pool regions (collectively, the “Category 1 Regions”), because:

- (1) Otter Tail does not own or control any generation assets located in any of the Category 1 Regions, and therefore satisfies the threshold of owning or controlling less than 500 MW in aggregate in each of the Category 1 Regions;
- (2) Otter Tail does not own, operate, or control transmission facilities in any of the Category 1 Regions (all of Otter Tail’s transmission facilities are located in the Central Region and have been transferred to MISO’s functional control);
- (3) Otter Tail is not affiliated with any entity that owns, operates, or controls transmission facilities in any of the Category 1 Regions;
- (4) Otter Tail is not affiliated with a franchised public utility in any of the Category 1 Regions; and
- (5) The Commission previously has determined that Otter Tail does not present any vertical market power concerns.<sup>25</sup>

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<sup>23</sup> 18 C.F.R. § 35.36(a)(3).

<sup>24</sup> Order No. 697 at PP 848-49.

<sup>25</sup> April 25 Letter Order at 2. As Otter Tail demonstrated in the December 2011 Filing, Otter Tail satisfies the Commission’s standards with respect to vertical market power because: (1) all of its transmission facilities have been transferred to MISO’s independent functional control under the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (“MISO Tariff”); (2) it does not own or control intrastate natural gas transportation or intrastate natural gas storage in any region; (3) it does not own or control physical sources of coal supplies nor control who may access transportation of coal via barges or rail cars, but rather leases rail cars for the transportation of its own coal supplies; and (4) while an Otter Tail affiliate (Otter Tail Energy Services Co.) holds rights on three potential renewable generation sites, the affiliate does not own sites that can be used to create barriers to entry. *See* December 2011 Filing, Exhibit No. OTP-1 (Affidavit of David R. Lehrke) at 7-8.

Accordingly, Otter Tail requests that the Commission determine that it is a Category 1 seller in each of the Category 1 Regions and therefore is exempt from filing triennial updated market power analyses for each of the Category 1 Regions.<sup>26</sup> Otter Tail will continue to file updated market power analyses for the Central Region pursuant to the schedule established in Order No. 697.

To clarify its status in each of the Order No. 697 regions, Otter Tail proposes to modify Section VIII of its MBR Tariff as follows (revisions in blackline): “Seller is a Category 2 seller, as defined in 18 C.F.R. § 35.36(a)(3), in the Central Region, and is a Category 1 seller, as defined in 18 C.F.R. § 35.36(a)(2), in the Northeast Region, Northwest Region, Southeast Region, Southwest Region, and Southwest Power Pool Region.”

The proposed revision clarifies Otter Tail’s category status in each of the six regions established in Order No. 697, and therefore is just and reasonable and should be accepted.

#### **B. Revisions Required by Order No. 784**

In Order No. 784 the Commission adopted revised standard language for third-party sales of ancillary services and advised that sellers that have a market-based rate tariff on file with the Commission that provides for third-party sales of ancillary services “should file this tariff revision the next time they make a market-based rate filing with the Commission.”<sup>27</sup> Accordingly, Otter Tail hereby revises its MBR Tariff to update the provision concerning third-party sales of ancillary services in conformance with the Commission’s requirements in Order No. 784.<sup>28</sup> The proposed language is substantively identical to the *pro forma* language adopted in Order No. 784, and should be accepted by the Commission.

#### **C. Ministerial Revisions**

Otter Tail also submits in this filing certain ministerial changes to its MBR Tariff, including: (i) changing references to the “Midwest Independent Transmission System Operator, Inc.” and “Midwest ISO” to the “Midcontinent Independent System Operator, Inc.” and “MISO,” respectively;<sup>29</sup> and (ii) clarifying the effective date of the MBR Tariff

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<sup>26</sup> See Order No. 697 at PP 848-49 (exempting Category 1 sellers from the automatic requirement to file triennial updates).

<sup>27</sup> Order No. 784 at P 201.

<sup>28</sup> See Proposed MBR Tariff § II.2.

<sup>29</sup> Effective April 26, 2013, MISO changed its name from “Midwest Independent Transmission System Operator, Inc.” to “Midcontinent Independent System Operator, Inc.”

(Continued. . . )

to incorporate the proposed changes requested herein.<sup>30</sup> These revisions provide clarity to the MBR Tariff but make no substantive revisions, and therefore should be accepted.

### **III. ADDITIONAL INFORMATION**

#### **A. Information Required by the Commission's Regulations**

**(1) Documents submitted with this filing:**

In addition to this transmittal letter, this filing includes clean and redlined versions of the MBR Tariff, in electronic format.

**(2) Effective Date:**

Otter Tail requests an effective date of June 1, 2014 for the revisions proposed in this filing.

**(3) Service:**

Otter Tail has served a copy of this filing on its state commissions and the counterparties with which it transacts under its MBR Tariff.

**(4) Requisite Agreements:**

There are none.

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(... Continued)

Operator, Inc.” MISO filed revisions to the MISO Tariff to incorporate its name change on June 17, 2013. Revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff Regarding its Corporate Name Change of Midcontinent Independent System Operator, Inc., Docket No. ER13-1718-000 (June 17, 2013). The Commission conditionally accepted MISO’s name change on August 13, 2013. *Midcontinent Indep. Sys. Operator, Inc.*, 144 FERC ¶ 61,129 (2013).

<sup>30</sup> See Proposed MBR Tariff §§ II.2 & V.

**B. Communications**

All communications regarding this filing should be addressed to, and Otter Tail requests that the following individuals be placed on the official service list for this proceeding:

JoAnn M. Thompson  
Manager of FERC Compliance & Policy  
Otter Tail Power Company  
215 South Cascade St.  
Fergus Falls, MN 56538  
Tel: (218) 739-8594  
jthompson@otpc.com

Paul M. Flynn  
Matthew J. Binette  
WRIGHT & TALISMAN, P.C.  
1200 G Street, N.W., Suite 600  
Washington, D.C. 20005  
Tel: (202) 393-1200  
Fax: (202) 393-1240  
flynn@wrightlaw.com  
binette@wrightlaw.com

**IV. CONCLUSION**

Otter Tail respectfully requests that the Commission accept the revisions proposed in this filing, effective as discussed above.

Respectfully submitted,

/s/ Matthew J. Binette

Paul M. Flynn  
Matthew J. Binette  
WRIGHT & TALISMAN, P.C.  
1200 G Street, N.W., Suite 600  
Washington, D.C. 20005

*Attorneys For  
Otter Tail Power Company*

Attachments

**WHOLESALE MARKET-BASED RATE TARIFF  
OF  
OTTER TAIL POWER COMPANY**

**SALES OF CAPACITY, ENERGY AND/OR ANCILLARY SERVICE  
AND RESALE OF TRANSMISSION RIGHTS**

**FERC Electric Tariff, First Revised Volume No. 9  
Superseding Original Volume No. 9**

**I. Definitions**

The following words and terms used herein shall be understood to have the following meanings:

1. Affiliate: In the case of any exempt wholesale generator defined under Section 32(a) of the Public Utility Holding Company Act of 1935, as amended, “affiliate” is defined in accordance with Section 214 of the Federal Power Act. In the case of any other entity, “affiliate” is defined in accordance with 18 C.F.R. § 161.2(a).
2. Buyer: A purchaser of electric capacity, energy and/or ancillary services or resold transmission rights under this Tariff.
3. Commission: “Commission” means the Federal Energy Regulatory Commission or such successor Federal regulatory agency as may have jurisdiction over this Tariff.
4. Parties: “Parties” mean Seller and Buyer that have entered into a Service Agreement for service pursuant to this Tariff.
5. Seller: “Seller” means Otter Tail Power Company.
6. Tariff: “Tariff” means this wholesale market-based rate tariff, as amended from time to time.
7. Service Agreement: “Service Agreement” means the agreement entered into by Seller and Buyer for service under this Tariff.
8. Transaction: “Transaction” means a particular transaction agreed to by the Parties pursuant to a Service Agreement under this Tariff.
9. Transmission Tariff: “Transmission Tariff” means the Transmission Tariff filed by Otter Tail Power Company in compliance with Order No. 888, as it may be amended from time to time.

**II. Sales of Electric Capacity, Energy and/or Ancillary Services**

1. Electric Capacity and Energy: Seller may sell electric capacity and/or energy to Buyer under this Tariff from time to time at rates, terms and conditions established by the agreement of the Parties. All such Transactions shall be voluntary.

2. Ancillary Services: Seller may sell the following ancillary services to Buyer under this Tariff from time to time at rates, terms and conditions established by the agreement of the Parties. All such Transactions shall be voluntary.

~~Midwest ISO~~: Seller offers regulation service and operating reserve service (which include 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the ~~Midwest-Midcontinent~~ Independent ~~Transmission~~-System Operator, Inc. (~~Midwest ISO~~) and to others that are self-supplying ancillary services to ~~Midwest-ISO~~.

**Third-party ancillary services**: Seller Offers Regulation and Frequency Response Service, Reactive Supply and Voltage Control Service, Energy and Generator Imbalance Service, Operating Reserve-Spinning Reserves, and Operating Reserve-Supplemental Reserves. Sales will not include the following: (1) sales to an RTO or an ISO, i.e., where that entity has no ability to self-supply ancillary services but instead depends on third parties; and (2) sales to a traditional, franchised public utility affiliated with the third-party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier; ~~and (3) sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers.~~ Sales of Operating Reserve-Spinning and Operating Reserve-Supplemental will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except where the Commission has granted authorization. Sales of Regulation and Frequency Response Service and Reactive Supply and Voltage Control Service will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except at rates not to exceed the buying public utility transmission provider's OATT rate for the same service or where the Commission has granted authorization.

### III. Rates

All sales shall be made at rates established by agreement between Seller and Buyer.

### IV. Other Terms and Conditions

All other terms and conditions shall be established by agreement between Seller and Buyer.

### V. Effective Date

This Tariff is effective ~~on or after July 7, 2000, or such earlier date set upon the date authorized~~ by the Commission.

## **VI. Revisions to the Tariff**

Seller may file revisions to this Tariff by notifying Buyer in writing and by unilaterally making the appropriate filing with the Commission pursuant to the provisions of Section 205 of the Federal Power Act; provided, however, that such revision shall not affect the rates, terms and conditions of Transactions entered into prior to the date of such revisions, unless otherwise agreed by the Parties.

## **VII. Filing and Reporting Requirements**

Seller will comply with the current Commission policies and regulations for the filing and/or reporting of Service Agreements and Transactions pursuant to the Tariff.

## **VIII. Seller Category**

Seller is a Category 2 seller, as defined in 18 C.F.R. § 35.36(a)(3), in the Central Region, and is a Category 1 seller, as defined in 18 C.F.R. § 35.36(a)(2), in the Northeast Region, Northwest Region, Southeast Region, Southwest Region, and Southwest Power Pool Region.

## **IX. Compliance with Commission Regulations**

Seller shall comply with the provisions of 18 CFR Part 35, Subpart H, as applicable, and with any conditions the Commission imposes in its orders concerning seller's market-based rate authority, including orders in which the Commission authorizes seller to engage in affiliate sales under this tariff or otherwise restricts or limits the seller's market-based rate authority. Failure to comply with the applicable provisions of 18 CFR Part 35, Subpart H, and with any orders of the Commission concerning seller's market-based rate authority, will constitute a violation of this Tariff.

## **X. Limitations and Exemptions, Waivers and Blanket Authorizations**

The Commission has granted Seller waiver of the following Commission Regulations: (1) Subparts B and C of Part 35 (filing of rate schedules), except for sections 35.12(a), 35.13(b), 35.15 and 35.16; (2) Part 41 (accounts, records and memoranda); (3) Part 101 (uniform system of accounts); and (4) Part 141 (except sections 141.14 & 141.15) (statements and reports). *Otter Tail Power Co.*, Docket No. ER00-3080-000, at 1 and Appendix A (unpublished letter order) (Aug. 11, 2000).

The Commission has granted Seller blanket authorization under Part 34 of the Commission's Regulations for issuances of securities and assumptions of liabilities. *Otter Tail Power Co.*, Docket No. ER00-3080-000, at 1 and Appendix A (unpublished letter order) (Aug. 11, 2000).

**SERVICE AGREEMENT UNDER  
WHOLESALE MARKET-BASED RATE TARIFF  
OF  
OTTER TAIL POWER COMPANY  
PROVIDING FOR  
SALES OF CAPACITY, ENERGY AND/OR ANCILLARY SERVICES  
AND RESALE OF TRANSMISSION RIGHTS**

- 1.0 This Service Agreement, dated as of \_\_\_\_\_, is entered into by and between Otter Tail Power Company (“Seller”) and \_\_\_\_\_ (“Buyer”).
- 2.0 All capitalized terms herein shall have the meaning set forth in Seller’s Tariff.
- 3.0 Seller may provide and Buyer may purchase service under Seller’s Tariff.
- 4.0 Terms and conditions for service shall be set forth in a Master Power Purchase and Sale Agreement (“Master Agreement”) and the Master Agreement shall be executed by Seller and Buyer.
- 5.0 Any notice or request made to or by a Party (Seller or Buyer) regarding this Service Agreement shall be made to the representative of the other Party as indicated below;

Seller:

Buyer:

[Representative]  
Otter Tail Power Company  
215 South Cascade Street  
P.O. Box 496  
Fergus Falls, Minnesota 56538-0496  
218-739-8200

IN WITNESS WHEREOF, the Parties have caused this Service Agreement to be executed by their respective authorized officials.

Otter Tail Power Company

[Insert Buyer Name]

By: \_\_\_\_\_  
Name

By: \_\_\_\_\_  
Name

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**WHOLESALE MARKET-BASED RATE TARIFF  
OF  
OTTER TAIL POWER COMPANY**

**SALES OF CAPACITY, ENERGY AND/OR ANCILLARY SERVICE  
AND RESALE OF TRANSMISSION RIGHTS**

**FERC Electric Tariff, First Revised Volume No. 9  
Superseding Original Volume No. 9**

**I. Definitions**

The following words and terms used herein shall be understood to have the following meanings:

1. Affiliate: In the case of any exempt wholesale generator defined under Section 32(a) of the Public Utility Holding Company Act of 1935, as amended, “affiliate” is defined in accordance with Section 214 of the Federal Power Act. In the case of any other entity, “affiliate” is defined in accordance with 18 C.F.R. § 161.2(a).
2. Buyer: A purchaser of electric capacity, energy and/or ancillary services or resold transmission rights under this Tariff.
3. Commission: “Commission” means the Federal Energy Regulatory Commission or such successor Federal regulatory agency as may have jurisdiction over this Tariff.
4. Parties: “Parties” mean Seller and Buyer that have entered into a Service Agreement for service pursuant to this Tariff.
5. Seller: “Seller” means Otter Tail Power Company.
6. Tariff: “Tariff” means this wholesale market-based rate tariff, as amended from time to time.
7. Service Agreement: “Service Agreement” means the agreement entered into by Seller and Buyer for service under this Tariff.
8. Transaction: “Transaction” means a particular transaction agreed to by the Parties pursuant to a Service Agreement under this Tariff.
9. Transmission Tariff: “Transmission Tariff” means the Transmission Tariff filed by Otter Tail Power Company in compliance with Order No. 888, as it may be amended from time to time.

**II. Sales of Electric Capacity, Energy and/or Ancillary Services**

1. Electric Capacity and Energy: Seller may sell electric capacity and/or energy to Buyer under this Tariff from time to time at rates, terms and conditions established by the agreement of the Parties. All such Transactions shall be voluntary.

2. Ancillary Services: Seller may sell the following ancillary services to Buyer under this Tariff from time to time at rates, terms and conditions established by the agreement of the Parties. All such Transactions shall be voluntary.

**MISO**: Seller offers regulation service and operating reserve service (which include 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Midcontinent Independent System Operator, Inc. (MISO) and to others that are self-supplying ancillary services to MISO.

**Third-party ancillary services**: Seller Offers Regulation and Frequency Response Service, Reactive Supply and Voltage Control Service, Energy and Generator Imbalance Service, Operating Reserve-Spinning and Operating Reserve-Supplemental. Sales will not include the following: (1) sales to an RTO or an ISO, i.e., where that entity has no ability to self-supply ancillary services but instead depends on third parties; and (2) sales to a traditional, franchised public utility affiliated with the third-party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier. Sales of Operating Reserve-Spinning and Operating Reserve-Supplemental will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except where the Commission has granted authorization. Sales of Regulation and Frequency Response Service and Reactive Supply and Voltage Control Service will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except at rates not to exceed the buying public utility transmission provider's OATT rate for the same service or where the Commission has granted authorization.

### **III. Rates**

All sales shall be made at rates established by agreement between Seller and Buyer.

### **IV. Other Terms and Conditions**

All other terms and conditions shall be established by agreement between Seller and Buyer.

### **V. Effective Date**

This Tariff is effective upon the date authorized by the Commission.

### **VI. Revisions to the Tariff**

Seller may file revisions to this Tariff by notifying Buyer in writing and by unilaterally making the appropriate filing with the Commission pursuant to the provisions of Section 205 of the Federal Power Act; provided, however, that such revision shall not affect the rates, terms and conditions of Transactions entered into prior to the date of such revisions, unless otherwise agreed by the Parties.

## **VII. Filing and Reporting Requirements**

Seller will comply with the current Commission policies and regulations for the filing and/or reporting of Service Agreements and Transactions pursuant to the Tariff.

## **VIII. Seller Category**

Seller is a Category 2 seller, as defined in 18 C.F.R. § 35.36(a)(3), in the Central Region, and is a Category 1 seller, as defined in 18 C.F.R. § 35.36(a)(2), in the Northeast Region, Northwest Region, Southeast Region, Southwest Region, and Southwest Power Pool Region.

## **IX. Compliance with Commission Regulations**

Seller shall comply with the provisions of 18 CFR Part 35, Subpart H, as applicable, and with any conditions the Commission imposes in its orders concerning seller's market-based rate authority, including orders in which the Commission authorizes seller to engage in affiliate sales under this tariff or otherwise restricts or limits the seller's market-based rate authority. Failure to comply with the applicable provisions of 18 CFR Part 35, Subpart H, and with any orders of the Commission concerning seller's market-based rate authority, will constitute a violation of this Tariff.

## **X. Limitations and Exemptions, Waivers and Blanket Authorizations**

The Commission has granted Seller waiver of the following Commission Regulations: (1) Subparts B and C of Part 35 (filing of rate schedules), except for sections 35.12(a), 35.13(b), 35.15 and 35.16; (2) Part 41 (accounts, records and memoranda); (3) Part 101 (uniform system of accounts); and (4) Part 141 (except sections 141.14 & 141.15) (statements and reports). *Otter Tail Power Co.*, Docket No. ER00-3080-000, at 1 and Appendix A (unpublished letter order) (Aug. 11, 2000).

The Commission has granted Seller blanket authorization under Part 34 of the Commission's Regulations for issuances of securities and assumptions of liabilities. *Otter Tail Power Co.*, Docket No. ER00-3080-000, at 1 and Appendix A (unpublished letter order) (Aug. 11, 2000).

**SERVICE AGREEMENT UNDER  
WHOLESALE MARKET-BASED RATE TARIFF  
OF  
OTTER TAIL POWER COMPANY  
PROVIDING FOR  
SALES OF CAPACITY, ENERGY AND/OR ANCILLARY SERVICES  
AND RESALE OF TRANSMISSION RIGHTS**

1.0 This Service Agreement, dated as of \_\_\_\_\_, is entered into by and between Otter Tail Power Company (“Seller”) and \_\_\_\_\_ (“Buyer”).

2.0 All capitalized terms herein shall have the meaning set forth in Seller’s Tariff.

3.0 Seller may provide and Buyer may purchase service under Seller’s Tariff.

4.0 Terms and conditions for service shall be set forth in a Master Power Purchase and Sale Agreement (“Master Agreement”) and the Master Agreement shall be executed by Seller and Buyer.

5.0 Any notice or request made to or by a Party (Seller or Buyer) regarding this Service Agreement shall be made to the representative of the other Party as indicated below;

Seller:

Buyer:

[Representative]  
Otter Tail Power Company  
215 South Cascade Street  
P.O. Box 496  
Fergus Falls, Minnesota 56538-0496  
218-739-8200

IN WITNESS WHEREOF, the Parties have caused this Service Agreement to be executed by their respective authorized officials.

Otter Tail Power Company

[Insert Buyer Name]

By: \_\_\_\_\_  
Name

By: \_\_\_\_\_  
Name

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_