

STATE OF SOUTH DAKOTA  
BEFORE THE  
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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IN THE MATTER OF OTTER TAIL POWER  
COMPANY’S PETITION FOR APPROVAL  
OF RATE SCHEDULE, SECTION 14.02,  
REAL TIME PRICING RIDER TARIFF  
LANGUAGE REVISIONS

Docket No. EL 21-032

**VALLEY QUEEN CHEESE  
FACTORY’S PETITION TO  
INTERVENE AND OBJECTION TO  
PETITION UNDER SDCL § 49-34A-12**

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Valley Queen Cheese Factory, Inc. (Valley Queen) received written notice that Otter Tail Power Company filed a Petition for approval of changes to its Real Time Pricing Rider, Electric Rate Schedule, Section 14.02. Under SDCL § 49-34A-12, Valley Queen objects to the Petition, and asks that the Commission suspend the rate increase and hold a public hearing to determine if the rate increase should be allowed. Under ARSD 20:10:01:15.02, Valley Queen moves that the Commission allow it to intervene as a party based on its interests identified below.

1. In 2015, Valley Queen filed a consumer complaint against Otter Tail that was docketed as CE15-001. Valley Queen also filed a lawsuit involving the same subject matter in federal district court in South Dakota. Both matters were resolved by a settlement, which included an agreement that the parties would jointly request a contract with deviations from the Commission to amend Valley Queen’s current electric service agreement by reducing the energy portion of the Customer Baseline Load (CBL) to 2450kW for all hours in a year, and would apply certain CBL monthly billing demands to Valley Queen’s service under the Real Time Pricing Rider. The Commission entered an order in CE15-001 on April 28, 2016, approving the contract with deviations.

2. Otter Tail's Petition seeks to change the Real Time Pricing Rider in ways that are inconsistent with the settlement agreement reached by the parties in 2016. As explained in Otter Tail's Petition, "[t]o avoid cross subsidy and allow RTP customers to pay their fair share, we are proposing to adjust the CBL to account for the new load growth beyond the current capabilities of the distribution system as constructed when the customer began using the RPT Rider as proposed in the rate schedule language." (Petition at p. 3, ¶ D.) In the redlined electric rate schedule attached to the Petition, Otter Tail includes proposed language to adjust the CBL: "The Company will determine the total kW Demand to be added to the Customer's CBL that results from the request for additional kVA capacity. The CBL increase includes both a higher kW demand and additional energy that will be billed through the Customer's Standard Bill portion of the monthly RTP Bill." (Petition, Attachment 1, Redline Tariff at p.4, ¶ 5.) Similarly, in the language addressing special provisions, the proposal provides that if a customer "requests additional Capacity greater than the capability of the system at the time the Customer signed up for the RTP Rider, the Customer's CBL will be increased by the amount of the excess capacity as used or requested by the customer that is in excess of the capability of the system." (*Id.* at p. 6, ¶ 3.)

3. The proposed changes are not "language clarification," but substantive changes related to the determination of the CBL that will increase costs for a customer. In Valley Queen's case, these substantive changes are inconsistent with the settlement Valley Queen and Otter Tail reached in 2016. Valley Queen expects that the proposed change would substantially increase the amount it pays for electricity under the Real Time Pricing Rider.

4. Otter Tail filed its Petition without first discussing the proposed change or the filing with Valley Queen.

5. Otter Tail has not told Valley Queen how many RTP customers it has who may be affected by the proposed changes. Valley Queen may be Otter Tail's only RTP customer affected by the proposed change. Valley Queen expects that it is at least Otter Tail's largest RTP customer that would be affected by the proposed change. If there are 24 other RTP customers affected by the proposed change, Otter Tail should disclose them to Valley Queen. If there are not, that fact should not preclude Valley Queen's objection under SDCL § 49-34A-12.

6. Otter Tail is required by ARSD 20:10:13:26(10) to estimate the number of customers whose service will be affected by the change. In response to this requirement, Otter Tail states in its Petition that "[n]o change in revenue is expected for current customer billings." (Petition at p. 4, ¶ J.) That answer is not responsive to the regulation. It is also nonsensical to suggest that the proposed tariff change will not affect any customers. The answer raises the question how Otter Tail could "avoid cross subsidy and allow RTP customers to pay their fair share" if no customers are affected by the change. (Petition at p. 3, ¶ D.) The Commission should require Otter Tail to provide the information required by ARSD 20:10:13:26(10).

7. Otter Tail has not submitted any evidence in support of its Petition as required by ARSD 20:10:13:26 (11), which requires a statement of facts, expert opinions, documents, and exhibits to support the proposed change. The Petition refers only to the narrative contained in the Petition and the attachments to the filing, which are a redlined Real Time Pricing Rider and the notices that must be given to customers by statute.

8. The Petition is unnecessary to make Valley Queen pay its fair share of the cost of distribution equipment required by its growth in electricity usage. Valley Queen has previously paid Otter Tail for such costs without an increase in its CBL, and has said it would do so in the future. Moreover, the existing tariff includes multiple provisions requiring customers to pay for excess or special facilities without modifying a customer's CBL. These include: General Rules and Regulations—Section 5.01, Sheet 2 (for a change in service lines or equipment, the customer must pay all costs connected with the change); *id.* Section 5.02, Sheet 2 (when the cost of extending company facilities exceeds a three-year projection of revenue, the customer will be charged in accordance with extension rules identified in Section 5.04); *id.* Section 5.03, Sheet 2 (when a customer's service results in expenditures in excess of the company designated standard facility installation, the customer shall be responsible for the excess expenditure); *id.* Section 5.03, Sheet 5 (when a customer is required to prepay or agrees to prepay for special facilities, the customer must execute an agreement for payment and charges shall be at a fixed percentage billed in 12 equal monthly installments); *id.* Section 5.04 (providing extension rules and a minimum revenue guarantee). Especially given these tariff provisions, the Petition contains no information that would allow the Commission to determine whether the proposed changes are necessary or appropriate.

Wherefore, Valley Queen asks the Commission to suspend the rate increase, schedule a public hearing, and grant it party status as an intervenor.

Dated this 7th day of December, 2021.

WOODS, FULLER, SHULTZ & SMITH, P.C.

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## CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of December, 2021, I served a true and correct copy of the foregoing Valley Queen Cheese Factory's Petition to Intervene and Objection to Petition Under SDCL § 49-34A-12 by e-mail transmission to the following:

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