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IN THE MATTER OF THE COMPLAINT OF  
VALLEY QUEEN CHEESE FACTORY, INC.,  
AGAINST OTTER TAIL POWER COMPANY.

## CONSUMER COMPLAINT

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1. Valley Queen Cheese Factory, Inc. (Valley Queen), is a South Dakota corporation  
s principal place of business in Milbank, South Dakota, where it makes and distributes  
and dairy products. Valley Queen's business address is 201 South Dakota Street,  
nk, SD 57252, and its telephone number is (605) 432-4563.

3. Otter Tail Power Company (Otter Tail) is a Minnesota corporation and a wholly subsidiary of Otter Tail Corporation with its principal place of business in Fergus Falls, Minnesota. Otter Tail is a public utility under South Dakota law and is in the business of selling electric energy at retail in Minnesota, North Dakota, and South Dakota. Otter Tail's electric service in South Dakota is regulated by the South Dakota Public Utilities Commission.

4. Under SDCL §§ 49-1-11(2), 49-34A-4(6), and ARSD 20:10:01:07.01, the South Dakota Public Utilities Commission has jurisdiction to hear customer and consumer complaints against regulated utility companies and to take action on the complaints.

5. Valley Queen is in Otter Tail's approved geographic service territory in South Dakota, which means that Otter Tail has a monopoly on the sale of electricity at retail to Valley Queen. Valley Queen purchases all of its electricity from Otter Tail.

### **Real time pricing tariff**

6. Otter Tail offers to certain customers an electric rate known as Real Time Pricing (RTP) (Electric Rate Schedules, Section 14.02). The RTP tariff currently in effect was approved by the Commission in Docket EL 21-032 by order dated November 8, 2023. The tariff was filed on November 19, 2021. A copy is attached as Exhibit A.

7. The pricing methodology is stated in the tariff as follows: "Hourly prices are determined for each day based on projections of the hourly system incremental costs, losses according to voltage level, hourly outage costs (when applicable), and profit margin." (Ex. A at p. 1 of 6.) Otter Tail has told Valley Queen that its RTP rates are set using MISO day-ahead Locational Marginal Pricing, which are not known ahead of time and cannot be predicted. Thus, a customer electing the RTP rate bears the risk of market changes.

8. According to the approved tariff, the RTP tariff is available to customers on a voluntary basis. Valley Queen has chosen to receive some of its electric service under the RTP tariff. Valley Queen is the only customer in South Dakota that receives service under Otter Tail's RTP tariff.

### **Phase in rider**

9. In 2024, Otter Tail filed a petition in Docket EL24-020 asking that the Commission approve an update to its Phase In Rider (PIR) (Electric Rate Schedules, Section 13.09). A copy of the petition is attached as Exhibit B. The Commission originally approved the concept of Otter Tail's PIR in March 2019 through an order approving a settlement stipulation in Docket EL18-021. The first PIR as Electric Rate Schedule Section 13.09 was approved in Docket EL19-025. A copy of the order approving the PIR tariff is attached as Exhibit C. The PIR provides Otter Tail the ability to recover costs associated with certain power supply assets that are necessary to provide firm service under Otter Tail's fixed-price tariffs. These costs are included in the revenue requirement used to analyze and approve Otter Tail's fixed-price tariffs. The PIR is a mechanism to adjust the fixed-price rates for changes in specific aspects of Otter Tail's revenue requirement on an annual basis and thereby avoid multiple rate cases. The PIR includes two components, a per-customer charge and a percent-of-bill charge. At issue here is the percent-of-bill charge, also referred to as the PIR factor.

10. The Mandatory Riders—Applicability Matrix approved in connection with Docket EL19-025 shows that the PIR applies to the RTP tariff. Sixth Revised Sheet No. 4 Cancelling Fifth Revised Sheet No. 4 is attached as Exhibit D. It does not appear from a review of the docket in EL19-025 that any party raised as an issue for the Commission's consideration whether the PIR should apply to the RTP tariff.

11. In Docket EL19-025, the Commission approved a PIR factor of 3.345% by order dated August 26, 2019. The PIR factor is adjusted annually.

12. In its petition to adjust the PIR factor in 2024, filed in Docket EL24-020, Otter Tail sought to cover project costs of \$4,275,319, resulting in a requested revenue requirement of

\$3,693,011, as detailed in Attachment 1, which is attached as Exhibit E. As stated in attachment 2 to the filing, which is attached here as Exhibit F, this resulted in Otter Tail asking the Commission to approve a PIR factor of 14.667%. In an order dated August 29, 2024, the Commission approved a PIR factor of 10.502%. A copy of the order is attached as Exhibit G.

13. The Mandatory Riders—Applicability Matrix for the RTP tariff was last approved in Docket EL21-033 on February 8, 2022. A copy is attached as Exhibit H.

**The PIR should not apply to service under the RTP tariff**

14. Although the Commission has approved application of the PIR to Otter Tail's RTP tariff and Valley Queen has not previously objected before the Commission, as a matter of logic, pricing methodology, and consistency the PIR should not apply to the RTP tariff.

15. First, as stated in the RTP tariff, the pricing methodology is based on "projections of the hourly system incremental costs." Otter Tail's RTP rates are set using MISO day-ahead LMP's. These costs are mostly dependent on the market and not on Otter Tail's embedded costs. They are unlike reasonably predictable billing units and set tariff rates, based on which annual revenues from sales can be closely estimated to allow the PIR factor to be set to cover Otter Tail's increased revenue requirements. For instance, if an LMP one month is twice what it was the previous month, Otter Tail's system costs do not increase by 110.181% of the LMP (application of the LMP plus the PIR factor), but only by the LMP. In electing the RTP tariff, Valley Queen takes the risk of fluctuations in hourly costs based on the market. It should not also pay an additional percentage of that rate to cover Otter Tail's revenue requirement because the pricing methodology for the RTP tariff bears no relationship to Otter Tail's revenue requirement.

16. Second, as incremental prices increase, the revenue received by Otter Tail through application of the PIR necessarily increases. In other words, the higher the market, the higher the PIR charge is per kWh. This is true even though there is no connection between incremental prices and the annual revenue requirements used to determine the PIR factor.

17. Third, the PIR does not apply to Otter Tail's Energy Adjustment Rider (Section 13.01), which is comparable to the PIR. A copy of this tariff is attached as Exhibit I. Like the PIR, the Energy Adjustment Rider adjusts revenue requirements on an ongoing basis according to an approved formula without the need for annual rate increases. The theoretical basis for the Energy Adjustment Rider is the same as the PIR, but the Energy Adjustment Rider does not apply to the RTP tariff, while the PIR does.

18. Similarly, the PIR does not apply to Otter Tail's Voluntary Renewable Energy Rider (Tail Winds) (Section 14.09). A copy of this tariff is attached as Exhibit J. Customers who participate in the Tail Winds program pay extra for renewable resources. Because the PIR includes certain wind resources, applying the PIR to the Tail Winds rider would double count wind costs. In other words, the cost of the wind is factored into the rider, so the PIR should not, and does not, apply.

19. It is inconsistent not to apply the PIR to the Energy Adjustment Rider and the Voluntary Renewable Energy Rider, but to apply it to the Real Time Pricing Rider.

20. Valley Queen has complained to Otter Tail that the PIR should not apply to the RTP tariff and requested relief, both prospectively and in the form of a credit for the amount of the charges it has paid due to application of the PIR to the RTP tariff. Valley Queen first raised this issue with Otter Tail on June 19, 2023. The parties have discussed the issue since then and have not been able to reach an agreement.

21. The cost to Valley Queen of application of the PIR to the RTP portion of its bill is considerable. Between June 2023 and June 2025, Valley Queen paid \$213,269.27 due to application of the PIR to the RTP tariff. From June 2021 through May 2023, the charges paid by Valley Queen were \$138,060.86.

22. By statute, “[e]very rate made, demanded or received by any public utility shall be just and reasonable. Every unjust or unreasonable rate shall be prohibited. The Public Utilities Commission is hereby authorized, empowered and directed to regulate all rates, fees and charges for the public utility service of all public utilities, including penalty for late payments, to the end that the public shall pay only just and reasonable rates for services rendered.” SDCL § 49-34A-6.

23. Otter Tail bears the burden of showing that application of the PIR to the RTP tariff is just and reasonable. SDCL § 49-34A-11.

24. Application of the PIR to Otter Tail’s RTP tariff is unjust and unreasonable because such application is not reasonably related to the purpose served by the PIR, it results in a windfall to Otter Tail, and it is inconsistent with the Commission’s treatment of the Energy Adjustment Rider.

### **Request for Relief**

Wherefore, Valley Queen respectfully requests that the Commission: (1) enter an order determining that the PIR should not apply to the RTP tariff and amending the Mandatory Riders—Applicable Matrix; (2) require that Otter Tail credit Valley Queen for the charges it has paid since at least June 2023 due to application of the PIR to the RTP tariff; (3) award Valley Queen its costs and disbursements in this matter; and (4) grant any other relief that the Commission deems just and equitable.

Dated this 9th day of July, 2025.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ James E. Moore

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*Attorneys for Valley Queen Cheese Factory, Inc.*

Attestation:

Valley Queen Cheese Factory, Inc., by the signature of its officer hereon, affirms that the statement of facts incorporated into the foregoing Consumer Complaint is true and accurate to the best of the company's knowledge.

VALLEY QUEEN CHEESE FACTORY, INC.

By: 

BRIAN SANNIK

Its CFO