

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

IN THE MATTER OF THE PETITION)	ORDER SUSPENDING PROPOSED
OF OTTER TAIL POWER COMPANY)	RATES AND DETERMINING
TO ESTABLISH A TRANSMISSION)	APPLICABILITY OF RATE STATUES
COST RECOVERY TARIFF)	AND RULES AND NOTICE
)	REQUIREMENTS
)	
)	EL10-015

On November 5, 2010, the Public Utilities Commission (Commission) received a petition from Otter Tail Power Company (Otter Tail) requesting approval to establish a Transmission Cost Recovery Tariff (TCR). The tariff mechanism provides for the automatic adjustment of charges to recover the jurisdictional costs of new or modified transmission facilities and federally regulated costs to increase regional transmission capacity or reliability. Otter Tail is proposing an effective date of March 1, 2011. On November 11, 2010, the Commission electronically transmitted notice of the filing and the intervention deadline of November 26, 2010, to interested individuals and entities. On November 30, 2010, the Commission issued its Order Assessing Filing Fee up to the statutory maximum of \$50,000 to defray Commission expenses incurred from the time of the filing incident to analyzing and ruling upon this type of filing. On December 21, 2010, Otter Tail filed a Revised Petition with Attachments (Petition).

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-34A and ARSD Chapters 20:10:01 and 20:10:13.

On February 15, 2011, the Commission's Staff (Staff) filed a letter requesting: (i) a determination by the Commission of the applicability, to this request for TCR tariff approval, of the statutes and rules pertaining to rate change filings generally; (ii) if determined by the Commission to be applicable, suspension pending final decision in this matter pursuant to SDCL 49-34A-14 of the rate(s) and/or practice(s) proposed by Otter Tail in its filing for up to 180 days following the filing date of the proposed rate or practice; and (iii) if the Commission determines that not all of the statutes and/or rules pertaining to rate change filings generally are applicable to Otter Tail's request for TCR tariff approval, direction as to what filings, notices and other provisions are applicable and how the parties should proceed in this matter.

At its regularly scheduled meeting of February 22, 2011, the Commission considered Staff's requests. Following extensive questioning by the Commission and discussion among the parties and the Commission, the Commission voted unanimously to find that Otter Tail's proposed TCR tariff is a proposed change in rates and that the general provisions of SDCL Chapter 49-34A and ARSD Chapter 20:10:13 (as they pertain to proposed changes in rates) are applicable to this request for approval of a TCR tariff. The Commission decision includes but is not limited to the provisions of SDCL 49-34A-12 and ARSD 20:10:13:18 and 20:10:13:19 regarding written notice to customers and posted notice, SDCL 49-34A-14 regarding suspension of the proposed changes in rates for up to 180 days pending final decision in the matter, ARSD 20:10:13:26 regarding the report to be filed with the request for approval of a change in rates, and ARSD 20:10:16:01(2) regarding notice to customers of the increase in rates ultimately granted by the Commission. Otter Tail and Staff, in their comments, agreed the specific schedule filings required by ARSD 20:10:13:51 through 20:10:13:102 in general rate cases should not be construed as applicable to this TCR tariff request, but that data schedules and other documentation should be provided sufficient to explain and justify the relief requested and meet the burden of proof for granting the request. The Commission accordingly did not take action to require that the specific schedule filings required by ARSD 20:10:13:51 through 20:10:13:102 in general rate cases are required to be filed in connection with

Otter Tail's request for TCR tariff approval. The Commission voted unanimously to suspend Otter Tail's proposed TCR tariff for 180 days following the date of filing of the Petition pending decision in the matter. The Commission further voted unanimously to require Otter Tail to give personal written notice of its proposed rate changes to all of its customers. Specifically, the Commission approved written notice on customer bills in the next billing cycle as an acceptable method. Otter Tail stipulated that it will file a report in conformity with ARSD 20:10:13:26 in consultation with Staff and will consult with Staff concerning the form of the notice required by ARSD 20:10:16:01(2).

It is therefore

ORDERED that the general provisions of SDCL Chapter 49-34A and ARSD Chapter 20:10:13 pertaining to proposed changes in rates are applicable to Otter Tail's request for approval of a TCR tariff, including but not limited to the provisions of SDCL 49-34A-12 and ARSD 20:10:13:18 and 20:10:13:19 regarding written notice to customers and posted notice, SDCL 49-34A-14 regarding suspension of the proposed changes in rates for up to 180 days pending final decision in the matter, ARSD 20:10:13:26 regarding the report to be filed with the request for approval of a change in rates, and ARSD 20:10:16:01(2) regarding notice to customers of the increase in rates granted by the Commission; and it is further

ORDERED that the changes in Otter Tail's rates and practices requested in the Petition are suspended for 180 days following the date of filing of the Petition pending final decision by the Commission; and it is further

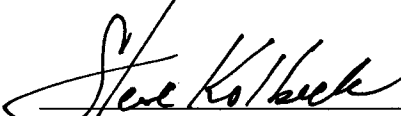
ORDERED that Otter Tail give written notice of its proposed rate changes to all of its customers by mail as soon as practicable; and it is further

ORDERED that Otter Tail file a report in conformity with ARSD 20:10:13:26 in consultation with Staff.


Dated at Pierre, South Dakota, this 28th day of February, 2011.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.
By: <u></u>
Date: <u>2.28.11</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:


STEVE KOLBECK, Chairman


GARY HANSON, Commissioner


CHRIS NELSON, Commissioner