

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

**IN THE MATTER OF THE APPLICATION OF) FINAL DECISION AND
OTTER TAIL POWER COMPANY FOR) ORDER; NOTICE OF ENTRY
AUTHORITY TO INCREASE ITS ELECTRIC)
RATES) EL18-021**

APPEARANCES

Commissioners Gary Hanson, Chris Nelson, and Kristie Fiegen.

Cary Stephenson, Richard J. Johnson, and Brett Koenecke appeared on behalf of Applicant, Otter Tail Power Company.

Kristen Edwards and Amanda Reiss, 500 E. Capitol Ave., Pierre, South Dakota 57501, appeared on behalf of the South Dakota Public Utilities Commission staff.

James E. Moore and Justin G. Smith appeared on behalf of Valley Queen Cheese Factory, Inc.

PROCEDURAL HISTORY

On April 20, 2018, the South Dakota Public Utilities Commission (Commission) received an application, including Statements A through R as required by ARSD 20:10:13, and supporting prefiled testimony from Otter Tail Power Company (Otter Tail) for approval to increase rates for electric service in its South Dakota service territory (Application).¹ Otter Tail proposed a two-step increase to rates, with the first step increasing rates by \$3,358,547 annually or 10.10 percent based on Otter Tail's 2017 test year. Otter Tail stated a typical residential customer would see an increase of \$11.29 per month under the rate design proposed by the company. Otter Tail proposed to implement \$2,386,538, or 7.17 percent, of this increase on an interim basis on May 21, 2018, once the 30 days passed from the date of the filing, pursuant to SDCL 49-34A-17, with the full amount step-one increase becoming effective upon the Commission's final disposition in this case. The second step proposed an additional \$629,107, or 1.72 percent, increase to rates, effective January 1, 2020. The second step would facilitate the recovery of the Merricourt Wind Project, projected to enter service later in 2019. A typical residential electric customer using 927 kWh would see an additional increase of \$1.75 a month as a result of the step increase. The proposed rates would potentially affect approximately 11,700 customers in Otter Tail's South Dakota service territory.

On April 26, 2018, the Commission electronically transmitted notice of the Application and the intervention deadline of June 1, 2018, to interested individuals and entities on the Commission's PUC Weekly Filings listserv. On May 16, 2018, the Commission issued an Order Suspending Operation of Proposed Rates; Order Assessing Filing Fee; Order Authorizing Executive Director to Enter Into a Consulting Contract. On June 28, 2018, Valley Queen Cheese Factory, Inc. filed a Petition to Intervene. On July 16, 2018, the Commission issued an Order Granting Late Filed Intervention. On September 17, 2018, Otter Tail filed a Notice of Intent to

¹ The Application, Commission Orders, and all other documents are available on the Commission's web page for Docket EL18-021 at: <http://puc.sd.gov/Dockets/Electric/2018/el18-021.aspx>

Implement Interim Electric Service Rates based on current rate design for service provided on and after October 18, 2018, pursuant to SDCL 49-34A-17. On October 18, 2018, Otter Tail implemented an interim rate increase for net annual, non-fuel electric revenues of approximately \$3.36 million, or 10.10 percent, subject to refund. On November 1, 2018, Otter Tail filed Supplemental Direct Testimony and an Errata Filing.

On February 7, 2019, the Commission issued a Scheduling Order. On February 15, 2019, Commission staff (Staff) filed a Joint Motion for Approval of Settlement Stipulation (Joint Motion) and Settlement Stipulation. On February 19, 2019, Staff filed its prefiled testimony. On February 21, 2019, a Staff Memorandum Supporting Settlement Stipulation was filed. On March 6, 2019, the Commission issued an Order Granting Joint Motion for Approval of Settlement Stipulation; Order Approving Settlement Stipulation. As a result of the Settlement Stipulation and Order, one issue remained for the evidentiary hearing: the appropriate return on equity to produce just and reasonable rates. On March 7, 2019, the Commission issued an Order for and Notice of Evidentiary Hearing. On March 15, 2019, the parties filed a Second Stipulation for Procedural Schedule wherein the parties agreed that Otter Tail would refund interim rates through May 31, 2019, or the date of the Commission's oral decision, whichever is earlier, and Otter Tail filed its prefiled rebuttal testimony. On March 18, 2019, the Commission issued an Amended Scheduling Order. On March 21, 2019, Staff filed a Motion in Limine. On March 22, 2019, Otter Tail filed its Response to Staff's Motion in Limine.

The evidentiary hearing was held as scheduled on March 26, 2019, with Otter Tail and Staff appearing and presenting evidence and argument. Valley Queen Cheese Factory, Inc. did not participate in the evidentiary hearing. On March 26, 2019, Staff withdrew its Motion in Limine as the parties had reached an agreement on the matter. On March 29, 2019, the parties filed a Third Stipulation for Procedural Schedule.

On April 2, 2019, the Commission issued a Second Amended Scheduling Order and Otter Tail filed a revised Schedule 2 to Stuart Tommerdahl's prefiled Direct Testimony. On April 23, 2019, Staff and Otter Tail each filed post-hearing briefs. On April 29, 2019, Staff filed a proposed Order and Findings of Fact and Conclusions of Law. On April 30, 2019, Otter Tail filed proposed Findings of Fact and Conclusions of Law.

On May 14, 2019, at its regularly scheduled meeting, the parties made oral arguments. After questions of the parties by the Commissioners and public discussion among the Commissioners, the Commission voted unanimously to approve a return on equity of 8.75%. To address the remaining issues of adjustments to revenue requirement and resulting rates, the Commission directed Staff and Otter Tail to compute the overall rate of return resulting from the decision made by the Commission and make the needed model runs and analyses to finalize the additional adjustments to rate inputs, to exchange their results with each other, and to file such results.

In compliance with the Commission's directives, on May 24, 2019, Staff filed the joint response of Otter Tail and Staff, including Exhibits reflecting the various input computations (Joint Compliance Filing), demonstrating that the overall rate of return resulting from the Commission's decision is 7.09% as reflected on Exhibit 8, that Otter Tail's net revenue deficiency reflecting the Commission's authorized overall rate of return is \$2,211,286 justifying an approximate 6.64% net increase in retail revenue. Exhibits 1 through 7 to the Joint Compliance Filing contain the revenue requirement, operating income statement, rate base schedules, and certain underlying exhibits supporting the revenue requirement determination.

On May 28, 2019, at its regularly scheduled meeting, in conformity with the Joint Compliance Filing, the Commission voted unanimously to approve an overall rate of return of 7.09% based on its decision on return on equity and a corresponding net revenue

requirement increase of \$2,211,286 based on the adjustments reflected in the Exhibits to the Joint Compliance Filing. The Commission further voted unanimously to direct Otter Tail to file for review and approval, its proposed computation methodology and mechanism for refund or credit of interim rate over-collections, including interest, its proposed interest rate on refund/credit amounts, and its final rates and tariff sheets reflecting the Commission's final decision, and to place the refund issues and tariff sheets on the agenda for decision at its regular meeting scheduled for June 25, 2019.

Having considered the evidence of record, applicable law, and the briefs and the arguments of the parties, the Commission makes the following Findings of Fact, Conclusions of Law, and Final Decision:

FINDINGS OF FACT

I. PARTIES

1. Applicant is Otter Tail Power Company, a Minnesota corporation operating in South Dakota and a public utility as defined in SDCL 49-34A-1(12). App. at 1.² Otter Tail provides retail electric service to approximately 132,100 customers, including approximately 11,700 in South Dakota, 61,700 in Minnesota, and 58,800 in North Dakota. Otter Tail serves 454 communities and rural areas in northeastern South Dakota, western Minnesota, and the eastern two-thirds of North Dakota. In South Dakota, Otter Tail serves 54 communities. Otter Tail is headquartered in Fergus Falls, Minnesota and is a subsidiary of Otter Tail Corporation, which has its headquarters in Fargo, North Dakota.³

2. Staff fully participated as a party in this matter.

3. Intervenor Valley Queen Cheese Factory, Inc. did not participate in the evidentiary hearing.

II. PROCEDURAL FINDINGS

4. The Procedural History set forth above is hereby incorporated by reference in its entirety in these Procedural Findings. The procedural findings set forth in the Procedural History are a substantially complete and accurate description of the material documents filed in this docket and the proceedings conducted and decisions rendered by the Commission in this matter.

III. RATE OF RETURN ON EQUITY

5. Determining a reasonable return on equity (ROE) rests primarily on sound judgment looking at the overall results of the analysis. Under SDCL 49-34A-8 and relevant case law, rates set in this proceeding must be just and reasonable.⁴

6. The just and reasonable test focuses on whether the "total effect of the rate order [is] unreasonable."⁵ Under the just and reasonable test "it is the result reached, not

² References to the Hearing Transcript are in the format "TR" followed by the Hearing Transcript page number(s) referenced, references to the Application are in the format "App" followed by the Application page number(s) referenced, and references to the Hearing Exhibits are in the format "Ex" followed by the exhibit numbers and, where applicable, the page number(s) referenced.

³ Ex. OTP-5 at 10.

⁴ *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603, 64 S.Ct. 281, 88 L.Ed. 333 (1944).

⁵ *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310 (1989).

the method employed that is controlling" and "the impact of the rate order which counts."⁶ The South Dakota Supreme Court recognized that rates that do not yield a fair return are unreasonable.⁷ The rate of a return should be "commensurate with returns on investments in other enterprises having corresponding risks "and "be sufficient ... to attract capital."⁸

7. "The ratemaking process under the Act, i.e. the fixing of 'just and reasonable' rates, involves a balancing of the investor and the consumer interests."⁹ "Regulation may, consistently with the Constitution, limit stringently the return recovered on investment, for investors' interests provide only one of the variables in the constitutional calculus of reasonableness."¹⁰

8. The overall rate of return of a utility is composed of three components: cost of long-term debt, return on equity, and capital structure.¹¹

9. In the Application and supporting direct prefiled testimony, Otter Tail's proposed revenue requirement reflected an overall rate of return (ROR) on investment of 7.96%, based on a test year average capital structure of 53.10% common equity and 46.90% long-term debt, a cost of long-term debt of 5.30%, and an ROE of 10.3%.¹² Otter Tail proposed a reasonable range for ROE to be from 10.00% to 10.60%.¹³ Otter Tail and Staff reached settlement on updated totals and relative percentages of long-term debt (47.08%) and common equity (52.92%) and the weighted cost of long-term debt to be included in the capital structure.¹⁴

10. Otter Tail's expert witness, Mr. Robert Hevert, and Staff's expert witness, Mr. Basil Copeland, each advocate a range of ROE values and recommended ROE that they believe should be "commensurate with returns on investments in other enterprises having corresponding risks" and "be sufficient ... to attract capital" and therefore just and reasonable.¹⁵

11. Mr. Copeland's analysis resulted in a proposed overall ROR of 6.83% based on an updated capital structure of 52.92% common equity and 47.27% long-term debt, an ROE of 8.25% and a cost of long-term debt of 5.22%.¹⁶ Mr. Copeland proposed a reasonable range for ROE for Otter Tail to be from 8.0% to 8.5%.¹⁷ Although Mr. Copeland recommends an ROE of 8.25%, his analysis indicates the cost of equity is in the 7% range.¹⁸

12. With respect to ROE, Otter Tail witnesses Mr. Bruce Gehardson and Mr. Kevin Moug provided both prefiled and oral testimony in support of Mr. Hevert. Mr. Hevert employed several analytical methodologies including a constant growth discounted cash flow (DCF) determination; a multi-stage DCF; a capital asset pricing model; and a market

⁶ *Hope*, 320 U.S. at 602.

⁷ *In Re NorthWestern Bell*, 43 N.W.2d 553, 555 (S.D. 1950).

⁸ *NorthWestern Public Service v. Cities of Chamberlain et al*, 265 N.W.2d 867, 874 (S.D. 1978).

⁹ *Hope*, 320 U.S. at 603.

¹⁰ *Permian Basin Area Rate Cases*, 390 U.S. 747, 769 (1968).

¹¹ Ex. OTP-3 at 2-3.

¹² Ex. OTP-3, Schedule 2, p. 1.

¹³ Ex. OTP-1 at 2.

¹⁴ See Settlement Stipulation, p.1; Staff Memorandum Supporting Settlement Stipulation, Attachment 19.

¹⁵ *NorthWestern Public Service v. Cities of Chamberlain et al*, 265 N.W.2d at 874.

¹⁶ See Staff Memorandum Supporting Settlement Stipulation, Attachment 19.

¹⁷ Ex. S1 at 3.

¹⁸ Ex. S1 at 3.

risk premium methodology to support his recommendation of 10.3%.¹⁹

13. Mr. Hevert developed a "proxy" group of nine companies to establish his comparisons of various elements factored into his ROE determination.²⁰ Mr. Hevert also employed several financial reporting entities in his development of estimates.²¹ Mr. Hevert's version of the constant growth DCF-indicated ROE relied upon earnings per share (EPS) growth.²² Mr. Hevert eliminated the results of three of his proxy group companies (El Paso Electric Company, IDACORP, Inc., and NorthWestern Corporation) due the DCF method yielding low average returns.²³ The result of his determinations were categorized with three "means"; mean low, mean, mean high.²⁴

14. Mr. Hevert also performed an analysis based on his multi-stage (three stage) DCF model. Mr. Hevert criticized the usage of a single stage DCF due to its assumptions of perpetuity. Mr. Hevert relied upon estimates of EPS growth and long-term gross domestic product (GDP) growth in formulating his results.²⁵

15. Mr. Hevert's capital asset pricing model (CAPM) employs the risk-free rate of return, adjusted Beta coefficients, and risk premium analysis.²⁶ Mr. Hevert also calculates return information based on the constant growth DCF model.²⁷

16. Mr. Hevert's bond yield plus risk premium analysis generally examines yields on bonds which are considered to be relatively "risk-free" (30-year treasuries of varying maturity dates were used) and compares this rate to a "premium" to be required for investment in riskier common equity over a period of years.²⁸

17. Mr. Copeland employed two variations of the DCF methodology, and a supplemental analysis of market-to-book ratios and excess returns on equity reflected in current market-to-book ratios.²⁹ The principal steps to prepare a DCF analysis are the selection of comparable companies to which to apply the method, and the selection of measures of expected growth.³⁰ Mr. Copeland used the constant growth DCF model to estimate growth based upon an average of EPS, dividends per share (DPS) and book value per share (BVPS). Mr. Copeland determined through that application of these three elements that the mean expected growth rate is 4.38%, and the median is 4.41%.³¹

18. Mr. Copeland also developed DCF estimates using the "dividend discount model" (DDM) which is a form of DCF methodology with less restrictive assumptions and the constant growth DCF. When dividend payout ratios are expected to trend upward or downward over extended periods of time, the multiple period DDM provides more accurate and reliable measures of the expected DCF return.³²

¹⁹ Ex. OTP-1 at 2.

²⁰ Ex. OTP-1 at 13-14.

²¹ Ex. OTP-1, Schedule I.

²² Ex. OTP-1 at 20.

²³ Ex. OTP-1 at 24.

²⁴ Ex. OTP-1 at 25.

²⁵ Ex. OTP-1 at 28.

²⁶ Ex. OTP-1 at 30.

²⁷ Ex. OTP-1 at 28, 32.

²⁸ Ex. OTP-1 at 33, 34.

²⁹ Ex. S1 at 11.

³⁰ Ex. S1 at 12.

³¹ Ex. S1 at 14.

³² Ex. S1 at 15.

19. The methodologies advocated by Mr. Copeland in this docket are exactly the same as he used in Docket EL11-019³³ but the input variables differ reflective of a declining cost of capital since that decision.³⁴ Mr. Copeland provided evidence of this decline by graphically showing the "volatility index" downward trend since that decision was made.³⁵ Mr. Copeland also noted for the 2011 to 2018 period a decline of over 100 basis points in Moody's Baa Corporate Bond yield and a 204 basis point decline in the implied market risk premia.³⁶

20. The primary reason for the difference in the witnesses' DCF methodologies was Otter Tail's exclusive use in its DCF model of forecasted growth in earnings per share (EPS) and Staff's use in its DCF model of an average of four different expected growth rate indicators.³⁷

21. As testified to by Mr. Copeland in his prefiled testimony, "it is sometimes possible to derive reasonable and accurate estimates of the cost of equity using only one of these growth measures as a 'proxy' for the expected rate of growth in dividends. But if the payout ratio is not constant, using just projected earnings or dividend growth can result in distorted estimates of the DCF cost of equity."³⁸ Mr. Copeland further testified, "there is substantial disparity between the EPS growth rates projected by Zacks and Yahoo and the DPS growth rates projected by Value Line. The median (which is a better measure of central tendency if there are outliers) projected EPS growth rate, 4.56 percent, is lower than the median DPS growth rate of 5.50 percent. However, the median '% Return to Common Equity' in Column I, 3.50 percent, is well below the median analyst projected EPS growth forecast of 4.56 percent, implying that the projected earnings growth rate is unsustainable for the long term."³⁹

22. Further, Mr. Copeland testified that, "[t]he best way to estimate the constant growth DCF cost of equity to avoid overstating or understating investors long-term growth rates an average of the EPS, DPS, and BVPS projections along with the % return to common equity measure of growth."⁴⁰

23. The Commission finds that the four-indicator average projected growth input employed by Staff in its DCF model is a more reliable methodology for projecting growth rates and the Commission adopts Staff's DCF model approach and its conclusions for purposes of its decision on ROE in this case. The Commission finds that use of this approach in this case is a proper application of the principle that regulatory commissions are to affect a "balancing of the investor and the consumer interests."⁴¹

24. Although Otter Tail raised this as a concern, there is no credible evidence in the record that Otter Tail will be unable to raise capital through equity issuances as a result of a return on equity at the rate recommended by Staff.⁴²

25. Mr. Copeland testified that the proper use of the DCF method for determining ROE is to do a survey of what investors expect as an expected return on the S&P 500. In this

³³ Prior to this docket, the most recent Commission decision regarding ROE was EL11-019 wherein the Commission found the ROE for Xcel was 9.25%.

³⁴ Ex. S1 at 18.

³⁵ Ex. S1 at 8.

³⁶ Ex. S1 at 9.

³⁷ Ex. S1 at 16-23, 47.

³⁸ Ex. S1 at 13.

³⁹ Ex. S1 at 13; S1, Schedule 1.

⁴⁰ Ex. S1 at 13, 14.

⁴¹ *Hope*, 320 U.S. at 603.

⁴² TR. at 114 (Copeland).

case it is 8 percent.⁴³ The Commission finds that a background analysis such as the long-used DCF and the continued downward trend of DCF is verified, and can be considered as a further degree of common-sense confirmation for Mr. Copeland's recommended ROE.⁴⁴

26. Mr. Hevert testified that he considered Otter Tail's low rates to customers, the very high levels of customer satisfaction⁴⁵, and the customer savings resulting from Otter Tail's under-budget completion of recent capital projects⁴⁶ when determining his ROE range.⁴⁷

27. Mr. Tommerdahl testified that Otter Tail, by completing its largest capital project approximately \$125 million below budget, that it saved South Dakota ratepayers approximately \$300,000 in the 2017 Test Year, approximately \$2.9 million in the first ten years, and approximately \$5.4 million over project's 30-year life.⁴⁸ Mr. Tommerdahl testified that setting an ROE that recognizes overall performance in reducing costs and providing high quality of service is an appropriate element of the Commission's regulatory discretion and that the combination of Otter Tail's cost savings and its high quality of service merits consideration by the Commission in determining Otter Tail's ROE.⁴⁹

28. Mr. Gerhardson testified that Otter Tail has made significant investments in South Dakota; that South Dakota benefits from completed infrastructure investments; that the completed and planned infrastructure investments demonstrate Otter Tail's significant commitment to infrastructure in South Dakota; that while South Dakota is home to just 8.8 percent of Otter Tail's customers, the recent and additional near-term investments in South Dakota account for 36.0 percent of Otter Tail's total plant in service by 2021; the investments have and will continue to provide very significant economic benefits to South Dakota.⁵⁰

29. Mr. Gerhardson testified that there was no specific recommendation or any methodology by which to measure or quantify Otter Tail's assertion that Otter Tail's performance and commitment to South Dakota merits an ROE above average for that approved for other utilities.⁵¹

30. The Commission finds that economic development is not a factor in the determination of the appropriate ROE.⁵²

31. Otter Tail shows total company rate base of \$1,096,688,710, and also shows the South Dakota allocation of those costs to be \$83,294,792, or approximately 7.6%.⁵³ While some rate base costs are directly assigned to each state jurisdiction, plant that serves the entire system includes generation plant and bulk transmission. The Commission finds siting decisions for such plant are not and should not be based upon state-by-state economic development motives, but rather on engineering requirements.⁵⁴

32. The Commission finds that plant addition decisions and related costs ultimately paid by ratepayers for reliable electric service should be based on system operating efficiency

⁴³ Ex. S1 at 61.

⁴⁴ TR. at 124 (Copeland).

⁴⁵ Ex. OTP-5; Ex. OTP-6.

⁴⁶ Ex. OTP-8.

⁴⁷ Ex. OTP-1 at 4.

⁴⁸ Ex. OTP-8; TR. at 204 (Tommerdahl).

⁴⁹ Ex. OTP-8; TR. at 204 (Tommerdahl).

⁵⁰ Ex. OTP-5 at 4.

⁵¹ TR. at 184-185 (Gerhardson).

⁵² SDCL 49-34A-6; SDCL 49-34A-8.

⁵³ App. Section 2, Statements A-R, Statement M, p. 5 of 8.

⁵⁴ SDCL 49-34A-6.; SDCL 49-34A-8. *See also*, TR. at 194-195 (Gerhardson).

standards and not on economic development considerations.⁵⁵ The Commission finds that Otter Tail has expended considerable plant expenditures in both North Dakota and Minnesota throughout its operational life and South Dakota has paid its jurisdictional share of the costs. The Commission has allowed the cost recovery of plant expansion in other jurisdictions when such expansion is supported by efficient planning for system reliability.⁵⁶

33. The Commission finds that quality performance and service does not justify a higher return. It is the level of service expected for a utility that is earning the cost of capital.⁵⁷

34. Mr. Hevert testified that in his analysis, a higher ROE is reasonable as Otter Tail is a relatively small-sized utility.⁵⁸ Mr. Copeland testified that his analysis did not show that small utilities deserved a premium. Rather, any evidence that does exist, for unregulated "small cap" equities, is disputed.⁵⁹

35. Beta Coefficients measure relative risks of market participants compared to general market risk, and it has long been shown vertically-integrated utilities bear less market risk than similarly-sized non-regulated companies.⁶⁰ While Otter Tail may be a smaller vertically integrated utility, it is not an insubstantial company as it has a market capitalization near \$2 billion.⁶¹ Electric utilities generally, and Otter Tail specifically, are of less market risk than the market as a whole or the average firm in the S&P 500.⁶²

36. The Commission finds Mr. Copeland's testimony on the subject of premium's for small-sized utilities to be more credible.⁶³

37. Otter Tail and Staff's testimony regarding the magnitude of the recovery of flotation costs also differed. Mr. Copeland recommended 7 to 9 basis points.⁶⁴ Mr. Hevert recommended 13 basis point be allowed.⁶⁵ The Commission finds that recovery of reasonable flotation costs is appropriate, but the issue is moot as its approved ROE of 8.75% exceeds Mr. Copeland's recommendation by 50 basis points, and the high end of his range by 25 basis points, and thus any flotation costs are more than recovered.

38. The Commission approves an ROE of 8.75% as the appropriate and just and reasonable ROE for Otter Tail based on the evidence in this case. Based on this ROE and the cost of debt and capital structure values approved by the Commission's Oder Approving Settlement Stipulation, the Commission approves an overall rate of return of 7.09%.⁶⁶

⁵⁵ See SDCL 49-34A-2, requiring all public utilities to provide adequate service. See also, *Mont.-Dakota Utils. Co. v. Parkshill Farms, LLC*, 2017 S.D. 88, ¶ 14, 905 N.W.2d 334, 339 (Court holding that "are required by law to "furnish adequate, efficient, and reasonable service").

⁵⁶ For example, see Docket No. EL11-019 in which the Commission allowed cost recovery for Noble's Wind Project located in Minnesota. See also, Docket No. EL12-06 in which the Commission allowed cost recovery through a phase-in plan for new plant located in Wyoming.

⁵⁷ See SDCL 49-34A-2.

⁵⁸ Ex. OTP-1 at 40-43.

⁵⁹ Ex. S1 at 76.

⁶⁰ Ex. S1 at 78.

⁶¹ TR. at 149 (Moug).

⁶² Ex. S1 at 54; TR. at 65-66 (Hevert); TR. at 92-93 (Copeland).

⁶³ Ex. S1 at 77.

⁶⁴ Ex. S1 at 80.

⁶⁵ Ex. OTP-1 at 23.

⁶⁶ May 24, 2019 Joint Compliance Filing.

IV. REVENUE REQUIREMENT AND CLASS DISTRIBUTION

39. Based on the Settlement Stipulation and Order, the Commission's decision on rate of return and the adjustments reflected in the exhibits to the Joint Compliance Filing, the Commission finds that the net deficiency in Otter Tail's revenue requirement is \$2,211,286.

V. ADDITIONAL MATTERS

40. On October 18, 2018, Otter Tail implemented an interim rate increase pursuant to SDCL 49-34A-17. In accordance with the proceedings conducted in this matter, the Commission finds that it is appropriate for the Commission to issue a future order as contemplated by SDCL 49-34A-17 to require Otter Tail to refund or credit back to customers the amounts, with interest, it collected during the interim rate period and to direct Otter Tail to file its proposed refund plan with the Commission, for review by Staff and Commission action at its regular meeting on June 25, 2019.

41. In accordance with SDCL 49-34A-10 and the proceedings conducted in the matter, the Commission finds that Otter Tail shall file tariff sheets conforming to its decision in this case and the Order Approving Settlement Stipulation, for review by Staff and Commission action at its regular meeting on June 25, 2019.

VI. GENERAL

42. To the extent that any Conclusion of Law set forth below is more appropriately a finding of fact, that Conclusion of Law is incorporated by reference as a Finding of Fact.

43. To the extent that any of the Findings of Fact in this decision are determined to be conclusions of law or mixed findings of fact and conclusions of law, the same are incorporated herein by this reference as a Conclusion of Law as if set forth in full herein.

CONCLUSIONS OF LAW

1. The following South Dakota statutes are applicable: SDCL 49-34A-1, 49-34A-2, 49-34A-3, 49-34A-4, 49-34A-6, 49-34A-8, 49-34A-8.3, 49-34A-8.4, 49-34A-10 through 49-34A-14, 49-34A-17, 49-34A-19 through 49-34A-19.2, 49-34A-21, 49-34A-22, and applicable provisions of SDCL Chaps. 1-26 and 15-6. The Commission has jurisdiction in this matter pursuant to one or more of the above statutes.

2. The following South Dakota administrative rules are applicable: ARSD Chapters 20:10:01 and ARSD 20:10:13.

3. SDCL 49-34A-6 provides:

Every 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 service rendered.

SDCL 49-34A-8 provides:

The commission, in the exercise of its power under this chapter to determine just

and reasonable rates for public utilities, shall give due consideration to the public need for adequate, efficient, economical, and reasonable service and to the need of the public utility for revenues sufficient to enable it to meet its total current cost of furnishing such service, including taxes and interest, and including adequate provision for depreciation of its utility property used and necessary in rendering service to the public, and to earn a fair and reasonable return upon the value of its property.

SDCL 49-34A-8.4 further provides:

The burden is on the public utility to establish that the underlying costs of any rates, charges, or automatic adjustment charges filed under this chapter are prudent, efficient, and economical and are reasonable and necessary to provide service to the public utility's customers in this state.

SDCL 49-34A-11 states that "[t]he burden of proof to show that any rate filed is just and reasonable shall be upon the public utility filing same."

4. Otter Tail is a "public utility" as defined in SDCL 49-34A-1(12).
5. The Application was properly filed with the Commission on April 20, 2018, included all schedules and information required by ARSD 20:10:13, and was jurisdictionally complete.
6. Otter Tail had the statutory authority pursuant to SDCL 49-34A-17 to "implement the proposed rate" on October 18, 2018, and Otter Tail's interim rate was lawfully implemented on October 18, 2018.
7. The Joint Motion and Settlement Stipulation were duly and lawfully granted and approved by the Commission without objection by any party through its Order Granting Joint Motion for Approval of Settlement Stipulation; Order Approving Settlement Stipulation issued on March 6, 2019.
8. In accordance with the Commission's Order for and Notice of Evidentiary Hearing issued on March 7, 2019, a hearing on the merits of this matter was held on March 26, 2019, with Otter Tail and Staff participating and afforded a full opportunity for a hearing on the merits of their issues.
9. The Commission concludes that an overall rate of return for Otter Tail of 7.09%, based upon a cost of long-term debt of 5.22%, a return on equity of 8.75%, and capital structure of 52.92% common equity and 47.08% long-term debt, will enable Otter Tail to earn a fair and reasonable return upon the value of its property while appropriately balancing investor and consumer interests.
10. Based on the Order Approving Settlement Stipulation, the Commission's decision on rate of return, and the adjustments reflected in the exhibits to the Joint Compliance Filing, the Commission concludes that the net deficiency in Otter Tail's revenue requirement is \$2,211,286.
11. Giving due consideration to the public need for adequate, efficient, economical, and reasonable service and to the need of the public utility for revenues sufficient to enable it to meet its total current cost of furnishing such service, including taxes and interest, and including adequate provision for depreciation of its utility property used and necessary in rendering service to the public, and to earn a fair and reasonable return upon the value of its property, the Commission concludes that the rates, terms and conditions approved in this Final Decision and

Order, incorporating the Order Approving Settlement Stipulation, are just and reasonable and are approved for service on and after the date established by the Commission in connection with its approval of Otter Tail's conforming tariff sheets.

12. SDCL 49-34A-17 and 49-34A-22 permit, but do not require, the Commission to order a public utility to refund or credit amounts, with interest, charged on an interim basis in excess of amounts chargeable under the rates as approved. Having found that a refund or credit of excess charges, with interest, is appropriate in this case, the Commission concludes that Otter Tail shall submit a refund plan for Commission action at its regular meeting on June 25, 2019.

13. In accordance with SDCL 49-34A-10, Otter Tail shall file tariff sheets conforming to this Final Decision and Order and the Order Approving Settlement Stipulation for Commission action at its regular meeting on June 25, 2019.

14. The Commission concludes that the Application and all required filings have been filed with the Commission in conformity with South Dakota law and that all procedural requirements under South Dakota law, including public hearing requirements, have been met or exceeded.

It is therefore

ORDERED, that a rate of return for Otter Tail of 7.09% consisting of a cost of long-term debt of 5.22%, a return on equity of 8.75%, and a capital structure of 52.92% common equity and 46.96% long-term debt is hereby approved. It is further

ORDERED, that a net revenue deficiency and corresponding rate increase for Otter Tail in the amount of \$2,211,286 is hereby approved. It is further

ORDERED, that Otter Tail shall submit a refund plan and tariff sheets conforming to this Final Decision and Order and the Order Approving Settlement Stipulation for Commission action at its regular meeting on June 25, 2019.

Dated at Pierre, South Dakota, this 30th day of May 2019.

NOTICE OF ENTRY

PLEASE TAKE NOTICE that this Final Decision and Order was duly issued and entered on the 30th day of May 2019.

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 or by mail.	
By:	<u>[Signature]</u>
Date:	<u>5/30/19</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

[Signature]
GARY HANSON, Chairman

[Signature]
CHRIS NELSON, Commissioner

[Signature]
KRISTIE FIEGEN, Commissioner