

E-017/M-91-817 ORDER ACCEPTING COMPANY'S PLAN AS MODIFIED AND  
REQUIRING FURTHER FILINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm  
Tom Burton  
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Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Otter Tail  
Power Company's Request for  
Variance from Certain Customer  
Service Rules to Implement a  
PowerStat Pre-Paid Metering  
System Pilot Project

ISSUE DATE: December 23, 1992

DOCKET NO. E-017/M-91-817

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**PROCEDURAL HISTORY**

On November 21, 1990, Otter Tail Power Company (Otter Tail or the Company) filed its proposed 1990 Conservation Improvement Program (CIP) with the Minnesota Department of Public Service (the Department). Otter Tail's proposed CIP included a one-year pilot project for a PowerStat pre-paid metering device.

The Company implemented the PowerStat pilot project in January, 1991, without requesting any rule variances from the Commission. The PowerStat project was in contravention of certain Commission billing and disconnection of service rules.

On August 19, 1991, the Commissioner of the Department approved the PowerStat project as part of Otter Tail's CIP. The Department directed Otter Tail to obtain the necessary variances from Commission rules before implementing the project.

The Company filed a request for variances on October 21, 1991. The Commission issued its ORDER DENYING VARIANCE, DISALLOWING POWERSTAT EXPENSES, AND REQUIRING REGULATORY COMPLIANCE PLAN on June 26, 1992. In that Order the Commission denied the Company's request for variances to allow the project. The Commission also required the Company to file within 45 days a regulatory compliance plan which would include, at a minimum:

1. How Otter Tail will track reports and filings with the Commission and Department which are required pursuant to:
  - a. Minnesota statutes and rules;
  - b. Commission Orders and other regulatory requirements;
  - c. Regulatory requirements of the Department;
  - d. Federal statutes and rules;

2. What internal management and legal procedures Otter Tail will use to identify utility actions which require regulatory approval;
3. What internal management and legal review procedures Otter Tail will use to ensure that the filings identified in (1) and (2) are timely, legally correct in form and content, and factually accurate and complete.

On August 10, 1992, Otter Tail filed a regulatory compliance plan. The filing included a compliance flowchart, a worksheet to be used to determine whether and to what extent regulatory approval for an action would be required, and a Company policy statement on regulatory compliance. Otter Tail stated that it would file a summary report on the success of its new compliance plan in February, 1993.

The Department submitted comments regarding the Company's compliance filing on September 21, 1992. The Department lauded the Company's efforts, but also stated that several essential elements were missing from the regulatory compliance plan. The Department recommended that Otter Tail be required to add to its plan a regulatory checklist, general and specific employee training sessions, and a regulatory calendar. The regulatory checklist would be used as a resource for determining which activities require Commission approval. The general training sessions would be a tool for familiarizing Company employees with the regulatory process; specific training sessions could be used as necessary to facilitate ongoing regulatory compliance. Finally, a regulatory calendar would be a means of monitoring regulatory filing deadlines.

After meeting with the Department and with Commission staff, the Company filed a response on November 9, 1992. The Company stated that it agreed with the Department's recommendations.

On November 23, 1992, Otter Tail's regulatory compliance plan came before the Commission for consideration.

### **FINDINGS AND CONCLUSIONS**

The Commission notes with approval the Company's progress towards developing an effective regulatory compliance plan. The Commission also notes the Company's cooperation with the Department and with Commission staff in developing the plan. Otter Tail's proposed plan, as modified by the Department, is a positive step towards regulatory compliance.

Because of the Company's past history of lapses in regulatory compliance, the Commission wishes to ensure that regulatory awareness and a policy of compliance are integrated into Otter Tail's corporate culture. A regulatory compliance plan will only

be fully integrated and effective if it is supported by management. The Commission will therefore require the Company to send a memorandum from top management to all employees, stating management's full support for the regulatory compliance plan. The memorandum should emphasize management's commitment to regulatory compliance and should exhort all employees to support the compliance efforts.

In addition, the Commission finds that certain other elements of the Company's plan must be strengthened or otherwise modified as follows:

#### Employee Manual

An employee manual is a logical extension of an ongoing employee training system. Otter Tail's employee manual should ensure that all employees are aware of the management commitment to regulatory compliance, and of the specific issues which must be addressed to effect compliance. The manual should include a section providing an overview of regulation and its relevance to the Company.

#### Regulatory Checklist

The Company's proposed checklist in letter form is not sufficient to fulfill the Department's recommendation regarding a checklist. The Company must develop either a more thorough regulatory checklist, or in the alternative a decision tree for regulatory compliance.

#### Regulatory Compliance Worksheet

The Commission finds that the regulatory compliance worksheet submitted by the Company in response to the Department's recommendations is well developed.

#### Regulatory Calendar

Otter Tail has stated that a regulatory calendar will be developed. The Commission notes that a tickler file could be an alternative to the regulatory calendar, or more appropriately, an addition to the calendar.

#### Company Report

Otter Tail stated that it will file a summary report on the success of its compliance plan in February, 1993. The Commission agrees with the necessity for such a filing and will require it to be submitted on or before February 10, 1993. The report should include additional information on the Company's proposed training plan, which should extend to every Company employee who might be affected by regulatory requirements. The filing should include an outline of the training course, along with a list of the Company areas of responsibility which will receive regulatory training. The report should also include the method by which new

employees will be trained, how frequently the training will be offered, and how changes in regulatory requirements will be incorporated in the training plan.

The February 10, 1993 report should also include an evaluation of the Company's compliance plan and a description of any proposed changes to the plan.

#### Commission Action

The Commission finds that the Company's regulatory compliance plan is still in the process of development. The plan will be reviewed after the Commission receives the Company's summary report in February, 1993. At that time, the Company will have operated under the plan for approximately six months, and will have had the opportunity to effect the modifications outlined in this Order. The Commission will therefore neither approve nor reject the plan at this time. The Commission will rather accept the plan for the limited purpose of implementation until the February, 1993 report is reviewed. At that time, the Commission will decide if the regulatory compliance plan should be approved, rejected, or modified or developed further.

#### ORDER

1. On or before February 10, 1993, Otter Tail shall file a summary report of its regulatory compliance plan, in accordance with the requirements of this Order.
2. Otter Tail's proposed regulatory compliance plan is accepted as modified in the body of this Order, for the purpose of Company implementation until the Commission reviews the plan along with the Company's aforementioned summary report.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)