

E-017/RP-94-443 ORDER GRANTING VARIANCE TO ALLOW TIME EXTENSION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Marshall Johnson
Cynthia A. Kitlinski
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Otter Tail Power Company's
1994 Biennial Resource Plan Filing

ISSUE DATE: June 20, 1994

DOCKET NO. E-017/RP-94-443

ORDER GRANTING VARIANCE TO
ALLOW TIME EXTENSION

PROCEDURAL HISTORY

On May 11, 1994, Otter Tail Power Company (Otter Tail or the Company) filed a Motion for Extension asking the Commission to change the deadline for filing the Company's 1994 Biennial Resource Plan from July 1, 1994, to October 1, 1994. The Company explained that the consultant it had hired to produce its Demand Side Management (DSM) potential study had completed the study in an untimely fashion. As a result, Otter Tail would not be able to incorporate the results of the study into its resource plan filing by July 1. Otter Tail stated that it would file the resource plan filing as soon as it was completed, but not later than October 1, if the extension were granted.

On May 27, 1994, the Department of Public Service (the Department) filed comments recommending a time extension. The Department stated that Otter Tail had been working in good faith to attempt to complete the resource plan by the July 1 deadline. Due to concerns regarding staff time schedules, the Department asked the Commission to narrow the time frame in which Otter Tail would be allowed to file its delayed resource plan. The Department requested the Commission to allow Otter Tail to submit its resource plan filing between September 19, 1994, and October 3, 1994.

The matter came before the Commission on June 9, 1994.

FINDINGS AND CONCLUSIONS

The Commission agrees with the Department that Otter Tail has attempted to file its resource plan in a timely fashion. The delays in receiving the consultant's DSM report were not foreseeable, since the consultant the Company chose had been highly recommended by other utilities. The Company's request for a time extension should be granted.

Allowing Otter Tail to delay its resource plan filing requires a variance from Minn. Rules, Part 7843.0300, subpart 2, which establishes dates for utility resource filings.

Minn. Rules, Part 7830.4400 sets out three criteria which the Commission must consider when deciding whether to grant a rule variance:

1. Enforcement of the rule would impose an excessive burden upon the applicant or others

affected by the rule;

2. Granting of the variance would not adversely affect the public interest; and
3. Granting of the variance would not conflict with standards imposed by law.

In this case, holding Otter Tail to the July 1 deadline would be a burden to the utility as it attempts to assemble a complete resource plan filing. Enforcing the rule would also be a burden to the Department, Commission, and other interested parties, because the filing would not contain necessary information.

Granting the variance would not adversely affect the public interest. Parties will not be harmed by the delay, because the Commission will extend the deadlines for intervention and written comments to correspond with the Company's deadline.

Granting of the variance would not conflict with standards imposed by law.

For these reasons, the Commission will grant Otter Tail a variance to Minn. rules, Part 7843.0300, subpart 2, to allow an extension of the resource plan filing deadline to October 3, 1994.¹

ORDER

1. The Commission grants a variance to Minn. Rules, Part 7830.0300, subpart 2, to allow Otter Tail Power Company to file its 1993 Biennial Resource Plan on October 3, 1994.
2. The Commission extends the deadline for Commission determination whether the filed information is incomplete or unclear and must be augmented or clarified from September 1, 1994, to December 1, 1994.
3. The Commission extends the deadlines for intervention and written comments from November 1, 1994, to February 1, 1995.
4. The Commission extends the deadline for response comments from December 31, 1994, to March 31, 1995.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

¹ Because October 1, 1994, falls on a Saturday, the Commission is changing the requested filing date from October 1, 1994, to Monday, October 3, 1994.