

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of Otter Tail Power Company's
Request for Approval of a Community-Based
Energy Development Tariff

ISSUE DATE: July 25, 2006

DOCKET NO. E-017/M-05-1884

ORDER APPROVING A COMMUNITY-
BASED ENERGY DEVELOPMENT TARIFF
AS MODIFIED

PROCEDURAL HISTORY

On December 1, 2005, Otter Tail Power Company (Otter Tail) petitioned the Commission for approval of its proposed Community-Based Energy Development (C-BED) tariff.

On February 2, 2006, Windustry, the Minnesota Project, Institute for Self-Reliance, and Minnesotans for an Energy Efficient Economy (ME3) (Joint Commentators) filed joint comments.

On February 2, 2006, the Minnesota Department of Commerce (the Department) filed comments.

On March 13, 2006, Otter Tail filed reply comments.

The Commission met on July 13, 2006 to consider this matter.

FINDINGS AND CONCLUSIONS

I. BACKGROUND

The 2005 Minnesota Legislature enacted Minn. Stat. § 216B.1612 to encourage community based wind energy (C-BED) projects. All Minnesota utilities are required by the statute to put a tariff in place to encourage and promote local participation in wind energy development.

Subdivision 1 of that statute states the purpose of a C-BED tariff as follows:

A tariff shall be established to optimize local, regional, and state benefits from wind energy development and to facilitate widespread development of community-based wind energy projects throughout Minnesota.

Under this legislation, C-BED projects are to provide for local ownership, development and expansion of wind projects in Minnesota. The legislation establishes detailed project ownership criteria dependent on the size of the project, fixes a payment limit and pattern for the pricing stream and allows each utility to work within its own resource cost and reliability requirements to determine the acceptance of C-BED projects under this tariff.

Consistent with the statutory language, the tariff is not a standing offer to buy all C-BED wind energy, however, nor does it set a specific price for such energy. The C-BED tariff is to provide a framework for qualifying wind energy developers and utilities to negotiate power purchase agreements (PPAs).

II. Otter Tail's Proposed C-BED Tariff

Otter Tail's proposed C-BED Tariff does not provide a specific schedule for rates for the provision of service, but instead provides general guidelines for negotiations of purchase power agreements for C-BED projects. Otter Tail stated that its proposed language is based directly on the statute.

Otter Tail's proposed tariff language contains provisions for the following:

- the obligations of the utility company;
- the requirements of a power purchase agreement;
- the qualifications of C-BED owner and project;
- the project qualifications;
- the rates under the proposal; and
- the conditions necessary for C-BED service,

III. Comments of the Joint Commentators

The Joint Commentators made three general comments:

1. Otter Tail should provide an outline of how it will solicit, evaluate, and select C- BED projects.
2. The Commission should require reporting on pricing information.
3. Otter Tail should include a time-line for acceptance or rejection of C-BED proposals.

The Joint Commentators also made comments regarding specific parts of Otter Tail's proposed tariff:

1. Security of performance of a power purchase agreement should be accomplished through a maintenance escrow, jointly controlled by Otter Tail and the project.
2. Renewable energy credits should flow to the utility only if there is a transaction reflecting the value of the credit, and should remain with the project if the C-BED price is equal to avoided cost.
3. The tariff should clearly specify the discount rate, and include the 20-year levelized price that is equivalent to the 2.7 cents net present value rate for Otter Tail.
4. The interconnection standards, schedules and costs should be set forth in accordance with the Commission's distributed generation interconnection requirements.
5. The definition of standard reliability criteria should not use the terms "adverse" and "unsafe consequences" and refer instead either to the distributed generation requirements or MISO¹ standards.

IV. Comments of the Department and Otter Tail's Response

The Department conducted a thorough analysis of the law and the way Otter Tail's proposal implemented the law. The Department recommended that the Commission make a number of modifications, most of which were accepted by Otter Tail. Recommendations disputed by Otter Tail include the following:

1. Provide in the tariff Otter Tail's criteria for determining "sufficient security."
2. Place language about the C-BED project owner's responsibility under the statute to provide opportunities to invest in the project in Otter Tail's tariff.
3. Reporting requirements.

In addition, Otter Tail provided alternative language to a Department proposal for language pointing to the distributed generation documents.

V. THE COMPANY'S REPLY COMMENTS

Otter Tail agreed with the majority of the Department's recommendations, except as set forth above.

Otter Tail disagreed with certain of the recommendations proposed by the Joint Commentators:

¹ Midwest System Operator System.

1. Two of the proposals – soliciting, evaluating and selecting C-BED ojects and specifying how “sufficient financial security” is achieved would potentially hinder C-BED development, as over-definition of these items would limit the flexibility necessary for both the Company and the C-BED project developers to negotiate and reach agreement.

2. The inclusion of the 20-year levelized price equivalent of 2.7 cents NPV² rate in the tariff; Otter Tail said the value to the Company differs from project to project and publication of a rate could lead to false expectations.

Otter Tail agreed with the Joint Commentators that renewable energy credits should flow to the utility only if there is a transaction reflecting the value of the credit and agreed to identify the discount rate (8%).

Otter Tail also agreed with the use of the distributed generation interconnection standards for C-BED projects connected to the distribution system and not adversely affecting the transmission system.

Finally, Otter Tail said it accepted the Department’s recommendation for change with respect to the terms “adverse” and “unsafe consequences.

VI. COMMISSION ANALYSIS AND ACTION

At the hearing on this matter, the Company and the Department came to additional areas of agreement. Specifically, Otter Tail agreed that the renewable or “green” attributes should transfer to the utility unless something to the contrary is specifically negotiated in the PPA, to be consistent with the C-BED tariffs already approved by the Commission for Xcel and Minnesota Power.³ The language of the tariff will be modified to include:

The payment of the rate negotiated under this tariff includes payment for the property rights of all renewable attributes (or, in the event of the development of a Commission-approved renewable energy tracking system, the renewable energy credits) associated with the generation from the C-BED project. That is, receipt of this payment constitutes a transfer of the property rights of all attributes (or renewable energy credits) associated with the generation from the C-BED project to Company, unless otherwise agreed to by the qualifying owners of the project and Company.

Based on it own review and taking into consideration the comments of the Department and the Joint Commentators, the Commission will approve Otter Tail’s C-BED tariff as modified herein.

² Net present value.

³ See, e.g. *Order Approving a Community-Based Energy Development Tariff, as Modified*, Docket No. E-015/M-05-1840 (June 2, 2006)(Minnesota Power).

ORDER

1. The Commission hereby approves Otter Tail's C-BED tariff as reflected in Otter Tail's Reply comments and as modified further as follows:

Modify to broaden the language to include the renewable energy attributes associated with the generation as well as the renewable energy credits under Requirements of a Power Purchase Agreement (Volume I, Sheet 80; Rate Designation P-25, Pages 1 of 4 to 2 of 4):

The payment of the rate negotiated under this tariff includes payment for the property rights of all renewable attributes (or, in the event of the development of a Commission-approved renewable energy tracking system, the renewable energy credits) associated with the generation from the C-BED project. That is, receipt of this payment constitutes a transfer of the property rights of all attributes (or renewable energy credits) associated with the generation from the C-BED project to Company, unless otherwise agreed to by the qualifying owners of the project and Company.

2. Otter Tail shall provide the language of the statute and links to the tariff on its web site.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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