

December 2, 2016

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E015/MR-16-709

Dear Mr. Wolf:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Petition of Minnesota Power (MP) for Approval of a New Base Cost of Fuel and Purchased Energy.

The petition was filed on November 2, 2016 by:

Marcia A. Podratz
Director of Rates,
30 West Superior Street,
Duluth, MN 55802

The Department recommends approval with clarification.

The Department is available to answer any questions that the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ SACHIN SHAH
Rates Analyst

SS/lt

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. E015/MR-16-709

I. SUMMARY OF THE UTILITY'S PROPOSAL

A. OVERALL PROPOSAL

On November 2, 2016, Minnesota Power (MP or the Company) submitted a miscellaneous tariff change seeking authority from the Minnesota Public Utilities Commission (Commission) to establish a new base fuel adjustment to be effective in conjunction with the Company's proposed Notice of Change in Rates and Petition for Interim Rates in Docket No. E015/GR-16-664 (Rate Case).¹

MP also requested Commission approval of a new base cost of fuel and purchased energy of \$0.02137 per kilowatt-hour (kWh). In its Petition, MP stated the following:

With the implementation of General Rates, Minnesota Power requests the Commission approve a new base cost of fuel and purchased energy of 2.137 cents per kWh. In addition to proposing this new base cost of fuel and purchased energy, Minnesota Power also proposes:

- to adopt a forecasted fuel clause adjustment ("FCA") methodology with a true-up mechanism beginning with the implementation of General Rates in our current rate proceeding in order to provide more accurate price signals to customers regarding the actual costs of fuel and purchased energy;
- to recover total fuel and purchased energy costs through the FCA rather than reflecting a base cost of fuel and purchased energy in Company base rates; and

¹ Petition, summary page.

- recovery through the FCA of: (1) chemicals and reagents for environmental compliance; (2) business interruption insurance; (3) nitrogen oxide allowances; and (4) recovery of Independent Electricity System Operator, Southwestern Power Pool, and PJM Interconnection LLC market charges in the same manner as is currently used for Midcontinent Independent System Operator, Inc. (“MISO”) costs.

On November 2, 2011, the Commission issued its *Findings of Fact, Conclusions of Law, and Order; (November 2 Order)* concerning the request by Minnesota Power to increase electric rates in Minnesota in docket no. E015/GR-09-1151. Ordering Paragraph No. 3D of the Commission’s *November 2 Order* required Minnesota Power to submit a revised base cost of energy, supporting schedules, and revised fuel adjustment tariffs to be in effect on the date final rates were implemented. The Company’s compliance filing concerning Ordering Paragraph No. 3D was due within 30 days of the Commission’s *February 4, 2011 Order Clarifying Order of November 2, 2010, (February 4 Order)* or by March 7, 2011.

On March 7, 2011, Minnesota Power submitted its *Compliance Filing* in accordance with Ordering Paragraph 3 of the *November 2 Order*.

The Commission issued its *May 24, 2011 Order Authorizing Implementation of New Rate Schedules, Approving Surcharge Plan, and Clarifying Order*. Thus, MP’s last base cost of energy was approved on May 24, 2011 in Docket No. E015/GR-09-1151. If approved, this filing would keep the base cost of energy at the level approved by the Commission in the Company’s last three rate cases, \$0.01018 per kWh.

The Minnesota Department of Commerce (Department) describes MP’s proposal further and provides its analysis below.

B. PROPOSED AVERAGE COST OF FUEL AND PURCHASED ENERGY

Regarding the average cost of fuel and purchased energy, the Company stated the following in its Petition:²

The current base cost of fuel and purchased energy remains at the amount originally approved by the Commission in 1994 of 1.018 cents per kWh and was the result of a Stipulation and Settlement Agreement approved by the Commission in a prior Minnesota Power rate case, Docket No. E015/GR-08-415. Minnesota Power is not proposing to change its base cost of fuel and purchased energy for purposes of interim rates, but proposes to include an adder of 1.162 cents per kWh to reflect the changes in the average cost of fuel and purchased energy.

² Petition at pages 4-5.

Pursuant to Minn. R. 7825.2900, Minnesota Power has attached the exhibits identified below to this Petition, which provide the costs and rate calculations in support of its current fuel cost adjustment. On Exhibit B the Company calculates the test year average cost of fuel and purchased energy (2.103 cent per kWh)² and compares it to the existing base cost (1.018 cents per kWh), thereby determining the test year average Fuel and Purchased Energy Adjustment (“FPE Adjustment”) rate to be 1.085 cents per kWh. The test year average FPE Adjustment is then included in the calculation of present and proposed revenues (applied to all kWh of energy subject to the FPE Adjustment) in Minnesota Power’s general rate filing, Docket No. E015/GR-16-664, adjusted by each rate class’s appropriate E8760 Allocator Factor to reflect the appropriate total revenues.

² This calculation does not reflect the four expenses/revenues the Company requests to include in the FCA: NOx allowances, business interruption insurance premiums or proceeds, reagent/chemical costs, and ISO costs.

C. PROPOSED AVERAGE COST OF FUEL AND PURCHASED ENERGY WITH ADDITIONAL COSTS

Regarding the average cost of fuel and purchased energy with additional costs, the Company stated the following in its Petition:³

In addition to changing its base cost of fuel and purchased energy methodology, Minnesota Power proposes to include reagent costs for environment compliance, business interruption insurance premiums or proceeds, ISO market costs, and NOx allowances in its calculation of the average cost of fuel and purchased energy. Minnesota Power has attached exhibits also identified below to this Petition, which provide the costs and rate calculations in support for its proposed fuel costs adjustment. Exhibit B, FC 1-2 provides the calculation of the average cost of FPE including reagents, business interruption insurance, ISO market costs, and NOx allowances to be 2.137 cents per kWh.³

Minnesota Power also proposes to update its tariff pages to reflect the ability to account for future NOx allowances and ISO market costs in its FPE Rider; however, Minnesota Power is not forecasting any immediate revenues or costs associated with

³ Petition at page 5.

these changes in the test year, such that no calculation information is initially available under this proposal.

³ Although Minnesota Power is requesting these four costs or revenues be included in the base cost of fuel and purchased energy, the amounts for NOx allowances and ISO market costs, besides MISO costs, are estimated to be \$0 for the 2017 test year.

In Exhibit A of its Petition, MP reported the average fuel and purchased energy costs by showing the fuel revenue under the present rate with two month lag and part of the base cost of fuel in the general base rate (current approved methodology) compared to the total cost of fuel without the lag on one billing line item.

In Exhibit B of its Petition, MP reported the average fuel and purchased energy costs for the 2017 test year. In addition MP reported the average fuel and purchased energy costs including reagents and business interruption insurance and the supporting calculations.

D. PROPOSED CHANGE IN FCA METHODOLOGY COINCIDENT WITH FINAL RATES

MP stated the following:⁴

As discussed in more detail in the attached testimony of Ms. Leann Oehlerking-Boes, Minnesota Power proposes to modify its FCA methodology to use forecasted information to calculate the monthly FCA on customers' bills, then correct for any mismatch between forecasted and actual costs (applied to actual sales levels) with a rolling true-up mechanism. The Company also proposes to move all fuel and purchased energy costs to the FPE Rider concurrent with the implementation of final rates in our current rate proceeding, such that no base cost of fuel and purchased energy would reside in base rates. Ms. Oehlerking-Boes explains that this process will improve price signals to customers in terms of both the amount of fuel and purchased energy costs the Company incurs to provide electric service, and the timing of the costs – which will provide in turn provide better signals as to when the Company's fuel costs are highest.

E. IMPACT ON RATES

The Company stated the following on page 3 of the Petition:

The Company's proposal to retain the current base cost of fuel and purchased energy for purposes of interim rates does not affect the Company's revenues. The Company's proposal to

⁴ Petition at 6.

reflect all fuel and purchased energy costs in the FCA [Fuel Clause Adjustment], rather than include a portion in base rates, will likewise have no impact on the Company's revenues, as this change merely represents a shift in where fuel and purchased energy costs are recovered.

In other words, MP stated that its proposed changes would only affect the fuel and purchased energy costs in the FCA and would not affect MP's revenues.

F. VARIANCE REQUEST

Minn. Rule 7829.3200 states:

The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

In its Petition, MP stated the following:⁵

Consistent with Minn. R. 7829.3200, Minnesota Power seeks a variance to the extent needed to establish an FCA methodology that is based on a forecasted methodology rather than the "kilowatt-hour sales" and the "current period" defined in Minn. R. 7825.2400, subs. 13 and 15. Minnesota Power also seeks a variance to Minn. R. 7825.2600, to the extent needed to reflect the true-up between the forecasted and actual month's fuel and purchased energy, and any other variances that may be needed to implement a forecasted FCA methodology and include all fuel and purchased energy costs in the FPE Rider.

... Minnesota Power requests the change in FCA methodology concurrent with the implementation of General, rather than Interim, Rates in its current rate proceeding, and therefore believes the changed FCA methodology will be addressed during the concurrent rate proceeding. For purposes of this initial Petition, we note that the proposed methodology is consistent with the FCA methodology approved for Xcel Energy in Docket E002/M-00-420, and therefore necessarily does not conflict with standards imposed by law. More specifically, the Commission is authorized by Minn. Stat. § 216B.16, subd. 7, to

⁵ Petition, pages 6-7.

allow for the automatic adjustment of charges and determine the appropriate FCA recovery mechanism for Minnesota Power.

Further, as described in more detail by Ms. Oehlerking-Boes, the proposed change would benefit customers and support the public interest by providing improved price signals regarding the timing of highest and lowest fuel and purchased energy costs, and regarding the true amount of fuel and purchased energy the Company incurs. These changes would, in turn, enable customers to make more informed decisions regarding energy usage, serving state policy encouraging the conservation of energy. Minnesota Power anticipates further discussion of these principles in our general rate proceeding.

G. *PROPOSED TARIFF SHEETS*

In its Petition, MP stated the following:⁶

Exhibits C (page 1 to 8) to this Petition consists of redlined and cleaned versions of the proposed FPE Rider tariff pages showing the requested base cost of fuel and purchased energy. Our Petition for Interim Rates contains schedules of proposed interim rates that reflect the requested base cost of fuel and purchased energy for each customer class for purposes of Interim Rates in our current rate proceeding. The attached FPE Rider tariff updates also reflect our proposed changes to the FPE Rider for purposes of General Rates. Ms. Leann Oehlerking-Boes provides additional support for these tariff page changes in her attached rate filing testimony.

II. **BACKGROUND**

Historically, as part of general rate case proceedings, new base rates for service are established to reflect estimated costs of providing service, including the base cost of energy. Minnesota Rules Part 7825.2400 and 7825.2600 define the “base electric cost” (base cost of energy) and other components of electric energy adjustments and address the computation and application of electric energy adjustments. The fuel adjustment rules provide for a two-step procedure allowing the Company to recover on a monthly basis its current period cost of energy. “Current period” is defined as the most recent two-month moving average used by electric utilities in computing an automatic adjustment of charges (Minnesota Rules Part 7825.2400, subpart 13).

The use of a fuel-adjustment clause (FCA) requires electric utilities to develop a base cost of energy when calculating their test-year revenue requirements in general rate cases. The

⁶ *Id.*

base cost of energy is reset at the level of the test-year fuel and purchased power costs at the time the rate case is filed and thus “zeros out” the FCA at the start of interim rates. Subsequent FCAs reflect the difference between total fuel costs and the new base cost of energy. However, because the sum of the base cost of energy and the FCA will equal total fuel costs, updating the base cost of energy is intended to reduce the magnitude of the FCA since the updated base cost of energy is expected to reflect current energy costs more accurately.

Minnesota Statute Section 216B.16, subdivision 7 allows for an energy cost adjustment subsequent to determination of base costs so that rates will reflect current energy costs as defined in rules. The Commission’s rules defining and guiding the application of the FCA are detailed in Minnesota Rules Part 7825.2390 through 7825.2920. Under these rules, the sum of the base cost of energy and the FCA will equal recovery of current energy costs. Thus, under current ratemaking in Minnesota, a utility recovers its fuel and purchased power costs in both base rates (includes base cost of energy) and in the FCA. Therefore, under the Commission’s rules, the total amount of fuel costs that the utility is allowed to recover in rates (including energy cost recovery built into base rates and energy cost recovery in the FCA) is the current period cost of energy, defined as the most recent two-month moving average of costs divided by the two-month average of sales.

The two-month moving average provides a recent proxy of actual fuel costs for the upcoming month in which the FCA will be applied.

In sum, the FCA provides a special rate mechanism for recovery of fuel and purchased power costs, but the recovery must follow the calculations and provisions of the Commission’s rules. Further, a change in the base cost of energy cannot change the overall level of recovery of fuel costs because the total cost recovery of fuel and purchased power costs must be no more than the current period cost of energy, regardless of the extent to which these costs are recovered in base rates or the FCA.

III. ANALYSIS OF MP’S PROPOSAL

The Department reviews MP’s proposed tariff sheet for the fuel clause adjustment included in the Petition by discussing some of the issues from MP’s prior rate case.

During the evidentiary hearing in MP’s 2008 rate case in Docket E015/GR-08-415, Minnesota Power, Department, the Large Power Group, Boise and the Minnesota Chamber of Commerce reached agreement with respect to certain complex and contested issues related to the Company’s proposed fuel clause adjustment and other billing issues.⁷ Under the terms of the Commission-approved⁸ December 4, 2008 Stipulation and Settlement Agreement (Settlement Agreement), the parties agreed in part that:

⁷ See copy of the Settlement Agreement in Attachment 1 to the December 2, 2009 Department Comments in Docket E015/MR-09-1152.

⁸ Commission’s May 4, 2009 *FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER* in Docket No. E015/GR-08-415 (pp. 54-55).

1. The base cost of fuel would be restored to the 1.018 cents/kWh level it was at prior to the approval of interim rates (in Docket 08-415); and
2. This base cost of fuel will remain in effect in Minnesota Power's next retail rate case(s).

The Department notes that the Company's current rate case (Rate Case) proceeding includes testimony on the base cost of fuel indicating that the same base cost of energy was used for the instant docket and for the rate case. In the Direct Testimony of Company Witness Leann S. Oehlerking-Boes filed on November 2, 2016 in the rate case, Ms. Oehlerking-Boes stated the following:⁹

Q. What is the base cost of fuel as calculated for this rate case?

A. The current base cost of fuel is 1.018 cents per kilowatt-hour ("kWh"), which is the amount approved in our 1994 rate proceeding and affirmed in our 2008 and 2009 rate proceedings. Minnesota Power has proposed no change to the base cost of fuel for interim rates. Minnesota Power has calculated a base cost of fuel for the 2017 test year (Docket No. E015/MR-16-709) of 2.103 cents per kWh without incorporating any of the changes proposed in Section II.D of my Direct Testimony and 2.137 cents per kWh incorporating the proposed changes outlined in Section II.D.

Q. How does Minnesota Power propose to include this base cost of fuel on customer bills after final rates are approved?

A. Minnesota Power proposes to include the base cost of fuel in the FCA line item on customer bills and remove the base cost of fuel from base rates for final rates. This is consistent with the way Northern States Power Company d/b/a Xcel Energy ("Xcel Energy") accounts for their base cost of fuel on customer bills.

Q. Has the Company included any changes to the base cost of fuel in its proposed interim rates in this rate case?

A. No, we have not. We have also not proposed any changes to our FCA calculation methodology in interim rates. Because we are proposing changes in methodology that we anticipate will be discussed throughout this proceeding, and because our base cost of fuel has remained the same since our 1994 rate proceeding, we propose to implement changes with final rates rather than with interim rates.

⁹ See the November 2, 2016 Direct testimony of Leann S. Oehlerking-Boes at page 3.

The focus of the Department's review in the instant filing for purposes of setting interim rates is the reasonableness of MP's request to keep its base cost of energy at the level set in its last rate case. The Department does not address MP's various proposals regarding final rates, as those issues will be developed in MP's rate case.

In its Petition, MP at various stages has proposed the following:

- Maintaining the current base cost of fuel and purchased energy of \$0.01018 per kWh;
- Including an adder of \$0.01162 per kWh to reflect the changes in the average cost of fuel and purchased energy;
- Calculating (in Exhibit B) a test year average cost of fuel and purchased energy of \$0.02103 per kWh (excluding the four expenses/revenues the Company has proposed to include in the FCA such as business interruption insurance et cetera) resulting in an FCA adder of \$0.01085 per kWh to the base of \$0.01018 per kWh;
- Calculating an average cost of fuel and purchased energy with the additional costs (reagents, business interruption insurance et cetera) of \$0.02137 per kWh resulting in FCA adder of \$0.01119 per kWh (an increase of \$0.0034 per kWh);
- Changing its current FCA methodology "by addressing both the FCA and the base cost of fuel in the rate case, instead of addressing the base cost of fuel in the rate case and the FCA in a separate docket"¹⁰; and
- Discussing "these principles in our general rate proceeding," with those changes to the FCA to take effect with the implementation of final rates in its rate case.

The Department notes that the FCA issues in MP's 2008 rate case were both complex and contested, as indicated, for example, in the Surrebuttal Testimony of Department Witness Mr. Dale Lusti, pages 33-52. Those issues were resolved in that proceeding by the settlement, which kept the base cost of fuel at the same level as in MP's 1994 rate case (Docket No. E015/GR-94-1). Given that the focus of the Department's review in the instant filing is the reasonableness of MP's request to keep its base cost of energy at the level set in its last rate case, the DOC recommends approval of MP's proposal to retain the system base cost of energy at the current level of \$0.01018 per kWh.

However, to help ensure transparency in MP's interim rates, the Department requests that MP indicate in its Reply Comments whether the Company's proposed interim rates include

¹⁰ *Id* at page 2.

anything similar to the “transition adjustment” that MP proposed in the Company’s 2008 rate case. If so, MP should identify the amount of any such adjustment.

The Department also observes that the Company provided support for its average fuel and purchased energy cost calculations of \$0.02103 per kWh and \$0.02137 per kWh resulting in FCA adders of \$0.01085 per kWh and \$0.01119 per kWh, respectively. However, it is not clear how MP came to determine its proposal to include an adder of \$0.01162 per kWh referenced above. The Company is currently using its Commission approved base cost of energy and class cost factors.¹¹ It is unclear whether this issue must be resolved to set the level of interim rates; however, since MP is charging ratepayers higher costs in the FCA, the Department requests that MP fully explain in its reply comments how MP calculated its proposed adder of \$0.01162 per kWh referenced above.

Finally, the Department observes that in the Commission’s June 2, 2016 *Order Acting On Electric Utilities’ Annual Reports and Requiring Additional Filings (In the Matter of an Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments, Docket No. E-999/CI-03-802, In the Matter of the Review of the 2011-2012 Annual Automatic Adjustment Reports for All Electric Utilities, Docket No. E-999/AA-12-757, In the Matter of the Review of the 2012-2013 Annual Automatic Adjustment Reports for All Electric Utilities, Docket No. E-999/AA-13-599, In the Matter of the Review of the 2013-2014 Annual Automatic Adjustment Reports for All Electric Utilities, Docket No. E-999/AA-14-579)* Ordering point 6 states the following:

6. In Docket No. E-999/CI-03-802, the Commission directs the Department, alone or jointly with other parties, to prepare a complete proposal for the recovery of energy costs delivered to customers, including possible reform of the fuel clause adjustment mechanism, with all the details necessary to fully implement such a proposal. The proposal should identify and explain –
 - A. the specific problems the Department believes exist with the current FCA structure,
 - B. how the proposal effectively addresses those problems and provides better incentives for utilities to control their fuel costs, and
 - C. how the proposal would impact the different types of costs or cost categories currently recovered through the FCA.

The Commission directs the Department to file its proposal within nine months, but delegates to the Executive Secretary the authority to modify this timeframe upon request.

¹¹ See MP’s November 2016 FCA filing in Docket No. E015/AA-16-880.

The Department's report is due in early March, 2017.

The Department agrees with MP that its proposed changes to the FCA outlined herein may be discussed in its general rate case with clarification. The Department recommends that the Commission include language such as the following in its Order:

- Clarify that approval of the proposed revised base cost of energy does not preclude any party from disputing the assumptions used in MP's Petition and MP's general rate case filing, or the Commission from adopting different assumptions than those used in this Petition and MP's general rate case filing, when reviewing and determining final rates in the corresponding general rate case, or in any other relevant proceeding; and
- Clarify that upon implementation of final rates in the corresponding general rate case, a revised base cost of energy will be established using updated class and cost information adopted in that case, subject to the terms of the Commission's final Orders in the corresponding general rate case, and any other relevant docket.

IV. CONCLUSION AND RECOMMENDATION

The Department recommends that the Commission accept the revised base cost of energy of \$0.01018 per kWh with the above clarifications.

The Department requests that MP, in its Reply Comments, provide the following information:

- Indicate whether the Company's proposed interim rates include anything similar to the "transition adjustment" that MP proposed in the Company's 2008 rate case. If so, MP should identify the amount of any such adjustment; and
- MP fully explain how the Company calculated its proposed adder of \$0.01162 per kWh referenced above.

/lt

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. E015/MR-16-709

Dated this 2nd day of December 2016

/s/Sharon Ferguson

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