

March 22, 2021

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, Minnesota 55101-2147

RE: **Response Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E015/M-19-440

Dear Mr. Seuffert:

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

The Commission's Notice for Comments on Minnesota Power's Transmission Cost Recovery Rider Compliance Filing and the Federal Energy Regulatory Commission's (FERC's) December 4, 2020 Audit Report and Order, in FERC Docket No. FA20-2-000.

The Department recommends that the Minnesota Public Utilities Commission (Commission) **accept Minnesota Power's December 10, 2020 compliance filing**. The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/ GEMMA MILTICH
Financial Analyst, CPA

GM/ja
Attachment



Before the Minnesota Public Utilities Commission

Response Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E015/M-19-440

I. INTRODUCTION

On December 21, 2020, the Minnesota Public Utilities Commission (Commission) issued a Notice of Comment Period (Notice) in Docket No. E015/M-19-440, regarding Minnesota Power's (the Company's) 2019 Transmission Cost Recovery Rider petition (Petition). The Notice solicited comments on the following questions and topics:

- Should the Commission accept Minnesota Power's December 10, 2020 compliance filing, in this docket?
- Does Minnesota Power's December 10, 2020 compliance filing fully resolve ordering points 3, 4, and 6 of the Commission's December 3, 2020 *Order Approving Transmission Cost Recovery, Clarifying Prior Order, and Requiring Filings*? If not, what are the deficiencies in MP's compliance filing?
- Was the Federal Energy Regulatory Commission (FERC) audit report contained in the compliance filing submitted in a timely manner?
- Did any of the FERC audit findings have an impact on either the test year in Minnesota Power's 2016 rate case¹ or any of the calculations in the 2019 Transmission Cost Recovery (TCR) Rider? If so, what were those impacts and how do they affect rates? Should the Commission take any action with respect to the FERC audit report?
- Are there other issues or concerns related to this matter?

On February 19, 2021, the Department filed Comments addressing each of the questions/topics listed above and requesting that Minnesota Power provide additional information prior to the Department making a final recommendation to the Commission in this matter. The Company supplied the Department-requested information on March 5, 2021 in Reply Comments. The Department appreciates Minnesota Power providing the additional information requested.

II. DEPARTMENT ANALYSIS

On December 3, 2020, the Commission issued its *Order Approving Transmission Cost Recovery, Clarifying Prior Order, and Requiring Filings* (the December 3, 2020 *Order*) on Minnesota Power's 2019 TCR Rider in Docket No. E015/M-19-440 (the instant docket). On December 10, 2020, the Company

¹ In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota, Docket No. E-015/GR-16-664.

submitted a compliance filing pursuant to the Commission’s December 3, 2020 *Order*. The Minnesota Department of Commerce, Division of Energy Resources (Department) has reviewed Minnesota Power’s December 10, 2020 compliance filing as well as the additional information provided by the Company in its March 5, 2021 Reply Comments. Considering Minnesota Power’s December 10, 2020 compliance filing and the additional information submitted in the Company’s March 5, 2021 Reply Comments together, we provide the following final conclusions for each of the questions/comment topics raised by the Commission in its Notice and make our final recommendation to the Commission in this matter.

(1) Does Minnesota Power’s December 10, 2020 compliance filing fully resolve ordering points 3, 4, and 6 of the Commission’s December 3, 2020 *Order Approving Transmission Cost Recovery, Clarifying Prior Order, and Requiring Filings*? If not, what are the deficiencies in MP’s compliance filing?

Pursuant to point 3 of the Commission’s December 3, 2020 *Order* in the instant docket, Attachment A to Minnesota Power’s December 10, 2020 compliance filing includes the Company’s proposed 2019 TCR Rider billing factors, updated for the net credits Minnesota Power received from the Midcontinent Independent System Operator (MISO) for other utilities’ use of the Dog Lake and Great Northern Transmission Line (GNTL) facilities in 2019. The Company’s compliance filing shows that the total Minnesota jurisdictional amount of these 2019 credits equals approximately \$650,197² and results in the following billing factors, which, as shown in Table 1, are slightly lower than those initially proposed by the Company:

Table 1: Minnesota Power’s Initially and Currently Proposed 2019 TCR Rider Billing Factors

<i>Rate Class</i>	<i>Initially Proposed Billing Factors (A)³</i>	<i>Currently Proposed Billing Factors Adjusted for Dog Lake and GNTL Revenue Credits (B)⁴</i>	<i>Difference (B - A)</i>
Large Power, kW-month	\$1.54	\$1.51	(\$0.03)
Large Power, kWh	\$0.00170	\$0.00167	(\$0.00003)
All Other Classes, kWh	\$0.00326	\$0.00318	(\$0.00008)

In response to the Department’s request in our February 19, 2021 Comments, Minnesota Power (1) clarified on that the GNTL and Dog Lake credits shown in Minnesota Power’s Revised Exhibit B-2 represent the total credit amount for the whole year of 2019 and (2) provided supporting calculations that demonstrate how the Company arrived at the GNTL and Dog Lake credit amounts shown in Minnesota Power’s Revised Exhibit B-2.⁵ The Department appreciates the Company’s provision of the

² Page 3 of Revised Exhibit B-1 in Attachment A of Minnesota Power’s December 10, 2020 compliance filing in Docket No. E015/M-19-440. (\$12,869 Dog Lake credit + \$637,328 GNTL credit) = \$650,197.

³ Page 1 of Exhibit B-1 of Minnesota Power’s initial filing in Docket No. E015/M-19-440.

⁴ Page 1 of Revised Exhibit B-1 in Attachment A of Minnesota Power’s December 10, 2020 compliance filing in Docket No. E015/M-19-440.

⁵ Minnesota Power’s March 5, 2021 Reply Comments, pages 2 – 3, Docket No. E015/M-19-440.

requested information, and we conclude that the Company appropriately adjusted the TCR Rider billing factors for the 2019 GNTL and Dog Lake credits.

In compliance with Point 4 of the Commission's December 3, 2020 *Order*, Minnesota Power, on December 10, 2020, submitted a copy of the FERC's December 4, 2020 audit report regarding the Company's transmission formula rates (FERC Audit Report).

Minnesota Power addressed Order Point 6 of the Commission's December 3, 2020 *Order* by providing its updated TCR Rider tariff sheets in Attachment B of the Company's December 10, 2020 compliance filing. The Department verified that the TCR Rider tariff sheets reflected the billing factors adjusted to incorporate the Dog Lake and GNTL revenue credits.

The Department concludes that Minnesota Power's December 10, 2020 compliance filing in the instant docket fully resolves Points 3, 4, and 6 of the Commission's December 3, 2020 *Order*.

(2) Was the FERC audit report contained in the compliance filing submitted in a timely manner?

Consistent with our February 19, 2021 Comments in the instant docket, the Department continues to conclude that, yes, because Minnesota Power submitted the FERC Audit Report on December 10, 2020, just six days after the FERC issued the report (December 4, 2020), the Company submitted this component of its compliance filing in a reasonably timely manner.

(3) Should the Commission accept Minnesota Power's December 10, 2020 compliance filing, in this docket?

The Department recommends that the Commission accept Minnesota Power's December 10, 2020 compliance filing.

(4) Did any of the FERC audit findings have an impact on either the test year in Minnesota Power's 2016 rate case or any of the calculations in the 2019 Transmission Cost Recovery Rider? If so, what were those impacts and how do they affect rates? Should the Commission take any action with respect to the FERC audit report?

The FERC Audit Report included seven findings. The Department discussed each of these seven findings in our February 19, 2021 Comments, and we requested that Minnesota Power provide additional information on the potential impacts that FERC Findings 1, 2, 4, 5, and 6 may have had on the Company's 2016 rate case and 2019 TCR Rider. The following section provides an abbreviated discussion⁶ on each of the FERC's findings and our final conclusions on the effect that the FERC Audit Report findings may have had on Minnesota Power's 2016 rate case and TCR Rider calculations.

⁶ For a more detailed discussion of the seven FERC audit findings, see pages 3 – 8 of the Department's February 19, 2021 Comments in the instant docket.

FERC Finding 1: “ALLETE’s method for computing Pre-funded AFUDC⁷ for its transmission incentive projects was contrary to the [FERC’s] orders. As a result, ALLETE overstated the transmission plant balances used to compute its annual transmission revenue requirements, which led to overbillings to wholesale transmission customers.”⁸

In response to the Department’s request, Minnesota Power explained on page 3 of its March 5, 2021 Reply Comments that:

The AFUDC included in the rider calculations is correct. The only AFUDC that has been included in the transmission rider is AFUDC prior to retail recovery, AFUDC on internal costs, and, if a project was capped in the transmission rider, then AFUDC after the project was capped.

The Company inadvertently included the AFUDC prior to wholesale recovery in Attachment O rate base while earning a return on CWIP, but should not have until the CWIP was placed into service. In addition, AFUDC on internal costs and after retail rider projects were capped was also included in Attachment O rate base. These should not have been because the total costs of all the projects including the internal costs and costs after retail rider projects were capped were included in Attachment O rate base.”

Minnesota Power subsequently supplemented its response to the Department’s request via an email to the Department, adding the following:

Contra/Prefunded AFUDC included in the Company’s 2017 test year in its 2016 rate case was also correct and offset all AFUDC on retail rider recoverable projects except AFUDC prior to retail recovery, AFUDC on internal costs, and any AFUDC after a project was capped.

Based on the explanation provided by Minnesota Power in its March 5, 2021 Reply Comments, as supplemented, the Department concludes that FERC Finding 1 did not impact the Company’s 2016 rate case or the 2019 TCR Rider calculations.

FERC Finding 2: “ALLETE improperly recorded environmental mitigation project costs of \$4.2 million in Account 930.2, Miscellaneous General Expenses. As a result, ALLETE overstated its annual transmission revenue requirement and overbilled wholesale transmission customers.”⁹

⁷ Allowance for Funds Used During Construction.

⁸ FERC Audit Report, page 19.

⁹ FERC Audit Report, page 23.

In response to the Department's request, Minnesota Power explained on page 4 of its March 5, 2021 Reply Comments that "[t]he entire \$4.2 million of costs noted in Finding 2 were incurred in 2014, so there was no impact on the 2017 test year in Minnesota Power's 2016 rate case." The Company also provided a breakdown of the expense categories and amounts included in the 2017 test year for Account 930.2 - *Miscellaneous General Expenses*; the breakdown indicates that Minnesota Power appropriately excluded environmental mitigation costs from this account.

As we did in our February 19, 2021 Comments, the Department continues to conclude that FERC Finding 2 would not have impacted the 2019 TCR Rider calculations. Based on the additional information provided by Minnesota Power in its March 5, 2021 Reply Comments, the Department concludes that FERC Finding 2 did not impact the Company's 2016 rate case.

FERC Finding 3: "ALLETE improperly recorded distribution assets in transmission plant accounts and transmission assets in distribution plant accounts. As a result of the transmission and distribution asset misclassification, ALLETE overstated its annual transmission revenue requirement which led to overbillings to wholesale transmission customers."¹⁰

According to the FERC Audit Report, ALLETE transferred approximately \$497,264 of distribution assets out of transmission accounts into distribution accounts, and approximately \$278,330 of transmission assets out of distribution accounts into transmission accounts between 2016 and 2019.¹¹

Based on the amounts associated with FERC Finding 3, the Department continues to conclude, as we did in our February 19, 2021 Comments, that misclassification of and transfers between the Company's distribution and transmission asset accounts likely offset one another enough to make the potential impact of these errors de minimis in amount for the TCR Rider or the 2016 rate case.

FERC Finding 4: "ALLETE improperly recorded proceeds from long-term debt instruments in Account 186, *Miscellaneous Deferred Debits*. In addition, ALLETE improperly recorded interest expense associated with the debt instruments in Account 920, *Administrative and General Salaries*. As a result, ALLETE overstated its annual transmission revenue requirement and overbilled wholesale transmission customers."¹²

The long-term debt proceeds and interest payments referenced in FERC's Finding 4 correspond to life insurance policies associated with ALLETE's Executive Investment Plan. FERC accounting regulations require that the relevant loan proceeds be recorded in Account 224 - *Other Long-Term Debt*, not Account 186 - *Miscellaneous Deferred Debits*, and that interest expense be recorded in Account 427 - *Interest on Long-Term Debt*, rather than Account 920 - *Administrative and General Salaries*.¹³

¹⁰ FERC Audit Report, page 25.

¹¹ FERC Audit Report, pages 25 – 26.

¹² FERC Audit Report, page 27.

¹³ FERC Audit Report, pages 27 – 28.

In response to the Department's request, Minnesota Power explained on page 4 of its March 5, 2021 Reply Comments that "Executive Investment Plan expenses were not allowed for recovery in the Company's 2016 rate case, so the expenses noted in Finding 4 had no impact on the 2017 test year in its 2016 rate case. The associated long-term debt instruments were included in FERC account 186 (Minnesota Power Account 18640) and were not included in the Company's rate base."

As we did in our February 19, 2021 Comments, the Department continues to conclude that FERC Finding 4 would not have impacted the 2019 TCR Rider calculations. Based on the additional information provided by Minnesota Power in its March 5, 2021 Reply Comments, the Department concludes that FERC Finding 4 did not impact the Company's 2016 rate case.

FERC Finding 5: "ALLETE improperly recorded various Administrative & General (A&G) expenses in a manner contrary to the FERC's accounting regulations. As a result of the improper accounting for certain A&G expenses, ALLETE overstated its annual transmission revenue requirement and overbilled wholesale transmission customers."¹⁴

One of the specific issues identified in FERC Finding 5 revealed that ALLETE recorded 2016 and 2017 lobbying costs of approximately \$26,000 in Account 921 - *Office Supplies and Expenses*, rather than in the correct account, Account 426.4 - *Expenditures for Certain Civic, Political, and Related Activities*.

In response to the Department's request, Minnesota Power explained on page 5 of its March 5, 2021 Reply Comments that "The lobbying expense misclassification described in FERC's Finding 5 did not have an impact on the Company's 2017 test year in its 2016 rate case. The lobbying expense item was properly budgeted, and therefore included in the test year, to FERC account 426.4 as below the line expense. Additionally, as documented in rate case testimony and in Rebuttal and Surrebuttal schedules, adjustments to Operating Income were made to exclude all lobbying expenses found in the review of employee expenses."

As we did in our February 19, 2021 Comments, the Department continues to conclude that FERC Finding 5 would not have impacted the 2019 TCR Rider calculations. Based on the explanation provided by Minnesota Power in its March 5, 2021 Reply Comments, the Department concludes that FERC Finding 5 did not impact the Company's 2016 rate case.

FERC Finding 6: "ALLETE applied state-approved depreciation rates to assets included in its wholesale transmission formula rate determination but had not previously filed these depreciation rates with the [FERC] and obtained [FERC] approval. In addition, ALLETE improperly recorded depreciation expenses associated with plant held for future use in Account 403, Depreciation Expense, instead of Account 421, Miscellaneous Nonoperating Income. As a result of ALLETE's improper accounting for depreciation expenses associated with plant held for future use, ALLETE overstated its annual transmission revenue requirement which led to overbillings to wholesale transmission customers."¹⁵

¹⁴ FERC Audit Report, page 30.

¹⁵ FERC Audit Report, page 34.

In our February 19, 2021 Comments, the Department expressed concern that the depreciation expense associated with plant held for future use that should have been recorded in Account 421 - *Miscellaneous Nonoperating Income* could have impacted Company's 2016 rate case. In response to the Department's request for more information on this issue, Minnesota Power explained on page 5 of its March 5, 2021 Reply Comments that "[t]he improperly recorded depreciation expense associated with plant held for future use, as described in FERC Finding 6, had no impact on the Company's 2017 test year in its 2016 rate case. The Company excludes the held for future use depreciation expense that is in account 40300 (\$407.00 2017 expense) from the amount provided in the rate case for transmission depreciation and amortization expense. The company also excludes account 10500 plant held for future use (\$19,426.00 in 2017 plant) from the amounts provided in the rate case for transmission plant in-service."

As we did in our February 19, 2021 Comments, the Department continues to conclude that FERC Finding 6 would not have impacted the 2019 TCR Rider calculations. Based on the explanation provided by Minnesota Power in its March 5, 2021 Reply Comments, the Department concludes that FERC Finding 6 did not impact the Company's 2016 rate case.

Finding 7: "ALLETE did not properly follow the FERC Form No. 1 instructions and, therefore, did not report all required information in its FERC Form No. 1 filings."¹⁶

The FERC Audit Report lists a variety of errors that the audit staff found on the Company's 2018 FERC Form No. 1. Based on the issues described in FERC Finding 7,¹⁷ the Department continues to conclude, as we did in February 19, 2021 Comments, that neither the TCR Rider nor the 2016 rate case would have been impacted by these reporting errors.

Based on our review of the seven FERC audit findings, the Department does not at this time recommend any specific action for the Commission to take related to the FERC Audit Report.

(5) Are there other issues or concerns related to this matter?

The findings in the FERC Audit Report reinforce the need for the Department to perform a targeted review of Minnesota Power's general/administrative expense accounts and below-the-line expense items in the Company's next rate case. While the Department has already contemplated the need for such a review in Minnesota Power's upcoming rate case, the FERC Audit Report provides information that will help the Department in selecting areas on which to focus our analyses. Based on the content of the FERC Audit Report, the Department would plan to include among its priorities for the Company's future rate case a close evaluation of below-the-line items, such as lobbying expenses, as well as specific accounts, including Accounts 930.2 - *Miscellaneous General Expenses*, 920 - *Administrative and General Salaries*, 921 - *Office Supplies and Expenses*, 924 - *Property Insurance*, and 923 - *Outside*

¹⁶ FERC Audit Report, page 38.

¹⁷ FERC Audit Report, pages 38 – 39.

Services Employed. As in our February 19, 2021 Comments, the Department continues to recommend that the Commission require Minnesota Power to provide testimony in its next rate case addressing how the Company ensured that the overall classification of expenses is appropriate and consistent with FERC requirements, which Minnesota has adopted.

III. CONCLUSION AND RECOMMENDATIONS

The Department recommends that the Commission:

- Accept Minnesota Power's December 10, 2020 compliance filing.
- Require Minnesota Power to provide testimony in its next rate case addressing how the Company has ensured that the overall classification of expenses is appropriate and consistent with FERC requirements, which Minnesota has adopted.

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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
Response Comments**

Docket No. E015/M-19-440

Dated this 22nd day of March 2021

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Elizabeth	Brama	ebrama@taftlaw.com	Taft Stettinius & Hollister LLP	2200 IDS Center 80 South 8th Street Minneapolis, MN 55402	Electronic Service	No	OFF_SL_19-440_Official
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_19-440_Official
Riley	Conlin	riley.conlin@stoel.com	Stoel Rives LLP	33 S. 6th Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_19-440_Official
Brooke	Cooper	bcooper@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022191	Electronic Service	No	OFF_SL_19-440_Official
Hillary	Creurer	hcreurer@allete.com	Minnesota Power	30 W Superior St Duluth, MN 55802	Electronic Service	No	OFF_SL_19-440_Official
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_19-440_Official
Lori	Hoyum	lhoyum@mnpower.com	Minnesota Power	30 West Superior Street Duluth, MN 55802	Electronic Service	No	OFF_SL_19-440_Official
Michael	Krikava	mkrikava@taftlaw.com	Taft Stettinius & Hollister LLP	2200 IDS Center 80 S 8th St Minneapolis, MN 55402	Electronic Service	No	OFF_SL_19-440_Official
James D.	Larson	james.larson@avantenergy.com	Avant Energy Services	220 S 6th St Ste 1300 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_19-440_Official
Douglas	Larson	dlarson@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	No	OFF_SL_19-440_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Susan	Ludwig	sludwig@mnpower.com	Minnesota Power	30 West Superior Street Duluth, MN 55802	Electronic Service	No	OFF_SL_19-440_Official
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E St. Paul, MN 55106	Electronic Service	No	OFF_SL_19-440_Official
David	Moeller	dmoeller@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	OFF_SL_19-440_Official
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_19-440_Official
Jennifer	Peterson	jppeterson@mnpower.com	Minnesota Power	30 West Superior Street Duluth, MN 55802	Electronic Service	No	OFF_SL_19-440_Official
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_19-440_Official
Susan	Romans	sromans@allete.com	Minnesota Power	30 West Superior Street Legal Dept Duluth, MN 55802	Electronic Service	No	OFF_SL_19-440_Official
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_19-440_Official
Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_19-440_Official