

Staff Briefing Papers

Meeting Date	May 17, 2018	Agenda Item	** 2
Company	Minnesota Power		
Docket Nos.	E-015/GR-16-664 In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota E-015/D-17-118 In the Matter of Minnesota Power’s 2017 Remaining Life Depreciation Petition E,G-999/CI-17-895 In the Matter of a Commission Investigation into the Effects on Electric and Natural Gas Utility Rates and Services of the 2017 Federal Tax Act		
Issues	<ol style="list-style-type: none"> 1. Should the Commission reopen, reconsider and/or clarify its March 12, 2018 Findings of Fact, Conclusions, and Order? 2. If the Commission reopens its March 12, 2018 Order in the rate case, should it also reopen its March 21 Depreciation Order (In the Matter of Minnesota Power’s 2017 Remaining Life Depreciation Petition, Docket No. E-015/D-17-118)? 		
Staff	Sundra Bender	Sundra.bender@state.mn.us	651-201-2247
	Eric Bartusch	Eric.bartusch@state.mn.us	651-201-2259
	Ann Schwieger	Ann.schwieger@state.mn.us	651-201-2238
	Ganesh Krishnan	Ganesh.krishnan@state.mn.us	651-201-2215
	Kevin O’Grady	Kevin.ogrady@state.mn.us	651-201-2218
	Bob Harding	Robert.harding@state.mn.us	651-201-2237



Relevant Documents

Date

Minnesota Public Utilities Commission (MPUC) – Findings of Fact, Conclusions, and Order (Order)	March 12, 2018
MPUC – Order (In the Matter of Minnesota Power’s 2017 Remaining Life Depreciation Petition, Docket No. E-015/D-17-118)	March 21, 2018
Large Power Intervenors (LPI) – Petition for Reconsideration	March 30, 2018
Minnesota Power (MP) – Petition for Reconsideration and Request for Clarification	April 2, 2018
Minnesota Department of Commerce, Division of Energy Resources (DOC) – Requests for Reconsideration	April 2, 2018
DOC – Response to LPI’s Petition for Reconsideration	April 9, 2018
Minnesota Utility Investors (MUI) – Public Comment Letter	April 10, 2018
MP – Answer to the DOC Requests for Reconsideration	April 12, 2018
DOC – Response to MP’s Petition for Reconsideration and Request for Clarification	April 12, 2018
LPI - Answer to Petitions for Reconsideration	April 12, 2018
Clean Energy Organizations (CEOs) and Energy CENTS Coalition (ECC) - Answer to DOC’s Requests for Reconsideration	April 12, 2018
Minnesota Office of the Attorney General – Residential Utilities and Antitrust Division (OAG) - Answer to Petitions for Reconsideration [NON-PUBLIC]	April 12, 2018
MP - Response to OAG Discovery – Letter and parts 1, 2 & 3 [NON-PUBLIC]	April 17, 2018
MP – Response to PUC Staff Information Request #17	April 26, 2018

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

Table of Contents

I.	Statement of the Issues	1
II.	Background	1
III.	Minnesota Statutes and Commission Rules	3
IV.	Organization of Decision Alternatives	4
V.	2017 Federal Tax Act.....	4
A.	Background	4
B.	Department Request.....	5
C.	Minnesota Power (MP).....	6
D.	LPI.....	8
E.	CEO and ECC.....	8
F.	OAG	8
G.	Staff Comment	9
H.	Decision Alternatives	10
VI.	Alternatives for Using the Benefits from the 2017 Federal Tax Act.....	11
A.	Background	11
B.	CEO & ECC.....	11
C.	Staff Comment	12
D.	Decision Alternatives	12
VII.	Remaining Lives of Boswell Energy Center	13
A.	Background	13
B.	Commission Action	14
C.	Department of Commerce Request.....	14
D.	LPI Answer.....	15
E.	OAG Answer	15
F.	Clean Energy Organizations (CEOs) and Energy Cents Coalition (ECC) Answer	16
G.	Minnesota Power’s Response.....	17
H.	Staff Comment & Analysis	19
I.	Decision Alternatives	19
VIII.	Securitization	20
A.	Issue	20
B.	Background	20
C.	Commission Action	21
D.	Department of Commerce Request.....	21



E.	Clean Energy Organizations (CEOs) and Energy Cents Coalition (ECC) Answer	22
F.	LPI Answer.....	22
G.	Minnesota Power’s Response.....	23
H.	Staff Comment & Analysis	23
I.	Decision Alternatives	23
IX.	Generation Supervision & Engineering and Distribution Meter Reading	23
A.	Background	23
B.	Commission Action	24
C.	Minnesota Power’s Request.....	25
D.	Department Answer.....	26
E.	OAG Answer	27
F.	Staff Comment & Analysis	27
G.	Decision Alternatives	28
X.	Prepaid Pension Asset.....	28
A.	Background	28
B.	Commission Action	29
C.	Minnesota Power’s Request.....	30
D.	Department Answer.....	33
E.	LPI.....	35
F.	OAG.....	35
G.	Staff Comment & Analysis	35
H.	Decision Alternatives	36
XI.	Retirement Savings and Stock Ownership Plan (RSOP).....	36
A.	Background	36
B.	Commission Action	36
C.	Minnesota Power’s Request.....	37
D.	Department Answer.....	38
E.	OAG Answer	39
F.	Staff Comment & Analysis	39
G.	Decision Alternatives	40
XII.	Other Employee Benefits.....	40
A.	Background	40
B.	Commission Action	41
C.	Minnesota Power’s Request.....	41



D.	Department Answer.....	42
E.	OAG Answer	42
F.	Staff Comment & Analysis	43
G.	Decision Alternatives	43
XIII.	Transmission Capital Projects	43
A.	Background	43
B.	Commission Action	44
C.	Minnesota Power’s Request	45
D.	Answers to Minnesota Power’s Request	46
E.	Staff Comment & Analysis	47
F.	Decision Alternatives	47
XIV.	Third-Party Transmission Revenue and Expenses	47
A.	Background	47
B.	Commission Action	48
C.	Minnesota Power’s Request	48
D.	Department - Answer	50
E.	LPI - Answer.....	50
F.	OAG - Answer	50
G.	Staff Comment	51
H.	Decision Alternatives	51
XV.	Return on Equity (ROE)	51
A.	Background	52
B.	Commission Action	52
C.	Minnesota Power’s Request	54
D.	LPI’s Answer	55
E.	Department’s Answer	56
F.	OAG’s Answer	56
G.	Staff Comment & Analysis	57
H.	Decision Alternatives	57
XVI.	Request for Clarification of Decision to Reject Annual Rate Review Mechanism	57
A.	Background	57
B.	Commission Action	58
C.	Minnesota Power’s Request	58
D.	Department’s Answer	59



E.	Staff Comment	59
F.	Decision Alternatives	59
XVII.	Sales Forecast.....	59
A.	Background	59
B.	Commission Action	60
C.	Minnesota Power’s Request	61
D.	LPI’s Answer	62
E.	OAG’s Answer	62
F.	Department’s Answer	62
G.	Staff Comment & Analysis	63
H.	Decision Alternatives	63
XVIII.	Application of Cost-Based Principles to Revenue Apportionment.....	63
A.	Commission Decision	63
B.	LPI’s Request	64
C.	Answers.....	65
D.	Staff Comment & Analysis	65
E.	Decision Alternatives	65
XIX.	Energy-Intensive Trade-Exposed (EITE) Discount/Credit	65
A.	Commission Decision	66
B.	LPI Request.....	67
C.	Answers.....	68
D.	Staff Comment	68
E.	Decision Alternatives	68
XX.	Rate Design of the Large Light & Power Time-of-Use (LLP-TOU) Rider.....	68
A.	Background	69
B.	Commission Decision	69
C.	LPI’s Request	69
D.	Answers.....	69
E.	Staff Comment & Analysis	69
F.	Decision Alternatives	70
XXI.	Rate Design of the Large Power-Incremental Power Service (LP-IPS) Rider	70
A.	Background	70
B.	Commission Decision	70
C.	LPI’s Request	71



D.	Answers.....	71
E.	Staff Comment & Analysis	71
F.	Decision Alternatives	71
XXII.	Large Power Service.....	71
A.	Background	72
B.	Commission Action	73
C.	Minnesota Power’s Request	73
D.	Answers.....	74
E.	Staff Comment & Analysis	74
F.	Decision Alternatives	74
XXIII.	Final Rate Component Adjustments.....	75
A.	Background	75
B.	Minnesota Power’s Request	75
C.	Answers.....	75
D.	Staff Comment & Analysis	75
E.	Decision Alternatives	76
XXIV.	Clarification of Deadlines.....	76
A.	Commission Decisions	76
B.	Minnesota Power’s Request	77
C.	Answers.....	77
D.	Staff Comment & Analysis	77
E.	Decision Alternatives	77
XXV.	Decision Alternatives	78

I. Statement of the Issues

Should the Commission reopen, reconsider and/or clarify its March 12, 2018 Findings of Fact, Conclusions, and Order?

If the Commission reopens its March 12, 2018 Order in the rate case, should it also reopen its March 21 Depreciation Order (In the Matter of Minnesota Power's 2017 Remaining Life Depreciation Petition, Docket No. E-015/D-17-118)?

II. Background

On November 2, 2016, Minnesota Power ("MP" or the "Company") filed a general rate case with the Minnesota Public Utilities Commission (Docket No. E-015/GR-16-664). The Company requested a \$55,123,680 annual increase in its Minnesota retail electric rates, or approximately 9.1 percent, based on a rate of return on common equity capital of 10.25 percent, effective January 1, 2017.

Interim rates of \$34,732,113 (or approximately 5.60%) went into effect on January 1, 2017, were reduced to \$32,244,923 (or approximately 5.07%) on May 1, 2017, and will continue until final rates are implemented.

On March 12, 2018, the Minnesota Public Utilities Commission (Commission) issued its *Findings of Fact, Conclusions, and Order* (Order). This Order authorized Minnesota Power to increase its rates to allow for an additional \$12,616,113 in annual revenues, or approximately 1.95% per year, based on a rate of return on common equity capital of 9.25%.

On March 30, 2018, the Large Power Intervenors¹ (LPI) submitted their petition for reconsideration. LPI asked the Commission to reconsider its decisions related to using revenues from the Keewatin mining facility returning to service for the Energy-Intensive Trade-Exposed (EITE) customer discount, the apportionment of responsibility for MP's revenue requirement to the customer classes, the terms of service for the LLP time-of-use (TOU) rider, and the terms of service for the LP Incremental production Service (IPS).

On April 2, 2018, Minnesota Power submitted its petition for reconsideration and request for clarification. MP asked the Commission to reconsider its decisions authorizing a 9.25% rate of return on common equity capital (ROE), and requiring a sales forecast with a relatively high customer utilization rate. MP also asked the Commission to reconsider its decisions disallowing certain expenditures on operations and maintenance: (1) Generation Supervision & Engineering and Distribution Meter Reading, (2) Employee and Retiree Benefits related to the (a) Prepaid

¹ The Large Power Intervenors (LPI) is an ad hoc group of large industrial end users of electric energy consisting of ArcelorMittal USA (Minorca Mine); Blandin Paper Company; Boise Paper, a Packaging Corporation of America Company, formerly known as Boise, Inc.; Enbridge Energy, Limited Partnership; Gerdau Ameristeel US Inc.; Hibbing Taconite Company; Mesabi Nugget Delaware, LLC; Sappi Cloquet, LLC; USG Interiors, LLC; United States Steel Corporation (Keetac and Minntac Mines); United Taconite, LLC; and Verso Corporation.

Pension Asset, (b) Retirement Savings and Stock Ownership Plan, and (c) Other Employee Benefits, (3) Transmission Capital Projects, and (4) Third-Party Transmission Revenue and Expenses. MP also asked for clarification related to its proposal for an Annual Rate Review Mechanism (ARRM), elements of the Large Power Service (LPS), changes to various class rate schedules, and the “date” of the Commission’s final order.

Also on April 2, 2018, the Minnesota Department of Commerce, Division of Energy Resources (the Department or DOC) submitted its requests for reconsideration. In its petition, the Department asked the Commission to reopen (and rehear) its March 12 Order to address the effects of the reduction in corporate income taxes resulting from the 2017 Federal Tax Cut and Jobs Act (TCJA). Because of the reduction in expenses from these tax saving, the Department asked the Commission to reconsider its decision to provide rate relief by extending the depreciable (accounting) life of the Boswell Energy Center Units 3 & 4 and the Boswell Common facilities to 2050. The Department no longer believes the BEC 3 & 4 and Common facilities life extension to 2050 and the securitization plan are necessary.

Answers to these petitions were submitted on April 9 by the Department, and on April 12 by MP, LPI, the Department, the Minnesota Office of the Attorney General – Residential Utilities and Antitrust Division (OAG), and jointly the Clean Energy Organizations² and Energy CENTS Coalition.

The Commission received one public comment letter on April 10, from Minnesota Utility Investors (MUI), in support of MP’s request for reconsideration.

The table below provides a guide to the party positions by issue.

Issue	Party Requesting Reconsideration	Party Answering	
		In Favor of Reconsideration	Against Reconsideration
Recognition of the 2017 Federal Tax Act (TCJA)	DOC	OAG, CEOs & ECC	MP (qualified support but consider in tax docket), LPI
Depreciable Life of BEC Units 3 & 4 and Boswell Common facilities	DOC	MP (qualified support), OAG, CEOs & ECC	LPI
Securitization Plan	DOC	MP (qualified support)	LPI, CEOs & ECC, OAG
Generation Supervision & Engineering and Distribution Meter Reading	MP		DOC, OAG, LPI

² The Clean Energy Organizations is an ad hoc group of environmental organizations consisting of Fresh Energy, Minnesota Center for Environmental Advocacy, Sierra Club, and Wind on the Wires.

Issue	Party Requesting Reconsideration	Party Answering	
		In Favor of Reconsideration	Against Reconsideration
Employee and Retiree Benefits <ul style="list-style-type: none"> • Prepaid Pension Asset • Retirement Savings and Stock Ownership Plan • Other Employee Benefits 	MP		DOC, OAG, LPI
Transmission Capital Projects	MP		DOC, OAG, LPI
Third-Party Transmission Revenue & Expenses	MP		DOC, OAG, LPI
Return on Equity	MP		DOC, OAG, LPI
Sales Forecast	MP		DOC, OAG, LPI
Class Revenue Apportionment – Application of Cost Based Principles to Revenue Apportionment	LPI		DOC, OAG
Energy-Intensive Trade-Exposed (EITE) Discount/Credit – Shift of Revenue from the Rate Case to the EITE Tracker	LPI		MP, DOC, OAG
LLP Time-of-Use (TOU) Rider	LPI		DOC
LP Incremental Production Service (IPS)	LPI		DOC

III. Minnesota Statutes and Commission Rules

Petitions for reconsideration are subject to Minn. Stat. § 216B.27, and Minn. Rules, part 7829.3000. Petitions for reconsideration are denied by operation of law unless the Commission takes action within sixty days of the request. If the Commission takes no action on LPI's, MP's or the Department's petitions, their requests are considered denied as of May 29, 2018 (for LPI) and June 1, 2018 (for MP and the Department). The Commission may also take specific action to deny the requests.

If the Commission takes up a party's request for reconsideration, the Commission can: (1) grant reconsideration, and (a) affirm, (b) modify or (c) reverse its initial March 12 decision, or (2) deny the petition for reconsideration and thereby affirm the March 12 decision. The Commission may also rehear or reconsider its March 12 Order on its own motion.

If the Commission grants LPI's March 30 request for reconsideration, it should grant, pursuant to Minn. Rule 7829.1275, OAG's unopposed request for a variance to Minn. Rule 7829.3000, Subpart 4, to answer LPI's request in OAG's April 12 filing rather than in a separate answer on April 9 as did the Department.

The Commission may also reopen its March 12 Order in the future pursuant to Minn. Stat. § 216B.25.

If the Commission grants one of the parties' requests for reconsideration or on its own motion decides to reconsider its Order, then the Commission may want to take up one or more of the following issues.

IV. Organization of Decision Alternatives

The decision alternatives for granting or denying petitions to reopen or reconsider the March 12 Order are at the end of the briefing papers starting with decision alternative one.

If the Commission decides to reopen, reconsider or clarify its March 12 Order, there are issues specific decision alternatives at the end of each section of the briefing papers.

These decision alternatives are numbered consecutively and match the numbering of the decision alternatives in the deliberation outline which is a separate document.

V. 2017 Federal Tax Act

PUC Staff: Sundra Bender and Jorge Alonso

Should the Commission reopen the record to consider the effects of the 2017 Federal Tax Act?

A. Background

MP filed its rate increase request on November 2, 2016 with a 2017 test year. On December 22, 2017, the President of the United States signed into law Pub L. 115-97 (H.R. 1—115th Congress: An Act to provide for reconciliation pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal-Year 2018), which will be referred to herein as the 2017 Federal Tax Act, or the Act. On December 29, 2017, the Commission sent out a NOTICE OF COMMISSION INVESTIGATION INTO THE EFFECT OF THE 2017 FEDERAL TAX ACT ON UTILITY RATES AND SERVICES in Docket No. E, G-999/17-895 (the Tax Docket or the TCJA Docket).

On January 11, 18 and 30, 2018, the Commission met to consider and deliberate on Minnesota Power's rate case, in this docket. On March 12, 2018 the Commission issued its Findings of Fact, Conclusions, and Order (Rate Case Order).

On January 19, 2018, the Commission issued a Notice of Request for Information, Commission Planning Meeting, and Subsequent Comment Period in the Tax Docket. The Commission subsequently issued a Notice that required all rate regulated energy utilities to provide their initial filings regarding the effects of the 2017 Federal Tax Act by March 2, 2018 and required initial comments to these filings by March 30, 2018, and reply comments by April 20, 2018.

In its March 2, 2018 filing in the Tax Docket, MP provided the estimated impact of the 2017 Federal Tax Act on its 2017 Minnesota jurisdictional revenue requirements. According to MP, the estimated impact of the lower federal income tax rate on the 2017 cost of service, along

with the benefit from refunding over-collected ADIT and corresponding impacts on rate base, results in a reduction in revenue requirements of \$23,637,241.

B. Department Request

The Department recommends that the Commission reopen the record and

... take notice of material new information about the enactment of the 2017 Tax Act, specifically the estimated \$23.6 million total revenue requirement impact (for both rate case and riders) and the Department's recommendation regarding the current period tax refund with tax gross-up of \$18.7 million (as discussed in the Department's March 30 Tax Comments).³

The Department recommends that the impacts to Minnesota Power of the 2017 Federal Tax Act be addressed in part by removing a large portion or all of the rate mitigation measure in the rate case regarding the remaining lives of Boswell Units 3 and 4 and the Common facilities.

The Department stated:

In this case, the enactment of the 2017 Tax Act is a certainty, and its effect on the March 12, 2018 Rate Case Order and the March 21, 2018 Depreciation Order are not reasonably disputable.⁴

... In this case, the Commission should take into account material new information about the enactment of the 2017 Tax Act, and its effect of decreasing MP's revenue requirements by \$18.7 million⁵ due to the current period annual tax expense refund, as is discussed below, and should reconsider the March 12, 2018 Rate Case Order and the March 21, 2018 Depreciation Order.⁶

The Department requests:

that the current period tax refund of \$18.7 million be given back to ratepayers in MP's rate case by resetting MP's rates to reflect lower current federal income taxes, and adding to the interim rate refund the monthly portions of the \$18.7 million amount for the period in 2018 prior to when final rates are set. A reduced depreciation life of Boswell Units 3 and 4 and the Common facilities to 2035 would increase MP's revenue requirements by \$17.0 [million], which could be offset by the current period tax refund of \$18.7 million (either in the rate case of [sic] the

³ Department's April 2, 2018 Request for Reconsideration at p. 5.

⁴ Department April 2, 2018 Request for Reconsideration at p. 6.

⁵ Note that this amount does not include the amortization of excess accumulated deferred income taxes, as discussed in the Department's March 30 Tax Comments [Docket No. E,G-999/CI-17-895].

⁶ Department April 2, 2018 Requests for Reconsideration at p. 7.

Tax Docket). If it is adopted by the Commission, this proposal would result in a net reduction to MP's revenue requirements of \$1.7 million.⁷

The Department also recommended that the Commission consider not requiring securitization of Boswell Units 3 and 4 and the Common facilities, if the Commission approves the shorter remaining life of 2035.

C. Minnesota Power (MP)

MP states that:

... the Department's proposal warrants attention in light of the new facts around the Company's financial position and new information in the Department's Requests for Reconsideration, although certain refinements are critical to Minnesota Power's financial position and long-term investor outlook.

MP also states that the Department's proposal can be helpful if implemented with certain refinements and the consideration of certain principles. With respect to the Federal Tax Act, MP

... asks the Commission to make corporate income tax-based changes to Minnesota Power rates solely within the context of the TCJA Docket, rather than in this rate case.

MP states:

Minnesota Power does not object to utilizing the impact of tax reform to offset the Boswell depreciation life change and final rates, effective January 1, 2018. Nor does the Company object to applying the full benefits of tax reform as the offset, which Minnesota Power estimates to be \$23.6 million, to reflect changes in deferred tax asset values and amortization, rather than the lesser \$18.7 million recommended by the Department at this time. Additionally, the Company believes tax reform changes can be implemented before or coincident with final rates and interim rate refunds to effectively mitigate other rate increases. However, there are several reasons why the tax-related change should be decided within the tax reform docket before application to rate case outcomes:

- a. While the Boswell depreciation life was fully explored in the record in the rate case, the effects of the TCJA were not explored at all. Nor were the impacts of the TCJA known or applicable during the 2017 test year.
- b. The impacts of the TCJA, which was effective January 1, 2018, after the end of the test year, should not technically be part of the "interim rate

⁷ Id at p. 12.



refund” for the rate case; rather, they are an offset to interim and final rates that is not part of the case itself.

- c. The Commission has not yet conducted proceedings on the specific tax calculations offered by the utilities, nor other intervening parties’ reply comments, in the TCJA Docket. Among the undecided issues is the extent to which recalculated excess deferred income tax assets and liabilities should be applied to ratemaking (along with changes in the corporate income tax rate), and if so, how. Minnesota Power is committed to ensuring customers receive the full benefits of the TCJA; the Company simply believes that such questions should be fully explored and answered in the TCJA Docket, to create some common understandings and equitable treatment for all Minnesota utilities.
- d. Revenue requirement revisions due solely to federal tax reform could be premature, given that Minnesota utilities’ annual state taxes could change materially if the Minnesota tax system is overhauled during the 2018 Minnesota legislative session. Among the issues currently before the legislature is whether to align the Minnesota taxation system with the federal system, which could result in substantial increases in Minnesota corporate income taxes. [Footnote omitted.]

The legislative session is constitutionally required to end by May 21, 2018. Waiting to make TCJA-based changes to utility revenue requirements until the legislative session comes to a close could avoid unintended consequences – namely, reducing utility revenue requirements based on federal tax changes, only to drive the utilities into new rate cases based on state tax changes.

- e. Even with the tax rate change being implemented in the tax reform proceeding, it is likely that decisions in the TCJA Docket and implementation of final rates in the rate case will align, allowing all the combined effects of the TCJA Docket and the 2035 BEC3, BEC4, and the Common facilities’ depreciation life to flow to customers (effective January 1, 2018) with the implementation of final rates.

MP recommends:

(i) acceptance of the Department’s Boswell proposal as modified [by MP], along with (ii) sufficient reconsideration of the Company’s underlying revenue requirement to put Minnesota Power in a more tenable financial position and (iii) preservation of the Company’s recovery of the EITE tracker balance, based on (iv) assumed implementation of final rates on or about December 1, 2018. These outcomes, combined with the rate reductions afforded by pending BEC4 Rider and 2018 RRR filings, can provide just and reasonable rates for customers while also improving the Company’s investment status and prospects.

D. LPI

LPI requests that the Commission reject the Department's Petition.

The Department does not raise any materially new information and its proposal deprives ratepayers from benefits of rate mitigation in this proceeding and rate reduction stemming from the 2017 Federal Tax Act in a separate docket as well as the opportunity to further explore securitization as a rate mitigation tool.

According to LPI:

The Commission created a mutually beneficial situation for ratepayers and the Company when it approved the proposal to extend the accounting life of Boswell Units 3 and 4 to 2050, and ordered the Company to begin exploring securitization plans for Boswell. The direction to begin analysis and potential development of a securitization proposal is a positive development. LPI does not believe it would be prudent to forego this opportunity simply because rate mitigation has come in the form of the 2017 Federal Tax Act.

To support its proposal, the Department requests that the Commission take notice of "material new information about the enactment" of tax reform. As the Commission is well aware, the 2017 Federal Tax Act was previously addressed by LPI and others in the rate case. To be sure, LPI specifically requested that the Commission take notice of the 2017 Federal Tax Act, while maintaining its positions regarding securitization and the accounting lives of Boswell Units 3 and 4. ..., all parties involved understood that ratepayers would be entitled to a refund due to the 2017 Federal Tax Act. It is also clear that this issue will be addressed in a separate docket (or dockets). Simply introducing estimates of the refund amounts does not amount to material new information that justify modifying the Order. [Citations omitted.]

E. CEO and ECC

The Clean Energy Organizations (CEO) and the Energy CENTS Coalition (ECC) support the Department's request for reconsideration and proposal to use MP's current tax period refund to reduce the depreciation life of Boswell Units 3 and 4 and the Common facilities to 2035. However, they continue to support exploring securitization as a tool to address stranded fossil-fuel investments in the state and recommend that the Commission decline the Department's request to amend the Order with regard to securitization. Further, CEO and ECC recommend that the remaining \$1,733,043 in revenues in the Department's proposal be used to support affordability for low-income customers and advance low-income single family and multifamily energy efficiency programs in MP's service territory.

F. OAG



The OAG stated that:

The Commission should accept, or move on its own authority, the Department's recommendation to reverse the extension of depreciation remaining lives for BEC, and incorporate the effects of federal tax reform, and deny the Department's proposal to cancel the requirement for a securitization proposal. These changes would have a net impact of reducing the revenue requirement by \$1.7 million, which should be incorporated into MP's calculation of final rates. If the Commission does reconsider issues related to BEC, it should also consider whether it is appropriate to use some form of incentive to ensure that MP brings a workable securitization proposal.

The OAG stated:

The Department's recommendation to reverse the decision on BEC, and incorporate tax reform, essentially adopts two positions that were recommended by the OAG. In this proceeding, the OAG recommended that the Commission deny MP's request to extend BEC; in Docket 17-895, the OAG recommended that the Commission require utilities to return the proceeds of reduced federal taxes to ratepayers. The Department's recommendation would effectively adopt the OAG's position on these two issues, and for that reason the OAG recommends that the Commission reconsider its decisions on BEC and tax reform. At the time the Commission made its decision in this rate case, the Department had not yet calculated the precise amount of the rate reduction related to tax reform. Those figures are now available, and they are a new fact that justifies reconsideration on a limited set of issues.

Even though in its testimony and briefing, the OAG recommended that the Commission leave the remaining lives of BEC as they are currently set – 2034 for BEC 3, 2035 for BEC 4, and 2030 for the Common facilities, the OAG stated here that “Based on all of the facts, the OAG does not object to setting BEC 3, 4, and the Common facilities all at 2035” as the Department recommended.

The OAG stated that securitization is a creative proposal that *may* provide a workable solution for varied interests. The Commission's decision to order MP to put forth a securitization proposal is an important first step, and it would not be reasonable to go backwards when there is an opportunity for progress on the issue. However, “the Commission may want to consider the incentives that MP has to provide a reasonable securitization proposal.”

For example, the Commission could reduce the ROE earned on BEC, or a portion of BEC, or disallow a portion of depreciation expense, if MP fails to bring a workable proposal. In order to provide a strong incentive to MP, the Commission may want to put the Company on notice about what will happen if the securitization proposal is not acceptable.

G. Staff Comment

The Commission needs to decide whether it wishes to reopen the record at this time to incorporate the effects of federal tax reform into this rate case, or to let decisions surrounding the effects of federal tax reform play out in the tax docket, and then reopen this rate case record and March 12 Order (pursuant to Minn. Stat. § 216B.25), if necessary.

Staff believes if the Commission does wish to reopen this record to incorporate the effects of tax reform into this rate case, the Commission may want parties to develop a more certain and complete record on the tax issue. If so, the Commission could consider directing staff to send out a notice requesting comments and reply comments on the issues surrounding the tax issue. Or, the Commission could send this issue back to the Office of Administrative Hearings for more record development.

Alternatively, if the Commission wishes to decide this issue now, without further record development, it would need to decide what amount of impact it wishes to incorporate (e.g. the full \$23,637,241, or the current period annual tax expense refund of approximately \$18.7 million); the date at which it wishes to incorporate the effect; and what it wants to do with the reduction – such as decrease rates, offset some with an increase in depreciation for Boswell Units 3 and 4 and Common facilities by shortening the remaining lives for depreciation purposes, increasing the budgets for the CARE program low-income multifamily CIP offerings and expanding the budgets broadly for low-income CIP efforts.

Lastly, if the Commission does not wish to reopen the record to incorporate the effect of federal tax reform at this point in time, the Commission could reopen its March 12 Order sometime in the future, pursuant to Minn. Stat. § 216B.25. Regardless, the Commission can deny reconsideration of Boswell remaining lives at this time or reconsider the Boswell remaining life issue. If the Commission denies the requests for reconsideration of Boswell remaining lives at this time, it can, on its own motion reopen the rate case record to adjust the accounting lives of Boswell sometime in the future at the time it makes a decision in the tax docket if that is the decision the Commission wants to make.

H. Decision Alternatives

10. Reopen the record of this rate case now to consider the effects of the 2017 Federal Tax Act in the rate case revenue requirement. [Department, OAG, CEO and ECC]
11. Deny the Department's request to reopen the record to take notice of the estimated revenue requirement impact of the 2017 Federal Tax Act in this rate case. [MP, LPI]
12. If the Commission reopens the record to consider the effects of the 2017 Federal Tax Act:
 - a. Direct staff to send out a notice requesting comments and reply comments on this issue; or



- b. Send this issue back to the Office of Administrative Hearings for more record development on the issue of incorporating the impact of tax savings into this rate case; or
- c. Make specific determinations now.

VI. Alternatives for Using the Benefits from the 2017 Federal Tax Act

PUC Staff: Sundra Bender/Ann Schwieger

Should the Commission consider the CEO & ECC proposal to increase funding for MP's programs for low-income customers?

A. Background

If the Commission reopens its March 12 Order now to incorporate the effect of the 2017 Federal Tax Act, it may also want to consider what would be the best use of the tax savings.

The Department recommends the Commission reconsider its Boswell remaining lives decision which would use most but not all of the tax savings. MP indicated qualified support for this alternative if this decision is made in the future. OAG and the CEOs & ECC support the Department's position. LPI does not.

B. CEO & ECC

CEO and ECC state that the Department determined that if the Commission approves accelerating depreciation of Boswell Units 3 and 4 and Common facilities to 2035 using funds related to the Tax Cut and Jobs Act (TCJA), there will be a reduction in MP's revenue requirement of \$1.7 million. CEO and ECC recommend using the \$1.7 million in reduced revenue requirement to increase the budget for the Customer Affordability of Residential Electricity (CARE) program, develop comprehensive low-income multifamily Conservation Improvement Program (CIP) offerings, and expand budgets broadly for low-income CIP efforts.

Specifically:

- **CARE-** CEO and ECC assert that more than doubling the CARE credit is achievable using tracker balance funds and \$1,033,043 in unused tax revenues from the Department's proposal, and "will provide near-term assistance to low-income, high-usage residential customers, furthering the Commission's order in the last rate case." CEO and ECC "recommend that the Commission require Minnesota Power to develop and file a plan to significantly increase the CARE credit in its next CARE annual report for the Commission's consideration."



- **Low-income multifamily CIP** – CEO and ECC “recommend that up to \$400,000 of the unused tax revenues be directed to building a comprehensive dedicated low-income multifamily program that includes but goes beyond direct install measures.” They recommend that MP “direct unused tax revenues to begin expanding this program in 2018, reporting on progress in its 2018 CIP Annual Report to be filed April 1, 2019, and include a comprehensive proposal in its 2020-2022 CIP Triennial Plan to be filed June 1, 2019.”
- **Low-income CIP** – CEO and ECC recommend that \$300,000 of the unused tax revenues be directed to expanding MP’s low-income CIP programs to provide both near-term and long-lasting benefits to these customers. They “recommend that Minnesota Power direct unused tax revenues to begin expanding low-income CIP programs in 2018, report on progress in 2018 CIP Annual Reports to filed April 1, 2019, and include a comprehensive proposal in its 2020-2022 CIP Triennial Plan to be filed June 1, 2019.”

C. Staff Comment

CEO and ECC submitted their proposal in their Answer to the Department’s petition for reconsideration. None of the other parties have had an opportunity to comment on the CEO & ECC proposal. If the Commission would like a record developed on this issue or alternatives to the Department’s proposal, it could do that now if the March 12 Order is reopened.

Alternatively, the question about how to pass the benefits of the 2017 Federal Tax Act back to ratepayers is actively under discussion in the TCJA Docket.

Staff also notes that in its January 5, 2018 Order⁸ on MP’s CARE program the Commission stated that it

... expects the utility to focus additional attention on its public outreach efforts. To this end the Commission will direct Minnesota Power, in coordination with the Commission’s Consumer Affairs Office, to meet with the Energy CENTS Coalition and nonprofit organizations within Minnesota Power’s service territory to discuss potential improvements to the CARE Program, coordination with LIHEAP, and how best to enhance its outreach to the public.

D. Decision Alternatives

13. If the Commission reopens its March 12 Order now, it could

⁸ ORDER ACCEPTING FIFTH ANNUAL REPORT AND PROGRAM CHANGES, AND REQUIRING MEETINGS, In the Matter of Minnesota Power’s Fifth Annual Report for its Pilot Rider for Customer Affordability of Residential Electricity (CARE) Program, Docket No. E-015/M-11-409, January 5, 2018, p. 6



- a. Direct staff to send out a notice requesting comments and reply comments on alternatives for using the benefits from the 2017 Federal Tax Act; or
 - b. Send this issue back to the Office of Administrative Hearings for more record development on the issue of alternatives for using the benefits from the 2017 Federal Tax Act; or
 - c. Make specific determinations now.
14. Take no action now with the expectation that this issue concerning alternatives for using the benefits from the 2017 Federal Tax Act will be discussed in the TCJA Docket and in the future in this docket if, and when, the Commission reopens its March 12 Order.

VII. Remaining Lives of Boswell Energy Center

PUC Staff: Ann Schwieger

Should the Commission reconsider its decision to set the remaining accounting lives of Boswell Units 3 and 4 and the Common facilities at 2050?

A. Background

In the rate case, Minnesota Power proposed to consolidate the lives of its Boswell Energy Center (BEC) Units 1-4 and Common facilities into one Unit and extend the life of the BEC Unit to 2050. Minnesota Power's request for a life extension was two-fold, a significant multi-emission retrofit work on BEC Units 3 & 4 has been completed and the extension would reduce the annual costs of BEC for customers.

The following Table summarizes the interested parties' positions in the rate case and their recommended depreciable lives of the Boswell Units.

	Units 1&2	Units 3&4	Common
MP	2050	2050	2050
ALJ	2022	2035	2035
Chamber	2050	2050	2050
CEO	2024	2034 & 2035	2030
Department	2022	2050	2050
LPI	2050	2050	2050
OAG	No Recommendation	2034 & 2035	2030

In its March 12, 2018 Order, the Commission determined that the accounting lives of Boswell Units 1 & 2 should be set at 2022 and the accounting lives of Boswell 3 & 4 and the Common facilities should be set at 2050. The Commission made its intention clear that setting the lives of Units 3 & 4 and the Common facilities at 2050 was implemented as a rate mitigation tool, primarily by decreasing depreciation expense.



Minnesota Power additionally filed its 2017 Remaining Life Depreciation Petition in Docket No. E-015/D-17-118. In the depreciation docket, the remaining accounting life for Boswell Units 3 & 4 and the Common facilities was set at 34 years, or 2050 to match the Commission's decision in the rate case.

B. Commission Action

Commissioner Lipschultz moved that the Commission:

- Set the remaining accounting lives for Boswell Units 1 and 2 at 2022. Set the remaining accounting life of Units 3 and 4 and the Common facilities at 2050. Vary the rules that require Unit 3 and Unit 4's accounting lives to match their probable service lives. The variance shall remain in effect until terminated by the Commission. The extension of the accounting life of Units 3 & 4 does not extend the service or operational life of these facilities.
- Order the Company to file with the Commission a securitization plan for the Boswell units within two years of the date of the final order in this case.

The motion passed 5–0.

C. Department of Commerce Request

The Department recommends that the Commission reconsider its decision regarding Units 3 & 4 and the Common facilities as a way to address the implications of the 2017 Tax Act. The reduction in rates caused by the 2017 Tax Act indicates that there is no longer a need for Minnesota Power's rate mitigation measure.

The Department stated that it is not proposing any changes to the remaining lives of Boswell Units 1 & 2. For Units 3 & 4 and the Common facilities, the Department is asking the Commission to consider a remaining life of 2035 instead of 2050. The Department stated that setting the remaining life at 2035 would increase Minnesota Power's revenue requirement by \$17 million, which would be netted against the decrease in current period annual tax expense of \$18.7 million.

The Department argues that resetting Minnesota Power's rates in the rate case would be the most straight-forward approach. The Department stated that the \$18.7 million could be returned to ratepayers in the rate case by:

1. Resetting the rates to reflect lower current federal income taxes, and
2. Adding to the interim rate refund the monthly portions of the \$18.7 million for the period in 2018 prior to when final rates are set.

The Department noted that if the remaining lives of Boswell Units 3 & 4 and the Common facilities was shortened from 2050 to 2035, the change would also need to be reflected in the 2017 depreciation filing by setting the remaining life to 19 years.



The Department stated its proposal to set the lives of the facilities at 2035 provides several benefits:

1. Compared to the rate moderation proposal, a better matching of the operating life with the rate recovery and depreciation life and as a result less intergenerational subsidies;
2. Avoid a requirement that Minnesota Power reduce its rates below those that existed prior to the rate case (a “rate roll-back”), due to the current period tax refund of \$18.7 million exceeding the currently approved revenue deficiency of \$12.6 million;
3. Consistency with the recommendations of other parties – Office of Minnesota Attorney General – Residential Utilities and Antitrust Division and the Minnesota Center for Environmental Advocacy not to extend the Boswell lives in this rate case, even for ratemaking purposes;
4. Potential to eliminate the need for securitization;
5. Address the majority of the effects on rates due to the 2017 Tax Act; and
6. Providing a balanced and reasonable approach that considers both Minnesota Power’s ratepayers and shareholders.

As an alternative, the Department stated that the Commission could approve the prior depreciation lives of 2034 for Unit 3, 2035 for Unit 4 and 2030 for the Common facilities.

D. LPI Answer

The Large Power Intervenors (LPI) argue that no new information was presented in the Department’s Petition for Reconsideration and that there is not a valid reason for the Commission to unwind its rate mitigation decision. The LPIs stated that the Commission has created a mutually beneficial situation for ratepayers and the Company when it approved the life extension of Boswell Units 3 & 4 and Common facilities. The LPI’s request that the Commission reject the Department’s Petition for reconsideration.

E. OAG Answer

OAG stated, on pp. 28 through 30, in its Answer to the Department:

The Commission should reconsider its decision regarding the depreciation remaining life of BEC because the Department has identified new facts that merit reconsideration—namely, the Department has provided a specific calculation for the impact of federal tax reform. While the Department testified during the case, and argued in its Brief, that reason it supported a BEC extension was that it believed “the facilitates would operate until 2050,” the Department now acknowledges that its purpose was one of rate mitigation. According to the Department’s reasoning, that rate mitigation is no longer necessary because federal tax reform can provide similar rate mitigation without the additional side effects caused by changing depreciation rates.



The Department's recommendation to reverse the decision on BEC, and incorporate tax reform, essentially adopts two positions that were recommended by the OAG. In this proceeding, the OAG recommended that the Commission deny MP's request to extend BEC; in Docket 17-895, the OAG recommended that the Commission require utilities to return the proceeds of reduced federal taxes to ratepayers. The Department's recommendation would effectively adopt the OAG's position on these two issues, and for that reason the OAG recommends that the Commission reconsider its decisions on BEC and tax reform. At the time the Commission made its decision in this rate case, the Department had not yet calculated the precise amount of the rate reduction related to tax reform. Those figures are now available, and they are a new fact that justifies reconsideration on a limited set of issues.

There is one technical difference between the Department's Petition and the OAG's prior position on BEC. In its testimony and briefing, the OAG recommended that the Commission leave the remaining lives of BEC as they are currently set—2034 for BEC 3, 2035 for BEC 4, and 2030 for the Common facilities. The Department proposes to set them all at 2035. This Department would primarily add one year to BEC 3. Returning the lives to their current positions would be more consistent with the Commission's Rules, but the Commission has already varied those rules in its Order. Setting the lives at 2035 would be simpler, in some ways, and, as the Department has noted, would reduce rates slightly compared to the revenue requirement set in the Order. Based on all of the facts, the OAG does not object to setting BEC 3, 4, and the Common facilities all at 2035.

[Footnotes omitted]

F. Clean Energy Organizations (CEOs) and Energy Cents Coalition (ECC) Answer

The CEOs and ECC expressed their support of the Department's request for reconsideration and proposal to use Minnesota Power's tax refund to reduce the depreciation life of Boswell Units 3 & 4 and the Common facilities to 2035.⁹ In its April 2, 2018 request for reconsideration, the Department provided the basis for its request for rehearing the Commission's March 12 Order in the instant case, citing material new information related to the 2017 Tax Cut and Jobs Act ("TCJA") that is pertinent to revenue requirement and plant depreciation issues in the Commission's Order.¹⁰

The Department's proposal is largely consistent with CEO's position in the instant case that extending the remaining accounting lives of BEC Units 3 and 4 and Common facilities beyond their useful service lives jeopardizes future ratepayers when more favorable options are available,¹¹ and with CEO's recommendation in the tax docket that TCJA funds be used to

⁹ Minnesota Department of Commerce Requests for Reconsideration, April 2, 2018 at 12.

¹⁰ Id. at 5.

¹¹ CEO Direct Testimony of Uday Varadarajan, Docket No. E015/GR-16-664, May 31, 2017 at 2.



accelerate depreciation on Boswell Units 3 and 4 and Common facilities.¹² In addition, this proposal is consistent with the Administrative Law Judge's recommendation in the instant case.¹³ Finally, as discussed below, the Department's proposal results in a \$1.7 million reduction in Minnesota Power's revenue requirement, avoiding the need to increase rates to accelerate depreciation.¹⁴

For these reasons, CEOs and ECC support the Department's requests for reconsideration and proposal to use tax refund dollars to accelerate depreciation on BEC Units 3 and 4 and Common facilities to 2035.

G. Minnesota Power's Response

Minnesota Power stated that the Department's proposal could be helpful if implemented with certain refinements.

If the Commission is inclined to reconsider BEC3, BEC4, and the Common facilities' depreciation life, Minnesota Power respectfully requests that it return the units' common depreciation life to 2035 effective at the end of the 2017 test year – that is, as of January 1, 2018.

Minnesota Power stated it is making this request to not disturb the change in Boswell's depreciation life for 2017 for the following reasons:

- a. The TCJA income tax rate change is only effective as of January 1, 2018. Effectuating the 2035 timeframe for Boswell's depreciation life on January 1, 2018 would align this depreciation change with the effective date of the TCJA.
- b. The Company has already closed its books for 2017, and a retroactive change back to 2017 would result in a significant earnings impact.
- c. Reducing the depreciation life of Boswell to 2035 at the beginning of 2018, rather than the beginning of 2017, preserves a substantial portion of customers' interim rate refund amount for 2017.¹⁵
- d. Finally, this approach alleviates the need for reconsideration of the Commission's March 21, 2018 Order in the Company's 2017 depreciation docket (Docket No. E015/D-17-118); rather, depreciation could be adjusted in the 2018 depreciation docket (Docket No. E015/D-18-226), effective January 1, 2018.

¹² CEO Initial Comments, Docket No. E,G-999/CI-17-895, March 30, 2018 at 6.

¹³ Office of Administrative Hearings Findings of Fact, Conclusions of Law, and Recommendations, November 11, 2017 at 69.

¹⁴ Minnesota Department of Commerce Requests for Reconsideration, April 2, 2018 at 10.

¹⁵ Minnesota Power anticipates interim rates in the present proceeding will be in effect until roughly December 1, 2018.



Minnesota Power stated that the Department's proposal has several benefits with the two modifications explained above, namely: (1) the new depreciable lives for BEC3&4 and the Common facilities should change to 2035, effective January 1, 2018 and (2) any determination as to the impacts of tax reform should be decided in the TCJA Docket. One of the benefits of the Department's proposal is that by shortening the depreciation life of these BEC units, the Company will have an increased cash flow from operations that will somewhat improve the Company's FFO/Debt ratio, a key metric in the debt market. While it is still necessary for the Commission to reconsider its reductions to several of the test year expenses (as outlined in Minnesota Power's Petition for Reconsideration) for the Company to have the opportunity to earn its authorized ROE, modification of the depreciable lives of the BEC units would improve this ratio and the Company's debt market standing.

Minnesota Power stated that another benefit of the Department's proposal is that by setting the depreciation life of BEC3, BEC4, and the Common facilities closer in line with the expected service life, is that there is no longer a need for a variance of the Commission's depreciation accounting rules. The Commission's depreciation accounting rules require that the depreciable life of an asset be reasonably related to its operational life. The Commission's March 12, 2018 Order justified varying these rules because extending the depreciation life of Boswell was a rate mitigation tool that would prevent an "excessive burden" from being imposed on ratepayers in the form of a steep rate increase.¹⁶ However, given the Commission sharp reduction to several of the Company's test year expenses, there is no longer the need to vary the Commission's depreciation rules to provide rate moderation for Minnesota Power's customers.

Finally, rather than adopting a singular 2035 depreciation life for these facilities, the Department also noted that, in the alternative, the Commission could revert to the previously approved depreciation lives for BEC3, BEC4, and the Common facilities. This would set a depreciable life of 2030 for the Common facilities, 2034 for BEC3, and 2035 for the Department providing options for the Commission to consider, one of the goals of resetting the depreciable lives of these units was to set a reasonable, uniform depreciable life for these units.

Minnesota Power explained, while BEC is made up of four units, these units share critical infrastructure such that it is appropriate to set a single, common depreciable life.¹⁷ Not only does setting a single life make sense from an operational perspective, but it is also much simpler from an accounting and regulatory records standpoint. In addition, it makes little sense for the Common facilities to have a shorter life than the Units they support. As a result, Minnesota Power requests that if the Commission modifies the depreciation life of BEC3, BEC4, and the Common facilities, it utilize the same year, 2035, rather than different years.

¹⁶ March 12, 2018 Order at 14. ("The Commission finds that enforcing Minn. R. 7825.0500 would impose an excessive burden upon ratepayers by contributing close to \$22 million to the overall rate increase in this case.")

¹⁷ Ex. 40 at 19 (Minke Direct); Ex. 46 at 16-17 (Skelton Rebuttal) ("It is appropriate to combine all of BEC into one remaining life because the BEC units are not stand-alone units. Rather, all of the units share critical infrastructure making it difficult for them to be separated.").

H. Staff Comment & Analysis

The Commission needs to decide whether it wishes to reopen the record to incorporate the effects of federal tax reform into this rate case, or to let decisions surrounding the effects of federal tax reform play out in the tax docket, and then reopen the rate case record if necessary.

In the rate case Order, the Commission determined that it was necessary to grant a variance to its depreciation accounting rules in order to set the remaining life of Units 3 & 4 and the Common facilities at 2050. The Commission stated it must grant a variance to its rules when it determines that the following requirements are met:

1. Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. Granting the variance would not adversely affect the public interest; and
3. Granting the variance would not conflict with standards imposed by law.¹⁸

The Commission ordered the variance to remain in effect until terminated by the Commission. If the Commission decides to reset the lives of BEC Units 3 & 4 and the Common facilities, it would need to terminate the variance.

The decision made in this docket would also need to be addressed in the Company's 2017 Remaining Life Petition, in Docket No. E-015/D-17-118, but only if the Commission's initial decision in this docket is reversed effective January 1, 2017.

Minnesota Power is suggesting, however, that this be done effective January 1, 2018. If the Commission decides on a January 1, 2018 effective date either now, on reconsideration, or later, if the Commission reopens the March 12 Order in the future, that decision would also need to be reflected in the Commission's decision on MP's 2018 depreciation filing, in Docket No. E-015/D-18-226.

I. Decision Alternatives

Reconsideration

15. Reject the Department's request for reconsideration of the remaining lives of Boswell Units 3 & 4 and Common facilities. (MP, LPI)
16. Accept the Department's request for reconsideration of the remaining lives of Boswell Units 3 & 4 and Common facilities. (Department, OAG, CEOs & ECC)

Remaining Life of Boswell Units 3 & 4 and Common facilities

¹⁸ Minn. R. 7829.3200, subp. 1.



17. Set the remaining lives of Boswell Units 3 & 4 and Common facilities at 2035, effective January 1, 2017. (Department, OAG, CEOs & ECC) Order the Company to submit a compliance filing within 30 days of the Order to reflect the Commission's decision in this case in the Company's 2017 Remaining Life Petition, in Docket No. E-015/D-17-118.
18. Set the remaining lives at 2034 for Unit 3, 2035 for Unit 4 and 2030 for the Common facilities, effective January 1, 2017. (Department Alternative) Order the Company to submit a compliance filing within 30 days of the Order to reflect the Commission's decision in this case in the Company's 2017 Remaining Life Petition, in Docket No. E-015/D-17-118.
19. If the Commission reconsiders its decision, then accept the Department's proposal to reduce the depreciation life of BEC3, BEC4, and the Common facilities to 2035, and set the effective date as of January 1, 2018. (Minnesota Power)

Variance

20. Terminate the variance to Minn. R. 7829.3200, subp. 1.
21. Do not terminate the variance to Minn. R. 7829.3200, subp. 1.

VIII. Securitization

PUC Staff: Ann Schwieger

A. Issue

Should the Commission reconsider its decision to require Minnesota Power to file a securitization plan for the Boswell units within two years of the date of the final order in the rate case?

B. Background

In the Rate Case, the CEOs and OAG raised concerns that setting Boswell's depreciation life longer than its actual life means that some depreciation expense will remain unrecovered at the time of its retirement. According to CEOs and the OAG, securitization holds the potential for significant ratepayer savings in the recovery of stranded investments in fossil-fuel-based generation.

The CEOs put forward the outlines of what securitization would look like, but much work remains to be done to flesh out the details of a plan. In particular, Minnesota Power has argued that legislative approval may be needed for securitization to work, while other parties dispute this contention.

As envisioned by CEO, securitization would involve the following steps:



- The Commission would authorize formation of a special-purpose vehicle to issue bonds and repay bondholders;
- The Commission would approve a dedicated charge on customer bills for the purpose of paying interest and principal on the bonds issued;
- Proceeds from the issuance of the bonds would be provided to the Company for the unrecovered plant balance and decommissioning costs resulting from the early retirement; and
- The dedicated customer charge would be used to pay off the bond over time.

The Commission concluded that these concerns would be mitigated by requiring the Company to pursue securitization. The Commission directed Minnesota Power to develop a securitization plan for the Boswell units to address any depreciation expenses that will remain unrecovered at the end of Unit 3 and 4's expected service lives, and to file it within two years of the final order in the Rate Case. The Commission stated in its Order that it looks forward to receiving the Company's proposal, informed by the input of stakeholders including the OAG and CEO, and to working with the parties to find a solution to the problem of stranded fossil-fuel investments.

C. Commission Action

Commissioner Lipschultz moved that the Commission:

- Set the remaining accounting lives for Boswell Units 1 and 2 at 2022. Set the remaining accounting life of Units 3 and 4 and the Common facilities at 2050. Vary the rules that require Unit 3 and Unit 4's accounting lives to match their probable service lives. The variance shall remain in effect until terminated by the Commission. The extension of the accounting life of Units 3 & 4 does not extend the service or operational life of these facilities.
- Order the Company to file with the Commission a securitization plan for the Boswell units within two years of the date of the final order in this case.

The motion passed 5–0.

D. Department of Commerce Request

In its request for reconsideration, the Department argued that if the Commission accelerates depreciation of Boswell Units 3 and 4 and Common facilities to 2035, this "could...simplify matters in the rate case by perhaps eliminating the need for securitization."¹⁹ In addition, the Department states that in the instant case Minnesota Power proposed to extend depreciation of all the Boswell Units to 2050 as a rate-increase mitigation measure, but that the "reduction in rates caused by the 2017 [TCJA] indicates that there no longer appears to be a need for

¹⁹ In addition, the Department believes that if this recommendation is adopted, there may no longer be a need for securitization of Boswell Units 3 & 4 and the Common facilities.

[Minnesota Power's] rate mitigation measure."²⁰ The Department then recommends that the Commission consider not requiring Minnesota Power to plan for securitization.

E. Clean Energy Organizations (CEOs) and Energy Cents Coalition (ECC) Answer

The CEOs and ECC support continued exploration of securitization as a solution for stranded fossil-fuel investments and oppose the Department's recommendation that the Commission consider not requiring the Company to explore securitization of Boswell Units 3 and 4 and Common facilities.

CEO witness Uday Varadarajan highlighted in his Direct Testimony in the instant case, securitization is a tool recently used in Michigan and Florida that "reduces ratepayer costs and risks while aligning Minnesota Power's interest with that of transitioning its assets more rapidly to reflect cleaner, cheaper generation options that could result in cost savings for both current and future ratepayers."²¹ Mr. Varadarajan noted that securitization is a "financial vehicle that can both reduce the cost to ratepayers of early retirement of stranded assets and provide the utility with immediate cost recovery for any remaining net asset balances."²² To the extent that securitization can provide flexibility in balancing the operations of existing assets and cost recovery for Minnesota Power, the CEOs and ECC assert that Minnesota Power providing a plan for how securitization might be applied to the Boswell units would advance understanding of this tool's applicability for the Company. In addition, as Mr. Varadarajan stated, securitization may facilitate early retirement of large fossil fuel assets at reduced cost to ratepayers.

Finally, securitization may provide similar benefits to other utilities in the state that Mr. Varadarajan highlighted in the context of Minnesota Power's assets. In its Order, the Commission specifically expressed broad interest in securitization to "find a solution to the problem of stranded fossil-fuel investments."²³ This could be a solution applicable to other utilities and a submitted plan from Minnesota Power could inform how this approach might work elsewhere in the state.

For these reasons, CEOs and ECC support continued exploration of securitization as a solution for stranded fossil-fuel investments and oppose the Department's recommendation that the Commission consider not requiring investigation into securitization of Boswell Units 3 and 4 and Common facilities.

F. LPI Answer

The LPs support the Commission's directive to explore a securitization plan because it is a positive development and it would not be prudent to forego this opportunity simply because rate mitigation has come in the form of the 2017 Federal Tax Act.

²⁰ *March 12, 2018 Findings of Fact, Conclusions, and Order* for MP's Rate Case at p. 11.

²¹ CEO Direct Testimony of Uday Varadarajan, Docket No. E-015/GR-16-664.

²² *Id.*

²³ *Commission Findings of Fact, Conclusions, and Order*, March 12, 2018 at 15.



G. Minnesota Power's Response

Minnesota Power agreed that the Department's proposal also likely eliminates the immediate need to develop a securitization method to address the potential for unrecovered depreciation expense for BEC3, BEC4, and the Common facilities. The Commission requested that the Company "file a securitization plan" for Boswell within two years to explore securitization as a way to address any unrecovered depreciation expense that remains if the operational life of these facilities is shorter than the depreciation life of 2050.²⁴ Given that the Department's proposal more closely aligns the depreciation and operational lives of these units, the need for securitization or an alternative method to address unrecovered depreciation expense is likely unnecessary. However, even if the Commission adopts the shorter depreciable lives for BEC3, BEC4, and the Common facilities, the Company stated it is willing to continue to explore securitization and file an evaluation and analysis related to securitization if the Commission believes that would be beneficial.

H. Staff Comment & Analysis

The Commission will need to decide if it is beneficial for Minnesota Power to continue to explore the option of securitization.

I. Decision Alternatives

22. Grant the Department's request for reconsideration of the need for a securitization plan and do not require MP to continue to explore the option of securitization or to file a plan. (DOC)
23. Grant the Department's request for reconsideration of the need for a securitization plan but require MP to continue to explore the option of securitization and to file a report rather than an actual plan.
24. Deny the Department's request for reconsideration of the need for a securitization plan. (CEOs & ECC, OAG, LPI)

IX. Generation Supervision & Engineering and Distribution Meter Reading

PUC Staff: Eric Bartusch

Should the Commission reconsider its decision regarding MP's Generation Supervision & Engineering and Distribution Meter Reading?

A. Background

²⁴ March 12, 2018 Order at 109.

At the January 18th Agenda Meeting, Commissioner Sieben moved that the Commission require MP to calculate the Supervision, Engineering and Meter Reading budget by using a five year historical average of expenses, reducing the budgeted expense by \$6.781 million.

The motion passed 5-0.

B. Commission Action

In its March 12, 2018 Findings of Fact, Conclusions, and Order, on pp. 19-20, the Commission explained its action on this issue as follows:

Having reviewed the record developed by the parties on this issue, the Commission agrees with the Department that Minnesota Power has not carried its burden to show that its budgets for test-year generation O&M supervision and engineering and meter-reading costs are reasonable. The Commission will therefore require the Company to set the test-year budget for these costs at their five-year historical average, a \$6.781 million reduction in test-year O&M expense.

The Commission disagrees with the ALJ's conclusion that the reasonableness of the Company's test-year O&M budget can be judged without reference to the Department's approach. The Commission concludes that the Department's criticisms are valid and that Minnesota Power did not offer an adequate response.

During discovery, the Department raised concerns about the consistent over-budgeting it observed in three O&M expense categories related to generation O&M and meter reading. At Minnesota Power's request, and to gain a more complete picture of related O&M spending, it extended its review to seven FERC accounts. The over-budgeting trend was still apparent under this broader scope of review.

In response to Department information requests, Minnesota Power provided only a high-level description of its budgeting process, and the Department was left unable to determine the basis for or reasonableness of the Company's budgets. As a result, the Department appropriately concluded that test-year expense should be set at the five-year average of historic, actual spending.

Minnesota Power argues that it does not budget by FERC cost categories but by responsibility center, and that any analysis of the reasonableness of its O&M expenses must examine FERC accounts at the responsibility-center level. The Commission disagrees. It is reasonable to examine costs on a FERC-account basis regardless of how a utility budgets, because it aids in the identification of company-wide spending trends such as those discovered by the Department in this case.

Minnesota Power also argues that it has already made a downward adjustment to O&M expenses to reflect reduced payroll expenses at one of its plants, and that



further reduction in test-year O&M spending could threaten its ability to provide reliable service. However, the Company has not shown that the Department's proposed adjustment overlaps with the adjustment already made, or that the proposed adjustment will affect its ability to reliably serve ratepayers.

C. Minnesota Power's Request

MP requests the Commission reconsider its January 18 decision to require MP to utilize a five-year historical average to determine test year Generation Supervision & Engineering and Distribution Meter Reading expenses.

Minnesota Power's Budgeting Process is Reasonable and Sound

MP emphasized in its request for reconsideration that its budgeting process is reasonable when reviewed from a holistic standpoint. The Company identifies and manages its costs using Responsibility Centers (RCs) as opposed to FERC accounts. While MP does not dispute that a FERC account review may be most appropriate in some circumstances, MP explained that such a review is problematic because budgets developed using RCs do not perfectly translate into FERC accounts.²⁵ MP reiterated its example of how reviewing FERC accounts and RCs can produce misleading results.²⁶

For instance, if all RCs that utilize FERC Account No. 902 are examined, the test year budget is \$3 million lower than 2016 actuals and also lower than the five-year average for these expenses...

Additionally, MP noted that the Department admitted that it failed to examine other FERC accounts with similar names as the seven it reviewed. During the Evidentiary Hearing, MP questioned the Department on whether FERC account 586 "Meter Expenses" was considered when FERC account 902 "Meter Reading Expenses" was reviewed.

Q. I'd like to turn your analysis related to FERC account 902. And FERC account 902 is the meter reading expense; is that correct?

A. Correct ...

Q. And I want to look at another FERC account, FERC account 586. Can you tell me the name of that FERC account?

A. Meter expenses ...

²⁵ Minnesota Power, Reconsideration-Minnesota Power petition for reconsideration and request for clarification, Page 13

²⁶ Id. Page 14



Q. A one-word difference. Given the similarities of these two accounts, did you also examine the budget to actual variances associated with this account in your analysis? ...

A. No ...

Q. If you look at the actual to budget variance amount for 2016 for this FERC account, FERC account 586, the actuals are actually above the budget by 23 percent.

A. Yes, that's what it shows there.

Finally, MP noted there is not specific budgeting methodology required by law. Rather, the budget methodology employed by a utility must result in a request for recovery that is just and reasonable. MP suggests there may be more than one reasonable approach to budget for a variety of operational processes.

Ordered Adjustment is Duplicative

MP discussed that the Company proposed an adjustment in Rebuttal Testimony that overlaps with the ordered adjustment for the Generation Supervision & Engineering and Distribution Meter Reading expense accounts.²⁷

As the Company noted in Rebuttal Testimony, the test year budget for BEC was developed prior to Minnesota Power's decision to close BEC Units 1&2 at the end of 2018. After the Company made this decision, it put a hold on hiring for these units resulting in 23 fewer employees at BEC than was assumed in developing the 2017 test year budget. In Rebuttal, the Company proposed a significant \$2,969,621 (MN Jurisdictional) adjustment to account for reduced Generation salaries and benefits in the test year and beyond due to the pending retirement of Units 1&2. The Company also explained that this adjustment impacted two of the same FERC accounts that were subject to the Department's adjustment: FERC accounts 500 and 510. The title of FERC account 500 is "Operation Supervision" for Steam Power Production and the title of account 510 is "Maintenance Supervision and Engineering" for Steam Power Production.

MP also notes that this overlap underscores the Department's budgeting methodology since using a five-year historical average makes it impossible to identify specifically which dollars overlap.

D. Department Answer

The Department recommends the Commission deny MP's request for reconsideration.²⁸

²⁷ Minnesota Power, Reconsideration-Minnesota Power petition for reconsideration and request for clarification, Page 16

²⁸ DOC, Resources to Minnesota Power's Petition for Reconsideration and Request for Clarification, Page



In general, the Commission has taken up a petition for reconsideration that raises new issues, points to new and relevant evidence, exposes errors or ambiguities in the Commission's order, persuades the Commission that it should rethink the decisions set forth in its order, or where the Commission concludes that its decision is inconsistent with the facts, the law, or the public interest.

In its petition for reconsideration, the Department argues that MP has not done this.²⁹

After reviewing MP's Petition, to determine whether it raised significant new issues, pointed to new and relevant evidence, or exposed errors in the Rate Case Order, the Department concludes that MP has not done so regarding any of the issues raised in the Petition. Instead, the Department concludes that MP has not demonstrated that the Commission's Rate Case Order is inconsistent with the facts, the law, or the public interest.

The Department provided additional analysis on certain key issues, but did not further discuss Generation Supervision & Engineering and Distribution Meter Reading in its reply.

E. OAG Answer

The OAG recommends the Commission deny MP's request for reconsideration. Although this financial issue was not specifically addressed in the OAG's response, the OAG made the following comment about financial issues in general:³⁰

...the Commission reconsiders an issue only where a party has identified new issues, pointed to new evidence, or identified errors or ambiguities in the Commission's Order. MP has not done so. Instead, the Company merely restates arguments that it made throughout the case—arguments that the Commission found unpersuasive. The record in this proceeding was robust, even for a rate case, and the Commission reviewed it thoroughly before making a decision. MP has not identified new issues or new facts on any of its issues that would justify reconsideration. Accordingly, the Commission should deny MP's request for reconsideration on all issues.

F. Staff Comment & Analysis

As the Department and the OAG point out, the Commission generally reconsiders an issue where a party has identified a new issue, pointed to new evidence, or identified errors or ambiguities in the Commission's Order. Throughout MP's request for reconsideration, it does not appear to be presenting any new information. In fact, MP often cites various parts of the

3-4

²⁹ Id.

³⁰ OAG, Other – Answer to Petition for Reconsideration, Page 11



record in which its arguments have already been made. MP appears to be more focused on showing the Commission that errors were made while considering Generation Supervision & Engineering and Distribution Meter Reading. MP has identified the following “errors” that it feels warrant reconsideration:

- MP’s budget is reasonable when viewed from a holistic viewpoint. The Commission need not determine the preferred method of budgeting nor should the Company be required to prove it has used the ideal budgeting method. MP only should have to prove that its requested test year expense is required for the provision of electric service and results in just and reasonable rates.
- The Department’s review of selected FERC accounts results in an inaccurate picture of MP’s expenses and budgeting process.
- The Department’s use of a five-year historical average is an inferior method of budgeting expenses compared to the methodology employed by MP
- MP made an adjustment to FERC Account 500 and 510 as a result of its decision to close BEC 1&2. The Commission ordering an adjustment to Generation Supervision & Engineering and Distribution Meter Reading results in a duplicative adjustment

If the Commission agrees that it should reconsider the matter due to an error or ambiguity, then it should grant MP’s request for reconsideration. If the Commission feels that no error was made and feels no additional information has been presented by MP, it should deny the petition for reconsideration.

G. Decision Alternatives

25. Approve Minnesota Power’s request for reconsideration on the issue of Generation Supervision & Engineering and Distribution Meter Reading
26. Deny Minnesota Power’s request for reconsideration on the issue of Generation Supervision & Engineering and Distribution Meter Reading

X. Prepaid Pension Asset

PUC Staff: Sundra Bender

Should the Commission reconsider its decision regarding MP’s Prepaid Pension Asset?

A. Background

At the January 18th Agenda Meeting, Commissioner Sieben moved that the Commission:

- Require MP to remove the prepaid pension asset from test year rate base.
- Allow MP to also remove the associated tax savings from test year rate base.

The motion passed 5-0.

B. Commission Action

In its March 12, 2018 Findings of Fact, Conclusions, and Order, on pp. 16-17, the Commission explained its action on this issue as follows:

The Commission concurs with the Administrative Law Judge and the Department that Minnesota Power has not justified rate-base treatment of prepaid pension funds. Accordingly, the Commission will require the Company to remove the prepaid pension asset, along with the associated tax savings, from test-year rate base.

The Commission has articulated the reasons for excluding this type of asset from rate base in several previous orders.³¹ The circumstances that warranted denying a return on the asset in those cases are present here, and so the Commission adopts the same rationale for excluding it.

Minnesota Power recovers its allowable pension expense from ratepayers and is not denied recovery of this operating cost.

The accounting asset identified by the Company is distinct from assets that typically are included in rate base. The asset already earns a return in the form of investment returns, it fluctuates in value, and is misleading in that it does not account for the funding status of the entire pension plan.

Further, as the Commission has recognized in previous cases, pension-plan assets and benefit obligations fluctuate up and down, depending on funding or market conditions. The balances in the prepaid pension asset are temporary, and fundamentally different from typical rate-base assets on which the Company earns a return on investment. The Commission concurs with the Department and the ALJ that it would be impractical, if not impossible, to equitably separate the prepaid amount attributable solely to Minnesota Power's contributions from that attributable to ratepayer contributions and market returns.

For these reasons, the Commission will deny the Company's request for rate-base treatment of the prepaid pension asset.

³¹ See, e.g., In the Matter of the Application of Minnesota Energy Resources Corporation for Authority to Increase Rates for Natural Gas Service in Minnesota, Docket No. G-011/GR-15-736, Findings of Fact, Conclusions, and Order, at 8–11 (October 31, 2016); In the Matter of a Petition by Minnesota Energy Resources Corporation for Authority to Increase Natural Gas Rates in Minnesota, Docket No. G-011/GR-13-617, Findings of Fact, Conclusions, and Order, at 22–24 (October 28, 2014).

C. Minnesota Power's Request

According to Minnesota Power, “the record in this proceeding conflicts with the Commission’s reasoning for denying recovery of the prepaid pension asset, and Minnesota Power respectfully requests that the Commission reconsider the issue to address these errors and ambiguities in the Commission’s March 12, 2018 Order.”³²

MP discusses the following four main areas of errors and ambiguities in the Commission’s March 12, 2018 Order:

1. It is inequitable to conclude that certain prior Commission decisions, but not others, govern or even particularly inform the determination in this proceeding.

Minnesota Power states that:

... given the conflicting history of Commission decisions regarding ratemaking for pension accounts, it is inequitable to conclude that certain prior Commission decisions, but not others, govern or even particularly inform the determination in this proceeding.

MP argues that it demonstrated that it:

... differs from other Minnesota electric utilities, particularly in that the Company is so heavily reliant on sales to a small number of Large Industrial customers who operate in highly-cyclical taconite and paper industries. ... Because Minnesota Power is unique..., reliance on an unrelated gas utility’s recent Commission determinations excluding the asset from rate base is imbalanced.

MP further argues that “there is a divergence in Commission precedent on this issue that the Commission’s March 12, 2018 Order wholly ignores.” While the Commission has recently rejected similar prepaid pension asset recovery proposals, it “has also recently and expressly, with both settlement approvals and a deciding order point where the issue was not settled, granted recovery to Xcel Energy’s Minnesota electric utility.”³³ MP stated:

³² Minnesota Power also wishes to clarify the actual amount of the prepaid pension asset it seeks to include in rate base. Page 15 of the Commission’s March 12, 2018 Order states that “[t]he Company seeks to include approximately \$60 million in pension funds in rate base, offset by some \$31.9 million in associated tax savings, for a net after-tax increase to rate base of approximately \$27.8 million.” These numbers are incorrect. As provided in Schedule 2, page 2 of the Company’s ALJ Compliance filing filed on November 17, 2017, Minnesota Power seeks to include \$60,041,948 in pension funds in rate base, offset by \$31,487,190 in associated tax savings, for a net after-tax increase to rate base of \$28,554,758.

³³ *In the Matter of the Application of N. States Power Co. for Auth. to Increase Rates for Elec. Serv. in the State of Minn.*, Docket No. E002/GR-13-868, FINDINGS OF FACT, CONCLUSIONS, AND ORDER (May 8, 2015).



In sum, it appears that the Commission defers to only certain prior orders, without explaining why it is fair to apply a different outcome to Minnesota Power than it offered to Xcel Energy on a specifically-decided issue. This divergence and lack of explanation renders the Commission's decision here arbitrary and inequitable.

Additionally, MP states that the Commission's March 12, 2018 Order appears to misstate the ALJ's recommendation. MP states:

[T]he Commission's statement that the ALJ's factual findings support exclusion of the asset from rate base is incorrect; rather, the ALJ found the Company's arguments to be compelling, but relied instead on Commission precedent to recommend against recovery. As such, the Commission's statement that it agrees with the ALJ, who based his recommendation on certain prior Commission reasoning, does not relate to specific factual findings but instead reverts to prior, inconsistent Commission reasoning for some (but not all) Minnesota utilities.

2. The Commission's reasoning that the Company recovers its allowable pension expense from ratepayers and is not denied recovery of this operating cost is inaccurate and based on a fundamental misstatement of the nature of the asset.

MP does not dispute that the Commission has consistently approved recovery of a certain level of expense, but argues that annual expense is not the full cost of employee pensions. "[T]he Pension Protection Act of 2006 and ERISA require the Company to invest amounts into a pension trust fund that exceed the amounts included in expense each year. ... The rationale that the Company is already recovering pension expense ... does not address whether a utility should also be able to earn a return on annual contributions to the pension trust fund that exceed the expense amount."

MP stated that its "contributions to the pension trust benefit customers by directly reducing the amount of pension expense that is included in rates. ... It is fundamentally not fair to the utility to provide such a benefit to customers without earning any compensation for "lending" these amounts to the customer."

3. The Commission's reasoning that the accounting asset identified by MP is distinct from assets that typically are included in rate base and is "misleading in that it does not account for the funding status of the entire pension plan" is fundamentally incorrect.

MP argues that the prepaid pension asset is no different than other, similar assets that are included in rate base, such as deferred tax assets and liabilities, which result from customers paying taxes to the utility before they must be paid to the government, and working capital, which results from investors providing/receiving funds in excess/under expense. MP stated, "If funded assets are not included in rate base, investors are financing an asset utilized for the delivery of electric service for the benefit of customers without meeting the second half of the regulatory compact: that they will have the opportunity to earn a fair return on those reasonable investments."

MP also states that, “The fact that prepaid pension assets are no different from these kinds of assets is further exemplified by the fact that many United States utilities currently are allowed to include prepaid pension assets in their rate base.” MP then quotes the following excerpt from Moody’s Investor Service Rating Action included in MP’s February 21, 2018 compliance filing (eDockets ID No. 20182-140359-01), “[t]he rate case outcome also points to a less constructive regulatory relationship between MP and the MPUC. The MPUC’s decision to deny pre-paid pension cost recovery when other utilities in the state recover those same costs appears inconsistent.”

MP further argues that “the conclusion that the request for recovery of the prepaid pension asset is “misleading in that it does not account for the funding status of the entire pension plan”³⁴ is based on a fundamental misunderstanding of the prepaid pension asset and GAAP that has been promulgated by the Department over several rate cases.” According to MP, Mr. Cutshall’s Rebuttal Schedule, page 3, presents a Reconciliation that shows how the various components of the prepaid pension asset are included in the Company’s 2016 Annual Report. MP reproduces this reconciliation at page 26 of its *Petition for Reconsideration and Request for Clarification* and walks through it at pages 26-27.

4. There is nothing uniquely temporary about the prepaid pension asset and “the Commission’s explanation that it is impractical to equitably separate the prepaid amount attributable solely to Minnesota Power’s contributions from that attributable to ratepayer contributions and market returns ignores that the record in this case does just this in several independent ways.”

MP states:

[T]here is nothing uniquely temporary about the prepaid pension asset. All items in rate base can be considered temporary... In this case, the prepaid pension asset/liability has been around since 1987 and will be in existence until the pension fund is gone, which is no time in the foreseeable future...

Further, the Commission’s explanation that it is impractical to equitably separate the prepaid amount attributable solely to Minnesota Power’s contributions from that attributable to ratepayer contributions and market returns ignores that the record in this case does just this in several independent ways. First, Company witness Mr. Cutshall demonstrated that the Company contributed \$103 million to the pension trust from 1994 through 2016 on a MN Jurisdictional basis, while pension expense was only \$58 million and customers have only paid \$14 million through rates over the same period. Second, the shareholder contributions to the prepaid pension fund and the amount of the asset the Company is seeking to include in rate base for the 2017 test year were independently confirmed in the record through submissions by Minnesota Power’s actuary, Mercer. Third, ALLETE’s independent auditor, PricewaterhouseCoopers, further confirmed the

³⁴ March 12, 2018 Order at 16.



amount of the asset for the Minnesota Power jurisdiction, and verified that the Company's recovery proposal was stated in accordance with Generally Accepted Accounting Principles. Put simply, these contributions are a real, physical cost that have been funded completely by investors while the benefits have flowed to ratepayers through reduced pension expense, as explained above.

With respect to the impact of market returns on the prepaid pension asset, it is important to remember that the historical prepaid pension asset is a result of historical contributions and historical expense. Investors must still contribute the same amount regardless of market returns, as any reduction in required contributions is completely absorbed by the ratepayers through reduced pension expense. Since customers pay solely for expense that is already reduced by earnings on pension fund contributions, and since customers do not contribute to pension funding beyond annual expense, it is only appropriate to compensate investors for the funds that constitute the prepaid pension asset and in turn reduce expense.

[Citations omitted.]

MP "requests that the Commission reconsider its decision to deny Minnesota Power recovery of the prepaid pension asset in rate base and instead include the net after-tax MN Jurisdictional amount of \$27,816,947³⁵ for the asset in rate base."³⁶ MP corrected this amount to \$28,554,758 on page 15 of its Answer to the Department.

D. Department Answer

The Department concluded that MP's Petition does not raise significant new issues, point to new and relevant evidence, or expose errors in the Rate Case Order. The Department recommends that the Commission deny MP's request for reconsideration for all of the issues raised in the Petition.

With regard to the Prepaid Pension Asset, the Department stated that MP's³⁷

Petition has not raised new issues, pointed to new and relevant evidence, or exposed errors or ambiguities in the Commission's Rate Case Order. The Petition should not persuade the Commission that it should rethink the decisions set forth in the Rate Case Order and the Petition does not demonstrate that the Rate Case Order is inconsistent with the facts, the law, or the public interest. In fact, the Petition does not point to any new evidence that should change the Commission's decision, and largely rehashes the argument that MP offered in support of its

³⁵ Staff notes that MP clarified in its footnote 59 that the actual amount it seeks to include in rate base is an asset of \$60,041,948, offset by \$31,487,190 in associated tax savings, for a net after-tax increase to rate base of \$28,554,758.

³⁶ MP *Petition for Reconsideration and Request for Clarification* at 29.

³⁷ Department's Response to MP's Petition for Reconsideration and Request for Clarification at 8.



proposal to include a prepaid pension asset in rate base, which the Administrative Law Judge (ALJ) and Commission both rejected.

The Department stated that MP's Petition does not change the Department's reasoning for why it did not support MP receiving a return on a "prepaid pension asset" in rate base. The Department restated its reasons as follows:

First, MP does not follow GAAP for its purported prepaid pension asset. MP's proposal to use just one component of its funded status under ASC 715 and ignore other components is inconsistent with GAAP.

"Second, MP's pension fund, as recorded on its public financial statements, is actually a pension fund *liability*, not an *asset*, which means MP's pension fund is actually underfunded, not overfunded. ... It is not reasonable for MP to claim, and get a return on, a liability. Instead, this underfunding is appropriately reflected in the amount of pension expense charged to ratepayers, increasing the amount included in rates set in MP's prior rate case by over 250%." [Footnote omitted.]

Third, these funds are not 100 percent investor-supplied funds. "[A]ny calculation of a prepaid pension asset/liability that used pension expense, ... is not 100 percent investor-supplied funds." MP's characterization that "the prepaid pension asset is not different from other, similar assets that are included in rate base" is an inaccurate characterization.

Fourth, "A prepaid pension asset/liability is not like other plant investment because prepaid pension asset /liability is volatile or oscillates in value from year-to-year, and, in addition, all prepaid pension funds are not from shareholders."

Fifth, the Commission has rejected similar proposals by other utilities in recent rate cases.

Finally, the

comparison to Xcel's E002/GR-13-868 rate case is incorrect for several reasons. First, MP's proposal is not the same as the proposal in Xcel's E002/GR-13-868 rate case; this fact is demonstrated by the complex description in the Commission's Order regarding recovery of pension costs in that proceeding. Second, Xcel's proposal in the E002/GR-13-868 rate case offset the pension "asset" with liabilities from similar funds, resulting in a small net amount; MP made no such proposal in this proceeding. Third, given the significant number of issues litigated in the Xcel case, including the fact that it was the first multi-year rate case—with two test years to review and complex matters including nuclear facilities—the net amount that Xcel proposed did not rise to a level of materiality, in light of the other issues that were litigated. Fourth, even if MP's proposal were the same as Xcel's, which it is not, the fact that an issue is not litigated in a proceeding is an insufficient basis to assert that the Commission approved a proposal.

The Department concludes its response with:



As the ALJ and Commission have determined, MP has not demonstrated the reasonableness of its proposal to include a pension asset/liability in rate base in this case. The Petition offers no reason why the Commission should reconsider the Rate Case Order.

E. LPI

LPI does not specifically address the Prepaid Pension Asset issue, but LPI requests that the Commission reject the Petition submitted by the Company as the issues raised in the Petition were fully and accurately addressed by the Commission, do not point to new and relevant evidence, do not expose any errors or ambiguities in the Order, and, therefore, do not warrant reconsideration.

F. OAG

The OAG does not specifically address the Prepaid Pension Asset issue, but recommends that the Commission deny MP's request for reconsideration on all issues. "MP has not identified new issues or new facts on any of its issues that would justify reconsideration." The OAG states:

Minnesota Power asks the Commission to reconsider broad swathes of the case, including most of the largest financial issues. With its Petition, MP is essentially asking for a do-over. In order to justify reconsideration, though, MP must identify new issues, point to new evidence, or identify errors or ambiguities in the Commission's Order. MP has not done so, and the Commission should reject its Petition and order the Company to calculate final rates consistent with its Order.

G. Staff Comment & Analysis

Staff does not believe MP has presented any new arguments that have not previously been made in this rate case. If the Commission would like to revisit this issue, it should grant MP's request for reconsideration. If not, then MP's request for reconsideration should be denied.

Staff notes that MP wishes to clarify the amount of the prepaid pension asset it seeks to include in rate base. MP states that:

Page 15 of the Commission's March 12, 2018 Order states that "[t]he Company seeks to include approximately \$60 million in pension funds in rate base, offset by some \$31.9 million in associated tax savings, for a net after-tax increase to rate base of approximately \$27.8 million." These numbers are incorrect. As provided in Schedule 2, page 2 of the Company's ALJ Compliance filing filed on November 17, 2017, Minnesota Power seeks to include \$60,041,948 in pension funds in rate



base, offset by \$31,487,190 in associated tax savings, for a net after-tax increase to rate base of \$28,554,758.^[38]

Staff believes the confusion over the numbers stems from the fact that MP changed the numbers in its schedules in Supplemental Direct Testimony, but did not offer any testimony on the changed numbers. Further, in later testimony (Rebuttal), the Company continued to refer to the numbers from its initial petition and Direct Testimony, rather than the numbers from Supplemental Direct Testimony.

H. Decision Alternatives

27. Approve Minnesota Power's request for reconsideration on the issue of the prepaid pension asset. [MP]
28. Deny Minnesota Power's request for reconsideration on the issue of the prepaid pension asset. [DOC, OAG, LPI]
29. Clarify that the numbers MP seeks to include in rate base are a prepaid pension asset of \$60,041,948, offset by \$31,487,190 in associated tax savings, for a net after-tax increase to rate base of \$28,554,758. [MP]

XI. Retirement Savings and Stock Ownership Plan (RSOP)

PUC Staff: Eric Bartusch

Should the Commission reconsider its decision regarding MP's test year RSOP expense levels?

A. Background

At the January 18th Agenda Meeting, Commissioner Sieben moved that the Commission reduce MP's Retirement Savings and Stock Ownership Plan expenses by \$0.718 million to \$6.43 million.

The motion passed 5-0.

B. Commission Action

In its March 12, 2018 Findings of Fact, Conclusions, and Order, on pp. 35-36, the Commission explained its action on this issue as follows:

The Commission agrees with the Department that the test-year cost of the Company's retirement-savings and stock-ownership plan should be determined based on a three-year historical average. The Commission will therefore require Minnesota Power to reduce these expenses by \$0.718 million to \$6.43 million.

³⁸ MP's Petition for Reconsideration and Request for Clarification at 18 n.59.



The Commission not infrequently uses historical averages in ratemaking, because such averages help correct for any outlier data in an individual year, providing a representative amount for the test year. Using a three-year average will smooth year-to-year fluctuations, such as those caused by dividend credits, and will result in a representative test-year amount.

While Minnesota Power asserted that the 2016 dividend credit was a one-time event, the Department persuasively argued that dividend credits are difficult to predict and could reoccur. The Commission will therefore require the Company to reduce its retirement-plan expenses as recommended by the Department.

C. Minnesota Power's Request

MP requests the Commission reconsider its January 18 decision to require MP to utilize a three-year historical average to determine test year Retirement Savings and Stock Ownership (RSOP) expenses.

One-Time Credit in 2016 Results in Reduced RSOP Expense

In its reconsideration filing, MP discussed that its Employee Stock Ownership Plan (ESOP) was closed in 2016 and that record evidence indicates that a one-time credit occurred as a direct result. Because this was related to the closure of the ESOP account, MP disagrees that another similar credit can occur. The result of this credit was a 10 percent decrease in RSOP expenses. MP elaborated on the origin of the dividend credit.³⁹

Minnesota Power's now expired ESOP was supported by a loan, payments to which were made from ALLETE's stock dividends. This loan was paid off in full in December 2015 and, as a result, the December 1, 2015 ALLETE stock dividend was not used to pay the final December 2015 loan payment. Rather, this dividend was used to make the Company's contribution to the Company's remaining defined contribution retirement plan, the RSOP, in 2015. As a result, the RSOP expense for the first quarter of 2016 was reduced by this dividend amount. Given that this dividend payment was the result of the expiration of the ESOP plan, this dividend credit will not occur in the future.

Additionally, MP noted that the current plan design for the RSOP requires that all dividend credits be paid directly to participants and cannot be used to reduce plan expenses. As a result, even if such a dividend credit were to reoccur, it would not result in a reduction in Minnesota Power's future RSOP expenses.

Defined Contribution Plan

³⁹ Minnesota Power, Reconsideration-Minnesota Power petition for reconsideration and request for clarification, Page 31



MP also disputes the use of a historic average for RSOP expenses because the Company started moving away from defined benefit plans to defined contribution plans in recent years. The use of a historic average does not accurately reflect future costs associated with this transition. First, given that defined benefit (pension) plans are closed to new hires, all new hires accrue 100 percent of their retirement benefits from the RSOP, resulting in increasing future expenses for this plan. MP uses the following example to illustrate this point:⁴⁰

... the retirement benefit for a bargaining unit employee hired prior to 2011 consists mostly of their defined benefit with the Company contributing only one percent of the employee's salary to RSOP. In contrast, all new hires rely solely on the RSOP for their retirement benefit, which results in a material increase in RSOP costs as compared to prior years. [Footnote omitted]

Second, MP noted that historical averages do not take into account the increase in RSOP expenses related to salary increases. Although non-bargaining unit employees do not receive guaranteed increases, bargaining unit employees require three percent annual salary increases for the test year.

D. Department Answer

The Department recommends the Commission deny MP's request for reconsideration.⁴¹

In general, the Commission has taken up a petition for reconsideration that raises new issues, points to new and relevant evidence, exposes errors or ambiguities in the Commission's order, persuades the Commission that it should rethink the decisions set forth in its order, or where the Commission concludes that its decision is inconsistent with the facts, the law, or the public interest.

In its petition for reconsideration, the Department argues that MP has not done this.⁴²

After reviewing MP's Petition, to determine whether it raised significant new issues, pointed to new and relevant evidence, or exposed errors in the Rate Case Order, the Department concludes that MP has not done so regarding any of the issues raised in the Petition. Instead, the Department concludes that MP has not demonstrated that the Commission's Rate Case Order is inconsistent with the facts, the law, or the public interest.

The Department provided additional analysis on certain key issues, but does not further discuss RSOP in its reply.

⁴⁰ Id.

⁴¹ DOC, Resources to Minnesota Power's Petition for Reconsideration and Request for Clarification, Page 3-4

⁴² Id.



E. OAG Answer

The OAG recommends the Commission deny MP's request for reconsideration. Although this financial issue was not specifically addressed in the OAG's response, the OAG made the following comment about financial issues in general:⁴³

... the Commission reconsiders an issue only where a party has identified new issues, pointed to new evidence, or identified errors or ambiguities in the Commission's Order. MP has not done so. Instead, the Company merely restates arguments that it made throughout the case—arguments that the Commission found unpersuasive. The record in this proceeding was robust, even for a rate case, and the Commission reviewed it thoroughly before making a decision. MP has not identified new issues or new facts on any of its issues that would justify reconsideration. Accordingly, the Commission should deny MP's request for reconsideration on all issues.

F. Staff Comment & Analysis

MP is requesting reconsideration on this matter based on two factors, both of which were considered in the Commission's initial decision.

In Staff Briefing Papers,⁴⁴ MP's assertion that RSOP expenses were unusually low in 2016 is addressed using a direct quote from MP's Rebuttal Testimony to effectively communicate MP's position.⁴⁵

The three-year average is not a reasonable method to calculate RSOP test year expenses for three reasons. First, as noted above, the three-year average would include the one-time dividend credit that was paid in 2016 and lowered RSOP costs for that year...

MP remained consistent throughout its rate case and in its request for reconsideration that the financial impact of the one-time dividend credit is a 10 percent reduction in RSOP expenses in 2016.

The Commission agreed with the Department in using a three year average in part because "the Department persuasively argued that dividend credits are difficult to predict and could reoccur."⁴⁶ MP argued, in its request for reconsideration, the new RSOP plan is designed in a way that such a credit could not occur again, as noted above.⁴⁷ The Commission may wish to

⁴³ OAG, Other – Answer to Petition for Reconsideration, Page 11

⁴⁴ PUC, Briefing Papers – January 11, 2018 Agenda – VOL I, Page 222-223

⁴⁵ Johnson Rebuttal, Page 28, at 20-31, continued on Page 29, at 1-3

⁴⁶ PUC, Order – Findings of Fact, Conclusions, and Order, Page 36

⁴⁷ See section titled *Minnesota Power's Request*

consider whether or not this clarification from MP meets the standard of “new and relevant evidence” or “exposes errors or ambiguities” in the Commission’s decision.

MP also reaffirmed its assertion that historical costs will not accurately reflect the future RSOP expenses due to the transition from a defined benefit (pension) to a defined contribution (401k). In its Order, the Commission acknowledged MP’s position:⁴⁸

Minnesota Power responded that (1) 2016 costs had been unusually low due to a one-time dividend credit, which the Company did not expect to reoccur in the future, and (2) 2017 test-year costs trended higher due to changes in employee salary adjustments, deferral rates, union status, birth dates, and hire dates. The Company therefore opposed using a three-year average, arguing that doing so would not accurately represent test-year costs.

The Commission ultimately did not adopt MP’s position, noting that a historical average can smooth out variable costs.⁴⁹

The Commission not infrequently uses historical averages in ratemaking, because such averages help correct for any outlier data in an individual year, providing a representative amount for the test year. Using a three-year average will smooth year-to-year fluctuations, such as those caused by dividend credits, and will result in a representative test-year amount.

G. Decision Alternatives

- 30. Approve Minnesota Power’s request for reconsideration on the issue of Retirement Savings and Stock Ownership Plan
- 31. Deny Minnesota Power’s request for reconsideration on the issue of Retirement Savings and Stock Ownership Plan

XII. Other Employee Benefits

PUC Staff: Eric Bartusch

Should the Commission reconsider its decision regarding MP’s Other Benefits test year expense?

A. Background

At the January 18th Agenda Meeting, Chair Lange moved that the Commission accept MP’s Other Employee Benefits expenses at \$1.925 million.

⁴⁸ PUC, Order – Findings of Fact, Conclusions, and Order, Page 35

⁴⁹ PUC, Order – Findings of Fact, Conclusions, and Order, Page 36



The motion was not adopted 2-3. Commissioners Schuerger, Sieben, and Tuma voted no.

Commissioner Tuma moved that the Commission reduce MP's Other Employee Benefits expenses by \$0.503 million to \$1.422 million.

The motion passed 5-0.

B. Commission Action

In its March 12, 2018 Findings of Fact, Conclusions, and Order, on pp. 36-37, the Commission explained its action on this issue as follows:

The Commission concurs with the Department that a three-year average of other-employee-benefit expenses is the most appropriate basis for determining the test-year expense in this case.

Accordingly, the Commission will require Minnesota Power to reduce these expenses by \$0.503 million, to \$1.422 million.

As the Department established, this cost category has displayed significant volatility, and the test-year budget is set substantially higher than actual expenditures during 2015 and 2016. Given this volatility, the Commission concludes that a test-year budget based on the three-year historical average is reasonable for ratemaking purposes.

The Company points to several factors that it argues support a higher test-year budget, including increases in salaries and the number of employees participating. However, the Department pointed to factors that would tend to decrease "other benefit" costs, such as the Company's movement toward wind and natural-gas generation, which in general require less staffing than coal-based generation.

The goal in ratemaking is to come up with a representative test-year amount, and the Commission concludes that a three-year average best accomplishes this.

C. Minnesota Power's Request

MP requests the Commission reconsider its January 18 decision to require MP to utilize a three-year historical average to determine test year "Other Benefits" expenses. MP states that these are expenses associated with essential employee benefits: life insurance, flexible compensation plan, tuition reimbursement, EIP survivor benefits, long-term disability plan, self-insured worker's compensation, and other miscellaneous expenses such as the costs to administer benefit plans which are a critical component of MP's employee benefit package that attracts



and retains qualified personnel. These expenses were unusually low for MP in 2015-2016. MP provided the following specific examples:⁵⁰

For instance, the Company provided undisputed evidence that in 2015 there was a large number of retirements, such that benefit expenses tied to employee headcount (as for flexible compensation and long-term disability) were unusually low in 2015. And as new employees were hired to replace these retirees, expenses for long-term disability rebounded in 2016 but flexible compensation did not. This is because employees must have one year of service to be eligible for this benefit. Thus, while 2015 and 2016 flexible compensation spending declined, the 2017 test year amount was similar to 2014 actual expenses and more accurately reflects actual and future costs. No party disputed the facts provided by Minnesota Power to explain the increases in “Other Benefit” expenses.

D. Department Answer

The Department recommends the Commission deny MP’s request for reconsideration.⁵¹

In general, the Commission has taken up a petition for reconsideration that raises new issues, points to new and relevant evidence, exposes errors or ambiguities in the Commission’s order, persuades the Commission that it should rethink the decisions set forth in its order, or where the Commission concludes that its decision is inconsistent with the facts, the law, or the public interest.

In its petition for reconsideration, the Department argues that MP has not done this.⁵²

After reviewing MP’s Petition, to determine whether it raised significant new issues, pointed to new and relevant evidence, or exposed errors in the Rate Case Order, the Department concludes that MP has not done so regarding any of the issues raised in the Petition. Instead, the Department concludes that MP has not demonstrated that the Commission’s Rate Case Order is inconsistent with the facts, the law, or the public interest.

The Department provided additional analysis on certain key issues, but does not further discuss Other Employee Benefits in its reply.

E. OAG Answer

⁵⁰ Minnesota Power, Reconsideration-Minnesota Power petition for reconsideration and request for clarification, Page 33

⁵¹ DOC, Resources to Minnesota Power’s Petition for Reconsideration and Request for Clarification, Page 3-4

⁵² Id.



The OAG recommends the Commission deny MP's request for reconsideration. Although this financial issue was not specifically addressed in the OAG's response, the OAG made the following comment about financial issues in general:⁵³

...the Commission reconsiders an issue only where a party has identified new issues, pointed to new evidence, or identified errors or ambiguities in the Commission's Order. MP has not done so. Instead, the Company merely restates arguments that it made throughout the case—arguments that the Commission found unpersuasive. The record in this proceeding was robust, even for a rate case, and the Commission reviewed it thoroughly before making a decision. MP has not identified new issues or new facts on any of its issues that would justify reconsideration. Accordingly, the Commission should deny MP's request for reconsideration on all issues.

F. Staff Comment & Analysis

Staff does not believe MP has raised new issues, pointed to new and relevant evidence, or exposed errors or ambiguities in the Commission's order. If the Commission would like to revisit this issue, it should grant MP's request for reconsideration. If not, MP's request for reconsideration should be denied.

G. Decision Alternatives

32. Approve Minnesota Power's request for reconsideration on the issue of Other Employee Benefits.
33. Deny Minnesota Power's request for reconsideration on the issue of Other Employee Benefits.

XIII. Transmission Capital Projects

PUC Staff: Ann Schwieger

Should the Commission reconsider its decision regarding MP's Transmission Capital Projects?

A. Background

Like most electric utilities, Minnesota Power continually upgrades and extends its transmission system to maintain reliability and serve new load. These transmission investments are known as transmission capital projects and are a part of the rate base on which the Company earns a return. Minnesota Power's test-year rate base included \$31.95 million (total company) of transmission capital additions, net of retirements.

⁵³ OAG, Other – Answer to Petition for Reconsideration, Page 11



After reviewing the Company's initial filing and conducting discovery, the Department concluded that at least two major transmission capital projects—the 5-Line Reconductor and Hoyt Lakes Ring Bus Reconfiguration—were unlikely to enter service in 2017 and should be excluded from rate base. This change would reduce the test-year revenue requirement by approximately \$140,000 on a Minnesota-jurisdictional basis.

Minnesota Power agreed that these two projects would not enter service in 2017. However, in discovery responses, the Company contended that these two projects needed to be deferred to allow six higher-priority projects to be completed in 2017.⁵⁴ Because the combined cost of these high-priority projects exceeded the cost of the two deferred projects, the Company argued that no adjustment to the test-year rate base or revenue requirement was necessary.

The Department and the OAG responded that it was not appropriate for Minnesota Power to supplement its filing with new capital projects to replace those that it agreed should not be part of test-year rate base. Providing such information late in the proceeding, the Department argued, posed a challenge to parties trying to review the Company's expenses and could result in rates that are too high. And it argued that, in any event, Minnesota Power had not provided sufficient information to support the new projects.

B. Commission Action

At the January 18th Agenda Meeting, Commissioner Schuerger moved that the Commission:

Require Minnesota Power to remove the two capital projects that it deferred and will not be in service in 2017, the 5-Line Re-conductor project and the Hoyt Lakes Ring Bus Reconfiguration projects, from the revenue requirements for the 2017 test year.

The motion passed 5-0.

In its March 12, 2018 Findings of Fact, Conclusions, and Order, on page 21, the Commission explained its action on the issue as follows:

The Commission agrees with the Department that, in this case, Minnesota Power has not met the standard for substituting new capital projects for the deferred projects removed from test-year rate base. Therefore, and as further explained below, the Commission will require the Company to remove the 5-Line Reconductor and Hoyt Lakes Ring Bus Reconfiguration projects from the revenue requirements for the 2017 test year.

Minnesota Power conceded that the 5-Line Reconductor project and Hoyt Lakes Ring Bus Reconfiguration projects would not be in service in 2017 and that they therefore should not be included in the test-year rate base. However, the

⁵⁴ See Campbell direct, at 25–26. In rebuttal testimony, the Company identified still more major transmission capital projects that were scheduled to be in service in 2017. See Fleege rebuttal, at 21–22.



Company sought to supplement its initial rate- case filing with replacement projects that it asserted would be in service in 2017. The Company argued that replacing delayed projects with new projects was supported by a prior Commission order.

In the 2015 Xcel rate-case order, the Commission allowed Xcel Energy to supplement its initial filing with additional capital projects to replace certain projects that the utility acknowledged would not be in service during the test year. In reaching this result, the Commission concurred with and adopted an administrative law judge's finding that a utility should be permitted to substitute replacement projects only if:

- The utility has shown that the replacement projects are necessary, the costs are prudent, and the projects will be in-service during the test year; and
- The other parties have had sufficient time to review the proposed replacement projects.

In other words, it is not enough for a utility to assert that it intends to spend a certain amount on capital projects in the test year. The utility must demonstrate that its proposed recovery of capital costs for particular projects is reasonable, and it must provide that information in a timely fashion so that the Department and other stakeholders can perform their due-diligence review of these costs.

The Commission finds that in this case, Minnesota Power made it impossible for the Department to review its requested transmission capital costs by filing, in rebuttal testimony, a new proposal indicating that there were now eight major capital projects (each of whose cost exceeded \$1 million) to be placed in service in 2017. This left the Department without sufficient time to review this new information, along with other contested issues, and to provide an assessment in its surrebuttal testimony.

The Company is the only party with access to all the relevant data, as well as complete control over when it files its rate case. It is reasonable to expect that Minnesota Power would be able to file a more complete proposal, or at least provide any major supplements much earlier than its rebuttal testimony. Under the circumstances, the Commission will deny the Company's request to add new transmission capital projects to its test year.

C. Minnesota Power's Request

The Company is requesting that the Commission reconsider its decision and not require Minnesota Power to make an adjustment to its test year for transmission capital projects.

The Company took issue with the Commission's statement that Minnesota Power "made it impossible for the Department to review its requested transmission capital costs by filing, in rebuttal testimony, a new proposal indicated that there were now eight major capital



projects...to be placed in service in 2017.”⁵⁵ The Company argued that it provided the information in response to the Department’s information request almost two months before Rebuttal Testimony was due. Further, the Company stated the information was also included as part of its Rebuttal Testimony. As such, the Department had several months to investigate these projects.

Second, the Company argued that the Commission’s decision does not recognize that the six replacement projects all served critical transmission system needs.⁵⁶ The data provided in discovery and Rebuttal included scope, reasons for accelerating projects into 2017, cost and construction status.⁵⁷ The scope and type of data provided as well as the timing, align with the need for utilities to serve customers by exchanging projects when needed, rather than continuing projects simply to avoid changes in the test year project list.

Third, the Company argued that perhaps an error occurred because the decision options in the Staff Briefing Papers did not include a decision option permitting both removal of the deferred transmission projects and inclusion of the added transmission projects:

1018. Require Minnesota Power to remove the two capital projects that it deferred and will not be in service in 2017, the 5-Line Re-conductor project and the Hoyt Lakes Ring Bus Reconfiguration projects, from the revenue requirements for the 2017 test year. (Department, OAG)

1019. Do not require Minnesota Power to remove the two capital projects that it deferred and will not be in service in 2017, the 5-Line Re-conductor project and the Hoyt Lakes Ring Bus Reconfiguration projects, from the revenue requirements for the 2017 test year. (MP, ALJ)

The Company stated that correcting the error would be consistent with the past policy decisions of the Commission and the record in this case.

D. Answers to Minnesota Power’s Request

None of the interested parties’ involved in this case submitted comments specific to Minnesota Power’s request that the Commission reconsider its decision and not require Minnesota Power to make an adjustment to its test year for transmission capital projects.

However, both the Department and the OAG recommended the Commission deny MP’s request for reconsideration on all financial issues. LPI does not support MP’s request for reconsideration either.

⁵⁵ March 12, 2018 Order at 21.

⁵⁶ Ex. 50 at 26 and Rebuttal Schedule 11, p. 6-7, 10-12 (Fleege Rebuttal).

⁵⁷ Ex. 50 at Rebuttal Schedule 11 (Fleege Rebuttal).



E. Staff Comment & Analysis

Minnesota Power made similar comments in the rate case regarding the length of time the Department had to review its request. The Company also made the same argument about the six replacement projects serving critical transmission needs.

The only new argument the Company has provided in reconsideration is that perhaps an error occurred in the Staff Briefing Papers because the decision options did not include an option permitting both removal of the deferred transmission projects and inclusion of the added transmission projects.

Staff presents decision options for the Commission to consider within the briefing papers and does not represent that the decision options are all inclusive of all possible decision option. During the course of an agenda meeting, it is not uncommon for the Commission itself to change the language within an existing decision option, present brand new decision options for the parties' to consider and combine decision options to reflect the Commission's decision. Staff is confident that if the Commission wanted to include a decision option permitting both removal of the deferred transmission projects and inclusion of the added transmission projects that it would have done so.

F. Decision Alternatives

34. Grant Minnesota Power's request for reconsideration and do not require Minnesota Power to make an adjustment to its test year for transmission capital projects. [MP]
35. Do not grant Minnesota Power's request for reconsideration of its test year transmission capital projects. [DC, OAG, LPI]

XIV. Third-Party Transmission Revenue and Expenses

PUC Staff: Sundra Bender

Should the Commission reconsider its decision regarding third-party transmission revenue and expenses?

A. Background

At the January 18th Agenda Meeting, Commissioner Schuerger moved that the Commission:

- Reject MP's proposal to update its third-party Transmission revenues and expense to reflect a reduction of \$6.23 million (Total Company) from the net revenue amount requested in the Company's Rebuttal Testimony.
- Increase Other Operating revenues for the net transmission revenues by \$1.836 million on a Minnesota jurisdictional basis.

The motion passed 5-0.

B. Commission Action

In its March 12, 2018 Findings of Fact, Conclusions, and Order, on pp. 26-27, the Commission explained its action on this issue as follows:

The Commission agrees with the Department, OAG, and LPI that Minnesota Power has not carried its burden to support its requested \$6.23 million downward adjustment to third-party transmission revenues, and will therefore reject the adjustment.

Minnesota Power's third-party transmission revenues and expenses have been a moving target in this proceeding. In response to Department testimony and information requests, the Company revised its revenues and expenses multiple times to correct errors and make other adjustments. Given this history and the time and effort required to review rate-case filings, it is understandable that other parties would object to the Company's request, midway through the test year, to supplement its original filing in a way that would increase the overall revenue requirement.

More importantly, Minnesota Power's request fails on the merits because the Company has not provided a sufficient factual basis for its \$6.23 million adjustment. The Company's surrebuttal testimony states that the 207 MW capacity change will reduce transmission revenues by \$2.85 million in 2017, or \$6.23 million on an annual basis. [Citation omitted.] However, the calculation used to convert \$2.85 million to \$6.23 million is not in the record, nor is any explanation provided for how the raw MISO data in the supporting schedules result in a \$2.85 million revenue loss.

Given the late date at which the Company requested the \$6.23 million adjustment, more supporting information should have been provided to establish the reasonableness of the adjustment, and any doubt as to its reasonableness must be resolved in favor of ratepayers. The Commission will therefore reject this adjustment.

Having rejected Minnesota Power's most recently proposed adjustment, the Commission finds that the Department and the Company's previous agreement to include net transmission revenue of \$2.24 million in the test-year revenue requirement is supported by the evidence, and will require the Company to increase its operating revenues accordingly (\$1.836 million on a Minnesota-jurisdictional basis).

C. Minnesota Power's Request

MP asks the Commission to reconsider its March 12, 2018 Order rejecting the Company's updated information regarding transmission revenues. MP states that:⁵⁸

In rejecting this offset to the \$1.836 million approved adjustment, the Commission concluded that Minnesota Power "has not provided a sufficient factual basis for its \$6.23 million adjustment" and that "the calculation used to convert \$2.85 million to \$6.23 million is not in the record nor is any explanation provided for how the raw MISO data in the supporting schedules result in a \$2.85 million revenue loss." [Citation omitted.] The Company respectfully disagrees with this conclusion.

The Company provided, in Surrebuttal Testimony, the MISO reports that explicitly show that 207 MW were redirected away from the Minnesota Power transmission system.⁵⁹ Concurrent with its Surrebuttal Testimony, the Company provided, to all parties, the "revenues data from which the adjustment to the impact of the 207 MW redirection on net revenues (expenses) analysis was developed," which included detailed information from MISO records.⁶⁰ This information from MISO is the same information that would have been available for the Company to provide if this redirection of 207 MW had occurred earlier in the year. In short, MISO identifies when Company revenues have changed, and the MISO data is what the Company provided here. More time would not have resulted in more or different data being available, nor in more "testing" of what is the proof of these redirected revenues. Further, in Surrebuttal Testimony, the Company detailed where the impacts of this loss of 207 MW were reflected in the Company's methodology.⁶¹

MP goes on to argue that, "No party questioned the Company at the evidentiary hearing on how it converted the 207 MW loss to \$2.85 million (Total Company)/\$2.357 (MN Jurisdictional) Third-Party Transmission Expense for the 2017 actual revenue impact." MP states that the support for the 2.85 million (Total Company)/\$2.357 million (MN Jurisdictional) was wholly clear in the record and that at the same time, MP "also provided the revenue impact data from MISO to support the full-year amount of \$6.23 Million (Total Company)/\$5.15 million (MN Jurisdictional) and requested the full-year amount in Surrebuttal Testimony."

MP states that "the supporting evidence is clear, comes from a FERC-regulated independent source (MISO), is not subject to judgment, discretion, or change, was shared with the parties immediately upon discovery by the Company, and will have a significant impact on the

⁵⁸ MP's Petition for Reconsideration at 38-39.

⁵⁹ Ex. 52 at Surrebuttal Schedule 1 (Fleege Surrebuttal) (trade secret).

⁶⁰ Ex. 51 at 3 n.2 (Fleege Surrebuttal) (public). These data were provided to all parties in response to OAG IR 635, which requested "any and all information contained in or derived from spreadsheets . . . in live Excel format." [Staff notes that MP's response to OAG IR 635 is not included in the record.]

⁶¹ Ex. 51 at 3 and Surrebuttal Schedule 2 (Fleege Surrebuttal) (public).

Company[.]” MP requests that the Commission reconsider its March 12, 2018 Order and approve the Company’s demonstrated Third-Party Transmission Revenue loss.

D. Department - Answer

The Department states, “After reviewing MP’s Petition, to determine whether it raised significant new issues, pointed to new and relevant evidence, or exposed errors in the Rate Case Order, the Department concludes that MP has not done so regarding any of the issues raised in the Petition.” The Department “does not believe that the Commission should take up or grant MP’s request for reconsideration for any of the issues raised in the Petition,” and the Department recommends that the Commission deny MP’s Petition.

The Department provided additional analysis on certain key issues, but does not further discuss Third-Party Transmission Revenues and Expense in its reply.

E. LPI - Answer

According to LPI, the issues raised in MP’s Petition “were fully and accurately addressed by the Commission, do not point to new and relevant evidence, do not expose any errors or ambiguities in the Order, and, therefore, do not warrant reconsideration.” Specifically with regard to Third-Party Transmission Revenue and Expense, LPI states:

...In an attempt to refute the Commission’s finding, the Company’s Petition fails in the same two ways. First, the Petition still offers no explanation for how the raw MISO data in the supporting schedules result in a \$2.85 million revenue loss. Instead, the Company asserts there was only limited cross-examination on the subject. ... Second, the Company fails to provide a sufficient factual basis for the conversion. The Company notes: “[a]t the same time, Minnesota Power also provided the revenue impact data from MISO to support the full-year amount of \$6.23 million (Total Company)/\$5.15 million (MN Jurisdictional) and requested the full-year amount in Surrebuttal Testimony.”⁶² Noticeably missing from this section is a citation of any kind. These failures affirm the Order, which recognized that the Company failed to provide a “factual basis” for its adjustment. The Commission was not mistaken on this issue and should therefore reject the Company’s claims.

F. OAG - Answer

According to the OAG, MP has not identified new issues, pointed to new evidence, or identified errors or ambiguities in the Commission’s Order. The Commission should reject MP’s Petition and order the Company to calculate final rates consistent with its Order.

The OAG states that the Commission should not reconsider any of the financial issues raised by MP because MP “merely restates arguments that it made throughout the case—arguments that

⁶²Minnesota Power Petition at 40 (This statement is not followed by a citation of any kind nor is there a specific citation provided that refers to \$6.23 million in the record.).

the Commission found unpersuasive.” Specifically with respect to Third-Party Transmission Revenues and Expenses, the OAG states that “To try and get around the fact that it has no new arguments, MP selectively quotes from the record.... MP conveniently left out the part of the transcript where its expert admits that the Company did not provide [in its Surrebuttal Testimony] the calculations necessary to support its request for additional money.”

G. Staff Comment

MP disagrees with the Commission’s conclusion that MP “has not provided a sufficient factual basis for its \$6.23 million adjustment” and that “the calculation used to convert \$2.83 million to \$6.23 million is not in the record nor is any explanation provided for how the raw MISO data in the supporting schedules result in a \$2.85 million revenue loss.” MP’s main argument for its disagreement appears to be its argument that “Concurrent with its Surrebuttal Testimony, the Company provided, to all parties, the ‘revenues data from which the adjustment to the impact of the 207 MW redirection on net revenues (expenses) analysis was developed,’ which included detailed information from MISO records.” MP is quoting from Footnote 2 of Mr. Fleege’s Surrebuttal Testimony, and further states in Footnote 142 of its Petition, “These data were provided to all parties in response to OAG IR 635, which requested ‘any and all information contained in or derived from spreadsheets...in live Excel format.’” However, MP’s response to OAG IR 635 is not in the record, despite MP having numerous opportunities to put it into the record.

If the Commission agrees that it should reconsider the matter due to an error or ambiguity, then it should approve MP’s request for reconsideration. If the Commission feels that no error was made and feels no additional information has been presented by MP, it should deny the petition for reconsideration.

H. Decision Alternatives

36. Approve Minnesota Power’s request for reconsideration on the issue of Third-Party Transmission Revenues and Expense.
37. Deny Minnesota Power’s request for reconsideration on the issue of Third-Party Transmission Revenues and Expense

XV. Return on Equity (ROE)

PUC Staff: Ganesh Krishnan

Should the Commission reconsider its decision to set MP’s return on equity at 9.25 percent?

Relevant Documents

- MP’s Petition for Reconsideration, pp. 41-48.
- LPI’s Answer to MP’s Petition, pp. 3-6.
- OAG’s Answer to MP’s Petition, pp. 13-14.

Department's answer to MP's Petition, pp. 13-16.

A. Background

At the January 18, 2018 Agenda Meeting, Commissioner Tuma moved that the Commission adopt a cost of equity of 9.25%.

The motion passed 5–0.

B. Commission Action

The Commission's March 12, 2018 Findings of Fact, Conclusions, and Order discusses the Commission's action on the cost of equity at pages 59-61.

The Commission explained its action in two parts.

First, the Commission explained that the "record reflects the diversity of factors and analytical approaches that can be reasonably considered when setting an ROE" as follows:

Setting the cost of equity is a fact-intensive and record-specific judgment. The Commission must ultimately establish a reasonable rate of return that is supported by the evidence in the record considered in its entirety. The Commission believes that the record evidence in this case, including the broad diversity of modeling and expert testimony, establishes a range of reasonable costs of equity, within which the Commission must identify one value.

The record does not formulaically dictate a particular ROE to be approved. Instead, the record presents a range of reasonable returns on equity that the Commission has carefully evaluated based on the analyses and arguments in the record. As such, the Commission will set the Company's authorized ROE in light of the record as a whole.

Examples of how a broad range of interrelated factors must be considered when determining an appropriate ROE can be found throughout the record. For example, arguments from the Department and the Large Power Intervenors acknowledged the relationship between the approved capital structure and the appropriate return on equity.

The Department argued that approval of the Large Power Intervenors' recommended capital structure (with less equity and more long-term debt) would require an upward adjustment to the Department's recommended ROE. Likewise, the Large Power Intervenors acknowledged that approval of the Company's proposed capital structure (more equity, less long-term debt) instead of theirs, and a reliance on the Department's DCF modeling over LPI's multi-model approach would justify shifting their recommended range of ROEs downward (from between 8.90% and 9.70% to between 8.80% and 9.20%).



The positions of the Department and the OAG concerning the appropriate ROE serve as another example. Both the Department and the OAG asserted that the appropriate ROE for the Company is 8.70%. But the Department recommended 8.70% because in its analysis the figure included an adjustment for flotation costs—the costs of issuing equity, such as legal, underwriting, and registration fees—and the OAG recommended the same figure because in its analysis 8.70% did not include a flotation cost adjustment.

And finally, the Company and the Large Power Intervenors argued in support of using multiple methodologies to mitigate the effects of assumptions and inputs associated with any single approach. The Company's witness testified that in his view the DCF methodology may be unreliable under current market conditions.

The wide diversity of analytical methods in the record in this case do not lead to wildly disparate conclusions. The recommendations of the parties all fall into a fairly narrow and often overlapping range, though the DCF analyses tend to support a lower ROE in that range, and CAPM and risk premium models (and blended approaches) tend to support the higher end of the range.

Second, the Commission explained that the record, as a whole, supported establishing a return on equity of 9.25 percent as follows:

Using the DCF and other analyses in the record as both a foundation and a guide, the Commission has considered and weighed the relevant factors, which include, but are not limited to the relative objectivity, transparency, reliability, rigor, and timeliness of the analytical models in the record, and their inputs; the composition and representative nature of the proxy groups proposed in each analysis; the ROEs (or ranges of ROEs) that the parties recommended based on their modeling results; ROEs in other recent proceedings; and the Company's approved capital structure and costs of obtaining equity investment.

Most importantly, the approved ROE must adequately assure a fair and reasonable return in light of the Company's risk profile and costs of obtaining equity investment. In light of the relevant factors, the Commission will approve a cost of equity of 9.25%.

The reasonableness of an ROE of 9.25% is supported by each version of both the Department's and the Company's DCF analyses, and LPI's multi-method analysis, despite their significant differences. A 9.25% ROE falls between the average and higher end of comparable ROEs under the Company's own two-growth DCF analyses, and below the average of the mean-high results in the Department's updated two-growth DCF analysis.

The Commission concludes that it is appropriate to establish an ROE toward the higher end of the DCF-supported results to adjust for the divergence between



ROEs supported by the DCF models and the models the Commission has historically relied upon for confirmation of reasonableness—the CAPM and Bond Yield Plus Risk Premium models. In direct testimony, the Department’s witness estimated a CAPM rate of return of 9.22% (9.29% after adjusting for flotation costs), and the Company’s and the Large Power Intervenors’ CAPM results were generally higher.

Therefore, the Commission is persuaded that an ROE supported by the two-growth DCF analyses in the record, but which is also reasonably positioned among the breadth of reasonable DCF, CAPM, and blended-analysis results, is justified in this case. An ROE of 9.25% is sufficient to establish just and reasonable rates, while adequately assuring a fair and reasonable return in light of the Company’s unique risk profile, capital structure, and costs of obtaining equity investment.

C. Minnesota Power’s Request

MP is seeking is seeking reconsideration of the Commission’s decision in order to obtain a higher ROE on the basis of:

1. the Commission has insufficiently considered MP’s unique risk profile;
2. the Commission recently awarded Otter Tail Power a higher ROE; and
3. Credit agencies have changed their outlook for ALLETE from stable to negative because the authorized ROE of 9.25% is below the national average ROE of 9.66% for vertically-integrated electric utilities and has negatively impacted MP’s Funds from Operation to Debt (FFO to Debt) ratio.

MP respectfully requests that the Commission reconsider its determination of ROE and choose a return, at a minimum, from the range of 9.41 percent (allowed to Otter Tail Power) to 9.66 percent (a return earned by average vertically-integrated electric utilities).⁶³ MP equally argues that its unique risk “needs to be reflected in an ROE that is not materially below average ROEs for vertically integrated electric utilities in the United States (approximately 9.66 percent), and is not materially below the ROE awarded to Otter Tail (9.41 percent) less than one year ago.”⁶⁴

MP argues that a 9.25 percent return on equity is not sufficient to help ensure stability for MP. MP requests that the Commission increase the ROE to a percentage that will bring its “Funds from Operation to Debt” ratio back to a workable level.

MP asks that the Commission set a ROE at “the upper end of a reasonable range.” MP points to the upper end of the Department’s estimated range of 7.64 percent to 9.66 percent and its own calculated upper range of 10.40 percent to 10.54 percent.⁶⁵

⁶³ MP Petition for Reconsideration, p. 45.

⁶⁴ MP Petition for Reconsideration, p. 42.

⁶⁵ MP Petition for Reconsideration, pp. 47-48.



MP notes that its risk levels are materially higher than those of comparable entities because of its heavy reliance (approximately 70 percent of its revenue) on a small number of large customers who operate in cyclical taconite and paper industries. Because the customer base is pro-cyclical, MP's sales are highly volatile.

MP claims that it is similar to Otter Tail in many ways but carries more risk, yet the Commission authorized only 9.25 percent, whereas the Commission allowed Otter Tail 9.41 percent return on equity.

MP notes that "Moody's issued a rating action, changing the credit agency's outlook for ALLETE from stable to negative." MP further states: "[t]he negative outlook results from [Moody's] expectation that ALLETE's financial ratios will weaken following the adverse general rate case outcome at the company's primary business, Minnesota Power, as well as the negative cash flow impact associated with federal tax reform." The rating action further explained that "ALLETE **could be downgraded** if it continues to experience a decline in the credit supportiveness of the Minnesota regulatory framework" [emphasis supplied by Staff].

MP adds that "Moody's further concluded that Minnesota Power's general rate case outcome is credit negative even without considering the additional negative cash flow impacts stemming from federal tax reform" and that "[i]n coming to this conclusion Minnesota Power's ROE of 9.25 percent is well below the national average of 9.66 percent despite its higher risk profile."

MP has listed the following negative impacts flowing from the Commission's action as the main reason for reconsideration: "employee lay-offs, a credit outlook downgrade, and other very unfortunate, but real, impacts." MP stated that because of the combined impact of the Commission's decisions and adverse credit-rating decisions, MP has announced the need for layoffs and is looking at other expense reductions.⁶⁶

D. LPI's Answer

LPI answers that Otter Tail's authorized ROE is irrelevant to decision-making in this case because the Commission relies more on models in this case and places little weight on comparisons to return on equity authorized for other utilities. LPI argues that the Department's acceptable ROE range was 7.64 percent to 9.66 percent and that 9.25 percent authorized for MP is within the top quartile of this range.

LPI discounts MP's argument of credit rating downgrade. LPI maintains that none of the credit agencies have downgraded ALLETE. LPI points out that MP has even noted in its cover letter that the credit agencies "affirmed its BBB+ issuer credit rating." The credit rating agencies have not taken any action to downgrade ALLETE, and the Commission is charged with setting an ROE for MP based on the record before it, not potentially negative hypothetical situations.

⁶⁶ A newspaper report, referenced in MP's petition, noted: "The handwriting was on the wall last week when Allele CEO Alan Hodnik vowed to take all necessary steps to cut costs, impose financial discipline and rescale his business to help bolster profitability and shareholder return." <https://www.duluthnewstribune.com/business/energy-and-mining/4407843-allele-mulls-layoffs-leaving-jobs-open#.WrFKE9h5bqw.email>



As to the potential for layoffs by MP, LPI argues that MP “fails to demonstrate how the Commission’s decision is directly attributable to the lay-offs it asserts may be necessary cost-cutting measures or why cost-cutting measures are beyond what should be expected in providing electric service at just and reasonable rates.” LPI adds: “In fact, and in a noteworthy juxtaposition to the cost-cutting measures, the article cited by the Company to support its position concludes that the ‘cost-cutting efforts came after ALLETE released its final 2017 financial results, showing earnings of \$3.38 per share on net income of \$172.2 million and operating revenue of \$1.42 billion. That’s up from 2016, which saw earnings of \$3.14 per share on net income of \$155.3 million and operating revenue of \$1.34 billion.’ Although the Company is just one operating division of ALLETE, these statistics show that at least ALLETE, and perhaps by extension the Company, are fiscally healthy organizations. For all of the reasons noted above, the Company has failed to meet its burden on this issue. LPI supports the thoughtful analysis by the Commission on this matter, and respectfully requests that the Commission reject the Company’s arguments on ROE.”

E. Department’s Answer

The Department opposes MP’s petition for reconsideration because it is not supported by the record. The Department notes that the Commission’s Order entirely captures MP’s concerns and that MP has provided no new information to support its petition for reconsideration.

The Department notes that the Commission’s order indicated that that the Commission set the higher ROE “in light of the Company’s risk profile” and concluded that an authorized ROE of 9.25% is reasonable for MP. Besides, the Department suggests that the Commission awarded MP an ROE that was higher than the figures recommended by the Department and the OAG. Finally, the Department notes that at this point, ALLETE is still rated BBB+ by S&P, which is above the average S&P BBB rating of MP’s Comparison Group and that MP has not demonstrated that S&P will change MP’s rating to BBB. The Department maintains that the record does not show the exact relationship between MP and rating agencies such as Moody’s and Standard & Poor (S&P), and so the Commission should not make decisions based on the wishes of rating agencies. Even if ALLETE is rated at BBB, it would only put MP on an even level with the average credit rating of the Company’s Comparison Group.

The Department asks that the Commission not reconsider its authorized ROE for MP.

F. OAG’s Answer

The OAG opposes MP’s petition for reconsideration because MP simply restates arguments previously made for a higher return on equity:

1. MP and ALLETE are different from, and riskier than, other utilities;
2. MP must be allowed to maintain a specific FFO (funds from operation) to debt ratio established by a credit rating agency; and



3. ALLETE's credit rating must be preserved.

The Commission carefully considered these arguments against the balance of the evidence in the record, and established an ROE that the Commission concluded was just and reasonable.

G. Staff Comment & Analysis

Moody's Investor Service did change its "outlook" of ALLETE from "stable" to "negative" in February 2018.⁶⁷ However, the credit rating itself remains at BBB+ (Standard and Poor) and A3 (Moody) as of April 2018.⁶⁸

Staff believes that MP has not raised any new issues or exposed any errors in the Commission's Order to warrant reconsideration.

H. Decision Alternatives

38. Grant MP's petition for reconsideration.

Adopt a return on equity from the range of 9.41 percent (allowed to Otter Tail Power) to 9.66 percent (a return earned by average vertically-integrated electric utilities).

39. Deny MP's petition for reconsideration.

XVI. Request for Clarification of Decision to Reject Annual Rate Review Mechanism

PUC Staff: Ganesh Krishnan

Should the Commission clarify its decision rejecting MP's proposed annual rate review mechanism?

Relevant Documents

MP's Petition for Reconsideration, pp. 48-49.

Department's Answer to MP's Petition, pp. 16-17.

A. Background

At the January 18, 2018 Agenda Meeting, Commissioner Lipschultz moved that the Commission reject Minnesota Power's Proposed Automatic Rate Recovery Mechanism.

⁶⁷ https://www.moodys.com/research/Moodys-affirms-ALLETE-and-SWLP-ratings-outlooks-changed-to-negative--PR_379414

⁶⁸ ALLETE Investor Presentation, April 2018. <http://investor.allete.com/static-files/b9f09a5d-c1ac-4d78-ac25-8475eebe2efd>, p. 12 of 57.



The motion passed 5–0.

B. Commission Action

The March 12, 2018 Findings of Fact, Conclusions, and Order, at p. 62, noted, in part:

Minnesota Power proposed a mechanism to adjust its rates between rate cases when changes in sales or other factors result in significant increases or decreases to its actual ROE. The Company argued that its proposed Annual Rate Review Mechanism (ARRM) would promote rate stability and provide customer protection while allowing the Company to recover costs in the event of an economic downturn.

The Department, the OAG, the Large Power Intervenors, and Wal-Mart opposed the ARRM proposal, on a variety of grounds, including: the proposal improperly shifts investment risk to ratepayers; it would represent a dramatic shift in the regulatory framework without adequate justification;

The ALJ recommended that the Commission not approve the proposal.

The Commission explained its action, thus:

The Commission agrees with the ALJ and the parties that did not support the ARRM proposal, and will reject it. While the Commission values innovative approaches to improve the regulatory process, it has not been established on this record that this proposal for automatic adjustment would properly align the Company's incentives with the public interest or result in just and reasonable rates.

C. Minnesota Power's Request

MP notes that while it solicited approval of the annual rate review mechanism in this rate case, it also suggested consideration of the annual rate review mechanism in a separate docket.

MP notes that the March 12, 2018 Order does not discuss addressing the mechanism in a separate, miscellaneous proceeding.

MP is seeking clarification that although the Commission rejected the annual rate review mechanism in the rate case, the Commission did not preclude MP from proposing the rate review mechanism, with additional evidence or modifications that may aid in evaluation and



acceptance of the mechanism, in a separate, miscellaneous docket instead of waiting until the next rate case.

D. Department's Answer

The Department did not respond to MP's request for clarification but suggested that the Commission may clarify the effective date of the order while MP's petition is pending. This issue is discussed elsewhere in the briefing paper.

E. Staff Comment

The Commission may issue the clarification requested by MP as Staff does not believe the Commission rejected the annual rate review mechanism with prejudice.

F. Decision Alternatives

40. The Commission clarifies that MP may propose an annual rate review mechanism, with additional evidence or modifications, in a separate docket instead of waiting until the next rate case.

41. Other action by the Commission.

XVII. Sales Forecast

PUC Staff: Ganesh Krishnan

Should the Commission reconsider its decision regarding MP's test-year sales forecast?

Relevant Documents

MP Petition for Reconsideration, pp. 5-11.

LPI's Answer to MP's Petition, pp. 2-3.

OAG's Answer to MP's Petition, pp. 11-12.

Department's Answer to MP's Petition, 7-8.

A. Background

At the January 30, 2018 Agenda Meeting, Commissioner Tuma moved that the Commission:

- Find that test year figures should reflect only known and measurable changes;
- Modify the ALJ's report and recognize that evidence in the record supports 12 months of sales to Keetac and a corresponding increase in revenue of \$1.8 million;
- Require MP to reflect this in its calculations; and



- Find insufficient proof in support of MP’s contention that increased electricity sales arising from the Silver Bay Agreements and Keetac in the test year should be offset by reduced sales attributable to other eventualities in future time periods.

The motion passed 4–0.

B. Commission Action

In its March 12, 2018 Findings of Fact, Conclusions, and Order, the Commission determined that

“the Company will be required to reflect 12 months of sales, and a corresponding \$1.8 million revenue increase, in its test year calculations.

In its March 12, 2018 Findings of Fact, Conclusions, and Order, on pp. 51-53, the Commission explained its action (w/o footnotes) on this issue as follows:

This case is being built upon a forecasted 2017 test year. The Commission concludes that to establish just and reasonable rates based on a 2017 test year, it should consider annualized 2017 sales revenues when there is sufficient record support for annualization. Because evidence in the record supports a conclusion that sales to Keetac will continue for the foreseeable future, the Company will be required to reflect 12 months of sales, and a corresponding \$1.8 million revenue increase, in its test year calculations. [emphasis supplied]

Test year figures should reflect only known and measurable changes. The Commission is not persuaded that it is reasonable in this case to reduce a known test year revenue amount for specific customers as a proxy for a proposed load-factor adjustment for an entire industry. There is insufficient proof to support the contention that increased electricity sales arising from the Silver Bay Agreements and Keetac in the test year should be offset by reduced sales attributable to speculated future industry-wide economic developments [emphasis supplied].

The Commission agrees with the parties that revenues from Keetac should only be recognized once. Concurrent proceedings concerning implementation of the EITE statute and establishing the Company’s general rates make this accounting uniquely challenging, but Minnesota Power should not be credited with having received these revenues twice.

And, because the test-year revenue from Keetac must be accounted for as an increase in utility revenue in a tracker established under Minn. Stat. § 216B.1696, and a portion of it must be used to offset the costs of the discounted EITE rate provided under that statute, it is appropriate to reduce the Company’s net test-year revenue amount.

That is, the Commission agrees that (1) the Company’s test year should reflect the full, annualized amount of sales revenue for Keetac, and (2) the net test year revenue amount must also reflect that those revenues are subject to the



requirement that certain increased revenues must be separately tracked and are subject to offset or refund under Minn. Stat. § 216B.1696, subd. 2(d).

Accordingly, the Commission will require reduction of net test year revenue by an amount equal to the revenue that must be used as an offset or refund in the section 216B.1696 tracker, on an annualized basis. In this case, that amount is equal to the lesser of (a) the annualized Keetac revenue and (b) the annualized cost of the EITE discount. Revenue not required to cover test-year EITE rate costs will remain in the test year. The net effect is an upward adjustment of approximately \$2.6 million in test-year revenue, which will reduce the overall test year revenue deficiency.

The Large Power Intervenors' argument that revenue increases from EITE customers cannot be accounted for in the section 216B.1696 tracker is contrary to the plain language of the statute; Minn. Stat. § 216B.1696, subd. 2(d), requires the utility to track certain revenue increases for refund. Nor does the statute require that test-year revenue accounting in a rate case disregard revenue-increase offsets or refunds provided for by the statute. In fact, the statute provides for tracker recovery or refund to be authorized as part of a general rate case, as the Commission is doing in this case. The Commission concludes that the Large Power Intervenors' interpretation of the statute cannot be correct.

C. Minnesota Power's Request

MP argues that the Commission has relied upon a test-year sales figure which is too high and, therefore, the rates adopted by the Commission are too low for MP to recover its cost of service. MP wishes the Commission to "correct this error" and reconsider its decision and "adopt the Company's updated test year retail sales forecast of MWh that relies on a 90 percent utilization rate for Minnesota Power's six taconite plants." MP asks that the Commission adopt MP's "updated test year retail sales forecast of 9,212,383 MWh"⁶⁹ that is based on a 90-percent utilization rate for MP's six taconite plants.⁷⁰

MP argues that the Commission erred in reasoning that under MP's updated sales forecast, sales to Keetac will continue for the foreseeable future, because, in so doing, the Commission ignored the broader goal of sales forecasting. MP argues that requiring it to reflect 12 months' of sales to Keetac would not ensure that the overall sales forecast for its Industrial customers is reasonable after the Keetac restart. MP notes that it never intended to match the expected sales to Keetac because doing so would require it to lower sales elsewhere. In effect, MP argues, the Commission has set the test-year sales forecast to be at an unreasonably high level

⁶⁹ This figure reflects MP's revised total retail test-year sales to "mining and metals" of 4,832,432 Mwh (revised from the original estimate of 4,409,276 Mwh, an increase of 423,156 Mwh).

⁷⁰ Source for 9,212,383 MWh: Julie Pierce (MP), Supplemental Direct, Schedule 3; MP Rate Case Filing Volume IV, Supplemental Direct Schedule E-1, page 2 of 47. Staff Briefing Paper – Volume III, January 11 & 18, 2018, p. 6, Table 302 - Revised Test Year Sales Forecast.



because “it assumes nearly full production at all six of Minnesota Power’s taconite customers or a utilization rate of over 93 percent.” And further, “[t]his assumption is not representative of the historic trends for sales in Minnesota over the last 10 years due to the cyclical and often volatile taconite industry, which is closer to 84 percent.”

MP argues including a full year of production at Keetac would overstate 2017 sales to this customer class and would not be representative of future sales given the already optimistic outlook contained in the original sales forecast for these Large Industrial customers.

MP maintains that the Commission-ordered test year sales forecast is also in conflict with the actual sales data on the record for 2017. As of May 31, 2017, total retail sales for 2017 were approximately 3.5 percent lower than MP’s updated test year sales forecast. Even after weather-normalizing and non-levelizing these actual sales, the sales as of May 31, 2017 were still about 1.5 percent below the MP’s updated test year forecast.

D. LPI’s Answer

LPI answered that comparison of historical taconite utilization rates compared to forecasted electric energy sales is inaccurate because of new electric service agreements with certain taconite customers referred to as the Silver Bay Agreements. LPI argues that these agreements embody new load growth and a break from historical utilization figures and, as testified by MP, “effectively adding another six million ton taconite plant to our load profile.” LPI further states that MP confirmed that “post the addition of Silver Bay, [the Company’s proposed 90% utilization rate] now means something different to the Company in terms of overall energy sales than it did pre Silver Bay.”

E. OAG’s Answer

MP has not identified any new issues or new evidence that would justify reconsidering the Commission’s decision to include a full year of sales to Keetac in the test year. MP’s request to reduce the test year sales related to the Keetac facility is premised on its argument that test year sales should be viewed “holistically,” and based on industry-wide taconite utilization rates rather than specific information about expected sales. This is the exact same argument that MP made in its testimony and briefs. Nothing has changed about these arguments which the Commission has already considered and rejected: “The Commission is not persuaded that it is reasonable in this case to reduce a known test year revenue amount for specific customers as a proxy for a proposed load-factor adjustments for an entire industry.” The Commission correctly decided that rate case should be updated to reflect the fact that Keetac had come online, and that the amount of that update should be the amount of sales that are likely to Keetac going forward. MP has not pointed to anything that could lead the Commission to change its decision.

F. Department’s Answer

The Department notes that MP’s quibble on the sole focus on MP’s sales to Keetac rather than MP’s sales in an overall context is of its own making and stemmed from MP’s own proposal not



to reflect 12 months' of sales to Keetac. The Department also points out that an amount equivalent to 12 months' of sales to Keetac would be consistent with the low end of the range of sales reported by MP to FERC. Further, U S Steel has executed contracts with third parties contracts to supply products through 2021, which indicates that the Keetac facility is expected to be operating while the rates set in this proceeding are in effect.

G. Staff Comment & Analysis

Staff believes that MP has not presented any new information, or exposed any errors in the Commission's Order to require reconsideration. The Commission's Order appropriately bases test-year revenue on known and measurable changes.

H. Decision Alternatives

42. Grant MP's petition for reconsideration.

Adopt MP's updated test year retail sales forecast of 9,212,383 MWh based upon a 90 percent utilization rate for MP's six taconite plants.

43. Deny MP's petition for reconsideration.

XVIII. Application of Cost-Based Principles to Revenue Apportionment

PUC Staff: Kevin O'Grady

Should the Commission give greater weight to cost in determining revenue allocation?

Case Record

PUC Order, 72 - 75; Order Paragraph 56

LPI Petition, 6 – 14

DOC Answer, 1 – 3

OAG Answer, 21 - 28

A. Commission Decision

In a 4 – 0 decision the Commission stated:

[T]he Commission will apportion a 3.5% rate increase to each of the Residential and General Service classes, with the remaining revenue requirement to be apportioned to the other classes consistent with the Company's cost study. This approach balances the need to move the classes closer to cost – limiting the extent of the increase to the Residential class compared to the Company's proposal, and apportioning a higher increase to the Residential class than the Department and the OAG proposals. It also significantly limits the increases to the larger power



customers, assigning the smallest increase, less than 2%, to the Large Power class. [Order, p. 75]

Further, the Commission stated:

The Commission respectfully disagrees with the ALJ's recommendation that it would be reasonable to relieve the Large Power class of any rate increase. That approach relies entirely, or nearly entirely, on cost factors for its justification and would result in an unreasonable apportionment among the classes.

The Commission is also unpersuaded by the arguments of LPI, the Chamber, and Wal-Mart that the Residential class should exclusively bear the cost of the rate increase, with an increase in rates that exceeds 100% of the revenue requirement to deliver a rate decrease for large power customers. Their arguments appear to exclude meaningful consideration of non-cost factors and are premised on the assertion that a rate decrease will correct historically and inappropriately high rates for these customers. There is, however, no error in the current rate structure. To the contrary, the Commission's prior rate case decisions established just and reasonable rates after a full consideration of the entire record in those proceedings. The Commission now considers rate design anew, informed by cost and non-cost factors and based on the entirety of the record in this proceeding.

While the parties disagree on revenue apportionment percentages, they do appear to agree that the record supports bringing classes closer to cost by apportioning the highest rate increase to the Residential class. In the proposals of the Department and the OAG, the remaining revenue requirement increase is divided proportionally among the other classes. Under the Company's proposal, the remaining revenue requirement would be uniformly apportioned among the classes, except the Lighting class, which, according to the Company, is paying more than its costs. LPI and the Chamber of Commerce proposed rate decreases for some classes.

The Commission concurs that the record supports bringing the classes closer to cost by apportioning an increase to the Residential class that is at least as high as any other class's increase. But the Commission is also mindful that cost studies are imprecise and that allocating the full cost of service to one or two classes to deliver rate decreases to other classes is not a reasonable application of non-cost factors in this case. Ability to pay is particularly relevant to Minnesota Power's customers; a higher percentage of residential customers are low-income compared to the state average. It is therefore reasonable to moderate the apportionment across classes. [Order, pp. 74-5]

B. LPI's Request

LPI asks the Commission to reconsider its decision, approve a single CCOS, explain any apportionment deviations from the approved CCOS, and reduce Large Power's cost



apportionment. LPI argues that (1) the Commission erred by ignoring cost-based principles in apportioning revenue, (2) binding precedent requires the Commission to be sensitive to the cost of service, (3) the Commission must approve a single CCOS and explain deviations from that CCOS, and (4) LPI's proposed apportionment **does** incorporate non-cost factors.

C. Answers

DOC recommends rejection of LPI's request, arguing that LPI has not raised significant new issues, pointed to new and relevant evidence or exposed errors in the Commission's Order.

OAG, too, argued that the Commission should reject LPI's petition to reconsider revenue apportionment. OAG argues that the Commission has broad, well-established, authority to deviate from cost-based rates and that the Commission is not strictly limited to how, and the degree to which, it takes into account non-cost factors. Further, OAG argues that the Commission did take into account the cost models in the record and that LPI's arguments ignore the record. OAG states that there is no basis to claim that the Commission ignored cost when it apportioned the largest increases to classes that were the furthest under cost, and the smallest increases to the classes that were farthest over cost.

D. Staff Comment & Analysis

That the Commission "now considers rate design anew" does not indicate that the Commission has ignored statute, rule or precedent but, rather, it indicates only that the Commission is "informed by cost and non-cost factors and based on the entirety of the record in this proceeding."

With respect to the choice of a single CCOSS, LPI would have the Commission choose the least flawed CCOSS which, in effect, would anchor the cost discussion upon that CCOSS and divert attention from the possibility that even the least flawed CCOSS may be insufficiently reliable. The Commission has not deviated from precedent. It continues to consider numerous cost and non-cost factors in apportioning the revenue requirement.

E. Decision Alternatives

44. Deny LPI's request for reconsideration.
45. Grant LPI's request for reconsideration, approve a single CCOS, explain any apportionment deviations from the approved CCOS, and reduce Large Power's cost apportionment.
46. Take other action.

XIX. Energy-Intensive Trade-Exposed (EITE) Discount/Credit

Should the Commission reconsider its decision to:

Require MP to reduce test year revenue by an amount equal to the amount needed to cover the annualized cost of the EITE discount, and

Authorize MP to reduce the interim rate refund to non-EITE-paying customers to the extent possible to provide for the full recovery of 2017 EITE discount costs.

Case Record

PUC Order, 50 - 54; Order Paragraphs 49 & 50

LPI Petition, 3 - 6

DOC Answer, 1 – 3

OAG Answer, 14 - 21

A. Commission Decision

In a 4 – 0 decision the Commission ordered:

Test year revenue shall be reduced by an amount equal to the amount needed to cover the annualized cost of the EITE discount, effective with final rates. The amount of annualized Keetac revenue not required to cover the 2017 EITE discount costs, approximately \$2.6 million, remain in the rate case test year as part of the revenue deficiency calculation. [Order Paragraph 49]

MP is entitled to recover the \$8,636,643.11 in 2017 EITE discount costs, and any additional amounts arising in its EITE Cost Recovery tracker account during the interim rate period. The interim rate refund to non-EITE-paying customers shall be reduced to the extent possible to provide for the full recovery of that amount. To the extent any portion of that amount is not recovered through a reduction in the interim rate refund, MP may recover the remaining portion through the surcharge mechanism authorized by the Commission in the EITE docket. [Order Paragraph 50]

The Commission reasoned:

[B]ecause the test-year revenue from Keetac must be accounted for as an increase in utility revenue in a tracker established under Minn. Stat. § 216B.1696, and a portion of it must be used to offset the costs of the discounted EITE rate provided under that statute, it is appropriate to reduce the Company's net test-year revenue amount.

That is, the Commission agrees that (1) the Company's test year should reflect the full, annualized amount of sales revenue for Keetac, and (2) the net test year revenue amount must also reflect that those revenues are subject to the requirement that certain increased revenues must be separately tracked and are subject to offset or refund under Minn. Stat. § 216B.1696, subd. 2(d).



Accordingly, the Commission will require reduction of net test year revenue by an amount equal to the revenue that must be used as an offset or refund in the section 216B.1696 tracker, on an annualized basis. In this case, that amount is equal to the lesser of (a) the annualized Keetac revenue and (b) the annualized cost of the EITE discount. Revenue not required to cover test-year EITE rate costs will remain in the test year. The net effect is an upward adjustment of approximately \$2.6 million in test-year revenue, which will reduce the overall test year revenue deficiency.

The Large Power Intervenors' argument that revenue increases from EITE customers cannot be accounted for in the section 216B.1696 tracker is contrary to the plain language of the statute; Minn. Stat. § 216B.1696, subd. 2(d), requires the utility to track certain revenue increases for refund. Nor does the statute require that test-year revenue accounting in a rate case disregard revenue-increase offsets or refunds provided for by the statute. In fact, the statute provides for tracker recovery or refund to be authorized as part of a general rate case, as the Commission is doing in this case. The Commission concludes that the Large Power Intervenors' interpretation of the statute cannot be correct. [Order, pp. 51-2; footnotes omitted]

And, further, the Commission stated:

The Commission concludes that the Company is entitled to recover the \$8,636,643.11 in 2017 EITE discount costs that it has identified, and any additional amounts arising in its tracker account during the interim-rate period.

The interim-rate refund to EITE-surcharge-eligible customers will be reduced to the extent possible to provide for the full recovery of that amount. To the extent any portion of that amount is not recovered through a reduction in the interim rate refund, the Company may recover the remaining portion through the surcharge mechanism authorized by the Commission in the EITE docket. This will ensure that Minnesota Power will recover EITE costs not offset by revenue increases, and only from those customers subject to recovery, as provided for in the EITE statute. [Order, p. 54]

B. LPI Request

LPI seeks reconsideration of the Commission's Order. LPI argues that the Commission impermissibly shifted revenue from the rate case to the EITE docket forcing EITE customers to share in the cost of the EITE credit. LPI states that, in both the EITE and rate case dockets, the Commission repeatedly misinterpreted the EITE statute. With regards to the rate case, LPI disagrees with the Commission's determination that the Company's excess sales revenue was shifted from the rate case to the EITE Docket, depriving ratepayers from the excess revenue being included in the Company's revenue requirement. Stating that it remains confident that the Commission's actions in the EITE Docket are contrary to the EITE statute, LPI noted its EITE



appellate proceeding in this docket to preserve any and all appellate rights and avoid waiver of any issues related to the proper implementation of the EITE credit in either docket. LPI's Petition for Reconsideration in E-015/M-16-564 is incorporated in this docket as part of its request.

C. Answers

DOC argues that reconsideration is unwarranted, that the Commission has already rejected LPI's arguments on reconsideration in the EITE docket (16-564).

OAG recommends that the Commission deny LPI's petition for reconsideration. OAG argues that LPI has raised the same issue and arguments on several occasions and the Commission has repeatedly rejected them. Additionally, OAG argues, LPI's petition raises the same issues that it has raised in the Court of Appeals. The only other argument LPI has raised in its petition is that the Commission should not have "shifted" revenue from the rate case to the EITE docket – but that argument is fully premised on LPI's argument that the Commission's interpretation of the EITE statute is incorrect. The only argument in support of LPI's position is that it believes that the EITE statute should be interpreted differently. OAG also argues that LPI's argument is wrong on its merits in that it selectively ignores some of the statutory language and that it ignores facts in the record.

D. Staff Comment

The central argument raised in LPI's petition goes to LPI's disagreement with the Commission's EITE refund decision in the EITE docket. Effectively, LPI seeks another reconsideration of the EITE docket decision, a petition that the Commission has rejected previously and a decision that is currently before the Court of Appeals.

E. Decision Alternatives

47. Deny LPI's request for reconsideration.

48. Grant LPI's request for reconsideration and reverse the decision to establish an EITE refund mechanism.

49. Take other action.

XX. Rate Design of the Large Light & Power Time-of-Use (LLP-TOU) Rider

PUC Staff: Kevin O'Grady

Should the Commission approve MP's proposed price changes to its Large Light and Power – Time of Use Rider (LLP-TOU)?

Case Record



PUC Order, 83 – 85; Order Paragraphs 69 - 71

LPI Petition, 14 - 16

DOC Answer, 1 – 3

A. Background

Minnesota Power proposed a modification of its current TOU Rider, stating that the rider was initially designed to be revenue neutral (reductions in off-peak rates are offset by increases in on-peak rates). That approach, MP asserted, contributed to a lack of customer participation, and MP therefore proposed changes to generate customer interest. Under the proposed changes, the off-peak demand charge would remain at the current level, while the on-peak demand charge would increase by approximately the same percent as the overall rate increase for the standard LLP service schedule. The on-peak energy charge would increase from 4.255¢/kW to 4.619¢/kWh, and the off-peak energy charge would decrease from 3.336¢/kW to 2.576¢/kWh.

B. Commission Decision

The Commission was not convinced that the proposed price changes to the LLP–TOU Rider are reasonable. In a 4 – 0 decision the Commission concurred with DOC “that the proposed change does not restructure the Rider to encourage conservation. Rather, the Company’s aim is to garner participation in the program. Without a more meaningful effort tied to encouraging energy conservation, the Commission will not approve the proposed change to the LLP–TOU Rider.” [Order, p. 85]

C. LPI’s Request

LPI asks the Commission to reject the DOC argument that the proposed changes, to be beneficial, must encourage an appropriate change in customer behavior. LPI argues that the ALJ supported adoption of the changes and that even DOC acknowledged that the rider will accomplish the goal of encouraging customers to consume more power during low-cost periods and less during high-cost periods, whether or not any particular customer has to shift its consumption patterns in order to benefit.

D. Answers

DOC recommends rejection of LPI’s request, arguing that LPI has not raised significant new issues, pointed to new and relevant evidence, or exposed errors in the Commission’s Order.

OAG and MP made no reference to this issue.

E. Staff Comment & Analysis

LPI blurs arguments regarding the merits of the rider **as it stands** with arguments regarding **changes** to the rider, and it is the **changes** to the rider that are the relevant focus here. LPI’s



petition asks the Commission to focus on the merits of the rider, not on the merits of the proposed changes. The Commission found that the changes do not encourage conservation.

F. Decision Alternatives

50. Deny LPI's request for reconsideration.

51. Grant LPI's request for reconsideration and approve MP's proposed modifications to the LLP-TOU Rider.

52. Take other action.

XXI. Rate Design of the Large Power-Incremental Power Service (LP-IPS) Rider

PUC Staff: Kevin O'Grady

Should the Commission approve MP's proposed price changes to its Large Power – Incremental Production Service Rider (LLP-TOU)?

Case Record

PUC Order, 87 – 90; Order Paragraph 75

LPI Petition, 16 – 18

DOC Answer, 1 – 3

A. Background

Minnesota Power proposed a modification to its current LP-IPS Rider to increase the measured demand in excess of the Incremental Production Service Threshold (IPST) from 110% to 120%. Measured demand exceeding the IPST that is set under each customer's electric service agreement does not subject the customer to demand charges. Rather, customers pay for energy at the Company's hourly incremental energy cost plus an energy surcharge of 1¢/kWh for Curtailable IPS and 3¢/kWh for Non-Curtailable IPS.

B. Commission Decision

In a 4 – 0 decision the Commission rejected MP's proposal stating that:

The Company's proposal assumes cost savings but does not include cost data to support that claim. As a result, it is unclear to what extent any savings could be achieved. Further, the Commission is not persuaded that the combination of additional energy curtailment, along with increased consumption, achieves the goal of the LP-IPS Rider or Minnesota's energy policy goals concerning conservation and renewable energy. [Order, p. 89]

And,



The Commission respectfully disagrees with the ALJ's conclusions that Minnesota Power has demonstrated the reasonableness of its proposal or that Minnesota energy policy compels approval of a proposal that would benefit an entire class of customers based on a statute establishing a discrete mechanism to advance the needs of a uniquely-situated subset of that class. [Order, p. 89-90]

C. LPI's Request

LPI asks the Commission to approve MP's proposed price changes to its LP-IPS Rider. LPI argues that the Rider provides for flexibility to respond to short-term opportunities and that all customers benefit from expansion of the Rider because it is a curtailable product that enables MP to reduce the amount of capacity that it maintains to serve peak load. Further, LPI argues, the entire cost of the LP-IPS Rider is paid for by LP customers. As a result, any cost savings as a result of LP-IPS Rider expansion are to the benefit of all other customers, which the Commission's Order did not consider in its discussion of potential cost savings. Additionally, expanding a curtailable product like LP-IPS Rider is complimentary to broader renewable energy and efficiency goals because as it helps avoid the need to build new capacity to serve peak load such as natural gas combustion turbines. LPI notes that the ALJ found the proposed modifications to be just and reasonable.

D. Answers

DOC recommends rejection of LPI's request, arguing that LPI has not raised significant new issues, pointed to new and relevant evidence or exposed errors in the Commission's Order.

OAG and MP made no reference to this issue.

E. Staff Comment & Analysis

Staff agrees with DOC that LPI has not raised significant new issues, pointed to new and relevant evidence or exposed errors in the Commission's Order.

F. Decision Alternatives

53. Deny LPI's request for reconsideration.

54. Grant LPI's request for reconsideration and approve MP's proposed modifications to the LP-IPS Rider.

55. Take other action.

XXII. Large Power Service

PUC Staff: Kevin O'Grady

Should the Commission clarify its decision regarding MP's Large Power Service?

Case Record

PUC Order, 87 – 89; Order Paragraphs 73 - 74

MP Petition, 49-50; Response to Staff IR #17 (4/26/18)

DOC Answer, 3

A. Background

MP proposed the following changes to its Large Power Service:

Standard Service

- Increase the demand charge for the first 10,000 kW or less of billing demand to \$214,890, and increase the demand charge for all additional Firm Demand to \$25.50 per kW per month;
- Increase the firm energy charge from 1.232¢/kWh to 2.310¢/kWh;
- Include the entire cost of fuel and purchased energy in a separate line item on customer bills;
- Set the fuel and purchased energy cost for Large Power at 2.100¢/kWh; and
- Set the fuel and purchased energy cost for Large Power Firm Energy at 1.102¢/kWh.

Non-Contract Service

- Set non-contract Large Power demand charges at 20% higher than the standard Large Power demand charges, or \$257,868 for the first 10,000kW or less of billing demand and \$30.60 per kW for all additional billing demand.

Released Energy Rider

- Update Rider language and allow Minnesota Power to align the Company's energy supply practices with MISO's business practices more closely. The Rider provides the Company the opportunity to buy Large Power customer energy when the Company is either long or short. The Company then shares a negotiated margin or avoided purchase price with the customer as a monthly released energy credit.

Expedited Billing Procedures

- Modify the Rider for Expedited Billing Procedures to reduce the number of wire transfers sent to customers and to minimize the number of adjustment transactions in customer accounts. Credit customers for amounts less than



\$100,000. For credits exceeding \$100,000, customers may choose either a weekly bill credit or a wire transfer. [Order, pp. 87-8]

B. Commission Action

In a 4-0 vote the Commission stated:

The Commission concurs with the Company that the proposed tariff changes concerning standard service, non-contract service, the released energy rider, and expedited billing procedures are reasonable and will approve them. [Order, p. 89]

And in Order Paragraphs 73 and 74 the Commission stated:

73. The Commission hereby approves the Company's proposed changes to its Large Power Service tariffs governing Standard Service and Non-Contract Service.

74. The Commission hereby approves the Company's proposed tariff changes to its Released Energy Rider and Expedited Billing Procedures.

C. Minnesota Power's Request

MP requests clarification with respect to the Commission's decision regarding Large Power standard service. On page 89 of the Commission's Order, the Commission approves the Company's proposed tariff changes concerning Large Power standard service and several other changes. However, MP states, there are several inconsistencies with respect to approval of specific items that are listed on page 87 of the Commission's Order in Section XLVI.B.1 under Standard Service and approved on page 89 in the first sentence of Section XLVI.D.

More specifically, MP states:

1. It is Minnesota Power's understanding that in decisions related to the Fuel Clause Adjustment Mechanism, Base Cost of Energy on page 47 of its Order, the Commission determined that the base cost of energy (i.e., the amount included in base rates) should be increased to 2.121¢/kWh, which would reduce the size of future adjustments through the fuel clause. That is inconsistent with the third bullet point under Large Power Standard Service on page 87, which states, "Include the entire cost of fuel and purchased energy in a separate line item on customer bills." This is what Minnesota Power proposed but not what the Commission approved on page 47 of the Order, where it said, "...the Commission will increase the Company's base cost of energy to 2.121 cents/kWh, update the class-specific cost factors, and incorporate them into the base rates for the test year."

2. The fifth bullet point on page 87 should not refer to the Large Power fuel and purchased energy cost, which is correctly identified as 2.100¢/kWh in the fourth bullet point. The 1.102¢/kWh referenced in the fifth bullet point was Minnesota



Power's proposed Large Power Firm Energy rate assuming that the entire cost of fuel and purchased energy would be included in a separate line item on customer bills rather than being incorporated into base rates. Related to this, the increase in the firm energy charge to 2.310¢/kWh stated in the second bullet point is an incorrect reference to the total current firm energy charge of 1.232¢/kWh plus the test year average fuel and purchased energy adjustment of 1.078¢/kWh. ...

3. Given that the total allowed increase in revenue requirements for the Large Power class is less than proposed by the Company, the demand and energy charge components of the rate will need to be revised to result in collection of the appropriate amount of revenue. Therefore, Minnesota Power believes that approval of the specific proposed Large Power rate changes on page 87, under Standard Service and also Non-contract Service, is unnecessary.

MP asks the Commission to modify the first paragraph under the heading "Commission Action" on page 89 as follows:

The Commission concurs with the Company that the proposed tariff changes concerning standard service, non-contract service, the released energy rider, and expedited billing procedures are reasonable ~~and will approve them~~. The Commission will approve them, with adjustments to the individual rate components as needed for consistency with the Commission's separate actions regarding the fuel clause adjustment base cost of energy and to enable the Company to recover the full revenue requirement allowed by the Commission for the Large Power rate class. The Commission is not, however, persuaded that the proposed LP-IPS Rider change is reasonable.

D. Answers

DOC, in a brief reference to the issue, offered no comment other than to say that MP's petition should be rejected.

OAG and LPI made no reference to this issue.

No party responded directly to MP's response to Staff IR#17

E. Staff Comment & Analysis

Staff believes that MP's request is reasonable. It will allow MP to reconcile the details of various Commission decisions. The Commission will have an opportunity to review MP's reconciliation in its compliance filing.

F. Decision Alternatives

56. Deny Minnesota Power's request for clarification

57. Grant Minnesota Power's request for clarification and modify the Order language on page 89 as requested by Minnesota Power.

58. Take other action.

XXIII. Final Rate Component Adjustments

PUC Staff: Kevin O'Grady

Should the Commission allow MP to adjust the final rate components of various class rate schedules?

Case Record

PUC Order, 81 – 83; Order Paragraphs 63 - 68

MP Petition, 50

DOC Answer, 3

A. Background

In a 4 – 0 vote the Commission approved (1) MP's proposed Seasonal Residential Rates, (2) MP's proposed municipal pumping rate changes, (3) dual fuel class rates; (4) Controlled Access Service rates, (5) MP's proposed modifications to its General Service customer charge (as well as its proposed standard tariff modification); and (6) MP's proposed standard tariff modifications to its Large Light and Power tariff. (Order Paragraphs 63 through 68, inclusive)

B. Minnesota Power's Request

MP points out that Order Points 63 – 68 do not contain language allowing the final rate component to be adjusted as needed to enable recovery of the revenue requirement allowed for each class. MP seeks inclusion of language in Order Point 57, where the Commission required MP to implement a four-block rate schedule "with adjustments to the rates for each block as needed to enable the Company to recover the full revenue requirement allowed by the Commission for the Residential class." MP argues that, absent such language, it will be difficult to comply with the rate case apportionment decision.

C. Answers

DOC, in a brief reference to the issue, offered no comment other than to say that MP's petition should be rejected.

OAG and LPI made no reference to this issue.

D. Staff Comment & Analysis



Staff believes that MP's request is reasonable. It will allow MP to reconcile the details of various Commission decisions. The Commission will have an opportunity to review MP's reconciliation in its compliance filing.

E. Decision Alternatives

59. Deny Minnesota Power's request for clarification

60. Grant Minnesota Power's request for clarification with respect to Order Points 63 – 68 to allow Minnesota Power to adjust rates as needed to enable it to recover the full revenue requirement allowed by the Commission for the relevant customer classes (Large Power and Large Light & Power).

61. Take other action.

XXIV. Clarification of Deadlines

PUC Staff: Kevin O'Grady

Should the Commission clarify that references in its Order to a "final written order" or "final order" refer to the final order issued after reconsideration?

Case Record

PUC Order, 15; Order Paragraphs, 5, 72, 88

MP Petition, 50 - 51

DOC Answer, 3 & 16 - 17

A. Commission Decisions

The Commission's Order employs the wording "final written order" and "final order" in several instances:

[T]he Commission will direct Minnesota Power to develop a securitization plan for the Boswell units to address any depreciation expenses that will remain unrecovered at the end of Unit 3 and 4's expected service lives, and to file it within two years of the final order in this case. [Order, pp. 14-5]

Minnesota Power shall file a securitization plan for the Boswell units within two years of the date of the final order in this case. [Order Paragraph 5]

The Company shall work with LPI and other stakeholders to develop a demand response rider ... In the event the Company, LPI, and other stakeholders elect to proceed with a new miscellaneous docket filing, such filing shall be submitted for Commission approval within six months after the date of the final written order in this proceeding. [Order Paragraph 72]



Direct Minnesota Power to file a schedule detailing the CIP tracker balance at the beginning of interim rates, the revenues (CCRC and CIP Adjustment Factor) and costs recorded during the period of interim rates, and the CIP tracker balance at the time final rates become effective. [Order Paragraph 88(d)]

B. Minnesota Power's Request

MP requests clarification from the Commission that any directive for the Company or another party to perform a task or submit a filing within a particular amount of time after a final order refers specifically to the final order issued after reconsideration. For example, Order Point 5 requires MP to file a securitization plan within two years of the date of the final order in this case and Order Point 72 requires MP to work with LPI and other stakeholders to develop a demand response rider and corresponding methodology for cost recovery, ordering that a filing be submitted for Commission approval "within six month after the date of the final written order in this proceeding." MP seeks clarification simply that "final written order" or "final order" refer to the final order issued after reconsideration in this case, as the final order after reconsideration may affect what actions the Company next takes and in what manner.

C. Answers

DOC states that the Commission may wish to determine whether MS § 216B.27, subd. 3, which states in part: "No order of the commission shall become effective while an application for a rehearing or a rehearing is pending and until ten days after the application for a rehearing is either denied, expressly or by implication, or the commission has announced its final determination on rehearing," applies to MP's Petition. In other words, the issue is whether the Rate Case Order becomes effective ten days after the Commission issues a decision regarding the Petition.

OAG and LPI made no reference to this issue.

D. Staff Comment & Analysis

Staff recommends that the Commission clarify that the timelines established in its Order (as cited above) begin on the date the Commission issues an order on reconsideration, with the understanding that the Commission could alter those timelines in a subsequent order in a manner not inconsistent with statute or rule.

E. Decision Alternatives

62. Deny Minnesota Power's request for clarification.



63. Grant Minnesota Power's request for clarification finding that the timelines established in its Order (Paragraphs 5, 72 and 88(d)) begin on the date the Commission issues an order on reconsideration, with the understanding that the Commission could alter those timelines in a subsequent order in a manner not inconsistent with statute and/or rule.

64. Take other action.

XXV. Decision Alternatives

Rehearing, Reconsideration and Clarification of the March 12, 2018 Order

1. Grant Minnesota Power's petition for reconsideration and clarification, or
2. Deny Minnesota Power's petition for reconsideration and clarification.
3. Grant the Department of Commerce's petition for rehearing (i.e. reopening) and reconsideration, or
4. Deny the Department of Commerce's petition for rehearing (i.e. reopening) and reconsideration.
5. Grant the Large Power Intervenor's petition for reconsideration, and
6. Grant, pursuant to Minn. Rule 7829.1275, OAG's unopposed request for a variance to Minn. Rule 7829.3000, Subpart 4, to answer LPI's petition in OAG's April 12 Answer, or
7. Deny the Large Power Intervenor's petition for reconsideration.
8. On its own motion, reopen, reconsider and/or clarify the March 12, 2018 Order.
9. Take no action and allow the Petitions and Requests for Rehearing, Reconsideration and Clarification to be denied by operation of law.

If the Commission grants one of the Petitions or on its own motion decides to reopen, reconsider and/or clarify the March 12 Order, the Commission may want to consider one or more of the following items.

2017 Federal Tax Act

Remaining Lives of Boswell Units 3 & 4 and Common facilities

Securitization Plan

Generation Supervision & Engineering and Distribution Meter Reading

Prepaid Pension Asset

Retirement Savings and Stock Ownership Plan (RSOP)

Other Employee Benefits

Transmission Capital Projects

Third-Party Transmission Revenue and Expenses

Return Equity (ROE)

Clarification of the Decision Rejecting the Annual Rate Review Mechanism

Sales Forecast

Class Revenue Apportionment

EITE Discount/Credit – Shift of Revenue from the Rate Case to the EITE docket

LLP Time-of-Use Rider

LP Incremental Production Service

MP Requested Clarifications