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February 27, 2014

Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. E015/M-13-1166

Dear Dr. Haar:

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

Minnesota Power's Petition for Approval of Cost Recovery under Boswell Energy Center Unit 4 Emission Reduction Rider.

The petition was filed on December 20, 2013 by:

Lori Hoyum  
Policy Manager  
Minnesota Power  
30 West Superior Street  
Duluth, MN 55802-2093

The Department recommends **that Minnesota Power provide in its reply comments the information required by the Commission Order.** The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ JOHN KUNDERT  
Rates Analyst

JK/ja  
Attachment



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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE  
DIVISION OF ENERGY RESOURCES

DOCKET No. E015/M-13-1166

**I. BACKGROUND**

On March 1, 2013, the Minnesota Pollution Control Agency (“MPCA”) issued its Review of Minnesota Power’s Boswell Unit 4 Environmental Improvement Plan. The MPCA stated in that document that Minnesota Power’s (“MP” or “the Company”) proposed Boswell Energy Center Unit 4 Emissions Reduction Plan (“BEC4 Project”) met the requirements of Minn. Stat. §216B.6851.

On November 5, 2013 the Minnesota Public Utilities Commission (“Commission”) approved an Emissions Reduction Rider cost recovery mechanism for the BEC4 Project in Docket No. E015/M-12-920.

On December 20, 2013, MP filed a Petition with the Commission in the instant docket requesting approval of its proposed rates for the Emission Reductions Rider associated with BEC4 Project. It also included information filed in compliance with the Commission Order issued on November 5, 2013 in Docket No. E015/M-12-920.

According to the Petition, Minn. Stat. §§216B.683, 216B.1692, 216B.6851, 216B.686 and 216B.16 are the controlling statutes for processing this filing. In addition, MP asserts that the BEC4 Plan Rate Adjustment will have no effect on the Company’s base rates. However, MP’s proposal would increase rates charged to customers, with average bill impacts of 1.01 percent of 2.61 percent as indicated below.<sup>1</sup>

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<sup>1</sup> On February 18, 2014, the Minnesota Center for Environmental Advocacy filed in Docket E015/M-12-920 a Petition for Writ of Certiorari with the Minnesota Court of Appeals regarding the Commission’s decisions In the Matter of Minnesota power’s Boswell Energy Center Unit 4 Environmental Retrofit Project. The Department’s

## II. SUMMARY OF FILING

MP proposed to begin to recover the Minnesota jurisdictional costs it has incurred on the capital it has invested to date on emissions controls and associated investments at BEC4 from its customers on April 1, 2014. The entire balance of the BEC4 Rider identified in the filing consists of Construction Work in Progress (CWIP).

The Company proposed to collect under its 2014 BEC4 Rider its 2013 and 2014 estimated annual revenue requirements for the investments it has made to date on the BEC4 emissions control systems and on Phase I of the Boswell 4 ash pond. A summary of the proposed projects, annual revenue requirements and tracker balance is included in Table 1 below.

**Table 1: Summary of Proposed Revenue Requirements**

Project Description	Estimated Revenue Requirements
2013 BEC 4 Environmental	\$1,664,748
2013 Boswell Ash Pond Phase 1	\$1,407
2013 Subtotal	\$1,666,156
2014 BEC 4 Environmental	\$15,121,118
2014 Boswell Ash Pond Phase 1	\$23,068
2014 Subtotal	\$15,144,186
2014 Total Tracker Balance	\$16,810,342
MN Jurisdictional Power Supply Allocator (D-01)	82.017%
MN Jurisdictional Retail Revenue Requirement	\$13,787,338

The BEC4 Rider is applicable to electric service under all of MP's Retail Rate Schedules including its Large Power Interruptible and Large Power Incremental Production customers except Competitive Rate Schedules 73 and 79. MP proposed to allocate the retail revenue requirement to the Large Power customer class based on its portion of the Peak and Average class allocation factors from the Company's most recent general rate case. The Company proposed to use its budgeted 2014 sales forecast as the basis for the billing determinants used to develop the rates. The proposed rates are shown in Table 2.

**Table 2: Summary of Proposed BEC4 Rider Rates**

Billing Factor	Unit	Rate
Large Power	\$/kw – month	0.60
	¢/kWh	0.057
All Other Retail Classes	¢/kWh	0.156

The estimated average rate impact per month by customer class is provided in Table 3 below.

**Table 3: Summary of Average Rate Impact by Class**

Class	Average Bill Impact (\$/Mo.)	Percentage Change (%)
Residential	\$1.27	1.59%
General Service	\$4.33	1.59%
Large Light & Power	\$355.56	1.97%
Large Power	\$79,983	2.61%
Municipal Pumping	\$18.91	1.74%
Lighting	\$0.23	1.01%

Procedurally, the filing also serves to provide both the Commission and the MPCA notice of the Company's intent to proceed with the project. In addition, the filing serves as the equivalent of a compliance filing for the proposed changes to MP's tariff resulting from the approval of this rider.

### **III. DEPARTMENT ANALYSIS**

#### **A. STATUTORY REQUIREMENTS**

The statutory requirements that pertain to this filing are numerous. Minn. Stat. §216B.1692 lists the statutory requirements a utility needs to fulfill to have an emissions-reduction project approved and to implement an emissions-reduction rider. Minn. Stat. §216B.68 through 216B.688 contain the additional requirements associated with receiving approval and implementing an emissions-reduction rider classified as being mercury-related.

From a procedural perspective, the Department concludes that MP has fulfilled all the criteria necessary to proceed with the implementation of the BEC4 Rider. The Company fulfilled the last remaining procedural criterion in this filing by notifying the Commission and the MPCA of its intent to proceed with the project. This requirement is contained in Minn. Stat. §216B.1692 subd. 6.

The balance of our analysis focuses on the Company's efforts to comply with the statutory requirements associated with the development of the allowed revenue requirement and the development of the class-specific rates as well as any Commission-mandated compliance requirements.

The Commission stated in its Order dated November 5, 2013 in Docket No. E015/M-12-920 on page 7 that the Company had fulfilled the requirements contained in Minn. Stat. §216B.1692, subd. 5(b). Thus, the Department's analysis focuses only on the mercury-related emissions-reduction legislation and the Commission's November 5, 2013 compliance requirements.

Minn. Stat. §216B.683, subd. 1(b) is the language that addresses this issue. It states:

A public utility required to file a mercury emissions-reduction plan under sections 216B.68 to 216B.688 may also file for approval of emissions-reduction rate riders pursuant to section 216B.1692, subdivision 3, for its mercury control and other environmental improvement initiatives under sections 216B.68 to 216B.688.

(b) In addition to the cost recovery provided by section 216B.1692, subdivision 3, the emissions-reduction rate riders may include recovery of costs associated with (1) the purchase and installation of continuous mercury emission-monitoring systems, (2) costs associated with the purchase and installation of emissions-reduction equipment, (3) **construction work in progress**, (4) ongoing operations and maintenance costs associated with the utility's emission-control initiatives, including, but not limited to, the cost of any sorbent or emission-control reagent injected into the unit, (5) any project costs incurred before the plan approval that are demonstrated to the commission's satisfaction to be part of the plan, and (6) any studies undertaken by the utility in support of the emissions-reduction plan. [Emphasis added.]

The entire amount of the tracker balance MP proposed to recover beginning April 1, 2014 is classified as CWIP. Consequently, the Department concludes that these expenses are recoverable under the statute.

## *B. PRUDENCY REVIEW*

### Capital Costs

The MPCA provided an initial review as to the prudence of the costs MP proposed in its Environmental Assessment Worksheet filed as part of the E015/M-12-920 Docket. In that proceeding the MPCA stated in its *Review of Minnesota Power's Boswell 4 Unit Improvement Plan* "Construction (and operating) cost estimate for the Boswell Unit 4 project prepared by Minnesota Power and their consultant appear to be reasonable estimates for this project." The MPCA also noted MP's capital cost estimate of \$431 million in the report. MP's share of that total would be approximately \$350 million assuming 82 percent of those costs are jurisdictionalized as Minnesota retail.

In the current filing MP has estimated its capital costs to be \$306 million, a reduction of \$44 million from a stated approximation of its earlier estimate (provided in the aforementioned docket) of \$350 million.

MP is seeking recovery of CWIP for a capital investment that increases from \$44.4 million in October 2013 to \$180.2 million in December 2014.

In Department Information Request No. 1 the Department requested copies of the contracts that MP had awarded for the BEC 4 Project as well as any associated change orders. The Department reviewed this information and concludes that both the contracts and the change orders are reasonable. Consequently, the capital costs incurred to date appear to be reasonable.

#### Allowance for Funds Used During Construction (AFUDC) and CWIP Calculations

MP described its method for calculating AFUDC and CWIP in the BEC4 Tracker in its petition in Docket No. E015/M-12-920. The Department also reviewed this calculation at length in Docket No. E015/M-13-410, (MP's 2013 Rate Adjustment Factor filing for its Renewable Energy Rider). In that filing, MP agreed to remove the internal costs it would normally have capitalized from the calculation of AFUDC. Appropriately, the Company did so in this filing as well.

The Department compared the information in this filing, contained in Exhibit B, and the information contained in the 13-410 Docket and concludes that those methodologies are consistent. As a result, the Department concludes that MP's calculation of CWIP and the amount of the proposed revenue requirement in this filing is reasonable.

#### Other Cost Categories

MP is not proposing to recover any expenses (operations and maintenance, administrative and general or depreciation) or any non-income-related taxes in this filing. Similarly, MP is not proposing to credit the BEC4 Tracker Balance for any revenue credits at this time. In keeping with the spirit that this docket represents something of a compliance filing for the BEC 4 Rider 2014 Tracker Balance, the Department refrains from commenting on the prudence of those cost/credit categories until such time at which the Company seeks to recover those costs incurred or credits accrued in those cost categories via the BEC4 Rider.

The Company also introduced new information in this filing regarding the calculation of the BEC4 Rider, stating that it will provide a revenue credit to the tracker to offset costs associated with existing emissions-control equipment at BEC4 whose costs are currently being recovered through base rates. The Department asked the Company for a sample calculation for the future credit in Information Request 8. MP provided a reply which the Department has included as Attachment A. In theory, the Department agrees with MP's proposal and will examine the reasonableness of this proposed calculation when MP makes its specific rate proposal. The response to the information request is included as a starting point for ongoing review of this aspect of MP's BEC4 Rider.

#### *C. REVENUE APPORTIONMENT AND RATE DESIGN*

The Commission approved the revenue apportionment methodology MP proposed in Docket No. E015/M-12-920 in its Order dated November 5, 2013. The Company used the Commission-approved methodology in this filing. The Department concludes that this approach complies with the Commission's Order.

The proposed rate design for the Large Power (LP) class in this filing is identical to the one the Commission approved in its Order dated November 5, 2013 in Docket No. E015/M-12-920. MP proposed a slight change in the methodology for calculating the energy-based adder that would be recovered from the non-LP classes. In Docket No. E015/M-12-920, the Company proposed to develop class-specific energy-based adders to recover the revenue requirement apportioned to the non-LP classes by customer class. Its current proposal is to calculate an average rate per kWh for all non-LP classes and charge this one rate to all those same customer classes. This proposal represents a minor change from the rate design the Commission approved in the aforementioned Order. It is however consistent with the rate design for the non-LP classes the Commission approved in its Order dated December 3, 2013 in Docket No. E015/M-13-410. The Department agrees that this proposed change is reasonable given that Department staff recommended this change in the E015/M-13-410 Docket and the Commission approved the method in that same docket.

*D. ANALYSIS OF BILL IMPACTS; AND REVIEW OF PROPOSED CUSTOMER NOTIFICATION AND BILLING.*

MP included “Table 2 – Estimated Customer Impact” in its filing. The information in that table appears to be consistent with the information it provided in Docket No. E015/M-12-920.

MP also proposed to notify customers of the BEC4 Rider via a bill insert contained in Exhibit D of its filing. The “Boswell 4 Plan Adjustment” is the term the Company proposed to include on the bill as a separate line item. A copy of a sample bill was included in the filings as Exhibit C.

The Department concludes that both these components appear to comply with Commission requirements.

*E. MISCELLANEOUS ISSUES*

In Docket No. E015/M-12-920 the Commission approved a variance to Minn. R. 7825.3600 to allow the Company to provide tariff pages with final rates in a later compliance filing. MP provided that information in this filing.

In addition, the Commission included a reporting requirement in its Order dated November 5, 2013 in Docket No. E015/M-12-920. Specifically, the Commission ordered: “Minnesota Power shall file biennial reports on the status of the project, with the first report being due January 1, 2014.” The Department concludes that the Company complied with this requirement.

Finally, the Commission included a second reporting requirement in that same Order. Specifically, the Commission ordered: “The Company shall include in its annual rate factor adjustment filing an update on its discussions with the EPA to resolve the notice of violation and shall identify and explain any costs related to the notice of violation included in its rate factor adjustment filings or other rate proceeding.”

MP's filing merely states:

The Company continues to work on resolution with the EPA and will keep the Commission informed of notice of violation progress via annual rate factor adjustment filings.

The Department concludes that MP met the first half of the requirement to update the Commission on discussions with the EPA, but the Company did not meet the second half of the requirement to "identify and explain any costs related to the notice of violation included in its rate factor adjustment filings." Thus, the Department recommends that Minnesota Power provide that information in their reply comments.

#### **IV. RECOMMENDATIONS**

The Department recommends that Minnesota Power provide in its reply comments the identification and explanation of any costs related to the EPA's Notice of Violation that the Commission's Order required. In all other aspects, the Department's review indicates that the Company's filing complies with the statutory and Commission requirements needed to proceed to the cost recovery phase of the rider in 2014. Minnesota Power's proposed changes included in this filing are consistent with changes approved by the Commission in a similar filing in Docket No. E015/M-13-410.

/ja



**State of Minnesota**  
**DEPARTMENT OF COMMERCE**  
**DIVISION OF ENERGY RESOURCES**

**Utility Information Request**

Docket Number: E015/M-13-1166

Date of Request: January 22, 2014

Requested From: Lori Hoyum

Response Due: February 3, 2014

Analyst Requesting Information: John Kundert

Type of Inquiry:    ... Financial                      ... Rate of Return                      ... Rate Design  
                                 ... Engineering                      ... Forecasting                      ... Conservation  
                                 ... Cost of Service                      ... CIP                                      ... Other: Planning

*If you feel your responses are trade secret or privileged, please indicate this on your response.*

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Request  
No.

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8.        References: Page 10 – “In addition to the adjustments discussed in the above paragraph, one other adjustment will be made to future revenue requirements. Equipment with Original Installed Cost (“OIC”) of approximately \$40 million will be retired from BEC4 prior to the BEC4 Project being placed into service. When this occurs, Minnesota Power will deduct the estimated jurisdictional revenue requirements associated with this equipment that is currently in base rates from the BEC4 rider jurisdictional revenue requirements. This credit will include a return on average rate base, depreciation expense and associated O&M (operations and maintenance) expenses.
- a. Please identify the equipment that will be retired by FERC account.
  - b. Please identify the OIC by FERC account.
  - c. Please provide an example of this proposed calculation.

**Response:**

- a. Please refer to DOC IR 008.1 Attachment TS for the equipment that will be retired by FERC account.
- b. Please refer to DOC IR 008.1 Attachment TS for the OIC and Allocated Reserve of the equipment that will be retired by FERC account.
- c. Please refer to DOC IR 008.2 Attachment for the proposed calculation.

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Response by: Stewart Shimmin

List sources of information

Title: Revenue Requirement Lead

Department: Rates

Telephone: 218-355-3562

Minnesota Power  
BEC 4 Rider

Revenue Requirement Credit for Revenue Requirements in Base Rates Associated with Plant to be Retired

BEC 4 Environmental Retrofit: Base Rate Revenue Credit  
Expected Property Retirement: October 2015

Section	Line	2009	Base Rates 2010
<b>A</b>	<b>Book Basis of Property to be Retired</b>		
	1 Plant in Service	38,547,474	38,446,916
	2 Total Accumulated Depreciation	21,988,517	22,424,832
	3 Net Plant	16,558,958	16,022,285
	4 Depreciation Expense		436,115
<b>B</b>	<b>Tax Basis of Property of to be Retired</b>		
	1 Plant in Service	38,547,474	38,446,916
	2 Accumulated Depreciation	37,285,386	37,326,552
	3 Net Plant	1,262,088	1,120,364
	4 Total Tax Depreciation		41,166
	5 Tax Book Difference	15,296,869	14,901,920
	6 Income Tax Rate 1/	41.37%	41.37%
	7 Accumulated Deferred Income Tax Liability	6,328,315	6,164,924
	8 Deferred Tax Expense debit / (Credit)		(163,380)
<b>C</b>	<b>Revenue Requirements in Base Rates</b>		
	1 Net Plant	16,558,958	16,022,285
	2 Less: ADITL - Def Taxes	(6,328,315)	(6,164,924)
	3 Rate Base	10,230,643	9,857,360
	4 Average Rate Base		10,044,001
	5 Return on Average Rate Base 2/		565,913
	6 After Tax Return on Equity		399,315
	7 Income Tax Component		255,118
	8 Interest Expense Component		1,220,346
	9 Total Return on Average Rate Base		650,000
	10 Operation & Maintenance Expense Associated with Plant to be Retired		436,115
	11 Depreciation Expense		2,306,461
	12 Property Tax 3/		(192,205)
	13 Revenue Requirements in Base Rates Associated with Property to be Retired		0.82017
	14 Monthly Credit for Revenue Requirements in Base Rates		(157,641)
	15 MN Jurisdictional Allocator 4/		
	16 Monthly MN Jurisdictional Credit for Revenue Requirements in Base Rates 5/		

1/ Minnesota Composite Income Tax Rate.  
2/ Pre-tax rate of return is 12.15% from 2009 MPUC rate case, Docket No. E-015/GR-09-1151. Refer to Exhibit B-4 rate of return components.  
3/ Property qualified for property tax pollution control exemption per Tax Department.  
4/ Refer to Exhibit B-5.  
5/ This monthly revenue requirement credit is needed beginning with when the property is retired (expected 10/2015) until the retirement and BEC 4 Project are incorporated into base rates in a subsequent rate case.

Minnesota Power  
 BEC4 Rider

MPUC Docket E015/GR-09-1151  
 Rate of Return / Cost of Capital Summary  
 (thousands of dollars)  
 Commission Decision (9/29/2010)

Average for 13 months Ended 12/31/10						
	Amount	% of Total	Component Cost	Weighted Cost	Pre-tax Rate	After-Tax Rate
Long Term Debt	\$ 696,677	45.71%	5.56%	2.540%	2.540%	1.490%
Common Equity	\$ 827,534	54.29%	10.38%	5.640%	9.610%	5.640%
	\$ 1,524,211	100.00%		8.180%	12.150%	7.130%
Federal & State Income Tax Rate						41.37%
Pretax "Gross-up" Factor						1.70560
After Tax Return on Equity						5.6343% 1/
Income Tax Component						3.9757% 2/
Interest Expense Component						2.5400%
Pre-tax Return						<u>12.1500%</u>

1/ Rounding forced to equity.

2/ Shown here as a component of the pretax rate of return. Can also be computed as 70.56% gross up on After Tax Return on Equity.

## **CERTIFICATE OF SERVICE**

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

**Minnesota Department of Commerce  
Comments**

**Docket No. e015/m-13-1166**

Dated this 27<sup>th</sup> day of **February 2014**

**/s/Sharon Ferguson**

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Christopher	Anderson	canderson@allete.com	Minnesota Power	30 W Superior St  Duluth, MN 558022191	Electronic Service	Yes	OFF_SL_13-1166_M-13-1166
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500  Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_13-1166_M-13-1166
Elizabeth	Goodpaster	bgoodpaster@mncenter.org	MN Center for Environmental Advocacy	Suite 206 26 East Exchange Street St. Paul, MN 551011667	Electronic Service	No	OFF_SL_13-1166_M-13-1166
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John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_13-1166_M-13-1166

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E  St. Paul, MN 55106	Electronic Service	No	OFF_SL_13-1166_M-13-1166
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