

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

Nancy Lange	Chair
Dan Lipschultz	Vice-Chair
Matt Schuerger	Commissioner
Katie Sieben	Commissioner
John Tuma	Commissioner

In the Matter of Minnesota Power's
2018 Safety, Reliability, and Service
Quality Standards Report

PUC Docket Number: E015/M-18-250

REPLY COMMENTS OF LEGAL SERVICES ADVOCACY PROJECT

Introduction

On April 2, 2018, Minnesota Power (MP or the Company) filed its 2018 service quality report with the Minnesota Public Utilities Commission (MPUC or the Commission). On July 30, in its initial comments, Energy Cents Coalition (ECC) raised concerns about MP's disconnection, payment, and reconnection practices, argued that the Company's Reconnect Pilot violates state law, and made a series of recommendations for the Commission's consideration. On August 6, 2018, the Commission issued a **NOTICE OF COMMENT PERIOD**, inviting commenters to respond to the concerns and proposals raised by ECC in its July 30, 2018 comments.

The Legal Services Advocacy Project (LSAP) is a statewide division of Mid-Minnesota Legal Aid, representing the interests of low-income Minnesotans through legislative and administrative advocacy, research, and community education activities. LSAP has long been an interested party in utility regulatory proceedings and in utility legislative proposals affecting our clients, who include low-income Minnesotans, older Minnesotans, and Minnesotans with disabilities.

LSAP has extensive expertise in crafting and advocating for utility protections for low-income consumers. LSAP respectfully offers the following comments on this matter. While supporting and urging the Commission to adopt each of ECC's recommendations, LSAP's comments herein focus on MP's disconnection/reconnection practices and the pilot.

Comments

Disconnection Practices

The Energy Cents Coalition raises serious and disturbing concerns about, among other things, Minnesota Power's disconnection and reconnection practices."¹ Suspect is a series of dramatic "corrections" MP has made to data reporting percentage of involuntarily disconnected customers who are reconnected within 24 hours. For instance, ECC cites:

- 2015 MP data "initially reported [the figure at] 29.6% and, subsequently, 'corrected' ...to 73.37%."²
- 2016 MP data "originally reported [the figure at] 11% [and] subsequently...'corrected' [to] 51.29%."³

MP has failed to satisfactorily explain what ECC correctly identifies as a "significant discrepancy between the original and 'corrected' numbers."⁴

¹ Minnesota Public Utilities Commission, In the Matter of Minnesota Power's 2018 Safety, Reliability, and Service Quality Standards Report, PUC Docket Number: E015/M-18-250, Energy Cents Coalition Comments (filed July 30, 2018), at 1.

² *Id.* at 2.

³ *Id.*

⁴ *Id.*

Second, red flags should be raised by MP's inability to explain the "the increase in the percentage of customers reconnected within 24 hours from 24.5% in 2014 to 73.5% in 2015 [and] the decrease in the percentage of customers reconnected within 24 hours from 73.5% in 2015 to 50.6% in 2016 to 48.1% in 2017."⁵ These wild swings in reporting and, ostensibly, in the actual percentages – without any rational explanation forthcoming from the Company -- are troubling. The Department of Commerce, as ECC notes, also has "continued to question" the reported numbers.⁶ These concerns should prompt further PUC investigation.

Third, ECC asserts the company is violating the Cold Weather Rule (CWR) by disconnecting customers in the same month that payment agreements are established.⁷ Under the CWR, "a utility may not disconnect and must reconnect utility heating service of a customer whose household income is at or below 50 percent of the state median income if the customer enters into and makes reasonably timely payments [which must be] based on the financial resources and circumstances of the household; provided that, a utility may not require a customer to pay more than ten percent of the household income toward current and past utility bills for utility heating service." Minn. Stat. § 216B.096. If a payment agreement is established, at least one billing cycle needs to elapse before a customer can be considered in default. Thus, ECC raises a legitimate question as to how MP can be complying with state law if a customer entering an agreement under the CWR is disconnected in the same month in which they agreement is struck.

⁵ *Id.*

⁶ *Id.* at 4.

⁷ *Id.* at 8-9.

ECC recommends that the Commission: (1) “open an investigation into the Company’s disconnection and reconnection practices”; (2) “require an external audit of the disparate service restoration numbers” provided by MP; and (3) order that the Company “suspend any service disconnections until the investigation is completed and the Company can demonstrate that they are complying with statutory requirements and filing timely and accurate reports.”⁸

LSAP urges the Commission to adopt ECC’s recommendation.

Payment Agreements

Minnesota law requires that all utilities, whether investor-owned, cooperative, or municipal, “shall offer a payment agreement for the payment of arrears. Payment agreements must consider a customer's financial circumstances and any extenuating circumstances of the household.” Minn. Stat. § 216B.098. ECC notes that MP requires payment of arrears in full before reconnection.⁹ ECC further cites MP’s reliance of certain payment agreement procedures (e.g., “satisfying amounts for services rendered”) that do not comport with existing law.¹⁰ Finally, ECC asserts that its analysis disconnections of customers receiving heating assistance under the Low-Income Home Energy Assistance Program (LIHEAP) suggests that MP “is not proactively offering payment agreements in a timely manner.”

As ECC suggests, LSAP submits that MP’s prerequisite of full payment violates both the letter and spirit of Minnesota law. Whether currently connected or currently disconnected, the unpaid amount indisputably constitutes an “arrears.” Under Minnesota statute, “[a] utility shall offer a payment agreement for the payment of arrears.” Minn. Stat. § 216B.098. Further that

⁸ *Id.* at 1, 7, 14.

⁹ *Id.* at 3.

¹⁰ *Id.* at 8.

payment agreement must be tailored to each customer's "financial circumstances and any extenuating circumstances of the household." *Id.* LSAP asserts that, under a plain reading of this statute, MP's policy of requiring payment of the entire arrears prior to reconnecting a disconnected customer violates Minnesota statute.

Further, long-standing public policy favors continuity of service, both from a company reliability and customer service perspective, especially for low-income customers. To wit, Minnesota Low-Income Affordability Program statute declares that such programs are to be implemented "to ensure affordable, reliable, and *continuous* service to low-income utility customers." Minn. Stat. § 216B.16 (emphasis added).

ECC recommends that the PUC direct MP to provide more information on payment agreement offerings and explain how the company complies with the legal obligation to consider the financial circumstances of their customers when making those offers and arranging terms.¹¹ LSAP urges the Commission to adopt ECC's recommendation.

Reconnect Pilot

The Energy Cents Coalition sounds the alarm that MP proposed in its 2018 Safety, Reliability, and Service Quality Standards Report "originally proposed in the 2016 rate case," which disturbingly contains a remote disconnection mechanism and about which ECC raised concerns that the Company has not to date adequately addressed.¹² Foremost among those concerns is the fact that, as ECC asserts, such a pilot is incompatible and thus violates PUC rules regarding disconnections. Utility personnel, as a prerequisite to disconnection, must make "a

¹¹ *Id.* at 7.

¹² *Id.* at 14.

personal visit by a representative of the utility to the address where the service is rendered and [make] an attempt to make personal contact with the customer at the address.” Minn. R. 7820.2500. Further, the “representative of the utility [who makes the personal visit] shall at all times be capable of receiving payment, if nonpayment is the cause of the disconnection of service, or the representative shall be able to certify that the cause of disconnection has been remedied by the customer.” *Id.* It is impossible for a disconnection accomplished remotely can comport with these requirements. ECC recommends that the PUC reject the Reconnection Pilot.¹³ LSAP agrees.

Conclusion

The Energy Cents Coalition raises a number of valid and disquieting concerns about Minnesota Power’s disconnection and reconnection reporting and the Company’s policies and practices in this area. ECC also raises questions about payment agreement policies and practices, and whether both these and the Company’s disconnection and reconnection procedures comply with state law. ECC recommends, among other things, that the PUC:

- (1) open an investigation into the Company’s disconnection and reconnection practices;
- (2) require an external audit of the disparate service restoration numbers” provided by MP;
- (3) order that the Company suspend any service disconnections until the investigation is completed and the Company can demonstrate compliance with statutory requirements regarding disconnections, payment agreements, and reporting;
- (4) require MP to provide more information on payment agreement offerings and explain how the company complies with the legal obligation to consider the financial circumstances of their customers when making those offers and arranging terms; and
- (5) reject MP’s Reconnection Pilot.

The Legal Services Advocacy Project asserts that ECC has produced sufficient evidence to support its recommendations. LSAP respectfully urges the Commission to adopt each of them.

¹³ *Id.* at 18.

August 15, 2018

Respectfully submitted,

A handwritten signature in cursive script that reads "Ron Elwood".

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