September 22, 2014

Minnesota Energy Resources Corporation - 2013 Rate Case

Minnesota Public Utilities Commission, Docket No. G-011/GR-13-617

Oral Argument: September 18, 2014, 9:30 am
Deliberations: September 24, 2014, not before 10:30 am

Revised Deliberation Outline

ALJ Report

1. Adopt the ALJ's Report and recommendation in its entirety.

2. Adopt the ALJ's Report and recommendation with modification to one or more of the following issues and to the extent the ALJ's Report is consistent with the decisions made by the Commission at this meeting. (MERC, DOC, OAG)

   State that the written order memorializing these decisions may clarify, as necessary, whether, and the extent to which, the Commission is adopting, clarifying, amending, modifying, not accepting or rejecting particular ALJ findings and recommendations.

Note: Staff has attempted to clearly identify the parties' positions next to the decision alternatives in the deliberation outline next. If the Commission adopts the ALJ's Report and recommendation in its entirety and does not wish to modify the ALJ's recommendation or modify (or clarify) the ALJ's findings or conclusions, it does not need to separately affirm the ALJ's findings, conclusions or recommendation decision under each specific issue. Please also note that when only one alternative is listed, that does not mean that is the only alternative available. Every decision has a theoretical alternative. It usually means that parties did not provide a clear alternative to the one they recommend.

Property Tax Expense

(Please see staff briefing papers, pages 5-7)

3. Approve a 2014 test year Taxes Other than Income Expense of $7,195,869. (Company, Department, ALJ)

4. Approve a 2014 test year Taxes Other than Income Expense of $6,624,033. (Original OAG position, OAG did not specifically take exception to the ALJ's property tax expense recommendation but stated that "failure to identify an issue or finding in the

Exceptions does not indicate a waiver of the issue on the part of the OAG.")[1] OAG post-oral argument recommended decision alternatives.

5. Require the Company to:

   a. Refund the amount of Kansas property taxes collected from customers for the years under appeal, less the amount ultimately paid to Kansas for all years under appeal;
   b. Remit any refunds due to ratepayers with interest;
   c. Notify the Commission of any court rulings issued prior to the Commission's final order in this proceeding; and
   d. Make a compliance filing upon resolution of either the Minnesota property tax appeal or the Kansas ad valorem tax litigation. (Company, Department, ALJ, OAG)

Rate Case Expense

(Please see staff briefing papers, pages 8-14)

Amount of Test Year Rate Case Expense

6. Reduce MERC's test year rate case expense by $21,925. (MERC, Department, ALJ)

Unamortized Rate Case Expense

7. Remove $1,312,704 of rate case expense and the related deferred taxes of $540,106 from MERC's proposed rate base. (MERC, Department, OAG)

Amortization Period of Rate Case Expense

8. Approve a two year amortization period for rate case expenses and allow MERC to include $741,065 ($1,482,130 divided by 2 years) in test year rate case expenses. [MERC, ALJ, Department accepts the ALJ recommendation] ~~or~~ and

New 8a For the purpose of clarification, amend ALJ Findings 437, 439 and 442 as described on pp. 31-32 of the Department's exception comments and on p. 12 of the staff briefing papers. (Department) or

9. Approve a three year amortization period for rate case expenses and allow MERC to include $494,043 ($1,482,130 divided by three years) in test year rate case expenses. and

10. Allow MERC to debit the unamortized rate case balance of $257,985 on an annualized basis and amortization expenses credited for the same amount. [Staff Note: this is the

[1] OAG, exception comments, p. 1 (August 25, 2014)

difference between MERC's initially proposed annual expense of $752,028 and the amount the annual expense would be if amortized over three years, $494,043.] MERC, ALJ

11. Require MERC to track rate case expense recoveries exceeding the authorized test-year expense, for possible crediting against the revenue requirement in the next rate case. (MERC and Department accept this alternative.)

Regulatory Assets and Liabilities and Related Deferred Taxes

(Please see staff briefing papers, pages 14-30)

12. Adopt the ALJ's proposed findings 498 through 501 and require MERC to reduce rate base by $11,281,942 for the Regulatory Assets and Liabilities adjustment and its related deferred taxes of $4,294,542 for a net adjustment that reduces the rate base by $6,697,400. [DOC, ALJ] and

13. Do not adopt ALJ findings 489 and 490, and delete the words "second:, "third", and "fourth" from ALJ findings 491, 494 and 495. or

14. Strike the words "averaging of" from ALJ findings 489 and 490.

> 489. In the view of the Administrative Law Judge, the Department has the better of the two arguments. First, notwithstanding the practice agreed to in MERC's prior rate case, the multi-year ~~averaging of~~ cumulative amounts that occurred in that case is both different from what is proposed for this test year and not ideal. and
>
> 490. It bears mentioning that the ~~averaging of~~ cumulative amounts, in the prior case, resulted in a reduction to the size of the rate base. [Staff briefing papers, p. 29, Department post-oral argument letter.] or

15. Approve MERC's proposal to include $18,794,224 of Regulatory Assets and Liabilities in rate base. [MERC] If the Commission selects this alternative, it may wish to adopt some of MERC's proposed modifications to ALJ findings 489 through 501:

> 489. In the view of the Administrative Law Judge, ~~the Department~~ MERC has the better of the two arguments. ~~First, notwithstanding the practice agreed to in MERC's prior rate case, the multi-year averaging of cumulative amounts that occurred in that case is both different from what is proposed for~~ MERC's proposed inclusion of the difference between cumulative funding and cumulative expense in this test year is appropriate and ~~not ideal~~ is consistent with the practice agreed to in MERC's prior rate case.

490. ~~It bears mentioning that the averaging of cumulative amounts, in the prior rate case, resulted in a reduction to the size of the rate base.~~ Inclusion of the difference between cumulative funding and cumulative expense in rate base is consistent with the treatment approved in MERC's prior rate case, Docket No. G007,011/GR-10-977.

491. ~~Second,~~ MERC has demonstrated that its regulatory assets and liabilities are not ~~generally, a utility's rate base does not include~~ accounts receivable or accounts payable. Nor are these costs ~~are~~ reflected in the company's cash working capital.

492. ~~To the extent that~~ Because MERC's employee benefit expenses are not reflected in cash working capital, MERC's regulatory assets and liabilities must be included in rate base or MERC will not earn a reasonable rate of return on these amounts.

493. Because MERC does not include ~~Including~~ employee benefit accruals in both cash working capital and a separate asset in rate base, there is no risk~~s~~ of conferring a double recovery on those amounts.

494. Third, MERC has demonstrated that segregation of employee benefit amounts as a regulatory asset in rate base is ~~not an~~ the accounting practice of ~~any~~ at least one other Minnesota utility and is consistent with the agreement reached in MERC's last rate case.

495. Fourth, the employee pension amounts are "externally funded." MERC pays pension expenses to a separate entity, a benefit trust, in favor of an account maintained outside the Company. Although, once the contributions are made, the Company no longer has use of the trust funds, nor of earnings on the trust funds, for its ordinary business purposes, the earnings on the asset are considered income to the utility and reduce the overall revenue requirement, thereby benefitting ratepayers.

496. Under such circumstances, it is ~~not~~ reasonable to regard the pension funds (FAS 158 Account 182312) as part of the Company's business assets – ~~as to~~ for which ratepayers should pay a return.

497. Lastly, while ~~it does not appear that~~ accepted accounting standards may not oblige the recovery of pension costs in the way urged by the Company, nor do they forbid such recovery. Inclusion of the proposed regulatory assets and liabilities in rate base will not result in any double recovery, is reasonable, and is consistent with prior Commission treatment.

498. The Administrative Law Judge recommends that the Commission ~~require~~ approve MERC's proposal to ~~reduce rate base by~~ include ~~$11,281,942~~ $18,794,224 of ~~for the~~ Regulatory Assets and Liabilities in rate base ~~adjustment.~~

499. If the Commission adopts the Department's position and requires MERC to remove~~s~~ the assets and liabilities associated with the benefits plans, then the corresponding deferred taxes should be removed from rate base.

500. If the Commission adopts the Department's position, the deferred tax adjustment amount is $4,294,542.

501. If the Commission adopts the Department's position, the net adjustment ~~that~~ reduces the rate base by $6,987,400.

Non-Fuel O&M Expense/Inflation

(Please see staff briefing papers, pages 30-35)

16. Adopt the ALJ's findings and do not require MERC to adjust the methodology used to develop test year non-fuel O&M expense. [MERC, ALJ] or

17. Allow MERC to inflate its 2012 non-fuel O&M by only 2.2%. [Original OAG position, OAG did not specifically take exception to the ALJ's non-fuel O&M expense/inflation recommendation but stated that "failure to identify an issue or finding in the Exceptions does not indicate a waiver of the issue on the part of the OAG."[2] OAG post-oral argument recommended decision alternatives.]

    [If this alternative is selected, the Commission should clarify whether only the inflation adjustment should be adjusted (i.e., a decrease to test year non-fuel O&M expense of $1,032,578), or whether in addition to an inflation adjustment all (or some, such as those which were not separately challenged) non-fuel O&M known and measurable adjustments, both increases and decreases, should be eliminated.]

[2] Ibid.

System Mapping Project

(Please see staff briefing papers, pages 35-37)

18. Amortize the cost of the system mapping project over three years at $110,000 per year and reduce the test year distribution expense by $220,000. (Original Department position, OAG) or

19. Amortize the cost of the system mapping project over two years at $165,000 per year and reduce the test year distribution expense by $165,000. (MERC, ALJ, Department accepts the ALJ recommendation.) or

New 19a Approve MERC's proposal to include $330,000 for the Mapping Project in O&M expense and revise the ALJ's finding as follows:

> 320. The Administrative Law Judge finds that including ~~$165,000~~ $330,000 of Mapping Project Costs is appropriate and proper for calculating MERC's test year 2014 revenue deficiency in this case. [New MERC 19a is an alternative to 19.)

Travel, Entertainment, and Related Employee Expenses

(Please see staff briefing papers, pages 37-43)

20. Reduce Administrative and General Expenses by $7,770. (MERC, Department & ALJ) or

21. Reduce Administrative and General Expenses by $632,695 ($569,450 for T&E plus $63,245 for membership dues). (OAG), and

New 21a Adopt OAG's recommendation to reject ALJ finding 321, add new (Commission) findings "697" and "698", and modify findings "699" and "700" as described below, and in the staff briefing papers on pp. 41-42, and in the OAG's exception comments on pp. 15-20.

> ~~321. MERC has excluded all organization membership dues from the 2014 proposed test year. This adjustment reduces 2013 projected O&M expense by $1,546. By removing this amount in 2013, these costs are also effectively removed from the 2014 proposed test year.~~
>
> 697. The OAG identified that MERC's travel and entertainment itemization was insufficient. MERC provided many business descriptions that did not provide any information about the purpose for the expense and that did not justify recovering the cost of the expense through rates. The OAG recommended that MERC's travel and entertainment expenses

be denied recovery because MERC had violated statutory reporting requirements.

698. The OAG also identified that MERC included $63,245 in membership dues in the test year, but did not itemize them as required by statute or demonstrate that they directly benefited ratepayers as required by Commission precedent. The OAG recommended that the membership dues be denied.

699. ~~Administrative Law Judge~~ The Commission concludes that in future rate cases, travel and entertainment expenses that are allocated from MERC's service company must be submitted for review. Because MERC has not reported the level of these expenses, ~~the ALJ recommends that~~ the Commission will use the reported level of travel and entertainment expenses as a reasonable proxy for those expenses that were unreported.

700. The ~~Administrative Law Judge~~ Commission finds that, ~~subject to the modifications agreed to by MERC, the Company's travel~~, entertainment and other employee expenses are not reasonable and should not be approved in this rate case. The Company did not provide sufficient business purposes in its itemization, completely failed to itemize travel and entertainment expenses related to affiliates, and failed to itemize membership dues. As a result, it is not reasonable for ratepayers to collect the expenses from ratepayers. ~~The ALJ recommends that~~ $284,725 in travel and entertainment expenses ~~be~~ are denied. ~~The ALJ recommends that~~ membership dues in the amount of $63,245 ~~be~~ are denied. ~~The ALJ finds that a~~ A further $248,725 will be excluded from recovery as a proxy for the travel and entertainment costs from MERC affiliates.

22. Require the Company in future rate case filings to meet the reporting requirements of Minn. Stat. § 216B.16, subd. 17 for all T&E Expenses, including expenses related to employees working for MERC affiliates. (MERC, Department, ALJ, OAG)

23. Require the Company in future rate case filings to allocate any costs not specific to Minnesota based on the allocation factor MERC files in its Direct Testimony and identify which costs have been allocated. (MERC, Department, ALJ, OAG)

Taxes for Net Operating Losses (NOL) Carryforward

(Please see staff briefing papers, pages 43-46)

24. Approve MERC's Deferred Tax Asset of approximately $2.2 million for inclusion in the test year. (MERC, ALJ) or

25. Deny MERC's Deferred Tax Asset of approximately $2.2 million and require the Company to exclude the asset from the test year. (Original OAG position, OAG did not specifically take exception to the ALJ's recommendation but stated that "failure to identify an issue or finding in the Exceptions does not indicate a waiver of the issue on the part of the OAG."[3] OAG post-oral argument recommended decision alternative.)

Integrys Business Services (IBS) Customer Relations

(Please see staff briefing papers, pages 47-57)

Should ICE & Vertex costs be included in the same test year?

New 26a Adopt ALJ Finding 275 that:

> In the view of the Administrative Law Judge, the $408,455 in costs relating to the Vertex contract is both "used and useful." Vertex is now providing the same billing and customer relations services to MERC ratepayers that it has for many years.

26. Adopt the ALJ's finding~~s~~ 276 and permit designation of ICE-related expenses as a regulatory asset until MERC's next rate case and permit recovery of those costs from customers over a three-year period after the system has been successfully implemented. [ALJ – MERC did not file exceptions.]

27. Adopt the OAG's suggested modification to ALJ finding 276 and require the expenses in the amount of $322,226 be removed from test year O&M expenses and treated as a regulatory asset with the following conditions: [OAG]

    a. The ICE 2016 project expenses shall not be included in rate base as the project is not used and useful at this time; MERC did not include the expenses as construction work in progress.
    b. Any discussion of amortization period shall be resolved during MERC's next rate case.
    c. The deferred expenses shall be subject to a reasonableness review in MERC's next rate case.

New 27a Adopt the OAG's suggested modification to ALJ finding 276 and require the expenses in the amount of $322,226 for ICE costs plus $29,070 for depreciation and return cross charges be removed from test year O&M expenses. Instead, MERC will be permitted to defer its actual IBS customer relations expense plus actual depreciation and return on cross charges as a regulatory asset with deferred accounting treatment, with the following conditions: ~~[OAG]~~

[3] Ibid.

a. The ICE 2016 project expenses shall not be included in rate base as the project is not used and useful at this time; MERC did not include the expenses as construction work in progress.

b. Any discussion of amortization period shall be resolved during MERC's next rate case.

c. The deferred expenses shall be subject to a reasonableness review in MERC's next rate case. [MERC post-oral argument preferred decision alternatives, OAG post-oral argument recommended decision alternative.]

28. ~~Adopt decision alternative 2 and, in addition, r~~ Require MERC to record its actual IBS customer relations expense to the deferred account. Do not grant MERC the automatic right to annually record $322,226 in the deferred account. [PUC staff, OAG post-oral argument recommended decision alternative.]

29. Adopt the OAG alternative position to disallow the $322,226 in ICE 2016 test year O&M expenses.

30. Find that both the Vertex contract and ICE 2016 project are currently used and useful and allow MERC to include the estimated $730,681 K&M increase associated with both in the test year expenses. [MERC Direct]

31. Find that IBS Customer Relations expense should be reduced by $823,990, reflecting the OAG's proposed inflation factor of 2.2% from 2012. [OAG Direct]

32. Order MERC to provide, in the initial filing of its next rate case, a detailed breakdown of all deferred ICE-related expenses. [PUC Staff]

Depreciation and Return Cross Charges from IBS

33. Adopt the ALJ's findings and find that MERC's known and measurable adjustment related to depreciation and return on assets cross charged from IBS of $280,470 should be approved for 2014 and included in test year O&M expenses. [MERC, ALJ]

34. Find that the known and measurable adjustment related to depreciation and return on assets cross charged from IBS of $280,470 is not sufficiently supported, or precise enough, and require that the adjustment be removed from test year operating expenses. [OAG Direct - The OAG did not file exceptions to the ALJ Report on this issue.]

35. Find that the amount of the adjustment related to the GMS project should be allowed, but that the amount related to the ICE project should be removed as the ICE project has not been shown to be used and useful in the test year and will not be in-service until 2016. [If this alternative is selected, the Commission will need to require MERC to identify the amount of the expense related to each project]. [~~PUC staff~~. MERC post-oral argument recommended decision alternatives.]

New 35a. Require the expenses in the amount of $29,070 for ICE depreciation and return cross charges be removed from test year O&M expenses. Allow MERC to defer its actual depreciation and return on cross charges as a regulatory asset with deferred accounting treatment, with the following conditions:

a. The ICE 2016 project expenses shall not be included in rate base as the project is not used and useful at this time; MERC did not include the expenses as construction work in progress.
b. Any discussion of amortization period shall be resolved during MERC's next rate case.
c. The deferred expenses shall be subject to a reasonableness review in MERC's next rate case. [PUC staff, MERC notes the amount of depreciation and return cross charges related to ICE is $29,070.]

Employee Benefit Costs

(Please see staff briefing papers, pages 57-74)

36. Adopt MERC's agreement with the Department to update the measurement date for the plan asset values for pension expense and post-retirement life expense to December 31, 2013. [DOC, MERC, ALJ]

37. Adopt MERC's proposal, accepted by the Department, to use the updated March 1, 2014 plan asset values in the calculation of the test year post-retirement medical expense. [MERC, ALJ, accepted by DOC].

38. Adopt MERC's rebuttal proposal to use the updated December 31, 2013 plan asset values and discount rates in the calculation of the test year pension and post-retirement life expense, and the updated March 1, 2014 plan asset values and discount rates in the calculation of test year medical plan expense, and:

    a. Allow MERC to reduce its initially proposed test year pension, post retirement, and medical plan expenses by a combined total of $651,524. [MERC's rebuttal position.] or

    b. Require MERC to recalculate the reduction to its initially proposed test year expenses to retain the original overall 4.1% allocation of total IBS benefit expenses to MERC [Staff believes this would change the reduction to approximately $677,751, a difference of about $26,227].

(MERC accepts either 38a or 38b in its post-oral argument recommended decision alternatives.)

39. Adopt some, or all, of the Department's recommended modifications to the ALJ findings as shown on pp. 68-70 of the staff briefing papers and require MERC to:

a. Reduce test year pension expense by $1,350,012 from $584,731 to $(765,281); [DOC]

b. Increase test year post retirement life expense by $3,853 from a credit of $7,819 to a credit of $3,966; [DOC] and

c. Decrease test year post retirement medical expense by $140,720 [adjustment amount ~~appears to be~~ accepted by DOC, MERC, ALJ].

40. If the Commission is considering setting the discount rate at a lower level, adopt the Department's request and send this issue back to the ALJ to be developed further in this contested case proceeding. [If the Commission selects this alternative, it may wish to clarify whether it is sending the discount rate issue back to contested case proceeding for both pension and post-retirement life expense, or just for pension expense. DOC accepts this alternative or #44.]

41. For test year pension expense, adopt the ALJ's finding 250 and require MERC to calculate test year pension expense using a discount rate equal to the five-year historical average of discount rates. [ALJ, MERC Alternative] [Staff notes that this calculation is not in the record of this proceeding, other than as MERC's recommended adjustment clarification to finding 251.]

42. For test year post-retirement medical plan expense and life insurance expense, adopt ALJ finding 256 and allow MERC to calculate:

a. Test year post-retirement life expense using the December 31, 2013 updated plan asset values and discount rate, and adjust its initially proposed expense accordingly; [MERC, ALJ] [If this alternative is selected, the Commission may wish to require MERC to provide the adjustment amount for post-retirement life expense, including its allocation of the IBS expense. The difference between its initially proposed post retirement life plan expense and its December 31, 2013 update may be only a small dollar amount.]

b. Test year post-retirement medical plan expense using the March 1, 2014 updated plan asset values and discount rates, and to reduce its initially proposed post retirement medical plan expense by $140,720. [MERC, ALJ, accepted by DOC]

43. Or instead, for consistency, if the Commission adopts ALJ finding 250 for pension expense, it may wish to require MERC to use a five-year historical average of discount rates to calculate test year post-retirement medical plan and/or post-retirement life insurance expense. [Note: Not recommended by any party. If this alternative is selected, the Commission may wish to modify ALJ proposed findings 250, 251 and 256 accordingly.]

44. Open a generic inquiry into how the discount rate should be derived and applied in calculating future pension expenses for setting rates in Minnesota. (DOC accepts this alternative or #40.)

45. Clarify ALJ finding 254 by replacing the words "rate base" with:

    a. "expense" [MERC, DOC position in post-oral argument recommended decision letter]; or

    b. "base rates" [Original DOC position].

46. Replace ALJ finding 251 with the following:

    > Applying a five-year historical average of discount rates results in a reduction to pension expense of $668,392. [MERC] [Staff notes that this number has not been vetted on the record in this proceeding].

47. Correct finding 209 by replacing the words "expected return on plan assets" with "plan asset values as of December 31, 2013". [DOC]

Uncollectible Expense

(Please see staff briefing papers, pages 75-84)

48. Adopt the ALJ's proposed finding 296 and find that the average percentage (0.658787%) of tariffed revenue from the three most recent years (2011, 2012 and 2013) should be used and applied to:

    a. MERC's 2014 test year forecasted tariff revenues, plus an assumed rate increase of $12,000,000. [ALJ] [If this alternative is selected, it should be clarified whether this means MERC's 2014 test year forecasted tariff revenues at present rates ($298,025,617) as calculated in MERC's rebuttal testimony plus $12,000,000, for a total of $310,025,617, or something else]. or

    b. Tariffed revenues as calculated in the Department's comments on MERC's compliance filing, plus an assumed rate increase of $12,000,000, for a total of $312,599,125. [MERC position in oral argument preferred decision alternatives] or

    c. MERC's 2014 test year forecasted tariff revenues, plus an assumed rate increase of $3,300,164 per the OAG's proposed modification to the ALJ's finding 296 [Again, it should be clarified whether this means it should be added to tariffed revenues as calculated in MERC's rebuttal testimony ($298,025,617), or something else such as the tariffed revenues determined by the Commission's decisions in this rate case and the related base cost of gas docket.] or

d. The test year forecasted tariff revenues at present rates as determined by the Commission's decisions in this rate case and the related base cost of gas docket, Docket No. G011/MR-13-732, plus the approximate revenue deficiency determined by the Commission's decisions (i.e., rounded down to the closest million dollars to eliminate the circular reference). or

49. Find that MERC's three-year (2010-2012) uncollectible expense ratio (0.650401%) and forecasted $2,016,410 of uncollectible expense for the 2014 test year is reasonable and should be adopted in this rate case. [MERC position prior to oral argument] or

50. Find that MERC's three-year (2010-2012) uncollectible expense ratio (0.650401%) is reasonable and should be applied to the test year forecasted tariff revenues determined by the Commission's decisions in this case and the related base cost of gas docket, including the Commission's decisions on the revenue deficiency. [To eliminate the circular reference, if the Commission selects this alternative it may wish to require for purposes of this calculation that the Commission determined revenue deficiency be rounded down to the nearest million.] or

51. Adopt the OAG's position and require MERC to reduce test year uncollectible expense to $1.35 million. [OAG] or

52. Find that the Department's recommended 2013 uncollectible expense ratio (.549760%) and forecasted $1,661,164 of uncollectible expense for the 2014 test year is reasonable and should be adopted in this rate case. [DOC position prior to oral argument] or

53. Adopt the Department's proposed modifications to the ALJ findings and require MERC to apply the 2013 ratio of 0.549760 percent to the sum of MERC's 2014 test year forecasted tariffed sales revenues agreed-upon by MERC and the Department, plus the revenue deficiency that the Commission approves in this rate case. [If the Commission chooses this alternative, it should request that the parties clarify what the agreed upon 2014 test year forecasted tariffed sales revenues are because the parties have different positions in this case and staff is unaware of any agreed upon number. DOC agreed to $300,599,125 revenue plus revenue deficiency.]. or

54. Adopt the Department's position to use the 2013 ratio of 0.549760% and apply to test year forecasted tariff revenues at present rates as determined by the Commission's decisions in this rate case and the related base cost of gas docket, Docket No. G011/MR-13-732, plus the approximate revenue deficiency determined by the Commission's decisions (i.e., rounded down to the closest million to eliminate the circular reference). (DOC agreed to $300,599,125 revenue plus revenue deficiency. DOC position in post-oral argument letter recommending decision alternatives. OAG post-oral argument recommended alternative if the Commission does not approve #51.)

Uncontested Financial Issues

Charitable Contributions
(Please see staff briefing papers, page 84)

55. Reduce MERC's test year administrative and general expense by $16,105 for the test year charitable contributions. (MERC, Department, ALJ)

Gate Station Remote Monitoring Project
(Please see staff briefing papers, page 85)

56. Increase MERC's test year operations and maintenance expense by $330,000 for costs associated with the gate station remote monitoring project. (MERC, Department, ALJ)

Sewer Lateral Legacy Pilot Program
(Please see staff briefing papers, page 86)

57. Increase MERC's test year operations and maintenance expense by $340,000 for costs associated with the sewer lateral legacy program. (MERC, Department, ALJ)

Test Year Depreciation Expense
(Please see staff briefing papers, page 87)

58. Upon filing of its next rate case, require the Company to provide a schedule showing the test year monthly depreciation expense calculations and show by FERC account the:

    a. average monthly plant balance,
    b. depreciation rates used,
    c. monthly depreciation expense, and
    d. totals. [MERC, Department accept at oral argument]

Customer Service (Line) Extensions
(Please see staff briefing papers, pages 87-94)

59. Adopt the recommendation of the Administrative Law Judge and reduce this docket's rate base by $35,803.18. (Original MERC position, Original Department position, ALJ) <u>or</u>

60. Adopt the recommendation of the Administrative Law Judge and reduce this docket's rate base by $35,803.18 and restate the Commission March 31, 1995 Order requirements

a. Continue to address the three Commission concerns referred to in its March 31, 1995 Order requirements, and

b. continue to address the six Commission questions listed in its March 31, 1995 Order requirements. (MERC and Department accept at oral argument.)

New Area Surcharge

(Please see staff briefing papers, pages 94-95)

61. Adopt the Administrative Law Judge recommendation and let the NAS term be addressed in a separate docket; Docket No. 14-524. (MERC, Department, ALJ)

Winter Construction Charges

(Please see staff briefing papers, pages 96-97)

62. Adopt the recommendation of the Administrative Law Judge and

    a. accept the Department recommendation that MERC complied with the requirements of the Commission 07-1188 Order, and

    b. continue the 07-1188 and 08-835 Order requirements in MERC's next rate case for reporting winter construction charges. (MERC, Department, ALJ)

Farm Tap Safety Inspection Program

(Please see staff briefing papers, pages 98-100)

63. Adopt the Department recommendations and approve the continuation of the farm tap inspection program and require that MERC shall continue to submit information about the program in its next rate case. (Original MERC position, Original Department position) or

64. Adopt the Department recommendations and approve the continuation of the farm tap inspection program and clarify that MERC

    a. shall continue to send farm-tap safety and information brochures to new farm tap customers before they take service and to all existing farm customers annually,

    b. shall continue to file annual reports on its farm tap inspection program on or before April 1 of each year, and

    c. within 90 days of the end of each five-year inspection cycle and in each general rate case, shall file with the Commission, the Department, and the Minnesota Office of Pipeline Safety a five-year report including cumulative results of the inspection program and any recommendations for future improvements. (MERC and the Department accept at oral argument.)

Cost Allocations

(Please see staff briefing papers, pages 100-103)

65. Adopt the ALJ's finding that MERC's IBS Cost Allocation adjustment is consistent with the Commission's preferred general allocation method and should be approved in this rate case. [MERC, DOC, ALJ] and

66. Adopt the ALJ's finding that MERC's cost allocations to ServiceChoice are reasonable and should be accepted in this rate case. [MERC, DOC, ALJ]

Interest Synchronization

(Please see staff briefing papers, pages 103-104)

67. Adopt the agreed upon interest synchronization methodology and order that the final adjustment be based on final Commission-approved figures. [MERC, DOC, ALJ]

Cash Working Capital

(Please see staff briefing papers, pages 104-106)

68. Adopt the ALJ's finding that MERC's Test Year Working Capital adjustment should be adjusted as described in Ms. St. Pierre's Direct Testimony and require Cash Working Capital to be updated to reflect the final decisions of the Commission. (MERC, DOC, ALJ)

69. Accept MERC's agreement and require MERC in future rate cases to provide a schedule that reconciles the expenses in the cash working capital to the expenses in MERC's test-year Income Statement. (Department accepts at oral argument.)

70. Accept MERC's agreement and require MERC in future rate cases to base its cash working capital schedule on number of days rather than percentages. (Department accepts at oral argument.)

Other Gas Revenue - Miscellaneous Service Receipts

(Please see staff briefing papers, pages 107-108)

71. Adopt the ALJ's finding that an increase of $51,493 to MERC's test-year other revenue from miscellaneous service is proper in this rate case. (MERC and the Department accept at oral argument.) and

72. Require MERC to provide direct testimony in future rate cases explaining all large differences between base year and test year rate base, other income, and expense data. (MERC and the Department accept at oral argument.)

Incentive Pay

(Please see staff briefing papers, pages 108-112)

73. Adopt the ALJ's finding that administrative and general expense should be reduced by $27,857 with respect to executive incentive compensation. (DOC, MERC, ALJ)

74. Retain the existing refund mechanism, with the existing reporting requirements, under which MERC will return the funds to ratepayers in the event incentive compensation payouts are lower than the approved test-year level. (MERC and the Department accept at oral argument.)

75. Require that any refunds from the incentive compensation refund mechanism be calculated beginning with the 2014 test year, based upon the incentive compensation and customer counts approved in this docket. (MERC and the Department accept at oral argument.)

76. Approve total test year incentive compensation of $1,231,630. [The Commission may wish to confirm that this is the correct number.] (MERC and the Department accept at oral argument. MERC and the Department agreed to $1,231,630 at oral argument.)

Conservation Improvement Program (CIP)

Uncollected CCRC revenues from prior years

(Please see staff briefing papers, pages 113-116)

77. Adopt the Administrative Law Judge and the Department recommendations on the treatment of uncollected CIP revenues associated with Northshore Mining with the clarification to ALJ Finding 610 below and require~~d~~ the following:

    ALJ Finding #610: As noted above, MERC agreed to credit the CIP tracker inclusive of carrying charges for the under-recovery of CIP charges from Northshore. The credit would be allocated between ~~to~~ MERC's Consolidated CIP Tracker ~~because~~ and MERC-PNG's CIP tracker based on the period Northshore should have been charged ~~is projected to be reduced to a zero balance by the end of November 2014~~.

    a. require MERC to credit the MERC-PNG CIP tracker for un-collected amounts (CCRC and CCRA) from July 2006 through December 2013 before Northshore's CIP exemption was effective January 1, 2014; and

b. require MERC to add a one-time carrying charge to the un-collected CIP revenue balance at MERC's approved overall rate of return during this period; <u>and</u>

c. require MERC to report the funding of the un-collected CIP amounts in its final rates compliance filing in this rate case. [MERC post-oral argument recommended decision alternative letter, Department accepts in post-oral argument decision alternative letter, ~~ALJ~~, PUC staff]

Adequacy of Vertex Billing Audit

(Please see staff briefing papers, pages 116-118)

78. Adopt MERC's pledge to perform a series of tests to review its CIP billing process. <u>or</u>

79. Adopt MERC's pledge to perform a series tests to review its CIP billing process and require MERC to submit a compliance filing in this docket reporting its findings from this review process. <u>or</u>

New 79a ~~Adopt MERC's pledge to perform a series of tests~~ Require ~~Adopt~~ MERC~~'s pledge~~ to ~~perform a series of test to~~ review its CIP billing process and require MERC to submit a compliance filing in this docket reporting its findings from this review process. <u>Also require MERC to file annual compliance filings with MERC's annual tracker filing, to document on an annual basis that MERC's CIP exempt customers are properly identified and billed.</u>

(MERC post-oral argument recommended decision alternative.)

80. Require MERC to have a third party auditor develop an audit methodology to review the Vertex billing system for CIP and other billing errors. <u>or</u>

81. Consider MERC's previous Vertex billing system responses as sufficient and further consider prior Commission precedent as a deterrent to MERC to police its billing system, and require no further action. (Department, post-oral argument recommended decision alternatives.)

Conservation Improvement Program (CIP) Expenses

(Please see staff briefing papers, pages 118-142)

November 27th Commission Order requiring MERC to show how it is tracking and handling CIP expenses in the development of the test year operating expenses

82. Accept MERC's response as satisfying the Commission's ~~March~~ <u>November</u> 27th Order requirements, (MERC, Department) <u>or</u>

83. Determine that MERC's response has not sufficiently satisfied the Commission's March 27th Order requirements.

Minn. Stat. 216B16, subd. 1 Requirements

84. Adopt the Department's finding that MERC has met the requirements of Minn. Stat. 216B.16, subd. 1. (MERC, Department)

Test Year CIP Expenses

85. Adopt the ALJ finding that MERC recover $9,396,422 in test year CIP expenses. (MERC, Department)

CCRC Calculation for Final Rates

86. Adopt the ALJ recommendation that the final rates compliance filing include the calculation of the CCRC rate based upon terms of the Commission's Order.

New 86a. 86. Adopt the ALJ recommendation <u>(ALJ Finding 612)</u> that <u>MERC's CCRC calculation methodology is reasonable and</u> the final rates compliance filing include the calculation of the CCRC rate based upon terms of the Commission's Order.

(MERC post-oral argument recommended decision alternatives.)

Impact of the Department's sales forecast projection

87. Adopt the ALJ recommendation and approve the Department's adjusted sales forecast for calculating the final compliance report's CCRC factor. (MERC, Department)

Unamortized Balance in the CIP Tracker Account (CCRA)

88. Allow MERC to keep its on-going CIP tracker balance within its CCRA tracker mechanism and do not require MERC to "roll-in" its CIP tracker balance into MERC's CCRC calculation. (MERC, Department)

Carrying Charges in MERC's CIP tracker

89. Adopt the ALJ recommendation to allow MERC to apply to its CIP tracker account carrying charges that are equal to the overall rate of return approved for MERC in this general rate case. (MERC, Department)

Impact on Revenue Deficiency (Are CIP revenues and expenses "revenue neutral"?

(Please see staff briefing papers, pages 127-142)

Revenue Deficiency Calculation Methodology in Rate Cases

90. Adopt the ALJ's recommendations in findings 580 and 581 that require MERC to balance test-year CIP revenue with test-year CIP expenses, and reflect the appropriate charges as part of the final approved CIP rate by setting the CIP revenue equal to the CIP expense so that final rates include CIP revenue and CIP costs of $9,396,422. The ALJ states that will increase transparency in ratemaking and potentially reduce future audit costs and rate case expenses and further.

New 90a. Choose not to adopt the ALJ Findings 580-582 and instead approve one of the three alternatives below:

1) MERC shall collect $5,638,332 of its test-year CIP expenses through the CCRC and $3,758,090 of its test-year CIP expenses via the CCRA with the CCRC being set at $0.01469 and $0.00979 being added to the CCRA at the time of final rate implementation; MERC shall continue to include the CCRC factor in its base distribution rate and maintain its CCRA factor in its current format; or

2) MERC shall collect all of its test-year CIP expenses through the CCRC with the CCRC being set at $0.02448 and $0.00000 being added to the CCRA at the time of final rate implementation; MERC shall continue its current CCRC calculation methodology by including the CCRC factor in its base distribution rate and maintain its CCRA factor in its current format; or

3) MERC shall collect all of its test-year CIP expenses through the CCRA with the CCRC being set at $0.00000 and $0.02448 being added to the CCRA at the time of final rate implementation; instead of including the CCRC charge in its base distribution rate, MERC shall recover all CIP expenses via the CCRA factor, which appears as a separate line item on its customer's bills.

NOTE: MERC accepts alternative 90a(2) in its Sep. 19 post-oral argument preferred decision alternatives.[4]

[4] "While the Company continues to prefer option 90a(3) regarding the treatment of MERC's test-year conservation improvement program ("CIP") expense, during the hearing the Company agreed to what it thought the Department of Commerce, Division of Energy Resource's position was (90a(2)). Ultimately, MERC would not object to any of the additional proposed decision alternatives 90a(1)-(3). Under any of these options, MERC is made whole for its approved test-year CIP expense and the mechanics of the

91. Adopt PUC staff's recommendation that would require MERC to have a pre-meeting with the Department and PUC staff before filing subsequent rate cases. (structured similar to the required pre-filing meeting on sales forecast) (MERC accepts in Sep. 19 post-oral argument preferred decision alternatives. Department accepts in post-oral argument letter recommending decision options.)

Interim Rate Period CCRC Factor

92. Adopt the ALJ's recommendation that MERC CCRC calculation methodology is reasonable, but adopt PUC staff's recommendation to require MERC to update its CCRC factor to reflect the Department recommended 2014 CIP expenses of $9,396,422 and to correct its CIP applicable volumes to the Department recommended level in its final rates compliance. (Department accepts in post-oral argument letter recommending decision options.)[5]

93. Adopt the ALJ recommendation that would require MERC to report in its final rates compliance filing the calculation of the CCRC rate based upon terms of the Commission's Order. (Department accepts in post-oral argument letter recommending decision options.)

94. Adopt the ALJ recommendation that in future general rate-case filings, MERC should change the CCRC rate at the beginning of interim rates and again at final rates. (Department accepts in post-oral argument letter recommending decision options.)

Over/Under Collected Interim Period CIP Revenues

95. Adopt the ALJ recommendation to the Commission that MERC's proposal to credit the CIP tracker balance, in the event that it under-collects CIP expense during interim rate period, is reasonable. (MERC accepts in Sep. 19 post-oral argument preferred decision alternatives. Department accepts in post-oral argument letter recommending decision options.)

96. Adopt the ALJ recommendation and in addition adopt PUC staff recommendation to add "to debit the CIP balance, in the event that it over-collects the CIP expense during the interim period, is reasonable." (MERC accepts in Sep. 19 post-oral argument preferred decision alternatives. Department accepts in post-oral argument letter recommending decision options.)

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implementation can be worked out between the parties in the preparation of MERC's compliance filing." (MERC, Sep. 19, 2014 post-oral argument letter describing MERC's preferred decision alternatives)

[5] "Regarding, the level of CIP costs and revenues in the rate case, these levels should reflect the most current costs (over $9 million). Likewise, in final rates, the level of CIP revenue in the rate case should be set at the same level as CIP costs." (Department, post-oral argument letter recommending decision options.)

Presentation of CCRC and CCRA in the future

97. Adopt the ALJ recommendation assuming that MERC removes its CCRC factor from its base distribution rate along with the CIP expenses and account for the entire program through its CIP tracker account. Require MERC to combine the CCRC and CCRA into one CIP charge that would be adjusted through MERC's annual CIP tracker mechanism, in accordance with current tariff provisions.

98. Adopt the ALJ recommendation assuming that MERC calculates its CCRC factor as it currently does, but instead of including the CCRC charge in its base distribution rate, require MERC to combine its CCRC base factor and the current CCRA factor into one line item on its customer's bills.

99. Adopt the ALJ recommendation assuming that MERC calculates its CCRC factor as it currently does, but instead of including the CCRC charge in its base distribution rate, require MERC to separately state its CCRC base factor and the current CCRA factor on separate lines on its customer's bills.

100. Require no change to MERC's current handling of its CIP revenues and expenses. Require MERC to continue its current CCRC calculation methodology by including the CCRC factor in its base distribution rate and maintain its CCRA factor in its current format.

NOTE: The Department, in its post-oral argument letter recommending decision options, appears to be recommending alternative #97 but states that the "DOC position is that the method for recovering CIP costs (rate case costs reflected in CCRC and additional costs after rate case reflected in CCRA) should not change at this time from past practice." This appears to match alternative #100 in most respects.

Cost of Gas

Base Cost of Gas

(Please see staff briefing papers, pages 142-148)

101. Adopt the Administrative Law Judge and the Department recommendations to accept MERC's most recent base cost of gas calculation as reflected in the Department Ex. 214, Otis Surrebuttal at Ex. LBO-S-4, pp. 1-24. or

~~102. Require MERC to provide in a compliance petition in this docket and the base cost of gas docket, an update to the base gas cost of gas reflecting a more current NYMEX pricing estimate for February and March 2015 at a price closer to future projections.~~

~~The compliance filing would be due within 30 days from the date of the Commission Order in this docket.~~

New 102a. Require MERC to provide in a compliance petition in this docket and the base cost of gas docket, an update to the base gas cost of gas reflecting a more current NYMEX pricing estimate for February and March 2014 at a price closer to future projections. The compliance filing would be due within 7 days after the September 24, 2014 Commission meeting and be based on September 15, 2014 NYMEX prices. (Agreed to by MERC, Department, OAG and PUC Staff after oral argument.)

Gas Storage Balance

(Please see staff briefing papers, pages 148-150)

103. Adopt the Administrative Law Judge and the Department recommendations to accept MERC's proposed gas storage balance of $12,866,841 for 2014 test year. or

104. Adopt another gas storage balance number based on the Commission's base cost of gas decision. (Department position at oral argument, MERC position in Sep. 19 post-oral argument preferred decision alternatives letter.) or

105. Adopt some other gas storage balance number.

Cost of Capital/Rate of Return

(Please see staff briefing papers, pages 151- 198)

Capital Structure

106. Use the Company's proposed capital structure comprised of 50.31 percent common equity, 44.64 percent long-term debt, and 5.05 percent short-term debt. (MERC, DOC, ALJ) or

107. Determine that another capital structure is more appropriate.

Cost of Long-term Debt

108. Adopt MERC's proposed cost of long-term debt of 5.5606 percent. (MERC, DOC, ALJ), or

109. Adopt some other cost of long-term debt that the Commission considers more appropriate.

Cost of Short-term Debt

110. Adopt MERC's proposed cost of short-term debt of 2.3487 percent. (MERC, DOC, ALJ), or

111. Adopt some other cost of short-term debt that the Commission considers more appropriate.

Cost of Equity

Comparable Groups

112. Determine that the companies in the Department's NGCG have similar risks to MERC. (Department 1st choice as indicated in oral argument handout. OAG second choice as indicated in post-oral argument recommended decision alternatives.)

If the Commission makes this determination it may want to adopt the Department's and OAG's proposed modified Finding 112 and the Department's proposed modified Finding 172.

Proposed modified Finding 112:

> 112. Based upon his examination of 2012 common equity ratios and 2012 long-term debt ratios for companies in the NGCG and MERC, Dr. Amit concluded that the NGCG and MERC present similar investment risks. ~~, although "MERC appears to be somewhat riskier than NGCG."~~

Department proposed modified Finding 172:

> 172. Because MERC's risk profile is similar to the NCGC's risk profile. Dr. Amit's recommendation of 9.29 percent with flotation costs presents an appropriate return on equity. ~~Yet, because MERC's risk profile is higher than the comparison group used by the Department, in the view of the Administrative Law Judge, Dr. Amit's recommendation of 9.10 percent understates the appropriate return on equity.~~

113. Determine that the companies in MERC's comparable group have similar risks to MERC. (MERC)

114. Determine that the companies in the OAG's comparable group have similar risks to MERC. (OAG, Department indicated it was okay with this alternative in its oral argument handout.)

If the Commission makes this determination it may want to strike Finding 116 as recommended by the OAG (Please see p. 193 of the staff briefing papers) and adopt the Department's and the OAG's proposed modified Finding 112 as discussed above.

115. Determine that MERC has a higher risk profile than the comparison group used by the Department. (MERC, ALJ)

Method for Determining Cost of Equity

116. Determine that the discounted cash flow method, checked for reasonableness, is appropriate for estimating the cost of equity for MERC Energy in this proceeding. (DOC, OAG)

If the Commission makes this determination it may want to strike ALJ Finding 173 as proposed by the DOC and the OAG. (Please see pp. 190-191 and 193 of the staff briefing papers.)

117. Determine that a combination of methods should be used for estimating the cost of equity for MERC Energy in this proceeding. (MERC)

118. Determine that the results of the CAPM, with flotation costs, yields and better and more reasonable result than the DCF. (ALJ)

119. Make no determination on the specific method for determining the cost of equity.

Growth Rate

120. Determine that the record supports the use of the EPS growth rate as the most appropriate projected growth rate for the DCF analysis in this proceeding. (MERC, DOC, ALJ)

121. Determine that the record supports the use of projected dividend growth, book-value growth, and the earnings growth for the projected growth rate in the DCF analysis in this proceeding. (OAG)

If the Commission adopts the OAG's position it may want to adopt the OAG's recommendation to strike Finding 122 and adopt its proposed modified Findings 120, 121, and 123 as discussed above and on pp. 193-194 of the staff briefing papers.

122. Make no determination regarding the appropriate growth rate (dividend, earnings, or book value) to use in the DCF model.

Dividend Yield

123. Determine that, to avoid irrelevant historical prices and short-term aberrations in the capital market, it is appropriate use recent closing prices, such as 30 days, to calculate

the dividend yield for a discounted cash flow analysis in this proceeding. (DOC, OAG, ALJ)

124. Determine that, to avoid irrelevant historical prices and short-term aberrations in the capital market, it is appropriate use an average of the daily closing prices for a six month period to calculate the dividend yield for a discounted cash flow analysis in this proceeding. (MERC)

125. Determine that some other time period is appropriate for calculating the dividend yield to use in a discounted cash flow analysis in this proceeding.

126. Make no determination.

Market to Book Adjustment

127. Determine that the DCF analyses in this proceeding do not result in an upward bias to ROE due to the market-to-book ratio of companies in the NGCG. (MERC, DOC 1st choice, ALJ)

128. Determine that a DCF analysis applied to companies with market-to-book ratios greater than one results in an upward bias. (OAG)

129. Determine that there is not sufficient evidence in the record to conclude that a market-to-book value greater than one results in an upward bias in a DCF analysis. (OAG second or third best alternative, please see OAG post-oral argument recommended decision alternatives.)

130. Make no finding. (DOC, OAG second or third best alternative, please see OAG post-oral argument recommended decision alternatives.)

Flotation Cost

131. Make no specific determination regarding flotation costs. (OAG second best alternative, please see OAG post-oral argument recommended decision alternatives.)

132. Determine that the cost of equity should not reflect a flotation cost. (OAG, please see p. 193 of the staff briefing papers.)

If the Commission decides to not make a specific determination regarding flotation costs, or adopts the OAG's proposed modified Finding 97:

97. On behalf of the OAG-AUD, Dr. Chattopadhyay persuasively explained why ~~asserts that~~ floatation costs should not be separated from MERC's ROE determination. Dr. Chattopadhyay ~~argues~~ explains that the DCF methodology

already produces an upwardly biased ROE, in cases such as this, where the market-to-book ratio (M/B ratio) of comparable companies is greater than one. ~~In his view,~~ Inclusion of floatation costs is needed to counter-balance (and not further compound) the effects of the DCF model's upward bias.

133. Determine that the flotation cost adjustment of 3.9 percent used by the Department and the Company is appropriate. (MERC, DOC, ALJ)

Department Clarifications

134. Adopt one or more the Department's clarifications and corrections for Findings 160 - 162:

a. 160. Application of the ECAPM analysis resulted in an estimated ROE mean for the NGCG of 9.76 ~~9.96~~ percent with flotation costs. [FN: Ex. 200 at 33 (Amit Direct)]

b. 161. In Dr. Amit's Direct Testimony, ~~T~~the ECAPM's ROE was appreciably higher than Dr. Amit's CAPM's ROE and somewhat close to the mean of his DCF's ROE for the NGCG.

c. 162. In his Direct Testimony, Dr. Amit's CAPM and ECAPM results for the NGCG lie within the range of Dr. Amit's DCF/TGDCF estimated ROEs - specifically, between 8.61 percent and 10.14 percent. (MERC accepted the Department's clarifications in its Sep. 19 post-oral argument preferred decision alternatives letter. OAG accepted in it post-oral argument recommended decision alternatives.)

135. Take no action on the Department's proposed clarification and corrections.

Cost of Equity

136. Adopt the cost of equity of 10.75 percent as requested by the Company. (Original MERC position)

137. Adopt the Department's recommended cost of equity of 9.29 percent. (DOC, please see pp. 190-191 of the staff briefing papers.)

If the Commission adopts the Department's recommendation it may want to adopt the Department's recommendation to strike finding 173, and adopt its proposed modified Findings 172 and 174 as discussed above.

138. Adopt the OAG's recommended cost of equity of 8.62 percent. (OAG, please see pp. 193-194 of the staff briefing papers.)

If the Commission adopts the OAG's recommendation it may also want to adopt the OAG's recommendation to remove ALJ Findings 172 through 174 and replace them with the OAG's proposed modified Finding 172 as discussed above.

139. Adopt the ALJ's recommendation of 9.79. (MERC accepts ALJ recommendation.)

140. Adopt some other cost of equity the Commission considers appropriate.

Overall Cost of Capital

If the Commission has made specific findings regarding capital and the component costs, it does not need to make a specific finding on the overall cost of capital. However, to avoid possible confusion or questions regarding the Commission's decision, it may want to adopt a specific Rate of Return for this proceeding.

141. Take no specific action.

142. Adopt an overall cost of capital of 7.5262 percent as reflected by the ALJ recommendations. (MERC accepted the Department's clarifications in its Sep. 19 post-oral argument preferred decision alternatives letter.)

143. Adopt an overall cost of capital of 8.0092 percent as recommended by MERC. (MERC original position, please see p. 165 of staff briefing papers.)

144. Adopt an overall cost of capital of 7.2745 percent as recommended by the Department.

145. Adopt an overall cost of capital of 6.9375 percent, reflecting the OAG's recommended cost of equity.

146. Determine that some other overall cost of capital is appropriate and have the staff calculate the proper value, based on the component parts, for inclusion in the order.

Sales Forecast

(Please see staff briefing papers, pages 199-201)

147. Adopt the Department's forecast. (MERC, DOC, ALJ)

148. Adopt some other forecast the Commission thinks is more appropriate.

Future Rate Cases

149. Adopt some or all of the following Department recommendations and require MERC to, in future rate case filings, include:

a. A summary spreadsheet that links together the Company's test-year sales and revenue estimates, its CCOSS, and its rate design schedules;
b. A spreadsheet that fully links together all raw data, to the most detailed information available and in a format that enables the full replication of MERC's process, that the Company uses to calculate the input data it uses in its test-year sales analysis;
c. If, in the future, MERC updates, modifies, or changes its billing system, a bridging schedule that fully links together the old and new billing systems and validates that there is no difference between the two billing systems;
d. Any, and all, data used for its sales forecast 30 days in advance of its next general rate case; and
e. Detailed information sufficient to allow for replication of any and all Company derived forecast variables. (MERC indicated it accepts the Department's recommendation in its Sep. 19 post-oral argument preferred decision alternatives letter.)

150. Add any other requirements the Commission considers appropriate.

Class Cost of Service Study

(Please see staff briefing papers, pages 202-241)

Precision

151. Determine that because a CCOSS is not precise, it should not be used in rate setting.

If the Commission adopts ~~one of either of the preceding~~ this option~~s~~ it may want to strike or modify Findings 650 and 651.

(Please see staff briefing papers, pp. 232 & 237.)

152. Determine that although a CCOSS is not precise, it can be a useful tool for setting rates.

If the Commission adopts ~~one of either of the preceding~~ this option~~s~~ it may want to strike or modify Finding 650.

(Please see staff briefing papers pp. 232 & 237. Department, post-oral argument letter recommending decision alternatives. MERC post-oral argument recommended decision alternative.)

153. Make no determination.

New 153a. Make no determination and strike ALJ Finding 650 and 651.

(Please see OAG post-oral argument recommended decision alternatives.)

Allocation of Income Tax for CCOSS

154. Determine that, for the Class Cost of Service Study, taxable income should be based on allocation of costs within the Class Cost of Service Study (allocated by class on the basis of taxable income that fully on only reflects the CCOSS.) (MERC, DOC, ALJ)

155. Determine that MERC's Class Cost of Service Study should allocate income tax expense on the basis of taxable income attributable to each customer class, not on the basis of rate base. (OAG)

156. Make no specific determination on the appropriate allocation of taxes within the CCOSS. (OAG second best alternative, post-oral argument recommended decision alternatives.)

Allocation of Income Tax in CCOSS for Future Rate Cases

157. Determine that, in future rate cases, MERC should allocate income taxes by class on the basis of taxable income that fully ~~on~~ and only reflects the CCOSS. (MERC, DOC)

158. Make no determination regarding the treatment of income tax in the CCOSS of future rate cases. (OAG, post-oral argument recommended decision alternatives.)

Meter Reading (FERC Account 902)

159. Approve MERC's proposed allocation of FERC Account 902: Meter Reading. (MERC, DOC, ALJ)

160. Determine that some other allocation of FERC Account 902 is appropriate.

161. Make no specific determination regarding FERC Account 902.

162. Regardless of its decision on this issue, the Commission may want to:

    Modify Finding 649 as proposed by the OAG to be consistent with the OAG's position that it does not agree that MERC's allocation is reasonable.

    (Please see staff briefing papers, p. 236. OAG post-oral argument recommended decision alternative.)

Customer Records and Collection (FERC Accounts 903)

163. Determine that MERC's allocation of Account 903 costs are reasonable. (MERC, DOC, ALJ)

164. Determine that a weighted customer allocation method should be used for FERC Account 903. (OAG)

Determine that if MERC is unable to produce a weighted allocator:

a. The allocator used for FERC Account 381, as recommended by the NARUC Gas Manual, be used for this case; and

b. MERC create a more precise weighted customer allocator for MERC's future rate cases.

If the Commission adopts the OAG's position, it may also want to:

Adopt the OAG's proposed modifications to Finding(s):

i. 643
ii. 644.

(Staff notes that the language in OAG's proposed modification 644 is from ALJ Finding 643. Please see staff briefing papers, p. 236, and OAG post-oral argument recommended decision alternatives.)

165. Make no determination regarding the allocation of FERC 903 in this proceeding.

Study for Allocating Distribution Main Expenses

166. Determine that the gas distribution system should be classified and allocated using a zero-intercept method. (OAG, please see OAG post-oral argument recommended decision alternatives.)

167. Determine that a gas distribution system should be classified and allocated using a minimum size main method.

168. Make no specific determination on the appropriate method for classifying and allocating the gas distribution system. (Department, post-oral argument letter recommending decision alternatives. MERC post-oral argument recommended decision alternative.)

169. Adopt the OAG's proposed modifications to Finding 631 to provide more explanation of the differences between the minimum size method and the zero-intercept method. (OAG, please see staff briefing papers p. 234. Please also see OAG post-oral argument recommended decision alternatives.)

170. Adopt the OAG's proposed modifications to Finding 634 to clarify how MERC conducted its third minimum size study. (OAG, please see staff briefing papers, p. 234. Please also see OAG post-oral argument recommended decision alternatives.)

Allocation of Distribution Mains

171. Determine that 68.3 percent of MERC's distribution mains should be classified as customer costs and 31.7 percent should be classified as demand costs. (MERC, DOC, ALJ)

172. Determine that 30 percent of MERC's distribution mains should be classified as customer costs and 70 percent should be classified as demand costs. (OAG)

If the Commission makes this determination it may want to:

Adopt the OAG's proposed modifications to Finding(s) (as described in the staff briefing papers on pp. 233-236):

a. 626
b. 628
c. 629
d. 636
e. 637
f. 638

Commission Options Regarding Overall CCOSS

173. Determine that a CCOSS should not be specifically adopted.

If the Commission makes this determination it may want to strike findings 650 and 651. (Please see staff briefing papers, p. 237.)

New 173a Accept MERC's CCOSS as having satisfied initial rate case filing requirements. Determine that the methodology and results of MERC's CCOSS should not be adopted.

174. Accept MERC's CCOSS as a useful tool for the purpose of setting rates. (MERC, DOC)

175. Accept MERC's CCOSS.

If the Commission makes this determination it may want to:

Adopt the OAG's proposed modifications to Finding(s) (as described in the staff briefing papers on pp. 233-236):

a. 626
b. 628
c. 629
d. 636
e. 637
f. 638

New 175a Reject MERC's CCOSS (Please see OAG post-oral argument recommended decision alternatives.)

If the Commission makes this determination it may want to:

Adopt the OAG's proposed modifications to Finding(s) (as described in the staff briefing papers on pp. 233-236):

a. 626
b. 628
c. 629
d. 636
e. 637
f. 638

176. Modify MERC's CCOSS to reflect any adjustments the Commission has made above.

177. Accept the OAG's CCOSS

New 177a Require MERC to submit two CCOSSs in its next rate case. One study should be based on the zero-intercept method and the other on the minimum distribution method.

Data Collection for Future CCOSS

178. Determine that the Company is collecting and keeping sufficient data for the CCOSS. (MERC, DOC)

179. Determine that MERC needs to keep better information for a CCOSS and require MERC to:

a. collect data on additional variables that impact the unit cost of mains installation;
b. avoid aggregating or averaging data and use data at the finest level reasonable;
c. check OLS regression assumptions and correct for violations; and
d. make any future zero-intercept analysis more transparent to ensure that MERC's work can be easily replicated.

(OAG, please see OAG post-oral argument recommended decision alternatives.)

180. Modify Finding 628 to reflect the OAG's position by striking the portions the OAG recommended striking. (Please see staff briefing papers, pp. 233-234.)

181. Make no decision regarding the data for future CCOSS.

Clarification

182. Adopt the OAG's recommendation to strike Finding 637. (Please see staff briefing papers, p. 235.)

Class Revenue Apportionment

(Please see staff briefing papers, pages 242-258)

183. Include the OAG proposed language describing its position on revenue allocation after Finding 659 in the ALJ report as follows:

<u>660. The OAG recommended that any revenue increase be collected using MERC's existing revenue apportionment. The OAG noted that a CCOSS updated to incorporate the modifications suggested by Mr. Nelson and Mr. Lindell would show that residents are paying close to, or even greater than, 100% of costs under MERC's existing apportionment. For example, incorporating only Mr. Nelson's recommendation about reclassifying the Mains Account would reduce the residential class's cost of service by almost 2.5%, and reduce the revenue deficiency of the residential class by approximately 20%.</u>[6]

<u>661. The OAG also reasoned that the myriad of flaws in MERC's CCOSS indicated that it was not accurate and should not be used for rate setting purposes. In particular, the OAG noted that the flaws it had identified with MERC's CCOSS had a tendency to overstate the costs caused by the residential and small C&I classes.</u>[7]

<u>662. Finally, the OAG identified several non-cost factors that supported using MERC's existing apportionment. The OAG noted that many members of the</u>

[6] OAG Initial Brief, at 58.
[7] OAG Initial Brief, at 58–59.

residential class have a limited ability to absorb rate increases because they are living on a fixed or limited income.

~~184. Adopt the proposed revenue allocation agreed upon between MERC and the Department and recommended by the ALJ;~~

New 184 (a). Adopt MERC's proposed modification to the revenue allocation agreed upon between MERC and the Department and recommended by the ALJ as follows:

> 660. The revenue apportionment agreed to by MERC and the Department is reasonable and should be adopted in this proceeding. MERC's proposed revenue apportionment summarized in Mr. Walters' Rebuttal Testimony, and reflected in SLP-S-1 and SLP-S-2 to Ms. Peirce's Surrebuttal Testimony, as updated to incorporate the removal of CCRC revenues from base rates, should be used to determine the final rate design after the Commission has determined the final revenue requirement.
>
> (Please see p. 251 of the staff briefing papers, MERC's post-oral argument summary of preferred decision alternatives, and DOC post-oral argument letter recommending decision alternatives.)
>
> (**NOTE**: Alternative 184a is relevant **only** if CCRC revenue is removed from base rates and from MERC's overall revenue requirement.)

185. Adopt the OAG recommendation that any revenue increase be collected using MERC's existing revenue apportionment; and/or

186. Adopt the OAG recommendation to modify Finding 660 of the ALJ report to read as follows:

> ~~660~~ 663. The revenue apportionment agreed to by MERC and the Department is ~~reasonable and should be adopted in this proceeding~~ not reasonable because it is based primarily upon a CCOSS that is inaccurate, and because it fails to take into account several noncost factors. ~~MERC's proposed revenue apportionment summarized in Mr. Walters' Rebuttal Testimony, and reflected in SLP-S-1 and SLP-S-2 to Ms. Peirce's Surrebuttal Testimony, should be used to determine the final rate design after the Commission has determined the final revenue requirement.~~ Because MERC has not met its burden of proof to show that its proposed apportionment is reasonable, the ALJ recommends that any revenue increase be collected using MERC's existing revenue apportionment.

Basic Monthly Service Charges

(Please see staff briefing papers, pages 259-268)

Residential Basic Monthly Service Charges

187. Adopt the agreed upon proposal between MERC and the Department and the recommendation by the ALJ to increase the Residential monthly basic customer charge to $9.50; or

188. Adopt the OAG's recommendation to keep the existing Residential monthly basic customer charge of $8.50 and modify the ALJ report to include the OAG's proposed language to support this recommendation.

New 188a. Modify the ALJ report to reflect the OAG's proposed positions on this issue as follows:

666. The OAG-AUD also noted that Minnesota Statutes section 216B.03 places on the Commission a statutory requirement to "encourage energy conservation" to the "maximum reasonable extent." According to the OAG-AUD, a comparatively lower customer charge would send a stronger conservation signal to customers.

~~675~~667. The OAG-AUD recommended no increase to the customer charge for the Small C&I class. It maintained that any increase to the Small Commercial and Industrial customer charge is unnecessary because MERC has "full decoupling"; which assures collection of its fixed costs of providing service.

~~676~~ 668. As noted by the Commission in MERC's 2010 rate case, MERC does ~~not~~ have full decoupling for Small Commercial and Industrial customers. ~~MERC's decoupling mechanism, which only applies to distribution revenues less the CCRC, is a use-per customer calculation. The decoupling mechanism includes a 10 percent symmetrical cap on distribution revenues. MERC's full decoupling program provides the company with revenue stability, and, as such, the company has less need to increase customer charges in order to stabilize revenue.~~

669. MERC argues that a ~~A~~ higher customer charge has a leveling effect upon winter and summer bills, provides better price signals to those customers who can respond to price signals, brings rates closer to the true cost of service, and provides incrementally more stable cash flow to the utility. However, the OAG argues that MERC's customers do not need a high customer charge to gain the benefit of a level winter and summer bill, and MERC gains significant revenue stability through its decoupling program.

(Please see staff briefing papers, pp. 265-266, and 267, and OAG post-oral argument recommended decision alternatives.)

Monthly Fixed Charge for Large Customers

189. Adopt the proposed increases by MERC that were agreed to by the Department and recommended by the ALJ for the monthly fixed charges for these customers; or

190. Adopt the proposed increases by MERC that were agreed to by the Department and recommended by the ALJ for the monthly fixed charges for these customers, with the exception of small commercial and industrial customers, whose existing customer charge will remain at its current level. Modify the ALJ report to include the OAG's proposed language to modify ALJ findings 669, 670, and 677 to support this recommendation as described in the OAG's exception comments and on pp. 266-267 of the staff briefing papers.

Joint Rate Service

(Please see staff briefing papers, pages 269-278)

191. Adopt the Administrative Law Judge and the Department recommendations to accept MERC's explanation (a) of how MERC administers its Joint Service with no suggested changes, and (b) that the joint customers are not receiving a subsidy from another rate class. (Department)

192. Adopt PUC staff subsidy concerns regarding MERC's joint service and require MERC and the Department to work together to resolve and address the subsidiary concerns and make a compliance filing within ~~60~~ 90 days from the date of the Commission Order in this docket. (MERC accepts this alternative with the 90 day filing period, MERC post-oral argument recommended decision alternative.)

193. Adopt PUC staff subsidy concerns regarding MERC's joint service and open an inquiry in a new docket outside the current rate case.

Curtailment Rules and Practices

(Please see staff briefing papers, pages 279-282)

194. Adopt the Administrative Law Judge recommendation and approve the reconciliation service for MERC's firm customers with its customers providing the required data by August 1 of each year. (MERC, Constellation, ALJ)

General Housekeeping & Compliance Issues

(Please see staff briefing papers, page 283)

(MERC and OAG support 195, 196 and 197. DOC has no position. #198 is new.)

195. State that the final order in this docket shall contain summary financial schedules including: a calculation of MERC's authorized cost of capital, a rate base summary, an operating income statement summary, a gross revenue deficiency calculation, and a statement of the total allowed revenues. Direct parties to work with Commission staff to prepare such schedules for inclusion in the Order, should modifications be necessary to reflect the Commission's final decision.

196. Require MERC to make the following compliance filings within 30 days of the date of the final order in this docket:

a. Revised schedules of rates and charges reflecting the revenue requirement and the rate design decisions herein, along with the proposed effective date, and including the following information:

    i. Breakdown of Total Operating Revenues by type;
    ii. Schedules showing all billing determinants for the retail sales (and sale for resale) of natural gas. These schedules shall include but not be limited to:
        1. Total revenue by customer class;
        2. Total number of customers, the customer charge and total customer charge revenue by customer class; and
        3. For each customer class, the total number of commodity and demand related billing units, the per unit of commodity and demand cost of gas, the non-gas margin, and the total commodity and demand related sales revenues.
    iii. Revised tariff sheets incorporating authorized rate design decisions;
    iv. Proposed customer notices explaining the final rates, the monthly basic service charges, and any and all changes to rate design and customer billing.

b. A revised base cost of gas, supporting schedules, and revised fuel adjustment tariffs to be in effect on the date final rates are implemented.

c. A summary listing of all other rate riders and charges in effect, and continuing, after the date final rates are implemented.

d. Direct MERC to file a computation of the CCRC based upon the decisions made herein for inclusion in the final Order. Direct MERC to file a schedule detailing, by month with all supporting calculations, 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.

e. If final authorized rates are lower than interim rates, a proposal to make refunds of interim rates, including interest to affected customers.

197. Authorize comments on all compliance filings within 30 days of the date they are filed. However, comments are not necessary on MERC's proposed customer notice.

New 198. State that the written order memorializing these decisions may: (a) rearrange, reorganize, or renumber the items included as necessary for clarity and may standardize or correct abbreviations, punctuation, and format, and (b) correct other (arguably more substantive) errors as necessary. For example, please see pp. 30-31 of the Department's exception comments for a list of typographical errors in the ALJ Report.