

November 10, 2016

PUBLIC DOCUMENT

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **PUBLIC Comments of the Minnesota Department of Commerce,
Division of Energy Resources**
Docket No. E015/M-16-836

Dear Mr. Wolf:

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

Petition for Approval of an Amended and Restated Electric Service Agreement
between United States Steel Corporation and Minnesota Power.

The Petition was filed on October 10, 2016 by:

David R. Moeller
Minnesota Power
30 West Superior Street
Duluth, MN 55802-2093

Due to many issues intersecting with Minnesota Power's current rate case, the Department recommends that the Minnesota Public Utilities Commission (Commission) **merge this docket into Docket No. E015/GR-16-664** and is available to answer any questions the Commission may have.

Sincerely,

/s/ STEPHEN COLLINS
Rates Analyst

SC/ja
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**PUBLIC COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES**

DOCKET No. E015/M-16-836

I. INTRODUCTION

On October 10, 2016, Minnesota Power (MP or the Company) filed a petition (Petition) for approval of a proposed Amended and Restated Electric Service Agreement (Proposed ESA) with United States Steel Corporation (US Steel). The Proposed ESA would extend MP's currently effective ESA with US Steel's Minntac and Keetac facilities (Current ESA) through at least December 31, 2021. The Proposed ESA would also modify certain terms and conditions of the Current ESA.

II. BACKGROUND

Under MP's Large Power (LP) Service Schedule, MP executes with each LP customer an electric service agreement that supplements the terms and conditions of service in the LP Service Schedule. The Minnesota Public Utilities Commission (Commission) must approve each new ESA or modification to an existing ESA in order for the new or modified ESA to become effective.¹

As an LP customer on MP's system, US Steel is no exception to the above requirements and currently receives electric service under an ESA entered into on June 10, 2005. The Current ESA came into effect on November 1, 2008, following approval by the Commission through a September 9, 2005 Order in Docket No. E015/M-05-1175. The Current ESA has continued in effect beyond its initial term of October 31, 2013 and will remain in effect until terminated.

¹ As required by Minnesota Statute Section 216B.05, Subd. 2a.

III. SUMMARY OF PETITION

A. PROPOSED MODIFICATIONS

The Proposed ESA would terminate the Current ESA and replace it with modified provisions plus some new provisions. While many, if not the majority, of the provisions would be the same, the Proposed ESA would differ from the Current ESA in the following main ways, if approved:

1. Extend the term through at least December 31, 2021, with service continuing thereafter until the agreement is terminated (Para. 2);
2. Modify the terms and conditions regarding Firm Demand and Minimum Firm Demand (Para. 3.A);
3. Introduce a **[TRADE SECRET DATA HAS BEEN EXCISED]** (Para. 3.A);
4. Modify the procedure for incremental demand nomination (Para. 3.C.i);
5. Modify the terms for allowing scheduled maintenance (Para 3.D);
6. Allow for a **[TRADE SECRET DATA HAS BEEN EXCISED]** (Para. 3.E);
7. Grant MP and US Steel the right to jointly explore on-site cogeneration (Para.3.G);
8. Add an agreement for MP to “continue to work” with US Steel on “electric cost saving initiatives” including a “biennial Energy Audit” (Para. 3.G);
9. Add an agreement for MP and US Steel to discuss, in good faith, necessary modifications to the ESA in the case of permanent demand reductions due to production efficiency improvements or modified production processes (Para. 3.I); and
10. Change billing terms and conditions to those under the Rider for Expedited Billing Procedures (Para. 4.C).

B. PUBLIC INTEREST ARGUMENTS

MP stated that the Proposed ESA would be in the public interest because it would benefit all affected parties:

- US Steel, which would benefit from the “cost savings” and “operational flexibility;”
- MP, which would benefit from assurances of fixed-cost recovery;
- MP’s other customers, who would benefit from a reduced “risk of negative rate impacts” due to assurances of fixed-cost recovery; and
- Northeastern Minnesota generally, which would benefit from the economic impact of US Steel’s continued operation in the region.²

Additionally, MP stated that the Proposed ESA would be in the public interest because MP would ensure that “similar terms and conditions are available to all LP customers who make similar commitments to Minnesota Power.”³

IV. DEPARTMENT ANALYSIS

In accordance with statutory requirements,⁴ Commission directive,⁵ and prior Department analyses of ESA filings,⁶ the Department evaluated whether approving the Proposed ESA would be in the public interest insofar as it would result in rates that are not unreasonably prejudicial, unreasonably preferential, or discriminatory. To do so, the Department reviewed all of the provisions in the Proposed ESA to ensure compliance with these three requirements. The Department’s review focused solely on the potential detrimental effects for rates of MP customers *other* than US Steel, since US Steel is a party to the Proposed ESA and presumably would not sign an agreement that would make it worse off.

To facilitate its review, the Department separated the provisions into two categories: (1) carry-overs or modifications from the Current ESA, and (2) additions.

A. CARRY-OVERS OR MODIFICATIONS

Many, if not most, of the provisions of the Proposed ESA are carry-overs or modifications from the Current ESA. For these provisions, the Commission has already approved similar or nearly/exactly identical provisions in MP’s ESAs with other LP customers or in the Current ESA with US Steel. Nonetheless, given the passage of time and potential changes in circumstances, the Department reviewed all of the carried-over or slightly modified

² Petition, page 13.

³ Petition, page 14.

⁴ Minnesota Statute § 216B.03.

⁵ Commission Order dated May 6, 2014 in Docket No. E-015/M-14-130.

⁶ See Department Comments dated September 27, 2016 in Docket No. E-015/M-16-534, page 2.

provisions to ensure that none of the carried-over or modified provisions would result in rates that are prejudicial, preferential, or discriminatory.

The provisions, which cover items such as scheduled maintenance and demand nomination, are generally common to MP's other ESA's with large power customers. While many, if not most, of the exact terms are unique to this agreement, the nature of the terms appears to be for the mutual benefit of MP and US Steel and not, to the Department's knowledge, detrimental to any other party. Thus, the Department concludes that the carry-over or modifications of these provisions is reasonable.

B. ADDITIONS

Of the remaining changes reflected in the Proposed ESA, the Department identified two provisions that could potentially result in prejudicial, preferential, or discriminatory rates. These were:

- The provision in Paragraph 3.G, which adds an agreement for MP to “continue to work” with US Steel on “electric cost saving initiatives” including a “biennial Energy Audit,” defined in Paragraph 1 as “a meeting between the appropriate personnel of [MP] and [US Steel] to identify and facilitate energy conservation and energy efficiency projects at the Customer’s Minntac and Keetac operations;” and
- The provision in Paragraph 3.A providing MP with a **[TRADE SECRET DATA HAS BEEN EXCISED]**.

1. *Electric Cost Savings Initiatives*

For the provision in Paragraph 3.G, the Department was concerned that the provision could be prejudicial if other customers pay for “electric cost savings initiatives” whose benefit accrues solely to US Steel, particularly as US Steel is exempt from MP’s Conservation Improvement Program (CIP). The Department was also concerned that the provision could be preferential/discriminatory to the extent that MP does not participate in similar “electric cost saving initiatives” with other customers.

To address its concerns, the Department sent MP a written information request (IR) asking MP to explain why the provision was not unreasonably preferential, unreasonably prejudicial, or discriminatory. MP’s response is provided in DOC Attachment 1.

In its response, MP noted that there it did not “envision an incremental cost” from the provision since “[a]ny projects [under the provision] would be done by US Steel,” and the “projects [under the provision] would not alter rates.” Further, MP noted that it has ongoing

efforts to help US Steel and other CIP-exempt customers save energy, pursuant to the Commission's November 12, 2013 Order in Docket No. E015/RP-13-53 regarding MP's 2013 Integrated Resource Plan (IRP) (page 8, point 12.c). MP's clarification of this provision addresses the Department's concerns. Further, the Department notes that MP's clarified proposal would also be consistent with the Commission's July 18, 2016 Order in Docket No. 15-690 regarding MP's 2016-2030 IRP, in which the Commission stated that MP "should pursue conservation measures in which its CIP-exempt customers may participate voluntarily" (page 13).

Therefore, the Department concludes that Paragraph 3.G of the Proposed ESA is not prejudicial or preferential/discriminatory.

2. [TRADE SECRET DATA HAS BEEN EXCISED]

For the provision in Paragraph 3.A, the Department was concerned that the provision could be preferential/discriminatory to the extent that MP **[TRADE SECRET DATA HAS BEEN EXCISED]**. While the Department agrees with MP that it is important to retain US Steel as a customer on MP's system, and the Department continues to support the **[TRADE SECRET DATA HAS BEEN EXCISED]**, the Department was concerned that the provision could be prejudicial to the extent that other customers continue to pay in base rates for the costs of MP being capable of providing service, whether or not **[TRADE SECRET DATA HAS BEEN EXCISED]**, along with paying for the **[TRADE SECRET DATA HAS BEEN EXCISED]**. Further, since MP's test-year sales in its recently filed rate application do not include any Keetac sales that may materialize as a result of the **[TRADE SECRET DATA HAS BEEN EXCISED]**,⁷ through MP's rate case and this petition, MP's ratepayers are currently being asked to pay for the costs of MP being capable of serving Keetac without any offset to that burden, let alone paying for the **[TRADE SECRET DATA HAS BEEN EXCISED]** in the future.

The Department sent MP an IR asking MP to explain why the provision was not unreasonably preferential, unreasonably prejudicial, or discriminatory. MP's response is provided in **TRADE SECRET DOC Attachment 2**.

Regarding the potential for the provision to be unreasonably preferential or discriminatory, MP's response indicated that the Company has in the past tailored ESAs with its LP customers **[TRADE SECRET DATA HAS BEEN EXCISED]**. MP also stated in its Petition that, in the

⁷ Direct Testimony of Michael A. Perala filed November 2, 2016 in Docket No. E015/GR-16-664, page 19, line 5

future, it will “ensure similar terms and conditions are available to all LP customers who make similar commitments,”⁸ indicating that MP would agree to similar **[TRADE SECRET DATA HAS BEEN EXCISED]** for similarly situated customers.

Regarding the potential for the provision to be unreasonably prejudicial, MP’s response indicated that the sales to Keetac (**[TRADE SECRET DATA HAS BEEN EXCISED]**) would benefit other customers by assisting in fixed-cost recovery, and that **[TRADE SECRET DATA HAS BEEN EXCISED]**.

MP’s responses to the IR represent a good starting point **[TRADE SECRET DATA HAS BEEN EXCISED]**. That said, the Department believes additional analysis—concerning, among other issues: who pays for the facilities needed to serve Keetac, how exactly sales at Keetac would benefit other customers, and the **[TRADE SECRET DATA HAS BEEN EXCISED]**—is needed to make a sufficiently informed decision on whether the **[TRADE SECRET DATA HAS BEEN EXCISED]** provision of the ESA is consistent with the public interest. As this analysis will be intertwined and relevant to MP’s recent rate-increase application, filed November 2, 2016 in Docket No. E015/GR-16-664, the Department recommends merging this docket (E015/M-16-836) into MP’s rate case so that these intertwined issues can be addressed effectively. More specifically, the Department recommends that the Commission close this docket, and refer the matter to MP’s rate case proceeding. The Department recommends that the Commission require MP to provide supplemental testimony in the rate case proceeding addressing, at a minimum:

- Whether the **[TRADE SECRET DATA HAS BEEN EXCISED]** was offered in exchange for a benefit to MP or its other customers;
- Specifics regarding any benefits (including future revenue sharing) that MP’s other ratepayers would receive due to **[TRADE SECRET DATA HAS BEEN EXCISED]**;
- Whether the Proposed ESA is the first to offer a **[TRADE SECRET DATA HAS BEEN EXCISED]**;
- The extent to which MP’s other customers pay for the costs of facilities in place that enable delivery of electricity to Keetac (i.e. fixed costs of Keetac embedded in rates);
- Whether decisions to **[TRADE SECRET DATA HAS BEEN EXCISED]** will occur independently of the decisions to **[TRADE SECRET DATA HAS BEEN EXCISED]**, and

⁸ Petition, page 14.

- More specifically, whether and the extent to **[TRADE SECRET DATA HAS BEEN EXCISED]**.

V. CONCLUSION AND RECOMMENDATION

The Department concludes that all but one of the provisions in the ESA is in the public interest, as those provisions would not result in rates are unreasonably preferential, discriminatory, or unreasonably prejudicial. Regarding the remaining provision—**[TRADE SECRET DATA HAS BEEN EXCISED]**—the Department requires additional information and cannot draw a conclusion at this time, due to the structure of the ESA and the overlay of MP's current rate case.

As the information required to assess the remaining provision is intertwined with MP's ongoing rate case (Docket No. E015/GR-664) the Department recommends merging this docket into the rate case docket in order to enable a complete assessment as to whether the Proposed ESA is consistent with the public interest.

/ja

State of Minnesota
DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

Nonpublic
Public

Utility Information Request

Docket Number: E015/M-16-836

Date of Request: 10/21/2016

Requested From: David R. Moeller
Minnesota Power

Response Due: 10/31/2016

Analyst Requesting Information: Stephen Collins

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

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

Request No.	
2	<p>Attachment A to the Public version of Minnesota Power’s Petition in the above-referenced docket includes a provision stating, on page 11 of 19:</p> <p>[Minnesota Power] agrees to continue to work in good faith with [US Steel] on electric cost saving initiatives which will include, but will not be limited to, a biennial Energy Audit.</p> <p>The Department understands that both US Steel’s Keetac and Minntac facilities are currently exempt from the Minnesota Conservation Improvement Program.</p> <p>Please state who would pay for the “electric cost saving initiatives” in the above-referenced provision.</p> <p>Please also state which activities the “electric cost saving initiatives” may include, in addition to the biennial Energy Audit.</p> <p>Lastly, please explain how the above-referenced provision would result in rates—for both other LP customers and all other MP electric customers—that are not unreasonably preferential, unreasonably prejudicial, or discriminatory, as required by Minn. Stat. 216B.03.</p>

Response by: Mike Perala
Title: Director - Strategic Accounts
Department: Marketing
Telephone: 218-471-4074

List sources of information:

Response:

It is correct that US Steel's Keetac and Minntac facilities are exempt from Minnesota's Conservation Improvement Program. MPUC Docket No. E015/CIP-97.1189.15 (Minntac) and No. E015/CIP-97-1189.12 (Keetac).

Outside of CIP, Minnesota Power has continued to share our expertise with US Steel and other customers in the efforts to help them to be more competitive, with energy conservation as one of our significant initiatives and focus items.

As envisioned in the contract negotiations, and as memorialized and defined for the purposes of the Electric Service Agreement in the Definitions on Page 2 of 19, the Energy Audit is a, "....meeting between the appropriate personnel of the Company and Customer to identify and facilitate energy conservation and energy efficiency projects at the Customer's Minntac and Keetac operations."

Minnesota Power does not envision an incremental cost to complying with this request. Any projects undertaken would be done by US Steel. These projects would not alter rates and also are consistent with Minn. Stat. §§. 216B.2401 and 216C.05.

In addition, the Commission, as part of the last two integrated resource plans, has requested that Minnesota Power work with its CIP exempt customers, See November 12, 2013 Order in Docket No. E015/RP-13-53, Order Point 12(c): "Evaluate additional conservation scenarios for its CIP-exempt and non-CIP exempt customers, that would achieve greater energy savings beyond those in the base case."

Response by: Mike Perala
Title: Director - Strategic Accounts
Department: Marketing
Telephone: 218-471-4074

List sources of information:

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
Public Comments**

Docket No. E015/M-16-836

Dated this 10th day of November 2016

/s/Sharon Ferguson

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