

Staff Briefing Papers

Meeting Date June 4, 2020

Agenda Item 4**

Company Minnesota Power Company

Docket No. **E-015/GR-19-442**

In the Matter of the Application of Minnesota Power for Authority to Increase Electric Service Rates in Minnesota

E-015/M-20-429

In the Matter of the Emergency Petition of Minnesota Power for Approval to Move Asset-Based Wholesale Sales Credits to the Fuel Adjustment Clause and Resolve Rate Case

E-015/M-16-564

In the Matter of Minnesota Power's Revised Petition for a Competitive Rate for Energy-Intensive Trade-Exposed (EITE) Customers and an EITE Cost Recovery Rider

- Issues
1. Should the Commission approve Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause (FAC or FCA)?
 2. Should the Commission approve Minnesota Power's requested mid-year change to its currently approved 2020 FCA?

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

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

3. Should the Commission authorize Minnesota Power to change base rates, as requested, as a result of this docket rather than in the rate case?
4. Should the Commission approve Minnesota Power’s proposal to defer residential rate design issues in the rate case to the time-of-use residential rates docket (Docket No. E-015/M-12-233)?
5. Should the Commission approve Minnesota Power’s request to maintain the current EITE rider rate discount through February 1, 2021 or some other date?

Staff	Jason Bonnett	jason.bonnett@state.mn.us	651-201-2235
	Jorge Alonso	jorge.alonso@state.mn.us	651-201-2258
	Sundra Bender	sundra.bender@state.mn.us	651-201-2247
	Kevin O’Grady	kevin.ograd@state.mn.us	651-201-2218

 **Relevant Documents**

Date

Minnesota Power Company – Petition	April 23, 2020
Minnesota Power Company – Supplemental Filing	April 30, 2020

Comments

Minnesota Department of Commerce, Division of Energy Resources	May 11, 2020
Minnesota Office of Attorney General – Residential Utilities Division	May 11, 2020
Large Power Intervenors	May 11, 2020
Citizens Utility Board of Minnesota and the Energy CENTS Coalition	May 11, 2020
Fresh Energy, Minnesota Center for Environmental Advocacy, Sierra Club, and Clean Grid Alliance	May 11, 2020
Walmart Inc.	May 11, 2020

 **Relevant Documents**

Date

Letters

Minnesota Forest Industries	May 14, 2020
Iron Mining Association of Minnesota	May 18, 2020

Reply Comments

Minnesota Power Company	May 18, 2020
Minnesota Office of Attorney General – Residential Utilities Division	May 18, 2020
Large Power Intervenors	May 18, 2020
Minnesota Office of Attorney General – Residential Utilities Division (Letter)	May 21, 2020

Table of Contents

I.	Statement of the Issues	1
II.	Background	1
III.	Minnesota Power’s Petition	2
A.	Stay Out Provision.....	4
B.	Energy Intensive Trade Exposed Rate.....	4
C.	Other Residential Rate Design Issues	5
IV.	Discussion of Issues.....	5
A.	Should the Commission approve Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause (FAC or FCA)?	5
1.	Department Comments	5
2.	OAG Comments	6
3.	LPI Comments	7
4.	CUB and Energy Cents Comments	7
5.	The CEO Comments	8
6.	Walmart Comments.....	8
7.	Minnesota Power Reply Comments	9
8.	LPI Reply Comments	9
9.	Staff Discussion	10
10.	Decision Alternatives	12
B.	Should the Commission approve Minnesota Power’s requested mid-year change to its currently approved 2020 FCA?	13
1.	Department Comments	13
2.	Staff Discussion	14
3.	Decision Alternatives	16
C.	Should the Commission authorize Minnesota Power to change base rates, as requested, as a result of this docket rather than in the rate case?	17
1.	Department Comments	17
2.	Staff Discussion	17
3.	Decision Alternatives	17
D.	Should the Commission approve Minnesota Power’s proposal to defer residential rate design issues in the rate case to the time-of-use residential rates docket (Docket No. E-015/M-12-233)?	18
1.	Department Comments	18
2.	OAG Comments	18
3.	LPI Comments	18

4.	CUB and Energy Cents Comments	18
5.	The CEO Comments	18
6.	MFI Comments.....	19
7.	Minnesota Power Reply Comments	19
8.	LPI Reply Comments	19
9.	Staff Discussion	19
10.	Decision Alternatives	19
E.	Should the Commission approve Minnesota Power’s request to maintain the current EITE rider rate discount through February 1, 2021 or some other date?	20
1.	Department Comments	20
2.	OAG Comments	20
3.	LPI Comments	21
4.	CUB and Energy Cents Comments	22
5.	MFI Comments.....	22
6.	IMA Comments	22
7.	Minnesota Power Reply Comments	22
8.	OAG Reply Comments.....	23
9.	LPI Reply Comments	25
10.	Staff Discussion	26
11.	Decision Alternatives	26
V.	Decision Alternatives	27

I. Statement of the Issues

1. Should the Commission approve Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause (FAC or FCA)?
2. Should the Commission approve Minnesota Power's requested mid-year change to its currently approved 2020 FCA?
3. Should the Commission authorize Minnesota Power to change base rates, as requested, as a result of this docket rather than in the rate case?
4. Should the Commission approve Minnesota Power's proposal to defer residential rate design issues in the rate case to the time-of-use residential rates docket (Docket No. E-015/M-12-233)?
5. Should the Commission approve Minnesota Power's request to maintain the current EITE rider rate discount through February 1, 2021 or some other date?

II. Background

On November 1, 2019, Minnesota Power Company (Minnesota Power or the Company) filed with the Minnesota Public Utilities Commission (Commission) a general rate case in Docket No. E-015/GR-19-442 (the 2019 Rate Case). The Company began collecting an interim rate increase of 5.80 percent on January 1, 2020. In the ensuing months, the severe acute respiratory syndrome coronavirus 2, which causes the disease COVID-19, has spread across the globe, a pandemic that in addition to causing widespread illness has resulted in a significant slowdown of the global economy.

On April 23, 2020, Minnesota Power filed a petition (Petition) and a proposal (Resolution Proposal) to resolve and ultimately withdraw the 2019 Rate Case. The Resolution Proposal mainly involves retaining the final rates set in the Company's last completed rate case (Docket No E-015/GR-16-664, or the 2016 Rate Case), but with one significant adjustment that addresses a key driver of the 2019 Rate Case. On April 30, 2020, a large energy and capacity wholesale contract (Large Market Contract, or LMC) under which Minnesota Power sold energy and capacity to Basin Electric Power Cooperative expired. To address the expiration of the LMC, the Company proposes to modify the method by which it reflects energy and capacity asset-based wholesale sales margins in rates, and to change the size of the credit reflected in current rates, effective May 1, 2020. If the Commission approves the Resolution Proposal, the Company committed to withdrawing the 2019 Rate Case and refunding to ratepayers all interim rates collected from January 1, 2020 through April 30, 2020.¹

¹ The Commission, at its April 30th agenda meeting, approved Minnesota Power's proposal to reduce the interim rate for all ratepayers from 5.8 percent to 4.1 percent effective May 1, 2020.

On April 28, 2020, the Commission issued a Notice of Shortened Comment Period (Notice) with several topics open for comment related to Minnesota Power's Petition and the Resolution Proposal.

On April 30, 2020, Minnesota Power filed a supplement (April 30 Supplement) to its Petition with additional details about the Resolution Proposal.

On May 11, 2020, the Minnesota Department of Commerce, Division of Energy Resources (Department), the Office of the Attorney General—Residential Utilities Division (OAG), Large Power Intervenors (LPI),² the Citizens Utility Board of Minnesota (CUB) and the Energy CENTS Coalition (Energy CENTS), the Clean Energy Organizations (CEOs), i.e. Fresh Energy, Minnesota Center for Environmental Advocacy, Sierra Club, and Clean Grid Alliance, and Walmart Inc. (Walmart), filed comments pursuant to the Commission's Notice.

On May 14, 2020, the Minnesota Forest Industries (MFI) and on May 18, 2020 the Iron Mining Association of Minnesota (IMA)³ submitted public comment letters.

On May 18, 2020, Minnesota Power, OAG, and LPI filed reply comments.

On May 21, 2020, the OAG, at staff's request, filed an illustration of how the class rate increases would be calculated under the OAG's recommendation to "reallot[e] the EITE discount's impact among all classes according to the existing base-rate revenue apportionment before applying the proposed 5.75 increase to base rates."

III. Minnesota Power's Petition

In its Petition, Minnesota Power proposed to continue to charge its ratepayers final base rates set in its last completed rate case, Docket No. E-015/GR-16-664 (the 2016 Rate Case) for the first four months of 2020. Beginning May 1, the Company proposes to shift recovery of its energy and capacity asset-based wholesale sales margins (asset-based margins) from base rates to its fuel adjustment clause.

Asset-based margins are margins, or profits, earned from sales of energy and capacity supported by Minnesota Power's generating assets in rate base. Because those assets are included in rate base, ratepayers pay for them. To reflect the fact that the margins are generated using assets paid for by ratepayers, asset-based margins are included in rates as a credit, or decrease, to the Company's overall revenue requirement. Asset-based margins are derived in part from Minnesota Power's uncontracted sales of energy into the Midcontinent

² LPI is an ad hoc consortium of large industrial customers of Minnesota Power – consisting of ArcelorMittal USA (Minorca Mine); Blandin Paper Company; Boise Paper, a Packaging Corporation of America company, formerly known as Boise, Inc.; Enbridge Energy Limited Partnership; Gerdau Ameristeel US Inc.; Hibbing Taconite Company; Northern Foundry, LLC; Sappi Cloquet, LLC; USG Interiors, Inc.; United States Steel Corporation (Keetac and Minntac Mines); United Taconite, LLC; and Verso Corporation

³ IMA represents six taconite mines and 200 supplier vendor member businesses.

Independent System Operator (MISO) Day 2 energy market and, in part, from bilateral wholesale contracts the Company enters into, such as the LMC, to sell energy and/or capacity to specific counter parties. Final rates determined in the 2016 Rate Case include a revenue credit of \$35.8 million (MN Jurisdictional) resulting from Minnesota Power's expected (at that time) asset-based margins.⁴

A large percentage of the \$35.8 million asset-based margin credit included in the final rates set in the 2016 Rate Case resulted from the LMC, which, as noted above, expired on April 30, 2020. In its Petition, Minnesota Power stated that the expiration of this contract was a key impetus for its 2019 Rate Case, and aligns with the proposed May 1, 2020 start date for the changes to base rates and fuel clause rates the Company has proposed.

The LMC had a term of multiple years, but the Company also has other contracts with much shorter terms, often a year or less. Minnesota Power regularly cycles through these contracts, such that the mix of contracts reflected in the Company's estimate of asset-based margins in its 2019 Rate Case is significantly different from the mix of contracts reflected in the 2016 Rate Case.

In its Resolution Proposal, Minnesota Power proposes to adjust the size of the asset-based margin credit from \$35.8 million down to \$10 million. The \$10 million estimate is based on the asset-based margin credit the Company proposed in its 2019 Rate Case, which reflects the Company's expectations about wholesale margins at the time it filed the 2019 Rate Case. The \$25.8 million difference is due largely, but not completely, to the expiration of the LMC. The updated estimate also reflects the Company's expected level of uncontracted sales into the MISO Day 2 market as well as margins expected from bilateral wholesale contracts that the Company expects to be in place during 2020 (the test year of the 2019 Rate Case).

The total base rate revenue requirement determined in the 2016 Rate Case was \$623.1 million. Removal of the \$35.8 million asset-based margin credit from base rates increases the total base rate revenue requirement to \$658.9 million, an increase of 5.75 percent. To effect this increase, Minnesota Power proposes to increase the base energy rate for each customer class such that total revenue from each class would increase by 5.75 percent. In other words, Minnesota Power proposes to allocate the \$35.8 million increase in base rates across its customer classes using each class's share of total revenue responsibility to calculate each class's share of the increase.⁵

To reflect asset-based margins in its fuel adjustment clause rates, Minnesota Power added its expected margins (reduction in net costs of approximately \$10 million) to the fuel cost forecast approved in Docket No. E-015/AA-19-302 to derive updated monthly FAC rates. The Company

⁴ Petition at 10.

⁵ This process is described in Attachment E of the Company's April 30 Supplement, and the resulting increases to each customer class' base energy rates are shown in Attachment A of the April 30 Supplement.

then adjusts the monthly rates for each customer class using the E8760⁶ energy allocator to derive the applicable monthly rates for each class.⁷

A. Stay Out Provision

Minnesota Power states that if the Commission approves its Petition, it will agree to not file another rate case before November 1, 2021, unless one of its Energy-Intensive Trade-Exposed (EITE) customers shuts down or idles at least 50 megawatts (MW) below their actual load as of April 20, 2020 for a period of three months. However, under no circumstance will Minnesota Power file a rate case prior to March 1, 2021. The Company states that this exception is “necessary in the event Minnesota Power has no choice but to seek rate relief due to extenuating circumstances beyond its control.”⁸ The Company also stated that if a loss of EITE load prompts it to file a rate case prior to November 1, 2021, it will provide at least 90 days written notice to the Commission before filing.

B. Energy Intensive Trade Exposed Rate

In its Order dated December 21, 2016 in Docket No. E-015/M-16-564 (2016 EITE Order), the Commission approved an EITE Rate Rider that provides an Energy Charge Credit (EITE Rate Discount) to Minnesota Power’s eligible EITE customers. The 2016 EITE Order limited the EITE Rate Discount to a four-year term. Minnesota Power implemented the EITE Rate Discount on February 1, 2017, and thus per the EITE Order, the EITE Rate Discount was originally scheduled to expire on February 1, 2021.

In its Order dated March 17, 2020 in Docket No. E-015/M-16-564 (2020 EITE Order), the Commission extended the term of the EITE Rate Discount to last until implementation of final rates in the 2019 Rate Case, with the condition that Minnesota Power is prohibited from recovering any EITE-related costs through a surcharge on non-exempt, non-EITE customers after February 1, 2021.

As noted above, if the Commission approves the Resolution Proposal, Minnesota Power will withdraw its rate case, and no final rates will be determined or take effect in the 19-442 docket. Therefore, the Company proposes in its Petition to reinstate the original expiration date of the EITE Rate Discount of February 1, 2021. Minnesota Power states in its Petition that its intention is to maintain the status quo with respect to the EITE Rate Discount. The Company also states that its Petition is not intended to change any party’s opportunity to propose in other (or new) dockets to extend or modify the EITE rate beyond February 1, 2021.

⁶ There are 8760 hours in a 365 day year.

⁷ Minnesota Power’s April 30 Supplement at Attachment B.

⁸ Petition at 17.

C. Other Residential Rate Design Issues

Over the past few years, Minnesota Power and many other stakeholders have been studying ways to modify the Company's rate design, with a specific focus on residential rates, in Docket No. E-015/M-12-233 (Rate Design Docket). Among other things, the parties have been studying the potential impacts of transitioning from Minnesota Power's current inverted block rate (IBR) structure for residential energy rates to a flat energy rate, and later introducing a time-varying rate design. In its 2019 Rate Case, the Company proposed to transition away from the current IBR structure of its residential energy charges to a flat energy charge, based at least in part on the discussions in the Rate Design Docket. If the Commission approves Minnesota Power's Resolution Proposal, the rate design from the 2016 Rate Case, including the IBR structure for residential base energy rates, will be maintained. In response, Minnesota Power proposes in its Petition to continue working with stakeholders to identify other revenue neutral residential rate design options in the Rate Design Docket, and potentially implement changes prior to the conclusion of its next rate case.

IV. Discussion of Issues

A. Should the Commission approve Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause (FAC or FCA)?

1. Department Comments

The Department concluded that Minnesota Power's proposal to shift recovery of its energy and capacity asset-based wholesale margins from base rates to its Fuel Adjustment Clause is reasonable, and recommends that the Commission approve it, for the reasons explained below.

First, Minnesota Power's proposed treatment of asset-based margins is consistent with how Northern States Power Company d/b/a Xcel Energy (Xcel Energy) and Otter Tail Power Company treat asset-based margins.

Second, if the Commission approves Minnesota Power's Resolution proposal, ratepayers would effectively see no rate increase for the first four months of 2020, and a 4.1 percent increase for the remaining eight months of 2020. This would equate to an average increase of 2.8 percent for calendar year 2020. Similarly, for the 13-month period January 1, 2020 through February 1, 2021, when the EITE Rate Discount is set to expire per the terms of the Resolution Proposal, Minnesota Power's ratepayers would pay roughly 2.9 percent more relative to base rates determined in the 2016 Rate Case.⁹

The Department noted that, if the Commission denies the Resolution Proposal and requires parties to continue with the 2019 Rate Case, for the 13-month period ending February 1, 2021:

⁹ Calculated as $[(4 \text{ months} \times 0\% \text{ increase}) + (9 \text{ mos.} \times 4.1\% \text{ increase})] / 13 \text{ mos.} = 2.9\%$.

Minnesota Power's ratepayers would pay less in total revenue for electric service than they would under the Resolution Proposal only if the outcome of the 2019 Rate Case were a rate increase of less than 2.9 percent. If the outcome was an increase of 2.9 percent, total revenue paid by ratepayers during the 13 months would ultimately be equal to total expected revenue under the Resolution Proposal, however, even in that case, ratepayers would be better off under the terms of the Resolution Proposal due to the more immediate refunds they would receive. If parties were to continue with the 2019 Rate Case, ratepayers would likely not receive any potential interim rate refunds until mid-2021.¹⁰

The Department stated that it is difficult to quantify the value of the relative immediacy of refunds that would be provided under the terms of the Resolution Proposal, but it is clear that the outcome of the 2019 Rate Case would have to be an increase of notably less than 2.9 percent to be comparably favorable. While such an outcome in the 2019 Rate Case is certainly possible, the Department concluded that such a small increase is sufficiently unlikely that the Resolution Proposal is the superior outcome. Additionally, because the Resolution Proposal retains the rate design from the 2016 Rate Case, it includes lower overall revenues and the same rate design as would be in effect if litigation were to be continued in the 2019 Rate Case. Therefore, it is likely that not only would ratepayers as a whole be better off under the Resolution Proposal versus continuing with the 2019 Rate Case, but each customer class individually would be better off.

2. OAG Comments

The OAG argued that, while MP's Petition is more or less limited to a single issue, it is an issue that solely benefits Minnesota Power and if the Petition is granted, many other areas of the Company's operations will not be scrutinized for potential cost decreases or savings until the Company's next general rate case. The OAG notes that the Resolution Proposal entails a nearly \$36 million, or 5.75 percent, increase to base rates. While this increase is partially offset by a projected \$10 million margin credit delivered through the FAC, that credit is not guaranteed to last beyond 2020 at the same level, as discussed below.

According to the OAG, currently, no fewer than five EITE customers are expected to be offline as of June 1, 2020, for a total lost load of nearly 300 MW. At least one of these customers, Hibbing Taconite, has announced plans to come back online later in the summer. However, more than 80 percent of the currently lost EITE load would have to return in a timely manner to avoid triggering the 50 MW stay-out exception. Thus, it is likely most realistic for the Commission to assume that, if it grants Minnesota Power's petition, it will see the Company again for a rate case on March 1, 2021.

The OAG also noted that actual asset-based wholesale margins change from year-to-year. With the margin credit in base rates, Minnesota Power has benefitted when actual margins are higher than the base-rate credit, and ratepayers have benefitted when actual margins are lower

¹⁰ Department Comments at 5.

than the credit. Moving margin credits to the FAC would mean that any year-to-year changes to the asset-based margin levels would be captured by the FAC's annual true-up, rather than the credit staying the same until the next rate case. While this would theoretically prevent either the Company or ratepayers from receiving a windfall, there are disadvantages to using the FAC.

First, if margin credits are moved into the FAC, they can be reduced (and rates increased) without the rigorous scrutiny of a rate case. Second, Minnesota Power is proposing to change the treatment of margin credits at a time when actual margin credits are trending down.

On this second point, on top of the major reduction in margins due to the loss of the LMC, economic indicators seem to suggest that asset-based margin credits could be even less than \$10 million in 2021. The OAG notes that Minnesota Power asserts that "the Margin Credits are expected to continue throughout the remainder of 2020 and into the future." However, the Company has not provided a margin-credit forecast for 2021.

Minnesota Power also made a point of stating in its petition that asset-based margins do not include margins from "wholesale sales that the Company makes when there is a loss of customer load." Given the current and potential long-term loss of EITE load discussed earlier, the Company's statement puts into question the distinction between these two margin categories: If the current loss of load continues to any degree, Minnesota Power will presumably make replacement sales to recover lost revenue. This, in turn, could reduce the opportunity to make longer-term, asset-based sales that benefit ratepayers.

According to the OAG, the Company makes "problematic assumptions" that favor the Large Power class at the expense of the other classes. At a high level, Minnesota Power attempts to preserve the EITE discount's subsidy to Large Power customers through the base-rate increase, despite the fact that the EITE rider is set to expire at the conclusion of the rate case (or in February 2021 if the Commission restores the rider's original expiration date). As a result, Large Power customers are given a benefit that is not reflected in the class rate increases that the Company presents in its petition, increases which are already skewed in favor of the Large Power class.

The OAG recommends that the Commission not grant the petition without first requiring Minnesota Power to reallocate the impact of the EITE discount among all classes according to the existing base-rate revenue apportionment before applying the 5.75 percent.

3. LPI Comments

LPI states that it does not oppose resolving the rate case, but cannot support Minnesota Power's proposal without an extension of the EITE rider.

4. CUB and Energy Cents Comments

CUB and Energy Cents noted that the economic impacts of the COVID-19 crisis have substantially changed circumstances since this rate case was filed. Therefore, they agree with the Company that a withdrawal is appropriate. CUB and Energy Cents support the proposed

resolution that MP filed with minor additional terms that they believe have no objection from parties.

CUB and Energy CENTS requested that the Commission order Minnesota Power:

1. Before its next rate case, ensure parties can modify its cost of service study (COSS) model inputs and cost allocators to allow parties to receive real-time calculations and outputs, and track and report any costs related to complying with this requirement.
2. Provide reasonable intervenor compensation to parties participating in this proceeding in order to promote a public purpose or policy.
3. In its next rate case, submit information on its process for collecting residential late fees and the costs expended in these collection efforts. Before its next rate case, the Company has committed to working with interested parties to discuss alternative methods of allocating residential late payment and similar fees.

CUB indicated that it has discussed these terms with Minnesota Power and believes the Company is in support. Additionally, the terms have also been presented to all intervenors to Minnesota Power's rate case, and CUB is not aware of any opposition.

5. The CEO Comments

The CEOs did not oppose the withdrawal of the 2019 rate case under the conditions in the Company's Petition. The rate case withdrawal would avoid harmful residential rate design changes proposed by the Company, such as the fixed service charge increase and the transition to a flat rate structure. Instead, residential rate design issues would be addressed in the Rate Design Docket.

6. Walmart Comments

Walmart supported the Petition because it allowed for the customer interim rates reduction approved in the Commission's April 30, 2020 Agenda Meeting. Walmart states that rate payers need immediate relief and the Petition allows for such relief.

In addition, Walmart noted that it has been examining the rate case class cost of service study, class revenue allocation, and rate design Minnesota Power presented to ensure that rates are fair, equitable and cost-based. Walmart noted that Minnesota Power's testimony and exhibits filed in the 2019 Rate Case demonstrate that ratepayers in the Large Light and Power class provide revenue that exceeds the Company's cost to serve this class. Given that Large Light and Power rates are already above cost, Walmart is troubled that the Large Light and Power class would apparently receive a rate increase of 4.23 percent under the Petition that exceeds the 4.14 percent system-wide increase.¹¹ However, substantially reducing wholesale sales margin credits from \$35 million to \$10 million and moving those credits from base rates to fuel rates would involve some differing class rate impacts simply because of the allocators that are used

¹¹ See Petition Attachment B.

for base rate credits and fuel rate credits. Further, the detriment to the Large Light and Power rate class is small enough to be overlooked in view of the rate stability and other benefits the Petition provides all customers. Finally, the Large Power rate class would receive the lowest percentage increase for any rate class, which should give the Commission a measure of comfort that manufacturing and mining customers are not being harmed by the Petition.

7. Minnesota Power Reply Comments

In regards to the three conditions proposed by CUB and Energy Cents, the Company has no objections.

Minnesota Power responded to the OAG's criticism to move Margin Credit recovery from base rates to the FAC by pointing out that the Company is forgoing the opportunity to recover all other increased costs and lost revenues that the Company has incurred since its 2016 rate case (Docket No. E-015/GR-16-664). Minnesota Power argued that this is a substantial consideration and should not be ignored when evaluating the Petition's reasonableness. Minnesota Power agreed with the Department's conclusion that

"it is likely that not only would ratepayers as a whole be better off under the Resolution Proposal versus continuing with the 2019 Rate Case, but each customer class individually would be better off."¹²

Minnesota Power disagreed with the OAG's concern about moving Margin Credits to the FAC because the amount of the credits could be reduced "without the rigorous scrutiny of a rate case."¹³ OAG argued that rates could go up, overall, if margin credits decline in the future; however, Minnesota Power noted that the OAG's critique overlooks that Margin Credits can move in both directions, as well as the thorough review provided by stakeholders in the FAC docket related to both a utility's annual FAC forecast filing and its annual true-up filing. Minnesota Power noted that both filings are scrutinized by way of multiple rounds of comments before being brought to the Commission for evaluation. Finally, Minnesota Power noted that the Commission has affirmatively allowed the inclusion of Margin Credits in the FAC of other utilities, underscoring that the scrutiny in the FAC proceedings is robust and reasonable for these types of costs.¹⁴

8. LPI Reply Comments

LPI supported the Company's Petition with respect to apportioning the \$38.5 million base-rate adjustment. LPI believes that present rate revenue is the most logical starting point. LPI noted that, although these revenues include the EITE-rate discount, that fact was not hidden from parties and noted that Minnesota Power's direct testimony in the 2019 Rate Case specifically acknowledged that the EITE-rate discount was included in present rate revenues.

¹² Department Comments at 6.

¹³ OAG Comments at 15.

¹⁴ Minnesota Power Petition at 13-14.

As such, a simple comparison between the E-1 Schedule in the 2019 Rate Case and Attachment B to the Petition reveals that Minnesota Power continued to include the EITE-rate discount in present rate revenues for calculations in the Petition. LPI noted that this approach makes sense for the following reasons:

First, Minnesota Power treated the present rate revenue in the same manner in calculating the interim-rate increase. It is not clear whether deviating from that approach now, in setting base rates, would have unintended consequences in moving from the currently set interim rates to the proposal set forth in the Petition.

Second, as Minnesota Power stated in its response to OAG Information Request No. 6004: “Removing the EITE credit from base-rate revenues would only affect the LP customer class, since other customer classes have not been contributing to the EITE credit. Therefore, increasing non-LP customer classes by 5.75 percent would result in the same revenues with or without the EITE credit.”

Third, the approach reflects the current Commission-approved tariff in the EITE docket, which states that the EITE-Rate Schedule will continue until rates are finalized in Minnesota Power’s current rate case. Finalizing rates in accordance with this Petition would therefore arguably end the EITE-Rate Schedule, absent further tariff revisions. Rather than revising the existing tariff language, Minnesota Power is presumably contemplating what is effectively a two-step process: the EITE credit is built into base rates on a temporary basis as a result of this Petition, and then a subsequent filing is required in February to sunset the EITE-Rate Schedule. LPI’s proposed second procedural extension of the EITE-Rate Schedule until final rates are set in Minnesota Power’s next rate case would simply remove the second step and therefore aid in administrative efficiency.¹⁵

9. Staff Discussion

Absent other changes, if the petition to shift asset-based margins to the FCA is approved, all Minnesota Power’s ratepayers will see the same 5.75% increase to their base rates. However, since the cost allocator in the FCA differs from the rate design allocators in the rate case, the \$10 million credit will not be equally allocated (on a percentage basis) to all classes. Net of the FCA credit, MP ratepayers (system-wide) will get a 4.1% rate increase, or \$25.8 million. Therefore, approval of Minnesota Power’s proposal, would be equivalent to authorizing that increase at the end of the rate case. As such, the Commission has the following possible courses of action:

- Approve the Company’s request, as filed.
- Approve the Company’s request, with modifications.
- Reject the Company’s request and allow the rate case to move forward.

¹⁵ LPI Reply Comments at 5.

Staff discusses each option below.

Approve the Company's Request, as Filed

Approved rate case increases can be summarized in three general categories: increases in rate base, changes in operating income and changes in the rate of return. Staff's November 27, 2019 briefing papers,¹⁶ summarized MP's proposed \$65.9 million revenue increase as follows:

Increase in Rate Base - \$2.3 million
Decrease in Operating Income - \$51.7 million
Increase in Rate of Return - \$11.9 million

Rate base since the last rate case increased to \$2.072 billion from \$2.049 billion. If the rate case were to proceed, any downward adjustments to rate base would reduce the \$2.3 million revenue requirement impact; however, it is likely that, in spite of any adjustments, approved rate base would have still been higher than the previous \$2.049 billion. Therefore, proceeding with the rate case would result in a rate base related increase in rates.

The \$51.7 million decrease in operating income represents almost 80% of the requested increase and, as mentioned above, a significant part of that amount is attributable to the LMC loss. In the rate case, the LMC loss could or might have been considered a "known and measurable change"; therefore, it is likely that asset-based margins would have been reduced to presumably around \$10 million. The remaining question would then be whether the \$10 million should be incorporated into base rates or shifted to the fuel clause.

The remaining difference between the \$51.7 million and the LMC loss is attributable to changes in other costs and revenues, and while there is no way to know what cost level would be approved in this rate case, staff is unaware of *any* recent (since 2000) rate case where the approved overall level of expenses (including depreciation) were lower than those approved in the company's previous rate case. (Generally, companies do not file rate cases in this situation.) Therefore, it seems likely that, if the rate case proceeds, approved cost levels will be higher than those included in rates.

Return on equity (ROE) is generally a disputed issue in every rate case and, while there is no way to know in advance the ROE that would be approved in this rate case, it is worth noting that Minnesota Power's currently approved ROE is on the low end of historical Commission-approved ROEs. The Company's 10.05% ROE request in the rate case is 80 basis points higher than the currently approved 9.25% ROE which translates into a \$150,000 revenue requirement for each basis point.¹⁷

Based on this information, it appears likely that, if the rate case proceeds, the outcome will result in a larger rate increase than the one Minnesota Power proposed in this resolution. Strictly from a financial perspective, it appears the Company's proposal is reasonable.

¹⁶ Docket E-015/GR-19-442.

¹⁷ \$11.9 million divided by 80 basis points equals approximately \$150,000.

Additional benefits such as immediate relief from interim rates, withdrawal of the rate case and Minnesota Power's pledge to not file another rate case until at least March 2021 only make the Company's proposal more attractive.

Approve the Company's Request, with Modifications

The three conditions that CUB recommended appear reasonable and no party objected in reply comments.

Reject the Company's Request and Allow the Rate Case to Move Forward

As discussed above, both staff and all of the parties except the OAG consider the Proposal's benefits to be reasonable; therefore, allowing the rate case to continue is an undesirable option.

10. Decision Alternatives

1. Approve Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause and allow the Company to withdraw its rate case. [Minnesota Power, Department, Staff]
2. Approve Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause with the following three conditions. [CUB, Energy Cents, Minnesota Power does not oppose]
 - Before Minnesota Power's next rate case, ensure parties can modify the Company's class cost of service study (CCOSS) model inputs and cost allocators to allow parties to receive real-time calculations and outputs, and track and report any costs related to complying with this requirement.
 - Require Minnesota Power to provide reasonable intervenor compensation to parties participating in this proceeding to promote a public purpose or policy.
 - In its next rate case, require Minnesota Power to submit information on its process for collecting residential late fees and the costs expended in these collection efforts. Before its next rate case, require the Company to work with interested parties to discuss alternative methods of allocating residential late payment and similar fees.
3. Approve Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause on the condition that the Company reallocate the impact of the EITE discount among all classes according to the existing base-rate revenue apportionment before applying the 5.75 percent increase to base rates. [OAG]
4. Deny Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause.

B. Should the Commission approve Minnesota Power's requested mid-year change to its currently approved 2020 FCA?

1. Department Comments

The Department believes that given the current circumstances and the impact on multiple dockets, Minnesota Power's approach is reasonable.

The Department determined that the Company's proposal to modify its 2020 fuel cost forecast and fuel adjustment clause rates is consistent with the intention of the Commission's June 12, 2019 Order in Docket No. E,G-999/CI-03-802 (the June 2019 FCA Order). The June 2019 FCA Order permits a utility to modify its fuel cost forecast and rates if four conditions are met:

- (1) events or circumstances cause an increase or decrease of at least five percent in the fuel costs used to set the FCA rate;
- (2) the events or circumstances were unforeseeable and outside of the utility's control;
- (3) the events or circumstances are expected to continue for the remainder of the year; and
- (4) the resulting costs (or savings) are reasonable to pass on to ratepayers.

The Department notes that total fuel costs used to develop the Company's FAC rates were \$233.4 million. On an annualized basis, the net change to fuel costs resulting from the shift of asset-based margins into the fuel clause is expected to be \$10.0 million, or 4.3 percent of the Company's total forecasted fuel cost. The Department argued that an alternative way of viewing the changes to the fuel cost forecast resulting from the Resolution Proposal is, first, an increase of \$35.8 million to reflect the shift of asset-based margins from base rates to the fuel clause, followed by a \$25.8 million decrease to reflect the updated estimate of asset-based margins. Both of those changes individually satisfy the five-percent threshold.

In light of the enormous stress caused by the COVID-19 pandemic, the Department concludes that, if the Commission prefers to consider the \$10.0 million net change in fuel costs, it is reasonable in this instance to not be limited by the five-percent threshold set in the Commission's June 2019 FCA Order and allow this smaller change to be implemented. Alternatively, given the extreme circumstances, it would also be reasonable to consider the \$35.8 million increase and \$25.8 million decrease to fuel costs individually, as both changes easily surpass the five-percent threshold.

In its Petition, Minnesota Power explained that while asset-based margin credits are a routine and known credit, the COVID-19 pandemic and resulting economic downturn that prompted the proposed changes to the Company's fuel forecast were unforeseeable and outside of the Company's control. The Department agreed that margin credits, as well as the expiration of the LMC, are routine and known, but also agreed that Minnesota Power could not have foreseen that a pandemic was going to spur it to shift asset-based margin credits into the fuel clause. Therefore, the Department concluded that the second condition has been met.

The Department also agrees that because asset-based margin credits would remain in the fuel clause for the remainder of the year, the third condition has been met.

Lastly, the Department agreed that it is reasonable to pass on to ratepayers the change in fuel costs associated with shifting asset-based margins through the fuel clause. As noted by the Company, both Xcel Energy and Otter Tail Power Company already include asset-based margin credits in their fuel clause rates. Further, while the Department recognizes that the Resolution Proposal shifts the risks associated with asset-based margin credits to ratepayers at a time when those risks are heightened relative to recent history, the risks are still outweighed by the Resolution Proposal's benefits.

With respect to Commission approval, the Department notes the June 2019 FCA Order allows for implementation of mid-year changes prior to receiving Commission approval if no party objects to a proposed change within 30 days of a utility's request for a change. However, Commission approval is ultimately required, and even if no party objects, the Commission may still deny the change after implementation, in which case the utility would be required to refund to ratepayers any over-collection that occurs while the revised rate is in effect.

In this specific instance, however, Commission approval is required for Minnesota Power to shift recovery of asset-based margins from base rates to the fuel clause adjustment, and the Commission will consider that change at the same time it considers the reduction of the Company's asset-based margins from \$35.8 million to \$10.0 million. Therefore, the Department concluded that there is no reason why the proposed change to Minnesota Power's 2020 FCA should occur without Commission approval.

2. Staff Discussion

Staff notes that the Department was the only party that commented on this topic. As discussed above, the June 2019 FCA Order permits a utility to modify its fuel cost forecast and rates if four conditions are met:

- (1) events or circumstances cause an increase or decrease of at least five percent in the fuel costs used to set the FCA rate;
- (2) the events or circumstances were unforeseeable and outside of the utility's control;
- (3) the events or circumstances are expected to continue for the remainder of the year; and
- (4) the resulting costs (or savings) are reasonable to pass on to ratepayers.

In its analysis, the Department noted that "the net change to fuel costs resulting from the shift of asset-based margins into the fuel clause is expected to be \$10.0 million, or 4.3 percent of the Company's total forecasted fuel cost."¹⁸ This is below the five percent threshold set forth in the Commission's June 2019 FCA Order and therefore Minnesota Power's request fails to meet the standards of this condition and should be denied. As a potential work-around, the Department stated that the Commission could chose to focus on the two individual changes instead of the

¹⁸ Department Comments at 9.

net change to the overall fuel clause. First, is the increase of \$35.8 million to reflect the shift of asset-based margins from base rates to the fuel clause, and second is the \$25.8 million decrease to reflect the updated estimate of asset-based margins. The Department stated that both of those changes individually satisfy the five-percent threshold.

The adopted language regarding the five percent threshold was the subject of much discussion during the FCA reform process and the Commission clearly articulated in the 2019 FCA Order that the threshold be based on total FCA costs. Specifically, ordering paragraph (OP) 3 states:

The Commission adopts a threshold of plus or minus 5 percent of all FCA costs and revenues to determine whether an event qualifies as a significant unforeseen impact that may justify an adjustment to the approved fuel rates.

In addition, page 5 of the 2019 FCA Order also states:

Under the new standard, a significant unforeseen impact occurs when total fuel costs change 5 percent above or below the costs that were used to set the FCA rate, taking into account any under- or over-recovered FCA funds of the year to date that could offset the change in costs.

Thus, the net impact of \$10 million, approximately 4.3 percent is the deciding factor in determining whether the Company's request satisfies this condition. It is clear to staff that Minnesota Power's request for modification of its currently approved 2020 FCA fails this condition.

As for the second condition, staff agrees that the COVID-19 pandemic was an unforeseen event but disagrees that it satisfies the second modification criteria. First, staff agrees with Minnesota Power that the expiration of the LMC contract was the driving force behind the rate case and now, the Company's request to shift asset-based margin credits to the fuel clause. Staff notes that the expiration of a contract does not qualify as an unforeseen event. Second, the mere fact that Minnesota Power proposed to move asset-based margin credits to the Company's fuel clause is contrary to the "outside of the utility's control" Minnesota Power argues is the rationale for satisfaction of the modification criteria. Thus, Minnesota Power's request for modification fails the second condition.

Commission Action

The Department notes that due to the unprecedented nature of the peace time emergency and the COVID-19 pandemic, the Commission could vary the modification requirements set forth in the Commission's June 2019 FCA Order to allow Minnesota Power's modification request.

Normally, the Commission varies its rules, if appropriate to do so, and modifies, re-opens or makes an exception to its orders, if appropriate to do so. Nevertheless, the conditions that need to be met for granting a variance to Commission rules may be instructive and useful to consider with respect to Minnesota Power's request. The Commission grants rule variances when (1) they will not "impose an excessive burden upon the applicant or others affected by

the rule,” (2) the variance will “not adversely affect the public interest,” and (3) the variance will not “conflict with standards imposed by law.”¹⁹ In this instance, while the FCA rules do not include a true-up mechanism for electric utilities and the previously allowed true-ups were a result of Commission rule variances for Xcel Energy and Otter Tail Power, FCA reform modified those mechanisms and varied other aspects of the Commission’s FCA rules. Here, the existing, reformed FCA mechanism is already a product of a variance of several FCA rules. No party will be excessively burdened by the variance. Since this will provide rate reductions during a public health emergency, the public interest will not be adversely affected, and will actually be advanced by the variance. Finally, staff is not aware of any standards imposed by law that would prohibit this variance.

Because this is one of the first FCA modification requests that the Commission has received,²⁰ the Commission needs to be careful not to set an expectation that the Commission will grant exceptions to its orders on a regular basis or variances to FCA rules that are not clearly or specifically identified. Utilities will rely on the Commission’s order in this proceeding as a guidepost for future FCA modification requests. It may be prudent to clearly state that Minnesota Power’s current request does not meet the modification criteria and should not be used as any type of precedence for future filings. Approval is a result of the unprecedented effects of the pandemic on utility operations, economic conditions and consumers’ personal finances. It is important to set clear expectations on how the Commission will review such requests in the future to provide clarity and preserve limited agency resources.

3. Decision Alternatives

5. Determine that Minnesota Power has met the requirements to modify its Commission approved 2020 FCA mechanism as set forth by the Commission in the June 2019 FCA Order. [Department]
6. Determine that Minnesota Power has not met the requirements to modify its Commission approved 2020 FCA as set forth by the Commission in the June 2019 FCA Order however, due to the enormous stress caused by the COVID-19 pandemic the Commission will vary the FCA rules and make an exception to its June 2019 FCA Order to allow this change to be implemented.
7. Determine that Minnesota Power has not met the requirements to modify its Commission approved 2020 FCA and deny the Company’s request for a modification.

¹⁹ Minn. R. 7829.3200, subp. 1.

²⁰ Xcel Energy filed a Petition requesting authority to reduce, for the months on June through August 2020, changes collected through the Fuel Clause Adjustment (FCA) by \$25 million fuel, Docket No. E-002/M-20-437.

C. Should the Commission authorize Minnesota Power to change base rates, as requested, as a result of this docket rather than in the rate case?

1. Department Comments

The Department acknowledges that Minnesota Power's Resolution Proposal, and the procedure being used to make the proposal, are unusual. However, the circumstances in which the Company is making its Resolution Proposal (i.e. the COVID-19 pandemic) are also unusual. The Department concluded that under the circumstances, it is reasonable and appropriate for the Commission to authorize the Company to change its base rates in this Docket rather than the rate case.

The Department noted that, under the terms of the Resolution Proposal, Minnesota Power would continue to charge its ratepayers the base rates set in the 2016 Rate Case, with two significant changes. First, Minnesota Power would shift recovery of asset-based margins from base rates to the fuel adjustment clause. Second, Minnesota Power would reduce the size of the asset-based margin credit from \$35.8 million to \$10.0 million.

Only the first of these two changes affect Minnesota Power's base rates and it does not require a complete reevaluation of Minnesota Power's revenue requirements. Rather, it is a shift of a revenue credit from one rate mechanism to a different rate mechanism. The effect of this shift is essentially to provide the Company with a true-up mechanism for asset-based margins, and thus has some similarities to the Xcel Energy's proposal in its Petition for Approval of True-Up Mechanisms approved by the Commission in Docket No. E-002/M-19-688. Based on these facts, the Department concluded that Minnesota Power should be authorized to change its base rates in this Docket, rather than in a rate case.

2. Staff Discussion

The merits of Minnesota Power's overall request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause is discussed above in section IV. A, and will not be repeated here. The Department is the only party that specifically addressed this issue. Staff finds the Department analysis to be thorough and does not have any additional comments.

3. Decision Alternatives

8. Approve Minnesota Power's request to change base rates as a result of this docket rather than in the rate case. [Department]

D. Should the Commission approve Minnesota Power's proposal to defer residential rate design issues in the rate case to the time-of-use residential rates docket (Docket No. E-015/M-12-233)?

1. Department Comments

As discussed above, Minnesota Power and other stakeholders have been discussing potential changes to its residential rate design in the Rate Design Docket and, based in part on those discussions, the Company proposed incremental changes to its residential rate design in the 2019 Rate Case. If the Commission approves the Resolution Proposal, the Company would not implement those changes, but rather would retain the rate design approved in the 2016 Rate Case.

The Company proposed to continue the stakeholder process in the Rate Design Docket to address residential rate design issues and identify rate design options that are revenue neutral and further the goals such changes are intended to achieve.

The Department agreed that Minnesota Power's proposed approach is reasonable, as it allows discussions related to residential rate design to continue, and potentially result in changes to the Company's rate design, without hindering the Company's efforts to resolve its 2019 Rate Case and provide immediate relief to its ratepayers.

2. OAG Comments

The OAG agreed with Minnesota Power's residential-rate-design request to move from an inclining block rate to a flat rate before transitioning to a time-varying rate which is more appropriately examined in its own docket.

3. LPI Comments

LPI recommends that the Commission include an evaluation of rate design options (e.g., updated TOU) for LLP customers.

4. CUB and Energy Cents Comments

CUB and Energy CENTS support addressing rate design issues in Minnesota Power's Rate Design Docket and understand this means expanding the scope of that docket to accommodate public policy considerations that have been integral to rate design issues in the rate case, particularly ensuring affordability for low-income consumers.

5. The CEO Comments

The CEO's argue that rate design provides an opportunity to reduce dependence on fossil-fuels, empower customers, and reduce electricity costs for all. Therefore, the CEO's look forward to working with Minnesota Power and other parties in the Rate Design Docket to accomplish those objectives.

6. MFI Comments

The MFI is supportive of LPI's proposal to include additional discussion regarding rate design relief for large power customers, such as an updated TOU tariff.

7. Minnesota Power Reply Comments

Minnesota Power states it is not opposed to working in good faith with its LLP customers on rate design issues, but the current time-of-use rate docket is not the appropriate forum for such a discussion. Minnesota Power notes that the time-of-use rate docket is focused solely on residential rate design issues that would be revenue neutral within the residential class, and is sufficiently complex without expanding the scope to include new rate design proposals for other rate classes.

8. LPI Reply Comments

LPI continues to encourage the Commission to require Minnesota Power to explore other rate-shock mitigating approaches such as rate-design options for the LLP customer class in the Rate Design Docket.

9. Staff Discussion

All parties seem to agree with Minnesota Power's proposal to defer residential rate design issues in the rate case to the time-of-use residential rates docket. LPI requests that the Commission add rate design options of the LLP customer class to the docket. Minnesota Power opposes LPI's request although the Company states that it would be willing to work with its LLP customers on rate design issues in a different venue.

10. Decision Alternatives

9. Approve Minnesota Power's request to defer residential rate design issues in the rate case to the time-of-use residential rate docket (Docket No. E-015/M-12-233). [Minnesota Power, Department, OAG, CUB and Energy Cents, CEOs]
10. Require Minnesota Power to also include rate design options for its LLP class in the time-of-use residential rate docket (Docket No. E-015/M-12-233). [LPI, MFI, IMA]
11. Accept Minnesota Power's commitment to work with its LLP customers on rate design alternatives and to report to the Commission on those discussions within six months.

12. Require MP to include its LP customers in the work undertaken to comply with decision alternative 11.

E. Should the Commission approve Minnesota Power's request to maintain the current EITE rider rate discount through February 1, 2021 or some other date?

1. Department Comments

As part of the Resolution Proposal, Minnesota Power proposed to maintain the EITE Rate Discount until February 1, 2021, the original expiration date per the Commission's December 21, 2016 Order in Docket No. E-015/M-16-564 (the EITE Docket). The Company stated that, to simplify the Commission's decision on its Resolution Proposal, its intention is to maintain the status quo but still allow interested parties to propose, in other dockets, to extend or modify the EITE Rate Discount beyond February 1, 2021.

The Department noted that the EITE Rate Discount is a complex issue, and there is simply not enough time to fully develop the issues surrounding extending or modifying it in this Docket. However, the Department recognized that expiration of the EITE Rate Discount would result in a rate increase for the Company's EITE customers, and Minnesota Power's withdrawal of its rate case prevents those customers from arguing for changes that may mitigate that increase. Because of this, the Department concluded that Minnesota Power's proposed approach of reinstating the original expiration date of the EITE Rate Discount and allowing interested parties to propose to extend or modify the EITE Rate Discount before it expires, but outside of this Docket, is reasonable.

2. OAG Comments

The OAG noted that the EITE rider provides certain Large Power customers with a discount, called an "energy charge credit," of 1.15 cents for each kilowatt-hour they consume in excess of a monthly minimum. The EITE rider is, by definition, not part of Large Power base rates. In the current rate case, Minnesota Power initially proposed to make the revenue apportionment impact of the EITE rider a permanent part of base rates. However, any change to the interclass revenue apportionment would require full consideration of the Company's and parties' cost studies, as well as any relevant non-cost factors bearing on rate design, through a contested-case process. And, although the Commission allowed the Company to use "present revenues," including the EITE discount, as the basis for the interim increase, the Commission has also emphasized that its interim-rate decisions do not prejudge the outcome of the rate case.

The OAG stated that Minnesota Power's current petition, if approved, would be a departure from the existing revenue apportionment and that the Company has not been forthcoming about that fact. Despite claiming that the petition would maintain the status quo on EITE, Minnesota Power incorporates the EITE discount into base rates in two ways. First, it includes the EITE discount in the total present retail revenue amount that it uses to calculate the overall 5.75 percent rate increase. The effect is a larger rate increase for all customers because the \$35.8 million revenue requirement is divided by a smaller present-revenue number to calculate

the overall increase. Second, the Company multiplies discounted Large Power revenues by 5.75 percent to arrive at the Large Power class increase. This means a smaller increase, in dollars, for the Large Power class than would result if the appropriate baseline of their non-discounted revenues were used.

The OAG concluded that the petition's incorporation of the EITE discount is problematic because it both inflates the overall rate increase, and changes the base-rate revenue apportionment, based on a rider that, if the petition is approved, will expire early next year. The OAG noted that, if the Commission grants the petition without modification, the EITE rider's revenue apportionment impact would be "baked into" base rates going forward and would persist for as long as the rates produced by the petition are in effect. Such a change in revenue apportionment should not be made without a careful analysis of class-cost-of-service data and other relevant factors, an analysis that has not yet been done, and will never be done if the Commission grants the petition.

The OAG determined that Minnesota Power's petition does not maintain the rate-design status quo, but attempts to enshrine in base rates a discount that the Company has now twice asked be allowed to expire in February 2021. In the interest of maintaining the status quo and minimizing unnecessary interclass disputes, the OAG is willing to accept the EITE rider's original four-year term, provided that no surcharges are billed to non-EITE customers during the remaining term. However, the Commission should not allow the Company to, additionally, build into base rates its EITE customers' preferred revenue apportionment. Accordingly, the OAG recommended that the Commission require the Company to recalculate the proposed base-rate increases by reallocating the impact of the EITE discount among all classes according to the existing base-rate revenue apportionment before applying the 5.75 percent increase to base rates.

3. LPI Comments

LPI noted that the base rate increases and potential end of the EITE-Rate Schedule described above are not the only rate increases pending on Minnesota Power's system. Minnesota Power also has multiple outstanding requests to increase rates in its riders. LPI argued that the potential following increases appear to be contemplated for EITE members over the next 10 months: (1) 3.82 percent in the FAC Petition; (2) 0.26 percent in the RRR Petition; (3) 3.70 percent in the TCRR Petition; and (4) roughly 5 percent due to the expiration of the EITE-Rate Schedule. LPI calculates that EITE members could increase by more than 12 percent over the next 10 months, excluding any potential increases to fuel and purchased energy charges.

LPI noted that it is generally supportive of Minnesota Power's overarching goal to resolve the 2019 Rate Case. Unfortunately, as drafted, the Petition and other contemplated increases impose an overall increase that is too significant for industrial customers to bear, while at the same time disallowing any of the rate-design benefits that could have accompanied a litigated rate-case proceeding. Therefore, LPI requested that the Commission modify the Petition by including a second procedural extension of the EITE-Rate Schedule and Rider until final rates are implemented in Minnesota Power's next general rate case.

LPI noted that the Commission is under no obligation to end the EITE-Rate Schedule and Rider in February 2021 and the EITE Statute would encourage the opposite. Though many of the other stakeholders in this matter continually stressed the importance of ending the EITE-Rate Schedule in February 2021, the EITE Statute does not prescribe a time limit. If anything, the EITE Statute emphasizes the importance of continuing to protect industrial consumers by mandating that “the energy policy of the state of Minnesota [is to] ensure competitive electric rates for energy-intensive trade-exposed customers.” Further, the Commission’s 2020 EITE Order recognized that “[w]hile a fixed term length was a factor in Commission approval of the rider, approval did not hinge on the specific term length of four years.” The proposed resolution of the 2019 Rate Case will prevent the Commission from engaging in rate design of base rates to accomplish this goal, so the EITE-Rate Schedule is the logical mechanism to ensure that EITE customer rates remain competitive. LPI argued that the current economic challenges facing its customers are dire. An extension of the EITE-Rate Schedule will help ease pressure on LPI members and could make a difference in the economic analysis that will precede restarting idled facilities.

4. CUB and Energy Cents Comments

CUB and Energy CENTS support Minnesota Power’s proposal to maintain the discount for EITE customers through February 1, 2021.

5. MFI Comments

The MFI argued that if the EITE-Rate Schedule is terminated, it will result in permanent rate increases for manufacturers that provide thousands of jobs in rural Minnesota. It would also threaten an industry facing unparalleled economic challenges because of COVID-19 and increasingly uncompetitive electric rates that have risen more than 60 percent over the past twelve years. For these reasons, MFI urged the Commission to extend the EITE-Rate Schedule consistent with Minnesota statute.

6. IMA Comments

The IMA supports the proposal to continue the EITE discount past February 1, 2021. The IMA argues that discontinuation of the EITE discount would “cause harm to industrial customers during a time when the iron mines are already navigating challenging business conditions caused by the COVID-19 pandemic.”

7. Minnesota Power Reply Comments

Minnesota Power continued with its proposal to maintain the EITE rate through February 1, 2021. The Company stated this proposal was intended to maintain the status quo with respect to EITE during the pendency of this Petition proceeding. Minnesota Power noted that both the OAG and LPI take issue with this proposal, albeit through competing alternatives. While LPI requests an extension of the EITE rate until final rates are implemented in the Minnesota Power’s next general rate case,²¹ the OAG seeks to avoid continuation of the EITE rate unless

²¹ LPI Comments at 12.

there is a reallocation of the cost of the EITE rate among the rate classes.²² Minnesota Power argued that these competing proposals by LPI and OAG highlight the complicated nature of EITE and the opposing interests of various stakeholders. Given this, and in an effort to reach consensus amongst the parties to the extent possible, Minnesota Power decided not to propose any changes to EITE in its Petition and return to what was initially approved when the Commission established the overall EITE rate and surcharge. Minnesota Power argued that it does not propose to incorporate the EITE discount into base rates as claimed by the OAG but, rather, continues the EITE energy charge credit as a separate line on eligible customer bills. Additionally, the Company noted that the OAG's reallocation proposal is inconsistent with the EITE statute on competitive rates.

Minnesota Power noted that maintaining the status quo does not foreclose the ability of other parties to propose a modification or extension of the EITE rate beyond February 1, 2021 in the EITE docket (Docket No. E-015/M-16-564).

8. OAG Reply Comments

In response to LPI, the OAG stated it is sympathetic to the social and economic impacts, as well as potential rate increases, that *all* of Minnesota Power's customers, including LPI, residential ratepayers, and small-business ratepayers, are now facing. However, now is not the time for hasty decisions about the future of the EITE rider. The OAG argued that restoring the rider's February 1, 2021 expiration date would not harm LPI and would permit parties and the Commission to give LPI's request the attention it deserves in a separate proceeding. However, if the Commission decides to determine the rider's future in this proceeding, the OAG recommended that the rider be terminated at the conclusion of the proceeding, consistent with the March 17, 2020 EITE-extension order.

The OAG argued that extending the EITE rider would harm non-EITE customers because the EITE discount is currently being funded by the withholding of \$15.5 million in Large Power revenues from base rates. These revenues were directly attributable to the EITE discount and therefore must be used to offset the cost of the discount. Specifically, the OAG states:

Non-EITE customers have been bearing the cost of this \$15.5 million EITE subsidy since 2017 without the corresponding rate discount that EITE customers enjoy. Extending the rider in the current docket would deny non-EITE customers the opportunity to argue for termination of this subsidy with the benefit of a fully developed record, and would prolong the period during which their rates are inflated. Moreover, for as long as the EITE rider is in effect, certain "EITE-paying" customers remain at risk of receiving additional surcharges to recover any shortfall that remains after the revenues attributable to the EITE discount are netted against its cost.²³

²² OAG Comments at 17-19.

²³ OAG Reply Comments at 3.

[Footnotes omitted.]

Further, the OAG argued that restoring the rider's original expiration date will not harm LPI and would permit the EITE rider's future to be decided in a more appropriate forum.²⁴

The OAG had supported restoring the EITE rider's original expiration date—conditioned on the equitable sharing of the discount's base-rate impact—out of a desire to maintain the rate-design status quo, avoid interclass disputes, and facilitate the potential resolution of this case. Now that LPI has rather unproductively introduced a contentious new issue into this proceeding, the OAG submits that one potential resolution of this issue would be to terminate the rider immediately, remove the discount's impact from present revenues before calculating the increase, and thereby end the rate subsidy EITE customers currently enjoy. This resolution would be consistent with the Commission's order extending the rider, in spirit if not in letter, because it would end the rider coincident with the next increase to base rates. It would also be administratively cleaner than extending the rider to February 2021 or to the end of some as-yet-unknown rate case.

The OAG also argued that the Commission should not extend the EITE rider without proof that it will deliver a net benefit to Minnesota Power or to the state.

According to the OAG, despite LPI's characterization of its request as “procedural,” the EITE rider's four-year term was essential to Minnesota Power's proposal for, and the Commission's approval of, the rider. Further the evidence on which the Commission's previous “net benefit” finding was founded is stale and cannot support an extension under the current economic circumstances.

The OAG stated:

Even if the Commission believes that a new net-benefit showing is not required to extend the EITE rider, the Commission should decline to extend it because the original justification for the rider has vanished. According to Minnesota Power's revised EITE petition, the utility-specific benefit the Company would receive from the rider was an increase in net revenue from electricity sales to large industrial customers...

The current pandemic, however, has thrown into doubt the entire premise for the rider. Nearly 300 MW of EITE load is currently idled, including Keetac, despite the continued availability of the discount. If these customers, who have been receiving a subsidy under the rider, are nonetheless unable to keep operating, it is not clear that the rider can deliver the net benefit that it was supposed to. These dramatic changes wrought by the pandemic underscore the wisdom of exactly the type of

²⁴ OAG Reply Comments at 5.

periodic review that was supposed to be facilitated by the rider's four-year term. With the rider's efficacy in doubt, the Commission should not grant an extension without assuring other ratepayers that the EITE discount will yield a net benefit to Minnesota Power or the state, now and in the future.²⁵

[Footnotes omitted.]

The OAG recommended that LPI's EITE-extension request not be rushed through as part of an expedited resolution to the rate case.

"If, however, the Commission determines the rider's future in this case, the OAG would respectfully recommend that it be terminated early. If the Commission terminates the rider, it should remove the EITE discount's impact from base rates entirely, resulting in a 5.59 percent across-the-board increase to base rates."

Alternatively, if the EITE rider is allowed to continue in effect, OAG argued:

"If the Commission grants Minnesota Power's petition without terminating the EITE rider, the OAG would maintain its recommendation from initial comments that the Commission require the Company to reallocate the EITE discount's impact among all classes according to the existing base-rate revenue apportionment before applying the proposed 5.75 increase to base rates. Doing so would maintain the rate-design status quo, and is the minimum level of protection needed for non-EITE ratepayers."²⁶

9. LPI Reply Comments

LPI emphasized that the current economic crisis precipitated by the COVID-19 pandemic is putting tremendous pressure on industrial customers. Therefore, to provide some form of relief to industrial customers, LPI urged the Commission to adopt a second procedural extension of the EITE-Rate Schedule and explore rate-design options for LLP customers. LPI believes that a second procedural extension of the EITE rate schedule will provide EITE customers with relief from the economic effects of the COVID-19 pandemic.²⁷ LPI noted that, most recently, USG has closed its building products plant in Cloquet due to three employees testing positive for COVID-19.

LPI stated that, if the general terms of the Petition are accepted without a second procedural extension of the EITE-Rate Schedule, the totality of the rate increases will constitute rate shock. LPI noted that Minnesota Power has multiple expected rider increases coming in the near term and between initial and reply comments in this docket, some of those increases have become reality. At the Commission's May 14, 2020 agenda meeting, the Commission approved,

²⁵ OAG Reply Comments at 9-10.

²⁶ *Id.*, p. 11.

²⁷ LPI Reply Comments at 2-4.

Minnesota Power's petition for approval of its Transmission Cost Recovery Rider (TCRR) which will increase costs approximately 3.70 percent for LP customers. LPI argues that continuing rate increases are untenable for industrial customers at this time. Thus, to avoid or mitigate the rate shock for industrial customers, the Commission should consider extending the EITE-Rate Schedule. Therefore, LPI believes a second procedural extension of the EITE-Rate Schedule is warranted. LPI also encourages the Commission to require Minnesota Power to explore other rate-shock-mitigating approaches such as rate-design options for the LLP customer class.

10. Staff Discussion

LPI does not want the Commission to adopt Minnesota Power's proposal and resolve the rate case unless the EITE rider is extended through the end of the Company's next rate case. MFI also wants the EITE-Rate Schedule extended. OAG does not want the Commission to make a decision on the EITE rider in this docket, as there is not a robust record. Staff agrees with the Department that the EITE Rate Discount is a complex issue and the issues surrounding extending or modifying it in this docket have not been fully developed. Minnesota Power's proposed approach of reinstating the original expiration date of the EITE Rate Discount and allowing interested parties to propose to extend or modify the EITE Rate Discount before it expires in a different docket, is reasonable.

11. Decision Alternatives

13. Approve Minnesota Power's request to maintain the current EITE rider rate discount through February 1, 2021 [Minnesota Power, Department, CUB and Energy Cents]
14. Approve LPI's request to maintain the current EITE rider rate discount through the expiration of Minnesota Power's next rate case. [LPI, MFI, IMA]
15. Require Minnesota Power to reallocate the EITE discount's impact among all classes according to the existing base-rate revenue apportionment before applying the proposed 5.75 increase to base rates and approve Minnesota Power's request to maintain the current EITE rider rate discount through February 1, 2021. [OAG]
16. Terminate the EITE rider rate discount early (at the conclusion of this resolution of the rate case that results in MP withdrawing its rate case) and remove the EITE discount's impact from base rates entirely, resulting in a 5.59 percent across-the-board increase to base rates. [OAG alternative.]

V. Decision Alternatives

Request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause

1. Approve Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause and allow the Company to withdraw its rate case. [Minnesota Power, Department, Staff]
2. Approve Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause with the following three conditions. [CUB, Energy Cents, Minnesota Power does not oppose]
 - Before Minnesota Power's next rate case, ensure parties can modify the Company's class cost of service study (CCOSS) model inputs and cost allocators to allow parties to receive real-time calculations and outputs, and track and report any costs related to complying with this requirement.
 - Require Minnesota Power to provide reasonable intervenor compensation to parties participating in this proceeding to promote a public purpose or policy.
 - In its next rate case, require Minnesota Power to submit information on its process for collecting residential late fees and the costs expended in these collection efforts. Before its next rate case, require the Company to work with interested parties to discuss alternative methods of allocating residential late payment and similar fees.
3. Approve Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause on the condition that the Company reallocate the impact of the EITE discount among all classes according to the existing base-rate revenue apportionment before applying the 5.75 percent increase to base rates. [OAG]
4. Deny Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause.

Requested mid-year change to its currently approved 2020 FCA

5. Determine that Minnesota Power has met the requirements to modify its Commission approved 2020 FCA mechanism as set forth by the Commission in the June 2019 FCA Order. [Department]
6. Determine that Minnesota Power has not met the requirements to modify its Commission approved 2020 FCA as set forth by the Commission in the June 2019 FCA Order however, due to the enormous stress caused by the COVID-19 pandemic the Commission will vary the

FCA rules and make an exception to its June 2019 FCA Order to allow this change to be implemented.

7. Determine that Minnesota Power has not met the requirements to modify its Commission approved 2020 FCA and deny the Company's request for a modification.

Request to change base rates outside of a rate case

8. Approve Minnesota Power's request to change base rates as a result of this docket rather than in the rate case. [Department]

Proposal to defer residential rate design issues in the rate case to the time-of-use residential rates docket

9. Approve Minnesota Power's request to defer residential rate design issues in the rate case to the time-of-use residential rate docket (Docket No. E-015/M-12-233). [Minnesota Power, Department, OAG, CUB and Energy Cents, CEOs]
10. Require Minnesota Power to also include rate design options for its LLP class in the time-of-use residential rate docket (Docket No. E-015/M-12-233). [LPI, MFI, IMA]
11. Accept Minnesota Power's commitment to work with its LLP customers on rate design alternatives and to report to the Commission on those discussions within six months.
12. Require MP to include its LP customers in the work undertaken to comply with decision alternative 11.

Request to maintain the current EITE rider rate discount through February 1, 2021 or some other date

13. Approve Minnesota Power's request to maintain the current EITE rider rate discount through February 1, 2021 [Minnesota Power, Department, CUB and Energy Cents]
14. Approve LPI's request to maintain the current EITE rider rate discount through the expiration of Minnesota Power's next rate case. [LPI, MFI, IMA]
15. Require Minnesota Power to reallocate the EITE discount's impact among all classes according to the existing base-rate revenue apportionment before applying the proposed 5.75 increase to base rates and approve Minnesota Power's request to maintain the current EITE rider rate discount through February 1, 2021. [OAG]
16. Terminate the EITE rider rate discount early (at the conclusion of this resolution of the rate case that results in MP withdrawing its rate case) and remove the EITE discount's impact from base rates entirely, resulting in a 5.59 percent across-the-board increase to base rates. [OAG alternative.]

Compliance Filings

17. Require Minnesota Power to submit a compliance filing within ten days of the date of this order showing final rates, and all related tariff changes.