

Staff Briefing Papers

Meeting Date July 30, 2020 Agenda Item 4*

Company Minnesota Power

Docket Nos. **E-015/AA-20-463**

In the Matter of Minnesota Power’s Petition for Approval of the Annual Forecasted Fuel and Purchased Energy

E-999/CI-03-802

In the Matter of an Investigation into the Appropriateness of Electric Energy Cost Adjustments

- Issues
1. Should the Commission approve Minnesota Power’s request for an extension of time to file its reply comments in its 2021 FCA forecast petition?
 2. Should the Commission delegate to the Commission’s Executive Secretary the authority to vary the timelines set forth in the Commission’s June 12, 2019 Order in the FCA reform proceeding?

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Relevant Documents

Date

Commission Order in FCA Reform Proceeding (Docket # 03-802)	June 12, 2019
Minnesota Power’s Extension Request (Docket # 20-463)	July 10, 2020

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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.

I. Statement of the Issues

1. Should the Commission approve Minnesota Power's request for an extension of time to file its reply comments in its 2021 FCA forecast petition?
2. Should the Commission delegate to the Commission's Executive Secretary the authority to vary the timelines set forth in the Commission's June 12, 2019 Order in the FCA reform proceeding?

II. Background

The Minnesota Public Utilities Commission's (Commission's) three most recent Orders¹ in Docket E-999/CI-03-802 established the following:

- The December 19, 2017 Order² approved changes to the fuel clause adjustment (FCA) process;
- The December 12, 2018 Order³ revised the implementation date for rate changes, established procedural requirements and granted rule variances; and
- The June 12, 2019 Order⁴ approved additional details and additional rule variances.

Most notably, the Commission's June 12, 2019 Order established a schedule for various filing dates. Specifically, the utilities each year are to file their forecast for the upcoming calendar year on May 1st with the Consumer Advocates⁵ filing their comments on July 1st and the utilities filing reply comments on July 31st.⁶

On July 10, 2020, Minnesota Power (MP or the Company) filed a request for an extension of time to file its reply comments on August 28, 2020 instead of July 31, 2020 which is the deadline established by the Commission's June 12, 2019 Order.

¹ Does not include February 27, 2018 Order denying reconsideration.

² *In the Matter of an Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments*, Docket No. E-999/CI-03-802, ORDER APPROVING NEW ANNUAL FUEL CLAUSE ADJUSTMENT REQUIREMENTS AND SETTING FILING REQUIREMENTS (December 19, 2017)

³ *In the Matter of an Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments*, Docket No. E-999/CI-03-802, ORDER REVISING IMPLEMENTATION DATE, ESTABLISHING PROCEDURAL REQUIREMENTS, AND VARYING RULE (December 12, 2018)

⁴ *In the Matter of an Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments*, Docket No. E-999/CI-03-802, ORDER APPROVING ADDITIONAL DETAILS OF NEW FUEL CLAUSE ADJUSTMENT PROCESS (June 12, 2019)

⁵ The Consumer Advocates consist of the Minnesota Department of Commerce, Division of Energy Resources, Minnesota Office of Attorney General – Residential Utilities and Antitrust Division, Minnesota Chamber of Commerce, and Minnesota Large Industrial Group

⁶ *In the Matter of an Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments*, Docket No. E-999/CI-03-802, ORDER APPROVING ADDITIONAL DETAILS OF NEW FUEL CLAUSE ADJUSTMENT PROCESS at Appendix A (June 12, 2019).

III. Parties' Comments

In its request, Minnesota Power notes that, due to the COVID-19 pandemic a number of the original assumptions (i.e. market prices, outages, etc.) have changed. Additionally, on June 30, 2020, in Minnesota Power's rate case, the Commission approved the Company's petition to recover asset-based wholesale margin credits through the FCA rather than base rates.⁷

On Monday, July 13, 2020, staff confirmed via email that neither the Minnesota Department of Commerce, Division of Energy Resources (Department) nor the Minnesota Office of Attorney General – Residential Utilities Division (OAG) have comments concerning Minnesota Power's extension request.

IV. Staff Analysis

As noted above, the timeline in question was established via Commission Order in the FCA reform proceeding, the June 12, 2019 Order. Typically, when timelines are included in an order, the Commission includes an option to delegate to the Commission's Executive Secretary the authority to vary timelines within the proceeding. Staff notes that the Commission did not grant said authority in its June 12, 2019 Order.

Staff is not aware of any discussion amongst the parties to the FCA reform proceeding regarding Commission delegation to its Executive Secretary authority to vary timelines. Perhaps it was part of the "bargain" amongst the parties to ensure that the future FCA proceedings were completed in a timely manner. Regardless, without language in an order authorizing the delegation of authority to its Executive Secretary, the Commission needs to make the determination whether Minnesota Power's extension request should be granted.

Although the issue at hand is of a procedural nature, what the Commission decides will have consequences for the instant petition in the future. For example, if the extension request is approved, the remainder of the timeline will be pushed out beyond its current schedule which may jeopardize the ability to issue an order prior to the beginning of the next calendar year as established in the timeline of the June 12, 2019 Order.

Another matter is whether the Commission should delegate authority to its Executive Secretary on a limited basis, for the duration of this proceeding involving MP, in docket 20-463, or for all of this year's proceedings involving the forecasted 2021 fuel costs related to the FCA reform process. Although granting such authority may allow for more efficient administration of future petitions it could have unintended consequences of signaling the acceptance of additional extensions in the future which could severely limit the primary objective of the FCA reform process which was timely action on future FCA petitions.

⁷ In the Matter of the Application of Minnesota Power for Authority to Increase Electric Service Rates in Minnesota, Docket No. E-015/GR-19-442, INITIAL ORDER APPROVING PETITION AND RESOLVING RATE CASE WITH CONDITIONS at 3 (June 30, 2020).

Due to the limited time available for the Commission to make its decision in the instant petition, a Notice requesting comments was not issued. Therefore, the Commission may wish the parties to discuss their positions regarding the procedural issues discussed above at the Commission's July 30th agenda meeting.

V. Decision Alternatives

1. Deny Minnesota Power's request for an extension.
2. Approve Minnesota Power's request for an extension of time to file reply comments.

and,

3. Delegate authority to vary timelines and grant extension to the Executive Secretary for the duration of this proceeding involving MP's forecasted 2021 fuel costs, in docket no. 20-463. Clarify that this delegation of authority does not apply to the timelines for any other electric utility nor does it confer authority in any other proceeding.

or,

4. Delegate authority to vary timelines and grant extensions, in the June 12, 2019 Order, in docket 03-802, to the Executive Secretary for the duration of the FCA reform process for this year's forecasted 2021 fuel cost filings only. For MP (docket 20-463), Xcel Energy (docket 20-417) and Otter Tail Power (docket 20-462).