MINNESOTA PUBLIC UTILITIES COMMISSION

Staff Briefing Papers

Meeting Date	May 7, 2020		Agenda Item **2
Company	Minnesota Energy Resources Corporation		
Docket No.	**G-011/M-19-282**		
	In the Matter of the Petition of Minnesota Energy Resources Corporation (MERC) for Approval of 2020 Gas Utility Infrastructure Cost (GUIC) Rider Revenue Requirement and Revised Surcharge Factor		
Issues	Should the Commission approve or modify MERC's proposed 2020 Gas Utility Infrastructure Cost Rider revenue requirement and adjustment factors?		
Staff	Jason Bonnett	jason.bonnett@state.mn.us	651-201-2235
	Sundra Bender	sundra.bender@state.mn.us	651-201-2247
	Ganesh Krishnan	ganesh.krishnan@state.mn.us	651-201-2215

✓ **Relevant Documents**	**Date**
Minnesota Energy Resources Corporation – Initial Petition	April 24, 2019
Minnesota Department of Commerce, Division of Energy Resources - Comments	August 23, 2019
Minnesota Office of the Attorney General – Residential Utilities and Antitrust Division - Comments	August 23, 2019

Relevant Documents	**Date**
Minnesota Department of Commerce, Division of Energy Resources - Correction	August 30, 2019
Minnesota Energy Resources Corporation – Reply Comments	September 17, 2019
Minnesota Department of Commerce, Division of Energy Resources – Response Comments	January 24, 2020
Minnesota Energy Resources Corporation – Additional Reply Comments	February 14, 2020
Minnesota Department of Commerce, Division of Energy Resources – Additional Response Comments	April 17, 2020

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I. Statement of the Issues

Should the Commission approve or modify MERC's proposed 2020 Gas Utility Infrastructure Cost Rider revenue requirement and adjustment factors?

II. Introduction and Background

A. Introduction

Minnesota Energy Resources Corporation (MERC or the Company) is seeking approval of its updated Gas Utility Infrastructure Cost (GUIC) Rider to be effective January 1, 2020.[1] The Company requests approval of its forecasted 2020 test-year GUIC revenue requirement of approximately $4.9 million.

Integrity Management Programs were introduced pursuant to the Pipeline Safety Improvement Act, passed by the U.S. Congress in 2002. The law directed the U.S. Department of Transportation to promulgate rules to address integrity programs for gas transmission lines. A Transmission Integrity Management Program (TIMP) is a prescriptive risk-based program with the objective to improve pipeline safety; gas transmission operators are required to assess the health and condition of a utility's gas transmission assets, and evaluate and prioritize repairs to mitigate the risks and threats related to operating these assets. Gas transmission assets are pipelines operated at higher, transmission level pressure.

In 2009, the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) published the final Distribution Integrity Management Program (DIMP) rule establishing integrity management requirements for gas distribution pipeline systems. The DIMP rules are intended to help gas distribution utilities identify, prioritize, and evaluate risks, identify and implement measures to address risk, and validate the integrity of their gas distribution system.

In 2005, the Minnesota Legislature enacted Minnesota (Minn.) Statute (Stat.) section (§) 216B.1635, the Recovery of Gas Utility Infrastructure Costs statute (GUIC statute), permitting gas utilities to file petitions for a rate schedule to recover certain costs of GUIC-defined projects. In 2013, the GUIC statute was amended which, in part, expanded both the definition of projects that qualify as GUIC projects and the eligible GUIC rider-recoverable costs.

The GUIC statute allows utilities to seek rider recovery of gas utility infrastructure costs. Gas utility infrastructure costs are those that are not included in the gas utility's rate base in its most recent general rate case, and that are incurred in projects involving: (1) the replacement of natural gas facilities required by road construction or other public work by or on behalf of a government agency; or, (2) the replacement or modification of existing facilities required by a

[1] MERC's Petition at 3.

federal or state agency, including surveys, assessments, reassessment, and other work necessary to determine the need for replacement or modification of existing infrastructure.[2]

MERC first requested and received approval to establish a GUIC Rider under the GUIC statute in Docket No. G011/M-18-281 for the Company's forecasted 2019 GUIC-eligible projects and costs. The Commission issued an Order Approving Gas Utility Infrastructure Cost Rider with Modifications and Requiring Compliance Filing in that docket on February 5, 2019, finding that MERC's proposed forecasted 2019 GUIC Rider costs were "incremental; required by federal, state or local agencies; and supported by sufficient detail to meet the information requirements of the GUIC statute."[3]

B. Background

On April 24, 2019, in this docket, MERC requested approval from the Minnesota Public Utilities Commission (Commission) to recover capital costs and operations and maintenance (O&M) expenses, forecasted to be incurred in 2020, through a GUIC rider, pursuant to Minn. Stat. § 216B.1635. The GUIC rider seeks to recover costs associated with public right-of-way relocation projects as well as projects undertaken to comply with MERC's DIMP proposal. The Company's proposed 2020 annualized revenue requirement is approximately $4.9 million with a proposed effective date of January 1, 2020. This petition is MERC's second GUIC petition since its last general rate case filed in Docket No. G-011/GR-17-563 (17-563 Rate Case) in which final rates were implemented July 1, 2019.

The Commission authorized MERC to establish a GUIC Rider, in its Order of February 5, 2019, in Docket No. G-011/GR-18-281 (2019 GUIC). On April 25, 2019, the Commission approved MERC's 2019 GUIC Rider compliance filing. MERC began charging its customers the approved 2019 GUIC Rider rate on May 1, 2019.[4]

On June 28, 2019, MERC filed, in its 2019 GUIC petition (the 2019 GUIC), an emergency request to: (1) suspend charging its approved GUIC Rider to certain large-volume Direct Connect customers, and (2)consider whether to transfer recovery to all other MERC customers through a future true-up filing.

On August 26, 2019, the Commission issued an Order approving MERC's request to suspend charging its GUIC Rider surcharge for Direct Connect Customers.[5]

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[2] A complete copy of Minn. Stat. § 216B.1635 is attached to these briefing papers.

[3] *In the Matter of Minnesota Energy Resources Corporation's Request for Approval of a Gas Utility Infrastructure Cost Rider*, Docket No. G-011/M-18-281, Order Approving Gas Utility Infrastructure Cost Rider with Modifications and Requiring Compliance Filing at 6 (February 5, 2019).

[4] Since the instant petition was submitted in 2019 no true-up from any prior year's GUIC projects and costs submitted. MERC will submit a true-up for its 2019 GUIC projects and costs by April 1, 2020.

[5] *In the Matter of Minnesota Energy Resources Corporation's Request for Approval of a Gas Utility Infrastructure Cost (GUIC) Rider*, Docket No. G-011/M-18-281, Order Suspending GUIC Rider Surcharge for Direct Connect Customers, and Declining to Reopen NGEP Cost Rider Docket (August 26, 2019) at 7.

C. MERC's 2020 GUIC, this Docket

On August 23, 2019, the Minnesota Department of Commerce, Division of Energy Resources (Department) and the Office of the Attorney General – Residential Utilities and Antitrust Division (OAG) filed comments.

On August 30, 2019, the Department submitted an errata letter making corrections to its filed comments.

On September 17, 2019, MERC filed its Reply Comments.

On January 24, 2020, the Department filed Response Comments.

On February 14, 2020, MERC filed Additional Reply Comments.

On April 17, 2020, the Department filed Additional Response Comments.

III. MERC's Initial Petition

In the instant Petition, MERC proposes to recover a 2020 annual revenue requirement of approximately $4.9 million through its GUIC Rider rate effective January 1, 2020. Similar to MERC's 2019 GUIC filing, MERC is requesting approval for GUIC rider recovery related to two categories of work that are eligible for rider recovery under the GUIC Statute: (1) right-of-way relocation projects, and (2) investments and expense to be incurred in the assessment and replacement or modification of existing facilities required by federal and state agencies as part of the Company's compliance with DIMP regulations.

In its initial Petition, MERC proposed a flat per-therm charge of $0.00554 applicable to all customer classes for the 2020 GUIC Rider. However, in Reply Comments, MERC proposed modified surcharges for the recovery of 2020 revenue requirements, consistent with the Commission's Order suspending MERC's GUIC Rider surcharge for Direct Connect Customers[6] and the Department's recommendation that MERC apportion the 2020 GUIC rider revenue requirement using the non-gas revenue apportionments approved in the Company's most recent rate case, Docket No. G-011/GR-17-563.[7] And then, in Additional Reply Comments, MERC updated its proposed surcharge again to maintain consistency with the updated sales forecast in the Company's ongoing Natural Gas Expansion Project (NGEP) rider docket (Docket No. G-011/M-19-608).[8] The following table contains the updated revised rates.

[6] *In the Matter of Minnesota Energy Resources Corporation's Request for Approval of a Gas Utility Infrastructure Cost (GUIC) Rider*, Docket No. G-011/M-18-281, Order Suspending GUIC Rider Surcharge for Direct Connect Customers, and Declining to Reopen NGEP Cost Rider Docket (August 26, 2019) at 7.

[7] MERC Reply Comments at 19.

[8] MERC Additional Reply Comments at 24.

Table 1: Proposed 2020 GUIC Rider Surcharge Rates

Customer Class	MERC Updated Proposed GUIC Rider Surcharge
Residential	$ 0.01658
Class 1 & 2 Firm (Sales and Transport)	$ 0.00997
Class 1 & 2 Interruptible (Sales and Transport), Class 1 & 2 Grain Dryer, Class 1 Electric Generation	$ 0.00997
Class 3 & 4 Firm (Sales and Transport)	$ 0.00522
Class 3 & 4 Interruptible (Sales and Transport); Class 3 Grain Dryer	$ 0.00522
Class 5, FLEX, Class 2 Electric Generation, Transport-for-Resale	$ 0.00144
Direct Connect	N/A

MERC requests that its proposed rate design be adopted for the 2020 GUIC Rider surcharges rather than a flat per-therm rate or a rate design based solely on the approved revenue apportionment from the Company's most recent general rate case.

IV.Discussion of Issues

A. Resolved Issues

1. Accumulated Deferred Income Tax

a. Background

Accumulated deferred income taxes (ADIT) keeps track of the difference between a utility's actual federal income taxes and the amount of federal income taxes included in rates.[9] This difference in federal income taxes happens because of assumptions about depreciation that utilities are allowed to make in calculating federal income taxes, compared to what they charge ratepayers in rates. Because utilities are allowed to use accelerated depreciation in calculating annual federal income taxes, the amount of federal income taxes they pay has historically been much lower than the amount of income taxes they charge to ratepayers. By contrast, utilities charge rates to consumers based on uniform depreciation. Thus, in essence, ADIT keeps track of the amount by which ratepayers are prepaying a utility's federal income taxes.

While there are fewer problems with ADIT in rate cases, a significant issue has developed in riders, whenever the rider is implemented prior to the end of the "test year" used to set rates (in this case, 2020). In 2015, in response to the emergence of riders and formula rates, the Internal Revenue Service (IRS) stated that, when formula or rider rates are implemented before the end of the test year the utility must "prorate" ADIT – essentially not crediting ratepayers for the total amount by which they are prepaying a utility's rates. By contrast, the IRS ruled that no

[9] As a rate base item, ADIT affects the amount of a utility's cost of capital that is charged to ratepayers. A higher ADIT balance reduces the amount the utility charges to ratepayers since ADIT credits ratepayers for their prepayment of a utility's federal income taxes; by contrast, a lower ADIT balance increases rates.

such proration is required if the utility implements the rider or formula rates the day after the test year.

b. Department Comments

The Department notes that MERC, in its Petition, stated that some recent IRS Private Letter Rulings (PLRs) indicated that rider true-ups cannot reverse the effects of ADIT proration. As a result, MERC proposes not only to prorate its ADIT balance for true-up purposes but also to reflect an additional proration of ADIT to reflect the 13-month average of the difference between its forecasted non-prorated ADIT balance and its actual non-prorated ADIT balance. As this is a new issue, the Department requests that MERC include as an attachment to its Reply Comments schedules demonstrating its ADIT true- up proposal under various scenarios, which result in adjustments that increase, decrease or do not affect the prorated ADIT used in setting the rider rate. In addition, the Department requested that MERC include in its Reply Comments identification of the IRS PLRs it believes support the Company's proposed true-up method.

c. MERC Reply Comments

In response, MERC provided the requested information showing the impact of the ADIT proration adjustment to the overall revenue requirement to be minimal. Impacts to the 2019 revenue requirement are between $204 and $414 and the 2020 revenue requirement impacts of prorated ADIT are between $744 and $1,009.[10]

d. Department Response Comments

The Department concludes that MERC's proposal appears reasonable to the Department but notes that the PLRs limit their ruling to the requestor and that none of these PLRs were issued specifically to MERC. Therefore, unless MERC's methodology contravenes future PLRs or other IRS guidance, the Department does not oppose MERC's ADIT true-up proposal.[11]

2. Sewer Cross Bore Survey

a. Background

MERC stated that it has developed and implemented a safety plan in an attempt to address the threat of installed gas lines inadvertently cross-bored through other facilities, such as sewer lines. MERC stated that it has been inspecting sewer laterals and mains under an ongoing Sewer Line Lateral Inspection Program since 2014. MERC expanded these efforts beginning in 2019, spending an additional $1 million over and above the approved amount included in MERC's 2018 base rates test year. The Commission approved recovery of this additional spending through MERC's 2019 GUIC Rider, and MERC has proposed to continue this multi-year program effort in 2020, similarly expecting to spend $1 million over and above the approved base rates level. In 2020, MERC has planned for an additional 6,500 surveys to be completed by the third-party contractor at an approximate cost of $150 per survey.

[10] MERC Reply Comments at 25.

[11] Department Response Comments at 22.

b. Department Comments

The Department notes that in response to sewer cross bore issues, the Minnesota Office of Pipeline Safety (MNOPS) issued a notice of acceptable installation practices and documentation requirements for natural gas mains and services installed beginning in 2010 to prevent future cross bored facilities.[12] In response, MERC indicated that its sewer cross bore surveys were for facilities installed prior to the issue date of the MNOPS notice. Therefore, the Department concluded that as long as operators have abided by and are being held to the MNOPS requirements for installations beginning in 2010, MERC's project appears to be appropriately focused on its facilities at risk.

The Department notes that in response to Department Information Request (IR) No. 13, MERC states that no Sewer Lateral Inspection Program costs are included in MERC's base rates.[13] MERC also provided its 5-year historical costs (2014– 2018) for these inspections, which amounted to 4,305 inspections costing approximately $680K.

Thus, the Department concludes that MERC's estimated cost for the expected 2020 inspection activity level appears reasonable. However, the Department notes that over the 5-year period, MERC inspected a cumulative total of 4,305 laterals, which means this work activity averaged 861 lateral inspections per year. As such, MERC's estimate of 6,500 inspections in one year's time appears aggressive. Though MERC has yet to contract for this work for 2020, the Department has confirmed that MERC successfully contracted with a third-party to carry out a similarly large amount of sewer inspections in 2019. Therefore, the Department concludes that MERC reasonably supported this project's estimated cost for the 2020 GUIC.

c. MERC Reply Comments

MERC does not dispute the Department's comments and has no further discussion on this issue.

3. Rate of Return

a. Background

In estimating the GUIC recovery rider revenue requirement, the Company proposes to use an overall rate of return of 6.6971%, which is the rate approved by the Commission in MERC's last rate case, Docket No. G-011/GR-17-563.

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[12] See MINN. DEP'T OF PUB. SAFETY, Alert Notice – MNOPS AL-01-2010 to Natural Gas Pipeline Operators – Preventing Sewer Service Lateral Cross Bores: Acceptable Practices and Documentation Requirements (May 10, 2010), available at https://dps.mn.gov/divisions/ops/formsdocuments/Documents/Alert%20Notice%2001- 2010.pdf.

[13] Department Comments at Attachment 10.

b. Department Comments

The Department agrees with MERC's use of the Commission's approved rate of return calculated by using the approved return on equity and capital structure, as determined in the Company's recent rate case. The overall rate of return is detailed in Table X, below:

Table 2: MERC Proposed Rate of Return

MERC Approved Capital Structure and Cost of Capital Docket No. G-011/GR-17-563			
	Capital Structure (%)	Cost of Capital (%)	Weighted Cost of Capital (%)
Equity	50.90	9.70	4.9373
Long-term Debt	39.16	3.58	1.4019
Short-term Debt	9.94	3.60	0.3578
Weighted Average Cost of Capital:			**6.6971**

c. MERC Reply Comments

MERC did not provide any additional discussion on this issue.

4. Rate Design

a. Background

Rate design is used to allocate the revenue requirement amongst the various customer classes. The percentage of revenue apportionment allocated amongst the customer classes is typically determined in a general rate case.

b. Initial Petition

In its initial Petition, MERC proposed a flat-per-therm charge applicable to all customer classes. However, in light of the Commission's August 26th Order suspending the GUIC Rider surcharge for Direct Connect customers in Docket No. G-011/M-18-281,[14] MERC, in its Reply Comments and again in its Additional Reply Comments, revised its proposed recovery method to the following:

[14] *In the Matter of Minnesota Energy Resources Corporation's Request for Approval of a Gas Utility Infrastructure Cost (GUIC) Rider*, Docket No. G-011/M-18-281, Order Suspending GUIC Rider Surcharge for Direct Connect Customers, and Declining to Reopen NGEP Cost Rider Docket, at 8.

Table 3: MERC Proposed 2020 GUIC Rider Surcharge Rates

Customer Class	MERC Updated Proposed GUIC Rider Surcharge
Residential	$ 0.01658
Class 1 & 2 Firm (Sales and Transport)	$ 0.00997
Class 1 & 2 Interruptible (Sales and Transport), Class 1 & 2 Grain Dryer, Class 1 Electric Generation	$ 0.00997
Class 3 & 4 Firm (Sales and Transport)	$ 0.00522
Class 3 & 4 Interruptible (Sales and Transport); Class 3 Grain Dryer	$ 0.00522
Class 5, FLEX, Class 2 Electric Generation, Transport-for-Resale	$ 0.00144
Direct Connect	N/A

c. Department Initial and Response Comments

In its Initial and Response Comments, the Department recommended a rider rate design based upon the apportionment of revenue responsibility approved in MERC's most recent rate case, rather than continue the current "uniform rate for all classes" design.[15]

d. MERC Reply Comments and Additional Reply Comments

MERC agreed to discontinue use of its uniform rate design; however, the Company introduced and proposed use of a modified apportionment of revenue responsibility to address its concern that, without modification, some customers may be incented to change rate classes under which they are served.[16]

MERC demonstrated that it is necessary for apportionment of revenue responsibility modifications to maintain the fundamentals of its base rate design to avoid sending inappropriate price signals. For example, should apportionment of revenue responsibility in the GUIC rider rate be based solely on the percentages derived from the apportionment of revenue responsibility from the rate case, firm sales customers would pay a higher differential than what currently exists between firm and interruptible sales and thus may be incented to move to interruptible service.

e. Department Additional Response Comments

The Department points out that, in general, the determination of rates for rider mechanisms typically follows the apportionment of revenue responsibility approved in the utility's most recent general rate case. The basis for this approach in developing a rider rate is to maintain any determined customer cost allocations, policy decisions and to maintain a resemblance to the base rate design in order to mitigate rate shock once rider-recovered assets and costs are rolled into base rates. However, in MERC's Additional Reply comments, the Company explained

[15] Department Initial Comments at 23-24; Department Response Comments at 19-20.

[16] MERC proposed a similar rate design modification in its pending Natural Gas Extension Project (NGEP) Rider Petition, Docket No. G011/M-19-608.

that the apportionment of revenue responsibility approved in the Company's last rate case is not consistent with an aspect of the base rate design that was implemented in that case, specifically for its non-residential customers (i.e., Firm Sales, Interruptible Sales and Transportation).[17]

The Department appreciates MERC's additional discussion and clarification on this issue. From MERC's explanation and reasoning, the Department agrees with MERC's rate design proposed in its Additional Reply Comments. The Department does include a new recommendation that, in MERC's next general rate case, the Company include in its direct testimony and schedules a proposed apportionment of revenue responsibility that fully aligns with its proposed customer rate classes and rate design.

5. Future Filing Requirements

a. Background

Throughout the review process for the instant proceeding the Department has put forth various reporting requirements for future proceedings. The Department and MERC have agreement on the following reporting requirements.

- If the Company incurs O&M expense associated with actual ROW relocation or DIMP projects in 2020, it will provide details regarding the amount of the expense, the account number to which it is charged, and an explanation of how the expense fits within the GUIC rider. MERC also agrees that it will only request recovery of such O&M expense to the extent it is incremental (i.e., not being recovered in existing base rates).

- To report on Aldyl-A project accomplishment details in the Company's annual true-up filing, including, by project site: (1) locational description of work completed, (2) associated work order number(s), (3) size of Aldyl-A pipe mains replaced, (4) size of replacement pipe installed, (5) footage of main replaced, (6) total costs net of embedded labor, vehicles, fuel, overhead, etc., and (7) total replacement costs.58

- To reflect the corrected revenue requirements model in any compliance and future GUIC filing schedules.

- To include in the relevant future GUIC rider filing a proposal to address the termination of the GUIC statute.

- To include in the Company's next general rate case filing a discussion of its GUIC rider cost recovery transition to base rates (and requested interim rate) recovery and to roll in rider recovered facilities at the beginning of its next general rate case.

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[17] MERC Additional Reply Comments at 20. MERC's customer notice from its last general rate case (Docket No. G011/GR-17-563) provides a summary of how customer classes were changed and also summarizes each class's approved base rate charges.

In its Response Comments, the Department proposed an additional requirement that MERC include the vintage and manufacturer of the Aldyl-A pipe replaced in future true-up reports.

b. Department Response Comments

The Department's Response Comments recommended reporting details, within the relevant year's true-up report, of MERC's replaced Aldyl-A pipeline replacement effort, specifically, to include information of the vintage and manufacturer of the pipe replaced.[18] The purpose of the information sought was to verify that MERC's use of ratepayer resources attends to the most at-risk pipelines in their system.

c. MERC Additional Reply Comments

MERC's Additional Reply Comments provided relevant industry publication references.[19] From the review of existing industry publications, which often identify specific manufactured products, we can compare the findings of known, problematic manufactured materials to MERC's targeted pipeline replacement plan. Publications such as PHMSA Advisory bulletins,[20] technical papers on product testing,[21] and California Public Utilities Commission report on Aldyl-A pipeline hazard analysis, [22] are helpful to corroborate utility pipeline replacement plans.

MERC's Additional Reply comments answered and stated that, per its records, the Aldyl-A mains on its system were manufactured by DuPont. Further, from the publication references MERC provided and the summary information on page 29 of its Additional Reply comments, MERC has satisfactorily shown that not all Aldyl-A pipe is problematic, rather it indicates that the later vintages of this product line do not have the same performance concerns as its predecessors.

d. Department Additional Response Comments

The Department concludes that MERC's banded installation years of this particular pipe product line to be replaced, as provided in Tables 3 and 4 of its initial filing, appears reasonable. With the understanding that identification of the completed GUIC project work is necessary to execute a future rider true-up, the Department withdraws its recommendation to require

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[18] Department Response Comments at 13, 22.

[19] MERC Additional Reply Comments at 28.

[20] https://www.federalregister.gov/documents/2007/09/06/07-4309/pipeline-safety-updated-notification-of-the- susceptibility-to-premature-brittle-like-cracking-of

[21] https://www.aga.org/sites/default/files/legacy-assets/SiteCollectionDocuments/Committees/PlasticMaterials/100409Paper.pdf; and https://higherlogicdownload.s3.amazonaws.com/APGA/1151c1f6-49e1-4598-badd-127e33da42cd/UploadedImages/Ops%20&%20Safety/PPDC%20March%202016%20Status%20Report.pdf

[22] https://www.phmsa.dot.gpv/sites/phmsa.dot.gov/files/docs/technical-resources/pipeline/gas-distribution-integrity- management/66021/aldyla.pdf

MERC to report the manufacturer and vintage of the Aldyl-A pipe replaced in its future true-up filings.[23]

B. Disputed Issues

1. Incremental Cost Recovery Adjustment

a. Background

The GUIC Statute only allows utilities to recover incremental costs not already recovered in base rates but does not provide a definition for "incremental."

Webster's New World Dictionary defines increment as "the fact of becoming greater or larger; increase; gain; grown," or "amount of increase [an annual increment of $300 in salary]."[24] Black's Law Dictionary defines an increment as being an "increase in quantity or value."[25]

These definitions all share a single concept: something is incremental if it is an increase over what has come before. In order to determine whether something results in an increase, it is necessary to compare the new, aggregate value with the old value. In the context of this proceeding, the amount of aggregate GUIC spending during the 2020 rider year must be compared to the amount of GUIC spending in MERC's base rates in order to determine what, if anything, is incremental.

To provide a more concrete example, assume that base rates include $100 in O&M spending related to DIMP. In a "rider year," the utility anticipates spending $110 in DIMP related O&M. It would be unreasonable for the utility to recover $110 in O&M through an infrastructure rider, because it is already recovering $100 in DIMP-related O&M in base rates.

To the extent that rider recovery is allowed at all, Minnesota's GUIC Statute would require it to be limited to the $10 in O&M spending that was above and beyond the $100 included in the test year—the amount that is incremental compared to base rates. To permit a utility to recover $210 in O&M spending, when it has increased its spend level by only $10, would be double recovery and result in unjust and unreasonable rates.

b. Department Comments

The Department is concerned that the Company has not included any adjustments to its rider revenue requirements to offset the base rate recovery of assets that are being replaced through this GUIC rider project.

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[23] MERC's Additional Reply Comments at 26-29.

[24] WEBSTER'S NEW WORLD DICTIONARY 713 (2d. Colleg. Ed. 1980) (emphasis and brackets in original).

[25] BLACK'S LAW DICTIONARY 350 (3rd Pocket Ed. 1996).

The Department opposes MERC's proposal not to adjust its proposed 2020 GUIC rate for costs already recovered in base rates because it goes against the Reasonable Rate statute Minn. Stat. § 216B.03, and the "incremental" cost recovery provision specified in the GUIC Statute, thus is unreasonable. Specifically, the Department states:

> First, MERC's approach would result in the rider rate deliberately set too high, based upon a known overstated revenue requirement for the 2020 GUIC. Although MERC reasoned that it does not know with certainty what the downward adjustment to the 2020 GUIC rate should be to reflect recovery of costs in base rates, MERC's proposal to charge rates that are known to be too high cannot be said to satisfy the statutory requirement that "Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable."
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> Second, this proposed approach would not resolve the "doubt" or uncertainty in favor of the consumer (ratepayers), as required by Minn. Stat. § 216B.03. A true-up should be designed only to adjust for any easily quantified and verifiable changes to specific estimates in a rate calculation, such as actual sales compared to forecasted sales. By contrast, MERC's proposed process would knowingly set the 2020 GUIC rate to double-recover costs, and account for this overcharge in the true-up process. The Department cannot recommend approval of a rate developed from a model designed to overcharge ratepayers and delay the inclusion of any adjustments that are necessary to correct the overcharges to ratepayers to a later time. Such a process does not resolve doubt in favor of customers.
>
> Third, setting the rider rate too high is not reasonable as it would force captive customers to give MERC a loan for which ratepayers not only do not earn interest on but also (for capital costs, discussed below) pay a rate of return upon.
>
> Fourth, the GUIC Statute limits cost recovery through the rider to incremental costs that are not being recovered in other rates. When estimating the GUIC test-year revenue requirement, MERC needs to make a good faith effort to recognize, reasonably calculate and include an estimated adjustment for the base rate cost recovery of existing assets that were or are being replaced by projects included in the 2020 GUIC Rider (both 2019 and 2020 work).[26]

[Footnotes Omitted]

The Department requested that MERC provide in Reply Comments adjustments to remove the 2018 level of cost recovery imbedded in base rates related to the assets being replaced due to the proposed GUIC project work included in this rider recovery mechanism.

[26] Department Comments at 11-12.

c. OAG Comments

The OAG recommends that the Commission reduce the proposed 2020 GUIC-Rider revenue requirement to prevent cost recovery of retired assets. Specifically, the OAG states:

> A key requirement of the GUIC statute is that costs included in the rider must be incremental to those costs already included in a utility's base rates. The purpose of this requirement is to prevent double recovery. As the OAG explained in its comments on MERC's first GUIC rider petition, to the extent that GUIC investments replace assets that are not fully depreciated, GUIC depreciation expense must be offset by the replaced assets' depreciation expense, which otherwise would continue to be recovered through base rates. MERC agreed with the OAG in that case that a depreciation offset was necessary to prevent double recovery.
>
> In this case, MERC proposes to track the facilities that are replaced by 2020 GUIC projects and to make a depreciation adjustment in the 2020 true-up. Waiting until the 2020 true-up, however, would mean that MERC will over-recover depreciation expense throughout 2020 and not return that money to ratepayers until perhaps the end of 2021, effectively making ratepayers involuntary creditors. The Commission should instead require MERC to reduce its 2020 GUIC revenue requirement up front using a forecasted depreciation adjustment, as Xcel Energy does for its GUIC rider. While it appears unlikely that MERC will over-recover its 2019 GUIC revenue requirement, future iterations of the rider are likely to recover actual costs with greater precision. Requiring the Company to make an up-front depreciation adjustment should reduce the magnitude of future true-ups.[27]
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> [Footnotes Omitted]

d. MERC Reply Comments

In response, MERC opposes the Department and OAG's recommendations to include a line item adjustment to its revenue requirement estimate to account for facilities expected to be removed from service arguing that "the specific assets to be replaced are not known with certainty."[28] MERC prefers to account for this rate-reducing adjustment at a later time, in its true-up.

Specifically, the Company states:

> Forecasting the depreciation expense adjustment as the Department and OAG recommend would be particularly challenging with respect to the right-of-way ("ROW") relocation projects. As explained in MERC's Petition, ROW relocation projects typically are not known in advance. Federal, state, and local government units request MERC to relocate facilities within the right-of-way according to their

[27] OAG Comments at 3-4.

[28] MERC Reply Comments at 2.

> own project schedules. As a result, the specific projects, quantity replaced, and vintage of replaced assets are not known in advance. MERC cannot forecast the age or the value of the assets to be retired and therefore cannot provide an estimate of depreciation expense savings at the start of the GUIC year.
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> Further, as explained in the Company's Reply Comments in Docket No. G-011/M-18-281, and response to OAG Information Request No. 6, the depreciation expense adjustment related to replaced assets is expected to be relatively small.
>
> Given that the impact of the depreciation expense adjustment will be relatively small and in light of the challenges with attempting to forecast such adjustment in advance of knowing the specific projects that will occur and specific facilities that will be replaced, MERC continues to advocate that its proposal to address this adjustment in the true-up reconciliation is reasonable. While MERC's 2019 and 2020 GUIC riders do not include a prior period true-up reconciliation adjustment due to timing, MERC anticipates that its future annual GUIC revenue requirement calculations would incorporate adjustments for prior period true-ups. Thus, for example, MERC's 2021 GUIC rider would incorporate the impacts of the depreciation expense reduction for 2019 GUIC-related projects.[29]

[Footnotes omitted]

e. Department Response Comments

The Department maintains that MERC's proposal is inappropriate and should be adjusted. The Department argues that charging ratepayers for costs of facilities that will no longer be used and useful in providing service while at the same time charging ratepayers for the costs of facilities that would replace those resources is not just or reasonable.

The Department notes that Minn. Stat. § 216B.1635, the GUIC statute, specifies that the GUIC Rider should include only incremental costs associated with the GUIC projects and that MERC must provide "the estimated costs and salvage value, if any, associated with the existing infrastructure replaced or modifie[d] as a result of the project."

Specifically, the Department states:

> If MERC cannot reasonably account for an estimated revenue requirement offset, tied to its test year project work proposed to [be] include[d] in the rider recovery rate, then no costs for unidentifiable test year projects should be included in developing the proposed 2020 GUIC Rider rate. Instead, MERC's GUIC rates for 2020 projects should be set only when the Company provides the required information to comply with the GUIC statute, including the following items that MERC indicates that it cannot provide at this time for each GUIC project:
>
> - project description and scope,

[29] *Id*. at 2-3.

- estimated project costs,
- project in-service date,
- the governmental entity ordering or requiring the gas utility project and purpose for which the project is undertaken, and
- a description of the estimated costs and salvage value, if any, associated with the existing infrastructure replaced or modified as a result of the project.

> Regulated-utility customer rates should be based on and reflect the benefits from identifiable used and useful investments; in contrast, rates designed to serve as a capital funding source for possible, yet-to- be determined, unknown, unidentifiable project work is a shift away from cost-of-service based ratemaking toward rates based on speculation.
>
> Given that the substance of MERC's petition request is for unknown, unidentifiable project work that the utility may incur during 2020, the initial financial funding burden for the 2020 test period should remain with the Company, and the rider true-up function should allow the utility to recover reasonable net costs once the project site and work including replacement or modification of existing infrastructure can be named. Given the lack of information – all required by statute – at this time, this approach is in the public interest because it safeguards captive customers' limited funds and ensures that rates are reasonable. Customer-sourced funds would be drawn upon only when MERC can fully comply with Minnesota statutes, including showing that the rates it proposes to charge to its customers are tied to identifiable, beneficial work and services that are being rendered to customers, netted for costs of facilities that are no longer used or useful.

f. MERC Additional Reply Comments

MERC argues that the Department's position that MERC has not provided sufficient detail regarding the proposed 2020 GUIC rider projects is contrary to the Commission's decision in the Company's 2019 GUIC, where the Commission considered and rejected such arguments. MERC notes that in its February 5, 2019, Order approving the Company's 2019 GUIC rider, the Commission found the Department and OAG's concerns "misplaced," concluding:

> The GUIC statute anticipates the use of estimated costs. As MERC has explained, it generally is not informed of future right-of-way relocation work with enough lead time to include specific projects in its forecasts. Therefore, MERC's petition relies on historic spending to support its requested amount. This amount will be trued up annually to actual costs, eliminating any possibility that forecasting will result in overrecovery.[30]

[30] *In the Matter of Minn. Energy Res. Corp.'s Request for Approval of a Gas Util. Infrastructure Cost Rider,*

In addition, in its April 25, 2019, Order Approving Compliance filing in the 2019 GUIC, the Commission again reiterated its prior conclusion that MERC had provided information sufficient to comply with the requirements of the GUIC rider statute, again rejecting the same Department arguments raised in comments on MERC's compliance filing:

> In its February 5 order approving MERC's GUIC rider, the Commission found that the information MERC submitted in its petition complied with the GUIC statute. The order explained that MERC's use of estimates for certain project costs is contemplated in the statute, and that the annual true-up will eliminate "any possibility that forecasting will result in overrecovery."
>
> …
>
> As for the information required by Minn. Stat. § 216B.1635, subds. 3–4, the February 5 order explains that MERC "generally is not informed of future right-of-way relocation work with enough lead time to include specific projects in its forecasts." MERC therefore submitted estimates of its right-of-way relocation costs based on historic spending. When MERC submits its annual GUIC true-up filing, it will submit the project-specific information required by Minn. Stat. § 216B.1635, subds. 3–4, at which point the Commission will review the projects and costs for reasonableness and prudence.[31]

MERC argues that the Department has not only failed to acknowledge the Commission's prior determination regarding the level of information required to satisfy the GUIC statute but has provided no new argument or justification to support a shift from the Commission's previous determinations.

g. Staff Discussion

MERC is correct that in the Company's last GUIC proceeding, Docket No. 18-281, the Commission agreed "with MERC that the costs it seeks to recover through its proposed GUIC rider are incremental; required by federal, state, or local agencies; and supported by sufficient detail to meet the information requirements of the GUIC statute."[32] However, staff agrees with the Department and believes that just as MERC is able to estimate the costs of the 2020 replacements it should be able to estimate the revenue requirement adjustment necessary to account for facilities expected to be removed from service.

Docket No. G011/M-18-281, ORDER APPROVING GAS UTILITY INFRASTRUCTURE COST RIDER WITH MODIFICATIONS AND REQUIRING COMPLIANCE FILING at 6-7 (Feb. 5, 2019).

[31] *In the Matter of Minn. Energy Res. Corp.'s Request for Approval of a Gas Util. Infrastructure Cost Rider,* Docket No. G011/M-18-281, ORDER APPROVING COMPLIANCE FILING at 2 (Apr. 25, 2019).

[32] *In the Matter of Minnesota Energy Resources Corporation's Request for Approval of a Gas Utility Infrastructure Cost Rider*, Docket No. G-011/M-18-281, ORDER APPROVING GAS UTILITY INFRASTRUCTURE COST RIDER WITH MODIFICATIONS AND REQUIRING COMPLIANCE FILING, p. 6 (February 5, 2019)

h. Decision Alternatives

- Approve MERC's proposal to address the depreciation expense adjustment in the true-up reconciliation as consistent with the GUIC statute and the Commission decision in the Company's 2019 GUIC rider. [MERC]

- Require MERC to include a line item adjustment to its revenue requirement estimate to account for the cost recovery, built into its base rates, of the facilities removed, and expected to be removed from service as a result of its GUIC project work. [Department, preferred]

- Require MERC to remove, from its calculation of its proposed GUIC Rider cost recovery rate, infrastructure replacement cost amounts for unidentifiable test year project work. [Department, alternative]

- Require MERC to include a projected depreciation adjustment in its 2020 GUIC-rider revenue requirement to prevent double recovery of depreciation expense associated with assets that are replaced by GUIC projects. [OAG]

2. Right-of-Way Project Costs

a. Background

Right-of-way relocations involve projects where MERC is required to replace or relocate gas facilities located in a public right-of-way to accommodate construction or improvement of a highway, road, street, public building, or any other work by the local jurisdiction. In 2020, MERC estimates this work to result in approximately $6.5 million in new investments to meet this requirement. As shown in Table X, below, the number of requests have increased since 2015.[33]

Table 4: MERC's Relocation Projects 2015-2018

Project Year	Number of Relocation Projects	Annual Road Relocation Costs
2015	72	$4,573,401
2016	72	$5,171,722
2017	86	$6,257,343
2018	87	$6,589,132
3-Year Average (2016-2018)	**82**	**$6,006,066**

[33] Initial Petition at 13.

Also, MERC notes that it is not always informed of public works projects with enough lead-time to incorporate those projects into the Company's planning and forecasting. Therefore, MERC faces challenges when trying to accurately forecast the number of projects for the upcoming year. As of the filing of the initial petition, MERC has been notified of 9 right-of-way projects to occur in 2020, though the Company anticipates a similar number of actual projects to occur in 2020 as in prior years. In fact, MERC conducted a trend analysis and determined that the three-year average used for the 2019 GUIC resulted in projected costs below actual 2018 experience. As a result, MERC's estimate for the right-of-way work for 2020 is based on MERC's actual spending for 2018. MERC believes that use of the 2018 actual spending is a more accurate forecast for 2020.[34]

b. Department Comments

The Department states that the Company is required by Minn. Stat. § 216B.1635 to provide all pertinent information relating to the projects for which the Company seeks recovery, including, but not limited to project description and scope, estimated project costs, and project in-service date.

The Department recommends that the 2020 GUIC Rider revenue requirement and rate be limited to the estimated costs of the projects that are in service or planned to be placed in service in 2020, that are not already included in MERC's base rates. Therefore, the Department recommends that MERC modify the amount attributed to the 2020-placed-in-service right-of-way project costs, and at this time only include in the 2020 GUIC revenue requirements the estimated cost amount for the 9 planned 2020 projects.[35] The Department states, "if MERC completes and places in service more than these 9 planned projects during 2020, then in its GUIC true-up filing, MERC can include and request recovery of any additional right-of-way work it completed. By contrast, if fewer than 9 of the projects are completed, the true-up should reflect that fact."[36]

The Department argues that this approach is fair and reasonable for customers, in whose favor doubt is to be resolved, and MERC, which will be allowed to recover costs of any projects in addition to the 9 right-of-way projects that are in service in 2020. The Department notes that rider mechanisms are extraordinary ratemaking tools and allow utilities to begin recovery of costs sooner than when the facilities are used and useful, which is the standard that otherwise applies. The true-up feature of the rider gives utilities assurance for recovery commencement of the planned and the additional rider-eligible work that gets completed. This recommendation provides the necessary assurance to ratepayers that the rate is based on the estimated costs of the in-service and planned project work presented to regulators.

The Department included the following rationale as support for its recommendation:

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[34] Initial Petition at 14.

[35] Department Comments at 12.

[36] *Id*.

> First, 2019 is the first year in which MERC has a GUIC, and would not be filing a true-up for 2019 until 2021. As evidenced by the discussion at the Commission's August 1, 2019 Agenda meeting, there have been concerns about MERC's roll-out of the 2019 GUIC. In addition, as discussed above, MERC's proposal to knowingly overcharge ratepayers is inconsistent with basic ratemaking principles. Given that MERC is new to this process and has had some difficulties, it is important to use a careful approach.
>
> Second, unlike any other natural gas utility, MERC's 2019 GUIC is based on an estimate of costs (for the years 2015-2017) rather than specific projects. Thus, no information is known at this time as to what MERC's 2019 projects are and no assurance that the rates being charged in the 2019 GUIC are just and reasonable. Thus, a more extensive analysis in MERC's true-ups will be needed, including examination of MERC's 2018, 2019 and 2020 projects to ensure that there is no double-recovery of costs. During this time, there should be reasonable assurance that ratepayers are not being overcharged.
>
> Third, the data MERC used to tabulate as 2018 ROW project expenditures is questionable and overstated (Petition, Exhibit D-1). It appears that MERC accurately reported the 2018 project count in Table 2 of the Petition (replicated below); however, the summed amount reported as 2018 project costs in Table 2 is overstated. The summed amount of approximately $6.6 million for 2018 included costs associated with projects that were placed in service in 2017; the Department determined that MERC's 2018 project cost totals are overstated by approximately $137K. This kind of misclassification of costs in years indicates further need to be cautious about overstating MERC's GUIC rates.[37]
>
> [Footnotes omitted]

c. MERC Reply Comments

MERC argues that it has fully supported its proposed 2020 project costs related to right-of-way projects based on historic relocation work and analysis of project and cost trends over time.

Specifically, MERC argues that the Commission, in its February 5, 2019, Order approved the use of forecasted right-of-way costs stating:

> The Commission addressed the appropriateness of forecasted ROW project costs in the Company's 2019 GUIC rider in Docket No. G011/M-18-281, concluding that MERC's reliance on historic trends was reasonable and sufficient to meet the statutory requirements.
>
> Both the Department and the OAG expressed concern that MERC did not provide sufficient detail about its right-of-way relocation costs. This concern is misplaced. The GUIC statute anticipates the use of estimated costs. As MERC has explained, it generally is not informed of future right-of-way relocation work with enough

[37] *Id*. at 13.

> lead time to include specific projects in its forecasts. Therefore, MERC's petition relies on historic spending to support its requested amount. This amount will be trued up annually to actual costs, eliminating any possibility that forecasting will result in overrecovery.
>
> …
>
> [T]he Commission finds MERC's use of a three-year average of relocation costs reasonable both because these costs have been trending higher in recent years and because any overestimation can be corrected for in the true-up.
>
> The Department's position that the Company should only be permitted to recover for the nine known projects on a forecasted basis is contrary to the plain language of the GUIC statute and the Commission's determination with respect to MERC's 2019 GUIC rider.[38]

In addition, MERC argues that its project costs are appropriate. The Company notes that relocation costs have been increasing year-over-year as MERC has been required to relocate more of its natural gas infrastructure each year to accommodate a growing number of public projects.

Finally, MERC disputes the Department's contention that the Company's right-of-way costs are overstated. MERC notes that the costs questioned by the Department relate to restoration and removal work on completed projects from the previous year. While the specific projects were in service and providing natural gas in 2017, work on restoration and/or removal was completed the following calendar year. Occasionally, MERC is obligated by a governmental entity to remove old pipe (due to space constraints in the right-of-way) or to undertake specific restoration work following completion of a right-of-way project.

Additionally, MERC sometimes will complete the relocation of main during one calendar year and subsequently be notified of a service line conflict with the road or sewer project in a subsequent year. In such cases, all work may not occur in the same calendar year that a project (or portion of a project) is completed and placed into service. The Company argues that the timing of completion of such work does not render those costs erroneous or overstated and the Department's suggestion that all costs associated with a capital project must close during the year the project is placed into service is not realistic.

d. Department Response Comments

The Department maintains its recommendation that the estimated right-of-way project costs to include in the GUIC Rider should be based upon the known and identifiable work planned to be in service in 2020. The Department clarifies that its position is not a predetermination to deny MERC recovery in future rates of their GUIC-eligible right-of-way work that may be incurred/achieved above and beyond the known 2020 project work. Instead, information

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[38] MERC Reply Comments at 4.

regarding project scope and description, the governmental entity requiring the gas utility project, purpose of the project and other information is required by the GUIC statute.

The Department reiterates that the Company did not provide the fundamental information relevant to the test year's project activity as required by the GUIC statute; therefore, the Department opposes the basis used by MERC to develop the requested 2020 GUIC Rider Rate because MERC's proposed right-of-way cost amount is not rooted to identifiable work expected to be completed and placed in service in 2020, and its estimated cost. In addition, MERC's cost-estimate basis, which is not linked to planned, sited project work to be placed in service in 2020, cannot be substantiated or used to assess project management performance.

The Department states that regulated-utility customer rates should reflect the benefit and costs from identifiable, used and useful investments, and should not be designed to supply capital funding for possible, yet-to-be determined, unknown, unidentifiable project work. Rather, the upfront financial funding burden for unknown, unidentifiable project work that may occur during the test period should remain with the Company, as such costs are normal costs of doing business, and MERC's customers pay the Company for such risks.

Once the Company can identify the actual projects and provide all of the information required by the GUIC statute, the rider true-up function can allow the utility to recover reasonable net costs of the GUIC eligible projects completed. This approach complies with the GUIC statute, safeguards customers' limited funds and ensures that rates are based on facts tied to identifiable, beneficial work and service being rendered to customers.

i. Cost Estimate Concerns

In its Comments, the Department noted that MERC's annual right-of-way project cost estimates appeared overstated because it included expenditure amounts attributed to projects completed in the prior year. MERC's Reply Comments explained that those expenditures were attributed to restoration and removal work on completed projects placed in-service in the prior year.

The Department concludes that MERC's explanation resolves one part of its initial question but raises new concerns and supports the Department's contention that MERC's historical amounts are overstated. The Department argues that MERC's inclusion of replaced-facilities' removal work expenditures not only overstates what new project work costs, but also goes against regulatory accounting principles. For ratemaking and per Federal Energy Regulatory Commission (FERC) uniform system of accounts, cost of removal should not be attached to, nor capitalized as part of the replacement project's cost. Instead, such costs should be charged to the accumulated depreciation account.[39] MERC's regulatory depreciation rates and expense

[39] FERC Uniform System of Accounts Gas Plant Instructions #10 – Additions and retirements of gas plant, reads:

(2) When a retirement unit is retired from gas plant, with or without replacement, the book cost thereof shall be credited to the gas plant account in which it is included, determined in the manner set forth in paragraph D, below. If the retirement unit is of a depreciable class, the book cost of the unit retired and credited to gas plant shall be charged to the accumulated provision for depreciation

amount already have imbedded into them the cost recovery for future removal work of existing infrastructure. Capitalizing cost of removal thus overstates the costs of the replacement project, does not adhere to regulatory accounting practices, and will cause future depreciation expense amounts to be overstated. Even if MERC is properly recording cost of removal in Account 108, including historical cost of removal spending in the estimates of forecasted test year project capital additions leads to overstatement of plant additions.

Consequently, the Department argues that MERC's Reply Comments indicates a practice that incorrectly includes expenditures that should not be part of project costs for new infrastructure installations. The Department continues by arguing that the practice indicated by MERC is another reason why MERC's GUIC project work and costs includable in the GUIC rider should not be based on historical expenditures, but must be based on known, planned work for the applicable rider test period. Using known, planned work as basis for recovering GUIC project work not only allows for more effective regulatory oversight, but also provides a leverage opportunity for regulators to hold the utility accountable for project cost management.

ii. Monitoring Potential Future Right-of-Way Projects

The Department notes that MERC reasoned that its right-of-way approach is justified in part because the majority of governmental authorities requesting right-of-way work from MERC employ short-term planning. However, the GUIC statute requires utilities that choose to use this ratemaking mechanism both to describe "the utility's efforts to ensure the costs of the facilities are reasonable and prudently incurred" and to identify "the magnitude and timing or any known future gas utility projects that the utility may seek to recover under this section." That language implies that the GUIC rider anticipates more proactive utility engagement with governmental entities to gain advanced notice of work requirements to seek efficiencies and possibly reduce cost. Therefore, the Department recommends MERC improve its outreach efforts, monitoring capital improvement/public works planning meetings, and communication exchange with the jurisdictions in which its gas facilities are located, to strengthen stakeholder and community awareness/relations and increase proactive collaborative opportunities to seek more advance notice of potential right-of-way work it may need to undertake.

e. Additional MERC Reply Comments

MERC continues to support its argument that its right-of-way costs are reasonable and supported. Specifically, on page 6 of its Additional Reply Comments, MERC states:

> The Commission already considered and expressly rejected the same position advocated by the Department in MERC's 2019 GUIC rider in Docket No. G011/M-19-182, concluding that MERC's forecast developed based on historic ROW costs was "supported by sufficient detail to meet the information requirements of the GUIC statute."[40] The Commission explicitly recognized that "MERC is not informed

applicable to such property. The cost of removal and the salvage shall be charged or credited, as appropriate, to such depreciation account.

[40] In the Matter of Minn. Energy Res. Corp.'s Request for Approval of a Gas Util. Infrastructure Cost Rider, Docket No. G011/M-18-281, ORDER APPROVING GAS UTILITY INFRASTRUCTURE COST RIDER

of future right-of-way relocation work with enough lead time to include specific projects in its forecasts. Therefore, MERC's petition relies on historic spending to support its requested amount."[41] The Commission further recognized that the Company provided evidence supporting the fact that its annual ROW costs have been trending higher in recent years.[42]

The Department has provided no new argument or support for the need to reevaluate the Commission's prior decision, instead making the same arguments that were previously considered and rejected. In contrast, the Company provided even greater support for the reasonableness of its forecasted 2020 ROW costs in this docket, including detailed historic data and trend analyses supporting its 2020 ROW cost forecast. Rather than responding to that substantial supporting analysis, however, the Department continues to advocate an interpretation of the GUIC statute's requirements that was already fully considered and rejected by the Commission, adding unnecessary time and expense to this proceeding.[43]

i. Response to Cost Estimate Concerns

In response to the Department's argument that MERC's inclusion of replaced-facilities' removal work expenditure is contrary to regulatory accounting principles that "costs of removal should not be attached to, nor capitalized as part of the replacement project's cost. Instead, such costs should be charged to the accumulated depreciation account."[44] MERC states that it does account for removal costs in accordance with FERC accounting requirements (i.e., by crediting such removal costs to accumulated depreciation). However, this accounting does not impact the revenue requirement calculation with respect to 2020 right-of-way projects because the net book value upon which MERC has calculated a return is unchanged regardless of whether removal costs are included with construction costs as part of the capital project or charged to accumulated depreciation. MERC included the following example as a footnote.[45]

The following example illustrates that there is no impact to the revenue requirement amount as a result of accounting for removal costs with construction project costs or crediting such costs to accumulated depreciation. Including

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WITH MODIFICATIONS AND REQUIRING COMPLIANCE FILING at 6 (Feb. 4, 2019).

[41] *Id.*

[42] *Id* at 7.

[43] The Department's assertion that its proposal to only allow recovery of actual projects "complies with the GUIC statute," is false. As recognized by the Commission in Docket No. G011/M-18-281, in rejecting the same arguments, the GUIC statute anticipates the use of estimated costs, providing that a GUIC rider petition "must be for a forecast period of one year." In the Matter of Minn. Energy Res. Corp.'s Request for Approval of a Gas Util. Infrastructure Cost Rider, Docket No. G011/M-18-281, ORDER APPROVING GAS UTILITY INFRASTRUCTURE COST RIDER WITH MODIFICATIONS AND REQUIRING COMPLIANCE FILING at 6 (Feb. 4, 2019) (citing Minn. Stat. § 216B.1635, subd. 2)

[44] Department Response Comments at 9.

[45] MERC Additional Reply Comments at 10, footnote 25.

removal costs as part of the overall construction costs, MERC would earn a return on the total cost until it is rolled into base rates in a general rates case:

Construction Cost	$80
Removal	$10
Total Cost	$90
Without a GUIC rider, MERC would earn a return on the net book value if a rate case were filed:	
Asset	$80
Acc Depr	$10
Net Book Value	$90

Additionally, MERC notes that restoration costs for construction projects are properly accounted for as a project cost. MERC notes that it also occasionally has carry-over work, such as additional service replacements after main is put into service. As discussed in MERC's Reply Comments, there are a number of reasons MERC may incur construction costs after a project has been placed into service and is used and useful in providing natural gas service, including restoration that is required as part of an right-of-way relocation project. With respect to the carryover work identified by the Department totaling approximately $137,000, as referenced in MERC's Exhibit D-1 to the Company's Initial Petition, many of these costs are related to cases where MERC completed the relocation of main during one calendar year and had to complete additional service line relocation work in the subsequent year.

Finally, MERC argues that its right-of-way relocation costs have continued to increase year-over-year in recent years, from approximately $4.57 million in 2015 to approximately $6.59 million in 2018. MERC notes its forecasted 2020 right-of-way costs are not overstated but reasonably reflect the Company's anticipated costs for 2020 right-of-way projects given recent experience with respect to increasing right-of-way relocation work.

ii. Monitoring Potential Future Right-of-Way Projects

In response to the Department's recommendation that MERC "should improve its outreach efforts, monitoring capital improvement/public works planning meetings, and communication exchange with the jurisdictions in which its gas facilities are located, to strengthen stakeholder and community awareness/relations and increase proactive collaborative opportunities to seek more advance notice of potential ROW work it may need to undertake."[46] MERC notes that it explained in detail in its Petition and Reply Comments along with discovery requests that it does conduct "significant outreach efforts to ensure it has the most timely, accurate, and up-to-date information possible regarding planned ROW relocation work."[47]

Specifically, MERC states:

[46] Department Response Comments at 10.

[47] MERC Additional Reply Comments at 8.

> The Department's recommendation to require MERC to "improve its outreach efforts" with governmental entities is unsupported by the record in this proceeding and the Commission should decline to adopt such a requirement. The Company already has every interest in obtaining accurate, complete, and timely information regarding ROW projects and makes every possible effort to do so.
>
> A more effective means of achieving the goal of "seek[ing] efficiencies and possibly reduce[ing] costs" would be to allow MERC to implement its multi-year DIMP projects to provide benefits to customers beyond increased safety and reliability through a proactive approach to distribution integrity management. The multi-year proactive approach advocated for by the Company benefits customers because work undertaken systematically and strategically reduces costs compared to work undertaken in a reactionary or immediate threat mode, and allows MERC to engage in regional planning to minimize inconvenience to impacted communities. As the Commission has recognized,
>
> The clear thrust of the GUIC statute is to establish a mechanism by which utilities may recover out-of-test-year infrastructure investments mandated by federal or state agencies. The costs of these investments can vary widely from year to year and are difficult to forecast with accuracy. Approving a rider… [provides] the ability to implement multi-year pipeline-replacement programs, adjusting the rates annually to correct for over- or under-recovery.[48]
>
> Despite the clear policy objective reflected in the plain language of the GUIC statute and recognized by the Commission in its prior decisions, the Department continues to urge an interpretation of the GUIC statute that would foreclose MERC from engaging in such long-term replacement programs, forcing the Company to reargue the same interpretation of the GUIC statute each year.[49]

f. Staff Discussion

As enumerated below, there are various issues and sub-issues for this topic.

The first issue is whether the use of historical costs in determining a project budget forecast for a future project year is reasonable. The Department expresses concern that MERC identified only 9 right-of-way projects but proposed a budget consisting of 87 right-of-way projects, for a total of approximately $6.5 million. Staff notes that the Commission addressed this issue in MERC's 2019 GUIC filing. In that filing, the Commission determined:

> Both the Department and the OAG expressed concern that MERC did not provide sufficient detail about its right-of-way relocation costs. This concern is misplaced. The GUIC statute anticipates the use of estimated costs. As MERC has explained,

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[48] *In the Matter of the Petition of N. States Power Co. d/b/a Xcel Energy, for Approval of a Gas Util. Infrastructure Cost Rider*, Docket No. G-002/M-14-336, ORDER APPROVING RIDER WITH MODIFICATIONS at 7 (Jan. 27, 2015).

[49] MERC Additional Reply Comments at 9.

> it generally is not informed of future right-of-way relocation work with enough lead time to include specific projects in its forecasts. Therefore, MERC's petition relies on historic spending to support its requested amount. This amount will be trued up annually to actual costs, eliminating any possibility that forecasting will result in over-recovery.[50]

The second issue is whether MERC follows the appropriate FERC accounting standards in the inclusion of replaced-facilities removal expenditures. The Department raised concerns in Response Comments that MERC may not be following FERC accounting standards. Staff notes that the Department did not respond to MERC's Additional Reply Comments therefore, the Commission may wish to ask the Department about this at the May 7th agenda meeting.

The third issue brings into question MERC's outreach efforts. The Department questions that the short notice given by municipalities for right-of-way projects may be caused by MERC failing to engage in an adequate amount of outreach to gauge the level of projects. Therefore, the Department concludes that the Company needs to improve its "outreach efforts, monitoring capital improvement/public works planning meetings, and communication exchange with the jurisdictions in which its gas facilities are located, to strengthen stakeholder and community awareness/relations and increase proactive collaborative opportunities to seek more advance notice of potential right-of-way work it may need to undertake."

MERC responded that it explained in detail in its Petition and Reply Comments along with discovery requests that it does conduct "significant outreach efforts to ensure it has the most timely, accurate, and up-to-date information possible regarding planned ROW relocation work."

Specifically, MERC states:

> The Company already has every interest in obtaining accurate, complete, and timely information regarding ROW projects and makes every possible effort to do so.
>
> A more effective means of achieving the goal of "seek[ing] efficiencies and possibly reduce[ing] costs" would be to allow MERC to implement its multi-year DIMP projects to provide benefits to customers beyond increased safety and reliability through a proactive approach to distribution integrity management. The multi-year proactive approach advocated for by the Company benefits customers because work undertaken systematically and strategically reduces costs compared to work undertaken in a reactionary or immediate threat mode, and allows MERC to engage in regional planning to minimize inconvenience to impacted communities.

The Commission may wish to explore this issue further at the May 7th agenda meeting.

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[50] *In the Matter of Minnesota Energy Resources Corporation's Request for Approval of a Gas Utility Infrastructure Cost Rider*, Docket No. G-011/M-18-281, ORDER APPROVING GAS UTLITY INFRASTRUCTURE COST RIDER WITH MODIFICATIONS AND REQUIRING COMPLIANCE FILING, February 5, 2019 at 6.

g. Decision Alternatives

- Determine that the estimated right-of-way project costs that may be included in the GUIC Rider are to be based on the known and identifiable right-of-way work planned to be in service in 2020. [Department]

- Direct MERC to take steps to improve its outreach efforts, capital improvement/public works planning meeting monitoring, and communication exchange with the jurisdictions in which its gas facilities are located, to strengthen stakeholder/community awareness/relations and increase proactive collaborative opportunities in effort to obtain more advance notice of potential right-of-way work it may need to undertake. [Department]

- Require MERC to develop an outreach plan as recommended by the Department and to submit the outreach plan in a compliance filing within 30 days of the Commission issuing its order. Request comments on MERC's outreach plan from interested parties and stakeholders within 30 days of the receipt of MERC's plan. [Staff]

- Determine that MERC's proposal to use a historical test year is acceptable under Minn. Stat. § 216B.1635 and allow recovery of MERC's right-of-way relocation costs. [MERC]

3. Obsolete Materials Replacement Project

a. Background

MERC is obligated to adhere to federal and state regulations that require natural gas utilities to implement integrity management programs to assess and improve the safety, reliability, and integrity of their natural gas infrastructure. Pursuant to the Federal Pipeline Inspection, Protection, Enforcement and Safety Act and Pipeline and Hazardous Materials Safety Administration (PHMSA) rules, all system operators must know the make-up of their distribution system and adopt written distribution integrity management plans for distribution pipelines.

MERC has conducted two major projects under its DIMP program. From 2004 to 2008, the Company removed (and replaced) all known polyvinyl chloride (PVC) piping from its system, a total of 26 miles of PVC pipe, due to its age and known risks of cracking. From 2008 to 2017, MERC replaced all known bare steel piping on its system, a total of 37 miles of steel, due to its age (being installed in the 1930s) and susceptibility to corrosion.

For 2020, MERC projects approximately $10 million in capital and O&M spending for DIMP-related work meeting the definition of gas utility project under the GUIC statute. For 2020, the work includes:

(1) replacement of existing obsolete natural gas facilities;

(2) survey and assessment of meter sets to identify the need for replacement or modification of existing infrastructure; and
(3) the survey and assessment of sewer laterals and mains to identify the need for repair or replacement of damaged natural gas pipelines as a result of sewer cross bores.

This project is designed to remove and replace materials that pose known risks to the Company's distribution system. In particular, MERC identified known risks related to Aldyl-A pipe, copper, and X-Trube pipe. Additionally, MERC will remove and replace other materials known to pose a significant risk as they are discovered (e.g., bare steel).[51] MERC has forecasted $7 million of capital costs in 2020 for this project.

b. Department Comments

The Department recommends a $2 million adjustment to MERC's proposed 2020 project budget. The Department notes that MERC did not provide historical spend data support specific to its Obsolete Material Project, as the project did not begin until 2019. Therefore, in an attempt to determine the reasonableness of the proposed budget the Department used the historical cost data for the main and service replacements categorized under the right-of-way project work. Specifically, the Department stated "given that actual per unit cost MERC experienced since 2015 has ranged from $31.67 to $43.20, with ups and downs during those four years, no predictable cost pattern is supported. Thus, the Department concludes that MERC's $50 per foot cost basis for 2020 is not supported and appears too high."[52]

The Department determined that an adjustment to MERC's 2020 project cost estimate is warranted and a more appropriate estimate of the per-foot cost would be an average of the costs over the four years, which results in $37.48 per foot. Thus, the total estimated replacement cost for the 79,525 feet of 2020 main pipeline work planned should be approximately $2.98 million ($37.48 X 79,545 feet). Thus, the Department recommends that the Commission require MERC to reduce its capital cost estimate for main replacement by $1 million.

Regarding the replacement cost of services, the Department notes that MERC estimated a total cost of $3.02 million to replace 1,139 services which calculates to an average replacement cost of $2,654 per service replaced. The Department notes that the actual replacement cost per service experienced in each of the past four years has remained steady at a cost of approximately $1,800 per service. Thus, the Department concludes that MERC's cost estimate for replacement of services is overstated and likewise should be adjusted. The Department argues that using overstated rate base estimates will lead to setting this rider rate too high and it is not reasonable for a captive customer base to be forced to "give MERC a loan for which ratepayers not only do not earn interest on but also pay a rate of return upon." For the service replacement capital cost estimate, the Department recommends an approximate $1 million

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[51] MERC states it has replaced all known bare steel on its system, occasionally additional bare steel is discovered while working on its lines. Once discovered, the Company schedules the bare steel for immediate replacement. Beginning in 2019, replacement of bare steel began to be tracked as part of the Obsolete Materials Program.

[52] Department Comments at 15.

reduction to MERC's cost estimate ($3.02 million – ($1,800 per service * 1,139 services) = $0.97 million).

The Department's two recommended Obsolete Material Replacement capital cost adjustments together total an approximate $2 million ($1 million + $0.97 million = $1.97 million) reduction to MERC's estimated plant investment to be placed in service in 2020. The Department recommends that the Commission require MERC to make these adjustments to determine the initial test-year rider rate to avoid establishing excessive rates.

c. MERC Reply Comments

MERC argues that the Department's reliance upon historical costs of right-of-way projects does not accurately reflect the actual cost of the Company's planned costs for Aldyl-A replacement in 2020. Specifically, MERC explains "the cost per foot ($50) used to estimate the Aldyl-A main replacement is based on historical spend for Aldyl-A replacement projects. The estimate includes materials, labor, and equipment costs associated with the main installation as well as a contingency for the potential to encounter unlocatable existing main, rock, or other unanticipated conditions."[53]

More specifically, MERC notes that an average cost per foot for right-of-way projects does not reflect the circumstances or anticipated costs for Aldyl-A replacement projects. For example, some factors that could impact a cost differential between right-of-way projects and MERC's obsolete replacement projects include the following:

- Older vintage Aldyl-A has sometimes been found to be non-locatable. In such circumstances, additional costs will be experienced in order to vacuum excavate to locate mains.

- Obsolete materials replacements require MERC to complete all associated restoration activities following construction. In contrast, right-of-way relocation projects often have more limited restoration costs because restoration is undertaken by the governmental unit completing the road project.

- The older vintage Aldyl-A to be replaced generally is in more established neighborhoods with larger and more established trees, requiring additional boring to install replacement pipe.

- Surveys are often required for obsolete materials replacement projects to identify any existing right-of-way's and determine the need for any additional easements. If easements are needed, there are also costs to acquire such easements. In contrast, right-of-way relocation projects are located within a public right-of-way with the relevant governmental authority determining the relocation.

[53] See MERC's response to Department Information Request No. 20 which can be found in the Department's Comments Attachment 7.

- Obsolete materials replacement projects generally will require city or county permitting while right-of-way replacement projects generally do not since they are driven by the governmental entity.

- For right-of-way road projects, the right-of-way and roadway are generally stripped, so that MERC's installation method is more often trenching rather than (more expensive) directional boring.

- Some communities require dual main to be installed for new and replacement installations in order to minimize service crossings, resulting in more installed footage for the replacement of pipe. While some communities have required dual main for ROW replacement projects, these requirements are more common for utility-initiated replacement projects.

- Larger replacement projects require MERC to prepare stormwater pollution prevention plans whereas the road contractor is often responsible for such plans for ROW road relocation projects.

MERC argues that these factors support the Company's proposed obsolete materials replacement costs.

Further, with respect to service line replacements, MERC notes its cost estimates included in the Company's Petition are based on actual experience with obsolete material replacement projects. Which MERC argues is superior to the Department's recommendation that a four-year average of unrelated right-of-way project costs be used to set the level of cost recovery. MERC's average cost per service line replaced for recent DIMP projects is as follows:

Table 5: Average Cost per Service Line Replaced – Obsolete Materials Projects

Material Replaced	Cost Per Service Line
X-Trube	$2,810
Aldyl-A	$2,610
Other DIMP Projects	$2,920

MERC notes that while the actual cost per service line replaced will depend on the length of the service line, the scope of each project, any abnormal construction conditions that are encountered, and other project-specific factors, MERC's forecast is reasonable and supported.

In conclusion, MERC argues that the Department's proposal to reduce the Company's 2020 GUIC costs related to obsolete materials replacements by $2 million based on an average of historic right-of-way project costs is erroneous. And, does not reasonably reflect MERC's forecasted 2020 GUIC-eligible DIMP replacement costs and would undermine the goal of the GUIC statute in allowing gas utilities to implement systematic plans for the removal and replacement of known risks under multi-year programs, and should therefore be rejected.

d. Department Response Comments

The Department maintains its recommendation to adjust MERC's Obsolete Materials Project costs to a total of $5 million for the development of the Company's 2020 GUIC rider rate. The Department argues that the GUIC rider is supposed to be based on expected actual projects for the relevant year; referencing the total amount for all projects included in a prior GUIC filing misses the point of setting rates to recover costs for 2020 projects, along with the requirement in statute to compare "the utility's estimated costs included in the gas infrastructure project plan and the actual costs incurred."

The Department notes with a rider true-up mechanism, MERC will be able to recover prudent costs of GUIC-eligible work that was placed in service if project progress rate exceeds initial forecast.

The Department includes a new recommendation with its Response Comments that the Commission require MERC to include in its next GUIC filing more in-depth details of its Aldyl-A pipe replacement plan. Specifically, the Company should be required to provide a discussion identifying the pipe manufacturer(s) of the vintage ranges of the Aldyl-A pipeline MERC plans to replace as part of this DIMP project, along with the miles of pipe per vintage year. The Department notes that in other utilities' recent filings, per the testimony of CenterPoint Energy's engineer and the risk scoring employed by Xcel Gas, Aldyl-A installed prior to 1975 had the inferior composition and manufacturing techniques, thus, this pipe is the focus of their respective pipeline replacement efforts.[54] However, MERC's plan, per Table 3 and Table 4 of this Petition, includes replacement of pipe vintages through 1983. Therefore, MERC should support that its plan has focused its resources on the most at-risk facilities within its system.

e. MERC Additional Reply Comments

MERC reiterates that its proposed 2020 budget and its forecasted 2020 costs reflect a reasonable projection of costs to be incurred in 2020 for the replacement of Aldyl-A based on the Company's historic costs, experience with obsolete materials replacements, and unique factors affecting Aldyl-A replacements. In addition, MERC notes that the GUIC rider is subject to an annual true-up, with the cost of each replacement having the potential to vary based on specific project circumstances (i.e., abnormal conditions such as rock, non-locatable pipe, and the length of affected services).

f. Decision Alternatives

- Approve a capital cost budget for the Obsolete Materials Replacement Project of $7 million for MERC's 2020 GUIC rider. [MERC]

- Set the estimated cost for the Obsolete Materials Project costs at $5 million, a $2 million reduction to MERC's proposed total estimate of $7 million. [Department]

[54] Docket No. G008/GR-19-564 (CenterPoint Energy Direct Testimony of W. Kuchar III, pp. 57-58) and Docket No. G002/M- 19-664 (Xcel Gas, Attachment D2(a), page 4).

4. Meter Set Survey

a. Background

Beginning in 2019, MERC budgeted $2 million in incremental O&M to begin a multi-year initiative to survey all meter sets to assess any risk of failure of valves and other meter set components and to identify the need for replacement of faulty valves. MERC proposes to continue and complete this multi-year effort in 2020.

As explained in the Company's 2019 GUIC Rider filing, certain types of valves, e.g., the Rockford Eclipse and Mueller Luboseal valves, are known to fail. MERC has had one incident with the failure of a Rockford valve at a commercial facility in Grand Rapids, Minnesota. A gas leak was detected at the facility and the valve disintegrated during the turnoff process, causing gas to blow until MERC's crew could isolate the failure. To detect these known risks, MERC must survey the equipment at all of its meter sets and replace the facilities found to be suspect.

b. Department Comments

The Department recommends a reduction of $0.75 million in incremental O&M[55] for this project to remove an overstatement of this project's estimated expenses based upon a review of MERC's 2019 request for proposal (RFP) and actual contracted 2019 Trade Secret expenses.

The Department notes that MERC estimated its cost for third-party contractor at $15 per meter for 2019, and $20 per meter for 2020. The actual cost per meter for 2019 was substantially less and the Department is concerned that MERC appears to have overstated its 2019 project cost estimate, and may have likewise overstated its 2020 estimate for this project, leading to a rate being set too high.

c. MERC Reply Comments

MERC supports its estimated expenses for 2020 and notes that the Company's 2020 cost estimates are based on completion of approximately 104,000 meter sets remaining to be surveyed as well as the additional travel time that will be required to survey the Company's more dispersed service areas.

Prior to issuing the request for proposals for 2019 surveys to be completed in Rochester and Rosemount, MERC requested cost estimates from its construction contractor to complete the work in 2019. That contractor, who has significant familiarity with MERC's system, provided a cost estimate to complete the surveys in the Rosemount and Rochester areas. Given the locations of the work to be undertaken in 2020, it is possible bids on the work for 2020 will be higher than MERC's forecast.

d. Department Response Comments

The Department continues to support its recommendation of setting the O&M budget for this project at $1.25 million for 2020. The Department concludes that MERC has overstated its

[55] See Department Comment Corrections at 1.

costs for the project based upon the actual per unit cost for 2019. Specifically, the Department stated:

> This information demonstrates that the Company's publically stated $15 per unit price basis for 2019 was unreasonable, not supported by the Company-supplied contract, and was materially overstated. Therefore, the Department concludes that, because the Company demonstrated that it overstated its per unit cost for 2019, that the Company's stated per unit cost for 2020 is suspect and likely equally flawed.
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> Further, MERC proposed an even higher per unit cost of $20 for its 2020 proposed GUIC estimated project cost inclusion. Given the results of the Department's review, that MERC's contracts did not support their 2019 cost estimate of $15 per unit, the reasonableness of MERC's proposed additional 33 percent increase over that already excessive 2019 per unit cost, to use for its 2020 rates, is brought into question. Therefore, the Department recommended an adjustment to remove the demonstrated, unsupported excessive price estimation practice.[56]

The Department notes that in the "unlikely event that MERC's actual costs in 2020 exceed the $1.25 million estimate that the Department recommends for the 2020 GUIC rider rate, the Company would have the extraordinary opportunity to recover the additional, prudently incurred, GUIC-eligible costs through the rider true-up mechanism."[57]

e. MERC Additional Reply Comments

MERC reiterates that it serves 179 communities across the State of Minnesota with a service area that stretches from the northernmost border of the state to the Iowa border. The Company admits that the costs for the 2019 surveys were lower than initially forecasted however, for 2019, MERC undertook surveys of its meter sets in Rochester and Rosemount, the most densely populated areas that MERC serves. "For the scope of work remaining in 2020, selected contractors will need to spend significantly more time traveling and may require a per diem due to the geographic location of the surveys to be performed."[58]

In light of the remaining work to be completed on the meter set surveys and the unique nature of MERC's service area, the Company continues to request approval of its forecasted costs for 2020.

f. Decision Alternatives

- Approve MERC's requested 2020 budget of $2 million in O&M expenses. [MERC]

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[56] Department TRADE SECRET Response Comments at 14.

[57] *Id*.

[58] MERC Additional Reply Comments at 13.

- Set the estimated cost for the Meter Stop Valve Survey project at $1.25 million, a $0.75 million reduction to MERC's proposed total estimate of $2 million. [Department]

5. Excess Flow Valve

a. Background

Excess flow valves (EFVs), which are safety devices installed on natural gas distribution pipelines, have been a topic of recent federal legislation and regulations. EFVs can reduce the risk of explosions in distribution pipelines by automatically stopping excessive, unplanned gas flows. EFVs are installed where a service line that serves an individual home or business joins the distribution pipeline.

On July 31, 2019, approximately three months after MERC filed the instant Petition, the Commission issued an Order authorizing recovery of EFV compliance costs through GUIC rider filings.[59] As a result of the Commission's Order MERC proposed in its Reply Comments to update its 2020 GUIC rider petition to include forecasted costs related to EFV customer communications to be incurred in 2020. For 2019 costs, MERC proposes to incorporate its actual costs related to customer communications in its 2019 GUIC rider true-up reconciliation to be filed in 2020. MERC notes the following cost estimates for its EFV customer outreach.

Table 6: Cost Estimate for EFV Customer Outreach

Face-to-Face meetings, including drive time (3,696 customers)	$443,520
Engineering analysis to confirm eligibility for EFV (3,696 customers)	$63,450
Total	**$506,970**

Based on the estimates shown in table X, above, MERC proposes to include 20 percent, or $101,384, in O&M expenses related to EFV visits in the 2020 GUIC rider revenue requirement. Finally, to the extent that any outreach efforts result in installations in 2020, MERC proposes that the costs of those installations and any associated maintenance be deferred for recovery through MERC's 2020 true-up reconciliation to be filed in 2021.[60]

b. Department Response Comments

The Department notes in the 18-41 Docket, that MERC stated it would use third-party contractors to complete the in-person meetings; however, MERC did not discuss who would carry out the engineering analysis to confirm customer-eligibility for EFVs. If MERC uses

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[59] *In the Matter of a Commission Investigation into Natural Gas Utilities' Practices, Tariffs, and Assignment of Cost Responsibility for Installation of Excess Flow Valves and Other Similar Safety Equipment*, Docket No. G-999/CI-18-41, Order Accepting Compliance Filings, Requiring MERC to Submit Additional Information, Requiring Annual Compliance Reporting, And Taking Other Action at 7 (Jul. 31, 2019).

[60] Similarly, to the extent any of MERC's outreach efforts in 2019 result in installations in 2019, MERC proposes to account for those capital costs in its 2019 true-up reconciliation to be filed in 2020.

internal staff to conduct the engineering analysis then the $63,450 shown in Table 6, above should be excluded because it would not qualify as an incremental cost.[61]

Thus, the Department recommends the removal of $12,690 (20 percent of $63,450) from MERC's updated 2020 GUIC revenue requirement.

c. MERC's Additional Reply Comments

MERC clarified that the Company intends to use a third-party contractor to complete engineering analysis in the event there is significant interest in having EFVs installed.[62] MERC notes that in the event engineering analysis is performed by internal resources, actual costs will be accounted for through the GUIC rider true-up.

MERC argues "given MERC's intention to utilize third-party contractors to assist with engineering analysis in the event of significant customer interest, the proposed $12,690 expense for 2020 is incremental and should reasonably be included in the Company's 2020 GUIC rider revenue requirement."[63]

d. Department Additional Response Comments

The Department agrees that third-party engineering costs are eligible for recovery in the GUIC. The Department notes, given the uncertainties indicated in MERC's comments, it does not appear likely that all or perhaps any of these costs will be incurred. While the Department does not object to the inclusion of third party engineering analysis costs, to take into account the level of uncertainty as to these costs, the Department believes a more reasonable estimate may be $31,725, or half of the original amount. Therefore, the Department recommends that only $31,175 be included in the GUIC recovery rider for EFV engineering costs. This adjustment, spread over the five-year project timeframe, reduces MERC's requested third-party costs from $101,394[64] to $95,049.

e. Staff Discussion

Considering that the Department only recently filed comments on this issue, the Commission may want to inquire as to the position of the parties at the May 7th agenda meeting.

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[61] In MERC's March 28, 2019 Reply Comments in Docket G999/CI-18-41, on page 4 the Company acknowledged that use of internal staff resources would result in no incremental costs. "[…] MERC anticipates that it can use internal staff in order to gather the data and there would be no incremental costs associated will this data gathering." On page 8 of MERC's December 18, 2018 comments, it stated "Review of the specific service line and engineering analysis must be undertaken to determine whether an EFV is a viable option based on load diversity, total connected load on the service line, system pressures, service line length, commercial availability, and other factors."

[62] MERC's Additional Reply Comments at 14.

[63] MERC's Additional Reply Comments at 15.

[64] MERC's Reply Comments, p. 16, stated "$101,384", which the Department believes should have read "$101,394", the result of 20% of $506,970.

f. Decision Alternatives

- Approve MERC's proposed $101,384 in O&M expenses related to EFV visits in the 2020 GUIC rider revenue requirement. [MERC]

- Approve MERC's request to include recovery of Excess Flow Valve Assessment project costs incurred for third party contractor services in its GUIC Rider, but at a reduced level, specifically $95,049, which is one- fifth of its total estimated cost of $506,970 for this 5-year project reduced by $31,175 for one- half of the engineering costs in light of current uncertainties. [Department]

6. Proposed Revisions to Sales Forecast

a. Background

MERC uses a sales forecast to project natural gas consumption for each customer class for the GUIC. The projected sales determine the proposed 2020 GUIC rate for each customer class, given each class' 2020 revenue requirement. The sales forecast needs to be reasonable since a sales forecast that is too low will cause rates to be too high, and the Company will over-recover its revenue requirement. Conversely, if the sales forecast is too high, rates will be set too low, and MERC will under-recover its revenue requirement.

In the instant Petition, MERC forecasted sales of approximately 879 million therms.[65]

b. Department Comments

The Department noted that MERC included 122,055,654 therms of Michigan jurisdictional sales in its sales forecast. The Department points out that the Commission-approved sales forecast from the Company's most recent rate case totaled 753,081,025 therms and requested that the Company provide additional background in its reply comments.[66]

c. MERC Reply Comments

MERC notes that the Michigan sales are attributable to a direct connect customer and responds that, based on the Company's proposal to exclude the Direct Connect customers from the 2020 GUIC rider surcharge and consistent with the Commission's decision in Docket No. G-011/M-18-182 to exclude MERC's Michigan customer from the NGEP rider surcharge,[67] the Michigan sales should properly be excluded from the 2020 GUIC rider.

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[65] MERC Petition at 30 and Exhibit D pg. 1 of 11.

[66] Department Comments at 25.

[67] *In the Matter of the Petition of Minnesota Energy Resources Corporation for Approval of a Natural Gas Extension Project (NGEP) Cost Rider Surcharge for the Recovery of 2019 Rochester Project Costs*, Docket No. G011/M-18-182, ORDER APPROVING NGEP RIDER SURCHARGE WITH MODIFICATIONS at 7 (June 18, 2019).

MERC states that the resulting total Minnesota jurisdictional sales for purposes of determining the 2020 GUIC rider surcharge rates is 756,182,666 therms.[68] Adjusting for the continued suspension of the GUIC Rider Surcharge for all of MERC's Direct Connect customers as discussed above results in total GUIC-eligible sales for 2020 of 501,454,641 therms.[69]

d. Department Response Comments

The Department does not oppose MERC's removal of Michigan sales volume. However, the Department did note that there appears to be an inconsistency in actual volume of Michigan sales. The Department notes that on September 17, 2019, the Company's Reply Comments stated that for its GUIC Rider, "MERC's total 2020 sales forecast was 756,182,666 therms, excluding Michigan sales."[70] However, Exhibit B to its NGEP Rider Petition, filed on September 30, 2019, showed MERC's 2020 sales forecast totaling 771,153,868, excluding Michigan sales.[71]

The Department requests MERC to (1) identify and explain the reasons for the differences between its 2020 sales forecast provided by the Company in these two riders; (2) resolve differences, and (3) provide any updated 2020 sales forecast for the GUIC Rider broken down by customer class (residential, firm sales, interruptible, etc.) in a similar manner shown in Exhibit B of Docket G-011/M-19-608.

e. MERC Additional Reply Comments

In response to the Department's request, MERC states "there are two differences between MERC's sales forecast provided in support of the Company's proposed surcharge rates submitted with its September Reply Comments in this docket (501,454,641 therms after excluding direct connect customer sales) and the sales forecast submitted in MERC's Initial Petition in Docket No. G-011/M-19-608 (771,153,868 therms) to calculate the proposed 2020 NGEP rider surcharge rates." Specifically, MERC states:

> First, as discussed in the Company's September Reply Comments and agreed to in the Department's Response Comments, MERC has proposed to exclude Direct Connect customers and Michigan sales from the 2020 GUIC Rider. In contrast, MERC excluded Michigan sales in Docket No. G-011/M-19-608 but proposed a per-therm rate applicable to Direct Connect customers.
>
> Second, with respect to the total Minnesota jurisdictional sales forecast applied, in Docket No. G-011/M-19-608, MERC used its 2020 sales forecast from the Company's pre-filed sales forecast data in Docket No. G-011/GR-17-563, resulting in 2020 Minnesota jurisdictional sales of 771,153,686. This approach is consistent with the Department's recommendations and the Commission's Order Approving

[68] MERC states that the proposed 2020 sales forecast is based upon the approved 2018 test year Minnesota jurisdictional sales forecast of 753,081,025 therms adjusted for growth consistent with the methodology used in the 2019 GUIC Rider.

[69] MERC Reply Comments at 18.

[70] MERC Reply Comments at 18.

[71] Docket No. G-011/M-19-608, Exhibit B.

NGEP Rider Surcharge with Modifications in Docket No. G-011/M-18-182. In that proceeding, MERC initially proposed to calculate the surcharge based on the Company's test-year 2018 sales forecast, adjusted for projected growth in the Rochester area. Ultimately, the Company agreed with the Department's recommendation to incorporate projected growth outside of the Rochester area and thus to utilize the sales forecast from the Company's pre-filed sales forecast data in Docket No. G-011/GR-17-563.

In comparison, the 2020 GUIC sales forecast is based on the approved 2018 test year Minnesota jurisdictional sales forecast of 753,081,025 therms from the Company's last rate case, adjusted based on the forecasted Rochester area growth rate, consistent with the methodology used in the 2019 GUIC Rider. This approach is consistent with the sales forecast applied in Docket No. G011/M-18-281.

MERC provided the following table showing the updated 2020 GUIC sales forecast compared to the sales forecast from the NGEP docket, in response to the Department's request.

Table 7: Comparison of 2020 Sales Forecasts by Customer Class

Customer Class	Forecasted Sales from September Reply Comments	2020 Forecasted Sales from NGEP Docket No. G-011/M-19-608
Residential	184,540,781	186,792,651
Firm Class 1	9,120,241	9,369,628
Firm Class 2	88,794,464	88,800,475
Firm Class 3	3,979,429	3,979,699
Interruptible Sales Class 1 and Power Generation Class 1	402,296	400,875
Interruptible Sales Class 2	15,911,333	15,855,124
Interruptible Sales Class 3	17,289,326	17,228,250
Interruptible Sales Class 4	3,520,892	3,508,454
Interruptible Transport Class 2	2,370,725	2,462,087
Interruptible Transport Class 3	57,002,766	58,662,264
Interruptible Transport Class 4	21,289,552	21,909,346
Interruptible Transport Class 5	37,606,775	38,679,262
Power Generation	40,391,392	41,567,290
Flex and Transport for Resale	19,234,671	19,794,642
Direct Connect	254,728,025	262,143,820
Total	**756,182,666**	**771,153,868**

f. Department Additional Response Comments

The Department appreciates MERC's willingness to use consistent sales forecasts across its cost recovery mechanisms. The Department notes that in the NGEP docket, MERC noted in its Reply Comments that sales were much higher than expected since "growth in Rochester area sales has occurred at a faster pace than MERC had previously forecasted"[72] but indicated that actual

[72] Docket No. G011/M-19-608, MERC Reply Comments at 4.

2019 sales were not available at that time. The Department subsequently asked for actual 2019 sales, which MERC provided, indicating that, in 2019, actual, non-weather-normalized sales were 890,000,000 therms, while weather-normalized sales were 870,000,000 therms. To account for the higher growth in Rochester sales and to use consistent sales forecasts across its cost recovery mechanisms, the Department recommends that the Commission require MERC to calculate the rider rate using 2019 actual, weather-normalized sales therms.[73]

g. Staff Discussion

Since the Department's Additional Response Comments makes a new recommendation relying on comments from another docket, the Commission may wish to inquire as to MERC's position at the May 7th agenda meeting.

h. Decision Alternatives

- Require MERC to use actual weather-normalized 2019 sales in setting the GUIC rider rate to account for increased growth in Rochester. [Department]

- Direct MERC to use the same 2020 sales forecast provided by the Company in its NGEP rider petition (Docket G011/M-19-608) when developing its 2020 GUIC Rider rates. [Department]

- Authorize MERC to use the sales forecast in MERC's Additional Reply Comments (771,153,868 therms) as the appropriate sales forecast to use in the instant Petition. (MERC)

7. Customer Communications

a. Background

The fundamental issue appears to be whether the Commission should require MERC to provide each customer with a separate bill insert explaining the approved surcharge rates for the instant petition or, approve the Company's request to provide a message on each customer's bill. If the Commission approves the Department's request for a bill insert then the question of potential cost recovery needs to be addressed.

b. Department Comments

The Department's Comments were issued prior to the Commission's August 26th Order suspending the GUIC rate surcharge for Direct Connect customers which ultimately led to MERC revising its GUIC rate surcharge. Thus, the Department's Comments focused primarily on MERC's proposal to provide customer notice in the form of a message on the individual customer's bill. Specifically, the Department states:

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[73] Docket No. G011/M-19-608, Department Response Comments at 5-6.

> If the rate design decided for the 2020 GUIC Rider is based upon the non-gas revenue apportionment approved in MERC's last rate case, thus is a changed rate design than initially implemented in the 18-281 GUIC, then the Department recommends that a bill insert customer notification be created to more fully explain the rider rate approved for the various classes of customers. However, should a uniform rate design be continued and approved, then the Department does not object to MERC's proposed bill message notification.[74]

c. MERC Reply Comments

MERC continues to advocate that a bill message is appropriate since: (1) customers have already been assessed a GUIC rider surcharge since May 2019, (2) MERC included a full bill insert that was developed in consultation with the Commission's consumer affairs office with the initial implementation of the GUIC rider in 2019, and (3) the only change customers will experience for 2020 is the per therm rate they will see on their bill. The Company argues that given the cost of bill inserts relative to a bill message, MERC believes its proposal is reasonable. However, should the Commission order the use of bill inserts, MERC proposes to recover the actual incremental costs thereof in the 2020 GUIC true-up.

d. Department Response Comments

The Department notes that MERC's current GUIC Rider charges a uniform rate of $0.00413 per therm to each class of customers. Considering that the rider's rate design, not just its factor, is to change to a revenue-apportionment based rate design, the resulting rate factors may be a relative decrease in the rate currently charged to some customers, but an increase in the rate charged to most customers. The Department argues that at the very least, MERC may need to create multiple versions of its rate change customer communications, and ensure that the relevant message prints on the customer's bill. The Department states its recommendation is based on its vision that a single, more complete disclosure, such as the ones MERC uses in rate cases, would occur and be provided to every customer informing them of the rates being charged to the various customer classes through this rider. The basis for the Department's recommendation is to provide fully transparent information to all MERC's customers at the introduction of the changed rate design, and that in so doing, may merit a bill insert.

The Department states that if the Commission's preference is that the customer communication regarding the rate change have a limited focus on the rate applicable to the class under which that customer is currently served, then likely a bill message would be sufficient. The Department defers to the Commission to determine the extent of the communication preferred; MERC can then inform parties whether a bill message or bill insert is needed to carry out the Commission's desired level of communication.

On another matter, the Department states that MERC's position that use of bill inserts should be treated as an incremental cost, thus be an includable cost in its GUIC rider true-up, lacks justification. The Department notes that MERC's base rates already include cost recovery for

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[74] Department Comments at 25.

occasional bill inserts, which are a part of MERC's normal operations; thus, no additional cost recovery should be added to the GUIC Rider for this activity.

e. MERC Additional Reply Comments

MERC continues to propose a bill message to appear on the first customer bill containing the revised GUIC rider surcharge rates to inform customers of the 2020 Commission-approved GUIC rider rates, for the reasons discussed in the Company's September Reply Comments. In addition, MERC believes that a bill message is more effective for supporting the change in the rate because it cannot be physically separated from the bill itself and can be readily referenced by the customer. It is also more effective for those customers that do not receive paper bills. MERC also proposes that the same bill message would appear on all customer bills, regardless of rate class, as a customer-specific bill message would require significant additional programming and expense. Accordingly, MERC proposes the following message based on the proposed updated GUIC surcharge rates reflected in these Comments:

> Effective [DATE], the GUIC (Gas Utility Infrastructure Cost) Rider Surcharge has been adjusted from $0.00413 per therm to the following per therm rate for each of these rate classes: Residential: $0.01658; Class 1 & 2 Firm (Sales and Transport): $0.00997; Class 1 & 2 Interruptible (Sales and Transport), Class 1 & 2 Grain Dryer, and Class 1 Electric Generation: $0.00997; Class 3 & 4 Firm (Sales and Transport): $0.00522; Class 3 & 4 Interruptible (Sales and Transport) and Class 3 Grain Dryer: $0.00522; and Class 5, Flex, Class 2 Electric Generation, and Transport-for-Resale: $0.00144. The GUIC Surcharge will continue to appear as a line item on your bill labeled "Infrastructure Rider."[75]

MERC notes that in its Response Comments, the Department states that "MERC's position that use of bill inserts should be treated as an incremental cost, thus be an includable cost in its GUIC rider true-up lacks support. MERC's base rates already include cost recovery for occasional bill inserts, which are part of MERC's normal operations; thus, no additional cost recovery should be added to the GUIC Rider for this activity."[76]

MERC responds that the costs associated with a bill insert for this GUIC rider are incremental costs not reflected in current base rates and should therefore be included for recovery through the GUIC rider true-up as a reasonable and necessary cost to ensure customers are informed of the rider rates. While the Department correctly notes that MERC recovers the costs for regular bill inserts through base rates, those bill inserts, which include cold weather rule notifications and safety information, continue to be required. A bill insert to communicate the implementation of new GUIC rider surcharge rates as a result of a Commission decision in this proceeding is additional and thus incremental to any costs already included in MERC's base rates. MERC therefore continues to request approval to recover the actual costs of such customer communications through the GUIC rider true-up as a necessary and incremental cost, if the Commission orders MERC to provide a bill insert.

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[75] MERC Additional Reply Comments at 25.

[76] Department Response Comments at 21.

f. Staff Discussion

The two issues to decide are: 1) whether to require a bill insert or allow the Company to put a bill message regarding the updated GUIC Rider Surcharge rates and; 2) if the Commission determines that a bill insert is required, whether to allow MERC to recover the costs of the respective customer notice through the GUIC rider as an incremental cost. The Commission may wish for the parties to clarify their positions at the May 7th agenda meeting.

g. Decision Alternatives

- Determine the extent of information MERC should include in its customer communication to either,

  (1) complete disclosure of the GUIC Rider rates by rate class, or
  (2) a focused rate change applicable to the customer under the class the customer is currently served. [Department]

- Determine that MERC's base rates already include cost recovery for customer bill messages and inserts, therefore no additional cost recovery should be added to the GUIC Rider for this activity. [Department]

- Approve MERC's proposal to handle all customer communications regarding the new GUIC Rider Surcharge as a bill message. [MERC]

- Require MERC to communicate with its customers via a bill insert and allow the Company to recover the incremental costs of providing the bill insert. [MERC, alternate]

- Delegate to the Executive Secretary authority to approve any bill messages and bill inserts related to MERC's GUIC rider. [Staff]

8. Rate Case Treatment of Rider

a. Background

Transferring cost recovery from a rider mechanism to base rates, and the timing for ceasing charging the rider rate can create issues if not thoughtfully dove-tailed to a general rate case filing. MERC's Reply Comments indicated that the Company is amenable to addressing any GUIC Rider true-up recovery through supplemental testimony, in its next general rate case filing.

b. Department Comments

The Department recommends that, when MERC files its next rate case, MERC should roll the costs of the in-service rider-recovered facilities into its rate case test year at the beginning of the rate case and terminate rider recovery; this method allows for recovery in the rider or the rate case, but not both, thus avoids double recovery concerns.

c. MERC Additional Reply Comments

MERC proposes that, should it file a general rate case with a 2021 test year, and if the Commission does not approve implementation of a 2021 GUIC Rider rate on January 1, 2021, it requests that the Commission permit the existing GUIC Rider rate to continue being charged until the Commission authorizes a new GUIC rider rate. MERC's reasoning for this request is as follows:

> …consistent with the approach approved in Docket No. G-011/M-18-281, in the event that the Commission does not approve implementation of MERC's 2021 GUIC rider rates (or interim rates in the event MERC files a 2021 test year rate case), on January 1, 2021, MERC proposes that the approved 2020 GUIC rider surcharge rates continue to be applied until the Commission authorizes implementation of new rates in order to ensure MERC is able to recover its annual revenue requirements on the approved GUIC-eligible projects.[77]

d. Department Additional Response Comments

The Department observes that MERC's use of infrastructure recovery riders is new since its last filed general rate case. The Department initially recommended that, when MERC files its next rate case, MERC should roll the costs of the in-service rider-recovered facilities into its rate case test year at the beginning of the rate case and terminate rider recovery; this method allows for recovery in the rider or the rate case, but not both, thus avoids double recovery concerns.

The Department agrees with MERC that the 2020 rider rate derivation will likely assume 12-months sales duration, as proposed. Even so, absent the once-anticipated fall 2019 MERC rate case filing, MERC's GUIC rider has continued to be charged since its initial implementation on May 1, 2019 (Docket No. G-011/M-18-281).

The Department is not in favor of allowing the 2020 GUIC rate, in this docket, to continue indefinitely if the Company files a general rate case with a 2021 test year. The Department continues to recommend that MERC should roll the costs of the in-service GUIC rider recovered facilities into its 2021 rate case test year at the beginning of the next rate case. And, instead of terminating the 2020 GUIC Rider rate, the Department recommends an alternative to MERC's proposal, to direct that the rider rate continue through 2021, then be set to zero effective January 1, 2022.

This approach would allow the 2020 GUIC rider rate to be charged for a full 12 months, plus several months beyond, and in so doing, would allow for continual rider revenue recovery that could be applied towards any prior period under-collections. At the same time, this approach would also put into place some protection to mitigate against excessive over-collections; this recommended safeguard measure reasonably balances the Company's interests while providing ratepayer protections, in the event that MERC's general rate case and other major petitions interfere with timely rider rate adjustments.

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[77] MERC Additional Reply Comments at 24.

Thus, the Department recommends that MERC's 2020 GUIC rider rate be effective through December 31, 2021 and set to zero effective January 1, 2022.

e. Staff Discussion

Staff notes that MERC has not had an opportunity to respond to the Department's latest recommendation and therefore the Commission may wish to invite MERC to respond at the May 7th agenda meeting.

Staff also notes that on April 1, 2020, MERC submitted its GUIC rider petition for 2021, in Docket No. G-011/M-20-405. On April 23, 2020, the Department requested, and on April 24, 2020, the Commission granted an extension of time for filing initial comments until September 21 and until October 1 for replies.

The Commission may want to inquire of parties and then provide guidance as to how much time should be authorized in the 20-405 proceeding for additional extensions of time, if requested, for comments and replies, and whether additional or supplemental comments in the 20-405 matter should be allowed prior to MERC filing its next rate case. Alternatively, the Commission may wish to ask parties whether it would be more efficient to refer MERC's 2021 GUIC matter, in the 20-405 docket, to OAH for a contested case proceeding.

Staff has not prepared decision alternatives around these procedural questions but if there is interest, decision alternatives could be developed for the Commission's May 7 agenda meeting.

f. Decision Alternatives

- If MERC files a general rate case with a 2021 test year, require MERC to include the costs of the in-service GUIC rider recovered facilities into its 2021 rate case test year at the beginning of the rate case. [Department]

- If MERC files a general rate case with a 2021 test year, determine that MERC's 2020 GUIC rider rate is effective only through December 31, 2021 and set the rate to zero effective January 1, 2022. [Department]

- Determine that the Commission approved 2020 GUIC rider surcharge rates continue to be applied until the Commission authorizes implementation of new rates. [MERC]

V. Decision Alternatives

1. Accept and approve MERC's 2019 GUIC petition except as modified herein.

Resolved Issues

Prorated ADIT

2. Determine that MERC's ADIT proration methodology is acceptable.

Sewer Cross Bore Survey

3. Determine that MERC's estimated cost for the expected level of 2020 Sewer Cross Bore Survey activity appears reasonable.

Rate of Return

4. Determine that MERC's requested rate of return and income tax gross-up factors are reasonable.

Rate Design

5. Approve MERC's proposed GUIC rider rate design;

6. Direct MERC to include and discuss in its next general rate case, in pre-filed direct testimony and supporting schedules, the Company's proposed apportionment of revenue responsibility that fully aligns with its proposed customer rate classes and rate design.

Future Filing Requirements

7. Require MERC to clearly and transparently disclose and report in its GUIC true-up filings any O&M expense recovery requested, but not expressly included in the original revenue requirements derivation of the test year being reconciled; the information reported at a minimum should (1) identify and discuss each expense, (2) include the account number, (3) provide the reasoning it is GUIC– eligible, (4) provide the cost amount included, (5) discuss how the requested recovery amount was determined, and (6) discuss whether this type of expense was included in base rates.

8. Require MERC to report its Aldyl-A pipe replacement progress details in its annual GUIC true-up filings. The requested reporting details should include, by listed project site:
   (1) a locational description of the work completed,
   (2) the associated work order number(s),
   (3) the size of the Aldyl-A pipe mains replaced,
   (4) the size of replacement pipe installed,
   (5) footage of main replaced,

(6) total costs net of embedded labor, vehicles, fuel, overhead, etc., and
(7) total replacement costs.

9. Require MERC to reflect the corrected revenue requirements model in any compliance and future GUIC filing schedules.

10. Require MERC to include in the relevant future GUIC Rider filing a proposal to address the termination of the GUIC Statute.

11. Require MERC to include in its next general rate case filing a discussion of its GUIC rider cost recovery transition to base rates (and requested interim rate) recovery.

12. Direct MERC to roll in rider recovered facilities at the beginning of its next general rate case.

Disputed Issues

Incremental Cost Recovery Adjustment

13. Approve MERC's proposal to address the depreciation expense adjustment in the true-up reconciliation as consistent with the GUIC statute and the Commission decision in the Company's 2019 GUIC rider. [MERC]

14. Require MERC to include a line item adjustment to its revenue requirement estimate to account for the cost recovery, built into its base rates, of the facilities removed, and expected to be removed from service as a result of its GUIC project work. [Department, preferred]

15. Require MERC to remove, from its calculation of its proposed GUIC Rider cost recovery rate, infrastructure replacement cost amounts for unidentifiable test year project work. [Department, alternative]

16. Require MERC to include a projected depreciation adjustment in its 2020 GUIC-rider revenue requirement to prevent double recovery of depreciation expense associated with assets that are replaced by GUIC projects. [OAG]

Right-of-Way Project Costs

17. Determine that the estimated right-of-way project costs includable in the GUIC Rider are to be based on the known and identifiable right-of-way work planned to be in service in 2020. [Department]

and,

18. Direct MERC to take steps to improve its outreach efforts, capital improvement/public works planning meeting monitoring, and communication exchange with the jurisdictions in which its gas facilities are located, to strengthen stakeholder/community awareness/relations and increase proactive collaborative opportunities in effort to obtain more advance notice of potential right-of-way work it may need to undertake. [Department]

and,

19. Require MERC to develop an outreach plan as recommended by the Department and to submit the outreach plan in a compliance filing within 30 days of the Commission issuing its order. Request comments on MERC's outreach plan from interested parties and stakeholders within 30 days of the receipt of MERC's plan. [Staff]

20. Determine that MERC's proposal to use a historical test year is acceptable under Minn. Stat. § 216B.1635 and allow recovery of MERC's right-of-way relocation costs. [MERC]

Obsolete Materials Replacement Project

21. Approve a capital cost budget for the Obsolete Materials Replacement Project of $7 million for MERC's 2020 GUIC rider. [MERC]

22. Set the estimated cost for the Obsolete Materials Project costs at $5 million, a $2 million reduction to MERC's proposed total estimate of $7 million. [Department]

Meter Set Survey

23. Approve MERC's requested 2020 budget of $2 million in O&M expenses. [MERC]

24. Set the estimated cost for the Meter Stop Valve Survey project at $1.25 million, a $0.75 million reduction to MERC's proposed total estimate of $2 million. [Department]

Excess Flow Valve

25. Approve MERC's proposed $101,384 in O&M expenses related to EFV visits in the 2020 GUIC rider revenue requirement. [MERC]

26. Approve MERC's request to include recovery of Excess Flow Valve Assessment project costs incurred for third party contractor services in its GUIC Rider, but at a reduced level, specifically $95,049, which is one- fifth of its total estimated cost of $506,970 for this 5-year project reduced by $31,175 for one- half of the engineering costs in light of current uncertainties. [Department]

Proposed Revisions to Sales Forecast

27. Require MERC to use actual weather-normalized 2019 sales in setting the GUIC rider rate to account for increased growth in Rochester. [Department]

    and,

28. Direct MERC to use the same 2020 sales forecast provided by the Company in its NGEP rider petition (Docket No. G-011/M-19-608) when developing its 2020 GUIC Rider rates. [Department]

29. Authorize MERC to use the sales forecast in MERC's Additional Reply Comments (771,153,868 therms) as the appropriate sales forecast to use in the instant Petition. [MERC]

Customer Communications

30. Determine the extent of information MERC should include in its customer communication to either,
    (1) complete disclosure of the GUIC Rider rates by rate class, or
    (2) a focused rate change applicable to the customer under the class the customer is currently served. [Department]

    and,

31. Determine that MERC's base rates already include cost recovery for customer bill messages and inserts, therefore no additional cost recovery should be added to the GUIC Rider for this activity. [Department]

32. Approve MERC's proposal to handle all customer communications regarding the new GUIC Rider Surcharge as a bill message. [MERC]

33. Require MERC to communicate with its customers via a bill insert and allow the Company to recover the incremental costs of providing the bill insert. [MERC, alternate]

34. Delegate to the Executive Secretary authority to approve any bill message and bill inserts related to MERC's GUIC rider.

Rate Case Treatment of Rider

35. If MERC files a general rate case with a 2021 test year, require MERC to include the costs of the in-service GUIC rider recovered facilities into its 2021 rate case test year at the beginning of the rate case. [Department]

36. If MERC files a general rate case with a 2021 test year, determine that MERC's 2020 GUIC rider rate is effective only through December 31, 2021 and set the rate to zero effective January 1, 2022. [Department]

37. Determine that the Commission approved 2020 GUIC rider surcharge rates continue to be applied until the Commission authorizes implementation of new rates. [MERC]

Compliance Filings

38. Require Xcel Energy to submit a compliance filing within ten days of the date of this order showing the final rate adjustment factors, and all related tariff changes.

216B.1635 RECOVERY OF GAS UTILITY INFRASTRUCTURE COSTS.

Subdivision 1. **Definitions.** (a) "Gas utility" means a public utility as defined in section 216B.02, subdivision 4, that furnishes natural gas service to retail customers.

(b) "Gas utility infrastructure costs" or "GUIC" means costs incurred in gas utility projects that:

(1) do not serve to increase revenues by directly connecting the infrastructure replacement to new customers;

(2) are in service but were not included in the gas utility's rate base in its most recent general rate case, or are planned to be in service during the period covered by the report submitted under subdivision 2, but in no case longer than the one-year forecast period in the report; and

(3) do not constitute a betterment, unless the betterment is based on requirements by a political subdivision or a federal or state agency, as evidenced by specific documentation, an order, or other similar requirement from the government entity requiring the replacement or modification of infrastructure.

(c) "Gas utility projects" means:

(1) replacement of natural gas facilities located in the public right-of-way required by the construction or improvement of a highway, road, street, public building, or other public work by or on behalf of the United States, the state of Minnesota, or a political subdivision; and

(2) replacement or modification of existing natural gas facilities, including surveys, assessments, reassessment, and other work necessary to determine the need for replacement or modification of existing infrastructure that is required by a federal or state agency.

Subd. 2. **Gas infrastructure filing.** A public utility submitting a petition to recover gas infrastructure costs under this section must submit to the commission, the department, and interested parties a gas infrastructure project plan report and a petition for rate recovery of only incremental costs associated with projects under subdivision 1, paragraph (c). The report and petition must be made at least 150 days in advance of implementation of the rate schedule, provided that the rate schedule will not be implemented until the petition is approved by the commission pursuant to subdivision 5. The report must be for a forecast period of one year.

Subd. 3. **Gas infrastructure project plan report.** The gas infrastructure project plan report required to be filed under subdivision 2 shall include all pertinent information and supporting data on each proposed project including, but not limited to, project description and scope, estimated project costs, and project in-service date.

Subd. 4. **Cost recovery petition for utility's facilities.** Notwithstanding any other provision of this chapter, the commission may approve a rate schedule for the automatic annual adjustment of charges for gas utility infrastructure costs net of revenues under this section, including a rate of return, income taxes on the rate of return, incremental property taxes, incremental depreciation expense, and any incremental operation and maintenance costs. A gas utility's petition for approval of a rate schedule to recover gas utility infrastructure costs outside of a general rate case under section 216B.16 is subject to the following:

(1) a gas utility may submit a filing under this section no more than once per year; and

(2) a gas utility must file sufficient information to satisfy the commission regarding the proposed GUIC. The information includes, but is not limited to:

(i) the information required to be included in the gas infrastructure project plan report under subdivision 3;

(ii) the government entity ordering or requiring the gas utility project and the purpose for which the project is undertaken;

(iii) a description of the estimated costs and salvage value, if any, associated with the existing infrastructure replaced or modified as a result of the project;

(iv) a comparison of the utility's estimated costs included in the gas infrastructure project plan and the actual costs incurred, including a description of the utility's efforts to ensure the costs of the facilities are reasonable and prudently incurred;

(v) calculations to establish that the rate adjustment is consistent with the terms of the rate schedule, including the proposed rate design and an explanation of why the proposed rate design is in the public interest;

(vi) the magnitude and timing of any known future gas utility projects that the utility may seek to recover under this section;

(vii) the magnitude of GUIC in relation to the gas utility's base revenue as approved by the commission in the gas utility's most recent general rate case, exclusive of gas purchase costs and transportation charges;

(viii) the magnitude of GUIC in relation to the gas utility's capital expenditures since its most recent general rate case; and

(ix) the amount of time since the utility last filed a general rate case and the utility's reasons for seeking recovery outside of a general rate case.

Subd. 5. **Commission action.** Upon receiving a gas utility report and petition for cost recovery under subdivision 2 and assessment and verification under subdivision 4, the commission may approve the annual GUIC rate adjustments provided that, after notice and comment, the costs included for recovery through the rate schedule are prudently incurred and achieve gas facility improvements at the lowest reasonable and prudent cost to ratepayers.

Subd. 6. **Rate of return.** The return on investment for the rate adjustment shall be at the level approved by the commission in the public utility's last general rate case, unless the commission determines that a different rate of return is in the public interest.

Subd. 7. **Commission authority; rules.** The commission may issue orders and adopt rules necessary to implement and administer this section.

History: *2005 c 97 art 10 s 1,3; 2013 c 85 art 7 s 2,9*

NOTE: This section expires June 30, 2023. Laws 2005, chapter 97, article 10, section 3, as amended by Laws 2013, chapter 85, article 7, section 9.