

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger  
Phyllis Reha  
J. Dennis O'Brien  
David Boyd  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

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Resources Corporation  
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50 South Sixth Street, Suite 1500  
Minneapolis, MN 55402-1498

SERVICE DATE: December 21, 2012

DOCKET NO. G-007,011/GR-10-977

In the Matter of the Application of Minnesota Energy Resources Corporation for Authority to Increase Rates for Natural Gas Service in Minnesota

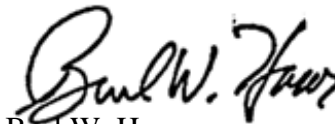
The above entitled matter has been considered by the Commission and the following disposition made:

- 1. Clarifies that annual pay outs of less than \$1,262,723 in allowable non-executive employee incentive compensation, plus annual payouts of less than \$45,398 in allowable executive incentive compensation, must be added to the tracker for refund.**
- 2. Approves MERC's proposed tariff sheets as filed on September 21, 2012 and amended by the revised tariff sheets filed on October 9, 2012, October 15, 2012, and November 9, 2012, but defers consideration of the proposed conservation cost recovery charge (CCRC) and conservation cost recovery adjustment (CCRA) language on the following tariff sheets: tariff sheets 5.21 (paragraphs 9 and 10) and 5.25 (paragraphs 8 and 9), in this docket; and tariff sheet 7.02, in Docket No. E,G-999/CI-11-1149.24.**
- 3. Requires MERC to supplement the revenue decoupling notice to customers with a "revenue decoupling frequently asked questions and answers" posted to MERC's website. Directs MERC to develop this information in consultation with the Commission's staff and the Consumer Affairs Office and to keep this information up to date during the revenue decoupling pilot program.**
- 4. Requires MERC to notify the Commission in this docket when it files its Conservation Improvement Plan (CIP) program modification filing in CIP Triennial Docket No. G007,G-011/CIP-12-548.**
- 5. Approves MERC's proposed conservation cost recovery charge (CCRC) of \$0.01513 per therm, which is to be implemented at the time of final rates.**
- 6. Accepts MERC's crediting of its NMU CIP tracker with a revenue amount to be calculated by the Company, in consultation with the Department, representing uncollected amounts from July 2006, through February 2011, plus the additional revenue amount from March 2011 to the date final rates become effective in this docket.**

7. **Accepts that although MERC and the Department agree that [although] MERC did not collect CCRC revenues from the three customers, MERC did correctly credit its CIP tracker account for CCRC amounts attributable to one of these customers.**
8. **Does not accept, approve or otherwise recognize the validity of MERC's proposed CIP tracker account balances or calculations (estimated or otherwise for any time period) or MERC's proposed CCRA calculations (to the extent there are any in the compliance filing).**
9. **Authorizes MERC to implement new, final rates on customer bills effective January 1, 2013 for services rendered on and after January 1, 2013.**
10. **Approves MERC's interim rate refund plan as proposed.**
11. **Requires MERC to submit, within 10 days of the completion of the refund, a compliance filing that shows MERC-NMU's actual refund and interest paid by rate area and class, including all supporting calculations.**
12. **Defers any decision regarding MERC's proposed base cost of gas to Docket No. G-007,011/MR-12-1028.**
13. **Approves MERC's request to implement the consolidation of its PGA systems in July 2013 on a bills-rendered basis.**
14. **Approves the revised customer notices attached to this order that include the January 1, 2013 effective date for final rates and the additional sentence about the effective date of PGA rate area consolidation.**
15. **Requires MERC, in future general rate cases, to prepare and submit its filings (i.e., testimony) so that these filings reflect the financial adjustments to the Company's positions in pre-filed direct testimony.**

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar  
Executive Secretary



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October 22, 2012

Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. G007,011/GR-10-977

Dear Dr. Haar:

Attached are the *Comments* of the Minnesota Department of Commerce, Division of Energy Resources (Department or DOC) in the following matter:

*A Compliance Filing* by Minnesota Energy Resources Corporation (MERC or the Company), pursuant to the Minnesota Public Utilities Commission's (Commission) July 13, 2012 *Findings of Fact, Conclusions of Law, and Order*.

The *Compliance Filing* was submitted on September 21, 2012 by:

Mike Ahern  
Attorney representing Minnesota Energy Resources Corporation  
Dorsey and Whitney, LLP  
50 South Sixth Street, Suite 1500  
Minneapolis, Minnesota 55402-1498

As discussed in greater detail in the attached *Comments*, the Department recommends that the Commission:

- **approve** MERC's proposed tariff sheets as amended by the revised tariffs filed on October 9, 2012, and October 15, 2012, but **defer** consideration of the proposed Conservation Cost Recovery Charge and Conservation Cost Recovery Adjustment language on tariff sheets 5.21, paragraphs 9 and 10, and 5.25, paragraphs 8 and 9, and tariff sheet 7.02 in Docket No. E,G999/CI-11-1149;
- **consider** amending the customer notices to reflect that the Purchased Gas Adjustment (PGA) consolidation would occur in July 2013, in addition to any other revisions the Commission may require;

- **defer** any decision regarding MERC's proposed base cost of gas to Docket No. G007,011/MR-12-1028;
- **approve** MERC's proposed refund plan;
- **require** MERC to submit, within 10 days of the refund, a compliance filing that shows MERC-NMU's actual refund and interest paid by rate area and class; and
- **approve** MERC's proposed CCRC of \$0.01513 per therm, which is to be implemented at the time of final rates; and
- **approve** MERC's request to implement the consolidation of its PGA systems in July 2013 on a bill-rendered basis.

In MERC's future general rate cases, to provide a reasonable check on the Company's adjustments, the Department requests that MERC's filings reflect financial adjustments to the Company's Direct position, similar to the Department's financial statements.

Finally, to alert the Commission that MERC is undertaking additional CIP measures in response to the Commission's approval of MERC's decoupling rates, the Department recommends that the Commission **require** MERC to notify the Commission when MERC files its CIP modification filing. The Department provides this recommendation at this time since MERC's Triennial CIP filing was not submitted until after the Commission decided MERC's rate case.

The Department is available to answer any questions that the Commission may have.

Sincerely,

/s/ MICHELLE ST. PIERRE  
Financial Analyst  
651-296-0260

MS/jl  
Attachment



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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE  
DIVISION OF ENERGY RESOURCES

DOCKET NO. G007,011/GR-10-977

**I. INTRODUCTION**

On July 13, 2012, the Minnesota Public Utilities Commission (Commission) issued its *Findings of Fact, Conclusions of Law, and Order (July 13<sup>th</sup> Order)* concerning the request by Minnesota Energy Resources Corporation (MERC) for its two divisions, MERC-PNG and MERC-NMU, to increase natural gas rates, consolidate base rates, and consolidate Purchased Gas Adjustment (PGA) rates in Minnesota in the above-referenced docket. Ordering Paragraph No. 12 of the Commission's *July 13<sup>th</sup> Order* required MERC to submit certain information, as discussed below. The compliance filing concerning Ordering Paragraph No. 12 was due within 30 days of the Commission's *July 13<sup>th</sup> Order*.

On August 2, 2012 MERC and the Minnesota Office of the Attorney General, Anti-Trust Utilities Division (OAG-AUD) filed petitions for rehearing and reconsideration. On August 13, 2012, the Minnesota Department of Commerce, Division of Energy Resources (Department or DOC), MERC, and the OAG-AUD filed answers to the rehearing and reconsideration petitions filed by other parties.

On September 6, 2012, the petitions for reconsideration and rehearing came before the Commission. On September 12, 2012, the Commission issued its *Order Denying Reconsideration and Clarifying Language (September 12<sup>th</sup> Order)*. The *September 12<sup>th</sup> Order* denied the requests for reconsideration of MERC and the OAG-AUD, but clarified language in the *July 13<sup>th</sup> Order* concerning the sales forecast.

On September 21, 2012, MERC submitted its *Compliance Filing* pursuant to the Commission's *July 13<sup>th</sup> Order*, as amended by the Commission's *September 12<sup>th</sup> Order* in the present docket.

On October 9, 2012, MERC submitted, at the request of the Department, revised tariff sheets 5.00 to 5.51 correcting the customer charge for its Super Large Volume Customers, and correcting its distribution charges.

On October 12, 2012, MERC submitted the final report on an audit done on the Company's billing system. One of the conditions established by the Commission's *July 13 Order* for approval of the Revenue Decoupling Mechanism was for MERC to correct, as needed, its initial sales forecast to resolve any errors discovered through the audit in favor of ratepayers.<sup>1</sup> The Department will review the audit report and provide comments as requested by the Commission by November 13, 2012.

On October 15, 2012, MERC submitted, at the request of the Department, revised tariff sheets 9.14 to 9.17 relating to the Company's New Area Surcharge (NAS).

The Department reviewed MERC's September 21, 2012 *Compliance Filing* and two supplemental filings. Pursuant to Ordering Paragraph No. 12 of the *July 13th Order*, the Department submits these *Comments*.

## II. DEPARTMENT ANALYSIS

The *July 13<sup>th</sup> Order* included ordering paragraphs that require action in the Company's compliance filing.

Ordering Paragraph No. 5 required that the Company update its cash working capital to reflect the decisions made in the *July 13<sup>th</sup> Order*.

Ordering Paragraph No. 9(A) of the Commission's *July 13<sup>th</sup> Order* required MERC to provide an explanation of certain technicalities regarding the incentive compensation refund mechanism.

Ordering Paragraph No. 10 of the Commission's *July 13<sup>th</sup> Order* required MERC to clearly identify all non-qualified pension plan costs included in its filing and clearly show that all have been removed from the revenue requirement with the exception of the amount associated with the amortization of the regulatory asset created in Docket No. 06-1278.

Ordering Paragraph No. 11 of the Commission's *July 13<sup>th</sup> Order* included several sub points which required that the Company provide information in its compliance filing. The relevant sub points are:

- A. MERC shall file annual reports to the Commission that specify the Revenue Decoupling Mechanism (RDM)

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<sup>1</sup> See page 15 of the *July 13th Order* and Ordering Paragraph No. 11(D).

adjustment to be applied to each rate class for the billing period and demonstrate annual progress toward achieving the 1.5% energy efficiency goal set forth in Minn. Stat. §216B.241.

- B. MERC shall state in its RDM tariff that the Commission has the authority to modify or suspend the rates in this pilot if warranted by unexpected circumstances.
- C. MERC shall use the same billing determinants (customer counts, etc.) used to set final rates to determine the RDM baseline.
- G. In its thirty-day rate case compliance filing, MERC shall submit a proposal for implementing its RDM mechanism mid-year, including prorated RDM baseline calculations for the part of the year MERC expects the RDM to be in place at the beginning of the program and at the end of the program.
- H. In its thirty-day rate case compliance filing, MERC shall submit revised revenue decoupling tariff language that incorporates all the Commission's decisions in this rate case.
- I. MERC shall explain its revenue decoupling program in its notice to customers about final rates at the end of this case and in another notice when the first annual revenue decoupling rate adjustment is implemented on customer bills.

Ordering Paragraph No. 12 of the Commission's *July 13th Order* required that MERC include the following items in its *Compliance Filing*:

- A. Revised schedules of rates and charges reflecting the revenue requirement and the rate design decisions herein, along with the proposed effective date, and including the following information:
- B. Breakdown of Total Operating Revenues by type.
- C. Schedules showing all billing determinants for the retail sales (and sale for resale) of natural gas. These schedules shall include but not be limited to:
  - 1. Total revenue by customer class;

2. Total number of customers, the customer charge and total customer charge revenue by customer class; and
  3. For each customer class, the total number of commodity and demand related billing units, the per unit commodity and demand cost of gas, the non-gas unit margin, and the total commodity and demand related sales revenues.
- D. Revised tariff sheets incorporating authorized rate design decisions.
  - E. Proposed customer notices explaining the final rates, the monthly basic service charge, rate area consolidation, and, if approved, the revenue decoupling pilot program.
  - F. A revised base cost of gas and supporting schedules incorporating any changes made as a result of this rate case, and automatic adjustments establishing the proper adjustments to be in effect at the time final rates are implemented.
  - G. If final authorized rates are lower than interim rates, a proposal to make refunds of interim rates, including interest calculated at the average prime rate, to affected customers.
  - H. A recalculation of the Conservation Cost Recovery Charge, using the Commission-approved test year CIP [Conservation Improvement Plan] expense and the Commission-approved test year sales volumes less the appropriate CIP exempt volumes, but including the three non-exempt CIP customers' volumes erroneously excluded by MERC in its original petition.
  - I. A demonstration that the CIP tracker account has been properly credited with the appropriate Conservation Cost Recovery Charge amounts during the interim rate period or an explanation of how the Company plans to ensure that the tracker account is properly credited after final rates have been determined.



MERC also proposed to implement the consolidation of its PGA systems on a bill-rendered basis (dropped in).<sup>2</sup> The Company stated that it currently implements rate changes on a service-rendered basis (prorated). According to MERC:

Because of billing system limitations, MERC is unable to simultaneously charge customers the cost of gas rates from their previous PGA rate and the new PGA rates. For purposes of the PGA consolidation, MERC therefore requests Commission authorization to implement the cost of gas on a bill-rendered basis in July 2013.

To show the effect, MERC provided Attachment I. The one-time effect of the PGA consolidation on the average residential customer ranges from a decrease of \$0.22 for NMU Consolidated customers to an increase of \$0.22 for Great Lakes customers. Any over-recovery would be trued up later. The Department concludes that MERC's calculations and implementation proposal are reasonable and recommends that the Commission approve MERC's request to implement the consolidation of its PGA systems in July 2013 on a bill-rendered basis.

The following discusses each identified item in the Commission's *July 13 Order*.

A. *ORDERING PARAGRAPH NO. 5*

Ordering Paragraph No. 5 required that MERC update its cash working capital to reflect the decisions made in the *July 13<sup>th</sup> Order*. As discussed below in Section E, MERC's revenue requirement reflects the Commission's *July 13<sup>th</sup> Order*.

B. *ORDERING PARAGRAPH NO. 9(A)*

Ordering Paragraph No. 9(A) of the Commission's *July 13<sup>th</sup> Order* required MERC to provide an explanation of certain technicalities regarding the incentive compensation refund mechanism:

- how the \$1 per customer refund threshold would be implemented;
- whether the \$1 per customer threshold means "whenever the cumulative amount exceeds an average of \$1 per customer" or whether it has some other meaning;
- how the calculation would be made; and
- clarify that all annual incentive compensation costs included in the test year revenue requirement that are not paid out in a particular year (with no netting with years in which more than the test year level of incentive is paid) are to be applied to the tracker account.

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<sup>2</sup> *Compliance Filing*, page 4. The Department notes that MERC's filing pages are mismarked so this reference is to the 4<sup>th</sup> page in MERC's compliance filing, the paragraph beginning with the phrase "Finally, MERC includes...."

Ordering Paragraph No. 9, required MERC to refund any incentive compensation costs included in the test year revenue requirement that are not paid in a particular year, but allowed MERC to track the annual amounts to be refunded and to make refunds only after the amount reaches \$1 per customer. MERC provided an example in table format and stated:

The customer refund filing will be done when the cumulative tracker year-end balance exceeds an average of \$1 per customer. No netting of years where the incentive payout is less than the authorized amount will occur with years where the payout is greater than the authorized amount. . . . When the Annual refund to customers exceeds \$1.00, a per therm rate will be calculated by dividing [actual cumulative underpayment of incentive payout], by the Minnesota jurisdictional therms approved in this Docket (683,768,889). This per therm rate will be credited to customer bills for 12 months.

The Department testified in the rate case that MERC pays out incentive awards no later than March 15<sup>th</sup> of the year following the incentive year.<sup>3</sup> According to MERC, each year, the authorized incentive payout of \$1,308,121<sup>4</sup> would be compared to the actual incentive payout. If the actual payout is less than the authorized payout then the difference would go into a tracker. MERC clarified that there would be no netting of years where the incentive payout is less than the authorized amount. A refund would be made when the tracker year-end balance exceeds an average of \$1 per customer based on the approved annual average customer count of 211,965 in the test year.<sup>5</sup> Furthermore, based on the number of therms approved in the test year sales forecast of 683,768,889,<sup>6</sup> MERC would calculate a per-therm rate and apply this rate to therms used as a credit to customers' bills over 12 months. The Department reviewed the numbers and agrees with MERC's calculations and proposed mechanism. The Department appreciates MERC's clarification of the number of customers and therms that would be used in its calculation.

C. *ORDERING PARAGRAPH NO. 10*

Ordering Paragraph No. 10 of the Commission's *July 13<sup>th</sup> Order* required MERC to clearly identify all non-qualified pension plan costs included in its filing and clearly show that all have been removed from the revenue requirement with the exception of the amount associated with the amortization of the regulatory asset created in Docket No. 06-1278. The Company responded as follows:

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<sup>3</sup> May 6, 2011 Direct Testimony and Attachments (clean version) of Michelle St. Pierre, Page 29, Docket No. G007,011/GR-10-977.

<sup>4</sup> Includes non-executive compensation of \$1,262,723 (St. Pierre Direct, pages 26-27) and executive compensation of \$45,398 (St. Pierre Additional Rebuttal, page 6).

<sup>5</sup> MERC rate case Exhibit \_\_\_ (HWJ-1), Schedule E-2, page 4.

<sup>6</sup> MERC rate case Exhibit \_\_\_ (HWJ-1), Schedule E-2, page 1.

As discussed on page 2 of MERC witness, Ms. Christine Phillips Sur-Surrebuttal Testimony, MERC agreed to the removal of the non-qualified pension plan costs not associated with the amortization of the regulatory asset created in Docket No. 06-1287. This amount was removed from the revenue requirement as shown on MERC's financial position on page 5 of Sur-Surrebuttal Exhibit \_\_\_\_ (SSD-1).

The Department provides Ms. Christine Phillips' Sur-Surrebuttal Testimony, page 2, as follows:

Q. DOES MERC AGREE TO REMOVE NON-QUALIFIED PENSION PLAN EXPENSES?

A. Yes. In his Surrebuttal testimony, DOC witness Mr. Mark Johnson proposed the removal of \$11,424 of costs related to non-qualified pension plans in Accounts 926210 and 926220 that have not been previously approved for cost recovery by the Commission. Mr. Johnson also proposed to remove the non-qualified pension plan costs which are allocated to MERC from Integrys Business Support ("IBS"). In addition to the two accounts identified above, Account 926019 at IBS also contains non-qualified pension plan costs. MERC's allocation of IBS' non-qualified pension costs amounts to \$61,088. MERC agrees with Mr. Johnson's position that the Commission has historically removed costs associated with non-qualified pension plan expenses from rate proceedings and therefore agrees with the removal of \$72,512 from MERC's 2011 revenue requirement.

This adjustment has been included in the calculation of MERC's 2011 revenue requirement provided by MERC witness Mr. Seth DeMerritt in his Sur-Surrebuttal Testimony dated September 7, 2011.

The Department confirms that Mr. Seth DeMerritt's Sur-Surrebuttal Exhibit \_\_\_\_ (SSD-1), reduces Administrative & General expense by \$72,512 in column (b). As discussed in Section (E), MERC's Schedule A – "Financial Schedules" are consistent with the Department's calculations and reflects the Commission's *July 13<sup>th</sup> Order* revenue requirement.

The Department notes that MERC's financial adjustments in this proceeding were built on top of each filing or position. For example, MERC's Surrebuttal filing reflected financial adjustments to the Company's Rebuttal position. In contrast, the Department's Surrebuttal filing reflected financial adjustments to the MERC's Direct position. The Department notes the difficulty this poses when trying to reconcile parties' adjustments. Therefore, in future general rate cases, to provide a reasonable check on the Company's adjustments, the Department requests that

MERC's filings reflect financial adjustments to the Company's Direct position, similar to the Department's financial statements.

*D. ORDERING PARAGRAPH NO. 11(A)*

Ordering Paragraph No. 11 (A) required MERC to file annual reports to the Commission that specify the RDM adjustment to be applied to each rate class for the billing period and demonstrate annual progress toward achieving the 1.5% energy efficiency goal set forth in Minn. Stat. §216B.241. In response, MERC included the following language under part 7 on tariff sheet no. 7.19.

No later than March 31 of the calendar year following the Commission's approval for the RDM, and then no later than March 1 of each succeeding year until the RDM terminates, the Company shall file annually with the Commission a report that specifies the RDM adjustments to be effective for each Rate Schedule Group for the Billing Period. The initial report shall reflect a Calendar year that begins on the first day of the month succeeding the implementation of final rates approved by the Commission in Docket No. G007,011/GR-10-977 until December 31 of that year, and then for a full Calendar year for each succeeding year. The report shall include work papers and data supporting the calculation in Section 4 of the RDM. Adjustments shall be effective with bills rendered on or after March 1 of the Billing Period and shall continue for 12 months. The report will also include an evaluation plan with information required by the Commission in Docket No. G007,011/GR-10-977.

Based on our review of the report, the Department concludes that MERC has complied with Ordering Paragraph No. 11(A) of the *July 13 Order*.

*E. ORDERING PARAGRAPH NO. 11(B)*

Ordering Paragraph No. 11(B) required MERC to state in its RDM tariff that the Commission has the authority to modify or suspend the rates in this pilot program if warranted by unexpected circumstances. In response, MERC included the following language on part 6 of the RDM tariff, Sheet No. 7.18:

If warranted by unforeseen circumstances, the Commission has the authority to modify or suspend the rates set via the RDM calculation during the pilot program.

The Department confirms that MERC's RDM tariff meets the requirements specified in the Commission's Ordering Paragraph No. 11(B) of the *July 13 Order*.

*F. ORDERING PARAGRAPH NO. 11(C)*

Ordering Paragraph No. 11(C) required MERC to use the same billing determinants (customer counts, etc.) used to set final rates to determine the RDM baseline. In response, MERC included the following language in part 3, "Definitions," of tariff sheet No. 7.17:

Rate Case Customers (RCC) shall mean the number of customers that underlie the distribution rates approved by the Commission in the Company's most recent rate proceeding for each applicable Rate Schedule Group.

The Department confirms that MERC's RDM tariff sheet 7.17 meets the requirements specified in Commission Order Paragraph 11(C) of the *July 13 Order*.

*G. ORDERING PARAGRAPH NO. 11(G)*

Ordering Paragraph No. 11(G) required MERC to submit in its thirty-day rate case compliance filing a proposal for implementing its RDM mechanism mid-year, including prorated RDM baseline calculations for the part of the year MERC expects the RDM to be in place at the beginning of the program and at the end of the program. In response, MERC included Schedule H, pages 1 through 5. Schedule H includes the prorated RDM baseline calculations for December 2012, which is the partial year MERC expects the RDM to be in place when final rates are implemented and the prorated RDM baseline calculations for January 2015 through November 2015 which is the partial year MERC expects the RDM to be in place at the end of the three-year pilot period.

The Department compared the sales and customer count data in the sales and revenue portion of the *Compliance Filing* to the figures used to calculate the RDM; the figures match. Consequently, the Department concludes that MERC has complied with Ordering Paragraph No. 11(G) of the *July 13 Order*.

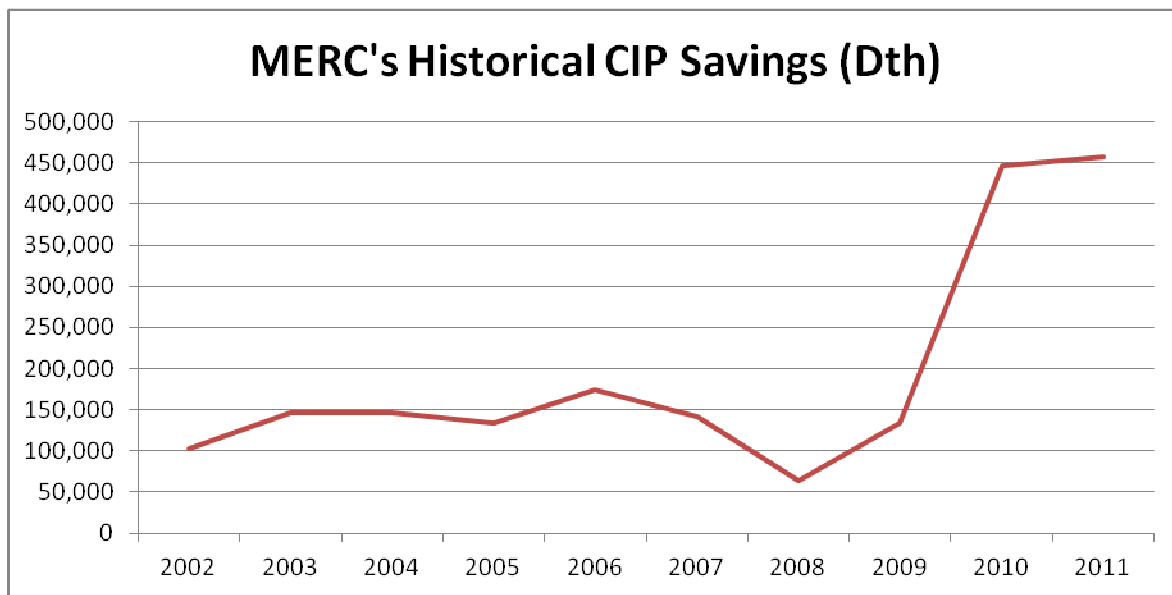
Additionally, on page 4 of its *Compliance Filing*, MERC stated:

During the course of this proceeding, MERC committed to working with interested parties to consider and develop additional cost-effective CIP programming as a result of the Commission's approval of its pilot decoupling program. MERC takes this opportunity to update the Commission on these efforts. MERC's CIP team met with Department of Commerce, Division of Energy Resources (Department) staff in June 2012 to review MERC's 2013-2015 Triennial Plan and discuss possible additional programming. MERC has also met with the Center for Energy and Environment, Isaac Walton League of America, Minnesota Center

for Environmental Advocacy, and Clean Energy Resource Teams in this regard. MERC's 2013-2015 CIP Triennial Plan is currently under Department review and MERC has committed to filing a Modification Request once it has fully evaluated the ideas developed during these stakeholder meetings and identified appropriate supplemental programming.

The Department appreciates MERC's commitment to increase its energy savings in response to having a revenue decoupling mechanism approved. Regarding MERC's energy savings through CIP, the Department provides the following information.

First, as to historical CIP energy savings, MERC's triennial CIP filing (Docket No. G007,G011/CIP-12-548), which was filed after deliberations of MERC's rate case, shows that MERC's CIP savings increased significantly in recent years (based on actual data<sup>7</sup>):



Second, these historical savings do not include the additional CIP savings that MERC intends to implement as a result of decoupling, as indicated in MERC's triennial filing:

[MERC's] proposed CIP plan as set forth in its *Petition* does not include additional CIP programming that it may implement as a result of the Commission's approval of its proposed decoupling mechanism because of the timing of the Commission's Order in

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<sup>7</sup> The data does not include the effects of the decrease in CIP due to exemptions granted to several of MERC's large customers. Nonetheless, MERC's proposed goals for 2013-2015 are slightly higher in terms of percentage of average retail sales, even though they are significantly lower in terms of dekatherms (Dth), reflecting the significantly higher percentage of MERC's load that is now CIP-exempt.

relation to the 2013-2015 triennial CIP filing deadline. The Company states that it is committed to working with interested parties to develop new CIP offerings that it will propose in a modification request at a later date.

As to the timing of the “later date” referenced in the above statement, it is expected that MERC will submit a proposal after the Department issues its Decision in MERC’s CIP filing. (CIP Staff’s proposed decision is currently under consideration). To ensure that the Commission is aware in a timely manner of MERC’s CIP modification proposal, the Department recommends that the Commission require MERC to notify the Commission through the rate case when MERC files its CIP modification filing. The Commission would not be required to act on the filing, but the notification would alert the Commission that MERC is undertaking additional CIP measures in response to the Commission’s approval of MERC’s decoupling rates.

*H. ORDERING PARAGRAPH NO. 11(H)*

Ordering Paragraph No. 11(H) required MERC to include in its thirty-day rate case compliance filing revised revenue decoupling tariff language that incorporates all the Commission’s decisions in this rate case. In response, MERC included tariff sheets 7.17, 7.18, and 7.19, which include language that incorporates all of the Commission’s decisions concerning revenue decoupling, including Ordering Paragraph Nos. 11(A) through 11(I) of the *July 13 Order*.

*I. ORDERING PARAGRAPH NO. 11(I)*

Ordering Paragraph No. 11(I) required MERC to explain its revenue decoupling program in its notice to customers about final rates at the end of this case and in another notice when the first annual revenue decoupling rate adjustment is implemented on customer bills. In response, MERC provided Schedule D which shows an educational piece for customers about their bills. This piece includes the following language:

Also, the MPUC approved MERC’s request for a revenue decoupling mechanism for residential and small commercial customers. Revenue decoupling separates the link between the amount of revenue MERC collects from its customers and the amount of natural gas they use. Revenue decoupling allows MERC to adjust its rates up or down each year to make up for any shortfall or any excess in sales revenue. The purpose of revenue decoupling is to reduce MERC’s disincentive to promote energy conservation and energy efficiency. The first annual revenue decoupling rate adjustment will appear on customer bills in 2013.

The Department concludes that MERC has complied with Ordering Paragraph No. 11(I) by submitting an adequate explanation of its revenue decoupling mechanism for inclusion with customer bills.

*J. ORDERING PARAGRAPH NO. 12(A)*

Ordering Paragraph No. 12(A) of the Commission's *July 13<sup>th</sup> Order* required MERC to include in its *Compliance Filing* revised schedules of rates and charges reflecting the revenue requirement and rate design decisions.

Regarding the revenue requirement, in Ordering Paragraph No. 1 of the Commission's *July 13<sup>th</sup> Order*, the Commission approved an increase of \$11,047,296 to produce annual total gross operating revenues of \$275,772,942 for MERC. To comply with Ordering Paragraph No. 12(A), MERC provided Schedule A - "Financial Schedules." The Department reviewed MERC's Schedule A and confirms that the schedules (including rate base, income statement, and revenue requirement summary) are consistent with the Department's calculation of the Commission's *July 13<sup>th</sup> Order* revenue requirement with no significant differences. MERC noted that it found an error of approximately \$1,910 in the base cost of gas as compared to the cost of gas approved by the Commission.<sup>8</sup> The Department footnoted a \$1,800 difference between MERC's and the Department's sales revenue and cost of gas in its April 19, 2012 Comments on the Administrative Law Judge's revenue requirement recommendations. The Department appreciates that the Company continued to analyze the difference and found the error. MERC stated that the \$1,910 error it found amounts to an increase in revenue deficiency of \$2.53 and "should not result in a change to any of the distribution rates." The Department agrees.

Regarding rate design decisions, excluding other revenue of \$1,319,700 from the approved total annual gross operating revenue<sup>9</sup> results in retail revenue of \$274,453,241. In apportioning revenues, the Company held the non-firm classes constant after correcting for Conservation Cost Recovery Charge (CCRC) revenues for its Super Large Volume customers. Revenues for the remaining customer classes were adjusted proportionate to the proposed revenue apportionment as agreed to by the Department and the Company. The Department has reviewed MERC's methodology, and concludes that it complies with the Commission *July 13<sup>th</sup> Order*.

The Department concludes that regarding the revenue requirement and rate design decisions, MERC has complied with Ordering Paragraph No. 12(A) of the *July 13<sup>th</sup> Order*.

*K. ORDERING PARAGRAPH NOS. 12(B) AND (C) 1-3*

Ordering Paragraph No. 12(B) and (C) 1-3 of the *July 13<sup>th</sup> Order* required a breakdown of total operating revenues by type and schedules showing all billing determinants. The Department reviewed the sales and revenue sheets provided in MERC's Schedules A and B. While reviewing MERC's sheets, the Department did not observe any errors. The Department does note two small differences between the originally filed revenue and sales sheets and the

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<sup>8</sup> Filing, page 3.

<sup>9</sup> \$1,319,700 = Late Payment Revenue of \$1,005,000 + Other Revenue of \$314,700.



information in the compliance filing. Both differences relate to a sales breakdown between CIP-exempt and CIP-applicable customers for two interruptible rate classes. When both CIP-exempt and CIP-applicable data for these two classes are aggregated they are the same as the originally filed data. As such, there is no significant issue regarding this ordering point.

The Department concludes that MERC's filing substantially complies with Ordering Paragraph No. 12(C) 1-3 of the *July 13<sup>th</sup> Order*.

*L. ORDERING PARAGRAPH NO. 12(D)*

Ordering Paragraph No. 12(D) required MERC to submit tariff sheets incorporating authorized rate design decisions. The Department reviewed the tariff sheets. At the request of the Department, on October 9, 2012, MERC submitted revised tariff sheets 5.00 to 5.51 correcting the customer charge for its Super Large Volume Customers, and correcting the distribution charges. Additionally, at the request of the Department, MERC submitted on October 15, 2012 tariff sheets 9.14 to 9.17 correcting the NAS language reflecting the Commission's determinations in Docket No. G007,011/M-11-1045. With the amendments, the Department concludes that the tariff sheets incorporate the Commission's rate case and NAS miscellaneous decisions. Therefore, the Department recommends that the Commission approve MERC's proposed tariff sheets as amended by the revised tariffs filed on October 9, 2012, and October 15, 2012. The Department discusses its analysis below.

*1. CCRC and CCRA Sections*

On October 8, 2012, MERC submitted a compliance filing related to the CCRC section<sup>10</sup> and Conservation Cost Recovery Adjustment (CCRA) section<sup>11</sup> in a separate proceeding, Docket No. E,G999/CI-11-1149 (Docket No. 11-1149).<sup>12</sup> The Department will file comments in Docket No. 11-1149 concerning MERC's and other Minnesota gas and electric utilities' CIP compliance tariff filings. Thus, the Department recommends that the Commission defer consideration of the proposed CCRC and CCRA language on tariff sheets 5.21, paragraphs 9 and 10, and 5.25, paragraphs 8 and 9, and tariff sheet 7.02 in Docket No. 11-1149.

*2. New Area Surcharge (NAS)*

MERC's NAS tariff was addressed in a separate proceeding, Docket No. G007,011/M-10-1145. The Department identified three provisions in the NAS tariff included in MERC's *Compliance Filing* which were inconsistent with the Commission's *NAS Order*. Specifically, the Commission's *NAS Order* required, in part:

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<sup>10</sup> See 2<sup>nd</sup> Revised Sheet No. 5.21 and 1<sup>st</sup> Revised Sheet No. 5.25.

<sup>11</sup> See 3<sup>rd</sup> Revised Sheet No. 7.02.

<sup>12</sup> See the Commission's September 17, 2012 *Order Amending Tariff Language and Requiring Compliance Filings* in Docket No. 11-1149 (*NAS Order*).

The discount rate used for calculating the net present value of MERC's surcharge to determine the Contribution in Aid of Construction shall be the cost of long-term debt from the most recent rate case. (Emphasis added.)<sup>13</sup>

MERC's August 6, 2012 compliance filing in the NAS Docket did not reflect this requirement of the Commission, nor did it reflect the Commission's requirement in the NAS Docket to revise the language in the NAS tariff to state that:

The net present value of the new area surcharge will be treated as a Contribution in Aid of Construction for accounting and ratemaking purposes.

Based on discussions with the Department, MERC provided corrections to its NAS tariff in its October 15, 2012 compliance filing. Thus, while the proposed NAS tariff as filed in MERC's *Compliance Filing* was not in compliance with the Commission's *NAS Order*, the Department concludes that MERC's October 15, 2012, NAS compliance tariff is in compliance with the Commission's NAS compliance tariff.

The following compares the NAS tariff language as proposed in the *Compliance Filing*, with the Company's proposed amendments.<sup>14</sup>

### **1) Method Section**

As initially filed by MERC:

The Net Present Value (NPV) of the yearly revenue deficiencies or excesses will be calculated using a discount rate equal to the overall rate of return authorized in the most recent general rate proceeding.<sup>15</sup>

As revised by MERC:

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<sup>13</sup> See Ordering Paragraph No. 2 of the Commission's July 26, 2012 *Order Approving New Area Surcharge with Modifications and Requiring Revised Tariff Sheet (NAS Order)*.

<sup>14</sup> A note on the red-lining format: all of the language is new language, and thus should be underlined if the comparison is to the tariff language prior to the Commission's approval. However, as the focus of this comparison is on changes needed to MERC's originally proposed tariff language, for ease of reading, the red-lining focuses only on the corrections needed to MERC's originally proposed compliance tariff.

<sup>15</sup> See 2nd Revised Sheet No. 9.14.

The Net Present Value (NPV) of the yearly revenue deficiencies or excesses will be calculated using a discount rate equal to the ~~overall rate of return~~ cost of long term debt authorized in the most recent general rate proceeding.

The Department concludes that MERC's October 15, 2012 correction is in compliance with the Commission's *NAS Order*.

**2) Definitions Section**

As initially filed by MERC:

9) Allowed Return: Derived from the Company's most recent general rate proceeding:

Equity Ratio	X	Return on Equity	X (1+Tax Rate)	= Weighted Cost
Long Term Debt Ratio	X	Debt Cost	X	= Weighted Cost
Short Term Debt Ratio	X	Debt Cost	X	= Weighted Cost
				Allowed Rate of Return <sup>16</sup>

As revised by MERC:

9) Allowed Return: cost of long-term debt as determined in ~~Derived from~~ the Company's most recent general rate proceeding-

<del>Equity Ratio</del>	<del>X</del>	<del>Return on Equity</del>	<del>X (1+Tax Rate)</del>	<del>= Weighted Cost</del>
<del>Long Term Debt Ratio</del>	<del>X</del>	<del>Debt Cost</del>	<del>X</del>	<del>= Weighted Cost</del>
<del>Short Term Debt Ratio</del>	<del>X</del>	<del>Debt Cost</del>	<del>X</del>	<del>= Weighted Cost</del>
				<del>Allowed Rate of Return</del>

The Department concludes that MERC's October 15, 2012 correction is in compliance with the Commission's *NAS Order*.

**3) Definitions Section**

As initially filed by MERC:

16) Present Value of Cash Flows: The cash flows that produce either revenue excesses or deficiencies (Column 15) are discounted to a present value using a discount rate equal to the overall rate of return established in the most recent general rate proceeding.<sup>17</sup>

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<sup>16</sup> See Original Sheet No. 9.16.

<sup>17</sup> See Original Sheet No. 9.17.

As revised by MERC:

16) Present Value of Cash Flows: The cash flows that produce either revenue excesses or deficiencies (Column 15) are discounted to a present value using a discount rate equal to the ~~overall rate of return~~ cost of long-term debt-established in the most recent general rate proceeding.

The Department concludes that MERC's October 15, 2012 correction is in compliance with the Commission's *NAS Order*.

In addition, in compliance with the *NAS Order*, MERC included in the Rate section of the NAS tariff of its October 15, 2012 compliance filing the following sentence: "The new area surcharge includes the full life of all plant additions."<sup>18</sup> The Department agrees with the inclusion of this additional sentence.

The Department recommends that the Commission approve the Company's tariff sheets 9.14 to 9.17 as corrected in its October 15, 2012 filing relating to the Company's NAS.

### 3. *Distribution Rate Tariffs*

Based on the Department's initial review, MERC's proposed set of tariffs were not in compliance with the Commission's decisions in the rate case. Subsequent to discussions with the Department, MERC provided revised compliance tariffs 5.00 to 5.51 on October 9, 2012. The Department reviewed the revised compliance tariffs and concluded that the revised tariffs 5.00 to 5.51 comply with the Commission's decisions in the rate case. As such, the Department recommends that the Commission approve the Company's revised tariff sheets 5.00 to 5.51 filed on October 9, 2012.

#### M. *ORDERING PARAGRAPH NO. 12(E)*

In its *Compliance Filing*, MERC responded to Ordering Paragraph No. 12(D) of the Commission's *July 13<sup>th</sup> Order* to submit proposed customer notices explaining final rates, the monthly basic service charge, rate area consolidation, and, if approved, the revenue decoupling program. The Commission further stated in Ordering Paragraph No. 13 that comments on the Company's proposed customer notice are not necessary. To comply, MERC submitted revised customer notices in its Schedule D – "Customer Notices" which includes five proposed customer notices.

MERC has proposed separate notices for customers served by Great Lakes Gas Pipeline, Northern Natural Gas Pipeline, and Viking Gas Pipeline to correspond with the tariffs. In

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<sup>18</sup> See 2<sup>nd</sup> Revised Sheet No. 9.14, as submitted by the Company in its August 6, 2012 *Compliance Filing* in Docket No. G007,011/M-11-1045.

addition, MERC has also proposed two separate notices for MERC-NMU customers dependent upon which pipeline serves each individual customer. Although the Commission stated in Ordering Paragraph No. 13 that comments on the customer notices are not necessary, after reviewing the customer notices, the Department believes a minor edit to the PGA Consolidation section of the customer notice should be considered. Specifically, the customer notice should include language stating that the PGA will become effective with bills created in July 2013. The current context of the customer notice would suggest that the PGA consolidation will occur at the same time that final rates are implemented. The Department recommends the following modification, which is made in bold font below:

The Commission also allowed MERC to consolidate its four gas cost recovery rates into two. **This consolidation will become effective with bills created in July 2013.**

Beyond the minor edit explained above, the Department concludes that MERC's proposed customer notices are reasonable, subject to any further review by the Commission.

Based on its review, the Department concludes that MERC has complied with Ordering Paragraph No. 12(D) of the *July 13<sup>th</sup> Order*. The Department recommends that the Commission consider amending the proposed customer notices as specified above, in addition to any other revisions the Commission may require.

*N. ORDERING PARAGRAPH NO. 12(F)*

Ordering Paragraph No. 12(F) of the Commission's *July 13<sup>th</sup> Order* required that MERC submit a revised base cost of gas and supporting schedules. To comply, MERC submitted Schedule E – "Revised Base Cost of Gas." As is typical with such filings, the base cost of gas filing has been separately filed and assigned a new docket number (G007,011/MR-12-1028).

Regarding the requirement to make the above filing, the Department concludes that MERC has complied with Ordering Paragraph No. 12(F) of the *July 13<sup>th</sup> Order*. However, the Department recommends that the Commission defer any decision regarding MERC's proposed base cost of gas to Docket No. G007,011/MR-12-1028.

*O. ORDERING PARAGRAPH NO. 12(G)*

Ordering Paragraph No. 12(G) of the Commission's *July 13<sup>th</sup> Order* required that MERC submit a proposal, if final authorized rates are lower than interim rates, to make refunds of interim rates, including interest calculated at the prime rate, to affected customers.

To comply, MERC submitted Schedule G – "Interim Refund Plan," which details its refund plan and calculation. MERC stated that no refund is needed for MERC-PNG customers as the final revenue excluding CIP expense is greater than the interim revenues ordered. As explained by

MERC, a refund for MERC-NMU customers is necessary and the calculation would be as follows:

For MERC-NMU the difference between the interim annual revenue increase and the final annual revenue increase, less the increase in CIP expenses, plus interest, will be used to determine the base percentage amount to be refunded. The results, stated as a percentage of 77.95%, will be applied to the interim amounts actually charged to customers. Interest at the average prime rate has been included in the refund calculation. Please note that the attached schedules are based on actual interim charge data through August 2012 business, and no interim charge data for September – November 2012 business.

The Department reviewed the proposed refund plan. For MERC-NMU's residential customers, MERC estimated a refund amount of \$2,028,973 plus interest of \$54,238 for a total refund obligation of \$2,083,211 or an average refund of \$17.40 through August 2012.<sup>19</sup> Monthly interest is calculated by dividing the annual interest rate (3.25 percent from the Federal Reserve website) by 365 days of the year, and then multiplying the daily interest rate by the number of days in the month and the monthly average balance.

Minnesota Statute §216B.27, subd. 3, requires MERC to commence the refund within 120 days of the date of the final determination of the final hearing. Since the Commission issued its Order on September 12, 2012, that date is January 10, 2013. To comply with this statute, MERC proposed to terminate interim rates November 30, 2012 and implement final rates on December 1, 2012. Further, MERC requested approval to commence interim rate refunds on February 1, 2013. According to the Company, final interim revenues will be available in late January 2013, enabling MERC to calculate the interim refund factor in January 2013 and commence the refund in February 2013.

Since the calculations include forecasted data, MERC proposed to file a report showing the calculation of the total actual refund, including interest as soon as practicable after the information becomes available.

MERC also proposed to:

- issue a bill credit to existing customers;
- issue refund checks to former MERC customers if the amount of refund is greater than \$2.00;

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<sup>19</sup> MERC provided the estimated refund amount in an October 4, 2012 e-mail.

- handle un-refunded monies in accordance with Minn. Stat. §345.34; and
- submit all un-refunded monies to the Salvation Army Northern Division for distribution to the clients under the Minnesota HeatShare Program.

The Department reviewed MERC's refund proposals and concludes that the estimates and methodology are reasonable and consistent with MERC's prior general rate case<sup>20</sup> including the implementation of final rates on a prorated basis rather than a dropped-in basis.<sup>21</sup> Further, MERC's proposal to submit all un-refunded money to the Salvation Army Northern Division for the HeatShare Program was also done in the Company's prior general rate case.<sup>22</sup> As a result, the Department concludes that MERC's refund proposals are reasonable.

Based on its review, the Department concludes that MERC has complied with Ordering Paragraph No. 12(G) of the *July 13<sup>th</sup> Order*. The Department recommends that the Commission:

- approve MERC's proposed refund plan; and
- require MERC to submit, within 10 days of the refund, a compliance filing that shows MERC-NMU's actual refund and interest paid by rate area and class.

*P. ORDERING PARAGRAPH NOS. 12(H) AND 12(I)*

Ordering Paragraph No. 12(H) of the *July 13<sup>th</sup> Order* required MERC to recalculate the CCRC, using the Commission-approved test year CIP expenses and the Commission-approved test year sales volumes less the appropriate CIP exempt volumes, but including the three non-exempt CIP customers' volumes erroneously excluded by MERC in its original rate case filing.

In Attachment F of the *Compliance Filing*, MERC proposed to calculate this rate by dividing test year CIP expenses of \$8,454,427 by 558,657,552 therms for a CCRC of \$0.01513 per therm. MERC stated that it had included the three non-exempt CIP customers' volumes erroneously excluded by the Company in its original petition. Based on its review, the Department concludes that MERC's proposed calculation of its CCRC comports with the Commission's requirement. Thus, the Department recommends that the Commission approve MERC's proposed CCRC of \$0.01513 per therm, which is to be implemented at the time of final rates.

Ordering Paragraph No. 12(I) of the *July 13<sup>th</sup> Order* required MERC to demonstrate that the CIP tracker account has been properly credited with the appropriate CCRC amounts during the interim rate period or an explanation of how the Company plans to ensure that the tracker

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<sup>20</sup> Docket No. G007,011/GR-08-835.

<sup>21</sup> MERC confirmed that it would use this method in implementing final rates in an October 4, 2012 e-mail.

<sup>22</sup> In MERC's April 30, 2010 Compliance filing in the Company's prior rate case, MERC reported that a donation of \$23,148.30 was forwarded to the Salvation Army Northern Division for the HeatShare Program.

account is properly credited after final rates have been determined. In response, MERC stated that it continues to charge the CCRC that was approved in the 2008 rate case, and that there was no incremental increase in the CCRC during the interim rate period. Thus, MERC asserted that the CIP tracker account requires no CCRC credit. The Department agrees with the Company that, since there was no incremental increase in the CCRC during the interim rate period, MERC should not be required to credit the CIP tracker account.

### **III. SUMMARY OF THE DEPARTMENT'S RECOMMENDATIONS**

The Department recommends that the Commission:

- approve MERC's proposed tariff sheets as amended by the revised tariffs filed on October 9, 2012, and October 15, 2012, but defer consideration of the proposed CCRC and CCRA language on tariff sheets 5.21, paragraphs 9 and 10, and 5.25, paragraphs 8 and 9, and tariff sheet 7.02 in Docket No. Docket No. E,G999/CI-11-1149;
- consider amending the customer notices to reflect that the PGA consolidation would occur in July 2013, in addition to any other revisions the Commission may require;
- defer any decision regarding MERC's proposed base cost of gas to Docket No. G007,011/MR-12-1028;
- approve MERC's proposed refund plan;
- require MERC to submit, within 10 days of the refund, a compliance filing that shows MERC-NMU's actual refund and interest paid by rate area and class; and
- approve MERC's proposed CCRC of \$0.01513 per therm, which is to be implemented at the time of final rates; and
- approve MERC's request to implement the consolidation of its PGA systems in July 2013 on a bill-rendered basis.

In MERC's future general rate cases, to provide a reasonable check on the Company's adjustments, the Department requests that MERC's filings reflect financial adjustments to the Company's Direct position, similar to the Department's financial statements.

Finally, to alert the Commission that MERC is undertaking additional CIP measures in response to the Commission's approval of MERC's decoupling rates, the Department recommends that the Commission require MERC to notify the Commission when MERC files its CIP modification



filing. The Department provides this recommendation at this time since MERC's Triennial CIP filing was not submitted until after the Commission decided MERC's rate case.

/jl