

July 24, 2020

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: **Additional Response Comments of the Minnesota Department of Commerce, Division of Energy Resources to Minnesota Power Company's Supplemental and Additional Comments**
Docket No. E015/AA-20-171

Dear Mr. Seuffert:

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

Minnesota Power Company's Supplemental and Additional Comments in Annual Automatic Adjustment of Charges Report – Regarding Forced Plant Outage Costs.

The Department recommends that the Minnesota Public Utilities Commission (Commission) **deny recovery of 50 percent of Minnesota Power's forced plant outage costs for a resulting refund of \$3.864 million in forced plant outage costs from the fuel clause adjustment.** The Department is available to answer any questions that the Commission may have.

Sincerely,

/s/NANCY A. CAMPBELL, CPA
Public Utilities Analyst Coordinator

NAC/ar
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E015/AA-20-171

I. INTRODUCTION

On April 15, 2020, the Minnesota Department of Commerce, Division of Energy Resources (the Department) filed its *Review of the July 2018-December 2019 Annual Automatic Adjustment Reports* (AAA Report) with the Minnesota Public Utilities Commission (Commission) in the present docket. This review is expected to be the last one under the previous system; as always, these reviews have been intended to help the Commission hold utilities accountable regarding the amount of fuel costs that utilities charge to ratepayers.

On April 30, 2020, the following electric utilities filed Reply Comments:

- Minnesota Power (Minnesota Power or MP);
- Otter Tail Power Company (Otter Tail or OTP); and
- Northern States Power Company d/b/a Xcel Energy – Electric Utility (Xcel Electric).

On May 29, 2020, the Department filed Response Comments for MP, OTP and Xcel Electric.

On June 10, 2020, MP filed Supplemental Comments to correct Attachment 15, Unplanned Outages, in their AAA Report. MP simply corrected the Boswell 4 Unplanned Outage related to the Hot Reheat Line Steam Leak megawatt hours, which were understated by 368,136 megawatt hours.

On July 1, 2020, MP filed Additional Comments, responding to the Department's recommendation regarding recovery of costs of replacement power due to MP's Unplanned Outages.

II. DEPARTMENT ANALYSIS

A. SUMMARY OF CONCERNS RAISED IN DEPARTMENT'S MAY 29, 2020 REPLY COMMENTS

In the Department's May 29th 2020 Reply Comments (Department's May 29th Reply Comments) the Department recommended that the Commission deny recovery of 50 percent of Minnesota Power's costs of replacement power due to forced plant outages, for a resulting denial (refund) of \$3.864 million in forced plant outage costs from the fuel clause adjustment. This recommendation was made, as a result, of the following concerns provided in the Department's May 29, 2020 Reply Comments:

- MP's forced outage net costs are approximately 500 percent higher in the current AAA compared to the average of the past two AAA filing periods.
- MP spent 21.9 percent less, on average, for 2018 and 2019 than the amount that MP currently charges its ratepayers for generation maintenance expense. For 2019, MP's actual generation maintenance expenses were \$29.6 million, compared to the \$42.0 million provided in rates, resulting in MP underspending generation maintenance expense by \$12.4 million, or 29.5 percent, just in 2019.
- The Department believes that MP's significant underspending of generation maintenance expense in 2019 of \$12.4 million or 29.5 percent lower than the amount charged to ratepayers put ratepayers at risk of paying higher replacement power costs due to forced outages and in fact caused a significant increase in replacement power costs due to forced outages for the AAA reporting period.
- This result is concerning, given the high level of forced outage costs, MP's low level of maintenance of generation plants, especially compared to the amounts charged to ratepayers, and the fact that the Commission previously indicated the significance of maintaining generation facilities to keep outage costs reasonable.
- The Department concluded that MP has not demonstrated that it is reasonable for MP and its shareholders to keep the \$12.4 million in underspent generation maintenance expense (which is a base rate expense) at the same time that ratepayers have had to pay \$7.727 million in forced outage costs via the fuel clause.
- To balance between ratepayers and shareholders the burden of the outage costs, the Department recommends that the Commission deny recovery of 50 percent of MP's forced outage costs for the current AAA period of \$7.727 million, for a resulting denial or exclusion of \$3.864 million in forced outage costs from the fuel clause. Because MP has already charged these costs to ratepayers, the Commission should require the Company to refund \$3.864 million to ratepayers.

B. DEPARTMENT'S CONCERNS WITH MP'S JULY 1, 2020 ADDITIONAL COMMENTS (MP'S JULY 1 ADDITIONAL COMMENTS)

1. Timing of the Department's Comments

MP on page 1 of its July 1, 2020 Additional Comments raised a concern that the Department for the first time in our May 29th Reply Comments recommended a refund of \$3.864 million to MP's customers for replacement power costs due to forced outages.

In response, the Department notes that both Xcel Electric and Otter Tail Power Company provided their actual 2019 Generation Maintenance Expenses in their initial AAA reports, while MP did not provide its 2019 actual information.¹ The Department asked MP to provide 2019 actual information in MP's April 30 Reply comments.

As a result of MP's failure to provide the information in a timely manner, the Department did not note the significant underspending of the 2019 actual generation maintenance expense with significantly higher outage costs (which MP did not provide totals for on its Schedule 15) until the Department's May 29th Reply Comments.

2. Comparison of Actual Costs with Test Year Amounts

Regarding the Department's recommendation that MP take responsibility for half of the replacement power costs due to high forced outage, MP on page 1 of its July 1 Additional Comments stated that:

This recommendation is not based on any imprudence related to outage costs or direct causation, but rather on inaccurate extrapolations derived from comparing the level of generation operations and maintenance ("O&M") expense the Company incurred in 2019 to the amount approved in the Company's 2017 test year.

MP on pages 10 to 13 of its July 1 Additional Comments further discussed what the Company considers to be an unfair comparison of actual generation maintenance expenses to test year amounts.

The Department does not agree with MP's claim that comparing 2019 actual generation maintenance expense to the amount of generation maintenance expense built into the 2017 test year is inaccurate or in any way inappropriate. In fact, there is a clear connection between the extent to which the utility appropriately maintains its facilities (planned outages) and the amount of forced (unplanned) outages at the facilities. Charging ratepayers for generation maintenance costs but failing to invest those resources into generation facilities and then requiring ratepayers to pay for replacement power costs due to that failure to maintain the facilities is clearly unfair. Thus, the Department concludes that it is reasonable to compare the \$42.0 million built into MP's rates and paid by ratepayers based on the Company's 2017 test year amount, to the \$29.6 million in actual expenditures by MP for 2019, and resulting in a \$12.4 million in underspent generation maintenance expense.

Additionally, in its February 6, 2008 Order in Docket No. E999/AA-06-1208 (the 06-1208 Order), the Commission required all electric utilities subject to automatic adjustment filing requirements, with the exception of Dakota Electric, to include in future annual automatic adjustment filings the actual expenses pertaining to maintenance of generation plants, with a comparison to the generation maintenance budget from the utility's most recent rate case.

¹

This requirement stems from the drastic increase in investor-owned utilities' (IOUs) outage costs during FYE06 and FYE07.

When a plant experiences a forced outage, the utility must replace the megawatt hours that plant would have produced if it had been operating, usually through wholesale market purchases. The cost of those purchases flows through the fuel clause adjustment directly to ratepayers. The high level of outage costs in FYE06 and FYE07 raised the issues of whether plants were being maintained appropriately to prevent forced outages, and whether IOUs were spending as much on plant maintenance as they were charging to their customers in base rates. The Commission agreed with the Department and the Large Power Interveners that "utilities have a duty to minimize unplanned facility outages through adequate maintenance and to minimize the costs of scheduled outages through careful planning, prudent timing, and efficient completion of scheduled work." 06-1208 Order at 5.

As a result, the Department concludes that it is reasonable to compare MP's 2017-test year amount to MP's 2019 actuals for generation maintenance expense, and consider the impact of generation maintenance underspending on plant outage cost levels. In this case, the Department believes that the \$12.4 million or 29.5 percent underspending of generation maintenance expense in 2019 contributed to MP's forced outage net costs being \$7.727 million (for 18 months) or \$5.152 million (annualized basis). The net annualized outage costs of \$5.152 million for the current AAA is approximately 500 percent higher compared to the average of the past two AAA filing periods (\$958,000 in FYE18 and \$769,000 in FYE17).

3. Single-Issue Adjustment to Generation Maintenance Expense

MP on page 2 of its July 1 Additional Comments stated:

As such, the Department's recommendation that the Company refund half of its 2019 forced outage costs is essentially a single-issue adjustment to the Company's 2019 generation O&M expense included in base rates.

MP included in its footnote 3 the following case citation:

See In re Minnesota Power's Transfer of M.L. Hibbard Units 3 and 4 Boilers and Related Facilities to the City of Duluth, 399 N.W.2d 147, 148 (Minn. Ct. App. 1987). In *M.L. Hibbard*, the court affirmed the Commission's approval of the transfer and decision not to adjust rates at that time, concluding "there was no evidence that Minnesota Power's rates were unreasonable solely as a result of the transfer" and appropriate ratemaking treatment should be part of the Company's next general rate case. *Id.*

MP also included in its footnote 27 the following case citation:

In re the Complaint by Myer Shark et al. Regarding Xcel Energy's Income Taxes, Docket No. E,G- 002/C-03-1871, ORDER AMENDING DOCKET TITLE AND DISMISSING COMPLAINT at 4 (Oct. 1, 2004).

The Department does not agree with MP's statement that the Department's recommendation is essentially an adjustment to MP's generation maintenance expenses. The Department was clear in our May 29, 2020 Response Comments that our adjustment is 50 percent of net unplanned or forced outage costs that are fuel related costs included in the fuel clause adjustment. This recommended adjustment was made as part of the Department's review of the AAA, where we reviewed MP's net fuel costs. MP is trying to confuse this issue by inaccurately claiming that the Department is adjusting generation maintenance expense; in fact, we recommend an adjustment to the amount of replacement power costs charged to MP's ratepayers through the fuel clause adjustment.

MP cites two cases related to adjustments to rate case revenues and expenses outside of a rate case, which were considered single-issue ratemaking. However, as noted above, the adjustment recommended by the Department in this proceeding is for replacement power costs due to forced outages, which is a fuel related cost subject to review and true up through the fuel clause adjustment and AAA (not a cost included in base rates via a rate case). As a result, these two cases are not applicable to the adjustment recommended by the Department.

4. MP claims an appropriate level of fleet maintenance in 2019, while also experiencing unavoidable forced outages

MP on pages 3 to 9 of its July 1 Additional Comments made the following statements to support why MP's believes their 2019 generation maintenance level was reasonable and MP's forced outages and replacement power costs were unavoidable:

- MP's maintenance program has its own requirements based on overhaul cycles, outage needs, and operation missions of the generators.
- The 2019 forced outages occurred despite ongoing predictive and preventive maintenance programs.
- The Department has not demonstrated that the forced outages were due to imprudence.

The Department is aware that MP's maintenance program for its generators varies from year-to-year and is done using a planning cycle basis. However, while the Department expects to see 5 to 10 percent variances in generation maintenance expense when compare test year amounts to actual expense, it is unusual to see 21.9 percent (\$9.2 million) reduction in 2018 and a 29.5 percent reduction (\$12.4 less that recovered in rates) in 2019. The Department does not believe that it is a coincidence that MP's forced outage costs were record high (approximately 500 percent higher than the FYE17 &

FYE18 AAA periods) after two years of significantly lower spending of generation maintenance expense (approximately \$21.6 million for 2018 and 2019) compared to what was charged to ratepayers in MP's rates.

The Department notes that between rate cases MP is allowed under ratemaking to keep these lower spending amounts for generation maintenance in 2018 and 2019, compared to what is charged in rates. However, MP's underspending of generation maintenance expense for 2018 and 2019 of approximately \$21.6 million put ratepayers at risk for higher forced outage costs in 2019. The Department considers it inequitable for MP to keep the lower spending levels of \$21.6 million for generation maintenance expenses in 2018 and 2019, and at the same time charge ratepayers significantly more for replacement power costs due to higher forced outage costs. As a result, MP should share in the risk it created and pay for 50 percent of the higher forced outage costs of \$7.727 million, resulting in a denial or refund of \$3.864 million in force outage costs for ratepayers.

Finally, MP's assertion that the Department must demonstrate imprudence contradicts Minnesota Statute §216B.16, subd. 4, which states that the burden of proof to demonstrate that rates are reasonable is on the utility. MP has failed to demonstrate why it is reasonable for the Company to 1) underspend on generation maintenance expense for 2018 and 2019 thereby putting ratepayers at higher risks of forced outages (which occurred) and 2) charge its ratepayers for all of the costs of replacement power due to higher forced outages.

5. Three significant forced outages in 2019 at the Boswell Plant – two at Boswell Unit 3 in June and July, 2018 and one at Boswell Unit 4 in February 2019

MP on pages 7 to 9 described three significant forced outages at the Boswell Plant that contributed to the significantly higher net outage costs in 2019.

MP first discussed its forced outage at Boswell 4 due to a hot reheat steam line longitudinal seam weld failure. MP claims that this failure was not in an area of high risk and therefore was part of a 10-year inspection cycle, which was not scheduled until 2020. As a result, MP concludes that the outage was entirely unanticipated.

The Department considers 10 years to be a long time for a weld not to be inspected, especially for an older Boswell coal-powered plant that is running most of the time. The Department questions whether inspection of welds should be limited only to "areas of high risk" if the inspection cycle is the extensive period of 10 years, particularly for an older power plant. In any case, it is clear that MP significantly underspent its generation maintenance expense in both 2018 and 2019 and experienced higher costs of replacement power due to forced outages. The Department concludes that MP has not demonstrated why ratepayers should shoulder the entire burden of the high replacement power costs in light of that underspending.

MP next discussed its forced outage in June 2019 at Boswell 3, due to a hydrogen leak. MP stated that prior to a planned April-May 2019 Outage, the Company identified a hydrogen leak. MP made repairs for hydrogen leak during the April-May 2019 Outage, yet this effort did not fully address the problem. As a result, MP extended its outage for June 1 to 22, 2019 to address the hydrogen leak. MP noted its determination that the root cause was a float valve in the seal oil system, which they stated was an extremely rare failure.

The Department notes that despite MP identifying the hydrogen leak prior to the April-May 2019 Outage, MP was unable to resolve the issue in the two-month outage. The assertion that a two-month period was not sufficient time to resolve this problem seems difficult to believe and thus the Department concludes that the MP has not justified recovery of all of the resulting higher outage costs of replacement power due to the extensive forced outage extending into the summer peaking months (June 1 to 22).

Finally, MP discussed its forced outage in July 2019 at Boswell 3, due to a failure of a phase bushings. MP indicated that they tested the phase bushings during the April and May 2019 Outage. MP noted that all three phases of the bushings passed testing at various levels within acceptable limits. Yet, in July 2019, one of the six phase bushings failed. MP was unable to determine the root cause of the failure and replaced all six phase bushings to avoid another failure and unplanned outage.

If the Department understands MP explanation, despite doing maintenance and testing on the phase bushings in April and May 2019, MP still experienced a phase bushing failure in July 2019. The Department questions whether replacement of the phase bushings in April and May 2019 might have been more appropriate since it sounds like the cost was not significant.

Overall, based on our review, the Department notes there appear to be opportunities for improvements in MP's maintenance process and planned outages to avoid three significant outages during peak periods when energy prices are higher. Additionally, MP's underspending on maintenance expense in 2018 and 2019 likely contributed to the higher level of net outage costs in 2019.

III. DEPARTMENT CONCLUSIONS AND RECOMMENDATIONS

Unlike both Xcel Electric and Otter Tail Power Company, MP did not provide its actual 2019 generation maintenance expenses in its AAA report.² As a result, it was not clear in this record that MP significantly underspent both 2018 and 2019 actual generation maintenance expense and incurred significantly higher outage costs until the Department's May 29th Reply Comments.

Given the high level of replacement power due to forced outages, MP's low level of maintenance of generation plants (especially compared to the amounts charged to ratepayers), and the fact that the

Commission previously indicated the significance of maintaining generation facilities to keep outage costs reasonable, the Department concludes that MP has not demonstrated why ratepayers should bear all of the replacement power costs due to the high level of forced outages.

In particular, MP underspent by \$12.4 million or 29.5 percent its generation maintenance expense in 2019 and incurred replacement power costs for forced outages of \$7.727 million (for 18 months) or \$5.152 million (annualized basis). The net annualized outage costs of \$5.152 million for the current AAA is approximately 500 percent higher compared to the average of the past two AAA filing periods (\$958,000 in FYE18 and \$769,000 in FYE17).

While MP's shareholders keep lower spending amounts for generation maintenance in 2018 and 2019, compared to what was charged in rates, MP's underspending of generation maintenance expense for 2018 and 2019 of approximately \$21.6 million put ratepayers at risk for higher forced outage costs in 2019. The Department considers it inequitable for MP to keep the lower spending levels of \$21.6 million for generation maintenance expenses in 2018 and 2019, at the same time as ratepayers are being charged significantly higher replacement power for forced outages.

As a result, the Department recommends that the Commission require MP to share in the risk it created and pay for 50 percent of the higher forced outage costs of \$7.727 million, resulting in a denial or refund of \$3.864 million in force outage costs for ratepayers.

/ar

CERTIFICATE OF SERVICE

I, Linda Chavez, hereby certify that I have this day served copies of the following document on the attached list of persons by electronic filing, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

MINNESOTA DEPARTMENT OF COMMERCE – ADDITIONAL RESPONSE COMMENTS

Docket Nos. **E015/AA-20-171**

Dated this **24th** day of **July, 2020**.

/s/Linda Chavez

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