

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Joseph Sullivan	Vice-Chair
Valerie Means	Commissioner
Matt Schuerger	Commissioner
John Tuma	Commissioner

In the Matter of the Request of Minnesota Regulated Gas and Electric Utilities for Authorization to Track Expenses Resulting From the Effects of COVID-19 and Record and Defer Such Expenses Into a Regulatory Asset

DOCKET NO. EG-999/M-20-427

**INITIAL COMMENTS OF THE OFFICE
OF THE ATTORNEY GENERAL**

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (“OAG”) respectfully submits the following Comments to the Minnesota Public Utilities Commission (“Commission”) in response to the Commission’s May 20, 2020 Notice of Comment Period (“Notice”) pertaining to the Joint Request by Minnesota’s regulated electric and natural gas service providers (collectively, “Petitioners”)¹ to track, defer, and record as a regulatory asset, expenses incurred resulting from the COVID-19 pandemic and ongoing peacetime emergency.

The OAG understands that these are truly extraordinary times. It is also true, however, that utility investors receive a significant return to compensate them for the risks of their investments. The Commission should keep this in mind as it considers what steps it should take to allow utilities to recover costs outside of the normal regulatory process, which effectively shifts the risks that investors have taken (and ratepayers have paid for) back onto ratepayers.

¹ Petitioners include: CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas, Dakota Electric Association, Great Plains Natural Gas Co., Greater Minnesota Gas, Inc., Minnesota Energy Resources Corporation, Minnesota Power, Northern States Power Company d/b/a Xcel Energy and Otter Tail Power. *See In the Matter of the Request of Minnesota Regulated Gas and Electric Utilities for Authorization to Track Expenses Resulting From the Effects of COVID-19 and Record and Defer Such Expenses Into a Regulatory Asset*, Docket No. EG-999/M-20-427, Joint Request, at 1 n.1 (Apr. 20, 2020) (hereinafter “*COVID-19 Deferred Accounting Docket*”).

As discussed below in greater detail, the OAG recommends that the Commission minimize this shift to the amount absolutely necessary by imposing certain consumer protection-oriented requirements on Petitioners, including: (1) a date-specific end for the utilities’ costs to be eligible for inclusion in any regulatory asset, to be triggered by the lifting of Minnesota’s peacetime emergency declaration; (2) taking a holistic approach to determine what utility expenses qualify as incremental costs by imposing stringent tracking requirements on Petitioners, such as mandating that Petitioners develop and file an “Attachment B,” which should include all offsetting savings; (3) imposing vigorous monthly—and not quarterly—tracking and reporting requirements to inform quarterly Commission hearings with a built-in notice and comment process whereby interested parties, including consumer advocates, will be given the ability to voice potential concerns as close to real-time as possible; and (4) requiring Petitioners to file financial information to enable the Commission to determine how the COVID-19 pandemic is impacting the utilities’ financial bottom lines.

BACKGROUND

As Petitioners’ Joint Request states, “[t]he COVID-19 pandemic presents our country and our State with unprecedented circumstances”² On March 13, 2020, both Governor Walz and President Trump declared states of emergency due to the COVID-19 pandemic.³ Thereafter, and as recounted in more detail in the Joint Request, Governor Walz issued a series of COVID-19-related executive orders, including EO 20-20, entitled “Directing Minnesotans to Stay at Home,” which was signed on March 25, 2020 (the “Stay at Home Order”).⁴ Additionally, since March, various state and federal government officials—including the Chair of the Commission

² *COVID-19 Deferred Accounting Docket*, Joint Request at 1.

³ *Id.* at 4.

⁴ *See generally id.* at 1-2, 4-6.

and the Commissioner of the Minnesota Department of Commerce (“Department”)—have issued a flurry of guidance, recommendations and utility-specific requests with regard to COVID-19.⁵

On April 20, 2020, Petitioners filed their Joint Request for deferred accounting for incremental costs incurred as a result of COVID-19, proposing a retroactive effective date of March 13, 2020. While Petitioners did not propose an end date, the Joint Request acknowledged that, “[a]s of this filing, it is unclear if the Stay at Home Order will be extended again and, if so, for how long.”⁶ Government leaders in both Minnesota and the United States, however, have signaled a potential cessation of emergency declarations through the relaxation of social distancing and other measures imposed to combat COVID-19. Indeed, on April 29, 2020, President Trump declared that he would not extend the federal social distancing guidelines, but instead would allow that guidance to expire on April 30, 2020.⁷ In a similar vein, on April 30, 2020, Governor Walz announced that he would be extending the Stay at Home Order until May 18, 2020.⁸ Most recently, through Emergency Executive Order 20-75, Governor Walz extended the peacetime emergency related to COVID-19 through July 13, 2020, after which time it is set to expire.⁹

During its agenda meeting on May 7, 2020, the Commission granted Petitioners’ Joint Request, and required the utilities to track costs and revenues or grants incurred or received as a result of the COVID-19 Pandemic.¹⁰ During that same meeting, the Commission required

⁵ See generally *id.* at 5-10.

⁶ *Id.* at 6.

⁷ Franco Ordoñez, *White House’s Social Distancing Guidelines Will Be ‘Fading Out,’ Trump Says*, OREGON PUBLIC BROADCASTING (Apr. 29, 2020, 4:31 PM), <https://www.opb.org/news/article/npr-white-houses-social-distancing-guidelines-will-be-fading-out-trump-says/>.

⁸ Rachel Treisman, *Midwest: Coronavirus-Related Restrictions By State*, NATIONAL PUBLIC RADIO (July 2, 2020, 12:24 PM), <https://www.npr.org/2020/05/01/847413697/midwest-coronavirus-related-restrictions-by-state> (providing an overview of COVID-19-related actions by Midwest states).

⁹ *Id.*

¹⁰ *COVID-19 Deferred Accounting Docket*, Notice of Comment Period (May 20, 2020).

Petitioners to make an initial filing of their accounting methodology and known and estimated costs and revenues within the specific categories in 21 days and quarterly thereafter.¹¹

In its Notice, the Commission required Petitioners to include in their June 10, 2020 initial filings “[a]n explanation of their proposed accounting methodology for tracking costs and revenues or grants incurred or received as a result of the COVID-19 Pandemic as well as any known and estimated costs and revenues, clearly identified within specific categories.”¹² In addition, the Notice solicited comments from interested parties on the following topics:

- Are the accounting methodologies proposed by the electric and gas utilities for tracking costs, revenues and grants incurred or received reasonable?
- Are cost and revenues clearly identified and clearly within specific categories? For example, what types of financial effects should be considered COVID-related, including cost increases and decreases, revenue increases and decreases, investments, as well as any concurrent or related off-sets.
- What additional actions should the Commission take, if any? For example, what type of additional information should be gathered, and what, if any, refinements should be made to the quarterly reporting requirements?
- On what dates should quarterly reports be filed?
- Are there any conditions or further caveats that should be considered related to the Commission’s granting of authority to establish regulatory assets?
- Should the Commission request information on the financial effects of the COVID-19 pandemic on the utilities?
- Are there other issues or concerns related to this matter?¹³

Two days after the Commission issued its Notice, on May 22, 2020, the Commission issued its Order Approving Accounting Request And Taking Other Action Related To Covid-19

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

Pandemic (“May 22, 2020 Order”).¹⁴ Almost a month later, on June 25, 2020, the Commission issued a Notice of Clarification of Quarterly Reporting Requirements (“Clarification”), whereby the Executive Secretary made several relevant clarifications to the Commission’s May 22, 2020 Order, including that “[c]ompliance filings will include estimates of any COVID-related costs or offsets that are known at that time.”¹⁵

ANALYSIS AND RECOMMENDATIONS

I. THE COMMISSION SHOULD SET A TIME-SPECIFIC END DATE FOR DEFERRED ACCOUNTING, WHICH SHOULD BE TIED TO THE LIFTING OF MINNESOTA’S PEACETIME EMERGENCY PROCLAMATION.

One significant flaw with Petitioners’ Joint Request is that it fails to provide any clarity for when the requested deferred accounting treatment will end. This is important because deferred accounting has historically been used judiciously as an extraordinary exception to the rate-making process. While the Joint Request is quick to rely on both state and federal emergency proclamations to justify the need to track, defer and record COVID-19-related expenses as a regulatory asset, Petitioners are hesitant to identify any end date for the utilities’ costs to be included in any such regulatory asset. This means that this extraordinary mechanism could be used well beyond the time that it is needed, to the detriment of ratepayers, many of whom are struggling during this pandemic.

On the one hand, throughout the Joint Request Petitioners rely both on state and federal emergency declarations and associated executive orders, in addition to recommendations by regulatory bodies at the state and federal level, as a basis to record COVID-19-related expenses

¹⁴ See generally *COVID-19 Deferred Accounting Docket*, May 22, 2020 Order.

¹⁵ *COVID-19 Deferred Accounting Docket*, Notice of Clarification of Quarterly Reporting Requirements (June 25, 2020).

as regulatory assets.¹⁶ Indeed, as set forth in the Joint Request, “[s]pecifically, the Petitioners request Commission authorization for each of them to track and defer incremental COVID-19 related costs incurred since the Governor’s establishment of the peacetime emergency on March 13, 2020, allowing the utilities to record those costs into a regulatory asset.”¹⁷ On the other hand, however, Petitioners do not propose any end date for such COVID-19-related regulatory asset, but instead vaguely assert that Petitioners should be permitted to employ deferred accounting for “continued pandemic-related actions . . . needed to ensure continued safe and reliable service during *and after* this peacetime emergency.”¹⁸ The only guidance this provides is that Petitioners’ ability to use deferred accounting would be indefinite.

If state and federal emergency declarations provide the impetus for instituting regulatory assets to defer, track, and record COVID-19-related expenses, the lifting of such restrictions—with possibly an appropriate grace period—should likewise signal the end date for the utilities’ costs to be eligible for inclusion in any regulatory asset. Such an approach is not without regulatory precedent.

As the Briefing Papers in this docket acknowledge, “[o]n April 15, 2020, the Public Service Commission of the District of Columbia” authorized utilities “to create a regulatory asset account to record the incremental costs related to COVID-19 that were prudently incurred beginning March 11, 2020, to ensure that District of Columbia residents would continue to have

¹⁶ See, e.g., *COVID-19 Deferred Accounting Docket*, Joint Request at 2 (Apr. 20, 2020) (“As operators of a Critical Sector business, the Petitioners’ utmost priority remains the continuous provision of safe, reliable, and affordable services to our customers in these uncertain times. To do so, the Petitioners are undertaking extraordinary actions, in a manner consistent with State and Federal public health guidance and directives such as the Executive Orders, and incurring extra costs, outside of the usual course of business.”); see also *id.* at 8 (“Each utility has implemented practices and procedures in accordance with their business continuity plans and federal, State, and local social distancing guidelines.”).

¹⁷ *Id.* at 10.

¹⁸ *Id.* at 2 (emphasis added).

essential utility services during the public health emergency.”¹⁹ The text of the Public Service Commission of the District of Columbia’s order, however, further cabins inclusion in the regulatory asset account to costs incurred until the end of the public health emergency, while providing the utilities’ with a 15-day grace period: “[t]o be included in the COVID-19 regulatory asset account, the incremental costs must be prudently incurred for the continued provision of service to District of Columbia residents during the public health emergency *and 15 days afterward.*”²⁰ At least one other jurisdiction has followed the District of Columbia’s lead and tied the end of deferred accounting treatment to the end of the peacetime emergency related to COVID-19.²¹

Furthermore, following the District of Columbia’s lead by providing a definitive cut-off date for Petitioners’ costs to be included in any COVID-19 regulatory asset account is consistent with the letter by the Commission’s Chair and the Department’s Commissioner to Minnesota Electric and Gas Utilities. On March 25, 2020, the Chair of the Commission and the Department’s Commissioner wrote all utility providers and requested that they commit to work with affected customers and communities by undertaking certain voluntary actions *for the duration of the national security or peacetime emergency.*²²

¹⁹ *COVID-19 Deferred Accounting Docket*, Staff Briefing Papers at Attachment A, p. 2 (Apr. 29,, 2020) (citing *IN THE MATTER OF THE ESTABLISHMENT OF REGULATORY ASSETS FOR COVID-19 RELATED INCREMENTAL COSTS*, Docket No. GD2020-01, Order No. 20329 (D.C. Pub. Serv. Comm’n Apr. 15, 2020) (hereinafter “*D.C. Deferred Accounting Order*”).

²⁰ *D.C. Deferred Accounting Order* at 2 (emphasis added).

²¹ See, e.g., *IN THE MATTER OF THE STATE OF EMERGENCY FOR THE STATE OF DELAWARE DUE TO A PUBLIC HEALTH THREAT (OPENED APRIL 27, 2020)*, PSC Docket No. 20-0286, Order No. 9588 at 3 (Del. Pub. Serv. Comm’n May 13, 2020) (“Utilities are hereby authorized to establish, in compliance with the terms of this Order, a regulatory asset account to capture and track COVID-19-related incremental costs during the period starting March 24, 2020 and ending 30 days after which Governor Carney issues an order, declaration, proclamation, or similar announcement that the state of emergency is no longer in effect . . .”).

²² *COVID-19 Deferred Accounting Docket*, Staff Briefing Papers at 1 (Apr. 29, 2020); see also *COVID-19 Deferred Accounting Docket*, Notice of Oral Comment Times and Procedures at 2 (May 5, 2020).

Providing Petitioners with a date-specific end to deferred accounting would further the public interest by ensuring that Petitioners do not seek deferral, and ultimately rate recovery at the ratepayers' expense, of more than incremental costs.²³

II. THE COMMISSION SHOULD TAKE A HOLISTIC APPROACH TO ANY FUTURE INCREMENTAL COST DETERMINATION BY IMPOSING MORE STRINGENT TRACKING AND REPORTING REQUIREMENTS ON PETITIONERS AND INCREASING PUBLIC ENGAGEMENT.

“Before utility regulators take actions to adjust revenues or rates to reflect COVID-19 impacts, it is important to identify and quantify the broad range of impacts so that those that increase costs or reduce sales can be appropriately offset against those that decrease costs or cause increased sales in some sectors.”²⁴ Said differently, the Commission should consider increased costs, cost savings and revenue gains or losses from COVID-19 on a net revenue requirement basis in the context of the annual revenue requirement established in each of the Petitioners' last rate cases.

In addition, the OAG respectfully recommends that the Commission consider the following items, which were sagely advocated for by the Michigan Attorney General's Office to the Michigan Public Service Commission:

- In the spirit of shared sacrifice and to instill an appropriate incentive for cost control, the Commission should limit the recovery of net costs to only 80% of the amount actually incurred;
- The Commission should make it clear that it expects the utilities to take appropriate actions to reduce costs and maximize revenue during the duration of the pandemic, including reducing and postponing capital projects that are

²³ From the OAG's perspective, any long-term COVID-19-related project costs that do not fit neatly within the beginning and end date for deferred accounting treatment could be reviewed by the Commission separately and outside of this docket. Furthermore, Petitioners are likewise permitted to initiate a rate case proceeding if their costs exceed their revenues due to COVID-19-related costs.

²⁴ Jim Lazar, *Synchronizing the Electric Regulatory Response to COVID-19*, REGULATORY ASSISTANCE PROJECT (May 5, 2020), <https://www.raponline.org/blog/synchronizing-the-electric-regulatory-response-to-covid-19/> (hereinafter “*Synchronizing the Electric Regulatory Response to COVID-19*”).

not critical to maintaining service or safety. These actions are critical to assist customers who may ultimately face the burden of potentially higher costs incurred by the utilities;

- The Commission should discourage utilities from claiming recovery of non-measurable or difficult to measure costs, such as employee productivity costs or lost opportunity costs;
- The Commission should discourage the use of carrying charges or the impression of making the utilities whole on their increased cost of operation given the financial hardship suffered by customers during this unusual time, including many businesses who will never be made whole for the financial losses they suffered from COVID-19;
- Any reductions in power costs or natural gas costs due to lower prices or reduction in sales should be passed on to customers as much as possible during 2020 by lowering purchased gas adjustments, or through special refunds; and
- The Commission should consider implementing many of the recommendations, as appropriate in Minnesota, contained in the resolution concerning the effects of the public health and economic crises resulting from COVID-19 upon utility rates and services provided to consumers by public utilities as issued by the National Association of State Utility Consumer Advocates.²⁵

In addition, and as explained in the next section, the OAG respectfully requests the Commission to compel Petitioners to develop and file an “Attachment B” to completely and satisfactorily cover all offsetting savings.

A. The Commission Should Mandate that Petitioners Develop and File an “Attachment B” as a Corollary to “Attachment A,” which Should Track and Record all Offsetting Savings in the Regulatory Accounts set up for Deferred Accounting.

While Petitioners attempt to capture the “categories of COVID-19 expenses,” as reflected in Attachment A to their initial comments, their calculus is incomplete, as it is devoid of any

²⁵ *In the Matter, on the Commission’s Own Motion, to Review its Response to the Novel Coronavirus (COVID-19) Pandemic, including the Statewide State of Emergency, and to Provide Guidance and Direction to Energy and Telecommunications Providers and Other Stakeholders*, MPSC Case No. U-20757, Attorney General Reply Comments on Utility Accounting for Covid-19 Related Expenses and Additional Comments at 2-3 (May 13, 2020).

offsetting savings. To that end, the OAG appreciates the Commission’s recent Clarification, which reminds Petitioners of the need for all future “[c]ompliance filings [to] include estimates of any COVID-related costs or offsets that are known at that time.”²⁶ To ensure that Petitioners take equal care in assessing offsetting savings, the OAG respectfully requests that the Commission order Petitioners to develop and file a document that catalogues offsetting savings in expense categories that, much like Attachment A, “may evolve.”

The Commission should likewise explicitly follow the lead of other state utilities and service commissions by mandating that Petitioners offset any qualifying incremental costs with cost savings and/or benefits or assistance realized by Petitioners as a result of the COVID-19 pandemic, including but not limited to: (1) “cost savings directly attributable to the suspension of disconnections or other activities during the emergency declaration,”²⁷ including, by way of illustration and not exclusion, Petitioners’ suspended operating activities (e.g., travel, in-person meetings, events), reductions in expense categories (e.g., salaries/wages, supplies, travel) and deferred, suspended or cancelled capital projects; and (2) “any assistance or benefit received by [Petitioners] in connection with COVID-19, regardless of form, that would offset any COVID-19-related expenses,”²⁸ including, by way of illustration and not exclusion, local, state or federal assistance (e.g., the U.S. Department of Treasury’s administration of S.3548, The Coronavirus Aid, Relief, and Economic Security Act)²⁹ and recovery or settlement of insurance policy claims.

²⁶ *COVID-19 Deferred Accounting Docket*, Notice of Clarification of Quarterly Reporting Requirements (June 25, 2020).

²⁷ *IN THE MATTER OF ADMINISTRATIVE ORDERS RELATING TO THE COVID-19 STATE OF EMERGENCY*, DOCKET NO. 20-012-A, Order No. 1 at 3 (Ark. Pub. Serv. Comm’n Apr. 10, 2020).

²⁸ *STATE OF EMERGENCY AND PUBLIC HEALTH EMERGENCY IN THE STATE OF MARYLAND DUE TO COVID-19*, Docket No. 9639, Order No. 89542 at 3 (Md. Pub. Serv. Comm’n Apr. 9, 2020).

²⁹ *See id.* at 3 n.3; *see also IN RE: MISSISSIPPI PUBLIC SERVICE COMMISSION OMNIBUS DOCKET*, Docket No. 2018-AD-141, Order Authorizing Utility Response and Accounting for COVID-19 at 3-4 (Miss. Pub. Serv. Comm’n Apr. 14, 2020) (“It is further ordered that should the utilities receive financial relief from other (Footnote Continued on Next Page)

In addition, Petitioners should consider a wide-ranging set of potential categories for inclusion in Attachment B that may offset the utilities' anticipated COVID-19-related expenses set forth in Attachment A. While by no means does the OAG intend for these examples to be exhaustive, they demonstrate the many forms in which offsetting savings may take. In addition to the categories of cost savings or offsetting savings developed by Petitioners in their hopefully forthcoming "Attachment B," the Commission should require the utilities to track and report trends related to (1) fuel and purchased power costs, (2) costs of capital, (3) operations and maintenance costs and (4) the efficient deployment of generating units given the assumed flattening of loads. The basis for each of these categories is discussed below.

1. Fuel and purchased power costs.

The OAG suspects that Petitioners have seen and may continue to see significant savings as a result of decreased fuel costs and decreased power purchase costs. "Even without COVID-19, some fuel costs were declining in response to an oil price war between Saudi Arabia and Russia, launched at the beginning of the year."³⁰ The "sharp drop in electricity and industrial demand for natural gas" as a result of the COVID-19 pandemic has likewise "sharply depressed the price of gas, the most common fuel for electricity generation."³¹ It may also have caused utilities to use less of these fuels as in-home appointments were curtailed and power demand declined.

(Footnote Continued from Previous Page)

sources at the federal or state level to offset the costs described above, such revenues should be deferred to a regulatory liability pending their ultimate disposition by the Commission.").

³⁰ *Synchronizing the Electric Regulatory Response to COVID-19.*

³¹ *Id.*

2. Costs of capital.

“Interest rates have dropped sharply in a ‘race for safety’ by investors. Federal one-year and 10-year interest rates have dropped to near-zero levels. Utilities have immediate access to this lower-cost capital for their short-term debt and may be able to refinance longer-term debt at lower rates as well.”³² Accordingly, the Commission should encourage Petitioners to track and take full advantage of these lower costs of capital to offset any potential increase in COVID-19-related expenditures.

3. Operations and maintenance costs.

It may be true that many Petitioners will experience labor cost increases, due in part to lower labor productivity caused by remote work. Those labor cost increases, however, “may be greatly reduced” or offset by a decrease in building operating costs, “which may be greatly reduced” with lower occupancy by utility employees.³³ Likewise, Petitioners may see cost overruns related to other operation and maintenance (“O&M”) costs, such as “the need to provide for the health and safety of their employees.”³⁴ These costs, again, however, may be offset by related utility cost savings. For example, “entire program areas may be reduced, from software development to tree trimming, achieving significant net reductions in overall [O&M] expenses.”³⁵ Furthermore, as discussed in the next section, “[t]he lower electricity consumption we are experiencing should mean that entire power plants can be temporarily . . . closed, thereby avoiding ongoing labor costs for those units.” Finally, much like as was experienced during the 2008 Great Recession, Petitioners may respond to sales declines by “impos[ing] hiring freezes,

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

eliminate[ing] overtime work and even furlough[ing] employees in non-critical positions to conserve cash and preserve earnings.”³⁶

4. Efficient deployment of generating units given the assumed flattening of loads.

The majority of utilities “are experiencing sales volumes declines, primarily in the commercial sector, as office and retail workers have stayed home” due to the COVID-19 pandemic.³⁷ “In general, the sales margins are higher for residential sales than for large commercial and industrial sales.” As a result, “the difference between weekday and weekend loads is much smaller, with most office buildings closed.” This “improved load shape from lower commercial activity will likely result in a significantly lower average cost for power supply, per kWh, as high-cost resources are left idle during weekday hours.”³⁸ The Commission should ensure that utilities are curtailing expensive and uneconomic generating units to better match the flatter load to maximize savings or offsetting savings.

B. The Commission Should Require Petitioners to File Monthly, Not Quarterly, Reports With Notice and Comment Opportunities and Quarterly Agenda Meetings to Discuss Concerns in Real-Time.

The Commission should revise its May 22, 2020 Order and follow the lead of the Public Service Commission of Wisconsin by imposing vigorous monthly—not quarterly—tracking and reporting requirements.³⁹ Because both Attachment A and Attachment B will be living documents that “may evolve as actual expenses/impacts[/offsetting savings] of addressing the COVID-19 pandemic and providing utility service emerge,” the OAG envisions a built-in notice

³⁶ *Synchronizing the Electric Regulatory Response to COVID-19.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *See generally Accounting Treatment for Utility Costs Incurred Due To and During Declared Public Health Emergency for COVID-19*, Docket No. 5-AF-105, Supplemental Order – First (May 14, 2020).

and comment process whereby interested parties, including consumer advocates, will be given the ability to voice potential concerns as close to real-time as possible.

Such a framework would be incomplete without regularly scheduled quarterly Commission agenda meetings, which would serve as an ongoing opportunity for interested stakeholders to comment on both actual and projected COVID-19-related costs and offsets provided in compliance reports over the past three months. Moreover, as previously requested by the OAG, the Commission may find it administratively helpful to mandate that Petitioners submit their compliance filings using a uniform template.⁴⁰

Not only would such an approach provide all stakeholders with as close to real-time information as possible during the COVID-19 pandemic, it would further statements made by Commissioners Tuma and Schuerger at the May 7, 2020 agenda meeting during which the Commission approved the Joint Request. During that agenda meeting, both Commissioners made several statements supporting the ability of interested stakeholders to comment on compliance filings on an ongoing basis. Setting up a procedural vehicle ahead of time, complete with monthly compliance filings, subject to notice and comment and review at quarterly Commission meetings will further the public interest while maintaining a sense of regular proceedings and ensuring there is no implied “shifting of burdens.”

III. THE COMMISSION SHOULD REQUIRE PETITIONERS TO SUBMIT INFORMATION ON THE FINANCIAL EFFECTS FELT BY EACH UTILITY FROM COVID-19.

As the May 22, 2020 Order states, “[e]xceptions for the purpose of deferred accounting have been reserved for costs that are unusual, unforeseeable, and large enough to have a

⁴⁰ See *COVID-19 Deferred Accounting Docket*, Preliminary Comments of the Office of the Attorney General (May 27, 2020).

significant impact on the utility's financial condition."⁴¹ Given that a precondition to deferred accounting, generally speaking, is that the precipitating factor warranting deferred accounting has affected the utility's financial condition, such information is especially relevant to future deferred accounting recoverability. This makes particular sense given today's historic unemployment and dire economic outlook. The Commission should be aiming to help Minnesotans get through these difficult times, and not helping aid Petitioners simply increase profits for their investors or eliminate the risks they took.

To this end, the Commission should require Petitioners to disclose in their monthly compliance reports the following financial information:

- Whether any dividends were paid out by Petitioners to their parent companies, and, if so, the amount and date of such dividends;
- Any SEC filings and/or utility investor calls that make statements regarding the particular utility's past, current or future financial projections related to the COVID-19 pandemic;
- Whether the utility has made any changes to planned capital projects, and if so, the extent of such change;
- Whether Petitioners or their parent companies have instituted any hiring freezes, and, if so, the projected duration; and
- Whether Petitioners or their parent companies have or plan to terminate or furlough utility employees as a result of the COVID-19 pandemic.

CONCLUSION

Utilities receive a high return on equity to account for potential risks, such as the COVID-19 pandemic. Countless Minnesotans are suffering as a result of the current state of events. These residential and small business customers may be out of work. They may be asked to take a pay cut. Their businesses may be gone or may be shuttered for some time to come.

⁴¹ *COVID-19 Deferred Accounting Docket*, May 22, 2020 Order at 5.

Just as regular, hardworking Minnesotans are trying their best to cut costs wherever they can, the Commission should expect the same from Petitioners. While the OAG understands the arguments for allowing utilities to defer and recover those extraordinary costs, any attempt to do so should be limited to the amount absolutely necessary. The OAG implores the Commission to help Minnesotans in these difficult times by ensuring that Petitioners, who are oftentimes insulated from the economic realities of recessions and depressions, shoulder their share of the burden.

Dated: July 10, 2020

Respectfully submitted,

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/s/ Max Kieley

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July 10, 2020

Mr. Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
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Re: *In the Matter of the Request of Minnesota Regulated Gas and Electric Utilities for Authorization to Track Expenses Resulting From the Effects of COVID-19 and Record and Defer Such Expenses Into a Regulatory Asset*
MPUC Docket No. EG-999/M-20-427

Dear Mr. Seuffert:

Enclosed and e-filed in the above-referenced matter please find Comments of the Minnesota Office of the Attorney General—Residential Utilities Division.

By copy of this letter all parties have been served. An Certificate of Service is also enclosed.

Sincerely,

/s/ **Max Kieley**

MAX KIELEY

Assistant Attorney General

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Enclosure

CERTIFICATE OF SERVICE

Re: *In the Matter of the Request of Minnesota Regulated Gas and Electric Utilities for Authorization to Track Expenses Resulting From the Effects of COVID-19 and Record and Defer Such Expenses Into a Regulatory Asset*
MPUC Docket No. EG-999/M-20-427

I, JUDY SIGAL, hereby certify that on the 10th day of July, 2020, I e-filed with eDockets *Comments of the Minnesota Office of the Attorney General—Residential Utilities Division* and served a true and correct copy of the same upon all parties listed on the attached service list as receiving Electronic Service by e-mail and/or electronic submission.

/s/ Judy Sigal

JUDY SIGAL

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