BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

In the Matter of the Emergency Petition of Minnesota Power for Approval to Move Asset-Based Wholesale Sales Credits to the Fuel Adjustment Clause and Resolve Rate Case	PUC Docket No. E-015/M-20-429
In the Matter of the Application of Minnesota Power for Authority to Increase Electric Service Rates in Minnesota	PUC Docket No. E-015/GR-19-442
In the Matter of Minnesota Power's Revised Petition for a Competitive Rate for Energy-Intensive Trade-Exposed (EITE) Customers and an EITE Cost Recovery Rider	PUC Docket No. E-015/M-16-564 **LPI INITIAL COMMENT**

The following companies – an ad hoc consortium of large industrial customers of Minnesota Power ("Minnesota Power" or the "Company") known as the Large Power Intervenors ("LPI") – consisting of ArcelorMittal USA (Minorca Mine); Blandin Paper Company; Boise Paper, a Packaging Corporation of America company, formerly known as Boise, Inc.; Enbridge Energy Limited Partnership; Gerdau Ameristeel US Inc.; Hibbing Taconite Company; Northern Foundry, LLC; Sappi Cloquet, LLC; USG Interiors, Inc.; United States Steel Corporation (Keetac and Minntac Mines); United Taconite, LLC; and Verso Corporation[1] submit this Comment in response to the Commission's Notice of Shortened Comment Period, regarding Minnesota Power's Petition for Approval to Move Asset-Based Wholesale Sales Credits to the Fuel Adjustment Clause and Resolve Rate Case.[2]

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1 LPI submits this comment in multiple dockets, including MPUC Docket No. E-015/M-16-564 (the "EITE Docket"). Because Minn. Stat. § 216B.1696 (the "EITE Statute") does not apply to all of the individual entities listed above, LPI notes that, consistent with the customer limitation imposed in the EITE Docket, the LPI-EITE members are: ArcelorMittal USA (Minorca Mine); Blandin Paper Company; Boise Paper, a Packaging Corporation of America company, formerly known as Boise, Inc.; Hibbing Taconite Company; Sappi Cloquet, LLC; United States Steel Corporation (Keetac and Minntac Mines); United Taconite, LLC; and Verso Corporation.

2 Notice of Shortened Comment Period (Apr. 28, 2020) (eDocket No. 20204-162537-01) (the "Notice"). The Notice seeks comments on the following: "[1] Should the Commission approve Minnesota Power's request to shift recovery of the Company's energy and capacity asset-based wholesale sales margins from base rates to its Fuel Adjustment Clause (["]FAC["])? [2] Should Minnesota Power be authorized to change base rates, as requested, as a result of this docket rather than in a rate case? [3] Should the Commission approve the Petition within the requested

I. INTRODUCTION AND BACKGROUND

LPI appreciates Minnesota Power's ongoing efforts to work with the various stakeholders during this unprecedented time as well as the Commission's flexibility to accommodate the parties due to the time-sensitive nature of this docket. LPI does not oppose resolving the rate case, but cannot support Minnesota Power's proposal in its current form. LPI submits this Comment to draw attention to the economic ramifications of Commission approval of Minnesota Power's proposal and to highlight the current situation facing Large Power ("LP") and Large Light & Power ("LLP") customers. LPI also uses this Comment as an opportunity to outline a potential path toward achieving a mutually beneficial resolution for all of the stakeholders and Minnesota Power.

A. FAC Petition

On April 23, 2020, Minnesota Power filed the instant Petition in MPUC Docket No. E-015/M-20-429.[3] The Petition seeks Commission approval of various proposals. First, Minnesota Power requests recovery of energy and capacity asset-based wholesale margin credits (collectively "Margin Credits") through the FAC, effective on May 1, 2020.[4] In the Petition, Minnesota Power explains that:

> if the Commission accepts the Company's Petition and allows inclusion of Margin Credits in the FAC effective May 1, 2020, the Company's estimated total percent increase (base rates plus FAC) for 2020 would be 2.8 percent…. This 2.8 percent combined change is significantly lower than both the Company's approved interim rate increase of 5.8 percent and the Company's proposed final rate increase of 10.59 percent.[5]

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45 day window? [4] Does the Commission-approved 2020 [FAC] allow for implementation of mid-year changes of this nature, in this docket, without Commission approval? [5] Minnesota Power's commitment to withdraw its current rate case and not file a request for authority to increase electric service rates before November 1, 2021, except in the event of certain unexpected circumstances. [6] Minnesota Power's proposal to defer residential rate design issues to the time-of-use residential rates docket (Docket No. E-015/M-12-233) and to maintain the current EITE rider rate discount through February 1, 2021." As well as any other issues or concerns related to Minnesota Power's petition.

3 Minnesota Power Petition (Apr. 23, 2020) (eDocket No. 20204-162386-01) (the "Petition"). Prior to filing the Petition, Minnesota Power engaged with stakeholders in an attempt to reach an agreement amongst all of the parties.

4 *Id.* at 8.

5 *Id.* at 12.

While Minnesota Power notes that it is not seeking any additional capital or O&M costs, nor a change to its rate of return, its estimates "indicate that net changes after May 1, 2020 will be approximately 4.1 percent over rates effective December 31, 2019."[6]

Second, Minnesota Power seeks a rule variance (if needed) to allow for the proposed changes to the FAC. Minnesota Power argues that its requested variance meets the three-part test outlined in Minn. R. 7829.3000, because it will: (1) lessen the regulatory burden on the Commission and parties; (2) serve the public interest because the FAC reform benefits all customers and Minnesota Power; and (3) not conflict with the law.[7]

Third and fourth, if accepted, Minnesota Power will withdraw its ongoing rate case[8] and reduce interim rates from a 5.8 percent to a 4.1 percent increase.[9] Minnesota Power notes that this change will immediately reduce customers' bills by 1.7 percent.[10] Additionally, if the Petition is approved, customers will receive refunds of all interim rates collected with interest on the refunded amount at the prime rate.[11]

Fifth, if approved, Minnesota Power will not file a rate case until November 1, 2021.[12] The only caveat to this condition is if an energy-intensive trade-exposed ("EITE") customer shuts down or idles at least 50 MW of load below their actual load as of April 20, 2020, for at least three months, Minnesota Power reserves the right to file another rate case with 90-days written notice.[13] Notwithstanding this exception, Minnesota Power notes that it will not file a rate case prior to March 1, 2021.[14]

Sixth, in recognition of remaining rate-design issues, Minnesota Power commits to working with stakeholders in the time-of-day docket to target revenue neutral, residential rate-

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6 *Id.*

7 *Id.* at 15-16.

8 *Id.*; *see* MPUC Docket No. E-015/GR-19-442 ("2019 Rate Case").

9 *Id.*

10 The Commission conditionally approved this component of Minnesota Power's proposal at its April 30, 2020, meeting.

11 Petition at 17.

12 *Id.*

13 *Id.*

14 *Id.*

design options in MPUC Docket No. E-015/M-12-233.[15] Minnesota Power also requests that the existing EITE rate be maintained until February 1, 2021.[16] The Company believes that this request is consistent with prior Commission orders; however, Minnesota Power explicitly notes that it "recognizes the ongoing concerns of its largest customers and the State's policy considerations around an EITE rate [and the] Petition is not intended to change any party's opportunity to propose in other dockets to extend or modify the EITE rate beyond February 1, 2021."[17] Lastly, Minnesota Power requests approval of tariff modifications. The Company notes that updated tariff language will be provided upon approval of the Petition.[18]

As LPI demonstrates above, Minnesota Power's Petition impacts stakeholders across various dockets. Therefore, LPI provides (below) a brief overview of the dockets, law, and current events for the Commission's consideration.

B. Rate Case Docket

On November 1, 2019, Minnesota Power filed a general rate case seeking an overall rate increase of $65.9 million or 10.59 percent based on a 2020 test year, a ROE of 10.05 percent, and an overall rate of return of 7.4737 percent.[19] The Company also requested an interim-rate increase of $47.9 million.[20] After feedback from stakeholders, the Commission set interim rates at $36,119,620, which was a 5.8 percent increase to base rates.[21] On the same day, the Commission referred the 2019 Rate Case to the Office of Administrative Hearings ("OAH") for contested-case

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[15] *Id.*

[16] *Id.* at 18.

[17] *Id.* During negotiations, other parties refused to entertain the notion of extending the EITE rate beyond February 1, 2021.

[18] *Id.*

[19] *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E-015/GR-19-442, Initial Testimony of Frank L. Frederickson – Case Overview at 17 (Nov. 1, 2019) ("Frederickson Case Overview").

[20] *Id.* at 3.

[21] *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E-015/GR-19-442, and *In the Matter of the Petition of Minnesota Power for Approval of a New Base Cost of Fuel and Purchased Energy*, Docket No. E-015/MR-19-443, Order Setting Interim Rates at 4 (Dec. 23, 2019) ("2019 Interim-Rates Order").

proceedings.[22] LPI's Petition to Intervene was formally granted in the First Prehearing Order.[23] In response to the Petition and prior to other parties submitting testimony, the 2019 Rate Case deadlines were suspended, effectively staying the case.[24]

Though the rate case is stayed, another important aspect of the 2019 Rate Case is Minnesota Power's proposals surrounding the EITE Statute, rate, and rider. In the 2019 Rate Case filing, Minnesota Power proposed to discontinue the EITE rate concurrent with the implementation of final rates; however, the Company requested that "the Commission factor the overall intent of the EITE statute into its final decision on rate design."[25] The 2019 Rate Case and the Petition contemplate different resolutions to the ongoing EITE-rate issues, requiring additional examination of the EITE Docket and EITE Statute.

C. EITE Statute and Docket

The EITE Statute was enacted in 2015. Subdivision 2(a) states that "[i]t is the energy policy of the state of Minnesota to ensure competitive electric rates for energy-intensive trade-exposed customers." In December 2016, the Commission approved an EITE-rate schedule that provides specified customers a roughly 5 percent discount based upon each customer site's peak electric usage and total energy consumption ("EITE-Rate Schedule") and an associated EITE-cost-recovery rider ("EITE Rider").[26] The EITE-Rate Schedule was approved for a term of four years, expiring February 1, 2021.[27] At the time of approval of the EITE-Rate Schedule, the Commission also established a separate cost-recovery proceeding to address the EITE Rider.[28] The

[22] *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E-015/GR-19-442 and *In the Matter of the Petition of Minnesota Power for Approval of a New Base Cost of Fuel and Purchased Energy*, Docket No. E-015/MR-19-443, Notice of and Order for Hearing at 2-7 (Dec. 23, 2019).

[23] *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E-015/GR-19-442 and OAH Docket No. 8-2500-36575, First Prehearing Order at 3 (Jan. 16, 2020).

[24] *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E-015/GR-19-442 and OAH Docket No. 8-2500-36575, Sixth Prehearing Order at 3 (Apr. 24, 2020).

[25] Frederickson Case Overview at 31.

[26] *In the Matter of a Revised Petition by Minnesota Power for a Competitive Rate for Energy-Intensive Trade-Exposed (EITE) Customers and an EITE Cost Recovery Rider*, MPUC Docket No. E-015/M-16-564, Order Approving EITE Rate, Establishing Cost Recovery Proceeding, and Requiring Additional Filings at 5, 12-14 (Dec. 21, 2016).

[27] *Id.*

[28] *Id.*

Commission's actions in the subsequent cost-recovery proceedings and other dockets ensured that there would not be "surcharges on customer bills related to the Energy Intensive Trade Exposed (EITE) rate discounts previously approved by the Commission."[29] Recently, the Commission approved Minnesota Power's request to extend the EITE-Rate Schedule and Rider until new final rates take effect in the 2019 Rate Case.[30] The Commission approved Minnesota Power's request because the Company "will be prohibited from recovering any EITE-related costs through any potential surcharge from non-EITE customers after February 1, 2021."[31] As a result of the proposed resolution, the Petition effectively shortens this extension and requests that the EITE-Rate Schedule and Rider end on February 1, 2021.[32]

D. Additional Rider Charges

The base rate increases and potential end of the EITE-Rate Schedule described above are not the only rate increases pending on Minnesota Power's system. Minnesota Power also has two outstanding requests to increase rates in its riders. In August 2019, Minnesota Power filed a petition to adjust rates in its Rider for Renewable Resources ("RRR").[33] Under Minnesota Power's proposed adjustments, the LP average class rate would increase 0.016 cents per kWh or an increase of about 0.26 percent.[34] The LLP class average rate would increase by 0.310 cents per kWh or an increase of about 3.76 percent.[35] The requested rider increase is expected to be effective upon Commission approval.[36]

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29 Dan Wolf, *Minnesota Public Utilities Commission Reduces Rate Increase Requested by Minnesota Power in its Electric Rate Case*, Minnesota Public Utilities Commission Press Release (Jan. 30, 2018), https://mn.gov/puc/newsroom/?id=14-325472.

30 *In the Matter of Minnesota Power's Revised Petition for a Competitive Rate for Energy-Intensive Trade-Exposed (EITE) Customers and an EITE Cost Recovery Rider*, MPUC Docket No. E-015/M-16-564, Order Approving Rider Extension with Conditions at 3-4 (Mar. 17, 2020) ("2020 EITE Order").

31 *Id.*

32 Petition at 18.

33 *In the Matter of Minnesota Power's Renewable Resources Rider and 2020 Renewable Factor*, MPUC Docket No. E-015/M-19-523, Minnesota Power Petition at 1 (Aug. 15, 2019) ("Renewable Rider 2020 Petition").

34 *In the Matter of Minnesota Power's Renewable Resources Rider and 2020 Renewable Factor*, MPUC Docket No. E-015/M-19-523, Minnesota Power Reply Comments at 9 (Mar. 5, 2020). The increase is 0.06 $/kW-month (demand) and 0.007 ¢/kWh (energy). *Id.* at Ex. B-1.

35 *Id*. at 10.

36 Renewable Rider 2020 Petition at 1.

In July 2019, Minnesota Power filed a petition for approval of a Transmission Cost Recovery Rider ("TCRR").[37] The TCRR would be an additional $31.4 million revenue requirement if approved.[38] LPI could receive up to a 166 percent increase to energy charges under the TCRR and up to 130 percent increase in demand charges under the TCRR.[39] Compared to the overall average delivered cost of energy, the increase is 3.70 percent.[40] Additionally, LLP customers average rate would increase by 0.133 cents per kWh or an increase of about 1.61 percent.[41] The Petition proposes to increase rates in the month following Commission approval.[42]

E. The Total Combined Impact of Rate Increases for LPI-EITE Members Could Exceed 12 Percent

The potential total combined rate increases are unsustainable. To be sure, the following increases appear to be contemplated for LPI-EITE members over the next 10 months: (1) 3.82 percent in the FAC Petition; (2) 0.26 percent in the RRR Petition; (3) 3.70 percent in the TCRR Petition; and (4) roughly 5 percent due to the expiration of the EITE-Rate Schedule. Assuming LPI is correct that these figures are all based from a current average of delivered cost of energy starting point, it appears rates for LPI-EITE members could increase by more than 12 percent over the next 10 months, excluding any potential increases to fuel and purchased energy charges. In other words, the average delivered cost of energy for EITE members in Minnesota Power's LP class could go from approximately $62/MWh to approximately $70/MWh. Assuming the LP class consumes roughly 5.3 million MWh annually,[43] this increase equates to over $40 million on an annual basis. Such a significant increase would constitute rate shock under normal circumstances and is especially unwelcome under current market conditions.

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37 *In the Matter of Minnesota Power's Petition for Approval of a Transmission Cost Recovery Rider under Minn. Stat. § 216B.16, subd. 7b*, MPUC Docket No. E-015/M-19-440, Minnesota Power Petition (July 9, 2019) ("TCRR Petition").

38 *Id.* at 25.

39 *In the Matter of Minnesota Power's Petition for Approval of a Transmission Cost Recovery Rider under Minn. Stat. § 216B.16, subd. 7b*, MPUC Docket No. E-015/M-19-440, LPI Letter to the Commission (Oct. 17, 2019); *In the Matter of Minnesota Power's Petition for Approval of a Transmission Cost Recovery Rider under Minn. Stat. § 216B.16, subd. 7b*, MPUC Docket No. E-015/M-19-440, Comments of the Minnesota Department of Commerce, Division of Energy Resources at 18 (Oct. 9, 2019). The increase is 0.106 ¢/kWh (energy) and 0.87 $/kWh-month (demand). *Id.*

40 TCRR Petition at 32.

41 *Id*.

42 *Id.* at 7.

43 Petition, Ex. B, at 2.

LLP customers do not fare much better, with the following projected increases: (1) 4.25 percent in the FAC Petition; (2) 3.76 percent in the RRR Petition; and (3) 1.61 percent in the TCRR Petition. Assuming LPI is correct that these figures are all based from a current average of delivered cost of energy starting point, it appears rates for LLP members could increase by more than 9 percent over the next 6-10 months, excluding any potential increases to fuel and purchased energy charges. In other words, the average delivered cost of energy for Minnesota Power's LLP class could go from approximately \$82/MWh to approximately \$90/MWh. Assuming the LLP class consumes roughly 1.3 million MWh annually,[44] this increase equates to over \$10 million on an annual basis. Such a significant increase would constitute rate shock under normal circumstances and is especially unwelcome under current market conditions. And combined with the LP increase, it appears that industry in Minnesota Power's service territory could see a \$50 million increase in electric rates annually in the very near term, with a rate case and new interim rates shortly thereafter.

F. Current Industry Market Conditions

LPI's members are not in a good position to weather the astronomic rate increases proposed in the riders and Petition, and the eventual expiration of the EITE-Rate Schedule. The COVID-19 pandemic is an unprecedented global event impacting markets around the world. As Commission and Staff are aware, LPI members are experiencing significant economic pressures based on COVID-19.[45] Specifically, certain LPI members' regional operations are being impacted in the following ways:

- Blandin Paper Company announced that its paper mill will shut down for a period of time due to market conditions precipitated by COVID-19.[46]

44 Petition, Ex. B, at 2.

45 *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E-015/GR-19-442, April 30 Hearing Staff Briefing Papers (Apr. 28, 2020) ("2019 Rate Case Staff Briefing Papers"). In the 2019 Rate Case Staff Briefing Papers, Commission Staff outlines the current economic hardships facing LPI members. LPI incorporates those summaries and updates them herein.

46 Eric Killelea, *UPM Blandin paper mill shuts down amid virus*, Mesabi Daily News (Apr. 21, 2020), https://www.virginiamn.com/covid-19/upm-blandin-paper-mill-shuts-down-amid-virus/article_755aaef2-8414-11ea-80c3-4f8afff6e894.html; *see also* 2019 Rate Case Staff Briefing Papers at 5.

- Hibbing Taconite Company idled on May 3, 2020, leaving approximately 650 workers without employment. The current plan is to reopen on July 6, 2020.[47]
- Sappi Cloquet, LLC is in the process of temporary layoffs on a rotational basis to balance product supply with demand. Sappi's facility employs approximately 750 people and is the largest employer in Cloquet.[48]
- United States Steel Corporation is idling its Keetac facility indefinitely and it also confirmed that there will be 260 layoffs at the Minntac facility.[49]
- Verso Corporation continues to operate; however, Verso Corporation is seeking support for a $34.5 million project at the Duluth facility. The Duluth facility requires the investment to avoid becoming a candidate for closure.[50]

The COVID-19 pandemic continues to impact LPI members, and the various entities are continually facing difficult decisions while the current market conditions exist.

The economic issues facing LPI members are not limited to COVID-19. Prior to the COVID-19 crisis, S&P reported that the mining industry in third quarter 2019 "was characterized by a steadily worsening macroeconomic picture, weak pricing for industrial metals and sustained gloom around the prolonged U.S.-China trade dispute."[51] In its 2020 outlook, Moody's Investors Service stated that "[t]he outlook for the global paper and forest products industry in the coming year remains negative . . . . Earnings from paper, paper packaging and market pulp will all decline

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[47] Dee DePass, *Hibbing Taconite laying off 650 workers as it idles Iron Range operations,* Star Tribune (Apr. 21, 2020), https://www.startribune.com/hibbing-taconite-laying-off-650-workers-as-it-idles-iron-range-operations/569817542/; *see also* 2019 Rate Case Staff Briefing Papers at 5.

[48] Brooks Johnson, *Paper mills slowing, shutting amid pandemic disruption*, Star Tribune (Apr. 22, 2020), https://www.startribune.com/paper-mills-slowing-shutting-amid-pandemic-disruption/569873882/; *see also* 2019 Rate Case Staff Briefing Papers at 5.

[49] Briggs LeSavage, *U.S. Steel confirms 260 layoffs at Minntac*, KBJR6.com (May 1, 2020), https://kbjr6.com/2020/05/01/u-s-steel-confirms-260-layoffs-at-minntac/; *see also* 2019 Rate Case Staff Briefing Papers at 5.

[50] Brooks Johnson, *Paper mills slowing, shutting amid pandemic disruption*, Star Tribune (Apr. 22, 2020), https://www.startribune.com/paper-mills-slowing-shutting-amid-pandemic-disruption/569873882/; *see also* 2019 Rate Case Staff Briefing Papers at 5.

[51] S&P Global, *Snapshot: State of the Market - Mining Q3-2019*, https://pages.marketintelligence.spglobal.com/State-of-the-Market-Mining-Q3-19-snapshot-MS-metals-and-mining.html (last visited May 6, 2020).

primarily as excess supply causes prices to fall."[52] Minnesota Power recognized and summarized the challenges facing LPI members in its testimony filed in the rate case.[53]

The economic difficulties facing LPI members have worsened with the economic downturn precipitated by the COVID-19 crisis. "The domestic automobile, energy and construction industries have been hard hit by the economic [downturn]. The national seasonally adjusted annual rate of light vehicle sales in March was 11.4 million units, the lowest rate since April 2010, according to the National Automobile Dealers Association. . . . Domestic steel producers are currently operating at about 57% of capacity."[54] LPI's members cited the current economic conditions precipitated by COVID-19 in announcing the layoffs and plant idlings detailed above.

While LPI is grateful to Minnesota Power, the Commission, OAH, and other parties for the continued effort to find a mutually beneficial solution to the issues presented in the 2019 Rate Case, LPI submits this Comment to shed further light on the difficult situation LPI members face in the current market and to emphasize to the Commission and other stakeholders that much of the economic success of Minnesota Power's service territory is dependent upon LPI members' continued support of the economy.[55] LPI is hopeful that the Commission and other stakeholders will not lose sight of that. Therefore, LPI respectfully requests the following: (1) a second procedural extension of the existing EITE-Rate Schedule until the conclusion of Minnesota Power's next rate case; (2) an evaluation of rate design options (e.g., updated TOU) for LLP customers; and (3) that Minnesota Power include updated tariff language demonstrating the impacts of the Petition in reply comments, allowing stakeholders the opportunity to scrutinize more details of the Petition.

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52 Moody's, *Research Announcement: Moody's 2020 outlook for the global paper and forest products industry remains negative* (Dec. 12, 2019), https://www.moodys.com/research/Moodys-2020-outlook-for-the-global-paper-and-forest-products--PBC_1207209.

53 *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, MPUC Docket No. E-015/GR-19-442, Initial Testimony of Frank L. Frederickson – Large Power Customer Outlook at 9-10 (Nov. 1, 2019) ("Frederickson Large Power Customer Outlook").

54 Lee Bloomquist, *Reduction in production: Idling drops pellet forecast*, Mesabi Daily News (Apr. 25, 2020) https://www.virginiamn.com/covid-19/reduction-in-production-idling-drops-pellet-forecast/article_78e3d48c-872e-11ea-8b84-0b26ca477481.html.

55 *See* Frederickson Large Power Customer Outlook at 5-6 for a description of LPI members' contribution to the regional economy.

II. ANALYSIS

When Minnesota Power filed the 2019 Rate Case in November 2019, LPI members were disappointed and apprehensive regarding the drastic increases Minnesota Power proposed. However, LPI's members were also confident that the Commission would ultimately approve substantially lower rates than Minnesota Power requested, on the strength of the testimony LPI anticipated submitting and receiving from other stakeholders in the 2019 Rate Case. Minnesota Power's initial petition was also quickly followed by Commission approval of a lower interim rate than Minnesota Power requested and a procedural extension of the EITE-Rate Schedule until the implementation of final rates.[56] Fast-forward to May 2020 and not only has the economic outlook for LPI members' operations changed drastically for the worse, but Minnesota Power has also proposed a resolution to the 2019 Rate Case that would end the EITE-Rate-Schedule extension, permanently terminate the EITE-Rate Schedule, and implement a significant permanent rate increase, while leaving LPI with no opportunity to submit testimony to address its concerns regarding Minnesota Power's increasingly uncompetitive electric rates.

LPI recognizes that a swift resolution of the 2019 Rate Case is important in light of the global pandemic, but its members are facing immense economic pressure and cannot bear the accumulated increases contemplated in Minnesota Power's riders and rate-case resolution, and the expiration of the EITE-Rate Schedule in such a short time frame. LPI respectfully requests that, for the sake of its members and their employees, and the economic well-being of northeast Minnesota, the Commission consider LPI's request for a second procedural extension of the EITE-Rate Schedule as a component of the rate-case resolution. LPI also suggests that the Commission evaluate rate design options (e.g., TOU) for LLP customers that are also facing significant near-term rate increases.

A. The Commission Can and Should Extend the EITE-Rate Schedule

The Commission is under no obligation to end the EITE-Rate Schedule and Rider in February 2021 and the EITE Statute would encourage the opposite. Though many of the other stakeholders in this matter continually stressed the importance of ending the EITE-Rate Schedule

56 2019 Interim-Rates Order at 4; 2020 EITE Order at 3-4.

in February 2021, the EITE Statute does not prescribe a time limit.[57] If anything, the EITE Statute emphasizes the importance of continuing to protect industrial consumers by mandating that "the energy policy of the state of Minnesota [is to] ***ensure*** competitive electric rates for energy-intensive trade-exposed customers."[58] Further, the Commission's 2020 EITE Order recognized that "[w]hile a fixed term length was a factor in Commission approval of the rider, approval did not hinge on the specific term length of four years."[59] The proposed resolution of the 2019 Rate Case will prevent the Commission from engaging in rate design of base rates to accomplish this goal, so the EITE-Rate Schedule is the logical mechanism to ensure that EITE customer rates remain competitive. The current economic challenges facing LPI customers are dire. An extension of the EITE-Rate Schedule will help ease pressure on LPI members and could make a difference in the economic analysis that will precede restarting idled facilities.

B. Extension of the EITE-Rate Schedule Will Not Harm Other Customers

LPI is at a loss for why Minnesota Power and other parties have not also championed extending the EITE-Rate Schedule. First, as noted above, the Commission already approved a procedural extension of the existing EITE-Rate Schedule until the end of the 2019 Rate Case.[60] Second, the Commission explicitly noted that non-EITE customers will not receive a surcharge nor have they been surcharged previously.[61] Minnesota Power is, in fact, "prohibited from recovering any EITE-related costs through any potential surcharge from non-EITE customers after February 1, 2021."[62] LPI views the possible extension of the existing EITE-Rate Schedule as an opportunity to provide some benefit and security to Minnesota Power's largest customers that also provide economic stability to the region without adversely impacting other ratepayers. LPI views this as a win-win scenario. A procedural extension of the EITE-Rate Schedule until final rates go into effect in Minnesota Power's next rate case is a key issue for LPI, and, ultimately, the reason for LPI's refusal to support the Petition as drafted. Therefore, LPI hopes the Commission will

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57 Minn. Stat. § 216B.1696.

58 Minn. Stat. § 216B.1696 subd. 2(a) (emphasis added). Further, Minn. Stat. 216C.05, subd. 2 states that: "It is the energy policy of the state of Minnesota that:…(4) retail electricity rates for each customer class be at least five percent below the national average."

59 2020 EITE Order at 4.

60 *Id.* at 3-4.

61 *Id.*

62 *Id.* at 4.

carefully consider the impact of letting the EITE-Rate Schedule expire, especially given that it already demonstrated a willingness to continue it beyond February 2021.

C. LPI Requests a Second Procedural Extension of the EITE-Rate Schedule and Further Rate Design Relief

LPI is generally supportive of Minnesota Power's overarching goal to resolve the 2019 Rate Case. Unfortunately, as drafted, the Petition and other contemplated increases impose an overall increase that is too significant for industrial customers to bear, while at the same time disallowing any of the rate-design benefits that could have accompanied a litigated rate-case proceeding. Therefore, LPI respectfully requests that the Commission modify the Petition by including a second procedural extension of the EITE-Rate Schedule and Rider until final rates are implemented in Minnesota Power's next general rate case. LPI also suggests that the Commission evaluate further rate design relief for LLP customers, such as an updated TOU tariff.

D. LPI Comments on Other Aspects of the Petition Pursuant to the Notice

With respect to other topics open for comment set forth in the Notice, LPI submits the following brief positions. First, LPI is unfortunately unable to comment on whether the Commission should permit Minnesota Power to shift recovery of asset-based wholesale sales margins from base rates to its FAC because Minnesota Power has not yet submitted any draft tariff language. It is therefore unclear how, or the extent to which, new costs and credits will flow through the FAC. LPI requests that Minnesota Power include draft tariff language in reply comments, giving parties the opportunity to review the proposed changes and potentially become more comfortable with the Petition and its anticipated rate impacts prior to the Commission hearing.

Second, and with respect to the remaining topics open for comment, LPI has no comment at this time and reserves its right to submit a reply comment. Again, LPI understands the unique circumstances under which Minnesota Power filed the petition and appreciates Minnesota Power's creative approach to seeking resolution of its rate case during a pandemic-induced peacetime emergency. Given Minnesota Power's commitment to address rate-design issues for the residential class, LPI sincerely hopes other parties and the Commission will support extension of the EITE-Rate Schedule until revenue allocation and rate design can be addressed in Minnesota

Power's next rate case, consistent with the Commission's prior extension, and also evaluate rate design relief for LLP customers.

III. CONCLUSION

LPI understands and appreciates the time and effort that went into the Petition, and is grateful for the opportunity to provide feedback in this docket. Unfortunately, the current terms of the Petition impose too steep a cost on industrial customers, who are facing difficult financial circumstances themselves. LPI hopes the Commission will acknowledge these very real issues by granting a second procedural extension of the EITE-Rate Schedule until the conclusion of Minnesota Power's next general rate case. Additionally, LPI requests Minnesota Power provide parties with draft tariff sheets in reply comments, so LPI and other stakeholders may fully assess how the Petition impacts their respective customer classes.

Dated: May 11, 2020

Respectfully submitted,

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