

Staff Briefing Papers

Meeting Date **October 23, 2025**

Agenda Item 2*

Company Minnesota Power

Docket No. E-015/D-24-324
In the Matter of Minnesota Power's Petition for Approval of 2024 Remaining Life Depreciation
E-015/M-24-437
In the Matter of Minnesota Power's Petition for Approval to Track and Defer Costs Resulting from The Legacy Coal Combustion Rule Surface Impoundment Rule

Issues 1. Should the Commission approve Minnesota Power's 2024 remaining life depreciation proposal?

2. Should the Commission approve Minnesota Power's proposal to track and defer costs resulting from the Legacy Coal Combustion Rule Surface Impoundment Rule?

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

✓ **Relevant Documents**

Date

Docket No. E-015/D-24-324

Minnesota Power – Initial Filing	September 24, 2024
Department of Commerce – Comments	December 20, 2024
Minnesota Power – Reply Comments	December 30, 2024
Department of Commerce – Letter	January 14, 2025
Minnesota Power – Reply Letter	January 24, 2025
Department of Commerce – Supplemental Comments	June 17, 2025
Minnesota Power – Supplemental Reply Comments	June 20, 2025

Docket No. E-015/M-24-437

Minnesota Power – Initial Filing	December 30, 2024
Minnesota Power – Supplemental Letter	January 23, 2025
Department of Commerce - Comments	May 30, 2025
Minnesota Power – Reply Comments	June 06, 2025

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I. Background

A. 2024 Remaining Life Depreciation, Dockets 24-324

On September 24, 2024, Minnesota Power filed its 2024 Remaining Life Depreciation Proposal to update depreciation rates effective January 1, 2024 and to revise salvage rates for several plants due to CCR regulations and updated decommissioning costs. These updates align with its approved 2021 Integrated Resource Plan (IRP) for 2021–2035.¹ Minnesota Power will file its next IRP by March 1, 2025.

On December 20, 2024, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed comments...

On December 30, 2024 Minnesota Power submitted its Reply Comments in response to the Department's Initial Comments on the 2024 Remaining Life Depreciation Petition. The Company agreed with the Department's recommendations, except that it requests approval of the proposed net salvage rates for all facilities, including BEC Unit 3, BEC Common, and LEC. Minnesota Power concurrently filed a Petition for Approval to Track and Defer Costs from the CCR Legacy Impoundment Rule Petition in Docket No. E-015/M-24-437.

On January 14, 2025, the Department filed a letter noting that its final recommendations in this docket would depend on its analysis and recommendations in the Deferred Accounting Docket (No. E-015/M-24-437).

On January 23, 2025², Minnesota Power filed a letter requested that the Commission to approve both petitions. The Company stated that this approach promoted sound regulatory accounting, rate stability, and a more informed review of future CCR compliance costs.

On June 17, 2025, the Department submitted its recommendations that the Commission approve Minnesota Power's proposed depreciation parameters and rates, including the Company's estimated costs related to the Legacy CCR Rule.

B. Track and Defer Costs Resulting from The Legacy Coal Combustion Rule, Docket 24-437

On December 30, 2024 Minnesota Power filed its deferred accounting treatment of depreciation costs associated with the new federal Legacy Coal Combustion Rule (CCR) Surface Impoundment Rule.³ Minnesota Power estimated that complying with the new rule at its

¹ In the Matter of Minnesota Power's 2021-2035 Integrated Resource Plan, Docket No. E-015/RP-21-33, filed February 1, 2021, Appendix C.

² Minnesota Power filed its Letter on January 23, 2025 but received date in eDockets on January 24, 2025

³ The Legacy Coal Combustion Rule (CCR) published in May 2024, mandates monitoring, compliance, and mitigation requirements for legacy coal ash ponds to safeguard public health and the environment which became



Boswell and Laskin Energy Centers will cost between \$50 million and \$85 million over the next decade, an 89% increase in decommissioning expenses. The Company began recording these costs on May 8, 2024, when the federal rule was published in the Federal Register and requested to defer recovery of these expenses to its next rate case or another appropriate proceeding.

On May 30, 2025, the Department filed Comments recommending that the Commission approve Minnesota Power's Petition to Track and Defer Costs under the Legacy CCR Surface Impoundment Rule.

On June 6, 2025, Minnesota Power filed Reply Comments agreeing with the Department's recommendations.

II. Minnesota Rules

Minn. Stat. § 216B.11 and Minn. R. 7825.0500-7825.0900 require public utilities to seek Commission approval of their depreciation rates and methods. Utilities must use straight line depreciation unless the utility can justify a different method. A straight-line method charges the original cost of an asset, adjusted for net salvage, to expense through equal annual charges over the asset's probable service life. The probable service life is that period extending from the asset's installation date to its forecasted retirement date.

III. 2024 Remaining Life Depreciation Proposal, Dockets No. 24-324

A. Minnesota Power – Initial Filing

Minnesota Power (MP) determined the remaining lives and salvage value estimates for its thermal, hydroelectric, wind, and solar production facilities. The Company proposed adjusting the remaining lives of all facilities for one year's passage of time and revising salvage rates for Boswell Unit 3, Boswell Common, and Laskin Energy Center to reflect impacts of the Legacy Coal Combustion Residuals (CCR) regulations;⁴ for Bison and Taconite Harbor to reflect updated decommissioning costs; and for Taconite Harbor Energy Center to account for ongoing decommissioning activities.

Table 1 reflects the proposed remaining lives (in years), salvage rates, end-of-life dates, and the 2021 Plan operational lives of the facilities used in the IRP EnCompass modeling, consistent with the Commission's approval in Docket No. E-015/RP-21-33.⁵

effective November 8, 2024. See [Federal Register :: Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Legacy CCR Surface Impoundments](#)

⁴ EPA rule 89 FR 38950. Additional decommissioning costs resulting from the EPA rule used in this petition to revise salvage rates are based on estimates and are subject to change.

⁵ In the Matter of Minnesota Power's 2021-2035 Integrated Resource Plan, Docket No. E-015/RP-21-33, filed February 1, 2021.

Table 1: MP's Updated Remaining Life Schedules, Salvage Rates, and End-of-Life Projections⁶

	Proposed Remaining Lives (Years)	Proposed Salvage Rates	Proposed End of Lives	2021 IRP Operational Lives
Thermal Production Plants				
Hibbard Renewable Energy Center	6.0	(6.98%)	12/2029	2035
Laskin Energy Center	7.0	(34.11%)	12/2030	2035
Boswell Energy Center				
Unit 3	12.0	(16.72%)	12/2035	2035
Unit 4	12.0	(6.42%)	12/2035	2035
Common	12.0	(15.19%)	12/2035	2035
Taconite Harbor Energy Center	3.0	(18.65%)	12/2026	2021
Hydroelectric Production Plants				
Birch Lake Reservoir	40.0	0%	12/2063	2063
Blanchard HE Station	40.0	0%	12/2063	2063
Boulder Lake Reservoir	40.0	0%	12/2063	2063
Fish Lake Reservoir	40.0	0%	12/2063	2063
Fond du Lac HE Station	40.0	0%	12/2063	2063
Gauging Stations and White Iron Lake Reservoir	40.0	0%	12/2063	2063
Island Lake Reservoir	40.0	0%	12/2063	2063
Knife Falls HE Station	40.0	0%	12/2063	2063
Little Falls HE Station	40.0	0%	12/2063	2063
Pillager HE Station	40.0	0%	12/2063	2063
Prairie River HE Station	40.0	0%	12/2063	2063
Rice Lake Reservoir	40.0	0%	12/2063	2063
Scanlon HE Station	40.0	0%	12/2063	2063
Sylvan HE Station	40.0	0%	12/2063	2063
Thomson HE Station	40.0	0%	12/2063	2063
Whiteface Reservoir	40.0	0%	12/2063	2063
Winton HE Station	40.0	0%	12/2063	2063
Other Production Plants				
Taconite Ridge I Wind	19.4	(0.35%)	5/2043	2043
Bison 1A Wind	21.9	(0.65%)	11/2045	2045
Bison 1B Wind	23.0	(0.60%)	12/2046	2046
Bison 2 Wind	24.0	(0.37%)	12/2047	2047
Bison 3 Wind	24.0	(0.44%)	12/2047	2047
Bison 4 Wind	26.0	(0.20%)	12/2049	2049
Community Solar Garden	17.9	0%	11/2041	2041

1. Regulated Thermal Production Facilities

Hibbard Renewable Energy Center (HREC):

HREC Units 3 and 4, operate as peaking resources and support Minnesota Power's spinning reserves since 2004, experienced increased dispatch in 2021–2022 due to higher power prices and competitive biomass availability. Their estimated remaining life extends through 2029, shorter than assumed in the 2021 IRP. A retirement study will be included in Minnesota Power's next IRP filing in March 2025, and the units' remaining life will be adjusted as necessary based on that analysis.

The Laskin Energy Center (LEC):

LEC consists of two similar units treated as a single facility for depreciation, was converted to natural gas peaking units in 2015, with reliability maintained through ongoing reinvestment. Its ash ponds and coal pile were closed following 2016 regulatory approval. Increased dispatch in 2021–2022 supported local reliability during transmission projects. The plant's estimated remaining life extends through 2030, shorter than assumed in the 2021 IRP, which did not identify a retirement date.

Taconite Harbor Energy Center (THEC)

THEC is treated as a single unit for depreciation purposes to protect affordability for customers in the near term and further reduce emissions in the region. Coal operations for Unit 3 ceased in May 2015, and Units 1 and 2 were idled in 2016 with coal operations ending in 2020. THEC was maintained safely and cost-effectively through retirement, remaining available for MISO resource adequacy if needed. The Commission authorized recovery of THEC's annual depreciation expense through December 31 2026.⁷ In the 2021 IRP, THEC's retirement was approved and retired in March 2023. The remaining balances were transferred to regulated assets, which are being amortized through 2026.

Boswell Energy Center (BEC) consists of multiple units:

BEC Units 1 and 2 were retired in December 2018. The Commission had previously approved remaining life of five years as of January 1, 2018, with a retirement year of 2022. Upon retirement, the units' remaining balances were transferred to regulated assets, which are being amortized through 2022. In the previous rate case (Docket No. E-015/GR-21-335), the Commission approved spreading the final year of amortization over three years to prevent over-collection in future rates.

BEC 3 was transitioned to economic dispatch in 2021, reducing minimum operational levels and improving flexibility. It operates with advanced emissions control technologies and is required by the 2021 IRP to cease coal operations by December 31, 2029, with potential conversion to a synchronous condenser to be evaluated in the next IRP.

⁶ Docket 24-324, Initial Filing, pg. 6-7.

⁷ See Docket No. E-015/GR-21-335.



BEC 4 provides baseload power and is jointly owned by Minnesota Power (80%) and WPPI Energy (20%). It operates with multi-pollutant emissions controls, including systems to comply with mercury, NOX, SO₂, particulate, and wastewater regulations. The 2021 IRP requires BEC 4 coal operations to cease by December 31, 2035, and the next IRP will evaluate capacity and energy replacement options, including reuse of existing infrastructure.

The estimated remaining lives for BEC 3, BEC 4, and BEC Common are all through 2035, matching the operational lives in the 2021 IRP, and Minnesota Power requested that the remaining net plant balances be recovered over these remaining lives.

2. Hydroelectric Production Facilities

All of Minnesota Power's hydroelectric facilities are FERC-licensed and maintained according to license terms. As the state's largest hydro producer, this legacy system supports customer needs and the state's goal of 100% carbon-free energy by 2040. The fleet includes dispatchable renewables with ponding capability, providing reliable power as intermittent renewables increase. Reservoirs, dams, and gauging stations are expected to have useful lives aligned with the hydro stations. The estimated remaining lives of all hydro facilities extend through 2063, consistent with the 2021 Plan.

3. Wind Production Facilities

Taconite Ridge I Wind Energy Center (TREC), a 25 MW facility with 10 turbines in service since June 2008, underwent component replacements between 2016 and 2021—including pitch bearings, blades, hubs, power conditioning matrices, and gearbox bearings—which requalified all turbines for production tax credits by August 2021. TREC has an estimated remaining life through May 2043.

All estimated remaining lives for the following wind facilities align with the operational lives in the 2021 Plan. Bison wind facilities include:

- Bison 1A: 36.8 MW, 16 turbines, in service November 2010, remaining life through November 2045.
- Bison 1B: 45 MW, 15 turbines, in service December 2011, remaining life through 2046.
- Bison 2 & 3: Each 105 MW, 35 turbines, in service December 2012, remaining life through 2047.
- Bison 4: 204.8 MW, 64 turbines, in service December 2014, remaining life through 2049.

4. Solar Production Facilities

The Community Solar Garden Pilot Program, a 40kW solar facility on Minnesota Power-owned property in Duluth, was placed in service in 2016. All production assets have estimated remaining lives through November 2041, consistent with the 2021 Plan.

5. General Plan Account 3900

Table 2 reflects Minnesota Power's remaining lives and salvage values for general plant account 3900—Structures and Improvements. The Company requested to adjust all remaining lives for one year's passage of time, with no changes to salvage rates.

Table 2: Minnesota Power's General Plan Account 3900⁸

Location	Proposed Remaining Life (Years)	Proposed Salvage Rates	Proposed End of Life
General Office Building	27	0%	12/2050
Rowe Energy Control Center	27	0%	12/2050
Little Falls Service Center and DC Line Material Storage Facility	27	0%	12/2050
The long range plan for these facilities is significant planned future investment.			
Herbert Service Center	17	0%	12/2040
Eveleth Service Center	17	0%	12/2040
Sandstone Service Center	17	0%	12/2040
Pine River Service Center	17	0%	12/2040
Misc. Structures & Improvements	17	0%	12/2040
The long range plan for these facilities is continued operation and upgrades.			
International Falls Service Center	7	0%	12/2030
Cloquet Service Center	7	0%	12/2030
The long range plan for these facilities is minimal planned future investment.			
Coleraine Service Center	2	0%	12/2025

6. Conclusion

Minnesota Power anticipated no major plant additions or retirements affecting 2024 depreciation accruals.

- THEC's retirement, approved in the 2021 IRP and completed in March 2023, has remaining balances transferred to regulated assets amortized through 2026.
- Per the 2021 Plan, coal operations at BEC 3 and BEC4 are scheduled to cease by 2029 and 2035, respectively. The remaining lives of BEC 3, BEC 4, and BEC Common are currently 2035, and Minnesota Power requested recovery of their remaining net plant balances over this period.

The Company proposed to adjust its net salvage rates for BEC and LEC to reflect the expected costs of complying with new regulations related to Coal Combustion Residuals (CCR)

⁸ Docket 24-324, Initial Filing, pg. 12



known as the “Legacy CCR Rule.”⁹ The Company estimated the total cost to comply with these new regulations to be \$70 million,¹⁰ and projected to increase annual depreciation expense by over \$7 million compared to 2023 for BEC and LEC per year.¹¹

Minnesota Power will continue reconciling remaining life estimates with future IRP updates and adjust as new information becomes available.

B. Department of Commerce – Comments

The Minnesota Department of Commerce (Department) reviewed Minnesota Power’s Petition to determine whether the filing complies with applicable statutes, rules, and Commission orders and to evaluate whether the Company’s proposals are reasonable.

Based on its review, the Department concluded the Company’s Petition as follows:¹²

- Minnesota Power’s Petition complies with the applicable statutes and rules.
- The Company complies with the Commission’s Orders in Docket No. E-015/D-23-340, Docket No. E-015/RP-21-33 by providing the comparison of proposed remaining depreciable lives with the operational lives in the most recent IRP, including explanations for any differences.
- The Company’s schedule General Plan Account 3900 with investment costs of \$1 million or more, consistent with past Commission’s Order in Docket No. E-015/D-18-544 and Docket No. E-015/D-19-534.
- The proposed useful lives for HREC and LEC are reasonable.
- The approved the retirement and amortization schedule of Taconite Harbor Energy Center (THEC) in the 2021 IRP aligns with the three-year remaining life proposed in the Petition.
- The Company’s proposal of remaining lives for BEC 3, BEC 4, and BEC Common are consistent with the Commission’s Order and reasonable.
- The Company’s new updated decommissioning cost estimate THEC’s net salvage rate to reflect higher decommissioning costs, from \$16.7 million to \$25.4 million, resulting in about \$1.9 million in additional annual depreciation expense. The increase reflects updated engineering estimates, inflation, additional remediation of materials, and coal pile disposal. Detailed cost breakdowns include management, engineering, waste removal, asbestos abatement, demolition, and system closure costs. As of October 2024, \$15.6 million of decommissioning costs have been incurred, with roughly 60% of

⁹ The Legacy Coal Combustion Rule (CCR) published in May 2024, mandates monitoring, compliance, and mitigation requirements for legacy coal ash ponds to safeguard public health and the environment which became effective November 8, 2024.

¹⁰ Docket 24-324, Initial Filing - Appendix B2.

¹¹ *Id.*, - Appendix A1.

¹² Docket 24-324, Department Comments, pg. 2-7.



activities completed. The Department found the updated cost estimate reasonable.

- The Company's proposed adjustments to net salvage estimates for its wind facilities, which are expected to reduce annual depreciation expense by about \$18,000, are reasonable.

The Department also reviewed MP's proposal to increase its net salvage rates for BEC and LEC to account for compliance costs under the new 2024 "Legacy CCR Rule." The Department noted that the Company estimated total compliance costs of \$70 million, resulting in approximately \$7 million in additional annual depreciation expense,¹³ and provided Attachment B-2 which summarizes eight potential compliance "pathways" under the new 2024 Legacy CCR Rule, with estimated costs ranging from \$3 million to \$159 million. However, the Department stated that Minnesota Power provided no explanation of the regulations or how they apply to the Company.

In response to the Department Information Request (IR) No. 2,¹⁴ the Company explained that the EPA's final rule, published on May 8, 2024, expands regulation to include legacy impoundments and creates a new category—CCR Management Units (CCRMUs)—covering inactive or closed CCR sites. The rule requires site evaluations, groundwater monitoring, and closure or re-closure of affected units to meet current standards. Minnesota Power indicated it has no legacy impoundments, and that specific compliance pathways will depend on ongoing site evaluations. The Company identified two compliance pathways under the Legacy CCR Rule (\$51 million and \$85 million), but full site evaluations—only 5–10% complete—will not be finished until at least February 2026.

The Department expressed concern about the high uncertainty and limited information supporting these estimates, stating that the record does not justify including such costs in depreciation at this time. While not opposing inclusion, the Department suggested delaying expense recognition until costs are better defined, consistent with Xcel Energy's approach, and requested that Minnesota Power address these options in its Reply Comments.

The Department recommended that the Commission:

- Approve the Company's proposed remaining lives;
- Approve the proposed net salvage rates for all facilities except BEC Unit 3, BEC Common, and LEC;
- Approve an effective date of January 1, 2024, for the proposed depreciation parameters;
- Require Minnesota Power to continue providing, in future filings, a comparison of proposed remaining depreciable lives with the operating lives in the most recent IRP, including explanations of any differences.

¹³ Docket 24-324, Department Comments at 4.

¹⁴ *Id.*, Attachment 1.

The Department noted that the approved depreciation rates are for accounting purposes only and do not bind or limit depreciation expense in a future rate case. It requested the Company provide additional discussion in reply comments about potentially delaying recognition of expense related to the Legacy CCR Rule until it has more information about the potential costs and can provide that information to the Department and the Commission. The Department will make final recommendations to the Commission after it reviews the Company's reply comments.

C. Minnesota Power – Reply Comments

In response to the Department's request regarding delaying recognition of Legacy CCR Rule-related expenses, Minnesota Power concurrently filed a Petition for Approval to Track and Defer Costs from the CCR Legacy Impoundment Rule Petition in Docket No. E-015/M-24-437. The Company requested for deferred accounting treatment for increased depreciation expenses due to compliance with the Legacy CCR Rule. The Company said the new petition¹⁵ details the Legacy CCR Rule's impact on Minnesota Power and the financial implications of the eight potential compliance pathways.

D. Department of Commerce – Supplement Comments

The Department noted that Minnesota Power is currently incurring only investigative—not remediation—costs for its inactive CCR impoundments and questioned the need to include estimated clean-up and monitoring costs in depreciation expense, only to later offset them through deferred accounting. The Department further commented that the Company did not address the possibility of delaying recognition of Legacy CCR-related expenses. As a result, the Department deferred further action in this docket pending completion of its analysis in the Deferred Accounting Docket. However, if the Commission does not approve depreciation rates reflecting expected Legacy CCR Rule costs, deferred accounting for the related incremental depreciation would be unnecessary, though other deferred costs would remain under consideration.

E. Minnesota Power – Supplement Letter

Minnesota Power provided a supplemental Letter to explain how its Depreciation Petition and Deferred Accounting Petition work together to manage the financial treatment of costs related to compliance with the federal Legacy CCR (Coal Combustion Residuals) Rule.

- The Depreciation Petition requested approval of updated service lives and salvage rates for plant assets, which determine annual depreciation expense. If approved, Minnesota Power's 2024 depreciation expense would reflect these updates in line with GAAP and regulatory standards.
- The Deferred Accounting Petition, in contrast, requested permission to defer Legacy

¹⁵ See Docket No. E-015/M-24-437.



CCR-related costs—currently part of depreciation or operating expenses—into a tracking account. This would postpone recognizing those expenses in 2024 and instead record them for later review and potential recovery in a future rate case.

The total proposed increase in 2024 depreciation expense is \$7.1 million, of which \$4.2 million relates to Legacy CCR compliance. With approval of both petitions, the \$4.2 million would be deferred, reducing the 2024 increase to \$2.9 million, as shown in Table 3.

Table 3: 2024 Depreciation Expense increase with and without deferred accounting¹⁶

	Without Deferred Accounting	With Deferred Accounting
(in millions)	2024	2024
Tac Harbor decommissioning	\$2.9	\$2.9
Boswell - Legacy CCR	\$4.2	-
Laskin - Legacy CCR	2.3	-
Increase in Depreciation Expense	\$7.1	\$2.9
Change to deferred tracking account	\$0.0	\$4.2

Minnesota Power noted that it was required under GAAP to record a liability for estimated CCR compliance costs as of May 8, 2024, when the federal rules were issued. As compliance plans evolve, cost estimates may change and will be adjusted accordingly.

The Company highlighted two main benefits of deferred accounting:

- Flexibility for Future Cost Recovery – Preserves the opportunity to recover significant compliance costs later without prompting an immediate rate case.
- Stability and Transparency – Allows time to refine compliance plans and cost estimates, reducing volatility in annual depreciation filings.

Minnesota Power requested the Commission approve both petitions, stating that this approach promotes sound regulatory accounting, rate stability, and a more informed review of future CCR compliance costs.

F. Department of Commerce – Letter

Based on the additional information provided by Minnesota Power in its supplemental letter and in its Deferred Accounting Docket No. 24-437, the Department recommended that the Commission approve Minnesota Power's proposed depreciation parameters and rates, including the Company's estimated costs related to the Legacy CCR Rule.

Specifically, the Department recommended the Commission:¹⁷

¹⁶ Docket 24-324/24-437, MP's Supplement Letter, Response to DOC, pg. 2.

¹⁷ Docket 24-324, Department's Letter, June 17, 2025, pg. 2.



- Approve Minnesota Power’s proposed depreciation lives, salvage rates, and depreciation rates, effective January 1, 2024;
- Approve the continued use of a 2035 estimated remaining life of BEC 3, BEC 4, and BEC Common for depreciation purposes. Any depreciation adjustments required for these facilities would be implemented in Minnesota Power’s next rate case or other appropriate proceeding.
- Require Minnesota Power to continue filing, in future depreciation filings, a comparison of the remaining depreciable lives proposed in its depreciation filing and the remaining operating lives approved in the Company’s most recent integrated resource plan, with an explanation of any difference.
- Determine the depreciation rates approved herein are for accounting purposes and neither bind nor preclude modified depreciation expense in a general rate case proceeding.

IV. Track and Defer Costs Resulting from The Legacy Coal Combustion Rule, Docket 24-437

A. Minnesota Power – Initial Filing

Minnesota Power estimated that compliance with the new federal legacy CCR surface impoundment rule at its Boswell and Laskin Energy Centers will cost between \$50 million and \$85 million over the next decade, an 89% increase in decommissioning expenses. The Company began recording these costs on May 8, 2024, when the federal rule was published in the Federal Register and requested to defer recovery of these expenses to its next rate case or another appropriate proceeding.

1. Background

Minnesota Power stated that, coal ash, a byproduct of coal-fired power generation, can harm water and air quality if not properly managed. Before 2015, Minnesota Power’s coal ash sites were regulated by state agencies. The U.S. Environmental Protection Agency (EPA) issued the first federal Coal Combustion Residuals (CCR) Rule in 2015, setting national standards for coal ash management.¹⁸

On May 8, 2024, the EPA issued the CCR Legacy Rule, expanding regulations to include inactive coal ash ponds (legacy impoundments) and CCR Management Units (CCRMUs) at retired facilities. Effective November 8, 2024, the rule requires utilities to evaluate sites, identify all past coal ash deposits, monitor groundwater, and close or upgrade units to meet modern safety standards.¹⁹

Regarding the potential CCRMUs at its Boswell and Laskin Energy Centers, Minnesota Power referenced to its 2024 Remaining Life Depreciation Petition filed on September 24, 2024

¹⁸ Docket 24-437, Initial Filing, pg. 3.

¹⁹ *Id.*



(Docket No. E-015/D-24-324). The Company said the 2024 expense, for just a partial year of applicability of the CCR Legacy Rule is \$4.2 million Total Company (\$3.7 million MN jurisdictional) and estimated \$6.3 million for 2025 expense (\$5.5 million MN jurisdictional).²⁰ The Company further stated that it has developed eight potential compliance scenarios to meet the requirements of the CCR Legacy Rule at its previously closed coal ash units at Boswell and Laskin. Based on these scenarios, the Company estimated total compliance costs will range between \$50 million and \$85 million and are expected to be incurred over the next 10 years.²¹

The Company said the final costs will be determined after Facility Evaluation Reports are completed by February 2026 (or February 2027 if additional fieldwork is needed). Because these compliance costs are significant, unusual, and unforeseen, Minnesota Power is seeking deferred accounting treatment to manage and defer recognition of these expenses until costs and compliance requirements are fully defined.

2. Justification For Deferred Accounting Request

Minnesota Power recognized that deferred accounting is an exception to the normal ratemaking process and is permitted only when a utility demonstrates good cause under Minn. R. 7825.0300. Based on prior Commission orders deferred accounting costs should be related to utility operations for which ratepayers have incurred costs or received benefits; significant in amount; unforeseen, unusual, or extraordinary in nature; and subject to review for reasonableness and prudence.²² The Company outlined how it met these criteria as follows:

Related to utility operations for which ratepayers have incurred costs or received benefits

The Company stated that the costs it seeks to defer are directly tied to utility operations, as they stem from compliance with a federal rule governing coal ash disposal from the Company's coal-fired plants that serve customers. Compliance benefits ratepayers by protecting human health and the environment and avoiding potential fines or penalties. The Commission has previously recognized that avoiding such penalties provides ratepayer benefits, as seen in past approvals for cleanup cost deferrals. Therefore, these costs meet the criterion of being related to utility operations and providing customer benefits.

Significant in amount

Minnesota Power estimated that compliance with the new CCR Legacy Rule will add significant-unanticipated costs to the decommissioning of the Boswell and Laskin facilities. The rule requires studies and potential remediation of previously closed ash units, with actual costs dependent on study results. Based on eight compliance scenarios, detailed in Attachments A

²⁰ *Id.*, pg. 4.

²¹ Docket 24-437, Initial Filing, pg.4 and Attachment A.

²² *In the Matter of Deferred Accounting Treatment of Costs Related to the 2008 Flood*, Docket No. E,G-001/M-08-728, STAFF BRIEFING PAPERS at 2-3 (Feb. 26, 2009). *In the Matter of a Petition for Approval of Deferred Accounting Treatment of Costs Related to the 2016 Storm Response and Recovery*, Docket No. E-015/M-16-648, ORDER DENYING PETITION FOR DEFERRED ACCOUNTING TREATMENT at 2 (Jan. 10, 2017).



and B, the Company projected total costs between \$50 million and \$85 million²³ reflecting the uncertainty and potential scope of required work. Using the midpoint estimate of \$67.8 million, overall decommissioning costs would rise by about 89%, from \$76.3 million to approximately \$144 million over the next ten years. Table 4 reflects a comparison of decommissioning costs with and without implementing the Legacy CCR at the two sites Boswell and Laskin.

Table 4: Comparison of Decommissioning Costs with and without CCR Legacy Rule²⁴

(\$ in millions)	Costs without CCR	Costs with CCR	% Change
Boswell	\$70.80	\$118.50	67%
Laskin	\$5.50	\$25.60	370%
Total	\$76.30	\$144.10	89%

Unusual, Unforeseen and Extraordinary

The Company stated that the costs to comply with the CCR Legacy Rule are unusual, unforeseen, and extraordinary and are not being recovered by Minnesota Power in its current base rates. These costs were unknown and unforeseen because the CCR Legacy Rule was proposed after the Company filed its last rate case on November 1, 2023, and became effective nearly one year after the Company submitted that rate case. Further, the Company added that the CCR Legacy is unusual because it lacks a state implementation or permitting process, unlike other federal environmental regulations such as the Clean Air Act or Clean Water Act. This absence limited Minnesota Power's ability to plan ahead. Therefore, deferred accounting would allow the Company to track and record these unforeseen costs for potential recovery in a future rate case as compliance requirements become clearer.

Subject to Review for Reasonableness and Prudence:

Minnesota Power proposed to defer the incremental investigative and decommissioning costs from CCR Legacy Rule compliance into a tracking account for review in its next rate case. The Company acknowledged that these costs will be evaluated for reasonableness and prudence, and otherwise eligible for recovery from ratepayers. Commission approval would provide the Commission and stakeholders an opportunity to review the costs later to determine their eligibility for ratepayer recovery.

3. Conclusion

Minnesota Power requested Commission approval to defer CCR Legacy Rule compliance costs, which will be reviewed for reasonableness and prudence in a future rate case or cost recovery proceeding.

²³ Docket 24-437, Initial Filing Trade Secret Attachment B.

²⁴ Docket 24-437, Initial Filing, pg. 12.



B. Department of Commerce – Comments

1. Overview

In its comments, the Department explained that under Minn. Stat. §216B.10 and Minn. R. 7825.0300, the Commission has broad authority over utility accounting and reporting and follows the FERC Uniform System of Accounts (USofA). FERC Account 182.3 (Other Regulatory Assets) provides a mechanism for deferred accounting when approved by the Commission; therefore, an explicit exception to the USofA is not required.²⁵

The Department further explained that, under normal ratemaking, utilities recover representative costs through approved rates that remain in effect until the next rate case. Utilities are not guaranteed full recovery of actual costs incurred between rate cases, nor do customers benefit directly when costs decline; instead, utilities are expected to manage expenses prudently within existing rates. Under deferred accounting, however, a utility may delay recognizing certain costs by recording them in a separate deferral account (FERC Account 182.3 – Other Regulatory Assets) for potential recovery from ratepayers in a future rate case.

The Department mentioned past decisions in Docket No. G-002/M-17-894 and Docket No. E-015/M-16-648²⁶ in which Commission applied strict guidance for deferred accounting because it can increase the burden on ratepayers. The Commission's Order in Docket No. G-002/M-17-894 stated:

Deferred accounting is a regulatory tool used primarily to hold utilities harmless when they incur out-of-test-year expenses that, because of their nature or size, should be eligible for possible rate recovery as a matter of public policy. Traditionally, deferred accounting has been reserved for costs that are unusual, unforeseeable, and large enough to have significant impact on the utility's financial condition. Deferred accounting has also sometimes been permitted when utilities have incurred sizeable expenses to meet important public policy mandates.²⁷

The Department agreed that deferred accounting is a useful but exceptional regulatory tool and should be granted only when the utility meets its burden under these established criteria. It would support approval only when the utility demonstrates that the costs are: (1) unusual, unforeseeable, or extraordinary; (2) financially significant; (3) related to utility operations; and

²⁵ Docket 24-437, Department Comments, pg. 3.

²⁶ In the Matter of the Petition of Northern States Power Company for Approval of Deferred Accounting for Manufactured-Gas-Plant Cleanup Costs, Minnesota Public Utilities Commission, Order, October 17, 2018, Docket No. G-002/M-17-894, at 4; In the Matter of a Petition for Approval of Deferred Accounting Treatment of Costs Related to the 2016 Storm Response and Recovery, Minnesota Public Utilities Commission, Order, January 10, 2017; Docket No. E-015/M-16-648, at 5.

²⁷ In the Matter of the Petition of Northern States Power Company for Approval of Deferred Accounting for Manufactured-Gas-Plant Cleanup Costs, Minnesota Public Utilities Commission, Order, October 17, 2018, Docket No. G-002/M-17-894, at 2.



(4) likely to provide or have provided ratepayer benefits.²⁸

Additionally, the Department emphasized that because deferred accounting has the potential to increase the financial burden on consumers, beyond the levels that the Commission previously determined to be just and reasonable, any request should account for potential offsets such as higher revenues, tax credits, or other funding sources to minimize ratepayer impact.²⁹

The Department pointed out the recent example of Commission approval to allow Otter Tail Power Company to use deferred accounting for electric vehicle charging and infrastructure recovery costs in its October 27, 2020 Order in Docket No. E-017/M-20-181.³⁰ The deferred costs included depreciation from capital investments, equipment, program management, and advertising and education for EV promotional activities, to be recovered in a future rate case or through an applicable rider. The Commission approved deferred accounting for Otter Tail because the proposal advanced legislative goals for transportation electrification, was modest in size with a limited budget and duration, focused on expanding EV charging in sparse areas, and applied only to costs incurred within a defined time frame.

The Department noted that Minnesota Power referenced the Commission's prior approval of deferred accounting for the Mercury Emissions Reduction Act of 2006³¹ as a comparable example. While these cases differ in scope and nature, they demonstrate the criteria the Commission has applied to justify deferred accounting for utility programs.

2. Evaluation

The Department evaluated Minnesota Power's deferred accounting request to determine if the Legacy CCR Rule compliance costs are unusual, unforeseen, extraordinary, financially significant, related to utility operations, and likely to benefit ratepayers:

i. Unusual, Unforeseeable, and/or Extraordinary:

On May 8, 2024, the new CCR Legacy Rule was finalized, and it became effective on November 8, 2024. The Rule expanded regulation to include legacy impoundments and created CCR Management Units (CCRMUs). Although Minnesota Power has no active Legacy CCR Units, it has potential CCRMUs at two previously closed plants. These costs could not have been anticipated in the last rate case, and the rule's final requirements were not known until 2024.

The Department noted that, like prior Commission past decisions on unforeseeable cleanup

²⁸ Docket 24-437, Department Comments, pg. 4.

²⁹ *Id.*, pg. 5.

³⁰ In the Matter of Otter Tail Power Company's Request for Approval of Electric Vehicle Charging and Infrastructure Programs, Order, October 27, 2020, Docket No. E-017/M-20-181, at 8-10.

³¹ In the Matter of the Petition for Approval of Deferred Accounting Treatment of Costs Related to the Mercury Emissions Reduction Act of 2006, Order, January 31, 2007, Docket No. E-002/M-06-1315.



costs at Northern States Power Gas Utility's manufactured gas plant sites (MGP) in Docket No. G-002/M-94-104,³² the MP's expenses arose only recently, and their total amount remains uncertain. Based on this, the Department found that Minnesota Power's costs to comply with the EPA's CCR Legacy Rule are unusual and unforeseeable, confirming that the costs are extraordinary and unforeseeable.

ii. Financially Significant in Amount

The Department reviewed Minnesota Power's preliminary estimate of \$50-\$85 million and concluded these costs are significant given the size of Minnesota Power's operations. The Department noted that the last approved revenue requirement increase was \$89.1 million. Thus, the Department agreed that Minnesota Power's proposed compliance costs, although approximate, may potentially have an unforeseen significant impact on the financial wellbeing of the Company.

iii. Related to Utility Operations:

According to the Legacy CCR Rule, it requires monitoring, compliance, and mitigation for legacy coal ash ponds. Minnesota Power's Boswell and Laskin Energy Centers may have CCR Management Units (CCRMUs) affected by the rule, potentially increasing decommissioning costs. The Department agreed that these investigative and depreciation costs are related to utility operations.

iv. Likely to Provide or Did Provide Ratepayer Benefit

Minnesota Power's Petition stated it will comply with the Legacy CCR Rule by assessing and mitigating risks at its sites, using full evaluations to guide closure or removal plans. The Company also noted that ratepayers may benefit by avoiding fines or fees for noncompliance. The Department agreed that the proper compliance has potential ratepayer benefits.

The Department also considered public policy alignment, and potential incentives for cost-effective compliance when reviewing MP's petition. The Department noted:

- Minnesota Power stated that complying with the Legacy CCR prevents coal ash from harming humans or the environment. The Commission has previously approved deferred accounting to advance public policy goals, such as the Mercury Emissions Reduction Act of 2006. The Department agreed that implementing the Legacy CCR furthers the public policy goal of protecting human health and the environment.
- The Commission has historically applied consistent criteria when approving deferred accounting. The Department agreed that using the same above four criteria from past approvals—such as Otter Tail's EV charging and Minnesota State Utilities' COVID-19 expense petitions— would offer a practical framework to evaluate Minnesota Power's current request.

³² In the Matter of the Application of Northern States Power Company – Gas Utility for Approval of Deferred Accounting for Certain Manufactured Gas Plant Site Cleanup Costs, Order, September 6, 1994, Docket No. G002/M-94-104, at 5.



- Deferred accounting does not guarantee cost recovery but lets the utility track expenses incurred outside a rate case test year for potential recovery later. Since the Legacy CCR took effect after Minnesota Power's last rate case (November 1, 2023), approval would allow the Company to record these costs.

3. Implementing Tracking Requirement

The Department noted that Minnesota Power proposed to document investigative and reclamation costs for Legacy CCR compliance in a deferred tracking account on its balance sheet, delaying expense recognition until reviewed in a future rate case. The Department agreed that this approach aligns with prior Commission-approved deferred accounting practices but emphasizes that any related revenues, credits, or offsets should also be included.

4. Department Recommendations

After reviewing Minnesota Power's Petition to track and defer costs under the Legacy CCR Surface Impoundment Rule and the information in the record, the Department recommended:

- The Commission approve the Company's request to use deferred accounting for costs related to implementing the Legacy CCR Rule. This approval should encompass the tracking of any associated revenues, credits, or offsets.
- Require Minnesota Power to establish a formal tracking mechanism to document investigative expenses and depreciation costs incurred for compliance.
- Require Minnesota Power to provide an updated total net cost estimate once its internal analysis is complete, ensuring the Commission and stakeholders have accurate, up-to-date information for future review and potential cost recovery.

C. Minnesota Power – Reply Comments

Minnesota Power concurred with the Department's recommendations on the Company's Petition to track and defer costs under the Legacy CCR Rule.

V. Staff Analysis

Staff supports the Department's recommendations on both Docket No. E-015/D-24-324 and Docket No. E-015/M-24-437. Staff agrees that Minnesota Power's deferred accounting request aligns with Commission criteria, public policy objectives, and prior precedent, and that tracking costs through a deferred account is appropriate for future review.



VI. Decision Options

2024 Remaining Life Depreciation Proposal, Dockets No. 24-324

1. Approve Minnesota Power's proposed depreciation lives, salvage rates, and depreciation rates, effective January 1, 2024. [MP, Department]
2. Approve the continued use of a 2035 estimated remaining life of BEC 3, BEC 4, and BEC Common for depreciation purposes. Any depreciation adjustments required for these facilities would be implemented in Minnesota Power's next rate case or other appropriate proceeding. [MP, Department]
3. Require Minnesota Power to continue filing, in future depreciation filings, a comparison of the remaining depreciable lives proposed in its depreciation filing and the remaining operating lives approved in the Company's most recent integrated resource plan, with an explanation of any difference. [MP, Department]
4. Determine the depreciation rates approved herein are for accounting purposes and neither bind nor preclude modified depreciation expense in a general rate case proceeding. [Department]

Track and Defer Costs Resulting from The Legacy Coal Combustion Rule, Docket 24-437

5. Approve Minnesota Power's request to use the method of deferred accounting to track and defer costs resulting from implementing the new Legacy CCR Rule, including any related revenues, credits or offsets to these requested deferred costs. [MP, Department]
6. Approve Minnesota Power's request to establish a tracking mechanism to document the investigative costs and depreciation expenses associated with implementing the new Legacy CCR Rule, including the tracking of any related revenues, credits or offsets to these requested deferred costs. [MP, Department]
7. Require Minnesota Power to provide an update on total net cost estimate after the Company has completed its internal analysis. [Department]