

May 6, 2015

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E015/M-15-342

Dear Mr. Wolf:

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

Minnesota Power's Request for a Variance to Commission Rules Regarding Billing Errors

The filing was submitted on April 6, 2015 by:

Christopher D. Anderson
Associate General Counsel
Minnesota Power
30 West Superior Street
Duluth, MN 55802-2093

The Department recommends **approval** and is available to respond to any questions the Minnesota Public Utilities Commission may have on this matter.

Sincerely,

/s/ DALE V. LUSTI
Financial Analyst

DVL/ja
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES**

DOCKET No. E015/M-15-342

I. BACKGROUND AND SUMMARY OF FILING

On April 6, 2015, Minnesota Power (Minnesota Power or the Company) filed a petition with the Minnesota Public Utilities Commission (Commission) for approval of a variance to Minnesota Rules, part 7820.3800, the Billing Errors Rule, to allow the Company to provide a refund to a residential customer for overcharges that have occurred since July 2003.

Minnesota Power requested this rule variance to gain approval to provide a refund to a residential customer overcharges that the customer paid during a period outside of the three-year limit set in Minnesota Rules. Minnesota Power stated that the overcharge was due to an incorrect application of a rate schedule.

The Company stated that the customer purchased a former group home in 2003, and converted it to use as his personal residence. However, the customer continued to be billed at the Commercial 25a rate until September, 2014, when the customer noticed the classification on his September billing statement.

Upon the customer's notification of the error, the Company agreed to rebill for electric service for the previous three years (9-17-2011 to 8-16-2014), as required by Minnesota Rules, Part 7820.3800, subp. 2 and the Company's Electric Rate Book. In order for the Company to grant refund to the customer for the period exceeding three years (July 1, 2003 to 9-17-11) the Company must file this variance request with the Commission.

The Company calculated a total credit (including interest) for the customer of approximately \$4,746.70 as shown in Table 1 below, for the total timeframe both within and exceeding the Commission Rule and Tariff periods. Minnesota Power calculated and provided billing credits in accordance with Minn. R. 7820.3800 and calculated interest consistent with Minn. Stat. 325E.02(b) as summarized in the table below.

Table 1: Credit Amounts Provided and Credit Amounts Requiring Variance

Time Period	Principal	Interest	Total
Credit Provided (9/17/2011 - 8/16/14)	\$1,623.55	\$4.59	\$1,628.14
Credit Requiring Variance (7/1/2003 - 9/17/2011)	\$3,082.77	\$35.79	\$3,118.56
Total	\$4,706.32	\$40.38	\$4,746.70

II. DEPARTMENT ANALYSIS

Minnesota Rules, part 7820.3800 states in relevant part:

Subpart 1. Errors warranting remedy.

When a customer has been overcharged or undercharged as a result of incorrect reading of the meter, incorrect application of rate schedule, incorrect connection of the meter, application of an incorrect multiplier or constant or other similar reasons, the amount of the overcharge shall be refunded to the customer or the amount of the undercharge may be billed to the customer as detailed in subparts 2 through 4.

Subpart 2. Remedy for overcharge.

When a utility has overcharged a customer, the utility shall calculate the difference between the amount collected for service rendered and the amount the utility should have collected for service rendered, plus interest, for the period beginning three years before the date of discovery. Interest must be calculated as prescribed by Minnesota Statutes, section 325E.02, paragraph (b).

Subpart 4. Exception if error date known.

If the date the error occurred can be fixed with reasonable certainty, the remedy shall be calculated on the basis of payments for service rendered after that date, but in no event for a period beginning more than three years before the discovery of an overcharge or one year before the discovery of an undercharge.

Minnesota Powers Electric's Rate Book – Volume I, Section No. VI, 14th Revised Page No. 3.13 states, in relevant part:

51 Company Billing Errors

Remedy for overcharge

If a Customer was overcharged, the Company shall calculate the difference between the amount collected for service rendered and the amount the Company should have collected for service rendered, plus interest up to a maximum of three years from the date of discovery. Interest will be calculated as prescribed by Minnesota Statutes, section 325E.02(b).

Minnesota Power stated that it has provided the affected customer the credits in accordance with Minnesota Rules. The Company requested approval to issue a further credit for the amount overcharged to the customer for the periods which lie outside the 3-year limit.

Minnesota Rules, part 7829.3200, subp. 1 establishes the following criteria for evaluating a variance request:

The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

The Department believes that the rule variance criteria can also be used to assess the reasonableness of the one-time tariff modification that Minnesota Power has requested.

In support of Minnesota Power's variance request, the Company stated that, given that the billing error occurred through no fault of the customer or Minnesota Power, and the fact that Minnesota Power acknowledges that a billing inaccuracy occurred, strict enforcement of Minnesota Rules part 7820.3800 would be an excessive burden. Further, Minnesota Power stated that granting the variance does not adversely affect the public interest because the customer did not receive any additional electric service for the amount billed; and the public interest is adequately protected where the utility customer is held harmless from an incident such as this, and where the amount is reasonably verifiable. Minnesota Power stated that it is not aware of any conflict with any standards imposed by law. Minnesota Power concludes, granting the variance would further the public interest by allowing it to appropriately refund the inadvertent overbillings due to the customer, and the variance would not affect other customers.

The Department concludes that the criteria for granting a variance as set forth by Minnesota Rules, part 7829.3200, subp. 1 are met for Minnesota Power's variance request and for a one-time modification to its tariff.

III. RECOMMENDATION

The Department recommends that the Commission approve Minnesota Power's request for a variance to Minnesota Rules, part 7820.3800 and a one-time modification to its Billing Error Tariff requirements.

/ja

CERTIFICATE OF SERVICE

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

**Minnesota Department of Commerce
Comments**

Docket No. E015/M-15-342

Dated this 6th day of May 2015

/s/Sharon Ferguson

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