STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of Minnesota Power's Petition for Approval to Track and Defer Lost Large Industrial Customer Sales Resulting from the COVID-19 Pandemic

Docket No. E015/M-20-814

REPLY COMMENTS

On November 4, 2020, Minnesota Power submitted a petition requesting approval to track and defer lost large industrial customer sales revenue net of offsetting revenue from market sales ("Net Lost Revenues") that have been incurred because two of its large industrial customers—United States Steel's Keewatin Taconite mine ("Keetac") and the Verso Duluth Mill ("Verso")—had indefinitely idled operations due to the COVID-19 global pandemic ("Petition"). The Minnesota Public Utilities Commission ("Commission") issued a notice on December 18, 2020 requesting comments with initial comments due by January 4, 2021 and reply comments due January 14, 2021. Initial comments were filed by the Minnesota Department of Commerce ("Department"), the Office of Attorney General ("OAG"), Citizens Utility Board of Minnesota ("CUB") and the Large Power Intervenors ("LPI").

Minnesota Power addresses initial comments below, but at the outset would like to reiterate that the Petition stemmed from the Commission's approval in Docket E,G-999/M-20-427[1] of the Minnesota utilities joint request to track and defer COVID 19 expense and revenue impacts. In the Joint Petition Order, the Commission further "recognize[d] that COVID-19-related expenditures and other financial impacts are unusual, extraordinary, and infrequent," while leaving open the issue of significance and prudence to future proceedings.[2] Subsequently, the Company lost significant revenues from two large industrial customers – Keetac and Verso –due in large part, according to these customers

[1] *In re Petition of the Minnesota Rate Regulated Electric and Gas Utilities for Authorization to Track Expenses Resulting from the Effects of the COVID-19 and Record and Defer Such Expenses into a Regulatory Asset* ("Joint Petition"), Order Approving Accounting Request and Taking Other Action Related to COVID-19 Pandemic ("Joint Petition Order"), Docket No. E,G-999/M-20-427 (May 22, 2020).
[2] *Id.* at p. 5.

themselves, to the effects of the pandemic. Minnesota Power's Petition is a request under both that specific Commission authority and the general standard for whether to allow deferred accounting. However, the Department's comments did not address the findings of the Commission's Joint Petition Order, let alone recognize its further determination "that the actions and other activities that utilities will likely need to take during this declared peacetime emergency may result in additional expenditures outside of the usual course of business to the utility as well as other financial impacts."[3]

The Department, OAG and CUB all argue that Minnesota Power has not met the Commission's standard for granting deferred accounting. But a review of the facts demonstrates that Minnesota Power's significant loss of revenue due to the idling of Keetac and Verso more than satisfies the deferred accounting standard, especially in light of the Commission's Joint Petition Order recognizing the unusual and significant impacts of the COVID-19 pandemic.

There can be no question that the loss of Keetac and Verso is significant for Minnesota Power. Even with the announcement that Keetac restarted in December 2020, the lost revenues from September 1, 2020 through the end of the year for Keetac alone were significant to Minnesota Power. As noted in the petition, these two large industrial customers are equivalent to the total load of Minnesota Power's ENTIRE residential customer class or 11 percent of the Company's retail kWh sales. If Keetac continues at full production for all of 2021, Verso alone would be a loss of **[TRADE SECRET BEGINS** [redacted] **TRADE SECRET ENDS]** percent of retail kWh sales.[4] If the loss of this amount of retail electric sales and the corresponding loss of revenues is not significant, then no level will ever be significant. Furthermore, Minnesota Power proposed a tracker mechanism that would account for any changes in revenues from Keetac and Verso and would automatically adjust the amount subject to deferred accounting if operations change.

[3] Joint Petition Order at 4. The Department also fails to acknowledge the precedential and persuasive value of prior Commission deferred accounting decisions outside of those that support the Department's arguments. See *In re Xcel Energy's Petition for Approval of Electric Vehicle Pilot Program*, Docket No. A19-1785 (Minn. Ct. App. Sept. 21, 2020) (unpublished) (acknowledging the precedential and persuasive value of prior Commission deferred accounting decisions and upholding the use of deferred accounting in a situation outside of a 100 year flood).
[4] See OAG Trade Secret IR No. 3.

Thus the Company's proposal accounts for the speculation by the Department, the OAG, and CUB that Minnesota Power's ongoing lost revenues from Keetac and Verso will significantly decrease in 2021.

The parties also argue that this is not "unusual" since Minnesota Power's large industrial customers periodically go through negative business cycles. Even setting aside the precedent established in the Joint Petition Order when the Commission determined that the COVID-19 pandemic is extraordinary and may cause financial harm to utilities, the idling of two large industrial customers in two separate industries is unusual even for Minnesota Power. This is not merely a "downturn," and is, for one of the two customers, what could be a long-term closure or at least a significant operational change if another entity purchases the paper mill.

Additionally, these parties' comments in Minnesota Power's prior rate cases underscore why the idling of either or both of Keetac and Verso has significant financial consequences for Minnesota Power. In the Company's 2016 rate case the OAG and Department argued that Minnesota Power is not riskier than other utilities and therefore should not have any adjustments to its sales forecast or return on equity ("ROE").[5] For example, OAG witness Brian Lebens stated in his direct testimony: "Given the new and potential upcoming protections for domestic businesses and the EITE benefits that the Paper and Pulp customers will enjoy in the future, it is certainly possible that MP's annual sales to these customers could exceed the previous average of approximately 1,500,000 MWh before the company's next rate case."[6] Blandin announced its shutdown of PM5 in October of 2017, which occurred late in the test year during deliberations of the 2016 rate case, and the Commission did not take the shutdown into consideration for the 2017 test year.[7]

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[5] *In re Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota* ("2016 Rate Case"), Findings of Fact, Conclusions, and Order ("2016 Rate Case Order"), Docket No. E-015/GR-16-664 at 58-59 (March 12, 2018).

[6] 2016 Rate Case, Amended Direct Testimony of Brian Lebens at 50 (May 31, 2017); *see also* 2016 Rate Case Order at 58-59.

[7] *See* 2016 Rate Case, Notice of Blandin Service Change (Oct. 25, 2017); 2016 Rate Case Order at 51. The Blandin decision also calls into question the Department's argument that if the 2019 rate case had continued that Minnesota Power would have been allowed to adjust the proposed test year sales to account for the idling of Keetac and Verso.

The Commission ultimately agreed on an overall sales forecast that assumed that there would be a full utilization of taconite load.[8] Specifically, the Order stated: "The Commission is not persuaded that it is reasonable in this case to reduce a known test year revenue amount for specific customers as a proxy for a proposed load-factor adjustment for an entire industry."[9] In short, the Company's sales forecast in base rates assumes revenues significantly higher than the Company proposed even before Keetac and Verso idled again in 2020 (and continuing into 2021 for Verso).

Further, the Company's current rate of return on equity does not account for (and could not have predicted) the extraordinary circumstances and effects of a pandemic that caused two large customers to idle indefinitely. Indeed, Department witness Dr. Eilon Amit argued in the 2016 rate case that Minnesota Power's industrial concentration did not make the Company riskier than a typical electric utility, and therefore rejected Minnesota Power's arguments there should be a risk adjustment to his ROE recommendation under a Discounted Cash Flow ("DCF") result.[10] The Commission took a middle ground in its Order, rejecting a specific risk adjustment but stating: "An ROE of 9.25% is sufficient to establish just and reasonable rates, while adequately assuring a fair and reasonable return in light of the Company's unique risk profile, capital structure, and costs of obtaining equity investment."[11] But none of this discussion anticipated the extraordinary circumstances of a pandemic and the indefinite idling of two customers that equated to the loss of an entire class of Minnesota Power customers.

This discussion of the 2016 rate case is not to relitigate the Commission's prior decisions, but to provide context for why even if a significant loss of industrial load is not entirely unheard of for Minnesota Power – although a pandemic and its effects certainly are uniquely rare – it still has serious financial consequences. When test year sales forecast levels are set near full production levels and the Company's ROE incorporates only Minnesota Power's usual risk associated with the ups and downs of customer production,

[8] 2016 Rate Case Order at 51.
[9] *Id*.
[10] 2016 Rate Case, Direct Testimony of Dr. Eilon Amit at 14-15, 45-46 (May 31, 2017); 2016 Rate Case, Surrebuttal Testimony of Dr. Eilon Amit at 13-14 (July 21, 2017); Initial Post-Hearing Brief of the Department at 110-116, 153 (Sept. 12, 2017).
[11] 2016 Rate Case Order at 61.

the financial consequences of a highly unusual pandemic and associated increased costs and idled customers are significantly exacerbated.

Therefore, when Minnesota Power submitted its request to mitigate the significant financial consequences of the idling of Keetac and Verso through tracking and deferred accounting, it did so recognizing that the regulatory option available to potentially mitigate these financial consequences was to seek the extraordinary remedy. But extraordinary circumstances sometimes call for an extraordinary remedy. While industrial load loss would allow Minnesota Power to file a general rate case on or after March 1, 2021 under the rate case resolution, given the ongoing pandemic, the Company believes it is better for all customers and consistent with the rate case resolution to wait and file in November 2021 for a 2022 test year.

The parties also argue that because ALLETE issued dividends during this time period and some earnings categories have increased on a year over year comparison, that there is no financial harm to the Company. Whether public companies, particularly those with both regulated and unregulated subsidiaries, issue dividends or have higher or lower stock prices[12] is not applicable to just and reasonable rates.[13] And for ALLETE, the year over year comparison of earnings by quarter includes not just Minnesota Power, but ALLETE's investment in ATC and the earnings from Superior Water, Light & Power. If anything, the more important question is investors' faith in the Company's and utility's risk and financial health. And rating agencies continue to raise concerns about Minnesota Power's heavy industrial load concentration and the cyclical nature of these industries.

Finally, as discussed in the Petition, Minnesota Power is not asking for current cost recovery – only the opportunity to track and record revenues to address in its next rate

[12] ALLETE's current share price is down approximately $15 per share from March 2020 while other Minnesota utilities have current stock prices that are near or exceed pre-COVID-19 Pandemic levels. See Minnesota Utility Investors – Stock Information, available at https://www.mnutilityinvestors.org.
[13] See, for example, Kenneth Rose, An Economic and Legal Perspective on Electric Utility Transition Costs, NRRI publication (1996), available at: https://pubs.naruc.org/pub/4AA01077-155D-0A36-3139-4900D02E8B3D

case. Any interested stakeholders will have an opportunity at that time to determine the ultimate significance of the revenues and the reasonableness of cost recovery.

CUSTOMER SALES ADJUSTMENTS

The Department argues that because residential customer revenues have increased $3.6 million from April through October, 2020, Minnesota Power's claimed Net Lost Revenues should be decreased by an annualized $6.2 million. Minnesota Power agrees that residential revenue was up by $3.6 million from April through October 2020, but that amount is not adjusted for the impact of weather which results in the Department's analysis reflecting an inflated increase in residential revenue. Weather-normalized revenue from residential customers increased $2.4 million from April through October 2020, which the Company provided in the information request response cited by the Department in its comments, Attachment 005.01 of OAG IR No. 5; however, incorporating November and December into the analysis, the weather-normalized increase to residential revenue is $0.7 million. Also, the Department's analysis does not reflect that Minnesota Power's commercial customer class has seen an even larger decline in revenue compared to budget of $8.9 million, adjusted for weather, over the same time period used in the Department's analysis, and a decrease of $12.1 million, adjusted for weather, when November and December are incorporated. If the same calculation to annualize these amounts is applied, this would net out to a decrease in weather-normalized revenue from residential and commercial customers of $11.4 million – not including Keetac and Verso.

USS NOMINATIONS

The Department also claims that U.S. Steel nominations have **[TRADE SECRET DATA BEGINS** [redacted] **TRADE SECRET DATA ENDS]** kW for the period January to April 2021 compared to January to April 2020. The actual USS nomination for January 2021 was **[TRADE SECRET DATA BEGINS** [redacted] **TRADE SECRET DATA ENDS]** kW**.**

As detailed in OAG IR 2, the customer may elect to decrease the amount of Incremental Firm Demand by a maximum of **[TRADE SECRET DATA BEGINS** [redacted] **TRADE SECRET DATA ENDS]** kW per month by providing Company with written notice by **[TRADE SECRET DATA BEGINS** [redacted] **TRADE SECRET DATA ENDS]** prior to the start of the calendar month in which the decreased Incremental Firm Demand is required. This is similar to what occurred in 2020 where, as detailed in OAG IR 15, the customer submitted a nomination of **[TRADE SECRET DATA BEGINS** [redacted] **TRADE SECRET DATA ENDS]** kW on November 27, 2019 and then **[TRADE SECRET DATA BEGINS** [redacted] **TRADE SECRET DATA ENDS]** kW for each of the months in that nomination period. In other words, U.S. Steel actual nominations in 2021 are essentially on par with where they were during the same period of 2020.

<u>VERSO IDLING</u>

CUB and the OAG asserts that Minnesota Power should have known that Verso was going to idle. This is simply not the case and is not consistent with what has been happening in Duluth. Despite a continued decline in graphic paper markets, Minnesota Power had reason to believe the Verso Duluth Mill would continue to operate in 2020. In 2019, the legislature approved, and Governor Walz signed, a bill that included "$2,000,000 for a loan to a paper mill in Duluth for a retrofit project that will support the operation and manufacture of packaging paper grades. The company that owns the paper mill must spend $20,000,000 on project activities by December 31, 2020, in order to be eligible to receive this loan."[14] At the end of January 2020, the Star Tribune reported "Verso plans a $34.5 million conversion at the Duluth Mill that would allow it to produce bag, medium, liner and specialty-grade papers that would "ensure the future viability and success" of the plant." Additionally, the Duluth City Council voted to provide $242,000 as a local match.[15] Also, in January and February 2020, Verso publically communicated they had made a $5 million investment at the Duluth Mill to allow it to produce around

[14] https://www.revisor.mn.gov/laws/2019/1/Session+Law/Chapter/7/
[15] https://www.startribune.com/duluth-paper-mill-asing-for-2-million-state-loan-to-stave-off-closure/567333112/#:~:text=Verso%20plans%20a%20%2434.5%20million,plant%2C%20according%20to%20the%20resolution

90,000 tons/year of kraft bag, liner, and packaging type grades and noted a full conversion to make 375,000 tons is being considered.[16]

Accordingly, the Company had no reason to believe Verso would rather suddenly suspend operations altogether. Rather, this change underscores the significance and, in many respects, extraordinary circumstances brought on by the global pandemic.

CONCLUSION

Minnesota Power continues to suffer significant and wholly unforeseen losses of revenue from the idling of two large industrial customers as a result of the COVID-19 pandemic. Minnesota Power respectfully requests Commission authority, effective September 1, 2020, to track and record lost large industrial sales from Keetac and Verso. Minnesota Power will seek Commission review and approval for recovery purposes in the Company's next general rate case to be filed in November 2021.

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Respectfully submitted,

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[16] https://www.sec.gov/Archives/edgar/data/1421182/000110465920001611/tm201295d1_defa14.htm; https://seekingalpha.com/article/4327945-verso-corporation-vrs-ceo-adam-st-john-on-q4-2019-results-earnings-call-transcript?part=single