

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, MN 55101

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

IN THE MATTER OF AN APPLICATION
BY MINNESOTA POWER FOR
AUTHORITY TO INCREASE RATES FOR
ELECTRIC SERVICE IN MINNESOTA

MPUC Docket No. E015/GR-09-1151
OAH Docket No. 3-2500-21031-2

SURREBUTTAL TESTIMONY AND ATTACHMENTS OF NANCY A. CAMPBELL

ON BEHALF OF

**THE MINNESOTA OFFICE OF ENERGY SECURITY
WITH THE MINNESOTA DEPARTMENT OF COMMERCE**

MAY 12, 2010

1 **VIII. LIMITED RATE ADJUSTMENT FOR SIGNIFICANT CHANGES IN LARGE**
2 **CUSTOMERS OF MP**

3 **Q. Please briefly summarize OES's proposal for Limited Rate Adjustment for**
4 **Significant Changes in Large Customers of MP.**

5 A. I discuss this recommendation for a limited rate adjustment for large customer of MP on
6 pages 53 to 57 of my Direct Testimony. Basically, as a result of concerns about the
7 likelihood that MP's large power sales could go up significantly due to several potential
8 new customers and previously reduced or idled plants either reopening or increasing
9 production, OES proposed a limited reopener. Specifically, I recommended that the
10 Commission adjust MP's rates to reflect an increase in retail revenues and a
11 corresponding decrease in wholesale revenues if any of the following events occur: 1) a
12 new large customer is added to MP's system, 2) a previously idled large customers
13 returns to MP's system, or 3) an existing large customer increases production
14 significantly.

15 As evidenced in this case, changes in MP's LP customers have a significant effect
16 on rates so it is important to ensure, in a reasonable manner, that such changes are
17 reflected in future rates. Further, OES is willing to expand this proposal to adjust rates if
18 a customer leaves MP's system or shuts down production for an extended period, greater
19 than one year.

20 Additionally, as stated on pages 53 to 57 of my Rebuttal Testimony, OES
21 suggests that nominations provided by large customers to MP would be the trigger to
22 cause a limited reopener filing to be made by the Company. OES recommended that MP
23 be required to make such a filing by providing the following information: the

1 nominations for each new or existing customer, gross revenues added by each such
2 customer along with the resulting decrease in wholesale revenues, and any associated
3 incremental costs and resulting net income impact, including supporting calculations. I
4 also recommend that the rate design and cost of capital for such rate adjustments be the
5 same as set in this rate case. Essentially, under a limited reopener the only changes
6 would be to retail revenues, wholesale revenues, and potentially to reflect any significant
7 and reasonable changes in incremental costs to serve any new large customer, to the
8 extent such costs are not offset by revenue contributions from the customer.

9
10 **Q. How did the Company respond to OES's proposal for a limited reopener?**

11 A. According to MP Witness Peter Seeling on page 14 of his Rebuttal Testimony, MP is
12 willing to explore the concept, but has concerns that it is not a fully developed idea. Mr.
13 Seeling's concerns include: 1) The proposal does not define what would constitute a
14 "significant increase" in production. 2) It is unclear what process would be followed to
15 implement the mechanism. 3) The adjustment mechanism appears to be one-sided,
16 offering little or no protection for the kind of sudden loss of revenue the Company
17 experienced at the end of 2008 and 2009. 4) It is not clear how the mechanism would
18 reflect the relationship between retail sales and wholesale margins.

19
20 **Q. How do you respond to MP's four concerns regarding your limited reopener
21 proposal?**

22 A. First, MP correctly notes that in my Direct Testimony I did not define "significant"
23 increase. However, I noted on page 56 of my Direct Testimony that the OES is willing to

1 work with MP and MP's large power customers to define "significant." Since no party
2 attempted to define "significant" I offer 10 MW as a level that constitutes a "significant"
3 increase in production. Alternatively, it may be more straight-forward to use the filing of
4 a new contract (via Electric Service Agreement ESA) as the trigger for requiring a
5 reopener, rather than relying on periodic nominations, together with a definition of a
6 significant increase such as 10 MW.

7 Second, MP's comment that the OES recommendation is unclear as to what
8 process will be followed to implement the reopener mechanism is nonspecific. I believe I
9 have discussed on pages 53 to 57 of my Direct Testimony in some detail the OES's
10 recommended process to be followed to implement the mechanism. Further, with the
11 idea above of using the filing of a new contract, the process to be followed would occur
12 in the miscellaneous filing when the new contract is filed for approval with the
13 Commission.

14 Third, I disagree that this limited reopener is unreasonably one-sided when one
15 considers that a Company may file a rate case at any time. Further, I offered in my Direct
16 Testimony on page 55 to expand this proposal to adjust rates if a customer leaves MP's
17 system or shuts down production for an extended period, greater than one year.

18 Fourth, the relationship between retail sales and wholesale margins is being
19 addressed in this rate proceeding, and in the limited reopener OES indicated that we
20 would look at both the retail sales revenue and wholesale margins, in order to ensure a
21 reasonable level of revenues consistent with MP's available resources.

1 **Q. How does the Company propose to proceed on this issue?**

2 A. According to Mr. Seeling on page 15 of his Rebuttal Testimony, MP proposes to work
3 with OES and other parties to determine whether a more fully fleshed-out concept can be
4 developed.

5
6 **Q. What do you recommend regarding this limited reopener issue?**

7 A. First, I offer 10 MW as way to define “significant” under the proposal in my Direct
8 Testimony. Second as an alternative, a simpler way to determine when a reopener is
9 necessary would be to tie it to when MP files a new or revised contract to be approved by
10 the Commission. At that time, MP would also need to file pro-forma financials showing
11 the impact on revenues as a result of the new/modified contract along with the
12 corresponding impact on wholesale margins, and potentially any significant and
13 reasonable changes in incremental costs to serve the new customer, to the extent such
14 costs are not offset by revenue contributions from the customer.

15
16 **Q. What is your overall recommendation?**

17 A. I recommend that either a nomination that increases/decreases by 10 MW or a
18 new/modified contract could be the trigger for requiring a reopener to look at MP’s rates
19 limited to this new customer. MP would be required to file pro-forma financials showing
20 the impact on revenues as a result of the new/modified contract along with the
21 corresponding impact on wholesale margins, and potentially any significant and
22 reasonable changes in incremental costs to serve the new customer, assuming such costs

1 are offset by added revenues. The rate design and cost of capital should not be changed
2 but would remain as determined in this rate case.

3
4 **IX. TAX RELATED TO PATIENT PROTECTION AND AFFORDABILITY CARE**
5 **ACT (PPACA)**

6 **Q. According to MP what issue has arisen in regard to the health care bill known as**
7 **Patient Protection and Affordable Health Care Act (PPACA)?**

8 A. According to MP's witness Steven DeVinck on pages 2 and 3 of his Rebuttal Testimony,
9 in March 2010 the Patient Protection and Affordable Health Care Act was signed into
10 law. Mr. DeVinck indicates that this law includes provisions to generate tax revenue to
11 offset the cost of the new legislation and that one of these provisions states that retiree
12 health care costs are no longer tax deductible to the extent of federal subsidies received
13 by plan sponsors that provide retiree prescription drug benefits equivalent to Medicare D
14 coverage. Mr. DeVinck also argues that MP, along with many other Minnesota public
15 utilities, is subject to additional income taxes and was required to record a \$4 million
16 income tax expense for the first quarter of 2010.

17
18 **Q. What is MP's proposed treatment of this tax expense caused by PPACA?**

19 A. According to Mr. DeVinck on page 3 of his Rebuttal Testimony, MP seeks to defer this
20 additional tax expense until a regulatory treatment consistent for all Minnesota public
21 utilities is determined by the Commission. As such, MP is requesting to defer the impact
22 of this expense and record it as a regulatory asset at this time.