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August 25, 2014

**VIA ELECTRONIC FILING AND U.S. MAIL**

Burl Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 Seventh Place East, Suite 350  
St. Paul, MN 55101-2147

Re: In the Matter of the Application of Minnesota Energy Resources Corporation for  
Authority to Increase Rates for Natural Gas Service in Minnesota  
Clarifications and Exceptions to the Report of the Administrative Law Judge

MPUC Docket No. G-011/GR-13-617  
OAH Docket No. 8-2500-31126

Dear Dr. Haar:

On behalf of Minnesota Energy Resources Corporation (MERC), enclosed for filing in the above matter, please find MERC's Clarifications and Exceptions to the Findings of Fact, Summary of Public Testimony, Conclusions of Law and Recommendation of Administrative Law Judge Eric L. Lipman issued August 12, 2014. Concurrently with this filing, MERC is also submitting a compliance filing of revised schedules reflecting the recommendations of the Administrative Law Judge.

Thank you for your attention to this matter. Please feel free to contact me at (612) 340-2881 if you have any questions related to this filing or if additional information is required.

Sincerely yours,

/s/ Michael J. Ahern

Michael J. Ahern

Enclosure

cc: Service List

**STATE OF MINNESOTA  
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger  
David C. Boyd  
Nancy Lange  
Dan Lipschultz  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Application of Minnesota  
Energy Resources Corporation for Authority to  
Increase Rates for Natural Gas Service in  
Minnesota

MPUC DOCKET No. G-011/GR-13-617

OAH Docket No. 8-2500-31126

**MINNESOTA ENERGY RESOURCES CORPORATION'S  
CLARIFICATIONS AND EXCEPTIONS TO THE REPORT OF THE  
ADMINISTRATIVE LAW JUDGE**

**AUGUST 25, 2014**

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## **I INTRODUCTION**

Minnesota Energy Resources Corporation (“MERC” or “the Company”) respectfully submits the following Exceptions and Request for Clarification to the Findings of Fact, Summary of Public Testimony, Conclusions of Law and Recommendations (“ALJ Report”) filed by Administrative Law Judge (“ALJ”) Eric L. Lipman on August 12, 2014. Pursuant to Minn. R. 7829.2700, subp. 3 and Minn. Stat. § 14.61, MERC also respectfully requests the opportunity to present oral argument before the Minnesota Public Utilities Commission (“Commission”) prior to the Commission’s deliberation and decision in this proceeding.

In general, the ALJ’s Report, which includes 700 specific Findings of Fact, demonstrates the ALJ’s thorough review of the record, understanding of the parties’ positions on disputed issues, and thoughtful consideration of those issues. However, on two of those issues, MERC respectfully objects to the ALJ’s findings as not reflecting the weight of the evidence in the record. Specifically, MERC respectfully requests that the Commission not adopt the ALJ’s recommendations relating to proposed recovery associated with MERC’s Mapping Project and inclusion of pension assets and liabilities in rate base. Additionally, MERC respectfully requests clarification regarding the ALJ’s recommendations with respect to MERC’s test-year Conservation Improvement Program (“CIP”) expense and the removal of the Conservation Cost Recovery Charge (“CCRC”) from distribution rates and the impact this has on MERC’s rate design.

MERC respectfully refers the Commission’s attention, in reviewing any exceptions that may be filed by other parties to this proceeding, to the arguments made in its Initial and Reply post-hearing briefs on the issues where the ALJ recommends that MERC’s position be adopted:

travel and entertainment expense,<sup>1</sup> inclusion of MERC’s net operating loss carryforward,<sup>2</sup> the appropriate rate case expense amortization period,<sup>3</sup> property tax expense,<sup>4</sup> rate design (subject to clarifications requested in Section V below),<sup>5</sup> the proposed residential customer charge,<sup>6</sup> and the proposed customer charges for larger customers including the transportation administration fee.<sup>7</sup> MERC respectfully requests that the Commission adopt the ALJ’s recommendations on these issues. Additionally, MERC notes that the ALJ recommends adoption of numerous items on which MERC and the Department of Commerce, Division of Energy Resources (“Department”) reached agreement through the exchange of testimony in this proceeding and respectfully requests that the Commission adopt the ALJ’s findings in this regard.<sup>8</sup> Although the ALJ did not

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<sup>1</sup> See MERC’s Initial Brief at 43-46, MERC’s Reply Brief at 35-37, and the record evidence described and cited in detail therein.

<sup>2</sup> See MERC’s Initial Brief at 31-33, MERC’s Reply Brief at 33-35, and the record evidence described and cited in detail therein.

<sup>3</sup> See MERC’s Initial Brief at 64-66, MERC’s Reply Brief at 23-25, and the record evidence described and cited in detail therein.

<sup>4</sup> See MERC’s Initial Brief at 29-31, MERC’s Reply Brief at 31-33, and the record evidence described and cited in detail therein..

<sup>5</sup> See MERC’s Initial Brief at 67, MERC’s Reply Brief at 63-68, and the record evidence described and cited in detail therein.

<sup>6</sup> See MERC’s Initial Brief at 69-71, MERC’s Reply Brief at 63-65, and the record evidence described and cited in detail therein.

<sup>7</sup> See MERC’s Initial Brief at 71-72, MERC’s Reply Brief at 65-68, and the record evidence described and cited in detail therein.

<sup>8</sup> See Cost of Capital (ALJ Finding 69); Long-Term and Short-Term Debt (ALJ Finding 71); Flotation Costs (ALJ Finding 99); Sales Forecast (ALJ Finding 197); Base Cost of Gas (ALJ Finding 202); Employee Benefit Cost Adjustment (ALJ Finding 213); Test Year Pension, Post-Retirement Medical and Post-Retirement Life Insurance Adjustments – Measurement Dates (ALJ Finding 231); Sewer Lateral Expense (ALJ Finding 300); Gate Station Project (ALJ Finding 306); Employee Incentive Compensation Plans (ALJ Findings 357-59); Gas Storage Balance Adjustment (ALJ Finding 368); Contingent Rebates from Tax Appeals (ALJ Finding 397); Cost Allocations to ServiceChoice (ALJ Finding 416); Amount of Rate Case Expense (ALJ Finding 427); Charitable Contributions (ALJ Finding 448); Corporate Aircraft Adjustment (ALJ Finding 452); Transportation Revenue (ALJ Finding 458); Interest Synchronization (ALJ Finding 466); New Area Surcharge (ALJ Finding 511); Miscellaneous Service Revenues (ALJ Finding 516); Rate Base Disallowances Relating to Service and

adopt MERC's proposed return on equity, the ALJ's recommendation appropriately balances MERC's risk profile with the comparison group used by the Department.<sup>9</sup> The ALJ's recommendation for a 9.79 percent return on equity is well-reasoned and supported in the record and should be adopted by the Commission.<sup>10</sup> Finally, although the ALJ did not adopt MERC's proposed discount rate for calculation of employee benefit expense, the ALJ's recommendation to use a five-year historical average of discount rates as more appropriate than use of the expected rate of return on plans assets is well-reasoned and more accurately reflects MERC's actual anticipated expense as compared to the Department's recommendation of using an eight percent discount rate based on expected return on plan assets.<sup>11</sup>

## **II INCLUSION OF COMPANY SUPPLIED BENEFIT FUNDS IN RATE BASE IS REASONABLE AND CONSISTENT WITH PRIOR COMMISSION DECISIONS.**

MERC proposed to include benefit assets and liabilities in the amount of \$11,769,457 in rate base.<sup>12</sup> This proposal is consistent with the agreement reached with the Minnesota Office of the Attorney General – Antitrust and Utilities Division (“OAG”) and approved by the Commission in MERC's last rate case, Docket No. G007,011/GR-10-977.<sup>13</sup> As explained in the

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Main Extensions (ALJ Finding 527); Rate Base Disallowances Relating to Winter Construction Charges (ALJ Finding 533); Test Year Working Capital (ALJ Finding 542); Carrying Charges for CIP Tracker Accounts (ALJ Finding 586); CIP Exempt Customers and Uncollected CIP Revenues (ALJ Finding 596); CCOS (ALJ Findings 636-38, 650-51); Customer Records and Collection Expense (ALJ Finding 643); Allocation of Income Taxes (ALJ Finding 648); and Meter Reading Expenses (ALJ Finding 649).

<sup>9</sup> See *In the Matter of a Petition by Minnesota Energy Resources Corporation for Authority to Increase Natural Gas Rates in Minnesota*, FINDINGS OF FACT, SUMMARY OF PUBLIC TESTIMONY, CONCLUSIONS OF LAW AND RECOMMENDATION at 27-28, Docket No. G-011/GR-13-617 (Aug. 12, 2014).

<sup>10</sup> *Id.* at 13-28.

<sup>11</sup> *Id.* at 39-40; see also MERC's Initial Brief at 61-62.

<sup>12</sup> See MERC's Initial Brief at 48, MERC's Reply Brief at 38, and the record evidence described and cited in detail therein; Ex. 27 at 13, 17 (C. Hans Rebuttal).

<sup>13</sup> See MERC's Initial Brief at 48, and the record evidence described and cited in detail therein.

testimony and briefs filed by MERC, these employee benefit-related items, taken as a whole, represent the cumulative difference between contributions funded by MERC to the various benefit trusts and the actuarially-calculated expense recognized by MERC.<sup>14</sup> In MERC's last case, MERC did not initially include the asset and liability accounts related to current and long-term assets in its proposed rate base. However, during that rate case, MERC agreed to the OAG's recommendation that MERC adjust rate base for ratepayer-supplied funds – the difference between MERC's actual cumulative contributions to benefit trusts and the cumulative expense recognized by MERC.<sup>15</sup>

In the current proceeding, MERC disagrees with statements made by the ALJ regarding these benefit funds, some of which appear to have formed the basis for the ALJ's finding recommending removal of MERC's benefits assets and liabilities from rate base. Consequently, MERC aims to both correct what it feels are mischaracterizations by the ALJ and propose revisions to the conclusions stemming from those misstatements.

First, MERC disagrees with the ALJ's assessment in Finding 489 that "the multi-year averaging of cumulative amounts that occurred [in MERC's prior rate case] is both different from what is proposed for this test year and not ideal." Contrary to the ALJ's statements, there was no averaging in MERC's prior rate case, Docket No. G007,011-GR-10-977. Rather, the OAG proposed that MERC's rate base for pension and post-employment benefits be reduced by the cumulative difference between funding and expense from 2007 through the projected 2011

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<sup>14</sup> See MERC's Initial Brief at 48, and the record evidence described and cited in detail therein; Ex. 27 at 14 (C. Hans Rebuttal).

<sup>15</sup> MERC's Initial Brief at 49, and the record evidence described and cited in detail therein; Ex. 27 at 15 (C. Hans Rebuttal).

test-year amount of \$74,159.<sup>16</sup> Further, the differences between the adjustment approved in MERC's prior rate case and the adjustment proposed here are not sufficient to justify different treatment. In particular, the fact that the adjustment in the previous rate case resulted in a reduction to rate base whereas the proposed adjustment here results in an increase does not justify disparate treatment. The employee benefit-related items, taken as a whole, represent the cumulative difference between contributions funded by MERC to the various benefit trusts and the actuarially-calculated expense recognized by MERC, regardless of whether they result in an increase or decrease to the size of rate base. It is inequitable to require MERC to include ratepayer supplied funds in rate base when they reduce rate base and benefit ratepayers (as in MERC's prior rate case), but deny MERC's inclusion of Company supplied funds in rate base when they result in an increase to rate base and benefit MERC's shareholders. MERC's proposed benefit assets and liabilities in this rate case are based on the agreement reached with the OAG and approved by the Commission in MERC's last rate case, Docket No. G007,011/GR-10-977, and should be approved here.

MERC also disagrees with the ALJ's statements in Findings 491-493 regarding the inclusion of pension assets and liabilities in rate base. First, contrary to ALJ Finding 491, the pension assets and liabilities MERC has proposed to include in rate base are neither accounts receivable, nor accounts payable.<sup>17</sup> Second, contrary to ALJ Finding 492, the pension assets and liabilities MERC has proposed to include in rate base are not included in cash working capital.<sup>18</sup>

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<sup>16</sup> *In the Matter of the Application of Minnesota Energy Resources Corporation for Authority to Increase Rates for Natural Gas Service in Minnesota*, Docket No. G-007,011/GR-10-977, FINDINGS OF FACT, CONCLUSIONS, AND ORDER at 30-31 (July 13, 2012)

<sup>17</sup> See MERC's Reply Brief at 39, and the record evidence described and cited in detail therein.

<sup>18</sup> See MERC's Reply Brief at 39, and the record evidence described and cited in detail therein.



Thus, contrary to ALJ Finding 493, there is no risk of double recovery because MERC is not including employee benefit accruals in both cash working capital and rate base. As explained in briefing, regulatory assets are not a function of benefit expense, such as other working capital accounts. Instead, it is the other way around. Benefit expense is a function of the assets and liabilities.<sup>19</sup> While the benefit assets earn a return, this return is used to reduce benefit costs, not to repay shareholders for their prepayment of benefit costs.<sup>20</sup> Including these assets and liabilities in rate base is how shareholders earn a return on this funding activity.<sup>21</sup> Adopting the Department's position would unfairly punish MERC because these amounts are not included in cash working capital. Thus, removing these amounts from rate base would result not in a double recovery for MERC, but, rather, would result in no recovery for MERC. Inclusion of these amounts in rate base is reasonable and is consistent with prior Commission treatment.

The ALJ is technically correct when he states in Finding 495 that because MERC's employee pension amounts are externally funded, once MERC makes contributions to the pension trust accounts, MERC no longer has use of the trust funds, or earnings on the trust funds, for the Company's ordinary business purposes. Nonetheless, MERC's contributions to the pension trust accounts have a very real impact on the rates the Company's customers pay. Although MERC cannot withdraw the prepaid pension asset or otherwise use it, the earnings on the asset are considered income to the utility and reduce the overall revenue requirement, thereby benefitting ratepayers. The contributions made by MERC to the pension trust account resulted in

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<sup>19</sup> See MERC's Initial Brief at 51, MERC's Reply Brief at 39, and the record evidence described and cited in detail therein.

<sup>20</sup> See MERC's Initial Brief at 52, and the record evidence described and cited in detail therein; Ex. 24 at 4 (S. DeMerritt Rebuttal).

<sup>21</sup> See MERC's Initial Brief at 52, and the record evidence described and cited in detail therein; Ex. 24 at 4 (S. DeMerritt Rebuttal).

reduced pension costs for the 2014 test year of approximately \$1.1 million and reduced test year costs for other post-retirement benefits costs of approximately \$0.1 million. Accordingly, MERC must disagree with the ALJ's conclusion in Finding 496 that it is not reasonable to regard the pension funds (FAS 158 Account 182312) as part of the Company's business assets. Failure to treat MERC's pension funds as part of the Company's business assets is ill-advised and would most certainly result in an increase in benefit expense for MERC's customers.

Regarding the ALJ's statement in Finding 497 that "it does not appear that accepted accounting standards oblige the recovery of pension costs in the way urged by the Company," MERC disagrees that this statement is a basis on which to reject the Company's proposed inclusion of these regulatory assets and liabilities in rate base. While the accounting standards do not require MERC to recover pension costs in the manner proposed by the Company, they also do not forbid such recovery. MERC has determined that inclusion of the proposed regulatory assets and liabilities in rate base will not result in any double recovery, is reasonable, benefits ratepayers, and is consistent with prior Commission treatment. Thus, the Commission should approve the inclusion of MERC's regulatory assets and liabilities in rate base.

Taking into account the above arguments, the ALJ's findings should be modified as follows.

489. In the view of the Administrative Law Judge, ~~the Department~~ MERC has the better of the two arguments. ~~First, notwithstanding the practice agreed to in MERC's prior rate case, the multi-year averaging of cumulative amounts that occurred in that case is both different from what is proposed for MERC's proposed inclusion of the difference between cumulative funding and cumulative expense in this test year is appropriate and not ideal is consistent with the practice agreed to in MERC's prior rate case.~~

490. ~~It bears mentioning that the averaging of cumulative amounts, in the prior rate case, resulted in a reduction to the size of the rate base. Inclusion of the difference between cumulative~~

funding and cumulative expense in rate base is consistent with the treatment approved in MERC's prior rate case, Docket No. G007,011/GR-10-977.

491. ~~Second,~~ MERC has demonstrated that its regulatory assets and liabilities are not generally, a utility's rate base does not include accounts receivable or accounts payable. Nor are these costs ~~are~~ reflected in the company's cash working capital.

492. ~~To the extent that~~ Because MERC's employee benefit expenses are not reflected in cash working capital, MERC's regulatory assets and liabilities must be included in rate base or MERC will not earn a reasonable rate of return on these amounts.

493. Because MERC does not include ~~Including~~ employee benefit accruals in both cash working capital and a separate asset in rate base, there is no risks of conferring a double recovery on those amounts.

494. Third, MERC has demonstrated that segregation of employee benefit amounts as a regulatory asset in rate base is not an the accounting practice of any at least one other Minnesota utility and is consistent with the agreement reached in MERC's last rate case.

495. Fourth, the employee pension amounts are "externally funded." MERC pays pension expenses to a separate entity, a benefit trust, in favor of an account maintained outside the Company. Although, once the contributions are made, the Company no longer has use of the trust funds, nor of earnings on the trust funds, for its ordinary business purposes, the earnings on the asset are considered income to the utility and reduce the overall revenue requirement, thereby benefitting ratepayers.

496. Under such circumstances, it is ~~not~~ reasonable to regard the pension funds (FAS 158 Account 182312) as part of the Company's business assets – ~~as to~~ for which ratepayers should pay a return.

497. Lastly, ~~while it does not appear that~~ accepted accounting standards may not oblige the recovery of pension costs in the way urged by the Company, nor do they forbid such recovery. Inclusion of the proposed regulatory assets and liabilities in rate base will not result in any double recovery, is reasonable, and is consistent with prior Commission treatment.

498. The Administrative Law Judge recommends that the Commission ~~require approve~~ MERC's proposal to reduce rate base

~~by include \$11,281,942 \$18,794,224 of for the Regulatory Assets and Liabilities in rate base adjustment.~~

499. If the Commission adopts the Department's position and requires MERC to remove the assets and liabilities associated with the benefits plans, then the corresponding deferred taxes should be removed from rate base.

500. If the Commission adopts the Department's position, the deferred tax adjustment amount is \$4,294,542.

501. If the Commission adopts the Department's position, the net adjustment that reduces the rate base by \$6,987,400.

Finally, as MERC has requested previously, if the Commission ultimately removes the regulatory assets and liabilities associated with the benefit plans from rate base, it is necessary that the corresponding deferred taxes also be removed from rate base.<sup>22</sup> Further, if the Commission ultimately adopts the Department's proposal to remove MERC's regulatory assets and liabilities associated with the benefit plans from rate base, MERC requests that the Commission make clear in its Order that if, in the future, these assets and liabilities are a liability and would reduce rate base (as in MERC's previous rate case) that they be excluded from rate base as well. If the Commission has decided that MERC cannot earn a return on these assets, it would be fundamentally inequitable to require inclusion when the net regulatory assets and liabilities reduce rate base.

### **III MERC'S COSTS ASSOCIATED WITH THE MAPPING PROJECT ARE USED AND USEFUL AND REASONABLY ASSIGNED IN THEIR ENTIRETY TO 2014.**

MERC proposed to include a known and measurable ("K&M") adjustment of \$330,000 to operations and maintenance expense for costs associated with a mapping project which is intended to update and verify MERC's mapping information. The mapping project is necessary

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<sup>22</sup> See MERC's Initial Brief at 52, and the record evidence described and cited in detail therein.

to address gaps in the accuracy of MERC's mapping that field personnel use to locate lines, manage outages, determine flow modeling, and other critical infrastructure tasks. The inaccuracies are the result of various mapping systems having been converted and merged as companies were acquired, sold, and consolidated. MERC plans to validate the accuracy of its mapping by verifying as built drawings and actual field data, which should improve the quality and utilization of the mapping systems.<sup>23</sup>

MERC rejected the Department's recommendation that the Commission reduce the K&M adjustment associated with MERC's mapping project because the Department's recommendation was not reasonable and making an adjustment for a single item as proposed by the Department, with no consideration for the future costs, sales, or capital requirements of other items, would be punitive. Even though the mapping project will only incur costs in 2014, the Department failed to consider how its proposed adjustment will impact MERC in future years.<sup>24</sup> As stated in MERC's Reply Brief, "[g]enerally it is understood that many expenses go up in the period between rate cases, and that some expenses may also go down. These expense levels are not adjusted until the next rate review, which determines whether the new proposed level of rates is reasonable on a going-forward basis, as retroactive ratemaking is not allowed."<sup>25</sup> The Department proposed a single item ratemaking adjustment for 2015 and 2016 without consideration for any future increases in MERC's overall costs.<sup>26</sup>

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<sup>23</sup> See MERC's Initial Brief at 40-42, MERC's Reply Brief at 30-31, and the record evidence described and cited in detail therein.

<sup>24</sup> See MERC's Initial Brief at 41, MERC's Reply Brief at 30-31, and the record evidence described and cited in detail therein.

<sup>25</sup> See MERC's Reply Brief at 30, and the record evidence described and cited in detail therein.

<sup>26</sup> See MERC's Initial Brief at 41, MERC's Reply Brief at 30-31, and the record evidence described and cited in detail therein.

To be clear, it is MERC's position that the entire \$330,000 in costs associated with the mapping project is used and useful and reasonably assigned in their entirety to 2014. MERC did state that, at a minimum, if the ALJ and the Commission determine the costs associated with the mapping project should be spread over multiple years, the appropriate period over which the adjustment should be spread is two years. However, MERC did not offer a \$165,000 adjustment as an alternative to the Company's original \$330,000 request for recovery, and MERC views any proposal to spread the cost of the Mapping Project over multiple years as unreasonable and punitive.<sup>27</sup> Accordingly, the ALJ's findings should be modified as follows:

320. The Administrative Law Judge finds that including ~~\$165,000~~ \$330,000 of Mapping Project cost is appropriate and proper for calculating MERC's test year 2014 revenue deficiency in this case.

#### **IV MERC RESPECTFULLY REQUESTS CLARIFICATION REGARDING TREATMENT OF TEST YEAR CONSERVATION IMPROVEMENT PROGRAM ("CIP") EXPENSE.**

With respect to the proposed treatment of MERC's test year CIP expenses, MERC requests clarification of the ALJ's findings and recommendations. The ALJ made the following findings with respect to the proposed treatment of test year CIP expense:

580. The Administrative Law Judge finds that balancing test-year CIP revenue with test-year CIP expenses, and reflecting the appropriate charges as part of the final approved CIP rate, will increase transparency in ratemaking and potentially reduce future audit costs and rate case expenses.

581. The Administrative Law Judge recommends setting the CIP revenue equal to the CIP expense so that final rates include CIP revenue and CIP costs of \$9,396,422.

582. Additionally, the Administrative Law Judge recommends that

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<sup>27</sup> See MERC's Initial Brief at 41-42, MERC's Reply Brief at 31, and the record evidence described and cited in detail therein.

the CCRC should be added to the CCRA on January 1, 2015, or with implementation of final rates, whichever occurs later.

MERC requests that the Commission clarify these findings to make clear that MERC's CCRC be set to \$0.00000 and as of January 1, 2015, or the implementation of final rates, whichever is later, and that the calculated CCRC in this case will be added to the Conservation Cost Recovery Adjustment ("CCRA") and charged to customers. Specifically, MERC requests that the CCRC factor be added to the final CCRA factor to be approved in Docket No. G011/M-14-369. For simplicity, the consolidated factor should be renamed to avoid customer confusion<sup>28</sup> and should be implemented at the same time as MERC's pending consolidated CCRA in Docket No. G011/M-14-369.<sup>29</sup> Additionally, MERC requests clarification that, under the proposed treatment of CIP expense, MERC will increase the CIP tracker balance by the amount of CIP expense recognized for the time interim rates were in effect, and reverse out the CIP expense recognized during that time. Currently, MERC is collecting revenue from customers and crediting the CIP tracker balance at MERC's filed CCRC of \$0.02432.

MERC originally recommended a CCRC of \$0.02462.<sup>30</sup> Had MERC's recommended CCRC been approved in this proceeding, MERC would have under-recorded CIP expense during the time frame that the Company's interim rates were in effect.<sup>31</sup> As a result, MERC recommended crediting the CIP tracker balance by \$0.00030 ( $\$0.02462 - \$0.02432$ ) x actual

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<sup>28</sup> The new factor could be referred to as the Conservation Cost Recovery Factor or the CIP Factor.

<sup>29</sup> MERC anticipates implementation of the final CCRA in that proceeding January 1, 2015. *See In the Matter of a Request by Minnesota Energy Resources Corporation-PNG for Approval of the Company's 2012 CIP Tracker Account, 2012 DSM Financial Incentive, and CCRA*, Docket No. G-011/M-13-369, ORDER APPROVING 2010-2012 FINANCIAL INCENTIVES, 2012 CIP TRACKER ACCOUNT, AND 2012 CCRA (December 13, 2013).

<sup>30</sup> *See* Ex. 24 at 7 (S. DeMerritt Rebuttal).

<sup>31</sup> *Id.*

sales during the period interim rates were in effect, and debiting the CIP Amortization account for this same amount.<sup>32</sup> This adjustment would have increased MERC's CIP expenses that should have been recognized during interim rates, which would be offset by a lower refund to customers because of the higher revenue requirement generated by the increased CIP expenses.<sup>33</sup> In Surrebuttal Testimony, the Department agreed with MERC's proposal to credit the CIP tracker balance in the event that MERC under-recorded CIP expense during interim rates and noted that CenterPoint Energy made a similar adjustment in its 2008 general rate case filing.<sup>34</sup> Although the recommendations made in the ALJ's Report present the exact opposite situation of the one recommended originally proposed by MERC (i.e., MERC will have over-recorded rather than under-recorded), the Company's proposal to adjust the CIP tracker balance and debit the CIP Amortization account remain valid.

If MERC's CCRC is set to \$0.0000, as recommended by the ALJ, MERC will have over-recorded CIP expense, and the Company would recommend debiting the CIP tracker balance during the period interim rates were in effect and crediting the CIP Amortization account for this same amount. This adjustment would decrease MERC's CIP expenses that were recognized during interim rates, which would be offset by a higher interim rate refund to customers because of the lower revenue requirement generated by the removal of the CCRC from rate base distribution rates. Additionally, MERC believes that removing both CIP revenue and CIP expense from net operating income would result in more clarity and remove confusion with respect to auditing. This would have the same result as adding CIP revenue, as proposed by the

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<sup>32</sup> *Id.* at 7-8.

<sup>33</sup> *Id.* at 8.

<sup>34</sup> *See* Ex. 219 at 18 (S. Pierre Surrebuttal).



ALJ, but would clarify rates for purposes of auditing. Thus, MERC requests the following clarifications to Proposed Findings 580 through 582 and the addition of further findings related to treatment of CIP expense as follows:

580. The Administrative Law Judge finds that balancing test-year CIP revenue with test-year CIP expenses by removing CIP expense and revenue from the Income Statement, and reflecting the approximate charges as part of the final approved CIP rate, will increase transparency in ratemaking and potentially reduce future audit costs and rate case expenses.

581. The Administrative Law Judge recommends ~~setting~~ removing the CIP revenue ~~equal to the~~ and CIP expense from the Income Statement so that final rates include CIP revenue and CIP costs of \$9,396,422.

582. Additionally, the Administrative Law Judge recommends that the CCRC be removed from MERC's Distribution Rates and ~~should be added to the CCRA on January 1, 2015, or with implementation of final rates, whichever occurs later.~~

#. Because MERC's CCRC will be set to \$0.0000, MERC will have over-recorded CIP expense during the time that the Company's interim rates were in effect.

#. The Administrative Law Judge recommends that MERC debit the CIP tracker balance to offset for over-collection of CIP expense during the interim rate period and credit the CIP Amortization account for the same amount.

## **V MERC RESPECTFULLY REQUESTS CLARIFICATION REGARDING THE IMPACT OF THE ALJ'S CIP RECOMMENDATIONS ON RATE DESIGN.**

In ALJ Finding 660, the ALJ recommends adoption of the revenue apportionment agreed to by MERC and the Department and states that "MERC's proposed revenue apportionment summarized in Mr. Walters' Rebuttal Testimony, and reflected in SLP-S-1 and SLP-S-2 to Ms. Peirce's Surrebuttal Testimony, should be used to determine the final rate design after the Commission has determined the final revenue requirement." Following the issuance of the ALJ's report, MERC ran the rate design model based on the Department's and the ALJ's

recommendation to remove CCRC from base rates (ALJ Findings 577 and 582) to determine whether there would be any issues with the revenue apportionment MERC and the Department agreed to (ALJ Finding 659) and the ALJ approved (ALJ Finding 660) with respect to MERC's CIP-exempt customers. Removing CCRC from base distribution rates and applying the revenue apportionment agreed to with the Department results in 76% increase to rates for MERC's Transport NNG-LVI CIP-exempt customers. Although this reflects the revenue apportionment agreed to by MERC and the Department, the resulting impact on CIP-exempt customers is an unintended and unjustified consequence of removing CCRC from base distribution rates. Therefore, MERC proposes an alternative rate design that tempers the impact on CIP-exempt customers resulting from removal of CCRC from distribution rates. This alternative rate design is presented in Attachment C to MERC's Compliance Filing submitted concurrently with these Exceptions. This proposed rate redesign applies the revenue apportionment agreed to by MERC and the Department assuming that CCRC revenues are still included in rates and then backs out those CCRC revenues based on usage. This results in an ultimate revenue apportionment that differs from that agreed to but addresses the unintended consequences from removing CCRC from base distribution rates.

Because the revenue apportionment agreed to by MERC and the Department, as recommended by the ALJ, results in unintended and unreasonable results when CCRC is removed from base distribution rates, MERC respectfully requests the following clarifications to ALJ Finding 660:

660. The revenue apportionment agreed to by MERC and the Department is reasonable and should be adopted in this proceeding. MERC's proposed revenue apportionment summarized in Mr. Walters' Rebuttal Testimony, and reflected in SLP-S-1 and SLP-S-2 to Ms. Peirce's Surrebuttal Testimony, as updated to incorporate the removal of CCRC revenues from base rates, should be used to determine the final rate design after the Commission has determined the final

revenue requirement.

**VI MERC RESPECTFULLY REQUESTS CLARIFICATION REGARDING THE CALCULATION OF CCRC IN FUTURE RATE CASES.**

MERC generally agrees with the ALJ's factual recounting of the calculation of the CCRC (Findings 597-611) and agrees with the ALJ's recommendation that MERC's CCRC is reasonably contingent on MERC updating the CCRC in final rates and making a CIP tracker balance adjustment (Finding 612). Regarding changing the CCRC rate at the beginning of interim rates and again at final rates, MERC notes that this applies only if the CCRC is not removed from base rates.<sup>35</sup> Thus, MERC requests the following clarification to ALJ Finding 613:

613. The Administrative Law Judge recommends that:

- (1) MERC should report in its final rates compliance filing the calculation of the CCRC rate based upon the Commission's Order, with respect to the level of CIP expenses divided by the level of sales approved by the Commission;
- (2) CIP would be recovered through one line item on a customer's bill (MERC CCRA); and
- (3) in future general rate-case filings, if the CCRC is not removed from rate base, MERC should change the CCRC rate at the beginning of interim rates and again at final rates.

**VII MERC RESPECTFULLY REQUESTS CLARIFICATION REGARDING ALJ FINDINGS 251 AND 254 RELATED TO PENSION, POST-RETIREMENT MEDICAL, AND POST-RETIREMENT LIFE INSURANCE ADJUSTMENTS.**

MERC generally agrees with the ALJ's factual recounting of the post-retirement medical and post-retirement life insurance adjustments submitted in this proceeding (ALJ Findings 214-

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<sup>35</sup> See MERC's Reply Brief at 21-22, and the record evidence described and cited in detail therein; Ex. 24 at 6, 13 (S. DeMerritt Rebuttal).

253, and ALJ Finding 255) and agrees with the ALJ's recommendation that MERC's actuarial determined 2014 test year post-retirement medical plan expense and life insurance expense is reasonable and most accurately reflects the cost MERC will incur during the test year (ALJ Finding 256). MERC respectfully requests clarification of ALJ Finding 254 solely to correct the mischaracterization that the Department recommended that the Commission require MERC to reduce its rate base by \$140,720. MERC respectfully requests that the finding be clarified as follows:

254. Yet, because, as noted above, the Department and MERC do not agree as to the appropriate discount rate on such expenses, the Department also recommended that the Commission require MERC to reduce its ~~rate base~~ expense by \$140,720.

Additionally, as indicated in MERC's compliance filing submitted concurrently with these Exceptions, in accordance with the ALJ's recommendation in Finding 251, MERC submitted its proposed benefit expense for review by the Department and OAG on August 18, 2014. Based on subsequent conversations with the Department, MERC believes the Department is in agreement with respect to this calculation. As of the date of this Compliance Filing, MERC has not received any response from the OAG as to this calculation. MERC respectfully requests that Finding 251 be amended to reflect the results of this calculation:

251. Applying a five-year historical average of discount rates results in a reduction to pension expense of \$668,392. ~~Because the Order in CenterPoint was issued after the close of the evidentiary hearing in this case, the parties themselves will need to confer as to the appropriate adjustments to test year pension expenses.~~

## VIII CONCLUSION

Based upon the foregoing, the record of this proceeding, and its Initial and Reply Briefs, MERC respectfully requests that the Commission adopt the ALJ's Report with the above-described changes and clarifications concerning the Mapping Project, Pension Assets and Liabilities, Pension Expense, and CIP.

Dated: August 25, 2014

Respectfully submitted,

/s/ Michael J. Ahern

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AFFIDAVIT OF SERVICE

STATE OF MINNESOTA            )  
  ) ss  
COUNTY OF HENNEPIN        )

Kristin M. Stastny hereby certifies that on the 25th day of August, 2014, on behalf of Minnesota Energy Resources Corporation (MERC) she electronically filed a true and correct copy of MERC's Exceptions and Clarifications to the Administrative Law Judge's Report on [www.edockets.state.mn.us](http://www.edockets.state.mn.us). Said document was also served via U.S. mail and electronic service as designated on the attached service list.

/s/ Kristin M. Stastny  
Kristin M. Stastny

Subscribed and sworn to before me  
this 25th Day of August, 2014.

/s/ Alice Jaworski  
Notary Public, State of Minnesota

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