

February 20, 2019

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
on compliance filing**
Docket No. G011/M-18-281

Dear Mr. Wolf:

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

Compliance filing by Minnesota Energy Resources Corporation (MERC or the Company),
Regarding Its Request for Approval of a Gas Utility Infrastructure Rider.

The Compliance filing was filed on February 7, 2019 by:

Seth DeMerritt
Senior Project Specialist
Minnesota Energy Resources Corporation
2685 145th Street West
Rosemount, MN 55068

The Department does not recommend approval of the compliance filing since it does not meet the requirements of Minnesota statutes.

Sincerely,

Kate O'Connell
Manager

KO/jl
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. G011/GR-18-281

I. INTRODUCTION

On April 13, 2018, Minnesota Energy Resource Corporation (MERC or the Company) filed its Petition to the Minnesota Public Utilities Commission (Commission) for approval of its Gas Utility Infrastructure Cost (GUIC) Rider (Petition). MERC proposes to recover approximately \$3.64 million of annual revenue requirement through the GUIC Rider to be effective January 1, 2019.

On July 25, 2018, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed comments recommending that the Minnesota Public Utilities Commission (Commission):

1. Approve a GUIC Rider with the following modifications:
 - a. MERC must identify all of the information required by Minn. Stat. § 216B.1635 based on actual projects, once known, to be recovered in the year subsequent to when those costs are known.
 - b. MERC's rate of return should be based on the determinations the Commission makes in MERC's current rate case G011/GR-17-563.
 - c. The Commission should not allow any carrying charges.
2. Consider using the rate design proposed in Table One of these comments, once the Commission determines the allocation factors in MERC's rate case.
3. Prohibit MERC from recovering through the Rider any increases in costs above the Company proposed costs; any increase in costs needs to be justified in a rate case before recovery may be allowed.
4. Require MERC to add tariff language that the tracker be reset to zero whenever MERC implements changes to base rates as the result of a commission order in a general rate case.

On July 27, 2018 the Office of Attorney General, Residential Utilities and Antitrust Division (OAG) filed comments recommending that the Commission "reject MERC's GUIC rider proposal, because it does not satisfy the requirements of the GUIC Statute."

Both the Department and the OAG concluded that MERC did not provide information required by Minn. Stat. § 216B.1635 (GUIC Statute). For example, the Department noted that MERC did not provide, among other items, "all pertinent information and supporting data on each proposed project including, but not limited to, project description and scope, estimated project costs, and project in-service date." The OAG noted, in part, that "MERC has not demonstrated that the costs it seeks to recover are fully incremental, has not provided all of the required information for the gas utility project it seeks to include in the rider, and has not sufficiently identified the government requirements supporting its request for cost recovery."

On February 5, 2019, the Commission issued its Order Approving Gas Utility Infrastructure Cost Rider with Modifications and Requiring Compliance Filing.

On February 7, 2019, MERC filed its compliance filing.

The Department concludes that MERC's compliance filing still does not comply with the GUIC Statute. For example, the following are missing:

- project descriptions for each project, (GUIC Statute, subd. 3)
- project in-service dates, (GUIC Statute, subd. 3)
- government entity ordering or requiring the gas utility project and the purpose for which the project is undertaken, (GUIC Statute, subd. 4)
- a description of the estimated costs and salvage value, if any, associated with the existing infrastructure replaced or modified as a result of the project, (GUIC Statute, subd. 4) and
- a comparison of the utility's estimated costs included in the gas infrastructure project plan and the actual costs incurred, including a description of the utility's efforts to ensure the costs of the facilities are reasonable and prudently incurred. (GUIC Statute, subd. 4)

The Department understands the GUIC Statute to *require* such information. The GUIC Statute identifies the information that must be in a GUIC filing:

A gas utility's petition for approval of a rate schedule to recover gas utility infrastructure costs outside of a general rate case under section 216B.16 is subject to the following:

(1) a gas utility may submit a filing under this section no more than once per year; and

(2) a gas utility must file sufficient information to satisfy the commission regarding the proposed GUIC. *The information includes, but is not limited to:*

- (i) the information required to be included in the gas infrastructure project plan report under subdivision 3;
- (ii) the government entity ordering or requiring the gas utility project and the purpose for which the project is undertaken;
- (iii) a description of the estimated costs and salvage value, if any, associated with the existing infrastructure replaced or modified as a result of the project;
- (iv) a comparison of the utility's estimated costs included in the gas infrastructure project plan and the actual costs incurred, including a description of the utility's efforts to ensure the costs of the facilities are reasonable and prudently incurred.... (Emphasis added).

The Department understands the italicized language above to mean that the utility must provide all of the information listed in the GUIC Statute, and possibly more information if required by the Commission. However, the sum total of information provided by MERC in this proceeding does not meet the minimum requirements of the GUIC Statute.

As noted above, the Department recommended, and continues to recommend, allowing MERC to establish a GUIC rider but allowing the Company to begin charging ratepayers for costs of qualifying projects only after MERC provides the information required by the GUIC Statute.

However, because the rate that MERC proposes to charge to its ratepayers does not comply with the GUIC Statute, the Department cannot recommend approval of the compliance tariff.

/jl

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. G011/M-18-281

Dated this 20th day of February 2019

/s/Sharon Ferguson

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