

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

In the Matter of a Petition by Minnesota
Energy Resources Corporation for Authority to
Increase Natural Gas Rates in Minnesota

Docket No. G-011/GR-13-617

INITIAL COMMENT

I. INTRODUCTION

On October 2, 2013, the Minnesota Public Utilities Commission (the “Commission”) issued a Notice of Comment Period on Completeness and Procedures in the above-captioned docket. The following companies are submitting a comment in this matter collectively as a party known as the Super Large Gas Intervenors (“SLGI”): Hibbing Taconite Company located in Hibbing, Minnesota; ArcelorMittal USA’s Minorca Mine located near Virginia, Minnesota; Northshore Mining Company located in Silver Bay, Minnesota; United Taconite, LLC located in Eveleth and Forbes, Minnesota; the Minntac and Keewatin Mines of United States Steel Corporation located in Mountain Iron and Keewatin, Minnesota respectively; and USG Interiors, Inc.

II. ANALYSIS

SLGI submits this comment in support of the petition for interim rates (the “Petition”) filed by the Minnesota Energy Resource Corporation (“MERC”) in connection with its application to increase rates for natural gas service. Under MINN. STAT. § 216B.16 subd. 3(b), a utility’s proposed interim-rate calculation method may deviate from the statutory method if the Commission finds that exigent circumstances justify such a deviation. Specifically, the statute states that:

Unless the commission finds that exigent circumstances exist, the interim rate schedule shall be calculated using the proposed test year cost of capital, rate base, and expenses, except that it shall

include: (1) a rate of return on common equity for the utility equal to that authorized by the commission in the utility's most recent rate proceeding; (2) rate base or expense items in the same nature and kind as those allowed by a currently effective order of the commission in the utility's most recent rate proceeding; and (3) no change in the existing rate design.¹

Last month, the Minnesota Supreme Court affirmed the Commission's interim rate decision in Minnesota Power's 2009 rate case. As applicable here, the court made two key determinations with respect to application of the interim rate statute. First, the Commission is not limited to considering the factors set forth in the statute when determining whether exigent circumstances exist.² Second, upon a finding of exigent circumstances, the statutory formula does not apply.³

In addition to the court's determination that a finding of exigent circumstances need not be based upon the specific factors listed in the interim rate statutes, the Petition cites ample authority to support MERC's interim rate proposal for the super large volume ("SLV") customers, including the Company's 2010 rate case.⁴ Importantly, the Commission found that exigent circumstances in MERC's last case warranted deviation from the statutory formula. There, the Commission stated "these are flexible rate customers, subject to effective competition, [and] the Company is authorized to adjust the rates it charges these customers outside of a rate case (within a range set in a rate case), based on the customer's alternative source of fuel. This

¹ MINN. STAT. § 216B.16 subd. 3(b).

² *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, A11-0352 at 16 (Sept. 18, 2013) ("the Commission did not exceed its statutory authority by considering factors outside those listed in Minn. Stat. § 216B.16, subd. 3(b), in determining whether exigent circumstances were present").

³ *Id.* ("the statutory formula in section 216B.16, subdivision 3(b), does not apply when the Commission determines that exigent circumstances exist").

⁴ *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, ORDER SETTING INTERIM RATES (Jan. 28, 2011) ("MERC 2011 Interim Rate Order"); *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-08-835, ORDER SETTING INTERIM RATES (Sept. 25, 2008); *see also In the Matter of a Petition by Peoples Natural Gas Company and Northern Minnesota Utilities, Divisions of Utilicorp United Inc., for Authority to Increase Natural Gas Rates in Minnesota and to Consolidate the Two Utilities*, Docket No. G-007,011/GR-00-951, ORDER SETTING INTERIM RATES (Sep. 29, 2000); *In the Matter of the Application of CenterPoint Energy for Authority to Increase Natural Gas Rates in Minnesota*, Docket No. G-008/GR-08-1075, ORDER SETTING INTERIM RATES (Dec. 22, 2008); *In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for Authority to Increase Rates for Natural Gas Service in Minnesota*, Docket No. G-002/GR-09-1153 ORDER SETTING INTERIM RATES (Jan. 7, 2010).

rate flexibility enhances the Company's competitive edge for keeping [the SLV] customers - and the significant contribution they make to the recovery of fixed costs - on the system."⁵

A. Exigent Circumstances Justify a Deviation from the Formula in the Interim Rate Statute

The Commission should again find that SLGI members' price sensitivity and ability to bypass MERC's system constitute exigent circumstances. As was the case in both 2008 and 2010, a dramatic rate increase due to interim rates would cause SLGI members to consider their alternatives, including a bypass of MERC's system. The bypass alternative exists because of how the SLGI members purchase natural gas and how that gas is delivered. For the Commission's benefit, the purchasing practices of a taconite facility are described below.

SLGI members maintain separate contracts for gas supply, transportation of the gas, and balancing. With respect to gas supply, the facilities of the SLGI members are connected directly to the interstate pipeline. MERC owns no pipe and performs no physical distribution of the gas. Nor do these customers buy their gas through MERC. MERC's services to these customers are therefore largely administrative. In other words, MERC monitors actual usage versus scheduled usage, provides receipt point verification from third party suppliers, notifies the customer of any curtailments, and provides a consolidated billing function. The cost of these services is collected through a distribution charge.

Although MERC's services provide value to SLGI members, MERC can be replaced. There would be little, if any, cost to physically bypass MERC. The most significant cost would be FERC regulatory fees, which pale in comparison to the total costs being paid for gas. The impact of a bypass on MERC, however, would be significant. The cost of service to the non-SLV classes would increase. This would be due to MERC's inability to recover certain fixed costs from the SLV class, as well as the fact MERC could no longer rely on the SLV class's gas consumption to augment fluctuations in consumption of the non-SLV classes. In short, all parties benefit by the SLGI members' continued utilization of MERC's services.

⁵ *MERC 2011 Interim Rate Order* at 3.

B. The Commission Should Accept the Petition's Proposal for Assessing Interim Rates to the SLV Class

Given the SLV class's sensitivity to rate increases, MERC proposes to limit the final rate increase for the SLV class to fixed customer charges. Ordinarily, an interim rate increase would be a fixed increase, across all customer classes, and applied to each customer's entire bill. If MERC were to assess the interim rate increase to the SLV class's entire bill, including the distribution charge, the SLV class's interim rates would not be fully refunded when final rates are determined.⁶ In light of this fact, and the exigent circumstances regarding price sensitivity and bypass potential, MERC proposes to limit the interim rate increase for the SLV class to an increase in the customer charge as it did in 2010. Importantly, MERC does not seek to recover the difference from any other customer classes. SLGI believes this is a reasonable approach and therefore supports MERC's comments regarding exigent circumstances and its proposal regarding interim rates.

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Respectfully submitted,

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⁶ *In re Application of Peoples Natural Gas Co.*, 389 N.W.2d 903, 908-09 (1986) (ordering a pro-rata refund of interim rates despite the fact that the utility proposed no increase for some classes).