

**Minnesota Public Utilities Commission**  
*Staff Briefing Papers*

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**Meeting Date:** September 28, 2017..... \*Agenda Item # 2

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**Company:** Minnesota Power

**Docket No.** E-015/M-16-776

In the Matter of Minnesota Power’s 2017 Renewable Resources Rider and 2017 Renewable Factors

**Issue:** Should the Commission approve Minnesota Power’s proposed 2017 Renewable Resources Rider rate factors?

**Staff:** Sundra Bender ..... 651-201-2247

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***Relevant Documents***

Minnesota Power Petition..... November 2, 2016  
Minnesota Power Letter..... December 1, 2016  
PUC Order ..... December 21, 2016  
Minnesota Power Compliance Filing ..... December 22, 2016  
Department Comments ..... May 5, 2017  
Minnesota Power Reply Comments ..... May 15, 2017  
Department Response Comments..... June 6, 2017  
Minnesota Power Letter..... June 8, 2017

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## Statement of the Issue

Should the Commission approve Minnesota Power's proposed 2017 Renewable Resources Rider rate factors?

## Introduction

Minnesota Power filed a general rate case concurrent with this 2017 Renewable Resources Rider (RRR) factor petition. In the concurrent general rate case (Docket No. E-015/GR-16-664), Minnesota Power proposes that most of the projects included in this RRR petition be transferred into the Company's base rates.

Minnesota Power seeks approval to update cost recovery of incurred investments, expenditures and costs related to the development of its Bison Wind Energy Center (Bison 1-4 Wind Projects) and the Thomson Hydroelectric Restoration Project through the RRR. All of these projects have previously been determined eligible for recovery in other dockets.

Minnesota Power's most recent RRR Factor Petition was approved by the Commission on March 9, 2016.<sup>1</sup> The Company's proposed 2017 factors in the current petition represent a rate reduction for all customer classes except the Large Power (LP) customer class.

Because the 2017 Factor Petition will result in a decrease in customer bills for most customers, and to allow cost recovery for RRR projects to be synchronized between the rate case and the 2017 Factor Petition, Minnesota Power requested that the Commission waive the 90 day requirement of Minn. Rule 7825.3200 and grant provisional approval of its rate request in this petition, effective January 1, 2017.

On December 21, 2016, the Commission approved Minnesota Power's request to implement its proposed 2017 renewable factors on a provisional basis, beginning January 1, 2017.

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<sup>1</sup> Docket No. E-015/M-14-962.

Table 1 below shows the proposed factors that Minnesota Power implemented (on a provisional basis) beginning January 1, 2017, and the change from its prior factors.

**Table 1:**  
**Summary of Prior and Proposed RRR Rates Implemented 01/01/17**

	RRR Rates		
	Prior	Implemented 1/1/2017	Change
<u>Large Power</u>			
Demand (dollars/kW-month)	4.260	4.610	0.350
Energy (cents/kWh)	0.404	0.450	0.046
<u>All Other Retail Classes</u>			
Energy (cents/kWh)	1.172	0.598	(0.574)

While the Department raised some potential issues and requested additional information from Minnesota Power, it ultimately recommended approval of Minnesota Power's proposed annual revenue requirements, true-up tracker balance, and resulting 2017 RRR rate factors.

Minnesota Power is seeking to recover Retail revenue requirements of \$75.5 million, consisting of a \$14.7 million tracker balance estimated through the end of 2016, \$51.2 million in projected revenue requirements for 2017 for the Bison Wind Projects, and \$9.6 million in projected revenue requirements for 2017 for the Thomson Projects.

## Relevant Statute

Cost Recovery for Utility's Renewable Facilities, Minn. Stat. § 216B.1645, subd. 2a. (Copy Attached, please see Attachment A)

## Background

### Docket 14-962

Prior to this petition, Minnesota Power last updated its RRR rate factors pursuant to the Commission's March 9, 2016 Order in Docket No. E-015/M-14-962.

On November 30, 2016, the Commission issued its *Order Determining Treatment of North Dakota Investment Tax Credits for Bison Wind Projects* in Docket No. E-015/M-14-962.

On February 14, 2017, the Commission issued its *Order Denying Minnesota Power's Petition for Reconsideration and Granting Reconsideration for Further Proceedings* in Docket E-015/M-14-962. The Commission denied Minnesota Power's petition for reconsideration regarding the

treatment of North Dakota Investment Tax Credits. However, the Commission granted reconsideration on its own motion for purposes of considering the merits of its November 30, 2016 order. Comments on the merits were filed on May 30, 2017 and Reply Comments were filed on June 20 and June 30, 2017.

### Docket 16-776

In the current petition, filed on November 2, 2016, Minnesota Power seeks approval to update the RRR factors for recovery beginning January 1, 2017, for its updated investments and expenditures associated with the Bison Projects and the Thomson Project.

In its Order dated December 21, 2016, the Commission approved Minnesota Power's request to implement its proposed 2017 Renewable Factors on a provisional basis, beginning January 1, 2017.

On May 5, 2017, the Department filed comments on Minnesota Power's petition in this docket (16-776), in which it recommended that:

- MP explain in reply comments why it is adding a new cost recovery sub-part for its Bison 4 Wind Project, and why it is reasonable to include these costs for recovery in the current Petition;
- the Commission approve MP's proposal to true-up to actual PTCs generated in 2017 and beyond in their RRR filings;
- MP confirm in reply comments that it will not be seeking any ADITA for NOLs in future cost recovery riders, including the RRR;
- MP be required to use the actual rate of return, jurisdictional allocators, and rate design allocations approved by the Commission in its 2016 Rate Case to recalculate its 2017 annual revenue requirements, true-up, and remaining tracker balance to be charged or returned to ratepayers coincident with the implementation of final rates in its next RRR filing; and
- MP explain in reply comments the reasons for continuing under-performance in production of the Bison facilities.

On May 15, 2017 Minnesota Power filed reply comments in which it responded to the Department.

On June 6, 2017, the Department responded to Minnesota Power's reply comments and stated that:

[T]he Department and the Company agree that MP's estimated PTCs in base rates should be true[d]-up to actual PTCs as they are generated in future RRR filings.

[T]he Department agrees with MP that it will apply its most recently approved rate of return, jurisdictional allocators, and rate design allocations to the projects remaining in its RRR in its next RRR filing.

The Department recommended that the Commission:

- approve MP's proposed annual revenue requirements, true-up tracker balance, and resulting 2017 RRR rate factors;
- approve MP's request to include the Bison 4 V-Mode Software sub-part costs through the RRR; and
- require MP to return any amortized federal investment tax credits associated with Thomson Hydro to ratepayers through future RRR filings until they can be included in base rates in a subsequent rate case.

On June 8, 2017, Minnesota Power responded that it agrees with the Department's June 6, 2017 comments and recommendations.

## **North Dakota Investment Tax Credits (ND ITCs)**

In Minnesota Power's previous RRR docket in Docket No. E-015/M-14-962, the Commission in part ordered the following in its November 30, 2016 *Order Determining Treatment of North Dakota Investment Tax Credits for Bison Wind Farm Projects*:

1. All Bison Wind Project North Dakota Investment Tax Credits actually realized in tax-return filings, or monetized through other permissible means, shall be reflected in the Company's revenue requirements.
2. Minnesota Power shall amortize the actual North Dakota Investment Tax Credit realized over the remaining life of Bison Wind Projects. At the onset of the actual realization of the benefit, Minnesota Power shall commence amortization and tax credit inclusion in revenue requirements in its next renewable resource rider filing. Credits realized from year-to-year shall be added to the amortizable balance. The Commission will permit the appropriate adjustment to rate base to account for the unamortized balance of the actual North Dakota Investment Tax Credit realized.
3. Minnesota Power shall file supplemental compliance filings if there are: 1) material changes (greater than ten percent or \$2.2 million) to the estimated North Dakota Investment Tax Credit utilization on a consolidated/unitary tax return; and/or 2) legislative changes that allow additional means to monetize these credits.

On December 20, 2016, Minnesota Power filed for reconsideration.

In its February 14, 2017 *Order Denying Minnesota Power's Petition for Reconsideration and Granting Reconsideration for Further Proceedings*, the Commission denied Minnesota Power's petition for reconsideration and in part ordered the following:

1. The Commission denies Minnesota Power's petition for reconsideration.
2. The Commission grants reconsideration on its own motion for purposes of considering the merits of its November 30, 2016 order for purposes of determining whether any changes should be made to the order.
3. The Commission delegates to the Executive Secretary the task of issuing a notice requesting additional briefing and comment on the issues raised by the Commission at the Commission meeting, and on such additional issues as may be identified by Commission staff, and setting appropriate timelines.

On March 24, 2017, the Commission issued a Notice of Comment Period requesting comments and reply comments on the following questions:

- Does the Commission's November 30, 2016 *Order Determining Treatment of North Dakota Investment Tax Credits (ND ITCs) for Bison Wind Projects* (the "November 30 Order") which assigns Bison ND ITCs actually realized by Allete to its regulated operations result in the sharing of risks and benefits between Allete's regulated and non-regulated operations? Please explain in detail the mechanics of any such sharing.
- If the November 30 Order's assignment of Bison ND ITCs results in a sharing of risks and benefits, please explain how such sharing is or is not justified in light of the Commission's cost-and-benefit-allocation principles as set forth at pages 22-24 of the Commission's September 1, 2006 Order in *In the Matter of the Application of N. States Power Co. d/b/a Xcel Energy for Auth. To Increase Rates for Elec. Serv. In Minn.*, Docket No. E-002/GR-05-1428.
- Does the November 30 Order's assignment of ND ITCs result in a symmetrical sharing of benefits and risks between Minnesota Power ratepayers and ALLETE shareholders? Please provide a clear description and explanation of "symmetrical sharing," "benefits," and "risks" in your response. Please explain whether or not it matters that the benefits and risks are shared symmetrically.
- Is the November 30 Order's assignment of all Bison ND ITCs actually realized to Allete's regulated operations prohibited by contract or state tax law?
- Is the result of the Commission's November 30 Order confiscatory or in any other way in violation of state or federal law?

Based on the above, the Department concluded that:<sup>2</sup>

[W]hile the Commission denied MP's request for reconsideration, it appears that the issue remains unresolved. Once the Commission makes its final determination

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<sup>2</sup> Department May 5, 2017 *Comments* at 14.

on this issue in Docket No. E015/M-14-962, the Department recommends that MP incorporate the effects of the Commission's decision regarding the treatment of NDITCs in the instant Petition.

### *PUC Staff Comment*

If the Commission has not yet made its final determination on this issue in Docket No. E-015-M-14-962 when this docket (16-776) comes before the Commission, the Commission may wish to consider noting that this issue is still open and require MP to incorporate the effects, if any, of the Commission's decision regarding the treatment of NDITCs in a compliance filing to the instant Petition.

## **Accumulated Deferred Income Tax Liabilities (ADITL)**

The Department stated in this docket:<sup>3</sup>

Accumulated Deferred Income Tax Liabilities (ADITL) result from the difference between straight-line depreciation, which is required under Minnesota Rule 7825.0800 for ratemaking purposes, and accelerated depreciation, which is allowed for tax purposes. Since ratepayers pay income taxes based on straight-line depreciation and the utility pays income taxes based on accelerated depreciation, this tax timing difference is reflected in ADITL balances. Moreover, since ratepayers are essentially prepaying income taxes (via deferred tax expense) before the taxes are due to the Internal Revenue Service (IRS), ratepayers have traditionally received an ADIT credit, which reduces rate base, to compensate ratepayers for the prepayment of income taxes. This overall approach is generally referred to as deferred tax accounting.

Minnesota utilities, including MP, have recently argued in riders and rate cases that the IRS requires the proration of ADITL balances for ratemaking purposes that use forecasted test periods. The proration of ADITL balances generally results in lower ADITL balances for ratemaking purposes, which increases the proposed annual revenue requirements to be recovered from ratepayers in riders and rate cases that use forecasted test periods.

The Department asked MP, in DOC Information Request No. 2, if the Company used prorated ADITL balances in its revenue requirements in the Petition. MP replied that:

MP did not prorate its ADITL balances included in the revenue requirement. The 2017 Renewable Factor filing calculates a rate reduction for most customers. Most of the projects included in the Renewable Resources Rider are being transferred into the

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<sup>3</sup> Department May 5, 2017 *Comments* at pp. 7-8.



Company's rate base in the current rate case. The Company has included the prorata calculation in the current rate case proceeding, Docket No. E015/GR-16-664, filed November 2, 2016 (specifically, Volume IV, Supplemental Direct Schedule A-5, page 2, columns 10 and 12). Therefore we did not include the prorata calculation in this filing.

Based on the above, the Department concludes that the issue of prorating ADITL balances does not need to be addressed in this proceeding. Instead, the Department will address the issue of prorating ADITL balances in MP's 2016 Rate Case (Docket No. E015/GR-16-664).

[Footnotes omitted.]

## **Approved Rate of Return, Jurisdictional Allocators, and Rate Design Allocators**

The Department initially recommended that MP be required to use the actual rate of return, jurisdictional allocators, and rate design allocations approved by the Commission in MP's 2016 rate case (Docket 16-664) to recalculate its 2017 annual revenue requirements, true-up, and remaining tracker balance to be charged or returned to ratepayers coincident with the implementation of final rates in its next RRR filing.

Minnesota Power agreed with this recommendation for all projects remaining in the RRR. However, MP stated that projects moving into base rates will be treated in accordance with other projects included in base rates.

In its June 6, 2017 *Response Comments*, the Department agreed with MP that MP will apply its most recently approved rate of return, jurisdictional allocators, and rate design allocations to the projects remaining in its RRR in its next RRR filing. The Department also noted that it has addressed its concerns regarding MP's proposal for projects moved into base rates in MP's 2016 Rate Case. (See Ms. Nancy Campbell's Direct Testimony in Docket No. E015/GR-16-664, pages 87-98.)<sup>4</sup>

### *PUC Staff Comment*

The Commission has not yet made its Findings of Fact, Conclusions, and Order in the 2016 Rate Case. In MP's rate case, MP indicates that it plans to submit new cost recovery factor filings to establish new billing factors that can be implemented coincident with the implementation of final rates. If for some reason the new billing factors cannot be implemented coincident with final

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<sup>4</sup> Department June 6, 2017 *Response Comments* at page 4, footnote 1.

rates, MP proposed to zero out the base rate sub-factors<sup>5</sup> used in the rate case and continue using the rider sub-factors until the new rider billing factors can be implemented.<sup>6</sup>

In rebuttal testimony in the rate case, MP stated there needs to be some form of true-up for rider project collections. For differences in rider collections resulting from projects moved to general rates from riders, MP proposed to continue to use trackers to track any differences between the collections related to these projects and the revenue requirements for these projects, and then true-up the differences through the rider line on bills.<sup>7</sup>

Staff believes the issue of where (in MP's rate case or its next RRR filing) and how MP shall true-up for projects moved into base rates in MP's 2016 rate case can be determined in MP's rate case, or if such is the decision in the rate case, in MP's 2018 RRR filing. The Commission may wish to have MP make a compliance filing in this docket at the conclusion of its 2016 rate case describing the final resolution of the true-up for the projects moved into base rates.

## **Bison 4 Cost Recovery Sub-Part**

In its May 5, 2017 *Comments*, the Department noted that the Commission found in previous proceedings that MP's Bison Projects, Thomson Project and related transmission components qualified as eligible technologies under Minn. Stat. §216B.1691.

MP divides its Bison and Thomson Projects into sub-parts for purposes of calculating its overall revenue requirement. The Department compared the lists of sub-parts included in the current petition to the lists of sub-parts included in previous filings and found that:

- All Thomson Project sub-parts included in MP's Petition were included in its eligibility filing in Docket No. E-015/M-14-577.
- All Bison Project sub-parts included in MP's Petition were included in its previous RRR filing, with the exception of the sub-part titled "V-Mode Software for Bison 4".

The Department concluded "that all of the Thomson-related sub-parts for which MP is seeking recovery in its Petition are eligible for cost recovery." However, the Department recommended that MP explain in reply comments why it "proposes to add a new cost recovery sub-part for its Bison 4 Wind Project, and why it is reasonable to include these costs for recovery in the current Petition."

In its May 15, 2017 *Reply Comments*, Minnesota Power stated, in part:<sup>8</sup>

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<sup>5</sup> In the rate case, MP split its rider factors into two sub-factors, one representing recovery of projects proposed to be rolled into base rates, and one representing recovery of projects proposed to remain in the riders.

<sup>6</sup> Minke Direct (16-664) at p. 4.

<sup>7</sup> Minke Rebuttal (16-664) at pp. 2 and 4.

<sup>8</sup> MP May 15, 2017 *Reply Comments* at p. 2.

As noted by the Department, Minnesota Power itemized “V-Mode Software” costs in its current Petition for Bison 4 which was not itemized in previous filings. These costs amount to \$70,055 in 2017 annual revenue requirements. As described below, this upgrade to the wind turbine control software was needed to improve power control and prevent high voltage events after Bison 4 was placed in service. The software upgrade is an integral component of Bison 4 and the associated costs were included as a separate sub-part in order to properly demonstrate the associated depreciation and tax impacts. Consistent with Minnesota Power’s capitalization policy, purchased software with an installed cost of \$100,000 or more is capitalized. In the Company’s view, the software upgrade at Bison does not constitute a new cost recovery component of the Bison 4 project, but has been separated into a sub-part for the purpose of transparency of revenue requirement calculations. The following section discusses the reasons the software upgrade was needed and why it is reasonable to include these costs for recovery.

In its June 6, 2017 *Response Comments*, the Department stated:<sup>9</sup>

The Department notes that since this software was never identified in previous filings, there is no way to verify MP’s claim that it does not constitute a new cost recovery component. This circumstance highlights the importance for utilities, like MP, to address all components of project costs during eligibility proceedings. Since this software appears to be an important component of the Bison 4 wind project, and more importantly since MP’s proposed recovery amounts do not exceed the project’s initial capital cost cap, the Department does not oppose MP’s request to recover the Bison 4 V-Mode Software costs through the RRR.

The Department recommended that the Commission approve MP’s request to include the Bison 4 V-Mode Software sub-part costs through the RRR.

## **Production Tax Credits (PTCs)**

In its May 5, 2017 *Comments*, the Department noted that in MP’s current rate proceeding (E-015/GR-16-664), MP “indicated that, because PTCs are difficult to predict, an annual true-up of the PTC for the difference between projected PTCs in the rate case test year and the actual PTCs generated in future years is appropriate.”<sup>10</sup>

The Department agreed with MP’s proposal and recommended that the Commission approve MP’s proposal to true-up to actual PTCs generated in 2017 and beyond in their RRR filings.<sup>11</sup>

### *PUC Staff Comment*

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<sup>9</sup> Department June 6, 2017 *Response Comments* at p. 2.

<sup>10</sup> Department May 5, 2017 *Comments* at page 8.

<sup>11</sup> Id at page 10.

MP made its proposal to true-up the PTCs to actual PTCs generated in future years in its future RRR filings in the concurrently filed rate case (E-015/GR-16-664), not in its petition in the instant docket (E-015/M-16-776). Moreover, the Department is addressing the issue in MP's rate case.

The Commission may wish to leave this issue to the rate case and make it clear in its order in this docket that it is deferring to the rate case its decision on the proposal to true-up the PTCs.

## Commission Decision Options

1. Approve MP's proposed annual revenue requirements, true-up tracker balance, and resulting 2017 RRR rate factors; [Department, MP agreed]
2. Approve MP's request to include the Bison 4 V-Mode Software sub-part costs through the RRR; and [Department, MP agreed]
3. Require MP to return any amortized federal investment tax credits associated with Thomson Hydro to ratepayers through future RRR filings until they can be included in base rates in a subsequent rate case. [Department, MP agreed]
4. Because the issue of the treatment of North Dakota Investment Tax Credits (NDITCs) is a pending issue in Docket No. E-015/M-14-962 (14-962), require MP to incorporate the effects, if any, of the Commission's final decision in 14-962 regarding the treatment of NDITCs in a compliance filing to the instant docket (16-776). [Staff provided option based on a suggestion from the Department.]<sup>12</sup>
5. Defer any decision on trueing-up PTCs in future Renewable Resource Rider filings to MP's rate case, Docket No. E-015/GR-16-664. [Staff provided option.]
6. Require MP to make a compliance filing at the conclusion of its 2016 Rate Case, Docket No. E015/GR-16-664, describing the final resolution of the true-up for Renewable Resource Rider projects moved into base rates and the cash collections thereon. [Staff provided option.]

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<sup>12</sup> On page 14 of its May 5, 2017 *Comments*, the Department stated, "Once the Commission makes its final determination on this issue in Docket No. E015/M-14-962, the Department recommends that MP incorporate the effects of the Commission's decision regarding the treatment of NDITCs in the instant Petition."

**216B.1645 POWER PURCHASE CONTRACT OR INVESTMENT.**

Subdivision 1. **Commission authority.** Upon the petition of a public utility, the Public Utilities Commission shall approve or disapprove power purchase contracts, investments, or expenditures entered into or made by the utility to satisfy the wind and biomass mandates contained in sections 216B.169, 216B.2423, and 216B.2424, and to satisfy the renewable energy objectives and standards set forth in section 216B.1691, including reasonable investments and expenditures made to:

(1) transmit the electricity generated from sources developed under those sections that is ultimately used to provide service to the utility's retail customers, including studies necessary to identify new transmission facilities needed to transmit electricity to Minnesota retail customers from generating facilities constructed to satisfy the renewable energy objectives and standards, provided that the costs of the studies have not been recovered previously under existing tariffs and the utility has filed an application for a certificate of need or for certification as a priority project under section 216B.2425 for the new transmission facilities identified in the studies;

(2) provide storage facilities for renewable energy generation facilities that contribute to the reliability, efficiency, or cost-effectiveness of the renewable facilities; or

(3) develop renewable energy sources from the account required in section 116C.779.

Subd. 2. **Cost recovery.** The expenses incurred by the utility over the duration of the approved contract or useful life of the investment and expenditures made pursuant to section 116C.779 shall be recoverable from the ratepayers of the utility, to the extent they are not offset by utility revenues attributable to the contracts, investments, or expenditures. Upon petition by a public utility, the commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover the expenses or costs approved by the commission under subdivision 1, which, in the case of transmission expenditures, are limited to the portion of actual transmission costs that are directly allocable to the need to transmit power from the renewable sources of energy. The commission may not approve recovery of the costs for that portion of the power generated from sources governed by this section that the utility sells into the wholesale market.

Subd. 2a. **Cost recovery for utility's renewable facilities.** (a) A utility may petition the commission to approve a rate schedule that provides for the automatic adjustment of charges to recover prudently incurred investments, expenses, or costs associated with facilities constructed, owned, or operated by a utility to satisfy the requirements of section 216B.1691, provided those facilities were previously approved by the commission under section 216B.2422 or 216B.243, or were determined by the commission to be reasonable and prudent under section 216B.243, subdivision 9. For facilities not subject to review by the commission under section 216B.2422 or 216B.243, a utility shall petition the commission for eligibility for cost recovery under this section prior to requesting cost recovery for the facility. The commission may approve, or approve as modified, a rate schedule that:

(1) allows a utility to recover directly from customers on a timely basis the costs of qualifying renewable energy projects, including:

- (i) return on investment;
- (ii) depreciation;
- (iii) ongoing operation and maintenance costs;
- (iv) taxes; and

(v) costs of transmission and other ancillary expenses directly allocable to transmitting electricity generated from a project meeting the specifications of this paragraph;

(2) provides a current return on construction work in progress, provided that recovery of these costs from Minnesota ratepayers is not sought through any other mechanism;

(3) allows recovery of other expenses incurred that are directly related to a renewable energy project, including expenses for energy storage, provided that the utility demonstrates to the commission's satisfaction that the expenses improve project economics, ensure project implementation, advance research and understanding of how storage devices may improve renewable energy projects, or facilitate coordination with the development of transmission necessary to transport energy produced by the project to market;

(4) allocates recoverable costs appropriately between wholesale and retail customers;

(5) terminates recovery when costs have been fully recovered or have otherwise been reflected in a utility's rates.

(b) A petition filed under this subdivision must include:

(1) a description of the facilities for which costs are to be recovered;

(2) an implementation schedule for the facilities;

(3) the utility's costs for the facilities;

(4) a description of the utility's efforts to ensure that costs of the facilities are reasonable and were prudently incurred; and

(5) a description of the benefits of the project in promoting the development of renewable energy in a manner consistent with this chapter.

**Subd. 3. Applicability to recovery of other costs.** Nothing in this section shall be construed to determine the manner or extent to which revenues derived from other generation facilities of the utility may be considered in determining the recovery of the approved cost or expenses associated with the mandated contracts, investments, or expenditures in the event there is retail competition for electric energy.

**Subd. 4. Settlement with Mdewakanton Dakota Tribal Council at Prairie Island.** The commission shall approve a rate schedule providing for the automatic adjustment of charges to recover the costs or expenses of a settlement between the public utility that owns the Prairie Island nuclear generation facility and the Mdewakanton Dakota Tribal Council at Prairie Island, resolving outstanding disputes regarding the provisions of Laws 1994, chapter 641, article 1, section 4. The settlement must provide for annual payments, not to exceed \$2,500,000 annually, by the public utility to the Prairie Island Indian Community, to be used for, among other purposes, acquiring up to 1,500 contiguous or noncontiguous acres of land in Minnesota within 50 miles of the tribal community's reservation at Prairie Island to be taken into trust by the federal government for the benefit of the tribal community for housing and other residential purposes. The legislature acknowledges that the intent to purchase land by the tribe for relocation purposes is part of the settlement agreement and Laws 2003, First Special Session chapter 11. However, the state, through the governor, reserves the right to support or oppose any particular application to place land in trust status.

**History:** 1997 c 176 s 1; 1998 c 345 s 1; 1999 c 200 s 2; 2001 c 212 art 8 s 1; 1Sp2003 c 11 art 1 s 3; 2005 c 97 art 2 s 2; 2007 c 136 art 4 s 8; 2008 c 296 art 1 s 6-8; 2009 c 110 s 11