MINNESOTA
PUBLIC UTILITIES COMMISSION

Staff Briefing Papers

Meeting Date	April 1, 2021	Agenda Item 2**
Company	Minnesota Power	
Docket No.	**E-015/M-20-814**	
	In the Matter of Minnesota Power's Petition for Approval to Track and Defer Lost Large Industrial Customer Sales Resulting from the COVID-19 Pandemic	
Issues	1. Should the Commission grant Minnesota Power's petition to track and defer Net Lost Revenues resulting from the idling of Keetac and Verso?	

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✓ **Relevant Documents**	**Date**
Order Approving Accounting Request and Taking Other Action Related to COVID-19 Pandemic (Docket 20-427)	May 22, 2020
Order Adopting Methodology and Setting Additional Requirements (Docket 20-427)	November 4, 2020
Petition of Minnesota Power	November 4, 2020
Comments: Citizens Utility Board	January 4, 2021
Comments: Large Power Intervenors	January 4, 2021

The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

Relevant Documents	**Date**
Comments: Office of the Attorney General	January 4, 2021
Comments: Department of Commerce	January 4, 2021
Reply Comments: Minnesota Power	January 14, 2021
Notice of Filing with Securities Exchange Commission: Minnesota Power	March 1, 2021

I. Statement of the Issues

Should the Commission grant Minnesota Power's petition to track and defer Net Lost Revenues resulting from the idling of Keetac and Verso?

II. Background

On April 20, 2020, eight Minnesota rate-regulated natural gas and electric utilities (the Joint Petitioners)[1] filed a petition requesting authority to track, defer, and record COVID-19-related expenses as a regulatory asset (Docket 20-427). Petitioners asserted that such action would preserve the ability for each utility to request recovery in a future proceeding, subject to full Commission review.

On May 22, 2020, the Commission granted the Joint Petitioner's request with the caveat that the grant is for accounting purposes only (Docket 20-427). Evaluation of potential requests for recovery of expenses would be deferred to a future proceeding.

On November 4, 2020, Minnesota Power requested authority to track and defer Net Lost Revenues incurred as a result of the idling of the Keewatin Taconite Mine (Keetac) and the Verso Duluth Paper Mill (Verso).

On January 4, 2021, the Commission received comments from the Large Power Intervenors[2] (LPI), Citizens Utility Board (CUB), the Office of the Attorney General (OAG), and the Minnesota Department of Commerce (Department).

On January 14, 2021, Minnesota Power filed reply comments.

On March 1, 2021, Minnesota Power filed a notice that it had submitted to the Securities and Exchange Commission.

[1] CenterPoint Energy Minnesota Gas, Dakota Electric Association, Great Plains Natural Gas Co., Greater Minnesota Gas, Inc., Minnesota Energy Resources Corporation, Minnesota Power, Xcel Energy and Otter Tail Power.

[2] LPI is an ad hoc consortium of large industrial customers of Minnesota Power consisting for purposes of this filing of ArcelorMittal USA (Minorca Mine); Blandin Paper Company; Boise Paper, a Packaging Corporation of America company, formerly known as Boise, Inc.; Enbridge Energy Limited Partnership; Gerdau Ameristeel US Inc.; Hibbing Taconite Company; Northern Foundry, LLC; Sappi Cloquet, LLC; USG Interiors, Inc.; United States Steel Corporation (Keetac and Minntac Mines); and United Taconite, LLC (See LPI Comments, p. 1).

III. Parties' Comments

A. Minnesota Power's Petition

In short, Minnesota Power …

> … requests that the Commission authorize the Company to track and record as a regulatory asset the net of lost revenues and offsetting revenues from market sales ("Net Lost Revenues") resulting from the COVID-19 pandemic-related indefinite idling of Keetac and Verso, and defer these amounts for recovery to Minnesota Power's next rate case or other appropriate proceeding. Specifically, Minnesota Power commits that it will propose appropriate recovery mechanism alternatives for Commission consideration and approval in the Company's next general rate case or in a separate proceeding no later than February 1, 2022.[3]

Further, Minnesota Power asks the Commission to "review and approve this Petition on an expedited timeframe, by June 1, 2021. Expediting review will provide certainty to the Company for both accounting and regulatory purposes."[4]

MP makes reference to recent Commission orders issued in response to a Joint Petition by energy utilities to track and defer COVID-19-related expenses as regulatory assets.[5] As support for its petition MP points to the reasoning adopted by the Commission in approving most elements of the Joint Petitioner's request, noting the extraordinary impacts of the pandemic.[6] MP also makes reference to the termination date established by the Commission (the end of the Governor's peacetime emergency order, plus 30 days).[7] MP …

> … now submits this Petition, with good cause, to address the financial impacts <u>that do not fall within the scope or timeline</u> of the Joint Petition proceedings and Order, and that were not foreseeable at the time of the Company's 2019 rate case.[8]

MP reminds the Commission that …

> … it is well-established that Minnesota Power has one of the highest industrial customer concentrations of any investor owned utility in the country. According to

[3] MP Petition, p. 2.

[4] MP Petition, p. 26.

[5] Orders in Docket 20-427 (May 22 and November 4, 2020). The Joint Petitioners are: CenterPoint Energy, Dakota Electric, Great Plains Natural Gas, Greater Minnesota Gas, Minnesota Energy Resources Corporation, Minnesota Power, Xcel Energy and Otter Tail Power. Note that MP filed its track-and-defer petition on November 4th and, as such, did not have in hand the precise wording of the November 4th order.

[6] MP Petition, pp. 8-10, referring to the Commission's May 22nd order in 20-427.

[7] MP Petition, p. 10, referring to the Commission's November 4th order in 20-427

[8] MP Petition, p. 3, footnote omitted, emphasis added.

> the Energy Information Administration, Minnesota Power had the ninth highest industrial customer concentration out of 179 investor owned utilities in the country. Prior to the COVID-19 pandemic, industrial customers represented approximately 74 percent of Minnesota Power's retail kWh energy sales, with residential and commercial customers representing only 12 percent and 14 percent of sales, respectively. For comparison, the average utility has 25 percent retail kWh energy sales to industrial customers, 39 percent to residential customers, and 36 percent to commercial customers. As a result of its high industrial load, Minnesota Power has a higher system economic efficiency, but also an increased risk profile due to the variation in its revenues from changes in this industrial load.[9]

MP states, further:

> Minnesota Power's large industrial customers nominate their firm demand levels based upon the electric load expectations for each month, with the frequency and length of nomination periods varying depending on each customer's contract. These nominations must be equal to or above the Minimum Service Requirement ("MSR") set forth in each customer's electric service agreement. …
>
> [T]his spring Minnesota Power's large industrial customers submitted full nominations and did not initially indicate any long-term plan to idle operations. While multiple plants idled temporarily during the late spring and summer, several were up and running again before subsequent nominations were due August 1.[10]

On August 1, 2020, MP states, both Keetac and Verso submitted nominations for the period of September 1, 2020 through December 1, 2020.[11] Both entities reduced their nominations.[12] To estimate lost revenues …

> Minnesota Power proposes to track the revenues lost due to the idling of Verso and Keetac by <u>comparing non-fuel 2020 pre-COVID sales projections ("2020 Projected Sales") reflected in our 2019 rate case filing, to non-fuel revenue actual sales during the deferred accounting period</u>. The 2020 Projected Sales are similar to 2019 actual sales and are the best forecast of what sales would have been had Verso and Keetac not been idled in response to the COVID-19 pandemic. The 2020 Projected Sales are also lower than the sales incorporated in the 2017 test year in the Company's 2016 rate case, so using the 2020 Projected Sales as the baseline will result in lower Net Lost Revenues.

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[9] MP Petition, p. 11.

[10] MP Petition, p. 11, footnote omitted.

[11] MP Petition, p. 14.

[12] MP Petition, Trade Secret, p. 14

> For simplicity, the Company proposes to use the 2020 Projected Sales, divided by 12, to develop the monthly basis to compare to monthly actual sales in the deferred accounting period.
>
> The Company also proposes to track offsetting market sales it may be able to make to reduce the impact on existing customers. The lost sales revenue is partially offset by "sales due to loss of load," which are sales the Company makes when it sells the excess energy from customers who reduce their demand levels below the levels set in the most recent rate case. …
>
> For sales due to loss of load, each month the level of loss of load is determined by <u>comparing large power customers' current monthly nominations to the load that was approved in the 2016 rate case. An amount of load below the 2016 rate case baseline is classified as loss of load</u>. The lost load is calculated on a monthly MWh basis to determine the MWhs that can be sold, and these sales are made in a batch. For the purposes of the proposed tracker, sales due to loss of load for Keetac and Verso will be allocated on a pro rata basis based upon the amount of MWh each customer is below 2016 rate case baseline levels.[13]

Using the method described above MP estimated its Net Lost Revenue for September 2020 at $2.34 million (summing estimates for both Keetac and Verso). MP estimated its annual Net Lost Revenue at $30 million.[14]

MP filed its petition in November of 2020. In December of 2020 Keetac resumed operations. In its Reply Comments MP acknowledged the changed situation and argued, with respect to Verso, "[i]f the loss of this amount of retail electric sales and the corresponding loss of revenues is not significant, then no level will ever be significant."[15]

With respect to the appropriateness of establishing tracking and deferral of accounting, MP argued several points. MP argued, first, that it incurred significant financial loss in furtherance of public policy mandates. It stated:

> Deferred accounting is appropriate when utilities have incurred substantial financial losses to meet important public policy mandates. The issuance of public health emergencies in Minnesota and across the country to protect public health and welfare from the effects of a pandemic, as well as to ensure that public utilities continue to provide essential services throughout the duration of the emergency, are eminently important public policy mandates.[16]

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[13] MP Petition, pp. 17-18, emphasis added.

[14] MP Petition, p. 19, Table 1. Estimates for the individual firms can be found in the Trade Secret version of MP's filing.

[15] MP Reply Comments, p. 2. See also the Trade Secret version of MP's reply.

[16] MP Petition, p. 22.

MP further argued that its proposal meets good-cause standards. Its request is related to utility operations for which customers have received benefits and incurred costs:

> Minnesota Power's customers have benefited from Keetac and Verso's contribution to the utility's high load factor, which has helped keep overall rates lower due to the ability to obtain higher utilization of resources. When these facilities were idled in response to the COVID-19 pandemic, however, Minnesota Power lost a considerable amount of revenue without being able to reallocate expenses among the remaining customers.[17]

MP also argues that its lost revenue is significant:

> [T]he load lost due to the idling of Keetac and Verso is equivalent to the total load of Minnesota Power's entire residential customer class. For the first nine months of 2020, Minnesota Power has lost an estimated $4.8 million in non-fuel revenue (excluding cost recovery riders) that would normally come from Keetac and Verso. If these facilities remain idled, Minnesota Power expects to lose estimated non-fuel revenue (excluding cost recovery riders) of $11.4 million in 2020 and $30 million in 2021, which includes partially offsetting sales transactions due to loss of load. The majority of 2020 lost revenue ($9 million) occurs from September to December, after nomination levels were reduced.[18]

And, MP argues that its loss results from the extraordinary circumstances related to COVID-19:

> Many of Minnesota Power's large industrial customers reduced or entirely idled operations in the Spring of 2020 due to the COVID-19 pandemic. But because these customers had already submitted nominations indicating their energy demand levels through the end of August, Minnesota Power did not immediately see a steep decline in revenues and did not know about these customers' long term plans until they submitted their next nominations on August 1, 2020. At that time, the Company learned that, although many of its large industrial customers planned to restart or increase operations in the Fall of 2020, Keetac and Verso would remain idled indefinitely and would reduce their nominations accordingly. The indefinite and potentially permanent loss of these two large industrial customers at the same time is highly unusual and will cause a substantial financial hardship for Minnesota Power.[19]

If the Commission approves MP's request MP commits to propose a recovery mechanism for review as to what amount is reasonable and prudent for recovery, either in its next rate case or a separate proceeding, in any case no later than February 1, 2022.[20]

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[17] MP Petition, p. 23.

[18] MP Petition, p. 23.

[19] MP Petition, p. 24.

[20] MP Petition, p. 25.

B. Comments of Citizen's Utility Board

CUB recommends that the Commission deny MP's petition:

> [T]he Company seeks to shift financial risks away from the Company and onto already struggling ratepayers who have no control over the pandemic or the operation or energy usage of the Company's large industrial customers. The Company has previously navigated economic downturns during which it experienced more significant losses without seeking recovery of lost revenues. Meanwhile, U.S. Steel has now resumed operations, suggesting 2021 revenue losses will not be nearly as significant as the Company suggests in its petition. Finally, we find it unreasonable for the Company to claim a financial need to recover lost revenues from ratepayers while it continues to authorize and pay quarterly dividends to its shareholders at a rate higher than in any recent year.[21]

CUB takes the perspective that Minnesota Power and ALLETE are the same "Company" in terms of ownership, control, assets, liabilities, taxes and accounting.

CUB argues that the Company has not established that good cause exists to authorize deferred accounting. First, CUB argues, the lost revenues "resulting from the idling of Keetac and Verso were not unforeseeable, unusual or extraordinary."[22] CUB argues that the Company's securities filings have indicated that the Company has acknowledged that its operations could be negatively affected for numerous reasons and that at least since 2011 the Company has listed "pandemic diseases" in its quarterly and annual reports as one of a number of factors that could impact the Company's financial results. CUB also states:

> [O]n at least two recent occasions, the Company directly experienced much more significant lost revenues as a result of economic downturns affecting large power customers. In 2008-2009, the Company saw its large power revenues decline by $111.2 million – over 3.5 times the loss it now claims to experience as a result of Keetac and Verso idling. More recently, in 2014-2016, the Company saw its large power revenues decline by $68.9 million – over twice the losses it now claims to experience. The Company did not seek deferred accounting treatment for lost revenues in either of these prior periods; rather, the Company entered into a rate case in both instances.[23]

Second, CUB argues that the Company's losses are not substantial. CUB notes that the Company's Board of Directors "has, so far, been undeterred in authorizing $32 million in dividends to shareholders in each quarter of 2020 – dividends calculated using a rate-per-share

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[21] CUB Comments, pp. 1-2, footnote omitted.

[22] CUB Comments, p. 8.

[23] CUB Comments, p. 9, footnotes omitted.

that is 5% higher than the rate used to calculate dividends in 2019."[24] CUB also notes that the Company's petition did not account for the restart of Keetac operations.

In another line of argument CUB states that the "Company has not identified a public policy mandate that requires the Company to collect less revenue from" large power customers.[25] CUB argues that the Governor's COVID-19 orders did not cause the expenses that the Company seeks to defer and that "*[a]ny* economic downturn affecting demand for steel or paper could have had the same effect on the Company – as in 2008 and 2014 – regardless of the reason for the downturn."[26]

CUB also states that MP has sought only an accounting for lost revenues, not lost expenses. CUB points to the decisions of the state commissions of Indiana, Wisconsin and Michigan in their refusal to grant petitions for recovery of lost revenues.[27]

In another line of argument, CUB states that "it would be highly unreasonable for the Company to ask ratepayers to bear the consequences so that the Company can continue to pay high-payout-ratio, uninterrupted quarterly dividends to its shareholders."[28] CUB elaborates:

> In an investor presentation dated December 2020 …, the Company notes … that it's financial strategy includes a dividend payout ratio (the total amount of dividends paid out to shareholders relative to the net income of the Company) of 60-65%. The slide notes … that "business segments must achieve their targeted rates of return and support the dividend." The … statements imply that, by exercising financial discipline (including ensuring business segments, such as Minnesota Power, achieve their targeted rates of return), the Company is able to sustain attractive dividend payout ratios of 60-65%. In the same presentation, the Company notes its 2020 payout ratio is 74% – a higher ratio than in any other year since 2011 (when it was also 74%). This suggests that, despite the current economic downturn, the Company is stretching its own "financial discipline" standards to ensure it continues to deliver steady distributions to its shareholders.[29]

C. Comments of the Large Power Intervenors

LPI states:

[24] CUB Comments, p. 10, footnote omitted.

[25] CUB Comments, p. 11.

[26] CUB Comments, p. 12, emphasis in original.

[27] CUB Comments, pp. 12-14.

[28] CUB Comments, p. 15.

[29] CUB Comments, pp. 14-15, footnotes omitted.

> As a threshold matter, though LPI is sensitive to the issues created by the COVID-19 pandemic, it is not convinced that Minnesota Power's petition meets the high standard traditionally required for approval of deferred accounting. But LPI recognizes that recent Commission orders have deviated from this standard to articulate a more flexible approach for approving deferred accounting. In any event, LPI looks forward to gaining a better understanding of Minnesota Power's position, and requests that Minnesota Power update and address its petition in light of current customer demand projections in reply comments.[30]

D. Comments of the Office of the Attorney General

OAG recommends the Commission reject MP's petition for several reasons:

> **First**, granting the Company's revenue-tracking proposal would undermine the deal it struck with ratepayers when it resolved its 2019 rate case and committed not to seek another base-rate increase until November 2021. **Second**, the proposal attempts to insulate the Company's investors from sales-variation risk that they are compensated for by the opportunity to share in the Company's profits. **Third**, cyclicality in large-customer load is not unusual but, in fact, is a business risk that Minnesota Power routinely encounters. **Finally**, the Company's attempt to focus on only two industrial customers, while ignoring all the others, does not establish that the revenue loss at issue has significantly impacted its financial condition. To the contrary, the Company's most recent earnings report shows that its profits in 2020 have been similar to, or even higher than, its pre-pandemic profits.[31]

OAG points to the wide annual fluctuations of taconite production in Minnesota from 1979 to 2019 and notes that production at the Keetac "swing" facility is even more variable than the industry as a whole.[32] As such, OAG argues, focusing on Keetac yields a gloomier picture of the Minnesota taconite industry than would a broader focus. OAG points to …

> … at least three instances in the last 30 years where Keetac's production has varied substantially from the industry as a whole. On those occasions, Minnesota Power responded to the sales drops at Keetac by filing for rate increases, revising its sales forecasts, or both. Minnesota Power has consistently overestimated the harm that these downturns will cause to its business, because it has failed to accurately predict when this "swingy" facility will ramp up production.[33]

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[30] LPI Comments, pp. 1-2, footnotes omitted.

[31] OAG Comments, pp. 1-2, emphasis added.

[32] OAG Comments, pp. 3-6.

[33] OAG Comments, p. 6.

OAG believes that MP has not shown good cause to approve tracking of lost revenues. First, OAG argues, the Rate Case resolution …

> … already provides a mechanism to address a substantial loss of Large Power load. Specifically, it allows Minnesota Power to file a rate case as early as March 2021 in the event of a loss of Large Power load of 50 MW or greater that lasts at least three months. This would require the Commission to consider *all* of Minnesota Power's costs and revenues, rather than revenues from just two customers. But the Company does not seek to avail itself of this remedy.[34]

Further, argues OAG, MP …

> … seeks to recover revenue reductions that occurred *during the test year* of a rate case that the Company resolved and withdrew. If the Company had proceeded with the case, it could have provided an updated sales forecast reflecting lower revenues from Keetac and Verso in 2020, as well as any other changes from residential customers or other taconite or paper producers. … In seeking to track lost revenue for 2020, Minnesota Power is positioning itself to recover a single test-year item that benefits the Company, without giving the Commission an opportunity to examine potential offsetting revenue increases or cost decreases.[35]

Second, OAG argues that MP's proposal would insulate shareholders from a risk they are paid to bear, thus the proposal unfairly shifts risk to ratepayers. OAG points to the traditional regulatory arrangement where both shareholders and ratepayers share the risk associated with the purchase of more or less energy.[36] OAG states that there are exceptions to this arrangement, specifically, revenue decoupling and sales true-ups for multi-year rate plans. However …

> … [u]nlike these established mechanisms … the Company's proposed revenue tracker would apply retroactively, meaning that it would go into effect after the Company knows whether it "wins" or "loses." It also would shift the entire risk of sales variations onto ratepayers, and could be used to shift a revenue shortfall attributable two customers—Keetac and Verso—onto other classes.[37]

Third, OAG argues that fluctuations in large customer sales revenues are neither unusual nor unforeseeable.[38] OAG states:

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[34] OAG Comments, p. 16, emphasis in original.

[35] OAG Comments, p. 17, emphasis in original, footnote omitted.

[36] OAG Comments, pp. 18-22.

[37] OAG Comments, p. 19.

[38] OAG Comments, pp. 22-25.

> Minnesota Power argues that the COVID-19 pandemic "is one of the most unusual and extraordinary events in the history of Minnesota Power." The pandemic is undoubtedly an unusual and unexpected event. But … sales variations among Large Power customers in response to changing economic conditions are a routine risk that the Company faces. Put differently, while a pandemic may have been a unique *cause* for these shutdowns [Keetac and Verso], the *impact* of the pandemic on the Company's electric sales is not unique at all. Although a specific recession is hard to predict before it happens, the fact is that recessions do regularly occur. And even if the Commission believes that the 2020 recession was an unusual and unforeseeable event, it was abundantly clear at the time Minnesota Power moved to resolve its rate case that one or more Large Power customers were going to be idled for a significant portion of 2020. And the customers most likely to idle, and remain idled the longest, were the two customers whose revenues Minnesota Power seeks to track – Keetac and Verso.[39]

Fourth, OAG argues that the idling of Keetac and Verso have not significantly affected MP's financial condition.[40] OAG states:

> Minnesota Power, like most utility companies, is successfully weathering the COVID-19 recession. The Company's residential revenue has been higher than forecasted due to customers spending more time at home, and the Company has also experienced reduced operating expenses due to pandemic-related restrictions. Moreover, the Company's long-term ESAs have blunted the impact of Large Power customers' idling, ensuring the Company substantial revenue even when some large customers were not consuming energy. All but one of these large customers have returned to service and submitted demand nominations consistent with full production. Finally, the Company received a $36 million, or 5.75 percent, base-rate increase effective May 1.[41]

E. Comments of the Department of Commerce

The Department recommends the Commission reject MP's petition arguing that MP has not satisfied conditions frequently considered by the Commission when examining requests for deferred accounting.

First, the Department "concludes that MP's temporary loss of large industrial customer revenues are neither unusual, unforeseeable, nor extraordinary."[42] The Department points to eight instances since 1992 (inclusive) where MP suffered a loss of load greater than 40 MW due

[39] OAR Comments, pp. 24-25, emphasis in original, footnote omitted.

[40] OAG Comments, pp. 25-28.

[41] OAG Comments, pp. 25-26, footnote omitted.

[42] Department Comments, p. 2.

to market conditions and resulting economic downturns. The Department also points to MP's annual reports that acknowledge the operational risks that MP faces.[43]

Second, the Department states that the impact of the idling of Verso and Keetac is not financially significant.[44] Specifically, the Department argues that (1) Keetac restarted in mid-December, (2) U.S. Steel's nominations continue to be strong, (3) MP's residential sales have increased by $6.2 million on an annualized basis, and (4) MP's 3rd quarter net income in 2020 was $10 million higher than for the same period in 2019.

Third, the Department acknowledges that MP's lost revenues are directly related to its utility operations. Further, the Department acknowledges the continued idling of Verso but points to MP's increased residential sales noted above.[45]

Fourth, the Department makes reference to the Commission's August 7, 2020 order resolving MP's rate case where MP would refrain from filing a rate case until March 1, 2021, and where MP would extend its filing moratorium to November 2021 should it experience a specified loss of load.[46] The Department …

> … considers MP's request for deferred accounting to be inconsistent with the spirit of the Commission's August 7, 2020 Order, since deferred accounting would allow MP to change amounts (Net Lost Revenues) in base rates for the period September 1, 2020 to March 1, 2021 – basically MP's agreed upon stay out period.[47]

The Department states further …

> … that the Commission has traditionally limited deferred accounting to 100 year flood situations. Deferred accounting should be used sparingly because it distorts the rate case test year, where representative costs and revenues for the test year (for example a 2022 test year) are supposed to be considered and reviewed. Instead, deferred accounting results in costs and revenues for several different years to be included in the test year, which results in inflated rates for customers that are not representative of a 2022 test year.[48]

The Department recommends that the Commission deny MP's request for deferred accounting for the Net Lost Revenues. However, if the Commission decides to grant deferred accounting, the Department recommends that the deferred accounting for Net Lost Revenues not be allowed to start until March 1, 2021 – when MP could first file its rate case consistent with the

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[43] Department Comments, pp. 1-2.

[44] Department Comments, pp. 2-3.

[45] Department Comments, pp. 3-4.

[46] Order in Dockets 16-564, 19-442 and 20-429, August 7, 2020, p. 6.

[47] Department Comments, p. 4.

[48] Department Comments, p. 5.

Commission's August 7, 2020 Order. Further, the Net Lost Revenues should be reduced by higher residential sales revenue.

F. Reply Comments of Minnesota Power

MP makes reference to the Commission's Joint Petition Order where the Commission ""recognize[d] that COVID-19-related expenditures and other financial impacts are unusual, extraordinary, and infrequent," while leaving open the issue of significance and prudence to future proceedings."[49] MP believes the facts demonstrate "that Minnesota Power's significant loss of revenue due to the idling of Keetac and Verso more than satisfies the deferred accounting standard, especially in light of the Commission's Joint Petition Order … ."[50]

Acknowledging the restart of Keetac, MP states that the losses from the idling of Verso are significant.[51] Further, MP argues that the idling of two large customers in two separate industries is unusual. Referring to the 2016 Rate Case MP states:

> When test year sales forecast levels are set near full production levels and the Company's ROE incorporates only Minnesota Power's usual risk associated with the ups and downs of customer production, the financial consequences of a highly unusual pandemic and associated increased costs and idled customers are significantly exacerbated.[52]

In response to the Department's argument that MP enjoyed a $6.2 million increase (annualized) in residential customer revenue, MP states that it only experienced an increase of $0.7 million (weather-normalized for April to December) and it experienced a decrease in revenue from commercial customers of $12.1 million (weather-normalized for April to December).[53] MP also challenges the Departments numbers regarding U.S. Steel's nomination.[54]

MP disagrees with assertions of CUB and OAG that it should have known that Verso was going to idle. MP makes reference to loans offered to Verso to support operations and to statements by the press and by Verso regarding Verso's continued operations.[55]

On March 1, 2021, MP filed a letter with supplemental information:

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[49] Referring to Docket 20-427, order of May 22, 2020, responding to the Joint Petitioner's request to record and defer expenses related to COVID-19, footnote omitted.

[50] MP Reply, p. 2.

[51] MP Reply, p. 2; see MP's non-public reply.

[52] MP Reply, pp. 4-5.

[53] MP Reply, p. 8.

[54] MP Reply, pp. 6-7; see MP's non-public rely.

[55] MP Reply, pp. 7-8.

Minnesota Power provides the following brief update in the above-referenced Docket. ALLETE's annual Form 10-K filed with the Securities and Exchange Commission on February 17, 2021 provided the following update on Verso's notice of termination of its electric service agreement for the Duluth Mill:

> *Verso Corporation.* *In June 2020, Verso Corporation indefinitely idled its paper mill in Duluth, Minnesota (Duluth Mill). Verso Corporation stated the decision was due to the accelerated decline in graphic paper demand resulting from the COVID-19 pandemic and has disclosed it is considering options for the Duluth Mill, including marketing for a sale. On January 29, 2021, Verso Corporation provided notice of termination for its contract effective in January 2025, with no demand charge expected after February 2023 (minimal demand charge through January 2023).*[56]

IV. Staff Analysis

As a preliminary matter, MP filed its petition, in part, to aid it in determination of when, within the March to November 2021 window, it should file its next rate case.[57] However, in its latest filing MP has clarified that "it is better for all customers and consistent with the rate case resolution to wait and file in November 2021 for a 2022 test year."[58]

On April 20, 2020, eight Minnesota rate-regulated natural gas and electric utilities (the Joint Petitioners) filed a petition requesting authority to track, defer, and record COVID-19-related expenses as a regulatory asset (Docket 20-427). On May 22, 2020, the Commission granted, in part, the Joint Petitioner's request "with the caveat that the grant is for accounting purposes only."[59] There the Commission also ordered the Petitioners to make a filing of their accounting methodology. In its November 4th order the Commission adopted an accounting methodology describing the COVID-related revenues and expenses to be tracked (non-collectables, operation and maintenance expenses, labor- and non-labor-related expenses, sales and service fees).[60] The Commission allowed expenses to be tracked through the end of the Governor's Emergency Executive Order 20-01, plus 30 days. MP is one of the Joint Petitioners that is subject to the Commission's orders in Docket 20-427.

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[56] Notice filed by MP on March 1, 2021; italics and underlining in original.

[57] MP Petition, p. 27.

[58] MP Reply, p. 5.

[59] Order in Docket 20-427, May 22, 2020, p. 7.

[60] The November 4th order cites the Joint Petitioner's proposed accounting elements filed on June 10, 2020. See Attachment A of that filing. The Commission denied the tracking of carrying costs, working capital impacts and lost production tax credits.

In its May 22nd order, the Commission also noted its general hesitancy in granting requests for deferred accounting:

> Mechanisms like deferred accounting are exceptions to traditional ratemaking practice, which uses a fully developed test year to provide the most accurate possible picture of the utility's total financial condition. Considering one expense in isolation, without considering where costs may have declined, carries risks of over-recovery that are seldom justified. Accordingly, deferred accounting is a practice that the Commission authorizes sparingly.[61]

Presumably, the Commission's general concern applies also to MP's petition for additional authority to track and defer lost revenues. And given that MP's first request (as a member of the Joint Petitioners) will substantially overlap with the time period of MP's second request, it could be argued that approving MP's second request increases the concerns raised by the Commission stated above. MP seeks to track and defer revenue losses in isolation from a general rate case, but also in isolation from its existing approval to track revenues and expenses associated with COVID.

Another point: MP has stated:

> Deferred accounting is appropriate when utilities have incurred substantial financial losses to meet important public policy mandates. The issuance of public health emergencies in Minnesota and across the country to protect public health and welfare from the effects of a pandemic, as well as to ensure that public utilities continue to provide essential services throughout the duration of the emergency, are eminently important public policy mandates.[62]

Clearly, the pandemic represents a public health emergency, and the Commission has recognized that "[a]ccess to safe, reliable, and affordable utility service is essential to maintain public health and safety during this emergency,"[63] and the Chair of the Commission and the Commissioner of the Department have urged utilities forego the disconnection of service for non-payment during the emergency.[64] And clearly, MP has received less revenue from Keetac and Verso in 2020 but, at least in terms of a public health emergency, providing service to customers that cannot pay their bills stands apart from the situation where customers do not pay for service that they do not receive.

MP has argued that it has suffered reduced revenues due to the pandemic, revenues that are substantial even when accounting for renewal of operations at Keetac in December. There are two distinct elements to this argument. First, given the volatile nature of primary products industries (e.g. mining and forestry), is the cause of an economic downturn relevant to the

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[61] Order in Docket 20-427, May 22, 2020, p. 4.

[62] MP Petition, p. 22.

[63] Order in Dockets 20-425 and 20-427, May 22, 2020, p. 5.

[64] Letter in Docket 20-375, March 25, 2020.

question of deferred accounting? Parties opposing MP's petition point to numerous economic downturns that have not caused MP to seek deferred accounting, and CUB has pointed out that Allete has acknowledged an understanding in public reports that pandemics can affect financial performance. Second, parties opposing MP's petition have argued that (1) MP's lost revenues are not significant relative to other economic-downturn losses experienced by MP over time, and (2) that MP's (or Allete's) profits have been similar to, or higher than, pre-pandemic levels.

With respect to a future rate case filing MP, in its Reply Comments, stated that …

> [w]hile industrial load loss would allow Minnesota Power to file a general rate case on or after March 1, 2021 under the rate case resolution, given the ongoing pandemic, the Company believes it is better for all customers and consistent with the rate case resolution to wait and file in November 2021 for a 2022 test year.[65]

V. Decision Options

1. Grant MP's request to track Net Lost Revenues resulting from the idling of Keetac and Verso and to allow MP to propose an appropriate recovery mechanism in its November 2021 rate case. [MP]

2. Deny MP's petition. [Department, CUB, and OAG]

3. Require the deferred accounting to start no earlier than March 1, 2021 and require the Net Lost Revenues to be reduced by higher residential sales revenue. [Department, if deferred accounting is granted]

4. Take other action.

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[65] MP Reply, p. 5.