

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

In the Matter of a Petition Regarding)
Electric Rates for Energy-) **Docket No. E015/M-15-984**
Intensive Trade-Exposed Customers)

INITIAL COMMENTS OF AARP

AARP¹ hereby submits the following comments, in response to the “Notice of Comment Period on EITE Rate Schedule”, issued on November 19, 2015 in this case.

On November 13, 2015 Minnesota Power (“MP”) filed a Petition originating the above-styled case at the Minnesota Public Service Commission (“Commission”), proposing to provide electric rate subsidies to certain selected companies that it claims are struggling financially; however, it proposes to do so by dramatically raising the electric rates that are paid by its other customers. AARP believes that MP’s proposal in this case has failed to adequately meet the energy utility’s burden of proof by showing that its proposal would provide a “net benefit to the utility or the state” as required by the new Energy-Intensive and Trade-Exposed (“EITE”) law.² AARP also opposes the unfair manner (“EITE Current Cost Recovery Rider” surcharge) in which the cost of the proposed EITE subsidy would be borne disproportionately by residential customers, increasing average monthly residential bills by 14.5%³.

¹ AARP is a nonprofit, nonpartisan social change organization that advocates for people who are 50 years of age and older, seeking to promote their independence, choice and control in ways that are beneficial and affordable to them and to society as a whole. In 1999, the “American Association of Retired Persons” changed its name to simply “AARP”, in recognition of the fact that people do not have to be retired to become members.

² Minnesota statute §216B.1696, Subdivision 2(b).

³ Assuming that the cost recovery would be based on usage, some residential customers would experience an increase in their monthly bills even greater than 14.5%. Furthermore, such estimated impacts do not

The Commission has solicited responses from stakeholders to the following specific questions:

- 1. Does MP's proposed rate for EITE customers comply with Minn. Stat. §216B.1696, including the types of customers eligible for the rate, the criteria for qualification for the rate, the individual design elements of the rate, and the specific rate option proposed?**

The Minnesota Power Petition requests an energy charge credit for at least nine large companies, claiming that these customers were selected based upon their site peak electric usage and their total energy consumption. MP claims that these large customers fit the eligibility criteria of the new Minnesota statute §216B.1696 as Energy-Intensive and Trade-Exposed ("EITE") customers, and that the energy credits proposed are allowed under the provisions of that law. Some of the calculations specific to the selected EITE customers have been redacted as "trade secrets", and thus are unavailable for the general public to review.

AARP takes no position on whether the specific customers claimed to be eligible for rate subsidies nor any position on the criteria claimed for such qualification. It is assumed that the Department of Commerce, the Attorney General's Office, and the Commission's Staff will adequately review the specific EITE subsidy proposed by MP with regard to its compliance with the law.

However, when reviewing the MP Petition, it is difficult for AARP to consider the proposed benefit that would flow to the selected EITE customers separate and apart from

even take into account the adverse secondary impact due to decreased usage which may result from such a large rate increase.

the rate recovery (rate design) context in which it is being proposed, because MP is simultaneously asking that its residential customers subsidize (“support the competitiveness of”) the selected large EITE customers through an unfair and piecemeal rider mechanism.⁴ The Commission should not determine the reasonableness of the proposed energy charge credits to EITE customers without addressing the stark question of whether that subsidy reasonably justifies raising monthly residential bills by 14.5% in a part of the state where all sectors continue to struggle financially.

Due to the manner in which MP has crafted the rate recovery aspect of its proposal, residential electric households are being asked to provide a disproportionate share of the requested subsidy for the large EITE customers. Moreover, these subsidies would be passed-through a piecemeal surcharge charging the cost of EITE energy charge credits immediately to other customers, without the thorough audit that would normally occur in a general rate case at the Commission. AARP provides further comments on the nature of the cost recovery rider under Question 5 below.

2. What criteria should the Commission use to evaluate whether MP’s proposed EITE rate schedule provides net benefit to the utility or the state as required by Minn. Stat. §216B.1696, subd. 2(b)? Has MP demonstrated that its proposed EITE rate schedule provides such net benefit?

AARP believes that the standard for allowing an EITE subsidy under §216B.1696, subd. 2(b)—the “net benefit to the utility or the state” standard—should be interpreted as requiring an analysis of how much better off **ratepayers as a whole** are if the selected

⁴ The Notice issued in this case claims that the Commission is reserving comment on the proposed EITE cost recovery rider and class cost allocations to a future comment period. However, the large Power Intervenor filed a letter on November 24, 2015, casting doubt on whether the Commission may defer these questions, and suggesting that stakeholders be allowed to provide input on the Petition overall “at the beginning of the procedural process”. Ibid., p. 2, first full paragraph.

EITE customers remain on the MP electric system. This type of analysis is often described as calculating a “bypass rate” or a “load retention rate”. This load retention approach would analyze whether the benefited large EITE companies would stay on the system (or would not be able to operate at full capacity) without a certain level of subsidy. This approach also assumes that the benefited large EITE customers will not be able to pay the full cost incurred to providing them energy service. The MP Petition fails to provide even evidence to adequately prove these points for the companies that it has selected for an electric rate subsidy.

A load retention analysis would attempt to calculate how much the energy rates of other customers would increase if the EITE customers stopped operating at current levels or left the system, and then compares that impact on other customers to the impact of the proposed subsidy rate on other customers. Such an analysis does not rely upon economic development “multipliers” or include the cost of other externalities to justify the subsidy.

The Minnesota Legislature intended for the “net benefit to the utility or the state” standard to be interpreted by the Minnesota Public Utility Commission. The state legislature willfully deferred the details of this important decision to this administrative body, which it knows is expert in analyzing cost of service calculations. By deferring these decisions to the Commission and enacting a standard that grants wide discretion, it is clear that the intent was for an analysis of whether ratepayers as a whole would be better off under any EITE proposal.

What is required in this case is an analysis that keeps its determinations soundly within the Commission’s realm of ratemaking, without resorting to predictions of possible

economic impacts outside of revenue requirement calculations. Some rate relief for EITE customers may be proven based upon a rigorous load retention analysis, and by keeping that analysis within the ratemaking arena will help ensure that the Commission's determinations in this docket are more sound and defensible. A "net benefit to the utility or the state", as intended under the new law, would be proven to the Commission to be a net benefit to all of MP's ratepayers as a whole, when compared to the alternative rate impacts that would result from EITE customers leaving the system or otherwise reducing their contribution to the utility's load. Regardless of how the net benefit test is analyzed, it is clear that MP has not provided enough information in its Petition to perform an adequate analysis.

3. Are there additional or alternative rate options for EITE customers that would better meet the policy goals of the statute?

AARP takes no position on this issue.

4. Does MP's action on the deposit of \$10,000 for low-income funding comply with Minn. Stat. §216B.1696, subd. 3, and is it reasonable?

AARP assumes that MP's proposal to deposit \$10,000 into the Commission-approved Customer Affordability of Residential Electricity ("CARE") Program account of the Arrowhead Economic Opportunity Agency, Inc. ("AEOA") complies §216B.1696, subd. 3. However, it is important to keep in mind that most customers who are eligible for LIHEAP do not wind up receiving any such assistance. Neither LIHEAP nor CARE reaches all qualifying low-income customers. Supplying extra assistance to anti-poverty programs, and exempting LIHEAP customers from having to pay the proposed surcharge

rider, do not negate the regressive impact that the current MP proposal could have on most lower income households in MP's service territory.

5. Under Minn. Stat. §216B.1696, subd. 2(d), the Commission shall allow recovery of costs in the next general rate case or through an EITE cost recovery rate rider between general rate cases. Should the Commission allow MP to implement a cost recovery rider prior to its next general rate case?

As mentioned above, the manner in which MP has crafted the rate recovery aspect of its proposal, would force residential electric households to provide a disproportionate share of the requested subsidy to these large EITE customers. MP acknowledges this disproportionate impact in its Petition:

“The Company’s recognizes that its proposal for cost allocation results in a relatively greater impact on residential and small commercial customers. However, the Company believes this approach is appropriate because these customer classes had much lower rate increases than large industrial customers in the Company’s 2009 rate case.”⁵

This MP statement provides no comfort to AARP. MP’s implication is that residential and small business customers have been treated too favorably in previous general rate cases; however, MP is not asking for another general rate case in which this implication could actually be tested with a thorough review of cost allocations. Without such a review, it must be assumed that the current customer class cost relationships are fair, and that any new rate mechanism that changes those relationships would cause an unjust and unreasonable distortion of those relationships.

⁵ Ibid., Section IV.B., Paragraph 2.

Residential customers received a rate increase in the 2009 general rate case based upon allocations among the customer classes that was deemed “just and reasonable”.⁶ To claim that the cost allocation relationships between the various customer classes have now somehow changed in a manner that would now justify treating residential consumers in a more detrimental fashion needs to be proven by the utility, applying the same evidentiary burden that would be required of the utility in a general rate case. MP’s claim that residential households should pay a disproportionate share of the proposed subsidies than do its other customers, without providing the Commission with a class cost of service study that can be subjected to stakeholder scrutiny in another general rate case, should not go unchallenged. The only claim being made is that MP’s opinion of the approved rate design in a case that is now six years old. It is just as likely that residential ratepayers are now currently suffering from electric rates that are too high, compared to the rates of other customers. Either way, MP should be required to prove that its proposed rate design is fair, rather than simply relying upon its own off-handed criticisms regarding previous Commission rate design decisions that were deemed to be just and reasonable at the time those judgments were made.

The proposed rate design for cost recovery of the EITE subsidy is inherently unfair in that it would cap the impact to the other large customer classes with a flat fee, while treating small business and residential customers differently, requiring those customers to pay the remainder through a usage based surcharge. This proposal appears to be discriminatory and unreasonably burdensome to the smallest customer classes.

⁶ Docket No. E-015/GR-09-1151.

Moreover, the proposed subsidies would be passed-through to MP's smallest customers via an "EITE Current Cost Recovery Rider", a piecemeal surcharge that would immediately shift the cost of EITE energy charge credits directly onto other customers, without the thorough audit that would normally occur in a general rate case. In a full rate case audit, cost increases can be offset against cost decreases and the interrelationship of costs can be properly recognized. If the cost recovery for an EITE benefit or subsidy is not determined in a general rate case, there will be less reassurance regarding the transparency in the ratemaking process, and there will be less trust among the general public that all consumers are being treated fairly. AARP opposes the use of single-issue riders, and therefore urges the Commission to require MP to file a general rate case before any of cost recovery subsidies proposed in this matter are ultimately determined.

In conclusion, the Commission should reject MP's proposal because it fails to adequately meet the burden of proof to showing that it would provide a "net benefit to the utility or the state", and because the "EITE Current Cost Recovery Rider" is unfair to residential customers.

Respectfully submitted,

/s/ Will Phillips

Will Phillips
State Director
AARP Minnesota

Dated: December 21, 2015

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to official service list in Docket No. E015/M-15-984 at the Minnesota Public Utilities Commission, on this 21st day of December, 2015.

/s/ Will Phillips
