

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

In the Matter of the Application by Minnesota
Power for Authority to Increase Rates for
Electric Service in Minnesota

PUC Docket No. E015/GR-21-335
OAH Docket No. 5-2500-38008

**PETITION FOR RECONSIDERATION
AND CLARIFICATION**

The following constitutes the Petition for Reconsideration and Clarification of the Large Power Intervenors (“LPI”), an *ad hoc* consortium of large industrial end users of electric energy on Minnesota Power’s (or the “Company”) system, consisting for purposes of this filing of Blandin Paper Company; Boise White Paper, a Packaging Corporation of American company, formerly known as Boise, Inc.; Cleveland-Cliffs Minorca Mine Inc.; Enbridge Energy, Limited Partnership; Gerdau Ameristeel US Inc.; Hibbing Taconite Company; Northern Foundry, LLC; Sappi Cloquet, LLC; United States Steel Corporation (Keetac and Minntac Mines); United Taconite, LLC; and USG Interiors, Inc.

I. INTRODUCTION

On November 1, 2021, the Company filed this general rate case, seeking an annual rate increase of approximately \$108.3 million.¹ Following proceedings before Administrative Law Judge James Mortenson (“ALJ”), the Minnesota Public Utilities Commission (“Commission”) issued its Findings of Fact, Conclusions, and Order on February 28, 2023.² After making various revenue requirement adjustments, the Order assigns all customer classes a 9% increase (“Revenue Allocation Decision”).³ In so doing, the Commission’s Revenue Allocation Decision ignores evidence in the record and continues decades of deviation from customer class cost-of-service data, forcing the Company’s industrial customers to continue paying inflated rates and bills while subsidizing other customer classes, namely the Residential class. This decision is contrary to Minnesota law and results in unjust and unreasonable rates that are discriminatorily preferential to

¹ Initial Filing Cover Letter at 2 (Nov. 1, 2021) (eDocket No. 202111-179332-09) (“Initial Filing”).

² Findings of Fact, Conclusions, and Order (Feb. 28, 2023) (eDocket No. 20232-193486-01) (the “Order”).

³ Order at 69.

the Residential class. Ultimately, the weight of these errors forces LPI to bring this petition for reconsideration of the Order. Simultaneously, LPI also seeks clarification on the following three aspects of the Order: the (1) interim rate refund/surcharge calculation; (2) fuel and purchased energy clause Large Light & Power (“LLP”) time-of-use (“TOU”) rate proposal; and (3) LLP Voltage Discounts. The relevant procedural posture preceding this petition is set forth below.

In response to the initial filing, the Company, Citizens Utility Board of Minnesota (“CUB”), and Energy CENTS Coalition (“ECC”) filed an alternate interim rates proposal (“Proposal”) on November 10, 2021.⁴ The Proposal presented the Commission with a path to reduce the initial \$87.3 million or 14.23% interim rate increase by 50% for the Residential class only.⁵ Following oral argument, the Commission took administrative notice of various dockets to determine that exigent circumstances existed for the Residential class, and approved the Proposal.⁶ The Commission also permitted the Company to track any forgone revenues, but noted that interim rate cost recovery determinations would be addressed at the end of the case.⁷ These decisions were captured in the December 30, 2021, order setting interim rates.⁸ The Commission also issued an order for hearing referring the case to the Office of Administrative Hearings (“OAH”) for a contested case proceeding on the same day.⁹

Concerned by the potential impact of the Interim Rates Order, LPI filed a letter questioning the Commission’s unilateral finding of exigent circumstances and corresponding reduction to interim rates for only the Residential class. Additionally, LPI again articulated concerns noting the potential for complications with the mechanics of any interim rate refund/surcharge.¹⁰

The parties filed direct, rebuttal, and surrebuttal testimony throughout 2022. Evidentiary hearings were held by the ALJ on June 13-15, 2022, with parties filing subsequent initial and reply

⁴ Joint Initial Comments (Nov. 10, 2021) (eDocket No. 202111-179630-01). LPI expressed concerns with the Proposal and the potential for non-Residential customers to be harmed by any interim rate refund/surcharge determination. *See* Letter by LPI (Dec. 1, 2021) (eDocket No. 202112-180333-01) (Attached herein as “Attachment A” additional filing materials omitted).

⁵ Proposal at 2.

⁶ Order Setting Interim Rates at 4 (Dec. 30, 2021) (eDocket No. 202112-181086-03) (“Interim Rates Order”).

⁷ Interim Rates Order at 4-5.

⁸ *Id.*

⁹ Notice and Order for Hearing (Dec. 30, 2021) (eDocket No. 202112-181086-02).

¹⁰ Interim Rates Order Letter by LPI (Jan. 19, 2022) (eDocket No. 20221-181710-01) (“Interim Rates Letter” attached herein as “Attachment B” additional filing materials omitted).

briefing. The ALJ issued the Findings of Fact, Conclusions of Law, and Recommendations on September 1, 2022.¹¹

The parties filed exceptions to the ALJ Report on September 23, 2022. The Commission then heard oral argument on January 18 and 23, 2023, and the Order was issued on February 28, 2023.

Ignoring substantial evidence in the record, the Commission exercised its will rather than its judgment by assigning all customer classes an equal 9% increase. Additionally, aspects of the Commission's determinations with respect to the interim rate refund and specific rate design proposals require additional clarification to resolve lingering ambiguities. Therefore, as described in detail below, LPI respectfully requests that the Commission reopen this proceeding and (1) reconsider the Revenue Allocation Decision; (2) clarify aspects of the interim rate refund to ensure non-residential customers are held harmless; (3) clarify the appropriate next steps pertaining to the LLP TOU fuel and purchased energy rate; and (4) clarify the Commission's intended determination on the proposed LLP Voltage Discount.

II. ANALYSIS

A. Introduction

"A petition for rehearing, amendment, vacation, reconsideration, or reargument must set forth specifically the grounds relied upon or errors claimed."¹² The Commission typically reviews petitions to determine whether they (1) raise new issues, (2) point to new and relevant evidence, (3) expose errors or ambiguities in the underlying order, or (4) otherwise persuades the Commission that it should rethink its previous order.¹³

¹¹ Findings of Fact, Conclusions of Law, and Recommendations (Sept. 1, 2022) (eDocket No. 20229-188786-01) ("ALJ Report").

¹² Minn. R. 7829.3000, subp. 2.

¹³ See, e.g., *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, PUC Docket No. E002/GR-13-868, Order Denying Petitions for Reconsideration at 1 (July 13, 2015).

LPI seeks reconsideration and clarification to address multiple errors and ambiguities contained within the Order.¹⁴ With respect to the Revenue Allocation Decision, the Commission arbitrarily and capriciously disregarded all cost-of-service evidence in the record and assigned all classes an equal 9% increase that has absolutely no basis in cost causation. Additionally, the Commission ignored other evidence pertaining to the relevant non-cost factors. In addition to highlighting evidence that was overlooked in the Order, this petition provides updated and relevant evidence demonstrating that the Revenue Allocation Decision is contrary to Minnesota law and contains significant errors that should persuade the Commission to reconsider the Order.

B. The Revenue Allocation Decision Should Be Reconsidered Because It Arbitrarily and Capriciously Ignores Cost of Service Information

The Commission erred in determining that a 9% across-the-board increase is appropriate for all customer classes in this case. The Order states that the Commission considers a variety of factors when allocating a rate case, including:

- Equity, justice, and reasonableness;
- Avoidance of discrimination, unreasonable preference, and unreasonable prejudice;
- Continuity with prior rates to avoid rate shock;
- Revenue stability;
- Economic efficiency;
- Encouragement of energy conservation;
- Customers' ability to pay;
- Ease of understanding and administration; and, *in particular*,
- *Cost of service.*^[15]

To be sure, the particular weight given to cost of service is a long-standing principle.¹⁶ And while LPI acknowledges that the Commission exercises its quasi-legislative capacity in the ratemaking

¹⁴ With respect to potential judicial review, as a proceeding before the Commission under Chapter 216B, Chapter 14 of the Minnesota statutes governs that review. Minn. Stat. § 216B.52, subd. 1 states that “[a]ny party to a proceeding before the commission or any other person, aggrieved by a decision and order and directly affected by it, may appeal from the decision and order of the commission in accordance with chapter 14.” Specifically, Minn. Stat. § 14.69 provides reviewing courts with the authority to reverse the Commission’s decision if the Commission’s findings, inferences, conclusions, or decisions are: “(a) in violation of constitutional provisions; or (b) in excess of the statutory authority or jurisdiction of the agency; or (c) made upon unlawful procedure; or (d) affected by other error of law; or (e) unsupported by substantial evidence in view of the entire record as submitted; or (f) arbitrary and capricious.”

¹⁵ Order at 50 (emphasis added; footnotes omitted).

¹⁶ See *In the Matter of the Application of Otter Tail Power Company for Authority to Increase Rates for Electric Service in Minnesota*, PUC Docket No. E017/GR-15-1033, Findings of Fact, Conclusions of Law, and Order at 57 (May 1, 2017).

context and is afforded a degree of deference by courts, the Minnesota Supreme Court does require the Commission to establish reasoning for deviating from cost of service. The Supreme Court stated:

Evidence could be introduced, for example, to establish that a difference in rates based on factors other than the cost of furnishing the service to the user would be unfair, inequitable, and unreasonable in a particular situation. The *commission would then be required to evaluate the evidence so offered together with the facts commonly known.*^[17]

The Commission failed to satisfy that standard here. As demonstrated herein, in reaching its Revenue Allocation Decision, the Commission failed to consider both cost and non-cost evidence in the record demonstrating that cost-based rates is the appropriate outcome in this case. In other words, the Commission failed to satisfy its requirement to evaluate the evidence so offered, and exercised its will rather than its judgment in rendering the Revenue Allocation Decision.

In reaching the Revenue Allocation Decision, the Commission's determination hinged upon its unilateral finding of exigent circumstances for the Residential class only. The Commission reasoned that the impacts of the COVID-19 pandemic continue to impact Residential customers, thus triggering the Commission's purported emphasis on the non-cost factors of ability to pay and avoidance of rate shock with respect to the Residential class.¹⁸ In so doing, the Commission arbitrarily ignored state law and contradicted its own Order, which requires emphasis on cost of service when apportioning a rate increase. In addition to avoiding all cost-based evidence in the record, the Commission also ignored substantial evidence demonstrating that the same non-cost factors (ability to pay and rate shock) apply to non-residential customers as well. Lastly, the Order fails to account for substantial evidence developed in the record by certain parties, including LPI, demonstrating that Residential customers indeed have the ability to pay a higher increase and will not suffer rate shock by doing so. These factors are detailed further below.

¹⁷ *St. Paul Area Chamber of Commerce v. Minn. Pub. Serv. Comm'n*, 251 N.W.2d 350, 355 (Minn. 1977) (emphasis added).

¹⁸ Order at 69.

1. The Order Impermissibly Renders Any and All Cost-of-Service Analyses Irrelevant

The Revenue Allocation Decision arbitrarily and capriciously assigns all customer classes an equal percentage increase by failing to address or consider cost-of-service evidence.¹⁹ Completely ignoring cost-of-service principles in this manner is inconsistent with the regulatory compact, renders the Commission’s own rules superfluous, and results in rates that fail to comply with the state’s standard of just and reasonable rates under Minn. Stat. § 216B.03.

When a utility files a rate case, Minnesota Rule 7825.4300(C) directs a utility to file a cost-of-service study (“CCOSS”) by customer class of service, showing revenues, costs, and profitability for each class.²⁰ A CCOSS identifies each customer class’s causal responsibility for each cost the utility incurs in providing service.²¹ In this case, the Company’s proposed CCOSS was based on the Four Coincident Peak Average & Excess method for fixed production and demand-related costs. The Company also used a Twelve-Month Coincident Peak allocation method for transmission costs (collectively referred to as the “Company CCOSS”).²² Importantly, the ALJ generally agreed with the Company’s CCOSS methodology, and this was affirmed by the Commission.²³ The results of the Company CCOSS are set forth below.

Customer Class	Increase/ (Decrease) to Revenues Required	% Increase/ (Decrease)
Residential	\$58,669,881	51.69%
General Service	\$11,017,690	14.12%
Large Light & Power	\$19,679,062	18.00%
Large Power	\$18,425,028	5.92%
Lighting	\$522,475	13.66%
Total Retail	\$108,314,136	17.58%

¹⁹ Both the Commission and Company claim an across-the-board equal increase moves rates closer to cost of service. *See* Order at 69; Commission Hearing Transcript Volume 2 (Tr. Vol.) at 154:9-10 (January 18 & 23, 2023) (Moeller). However, witnesses from both the Department of Commerce, Division of Energy Resources and Company admit that this is false. *See* Evidentiary Hearing Transcript Volume 2 (Evid. Tr. Vol.) at 52:8-14; 150:8-13 (June 13-15, 2022) (Peterson & Peirce).

²⁰ *See also* Order at 51.

²¹ Order at 51.

²² Ex. MP-49 at 16:6-16 (Shimmin Direct).

²³ ALJ Report at 95-113; Order at 52-53, 55, 57.

Additionally, while the Commission traditionally relies upon a single CCROSS to inform its revenue allocation decisions,²⁴ the Commission has more recently considered a range of CCROSS results in the revenue allocation process.²⁵ The ALJ acknowledged that all of the CCROSSs in the record were accurately captured in LPI witness Jessica York’s surrebuttal testimony, which is depicted below.²⁶

TABLE 1
Required Increase / (Decrease) to Reach Cost of Service by Method

Line	Customer Class	P&A ¹	4CP A&E	12CP	4CP A&E	Basic	Minimum	Minimum
			Only ¹	Only ¹	and 12CP ¹		Size	Size
		(1)	(2)	(3)	(4)	(5)	12CP ²	1CP ²
							(6)	(7)
1	Residential	41.57%	51.10%	42.16%	51.69%	38.87%	44.45%	47.43%
2	General Service	9.43%	13.49%	10.05%	14.12%	14.22%	11.65%	11.61%
3	Large Light & Power (LLP)	13.46%	17.14%	14.32%	18.00%	18.97%	14.35%	13.61%
4	Large Power (LP)	12.35%	6.57%	11.69%	5.92%	8.60%	8.60%	7.72%
5	Lighting	<u>16.56%</u>	<u>15.49%</u>	<u>14.73%</u>	<u>13.66%</u>	<u>-7.90%</u>	<u>10.92%</u>	<u>15.11%</u>
6	Total Retail	17.58%	17.58%	17.58%	17.58%	16.63%	16.63%	16.62%

Sources and Notes

¹ Direct testimony of Stewart Shimmin at Table 4.
² Zajicek Workpaper 1.

At the Company’s initially proposed revenue deficiency (approximately \$108.3 million), the CCROSSs in the record produced the following range of results, broken down by customer class.²⁷

²⁴ See, e.g., *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, PUC Docket No. E015/GR-09-1151, Findings of Fact, Conclusions, and Order at 47-52 (Nov. 2, 2010).

²⁵ Order at 59; ALJ Report at 113; see also *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, PUC Docket No. E015/GR-16-664, Findings of Fact, Conclusions, and Order at 62-68 (Mar. 12, 2018); *In the Matter of the Application of Otter Tail Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, PUC Docket No. E017/GR-20-719, Findings of Fact, Conclusions, and Order at 40-43 (Feb. 1, 2022). To be clear, LPI does not purport to support the Commission’s shift to the multiple CCROSS model, and reserves the right to continue advocating for the traditional use of one CCROSS in future cases.

²⁶ Ex. LPI-8 at 5, T. 1 (York Surrebuttal); ALJ Report at 117.

²⁷ Post-Hearing Brief of LPI at 27 (July 15, 2022) (“LPI Initial Br.”).

Party	Range of Increase Needed at the Company's Revenue Deficiency (%)
Residential	38.87 to 51.69
General Service	9.43 to 14.22
Large Light & Power	13.46 to 18.97
Large Power	5.92 to 12.35
Lighting	-7.90 to 16.56

As shown above, all of the CCOSSs in the record illustrate that each customer class contributes differently to the Company's proposed revenue deficiency (approximately 18%). For example, Residential customers ranged between 38.87% and 51.69% while large power customers ranged between 5.92% and 12.35%. Assigning all customers an equal (as the Commission did here) or nearly equal revenue increase despite evidence showing that this is contrary to cost causation eviscerates the utility of a CCOSS, which renders Minn. R. 7825.4300(C) superfluous. This is contrary to Minnesota law.²⁸ Additionally, the Order confirms that, in allocating rates, the Commission pays particular attention to cost of service.²⁹ But the Revenue Allocation Decision does not represent any attention to cost of service or otherwise attempt to balance cost with non-cost factors, thereby rendering the Revenue Allocation Decision an arbitrary and capricious departure from cost causation. The resulting 9% increase for all customer classes, therefore, results in unjust and unreasonable rates.³⁰ LPI respectfully requests that the Commission reconsider the Revenue Allocation Decision to correct the unlawful and disproportionate deviation from cost of service, and to fully consider the relevant cost-of-service evidence in the record.

²⁸ Courts apply canons of construction to ambiguous rules and give effect to all provisions so that the rule is not superfluous or insignificant. *See, e.g., Troyer v. Vertlu Mgmt. Co./Kok & Lundberg Funeral Homes*, 806 N.W.2d 17, 24 (Minn. 2011) (holding that when interpreting a rule “no word, phrase, or sentence should be deemed superfluous, void, or insignificant” (citation omitted)); *see also* Minn. Stat. § 645.17 (2020) (stating presumption that legislature “intends the entire statute to be effective and certain”).

²⁹ Order at 50.

³⁰ *St. Paul Area Chamber of Commerce*, 251 N.W.2d at 358.

2. The Commission’s Revenue Allocation Decision Ignores Evidence Pertaining to the Company’s Industrial Customers

In this case, LPI recommended that all customer classes be brought to cost of service in accordance with the Company CCOSS (phasing-in the increase for the Residential class) because industrial customers continue to be grossly overcharged for service in relation to the group’s cost.³¹ LPI’s recommendation balanced the need for competitive industrial rates with the need for gradualism for other customers.³² To be sure, “it is the energy policy of the state of Minnesota to ensure competitive electric rates for energy-intensive trade-exposed customers.”³³ It is also the policy of the state to have rates for each customer class be five percent below the national average.³⁴ But updated evidence provided by the Company demonstrates that LPI members are currently experiencing dramatic rate and bill increases that fail to comply with these critical energy policies.³⁵ This noncompliance is only exacerbated by the Revenue Allocation Decision and other aspects of the Order,³⁶ and is the result of decades of industrial customers being forced to subsidize other customer classes. The Revenue Allocation Decision fails to consider the evidence in the record showing that the cumulative increases foisted upon industrial customers also triggers ability to pay and rate shock concerns for those industrial customers.

It is undisputed that, as a result of the Company’s rate cases over the last 30 years, base rates for the Company’s large power (“LP”) class increased to a greater extent than others. This has created an existing rate structure that is built upon a foundation of continuing inter-class

³¹ Ex. LPI-6 at 18-19 (York Direct).

³² Ex. LPI-6 at 18-19 (York Direct); *see also* Minn. Stat. §§ 216B.03, 216C.05, subd. 2(4), 216B.1696. Ms. York’s proposal contemplates a three-year phase-in for Residential customers, mitigating concerns about a substantial increase at one time.

³³ Minn. Stat. § 216B.1696, subd 2(a).

³⁴ Minn. Stat. § 216C.05, subd. 2(4). Minn. Stat. § 216B.03 further requires that “[t]o the maximum reasonable extent, the commission shall set rates to encourage energy conservation and renewable energy use and to further the goals of sections 216B.164, 216B.241, and 216C.05.” The Commission has recognized the “maximum reasonable extent” language as a “statutory directive” as it relates to energy conservation. *See In the Matter of the Petition of Northern States Power Company for Approval of General Time-of-Use Service Tariff*, PUC Docket No. E002/M-20-86, Order to Conduct Pilot Programs for General Service Time-of-Use Rates, and Setting Procedural Schedules at 11 (July 16, 2021). LPI respectfully asserts that this “statutory directive” also applies to Minn. Stat. § 216C.05 as well.

³⁵ Minnesota Power Response to LPI Information Request No. 5000 (attached herein as “Attachment C”).

³⁶ Despite uncompetitive rates in direct contradiction to explicit state energy policy, the Commission approved the elimination of the Energy-Intensive, Trade-Exposed (“EITE”) Rider. Order at 77.

subsidies.³⁷ As this relates to the Company’s system, industrial customers are paying inflated rates to support and subsidize under-recovery from the Residential class.³⁸ Ms. York quantified these historical results as shown below.³⁹

TABLE 2
Growth in Average Delivered Cost of Electricity

<u>Line</u>	<u>Description</u>	<u>Current Rate</u>	<u>Case No. 21-335 MP Proposed</u>	<u>Increase / (Decrease) from Historical Rate</u>	
		<u>\$/kWh</u> (1)	<u>\$/kWh¹</u> (2)	<u>\$/kWh</u> (3)	<u>Percent</u> (4)
<u>Case No. 11-274²</u>					
1	Residential	0.08879	0.13982	0.05103	57.5%
2	Commercial (GS)	0.08874	0.13828	0.04954	55.8%
3	Industrial (LLP)	0.06696	0.10449	0.03753	56.0%
4	Industrial (LP)	0.05111	0.08320	0.03209	62.8%
<u>Case No. 06-1501³</u>					
5	Residential	0.07139	0.13982	0.06843	95.9%
6	Commercial (GS)	0.06953	0.13828	0.06875	98.9%
7	Industrial (LLP)	n/a	n/a		
8	Industrial (LP)	0.03846	0.08320	0.04474	116.3%
<u>Case No. 94-1⁴</u>					
9	Residential	0.06317	0.13982	0.07665	121.3%
10	Commercial (GS)	0.06349	0.13828	0.07479	117.8%
11	Industrial (LLP)	0.04649	0.10449	0.05800	124.8%
12	Industrial (LP)	0.03077	0.08320	0.05243	170.4%

Sources and Notes

¹ Calculated from proof of revenue, Schedule E-1.
² Case No. 11-274, Application at 11.
³ Case No. 06-1501, Application at 16.
⁴ Case No. 94-1, Application at 135.

Despite the existence of inter-class subsidies, the LP class continues to absorb rate increases at a shockingly higher rate than other customer classes. On its face, it is inequitable, unjust, and unreasonable for electric rates to not make movement to cost over a nearly 30-year period.

The Revenue Allocation Decision continues this trajectory and adds even more pressure to the industry-based economy in northern Minnesota, of which LPI members play a vital role. Evidence in the record provides quantifiable data showing the key role industrial customers play

³⁷ See Ex. DOC-12 at 11:21 – 12:2 (Peirce Direct); Ex. LPI-8 at 8-10 (York Surrebuttal). An inter-class subsidy exists when a class of customers is apportioned a revenue responsibility that does not adequately cover the costs of serving that class, which forces other customer classes to pay increased rates to cover the utility’s shortfall. Ex. DOC-12 at 11:21 – 12:2 (Peirce Direct).

³⁸ The Company also confirmed that the trajectory of LP customers’ rates is inconsistent with cost of service. See Tr. Vol. 2 at 154:11 (Moeller).

³⁹ Ex. LPI-8 at 9:2-10:3 (York Surrebuttal) (footnotes omitted).

to the Company and the regional economy. For example, Company witness Frank Frederickson offered testimony regarding the over \$115 million in production tax revenue paid by the iron mining industry in 2019, which is distributed annually to local school districts, cities, and townships; property tax relief; and other causes.⁴⁰ As Mr. Frederickson acknowledged during cross-examination, it is unclear where this tax revenue will come from if this industry is forced to curtail operations because of competitiveness issues.⁴¹ On the issue of keeping operations competitive, Mr. Frederickson recognized that “the cost of energy is one of the more significant components of our largest customers’ operating expenses.”⁴² And Mr. Frederickson acknowledged that there is at least some correlation between increased rates for the LP class and reduced electric energy sales to the LP class.⁴³ There can be no clearer indicator that industrial customers’ ability to pay is directly tied to the need for competitive electric rates and bills, and that ability has waned as a result of the continued inter-class subsidies on the Company’s system. Yet, the Commission did not consider this evidence in making the Revenue Allocation Decision.

The Commission similarly passed over evidence that LP customers can and are experiencing rate shock. Based on updated evidence provided by the Company, LP customers paid approximately \$94.90 per MWh in 2022, and are projected to pay \$97.01 per MWh in 2023.⁴⁴ These same customers were paying approximately \$51.11 per MWh in 2011⁴⁵ and \$80.40 per MWh in 2021.⁴⁶ In other words, the LP class’s rates increased by approximately \$30.00 per MWh from 2011 to 2021, which already represents a significant increase. The LP class is now faced with the prospect of absorbing an additional increase of approximately \$17.00 per MWh in a span of only two years.⁴⁷ This is well over 50% of the increases LP customers previously absorbed over a decade, and represents an over \$45.00 per MWh (or approximately 88%) increase over the last 12 years. To be sure, if increases of this magnitude do not trigger concerns about rate shock for the LP class, nothing will, yet no party disputed that the LP class is not immune from this concern. As this relates to the just, reasonable, and anti-discriminatory standards under Minn. Stat.

⁴⁰ Ex. MP-30 at 41:6-16 (Frederickson Direct).

⁴¹ Evid. Tr. Vol. 1 at 74:6-16 (Frederickson).

⁴² Evid. Tr. Vol. 1 at 73:6-8 (Frederickson).

⁴³ Evid. Tr. Vol. 1 at 76:17-21 (Frederickson). Additionally, one Residential customer advocate appears to implicitly acknowledge these risk factors by proposing a class-specific ROE. Order at 63-64.

⁴⁴ Attachment C.

⁴⁵ *Supra* note 39 (York Table 2).

⁴⁶ Attachment C.

⁴⁷ Attachment C.

§ 216B.03, the rate shock principle cannot be the justification for protecting one class of customers (in this case exclusively the Residential class) while forcing another class (the LP Class) to experience rate shock.

Despite evidence proffered by LPI (and others), the Commission disregarded both cost and non-cost factors pertaining to non-residential customers that should have been accounted for in the revenue allocation process. The Commission arbitrarily and capriciously turned a blind eye to all CCOSS data in the record and further ignored evidence demonstrating that the LP customer class is also deserving of the same non-cost considerations as the Residential class. As such, the Commission erred in apportioning an equal 9% rate increase to all customer classes, and the Order should be reconsidered. The Commission's misguided reasoning is further compounded by its failure to consider evidence mitigating the ability to pay and rate shock concerns used to completely depart from cost causation for the Residential class, which is further described below.

3. A Cost-Based Revenue Allocation Is Just and Reasonable and Avoids Rate Shock and Ability-to-Pay Concerns for the Residential Class

To justify the complete departure from cost of service to benefit Residential customers, the Commission relies upon two non-cost factors: ability to pay and avoiding rate shock.⁴⁸ However, the Order ignores unrebutted evidence submitted by LPI specifically addressing these points, which LPI renews herein.

With respect to ability to pay, evidence in the record demonstrates that concerns with ability to pay are unfounded. First, in surrebuttal testimony, the Company committed to larger low-income protections, which were agreed to and approved by the Commission.⁴⁹ The Company, CUB, and ECC agreed to a partial settlement agreement that significantly expanded the Customer Affordability of Residential Electricity ("CARE") program.⁵⁰ While Company witness Ms. Jennifer Cady claims that the partial settlement agreement provides assistance to the "vast majority" of low-income Residential customers,⁵¹ it, in fact, appears to cover all low-income customers. ECC notes that "an estimated 26,672 low-income customers ... are eligible for the

⁴⁸ Order at 69.

⁴⁹ Order at 70-71.

⁵⁰ Ex. MP-20 at Sched. 2 (Cady Surrebuttal).

⁵¹ Ex. MP-20 at 12:1-8 (Cady Surrebuttal).

proposed 40% discount” under the settlement.⁵² According to data cited by ECC, about 12% or approximately 13,177 of the Company’s customers are past due.⁵³ If nearly 27,000 low-income customers are eligible for the 40% discount, and roughly half of those customers are struggling to pay their electric bills, then it stands to reason that the partial settlement supported by ECC, CUB, and the Company should provide assistance to those Residential customers who need it most. Alternatively stated, all of the eligible past-due customers (and more) are protected by the partial settlement proposal in this proceeding, meaning that it is also logical that concerns about these customers’ ability to pay should also be largely, if not entirely, mitigated.⁵⁴

Additionally, other evidence in the record assuages concerns with regard to other Residential customers’ ability to pay. Tables 3 and 4 of Ms. Leah Peterson’s direct testimony depict Minnesota Power’s Residential monthly service charge in comparison to “neighboring” cooperatives and municipal utilities.⁵⁵ The Company further confirmed that the “neighboring” electric service providers may serve customers in or around the Company’s service territory.⁵⁶ For ease of reference, the Company’s service territory is depicted below in yellow on the map below.⁵⁷

⁵² ECC Initial Br. at 5.

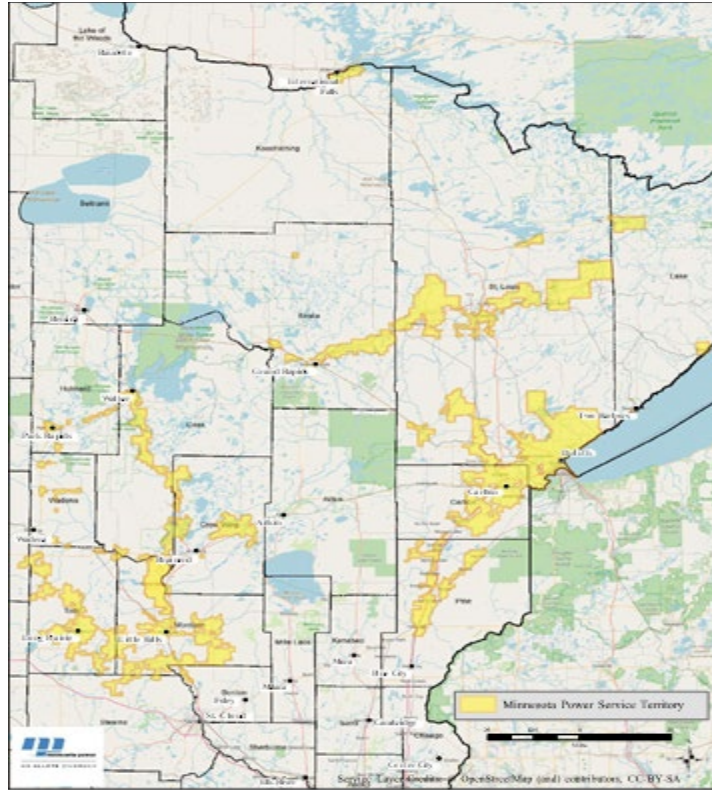
⁵³ ECC Initial Br. at 2. To arrive at the 12% number see Ex. ECC-2 at 7 (Fair Rebuttal).

⁵⁴ See Ex. MP-20 at 12:1-8 (Cady Surrebuttal).

⁵⁵ Ex. MP-56 at 19:12 – 20:7 (Peterson Direct).

⁵⁶ See Evid. Tr. Vol. 2 at 50:14 – 51:15 (Peterson); Evid. Tr. Vol. 1 at 34:22 – 35:24 (Cady).

⁵⁷ The map below is a condensed, illustrative version of the map that appears as Schedule 1 to Company witness Daniel Gunderson’s direct testimony. Ex. MP-42 at Sched. 1 (Gunderson Direct).



Of the 2021 data presented in Tables 3 and 4 of Ms. Peterson’s direct testimony, the Company’s \$8.00 monthly customer charge was the lowest among the providers listed and the highest service charge was North Itasca Power Cooperative at \$46.00.⁵⁸ Stated another way, the Company’s monthly service charge was nearly six times smaller than that of another neighboring service provider.

LPI witness Ms. York also provided data demonstrating that the Company’s Residential rates are significantly lower than those on other Minnesota utility systems.⁵⁹ Combining the data prepared by Ms. Peterson and Ms. York and comparing the Company to Lake Country Power draws a sharp contrast between the Company and a service provider serving residential customers in the same general geographic area. Lake Country Power charges its residential customers a monthly service charge of \$42.00⁶⁰ and an average residential rate of \$0.14953 per kWh.⁶¹ The Company’s monthly service charge is \$8.00⁶² and it has an average Residential rate of \$0.11184

⁵⁸ Ex. MP-56 at 19:12 – 20:7 (Peterson Direct).
⁵⁹ Ex. LPI-6 at 15:19-22, Sched. 1 (York Direct).
⁶⁰ Ex. MP-56 at 19:12 – 20:7 (Peterson Direct).
⁶¹ Ex. LPI-6 at 15:19-22, Sched. 1 (York Direct).
⁶² Ex. MP-56 at 19:12 – 20:7 (Peterson Direct).

per kWh based on evidence presented in this case.⁶³ This means there is a significant delta between rates and bills the Company's Residential customers pay compared to those on Lake County Power's system. In short, residential customers who live in the same general geographic location as the Company's Residential class are capable of paying substantially higher rates. Therefore, concerns about the Residential class's ability to pay are misplaced and unsupported by the evidence in the record.

LPI's proposal is also consistent with protecting customers from rate shock. The Company's initial revenue allocation proposal allocated an increase of 18.22% to the Residential class based on an equal share of the Company's proposed \$108.3 million revenue deficiency.⁶⁴ The Order lowers that amount to approximately 9%.⁶⁵ Yet, despite the significant reduction to the revenue requirement, the Commission elected to make no movement toward cost, rejecting LPI's proposed revenue allocation proposal because it "would almost certainly cause rate shock and does not adequately account for residential customers' ability to pay."⁶⁶ Importantly, unlike LPI, which proposed a three-year Residential rate phase-in to support gradually moving customers to cost and introduced evidence demonstrating Residential customers' capacity to incur rate increases,⁶⁷ the Commission cites no specific data to support these assertions and ignored substantial cost- and non-cost-based evidence introduced by the parties involved in this case.

The Commission reached the Revenue Allocation Decision by self-selecting finite non-cost factors on which the Commission placed particular significance and only applied them to the Residential class. In so doing, the Commission arbitrarily and capriciously chose not to consider substantial evidence illustrating that the ability to pay and rate shock are real concerns for non-residential customers as well. Furthermore, the Revenue Allocation Decision represents a willful departure from cost-causation that ignores unrefuted CCOSS data in the record. The Revenue Allocation Decision is, therefore, contrary to Minnesota law and the Commission's own precedent. And LPI respectfully requests that the Commission reconsider this aspect of the Order to correct its flawed reasoning.

⁶³ Ex. LPI-6 at 15:19-22, Sched. 1 (York Direct).

⁶⁴ Ex. MP-56 at 13:1-2 (Peterson Direct).

⁶⁵ Order at 69.

⁶⁶ Order at 69.

⁶⁷ Ex. LPI-6 at 18-19 (York Direct).

C. The Commission Should Clarify the Interim Rates Decision

As described above, by taking administrative notice of various dockets, the Commission unilaterally found exigent circumstances for Residential customers only, lowering interim rates from 14.23% to 7.11% exclusively for that class. Within 20 days of the Interim Rates Order, LPI filed the Interim Rates Letter. Though aware that Minn. Stat. § 216B.16, subd. 3(a), prohibits rehearing of the Interim Rates Order until after the Commission’s “final determination,” LPI was compelled to file the Interim Rates Letter to question the Commission’s statutory authority to take administrative notice of dockets in which there was no contested case or sworn testimony, and in which at least one of the dockets was initiated to encourage additional utility spending (i.e., increasing rates for customers) in direct contradiction to the Commission’s stated goals of protecting Residential customers from increased costs.⁶⁸ Additionally, LPI also questioned the Commission’s arbitrary determination that the claimed exigent circumstances applied to Residential customers only without providing evidence or justification for why other customer classes were excluded from rate relief.⁶⁹ Lastly, the Interim Rates Letter reiterated LPI’s concerns that setting interim rates at different levels for Residential customers could eventually harm non-residential customers during the interim rate refund process,⁷⁰ which remains LPI’s chief concern in this request for clarification.

By way of background, as a result of the Interim Rates Order, all non-residential customers paid an interim rate increase of 14.23%, while Residential customers paid an increase of 7.11% during the interim rates period. After reviewing the case, the Commission ultimately approved a 9% final rate increase for all customer classes.⁷¹ This outcome creates the statutory conflict LPI articulated at the outset of this case.⁷² Pursuant to Minn. Stat. § 216B.16, subd. 3(c), a typical interim rate refund scenario requires “the utility to refund the excess amount collected under the interim rate schedule, including interest.” In this case, this entitles non-residential customers to an interim rate refund of approximately 5.23% (14.23% - 9%). Conversely, Residential customers

⁶⁸ Interim Rates Order at 2; see *In the Matter of an Inquiry into Utility Investments that May Assist in Minnesota’s Economic Recovery from the COVID-19 Pandemic*, Notice of Reporting Required by Utilities at 2 (May 20, 2020). To be clear, LPI maintains and does not waive any of the factual or legal arguments raised in response to the Interim Rates Order, and attaches Attachments A and B to preserve these arguments.

⁶⁹ Interim Rates Letter at 2.

⁷⁰ Interim Rates Letter at 2.

⁷¹ Order at 69.

⁷² See Attachments A and B.

paid an interim rate increase of only 7.11%, which triggers the surcharge provision also contained within Minn. Stat. § 216B.16, subd. 3(c). This permits the “Commission to prescribe a method by which the utility will recover the difference in revenues between the date of the final determination and the date the new rate schedules are put into effect,” meaning that the Company is statutorily permitted to seek an interim rate surcharge of 1.89% (9% - 7.11%) from the Residential class. Stated another way, the Company’s non-residential customers are entitled to a refund while the Company is entitled to additional revenue from the Residential class. LPI remains concerned that, rather than apply the statutorily mandated formulae, the Company’s interim rates proposal will somehow seek to make the Company whole by diluting the refund due to non-residential customers.

The Order does nothing to assuage LPI’s concerns and appears to exacerbate the potential for an unequitable outcome. The Order explicitly states that there will be “no surcharge on Residential ratepayers for the difference between final and interim rates.”⁷³ The Company further represented that it will not be seeking a surcharge from the Residential class.⁷⁴ While this point was explicitly captured in the Order, it does not appear that the non-residential customer protections that were covered during oral argument were addressed by the Order. For example, Commissioner Schuerger seemingly addressed this point with the Company noting that “the Company [would] eat[] the difference” for the Residential class, which was confirmed by the Company.⁷⁵ Yet, this language is not reflected in the Order, which merely directs the Company to file a compliance filing that details its proposed interim rate refund calculations.⁷⁶ And further claims that “LPI will have an opportunity to raise [] arguments when the Commission considers Minnesota Power’s compliance filing.”⁷⁷

Additionally, the timing for objections contemplated by the Order is inconsistent with statutory requirements.⁷⁸ Though LPI appreciates the Commission’s direction to address any concerns in response to the Company’s compliance filing, Minn. Stat. § 216B.16, subd. 3(a) appears to identify the “final determination” as the appropriate time to seek rehearing or, in this

⁷³ Order at 69.

⁷⁴ Tr. Vol. 2 at 160:3 – 161:16 (Moeller et al.).

⁷⁵ Tr. Vol. 2 at 161:14-17 (Moeller and Commissioner Schuerger).

⁷⁶ Order at 78.

⁷⁷ Order at 78.

⁷⁸ Minn. Stat. § 216B.16, subd. 3(a).

case, clarification. As such, to protect and preserve its interests and adequate legal remedies, LPI respectfully seeks clarification of the interim rate refund determination at this time.

Based on LPI's understanding of the transcript and intent therein, non-residential customers should receive a full interim rate refund based on the delta between the 14.23% interim rate increase and the final increase in this case (approximately 5.23%), Residential customers will neither be surcharged nor receive a refund, and the Company will unfortunately absorb the loss due to under-recovery from the Residential class. Should the Commission elect to clarify the Order, LPI requests that the Commission direct the Company to file an interim rate refund proposal that explicitly accounts for this direction.

D. The Commission Should Clarify the Appropriate Fuel Clause Docket to Address the LLP TOU Proposal

LPI also seeks clarification with respect to the Commission's decision on the proposed LLP TOU energy rates. In testimony and briefing, LPI recommended that the Company develop separate on-peak and off-peak fuel and purchased energy rates for its LLP TOU customers.⁷⁹ LPI contends that time-differentiated energy rates will improve the accuracy of allocated fuel and purchased energy costs, providing better cost signals to encourage customer response.⁸⁰ Ultimately, the Commission concurred with the ALJ and the Company that LPI's proposal will be better developed in "a fuel clause adjustment docket."⁸¹ However, the Order does not specify when or in which fuel and purchased energy docket this proposal should be addressed. Without more specific direction, LPI is concerned that this proposal will not be meaningfully addressed moving forward. LPI, therefore, requests that the Commission clarify the Order to direct the Company to develop this proposal in a specific proceeding. LPI further suggests that the Company's 2024 fuel and purchased energy forecast docket, which will be filed during the summer of 2023, appears to be a reasonable option.

⁷⁹ LPI Initial BR. at 40-41.

⁸⁰ *Id.*

⁸¹ Order at 73.

E. The Commission Should Clarify Its LLP Voltage Discount Decision

Lastly, LPI seeks clarification on the outcome of the proposed LLP Voltage Discount. The Company initially proposed to increase the transmission level voltage discount to \$2.25/kW and \$0.006/kWh for demand and energy charges. While LPI agreed conceptually, it proposed increasing these discounts to \$2.45/kW and \$0.008/kWh for demand and energy charges, respectively. The ALJ agreed with LPI's position and recommended an increase to the Voltage Discount in accordance with LPI's request.⁸² The Commission, however, does not appear to substantively address this position in the Order. Order point 53 simply states the Commission "adopts the proposed Voltage discounts."⁸³ LPI requests clarification on this Order point for two reasons. As an initial matter, it is unclear if the Order adopts LPI's proposed and ALJ's recommended changes to the Voltage Discount or if the Commission is rejecting that recommendation and accepting the Company's initial proposal. If the latter, LPI is similarly unclear as to why the Commission elected to deviate from the ALJ on this point. LPI, therefore, seeks clarification on this point.

III. CONCLUSION

The Revenue Allocation Decision is contrary to Minnesota law and notions of fundamental fairness, and results in an unjust, unreasonable, and discriminatory allocation of rates between the Company's customer classes. Therefore, LPI respectfully requests the Commission reopen, reconsider, and amend its Revenue Allocation Decision to account for cost causation and reasonably apply non-cost factors impacting all of the Company's customer classes. In addition, LPI seeks clarification with respect to the interim rate refund and associated calculations, the LLP TOU issues, and the LLP Voltage Discount decisions outlined above. LPI is grateful for the opportunity to work with the Company and stakeholders in this important proceeding and looks forward to continued efforts moving forward.

⁸² ALJ Report at 145.

⁸³ Order at 82.

Dated: March 20, 2023

Respectfully submitted,

STOEL RIVES LLP

/s/ Andrew P. Moratzka

Andrew P. Moratzka

Riley A. Conlin

33 South Sixth Street, Suite 4200

Minneapolis, MN 55402

Tele: 612-373-8800

Fax: 612-373-8881

ATTORNEYS FOR THE LARGE POWER
INTERVENORS

118851804.5 0064591-00028



December 1, 2021

VIA E-FILING

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

Andrew P. Moratzka
33 S Sixth Street, Suite 4200
Minneapolis, MN 55402
D. 612.373.8822
andrew.moratzka@stoel.com

**RE: In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Utility Service in Minnesota
PUC Docket No. E-015/GR-21-335**

Dear Mr. Seuffert:

Pursuant to its conversations with commissioners during the December 1, 2021, Minnesota Public Utilities Commission ("Commission") hearing, the Large Power Intervenors ("LPI") respectfully submit this letter and attached Exhibit A containing hypothetical interim rate collection and refund scenarios comparing the potential outcomes resulting from the utilization of a standard interim rate increase versus the alternate interim rate proposal put forth by Minnesota Power, Citizens Utility Board of Minnesota, and Energy CENTS Coalition ("Alternate Proposal"). LPI attempted to provide this data at the December 1, 2021, Agenda Meeting; however, technological constraints prevented LPI from doing so.

It is possible that LPI misunderstands the Alternate Proposal. In any event, LPI is concerned that, absent a party offering analysis such as Exhibit A into the record, the Commission may not have all relevant information before it because no similar analysis has been included in the Alternate Proposal. Therefore, LPI respectfully requests that the Commission accept and consider the data contained herein.

LPI looks forward to any additional discussion on this matter. By copy of this letter, all parties have been served. A Certificate of Service is also attached.

Very truly yours,

Stoel Rives LLP

/s/ Andrew P. Moratzka

Andrew P. Moratzka

APM:rac
Enclosures

EXHIBIT A - Interim Rates Collection and Refund/Surcharge Comparisons

INTERIM RATES - Standard

<u>Customer Class</u>	<u>Present Revenues</u>	<u>Interim Revenues</u>	<u>Dollar Increase</u>	<u>Percentage Increase</u>
Residential	\$111,948,172	\$127,878,397	\$15,930,225	14.23%
General Service	\$76,999,163	\$87,956,144	\$10,956,981	14.23%
LLP	\$107,584,315	\$122,893,563	\$15,309,248	14.23%
LP	\$303,074,818	\$346,202,364	\$43,127,546	14.23%
Lighting	\$3,807,678	\$4,349,511	\$541,833	14.23%
Dual Fuel Residential	\$8,260,534	\$9,436,008	\$1,175,474	14.23%
Dual Fuel C&I	\$1,984,546	\$2,266,946	\$282,401	14.23%
Total	\$613,659,226	\$700,982,933	\$87,323,708	14.23%

<u>Collections - Alt. Interim Rates</u>	<u>Dollars</u>	<u>Ratio</u>
Interim Rates Non-Res	\$71,393,483	89.96%
Interim Rates Residential	\$7,965,113	10.04%
Total	\$79,358,596	100.00%

<u>Collections - Reg Interim Rates</u>	<u>Dollars</u>	<u>Ratio</u>
Interim Rates Non-Res	\$71,393,483	81.76%
Interim Rates Residential	\$15,930,225	18.24%
Total	\$87,323,708	100.00%

INTERIM RATES - Alternate

<u>Customer Class</u>	<u>Present Revenues</u>	<u>Interim Revenues</u>	<u>Dollar Increase</u>	<u>Percentage Increase</u>
Residential	\$111,948,172	\$119,913,285	\$7,965,113	7.12%
General Service	\$76,999,163	\$87,956,144	\$10,956,981	14.23%
LLP	\$107,584,315	\$122,893,563	\$15,309,248	14.23%
LP	\$303,074,818	\$346,202,364	\$43,127,546	14.23%
Lighting	\$3,807,678	\$4,349,511	\$541,833	14.23%
Dual Fuel Residential	\$8,260,534	\$9,436,008	\$1,175,474	14.23%
Dual Fuel C&I	\$1,984,546	\$2,266,946	\$282,401	14.23%
Total	\$613,659,226	\$693,017,821	\$79,358,596	12.93%

<u>Final Rates</u>	<u>Revenue Requirement</u>	<u>Dollar Increase (the "Ask")</u>	<u>Percentage Increase</u>
	\$724,300,000	\$108,300,000	17.58%

Refund Scenarios - Alternate

	80% of Ask	73.28% of Ask	70% of Ask	60% of Ask	50% of Ask
Approved Increase	\$86,640,000	\$79,358,558	\$75,810,000	\$64,980,000	\$54,150,000
Total Interim Rate Refund	-\$7,281,405	\$38	\$3,548,596	\$14,378,596	\$25,208,596
Overcollection Factor	-9.18%	0.00%	4.47%	18.12%	31.77%
Non-Res Refund	-\$6,550,580	\$34	\$3,192,428	\$12,935,436	\$22,678,444
Res Refund	-\$730,825	\$4	\$356,168	\$1,443,160	\$2,530,152
Total Interim Rate Refund	-\$7,281,405	\$38	\$3,548,596	\$14,378,596	\$25,208,596

Refund Scenarios - Regular

	80% of Ask	73.28% of Ask	70% of Ask	60% of Ask	50% of Ask
Approved Increase	\$86,640,000	\$79,358,558	\$75,810,000	\$64,980,000	\$54,150,000
Total Interim Rate Refund	\$683,708	\$7,965,150	\$11,513,708	\$22,343,708	\$33,173,708
Overcollection Factor	0.78%	9.12%	13.19%	25.59%	37.99%
Non-Res Refund	\$558,981	\$6,512,090	\$9,413,294	\$18,267,607	\$27,121,919
Res Refund	\$124,727	\$1,453,061	\$2,100,414	\$4,076,101	\$6,051,789
Total Interim Rate Refund	\$683,708	\$7,965,150	\$11,513,708	\$22,343,708	\$33,173,708

Ratepayer Impact: Alt to Regular

	80% of Ask	73.28% of Ask	70% of Ask	60% of Ask	50% of Ask
Overcollection Factor	9.96%	9.12%	8.71%	7.47%	6.22%
Non-Res Refund	(\$7,109,561)	(\$6,512,056)	(\$6,220,866)	(\$5,332,171)	(\$4,443,476)
Res Refund	(\$855,551)	(\$1,453,057)	(\$1,744,247)	(\$2,632,942)	(\$3,521,637)
Total Interim Rate Refund	(\$7,965,113)	(\$7,965,113)	(\$7,965,113)	(\$7,965,113)	(\$7,965,113)

CERTIFICATE OF SERVICE

I, Riley A. Conlin, hereby certify that I have this day served a true and correct copy of the following document(s) to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States Mail at Minneapolis, Minnesota.

**LETTER WITH EXHIBIT A ON BEHALF OF THE
LARGE POWER INTERVENORS**

In the Matter of the Application of Minnesota
Power for Authority to Increase Rates for
Electric Utility Service in Minnesota
PUC Docket No. E-015/GR-21-335

Dated this 1st day of December, 2021

/s/ Riley A. Conlin
Riley A. Conlin



January 19, 2022

Andrew P. Moratzka
33 S Sixth Street, Suite 4200
Minneapolis, MN 55402
D. 612.373.8822
andrew.moratzka@stoel.com

VIA E-FILING

Mr. Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, MN 55101

**Re: In the Matter of the Application by Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota
OAH Docket No. 5-2500-38008
PUC Docket No. E015/GR-21-335**

Dear Mr. Seuffert:

On behalf of the Large Power Intervenors (“LPI”),¹ we are writing to articulate potentially problematic aspects of the Minnesota Public Utilities Commission’s (the “Commission”) December 30, 2021, order setting interim rates in the above-referenced docket.² LPI understands and appreciates the Commission’s desire to creatively approach rate mitigation; however, LPI is troubled that, in this instance, the selected approach both excludes non-residential customers from the short-term benefits of rate mitigation and exposes those same customers to potential harm during the interim-rate refund process. In addition, LPI respectfully asserts that the justification for the finding of exigent circumstances is both legally and factually deficient. Therefore, and notwithstanding Minn. Stat. § 216B.16, subd. 3(a), LPI is compelled to submit this brief letter.³ For the reasons set forth below, LPI believes the Commission could, on its own motion, reconsider its decision in the Interim Rates Order.

¹ LPI is an *ad hoc* consortium of industrial Large Power and Large Light and Power customers of Minnesota Power consisting for purposes of this filing of Blandin Paper Company; Boise White Paper, L.L.C., a Packaging Corporation of America company, formerly known as Boise, Inc.; Cleveland-Cliffs Minorca Mine 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.

² Order Setting Interim Rates (Dec. 30, 2021) (eDocket No. 202112-181086-03) (“Interim Rates Order”).

³ Although this subsection restricts the timing for applications for rehearing until the conclusion of the case, LPI is merely drawing the Commission’s attention to issues it may want to rectify. Should LPI elect to pursue remedies afforded by state law at the conclusion of this proceeding, it will formally submit a petition for reconsideration.

Mr. Will Seuffert
January 19, 2022
Page 2

Importantly, the Commission's authority to unilaterally reduce interim rates is tenuous at best when that authority is invoked through administrative notice of dockets in which there was not a contested case, sworn testimony was not supplied, and the purpose of at least one of those dockets is directly at odds with the stated objectives pursued in the Interim Rates Order. Even if the Commission had such authority, the Commission's claimed justifications for finding exigent circumstances in the Interim Rates Order are insufficient because they single out one class (the residential class) for rate relief largely based on a global pandemic, without explaining why other classes were excluded from the same rate relief who were undeniably also impacted by that same global pandemic.

Furthermore, and depending on the level at which the Commission sets final rates in this proceeding, other non-residential customer classes may be adversely impacted by the decision in the Interim Rates Order. For example, it is possible that any interim rate refund to non-residential customer classes will be reduced or eliminated as a direct result of the Commission's decision in the Interim Rates Order.⁴

LPI looks forward to continued dialogue on this matter and greatly appreciates the Commission's attention to this important issue. In the meantime, LPI respectfully suggests that the Commission evaluate the Interim Rates Order and take any necessary steps to ensure non-residential customer classes, including LPI members, are not irretrievably harmed by the Interim Rates Order.

By copy of this letter, all parties have been served. Also attached is a Certificate of Service.

Very truly yours,

Stoel Rives LLP

/s/ Andrew P. Moratzka

Andrew P. Moratzka

APM:cal
Enclosures

cc: Service List

113827647.3 0064591-00028

⁴ See Reply Letter Comment by LPI at 3 (Nov. 15, 2021) (eDocket No. 202111-179790-01).

CERTIFICATE OF SERVICE

I, Carmel Laney, hereby certify that I have this day served a true and correct copy of the following document(s) to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States Mail at Minneapolis, Minnesota.

LETTER SUBMITTED ON BEHALF OF THE LARGE POWER INTERVENORS

In the Matter of the Application by
Minnesota Power for Authority to Increase
Rates for Electric Service in Minnesota
OAH Docket No. 5-2500-38008
PUC Docket No. E015/GR-21-335

Dated this 19th day of January, 2022

/s/ Carmel Laney
Carmel Laney

LARGE POWER INTERVENORS

Information Request

Docket Number(s): E015/RP-21-33; E015/GR-21-335;
E015/M-22-216; E015/M-21-60; E015/M-21-61

Date of Request: October 28, 2022

Requested From: Minnesota Power

Response Due: November 9, 2022

By: Large Power Intervenors (Andrew P. Moratzka and Riley A. Conlin)

Information Request No. 5000

a. Please update the data captured in Appendix L of the Company's pending Integrated Resource Plan (PUC Docket No. E015/RP-21-33), including the Company's requested increase in PUC Docket No. E015/GR-21-335 and other rate increases approved since the filing of the Company's Integrated Resource Plan Initial Filing. Table 1 from Appendix L is reproduced below as a representative sample.

Rate Class Impacts 1/	2021	2022	2023	2024
Residential (average rate, cents/kWh)	12.114	12.114	12.114	12.114
Increase (cents/kWh)	-0.003	0.180	0.145	0.158
Increase (%)	-0.03%	1.49%	1.20%	1.31%
Average Impact (\$ / month)	-\$0.02	\$1.28	\$1.03	\$1.12
General Service (average rate, cents/kWh)	12.053	12.053	12.053	12.053
Increase (cents/kWh)	-0.003	0.180	0.145	0.158
Increase (%)	-0.03%	1.49%	1.20%	1.31%
Average Impact (\$ / month)	-\$0.09	\$4.72	\$3.78	\$4.10
Large Light & Power (average rate, cents/kWh)	9.434	9.434	9.434	9.434
Increase (cents/kWh)	-0.003	0.156	0.130	0.140
Increase (%)	-0.03%	1.66%	1.38%	1.49%
Average Impact (\$ / month)	-\$5.22	\$374.16	\$309.92	\$335.11
Large Power (average rate, cents/kWh)	7.223	7.223	7.223	7.223
Increase (cents/kWh)	-0.002	0.055	0.035	0.041
Increase (%)	-0.03%	0.76%	0.48%	0.57%
Average Impact (\$ / month)	-\$1,140	\$32,828	\$20,752	\$24,674
Lighting (average rate, cents/kWh)	19.086	19.086	19.086	19.086
Increase (cents/kWh)	-0.005	0.238	0.182	0.202
Increase (%)	-0.03%	1.25%	0.95%	1.06%
Average Impact (\$ / month)	-\$0.04	\$1.85	\$1.41	\$1.56
Average Weighted Increase (cents/kWh)	-0.002	0.099	0.074	0.083
Avg Weighted Increase (%)	-0.03%	1.15%	0.86%	0.96%
Notes: 1/ Average current rates are 2021 estimates. These estimates are based on 2020 base rates from Minnesota Power's last rate case (E-015/GR-19-442) with 2021 estimated cost recovery rider rates and estimated 2021 FPE and CPA factor added. CPA factor is not applied to Large Power Class.				

Witness: Stewart J Shimmin
 Response by: Stewart J Shimmin
 Title: Revenue Requirements Lead
 Department: Rates
 Telephone: (218) 355-3562

LARGE POWER INTERVENORS
Information Request

Docket Number(s): E015/RP-21-33; E015/GR-21-335;
E015/M-22-216; E015/M-21-60; E015/M-21-61

Date of Request: October 28, 2022

Requested From: Minnesota Power

Response Due: November 9, 2022

By: Large Power Intervenors (Andrew P. Moratzka and Riley A. Conlin)

- b. Referring to the response in subpart (a) above, please provide a second updated Appendix L chart to include all of the information in response to subpart (a) and the Company's planned or expected increases over the same period.
- c. Using the updated information produced in subparts (a) and (b) above, please explain how the Company's projected rates achieve the state's policy goal that rates be 5% below the national average for all customer classes pursuant to Minn. Stat. § 216C.05, subd 2(4).
- d. Using the updated information produced in subparts (a) and (b) above, please explain how the Company's projected rates comply with the state's policy goal to ensure competitive electric rates for energy-intensive, trade-exposed customers pursuant to Minn. Stat. § 216B.1696.

RESPONSE:

- a. Refer to the Table 1(a) below for the requested updates. The updated Average Current Rates by year include the Company's requested increase in MPUC Docket No. E015/GR-21-335 and other actual rates and approved rate increases since the filing of the Company's Integrated Resource Plan Initial Filing. The "Increase (cents/kWh)" and "Average Impact (\$/month)" are the original increases of the Preferred Plan as filed in the Company's Integrated Resource Plan Initial Filing. The "Increase (%)" is now calculated relative to the updated Average Current Rates, as opposed to being relative to only 2021 as in the original table. Otherwise, the original billing units, allocations and methodologies are unchanged from the initial filing.

Witness: Stewart J Shimmin
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LARGE POWER INTERVENORS

Information Request

Docket Number(s): E015/RP-21-33; E015/GR-21-335;
E015/M-22-216; E015/M-21-60; E015/M-21-61

Date of Request: October 28, 2022

Requested From: Minnesota Power

Response Due: November 9, 2022

By: Large Power Intervenors (Andrew P. Moratzka and Riley A. Conlin)

Updated Table 1(a): Estimated Average Rate Impacts of Preferred Plan Relative to Actual and Projected Average Rates

Rate Class Impacts \1	2021	2022	2023	2024
Residential (average rate, cents/kWh)	12.867	15.442	15.565	15.565
Increase (cents/kWh)	-0.003	0.180	0.145	0.158
Increase (%)	-0.03%	1.17%	0.93%	1.02%
Average Impact (\$ / month)	-\$0.02	\$1.28	\$1.03	\$1.12
General Service (average rate, cents/kWh)	12.807	15.368	15.491	15.491
Increase (cents/kWh)	-0.003	0.180	0.145	0.158
Increase (%)	-0.03%	1.17%	0.94%	1.02%
Average Impact (\$ / month)	-\$0.09	\$4.72	\$3.78	\$4.10
Large Light & Power (average rate, cents/kWh)	10.187	12.281	12.491	12.491
Increase (cents/kWh)	-0.003	0.156	0.130	0.140
Increase (%)	-0.02%	1.27%	1.05%	1.13%
Average Impact (\$ / month)	-\$5.22	\$374.16	\$309.92	\$335.11
Large Power (average rate, cents/kWh)	8.040	9.490	9.605	9.605
Increase (cents/kWh)	-0.002	0.055	0.035	0.041
Increase (%)	-0.02%	0.58%	0.36%	0.43%
Average Impact (\$ / month)	-\$1,140	\$32,828	\$20,752	\$24,674
Lighting (average rate, cents/kWh)	19.840	23.721	23.937	23.937
Increase (cents/kWh)	-0.005	0.238	0.182	0.202
Increase (%)	-0.03%	1.00%	0.76%	0.84%
Average Impact (\$ / month)	-\$0.04	\$1.85	\$1.41	\$1.56
Average Weighted Increase (cents/kWh)	-0.002	0.099	0.074	0.083
Average Weighted Increase (%)	-0.02%	0.88%	0.65%	0.73%

Notes: 1/ 2021 average rates are based on 2020 base rates from Minnesota Power's last rate case (E-015/GR-19-442) updated with 2021 actual FAC, CPA and cost recovery rider rates. CPA factor is not applied to Large Power Class. 2022 average rates are based on 2020 base rates above updated with an 18.22 percent increase per the Company's current rate case (E-015/GR-21-335), and approved FAC with true-up, CPA rate and currently in-place cost recovery rider rates. 2023 average rates are

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based on 2022 average rates above, assuming in-place 2022 FAC and costs recovery rates continue. 2024 average rates are assumed the same as 2023 rates above.

- b. Refer to the Table 1(b) below for the requested updates. The updated Average Current Rates by year include the Company's requested increase in MPUC Docket No. E015/GR-21-335, other actual rates and approved rate increases since the filing of the Company's Integrated Resource Plan Initial Filing, and expected 2023 rate changes that have been filed, but not yet approved for the Fuel Adjustment Clause rates, Renewable Resources Rider rates and Transmission Cost Recovery rider rates. The "Increase (cents/kWh)" and "Average Impact (\$/month)" are the original increases of the Preferred Plan as filed in the Company's Integrated Resource Plan Initial Filing. The "Increase (%)" is now calculated relative to the updated Average Current Rates, as opposed to being relative to only 2021 as in the original table. Otherwise, the original billing units, allocations and methodologies are unchanged from the initial filing.

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Date of Request: October 28, 2022

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By: Large Power Intervenors (Andrew P. Moratzka and Riley A. Conlin)

Updated Table 2(b): Estimated Average Rate Impacts of Preferred Plan Relative to Actual and Projected Average Rates

Rate Class Impacts \1	2021	2022	2023	2024
Residential (average rate, cents/kWh)	12.867	15.442	15.660	15.660
Increase (cents/kWh)	-0.003	0.180	0.145	0.158
Increase (%)	-0.03%	1.17%	0.93%	1.01%
Average Impact (\$ / month)	-\$0.02	\$1.28	\$1.03	\$1.12
General Service (average rate, cents/kWh)	12.807	15.368	15.587	15.587
Increase (cents/kWh)	-0.003	0.180	0.145	0.158
Increase (%)	-0.03%	1.17%	0.93%	1.01%
Average Impact (\$ / month)	-\$0.09	\$4.72	\$3.78	\$4.10
Large Light & Power (average rate, cents/kWh)	10.187	12.281	12.515	12.515
Increase (cents/kWh)	-0.003	0.156	0.130	0.140
Increase (%)	-0.02%	1.27%	1.04%	1.12%
Average Impact (\$ / month)	-\$5.22	\$374.16	\$309.92	\$335.11
Large Power (average rate, cents/kWh)	8.040	9.490	9.701	9.701
Increase (cents/kWh)	-0.002	0.055	0.035	0.041
Increase (%)	-0.02%	0.58%	0.36%	0.43%
Average Impact (\$ / month)	-\$1,140	\$32,828	\$20,752	\$24,674
Lighting (average rate, cents/kWh)	19.840	23.721	24.032	24.032
Increase (cents/kWh)	-0.005	0.238	0.182	0.202
Increase (%)	-0.03%	1.00%	0.76%	0.84%
Average Impact (\$ / month)	-\$0.04	\$1.85	\$1.41	\$1.56
Average Weighted Increase (cents/kWh)	-0.002	0.099	0.074	0.083
Average Weighted Increase (%)	-0.02%	0.88%	0.65%	0.72%

Notes: 1/ 2021 average rates are based on 2020 base rates from Minnesota Power's last rate case (E-015/GR-19-442) updated with 2021 actuals FAC, CPA and cost recovery rider rates. CPA factor is not applied to Large Power Class. 2022 average rates are based on 2020 base rates above updated with an 18.22 percent increase per the Company's current rate case (E-015/GR-21-335), and approved FAC with true-up, CPA rate and currently in-place cost recovery rider rates. 2023 average rates are

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based on 2022 average rates above, updated for expected, filed but not yet approved 2023 FAC with true-up, new 2022 RRR rates assumed as of 3/1/2023 and new 2023 TCR rates assumed as of 1/1/2023. 2024 average rates are assumed the same as 2023 rates above.

- c. Minnesota Power strives to meet all Minnesota policy goals as well as state requirements. The projected rates for the IRP are projected rates for Minnesota Power and do not include projected rates for the national averages that would be compared for evaluating Minn. Stat. § 216C.05, subd 2(4) or competitiveness under Minn. Stat. § 216B.1696. Related to Minn. Stat. § 216B.1696, the Company voluntarily implemented an Energy Charge Credit to eligible Large Power customers without the need for any other customers to pay a surcharge. Because of this, when the EITE discount is discontinued, effective with final rate implementation in the current rate case, the Commission can continue to “ensure competitive electric rates for energy-intensive trade-exposed customers” by incorporating the discount into the final rate design.

Related to the energy policy statement in Minn. Stat. § 216C.05 subd. 2(4) that “It is the energy policy of the state of Minnesota that...retail electricity rates for each customer class be at least five percent below the national average,” Minnesota Power is extremely sensitive to keeping rates for its industrial customers and all other customer classes competitive and affordable. In developing its rate increase proposal for each customer class, Minnesota Power considered the Commission’s stated energy policy goals and desired regulatory outcomes, including reasonable rates that are affordable for customers.

As previously stated in the current rate case, Minnesota Power would prefer to have its industrial rates (the Large Power and Large Light and Power classes) and rates for all other classes reflect the CCOSS results but also recognizes that a transition is needed over time to avoid overly burdensome impacts on any particular class of customers and that there are rate impacts associated with this current IRP that will need to be allocated to all customer classes.

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d. See response to (c).

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