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May 15, 2007

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: In the Matter of the Commission's Investigation into the Appropriateness of Continuing to Permit Electric Cost Adjustments
Docket No. E999/CI-03-802

Dear Dr. Haar:

Attached are the reply comments of the Energy Division of the Minnesota Department of Commerce (Department) in the following manner:

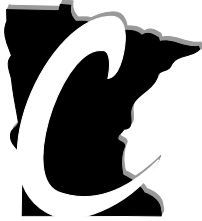
The March 30, 2007 Notice issued by the Minnesota Public Utilities Commission (Commission) requesting comments on the question of whether the investigation into the usefulness of the fuel clause adjustment (FCA) should be continued, and if so, what issues should be pursued.

The Department offers the following reply comments in this matter and is available to answer any questions the Commission may have.

Sincerely,

/s/ KATE O'CONNELL
Supervisor, Electric Planning and Advocacy

KO/ja
Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Reply COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE

DOCKET NO. E999/CI-03-802

I. INTRODUCTION AND BACKGROUND

As indicated in the Department's April 30, 2007 *Comments*, the Commission requested comments regarding the operation of the FCA. Along with the Department, the following (herein after referenced as the Parties) provided *Comments*:

- Minnesota Power (MP);
- The Residential Utilities Division of the Office of Attorney General (RUD-OAG);
- Otter Tail Power Company (OTP);
- Northern States Power d/b/a Xcel Energy (Xcel);
- Interstate Power and Light (IPL); and
- Dakota Electric Association (DEA).

The Department's *Comments* discussed the background for the FCAs, listed a number of options for the Commission to consider, and discussed benefits and drawbacks of these options, including the following concerns about the current operation of the FCA:

- not adequately planning for outages,
- not informing customers when fuel costs are high, and
- not properly allocating costs between retail customers and shareholders.

The Department also discussed some ways that may address these concerns.

The Department concluded the following in our *Comments*:

The Department also incorporates by reference our comments in the AAA Report (06-1208) and Smart Metering (06-159), along with the earlier comments in this docket. The Department notes that there may be merit in continuing the FCA for most utilities at this time, with heightened oversight, including:

- (1) outage benchmarking,
- (2) revisions in the allocations of costs and revenues between retail and wholesale customers, and
- (3) better use of MISO data to inform customers in advance about the times during the year when prices tend to be highest, and about times when prices are spiking, so that customers have more timely information about price increases.

The Department also notes that, depending on the circumstances and actions of utilities, the Commission may chose to make adjustments to the operation of a utility's FCA to address concerns that arise in practice. The Department has noted some concerns, for example, in its AAA Report. The Department looks forward to reviewing the responses by the utilities to the Department's AAA Report, along with the comments filed in this proceeding.

II. RESPONSES OF PARTIES

Overall, the Department notes that utilities appear to recommend that the Commission ignore the FCA issues, close this docket, and perhaps start the process all over again in a new docket. The Department does not support this approach, and sees it as inefficient. Moreover, the issues in this proceeding are important due to the significant amount of money being charged to ratepayers through the FCA (a flow-through mechanism) with significantly limited time to assess whether the rates being charged to ratepayers are just and reasonable. It is important for the Commission to be aware of the costs being passed on to ratepayers. It is also important to consider whether the FCA mechanism, which has been in place for decades with little or no re-assessment, continues to be reasonable as it currently operates in light of numerous changes in the industry.

The Department notes that the Parties have not had an opportunity to respond to the *Comments* of the Department, particularly the proposals for ways to mitigate the distortions noted above. The Department looks forward to reviewing the *Reply Comments* of Parties. The selected responses below pertain only to the *Comments* that have been filed to date in the instant docket.

RUD-OAG. The RUD-OAG notes, correctly, that the FCA is discretionary. This is an important fact to bear in mind as the Commission considers the issues in this proceeding. The Commission is not obligated to allow FCAs to continue, and may eliminate or modify the operation of the

FCA for some or all utilities, in light of the Commission's obligation under Minnesota Statute §216B.03, which states in relevant part:

Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. ... Any doubt as to reasonableness should be resolved in favor of the consumer.

The RUD-OAG also shares the Department's concerns about wholesale revenues that have not been passed on to ratepayers, at the same time that ratepayers have been required to pay higher costs. The Department appreciates the support of the RUD-OAG and continues to recommend that the Commission consider the proposals by the Department to address the issue of wholesale revenues.

In addition, the RUD-OAG shares the Department's concern about ensuring that ratepayers receive price signals in a reasonable and timely manner. The Department looks forward to proposals expected from utilities to address this issue which has become increasingly critical in light of higher fuel costs ratepayers are being required to pay.

The RUD-OAG notes that utilities do not bear any responsibility for increasing volatility in FCA costs in ratepayers' bills. The Department notes that the most important factor affecting this variability at this time appears to be plant outages. The Department's proposals for plant outages should require utilities to take more responsibility for controlling these costs.

While the Department may not agree with all details of the RUD-OAG's *Comments*, the Department agrees with the basic conclusion that "If the FCA is to continue to be used, the risks and rewards [between ratepayers and shareholders] must be brought back into balance."

MP: MP generally notes that there may be reasons to treat some utilities differently than others in this investigation. The Department notes that there is some merit to this statement. The comments the Department has provided in both this proceeding and the annual automatic adjustment (AAA) report (E,G999/AA-06-1208) contain issues that are both generic to all utilities and specific to some utilities. Moreover, in the instant proceeding the Department has noted that "depending on the circumstances and actions of utilities, the Commission may chose to make adjustments to the operation of a utility's FCA to address concerns that arise in practice" meaning that the Commission has the option of allowing the FCA to continue, perhaps in a modified format, for most utilities but may choose to suspend the FCA for a utility where significant concerns arise. Such suspension could be temporary or permanent.

MP repeatedly suggests ignoring the information which has been filed to date in this proceeding. While the Department agrees that numerous specific issues have been developed in the MISO Day 2 and other proceedings, the information filed to date in this proceeding pertain to general, high-level issues regarding the FCA. Those issues are still relevant and should not be discarded.

OTP: OTP recommends that this docket be closed since the benefits to be derived from looking at these issues “are not well enough defined to merit allocation of scarce resources at this time.” The Department respectfully disagrees with this assessment. The issues in this proceeding are important due to the significant amount of money being charged to ratepayers through the FCA. Each month, the FCA amounts to a mini-rate case with significantly limited time to assess whether the rates being charged to ratepayers are just and reasonable. The Department concludes that it is important for the Commission to be aware of the costs being passed on to ratepayers. Moreover, it is important to consider whether a mechanism, which has been in place for decades with little or no re-assessment, continues to be reasonable in light of numerous changes in the industry. Finally, the Commission’s Notice along with the *Comments* of the Department and RUD-OAG provide a reasonable scope of issues to be addressed in this proceeding.

Xcel: Xcel also recommended that the Commission close this docket. For the reasons noted above, the Department disagrees. Xcel also notes that Xcel’s forecasted FCA provides better price signals than an FCA based on the net costs in the previous two months. The Department agrees with Xcel on this issue. However, the Department’s *Comments* on price signals pertain as much to Xcel as to other utilities.

Xcel states that it is not opposed to an FCA incentive mechanism; the Department considers this comment to be helpful in this docket. Xcel also cites concerns about a banding mechanism because Xcel’s affiliate in Wisconsin has had to change the base used in the band “multiple times.” However, in Minnesota, Xcel files an FCA rate revision *every month*, so the issue of making frequent filings already exists in Minnesota. The Department concludes that there may be merit in implementing an incentive mechanism for some or all utilities. At a minimum, the mechanisms the Department recommended in its *Comments* need to be considered in this docket.

Xcel states repeatedly that the MISO FCA docket is the appropriate venue to address issues related to the FCA, including matters not under MISO, such as revenues from the sale of emissions. The Department does not agree with this proposal.

DEA: DEA provides interesting comments which highlight a number of issues, including the fact that DEA does not change its cost adjustment rider monthly. Instead, DEA files an annual adjustment based on forecasted costs.

In addition, DEA does not have the same level of control over its fuel costs as other utilities have since DEA purchases all of its energy from Great River Energy (GRE). Moreover, GRE’s wholesale rates are reviewed by the Rural Development Utilities program, a federal agency. For these reasons, the Department concludes that it would be reasonable to conclude that DEA’s FCA should continue to operate as it currently does. However, the Department believes DEA could contribute to the discussion about providing timely information to customers about cost increases and looks forward to hearing their comments on this issue.

III. DEPARTMENT CONCLUSIONS

The Department continues its recommendations in our *Comments* in this proceeding. Rather than closing the docket and ignoring what has been filed to date, the Department recommends that the Commission consider all of the information filed in this docket. Moreover, the Department concludes at this time that:

...there may be merit in continuing the FCA for most utilities at this time, with heightened oversight, including:

- (1) outage benchmarking,
- (2) revisions in the allocations of costs and revenues between retail and wholesale customers, and
- (3) better use of MISO data to inform customers in advance about the times during the year when prices tend to be highest, and about times when prices are spiking, so that customers have more timely information about price increases.

The Department also notes that, depending on the circumstances and actions of utilities, the Commission may chose to make adjustments to the operation of a utility's FCA to address concerns that arise in practice. The Department has noted some concerns, for example, in its AAA Report. The Department looks forward to reviewing the responses by the utilities to the Department's AAA Report, along with the comments filed in this proceeding.

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