**BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS**
**600 North Robert Street**
**St. Paul, Minnesota 55101**

**FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION**
**121 7th Place East**
**Suite 350**
**St. Paul, Minnesota 55101-2147**

**MPUC Docket No. G-004/GR-19-511**
**OAH Docket No. 65-2500-36528**

***In the Matter of a Petition by Great Plains Natural Gas Co., a Division of Montana-Dakota Utilities Co., for Authority to Increase Natural Gas Rates in Minnesota***

# PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW ON UNRESOLVED ISSUES OF THE OFFICE OF THE ATTORNEY GENERAL– RESIDENTIAL UTILITIES DIVISION

**April 24, 2020**

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**PROPOSED FINDINGS OF FACT**
**AND CONCLUSIONS OF LAW ON UNRESOLVED ISSUES**
**OF THE OFFICE OF THE ATTORNEY GENERAL**

This matter came on for evidentiary hearing before Administrative Law Judge ("ALJ") Ann C. O'Reilly on March 10, 2020, in the Large Hearing Room at the offices of the Minnesota Public Utilities Commission ("Commission") in Saint Paul, MN. Two public hearings were held on February 24, 2020 at locations in Marshall and Fergus Falls.

Pursuant to the ALJ's Second Prehearing Order of January 24, 2020, and in furtherance of its statutory charge to advance the interests of residential and small-business utility consumers,[1] the Office of the Attorney General – Residential Utilities Division ("OAG") files its Proposed Findings of Fact and Conclusions of Law on Unresolved Issues. The OAG will only provide proposed findings or conclusions for issues on which the OAG has taken a position. The OAG's silence on an issue should not be interpreted as an endorsement of Great Plains Natural Gas Co.'s ("Great Plains" or "the Company") or the Department of Commerce, Division of Energy Resource's ("Department" or "DER") position.

Brian Meloy, Attorney at Law, Stinson Leonard Street, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402, appeared for and on behalf of Great Plains.

Peter Scholtz and Kristin Berkland, Assistant Attorneys General, 1400 Bremer Tower, 445 Minnesota Street, Saint Paul, Minnesota 55101, appeared for and on behalf of the OAG.

Linda Jensen and Richard Dornfeld, Assistant Attorneys General, 1800 Bremer Tower, 445 Minnesota Street, Saint Paul, Minnesota 55101, appeared for and on behalf of the Department.

[1] *See* Minn. Stat. § 8.33, subd. 2 ("The attorney general is responsible for representing and furthering the interests of residential and small business utility consumers through participation in matters before the Public Utilities Commission involving utility rates and adequacy of utility services to residential or small business utility consumers.").

## FINDINGS OF FACT

## I. PROCEDURAL HISTORY

1. For a recitation of the procedural history in this matter, please refer to the Joint Proposed Findings on Undisputed Issues, filed on April 15, 2020, by the Department, Great Plains, and the OAG.

## II. LEGAL STANDARD

2. Great Plains has the burden to prove by a preponderance of the evidence that its request to increase rates is just and reasonable.[2] In order to satisfy this standard, Great Plains must show that the evidence in this case justifies its request "when considered together with the Commission's statutory responsibility to enforce the state's public policy that retail consumers of utility services shall be furnished such services at reasonable rates."[3] If the Commission agrees with the OAG or the Department that portions of Great Plains' request are unreasonable, then the Commission should deny those portions of Great Plains' request.

3. Additionally, even if the Commission finds the OAG or other parties unpersuasive on an issue, Great Plains must still produce evidence that its request is just and reasonable. In discussing the utility's burden of proof, the Minnesota Supreme Court held,

> By merely showing that it has incurred, or may hypothetically incur, expenses, the utility does not necessarily meet its burden of demonstrating that it is just and reasonable that ratepayers bear the costs of those expenses.[4]

4. In addition to showing that it will incur costs, Great Plains must prove that it is reasonable for ratepayers to pay for them. Further, if the Commission has doubts about the reasonableness of the rate increase after reviewing all of the evidence presented, Minnesota law requires that those doubts be resolved in favor of consumers.[5] Great Plains has the burden of producing evidence that each portion of its request is reasonable, and Minnesota law requires that Great Plains' request be denied in every instance that it fails to do so.

## III. DISPUTED ISSUES

5. The following issues are disputed between Great Plains and the OAG:

    A. Revenue Requirement - Travel, Entertainment, and Related Employee Expenses; and
    B. Rate Design - Residential and Small Firm General Service Customer Charges.

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[2] Minn. Stat. § 216B.16, subd. 4; *see also* Minn. Stat. § 216B.03.
[3] *In re Minn. Power & Light Co.*, 435 N.W.2d 550, 554 (Minn. Ct. App. 1989), *rev. denied* April 19, 1989.
[4] *In re N. States Power Co.*, 416 N.W.2d 719, 722–23 (Minn. 1987).
[5] Minn. Stat. § 216B.03.

### A. REVENUE REQUIREMENT

#### 1. Travel, Entertainment, and Related Employee Expense Requirements

6. The Commission may not allow recovery of expenses such as membership dues or lobbying expenses when it deems those expenses to be "unreasonable and unnecessary for the provision of utility service."[6]

7. Minnesota law requires that any doubt as to reasonableness be resolved in favor of ratepayers,[7] and the Commission's Statement of Policy on Organization Dues affirms that the expense of dues should not be imposed on customers if no customer benefit has been shown or where there is no connection between the expense and reasonable and reliable utility service.[8]

8. The utility bears the burden to show that membership dues are reasonable and necessary for the provision of utility service.[9] This means proving that any benefits from membership in an organization flow to ratepayers, not just shareholders;[10] that there is a connection between the membership dues that ratepayers are asked to pay and reasonable and reliable utility service;[11] and that it is just and reasonable for ratepayers to bear the cost of membership dues.[12]

9. Great Plains has proposed to recover membership dues paid to the Edison Electric Institute ("EEI") and the Minnesota Utility Investors, Inc. ("MUI").

##### a. EEI Dues

10. Mr. Lebens testified that EEI is an electric organization and Great Plains' natural gas customers should not pay for electric organization dues.[13]

11. The Company stated that although dues were paid to EEI, they were related to EEI's affiliate, the Utility Solid Waste Activities Group ("USWAG").[14] According to Great Plains, USWAG addresses solid and hazardous waste issues on behalf of the utility industry and is utilized by the Company for its natural gas operations.[15]

12. Even if the EEI dues are for USWAG, Great Plains has not met its burden to show that the USWAG portion of the dues is reasonable and necessary for the provision of utility service.[16] In particular, the Company did not explain or provide examples of the solid and hazardous waste

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[6] Minn. Stat. § 216B.16, subd. 17(a).
[7] *See* Minn. Stat. § 216B.03.
[8] Ex. DER-14 sched. ACB-S-1 at 2 (Byrne Surrebuttal).
[9] *See* Minn. Stat. § 216B.16, subd. 4; *see also* Minn. Stat. § 216B.03.
[10] OAG Initial Brief at 8 (quoting the Commission's Statement of Policy on Organization Dues).
[11] *Id.*
[12] *Id.*
[13] Ex. OAG-1 at 8 (Lebens Direct).
[14] Ex. GP-23 at 3 (Jacobson Rebuttal)
[15] *Id.*
[16] *See* Minn. Stat. § 216B.16, subd. 17(a) (explaining that the Commission may not allow as operating expenses those employee expenses that it deems unreasonable and unnecessary for the provision of utility service).

issues USWAG addresses; explain or provide examples of ways that the Company utilizes the USWAG membership for its natural gas operations; or provide evidence to substantiate its claim that USWAG membership benefits customers. In fact, Great Plains did not provide any evidence that the USWAG dues are reasonable and necessary for natural gas service beyond a blanket statement that recovery of the dues from ratepayers is appropriate.

13. In addition, Great Plains did not disclose the USWAG information until rebuttal testimony.[17] Mr. Jacobson was correct when he said that his direct testimony was incomplete and should have provided more information about USWAG.[18] Untimely disclosure of the USWAG information prevented the other parties from conducting due diligence and exploring the veracity of the Company's assertions.[19]

**b. MUI Dues**

14. Mr. Lebens testified that MUI is an organization that was established to pursue the interests of utility investors, not utility customers.[20]

15. Great Plains stated that while the Company recognizes that MUI's name "implies a singular focus," MUI focuses on regulatory policy that impacts utilities and, directly and indirectly, utility customers.[21]

16. As with EEI dues, Great Plains has not met its burden to show that the MUI dues are reasonable and necessary for the provision of utility service.[22] The Company provided no evidence to support its claim that MUI membership results in ratepayer benefits. Great Plains described MUI as a grassroots organization established to "represent the interests of individuals and business investors owning shares in utility companies operating in Minnesota."[23] The Company stated that "MUI's principal objective is to enhance the voice and impact of utility shareholders in the development of federal, regional and state legislative and regulatory policy."[24] MUI's banner displays the words "Minnesota Utility Investors: Representing the Interests of Utility Shareholders."[25] Great Plains' shareholders have no duty to the Company's ratepayers, fiduciary or otherwise, and are not required to act in ratepayers' best interests.[26] These details make it clear that MUI's priority is to pursue the interests of shareholders even if those interests negatively impact Great Plains' ratepayers.

17. Great Plains also stated that reducing MUI dues beyond the 35 percent that the organization has identified as lobbying fees would unfairly harm the Company.[27] According to

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[17] Ex. GP-23 at 3 (Jacobson Rebuttal).
[18] Ex. GP-24 at 3 (Jacobson Summary).
[19] Ex. OAG-2 at 7–8 (Lebens Surrebuttal).
[20] Ex. OAG-1 at 8 (Lebens Direct).
[21] Ex. GP-23 at 2–3 (Jacobson Rebuttal).
[22] *See supra* n.16.
[23] Ex. GP-21 sched. TRJ-1 at 3 (Jacobson Direct).
[24] *Id.*
[25] Ex. OAG-2 at 9 (Lebens Surrebuttal).
[26] Ex. DER-6 at 9 (Byrne Direct).
[27] Ex. GP-23 at 3 (Jacobson Rebuttal).

Great Plains, by removing lobbying-related dues, the Company has already accounted for MUI's shareholder-focused activities.[28]

18. Once more, Great Plains failed to meet its burden of proof because it provided no evidence to support its claims. As previously established, MUI's primary purpose is to advocate on behalf of shareholders. Great Plains simply asserts that recovery of MUI dues is warranted without providing any actual evidence of ratepayer benefit.

#### c. Conclusion

19. Membership in both the EEI and the MUI are unreasonable and unnecessary for the provision of natural gas utility service. For this reason, the ALJ recommends the disallowance of expenses totaling $11,964, which represents the dues paid by the Company for membership in the EEI and the MUI.

### B. RATE DESIGN

20. The parties dispute whether the monthly customer charges for the residential and small firm general service classes should be increased.[29] The question of the appropriate customer charge for a customer class is a rate-design issue.

#### 1. Rate-Design Principles

21. Rate design is a quasi-legislative decision.[30] The Commission must balance a wide range of factors, including "economic efficiency; continuity with prior rates; ease of understanding; ease of administration; promotion of conservation; ability to pay; ability to bear, deflect, or otherwise compensate for additional costs; and in particular, the cost of service."[31] Policy considerations play a major role in rate design.[32]

22. Minnesota law requires that utility rates be "just and reasonable."[33] A just and reasonable rate is "not . . . unreasonably preferential, unreasonably prejudicial, or discriminatory, but . . . sufficient, equitable, and consistent in application to a class of consumers."[34] In addition,

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[28] Great Plains Initial Brief at 31.
[29] The firm general service class has two customer charges, one for customers with meters rated under 500 cubic feet per hour and another for customers with meters rated over 500 cubic feet per hour. "Small firm general service" refers to the former group.
[30] *In re Inter-City Gas Corp.*, 389 N.W.2d 897, 901 (Minn. 1986).
[31] *In re Application of N. States Power Co. for Auth. to Increase Rates for Elec. Serv. in Minn.*, MPUC Docket No. E-002/GR-10-971, Findings of Fact, Conclusions, and Order at 14 (May 14, 2012).
[32] *See id.*; Ex. OAG-4 at 57 (Gas Distribution Rate Design Manual of the National Association of Regulatory Utility Commissioners, hereinafter "NARUC Manual") (stating that rate design is "not an abstract application of economic principles"); *id* at 50–57 (discussing noncost factors that may influence the design of rates, including affordability, incrementalism, the political and economic climate, and societal needs).
[33] Minn. Stat. § 216B.03.
[34] *Id.*; *see also* Minn. Stat. § 216B.07 ("No public utility shall, as to rates or service, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage.").

the Commission must set rates that encourage energy conservation "[t]o the maximum reasonable extent"[35] and must consider ability to pay as a factor in setting rates.[36]

23. Commission-approved rates are presumed to be just and reasonable.[37] Therefore, a party seeking a change in the current rate design has the burden of demonstrating that the party's proposed rate design is just and reasonable.[38] Any doubt as to reasonableness must be resolved in favor of the consumer.[39]

### 2. Residential and Small Firm General Service Customer Charges

#### a. Background

24. Great Plains' residential and small firm general service rates have two main components: a monthly "basic service charge," also known as a customer charge or fixed charge, and a per-dekatherm "distribution charge," also known as a volumetric charge.[40] The central rate-design decision for these classes is how to allocate the class's rate increase between the customer charge and the volumetric charge.[41] Any increase to the customer charge reduces the portion that must be recovered through an increase to the volumetric charge, and vice versa.[42]

25. Great Plains proposed to raise the residential customer charge from $7.50 to $9.00 per month and the small firm general service customer charge from $23.00 to $27.50 per month, and to recover the remainder of each class's rate increase through the volumetric charge.[43] The Department supported the Company's proposal,[44] while the OAG opposed raising the customer charge for either class.[45]

26. The basis for Great Plains' proposed increases to the customer charges was the customer component identified in the Company's embedded class-cost-of-service study ("CCOSS").[46]

27. A CCOSS is a mathematical model that attempts to identify the responsibility of each customer class for each cost incurred by the utility in providing service.[47] An "embedded" CCOSS relies on embedded costs, which are the historic costs of the various components of a

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[35] Minn. Stat. § 216B.03.
[36] Minn. Stat. § 216B.16, subd. 15(a).
[37] *Nw. Bell Tel. Party v. State*, 216 N.W.2d 841, 857 (1974).
[38] *See* Minn. Stat. § 216B.16, subd. 4 (burden to show rate change is just and reasonable is on utility seeking the change); Minn. R. 1400.7300, subp. 5 (party proposing certain action be taken has the burden of proof unless the substantive law provides a different burden or standard).
[39] Minn. Stat. § 216B.03.
[40] *See* Ex. GP-1 app. A at 5-40, -42, -70, -72 (Great Plains' current residential and small-firm-general-service tariffs).
[41] *See* Ex. DER-4 at 51 (Zajicek Direct) (stating that "revenue responsibility apportioned to the class must be recovered either through a fixed customer charge or a volumetric distribution charge").
[42] Ex. OAG-2 at 3 (Lebens Surrebuttal).
[43] Ex. GP-25 at 18 (Hatzenbuhler Direct). The Company also proposed to convert these customer charges to a daily rate; that proposal is addressed in a different section of this Report.
[44] Ex. DER-4 at 51 (Zajicek Direct).
[45] *See* Ex. OAG-1 at 2 (Lebens Direct) (referring to small firm general service class as "small business" class).
[46] Ex. GP-25 at 20 (Hatzenbuhler Direct).
[47] Ex. DER-3 at 3, 7 (Ouanes Direct); *accord* Ex. OAG-4 at 20 (NARUC Manual).

utility's system, rather than marginal costs, which are the costs of producing additional units of service.[48] An embedded CCOSS produces results that permit a utility to collect its authorized revenue requirement, while a marginal CCOSS produces a more economically efficient allocation of resources but can result in over- or under-collection of the revenue requirement.[49]

28. As part of the CCOSS analysis, costs are classified as energy-, demand-, or customer-related.[50] Customer-related costs are those that, in the modeler's judgment, vary with the number of customers served, rather than with the amount of utility service supplied.[51] Customer-related costs include "the expenses of metering, reading, billing, collecting, and accounting, as well as those costs associated with the capital investment in metering equipment and in customers' service connections."[52] They may also include a portion of the utility's gas distribution system.[53]

### b. Positions of the Parties

29. Great Plains proposed to raise the customer charges, but it did not propose that they match the full customer component identified in its CCOSS.[54] According to Mr. Hatzenbuhler, "the Company is proposing to mitigate the impact and rate shock of implementing a fully compensatory fixed charge rate at this time."[55] The Company acknowledged that it does not need higher customer charges for revenue-stability purposes because it has implemented full revenue decoupling.[56] However, Mr. Hatzenbuhler stated that moving the charges toward cost is nonetheless important for other reasons, such as reducing intraclass subsidies.[57]

30. The Department supported increasing the customer charges, arguing that doing so would reduce intraclass subsidies.[58] According to Mr. Zajicek, "intra-class subsidies arise when certain customers within a class pay in excess of the cost to serve them and, thus, subsidize other customers within the same class."[59] According to Mr. Zajicek, this would occur if a class's customer charge does not recover the full cost of connecting and keeping a customer on the system; in that case, customers with higher usage would pay for some extra customer-related costs through the volumetric charge.[60]

31. Mr. Zajicek stated that, for a high-usage, low-income customer, the impact of a larger customer charge would be a correspondingly smaller volumetric charge and a lower monthly bill overall.[61] Mr. Zajicek concluded that it was unclear whether low-income customers have a

[48] Ex. DER-4 at 22 (Zajicek Direct); *accord* Ex. OAG-4 at 18 (NARUC Manual).
[49] Ex. OAG-4 at 18; *accord* Ex. DER-4 at 22.
[50] Ex. DER-3 at 4 (Ouanes Direct).
[51] *Id.* at 5.
[52] Ex. OAG-4 at 22 (NARUC Manual).
[53] *Id.*
[54] *See* Ex. DER-4 at 49 tbl.6 (Zajicek Direct) (listing customer costs and charges for each class).
[55] Ex. GP-25 at 20 (Hatzenbuhler Direct).
[56] *Id.*
[57] *Id.* at 20–21.
[58] Ex. DER-4 at 51 (Zajicek Direct).
[59] *Id.*
[60] *Id.* at 51–52.
[61] *Id.* at 52–53.

different usage pattern than other customers.[62] He found that one group of low-income customers—those in the Low-Income Home Energy Assistance Program ("LIHEAP")—"use a very similar amount of energy" to other customers and "may tend to use slightly more."[63]

32. Finally, Mr. Zajicek stated that a lower customer charge and a higher volumetric charge increase bill variability and tend to lead to higher bills in the winter when gas usage is typically highest.[64] He concluded that "because LIHEAP customers appear to use slightly more natural gas on average than non-LIHEAP customers, it is likely that LIHEAP customers would benefit slightly from an increase in the customer charge."[65]

33. The OAG opposed increasing either the residential or the small firm general service customer charge. Mr. Lebens testified that raising the customer charges would discourage energy conservation, would be inconsistent with the purpose of monopoly regulation, and would disproportionately impact low-usage customers.[66] The OAG also argued that keeping the customer charges low would strengthen customers' ability to pay by maximizing their control over the amount of their bills.[67]

34. The OAG placed particular emphasis on the statutory directive that the Commission set rates to encourage energy conservation, arguing that "[t]he use of the term 'maximum reasonable extent' by the legislature means that it is not enough for the Commission to simply consider conservation in rate design; it must do so to the maximum reasonable extent."[68]

35. Great Plains responded that the OAG's position is a "non-argument" because the Company is proposing to increase both the customer charge and the volumetric charge.[69] Because the cost of a dekatherm for a residential customer would be "over a dollar more than under existing rates," Great Plains argued, the increase to the residential customer charge "does absolutely nothing to discourage energy efficiency or conservation."[70] The Company also argued that it was not seeking an unusual customer charge, noting that "the other four regulated gas distribution utility companies serving Minnesota customers have monthly fixed charges of $8.50, $9.00(2), and $9.50."[71]

36. The Department argued that the increase to the customer charges was not "significant enough to impact customers' energy conservation behavior"[72] and that "it is likely that at least some customers will react to the total increase in their bill without investigating whether the increase was caused by a change in the volumetric charge or a change in the customer charge."[73]

[62] *Id.* at 53.
[63] *Id.* at 54.
[64] *Id.* at 57–58.
[65] *Id.* at 58.
[66] Ex. OAG-1 at 3 (Lebens Direct).
[67] OAG Initial Brief at 15.
[68] *Id.* at 14.
[69] Ex. GP-26 at 5 (Hatzenbuhler Rebuttal).
[70] *Id.* at 6.
[71] *Id.* at 8.
[72] DER-8 at 2 (Zajicek Rebuttal).
[73] *Id.* at 3.

37. Mr. Zajicek calculated that if Great Plains does not raise its residential customer charge, it would have to increase the volumetric charge by an additional $0.02216 per therm to make up the lost revenue.[74] He stated that residential gas demand is "extremely inelastic" but estimated that a $0.02216 per therm volumetric-charge increase would cause about a 0.67 percent decrease in residential energy usage, all else being equal.[75]

38. The Department argued that it would be unreasonable "to maintain an artificially low customer charge in order to encourage potential energy savings unlikely to exceed 0.67 percent."[76]

39. The OAG maintained that a lower customer charge would encourage conservation and that energy savings of 0.67 percent are worth pursuing, "particularly when it can be accomplished through rate design (by maintaining the same fixed charge) rather than at a potentially significant cost through a separate utility program."[77]

40. In response to the Department's argument that a lower customer charge would harm low-income, high-usage customers, Mr. Lebens stated that low-income affordability is normally addressed through avenues outside of rate design in a general rate case, such as low-income assistance programs, and that these programs are a more appropriate mechanism for addressing the Department's concerns than raising the customer charge for all residential customers.[78]

41. Finally, in response to the Department's argument that a lower customer charge would increase bill variability, the OAG conceded that "it is a simple mathematical fact that the seasonal difference will increase [under a lower charge] because higher fixed charges effectively spread the same annual revenue more evenly throughout the year."[79] However, Mr. Lebens did not find the potential for increased bill variability concerning because Great Plains has a "Balanced Billing Program" that allows customers to minimize the variability that would otherwise result from month-to-month fluctuations in consumption and gas prices.[80]

### c. Analysis

42. Whether to increase a class's customer charge is a question of rate design that requires careful weighing of policy considerations. Great Plains' proposal to increase the residential and small firm general service customer charges emphasizes economic efficiency and reducing intraclass subsidies. The OAG's recommendation to keep the existing charges places greater weight on encouraging energy conservation and maximizing customers' control over their bills.

43. Intraclass rate design is a zero-sum exercise: any increase to a class's revenue requirement must be allocated between the fixed customer charge and the volumetric charge. Thus, maintaining the existing residential and small firm general service customer charges would

[74] *Id.* at 2–3.
[75] *Id.* at 3.
[76] *Id.* at 4.
[77] Ex. OAG-2 at 5 (Lebens Surrebuttal).
[78] *Id.* at 3–4.
[79] *Id.* at 6.
[80] *Id.*

yield higher volumetric charges than would result if the customer charges were increased. This relatively higher volumetric charge sends customers a stronger price signal to conserve energy.[81]

44. Great Plains argued that its proposed increase to the residential customer charge "does absolutely nothing to discourage energy efficiency or conservation."[82] However, the statutory directive is to affirmatively encourage energy conservation "to the maximum reasonable extent," not to do nothing to discourage it.[83]

45. The Department argued that some customers would likely conserve energy in response to the total increase in their bill rather than the increase in the volumetric charge.[84] This argument conflicts with Great Plains' testimony that customers do, in fact, care about the individual charges that comprise their bills.[85] It also misses the point: customers who conserve energy in response to a higher bill do so because they know they that they are being charged based in part on their usage. And the higher the volumetric charge is, the more energy conservation reduces their overall bill.

46. The evidence in this case confirms that leaving the residential customer charge at $7.50 would encourage conservation. Specifically, the Department estimated the likely impact to be a 0.67 percent decrease in residential energy usage.[86] The Department did not undertake a similar analysis for the small firm general service class, but it is reasonable to infer that the energy savings would be similar to, and perhaps slightly higher than, the residential class's, since residential demand for natural gas is "extremely inelastic."[87]

47. The argument for raising the charges relies primarily on the goals of decreasing intraclass subsidies and promoting economic efficiency. Assuming Great Plains' CCOSS has accurately captured the customer-related costs for each class, then the current customer charges are set significantly below this cost. Moving the charges toward the CCOSS-identified customer cost

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[81] *See id.* at 3 (stating that increases to fixed charges reduce financial incentive to conserve by preventing costs from being allocated to volumetric charge).
[82] Ex. GP-26 at 6 (Hatzenbuhler Rebuttal).
[83] Minn. Stat. § 216B.03; *see also* Minn. Stat. § 216B.2401. Section 216B.2401 states,

> The legislature finds that energy savings are an energy resource, and that cost-effective energy savings are preferred over all other energy resources. The legislature further finds that cost-effective energy savings should be procured systematically and aggressively in order to reduce utility costs for businesses and residents, improve the competitiveness and profitability of businesses, create more energy-related jobs, reduce the economic burden of fuel imports, and reduce pollution and emissions that cause climate change. Therefore, it is the energy policy of the state of Minnesota to achieve annual energy savings equal to at least 1.5 percent of annual retail energy sales of electricity and natural gas through cost-effective energy conservation improvement programs and rate design . . . .

[84] Ex. DER-8 at 3 (Zajicek Rebuttal).
[85] *See* Ex. GP-25 at 20–21 (Hatzenbuhler Direct) (stating that "while the Company may be indifferent to the manner in which distribution revenue is collected, customers are not").
[86] Ex. DER-8 at 3 (Zajicek Rebuttal).
[87] *Id.*

would reduce the intraclass subsidies that occur when some customer-related costs are recovered through the volumetric charge.

48. At its core, the policy question for the Commission is whether achieving incremental energy savings of 0.67 percent is worth the resulting intraclass subsidy. For the reasons that follow, the Administrative Law Judge recommends that the Commission answer this question in the affirmative and reject Great Plains' proposal to increase the residential and small firm general service customer charges.

49. First, Minnesota law prioritizes cost-effective conservation and encourages utilities to pursue energy savings of 1.5 percent annually, including through rate design.[88] The Department sets savings goals for individual utilities and has set Great Plains' goal at 1.03 percent.[89] Against this backdrop, 0.67 percent energy savings is a significant amount of savings. Simply by maintaining the existing customer charges, Great Plains could make substantial progress toward its energy-savings goal without spending ratepayer dollars on conservation-improvement programs.

50. Second, maintaining the customer charges protects low-usage customers and maximizes all customers' opportunity to avoid gas costs by reducing their usage. Under the OAG's recommendation, each dekatherm reduction in usage would be worth more to customers and have a greater impact on their bills. High-usage customers that do not reduce their usage would experience a greater bill impact from the relatively higher volumetric charge, but this is the expected impact of a rate that is designed to encourage conservation.

51. Third, Great Plains' proposed increase to the residential customer charge would have a relatively small impact on the intraclass subsidy identified by its CCOSS. As shown in Table 8 of Mr. Zajicek's direct testimony, the increase would collect an additional $340,000 per year through the customer charge.[90] This amounts to less than one-tenth of the $3.8 million annual subsidy under Great Plains' CCOSS.[91] Moreover, the increase would have no appreciable effect on the level of usage that an individual customer would need to reach to recoup all of that customer's CCOSS-based customer costs.[92]

52. Fourth, the record does not support a finding that setting customer charges according to the Company's embedded CCOSS would promote the efficient allocation of resources. That pricing at marginal cost promotes efficiency is a well-established proposition.[93] That pricing at embedded cost promotes efficiency is not.[94] Because Great Plains' CCOSS relies on embedded

[88] *See* Minn. Stat. §§ 216B.241, subd. 1c(b), .2401.
[89] *See In re Great Plains Natural Gas' Conservation Improvement Program Extension Plan*, MPUC Docket No. G-004/CIP-16-121, Department Decision at 7 (Nov. 26, 2019).
[90] *See* Ex. DER-4 at 56 tbl.8 (Zajicek Direct) (showing customer cost recovered through usage charges to be about $3.8 million under current residential rate design and about $3.5 million under proposed rate design).
[91] *See id.* (showing total annual customer costs recovered in usage charges under current rates).
[92] *See id.* (showing identical breakeven usage for current and proposed residential rate design).
[93] *See id.* at 22 (stating that "[b]asing rates on the marginal cost . . . would result in an efficient allocation of the resources used to produce the incremental unit of service"); Ex. OAG-4 at 18 (NARUC Manual) (stating that, for CCOSS purposes, marginal cost has a better theoretical foundation than embedded cost).
[94] *See* Ex. DER-4 at 22 (Zajicek Direct) (stating that setting rates based on embedded costs provides "adequate" price signals).

rather than marginal costs, the argument that rates based on this CCOSS would promote the efficient allocation of resources carries little weight.

53. Fifth, the record shows that Great Plains' current residential customer charge is in the same ballpark as other regulated Minnesota gas utilities' residential customer charges, all of which are less than $10 per month.[95] Although customer charges set in other proceedings with different facts are of limited relevance in this proceeding, they do serve to illustrate that the Commission routinely sets customer charges well below the CCOSS-derived customer cost.

54. Sixth, rate design is not an appropriate forum to address impacts to low-income customers with higher-than-average usage. As an initial matter, the evidence in this case does not support a finding that low-income customers are higher-than-average gas users.[96] The evidence shows that LIHEAP customers are slightly higher-than-average users of gas, but there is no evidence that LIHEAP customers' usage matches the usage of low-income customers generally. And in any event, a more appropriate avenue to address impacts to high-usage, low-income customers is through LIHEAP or other low-income assistance programs, which provide a beneficial, targeted subsidy to low-income customers.[97]

55. Finally, a higher customer charge is not needed to address seasonal bill variability. While it is true that lower customer charges tend to allow greater bill variability than higher customer charges, Great Plains' customers already have a means to largely eliminate seasonal bill variability—the Company's Balanced Billing Program.[98] Great Plains' tariff describes the program as follows:

> All residential and commercial customers receiving natural gas under the Residential or Firm Gas Service rate schedules are eligible to enter into a Balanced Billing Plan. This option allows customers to be billed monthly based on a twelve-month rolling average of gas consumed multiplied by the currently effective rate for the month. Monthly bills will change minimally as fluctuations in consumption levels and natural gas prices occur throughout the year.[99]

56. According to the tariff, customers on the Balanced Billing Program experience minimal variations in their monthly bills due to fluctuations in consumption and gas prices. Based on this description, signing customers up for balanced billing is a far more effective, narrowly tailored strategy for reducing seasonal bill variability than raising the customer charge.

57. In sum, increasing the residential and small firm general service customer charges would result in a relatively lower volumetric charge, give customers less ability to reduce their bills,

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[95] Ex. GP-26 at 8 (Hatzenbuhler Rebuttal).
[96] *See* Ex. DER-4 at 53–54 (Zajicek Direct) (stating that it is "unclear" whether low-income customers have a different usage pattern than other customers, but that LIHEAP customers use "a very similar amount of energy" to other customers, and "may" use slightly more).
[97] Ex. OAG-2 at 3–4 (Lebens Surrebuttal).
[98] *See* Ex. GP-1 app. A at 6-30 (current tariff).
[99] *Id.*

and undermine energy conservation. Minnesota States section 216B.03 directs the Commission to set rates that encourage conservation to the maximum reasonable extent. Given this statutory command, it is incumbent upon Great Plains to identify an overriding reason to raise the customer charges. Neither the Company nor the Department has been able to do so.

58. For all the foregoing reasons, the Administrative Law Judge recommends that the Commission reject Great Plains' proposal to increase the residential and small-business customer charges.

## RECOMMENDATION

The ALJ recommends that the Commission issue an Order providing that:

1. Great Plains is entitled to gross annual revenues in accordance with the terms of this Report.

2. Within ten days of the service date of this Report, Great Plains shall file with the Commission for its review and approval, and serve on all parties in this proceeding, revised schedules of rates and charges reflecting revenue requirements and rate design based on the recommendations made herein.

3. Great Plains shall make further compliance filings regarding rates and charges, rate-design decisions, and tariff language as ordered by the Commission.

Dated: April 24, 2020

Respectfully submitted,


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