

November 30, 2021

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. E015/M-21-790

Dear Mr. Seuffert:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Petition for Approval of a Variance to the Customer Service Rules Regarding Billing Errors

The Petition was filed on November 12, 2021 by:

David Moeller  
Senior Attorney and Director of Regulatory Compliance  
Minnesota Power  
30 West Superior Street  
Duluth MN 55802-2093

The Department recommends ***approval of the instant request, and approval of a thirty (30) day negative check off processes for all future billing error dockets filed by MP, as outlined further in these comments.*** The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ MICHELLE REBHOLZ  
Supervisor, Planning Unit

MR/ja  
Attachment



## Before the Minnesota Public Utilities Commission

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### Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E015/M-21-790

#### I. INTRODUCTION

On November 12, 2021, Minnesota Power (MP or the Company) filed a request to vary the Commission's Billing Errors Rule, Minn. Rule 7820.3800, in order to allow a refund to a customer for an overcharge during the billing period of October 2014 – May 2021.

##### A. PETITION

Minnesota Power seeks approval through a variance to the Commission's Billing Error Rule to allow a refund to a customer that was overcharged from October 2014 to May 2021. MP indicates the overcharge was due to a change to the customer's metering that did not get updated on the customer's account and resulted in a double billing for service. Pages 4 and 5 of the petition describe the specific details of the overcharge.

The amount already refunded to the customer is \$37,861.03. The amount to be refunded, if the Commission approves the variance, would be an additional \$35,778.57.

##### B. DEPARTMENT ANALYSIS

###### 1. *The Current Billing Error Petition*

The petition indicates that the Commission's Consumer Affairs Office has already been consulted, and in conversations with the Company, the Department understands that the customer is in agreement with the petition and is supportive of receiving their refund as soon as possible. The Department supports the variance and resulting refund and recommends the Commission use whatever means is fastest to approve this instant petition. The Department is aware of no public policy reason why this petition should not be approved and is aware of no dispute in the docket.

###### 2. *Future MP Billing Error Petitions*

In addition, the Department recommends that for these same reasons, the Commission establish a 30-day negative check off process for future billing error variances for Minnesota Power, as long as the petition demonstrates the following:

- 1) The Company has communicated the refund amount to the customer, and the customer is in agreement with the Company regarding the amount and timing of the refund.
- 2) The Company has consulted with the Commission's Consumer Affairs Office (CAO), and the CAO does not object to the refund.
- 3) No other novel or unusual circumstances exist that would warrant the petition proceeding through the normal notice and comment process.

### *3. History of Billing Errors Rule*

The Commission promulgated its current version of its billing error rule in 2007. At that time, the Commission specified a three (3) year period for refunds. In the fourteen years that have passed since the prevailing billing error rule was established, the Commission, Department, and utilities have gained experience in interpreting and applying this rule to a variety of billing error situations. In a review of the billing error dockets filed over the last several years, the Department observes the following:

- Utilities consult with CAO prior to filing a billing error petition.
- Even when the customer agrees with the refund amount, they must wait for the notice, comment, and agenda meeting process before receiving their refund.
- The outcome of these dockets is predictable.<sup>1</sup> Billing error dockets that are refunds are almost never disputed.<sup>2</sup>

The Commission's notice/comment/agenda meeting process is an important one for transparency in the Commission's decision making. In a typical docket, the written record is developed by the parties and then, based on that record, the Commission makes decisions at an agenda meeting conducted pursuant to the state's Open Meetings Law. However, in the case of an individual customer's refund, particularly one that arises from a situation that applies only to that customer, the applicable docket history has demonstrated that the normal notice and comment process results in a delayed refund, with little to no added benefit to the customer awaiting the refund.

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<sup>1</sup> See, for example, Docket Nos. E015/M-17-768, E017/M-17-853, E002/M-18-27, and E017/M-18-215, E017/M-21-193. The Department routinely recommends approval, and no other stakeholder files comments in these dockets.

<sup>2</sup> The closest the Department can find to a dispute in a billing error docket was a 2011 Xcel billing error filing. The customer agreed to the refund, but also produced additional records and requested that the Commission approve a larger refund amount, which Xcel agreed to. Arguably, this was not a dispute as Xcel made the billing error filing and agreed to the refund. See Docket E-002/M-11-1031.

The Department's proposed 30 day negative check off process for billing error dockets strikes a balance between docket process transparency and refund timeliness:

- Refunds can be distributed more quickly to the affected customers.
- The petition is still filed as a docket and thus available to be reviewed by anyone.
- The Department and any other interested parties still have the opportunity to file comments within the 30 day window, if there are concerns.

If problems arise with the 30 day negative check off process, the Commission always has the authority to reverse or modify the process.

The Department recommends that the Commission take the following action in this docket<sup>3</sup>:

- 1) Approve the current petition, as filed by MP, through any expedited process the Commission considers reasonable. This process may include the consent calendar or through other means.

AND

- 2) Find that for future billing error petitions filed by MP, the Commission establish a 30 day negative check off process. That is, parties have 30 days to comment; if no comments opposing approval are received, the petition is deemed approved, and MP may immediately provide a refund to the customer.<sup>4</sup>

If the Commission believes it can or should endorse this process for other utilities immediately, the Department recommends the Commission notify all utilities. If not, the Department will continue to recommend an expedited process as utilities file individual billing error dockets.

#### C. *RECOMMENDATION*

- 1) Approve the current petition, as filed by MP, through any expedited process the Commission considers reasonable. This process may include the consent calendar or through other means.

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<sup>3</sup> The Department notes that it may be more appealing to open a generic docket to establish a 30 day negative check off process for all rate-regulated utilities. A generic docket is certainly an option to establish such a process. In this instance, the Department determined that there is value in establishing this process for one utility in the most recently-filed billing error docket. The Commission could either choose to open a generic docket or establish the process as billing error filings are made by individual utilities.

<sup>4</sup> The Department presumes the Commission could either affirmatively issue a notice on the 31<sup>st</sup> day indicating the petition is approved, or clarify the petition is simply deemed approved without notice.

AND

- 2) For future billing error petitions filed by MP, the Commission approve a 30 day negative check off process. That is, parties have 30 days to comment; if no comments opposing approval are received, the petition is deemed approved, and MP may immediately provide a refund to the customer upon the 31<sup>st</sup> day.

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce**  
**Comments**

**Docket No. E015/M-21-790**

**Dated this 30<sup>th</sup> day of November 2021**

**/s/Sharon Ferguson**

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-790_M-21-790
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_21-790_M-21-790
Tina	Koecher	tkoecher@mnpower.com	Minnesota Power	30 W Superior St  Duluth, MN 558022093	Electronic Service	No	OFF_SL_21-790_M-21-790
David	Moeller	dmoeller@allte.com	Minnesota Power	30 W Superior St  Duluth, MN 558022093	Electronic Service	Yes	OFF_SL_21-790_M-21-790
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-790_M-21-790
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350  Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-790_M-21-790