

Staff Briefing Papers

Meeting Date December 6, 2022 Agenda Item 2**

Company Minnesota Energy Resources Corporation

Docket No. **G-011/GR-22-504**

In the Matter of the Application of Minnesota Energy Resources Corporation for Authority to Increase Natural Gas Rates in Minnesota

Issues Should this filing be accepted? If so, should the proposed rates be suspended, this matter referred to the Office of Administrative Hearings, and interim rates set as requested by the Company?

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.



Relevant Documents

Date

MERC - Initial Filing, General Rate Petition, Vols. 1 & 2¹

November 1, 2022

Department of Commerce – Comments

November 10, 2022

Office of Attorney General - Comments

November 10, 2022

MERC – Reply Comments

November 15, 2022

¹ The relevant documents listed for this meeting only includes Volumes 1, 2, and 3 of MERC's initial filing (omitting workpaper volumes). The Interim Rates Petition is found in Volume 1. The pre-filed direct testimony of MERC's witnesses is in Volume 2A and 2B.

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I. Statement of the Issues

- Should this filing be accepted as complete? If so, as of what date?
- Should the proposed rates be suspended? If so, for what period?
- Should this matter be referred to the Office of Administrative Hearings for a contested case proceeding? If so, in addition to the standard rate case issues, are there other issues the Commission would like parties to address?
- What level of interim revenue increase should be set? How should the increase be collected from customers?

II. Introduction and Background

A. Introduction

On November 1, 2022, Minnesota Energy Resources Corporation (MERC or the Company) filed a general rate case (Petition) with the Minnesota Public Utilities Commission (Commission) requesting a \$40.3 million annual increase, or approximately 9.9 percent, to its Minnesota retail natural gas rates, effective January 1, 2023, based on a rate of return on common equity capital of 10.30 percent.²

MERC proposed a forecasted test year ending on December 31, 2023. In its proposed test year, MERC has 247,348 customers and throughput of approximately 875.6 MDT of natural gas per year.

The basic issues at this stage of a rate case are whether to accept the filing, suspend the proposed final rates, refer this matter to the Office of Administrative Hearings (OAH) for a contested case proceeding, and set interim rates subject to refund.

If the Commission decides to suspend MERC's proposed rates, the Company requests an interim rate increase of \$36.9 million, or approximately 9.1 percent. The requested interim increase is 91.7 percent of MERC's total request. The Company proposed to apply the interim rate increase as a uniform 32.82 percent increase to the base rate portion of customers' bills (exclusive of the base cost of gas).³

B. Background

On November 4, 2022, the Commission issued its notice requesting comments on whether MERC's filing complies with the filing requirements in Minn. Stat. § 216B.16, Minn. Rules, Parts 7825.3100 to 7825.4400 and Commission Orders. The Commission also asked for comments on whether this rate application should be referred to the OAH for a contested case proceeding.

² On November 1, 2022, pursuant to Minn. Rule 7825.2700, subpart 2, MERC submitted its request for a new base cost of gas (Docket No. G-011/MR-22-505). This companion docket to the general rate case is also on the Commission's agenda for this meeting.

³ Malueg Direct Testimony at 99.

On November 10, 2022, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed comments recommending that the Commission accept MERC's Petition and refer this matter to the OAH for a contested case proceeding.

On November 10, 2022, the Minnesota Office of the Attorney General, Residential Utilities Division (OAG) also filed comments and recommended the Commission should find that exigent circumstances exist and limit the proposed interim rate increase.

On November 15, 2022, MERC filed reply comments agreeing with the Department's recommendation that the Commission accept the Company's filing and refer this matter to the OAH for a contested case proceeding. However, MERC objected to the OAG's recommendation for a finding of exigent circumstances and reducing the requested interim rate increase.

III. Mergers and Prior Rate Cases

A. Purchase of Aquila

In June 2006, in Docket No. G-007,011/M-05-1676, the Commission approved the sale of Aquila's Minnesota utility properties to Minnesota Energy Resources Corporation and found the transaction to be consistent with the public interest if subject to certain conditions, including, but not limited, to the following:

- Recovery of any sale-related acquisition premium and transaction costs is denied. Recovery of transition costs is not denied and may be sought in a future rate case.
- MERC is hereby put on notice that in its future general rate cases it must conform to the Commission's policies and procedures and filing requirements for allocation of costs for all WPS Resources Corporation's (WPSR (now Integrys)) non-regulated activities, as well as Service Guard, and shall comply with accounting standards established by the Commission in its September 28, 1994 Order in Docket No. G,E-999/CI-90-1008.
- Aquila and MERC shall work with the Department to establish baselines for the cost allocations appropriate for the next rate case.
- MERC shall comply with the service quality standards, and reporting, established for Aquila, including standards Aquila agreed to on May 4, 2006, as reflected in the Commission's May 16, 2006, Order in Docket No. G-007,011/CI-02-1369. MERC shall ensure that customer service quality meets the standards established by Minnesota Law and this Commission.

B. Purchase of Interstate Power and Light Company's Minnesota Gas Operations

On December 8, 2014, the Commission approved an asset purchase and sale agreement between Interstate Power and Light Company (IPL) and Minnesota Energy Resources

Corporation, Docket No. G-001,G-011/PA-14-107. The Commission's approval had conditions including:

- Requiring that MERC maintain the IPL purchased gas adjustment for transitioned IPL ratepayers until MERC's next rate case and, at that time, MERC shall reconcile the two fuel supply systems into one.
- Unrecovered former manufactured gas plant (FMGP) costs of approximately \$2,600,000 paid by IPL may be transferred to MERC and accounted for as a regulatory asset.

The transaction closed April 30, 2015, and MERC began providing service to the former IPL customers effective May 1, 2015.

C. Merger of Integrys Energy Group, Inc. and Wisconsin Energy Corporation

On June 25, 2015, the Commission approved the merger between Integrys Energy Group, Inc., the parent of MERC, and Wisconsin Energy Corporation (Docket No. G-011/PA-14-664). The Commission concluded that the proposed transaction was consistent with the public interest if subject to certain conditions. The conditions included the following listed in the Commission's June 25, 2015, Order:

- The Commission adopts the nine unnumbered conditions contained in Attachment A of the Company's April 3, 2015, filing.
- The Commission adopts the 23 conditions contained in Attachment C of the Department's April 20, 2015, filing modifying condition 14 (originally 73) to read as follows:

Prohibit MERC from loaning funds to or borrowing funds from its post-acquisition parent or other regulated subsidiaries except to the extent that such borrowing arrangements existed prior to approval of the Proposed Transaction or the transaction (i.e., the borrowing arrangement) costs less than other MERC alternatives.

- If MERC's cost of debt increases during the next three calendar years, Minnesota ratepayers will be held harmless from any rate impact unless MERC can demonstrate that its increased cost of debt was not caused by the proposed transaction.
- MERC may request recovery of transition costs if and only to the extent that MERC can demonstrate that the transition costs produce acquisition-related savings that are greater than the transition costs.
- Regardless of whether a Commission review is performed, the cost of any acquisition condition from another jurisdiction subsequently found to have an adverse cost impact

on Minnesota shall be absorbed by WEC Energy without recourse to, or reimbursement by, MERC.

- All books and records of all entities in the corporate structure, including the service company, shall be readily available for Commission and Department staff review in a reasonable manner, subject to approval by the Commission.
- If, in the future, Wisconsin Energy Group or its subsidiaries are downsized in any significant way, the absolute cost allocation to MERC shall not increase unless the Petitioners demonstrate that the cost allocation is just and reasonable.
- The Commission shall have approval authority over allocation methodology and factors. If the allocation methodology and factors ultimately approved by the Commission differ from those approved in other jurisdictions, the holding company should absorb any cost differentials.
- The Commission requests that the parties review MERC's Low-Income Programs in future rate cases, to ensure that the programs continue to produce optimal benefits.
- MERC shall not defer transition costs.
- For severance and/or early termination costs, the Petitioners shall provide detailed information in any rate proceeding on each instance of severance and/or early termination, including the position, the reasoning, the costs and savings, etc., in sufficient detail for the Commission to make a determination on whether the cost is an unrecoverable transaction cost or a transition cost.
- MERC may request recovery of transition costs only to the extent that MERC can demonstrate that the transition costs produce acquisition-related savings that are greater than the transition costs.
- MERC shall request and obtain Commission approval pursuant to Minn. Stat. § 216B.48 and/or Minn. Stat. § 216B.49 before it includes any debt provided by its parent companies in its capital structure.
- In its performance of services, the service company: (a) shall follow applicable federal and state regulation, including codes and standards of conduct; (b) shall not give one or more entities in the corporate structure a competitive advantage in relevant markets; (c) shall not subsidize WEPCO, WG, and/or WPSC or cause MERC to subsidize an affiliate; and (d) may include a return on its net assets at a rate no higher than the appropriate weighed cost of capital for MERC.

- For the next five years, MERC shall maintain a detailed record of the description and amount of each of its 2014 corporate costs allocated from its parent company or affiliates.
- Within the next five years, MERC shall demonstrate that no part of any requested rate increase is a result of the merger.
- MERC shall report, for five years, any operational changes in Minnesota, including any personnel reduction or reorganization of field operations that could have more than a de minimis impact on service quality.
- Within 90 days of closing, MERC shall file the accounting entries that recorded the merger. This filing shall include the description, amount, and FERC account name and number for each item, including the actual account entries for the merger-related costs.

D. Prior Rate Cases

MERC and its predecessors have filed fourteen rate cases since 1980. Table 1 summarizes the last five.

Table 1: MERC Prior Rate Cases

Rate Case Year	Amount Requested (\$M)	% Increase	Interim Rates (\$M)	% Increase	Final Rates (\$M)	% Increase	Final Rates Authorized Return on Equity	Final Rates Authorized Rate of Return
2008	\$22.04	6.38%	\$19.84	5.74%	\$15.42	5.49%	10.21%	7.98%
2010	\$15.17	5.18%	\$7.53	2.57%	\$11.05	4.19%	9.70%	7.83%
2013	\$14.19	5.52%	\$10.76	4.18%	\$7.58	2.90%	9.35%	7.30%
2015	\$14.80	5.47%	\$9.83	3.62%	\$6.78	2.50%	9.11%	6.88%
2017	\$12.64	5.05%	\$9.47	3.78%	\$3.10	1.26%	9.70%	6.70%

As shown in Table 2, final authorized rates in those rate cases ranged from 25 to 73 percent of the Company's proposed rates.

Table 2: MERC Final Authorized Rates as Percent of Initial Request

Rate Case Year	Amount Requested (\$M)	Final Rates (\$M)	Increase (%)
2008	\$22.04	\$15.42	69.95%
2010	\$15.17	\$11.05	72.85%
2013	\$14.19	\$7.58	53.43%
2015	\$14.80	\$6.78	45.78%
2017	\$12.64	\$3.10	24.53%

IV. Summary of MERC's 2016 - 2021 Jurisdictional Annual Reports Jurisdictional Annual Reports

The following is a brief historical summary of MERC'S authorized and reported (weather normalized and actual) jurisdictional overall rates of return and rates of return on common equity.

Table 3: Summary of MERC's 2016 – 2021 Jurisdictional Annual Reports

Year	Most Recent Rate Case Docket	Customers	Regular Full-Time Employees	Assessable Revenue (\$000)*	Average Rate Base (\$000)
2016	G-011/GR-15-736	230,609	218	234,007	230,318
2017	G-011/GR-15-736	233,273	223	257,013	247,642
2018	G-011/GR-17-563	235,679	218	273,279	290,303
2019	G-011/GR-17-563	238,192	216	264,397	337,406
2020	G-011/GR-17-563	241,788	207	238,432	393,835
2021	G-011/GR-17-563	244,700	206	348,842	436,891

* Assessable Revenue less Commodity Gas for Gas Utilities

Table 4: Summary of MERC's 2015-2021 Jurisdictional Annual Report (ROR)

Year	Most Recent Rate Case Docket	PUC Authorized ROR	Weather Normalized ROR	Actual ROR	Variance: Actual - Authorized
2016	G-011/GR-15-736	6.88%	8.18%	6.99%	0.11%
2017	G-011/GR-15-736	6.88%	7.69%	7.32%	0.44%
2018	G-011/GR-17-563	6.70%	8.74%	9.68%	2.98%
2019	G-011/GR-17-563	6.70%	6.63%	7.74%	1.04%
2020	G-011/GR-17-563	6.70%	6.90%	6.70%	0.00%
2021	G-011/GR-17-563	6.70%	5.65%	5.34%	-1.36%

Table 5: Summary of MERC's 2015 – 2021 Jurisdictional Annual Report (ROE)

Year	Most Recent Rate Case Docket	PUC Authorized ROE	Weather Normalized ROE	Actual ROE	Variance: Actual - Authorized
2016	G-011/GR-15-736	9.11%	12.00%	9.71%	0.60%
2017	G-011/GR-15-736	9.11%	12.16%	11.42%	2.31%
2018	G-011/GR-17-563	9.70%	13.37%	15.14%	5.44%
2019	G-011/GR-17-563	9.70%	10.04%	11.80%	2.10%
2020	G-011/GR-17-563	9.70%	10.36%	9.90%	0.20%
2021	G-011/GR-17-563	9.70%	8.77%	8.16%	-1.54%

V. Parties' Comments

A. Department

The Department explained that its initial review of MERC's Petition filing relates only to whether the Company's application complies with the following:

- Statutory requirements (Minnesota Statutes §216B.16);
- Commission rules governing filing requirements for rate changes (Minnesota Rules parts 7825.3100 to 7825.4400);
- Commission's general rate case Policy Statements dated June 14, 1982;
- Commission's Orders pursuant to MERC's most recent general rate cases (Dockets Nos G-007, 011/GR-08-835, G-007,011/GR-10-977, G-011/GR-13-617, G-011/GR-15-736, G-011/GR-17-563); and
- Commission's Orders in various dockets that may affect this rate proceeding.

The Department noted that, similar to MERC's last general rate case, in Volume 1 of the Petition, MERC prepared a *Filing Requirement Compliance Table* listing rate case filing requirements that apply to the Company. The table describes the filing requirement and generally identifies the location in the Petition where each compliance item is addressed.

Based on its review, the Department recommended the following:

- That MERC's Petition be accepted as complete as of November 1, 2022.
- This matter be referred to the Office of Administrative Hearings for a contested case proceeding and request that the case proceeding develop and address the following issues:
 - a. Is MERC's proposed test-year revenue increase reasonable?
 - b. Has MERC appropriately ensured that costs proposed to be paid by ratepayers pertain only to regulated utility costs?
 - c. Are MERC's proposed capital structure, cost of capital, and return on equity reasonable?
 - d. Is MERC's proposed rate design reasonable?

B. OAG

The OAG recommended that the Commission find that exigent circumstances exist and justify reducing the interim rate increase for the Residential class. In recognition of ongoing exigent circumstances severely restricting the ability of Minnesota's residential ratepayers to afford rising energy costs, the OAG requested that the Commission implement a 50 percent reduction in MERC's interim rate request as applied to the residential class. The OAG argued that MERC's residential customers are already paying for the extraordinary gas costs the Company incurred in February 2021, layered on top of ongoing gas commodity costs that have nearly doubled since this time last year.

C. MERC

In response to the Department's recommendations to find the Petition complete and refer the matter to the OAH for contested case proceedings, MERC stated that it agreed with the Department's recommendations.

In response to the OAG's recommendation, MERC argued that the OAG does not provide necessary context for its commentary on inflation, gas costs, or the pandemic, and does not recognize other factual circumstances that support the Company's interim rate request. Additionally, MERC noted that the OAG did not cite any basis for the amount of its recommended 50 percent reduction. MERC argued that reducing the Company's interim rates would deny MERC the opportunity to recover its cost of service for the test year. Further, MERC concluded that other considerations support approval of the Company's interim rates as proposed and are relevant to assess the impact of the interim rate increase in this case.

First, MERC noted it has not filed a general rate increase request in five years – since 2017. This contrasts with the 2021 interim rate orders relied upon by the OAG where the Commission found exigent circumstances to support a reduction to residential interim rates. For example, the 2021 CenterPoint rate case relied on by the OAG was the third general rate increase filed by CenterPoint in the same period (2017, 2019, and 2021). MERC noted that, despite inflationary impacts on its cost of service, it has successfully delayed a rate case for several years, thereby containing customers' base rates and making interim and final rate recovery in this case particularly important.⁴

Second, MERC argued that the OAG ignored the fact that, consistent with the Commission's directives in the Company's rider dockets, a meaningful portion of the interim rate increase for MERC is attributable to MERC rolling its current Natural Gas Extension Project (NGEP) and Gas Utility Infrastructure Cost (GUIC) riders into base rates with interim rates. MERC continued stating that rolling those costs into base rates while setting the rider surcharges to zero does not increase customer bills.

⁴ Staff notes that MERC utilizes a Gas Utility Infrastructure Cost Rider which allows for recovery of gas infrastructure costs outside of a rate case, whereas, CenterPoint Energy does not which may account for CenterPoint Energy's greater number of rate cases.

Third, MERC noted that, in the event the Company collects more than it would have collected in final rates, Minnesota Statutes protect customers by requiring that interim rates be subject to refund with interest. Should the Commission set interim rates lower than final rates, the Company has little, if any, recourse to recover the incremental costs incurred during the months-long regulatory process.

VI. MERC's Application

MERC proposed an increase in rates of approximately \$40.3 million, or approximately 9.9 percent per year, effective January 1, 2023. The primary financial drivers for the request are increased annual capital and O&M costs since the Company's last rate case, particularly with respect to Gas Operations capital and O&M, property and other taxes, Information Technology investments and Administrative and General services.⁵

A. Comparison of Authorized and Proposed Revenue Requirement

Table 6 provides a comparison between the revenue requirement approved in MERC's 2017 rate case and the proposed revenue requirement in this docket.

Table 6: Revenue Requirement Comparison of Prior Case to Current Proposal

	<u>Authorized 2017 Rate Case – Docket No. G-011/GR-17-563</u>	<u>Proposed 2022 Rate Case - Docket No. G-011/GR-22-504</u>
Rate Base	\$284,298,000	\$482,450,000
Rate of Return	6.697%	7.07%
Return on Equity	9.70%	10.30%
Required Operating Income	\$19,039,000	\$34,096,000
Revenue (including gas revenue)	\$248,172,000	\$408,358,000
Expenses (including gas expenses)	\$231,343,000	\$402,995,000
Operating Income	\$19,039,000	\$5,363,000
Income Deficiency	\$0	\$28,733,000
Conversion Factor	1.4034	1.4034
Revenue Deficiency	\$0	\$40,324,000

The proposed increase of approximately \$40.3 million can be attributed to the following changes since rates were increased in the 2017 rate case:

Increase in Rate Base	\$19.7 million
Increase in Rate of Return	\$1.5 million
<u>Decrease in Net Income</u>	<u>\$19.2 million</u>
Total	\$40.3 million

When compared to its last filing, the breakdown of the Company's requested increase shows a decrease in operating income, with the balance attributed to capital investment, expense increases and a rate of return request that is higher than the last authorized return.

⁵ Chamberlain Direct Testimony at 4-6.

Capital investments are the main reason for the \$198 million, or nearly 70 percent increase in rate base since the last rate case in 2017. MERC stated that its forecasted 2022 and 2023 capital investments have increased by \$60.9 million and \$59.9 million, respectively.⁶

Table 7 provides an expense comparison, by major groups, of amounts approved in MERC's last rate case and amounts proposed in this rate case. Notable changes include:

- Cost of Gas Expense, \$152.4 million (109.3 percent) increase
- Other Production Expense, \$1.07 million (76.6 percent) decrease
- Gas Supply Expense, \$321,000 (41.3 percent) decrease
- Gas Transmission Expense, \$791,000 (1,464.8 percent) increase
- Gas Distribution Expense \$2.4 million (13.0 percent) increase
- Customer Accounting Expense, \$832,000 (8.04 percent) increase
- Customer Service and Information Expense, \$333,000 (28.7 percent) decrease
- Administrative and General \$1.3 million (8.3 percent) increase

Table 7: MERC's Operating Expense Comparison of Prior Rate Case Current Proposal

Operating Expense	Authorized 2017 Rate Case	Proposed 2022 Rate Case	Difference (\$000)	Difference (%)
Cost of Gas	\$139,406	\$291,792	\$152,386	109.31%
Other Production	1,407	330	(1,077)	-76.55%
Gas Supply	777	456	(321)	41.31%
Gas Transmission	54	845	791	1,464.81%
Gas Distribution	18,713	21,153	2,440	13.04%
Customer Accounting	10,346	11,178	832	8.04%
Customer Service & Information	1,159	826	(333)	-28.73%
Administrative and General	15,517	16,797	1,280	8.25%
Total Operation & Maintenance	\$187,379 ⁷	\$343,377	\$155,998	83.25%

B. Proposed Test Year Cost of Capital

The filing requirements regarding rate of return and cost of capital are found in Minnesota Rules, Part 7825.4200. These rules require the Company to provide:

A. A rate of return cost of capital summary schedule showing the calculation of the weighted cost of capital using the proposed capital structure and the average capital structures for the most recent fiscal year and the projected fiscal year. This

⁶ Stasik Direct Testimony at 5-6.

⁷ One dollar rounding difference between this number and the \$187,378,156 in MERC's Operating Income Summary.

information shall be provided for the unconsolidated parent and subsidiary corporations, or for the consolidated parent corporation.

B. Supporting schedules showing the calculation of the embedded cost of long-term debt, if any, and the embedded cost of preferred stock, if any, at the end of the most recent fiscal year and the projected fiscal year.

C. Schedule showing average short-term securities for the proposed test year, most recent fiscal year, and the projected fiscal year.

Staff notes that MERC complied with this rule by providing the information in Volume 3, Tab IR-16.

In its Petition, MERC requested a rate of return on common equity of 10.30 percent and an overall weighted cost of capital of 7.07 percent. MERC's proposed test year capital structure and cost of capital is shown below:⁸

Table 8: Proposed Cost of Capital

Component	Percent of Total	Cost Rate	Weighted Cost
Long-Term Debt	42.64%	3.14%	1.34%
Short-Term Debt	4.36%	6.16%	0.27%
Common Equity	53.00%	10.30%	5.46%
Total (ROR)			7.07%

All other things being equal, more equity in a capital structure makes investing a safer decision for an outside investor. A greater proportion of equity reduces the possibility that there will not be enough earnings to pay interest on the (reduced amount) of debt and, additionally, it increases the probability that sufficient earnings remain to pay dividends on the equity. Where the proportion of debt is small, lenders will also have reduced concerns about recovering their investment in the event of bankruptcy.

Since it is the highest cost form of capital, equity in too great a proportion increases costs to ratepayers, who both pay for too much high-cost equity and too little low-cost debt, and it reduces shareholders' chances to leverage a higher return out of their investment. Therefore, it is necessary to strike an appropriate balance with enough equity for safety but not so much that costs are unnecessarily high.

C. Proposed Test Year Sales Forecast

In compliance with the requirement that natural gas utilities file their sales forecasts 30 days ahead of the rate case filing, MERC pre-filed its sales forecasts on September 30, 2022.

The Commission's Orders in MERC's 2008, 2013, and 2015 rate cases, and the ALJ's Proposed Findings in Docket 15-736 adopted by the Commission, establish specific compliance

⁸ Zgonc Direct Testimony Schedule 40, pg. 1 of 4.

requirements and MERC has accurately summarized those requirements and noted its compliance with the requirements. These requirements and MERC's compliance with them are summarized below:

- Prepare summary spreadsheets that link together its test year sales and revenue estimates, the class cost of service study (CCOSS) and its rate design schedules, and provide these in its initial filing (Docket No. G-007,011/GR-08-835, Order After Reconsideration, September 14, 2009, p. 4; and Docket No. G-011/GR-13-617, Findings of Fact, Conclusions, and Order, October 28, 2014, p. 63):

MERC's response: Exhibit __ (JLZ-D), Direct Testimony of Joseph L. Zgonc complies with this requirement.

- Separate sales and revenue forecasts by individual rate classes, for each of the Purchased Gas Adjustment areas; (Docket No. G-007,011/GR-08-835, Order After Reconsideration, September 14, 2009, p. 4):

MERC's response: Schedule JJP-D, Direct Testimony of Jared J. Peccarelli complies with this requirement.

- Provide a spreadsheet that fully links together all raw data to the most detailed information available and in a format that enables the full replication of MERC's process that the Company uses to calculate the input data it uses in its test-year sales analysis (Docket No. G-011/GR-13-617, Findings of Fact, Conclusions, and Order, October 28, 2014, p. 63):

MERC's response: MERC's forecast pre-filing (September 30, 2022) complies with this requirement.

- Provide a bridging schedule that fully links together old and new billing systems, and demonstrates that there is no difference between the two billing systems, in the event the Company updates, modifies, or changes its billing system (Docket No. G-011/GR-13-617, Findings of Fact, Conclusions, and Order, October 28, 2014, p. 63):

MERC's response: Direct Testimony of Joseph L. Zgonc addresses this requirement.

- Provide any, and all, data used for its sales forecast 30 days in advance of its next general rate case; (Docket No. G-011/GR-13-617, Findings of Fact, Conclusions, and Order, October 28, 2014, p. 63):

MERC's response: MERC's pre-filing on September 30, 2022, complies with this requirement.

- Provide detailed information sufficient to allow for replication of any and all Company-derived forecast variables (Docket No. G-011/GR-13-617, Findings of Fact, Conclusions, and Order, October 28, 2014, p. 63):

MERC's response: MERC notes that its sales forecast pre-filing is capable of being replicated.

- Work with the Department of Commerce, Division of Energy Resources (the "Department") to address comments and concerns raised by the Department regarding MERC's forecast methodology in Docket No. G-011/GR-15-736:

MERC's response: MERC had informal discussions with the Department on March 20, 2019, April 17, 2020, and May 13, 2022, regarding its forecasting methodology. MERC also noted that it discussed the Department's concerns (and other issues) regarding MERC's forecast in Docket No. G-011/GR-17-563 and attempted to resolve contentious issues.

In the same manner used in its previous rate case⁹, MERC used the MetrixND software to develop its 2023 test-year sales forecast. MERC also used the same procedure to develop weather normalized adjustment to sales in this rate case.

Weather normalized sales are derived from a model that first determines base load sales. Base load sales are then subtracted from actual monthly sales, resulting in weather-sensitive sales. MERC has taken the 20-year (from 2002 to 2021) average daily temperature to constitute normal weather and calculated the daily average temperature for each weather station (Bemidji, Cloquet, Fargo, International Falls, Minneapolis, Rochester and Worthington) in its service area and then determined the number of Heating Degree Days (HDD) with 65°F as the base temperature.

The Department did not recommend any adjustment to MERC's test-years sales forecast in the previous rate case because it concluded the results of MERC's sales forecasts did not appear to be biased.

⁹ Docket No. G-011/GR-17-563.

Table 9 provides a summary of MERC’s 2023 test-year customer count and sales, by customer class.¹⁰

Table 9: MERC’s Proposed Sales Forecast and Customer Counts		
<u>Class</u>	<u>Test Year Forecast (therms)</u>	<u>Customer Count</u>
Residential	190,420,054	223,120
<u>C&I General Service Rate</u>		
Class 1	8,738,625	9,959
Class 2	99,519,830	13,533
Class 3	9,966,401	67
<u>Interruptible and Joint</u>		
Interruptible	27,213,211	414
Joint	326,119	5
Transportation	539,404,483	250
Total MERC-Minnesota	875,588,723	247,348

Staff concluded that MERC’s pre-filed data should enable any interested party to duplicate the results developed by the Company.

D. Class Cost of Service Studies

1. Rules Requirement

Minnesota Rules, Part 7825.4300 (c) requires a request for a change in rates to include:

A cost-of-service study by customer class of service, by geographic area, or other categorization as deemed appropriate for the change in rates requested, showing revenues, costs, and profitability for each class of service, geographic area, or other appropriate category, identifying the procedures and underlying rationale for cost and revenue allocations. Such study is appropriate whenever the utility proposes a change in rates which results in a material change in its rate structure.

MERC’s witness Patrick Sullivan’s testimony is responsive to the requirements established by the Commission and notes MERC’s compliance with the requirements. MERC provided its Class Cost of Service Study (CCOSS) in Volume 3, Tab IR-12, for the Test Year 2023.

2. Required Studies for Class Cost of Service

The Commission’s December 26, 2018, Order in Docket G-011/GR-17-563 directed that, in future rate cases, MERC need file only one cost study. However, if MERC elected to file a zero-

¹⁰ Peccarelli Direct Schedule 1, pg. 1 of 5 and Schedule 2, pg. 1 of 4.

intercept study, it shall also file a minimum-size classification in lieu of a full-blown minimum-size study. The Order further clarified that intervening parties have the option to request additional cost studies. If more than two studies are requested, or if a request is not clearly defined, MERC may seek protection from the Administrative Law Judge under Minn. R. 1400.6700, subp. 4.

MERC's Petition provided a Minimum Size Method study to accompany its CCOSS but did not include a zero-intercept study.

3. Order Requirements

Over the years, MERC has been subject to several filing requirements established in the various Commission Orders. MERC witness Sullivan's testimony noted the requirements established by the Commission from 2009 to the recently concluded rate case in 2017 and explained how MERC is in compliance with such provisions. This is summarized below:

- 1) In Docket No. G-007,011/GR-08-835, the Commission required that MERC include an explanatory filing identifying and describing each allocation method used in the study and detailing the reasons for concluding that each allocation method is appropriate and superior to other allocation methods considered.

Witness Patrick Sullivan provided MERC's response to the reporting requirement in his testimony and in Schedule 1.4 of Volume 3, Informational Requirement Document 12. Sullivan testified that MERC's cost allocation assigns costs to customer classes based on cost causation.¹¹

- 2) In Docket No. G-007,011/GR-10-977, the Commission required MERC to allocate income taxes based on taxable income by class that fully and only reflects the CCOSS. The Commission affirmed this requirement subsequently in Docket No. G-011/GR-13-617.

MERC's cost study presented in Informational Requirement Document 12, Schedule 1.0, allocates income taxes based on rate base which MERC maintains is, mathematically, the same method as required by the Commission. Further, in Schedule 1.6, Informational Requirement Document 12, MERC demonstrated that the rate base allocation method is mathematically equivalent to allocating income taxes based on taxable income by class that fully and only reflects the class cost of service. MERC further claims that its method is consistent with MERC's previous rate case filing.

- 3) In Docket No. G-011/GR-13-617, the Commission established the following four requirements:
 - a) Collect data on additional variables that impact the unit cost of mains installation;

¹¹ Sullivan Direct Testimony at 11.



- b) Avoid aggregating or averaging data and use data at the finest level reasonable;
- c) Check ordinary-least-squares (OLS) regression assumptions and correct for violations; and
- d) Make any future zero-intercept analysis more transparent to ensure that MERC's work can be easily replicated.

4) In Docket No. G-011/GR-15-736, MERC was directed to explore the use of such project-specific data in future zero-intercept cost studies. Since these requirements were established when the Company used zero-intercept cost study in previous rates cases and MERC has presented a minimum-size cost study, those requirements do not apply.

4. Staff Comments

Staff concluded that the CCOSS provided by MERC complies with the standards required for acceptance.

E. Proposed Rate Design

The following is a summary and is not meant to be a complete or comprehensive catalog of MERC's rate design proposal in this docket.¹²

1. Class Revenue Apportionment

MERC proposed a net rate increase for Test Year 2023 of \$40.3 million or 9.9 percent as compared to current rates. Table 10 compares the 2023 Test Year to current rates' revenue apportionment and the dollar and percentage petitioned increase amounts. Column three reflects the sales in therms – MERC's sales forecast in this case.¹³

¹² For more detailed discussion of MERC's Rate Design proposals see Direct Testimony, Joylyn Hoffman Malueg, November 1, 2022.

¹³ Peccarelli Direct Testimony, Schedule 1, pg. 1 of 5.

Table 10: MERC's Current and Proposed Revenue Requirement

Customer Class	Customer Count	Sales (therms)	Current Revenue (\$)	Proposed Revenue (\$)	Proposed Increase	
					(\$)	(%)
Residential	223,120	190,420,054	\$ 240,415,075	\$ 267,440,665	\$ 27,025,590	11.24%
Small C&I	9959	8,738,625	\$ 11,644,525	\$ 12,714,133	\$ 1,069,608	9.19%
Medium C&I	13533	99,519,830	\$ 110,447,782	\$ 118,760,139	\$ 8,312,357	7.53%
Large C&I	67	9,966,401	\$ 10,138,154	\$ 10,540,099	\$ 401,945	3.96%
Sm Int.	361	12,635,811	\$ 11,316,571	\$ 11,875,593	\$ 559,022	4.94%
Lg. Int.	53	14,577,399	\$ 12,438,624	\$ 12,754,233	\$ 315,609	2.54%
Sm. Vol. Joint	5	326,119	\$ 268,164	\$ 290,167	\$ 22,003	8.21%
Transport	250	539,404,484	\$ 10,315,079	\$ 12,930,949	\$ 2,615,870	25.36%
Total	247,348	875,588,723	\$ 406,983,974	\$ 447,305,978	\$ 40,322,004	9.91%

Because the transportation revenue numbers do not include the cost of gas, the proposed rate increases for transportation service may appear relatively high compared when compared to other classes that include the cost of gas.

Table 11 reflects the revenue apportionment of each class if the cost of gas is excluded from the revenue numbers.

Table 11: MERC's Current and Proposed Revenue Requirement Excluding Gas Cost

Customer Class	Customer Count	Sales (therms)	Current Revenue (\$)	Proposed Revenue (\$)	Proposed Increase	
					(\$)	(%)
Residential	223,120	190,420,054	\$ 72,442,786	\$ 99,468,375	\$ 27,025,589	37.31%
Small C&I	9959	8,738,625	\$ 4,095,618	\$ 5,165,226	\$ 1,069,608	26.12%
Medium C&I	13533	99,519,830	\$ 24,083,664	\$ 32,396,022	\$ 8,312,358	34.51%
Large C&I	67	9,966,401	\$ 1,373,746	\$ 1,775,691	\$ 401,945	29.26%
Sm Int.	361	12,635,811	\$ 1,461,836	\$ 2,020,857	\$ 559,021	38.24%
Lg. Int.	53	14,577,399	\$ 1,370,708	\$ 1,686,317	\$ 315,609	23.03%
Sm. Vol. Joint	5	326,119	\$ 48,984	\$ 70,986	\$ 22,002	44.92%
Transport	250	539,404,484	\$ 10,315,079	\$ 12,930,949	\$ 2,615,870	25.36%
Total	247,348	875,588,723	\$ 115,192,421	\$ 155,514,423	\$ 40,322,002	35.00%

If MERC's proposal is approved in its entirety, residential customers would be responsible for approximately 67 percent of the proposed revenue increases resulting from the increased distribution charges. In percentage terms, MERC's proposed revenue increases, not including the cost of gas, are apportioned among the customer classes as follows.

Table 12: Percentage Increase

Customer Class	Percent of Proposed Revenue Increases
Residential	67.02%
Small C&I	2.65%
Medium C&I	20.61%
Large C&I	1.00%
Sm Int.	1.39%
Lg. Int.	0.78%
Sm. Vol. Joint	0.05%
Transport	6.49%

2. Basic Monthly Service Charges and Per-Therm Delivery Charges

MERC is not proposing any changes to the currently Commission-approved customer charges.¹⁴ Due to the decision not to increase the per customer charge, the entire increase in rates is borne by the distribution charge. This results in a large increase in the per therm distribution charge for many classes.

The Company is proposing a 57.5 percent increase for the residential class' volumetric distribution charge from \$0.24686/therm to \$0.38878/therm. Table 13 summarizes the Company's current and proposed distribution charge by rate class.

Table 13: MERC's Current and Proposed Distribution Charge

Customer Class	Basic Charge (per month)				Delivery Charge (per therm)			
	Current (\$)	Proposed (\$)	Increase (\$)	Increase (%)	Current (\$/th)	Proposed (\$/th)	Increase (\$)	Increase (%)
Residential	\$ 9.50	\$ 9.50	\$ -	0.00%	\$ 0.24686	\$ 0.38878	\$ 0.14192	57.49%
Small C&I	\$ 18.00	\$ 18.00	\$ -	0.00%	\$ 0.22251	\$ 0.34491	\$ 0.12240	55.01%
Medium C&I	\$ 45.00	\$ 45.00	\$ -	0.00%	\$ 0.16857	\$ 0.25209	\$ 0.08352	49.55%
Large C&I	\$165.00	\$ 165.00	\$ -	0.00%	\$ 0.12453	\$ 0.16486	\$ 0.04033	32.39%
Sm Int.	\$ 45.00	\$ 45.00	\$ -	0.00%	\$ 0.05016	\$ 0.05748	\$ 0.00732	14.59%
Lg. Int.	165 -185	165 - 185	\$ -	0.00%	\$ 0.03486	\$ 0.03738	\$ 0.00252	7.23%
Sm. Vol. Joint	\$ 45.00	\$ 45.00	\$ -	0.00%	\$ 0.11239	\$ 0.18010	\$ 0.06771	60.25%

Pursuant to the Commission's Orders in Docket Nos. 14-107 and 15-736, the former Interstate Power and Light customers have been consolidated into the NNG PGA area. These customers are currently paying the same rates as other NNG customers. In its 17-563 Order, the Commission approved the final piece of consolidation by approving MERC's request to charge the same customer charge for all NNG customers.

¹⁴ Malueg Direct Testimony at 23.

Further, MERC proposed to maintain its current customer charge and increase its delivery charges for its transportation service customers. Table 14 summarizes MERC's current and proposed delivery charges for transportation customer classes.

Table 14: Proposed Customer and Delivery Charges for Transportation Customers

Customer Class/Type		Fixed Charge (Per Month)			Delivery Charge (per Therm)		
		Current	Proposed	Inc. (%)	Current	Proposed	Inc. (%)
Firm Transport Customers	Class 2	\$195	\$195	0%	\$0.17	\$0.25	49.55%
	Class 3	\$315	\$315	0%	\$0.12	\$0.16	32.39%
	Class 4	\$335	\$335	0%	\$0.05	\$0.06	14.59%
	Class 5	\$510	\$510	0%	\$0.03	\$0.04	7.26%
	Class 5 (CIP Exempt)	\$510	\$510	0%	\$0.01	\$0.01	51.97%
Interruptible Transport Customers	Class 2	\$195	\$195	0%	\$0.10	\$0.15	42.99%
	Class 3	\$315	\$315	0%	\$0.09	\$0.12	25.91%
	Class 4	\$335	\$335	0%	\$0.05	\$0.06	15.63%
	Class 5	\$510	\$510	0%	\$0.03	\$0.03	2.82%
	Class 5 (CIP Exempt)	\$510	\$510	0%	\$0.00	\$0.01	26.79%
	Resale	\$335	\$335	0%	\$0.08	\$0.09	13.46%

F. Revenue Decoupling

1. MERC's Initial Filing

MERC's Decoupling Pilot was originally approved for three years in Docket G-007,011/GR-10-977 and applied to both the Residential and Small C&I classes. The pilot has subsequently been extended several times, most recently in the Company's 2017 rate case.¹⁵ The Commission's Order in the 2017 rate case required MERC to provide an updated analysis of the impact on customers of extending revenue decoupling to all of MERC's customer classes with 50 or more customers when MERC filed its next rate case.¹⁶ Additionally, the 2017 Order removed the Small C&I customers from the program. MERC's current program is a "full" Revenue Decoupling Mechanism (RDM) applicable to the Residential class that is designed to separate (decouple) MERC's revenues from the volume of gas it sells, thereby removing the financial disincentive for MERC to promote energy efficiency while allowing MERC the opportunity to collect its approved revenue requirement. The RDM adjustment is calculated annually based on the class revenue requirements after removing the fixed charge portion and CCRC revenues from the final revenue apportioned to the customer class, based on actual customer counts. The RDM is calculated to adjust on a per-customer basis for sales volumes that are above or below the approved sales levels for the Residential rate group (composed of the applicable Residential

¹⁵ Docket No. G-011/GR-17-563.

¹⁶ *In the Matter of the Application of Minnesota Energy Resources Corporation for Authority to Increase Rates for Natural Gas Service in Minnesota*, Docket No. G-011/GR-17-563, Findings of Fact, Conclusions, and Order at OP 32 (December 26, 2018).

rate classes), that is used to determine the volumetric distribution charges approved by the Commission.

Most recently, the Commission approved the extension of MERC's revenue decoupling program through the completion of the Company's next rate case, or through 2025 if MERC's next rate case proceeding is not completed by that time.¹⁷

In this docket, MERC is proposing to maintain the current parameters of its decoupling program and extend the pilot for another three years.

2. Staff Comments

Staff concludes that the information provided by MERC complies with the standards required for acceptance.

VII. Staff Analysis

A. Should this filing be accepted as substantially complete?

1. Compliance with rules and statutes

Minnesota Statute §216B.16, Subdivision 1, requires a public utility to give the Commission a sixty-day notice prior to changing rates. The statute requires the notice to include:

... statements of facts, expert opinion, substantiating documents, and exhibits, supporting the change requested, and state the change proposed to be made in the rates then in force, and the time when the modified rates will go into effect.

Minnesota Rules, Parts 7825.3100 through 7825.4400, implement the above statute by setting out specific rate case filing requirements. Various parts of the Commission's rules of practice and procedure, Minnesota Rules, Chapter 7829, are also relevant.

Staff reviewed this filing for compliance under Minn. Stat. § 216B.16 and Minn. Rules 7825.3100 through 7825.4400. Staff agrees with the Department's analysis and believes MERC's filing substantially complies with these requirements.

2. Compliance with and issues from prior Commission orders/recent & pending dockets before the Commission

The Department commented that MERC's *Filing Requirement Compliance Table* that lists and identifies where in the Petition the Company has addressed the applicable Statutes and Rules, and prior Commission Orders complies with the filing requirements. Staff concurs.

¹⁷ *In the Matter of Minn. Energy Res. Corp's. 2021 Revenue Decoupling Mechanism Adjustment*, Docket No. G-011/M-22-260, Order (Aug. 31, 2022).

B. If this filing is accepted, should the proposed rates be suspended, pursuant to Minn. Stat. § 216B.16, subd. 2?

If the Commission accepts this filing, Staff recommends that the Commission suspend the proposed final rates to allow parties to investigate the reasonableness of the requested increase. Once rates are suspended, and while the Company's filing is investigated and parties are in litigation, statute provides for the collection of interim rates during the suspension period. These rates are subject to refund.

C. If this filing is accepted, should this matter be referred to the Office of Administrative Hearings (OAH) for a contested case?

The Commission is required to refer a rate case to the OAH for a contested case proceeding unless the Commission finds that all significant issues can be resolved to its satisfaction, pursuant to Minn. Stat. § 216B.16, subd. 2(b). Staff concludes that the Commission cannot make such a finding absent a fully developed record and recommends setting this matter for contested case.

The statutory deadline for the Commission to issue its final order in this matter is ten months from the date this filing was found to be substantially complete, pursuant to Minn. Stat. §216B.16, Subd. 2(a). If this case is accepted as of November 1, 2022, then the Commission's deadline for issuing an order would be September 1, 2023. However, pursuant to Minn. Stat. §216B.16, Subd. 2(f), the Commission has the authority to set a deadline up to ninety days later:

If the commission finds that it has insufficient time during the suspension period to make a final determination of a case involving changes in general rates because of the need to make a final determination of any pending case involving changes in general rates under this section or section 237.075, the commission may extend the suspension period to allow up to a total of 90 additional calendar days to make the final determination. An extension of the suspension period under this paragraph does not alter the setting of interim rates under subdivision 3.

At this time, the Commission has a pending electric rate case that was filed by Xcel Energy on October 25, 2021,¹⁸ a pending electric rate case that was filed by Minnesota Power on November 1, 2021,¹⁹ and a pending natural gas rate case that was filed by Xcel Energy on November 1, 2021.²⁰

Absent an extension of time, the final order deadline in the instant case would be September 1, 2023; however, allowing for additional ninety days would allow for the following:

- More flexible scheduling.

¹⁸ Docket No. E-002/GR-21-630.

¹⁹ Docket No. E-015/GR-21-335.

²⁰ Docket No. G-002/GR-21-678.



- Mitigate any possible disadvantage for the Department, the OAG, and other parties that may be created by having to prepare testimony in this rate case while simultaneously participating in Minnesota Power, Xcel Energy - Electric rate case, and Xcel Energy – natural gas rate case.
- Better record development.
- More careful evaluation of the Company's proposal

For these reasons, staff recommends that, if the Commission finds it appropriate, the final order deadline be extended by the ninety days. Furthermore, consistent with recent practice, the Commission has asked for the ALJ's report to be submitted at least three months (90 days) prior to the Commission's statutory deadline for issuing its order. Staff believes this practice is reasonable given the complexity of this and other pending cases, and to ensure the Commission has sufficient time to consider this matter and issue its order within the statutory deadline.

D. Identification of issues of special interest or requiring additional, supplemental testimony

In its Petition, MERC provided a *Filing Requirement Compliance Table* which included a list of information required under a number of Commission orders and where in the Company's pre-filed testimony these issues are addressed. The Commission may want to include a general request that parties thoroughly review issues identified in the Commission's past orders. If the Commission wants to give special emphasis to any of these particular requirements, it could do so at this time.

The Commission may also want to include in its Notice and Order for Hearing, a request that parties thoroughly address and develop (in addition to the standard rate case issues) a complete record (e.g., in testimony, at hearing, and if applicable, in settlement documents) on the following issues noted and any additional issues the Commission may wish to identify.

1. Base Cost of Gas

The per dekatherm demand cost proposed in the Company's companion base cost of gas filing (Docket No. G-011/MR-22-505) is based on MERC's sales forecast. In the event the sales forecast changes, then the per dekatherm demand cost will also change. As such, any sales forecast change will make it necessary to adjust the demand rate(s) in the base cost of gas. Staff recommends that the Commission request that parties make the necessary adjustment to the per unit demand cost of gas if there is a change in the sales forecast. This will eliminate the need to revise the operating income statement after the Commission's Order in the rate case. Staff has included a decision alternative for consideration.

2. Financial Matters

The Commission may want to request full record development that includes explanations and supporting reasons for the significant changes in the following costs since the last rate case:

- Other Production Expense – 76.6 percent decrease
- Gas Supply Expense – 41.3 percent decrease



- Gas Transmission Expense – 1,464.8 percent increase
- Gas Distribution Expense – 13.0 percent increase
- Customer Accounting Expense – 8.04 percent increase
- Customer Service and Information Expense – 28.7 percent decrease
- Administrative and General – 8.3 percent increase

E. If this filing is accepted, should interim rates be set as requested by the Company?

For the purpose of setting interim rates, MERC proposed an increase in revenues of approximately \$36.9 million, or approximately 9.1 percent over current rates including the cost of gas or 32.82 percent over current rates excluding the cost of gas, based on a 10.30 percent rate of return on common equity. MERC requested interim rates be made effective for service rendered on and after January 1, 2023, subject to refund pending final Commission action on the general rate increase application.

1. Interim Rate Statute

Minn. Stat. § 216B.16, subd. 3, states in part that:

(a) Notwithstanding any order of suspension of a proposed increase in rates, the commission shall order an interim rate schedule into effect not later than 60 days after the initial filing date. The Commission shall order the interim rate schedule ex parte without a public hearing. ... [and]

(b) Unless the Commission finds that exigent circumstances exist, the interim rate schedule shall be calculated using the proposed test year cost of capital, rate base, and expenses, except that it shall include: (1) a rate of return on common equity for the utility equal to that authorized by the commission in the utility's most recent rate proceeding; (2) rate base or expense items the same in nature and kind as those allowed by a currently effective order of the commission in the utility's most recent rate proceeding; and (3) no change in the existing rate design.

2. Effective Date for Interim Rate

If the Commission accepts MERC's filing as substantially complete as of as of November 1, 2022, and suspends the proposed final rates then, pursuant to Minn. Stat. § 216B.16, subd. 3(a), the Commission must order interim rates into effect within 60 days or no later than December 31, 2022.

MERC has proposed to implement interim rates on January 1, 2023. In its filing, MERC waived its statutory right for interim rates to go within 60 days. Specifically, MERC stated:

Although Minn. Stat. § 216B.16, subd. 3 requires the Commission to approve interim rates no later than 60 days after the initial filing date, MERC waives its right, under the statute, to have interim rates in effect not later than 60 days after the initial filing for the purpose of placing interim rates in effect on January 1,

2023. MERC's customers would not be harmed by granting the Company's request.²¹

3. Interim Rate Increase

MERC calculated an interim revenue deficiency of \$37,811,382, or 9.29 percent, but proposed an interim rate increase of \$36,973,887, or 9.08 percent. The difference is the result of MERC foregoing interim increases to customer Class 5 – CIP Exempt, Electric Generation Class 2 – CIP Exempt, and Flex Rate customers.²²

Table 15 - MERC Proposed Interim Rate Revenue Increase²³
((\$000))

	Proposed Interim Rate Increase
Rate Base	\$482,450
Rate of Return	6.75%
Required Operating Income	\$32,561
Net Operating Income	\$5,618
Income Deficiency	\$26,944
Revenue Conversion Factor	1.403
Revenue Deficiency	\$37,811

The interim rate revenue deficiency is approximately \$2.5 million less than the \$40.3 million MERC requested in its general rate case increase. This difference is attributable MERC's removal of interim rate revenue deficiency costs that are not of the same nature and kind as allowed in the general rate case. The Company identified an increase to income taxes and reductions in advertising, travel and entertainment, investor relations and depreciation expense as adjustments to the revenue deficiency. Additionally, an adjustment was made for the return on equity resulting in MERC's use of the Commission authorized ROE in the last general rate case of 9.70 percent instead of the current request of 10.30 percent.

Staff reviewed the interim rate request to determine whether the request is generally consistent with statutes, prior Commission policy statements, and prior Commission Orders affecting MERC and believes that it is. Staff did not attempt to determine the appropriateness of any issue for final rates.

²¹ MERC Petition, Vol. 1, pg. 15, fn 1.

²² MERC Initial Filing Volume 1 at 14, Notice of Change in Rates – Page 1; MERC Initial Filing Volume 1 at 59, Notice and Petition for Interim Rates – Item 3 Pages 2 – 5; Zgonc Direct Testimony, Pages 105 – 107; Malueg Direct Testimony, Pages 97 – 100.

²³ MERC Initial Filing at 70, Schedule A, Page 1; Zgonc Direct Testimony at 166, Schedule 39 Page 1.

4. Exigent Circumstances

As previously discussed, the OAG argued that exigent circumstances exist justifying reduction in the rate increase for the residential customer class by 50 percent. The OAG identified increasing inflation, high natural gas costs, the cost burden of the extraordinary costs incurred during the February 2021 Winter Storm event, and ongoing effects of the COVID-19 pandemic as sources of exigent circumstances.

The OAG noted that the Commission found exigent circumstance in several rate cases in 2021 (e.g., G-008/GR-21-435, E-002/GR-21-630, & E-015/GR-21-335) due to the COVID-19 pandemic. OAG specifically cited that MERC's increase of 9.1 percent is considerably larger than CenterPoint's requested 5.1 percent increase, which the Commission ultimately reduced to 3.9 percent.

In response, MERC noted several factors. First, regarding the size of the Company's request, MERC argued that it has been 5 years since it has filed for a rate case, while CenterPoint had filed rate cases in 2017 and 2019 prior to its 2021 case. This delayed rate impacts on customers, but it makes interim rate recovery particularly important for MERC.

Secondly, a significant share of its requested increase entails rolling existing NGEP and GUIC rider revenues into base rates, so a significant share of the 9.1 percent increase is already being paid by customers.

Third, if interim rates exceed final rates, any overcollection will be refunded to customers, so if residential customers are overcharged, they will be made whole, while if residential interim rates are significantly reduced, MERC has little or no recourse to make up the lost revenues if final rates prove that the higher interim rates would have been justified.

Finally, MERC argued that an exigent circumstances finding is not justified. MERC noted that, though natural gas prices are high by the standards of the last 5-10 years, they are very typical if viewed over a longer time horizon. Natural gas prices are not extraordinary at current levels, and do not justify a finding of exigent circumstances. MERC also argued that the OAG, along with other parties, were part of settlement of the extraordinary cost docket for the 2021 gas cost recovery, which resulted in a \$3 million reduction in gas recovery. MERC also noted that most COVID-19-related transition ended 6 months ago, and that using COVID at this point to justify an exigent circumstances finding is not explained by the OAG. MERC argued that the same inflation that the OAG notes as justifying an exigent circumstance also drives the need for MERC to request increased rates at this time.

In conclusion, MERC stated that even if exigent circumstance were found, a 50 percent reduction to residential interim rates is unreasonable and unsupported. MERC noted that CenterPoint, Xcel, and Minnesota Power proposed voluntary reductions in interim rates that reduced revenues to those companies by significantly less than the OAG proposal. OAG's 50 percent reduction would reduce interim revenues by 32 percent, compared to an 18 percent reduction to CenterPoint revenues, 14 percent for Xcel Electric, and 9 percent for Minnesota



Power. Xcel Gas saw no finding of exigent circumstance and thus incurred no reduction to interim rates.

Staff offers the following discussion to provide some historical background and perspective to the interim rate statute and the issues presented in the comments and replies. Staff recognizes this matter involves a significant amount of legal interpretation and will attempt to avoid that area but provides the following from the Minnesota Supreme Court.

a. Supreme Court of Minnesota Decision upholding the Commission's Authority to Find Exigent Circumstances in Setting Interim Rates in a General Rate Case

On September 18, 2013, the Supreme Court of Minnesota issued its decision upholding the Commission's authority to find exigent circumstances in setting interim rates in a general rate case, pursuant to Minn. Stat. § 216B.16, subd. 3(b), when the Commission clearly identifies and explains the factors that caused the exigent (i.e., urgent) circumstances and the Commission's determination is supported by substantial record evidence. [Supreme Court of Minnesota, In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota, Case No. A11-0352]

In its September 18, 2013, ruling, the Supreme Court defined exigent circumstances as follows and stated that the existence of exigent circumstances is a factual determination for the Commission to make as part of its interim rate making function using the substantial evidence test.

"Exigent circumstances" is defined as "[a] situation that demands unusual or immediate action and that may allow people to circumvent usual procedures." Similarly, dictionary definitions of exigent include "[r]equiring immediate action" and "[r]equiring immediate aid or action." Our case law is consistent with these definitions. We have said that the term " 'exigent' bespeaks urgency or emergency." (holding that the utility's proposed rate increase to only one service class "hardly suggests a pressing need of the type which would justify abandoning the statutory plan for interim rates and taking extraordinary action").

The Supreme Court also said that:

Although the Commission is not bound by the statutory formula in determining whether exigent circumstances exist, general principles in chapter 216B constrain the Commission's discretion. The statute requires that "[e]very rate made, demanded, or received by any public utility . . . shall be just and reasonable." Minn. Stat. § 216B.03 (2012). Further, the statute requires that the Commission give "due consideration to the public need for adequate, efficient, and reasonable service and to the need of the public utility for revenue sufficient to enable it to meet the cost of furnishing the service . . . and to earn a fair and reasonable return." Minn. Stat. § 216B.16, subd. 6. Finally, "[a]ny doubt as to reasonableness should be resolved in favor of the consumer." Minn. Stat. § 216B.03. All of these principles operate to constrain the Commission's decision-making.

The Supreme Court also said:

Minnesota Statutes § 216B.09, subd. 1, requiring the Commission to fix just and reasonable rates, and Minn. Stat. § 216B.16, subd. 3(b), requiring the Commission to determine whether exigent circumstances exist, mandate not only that the Commission identify the factors that impact the setting of rates and the question of exigency, but also that the Commission determine how those factors impact utility companies and ratepayers and, consequently, how those factors affect the decision on what is a just and reasonable rate. The Commission is also required to balance Minnesota Power's right to recoup its cost of service and earn a fair rate of return with the public interest in affordable utilities. It is determining the impact of the factors and balancing the competing interests of the utility and the public that require application of the Commission's experience and technical knowledge of the utility industry, not merely the identification of the factors themselves as suggested by the dissent.

Because the question of exigency in this context calls for application of the Commission's expertise to a primarily factual determination, we accord judicial deference to the Commission's determination of whether the statutory exigency standard has been met. ...

... And while it is possible that the factors cited by the Commission, if considered alone, would not constitute exigent circumstances, the Commission's determination that these circumstances, when considered together, created an urgent situation satisfies the substantial evidence standard. The Commission adequately explained its determination that exigent circumstances existed and that determination is reasonable based on an examination of the record as a whole. ...

The Supreme Court also said that:

In determining what factors are properly considered by the Commission, we defer to the "analytical approach" chosen by the agency as "a matter for the agency's expertise." Judicial deference allows the agency to give effect to the "the thrust of the statute," which "is a balancing of interests." ... the Commission here balanced the equities between Minnesota Power and its customers during the economic downturn, cited specific economic concerns, and considered the Legislature's intent to protect consumers in setting a fair and reasonable interim rate. The Commission specifically recognized that there were two sides to the "exigent circumstances equation" and noted both "the impact of the proposed rate increase on ratepayers" and "the impact on [Minnesota Power] of reducing its interim rates request." ... the Commission here relied on the evidence submitted by its staff and applied its "technical expertise developed . . . in the exercise of legislatively delegated duties and powers to protect the public interest" from the likely impact of an excessive interim rate increase.

Considering the record as a whole, we conclude that substantial evidence supports the Commission's interim rate decision. The record reflects that the Commission considered the evidence contained in Minnesota Power's rate change filing, the record of Minnesota Power's previous rate change cases, and the information presented in the public comments regarding the impact of an interim rate increase on Minnesota Power's customers. Additionally, the Commission balanced the harmful impact of the economic downturn on both Minnesota Power and its ratepayers by adjusting the interim rate increase to make it consistent with the final rate increase Minnesota Power received in its previous two cases. In doing so, the Commission attempted to avoid an excessive burden on the ratepayers while still considering Minnesota Power's right to charge rates that are sufficient to cover its cost of service and a reasonable rate of return. And, as is directed by the statute, the Commission ultimately placed greater weight on the potentially harmful effect to the consumer of a large rate increase and set the interim rate accordingly. See Minn. Stat. § 216B.03 (instructing the Commission to resolve "[a]ny doubt as to reasonableness . . . in favor of the consumer").

b. Staff Comment on Exigent Circumstances in this Petition

As noted above, a finding of exigent circumstances means that the Commission has found substantial evidence that there is a situation that demands unusual or immediate action. Historic inflation levels along with lingering effects of the COVID-19 pandemic, the extraordinary gas costs the Company incurred in February 2021, with high natural gas prices could provide a factual basis to find "exigent circumstances" as discussed above. The Commission may wish to consider whether the potential harm to either the utility or the public gives rise to a finding of exigent circumstances when considering the OAG's request.

5. Cost of Capital

Minn. Stat. § 216B.16, subd. 3(b), provides among other things, that unless:

... the commission finds that exigent circumstances exist, the interim rate schedule shall be calculated using the proposed test year cost of capital, rate base, and expenses, except that it shall include: (1) a rate of return on common equity for the utility equal to that authorized by the commission in the utility's most recent rate proceeding. . . .

MERC's proposed test-year cost of capital is:²⁴

Table 16: Proposed Test Year Cost of Capital

Component	Percent of Total	Cost Rate	Weighted Cost
Long-Term Debt	42.64%	3.14%	1.34%
Short-Term Debt	4.36%	6.16%	0.27%
Common Equity	53.00%	10.30%	5.46%
Total (ROR)			7.07%

In its most recent rate case (Docket No. G-011/GR-17-563) MERC was authorized a rate of return of 6.70 percent based on the following:²⁵

Table 17: Most Recent Authorized Cost of Capital

Component	Percent of Total	Cost Rate	Weighted Cost
Long-Term Debt	39.16%	3.58%	1.40%
Short-Term Debt	9.94%	3.60%	0.36%
Common Equity	50.90%	9.70%	4.94%
Total (ROR)			6.70%

The Company is proposing an interim cost of capital of 6.75 percent based on its proposed capital structure and cost of debt rates and the rate of return on common equity that was authorized in its last rate case which results in the following:²⁶

Table 18: Proposed Interim Rates Cost of Capital

Component	Percent of Total	Cost Rate	Weighted Cost
Long-Term Debt	42.64%	3.14%	1.34%
Short-Term Debt	4.36%	6.16%	0.27%
Common Equity	53.00%	9.70%	5.14%
Total (ROR)			6.75%

The Company's proposed cost of capital for interim rates follows the statutorily prescribed method for calculating the interim cost of capital.

MERC's proposed interim cost of capital follows the statute requiring that rate schedules be calculated using the proposed test year cost of capital and with the exception that the rate of return on common equity to be used shall be that authorized by the Commission in the utility's most recent rate proceeding.

²⁴ Zgonc Direct Testimony Schedule 40, pg. 1 of 4.

²⁵ *In the Matter of the Application of Minnesota Energy Resources Corporation for Authority to Increase Rates for Natural Gas Service in Minnesota*, Docket No. G-011/GR-17-563, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER at 28 (December 26, 2018).

²⁶ Interim Rate Petition Schedule C Part 4 of 4.

6. Rate Design – Interim Rate Increase

MERC is requesting an interim rate increase of 32.82 percent on all fixed monthly and distribution charges for all classes except Class 5 – CIP Exempt, Electric Generation Class 2 – CIP Exempt, and Flex Rate customers, which are proposed to be charged a lower increase. This interim rate increase would be intended to collect approximately \$36,973,887, or 91.7% of the requested \$40,322,302 final rate increase.

Because the interim rate increase is such a large percentage of the proposed final rate increase, and the final rate increase is allocated differently from the interim rate increase, certain classes will be seeing larger interim rate increases than final rate increases, even if the entire rate request were granted. These include Transportation, Large Interruptible, and both Large and Small C&I classes.

For the purposes of its final rate design, MERC has held its per customer charge fixed. MERC did not carry this over to the interim rate proposals however – MERC instead scaled the interim rate increase evenly across the monthly service charge and the volumetric charge. The result of this is that, if the rate case carries through as proposed by MERC, customers will see a per-customer charge increase now, with the interim rate increase, and then a per-customer charge decrease when the rate case completes.

- a. **Should the Commission find exigent circumstances and approve MERC's request to not collect the full amount of the interim rate increase from certain customers?**
 - i. MERC

Consistent with Commission precedent, MERC proposed to collect less than the full amount of the interim rate revenue deficiency from its Class 5 CIP Exempt, Electric Generation Class 2 CIP Exempt, and FLEX rate customers. MERC argued that the Class 5 CIP Exempt and Electric Generation Class 2 CIP Exempt customers are especially sensitive to rate increases, even during a period of interim rates, and have the ability to bypass MERC's system in favor of alternative natural gas service they may receive elsewhere, and the FLEX rate customers have contracted rates in place. MERC stated that the departure of these customers from the Company's system would shift costs for MERC's remaining customers. Therefore, MERC requested that the Commission find that exigent circumstances exist to alter the present rate design during the period of interim rates. MERC noted that the Commission has previously found exigent circumstances justifying a departure from existing rate design under similar circumstances.²⁷

²⁷ See *In the Matter of the Application of Minn. Energy Res. Corp. for Auth. to Increase Nat. Gas Serv. in Minn.*, Docket No. G-011/GR-17-563, ORDER SETTING INTERIM RATES (Dec. 5, 2017); *In the Matter of the Application of Minn. Energy Res. Corp. for Auth. to Increase Nat. Gas Serv. in Minn.*, Docket No. G-011/GR-15-736, ORDER SETTING INTERIM RATES (Nov. 30, 2015); *In the Matter of the Application of Minn. Energy Res. Corp. for Auth. to Increase Rates for Nat. Gas Serv. in Minn.*, Docket No. G-011/GR-13-617, ORDER SETTING INTERIM RATES (Nov. 27, 2013); *In the Matter of the Application of Minn. Energy Res. Corp. for Auth. to Increase Rates for Nat. Gas Serv. in Minn.*, Docket No. G-007,011/GR-10-977, ORDER SETTING INTERIM RATES (Jan. 28, 2011); *In the Matter of the Application of Minn. Energy Res.*



MERC noted that it intended to recover some of the interim rates increase attributed to its Class 5 CIP Exempt, Electric Generation Class 2 CIP Exempt, and FLEX rate customers rather than forgo the entire amount. MERC proposed to increase the customer charge and the transportation administrative fee for these customers by the same 32.82 percent requested as the interim rate increase request for MERC, exclusive of the cost of gas.

MERC stated that the increase will have a small overall impact on these customers' bills. MERC proposed to keep the distribution charges for the Class 5 CIP Exempt, Electric Generation Class 2 CIP Exempt, and FLEX rate classes consistent with their current rates, which are also the rates MERC proposes in the final rate design.²⁸ MERC noted that the Commission has previously authorized such increases where a utility sought a small increase in final rates for certain classes of customers.²⁹ However, while MERC proposed to collect less than the full amount of the interim rate increase from its Class 5 CIP Exempt, Electric Generation Class 2 CIP Exempt, and FLEX rate customers, it does not seek to recover the difference from its other customer classes.

ii. Staff Comments

The Commission's general practice on rate design for interim rates has been to require utilities to assess all classes of customers an equal percentage amount for the interim rate increase. The Commission's policy is based on statute and the assumption that the existing rate structure and rate design are equitable unless or until proven otherwise. Applying the interim rate increase to all customers equally does not attempt to prejudice any proposed change in revenue apportionment or rate design in a pending application.

The Commission has denied requests from utilities to exempt flexible rate customers from responsibility for interim rates and to shift responsibility for those interim revenues to the company's other customers. However, in its more recent decisions, including MERC's previous rate cases, the Commission has generally left it to the utility to decide whether to try and collect an authorized interim rate increase from its flexible (market or negotiated) rate customers or to forego the revenue if the utility thinks it will be bypassed if it tries to collect the interim rate increase from these customers. Because these are typically flexible rate customers, they are by definition subjecting the utility to competition, and the utility is

Corp. for Auth. to Increase Rates for Nat. Gas Serv. in Minn., Docket No. G-007,011/GR-08-835, ORDER SETTING INTERIM RATES (Sept. 25, 2008).

²⁸ Interim Rate Petition, Notice and Petition for Interim Rates at 4.

²⁹ See *In the Matter of the Application of Minn. Energy Res. Corp. for Auth. to Increase Rates for Nat. Gas Serv. in Minn.*, Docket No. G-011/GR-13-617, ORDER SETTING INTERIM RATES (Nov. 27, 2013); *In the Matter of the Application of Minn. Energy Res. Corp. for Auth. to Increase Rates for Nat. Gas Serv. in Minn.*, Docket No. G-007,011/GR-10-977, ORDER SETTING INTERIM RATES (Jan. 28, 2011); *In the Matter of the Application of Minn. Energy Res. Corp. for Auth. to Increase Rates for Nat. Gas Serv. in Minn.*, Docket No. G-007,011/GR-08-835, ORDER SETTING INTERIM RATES (Sept. 25, 2008); *In the Matter of the Application of CenterPoint Energy Minnegasco, a Div. of CenterPoint Energy Res. Corp., for Auth. To Increase Nat. Gas Rates in Minn.*, Docket No. G-008/GR-05-1380, ORDER SETTING INTERIM RATES (Dec. 21, 2005).

authorized under the flexible rate statute to adjust the rates it charges these customers outside of a rate case. Typically, the minimum and maximum rates that these customers may be charged is set in a rate case and the flexible rate adjustments are tied to the cost of the customer's alternative source of fuel.³⁰

Staff believes MERC's proposal is reasonable and generally consistent with the way the Commission set interim rates for these customers in MERC's most recent rate cases.³¹ In these cases, the Commission found that exigent circumstances justified the Company's proposal to collect less than the full amount of the interim rate increase from its Super Large Volume customers. MERC did not seek recovery of the balance (or difference) between the increase to the distribution charge and the increase that would have been collected if MERC had assessed these customers the full amount of the interim increase. Staff believes the circumstances of the super large volume and flex customers can be distinguished from MERC's residential and small business customers because of the SLV and flex customer's ability to subject MERC to effective competition, i.e., by threatening to bypass MERC.

b. Is MERC's request for interim rates consistent with the requirement in the interim rate statute that there are no changes made in the existing rate design?

MERC's Notice and Petition for Interim Rates stated:

...no change has been made in the existing rate design, except as noted above. A uniform percentage equal to the proposed interim rate increase has been applied to the non-gas revenues (margins) currently being recovered from each customer class, other than the Class 5 CIP Expense, Electric Generation Class 2 CIP Exempt, and FLEX rate classes, as discussed above.³²

MERC's proposal is generally consistent with the way MERC implemented interim rates in its most recent rate cases. Staff believes this is consistent with the statutory requirement that there should be no changes made in the existing rate design for interim rates. MERC's proposal would apply this increase equally to MERC's customers in proportion to the amount of revenue each customer class provides to MERC's operations regardless of whether they buy gas from MERC's system or transport their own gas supply and only use MERC's system for distribution (transportation) service. MERC proposed to show the interim rate increase on customer bills as one single separate line item identified as "Interim Increase." Staff believes this is consistent with the Commission's policy statement on interim rates, and will be the least confusing for MERC's customers.

7. MERC's Request Regarding Non-Public Salary Data

Minn. Stat. § 216B.16, subd. 17(c) allows for the salary of one or more of the ten highest paid officers and employees, other than the five highest paid, to be treated as non-public

³⁰ Minn. Stat. § 216B.163. Flexible tariff

³¹ Docket Nos. 13-617, 15-736, and 17-563.

³² Interim Rate Petition, Notice and Petition for Interim Rates at 7.



information. MERC requested that the salaries of the sixth to the tenth highest paid employees be kept nonpublic for competitive reasons related to the compensation of MERC's employees. MERC argued that publicly disclosing this information could give competitors an advantage in terms of hiring and retaining key employees. MERC added that it would be inappropriate to ignore each of the listed employees' rights to keep this information private. Giving this information nonpublic status would not deprive the parties to this rate case information as this information will be available to the Commission and state agencies participating in the proceeding, and any other party could enter into a protective agreement to obtain the data if necessary. Requiring MERC to file this information as public data would make it publicly available on the internet, making it accessible to all persons, including those with no interest in these proceedings or MERC's rates.³³

The Commission approved a similar request in MERC's last three rate cases, Docket Nos. G-011/GR-13-617, G-011/GR-15-736, and G-011/GR-17-563. Staff thinks it is appropriate to continue to treat this information as non-public data in this case.

8. Staff Comment

Staff reviewed this filing for compliance under Minn. Stat. § 216B.16 and Minn. Rules 7825.3100 through 7825.4400. MERC prepared a Filing Requirements Compliance Table that lists the requirements identified by the Company and references where this information is in the case.³⁴

Staff concludes that MERC has made a good faith effort to comply and respond to the orders issued in the last rate case as well as other orders that have a bearing on this case; therefore, Staff recommends that the Company's petition be approved as substantially complete as of November 1, 2022.

9. Methods and Procedures for Refunding

Pursuant to Minn. Stat. §216B.16, subd. 3, MERC's filing contains the Company's "Agreement and Undertaking of Refund". It states that the Company agrees and undertakes to refund to its customers the amount collected in excess of final authorized rates, if any collected during the interim rate period, plus interest at the current rate determined by the Commission, computed from the effective date of the interim rates through the date of refund.³⁵

VIII. Public Hearings

The date, time, and location of the public hearings is typically discussed and decided proximate to the pre-hearing conference by the Administrative Law Judge, in consultation with the needed for the purpose of issuing the Commission's orders at this time.

³³ Zgonc Direct Testimony at 96-97; IR Document 14, pg. 1.

³⁴ Volume 1

³⁵ The "Agreement and Undertaking" is found in Vol. 1, under the "Agreement and Undertaking" tab.

The following table summarizes public hearing locations and attendance information from MERC's last five rate cases.

Table 19: Public Hearings

	2008	2010	2014	2016	2018
Public Hearing Locations	Rochester Rosemount Cloquet	Rochester Rosemount Cloquet	Rochester Rosemount Cloquet	Rochester Rosemount Cloquet Albert Lea	Rochester Rosemount Albert Lea Grand Rapids
Public Hearing - Estimated Attendance	8	6	12	20	3

Public hearings provide the public with an opportunity to participate in this proceeding; therefore, despite the low attendance in the recent cases, the Commission may want to continue holding hearings in the same locations and include an option for the public to participate virtually. Any additional direction the Commission may want to provide for the ALJ would be welcome.

IX. Public Comments

No public comment regarding the completeness of the Company's filing was received.

X. Administrative and Compliance Issues

The Commission's practice in most rate cases has been to require: a) notice to municipalities and counties of the proposed rate change, b) public hearings at locations within the company's service area, and c) notice of evidentiary and public hearings.

The decision alternatives contain ordering language that is similar to the language used in notice and orders for hearing in previous general rate proceedings. Staff recommends that this language be incorporated into the Commission's decisions in this docket. General rate case notice requirements can be found in Minn. Stat. § 216B.16, subd. 1, and Minn. Rules, Part 7829.2400, subparts 3 and 7.

The Commission's practice has also been to require interim rate compliance filings. These filings typically include tariff sheets with supporting documentation, and a Commission-approved notice to customers of the interim rate increase. Companies are also required to keep records of their sales and collections to support any potential interim rate refund obligation. The decision alternatives contain language typical of the language used in previous Commission Orders authorizing interim rates.

Staff recommends the Commission require all of the listed *Administrative and Compliance* decision alternatives.

Regarding the *Approval of Notices and Customer Bill Inserts* decision alternative, customer notices are generally administrative items that are negotiated between Commission Staff and

the utility. Staff has been working with the Company to finalize these notices prior to issuance. Authority to approve notices is usually delegated to the Commission's Executive Secretary for the duration of the proceeding. Staff recommends continuing that practice here.

XI. Decision Options

Acceptance

1. Accept this filing as being in proper form and substantially complete as of November 1, 2022; **or**
2. Reject this filing as not being in proper form and/or not being substantially complete.

If this filing is accepted as being in proper form and substantially complete as of a certain date, then the Commission should also decide the following:

Suspension of Proposed Final Rates

3. Suspend the proposed final rates until the Commission makes its final determination in this matter by the 10-month statutory deadline of September 1, 2023; **or**
4. Find the Commission has insufficient time to make a final determination within a 10-month period because of the need to make final determinations in other pending cases involving changes in general rates. Find that the rates in this case should be suspended for an additional ninety (90) days, until November 30, 2023; **or**
5. Do not suspend the proposed rates.

If the Commission suspends the proposed final rate, then the Commission should also decide the remaining items:

Referral of this Matter to the Office of Administrative Hearings for a Contested Case Proceeding

If the Commission adopts alternative #3:

6. Request the ALJ's report within eight months of the filing's completeness date (i.e., on or before July 1, 2023). If the statutory deadline for the Commission's decision is extended beyond the normal ten months at any point during this proceeding for any reason (e.g., settlement discussions, waiver, etc.), request the ALJ's report at least three months before the extended deadline for the Commission's decision;

Or, if the Commission adopts alternative #4:

7. Request the ALJ's report on or before September 1, 2023. If the deadline for the Commission's decision is extended beyond ten months plus ninety days at any point during this proceeding for any reason (e.g., settlement discussions, waiver, etc.) request the ALJ's report at least three months before the extended deadline for the Commission's decision;

And

8. Identify the following issues as requiring development of a complete record in this case:
 - a. The standard rate case issues;³⁶
 - b. Determine whether the base cost of gas proposed in Docket No. G-011/MR-22-505 needs to be updated;
 - c. Develop a full record that includes reasons for the significant changes of the following costs since the last rate case:
 - Other Production Expense – 76.6 percent increase
 - Gas Supply Expense – 41.3 percent decrease
 - Gas Transmission Expense – 1,464.8 percent increase.
 - Gas Distribution Expense – 13.0 percent increase.
 - Customer Accounting Expense – 8.0 percent decrease.
 - Customer Service and Information Expense – 28.7 percent increase.
 - Administrative & General Expense – 8.3 percent increase.

³⁶ The standard rate case issues are: 1) Is the test year revenue increase sought by the Company reasonable or will it result in unreasonable and excessive earnings by the Company? 2) Is the rate design proposed by the Company reasonable? and 3) Are the Company's proposed capital structure and return on equity reasonable? Notice and Order for Hearing, *In the Matter of the Application of Minnegasco, a Division of NorAm Energy Company, for Authority to Increase Natural Gas Rates in Minnesota*, Docket No. G-008/GR-95-700, p. 3, October 4, 1995.



Effective Date of Interim Rates

9. Authorize MERC to implement interim rates for service rendered on and after December 31, 2022 (sixty days after MERC's November 1, 2022, filing date); **and**
10. Authorize MERC to waive its right under the interim rate statute to put interim rates into effect on December 31, 2022, and authorize MERC to actually implement interim rates for service rendered on and after January 1, 2023.

Interim Rate Increase (Financial)

11. Approve an annual interim rate revenue deficiency of \$36,973,887 million, or 9.08 percent; [MERC] **or**
12. Find that exigent circumstances exist and reduce the annual interim rate increase by 50 percent for the Residential customer class. [OAG]

And, if the Commission adjusts the level of interim rates proposed by MERC:

13. Direct the Company to file revised financial schedules and calculations (interim rate base, income statement, cost of capital, and revenue summary) and class revenue schedules reflecting the Commission's modifications within 5 calendar days of this meeting.

Interim Rates (Capital Structure & Cost of Capital)

14. Approve MERC's proposed interim cost of capital for setting interim rates.³⁷ [MERC]

Interim Rates (Rate Design)

15. Approve MERC's request to collect the approved interim rate increase as a uniform percent interim rate adjustment to the base rate portion of customer bills, i.e., the basic service charge, the delivery charge, and the Demand Charge. Require MERC to display the interim rate increase on customer bills using a single, line-item interim rate adjustment; **and**
16. Determine that exigent circumstances exist and approve MERC's request to forgo full collection of the interim rate increase from its Class 5 CIP Exempt, Electric Generation Class 2 CIP Exempt, and FLEX rate customers, increasing the customer charge and daily firm capacity charge for these customers, and to not seek recovery of the difference from its other customers.

³⁷ For the calculation of interim rates, MERC proposed a rate of return on common equity of 9.70 percent and an overall rate of return of 6.75 percent.

Administrative & Compliance Issues

17. In the Notice and Order for Hearing, require the following:
 - a. The Company shall mail copies of the Order to all municipalities, counties, and local governing bodies in its Minnesota service area.
 - b. Public Hearings shall be held in this matter at locations within the service area of the Company.
 - c. The Company shall give the following notices of the evidentiary and public hearings:
 1. Individual written notice to each customer, which may be in the form of a bill insert, and shall be served at least ten days before the first day of hearings;
 2. Written notice to the governing bodies of all municipalities, counties, and local governing bodies in the area affected and to all parties in the Company's last two rate cases. These notices shall be mailed at least ten days before the first day of hearings.
 3. Display advertisements in legal newspapers of affected counties and other newspapers of general circulation within the Company's Minnesota service area. These advertisements shall appear at least ten days before the first day of hearings. They shall include the heading RATE INCREASE NOTICE, which shall appear in bold face type no smaller than 30 points.
 4. The Company shall submit proposed notices for Commission approval prior to publication or service. **and**
18. In the Order Setting Interim Rate, require the following:
 - a. Order the Company to file with the Commission and the Department interim rate tariff sheets and supporting documentation reflecting the decisions herein. The Company's filing shall also include the notice to customers, approved by the Executive Secretary, regarding the rate change under the interim rate schedule;
 - b. Order the Company to keep such records of sales and collections under interim rates as would be necessary to compute a potential refund. Any refund shall be made within 120 days of the effective date of the Commission's final order in a manner approved by the Commission;
 - c. Order the Company to include with each customer's first bill under the interim rate schedule a notice of the rate change, approved by the Executive Secretary. Upon completion of this task, the Company shall certify this fact to the Commission;
 - d. Require MERC to maintain records of Conservation Improvement Program (CIP) costs and collection through the interim period so that it can be ascertained that recoveries dedicated to CIP are properly recorded as CIP.



Approval of Notices and Customer Bill Inserts

19. Delegate authority to approve notices, bill inserts, and bill format to the Commission's Executive Secretary for the duration of this proceeding. [Staff]

XII. Concluding Comment and Recommendation

If the Commission accepts this filing as substantially complete, the Commission should also suspend the proposed final rates, set this matter for contested case hearing, and request the ALJ's report and recommendation within a sufficient amount of time for the Commission to issue its order before the statutory deadline.

Staff also recommends that the base cost of gas in this docket be consistent with the base cost of gas decision in Docket No. G-011/MR-22-505, which is also on the agenda for this commission meeting.

Staff also recommends all of the administrative and compliance items listed under alternatives 17 and 18 and recommends that the Commission delegate authority to the Executive Secretary to approve notices and customer bill inserts for the duration of this proceeding.