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February 13, 2015

**VIA ELECTRONIC MAIL AND E-FILING**

Mr. Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 Seventh Place East, Suite 350  
St. Paul, MN 55101

**Re: Compliance Filing of Minnesota Energy Resources Corporation –  
Conservation Improvement Program Billing Process**

**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-13-617**

Dear Mr. Wolf:

Minnesota Energy Resources Corporation (“MERC”) submits this Compliance Filing in accordance with the Minnesota Public Utilities Commission’s (“Commission”) October 28, 2014 Findings of Fact, Conclusions of Law, and Order (“Order”) in this matter. Order Point 12 from the Commission’s October 28, 2014 Order requires that MERC review its Conservation Improvement Program (“CIP”) billing process and submit a compliance filing in this docket reporting the Company’s findings from that review.

The nonpublic version of Attachment 1 to this filing (to be filed separately) contains trade secret information, specifically, customer information that is not generally known to, and not readily ascertainable by vendors and competitors of MERC, who could obtain economic value from the information’s disclosure. MERC maintains this information as secret. This information qualifies as “Trade Secret Data” pursuant to Minn. Stat. § 13.37, subd. 1(b).

Please contact me if you have any questions.

Sincerely,

/s/ Michael J. Ahern

Michael J. Ahern

cc: Service List

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger  
Nancy Lange  
Dan Lipschultz  
John Tuma  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

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

Docket No. G011/GR-13-617

**COMPLIANCE FILING**

On October 28, 2014, the Minnesota Public Utilities Commission (the “Commission”) issued its Findings of Fact, Conclusions of Law, and Order (“Order”) in the above-referenced Docket. Order Point 12 of the Commission’s Order required that Minnesota Energy Resources Corporation (“MERC” or the “Company”) review its Conservation Improvement Program (“CIP”) billing process and make a compliance filing reporting the findings of that review. On November 17, 2014, the Minnesota Office of the Attorney General (“OAG”) and MERC filed petitions for reconsideration of the Commission’s Order. On December 22, 2014, the Commission issued an Order Denying Reconsideration, denying both petitions for reconsideration. MERC submits this Compliance Filing in compliance with Order Point 12 of the Commission’s October 28, 2014 Order.

Consistent with the Commission’s Order, MERC undertook a review of its CIP billing process, including the identification of CIP-exempt customers. This Compliance Filing reflects the findings from the review process. As a result of the review, MERC believes all remaining issues and errors in CIP billing have been identified, and MERC outlines its proposed plan for correcting outstanding errors in this Compliance Filing. Additionally, as a result of MERC’s review, MERC modified its process for reviewing changes to CIP billing to ensure such issues are avoided in the future. MERC intends to regularly review its CIP billing to ensure that the CIP charges assessed and customers charged are accurate. Additionally, as required by the

Commission's Order, MERC will submit annual compliance filings documenting that its CIP-exempt customers have been properly identified and are being properly billed.

### **A. Background**

Minn. Stat. § 216B.241 requires that Minnesota gas utilities spend and invest in energy conservation improvements equal to 0.5 percent of their gross operating revenues from service provided in the state. Additionally, utilities are required to meet an annual energy savings goal as a percent of gross annual retail energy sales. Minn. Stat. § 216B.16, subd. 6b permits utilities to recover conservation costs mandated by statute.

On October 11, 2010, the Commission issued orders in Docket Nos. G-011/M-10-407 and G-007/M-10-409, authorizing MERC to begin charging a monthly Conservation Cost Recovery Adjustment ("CCRA") surcharge to its customers. On December 1, 2010, MERC filed emergency petitions to suspend the collection of the newly authorized CCRA for specific large customer classes. The Company stated that the rate impact on some of these customers was so severe that it created an imminent risk of bypass, which would raise rates for customers remaining on the system.

On January 24, 2011, the Commission issued an order suspending collection of the CCRA from those customer classes for which bypass potential had been demonstrated. The January 24th order explained that the purpose of the suspension was to preserve the status quo while customers who qualified for exemptions as large energy facilities secured them and while flex rates and other regulatory tools for preventing bypass by non-exempt customers were thoroughly explored. The suspension took effect with MERC's February 2011 billings. During the suspension, MERC worked with its large customers to determine which ones had realistic bypass options and how, in each case, bypass could be avoided. MERC also helped those who appeared to qualify for the large-energy-facility exemption to file exemption petitions for Commission consideration. MERC worked with its non-exempt large customers, other

stakeholders, and state lawmakers to secure two new statutory exemptions from conservation-cost rate recovery – one for “large customer facilities” and one for “commercial gas customer facilities.” In both cases, the exemption determination is made by the Commissioner of the Minnesota Department of Commerce (the “Department”), and the Company identified and assisted large customers who appeared to be eligible to apply for these exemptions.

During the suspension period, LSP-Cottage Grove petitioned to make permanent the provisional exemption it had been granted under the January 24 order, and two other customers – Rochester Public Utilities and Sappi Cloquet, LLC – filed petitions for exemptions as “large energy facilities” under Minn. Stat. § 216B.16, subd. 6b(c).<sup>1</sup> Five customers filed successful applications with the Department for conservation-cost exemptions as “large customer facilities” under Minn. Stat. § 216B.241, subd. 1(i)(2). Two customers filed unsuccessful applications with the Department for conservation-cost exemptions as “commercial gas customers” under Minn. Stat. § 216B.241, subd. 1a(c).<sup>2</sup> Two customers subject to the CCRA suspension did not file an application for exemption from conservation improvement costs.<sup>3</sup>

On May 9, 2013, the Commission issued an Order Ending Suspension, Exempting Eligible Customers from Rate Recovery of Conservation Costs, Setting Refund and Repayment Requirements, and Requiring Further Filings. That order exempted eligible customers and set the effective dates for the termination of the suspension of MERC’s collection of CCRA.

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<sup>1</sup> Under Minn. Stat. § 216B.16, subd. 6b(c), the Commission is required to permit utilities to exempt “large energy facilities” from rate adjustments imposed to recover conservation costs. A large energy facility is defined to include “any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system.”

<sup>2</sup> Those customers are shown in Attachment 1 under the heading, “Not exempt from CIP CCRC and CCRA.”

<sup>3</sup> Those customers are shown in Attachment 1 under the heading, “Did not apply for exemption.”

During MERC's 2010 rate case,<sup>4</sup> MERC discovered that since 2003, three customers were erroneously considered exempt from paying CIP. This error stemmed directly from the fact that, since acquiring Aquila, MERC was treating all customers under the Super Large Volume Interruptible ("SLVI") rate class as CIP-exempt, and, therefore, tariffed rates charged to SLVI customers did not include a Conservation Cost Recovery Charge ("CCRC") factor. MERC acquired Aquila on July 1, 2006, and continued Aquila's billing practices, which led to the erroneous CIP-exempt classification. As a result of the Company not collecting the CCRC from these three customers, the CCRC was miscalculated in the previous rate case. While all three customers identified were not assessed CCRC, for one of those three customers, MERC had been correctly crediting its CIP tracker account for the CCRC amounts attributable to that customer. Following MERC's discovery of this error, those customers were properly adjusted to be charged CCRC going forward. Additionally, because MERC was not authorized to assess a CCRA factor until November 2010, those customers were properly charged the CCRA factor beginning with the CCRA's implementation in November 2010. MERC was also ordered to credit its CIP tracker with a revenue amount representing uncollected amounts from the two customers for which it had not been crediting its CIP tracker for the time period of July 2006 through February 2011.

Shortly before filing this rate case in September 2013, MERC discovered that one of its taconite customers, Northshore Mining ("Northshore"), had incorrectly been treated as exempt from CIP charges. Upon discovery of the error, MERC notified Northshore, and Northshore applied for a CIP exemption, which was granted effective January 1, 2014. MERC proposed to absorb the under-recovery of CIP associated with that error and did not seek the one-year back payment of CIP charges allowed by the billing error rules. Additionally, MERC agreed with the proposal of the Department's Division of Energy Resources that MERC apply a one-time

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<sup>4</sup> *In the Matter of the Application of Minnesota Energy Resources Corporation for Authority to Increase Rates for Natural Gas Service in Minnesota*, Docket No. G007,011/GR-10-977.

carrying charge to the unrecovered CIP balance at MERC's approved overall rate of return for the period of under collection. MERC also agreed to complete a series of reviews to prevent the recurrence of similar errors in CIP billing in the future and is submitting this Compliance Filing in accordance with that agreement and with the Commission's Order requiring MERC to review its CIP billing process.

#### **A. MERC's Review of CIP Billing**

In order to review its CIP billing and verify that all customers are being properly charged, MERC first identified all customers currently being treated as CIP-exempt based on customer billing. MERC maintains all CIP-exempt customers on separate rate codes to allow for ready identification. For each of the customers identified as being treated as CIP-exempt, MERC attempted to locate the relevant decision(s) granting an exemption pursuant to Minn. Stat. § 216B.241 or Minn. Stat. § 216B.16, subd. 6b(c).

For the majority of the customers MERC identified as CIP-exempt, those customers have been granted an exemption as large customer facilities or large energy facilities under Minn. Stat. §§ 216B.241 and 216B.16, subd. 6b(c). A detailed spreadsheet of MERC's customers who have been granted an exemption, the dates those exemptions went into effect, the exempt rate code assigned, the usage and revenues associated with those customers, and a link to the exemption order is included as Attachment 1 to this filing.<sup>5</sup>

Next, MERC ran a number of queries in its billing and customer information system within the CIP-exempt rate codes and within CIP-applicable rate codes to confirm that all non-exempt customers are paying the appropriate CIP surcharge amounts. Additionally, MERC reviewed a sample of actual customer bills, across all customer classes, to ensure that non-

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<sup>5</sup> The nonpublic version of Attachment 1 to this filing (to be filed separately) contains trade secret information. Specifically, customer information that is not generally known to, and not readily ascertainable by vendors and competitors of MERC, who could obtain economic value from its disclosure. MERC maintains this information as secret.

exempt customers were accurately billed CIP and that CIP-exempt customers were not charged.

MERC also reviewed a number of unique accounts and services to ensure that all non-exempt customers are paying the CIP surcharge. Specifically, MERC reviewed its master and deduct meters, sale for resale accounts, and transport scenarios. These accounts were all reviewed to ensure that customers are paying the surcharge or are on a non-exempt rate code so the surcharge will be assessed when there is actual gas usage in any billing period.

#### **B. CIP Not Applicable**

In addition to customers who were granted an exemption under Minnesota Statutes, two MERC customers are treated as CIP not applicable because they are not located in Minnesota and are not served from MERC's Minnesota distribution system. Rather, those customers are located in Michigan, purchase their gas directly from the interstate pipeline, and are charged a volumetric charge by MERC for odorization services at their sites. The Department has agreed with MERC's treatment of those customers under the CIP program. Those customers are shown in Attachment 1 under the heading, "CIP does not apply."

#### **C. CIP Billing Error for Transportation for Resale Customer Located in Iowa**

During MERC's review of its CIP billing process, MERC identified one customer—an Iowa local distribution gas company which resells the gas sold by MERC to end-use customers located in Iowa—which was charged CCRC but which had not been charged the CCRA since 2006.<sup>6</sup> MERC provides natural gas service to eleven end-use customers through three meters which are charged to the Iowa local distribution gas company. The Town Border Station serving these customers is located in Iowa and the end-use customers are all located in Iowa; however, MERC's customer (the Iowa local gas distribution company) is served off MERC's Minnesota distribution system and the meters are located in Minnesota. MERC provides natural gas to

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<sup>6</sup> 2006 was the year MERC acquired Aquila and information prior to this time is not available.

these customers pursuant to an Order Issuing Blanket Certificate of Limited Jurisdiction of the Federal Energy Regulatory Commission ("FERC"). The FERC order provides that service must be provided at rates approved by FERC and that such rates must be unbundled, cost-of-service based transportation rates approved by the Minnesota Public Utilities Commission.<sup>7</sup>

After reviewing this customer with Department staff, it was determined that MERC should not be collecting the CCRC or CCRA from these accounts.<sup>8</sup> As discussed above, although MERC has not collected CCRA from these accounts, it has charged the CCRC. In accordance with Minnesota Rule 7820.4000, MERC intends to stop charging the CCRC factor and refund these accounts for the amount of over-collection, plus interest, for the past three years.<sup>9</sup>

#### **D. Continuing Compliance**

MERC takes these billing errors very seriously and has committed to ensuring the necessary time and resources are available to monitor CIP billing to avoid any issues in the future. Specifically, MERC intends to review all CIP-exempt rate codes on a quarterly basis to ensure customers who are being treated as CIP-exempt have received an exemption.

Additionally, MERC intends to conduct a monthly review of a sample of customer bills, across all

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<sup>7</sup> Federal Energy Regulatory Commission, Order Issuing Blanket Certificate of Limited Jurisdiction, Docket No. CP06-378-000 (November 30, 2006); Letter Order Pursuant to §§ 375.307(f)(1) and (f)(3), Minnesota Energy Resources Corporation, Docket No. CP06-378-001 (February 2, 2007) (accepting the proposed transportation rates filed by MERC in accordance with the November 2006 Order); *see also* Letter Order Pursuant to § 375.307, Minnesota Energy Resources Corporation, Docket No. PR 10-5-000 (May 24, 2010) (approving MERC's request to charge these three meters under its Rate Schedule GS-1, MERC's state-regulated retail general service rate).

<sup>8</sup> In particular, the Department indicated its opinion that the three accounts should not pay either the CCRC or the CCRA. In addition, the revenues and sales volume from these accounts should not be factored into the sales or revenue figures used to calculate MERC's minimum spending requirement under Minn. Stat. § 216B.241, subd. 1a(a)(1) or savings goal under Minn. Stat. § 216B.241 subd. 1c(b). MERC discussed with the Department its plans to update its savings and spending goal calculations to account for the CIP-exempt changes in the upcoming triennial extension filing.

<sup>9</sup> Minn. R. 7820.4000, subp.2, provides, "When a utility has overcharged a customer, the utility shall calculate the difference between the amount collected for service rendered and the amount the utility should have collected for service rendered, plus interest, for the period beginning three years before the date of discovery."



bill classes, to ensure proper billing of CIP charges. Finally, as required by the Commission's Order, MERC will submit annual compliance filings documenting that its CIP-exempt customers have been properly identified and are being properly billed.

**E. Conclusion**

MERC requests that the Commission accept this filing as compliant with Order Point 12 of the Commission's October 28, 2014 Order.

DATED: February 13, 2015

Respectfully Submitted,

DORSEY & WHITNEY LLP

By /s/ Michael J. Ahern

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Attorney for Minnesota Energy  
Resources Corporation

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA                    )  
  ) ss  
COUNTY OF HENNEPIN                )

Kristin M. Stastny hereby certifies that on the 13th day of February, 2015, on behalf of Minnesota Energy Resources Corporation, she electronically filed a true and correct copy of the attached Compliance Filing on [www.edockets.state.mn.us](http://www.edockets.state.mn.us). Said documents were also served via U.S. mail and electronic service as designated on the attached service list.

/s/ Kristin M. Stastny  
Kristin M. Stastny

Subscribed and sworn to before me  
This 13th Day of February, 2015.

/s/ Alice Jaworski  
Notary Public, State of Minnesota

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[illegible]

CIP DOES NOT APPLY - Not in Minnesota - Michigan Customers									Usage					Revenue						
Account	Name	Old Rate Code	New Rate	Distribution Charge	Service Area	Docket No.	Date Submitted	Effective Date	2009	2010	2011	2012	Total	2009	2010	2011	2012	Total	Type of Exemption	Decision
4073679	Cleveland Cliffs -Tilden (MI)	11500	11500	\$ 0.00420	N/A	N/A	N/A	N/A											N/A	Not in Minnesota
4362782	Cleveland Cliffs - Empire (MI)	11500	11500	\$ 0.00420	N/A	N/A	N/A	N/A											N/A	Not in Minnesota

CIP DOES NOT APPLY - Not in Minnesota - Iowa Customers - Black Hills					Usage										Revenue						
Account	Name	Old Rate Code	New Rate	Distribution Char	Service Area	Docket No.	Date Submitted	Effective Date	2009	2010	2011	2012	Total	2009	2010	2011	2012	Total	Type of Exemption	Decision	
4957842	Black Hills 1				N/A	N/A	N/A	N/A											N/A	Not in Minnesota	
4957843	Black Hills 2				N/A	N/A	N/A	N/A											N/A	Not in Minnesota	
4957845	Black Hills 3				N/A	N/A	N/A	N/A											N/A	Not in Minnesota	

NOT EXEMPT from CIP CCRC and CCRA										
Account	Name	Old Rate	Cod	New Rate	Distribution Char	Service Area	Docket No.	Date Submitted	Date Denied	Decision
	Toro Company						11-848	Sept. 30, 2011	Jul. 20, 2012	<a href="#">Toro Decision</a>
	Spectro Alloys						11-848	Sept. 30, 2011	Nov. 9, 2012	<a href="#">Decision</a>

DID NOT APPLY for Exemption									
Account	Name	Old Rate	Cod New Rate	Distribution Char	Service Area	Docket No.			
	PM Windom					10-407 and 11-848	N/A	N/A	<a href="#">Order</a>
	3M - Cottage Grove					10-407 and 11-848	N/A	N/A	<a href="#">Order</a>

...trade secret data ends]