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March 1, 2019

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

VIA ELECTRONIC FILING

Re: Response to Department Comments on Compliance Filing
In the Matter of the Petition of Minnesota Energy Resources Corporation for
Approval of a Gas Utility Infrastructure Cost Rider
Docket No. G011/M-18-281

Dear Mr. Wolf:

On February 5, 2019, the Minnesota Public Utilities Commission (the "Commission") issued an Order Approving Gas Utility Infrastructure Cost Rider with Modifications and Requiring Compliance Filing ("Order") in the above-referenced docket authorizing Minnesota Energy Resources Corporation ("MERC" or the "Company") to establish a gas utility infrastructure cost ("GUIC") rider and begin cost recovery in 2019, over the objections of the Department of Commerce, Division of Energy Resources (the "Department").

As part of its Order, the Commission required the Company to submit a compliance filing within ten days, including revised tariff language, a calculation of the authorized revenue requirement, a new GUIC rider rate factor, a proposed effective date for the rider, and a proposed customer bill message and bill insert explaining the change in rates.¹ The Commission's Order further provided that "comments on MERC's compliance filing shall be due within ten days of the date of the compliance filing."²

On February 7, 2019, MERC submitted its Compliance Filing providing the required calculations, tariff language, and customer notices incorporating feedback from the Commission's Consumer Affairs Office, in accordance with the Commission's Order. No party submitted any comments on that Compliance filing within the ten days provided in the Commission's Order.

After the deadline for comments on the compliance filing,³ the Department filed comments on February 20, 2019, "not recommending approval of MERC's compliance filing since it

¹ Order at 10 (Ordering Paragraph 5).

² Order at 11 (Ordering Paragraph 6).

³ Notably, the Department's Comments on MERC's February 7, 2019, compliance filing were untimely. The Commission's Order provides that "[c]omments on MERC's compliance filing shall be due within ten days of the date of the compliance filing." Order at 11 (Ordering Paragraph 6). As MERC submitted its compliance filing on February 7, 2019, comments on that filing were due on or before February 19, 2019. The Department did not submit its comments until February 20, 2019. Further, the Department has not sought reconsideration of the Order and the deadline for reconsideration expired on February 25, 2019.

does not meet the requirements of Minnesota statutes.”⁴ The Commission should reject the Department’s filing, reaffirm its decision with respect to the applicability of the GUIC rider to MERC’s proposed 2019 costs and investments, and approve MERC’s February 7, 2019, compliance filing.

The Department has notably not sought reconsideration of the Order under Minn. Stat. § 216B.27. Further, the Department’s comments do not actually address whether MERC’s calculations and tariff language comport with the Commission’s February 5, 2019, Order. Rather, the Department raises the same arguments that were considered and rejected by the Commission in its Order with respect to whether MERC’s 2019 proposed GUIC costs meet the requirements of the GUIC statute, Minn. Stat. § 216B.1635. The Department’s comments also go well beyond the scope of what the Commission sought in allowing for comments on the Company’s compliance filing implementing the Commission’s Order. Indeed, the Department’s assertion that “MERC’s compliance filing still does not comply with the GUIC Statute,” is *directly contrary* to the Commission’s Order, which expressly concludes “the costs [MERC] seeks to recover through its proposed GUIC rider are incremental; required by federal, state, or local agencies; and supported by sufficient detail to meet the information requirements of the GUIC statute.”⁵

The Department’s comments needlessly introduce significant regulatory uncertainty into this proceeding. As it is already the end of February, regulatory certainty is critical for the Company to be able to proceed with the important system and safety initiatives planned for 2019, particularly with respect to the two operations and maintenance (“O&M”) projects the Commission expressly approved in its Order—the stop-valve survey and the sewer cross-bore survey. The \$3 million cost associated with these projects is material in comparison to MERC’s overall O&M; therefore, the Company cannot commit to making those expenditures until authorization for GUIC rider recovery is resolved.

The uncertainty created by the Department’s filing not only threatens MERC’s ability to proceed with the identified work but has the potential to significantly hamper MERC’s ongoing relationship with contractors for future projects. For example, MERC has issued a request for proposals and selected a contractor for the sewer cross-bore surveys; however, in order to complete the approximately 7,000 surveys proposed for 2019, that contractor needs to invest in equipment and commit workers, including evaluating whether additional workforce needs to be hired and trained, to complete the investigations during the months remaining in 2019. The uncertainty created by the Department’s filing has caused MERC to put the project on hold, causing further uncertainty for the contractor.

In this and other GUIC rider proceedings, the Commission has recognized the significant value of applying forecasted rider recovery⁶ in allowing utilities to develop multiyear

⁴ Department Comments at cover letter (Feb. 20, 2019).

⁵ Commission Order at 6.

⁶ The GUIC statute expressly provides that a GUIC project plan report “must be for a forecast period of one year.” Minn. Stat. § 216B.1635, subd. 2.

programs that are comprehensive and cost-effective, thus providing benefits to customers beyond increased safety and reliability.⁷ This proactive approach is consistent with the GUIC statute and benefits customers because work undertaken systematically and strategically reduces costs compared to work undertaken in a reactionary or immediate threat mode, and allows utilities to engage in regional planning to minimize inconvenience to impacted communities. Because the approved O&M work, in particular, is out-of-test year, it would not be eligible for current cost recovery absent the GUIC rider or express order authorizing deferred accounting. As a result, the Company cannot commit to making those expenditures until GUIC rider recovery is reasonably assured.

The Department's comments and recommendation on MERC's compliance filing should be rejected on the grounds that they are contrary to the Commission's Order and fail to address MERC's compliance with that Order. The Commission's decision on MERC's 2019 GUIC rider is fully supported by the substantial information submitted in this proceeding, the GUIC statute, and the policy of that statute. With no reconsideration petition filed, further delay is unnecessary and unwarranted; Commission action approving the compliance filing would provide the regulatory certainty necessary for work to proceed. As no party provided any comments addressing the substance of MERC's February 7, 2019, compliance filing, and as the Department has not actually sought reconsideration of the initial Commission decision, MERC respectfully requests that the Commission promptly approve the filing so the Company can undertake the important investments and system assessments that have been approved by the Commission.

Please contact me at (651) 322-8913 if you have any questions regarding the information in this filing. Thank you for your attention to this matter.

Sincerely,



Thomas A. Rice
Vice President
Minnesota Energy Resources Corporation

cc: Service List

⁷ *In the Matter of the Petition of N. States Power Co., d/b/a Xcel Energy, for Approval of a Gas Util. Infrastructure Cost Rider*, Docket No. G002/M-14-336, ORDER APPROVING RIDER WITH MODIFICATIONS at 7 (Jan. 27, 2015) ("The clear thrust of the GUIC statute is to establish a mechanism by which utilities may recover out-of-test-year infrastructure investments mandated by federal or state agencies. The costs of these investments can vary widely from year to year and are difficult to forecast with accuracy. Approving a rider ... [provides] the ability to implement multi-year pipeline-replacement programs, adjusting the rates annually to correct for over- or under-recovery.").

In the Matter of the Petition of Minnesota
Energy Resources Corporation for
Approval of a Gas Utility Infrastructure
Cost Rider

Docket No. G011/M-18-281

CERTIFICATE OF SERVICE

I, Kristin M. Stastny, hereby certify that on the 1st day of March, 2019, on behalf of Minnesota Energy Resources Corporation (MERC) I electronically filed a true and correct copy of the enclosed Reply Comments on www.edockets.state.mn.us. Said documents were also served via U.S. mail and electronic service as designated on the attached service list.

Dated this 1st day of March, 2019.

/s/ Kristin M. Stastny

Kristin M. Stastny

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Michael	Ahern	ahern.michael@dorsey.com	Dorsey & Whitney, LLP	50 S 6th St Ste 1500 Minneapolis, MN 554021498	Electronic Service	No	OFF_SL_18-281_M-18-281
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_18-281_M-18-281
Seth	DeMerritt	Seth.DeMerritt@wecenergygroup.com	MERC (Holding)	700 North Adams PO Box 19001 Green Bay, WI 543079001	Electronic Service	No	OFF_SL_18-281_M-18-281
Ian	Dobson	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_18-281_M-18-281
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_18-281_M-18-281
Daryll	Fuentes	dfuentes@usg.com	USG Corporation	550 W Adams St Chicago, IL 60661	Electronic Service	No	OFF_SL_18-281_M-18-281
Brian	Meloy	brian.meloy@stinson.com	Stinson,Leonard, Street LLP	50 S 6th St Ste 2600 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_18-281_M-18-281
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_18-281_M-18-281
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Colleen	Sipiorski	Colleen.Sipiorski@wecenergygroup.com	Minnesota Energy Resources Corporation	700 North Adams St Green Bay, WI 54307	Electronic Service	No	OFF_SL_18-281_M-18-281

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Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_18-281_M-18-281
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_18-281_M-18-281
Mary	Wolter	mary.wolter@wecenergygroup.com	Minnesota Energy Resources Corporation (HOLDING)	231 West Michigan St Milwaukee, WI 53203	Electronic Service	No	OFF_SL_18-281_M-18-281