

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

Nancy Lange	Chair
Dan Lipschultz	Vice Chair
Matthew Schuerger	Commissioner
Katie Sieben	Commissioner
John Tuma	Commissioner

In the Matter of Minnesota Power’s 2018
Annual Reports Concerning Safety,
Reliability, Service Quality, and Proposed
Annual Reliability Standards

DOCKET NO. E015/M-18-250

**RESPONSE TO REPLY
COMMENTS OF THE OFFICE
OF THE ATTORNEY GENERAL**

The Office of the Attorney General—Residential Utilities and Antitrust Division (“OAG”) submits the following Response to the Reply Comments filed by Minnesota Power (“MP”) on August 20, 2018. In its Reply, MP addresses concerns raised by the Energy Cents Coalition (“ECC”) about MP’s disconnection practices. The OAG has reviewed MP’s Reply, and concludes that an external audit and investigation are necessary as proposed by ECC. MP provided some information in response to ECC’s allegations, but at this point it appears that there are factual questions that can best be answered through an external audit and investigation.

I. ERRORS AND INCONSISTENCIES IN MP’S DISCONNECTION REPORTING SHOULD BE REVIEWED BY AN EXTERNAL AUDIT.

In its Comments, ECC raised concerns about several inconsistencies and errors in MP’s disconnection reporting. In particular, ECC points to significant changes in the “reconnections within 24 hours” statistic for several recent years.¹ When ECC asked MP about unusually low statistics, MP responded by “updating” the figures—increasing its performance by 247% for 2015, and 260% for 2016. ECC further questions MP’s figures because it notes that, for most

¹ *In the Matter of Minnesota Power’s 2018 Safety, Reliability and Service Quality Standards Report*, Docket No. E-015/M-18-250, ECC COMMENTS 2 (Jul. 30, 2018) (hereinafter “ECC COMMENTS”).

other years, the 24-hour reconnection data tracks with the amount of LIHEAP crisis funding received by MP's customers. During 2015 and 2016, however, the figures appear to deviate from the normal trend. For that reason, ECC suggests that the data and reporting during that period should be viewed with skepticism.

In its Reply Comments, MP explained that the figures had changed because MP reviewed its data collection process and determined that there were inconsistencies regarding how dates were recorded.² Going forward, MP stated that it would use "the date the disconnection was completed in the field when determining the customer affected."³ While MP has explained why the numbers are updated, it would be reasonable in this situation to require an external audit to verify that the numbers are correct, that they were corrected in the manner MP explained, to determine the most reasonable way to collect data going forward, and to investigate whether the errors impacted other years' data as well.

ECC also pointed out that MP had repeatedly failed to meet its requirements for monthly service disconnection reporting, and weekly reporting during the CWR.⁴ ECC noted that MP had missed its monthly reporting requirements by somewhere between 3 and 7 months during 2017, and missed its CWR reporting for most of 2017 as well.⁵ MP appears to admit that it was not in compliance, but it provides little explanation as to why or what took place during the period of non-compliance. It would be reasonable to require an external audit to review the reason for MP's non-compliance, and to verify the accuracy of reports that have now been submitted.

² *In the Matter of Minnesota Power's 2018 Safety, Reliability and Service Quality Standards Report*, Docket No. E-015/M-18-250, MP REPLY COMMENTS (Aug. 20, 2018) (hereinafter "MP REPLY COMMENTS").

³ *Id.* at 10.

⁴ ECC COMMENTS at 12.

⁵ *Id.*

ECC further explains that the number of MP customers that were disconnected from service appears to have risen by 32 percent from 2016 to 2017.⁶ It is not clear that MP directly addressed this concern in its response, but ECC noted that MP explained in an information request that it “cannot definitively point to reasons for the increase,” but believes that it may have been because of an increase in the balance threshold for disconnections.⁷ An increase of that magnitude appears to be unusual, and an external audit may be able to identify the cause of such an increase and suggest possible solutions.

Each of these issues is potentially concerning. When considered together, they suggest that an external audit is warranted to review and verify MP’s disconnection reporting statistics.

II. MP’S PAYMENT AGREEMENT POLICIES SHOULD BE REVIEWED BY AN EXTERNAL AUDIT.

ECC also raises several concerns about MP’s practices in regard to payment agreements, both during and outside of the CWR period. ECC’s primary concern appears to be that MP may not be offering payment agreements to customers who have been disconnected. In its Reply Comments, MP admits that this is true, and argues that it is not required to do so. It appears that MP’s position is that once customers are disconnected, MP is permitted to require full payment of all past due bills, a reconnection fee, and potentially a deposit, before MP will reconnect. There are, however, some inconsistencies in MP’s response. Despite its position, MP suggested in one chart that 1,680 residential customers achieved “reconnection by entering into a payment plan” during 2017.⁸ These statements seem to be in conflict. Whether MP is required to offer payment agreements to customers who are disconnected (or just before disconnection, as MP

⁶ ECC COMMENTS at 8.

⁷ *Id.*

⁸ MP REPLY COMMENTS at 8, Figure 5.

argues), is a question of law that must be addressed at some point, but additional investigation of MP's payment arrangement practices is warranted before that legal determination.

There appear to be disputed facts about ECC's other concerns. For example, ECC raised concerns about how MP may be calculating its payment agreements, especially given the recent increase in disconnections.⁹ In its Reply Comments, MP confirmed that it requires disconnected customers to make a full payment in order to reconnect, but did not provide material details about how it calculates payment arrangements before customers are disconnected. In fact, MP's response raises some concerns about the way it may be calculating the payment arrangements it offers to customers. MP appears to argue that it may consider a customer's credit score and payment history against the customer when calculating payment arrangements.¹⁰ At this point, there is not clear information about what factors are used to calculate payment arrangements, whether all of those factors are permissible, what payment agreements have ultimately been offered to customers, or how effective the payment agreements have been in avoiding disconnections. An audit and investigation could produce this information.

ECC also raised concerns about whether MP was disconnecting customers in the same month that they were offered CWR payment plans. MP provided some information in response, but does not address the issue clearly. It is not clear how a customer could be disconnected in the same month they are offered a CWR payment plan, because they would not be able to violate the CWR payment plan (making it permissible to disconnect them) until an entire billing cycle had passed. It appears that an audit may be necessary to confirm this information.

After reviewing MP's response, the OAG concludes that more factual development is needed to understand MP's payment agreement practices, and that an independent audit and

⁹ ECC COMMENTS at 7.

¹⁰ See MP REPLY COMMENTS at 4.

investigation would be the most efficient manner in which to obtain information. For example, the OAG has drafted an information request asking MP to provide information about (1) customers who have been offered payment plans or disconnected; (2) whether they have been offered payment agreements; (3) how those payment agreements were calculated and whether the customer agreed that they were reasonable; (4) whether customers were able to keep up with the payment plans; (5) whether they were disconnected; and (6) whether they were disconnected, along with additional details. The OAG suspects that responding to an information request of this nature may be time consuming for MP, and would require follow-up information requests to verify data sources and fine-tune the data. Many similar data requests may be necessary to fully investigate the issues raised by ECC's comments. It would likely be far more efficient to conduct an external audit and investigation, rather than requiring parties to complete an investigation limited to discovery requests. Further, given the inconsistencies pointed out by the ECC, the best course may be to rely on an external audit to ensure that the data is adequate.

CONCLUSION

ECC raised very serious concerns about MP's disconnection practices. While MP has provided some information in response, an external audit and investigation is necessary to determine whether MP's practices are consistent with law and rule, and, even if there are no technical violations, whether they are reasonable. The OAG anticipates being closely involved

in the process going forward, and looks forward to discussing the details of the audit and investigation at the appropriate time.

Dated: September 10, 2018

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota

s/ **Ryan P. Barlow**

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September 10, 2018

Mr. Daniel Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

Re: *In the Matter of Minnesota Power's 2018 Annual Reports Concerning Safety, Reliability, Service Quality, and Proposed Annual Reliability Standards*
MPUC Docket No. E-015/M-18-250

Dear Mr. Wolf:

Enclosed and e-filed in the above-referenced matter please find Response to Reply Comments of the Minnesota Office of the Attorney General – Residential Utilities and Antitrust Division.

By copy of this letter all parties have been served. An Affidavit of Service is also enclosed.

Sincerely,

s/ **Ryan P. Barlow**

RYAN P. BARLOW

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Enclosure

AFFIDAVIT OF SERVICE

**Re: *In the Matter of Minnesota Power's 2018 Annual Reports Concerning Safety, Reliability, Service Quality, and Proposed Annual Reliability Standards*
MPUC Docket No. E-015/M-18-250**

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I, DEANNA DONNELLY, hereby state that on 10th day of September, 2018, I e-filed with eDockets *Response to Reply Comments of the Office of the Attorney General – Residential Utilities and Antitrust Division* and served the same upon all parties listed on the attached service list by email, and/or United States Mail with postage prepaid, and deposited the same in a U.S. Post Office mail receptacle in the City of St. Paul, Minnesota.

s/ Deanna Donnelly
DEANNA DONNELLY

Subscribed and sworn to before me
this 10th day of September, 2018

s/ Patricia Jotblad
Notary Public
My Commission expires: January 31, 2020.

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