

Staff Briefing Papers

Meeting Date October 10, 2019

Agenda Item 5**

Company Minnesota Energy Resources Corporation (MERC)

Docket Nos. **G-011/ M-18-527 (Consolidated PGA area)**
G-011/M-18-526 (Northern Natural Gas (NNG) PGA area)

**In the Matter of Minnesota Energy Resources Corporation's Petitions for
Approval of a Change in Demand Entitlement for its Consolidated (18-527) and
Northern Natural Gas (18-526) Systems**

- Issues
1. Should the Commission approve MERC's proposed demand entitlement capacity (levels) and cost changes to meet its Design Day and Reserve Margin requirements for the 2018-2019 Heating Season for its Consolidated PGA area, effective November 1, 2018?
 2. Should the Commission approve MERC's proposed demand entitlement capacity (levels) and cost changes to meet its Design Day and Reserve Margin requirements for the 2018-2019 Heating Season for its NNG PGA area, effective November 1, 2018?
 3. Should the Commission approve MERC's proposal to correct an identified error in its Northern Natural Gas demand entitlement and its November 1, 2018 through June 30, 2019 NNG purchased gas adjustments and grant variances to applicable Minnesota Rules?

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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

Docket No. G-011/M-18-527 (Consolidated PGA Area)

MERC Petition and Schedules (Consolidated)	August 1, 2018
MERC Update and Schedules (Consolidated)	November 1, 2018
Department of Commerce Comments	December 31, 2018

Docket No. G-011/M-18-526 (NNG PGA Area)

MERC Petition and Schedules	August 1, 2018
MERC Update and Schedules	November 1, 2018
Department of Commerce Comments (Trade Secret)	December 31, 2018
MERC Correction and Request for Variances	July 3, 2019
Department of Commerce Additional Comments	August 1, 2019
MERC Reply Comments	August 12, 2019

Docket Nos. 18-526 and 18-527

MERC Reply Comments (Trade Secret)	January 10, 2019
Department of Commerce Response (Trade Secret)	May 21, 2019
Department of Commerce Supplemental Comments	October 1, 2019

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I. Statement of the Issues

Should the Commission approve MERC's proposed demand entitlement capacity (levels) and cost changes to meet its Design Day and Reserve Margin requirements for the 2018-2019 Heating Season for its Consolidated PGA area, effective November 1, 2018?

Should the Commission approve MERC's proposed demand entitlement capacity (levels) and cost changes to meet its Design Day and Reserve Margin requirements for the 2018-2019 Heating Season for its NNG PGA area, effective November 1, 2018?

Should the Commission approve MERC's proposal to correct an identified error in its Northern Natural Gas demand entitlement and its November 1, 2018 through June 30, 2019 NNG purchased gas adjustments and grant variances to applicable Minnesota Rules?

II. Introduction and Background

On August 1, 2018, MERC filed two petitions for a change in demand entitlement, one in docket no. 18-526 for its NNG PGA area and one in 18-527 for its Consolidated PGA area. On November 1, 2018, MERC filed an update in each of these dockets.

On December 31, 2018, the Department of Commerce, Division of Energy Resources (Department) filed comments (1) in 18-527 recommending that the Commission approve MERC's Petition as modified in its November Update, and requesting that MERC provide additional information, and (2) in 18-526 recommending that the Commission accept MERC's proposed level of demand entitlement, and allow MERC to recover associated demand costs through the monthly Purchased Gas Adjustment (PGA) effective November 1, 2018. In 18-526 the Department also requested that MERC provide additional information in reply comments.

On January 10, 2019, MERC submitted combined Reply Comments in both dockets providing the additional information requested by the Department. On May 21, 2019, the Department filed combined Response Comments in both dockets, continuing to recommend that the Commission accept MERC's proposed level of demand entitlement for both its NNG PGA area (18-526) and its Consolidated PGA area (18-527) and allow MERC to recover the associated costs through the monthly PGA effective November 1, 2018 for its NNG PGA and for its Consolidated PGA.

Subsequently, Commission staff questioned the treatment of additional Rochester capacity costs as demand rather than commodity in Docket No. 18-526. In its May 5, 2017 Order Approving Rochester Project and Granting Rider Recovery with Conditions in Docket No. G-011/M-15-895, the Commission approved recovery of the costs of the Northern Natural Gas (NNG) interstate pipeline system upgrades from both firm and interruptible sales customers through the commodity portion of the PGA.¹

¹ *In the Matter of a Petition by Minnesota Energy Resources Corporation for Evaluation and Approval of Rider Recovery for its Rochester Natural Gas Extension Project*, Docket No. G011/M-15-895, Order Approving Rochester Project and Granting Rider Recovery with Conditions at 14-15 (May 5, 2017).

On July 3, 2019, MERC filed a letter – Correction to 2018-2019 Demand Entitlement and Request for Variances to Allow for Correction through the Purchased Gas Adjustment (Correction Letter) in Docket No. 18-526. In its Correction Letter, MERC stated that it incorrectly included the additional Rochester capacity costs for recovery through the demand portion of the PGA, consistent with how other capacity costs are recovered. As a result, MERC's November 1, 2018 through June 30, 2019 NNG PGAs overstated demand costs and the corresponding commodity costs were understated.

MERC proposed to correct the error on a going forward basis by moving the Rochester capacity costs from demand to commodity starting with the July 1, 2019 PGA. For the amounts that were billed through demand but should have been billed through commodity in the period November 1, 2018 through June 30, 2019, MERC proposed to correct this through the PGA over a six-month period following Commission approval. MERC requested variances to several Minnesota Rules in order to correct for the error in this manner. According to MERC, "The total costs related to the Rochester capacity contract that were charged to firm service customers that should have been charged to interruptible and joint customers was approximately \$423,646." MERC also corrected the attachments in its demand entitlement petition and update to show the Rochester capacity costs as commodity rather than demand.

On August 1, 2019, the Department filed Additional Comments in Docket No. 18-526. The Department disagreed with MERC's proposed manner of correcting for the November 1, 2018 through June 30, 2019, over-charges and under-charges through the PGA. The Department recommended that the Commission deny MERC's variance request, determine that the Rochester demand error is an error in the automatic adjustment calculation and is therefore governed by Minn. R., part 7825.2920, subp.2, require MERC to calculate interest, at the prime rate, on the amount of costs over-recovered from firm ratepayers and include this in its refund to these customers by check or bill credit, and disallow surcharges to collect under-recovered amounts. The Department also noted that the demand costs for MERC's Small and Large Volume Firm rate classes are incorrectly reported in Attachment B to MERC's Correction Letter and the Department provided revised rate calculations. The Department continued to recommend that the Commission accept MERC's proposed level of demand entitlement for its NNG PGA, and recommended that the Commission allow MERC to recover associated demand costs, as calculated in the body of Department's Additional Comments, through the monthly PGA effective November 1, 2018 for its NNG PGA.

MERC responded to the Department in Reply Comments dated August 12, 2019. MERC argued:²

The Department's interpretation of the requirements of Minn. R. 7825.2920 are contrary to the plain language of the rule as well as prior Department recommendations and Commission orders. Further, the Department's justification for denial of MERC's requested variances is unreasonably circular—that varying the rule would conflict with the requirements of the rule is not a basis

² MERC Reply Comments, August 12, 2019, pp. 2-3.



to deny the requested variance. If MERC's proposal complied with the rule, it would not require a variance in the first instance.

Ultimately, the Department's recommendation that MERC be disallowed recovery of a portion of the Rochester capacity costs is unreasonable, as the costs at issue have already been found by the Commission to be reasonable, prudent, and necessary to provide natural gas service to MERC's customers. The error in recovering those costs through the demand portion of the PGA rather than through commodity does not change that conclusion. MERC's requested variances satisfy each of the requirements under Minn. R. 7829.3200... While MERC has proposed to correct for the over and under-recoveries through the PGA over six months to closely track with the 8-month period during which the costs were incorrectly passed through the demand portion of the PGA, if the Commission concludes a shorter or longer period is more appropriate to refund and collect the costs that had been incorrectly billed for the period November 1, 2018-June 30, 2019, MERC would not oppose such adjustment...

MERC also responded to the Department's revised rate calculations, stating that the Department is correct with respect to the Small and Large Volume Firm demand rate, but the Department's other changes do not appear to be accurate. MERC included a corrected, updated Attachment 4 as Attachment A to its Reply Comments.

On October 1, 2019, the Department filed Supplemental Comments. The Department appreciated MERC's clarification regarding the resources necessary to process the refund as individual checks or bill credits. The Department modified its recommendations and requested that the Commission approve a variance to Minnesota Rules, parts 7825.2920, subp. 2; 7825.2910; and 7825.2700, subp. 7 to allow MERC to refund the over-recovery through a credit, including interest at the prime rate, in the first monthly PGA after the issuance of an Order in this docket.

There is no controversy in the 18-527 Consolidated area docket. The main controversy in the 18-526 NNG area docket is how MERC should be allowed/required to correct for the PGA errors that occurred with respect to the Rochester capacity costs that occurred November 1, 2018 through June 30, 2019. While these briefing papers briefly discuss MERC's proposed level of demand entitlements for the Consolidated Area (Docket No. 18-527) and the NNG Area (18-526), the bulk of the briefing papers is devoted to the correction for the over- and under-charges that occurred November 1, 2018 through June 30, 2019 as a result of the additional Rochester capacity classification error (Docket No. 18-526).

III. Relevant Commission Rules

Minnesota Rule, part 7825.2910, subpart 2 requires gas utilities to make a filing whenever there is a change to its demand-related entitlement services provided by a supplier or transporter of natural gas.

Additionally, MERC has requested variances to the following Minnesota Rules, which are provided in Attachment A:



7825.2910	Filing by Gas Utilities
7825.2700, subp.7	Purchase Gas Charges, Automatic Adjustment. True-up amount.
7825.2920, subp. 2	Approval for Automatic Adjustment of Charges. Errors.
7820.4000	Natural Gas Utility Billing Errors

IV. Parties' Comments

A. 18-527 Consolidated PGA Area

MERC's Consolidated PGA Area serves customers located along three pipelines: Great Lakes Gas Transmission (Great Lakes or GLGT), Viking Gas Transmission Co. (Viking or VGT), and Centra Minnesota Pipelines (Centra).

MERC is not proposing any changes to the 2018-2019 design-day deliverability pipeline demand entitlements. It proposes to maintain them at 57,949 Dth/day, the same as the 2017-2018 entitlement levels. With respect to other demand entitlement changes, MERC entered into a four-year natural gas storage contract with ANR Pipeline Storage effective April 1, 2018, to replace MERC's previous contract for storage with Niska Gas Storage. MERC requested approval of this ANR storage contract on January 8, 2018, in Docket No. G011/M-17-587, and was granted approval by the Commission in its Order dated May 25, 2018. Additionally, MERC entered into a four year contract for ANR Pipeline transportation service, effective November 1, 2018, for the purpose of moving gas from ANR Storage to the interconnect with Great Lakes

MERC calculated and proposes a 2018-2019 design day of 56,470 Dth for the consolidated system, an increase of 204 Dth, or 0.36%. The Department recommended that the Commission approve MERC's peak-day analysis.

MERC's proposed reserve margin for the consolidated system for 2018-2019 is 1,479 Dth (total entitlement 57,949 Dth less design-day estimate of 56,470 Dth), or 2.62 percent. This represents a decrease of 0.37 percentage points from the 2017-2018 reserve margin of 2.99 percent.

The Department stated that based on its review of MERC's historic design-day data and regression results, MERC's reserve margin is acceptable in terms of ensuring firm reliability on a peak day.

MERC's demand entitlement proposal would result in the following annual demand cost impacts:

- annual bill increase of approximately \$11.36 related to demand costs for the average General Service customer consuming 86 Dth annually;
- annual bill increase of approximately \$82.30 related to demand costs for the average Large General Service customer consuming 623 Dth annually; and
- no demand cost impacts related to MERC's Consolidated interruptible rate classes.



In its May 21, 2019 Response Comments, the Department recommended that the Commission:

- Accept MERC's proposed level of demand entitlement for its Consolidated PGA; and
- Allow MERC to recover associated demand costs through the monthly PGA effective November 1, 2018 for its Consolidated PGA.

PUC staff agrees with the Department's recommendations for the Consolidated PGA.

B. 18-526 Northern Natural Gas (NNG) PGA Area

MERC's NNG PGA Area serves customers located along the Northern Natural Gas pipeline.

MERC explained that there are two types of demand entitlement changes. "The first type is Design-Day Deliverability, which quantifies the amount of firm transportation and storage capacity actually available to MERC's NNG customers during winter peak periods. The second type does not affect Design-Day Deliverability levels, but alters the capacity portfolio and the PGA costs recovered from customers."³

For the 2018-2019 heating season, MERC-NNG proposes a net increase of 10,939 dth/day in design-day deliverability pipeline entitlements, resulting in total design-day deliverability entitlements of 277,256 dth. MERC stated that "Two components make up this increase; the Rochester expansion project begins to come online and results in a 15,939 dth [of TFX-12]/day capacity increase and, secondly, MERC chose to allow 5,000 Dth [of TFX-5]/day of capacity expire in order to reduce its reserve margin in future years when additional Rochester capacity is in place."

With respect to other demand entitlement changes that do not affect the design-day deliverability, the NNG TF-12 base (B) and variable (V) reallocation resulted in an increase in the variable component (TF-12V) of 2,713 dth/day, with a corresponding decrease in the base component (TF12-B). MERC stated that this change results in an approximately \$49,000 increase in projected contract costs.

MERC calculated and proposes a 2018-2019 design day of 273,842 Dth for the NNG system, an increase from last year of 6,059 Dth, or approximately 2.3%. The Department recommended that the Commission approve MERC's peak-day analysis.

MERC's proposed reserve margin for the consolidated system for 2018-2019 is 3,414 Dth (total entitlement 277,256 Dth less design-day estimate of 273,842 Dth), or 1.25 percent. This represents an increase of 1.88 percentage points from the 2017-2018 negative reserve margin of (0.55) percent. Although this is a low reserve margin, MERC stated that when the second, larger Rochester capacity addition is added on November 1, 2019, MERC will likely be above a 5% reserve margin.⁴

³ MERC Petition at 4; MERC November 1, 2018 Update at 5.

⁴ Id at 8; 9.



Based on its review of MERC's historic design-day data and regression results, the Department believes that MERC's reserve margin is acceptable in terms of ensuring firm reliability on a peak day, although it is at the lower end of acceptable reserve margins.

As originally proposed with the Rochester demand entitlement addition in demand versus commodity costs, MERC's demand entitlement proposal would result in the following annual demand cost impacts:⁵

- annual bill increase of \$18.48 related to demand costs, or 22.42 percent, for the average General Service customer consuming 88 Dth annually;
- annual bill increase of \$157.52 related to demand costs, or 22.42 percent for the average Small Volume Firm customer consuming 25 Dth annually of firm gas;
- annual bill increase of \$472.57 related to demand costs, or 22.42 percent, for the average Large Volume Firm customer consuming 75 Dth annually of firm gas; and
- no demand cost impacts related to MERC-NNG's interruptible rate classes.

After the correction to move the net cost of the Rochester demand entitlement addition from demand to commodity, discussed more fully below, MERC's demand entitlement proposal would result in the following annual demand cost impacts:⁶

- annual bill increase of \$1.11 related to demand costs, or 1.35 percent, for the average General Service customer consuming 88 Dth annually;
- annual bill increase of \$9.46 related to demand costs, or 1.35 percent for the average Small Volume Firm customer consuming 25 Dth annually of firm gas; and
- annual bill increase of \$28.37 related to demand costs, or 1.35 percent, for the average Large Volume Firm customer consuming 75 Dth annually of firm gas.

Additionally, there would be an increase in commodity costs for these customer classes, as well as for MERC-NNG's interruptible sales rate classes.

In its Additional Comments filed August 1, 2019, the Department recommended that the Commission:

- Accept MERC's proposed level of demand entitlement for its Northern PGA; and
- Allow MERC to recover associated demand costs, as calculated in the body of these comments, through the monthly PGA effective November 1, 2018 for its Northern PGA.

⁵ Department Response Comments, May 21, 2019, pp. 7-8.

⁶ MERC's Reply Comments, August 12, 2019, p. 9 and Attachment A.



C. 18-526 NNG PGA Area Correction and Request for Rule Variances

1. MERC Letter of Correction and Request for Variances, July 3, 2019

On July 3, 2019, MERC filed a letter regarding - Correction to the 2018-2019 Demand Entitlement and Requested for Variances to Allow for Correction through the Purchased Gas Adjustment (Correction Letter).

In its Correction Letter, MERC stated that it incorrectly included the additional Rochester capacity costs for recovery through the demand portion of the PGA, whereas the Commission had approved recovery of the costs of the NNG interstate pipeline system upgrades from both firm and interruptible sales customers through the commodity portion of the PGA.⁷ “As a result, MERC’s November 1, 2018 through June 30, 2019 PGAs overstated demand costs and the corresponding commodity costs were understated.”

MERC provided Attachment A to its Correction Letter as a summary of the estimated impact of this PGA error. MERC stated:⁸

The total costs related to the Rochester capacity contract that were charged to firm service customers that should have been charged to interruptible and joint customers was approximately \$423,646. While the customer-specific impacts vary from general service over-collections to interruptible and joint service under-collections, an average Residential customer during this period was over-charged approximately \$1.53 while an average Small Volume Interruptible customer during this period was under-charged approximately \$815.46.

MERC proposed to correct this error by taking the following actions:⁹

First, MERC will move the Rochester capacity costs from demand to commodity effective with the July 1 [2019] PGA, consistent with the Commission’s Order in Docket No. G011/M-15-895. MERC recalculated the demand and commodity rates in the original Attachment 4 to the NNG Demand Entitlement filing and includes that updated Attachment 4 as Attachment B to this filing. The corrected Attachment 4 shows the calculations as if the Rochester costs were assigned appropriately to commodity, and separately shows the addition of the Rochester costs to commodity consistent with MERC’s treatment of storage contracts. These updated rates will be reflected in MERC’s July PGA filing.

Second, MERC proposes correcting for the amounts that were billed through demand but should have been billed through commodity in the period November

⁷ *In the Matter of a Petition by Minnesota Energy Resources Corporation for Evaluation and Approval of Rider Recovery for its Rochester Natural Gas Extension Project*, Docket No. G-011/M-15-895, Order Approving Rochester Project and Granting Rider Recovery with Conditions at 14-15 (May 5, 2017).

⁸ MERC Correction Letter, July 3, 2019, pp. 1-2.

⁹ *Id.*, at 2.



1, 2018 through June 30, 2019 through the PGA over a six month period following Commission approval. In order to correct for the error in this manner, MERC requests that the Commission grant variances to Minn. R. 7825.2910; Minn. R. 7825.2700, subp. 7^[10]; Minn. R. 7825.2920, subp. 2^[11]; 7820.4000^[12]; and any other applicable rule as necessary to allow MERC to correct for the over- and under-charged amounts through the monthly PGA.

Minnesota Rule 7829.3200 provides that the Commission shall grant a variance when certain requirements are met. MERC states that each of these requirements is met as follows:

- A. Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule.

[E]nforcement of the applicable rules would impose an excessive burden upon MERC because issuing individual bill credits and additional bill charges in accordance with the Natural Gas Utility Billing Errors Rule to all sales customers would be administratively difficult and would result in insignificant bill impacts in the majority of cases subject to rounding errors. MERC's proposal to correct for the error through the PGA—the same mechanism through which the contract costs were intended to flow in the first instance—would ensure that firm and interruptible sales customers as a class are appropriately charged for the Rochester capacity costs, and would avoid the confusion and potential for errors associated with the calculation and application of credits and charges to individual accounts. Further, authorizing MERC to implement adjustments to account for the correction over six months will ensure that customers are appropriately charged and refunded within a reasonable timeframe.¹³

- B. Granting the variance would not adversely affect the public interest.

[G]ranting the proposed variance requests would not adversely affect the public interest. The proposed correction will still ensure that all of MERC's sales customers (firm and interruptible) are accurately charged for the Rochester capacity costs in accordance with the Commission's decisions in Docket No. G011/M-15-895. If approved, MERC proposes to correct for the over- and under-collections through the NNG PGA commencing on the month following Commission approval, over a six month period.¹⁴

¹⁰ A copy of Minn. R. 7825.2700, subp. 7, the true-up rule, can be found in Attachment A.

¹¹ A copy of Minn. R. 7825.2920, subp. 2, the Errors rule, can be found in Attachment A.

¹² A copy of MERC Minn. R. 7820.4000, the Natural Gas Utility Billing Errors rule, can be found in Attachment A.

¹³ MERC Correction Letter, July 3, 2019, pp.2-3

¹⁴ Id., p. 3.

- C. Granting the variance would not conflict with standards imposed by law.

MERC stated:

MERC is not aware of any laws that would be violated by the Commission's approval of the requested variances and its proposal to address this error. Further, the Commission has granted variances to the PGA and billing error rules to allow such adjustments in the past.^[15]¹⁶

2. Department Additional Comments, August 1, 2019

The Department concluded that MERC's proposal to correct the assignment of Rochester capacity costs on a going forward basis by properly assigning the costs to the commodity portion of the PGA effective with the July 1, 2019 PGA is reasonable.

The Department did not agree with MERC's proposal to correct the error for the amounts collected between November 1, 2018 and June 30, 2019 over a six-month period through the PGA following Commission approval.

The Department stated that "There are two main components to an analysis of MERC's proposal to correct the Rochester capacity cost allocation error, 1) whether the error falls under the Billing Errors Rule (Minnesota Rules, part 7820.4000) or the Automatic Adjustment Rule (Minnesota Rules, part 7825.2920, subp. 2), and 2) whether it is appropriate to provide refunds and/or surcharges via the PGA rather than through direct bill credits."¹⁷

The Department analyzed both the Billing Errors Rule and the Automatic Adjustment Rule, and related statements of need and reasonableness (SONARs). Based on its analysis and review, the Department believes that the Billing Errors Rule is not applicable in this instance, and the Automatic Adjustment Rule is applicable in this instance.

With respect to the Billing Errors Rule, Minn. R. 7820.4000, the Department stated that "Based on the wording of the Billing Errors Rule, it does not appear that MERC's Rochester contract error meets the definition of a billing error."

¹⁵ MERC Correction Letter, July 3, 2019, p. 3, Footnote 5, "For example, in Docket Nos. G999/AA-14-580, G011/AA-14-754 and G011/AA-14-755, MERC requested and was granted variances to address two prior-period errors that were identified. *In the Matter of the Review of the 2013-2014 Annual Automatic Adjustment Reports and Annual Purchased Gas Adjustment True-up Filings*, Docket No. G999/AA-14-580, ORDER ACCEPTING GAS UTILITIES' ANNUAL AUTOMATIC ADJUSTMENT REPORTS AND 2013-2014 TRUE-UP PROPOSALS AND SETTING FURTHER REQUIREMENTS at 4-6 (Aug. 24, 2015) (Order also filed in Docket Nos. G011/AA-14-754 and G011/AA-14-755)."

¹⁶ *Id.*, pg. 3.

¹⁷ Department Additional Comments, August 1, 2019, p. 4.

The Department also stated:¹⁸

The Company's error involved the incorrect application of a Commission Order, which is not listed in the Billing Errors Rule or analogous to the examples explicitly listed in the rule and discussed in the original rule proceeding. In its Correction Filing, MERC stated that the Commission approved variances and similar adjustments in the past. The examples noted by MERC are as follows:

The first billing error resulted from a defective flow meter owned by [Great Lakes Gas Transmission], which inaccurately measured the amount of gas GLGT supplied to MERC. The second billing error arose because MERC incorrectly assigned approximately 460 gas customer accounts in Deer River to the MERC-NNG PGA that should have been assigned to the MERC-CON PGA.

Although the Commission approved an adjustment for these errors, the Department notes that these errors involved instances that clearly meet the definition of a billing error as described in the Billing Errors Rule (i.e., incorrect gas flow at a meter, incorrect application of a rate schedule).

[Citations omitted.]

Although MERC requested a variance to Minn. R., 7820.4000, the Department believes that this rule does not apply to this situation, and thus a variance to this rule is not necessary.

With regard to the Automatic Adjustment Rule, Minn. R. 7825.2920, subp. 2, the Department stated:¹⁹

[T]he error-related language for PSC 394(d), now known as Minnesota Rule 7825.2920, remains unchanged from its approval on June 15, 1977 and promulgation into Minnesota Rules on January 1, 1978. Nothing in the rule language or past rule making proceedings indicates that MERC's error in recovering costs through the PGA from the wrong set of customers due to the Company's inadvertent failure to follow the Commission's Order calls for a conclusion that somehow the Automatic Adjustment Rule does not apply in this situation.

The Automatic Adjustment Rule does not allow for surcharges due to a calculation error – only refunds. Application of the Automatic Adjustment Rule to this case would require MERC to refund to firm customers, with interest, [Footnote omitted] the Rochester capacity costs they were inappropriately charged. It would not allow MERC to surcharge interruptible and joint customers for the Rochester capacity costs not previously collected between November 2018 and June 2019

¹⁸ Id., p. 6.

¹⁹ Id., pp. 8-9.



(i.e., and refunded to firm customers erroneously charged). Therefore, the portion of MERC's proposal involving surcharging customers (whether through the PGA or via direct surcharges) for the amounts not collected due to the refund is not allowed by the Automatic Adjustment Rule. Further, the Company is required to apply interest, at the prime rate, on the refund amounts due to firm customers for previous overcharges.

The Department recommended that the Commission deny MERC's variance request.

According to the Department, MERC's "variance request would adversely impact the public interest by increasing the time needed to fully refund firm ratepayers, and it will conflict with the requirements of Minnesota Rules, part 7825.2920, subp.2."

Specifically, the Department stated:

The rule is clear that if the error in question is greater than five percent of the correct adjustment charge, then the refund must be by check or credit. The correction decreased total demand charges from \$0.11467 per therm to \$0.09493 per therm, which is a change of approximately 21 percent. This impact is greater than five percent; therefore, MERC is required to provide refunds by check or credit. [Citations omitted]²⁰

In response to MERC's claim that enforcement of the applicable rules would impose an excessive burden upon MERC, the Department stated:

MERC indicated that individual refunds would be burdensome, but has not provided information substantiating that a line item credit to firm ratepayers is administratively burdensome, especially in light of the \$1.59 impact per average Residential ratepayer. [Citation omitted] However, in the event the Commission concludes that a line item credit is administratively burdensome, the Department recommends that the Commission approve a variance to Minnesota Rules, part 7825.2920, subp. 2, and require MERC to provide refunds in full, plus interest at the prime rate, as a credit to the first monthly PGA after the issuance of an order in this docket. Doing so would return the overcharge to ratepayers in a more expeditious manner than the Company's six-month proposal and would obviate any need for rule variances.

The Department recommended that the Commission:

- Accept MERC's proposed level of demand entitlement for its Northern PGA;
- Allow MERC to recover associated demand costs, as calculated in the body of the Department's August 1, 2019 Additional Comments, through the monthly PGA effective November 1, 2018 for its Northern PGA;

²⁰ Department Additional Comments, August 1, 2019, p. 9.



- Determine that the Rochester demand error is an error in the automatic adjustment calculation and is therefore governed by Minn. R., part 7825.2920, subp. 2 which does not allow for surcharges to collect under-recovered amounts; and
- Require MERC to calculate interest, at the prime rate, on the amount of costs over-recovered from firm ratepayers and include this in its refund to these customers, consistent with Minn. R., part 7825.2920, subp. 2.

3. MERC Reply Comments, August 12, 2019

MERC responded to the Department as follows.

It would be unreasonable to disallow recovery of a portion of the Rochester capacity costs as the Department recommends because the Commission has already found the specific costs that are at issue to be reasonable, prudent, and necessary, in its May 5, 2017, Order Approving Rochester Project and Granting Rider Recovery with Conditions, Docket No. G-011/M-15-895 at page 9.²¹

MERC's requested variances satisfy each of the requirements under Minn. R. 7829.3200: enforcement of the rule would impose an excessive burden on MERC; granting the variance would not adversely affect the public interest; and granting the variance does not conflict with standards imposed by law but rather is consistent with prior Commission decisions.

MERC responded to the Department's assertion that MERC "has not provided information substantiating that a line item credit to firm ratepayers is administratively burdensome[.]" as follows:

[T]he process to calculate credits and charges for each individual customer is not automated but would require a calculation for each customer and each impacted bill, adjusting for any bill changes or corrections. That process would require significant information technology resources to calculate each customer's credit or charges based on actual billed amounts, to review the calculations, and to test and process the actual bill charges and credits. Because these calculations would have to be performed for over 200,000 sales customers, for eight individual monthly bills each, MERC estimates that at a minimum, it would take hundreds of hours to complete the individual customer credit and charge calculations.

Further, as discussed above, the Rochester capacity costs at issue are reasonable and necessary costs to provide natural gas service to MERC's customers. Interpreting Minn. R. 7825.2920, subp. 2 to deny the Company recovery of a material amount of costs already found to be reasonable, necessary, and prudent, would be excessively burdensome.^[22]

²¹ MERC Reply Comments, August 12, 2019, pp. 2-4.

²² Id, pp. 4-5.

In response to the Department's statement that MERC's "variance request would adversely impact the public interest by increasing the time needed to fully refund firm ratepayers," MERC stated that:

MERC proposed to refund and collect the over- and under-recovered amounts through the PGA over six months in order to largely correlate to the period the Rochester capacity costs had been incorrectly recovered through the demand portion of the PGA (i.e., November 1, 2018-June 30, 2019). Assuming the Commission acted on the proposal in October or November, the period of the PGA adjustments would largely track with the same winter months as the original collections. However, to the extent the Commission concludes a shorter period is more appropriate to refund and collect the costs that had been incorrectly billed for the period November 1, 2018-June 30, 2019, MERC would not oppose a shorter refund and recovery period than the 6 months the Company had proposed in its July 3, 2019, filing. The Company believes the Commission has discretion to determine an appropriate recovery and refund period to adjust for the over- and under-collections and would not oppose any shorter or longer adjustment period..^[23]

MERC responded to the Department's position that "the Billing Errors Rule is not applicable in this instance and therefore, no rule variance to this rule part is needed." MERC stated:

MERC agrees that if the Commission believes the Natural Gas Billing Error Rule is not applicable to this situation, it does not need to grant a variance to that rule. MERC notes, however, that the Commission has previously concluded that similar PGA allocation and assignment errors required a variance from Minn. R. 7820.4000.^[24] Regardless of whether the Commission believes Minn. R. 7829.4000 is applicable, MERC has satisfied the requirements for variances to allow for correction to the over- and under-recoveries through the PGA mechanism.²⁵

In response to the Department's assertion that MERC's variance request should be denied because "it will conflict with the requirements of Minnesota Rules, part 7825.2920, subp. 2[,]," MERC argued:

²³ MERC Reply Comments, August 12, 2019, p.5.

²⁴ Id., pp. 6-7, fn 12. "*In the Matter of the Review of 2012-2013 Annual Automatic Adjustment Reports and Annual Purchased Gas Adjustment True-Up Filings*, Docket No. G999/AA-13-600, ORDER ACCEPTING GAS UTILITIES' ANNUAL REPORTS AND 2012-2013 TRUE-UP PROPOSALS AND SETTING FURTHER REQUIREMENTS at 5, 6 (Aug. 11, 2014) (noting that "At the hearing, the Department also agreed that a variance to Minn. R. 7825.2700, subp. 7 and Minn. R. 7820.4000 were appropriate"). In its Comments, the Department attempts to distinguish the facts here from past Commission decisions varying Minn. R. 7820.4000, apparently to support its position that MERC should be prohibited from recovering the under-recovered costs from interruptible and joint service customers. Such reading of Minn. R. 7820.4000 and 7825.2920 is unreasonable and unsupported."

²⁵ Id., pp. 6-7.



The Department's rationale is circular and illogical; effectively the Department is arguing that because the action proposed would be contrary to the rule to be varied, the variance should not be allowed. If MERC's proposal was consistent with the applicable rules, it would not require a variance in the first instance... Minn. R. 7829.3200 provides that "the commission *shall grant a variance* to its rules when it determines" that each of the requirements discussed above are met. MERC has clearly met each of the requirements of Minn. R. 7829.3200, subp. 1 and should be granted the requested variance.²⁶

MERC also disagreed with the Department's conclusion that Minn. R. 7825.2920, subp. 2 "does not allow for surcharges due to a calculation error – only refunds." MERC argued that the Department's interpretation of the rule is contrary to the plain language of the rule as well as prior Department recommendations and Commission orders. MERC stated:

This rule, by its plain terms, does not prohibit the collection of under-recovered amounts. The rule only addresses over-charges, how they might be calculated (i.e., with or without interest), and how to determine the materiality of an error (e.g., "greater than five percent..."). The fact that the rule expressly addresses the Commission's authority with respect to the mechanism by which refunds may be provided cannot reasonably be read to disallow the recovery of under-recovered amounts. *Nothing in the plain language of Minn. R. 7825.2920, subp. 2, or any other applicable rule, prohibits the recovery of undercharged amounts under the circumstances here.* [Footnote omitted.]

Contrary to their position in this request, the Department has previously recognized that Minn. R. 7825.2920, subp. 2 allows for the recovery of under-recovered amounts in conjunction with the return of over-collected amounts. For example, in Docket No. G999/AA-13-600, in the context of a PGA allocation error, the Department recommended "that MERC's proposal to correct its error should be based on Minn. R. 7825.2920, subp. 2 and accordingly, recommended that the Commission [1] require that for MERC-Con's classes that were undercharged, MERC adjust the September 1, 2014 true-up balance in a separate line item to the commodity cost of gas; and [2] require that for MERC-NNG's classes that were over charged MERC make refunds by check or credits to bills to ratepayers." Ultimately, in that case, the Commission grant[ed] a variance to Minn. R. 7825.2920, subp. 2, to allow MERC to adjust the September 1, 2014 true-up balances to account for both the over-charge and under-charge amounts. The position that the Department has now taken that Minn. R. 7825.2920, subp. 2 prohibits surcharges and only allows for refunds, effectively denying the utility recovery for a portion of its gas costs, is inconsistent with prior Department interpretations and Commission decisions. Such interpretation is also unreasonable and unsupported by the language and policy of the PGA rules, which

²⁶ Id., p. 6.



allow gas costs such as those at issue here related to the Rochester interstate capacity as a pass through to customers. [Citations and footnote omitted.]²⁷

MERC further stated that a variance to Minn. R. 7825.2920, Subp. 2 is arguably unnecessary. According to MERC, neither of the two conditions in the rule have been met.

According to MERC, the first condition has not been met because the order has not been served with 90 days after receipt of the filing defined in part 7825.2900 or 7825.2910 or at the end of the next major rate proceeding, whichever is later. MERC stated:

MERC filed its initial petition for change in demand entitlements on August 1, 2018, under Minn. R. 7825.2910, subp. 2. To date, the Commission has not issued an order on that filing (i.e., the order has not been served within 90 days of receipt of the filing). In the period since MERC's demand entitlement petition was filed, however, the Commission did issue its Findings of Fact, Conclusions, and Order in Docket No. G011/GR-17-563 on December 26, 2018, in MERC's general rate case proceeding. Thus, the Commission did not issue an order to require refunds by the end of the major rate proceeding that was pending at the time the Demand Entitlement petition was filed.

With respect to the second condition, MERC stated:

The second condition, that the amount of the error is greater than five percent of the corrected adjustment charge, is also not met. Firm service customers will be impacted by both the resulting reduction to the demand portion of the PGA and the increase to the commodity portion while interruptible customers will only be impacted by the change in the commodity portion of the PGA.^[28]

The percentage change with respect to both the firm service customers and interruptible customers is less than the five percent threshold set forth in Minn. R. 7825.2920, subp. 2.

PGA Adjustment for Firm Service – Originally Filed	\$0.48838
PGA Adjustment for Firm Service – Corrected	\$0.48634
% Change in Adjustment Charge	-0.42%
PGA Adjustment for Interruptible Service – Originally Filed	\$0.37371
PGA Adjustment for Interruptible Service – Corrected	\$0.39141

²⁷ MERC Reply Comments, August 12, 2019, pp. 7-8.

²⁸ MERC Reply Comments, August 12, 2019, p.8, fn 18. "The Department based its calculation solely on the reduction to the demand portion of the PGA, without accounting for the corresponding commodity adjustment. This does not accurately reflect the impact of the correction. The Rochester capacity costs are not being removed; rather, they're being recovered through the commodity portion of the PGA in accordance with the Commission's Order in Docket No. G011/M-15-895."

% Change in Adjustment Charge

4.74%²⁹

MERC reiterated its request that the Commission vary the requirements of all applicable rules as necessary to allow MERC to correct for the over- and under-charge amounts through the monthly PGA.

Finally, with respect to Attachment B to MERC's Correction Letter, MERC agreed that the Department is correct with respect to the Small and Large Volume Firm demand rate, which should be reflected as \$28.101 rather than \$2.8101. However, MERC disagreed with the Department's other changes. MERC stated:

As noted in Attachment B to MERC's July 3, 2019, filing, MERC's rate impact analysis intentionally excludes the Annual Cost Adjustment ("ACA") factor. [Citation omitted.] The Department added in the ACA factor to the non-residential rates in the October, 2018 PGA column of its Attachment A-1, causing the comparison to the corrected November, 2018 PGA to be misstated. In addition, the Department's Attachment A-1 includes a revised commodity cost of \$3.4787 for the proposed November, 2018 PGA, which is not accurate. MERC's update to include the Rochester capacity costs for recovery through the commodity portion of the PGA results in a commodity rate of \$3.9141. Even if the Department were to exclude the reasonable and prudently incurred Rochester capacity costs from the commodity portion of the proposed PGA, the resulting commodity rate should have been \$3.7371, not \$3.4787. MERC includes an updated Attachment 4 reflecting the correction to the cost comparison as Attachment A to these Reply Comments...³⁰

4. Department Supplemental Comments, October 1, 2019

On October 1, 2019, the Department submitted supplemental comments. Given the additional information in MERC's reply comments regarding the resources necessary to process the refund as individual checks or bill credits, the Department stated it appears that this would be burdensome to MERC. Thus, the Department modified its recommendation on the refund method. The Department now recommends that the Commission approve a variance to Minnesota Rules, parts 7825.2920, subp. 2; 7825.2910; and 7825.2700, subp. 7 to allow MERC to refund the over-recovery through a credit, including interest at the prime rate, in the first monthly PGA after the issuance of an Order in this docket.

²⁹ Id., p. 9.

³⁰ MERC Reply Comments, August 12, 2019, p. 9.



However, the Department continued to argue that MERC should not be allowed to surcharge interruptible customers for the under-charges that occurred. The Department stated, denying MERC's request to surcharge for under-collected costs does not impose an unreasonable burden on MERC by denying the Company the opportunity to recover these costs. "MERC had the opportunity to recover these costs through the PGA, but the Company incorrectly applied the Commission Order." Further the Department argued:

[A]llowing a surcharge will negatively affect the public interest. Allowing the Company to recover these costs will increase costs to interruptible ratepayers and require these customers to pay for a mistake within the control of the Company. If MERC is allowed to surcharge interruptible customers, it will effectively remove any incentive for the utility to appropriately review, or track, the costs charged in the PGA, even if the Commission approved a specific cost recovery method in a separate regulatory filing.

With regard to applying interest at the prime rate, the Department stated that it "appreciates that MERC agrees that applying interest on the over-collection is appropriate." However, the Department disagreed with MERC's caveat that interest be applied on its proposed surcharge to interruptible customers.

In response to MERC's arguments that the Department's position in its Additional Comments is contrary to its position in previous dockets and previous Commission Orders, the Department argued that its recommendations regarding variances to Minn. R., part 7825.2920, subp. 2 in previous dockets is irrelevant, and the Commission's previous decisions regarding a variance to Minn. R., part 7825.2920, subp. 2 do not represent precedent. The Department stated, in part:

Although previous decisions can be a guide, the reasonableness of a variance is based on the facts for each variance request. The Commission was clear in its Order in Docket No. G999/AA-13-600, which MERC referenced in its reply comments, that the finding in that docket did not impact future variance requests. In particular, the Commission stated:

Finally, the Commission emphasizes that it makes no determination in this matter with respect to the appropriate method to use to correct future error in the AAA true-up reports.³¹

The Department responded to MERC's concerns regarding the rate impacts calculated by the Department as follows:³²

First, when presenting bill impacts in demand entitlement filings, the Department typically holds the commodity cost of gas constant to isolate the impacts related solely to demand cost changes. The Department used this approach in all of its

³¹ Department Supplemental Comments, p. 5, fn 16. "Docket No. G999/AA-13-600, August 11, 2014 Order, Page 6."

³² Id., p. 6



rate impact calculations in this docket. Second, the rate impacts calculated by the Department in its Additional Comments are accurate. The Department's calculations are based on the Rochester Capacity rates multiplied by the estimated annual usage for the Company's Small Volume Interruptible and Large Volume Interruptible rate classes. [Footnotes omitted]

(Staff note: Staff disagrees that the Department held the commodity cost of gas constant in all of its rate impact calculations in this docket. The Department held the commodity cost of gas constant for only the General Service Residential class, not for any of the other classes.)

For Docket No. 18-526, the Department now recommends that the Commission:

- Accept the Company's proposed level of demand entitlements for its Northern Purchased Gas Adjustment (PGA);
- Allow MERC to recover associated demand costs, as calculated in the Department's Additional Comments, through the monthly PGA effective November 1, 2018 for its Northern PGA;
- Determine that the Rochester demand error is an error in the automatic adjustment calculation and is therefore governed by Minnesota Rules, part 7825.2920, subp. 2, which requires customer refunds in the event of an error made in the automatic adjustment of charges; and
- Approve a variance to Minnesota Rules, parts 7825.2920, subp. 2, 7825.2910, and 7825.2700, subp. 7 to allow MERC to refund the over-recovery through a credit, including interest at the prime rate, in the first monthly PGA after the issuance of an Order in this docket.

V. Staff Analysis

The primary argument between MERC and the Department is whether MERC should be (1) granted a variance to applicable rules and allowed to correct through the PGA over some period of time, both the over-charges to firm customers and under-charges to interruptible customers, that occurred from November 1, 2018 through June 30, 2019, or (2) denied a variance and required to issue individual checks or credits to refund the over-charges plus interest, and disallowed recovery of the under-charges that occurred. There is no dispute between the parties that this error exists. Additionally, the parties do not dispute the prudence or reasonableness of the Rochester capacity costs, or that the Rochester capacity costs were actually incurred.

MERC requested variances to Minn. R. 7825.2910; Minn. R. 7825.27000, subp. 7; Minn. R. 7825.2920, subp. 2; Minn. R. 7820.4000; and any other applicable rule as necessary to allow MERC to correct for the over- and under-charged amounts through the monthly PGA.

Minnesota Rule 7829.3200 provides in part:

Subpart 1. When granted. The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.



As discussed above MERC argues that each of these requirements is met and staff will not repeat here the reasons MERC believes it meets each of the requirements. Further, MERC argues that “Because MERC meets all of the requirements for a variance under Minn. R. 7829.3200, there is no need to address the Department’s arguments with respect to the requirements of the rules to be varied.”

The question for the Commission is whether to vary applicable rules to allow for MERC to make corrections for both the overcharges and undercharges through the PGA over some period of time, and what period of time that should be. If it does not vary applicable rules to allow for MERC to make corrections through the PGA, the Commission will need to decide how it wants MERC to correct for the errors and if any rules need to be varied to accomplish that.

As a matter of policy, staff notes that the purpose of the automatic adjustment of charges (in this case the PGA and true-up adjustments) “is to enable regulated gas and electric utilities to adjust rates to reflect changes in the cost of energy delivered to customers from the costs authorized by the commission in the utility’s most recent general rate case.”³³ Staff believes these rules are intended to allow, in this instance, MERC, to recover the actual cost of gas to the extent the costs are deemed reasonable and prudent and necessary to provide natural gas service to MERC’s customers.

Minnesota Rule 7825.2700 states, in part:

Subp. 7. True-up amount. The true-up amount is the difference between the commodity and demand gas revenues by class collected by the utility and the actual commodity-delivered gas cost and demand-delivered gas cost by class incurred by the utility during the year. The true-up adjustment must be computed annually for each class by dividing the true-up amount by the forecasted sales volumes and applied to billings during the next 12-month period beginning on September 1 each year, provided that the adjustment has been filed under part 7825.2910, subpart 3.

Staff believes under this rule subpart, a utility is required to annually adjust for the difference between actual gas costs recovered and actual gas costs incurred by class. Thus, in most cases, errors such as occurred here with the assignment of Rochester capacity costs to demand instead of commodity in the PGAs, would be corrected through the annual true-up if the actual Rochester capacity costs were recorded correctly as commodity, rather than demand. However, the Automatic Adjustment Errors rule, and/or the Billing Errors rule could also be interpreted to apply in this situation if the over-, or under-recovery is the result of a billing error that reaches certain threshold levels.

MERC’s proposal to refund the over-charges and collect the under-charges through the PGA over six months would have the benefit of keeping MERC whole for its costs, and would also spread the surcharges over six months instead of an immediate one-time hit. However,

³³ Minnesota Rule 7825.2390.



because the refund or surcharge a specific customer receives would depend on the amount of gas used during those six months, an individual customer may not actually receive the same refund or surcharge they would have if refunds and surcharges were individually calculated (customer-by-customer) and made as a check or bill credit or charge.

The Department's initial proposal to require MERC to refund the over-charges with interest by individual check or bill credit, and not allow surcharges for the undercharges, would have the advantage of a quicker refund and likely a better match between overcharges and refunds. However, it would harm MERC in that MERC would not recover all of its costs and according to MERC it would be administratively burdensome.

The Department's revised recommendation to allow MERC to refund the over-charges with interest through the first monthly PGA after the issuance of an Order in this docket would have the advantage of a quicker refund than MERC's proposal, but would not be as good a match as calculating individual customer refunds. Also, MERC would not recover all of its costs.

If the Commission, instead decided to apply the Billing Errors rule, Minn. R. 7820.4000, and require MERC to calculate and issue individual refunds (with interest) and surcharges, it would perhaps also have the advantages of a quicker refund and a better match, as well as allowing MERC to recover all of its Rochester capacity costs. However, this would likely still be administratively burdensome and making the surcharges all at once could result in a significant increase in the bill for some customers. MERC estimated that an average Small Volume Interruptible customer was undercharged during this period by approximately \$815.46.

With regard to the appropriate rate impact calculations, staff notes that the dispute is with respect to how commodity costs are shown. MERC's Attachment A in its August 12, 2019 Reply Comments and the Department's Attachment A-1 in its Additional Comments show the same demand cost impacts. The recommendation is to allow MERC to recover the associated demand costs through the monthly PGA effective November 1, 2018. There does not appear to be any dispute about the associated demand costs.

VI. Decision Alternatives

Docket 18-527 Consolidated PGA Area

1. Accept MERC's proposed level of demand entitlement for its Consolidated PGA; and
2. Allow MERC to recover associated demand costs through the monthly purchased gas adjustment (PGA) effective November 1, 2018 for its Consolidated PGA.

Docket 18-526 NNG PGA Area

3. Accept the Company's proposed level of demand entitlement for its Northern PGA; and
4. Allow MERC to recover associated corrected demand costs through the monthly PGA effective November 1, 2018 for its Northern PGA; [MERC] OR
5. Allow MERC to recover associated demand costs, as calculated in the Department's additional comments, through the monthly PGA effective November 1, 2018 for its Northern PGA. [Department]

Correction for PGA Errors November 1, 2018 through June 30, 2019

6. Allow MERC to refund firm customers and recover from interruptible customers the approximately \$423,646 over- and under-charged amounts related to the Rochester demand entitlement error through the monthly PGA over a six-month period following Commission approval. [MERC] OR
7. Allow MERC to refund firm customers and recover from interruptible customers the approximately \$423,646 over- and under-charged amounts related to the Rochester demand entitlement error through the monthly PGA, over a period of the Commission's choosing, following Commission approval. [MERC Alternative] OR
8. Determine that the Rochester demand error is an error in the automatic adjustment calculation and is therefore governed by Minnesota Rules, part 7825.2920, subp. 2, which requires customer refunds in the event of an error made in the automatic adjustment of charges; [Department] AND
9. Approve a variance to Minn. R. 7825.2920, subp. 2; Minn. R. 7825.2910; and Minn. R. 7825.2700, subp. 7 and allow MERC to refund the over-recovery through a credit, including interest at the prime rate, in the first monthly PGA after the issuance of an Order in this docket. Do not allow for surcharges to collect under-recovered amounts. [Department]

Variances

If the Commission adopts alternative 6 or 7, then it may also want to

10. Grant a variance to Minn. R. 7825.2910; Minn. R. 7825.2700, subp. 7; Minn. R. 7825.2920, subp. 2; Minn. R. 7820.4000; and any other applicable rule as necessary. [MERC]



Relevant Minnesota Rules

7825.2910. Filing By Gas Utilities.

Subpart 1. Monthly reports. Gas utilities shall submit monthly to the department purchased gas adjustment reports, which must include:

- A. a summary of adjustments that were implemented in the previous month and the computation of each adjustment;
- B. an explanation of significant changes between the base gas cost and current cost, quantified as to changes in price and source of gas;
- C. the estimated previous month's and year-to-date commodity-delivered gas cost by supplier;
- D. estimated gas volumes purchased from suppliers whose gas rates are not regulated by the Federal Energy Regulatory Commission; and
- E. estimated costs of gas purchased in item D expressed as a percentage of all commodity-delivered gas costs and demand-delivered gas costs.

The department shall summarize the monthly reports every three months and submit the summary to the commission for review.

Subp. 2. Filing upon change in demand. Gas utilities shall file for a change in demand to increase or decrease demand, to redistribute demand percentages among classes, or to exchange one form of demand for another. A filing must contain:

- A. a description of the factors contributing to the need for changing demand;
- B. the utility's design-day demand by customer class and the change in design-day demand, if any, necessitating the demand revision;
- C. a summary of the levels of winter versus summer usage for all customer classes; and
- D. a description of design-day gas supply from all sources under the new level, allocation, or form of demand.

Subp. 3. Notice. A gas utility shall provide notice to the intervenors in its previous two general rate cases of the availability of the change in demand filing when it submits the filing to the department.

Subp. 4. True-up filing. Gas utilities shall file and implement on September 1 of each year the true-up adjustment computed under part 7825.2700, subpart 7, for the previous year commencing July 1 and ending June 30.

7825.2700, Subp. 7. True-up Amount.

The true-up amount is the difference between the commodity and demand gas revenues by class collected by the utility and the actual commodity-delivered gas cost and demand-delivered gas cost by class incurred by the utility during the year. The true-up adjustment must be computed annually for each class by dividing the true-up amount by the forecasted sales volumes and applied to billings during the next 12-month period beginning on September 1 each year, provided that the adjustment has been filed under part 7825.2910, subpart 3.

**7825.2920, Subp. 2. Errors.**

Errors made in adjustment must be refunded by check or credits to bills to the consumer in an amount not to exceed the amount of the error plus interest computed at the prime rate upon the order of the commission if (1) the order is served within 90 days after the receipt of the filing defined in part 7825.2900 or 7825.2910 or at the end of the next major rate proceeding, whichever is later, and (2) the amount of the error is greater than five percent of the corrected adjustment charge.

7820.4000. Natural Gas Utility Billing Errors.

Subpart 1. Errors warranting remedy. When a customer has been overcharged or undercharged as a result of incorrect reading of the meter, incorrect application of rate schedule, incorrect connection of the meter, application of an incorrect multiplier or constant or other similar reasons, the amount of the overcharge shall be refunded to the customer or the amount of the undercharge may be billed to the customer as detailed in subparts 2 through 4.

Subp. 2. Remedy for overcharge. 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. Interest must be calculated as prescribed by Minnesota Statutes, section 325E.02, paragraph (b). If the recalculated bills indicate that more than \$1 is due an existing customer or \$2 is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. The refund to an existing customer may be in cash or as credit on a bill. Credits shall be shown separately and identified. If a refund is due a person no longer a customer of the utility, the utility shall mail to the customer's last known address either the refund or a notice that the customer has three months in which to request a refund from the utility.

Subp. 3. Remedy for undercharge. When a utility has undercharged 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, for the period beginning one year before the date of discovery. If the recalculated bills indicate that the amount due the utility exceeds \$10, the utility may bill the customer for the amount due. But a utility must not bill for any undercharge incurred after the date of a customer inquiry or complaint if the utility failed to begin investigating the matter within a reasonable time and the inquiry or complaint ultimately resulted in the discovery of the undercharge. The first billing rendered shall be separated from the regular bill and the charges explained in detail.

Subp. 4. Exception if error date known. If the date the error occurred can be fixed with reasonable certainty, the remedy shall be calculated on the basis of payments for service rendered after that date, but in no event for a period beginning more than three years before the discovery of an overcharge or one year before the discovery of an undercharge.