STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

Katie Sieben	Chair
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In the Matter of the Petition of Minnesota Energy Resources Corporation for Approval of 2020 Gas Utility Infrastructure Cost Rider Revenue Requirement and Revised Surcharge Factor

DOCKET NO. G-011/M-19-282

COMMENTS OF THE OFFICE OF THE ATTORNEY GENERAL

INTRODUCTION

The Office of the Attorney General—Residential Utilities and Antitrust Division ("OAG") submits the following Comments in response to the Commission's July 23, 2019 Second Notice of Extended Comment Period on Minnesota Energy Resources Corporation's ("MERC's") *Petition for Approval of a 2020 Gas Utility Infrastructure Cost Rider Revenue Requirement and Revised Surcharge Factor*. For the reasons discussed below, the Commission should require MERC to reduce its proposed 2020 revenue requirement to prevent double recovery. MERC should also confirm that unrecovered rider costs from 2019 will not be included in its next rate case if MERC files one this fall.

BACKGROUND

I. THE GUIC RIDER STATUTE

Minnesota Statutes section 216B.1635 allows gas utilities to seek rider recovery of costs incurred between rate cases for (1) the replacement of natural gas facilities required by road construction or other public work by or on behalf of a government agency or (2) the replacement or modification of existing facilities required by a federal or state agency, including surveys, assessments, reassessment, and other work necessary to determine the need for replacement or modification of existing infrastructure.[1]

The Commission may approve a rider to recover these gas utility infrastructure costs, or "GUIC," if the costs are prudently incurred and achieve gas facility improvements at the lowest reasonable and prudent cost to ratepayers.[2] The statute permits recovery of a return on investment, income taxes on the return, incremental property taxes, incremental depreciation expense, and any incremental operation and maintenance ("O&M") costs.[3]

II. MERC'S PETITION

A. 2020 GUIC-Rider Revenue Requirement

MERC requests permission to begin recovering, in January 2020, an annual GUIC-rider revenue requirement of approximately $4.9 million via a $0.00554 per-therm surcharge on all customers.[4] This surcharge would represent a 34 percent increase over the currently approved GUIC-rider surcharge of $0.00413.

MERC seeks to recover costs in both statutory GUIC categories. First, the Company forecasts that it will invest $6.6 million in 2020 to replace gas facilities in conjunction with public-works projects.[5] Second, MERC forecasts that it will invest $7 million, and incur $3 million in O&M costs, to meet the requirements of federal and state pipeline-integrity regulations.[6] These investments and expenses translate to a $4.9 million annual revenue requirement as follows:

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[1] Minn. Stat. § 216B.1635, subds. 1, 2 (2018).
[2] *Id.*, subd. 5.
[3] *Id.*, subd. 4.
[4] MERC'S 2020 GUIC PETITION at 1 (April 24, 2019).
[5] *See id.*, Exhibit E (2020 Gas Infrastructure Plan Report), at 5–6.
[6] *Id.* at 1–5.

Table 1: MERC's 2020 GUIC-Rider Revenue Requirement

Component	Amount
O&M Expense	$3,000,000
Depreciation Expense	$351,489
Return on Rate Base	$1,517,083
	$4,868,572[7]

To put these figures in context, the proposed 2020 GUIC-rider revenue requirement represents a 4.41 percent increase over MERC's Commission-approved base revenue exclusive of gas purchase costs and transportation charges ("margin revenue").[8] And the Company's planned 2020 GUIC capital investment—$13.6 million—is nearly 20 percent of the Company's total capital spending in 2018, the test year in its most recent rate case.[9]

B. 2019 True-up

When submitting rider petitions, a utility normally adjusts, or "trues up," its proposed revenue requirement to correct for any over- or under-recovery from the previous year. But because 2019 is the inaugural year for MERC's GUIC rider, the Company has not included a true-up in the 2020 revenue requirement. Instead, the Company states that it will submit a 2019 true-up proposal by April 1, 2020.

MERC currently projects that it will under-recover its 2019 GUIC-rider revenue requirement by $2.7 million.[10] If the Commission were to approve a 2019 true-up at this level,

[7] *Id.*, Exhibit D at 1.
[8] *Id.*, Exhibit F.
[9] *Id.*
[10] *See* MERC's Response to OAG IR No. 3 (Attachment A to these Comments). This figure includes the impact of MERC's request to suspend the GUIC rider for direct-connect transportation customers. *Id.*; *see In the Matter of MERC's Request for Approval of a 2019 GUIC Rider*, Docket No. G-011/M-18-281, EMERGENCY REQUEST TO SUSPEND RIDERS (June 28, 2019).

the combined impact of the 2020 GUIC revenue requirement and the 2019 true-up would be $7.6 million, or 6.85 percent of MERC's Commission-approved margin revenue.

III. THE COMMISSION SHOULD REDUCE THE 2020 GUIC-RIDER REVENUE REQUIREMENT TO PREVENT COST RECOVERY OF RETIRED ASSETS.

A key requirement of the GUIC statute is that costs included in the rider must be incremental to those costs already included in a utility's base rates.[11] The purpose of this requirement is to prevent double recovery. As the OAG explained in its comments on MERC's first GUIC rider petition, to the extent that GUIC investments replace assets that are not fully depreciated, GUIC depreciation expense must be offset by the replaced assets' depreciation expense, which otherwise would continue to be recovered through base rates.[12] MERC agreed with the OAG in that case that a depreciation offset was necessary to prevent double recovery.

In this case, MERC proposes to track the facilities that are replaced by 2020 GUIC projects and to make a depreciation adjustment in the 2020 true-up. Waiting until the 2020 true-up, however, would mean that MERC will over-recover depreciation expense throughout 2020 and not return that money to ratepayers until perhaps the end of 2021, effectively making ratepayers involuntary creditors. The Commission should instead require MERC to reduce its 2020 GUIC revenue requirement up front using a forecasted depreciation adjustment, as Xcel Energy does for its GUIC rider.[13] While it appears unlikely that MERC will over-recover its

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[11] *See* Minn. Stat. § 216B.1635, subds. 1(b) (defining GUIC as being incurred for projects that "were not included in the gas utility's rate base in its most recent general rate case"), 2 (limiting a GUIC rider to "recovery of only incremental costs"), 4 (allowing rider recovery of "incremental" property taxes, "incremental" depreciation expense, and "incremental" O&M costs).

[12] Docket No. G-011/M-18-281, OAG COMMENTS at 10 (July 27, 2018).

[13] *See In the Matter of Xcel Energy's Gas Utility Infrastructure Cost Rider, True-up Report for 2018, Revenue Requirements for 2019, and Revised Adjustment Factors*, G-002/M-18-692, XCEL'S PETITION at 18–20 (Nov. 1, 2018) (stating that "[g]iven that the GUIC Rider represents a somewhat unique set of circumstances, insofar as it is the only rider primarily involving the replacement of assets, we have removed the impact of these estimated retired assets from our 2019 GUIC Rider revenue requirement request"). Note that Xcel adjusts not only for depreciation of retired assets but also for rate of return, deferred income tax, and estimated property tax on these assets. The OAG

(Footnote Continued on Next Page)

2019 GUIC revenue requirement, future iterations of the rider are likely to recover actual costs with greater precision. Requiring the Company to make an up-front depreciation adjustment should reduce the magnitude of future true-ups.

IV. MERC Should Clarify in Reply Comments Its Intended Treatment of the GUIC Rider in the Event It Files a Rate Case.

MERC's petition states that the Company is evaluating whether to file a 2020 test-year rate case. If the Company does so, it intends to "roll all of the planned capital investments and O&M projects as presented herein into base rates."[14] MERC states that the GUIC rider would "zero out with respect to the unrecovered rate base value of all GUIC project plant in service as of the beginning of the test year" and that any "[u]nrecovered GUIC-eligible plant balance would be put into rate base for the test year."[15]

It is not clear precisely what MERC is proposing. MERC's use of the word "unrecovered" suggests that the Company plans to increase 2020 test-year GUIC plant balance and depreciation expense commensurate with any under-recovery of the 2019 GUIC-rider revenue requirement. In other words, it sounds as if MERC intends to, in essence, effectuate a rider true-up within the rate case. The problem with this, if this is in fact MERC's proposal, is that it would require recognizing 2019 costs in 2020. Including out-of-test-year costs in a rate case would effectively be deferred accounting. MERC has not requested deferred accounting, it has not provided an analysis justifying a request for a deferred accounting under the Commission's precedent, nor would it be able to support such a request.

(Footnote Continued from Previous Page)
does not recommend an adjustment for these other components at this time but reserves the right to do so in the future if MERC's GUIC revenue requirement continues to grow.

[14] MERC's Petition at 32–33.

[15] *Id.* at 33.

The OAG propounded discovery to better understand MERC's proposed treatment of the GUIC rider in the event it files a rate case. The Company clarified that "unrecovered rate base value" means "the net book value of GUIC assets at a point in time; i.e., original cost minus accumulated depreciation."[16] In other words, despite linguistic cues to the contrary, MERC's proposal apparently has nothing to do with the unrecovered status of its 2019 GUIC-rider revenue requirement. MERC should confirm in reply comments that it does not intend to include unrecovered 2019 GUIC-rider costs in any 2020 rate case, and that it will reflect in its rate-case test year the value of GUIC assets as they appear on its books.

CONCLUSION

For the foregoing reasons, the Commission should require MERC include a projected depreciation adjustment in its 2020 GUIC-rider revenue requirement to prevent double recovery of depreciation expense associated with assets that are replaced by GUIC projects. Further, the Commission should require MERC to commit that it will not attempt to include any unrecovered

[16] MERC's Response to OAG IR No. 8 (Attachment B).

portion of the 2019 GUIC-rider revenue requirement in a 2020 test-year rate case, and should require the Company reflect in the test year GUIC assets as they appear on its books.

Dated: August 23, 2019

Respectfully submitted,

KEITH ELLISON
Attorney General
State of Minnesota

s/ **Peter G. Scholtz**

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ATTORNEYS FOR OFFICE OF THE
ATTORNEY GENERAL—RESIDENTIAL
UTILITIES AND ANTITRUST DIVISION

OAG No. 003

State Of Minnesota
Office Of The Attorney General
Utility Information Request

In the Matter of the Petition of Minnesota Energy Resources Corporation for Approval of 2020 Gas Utility Infrastructure Cost Rider Revenue Requirement and Revised Surcharge Factor.	**MPUC Docket No.**	G011/M-19-282

Requested from:

Minnesota Energy Resources Corporation

By:	Peter Scholtz	**Date of Request:**	July 1, 2019
Telephone:	(651) 757-1473	**Due Date:**	July 12, 2019

Provide MERC's current estimate of the year-end 2019 GUIC Tracker Account balance, including all supporting calculations.

Response:

Calculations of the projected 2019 GUIC Rider Recovery under various scenarios can be found in the attached "OAG 003 Attachment.xlsx". This document was provided in Docket G011/M-18-281 in response to OAG 041.

In Docket No. G011/M-18-281, the Commission approved recovery of a 2019 revenue requirement of $3,626,315, through a GUIC rider surcharge based on 12-months of sales. However, given the timing of the Commission's decision in that docket, the surcharge will only be in effect for 8 months in 2019.

Assuming approval of the Emergency Request to Suspend Collection of GUIC and NGEP Rider Surcharges for Direct Connect Customers as filed on June 28, 2018, in Docket Nos. G011/M-18-281 and G011/M-18-182, MERC would collect $930,446 in GUIC revenues in 2019 from non-direct connect customers. That would leave an estimated unrecovered GUIC tracker account balance of $2,695,869 as of December 31, 2019, assuming that all of the forecasted GUIC expenditures are made as forecasted.

Attachment A

Response by <u>Mary Wolter</u>
Title <u>Director-Gas Regulatory Planning & Policy</u>
Department <u>State Regulatory Affairs</u>
Telephone <u>414-221-2374</u>

OAG No. 008

State Of Minnesota
Office Of The Attorney General
Utility Information Request

In the Matter of the Petition of Minnesota Energy Resources Corporation for Approval of 2020 Gas Utility Infrastructure Cost Rider Revenue Requirement and Revised Surcharge Factor.	**MPUC Docket No.**	G011/M-19-282

Requested from:

Minnesota Energy Resources Corporation

By:	Peter Scholtz	**Date of Request:**	July 1, 2019
Telephone:	(651) 757-1473	**Due Date:**	July 12, 2019

Reference: Petition at 33.

MERC states, "When MERC files its next rate case, the GUIC Rider would zero out with respect to the unrecovered rate base value of all GUIC project plant in service as of the beginning of the test year. Unrecovered GUIC-eligible plant balance would be put into rate base for the test year."

a. Define "unrecovered rate base value." What are its component costs?

b. Define "GIUC project plant in service." What are its component costs?

c. Define "unrecovered GUIC-eligible plant balance." What are its component costs?

d. Explain how unrecovered GUIC-eligible plant balance would be "put into rate base" for the test year, describing how each component cost would be handled.

Response:

a. The "unrecovered rate base value" is the net book value of GUIC assets at a point in time; i.e., original cost minus accumulated depreciation.

b. The "GIUC project plant in service" is the capitalized cost (labor and materials) of a GUIC project that has been completed and placed into service.

c. The "unrecovered GUIC-eligible plant balance" is the same as the "unrecovered rate base value" of a GUIC project. See (a) above.

d. Please see the response to OAG-009.

Response by Mary Wolter Attachment B
Title Director-Gas Regulatory Planning & Policy
Department State Regulatory Affairs
Telephone 414-221-2374

KEITH ELLISON
ATTORNEY GENERAL

STATE OF MINNESOTA

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August 23, 2019

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 the Petition of Minnesota Energy Resources Corporation for Approval of 2020 Gas Utility Infrastructure Cost Rider Revenue Requirement and Revised Surcharge Factor
MPUC Docket No. G-011/M-19-282

Dear Mr. Wolf:

Enclosed and e-filed in the above-referenced matter please find 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/ **Peter G. Scholtz**
PETER G. SCHOLTZ
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Enclosure

AFFIDAVIT OF SERVICE

Re: In the Matter of the Petition of Minnesota Energy Resources Corporation for Approval of 2020 Gas Utility Infrastructure Cost Rider Revenue Requirement and Revised Surcharge Factor
MPUC Docket No. G-011/M-19-282

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I hereby state that on 23rd day of August, 2019, I e-filed with eDockets ***Comments of the Minnesota Office of the Attorney General—Residential Utilities and Antitrust Division*** and served the same upon all parties listed on the attached service list by e-mail, 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/ Judy Sigal
Judy Sigal

Subscribed and sworn to before me
this 23rd day of August, 2019.

s/ Patricia Jotblad
Notary Public

My Commission expires: January 31, 2020.

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Mary	Wolter	mary.wolter@wecenergygroup.com	Minnesota Energy Resources Corporation (HOLDING)	231 West Michigan St Milwaukee, WI 53203	Electronic Service	Yes	OFF_SL_19-282_M-19-282