

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben  
Valerie Means  
Matthew Schuerger  
John A. Tuma

Chair  
Commissioner  
Commissioner  
Commissioner

In the Matter of Minnesota Power's Revised  
Petition for a Competitive Rate for Energy-  
Intensive Trade-Exposed (EITE) Customers  
and an EITE Cost Recovery Rider

ISSUE DATE: March 17, 2020

DOCKET NO. E-015/M-16-564

ORDER APPROVING RIDER  
EXTENSION WITH CONDITIONS

**PROCEDURAL HISTORY**

Minn. Stat. § 216B.1696 allows utilities to propose alternative rate schedules designed to ensure competitive electric rates for energy-intensive trade-exposed (EITE) customers. On June 30, 2016, Minnesota Power (the Company) submitted a petition for approval of (1) an EITE rate schedule that provides specified customers a discount based upon each customer site's peak electric usage and total energy consumption, and (2) an EITE cost recovery rider (the EITE Rider).

On December 21, 2016, the Commission approved Minnesota Power's petition in its Order Approving EITE Rate, Establishing Cost Recovery Proceeding, and Requiring Additional Filings. The Commission found the Company's proposed EITE rate schedule could be expected to yield a net benefit to the utility and therefore approved the rate schedule under Minn. Stat. § 216B.1696, subd. 2, for a term of four years.

On February 1, 2017, Minnesota Power implemented the EITE Rider with an anticipated expiration date of February 1, 2021.

On September 29, 2017, Minnesota Power suspended the EITE Rider based on concerns about the outcome of the Company's general rate case in Docket No. E-015/GR-16-664.

On January 25, 2018, Minnesota Power reactivated the rider, effective January 1, 2018. The rider was suspended for a total of three months.

On October 7, 2019, Minnesota Power filed a letter requesting that the Commission grant an extension of the EITE Rider until new final rates in the Company's 2020 general rate case<sup>1</sup> take effect.

---

<sup>1</sup> *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Utility Service in Minnesota*, Docket No. E-015/GR-19-442; *see also In the Matter of the Petition of Minnesota Power for Approval of a New Base Cost of Fuel and Purchased Energy*, Docket No. E-015/MR-19-443.

On October 10, 2019, the Commission opened a comment period on whether the Commission should grant the proposed EITE Rider extension. Initial comments were accepted until November 25, 2019, and reply comments until December 10, 2019.

On November 25, 2019, comments were filed by the Citizens Utility Board and Energy Sense Coalition (together, the Joint Commenters), the Large Power Intervenor (LPI),<sup>2</sup> the Office of the Attorney General Residential Utilities and Antitrust Division (OAG), and the Department of Commerce Division of Energy Resources (the Department).

On December 10, 2019, reply comments were filed by LPI, the Department, and Minnesota Power.

On January 9, 2020, the Commission met to consider the matter.

## **FINDINGS AND CONCLUSIONS**

### **I. Minnesota Power's Request**

Minnesota Power requested that the Commission grant a “procedural extension”<sup>3</sup> to the EITE Rider until new final rates in the 2020 rate case are effective. The Company stated that it believed the Commission would deliberate on the 2020 rate case in early 2021, close to the expected expiration of the EITE Rider on February 1, 2021. The Company appeared to argue that the EITE Rider would likely expire before the 2020 rate case was finalized.

Minnesota Power expressed concern about potential impacts to customers that may result from a “misalignment”<sup>4</sup> between the expiration of the EITE Rider and the final 2020 rate case decision. The Company noted that it was not requesting any modification to the EITE Rider aside from the extension of the expiration date.

### **II. Party Comments**

LPI and the Department both filed brief comments in support of the Company's request. The Department stated that the extension would allow all parties to fully evaluate the rate case proposals and potential impacts on customers related to the EITE Rider expiration.

The Joint Commenters stated that, with a minor modification, they did not object to the Company's request. The Joint Commenters noted that their main concern with the EITE Rider was any potential effect on other ratepayers that could result from the EITE Rider's discount for

---

<sup>2</sup> Large Power Intervenor is an ad hoc consortium of large industrial customers of Minnesota Power, and for purposes of this docket consists of ArcelorMittal USA (Minorca Mine); Blandin Paper Company; Boise Paper, a Packaging Corporation of America company, formerly known as Boise, Inc.; Hibbing Taconite Company; Sappi Cloquet, LLC; United States Steel Corporation (Keetac and Minntac Mines); United Taconite, LLC; and Verso Corporation, each of which meets the statutory definition of an EITE customer.

<sup>3</sup> Minnesota Power request letter (October 7, 2019).

<sup>4</sup> *Id.*

EITE customers. The Joint Commenters noted that this cost has so far been offset by increased revenues from EITE ratepayers, and has not required recovery from other ratepayers. In order to ensure that other ratepayers are not affected by the extension, the Joint Commenters recommended that the Commission prohibit the Company from recovering any EITE-related costs from non-EITE customers beyond February 1, 2021, the original expiration date of the EITE Rider.

The OAG opposed the Company's request, arguing that under the EITE statute, Minn. Stat. § 216B.1696, a utility must demonstrate a "net benefit" before implementing an EITE rate, and the net benefit demonstrated when the EITE Rider was approved in 2016 was based on the original four-year term. According to the OAG, if the Company wishes to extend that term, it would require a finding that the extension also has a net benefit.

The OAG disagreed with the Company's position that allowing the EITE Rider to expire before new rates are in place would cause issues for ratepayers, and noted that the Company could have prevented any misalignment of the expiration date by filing their rate case at a different time. The OAG also noted that although the Company does not currently charge non-EITE customers to recover the discounts given to EITE customers through the EITE Rider, this could change by the time final rates take effect in the 2020 rate case.

Finally, the OAG argued that the Company's extension request "inappropriately invites the Commission to prejudge the decisions that it will make in the Company's pending rate case."<sup>5</sup> The OAG appeared to argue that if the Commission grants the extension, this would mean that the Commission has decided that the EITE Rider should essentially become a permanent part of Minnesota Power's rate design. Consequently, the OAG recommended that the Commission deny Minnesota Power's extension request.

In reply comments, the OAG appeared to argue that the EITE Rider should be allowed to expire and base rates should be recalculated on this basis, which the OAG believed would result in lower base rates for all customers.

Minnesota Power stated in reply comments that they did not oppose the language recommended by the Joint Commenters. The Company also argued that a new net-benefits test was not necessary because the modification is only procedural, and stated that if the Commission did believe a new net-benefits test was necessary, the Company would prefer to withdraw its extension request.

### **III. Commission Action**

The Commission will approve Minnesota Power's request to extend the EITE Rider until final rates are determined in the Company's 2020 general rate case, with the condition proposed by the Joint Commenters. Specifically, Minnesota Power will be prohibited from recovering any EITE-related costs through any potential surcharge from non-EITE customers after February 1, 2021.

The Commission believes that it is in the public interest to simplify the already-complicated rate case process when doing so is reasonable and consistent with statutory requirements, and in furtherance of that goal, it is reasonable to continue the EITE Rider status quo until final rates are

---

<sup>5</sup> OAG comments, at 3 (November 25, 2019).

determined. The condition proposed by the Joint Commenters — whose main concern is the interest of non-EITE ratepayers, including residential ratepayers — ensures that non-EITE customers will not be directly impacted by the extension.

The Commission will not require a new net-benefit test because the EITE Rider has already been approved. Minn. Stat. § 216B.1696 explicitly requires a finding of net benefit for initial approval but is silent regarding the standard for a modification.

Furthermore, the requested extension is in keeping with the intent of the original approval. While a fixed term length was a factor in Commission approval of the rider, approval did not hinge on the specific term length of four years. Although the exact length of the extension is unknown, it is not indefinite; it will end when final rates in the 2020 rate case are determined. Moreover, if the three-month suspension of the rider is taken into account, it is possible that the extension will be quite short.

Finally, the Commission's decision in this order does not affect base rates or Minnesota Power's 2020 rate case. The Commission does not intend to prejudge the rate case or make any indication of what it will decide in that matter. All issues related to base rates will be addressed in the rate case; this decision is only for procedural simplification, in furtherance of the public interest.

## **ORDER**

1. The Commission approves Minnesota Power's request to extend the terms of the EITE Rider until final rates, as determined by the Commission in Minnesota Power's current general rate case (Docket No. 19-442), take effect, with the condition that Minnesota Power is prohibited from recovering any EITE-related costs through any potential surcharge from non-EITE customers after February 1, 2021.
2. Within 10 days, Minnesota Power must submit revised tariff language indicating the term of the EITE Rider.
3. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Will Seuffert  
Executive Secretary



This document can be made available in alternative formats (e.g., large print or audio) by calling 651.296.0406 (voice). Persons with hearing or speech impairment may call using their preferred Telecommunications Relay Service or email [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us) for assistance.