MINNESOTA
PUBLIC UTILITIES COMMISSION

Staff Briefing Papers

Meeting Date	January 6, 2021		Agenda Item * 2
Company	Minnesota Energy Resources Corporation (MERC)		
Docket No.	**G-011/M-20-700**		
	In the Matter of the Petition of Minnesota Energy Resources Corporation for a Variance and Notice of Refund Plan for Northern Natural Gas Pipeline Refund		
Issues	Should the Commission approve MERC's proposed refund plan as modified and grant MERC a variance to Minn. R. 7825.2700, subp. 8?		
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✓ **Relevant Documents**	**Date**
MERC – Initial Filing	September 1, 2020
MERC – Letter Clarifying Variance Request	October 27, 2020
Department of Commerce – Comments	November 3, 2020
MERC – Reply Comments	November 9, 2020

I. Statement of the Issues

Should the Commission approve MERC's proposed refund plan as modified and grant MERC a variance to Minn. R. 7825.2700, subp. 8?

II. Introduction

Pursuant to Minn. R. 7829.3200, Minnesota Energy Resources Corporation ("MERC" or the "Company") submitted on September 1, 2020, a request for a variance from Minn. R. 7825.2700, subp. 8, and a notice of its refund plan relating to a pipeline refund to be received from Northern Natural Gas ("NNG"). In a letter filed October 27, 2020, MERC clarified that it was requesting a variance from Minn. R. 7825.2700, subp. 8 to allow it to:

- refund gas transportation costs issued by NNG through the MERC-NNG purchased gas adjustment ("PGA"), rather than through customer bill credits, as soon as the Commission approves the variance request or as soon as the NNG refund has been issued, whichever occurs later;

- calculate refunds based on one month of forecasted sales rather than 12-months of individual usage.

MERC requests that the Commission approve rule variances to all provisions of Minn. R. 7825.2700, subp.8, and any other rules as necessary to implement the Company's proposed refund plan and to allow implementation of the refund as proposed, as soon as possible. In the event the Commission does not take action on MERC's request to allow PGA refunds to be completed within 90 days, consistent with Minn. R. 7825.2700, subp. 8, MERC also requests that the Commission vary that requirement to allow for implementation in the MERC-NNG PGA in the month following Commission approval.

III. Background

On July 1, 2019, NNG filed a Section 4 rate case in Docket No. RP19-1353-000 at the Federal Energy Regulatory Commission ("FERC") to increase its transportation and storage rates. On July 31, 2019, FERC issued an order accepting NNG's filing, suspending rates, and approving implementation of the proposed increase to rates effective January 1, 2020, subject to refund based on final approved rates. On May 20, 2020, NNG filed an unopposed motion to place settlement rates into effect on an interim basis and on May 27, 2020, FERC's Administrative Law Judge ("ALJ") issued an Order authorizing interim settlement rates as of May 1, 2020. On July 21, 2020, the ALJ issued a Certification of Uncontested Settlement certifying the settlement to FERC. MERC estimated that the NNG refund would be approximately $3.6M.

On September 1, 2020, MERC submitted its petition requesting a variance from Minn. R. 7825.2700, subp. 8 to allow MERC to issue the refund to its customers over one month via the

MERC-NNG purchased gas adjustment as soon as the Commission approves the variance request or as soon as the NNG refund has been issued, whichever occurs later.

On October 27, 2020, MERC filed a letter to clarify that, in requesting approval of a variance from Minnesota Rule 7825.2700, subp. 8, MERC is also requesting a variance from the requirement contained in that rule that "within classes, the refund amount per unit must be applied to bills on the basis of individual 12-month usage." MERC stated:

> As stated in MERC's initial petition at page 4, "MERC seeks a variance from the Commission from the requirements of Minn. R. 7825.2700, subp. 8 in order to issue the NNG refund through the NNG-PGA over one month after Commission approval rather than as a bill credit." Given MERC's proposal, the per-therm refund proposed to be issued through the PGA would be calculated based on the forecasted sales in the month the refund is included in the PGA, and the per-therm refund would be credited to customers' usage via the PGA in the month following Commission approval.

MERC further clarified:

> MERC notes that NNG has now processed the refund with September [2020] invoicing, which was received by MERC in October. MERC requests that the Commission approve rule variances to all provisions of Minn. R. 7825.2700, subp. 8, and any other rules as necessary to implement the Company's proposed refund plan and to allow implementation of the refund as proposed, as soon as possible. In the event the Commission does not take action on MERC's request to allow PGA refunds to be completed within 90 days, consistent with Minn. R. 7825.2700, subp. 8, MERC also requests that the Commission vary that requirement to allow for implementation in PGA in the month following Commission approval.

On November 3, 2020, the Minnesota Department of Commerce, Division of Energy Resources (Department), filed comments recommending that the Commission approve MERC's proposal with modifications.

On November 9, 2020, MERC filed reply comments agreeing with the Department's recommendations and proposed modifications. MERC stated, "as a result, all issues between the Company and the Department are resolved." MERC requested that the Commission approve the refund as modified by the Department's recommendations, for implementation with the December 2020 PGA, or as soon as feasible.

IV. Parties' Comments

A. MERC Petition

1. MERC's Proposed Refund Plan

Minn. R. 7825.2700, subp. 8 describes the process for returning a natural gas supplier or transporter refund to ratepayers.

> **Subp. 8. Refunds.** Refunds and interest on the refunds, that are received from the suppliers or transporters of purchased gas and attributable to the cost of gas previously sold, must be annually refunded by credits to bills, except that cumulative refund amounts equal to or greater than $5 per customer must be refunded within 90 days from the date the refund is received from a supplier or transporter. Refunds must be allocated to customer classes in proportion to previously charged costs of purchased gas. Within classes, the refund amount per unit must be applied to bills based on individual 12-month usage. The utility shall add interest to the unrefunded balance at the prime interest rate.

MERC estimated that the NNG refund would be approximately $3.6 million and that the impact of the refund for an average Residential customer on the MERC-NNG PGA is approximately $11.85.

MERC proposes to:

- Issue the NNG refund to its customers through the MERC-NNG purchased gas adjustment ("PGA") over one month, rather than through customer bill credits, upon receipt of Commission approval of its variance request.
- Apply interest at the prime rate to the balance to be refunded from the time when NNG issues the refund. MERC will continue to apply interest to the balance at the prime rate until the refund is complete.
- Allocate the refund between Demand (74.83 percent) and Commodity (25.17 percent) based on the proportion of costs actually allocated to Demand and Commodity during the period covered by the NNG refund (January 1, 2020 through April 30, 2020).
- Use forecasted January through April sales volumes from its most recent Base Cost of Gas filing (Docket No. G-011/MR-17-564) to allocate the Refund to the different customer classes.[1]

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[1] See Department Comments, pp. 3-4, and Attachment 1 to the Comments (MERC's response to Department information request no. 1).

- Compute the refund on a per therm basis utilizing the associated sales volumes approved in MERC's Base Cost of Gas filing in Docket No. G-011/MGR -17-564 applicable to the month of the refund (e.g. assuming NNG processes the refund in October 2020, and MERC incorporates the refund in the November 2020 NNG-PGA, the November sales forecast would be used to calculate the per-therm rates). This method is consistent with how the NNG rate increase was allocated, which is the basis for the refund.

- Calculate the per-therm credits to be incorporated into the NNG-PGA in the month of the refund, by dividing the demand and commodity Accumulative Balances to be Refunded by the respective forecasted demand and commodity sales as approved in Docket No. G-011/MR-17-564, for the month of the refund.

MERC stated:[2]

> Upon Commission approval of the proposed refund plan and variance, MERC will incorporate the per-therm refund rates to demand and commodity, which are credit amounts, as line items on Schedule A, page 2, of the monthly NNG-PGA, ensuring the refund and interest at prime rate for the unrefunded period, is issued to applicable customers.
>
> MERC will include the final calculation of the NNG pipeline refund and interest in the monthly NNG-PGA filing where the refund is incorporated after the Commission makes a determination on this petition. Finally, to the extent that actual sales differ from forecasted sales for the month of the PGA in which the refund is issued, this amount will be trued-up in the Company's annual true-up filing due September 1, 2021.

2. MERC's Request for a Variance from Minn. R. 7825.2700, subp. 8

MERC seeks a variance from the Commission from the requirements of Minn. R. 7825.2700, subp. 8 in order to issue the NNG refund through the NNG-PGA over one month after Commission approval rather than as a bill credit.

Under Minn. R. 7829.3200, 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.

MERC states that its request meets these three requirements as follows:[3]

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[2] MERC Petition, p. 8.
[3] MERC Petition, pp. 4-6.

1. Enforcement Would Impose an Excessive Burden on MERC

Enforcement of the requirement to issue the refund through a bill credit would be administratively burdensome on MERC due to the time and expense associated with such a refund. MERC would need to separately administer the refund by issuing individual bill credits for each customer, and MERC would incur expenses associated with the programming, testing, and issuance of the refund within MERC's billing system. As shown in Table 1 below, the impact of the refund for an average Residential customer on the MERC-NNG PGA is approximately $11.85.

MERC's proposal to issue the NNG pipeline refund through the NNG-PGA would ensure that NNG sales customers at the class level are appropriately refunded for the full amount of the refund in a timely manner, without the administrative burden and expense of programming individual bill credits, and would avoid the confusion and potential for errors associated with the calculation and application of credits to individual accounts. In light of the time and administrative expense of separate bill credits, MERC believes it will be more efficient to issue the refund through the NNG-PGA over a single month.

2. Granting the Variance Would Not Adversely Affect the Public Interest

The public interest would be served by the administrative efficiencies associated with issuing the refund through the NNG-PGA. It would not adversely affect the public interest to issue the refund to current customers through the NNG-PGA because this proposal will ensure that MERC's sales customers on the NNG-PGA are appropriately credited for the refunded amounts and will ensure timely return of these refunded amounts to customers through the PGA. Additionally, MERC would apply interest at the prime rate until the refund is complete.

3. Granting the Variance Would Not Conflict with Standards Imposed by Law

MERC is not aware of any standard imposed by law that would conflict with MERC's implementation of the refund through the NNG-PGA. Further, the Commission has granted variances to Minn. R. 7825.2700, subp. 8 in the past, to allow pipeline refunds to be refunded to customers through the monthly PGA and/or annual automatic adjustment.[4]

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[4] MERC Petition, p. 6, FN 1: "For example, in Docket No. G-007,011/M-11-154, MERC requested and was granted identified variance to Minn. R. 7825.2700, subp, 8 to allow the Company to return pipeline refunds to customers through the PGA adjustment rather than as customer bill credits. In the Matter of a Request by Minnesota Energy Resources Corporation for Approval of a Variance and Notice of Refund Plan, Docket No. G-007,011/M-11-154, ORDER (Aug. 25, 2011). See also Docket No. G-004/M-10-63, ORDER (Apr. 30, 2010) (approving a variance to Minn. R. 7825.2700, subp. 8 to allow Great Plains to return Kansas ad valorem tax refund amounts through the Company's Gas Cost Reconciliation adjustment rather than customer bill credits); Docket No. G-004/M-08-1027, Order (May 15, 2009)

In its October 27, 2020 letter, MERC clarified that it is requesting that the Commission approve rule variances to all provisions of Minn. R. 7825.2700, subp. 8, and any other rules as necessary to implement the Company's proposed refund plan and to allow implementation of the refund as proposed, as soon as possible.

More specifically, MERC clarified that in requesting approval of a variance from Minnesota Rule 7825.2700, subp. 8, MERC is also requesting a variance from the requirement contained in that rule that "within classes, the refund amount per unit must be applied to bills on the basis of individual 12-month usage." Based on MERC's proposed refund plan, the per-therm refund proposed to be issued through the PGA would be calculated based on the forecasted sales in the month the refund is included in the PGA, and the per-therm refund would be credited to customers' usage via the PGA in the month following Commission approval.

Additionally, "In the event the Commission does not take action on MERC's request to allow PGA refunds to be completed within 90 days, consistent with Minn. R. 7825.2700, subp. 8, MERC also requests that the Commission vary that requirement to allow for implementation in PGA in the month following Commission approval."

B. Department Analysis and Recommendations

1. Allocation of Refund to Customer Classes

The Department took issue with MERC's proposal to use the January through April forecasted sales volumes from its most recent base cost of gas filing to allocate the refund to customer classes. The Department recommended that the Commission require MERC to allocate the refund based on actual use by customer class for the 4-month period, January through April 2020, when NNG's higher rates were in place. The Department stated:[5]

> The Department considers this approach to be more equitable than MERC's proposal in that the class allocation reflects the actual usage by class for the time period NNG's higher interim rates were in effect. This approach is also more consistent with the requirements in Minn. R. 7825.2700, subp. 8 as it uses actual data for the time period in question rather than forecasted data.

2. Calculation of the Refund Amount per Unit Within the Customer Classes

Regarding MERC's proposal to use one month (the month the refund is processed through the PGA) of forecasted sales information to develop the refund per unit and then true-up the difference between the actual disbursement of the refund through the PGA for the month in question, the Department stated:

(approving a variance to Minn. R. 7825.2700, subp. 8 to allow Great Plains to return a Northern Natural Gas System Leveling Account refund and Viking Load Management System refund to customers through the Company's Gas Cost Reconciliation Adjustment rather than customer bill credits)."

[5] Department Comments, p. 5.

> Given the desire to return refunds to customers as quickly and accurately as possible during the COVID-19 pandemic, the Department agrees that use of the PGA to administer the refund during a month when use of natural gas use is likely to be higher is reasonable, and thus recommends approval of MERC's requested variance.

3. Interest on Refund

The Department reviewed MERC's proposed use of the Prime Rate to calculate interest on the NNG refund and concluded that it is appropriate and consistent with the applicable language in Minn. R. 7825.2700, subp. 8, which states "The utility shall add interest to the unrefunded balance at the prime interest rate."

4. Use of MERC's ICE System in Future Refunds

The Department noted that MERC installed new billing system, referred as Improved Customer Experience (ICE), which is expected to enhance billing and allow MERC to provide a refund consistent with the refund requirements included in Minn. R. 7825.2700, subp. 8. Accordingly, the Department asked MERC in information request no. 3 a series of questions related to the ICE system, thus:

- When did MERC complete the installation of the Improved Customer Experience billing system?
- What was the effect of the installation on MERC's rate base?
- Did MERC specify to its vendor that ICE's functionality needed to comply with Minnesota regulatory requirements prior to installation?
- Did MERC require the ICE application to comply with the refund requirements included in Minn. R. 7825.2700, subp. 8?
- If so, why is it necessary to request a variance for issuing the amounts associated with the Northern Natural Gas refund discussed in this docket?
- If not, why was this functionality not required as part of the installation, as it is a longstanding regulatory requirement?

In its response to Department Information Request No. 3, MERC explained: "All this to say that yes, the ICE platform was implemented with the functionality to issue rate refunds and those refunds can comply with Minn. R. 7825.2700, subp. 8, but the process can require a considerable amount of technical effort to ensure that refunds are applied correctly." MERC also noted in its response that: "MERC is not requesting the variance because it cannot perform the refund."

In Department Information Request No. 5, the Department asked MERC to "provide an analysis that estimates the expenses associated with programming, testing and the issuance of a bill refund within MERC's billing system for this refund". MERC replied:[6]

> The ICE billing system . . . has the functionality to calculate and apply rate refunds. . .. all applicable Minnesota regulatory requirements were reviewed and the refund functionality remain[s]. However, each time a refund is authorized, the system must be configured to accommodate the unique circumstances of the refund. . .. MERC estimates, at a minimum, a cost of $60,000 to conduct the configuration and testing phases of a bill refund within MERC's billing system for NNG customers that is in accordance with Minn. R. 7825.2700, subpart 8.

Further, MERC explained that it would need a minimum of 60 days to configure and test the system for the refund. MERC also listed several additional issues which would need to be addressed.

The Department stated:[7]

> While the Department supports MERC's variance in the current circumstances for the reasons identified above, the information MERC provided indicates, disappointingly, that the ICE system for which ratepayers are paying provides little if any efficiency in meeting the requirements of Minnesota Rules. Further, to be clear, spending $60,000 or more to effectuate the refund consistent with the requirements in the Refund Rule, if it were required, would simply be a cost of doing business for which ratepayers should not be charged.

5. Department Recommendation

In conclusion, the Department recommended that the Commission:

- Reject the Company's proposal to allocate the Northern Natural Gas refund to customer classes using sales volumes from MERC's most recent Base Cost of Gas filing (Docket No. G-011/MR-17- 564).
- Instead, require the refund to be allocated to customer classes based on their actual natural gas use during the period January through April 2020 when NNG's [higher] rates were in effect.
- Grant a variance and allow the Company to disburse the Northern Natural Gas refund via the Purchased Gas Adjustment (PGA), given the limitations of MERC's ICE system.

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[6] Department Comments pp. 8-9 and Attachment 4, p. 1.

[7] Department Comments, p. 9.

- Require MERC to report on the status of the NNG refund after it is completed, specifically require MERC to report the percentage of the refund that was returned through the PGA, by customer class.

C. MERC Reply Comments

MERC in its November 9, 2020, reply comments agreed with the Department's recommendations and proposed modifications, and stated that "as a result, all issues between the Company and the Department are resolved."[8]

MERC requests that the Commission approve the refund, as modified by the Department's recommendations, for implementation with the December 2020 PGA, or as soon as feasible.

V. Decision Alternatives

1) Reject the Company's proposal to allocate the Northern Natural Gas refund to customer classes using sales volumes from MERC's most recent Base Cost of Gas filing (Docket No. G-011/MR-17-564). [Department, MERC]

2) Require the refund to be allocated to customer classes based on their actual natural gas use during the period January through April 2020 when NNG's [higher] rates were in effect. [Department, MERC]

3) Grant variances to the PGA rules as needed and allow the Company to disburse the Northern Natural Gas refund via the Purchased Gas Adjustment (PGA) over one month as soon as feasible. [Department as modified by staff, MERC]

4) Require MERC to report in a compliance filing on the status of the NNG refund after it is completed. Specifically require MERC to report the percentage of the refund that was returned through the PGA, by customer class. [Department, MERC]

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[8] MERC Reply Comments, p. 2.