COMMERCE DEPARTMENT

March 19, 2021

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, Minnesota 55101-2147

RE: **Response Comments of the Minnesota Commerce Department, Division of Energy Resources**
Docket No. G011/M-20-420

Dear Mr. Seuffert:

Attached are the Response Comments of the Minnesota Commerce Department, Division of Energy Resources (Department), in the following matter:

> Minnesota Energy Resources Corporation's (MERC or the Company) request (*Petition*) for Approval of a Natural Gas Extension Project (NGEP) Cost Rider Surcharge for the Recovery of 2021 Rochester Project Costs.

The Petition was filed on April 13, 2020 by:

> Joylyn Hoffman-Mauleg
> Project Specialist 3
> Minnesota Energy Resources Corporation
> 2685 145th Street West
> Rosemount, MN 55068

In the interest of a complete record, the Minnesota Commerce Department, Division of Energy Resources (Department) requests that the Minnesota Public Utilities Commission (Commission) accept these response comments. The Department recommends that the Commission allow MERC to implement, with modifications, and continue to charge an NGEP rider surcharge effective the first billing month after the Commission's final order in this proceeding for a portion of NGEP-related forecasted revenue requirements expected to be incurred in calendar year 2021 and true-up for 2018 and 2019.

The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/ ADAM J. HEINEN
Rates Analyst

AJH/ja
Attachment

Before the Minnesota Public Utilities Commission

Response Comments of the Minnesota Department of Commerce
Division of Energy Resources

Docket No. G011/M-20-420

I. INTRODUCTION AND BACKGROUND

On April 13, 2020, pursuant to Minnesota Statute 216B.1638 and the Minnesota Public Utilities Commission's (Commission) May 5, 2017 Order in Docket No. G011/M-15-895, and in accordance with Minnesota Rules 7829.1300 and the Commission's June 18, 2019 Order (June 18 Order) in Docket No. G011/M-18-182, Minnesota Energy Resources Corporation (MERC or the Company) submitted to the Commission a petition (Petition) for Approval of a Natural Gas Extension Project (NGEP) Cost Rider Surcharge (NGEP Rider) to recover projected 2021 Rochester Project Costs (Rochester Project). In particular, MERC requested approval of the following:

- an ongoing NGEP Rider;
- recovery of 33 percent, or $997,896, of a forecasted 2021 revenue deficiency of approximately $3,023,928 for MERC's projected 2021 investments related to the Rochester Project, subject to future true up;
- a true-up adjustment of $227,236 for the under-recovered 2019 NGEP revenue deficiency and to account for differences between the 2018 actual Rochester Project capital expenditures and the capital estimates included in base rates in Docket No. G011/GR-17-563;
- NGEP rate factors by customer class be effective January 1, 2021; and
- proposed NGEP Rider tariff sheets.

Subsequent to MERC's filing of its Petition, the Commission issued its Order for the Company's 2020 NGEP Rider in Docket No. G011/M-19-608. In its September 21, 2020 Order (September 21 Order), the Commission made several rulings that impacted the Company's original Petition.

On January 8, 2021, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed comments. In these comments, the Department identified various concerns with the Company's NGEP surcharge and true up calculations. These concerns led the Department to calculate an alternative NGEP surcharge. The Department recommended that the Commission allow MERC to continue assessing its NGEP rider surcharge but at the smaller amount of $821,611.

On January 22, 2021, MERC filed reply comments addressing the concerns raised in the Department's comments.

II. DEPARTMENT RESPONSE

The Department responds separately below to several issues addressed in MERC's reply comments. Specifically, the Department addresses the following topics:

- Property taxes;
- Incremental legal fees;
- Weather-normalized sales;
- Department's rate base adjustment;
- Offsetting revenues; and
- Resolved issues.

A. PROPERTY TAXES

In its comments, the Department provided an analysis of the Company's property tax calculations and assumptions used in the NGEP Rider. As part of this analysis, the Department recommended that a property tax offset be applied to the Company's property expense, consistent with the Commission's 19-608 Order. Also consistent with the Commission's 19-608 Order, the Department requested that MERC provide updated property tax information specific to the Rochester Project and corresponding to the updated NGEP rider surcharge values.

MERC explained that it revised its 2019 NGEP true-up model in response to Department Information Request No. 1 and that these calculations were in accordance with the Commission's 19-608 Order. Although the Company continues to believe that a rate base adjustment for property tax is not appropriate, MERC conceded that the property tax adjustment conforms to the Commission's Order and the Company included it in its response and resulting rate calculations.[1] As part of this response, the Company also stated that it developed project area-specific property tax estimates for 2019. In its reply comments, MERC provided a step-by-step explanation of its project area property tax calculations and supporting information.[2] The Company noted that this process resulted in an updated actual 2019 incremental property tax expense of $115,522. In terms of forecasting 2021 Rochester Area property tax expenses, the Company explained that it estimated this value based on MERC's forecasted costs and the projected net operating income related to the Rochester Project through 2020.

The Department appreciates the additional clarifying discussion provided by MERC. This discussion and supporting information confirms that the Company's response to Department Information Request No. 1 was based on project area-specific property tax data and that it included the Commission's rate base adjustment for property taxes. The Department also reviewed this

[1] MERC Reply Comments, Page 2.
[2] MERC Reply Comments, Pages 2-3 and Attachment B.

information and the Company's estimation methods and concludes that the calculation is acceptable at this time. In terms of the estimate of property tax expense for 2021, this method appears consistent with MERC's previous estimates of forecasted property taxes. The Department does not have concerns with this method at this time, although it anticipates analyzing property taxes in future NGEP Rider filings. In addition, in future true up filings, the Department requests that the Company provide the project-area specific property tax data provided in Attachment B of its reply comments.[3]

Based on MERC's discussion and the supporting information provided in reply comments, the Department concludes that MERC complied with the Commission's 19-608 Order on this issue through its response to Department Information Request No. 1. The Department uses this updated information in its alternate calculation discussed in Section III below.

B. OUTSIDE LEGAL FEES

In its Petition, the Company proposed that an adjustment for incremental outside legal fees be included in the 2019 true-up and in the 2021 NGEP Rider surcharge amount. The Company included these costs because it argued that they were incremental, the costs of the NGEP Rider were unlike a normal regulatory filing, and the costs were not included in MERC's most recent general rate case.[4] In its comments, the Department provided significant discussion and analysis disputing the Company's proposed adjustment for outside legal fees. The Department argued that the costs in question were not, and are not, truly incremental because MERC was aware of the NGEP when preparing its general rate case and, as such, the Company should have included a representative amount in base rates. Furthermore, the Department noted that a significant amount of the regulatory costs MERC attributed to the NGEP were incurred as a result of the Company's attempt to relitigate the issue of cost recovery, which was already decided by the Commission in the original Rochester docket. This raised the question of whether these costs were necessary, and the Department noted that the Company's approach potentially sets a moral hazard where utilities have no incentive to minimize outside legal costs in the NGEP Rider.[5]

MERC responded in reply comments that it included a portion of outside regulatory expenses associated with the NGEP in the NGEP Rider because these costs were incremental and thus consistent with the NGEP Statute which authorizes recovery of incremental operations and maintenance (O&M) expenses. The Company noted that, contrary to the Department's objections, the legal costs in question are incremental and the foreseeability of these costs when MERC filed its last rate case do not alter the conclusion that these costs are incremental.[6] After reviewing the Company's reply comments, the Department continues to conclude that MERC's proposal to include $40,632 in outside legal fees in the true up, and the same amount in the 2021 NGEP Rider surcharge, is inappropriate. These legal fees are not truly incremental and should be not included in the NGEP true up or surcharge.

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[3] MERC Reply Comments, Attachment B.
[4] Petition, Page 34.
[5] Department Comments, Page 14.
[6] MERC Reply Comments, Pages 4-6.

The Company's contention that these costs are unforeseen and incremental since they were not included in base rates is not entirely correct. First, as noted in the Department's comments, the Company knew in advance of its filing of its 2017 general rate case that there would be annual NGEP Rider filings per the Commission's Order in 15-895. Furthermore, the claimed legal costs were foreseen because the Company made the decision, during the initial stages of the 2017 general rate case, to propose a wholesale change to cost recovery in Docket No. 18-182 despite the Company's recommendations and facts presented in the Rochester Docket, along with the Commission's Order in the Rochester Docket. Second, more generally on the topic of incremental costs, the Company's argument that all incremental legal fees must be recovered through the NGEP rider surcharge is overly broad. 216B.1638, subd. 3(d) states the following:

> The revenue deficiency from a natural gas extension project recoverable through a rider under this section must include the currently authorized rate of return, incremental income taxes, incremental property taxes, incremental depreciation expenses, and any incremental operation and maintenance costs.

Although MERC correctly quoted this portion of the NGEP Statute, the Company ignored 216B.1638, subd. 3(b)(2) which requires that project costs are reasonable and prudently incurred. There are outstanding issues regarding whether these outside legal fees are reasonable or prudently incurred. Beyond the change in MERC's cost recovery proposal, the Department notes that the Company has provided no support in the record substantiating that the $40,632 in legal fees are directly related to the NGEP Rider. In addition, in terms of the 2021 NGEP Rider surcharge, MERC has provided no evidence to support its contention that outside legal fees in 2021 will be the same as during 2018. The Company has not met its burden of proof to show that these costs are reasonable or truly incremental.

The Company is also incorrect that its proposal does not create an incentive for utilities to inflate costs in the NGEP Rider or make inappropriate proposals in the NGEP Rider and that the Department's arguments related to this are illogical.[7] If MERC's interpretation of incremental, and resulting proposal is correct, and any NGEP legal costs not included in base rates must be recovered through the NGEP Rider, there is a strong incentive for a utility to pursue novel cost recovery through the rider or shift legal costs to the rider. Legal and regulatory costs recovered in base rates are calculated as a representative amount and are recovered from ratepayers until the next general rate case. If a utility decreases its actual legal expenses below the amount included in base rates, the utility keeps the difference until it files its next general rate case.[8] Under the Company's proposal, they would keep the legal savings in base rates and recover all incremental legal fees associated with the rider on top of

[7] MERC Reply Comments, Page 6.
[a] As shown in the Department's December 29, 2020 Additional Comments in Docket No. G011/M-20-405, the Company has significantly decreased its number of regulatory filings in recent years; although not a perfect relationship, this suggests that MERC is attempting to decrease regulatory expense and perhaps shift costs to its rider filings.

this. In addition, as noted in comments,[9] the Company was aware of the expectation that NGEP Rider filings would occur while preparing current base rates and these facts underscore the importance of calculating legal and regulatory fees in the test year.

The Company's attempt to use ambiguity as a defense for the appropriateness of these costs involved a restrictive quote of the Commission's Order in Docket 18-182.[10] The Department does not dispute that the NGEP Statute, as written, could be considered ambiguous, but the Commission resolved any relevant ambiguity with its Order in the Rochester Docket. As noted in Docket 18-182, the Commission's Order in the Rochester Docket was clear regarding the meaning of costs, and MERC's cost recovery proposals in the Rochester Docket were based on a common understanding of cost for ratemaking purposes, which was ultimately confirmed in the Commission's Order in Docket 19-608. The NGEP Statute was no longer ambiguous once the parties agreed on the meaning of cost, and the Commission provided a ruling in the original Rochester Docket. This point was made by the Commission in its 18-182 Order where it stated in relevant part:[11]

> As the Department argued, there can be no real question that the Commission understood MERC's petition to establish the NGEP rider in Docket No. 15-895 to pertain to allowing the recovery of one third of the annual revenue deficiency. This is consistent with normal ratemaking. And as the Commission stated in its May 5, 2017 order in Docket No. 15-895:
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> > MERC seeks to recover a portion of the project's costs under the NGEP statute, which allows rider recovery of one third of the revenue deficiency from an eligible natural gas extension project. The remaining costs would be recovered through base rates or the Company's purchased-gas-adjustment rider.
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> Further, the Commission's May 5 order refers to base rate recovery for the remaining 66 percent of project costs. This shows that the Commission envisioned the standard ratemaking process through which the remaining project costs are to be converted to revenue requirements. Thus, the Commission does not accept MERC's argument that the Commission made its decision in Docket No. 15-895 based on the Company's new interpretation of the NGEP statute. Finally, use of MERC's theory of rider recovery would allow collection of 33% of total project costs up front, as opposed to recovery of 33% of the annual revenue deficiency over the course of the life of the facility. Adopting MERC's interpretation of the statute could potentially result in more total rider recovery than allowed

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[9] Department Comments, Page 14.
[10] MERC Reply Comments, Page 6.
[11] June 18, 2019 Order, Docket No. G011/M-18-182.

> by the statute, and would be applicable to the wrong group of ratepayers. Therefore, the Commission finds that the 33% figure in the NGEP statute should apply to the annual incremental revenue requirement or revenue deficiency.

Ultimately, the legal costs the Company is proposing to recover result from its attempt to relitigate an issue that was already decided and was an important consideration in the original approval of the Rochester Project NGEP. MERC's decision to inappropriately change the definition of cost in turn led to unnecessary outside legal fees and, as such, it is inappropriate to include these costs in the NGEP true up.

In summary, the Department concludes that MERC's base rates already include a representative amount of legal costs, and that the Company's request to recover these costs in the NGEP rider is unreasonable. Further, even if the Commission were to determine that the Company could recover prudent, incremental legal costs via the NGEP rider, the Company has not shown that the legal costs it is proposing to recover were prudent.

C. WEATHER-NORMALIZED SALES

The Department expressed concern in its comments regarding the Company's weather normalization process; in particular, the data stream used in last year's NGEP filing and what impact this may have had on the NGEP rider calculations. MERC explained that it used 15-year data to normalize sales in last year's NGEP filing and that it updated these data to 20-year data in this Petition.[12] The Department concluded that the use of 15-year data in last year's filing was inappropriate because the Company used 20-year data to estimate sales in both the 2017 rate case and Rochester Docket and that the use of 15-year data created a mismatch. The Department also expressed concern that there are multiple possible regression analyses that could be used to weather normalize sales. Given these concerns, the Department requested that the Company fully discuss its weather normalization process in reply comments.[13]

MERC provided a detailed discussion of this topic in reply comments. In terms of general weather normalization between the 2020 and 2021 NGEP filings, MERC stated that the only change involved 15-year versus 20-year normal weather, updating to 12-months of actual data for the end of 2019, and updating the class definitions per the implementation of final rates in the rate case. MERC also explained that the impact of 15-year versus 20-year normal weather was minor and resulted in an increase in offsetting revenues of $869.[14]

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[12] Department Comments, Attachment 7.
[13] Department Comments, Page 28.
[14] MERC Reply Comments, Page 9.

The Department reviewed the Company's response and concludes that the updates undertaken by MERC appear reasonable and it appears that normal weather was applied appropriately in this rider filing.

On the topic of the regression analysis used in the weather-normalization process, the Company explained that it does not use a regression coefficient in its analysis. Instead, MERC stated that it uses a ratio method to weather normalize sales. The Company noted that it used this approach to weather normalize historical sales in its last general rate case. Assuming the input data (*i.e.,* actual weather, normal weather) are accurate, the Department does not oppose the ratio method. However, the Department notes that, since the forecast period is based on a regression analysis, there is a possibility that a disconnect can exist between the historic weather normalization and the weather normalization used in the forecasting period.

Since the forecasted sales for the Rochester Area, which is an important part of the Company's offsetting revenue calculation, are based on regression analysis, and there is a possibility of a disconnect between historical and forecasted weather normalized sales, the Department attempted to fully verify the reasonableness of MERC's weather-normalized sales estimates. While conducting this review, the Department observed areas of the Company's weather-normalization process and sales estimates that require additional analysis and review. Since the NGEP Rider is subject to true up, if an issue is observed in the Company's past or future sales estimates, an adjustment can be made in a future NGEP Rider filing. The potential issues observed by the Department involve a detailed analysis and verification of the Company's weather data and other input data; as such, the Department believes these issues are best addressed in the initial Petition for MERC's next NGEP Rider filing. Although potential concerns exist, the Department does not believe that they require immediate attention in this filing. The Department recommends that MERC provide the following in its initial Petition for its next NGEP Rider filing:

- Any, and all, data necessary to verify the normal and actual weather used to calculated weather normalized sales in the Company's current NGEP Rider and prior NGEP Rider filings; and
- Historic annual customer count data since 2014, by customer class, for the Rochester Area. The customer count data is necessary to verify MERC's weather normalized sales estimates for the rider because certain rate class sales figures were estimated using use per customer regressions in the Rochester docket.

D. DEPARTMENT'S RATE BASE ADJUSTMENT

In its comments, the Department reviewed previous NGEP rider filings and the current rider filing and concluded that an adjustment for 2018 rate base values, in accordance with the same reasoning used by the Company for its depreciation and property tax expense adjustments, was necessary.[15] MERC responded that the Department's rate base adjustment, which is separate from depreciation and property tax expenses, is inappropriate because it results in a double counting of the rate base

[15] Department Comments, Pages 15-18.

adjustment. MERC argued that this double counting occurs because the plant balances are accumulative and the rate base adjustment is already accounted for in the rate base inputs.[16] MERC showed on Table 2 of its reply comments that the actual rate base was reflected in their true-up calculation, which resulted in a $72,830 revenue requirement reduction.[17] As a result, the Department no longer recommends its rate base adjustment.

The Department provides estimated NGEP Rider surcharge rates in Section III below.

E. OFFSETTING REVENUES

The Department noted in its comments that weather normalized revenue in the Rochester Area in 2018 was $1,117,546 greater than the amount of revenue reflected in base rates.[18] The Department recommended that the Commission require MERC to apply this excess revenue as a credit (reduction) to the 2021 NGEP rider recovery amount.

In its Reply Comments, MERC stated that the Commission's Order in the Company's most recent rate case (Docket No. G011/GR-17-563, or the 2017 Rate Case) required that the Company true-up differences between the 2018 actual Rochester Project capital expenditures and MERC's capital estimates included in the rate case, but did not require the Company to true up revenue differences. Therefore, MERC argued that the Department's recommendation to true up 2018 revenues related to the Rochester Project is contrary to the Commission's Order in the 2017 Rate Case and would constitute impermissible retroactive ratemaking.[19]

Order Point 13 of the Commission's December 26, 2018 Order in the 2017 Rate Case states:

> MERC shall include any difference between the 2018 actual Rochester capital expenditures and MERC's capital estimates used in this docket (17-563) in its upcoming NGEP Rider (18-182) as a true-up with MERC's NGEP rider true-up calculation.

While MERC is correct that the Order Point does not explicitly require MERC to true-up 2018 actual Rochester Project revenues with the estimates included in the 2018 test year in the 2017 Rate Case, MERC's interpretation of the Commission's Order is unreasonably narrow, and ignores the significant discussion of the capital true up included in the body of the Commission's Order. In relevant part, the Commission stated:[20]

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[16] MERC Reply Comments, Pages 16-17.
[17] *Id.*
[18] Department Comments, page 21, and Department Attachment 8.
[19] MERC Reply Comments, Pages 18-19.
[20] Commission Order, Pages 17-18.

> At issue are the projected test-year expenses for the Rochester Project. If the projection overestimates the expenses that are actually incurred during the test year, ratepayers would be paying for plant that had not been placed in useful service, and the overestimate would be built into MERC's base rates until the Company's next rate case. But because a portion of project expenses are authorized to be recovered in the NGEP rider, there is an opportunity to ensure that, on net, rates are trued-up through the rider mechanism if the capital expenditures on the project fall below the projected amount in the test year…
>
> When calculating rates using a projected rather than a historical test year, projections and forecasts of test year costs are necessary. Where rates are not subject to revision until the next general rate proceeding, the reliability and accuracy of forecasts are critical to ensure that rates are just and reasonable. MERC's test year includes a projection of one year of capital expenses for a significant, multi-year, multi-phase infrastructure project. But MERC is also authorized to recover a portion of those project costs through a rider, a mechanism that allows rate adjustments outside of a rate case.
>
> Because recovery for the Rochester Project is authorized both in base rates and through the NGEP rider, there is a ready mechanism to ensure just and reasonable rates overall even if base rates turn out to be based on an overestimate of actual Project costs. The Commission will therefore require that MERC include any difference between the 2018 actual Rochester Project capital expenditures and MERC's capital estimates used in this docket in its upcoming NGEP Rider as a true-up with MERC's NGEP rider true-up calculation. The true up will ensure that an overestimate of projected costs built into base rates can be corrected-for. This will protect ratepayers if the Rochester Project capital expenses do not meet projected test-year amounts.

The Commission's intention is clear: to require MERC to use the "ready mechanism" of the NGEP rider true-up to protect ratepayers from the risk of overpaying for the Rochester Project. While the Commission's Order does not explicitly mention revenue, the Department notes that for many riders, true-up calculations reflect both revenues and costs, including the transmission cost recovery riders and renewable riders. Therefore, it can reasonably be inferred that the Commission's intention in its 2017 Rate Case Order was for MERC to true up both actual costs and actual revenues to the estimates included in the test year in its 2017 Rate Case.

Importantly, an additional rider that includes a true-up for both revenues and costs is the NGEP rider itself, as MERC acknowledged in its Reply Comments.[21] MERC stated that the Department's recommendation for a true up of 2018 revenues is contrary to the NGEP Statute because MERC's NGEP was not in place in 2018.[22] The Department agrees that had the NGEP rider been in place, the NGEP Statute would require MERC to true-up both its costs and revenues. As described above, however, it was the clear intention of the Commission to mimic the effects of the NGEP rider true-up mechanism for costs and revenues for 2018 in its true-up for 2019.

F. RESOLVED ISSUES

There are several areas the Department raised in comments that the Company responded to in reply comments and are no longer in dispute. The first area involves MERC Direct Connect customers. In its comments, the Department noted that the Company's proposed NGEP surcharge rate assumed that only a nominal charge would be assigned to these customers. The Department noted that the Commission's 19-608 Order, and the resulting 2020 NGEP Rider surcharge rate, is based in large part on MERC's currently approved apportionment of revenue responsibility and assigns the full amount of the NGEP charge to the Direct Connect customers. The Department recommended that the Commission require MERC to fully assign costs to the Direct Connect customers, and the Department's NGEP surcharge rates are based on a full assignment of costs to these customers.[23] In its reply comments, MERC responded that it did not entirely agree with the Department's analysis in this matter, but it did agree that fully assigning costs to these customers is representative of the Commission's 19-608 Order and calculating the 2021 NGEP Rider surcharge in this manner is appropriate.[24] The Department does not believe there is dispute on this issue.

The second area of agreement involves the sales forecast to use when setting rates. In its comments, the Department noted that it expressed concern with MERC's forecast in the Gas Utility Infrastructure Cost (GUIC) and recommended that the sales in the NGEP Rider be based on actual 2019 sales or the most recent available.[25] In its reply comments, the Company responded that consistent with the Commission's decision in last year's NGEP docket, and the Department's recommendations in its comments, MERC agrees to update its 2021 NGEP Rider surcharge rates based on 2020 actual weather-normalized sales. MERC did note that 2020 weather-normalized sales are not available at the time of its reply comments and that it will provide updated NGEP rider surcharge rates based on 2020 actual weather-normalize sales when these data become available. The Company explained that this would be provided either in supplemental comments or in its compliance filing, depending on the timing of the Commission decision in this docket.[26] The Department agrees with this approach.

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[21] MERC Reply Comments, Page 19.
[22] MERC Reply Comments, Page 19.
[23] Department Comments, Pages 26-27.
[24] MERC Reply Comments, Pages 19-20.
[25] Department Comments, Pages 22-23.
[26] MERC Reply Comments, Pages 20-21.

The third area of agreement involves termination of the 2021 NGEP surcharge rates. The Department concluded in its comments that MERC's termination proposal and implementation of a new NGEP rider surcharge is reasonable as it is the same method approved by the Commission in its 19-608 Order. In addition, the Department also concluded that MERC's proposal to continue recovery of depreciation and return on rate base[27] after the Rochester Project is completed were acceptable as long as depreciation and return on rate base are rolled into rates in the Company's future general rate case with the implementation of interim rates and the NGEP rider is suspended.[28] The Company stated that this issue is resolved between the parties, and the Department agrees.

The fourth area of agreement involves a compliance filing reflecting final surcharges rates. In its reply comments, the Company proposed to submit a compliance filing reflecting final surcharge rates to be effective on the first of the month after the Commission's order in this proceeding and to continue until the Commission approves revised surcharge rates or implementation of interim rates in a future rate case proceeding. The Department supports this recommendation.

III. DEPARTMENT ALTERNATE PROPOSAL

Based on its analysis, the Department concludes that MERC's proposed rider surcharges and rate design as originally filed are unreasonable. However, as noted above, the Company provided updated rider calculations in response to Department discovery which incorporate the Commission's decisions in its 19-608 Order. Despite these updates, the Department continues to conclude that certain adjustments proposed by the Company are unreasonable. MERC inappropriately included outside legal fees in its calculation of its true up and the revenue requirement for 2021. As discussed in Section II.B above and in the Department's comments,[29] these costs are not incremental and a representative amount is already included in base rates; as such, these costs should not be included in the NGEP Rider surcharge. The Company's true-up factor calculation includes unreasonable assumptions (*i.e.,* outside legal fees) resulting in calculations that negatively impact ratepayers. The Department also observed potential issues with MERC's methodology and calculation of offsetting sales revenues.

MERC provided NGEP Rider surcharge rates based on the Commission's September 21 Order in its response to Department Information Request No. 1.[30] The results of these updates are summarized in Table R-1 below.

[27] The Department also notes that credits for incremental revenue should also continue until the rider is terminated.
[28] Department Comments, Pages 18-19.
[29] Department Comments, Page 14.
[30] Department Attachment 2.

Table R-1: MERC Surcharge Calculations Based on September 21 Order[31]

Customer Class	Apportionment of Revenue Responsibility	Therm Sales Weather-Normalized Actual 2019	Rate per Therm	2021 Customer Count	$/Customer
Residential	$740,580	191,313,373	$0.00387	218,327	$3.39
Class 1-2 Firm	$227,372	117,522,457	$0.00193	23,482	$9.66
Class 3-4 Firm	$1,473	4,764,220	$0.00031	26	$56.80
Class 1-2 Interruptible, Grain Dryer, and Class 1 Generation	$51,086	26,404,942	$0.00193	513	$99.34
Class 3-4 Interruptible and Grain Dryer	$44,200	142,912,053	0.00031	211	$209.97
Class 5, Transport for Resale, and Class 2 Generation	$43,648	141,124,573	$0.00031	26	$1,682.64
Direct Connect	$76,569	247,567,358	$0.000031	8	$9,593.24
Total	$1,184,928	871,608,976		242,593	

The Department uses this information as the starting point for its NGEP Rider surcharge calculation presented below. The Department incorporated the various adjustments discussed above to arrive at its preferred true-up factor calculations for 2021, which is inclusive of a rate base adjustment as noted in the Company's reply comments.[32] The Department's true up factor relative to the Company's initial Petition, and updated in its response to Department, are summarized in Table R-2 below.

Table R-2: Adjustments to True-Up Factor [Over/(Under)]

MERC Original Filing	MERC True-Up Calculations Reflecting September 21 Order	Department Recommended True-Up Factor
$(227,236)	$(205,542)	$(192,133)

[31] *Id.*
[32] MERC Reply Comments, Pages 16-17.

As noted in Table R-2, the Company's updated true-up amount factors in the requirements of the Commission's September 21 Order. The updated true-up includes a rate base adjustment for property taxes and updated project specific property tax data. The Department's recommended true-up factor includes these adjustments along with removal of $40,632 in outside legal fees from the 2019 true up.[33] After incorporating these adjustments, the Department calculates its NGEP Rider surcharge. The Department's NGEP Rider surcharge rate and customer impacts are summarized in Table R-3 below.

Table R-3: Department NGEP Surcharge and Revenue Apportionment and Bill Impact, Inclusive of 2018 Sales Revenue True Up[34]

Customer Class	Apportionment of Revenue Responsibility	Therm Sales 2019	Rate per Therm	Customer Count	$/Customer
Residential	$559,026	191,313,373	$0.00292	218,327	$2.56
Class 1-2 Firm	$171,631	117,522,457	$0.00146	23,482	$7.31
Class 3-4 Firm	$1,112	4,764,220	$0.00023	26	$42.15
Class 1-2 Interruptible, Grain Dryer, and Class 1 Generation	$38,562	26,404,942	$0.00146	513	$75.15
Class 3-4 Interruptible and Grain Dryer	$33,365	142,912,053	$0.00023	211	$155.78
Class 5, Transport for Resale, and Class 2 Generation	$32,947	141,124,573	$0.00023	26	$1,248.41
Direct Connect	$57,798	247,567,358	$0.00023	8	$7,117.56
Total	$894,441	871,608,976		235,340	

Based on its analysis, the Department recommends that the Commission approve the NGEP Rider surcharge rates and figures noted in Table R-3 above. The Department also continues to recommend, regardless of the NGEP surcharge amount approved, that its proposed NGEP surcharges rates become effective beginning with the first billing month after the Commission's final order in this proceeding. Any under- or over-recovered revenues will be included in the true-up balance applied in future NGEP Rider petitions.

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[33] The Department includes the 2018 and 2019 offsetting revenue adjustments in the total offsetting revenue adjustment used to calculate the overall NGEP rider revenue deficiency. The 2018 and 2019 offsetting revenue adjustments could also be included in the true up adjustment portion of the calculation, but, based on how MERC calculates the NGEP, there is no impact on the overall NGEP adjustment.

[34] Department Attachment R-1.

IV. RECOMMENDATIONS

Based on its review, the Department recommends that the Commission allow MERC to implement an NGEP rider surcharge effective beginning with the first billing month after the Commission's final order in this proceeding for NGEP-related costs to be incurred in calendar year 2021, with the adjustments described above for legal fees and the true-up factor. These adjustments result in the following NGEP Rider surcharge rates:

Table R-4: Department Proposed NGEP Rates

Customer Class	Rate per Therm
Residential	$0.00292
Class 1-2 Firm	$0.00146
Class 3-4 Firm	$0.00023
Class 1-2 Interruptible, Grain Dryer, and Class 1 Generation	$0.00146
Class 3-4 Interruptible and Grain Dryer	$0.00023
Class 5, Transport for Resale, and Class 2 Generation	$0.00023
Direct Connect	$0.00023

The Department also recommends that the Commission require MERC to file a compliance filing subsequent to the Commission's Order in this proceeding, adjusting the revenue requirement so that Accumulated Deferred Income Tax is not prorated for any of the months in 2020 that precede the month when the NGEP Rider is implemented. This adjustment can be reflected in MERC's tracker.

The Department also recommends that the Commission require MERC to provide the following in its initial Petition in future NGEP Rider filings:

- project-area specific property tax data in the same manner as Attachment B of MERC's reply comments
- Any and all data necessary to verify the normal and actual weather used to calculated weather normalized sales in the Company's current NGEP Rider and prior NGEP Rider filings; and
- Historic annual customer count data since 2014, by customer class, for the Rochester Area. The customer count data is necessary to verify MERC's weather normalized sales estimates for the rider because certain rate class sales figures were estimated using use per customer regressions in the Rochester docket.

/ja

NGEP Rider 2021 Forecast
Revenue Requirement on NGEP

Line	Description	Reference	2018 Rate Case	2021 Forecast	2021 NGEP ** Adjusted DOC IR 001**
1	Depreciation Expense		$ 109,441	$ 1,031,470	$ 922,029
2	Property Tax Expense		$ 14,000	$ 768,000	$ 754,000
3	O&M Expense		$ -	$ -	$ -
4	Rate Base	Note (1)	$ 11,382,768	$ 33,938,730	$ 22,555,962
4	Advanced Paid Property Tax Offset	Note (5)	$ -	$ -	$ (597,394)
5	ADIT Proration Adjustment		$ -	$ 13,732	$ 13,732
6	Adjusted Rate Base	Note (1)	$ 11,382,768	$ 33,952,462	$ 21,972,300
7	Rate of Return	Note (2)			6.6971%
8	Earnings on Rate Base	Line 6 x Line 7			$ 1,471,507
9	Gross Revenue Conversion Factor	Note (3)			1.402
10	Return on Rate Base	Line 8 x Line 9			$ 2,063,053
11					
12	**Total Revenue Requirement**	**Sum(Line 1 through Line 3) + Line 10**			**$ 3,739,082**
13					
14	Offsetting Project Revenue	Note (4)			$ 811,877
	Offsetting Revenue 2018 True Up				$ 1,117,546
	Offsetting Revenue 2019 True Up				$ (318,548)
15					
16	**2021 Annual Revenue Deficiency**	**Line 12 less line 14**			**$ 2,128,206**
17					
18	**33% of Annual Revenue Deficiency**				**$ 702,308**
19					
20	2019 NGEP True-up: Over/(Under) Recovery	Note (6)			$ (192,133)
21					
22	**Total 2021 Revenue Deficiency, including 2019 True-up**				**$ 894,441**
23					
24	**Total Therms**	Note (7)			**871,608,976**
25					
26					

Line	Class	Rate/Therm	Annual $/Customer
27		**Rate/Therm**	**Annual $/Customer**
28	**Residential**	$ 0.00292	$ 2.56
29	**Class 1-2 Firm (Sales and Transport)**	$ 0.00146	$ 7.31
30	**Class 1-2 Interruptible (Sales and Transport), Class 1-2 Ag Grain Dryer, and Class 1 Electric Gen**	$ 0.00146	$ 75.15
31	**Class 3-4 Firm (Sales and Transport)**	$ 0.00023	$ 42.15
32	**Class 3-4 Interruptible (Sales and Transport) and Class 3 Ag Grain Dryer**	$ 0.00023	$ 155.78
33	**Class 5, FLEX, Transport for Resale, and Class 2 Electric Gen**	$ 0.00023	$ 1,248.41
34	**Direct Connect**	$ 0.00023	$ 7,117.56

Notes
1 13-Month Average Net Plant value
2 Commission Authorized 2018 Rate Case
3 2018 Rate Case Adjusted for Tax Reform
4 Represents incremental customers and sales growth related specifically to the Rochester project at approved rates from the 2018 rate case
5 Docket No. G011/M-19-608, Order Point 1, Cash Working Capital adjustment for incremental Property Tax rate base between 2018 and 2021
6 Adjusted based on MERC's Response to DOC IR 001
7 Weather normalized 2019 sales

Assumptions
1 Assumes no AFUDC, but a return on CWIP in Rate Base
2 Does not assume any Destination Medical Center CIAC
3 Removes contingency per Commission Order Approving NGEP Rider Surcharge with Modifications

2021 NGEP RIDER RATE DESIGN

2021 NGEP Revenue Requirement $ 894,441

	Therm Sales 2019 WN Actual	Customer Count 2021 Fcst	Rate Case Apportionment 1 Revenue Apportionment	Initial Apportionment	Rate/Therm	$/Customer
Residential	191,313,373	218,327	62.5%	$ 559,026	$ 0.00292	$ 2.56
Firm Sales	122,286,677	23,508	23.5%	$ 210,194	$ 0.00172	$ 8.94
Interruptible Sales	40,490,539	527	3.5%	$ 31,305	$ 0.00077	$ 59.40
Transport	122,436,407	200		$ 22,219	$ 0.00018	
Class 5, FLEX, Trans for Resale	147,514,622	23	10.5%	$ 26,770	$ 0.00018	$ 406.56
Direct Connect	247,567,358	8		$ 44,927	$ 0.00018	
Michigan Mines	n/a	n/a		n/a	n/a	
	871,608,976	242,593		$ 894,441		

	Therm Sales 2019 WN Actual	Customer Count 2021 Fcst	Rate Case Apportionment 2 Revenue Apportionment	Initial Apportionment	Rate/Therm	$/Customer
Residential	191,313,373	218,327	62.5%	$ 559,026	$ 0.00292	$ 2.56
Class 1-2 Firm (Sales and Transport)	117,522,457	23,482	23.5%	$ 202,005	$ 0.00172	$ 8.61
Class 3-4 Firm (Sales and Transport)	4,764,220	26		$ 8,189	$ 0.00172	$ 315.17
Class 1-2 Interruptible (Sales and Transport), Class 1-2 Ag Grain Dryer, and Class 1 Power Gen	26,404,942	513		$ 5,925	$ 0.00022	$ 11.32
Class 3-4 Interruptible (Sales and Transport) and Class 3-4 Ag Grain Dryer	142,912,053	211	14.0%	$ 32,071	$ 0.00022	$ 149.01
Class 5, FLEX, Transport for Resale, and Class 2 Power Gen	141,124,573	26		$ 31,670	$ 0.00022	$ 1,194.13
Direct Connect	247,567,358	8		$ 55,556	$ 0.00022	$ 6,808.10
Michigan Mines	n/a	n/a		n/a	n/a	
	871,608,976	242,593		$ 894,441		

	Option 1 Redistribute	Apportionment	Rate/Therm	$/Customer	Option 2 Redistribute	Apportionment	Rate/Therm	$/Customer
Residential		$ 559,026	$ 0.00292	$ 2.56		$ 559,026	$ 0.00292	$ 2.56
Class 1-2 Firm (Sales and Transport)		$ 202,005	$ 0.00172	$ 8.61		$ 171,631	$ 0.00146	$ 7.31
Class 3-4 Firm (Sales and Transport)		$ 8,189	$ 0.00172	$ 315.17		$ 1,112.27	$ 0.00023	$ 42.15
Class 1-2 Interruptible (Sales and Transport), Class 1-2 Ag Grain Dryer, and Class 1 Power Gen		$ 10,440.30	$ 0.00040	$ 20.59		$ 38,562	$ 0.00146	$ 75.15
Class 3-4 Interruptible (Sales and Transport) and Class 3-4 Ag Grain Dryer		$ 56,506.26	$ 0.00040	$ 270.92		$ 33,364.57	$ 0.00023	$ 155.78
Class 5, FLEX, Transport for Resale, and Class 2 Power Gen		$ 55,800	$ 0.00040	$ 2,171.15		$ 32,947.27	$ 0.00023	$ 1,248.41
Direct Connect		$ 2,476	$ 0.00001	$ 309.46		$ 57,797.64	$ 0.00023	$ 7,117.56
Michigan Mines	n/a	n/a	n/a		n/a	n/a	n/a	
	$ -	$ 894,441			$ -	$ 894,441		

Proposed:

Customer Class	Proposed 2021 NGEP Rider Surcharge	Average Annual Cost	Total $	% of 2021 NGEP revenue requirement
Residential, including Farm Tap	$ 0.00292	$ 2.56	$ 559,026	62.5%
Class 1-2 Firm (Sales and Transport), including Farm Tap	$ 0.00146	$ 7.31	$ 171,631	19.2%
Class 1-2 Interruptible (Sales and Transport), Class 1-2 Ag Grain Dryer, and Class 1 Power Gen	$ 0.00146	$ 75.15	$ 38,562	4.3%
Class 3-4 Firm (Sales and Transport), including Farm Tap	$ 0.00023	$ 42.15	$ 1,112	0.1%
Class 3-4 Interruptible (Sales and Transport) and Class 3-4 Ag Grain Dryer	$ 0.00023	$ 155.78	$ 33,365	3.7%
Class 5 (including Farm Tap), FLEX, Transport for Resale, and Class 2 Power Gen	$ 0.00023	$ 1,248.41	$ 32,947	3.7%
Direct Connect	$ 0.00023	$ 7,117.56	$ 57,798	6.5%
Total			$ 894,441	100%

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Minnesota Department of Commerce
Response Comments

Docket No. G011/M-20-420

Dated this 19th day of March 2021

/s/Sharon Ferguson

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