OAH 82-2500-38907
MPUC G011/GR-22-504

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE PUBLIC UTILITIES COMMISSION

In The Matter of the Application of Minnesota Energy Resources Corporation for Authority to Increase Rates for Natural Gas Utility Service in Minnesota	**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION TO APPROVE SETTLEMENT**

This matter is pending before Administrative Law Judge Barbara J. Case (Administrative Law Judge) of the Minnesota Office of Administrative Hearings (OAH) pursuant to a Notice of and Order for Hearing issued by the Minnesota Public Utilities Commission (Commission) on December 30, 2022.

Kristin M. Stastny, Elizabeth M. Brama, Taft Stettinius & Hollister, LLP, and Catherine A. Phillips, appeared on behalf of the Applicant, Minnesota Energy Resources Corporation (MERC).

Richard Dornfeld and Greg Merz, Assistant Attorneys General, appeared on behalf of the Minnesota Department of Commerce, Division of Energy Resources (Department).

Travis Murray, Peter G. Scholtz, Joseph Meyer, and Erin Conti, Assistant Attorneys General, appeared on behalf of the Office of the Attorney General – Residential Utilities Division (OAG).

Elizabeth Schmiesing and Christopher Cerny, Winthrop & Weinstine, P.A., appeared on behalf of Encore Energy Services, Inc. (Encore).

Andrew P. Moratzka and Riley A. Conlin, Stoel Rives LLP, appeared on behalf of Super Large Gas Intervenors (SLGI).

Amelia Vohs appeared on behalf of Fresh Energy and the Minnesota Center for Environmental Advocacy (MCEA), collectively referred to as the Clean Energy Organizations (CEOs).

Brian Edstrom, Brandon Crawford, and Annie Levenson Falk appeared on behalf of the Citizens Utility Board of Minnesota (CUB).

Kevin Pranis appeared on behalf of Laborers' District Council of Minnesota and North Dakota (LIUNA).

Charles Sutton appeared on behalf of International Union of Operating Engineers Local 49 (Local 49).

Jason Bonnett and Jorge Alonso appeared on behalf of the Commission Staff.

The parties in this proceeding are MERC, the Department, OAG, CUB, CEOs, SLGI, Encore, LIUNA, and Local 49 (collectively, the Parties).

Procedural Summary

Public hearings were held in Rosemount and Rochester, Minnesota, on May 15 and 18, 2023, respectively. Two virtual public hearings were held on May 15 and 23, 2023, using WebEx technology. Members of the public were able to join the virtual public hearing via an internet or telephone connection. Written comments from members of the public were received through May 31, 2023.

The evidentiary hearing was scheduled to begin on May 10, and continue to May 11, 2023. On April 5, 2023, the Parties met for initial settlement discussions. On April 6, 10, and 11, 2023, the Parties engaged in formal mediation conducted by Administrative Law Judge Jessica Palmer-Denig. On April 11, 2023, MERC, the Department, OAG, CUB, CEOs, LIUNA, Local 49, Encore, and SLGI (collectively the "Parties," and when excluding SLGI and Encore the "Settling Parties")) notified the Administrative Law Judge that they were able to resolve the issues in this matter through mediation.[1] As a result, the Parties requested and the Administrative Law Judge ordered the remaining testimony deadlines be vacated.[2] On May 4, 2023, the Administrative Law Judge issued an Order cancelling the evidentiary hearing and directing MERC, the Department, OAG, CUB, CEOs, LIUNA, Local 49 to provide stipulated proposed findings of fact, conclusions of law, and a recommendation detailing the issues in the case and the proposed settlement of those issues.[3] On May 11, 2023, the Settling Parties filed a Settlement Agreement, along with supporting Attachments (Settlement).[4]

STATEMENT OF THE ISSUES[5]

1. Is the test year revenue increase sought by MERC reasonable or will the increase result in unreasonable or excessive earnings?

2. Is the rate design proposed by MERC is reasonable?

3. Are MERC's proposed capital structure and return on equity (ROE) are reasonable?

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[1] The Settling Parties signed the Settlement Agreement. Encore and SLGI participated in the mediation, did not take a position on the settlement terms, and did not sign on to the Settlement Agreement.
[2] FOURTH PREHEARING ORDER (Apr. 11, 2023) (eDocket No. 20234-194693-01).
[3] ORDER CANCELLING HEARING (May 4, 2023) (eDocket No. 20235-195592-01).
[4] Settlement Agreement (May 11, 2023) (eDocket No. 20235-195776-01).
[5] NOTICE OF AND ORDER FOR HEARING at 2 (Dec. 30, 2022) (eDocket No. 202212-191722-03).

4. Does the base cost of gas proposed in Docket No. G011/MR-22-505, *In the Matter of the Application of Minnesota Energy Resources Corporation to Establish a New Base Cost of Gas and Reset the Purchased Gas Adjustment to Zero, to Coincide with the Implementation of Interim Rates in its General Rate Case Filing*, needs to be updated?

5. The reasons for the following significant cost changes since the MERC's last rate case:

- Cost of Gas Expense – 109.3 percent increase
- Other Production Expense – 76.6 percent decrease
- Gas Supply Expense – 41.3 percent decrease
- Gas Transmission Expense – 1,464.8 percent increase
- Gas Distribution Expense – 13.0 percent increase
- Customer Accounting Expense – 8.04 percent increase
- Customer Service and Information Expense – 28.7 percent decrease
- Administrative and General – 8.3 percent increase[6]

Based upon the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

I. The Parties

1. MERC is a corporation organized under the laws of the State of Delaware and is authorized to do business in Minnesota. Its principal office is located in Rosemount, Minnesota.[7]

2. The Department is a state agency charged by the legislature with enforcing Minnesota Statutes chapters 216A, 216B, and 237, and represents the interests of all ratepayers in related proceedings.[8]

[6] The Commission's December 30, 2022 NOTICE OF AND ORDER FOR HEARING at 2 contained an incorrect summary of the percentage changes in the identified cost categories. The summary here has been corrected, consistent with Commission Staff Briefing Papers issued November 28, 2022, at 10 (eDocket No. 202211-190913-01).
[7] Ex. MERC-9 at 3 (Stasik Direct and Schedules) (Nov. 1, 2022) (eDocket No. 202211-190311-04).
[8] Minn. Stat. § 216A.07, subds. 2–4 (2022); Minn. R. 7829.0800, subp. 3 (2023).

3. OAG represents the interests of residential and small business utility consumers through participation in matters before the Commission involving utility rates and adequacy of utility services.[9]

4. Encore is an independently-owned business with commercial and industrial energy consumers in Minnesota and several other states. Encore provides its customers with natural gas commodity, and energy-related services, including commodity and capacity procurement, risk management, nomination and imbalance management, pipeline and local distribution company rate negotiation, and asset optimization. Encore provides its services to a number of MERC customers and is itself a current customer of MERC.[10]

5. SLGI include Hibbing Taconite Company, located in Hibbing, Minnesota; Cleveland-Cliffs Minorca Mine, Inc.'s Minorca Mine, located near Virginia, Minnesota; Northshore Mining Company, located in Silver Bay, Minnesota; United Taconite, LLC, located in Eveleth and Forbes, Minnesota; the Minntac and Keetac Mines of United States Steel Corporation, located in Mountain Iron and Keewatin, Minnesota, respectively; and USG Interiors, Inc., located in Red Wing, Minnesota. The members of SLGI are some of the largest industrial customers of MERC in Minnesota.[11]

6. Fresh Energy and MCEA comprise the CEOs. Fresh Energy is a non-partisan energy policy nonprofit organization working to promote a clean energy economy. MCEA is a nonprofit environmental organization that seeks to advance the pursuit of environmentally sustainable energy policies.[12]

7. CUB is a nonprofit advocate for Minnesota's residential utility customers. CUB regularly participates in dockets before the Commission to represent the interests of residential customers.[13]

8. LIUNA and Local 49 are democratic labor organizations that represent more than 25,000 construction workers and public employees in Minnesota.[14]

II. Procedural Background

9. MERC initiated this proceeding on November 1, 2022, seeking a net increase in gross revenues (net revenue deficiency) of $32.76 million (an increase of 7.9 percent) or $40.3 million including costs already being recovered through the Gas Utility Infrastructure Cost (GUIC) and Natural Gas Extension Project (NGEP) riders being

[9] Minn. Stat. § 8.33, subd. 2 (2022).
[10] Petition to Intervene of Encore Energy Services, Inc. (Jan. 10, 2023) (eDocket No. 20231-192030-01).
[11] Petition to Intervene of SLGI (Jan. 12, 2023) (eDocket No. 20231-192124-03).
[12] Petition to Intervene of Clean Energy Organizations (Feb. 3, 2023) (eDocket No. 20232-192908-02).
[13] Petition to Intervene of the Citizens Utility Board of Minnesota (Feb. 2, 2023) (eDocket No. 20232-192885-02).
[14] Petition to Intervene of LIUNA and Local 49 (Feb. 8, 2023) (eDocket No. 20232-193027-02); Reconsideration of Petition to Intervene of LIUNA and Local 49 (Mar. 20, 2023) (eDocket No. 20233-194087-02).

transferred into base rates.[15] MERC's initial filing included testimony, supporting schedules, informational requirements, and workpapers.

10. The Commission issued a Notice of Comment Period on Completeness and Procedures on November 4, 2022.[16] The Department and OAG filed comments on November 10, 2022.[17] MERC filed Reply Comments on November 15, 2022.[18]

11. The Commission issued a Notice of and Order for Hearing on December 30, 2022, referring the case to the OAH for contested case proceedings.[19]

12. On December 30, 2022, the Commission issued two additional orders: one that accepted MERC's rate case filing as substantially complete, suspended MERC's proposed rates, and extended the timeline under which the Commission would make a decision,[20] and a second that established interim rates.[21]

13. On January 10, 2023, Encore petitioned to intervene.[22] On January 12, 2023, SLGI petitioned to intervene.[23] Both petitions were granted.[24]

14. A prehearing status and scheduling conference was held on January 20, 2023, and the Administrative Law Judge issued the First Prehearing Order on February 2, 2023. The First Prehearing Order set forth the timeline and process for the proceeding.[25]

15. On February 2, 2023, CUB petitioned to intervene.[26] On February 3, 2023, CEOs petitioned to intervene.[27] Both petitions were granted.[28]

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[15] NOTICE OF AND ORDER FOR HEARING at 1 (Dec. 30, 2022) (eDocket No. 202212-191722-03).
[16] NOTICE OF COMMENT PERIOD ON COMPLETENESS AND PROCEDURES (Nov. 4, 2022) (eDocket No. 202211-190419-01).
[17] Comments of the Minnesota Department of Commerce, Division of Energy Resources (Nov. 10, 2022) (eDocket No. 202211-190549-01); Comments of the Office of the Attorney General - Residential Utilities Division (Nov. 10, 2022) (eDocket No. 202211-190567-01).
[18] Reply Comments of Minnesota Energy Resources Corporation (Nov. 15, 2022) (eDocket No. 202211-190654-01).
[19] NOTICE OF AND ORDER FOR HEARING (Dec. 30, 2022) (eDocket No. 202212-191722-03).
[20] ORDER ACCEPTING FILING, SUSPENDING RATES, AND EXTENDING TIMELINE (Dec. 30, 2022) (eDocket No. 202212-191722-01).
[21] ORDER SETTING INTERIM RATES (Dec. 30, 2022) (eDocket No. 202212-191722-02).
[22] Petition to Intervene of Encore Energy Services, Inc. (Jan. 10, 2023) (eDocket No. 20231-192030-01).
[23] Petition to Intervene of Super Large Gas Intervenors (Jan. 12, 2023) (eDocket No. 20231-192124-03).
[24] ORDER GRANTING UNOPPOSED INTERVENTION PETITIONS AND PROTECTIVE ORDER (Feb. 8, 2023) (eDocket No. 20232-193009-01).
[25] FIRST PREHEARING ORDER (Feb. 2, 2023) (eDocket No. 20232-192894-01).
[26] Petition to Intervene of the Citizens Utility Board of Minnesota (Feb. 2, 2023) (eDocket No. 20232-192885-02).
[27] Petition to Intervene of Clean Energy Organizations (Feb. 3, 2023) (eDocket No. 20232-192908-02).
[28] ORDER GRANTING THE CITIZENS UTILITY BOARD'S INTERVENTION PETITION (Feb. 24, 2023) (eDocket No. 20232-193402-01) (granting CUB's intervention); ORDER GRANTING CLEAN ENERGY ORGANIZATIONS' PETITION TO INTERVENE (Mar. 9, 2023) (eDocket No. 20233-193761-01) (granting CEOs' intervention).

16. On February 8, 2023, LIUNA and Local 49 petitioned to intervene.[29] On March 1, 2023, the Administrative Law Judge issued an Order Denying LIUNA and Local 49's Intervention Petition.[30] On March 20, 2023 LIUNA and Local 49 filed a request for reconsideration and on March 24, 2023, MERC filed a letter in support of LIUNA and Local 49's intervention.[31] On March 28, 2023, LIUNA and Local 49 were granted intervention.[32]

17. MERC filed Supplemental Direct Testimony on February 24, 2023, addressing the Commission's January 24, 2023 Order in Docket No. G011/M-21-232, which deferred factual and legal questions regarding MERC's appropriate level of right-of-way recovery to MERC's rate case.[33]

18. On March 16, 2023, the Department, OAG, CEOs, CUB, and Encore each filed Direct Testimony and SLGI filed a letter in lieu of direct testimony.[34]

19. On April 5, 2023, the Parties met informally to discuss potential settlement or mediation of this matter and agreed to pursue mediation.

20. Administrative Law Judge Jessica Palmer-Denig conducted mediation of this matter on April 6, 10, and 11, 2023. The Parties participated in ongoing settlement discussions within and outside of formal mediation proceedings.

21. On April 10, 2023, the Administrative Law Judge issued a Third Prehearing Order extending the deadlines for Rebuttal and Surrebuttal Testimony to allow for continuation of settlement discussions.[35]

22. On April 11, 2023, MERC, the Department, OAG, Encore, SLGI, CEOs, CUB, LIUNA, and Local 49 notified the Administrative Law Judge that the Parties were able to resolve the issues in the proceeding through mediation and that they were in the

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[29] Petition to Intervene of LIUNA and Local 49 (Feb. 8, 2023) (eDocket No. 20232-193027-02).
[30] ORDER DENYING LIUNA'S AND LOCAL 49'S INTERVENTION PETITION (Mar. 1, 2023) (eDocket No. 20233-193529-01).
[31] LIUNA and Local 49 Request for Reconsideration or Certification to the Minnesota Public Utilities Commission of Order Denying Motion to Intervene (Mar. 20, 2023) (eDocket No. 20233-194087-02); MERC Letter Regarding Intervention (Mar. 24, 2023) (eDocket No. 20233-194204-01).
[32] ORDER GRANTING LIUNA'S AND LOCAL 49'S INTERVENTION PETITION (Mar. 28, 2023) (eDocket No. 20233-194252-01).
[33] Ex. MERC-10 (Supplemental Direct Testimony of Richard Stasik) (Feb. 24, 2023) (eDocket No. 20232-193412-01).
[34] Exs. DOC (Department of Commerce)-1 – DOC-13, Department Direct Testimony (Mar. 16, 2023) (eDocket Nos. 20233-194049-01, 20233-194049-02, 20233-194049-03, 20233-194049-04, 20233-194049-05, 20233-194049-06, 20233-194049-07, 20233-194049-08, 20233-194049-09, 20233-194055-02, 20233-194055-03, 20233-194055-04; 20233-194055-05); Exs. OAG-1 – OAG-4, OAG Direct Testimony (Mar. 16, 2023) (eDocket Nos. 20233-194052-02, 20233-194052-03, 20233-194052-04, 20233-194054-01, 20233-194054-02); Ex. CEO-1, CEOs Direct Testimony (Mar. 16, 2023) (eDocket No. 20233-194061-02); Ex. CUB-1, CUB Direct Testimony (Mar. 16, 2023) (eDocket No. 20233-194051-02); Ex. ENC-1, Encore Direct Testimony (Mar. 16, 2023) (eDocket No. 20233-194053-01); Ex. SLGI-1, SLGI Letter (Mar. 16, 2023) (eDocket No. 20233-194056-01).
[35] THIRD PREHEARING ORDER (Apr. 10, 2023) (eDocket No. 20234-194643-01).

process of preparing settlement documents.[36] As a result, the Parties requested and the Administrative Law Judge ordered that the deadlines for Rebuttal and Surrebuttal Testimony be vacated.[37]

23. On May 4, 2023, the Administrative Law Judge issued an Order Cancelling Hearing, in which the Administrative Law Judge cancelled the evidentiary hearing and directed the Settling Parties to file stipulated proposed findings of fact, conclusions of law, and a recommendation detailing the issues in the case and the proposed settlement of those issues, as well as a Master Exhibit List, on or before June 29, 2023.[38]

24. The Parties continued discussions, exchanged information, and memorialized the terms of their agreement in the Settlement Agreement filed on May 11, 2023.[39]

25. Public hearings were held in Rosemount and Rochester, Minnesota on May 15 and 18, 2023, respectively, and two virtual public hearings were held on May 15 and 23, 2023. Members of the public could attend the virtual hearings either through internet connection on a computer, tablet, or smartphone, or by telephone.[40]

26. On June 29, 2023, the Settling Parties filed an Exhibit List and joint Proposed Findings of Fact, Conclusions of Law, and Recommendation to Approve the Settlement.

III. Overview of MERC's Application to Increase Rates

27. MERC provides natural gas service to approximately 246,000 customers in 52 counties and 179 communities across the state of Minnesota—from the Canadian border to the Iowa border.[41] MERC provides natural gas service to residential, commercial, and industrial customers, as well as to Farm Tap customers, agricultural grain drying customers, and gas-fired electric generation facilities. MERC offers firm and interruptible service, and systems sales and transportation service.[42]

28. MERC initiated this proceeding on November 1, 2022, seeking authority to raise its base rates to increase its revenues by $32.76 million (an increase of 7.9 percent net revenue deficiency excluding the impact of rider roll-ins) or $40.3 million including costs already being recovered through riders being transferred into base rates.[43] On

[36] Noting that Encore and SLGI participated in the mediation, do not take a position on the settlement terms, and do not anticipate signing on to the settlement agreement. As a result, the Settling Parties include MERC, the Department, OAG, CUB, CEOs, LIUNA, and Local 49.
[37] FOURTH PREHEARING ORDER (Apr. 11, 2023) (eDocket No. 20234-194693-01).
[38] ORDER CANCELLING HEARING (May 4, 2023) (eDocket No. 20235-195592-01).
[39] Settlement Agreement (May 11, 2023) (eDocket No. 20235-195776-01).
[40] *See* SECOND PREHEARING ORDER (Apr. 4, 2023) (eDocket No. 20234-194513-01); NOTICE OF APPROVAL OF PUBLIC HEARING CUSTOMER NOTICE (Apr. 14, 2023) (eDocket No. 20234-194783-01).
[41] Ex. MERC-9 at 4 (Stasik Direct) (eDocket No. 202211-190311-04).
[42] Ex. MERC-21 at 9, 23-39 (Hoffman Malueg Direct) (eDocket No. 202211-190307-03).
[43] NOTICE OF AND ORDER FOR HEARING at 1 (Dec. 30, 2022) (eDocket No. 202212-191722-03).

January 1, 2023, MERC implemented an interim rate increase as it originally proposed, resulting in an overall interim rate increase of 9.08 percent.[44]

29. MERC asserted that "this rate case is driven largely by additional capital investments necessary to serve customers, and by increases in Company costs since MERC's last rate case was filed in 2017."[45]

30. MERC's application proposed to apportion the revenue requirement based on consideration of the cost of providing service to each customer class and non-cost factors, including the bypass risk posed by MERC's large industrial and power generation customers, as shown in Table 1:[46]

Table 1. Comparison of Revenues from Current Rates, Inclusive of GUIC and NGEP Rider Revenues, and Initially-Proposed Rates (Including Gas Costs)[47]

Customer Class	Current Revenues	Proposed Revenues	% Increase
NNG SALES			
GS-NNG Residential Sales	211,990,264	230,672,684	8.81%
GS-NNG Residential Farm-Tap Sales	2,382,545	2,602,429	9.23%
GS-NNG C&I FIRM Class 1	9,169,220	9,883,217	7.79%
GS-NNG C&I Farm-Tap Class 1	201,129	217,842	8.31%
GS-NNG C&I FIRM Class 2	88,578,889	93,887,865	5.99%
GS-NNG C&I FIRM Class 3	8,058,072	8,327,327	3.34%
GS-NNG C&I Farm-Tap Class 2	2,765,249	2,934,600	6.12%
GS-NNG C&I Farm-Tap Class 3	784,326	810,736	3.37%
NNG C&I INT Class 2	6,525,699	6,744,337	3.35%
NNG C&I INT Class 3	9,824,827	10,033,797	2.13%
NNG Agriculture Grain Dryer - Class 1	723,246	760,907	5.21%
NNG Agriculture Grain Dryer - Class 2	2,691,603	2,760,943	2.58%
NNG Electric Generation - Class 1	99,470	102,389	2.93%
NNG C&I Firm/Interruptible Class 2	83,505	88,433	5.90%
CONSOLIDATED SALES			
GS-CONSOLIDATED Residential Sales	30,904,988	34,165,552	10.55%
GS-CONSOLIDATED C&I FIRM Class 1	2,392,323	2,613,074	9.23%
GS-CONSOLIDATED C&I FIRM Class 2	20,449,151	21,937,674	7.28%
GS-CONSOLIDATED C&I FIRM Class 3	1,345,788	1,402,036	4.18%
CONSOLIDATED C&I INT Class 2	1,242,771	1,294,484	4.16%
CONSOLIDATED C&I INT Class 3	1,029,217	1,056,524	2.65%
CONSOLIDATED C&I INT Class 4	1,657,758	1,663,912	0.37%

[44] ORDER SETTING INTERIM RATES at 4 (Dec. 30, 2022) (eDocket No. 202212-191722-02).
[45] Ex. MERC-9 at 2 (Stasik Direct) (eDocket No. 202211-190311-04).
[46] Ex. MERC-21 at 39-41 (Hoffman Malueg Direct) (eDocket No. 202111-179345-06).
[47] "Current Revenues" in Table 1 reflects revenues under MERC's base rates prior to the implementation of interim rates in this case, inclusive of the GUIC and NGEP riders, and also inclusive of the cost of gas. "Proposed Revenues" reflects the roll-in of the GUIC and NGEP riders to base rates and is also inclusive of gas costs.

Customer Class	Current Revenues	Proposed Revenues	% Increase
CONSOLIDATED Agriculture Grain Dryer - Class 1	45,507	48,289	6.11%
CONSOLIDATED Agriculture Grain Dryer - Class 2	148,519	153,263	3.19%
CONSOLIDATED Electric Generation - Class 1	10,594	10,981	3.66%
CONSOLIDATED C&I INT Class 2	189,069	201,734	6.70%
NNG TRANSPORT			
Transport-NNG C&I FIRM Class 2	391,095	512,751	31.11%
Transport-NNG C&I FIRM Class 3	798,468	992,531	24.30%
Transport-NNG C&I FIRM Class 4	72,109	74,953	3.94%
Transport-NNG C&I FIRM Class 5 - CIP Exempt	57,384	62,006	8.06%
Transport-NNG Electric Generation FIRM Class 2 - CIP Exempt	466,125	507,606	8.90%
Transport-NNG C&I INT Class 2	216,824	261,892	20.79%
Transport-NNG C&I INT Class 3	2,042,573	2,414,312	18.20%
Transport-NNG C&I INT Class 4	673,642	704,234	4.54%
Transport-NNG C&I INT Class 5	350,575	340,280	-2.94%
Transport-NNG C&I INT Class 5 - CIP Exempt	1,251,719	1,465,538	17.08%
Transport-NNG Electric Generation INT Class 2	53,339	51,848	-2.79%
Transport-NNG Electric Generation INT Class 2 - CIP Exempt	22,611	20,356	-9.98%
Transport-NNG C&I Firm/Interruptible Class 2	66,524	82,657	24.25%
Transport-NNG C&I Firm/Interruptible Class 3	994,600	1,194,724	20.12%
Transport-NNG C&I Firm/Interruptible Class 4	253,604	264,203	4.18%
Transport-NNG C&I Firm/Interruptible Class 5	160,274	155,699	-2.85%
Transport-NNG C&I Firm/Interruptible Class 5 - CIP Exempt	437,956	424,901	-2.98%
Transport for Resale	29,625	31,279	5.58%
LVJ-NNG Flex Transport (Cust "A")	219,512	243,568	10.96%
LVJ-NNG Flex Transport (Cust "F")	196,775	214,002	8.75%
LVJ-NNG Flex Transport (Cust "G")	62,786	66,768	6.34%
CONSOLIDATED TRANSPORT			
Transport-CONSOLIDATED C&I FIRM Class 2	351,506	456,929	29.99%

Customer Class	Current Revenues	Proposed Revenues	% Increase
Transport-CONSOLIDATED C&I FIRM Class 2 - CIP Exempt	11,522	15,749	36.69%
Transport-CONSOLIDATED C&I FIRM Class 3	660,015	823,146	24.72%
Transport-CONSOLIDATED C&I FIRM Class 4	83,352	86,664	3.97%
Transport-CONSOLIDATED C&I FIRM Class 5 - CIP Exempt	362,203	393,761	8.71%
Transport-CONSOLIDATED C&I INT Class 2	74,305	89,868	20.95%
Transport-CONSOLIDATED C&I INT Class 3	480,550	564,532	17.48%
Transport-CONSOLIDATED C&I INT Class 4	84,027	87,819	4.51%
Transport-CONSOLIDATED C&I INT Class 5	177,416	172,008	-3.05%
Transport-CONSOLIDATED C&I Firm/Interruptible Class 3	56,597	67,062	18.49%
Transport-CONSOLIDATED C&I Firm/Interruptible Class 5 - CIP Exempt	89,748	87,301	-2.73%
TOTAL	**414,543,087**	**447,305,978**	**7.90%**

31. MERC also proposed to maintain currently authorized monthly customer charges, to continue the narrowed relative rate differentials between firm and interruptible classes as implemented in MERC's last rate case, and to set distribution rates that do not differ for system sales and transportation classes to avoid improperly encouraging customers to move from system sales to transportation service or vice versa.[48]

32. Table 2 below provides a comparison of average monthly bills by customer class under MERC's prior rates (inclusive of the GUIC and NGEP riders) and proposed final rates, including gas costs:[49]

[48] Ex. MERC-21 at 16-23 (Hoffman Malueg Direct) (eDocket No. 202111-179345-06).
[49] NOTICE OF APPROVAL OF INTERIM RATE CUSTOMER NOTICE (Dec. 9, 2022) (eDocket No. 202212-191204-01).

Table 2. Comparison of Average Monthly Customer Bills Under MERC's Previous Rates, Inclusive of GUIC and NGEP Rider Rates, and Initially-Proposed Final Rates (Including Gas Costs)[50]

Customer Class	Previous Average Monthly Bill	Proposed Average Monthly Bill
GS-NNG Residential Sales	$93	$102
GS-NNG Residential Farm-Tap Sales	$160	$175
GS-NNG C&I FIRM Class 1	$101	$109
GS-NNG C&I Farm-Tap Class 1	$147	$159
GS-NNG C&I FIRM Class 2	$729	$773
GS-NNG C&I FIRM Class 3	$13,040	$13,476
GS-NNG C&I Farm-Tap Class 2	$1,092	$1,159
GS-NNG C&I Farm-Tap Class 3	$32,680	$33,781
NNG C&I INT Class 2	$3,524	$3,642
NNG C&I INT Class 3	$18,712	$19,110
NNG Agriculture Grain Dryer - Class 1	$793	$834
NNG Agriculture Grain Dryer - Class 2	$3,505	$3,595
NNG Electric Generation - Class 1	$921	$948
NNG C&I Firm/Interruptible Class 2	$6,959	$7,369
CONSOLIDATED SALES		
GS-CONSOLIDATED Residential Sales	$79	$87
GS-CONSOLIDATED C&I FIRM Class 1	$87	$95
GS-CONSOLIDATED C&I FIRM Class 2	$533	$572
GS-CONSOLIDATED C&I FIRM Class 3	$8,315	$8,662
CONSOLIDATED C&I INT Class 2	$2,566	$2,673
CONSOLIDATED C&I INT Class 3	$11,557	$11,864
CONSOLIDATED C&I INT Class 4	$69,073	$69,330
CONSOLIDATED Agriculture Grain Dryer - Class 1	$421	$447
CONSOLIDATED Agriculture Grain Dryer - Class 2	$1,768	$1,825
CONSOLIDATED Electric Generation - Class 1	$883	$915
CONSOLIDATED C&I INT Class 2	$3,939	$4,203
NNG TRANSPORT		
Transport-NNG C&I FIRM Class 2	$1,022	$1,340
Transport-NNG C&I FIRM Class 3	$2,909	$3,616
Transport-NNG C&I FIRM Class 4	$6,217	$6,463
Transport-NNG C&I FIRM Class 5 - CIP Exempt	$4,782	$5,167
Transport-NNG Electric Generation FIRM Class 2 - CIP Exempt	$38,844	$42,300

[50] "Previous Average Monthly Bill" in Table 2 reflects the monthly bill for a customer with average usage under MERC's base rates prior to the implementation of interim rates in this case, inclusive of the GUIC NGEP riders, and also inclusive of the cost of gas. "Proposed Average Monthly Bill" reflects the average bill under MERC's proposed final rates, including the roll-in of the GUIC and NGEP riders to base rates and gas costs.

Customer Class	Previous Average Monthly Bill	Proposed Average Monthly Bill
Transport-NNG C&I INT Class 2	$890	$1,075
Transport-NNG C&I INT Class 3	$4,535	$5,361
Transport-NNG C&I INT Class 4	$8,298	$8,674
Transport-NNG C&I INT Class 5	$7,304	$7,089
Transport-NNG C&I INT Class 5 - CIP Exempt	$17,385	$20,355
Transport-NNG Electric Generation INT Class 2	$4,445	$4,321
Transport-NNG Electric Generation INT Class 2 - CIP Exempt	$1,884	$1,696
Transport-NNG C&I Firm/Interruptible Class 2	$956	$1,188
Transport-NNG C&I Firm/Interruptible Class 3	$4,786	$5,749
Transport-NNG C&I Firm/Interruptible Class 4	$10,933	$11,390
Transport-NNG C&I Firm/Interruptible Class 5	$13,356	$12,975
Transport-NNG C&I Firm/Interruptible Class 5 - CIP Exempt	$7,299	$7,082
Transport for Resale	$2,554	$2,697
LVJ-NNG Flex Transport (Cust "A")	$18,293	$20,297
LVJ-NNG Flex Transport (Cust "F")	$5,466	$5,944
LVJ-NNG Flex Transport (Cust "G")	$5,232	$5,564
CONSOLIDATED TRANSPORT		
Transport-CONSOLIDATED C&I FIRM Class 2	$887	$1,153
Transport-CONSOLIDATED C&I FIRM Class 2 - CIP Exempt	$960	$1,312
Transport-CONSOLIDATED C&I FIRM Class 3	$3,381	$4,216
Transport-CONSOLIDATED C&I FIRM Class 4	$7,187	$7,472
Transport-CONSOLIDATED C&I FIRM Class 5 - CIP Exempt	$15,092	$16,407
Transport-CONSOLIDATED C&I INT Class 2	$915	$1,107
Transport-CONSOLIDATED C&I INT Class 3	$2,960	$3,477
Transport-CONSOLIDATED C&I INT Class 4	$7,245	$7,572
Transport-CONSOLIDATED C&I INT Class 5	$14,785	$14,334
Transport-CONSOLIDATED C&I Firm/Interruptible Class 3	$2,440	$2,891
Transport-CONSOLIDATED C&I Firm/Interruptible Class 5 - CIP Exempt	$7,479	$7,275

IV. Public Comments

A. Comments Made at Public Hearings

33. Eight members of the public provided comments or asked questions at the public hearings in this matter – one in Rosemount, one in Rochester, and six during the two virtual public hearings.[51]

34. The majority of customers who provided comments expressed concern with their ability to pay their utility bills as costs continue to increase. One customer stated that while he did not like the increases, as a small business owner, he understands the impacts of inflation on increasing costs.[52] Another customer provided comments indicating that the proposed rate increase would not create a financial burden for her family.[53]

35. Customers also asked questions regarding the drivers of MERC's rate case and need to increase rates, and MERC representatives provided explanations regarding the impacts of inflation and investments MERC makes to provide continuous safe and reliable natural gas service to customers.[54]

36. One commenter asked whether MERC's guidelines for financial assistance would change as a result of the rate increase.[55] While customers must receive energy assistance from the Low-Income Home Energy Assistance Program to be eligible for MERC's Gas Affordability Program (GAP), benefits under GAP are calculated based on a participating customer's annual natural gas bills and household income, such that an increase to rates may increase GAP benefits for enrolled customers.[56]

37. One commenter who had questions regarding the rate increase expressed concern with her home heating bills because she lives in an older home that is not well insulated. MERC followed up with the customer to provide her with information regarding available Conservation Improvement Program (CIP) offerings for energy efficiency and weatherization.[57]

38. One commenter had concerns about increasing costs and questions about the franchise fee being included in his MERC natural gas bill by the City of Eagan. The

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[51] *See* Rochester Public Hrg. Tr. (May 18, 2023); Virtual Public Hrg. Tr. (May 15, 2023); Virtual Public Hrg. Tr. (May 23, 2023); Rosemount Public Hrg. Tr. (May 15, 2023).
[52] Virtual Public Hrg. Tr. at 20-21 (May 15, 2023).
[53] Virtual Public Hrg. Tr. at 14-15 (May 23, 2023).
[54] Virtual Public Hrg. Tr. at 18-19, 23-24 (May 15, 2023).
[55] Virtual Public Hrg. Tr. at 26-27 (May 15, 2023).
[56] *See In the Matter of the Application of Minn. Energy Res. Corp. for Approval of 2020 Gas Affordability Program Annual Report*, Docket No. G011/M-21-224, ORDER ACCEPTING REPORTS, APPROVING PROGRAM MODIFICATIONS, AND SETTING REPORTING REQUIREMENTS (Sept. 15, 2021) (requiring MERC to calculate GAP credits based on actual annual participant natural gas bills and on actual GAP customer annual household income).
[57] Rochester Public Hrg. Tr. at 14-19 (May 18, 2023).

commenter expressed that he understood MERC had costs that it had to cover but wanted the Commission to understand that people, such as himself, have not received raises for many years. He explained that he cannot afford necessities such as repairing the appliances in his small home, and so, even small increases in his costs are distressing.[58]

B. Written Comments

39. In addition to comments made at the public hearings, the Commission has received approximately 23 written comments regarding MERC's rate increase request, which generally opposed a rate increase or recommended a lower increase.

40. The written public comments expressed concern that the proposed rate increase was unfair, unnecessary, unreasonable, or excessive. Concerns expressed by customers who submitted written comments included: (1) rate increases are too frequent and unnecessary, given MERC's reported revenues and profits; (2) MERC's rate increase is driven by corporate "greed" as opposed to the need to improve services and reliability for customers; (3) inflation and other increasing costs are already making it difficult for customers to afford their utility bills; (4) the rate increase will impose a significant burden on those customers who are on a fixed income; (5) customers do not have the ability to choose their natural gas utility provider and it is unfair for a monopoly to continuously raise rates; and (6) MERC is passing down too much of its costs to customers. [59]

41. Additionally, some customers expressed confusion about charges included on their bills and the amount of the proposed increase.[60]

42. Commenters also had questions about what portion of an average residential customer's bill constitutes the distribution charge, when MERC last increased distribution rates, and by how much.[61] Customers also had questions regarding what the rate increase is for and how much revenue MERC collects annually.[62]

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[58] Rosemount Public Hearing Tr. at 15-22 (May 15, 2023).

[59] Sarah Dolbinski (May 25, 2023) (eDocket No. 20235-196126-01); William Wehler (May 25, 2023) (eDocket No. 0235-196132-01); Joseph Nisen (May 22, 2023) (eDocket No. 20235-196047-01); Deb Trautner (May 19, 2023) (eDocket No. 20235-195982-01); Sandra Brusacoram (May 17, 2023) (eDocket No. 20235-195892-01); Valorie Koski (May 17, 2023) (eDocket No. 20235-195893-01); Aaron Putman (May 15, 2023) (eDocket No. 20235-195840-01); Virginia Lambert (May 15, 2023) (eDocket No. 20235-195840-01); Ron Davison (May 11, 2023) (eDocket No. 20235-195767-01); Marianne McRorie (May 11, 2023) (eDocket No. 20235-195771-01); Rachel Lanns (May 10, 2023) (eDocket No. 20235-195738-01); Richard Bichel (May 10, 2023) (eDocket No. 20235-195741-01); Cyrus Kliner (May 10, 2023) (eDocket No. 20235-195744-01); Rod Dostal (May 3, 2023) (eDocket No. 20235-195571-01); Dennis Holst Dostal (May 3, 2023) (eDocket No. 20235-195571-01); Deonne Nelson (May 3, 2023) (eDocket No. 20235-195571-01); Josh Vanderaa (May 3, 2023) (eDocket No. 20235-195571-01); Mark Roalson (May 3, 2023) (eDocket No. 20235-195571-01); Dan Kramer (May 3, 2023) (eDocket No. 20235-195571-01); Terry Welander (May 3, 2023) (eDocket No. 20235-195571-01); Vickie Skogen (May 3, 2023) (eDocket No. 20235-195571-01); Aaron Thun (May 3, 2023) (eDocket No. 20235-195571-01); Ken Ricker (Jan. 30, 2023) (eDocket No. 20231-192670-01).

[60] Aaron Thun (May 3, 2023) (eDocket No. 20235-195571-01).

[61] Aaron Putman (May 15, 2023) (eDocket No. 20235-195840-01).

[62] Virginia Lambert (May 15, 2023) (eDocket No. 20235-195840-01).

V. Legal Standards

43. The legal standard for utility rate changes is that the new rates must be just and reasonable.[63] The Minnesota Supreme Court has described the Commission's statutory mandate for determining whether proposed rates are just and reasonable as "broadly defined in terms of balancing the interests of the utility companies, their shareholders, and their customers," citing Minn. Stat. § 216B.16, subd. 6.[64]

44. Minn. Stat. § 216B.16, subd. 6, provides:

> The commission, in the exercise of its powers under this chapter to determine just and reasonable rates for public utilities, shall give due consideration to the public need for adequate, efficient, and reasonable service and to the need of the public utility for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate provision for depreciation of its utility property used and useful in rendering service to the public, and to earn a fair and reasonable return upon the investment in such property.[65]

45. Under the Public Utilities Act, utilities seeking a rate increase have the burden of proof to show that the proposed rate change is just and reasonable.[66] Any doubt as to reasonableness is to be resolved in favor of the consumer.[67] As set forth in Minn. Stat. § 216B.03:

> Rates shall not be unreasonably preferential, unreasonably prejudicial, or discriminatory, but shall be sufficient, equitable, and consistent in application to a class of consumers. To the maximum reasonable extent, the commission shall set rates to encourage energy conservation and renewable energy use . . . . Any doubt as to reasonableness should be resolved in favor of the consumer.

46. In ratemaking, the Commission acts in both quasi-judicial and quasi-legislative capacities: As a quasi-judicial body it engages in traditional fact-finding, and as a quasi-legislative body it applies its institutional expertise and judgment to resolve issues that turn on both factual findings and policy judgments. As the Supreme Court has explained,

> [I]n the exercise of the statutorily imposed duty to determine whether the inclusion of the item generating the claimed cost is appropriate, or whether the ratepayers or the shareholders should sustain the burden generated by the claimed cost, the MPUC acts in both a quasi-judicial and a partially legislative capacity. To state it differently, in evaluating the case, the accent

[63] Minn. Stat. § 216B.16, subds. 4, 5, and 6 (2022); Minn. Stat. § 216B.03 (2022).
[64] *In re Interstate Power Co.*, 574 N.W.2d 408, 411 (Minn. 1998).
[65] Minn. Stat. § 216B.16 (2022).
[66] Minn. Stat. § 216B.16, subd. 4.
[67] Minn. Stat. § 216B.03.

> is more on the inferences and conclusions to be drawn from the basic facts (i.e., the amount of the claimed costs) rather than on the reliability of the facts themselves. Thus, by merely showing that it has incurred, or may hypothetically incur, expenses, the utility does not necessarily meet its burden of demonstrating it is just and reasonable that the ratepayers bear the costs of those expenses.[68]

47. The traditional approach for utilities proposing rate increases has been for the utility to select a test year that establishes its representative rate base, revenues, expenses, and a reasonable rate of return to demonstrate that its revenue is insufficient to meet its test year expenses and afford shareholders a reasonable return on their investments.[69] From the test year costs, including a reasonable rate of return on rate base, the utility develops its revenue requirement. The utility will conduct a study of the costs of serving each class of customers. The utility proposes how to allocate its revenue requirement among the customer classes, taking into account each class's cost of service, but also considering other goals, such as conservation. The last step is the utility's proposal to design rates in a manner that collects the appropriate revenues from each class.[70] In this process, MERC must comply with Minnesota law as well as prior orders of the Commission.

48. MERC's revenue requirement consists of all expenses it prudently incurs to provide natural gas service to customers. These expenses include MERC's operating expenses, depreciation on its capital assets, taxes, and a margin sufficient to allow MERC a reasonable opportunity to earn its authorized rate of return.[71] MERC chose a calendar year as its test year: January 1, 2023 through December 31, 2023.

49. Minnesota law expressly encourages the settlement of "any or all of the issues" in rate cases.[72] If the applicant and all intervening parties agree to a stipulated settlement of the case or parts of the case, the settlement must be submitted to the commission. The commission shall accept or reject the settlement in its entirety and, at any time until its final order is issued in the case, may require the Office of Administrative Hearings to conduct a contested case hearing. The Commission reviews a settlement in a rate case proceeding to determine if it is in the public interest and supported by substantial evidence.[73]

VI. The Settlement

50. As detailed in the Settlement, the Settling Parties were able to resolve all issues in the case. The Settlement succinctly states the Parties' positions on each of their applicable issues and explains each issue's resolution. The Settlement needs little explanation, as reviewing the Settling Parties' positions and comparing party positions to

[68] *In re N. States Power Co.*, 416 N.W.2d 719, 722–23 (Minn. 1987) (internal citation omitted).
[69] Minn. R. 7525.3100, .3500–.4400 (2023).
[70] *See* Ex. DOC-3 at 3-10 (Johnson Direct).
[71] Minn. Stat. § 216B.16, subd. 6.
[72] Minn. Stat. § 216B.16, subd. 1a(a).
[73] Minn. Stat. § 216B.16, subd. 1a(b).

the terms of the Settlement indicates the compromises that the Settling Parties made to achieve an overall Settlement. Not all intervening parties agreed to the stipulated settlement. The SLGI neither agreed nor objected to the settlement agreement. The SLGI's lack of participation in the settlement is consistent with their filings in this matter. The SLGI filed no direct testimony nor rebuttal testimony. In lieu of filing testimony, the SLGI noted that "except for an odorizer, MERC does not own much, if any, pipes, meters, valves, or similar equipment related to servicing SLGI members." They went on to state that SLGI members are closely tracking MERC's proposed rate increases – SLGI members are very sensitive to rate increases and could easily bypass MERC's system."[74]

51. The statute addressing settlement states that the Administrative Law Judge must submit a settlement to the commission if the applicant and all intervening parties agree to a stipulated agreement. It does not prohibit the submission of the settlement to the commission if not all intervenors do not join in the settlement. The parties which actively participated reached an agreement and it is in the public interest in terms of certainty, compromise, economy and efficiency that this agreement be reviewed by the commission. Every party that actively participated reached an agreement and no party objected to the agreement.

52. The Administrative Law Judge has reviewed the Settlement and recommends that the Commission find it to be in the public interest and supported by substantial evidence in the record. The rates that will result from implementing the Settlement will be just and reasonable.

53. The Administrative Law Judge finds the Settlement to be comprehensive and each disputed issue is reasonably resolved based on substantial record evidence. The Administrative Law Judge recommends that the Commission approve the Settlement and highlights the following factors for the Commission's consideration.

54. First, the Settlement provides for a gross revenue deficiency of $28.804 million or a net incremental revenue increase of $21.242 million, a substantially smaller general revenue increase than the $40.322 million (rate case and rider roll-ins), or $32.76 million increase (net revenue deficiency) without rider roll-ins, requested in MERC's application.[75]

55. Second, the Settlement proposes to recover the revenue deficiency by apportioning a lower share of the increase to the Residential class than proposed by MERC,[76] addressing concerns from public commenters about the size of the proposed Residential increase.

[74] Letter (March 16, 2023) (eDocket No. 20233-194056-01).
[75] Settlement at 2.
[76] Settlement at 3, 14-15.

56. Third, the Settlement is informed by, but does not endorse, any single Class Cost of Service Study ("CCOSS").[77] In a number of recent general rate case proceedings, the Commission has considered multiple CCOSSs when setting rates.[78]

57. Fourth, the Settlement's proposed ROE of 9.65 percent and resulting overall cost of capital of 6.72 percent is reasonable and supported by the record. In Direct Testimony, MERC proposed a capital structure and recommended cost of long-term and short-term debt, and supported an ROE of 10.30 percent, resulting in a weighted cost of capital of 7.07 percent.[79]

58. The Department agreed with MERC's proposed capital structure and recommended values for the cost of long-term and short-term debt (and no party opposed the capital structure or cost of debt), and recommended an ROE of 9.30 percent, resulting in an overall cost of capital of 6.545 percent.[80]

59. CUB recommended an ROE in the range of 8.50 to 9.0 percent but did not provide specific recommendations on the other components of MERC's capital structure or overall rate of return.[81]

60. The Settlement's proposed ROE, and resulting cost of capital, falls within the range of the Parties' recommendations.[82]

61. Fifth, other disputed financial issues are resolved in a transparent, just, and reasonable manner. These include the use of actual plant balances at the beginning of the test year rather than MERC's projected balance, updating the cost of gas, and adopting multiple financial adjustments as proposed by the Department and the OAG.[83]

62. Sixth, as part of the Settlement, MERC agreed to work with stakeholders to scope, conduct, and file a study within 12 months of the final order in this proceeding that examines MERC's line extension policies with respect to various inputs, assumptions, and considerations.[84]

63. Seventh, in the Settlement, the Settling Parties agreed to modify MERC's Revenue Decoupling Mechanism (RDM) by incorporating the Commercial and Industrial

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[77] Settlement at 14.
[78] *See In the Matter of the Appl. of Minn. Power for Authority to Increase Rates for Elec. Serv. in Minn.*, Docket No. E015/GR-21-335, FINDINGS OF FACT, CONCLUSIONS, AND ORDER at 52 (Feb. 28, 2023); *In the Matter of the Appl. of Otter Tail Power Co. for Authority to Increase Rates for Elec. Util. Serv. in Minn.,* Docket No. E017/GR-20-719, FINDINGS OF FACT, CONCLUSIONS, AND ORDER at 43 (Feb. 1, 2022); *In the Matter of the Appl. of Minn. Energy Res. Corp. for Authority to Increase Rates for Nat. Gas Serv. in Minn.,* Docket No. G011/GR-17-563, Findings of Fact, Conclusions of Law, and Order at 33-34 (Dec. 26, 2018).
[79] Ex. MERC-13, 14 (Bulkley Direct and Schedules); Ex. MERC- 7, 8 (Bulkley Workpapers); Ex. MERC-11, 12 at 71-75 (Zgonc Direct and Schedules).
[80] Ex. DOC-4, 5 (Addonizio Direct and Attachments).
[81] Ex. CUB-1 (Kihm Direct and Schedules).
[82] Settlement at 3.
[83] Settlement at 4-13.
[84] Settlement at 8-9.

(C&I) Firm Class 1 and C&I Firm Class 2 customer classes, including associated Farm Tap customer customers, in the RDM pilot, beginning with calendar year 2024.[85]

64. Eighth, as part of the Settlement, the Settling Parties agreed to terminate certain reporting requirements and MERC agreed to email financial analyst reports it receives and maintains in the normal course of business pertaining to MERC or WEC Energy Group to the Department, OAG, and Commission Staff on a quarterly basis.[86] MERC also agreed to additional reporting related to sales forecasting, to continue to work with the Department on other sales forecast related issues in advance of MERC's next general rate case filing, and to continue to collect data until it can maintain and provide 20 years of the same data used to forecast sales.[87]

65. Finally, the Settlement resolves the miscellaneous tariff modifications as proposed by MERC, which were not disputed.[88]

VII. Specific Issues

66. The Notice of and Order for Hearing set forth five specific issues to be discussed in this proceeding, each of which is addressed in the Settlement:[89]

A. The Settlement reduces the test year net revenue increase from $32.76 million per year (as requested by MERC) to $21.242 million per year.[90]

B. The Settlement modifies the rate design proposed by MERC by apportioning a smaller share of the revenue increase to the Residential class and holding monthly customer charges unchanged.[91]

C. The Settlement adopts MERC's proposed capital structure, which was also supported by the Department and which no party opposed, but lowers the ROE from 10.30 percent (as proposed by MERC) to 9.65 percent.[92]

D. The Settlement updates the base cost of gas proposed in Docket No. G011/MR-22-505, *In the Matter of the Application of Minnesota Energy Resources Corporation to Establish a New Base Cost of Gas and Reset the Purchased Gas Adjustment to Zero, to Coincide with the Implementation of Interim Rates in its General Rate Case*

[85] Settlement at 13-14.
[86] Settlement at 16-17.
[87] Settlement at 5-6.
[88] Settlement at 15-16.
[89] NOTICE OF AND ORDER FOR HEARING (Dec. 30, 2022) (eDocket No. 202212-191722-03).
[90] Settlement at 2.
[91] Settlement at 14-15.
[92] Settlement at 3.

Filing.[93] This update results in a reduction to the test year revenue requirement related to the cost of gas of approximately $82 million.[94]

E. The Parties' pre-filed testimony developed a complete record supporting changes in MERC's revenues and costs since MERC's last rate case and MERC provided testimony and supporting schedules for each cost increase by FERC account.[95] Through testimony, MERC discussed its proposed increases to gas transmission, gas distribution, and administrative and general expense, asserting they were driven by labor and non-labor inflation and by other known and measurable cost increases.[96] MERC also provided testimony and schedules explaining the identified categories of cost decreases including decreases to customer service costs and information technology expense, customer accounts expense, gas supply expense, and other production expense. Further, the Settlement reflects specific financial reductions to MERC's proposed revenue increase in a number of areas.[97]

VIII. General Provisions of the Settlement

67. The Settlement provides that it will not impede the ability of intervenors to seek compensation under Minn. Stat. §216B.16, subd. 10, for this proceeding.[98]

68. The Settlement provides for the confidentiality of settlement offers and discussions. Should the Commission reject the Settlement, the agreement provides that it shall not be part of the record and that no party may use it for any purpose in any proceeding.

69. The Settlement obligates the Settling Parties to support and defend it in its entirety without modification.

70. Should the Commission remand the case to the OAH, the Parties are free to argue their positions as set forth in their pre-filed testimony.

71. Based on these Findings of Fact, the Administrative Law Judge makes the following:

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[93] Settlement at 12.
[94] Settlement, Attachment 3.
[95] Ex. MERC-11, 12 at 31-71 and Schedules JLZ-D-9 through JLZ-D-29 (Zgonc Direct and Schedules).
[96] *Id.*
[97] Settlement at 18.
[98] Settlement at 18.

CONCLUSIONS OF LAW

1. The Minnesota Public Utilities Commission and the Administrative Law Judge have jurisdiction to consider this matter pursuant to Minn. Stat. §§ 14.50, 14.57, and 216B.16 (2022).

2. The public and the Parties received timely and proper notice of the public hearings and MERC complied with all procedural requirements under applicable statutes and rules.

3. As Minn. Stat. § 216B.03 requires, every rate set by the Commission shall be just and reasonable. Rates shall not be unreasonably preferential, prejudicial, or discriminatory, but shall be sufficient, equitable, and consistent in application to a class of consumers. The Commission shall set rates that, to the maximum reasonable extent, encourage energy conservation and renewable energy use and further the goals of Minn. Stat. §§ 216B.164, 216B.241, 216C.05 (2022).

4. Minn. Stat. § 216B.16, subd. 4, places the burden of proof to show that a rate change is just and reasonable on MERC. Any doubt as to reasonableness should be resolved in favor of the consumer pursuant to Minn. Stat. § 216B.03.

5. The record supports the resolution of disputed issues as set out in the Settlement. The Settlement's disposition of disputed issues resolves them in a manner consistent with the public interest and on the basis of substantial evidence.

6. Rates set in accordance with the Settlement would be just and reasonable.

7. Any Findings of Fact more properly designated as Conclusions of Law are hereby adopted as such.

Based upon these Conclusions of Law, the Administrative Law Judge makes the following:

RECOMMENDATION

The Administrative Law Judge recommends that the Commission approve the Settlement and incorporate it into its Order.

Dated: August 11, 2023

Barbara J. Case
Administrative Law Judge

NOTICE

Notice is hereby given that exceptions to this Report, if any, by any party adversely affected must be filed under the timeframes established in the Commission's rules of practice and procedure, Minn. R. 7829.2700, .3100 (2023), unless otherwise directed by the Commission. Exceptions should be specific and stated and numbered separately. Oral argument before a majority of the Commission will be permitted pursuant to Minn. R. 7829.2700, subp. 3. The Commission will make the final determination of the matter after the expiration of the period for filing exceptions, or after oral argument, if an oral argument is held.

The Commission may, at its own discretion, accept, modify, or reject the Administrative Law Judge's recommendations. The recommendations of the Administrative Law Judge have no legal effect unless expressly adopted by the Commission as its final order.