

**STATE OF MINNESOTA  
BEFORE THE PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
John Tuma	Commissioner
Betsy Wergin	Commissioner

In the Matter of the Application of Northern States Power Company, d/b/a Xcel Energy, for Authority to Increase Rates for Electric Service in the State of Minnesota

**DOCKET NO. E-002/GR-15-826**

**OFFICE OF THE ATTORNEY  
GENERAL'S COMMENTS ON XCEL'S  
INTERIM RATE PROPOSAL**

**I. INTRODUCTION**

The Office of the Attorney General – Residential Utilities and Antitrust Division (“OAG”) submits the following comments regarding the request of Northern States Power Company, d/b/a Xcel Energy (“Xcel”) for Authority to Increase Rates for Electric Service in the State of Minnesota. Xcel has requested an interim rate increase of \$163.7 million in 2015, and an interim rate increase of \$44.9 million in 2017.<sup>1</sup> As the OAG stated in its November 14, 2013 comments in Xcel’s last rate case,<sup>2</sup> the OAG is compelled to submit comments on this issue because the Commission has previously expressed hesitation to find that “exigent circumstances” exist to reduce interim rates when the Commission has not received comments from or on behalf of consumers. In addition, Xcel’s current request relies on an incorrect interpretation of Minnesota Statute § 216B.16, subdivision 19 (“MYRP Statute”) to argue that it is entitled to an interim rate increase in 2017. The Commission should reject Xcel’s request for an interim rate

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<sup>1</sup> Notice and Petition for Interim Rates at 2.

<sup>2</sup> Docket No. G-008/GR-13-868.

increase in 2017, and consider whether exigent circumstances exist to reduce Xcel's requested \$163.7 million interim rate request.

## **II. XCEL IS NOT ENTITLED TO A SECOND YEAR INTERIM RATE INCREASE.**

Xcel suggests that the MYRP Statute entitles the company to an interim rate increase in 2017.<sup>3</sup> This is not true. While the MYRP Statute authorizes the Commission to grant interim rates for the first and second year of a company's MYRP, it does not support Xcel's claim that a utility's interim rates should increase automatically during a rate case.<sup>4</sup> Rather, the MYRP Statute directs the Commission to set interim rates based on the procedures outlined in Minnesota Statute § 216B.16, subdivision 3 ("Interim Rate Statute").<sup>5</sup> The Interim Rate Statute provides that, in the absence of exigent circumstances, "the interim rate schedule shall be calculated using the proposed *test year* cost of capital, rate base, and expenses . . . ."<sup>6</sup> Therefore, unless the Commission finds exigent circumstances, the MYRP directs that interim rates be based only on the company's test year financials.

Xcel has not argued that exigent circumstances support increasing its interim rates during 2017. Further, Xcel's rate case uses a 2016 test year: "we propose a three year multi-year rate plan ("MYRP Plan") consisting of a traditional 2016 test year and 2017 and 2018 plan years . . . ."<sup>7</sup> Xcel's use of a single, twelve-month test year, followed by two "plan years" is consistent with the Commission rules. Specifically, the Commission has defined a "test year" as "the 12-month period selected by the utility for the purpose of expressing its need for a change in

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<sup>3</sup> Notice and Petition for Interim Rates at 2 ("Therefore, consistent with Minn. Stat. §216B.19 (sic) . . . we also request an incremental interim rate increase of 1.5 percent, or \$44.9 million, beginning January 1, 2017.").

<sup>4</sup> See Minn. Stat. § 216B.16, subd. 19(b) (2015).

<sup>5</sup> Minn. Stat. § 216B.16, subd. 19(b) (2015). (" . . . interim rates shall be implemented in the same manner as allowed under subdivision 3.")

<sup>6</sup> Minn. Stat § 216B.16 subd. 3(b) (2015) (emphasis added).

<sup>7</sup> Notice and Petition for Interim Rates at 2.

rates.”<sup>8</sup> Since the company has selected 2016 as the test year for its MYRP, the interim rates that Xcel receives throughout the rate case should be based on the company’s 2016 test-year financials, unless the Commission finds exigent circumstances. Xcel’s suggestion that the MYRP Statute entitles it to an interim rate increase in 2017 is inconsistent with the applicable statutes, Commission rules, and the company’s own filing.

### **III. GRANTING A SECOND-YEAR INTERIM-RATE INCREASE IS AGAINST THE PUBLIC INTEREST.**

Even if the Interim Rate Statute’s normal operation would grant Xcel a rate increase in 2017, the Commission should still find exigent circumstances to deny the company’s request. Past experience has demonstrated that Xcel’s rate case projections are woefully inaccurate, even when the company is projecting costs for the upcoming year. This has caused the company to dramatically over-collect interim rates from ratepayers in all of its cases since 2008. This concern is heightened here, where Xcel’s proposed 2017 interim rates are based on the company’s projected costs that are more than a year away and are estimated by applying inflation indices to current costs. In addition, Xcel’s most recent rate case demonstrates that the company is unable to accurately project even its capital spending in the future. For these reasons, the Commission should find exigent circumstances to deny Xcel’s request for a 2017 interim rate increase, even if the normal operation of the Interim Rate Statute allowed such an increase.

First, Xcel has consistently and substantially overstated its need for rate increases during the past decade, resulting in considerable over-collection of interim rates. In Xcel’s last rate case, the OAG explained that, since 2008, the company had requested approximately \$373 million more in annual rates than it had received following the PUC’s review, and that Xcel had

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<sup>8</sup> Minn. R. 7825.3000 subd. 17 (2015).

over-collected interim rates of approximately \$240 million during the same time period. For this reason, and because the company had requested back-to-back rate increases, the OAG requested that the Commission find exigent circumstances to reduce the company's interim rate request.<sup>9</sup> While the Commission did not reduce Xcel's interim rate request, the problem explained by the OAG at the beginning of Xcel's last rate case only got worse based on the final outcome.

In Xcel's last rate case, the company requested a final rate increase of approximately \$192.7 million for 2014 and an additional \$98.5 million in 2015. The company's request was based on claimed revenue deficiencies of \$273.8 million in 2014 and an additional \$117.9 million in 2015, which the company offset with a "rate moderation" proposal. The company also requested and received interim rates of approximately \$127.4 million annually for the duration of the proceeding. The final rate increases awarded to Xcel, however, were approximately \$58.9 million in 2014 and \$105.85 million in 2015—less than sixty percent of the company's request. Accordingly, adding the final results of Xcel's last rate case into the interim rate analysis that the OAG presented at the outset of the case demonstrates the following:

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<sup>9</sup> See Letter from Ian Dobson to Dr. Burl W. Haar, *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in Minnesota*, (Nov. 14, 2013).

(\$ in Millions)				
Docket No.	Initial Requested Increase	Approved Interim Rate Increase	PUC-Approved Increase	Difference Between Interim and Approved
G-008/GR-13-868 (2015 year) <sup>10</sup>	\$291	\$ 127	\$ 165	(\$38)
G-008/GR-13-868 (2014 year)	\$ 193	\$ 127	\$ 59	\$68
E002/GR-12-961	\$ 285	\$ 251	\$ 103	\$148
E002/GR-10-971	\$ 198	\$ 123	\$ 72	\$51
E002/GR-08-1065	\$ 156	\$ 132	\$ 91	\$41
Total <sup>11</sup>	\$930	\$760	\$431	\$270

As the table above demonstrates, over its last seven years Xcel has requested approximately half a billion dollars more in annual rate increases than it has received following the Commission’s review, and Xcel has over-collected interim rates of approximately \$270 million. This practice of excessive requests demonstrates that exigent circumstances exist to reduce the amount that Xcel would receive in interim rates, and certainly to reject Xcel’s request for a 2017 interim rate increase.

Second, Xcel’s last rate case demonstrates that the company is not able to accurately forecast even its future capital costs. As noted above, Xcel claimed that without its rate moderation proposal, the company would have revenue deficiencies of \$273.8 million in 2014 and an additional \$117.9 million in its 2015 step year. Xcel also claimed that it was in the “peak years” of its investment cycle, and that its rate moderation proposal should be approved in order

<sup>10</sup> The 2015 year in this table includes the requested and awarded increases in 2014. This was done to ensure that the difference between the interim rate increases and the final rate increases granted by the Commission can be fairly compared.

<sup>11</sup> Since the 2015 year includes the requested and approved increases for 2014 and 2015, the 2014 increases are not included in the “total” for these columns in order to ensure that these 2014 increases are not “double counted.” The 2014 increase is needed in the table, however, to accurately compare the interim rates that Xcel received throughout each rate case against the final rates that were granted for each applicable year.

to “temper the impact of these investments” for ratepayers during this peak.<sup>12</sup> In other words, Xcel suggested that it was appropriate to adopt its rate moderation proposal because any needed future rate increases would be smaller. The Commission presumably accepted this claim in ordering rate moderation, explaining that “[w]here, as here, a utility is near the peak of a demanding investment cycle . . . it is reasonable to smooth the rate impact of that peak, with the tools at hand . . . .”<sup>13</sup>

But while Xcel claimed in its last case that the company was in the peak of its investment cycle, it now claims a revenue deficiency of \$194.6 million for 2016—over \$76 million more than it claimed it would need in 2015. Therefore, even setting aside the Commission’s decision that Xcel needed less than sixty percent of its request in the company’s last case, Xcel’s assurances that it was in its investment peak appear to have been overstated. Instead it appears that in advocating for its rate moderation proposal the company did not fully comprehend, or fully communicate, what it would claim it needed going forward. Now that its rate moderation proposal has been approved, Xcel claims that the rate increase it needs in 2016 is, in fact, much greater than the increase it needed in 2015. Based on this history, it is unreasonable to reward the company today by granting it an interim rate increase in 2017. Accordingly, even if the Interim Rate Statute would allow Xcel the requested interim rate increase in its 2017 plan year, the Commission should find exigent circumstances to reject the company’s request.

#### **IV. CONCLUSION**

For the reasons set forth above, the Commission should reject Xcel’s request for an interim rate increase in 2017 and consider whether exigent circumstances exist to reduce the

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<sup>12</sup> See Direct Testimony of David M. Sparby *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in Minnesota*, at 2 (Nov. 4, 2013).

<sup>13</sup> Findings of Fact, Conclusions, and Order, *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in Minnesota*, at 52 (May 8, 2015).

company's requested 2016 interim rates of \$163.7 million. Xcel relies on an incorrect interpretation of the MYRP Statute to argue that it is entitled to an automatic interim rate increase. In addition, the company's history of consistently and substantially over-estimating its revenue requirement to over-collect interim rates, coupled with its inability to accurately forecast its future capital spending make it unreasonable to burden ratepayers with such a significant rate increase that has not been justified.

Dated: November 12, 2015

Respectfully submitted,

LORI SWANSON  
Attorney General  
State of Minnesota

***s/ Ian Dobson***

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November 12, 2015

Mr. Daniel Wolf, Executive Secretary  
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**RE: In the Matter of the Application of Northern States Power Company, d/b/a Xcel Energy, for Authority to Increase Rates for Electric Service in the State of Minnesota**  
**Docket No. E-002/GR-15-826**

Dear Mr. Wolf:

Enclosed and e-filed in the above-referenced matter please find *Office of the Attorney General's Comments on Xcel's Interim Rate Proposal*.

By copy of this letter, all parties have been served. An Affidavit of Service is also enclosed.

Sincerely,

*s/ Ian Dobson*

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Enclosure



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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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