

Minnesota Public Utilities Commission

Meeting Date: May 25, 2017 **Agenda Item # 5****

Company: All Commission-Regulated Electric Utilities

Docket No. E-999/AA-15-611

In the Matter of the Review of the 2014-2015 Annual Automatic Adjustment Reports for All Electric Utilities

- Issues:**
1. Should the Commission accept the electric utilities' 2014-2015 annual automatic adjustment reports?
 2. Should the Commission accept the Minnesota Department of Commerce, Division of Energy Resources uncontested comments, conclusions and recommendations?
 3. Should the Commission require Xcel Electric to make refunds for excess purchased power costs incurred during forced outages at company-owned and operated nuclear generating plants where Xcel Electric did not comply with NRC requirements?
 4. Should the Commission approve the Minnesota Department of Commerce, Division of Energy Resources recommendations concerning MISO Schedule 10 costs?
 5. Should the Commission approve the Minnesota Department of Commerce, Division of Energy Resources recommendations regarding independent auditors reports in future annual automatic adjustment reports?

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Relevant Documents

Xcel Energy

Report – Initial Filing (Non-Public) September 1, 2015

Other – Supplement to Part H (Non-Public)..... September 30, 2015

Minnesota Power

Report – Initial Filing (Non-Public) September 1, 2015

Otter Tail Power

Report – Initial Filing (Non-Public) August 31, 2015

Interstate

Report – Initial Filing (Public)..... August 31, 2015

Other – Attachment A (Non-Public)..... August 31, 2015

Other – Attachments B – I (Public) August 31, 2015

Other – Attachment J (Non-Public) August 31, 2015

Other – Exhibit H (Non-Public)..... August 31, 2015

Dakota Electric Association

Report – Initial Filing..... August 26, 2015

Department of Commerce

Report - Part I (Non-Public) June 15, 2016

Utilities

MP – Reply Comments (Public)..... August 10, 2016

Xcel – Reply Comments (Public) August 11, 2016

Otter Tail (Non-Public)..... August 11, 2016

Department of Commerce

Report - Part II MISO Day 2 Market, ABM, and Ancillary Svc. (Public) August 25, 2016

Utilities

Xcel – Additional Reply Comments (Public) September 6, 2016

Otter Tail – Additional Reply Comments (Public) September 6, 2016

Department of Commerce

Response to Reply and Additional Reply Comments (Non-Public)..... December 30, 2016

The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless otherwise noted.

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May 17, 2017

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Statement of the Issues

Should the Commission accept the electric utilities' 2014-2015 annual automatic adjustment reports?

Should the Commission accept the Minnesota Department of Commerce, Division of Energy Resources uncontested comments, conclusions and recommendations for fiscal year 2015?

Should the Commission require Xcel Electric to make refunds for excess purchased power costs incurred during forced outages at company-owned and operated nuclear generating plants where Xcel Electric did not comply with NRC requirements?

Should the Commission approve the Minnesota Department of Commerce, Division of Energy Resources recommendations concerning MISO Schedule 10 costs?

Should the Commission approve the Minnesota Department of Commerce, Division of Energy Resources recommendations regarding independent auditors' reports in future annual automatic adjustment reports?

Background

The Minnesota Public Utilities Commission (Commission) conducts an annual review of the electric utilities' automatic adjustment of charges for the previous twelve-month period (i.e., the fiscal year from July 1 through June 30).¹ This review occurs after the utilities file annual automatic adjustment (AAA) of charges reports on September 1 of each year, and, after the Minnesota Department of Commerce, Division of Energy Resources (Department) submits its analysis of the AAA reports.

The utilities' AAA reports are prepared in accordance with the Commission's automatic adjustment of charges rules, i.e., Minnesota (Minn.) Rules, parts 7825.2390 through 7825.2920. The AAA reports also contain compliance information required by Commission order in previous AAA dockets, and other Commission proceedings. (e.g., the orders from the proceedings authorizing transfer of control of the utility transmission assets to the Midcontinent Independent System Operator (MISO),² and the orders authorizing the pass through of MISO ancillary service market (ASM) costs and revenue through the fuel clause adjustment mechanisms.)³

¹ Minn. Rules, part 7825.2850. Annual Commission Meeting. The Commission shall annually conduct a separate meeting to review the automatic adjustment of charges reported herein.

² Docket Nos. E-002/M-00-257, E-001/PA-01-1505, E-015/PA-01-539, and E-017/PA-01-1391.

³ Docket No. E-001,015,002,017/M-08-528.

Annual Automatic Adjustment Reports

On or about September 1, 2015, all of the Commission-regulated electric utilities except Northwestern Wisconsin Electric Company⁴ submitted AAA reports covering the twelve-month period from July 1, 2014 through June 30, 2015 (i.e., fiscal-year 2015), in this docket.⁵ The following electric utilities submitted AAA reports:

- Dakota Electric Association (DEA);
- Interstate Power and Light Company, an Alliant Energy Company (Interstate);
- Minnesota Power (MP);
- Northern States Power Company d/b/a Xcel Energy, Incorporated – Electric Utility (Xcel); and
- Otter Tail Power Company (Otter Tail).

Department Review of 2014-2015 AAA Reports

This year, the Department submitted its Review of the 2014-2015 Annual Automatic Adjustment Reports in two parts, Part 1 and Part 2.

June 15, 2016 – Department’s Part 1 Review

On June 15, 2016, the Department submitted part 1 of its *Review of 2014-2015 Annual Automatic Adjustment Reports for Electric Utilities* (Part 1 Review or Part 1 Report), in this docket. The Department’s Part 1 Review covers all of the electric utilities’ AAA reports, AAA-related compliance filings, and other reports requested by the Commission in various orders.

On pages 4-5 of the Part 1 Review, the Department summarizes the electric utilities’ fuel cost projections for the next five years on a \$ per MWh basis and as a year-to-year percentage change in cost. The electric utilities’ reported a wide range of fuel costs and annual percentage changes because each of the utilities’ generation fleet, mix of purchase power agreements (PPA)’s, and other factors differ from utility-to-utility. (The utilities designated this information as non-public data.)

On page 6 of the Part 1 Review, the Department provided a comparison of actual 2015 annual energy costs on a \$ per MWh basis to the forecasts of 2015 costs on a \$ per MWh basis provided in the IOUs’ FYE10-FYE14 AAA reports. The Department observed that:

...First, IPL’s estimated 2015 annual energy costs diverged increasingly *away from* actual 2015 annual energy costs, the closer IPL’s forecasts were to 2015. By contrast, forecasts of MP, OTP and Xcel generally became closer to 2015’s actual annual costs, the closer were the forecasts of these utilities to 2015.

...

⁴ On December 18, 2001, the Commission granted Northwestern Wisconsin Electric Company (NWEC) a variance from the annual reporting requirements in the automatic adjustment rules. This variance has no expiration date. (G,E-999/AA-00-1027).

⁵ Copies of the electric utilities’ fiscal-year 2015 annual automatic adjustment reports are available through the “edockets” system at (<https://www.edockets.state.mn.us/EFiling/search.jsp>)

In addition, the Department notes that IPL, MP and Xcel appear to have systematically overestimated their 2015 energy costs by at least 4.9 percent and up to 46.2 percent for IPL, 4.2 percent and up to 18.6 percent for MP, and 13.3 percent and up to 26.6 percent for Xcel. The Department notes that both MP and Xcel provide estimated FCA rates to their large power customers. By contrast, for 2015 OTP had a more reliable forecast than the other three IOUs since its 2015 forecast varied from 2015 actual annual energy costs by between -5.1 percent and 1.4 percent in its last three AAA reports.

The Department notes that IPL's actual FYE15 data was compared with IPL's FYE10-FYE14 forecasts for calendar year 2015 since IPL was not a Minnesota regulated IOU after July 2015.

In each year's review, the Department provides a summary for each utility of the total actual cost of fuel purchased during the year (including purchased power costs) to the fuel costs recovered through automatic adjustments.⁶

Summary of Automatic Fuel Adjustments – Fiscal Year 2015 (Adapted from Table 5, Department June 15, 2016 Review, p.22)				
Utility	Fuel Cost Recovered (\$)	Fuel Cost (\$)	Over-Recovery/(Under-Recovery)	
			(\$)	(%)
DEA	144,494,497	141,789,483	2,705,014	3.84
Interstate	17,958,409	16,982,336	976,073	5.75
MP	172,142,278	165,337,446	6,804,832	4.12
Otter Tail	58,154,238	56,916,272	1,237,966	2.18
Xcel	816,139,541	827,564,656	(11,425,115)	(1.38)

Xcel Energy was granted a variance to charge FCA rates based on Xcel's forecast of fuel costs in the upcoming month, rather than the two-month average cost per kWh required by Minnesota Rules. Xcel adjusts its rates to refund or recover previous over- and under-recoveries of its energy costs through a monthly (2-month lag) true-up. Dakota Electric and Otter Tail both have an annual true-up to refund or recover previous over- and under-recoveries of their energy costs.

The main focus of the Department's Part 1 Review (as it has been in recent years) is the pass-through and allocation of MISO costs and revenues in the utilities' fuel clause adjustment mechanisms. Throughout its Part 1 Review, the Department focused on each company's efforts to minimize energy and transmission costs for Minnesota retail customers. Please see p. 28 - 34 of the Department's Part 1 Review for the Department's discussion of the effects of the MISO Day 1 markets on Minnesota ratepayers.

In Attachment E12 of the Part 1 Review, the Department provided a comparison of each utility's average residential customer's electric bill for calendar-year 2014, the most recent calendar year.

Throughout its Part 1 Review, the Department's analysis was comprehensive and thorough. The Department's initial recommendations are at the end of its review. In subsequent filings, the

⁶ DEA's total includes capacity in addition to fuel.

Department revised its recommendations. The attachments to these briefing papers contain a summary of the Department's uncontested recommendations.

Several issues remain in contention. These issues are discussed later in these briefing papers. The main issue is whether the Commission should require Xcel to refund excess purchased power costs incurred during certain unplanned, forced outages at Xcel's nuclear power plants.

August 25, 2016 Department's Part 2 Review - MISO Day 2 Market, Including Asset Based Margins and Ancillary Services Market for 2014-2015

On August 25, 2016, the Department submitted part 2 *Review of the 2014-2015 Annual Automatic Adjustment Reports, specifically the MISO Day 2 Market including Asset Based Margins and Ancillary Services Market Review* (Part 2 Review or Part 2 Report). The Department's Part 2 Review covers all of the electric utilities' MISO Day 2 Market along with Asset Based Margins (ABM), and Ancillary Services Market (ASM).

The Department's Part 2 Review focused on whether the electric utilities, during fiscal-year 2015, accurately adjusted their energy rates to reflect changes in fuel costs and revenues related to MISO Day 2 including ABM and ASM. The Department also focused on fluctuation analysis, by comparing costs and revenues to historical information, and allocation of costs and revenues between retail and wholesale prices.

The Department recommended that the Commission accept all four of the IOUs' MISO Day 2 and ASM reporting.

Parties' Comments

On August 10 through 11, 2016, MP, Otter Tail, and Xcel submitted *Reply Comments* to the Department's Part 1 Review.

On September 6, 2016, Otter Tail and Xcel submitted *Reply Comments* to the Department's Part 2 Review.

On December 30, 2016, the Department submitted *Response Comments* to the electric utilities' *Reply Comments*.

Staff Comments

Except for the issues discussed or noted in the briefing papers, all of the electric utilities appear to have accepted and agreed to the Department's non-contested recommendations. Staff has compiled a list of these recommendations from the Department and they appear at the end of the decision alternatives at the end of the briefing papers.

The Commission could generally accept the Department's comments and conclusions, and specifically order the list of decision points. Alternatively, the Commission could accept the Department's comments, conclusions, and recommendations without including them in its order. Staff does not believe there is any substantive difference between these alternatives, however,

the list of uncontested decision alternatives in the attachment may provide a clearer record of what the Commission is requiring parties to do in the future.

Staff also believes a catch-all request for the Department to continue monitoring and review of relevant issues in its next annual review of the AAA reports, and related compliance filings would be appropriate.

Related Dockets

Fiscal-Year 2016 Electric AAA Reports – Docket No. 16-523

The electric utilities submitted their annual automatic adjustment reports for fiscal-year 2016 (July 1, 2015 – June 30, 2016) on, or about September 1, 2016, in Docket No. E-999/AA-16-523. The Department's initial comments on these filings are currently due on June 13, 2017 and reply comments are due on June 23, 2017.

Reform of the Electric Fuel Clause Adjustment Mechanism – Docket No. 03-802

On March 14, 2017, the Commission issued its Notice of Comment Period, asking for comments on the Department's March 8, 2017 proposal for the recovery of energy costs delivered to customers and the reform of the electric fuel clause adjustment mechanism.⁷ Initial comments were submitted on April 28, 2017 and reply comments are due on May 26, 2017.

Replacement Power Costs Charged to Ratepayers during Unplanned (Forced) Outages Where Xcel Did Not Comply with NRC Requirements

Background

The Department has been concerned for several years about whether companies are neglecting to spend money from their O&M budgets to maintain their generating plants at an optimal level of readiness because they can recover the cost of replacement power purchases automatically through their fuel clause adjustment (FCA) mechanisms. At the outset, it is important to note that the discussion below does not address replacement power costs or utility practices regarding planned (unforced) outages that are generally within expectations. Instead, this discussion is about replacement power costs charged to ratepayers through the FCA during unplanned (forced) outages.

Of Xcel's forty-nine fiscal 2015 reported forced outages, the Department recommended incremental replacement power cost reimbursements on four – three at Prairie Island Unit 1 and one at Prairie Island Unit 2. The Department stated that in those four instances, Xcel did not

⁷ On June 2, 2016, the Commission issued its ORDER ACTING ON ELECTRIC UTILITIES' ANNUAL REPORTS AND REQUIRING ADDITIONAL FILINGS (In the Matter of an Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments, Docket No. E-999/CI-03-802). In its June 2, 2016, Order, the Commission directed the Department, alone or jointly with other parties, to prepare a complete proposal for the recovery of energy costs delivered to customers, including possible reform of the fuel clause adjustment mechanism. On March 8, 2017, the Department submitted its proposal. On March 14, 2017, the Commission issued a NOTICE OF COMMENT PERIOD requesting comments from interested parties. Initial comments were submitted on April 28, 2017 and reply comments are due on May 26, 2017.

comply with the Nuclear Regulatory Commission's (NRC) Code of Federal Regulations. The Department based its recommendation on reports provided by on-site NRC inspectors.

According to Xcel, only two of the outages met the Department's disallowance criteria. Further, Xcel asked "that the Commission not tie significant financial penalties to NRC findings, which are focused on safety and, at least partially, rely on utilities to self-monitor and self-report for the purpose of protecting their plants, workers, and communities."

Prairie Island Unit 1 – Extended Plant Outage

Prairie Island Unit 1 was unexpectedly forced off-line several times in fiscal-year 2015 for a total of 69 days (beginning on December 10, 2014 and ultimately ending on May 9, 2015).⁸ The cause was ultimately determined to be a reactor coolant pump (RCP) seal that was compromised by foreign material during a refueling outage.

Parties' Comments

Xcel

Xcel reported in its AAA report that the outages were the result of a newly designed reactor coolant pump seal designed to meet post-Fukushima NRC regulatory requirements. Following installation of the new seals degradation was observed resulting in a plant shutdown to troubleshoot and replace the seals. During the inspection it was determined that the cause was due to foreign material in the seals as a result of "fabrication activities associated with the seal bypass line during installation of the new seals."

Department

After reviewing Xcel's explanation, the Department argued that it was not appropriate for ratepayers to automatically pay for increased energy costs that are passed through the fuel clause mechanism when Xcel fails to follow the proper procedure. The Department does not believe Xcel has met its burden of proof showing the reasonableness of its request to recover these additional energy costs.

Specifically, the Department cites to the NRC report⁹ which states that "the failure to implement and adhere to the FME [Foreign Material Exclusion] control requirements resulted in introducing foreign material into the #12 RCP seal. This caused RCP seal degradation in December 2014 and January 2015 and led to two subsequent Unit 1 reactor shutdowns."¹⁰

In addition, the NRC report states "between October 7 and December 19, 2014, the licensee failed to properly establish a Level 1 FMEA during RCP seal replacement activities even though

⁸ On page 25 of the Department's Part 1 Review, the Department listed a total of 56 days of interruption. The difference between the Department's number and the Commission Staff's number is that the Department did not include the 13 days that Unit 1 was interrupted in December 2014. However, the Department does include the incremental cost of replacement power in its refund calculation so the Commission feels it is appropriate to include the days of interruption for December 2014, above.

⁹ See Attachment E11 of the Part 1 Report.

¹⁰ *Id.* at 1.

the RCP seal replacement work was performed on portions of the RCS that provided a direct path to the reactor vessel and a loss of FME integrity could have resulted in nuclear fuel failure, reduced safety system or station availability, or an outage extension or significant cost for recovery.”¹¹

Thus, the outages were directly attributable to Xcel failing to follow established protocols and procedures and were therefore completely avoidable. As a direct result of the repeated outages, Xcel purchased replacement power the cost of which was incrementally higher than what they would have otherwise paid. Therefore, the Department recommends that the Commission require Xcel refund most if not all of the incremental cost of power to its ratepayers.¹²

Xcel Reply Comments

In its response, Xcel continued to argue that its actions in connection with the outages were just, reasonable, and recoverable. Xcel acknowledged the challenges faced by Prairie Island in fiscal-year 2015 and pointed out that a significant portion of the 2015 outages were related to the development of a first-of-its-kind RCP seal design that was required by post-Fukushima NRC standards.

Xcel provided details of the events and a timeline of the various outages and the discussions that occurred during the outages. As part of that discussion Xcel admits that foreign material was introduced by “Flowserve’s use of band-type saw to cut piping during the installation of the seals without adequate FME controls.”¹³ In addition, Xcel states that after the April 7, 2015 outage, Xcel concluded that the seal design needed to be modified to address the susceptibility of the seal to small particles of foreign material that are present under normal operating conditions and as a result of normal RCP operation. Specifically, the seal face material was changed to tungsten carbide material which has proven more resilient and the new seal design has remained in service without failure, and other utilities around the country are now using the same design in their plants.¹⁴

Xcel does not believe the third RCP outage was caused by the installation of the new seal, nor has there been any NRC finding to that effect.

Finally, Xcel understands that there continues to be discussion regarding whether utilities are properly incentivized to manage their fuel costs and looks forward to participating in future discussions on that issue but requests that the Commission not tie significant financial penalties to NRC findings, which are focused on safety and at least partially rely on utilities to self-monitor and self-report for the purpose of protecting their plants, workers, and communities.

Department Response Comments

The Department continues to recommend that Xcel refund most if not all of the incremental cost of replacement power due to the forced outages at Xcel’s Prairie Island Unit 1. The Department

¹¹ *Id.* at 6.

¹² The incremental cost of power is marked trade secret by Xcel and therefore not repeated here.

¹³ See Xcel August 11, 2016 Reply Comments at 8.

¹⁴ *Id.* at 9.

argues that Xcel's failure to follow its own and/or NRC procedures directly caused the issue that ultimately led to the repeated shut down of Prairie Island Unit 1. Specifically, the Department points to the May 6, 2015 NRC Integrated Inspection Report which states that Xcel failed to establish the necessary protocols during the RCP seal replacement.

Staff Comments

The Commission needs to decide whether Xcel or its ratepayers should pay for the excess purchased power costs incurred during the forced plant outages by Xcel's failure to follow FME procedure for the Unit 1 outage.

Xcel argued that it is reasonable to experience a certain number of unplanned outages due to the safety standards of both the NRC and nuclear industry. That the outages are "part-and-parcel" of operating a nuclear plant (or any electrical generating plant), and given the safety-first priority of the NRC, it is reasonable to expect that some of the nuclear plant outages will relate to NRC findings like those identified by the Department.

The Department, on the other hand, believes Xcel should take responsibility for its failure to follow its own and/or NRC procedures. The Department does not believe ratepayers should be responsible for the excess replacement energy costs that were incurred and passed on to ratepayers through Xcel's fuel clause adjustment mechanism during this outage.

Prairie Island Unit 2 – Extended Plant Outage

Unit 2 was unexpectedly forced off-line for 23 days in March 2015 (March 5 to March 25 - 100 percent off-line; March 25 to March 28 - ascending to full power). The cause of this outage was ultimately determined to be failure of a solenoid valve that had exceeded its designated life and should have been replaced in 2014 but was not.

Parties' Comments

Xcel

Xcel reported in its AAA report that the outage was the result of the failure of a solenoid valve¹⁵ which prevented air from being supplied to components inside the containment vessel that is necessary to support normal plant operations. When Xcel attempted to switch to an alternate method of cooling the equipment inside the containment vessel, a relief tank disk ruptured which released steam inside of the containment vessel causing a fire alarm that ultimately required the plant to shut down. During inspection it was determined that the cause was due to failure to replace a solenoid valve that had exceeded its designated life.

¹⁵ Xcel described a solenoid valve in its Reply Comments as an electro-mechanically operated valve that is controlled by an electric current through a solenoid. Electrical current is applied to the solenoid to control the valve's position (open or closed).

Department

After reviewing Xcel's explanation, the Department argued that it was not appropriate for ratepayers to automatically pay for increased energy costs that are passed through the fuel clause adjustment mechanism when Xcel fails to follow the proper procedure. The Department does not believe Xcel has met its burden of proof showing the reasonableness of its request to recover these additional energy costs. The Department points to the NRC's May 2015 Report showing Xcel's culpability. Specifically, the NRC inspection report states:

The inspectors performed an additional review of [corrective action plan] CAP 1431268 and held discussions with engineering and work management personnel to determine what actions had been taken to correct the EQ files and replace the ten valves referred to in the CAP. The inspectors found that little to no action had been taken to correct either condition. Specifically, a work order was written to replace a different solenoid valve during the fall 2014 Unit 1 refueling outage; the inspectors found that this valve replacement had not occurred. In addition, no other work orders had been written for the remaining nine valves until March 6, 2015, due to the licensee's belief that the issues identified in CAP 1431268 were programmatic in nature and had no impact on plant equipment. ... The inspectors also found that the licensee had assigned an action to initiate a process to reconstitute the EQ files and other EQ program documentation. Although this action was originally scheduled for completion on June 23, 2014, it had been extended twice and was not yet complete. **The failure to replace or refurbish the solenoid valves at the end of their designated life and to correct the EQ file deficiencies violated the requirements of 10 CFR 50.49 "Environmental Qualification of Electric Equipment Important to Safety for Nuclear Power Plants." [Emphasis Added]**

Thus, the outages were directly attributable to Xcel failing to follow established protocols and procedures and were therefore completely avoidable. As a result of the outage Xcel purchased replacement power at a higher cost than what it would have otherwise paid. The Department recommends that the Commission require Xcel refund most if not all of the incremental cost of power due to the forced outage that was caused by Xcel's non-compliance with the requirements of the NRC's Code of Federal Regulations.¹⁶

Xcel Reply Comments

In its response, Xcel argued that although the NRC report concluded that there was a violation of NRC requirements the NRC "did not conclude that the violation was the cause of the component failure and the resulting forced outage."¹⁷ Xcel goes on to state that its evaluation team concluded that the failure "could not have been predicted and that the preventative maintenance schedule was not a factor that contributed to the outage."¹⁸

Therefore, Xcel continues to believe it acted prudently and that the costs associated with the outage is just, reasonable, and recoverable.

¹⁶ The incremental cost of power is marked trade secret by Xcel and therefore not repeated here.

¹⁷ Xcel Reply Comments at 10.

¹⁸ *Id.* at 11.

Department Response Comments

The Department argued that Xcel sidesteps the NRC findings as to the actions or lack thereof regarding the replacement of the solenoids. The Department points out that the NRC report concluded that the forced outage was the result of the solenoid failure and that Xcel knew since May 2014 that ten valves needed to be replaced, including the solenoid valve that failed, after it identified that the designated lives of the valves were only 4.96 years instead of 17 years. Despite the fact that the valves had been installed at least 13 years ago, “no action was taken to replace or refurbish the specific ASCO solenoid valves . . .”¹⁹

Staff Comments

The Commission needs to decide whether Xcel or its ratepayers should pay for the excess purchased power costs incurred during the forced plant outages by Xcel’s failure to replace solenoid valves that had exceeded their designated life for the Unit 2 outage.

Xcel argued that it is reasonable to experience a certain number of unplanned outages due to the safety standards of both the NRC and nuclear industry. That the outages are “part-and-parcel” of operating a nuclear plant (or any electrical generating plant), and given the safety-first priority of the NRC, it is reasonable to expect that some of the nuclear plant outages will relate to NRC findings like those identified by the Department.

The Department, on the other hand, believes Xcel should take responsibility for its error and does not believe ratepayers should be responsible for the excess replacement energy costs that were incurred and passed on to ratepayers during this outage.

Plant Outages Contingency Plans and Lessons Learned

In its April 6, 2012 Order in Docket Nos. E-999/AA-09-961 and E-999/AA-10-884 (2012 Order), the Commission required the investor-owned utilities (IOUs) to provide in future AAA reports, a simple annual identification of forced outages and a short discussion of how such outages could have been avoided or alleviated. .

In this docket, Xcel, MP, Otter Tail, and Interstate provided the required information. Therefore, the IOUs have complied with the 2012 Order. As explained in the Part 1 Report, the rationale for these question is for the utilities to share information about lessons learned during outages and develop best practices to minimize occurrences of forced outages, thus, minimizing the cost of replacement power for which ratepayers are charged.

Parties’ Comments

The Department continues to believe that utilities could reduce the costs that ratepayers pay for longer-than- expected plant outages by holding contractors more accountable for errors and

¹⁹ See NRC’s May 6, 2015 *Prairie Island Nuclear Generating Plant, Units 1 and 2 NRC Integrated Inspection Report and Exercise of Enforcement Discretion* at 28. The full report is available at: <https://adamswebsearch2.nrc.gov/webSearch2/view?AccessionNumber=ML15127A218>

delays, and by exploring reasonable insurance options. The Department pointed out an example of insurance proceeds returned to ratepayers from the reimbursement of excess fuel oil startup costs for the Sherco Unit 3. Additionally, the Department notes the existence of industry standards designed to minimize forced outages. Thus, since the utilities should already be following these industry standards the Department made the following recommendations regarding plant outages contingency plans and lessons learned:

- Hold utilities at least partially, if not fully, responsible for incremental costs of replacement power due to forced outages caused by improper work by contractors; and
- Hold utilities financially responsible for replacement power costs due to any failure to exclude foreign material in work in generation facilities.

Minnesota Power

On August 10, 2016, MP filed *Reply Comments* responding to the Department's recommendations. Specifically, MP proposes that a working group be created to address the concerns raised by the Department and explore the regulatory criteria needed to bring forth to the Commission for discussion and implementation. In addition, MP provided some background information concerning how it enters into, administers, and supervises the work of contractors in regards to capital projects and maintenance activities stating that warranties and "make good premises" are common in the negotiated terms and conditions of these contracts.

Xcel

In its August 11, 2016, *Reply Comments* Xcel responded in a general way to the Department's recommendation by discussing the Commission's June 2, 2016 Order that asked the Department to prepare and file a proposal addressing the future of the FCA. Xcel stated that it was looking forward to participating in the discussion and asking that the Commission not tie financial penalties to NRC findings, "which are focused on safety and at least partially rely on utilities to self-monitor and self-report for the purpose of protecting their plants, workers, and communities."

Department Response Comments

The Department notes that MP appears to be changing its position regarding how contractors work is supervised and what obligations exist for replacement of power costs. The Department discussed two historical examples of MP ratepayers being charged for higher replacement power due to poor work done by a contractor. The Department continues to maintain its recommendation as set forth in its Part 1 Review and, in addition, asked MP to explain: 1) whether MP is now holding contractors accountable for replacement power costs; 2) whether MP's supervision processes would now excuse a contractor from supervision given past performances; and 3) whether MP's processes would be able to identify whether a contractor used incorrect parts or rebuild procedures.

Staff Comments

The Commission will need to decide whether it wants to act on the Department's recommendations in this proceeding, or address this topic in the pending Commission investigation regarding potential reform of the FCA mechanism.

In its June 2, 2016, ORDER ACTING ON ELECTRIC UTILITIES' ANNUAL REPORTS AND REQUIRING ADDITIONAL FILINGS (Docket No. E-999/CI-03-802), the Commission directed the Department, alone or jointly with other parties, to prepare a complete proposal for the recovery of energy costs delivered to customers, including possible reform of the fuel clause adjustment mechanism. On March 8, 2017, the Department submitted its proposal.

Since this issue is tangentially related to the issue of the investigation, the Commission may wish to consider rolling any discussion on this issue into this investigation.

MISO Day 1 Charges

Background

On March 28, 2002, the Commission approved the transfer of functional control of certain transmission facilities to MISO. In compliance with Commission Orders issued for:

- Xcel Electric, Docket No. E002/M-00-257, Order issued May 9, 2002;
- Interstate Electric, Docket No. E001/PA-01-1505, Order issued May 9, 2002;
- Minnesota Power, Docket No. E015/PA-01-539, Order issued April 26, 2002;
- and
- Otter Tail Power, Docket No. E017/PA-01-1391, Order issued May 9, 2002.

As part of the Order above the four utilities listed are required to provide certain information as part of their respective AAA reports. One of the requirements is to provide their "Schedule 10 costs" billed for the reporting period. The Department reported that all of the utilities met this requirement and in its Part I Report discussed the fact that these costs are not charged through the FCA but rather the recovery and analysis occurs in rate case proceedings.

The Department makes the following recommendations regarding the MISO Schedule 10 costs.

- Continue to require utilities to provide in the initial filing of all future electric AAA reports the Minnesota jurisdictional Schedule 10 costs together with the allocation factor used and support for why the allocator is reasonable; and
- Continue to require the utilities to provide information to support MISO Schedule 10 cost increases of five percent or higher over the prior year costs, including explanation of benefits received by customers for these added costs.

Parties' Comments

In response to the Department's recommendations Xcel, in its reply comments, agreed with the Department whereas MP stated that since the costs are not included in the FCA but rather are

reviewed during a general rate case the Department's time would be better spent reviewing other relevant costs. Neither Otter Tail nor Interstate filed reply comments on this issue.

The Department noted that the Department's review of MISO Day 1 costs in the electric AAA filings stems from a Commission Order dated April 26, 2002, in Docket No. E-015/PA-01-539, "which required in part (Ordering point 2.C.3) that MP report as part of its AAA filings the Schedule 10 administrative charges paid to the MISO under the MISO tariff."²⁰

Staff Comments

The Commission needs to decide whether the utilities should continue to be required to report on MISO Schedule 10 costs in future AAA reports as recommended by the Department, or to leave the review of MISO Schedule 10 costs entirely to current and pending future general rate case proceedings as recommended by Minnesota Power. (Minnesota Power's 2016 general rate case is pending in Docket No. E-015/GR-16-664.)

Independent Auditor Reports

Background

Minnesota Rule 7825.2820 requires each utility to submit an independent auditor's report evaluating

... accounting for automatic adjustments for the prior year commencing July 1 and ending June 30 or any other year if requested by the utility and approved by the commission. ...

All electric utilities complied with this requirement. The Department reviewed each auditor's report and stated that "the audit performed for Dakota Electric Association (DEA) provided the most comprehensive assessment of the accuracy of the rates DEA charged to its member/ratepayers." The Department recommended the following.

First, that the Commission consider requiring MP, Xcel Electric, and OTP in the future to include the following applicable items, if they are not currently covered, in the audits of the utilities' AAA filings:

- Comparing the documentation supporting payments and invoices received from the energy suppliers,
- Comparing the base costs of power approved by the Commission to the bases used by the utility,
- Recalculating the billing adjustment charge (credit) per kWh charged customers for purchased power for the entire applicable period by class of customer,
- Comparing the accounting records for the revenues billed to customers for energy delivered for the relevant period to the total sales of electric energy,

²⁰ Department, December 30, 2016 Response Comments, at p. 17.

- On a test basis, examining individual billings in each customer class by recalculating the automatic adjustment of charges and credits and tracing to the individual customers' subsidiary records to ensure that the calculated credit or charge was correctly recorded,
- Examination of any corrections to FCA charges or other billing errors,
- Reconciliation of total revenue and cost of power in the utility's general ledger,
- Recalculation of any true-up, and tracing the related revenue and expense amounts to the utility's accounting records.

Second, the Department recommended that the Commission require all utilities to list all of the dockets in which the Commission has granted any variances for the utility's FCA (such as true-up provisions, allowing costs of purchased power adjustments to flow through the FCA, allowing MISO costs and revenues to be included in the FCA, etc.)

Parties' Comments

On August 10, 2016, MP in Reply Comments stated "[t]he Company will work with their external auditors to include applicable items above that are not currently covered in the audit of the AAA filings." In addition, MP stated that it "will work with their external auditors [to] compile a list of dockets in which the Commission has granted any variances to the Company's FCA, including allowing MISO costs and revenues to flow through the FCA."

On August 11, 2016, Otter Tail responded stating that its auditors follow the standards set forth by the American Institute of Certified Public Accountants and employs procedures sufficient to render an opinion that the Energy Adjustment Factors are in compliance with Commission rules. Otter Tail concludes by stating that "if a comparable set of agreed-upon review procedures (as opposed to an examination opinion) would be acceptable to the Commission, Otter Tail would be receptive to that approach as an alternative..."

Staff Comments

The Commission needs to determine whether the current standard is sufficient or whether it prefers the approach recommended by the Department.

Decision Alternatives

Acceptance of Filings

1. Accept all the electric utilities fiscal-year 2015 annual automatic adjustment reports as filed, and subsequently amended, as being substantially complete as to Minnesota Rules 7825.2390 through 7825.2920.
2. Reject one or more electric utilities fiscal-year 2015 annual automatic adjustment.
3. Take no action.

Acceptance of the Department's uncontested comments, conclusions and recommendations.

4. Accept the Department's *uncontested* comments, conclusions and recommendations for fiscal year 2015
5. Take no action.

(Staff note: The attachment to the briefing papers contains a summary of the Department's uncontested recommendations.)

Prairie Island Unit 1 Incremental Replacement Power Costs

6. Order Xcel to refund all of Prairie Island Unit 1 incremental replacement power costs that resulted from Xcel's non-compliance with NRC's Code of Federal Regulations requirements.²¹
7. Order Xcel to issue a partial refund of Prairie Island Unit 1 incremental replacement power costs that resulted from Xcel's non-compliance with NRC's Code of Federal Regulations requirements.
8. If decision alternative 7 is adopted then determine the amount of the partial refund.
9. Take no action.

Prairie Island Unit 2 Solenoid Failure Costs

10. Order Xcel to refund all of Prairie Island Unit 2 incremental replacement power costs that resulted from Xcel's non-compliance with NRC's Code of Federal Regulations requirements.
11. Order Xcel to issue a partial refund of Prairie Island Unit 2 incremental replacement power costs that resulted from Xcel's non-compliance with NRC's Code of Federal Regulations requirements.
12. If decision alternative 11 is adopted then determine the amount of the partial refund.
13. Take no action.

²¹ See page 11 of the Department's December 30, 2016 Non-Public Response Comments.

Industry Standards for Forced Outages

14. Adopt the Department's recommendation to hold utilities partially, if not fully, financially responsible for replacement power incremental costs related to forced outages caused by contractors' improper work.
15. Adopt the Department's recommendation to hold utilities financially responsible for replacement power incremental costs related to forced outages caused by failure to exclude foreign material in work in generation facilities.
16. Take no action.

MISO Schedule 10 costs

17. Adopt the Department's recommendation to continue requiring utilities to provide in the initial filing of all future electric AAA reports the Minnesota jurisdictional MISO Schedule 10 costs together with the allocation factor used and support for why the allocator is reasonable.
18. Adopt the Department's recommendation to continue requiring utilities to provide, in the initial filing of future electric AAA reports, information to support MISO Schedule 10 cost increases of five percent or higher over the prior year costs, including explanation of benefits received by customers for these added costs.
19. Reject the Department's recommendation since this information is reviewed in a general rate case and is unnecessary in the AAA filings.

Independent Auditors Reports

20. Adopt the Department's recommendation and require Xcel, MP and OTP to include on a going forward basis the following applicable items in independent auditors report of future AAA filings:
 - Comparing the documentation supporting payments and invoices received from the energy supplies,
 - Comparing the base costs of power approved by the Commission to the bases used by the utility,
 - Recalculating the billing adjustment charge (credit) per kWh charged customers for purchased power for the entire applicable period by class of customer,
 - Comparing the accounting records for the revenues billed to customers for energy delivered for the relevant period to the total sales of electric energy,
 - On a test basis, examining individual billings in each customer class by recalculating the automatic adjustment of charges and credits and tracing to the individual customers' subsidiary records to ensure that the calculated credit or charge was correctly recorded,
 - Examination of any corrections to FCA charges or other billing errors,

- Reconciliation of total revenue and cost of power in the utility's general ledger,
 - Recalculation of any true-up, and tracing the related revenue and expense amounts to the utility's accounting records.
21. Do not adopt the Department's recommendation listed as option 20 in these briefing papers.
22. Adopt the Department's recommendation to require all utilities to list all the dockets in which the Commission has granted any variances to utility's FCA (such as true-up provisions, allowing costs of purchased power adjustments to flow through the FCA, allowing MISO costs and revenues to be included in the FCA, etc.).
23. Do not adopt the Department's recommendation listed as option 22 in these briefing papers.

Summary of Uncontested Recommendations in the Department's

- June 15, 2016 Review of the 2014-2015 Annual Automatic Adjustment Reports (Report – Part 1)
 - August 25, 2016 Review of the 2014-2015 Annual Automatic Adjustment Reports (Part 2 – MISO Day 2 Market, Including Asset Based Margins and Ancillary Services Market)
 - December 30, 2016 Response to Reply comments.
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1. Approve Xcel's compliance filing on the high-level cost allocation test between wholesale and retail customers for June, July, and August 2015. Continue to require Xcel to report this generation cost allocation in future AAA filings.
2. Accept Xcel's Natural Gas Financial Instruments compliance filing in the fiscal-year 2015 docket. The Department will review Xcel's continued compliance with this requirement in the future AAA filings.
3. Accept Xcel's fiscal-year 2015 wind curtailment report.
4. Find that Xcel complied with the FCA Settlement Agreement approved by the Commission in Docket No. E-002/GR-05-1428.
5. Accept Xcel's compliance filing regarding Xcel's Nuclear Fuel Sinking Fund. The Department will continue to monitor Xcel's fund in future AAA filings.
6. Find that Xcel complied with the January 29, 2009 Order in Docket No. E-002/M-08-1098, requiring Xcel to report in future AAA filings any revenue from any source as a result of the Renewable Energy Purchase Agreement with Koda Energy, and to itemize any such revenue by source and amount.
7. Find that Xcel complied with the August 26, 2010 Order in Docket No. E-002/M-10-486, requiring Xcel to offset its recovery of costs by any revenues Xcel receives from any and all sources as a result of Xcel's purchase power agreement with Diamond K Dairy, and to report and itemize any such revenues by source and amount in its AAA filings.
8. Find that the IOUs complied with the April 6, 2012 Order in Docket No. E-999/AA-10-884 (Ordering Point 8), requiring the IOUs to report in future AAA filings any offsetting revenues or compensation recovered by the utilities as a result of contracts, investments, or expenditures paid for by their ratepayers.
9. Find that the IOUs complied with the February 6, 2008 Order in Docket No. E999/AA-06-1208, requiring the IOUs to report in future AAA filings the actual expenses pertaining to the maintenance of generation plants, with a comparison to the generation maintenance budget from the utility's most recent rate case. The Department will continue to monitor this issue in future AAA filings.
10. Accept the IOUs' compliance filings regarding their plant outages contingency plans.

11. Find that the IOUs complied with the April 6, 2012 Order in Docket Nos. E-999/AA-09-961 and E999/AA-10-888 regarding the sharing lessons learned about forced outages.
12. Find that Xcel complied with the April 30, 2010 Order in Docket No. E002/M-10-161, requiring Xcel to report on any curtailment from WM Renewable Energy, including the reasons for any curtailments and amounts paid, in its monthly fuel clause adjustment filings.
13. Find that Minnesota Power complied with the March 11, 2011 Order in Docket No. E015/M-10-961, regarding the purchase power agreement with Manitoba Hydro.
14. Accept Xcel's MISO Day 2 reporting, including the cost related to the Municipal Time of Day Rate.
15. Accept Minnesota Power's MISO Day 2 reporting.
16. Accept Otter Tail Power's MISO Day 2 reporting.
17. Accept Interstate's MISO Day 2 reporting.
18. Accept Xcel's Ancillary Services Market reporting.
19. Accept Minnesota Power's Ancillary Services Market reporting.
20. Accept Otter Tail Power's Ancillary Services Market reporting.
21. Accept Interstate's Ancillary Services Market reporting.