

June 10, 2015

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Response Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. G002/M-15-149

Dear Mr. Wolf:

The Minnesota Department of Commerce, Division of Energy Resources (Department) provides the following *Response Comments* with regards to the following matter:

Northern States Power Company, doing business as Xcel Energy's Petition for Approval of a Variance to the Purchased Gas Adjustment (PGA) Rules to Allow Recovery of Storage-Related Ad Valorem Taxes through the PGA.

Based on our review of Xcel's *Reply Comments*, the Department recommends that the Minnesota Public Utilities Commission (Commission) approve the Company's *Petition*, as modified by Xcel's *Reply Comments*. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ SACHIN SHAH  
Rates Analyst

SS/ja  
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

RESPONSE COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE  
DIVISION OF ENERGY RESOURCES

DOCKET No. E015/M-15-149

**I. BACKGROUND**

On February 6, 2015, Xcel Energy (Xcel or the Company) filed a variance petition (Petition) requesting approval from the Minnesota Public Utilities Commission (Commission) to include recovery of ad valorem taxes related to natural gas storage in the current cost of natural gas supply. The Company in its *Petition* sought a variance to the Commission's Purchased Gas Adjustment (PGA) rules to allow the Company to recover the taxes.

On April 8, 2015 the Minnesota Department of Commerce (Department) filed its *Comments*. The Department requested that Xcel provide in *Reply Comments* additional information and clarification as follows:

- a) Is the Northern Natural Gas Interstate Pipeline Company (Northern or NNG) storage used by Xcel segregated between Xcel's gas and electric operations?
- b) How is the Northern storage inventory segregated?
- c) If the Northern storage inventory is segregated between Xcel's gas and electric operations, has Xcel sought recovery of the Kansas ad valorem taxes for its electric operations in a separate docket?
- d) Whether Xcel has sought or not sought recovery of the Kansas ad valorem taxes for its electric operations in a separate docket, are any of those costs included in its current and pending electric rate case in Docket No. E002/GR-13-868?
- e) If the Northern storage used by Xcel is commingled between Xcel's gas and electric operations, please identify in detail Xcel's proposal to allocate the Kansas ad valorem tax costs between the two.

The Department also sought clarification on the accruals and billings by stating the following<sup>1</sup>:

In Attachment A, the Company shows the Kansas property taxes under "MN-State Accrued" in the amount of approximately \$5,488,414, yet it shows "MN-State Billed and Paid" amount of

<sup>1</sup> Department *Comments* at Page 18.

\$5,503,806 which is greater than what it accrued and allocated to Minnesota. The Company indicated in its *Petition* that the “taxes applicable during the period of appeals were legally deferred until all legal avenues were exhausted....” Please explain in detail how the accruals and billings were determined and why the amounts are different.

The Department stated that it would offer additional comments and recommendations in subsequent response comments after it had reviewed the additional information.

On April 20, 2015 Xcel filed a response to the Department’s requests. The Department discusses the responses below.

## II. NORTHERN STORAGE

With regards to the requests on Northern storage, Xcel stated the following:

We also note that in the process of responding to the Department’s questions regarding whether the natural gas we store on the Northern Natural Gas (NNG) system is segregated between our natural gas retail business and our electric generation operations, we discovered that in some of the years, we were billed for electric generation storage volumes that are exempt under the Kansas ad valorem tax.

We therefore inadvertently included those amounts in our initial *Petition*, and with this Reply, amend our request to recover only those tax amounts attributable to the natural gas service we provide to customers.<sup>2</sup>

... However, the volumes for which we were billed for 2011-2014 included a small, but improper, proportion of electric generation storage. The portion of our initial request associated with our exempt electric generation operations is approximately 9 percent for the 2009-2014 period, which lowers our request by approximately \$0.5 million to \$5,006,347. We thank the Department for their questions that prompted the review that identified the inaccurate tax billings, and respectfully request the Commission to approve our *Petition*, as amended by this Reply.<sup>3</sup>

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<sup>2</sup> Xcel Reply Comments page1.

<sup>3</sup> Xcel Reply Comments at pages 2-3.

... In addition to amending our request in this proceeding to only recover through the PGA those tax amounts attributable to our provision of natural gas service to customers, we are implementing changes to our internal procedures that improve the communication between our gas supply and tax areas – and externally with NNG. We are also assessing avenues to recover the tax amounts we paid to Kingman, Pratt, and Rice Counties for our exempt 2011-2014 electric generation storage.<sup>4</sup>

We maintain separate natural gas storage agreements with NNG for our retail natural gas and electric generation operations. Storage inventories are segregated and tracked by the amount of gas that was purchased and transported for injection by each entity, using their separate supply purchases and transportation contracts. Likewise, withdrawals from storage are tracked by which entity transported gas from storage – and separate inventories are maintained based on the amount of injections and withdrawals.<sup>5</sup>

... With respect to natural gas used to generate electricity, the only provision regarding electric generation is specific to “generating, conducting or distributing to, from, through or *in this state* electric power.”<sup>3</sup> [Emphasis added] Therefore, only the natural gas we hold in storage for our retail natural gas customers is subject to the ad valorem tax.<sup>6</sup>

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3 K.S.A § 79-5a01 (part (5))

In its *Reply Comments*, Xcel provided further clarification on its revised proposal as follows<sup>7</sup>:

In order to ensure that we will not recover these inappropriately billed tax costs from our customers, we have used the January 1 inventory balance of the electric generation contracts to determine the generation percent of total January 1 storage inventory balances, which reduces the amount we seek to recover by 9 percent, to \$5,006,347.<sup>4</sup> We believe this adjustment ensures that Minnesota retail natural gas customers only pay the tax attributable to the amount held in storage for their natural gas service.

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<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Xcel *Reply Comments* at page 4.

We provide a schedule demonstrating our adjustments to the inventory balances and corresponding tax amounts between our retail natural gas and electric generation operations as Attachment A. As we noted previously, the 2009 and 2010 Kansas billings were correct, so there are no adjustments to these years.

In the current true-up period, we are proposing to use the 2014 tax amount as a proxy for the 2015 amount, so we have also calculated an adjustment, which we provide in Attachment B. The revised calculations reduce the annual cost for an average customer using 847 therms from approximately \$1.00 to approximately \$0.82.

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<sup>4</sup> We used January 1 inventory balances because it is the date the State of Kansas uses to determine the inventory's fair market value for tax purposes.

The Department appreciates Xcel's clarification and correction. The Department reviewed Xcel's calculations provided in its *Reply Comments*, and concludes that they are reasonable. The Department agrees with Xcel that it is appropriate for the Company to recover only those tax amounts attributable to the natural gas storage used by its retail natural gas customers.

### III. ACCRUAL AMOUNTS COMPARED TO ACTUAL BILLED AND PAID AMOUNTS

As mentioned above, the Department in its *Comments* sought clarification on the accruals and billings.<sup>8</sup> The Department had observed in its *Comments* that the amount billed and paid was greater than what Xcel reported was accrued and allocated to Minnesota.

In its *Reply Comments*, Xcel stated the following:<sup>9</sup>

... As an example, page 1 of Attachment D shows how our tax department estimated the property tax in 2011 for accrual purposes, and how the actual tax amount was calculated. Table 1 shows our calculation of the accrual amount. Our accruals were based on 2009 Levy amounts by Tax Unit, which was the only information we had available from Kansas until they updated the Levy amounts for all of the years after the SCOTUS decision. Table 2 on page 1 of Attachment D shows the calculation of the actual tax amount for 2011, which we calculated in late 2014, after receiving the updated Levy amounts.

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<sup>8</sup> Department *Comments* at page 18.

<sup>9</sup> Xcel's *Reply Comments* at page 5.

The Department appreciates Xcel's clarification regarding the accruals and the billed/paid amounts. Xcel's explanation that the accruals for the period 2009-2014 were based on the 2009 levy amounts whereas the actual tax amounts billed and paid were based on the actual levy amounts received **after** the Supreme Court of the United States (SCOTUS) Decision reasonably demonstrates why Xcel reported actual amounts that were greater than the accrual amounts.

#### **IV. LUMP SUM RECOVERY OF JULY 2009 THROUGH OCTOBER 2014 COSTS AND LENGTH OF VARIANCE**

The Department in its *Comments* stated and observed the following:<sup>10</sup>

Xcel proposes to recover the annual costs of Kansas ad valorem taxes on a monthly basis through the PGA for a four-year variance period. Xcel proposes to recover the July 2009 through October 2014 costs over a 12-month period. Xcel provides a breakdown of the amounts incurred for the various periods in its Attachment A and more detailed outlines of the proposed recovery mechanics as Attachments B and C of the Petition.

... However, the Department recommends amortizing the costs for the period 2009-2014 over a five-year period, to reduce the impact of this one-time charge on ratepayers. In G002/M-05-534, the Commission allowed Xcel to recover retroactive 2004 taxes that were billed to Xcel and payable in 2005, over a one-year period.

... Given the fact that Xcel uses storage to hedge, and to be consistent with the 12-519 Docket, the Department concludes that Xcel's request to have a longer variance to Minn. R. 7825.2400, subp. 12, to allow recovery of the ongoing Kansas ad valorem taxes is reasonable. To match with the five-year amortization recommendation above, the Department recommends that the variance be allowed for five years.

... As mentioned previously, the Department recommends that the Commission require Xcel to amortize the 2009-2014 costs over a five-year period, to reduce the impact on ratepayers.

Xcel proposes to report the tax costs as separate line items in the monthly PGAs, AAA report and annual PGA True-up filings. To clarify, regarding the proposed reporting in the Company's

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<sup>10</sup> Department's *Comments* at pages 14-17.

AAA report and PGA True-Up filings, filed in September each year, the actual amount paid in ad valorem tax as well as recovered from ratepayers by state should be detailed in Xcel's annual True-Up Report. Additionally, the costs and revenues should be listed as separate line items in the Company's Schedules C, Schedules D page 1 through 2 of 4, and page 4 of 4.

In its *Reply Comments*, Xcel stated the following:<sup>11</sup>

2. *Five-Year Amortization Period*

We accept the Department's recommendation to use a five-year amortization period for the 2009-2014 ad valorem tax amounts. The impact on an average residential customer using 847 therms is approximately \$1.15 per year, or \$0.10 per month. We determined the amortized amounts by dividing the total lump sum amount by the forecasted sales for July 2015 through June 2020. We plan to use that factor in the PGA for five years. We outline this methodology in Attachment C to this Reply. ...

3. *Variance Duration*

We accept the Department's recommendation that the variance period correspond with the five-year amortization period.

4. *Ongoing Reporting*

In our Petition, we committed to report the tax costs as separate line items in our monthly PGA reports, annual AAA report, and annual PGA True-Up report. We appreciate the Department clarifying its reporting expectations by identifying specific annual PGA true up schedules, and accept the Department's recommendation.

The Department appreciates Xcel's acceptance of the Department's recommendations. Therefore, the Department recommends that the Commission approve a variance to include recovery in the PGA of ad valorem taxes as set forth in Xcel's *Reply Comments*.

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<sup>11</sup> Xcel's *Reply Comments* at pages 5-6.

## V. RECOMMENDATIONS

Based on our review, the Department recommends that the Commission approve Xcel's *Petition*, as modified in its April 20, 2015 *Reply Comments*, including the following conditions and reporting requirements, to which Xcel has agreed:

- grant Xcel a five-year variance to Minn. Rule 7825.2400, subp. 12 to allow the recovery of the 2009-2014 assessed tax in the commodity portion of the PGA;
- require Xcel to amortize the costs for the period 2009-2014 over a five-year period to reduce the impact of this one-time charge on ratepayers;
- direct Xcel to include the Kansas property tax as a separate line item in its monthly PGA,
- require Xcel to list the Kansas property tax costs and revenues as separate line items in the Annual Automatic Adjustment report and PGA True-Up filings as well as in the Company's Schedules C, Schedule D page 1 through 2 of 4 and page 4 of 4; and
- require Xcel to submit a report with its Annual Automatic Adjustment and True-Up report detailing the total amount paid to Kansas and collected from ratepayers during the gas year.

/ja



## **CERTIFICATE OF SERVICE**

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

**Minnesota Department of Commerce  
Response Comments**

**Docket No. G002/M-15-149**

**Dated this 10<sup>th</sup> day of June 2015**

**/s/Sharon Ferguson**

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