

February 5, 2018

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

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E002/M-18-27

Dear Mr. Wolf:

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

Northern States Power Company, d/b/a Xcel Energy (Xcel or the Company) Request for a Variance to the Billing Error Rules.

The filing was submitted on January 4, 2018 by:

Gail A. Baranko
Regulatory Manager
Xcel Energy
414 Nicollet Mall
Minneapolis, MN 55401

The Department recommends **approval** and is available to respond to any questions the Minnesota Public Utilities Commission may have on this matter.

Sincerely,

/s/ LERMA LA PLANTE
Public Utilities Financial Analyst

LL/lt
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E002/M-18-27

I. BACKGROUND AND SUMMARY OF FILING

On January 4, 2018, Northern States Power Company, d/b/a Xcel Energy (Xcel or the Company) filed a petition with the Minnesota Public Utilities Commission (Commission) for a variance to Minnesota Rules, part 7820.3800, the Billing Errors Rule, and to the Billing Error Tariff requirements contained in the Company's Electric Rate Book, to allow the Company to provide credit to one commercial/industrial electric customer (Customer) for overcharges due an incorrect application of a rate schedule.

Xcel requested this rule variance and one-time tariff modification in order to gain approval to issue a credit to the Customer for overcharges that the Customer paid during a period outside of the three-year limit set in Minnesota Rules and Xcel's Electric Rate Book.

As noted above, Xcel stated that the overcharges were due to an incorrect application of a rate schedule. Since discovering the error, the Company corrected the billing system. It has credited the Customer for the applicable periods provided under the Company's tariff and the Commission's Rules. Xcel indicated that it calculated and provided credit in accordance with Minnesota Rules, part 7820.3800 and calculated interest consistent with Minn. Statutes § 325E.02(b) as summarized in the table below.

Xcel stated that, consistent with the Commission's June 21, 2010 Order in Docket E002/M-10-258, it will send a letter to Customer informing them of the billing error issue and providing instructions on how to participate in the proceeding.

A. *THE CUSTOMER*

The Customer was on a Non-Billing rate and on August 22, 2011 was moved to A10 Small General Service rate without a request or order being submitted by the Customer. The discrepancy in the Customer's billing invoice was discovered on July 31, 2017 by the Company's Account Manager. The error was confirmed on July 31, 2017 and corrected on August 2, 2017.

The Company calculated a total credit of approximately \$1,320.46¹ for the total timeframe both within and exceeding the Commission Rule and Tariff periods. The Company stated that on August 2, 2017 it credited the Customer a total of \$628.03² for the amount over-paid during the 3-year period provided for in Rule and Tariff. Xcel calculated and provided the credit in accordance with Minnesota Rules, part 7820.3800 and calculated interest consistent with Minnesota Statutes § 325E.02(b).

The following table summarizes the credit amounts associated with the Customer:

Table 1: Credit Amounts Provided and Credit Amounts Requiring Variance

Time Period	Principal	Interest	Total
Credit Provided (8/23/14 through 6/28/17)	\$622.62	\$5.41	\$628.03
Credit Requiring Variance (8/22/11 through 8/22/14)	\$682.96 ³	\$9.47	\$692.43
Total	\$1,305.58 ⁴	\$14.88	\$1,320.46

II. DEPARTMENT ANALYSIS

Minnesota Rules, part 7820.3800 states in relevant part:

Subpart 1. Errors warranting remedy.

When a customer has been overcharged or undercharged as a result of incorrect reading of the meter, **incorrect application of rate schedule, incorrect connection of the meter**, application of an incorrect multiplier or constant or other similar reasons, the amount of the overcharge shall be refunded to the customer or the amount of the undercharge may be billed to the customer as detailed in subparts 2 through 4.

Subpart 2. Remedy for overcharge.

When a utility has overcharged a customer, the utility shall calculate the difference between the amount collected for service rendered and the amount the utility should have collected for service rendered, plus interest, for the period beginning three years before the date of discovery. Interest must be calculated as prescribed by Minnesota Statutes, section 325E.02, paragraph (b).

Subpart 4. Exception if error date known.

¹ Consisting of \$1,305.58 of principal and \$14.88 of interest.

² Consisting of \$622.62 of principal and \$5.41 of interest.

³ Corrected by the Company thru phone conversation.

⁴ Corrected by the Company thru phone conversation.

If the date the error occurred can be fixed with reasonable certainty, the remedy shall be calculated on the bases of payments for service rendered after that date, but in no event for a period beginning more than three years before the discovery of an overcharge or one year before the discovery of an undercharge.

Xcel Electric's Rate Book, *Section No. 6, 6th Revised Sheet No. 16* states, in relevant part:

3.9 BILLING ADJUSTMENTS

Overbilled

In the event the customer was over-billed, the Company shall recalculate bills for service during the period of the error, up to a maximum of three years from the date of discovery. Adjustments of bills will be made in accordance with the rules prescribed by the Commission. Interest will be calculated as prescribed by Minn. Stat. §325E.02(b).

As noted above, Xcel indicated that the Customer "was on a Non-Billing rate and on August 22, 2011 was moved to A10-Small General Service rate without a request or order being submitted by the customer." The Department recently requested clarification as to the definition of a "Non-Billing rate" through a telephone call and email to the Company; however, Xcel was unable to provide the clarification by the comment deadline. The Department requests that Xcel provide its clarification in Reply Comments.

Xcel stated that it has provided the affected Customer the credit in accordance with Minnesota Rules and its Billing Error Tariff. The Company requested approval to issue further credit for the amount overcharged to the Customer for the periods that lie outside the 3-year limit.

Minnesota Rules, part 7829.3200, subp. 1 establishes the following criteria for evaluating a variance request:

The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

The Department believes that the rule variance criteria can also be used to assess the reasonableness of the one-time tariff modification that Xcel has requested.

In support of Xcel's variance request, the Company stated that, given the amount of time at issue, enforcement of the rule would impose an excessive burden on the Customer by limiting the credit from the total over-billed amount. Further, Xcel stated that granting the variance would not adversely affect the public interest because the credit serves only to make the Customer whole against actual overcharges resulting from the application of the wrong rate schedule. Finally, Xcel stated that it is unaware of any conflict with any standards imposed by law. Xcel noted that the Commission has in the past approved a utility's voluntary credit beyond the time period required by Minnesota Rules when special circumstances exist.

The Department agrees with the Company and concludes that the criteria for granting a variance as set forth by Minnesota Rules, part 7829.3200, subp. 1 are met for Xcel's variance request and for a one-time modification to the Company's tariff.

III. RECOMMENDATION

For clarity of the record, the Department requests that Xcel explain in its reply comments what is meant by "Non-Billing rate." The Department does not expect that the definition of "Non-Billing rate" will materially impact its analysis and recommendation in this matter.

The Department recommends that the Commission approve Xcel's request for a variance to Minnesota Rules, part 7820.3800 and a one-time modification to its Billing Error Tariff requirements for the purposes of providing the proposed refund to the Customer.