

**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION
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Chair
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IN THE MATTER OF A COMMISSION INVESTIGATION
INTO XCEL ENERGY'S MONTICELLO LIFE CYCLE
MANAGEMENT/EXTENDED POWER UPRATE PROJECT
AND REQUEST FOR RECOVERY OF COST OVERRUNS

DOCKET NO. E002/CI-13-754

**THE MINNESOTA DEPARTMENT OF COMMERCE RESPONSE TO XCEL'S
REQUEST FOR RECONSIDERATION AND/OR CLARIFICATION**

JUNE 8, 2015

I. INTRODUCTION

On May 8, 2015, the Minnesota Public Utilities Commission (“Commission”) issued its *Order Finding Imprudence, Denying Return on Cost Overruns, and Establishing LCM/EPU Allocation for Ratemaking Purposes* (“May 8, 2015 Monticello Prudency Order”) in the above-referenced electric rate case of Northern States Power Company d/b/a Xcel Energy (“Xcel” or “Company”).

On May 28, 2015, Xcel filed its petition for Reconsideration of the Commission’s May 8, 2015 Monticello Prudency Order. The Company requested rehearing on the following two issues:

- that the Commission specify in its Order the initial cost estimate for Monticello with escalation to 2014 dollars and with Allowance for Funds Used During Construction (“AFUDC”) specifically that this amount is \$415 million; and
- that the Commission allow the Company to recover its cost of debt for the Life-Cycle Management/Extended Power Uprate “LCM/EPU” Program costs that exceed the escalated certificate of need estimate.

Regarding the first clarification issue, to the extent that Xcel’s proposal is in agreement with the Department’s May 28, 2015 request for clarification, the Department does not oppose the Company’s request to clarify the cost estimate for Monticello with escalation to 2014 dollars and AFUDC, resulted in an amount of \$415 million. However, to be clear, the Department seeks confirmation from Xcel that the Company’s proposed language would result in recovering no more costs than the amount stemming from the Department’s request that the Commission confirm or clarify that \$333 million is the cost overrun figure on which a return was denied.

Assuming that these two approaches are in agreement, reference in the Commission's clarification order to Footnote 1 of the Addendum to Staff Briefing Papers (Monticello Remedy Table) that was efiled in this matter on May 7, 2015, would be an easy and efficient way to reference supporting calculations for the \$415 million and \$333 million amounts that are important to the Commission May 8, 2015 Monticello Prudency Order.

Regarding the second issue noted above, the Department opposes Xcel's Rehearing Request for recovery of debt. The Company did not demonstrate the reasonableness of recovery in its new argument for recovery of this cost (a cost that would be in addition to the \$748 million total expense allowed by the Commission). The Department provides brief discussion of:

1) arguments made by Xcel that the Department considers to be unsupported by the record in Docket No. E002/CI-13-754 and

2) a high level summary of why the Commission's decision of no return on the \$333 million total company cost overrun amount in its May 8, 2015 Monticello Prudency Order is reasonable based on the facts of the case.

II. XCEL'S REHEARING REQUEST FOR ALLOWANCE OF ITS COST OF DEBT IS UNSUPPORTED BY THE RECORD IN DOCKET NO. E002/CI-13-754

Overall, the Company's Rehearing Request for the debt costs that exceed the escalated certificate of need estimate is not supported by the record. The Department discusses both Xcel's unreasonable representation of the record and the important point that the Company appears to miss: the Commission's finding that Xcel failed to demonstrate that the Monticello cost overrun was reasonable and prudent, as stated on page 22 of the Commission's May 8, 2015 Order. Rather, Xcel appears to ignore the well-supported findings of the Commission (as discussed further below).

The Company's Rehearing Request on page 4 indicated, contrary to the ALJ Report and the Commission's findings, that the problems at Monticello were limited to lack of regulatory communications related to costs, alternatives considered, and record issues. The Company also stated on page 4 that it was able to explain what work was done and why, and provide uncontested testimony that the Company completed the right modifications for the long-term needs of Monticello. The Company claimed that the costs increases were not reasonably avoidable even under different project management approaches advocated by other Parties. While the Commission has already rejected many of these arguments in this proceeding, the Department addresses each below.

Xcel's lack of regulatory communications with regulators about significantly escalating costs, a showing of alternatives considered, and lack of record support for the Company's claims were concerns raised and supported by Department witnesses. The Department also raised and supported several other concerns that helped serve as a basis for the Commission's decision in this proceeding, as summarized by Department witness Ms. Campbell on page 3 of her Opening Hearing Statement:

In my surrebuttal testimony, I provided the following bullet summary of the Department's overall doubts as to reasonableness, by witness, where the Company did not show recovery of the cost overruns to be reasonable, which support the Department's recommended partial disallowance adjustment, including:

- lack of upfront planning as addressed by Mr. Crisp;
- effects of the "fast-track" approach as addressed by Mr. Crisp;
- inadequate understanding of the true scope of work as addressed by Mr. Jacobs;
- insufficient oversight of contractors and the entire process as addressed by Mr. Crisp;
- start and stop process of contractors addressed by Mr. Crisp;
- poor project management as addressed by Mr. Crisp;
- ineffective use of contingencies as addressed by Mr. Crisp;
- lack of cost controls and tracking concerns as addressed by Ms. Campbell;
- human performance errors raised by NRC as addressed by Ms. Campbell;

- low cost estimates and inadequate information in initial CNs as addressed by Ms. Campbell and Mr. Shaw;
- lack of communication by Xcel with Commission and interested parties regarding cost overruns as addressed by Ms. Campbell; and
- lack of showing that it reasonable to allow recovery from ratepayers of the amount of EPU project that is not cost effective as addressed by Mr. Shaw.

DOC Ex. [315] at 25-26 (Campbell Surrebuttal).

A. *XCEL'S CONTINUED MISREPRESENTATION OF THE RECORD*

The Company on page 5 of its Rehearing Request indicated that even if the higher costs for Monticello LCM/EPU had been known the project still would have been cost effective. However, Xcel continues to miss the important point in this record, namely that the Commission found that Xcel failed to demonstrate that the Monticello cost overrun was reasonable and prudent. In addition, Xcel unfortunately continues to ignore the fact that the Monticello EPU *portion* of the plant was *not* cost effective.

Xcel also continues to ignore the fact that the Company received two separate certificates of need from the Commission relevant to this matter, in 2005 and 2008 dockets. The ALJ's Report makes this important point clear; for example, Finding 34 states:

On February 14, 2008, the Company filed its application for a CON to complete the EPU. The Company sometimes refers to this application as one for an "LCMEPU CON," because that is how it thought of the combined project, but it was an application for a CON for the EPU. [Footnotes omitted]

This point is important in part because the Department's analysis makes clear that Xcel's ratepayers would have been better off with other alternatives instead of the Company going forward with the EPU. Specifically, DOC Witness Mr. Shaw stated the following in his surrebuttal testimony on page 4 and 5:¹

¹ DOC Ex. 311 at 32 (Shaw Surrebuttal).

Q. Why do you focus on actual costs of the project compared to the costs that Xcel indicated for the projects when the Company requested approval from the Commission?

A. As DOC Witness Mr. Crisp discussed in this direct and surrebuttal testimonies, and as evidenced by the significant cost overruns, Xcel's cost estimates when the Company requested approval of charges to Monticello were inadequately developed. As I pointed out in my direct testimony, this inadequate development of costs was more than a minor oversight by Xcel; it actually harmed ratepayers:

Q. Do your conclusions mean that if the actual costs of the EPU were accurately estimated at the time of the 2008 EPU CN, the Department would have recommended that the CN for the EPU not be granted?

A. Yes. If the actual costs and timing of the EPU had been known, other alternatives would have been more cost-effective. Attached as DOC Exhibit No. ___ (CJS-7) is a comparison of expansion plans, with and without the addition of the EPU.

The Commission's Order identifies a fundamental ratemaking principle regarding certificates of need, as highlighted below. The Department fully agrees and supports the Commission's reasonable and appropriate determination that:²

The Commission concludes that the amount on which Xcel will earn no return should be calculated based on the initial LCM and EPU estimates that the Company presented in the 2005 and 2008 certificate-of-need proceedings.

Grounding the remedy on the Company's initial estimates recognizes the importance of these estimates to the Commission's resource-planning decisions. **The Department and the Commission both rely on utilities' initial cost estimates in analyzing whether proposed projects are cost-effective compared with alternative resource options. An initial estimate that does not represent a utility's best effort to reflect the full cost of the project, including a reasonable contingency, undermines the integrity of a Commission decision founded on that estimate.**

The Commission recognizes that Xcel's decision to undertake the LCM/EPU occurred in the context of the Company's over-\$2 billion capital authorization in 2006 and that, over the six-year period of time at issue, the Company had over \$5 billion of capital expenditures and over \$10 billion in operation and maintenance expenses.

² May 8, 2015 Monticello Prudency Order at 23 (emphasis added).

However, Xcel's pre-certificate-of-need costs included about \$60 million in progress payments to General Electric, mainly for detailed engineering and design work for the 2009 modifications. Since the Company had made a \$60 million up-front expenditure largely for detailed engineering and design work, it should have been able to develop reasonable cost estimates.

B. XCEL FAILED TO APPROPRIATELY MANAGE COSTS UNDER ITS CONTROL

The Company on page 5 of its Rehearing Request indicated that most of the cost increases were beyond the Company's control. The Company indicated that allowing no return on the full cost increase adds to the financial pressure of the Monticello plant, with the 2015 Minnesota jurisdictional revenue requirement impact of \$18 million.³ According to the Company this outcome creates considerable concerns due to a stringent NRC regulatory environment, industry cost pressures, and the Company's resource planning needs and State policy goals.

As noted in the bullet summary above, Department consulting witnesses Mr. Crisp and Dr. Jacobs identified the following problems that were under the control of the Company and clearly lead to higher (more than double) costs of Monticello, and that were not shown by Xcel to be reasonable:

- lack of upfront planning;
- effects of the "fast-track" approach;
- inadequate understanding of the true scope of work;
- insufficient oversight of contractors and the entire process;
- start and stop process of contractors;
- poor project management; and
- ineffective use of contingencies.

The Commission's Order agrees with the concerns and conclusions of Department witnesses, in large part, as shown by inclusion of such conclusions in the Commission's May 8, 2015 Monticello Prudency Order. Specifically the Commission's Order provided on pages 17-

³ This amount will then decline slightly each subsequent year as the asset depreciates.

18 the following conclusions to support the Commission's remedy of no return on the cost overrun amount of \$333 million on a total company basis:⁴

The Commission concurs with the ALJ, the Department, the OAG, and the XLI that Xcel has failed to carry its burden to prove that the LCM/EPU costs overruns were prudently incurred.

The Company's decision to combine the LCM and EPU projects and put them on an accelerated schedule without a more thorough planning and scoping effort was imprudent and created a situation where the Company was unable to effectively manage costs, schedules, and deployment or address areas of increasing cost overruns. The record — in particular, the testimony of Mr. Crisp and the EPU Cost History — establishes that many of the challenges Xcel faced in implementing the LCM/EPU project could have been avoided or addressed in a less costly manner if the Company had taken the time to properly plan and scope the project.

Xcel argued that it needed to rush the project in light of forecasted demand, high natural-gas prices, and the long lead time necessary to expand a baseload resource like Monticello. However, this claim is not borne out by the record.

Mr. Crisp testified that there was no need to fast-track the project, especially moving into the 2010-2011 timeframe, when forecasts showed decreasing demand. His analysis is supported by the fact that, after the 2011 outage, Company executives discussed the possibility of changing course and abandoning the EPU.⁵ Most importantly, even if there was an imminent need for more baseload generation from 2006 to 2011, that fact would not justify the imprudent project management demonstrated on this record.

Beyond failing to establish that its planning, scoping, and scheduling decisions were reasonable, Xcel failed to carry its burden to show that it made prudent decisions when confronted with the need for a modification. The Company provided information about the challenges it encountered working on various major sub-projects. These projects included the condensate demineralizer, feedwater heaters, reactor feed pumps and motors, condensate pump and motor, 13.8 kV distribution system, power range neutron monitoring system, high-pressure turbine replacement, steam dryer, and transformers.

This evidence shows *what* the Company did; however, it does not explain any alternatives available as decisions were made and the project's scope changed, such as possible alternative vendors or cost comparisons of equipment

⁴ May 8, 2015 Monticello Prudency Order at 17-18.

⁵ Filings by Xcel in the Company's 2010 resource-plan proceeding show that it was aware of softening demand by late 2011. This, among other factors, led the Company to seek a Commission determination of whether an EPU project at its Prairie Island nuclear plant remained in the public interest. That project was ultimately abandoned.

alternatives. Xcel's evidence thus lacks the transparency necessary to quantify the prudence of final costs.

For the foregoing reasons, the Commission finds that Xcel has failed to demonstrate that its handling of the Monticello project was prudent.

For all of these reasons, the Department fully agrees with and supports the Commission's decision in this matter of no return on the cost overrun amount of \$333 million total company is reasonable and appropriate based on the facts in this proceeding. No reconsideration is needed or warranted.

III. DOC'S RESPONSE TO XCEL'S REHEARING REQUEST TO CHANGE THE REMEDY RECOMMENDED BY THE COMMISSION

The Company on pages 6 to 9 of its Rehearing Request discussed why the Company believes it should be allowed to recover its cost of debt. The Company claims that the cost of debt represents actual Company cash outlays in the plant that are not different than cash outlays for equipment or labor. The Company believes that because the cost of debt is a fixed expense, there is tension in the Commission's Order between allowing the Company to recover its investments in the program while denying any return on the overrun.

The Department disagrees with Xcel that cost of debt is the same as cash outlays for equipment or labor. The cost of debt for a utility is not tied to a specific resource, in this case Monticello, but instead is a form of financing cost that is part of a rate regulated utilities rate of return. By contrast, equipment is itself a specific resource and labor on equipment is also tied to the resource. The Department did not evaluate the cost of debt as part of the capital cost of Monticello, nor did the Company offer the cost of debt as part of the capital costs of Monticello.

However, more importantly, is how the Commission's decision in Monticello compares to Xcel's decision to abandon the EPU for the Prairie Island (PI) nuclear power plant. The Department notes that in the Xcel rate case E002/GR-13-868 the Department, Chamber of

Commerce and the Company, agreed that it would be appropriate for Xcel to recover the costs of the abandoned PI EPU, amortized over 20.3 years with the return on the unamortized balance based on the Company's 2.24% cost of debt. The Department supported a debt return of 2.24% for the PI EPU largely because the Company came forward and cancelled this project. The Commission confirms this approach, as stated on page 32 of its rate case Order:

The Commission concurs with the ALJ that the record demonstrates that Xcel acted prudently and in good faith both in developing the project and in cancelling it. The Company did not embark on the project hastily or unilaterally – the need for and reasonableness of the project were scrutinized by stakeholders and regulators during an exhaustive certificate-of-need proceeding, which resulted in the Commission issuing a certificate of need.

Nor did the Company fail to recognize, react to, and disclose signs of trouble as they developed. Less than two months after the NRC meeting clarifying the new licensure standards and processes, the Company filed a notice of its intent to update its resource plan in light of these and other new realities. Less than two months later, it filed the update, which laid out the challenges the project faced and attempted to compare its costs and benefits with those of alternative resources.

The facts in the PI EPU case were very different from the Monticello project matter in which the Company chose not to communicate significant costs overruns to the Commission, but instead went forward with the Monticello EPU project that was not a cost effective project and resulted in unnecessary higher costs assigned to ratepayers. The Commission's decision on the PI EPU was well-supported by the facts in that proceeding and, essentially, rewarded Xcel for identifying concerns regarding significant changes in costs and benefits and allowed the Commission to provide guidance prior to further material expenditures to ensure that lowest cost resources are used to serve ratepayers and recovery of costs by Xcel (recovery of costs shown to be reasonably incurred).

The Company indicated on page 8 of its Rehearing Request that the Department proposed allowing the Company recovery of the cost of debt (but not the return on equity) as an alternative remedy in this proceeding. The Company also noted that Commission staff in its briefing papers refers to the 2014 weighted cost of debt used for the PI EPU (which is 2.24 percent as noted above; however, the Company notes that 2015 weighted cost of debt is 2.27 percent,⁶ as provided in the Department's alternatives).

It is not appropriate to compare the Commission's determination to the Department's alternative remedy. To be clear, the Department's alternative remedy was for a disallowance of the portion of the Monticello EPU that was not cost effective. The Department offered two other possible adjustments that the Commission could consider, including no return on the cost overrun amount and a weighted cost of debt return on the cost overrun amount.⁷

As discussed and cited above, the Commission's May 8, 2015 Monticello Prudency Order on pages 17-18 provided strong, well-supported, and reasonable conclusions based on the facts in this proceeding to deny a return on the costs overrun amount of \$333 million on a total company basis. Additionally, in this proceeding the Department provided discussion of several cases where the Department recommended and the Commission approved reduced cost recovery, no return for cost overruns, lower levelized cost recovery, and costs caps in rider.⁸ The facts in this Monticello proceeding clearly showed that Company unreasonably contributed to the cost overruns and, contrary to Xcel's Rehearing Request, several critical factors that lead to unreasonable cost overruns (costs that Xcel did not show were reasonably incurred) were under the control of the Company, as noted above.

⁶ The Company referenced DOC Ex. 315 at 37-38 and Schedule NAC-S-4, Attachment B page 1 (Campbell Surrebuttal).

⁷ See DOC Ex. 315 at 31 and 37 (Campbell Surrebuttal).

⁸ DOC Ex. 313 at 22-27 (Campbell Direct).

In conclusion, the Department continues to support the Commission's decision on Monticello of no return on the cost overrun amount of \$333 million total company as reasonable based on the facts in this proceeding. Xcel has not shown that it is reasonable for it to receive a weighted cost of debt return as requested in the Company's Rehearing Request.

IV. CONCLUSION

The Commission reasonably determined that Xcel did not demonstrate the prudence of its actions which lead to costs for the Monticello EPU to be higher than they otherwise would have been. Contrary to Xcel's statements in its Rehearing Request, many of the cost overruns clearly were under the control of the Company, as supported by the Department's summary list of issues provided above, and the Commission's well supported Order on pages 17-18. The Department opposes Xcel's Rehearing Request; Xcel has not shown the reasonableness of receiving a weighted cost of debt return in addition to the \$748 in total LCM/EPU Program costs. For all these reasons, the Department concludes that the Commission's denial of an overall rate of return on the cost overrun amount of \$333 million total company is reasonable and appropriate based on the facts in this proceeding.

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