

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Petition of  
Northern States Power Company for  
Approval of a Modification to its Natural Gas  
State Energy Policy (SEP) Tariff, 2017 SEP  
Rate Factor, and 2016 SEP Compliance Filing

ISSUE DATE: August 24, 2017

DOCKET NO. G-002/M-17-174

ORDER CONTINUING RECOVERY OF  
COSTS THROUGH THE STATE  
ENERGY POLICY RIDER AND  
OTHER ACTION

**PROCEDURAL HISTORY**

On March 1, 2017, Northern States Power Company d/b/a Xcel Energy (Xcel Gas or the Company) filed a petition for approval of a modification to its natural gas State Energy Policy (SEP) Tariff, 2017 SEP rate factor, and 2016 SEP Compliance filing, to revise the Company's natural gas SEP rider rates. The Company requested recovery of an annual forecasted revenue requirement of \$1,832,232 through its SEP rider and asked to increase the natural gas rider rate from \$0.001368 per therm to \$0.002103 per therm.

On March 31, 2017, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed comments stating that the statutes authorizing use of a rider mechanism to recover the Greenhouse Gas Infrastructure (GHGI) costs (i.e. Cast Iron Replacement Project) and Reliability Administrator costs had been repealed. The Department acknowledged, however, that the Commission might have discretion to continue a rider that was approved when statutory authority existed.

The Department recommended, among other things that Xcel be required to:

- discontinue the natural gas SEP rider;
- deny recovery of any tracker carryover under-collection;
- establish a regulatory liability if the tracker carryover balance reflects an over-collection, to be returned to ratepayers;
- recalculate the 2016 SEP tracker balance using non-prorated, actual accumulated deferred income tax (ADIT) amounts.

On April 10, 2017, Xcel Gas filed reply comments, disagreeing with the Department's recommendations to eliminate the SEP rider and to require recalculation of the 2016 SEP tracker balance.

By May 26, 2017, both the Department and Xcel Gas had filed an additional round of comments, largely continuing to maintain their positions and adding additional analysis and argument.

On August 3, 2017, the Commission met to consider the matter.

## **FINDINGS AND CONCLUSIONS**

### **I. Summary of Commission Action**

In this Order, the Commission permits Xcel Gas to continue to recover approximately \$1.83 million of costs through its SEP Rider until all costs are recovered or the Company files a general rate case, with the understanding that no new costs will be added or recovered through the SEP Rider. The Commission also allows the Company to include in the SEP rider assessment costs for Department Regional and National Duties.

Xcel Gas may use the capital structure authorized in Xcel Electric's 2013 electric rate case in this docket, along with a 9.04 percent Return on Equity (ROE). The Commission will not allow the Company to prorate its accumulated deferred income taxes in the SEP Rider, and will delay the implementation date of the SEP Rider until July 1, 2018.

### **II. Continuation of the SEP Rider**

In its comments, the Department asserted that there is no longer statutory authority for Xcel Gas to continue the SEP Rider, as the statutes authorizing use of the SEP Rider to recover costs had been repealed. Thus, the Department reasoned that it is reasonable to discontinue the SEP rider. The Department acknowledged, however, that the Commission might have the discretion to continue a rider that was approved when such statutory authority existed.

In its petition, Xcel Gas explained that the primary costs currently being recovered through the SEP rider are 1) expenses for the Cast Iron Replacement Project,<sup>1</sup> less any offsets or credits associated with the project, and 2) expenses for the state Reliability Administrator incurred by the Energy Resources Division of the Department of Commerce for services provided the Commission and the public relating to reliability. The Company requested the Commission to allow it to continue cost recovery for current expenses that had previously been allowed under the SEP Rider, but acknowledged that it could not seek to recover any new investments under the statute.

A discussion of the two components of the SEP Rider follows.

#### **A. Greenhouse Gas Infrastructure Costs – Cast Iron Replacement Project**

Greenhouse gas infrastructure costs are costs that were previously incurred for replacement of cast-iron distribution pipes. The Company completed replacement of 25 miles of cast-iron pipe in 2012, the costs of which continue to be recovered through the SEP Rider. No new cast-iron pipe replacement costs have been incurred since then. For 2017, Xcel Gas requested recovery of approximately \$1.75 million of greenhouse gas infrastructure costs through the SEP Rider.

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<sup>1</sup> Minn. Stat. § 216B.1637.

The Department asserted that in 2013, the Greenhouse Gas Infrastructure Cost statute, Minn. Stat. § 216B.163, was repealed. The Department stated that as it did not find any legislation that replaced the statute that would allow cost recovery through a rider mechanism, it is unclear whether such costs should be recoverable through the SEP Rider mechanism.

The Company argued that the repeal of the Greenhouse Gas Infrastructure statute does not answer the question of continued recovery under the SEP Rider, as the Commission has approved costs for this project since 2008, including the three years following the repeal of Minn. Stat. § 216B.1637. And, as further support, the Company asserted that the Reliability Administrator Costs have been approved by the Commission through the SEP Rider since the rider was established in 2003, including for five years after that original statute was repealed.

The Company explained that the repeal of Minn. Stat. § 216B.1637 arose from one of three Commission-requested amendments to the statute, and that the new Gas Utility Infrastructure Cost (GUIC) Rider bill (Minn. Stat. § 216B.1635) was intended to replace the Greenhouse Gas Infrastructure Program so as to continue rider recovery under the new statutory provision.

The Department noted that while these costs might be recoverable under the GUIC, Minn. Stat. § 216B.1635 (authorizing recovery of GUIC costs), the Company did not request to transfer its Greenhouse Gas Infrastructure Costs from the SEP Rider to recovery under the GUIC statute.

#### **B. Reliability Administrator Costs and Assessment for Department Regional and National Duties**

Xcel requested recovery of \$10,565 of Reliability Administrator costs. The Department initially argued that the Reliability Administrator statute, Minn. § 216C.052, was repealed in the 2011 legislative session and costs under that statute should not be allowed.

The Company acknowledged the statute's repeal, but explained that the legislature subsequently amended Minn. Stat. § 216B.62, subd. 3b, which authorized an assessment for Department Regional and National Duties (Assessment) to replace the Reliability Administrator statute. The Company clarified that it is now seeking cost recovery under the authority of the Assessment statute.

In reply comments, the Department stated it did not object to recovery of the Assessment costs through June 2018, and the SEP Rider is subject to true-up.

#### **C. Commission Action**

The Commission will allow Xcel Gas to continue to recover approximately \$1.83 million<sup>2</sup> of costs through its State Energy Policy (SEP) Rider until all costs are recovered or the Company files a general rate case, with the understanding that no new costs will be added or recovered through the SEP Rider. Despite repeal of the statute, the cost components allowed to be recovered stem from revenue requirements for projects constructed and costs incurred before the statute was repealed.

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<sup>2</sup> This amount is inclusive of the Greenhouse Gas Infrastructure Costs and the Assessment Costs, plus certain other credits and carryover amounts. Implementation of the rider rate factor will result in an increase of about \$0.65 annually for the average natural gas residential customer. Under the proposed factor, the average customer would pay approximately \$1.86 per year.

As part of this recovery, the Commission authorizes Xcel Gas to include the assessment costs for the Department Regional and National Duties in the SEP Rider. Because the legislature has extended the sunset provision for the Reliability Administrator statute until June 30, 2018, and the SEP statute is subject to true-up, the Commission will allow recovery of the Assessment costs for the Department Regional and National Duties to be included in the SEP Rider.

To prevent confusion as to the Reliability Administrator costs, the Commission asks that the Company change the labeling of these costs from Reliability Administrator to Assessment for Department Regional and National Duties in its next filing.

### **III. Reasonableness of the Natural Gas SEP Rider Rate**

#### **A. Accumulated Deferred Income Tax**

Accumulated Deferred Income Tax (ADIT) accounts for tax liability between the time when reported income tax obligation is accrued compared to when the income tax obligation is paid. Xcel included ADIT as a reduction to rate base in the calculation of its revenue requirement, using IRS tax regulation Sec. 1.167(l), when forecast information is used to set rates. Xcel Gas stated that it uses this method to comply with the tax normalization requirements of the IRS code. In its filing, the Company stated that the Cast Iron Replacement revenue requirement computation includes the ADIT reduction to rate base by month. Xcel Gas did not, however, detail its calculations.

##### **1. Xcel Gas**

Xcel Gas stated that it planned on requesting a Private Letter Ruling (PLR) from the Internal Revenue Service to resolve the issue of proper ADIT treatment in riders. The Company prepared a draft request for a PLR, which it shared with the Department. At the Commission meeting, the Company stated that it hoped to reach a compromise with the Department regarding the treatment of ADIT, to avoid the need to obtain a PLR, in light of another PLR recently issued.

##### **2. Department**

The Department made specific recommendations regarding treatment of ADIT should the Commission continue the SEP Rider, and proposed that the Commission allow Xcel Gas to reflect the prorated ADIT in the SEP Rider with the understanding that the proration would be subject to a true-up calculation the following year using actual non-prorated ADIT amounts. At the hearing, however, the Department amended its initial recommendation, and requested that the Commission not allow Xcel to prorate its accumulated deferred income taxes in the SEP Rider, and require the effective date of the SEP Rider to be July 1, 2018.

##### **3. Commission Action**

The Commission agrees that the Department's approach is more reasonable, particularly in lieu of waiting for a PLR that the Company has not yet formalized or submitted. As the Department explained, there will be no proration effect of ADIT on the SEP Rider if the rate has been put into effect at the conclusion of the test year (June 30, 2018).

Accordingly, the Commission will adopt the Department's recommendation to not allow Xcel Gas to prorate its accumulated deferred income taxes in the SEP Rider, and to set the effective date of the SEP Rider to be on or after July 1, 2018.

## **B. Capital Structure**

### **1. Xcel Gas**

Xcel Gas proposed the following capital structure and cost of capital rates<sup>3</sup> for the 2017 SEP Rider:

Capital	Rate	Capital Structure
Long Term Debt	4.7%	46.05%
Short Term Debt	1.91%	1.45%
Common Equity	10.09%	52.50%

While it is typical for rider mechanisms to use a Commission-authorized capital structure, Xcel Gas did not do so in this SEP Rider filing. The Company stated that it uses capital structures that were approved in its recent rate cases for all riders with the exception of the SEP Rider. The Company's last gas rate case was in 2009 (Docket No. 08-1153).

### **2. Department**

In its reply comments, the Department compared the weighted pre-tax rate of return using the Company's proposed rates under the capital structure as proposed for this SEP Rider docket, the Commission-authorized capital structure in Xcel Gas' most recent gas base rate case, and the Commission's authorized capital structure in Xcel's then most recent finalized electric rate case (Docket No. E-002/GR-13-868). While the pre-tax overall rate of return results were similar, the

Department recommended that Xcel Gas use the approved capital structure in Docket No. E-002/GR-13-868, unless Xcel's proposal is shown to be in favor of the consumer by producing a lower pre-tax weighted cost of capital.

### **3. Commission Action**

In other recent gas rider dockets, the Commission has approved use of a capital structure that was not from Xcel Gas' most recent gas base rate case, but instead from Xcel's last electric rate case.<sup>4</sup> The Commission also required the company to use the electric rate case capital structure in Xcel's 2015 Gas Utility Infrastructure Cost Rider, stating that it was more reasonable to calculate the rate of return using a capital structure determined on a fully-developed record.<sup>5</sup> The Commission concludes, for the same reasons, that the SEP Rider should also use the capital structure from Xcel's last electric rate case, as shown below:

Capital	Capital Structure
Long-term Debt	45.01%
Short Term Debt	1.89%
Common Equity	52.50%

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<sup>3</sup> There was no dispute in the matter regarding the cost rates for long term or short term debt.

<sup>4</sup> Docket No. E-002/GR-13-868.

<sup>5</sup> Docket No. G-002/M-14-336.

## **C. Return on Equity**

Minn. Stat. § 216B.1637, which authorizes the Greenhouse Gas Infrastructure program, did not have its own guidance on return on equity (ROE) to use for cost recovery, instead relying on Minn. Stat. § 216B.16, subd. 7b. Subdivision 7b allows a return on investment at the level approved in the utility's last general rate case, unless a different return is found to be consistent with the public interest. In riders, use of the ROE authorized in a recent rate case is typical.

### **1. Positions of the Parties**

In its SEP petition, Xcel Gas used the ROE of 10.09 percent authorized by the Commission in the Company's most recent gas rate case<sup>6</sup> to calculate the overall rate of return for the SEP Rider. At oral argument, Xcel Gas stated that it would accept a ROE of 10.00 percent, or the 9.2 percent ROE used in Xcel Electric's recent rate case (Docket No. E-002/GR-15-826).

The Department argued that in the SEP Rider matter it is unreasonable to use the ROE from the Company's 2009 gas rate case, as rate of return analyses have changed significantly since that time. The Department instead recommended that the Commission use the agency's analysis and proposed ROE of 9.04 percent from the most recent and still pending 2016 GUIC matter (Docket No. G-002/M-16-891). The Department argued that the 9.04 percent ROE has been fully vetted in the GUIC docket, and that it would be reasonable to use the same ROE for the two riders, as they are close in time and for the same entity. The Department argued that the Commission has not before used an ROE from Xcel Electric in a gas rider matter.

Finally, the Department recommended that, should the Commission set a different ROE in the GUIC Rider docket than the 9.04 percent the agency proposed in the GUIC matter, the Commission should make a true-up to align the ROE in the SEP Rider with the Commission's final decision in the GUIC matter at the next SEP filing.

### **2. Commission Action**

The Commission agrees with the Department that a ROE of 9.04 percent is the most reasonable place to set the ROE in this matter. The 9.04 percent ROE has been thoroughly vetted by the Department in the pending GUIC matter, and is not greatly dissimilar from the 9.2 percent ROE the Company agreed would be reasonable at oral argument. The Commission also agrees that it is reasonable to align the ROE set in this docket with what will be finally set by the Commission in the GUIC rider docket for Xcel Gas, as it is reasonable to have the same ROE for two rider dockets decided close in time and for the same company. A subsequent true-up to align the ROE set in the two dockets will ensure that this happens.

## **IV. Required Filings**

The Commission will require the Company to recalculate the 2017 SEP rider revenue requirements and factor, to incorporate all of the Commission's decisions herein and to submit revised schedules and factors reflecting these modifications, highlighting the values that differ from the initial filing's schedules.

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<sup>6</sup> Docket No. G-002/GR-09-1153 (December 6, 2010).

The Commission will require Xcel Gas to submit an annual compliance filing by each March 1 containing the actual and forecasted information needed to determine any true-up amount to be recovered from or returned to ratepayers as a result of the operation of the SEP rider. Xcel is required to submit a miscellaneous filing to establish new SEP rider rates for the subsequent fiscal year, incorporating amounts anticipated to be incurred and including any true-up amounts for the operation of the SEP rider during the current year.

In its future SEP Rider filings, Xcel Gas is also required to provide a comparison between actual and budgeted monthly costs, including a discussion of reasons for deviations from budgeted amounts (both higher and lower).

In future years the Commission will require Xcel Gas to revise labeling and provide correct descriptions in its SEP rider petition to clarify exactly which costs are included and not included in its proposed SEP rate.

Finally, in future SEP Rider petitions, Xcel Gas is required to include the most recent billing message language approved by the Commission, along with any proposed modifications.

### **ORDER**

1. Xcel Gas may continue to recover approximately \$1.83 million of costs through its State Energy Policy (SEP) rider until all costs are recovered or the Company files a general rate case, with the understanding that no new costs will be added or recovered through the SEP Rider.
2. Xcel Gas may include the assessment costs for Department Regional and National Duties in the SEP rider.
3. Xcel Gas shall not prorate its accumulated deferred income taxes in the SEP rider.
4. The effective date of the SEP rider shall not be before July 1, 2018.
5. The Commission approves the capital structure authorized in Xcel Electric's 2013 electric rate case for use in this docket along with the 9.04 percent Return on Equity (ROE) the Department recommended in Xcel's Gas Utility Infrastructure Cost (GUIC) in Docket No. G-002/M-16-891. A true up to align the ROE to the Commission's final decision in the GUIC docket shall be made at the next SEP filing.
6. Xcel Gas shall submit an annual compliance filing by each March 1 containing the actual and forecasted information needed to determine any true-up amount to be recovered from or returned to ratepayers as a result of the operation of the SEP rider. Xcel shall submit a miscellaneous filing to establish new SEP rider rates for the subsequent fiscal year, incorporating amounts anticipated to be incurred and including any true-up amounts for the operation of the SEP rider during the current year.
7. Xcel Gas shall provide a comparison between actual and budgeted monthly costs in its future SEP rider filings, including a discussion of reasons for deviations from budgeted amounts (both higher and lower).

8. Xcel Gas shall revise labeling and provide correct descriptions in its SEP rider petition in future years to clarify exactly which costs are included and not included in its proposed SEP rate.
9. Xcel Gas shall recalculate the 2017 SEP rider revenue requirements and factor, to incorporate all of the Commission's decisions herein and shall submit revised schedules and factors reflecting these modifications, highlighting the values that differ from the initial filing's schedules.
10. Xcel Gas shall include the most recent billing message language approved by the Commission, along with any proposed modifications, in future SEP Rider petitions.
11. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf  
Executive Secretary



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