

**MINNESOTA PUBLIC UTILITIES COMMISSION
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Valerie Means	Commissioner
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John Tuma	Commissioner

In the Matter of Xcel Energy's Petition for
Approval of its 2023 Annual Fuel Forecast
and Monthly Fuel Cost Charges

Docket No. E-002/AA-22-179

**MINNESOTA DEPARTMENT OF
COMMERCE'S REQUEST FOR
CLARIFICATION**

Pursuant to Minn. R. 7829.3000, the Minnesota Department of Commerce respectfully petitions the Minnesota Public Utilities Commission to make a limited clarification of its November 15 Order.¹ The Department seeks additional guidance on the scope of the issues to be addressed in the contested case proceedings. Specifically, the Department asks that the November 15 Order be amended to state the contested case is limited to the refund owed to ratepayers for costs that flow through the fuel-clause adjustment report. Alternatively, if the Commission would like the contested case to address all costs owed to ratepayers as a result of Xcel's imprudence, the Department requests the November 15 Order to be amended to explicitly note the intended scope of the case. In either case, such clarification will allow the parties to focus on developing the appropriate factual record and avoid the unnecessary expenditure of resources on procedural matters.

¹ ORDER APPROVING 2023 FUEL-CLAUSE TRUE-UP REPORT, REQUIRING ADDITIONAL FILINGS, FINDING IMPRUDENCE, AND NOTICE OF AND ORDER FOR HEARING (Nov. 15, 2024) (eDocket No. [202411-211999-01](#)) (November 15 Order).

BACKGROUND

On October 19, 2023, Unit 1 of the Prairie Island Nuclear Generating Plant was shut down after a contractor performing work at the plant drilled through a cable bundle containing control cables.² At the time, Unit 2 was in a planned refueling outage, which was forecasted to end on December 8, 2023.³ In a Licensee Event Report Xcel filed with the Nuclear Regulatory Commission, Xcel stated that the “root cause” of the accident “was weakness in the Excavation Permit approval process” and “inadequate oversight” of contractors.⁴ Xcel determined that the cables could not be repaired, and the only available option was to abandon the cables in place and install a new cable bundle.⁵ Unit 1 was not brought back online until January 30, 2024, and Unit 2 did not start to regain power until March 2, 2024.⁶

In its annual fuel-clause adjustment report for 2023, Xcel sought full recovery of the cost of the more expensive power used to replace the generation that was lost during the outage.⁷ Because rates must be just and reasonable, the Department recommended that Xcel refund ratepayers for the replacement power costs related to the Prairie Island Nuclear Generation Plant Units 1 and 2 outages due to the boring mistake on October 19, 2023 because the outage was

² Supplemental Response Comments of the Minnesota Department of Commerce at 6 (May 15, 2024) (eDocket No. [20245-206783-02](#)) (Department Supplemental Comments).

³ *Id.* at 4.

⁴ *Id.* at 10.

⁵ *Id.* at 8.

⁶ *Id.* at 4. Additional issues arose in each unit after regaining power, but based on the information provided by Xcel, the Department believes the additional incremental outages were not caused by imprudence on Xcel’s part. *Id.* at 16.

⁷ Xcel 2023 Annual True-Up Report at Part C attach. 5 (Mar. 1, 2024) (2023 FCA Report) (eDocket No. [20243-204018-02](#)). Xcel files annual fuel clause adjustment true-up and compliance reports pursuant to Minn. Stat. § 216B.16, subd. 7 and various Orders issued in Docket No. E999/CI-03-802, which implemented Fuel Clause Reform. *See In re an Investigation into the Appropriateness of Continuing to Permit Elec. Energy Cost Adjustments*, MPUC Docket No. E-999/CI-03-802, ORDER APPROVING ADDITIONAL DETAILS OF NEW FUEL CLAUSE ADJUSTMENT PROCESS (June 12, 2019) (eDocket No. [20196-153514-01](#)).

caused by Xcel's imprudent conduct.⁸ The Office of the Attorney General–Residential Utilities Division (RUD) and Citizens Utility Board of Minnesota (CUB) also filed comments recommending that Xcel be required to refund ratepayers for the replacement power costs because the outage was caused by Xcel's imprudence.⁹

In recognition that Xcel may have provided some amount of ratepayer benefit by conducting other maintenance work during the outage, the Department recommended allowing Xcel to refund only 50% of the replacement power costs during the portion of the outage that MISO approved as a planned outage, along with 100% of the costs for the portion of the outage classified as unplanned.¹⁰ The Department was clear that this recommendation was “a more than reasonable compromise” based on the limited information Xcel had made available, and did not necessarily reflect the actual benefit provided to ratepayers.¹¹ RUD and CUB argued that Xcel had not provided sufficient information to justify any retention of the replacement power costs for Prairie Island 1 (PI1), and recommended ratepayer refunds accordingly.¹² The Department and CUB noted that although the 2024 replacement power costs were beyond the scope of Xcel's 2023 FCA Report, ratepayers would be owed similar refunds for those costs as well.¹³

At the September 19 meeting, the Commission found that although the record was sufficient to determine that the outage was caused by Xcel's imprudent conduct, there was not

⁸ Minn. Stat. § 216B.03; Department Supplemental Comments at 19-20.

⁹ Comments of the Office of the Attorney General (May 15, 2024) (eDocket No. [20245-206795-01](#)); Reply Comments of the Citizens Utility Board of Minnesota (July 30, 2024) (eDocket No. [20247-209116-01](#)).

¹⁰ Department Supplemental Comments at 12. At Xcel's request, MISO changed the status of the outage for PI1 from unplanned to planned on December 15. *Id.* at 8.

¹¹ *Id.*

¹² Comments of the Office of the Attorney General at 8-9; Reply Comments of the Citizens Utility Board of Minnesota at 13-16.

¹³ Department Supplemental Comments at 13; Reply Comments of the Citizens Utility Board of Minnesota at 16.

adequate information in the record to determine the appropriate amount of the refund owed to ratepayers.¹⁴ The Commission decided to make a referral to the Office of Administrative Hearings for a contested case proceeding solely to determine the size of the refund. During the meeting, Commissioners expressed different opinions as to whether certain outage-related costs, such as the subsequent de-rating of Prairie Island by MISO and resulting impact on capacity costs, or impact on insurance costs, would be addressed separately during Xcel's electric rate case, or whether the Office of Administrative Hearings would address all cost-related aspects related to the outage.

The Commission's November 15 order identifies the issues to be addressed during the contested case at OAH. Section V. of the Order states, "[t]he Commission expects the parties will thoroughly develop a full record, addressing, at a minimum, the appropriate refund amount due to ratepayers stemming from the lack of prudence regarding the October 2023 outage at PINGP."¹⁵ Later, Order Point 6 states that the matter is referred to OAH for a contested case "to determine the appropriate refund amount due to customers due to Xcel's lack of prudence regarding the October 2023 outage at Prairie Island."¹⁶ The Order's language thus leaves open the question that was raised at the Commission meeting regarding whether the contested case should be limited to the refund owed to ratepayers under the FCA, or should instead encompass all refunds owed to ratepayers as a result of Xcel's imprudence, regardless of the recovery mechanism.

¹⁴ See November 15 Order at 2.

¹⁵ November 15 Order at 9.

¹⁶ *Id.* at 11.

AUTHORITY

Under Minn. R. 7829.3000, parties may request modifications to a Commission order within 20 days of service.¹⁷ The Commission has granted requests for amendment or clarification to allow the implementation of an order in a manner consistent with the Commission's decision.¹⁸

REQUEST FOR AMENDMENT

The Department intends to pursue appropriate relief for ratepayers for all costs arising from Xcel's imprudence in the appropriate dockets. Clarification of the scope of the Commission's referral to OAH would allow the parties to avoid getting bogged down in potentially lengthy, resource-intensive disputes over procedural issues and instead focus their efforts on ensuring ratepayers are held harmless from the impacts of Xcel's imprudence.

The Department believes that because the issue of prudence has been determined, and only the amount of the refunds remains in question, the costs to ratepayers are best addressed in the dockets in which they arise. This approach will eliminate the possibility of disputes over piecemeal or retroactive ratemaking without adding any substantial duplication of effort. The Department requests that the Commission make minor amendments to the November 15 order as follows:

V. Issues to be Addressed

Over the course of this case, the Commission expects the parties will thoroughly develop a full record² addressing, ~~at a minimum,~~ the appropriate refund amount due to ratepayers for replacement power costs in 2023 and 2024 stemming from the lack of prudence regarding the October 2023 outage at PINGP.

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ORDER

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¹⁷ Minn. R. 7829.3000, subp. 1.

¹⁸ See, e.g. *In re Appl. of Minn. Power for Auth. to Increase Rates for Elec. Serv. in Minn.*, E-015/GR-21-225, ORDER DENYING PETITIONS FOR RECONSIDERATION AND GRANTING, IN PART, REQUESTS FOR CLARIFICATION at 2 (May 15, 2023) (eDocket No. [20235-195831-01](#)).

6. The Commission refers this matter to the Minnesota Office of Administrative Hearings for a contested case to determine the appropriate refund amount due to customers for replacement power costs in 2023 and 2024 due to Xcel's lack of prudence regarding the October 2023 outage at Prairie Island.

7. The Commission will address other appropriate cost adjustments related to the October 2023 outage at Prairie Island, such as the impact of de-rating on capacity costs and insurance costs, in Xcel's currently pending general rate case for electric service, Docket 24-320.

CONCLUSION

The Department respectfully requests a limited amendment to the Commission's November 15 Order to provide clarity regarding the scope of the contested case proceedings.

Dated: December 5, 2024

Respectfully submitted,

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