BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, Minnesota 55101

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
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In the Matter of the Application of	)	
Northern States Power Company for	)	OAH Docket No. 68-2500-31182
Authority to Increase Rates for Electric	)	PUC Docket No. E-002/GR-**13-868**
Service in the State of Minnesota	)	

EXCEPTIONS OF AARP
TO THE FINDINGS OF FACT, CONCLUSIONS
AND RECOMMENDATION OF THE ADMINISTRATIVE LAW JUDGE

January 20, 2015

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I. INTRODUCTION

Pursuant to Minnesota statute section 14.61.1 and Minnesota Rule 7829.2700, AARP hereby files its exceptions to the Findings of Fact, Conclusions, and Recommendation ("Findings") issued by the Administrative Law Judge ("ALJ") on December 26, 2014 in the above-styled docket, addressing the first ever "multi-year rate plan" request by Northern States Power Company d/b/a Xcel ("Xcel" or "Company") for a two-step increase in its electric rates.

Overall, the Findings are extremely thorough and thoughtfully reasoned. With regard to the rate design issues that AARP was allowed to litigate in this proceeding, a large majority of the findings are acceptable. However, AARP was disappointed with the findings issued in support of decoupling in this case and takes exception to the recommended decoupling pilot program. AARP continues to believe that decoupling is unnecessary in Minnesota, that it would unfairly and unreasonably shift the utility's revenue volatility risk onto consumers, and that it can weaken the economic benefits of energy efficiency and conservation efforts taken by consumers[1].

Nonetheless, AARP's exceptions focus on the details of the recommended decoupling pilot program, alternatively urging the Minnesota Public Utilities Commission ("Commission") to adopt more stringent consumer protections to the revenue stabilization mechanism pilot than recommended in the ALJ's Findings. Minnesota law requires that if the Commission does approve a rate-decoupling program, its criteria

[1] See AARP's Initial Brief, pp. 4-14.

should be implemented ". . . *without adversely affecting utility ratepayers*."[2] In order to ensure that Xcel's residential ratepayers are not adversely affected and that the detrimental impacts of any decoupling pilot program are sufficiently mitigated, AARP herein recommends additional consumer protection conditions.

II. CUSTOMER CHARGES

AARP was particularly pleased to see the ALJ's recommendation in favor of holding the line on increases to Xcel's current fixed residential customer charges. The ALJ recommends that the current customer charges remain at current levels ($8.00 – $12.00), rejecting Xcel's proposal that would have increased those rate components by a weighted 14.3%.[3] AARP shares the sentiments of the ALJ in Finding 814, which states: "In the view of the Administrative Law Judge, the need to promote conservation and affordability outweigh the concerns of moving closer to the costs as measured by the Company's CCOSS results."[4] Knowing that each cost study contains its own variety of assumptions as to allocation techniques, AARP agrees that it is important to weigh the equities underlying the goal of affordability for the customers that use the least energy.

AARP's positions on issue customer charge issues was accurately summarized in ALJ Finding 805.[5] But to clarify further, AARP believes that the customer charges of the magnitude proposed by Xcel would place a heavy burden on low-use customers, and

[2] Minnesota Stat. Section 216B.2412.2
[3] ALJ Findings 810 – 816. The weighted percentage can be found at Exh. 310, p. 25.
[4] Ibid., p. 185.
[5] Ibid., p. 183.

make service less affordable for them.[6] The demographic record in evidence of this case argues for the Commission to retain the current customer charges, in order to maintain the health and safety of low-use customers, to promote affordability, and to send the appropriate conservation incentives to high-use customers, who place more demands on the system than low-use customers, and have more control over their usage at such high levels.[7]

Generally speaking, elderly customers in Minnesota also use less than the average customer. On average, customers in the East North Central Census region use 10,719 kWh per year, but households headed by a person 65 or older use considerably less power on average.[8] Households headed by a person 65 years or older use on average 9,135 kWh per year, or about 85% of the usage of all households in the region.[9] The ratio of usage by households headed by a person 65 years and older to that of households headed by a person less than 65 years old is roughly 80%.[10]

AARP hopes that the full Commission endorses all of the ALJ findings on this important issue.[11]

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[6] Id.
[7] Exh. 310, pp. 25-26.
[8] Id.
[9] Exh. 30, pp. 29-30.
[10] Exh. 310, p. 30.
[11] ALJ Findings 778 – 816 at pp. 176 – 185.

III. EXCEPTIONS.

a. The Commission should reject the recommended decoupling pilot program as unnecessary, unfair, and unreasonable.

The ALJ's discussion of Xcel's proposed revenue-per-customer decoupling mechanism ("RDM") is found on pages 192-212 of the Findings[12]. The ALJ recommends that Xcel be allowed to implement a "full" decoupling pilot program on terms that are more favorable to consumers than Xcel's proposed "partial" decoupling mechanism.[13] Under Xcel's revenue decoupling mechanism ("RDM"), revenue shortfalls that exceed an annual "soft" 5% cap, would be passed onto residential consumers as a rate increase, and amounts that exceed the 5% cap would be deferred for inclusion in a future RDM rate increase, where room exists under that next year's 5% cap.[14] In contrast, the ALJ recommends a decoupling pilot that places a "hard" 3% cap on the annual rate adjustment, consistent with the Department of Commerce's recommendation.[15] While the terms of the ALJ's recommended decoupling pilot program are more protective of consumers than the utility's proposal, AARP still contends that such a mechanism is unnecessary, and that it would still unfairly and unreasonably shift business risks to residential customers, without compensating consumers for bearing those new risks.

Even if the Commission agrees with the ALJ's recommendation to adopt a decoupling pilot program, the following objections and concerns should be kept in mind

[12] ALJ Findings 887 – 944.
[13] ALJ Finding 910.
[14] ALJ Finding 865.
[15] ALJ Finding 934.

as the program details are developed. If duly considered, these concerns can be mitigated with more stringent consumer protections.

AARP witness Nancy Brockway, who has extensive experience with the regulatory issues surrounding utility energy efficiency[16], contends that revenue decoupling is neither a necessary nor a sufficient condition to increase energy efficiency in Minnesota.[17] She notes that numerous and sufficient non-decoupling tools are already available to policy-makers.[18] In fact, Minnesota has recently implemented many of these tools, including a strengthening of the minimum energy efficiency standards in its building code,[19] the legislative enactment of a strong utility energy efficiency requirement,[20] and adoption of regulatory trackers to recover efficiency costs as incurred.[21]

The Commission approved a 1.3% demand-side management (DSM) target as part of the Company's 2011-2025 integrated resource plan (IRP).[22] This goal was adopted without Xcel imposing any decoupling mechanism on its consumers. Xcel witness Mr. Daniel Hansen acknowledged that "the Company has thus far been willing to promote its DSM programs as effectively as it can in order to meet energy efficiency goals."[23]

[16] See Exh. 310, pp. 1-3 and Schedule NB-1; Exh. 312, pp. 2-3. Ms. Brockway's experience spans nearly 30 years, from serving as a Commissioner for the New Hampshire PUC, and a staff expert in Maine PUC, to success as a nationally-recognized academic researcher in this field.
[17] Exh. 310, p. 7.
[18] Exh. Pp. 7-8.
[19] http://mn.gov/commerce/energy/topics/efficiency/Energy-Code.jsp
[20] Minn. Stat. Section 16 216B.24, Energy Conservation Improvement.
[21] Conservation Improvement Program Adjustment Rider.
[22] Company's response to AARP-0011; Docket No. E002/RP-10-825, *Order Approving Plan, Finding Need, Establishing Filing Requirements, and Closing Docket* (March 5, 2013).
[23] Exh. 310, p. 10, Xcel Response to AARP IR 0011.

It is true that energy efficiency has a downward effect on a utility's revenues, but there is little empirical evidence that the presence of a revenue decoupling mechanism is actually needed to ensure that Xcel will vigorously pursue energy efficiency and its DSM goals.[24] There is evidence that decoupling has not been a driver for energy efficiency in Minnesota. The 2013 CenterPoint report on decoupling, required by the Commission in Minnesota Energy Resources Corporation's (MERC's) 2010 rate case, provides comparisons of pre-decoupling and post-decoupling activities as a condition for approving the decoupling proposal in that case.[25] The Compliance Filing Revenue Decoupling Evaluation Report for 2013, however, does not show any positive impact of that utility's pilot program decoupling *per se* on the utility's efforts.[26]

Researchers have searched for a relationship between decoupling and increased efficiency, and failed to find any connection. In a discussion paper published by Resources for the Future, entitled "Cost-Effectiveness of Electricity Energy Efficiency Programs"[27], the researchers performed a variety of regression analyses to explore effects of ratepayer-funded utility and third party DSM spending on electricity demand at the utility level.[28] To test whether state-level revenue decoupling regulation leads to reduced demand, the authors included a categorical variable indicating its presence or absence.[29] They were unable to find a statistically significant relationship between decoupling and demand reduction efforts of utilities, at least not based on the data from

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[24] Exh. 310, p. 11.
[25] In the Matter of the Application of Minnesota Energy Resources Corporation for Authority to Increase Rates for Natural Gas Service in Minnesota, Docket No. G-007,011/GR-10-977.
[26] Exh. 310, p. 13.
[27] By Toshi Arimura (an associate professor at Sophia University, Tokyo, Japan), Shanjun Li (a fellow Resources for the Future), Richard G. Newell (then Gendell Associate Professor of Energy and Environmental Economics at Duke University, Nicholas School of the Environment), and Karen Palmer (senior fellow at Resources for the Future).
[28] Ibid. at p. 3.
[29] Ibid. at p. 17.

1989 through 2006.[30] Therefore, while the "throughput *disincentive*" may exist, it remains unclear whether decoupling mechanisms actually provide any positive "*incentive*" for increasing energy efficiency or conservation efforts.

Revenue decoupling will also result in a risk for cross-subsidization of candidates for DSM by low-use customers and by other customers who cannot obtain the direct benefits of DSM.[31] In addition, in the RDM version of decoupling proposed by Xcel, residential consumers would experience disproportionate rate increases if large commercial and industrial sales decline at a faster rate than residential sales, *for any reason*. In a difficult economy, for example, large industrial customers can unexpectedly drop from the system, reducing industrial load by a large amount in one year. The RDM would shift the risk of this sales loss automatically to those residential customers who are subject to the RDM.

AARP also continues to believe that decoupling mechanisms weaken the economic benefits of customer efficiency and conservation efforts by muddying the price signals received by consumers. Regardless of whether an individual can still reduce their overall energy bill, (provided that they can out-perform their neighbors' average efficiency and conservations efforts), their personal economic rewards will nonetheless be smaller than would be the case without decoupling.[32]

Therefore, it is AARP's preference that the Commission reject any RDM for the reasons above and strike ALJ Findings 887 through 944. However, if the Commission determines that an electric decoupling pilot program for Xcel is indeed in the public interest, the following exceptions are offered as AARP's alternative recommendation.

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[30] Ibid. at 25.
[31] Exh. 310, p. 22.
[32] For a further discussion of this topic, see AARP's Initial Brief, pp. 11-14.

b. If the Commission determines that, despite AARP's objections and concerns, it is in the public interest to approve a decoupling pilot program; AARP recommends that, accordingly, the Commission adjust the ALJ's recommended return on equity for Xcel downward by 10 basis points.

The ALJ's discussion of the relationship between decoupling and the authorized return on common equity can be found on pages 82-84 and pages 88-89 of the Findings.[33] The ALJ recommends that the Commission authorize a return on equity of 9.77% for Xcel,[34] and does not recommend any downward adjustment to this return on equity ("ROE") if a decoupling pilot program is adopted.[35]

Managing utility risk through ratemaking is a zero-sum endeavor. To the extent that decoupling alleviate the utility's risk of revenue variability or volatility (which is the stated goal of an RDM), such a program will correspondingly transfer that risk of revenue variability or volatility onto consumers who must pay additional RDM rate adjustments.[36] AARP believes that this transfer of risk should be explicitly recognized in the utility's allowable return on equity (utility profit). A number of public utility commissions have ordered that the allowed return on equities for utilities in their states be reduced upon the implementation of a decoupling mechanism, or they have approved settlements in which such a reduction was made, and the range of such reductions has been from 10 to 50 basis points.[37]

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[33] ALJ Findings 366-373 and Findings 389-390.
[34] ALJ Finding 373.
[35] ALJ Finding 390.
[36] Exh. 310, p. 18.
[37] Id.

Moreover, there are serious revenue volatility risks which are not related to energy efficiency or conservation programs that can be affected by an RDM. One of these revenue risks relates to the potential for broad economic downturns.[38] Central Maine Power Company ("CMP") famously pioneered revenue per customer decoupling in 1991.[39] Its initial three-year trial was discontinued as a result of substantial revenue deferrals under the RDM, amounting to over $50 million.[40] This effect occurred because shortly after initiating decoupling, Maine suffered an economic downturn. The RDM was increasingly viewed as a mechanism that shielded CMP against the economic impact of the recession, rather than providing the intended energy efficiency and conservation incentive impact.[41] Similarly, had a RDM decoupling mechanism had been in place for Xcel in 2008-2009, the economic recession would have likely contributed to higher electric bills for Minnesota consumers.[42]

ALJ Finding 389 contends that no specific downward adjustment to ROE is needed because many of the comparable companies used in the Discounted Cash Flow ("DCF") estimation for Xcel's proxy group already have some type of decoupling program in place. AARP disagrees with this assumption. The proxy groups used by Xcel witness Mr. Hevert are not representative of utilities with the type of RDM mechanism sought by Xcel in the instant rate case. He acknowledges that, of the 28 companies in the proxy groups, only half have some form of decoupling mechanism in

[38] Thankfully, Xcel's Minnesota consumers were not subjected to decoupling mechanisms in their electric rates during the great economic downturn that began in 2008.
[39] *Investigation of Chapter 382 Filing of Central Maine Power Company, Order,* Docket No. 90-085 (May 7, 1991).
[40] Exh. 310, p. 14-15.
[41] Exh. 310, p. 15.
[42] See the tables contained in Department of Commerce Exhibit 417, pp 33-35 and discussed in ALJ Findings 919-920.

place.[43] He also made no effort to demonstrate or to quantify that the decoupling proposals of his proxy group utilities are such that equity investors would not take the presence of an RDM for Xcel into account.

It is an unavoidable fact that a RDM would shift sales volatility risk onto consumers and, to some degree, stabilize the company's revenues going forward. Xcel would no doubt be a less risky utility if a RDM is adopted. Mr. Hevert does admit that Xcel's proposed RDM tariff is designed as a "revenue stability mechanism".[44] Mr. Hevert further acknowledges that reducing the utility's revenue volatility is viewed positively from an investor's perspective.[45] It should be self-evident that reducing the utility's revenue volatility would necessarily increase rate volatility for consumers, and that revenue risk would clearly be transferred from one side of the ratemaking equation to the other via decoupling. The final order issued by the Commission in this rate case should recognize this reality by only adopting a decoupling pilot program if, and only if, the utility's allowed return on equity is adjusted downward to match its altered risk profile.[46]

For these reasons, AARP recommends that the Commission strike ALJ Findings 366-373 and 389-390, and instead make a specific finding that a decoupling pilot program would stabilize the utility's revenue and make it less risky, and that therefore Xcel's allowable ROE should be reduced by ten basis points from 9.77% to 9.67%.

[43] Id.
[44] Transcript, Vol. 1, p. 82.
[45] Exh. 28, p. 50; Transcript Vol. 1, pp. 82-85.
[46] Exh. 310, p. 21.

c. If the Commission determines, despite AARP's objections and concerns, that it is in the public interest to approve a decoupling pilot program, AARP recommends that such RDM be conditioned upon an increased commitment by Xcel to provide cost-effective demand-side programs and measures.

The Commission should not adopt any decoupling program absent a strong and increased commitment by the utility to provide cost-effective demand-side management ("DSM") programs and measures. AARP believes that if Xcel is granted relief from revenue volatility through an RDM, the Commission should correspondingly require the utility to make such additional commitments by making a filing assuring the Commission of the specific ways in which:

a) Xcel will produce incremental energy savings, *beyond those called for in the triennial plan*,

b) Performance requirements that are established directly linking any RDM ratemaking treatment to proven utility-sponsored DSM savings, and

c) Programs adopted in fulfillment of the Company's DSM commitments which assure that all residential customers can participate in DSM equally (if in fact, all residential customers are equally responsible for DSM costs).[47]

The ALJ states that if the Commission believes that Xcel should increase its commitment to cost effective DSM programs, then Xcel should be required to address this issue as part of the utility's CIP filings.[48] AARP believes that no RDM should be adopted without being linked to an increased commitment as described above, and thus, recommends that the two concepts be linked in this proceeding. In other words, the financial benefit of decoupling should be *coupled to* the activity it is designed to

[47] AARP Initial Brief, p. 17.
[48] ALJ Finding 934 on pp. 211-212.

impact. Therefore, the Commission should strike ALJ Finding 934, replacing it with a requirement to make such commitments as a condition of being granted a RDM.

d. If the Commission determines, despite AARP's objections and concerns, that it is in the public interest to approve a decoupling pilot program, AARP recommends that such RDM contain a hard cap on the rate increases that can occur in a 12-month period at 2%.

Establishing a reasonable cap level on any RDM is essential, if decoupling is indeed imposed on all residential consumers. The ALJ recognizes that Xcel's proposed 5% annual (soft) cap does not protect consumer expectations of reasonable, affordable, stable, and predictable energy utility rates. The ALJ recommends adoption of the Department of Commerce's proposed 3% hard cap for a decoupling pilot program.[49] AARP does not believe that this cap goes quite far enough to mitigate consumer impacts and continues to advocate for a 2% hard cap, excluding fuel and applicable riders.

The ALJ notes that, under the Department of Commerce's analysis, had a RDM been in place for Xcel in recent years, the residential customer class would have encountered AARP's proposed 2% cap under full decoupling in years 2004 and 2009.[50] The "residential with space heating" customer class would have encountered AARP's proposed 2% cap under full decoupling in years 2006 and 2012.[51] While the 2% hard cap would not likely need to be applied in most years, it should be considered a condition that would necessary to mitigate rate impacts. The adoption of a 2% hard cap as a condition of a RDM pilot program would go a long way toward ensuring that just and reasonable rates are maintained outside of a full general rate case. Such a cap

[49] ALJ Finding 933.
[50] ALJ Findings 924 and 925.
[51] Id.

would still significantly mitigate Xcel's sales and revenue volatility and would not interfere with the collection of related data. Therefore, if the Commission ultimately adopts a RDM pilot program, AARP recommends that the wording of ALJ Findings 933 and 934 be revised to replace the recommended 3% hard cap with a recommended 2% hard cap.

IV. CONCLUSION

AARP respectfully requests that the Commission issue its Final Order in this rate case proceeding consistent with the arguments contain herein, rejecting the imposition of a decoupling pilot program, by striking ALJ Findings 887 – 944 with findings consistent with the concerns expressed by AARP above.

However, if the Commission does indeed adopt a decoupling pilot program as recommended by the ALJ, AARP recommends that such pilot program be modified with additional conditions to better protect consumers, by striking ALJ Findings 373, 389, 390, 933, 934, 940, 943, and 944, and incorporating replacement findings as described herein.

Respectfully submitted,

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