

November 10, 2021

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. G002/M-21-750

Dear Mr. Seuffert:

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

Petition by Northern States Power Company d/b/a Xcel Energy's Petition for Approval of Deferrals Related to Depreciation, Distribution O&M, and Property Tax for 2022.

The Application was filed on November 1, 2021 by:

Greg Chamberlain
Regional Vice President
Xcel Energy
414 Nicollet Mall (401-7th Floor)
Minneapolis, MN 55401
(612) 337-2158

The Department recommends that the Minnesota Public Utilities Commission (Commission) **deny** Northern States Power Company's filing regarding the Approval of Deferrals Related to Depreciation, Distribution O&M, and Property Tax for 2022. The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/ MARK JOHNSON
Financial Analyst Coordinator

MJ/ar

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Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. G002/M-21-750

I. INTRODUCTION & SUMMARY

On November 1, 2021, Northern States Power Company d/b/a Xcel Energy (Xcel Gas or the Company) filed a petition requesting that the Minnesota Public Utilities Commission (Commission) approve a deferral of depreciation expense, distribution O&M expenses, and property tax expenses for calendar year 2022 (Petition). Xcel Gas filed this petition as an alternative to its general rate case which was filed on November 1, 2021 in Docket No. G002/GR-21-678.

In the Petition, the Company requests approval of the following:¹

- Deferral of depreciation expense, net of riders, incremental to approved 2010 test year levels;²
- Deferral of distribution O&M expense incremental to approved 2010 test year levels;
- Deferral of property tax expense, net of riders, incremental to approved 2010 test year levels; and
- Approval of remaining life extensions ranging from nine to 18 years for the various components of the Company's peaking plants at Wescott, Sibley, and Maplewood, as proposed in Xcel Gas's rate case.³

According to Xcel Gas, the estimated total amount of these 2022 deferrals is \$31.6 million and, if this proposal is approved, the Company agrees to withdraw its 2021 rate case and not file another rate case before November 1, 2022. In addition, Xcel Gas stated:

Moreover, granting a deferral does not guarantee cost recovery, but instead gives the Company the opportunity to demonstrate in a future general rate case that the expenses were actually incurred and prudently benefited customers. As a result, the requested deferral permits stakeholders the opportunity to scrutinize actual costs incurred. It merely delays the review of those costs by a year until the Company next files a case. Relatedly, the specific approach to recovery of these deferred costs can be addressed in that case, which would allow the Commission to make

¹ Petition at 2.

² As approved in the Company's last natural gas rate case, Docket No. G002/GR-09-1153.

³ Xcel Gas also requests that the Commission approve the Company's pending depreciation petition in Docket No. E,G002/D-21-584, related to its transmission, distribution, and general plant. The Department has already filed comments recommending approval in that docket.

a decision on the appropriate amortization period at a time when it has a better understanding of the impacts of such amortization on customers' rates. Therefore, should the Commission determine that avoiding a rate case this year is in the public interest, it is within its authority, under Minn. R. 7825.0300, to find that good cause supports deferring these expenses.

On November 3, 2021 the Commission issued a *Notice of Shortened Comment Period* (Notice) on Xcel's Gas's Petition. The Commission listed the following topics as being open for discussion in comments:

- Should the Commission approve Xcel's petition to defer incremental depreciation expense?
- Should the Commission approve Xcel's petition to defer incremental distribution O&M expense?
- Should the Commission approve Xcel's petition to defer incremental property tax expense?
- What reporting requirements should be established if this proposal is approved?

Below, the Minnesota Department of Commerce, Division of Energy Resources (Department) provides comments and recommendations regarding the issues raised in Xcel Gas's Petition and the Commission's November 1, 2021 Notice.

II. DEPARTMENT ANALYSIS

A. *THE DEPARTMENT'S IN-DEPTH RATE CASE REVIEW PRIOR TO SUBMITTING DIRECT TESTIMONY PROTECTS RATEPAYERS AND IS UNAVAILABLE IN STAY-OUT PROCEEDINGS*

Assessing whether Xcel Gas's stay-out proposal is in the public interest is complicated by the lengthy amount of time since Xcel Gas's last rate case. With the passage of time, the test year costs and revenues become out-of-date, the propriety of rate base items may change, and cost apportionment between customer classes may become less accurate. This may be particularly true where the utility has not had a rate case in a number of years, or in Xcel Gas's case, over a decade. The Department, therefore, prefers to engage in an in-depth review of Xcel Gas's filing, with an eye to settlement, rather than provide Xcel Gas with the substantial benefit of its deferred accounting and remaining lives extension request without thorough review of Xcel Gas's underlying request.

A general rate case is the mechanism that the Commission uses to ensure reasonable and cost-based rates. Rate cases provide for a broad review of the representative costs of a utility's rate base and expenses.⁴ This broad and thorough review is important because once rates are set, they are considered reasonable until they are changed in the next rate case.⁵

⁴ See Minn. R. 7825.3100-.4600 (2019).

⁵ *In re Complaint by Shark Regarding Xcel Energy's Income Taxes*, Docket No. E,G-002/C-03-1871, ORDER DISMISSING COMPLAINT at 4 (Oct. 1, 2004) (eDocket No. 1906124).

In reviewing rate cases prior to filing direct testimony, the Department's analysts undertake an in-depth review of a utility's filing. This includes review of the utility's statistical methodologies for the sales forecast and class cost of service studies, in-depth review of test-year expenditures, investigation to ensure items in rate base continue to be used and useful, and an assessment of whether the revenue allocation remains reasonably connected to cost and policy considerations. This type of in-depth review is necessary to ensure that Minnesotans are charged just and reasonable rates for their electric and gas services. Without this in-depth review, it is difficult to ensure that utilities are not overcharging ratepayers.

The Department has and continues to be mindful of reducing rate case expense. The Department has entered formal settlements in CenterPoint's two most recent gas rate cases,⁶ and resolved all issues through testimony in Dakota Electric's most recent rate case.⁷

The Department enters all rate cases in the spirit of resolving issues and is committed to engaging in settlement discussions with Xcel Gas following the Department's in-depth rate case review and submission of direct testimony. The Department has found the Office of Administrative Hearings' mediation services to be invaluable in achieving recent settlements and is committed to initiating mediation with the Company and other intervenors pursuant to Minn. R. 1400.5950 following the submission of intervenor direct testimony. The Department believes that pursuing settlement following its in-depth review better protects ratepayers while managing time and rate case expense than Xcel Gas's stay-out proposal.

Based on the above, the Department recommends that the Commission deny Xcel Gas's petition in this docket, and direct interested parties to proceed with the general rate case. The Department, however, does not believe it's necessary to fully litigate the rate case. After submitting its direct testimony, the Department is committed to engaging Xcel Gas and other interested parties in mediation to resolve the case. In the Department's view, this process would better protect the public interest while still avoiding unnecessary delay and rate case expense.

B. FINANCIAL CONSIDERATIONS AND OTHER ISSUES

In the event the Commission disagrees with Department's recommendation to deny Xcel Gas's Petition, the Department highlights the following financial considerations and other issues regarding the Petition.

⁶ *In re the Application by CenterPoint Energy Res. Corp., d/b/a CenterPoint Energy Minn. Gas for Authority to Increase Natural Gas Rates in Minn.*, MPUC No. G-008/GR-19-524, SETTLEMENT (Sept. 16, 2020) (eDockets No. 20209-166661-01); *In re Appl. of CenterPoint Energy Res. Corp. d/b/a CenterPoint Energy Minn. Gas for Authority to Increase Rates for Nat. Gas Serv. in Minn.*, MPUC Docket No. G-008/GR-17-285, Settlement (Mar. 6, 2018).

⁷ *In re Appl. of Dakota Elec. Ass'n for Authority to Increase Rates for Elec. Serv. in Minn.*, MPUC Docket No. E-111/GR-19-478, FINDINGS OF FACT, CONCLUSIONS, AND ORDER at 2 (July 20, 2020).

1. Xcel Gas's Proposed Deferral (Stay-Out) Compared to Historical Rate Case Outcomes

Xcel Gas provided the following table summarizing its 2022 deferral request for certain expenses:⁸

Table 1
Rate Case Alternative (Dollars in Thousands)

	2022 Interim Petition	+	SEP and TD&G Adjustment ³	=	Adjusted Rate Case Request	-	E002/GR-09-1153 Approved Amounts ⁴	=	Deferral Request
Depreciation	\$46,805		(\$582)		\$47,387		\$32,684		\$14,703
Distribution O&M	\$39,105				\$39,105		\$24,062		\$15,043
Property Tax	\$14,871		\$199		\$14,672		\$12,776		\$1,896
Total									\$31,643

Department Table 1 below compares Xcel Gas's proposed 2022 test-year rate increases (test year and interim) to its proposed 2022 deferral request:

Department Table 1: 2022 Rate Case Rates Compared to 2022 Stay-Out Deferral (\$ in Millions)⁹

		2022 Rate Case		2022 Deferral
		Test Year	Interim	
1	Total capital related	\$24.1		\$14.7
2	Distribution O&M	15.0		15.0
3	Other O&M	6.8		
4	Cost of capital – interim rate base	7.7		
5	Current & deferred income tax	2.5		
6	Property tax.	2.2		1.9
7	Sales change	(23.7)		
8	Other, net	0.8		
9	Net deficiency	35.6		
10	Interim adjustments			
11	Cost of capital		(\$7.7)	
12	Other		(3.0)	
13		<u>\$35.6</u>	<u>\$24.9</u>	<u>\$31.6</u>

⁸ Petition at 7, Table 1.

⁹ Petition, Exhibit 1.

As shown on line 13 above, Xcel Gas's proposed 2022 deferral request of \$31.6 million represents approximately **89 percent** of its proposed 2022 test-year rate request of \$35.6 million. The Department notes that this is significantly higher than the rate increases approved by the Commission in Xcel Gas's last three natural gas rate cases as shown below in Department Table 2.

Department Table 2: Comparison of Xcel's Initial General Rate Requests Compared to Commission Approved Amounts (\$ in Millions)

Rate Case Docket No.	Initial Request	Commission Approved	Percentage Approved
G002/GR-09-1153 ¹⁰	\$16.2	\$7.3	45%
G002/GR-06-1429 ¹¹	\$18.5	\$14.4	78%
G002/GR-04-1511 ¹²	\$9.9	\$5.8	59%

2. Xcel Gas's Peaking Plants

In the Commission's investigation into the impact of severe weather in February 2021 on Minnesota natural gas utilities and customers in Docket No. G999/CI-21-135, the Department became aware that several of Xcel Gas's natural gas peaking plants (Wescott, Sibley, and Maplewood) were unavailable during the February 2021 event.¹³ Thus, in the event the Commission approves Xcel Gas's stay-out proposal, the Department notes that it will be unable to address the used and usefulness of Xcel Gas's peaking plants that are currently included in base rates, but were unavailable during the February 2021 event, until the Company's next rate case.

3. Deferred Depreciation Expense and Xcel Gas's Peaking Plants

Xcel Gas stated the following regarding its proposal to defer incremental 2022 depreciation expense:¹⁴

In order to reflect an appropriate amount of deferred depreciation expense, however, we also ask that the Commission approve two changes in depreciation expense. Specifically, we are requesting the Commission approve both our proposed life extension for the peaking plants at Wescott, Sibley, and Maplewood, which would reduce annual depreciation expense as reflected in the testimony Ms. Laurie Wold submitted in Docket No. G002/GR-21-678, and our annual request for an update to the remaining lives and depreciation rates for Transmission, Distribution, and General (TD&G) functional classes of plant assets, currently pending in Docket No. E,G002/D-21-584.

¹⁰ Commission's December 6, 2010 *FINDINGS OF FACT, CONCLUSION OF LAW, AND ORDER* in Docket No. G002/GR-09-1153, page 29.

¹¹ Commission's September 10, 2007 *FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER* in Docket No. G002/06-1429, pages 1 and 24.

¹² Commission's August 11, 2005 *ORDER ACCEPTING AND MODIFYING SETTLEMENT AND REQUIRING COMPLIANCE FILINGS* in Docket No. G002/GR-04-1511, pages 1 and 9.

¹³ Department's May 10, 2021 Comments in Docket No. G999/CI-21-135, page 30.

¹⁴ Petition at 8.

Given the fact that these peaking plants were unavailable during the February 2021 event, the Department questions the reasonableness of life extensions for these plants and whether Xcel Gas's plans for further investment in these plants is warranted. The Department notes that while extending the lives of these plants may reduce depreciation expense and the revenue requirements Xcel Gas is seeking to defer in this proceeding or recover in its pending rate case, it increases utility profits over time by having the asset remain longer in rate base where it earns a return and results in higher rates for future customers.

The Department also notes that the Commission's September 2, 2021 Order in Docket No. E,G002/M-19-723, ordering paragraph 2 stated:

The Commission hereby denies Xcel's request to extend the remaining life of the Wescott LNG Plant until the status and prudence of the plant can be reviewed in Xcel's upcoming natural gas general rate case.

Based on the unavailability of Xcel Gas's peaking plants during the February event and the fact that the Commission denied Xcel Gas's request to extend the Wescott LNG Plant to allow for review in an upcoming gas general rate case, the Department concludes that it would be unreasonable to extend the Westcotts' depreciation life, as well as the lives of Sibley and Maplewood plants, without the contemplated review of the prudence of the capital investments needed to justify these extensions.

Finally, the Department does not believe Xcel Gas's Stay Out Proposal meets the standards that are required to support approval of the Company's requested deferred accounting.

III. CONCLUSION AND RECOMMENDATIONS

The Department recommends that the Commission deny Xcel Gas's petition in this docket, and direct interested parties to proceed with the general rate case. The Department, however, does not believe it's necessary to fully litigate the rate case. After submitting its direct testimony, the Department is committed to engaging Xcel Gas and other interested parties in mediation to resolve the case. In the Department's view, this process would better protect the public interest while still avoiding unnecessary delay and rate case expense.

/ar

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. G002/M-21-750

Dated this 10th day of November 2021

/s/Sharon Ferguson

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