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May 15, 2017

Mr. Daniel Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

Re: *In the Matter of the Formal Complaint and Petition for Relief by Minnesota Energy Resources Corporation Against Northern States Power Company d/b/a Xcel Energy for Violations of Minn. Stat. § 216B.01 and Commission Policy*
Docket No. 011, G-002/C-17-305

Dear Mr. Wolf:

The Office of the Attorney General-Residential Utilities and Antitrust Division (“OAG”) respectfully submits this letter in response to the Notice of Comment Period issued by the Public Utilities Commission (“Commission”) in the above-entitled matter on April 21, 2017. The purpose of this letter is to request that, if the Commission dismisses Minnesota Energy Resources Corporation’s (“MERC”) complaint against Northern States Power Company (“Xcel”), the Commission take action to protect ratepayers. The OAG takes no position with regard to the substantive merits of MERC’s complaint, or Xcel’s request that the complaint be dismissed without an investigation. That being said, duplicative costs can harm ratepayers by increasing their costs. Regardless of whether the type of competition MERC accuses Xcel of engaging in is allowed by law or Commission precedent, the Commission should act to protect ratepayers of both companies.

First, if the Commission decides to dismiss this proceeding without further investigation, it should explicitly state that it is not making a determination with regard to prudence or whether or not Xcel’s new facilities can be added to rate base. All parties, whether they are involved in the instant proceeding or not, should be able to make any applicable arguments regarding the ultimate recovery of the cost of Xcel’s new facilities in its next rate case. The Commission should take the same position regarding any allegedly abandoned facilities owned by MERC—any decisions regarding the prudence of those investments or the recovery of the associated costs

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should be explicitly reserved until the Company's next rate proceeding. This outcome would be consistent with past Commission treatment of allegedly redundant natural gas facilities.¹

Furthermore, to justify its request for a dismissal without an investigation, Xcel cited a similar 1991 proceeding.² In that proceeding, the Department of Public Service raised concerns that the new contract "did not ensure recovery of the incremental costs of providing service."³ The company assuaged that concern by "agreeing to remove the pipeline from rate base if it should be abandoned before construction costs had been recovered."⁴ In order to protect Xcel's existing ratepayers from bearing the risk of this extension by Xcel, the Commission should require such a commitment in this instance before dismissing the complaint.

Regardless of the decision that the Commission ultimately makes on the merits of this complaint, it should protect ratepayers by ensuring that ratepayer advocates retain the right to challenge the prudence of related costs in future proceedings and require the removal of the project from Xcel's rate base if it does not recover all of the related construction costs.

Sincerely,

s/ **Joseph C. Meyer**

JOSEPH C. MEYER

Assistant Attorney General

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¹ *In the Matter of a Complaint of Peoples Natural Gas against Northern States Power Company regarding the Construction of Distribution Facilities*, MPUC Docket No. G-011/C-96-1062, ORDER DISMISSING COMPLAINT at 4 (Oct. 21, 1996) ("the proper place to analyze the economic consequences of redundant piping is in a rate case proceeding. In a rate case proceeding, the Commission can examine the prudence of utility construction *to determine if costs may be placed into rate base.*") (emphasis added).

² *In the Matter of the Complaint of Great Plains Natural Gas Company Against Peoples Natural Gas Company and UtilitCorp United, Inc.*, MPUC Docket No. G-004, 011/C-91-731.

³ *In the Matter of the Complaint of Great Plains Natural Gas Company Against Peoples Natural Gas Company and UtilitCorp United, Inc.*, MPUC Docket No. G-004, 011/C-91-731, ORDER DISMISSING COMPLAINT at 2 (Dec. 20, 1991).

⁴ *Id.* at 3.

AFFIDAVIT OF SERVICE

RE: *In the Matter of the Formal Complaint and Petition for Relief by Minnesota Energy Resources Corporation Against Northern States Power Company d/b/a Xcel Energy for Violations of Minn. Stat. § 216B.01 and Commission Policy*
Docket No. 011, GR-002/C-17-305

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I, DEANNA DONNELLY, hereby state that on the 15th day of May, 2017, I efiled with eDockets the **Letter in response to the Notice of Comment Period issued by the Public Utilities Commission, of the Attorney General – Residential Utilities and Antitrust Division** and served the same upon all parties listed on the attached service list by e-mail, and/or United States Mail with postage prepaid, and deposited the same in a U.S. Post Office mail receptacle in the City of St. Paul, Minnesota.

s/ Deanna Donnelly
DEANNA DONNELLY

Subscribed and sworn to before me
this 15th day of May, 2017.

s/ Patricia Jotblad
Notary Public
My Commission expires: January 31, 2020.

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