Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date: December 18, 2014 .... **Agenda Item # **4**

Company: Northern States Power Company d/b/a Xcel Energy

Docket No. G-002/M-14-336

In the Matter of Northern States Power Company's Request for Approval of a Gas Utility Infrastructure Cost (GUIC) Rider

Issue(s): Should the Commission approve the proposed GUIC rider?

Should the Commission approve the use of a different rate of return?

Should the Commission cap the amount of capital costs that can be recovered through the GUIC rider?

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Relevant Documents

Xcel Filing.. August 1, 2014
Department Comments ....October 16, 2014
Xcel Reply Comments...October 23, 2014
OAG Reply Comments...October 27, 2014
Department Response Comments ....November 7, 2014
Xcel Supplemental Comments ....November 14, 2014
OAG Request to Reschedule ....December 9, 2014

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December 10, 2014

Statement of the Issue

Should the Commission approve the proposed GUIC rider?

Should the Commission approve the use of a different rate of return?

Should the Commission cap the amount of capital costs that can be recovered through the GUIC rider?

Relevant Statute

In 2005, the Legislature enacted Minn. Stat. § 216B.1635, the Recovery of Gas Utility Infrastructure Costs (GUIC) statute. In 2013, the GUIC statute was amended. One of the amendments was to the definition of eligible "Gas Utility Infrastructure Costs" in Subd. 1 of Section 1635 of Ch. 216B:

> (b) "Gas utility infrastructure costs" or "GUIC" means costs incurred in gas utility projects that:
>
> > (1) do not serve to increase revenues by directly connecting the infrastructure replacement to new customers;
> >
> > (2) are in service but were not included in the gas utility's rate base in its most recent general rate case~~; and~~, or are planned to be in service during the period covered by the report submitted under subdivision 2, but in no case longer than the one year forecast period in the report; and
> >
> > (3) ~~replace or modify existing infrastructure if the replacement or modification does not constitute a betterment, unless the betterment is required by a political subdivision, as evidenced by specific documentation from the government entity requiring the replacement or modification of infrastructure~~ do not constitute a betterment, unless the betterment is based on requirements by a political subdivision or a federal or state agency, as evidenced by specific documentation, an order, or other similar requirement from the government entity requiring the replacement or modification of infrastructure.

A complete copy of the current version of Minn. Stat. § 216B.1635, the Recovery of Gas Utility Infrastructure Costs (GUIC) statute can be found in Attachment A to the briefing papers.

Background

On April 24, 2014, Xcel filed the compliance report required by the cost deferral dockets 10-422 and 12-248. To ensure sufficient time for review of the deferred costs, the Commission required that the Company file a summary of deferred costs 60 days prior to the filing of the Company's next general gas rate case in both dockets.

On August 1, 2014, Xcel filed its request for approval of a Gas Utility Infrastructure Cost (GUIC) rider.

On October 16, 2014, the Department filed comments recommending approval of Xcel's request for a GUIC Rider.

On October 23, 2014, Xcel filed reply comments agreeing with most of the Department's recommendations except for the recommendation that the Company's cost recovery through the GUIC Rider terminate at the time of the Company's next general rate case.

On October 27, 2014, the OAG-AUD filed reply comments recommending rejection of the filing or in the alternative imposing several conditions to protect ratepayers.

On November 7, 2014, the Department filed response comments providing additional information about its examination and analysis of the filing and the costs proposed to be recovered through the rider.

On November 14, 2014, Xcel filed supplemental comments responding to the OAG comments.

On December 9, 2014, the OAG filed a request to reschedule this issue to allow it to complete its investigation and provide the Commission with all the analysis necessary to make an informed decision. The OAG stated it sent additional information requests on this issue, and responses are expected on December 19. The OAG requested approximately 60 days to complete its analysis.

Party Positions

Xcel

In this docket Northern States Power Company is seeking approval of the use of a Gas Utility Infrastructure Cost (GUIC) Rider, on a recurring basis, effective January 1, 2015. The Company requested that it be allowed to recover its forecasted costs of $14.9 million for 2015. These costs include amounts the Commission previously allowed it to defer.
According to Xcel, due to concerns over the age of the country's natural gas infrastructure, federal and state regulators are requiring natural gas companies to implement integrity management programs to assess and improve the safety, reliability, and integrity of their natural gas infrastructure. To comply, the Company developed the Transmission Integrity Management Program (TIMP) and Distribution Integrity Management Program (DIMP). The Commission has

granted the Company deferred accounting treatment for its TIMP and DIMP activities with the possibility of future recovery for these expenses.

TIMP

Integrity management programs were introduced pursuant to the Pipeline Safety Improvement Act, passed by the U.S. Congress in 2002. The law directed the U.S. Department of Transportation to promulgate rules to address integrity programs for gas transmission lines.

A TIMP is a prescriptive risk-based program and its goal is to assess the health and condition of a utility's gas transmission assets, and evaluate and prioritize repairs to mitigate the risks and threats. Xcel stated its gas transmission system includes approximately 83 miles of transmission pipeline in the state of Minnesota.

According to Xcel, there are three primary methods to assess transmission pipelines recognized under the code requirements: in-line inspection (ILI), pressure testing, and direct assessment. The Company stated it has elected to use ILI utilizing pipeline inspection gadgets (PIGs) or "smart tools as the preferred assessment method wherever practicable.

In addition to assessments, the Company currently has two other major TIMP initiatives under way: replacement of the East Metro pipeline and installation of Automatic Shutoff Valves/Remote Controlled Valves (ASV/RCV).

DIMP

The Pipeline and Hazardous Materials Safety Administration (PHMSA) published the final Distribution Integrity Management Program (DIMP) rule establishing integrity management requirements for gas distribution pipeline systems in 2009. Pipeline operators were required to establish and file their plans in 2011.

The DIMP rules are intended to help gas utilities identify, prioritize, and evaluate risks; identify and implement measures to address risk, and validate the integrity of their gas distribution system. The Company stated that in conjunction with its DIMP efforts, it also initiated a required state-wide project to identify and remediate situations where its natural gas distribution infrastructure intersected with sewer lines.

Minn. Stat. § 216B.1635

According to the Company, the 2013 Minnesota Legislature enacted revisions to the GUIC law (the 2013 GUIC amendment) authorizing gas utilities to recover TIMP and DIMP expenses outside a rate case.

The Company argued that this subsequently enacted law can fairly stand as a substitute for the "next general rate case" requirement governing the term of the deferred regulatory asset contained in the Orders in Docket Nos. G002/M-10- 422 and G002/M-12-248.

With this Rider request, the Company asked the Commission for permission to implement an ongoing rider, recover its projected TIMP and DIMP expenses for 2015, as well as the costs for which the Commission granted deferred accounting with the possibility of future recovery.

The return on investment for GUIC costs is found at Minn. Stat. § 216B.1635 Subd. 6:

> The return on investment for the rate adjustment shall be at the level approved by the commission in the public utility's last general rate case, unless the commission determines that a different rate of return is in the public interest.

The Company stated it used a rate of return of 8.28 percent since this is the rate that was authorized in the 2010 rate case. Xcel acknowledged the Commission can establish a different rate of return if it is in the public interest and that its cost of debt has decreased since the time its 2010 gas rate case was before the Commission.

GUIC Recovery is Consistent with the Public Interest

Xcel argued that the GUIC Rider is in the public interest, as it will enable the Company to continue efforts to improve the safety and reliability of gas utility assets. Furthermore, the GUIC enables the Commission and the Company to use resources efficiently to complete critical work. Approval of the Rider allows the Company to take advantage of improved economies of scale, to engage in better regional planning, to minimize inconvenience to impacted communities, and to efficiently deploy human and capital resources.

Additionally, the GUIC adjustment rate calculation is consistent with overall rate design, as the methodology used to allocate the costs by class and calculate the class factors closely resembles how these costs would be assigned to class as part of base rates in a natural gas general rate case.

According to the Company, prompt recovery promotes both prudent investment in utility infrastructure and efficient use of the Commission's time and resources.

The Public Interest Supports Ongoing GUIC Investments

The Company is still confronting several challenges through TIMP and DIMP.

First, the age of the Company's gas utility assets, including the varied material types and construction methods utilized at the time of installation, pose a level of uncertainty and risk.

Second, many communities with older gas utility assets have sustained significant population growth since initial installation with development around aging transmission and higher-pressure distribution lines.

Third, a "Call to Action to Improve the Safety of the Nation's Energy Pipeline System" was issued by the USDOT and PHMSA in 2011 in response to incidents in California, Michigan, and

Pennsylvania.

Finally, with TIMP in particular, the Company stated it is confronting unpredictability. Though TIMP and DIMP are improving the Company's knowledge of system and asset conditions, much remains unknown until the systems are actually inspected. As inspections are conducted, it continues to discover new risks to the system that may require more immediate intervention.

GUIC Activities Are Prudent

The Company stated the GUIC costs are prudent because it has cost controls in place. Projects in the proposed GUIC Rider have gone through the Company's capital and O&M budgeting process, which is approved by Company officers and the Board of Directors. The Gas Engineering and Operations business unit includes a project controls department that monitors all capital dollars.

The Company also stated it employs a variety of oversight methods. Company executives conduct a monthly status review of major capital programs and projects, including the GUIC. The Company also uses competitive bidding to select project partners.

GUIC Activities Are Reasonable

The company argued that the Commission recognized the reasonableness of Xcel's activities when it authorized deferred accounting for past TIMP and DIMP expenses. Additionally, the Company's commitment and response to the federal "Call to Action" for the review, assessment, and prioritization of initiatives to address high risk gas-utility assets further substantiates the reasonableness of the activities proposed within the GUIC.

Notice of Probable Violation

The Commission requested that the Company explain "any legal actions or settlements regarding the natural gas explosion that led to the Notice of Probable Violation." Xcel stated that although the Minnesota Office of Pipeline Safety did not issue a final report regarding an incident on February 1, 2010, there was a Compliance Order, and the Company paid a penalty. Two civil suits filed in connection with the February 1, 2010 events were confidentially settled.

Magnitude of GUIC in Relation to the Gas Utility's Approved Base Revenue

In Xcel's most recent gas general rate case, Docket No. G002/GR-09-1153, the Commission approved a total retail related revenue of $592.87 million for the test year ending December 31, 2010. The total approved (non-gas) base revenue was $159.10 million. The proposed 2015 GUIC revenue recovery of $14.94 million is 9.39 percent of the base revenues of $159.10 million approved in the previous general rate case.

Magnitude of GUIC in Relation to the Gas Utility's Capital Expenditures

The Company's capital expenditures (construction work in progress or "CWIP" only) included in the 2010 test year approved in 09-1153 totaled $29.89 million. The 2015 forecasted GUIC-related capital expenditures (CWIP only) total $31.99 million. Accordingly, the incremental costs proposed in this filing reflect a 107.01 percent increase over currently approved levels.

GUIC RIDER - FACTOR

The Company's GUIC adjustment factor rate design provides for rates specific to five customer groups (residential, commercial firm, commercial demand billed, interruptible, and transportation) and allocates the 2015 tracker balance to class using a rate base allocator based on the Class Cost of Service Study in its most recent natural gas rate case.

Proposed 2015 GUIC Adjustment Factors (Dollars per therm)	
Residential	$0.031253
Commercial Firm	$0.012901
Commercial Demand Billed	$0.005367
Interruptible	$0.004111
Transportation	$0.003933

According to the Company, the average bill impact for a typical residential customer would be $2.22 per month or about 3 percent of the total bill under the proposed adjustment factor. Xcel proposed that the factors be effective January 1, 2015. The above rates were calculated based on implementation of the new GUIC adjustment rate starting January 1, 2015. If the Commission does not act on this Petition in time for rates to become effective January 1, 2015, the Company requested that the rate factors be recalculated to recover the 2015 revenue requirements over the remaining months of 2015 in order to match the 2015 cost recovery with the eligible 2015 costs.

GUIC Tracker Account

To ensure that customers are not under- or overcharged, Xcel stated it will record the actual GUIC revenue recovery and requirements in a tracker account. As revenues are collected from retail customers each month, the Company tracks the amount of recovery under the GUIC rate factor and compares that amount with the monthly revenue requirements. The difference is recorded in the tracker account as the amount of over- or underrecovery. The tracker also records differences in revenue requirements from forecasted to actual. Any over- or under-recovery balance at the end of the year is used in the calculation of the rate factor for the next year's forecasted revenue requirement. The revenue requirements included in the tracker are only those related to Minnesota's jurisdictional share of eligible GUIC projects.

Xcel Reply

Xcel clarified that the 7.56 percent rate of return refers to weighted average cost of capital (WACC). The Company stated it does not object to using the 7.56 percent WACC for the GUIC Rider. This change reduces the 2015 revenue requirement by $244,000 to $14.7 million.

In response to the Department, Xcel stated it does not believe that it is necessary to predetermine when the GUIC Rider should terminate. Such a determination could be made at the time of the filing of the next general rate case. The Company agreed that any projects in service at the time of the next case would be rolled into base rates. However, depending on the timing of the next rate case, there may still may be upcoming projects that would qualify for the GUIC Rider.

Xcel Supplemental Response

The Company's supplemental response replies to the issues raised in the OAG's comments.

Xcel stated that if it were to seek a rate increase through a general rate case, the request would include additional costs not reflected in its current Petition. This is because there are other costs which drive its revenue deficiency that are excluded from this rider Petition.

The Company stated that its August 1, 2014 Petition provided substantial information regarding TIMP and DIMP project need and descriptions, forecasted 2015 costs, deferred costs, O&M costs, and the revenue requirements.

According to the Company, it could not file for rider recovery earlier because the 2005 version of the GUIC statute did not provide for recovery of the gas infrastructure costs previously deferred and currently being sought in this Petition. It was only the recently amended language which allowed recovery of the modification and replacement of infrastructure, and also assessments, reassessments, and other work necessary to determine the need for replacement or modification of the gas infrastructure.

The Company stated it does not support the OAG's recommendation regarding the return on equity. The Company's actual weather normalized returns filed in each jurisdictional annual report since its last gas rate case demonstrate that it has not over earned the authorized return established in the Company's last case.

The OAG recommended allocating the GUIC Rider costs to class based on the class apportionment of revenues from the Company's last gas rate case, instead of the Class Cost of Service Study (CCOSS) based rate base allocator that the Company recommends. Xcel argued that the rate base allocator is most appropriate because it closely resembles how these costs would be assigned to class as part of base rates in a natural gas rate case.

Department

The Department noted that Xcel's Petition is the first gas utility request for recovery under the Minnesota GUIC statute. The Company proposed to recover total estimated costs of $14.94 million for TIMP and DIMP related activities.

The Department concluded that Xcel's proposed GUIC Rider is reasonable and recommended that the Commission approve recovery beginning January 1, 2015.

For 2015, there are three projects proposed under the TIMP with an estimated total cost of $23.95 million in capital expenditures ($4.96 million revenue requirement) and $0.22 million in O&M expenditures.

For 2015, there are six projects proposed under the DIMP with an estimated total cost of $9.12 million in capital expenditures and $4.32 million in O&M expenditures.

The Department stated that it reviewed the projects in Xcel's annual compliance filings, as well as in the Petition. Based on its analysis, the Department concluded that the pipeline safety program and the sewer conflict program are eligible for the rate rider described under Minn. Stat. §216B.1635.

Minnesota Statute § 216B.1635, subd. 4 (2) requires that a gas utility file sufficient information to satisfy the Commission regarding the proposed GUIC. Upon review of the filing, the Department concluded that the Company has sufficiently complied with the filing requirements.

Prudently Incurred Costs

Minnesota Statute § 216B.1635 subd. 5 states that the Commission may approve the annual GUIC rate adjustments provided that the costs included for recovery through the rate schedule are prudently incurred and achieve gas facility improvements at the lowest reasonable and prudent cost to ratepayers.

The Department stated that Xcel's incurrence of a cost does not mean that the cost will necessarily be recovered, even if the cost was allowed in a deferred accounting request. On October 6, 2014, the Department reviewed a random sample of TIMP and DIMP deferred cost invoices at the Company's office. The Department found no reason for the Commission to deny any deferred cost. Further, the Department reviewed the actual and forecasted capital expenditures related to TIMP and DIMP. Based on its analysis, the Department concluded that the actual costs included for recovery through the Rider are prudently incurred and the forecasted costs proposed to go into the GUIG Rider are supported by budgeted projects.

Tracker

According to the Department, the Company informally told them that in the deferral of pipeline safety costs, TIMP expenses are allocated to Minnesota using the design day demand allocator which is normally used by Xcel to allocate O&M costs. However, the costs in the deferral of DIMP are allocated 100 percent to Minnesota since the costs are related to Minnesota's distribution system. The Department considered the jurisdictional allocation appropriate.

The Department reviewed the 2015 GUIC Rider revenue requirements and tracker recovery mechanism by reviewing Xcel's filing and electronic spreadsheets. Based on its review, the Department considered Xcel's calculation of its 2015 GUIC Rider revenue requirements to be reasonable. Further, the Department stated it considered Xcel's proposed tracker recovery method, including a rate of return (discussed below) charged on any under or over recovery balance, to be reasonable.

Rate of Return Used in the Tracker

Minnesota Statute § 216B.1635, subd. 6 prescribes the Rate of Return used in the GUIC rider. Xcel proposed to use the pre-tax rate of return of 8.28 percent and capital structure approved in its 2010 rate case, Docket No. 09-1153.

The Department stated that in Xcel's Petition for Approval of New Area Surcharge Riders, Docket No. 14-583, the Company proposed using an alternate cost of capital in the revenue requirement calculation in acknowledgement of changes to the economy since 2010. Specifically, Xcel proposed using the debt rates and capital structure proposed in its current electric rate case, with a pre-tax weighted cost of capital of 7.56 rather than 8.28 percent.

Minnesota Statutes § 216B.03 requires the Commission to set rates in a manner in which "[a]ny doubt as to reasonableness should be resolved in favor of the consumer." As a result, the Department stated it would support in this case use of the updated cost of capital proposed by Xcel because Xcel's proposal would benefit ratepayers since the proposed electric pre-tax weighted cost of capital is lower than the same figure in the most recent natural gas general rate case. However, the Department stated it would not necessarily support such a proposal in the future.

On September 24, 2014, the Commission heard Docket No. 14-583 and approved, for that case only, the update to the Company's proposed cost of capital. The Department concluded there is no substantial difference between the use of an adjusted weighted cost of capital reflecting an updated weight and cost of debt in Docket No. 14-583 and in the instant docket, so it recommended that the Commission approve a lower rate of return of 7.56 percent in the GUIC Rider.

Five-Year Amortization of Deferred Costs

Xcel proposed to amortize the $23.8 million of deferred costs over five years ($4.76 million per year).

In Xcel's last general rate case, Docket No. 09-1153, the Commission approved a four-year amortization period based on the number of years between the Company's rate cases since 1986 excluding a seven-year rate freeze period. Further, by the end of 2014, five years will have passed since the beginning of the 2010 test year. Additionally, the deferred O&M costs are high since costs have been deferred since May 10, 2010. The Department concluded that a five-year amortization period is reasonable for the deferred costs. Therefore, the Department recommended that the Commission approve a five-year amortization period for the deferred costs.

Rider Effective Date

The Department concluded that recovering the 2015 revenue requirements over the remaining months (of 2015) is a reasonable proposal if implementation is delayed. Therefore, the Department recommended that the Commission require a compliance filing showing the final rate adjustment factors and all related tariff changes, 10 days after its Order if implementation of the 2015 GUIC factors occurs after January 1, 2015.

Future Filings

Xcel stated that "[i]n subsequent years, we will file a request for approval of changes to the GUIC factors by November 1st, with rates proposed to be effective April 1st of the following year upon Commission approval.

The Department concluded that Xcel's proposal to file its proposed changes to the GUIC factors on November 1 for the subsequent year is reasonable.

Rate Design

Xcel apportioned the revenue requirement among its classes using the rate base allocated from the Class Cost of Service Study in its most recent natural gas rate case, Docket No. 09- 1153. The rates were calculated using forecasted Minnesota sales for each class. The Department reviewed Xcel's rate design methodology and concluded that it reasonable. The Department recommended that the Commission approve Xcel's proposed GUIC Rate adjustment factors if implemented on January 1, 2015

The Department also reviewed the proposed tariff sheets in Xcel's Attachment Q and concluded that the Company's revisions to the tariff sheets are consistent with the Company's GUIC Rider proposals. Therefore, the Department recommended that the Commission approve Xcel's proposed tariff sheets if implemented on January 1, 2015.

End of Rider Recovery

The Department stated that when Xcel gas files its next rate case, the GUIC plant in service would be included in rate base and the GUIC O&M would be included in expenses in the test year. The GUIC Rider recovery could end either 1) when the amortization of deferred costs are fully amortized or 2) at the time of the Company's next general rate case. For efficiency and ease, the Department recommended that the Commission require that the GUIC Rider recovery end at the time of the Company's next rate case. If a high balance in the deferred accounts remains, the costs could be levelized for ratemaking purposes in the test year

Department Response Comments

In its response comments the Department stated in its October 23, 2014 Reply, Xcel agreed with the Department's recommendations except for ending the GUIC Rider at the time of the Company's next general rate case. Xcel stated that although any projects in service at the time of the rate case would be rolled into base rates, there may still be upcoming projects that would qualify for the GUIC Rider. The Department does not oppose Xcel's exception. In its Petition, Xcel proposed to annually file its proposed changes to the GUIC factors for the subsequent year on November 1. Thus, the Commission has the opportunity to end the GUIC Rider on an annual basis. Therefore, the Department stated it withdraws its recommendation to end GUIC Rider recovery at the time of the Company's next rate case.

The Department stated it performed a substantive and thorough investigation. In addition to the items discussed in its initial comments, its review also included examination of the following proposals:
• GUIC Revenue Requirements and Tracker Recovery Mechanism;
• Rate of Return Used in the Tracker;
• Five-Year Amortization of Deferred Costs;
• Timing of GUIC Factors;
• Future Filings;
• Rate Design and proposed tariff sheets;
• Customer Notice; and
• When Deferred Accounting and Rider Recovery Ends.

The Department stated it also examined whether Xcel is deferring normal O&M expenses as GUI expenses. This review was based on previous work by the Department and decisions by the Commission in prior Xcel proceedings.

Revised Recommendations

The Department's revised recommendations are as follows:
The Department recommends that the Commission approve Xcel's Gas Utility Infrastructure Cost Rider including:

• an overall rate of return of 7.56 percent in the GUIC Rider;
• a five-year amortization period for the deferred costs;
• Xcel's proposed GUIC Rate adjustment factors, modified to reflect a reduced overall rate of return;
• Xcel's proposed tariff sheets, modified to reflect a reduced overall rate of return; and
• a compliance filing showing the final rate adjustment factors, and all related tariff changes, 10 days after its Order.

OAG - Antitrust and Utilities Division

The OAG argued that while there is general statutory authorization to recover gas utility infrastructure costs through riders, the traditional rate case approach provides the best protection for ratepayers. A rate case proceeding allows for a more complete discovery and more thorough analysis. A rate case also allows consideration of all costs to establish rates rather than piecemeal portions of costs in isolation. Without a complete revenue requirement review of all costs, there is a risk that a utility may be overearning yet still be allowed to increase rates by use of a rider. The same is true with deferral of costs. Deferred costs are removed from the determination of operating income for a particular year which may contribute to an overearning situation for that year and at the same time allow higher future revenues when deferred costs are being amortized. Use of regulatory recovery tools such as riders, trackers and deferred accounting allows a utility to preserve or guarantee cost recovery even in situations where the utility's earnings are sufficient to reward investors for their investments.

Xcel is projecting that the GUI Rider revenue requirement will increase each year from approximately $20 million in 2016 to $36 million in 2019. The OAG argued that it would be unreasonable to allow Xcel to raise its revenues by such a substantial amount without conducting the thorough review that occurs in rate case.

The OAG disagreed with Xcel on the question of whether its deferred costs can even be included in the GUIC rider. The Commission explicitly stated in both of the deferred accounting dockets that the deferred costs would be subject to review and recovery in Xcel's "next general rate case."

In Docket No. G002/M-10-422, the conditions imposed by the Commission for subsequent cost recovery specifically dictated that cost recovery consideration shall be conducted in Xcel's next rate case and required extensive disclosures for the purpose of determining whether the deferred costs are recoverable.

Similarly, the Commission specifically required that Xcel seek recovery of deferred TIMP and DIMP costs authorized in Docket No. G002/M-12-248 in Xcel's next general rate case.

The deferred costs that Xcel seeks recovery for in its GUI Rider are substantial and were incurred over a number of years. The OAG argued that simply making annual compliance filings in each docket does not constitute the review that the Commission anticipated to determine cost recovery.

The OAG stated that it is also unclear whether Xcel properly accounted for the deferred costs. Generally, deferral authorizations must reach a determination that costs for deferral are unusual and significant. A more in-depth review, in a rate case, would show whether Xcel is deferring normal O&M expenses as GUI expenses that are not incremental to normal O&M expenses. The fact that Xcel is subject to a federal mandate requiring that a formal safety program be established does not mean that Xcel was not already doing those types of safety inspection and maintenance activities that were treated as normal O&M expenses in the past.

The OAG argued that Xcel could have requested rider recovery under the statute at the time that it had requested deferred accounting. The statute was initially enacted in 2005, with subsequent revisions in 2013.

The OAG stated it does not agree with Xcel that the revisions in 2013 triggered a substitution alternative to recover these deferred costs in a GUIC rider. The Commission's orders clearly indicated that the costs could be recovered in Xcel's "next general rate case." The standard for recovery of deferred costs is intentionally high and requires a comprehensive rate case review to determine whether the deferred costs are appropriate for recovery. Xcel chose to request deferral of costs in anticipation of a subsequent rate case to justify recovery. Xcel should not now be allowed to seek a less stringent cost recovery review.

For these reasons, the OAG recommended that the Commission deny Xcel's Rider Petition.

Conditions to Protect the Interests of Ratepayers

A. The Commission Should Update Xcel's Rate of Return for Any Costs Recovered through a GUIC Rider.

The OAG stated it supports an adjustment to the cost of capital for this rider proposal if it is approved, and agreed the cost of debt adjustment is appropriate and reasonable for this case. The OAG argued that the Commission should consider adjusting Xcel's cost of equity for any rider recovery, as it has not been updated since the Company's last rate case.

The cost of equity for the other large gas utilities in Minnesota, CenterPoint Energy and MERC are considerably lower at 9.59% and 9.34% respectively. Both utilities were granted these authorized returns in 2013 rate cases. If a rate case had been filed, the return on equity would have less than the current 10.09%. Using a 9.34% cost of equity would equate to a weighted cost of capital of 7.07%.

B. Any Costs Recovered through a GUIC Rider Should Use the Same Apportionment as Xcel's Last Rate Case.

In its Petition, Xcel seeks to apportion the costs of the GUIC rider based on the results of the CCOSS it conducted in its last rate case. But in its last rate case, Xcel agreed to use a different apportionment than the one developed from its CCOSS. Given that Xcel expects to recover more than 60% of the costs in the rider from the residential class in 2015, and even more in 2016 and 2017, using the results of the CCOSS, rather than the apportionment that was agreed upon in the previous case, would place an unreasonable burden on the residential class.

Additionally, the OAG also expressed concern that Xcel is taking this opportunity to increase the size of distribution and transmission infrastructure. The OAG would like to see the Company detail what size equipment is being replaced and what size of equipment is replacing it.

Recommendation

The OAG recommended that Xcel's GUI Rider Petition be denied. If the Commission does approve a rider for GUI costs, the OAG recommended that deferred costs accumulated in Dockets 10-422 and 12-248 not be included for recovery in the rider.

If the Commission approves recovery of the GUIC costs through a rider, the rider should only be approved for 2015 and continued only if Xcel can demonstrate that its normalized costs for rider recovery cannot be fairly estimated and recovered in base rates.

Staff Analysis

The costs at issue in this docket would normally be recoverable from ratepayers if they are prudently incurred. The disputed issue here is whether the costs should be recovered in the proposed GUIC rider. The Company and the Department support recovery through the rider and the OAG believes recovery should be in a rate case.

Both the sewer conflict and the TIMP/DIMP deferral dockets specifically discuss the information that must be included in the rate case filing which requests recovery of the deferred cost indicating that the Commission expected the recovery to occur in a general rate case. Prior to the 2013 change in statue, a rate case was the only venue for recovery of these costs. Xcel argues that this subsequently enacted law can fairly stand as a substitute for the "next general rate case" requirement governing the term of the deferred regulatory assets contained in the Orders in Docket 10- 422 and 12-248.

Docket 12-248

The Order in the 12-248 deferral approved the implementation of deferred accounting to begin on March 21, 2012 without interest and to continue until the earlier of the time of the utility's next rate case, or March 20, 2015. At the time the deferral was granted in January 2013 the initial integrity management requirements for both the TIMP and DIMP had been completed by the Company.

For the TIMP, Xcel was required by federal regulations to create a baseline assessment plan for the inspection of its gas transmission pipelines. The Company stated it had complied with the requirement that all initial inspections of the covered pipeline segments were required to be completed by 2012. Thereafter, each subsequent set of inspections is to occur at intervals not to exceed 7 years.

The DIMP required gas distribution operators to develop a written integrity management program plan tailored to its individual system which includes continually reviewing data to identify threats to pipeline systems, evaluating risks, and implementing measures to reduce those risks. Xcel stated it complied with the DIMP requirements by implementing a program and plan by August 2, 2011.

A review of the 12-248 docket shows that the deferral period was limited to three years because that was considered a reasonable period of time for the expenses to levelize and transition into a more permanent expense included in base rates. These costs are expected to be ongoing costs for Xcel. Because these would be regular, ongoing cost, the expectation was that they would be included in base rates. Furthermore, if the costs were significant enough to qualify for deferred accounting, the expectation would be that after a short period they would result in a rate case.

Docket 10-422

A time limit on the deferral of the expenses for the sewer/gas line conflict in docket10-422 was not set because the filing stated the project was expected to be completed in three years (2010 through 2012) at a cost of approximately $9,746,510. This docket is the first instance that Staff is aware of that states the project is now expected to last 10 years at approximately $3.5 million per year or $35 million plus. According to Xcel, this program has risk mitigation at its core, and as such the Company will continue to monitor circumstances that may indicate a need to accelerate or scale back inspections.

In the 10-422 docket, the Company estimated that approximately $50,000 of its 2010 test year Distribution O&M budget was related to sewer/natural gas conflict investigations. That amount is representative of the average annual amount it had expended over the prior three years performing sewer investigations in response to customer and/or contractor requests. Xcel stated that while it continued to provide these sewer investigation services to contractors and its customers, the costs were outside the scope of its Remediation Plan.

These investigation and remediation costs were normal and regular costs for Xcel, just not at the level required by the Minnesota Office of Pipeline Safety. For that reason, it was expected that when the deferral ended after the initial three years, a rate case would be filed within a reasonable period of time.

Cost Recovery

The disagreement as to the form of recovery is not as simple as whether the rider is a reasonable substitute for the "next general rate case." A rate case looks at all the costs and revenues of the Company as well as the rate of return. In this proposal, only the specific costs for which recovery is being requested were reviewed. In addition, all parties agreed that the capital structure and cost of debt should be updated to that in Xcel’s current electric rate case. The OAG also argued that the return of equity should be updated because it is too high compared to the ROE approved by the Commission in recent gas rate cases.

According to the Company, its actual weather normalized returns filed in each jurisdictional annual report since its last gas rate case demonstrate that it has not over earned the authorized return established in the Company's last case. In addition, Xcel stated that though it has encountered significant infrastructure inspection and replacement costs, well in excess of those presented in its previous rate case, other expenses remain true to the expectations evaluated in the 2010 rate case. The Company argued that reevaluating all rate case conditions and expectations would be time consuming, expensive, and redundant at this time.

One of Xcel's goals in this filing is to avoid filing a rate case. On page 2 of its filing, the Company stated "We believe using the GUIC Rider to recover these significant costs is in the public interest, as it will ease administrative burdens by allowing the Company an opportunity to avoid a general rate case, should the Company's request be granted." However as stated, the magnitude of the costs for which recovery is being requested is significant.

The revenue requirement requested for 2015 of $14.9 million is double the increase granted in the 2009 rate case of $7.291 million. The revenue requirement is forecasted to increase to $35.6 million by 2019. The Company is requesting recovery of cumulative capital expenditures totaling $58,495,787 for 2015 which increase to $206,168,087 in 2019.

Attachment L of Xcel's filing shows that the 2015 revenue requirement is 9.39% of the non-gas revenues from the 2009 rate case. That increases to 22.37% in 2019. The capital expenditures in the 2009 rate case were $29,890,000. The forecasted annual capital expenditures for 2015 through 2019 range from 74.17% to 168.21% of the 2009 rate case capital expenditure.

The net plant in service for the 2009 rate case was $492,201,000. The total additions proposed to be recovered through the GUIC rider of $206,168,087 are 42% of that total.

Xcel's last rate case was filed in 2009 with a 2010 test year. If Xcel were allowed to recover these costs in the rider through 2019 it will have been ten years since its 2009 rate case.

According to Xcel, the average bill impact for a typical residential customer would be $2.22 per month ($26.64 annually) or about 3 percent of the total bill for 2015. By 2019, that would increase to $5.29 per month ($63.43 annually).

Furthermore, Xcel has adopted a very broad interpretation of what can be recovered in the GUIC. Every main or service line that is replaced is considered to be at risk of an incident so Xcel considers it to be replaced under TIMP or DIMP. Basically, the only pipe that would not be recovered in the rider is new pipe that is not replacing any existing pipe.

Minn. Stat § 216B.1635, Subd. 4. states that notwithstanding any other provision of this chapter, the commission may approve a rate schedule for the automatic annual adjustment of charges for gas utility infrastructure costs . . . This statute allows the Commission to approve a GUIC rider but it is not required to do so just because Xcel makes such a request.

Taking all this into consideration, Staff believes that if the Commission were to approve the GUIC, there should be limitations placed on the approval. For example, the Company could be allowed to recover in the GUIC no more than ten percent of its net plant from its prior rate case at any one time. Ten percent of $492,201.000 would be $49,220,000. Based on the actual and forecasted additions shown on Attachment C of the filing, the cumulative plant additions would be 12 percent at the end of 2015, 18 percent for 2016 and 23 percent for 2017. If a cap were set at 10 percent, then only additions through 2015 could be included.

The Commission could also consider a dollar cap, such that the plant that could be recovered in the rider at any given time would be limited to a dollar amount. The forecasted cumulative additions to plant through 2015 are $58,495,787. Through 2016, they are $89,053,387 and through 2017, $111,223,787.

In lieu of setting a recovery cap, the Commission could set a time limit on how long costs could be recovered in the GUIC before Xcel would be required to file a general rate case. The deferral of the TIMP and DIMP costs ends on March 20, 2015. If the time limit was set at one or two years, that would allow continuing recovery of the TIMP and DIMP costs beyond the deferral expiration and it would allow time to prepare a rate case.

Rate of Return

The parties agreed that the capital structure and cost of debt should be updated to those agreed to in Xcel's pending electric rate case. The OAG recommended that the cost of equity also be updated. The ROE granted in the recent MERC and Centerpoint rate cases were less than the ROE granted in Xcel's 2009 rate case. Based on those decisions, Staff believes it is likely that the ROE granted to Xcel in a new rate case would be less that that granted in the 2009 rate case. The ROE in Xcel's electric rate case is a disputed issue. Electric ROE's are generally higher than gas ROEs, so even if the ROE was not disputed, the ROE from the pending electric rate case would not be a reasonable proxy to use to update the ROE for this docket.

The Department discussed the ROR on pages 14 - 15 of its October 16, 2014 comments and recommended updating the cost of debt and the capital structure. However, in Xcel's new area surcharge rider docket referenced in those comments, the Commission approved the update of the cost of debt and the capital structure as a one-time event. The approval was granted taking into account the four concerns raised by the Department because the lower ROR benefitted ratepayers.

There is general agreement that the rate of return (ROR) from the 2009 rate case is too high. Minn. Stat 216B.1635 Subd. 6 states:

> The return on investment for the rate adjustment shall be at the level approved by the commission in the public utility's last general rate case, unless the commission determines that a different rate of return is in the public interest.

This statute gives the Commission the flexibility to determine the ROE to use in the GUIC rider. Staff believes the Commission has the authority to determine the capital structure, cost of debt and cost of equity in arriving at a reasonable ROR. However, the fact that the 2009 rate case ROR is too high indicates that it would be appropriate to determine that the costs at issue here should be recovered in a rate case where an up to date ROR could be established.

Betterment

Minn. Stat. § 216B.1635 Subdivision 1, (b)(3) provides that "Gas utility infrastructure costs" or "GUIC" means costs incurred in gas utility projects that do not constitute betterment, . . .

A betterment is defined as: A type of action or cost expenditure that contributes towards improving an asset's performance and/or increasing its value. Betterments do not include general maintenance-related actions that seek to sustain an asset's current value.

An example of betterment in business would be replacing an outdated piece of equipment with a new piece that increases a manufacturing facility's production capacity. In this case, the overall asset's value (the manufacturing facility) is greater than its value would have been had it kept the old equipment.

Staff requested that Xcel explain why the East Metro project does not constitute betterment. In addition to providing the additional information about the project discussed below, the response was: "While the new pipe will be slightly larger than existing, accounting and the business area do not feel it constitutes betterment since 18' pipe is considered non-standard." Xcel stated:

> The total length of the East Metro project is 59,285 feet, or approximately 11.2 miles. Once the project is completed, the entire length of the project will be 20" steel pipe versus the originally constructed pipeline of varying diameters.
>
> On the originally constructed East Metro pipeline, the smallest diameter of pipe utilized was 16" and the largest diameter was 24". The construction of a continuous 16" diameter line spanning the entire length was not feasible as it would not provide sufficient capacity for current levels of natural gas usage on the line. Construction of an 18" diameter line was considered but determined to be an imperfect alternative. That particular diameter met current capacity needs but presented unique operational challenges. Existing pipelines in the Company's bulk gas system are constructed of 20" diameter pipe (County Road "B" Line and the East County Line) which provides for synergies across the system in the case of repairs and in-line assessments. Based on these considerations, the Company elected to replace the entire length of the project with 20" diameter pipe.

The table below summarizes the footage to be replaced by diameter and year:

	Footage Replaced by Diameter					
Year	**16"**	**18"**	**20"**	**24"**	**Total Feet**	**Total Mileage**
2013			13,050		13,050	2.47
2014	12,000		140		12,140	2.30
2015	7,850	6,650	7,300	140	21,940	4.16
2016	130	8,560	3,325	140	12,155	2.30
TOTAL	**19,980**	**15,210**	**23,815**	**280**	**59,285**	**11.23**

> Prior to the current project, the East Metro pipeline operated at a Maximum Allowable Operating Pressure (MAOP) of 175 pounds per square inch (psi) with a capacity of 5,275 Dth/hour. After the project is completed in 2016, the pipeline will have an MAOP of 650 psi, but will continue to operate at 175 psi (limited by upstream pipeline constraints). Overall, the capacity on the pipeline increased to 5,970 Dth/hour, an increase of 695 Dth/hour or about 13%.
>
> Constructing the pipeline with a consistent diameter allows the Company to utilize state of the art In-Line Inspection (ILI) tools to regularly assess the health and condition of the line and proactively make repairs as needed based on results from these assessments. These assessment methodologies provide a higher level of safety for our customers and the public that is located around the pipeline.

The ILI tools (or smart pigs) are specific to a size of pipe. A tool for a 16" pipe can only be used in a 16" pipe. The Company could not do an ILI assessment in the old pipe because it was connected with couplings which the pig could cause to come lose and leak. Even if it were possible to do an ILI assessment on the old pipe, entry points and exit points would have to be installed every time the pipe changes diameters.

The new pipe is better than the old because:

1. the pipe is all one diameter.
2. the overall capacity is greater allowing for more gas to be flowed. An 18" pipe met the capacity needs so the 20" pipe provides capacity for growth without increasing pressure.
3. the allowable pressure is much greater allowing for future growth when the upstream pipeline constraints are eliminated at the time the upstream pipe is upgraded in the future.
4. the pipe can now be inspected with ILI tools which will provide the best assessment of the condition of the pipe compared to other assessment methods.

Based on the above, it is clear to Staff that the East Metro project constitutes betterment. Therefore it is not recoverable through the GUIC. The statute states betterments can't be included in the rider. That is an all or nothing proposition. The statute does not allow for the portion of the project cost considered to constitute the betterment to be excluded while allowing the portion of the project cost not considered a betterment to be included in the rider. According to Xcel, the capital cost of the East Metro project is approximately $69 million spent over four years, 2013 through 2016.

Cost Apportionment

Xcel proposed to allocate the costs of its projects to the customer classes based on rate base. The Company used the rate base allocations from the CCOSS from the 2009 rate case. The OAG objected to that, arguing that the costs should be allocated in the same manner as was ordered by the Commission in that rate case. The table on the bottom of page 4 of Xcel's November 14, 2014 comments shows the allocation under Xcel's proposed method and how the costs would be allocated if they were allocated in the same way as Xcel apportioned revenues in its rate case compliance filing. The Company's proposal allocates more costs to the residential and transportation classes and less to the remaining classes.

The Company's proposed apportionment results in an average impact on a residential customer of $2.22 per month. The allocation approved in 09-1153 would result in a monthly impact of $2.05, which is a decrease of 7.7%

The allocation approved by the Commission in the rate case was agreed to by the Company and the Department. Presumably there was some rationale for the agreement by the Company and the Department. Neither the Company nor the Department has provided any reason why that rationale is no longer appropriate and the apportionment should be revised. The statute provides for the use of the ROR from the last rate case. It seems that the apportionment from the last rate case would also be reasonable.

Tracker Carrying Charge

In its comments on page 14, the Department stated it considers Xcel's proposed tracker recovery method, including a rate of return charged on any under or over recovery balance, to be reasonable. It is not clear what the Department is referring to in that comment.

The rate of return discussed in the Department comments is the rate of return applied to rate base in the rider. The rate base resulting from the capital costs of TIMP and DIMP projects is multiplied by the ROR to calculate the return on those projects which is part of the revenue requirement used in determining the GUIC rates. The methodology is essentially the same as the one used in a general rate case.

The balance in the tracker account is the difference between the revenue requirement and the amount actually collected from ratepayers in rates, i.e the under or over-recovery of the project costs. There is no carrying charge or rate of return applied to the tracker balance. Staff confirmed with the Company that there will be no carrying charge applied to the GUIC tracker account balance. Staff recommends that the Commission specifically determine that no carrying charge is allowed on the tracker balance so that fact is clear in any future review of this rider.

O&M Costs

The OAG argued that a more in-depth review, in a rate case, would show whether Xcel is deferring normal O&M expenses as GUI expenses that are not incremental to normal O&M expenses. While TIMP and DIMP costs should be connected to the formal, documented and mandated programs, the activities themselves would also be considered normal operating repairs and maintenance without having the mandated programs in place. The fact that Xcel is subject to a federal mandate requiring that a formal safety program be established does not mean that Xcel was not already doing those types of safety inspection and maintenance activities that were treated as normal O&M expenses in the past.

The Department stated it examined whether Xcel is deferring normal O&M expenses as GUI expenses. The Department concluded that the O&M expenses proposed in the GUIC are over and above the $480,000 of normal O&M expenses allowed in the previous rate case for similar projects.

For the TIMP and DIMP deferral in 12-248, Xcel stated that while execution of these projects is performed utilizing a combination of Company and contract employees, only the costs associated with the outsourced tools, equipment, and services are deferred.

In Docket 10-422 the Commission’s Order authorized the Company to use deferred accounting treatment for the external operating and maintenance costs incurred to implement the inspection and remediation plan.

Because the costs being deferred are external costs, there should not be a problem of internal labor costs being allocated to specific functions in the test year and being recovered in base rates and subsequently being assigned to TIMP/DIMP functions and being recovered a second time in the GUIC. However, Staff agrees with the OAG that a rate case would eliminate any concern about this issue because all costs would be taken into consideration in setting the rates.

Staff recommends that the Commission require Xcel to submit in its next gas general rate case filing, detailed schedules, as well as any necessary supporting documentation, and an explanation of all O&M costs that were being recovered in the rider and are included in the test year for base rate recovery.

Effective Date

The calculations of the GUIC rates assume that proposed GUIC projects as discussed in this petition are approved for eligibility, and the GUIC adjustment factors are effective January 1, 2015. If implementation of the 2015 GUIC adjustment factors occurs after January 1, 2015, the Company proposed to calculate the final rate adjustment factors to recover the 2015 revenue requirements over the remaining months of 2015, which would be provided as part of a compliance filing after the Commission’s Order approving the Petition.

Staff does not believe an Order can be issued prior to January 1, 2015 which would create problems with the rate being implemented on January 1. Staff suggests that the effective date be February 1, 2015. Alternatively, the Commission could make the rate effective on the date of the Commission's order or some other date in the future.

Decision Alternatives

OAG request for additional time to investigate Xcel's proposed GUIC Rider

1. Take no action on Xcel's request at today's meeting and allow OAG to continue its investigation and analysis of Xcel's proposal

    a. direct staff to issue a notice requesting additional comments and replies as requested by OAG (and pursuant to Minn. Rules, part 7829.1400, subpart 5), or

    b. do not request additional comments but allow OAG to present its analysis orally at a future Commission meeting.

Gas Utility Infrastructure Cost Rider (GUIC)

2. Approve the GUIC as proposed by the Company. (Xcel, DOC)

3. Do not approve the GUIC and require Xcel to request recovery of these costs in a general rate case. (OAG)

4. Approve the GUIC but limit its duration to 2015. (OAG alternative)

5. Approve the GUIC but cap the costs recoverable:

    a. at a specific percentage of the net plant from the most recent general rate case.

    b. at a specific dollar amount.

    c. based on a specific amount of time over which a capital project's costs can be included in the rider.

Betterment

6. Determine that the East Metro project constitutes a betterment and is not recoverable through the GUIC. (Staff)

7. Determine that the East Metro project does not constitute a betterment and is recoverable through the GUIC. (Xcel)

Rate of Return

8. Determine that the appropriate ROR is the ROR approved in the 09-1153 gas rate case (8.28%).

9. Determine that the appropriate ROR is the ROR calculated using the capital structure and cost of debt from the 13-868 Xcel electric rate case and the cost from equity from the 09-1153 gas rate case (7.56%). (Xcel, DOC)

10. Determine that the appropriate ROR is the ROR calculated using the capital structure and cost of debt from the 13-868 Xcel electric rate case and a cost of equity which is the average of the ROE approved in the 13-617 MERC rate case (9.35%) and the 13-316 CenterPoint rate case (9.59%). (OAG)

Apportionment of Cost to Classes

11. Approve Xcel's proposal to allocate the revenue requirement to customer classes based on the rate base allocation from the CCOSS from the 09-1153 rate case. (Xcel, DOC)

12. Require the revenue requirement to be allocated to customer classes in the same manner as approved by the Commission and as revenues were apportioned in the 09-1153 rate case in the final rate compliance filing. (OAG)

Amortization of the Deferred Costs from Dockets 10-422 and 12-248

13. Approve a five-year amortization period for the deferred costs. (Xcel, DOC)

14. Do not allow recovery of the deferred costs in the GUIC rider. (OAG)

Rate Adjustment Factors

15. Approve Xcel's proposed GUIC Rate adjustment factors, modified to reflect a reduced overall rate of return. (Xcel, DOC)

16. Approve Xcel's proposed GUIC Rate adjustment factors, modified to reflect a reduced overall rate of return and any other modifications made by the Commission.

Tracker Carrying Charge

17. Determine that no carrying charge will be allowed on the tracker account balances.

Tariff Sheets

18. Approve Xcel's proposed tariff sheets, modified to reflect a reduced overall rate of return. (Xcel, DOC)

19. Approve Xcel's proposed tariff sheets, modified to reflect a reduced overall rate of return and any other modifications made by the Commission.

Effective Date of the Rider

20. Approve an effective date for the rider of January 1, 2015.

21. Approve an effective date for the rider of February 1, 2015 and allow the Company to calculate the final rate adjustment factors to recover the 2015 revenue requirements over the remaining months of 2015.

22. Approve an effective date for the rider of the date of the Order and allow the Company to calculate the final rate adjustment factors to recover the 2015 revenue requirements over the remaining months of 2015.

Compliance Filing

23. Require Xcel to make a compliance filing showing the final rate adjustment factors, and all related tariff changes, 10 days after its Order. (XCEL, DOC)

Future Gas Rate

24. Require Xcel to submit in its next gas general rate case filing, detailed schedules, as well as any necessary supporting documentation, and an explanation of all O&M costs that were being recovered in the rider and are included in the test year for base rate recovery.

Recommendation

Staff recommends 5, 6, 12, 16, 17, 19, 21, 23 & 24. Staff has no recommendation on the other issues.

216B.1635 RECOVERY OF GAS UTILITY INFRASTRUCTURE COSTS.

Subdivision 1. **Definitions.** (a) "Gas utility" means a public utility as defined in section 216B.02, subdivision 4, that furnishes natural gas service to retail customers.

(b) "Gas utility infrastructure costs" or "GUIC" means costs incurred in gas utility projects that:

(1) do not serve to increase revenues by directly connecting the infrastructure replacement to new customers;

(2) are in service but were not included in the gas utility's rate base in its most recent general rate case, or are planned to be in service during the period covered by the report submitted under subdivision 2, but in no case longer than the one-year forecast period in the report; and

(3) do not constitute a betterment, unless the betterment is based on requirements by a political subdivision or a federal or state agency, as evidenced by specific documentation, an order, or other similar requirement from the government entity requiring the replacement or modification of infrastructure.

(c) "Gas utility projects" means:

(1) replacement of natural gas facilities located in the public right-of-way required by the construction or improvement of a highway, road, street, public building, or other public work by or on behalf of the United States, the state of Minnesota, or a political subdivision; and

(2) replacement or modification of existing natural gas facilities, including surveys, assessments, reassessment, and other work necessary to determine the need for replacement or modification of existing infrastructure that is required by a federal or state agency.

Subd. 2. **Gas infrastructure filing.** A public utility submitting a petition to recover gas infrastructure costs under this section must submit to the commission, the department, and interested parties a gas infrastructure project plan report and a petition for rate recovery of only incremental costs associated with projects under subdivision 1, paragraph (c). The report and petition must be made at least 150 days in advance of implementation of the rate schedule, provided that the rate schedule will not be implemented until the petition is approved by the commission pursuant to subdivision 5. The report must be for a forecast period of one year.

Subd. 3. **Gas infrastructure project plan report.** The gas infrastructure project plan report required to be filed under subdivision 2 shall include all pertinent information and supporting data on each proposed project including, but not limited to, project description and scope, estimated project costs, and project in-service date.

Subd. 4. **Cost recovery petition for utility's facilities.** Notwithstanding any other provision of this chapter, the commission may approve a rate schedule for the automatic annual adjustment of charges for gas utility infrastructure costs net of revenues under this section, including a rate of return, income taxes on the rate of return, incremental property taxes, incremental depreciation expense, and any incremental operation and maintenance costs. A gas utility's petition for approval of a rate schedule to recover gas utility infrastructure costs outside of a general rate case under section 216B.16 is subject to the following:

(1) a gas utility may submit a filing under this section no more than once per year; and

(2) a gas utility must file sufficient information to satisfy the commission regarding the proposed GUIC. The information includes, but is not limited to:

(i) the information required to be included in the gas infrastructure project plan report under subdivision 3;

(ii) the government entity ordering or requiring the gas utility project and the purpose for which the project is undertaken;

(iii) a description of the estimated costs and salvage value, if any, associated with the existing infrastructure replaced or modified as a result of the project;

(iv) a comparison of the utility's estimated costs included in the gas infrastructure project plan and the actual costs incurred, including a description of the utility's efforts to ensure the costs of the facilities are reasonable and prudently incurred;

(v) calculations to establish that the rate adjustment is consistent with the terms of the rate schedule, including the proposed rate design and an explanation of why the proposed rate design is in the public interest;

(vi) the magnitude and timing of any known future gas utility projects that the utility may seek to recover under this section;

(vii) the magnitude of GUIC in relation to the gas utility's base revenue as approved by the commission in the gas utility's most recent general rate case, exclusive of gas purchase costs and transportation charges;

(viii) the magnitude of GUIC in relation to the gas utility's capital expenditures since its most recent general rate case; and

(ix) the amount of time since the utility last filed a general rate case and the utility's reasons for seeking recovery outside of a general rate case.

Subd. 5. **Commission action.** Upon receiving a gas utility report and petition for cost recovery under subdivision 2 and assessment and verification under subdivision 4, the commission may approve the annual GUIC rate adjustments provided that, after notice and comment, the costs included for recovery through the rate schedule are prudently incurred and achieve gas facility improvements at the lowest reasonable and prudent cost to ratepayers.

Subd. 6. **Rate of return.** The return on investment for the rate adjustment shall be at the level approved by the commission in the public utility's last general rate case, unless the commission determines that a different rate of return is in the public interest.

Subd. 7. **Commission authority; rules.** The commission may issue orders and adopt rules necessary to implement and administer this section.

History: *2005 c 97 art 10 s 1,3; 2013 c 85 art 7 s 2,9*

NOTE: This section expires June 30, 2023. Laws 2005, chapter 97, article 10, section 3, as amended by Laws 2013, chapter 85, article 7, section 9.