

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange	Chair
Dan Lipschultz	Commissioner
Matthew Schuerger	Commissioner
Katie J. Sieben	Commissioner
John A. Tuma	Commissioner

In the Matter of the Petition of Northern States Power Company for Approval of Deferred Accounting for Manufactured-Gas-Plant Cleanup Costs

ISSUE DATE: October 17, 2018

DOCKET NO. G-002/M-17-894

ORDER DENYING PETITION FOR DEFERRED-ACCOUNTING TREATMENT

PROCEDURAL HISTORY

On December 26, 2017, Northern States Power Company, dba Xcel Energy (Xcel or the Company), filed a *Petition for Approval of Deferred Accounting Treatment* for costs incurred in cleaning up polluted soil at the sites of former manufactured-gas-plants in Fargo, North Dakota, and St. Cloud, Minnesota.

On March 28, 2018, the Minnesota Department of Commerce, Division of Energy Resources (the Department) filed comments recommending that the Commission deny Xcel’s petition, arguing that Xcel had not satisfied the criteria for deferred accounting.

On May 9, Xcel filed reply comments. Xcel argued that its request in this case was similar to deferred-accounting requests that the Commission had granted in the past.

On August 6, the Department filed a response to Xcel’s reply comments.

On August 23, 2018, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Summary of Commission Action

In this order, the Commission denies Xcel’s petition for deferred-accounting treatment of the Fargo and St. Cloud manufactured-gas-plant cleanup costs, finding that the costs are not large enough to have a significant impact on the Company’s financial condition.

II. Background

Deferred accounting is a regulatory tool used primarily to hold utilities harmless when they incur out-of-test-year expenses that, because of their nature or size, should be eligible for possible rate recovery as a matter of public policy. Traditionally, deferred accounting has been reserved for costs that are unusual, unforeseeable, and large enough to have significant impact on the utility's financial condition. Deferred accounting has also sometimes been permitted when utilities have incurred sizeable expenses to meet important public policy mandates.¹

III. Xcel's Petition

Xcel seeks deferred-accounting treatment of the cleanup costs associated with two former manufactured-gas-plant sites, one in Fargo and the other in St. Cloud. Both sites have pollutants present in amounts that exceed state criteria, and Xcel must therefore remediate the properties.

The Fargo plant served the City of Fargo, North Dakota from the mid 1880s to around 1960 and the City of Moorhead, Minnesota beginning in 1914. After the plant closed, the land was redeveloped into commercial and multiunit residential properties. In 2015, abandoned manufactured-gas distribution pipes, along with tar and odors, were found during reconstruction of an adjacent street.

¹ In the 1990s, the Commission permitted deferral of manufactured-gas-plant cleanup cost accounting in cases involving Minnegasco, Interstate Power Company, and Xcel. The Commission's rationale varied from case to case, but the most important factors were that the costs involved were (1) unusual and unforeseen, (2) substantial, (3) related to utility operations, and (4) likely to provide a ratepayer benefit. *See In the Matter of a Request by Minnegasco for Approval of Deferred Accounting for Manufactured Gas Plant Site Investigation, Monitoring, and Remediation Costs*, Docket No. G-008/M-91-1015; *In the Matter of a Request by Interstate Power Company for Deferral of Expenses Associated with Former Manufactured Gas Plants*, Docket No. G-001/M-94-633; *In the Matter of a Request by Northern States Power Company – Gas Utility for Approval of Deferred Accounting for Brainerd Manufactured Gas Plant Site Investigation and Cleanup Costs*, Docket No. G-002/M-99-248; *In the Matter of the Application of Northern States Power Company Gas Utility for Approval of Deferred Accounting for Certain Manufactured Gas Plant Site Cleanup Costs*, Docket No. G-002/M-94-104.

More recently, the Commission has (1) allowed deferral of costs incurred to comply with a Commission directive to develop a time-of-use pilot program; (2) allowed deferral of flood-recovery costs because the flood was a rare and unforeseeable event; (3) denied deferral of \$28 million in property taxes because the tax increase was not unforeseeable, unusual, or likely to have a significant financial impact on the utility; and (4) denied deferral of storm-recovery costs because the costs were not unusual, unforeseen, or likely to have a significant impact on the utility's financial condition. *See In the Matter of Northern States Power Company's Petition for Approval of Deferred Accounting for Costs Incurred for the Web Tool and Time-of-Use Pilot Project*, Docket No. E-002/M-03-1462; *In the Matter of a Request by Interstate Power and Light Company for Approval of Deferred Accounting Treatment of Costs Related to the 2008 Flood*, Docket No. E,G-001/M-08-728; *In the Matter of Xcel Energy's Petition for Deferred Accounting for Property Tax Costs*, Docket No. E-002/M-11-1263; *In the Matter of a Petition for Approval of Deferred Accounting Treatment of Costs Related to the 2016 Storm Response and Recovery*, Docket No. E-015/M-16-648.

The St. Cloud plant served the City of St. Cloud from the early 1910s until around 1949, when it was replaced by a liquefied petroleum system. By 1973, all existing above-ground structures had been removed and an electrical substation constructed. In 2015, stained soil and odors were observed during removal of the substation. Subsequent soil sampling revealed elevated concentrations of chromium, diesel-range organics, and cyanide.

Investigation and remediation work began in 2015 at the Fargo plant, and Xcel expects it to conclude in 2021. The Company seeks to defer the Minnesota-jurisdictional portion of the cleanup costs incurred after 2017, or about \$1.8 million. With respect to the St. Cloud plant, Xcel seeks to defer cleanup costs incurred in 2018–2022 in the total amount of \$2.9 million. Any related insurance proceeds would be used to offset the deferred cleanup costs.

Xcel argues that there is good cause for deferred accounting in these circumstances because (1) environmental cleanup serves a strong public-policy goal, (2) the costs are unusual, unforeseeable, and large enough to have a significant impact on the Company’s financial condition, (3) the Commission has previously granted deferral of manufactured-gas-plant cleanup costs, and (4) the amounts here are comparable to the amounts that the Commission allowed to be deferred in previous cases.

IV. Positions of the Parties

A. The Department

The Department recommended that the Commission deny Xcel’s petition. It acknowledged that the Commission had allowed utilities to defer manufactured-gas-plant costs in the past but reasoned that the Company had not sufficiently demonstrated the need for deferred accounting in this case.

The Department emphasized that deferred accounting is an extraordinary remedy reserved for circumstances where a utility would be unduly harmed by the usual practice of expensing cost items in the period during which they occurred. The Department pointed out that a utility’s costs and revenues inevitably fluctuate between rate cases, and deferring increased costs of one type without considering reduced costs or increased revenues in other areas could result in single-issue ratemaking.

As to the particulars of this case, the Department argued that Xcel has not shown that current customers will receive tangible benefits from the cleanup costs, since almost none of the customers who received gas from the original plants are still Xcel customers. The Department further argued that the cleanup costs were not entirely unusual or unforeseeable because Xcel has remediated gas plants in the past and was aware that these sites would potentially require future remediation.

The Department placed great weight on the magnitude of the costs. It argued that, while their absolute amount might be similar to previous deferral requests that were granted, the costs in this case were much less significant when viewed as a percentage of Xcel’s total O&M expenses. Moreover, the costs are even less significant when amortized over a five-year period—a comparison that the Department argued was more apt, since amortization yields an annual

amount that allows for a better comparison to an annual O&M-expense figure. On an amortized basis, the Fargo and St. Cloud cleanup costs are only 0.67% of Xcel's 2016 O&M expenses.

Finally, the Department identified several categories of costs, including some consulting, remediation, and legal costs, that it contended are already embedded in Xcel's rates and must be deducted from any deferred costs if the Commission decides to grant deferral.

B. Xcel Reply

In reply, Xcel continued to argue that its request in the current docket was not materially different from its earlier requests that were approved by the Commission.

Xcel argued that, while current customers do not receive direct service from these former gas plants, they still live in the vicinity of them and will derive a benefit from having them remediated. It contended that gas-plant remediation is not a common, frequent, or usual part of its business and argued that, before 2015, it had no way of knowing that further investigation or remediation would be required at these sites and could not have sought their inclusion in rates.

Finally, Xcel argued that, while there is no set definition of the magnitude of costs necessary to constitute a material financial impact, the absolute size of the request in this case is significant enough to warrant deferral treatment.

V. Commission Action

The Commission concurs with the Department that the facts of this case do not establish the good cause necessary to permit deferred accounting. The Commission will therefore deny Xcel's request to allow the Company to defer the remediation costs of the manufactured-gas-plant sites in Fargo and St. Cloud.

While the Commission has allowed deferred accounting of manufactured-gas-plant cleanup costs in the past, these prior decisions do not bind the Commission. Rather, in each case the Commission must decide whether the specific facts and circumstances support a finding of good cause to allow cost fluctuations occurring outside of a rate-case test year to be accounted for in a future rate proceeding.

In this case, the Commission concludes that deferred accounting is not warranted, primarily based on the magnitude of the costs. Simply put, Xcel has not demonstrated that this cost increase will have a significant impact on its financial condition.

The Company argues that the absolute amount of Fargo and St. Cloud cleanup costs is similar to the amounts the Commission allowed it to defer in the past. But this argument overlooks that Xcel is a larger company today than it was in the 1990s. The Fargo and St. Cloud cleanup costs represent 3.39% of Xcel's 2016 O&M expenses, while the cleanup costs that the Commission permitted to be deferred in 1994 represented 4.51% of the Company's 1994 O&M expenses. And if the current cleanup costs are amortized over five years, as Xcel proposes to do if its request is granted, they represent only 0.67% of its 2016 O&M expenses.

Xcel also argues that the Commission must allow it to defer the Fargo and St. Cloud cleanup costs because they were incurred to meet an important public policy mandate. While the Commission has sometimes allowed deferral of costs incurred to meet important public policy mandates, this has generally been in cases where the Commission itself mandated the expenditure.² Here, however, the public policy that Xcel invokes is contained in unspecified Minnesota and North Dakota environmental statutes and/or rules. This is not the type of public policy mandate for which the Commission has previously granted deferral, and the Commission does not find good cause based on the Company's legal obligation to clean up pollution at gas plants that have been abandoned for decades.

For the foregoing reasons, the Commission finds that the facts do not warrant deferred accounting of the Fargo and St. Cloud manufactured gas-plant cleanup costs. The Commission will therefore deny Xcel's request for deferred-accounting treatment.

ORDER

1. Xcel Energy's request to use deferred accounting to account for the cost of remediating the former manufactured-gas-plant sites located in Fargo, North Dakota, and St. Cloud, Minnesota, is hereby denied.
2. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
Executive Secretary



This document can be made available in alternative formats (e.g., large print or audio) by calling 651.296.0406 (voice). Persons with hearing loss or speech disabilities may call us through their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

² See, e.g., Docket No. E-002/M-03-1462, Order Approving Deferred Accounting (February 25, 2005) (allowing deferred accounting of costs incurred to comply with a Commission directive to develop a time-of-use pilot program in a short timeframe); *In the Matter of Peoples Natural Gas Company's Request to Establish a Tariff for Repairing and Replacing Farm-Tap Lines*, Docket No. G-011/M-91-989, Order Approving Proposal, Allowing Deferral of Costs, and Requiring Further Filings (January 20, 1994) (allowing deferred accounting of costs incurred in implementing Commission-required safety-inspection program).