

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION**

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

REPLY BRIEF OF AARP

October 14, 2014

INTRODUCTION

AARP respectfully offers this Reply Brief to Judge Cochran and the Minnesota Public Utility Commission (“Commission”) in hopes that it will further assist in developing a just and reasonable resolution of certain issues contested in this first-ever multi-year electric rate case for Northern States Power Company d/b/a Xcel (“Xcel” or “Company”). This Reply Brief addresses rate design arguments found in the initial briefs of other parties and which deserve some response or clarification.¹

With regard to rate design, AARP continues to ask that the Commission maintain the current proportional customer class relationships, and that within the residential class, the current customer charges be retained, applying any new increases to volumetric components only. AARP also urges the Commission to reject “decoupling”, as it is currently formulated in the Company’s RDM proposal. As for revenue requirement issues, AARP supports the positions put forth by the Office of the Attorney General’s (“OAG’s”) Initial Brief.

¹ AARP continues to stand by the entirety of its own Initial Brief in this rate case; any failure to address a criticism contained in another party’s initial brief should not be interpreted as agreement or acquiescence.

ARGUMENT

- I. Despite claims to the contrary, the Company's RDM proposal is unnecessary, it would detrimentally impact consumers, and it would weaken the economic rewards to consumers for their efficiency and conservation efforts.

Xcel's Initial Brief claims that its Revenue Decoupling Mechanism ("RDM") is consistent with the state's definition of decoupling.² However, under that law, "decoupling" may only be approved by the Commission "without adversely affecting utility ratepayers."³ Minnesota Law does not mandate that decoupling be imposed upon electric consumers, and Xcel's evidence fails to address how its particular revenue-per-customer RDM proposal in this rate case meets the statutory condition of not adversely affecting ratepayers.

As explained in its Initial Brief, AARP contends that the RDM proposal would indeed impact residential consumers negatively.⁴ Xcel focuses on the on the relief to the utility's "throughput disincentive", but does not acknowledge that alleviating its risk of doing business is essentially a transfer of that risk to consumers. The Clean Energy

² Xcel Initial Brief, p. 146. ("a regulatory tool designed to separate a utility's revenue from changes in energy sales")

³ Minnesota Stat. Section 216B.2412.2

⁴ This is particularly true if the RDM operates as intended by the Company in that it encourages lesser usage each year, and thus results in annual surcharges being added to consumer electric bills that would otherwise not be impacted until a full review is conducted of all relevant factors in a subsequent rate case.

Intervenors (“CEI”) witness Mr. Cavanagh, who wholeheartedly supports the Company’s RDM proposal, acknowledges that adverse customer impacts are possible, but dismisses any concerns about negative customer impacts from the operation of the RDM as unlikely to be “material” enough to affect customer behavior.⁵

It is worth emphasizing here that the RDM proposal is not needed in order to encourage the implementation of energy efficiency programs by Xcel at the level that has already been deemed reasonable by the Department of Commerce and by the Commission. These requirements were set and agreed upon without any promise that the utility would receive some special mitigation of its risk of revenue variability. As pointed out in CEI’s Initial Brief⁶, the Company has committed under oath to meeting these statutory energy efficiency requirements in the coming years, even if decoupling is not ordered by this Commission in the current rate case.⁷ Xcel appears to be sufficiently incentivized for achieving its energy efficiency targets each year through the “CIP incentive” that already gets charged to ratepayers.

CEI refers to Xcel’s energy efficiency requirements as a “floor, not a ceiling”; however, CEI does not advocate for any specific new energy efficiency requirements above and beyond those levels that have already deemed reasonable. Both Xcel and CEI seem to imply that somehow greater energy efficiency results other than those that are approved might result from the adoption of the RDM proposal, but they fail to link the RDM proposal to such results. It’s unclear to AARP what value the RDM stands to serve, other than providing more stability to Xcel earnings in-between rate cases.

⁵ See Transcript, Vol. 3, pp. 72-74.

⁶ *Id.*, p. 24.

⁷ Transcript, Vol. 3, pp. 72-74.

If in fact the Commission grants Xcel some form of decoupling in this case, despite the objections to decoupling, AARP asks that the Commission do more than sever the relationship between revenues and sales. If it must adopt an RDM, the Commission should *directly link* this implied “promise” of greater energy efficiency benefits to the RDM as a written condition in its final order, producing a tangible benefit to the public. Thus, AARP’s alternative recommendation is that any RDM be conditioned in this way, as listed in AARP’s Initial Brief:

1. The Commission should not adopt any decoupling program absent a strong and increased commitment by the utility to provide cost-effective demand-side programs and measures. The Commission should require the utility to make a filing assuring the Commission of the specific ways in which:
 - a) Xcel will produce incremental energy savings, beyond those called for in the triennial plan,
 - b) performance requirements are established directly linking any RDM ratemaking treatment to proven utility-sponsored DSM savings, and
 - c) the programs adopted in fulfillment of the Company’s DSM commitments assure that all residential customers can participate in DSM equally.⁸

Xcel’s Initial Brief characterizes its RDM proposal as “gradual and cautious” and states that the potential RDM adjustments (surcharges) would be “mild”.⁹ It is hard for AARP to trust these characterizations when Xcel opposes an annual 2% hard cap, in favor of its proposed 5% soft cap for annual RDM surcharges. AARP does not believe that 5% rate changes would be immaterial or go unnoticed. Despite predictions by Xcel and by CEI that annual decoupling surcharges are more likely to be in neighborhood of 2%, their reluctance to agree to a condition that caps RDM surcharges at 2% provides little comfort to residential consumers. The risk that consumers could face a 5% utility bill increase in one year, unrelated to an increase in the utility’s cost of service and

⁸ AARP Initial Brief, p. 17.

⁹ Xcel Initial Brief, pp. 146-148.

absent a full rate case review, plus the possibility that the 5% “soft cap” would allow decoupling increases above 5% to roll over into the following year, would not feel “gradual” nor “mild” to most consumers. This is why AARP’s alternative recommendation regarding the RDM proposal includes these conditions:

2. The Commission should cap the level of RDM surcharge rate increases that can occur in a 12-month period at 2% of excess revenues. Establishing a reasonable cap level is essential, if decoupling is indeed imposed on all residential consumers. Xcel’s proposed 5% annual (soft) cap does not go nearly far enough to protect consumer expectations of reasonable, affordable, stable, and predictable energy utility rates.
3. The Commission should ensure that the cap is a hard cap on the deferrals of RDM rate increases, so that any RDM surcharges are not carried forward indefinitely (as would be the case with Xcel’s proposed 5% soft cap).
4. The Commission should require that the level of the cap on RDM surcharges not be applied to the fuel and other rider revenues.¹⁰

CEI wrongly accuses AARP of misunderstanding how the RDM mechanism would operate, stating that the concern about bill impacts is based upon a misunderstanding about revenue requirements.¹¹ AARP is very aware that decoupling can either increase or decrease utility bills without a review of the proper level of revenue requirement for a utility.¹² That is not AARP’s primary concern. AARP’s primary (and unrefuted) contentions are that the RDM proposal is more than likely to result in higher energy charges to residential consumers overall as a class than would otherwise be allowed, and to result in greater variability and volatility to what each electric customer pays going forward. Those results would undeniably constitute “adverse customer impacts”. Xcel and CEI may belittle these concerns because they

¹⁰ AARP Initial Brief, p. 17.

¹¹ CEI Initial Brief, p. 24.

¹² That would indeed be unreasonable, in situations when a Commission’s review of a utility’s revenue requirement would have resulted in a lower revenue requirement.

predict such impacts to be “mild” or “immaterial”, or they may claim that it should not matter because the utility’s revenue requirement is not changing, but such impacts are nonetheless *adverse* to the interest of consumers. RDM will more than likely take more money out of the pockets of more consumers.

Another serious problem with the RDM proposal was not addressed by the initial briefs of decoupling proponents: consumers can be adversely impacted due to usage reductions not resulting from energy efficiency and conservation. The RDM proposal would leave residential consumers exposed to decoupling surcharges due to a recession, or for any other reason that utility sales may dip (other than weather, under the “partial” decoupling aspect of the RDM). In this way, the RDM would operate as an insurance program for mitigating utility revenue risk, with residential consumers serving as unwilling insurers. It would be a definite transfer of risk, without compensation. That is, unless the Commission decides to recognize the risk shift caused by decoupling at the same time in its ROE determinations of this rate case.¹³

The proposed RDM also does not assure that all residential customers can participate equally in demand side management programs (“DSM”), yet it treats all residential customers as equally responsible for DSM costs.¹⁴ Those customers who cannot participate in efficiency projects, (or cannot achieve savings comparable to those others can obtain savings), will pay the utility for the costs of the efficiency, but will still see their bills rise. And despite the stated policy goal of decoupling to the contrary, even if the RDM works exactly as intended, the economic rewards for each consumer’s conservation efforts will nonetheless be smaller than would be the case without

¹³ AARP Initial Brief, pp. 14-15, 17.

¹⁴ AARP Initial Brief, pp. 9-10, 18.

decoupling. Proponents of decoupling simply hope that this weakening of the rewards for conservation will be so small as to go unnoticed.

Another reason given by Xcel for dismissing consumer concerns regarding its RDM proposal is that “By definition, the revenue per customer established in this case will be set at a just and reasonable level, meaning RDM adjustments should not be equated with adverse customer impacts.”¹⁵ This argument is a fallacy, because it is circular: It is to say that the Commission is required by law to make “just and reasonable” rate case decisions regarding decoupling, thus any decision it makes regarding decoupling will be just and reasonable.

The evidence in this case does not support a finding that the RDM proposal is just and reasonable, nor could it be implemented as proposed without adverse customer impacts, as the law requires. The Commission should reject the RDM proposal or, in the alternative, condition any decoupling decision upon each of the consumer protections which are described in its testimony and which are listed on pages 17-18 of AARP’s Initial Brief.

- II. Despite arguments to the contrary, all customer classes should share equally in any electric rate increase. Within the residential customer class, there should be no increase to the customer charges.

The OAG’s class cost of service study (“CCOSS”) recommendation shows that Xcel’s electric residential customer class is at, or very near, the cost to provide service to that class.¹⁶ The initial briefs of large industrial customer groups (“MCC” and “XLI”) tout their own versions of the CCOSS reality. With regards to this tug of war, AARP

¹⁵ Xcel Initial Brief, p. 148.

¹⁶ Ron Nelson Direct, Exh. 325, p. 38.

would simply point out that Xcel's residential consumers have borne a larger share of previous electric rate increases granted to the utility, compared to the generally lower rate changes ordered for those larger customer groups (over the past seven years). Equity calls for a relief to residential consumers from these lopsided increases, and the OAG's evidence supports leaving the customer class relationships at current proportions. Thus, residential rates should not increase above the overall revenue requirement increase percentage ordered in this case.

AARP further recommends that the residential customer charges remain at their current levels. Xcel cites to Minnesota's anti-discrimination utility rate statute in support of raising customer charges, claiming an "intra-class" subsidy.¹⁷ Relying on this statute is misplaced as to claims of *intra-class* subsidy, in that the anti-discrimination mandate applies to the status of an entire class of customers (inter-class subsidy). AARP contends that "just and reasonable" within the residential class means incorporating equity and protection for the lowest users of electricity. Xcel's proposal to disproportionately increase the residential customer charges would place an undue burden on low-usage customers (which includes many low-income consumers, as well as many 1-2 person senior households).¹⁸

Raising the customer charges would also reduce the value of conservation efforts undertaken by residential consumers. CEI joins AARP, OAG, and Energy Cents in opposing Xcel's proposed customer charge increases for this reason.¹⁹

¹⁷ Xcel Initial Brief, p. 141; Minn. Stat. Sec. 216B.03.

¹⁸ See AARP Initial Brief, pp. 20-22.

¹⁹ CEI Initial Brief, p. 7.

CONCLUSION

AARP respectfully requests that the Commission issue its Final Order in this rate case proceeding consistent with the arguments contain herein, protecting the residential class of consumers by rejecting both Xcel's RDM proposal and its higher customer charge proposal. AARP views both rate design proposals as detrimental to low-usage customers, and believes that both discourage energy efficiency and conservation by reducing the rewards for the efficiency and conservation actions taken by consumers.

Respectfully submitted,

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