

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS  
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FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
Suite 350  
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In the Matter of the Application of Northern  
States Power Company for Authority to  
Increase Rates for Electric Services in  
Minnesota

MPUC Docket No. E-002/GR-13-868

OAH Docket No. 68-2500-31182

**INITIAL BRIEF OF THE SUBURBAN  
RATE AUTHORITY**

**INTRODUCTION**

The Suburban Rate Authority (“SRA”) respectfully submits this Initial Brief in support of 1) the Stipulation allowing further review of Inclining Block Rates for residential customers (“Stipulation”), 2) the Inclining Block Rate (“IBR”) proposal itself, or similar rate design that may arise out of the process set forth in the Stipulation, 3) the Energy Cents Coalition (“ECC”) proposal to fund an assistance program for low income residential customers who reside in one to four unit apartments, and 4) maintaining the current residential customer charge level if the Commission approves either the Xcel proposed partial revenue decoupling or full decoupling.

The SRA also supports the Company’s Lighting class price proposal for 2014 and 2015 and opposes the Department’s proposed 3.1% 2015 Lighting class increase. The Department has not justified its discriminatory treatment of the Lighting class by proposing a 3.1% increase in 2015 rates for a class that already pays more than its cost of service.

## **RECORD TESTIMONY**

Following is a brief summary of record evidence on the issues the SRA addresses.

### **A. IBR PROPOSAL AND STIPULATION.**

Paul Chernick representing the Sierra Club, Minnesota Center for Environmental Advocacy, Fresh Energy, Natural Resources Defense Council, and the Izaak Walton League Midwest Office (“Clean Energy Intervenors” or “CEI”) described the IBR plan.<sup>1</sup> ECC witness Roger Colton supported the IBR proposal on the basis of, among other things, his analysis of the positive relationship between income and greater electricity usage.<sup>2</sup> The Company and all parties representing or affecting the residential customer class, except for the Office of the Attorney General, Anti-Trust and Utility Division (“OAG”), have signed the Stipulation.<sup>3</sup> The Stipulation establishes a stakeholder process for evaluating both the IBR as proposed by CEI and a possible alternative to be proposed by the Company.<sup>4</sup>

### **B. ECC LOW INCOME RENTERS CONSERVATION ASSISTANCE PLAN.**

Pam Marshall of ECC testified regarding a proposal to offer low-income tenants living in one to four unit apartment dwellings financial assistance to purchase more energy-efficient appliances.<sup>5</sup> The recommended funding support is \$500,000 from other Xcel residential electrical customers.<sup>6</sup> Ms. Marshall explained that the program is modeled after Xcel’s existing Low-Income Home Energy Savings Program and CenterPoint Energy’s LIRE Program.<sup>7</sup>

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<sup>1</sup> Ex. 280.

<sup>2</sup> Ex. 234.

<sup>3</sup> Ex. 135.

<sup>4</sup> Id.

<sup>5</sup> Ex. 235, pp. 27-31.

<sup>6</sup> Id. at 30.

<sup>7</sup> Id. at 15, 28.

### **C. CUSTOMER CHARGE AND DECOUPLING.**

The Company seeks an increase in the residential customer charge from \$8.00/month for overhead customers to \$9.25/month and the same dollar increase for the underground customers, \$9.00 to \$10.25.<sup>8</sup> The Company also made a proposal for a partial revenue decoupling mechanism (“RDM”).<sup>9</sup>

The Department supports a \$0.50 per month increase in the customer charge to residential customers.<sup>10</sup> It supports full decoupling over RDM and submitted evidence of a substantial difference in cost to residential customers between the RDM and a full decoupling had such programs been in place from 2009-2013.<sup>11</sup> The additional residential customer cost during those years under RDM as compared to full decoupling would have been \$56.9 million. The study also showed that full decoupling during those years would have cost residential customers \$15.8 million more than no decoupling.<sup>12</sup>

CEI supports the Company’s RDM and opposes any increase in the residential customer charge.<sup>13</sup> The OAG opposes any increase in the customer charge if decoupling is approved and supports full decoupling over RDM if decoupling is adopted.<sup>14</sup>

### **D. 2015 LIGHTING RATES.**

In the Company’s previous rate case, the Commission accepted the ALJ’s recommendation to reject the Company’s addition of CCROSS costs to the Lighting class cost of service, purportedly due to the cost of underground distribution lines dedicated solely to

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<sup>8</sup> Ex. 105 at 15, Table 8.

<sup>9</sup> Ex. 109 at 9-19.

<sup>10</sup> Ex. 420.

<sup>11</sup> Ex. 417.

<sup>12</sup> Id.

<sup>13</sup> Ex. 290.

<sup>14</sup> Ex. 325 at 60.

Lighting.<sup>15</sup> In this case, the Company has requested no increase in Lighting rates. The Company's CCOSS shows that Lighting class costs of service are *below* the rates the Company charges for the service.<sup>16</sup> In this proceeding, the Company proposes to keep Lighting rates the same in 2014 and substantially the same in 2015 (0.2% increase). Even adjusting its CCOSS during the proceeding, rates for the Lighting class continue to be above Xcel's CCOSS costs.<sup>17</sup>

The Department reviewed the Company's CCOSS and made certain modifications to it not directly related to the Lighting class allocation. Yet the Department proposed to increase 2015 Lighting class rates 3.3% (adjusted later to 3.1%).<sup>18</sup>

The Department articulated no policy reason for the requested 3.1% increase for 2015 Lighting rates. Its own modified apportionment of revenue responsibility for Lighting in 2015 shows Lighting customers paying 102.6% of cost of service.<sup>19</sup> The Department further testified that "there must be a cost basis for the differences [in rates among various classes of service] for the differences to be deemed reasonable, unless one of the rate-design principles above is used to adjust rates."<sup>20</sup> Department witness Susan Pierce testified that the "above" rate design principles include sending "an appropriate price signal to customers by reflecting the cost of serving them."<sup>21</sup>

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<sup>15</sup> In re: Northern States Power Petition to Increase Rates, GR-12-961, Findings of Fact, Conclusions and Order, September 3, 2013, Findings at 13-16, Order at 2.

<sup>16</sup> Ex. 102 at 6, Table 2 (109.6% – 2014), and at 10, Table 3 (105.2% – 2015).

<sup>17</sup> Ex. 103 at 4, Table 4; Ex. 105 at 10 (holding rates until Commission-required detailed study completed).

<sup>18</sup> Ex. 420 at 8, Table 5.

<sup>19</sup> Ex. 420 at 9, Table 5.

<sup>20</sup> Ex. 420 at 4.

<sup>21</sup> Id. at 3.

## ARGUMENT

### **A. THE STIPULATION PLAN WILL REVIEW THE PROPOSED IBR AND SHOULD BE RECOMMENDED FOR COMMISSION ADOPTION.**

The SRA is a party to the Stipulation and recommends its adoption. The Stipulation does not require the implementation of the IBR. Therefore, the issue for the ALJ and Commission is whether the IBR or similar conservation rate design merits further study as required under the Stipulation. The SRA believes the evidence in this record and the strong legislative emphasis on conservation justify moving forward with the Stipulation.

The IBR proposal has merit and presents an opportunity to introduce a significant conservation incentive to all Company residential electricity customers. It will also benefit many low income residential customers who reside in SRA cities and throughout the Company's service territory. Further, the Stipulation allows necessary Department and stakeholder review before any conservation rate design would be implemented. This will help to ensure that this or other conservation rate design will not be implemented prematurely or be hindered by the flaws that plagued the CenterPoint Energy Inverted Block Rate Plan ("Gas IBR") in GR-08-1075.

#### **1. Conservation Component of IBR.**

The SRA regards the IBR and the Stipulation as materially and positively distinguishable from the Gas IBR, which the SRA opposed. First, the Gas IBR did not have what the Stipulation requires – a separate proceeding to gather more information on the IBR and obtain comments from potential IBR ratepayers or their representatives. The Stipulation also contemplates possible submittal of a competing rate design and a customer education process for the design the commission may adopt.<sup>22</sup> Customer acceptance is very important for any rate design and customer notice and education is very important to achieve such acceptance. The Gas IBR,

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<sup>22</sup> Ex. 135, Stipulation.

among other things, seemed to take many customers by surprise. The SRA recognizes that getting all residential customers to pay attention to future rate design changes is very difficult. The stakeholder process of the Stipulation should, however, identify appropriate methods of accomplishing that important goal.

Second, the SRA regards an IBR applied to residential electricity use as inherently more conducive to equitable and significant conservation measures than the Gas IBR. Exhibits 600 and 601 illustrate this point by providing data showing the important distinctions between natural gas and electricity use by Xcel residential customers. Natural gas use is 79% heating.<sup>23</sup> Not only is heating a critical utility service in Minnesota, but it virtually dominates the natural gas use of any residential customer. To achieve meaningful conservation, the natural gas customer subject to an IBR must test his or her or the family's level of tolerance for low heating temperatures. While this fact does not mean that the SRA is categorically against IBRs for residential gas customers, it was a significant factor in the SRA's opposition to the Gas IBR. The core heating component of gas generates numerous subgroups who can legitimately claim they are faced with a Hobson's Choice between their own health and financial wellbeing on the one hand and higher payments in a Minnesota winter on the other.

In contrast, electricity use for its Minnesota residential customers is divided among many uses. "Lighting" has the largest "weighted" average at approximately 18%.<sup>24</sup> Other electricity categories include "Color TVs and Set-Top Boxes (10%)," "PCs and Related Equip[ment]" (5.5%) and "Other" (7.6%). Electricity use categories have a number of important appliances but they are all limited in average use. "Space Heating (10.2%) is excluded from the IBR proposal

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<sup>23</sup> Ex. 601 A.

<sup>24</sup> The Company explains the percentages in B. of Ex. 600. Given individual customer use or non-use of certain appliances, the percentages of use for certain appliances in Ex. 600 will vary significantly from Company percentages by actual customer.

altogether and its exclusion would serve to raise all other use percentages of customers subject to IBR.<sup>25</sup> “Space Cooling” is the largest (11.8%), “Refrigeration” is 11.4% and “Furnace Fans is 8.8%.

If one combines the lighting, TVs, PCs and “Other” categories of electricity use, *over forty percent* of an average customer bill is comprised of those categories. Those combined categories present significant potential for residential customer conservation without requiring the customer to endure the type of hardship attached to a fundamental component of basic living, as presented in the Gas IBR. Further, these categories of use also appear to have significant potential for education on more efficient use.

The electricity distinctions from natural gas contrast in at least ways: nearly single use (gas) versus varied uses (electricity) and dominant use falling in the critical category of heat during the winter (gas) and the absence of such a dominant use (electricity). It is true that space cooling (air conditioning) can be an important use for health reasons. Yet the days and time of day when air conditioning is highly important to at risk residential customers in Minnesota is generally far less than the equivalent number of days and time of day per year when heating is vital. Further, a use comprising 11.8% of the average bill would not have near the effect on cost that the 79% gas heating component does. Given the further review to which the IBR will be subject if the Stipulation is adopted, even if the ALJ has concerns about IBR itself, the SRA believes the Stipulation should be approved.

The SRA will look closely at how IBR would affect both the low income and high income residential customers that are high users. SRA members include many customers in both categories. It is worth noting, that both ECC witness Roger Colton and the Xcel 2012 Residential Energy Use Survey support the intuitive conclusion that as income increases, use of various

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<sup>25</sup> Ex. 600 B.

electric appliances or electrical services increases.<sup>26</sup> Further, several of these uses fall into more discretionary categories (multiple TVs, cable boxes, computers) and suggest the opportunity for previously untapped conservation measures to reduce kWh consumption in those areas.

Consideration of the Stipulation is also made in light of strong statutory promotion of conservation measures associated with electric utilities. The statutory requirement that conservation be considered in utility rates is pervasive.<sup>27</sup> In a related context with which SRA cities are very familiar as municipal utilities, the Legislature requires conservation rate design in water use. Minnesota Statutes, Section 103G.291 291 requires “a water supply plan” from municipal water utilities submitted to the Department of Natural Resources (DNR) commissioner “in accordance with guidelines developed by the commissioner” that address, among other things, “water conservation, [and] supply and demand reduction measures...”<sup>28</sup> Therefore, all SRA members, as part of their respective comprehensive plans, have water conservation programs.<sup>29</sup> Cities serving greater than 1000 people “must encourage water conservation by employing water use demand reduction measures” which “must include a conservation rate structure, or a uniform rate structure with a conservation program that achieves demand reduction.”<sup>30</sup> These statutory requirements are administered through the DNR under Minnesota Rules.<sup>31</sup>

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<sup>26</sup> Exs. 234, 241 pp. 22-48.

<sup>27</sup> See, e.g. Minn. Stat. § §. 3.8851 subd. 3 (b) (3) (legislative energy committee); 16B.32 subd. 2 (energy conservation goals); 16B.328 subd. 1 (1) (“energy conservation” and lighting); 16C.144 (guaranteed energy savings program); 216B.03 (“encourage energy conservation and renewable energy use and to further goals of sections 216B.164, 216B.241, and 216C.05.”); 216B.16 subd. 1; 6B (a) and (c), 6c. (energy conservation improvement); 216B.2401 (Energy savings policy goal); 216B.2412 (decoupling, to remove utility disincentive to promote conservation); 216C.02 (subd. 1 (b) (c) (Commission powers); 216C.19 (outdoor lighting and conservation).

<sup>28</sup> Id. at subd. 3(a).

<sup>29</sup> Id. at subd. 3(b).

<sup>30</sup> Id. at subs. 3(c) and 4(a).

<sup>31</sup> Minn. Stat. §§ 103G.101; 103G.05 subd. 7; Minn. R. chapter 6115.



The ALJ can take administrative notice that each SRA member city employs a water utility rate design that implements an inclining block rate in some form. That is, all SRA member's use a rate structure for residential water use in which the rate for water increases per gallon as the total quantity of water used in a month increases. SRA members are thus in a unique position to address matters of customer education and acceptance of an IBR, albeit in a distinguishable utility context.

## **2. Low Income Assistance Component of IBR.**

IBR also has the support of the ECC as promoting affordability among low income residential customers who, ECC witnesses Roger Colton and Pam Marshall argue, are primarily average to below average electricity users. Because of the four block inclining rate design, the lower users will tend to benefit more while substantially higher kWh users will pay a greater amount as their use increases or remains at high levels.

The SRA is well aware of its member constituencies in both low use/low income; and in high use/high income categories. Added to the mix of affected customers are at least some low income customers who are high electricity users. The SRA thus has a high interest in the stakeholder process that will address the issues of low income assistance and conservation in light of overall fairness, customer education and customer acceptance. This perspective will help ensure that the interests of a wide range of customers, including high users, are represented in the stakeholder proceeding. It is timely and appropriate to study the IBR as set forth in the Stipulation, which the SRA fully supports.

## **B. THE ECC LOW INCOME RENTERS PLAN IS MODEST AND APPROPRIATE.**

The ECC also proposes a low income renters assistance program that is similar to an existing program for low income homeowners. Again, the SRA has many residential customers within its member cities that would benefit from this program. The cost is modest, \$500,000

from the residential customer class.<sup>32</sup> The public hearings have reflected the increasing burden on low income customers in paying frequently increasing electric bills. Those living in small apartments are often beholden to landlords who require such tenants to pay utilities while providing highly inefficient, dated appliances to these tenants. This program will help mitigate that inequity.

**C. THE SRA DOES NOT OPPOSE DECOUPLING ON A PILOT BASIS, BUT OPPOSES ANY INCREASED CUSTOMER CHARGE FOR RESIDENTIAL CUSTOMERS IF DECOUPLING IS ORDERED.**

As a matter of policy, since gas and electric rate cases in the early 1990s, the SRA has consistently objected to substantial increases in the fixed charge as tending to discourage conservation efforts among residential customers. The Company and CenterPoint, and its predecessors, have argued that the customer charge is far below their actual fixed cost to serve and that, as a result, the companies run the risk of not recovering these costs when the usage charge portion of the customer bill does not equal the forecast.

Decoupling has now introduced a significant new revenue recovery design into the residential customer charge debate. Regardless of the form of decoupling, it serves to mitigate the lost revenue that could result when the portion of the fixed costs rolled into the kWh (or therm) component of the bill are not recovered. The statutory purpose of decoupling is to remove the utility disincentive to promote conservation by eliminating the harm of promoting conservation to the utility's own revenue detriment.<sup>33</sup>

The SRA does not oppose decoupling to determine if, indeed, tangible evidence exists that the Company's disincentive to promote conservation programs is substantially eliminated thereby. With the revenue recovery risk reduced by decoupling, however, the Company has not

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<sup>32</sup> Ex 235 at 30.

<sup>33</sup> Minn. Stat. § 216B.2412.

justified having it both ways with its requested increases to the fixed customer charge. Maintaining a greater percentage of usage-based revenue recovery goes hand-in-hand with the conservation emphasis required by law.

The SRA does not see any substantial disincentive to those who benefit from CIP rebates and other forms of conservation when a surcharge is made necessary because of revenue under recovery. With any amount of customer education and common sense, those customers truly taking advantage of conservation programs save far more than they pay in potential decoupling surcharges, pro rata.

Regarding the Company's RDM versus full decoupling, the SRA notes the Department's analysis of the significantly greater cost to the Company's customers (\$58 million) if the RDM had been implemented from 2009 to 2013 than under full decoupling. It is a point that the ALJ and Commission must consider before recommending or adopting RDM.

With the adoption of the revenue loss-mitigating decoupling mechanism, the Company should not augment the decoupling benefit with a greater fixed customer charge. The level of customer disincentive to conserve as its fixed charge grows is a debatable topic absent definitive, direct evidence from a substantial group of Company residential customers. Without definitive evidence on that subject, which the Company is in the best or only position to obtain, that debate should be resolved in favor of the conservation presumption under Minnesota law.<sup>34</sup> With revenue decoupling, the rate design should favor greater cost recovery through the usage charge rather than from a growing, fixed customer charge.

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<sup>34</sup> Minn. Stat. § 216B.03

**D. THE ADMINISTRATIVE LAW JUDGE SHOULD RECOMMEND THE COMPANY'S 2015 RATE PROPOSAL FOR THE LIGHTING CLASS, NOT THE DEPARTMENT'S PROPOSAL.**

The Company CCOSS, even as modified by the Department, does not justify a rate increase for the Lighting class in either 2014 or 2015. The Lighting class undisputedly pays rates that exceed its cost of service. The Company has appropriately proposed to hold Lighting rates substantially at current levels for 2014 and 2015.<sup>35</sup>

The Department makes its 3.1 % increase for 2015 recommendation despite noting that rates for the Lighting cost remain “well above cost.”<sup>36</sup> While the Company maintains rates above the allocated cost of serving the Lighting class, at least it does not propose to move rates further away from cost as the Department's 2015 proposal does. The Lighting class seems to be the place where mathematical remainders are added to make things work out for other rate classes. Lighting class customers have no less statutory rights than other classes.<sup>37</sup>

The Department does not offer a policy rationale as to why Lighting rates should not move “closer to cost” as is the Department's policy toward other rate classes. Lighting rates are largely borne by government entities, and eventually their taxpayers or ratepayers living within that city or other public body. As with every utility rate, someone has to pay. The resulting rate should be fair to each customer regardless of its form. If there is an allowed “discrimination” regarding the rate, it should be explained and reasonable. The Department's proposed 2015 Lighting increase does not explain why this discrimination is warranted. The SRA objects to any increase in the Lighting rates as long as such rates exceed cost of service.

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<sup>35</sup> Ex. 105 at 10.

<sup>36</sup> Ex. 420 p. 6.

<sup>37</sup> Minn. Stat. § 216B.03; 216B.07.

Dated: September 23, 2014

Respectfully submitted,

**KENNEDY & GRAVEN, CHARTERED**

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