

**STATE OF MINNESOTA  
BEFORE THE PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
Dr. David C. Boyd	Commissioner
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Betsy Wergin	Commissioner

In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota

DOCKET NO. E-002/GR-13-868

**COMMENTS OF THE OFFICE OF THE  
ATTORNEY GENERAL RESIDENTIAL  
UTILITIES AND ANTITRUST DIVISION**

The Office of the Attorney General – Residential Utilities and Antitrust Division (“OAG”) submits the following Comments in response to the Notice of a Compliance Proposal Related to Interim Rates (“Interim Rate Proposal”) filed by Northern States Power Company (“Xcel” or “the Company”) on November 13, 2014. The OAG has concerns regarding the lack of detail in Xcel’s Interim Rate Proposal. To address those concerns, the OAG recommends that, if the Commission approves Xcel’s Interim Rate Proposal, the Commission impose several conditions to ensure that the interim rate refund to ratepayers is consistent with Minnesota law.<sup>1</sup>

**I. THE INTERIM RATE REFUND TO RATEPAYERS MUST PROPERLY ACCOUNT FOR INTEREST ON XCEL’S OVER-COLLECTION.**

In its Interim Rate Proposal, Xcel recommended that:

[T]he interim rate refund be calculated by taking the difference between: (1) the sum of the total revenue collected for the months that interim rates were in effect and (2) the total amount of revenue that would have been collected had final revenue requirements for 2014 and final revenue requirements for 2015 been effective over the course of the period beginning January 1, 2014 through the Commission’s final determination. Since this is a two-year MYRP, this means final authorized rates will likely be different

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<sup>1</sup> In the alternative, the Commission could order Xcel to calculate a separate interim rate refund for each test year.

from the 2014 test year and the 2015 step year, and we will incorporate that change into our calculation starting January 1, 2015. If the interim revenues actually received exceed the final Commission approved revenue requirements for the entirety of the time period, the difference would be refunded with interest consistent with the Interim Rate Statute, subject to any modifications the Commission may order.<sup>2</sup>

Xcel's Interim Rate Proposal does not clearly explain how Xcel proposes to calculate the interest on any interim rate over-collection. Because Xcel's Interim Rate Proposal is unclear, if the Commission approves Xcel's Interim Rate Proposal, it should clarify that Xcel must calculate interest in the same fashion that has been used in Xcel's last two rate cases.

**A. XCEL SHOULD CALCULATE INTEREST ON INTERIM RATES IN THE SAME MANNER AS THE LAST TWO CASES.**

In its previous two rate cases, Xcel has used a uniform method to calculate the interest on the interim rate refund. In both the 2010 and 2012 cases, Xcel explained that interest would be “calculated by applying the monthly prime rate to the average refund balance for each month that interim revenues were collected.”<sup>3</sup> The technical impact of this method is that Xcel calculates how much interim revenue was collected in each month that interim rates were in effect, and then applies an “interim refund factor” to calculate the interim refund amount for each month.<sup>4</sup> In the previous two cases, Xcel has calculated the “interim refund factor” by subtracting the test year revenue increase from the interim revenue increase to calculate a test year interim refund.<sup>5</sup> The test year interim refund divided by the interim revenue increase results in an “interim refund

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<sup>2</sup> Interim Rate Proposal, at 3 (Nov. 13, 2014).

<sup>3</sup> Xcel Final Rates Compliance Filing, Schedule 9, Docket No. E002/GR-10-971, at 2 (June 4, 2012); *see also* Xcel Final Rates Compliance Filing, Schedule 10, Docket No. E002/GR-12-961, at 1 (Sept. 19, 2013) (“As part of the refund, Xcel Energy will include interest, calculated by applying the Company’s weighted average cost of capital . . . to the average refund balance for each month that interim revenues were collected.”).

<sup>4</sup> *See* Xcel Interim Rate Refund Report, Docket No. E002/GR-12-961, at 2 (Feb. 27, 2014).

<sup>5</sup> Xcel Final Rates Compliance Filing, Schedule 9, Docket No. E002/GR-10-971, at 2 (June 4, 2012).

factor” that is used to calculate the amount of interim refunds that accumulate in each calendar month. Xcel then calculates how much interest accumulates every month.<sup>6</sup>

Xcel’s Interim Rate Proposal does not make clear how Xcel intends to calculate the interim refund factor in this case. The language that Xcel used in its Interim Rate Proposal, however, indicates that Xcel may intend to calculate the interim refund factor over the entire period of interim rates, rather than on an annual basis.<sup>7</sup> This would be a change from how the interim refund factor was calculated in the last case involving a step year. Rather than waiting until Xcel makes its compliance filing, the Commission should clarify that Xcel must calculate the interim refund factor in this case in the same method that has been used before. Specifically, Xcel should calculate a *different* interim refund factor for each calendar year that interim rates were collected.

The first reason that Xcel should be required to calculate a different interim refund factor for each year is that it was the method approved in previous cases. Xcel has not provided any reason to change the procedure for this case.

The second reason is that it is necessary in order to compensate ratepayers for the time value of their money. Xcel began to collect interim rates in January, 2014. Assuming, *arguendo*, that final approved rates for 2014 are lower than the interim rate, Xcel will have collected some specific amount of excess interim rates in January, 2014.<sup>8</sup> In order to fairly compensate ratepayers for the time value of the money that Xcel borrowed in January, 2014,

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<sup>6</sup> *Id.* at 3.

<sup>7</sup> Interim Rate Proposal, at 3 (“If the interim revenues actually received exceed the final Commission approved revenue requirements for the entirety of the time period, the difference would be refunded with interest consistent with the Interim Rate Statute.”).

<sup>8</sup> And in each successive month in 2014.

Xcel must return the money with interest calculated on the period from January, 2014 to whenever the excess rates are refunded.

As a technical matter, the method for calculating the interim refund factor will have a significant impact on how interest is calculated on excess interim rates. Consider a hypothetical rate case that spans two test years – year one and year two. Imagine that the utility collected \$100 in interim rates for each month, and that the interim refund factor for year one is 0.5 and the interim refund factor for year two is 0.9. To calculate the excess interim rates in January of year one, the \$100 in interim rates that were collected is multiplied by the interim refund factor of 0.5. The result of the calculation indicates that the utility collected \$50 in excess interim rates in January of year one. In order to properly compensate our hypothetical ratepayers for the time value of the excess rates the utility borrowed, the utility must return the \$50 with interest calculated from January of year one to whenever the refund is issued. In January of year two, the same calculation indicates that there are \$10 in excess interim rates, which the utility would return with interest counted from January of year two to whenever the refund is issued.

Xcel's Interim Rate Proposal, however, gives the impression that Xcel would prefer to calculate a single interim refund factor. Assuming, for our hypothetical example, that interim rates were collected for all of year two, an interim refund factor spanning both test years in this case would be 0.7. In this situation, applying our conflated interim refund factor to January of year one would result in calculating excess interim rates of only \$30, instead of the \$50 calculated using multiple interim refund factors. Similarly, using the conflated interim refund factor in January of year two results in a calculation that \$30 in excess interim rates were collected, rather than \$10.

A cursory analysis of these two situations shows that the two methods end up calculating the same amount of excess interim rates over the two year period. What is *different*, however, is the timing of when the excess interim rates are allocated. In the second example, applying a conflated interim refund factor, only \$30 of excess interim refund is counted in January of year one, even though a more precise analysis with two interim refund factors demonstrates that ratepayers paid \$50. The missing \$20 is shifted to January of year two, where it now appears that the ratepayers paid \$30 in excess interim rates instead of \$10. The total amount of excess interim rates counted is the same, but the change in timing has a significant impact on the calculation of interest. In the first example, with two interim refund factors, ratepayers receive interest on \$50 from January in year one to the date of the refund. In the second example, with a conflated interim refund factor, ratepayers receive interest for that same period on only \$30; they lose a full year of interest on the \$20 that is shifted to the second year. Because the ratepayers actually paid the excess rates in the first year, however, they should receive interest payments for the full year in order to compensate them for the time value of money.

This hypothetical example demonstrates that it is necessary to have an individual interim refund factor for each year in order to accurately calculate the excess interim rates that accumulate in each month. Conflating the two years to produce a single interim refund factor results in timing changes that do not properly compensate ratepayers for the time value of the money that they pay in excess interim rates. As a result, if the Commission approves Xcel's Interim Rate Proposal, it should clarify that Xcel should calculate interest on the interim rate refund in the same manner as the last case, including calculating an interim refund factor for both 2014 and 2015.

**B. XCEL SHOULD NOT COLLECT INTEREST ON ANY UNDER-COLLECTION.**

Xcel's Interim Rate Proposal also fails to address how interest will be calculated if 2015 interim rates result in an under-collection. Because of the magnitude of Xcel's requested step year increase and the rate moderation proposals, it is possible that the Commission's final authorized rates for 2015 will be higher than the interim rates that were established based on the 2014 test year.<sup>9</sup> Xcel does not clearly explain how it would handle such a situation, but it appears that Xcel would apply any under-collection in 2015 to the likely over-collection in 2014, and provide a refund only of the "difference" between any under- and over-collection.<sup>10</sup>

If there is an under-collection in 2015, and if Xcel intends to apply that under-collection to an over-collection in 2014, the Commission should clarify that Xcel is not permitted to calculate positive interest, or a carrying charge, on under-collections during interim rates. The interim rate statute requires a utility to refund an over-collection to ratepayers with interest,<sup>11</sup> but it does not give a utility authority to accrue interest on an under-collection. Because it is not authorized by statute, Xcel cannot calculate interest in the circumstances of an under-collection during 2015.<sup>12</sup> Doing so would also deviate from the Commissions' precedent. In Minnesota Power's 2009 rate case, the company's final authorized rate was greater than its authorized interim rate.<sup>13</sup> The Commission permitted Minnesota Power to surcharge for the difference after the final rates became effective, but the Commission's order clearly stated that the utility was not

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<sup>9</sup> The practical effect of this could be an "interim refund factor" that is greater than one.

<sup>10</sup> See Xcel Interim Rate Proposal, at 3 (Nov. 13, 2014). The OAG takes no position on whether Xcel is permitted to include under-collection in calculating interim rate refunds under Minnesota law.

<sup>11</sup> "If, at the time of its final determination, the commission finds that the interim rates are in excess of the rates in the final determination, the commission shall order the utility to refund the excess amount collected under the interim rate schedule, *including interest on it . . .*" Minn. Stat. § 216B.16, subd. 3.

<sup>12</sup> See also Order Authorizing Implementation of New Rate Schedules, Approving Surcharge Plan, and Clarifying Order, *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, Docket No. E-015/GR-09-1151, at 2 (May 24, 2011) ("If [the utility] collects less [from interim rates than final rates], it can recover the difference only for the time period between the final determination – which the statute defines as the original order on the merits – and the date on which final rates go into effect.").

<sup>13</sup> *Id.*

permitted to “apply interest to the under-collected difference between interim rates and final rates.”<sup>14</sup> There is no reason, or legal justification, to act differently in this case. The Commission should ensure that any interim refund mechanism that is approved does not permit Xcel to accrue interest to its benefit as a result of interim rates.<sup>15</sup>

## **II. THE COMMISSION’S DECISION SHOULD BE LIMITED TO THE FACTS OF THIS CASE.**

This is the first use of a multi-year rate plan (“MYRP”) in the state of Minnesota, and the decisions made during this case may serve as the blueprint for future cases. But the characteristics of Xcel’s Interim Rate Proposal indicate that the Commission’s decision on this issue should be limited to the facts of this case only, and that the Commission should take several steps to simplify the interim rate process for any future MYRP cases.<sup>16</sup>

First, the refund situation in this case is likely to be unique due to the magnitude of the requested step increase, the ALJ’s recommendation to move the Monticello EPU to the 2015 step year, and Xcel’s rate moderation proposals. These unique circumstances are unlikely to reoccur in other MYRP cases, which is why that the Commission should limit its decision on this issue to the facts of this case.

Second, the Commission should clearly indicate in its Order that in future MYRP cases utilities should fully explain their interim rate proposal at the outset of any rate case filing. It should have been clear to Xcel from the beginning of this case that the MYRP statute and the Commission’s MYRP Order had not fully explained how to handle interim rates in a multi-year situation. Rather than waiting for more than a year, it would have been more appropriate for

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<sup>14</sup> *Id.* at 7.

<sup>15</sup> One technical component of such a recommendation may be that Xcel does not apply an interim refund factor that is greater than one.

<sup>16</sup> In addition to these steps, the OAG continues to support its recommendation to apply Xcel’s full rate of return to the interim rate refund. OAG Initial Brief, at 40–44.

Xcel to present a fully-formed plan at the beginning of the case. Further, Minnesota law explicitly requires the Commission to order an interim rate schedule within 60 days of an initial filing.<sup>17</sup> The law is silent, however, on whether the Commission has the authority to order additional interim rate increases after the initial order has been issued and 60 days have passed.<sup>18</sup> It is also not clear, as a policy matter, that it is reasonable to wait for more than a year after Xcel's initial filing to resolve how interim rates should be handled. To avoid these difficulties in future MYRP cases, the Commission should require that Xcel, and other utilities considering MYRP filings, propose a complete interim rate plan at the outset of the case.

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<sup>17</sup> Minn. Stat. § 216B.16, subd. 3(a).

<sup>18</sup> *Id.*



### III. CONCLUSION

In order to ensure that ratepayers are fairly compensated for interim rates, and to comply with the Commission's precedent, if the Commission approves Xcel's Interim Rate Proposal it should clarify that Xcel is required to calculate interim rate interest on a monthly basis using interim refund factors calculated for 2014 and 2015, and that Xcel is prohibited from accruing interest to its benefit on any under-collection. Additionally, the Commission should make clear that its decision on interim rates is limited to the unique circumstances to this case, and require Xcel and all other utilities to file a complete interim rate plan at the outset of any future MYRP filings.

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Respectfully submitted,

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