



414 Nicollet Mall
Minneapolis, MN 55401

April 10, 2017

—Via Electronic Filing—

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

RE: REPLY COMMENTS
STATE ENERGY POLICY RIDER
DOCKET NO. G002/M-17-174

Dear Mr. Wolf:

Northern States Power Company, doing business as Xcel Energy, submits this Reply to the March 31, 2017 Comments of the Minnesota Department of Commerce – Division of Energy Resources in the above-referenced docket.

We have electronically filed this document with the Minnesota Public Utilities Commission, and copies have been served on the parties on the attached service list.

If you have any questions regarding this filing please contact Rebecca Eilers at rebecca.d.eilers@xcelenergy.com or (612) 330-5570, or me at (612) 330-7681 or lisa.r.peterson@xcelenergy.com

Sincerely,

/s/

LISA R. PETERSON
MANAGER, REGULATORY ANALYSIS

Enclosures
c: Service List

STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

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

IN THE MATTER OF THE PETITION OF
NORTHERN STATES POWER COMPANY
FOR APPROVAL OF A MODIFICATION TO
OUR NATURAL GAS SEP TARIFF, 2017
PROJECT ELIGIBILITY, 2017 SEP RATE
FACTOR, AND 2016 SEP COMPLIANCE
FILING

DOCKET NO. G002/M-17-174

REPLY COMMENTS

INTRODUCTION

Northern States Power Company, doing business as Xcel Energy, submits to the Minnesota Public Utilities Commission this Reply to the March 31, 2017 Comments of the Minnesota Department of Commerce – Division of Energy Resources regarding our State Energy Policy (SEP) Rider filing.

We appreciate the Department’s initial review of our Petition and ask that the Commission approve our Petition given the additional information provided in this Reply. The Department concluded that it appears that there is no longer statutory authority to continue the SEP Rider, but notes that the Commission may have discretion to continue the recovery given that the rider was approved at the time the statutory authority existed.

The Company believes it will be helpful to review the relevant legislative history of the SEP Rider provided below, as it will clarify that the legislature intended that costs related to cast iron pipe replacement should continue to be addressed through rider recovery. Additionally, prior Commission approval of this recovery through the SEP rider supports this conclusion. Thus, the Company continues to request approval of our petition, with the additional commitment that no new costs will be included in the SEP Rider.

REPLY

A. Recovery of the Natural Gas Cast Iron Pipe Replacement Project Costs

1. *Background of Statutory Authority*

The Commission approved recovery of the Cast Iron Pipe Replacement Project costs through the SEP Rider under Minn. Stat. § 216B.1637 in its November 25, 2008 Order in Docket No. E,G002/M-08-261. While this statute was later repealed, it is important to note that all of the Cast Iron Pipe Replacement Project costs were incurred and approved for rider recovery prior to the repeal of Minn. Stat. § 216B.1637. Currently the SEP Rider is recovering the revenue requirements for projects constructed and costs incurred before the statute was repealed. All segments of the project were placed in-service before the statute was repealed in July 2013.

2. *Similar Cost Recovery Under Current Statute*

Minn. Stat. § 216B.1637 was repealed by Minnesota Laws 2013, Chapter 85 in the 2013 Omnibus Jobs, Economic Development, Housing, Commerce, and Energy Bill (the 2013 Omnibus Bill). The repeal was proposed as an amendment to 2013 House File 1015, the standalone Gas Utility Infrastructure Cost (GUIC) Rider bill, which was later incorporated into the 2013 Omnibus Bill. H.F. 1015's author, Representative Yvonne Selcer, introduced the amendment at the House Energy Policy Committee meeting on March 11, 2013,¹ and it passed unanimously. In describing the amendment, Representative Selcer noted that all three portions of the amendment (including the repeal of Minn. Stat. § 216B.1637) were requested by the Commission. During the Committee meeting, a legislator asked about the repeal in the amendment and the bill's author explained the repealer was "repeal[ing] the existing rider, replacing it with the new one [i.e., the GUIC Rider]".² Based on this

¹ See Attachment A. Before the amendment was adopted, a technical amendment was made to correct the statutory reference to the statute that was being repealed—Minn. Stat. § 216B.1637, not Minn. Stat. § 216B.37.

² State of Minnesota, House of Representatives, Eighty-Eighth Session, Seventeenth Meeting of the Energy Policy Committee, March 11, 2013, available at http://www.house.leg.state.mn.us/cmte/archiveAV/cmtearchives.aspx?comm=88009&ls_year=88 at approximately 16:45 of the recording.

GAROFALO: What's the repler of the amendment?

SELCER: Madam Chair, Representative Garofalo. It repeals the existing rider, replacing it with the new one, but you wanted to know what the existing rider was?

GAROFALO: Just replaces the existing rider?

SELCER: Right.

legislative history, the Company believes the legislature did not intend to disallow rider recovery of the Cast Iron Pipe Replacement Project costs, but rather continued rider recovery under a new statutory provision.

3. *Ongoing Approval*

The Commission has made decisions on four annual SEP Rider filings since the repeal. In each of the four SEP Rider filings, the Commission allowed for the continued recovery of the Cast Iron Pipe Replacement Project. This fact, when coupled with the legislative author's comment that the Commission requested the repeal, suggests that the Commission similarly did not intend to disallow SEP Rider recovery of the Cast Iron Pipe Replace Project costs that had already been incurred.

Also, the issue of an expired or repealed statutory basis for rate recovery is not new to the SEP Rider. For example, the statute authorizing the rider recovery of Sustainable Building Guidelines (SBG) costs expired on June 30, 2008, and its expiration was addressed by the Department in the SEP Rider filing that same year. There, the Department explained:

What matters is that Xcel has been billed for [Reliability Administrator] RA/SBG costs, and that Xcel may charge its customers only for the costs Xcel is billed for the RA/SBG category. When such billing ceases and Xcel has recovered from its customers the RA/SBG costs billed to Xcel, the Company should no longer charge its customers for RA/SBG costs.

In its written order, the Commission accepted rider recovery of the SBG costs without comment.³ Likewise, the statute authorizing rider recovery of RA costs was repealed in 2011 and replaced with a new law, Minn. Stat. § 216B.62, subd. 3b, that did not explicitly authorize rider recovery. The Department again recommended recovery, and the Commission again authorized rider recovery of the RA costs without comment. The same result should follow here for the same reasons.⁴

³ IN THE MATTER OF THE PETITION OF NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, FOR APPROVAL OF A MODIFICATION TO ITS SEP TARIFF RATES, 2008 PROJECT ELIGIBILITY, 2008 SEP ADJUSTMENT FACTORS, AND 2007 COMPLIANCE FILING, Docket No. E,G002/M-08-261 (Nov. 25, 2008).

⁴ IN THE MATTER OF THE PETITION OF NORTHERN STATES POWER COMPANY D/B/A XCEL ENERGY FOR APPROVAL OF A MODIFICATION TO SEP TARIFF RATES, 2012 PROJECT ELIGIBILITY, 2012 SEP ADJUSTMENT FACTORS, AND 2011 SEP COMPLIANCE FILING, Docket No. E, G002/M-12-185 (July 27, 2012).

4. *No Recovery of New Investment*

The Company acknowledges that because Minn. Stat. § 216B.1637 has been repealed, it cannot seek to recover any new investments under the statute and would instead need to seek authority to recover new investments under a different rider or in a general rate case.

Legislative history, the Commission's past decisions on recovery of the Cast Iron Pipe Replacement Project, and the Commission's past decisions on recovery of other state energy policies without explicit authority support continued recovery of costs through the SEP Rider. For these reasons, the Company respectfully requests the Commission approve our Petition thereby allowing continued recovery of Cast Iron Pipe Replacement Project costs through the SEP Rider.

B. Recovery of the Reliability Administrator and Sustainable Building Guideline Costs

As the Department notes, the original statute authorizing recovery of RA costs, Minn. Statute § 216C.052, subd. 2, was repealed in May 2011. However, the Commission has made decisions on five annual SEP Rider filings since the repeal of the statute explicitly authorizing rider recovery of RA costs. In each of these SEP Rider filings, wherein the Company cited Minn. Stat. § 216B.62, subd. 3 as authorization, the Commission allowed for the continued recovery of the RA costs. It would be a departure from past Commission decisions to modify the manner in which the Company recovers RA costs.

With respect to SBG costs in particular, the Department is correct that the Company's current SEP Rider request does not contain any SBG costs. The Company appreciates the Department's recommendation to revise labeling and descriptions in its SEP Rider petition in future years to make clear that SBG costs are not included in the SEP Rider, and will do so in its next annual filing.

C. Treatment of Accumulated Deferred Income Taxes

The Company acknowledges that the treatment of accumulated deferred income taxes (ADIT) has been discussed in several recent Commission proceedings. However, we continue to believe a conservative approach to ADIT treatment is necessary in order to prevent an IRS normalization violation. As the Department discusses in their Comments, we are currently in the process of seeking a private letter ruling (PLR) from the IRS which we anticipate will resolve the issue of ADIT proration in Xcel Energy rate proceedings. The Company prefers to reflect the

prorated balances in the SEP tracker until a PLR is issued resolving the issue. If the PLR indicates an alternative treatment, we would adjust the tracker accordingly to comply with the ruling.

CONCLUSION

We appreciate the Department's review of our Petition and are hopeful the additional information we provided in these Reply Comments meets the Department's needs in order to recommend approval of our Petition. We respectfully request that the Commission approve our SEP Petition as supplemented by these Reply Comments.

Dated: April 10, 2017

Northern States Power Company

1.1 moves to amend H.F. No. 1015 as follows:

1.2 Page 4, line 12, delete "shall" and insert "may"

1.3 Page 4, after line 18, insert:

1.4 "Sec. 2. Laws 2005, chapter 97, article 10, section 3, is amended to read:

1.5 Sec. 3. **SUNSET.**

1.6 Sections 1 and 2 shall expire on June 30, ~~2015~~ 2023.

1.7 Sec. 3. **REPEALER.**

1.8 Minnesota Statutes 2012, section 216B.37, is repealed."

CERTIFICATE OF SERVICE

I, Lynnette Sweet, hereby certify that I have this day served copies of the foregoing document on the attached list of persons.

xx by depositing a true and correct copy thereof, properly enveloped with postage paid in the United States mail at Minneapolis, Minnesota

xx electronic filing

DOCKET No. G002/M-17-174

Dated this 10th day of April 2017

/s/

Lynnette Sweet

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Christopher	Anderson	canderson@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022191	Electronic Service	No	OFF_SL_17-174_M-17-174
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_17-174_M-17-174
Alison C	Archer	alison.c.archer@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 5 Minneapolis, MN 55401	Electronic Service	No	OFF_SL_17-174_M-17-174
Mara K	Ascheman	mara.k.ascheman@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 5 Minneapolis, MN 55401	Electronic Service	No	OFF_SL_17-174_M-17-174
James J.	Bertrand	james.bertrand@stinson.com	Stinson Leonard Street LLP	150 South Fifth Street, Suite 2300 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-174_M-17-174
Carl	Cronin	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_17-174_M-17-174
Jeffrey A.	Daugherty	jeffrey.daugherty@centerpointenergy.com	CenterPoint Energy	800 LaSalle Ave Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-174_M-17-174
Ian	Dobson	ian.dobson@ag.state.mn.us	Office of the Attorney General-RUD	Antitrust and Utilities Division 445 Minnesota Street, BRM Tower St. Paul, MN 55101	Electronic Service	No	OFF_SL_17-174_M-17-174
Emma	Fazio	emma.fazio@stoel.com	Stoel Rives LLP	33 South Sixth Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-174_M-17-174
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_17-174_M-17-174

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Todd J.	Guerrero	todd.guerrero@kutakrock.com	Kutak Rock LLP	Suite 1750 220 South Sixth Street Minneapolis, MN 554021425	Electronic Service	No	OFF_SL_17-174_M-17-174
Sandra	Hofstetter	sHofstetter@mncchamber.com	MN Chamber of Commerce	7261 County Road H Fremont, WI 54940-9317	Electronic Service	No	OFF_SL_17-174_M-17-174
Michael	Hoppe	il23@mtn.org	Local Union 23, I.B.E.W.	932 Payne Avenue St. Paul, MN 55130	Electronic Service	No	OFF_SL_17-174_M-17-174
Alan	Jenkins	aj@jenkinsatlaw.com	Jenkins at Law	2265 Roswell Road Suite 100 Marietta, GA 30062	Electronic Service	No	OFF_SL_17-174_M-17-174
Richard	Johnson	Rick.Johnson@lawmoss.com	Moss & Barnett	150 S. 5th Street Suite 1200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-174_M-17-174
Mark J.	Kaufman	mkaufman@ibewlocal949.org	IBEW Local Union 949	12908 Nicollet Avenue South Burnsville, MN 55337	Electronic Service	No	OFF_SL_17-174_M-17-174
Thomas	Koehler	TGK@IBEW160.org	Local Union #160, IBEW	2909 Anthony Ln St Anthony Village, MN 55418-3238	Electronic Service	No	OFF_SL_17-174_M-17-174
Michael	Krikava	mkrikava@briggs.com	Briggs And Morgan, P.A.	2200 IDS Center 80 S 8th St Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-174_M-17-174
Douglas	Larson	dlarson@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	No	OFF_SL_17-174_M-17-174
John	Lindell	john.lindell@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_17-174_M-17-174

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E St. Paul, MN 55106	Electronic Service	No	OFF_SL_17-174_M-17-174
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-174_M-17-174
David	Niles	david.niles@avantenergy.com	Minnesota Municipal Power Agency	220 South Sixth Street Suite 1300 Minneapolis, Minnesota 55402	Electronic Service	No	OFF_SL_17-174_M-17-174
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750 St. Paul, MN 55101	Electronic Service	No	OFF_SL_17-174_M-17-174
Ken	Smith	ken.smith@districtenergy.com	District Energy St. Paul Inc.	76 W Kellogg Blvd St. Paul, MN 55102	Electronic Service	No	OFF_SL_17-174_M-17-174
Ron	Spangler, Jr.	rlspangler@otpc.com	Otter Tail Power Company	215 So. Cascade St. PO Box 496 Fergus Falls, MN 565380496	Electronic Service	No	OFF_SL_17-174_M-17-174
Byron E.	Starns	byron.starns@stinson.com	Stinson Leonard Street LLP	150 South 5th Street Suite 2300 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-174_M-17-174
James M.	Strommen	jstrommen@kennedy-graven.com	Kennedy & Graven, Chartered	470 U.S. Bank Plaza 200 South Sixth Street Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-174_M-17-174
Eric	Swanson	eswanson@winthrop.com	Winthrop Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_17-174_M-17-174

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Lisa	Veith	lisa.veith@ci.stpaul.mn.us	City of St. Paul	400 City Hall and Courthouse 15 West Kellogg Blvd. St. Paul, MN 55102	Electronic Service	No	OFF_SL_17-174_M-17-174
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_17-174_M-17-174