STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	Chair
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Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
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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

ANSWER TO PETITION FOR RECONSIDERATION OF THE OFFICE OF THE ATTORNEY GENERAL

INTRODUCTION

The Office of the Attorney General–Residential Utilities and Antitrust Division ("OAG") respectfully submits this Answer to the Petition for Reconsideration filed by Northern States Power Company ("Xcel" or "the Company"). Xcel requests that the Commission reconsider its decision on decoupling and order a partial decoupling program with a "soft" cap on surcharges or, in the alternative, a ten percent "hard" cap on surcharges. Because Xcel's arguments ignore portions of the record, contradict its own requests throughout this case, and lead to a program that is more detrimental to the public interest, its arguments should be rejected.

I. THE COMMISSION IS NOT LIMITED TO THE FOUR ILLUSTRATIVE DECOUPLING PROGRAMS INCLUDED IN THE SURREBUTTAL TESTIMONY OF A SINGLE DEPARTMENT WITNESS.

Xcel argues that the Commission should reconsider its decision on decoupling because of a supposed "lack of record support for a 3 percent base revenue cap."[1] In making this claim, Xcel ignores virtually all of the analysis in the record and suggests that the Commission's task is

[1] Petition at 7.

limited to choosing among only four decoupling models illustrated in the surrebuttal testimony of a single Department witness. This claim is baseless and should be rejected.

The Commission was presented in this case with a robust record on all aspects of a decoupling program. While Xcel's Petition only refers to the analyses of the Company and the Department, a total of seven parties commented on different aspects of decoupling.[2] These parties provided hundreds of pages of testimony from multiple local and national experts. Testimony specifically discussed whether decoupling should be approved at all and—if it was approved—whether surcharges for ratepayers should be capped, whether a cap should be "hard" or "soft," the magnitude of any cap, and whether the cap should be applied to base revenues or to base revenues plus the cost of fuel and applicable riders.

Despite robust discussions of these topics throughout the record, Xcel suggests that the only decoupling analysis considered in the entire case are the four illustrative models provided in the surrebuttal testimony of the Department's decoupling witness. This is not true. Rather, each aspect of decoupling was thoroughly explored and parties suggested a variety of potential decoupling programs for the Commission to adopt. For example, while the OAG and AARP both opposed decoupling, they recommended that any decoupling program the Commission elected to impose should include a hard cap of two percent or less on base revenues.[3] On the other hand, the Department recommended a three percent hard cap on base revenues plus the cost of fuel and applicable riders.[4] Notably, no party suggested allowing the Company to recover more than the cap set by the Commission.

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[2] These parties include Xcel, the OAG-RUD, the Department, AARP, the ECC, the CEI, and the ICI groups. *See* Order at 70-81.

[3] Ex. 375 (Nelson Direct) at 57; Ex. 311 (Brockway Rebuttal) at 3; OAG Initial Brief at 71; AARP Initial Brief at 17.

[4] Department Initial Brief at 213.

After thoroughly considering all of the parties' analyses and all aspects of a potential decoupling model, the Commission approved a decoupling program that it determined was consistent with the public interest. Rather than adopting the recommendation of a single party, the Commission's decision builds off of the recommendations and analysis of all parties, as well as the Commission's own analysis. Specifically, the Commission agreed with the OAG and AARP that any cap on surcharges should be calculated based solely on the Company's base revenues, but disagreed with these parties on the magnitude of the cap—electing instead to adopt the larger three percent hard cap recommended by the Department. Even with this higher cap, the Commission allowed the Company to recover more revenue if it could demonstrate that a shortfall was related to the Company's conservation efforts. The Commission's decision does not reflect a "lack of record support" as Xcel claims. Rather, the Commission's decision—which the OAG believes is too favorable to the Company—reflects a thorough review of the record evidence and the analysis of all parties. For these reasons, Xcel's attempt to discredit the Commission's decision by ignoring portions of the record should be rejected.

II. XCEL'S OTHER CRITICISMS OF THE COMMISSION'S ORDER CONTRADICT THE COMPANY'S OWN REQUEST.

Xcel makes other contradictory and hypocritical criticisms of the Commission's decoupling decision that should also be rejected. On the one hand, Xcel criticizes the Commission's decision to adopt a three percent hard cap on surcharges because the Commission adopted a different hard cap on surcharges for CenterPoint and MERC.[5] On the other hand, Xcel asks the Commission to change several aspects of the decoupling program it ordered to make Xcel's program different than CenterPoint's and MERC's. Specifically, Xcel requests that

[5] *See* Xcel's Petition at 8.

the Commission modify its decision adopting a full decoupling program, and that it eliminate the "asymmetrical cap" on surcharges. These criticisms should be rejected.

First, Xcel's suggestion that its decoupling program should be modeled after the programs approved for CenterPoint and MERC ignores that the Company itself requested—and continues to request—a decoupling mechanism that differs from both of those programs. As noted above, while Xcel requested a decoupling program with a five percent "soft cap" on surcharges, both CenterPoint's and MERC's decoupling programs incorporate ten percent "hard caps." While Xcel now suggests that the Commission could adopt a cap similar to those approved for CenterPoint and MERC as an alternative to its own proposal, the Company never argued that the Commission's decision for those natural-gas utilities should control in this case. In addition, while Xcel continues to request that the Commission grant a partial decoupling program, both CenterPoint and MERC are subject to full decoupling programs.[6]

Parties provided extensive testimony explaining why, in this case, implementing a "soft cap" and a partial decoupling program, as Xcel requested, would adversely affect ratepayers and unfairly benefit the company. Despite this record evidence, and despite the fact that these aspects are not part of the CenterPoint and MERC decoupling programs, Xcel continues to request that the Commission incorporate them into its program. Xcel cannot request that the Commission deviate from past orders in order to give it something that it considers to be "better" than other programs ordered by the Commission, while simultaneously suggesting that the Commission is prohibited from giving it anything that the company would consider "worse."

Second, Xcel's claim that the Commission's decision should be reconsidered because it imposed an "asymmetrical cap" is equally hypocritical and flawed. There is no requirement that

[6] *See* Ex. 417 at 11 (Davis Direct).

a cap be symmetrical between the Company and ratepayers, and parties have thoroughly discussed why applying a cap on surcharges, and not on refunds, is in the public interest. Moreover, throughout this case, the Company itself endorsed a program that included a cap on annual surcharges without a cap on customer refunds. In its initial brief, Xcel even attempted to use this distinction to its benefit, arguing that its own proposal should be adopted because it incorporated several "customer protection mechanisms," including that "the Company proposes to cap annual RCM surcharges as a means of limiting volatility associated with the RDM."[7] Xcel also noted that "[i]mportantly, there is no limit on downward adjustments" in its proposal.[8] But while Xcel itself proposed that surcharges and refunds be handled differently, it now criticizes the Commission's decision for doing just that. Perhaps recognizing this inconsistency, Xcel now makes the nonsensical argument that "partial decoupling, when coupled with a soft cap, is symmetrical." But whether a decoupling program is "partial" or "full" has nothing to do with whether the cap is "symmetrical." And, regardless of whether a cap on surcharges is "soft" or "hard," having a cap on surcharges and not on refunds treats the company differently than ratepayers—a necessity to ensure that Minnesota's first electric decoupling program is in the public interest. While it is obvious that Xcel does not like the Commission's final result, its criticisms are unjustified and should be rejected.

CONCLUSION

For the reasons set forth above, the Commission should deny Xcel's request to modify the decoupling program ordered in this case to incorporate a partial decoupling mechanism with a higher cap on potential surcharge. The Commission's decision followed a thorough analysis of

[7] Xcel's Initial Brief at 148.
[8] *Id.* at n. 612.

a robust record. While the OAG continues to believe that the program ordered is too favorable for the Company, Xcel's specific criticisms are unjustified and should be rejected.

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Respectfully submitted,

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