ENERGY
CENTS
COALITION

Commit Energy Now To Survive

September 23, 2014

Jeanne M. Cochran
Administrative Law Judge
Office of Administrative Hearings
P.O. Box 64620
St. Paul, Minnesota 55164-0620

RE: In the Matter of the Application of Northern States Power D/B/A Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota

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

OAH Docket No. 68-2500-31182

Dear Judge Cochran:

Enclosed please find the Initial Brief of Energy CENTS Coalition. An Affidavit of Service is also enclosed.

If you have any questions, please contact me at (651) 774-9010.

Sincerely,

Pam Marshall

Pam Marshall

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AFFIDAVIT OF SERVICE

Connee Schmidt, being duly sworn, says that on the 23rd day of September 2014, she served the Initial Brief of the Energy CENTS Coalition In the Matter of the Application of Northern States Power D/B/A Xcel Energy for Authority to Increase Rates for Electric Service Rates in Minnesota, MPUC Docket No. E-002/GR13-868, upon the individuals on the attached service list by electronic filing, by U.S. Mail, and by electronic mail.

Connee Schmidt

Subscribed and sworn to before me
this 23rd day of September, 2014

Notary Public

PATRICIA M. FISCHER
NOTARY PUBLIC - MINNESOTA
My Commission Expires
January 31, 2017

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E-docket ID # _____

STATE OF MINNESOTA
Before the Minnesota Office of Administrative Hearings
For the Minnesota Public Utilities Commission

In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota	)))))))	MPUC Docket No. E0002/GR-13-868 OAH Docket No. 68-2500-31182

INITIAL BRIEF

OF THE ENERGY CENTS COALITION

September 23, 2014

Pam Marshall

On Behalf of:
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Introduction.

Procedural History

On November 4, 2013, Xcel Energy, doing business as Northern States Power Company, filed a petition to increase electric rates in Minnesota.

On January 2, 2014, the Minnesota Public Utilities Commission ("PUC" or "Commission") referred this matter to the Office of Administrative Hearings for contested case proceedings.

On January 28, 2014, a prehearing conference was held before the Honorable Jeanne Cochran, Administrative Law Judge.

Parties convened in evidentiary hearings from August 11 to August 14, 2014.

Contested Issues

In this Initial Brief, the Energy CENTS Coalition ("ECC" or "Energy CENTS") will address the following contested issues:

1) An inclining block rate ("IBR") design for the Company;
2) An increased fixed monthly customer charge for residential customers; and
3) The "revenue decoupling" mechanism proposed by the Company.

Based on the data and discussion presented below, Energy CENTS recommends that the Commission approve the IBR Stipulation as set forth by Energy CENTS, the Clean Energy Interveners, the Company and the Suburban Rate Authority; reject all proposed increases in the residential fixed monthly customer charge and retain the customer charge at its current level; and approve, with one minor modification, the proposed revenue decoupling mechanism.

Uncontested Issues

In addition to the three contested issues listed above, ECC presented a proposal for an energy efficiency program directed toward low-income customers living in one- to four-unit rental housing. In its testimony, the Company agreed to file a modification to their current Conservation Improvement Program to address this segment. This uncontested proposal is discussed further below.

Part 1. An Inclining Block Rate ("IBR") Structure for Xcel Energy

ECC has endorsed an inclining block rate ("IBR") structure for Xcel Energy as proposed by the Clean Energy Interveners. The proposed IBR serves two functions, both in furtherance of statutory objectives: (1) it promotes energy conserving behavior; and (2) it promotes home energy affordability. The Clean Energy Interveners will discuss the energy conservation aspects of the IBR in detail in their Initial Brief. ECC will focus on the IBR affordability impacts below.

A. The Statutory Framework.

Two statutory sections support the Commission's approval of the proposed IBR for Xcel Energy. Minnesota statute Section 216B.16 (subd. 15) provides, *inter alia*, that "the Commission *must* consider ability to pay as a factor in setting utility rates. . ." (emphasis added). Just as importantly, however, Minnesota statutes provide that "to the maximum reasonable extent, the commission *shall* set rates to encourage energy conservation. . ." (Section 216B.03) (emphasis added).

There is an interrelationship between the affordability of utility service and the pursuit of energy conservation. (Section 216B.03 and Section 216B.16). In recent years, the Minnesota

Commission has recognized the effective role that price signals play in promoting energy conservation. As ECC Witness Colton notes, however:

> low-income customers' inability-to-pay for utility service. . .substantially distorts the price signal the consumer receives. When those customers cannot afford to pay their energy bills, price signals are not effective. The viability of sending a price signal assumes that the customer has the ability to *receive and to act upon* the signal. . .The closer the Commission can tailor rates to reflect affordability, the more efficacious any price signal will be (Exh. 237, p. 2).

If a customer has an ability to pay $50 per month, in other words, the price signal sent to that customer by receiving a bill of $75 rather than $65 is negligible, if any signal exists at all. In contrast, the price signal received through a bill for $49 rather than a bill for $55 is more significant. (Exh. 237, pp.2 - 3).

Setting an affordable rate under Section 216B.16, in other words, is thus closely aligned with setting rates that "to the maximum reasonable extent. . .encourage energy conservation" under Section 216B.03. The two sections of Minnesota statutes are not merely compatible, they are interdependent.

B. Previous Commission Treatment of IBR Proposals.

The discussion of an inclining block rate structure for Xcel Energy in this proceeding largely mirrors the discussion that occurred when Minnesota Power moved to its five-block rate design.[1] In its *Minnesota Power Order*, the Commission specifically noted "the importance of designing rates with an eye to mitigating the adverse consequences for low-income ratepayers." (*Minnesota Power Order*, at 65). The Commission then appropriately noted that Minnesota

[1] 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, Findings of Fact, Conclusions and Order, issued November 2, 2011. (hereafter "Minnesota Power Order").

Power's five-block inclining block rate structure "identified the most promising combination of rate design elements" to allow the Company to earn its revenue requirement; address the Company's "demonstrated need for additional revenues"; and address the "ongoing economic distress" in the Company's service territory. (*Minnesota Power Order*, at 65).

In its *Minnesota Power Order*, the Commission noted that the IBR proposed for that utility was "designed to reduce electric bills for those with the lowest energy consumption while also providing an incentive for conservation by those with high rates of consumption. . .[T]he broader range of rate blocks will enable the Company to provide a discount for a larger number of kWh each month, while providing more rate blocks for recouping the cost of these discounts from high-volume customers." (*Minnesota Power Order*, at 66).

Finally, in its *Minnesota Power Order*, the Commission grappled with the same issue that has been presented in this proceeding: the impact of the IBR on high-use, low-income customers. The Commission noted that parties in the Minnesota Power proceeding "argued that the new rate design would have the effect of shifting costs from households with low levels of energy consumption to households with high levels of consumption – including some high-use, low-income households." (*Minnesota Power Order*, at 66). Energy CENTS has acknowledged that issue in this proceeding (*see*, Section 1D, *infra*). Not only has Energy CENTS documented that the number of high-use, low-income customers is quite small, but Energy CENTS has also demonstrated, as it did with respect to Minnesota Power, that "there are more potential opportunities for aiding [through existing affordability and conservation programs] a household with high usage than one with low usage." (*Minnesota Power Order*, at 66).

In contrast to the Minnesota Power experience, the Office of Attorney General in this proceeding cites the experience with inverted block rates by CenterPoint Energy[2] as a reason *not* to adopt an inclining block rate for Xcel. Given the substantive differences, however, the CenterPoint experience offers no assistance for this proceeding. CenterPoint's experience with a natural gas IBR is not relevant to an assessment of the proposed Xcel Energy electric IBR.

CenterPoint is, of course, a natural gas company. Moreover, CenterPoint is a natural gas company that did not exclude heating customers from their IBR. Further, heating is a substantial proportion of total residential natural gas consumption (78% of total natural gas usage is for natural gas space heating) (Exh.239, at 11). In contrast, space heating is exempted from the proposed IBR for Xcel while space cooling represents a relatively small proportion of electricity use. (Exh. 239, pp. 11-12).[3]

In short, the Attorney General is making an apples-to-oranges comparison in relying on the CenterPoint experience. CenterPoint's experience with its natural gas IBR, which included an IBR for its heating customers, offers no guidance for the IBR proposed for Xcel in this proceeding.

C. The Resulting Improvement in Affordability.

The IBR rate structure proposed in this proceeding will result in substantial savings to Xcel's low-income customers. Under the IBR, and with the proposed increases to the energy and fuel charges (and the existing customer charge):

[2] *In the Matter of an Application by CenterPoint Energy for Authority to Increase Natural Gas Rates in Minnesota*, Docket No. G-008/GR-08-1075, Findings of Fact, Conclusions of Law, and Order (January 11, 2010)

[3] "Translated into dollars, the RECS reports that the average annual natural gas expenditure for the four-state region of which Minnesota is a part (IA, MN, SD, ND) is $773; the average annual space-heating expenditure is $607. Those space heating expenditures, of course, are concentrated in the winter heating period, indicating that usage (and expenditures) for natural gas customers are substantially higher in those months. In contrast, the average annual electricity expenditure is $1,084, while the average annual electricity air conditioning expenditure is only $61." (Exh. 239, p.12).

- a customer with residential consumption that is 50% lower than average will save $44 a year ($496 IBR vs. $540 flat rate).
- a customer with average residential consumption will save roughly $44 per year (annual bill of $983 vs. $1,027 flat rate);
- a customer with residential consumption 50% higher than average will have a bill that is roughly $100 more under the IBR as compared to the proposed increased flat energy rates ($1,589 IBR vs. $1,427 flat rate); (Exh. 236, p. 18).

Given Xcel's ***current*** energy rates and customer charge, under the proposed IBR, customers with average consumption will see a four percent (4.0%) annual bill decrease (rather than the 9.0% bill increase under the Company's proposal). Customers with consumption of half of the average will experience a bill decrease of more than fourteen percent (14.4%) (rather than a 9.6% bill increase under the Company's proposal). (Exh. 236, p. 19).

Similarly, given the Company's ***proposed*** revenues, under the proposed IBR, customers with average consumption will experience an annual rate increase of only 4.4% (compared to a 9.0% increase under the Company's proposed rates). Customers with consumption one-half of average will experience a rate decrease of 8.2% (compared to a 9.6% increase under the Company's proposal). (Exh. 236, p.19).

These bill reductions represent substantial improvements in affordability for low-income households. The bill reductions generated by adoption of an IBR at average consumption levels (proposed rates and customer charge) would be equivalent to more than a 30% increase in the Minnesota LIHEAP benefit.[4] The average bill reduction at 50% of average consumption

[4] "LIHEAP" is the federal fuel assistance program, the Low-Income Home Energy Assistance Program (42 U.S.C. § 8621, et seq. (2014)).

(proposed rates and customer charge) ($86) would represent the functional equivalent of a 60% increase in the LIHEAP benefit. (Exh. 236, p. 20).

Moreover, the bill reductions represent a meaningful reduction in "energy burdens." A household's "energy burden" is its electric bill as a percentage of household income. (Exh. 236, p.20). The $86 bill reduction produced by the IBR at 50% of average consumption (Exh. 236, p.20) would reduce the home electric burden by between 1% and 3% (depending on household income). "Given that an 'affordable' bill is generally defined to be a burden of 6% or less for total energy, it is clear that these bill savings represent a substantive improvement." (Exh. 236, p. 20).

The bill reductions produced by adoption of the IBR would help primarily low-income households. ECC produced extensive evidence documenting that "a direct relationship exists between income and electricity consumption. As income increases, electric usage and expenditures increase as well." (Exh. 234, p.6). That conclusion was based on a review of Company-specific data (Exh. 234, pp. 9-10); Minnesota state-specific data (Exh. 234, pp. 6-9; 12-14); regional data for the upper Midwest (Exh. 234, pp.10-11); and national data (Exh. 234, p.7). In this proceeding, the relationship has been established not merely by "some" evidence, but by overwhelming documentary proof.

This empirical finding is also supported by the Company's own 2012 Residential Energy Use Survey. (Exh. 241). The Company's 2012 Residential Energy Use Survey found that low-income Xcel Energy customers in Minnesota had lower penetration rates for central air conditioning (p.22); automatic dishwashers (p.26); automatic clothes washers (p.27); automatic clothes dryers (p.28); multiple refrigerators (p.32); stand-alone freezers (p.34); multiple televisions of any type (p. 38); desktop computers/laptops, tablets (p.41); and light bulbs (p.46).

The Company's Survey found that "as expected, electric usage increases as size of home increases. . ." (p.58). The Company's Survey also found that "as would follow given the relatively smaller dwellings of renters (on average), it can be seen here that the amount of electricity used during any given month is significantly less for renters compared to customers who own their homes." (p.59). Given these subsidiary findings, it thus comes as no surprise that the Company reports, based on its extensive energy use survey, that "throughout the year, lower income customers' electric use is consistently lower than their higher income counterparts." (p.61).

As ECC witness Colton noted:

> The data showing a direct relationship between income and electricity consumption and expenditures in Minnesota is compelling and consistent. The differences that are evident in the data are not small. The significance lies not simply with each piece of information standing alone, but in the consistency of the data at all levels. The Xcel-specific data, the state data, the regional data reported by the U.S. Department of Energy, and the national data reported by the U.S. Department of Energy, all establish the same relationship. Moreover, the significance lies not only in the finding of differences in usage and expenditures by income, but also in the consistency of the ***causes*** of those differences (Exh. 234, p. 16).

In other words, Energy CENTS has established that "usage increases as income increases and low-income customers are likely to be low usage customers. . .As such, an Inclining Block Rate (IBR) electric rate structure will necessarily benefit low-income households by increasing the affordability of low-income, low-use electric bills." (Exh. 234, pp. 16-17).

D. The Impact on High Use Customers.

Merely because low-income customers, by a wide margin, are disproportionately also low-use customers does not mean that there are *no* high-use low-income customers. The proposed IBR, however, has exempted electric heating customers and customers using electricity for medically necessary equipment. (Exh. 234, p.22).[5] Accordingly, there are *very, very few* high-use low-income customers. In order to fall into the highest tier of the IBR, a customer would need to have monthly consumption of more than four times the average residential consumption level. (Exh. 234, p. 21). Only 428 of the Company's 72,160 (0.6%) LIHEAP customers have monthly usage that exceeds 2,400 kWh; only 282 (0.4%) have monthly usage that exceeds 2,600 kWh. (Exh. 234, p. 21).

The Commission should reject objections to the proposed IBR that examine and rely upon only month-by-month usage data. *On an annual basis*, the IBR generates bill savings to both the low-income customer base generally and to the LIHEAP customer base specifically. (Exh. 234, p.19). Any assessment of the impact of IBR affordability benefits should focus on the monthly average consumption over a full twelve months and not on individual months standing alone. (Exh. 239, p.7). If a customer pays $2 more in July, but receives an offsetting bill *decrease* of more than $2 in June, August and September, that customer has not been harmed by the IBR. (Exh. 239, p.7).

A review of the Company's usage data documents that, while there are some months in which a small portion of LIHEAP recipients will have bills that are greater under the IBR than they would have been without the IBR, there is not merely "the *likelihood* that months with bill reductions will offset months with small bill increases, but also the *certainty* of such months with

[5] Identifying these two customer populations does not create a new administrative task. The Company already identifies both of these two customer populations. (Exh. 234, p. 22).

bill offsets." (Exh. 239, p.6). (emphasis in original). All LIHEAP recipients (even *with* the inclusion of space heating customers) had a monthly average consumption over the twelve month period in 2013 of 644 kWh. While there are some individual months in which average monthly consumption is somewhat higher, there are other individual months in which the much lower consumption would offset those higher-use months. (Exh. 239, at 7).

The fact that there are only a small number of low-income customers with high use cannot be reasonably contested. As ECC documented in this proceeding, Xcel's own data shows that in any given month:[6]

- There are only 4,049 LIHEAP non-heating customers with usage over 1600 kWh.
- There are fewer than 1,600 LIHEAP non-heating customers with usage over 1,800 kWh;
- There are only 1,011 LIHEAP non-heating customers with usage over 2,000 kWh;
- There are only 427 LIHEAP non-heating customers with usage over 2,400 kWh.

The available data for LIHEAP non-heating customers, in other words, confirms that: (1) the number of LIHEAP non-heating customers with high usage is quite small; and (2) the number of LIHEAP non-heating customers with high usage is well within the ability of existing programs to deliver any necessary financial assistance. (Exh. 239, p.10, Schedule RDC-4SR).

For example, in 2013, over $2 million was available to provide conservation services to 3,837 Xcel low-income electric customers (Exh. 235, p. 14). In addition, annual funding for Xcel's electric bill-payment assistance program (POWEROn) is now $5 million, enough to assist 7,500 Xcel LIHEAP customers (Exh. 238, p. 5). Both conservation and bill-payment financial resources exist to adequately assist the limited number of very high use LIHEAP customers that might receive higher bills under the IBR. Further, energy efficiency treatments alone would be

[6] This data does ***not*** show that these customers use the stated amount of kWh in ***every*** month. It shows what average number of customers will have the stated kWh of usage in any given month.

sufficient to reduce consumption to the point that the IBR would be beneficial to these customers.

> With a reasonably small energy efficiency effort, the bills under an IBR will be less than the bills would have been if the Company's flat rate was retained. In the summer months, a five percent energy efficiency outcome would reduce IBR bills to less than they would have been under the flat rate for monthly usage up to 1200 kWh. For usage up to 2200 kWh, an energy efficiency usage reduction outcome of only 10% would result in lower bills than if the flat rate [had] been retained. For usage over 2500 kWh, a 15% usage reduction outcome would result in lower bills under the proposed IBR. Similar results occur for winter month bills. *In assessing the significance of these numbers, it is important to keep in mind that. . .the numbers of households with these high usage levels are quite small*. (Exh. 239, p.9) (internal citations omitted) (emphasis added).

As the Commission noted in approving the Minnesota Power five-tier IBR, there are ample resources available to meet the needs of high-use low-income customers. Indeed, there are more resources available to address the needs of high-use customers than there are resources available to address the needs of low-use customers.

E. LIHEAP Recipient Usage vs. Low-Income Usage Generally.

In assessing the disproportionate impacts of the Company's rate structure on low-use, low-income customers –disproportionately positive impacts from the IBR and disproportionately negative impacts from an increased residential customer charge—ECC has established beyond reasonable dispute that low-income customers have lower consumption than non-low-income customers.

The Commission should reject efforts to disprove that proposition based on a review exclusively of LIHEAP customers. LIHEAP recipients are a very small portion of the total

number of Xcel low-income residential customers. Moreover, LIHEAP recipients are not representative of low-income customers generally.

LIHEAP recipients represent only six percent (6%) of the Company's overall customer base. (Exh. 234, pp.8, 39). The data in this proceeding shows that while the Company reported data for 61,643 LIHEAP recipients, the Company has more than 200,000 customers in the metropolitan region alone who would be eligible for LIHEAP. (Exh. 237, pp. 11 – 12). LIHEAP recipients, in other words, are a fraction of the total low-income customer population.

The Company's own data demonstrates that LIHEAP recipients have higher usage than do low-income customers generally. (Exh. 234, Schedule RDC-12).[7] The fact that LIHEAP recipients have higher consumption than low-income customers generally comes as no surprise. There are three specific factors that make LIHEAP recipients non-representative of the low-income customer base.

> Three reasons explain why the consumption of LIHEAP recipients tends to be higher than the consumption of low-income households generally. First, households with higher consumption (and thus higher bills) tend to be more likely to seek public assistance (such as LIHEAP) to help pay their home energy bills. Second, there is a demonstrated relationship between higher consumption and higher levels of payment-troubles. As households seek assistance to pay arrears, they are more frequently referred (whether by community-based organizations or by the utilities themselves) to LIHEAP to receive such assistance. Finally, by statute, LIHEAP is to be targeted to high-use and high-burdened households. Therefore, higher consumption of LIHEAP recipients simply reflects States' efforts to comply with the federal statutory targeting mandate.
> (Exhibit 234, pp. 7 – 8).

[7] Moreover, the data in this schedule compares LIHEAP recipients on a stand-alone basis to low-income customers, which include both LIHEAP and non-LIHEAP. Given the results of this comparison, if LIHEAP recipients were compared to non-LIHEAP recipients, the extent to which LIHEAP recipients have higher usage would be even greater.

The testimony of Susan Peirce, on behalf of the Department of Commerce (Division of Energy), does not support a contrary conclusion. Ms. Peirce relies on certain data from the annual LIHEAP Home Energy Notebook, published by the federal LIHEAP office, to argue that LIHEAP recipients have lower usage than low-income households generally. (Exh. 422, p.7). What she did not acknowledge, however, was the specific definitions of income used in the LIHEAP Home Energy Notebook. The LIHEAP Home Energy Notebook defines "low-income" as being "LIHEAP-eligible" *at the maximum allowable income allowed by federal statute*. (Evidentiary Hearing, Vol. 4, p. 154). Using that definition, the income of "LIHEAP-eligible" households is considerably *higher* than the income of LIHEAP-recipient households. (Evidentiary Hearing, Vol. 4, pp. 154 – 159). Rather than undermining ECC's argument that income is related to electricity usage, in other words, the data presented by Ms. Peirce further confirms ECC's testimony (and the Xcel-specific usage data).

In fact, the data that Ms. Peirce relies on from the LIHEAP Home Energy Notebook is not relevant either to the discussion of the Company's proposed residential non-heating customer charge or to the proposed IBR. Ms. Peirce notes that the data she relies on indicates that LIHEAP recipients have an annual electricity consumption of 48.8 mmBtu and low-income customers have an annual electricity consumption of 52.0 mmBtu. (Exh. 422, p.7). When converted to kWh, however, it is evident that the data cited by Ms. Peirce reports *exclusively electric space-heating customers*. An average annual consumption of 48.8 mmBtu is equal to 14,300 kWh a year (1,192 kWh per month); an average annual consumption of 52 mmBtu is equal to 15,240 kWh a year (1,270 kWh per month).[8] These are clearly electric space heating usage amounts. In contrast, the average annual consumption of a LIHEAP recipient for the

[8] A kWh is equal to 3,412 Btu. 48,800,000 / 3,412 = 14,302. 52,000,000 / 3,412 = 15,240.

Company is 7,709 (642 kWh/month). (Exh. 234, Schedule RDC-12). The data used by Ms. Peirce does not relate to the Company's low-income non-space heating customers.[9]

Even if Ms. Peirce's data on electric space heating customers did not otherwise contain the errors revealed on cross-examination, the irrelevance of her discussion about electric space-heating customers is demonstrated by two observations: (1) electric space heating customers are ***exempted*** from the IBR; and (2) the residential customer charge at issue in this proceeding is the ***non-heating*** customer charge.[10]

The ultimate conclusions from the data in this proceeding are three -fold: (1) LIHEAP recipients are a fraction of the total low-income population of the Company; (2) the usage of LIHEAP recipients is not representative of the usage of low-income customers generally; and (3) low-income customers have substantively lower usage than non-low-income customers.

F. The Administrative Aspects of an IBR.

The proposed IBR does not present significant administrative implementation problems. An IBR *certainly* does not present the potential for "customer confusion" to the extent that the IBR should be avoided. Arguing that an IBR would result in "customer confusion," of course, is simply the same argument that IBR opponents raised when Minnesota Power implemented a five-tier IBR. The Commission rightfully rejected that argument then, finding that Minnesota

[9] In contrast to Ms. Peirce's erroneous reliance on data that is exclusively electric space-heating customers, Mr. Colton used consumption for all energy sources. (Exh. 234, p.7). This would reflect electric non-heating consumption for households not using electricity for space heating.

[10] In any event, the discussion of whether LIHEAP recipients have lower or higher consumption than low-income non-LIHEAP recipients is a distraction from the real issue. Irrespective of whether LIHEAP recipients do or do not have lower consumption than low-income customers generally, it is not disputed that low-income customers have lower consumption than non-low-income customers.

Power "does not foresee substantial customer confusion resulting from adding two more blocks."[11]

And experience has proved the Commission's finding to be accurate. In its Second Annual IBR Evaluation, Minnesota Power reported that: "[d]ata from Minnesota Power's customer call center indicate that the call center received 25 calls in 2011 (when the five-block rates were in place for only seven months), 44 calls in 2012, and 45 calls in 2013 dealing at least partially with the inclining block rate structure." Minnesota Power also reported that "[b]ased on the relatively low number of calls, it does not appear that Minnesota Power's customers have been substantially confused by the change from three to five blocks for residential rates." (Exh. 234, pp. 23-24).

The testimony of Attorney General witness Ron Nelson, in which he worried about customer confusion, does not establish a basis for finding that there is a substantial basis for concern. In formulating his concern, Mr. Nelson did not review the number of customer complaints that Minnesota Power received about its IBR, and wasn't sure if he reviewed Minnesota Power's Annual Reports on that Company's IBR filed in response to the Commission's directive to prepare an annual evaluation. (Evidentiary Hearing, Vol. 3, pp. 267-268).

While Mr. Nelson could not remember how many complaints the Minnesota Power IBR generated, he did agree that Minnesota Power has roughly 120,000 residential customers (Evidentiary Hearing, Vol. 3, p. 267). Those customers would thus generate 1.44 ***million*** bills a year (120,000/month x 12 months) under the IBR. With the Minnesota Power IBR having been in place for three years now (Evidentiary Hearing, Vol. 3, p. 267), Minnesota Power would have

[11] 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, Finding of Fact, Conclusions, and Order (November 2, 2010), at 66.

issued more than 4.3 million bills (1.44 million/year x 3 years) under its five-tier IBR. In that time period (3-years; 4.3 million bills), Minnesota Power has received a grand total of just over 110 calls[12] dealing "at least partially" with the inclining block rate structure. (Exh. 234, pp. 23-24).[13] Minnesota Power's IBR, in other words, has generated a complaint rate of 0.0026% (26 ten-thousandths of one percent).

Mr. Nelson opposed the IBR because of its "complexity" and his claim that there was a potential for customer "confusion." His concerns should be dismissed. He formulated an objection to the IBR even though he has never administered a low-income assistance program. (Evidentiary Hearing, Vol. 3, p. 268). He never has engaged in customer outreach efforts. (Evidentiary Hearing, Vol. 3, p. 268). And, when presented with a list of more than 60 independent third party evaluations of rate affordability programs with greater complexity than the IBR (Exh. 239), he chose not to review any of those evaluations in preparation of his testimony. (Evidentiary Hearing, Vol. 3, p. 272).

Two other administrative concerns were raised when Minnesota Power first moved to its five-tier IBR: (1) elongated billing periods (when the number of billing days in the billing period is either shorter or longer than the normal billing cycle); and (2) circumstances where a single meter serves more than one home. (Exh. 234, pp. 24-26). Minnesota Power's experience has demonstrated, however, that both of these concerns can be (and have been) addressed. (Exh. 234, pp. 26-27). "There is three years of experience with Minnesota Power's five-block rate. Moreover, pursuant to Commission order, Minnesota Power has explicitly assessed the extent to which these three concerns were fact-based and has filed annual evaluations to address each of

[12] 25 in 2011; 44 in 2012; 45 in 2013. (Exh. 234, p.23) (internal citations omitted).
[13] Minnesota Power does not explain in its Annual Reports what it meant when it said that a complaint dealt "at least partially" with the Company's IBR.

these three concerns. This experience documents that the concerns are ***not*** well-grounded." (Exh. 234, pp. 26-27).

G. The IBR Stipulation is Reasonable and should be Adopted.

In light of the discussion presented above, ECC recommends that the Commission approve and adopt the process set forth in the Stipulation relating to the IBR. (Exh. 135). The Stipulation was entered into by the Company, ECC, the Clean Energy Interveners and the Suburban Rate Authority. (Exh. 135, signature pages). The Stipulation provides that:

- The parties to the Stipulation request that the Commission open a new docket and require the Company to file a proposed IBR in the form of a Compliance Filing;
- The Compliance filing ***must*** include the IBR in the form proposed by the Clean Energy Interveners, and endorsed by ECC, in this proceeding;
- The Compliance filing ***may*** include one additional IBR alternative which the Company believes improves upon the IBR proposal set forth in this proceeding, provided that the Company "address[es] the statutory goals of conservation and affordability" and "provid[es] analysis on whether its alternative IBR structure improves affordability and conservation outcomes" as compared to the proposal filed in this proceeding;
- The Company filing shall include a proposal for educating customers about the IBR;
- The proposed IBR structure(s) shall be reviewed through a stakeholder process convened by the Department of Commerce and presented to the Commission for consideration through a notice and comment process;

- To the extent that the results of the proceeding are revenue-neutral, the IBR structure may be implemented outside of a general rate case in accordance with the Commission's order in the new proceeding.

(Exh. 135). ECC submits that the Direct, Rebuttal and Surrebuttal Testimony of ECC Witness Roger Colton (Exh. Nos. 234, 236, 237 and 239), as described and explained in more detail above, supports the substantive reasonableness of the Stipulation. In addition, "the process established in the Stipulation is reasonably designed to lead to a Commission decision." (Exh. 242, p.3). The process included in the Stipulation allows for the "presentation of information upon which the Commission can rely for decision-making and reasonably allows for the voices of all interested stakeholders who wish to participate to be heard." (Exh. 242, p.3).

While the Department of Commerce, Division of Energy Resources (DOC/DER) was not a signatory to the Stipulation, DER Deputy Commissioner Bill Grant, testified favorably about an IBR. He said in relevant part:

> . . .I conclude that evidence developed in the record for this case indicates that an IBR structure furthers important state energy goals, including encouraging conservation and affordability.

(Exh. 446, p.1). While Mr. Grant stated that "the concerns that have been raised should be better understood than would be possible to develop in this proceeding," he noted that the process established by the Stipulation could do precisely that. "As I understand it, the purpose of the new docket is to allow for further development of the rate structure and allow parties additional time to discuss related issues." (Exh. 446, p.1). He spoke of the Department's participation in the process contemplated by the Stipulation. "Should the Commission so order, the Department will attempt to complete the stakeholder meetings and issue a report to the Commission on the stakeholder process within 90 days from the date of Xcel's compliance filing. The Department

will include its own recommendations on whether to implement an IBR rate structure and, if so, the implementation details that the Department recommends." (Exh. 446, pp.1-2). Clearly, the testimony of Deputy Commissioner Grant indicates not only that the Department is willing and able to embrace the process set forth in the Stipulation, but also that the Department believes the consideration of the proposed IBR as set forth in the Stipulation would be substantively reasonable.

Part 2. The Company's Fixed Monthly Customer Charge

In this proceeding, the Company proposes to increase its fixed monthly customer charge for residential ratepayers. The Company's proposal is to increase its residential customer charge from $8.00 to $9.25 per month, an increase of 15.6%. (Exh. 105, p.15). ECC recommends that this proposal be rejected.

In the alternative, DER witness Susan Peirce recommends a customer charge increase to $8.50 per month. (Exh. 420, p.12). ECC recommends that this proposal be rejected as well.

ECC recommends that the current customer charge be retained.

ECC further urges that, since Minnesota Statutes encourage conservation (216B.03) and promote affordability (216B.16, subd. 15), increasing the residential customer service charge contradicts Minnesota's stated energy policy goals.

A. Impact on Encouraging Conservation.

Adoption of an increased customer charge in this proceeding, whether the increase to $9.25 as proposed by the Company or the increase to $8.50 as proposed by the DER, is contrary to the statutory objective of promoting energy conservation. The increase in the customer charge

will have a particularly adverse impact on the ability of low-income customers to engage in usage reduction activities. Any increase in the customer charge, by its nature, moves an increased percentage of total charges from a controllable portion of the bill to a fixed portion of the bill that cannot be reduced through the pursuit of energy conservation or the implementation of energy efficiency investments. (Exh. 234, pp. 35 – 36).

Quite aside from the obvious market barriers related to their lack of income to invest in even cost-effective energy conservation, an increased customer charge will impede the ability of low-income customers to pursue conservation measures. Given that a smaller portion of the bill will be subject to reduction through lower energy consumption, it will be more difficult for low-income households, in particular, to implement usage reduction measures that meet their required hurdle rate. Low-income customers have been found to have a hurdle rate of between 80% and 90%. This hurdle rate translates into a necessary payback period of one year, a barrier that is already difficult to meet in present circumstances. (Exh. 234, p.36). Increasing the customer charge will make it even more difficult for these high hurdle rates to be met. As a result, the low-income customer base, already largely excluded from an ability to control their usage through conservation, will be excluded to an even greater extent.

To the extent that a higher proportion of the total bill is made irreducible through an increased fixed monthly charge, several tasks become more difficult: (1) it becomes more difficult to attract customers to participate in conservation efforts given that a greater portion of the bill they are paying cannot be reduced; and (2) when conservation improvements *are* implemented, the resulting bill savings are tempered since a higher proportion of the bill is independent of the level of consumption. (Exh. 234, p.40).

B. Impact on Affordability.

In addition to the adverse impact on energy conservation, in contravention of statutory policy, an increase in the customer charge will have a substantive adverse impact on the affordability of Xcel rates. In fact, increasing the customer charge creates a "reverse subsidy," a dollar subsidy flowing *from* low-income, low-use customers *to* higher income, high-use customers. If either the Company or the Department had de-averaged customer costs, they would have found that low-income, low-use customers would likely impose fewer costs on current ratepayers. (Exh. 237, p.4).

This proposition is true for several reasons. First, because costs are included in rate base on an original-cost-less-depreciation basis, older investments would be expected to impose a lower cost on current ratepayers. This is true both because the original cost for the older investment would be lower and because more of the original cost of that older investment will have already been depreciated and removed from rates. Second, since low-income customers live in older housing than do higher income customers in Minnesota, low-income customers impose fewer utility infrastructure costs than non-low-income customers do in current rates. (Exh. 237, p.4). After examining extensive Census data, ECC found that "[t]he relationship between income and year of housing construction in Minnesota could hardly be more clear." (Exh. 237, p.5).

> In these circumstances, to the extent that customers with lower incomes (living in older homes along with older, less expensive, and more fully-depreciated infrastructure) pay the same customer charge as customers with higher incomes (with newer, more expensive, and less fully-depreciated infrastructure), these lower income customers, therefore, are paying a direct financial subsidy to higher income households. The subsidy would occur because the costs that comprise the Company's customer charges have not been disaggregated, but have instead been averaged together and spread equally over all customers.

(Exh. 237, pp. 5 – 6).

Third, the higher customer charge also imposes an unreasonable increased cost on low-income customers because of the difference in housing units in which low-income customers live. One of the primary costs that comprise an electric utility's customer charge is the cost of the service drop for individual housing units. The per housing unit investment for a service drop for a building with 2 – 4 housing units is less than the per-unit investment for a single family home. (Exh. 237, p. 7). In turn, an empirical review of the relationship between income and housing type finds that low-income customers disproportionately live in buildings with the lower-cost 2 – 4 housing units.

> While 27 communities in the two lowest income deciles have 10% or more of their housing units in 2 – 4 unit buildings, only 11 in the two highest income deciles do. . .In contrast, while 18 communities in the lowest two income deciles have fewer than 3% of their total housing units in 2 – 4 unit buildings, 48 of the communities with the two highest income deciles have fewer than 3% of their total housing units in 2 – 4 unit buildings.[14]

(Exh. 237, at 6 – 7). Since the per housing unit investment for a service drop for a building with 2 – 4 housing units is less than the per-unit investment for a single family home, and since lower incomes are positively associated with buildings having 2 – 4 housing units, "it becomes clear that, all other things being equal, there is a reverse subsidy flowing from lower-use, lower-income households to higher-income households" when all customers are charged the same customer charge. (Exh. 237, p.7). Increasing the residential customer charge will further exacerbate this subsidy flowing from low-income customers to higher-income customers.

It is unreasonable to increase the residential customer charge and, as a result, impose a disproportionately higher rate increase on low-income households who already have the most

[14] Each "decile" is of equal size. The size of the two lowest income deciles, in other words, are the same size as the two highest income decile, each "decile" representing one-tenth of the total population.

difficulty in paying their existing electricity bills. It becomes even more unreasonable to impose this disproportionately higher rate increase when the customers bearing the disproportionate increase impose disproportionately *lower* costs on the utility system. To increase the customer charge, decrease the ability of low-income customers to respond to high bills through energy conservation, and exacerbate the reverse subsidy flowing from low-income, low-use customers to higher-income, high-use customers, is unjust and unreasonable.

The proposals to increase the residential customer charge should be rejected. The existing customer charge of $8.00 should be retained.

Part 3. The Proposed Revenue Decoupling Mechanism

A. The Basic Reasonableness of the Decoupling Mechanism.

ECC endorses the Company's proposal to implement a "partial" "revenue decoupling mechanism" (RDM) for its residential customers. The Company proposes a "partial" RDM in that it "removes the effect of weather from the decoupling deferrals." (Exh. 234, p.27). As ECC Witness Colton notes, "the Company's proposed decoupling proposal has certain 'customer protections' within its design that should be acknowledged." (Exh. 234, p.28). In particular, the Company proposes to cap the RDM in any given year. In addition, the Company proposes to file an annual evaluation with the Commission outlining the impacts of the RDM. (Exh. 234, p.28).

B. Minor Modification to the Decoupling Mechanism.

A single, minor, modification needs to be adopted for the Company's proposed revenue decoupling mechanism to ensure that it remains fair and reasonable for low-use customers.

Low-use, low-income households are adversely affected by the Company's decoupling mechanism in that the greatest usage reduction potential for the Company's customers lies with the larger usage of higher income customers. Accordingly, the revenues that are likely to be reduced (because of reduced consumption) will occur for non-low-income accounts, with a resulting disproportionate transfer of those system costs to low-income customers as the lost revenue is transferred to lower use customers through the RDM. (Exh. 234, p.33).

This transfer problem arises because the Company proposes to bring the deferred revenue into rates on a uniform per-kWh charge. It calculates this charge "by dividing the deferral amount by the forecast of sales to the customer group." The lost revenue, in other words, is passed through on a flat per kWh basis to all future kWh. (Exh. 234, p.33).

The evidence discussed above unequivocally demonstrates that low-income customers use less electricity than do their higher income counterparts. In addition, it is unlikely that the usage reduction that has been occurring over time, as urged by the Company's witnesses in support of its revenue decoupling proposal, has been uniform over income classes. Instead, as customers have improved the efficiency of their homes, replaced old heating and cooling systems with new and more efficient systems, and otherwise purchased more efficient new appliances – all activities from which the poor are disproportionately excluded (Exh. 235, pp.18-27)-- the usage reduction has been achieved by higher consumption, higher income customers rather than by customers in the lower income ranges.

ECC recommends that rather than approving a per-kWh charge through which to collect the RDM shortfall as proposed by the Company, the Commission should direct that the shortfall be calculated as a percentage of the Company's total residential energy revenue. The adjustment

to future bills should then be calculated as a percentage of the customer's total energy bill. (Exh. 234, p.35).

To the extent that customers are higher-use customers, receiving a correspondingly higher rate, they will receive somewhat more of the RDM adjustment. To the extent that customers are lower-use customers, receiving a correspondingly lower rate, they will receive somewhat less of the RDM adjustment. (Exh. 234, p.35). Moving to a percentage adjustment on the total bill, rather than a per-kWh adjustment, addresses the problem ECC has identified.[15]

Part 4. An Energy Efficiency Program for 1 – 4 Unit Rental Housing

ECC and the Company have resolved to design and implement a low-income energy efficiency program directed toward one-to-four unit rental housing structures. Xcel has agreed to file a proposed low-income rental efficiency program on or before June 15, 2015 through the established Conservation Improvement Program approval process. ECC appreciates and supports the Company's position on the proposed, additional low-income rental CIP program.

Summary of Conclusions and Recommendations

Based on the data and analysis presented above, along with the information and discussion in the Direct, Rebuttal and Surrebuttal Testimony filed by ECC witnesses Roger Colton and Pam Marshall, the Energy CENTS Coalition recommends that the Administrative Law Judge ("ALJ") and the Commission take the following actions in resolution of this rate proceeding:

[15] Equity would dictate, of course, that a symmetrical adjustment be made should the carry-forward be a credit rather than a charge. The credit should also be applied on a percentage of the bill basis. (Exh. 234, footnote 23, p.35).

- The ALJ and Commission should approve the IBR Stipulation as filed (Exh. 135), describing how the IBR should be presented to, and considered by, the Commission.
- The ALJ and Commission should reject all proposals to increase the residential fixed monthly customer charge. The existing residential customer charge of $8.00 should be retained.
- The ALJ and Commission should approve the Revenue Decoupling Mechanism (RDM) as proposed by the Company with one small modification.
- The ALJ and Commission should modify the proposed RDM as follows: rather than approving a per-kWh charge through which to collect the RDM shortfall, the Commission should calculate the shortfall as a percentage of the Company's total residential energy revenue. The adjustment to future bills should then be calculated as a percentage of the customer's total energy bill.

Respectfully submitted, September 23, 2014

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Energy CENTS Coalition