

Staff Briefing Papers

Meeting Date January 31, 2019 Agenda Item 6*

Company Northern States Power Company, doing business as Xcel Energy

Docket No. **G-002/M-18-631**

In the Matter of Xcel Energy’s Petition for Approval of a Three-Year Variance to the Purchased Gas Adjustment Rules to Allow Recovery of a Storage-Related Cost of Natural Gas in the State of Kansas

Issues Should the Commission approve Xcel Energy’s request for a three-year variance to the Purchased Gas Adjustment (PGA) Rules to allow recovery of a storage-related cost of natural gas in the state of Kansas?

Staff Eric Bartusch eric.bartusch@state.mn.us 651-201-2259



Relevant Documents

Date

Xcel Energy – Initial Filing	October 3, 2018
Department of Commerce – Comments	October 24, 2018

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

I. Statement of the Issues

- Should the Commission approve Xcel Energy's request for a three-year variance to the Purchased Gas Adjustment (PGA) Rules to allow recovery of a storage-related cost of natural gas in the state of Kansas?

II. Background

The State of Kansas has had a property tax on underground storage inventories of natural gas for retail gas customers (the tax) for many years. In the mid-2000s, Northern States Power Company, doing business as Xcel Energy (Xcel or the Company), along with other utilities, fought the tax and prevailed in a 2007 Kansas Supreme Court ruling. However, in 2009, the Kansas legislature modified the statute to allow the State of Kansas to resume collection of this tax. Xcel again fought the tax up to the United States Supreme Court but was unsuccessful. In October 2014, the Company considered its legal avenues to fight the tax exhausted.

On October 21, 2015, the Minnesota Public Utilities Commission (Commission) approved Xcel's request¹ to collect the tax retroactively from 2009-2014, and granted the required rule variances in order to recover the tax using the PGA. On July 19, 2016,² June 28, 2017,³ and August 29, 2018,⁴ the Commission approved each of the Company's petitions to allow one-year variances to the PGA rules to allow the tax to be recovered through the PGA.

On October 3, 2018, Xcel filed a petition seeking approval of a three-year variance to the Purchased Gas Adjustment (PGA) Rules to allow recovery of the tax. Specifically, Xcel is seeking recovery of the 2019-2021 property tax on the Company's natural gas for its retail natural gas customers stored in the state of Kansas. Although prior petitions requested a one-year variance, Xcel is requesting a three-year variance in the current docket since no storage entitlements are up for renewal until 2022.

On October 24, 2018, the Department of Commerce – Division of Energy Resources (Department) filed comments recommending the Commission approve Xcel's request with certain conditions.

III. Parties' Comments

A. Xcel Energy

Similar to its discussion in previous dockets, Xcel states that the tax is a cost of gas. The tax is based on the volume and prevailing market price of natural gas held in storage for retail natural gas customers. Xcel uses this gas as a part of its supply portfolio to mitigate reliability and price

¹ Docket G-002/M-15-149

² Docket G-002/M-16-396

³ Docket G-002/M-17-510

⁴ Docket G-002/M-18-323

risk for customers. The gas held for natural gas-fueled electric generating units is not subject to the tax. The Company notes that this particular tax, also referred to as an ad valorem tax, is a property tax. Property taxes are not included in the identified FERC accounts eligible for automatic recovery through the PGA. Therefore, a rule variance is needed if Xcel is to be allowed to recover these costs through the PGA.

Xcel believes granting the variance is in the public interest. The tax is directly related to the cost of gas. Not allowing the Company to recover a prudently incurred cost would impose an excessive burden on Xcel. Additionally, it is in the public interest that ratepayers pay for the actual costs to procure gas and granting the variance encourages the Company to continue to use storage as a means to mitigate price risk and to hedge against potential service disruptions.

Xcel is billed for the tax annually in December based on the value of gas held in storage on January 1 of the year. The Company receives a notice of value from the state of Kansas. Xcel then responds to the state of Kansas indicating the amount of natural gas is held in storage for the natural gas-fueled electric generating units, which, again, is not subject to the tax. The state of Kansas then sends Xcel a final notice of value for the gas held for retail customers. Starting in January 2019, the 2019 Kansas tax level will be estimated in the PGA using actual Kansas tax invoice totals, which the Company anticipates receiving in November or December 2018. Xcel allocates the cost of the tax between jurisdictions using forecasted volumetric sales. Assuming natural gas prices remain flat compared to last year, the average impact for a Minnesota residential customer using 868 therms would be an additional cost of \$0.72 annually.

For the years 2020 and 2021, Xcel proposes to use similar methodology. The Company would use the prior year's actual tax amount as a proxy for the current year in the PGA, and allocate across the months using the current sales forecast at that time. Actual expenses will then be trued-up when Xcel receives its tax bill.

B. Department of Commerce

Because Xcel already has an approved PGA rule variance for 2018, the Department reviewed Xcel's compliance with the order granting the variance. The Department noted that the Company has complied with the Order's requirements, including a qualitative discussion on Xcel's efforts to obtain the most cost-effective storage options.

The Department also reviewed Xcel's petition for a three-year variance. The Department does not dispute the rationale provided by the Company that no storage entitlements are up for final renewal until 2022. The Department also concurs with Xcel's proposed PGA cost recovery, noting that it is consistent with what was approved with the 2018 tax. Finally, the Department agrees that granting the variance would not adversely affect the public interest and does not conflict with any other laws.

The Department recommends that Xcel's petition be approved with the following conditions, the majority of which were present in the approval of Xcel's last rule variance request in Docket 18-323:

- Grant Xcel a three-year variance to Minn. Rule 7825.2400, subp. 12 to allow recovery in the PGA of ad valorem taxes related to natural gas storage for retail natural gas operations;
- Direct Xcel to include the Kansas property tax as a separate line item in its monthly PGA;
- Require Xcel to list the Kansas property tax costs and revenues as separate line items in the Annual Automatic Adjustment report and PGA True-Up filings as well as in the Company's Schedule C, Schedule D page 1 through 2 of 4 and page 4 of 4;
- Require Xcel to submit a report with its Annual Automatic Adjustment and True-Up report detailing the total amount paid to Kansas and collected from ratepayers during the gas year; and
- Require Xcel, in its next request for a variance to Minn. Rule 7825.2400, subp. 12, to provide a discussion of the storage alternatives examined and its efforts to obtain the most cost-effective storage options.

IV. Staff Analysis

A. 2018 PGA Variance (18-323)

The Commission's August 29, 2018 Order states:

Approved a variance to the PGA rules with clarified bounds and with the same conditions established in the 2017 order:

1. Granted Xcel Gas a variance to Minn. R. 7825.2400, subp. 12 to allow recovery through the PGA of the 2018 Kansas ad valorem taxes related to natural gas storage for retail natural gas operations, which expires upon recovery of the 2018 tax.
2. Directed Xcel to include the Kansas property tax as a separate line item in its monthly PGA report.
3. Required Xcel to list the Kansas property tax costs and revenues as separate line items in the Annual Automatic Adjustment report and the PGA True-Up filings, including the Company's Schedule C and Schedule D.
4. Required Xcel to submit a report with its Annual Automatic Adjustment and PGA True-Up report detailing the total amount paid to Kansas and collected from ratepayers during the gas year.
5. Required Xcel, in its next request for a variance to Minn. R. 7825.2400, subp. 12, to provide a discussion of the storage alternatives examined and its efforts to obtain the most cost-effective storage options.
6. Directed the Company to work with the Department to correct the Company's Annual Automatic Adjustment Report Attachment G narrative and table, prospectively, and in the pending 2017 AAA docket G-999/AA-17-493.

The Company and the Department agree that Xcel is complying with the Commission's Order. The Commission originally stated in its 2015 Order:

[d]enying PGA recovery of future storage tax costs would unreasonably burden ratepayers. It would temporarily disguise from ratepayers the true cost of their natural gas, resulting in inefficient natural gas use—with the costs borne by ratepayers and the public. Denying a variance could also discourage the Company from moderating price volatility with storage, which benefits ratepayers.

The Commission, in the 2018 Order, adopted the Department's recommendations, of which included that same passage from 2015. In its 2018 comments, the Department raised concerns that the order language from prior years was unintentionally ambiguous in stating that the PGA variance was granted for one year. The Department recommended that the Commission amend the variance to state that the variance was granted for Xcel to collect the 2018 tax and that the variance would expire upon collection of the amount from ratepayers. This clarification allows Xcel to continue collecting the tax from ratepayers even if the time exceeds 12 calendar months. Xcel was agreeable to the amendment and the Commission adopted the Department's recommendation.

B. Xcel's Request for a Three-Year Variance

In the current Docket, Xcel seeks a three-year variance. There are no changes to the recovery methodology or expenses being recovered. Previously, the Commission only authorized a one-year variances due to the expiration of Xcel's storage entitlements with Northern Natural Gas over the last few years. Only granting one-year variances was intended to encouraged the Company to prudently assess its storage options.

Xcel provided Table 1⁵ (reproduced on the next page) to demonstrate its ongoing analysis and conclusion that the Kansas storage option, while subject to the tax, is still the most cost-effective solution that also offers "on-demand" capabilities to help provide price and service stability.

⁵ Xcel Energy, Initial Petition, Page 15

Table 1: Storage Alternatives Analysis

Capacity:	6,529,975	Dth			
Deliverability:	113,259	Dth/d			
Storage Provider:	Capacity Rate:	Deliverability Rate:	Transport Rate:		
	\$/Dth/yr	\$/Dth/mth	\$/Dth/mth		
NNG	\$ 0.35670	\$ 1.71400	\$ -	No new transport necessary	
NGPL	N/A	\$ 5.53000	\$ 15.15300	New Transport to Service Area	
ANRP	\$ 0.40000	\$ 2.04000	\$ 5.72900	Transport to VGT on ANRP	
ANRS**	\$ 0.01325	\$ 1.09240	\$ 11.44200	Transport to Carlton on Great Lakes	
Storage Provider:	Capacity Cost	Deliverability Cost	Transport Cost	Kansas Tax*:	Total Annual Cost:
NNG	\$ 2,329,242	\$ 2,329,511	\$ -	\$ 421,976	\$ 5,080,729
ANRP	\$ 2,611,990	\$ 2,772,580	\$ 3,244,304	\$ -	\$ 8,628,874
ANRS	\$ 1,038,266	\$ 1,484,690	\$ 6,479,547	\$ -	\$ 9,002,503
NGPL	\$ -	\$ 7,515,867	\$ 8,581,068	\$ -	\$ 16,096,935

*Kansas tax shown is the pro-rata allocation of the contracted volume.

**ANRS capacity rate is monthly.

Minnesota Rules 7825.2400, Subpart 12 defines the FERC cost of gas accounts that are eligible for recovery under the PGA.

"Cost of purchased gas" is the cost of gas as defined by the Minnesota uniform system of accounts, class A and B gas utilities, including accounts 800, 801, 802, 803, 804, 804.1, 805, 805.1, 808.1, 809.1, 810, 854, and 858 for energy purchased, as provided by Code of Federal Regulations, title 18, part 201, as amended through April 1, 1988. These accounts are incorporated by reference. The cost of purchased gas also includes the normal and ordinary cost of injection and withdrawal of gas from storage at the time of withdrawal. All gas public utilities shall use this definition regardless of class.

The criteria that need to be met for granting a variance are in Minn. Rule 7820.3200, Other Variances:

Subpart 1. When granted. The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

Subp. 2. Conditions. A variance may be granted contingent upon compliance with conditions imposed by the commission.

Subp. 3. Duration. Unless the commission orders otherwise, variances automatically expire in one year. They may be revoked sooner due to changes in circumstances or due to failure to comply with requirements imposed as a condition of receiving a variance.

The tax is classified as a property tax and is therefore not accounted for in one of the FERC accounts listed in MR 7825.2400, Subpart 12, so this requires Xcel to request and be granted a variance. The Commission has historically found that Xcel has met the criteria for a variance and has approved Xcel annual variance requests with the conditions proposed by the Department. The Commission has the authority to grant a three-year variance as requested by the Company.

Staff agrees it would be a burden on Xcel and its customers if it were not able to recover the cost of using gas storage facilities located in Kansas, granting the variance is in the public interest, and does not conflict with any law. Staff also believes granting the variance for longer than one-year is also in the public interest because Xcel's contracts with Northern natural will not expire before 2022.

V. Decision Options

1. Approve Xcel Energy's Request for a Three-Year Variance to the Purchased Gas Adjustment Rules to Allow Recovery of a Storage-Related Cost of Natural Gas in the State of Kansas. (Xcel, Department)
2. Deny Xcel Energy's Request for a Three-Year Variance to the Purchased Gas Adjustment Rules to Allow Recovery of a Storage-Related Cost of Natural Gas in the State of Kansas.