

PUBLIC VERSION

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

Katie Sieben	Chair
Joseph K. Sullivan	Vice-Chair
Valerie Means	Commissioner
Matt Schuerger	Commissioner
John Tuma	Commissioner

*In the Matter of Northern States Power
Company dba Xcel Energy-Electric and
Gas Annual Petition of Remaining Lives
and Five Year Depreciation Study*

DOCKET NO. G-002/D-19-723

**COMMENTS OF THE OFFICE OF
THE ATTORNEY GENERAL**

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (“OAG”) respectfully submits the following Comments in response to the Public Utilities Commission’s (“Commission”) Notice of Extended Comment Period issued on September 16, 2020. The Notice solicits comments regarding Northern States Power Company, d/b/a Xcel Energy’s (“Xcel” or “Company”) August 18, 2020 Petition for Approval of the 2020 Review of Remaining Lives and Five-Year Depreciation Study (“Petition”).

In relevant part, Xcel’s Petition seeks Commission approval to: (1) accelerate the retirement date of the Luverne Wind2Battery System (“Wind2Battery” or “W2B”) by three years, such that the remaining life for W2B would be zero years as of January 1, 2021; and (2) reallocate \$6.5 million from other plants within the Other Production function to the Wind2Battery asset (\$0.9 million for estimated remaining net book value and \$5.6 million for removal costs) to fully depreciate, retire, remove and dispose that asset.¹

¹ Petition at 7.

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The Commission should reject Xcel's proposed reserve reallocation and proposed net salvage rate for W2B because the Company failed to meet its burden of proof to establish that W2B's removal cost estimate and corresponding reserve reallocation are supported by evidence. Alternatively, the Commission should reject Xcel's proposed reserve reallocation because it is neither reasonable nor in the public interest because: (1) the Company entirely failed to estimate or collect from ratepayers any removal costs for W2B during that asset's useful life; and (2) W2B's removal costs are excessively high.

BACKGROUND

I. IN 2007, THE COMMISSION APPROVED A \$1 MILLION DOLLAR GRANT TO OFFSET XCEL'S COSTS FOR W2B, COURTESY OF THE RATEPAYER-FUNDED RDF.

Xcel's Wind2Battay project has been funded, in part, with a \$1 million dollar grant from the Renewable Development Fund ("RDF") as authorized by the Commission in Docket No. E002/M-07-675. This section provides a brief overview regarding W2B and the Commission's approval of the RDF grant to help offset the cost of that asset.

A. Brief Overview of W2B.

Xcel included Wind2Battery in its December 6, 2007, Evaluation and Selection Report for the RDF's Third Funding Cycle.² The Company requested a \$1 million dollar RDF grant for W2B, which began in early 2007 with research into various large-scale and commercially-available battery storage technologies.³ Xcel partnered with the University of Minnesota, the National Energy Laboratories and the Great Plains Institute on Wind2Battery, which proposed to

² *In the Matter of a Request by Northern States Power Company d/b/a Xcel Energy for Approval of the Selection of Projects for the Third Cycle Renewable Development Fund*, Docket No. E-002/M-07-675, Project Selection and Funding Report for the Third Funding Cycle of Xcel Energy's Renewable Development Fund at 55-56 (Dec. 6, 2007) (hereinafter "RDF Project Selection and Funding Report").

³ RDF Project Selection and Funding Report at 55.

build a 1 MW wind energy battery storage system using sodium sulfur battery technology.⁴ The Company proposed to install W2B and tie it into Xcel's system at or near a wind farm in Minnesota's Buffalo Ridge area.⁵

W2B's "primary objective" was "to test the hypothesis that energy storage will enable effective storage of wind energy, and therefore enable 'firming' of wind energy and a reduction in impacts from compensating for variability and limited predictability of wind generation resources."⁶ Xcel further explained that "[w]ind energy stored within the battery system will be controlled and dispatched when needed for supply or for transmission stability." Xcel estimated that W2B would cost \$5 million, including \$4.3 million in capital costs, with a \$1 million grant requested from the RDF and \$700,000 cost shared by project partners.⁷

B. The Commission Approves a \$1 Million Dollar Grant for W2B.

Although RDF project costs are borne mainly by Xcel's Minnesota ratepayers,⁸ the Company oversees the application and selection process with an independent board. Those projects are then presented to the Commission for approval. Wind2Battery was amongst various projects included Xcel's December 6, 2007, Evaluation and Selection Report for the RDF's

⁴ RDF Project Selection and Funding Report at 55.

⁵ RDF Project Selection and Funding Report at 55. W2B was eventually sited in "Luverne, Minnesota, about 30 miles east of Sioux Falls, South Dakota," and "connected to a nearby 11 MW wind farm owned by Minwind Energy, LLC." *In the Matter of Annual Review of Remaining Lives, Depreciation for Electric and Gas Production and Gas Storage Facilities for 2009*, Docket No. E,G002/D-09-160, Xcel Initial Filing--2009 Remaining Lives Petition at 11 (Feb. 17, 2009) (hereinafter "2009 Xcel Remaining Lives Filing").

⁶ RDF Project Selection and Funding Report at 55.

⁷ RDF Project Selection and Funding Report at 56.

⁸ *In the Matter of a Request by Northern States Power Company d/b/a Xcel Energy for Approval of the Selection of Projects for the Third Cycle Renewable Development Fund*, Docket No. E-002/M-07-675, RDF Biennium Report, Appendix E at 1 (Feb. 3, 2012).

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Third Funding Cycle.⁹ In an April 1, 2008 order, the Commission approved a \$1 million grant for Wind2Battery to offset that project's capital costs.¹⁰

II. IN 2009, XCEL PLACED W2B INTO SERVICE AND INCLUDED IT IN THE COMPANY'S ANNUAL REVIEW OF REMAINING LIVES FILING.

Xcel first sought certification of the new proposed remaining life and net salvage rate for W2B in the Company's 2009 Annual Review of Remaining Lives (Docket No. E,G002/D-09-160).¹¹ In that filing, the Company made several relevant statements concerning Wind2Battery's depreciation period and removal costs, as well as the proposed method of cost recovery for that project.

Xcel requested that W2B be depreciated with a remaining life of 15 years, based on "manufacturing expectations."¹² Xcel also proposed a zero percent (0%) net salvage rate effective with the in-service date of December 2009.¹³ While the Company contended that a zero percent salvage rate was "a conservative approach to the uncertainty represented in dismantling this new type of asset,"¹⁴ Xcel also made a commitment to undertake due diligence to determine W2B's appropriate salvage rate:

Due to the newness of this technology, including the conditions and requirements of removing battery storage facilities, we do not have a strong basis to assign an initial net salvage rate for the Wind2Battery System. However, we expect to conduct an in[-]depth review of the net salvage rates for the Wind2Battery Storage project in our 2010 demolition study.¹⁵

⁹ RDF Project Selection and Funding Report at 55-56.

¹⁰ See generally *In the Matter of a Request by Northern States Power Company d/b/a Xcel Energy for Approval of the Selection of Projects for the Third Cycle Renewable Development Fund*, Docket No. E-002/M-07-675, Order Approving Selected RDF Projects with Exceptions and Revising Procedures for Future Cycles (Apr. 1, 2008).

¹¹ See generally 2009 Xcel Remaining Lives Filing.

¹² 2009 Xcel Remaining Lives Filing at 6.

¹³ 2009 Xcel Remaining Lives Filing at 8.

¹⁴ 2009 Xcel Remaining Lives Filing at 8.

¹⁵ 2009 Xcel Remaining Lives Filing at 8.

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Xcel also notified the Commission that it intended on recovering Wind2Battery's costs as part of the Renewable Energy Standard ("RES") Cost Recovery Rider ("RES Rider"), and if so, the associated increase in depreciation expense would be included in the RES Rider calculations and associated annual filing.¹⁶ Accordingly, Xcel notified the Commission that "because we anticipate requesting recovery of the Wind2Battery System through the RES Rider, our current pending rate case (Docket No. E002/GR-08-1065) was adjusted to exclude this asset from the test year."¹⁷

The Commission, *inter alia*, "[a]pproved [Xcel]'s proposed service lives, salvage rates, and resulting depreciation rates effective January 1, 2009 for plant in service" but "[r]equired Xcel [] to obtain Commission approval and authorization under the cost recovery statute prior to any cost recovery of the costs of the new project, Wind2Battery."¹⁸

III. IN 2009, THE COMMISSION GRANTED XCEL'S REQUEST TO RECOVER W2B COSTS THROUGH THE RES RIDER, BUT LIMITED RECOVERY TO THE APPROXIMATELY \$3.5 MILLION REQUESTED BY THE COMPANY.

On April 10, 2009, Xcel filed a petition seeking the Commission's determination that Wind2Battery qualified as an "eligible energy technology" under Minn. Stat. § 216B.1691¹⁹ and that W2B was eligible for RES Rider cost recovery under Minn. Stat. § 216B.1645, subdivision 2a(a)(3) for approximately \$3.5 million in capital costs remaining after the application of both

¹⁶ 2009 Xcel Remaining Lives Filing at 6.

¹⁷ 2009 Xcel Remaining Lives Filing at 6.

¹⁸ *In the Matter of Annual Review of Remaining Lives, Depreciation for Electric and Gas Production and Gas Storage Facilities for 2009*, Docket No. E,G002/D-09-160, Order at 1 (July 1, 2009) (hereinafter "2009 Remaining Lives Order").

¹⁹ 2009 Remaining Lives Order at 1.

the \$1 million RDF grant and contribution of about \$368,000 from W2B's other project partners.²⁰

On September 14, 2009, the Commission granted Xcel's petition and issued an Order stating that "Xcel may recover only up to the level of costs requested in its petition, offset by any and all revenues as a result of this research project," and that "[b]efore any future costs recovery above the costs approved in this Order is allowed, Xcel shall fully explain and justify any such cost recovery."²¹

IV. IN 2010, XCEL SEEKS TO MOVE W2B INTO BASE RATES AFTER THE COMMISSION DENIES THE COMPANY AN UPWARD ADJUSTMENT ON W2B'S COSTS BASED ON AN ALLEGED "ACCOUNTING ERROR."

On September 18, 2009, Xcel submitted a Petition and Compliance Filing seeking, *inter alia*, Commission approval to recover an additional approximately \$200,000 in capital costs related to Wind2Battery.²² The Department requested that Xcel "explain specifically why the costs for Wind2Battery are higher than forecasted and what Xcel did to avoid the cost increases."²³ In response, the Company explained that the almost 5.6 percent increase in Wind2Battery costs were attributable to an "accounting error":

Current costs for [W2B] are approximately \$200,000 higher than the project costs included in our eligibility filing. This difference is due to a project accounting

²⁰ *In the Matter of a Petition by Northern States Power Company, a Minnesota Corporation, Regarding the Eligibility of the Wind2Battery Project for Recovery Under the Renewable Energy Standard and Approval as an Affiliated Interest Arrangement*, Docket No. E-002/AI-09-379, Department Comments at 1 (July 1, 2009).

²¹ *In the Matter of a Petition by Northern States Power Company, a Minnesota Corporation, Regarding the Eligibility of the Wind2Battery Project for Recovery Under the Renewable Energy Standard and Approval as an Affiliated Interest Arrangement*, Docket No. E-002/AI-09-379, Order at 1 (July 1, 2009).

²² *In the Matter of the Petition of Northern States Power Company, Minnesota Corporation, for Approval of the 2010 Renewable Energy Standard Cost Recovery Rider and 2009 Renewable Energy Standard Tracker Report*, Docket No. E-002/M-09-1083, Xcel Petition and Compliance Filing at 8 (Sept. 18, 2009) (hereinafter "2010 Xcel RES Rider Cost Recovery Docket").

²³ 2010 Xcel RES Rider Cost Recovery Docket, Department Comments at 5 (Nov. 18, 2009).

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error when the RDF grant was received. At the time [Xcel] filed for permission to include recovery of this project in the RES Rider, the entire \$1,000,000 RDF Grant was recorded as a cost offset. Later, after [Xcel] had disbursed payments to our research partners, it was discovered that these payments had not been considered in our filing. Thus, our RDF Grant was \$797,527, not \$1,000,000 which results in the cost increases of approximately \$200,000.²⁴

In an April 22, 2010 Order, the Commission noted that the Department had “given the costs proposed for RES rider recovery careful scrutiny, and ha[d] raised concerns with the current cost estimates versus the originally forecasted costs.”²⁵ Accordingly, and as recommended by the Department, the Commission reduced the Company’s proposed Wind2Battery cost recovery by \$200,000.²⁶ The Commission did not, however, outright deny Xcel’s ability to recover W2B cost overruns. Instead, the Commission indicated that the Company could seek such recovery during through a future rate case proceeding:

The Commission recognizes, however, that this leaves the Company with unrecovered costs. To balance the statutory provision allowing utility to recover costs of renewable and transmission projects through rate riders, with the statutory requirement that rates must be just and reasonable, the Commission will follow the recommendation of the OES. The Commission will allow Xcel to recover, through its RES rider, only the costs up to the amounts of the initial estimates at the time the projects are approved as eligible projects. No amounts above what Xcel initially indicated the projects would cost will be allowed to flow through the RES rider. Nor will additional cost overruns be eligible for deferred accounting.

However, Xcel will be allowed to seek recovery, on prospective basis, of additional costs at the time of its next rate case, upon showing that it is reasonable to require ratepayers to pay for any such additional costs. This approach allows Xcel to recover the majority of the costs for projects eligible for RES rider

²⁴ 2010 Xcel RES Rider Cost Recovery Docket, Xcel Corrected Reply Comments at 10 (Feb. 22, 2010).

²⁵ 2010 Xcel RES Rider Cost Recovery Docket, Order Approving 2010 RES Rider and 2009 RES Tracker Report, Establishing 2010 RES Charge, and Requiring Revised Tariff at 5 (Apr. 22, 2010).

²⁶ 2010 Xcel RES Rider Cost Recovery Docket, Order Approving 2010 RES Rider and 2009 RES Tracker Report, Establishing 2010 RES Charge, and Requiring Revised Tariff at 5 (Apr. 22, 2010).

recovery promptly, while providing at least some incentive for Xcel to minimize costs and help protect ratepayers.²⁷

Accordingly, during Xcel's 2010 rate case, the Company proposed that W2B's cost recovery be moved from the Company's RES Rider to base rates²⁸ at the end of the rate case, but to continue collecting these costs through the RES Rider during the interim rate period.²⁹ In its August 31, 2012 Order Accepting Filings, Making Minor Revision to Revenue Deficiency, and Setting Final Rates, the Commission authorized Xcel to include the costs of Wind2Battery in the base rates at its 2011 levels for the purpose of setting final rates.³⁰

V. IN 2020, CONTRARY TO ITS EARLIER PROMISE, XCEL REMOVES W2B FROM SERVICE WITHOUT ONCE ESTIMATING OR RECOVERING FROM RATEPAYERS THAT ASSET'S REMOVAL COSTS.

As discussed above, Xcel first sought certification of the new proposed remaining life and net salvage rate for W2B in the Company's 2009 Annual Review of Remaining Lives docket.³¹ In that filing, the Company proposed³¹ a zero percent (0%) net salvage rate but also suggested that Xcel "expect[ed] to conduct an in[-]depth review of the net salvage rates for the Wind2Battery Storage project in our 2010 demolition study."³² Since Xcel's 2009 Annual Review of Remaining Lives filing, the Company has included Wind2Battery in each subsequent

²⁷2010 Xcel RES Rider Cost Recovery Docket, Order Approving 2010 RES Rider and 2009 RES Tracker Report, Establishing 2010 RES Charge, and Requiring Revised Tariff at 5 (Apr. 22, 2010).

²⁸ *In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for Authority to Increase Rates for Electric Service in Minnesota*, Docket No. E002/GR-10-971, Xcel's Reply Brief and Proposed Finding of Fact at 175 (Dec. 22, 2011) (hereinafter "Xcel 2010 Rate Case Docket").

²⁹ Xcel 2010 Rate Case Docket, Staff Briefing Papers at 6 (Dec. 5, 2012).

³⁰ Xcel 2010 Rate Case Docket, Staff Briefing Papers at 6 (Dec. 5, 2012).

³¹ *See generally* 2009 Xcel Remaining Lives Filing.

³² 2009 Xcel Remaining Lives Filing at 8.

annual remaining lives petition, including dockets E,G002/D-10-173, 11-144, 12-151, 13-1158, 14-181, 15-46, 17-147, 18-162, and 19-161.³³

In each such filing, however, the Company never once included W2B in any of applicable 5-Year Dismantling Studies or otherwise estimated W2B's net salvage rates. Moreover, Xcel failed to estimate or recover from ratepayers W2B's removal costs while that asset was used and useful despite numerous situations affecting W2B's ability to remain in service. For example, Xcel removed W2B from service without once estimating or accounting for Wind2Battery's removal costs despite: (1) a 2012 fire shutting W2B down for an entire year; (2) the January 2015 bankruptcy filing of the windfarm to which W2B was connected; (3) the late 2018 notice from vendors that W2B was "entering legacy status;"³⁴ (4) the 2019 disconnection of W2B to the wind farm to which it was connected;³⁵ and (5) the manufacturer of W2B's efforts, since at least March 2019, "trying to find a capable battery recycling partner willing to dispose of that type of battery."³⁶

VI. XCEL'S CURRENT PETITION EFFECTIVELY SEEKS TO MOVE RATEPAYER RESERVES TO COVER W2B'S EXCESSIVE SALVAGE COSTS THE COMPANY NEITHER ESTIMATED NOR RECOVERED FROM RATEPAYERS DURING W2B'S USEFUL LIFE.

Through the Petition, Xcel seeks Commission approval to: (1) accelerate W2B's retirement date by three years, such that the remaining life for W2B would be zero years as of January 1, 2021; and (2) reallocate \$6.5 million from other plants within the Other Production

³³ Xcel Response to OAG IR No. 18, Attachment 1.

³⁴ Xcel Response to OAG IR No. 18 ("Regarding longevity of the installation, Xcel Energy was verbally notified in late 2018 by vendors that the battery and control system was entering legacy status. Parts would no longer be manufactured for the installation and technical support would be limited going forward.").

³⁵ Petition at 6.

³⁶ Xcel Response to OAG IR No. 3, Attachment 2.

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function to the Wind2Battery asset (\$0.9 million for estimated remaining net book value and \$5.6 million for removal costs) to fully depreciate, retire, remove and dispose that asset.³⁷

Xcel's Petition presents scant evidence, at best, to support the Company's contention that W2B's removal costs are \$5.6 million and that such costs should be borne by ratepayers through a reserve reallocation. Indeed, Xcel never once—despite its earlier promises—included W2B in any of the Company's 5-Year Dismantling Studies. Moreover, even in this Petition, Xcel neglected to provide the Commission with an in-depth analysis to support its estimated \$5.6 million in removal costs to dismantle W2B. In fact, instead of providing a dismantling study for W2B in the Company's Dismantling Cost Study prepared by TLG Solutions, Inc. ("TLG"),³⁸ Xcel essentially told the Commission to take the utility's word that removal costs were \$5.6 million without providing any evidentiary support for that figure:

Due to the materials used in this pilot, finding a channel to dispose of the battery has proven difficult and costly not only for Xcel Energy but for other utility companies in the United States. The Company is exploring options with three vendors (the battery manufacturer, the manufacturer of the controls system, and a battery recycling company) to determine the best route to safely remove and dispose of the battery. The battery uses sodium-sulfur technology which must be specially sealed as the compound will spontaneously burn when in contact with air and moisture. Therefore, there is a need to provide on-going monitoring of the asset's condition to ensure against a potential fire or other catastrophic event. Because of the limited disposal options and the safety concerns, removal costs are estimated at \$5.6 million.³⁹

In other words, without providing the Commission with any proof or evidence that W2B's removal costs are \$5.6 million, Xcel asks for the Commission to take its word and approve a reserve reallocation sufficient to cover W2B's negative 135.6 net salvage percent.⁴⁰

³⁷ Petition at 7.

³⁸ See Petition at Attachment J.

³⁹ Petition at 7.

⁴⁰ Petition at Attachment A, p. 7; Petition at Attachment B, p. 5.

ANALYSIS AND RECOMMENDATIONS

I. THE COMMISSION SHOULD REJECT XCEL’S PROPOSAL TO REALLOCATE \$5.6 MILLION FROM OTHER PRODUCTION RESERVES TO ENTIRELY FUND W2B’S REMOVAL COSTS.

The Company proposes that the Commission “approve a reserve reallocation from other plants within the Other Production function to th[e] [W2B] asset in the amount of . . . \$5.6 million for removal costs . . . in order to . . . safely remove and dispose of’ Wind2Battery.⁴¹ Xcel’s Petition, however, fails to include any evidentiary support for W2B’s removal costs. Instead of including W2B in TLG’s Dismantling Cost Study or presenting the Commission with an equally fulsome W2B dismantling study, Xcel simply asks the Commission to take the Company’s word: “The Company is exploring options with three vendors (the battery manufacturer, the manufacturer of the controls system, and a battery recycling company) to determine the best route to safely remove and dispose of the battery. . . . Because of the limited disposal options and the safety concerns, removal costs are estimated at \$5.6 million.”⁴²

The Commission should reject Xcel’s proposed reserve reallocation and proposed net salvage rate for W2B because the Company failed to meet its burden of proof to establish that W2B’s removal cost estimate and corresponding reserve reallocation are supported by evidence. Alternatively, the Commission should reject Xcel’s proposed reserve reallocation as neither reasonable nor in the public interest because: (1) the Company entirely failed to estimate or collect from ratepayers any removal costs for W2B during that asset’s useful life; and (2) W2B’s removal costs are excessively high.

⁴¹ Petition at 7.

⁴² Petition at 7.

A. Xcel has not met its Burden of Proof given its Failure to Provide the Commission with any Meaningful Evidence to Support its Proposed Reserve Reallocation and Net Salvage Rate for W2B.

“The Commission is required by law, Minn. Stat. § 216B.11, to fix proper and adequate rates and methods of depreciation.”⁴³ Utilities are required to “review their depreciation rates annually to determine if they are still appropriate” and “bear[] the burden” of proof when seeking changes to a prior Commission-approved certification of depreciation rates and methods.⁴⁴ Furthermore, when analyzing “any [request] to allow or forbid reserve reallocations” the Commission focuses its “examin[ation] based on the specific facts at the time.”⁴⁵

Here, Xcel’s Petition seeks to change the Commission’s currently approved net salvage percentage for Wind2Battery from 0.0% to negative 135.6%.⁴⁶ In support of the Company’s requested change to W2B’s net salvage rate, Xcel does not rely on the 5-Year Dismantling Cost Study completed by TLG. The Company likewise fails to provide the Commission with any study or evidentiary support for its proposed net salvage rate change. Instead, Xcel made the business decision to support its Petition with prose:

⁴³ *In the Matter of Minnesota Power's Five-Year Review of Average Serv. Lives for Transmission & Distribution Plant Accounts for 2008*, D-08-422, 2008 WL 5598178, at *2 (Minn. P.U.C. Nov. 6, 2008).

⁴⁴ *In the Matter of Minnesota Power's Five-Year Review of Average Serv. Lives for Transmission & Distribution Plant Accounts for 2008*, D-08-422, 2008 WL 5598178, at *2 (Minn. P.U.C. Nov. 6, 2008) (citing Minnesota Rules Part 7825.0600, subp. 2D). *See also* Minn. R. 7825.0700, subp. 2.A.-.C. (In addition, all utilities shall provide with the petition for depreciation certification: A list of accounts upon which the utility has made studies of the estimates of service life and salvage, the dollar effects and the results of these studies, and the utility-recommended depreciation rates for the accounts. . . . A list of any major future additions or retirements to the plant accounts that the utility believes may have a material effect on the current certification results. . . . [and] [a]ll utilities shall furnish any additional documentation necessary to support findings of the study.”).

⁴⁵ *In the Matter of the Petition of N. States Power Co., d/b/a Xcel Energy, for Approval of Its 2019 Annual Review of Remaining Lives*, E-002/D-19-161, 2019 WL 5498021, at *1 (Minn. P.U.C. Oct. 22, 2019)

⁴⁶ *See* Petition at Attachment G, p. 5.

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Due to the materials used in this pilot, finding a channel to dispose of the battery has proven difficult and costly not only for Xcel Energy but for other utility companies in the United States. The Company is exploring options with three vendors (the battery manufacturer, the manufacturer of the controls system, and a battery recycling company) to determine the best route to safely remove and dispose of the battery. The battery uses sodium-sulfur technology which must be specially sealed as the compound will spontaneously burn when in contact with air and moisture. Therefore, there is a need to provide on-going monitoring of the asset's condition to ensure against a potential fire or other catastrophic event. Because of the limited disposal options and the safety concerns, removal costs are estimated at \$5.6 million.⁴⁷

In situations such as these, where a utility fails to establish an evidentiary record to support a change to a net salvage percentage, the Commission has denied the utility's proposed change to its certification of depreciation rates and methods.⁴⁸ Similarly, the Commission has also denied a proposed depreciation reserve reallocation where a utility fails to include a sufficient evidentiary basis to support such a proposal.⁴⁹ While not binding on the Commission, Federal Energy Regulatory Commission proceedings have reached similar decisions and denied proposed changes to net salvage rates that were unsupported by evidence.⁵⁰ Accordingly,

⁴⁷ Petition at 7.

⁴⁸ See, e.g., *In the Matter of Minnesota Power's Five-Year Review of Average Serv. Lives for Transmission & Distribution Plant Accounts for 2008*, D-08-422, 2008 WL 5598178, at *2 (Minn. P.U.C. Nov. 6, 2008) (“Based on its depreciation study, Minnesota Power recommended moving from the positive net salvage value to a negative 20 percent net salvage value, based on the account's most recent five-year average. . . . [W]hile the Company argues that a five-year study is more reflective of current conditions, its own data for the five-year period does not support that notion, as the net salvage values for three of the five years relied on by the Company are lower than negative 20 percent recommended by the Company. . . . The Commission therefore concludes that Minnesota Power has not supported the negative 20 percent salvage value for this account.”).

⁴⁹ *In the Matter of the Petition of N. States Power Co., d/b/a Xcel Energy, for Approval of Its 2019 Annual Review of Remaining Lives*, E-002/D-19-161, 2019 WL 5498021, at *1 (Minn. P.U.C. Oct. 22, 2019) (“The Commission also concludes that there is insufficient information in the record to support reallocating the Minnesota Valley depreciation reserve.”).

⁵⁰ See, e.g., *Entergy Servs. Inc.*, 138 F.E.R.C. ¶ 63,010, at Para. 281-282, 2012 WL 12505627 (Feb. 8, 2012) (“Entergy has not met its burden of proof. It has not supported the proposed salvage factor with any study. . . . Since the undersigned has no such study in the record to rely upon, he orders that no change be made to the salvage factor values at this time.”); *Pac. Gas &* (Footnote Continued on Next Page)

because Xcel has failed to meet its burden of proof by not submitting meaningful evidence to support its proposed net salvage rate for W2B—and to support the Company’s proposed reserve reallocation—the OAG respectfully requests that the Commission deny Xcel’s request to change W2B’s net salvage percentage and reallocate reserves to fund that removal shortfall.

B. Xcel’s Proposal to Fund W2B’s Removal Costs with a Reserve Reallocation is neither Reasonable nor in the Public Interest.

In past filings, the OAG has strongly urged the Commission against approving depreciation reserve reallocations to cover removal shortfalls. On one hand, the Commission “appreciates the comments and cautions of the OAG concerning reallocation of reserves” and “recognizes the importance of maintaining an incentive for utilities to set their dismantling cost projections as accurately as possible.”⁵¹ On the other hand, “the Commission also appreciates the inherent difficulty in accurately estimating the removal cost for plants that were originally set for plant removal at a point 30 or more years in the future.”⁵² Accordingly, the Commission has approved reserve reallocation “for units with no remaining life” only “when it was reasonable and in the public interest.”⁵³

(Footnote Continued from Previous Page)

Elec. Co., 16 F.E.R.C. ¶ 63,004, at p. 65,008, 1981 WL 766983 (July 16, 1981) (“[t]he judge finds that PG&E evidence as to future decommissioning costs for Diablo Canyon Units Nos. 1 and 2 is too meager and unconvincing: the studies which would purportedly support those costs are not in this record For these reasons, no change in the present salvage rates . . . is justified.”).

⁵¹ *In the Matter of N. States Power Company’s Request for Approval of the Annual Review of Remaining Lives Depreciation for Elec. & Gas Prod. & Gas Storage Facilities & Net Salvage Rates for 2015*, E-002/D-15-46, 2015 WL 7299714, at *4 (Minn. P.U.C. Nov. 13, 2015).

⁵² *In the Matter of N. States Power Company’s Request for Approval of the Annual Review of Remaining Lives Depreciation for Elec. & Gas Prod. & Gas Storage Facilities & Net Salvage Rates for 2015*, E-002/D-15-46, 2015 WL 7299714, at *4 (Minn. P.U.C. Nov. 13, 2015).

⁵³ *In the Matter of N. States Power Company’s Request for Approval of the Annual Review of Remaining Lives Depreciation for Elec. & Gas Prod. & Gas Storage Facilities & Net Salvage Rates for 2015*, E-002/D-15-46, 2015 WL 7299714, at *4 (Minn. P.U.C. Nov. 13, 2015).

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As discussed more fully in the next subsections, the Commission should find that Xcel's proposal to reallocate depreciation reserves to cover W2B's removal shortfall is neither reasonable nor in the public interest because: (1) the Company entirely failed to estimate or collect from ratepayers any removal costs for W2B during that asset's useful life; and (2) W2B's removal costs are excessive.

1. It is neither reasonable nor in the public interest to rely on reserve reallocations to wholly fund removal costs that were neither estimated nor collected from ratepayers during W2B's useful life.

These comments are unlike past OAG comments opposing Xcel's attempts to cover imprecise removal shortfalls by reserve reallocation. Here, the Company has outright failed to either meaningfully estimate W2B's net salvage rate or collect such sums from ratepayers during W2B's barely 10-year useful in-service life. The Commission should find that it is neither reasonable nor in the public interest for utilities to wait until an asset is taken out of service before estimating that asset's net salvage rate. Similarly, it is unreasonable and against the public interest for a utility to fail to collect an asset's estimated removal costs from ratepayers while that asset is being used and useful.

The OAG understands that Xcel relies on cost estimates and net salvage rates in TLG's Dismantling Cost Studies (or other similarly fulsome studies) to set depreciation rates, through which depreciation reserve is collected to cover removal costs. Xcel, however, unreasonably neglected to conduct its promised "in[-]depth review of the net salvage rates for the Wind2Battery Storage project in our 2010 demolition study"⁵⁴ or in any subsequent remaining lives docket. And because Xcel failed to establish a meaningful net salvage rate for W2B, the

⁵⁴ 2009 Xcel Remaining Lives Filing at 8.

Company likewise neglected to collect removal costs from ratepayers during that asset's useful in-service life.

By doing so, the Company's request ignores "the importance of maintaining an incentive for utilities to set their dismantling cost projections as accurately as possible."⁵⁵ Moreover, because Xcel has entirely failed to study or meaningfully estimate W2B's removal costs during that asset's roughly ten years in service—as opposed to underestimating such removal costs—the Company should not benefit from the Commission's appreciation of "the inherent difficulty in accurately estimating the removal cost for plants that were originally set for plant removal at a point 30 or more years in the future."⁵⁶

For these reasons and those that follow in the subsequent subsections, the OAG respectfully requests that the Commission find that Xcel's proposal to entirely cover W2B's removal costs through a reserve reallocation is neither reasonable nor in the public interest.

2. It is neither reasonable nor in the public interest to rely on reserve reallocations to wholly fund excessively high W2B removal costs.

Attachment G to the Petition sets forth Xcel's currently approved net salvage rates and the proposed net salvage rates for a variety of its "electric other production" accounts, including Wind2Battery. Xcel proposes a negative 135.6% net salvage rate for W2B, which is by far the highest salvage rate percentage proposal in the Petition.⁵⁷ Excluding the proposed net salvage rates for the three accounts at each the Maplewood and Sibley gas production facilities,⁵⁸ the

⁵⁵ *In the Matter of N. States Power Company's Request for Approval of the Annual Review of Remaining Lives Depreciation for Elec. & Gas Prod. & Gas Storage Facilities & Net Salvage Rates for 2015*, E-002/D-15-46, 2015 WL 7299714, at *4 (Minn. P.U.C. Nov. 13, 2015).

⁵⁶ *In the Matter of N. States Power Company's Request for Approval of the Annual Review of Remaining Lives Depreciation for Elec. & Gas Prod. & Gas Storage Facilities & Net Salvage Rates for 2015*, E-002/D-15-46, 2015 WL 7299714, at *4 (Minn. P.U.C. Nov. 13, 2015).

⁵⁷ Petition at Attachment G, p. 5.

⁵⁸ See Petition at Attachment G, p. 9.

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Petition's closest net salvage percentage to W2B is the proposed negative 30.6% net salvage rate for the majority of the accounts associated with the Blue Lakes production units.⁵⁹ In comparison to the Company's other net salvage rates, Xcel's proposal relating to W2B strikes the OAG as excessive. Moreover, given that Xcel's strikingly high negative net salvage rate for Wind2Battery was not derived through the TLG Dismantling Cost Study (or any other similarly robust examination) and is unsupported by anything other than the Company's own word, the OAG respectfully requests that the Commission find that Xcel's proposal to entirely cover W2B's removal costs through a reserve reallocation is neither reasonable nor in the public interest.

CONCLUSION

The OAG respectfully requests that the Commission reject Xcel's proposed reserve reallocation and proposed net salvage rate for W2B because the Company failed to meet its burden of proof to establish that W2B's removal cost estimate and corresponding reserve reallocation are supported by evidence. Alternatively, the OAG respectfully requests that the Commission reject Xcel's proposed reserve reallocation because it is neither reasonable nor in the public interest because: (1) the Company entirely failed to estimate or collect from ratepayers

⁵⁹ See Petition at Attachment G, p. 2.

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removal costs for W2B during that asset's useful life; and (2) W2B's removal costs are excessively high.

Dated: February 16, 2021

Respectfully submitted,

KEITH ELLISON
Attorney General
State of Minnesota

/s/ **Max Kieley**

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ATTORNEYS FOR OFFICE OF
THE ATTORNEY GENERAL—
RESIDENTIAL UTILITIES DIVISION

- Not Public Document – Not For Public Disclosure
 Public Document – Not Public Data Has Been Excised
 Public Document

Xcel Energy Information Request No. 18
Docket No.: E,G002/D-19-723
Response To: Office of the Attorney General
Requestor: Max Kieley
Date Received: October 2, 2020

Question:

Reference: Petition at 6 – 7.

1. What date was the battery system put into service?
2. Provide docket number where the Company initially requested approval of depreciation for the battery system.
3. Has the Company ever requested recovery of removal costs for the battery system before? If yes, provide docket number.
4. What date was the battery system taken out of service?

Response:

1. The asset was placed into service in December 2009.
2. The Wind2Battery System was introduced to the annual remaining lives filing in the 2009 Annual Review of Remaining Lives (Docket No. E,G002/D-09-160) with an initial net salvage of zero percent.
3. Since the 2009 Docket mentioned in #2 above, the battery system has been included each subsequent annual remaining lives petition listed below:
 - E,G002/D-10-173
 - E,G002/D-11-144
 - E,G002/D-12-151
 - E,G002/D-13-1158
 - E,G002/D-14-181
 - E,G002/D-15-46
 - Note – due to the timing of this order, the next filing was not due until 2017 so there was not a 2016 filing.
 - E,G002/D-17-147
 - E,G002/D-18-162
 - E,G002/D-19-161

4. The battery has not yet been taken out of service from an accounting perspective but was removed from operational status in September 2020 and is being assessed for future disposition.
-

Preparer: Courtney Young
Title: Principal Financial Consultant
Department: Capital Asset Accounting
Telephone: 612-330-5897
Date: October 15, 2020

- Not Public Document – Not For Public Disclosure
 Public Document – Not Public Data Has Been Excised
 Public Document

Xcel Energy Information Request No. 3
Docket No.: G002/D-19-723
Response To: Office of the Attorney General
Requestor: Shoua Lee
Date Received: September 25, 2020

Question:

Reference: Petition at 6 – 8; Luverne Wind2Battery System.

Has the Company ever completed a dismantling study on the battery system?

If yes, provide all the studies and explain why the Company did not start charging removal costs in its depreciation for the battery system.

If no, explain why the Company did not conduct a dismantling study.

Response:

Due to the highly specialized nature of this battery, the materials used to construct, and the relatively minimal investment, as compared to other investments in production plants, a dismantling study has not been performed. Dismantling costs for the pilot were presented as soon as practical and available to the Company.

When this project was being selected, the Company worked with NGK Insulators, Ltd. (NGK), the battery manufacturer, to understand what disposal options could look like at the end of life. A comprehensive report on the battery project was issued as part of the Renewable Development Fund in December 2011.¹ The report stated, **[PROTECTED DATA BEGINS...**

...PROTECTED DATA ENDS]

Due to the representations received from the manufacturer in 2008-2011, a zero percent net salvage rate was applied as we believed it was a conservative approach to the uncertainty represented in dismantling this new type of asset. Battery technology

¹ This Report was included as Attachment B to the Company's 2011 Renewable Energy Standard Rider & 2010 RES Tracker Report Petition filed on October 5, 2010 in Docket No. E002/M-10-1066.

has evolved rapidly in the decade since the asset was placed in service and the industry anticipated that recycling options would keep pace with new innovations.

We have provided the detail of the \$5.6 million estimate referenced in the Petition as OAG-003 Attachment A. This estimate was based on March 2020 information from NGK, who has been exploring recycling options for more than a year trying to find a capable battery recycling partner willing to dispose of that type of battery. All six companies that they have contacted have declined, stating that the industry does not currently have a solution for disposing these types of batteries in North America. They have asked their potential battery recycling partners to keep them updated on any new developments that would allow them to recycle this material in the future.

A portion of this response is marked as Not Public information pursuant to Minnesota Statute § 13.37, subd, 1(b). This response includes information designated as Trade Secret. It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

Preparer:	Jake Gundry	Courtney Young
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Telephone:	612-437-7504	612-330-5897
Date:	October 7, 2020	



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Minnesota Attorney General Keith Ellison
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February 16, 2021

Mr. Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

Re: *In the Matter of Northern States Power Company dba Xcel Energy-Electric and Gas Annual Petition of Remaining Lives and Five-Year Depreciation Study*
Docket No. G-002/D-19-723

Dear Mr. Seuffert:

Enclosed and e-filed in the above-referenced matter please find both the PUBLIC and TRADE SECRET Comments of the Minnesota Office of the Attorney General–Residential Utilities Division.

By copy of this letter all parties have been served. A Certificate of Service is also enclosed.

Sincerely,

/s/ Joseph C. Meyer

JOSEPH C. MEYER

Assistant Attorney General

(651) 757-1433 (Voice)

(651) 296-9663 (Fax)

joseph.meyer@ag.state.mn.us

CERTIFICATE OF SERVICE

Re: *In the Matter of Northern States Power Company dba Xcel Energy-Electric and Gas Annual Petition of Remaining Lives and Five-Year Depreciation Study*
Docket No. G-002/D-19-723

I, DEANNA DONNELLY, hereby certify that on the 16th day of February, 2021, I e-filed with eDockets *both the PUBLIC and TRADE SECRET Comments of the Minnesota Office of the Attorney General—Residential Utilities Division* and served a true and correct copy of the same upon all parties listed on the attached service list by e-mail, electronic submission, and/or United States Mail with postage prepaid, and deposited the same in a U.S. Post Office mail receptacle in the City of St. Paul, Minnesota.

/s/ Deanna Donnelly
DEANNA DONNELLY

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