

November 8, 2022

Via Electronic Filing

Mr. Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

Re: *In the Matter of the Petition by Great Plains Natural Gas Co., a Division of Montana-Dakota Utilities Co., for Approval of Rule Variances to Recover High Natural Gas Costs from February 2021*

In the Matter of a Commission Investigation into the Impact of Severe Weather in February 2021 on Impacted Minnesota Natural Gas Utilities and Customers

Docket Nos. G004/M-21-235 and G-999/CI-21-135

Request for Reconsideration of Great Plains Natural Gas Co.

Dear Mr. Seuffert:

Pursuant to Minn. Stat. § 216B.27 and Minn. R. 7829.3000, Great Plains Natural Gas Co., a Division of Montana-Dakota Utilities Co. (“Great Plains”) respectfully submits the attached request for rehearing and reconsideration of the Minnesota Public Utilities Commission’s (“Commission”) October 19, 2022 *Order Disallowing Recovery of Certain Natural Gas Costs and Requiring Further Action* (“October 19 Order”).

Thank you for your consideration of this request. Please let me know if you have any questions regarding this filing.

Sincerely,

Stinson LLP

/s/ Brian M. Meloy

Brian M. Meloy

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

In the Matter of the Petition by Great Plains)	Docket No. G-004/M-21-235
Natural Gas Co., a Division of Montana-)	Docket No. G-999/CI-21-135
Dakota Utilities Co., for Approval of Rule)	
Variances to Recover High Natural Gas Costs)	REQUEST FOR
from February 2021)	RECONSIDERATION OF
In the Matter of a Commission Investigation)	GREAT PLAINS NATURAL GAS CO.
into the Impact of Severe Weather in February)	
2021 on Impacted Minnesota Natural Gas)	
Utilities and Customers)	
)	

Pursuant to Minn. Stat. § 216B.27 and Minn. R. 7829.3000, Great Plains Natural Gas Co., a Division of Montana-Dakota Utilities Co. (“Great Plains”) respectfully requests rehearing and reconsideration of the Minnesota Public Utilities Commission’s (“Commission”) October 19, 2022 *Order Disallowing Recovery of Certain Natural Gas Costs and Requiring Further Action* (“October 19 Order”). While Great Plains appreciates the Commission’s attempt to balance multiple interests in determining whether the “extraordinary gas costs” Great Plains incurred from February 13–17, 2021 (the “February Event”) to serve customers were prudently incurred, reconsideration is necessary to revisit findings and conclusions that are affected by errors of law and are otherwise inconsistent with the record evidence.¹

¹ Minn. Stat. § 14.69 provides that “judicial review under sections 14.63 to 14.68, the court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative finding, inferences, conclusion, or decisions are:

- (a) in violation of constitutional provisions; or
- (b) in excess of the statutory authority or jurisdiction of the agency; or
- (c) made upon unlawful procedure; or
- (d) affected by other error of law; or
- (e) unsupported by substantial evidence in view of the entire record as submitted; or
- (f) arbitrary or capricious.”

I. DISCUSSION

Great Plains believes the October 19 Order is generally well-reasoned and accurately reflects the record developed in these proceedings. Perhaps most importantly, the Commission's comprehensive investigation into the February Event has helped identify steps gas utilities can take to mitigate the costs of extraordinary events in the future after the unprecedented has now occurred.² As discussed below, however, Great Plains respectfully disagrees with the Commission's determination that Great Plains' actions during the February Event were imprudent in two respects.

In particular, the Commission's determination that Great Plains was imprudent in failing to plan (1) to economically curtail interruptible customers, and (2) maximize storage withdrawal, on February 17, 2021, is not supported by substantial record evidence. The plain language of Great Plains' Tariff makes clear that it did not have the discretion to economically curtail interruptible customers. Similarly, the Commission's determination that Great Plains should have planned to maximize storage withdrawals on February 17 relies on hindsight and does not adequately consider the information available to Great Plains when it made its decision to revert back to its winter storage withdrawal plan. Even assuming the record supports the Commission's conclusion with respect to storage usage, the record in this case does not support the use of an artificially low 2% reserve margin in calculating the ordered disallowance.

A. The Commission's Determination that Great Plains' Tariff Provided It with the Discretion to Economically Curtail Interruptible Customers Contradicts the Plain Language of the Tariff.

In its October 19 Order, the Commission determined that under its Tariff, "Great Plains had the latitude to decide to curtail interruptible customers to reduce expensive spot-gas purchases

² Great Plains' September 15, 2022 Compliance Filing in these proceedings identifies the steps Great Plains has already taken, and plans to take, to protect customers from future extraordinary gas price spikes.

under the circumstances unfolding on February 16 and 17. During such extraordinary circumstances, Great Plains' decision not to curtail was imprudent and caused the utility to incur unreasonable gas costs."³ While the Commission acknowledges that Great Plains' Tariff must be interpreted in accordance with its plain language, the Commission concludes that Great Plains' Tariff "grants Great Plains broad authority to rely on its 'sole judgment' to determine when "it might be necessary to [curtail] to protect the interest of its [firm] customers."⁴ The Commission's interpretation of Great Plains' Tariff is not reasonable.

Great Plains' Tariff unambiguously limits what type of firm customers' "interests" Great Plains may "protect" through the curtailment of interruptible customers. Section 3 of Great Plains' Interruptible Tariffs ("Priority of Service") provides:

PRIORITY OF SERVICE – Deliveries of gas under this schedule shall be subject at all times to the prior demands of customers served on the Company's firm gas service rates. Customers taking service hereunder agree that the Company, without prior notice, shall have the right to curtail or interrupt such service, in Company's sole judgment, it may be necessary to do so to protect the interest of its customers whose capacity requirements are otherwise and hereby given preference. The priority of service and allocation of capacity shall be accomplished in accordance with the provisions of General Terms and Conditions, Section 6, Paragraph V.17.⁵

The Tariff plainly limits such interests to firm customers' "capacity requirements" which are "given preference."⁶ Importantly, the Tariff also specifies that "allocation of capacity" shall be in accordance with "the provisions of General Terms and Conditions, Section 6, Paragraph V.17."

³ October 19 Order at 21.

⁴ *Id.* at 22.

⁵ See e.g., Section 3 of Great Plains' Small Interruptible Gas Sales Service Rate 71, which can be accessed at <https://www.gpng.com/wp-content/uploads/PDFs/Rates-Tariffs/Minnesota/MNGas71.pdf>. Emphasis added.

⁶ "Capacity" is defined as "the potential or suitability for holding, storing, or accommodating" and "the maximum amount or number that can be contained or accommodated," which under its plain meaning has nothing to do with the price of gas. See Merriam-Webster's online dictionary at: <https://www.merriam-webster.com/dictionary/capacity>

The General Terms and Conditions make clear that Great Plains' discretion may be exercised with respect to curtailments made for operational reasons:

Company shall have the right, in its sole discretion, to deviate from the above schedule when necessary for **system operational reasons** and if following the above schedule would cause an interruption in service to a customer who is not contributing to an **operational problem on Company system**. Company reserves the right to provide service to customers with lower priority while service to higher priority customers is being curtailed **due to restrictions at a given delivery or receipt point**. When such restrictions are eliminated, Company will reinstate sales and/or transportation of gas according to each customer's original priority.⁷

While the Commission found that “[t]he priority of service and allocation of capacity section in the General Terms and Conditions does not limit Great Plains’ broad authority to curtail; it simply designates the order in which curtailment shall occur,”⁸ this conclusion ignores the very maxim of interpretation cited by the Commission in its Order that “words are given their plain and ordinary meaning and *viewed in accordance with the tariff as a whole*.”⁹ The “Priority of Service” provision of Great Plains’ Interruptible Tariffs relied on by the Commission is inextricably linked to the “Priority of Service and Allocation of Capacity” provision in Great Plains’ General Terms and Conditions. In each instance the Commission cites regarding curtailment of interruptible customers, the reference is to “capacity requirements” and curtailment for operational reasons. The October 19 Order does not cite any Tariff language that includes “economic” or curtailment based on price.

⁷ See <https://www.gpng.com/wp-content/uploads/PDFs/Rates-Tariffs/Minnesota/MNGeneralTermsConditions.pdf>; see also Ex. GP-300, Direct Testimony of Travis Jacobson at 8-9 (emphasis added).

⁸ October 19 Order at 22.

⁹ *Id.* at 21-22. Emphasis added. If the language of a statute is unambiguous, courts apply its plain meaning. See Minn. Stat. § 645.16 (“When the words of a law in their application to an existing situation are clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit.”).

In this respect, Great Plains' Tariff specifies (1) the circumstances under which an interruptible customer may be curtailed, *i.e.*, to protect firm customers' "capacity requirements"; and (2) that Great Plains must "allocate capacity" in a manner that maintains firm customer's priority of service.¹⁰ Under the well-established maxim of statutory interpretation, "inclusion of one is the exclusion of another,"¹¹ by specifically including the operational circumstances under which Great Plains may curtail, Great Plains' Tariff is excluding other circumstances – including economic curtailment.

Even if one were to set aside this clear link between the interruptible tariffs and allocation of capacity under the General Terms and Conditions, it would be incongruous for Great Plains' Tariff to contain very detailed provisions addressing the precise order of curtailment for operational reasons,¹² while at the same time not including any parameters regarding the circumstances under which customers may be economically curtailed. As Great Plains Witness Mr. Travis Jacobson testified, Great Plains' Tariff has never been vetted in the context of economic curtailment and numerous questions must first be answered. Such questions include, the volume of curtailment (since it is not operationally driven) and the price at which an economic curtailment could be called, *e.g.*, is it any time gas costs exceed \$20/Dth, which meets the definition of "extraordinary gas costs" at issue in this proceeding. As Mr. Jacobson testified,

¹⁰ As the Administrative Law Judges ("ALJs") correctly determined, "the tariffs at issue clearly do not contain any terms allowing curtailment due to cost. There is no set price at which an economic curtailment could be triggered, and no parameters in the tariff to govern the prioritization of customers in the event of an economic curtailment. The tariff's terms evidence that their purpose is to allow curtailment because of capacity, deficiencies in supply and other system operational reasons, without regard to price." *See* The ALJ's May 24, 2022 Findings of Fact, Conclusions of Law, and Recommendation at Finding 181 submitted in Docket No. G-004/M-21-235.

¹¹ *See e.g.*, Minn. Stat. § 645.19 ("Exceptions expressed in a law shall be construed to exclude all others.").

¹² *See* October 19 Order at 22 (stating "[t]he priority of service and allocation of capacity section in the General Terms and Conditions does not limit Great Plains' broad authority to curtail; it simply designates the order in which curtailment shall occur.>").

“[s]uch uncertainty further justifies why economic curtailments were not called during the February Weather Event.”¹³

Further, Great Plains’ Tariff does not explicitly provide for economic curtailment and, therefore, does not provide notice to customers that Great Plains can curtail for economic reasons (a principal requirement of the Filed Rate Doctrine).¹⁴ This is no doubt why Great Plains has never curtailed customers for economic reasons.¹⁵ In its October 19 Order, the Commission incorrectly dismissed this argument, stating that “[w]hile its customers may have understood that curtailment has historically occurred when system conditions required it to ensure reliable service to higher priority customers, Great Plains put forth no evidence that any of its interruptible customers shared Great Plains’ overly restrictive interpretation of the Company’s curtailment authority.”¹⁶ Since the language of Great Plains’ Tariff is clear, it is immaterial whether its customers shared Great Plains’ view that it could only curtail for operational reasons; the Tariff speaks for itself and establishes the terms and conditions of service. At a minimum, given such precedence Great Plains’ interpretation of its Tariff was reasonable, even if the Commission could reasonably interpret Great Plains’ discretion as being absolute under the circumstances.

Finally, in its Order, the Commission reasoned that “Great Plains failed to demonstrate how the increased load of allowing grain dryers to operate on February 17—with sufficient

¹³ Ex. GP-301, Rebuttal Testimony of Travis Jacobson at 3-5 (“Jacobson Rebuttal”).

¹⁴ Minn. Stat. § 216B.05, subd. 1 provides that “[e]very public utility shall file with the commission schedules showing all rates, tolls, tariffs, and charges which it has established and which are in force at the time for any service performed by it within the state.” This is the codification of one of the most fundamental principles of the regulation of public utilities – the Filed Rate Doctrine, which “forbids a regulated entity to charge rates for its services other than those properly filed with the appropriate ... regulatory authority.” *Ark. La. Gas Co. v. Hall*, 453 U.S. 571, 577 (1981).

¹⁵ Jacobson Direct at 13 (“Great Plains has never curtailed any customers in the past for economic reasons, nor has the Commission authorized Great Plains to take such action.”).

¹⁶ October 19 Order at 22.

capacity, increasing temperatures, and decreasing demand—would have created any of the operational issues the Company argued are necessary to exercise its authority to curtail.”¹⁷ This line of reasoning is irrelevant to what Great Plains’ Tariff authorizes and fails to adequately account for the differences between the grain dryer class and other interruptible customer classes.¹⁸ Unlike other interruptible customers, under Great Plains’ Tariff, when grain drying customers desire to consume gas, they are contractually required to contact Great Plains and request service as part of the “Obligation to Notify Company of Operation Startup.”¹⁹

This provision is not included in other interruptible tariffs and is necessary due to the distinct usage pattern of this group of customers. When demand conditions are significantly higher than usual, Great Plains will deny or limit available supply for grain dryers to avoid overrunning the Company’s transportation capacity. In this respect, the act of denying grain dryer requests does not interrupt or reduce load, but instead mitigates against an unpredictable increase of load. This is precisely the reason the Grain Drying Tariff has provisions focused on “operational” issues: “Obligation to Notify Company of Operation Startup” and “Obligation to Notify Company of Change in Daily Operations.”²⁰ In this respect, Great Plains’ decision not to

¹⁷ *Id.*

¹⁸ A new rate class for grain drying authorized in Great Plains’ 2019 rate case in Docket No. G004/GR-19-511. Grain drying customers were previously included in with Small or Large Interruptible customers. *See In the Matter of the Petition by Great Plains Natural Gas Co., a Division of Montana-Dakota Utilities, Co., for Authority to Increase Natural Gas Rates in Minnesota*, Docket No. G-004/GR-19-511 FINDINGS OF FACT, CONCLUSIONS, AND ORDER at 25 (October 26, 2020) (eDockets No. 202010-167656-01).

¹⁹ *See* Great Plains’ INTERRUPTIBLE GRAIN DRYING GAS SALES SERVICE RATE 73, which can be accessed at <https://www.gpng.com/wp-content/uploads/PDFs/Rates-Tariffs/Minnesota/MNGas73.pdf> (“Customer will be required to notify Company of the anticipated startup of grain drying operations no later than 10:00 A.M. CST the day before customer starts operating their grain drying facilities. Customer must provide to the Company the location of the grain drying facility, the expected hours of operation, and the total Dk needed for operation of the grain drying facility.”).

²⁰ *Id.* at Section No. 5, Original Sheet No. 5-35.

let grain dryers “burn” on February 17 is simply not relevant to the question of whether its interruptible Tariffs allow Great Plains to curtail for economic reasons; as the record shows, they do not.

For these reasons, Great Plains respectfully requests that the Commission reconsider its October 19 Order and find that Great Plains’ Tariff did not provide it with the discretion to economically curtail interruptible customers and, therefore, no disallowance is appropriate.

B. The Commission’s Determination that Great Plains Was Imprudent in Reverting to its Winter Storage Plan Is Not Supported by Substantial Record Evidence.

In its October 19 Order, the Commission determined that “Great Plains’ decisions for February 17 to reduce storage withdrawals and run an excessive 13% supply reserve margin were not prudent.”²¹ According to the Commission:

Prudence required Great Plains to manage all relevant considerations—including cost. In this instance, the record demonstrates that Great Plains failed to recognize the unprecedented costs of spot gas that emerged over the holiday weekend, failed to understand the significant risk that those costs would persist on February 17, and failed to take reasonable steps to avoid incurring such costs unnecessarily.²²

In ordering a corresponding disallowance, the Commission concluded that “Great Plains has not satisfied its burden to explain and justify that its supply reserve margin of 13% on February 17 was within a reasonable range” and that a “2% supply reserve margin is consistent with planning for purchases slightly exceeding projected load.”²³ The Commission’s determinations are not supported by substantial evidence in the record.

²¹ October 19 Order at 16.

²² *Id.*

²³ *Id.* at 17.

1. The Record Demonstrates that Great Plains Reasonably Relied on Information Available to it in Reverting to its Storage Plan for February 17.

As the Commission appropriately recognizes in its October 19 Order, “prudence is reasonable action taken in good faith based on knowledge available at the time of the action or decision.”²⁴ The Commission’s October 19 Order did not adequately consider the information available to Great Plains when it made the decision to revert to its storage plan for February 17, including the fact that (1) regional forecasted temperatures were moderating, (2) it was reasonable to assume gas prices to return to more normal levels, (3) there was a reasonable need to ensure supply flexibility on February 17 given supply curtailments over the previous holiday weekend; and (4) storage withdrawals had exceeded monthly planned withdrawals and there was a reasonable need to ensure supply flexibility for the remaining winter months for operational reasons.²⁵

In particular, the Commission concluded that “[w]hile the degree of the price spike was unknown when planning for the holiday weekend, by the time Great Plains was making purchasing decisions on February 16, it was clear that the cost of spot gas was so excessive that a prudent utility would actively manage its available resources and make some meaningful efforts to mitigate ongoing economic harm to its customers.”²⁶ Contrary to the Commission’s determination that Great Plains unreasonably focused solely on operational supply concerns,²⁷

²⁴ *Id.* at 5.

²⁵ Ex. GP-304, Rebuttal Testimony of Shawn Nieuwsma at 5 (“Nieuwsma Rebuttal”).

²⁶ October 19 Order at 16.

²⁷ *Id.* (“The Commission appreciates the importance of considering potential operational issues in gas supply planning. However, in light of the extreme cost of spot gas, the increasing temperatures, and the option to curtail interruptible customers, Great Plains did not meet its burden to justify its decision to focus solely on these concerns in its supply planning for February 17 while affording no meaningful consideration to its obligation to keep rates just and reasonable for customers.”).

the record shows that Great Plains did consider price impacts to customers when it made its storage decision, but reasonably expected prices to moderate.

As Mr. Shawn Nieuwsma testified, forecasted daily average temperatures for February 17 were 16 to 20 degrees warmer compared to the coldest day of the previous weekend.²⁸ Therefore, Great Plains had a reasonable expectation *based on the information known to it at the time*, that customer demand would drop and prices would moderate. Great Plains' own previous experience supported this expectation.

Mr. Nieuwsma testified that during the "2017-18 New Year Event" prices spiked and moderated quickly: "Daily settlement prices for December 29-31, 2017 closed at \$67.455/MMBtu for Ventura. Prices for deliveries on January 1-2, 2018 dropped to \$5.23/MMBtu. This suggests that Great Plains' assumption that prices would moderate beginning on February 17 was reasonable."²⁹ Supply and demand impacts on gas pricing is acknowledged throughout Department Witness Mr. Matthew King's testimony; simply, colder weather increases demand, which increases prices.³⁰ While Great Plains' price assumptions proved to be incorrect through the lens of hindsight, it made a reasonable decision in good faith based on the information available to it at the time the decision was made.³¹

²⁸ Nieuwsma Rebuttal at 5.

²⁹ *Id.* at 6.

³⁰ *See e.g.*, Ex. 506, Direct Testimony of Matthew J. King at 54 ("King Direct") ("However, it is important to point out that if the Gas Utilities were anticipating extreme cold weather, then the gas market would be as well. Once information about upcoming cold weather is available, it would be rationally priced into the market.").

³¹ As stated in the October 19 Order: "Actions taken in good faith are those taken without malicious intent, exercising the care that a reasonable person would exercise under the same circumstances at the time the decision was made. It is not evaluated using the benefit of hindsight." October 19 Order at 5.

Great Plains' decision to revert to its storage operational plan for February 17 was also reasonable in light of its operational needs for both February 17 and the remainder of the winter. As Mr. Nieuwsma testified, Great Plains was concerned with the potential for supply disruptions on February 17, when storage flexibility may be necessary to ensure there is no loss of service. This would prevent the situation whereby a supply disruption occurred and no additional storage was available because gas supply deployment decisions the previous day assumed maximum storage withdrawal:

Natural gas production continued to decline during the Event. It was prudent to assume that some portion of Great Plains' supply would be unavailable on February 17 and it would be necessary to plan for such an event. To mitigate the detriment of such a supply failure, Great Plains kept its strategic withdrawal quantity of 2,174 Dth for February 17.³²

Great Plains' concerns that supply disruptions could occur on February 17 was entirely reasonable as there were supply disruptions the previous weekend, from February 13-16.³³ Mr. Nieuwsma noted that "storage was not available [the previous weekend] to make up for this loss of supply because Great Plains had maximized its withdrawals leaving the only alternative supply options to be found in the intra-day market or through shedding load. Fortunately, city gate scheduling imbalances were within pipeline tolerances and there were no punitive damages from these supply disruptions."³⁴ As the Commission acknowledged in its October 19 Order,³⁵ storage is used operationally to maintain service to customers in the event of unexpected changes in demand or

³² Nieuwsma Rebuttal at 8.

³³ *Id.* at 9.

³⁴ *Id.*

³⁵ October 19 Order at 16.

a sudden loss of supply and “a sudden increase of storage withdrawal can only be done if the Company has scheduled less than its daily withdrawal maximum.”³⁶

Accordingly, the record in this proceeding shows that Great Plains’ decision to revert to its storage withdrawal plan for February 17 was made in good faith and was reasonable in light of the information available to Great Plains at the time the decision was made – without the benefit of hindsight. Accordingly, the Commission should reconsider its decision and find that no disallowance is warranted.

2. The Commission’s Use of a 2% Reserve Margin in Calculating its Disallowance is Not Supported by Substantial Record Evidence.

Even if the record supported the determination that Great Plains’ decision not to maximize storage use on February 17 was imprudent, the Commission’s use of a 2% gas supply reserve margin in calculating its adjustment is unreasonable. Specifically, in its October 19 Order the Commission incorrectly concludes:

Great Plains has not satisfied its burden to explain and justify that its supply reserve margin of 13% on February 17 was within a reasonable range. . . . The Department’s expert credibly and persuasively testified that a supply reserve margin slightly exceeding forecasted load was consistent with the industry, and while no single number would be reasonable for all utilities, it is essential that each utility be able to explain and justify how and why it chose its planned supply reserve margin.”³⁷

The record shows that Great Plains did explain and justify its 13% reserve margin.

In particular, Department Witness King testified that “I accept the practice and reasonableness of planning for supply slightly in excess of expected load requirements in concept (a supply reserve margin) in light of the risks of under-supply. However, I testified that the amount of a supply reserve margin should be deliberately determined and explainable.”³⁸ With respect

³⁶ Nieuwsma Rebuttal at 7.

³⁷ October 19 Order at 17.

³⁸ Ex. 507, Surrebuttal Testimony of Matthew J. King at 32 (“King Surrebuttal”).

to Great Plains, Mr. King noted that he used a 2% supply reserve margin based on the fact that “GP itself procured supplies on February 14 that were 1.8% above its forecasted load.”³⁹

Initially, in using a 2% reserve margin in calculating his disallowance, Mr. King confirmed at hearing that he was not offering an opinion as to what supply reserve margin a utility should use; instead he confirmed that his use of a 2% supply reserve margin was based on the *actual* margin used by Great Plains the prior weekend.⁴⁰ The use of a 2% reserve margin ignores the *actual* margin used by Great Plains for February 17.

In particular, Mr. Nieuwsma explained that Great Plains’ reserve margin for February 17 was 13%, based upon Great Plains’ experience during the previous President’s Day weekend.⁴¹ Mr. Nieuwsma explained that “during the previous holiday weekend, actual load exceeded forecasted load by a daily range” of 9.6 to 16.6% and Great Plains needed to ensure that it procured sufficient supply to meet its customers’ need if demand increased to unexpected levels on February 17 like it did the previously weekend.⁴² At the hearing, Mr. King confirmed that he did not have any reason to dispute Mr. Nieuwsma’s testimony.⁴³

In this respect, the 13% reserve margin used by Great Plains meets Mr. King’s stated criteria relied on by the Commission in its October 19 Order that “the amount of a supply reserve margin should be deliberately determined and explainable.”⁴⁴ Contrary to the Commission’s

³⁹ *Id.* at 51.

⁴⁰ Evidentiary Hearing Transcript - Volume 2C at 63, lines 4-15 (February 18, 2022).

⁴¹ Nieuwsma Rebuttal at 14.

⁴² *Id.* at 12.

⁴³ Evidentiary Hearing Transcript - Volume 2C at 64, line 21 through 65, line 6 (February 18, 2022).

⁴⁴ King Surrebuttal at 32.

determination, the record shows that Great Plains' actual reserve margin used for February 17 was "deliberately determined" and fully "explained." While the Commission indicates that Great Plains' decision to maintain a 13% reserve margin was unreasonably focused on reliability rather than price,⁴⁵ as noted above, Great Plains reasonably expected prices to moderate.

Finally, Mr. Nieuwsma identified another problem with the use of a 2% reserve margin in explaining that a 2% margin does not adequately account for "fuel in kind" requirements on interstate pipelines, which obligates shippers like Great Plains to procure gas above its customers' needs to support gas losses and compressor operation on the pipelines.⁴⁶ As noted by Mr. Nieuwsma, "Northern Natural Gas's (NNG) fuel rate was 1.19% and Viking Gas Transmission's (VGT) fuel rate was 0.1% during the February Event. The majority of Great Plains' day purchases would have flowed through Northern Natural Gas giving up approximately 60% of the reserve supply (1.19% fuel ÷ 2.00% reserve supply = 60%)."⁴⁷ Such pipeline requirements are noted,⁴⁸ but not adequately addressed in the October 19 Order.⁴⁹ The use of the artificially low 2% margin simply would not have ensured reliable service to customers.

⁴⁵ October 19 Order at 17 ("The Company's decisions appear to have been motivated by reliability concerns, with no consideration of cost impacts to customers. But Great Plains has not demonstrated that the reliability risks the Company could have reasonably anticipated under the circumstances on February 16 were sufficient to justify the reserve margin it used when purchasing spot gas for February 17.")

⁴⁶ Nieuwsma Rebuttal at 14-15.

⁴⁷ *Id.* at 14.

⁴⁸ October 19 Order at 14.

⁴⁹ "[A] decision is deemed arbitrary and capricious if it . . . (2) entirely fails to address an important aspect of the problem . . ." *In re Request for Issuance of SDS General Permit MNG300000*, 769 N.W.2d 312, 323 (Minn. Ct. App. 2009) (citing *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817, 832 (Minn. 2006)); see also *Petition of Space Ctr. Transp.*, 444 N.W.2d 575, 581 (Minn. 1989) (same); *Friends of Twin Lakes v. City of Roseville*, 764 N.W.2d 378, 381 (Minn. Ct. App. 2009) (same).

Mr. Nieuwsma showed that the use of Great Plains’ actual reserve margin of 13% would result in a *de minimis* disallowance of \$344 as shown in the following table:

Table⁵⁰

NNG Storage Utilization 13.0%					
<u>Load Forecast (Dth)</u>	<u>Reserves</u>	<u>Net Load</u>	<u>Base Supply</u>	<u>Storage 1/</u>	<u>Appropriate Spot Purchases</u>
28,996	3,769	32,765	15,223	3,944	13,598
<u>Actual Spot Purchases</u>	<u>Spot Purchase Reduction</u>	<u>Spot Price</u>	<u>Avoided Spot Purchase</u>		
13,600	2	172.21	\$344		

In this respect, even if the record supported the Commission’s decision that Great Plains’ decision not to maximize storage withdrawal for February 17 was imprudent, a disallowance is not supported by substantial evidence in the record.

II. CONCLUSION

Great Plains appreciates the Commission’s attempt to balance multiple interests in reaching its determination in this proceeding and agrees with the vast majority of the Commission’s findings in the October 19 Order. However, for the foregoing reasons, Great Plains believes that reconsideration is necessary to revisit discrete findings and conclusions that are affected by errors of law and are inconsistent with the record evidence. Accordingly, Great Plains respectfully requests that the Commission grant rehearing of its October 19 Order and determine

⁵⁰ See Nieuwsma Rebuttal at 13, Table 1 and 2, showing the derivation of the disallowance by taking 13% of the load forecast (28,996 Dth x 13% = 3,769 Dth of reserves) and carrying the reserve margin through the calculation.

that the record in this proceeding establishes that the extraordinary gas costs at issue in this proceeding were prudently incurred by Great Plains and no disallowance is reasonable or appropriate.

Dated: November 8, 2022

Respectfully submitted,

/s/ Brian M. Meloy _____

Brian M. Meloy

STINSON LLP

50 South Sixth Street, Suite 2600

Minneapolis, Minnesota 55402

Telephone: (612) 335-1500

brian.meloy@stinson.com

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

In the Matter of the Petition by Great Plains Natural Gas Co., a Division of Montana- Dakota Utilities Co., for Approval of Rule Variances to Recover High Natural Gas Costs from February 2021)))))))	Docket No. G-004/M-21-235 Docket No. G-999/CI-21-135 CERTIFICATE OF SERVICE
In the Matter of a Commission Investigation into the Impact of Severe Weather in February 2021 on Impacted Minnesota Natural Gas Utilities and Customers)))))	

The undersigned hereby certifies that on November 8, 2022 a true and correct copy of **Great Plains Natural Gas Co.’s Request for Reconsideration** has been served by electronically upon following:

Name	Email/Address
Mara Ascheman	mara.k.ascheman@xcelenergy.com
James Barkley	james.barkley@bakerbotts.com
James Bertrand	James.bertrand@stinson.com
Brenda A. Bjorklund	brenda.bjorklund@centerpointenergy.com
Elizabeth Brama	ebrama@taftlaw.com
Barbara Case	barbara.case@state.mn.us
Generic – Commerce Attorneys	commerce.attorneys@ag.state.mn.us
Riley Conlin	riley.conlin@stoel.com
Brian Edstrom	briane@cubminnesota.org
Sharon Ferguson	sharon.ferguson@state.mn.us
Matthew B. Harris	matt.b.harris@xcelenergy.com
Kim Havey	Kim.havey@mineapolismn.gov
Valerie Herring	vherring@taftlaw.com
Travis Jacobson	travis.jacobson@mdu.com
Kyle Kroll	kkroll@winthrop.com

Name	Email/Address
Erica Larson	erica.larson@centerpointenergy.com
Amber Lee	Amber.Lee@centerpointenergy.com
Annie Levenson Falk	annielf@cubminnesota.org
Brian Meloy	brian.meloy@stinson.com
Joseph Meyer	joseph.meyer@ag.state.mn.us
David Moeller	dmoeller@allete.com
Andrew Moratzka	andrew.moratzka@stoel.com
Jessica Palmer Denig	jessica.palmer-Denig@state.mn.us
Lisa Peterson	lisa.r.peterson@xcelenergy.com
Catherine Phillips	Catherine.Phillips@wecenergygroup.com
Generic – Residential Utilities	residential.utilities@ag.state.mn.us
Elizabeth Schmiesing	eschmiesing@winthrop.com
Will Seuffert	Will.Seuffert@state.mn.us
Janet Shaddix Elling	jshaddix@janetshaddix.com
Peggy Sorum	peggy.sorum@centerpointenergy.com
Richard Stasik	richard.stasik@wecenergygroup.com
Kristin Stastny	kstastny@taftlaw.com
Eric Swanson	eswanson@winthrop.com
Michael A. Yuffee	michael.yuffee@bakerbotts.com

Dated this 8th day of November, 2022

/s/ Sue Hartinger

Sue Hartinger