STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

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IN THE MATTER OF A COMMISSION INVESTIGATION INTO THE IMPACT OF SEVERE WEATHER IN FEBRUARY 2021 ON IMPACTED MINNESOTA NATURAL GAS UTILITIES AND CUSTOMERS	MPUC Docket No. G-999/CI-21-135
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	MPUC Docket No. G-004/M-21-235

Answer of the Citizens Utility Board of Minnesota

I. INTRODUCTION

In February 2021, Winter Storm Uri caused temperatures to plummet across much of the United States. These widespread cold temperatures caused demand for natural gas to increase as households and businesses consumed more gas for heating purposes. Meanwhile, the cold weather also caused "freeze off" events at some natural gas generation and transportation systems—particularly in Texas and other southern states—which reduced the available supply of natural gas. Finally, Winter Storm Uri coincided with the Presidents Day Holiday weekend, when there were limited opportunities for natural gas purchases and sales. These coinciding factors caused natural gas prices to spike to historic levels between February 12-17, 2021 (the "February Event").

After the February Event, four of Minnesota's rate-regulated natural gas utilities, CenterPoint Energy Resources Corp. ("CenterPoint"); Northern States Power Company d/b/a Xcel Energy ("Xcel"); Minnesota Energy Resources Corporation ("MERC"); and Great Plains Natural Gas Co. ("Great Plains" or "the Company" and, collectively with CenterPoint, MERC, and Xcel, the "Gas Utilities") sought to recover from their Minnesota ratepayers millions of dollars in extraordinary costs that they incurred when purchasing gas at inflated spot market prices during the February Event. Due to the dollar amounts involved and factual complexity of this event, the Minnesota Public Utilities Commission (the "Commission") referred these matters to a contested case hearing. Along with the four Gas Utilities, the Citizens Utility Board of Minnesota ("CUB"), the Minnesota Department of Commerce (the

"Department"), and the Minnesota Office of the Attorney General ("OAG") were party to that contested case.

During the contested case proceeding the Gas Utilities, CUB, the Department, and the OAG collectively filed hundreds of pages of witness testimony, record evidence, and legal briefs outlining their positions.

At a hearing held on August 11, 2022, the Commission determined that CenterPoint, Xcel, and Great Plains had met their burden of proof demonstrating that the vast majority of their Extraordinary Costs were prudently incurred, but that each utility had failed to meet that burden with respect to *all* Extraordinary Costs. Consequently, on October 19, 2022 the Commission issued an order (the "October 19 Order") that permitted the Company to recover approximately 90.4 percent ($7.98 million) of its $8.83 million in Extraordinary Costs.

On November 8, 2022, Great Plains petitioned for reconsideration of the Commission's October 19 Order (the "Petition").[1] As detailed below, the Company's Petition does not raise any new issues, uncover error or ambiguities within the Order, or present any new relevant evidence that could—or should—lead the Commission to rethink its prior decision. Consequently, the Commission should remain unpersuaded by the Company's Petition and uphold the effectiveness of its original Order.

II. LEGAL STANDARD

A. Burden of Proof

As articulated by the Commission in its October 19 Order:[2]

> The burden is on the utility to prove its costs were incurred prudently and will result in just and reasonable rates.[3] Any doubt as to reasonableness is to be resolved in favor of the consumer.[4] There is no burden on agencies or other intervenors to precisely identify which imprudent actions caused which costs in order to justify a

[1] *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 No. G999/CI-21-135; and *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, Request for Reconsideration of Great Plains Natural Gas Co. (Nov. 8, 2022) (hereinafter "Great Plains' Petition for Reconsideration").

[2] *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 No. G-999/CI-21-135; and *In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy to Recover February 2021 Natural Gas Costs*, Docket No. G-002/CI-21-610, Order Disallowing Recovery of Certain Natural Gas Costs and Requiring Further Action, at 5 (Oct. 19, 2022) (hereinafter "October 19 Order").

[3] Minn. Stat. § 216B.16, Subd. 4.

[4] Minn. Stat. § 216B.03.

disallowance.[5] Merely showing that the utility incurred expenses does not meet the utility's burden of demonstrating that it is just and reasonable for ratepayers to bear those expenses.[6]

B. Requests for Reconsideration

Petitions for Reconsideration are governed by Minn. Stat. § 216B.27 and Minn. R. 7829.3000. Pursuant to Minn. Stat. § 216B.27, the Commission "*may* grant and hold a rehearing on the matters . . . if *in its judgment* sufficient reason therefor exists."[7] As further explained in Minn. Stat. § 645.44, the use of "may" indicates *permissive* action, as opposed to the mandatory terminology of "must" or "shall."[8] Consequently, the Commission is in its power to reject a Petition for Reconsideration and uphold its original Order.[9]

When Petitions for Reconsideration are filed, the petitioner must "set forth specifically the grounds relied upon or errors claimed."[10] Generally, the Commission "reviews such petitions to determine whether the petition (i) raises new issues, (ii) points to new and relevant evidence, (iii) exposes errors or ambiguities in the underlying order, or (iv) otherwise persuades the Commission that it should rethink its decision."[11] If a Petition for Reconsideration is ultimately granted, Minnesota Statutes establish the standard for review and provide the Commission with permissive authority to "reverse, change, modify, or suspend [its] original action" if, based on the Commission's judgment, "it shall appear that the original decision, order, or determination is in any respect unlawful or unreasonable."[12]

III. ANALYSIS

It is indisputable that, as a matter of law, the burden is on the utility to prove the Extraordinary Costs it seeks to recover were incurred prudently and will result in just and reasonable rates[13] and that any doubt as to reasonableness is to be resolved in favor of the consumer.[14] This is a high burden. In the contested case proceeding that informed the Commission's Order, the Company offered substantial evidence to try to overcome any doubt that the Company acted prudently prior to and during the

[5] *In the Matter of a Commission Investigation into Xcel Energy's Monticello Life-Cycle Management/Extended Power Uprate Project and Request for Recovery of Cost Overruns*, Docket No. E-002/CI-13-754, Order Finding Imprudence, Denying Return on Cost Overruns, and Establishing LCM/EPU Allocation for Ratemaking Purposes, at 13 (May 8, 2015).
[6] *In re N. States Power Co.*, 416 N.W.2d 719, 723 (Minn. 1987).
[7] Minn. Stat. § 216B.27, Subd. 1 (emphasis added).
[8] Minn. Stat. § 645.44, Subds. 15-16.
[9] *See, e.g. In the Matter of a Formal Complaint and Petition for Expedited Relief by Sunrise Energy Ventures LLC Against Northern States Power Company d/b/a Xcel Energy*, Docket No. E-002/C-21-160, Order Denying Reconsideration (Oct. 11, 2021) (finding its decision to be "consistent with the facts, the law, and the public interest," and denying the petition for reconsideration).
[10] Minn. R. 7829.3000, Subp. 2.
[11] *In the Matter of Xcel Energy's Petition for Approval of Electric Vehicle Pilot Programs*, Docket No. E-002/M-18-643, Order Denying Reconsideration, Denying Stay, and Approving Compliance Filing, at 3 (Oct. 7, 2019).
[12] Minn. Stat. § 216B.27, Subd. 3.
[13] Minn. Stat. § 216B.16, Subd. 4.
[14] Minn. Stat. § 216B.03.

February Event. The Commission ultimately determined that the Company met this burden with respect to $7.98 million—or 90.4%—of those costs.

The Company now asks the Commission to reconsider whether the remaining $845,000 of its Extraordinary Costs should be passed onto customers. In making that request, the burden remains with the Company to prove that these costs were prudently incurred and will result in just and reasonable rates, with any doubt resolved in favor of the consumer. The Company now also has the added burden of demonstrating that the Commission's prior decision warrants reconsideration.

The Company argues that "reconsideration is necessary to revisit findings and conclusions that are affected by errors of law and are otherwise inconsistent with the record evidence."[15] Specifically, the Company contests the Commission's determination that Great Plains imprudently failed to "economically curtail interruptible customers . . . and maximize storage withdrawal" on February 17, 2021, as well as the resulting method for calculating disallowances.[16] The $845,088 at issue represents the entirety of the recovery disallowed by the Commission in its Order, but only 9.6 percent of the total Extraordinary Costs of $8.83 million incurred by the Company.[17]

As further detailed below, the Company's Petition for Reconsideration raises no new issues, does not present additional probative evidence, does not expose errors or ambiguities, and provides no basis upon which the Commission should reconsider its decision. The Company has not met its burden to establish that reconsideration is warranted.

A. The Company's Petition does not raise new issues.

One factor that the Commission should consider when determining whether to allow reconsideration is "whether the petition . . . raises new issues"[18] that were not addressed in its previous Order. As further explained below, the Commission previously considered the arguments raised by the Company in its Petition and summarily rejected them in its October 19 Order. Because the Company raises no new issues that have not been thoroughly addressed in the record and the Commission's Order, there is no reason to grant reconsideration.

B. The Company's Petition does not point to new and relevant evidence.

In its Petition for Reconsideration, the Company cites to statutes, exhibits, the ALJ report, transcripts from the evidentiary hearing, and prior Commission Orders. All this evidence was part of the record considered by the Commission prior to issuing its October 19 Order. The Company has not introduced any new or relevant evidence not previously part of the record considered by the Commission.

[15] Great Plains' Petition for Reconsideration, at 1.
[16] *Id*. at 2.
[17] October 19 Order at 3, 27.
[18] *In the Matter of Xcel Energy's Petition for Approval of Electric Vehicle Pilot Programs*, Docket No. E-002/M-18-643, Order Denying Reconsideration, Denying Stay, and Approving Compliance Filing, at 3 (Oct. 7, 2019).

C. The Company's Petition does not expose errors or ambiguities in the underlying Order.

When considering whether to grant reconsideration, the Commission will look to whether the Petition "exposes errors or ambiguities in the underlying order."[19] The Company argues that the Commission's October 19 Order disregards "plain language," "relies on hindsight[,] and does not adequately consider the information available to Great Plains"[20] on February 17, 2021 when it determined not to curtail interruptible customers and maximize storage withdrawals. Because of these arguments, the Company insists that the Commission must "revisit findings and conclusions that are affected by errors of law" and "inconsistent with the record evidence."[21] Contrary to the Company's assertions, the Commission's October 19 Order evaluates the entirety of the record and reaches a defensible conclusion that the Company's actions were imprudent with respect to economic curtailment, storage utilization, and reserve margins. CUB therefore disagrees with the Company's arguments and finds no error in the record upon which reconsideration is warranted. The Company's arguments related to errors and ambiguities are addressed below.

i. Economic Curtailment

The Company argues that the Commission's determination that "Great Plains' decision not to curtail was imprudent and caused the utility to incur unreasonable gas costs" is premised on an unreasonable interpretation of its tariffs.[22] However, the Commission's decision is well-reasoned and based on the plain contractual language contained in Section 3 of the Company's Interruptible Tariffs ("Priority of Service") and Section 6 of its General Terms and Conditions. As the Commission noted, "tariffs are interpreted like any other contract" and "specific tariff language" provides the best evidence for interpreting contractual obligations.[23] The words of the tariff should consequently be "given their plain and ordinary meaning and [be] viewed in accordance with the tariff as a whole."[24] In evaluating whether the Company "acted prudently with respect to curtailment,"[25] the Commission considered the Priority of Service language included below:

> 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 to interrupt whenever, 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

[19] *In the Matter of Xcel Energy's Petition for Approval of Electric Vehicle Pilot Programs*, Docket No. E-002/M-18-643, Order Denying Reconsideration, Denying Stay, and Approving Compliance Filing, at 3 (Oct. 7, 2019).
[20] Great Plains' Petition for Reconsideration, at 2.
[21] *Id*. at 1.
[22] *Id*. at 3 (quoting October 19 Order, at 21).
[23] October 19 Order, at 21 (internal references omitted).
[24] *Id*. at 21-22 (citing *Motorsports Racing Plus, Inc. v. Arctic Cat Sales, Inc.*, 666 N.W.2d 320, 323-24 (Minn. 2003).
[25] *Id*. at 21.

> service and allocation of capacity shall be accomplished in accordance with the provisions of the General Terms and Conditions, Section 6, Paragraph V.17.[26]

According to the Company, the tariff language limits the interests protected by curtailment to "firm customers' 'capacity requirements' which are 'given preference.' "[27] But as the Commission noted, this reading of the tariff is strained and "convert[s] the triggering condition that provides authority for curtailment from the broad 'protect the interest of its customers' to a more limited 'provide continued service to customers.' "[28] Although the Company is correct that the tariff recognizes how its firm customers' capacity requirements are normally given preference, it omits any consideration of the term "otherwise." Black's Law Dictionary defines "otherwise" as "by other causes or means," or "in other conditions or circumstances."[29] As applied to the tariff language, this definition clarifies that although firm customers' capacity requirements are to be given preference under "other conditions or circumstances," such preference does not apply when curtailment is necessary to "protect the interest of [the Company's] customers."

Upon a careful reading of the tariff language, the Commission determined that "Great Plains [had] 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" and that the "interest[s] to be protected [are] neither defined nor qualified other than to state that [they] must be the interest[s] of customers 'whose capacity requirements are otherwise and hereby given preference.' "[30] This reading is consistent with both the plain language of the tariff and the Company's General Terms and Conditions, which provide a schedule for prioritizing service:

> Company shall have the right, in its sole discretion, to deviate from the above schedule [for prioritizing service] 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.[31]

As the Commission properly noted, the General Terms and Conditions do "not limit Great Plains' broad authority to curtail," but instead "simply designate[] the order in which curtailment shall occur."[32] The

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[26] *Id*. at 19 (quoting Large Interruptible Gas Sales Service Rate 85, Original Sheet No. 5-50, *available at* https://www.gpng.com/wp-content/uploads/PDFs/Rates-Tariffs/Minnesota/MNGas85.pdf).
[27] Great Plains' Petition for Reconsideration, at 3 (emphasis omitted).
[28] October 19 Order, at 22.
[29] *Otherwise*, *Black's Law Dictionary* (11th ed. 2019).
[30] October 19 Order, at 22.
[31] *Id*. at 19 (quoting General Terms and Conditions, Original Sheet Nos. 6-23 to 6-24, *available at* https://www.gpng.com/wp-content/uploads/PDFs/Rates-Tariffs/Minnesota/MNGeneralTermsConditions.pdf).
[32] *Id*. at 22.

Company argues that both the interruptible tariff and the General Terms and Conditions are "inextricably linked,"[33] but neglects to recognize that neither of these contractual provisions alter the purpose of the other. The interruptible tariff establishes broad authority to curtail and establishes priority of service consistent with the General Terms and Conditions. In turn, the General Terms and Conditions identify the order of priority and provide the Company with "discretion to deviate from the default priority order."[34] While the Company's authority to deviate from that order is "limited to addressing operation issues on its system, its authority to curtail is only required to protect customer interest and is not similarly qualified."[35] The Commission's determination on this issue is based on the plain language of the applicable provisions and represents no error upon which reconsideration would be warranted.

Great Plains' further arguments related to customer expectations and its Grain Drying Tariff do not alter the reasonableness of the Commission's October 19 Order. First, the Company argues that because its tariff "does not explicitly provide for economic curtailment . . . [it] does not provide notice to customers that Great Plains can curtail for economic reasons."[36] In support of its argument, the Company references the filed-rate doctrine, which "forbids a regulated entity from charging its customers a rate other than the one duly filed with the appropriate regulatory authority."[37] While the Company is correct that its "Tariff speaks for itself and establishes the terms and conditions of service," it does so in a way consistent with the Commission's Order, *not* in the way suggested by Company.[38] When a "tariff is open to interpretation" and involves "constru[ing] technical terms" and defining utility obligations, the Commission is in the best position to determine its meaning.[39] The Commission found that while curtailment may have "historically occurred when system conditions required it to ensure reliable service," the tariff's plain language provides the Company with the "right . . . to curtail service to interruptible customers . . . to advance . . . customer interest."[40] The Commission's interpretation is consistent with the inclusion of the term "otherwise" and customers' "demonstrated . . . willingness . . . to periodically not receive gas service in exchange for lower gas rates."[41] The Commission's determination does not reflect errors that warrant reconsideration.

Second, the Company suggests that the Commission's reference to its Grain Drying Tariff fails to account for the differences between rate classes and is irrelevant to what is allowed under its interruptible tariff.[42] Specifically, the Company points to language in the Grain Drying Tariff that contractually requires grain drying customers to contact the Company and request service to

[33] Great Plains' Petition for Reconsideration, at 4.
[34] October 19 Order, at 22.
[35] *Id*.
[36] Great Plains' Petition for Reconsideration, at 6.
[37] *Hoffman v. N. States Power Co.*, 743 N.W.2d 751, 755 (Minn. App. 2008); *see also* Minn. Stat. § 216B.05 (requiring utilities to file rates and tariffs with the Commission).
[38] Great Plains' Petition for Reconsideration, at 6.
[39] *Hoffman v. N. States Power Co.*, 764 N.W.2d 34, 50-51 (Minn. 2009).
[40] October 19 Order, at 22.
[41] *Id*.
[42] Great Plains' Petition for Reconsideration, at 7.

"mitigate[] against an unpredictable increase of load."[43] But, as the Commission notes, the "grain-drying tariff's notice requirements do not provide Great Plains with any additional authority to curtail service to grain dryers beyond that provided in other interruptible tariffs."[44] Therefore, based on the Company's own reading of its tariff provisions, curtailment would only be proper if the gas system was faced with operational issues—issues that it argued were nonexistent during the February Event.[45] The fact that these customers were prevented from operating on February 17 (even though the Company claimed it had sufficient capacity)[46] therefore conflicts with the Company's argument that interruptible customers can only be curtailed for operational reasons. Although the Petition suggests that grain drying customers' usage patterns are distinct and warrant unique treatment, the Company still fails to address the underlying incongruence identified by the Commission. Either way, the reference to the Grain Drying Tariff does not—and should not—alter the Commission's determination that the interruptible tariff allows for economic curtailment.

ii. Storage Utilization

The Company makes several arguments suggesting that the Commission's determinations on storage utilization "are not supported by substantial evidence in the record."[47] However, as detailed more fully below, the Commission's Order reasonably addresses the Company's arguments and dispels them after careful consideration of the available evidence. In consequence, there is no error upon which reconsideration should be granted.

When used appropriately, storage assets provide a "flexible resource . . . for system balancing" that "mitigate[s] costs because [they] are filled in the summer when gas is cheaper."[48] The Company utilized these assets to their fullest potential throughout most of the February Event by withdrawing the maximum allowed amount of 3,944 Dth.[49] However, when making gas planning decisions for February 17, the Company argued that it anticipated lower gas prices for the following day and consequently reduced its storage utilization to be consistent with its planned daily withdrawal of 2,174 Dth.[50] Both the ALJ and the Commission found that the Company's expectation that extreme gas prices would moderate on February 17 was unreasonable.[51] The Commission likewise determined that the Company "failed to demonstrate that reasonable reliability concerns justified its decision not to maximize its available storage resources on February 17" and disallowed recovery of approximately $440,000.[52]

[43] *Id*.
[44] October 19 Order, at 23.
[45] *Id*. at 20.
[46] *Id*. at 23.
[47] Great Plains' Petition for Reconsideration, at 8.
[48] October 19 Order, at 11.
[49] *Id*. at 12.
[50] *Id*. at 12-13.
[51] *Id*. at 15-16.
[52] *Id*. at 16-17.

The Company mischaracterizes the Commission's Order by arguing that it "did not adequately consider the information available to Great Plains when it made the decision to revert to its storage plan for February 17."[53] Specifically, the Company argued that forecasted temperatures were increasing, it assumed gas prices would moderate, and that there was a need to ensure supply flexibility both on February 17 and throughout the remainder of the heating season.[54] But the Commission fully acknowledged—and rejected—these arguments after careful review of the record.

First, the Commission emphasized that the Company unreasonably assumed that increased temperatures would lead to moderating costs.[55] The Company emphasized that previous experience with the 2017-2018 New Year Event suggested natural gas spot prices could moderate quickly under the right conditions, but the record repeatedly shows that the impact of the February Event was significantly greater than the $67 Dth impact seen during the New Year Event.[56] By the time the Company was making its gas purchasing and supply decisions on February 16, there was a "known and ongoing risk that gas prices would remain at or near historic highs" for February 17.[57] The Company's own internal communications recognized the existence of a "risky price environment" that necessitated careful consideration of the utility's options.[58] Under these conditions, it was not reasonable to assume that the historically high prices experienced over the holiday weekend would dissipate overnight. Based on this information—which was available to the Company when it decided to reduce storage utilization—the Commission found it "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."[59]

Far from "elevat[ing] . . . the price of gas over all other considerations,"[60] the Commission's weighing of these diverse factors is a process that the Company should have undertaken in the first instance to satisfy its statutory obligation to provide "safe, adequate, efficient, and reasonable service"[61] at just and reasonable rates.[62] Considering the substantial impact that costs would have on customers is not an error that warrants reconsideration; it is an essential part of utility service. The Company's decision to "reduce storage withdrawals and run an excessive 13% supply reserve margin" was the result of its failure to "recognize . . . unprecedented costs," "understand the significant risk that those cost would persist," and "take reasonable steps to avoid incurring such costs unnecessarily."[63] The Commission's

[53] Great Plains' Petition for Reconsideration, at 9.
[54] *Id*.
[55] October 19 Order, at 16.
[56] *See*, *e.g.*, *id*. at 11 (noting that Gas Daily index prices settled at weighted average of $172/Dth on February 17).
[57] *Id*. at 16.
[58] *Id*. at 12.
[59] *Id*. at 16.
[60] *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*, MPUC Docket No. G-004/M-21-235, OAH Docket No. 71-2500-37763, Office of Administrative Hearings, Findings of Fact, Conclusions of Law, and Recommendation, at 35 (May 24, 2022) (hereinafter "ALJ Recommendation").
[61] Minn. Stat. § 216B.04.
[62] Minn. Stat. § 216B.03.
[63] October 19 Order, at 16.

Order reflects a reasoned determination that—based on the evidence available to the Company on the time its decision was made—Great Plains failed to "take reasonable steps to protect customers from any unnecessary purchases of spot gas to maintain . . . just and reasonable" rates.[64] There are no errors in the Commission's reasoning that warrant reconsideration.

Second, the Company argues that its decision to reduce storage was reasonable and prudent "in light of its operational needs for both February 17 and the remainder of the winter."[65] In its Petition, the Company cited to Witness Nieuwsma's testimony to suggest that "Great Plains was concerned with the potential for supply disruptions on February 17" and desired to maintain "storage flexibility . . . to ensure there [was] no loss of service."[66] As the Commission noted, "considering potential operational issues" is appreciated and warranted, especially under the circumstances seen during the February Event.[67] However, the same concerns that the Company cites as supporting its decision to reduce storage utilization are entirely inconsistent with its arguments that temperatures and prices would stabilize on February 17.[68] Given these competing statements, the Commission's weighing of the evidence was reasonable and its determination that Great Plains failed to meet the heavy burden of proving its actions were prudent does not constitute error for which reconsideration is warranted.

iii. Disallowance Calculations

The Company further argues that "[e]ven if the record support[s] the determination that Great Plains' decision not to maximize storage use on February 17 was imprudent," the use of a two percent reserve margin to calculate disallowances was unreasonable.[69] Instead, the Company suggests that a 13% reserve margin should have been utilized. In attempting to support its argument, the Company's Petition conflates the statements of Department Witness King with the prudency standard. Witness King testified that it is reasonable to "plan[] for supply slightly in excess of expected load requirements," but that the "amount of a supply reserve margin should be deliberately determined and explainable."[70] In its Petition, the Company appears to suggest that *any* reserve margin that can be "deliberately determined and explainable" is objectively reasonable.[71] This is incorrect. To be prudent, the Company's reserve margin must be reasonable at the time it was selected, "under all the circumstances, and based on the information that was or should have been known."[72]

After careful consideration of the record, the Commission determined the Company did not meet its burden to prove the use of a 13% reserve margin was prudent. Specifically, the Commission noted that the Company unreasonably relied on the "range of margins between forecasted and actual loads"

[64] *Id*.
[65] Great Plains' Petition for Reconsideration, at 11.
[66] *Id*.
[67] October 19 Order, at 16.
[68] *See id.*
[69] Great Plains' Petition for Reconsideration, at 12.
[70] *Id*. (quoting DOC. Ex. 507, at 32 (King Surrebuttal)).
[71] *See id*. at 13-14 (claiming that the Company explained its reserve margin in compliance with Witness King's testimony).
[72] October 19 Order, at 5.

that occurred over the holiday weekend to calculate its February 17 reserve margin.[73] Although Witness Nieuwsma testified actual load exceeded forecasted load by 9.6 to 16.6% during most of the February Event,[74] neither his explanation nor the Company's Petition address why "supply reserves of that magnitude were reasonable or justified when planning *for only one day ahead amidst moderating temperatures*."[75] Lastly, the Commission acknowledged the role of fuel-in-kind deductions imposed by pipeline tariffs,[76] but found that—together with the above considerations—the Company failed to "demonstrate[] that the reliability risks the Company could reasonably have anticipated . . . were sufficient to justify the reserve margin it used."[77]

Ultimately, the Commission's adoption of a 2% reserve margin to calculate disallowances was based on a reasonable review of the record and was "consistent with planning for purchases slightly exceeding projected load."[78] Such a reserve margin balances the need to provide safe and reliable utility service with the requirement to charge just and reasonable rates and does not constitute error upon which reconsideration should be granted.

D. <u>The Company's Petition should not otherwise persuade the Commission that it should rethink its decision.</u>

As illustrated both in the October 19 Order and this Answer, the decision to disallow 9.6 percent of the Company's Extraordinary Costs of $8.83 million was proper. In developing its disallowances, the Commission carefully weighed the Company's actions against the prudency standard and considered the overarching requirement that utilities provide "safe, adequate, efficient, and reasonable service"[79] at "just and reasonable rates."[80] The Commission's weighing of the information available to the Company at the time of the February Event constitutes the sort of reasoned analysis the Company should have originally engaged in. Because the Company failed to meet its burden to "prove its costs were incurred prudently and [would] result in just and reasonable rates,"[81] there is no reason for the Commission to reconsider its prior Order.

[73] *Id*. at 17.
[74] Great Plains' Petition for Reconsideration, at 13 (quoting GP Ex. 304, at 14 (Nieuwsma Rebuttal)).
[75] October 19 Order, at 17 (emphasis added).
[76] *Id*. at 14 (recognizing the Company's arguments that a 2 percent reserve margin does not adequately account for fuel-in-kind deductions).
[77] *Id*. at 17.
[78] *Id*.
[79] Minn. Stat. § 216B.04.
[80] Minn. Stat. § 216B.03.
[81] October 19 Order, at 5.

IV. CONCLUSION

Minnesota law affords the Commission broad discretion to grant or deny the Company's Petition. The Company has not raised new issues, pointed to new and relevant evidence, exposed errors or ambiguities in the underlying order, or otherwise raised arguments that should persuade the Commission to rethink its prior decision. Therefore, the Petition should be denied.

Sincerely, November 18, 2022

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