

Minnesota Public Utilities Commission
Staff Briefing Papers

Meeting Date: November 7, 2013*Agenda Item #1

Company: Northern States Power Company d/b/a Xcel Energy

Docket No. E,G002/C-12-1369

In the Matter of a Complaint by Suburban Rate Authority Against Northern States Power Company d/b/a Xcel Energy's use of a Billing Format for Damage Claims

Issue: Should the Commission approve the proposed package of changes to Xcel's notice of claim for damages agreed-upon by parties to this Docket.

Staff: Andrew Bahn651-201-2249

Relevant Documents

Suburban Rate Authority (SRA) Initial Filing..... December 21, 2012
Commission Order June 10, 2013
Xcel Compliance Filing July 25, 2013

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

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STATEMENT OF THE ISSUE

Should the Commission approve the proposed package of changes to Xcel's notice of claim for damages agreed-upon by parties to this Docket?

BACKGROUND

On December 27, 2012, the Suburban Rate Authority (SRA) filed a Complaint against Xcel Energy. In summary the Complaint alleged the following:

- Xcel has a policy of submitting claims for damage to Xcel's equipment allegedly caused by the municipalities' vehicles or other city-related causes, using Xcel's energy billing format;
- Xcel's claims for damages in its billing format include language noting "Bill," "Charges," a "Date Due," and an explanation regarding the due date "to avoid assessment of a late payment charge;"
- Damage claims such as these are non-contract, disputed tort claims brought against the municipality and are subject to evaluation by the municipality's insurance carrier and all defenses available to the municipality responding to a claim of alleged damages.
- Xcel's format for non-energy damages claims is misleading to municipal customers

The Commission sought comments on (1) whether the Commission has jurisdiction over the subject matter of the complaint, (2) whether it is in the public interest to investigate the allegations, and (3) what procedures the Commission should use if it investigates the complaint.

Between January 28 and February 22, 2013, the Commission received comments from the Department of Commerce, Xcel, the SRA, and several municipalities.

On May 16, 2013, the matter came before the Commission and on June 10, 2013, the Commission issued its Order Requiring Answer to Complaint and Establishing Procedures. In its Order the Commission found that it had jurisdiction of Xcel and the conduct alleged in the SRA's complaint and that there were reasonable ground to investigate the complaint. The Commission ordered Xcel to work with the SRA, interested municipalities, the Department, and the Commission's Consumer Affairs Office to explore potential changes to its notice of claim for damages with the goal of achieving a resolution that balances the interests of the parties. If the parties were able to resolve the dispute, the Commission ordered that they shall submit their agreement for the Commission's approval within 45 days of the date of this Order.

If the parties were not able to resolve the dispute, the Commission ordered Xcel to file an answer to the complaint within the same time period.

On July 25, 2013, Xcel submitted a proposed resolution to the issues raised in this Docket that stemmed from an agreement between the SRA, the Department, and the Commission's Consumer Affairs Staff that it states fully resolves the dispute in this Docket. The proposed resolution consists of a package of changes to Xcel's Notice of claim for damages that are

intended to apply to all Xcel claims for damage to its facilities. The proposed changes will be used with cities, other governmental agencies, and all other parties that Xcel determines are responsible for damages to its facilities.¹ In summary, the changes include:

- A new letter notification of Xcel's claim for damages to its facilities, providing the responsible party up to 30 days to contest the claim before Xcel will take further action to recover amounts it has determined are due and owing for damage to its property;
- Modifications to Xcel's statement of charges, including removal of the bill backer information and reference to late payment charges, as well as improved messaging that clearly states the charges are not for electric or natural gas service; and
- Modifications to Xcel's 30- 60- and 90-day "reminder" notices, should the responsible party not pay the amounts the Company has determined are due within 30 days of being charged.

PROPOSED RESOLUTION

The proposed resolution includes changes to the letter of notification, statement of charges and reminder notices.

Initial Claim of Damages Notification

Xcel's filing stated that the parties to this docket agreed to implementation of an initial letter notification that would advise an individual or entity (Responsible Party) that Xcel Energy has determined it is responsible for damages to Company facilities. If the entity is a city or other local unit of government, the Company's assigned Community Relations Manager would also initiate contact with city leadership regarding the Company's determination and impending notice.

In its filing Xcel stated the initial letter for claim of damages will:

1. Specify a claim number, the date damages occurred or were discovered and their location, and the amount of damages claimed;
2. Request the Responsible Party to notify the Xcel Energy Claims area within 30 days if it contests the claim; and
3. Note that Xcel may proceed to take action to recover all amounts it has determined are due for damage to its property.

If the Responsible Party disputes the claim, Xcel's filing states that it would follow Xcel's current dispute resolution process. If the claim goes undisputed for the 30 days specified in the

¹ The claim for damage notification for a city or other unit of state government is different from the claim for damage notification for all other Responsible Parties, with the difference being reference to Minn. Stat. §466.05, which governs notice of claims to municipalities.

notification letter, Xcel will proceed to send a statement of charges for the claimed damages amount.

Xcel's filing provided a sample of the modified statement of charges as Attachment A to its filing.²

Statement of Charges

Xcel's filing stated that the parties to this Docket have agreed to Xcel Energy issuing a statement of charges for the claimed damages amount, once the initial 30-day notice period has expired, or parties to the claim for damages have worked through the dispute resolution process. The agreed-upon statement of charges would continue to be presented on Xcel's standard billing form, with several changes that address the concerns raised. These changes are

1. The standard "bill backer" information that provides definitions of common energy billing terms would be removed, as would the Company's reference to Late Payment Charges.
2. The Company will implement messaging in the "Information About Your Bill" area on the first page of the statement that clearly states that the statement is *not* a bill for electric or natural gas service, which is emphasized through use of capital letters and underlining.
3. It will state it is a statement of damages to Xcel Energy facilities, and point the reader to page 2 of the bill for specific details regarding the previous Notice sent, as well as the specific damages included in the statement.
4. The direct phone number to the Xcel Energy Claims Department will be on the first page of the statement, rather than its current location with the specific damages information on page 2.

Xcel provided a sample of the modified statement of charges as Attachment B to its filing.

Reminder Notices

In cases that the Responsible Party does not contest the claim or pay the amounts Xcel has determined are due, Xcel issues Reminder Notices at 30- 60- and 90-day intervals beyond the initial due date on the Statement of Charges. Xcel noted that the Reminder Notices used for damage claims are the same as those used for all types of non-energy charges, such as Winter Construction, Excess Footage, etc. and, for this reason, Xcel explained these notices are necessarily more generally worded than the Notice of Claim and Statement of Charges.

The changes agreed-to by parties include:

1. A specific statement in the first sentence that the payment reminder is *not* for amounts owing for electric or natural gas service. Consistent with the Statement of Charges, this statement will be emphasized through use of underlining;

² Staff notes that Attachment A to Xcel's filing, Notice of Damage Claim, includes a contact information for the Responsible Party ("...PHONE or EMAIL") to contest the claim.

2. Additional text explaining that Xcel has undertaken an investigation and concluded the individual or entity is responsible for the amount indicated; and
3. State the Responsible Party's right to contest the claim.

Xcel provided samples of the 30- 60- and 90-day Reminder Notices as Attachment C to its filing.

Xcel concluded that the changes outlined in its proposed resolution fully resolves the dispute in this Docket and respectfully requested that the Commission approve the proposed package of changes agreed-upon by parties to this Docket. Xcel also asked the Commission to require Xcel to implement the changes within 30 days of its Order approving, or in conjunction with Xcel's implementation of its redesigned billing statement, whichever is later.

STAFF COMMENTS

Staff commends Xcel for working with the SRA, the Department, and the Commission's Consumer Affairs Office and reaching agreement on changes to its notice of claim for damages that resolves the dispute in this Docket. Staff has no concerns with the proposed changes to Xcel's notice of claim for damages agreed to by the parties.

DECISION ALTERNATIVES

1. Whether the Commission should approve the proposed package of changes to Xcel's notice of claim for damages agreed-upon by parties to this Docket?
 - a. Approve the proposed package of changes to Xcel's notice of claim for damages;
 - b. Deny the proposed package of changes to Xcel's notice of claim for damages; or
 - c. Take other action
2. Whether the Commission should require Xcel to implement the changes within 30 days of the Commission's Order approving, or in conjunction with Xcel's implementation of its redesigned billing statement, whichever is later.
 - a. Require Xcel to implement the changes within 30 days of the Commission's Order approving, or in conjunction with Xcel's implementation of its redesigned billing statement, whichever is later; or
 - b. Take other action

RECOMMENDATION

Staff recommends 1a and 2a