



ENERGY
CENTS
COALITION

Commit Energy Now To Survive

October 14, 2014

Jeanne M. Cochran
Administrative Law Judge
Office of Administrative Hearings
P.O. Box 64620
St. Paul, Minnesota 55164-0620

RE: In the Matter of the Application of Northern States Power D/B/A Xcel Energy
for Authority to Increase Rates for Electric Service in Minnesota

MPUC Docket No. E-002/GR-13-868

OAH Docket No. 68-2500-31182

Dear Judge Cochran:

Enclosed please find the Reply Brief of Energy CENTS Coalition. An Affidavit of Service is also enclosed.

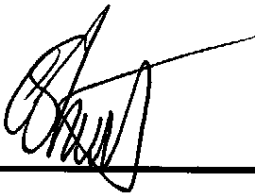
If you have any questions, please contact me at (651) 774-9010.

Sincerely,

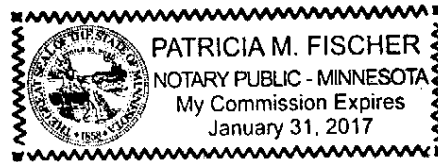
Pam Marshall

AFFIDAVIT OF SERVICE

Connee Schmidt, being duly sworn, says that on the 14th day of October 2014, she served the Reply Brief of the Energy CENTS Coalition In the Matter of the Application of Northern States Power D/B/A Xcel Energy for Authority to Increase Rates for Electric Service Rates in Minnesota, MPUC Docket No. E-002/GR13-868, upon the individuals on the attached service list by electronic filing, by U.S. Mail, and by electronic mail.



Connee Schmidt



Subscribed and sworn to before me
this 14th day of October, 2014

Notary Public

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STATE OF MINNESOTA
Before the Minnesota Office of Administrative Hearings
For the Minnesota Public Utilities Commission

In the Matter of the Application of
Northern States Power Company for
Authority to Increase Rates for Electric
Service in the State of Minnesota

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MPUC Docket No. E0002/GR-13-868
OAH Docket No. 68-2500-31182

REPLY BRIEF
OF THE ENERGY CENTS COALITION

October 14, 2014

Pam Marshall

On Behalf of:
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Table of Contents

Introduction	1
Part 1. An Inclining Block Rate (“IBR”) Structure for Xcel Energy	1
Part 2. The Company’s Fixed Monthly Customer Charge	5
A. Maintaining the Existing Customer Charge Does not Create an “Intra-Class Subsidy”	6
B. The Existing Customer Charge is not “Below Cost”	7
Summary of Conclusions and Recommendations	10

Introduction.

On September 23, 2014, Parties to this proceeding filed Initial Briefs. Those Initial Briefs set forth Parties' direct arguments regarding contested issues in Northern States Power Company's, aka Xcel Energy's, request for a general rate increase. In this Reply Brief, the Energy CENTS Coalition ("ECC" or "Energy CENTS") responds to the argument on two contested issues:

1. Whether the stipulated resolution of a proposal by the Clean Energy Interveners, actively supported by ECC, for the Company to move to an Inclining Block Rate ("IBR") structure is reasonable and in the public interest; and
2. Whether the Company should be allowed to increase its residential customer charge.

Part 1. An Inclining Block Rate ("IBR") Structure for Xcel Energy

At this point in the proceeding, the Office of Attorney General ("OAG") is the only party objecting to the stipulated resolution of the Inclining Block Rate ("IBR") structure proposed by the Clean Energy Interveners and actively supported by Energy CENTS. Both the Company and the Suburban Rate Authority signed onto the Stipulation. In addition, although the Department of Commerce, and Division of Energy Resources ("DER") did not sign the Stipulation, they did testify in support of the Stipulation. (Exh. 446).

The reason for such broad-based support for the Stipulation is that the OAG objections are entirely without merit. As DER Deputy Commissioner Grant testified, "evidence developed in the record for this case indicates that an IBR structure furthers important state energy goals, including encouraging conservation and affordability." (Exh. 446, p.1).

The OAG Initial Brief objects to the Stipulation, stating that “the Stipulation purports to require the Department (of Commerce) to convene a stakeholder group to discuss concerns raised by parties to this proceeding. The Department is supposed to complete the stakeholder meetings discussing these concerns, and issue a full report to the Commission, within 90 days of Xcel’s filing.” (OAG Initial Brief, at 72).

What the OAG *fails* to note in its argument is that the Department has *agreed* to convene the stakeholder meetings. The Department has further *agreed* to issue a report to the Commission in the 90-day timeframe. (Exh. 446).

The OAG further asserts that “recent history suggests that an improperly implemented IBR structure could substantially harm some ratepayers, particularly those with limited ability to alter their energy consumption.” (OAG Initial Brief, at 73). To support its objections, the OAG relies entirely on the experience with CenterPoint Energy, a natural gas company who sought to implement an IBR for its gas heating customers. (OAG Initial Brief, at 73-74).¹ The inapplicability of the CenterPoint experience (Exh. 239, 11-12) has simply been ignored by the OAG.² Moreover, in formulating its objections, the OAG has chosen to completely ignore the

¹ As has been previously noted, the IBR proposed in this proceeding exempts space heating customers.

² The fact that the CenterPoint IBR’s application to heating customers was significant in the Commission’s decision to terminate the IBR because of unintended high bills to high use customers is evident from the Commission’s Order. The Commission’s CenterPoint IBR specifically stated that “among the customers adversely [a]ffected (sic) were low-income customers in poorly-insulated homes. . .” CenterPoint Order, at 3. “Poorly insulated homes,” of course, might well be a problem for an IBR directed toward natural gas space heating. That consideration would *not* be relevant to an IBR, such as has been proposed in this proceeding, because the present IBR exempts electric space heating.

The Commission’s Order further expressed concern about renters living in multi-family buildings with only one meter. (CenterPoint Order, at 3). Again, however, this concern was directed toward space heating customers. In referencing this problem with renters, the Work Group Report (March 1, 2012), stated: “Some customers residing in rental properties may be prohibited by their lease from making energy conservation investments that affect the physical structure of the property and equipment (e.g., replacing windows or furnaces or installing programmable thermostats). These customers may have less opportunity to conserve energy than do other customers and there is an argument they should therefore be exempt from IBR. On the other hand, renters may be able to take other conservation steps such as lowering the thermostat and using window coverings to reduce heat loss.” (Work Group Report, at 6). References to “replacing windows or furnaces,” “installing programmable thermostats,” and “using window coverings to reduce heat loss” all clearly relate to space heating consumption.

experience of Minnesota Power, an electric company that, unlike CenterPoint, has an IBR that is very similar to that which has been proposed for Xcel. The OAG has chosen to ignore that the Minnesota Power IBR, which is analogous to the IBR that is the subject of the Stipulation, has, over the course of three years and more than 4.3 million bills, generated only 110 complaints. (Exh. 234 pp. 23-24).

Moreover, the OAG *completely* mis-characterizes the results of the CenterPoint workgroup regarding that gas company's IBR. The OAG attributes certain findings to "the workgroup," including, for example, its assertion that "the workgroup was ultimately unable to resolve the many problems associated with CenterPoint's IBR." (OAG Initial Brief, at 74).

In fact, according to the Commission's order terminating the CenterPoint IBR, the workgroup reached no *consensus* on potential solutions. The Commission order stated: "With *no recommendation made by the Workgroup*, most of the participants offered their *individual* suggestions for the future of the inverted block rate design." (In the Matter of an Application by CenterPoint Energy for Authority to Increase Natural Gas Rates in Minnesota, Docket No. G-008/GR-08-1075). Order Terminating Inverted Block Rate Structure, Accepting Evaluation and Workgroup Reports, and Requiring Compliance Filings, issued August 10, 2012) (hereafter CenterPoint Order) (emphasis added). The OAG's attribution of certain conclusions and findings to the CenterPoint workgroup is simply wrong.

Contrary to the negative reviews of the CenterPoint IBR which the OAG Initial Brief attributes to "the workgroup," the actual CenterPoint Workgroup Report stated as follows:

The workgroup, as a whole, did not reach consensus on whether a modified IBR should be proposed at this time. Some parties believed it is premature to forego the conservation potential of IBR without more information about whether IBR is effective at inducing conservation. Some parties believed the bill reductions to low-use customers under IBR should not be abandoned. Some parties believed a modified IBR is infeasible.

(CenterPoint Work Group Report, at 16).³

Even more importantly for this proceeding, the Commission in its CenterPoint Order stated: “The Department, the OAG, and the Suburban Rate Authority did not support reinstating the inverted block rates, even with modifications. . . The Izaak Walton League of America/Minnesota Center for Environmental Advocacy and the Energy CENTS Coalition supported reinstating the inverted block rate with modifications.” (CenterPoint Order, at 3).

This Commission language from the CenterPoint Order, which the OAG neglected to mention, is critical. *Of the three parties that opposed reinstatement of the CenterPoint IBR, only the OAG opposes the stipulated settlement in this proceeding.* In this case, however, the Suburban Rate Authority is a signatory to the Stipulation and the Department testified in favor of the Stipulation.

Contrary to what the OAG would have the Commission believe, the CenterPoint “workgroup” does not stand counter to the Stipulated resolution of the IBR proposed in this proceeding. In this case, two of the three parties that opposed the CenterPoint IBR support the proposed Stipulation.

Finally, the OAG objects to the IBR Stipulation, arguing that “a proposal to implement an inclining block rate (“IBR”) structure was introduced for the first time in the direct testimony of Clean Energy Intervenors (“CEI”) witness Paul Chernick.” (OAG Initial Brief, at 71).⁴

³ The CenterPoint Workgroup Report (March 1, 2012) is not in evidence in this proceeding, even though it has been characterized (and mischaracterized) by the OAG Initial Brief and OAG witnesses. Should the Commission believe that it is most appropriate to place the entire report in evidence, Energy CENTS requests that the Commission take administrative notice of the report, not for the truth of the matters asserted in that report, but rather as evidence of the deliberations and conclusions of the CenterPoint Workgroup. As a formal Workgroup, convened by Order of the Commission, the final product of the Workgroup is subject to administrative notice.

⁴ In fact, the OAG further argues that “an improperly implemented IBR structure could substantially harm some ratepayers. . .” (OAG Initial Brief, at 73). The OAG does not argue, let alone has it presented any evidence, that the IBR proposed for Xcel Energy is “improperly implemented.” Moreover, Energy CENTS does not further respond to this OAG assertion, having comprehensively addressed the fallacies in this assertion in its Initial Brief.

That statement, of course, is patently wrong. The Petition to Intervene of the Energy CENTS Coalition, filed on January 9, 2014, stated explicitly that, “ECC will advocate rate designs to mitigate the impact of the proposed rate increase on low-income residential customers.” (ECC Petition to Intervene, at para. 3). In addition, the Petition to Intervene of the Clean Energy Interveners, filed on February 19, 2014, could not have been more explicit. It stated: “Petitioners are concerned that NSP’s proposal does not meet the statutory requirement to ‘set rates to encourage conservation ... to the maximum reasonable extent.’ Minn. Stat. § 216B.03. To that end, Petitioners intend to advocate for an inverted block rate structure that increases the incentive for conservation and efficiency at the customer level.” (Clean Energy Interveners, Petition to Intervene, at 2). For nearly seven months, the OAG had the opportunity to explore alternative IBR structures with either or both ECC and the Clean Energy Interveners, whether through informal conversations, formal discovery, or other communications. The OAG declined to engage in any form of communication regarding the IBR and, therefore, their complaints should not be heard now.

Further, the OAG objections to the IBR Stipulation in this proceeding are not well-founded. For all the reasons set forth in the testimony and written briefs of the Energy CENTS Coalition, the IBR Stipulation should be approved.

Part 2. The Company’s Fixed Monthly Customer Charge

Although they disagree about what residential customer charge increase is merited, both the Company and the Department argue that the charge should be increased. The Company seeks to increase its non-heating residential monthly customer charge to \$9.25 (from \$8.00). (Xcel Initial Brief, at 141). The Department recommends an increase in the customer charge to

\$8.50. (Department Initial Brief, at 289). Both the Company and the Department proposals should be rejected. There should be no change in the residential customer charge.

A. Maintaining the Existing Customer Charge Does not Create an “Intra-Class Subsidy.”

Both the Company (Xcel Initial Brief, at 142) and the Department (Department Brief, at 290 - 291) argue that maintaining the residential customer charge at its existing level will result in “intra-class subsidies”—subsidies that purportedly flow from high-use customers to low-use customers. As Energy CENTS demonstrated, however, such subsidies would not occur.

The fundamental conceptual flaw in the argument that maintaining the existing customer charge creates intra-class revenues is that the argument de-averages the customer charge *revenue* but averages the customer charge *costs*. The argument then advances the unremarkable proposition that some revenue payments represent more than average costs while other revenue payments represent below average costs. (Exh. 237, at 4). Simply because not all customers are average does not mean that there is an “intra-class subsidy.” Further, when costs are de-averaged, the data shows that low-income, low-use customers would likely impose *fewer* costs on current ratepayers.

For example, low-income customers disproportionately live in housing units with 2 – 4 units rather than in single-family detached housing. As ECC witness Colton stated:

One of the primary costs that comprise an electric utility’s customer charge is the cost of the service drop for individual housing units. The per housing unit investment for a service drop for a building with 2 – 4 housing units would be less than the per-unit investment for a single family home. Since lower incomes are positively associated with buildings having 2 – 4 housing units, it becomes clear that, all other things being equal, there is a reverse subsidy flowing from lower-use, lower-income households to higher-income households.

(Exh. 237, at 7). Colton established the relationship between low-incomes and residence in buildings with 2 – 4 housing units. (Exh. 237, at 6-7). Colton noted:

One objective of utility ratemaking is to group customers together when they have sufficiently similar characteristics to justify averaging costs and revenues over that group. If the characteristics of specific groups of customers are sufficiently dissimilar to make that grouping (and associated averaging) inappropriate (e.g., heating and non-heating customers), that group of customers should be segregated out into a separate customer class with an independent revenue requirement calculated for that new customer class. In the absence of doing that, however, when costs are averaged over the group, revenues should be averaged over the same group as well.

(Exh. 237, at 8).

It is impossible to validly assert, as the Company and Department seek to do, that simply because customers with different income characteristics pay a different proportion of the average customer charge costs, that one group of customers is “subsidizing” another group of customers. For customer-related costs within the residential customer class, cost-causation does not occur on an average basis. To compare de-averaged revenues to average costs is entirely inappropriate.

(Exh. 237, at 11).

B. The Existing Customer Charge is not “Below Cost.”

The Company and the Department both seek to bolster their argument that the residential customer charge should be increased by arguing that the existing customer charge is “below cost.” (Xcel Initial Brief, at 141; Department Initial Brief, at 289). They fail to acknowledge the mistake made in the Company’s Class Cost of Service Study (CCOSS) in calculating customer costs. The CCOSS was never intended to be used for rate design purposes. It is instead intended

to identify how the Company's costs are to be allocated between customer classes. (Exh. 280, at 28; Exh. 293, at 6).

One of the primary costs involved with the CCOSS not intended to be used for rate design purposes are the costs of the infrastructure needed for the Company to offer service in all areas of its service territory. Called "spanning costs," these costs should not be considered "customer costs" for rate design purposes. CEI Witness Chernick explained:

Xcel chooses to classify a wide range of costs as customer-related for purposes of the CCOSS. Many of those costs are classified as customer-related, not because they are driven by the number of customers on the system, but because Xcel has not identified a better classification factor to split among classes the costs of spanning the service territory. As Bonbright, Danielsens, and Kamerschen put it, these include area-spanning costs that are fundamentally "unassignable."

(Exh. 293, at 6, citations omitted). The relevant costs to be included in the fixed monthly customer should be limited to the avoidable costs of metering, billing, customer service and service-drop maintenance. (Exh. 293, at 7). That avoidable cost relevant to rate design is less than 40% of the total cost that Xcel has classified as customer-related and included in its \$15.86 monthly estimate of residential customer cost. (Exh. 293, at 7).

Even Department witness Peirce agreed that the costs appropriate for including in the customer charge were limited to "metering, billing, customer service and ongoing operation and maintenance of the customer's connection to the system." (Exh. 293, at 7). When Xcel re-computed its customer costs limited to the cost categories identified by Ms. Peirce, plus transformers and the capital cost of service drops, it found an appropriate customer charge to be \$6.51/month for the residential class, *below* the existing customer charge. (Exh. 280, at 29; Exh. 293, at 7).

Had Ms. Peirce used the MCEA IR-21 residential cost of \$6.51/month. . . she would have concluded that small residential customers are already paying more than the costs required by their remaining as customers, so large customers are not subsidizing them. Moving the existing monthly customer charges toward a customer cost that included only Ms. Peirce’s cost categories would require a reduction of the customer charges, not an increase.

(Exh. 293, at 7).

In other words, the argument advanced by the Company and the Department in favor of an increase in the customer charge is flawed for two basic reasons.

- First, the argument that an increase in the customer charge is needed to prevent an “intra-class subsidy” from low users to high users is flawed because it compares de-averaged revenues to average costs. If the Company and the Department would have de-averaged costs as well, they would have found that low users impose lower customer costs on the Company.
- Second, the argument that an increase in the customer charge is needed to move the customer charge closer to “cost”⁵ is flawed because they include non-customer-related costs in the customer charge. If the Company and the Department would have excluded those non-customer-related costs, they would have found an appropriate residential customer charge to be \$6.51, a rate that is *below* that which is currently being charged.

Based on these reasons, as well as the data and discussion presented in the ECC Initial Brief, the Energy CENTS Coalition urges the Commission to reject proposals to increase the residential customer charge and, instead, to maintain the existing residential customer charge.

⁵ For example, the Department clearly grounds its argument for an increased customer charge on the cost study of the Company. “Because Residential customer costs are \$15.86 per month. . . a fifty cent increase is a very modest movement toward cost that will reduce that subsidy.” (Department Initial Brief, at 294). Given the finding above that, using the customer cost categories identified by its own witness, customer costs are *not* \$15.86 per month, this argument falls apart.

Summary of Conclusions and Recommendations

Based on the data and analysis presented in the Energy CENTS Initial and Reply Briefs, along with the information and discussion in the Direct, Rebuttal and Surrebuttal Testimony filed by ECC witnesses Roger Colton and Pam Marshall, the Energy CENTS Coalition recommends that the Administrative Law Judge (“ALJ”) and the Commission take the following actions in resolution of this rate proceeding:

- The ALJ and Commission should approve the IBR Stipulation as filed (Exh. 135), describing how the IBR should be presented to, and considered by, the Commission.
- The ALJ and Commission should reject all proposals to increase the residential fixed monthly customer charge. The existing residential customer charge of \$8.00 should be retained.
- The ALJ and Commission should approve the Revenue Decoupling Mechanism (RDM) as proposed by the Company with one small modification.
- The ALJ and Commission should modify the proposed RDM as follows: rather than approving a per-kWh charge through which to collect the RDM shortfall, the Commission should calculate the shortfall as a percentage of the Company’s total residential energy revenue. The adjustment to future bills should then be calculated as a percentage of the customer’s total energy bill.

Respectfully submitted,

October 14, 2014



Pam Marshall, Executive Director
Energy CENTS Coalition