

Surrebuttal Testimony
James R. Alders

Before the Minnesota Public Utilities Commission
State of Minnesota

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

MPUC Docket No. E002/CI-13-754
OAH Docket No. 48-2500-31139
Exhibit ____ (JRA-3)

OAG Testimony – Resource Planning

September 19, 2014

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1 **I. INTRODUCTION**

2
3 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

4 A. My name is James R. Alders. I am a Regulatory Consultant for Northern
5 States Power Company, a Minnesota corporation (“NSPM” or the
6 “Company”). The Company is a wholly-owned utility operating company
7 subsidiary of Xcel Energy Inc. My business address is 414 Nicollet Mall,
8 Minneapolis, MN 55401.

9
10 Q. HAVE YOU TESTIFIED PREVIOUSLY IN THIS PROCEEDING?

11 A. Yes. I provided Direct Testimony, Exhibit ____ (JRA-1) and Rebuttal
12 Testimony, Exhibit ____ (JRA-2).

13
14 Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

15 A. In my Surrebuttal Testimony, I respond to the Office of the Attorney General
16 – Antitrust and Utilities Division (“OAG”) witness Mr. John Lindell’s
17 Rebuttal Testimony related to the Company’s management of the Life-Cycle
18 Management (“LCM”) and Extended Power Uprate (“EPU”) program
19 (“LCM/EPU Program,” “LCM/EPU Project,” “Project,” or “Program”) at
20 the Monticello Nuclear Generating Plant (the “Plant” or “Monticello”) and
21 the OAG’s proposed disallowance of costs we incurred for the Project.

22
23 My Surrebuttal Testimony covers three topics arising out of Mr. Lindell’s
24 Rebuttal Testimony. They are:

- 25 1. His criticism of the Department of Commerce, Division of Energy
26 Resources (“Department”) and its cost-effectiveness disallowance.¹

¹ Lindell Rebuttal at 2:2-12:10.

1 2. His claim that the Company has not provided accurate or forthright
2 information about the costs we incurred in connection with the
3 LCM/EPU Program.²

4
5 3. His recommendation that the Minnesota Public Utilities Commission
6 (“Commission”) impose a disallowance of “at least” \$321 million and
7 further deny the Company a return on all costs in excess of \$320 million.³

8
9 Q. PLEASE SUMMARIZE YOUR RESPONSE TO THE OAG’S REBUTTAL TESTIMONY?

10 A. Mr. Lindell’s testimony focuses on the Company’s implementation of the
11 LCM/EPU Program and our management prudence in that implementation.
12 He concludes that all costs in excess of those used for modeling purposes in
13 the Certificate of Need should either be disallowed outright or denied a return
14 on the investment. The Company does not agree that costs should be capped
15 at the Certificate of Need level under these circumstances. While there may
16 be circumstances, such as competitive bidding and wind farm construction,
17 where a different policy choice could be made on a going-forward basis,
18 imposing a cost cap retroactively in this nuclear construction proceeding, as
19 urged by Mr. Lindell, would not be appropriate or supported by the record.

20
21 Q. WHY IS A COST CAP AT THE CERTIFICATE OF NEED STAGE NOT THE BEST
22 POLICY APPROACH IN THIS CASE?

23 A. In 2008, when we sought the Certificate of Need, the Commission had not
24 considered imposing a cap on costs. I discuss this issue in greater detail later
25 in my Surrebuttal Testimony. We urge the Commission to apply the prudent

² Lindell Rebuttal at 24:8-25:21.

³ Lindell Rebuttal at 29:19-30:2.

1 investment test that was described by Company Witness Mr. David M. Sparby
2 in his Rebuttal Testimony.

3
4 Q. DO YOU HAVE CONCERNS ABOUT THE BASIS FOR MR. LINDELL'S
5 RECOMMENDED DISALLOWANCE?

6 A. Yes. We disagree with Mr. Lindell's approach to reviewing and critiquing the
7 Company's implementation of the Program. As we have described in detail in
8 our Direct and Rebuttal Testimony, the Company made reasonable decisions
9 and took reasonable actions in the face of difficult and evolving
10 circumstances.

11
12 In criticizing our Program implementation, Mr. Lindell relies exclusively on
13 the Direct Testimony of the Department witnesses. In particular, he expands
14 upon the discussion of Department consultants Mr. Mark W. Crisp and Dr.
15 William R. Jacobs (collectively "Department's Consultants"). Mr. Lindell
16 draws conclusions from their testimony not supported by their testimony or
17 by the record as a whole.

18
19 While it can be appropriate to adopt the analysis and recommendations of
20 another party, that is not what Mr. Lindell has done here. Rather, Mr. Lindell
21 uses their Direct Testimony to create his own conclusions, some of which are
22 substantial expansions upon the Department's Consultants' discussion. Mr.
23 Lindell does not support his conclusions with his own review of the relevant
24 facts; rather his conclusions are drawn from the statements of Mr. Crisp and
25 Dr. Jacobs.

1 Q. WHY DO YOU SAY THAT MR. LINDELL'S OPINIONS GO BEYOND MR. CRISP'S
2 AND DR. JACOBS' DIRECT TESTIMONY?

3 A. First of all, Mr. Lindell's testimony conveys an overall assumption that all
4 costs in excess of the estimates included in the Certificate of Need proceeding
5 are inherently excessive. He points to a number of the examples given by Mr.
6 Crisp and Dr. Jacobs of areas where costs increased from the initial estimates,
7 but he does not address the reasons for those increases or the alternatives that
8 were available to the Company at the time decisions were made that resulted
9 in cost increases. Nor does he address the potential that costs could have
10 been even higher if we had not proactively managed the Program.

11
12 Our Rebuttal Testimony responds to all of the underlying factual issues raised
13 in Mr. Crisp's and Dr. Jacobs' testimonies and explains that, while costs
14 increased, this was a reasonable approach under the circumstances. Indeed, in
15 some instances, we showed that our decisions resulted in cost savings
16 compared to what would otherwise have occurred. Company witness
17 Mr. Timothy J. O'Connor's Surrebuttal Testimony provides additional context
18 on these issues.

19
20 Q. WERE THE DEPARTMENT'S CONSULTANTS CRITICAL OF THE COMPANY?

21 A. Yes, but there is a significant difference between being critical of our
22 performance and concluding that the utility acted imprudently. I recognize
23 that the Department's Consultants are critical of the Company's performance,
24 and particularly with our inability to predict the higher costs we encountered.
25 I read their testimony generally to say that if we had done a better job of
26 predicting costs in 2006-08 we would have had a more accurate picture of the
27 actual costs of the initiative during the Certificate of Need stage. But neither

1 Mr. Crisp nor Dr. Jacobs state in their Direct Testimony that these
2 shortcomings were the result of “imprudence.”⁴ And neither of them quantify
3 any costs arising out of any alleged imprudence.
4

5 But Mr. Lindell substantially expands upon the Department’s Consultants’
6 criticisms and assumes that, for every dollar that exceeded the estimate used
7 for modeling alternatives in the Certificate of Need, the Company must have
8 been imprudent. This expansion effectively imposes a standard of perfection
9 or a “strict liability” test, which is inconsistent with the prudent investment
10 standard. This recommendation is inconsistent with the fact-based analysis
11 under the prudent investment standard.
12

13 **II. RESPONSE TO OAG TESTIMONY**

14 **A. OAG Criticism of Department Prudence Analysis**

15 **A. OAG Criticism of Department Prudence Analysis**
16 Q. MR. LINDELL CRITICIZES THE DEPARTMENT’S ANALYSIS AND APPLICATION OF
17 THE PRUDENT INVESTMENT STANDARD.⁵ HOW DO YOU RESPOND?

18 A. I describe the prudent investment standard from my perspective as a
19 regulatory policy analysis. From that policy perspective, Department witness
20 Mr. Christopher J. Shaw and Mr. Lindell provide a discussion on the standard
21 to be applied to the Company’s decisions and actions. Mr. Shaw focuses
22 largely on the Company’s initial decision whether to proceed with the
23 integrated effort, as opposed simply to undertake the required LCM to keep
24 Monticello viable for 20 more years. This “decisional prudence” approach

⁴ In the response to the Company’s Information Request No. 8, Mr. Crisp specifically stated that he did not determine that Xcel Energy’s actions were imprudent. Exhibit __ (TJO-2), Schedule 1.

⁵ Lindell Rebuttal at 2:2-3.

1 allows the Commission to focus on whether the work we did at Monticello
2 was appropriate and whether our initial decision to proceed was prudent.

3
4 Mr. Lindell's focus, on the other hand, is much more on issues of
5 "management prudence." He does not appear to question the Company's
6 decision to proceed with the integrated LCM/EPU Program, but rather
7 focuses on whether the Company implemented the Program appropriately.

8
9 Q. ARE BOTH ANALYSES APPROPRIATE IN A PRUDENCE REVIEW?

10 A. Yes. From a regulatory policy perspective, Mr. Shaw's overall discussion
11 about whether a capital project should be undertaken in the first place based
12 on information known, or that reasonably should have been known, is a
13 traditional application of the prudent investment standard. It is appropriate
14 for the Commission to consider whether the Program should have been
15 undertaken at all, based on what we knew or reasonably should have known at
16 the time we decided to proceed. Likewise, Mr. Lindell's concern about
17 management of the Program implementation is a traditional application of the
18 regulatory policy standard. It is appropriate for the Commission to consider
19 whether the Company's decisions and actions implementing the construction
20 of the modifications was reasonable under the circumstances we encountered
21 based on what we knew at the time.

22
23 Q. HOW DO YOU RESPOND TO MR. LINDELL'S CRITICISMS OF THE DEPARTMENT?

24 A. The Company agrees that the Department's position misapplies the prudent
25 investment standard by imposing a cost-effectiveness measure using 2008
26 decisions updated to 2013 costs and Dr. Jacob's updated LCM/EPU split.
27 Superimposing 2013 costs and the split on 2008 decisions, necessarily injects

1 hindsight into the analysis. But Mr. Lindell also fails to apply the prudent
2 investment standard correctly. He assumes that higher-than-projected costs
3 must mean mismanagement and that excess costs should be disallowed (or
4 denied a return) simply because they were higher than initially predicted.

5
6 Q. WHAT ARE YOUR CONCERNS OVER THESE APPLICATIONS OF THE STANDARD
7 FROM A REGULATORY POLICY PERSPECTIVE?

8 A. While both the Department and the OAG provide helpful context to guide
9 the Commission's deliberations on the quality of our decisions and actions,
10 both failed to apply the prudent investment standard correctly. Both, in their
11 own way, rely on hindsight and second-guessing the Company's decisions and
12 actions based on today's circumstances rather than focusing on what we knew
13 or reasonably should have known at the time decisions or actions were taken.

14
15 In many instances, the Company was faced with two or more approaches to
16 various decisions and actions for the Program. As discussed by Mr.
17 O'Connor, we evaluated the approaches presented and selected a reasonable
18 approach based on the facts at the time. It is inappropriate now, six or more
19 years after a decision was made, to second-guess that another option should
20 have been selected based on only hindsight criticisms.

21
22 Also, both Mr. Lindell and Mr. Shaw use the end result cost (\$665 million
23 without AFUDC) as the starting point input into their analyses. For Mr. Shaw
24 the \$665 million becomes the input into his after-the-fact cost-effectiveness
25 analysis. For Mr. Lindell, the \$665 million (plus AFUDC of \$83 million) and
26 then less the \$320 million Certificate of Need amount is his starting point.
27 Mr. Shaw does not attempt to determine what was the estimated cost we

1 should have reasonably foreseen in 2008 but rather superimposes actual costs.
2 Likewise, he does not calculate how much is attributable to actual imprudence
3 or what the final cost of the Program would have been absent any
4 imprudence.

5
6 Q. HOW DO YOU RESPOND TO MR. LINDELL'S STATEMENT THAT "THE METHOD
7 THE DOC USED WAS NOT A REVIEW OF THE PRUDENCE AND
8 REASONABLENESS OF THE COST OVERRUNS..."?⁶

9 A. Mr. Lindell appears dissatisfied that the Department focused on the initial
10 decision to proceed with the Program, and not on management prudence.⁷ I
11 agree that the Department has not provided evidence that establishes that the
12 Company was, in fact, imprudent in its decisions and actions either to proceed
13 with the Program or in its implementation of the Program.

14
15 Q. WHAT IS YOUR PRIMARY CONCERN OVER MR. LINDELL'S APPROACH.

16 A. To demonstrate imprudence Mr. Lindell must go beyond high-level
17 statements and assumptions. It is necessary to assess the specifics of our
18 decisions and actions and determine whether they were unreasonable at the
19 time they were made. It is not sufficient to assume that, because costs are
20 higher, the increases must have been caused by "mismanagement."

21
22 In our Rebuttal Testimony, the Company provides a robust analysis of all of
23 the criticisms upon which Mr. Lindell relies. We explained that our
24 management decisions during implementation were driven by changing
25 circumstances⁸ and our overriding desire to ensure that Monticello would

⁶ Lindell Rebuttal at 2:2-3.

⁷ Lindell Rebuttal 19:15-17

⁸ O'Connor Rebuttal at 63:19-72:23.

1 remain a safe and reliable resource for our customers through 2030.⁹ We
2 specifically addressed issues about how we prepared the initial estimate¹⁰ and
3 considered whether we could have come up with a higher initial estimate at
4 the time.¹¹ We responded to Mr. Crisp’s criticisms about our “disjointed”
5 implementation,¹² so-called ‘starts and stops’,¹³ potential inefficiencies in our
6 installation effort,¹⁴ the timing of implementation,¹⁵ why evolving project
7 management to meet the circumstances is appropriate¹⁶ and why changing
8 contractors actually saves money in the long run.¹⁷ We even addressed issues
9 raised by the OAG in discovery. We provided a discussion of potentially
10 duplicative design costs, which was a topic raised by the OAG in discovery.¹⁸
11 In this discussion Mr. O’Connor responded to Mr. Crisp’s criticisms about the
12 Company’s management prudence, including discussing the difference in
13 productivity of our craft labor for both the 2011 and 2013 outages and
14 confirming that work was difficult in both outages.¹⁹ We attempted to round
15 out the record on management prudence issues for the Commission, including
16 responding to issues addressed by the OAG in discovery relating to alleged
17 duplicative design.²⁰

⁹ O’Connor Rebuttal at 59:18-20; 81:1-121:23.

¹⁰ O’Connor Rebuttal at 33:16-43:15.

¹¹ O’Connor Rebuttal at 43:17-46:10.

¹² O’Connor Rebuttal at 62:5-12.

¹³ O’Connor Rebuttal at 78:15-26.

¹⁴ O’Connor Rebuttal at 46:12-49:7.

¹⁵ O’Connor Rebuttal at 49:9-51:2.

¹⁶ O’Connor Rebuttal at 63:19-70:15.

¹⁷ O’Connor Rebuttal at 42:20; 60-1-63:17.

¹⁸ O’Connor Rebuttal at 78:13-80:9 and Schedule 29.

¹⁹ O’Connor Rebuttal at 73:18-72:22.

²⁰ O’Connor Rebuttal at 78:13-80:9 and Schedule 29.

1 Q. DOES MR. LINDELL’S TESTIMONY PROVIDE A BASIS FOR FINDING IMPRUDENCE
2 OR ASSESSING A REMEDY?

3 A. No. His opinion of imprudence is non-specific and not based on specific
4 facts to show our decisions or actions were not reasonable under the
5 circumstances. His proposed remedy is arbitrary and has no support in the
6 record. Finally, the remedy he proposes is disproportionately high.

7

8 **B. Company Communications to the Commission**

9 Q. WHAT ASPECTS OF THE COMPANY’S COMMUNICATIONS ARE YOU RESPONDING
10 TO IN THIS SECTION OF YOUR SURREBUTTAL TESTIMONY?

11 A. In my Rebuttal Testimony, I discussed the Company’s efforts to keep the
12 Commission and stakeholders informed about the status and costs of the
13 LCM/EPU Program.²¹ My Surrebuttal Testimony focuses on two incorrect
14 conclusions that Mr. Lindell reaches in his Rebuttal Testimony:

15 1. Mr. Lindell suggests that the Company did not provide the Commission
16 with accurate information at the time of the 2012 rate case based on Dr.
17 Jacobs’ hypothetical 85.7% EPU split of the Program’s costs.²²

18

19 2. Mr. Lindell asserts that the Company was not “forthright” in its disclosure
20 in this case of the “real cost” of the LCM/EPU Program because the
21 Company’s statement of approximately \$665 million capital costs did not
22 include AFUDC and, as Department witness Ms. Nancy A. Campbell
23 testifies, adding AFUDC to the capital costs results in an aggregate
24 ratepayer impact of approximately \$748 million.²³

²¹ Alders Rebuttal at 15:1-18:2.

²² Lindell Rebuttal at 24:8-10.

²³ Lindell Rebuttal at 25:14-21.

1 1. 2012 Rate Case

2 Q. HOW DO YOU RESPOND TO MR. LINDELL’S SUGGESTION ABOUT INACCURATE
3 INFORMATION AT THE TIME OF THE 2012 RATE CASE?

4 A. I disagree with Mr. Lindell on several grounds. The information we provided
5 during the 2012 rate case, Docket No. E002/GR-12-961, was accurate and
6 targeted for the purposes being addressed in that rate case. Notably, the
7 Commission was not assessing the Company’s prudence in that Docket.
8 Rather, the Commission was reviewing whether the investments at Monticello
9 were “used and useful” sufficient to be included in rates.

10
11 Q. WHAT WAS THE “USED AND USEFUL” ISSUE IN THE 2012 RATE CASE?

12 A. The Company argued that the entire LCM/EPU Program was “used and
13 useful” and should be included in the 2013 test year because the upgrades
14 were actually in-service and being used to produce power, albeit at existing
15 (rather than uprate) levels. The Company maintained that the lack of a
16 Nuclear Regulatory Commission (“NRC”) license for the EPU was not
17 relevant to whether the investments were “used and useful.” We argued that
18 the costs of the overall Program should not be allocated between LCM and
19 EPU costs for ratemaking purposes since all of the costs were incurred as part
20 of a single integrated initiative and was for the overall betterment of the plant.

21
22 The Department and other parties (including the Minnesota Chamber of
23 Commerce (“MCC”)) opposed the Company’s position, generally asserting
24 that upgrades attributable to the EPU were not yet “used and useful” and
25 should not be included in rates until after the EPU license amendment had
26 been received from the NRC. MCC specifically argued that the Commission
27 should impose a hypothetical allocation between LCM and EPU costs based

1 on the 58.4/41.6 percent LCM/EPU split the Company used for modeling
2 purposes in the EPU Certificate of Need (Docket No. E002/CN-08-185).²⁴
3 MCC argued that this breakdown should be used to determine the proportion
4 of the costs that are “used and useful.”

5
6 Q. DID THE COMPANY’S POSITION IN THAT PROCEEDING PREVAIL?

7 A. No.²⁵ The Commission accepted MCC’s position, finding that 58.4 percent of
8 our investments in the LCM/EPU Program at Monticello were used and
9 useful and that 41.6 percent were not.

10
11 Q. DOES THE COMPANY AGREE THAT A PERCENTAGE DIFFERENT FROM 58.4/41.6
12 SHOULD BE USED IN THIS PROCEEDING?

13 A. Generally the Company does not support allocating the costs between LCM
14 and EPU for purposes of this prudence review. If, however, the Commission
15 believes it is appropriate to allocate the costs between the LCM and EPU
16 aspects of the initiative, then our position is that the allocation should be
17 based on what we knew or reasonably should have known in 2008 when the
18 LCM/EPU split was derived to aid in the Commission’s alternatives analysis.

19
20 I was personally involved in the preparation of the 2008 Certificate of Need
21 Application and I worked closely with the nuclear department throughout that
22 Docket. I advised the project sponsors that the Company needed to provide

²⁴ Alders Direct at 22:18-23; Alders Rebuttal at 22:21-24.

²⁵ *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION at ¶ 84 (footnote omitted)(July 3, 2013). “The Commission agrees with the ALJ that only the LCM portion of the LCM/EPU project is used and useful. The Commission also agrees that 41.6% is the portion of the project properly attributable to the Extended Power Uprate, which cannot serve ratepayers until it is licensed by the NRC.” Findings of Fact, Conclusions of Law and Order, p. 19 (Sept. 3, 2013).

1 certain cost data relating to the cost of the incremental 71 MW associated with
2 the EPU to facilitate the Commission's analysis of alternatives.

3
4 The nuclear department had not conducted an incremental or avoidable cost
5 study because they viewed the EPU as integrally intertwined with the ongoing
6 LCM work that was required to keep the Plant viable for 20 more years. The
7 same pieces of equipment needed to be addressed whether or not the uprate
8 was pursued and that led to the appropriate decision of treating it as an
9 integrated effort. In preparing the 58.4/41.6 percent LCM/EPU split for the
10 Certificate of Need, the nuclear department applied high-level engineering
11 judgment to estimates and assessed that \$133 million was attributable to the
12 EPU.²⁶

13
14 Because any allocation is by definition dependent upon judgment, the
15 Commission should consider whether the judgment in 2008 to allocate the
16 costs as we did was reasonable under the circumstances at the time. If
17 anything, the split used at the Certificate of Need stage was conservative. As
18 shown on Mr. O'Connor's Rebuttal Testimony,²⁷ prior to the Certificate of
19 Need, the Company had initially assumed only 15-20 percent of overall costs
20 to keep Monticello viable for 20 years would be attributable to the uprate.
21 Mr. Lindell provides no independent facts to support use of any split other
22 than the 58.4/41.6 percent split in this proceeding.

²⁶ See O'Connor Rebuttal at 82:12-24.

²⁷ O'Connor Rebuttal at Schedule 4 at 14.

1 Q. WHY DID THE COMPANY PREPARE AN ANALYSIS SHOWING THAT 78 PERCENT
2 OF THE COSTS WERE UNAVOIDABLE LCM AND ONLY 22% OF THE COSTS WERE
3 AVOIDABLE IF THE COMPANY HAD NOT PURSUED THE EPU?

4 A. I cover this subject in my Rebuttal Testimony.²⁸ In short, the analysis we
5 provided in our Direct Testimony showed how much of the costs could have
6 been avoided had we not pursued the EPU. This was a data point we
7 understood stakeholders were interested in. It was not intended to substitute
8 for the Commission's 2008 Certificate of Need analysis.

9

10 Q. MR. LINDELL RELIES ON DR. JACOBS' PROPOSED SPLIT. WHY SHOULD THE
11 COMMISSION NOT USE IT IN ASSESSING THE COMPANY'S PRUDENCE?

12 A. In his Rebuttal Testimony, Mr. O'Connor provides extensive testimony that
13 Dr. Jacobs' split analysis was flawed and his conclusion is neither accurate nor
14 reliable for use in this proceeding.²⁹ I provide an extended discussion of the
15 ratemaking implications of Dr. Jacobs' split.³⁰ Mr. Lindell's reliance on this is
16 equally misplaced.

17

18 *2. Capital Cost Estimate*

19 Q. DID THE COMPANY PROVIDE THE COMMISSION AND PARTIES ACCURATE
20 ESTIMATES OF THE CAPITAL COSTS INCURRED IN THIS PROCEEDING?

21 A. Yes. The Commission asked that we provide an accounting of our actual
22 expenditures in furtherance of the initiative. The \$665 million is an accurate
23 statement of our capital costs. Witness Mr. Scott L. Weatherby provides the
24 accounting records substantiating this amount in his Direct Testimony. No
25 party has challenged the accuracy of this amount in this proceeding.

²⁸ Alders Rebuttal at 27:8-27.

²⁹ O'Connor Rebuttal at 84:13-126:17.

³⁰ Alders Rebuttal at 25:16-28:8.

1 During discovery, Ms. Campbell asked us to add the financing costs associated
2 with including AFUDC.³¹ We provided that information as she cites in her
3 Direct Testimony.³² The \$748 million figure used in the Department's Direct
4 Testimony represents our \$665 million capital costs plus the Department's
5 assessment of AFUDC.

6
7 If the capital costs of a project are prudently incurred, then the financing costs
8 associated with the project should follow and be allowed. So it was fair to
9 compare the actual capital costs of the Program. Also the \$346 million
10 number included in the 2008 Certificate of Need was in 2008 dollars and was
11 never escalated to 2014. Likewise, that \$346 million number did not include
12 AFUDC. If one were to create an apples-to-apples comparison of the costs,
13 the \$748 million (\$665 actual in 2014 plus \$83 million AFUDC) would be
14 equivalent to \$453 million (\$346 million in 2008 dollars escalated to 2014
15 equaling \$397.5 million plus about \$45.5 million of AFUDC).

16 17 **C. OAG Recommendations**

18 Q. WHAT DOES THE OAG RECOMMEND?

19 A. Mr. Lindell's testimony provides the following recommendations:

- 20 • Seventy-five percent of the \$428.1 million in excess of the \$320 million
21 initial estimate, for a total of \$321 million, should be disallowed on the
22 basis of "NSP's poor management, and were thus unreasonable and
23 imprudent."³³

³¹ Department Information Request No. 88.

³² Campbell Direct at 13:3-10 and Schedule NAC-7.

³³ Lindell Rebuttal at 29:10-16.

- 1 • Any costs in excess of the \$320 million initial estimate that is found by the
2 Commission to be recoverable should not include any return on equity.³⁴
3 Based on the OAG’s other recommendations, this would mean that
4 approximately \$107 million would be recoverable but without any return
5 on that investment.

6
7 1. *Certificate of Need Cost Cap*

8 Q. WHAT DOES MR. LINDELL BASE THESE RECOMMENDATIONS ON?

9 A. He acknowledges that he has not quantified any harm from the Company’s
10 alleged mismanagement. He generally asserts that “[b]ecause NSP’s
11 accounting has made it difficult” he recommends a percentage-based
12 approach ... to determine which unspecified costs were caused by NSP’s poor
13 management, and are therefore unreasonable and imprudent.”³⁵ In addition,
14 without any independent analysis, he asserts that costs in excess of initial
15 estimates for the feedwater heater and 13.8 kV modifications should be
16 disallowed outright as should installation costs in excess of initial estimates.³⁶

17
18 Q. DOES THE COMPANY AGREE WITH MR. LINDELL’S RECOMMENDATIONS?

19 A. No. First, we disagree with the premise that costs should be capped at the
20 Certificate of Need level. As I describe in my Rebuttal Testimony, a cap or
21 presumption that excess costs are somehow improper, is not the appropriate
22 standard to be applied.³⁷

³⁴ Lindell Rebuttal at 27:8-12.

³⁵ Lindell Rebuttal at 19:18-21.

³⁶ Lindell Rebuttal at 19:22-23, 21:7-9, 21:17-22, 22:15-17.

³⁷ Alders Rebuttal at 14:14-25.

1 I note that historically, cost recovery has not been considered a factor in
2 Certificate of Need proceedings.³⁸ In the past, the Department has noted that
3 cost recovery is not a criteria or supporting consideration for a Commission
4 decision on a Certificate of Need.³⁹ Certainly at the time we proceeded with
5 the 2008 Certificate of Need for the uprate, there was no expectation that
6 costs would be capped. The difficulty is that, at the Certificate of Need stage,
7 detailed costs are not known sufficient to rely upon them for rate recovery:

8 Moreover, a number of potentially significant costs are omitted,
9 such as environmental mitigation expenses, which cannot be
10 known until after the EQB's routing procedure is complete. While
11 these estimates may be sufficient for purposes of making a
12 decision regarding need, they cannot form the basis for
13 determining eligibility for cost recovery.⁴⁰

14
15 Q. WHEN DID THE COMMISSION BEGIN TO CONSIDER DIFFERENT APPROACHES
16 TO COST RECOVERY?

17 A. The issue of tying cost recovery to the Certificate of Need stage began to take
18 shape with our wind farm acquisitions in the past few years with our Grand
19 Meadow and Nobles wind farms. The issue has become a topic of debate in
20 our recent rate cases as well. And the subject is currently being addressed in
21 the Commission's Competitive Acquisition Process in Docket No. E002/CN-
22 12-1240. However, none of that discussion or the potential limitations

³⁸ *In the Matter of the Petition of Northern States Power Company, a Minnesota Corporation, for Approval of the 2010 Renewable Energy Standard Cost Recovery Rider and 2009 Renewable Energy Standard Tracker Report*, Docket No. E002/M-09-1083, ORDER APPROVING 2010 RES RIDER AND 2009 RES TRACKER REPORT, ESTABLISHING 2010 RES CHARGE AND REQUIRING REVISED TARIFF at 5 (Apr. 22, 2010).

³⁹ *In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for Certificates of Need for Four Large High Voltage Transmission Projects in Southwestern Minnesota*, REPLY TO XCEL ENERGY'S MOTION TO LIMIT THE SCOPE OF EVIDENCE OF THE MINNESOTA DEPARTMENT OF COMMERCE AT 2 (APR. 25, 2002).

⁴⁰ (emphasis added) *Id.*

1 described by Mr. Lindell were part of the Monticello EPU Certificate of Need
2 application in February of 2008.

3
4 Q. DO YOU AGREE WITH MR. LINDELL'S OPINION THAT, IN THE 2008
5 CERTIFICATE OF NEED PROCEEDING, "THE THE BEST ALTERNATIVE TO THE
6 MONTICELLO COST OVERRUNS WAS A MONTICELLO LCM/EPU WHERE NSP
7 ESTABLISHED A PROPER SCOPE, MANAGED THE PROJECT REASONABLY, AND
8 AVOIDED COST OVERRUNS."⁴¹

9 A. Mr. Lindell's statement again ignores what the Company knew or reasonably
10 should have known at the time of the 2008 Certificate of Need proceeding.
11 He says today that it would have been better not to have cost increases and
12 assumes the Company should have managed the Program differently. At the
13 end of the day, there was no \$320 million project to be built, although we did
14 not know that at the time we proceeded with the Certificate of Need. The
15 costs of running Monticello for an additional 20 years were greater than we
16 estimated. That does not mean that they are not real costs and it does not
17 mean that they were not prudently incurred in furtherance of obtaining a
18 valuable carbon-free resource for our customers.

19
20 a. Accurate Estimates

21 Q. HOW DO YOU RESPOND TO MR. LINDELL'S STATEMENT THAT A UTILITY IS TO
22 PROVIDE "ACCURATE INFORMATION"⁴² IN THE CERTIFICATE OF NEED STAGE?

23 A. The Company always strives to provide reasonable and accurate information
24 to the Commission under the circumstances presented. As I describe in my
25 Rebuttal Testimony, estimates at this Certificate of Need stage are necessarily

⁴¹ Lindell Rebuttal at 8:11-14.

⁴² Lindell Rebuttal at 8:16.

1 high-level and generally have not been treated as budget-quality estimates,
2 particularly in this timeframe.⁴³

3
4 I do note that the Certificate of Need process for new resources, such as our
5 ongoing Competitive Acquisition Process Certificate of Need process in
6 Docket No. E002/CN-12-1240 has evolved considerably from the 2008
7 timeframe. But when the Monticello proceeding was commenced, it was not a
8 competitive process and there were no real alternatives to this carbon-free
9 baseload resource. So the traditional view of the Certificate of Need process
10 is appropriate and the Commission should not adopt Mr. Lindell's position.

11
12 b. Nuclear is Unique

13 Q. SHOULD NUCLEAR CERTIFICATES OF NEED BE TREATED DIFFERENTLY THAN
14 OTHER TYPES OF PROJECTS?

15 A. Yes. The Company believes that the Commission should apply the prudent
16 investment standard to all projects, whether procured through a Certificate of
17 Need or otherwise. But this is particularly true with nuclear projects. As
18 described in great detail in Mr. O'Connor's Rebuttal Testimony, the Company
19 had great difficulty in estimating the cost of the work that would be required
20 to complete the Program successfully.⁴⁴ Whatever the Commission may
21 decide in the future with cost caps in the wind or natural gas contexts, it
22 would not be appropriate to entertain such a concept in this proceeding.

23
24 Q. ARE THERE OTHER REASONS WHY NUCLEAR IS UNIQUE?

25 A. Yes. Each plant must conform to detailed federal license requirements for
26 that plant. Every plant must assure that all equipment operates within these

⁴³ Alders Rebuttal at 12:13.

⁴⁴ O'Connor Rebuttal at 43:17-46:10.

1 strict parameters and, as a result, costs can change more easily as every aspect
2 of safety is implemented in the course of designing and construction.
3 Bringing nuclear projects in on time and on budget, while an important goal, is
4 a very different matter than working on fossil or renewable projects.

5
6 Q. WHAT ARE THE TYPES OF POTENTIAL ADDITIONAL COSTS THAT MAY NOT BE
7 KNOWN AT THE CERTIFICATE OF NEED STAGE?

8 A. Three major categories of costs can occur after the Certificate of Need stage
9 and that have typically been addressed when the utility brings a request for
10 cost recovery in a rate case. They are: (i) costs imposed by regulation and
11 other circumstances beyond the utility's control; (ii) costs that reasonably arise
12 after the Certificate of Need because of unknown or unforeseen
13 circumstances that were not considered at the Certificate of Need stage; and
14 (iii) costs that were higher than expected due to the nature of the work.

15
16 Q. PLEASE PROVIDE EXAMPLES OF COSTS THAT FALL INTO THESE CATEGORIES.

17 A. First, as stated in Mr. O'Connor's Rebuttal Testimony, evolving NRC
18 regulations over the course of the license amendment request period added
19 over \$50 to \$80 million to our Project costs depending on whether you use the
20 2006 or 2008 cost estimates as a starting point.⁴⁵ This does not include items
21 such as the impact on the availability of skilled craft labor with nuclear
22 experience, the difficulty of estimating labor productivity, the difficulty of
23 working in the hot areas of an operating nuclear plant, and productivity of the
24 NRC's fatigue rule⁴⁶ which caused a significant loss of craft labor who were
25 precluded from working more than 60 hours per week. As Mr. O'Connor

⁴⁵ O'Connor Rebuttal at 23-24.

⁴⁶ O'Connor Direct at 40:12; 91:5-92-22.

1 describes, this dynamic was exacerbated by craft workers choosing to take jobs
2 on other, non-nuclear, projects that were not subject to the fatigue rule.⁴⁷

3
4 Second, as discussed in Mr. O'Connor's Rebuttal Testimony, we had instances
5 of unknown costs arising after-the-fact.⁴⁸ For example, when we planned the
6 Condensate Demineralizer control panel replacement, we intended to use the
7 existing electrical wiring. However, once we removed the wall coverings, it
8 became apparent that the degraded wiring required replacement, increasing the
9 cost of the modification.⁴⁹ We also indicated that roughly \$25-35 million of
10 unforeseen field interferences that contributed to our total costs. Mr.
11 O'Connor addresses the reasons for and treatment of this issue.⁵⁰

12
13 c. Spending Incentives

14 Q. MR. LINDELL STATES THAT THE COMPANY SHOULD BE HELD TO ITS
15 CERTIFICATE OF NEED ESTIMATES AND THAT TO DO OTHERWISE WOULD
16 ENCOURAGE EXCESS SPENDING.⁵¹ HOW DO YOU RESPOND?

17 A. I agree that good faith estimates based on the known or reasonably
18 foreseeable facts are important. But I disagree that the Company should be
19 held to its initial estimates regardless of the circumstance. I also do not agree
20 that there should be any assumption that costs in excess of initial estimates are
21 presumed to be deficient.

⁴⁷ O'Connor Direct at 92:6-8.

⁴⁸ O'Connor Rebuttal at 108.

⁴⁹ O'Connor Rebuttal at 108.

⁵⁰ O'Connor Rebuttal at 75:7-78:11.

⁵¹ Lindell Rebuttal at 27:14-18 and 27:20-21.

1 Q. WHAT INCENTIVES EXIST FOR CONTAINING COSTS WHEN PROCEEDING WITH A
2 MAJOR CAPITAL PROJECT SUCH AS THE LCM/EPU PROGRAM?

3 A. Mr. Lindell appears to assume that, if the utility is not held to a presumption
4 of imprudence it would create negative incentives for the utility to spend as
5 much as possible on a project. This misstates the utility's incentives.

6

7 Q. PLEASE EXPLAIN.

8 A. Mr. Lindell's Rebuttal Testimony suggests that the Company has an improper
9 incentive to spend as much money as fast as possible.⁵² His discussion on this
10 point is somewhat similar to the discussion in Mr. Shaw's Direct Testimony
11 on the topic of "perverse incentives." In my Rebuttal Testimony, I describe
12 the Company's incentives and they certainly are not to spend money
13 recklessly.⁵³

14

15 The incentives are opposite what Mr. Lindell assumes. The only incentive we
16 had was to meet our capacity need and modernize Monticello for an additional
17 20 years.

18

19 The risk of disallowance for imprudent choices overcomes any incentive to
20 spend money unwisely. Imprudence does not only lead to financial
21 disallowance but also calls into question the utility's ability to manage our
22 affairs in an effective manner. The adverse regulatory and market
23 consequences are deep and long-lasting and serve as a stronger tool than Mr.
24 Lindell assumes.

⁵² Lindell Rebuttal at 27:14-18.

⁵³ Alders Rebuttal at 28:14-25.

1 Q. BUT IF THE COMMISSION DOES NOT CAP THE UTILITY'S RECOVERY, DOES IT
2 ENCOURAGE WASTEFUL SPENDING?

3 A. Not at all. I think the current proceeding is a perfect example of how the
4 incentives are opposite what Mr. Lindell assumes. The Company recognizes
5 that any time it implements a project (whether or not a Certificate of Need is
6 required) that we are obligated to demonstrate that our costs were prudently
7 incurred and reasonable. This risk is inherent in the regulatory paradigm and
8 it provides a significant incentive for the utility to be conservative in the
9 projects it selects and in the way it implements them. If our costs exceed the
10 estimates approved by the Commission in a Certificate of Need proceeding,
11 we must still prove they were reasonably incurred before we are able to
12 recover those costs from ratepayers.

13

14 In the 2006-08 timeframe the only incentives we had were to develop
15 additional capacity to keep the lights on for our customers and to do this job
16 right. Had we realized in 2006-08 that the Program would cost as much as it
17 did (or even significantly more than we predicted) it would have been to our
18 benefit to tell, and we would have told, the Commission. As the costs
19 increased, we provided information to stakeholders in our rate cases to keep
20 them informed of the issues we were facing almost in real time. We also
21 volunteered to undertake this prudence review and to waive any defense of
22 retroactive ratemaking we may have had to ensure that parties had a fair
23 opportunity to probe the prudence of our decisions and actions. However, at
24 that point, even though the Program was well over budget, it was still in our
25 customers' best interest to continue to completion.

1 There is no question under those circumstances that we had no incentive to
2 be in this proceeding asking that the Commission provide us recovery despite
3 the costs being higher than we projected. Despite a utility's natural
4 conservatism under the regulatory paradigm, we find ourselves coming to the
5 Commission seeking recovery of significantly higher costs and taking the risk
6 of significant disallowance, whether in the form of impairing the Monticello
7 asset or penalizing our return on equity.

8
9 *2. Specific Disallowances*

10 Q. HOW DO YOU RESPOND TO MR. LINDELL'S SPECIFIC EXAMPLES AND SPECIFIC
11 REQUESTS FOR DISALLOWANCES?

12 A. The Company disagrees with both his position and the amount of
13 disallowance he proposes. I will take each of his recommendations in turn.

14
15 *Disallowance of 75 percent of costs in excess of \$320 million:* The Company does not
16 believe such a disallowance is sustainable. It is not sufficient to assume
17 imprudence and assess an arbitrary percentage penalty. Rather, the prudent
18 investment standard calls for (i) specific findings of imprudence, not just cost
19 increases, and (ii) quantified harm arising caused by the imprudence. Mr.
20 Lindell's proposed disallowance does not satisfy either prong of this test.

21
22 At \$321 million, the OAG's proposed disallowance is disproportionate to any
23 conceivable harm in this situation. The Company reasonably spent \$665
24 million to obtain 671 MW of reliable baseload capacity for 20 years at about
25 \$1,000/kW installed. This compares very favorably with the cost of
26 alternative forms of new baseload generation, even if new coal plants could
27 have been feasible under the circumstances. While our actual costs were

1 higher than initially projected, preserving Monticello as a carbon-free resource
2 is overwhelmingly cost effective as a whole based on 2008 assumptions. As
3 Mr. Sparby stated in his Rebuttal Testimony, disallowance approaching \$100
4 million (as proposed by the Department) would unduly impair this asset and
5 should not be imposed.⁵⁴ Even more so, the \$321 million disallowance
6 proposed by Mr. Lindell is not a credible representation of any harm caused
7 by imprudence.

8
9 Even if the cost estimate at the Certificate of Need stage is relevant to the
10 analysis, the \$320-346 million level cited by Mr. Lindell is in 2008 dollars and
11 does not include AFUDC. As I note above, the equivalent “Certificate of
12 Need estimate” for comparison purposes would be about \$453 million.

13
14 *Disallowance of any return on equity for any costs in excess of \$320 million:* Mr. Lindell
15 provides no rationale for his recommendation of denying the Company a
16 return on \$107 million of our prudently incurred costs. If we incurred costs
17 prudently, they should be recoverable with a return. Any other outcome
18 would unfairly penalize the Company, despite its prudent actions.

19
20 *3. Potential Remedies*

21 Q. IN CRAFTING A REMEDY, IS THE COMMISSION LIMITED JUST TO DISALLOW
22 CAPITAL EXPENDITURE BASED ON IMPRUDENCE?

23 A. No. Disallowance of capital expenditures is only one way the Commission
24 can impose a remedy in this case. Other methods can be considered to
25 implement the Commission’s judgment on our decisions and actions.

⁵⁴ Sparby Rebuttal at 34:12-15.

1 If the Commission finds implementation of the LCM/EPU Program was
2 deficient, the Commission could design a remedy that reduces the Company's
3 return on equity for the investment or for a portion of the investment. Such a
4 reduction could also be set at a level that mitigates any actual harm to
5 ratepayers while not being disproportionate. This type of "efficiency
6 adjustment" is a targeted way of spreading the costs over time. This type of
7 performance efficiency remedy is similar to how our Metro Emissions
8 Reduction Projects were developed.

9
10 Q. DOES THE COMPANY BELIEVE THE COMMISSION SHOULD IMPOSE A REMEDY?

11 A. No. First, we continue to believe our actions were reasonable and prudent
12 under the circumstances we were presented with at the time critical decisions
13 and actions were taken. Second, we do not support the OAG's suggested
14 approach. Third, the Commission should keep in mind that the choice to
15 extend Monticello's license and all the work we have done at the Plant is
16 overwhelmingly beneficial as a whole. But this benefit came with a cost, and
17 that cost was significant but remains in the best interests of our customers.

18
19 Q. IF THE COMMISSION DISAGREES AND DECIDES THAT A REMEDY IS
20 WARRANTED, DOES THE COMPANY HAVE AN ALTERNATE PROPOSAL FOR A
21 REASONABLE RESOLUTION OF THIS PROCEEDING?

22 A. Yes. If the Commission finds that a remedy is necessary, it could implement
23 an efficiency adjustment to the return on equity on the overall investment.
24 This would be a particularly appropriate remedy in a case such as this where it
25 may be very difficult to quantify specific costs that were affected by
26 imprudence. Thus, in the interest of (i) recognizing parties' concerns over the
27 total costs of the Program and (ii) resolving this Docket for the benefit of all

1 our stakeholders, we suggest the Commission consider the following construct
2 in assessing our overall performance:

- 3 • The Commission could authorize us to include the entire capital
4 investment of \$665 million, plus AFUDC of about \$83 million for a
5 total of \$748 million in rates and granting the Company the right to a
6 return of this investment amortized through 2030;
- 7 • To the extent the Commission finds that our performance fell short of
8 the required standard, it could reduce our return on equity for the
9 overall investment by a specified number of basis points for the
10 remainder of the project life. The net present value of such a reduction
11 would reflect the magnitude of the disallowance and would allow that
12 remedy to be spread over time to benefit all ratepayers over time.

13
14 Such an approach will provide a targeted remedy to the asset involved and will
15 also acknowledge the meaningful benefits to customers associated with the
16 costs of this Project, without adversely affecting the Company's other
17 operations. I note that a 100-basis point reduction on the return on equity of
18 the \$748 million investment \$748 million translates into an effective reduction
19 in the Company's Minnesota jurisdiction overall recovery of about \$20 million
20 over the life of the investment on a net present value basis, and an
21 approximately \$3.5 million decrease in the Company's proposed revenue
22 requirement in its current rate case, Docket No. E002/GR-13-861.

23
24 By contrast, the disallowance suggested by the OAG (\$323 million disallowed
25 outright and no return on \$107 million) would result in an effective reduction
26 in the Company's Minnesota jurisdiction overall recovery by more than \$271
27 million over the life of the investment on a net present value basis, and an

1 approximately \$38.4 million decrease in the Company's proposed revenue
2 requirement in its current rate case, Docket No. E002/GR-13-861. Such an
3 outcome would be confiscatory and could not be sustained on any reasonable
4 reading of the facts or record.

5
6 Likewise, the disallowance suggested by the Department of about \$10 million
7 annual revenue requirement decrease would beginning in 2015 and a reduction
8 in the Company's Minnesota jurisdiction overall recovery of approximately
9 \$67 million over the life of the investment, on a net present value basis,
10 translates into about a 340 basis point return on equity decrease on the
11 investment, a result that would impair the asset and that is not proportional to
12 any reasonable interpretation of the Company's actions.

13
14 **III. CONCLUSION**

15
16 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

17 A. Yes.

18