

November 16, 2018

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Reply to Petition for Reconsideration of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. G002/M-17-894

Dear Mr. Wolf:

Attached is the Reply by the Minnesota Department of Commerce, Division of Energy Resources (the Department) to the Petition for Reconsideration by Northern States Power Company in the following matter:

Northern States Power Company's, d/b/a Xcel Energy (Xcel or the Company), Petition for Approval of Deferred Accounting Treatment of approximately \$4.8 million in expected clean-up costs the Company will incur associated with manufactured gas plant (MGP) sites.

Xcel's Petition for Reconsideration was filed on November 6, 2018 by:

Holly Hinman  
Regulatory Manager  
Northern States Power Company  
414 Nicollet Mall  
Minneapolis, MN 55401

As discussed further in the attached comments, the Department recommends that the Minnesota Public Utilities Commission (Commission) **deny** Xcel's Petition for Reconsideration.

The Department is available to answer any questions that the Commission may have.

Sincerely,

/s/ ADAM J. HEINEN  
Public Utilities Rates Analyst

AJH/jl  
Attachment

## Before the Minnesota Public Utilities Commission

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### Reply to Petition for Reconsideration of the Minnesota Department of Commerce Division of Energy Resources

Docket No. G002/M-17-894

#### I. INTRODUCTION

On December 26, 2017, Northern States Power Company, d/b/a Xcel Energy, (Xcel or the Company) submitted to the Minnesota Public Utilities Commission (Commission) a petition for authorization to defer approximately \$4.8 million in expected clean-up costs associated with two manufactured gas plant (MGP) sites in North Dakota and Minnesota (Petition). Xcel argued that three main factors supported its proposal: 1) there is a significant financial impact to the Company; 2) there is an important public policy goal supporting Xcel's remediation activities, and 3) the costs were unforeseeable at the time of its last rate case and are comparable in magnitude to the amounts approved by the Commission in prior deferred accounting requests.

On March 28, 2018, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed its *Comments* recommending denial of Xcel's Petition. The Department noted several deficit areas in the Company's Petition, such as Xcel's failure to show that the Company's request for deferred accounting satisfied the four criteria for granting deferred accounting used by the Commission.<sup>1</sup>

On May 1, 2018, Xcel filed *Reply Comments* responding to the Department's concerns and recommendations.

On July 6, 2018, the Department filed *Response Comments* further clarifying its position and responding to arguments put forth by Xcel in its *Reply Comments*. The Department continued to conclude that deferred accounting would be inappropriate in this instance and recommended that the Commission deny the Company's petition.

On August 23, 2018, this matter came before the Commission. The Commission concluded that the Company had not shown that the costs associated with MGP remediation are significant and denied the Company's petition for deferred accounting. The Commission issued its *Order* on October 17, 2018 denying Xcel's petition.

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<sup>1</sup> *Comments*, Page 9.

On November 6, 2018, the Company filed a *Petition for Reconsideration* of the Commission's October 17, 2018 *Order*. The Department responds briefly to the Company's *Petition for Reconsideration* below.

## II. DEPARTMENT'S ANALYSIS

As noted in the Company's *Petition for Reconsideration*,<sup>2</sup> the Commission may consider a request for reconsideration when the petition: 1) raises new issues; 2) points to new and relevant evidence; 3) exposes errors or ambiguities in the prior decision; 4) persuades the Commission to reconsider; or 5) where the prior decision was inconsistent with the facts, the law, or the public interest.<sup>3</sup> Xcel argued that the Commission's *Order* warrants reconsideration because: 1) it marks a major departure from prior decisions regarding MGP cleanup costs, 2) MGP cleanup costs represent a clear state policy objective, and 3) denying deferred accounting goes against longstanding principles of utility ratemaking.<sup>4</sup> The Department responds briefly to each of these points below.

### A. DEPARTURE FROM PRIOR DECISIONS REGARDING MGP CLEANUP COSTS

Xcel argued that the Commission has never before rejected a petition requesting deferred accounting for planned MGP cleanup costs and, in approving each prior petition, the Commission recognized that the unforeseeable nature of these expenses along with the obvious public benefits made deferred accounting appropriate for MGP cleanup. In each of these dockets, the Company argued that the Commission also found that the costs associated with MGP cleanup were unusual, unforeseeable, and significant. The Company concluded that this request is no different.<sup>5</sup>

The Commission's previous actions regarding MGP remediation costs were previously discussed, at length, in this record, and Xcel did not provide relevant or new information in its *Petition for Reconsideration*. As noted by the Commission, a determination of whether deferred accounting is appropriate is dependent upon the facts in the specific request.<sup>6</sup> The Commission examines the appropriateness of deferred accounting in light of four criteria; namely, whether the costs are: 1) related to utility operations for which ratepayers have incurred costs or received benefits; 2) significant in amount; 3) associated with unusual or extraordinary items; and 4) subject to review for reasonableness and prudence.<sup>7</sup> The Commission stated succinctly in its *Order* that, "...the Commission denies Xcel's petition for deferred-accounting treatment of the Fargo and St. Cloud manufactured-gas-plant cleanup costs, finding that the costs are not large enough to have a significant impact on the Company's

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<sup>2</sup> *Petition for Reconsideration*, Page 2.

<sup>3</sup> August 11, 2017 *Order Denying Reconsideration*, Docket No. ET6/TL-16-327.

<sup>4</sup> *Petition for Reconsideration*, Page 2.

<sup>5</sup> *Petition for Reconsideration*, Page 3.

<sup>6</sup> October 17, 2018 *Order*, Page 4.

<sup>7</sup> March 28, 2018 *Comments*, Page 9.

financial condition.”<sup>8</sup> The Company did not provide any new evidence as to these points in its *Petition for Reconsideration*.

Xcel argued<sup>9</sup> that the Commission was incorrect in its determination that the MGP remediation costs are not large enough to have a significant impact on the Company’s financial condition.<sup>10</sup> Xcel argued that it was inappropriate to use MGP remediation costs as a percentage of total Operations and Maintenance (O&M) expense as a gauge of reasonableness but, rather, comparing MGP remediation costs to net operating income is the correct comparison.<sup>11</sup> The Company also argued that the Commission has not previously used O&M expenses in connection with MGP cleanup costs, nor is the Company aware of any such comparison in any Order concerning deferred accounting.

The Company has already made these arguments in the record.<sup>12</sup> In addition, Xcel incorrectly argued that the Commission has not previously used O&M expenses to gauge the significance of costs for the purposes of deferred accounting.<sup>13</sup> This topic was discussed at length in the record; namely, the fact that the Commission based its decision to deny deferred accounting for Minnesota Power’s storm damage was based on the Department’s analysis, which was based on total costs relative to annual O&M expenses.<sup>14</sup>

**B. MGP CLEANUP COSTS REPRESENT A CLEAR STATE POLICY OBJECTIVE**

Xcel argued that it believes the appropriate standard in this docket is whether the MGP cleanup costs are sizeable expenses to meet important policy mandates and, in its estimation, the Company believes its petition merits approval. The Company also argued that the Commission was incorrect in its *Order* that deferred accounting for MGP cleanup expenses did not meet a public policy standard because the policy mandates were not from the Commission. Xcel concluded its discussion by stating that approval of the Company’s request for deferred accounting would encourage and facilitate the remediation of these sites in accordance with other Minnesota Statutes.<sup>15</sup>

The public policy argument and the appropriate standard to gauge deferred accounting for MGP site remediation was fully discussed in the record and Xcel did not provide new or

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<sup>8</sup> October 17, 2018 *Order*, Page 1.

<sup>9</sup> *Petition for Reconsideration*, Pages 6-8.

<sup>10</sup> October 17, 2018 *Order*, Page 1.

<sup>11</sup> *Petition for Reconsideration*, Page 7.

<sup>12</sup> March 28, 2018 *Comments*, Department Attachment 5, Xcel response to Department Information Request No. 15.

<sup>13</sup> On Page 7 of its *Petition for Reconsideration*, the Company stated that the Department incorrectly claimed in *Comments* that Xcel used an O&M expense comparison in Docket No. E002/M-11-1263. The Department reviewed its *Comments* and agrees that this reference was included in error; however, this error did not influence the Department overall analysis and conclusions. The Department apologizes for this oversight.

<sup>14</sup> *Comments*, Pages 14, and August 6, 2018 *Response Comments*, Pages 6-8.

<sup>15</sup> *Petition for Reconsideration*, Pages 3-4.

relevant arguments or evidence in this matter.<sup>16</sup> There is no dispute that Xcel, as a responsible party in this matter, will be required to remediate these MGP sites; however, the policy issue important to the Commission is whether the remediation costs are significant and warrant deferred accounting.<sup>17</sup> The Commission was clear in its *Order* that, in this case, deferred accounting is not warranted, primarily based on the magnitude of the costs.<sup>18</sup> Xcel did not demonstrate that these MGP remediation costs will have a significant impact on its financial condition, and the Company did not provide new supporting information in its *Petition for Reconsideration*.

**C. DENYING DEFERRED ACCOUNTING GOES AGAINST LONGSTANDING PRINCIPLES OF UTILITY RATEMAKING**

The Department reviewed Xcel's *Petition for Reconsideration* and was unable to identify this specific argument apart from its reference at the beginning of the filing.<sup>19</sup> The Department does not believe the Commission's *Order* violates any longstanding ratemaking principle. As noted above, the Commission examines four criteria to determine whether deferred accounting treatment is appropriate.<sup>20</sup> The Commission correctly noted that, although it allowed deferred accounting for MGP remediation costs in the past, these prior decisions do not bind the Commission, and the Commission found that Xcel did not establish the good cause necessary to permit deferred accounting.<sup>21</sup> The Company did not provide new or substantive information in its *Petition for Reconsideration* that warrants reconsideration of the Commission's *Order*.

**III. CONCLUSIONS AND RECOMMENDATIONS**

Based on its review of the Company's *Petition for Reconsideration*, the Department concludes that Xcel has not satisfied any of the five requirements for reconsideration required by the Commission. Therefore, the Department recommends that the Commission deny Xcel's request.

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<sup>16</sup> Department *Comments*, Page 9-10, and *Response Comments*, Page 3-5.

<sup>17</sup> *Id.*

<sup>18</sup> *Order*, Page 4.

<sup>19</sup> *Petition for Reconsideration*, Page 2.

<sup>20</sup> *Comments*, Page 9.

<sup>21</sup> *Order*, Page 4.

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce  
Reply to Petition for Reconsideration**

**Docket No. G002/M-17-894**

**Dated this 16<sup>th</sup> day of November 2018**

**/s/Sharon Ferguson**

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