

**State of Minnesota  
Before the Public Utilities Commission**

Katie Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
Joseph Sullivan	Commissioner
John Tuma	Commissioner

In the Matter of Northern States Power Company d/b/a Xcel Energy's Petition for Approval of Deferrals Related to Depreciation, Distribution O&M, and Property Tax for 2022

Docket No. G-002/M-21-750

**Comments of the Citizens Utility Board of Minnesota**

The Citizens Utility Board of Minnesota ("CUB") respectfully submits the following comments to the Minnesota Public Utilities Commission ("the Commission") regarding Xcel Energy's ("Xcel" or "the Company") petition for approval of a deferral of depreciation expense, distribution O&M expenses, and property tax expenses for calendar year 2022 as an alternative to litigating the rate case proceeding in Docket No. G002/GR-21-678 ("stay-out"). CUB supports the Company's petition.

CUB understands that Xcel's proposal is to withdraw its pending gas rate case (Docket No. G002/GR-21-678) and to not file a new general rate case for a minimum of one year in exchange for deferral of the above-referenced expenses. As an advocate for utility consumers, CUB is generally hesitant about the deferral of costs for future recovery. As parties have previously noted, "[d]eferred accounting is special accounting treatment that is an exception to balanced and fair ratemaking."<sup>1</sup> The Department of Commerce recently described this exception as follows:

The Commission authorizes rates to allow a utility a reasonable opportunity to recover from consumers representative costs of providing utility service. Those rates remain in effect until the utility files a new rate case. Until then, utilities are not entitled to dollar-for-dollar recovery of all actual costs between rate cases; similarly, ratepayers receive no benefit when a utility reduces costs between rate cases. Instead, utilities are expected to make reasonable decisions to ensure that the funds they receive from consumers are spent prudently. Thus, normal ratemaking and allowing utilities to recover representative costs set in rate cases is the Commission's

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<sup>1</sup> Department of Commerce Comments in Docket No. E015/M-21-349 (July 26, 2021), 3.

primary tool to ensure that utilities act in a prudent manner and that rates are just and reasonable, as required by Minn. Stat. § 216B.03.<sup>2</sup>

Additionally, allowing utilities to defer costs can also risk subtly shifting the burden of proving reasonable rates from the Company to other parties.<sup>3</sup>

It is not clear that present circumstances meet any of the specific tests that the Commission has previously put forward to assess deferred accounting proposals. However, while such tests are helpful to guide the Commission's evaluation of deferred accounting requests, they are not hard and fast rules that, alone, dictate when deferred accounting is or is not appropriate.<sup>4</sup> In this instance, we believe that deferred accounting will be beneficial to Xcel ratepayers. The Commission summarized some circumstances in which deferred accounting is appropriate in a previous order:

Deferred accounting is a regulatory tool used primarily to hold utilities harmless when they incur out-of-test-year expenses that, because of their nature or size, should be eligible for possible rate recovery as a matter of public policy. Traditionally, deferred accounting has been reserved for costs that are unusual, unforeseeable, and large enough to have significant impact on the utility's financial condition. Deferred accounting has also sometimes been permitted when utilities have incurred sizeable expenses to meet important public policy mandates.<sup>5</sup>

As noted, it is not clear that the Company's proposed deferrals meet a strict reading of these criteria. However, CUB is persuaded that the deferrals, under the unique current circumstances, are in the public interest.

CUB believes that it is especially important to mitigate any rate increases in the immediate term. If Xcel's stay-out is not approved, ratepayers will face a 4.9% interim rate increase beginning January 1, 2022.<sup>6</sup> As of the end of September, more than 13% of Xcel's residential customers were already in arrears.<sup>7</sup> Even if there is no increase to base rates, consumers will feel the effects of high natural gas prices this winter. The U.S. Energy Information

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<sup>2</sup> *Ibid.*

<sup>3</sup> See, for example, Department of Commerce Reply Comments in Docket Nos. E002/M-21-101, E002/CI-17-401 (September 9, 2021), 8.

<sup>4</sup> For example, the Minnesota Court of Appeals has noted that the Commission "did not [...] suggest [in a 2017 Order utilizing a four-part test for evaluating deferred accounting petitions] that these four criteria must always be met before a deferred-accounting request may be granted." See In the Matter of Xcel Energy's Petition for Approval of a Residential EV Subscription Service Pilot Program, A20-0116, State of Minnesota Court of Appeals (Sept. 21, 2020) at 32 (unpublished opinion).

<sup>5</sup> Commission's Order, Docket No. G002/M-17-894 (October 17, 2018), 2.

<sup>6</sup> Xcel Petition (November 1, 2021), 1.

<sup>7</sup> Xcel Compliance filing (October 19, 2021), Docket 20-375. This figure includes Xcel's electric and gas customers.

Administration projects Midwest natural gas prices to be 45% higher this winter than last winter.<sup>8</sup> On top of current high commodity prices, Xcel gas customers will be paying the extraordinary costs of February gas market event on their natural gas bills into 2023.<sup>9</sup> In addition, many Xcel gas customers will see rising electricity costs, with general rate cases filed by Xcel's electric utility and Minnesota Power.<sup>10</sup> Finally, consumers are facing rising costs for housing, food, and many other areas of the family budget.<sup>11</sup> In addition, as the Company noted, the Commission, state agencies, and intervenors face significant workloads currently with other "critically important" dockets; allowing this rate case to be withdrawn would create "more time and space for their consideration."<sup>12</sup>

CUB understands that if the Commission were to approve Xcel's proposed deferrals, the approval will confer no presumption of the prudence or recoverability of the Company's deferred expenses. Though we believe that the Company and all parties agree with this statement, it may be helpful for the Commission to confirm it by including such a statement in its order, should it approve the Company's petition.

For the reasons stated above, CUB supports Xcel's petition to defer the above-referenced expenses and withdraw its rate case. Thank you for your attention to our comments in this matter.

Respectfully submitted,

November 10, 2021

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<sup>8</sup> U.S. Energy Information Administration, *Winter Fuels Outlook*, October 2021.

[https://www.eia.gov/outlooks/steo/special/winter/2021\\_winter\\_fuels.pdf](https://www.eia.gov/outlooks/steo/special/winter/2021_winter_fuels.pdf)

<sup>9</sup> See Minnesota Public Utilities Commission, ORDER GRANTING VARIANCES AND AUTHORIZING MODIFIED COST RECOVERY SUBJECT TO PRUDENCE REVIEW, AND NOTICE OF AND ORDER FOR HEARING, Docket Nos. G-999/CI-21-135; G-008/M-21-138; G-004/M-21-235; G-002/M-21-610; G-011/M-21-611 (Aug. 30, 2021).

<sup>10</sup> Dockets No. E-002/GR-21-630 and E-015/GR-21-335.

<sup>11</sup> U.S. News and World Report, "Inflation Rises in September, Fueled by Energy, Food and Housing" (October 13, 2021).

<sup>12</sup> Xcel Petition (November 1, 2021), 2.

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