


## Staff Briefing Papers

Meeting Date	December 8, 2022	Agenda Item 3**
Company	Northern States Power Company, d/b/a/ Xcel Energy (Xcel, Company)	
Docket No.	<b>G-002/M-21-610</b>	
Issues	<b>In the Matter of the Petition of Xcel Energy for Approval of a Recovery Process for Cost Impacts Due to February Extreme Gas Market Conditions.</b>	
	Should the Commission reconsider its October 19, 2022, Order Disallowing Recovery of Certain Natural Gas Costs and Requiring Further Action?	
	If so, which disallowances should be changed and by how much?	
Staff	Andrew Larson	<a href="mailto:andrew.m.larson@state.mn.us">andrew.m.larson@state.mn.us</a> 651-201-2259

---

 Relevant Documents	Date
Minnesota Public Utilities Commission – Order Disallowing Recovery of Certain Natural Gas Costs and Requiring Further Action	October 19, 2022
Xcel Energy – Petition for Reconsideration	November 8, 2022
Department of Commerce – Answer to Reconsideration	November 18, 2022
Office of the Attorney General – Answer to Reconsideration	November 18, 2022
Citizens Utility Board of Minnesota – Answer to Reconsideration	November 18, 2022

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us) for assistance.

The attached materials are work papers 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.

## Table of Contents

I.	Statement of the Issues.....	1
II.	Background .....	1
III.	Parties' Comments .....	1
A.	Xcel Energy – Petition.....	1
1.	Load Forecasting Disallowance (\$4,351,593) .....	1
2.	Peaking Plant Disallowance (\$14,688,960) .....	3
3.	Request for clarification on Allocation and Recovery of February Storm Costs.....	4
B.	Department of Commerce – Comments .....	4
1.	Load Forecasting Disallowance.....	5
2.	Peaking Plant Disallowance .....	5
3.	Department's Request for Clarification on Use of Ventura Index Price.....	5
4.	Xcel's Request for Clarification on Allocation and Recovery of February Storm Costs ..	6
C.	Office of the Attorney General (OAG) – Comments .....	6
D.	Citizens Utility Board of Minnesota (CUB) – Comments .....	6
1.	Load Forecasting Disallowance.....	7
2.	Peaking Plant Disallowance .....	7
3.	Xcel's Request for Clarification on Allocation and Recovery of February Storm Costs ..	7
IV.	Staff Analysis .....	8
V.	Decision Alternatives.....	9

## **I. Statement of the Issues**

Should the Commission reconsider its October 19, 2022, Order Disallowing Recovery of Certain Natural Gas Costs and Requiring Further Action?

If so, which disallowances should be changed and by how much?

## **II. Background**

In its October 19, 2022 Order (October 19 Order), the Minnesota Public Utilities Commission (Commission) disallowed recovery of approximately \$19.0 million of Xcel's February 2021, cold weather costs (February Event).

On November 8, 2022, Xcel filed its petition for reconsideration (Petition) requesting that the Company be allowed to recover the disallowed costs.

On November 18, 2022, Department of Commerce (Department) the Office of the Attorney General (OAG) and the Citizens Utility Board of Minnesota (CUB) filed comments recommending that the Petition be denied.

## **III. Parties' Comments**

### **A. Xcel Energy – Petition**

In support of its Petition, Xcel Energy argued that the Commission committed three errors in its October 19 Order.<sup>1</sup> First, Xcel alleged the Commission erred in the application of Minnesota law. Second, the October 19 Order contains fundamental misstatements of the record. Last, the October 19 Order arbitrarily inflates the calculation of the disallowance for Xcel Energy, compared to the disallowances imposed on the other Minnesota utilities.

Xcel Energy contended the Commission made the above errors in its load forecasting and peaking plant disallowance determinations.

#### **1. Load Forecasting Disallowance (\$4,351,593)**

Xcel argues the \$4,351,593 load forecasting disallowance for February 17 gas purchases is not supported by the record.<sup>2</sup> Company experts Mr. Boughner and Mr. Derryberry testified that the TESLA forecasting model is widely used in the utility industry to predict system load. This regression model uses weather observations across Xcel territory to forecast gas demand. With each new day the model updates for actual loads, and thus adjusts its forecast. Over a long period of time, the TESLA model has performed well with an average forecast variance of only 0.65%. In contrast to the Company's gas purchasing experts, the Department's witness, Mr. King, has no experience in the gas market.

---

<sup>1</sup> Xcel Energy, Reconsideration, p. 4.

<sup>2</sup> *Id.*, p. 4.

Xcel uses model results as a starting point for its load forecast. The Company must also consider other factors when making its gas purchasing decisions, including storage levels, reasons for curtailment, the amount of baseload purchases, and other factors.

#### **a. Disallowed Volumes**

The Commission disallowance for gas purchases on February 17, 2021, is erroneous for various reasons. First, the October 19 Order failed to consider the uncontested evidence that the TESLA model accounts for curtailments through its update mechanism. The Order also disregards the ALJ Findings.

Second, the Company reiterates that its gas load forecast, including recent curtailment updates, is one factor among many it considers. No witnesses contradicted Xcel's testimony that it did consider curtailments via actual load data in its gas procurement decisions.

Third, Xcel argued that the Department's hypothetical load forecast for February 17 is not supported by the record. The Department's alternative forecast dismissed the TESLA model's proper inclusion of recent actual loads. It also ignored the fact that the Company considered curtailments and other factors in its forecast. Thus, the Department's hypothetical forecast is not a sound basis for the October 19 Order.

Fourth, the Department's hypothetical forecast did not acknowledge the serious supply side constraints on the morning of February 16. The well-head freeze offs in Texas were regarded as a critical and uncertain problem at the time Xcel was purchasing gas for February 17.

Fifth, the October 19 Order failed to consider what a reasonable gas utility would do in a similar situation. The reasonableness of Xcel's actions, as evidenced by the testimony of Mr. Derryberry and Mr. Levine, demonstrates the reasonableness of its purchasing decisions for the February 17 gas day.

#### **b. Disallowance Calculation**

Xcel also argues that the October 19 Order's disallowance calculation was based on the Department's incorrect calculation of the estimated price paid on February 16. The Company argued that the Department unfairly overestimated the price of additional gas by using the highest priced gas, which turned out to be Ventura, among the Company's diverse sources of supply.

In effect, Xcel placed its trades on February 16 in the index market, without knowing the settlement price. With the benefit of hindsight, the Department, however, assigned the highest-priced source of supply to the overpurchased quantity of gas. The Company realized the lowest actual average spot price for gas purchased for delivery on February 17 compared to the other utilities. Thus, the Company claimed the Department should have used the average actual price because, if the Company had decided to purchase less gas on February 16, it could not have known which source of supply would have turned out to be the highest price. The Department mistakenly assumed, with the benefit of hindsight, that Xcel would have purchased the additional quantities of gas from the highest-priced source, Ventura.

Furthermore, the Company argued that the Department was inconsistent and unfair in its calculation of prices paid for Xcel compared to the other three utilities. In the case of the other utilities, the Department applied the actual average price of spot gas purchased for delivery on February 17 to develop its February 17 disallowance adjustments.

In the case of Xcel, however, the Department assigned the highest-price (\$188.32/Dth) source of gas instead of the actual average (\$115.60/Dth) of all sources contracted for February 17 delivery. Thus, while the Department calculated the disallowances for the other three utilities at the lower actual average price for each, it calculated the disallowance for Xcel at its highest marginal price source, which was unknown at the time the index trades were entered. Had the average price been used, this disallowance would have been reduced by \$1.7 million.

Moreover, because of its diverse sources of supply, the Company's actual average price turned out to be significantly lower than that of the other utilities. Therefore, Xcel concluded that the Department and the October 19 Order's disallowance calculation was arbitrary and capricious since Xcel was singled out with disparate treatment.

## **2. Peaking Plant Disallowance (\$14,688,960)**

Xcel argued that the October 19 Order is erroneous because it did not address the question assigned to the parties. The Commission requested the parties to answer the question of whether Xcel's maintenance and operation of its three peaking facilities resulted in financial impact during the February storm. The Company suggests the pivotal issue is whether a similarly situated utility would have dispatched its peaker plants under the same circumstances.

The Company commented, and the Department agreed, that utility peak shaving plants have typically been designed and used in Minnesota for distribution system reliability and design-day conditions. In contrast, the record shows no evidence of any utility anywhere using peaker plants to adjust spot market purchases decisions alone.

### **a. Disallowance Volumes**

The Company argues that, had the peaker plants been available, it still would not have been prudent to operate the plants for economic reasons. The Department's witness put forth this idea, even though he had no experience with peaker plants and gas procurement. There was simply no evidence that a gas utility would consider, as a choice within a reasonable range of options, running peaker plants to reduce spot market purchases under similar circumstances.

### **b. Disallowance Calculation**

The Department committed the same error as in the above discussion of load forecasting by assigning Xcel's highest price source as the price for the disallowed volumes. Again, in contrast, the Department effectively penalized Xcel compared to the other utilities when it assigned to them their actual average price of gas for February 17 purchases. Had Xcel's actual average price of gas been used for this disallowance calculation, the amount would have been about \$9.0 million instead of \$14.7 million.

### **3. Request for clarification on Allocation and Recovery of February Storm Costs**

The October 19 Order contains an ambiguity that needs clarification. In its testimony, Xcel proposed two customer-specific approaches to solve problems in the allocation and recovery of February Storm costs.

The first proposal protects interruptible customers who fully curtailed from the recovery surcharge. The Company proposed to refund any surcharge these customer already paid and then to recover the refund from the remaining interruptible class customers.

The second proposal seeks to track customers who received natural gas service in February 2021 and then switched to transportation service after February 2021 to avoid the surcharge. Xcel proposed to charge these customers an exit fee for the remaining months of February storm surcharges.

ALJ Finding No. 306 addresses these situations, but it was unclear if it fell within the adoption of “. . . the ALJ’s Findings of Fact, Conclusions of Law, and Recommendations to the extent they are consistent with this Commission’s decision.” The question remains, is Finding No. 306 consistent with this Commission’s decision? The answer is ambiguous.

The intent of these two proposals is to properly assign Storm surcharges to customers for whom the charges are intended. Therefore, the Company requests that the Commission clearly adopt these two proposals to clear up an ambiguity as to their application.

### **B. Department of Commerce – Comments**

The Department advised the Commission to deny Xcel’s Petition for several reasons.<sup>3</sup> In general, the Company mischaracterized the Commission’s October 19 Order and ignored the extensive record. Instead, Xcel restated failed arguments from the proceeding and threatened to appeal the Commission’s decision.

First, Xcel’s Petition failed to meet the Commission’s reconsideration standard by attempting to claim the Commission was unreasonable to depart from the ALJ’s recommendations. However, the Commission has no obligation to abide by these recommendations. The Commission has the authority and technical expertise to independently judge cases such as this.

Second, Xcel did not raise arguments that would warrant reversal on appeal. Overall, the Company argued that its Petition is a last-chance opportunity for the Commission to correct its October 19 Order prior to appellate review. However, Xcel raised none of the six statutorily valid reasons for appeal.<sup>4</sup>

Instead, the Company attacked the Department’s witness’, Mr. King, expertise by stating that he did not possess the necessary experience to render a trustworthy opinion. Xcel could have

---

<sup>3</sup> Department of Commerce, Answer to Reconsideration, p. 2.

<sup>4</sup> Minn. Stat. § 14.69 (2020).

disputed his qualifications in the proceeding but chose not to because of his lengthy record. Instead, the witness relied on Xcel's own data.

Additionally, Xcel argued that the Commission legally erred by misapplying the prudence standard to the facts of the case. However, the Commission's quasi-judicial decisions are reviewed under the substantial-evidence standard. There was no error of law, but rather a reasonable interpretation of the prudence standard, and a thorough explanation when the Commission departed from the ALJ's recommendations. The substantial evidence standard requires evidence that a reasonable person would accept as sufficient to support a conclusion. The court defers to the judgement of the party, such as the Commission, that possesses the particular expertise relating to the question at hand. The Commission meets this qualification.

### **1. Load Forecasting Disallowance**

One application of the substantial evidence standard is the Commission's determination that Xcel's load forecast was not prudent. The Company's argument depends on general claims about the effectiveness of its TESLA modeling software. However, the evidence and record support the Department's central claim that curtailments indeed were not adequately accounted for in Xcel's load forecasting. The Commission found the Department's testimony more credible.

### **2. Peaking Plant Disallowance**

The Department draws a second application of the substantial evidence standard in the Commission's disallowance regarding Xcel's LNG peaking plant. The Commission's judgement is supported by the prudence standard, the extraordinary circumstances, and Xcel's past actions in a similar event over New Year's, 2017-18. The prudence principle called for the Company to take special action in this extraordinary circumstance, just as it had done in the prior event. Faced with purchasing gas for just one day, February 17, a reasonable utility would have dispatched its peaking plants. Xcel's own history contradicts its claim that there is no evidence of any utility using peaking plants for economic purposes.

Third, the Department disputes Xcel's claim that it chose the highest-price resource, the Ventura Hub, to calculate its disallowance. Rather, the Department's witness, Mr. King, assumed Xcel would have reduced purchases from its largest resource, which was Ventura. Thus, price was not a factor. Rather, it was prudent to assume that the Company would reduce its exposure to its largest gas supply resource. The other three utilities did not have a diversified supply of gas from which to choose.

### **3. Department's Request for Clarification on Use of Ventura Index Price**

As a result of these Comments, the Department requested that the Commission clarify its rationale for using the Ventura index price to reflect the fact that Xcel had greater geographic diversity of supply. Accordingly, the Department proposed the following red-line of its order for the Commission's consideration:<sup>5</sup>

---

<sup>5</sup> Department of Commerce, Answer to Reconsideration, p. 14.

The Commission finds it reasonable to apply the NNG Ventura index price to the disallowance calculation—as the Department did—rather than Xcel’s daily spot average price for that day which includes fixed-price transactions and purchases at hubs that had much lower index prices. Basing the disallowance on the index price at the **largest hub Xcel purchased at, where it had the most exposure, hub where prices were highest** reflects that prudence would have required Xcel to take advantage of the geographic diversity of its supply options to maximize cost savings for customers **by reducing exposure to the extent possible at a particular hub, prioritizing the reduction of the higher-priced transactions before reducing the volumes it was able to purchase at lower prices. Pricing the disallowances at the Ventura index price reflects Xcel’s obligation to reduce price-exposure for its ratepayers when possible.**

#### **4. Xcel’s Request for Clarification on Allocation and Recovery of February Storm Costs**

Last, the Department has no objection to Xcel’s request for clarification regarding how the Commission should adjust extraordinary gas costs for its interruptible customer class, as discussed above.

#### **C. Office of the Attorney General (OAG) – Comments**

While focusing on the other utilities and agreeing with the Department, the OAG directed a couple of minor points towards Xcel in its response. First, the OAG agreed that the Company could have acted prudently by deploying its peaker plants in such a way to balance cost and reliability concerns.<sup>6</sup> Second, the OAG agreed with the Department that, given Mr. King’s credentials and experience, Xcel’s attacks on the Department’s witness were unwarranted. The OAG concluded that the Commission applied the correct legal standards to Xcel’s case.

#### **D. Citizens Utility Board of Minnesota (CUB) – Comments**

CUB recommended that the Commission remain unpersuaded by Xcel’s arguments and maintain the original October 19 Order.<sup>7</sup>

Xcel bears the burden to prove the extraordinary costs it seeks to recover were incurred prudently and that the Commission did not properly apply the prudence standard. The Company must prove that reconsideration will result in just and reasonable rates with any doubt settled in favor of the customer.

Overall, Xcel’s petition raises no new issues, does not present additional proof, does not reveal errors or ambiguities, nor provides a basis for reconsideration.

Xcel argument against Department witness Mr. King unnecessarily narrowed the qualifications of an expert witness so much as to only allow a utility witness with trading experience. The

---

<sup>6</sup> OAG, Answer to Reconsideration, p. 6.

<sup>7</sup> CUB, Answer to Reconsideration, p. 2.



Company's overly tight focus attempted to rule out more generally qualified witnesses who could speak with authority on prudence. In fact, the testimony of CUB's witness, Mr. Cebulko, closely matched that of Mr. King, although they came from different parties.

### **1. Load Forecasting Disallowance**

On Xcel's challenge of the disallowance calculations, the record was clear that the Commission found that it was reasonable to apply the Ventura price rather than the Company's daily spot average price. As the Department stated, Xcel's prudent utilization of its geographic diversity of supply would have led to reductions in purchases from its largest supplier. The effect would have been to reduce risk exposure to fluctuations in the Ventura price.

Second, regarding load forecasting with the TESLA model, CUB responded that Xcel failed to provide necessary details to support its contention that curtailments were indeed incorporated in the model and forecasting process. After weighing the evidence from the TESLA model and other various factors outside the model, the Commission determined that Xcel acted imprudently.

Third, Xcel argued that Mr. King's hypothetical load forecast is inadmissible evidence because it improperly uses hindsight. However, CUB responded that disallowances are inherently backward looking. The significant issue is the comparison of the costs of the Company's actual action and the hypothetical alternative action that a prudent utility would engage in. The Commission found that Xcel failed to provide the transparency to prove the prudence of its gas costs for February 17.

Fourth, Xcel argued that the Commission neglected to recognize the serious supply situation on the morning of February 16 as purchasing decisions were made for the next day. However, while the Commission did acknowledge the supply cutoff situation, it also noted that temperatures were beginning to moderate. Thus, the Commission considered the totality of conditions faced on February 16. It considered not only the reliability and safety, but also the need for just and reasonable rates. The totality of circumstances led the Commission to conclude that Xcel's reserve margin was unjustified.

### **2. Peaking Plant Disallowance**

On peaking plant resources, Xcel contested the Commission's conclusion that a prudent utility would have employed these resources. However, CUB pointed out that Xcel defeated its own argument by its history of dispatching peaker plants over the New Years 2017-18 cold weather period. Although the two events were different, Ventura experienced record-high price spikes. Arguing from the lesser to the greater, the Commission concluded that, if Xcel dispatched peaker plants in the first case, they should have done so during the February event. The Commission determined that Xcel failed to evaluate alternative possibilities had the peaker plants been available.

### **3. Xcel's Request for Clarification on Allocation and Recovery of February Storm Costs**

Regarding Xcel's request for clarification on ALJ Finding No. 306, CUB understands the nature of the issue in the desire for both classes to fairly pay surcharges. In summary, CUB requested the

Commission to consider “. . . whether the application of Finding No. 306 is in the public interest and will result in just and reasonable rates.”

It is important that other classes not bear additional rate burdens resulting from the introduction of such adjustments. If one class can avoid a surcharge by switching after the fact, then other classes will have to bear the cost, which is something the Commission should disallow.

The option of refunding those interruptible customers who fully curtailed also has benefits and costs. The amount of the refund is known, but the surcharge going forward for other classes depends on current volumes. Because Xcel does not have a complete billing quality data set for non-interruptible customers, a gap between usage during the storm and in the current time continues. So, some customers who limited gas usage in 2021 are not rewarded for their restraint.

The Commission should consider these factors if it wishes to clarify whether its Order adopts Finding No. 306.

#### **IV. Staff Analysis**

Minn. Stat. § 216B.27, Subd. 2 requires that the application for rehearing set forth specifically the grounds on which the applicant contends the decision is unlawful or unreasonable. The Commission has historically reviewed petitions for reconsideration based on whether they raise new issues, new and relevant evidence, and errors or ambiguities.

Staff agrees with the Department, the OAG and CUB that Xcel’s Petition does not include any other new arguments or evidence.

In conclusion, the Commission needs to decide whether Xcel Energy’s Petition satisfies the requirements of Minn. Stat. § 216B.27, Subd. 2, when determining whether to reconsider its October 19 Order.

## V. Decision Alternatives

### Reconsideration

1. Grant Xcel's request for reconsideration and modify the October 19, 2022 Order as follows: (Xcel primary position)
  - A. Rescind the \$4,351,593 disallowance related to load forecasting.
  - B. Rescind the \$14,688,960 disallowance related to peaking plants.

OR
2. Partially grant Xcel's request for reconsideration and modify the October 19, 2022 Order to: (Xcel alternate position)
  - A. Reduce the load forecasting disallowance calculation to \$2,671,220.
  - B. Reduce the peaking plant disallowance calculation to \$9,016,800.

OR
3. Deny Xcel's request for reconsideration. (DOC, OAG, CUB)

OR
4. Take no action

### Clarification – ALJ Finding 306

5. Grant Xcel's request for clarification regarding allocation and cost recovery for the interruptible customer class.
  - A. The Commission adopts Finding 306 of the ALJ Report. (Xcel, DOC did not object)

OR

  - B. The Commission does not adopt Finding 306 of the ALJ report.

OR
6. Deny Xcel's request for clarification regarding allocation and cost recovery for the interruptible customer class and for customers who moved to transportation service.

### Clarification – Ventura Index Price

7. Grant the Department's request for clarification of the Commission's rationale for using the Ventura index price. (DOC)

OR

8. Deny the Department's request for clarification of the Commission's rationale for using the Ventura index price.