

**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

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May 31, 2022

**In the Matter of Xcel Energy Gas' Utility
Infrastructure Cost Rider, True-up Report for
2020, Revenue Requirement for 2022, and
Revised Surcharge Factors**

Docket No. G002/M-21-765

INITIAL COMMENTS OF FRESH ENERGY

Fresh Energy respectfully submits these Initial Comments in response to the Commission's November 4, 2021 Notice of Extended Comment Period seeking comments on the October 29, 2021 filing by Northern States Power Company, d/b/a Xcel Energy that requests approval of its updated gas utility infrastructure costs (GUIC) rider in 2022.

Minnesota's gas utilities are now roughly a decade into a multi-billion dollar push to accelerate the replacement of their gas distribution systems. Xcel filed its first GUIC rider petition on August 1, 2014.¹ The Company projects that it will spend over \$600 million on GUIC-related projects between 2012 and 2026.² And it plans to spend approximately \$60 million per year in 2021 and 2022 on GUIC-related capital investments.³ This level of annual spending on accelerated infrastructure replacement is significantly higher today than *all* capital spending included in its 2010 rate case.⁴

¹ Initial Petition, *In the Matter of the Petition of Northern States Power Company for Approval of a Gas Utility Infrastructure Cost Rider*, Docket. No. G-002/M-14-336 at 19 (Aug. 1, 2014).

² 2022 Initial Petition at 33.

³ *Id.* at Attachment M.

⁴ *Id.*

Xcel is not alone in the wave of capital investments related to the accelerated replacement of its distribution system. For example, CenterPoint Energy went from spending an average of \$65 million per year on capital spending in the early 2000s to over \$300 million per year in the coming years.⁵ Although safety and reliability are fundamental obligations of all utilities, continuing the accelerated level of distribution system replacement without addressing broader policy, equity, and climate impacts of this push is places unreasonable risk on future generations.

After a decade of this sustained effort, it is time to take stock of these impacts and reset the direction of accelerated gas utility infrastructure replacement. To that end, Xcel should file a GUIC wind-down plan in its next GUIC rider petition in anticipation of the impending sunset of the GUIC rider next year. These comments will describe the existing and emerging drivers of the reexamination of accelerated infrastructure replacement, summarize a similar proceeding in Colorado, and provide additional detail on a GUIC wind-down plan requirement.

Accelerated System Replacement Must Consider Policy, Equity, and Climate Concerns.

There have been significant changes to energy and climate policy in Minnesota since the push for accelerated infrastructure replacement began over a decade ago. The Natural Gas Innovation Act (“NGIA”), which became law in 2021, establishes a throughput goal for the State of Minnesota that requires utilities to “reduce the overall amount of natural gas produced from conventional geologic sources delivered to customers.”⁶ Although the GUIC statute prohibits the recovery of projects that “serve to increase revenues” or that “constitute a betterment,” this means that, at best, the Company’s focus on accelerated system replacement is agnostic toward achievement of the throughput reduction goal.⁷ But the likely reality is that installing brand new infrastructure will make it more difficult to reduce system throughput in the future, especially if the resources being considered to reduce fossil gas throughput do not use the existing gas infrastructure system (e.g., electrification). Under this scenario, the

⁵ Singleton Direct, *In the Matter of the Application of CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas for Authority to Increase Rates for Natural Gas Utility Service in Minnesota*, Docket No. G-008/GR-21-435 at 22–23 (Nov. 1, 2021).

⁶ MINN. STAT. § 216B.2427, Subd. 10 (2021).

⁷ MINN. STAT. § 216B.1635, Subd. 1 (2021).

Company will be incentivized to pursue policies that necessitate the continued use of the gas distribution system so that it continues to be used and useful and thus eligible for cost recovery. The use of gas is also increasing in Minnesota⁸ and the state is not on track to meet the greenhouse gas reduction goals established in the 2007 Next Generation Energy Act, which will be discussed in greater detail below. Continuing the accelerated replacement of gas distribution infrastructure is thus no longer in alignment with state energy and climate policy.

In addition, the continued investment in accelerated replacement efforts increases the risk and magnitude that portions of the distribution system will become a stranded asset in the future. A stranded asset occurs when an asset is no longer “used and useful,” but the utility has not fully recovered the value of the asset. This is likely to occur in the future as the state begins to adopt policies that align with decarbonization of the gas system. It could also occur due to increasing rates that drive customers away from the system, thus putting additional upward pressure on rates for remaining ratepayers. Stranded asset risk (and the attendant higher rates) could be borne by under-resourced communities without supportive, proactive policies in place to avoid this harm.

The most effective way to lower stranded asset risk is to avoid incurring the cost in the first instance. A recent proceeding involving Xcel’s gas utility in Colorado highlights a proactive regulatory approach intended to avoid stranded assets and is summarized below.

A Recent Proceeding in Colorado Provides a Roadmap to Implement the Wind Down of Accelerated System Replacement Investments.

The risk of stranded assets was succinctly summarized in a recent proceeding involving Xcel’s gas utility in Colorado where the utility agreed to end its accelerated replacement rider in 2021. In that proceeding, the Deputy Director of the Colorado Public Utilities Commission testified that “[i]t is very troubling that [the utility] is continuing to make CapEx investments in their natural gas transmission and distribution systems at a rate of over \$400 million per year.”⁹ The Deputy Director went on to note the incongruence of the long useful lives of the new infrastructure with state climate goals that “directs utilities and the Commission to reduce

⁸ Audrey Partridge & Rabi Vandergon, *It All Adds Up: Emissions from Minnesota’s Natural Gas Consumption*, Ctr. For Energy & Env’t. 2 (2020).

⁹ Answer Testimony of Gene L. Camp, *In the Matter of the Verified Application of Public Service Company of Colorado for Approval to Extend the Company’s Pipeline System Integrity Adjustment (PSIA) Rider for Certain Projects Through 2024, with Subsequent Wind-Down of the Rider*, Colorado PUC Proceeding No. 21A-0071G, Hearing Ex. 500 at 39 (Jul. 13, 2021) (hereinafter “Answer Testimony of Gene L. Camp”).

the greenhouse gas emissions statewide by 90 percent by 2050”¹⁰ The PUC witness concluded that “the Company’s current practices are very likely to result in significant stranded assets in the not too distant future.”¹¹

There are many parallels to the scenario in Colorado that are applicable in this docket. Both states have similar greenhouse gas reduction goals, with Colorado at 90 percent by 2050 and Minnesota at 80 percent by 2050, although both goals fall short of the climate imperative to reach 100 percent by 2050.¹² Second, both states have new programs that enable gas utilities to “file beneficial electrification plans designed to incentivize the conversion of customers’ end use . . . from natural gas or propane to high-efficiency electric equipment.”¹³ Both NGIA and the Energy Conservation Optimization act (“ECO”) enable utilities to pursue efficient fuel switching from gas to electric in Minnesota. Finally, Xcel’s utilities in both Colorado and Minnesota both began pursuit of accelerated infrastructure replacement roughly a decade ago with each utility subsequently spending hundreds of millions to replace the riskiest pipe material in their systems. In recognition of the decade of investments in Colorado, the PUC witness noted that since “the highest risk situations are mitigated first . . . slowing the pace of capital investments in pipeline safety integrity projects is unlikely to result in placing the citizens of Colorado in danger.”¹⁴ The Company’s \$600 million investment in replacing the riskiest pipe material in its service territory in Minnesota should similarly assuage safety concerns of beginning to wind down the accelerated efforts.

In the Colorado proceeding, the Company initially proposed to extend rider recovery to 2024, but PUC staff, consumer advocates, and environmental groups all opposed this extension, arguing that the rider had already been extended numerous times since 2012 and that it represented “extraordinary cost recovery, incentivizes accelerated investment, raises important issues of appropriate depreciation lives, and could lead to significant stranded

¹⁰ *Id.* at 40.

¹¹ *Id.*

¹² Xcel Energy and Fresh Energy were on the Advisory Committee of a stakeholder process that culminated in a 2021 report on *Decarbonizing Minnesota’s Natural Gas End Uses* which used a net-zero by 2050 goal for scenario modeling. In addition, in November 2021, Xcel announced the establishment of a net-zero by 2050 goal for its gas distribution utility business.

¹³ Answer Testimony of Gene L. Camp at 41.

¹⁴ *Id.* at 42–43.

costs.¹⁵ Parties subsequently reached a settlement agreement wherein the infrastructure rider would be closed to new investment as of December 31, 2021 and the Company would implement a wind-down process to roll rider revenue into base rates.¹⁶

The Colorado PUC established the wind-down plan requirement in a 2015 Order. The plan requires the Company to “present a plan showing how future pipeline replacements or significant safety expenditures can be addressed through the ordinary course of business” when the rider is terminated.¹⁷

There are four requirements of the wind-down plan:

1. A thorough analysis of all projects to be included in an ongoing rider;
2. The criteria used to determine whether future projects qualify for rider treatment;
3. A timeline for all rider projects to be completed, including a quantitative risk assessment system; and
4. A plan stating how remaining projects in the rider and other future pipeline replacements or significant safety expenditures will be addressed through the ordinary course of business when the rider is terminated.¹⁸

The Colorado PUC added an additional requirement in 2018 by requiring the Company to “include an adequate plan to terminate the [rider], including a timeline for all [rider] projects to be completed, and a risk ranking methodology that establishes the necessary criteria to determine whether future projects qualify for [rider] treatment.”¹⁹

The Commission Should Require Xcel Energy to File a Wind-Down Plan in Future GUIC Rider Petitions.

Xcel should file a similar plan to wind down GUIC investments. This wind-down plan should be tailored to Minnesota and should take into consideration the information that Xcel

¹⁵ Decision Granting Joint Motion, Approving Settlement Agreement, and Granting Application as Modified by Settlement Agreement, *In the Matter of the Verified Application of Public Service Company of Colorado for Approval to Extend the Company's Pipeline System Integrity Adjustment (PSIA) Rider for Certain Projects Through 2024, with Subsequent Wind-Down of the Rider*, Proceeding No. 21A-0071G at 7 (Oct. 20, 2021).

¹⁶ *Id.* at 8.

¹⁷ *Id.* at 4.

¹⁸ *Id.*

¹⁹ *Id.* at 4–5.

already provides in GUIC rider petitions.²⁰ The Minnesota GUIC wind-down plan should have two components. First, the Company should provide a timeline for each current GUIC project to be completed. Second, the Company should provide a discussion of how future system replacement projects will be considered, including an analysis of alternatives that investigates whether electrification or networked geothermal, for instance, could be implemented instead of replacing the of existing pipe.

Requiring a GUIC wind-down plan is reasonable because the GUIC statute is set to expire on June 30, 2023. In light of this impending expiration, it is time to begin planning for the sunset of this program and to understand both how the Company plans to roll-in existing rider revenues and how it plans to address future projects. Fresh Energy also plans to assess any proposed roll-in of GUIC revenues in the Company's open rate case in docket 21-678.

Further, the topic of accelerated infrastructure replacement is likely to be a topic in the upcoming "Future of Gas" docket in 21-565. As part of the settlement agreed to by parties (including Fresh Energy) and CenterPoint Energy in March 2022, a letter was filed in that docket asking the Commission to examine, among other items "estimated budget and timeline" for remaining work to be done via accelerated system replacement programs.²¹ The filing of a wind-down plan in this docket would help to ensure consistency and inform the broader discussion of where these programs are headed in the Future of Gas docket. It would also serve as connective tissue between the broad policy docket and cost recovery dockets like GUIC.

²⁰ For instance, Xcel already provides an analysis of the projects to be included in an ongoing rider as well as criteria used to determine whether future projects qualify for GUIC rider treatment; since these are already components of a GUIC rider petition, Fresh Energy is not recommending that they be added to a GUIC wind-down plan.

²¹ Letter from Joint Settling Parties, *In the Matter of a Commission Evaluation of Changes to Natural Gas Utility Regulatory and Policy Structures to Meet State Greenhouse Gas Reduction Goals*, Docket. No. G-999/CI-21-565 (Mar. 21, 2022).

In conclusion, the Commission should require Xcel to file a GUIC wind-down plan in its next GUIC filing. The GUIC wind-down plan should provide a timeline for each current GUIC project to be completed and it should include a discussion of how future system replacement will be considered. This discussion should include an alternatives analysis where alternatives to pipeline replacement such as electrification or networked geothermal are considered.

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