

# Minnesota Public Utilities Commission

## Staff Briefing Papers

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Meeting Dates: September 15, 2016.....\*\*Agenda Item # 2

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Company: Xcel Energy (“Xcel”, “NSP”, or the “Company”)

Docket No. **E-002/M-16-420**  
**E-002/GR-15-826**

**In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of a Revised Competitive Response Rider Tariff and a Revised Competitive Response Rider Agreement with Gerdau Ameristeel US, Inc.**

**In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota**

Issue: Should the Commission approve Xcel Energy’s revised Competitive Market Rider Tariff and Competitive Market Rider Agreement (“Agreement”) with Gerdau Ameristeel US, Inc (“Gerdau”)?

Should the Commission exempt Gerdau from any interim rate increases proposed in Xcel’s pending rate case, Docket No. E-002/GR-15-826?

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### ***Relevant Documents***

Xcel Energy - Initial Filing (TS)..... May 12, 2016  
Department of Commerce (“Department”) – Comments (TS)..... June 13, 2016  
Xcel - Reply Comments ..... June 23, 2016  
Gerdau - Reply Comments..... June 23, 2016  
Minnesota Chamber of Commerce - Letter ..... June 24, 2016

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The attached materials are workpapers 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.

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## **Statement of the Issue**

Should the Commission approve Xcel Energy's revised Competitive Market Rider Tariff and Competitive Market Rider Agreement ("Agreement") with Gerdau?

Should the Commission exempt Gerdau from any interim rate increases proposed in Xcel's pending rate case, Docket No. E-002/GR-15-826?

## **Background**

On April 30, 2012, in Docket No. E-002/M-12-163, the Commission issued an Order approving a Competitive Rate Agreement Rider between Xcel and Gerdau and approving a revised Competitive Market Rider tariff.

On May 12, 2016, Xcel filed a petition requesting Commission approval of a revised competitive market rider tariff and competitive market rider agreement with Gerdau.

On June 13, 2016, the Department filed comments recommending approval with conditions.

On June 23, 2016, Xcel and Gerdau Steel each filed reply Comments.

On June 24, 2016, the Minnesota Chamber of Commerce filed a letter in support of the Xcel's request.

## **Staff Analysis**

Xcel requested an effective date of January 1, 2016, or in the alternative, April 29, 2016 (the date of execution of the agreement). Xcel stated that it proposed to apply the revised discount to Gerdau's usage retroactively as of the effective date that the Commission approves. Xcel stated that it would not apply the revised discount to any usage until receiving a Commission order approving a revised discount.

The Department reviewed the petition with respect to compliance with the Statute.<sup>1</sup> The Department concluded that the proposed Competitive Rate Agreement meets all the requirements of Minn. Stat. §216B.162, subs. 2, 4, and 7. Staff is not going to repeat the Department's analysis. However, there is an issue that is unusual in this docket and may benefit from additional attention. In its comments and recommendations, the Department recommended that the Commission:

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<sup>1</sup> Competitive Rate for Electric Utility, Minn. Stat. § 216B.162

Find that Gerdau's St. Paul facility is experiencing exigent financial circumstances and exempt Gerdau from any interim rate increases proposed in NSP's current rate case (Docket No. E-002/GR-15-828).

This was not part of the Company's petition and, if approved, has potential cost shifting aspects in Xcel's current rate case.

The Department stated that it met with Gerdau to discuss the current situation at the St. Paul facility and was impressed by the severity of Gerdau's situation. The Department indicated that it believes it is paramount that NSP extend rate relief to Gerdau as quickly as possible and to the fullest extent possible.

The Department argued that a finding of exigent circumstances would be consistent with prior Commission determinations. The Department provided a list of seven previous Commission orders that it considered relevant to this issue.

Staff notes that this docket is different from those cited by the Department:

- All of the cases cited by the Department were rate case proceedings.
- In six of the cases cited by the Department, the gas company initiating the filing requested a finding of exigent circumstances to justify a proposal to collect less than the full amount of the interim rate increase from its flexible ("market") rate customers and agreed not to seek recovery of the difference from any of its other customers. Xcel did not make such a request or agree to such a condition in this proceeding.
- In the seventh case, involving Minnesota Power, (in Docket No. E-015/GR-09-1151), the filing company did not request to limit the interim rate increase, however the Commission found that exigent circumstances existed, and, on its own motion, reduced the company's total interim rates revenue requirement to 60% of the amount of the company's final rate request. In the Order, the Commission discussed three extraordinary circumstances that it stated "combined to create exigent circumstances." The Commission's decision finding exigent circumstances was upheld by the Minnesota Supreme Court. The Supreme Court held that finding exigent circumstances is largely a factual determination subject to a substantial evidence standard.

There are two issues for the Commission: (1) do exigent circumstances exist in this docket; and (2) cost recovery.

Addressing the first issue, this is not the same type of filing as the seven rate cases identified by the Department, nor does the record in this docket contain the same level or type of information utilized by the Commission to determine that exigent circumstances existed in the previous cases.

Addressing the second issue, Minn. Stat. § 216B.162, subd. 4 (3) contemplates that a company would seek recovery of the difference between the standard tariff and the competitive rate within a general rate case, stating:

[T]hat the electric utility, within a general rate case, be allowed to seek recovery of the difference between the standard tariff and the competitive rate times the usage level during the test year.

Xcel has not offered to forego recovery of any part of the interim rate increase for Gerdau that the Department suggests should not be charged, thus a reduction in interim rates for this customer would reduce interim rate recovery and reduce a potential interim rate refund for all customers. Such an outcome would result in a cost shifting among customers.

A decision on revenue recovery at this time, in this proceeding, without notice in Xcel's pending rate case, in Docket E-002/GR-15-826, would be premature. If the Commission decides to approve Xcel's petition with the Department's recommendation that Gerdau be exempted retroactively from the interim rate increase in the rate case, it may want to clarify that its approval is not an indication of how cost recovery might be addressed in Xcel's pending rate case or how this issue might be addressed within any future rate case.

## Decision Options

Some Commission options are:

- A. Approve Xcel's Petition.
- B. Adopt one or more of the Department's recommendations:
  - 1. Approve the Competitive Rate Agreement Rider between Xcel and Gerdau.
  - 2. Approve the revised Competitive Response Rider Tariff.
  - 3. Find that exigent circumstances exist because Gerdau's St. Paul facility is experiencing distressful financial circumstances and exempt Gerdau from any interim rate increases proposed in Xcel's pending rate case (Docket No. E-002/GR-15-828).
- C. Determine that:
  - 1. The effective date of the agreement is January 1, 2016.
  - 2. The effective date of the agreement is April 29, 2016 (the date of execution of the Agreement).
  - 3. The agreement is effective on some other date the Commission considers more appropriate, for example, the date of the Commission's Order approving the agreement.
- D. Clarify that the approval of the petition is not a predetermination of the Company's ability to recover the discount in the Agreement in a general rate case.
- E. Clarify that a finding of exigent circumstances that Gerdau's St. Paul facility is experiencing distressful financial circumstances and exempting Gerdau from any interim rate increases proposed in Xcel's pending rate case (Docket No. E-002/GR-15-828) is not a determination regarding cost recovery of uncollected interim rates.