

August 3, 2016

PUBLIC DOCUMENT

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

RE: **Response Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E002/M-15-805

Dear Mr. Wolf:

The Minnesota Department of Commerce, Division of Energy Resources (Department) provides this *Response Comments* with regards to the following matter:

Revised Petition and Supplement of Northern States Power Company d/b/a Xcel Energy (Xcel or the Company) for Approval of the Renewable Energy Standard Rider, RES Adjustment Factor, and the 2015 RES True-up Report.

The *Revised Petition* was filed on September 29, 2015 and the *Supplement* was filed on February 2, 2016 by:

Amy Fredregill
Resource Planning and Strategy Manager
Xcel Energy
414 Nicollet Mall, 7th Floor
Minneapolis, MN 55401

The Department recommends approval of Xcel's *Revised Petition and Supplement* **as modified herein, on a provisional basis and subject to the Decisions** by the Minnesota Public Utilities Commission (Commission) in Docket Nos. E002/GR-15-826 and E002/M-16-223. The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/ SACHIN SHAH
Rates Analyst

/s/ NANCY CAMPBELL
Financial Analyst

SS/NC/lt

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

RESPONSE COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. E002/M-15-805

I. BACKGROUND

In its May 2, 2016 *Comments*, the Department stated the following in part:

The Department requests that Xcel provide additional information in reply comments. The Department will offer additional comments and recommendations in subsequent response comments after it has reviewed the additional information.

In addition, the Department provided initial conclusions and recommendations in its May 2, 2016 *Comments*, as follows:¹

A. CONCLUSIONS

The Department concludes that Xcel appropriately factored in the correct [Renewable Energy Credit] REC fees in its calculation of the REC sales credit refunded to customers.

The Department concludes that Xcel's treatment of return on [Construction Work In Progress] CWIP is reasonable, as allowed by Minnesota statutes.

The Department concludes that Xcel's estimated 25-year life for the Courtenay Project appears reasonable.

The Department concludes that Xcel's removal of internal labor costs appears reasonable.

The Department notes that in light of the fact that this [Renewable Energy Standard] RES Rider is limited to a true-up

¹ May 2, 2016 *Comments*, pages 22-23.

of the first half of 2015 [Production Tax Credit] PTC amounts and the 2016 Rider Revenue Requirements, based on the information provided by the Company regarding its consultant[']s review, it is reasonable to conclude that the Company is proposing to collect only incremental costs in this RES Rider Petition.

Finally, the Department considers the Company's notice to be acceptable but recommends minor revisions at this time.

B. RECOMMENDATIONS

The Department recommends that the Company in its Reply Comments:

- provide the bill impact associated with the 0.822 Adjustment Factor;
- provide the redline and clean tariff pages associated with the 0.822 percent Adjustment Factor; and
- clarify that Minnesota is not being charged for any additional [Allowance for Funds Used During Construction] AFUDC attributable to any state after the eligibility date.

The Department recommended in its *Comments* that the Commission:

- Require Xcel to file copies of all the relevant 2015 tax forms supporting its 2015 actual PTC figures in the Company's next RES true-up filing;
- Require Xcel to credit the slightly higher level of actual PTCs for 2014 to ratepayers in the Company's instant RES true-up;
- Require Xcel to provide detailed revenue collections by customer class in addition to the summary it provides in its future RES Rider filings;
- Require Xcel to replace its forecasted pro-rated [Accumulated Deferred Income Taxes] ADIT balances with actual non-prorated ADIT balances in its beginning-of-month and end-of-month average calculations for true-up purposes in future RES Rider filings. Alternatively, the Commission could require Xcel's riders to be based solely on historical costs;

- Require Xcel to implement the 2016 Adjustment Factor in the beginning of the month following the Commission's Order in the instant Docket; and
- Require Xcel to credit its Minnesota ratepayers for their proportionate share of used [North Dakota Investment Tax Credits] NDITCs associated with the Courtney Project, based on the pro-rata share of the costs of the Courtenay project that is charged to Minnesota ratepayers. Alternatively, none of the costs of the Courtenay project should be charged to Minnesota ratepayers in this rider petition.

On May 12, 2016, Xcel filed *Reply Comments*. The Company provided the information requested by the Department in its *Reply Comments*. The Company stated the following:²

We provide the following information with this Reply in response to the Department's requests:

- The bill impact associated with the revised RES Adjustment Factor of 0.822 percent remains unchanged from the bill impact with the 0.820 percent RES Adjustment Factor, and would result in an increase of approximately \$0.55 for a typical residential customer using 750 kWh per month.
- Attachment A [of Xcel's *Reply Comments*] shows the clean and redline tariff pages associated with the 0.822 percent Adjustment Factor. We also note that we will also provide the clean and redline tariff sheets as part of our compliance filing in this Docket.
- In Section A below, we discuss our treatment of AFUDC in the RES Rider.

The Department appreciates the Company's clarification on the bill impacts and tariff pages referenced above, and appreciates that the Company also agreed with some of the Department's recommendations, as Xcel stated:³

The Department also recommended several revisions to the customer notice that will be provided on customer bills on page 19 of its Comments. We agree to the make those revisions.

....

We agree to provide all the relevant 2015 tax forms supporting 2015 actual Production Tax Credit (PTC) figures in our next RES true-up filing. Future RES Rider true-up filings will provide the previous year's tax forms, when available, to assist in the

² Xcel's May 12, 2016 Reply Comments at page 2.

³ Xcel's May 12, 2016 Reply Comments at pages 2-3.

Department's review. In addition, we will provide detailed revenue collections by customer class in future RES Rider filings.

We also agree to credit the higher level of actual 2014 PTCs in this RES true-up. This slight difference in PTCs was due to a tax adjustment made after our filing. We provided this actual tax information in the Second Revised Petition, filed September 29, 2015. We note that this small change to the PTCs did not result in any change to the RES Adjustment Factor, as filed in our Second Revised Petition.

The Department discusses below the Company's *Reply Comments* regarding the treatment of Allowance for Funds Used during Construction (AFUDC), Accumulated Deferred Income Taxes (ADIT), the 2016 RES Adjustment Factor Implementation and the North Dakota Investment Tax Credits (NDITC).

II. THE DEPARTMENT'S ADDITIONAL ANALYSIS OF THE PENDING ISSUES

A. CONSTRUCTION WORK IN PROGRESS (CWIP) AND AFUDC.

With regards to CWIP and AFUDC, in its May 2, 2016 *Comments*, the Department stated the following:⁴

Xcel's revenue requirement calculations include a current return on capital expenditures on the Construction Work in Progress (CWIP) balance in lieu of future recovery of AFUDC.¹⁴ The base for the current return is the cumulative CWIP balance for the Courtenay project per Xcel's requested eligibility date of September 1, 2015. The beginning CWIP balance includes AFUDC incurred prior to the eligibility date. After that date, the Minnesota jurisdictional portion of costs does not include AFUDC, and a current return is calculated on the CWIP balance. Consistent with Minn. Stat. §216B.1645, Subd. 2a(2), the costs included in this adjustment mechanism are not to be recovered from customers under any other mechanism.

According to Xcel, other jurisdictions affected by these projects do not apply the same ratemaking treatment of CWIP as provided in Minnesota. Xcel stated that it calculates AFUDC and removes the amount associated with the Minnesota jurisdiction. This offset reduces the amount of AFUDC, leaving only the portion that is allocated to the non-Minnesota jurisdictions for ratemaking. The Department recommends that Xcel, in its Reply Comments clarify that Minnesota is not being

⁴ Department's May 2, 2016 Comments at page 12.

charged for any additional AFUDC attributable to any state after the eligibility date.

In its *Reply Comments*, the Company stated that, “to prevent double recovery between AFUDC and a current return on CWIP, an accounting mechanism referred to as “Pre-funded AFUDC” is calculated based on the eligibility date and credited against the Minnesota jurisdictional amount of AFUDC related to the RES Rider”. The Company also stated the following:⁵

This treatment, in effect, reduces the income offset provided by AFUDC and reduces the accumulated AFUDC that is added to rate base when a project is placed into service. The Company tracks Pre-funded AFUDC and the non-rider AFUDC separately so that the Minnesota jurisdictional customers are assured of receiving the entire benefit in lower fixed asset costs during the in-service period for the assets included in rate riders. In this way, we ensure that costs are recovered in the appropriate jurisdictions, pursuant to their specific ratemaking procedures.

Given the Company’s assurance of separately tracking the rider versus non-rider AFUDC, the Department concludes the Company’s treatment of AFUDC appears to be reasonable.

B. 2016 RES ADJUSTMENT FACTOR IMPLEMENTATION DATE

In its May 2, 2016 *Comments*, the Department recommended that the Company implement the 2016 Adjustment Factor in the beginning of the month following the Commission’s Order in the instant docket. In its *Reply Comments*, Xcel stated the following:⁶

We assume this recommendation to mean that we should implement the RES Adjustment Factor as proposed and further modified here (0.822 percent). We agree to this recommendation, but note that the Commission will be approving this petition later than the proposed implementation date of January 1, 2016, and the rate has been at zero for the intervening months. Therefore, the true-up balance at the end of the year will be higher than calculated, meaning a higher rate charged to customers for 2017. Although we will collect the same 2016 Revenue Requirement, the shortened 2016 recovery period, without a commensurate increase in the RES rate, will necessarily shift recovery of these 2016 costs into 2017.

In the Department’s May 2, 2016 *Comments*, the Department stated the following:⁷

⁵ Xcel’s May 12, 2016 Reply Comments at page 3.

⁶ Xcel’s May 12, 2016 Reply Comments at page 4.

⁷ Department’s May 2, 2016 Comments at page 17.

The Department notes that riders have subsequent true-up periods and as such the tracker balance will show what the Company will have collected in revenues and it can adjust the balance (that is, the difference between the total 2016 revenue requirements and the amount of revenues received from customers under this rider) going forward for the next true-up and RES Rider filing.

Thus, the Department concludes that the Company will be able to adjust the tracker balance going forward for the next true-up and RES rider filing.

C. *ACCUMULATED DEFERRED INCOME TAXES (ADIT).*

In its May 2, 2016 *Comments*, the Department recommended that the Commission require Xcel to replace its forecasted pro-rated ADIT balances with actual non-prorated ADIT balances in its beginning-of-month and end-of-month average calculations for true-up purposes in future RES Rider filings. Alternatively, the Department recommended that the Commission require Xcel's riders to be based solely on historical costs. In its May 12, 2016 *Reply Comments*, Xcel stated the following:⁸

We note that we plan to address the ADIT issue in our currently pending rate case (Docket No. E002/GR-15-826). Specifically, we plan to address it in a supplement to our response to the Department's Information Request No. 1139 which deals with this same topic. The rate case is a more appropriate forum for this issue for two reasons. First, the potential consequences of the outcome of this complex issue go beyond riders and developing the issue in the rate case will allow further analysis and comments. Second, due to the timing of the true-up, the issue does not need to be decided immediately so the rate case procedural schedule will allow a more thorough discussion and perhaps additional clarity on the topic before our next series of annual rider filings are heard at the Commission.

With regard to the Department's alternative solution, using historical test years for riders, we note that there are customer benefits associated with the use of accelerated tax methods in the forecast period that that would disappear with the use of a historical test year. If the Commission wishes to explore the use of historical test years for riders, we believe there should be additional record development.

Based on the above, the Department observes that Xcel would like to implement the 2016 RES Adjustment Factor in the instant docket (a cost recovery docket) while having the ADIT discussion in its pending general rate case in Docket No. E002/GR-15-826. However, subsequent to Xcel's *Reply Comments* in this proceeding, there have been settlement

⁸ Xcel May 12, 2016 *Reply Comments* at page 4.

discussions in the rate case proceeding on numerous issues, which may include the ADIT issue. Thus, to avoid having this important financial issue overlooked, the Department discusses the issue in this proceeding.

Pages 12-25 of Ms. Nancy Campbell's June 14, 2016 Direct Testimony in Xcel's most recent rate case (Docket No. E002/GR-15-826), along with Attachments NAC-6 through NAC-9 of her testimony, all of which is attached to these *Response Comments*, addressed the issue of accounting for ADIT in ratemaking. The Department notes that in Xcel's most recent rate case, the Department took a stronger position on the ADIT Prorate issue based on a better understanding by the Department of this ADIT Prorate issue. The Department recommended that no changes/adjustments proposed by Xcel for the ADIT Prorate be allowed in Xcel's most recent rate case. Specifically, pages 16, 24-25 of Campbell Direct stated:

Q. Why are you concerned that the Company is changing a long standing position on how it treats its ADIT balance for ratemaking purposes and using private tax rulings as support?

A. I am concerned because ratepayers are continuing to pay the same depreciation and related taxes on investment, and now ratepayers will not be receiving the full ADIT offset or credit to rate base.

Q. Do these private letter rulings even apply to Xcel?

A. No. At the end of all private letter rulings, the IRS provides the following statement, which basically says this IRS decision is only to be used by the entity requesting the decision: This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides it may not be used or cited as precedent.⁹

...

- Fourth, since Xcel's proposed ADIT changes will harm ratepayers and change the way ratemaking is handling accelerated depreciation for rate cases without demonstrating adequate support to show that the ADIT change is required under the Internal Revenue Code or Treasury Regulations (only supported by private letter rulings that are entity specific), because Xcel failed to meet its burden of proof to show its proposed change to be reasonable, and because the Company failed to provide the adjustment the Department requested for the ADIT issue as discussed above, I recommend that no ADIT changes be allowed in this rate case at this time.

Additionally, on July 25, 2016 (after the Department and other intervenors filed Direct Testimony in the Xcel Rate Case) the Company submitted a Compliance Filing on behalf of

⁹ See last page of Department information request no. 157, DOC Ex. ____ NAC-6 (Campbell Direct).

Xcel Energy Transmission Development (XETD) Company LLC, in FERC Docket No. ER14-2752-004. The Department observes that, the Company's Note D of Attachment 4 page 2 of 2 stated the following regarding ADIT:

ADIT is computed using the average of the beginning of the year and end of the year balances.

The Department notes that, in the FERC proceeding, the Company is *not* pro-rating its ADIT credit for rate base for XETD. This fact is inconsistent with Xcel's claims that NSP-M needs to pro-rate its ADIT balance. Since Xcel Energy does taxes on a consolidated tax basis, the Department does not see how the Company can claim non-prorated ADIT for XETD and prorated ADIT for NSP-M, except to conclude that the Company's claim that the IRS private ruling requires them to pro-rate the ADIT balance is not supported.

In sum, it is inappropriate and inconsistent to require ratepayers of a fully regulated utility such as Xcel to pay for higher income tax expenses based on an assumption of straight-line depreciation (rather than accelerated depreciation used for tax purposes) *and* to lose the long-standing offsetting ADIT credit to rate base. Instead of treating ADIT as the timing issue it has always been, Xcel now proposes to charge higher rates to ratepayers by charging ratepayers a tax expense that is higher and no longer matching the ADIT credit for rate base because of the one-sided proration to only the rate base credit and not the tax expense.

Since the Company is also not agreeing to the true-up in the following year when amounts become actual, the Company is inappropriately keeping for its shareholders the benefits of tax expense being higher than the ADIT credit. Charging ratepayers for a full tax expense that is not prorated and at the same time lowering the credit for ADIT due to proration without a true-up in the following year when costs become actual results in the Company unreasonably overcharging ratepayers. Thus, Xcel's proposal does not meet the requirement of Minnesota Statute section 216B.03, that rates must be just and reasonable.

Moreover, as this proceeding is a rider petition, Xcel's proposal would not meet the requirements of Minnesota Statute section 216B.1645, subdivision 2 since the Company is charging ratepayers a tax expense amount that is higher than the prorated ADIT credit, which is one-sided to the detriment of ratepayers and is not consistent with long-standing ratemaking principles:

Subd. 2. Cost recovery.

The expenses incurred by the utility over the duration of the approved contract or useful life of the investment and expenditures made pursuant to section 116C.779 shall be recoverable from the ratepayers of the utility, to the extent they are not offset by utility revenues attributable to the contracts, investments, or expenditures.

For all of the reasons identified in the Department's testimony in the concurrent rate case and in the Department's *Comments* in this proceeding, the Department recommends that the Commission either:

1. not allow Xcel to use any prorated ADIT balances, since the proposed changes to ADIT would:

- harm ratepayers,
- be inconsistent with the way ADIT has been handled for many years for ratemaking purposes,
- inappropriately allow Xcel to use private letter rulings that don't even apply to the Company,
- contradict the statement below in the IRS letters (even if the private letter rulings applied) that there is no need for normalization if rates are based on historical data,
- be inconsistent in Xcel's application, as a consolidated tax entity, of its prorated ADIT between NSP-M in Minnesota and XETD at FERC, and
- contradict Xcel's assertion that the Company must pro-rate ADIT since Xcel, the consolidated tax entity, did not do so in its compliance filing with FERC,

OR

2. require Xcel's RES rider to be based solely on historical costs.

Requiring Xcel's RES (and other) riders to be based solely on historical costs would fully address the ADIT issue, as described in the Private Letter Ruling of the IRS:

Congress was explicit: normalization "in no way diminishes whatever power the [utility regulatory] agency may have to require that the deferred taxes reserve be excluded from the base upon which the utility's permitted rate of return is calculated." H.R. Rep. No. 413, 91st Cong., 1st Sess. 133 (1969).

...

[T]he second interpretation of section 1.167(l)-1(h)(6)(ii) of the regulations [that "the historical period is that portion of the test period before rates go into effect, while the portion of the test period after the effective date of the rate order is the future period"] is consistent with the purpose of normalization, which is to preserve for regulated utilities the benefits of accelerated depreciation as a source of cost-free capital. The availability of this capital is ensured by prohibiting flow-through. But whether or not flow-through can even be accomplished by means of rate base exclusions depends primarily on whether, at the time rates become effective, the amounts originally projected to accrue to the deferred tax reserve have actually accrued.

If rates go into effect before the end of the test period, and the rate base reduction is not prorated, the utility commission is denying a current return for accelerated depreciation benefits the utility is only projected to have. This procedure is a form of flow-through, for current rates are reduced to reflect the capital

cost savings of accelerated depreciation deductions not yet claimed or accrued by the utility. Yet projected data is often necessary in determining rates, since historical data by itself is rarely an accurate indication of future utility operating results. Thus, the regulations provide that as long as the portion of the deferred tax reserve based on projected (future estimated) data is prorated according to the formula in section 1.167(l)-1(h)(6)(ii), a regulator may deduct this reserve from rate base in determining a utility's allowable return. In other words, a utility regulator using projected data in computing ratemaking tax expense and rate base exclusion must account for the passage of time if it is to avoid flow-through.

But if rates go into effect after the end of the test period, the opportunity to flow through the benefits of future accelerated depreciation to current ratepayers is gone, and so too is the need to apply the proration formula. In this situation, the only question that is important for the purpose of rate base exclusion is the amount in the deferred tax reserve, whether actual or estimated. Once the future period, the period over which accruals to the reserve were projected, is no longer future, the question of when the amounts in the reserve accrued is no longer relevant (at the time the new rate order takes effect, the projected increases have accrued, and the amounts to be excluded from rate base are no longer projected but historical, even though based on estimates). (Emphasis added).¹⁰

D. NORTH DAKOTA INVESTMENT TAX CREDIT (NDITC)

In the Department's May 2, 2016 *Comments*, the Department recommended that the Commission require Xcel to credit its Minnesota ratepayers for their proportionate share of used NDITCs associated with the Courtney Project, based on the pro-rata share of the costs of the Courtenay project that is charged to Minnesota ratepayers. Alternatively, the Department recommended that none of the costs of the Courtenay project should be charged to Minnesota ratepayers in this rider petition.

In its May 12, 2016 *Reply Comments*, Xcel stated the following:¹¹

D. North Dakota Income Tax Credit (NDITC)

The Department also recommended that the Company be required to credit our Minnesota ratepayers for their proportionate share of used NDITCs associated with the Courtenay Wind Project, based on the pro-rata share of the

¹⁰ <https://www.irs.gov/pub/irs-wd/201541010.pdf> pages 6-8.

¹¹ Xcel May 12, 2016 *Reply Comments* at pages 4-5.

costs of the Courtenay project that is charged to Minnesota ratepayers. Alternatively, the Department recommended that the Commission allow none of the costs of the Courtenay project to be charged to Minnesota ratepayers in this rider petition.

The NDITCs for the Courtenay Wind project are \$0 in 2016 and 2017. Although the Courtenay Wind project qualifies for the NDITC, the credit is limited by the Company's North Dakota taxable income. The Border Winds project will be in service sooner than Courtenay and is expected to generate sufficient NDITCs to offset the Company's anticipated tax liability for all but the last year that Courtenay qualifies for the NDITC.

In its Order approving the Courtenay Wind acquisition, the Commission deferred its decision regarding allocation of the NDITC to a later proceeding- either the Company's renewable energy rider or electric rate case. Because there is no available NDITC for 2016 and 2017, the issue of whether it is appropriate to proportionally share the NDITC with Minnesota ratepayers is more suitable for evaluation in the Company's current rate case rather than in this docket. The Company's position with respect to the Minnesota treatment of NDITCs is contained in Docket No. E002/GR-15-826 in the Direct Testimony of Company witness Ms. Anne E. Heuer in section IX Compliance with Prior Commission Orders, part E, Other Compliance Requirements, Item 6, North Dakota Income Tax Credits.

Given the discussion above, and particularly the fact that the NDITCs for the Courtenay Wind Project are \$0 in 2016 and 2017, the Department's alternative recommendation – to deny the recovery of any of those costs associated with the Courtenay project from Minnesota ratepayers through this Rider – need not be addressed at this time. The issue can be addressed more holistically in the rate case.

In response, the Department observes, first, that the labeling in Xcel's *Reply Comments* is incorrect. It should be as follows:

D. North Dakota ~~Income~~ Investment Tax Credit (NDITC)

Second, Xcel would like to implement the 2016 RES Adjustment Factor in the instant docket (a cost recovery docket) while having the NDITC discussion in its pending general rate case in Docket No. E002/GR-15-826. However, it is unclear whether such a discussion and decision would be made in Xcel's rate case, given the Company's request for a settlement Administrative Law Judge and the settlement process. Thus, the Department recommends

that, until Xcel meets its burden of proof to show that Minnesota ratepayers should not receive a pro-rata share of the North Dakota Investment Tax Credit, none of the costs of the Courtenay Wind Project should be allowed to be recovered through the RES Rider.

III. CONCLUSIONS AND RECOMMENDATIONS

Xcel has agreed to the following Department recommendations:

- file copies of all the relevant 2015 tax forms supporting its 2015 actual PTC figures in the Company's next RES true-up filing;
- credit the slightly higher level of actual PTCs for 2014 to ratepayers in the Company's instant RES true-up;
- provide detailed revenue collections by customer class in addition to the summary it provides in its future RES Rider filings; and
- implement the 2016 Adjustment Factor in the beginning of the month following the Commission's Order in the instant Docket.

The Department recommends that the Commission approve Xcel's *Revised Petition* and *Supplement* as modified to:

- not allow Xcel to use any prorated ADIT balances, since the proposed changes to ADIT would:
 - harm ratepayers,
 - be inconsistent with the way ADIT has been handled for many years for ratemaking purposes,
 - inappropriately allow Xcel to use private letter rulings that don't even apply to the Company,
 - contradict the statement in the IRS letters (even if the private letter rulings applied) that there is no need for normalization if rates are based on historical data,
 - be inconsistent in Xcel's application, as a consolidated tax entity, of its pro-rated ADIT between NSP-M in Minnesota and XETD at FERC, and
 - contradict Xcel's assertion that the Company must pro-rate ADIT since Xcel, the consolidated tax entity, did not do so in its compliance filing with FERC.
- **or:** require Xcel's RES rider to be based solely on historical costs **and**
- require Xcel to meet its burden of proof to show why Minnesota ratepayers should not be credited with a pro-rata share of the North Dakota ITC before any costs of the Courtenay Wind project may be included for cost recovery in the RES Rider.

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, MN 55101

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 7th Place East, Suite 350
St Paul MN 55101-2147

IN THE MATTER OF THE APPLICATION OF
NORTHERN STATES POWER COMPANY, D/B/A
XCEL ENERGY, FOR AUTHORITY TO INCREASE
RATES FOR ELECTRIC SERVICE IN MINNESOTA

MPUC Docket No. E002/GR-15-826
OAH Docket No. 19-2500-33074

DIRECT TESTIMONY OF NANCY A. CAMPBELL

ON BEHALF OF

THE MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

FINANCIAL ISSUES

JUNE 14, 2016

PUBLIC DOCUMENT

PUBLIC DIRECT TESTIMONY OF NANCY A. CAMPBELL
IN THE MATTER OF THE APPLICATION OF NORTHERN STATES POWER COMPANY, D/B/A
XCEL ENERGY, FOR AUTHORITY TO INCREASE RATES FOR ELECTRIC SERVICE IN MINNESOTA

Docket No. E002/GR-15-826
OAH Docket No. 19-2500-33074

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XXI. PI CAPITAL COSTS IN EXCESS OF ESTIMATES PROVIDED IN 2008 CNs83

XXII. SUMMARY OF RECOMMENDATIONS96

Please see Attachments F and G to this response for bridge schedules that include all adjustments related to the PATH Act of 2015 for the 2019 and 2020 forecast years, respectively. Please note that the Bonus Tax Depreciation and Federal R&E Credit adjustments are shown in columns (2) and (3) of each page, but the impact of Secondary Calculations, especially the NOL calculation in column (6), are needed to fully illustrate the incremental impact.

\$ millions	2016 Test Year	2017 Plan Year	2018 Plan Year	2019 Forecast	2020 Forecast	Total
Base Rate revenue requirement impact, cumulative	\$ (5.4)	\$ 13.3	\$ 4.7	\$ (9.2)	\$ (19.9)	
incremental	\$ (5.4)	\$ 18.7	\$ (8.6)	\$ (13.9)	\$ (10.7)	\$ (19.9)

State of Minnesota, Electric Jurisdiction

The impact on the five year forecast is summarized below.

\$ millions	2016 Test Year	2017 Plan Year	2018 Plan Year	2019 Forecast	2020 Forecast	Total
Burdick Sch. 13	\$194.6	\$246.7	\$297.1	\$379.6	\$427.7	
PATH Act update	\$ (5.4)	\$ 13.3	\$ 4.7	\$ (9.2)	\$ (19.9)	
Updated cumulative forecast	\$189.2	\$260.0	\$301.8	\$370.4	\$407.8	
incremental	\$189.2	\$70.8	\$41.8	\$68.6	\$37.4	\$407.8

State of Minnesota, Electric Jurisdiction

Q. Do you agree that the above reduction in taxes for 2016 to 2020 should be reflected in the five-year rate plan?

A. Yes. I recommend that the (\$19.9) million overall reduction in taxes due to the 2015 PATH Act be reflected in the five-year rate plan.

VI. ACCUMULATED DEFERRED INCOME TAX (ADIT) PRO-RATED

Q. What are deferred taxes?

A. Company witness Lisa Perkett provided on page 50 of her Direct Testimony the following explanation for deferred taxes:

Deferred taxes are a result of an accounting process called "normalization", which is the timing difference between book and tax accounting. The difference is

1 then multiplied at the current tax rate to determine the
2 current deferred tax. This amount in turn is added to the
3 Accumulated Deferred Income Tax (ADIT) balance.
4 Deferred taxes derive from tax depreciation being
5 greater than book depreciation (in the early years of an
6 assets life.) The Company's ADIT balance has been
7 growing in large part due to bonus tax depreciation,
8 discussed below. The Company strives to maximize the
9 tax benefits by using accelerated methods to depreciate
10 its assets, which are often taken in the early years of an
11 asset's life. Deferred taxes, from a rate making
12 perspective, allow the Company to share the early tax
13 benefits with all customers equally over the asset's
14 straight line book life.
15

16 **Q. What is bonus tax depreciation and how does it affect the rate case revenue**
17 **requirement?**

18 **A. Ms. Perkett provided on page 51 of her Direct Testimony the following explanation for**
19 **bonus tax depreciation and how it affects a rate case revenue requirement:**

20 Like accelerated tax depreciation, bonus tax
21 depreciation is a depreciation method used for income
22 tax purposes that reflects more depreciation in the early
23 years of an asset's useful life compared to straight-line
24 depreciation. Straight-line depreciation is used for
25 financial accounting and regulatory purposes and is the
26 method on which gas and electric utility rates are set.
27 Bonus depreciation defers income taxes by reducing
28 taxable income in the early years of an asset's life and
29 increasing taxable income in the latter years. The
30 difference between straight-line depreciation (constant
31 through an asset's life) and bonus depreciation is a
32 matter of timing, which in turn generates a deferred tax
33 liability (FERC Account 282, Accumulated Deferred
34 Income Taxes – Other Property).
35

36 Revenue requirement is impacted by bonus depreciation
37 as a decrease to rate base when the bonus depreciation
38 is factored into the ADIT calculation. The ADIT generated
39 by bonus depreciation represents government-supplied
40 funds to the utility and, consequently, requires the
41 balance to be credited to rate base. Under normalized
42 accounting for income taxes, ADIT signifies amounts

1 paid by customers for current taxes that the utility will
2 not have to pay the government until a later period.
3

4 **Q. Do you agree with the Company's definition of deferred taxes and bonus tax**
5 **depreciation and how it affects the rate case revenue requirements?**

6 A. Generally yes; however, I do not agree that the ADIT generated by bonus depreciation
7 or any accelerated tax method represents government-supplied funds to the utility.
8 Rather, it is the ratepayer that has prepaid normalized deferred income taxes before
9 the taxes are due. This fact is why ratepayers received an ADIT credit, which reduces
10 rate base, because ratepayers have pre-paid the tax amount owed by the Company
11 to the Internal Revenue Service (IRS).
12

13 **Q. Who sets the rules for tax normalization and what are these rules?**

14 A. Ms. Perkett discussed on pages 53 and 54 of her Direct Testimony that the Internal
15 Revenue Code sets the standards for normalization and cites Internal Revenue Code
16 Section 168(i)(9)(B)(i) as follows:

17 [T]he taxpayer must, in computing its tax expense for
18 purposes of establishing its cost of service for ratemaking
19 purposes and reflecting operating results in its regulated
20 books of account, use a method of depreciation with
21 respect to such property that is the same as, and a
22 depreciation period for such property that is no shorter
23 than, the method and period used to compute its
24 depreciation expense for such purposes....^[10]
25

26 **Q. In past rate cases how has the Company calculated its ADIT balances?**

27 A. Since at least 2005 and likely much earlier, the Company included non-prorated ADIT
28 balances in its forecasted test-year rate base.

¹⁰ 28 U.S.C.A. § 168(i)(9)(B)(i) (West 2015).

1 Q. Is the Company planning on changing how it calculates the forecasted test-year ADIT
2 balance in this rate case (one of the three components of rate base noted above)?
3 A. Yes. On pages 54 to 56 of her Direct Testimony, Ms. Perkett discusses the private
4 tax rulings and the effect on current ADIT balances. In simple terms, because Xcel is
5 proposing a forecasted test year in this proceeding, the private letter rulings indicate
6 that a utility must pro-rate the monthly incremental increases to the ADIT balance. As
7 a result of this change, Xcel's test-year ADIT balance is reduced.
8
9 Q. Does Xcel plan to true-up or replace its forecasted pro-rated ADIT balances with non-
10 prorated ADIT balances in the following year when the balances are no longer
11 forecasted and actuals are known?
12 A. No.
13
14 Q. Has Congress changed the Tax Code to cause the Company to change its calculation
15 for ADIT?
16 A. I am not aware of any such change, nor does Xcel cite any such change. Instead,
17 Xcel bases its proposal on the IRS's private letter rulings issued to various
18 companies, as discussed on pages 53 to 55 of the Direct Testimony of Ms. Perkett,
19 that discuss ADIT, specifically the current portion¹¹ of ADIT for forecasted test
20 periods.
21

¹¹ For ADIT there is an accumulated balance portion based on prior years and there current ADIT for forecasted costs for the current year.

1 Q. Why are you concerned that the Company is changing a long standing position on
2 how it treats its ADIT balance for ratemaking purposes and using private tax rulings
3 as support?

4 A. I am concerned because ratepayers are continuing to pay the same depreciation and
5 related taxes on investment, and now ratepayers will not be receiving the full ADIT
6 offset or credit to rate base.

7
8 Q. Do these private letter rulings even apply to Xcel?

9 A. No. At the end of all private letter rulings, the IRS provides the following statement,
10 which basically says this IRS decision is only to be used by the entity requesting the
11 decision:

12 This ruling is directed only to the taxpayer who requested
13 it. Section 6110(k)(3) of the Code provides it may not be
14 used or cited as precedent.¹²
15

16 Q. Has the Federal Energy Regulatory Commission (FERC), which regulates wholesale
17 electric rates, addressed this issue?

18 A. Yes. In Department information request no. 157¹³ I asked to the Company to
19 address FERC's December 2015 Order in Docket No. ER16-197, where FERC
20 rejected NSP's Attachment O filing and required NSP to correct its ADIT true-up
21 amount in its Attachment O filing. Basically, FERC allowed the pro-ration for current
22 forecasted ADIT, but once the balances become historical (actual) amounts in the
23 following year, NSP/Xcel was required to true-up to actual by using beginning-of-year

¹² See last page of Department information request no. 157, DOC Ex. ____ NAC-6 (Campbell Direct).

¹³ DOC Ex. ____ NAC-6 (Campbell Direct).

1 and end-of-year ADIT amounts. FERC's approach is consistent with the language in
2 the IRS private letter ruling, discussed below.

3
4 **Q. What was Xcel's response to your information request?**

5 A. The Company provided both an initial response and supplemental response to
6 Department information request no. 157 which are both included to the
7 supplemental response. Basically the Company mentioned that Ameren Illinois and
8 NSP (which are MISO transmission owners) both raised concerns about FERC not
9 accepting their Attachment O filing. Xcel noted in its FERC filing that Virginia Electric
10 Power Company (which is a PJM transmission owner) was allowed not to true-up to
11 actual ADIT amounts in the following year in Docket No. ER14-1831-001.

12
13 **Q. How many MISO transmission owners are there and how many took the tax position
14 that NSP took?**

15 A. Based on MISO's website there are 24 MISO transmission owners and only two (NSP
16 and Ameren) of the 24 transmission owners took what I believe is an aggressive tax
17 position, while the other 22 transmission owners did not, and agreed to apply the
18 ADIT true-up in the following year once balances become actual and are no longer
19 "future."

20
21 **Q. What is your basis for calling Xcel's proposal an "aggressive tax position"?**

22 A. I have several reasons. First, as noted above, Xcel has not shown that the IRS
23 private letter rulings apply to the Company. Second, even if the IRS private letter
24 rulings applied to Xcel, the IRS language quoted below is clear that, once the test

1 period is over, the need to prorate (make an adjustment to allow the utility to keep
2 the benefits of accelerated depreciation for a limited time) is gone and the true-up
3 does not need to be prorated.

4 Third, Xcel is one of the few transmission-owning utilities to take such a
5 position at FERC, as discussed further below. Fourth, the other two utilities that took
6 a similar position are in states that, at least at one time deregulated electric service;
7 Xcel has not shown that, as a utility that has been and continues to be under fully
8 regulated ratemaking, Xcel would be in a similar position. Fifth, Xcel has not shown
9 any basis for the Company's position that Xcel is entitled to keep the benefits of
10 accelerated depreciation permanently, rather than the long-standing treatment of
11 accelerated depreciation only as a timing issue.

12 The language in the IRS private letter ruling is as follows:

13 Congress was explicit: normalization "in no way diminishes
14 whatever power the [utility regulatory] agency may have to
15 require that the deferred taxes reserve be excluded from the
16 base upon which the utility's permitted rate of return is
17 calculated." H.R. Rep. No. 413, 91st Cong., 1st Sess. 133
18 (1969).

19 ...

20 [T]he second interpretation of section 1.167(l)-1(h)(6)(ii) of
21 the regulations [that **"the historical period is that portion of**
22 **the test period before rates go into effect, while the portion**
23 **of the test period after the effective date of the rate order is**
24 **the future period"**] is consistent with the purpose of
25 normalization, which is to preserve for regulated utilities the
26 benefits of accelerated depreciation as a source of cost-free
27 capital. The availability of this capital is ensured by
28 prohibiting flow-through. But whether or not flow-through
29 can even be accomplished by means of rate base
30 exclusions depends primarily on whether, at the time rates
31 become effective, the amounts originally projected to accrue
32 to the deferred tax reserve have actually accrued.

33
34 If rates go into effect before the end of the test period, and
35 the rate base reduction is not prorated, the utility
36 commission is denying a current return for accelerated

1 depreciation benefits the utility is only projected to have.
2 This procedure is a form of flow-through, for current rates
3 are reduced to reflect the capital cost savings of accelerated
4 depreciation deductions not yet claimed or accrued by the
5 utility. Yet projected data is often necessary in determining
6 rates, since historical data by itself is rarely an accurate
7 indication of future utility operating results. Thus, the
8 regulations provide that as long as the portion of the
9 deferred tax reserve based on projected (future estimated)
10 data is prorated according to the formula in section
11 1.167(l)-1(h)(6)(ii), a regulator may deduct this reserve from
12 rate base in determining a utility's allowable return. In other
13 words, a utility regulator using projected data in computing
14 ratemaking tax expense and rate base exclusion must
15 account for the passage of time if it is to avoid flow-through.

16
17 **But if rates go into effect after the end of the test period, the**
18 **opportunity to flow through the benefits of future**
19 **accelerated depreciation to current ratepayers is gone, and**
20 **so too is the need to apply the proration formula.** In this
21 situation, the only question that is important for the purpose
22 of rate base exclusion is the amount in the deferred tax
23 reserve, whether actual or estimated. **Once the future**
24 **period, the period over which accruals to the reserve were**
25 **projected, is no longer future, the question of when the**
26 **amounts in the reserve accrued is no longer relevant** (at the
27 time the new rate order takes effect, the projected
28 increases have accrued, and the amounts to be excluded
29 from rate base are no longer projected but historical, even
30 though based on estimates).

31 ...
32 In contrast to the projections discussed above, **the true-up**
33 **component is determined by reference to a purely historical**
34 **period and there is no need to use the proration formula to**
35 **calculate the differences between Taxpayer's projected**
36 **ADFIT balance and the actual ADFIT balance during the**
37 **period. In calculating the true-up, proration applies to the**
38 **original projection amount but the actual amount added to**
39 **the ADFIT over the test year is not modified by application of**
40 **the proration formula. (Emphasis added)¹⁴**
41

42 **Q. How many PJM transmission owners are there and how many took the aggressive tax**
43 **position that NSP took?**

¹⁴ <https://www.irs.gov/pub/irs-wd/201541010.pdf> pages 6-8

1 A. According to the PJM website under current members, there are 13 voting
2 transmission owners and I believe only one of these members, Virginia Electric Power
3 Company, took the aggressive tax position that Xcel is taking.
4

5 **Q. Are there other Minnesota electric utilities that are also MISO transmission owners**
6 **like Xcel, who have agreed to apply the true-up as you propose?**

7 A. Yes, both Minnesota Power and OtterTail Power filed their Attachment O at FERC with
8 a pro-rated ADIT balance for current year forecasted amounts, but then agreed to
9 true-up back to beginning and end-of-year balances the following year. As a result,
10 this issue is really a timing issue (where the Company gets a one year temporary loan
11 based on the current year ADIT balance) and not a permanent change in how ADIT is
12 recovered for ratemaking.
13

14 **Q. Do you agree with the Company's conclusion that they have to treat the ADIT amount**
15 **the way they proposed in the current rate case to avoid a violation of tax**
16 **normalization rules?**

17 A. No. It appears that Ms. Perkett concludes that the private letter rulings are basically
18 IRS regulations, but my understanding is that is not the case. As I noted above, the
19 IRS states that private letter rulings are for the individual tax entity that requested
20 the tax ruling, since the decision was made based on the facts in that particular case.
21 Notably, it may not be reasonable to state that just because the IRS has concluded
22 one way in certain private letter rulings (that are based on particular facts and are
23 expressly not precedential) means that "the IRS has not disallowed" a certain
24 method under different facts. Additionally, since a significant majority of MISO and

1 PJM transmission owners are taking the position that they should pro-rate the current
2 ADIT forecasted amount but then do a true-up to non-prorated actuals based on
3 beginning-of-year and end-of-year ADIT balances in the following year, I note that
4 these other utilities do not seem to have a concern with the tax normalization
5 violations that NSP is claiming. Moreover, even the IRP private letter ruling quoted
6 above is clear that prorating is not applicable in the true-up.

7
8 **Q. Do you believe that Congress should change the way ADIT amounts are flowed back**
9 **to customers or that the IRS should change its interpretation or application of tax**
10 **laws in that regard?**

11 **A.** No. My understanding of the private letter rulings was a concern that for forecasted
12 costs such as a forecasted test year, the ADIT credits for the current year forecast
13 was being flowed back to customers too soon under the non-prorated ADIT method
14 that has been used by NSP for ratemaking well before 2005. As a result, the
15 prorated ADIT method was determined in a private letter ruling to address the
16 concern about flowing back the tax benefits to ratepayers too soon.

17 However, looking at this issue from an equity perspective, current Minnesota
18 electric utilities are not paying a significant amount of federal income taxes as a
19 result of the tax legislation that has allowed significant amounts of bonus tax
20 depreciation over one and two years, yet *ratepayers continue to pay the full amount*
21 *of income taxes imputed with the assumption that someday the utility will have to*
22 *pay the tax amount.*

23 In the past, ratepayers would receive the full offsetting ADIT balance or credit
24 to rate base for this tax amount. Xcel is now proposing to reduce this offsetting ADIT

1 balance or credit to rate base as well. Additionally, ratepayers are paying for the
2 costs of these assets in rate base along with a return on plant investment while
3 paying the full amount of deferred income tax expenses, but are now being denied
4 the full offsetting ADIT balance or credit to rate base.

5
6 **Q. Did you ask the Company to explain when it last paid federal income taxes?**

7 A. Yes. In response to Department information request no. 1168,¹⁵ the Company noted
8 that Xcel Energy on a consolidated tax basis last paid material federal income taxes
9 in 2008 of approximately \$22.3 million. Since 2008, Xcel Energy has paid very small
10 amounts of federal income taxes totaling less than \$1 million in total for the period
11 2009 to 2015. Yet I note ratepayers are paying millions of dollars in income taxes in
12 rates just based on the tax gross up of the revenue requirement in current and past
13 rate cases.

14
15 **Q. Have you seen any information from larger accounting firms that address the ADIT
16 pro-rate and true-up tax issues?**

17 A. Yes. Pricewaterhouse Coopers indicated in its "Tax Insights from US Power &
18 Utilities"¹⁶ that basically the IRS is giving utilities the use of an ADIT interest-free loan
19 *for one year* and then they will need to refund according to FERC requirements, which
20 require a true-up to actual historical ADIT balances as reported on the utilities FERC
21 Form 1 (financial accounting information submitted to FERC by electric utilities).

22

¹⁵ DOC Ex. ____ NAC-7 (Campbell Direct).

¹⁶ DOC Ex. ____ NAC-8 (Campbell Direct).

1 Q. Did you ask the Company to provide the adjustments for both the 3-year and 5-year
2 rate plans to replace the pro-rated ADIT balances with the non-pro-rated ADIT
3 balances (using beginning and end-of-year balances) once ADIT balances become
4 actual in the following year (basically the second part of the ADIT change for the true-
5 up to actual)?

6 A. Yes I did, in Department information request no. 1139.¹⁷ Unfortunately, the
7 Company did not provide the ADIT adjustments to actual via true-up that I requested;
8 instead it simply provided the same calculations shown on Company adjustment A-
9 38, which reflects both ADIT changes (pro-ration of ADIT for current year forecast and
10 not doing the true-up to ADIT actual amounts in the following year).

11
12 Q. What was the impact of the two ADIT Prorate changes made by Company in this rate
13 case?

14 A. The below table provides the ADIT revenue requirement impacts for 2016 to 2020 as
15 shown in adjustment A-38 on page A38-6:

16
17 **DOC Table 3: Summary of ADIT Prorate Adjustment by the Company in**
18 **Revenue Requirements**
19

ADIT Adj A38 (\$ in 000's)	2016	2017	2018	2019	2020
Requested ROE	\$6,483	\$1,896	\$1,813	\$1,357	(\$0,207)

20
21 Q. What recommendations do you offer based on your review of the ADIT issue?

22 A. I recommend the following regarding the prorated ADIT issue:

¹⁷ DOC Ex. ____ NAC-9 (Campbell Direct).

- First, if Xcel continues to contest this issue, I recommend that the Company be required to get its own IRS private tax ruling before any change to ADIT is allowed for ratemaking purposes that will harm ratepayers;
- Second, the Commission could consider whether allowing forecasted test years continues to be reasonable when related benefits such as ADIT are not being provided to ratepayers in a consistent manner. In other words, ratepayers continue to pay 100 percent of the deferred taxes while receiving only a prorated ADIT offset to rate base;
- Third, at a minimum, the Commission should limit the use of a prorated ADIT balance for the current forecasted test year but require a true-up to actual or non-prorated ADIT balances the following year (consistent with the majority of MISO and PJM transmission owners, consistent with the FERC's recommendation in Docket No. ER16-197 and consistent with Pricewaterhouse Coopers article on "Tax Insights from US Power & Utilities");
- Fourth, since Xcel's proposed ADIT changes will harm ratepayers and change the way ratemaking is handling accelerated depreciation for rate cases without demonstrating adequate support to show that the ADIT change is required under the Internal Revenue Code or Treasury Regulations (only supported by private letter rulings that are entity specific), because Xcel failed to meet its burden of proof to show its proposed change to be reasonable, and because the Company failed to provide the adjustment the Department requested for the ADIT issue as

discussed above, I recommend that no ADIT changes be allowed in this rate case at this time.

VII. STATE RESEARCH AND EXPERIMENTATION TAX CREDITS

Q. Did you ask the Company to provide support for their Minnesota Research and Experimentation (R&E) Tax Credits for the 2016 to 2020 test years?

A. Yes. In Department information request no. 159¹⁸ I asked the Company to address the Minnesota R&E Tax Credits the Company included in its 2016 to 2020 test years. In Attachment A to Department information request no. 159, the Company stated that the average of the 2011 to 2013 actual Minnesota R&E credits of \$559,000 was used to determine the amount included in the test years for 2016 to 2020.

Q. Did you ask the Company to update its Minnesota R&E Tax Credits calculated on Department information request no. 159 Attachment A with 2014 and 2015 actuals?

A. Yes. In the Company's **revised** response to Department information request no. 2125, the Company explained that 2014 actuals were available but 2015 actuals would not be available until filed in September 2016. The Company provided in Attachment B an update for its Minnesota R&E Tax Credits based on 2012 to 2014 actuals of \$492,000.¹⁹

¹⁸ DOC Ex. ____ NAC-10 (Campbell Direct).

¹⁹ DOC Ex. ____ NAC-11 (Campbell Direct).

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, Minnesota 55101

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-23147

IN THE MATTER OF THE APPLICATION OF
NORTHERN STATES POWER COMPANY, D/B/A
XCEL ENERGY, FOR AUTHORITY TO INCREASE
RATES FOR ELECTRIC SERVICE IN MINNESOTA

MPUC Docket No. E002/GR-15-826
OAH Docket No. 19-2500-33074

DIRECT ATTACHMENTS OF NANCY A. CAMPBELL (PART I – NAC-1 TO NAC-20)

ON BEHALF OF

THE DIVISION OF ENERGY RESOURCES OF
THE MINNESOTA DEPARTMENT OF COMMERCE

JUNE 14, 2016

PUBLIC DOCUMENT

**SUMMARY OF ATTACHMENTS TO THE DIRECT
TESTIMONY OF NANCY A. CAMPBELL
MPUC Docket No. E002/GR-15-826
OAH Docket No. 19-2500-33074**

<u>Description</u>	<u>Reference</u>
Xcel's response to DOC IR 132, Remaining Life (RL) Depreciation Adjustment	NAC-1
Xcel's response to DOC IR 130, Mankato Energy Center II In-Service Date.....	NAC-2
Xcel's response to DOC IR 131, Mankato Energy Center II In-Service Date	NAC-3
Xcel's response to DOC IR 141 S1, Bonus Tax Depreciation.....	NAC-4
Xcel's response to XLI IR 35 Supplement, Impacts of PATH Act of 2015 (Bonus Tax Depreciation)	NAC-5
Xcel's response to DOC IR 157 Supplement, Denial of Accumulated Deferred Income Tax True-Up.....	NAC-6
Xcel's response to DOC IR 1168, Federal Income Taxes.....	NAC-7
PricewaterhouseCoopers Tax Insights from US Power & Utilities.....	NAC-8
Xcel's response to DOC IR 1139, Prorated Accumulated Deferred Taxes.....	NAC-9
Xcel's response to DOC IR 159, Federal and State Research & Experimentation Credits	NAC-10
Xcel's response to DOC IR 2125 Revised, Federal and State Research and Experimentation Credits, Response to DOC IR 159 – Attachments A and C	NAC-11
Xcel's response to DOC IR 188, Vol. 3 Required Information, II Required Financial Information, C-1 & C-5	NAC-12
Xcel's response to DOC IR 1141, North Dakota Taxes	NAC-13
Xcel's response to DOC IR 1140, North Dakota Investment Tax Credit.....	NAC-14
Xcel's response to DOC IR 198, O&M Expenses	NAC-15

Xcel's response to DOC IR 168, All 2016 to 2018 Rate Case Adjustments	NAC-16
Xcel's response to DOC IR 1121, Other O&M, Land Easement Costs	NAC-17
Xcel's response to DOC IR 1188, Nuclear Operations Non-Outage O&M Costs	NAC-18
Xcel's response to DOC IR 1190, Nuclear O&M Costs for 2012 to 2020	NAC-19
Xcel's response to DOC IR 1171, Transco Allocations	NAC-20

- ☐ Non Public Document – Contains Trade Secret Data
☐ Public Document – Trade Secret Data Excised
☒ Public Document

Xcel Energy

Docket No.: E002/GR-15-826

Response To: Department of Commerce Information Request No. 157

Requestor: Nancy Campbell, Angela Byrne, Dale Lusti

Date Received: March 17, 2016

SUPPLEMENT

Question:

Reference: FERC December 30, 2015 Order in Docket No. ER16-197

Subject: Denial of Accumulated Deferred Income Tax True-Up

In FERC's December 2015 Order, FERC rejected NSP's Accumulated Deferred Income Tax True-up and required NSP to remove the IRS pro-rated tax calculation to their annual true-up and provide a true-up calculation that continues to support beginning-of-year and end-of-year balances for ADIT accounts in NSP's Attachment O. Note FERC accepted Otter Tail Power and Minnesota Powers proposals to continue to use beginning and end-of-year balances for ADIT accounts. As a result, please explain why NSP should not be required to use beginning-of-year and end-of-year ADIT balances for true-up purposes for the following year (for example true-up of 2016 TY ADIT balances in 2017) in this rate case?

Response:

Subsequent to the FERC December Order in Docket ER16-197, on March 11, 2016, Ameren Illinois, Ameren Transmission Company of Illinois, and both NSP Companies (NSPM and NSPW) moved to lodge in Docket No. ER16-197-000 the Order on Revised ADIT Treatment, issued by the FERC on February 23, 2016 in Docket No. ER14-1831-001. The motion states the following:

The *Order on Revised ADIT Treatment* is directly relevant to the issues in Docket No. ER16-197 because it concerns the application of the proration methodology described in Section 1.167(l)-1(h)(6)(ii) of the Treasury regulations. Specifically, in the *Order on Revised ADIT Treatment*, the Commission accepted the proposal of Virginia Electric and Power Company, doing business as Dominion Virginia Power ("Dominion") to continue to apply the proration methodology to the originally projected Accumulated Deferred Income Tax ("ADIT") balances in performing the

annual true-up calculations. In the Commission's December 30, 2015 order in the captioned proceeding, the Commission rejected Ameren's and the NSP Companies' similar proposals to continue to apply the proration methodology to the originally projected ADIT balances in performing the annual formula rate true-up calculations. Indicated Transmission Owners therefore also move for reconsideration of the December 2015 Order, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure.

Thus the Company believes that proration for ADIT is necessary in the capital true up in order to not violate normalization rules and that it should be done with the same method allowed by the FERC for Dominion. We further believe that proration is necessary for any forward looking rate making and subsequent true up. The true up calculation would be performed so as to preserve the effect of the proration used in the forecasted test year calculation. To the extent that the actual annual change in ADIT balance is greater than the forecasted annual change in ADIT balance, the difference between the two balances would not be prorated and the difference would be added to the originally calculated ADIT amount. In the event that the actual annual change in ADIT balance was less than the forecasted annual change in ADIT balance, then the entire change between beginning and ending ADIT balance is prorated and averaged. For further support for this position, we have attached the motion as Attachment A and the information also can be found at the following link:

http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20160311-5226

Supplement:

Included as Attachment A to this response is the FERC Order, issued April 12, 2016, for the PSCo and SPS formula rates in Docket Nos. ER16-236 and ER16-239. The PSCo and SPS formula rates use proration for the calculation of ADIT in the forecast and the true-up. The proration was approved by the FERC for ADIT true-up in line with the method that was approved for Dominion.

Witness: Lisa H. Perkett
Preparer: Lisa H. Perkett
Title: Director
Department: Capital Asset Accounting
Telephone: (612) 330-6950
Date: March 29, 2016

Supplemented: April 15, 2016

155 FERC ¶ 61,028
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, and Colette D. Honorable.

Public Service Company of Colorado

Docket Nos. ER16-236-000
ER16-236-001
ER16-239-000
ER16-239-001

ORDER ACCEPTING REVISIONS TO FORMULA RATES, SUBJECT TO
CONDITION

(Issued April 12, 2016)

1. On November 2, 2015, pursuant to section 205 of the Federal Power Act (FPA),¹ Public Service Company of Colorado (PSCo), on behalf of itself and its affiliate Southwestern Public Service Company (SPS), submitted proposed revisions to the transmission formula rates for PSCo and SPS included in the Xcel Energy Operating Companies' FERC Electric Tariff (Xcel Energy Tariff). Also on November 2, 2015, PSCo submitted proposed revisions to its production formula rate included in its Assured Power and Energy Requirements Service Tariff (Production Tariff). PSCo proposes these revisions in order to comply with section 1.167(l)-1(h)(6)(ii) of the United States Internal Revenue Service (IRS) regulations.² In this order, we accept the proposed revisions, effective January 1, 2016, as requested, subject to condition, and direct a compliance filing.

¹ 16 U.S.C. § 824d (2012).

² Treas. Reg. § 1.167(l)-1(h)(6)(ii) (as amended in 1974).

Docket No. ER16-236-000, *et al.*

- 2 -

I. Background

2. Under Commission ratemaking policies, income taxes included in rates are determined based on the return on net rate base calculated using straight-line depreciation.³ However, in calculating the actual amount of income taxes due to the IRS, companies generally are able to take advantage of accelerated depreciation. Accelerated depreciation will usually lower income taxes payable during the early years of an asset's life followed by corresponding increases in income taxes payable during the later years of an asset's life. This means that a company's income taxes payable to the IRS during a period will differ from its income tax expenses for ratemaking purposes during the same period. The difference between the income taxes based on straight-line-depreciation and the actual income taxes paid by the company are reflected in an account called Accumulated Deferred Income Taxes (ADIT).⁴ Because the resulting ADIT effectively provides the company with cost-free capital, the Commission subtracts the ADIT from the company's rate base, thereby reducing customer charges. This method of passing the benefits from accelerated depreciation on to ratepayers throughout the asset's life is referred to as tax normalization.

3. The depreciation normalization rules of the Internal Revenue Code (Normalization Rules) mandate the use of a very specific proration procedure in measuring the amount of future test period ADIT that can reduce rate base. Section 1.167(l)-1(h)(6)(ii) of the IRS regulations requires that, if a utility uses solely a future period (projected test year) to determine depreciation, "the amount of the reserve account for the period is the amount of the reserve at the beginning of the period and a pro rata portion of the amount of any projected increase to be credited or decrease to be charged to the account during such period." The pro rata amount of any increase during the future portion of the period is determined by multiplying the increase by a fraction, the numerator of which is the number of days remaining in the period at the time the increase is to accrue, and the denominator of which is the total number of days in the future portion of the period.⁵ The purpose of the

³ See, e.g., *PJM Interconnection, L.L.C. and Va. Elec. and Power Co.*, 147 FERC ¶ 61,254, *order on compliance*, 154 FERC ¶ 61,126, at P 2 (2016) (*Virginia Electric*).

⁴ There are four categories of ADIT recognized in the Uniform System of Accounts in four separate accounts; however, only three of these categories of ADIT are related to accelerated depreciation, including bonus depreciation: Accounts 190, Accumulated Deferred Income Taxes; 281, Accumulated Deferred Income Taxes-Accelerated Amortization Property; and 282, Accumulated Deferred Income Taxes-Other Property.

⁵ Treas. Reg. § 1.167(l)-1(h)(6)(ii) (as amended in 1974).

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proration requirement is to prevent the immediate flow-through of the benefits of accelerated depreciation to ratepayers, allowing funds provided by accelerated depreciation to be used for investments.

4. The IRS requires utilities to follow its regulations in order to take advantage of accelerated depreciation. Certain electric utilities have requested revenue rulings from the IRS regarding the calculation of ADIT for formula rates, which include a projection of expected investments for the coming year. These formula rates also include a true-up mechanism through which the utility calculates adjustments to its formula, for example, for the differences from investments that did not occur when projected.

II. PSCo's Filings

5. In Docket No. ER16-236-000, PSCo states that it is filing revisions to the Xcel Energy Tariff to modify the manner by which PSCo and SPS will calculate average ADIT balances within their transmission formula rates in order to comply with section 1.167(l)-1(h)(6)(ii) of the IRS regulations.⁶ PSCo also filed proposed revisions to its Production Tariff in Docket No. ER16-239-000 to effectuate similar changes to the ADIT provisions within its production formula rate.⁷ PSCo notes that SPS is not proposing to modify its production formula rates at this time.⁸

6. PSCo states that, in a series of private letter rulings (PLR), the IRS has found that, for a utility that uses a projected test year to claim accelerated depreciation for utility plant in its income tax filings, the utility must use the formula provided in section 1.167(1)-1(h)(6)(ii) of the IRS regulations to calculate the amount of deferred income taxes subject to exclusion from the rate base.⁹ PSCo notes that the IRS has indicated that utilities subject to this requirement that do not seek to comply are subject to

⁶ PSCo, Docket No. ER16-236-000, Transmittal at 1.

⁷ PSCo, Docket No. ER16-239-000, Transmittal at 1.

⁸ PSCo, Docket No. ER16-236-000, Transmittal at 4 n.13.

⁹ *Id.* at 3; PSCo, Docket No. ER16-239-000, Transmittal at 3 (citing Exh. III, I.R.S. Priv. Ltr. Rul. 143241-14 (Jul. 6, 2015); I.R.S. Priv. Ltr. Rul. 140120-14 (Apr. 14, 2015)).

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the sanction of denial of accelerated depreciation,¹⁰ which would cause a significant increase in rate base and rates.¹¹

7. PSCo states that PSCo and SPS calculate their annual transmission revenue requirements pursuant to the formulae set forth in Attachment O-PSCo and Attachment O-SPS of the Xcel Energy Tariff, respectively.¹² According to PSCo, both companies employ a forward-looking Attachment O, and each submits an annual informational filing with the Commission that consists of the true-up for the prior period actuals and the estimated rates for the upcoming rate year. PSCo states that it proposes to revise the Attachment O of each company to provide that the calculation of ADIT for both the annual projection and true-up will be performed in accordance with section 1.167(l)-1(h)(6) of the IRS regulations. Therefore, PSCo states that it proposes to include a new work paper (WP ADIT Prorate) in each Attachment O in the Xcel Energy Tariff, which calculates the proration factor according to the IRS regulations, and additional revisions and additions to existing work papers that describe how PSCo and SPS will calculate ADIT balances for both the projected test year revenue requirement and the annual true-up using the proration methodology required by the IRS.¹³ PSCo further notes that the revisions included in the work papers maintain PSCo's and SPS's use of beginning of year and end of year ADIT balances, which is consistent with Commission requirements.¹⁴

8. PSCo states that it calculates its production rates pursuant to the forward-looking formulae set forth in Attachment A of its Production Tariff, and that it uses projected or estimated data to set its production rates, in conjunction with a process that trues up the rate based on actual data.¹⁵ Therefore, similar to the proposed revisions in PSCo's and SPS's transmission formula rates, PSCo proposes to revise ADIT-related work papers in

¹⁰ PSCo, Docket No. ER16-236-000, Transmittal at 3-4; PSCo, Docket No. ER16-239-000, Transmittal at 3.

¹¹ PSCo, Docket No. ER16-236-000, Transmittal at 6; PSCo, Docket No. ER16-239-000, Transmittal at 5.

¹² PSCo, Docket No. ER16-236-000, Transmittal at 2.

¹³ *Id.* at 4.

¹⁴ *Id.* at 4-5 (citing 18 C.F.R. § 35.13(h)(6) (2015)).

¹⁵ PSCo, Docket No. ER16-239-000, Transmittal at 2.

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Attachment A by adding a new work paper (WP ADIT Prorate) to provide that the calculation of ADIT for both the annual projected revenue requirement and the true-up for its production formula rate will be performed in accordance with section 1.167(l)-1(h)(6) of the IRS regulations.¹⁶ PSCo also notes that its revisions maintain the use of beginning of year and end of year ADIT balances.¹⁷

9. According to PSCo, using the proration formula increases PSCo's estimated 2016 annual transmission revenue requirement by \$579,000, which represents a 0.2 percent increase over its \$244 million revenue requirement. Similarly, PSCo states that the use of the proration formula increases SPS's estimated 2016 annual transmission revenue requirement by \$416,000, which represents a 0.3 percent increase over its \$129 million revenue requirement. With regard to PSCo's production formula rate, PSCo notes that use of the proration formula increases PSCo's estimated 2016 production revenue requirement by \$102,000, which is a 0.1 percent increase above the total production revenue requirement of \$81.7 million. PSCo states that, due to the timing of when it became aware of the need to revise the formula rates, PSCo's and SPS's 2016 estimates did not reflect the new ADIT proration formula. However, PSCo notes that it and SPS have notified customers of the need to modify the formula rates and that, before the end of 2015, it and SPS will provide customers with updated transmission and production formulas and associated work papers that reflect the incorporation of the proration formula.¹⁸

10. In addition to the ADIT-related revisions requested in Docket No. ER16-236-000, PSCo also proposes tariff revisions in SPS's Attachment O Tables 6 and 11 to reflect revisions agreed to as part of a recent settlement agreement in Docket No. EL05-19-000.¹⁹ PSCo notes that SPS will be submitting compliance filings to implement the revisions agreed upon in the settlement proceeding, to be effective on January 1, 2015, but that, in order to avoid a circumstance where the eTariff records related to the instant proceeding (effective January 1, 2016) do not include the settlement agreement revisions to Table 6

¹⁶ *Id.* at 4.

¹⁷ *Id.* (citing 18 C.F.R. § 35.13(h)(6) (2015)).

¹⁸ PSCo, Docket No. ER16-236-000, Transmittal at 6-7; PSCo, Docket No. ER16-239-000, Transmittal at 5-6.

¹⁹ *See Golden Spread Elec. Coop. Inc. v. Sw. Pub. Serv. Co.*, 153 FERC ¶ 61,103 (2015) (*Golden Spread*).

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and 11, SPS is including such revisions as part of the tariff changes proposed in the instant proceeding.²⁰

III. Notice and Responsive Pleadings

11. Notice of PSCo's filing in Docket No. ER16-236-000 was published in the *Federal Register*, 80 Fed. Reg. 69,212 (2015), with interventions and protests due on or before November 23, 2015. On November 23, 2015, Golden Spread Electric Cooperative (Golden Spread) filed a timely motion to intervene and an unopposed request for limited extension of comment date, which the Commission granted. On November 30, 2015, Golden Spread filed a limited protest and request for hearing and settlement judge procedures. On December 11, 2015, Tri-State Generation and Transmission Association (Tri-State), Intermountain Rural Electric Association (IREA), and Holy Cross Electric Association (Holy Cross) filed a joint motion to intervene out-of-time. On December 15, 2015, Xcel Energy Services Inc. (Xcel Energy) filed an answer to Golden Spread's protest.

12. Notice of PSCo's filing in Docket No. ER16-239-000 was published in the *Federal Register*, 80 Fed. Reg. 69,212 (2015), with interventions and protests due on or before November 23, 2015. On December 11, 2015, Tri-State, IREA, and Holy Cross filed a joint motion to intervene out-of-time.

13. On December 23, 2015, Commission staff advised PSCo that its filings were deficient and additional information would be necessary to evaluate its submissions.²¹ On January 21, 2016, Xcel Energy, on behalf of PSCo, requested an extension of time for the filing of its response, which the Commission granted. On February 12, 2016, PSCo filed its response.

14. Notice of PSCo's Deficiency Response was published in the *Federal Register*, 81 Fed. Reg. 8954 (2016), with interventions and comments due on or before March 4, 2016. On March 4, 2016, Golden Spread filed a protest to the Deficiency Response and renewed request for hearing and settlement judge procedures. On March 21, 2016, Xcel Energy filed an answer to Golden Spread's protest.

²⁰ PSCo, Docket No. ER16-236-000, Transmittal at 5-6.

²¹ *Pub. Serv. Co. of Colo.*, Deficiency Letter, Docket No. ER16-236-000, *et al.*, at 1 (issued Dec. 23, 2015) (Deficiency Letter).

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A. Golden Spread Protest

15. Golden Spread notes that it is not a transmission customer of PSCo, and therefore, protests the proposed changes in Docket No. ER16-236 solely as they relate to the transmission rates of SPS.²² Golden Spread asserts that it has identified four errors with PSCo's proposal for SPS.²³ First, Golden Spread claims that, after SPS performs its proration calculation, it takes the extra step of averaging the beginning and ending balance, which has the undesired consequence of cutting the calculated proration in half, from 53.78 percent to 26.89 percent. Second, and related to the first error, Golden Spread argues that, when SPS carries the calculated proration amount in column (f) to the next column of Worksheet D, it performs an extra calculation that once again skews the appropriate IRS-compliant prorated balance that SPS should use as an average rate base balance in projected formula rates.²⁴ Using Account 281 from Worksheet D of the 2016 SPS Projection as an example, Golden Spread states that the effect of these first two errors results in a calculated projected average balance with an ADIT proration of -\$1,635,436.²⁵ Golden Spread contends that the correct projected average balance with an ADIT proration that complies with the IRS regulations should be -\$1,723,515.²⁶

16. Third, Golden Spread states that it appears that SPS intends to create an ADIT proration for the true-up component of the formula rate as well.²⁷ According to Golden Spread, while PSCo and SPS have not sought their own PLRs from the IRS, guidance found in a PLR attached as Exhibit III to the PSCo and SPS filing directly contradicts the proposed tariff changes, and, therefore, columns (k), (l), (m), and (n) of Worksheet D of SPS's transmission formula rate should be removed and replaced with a

²² Golden Spread Limited Protest at 2 & n.4.

²³ *Id.* at 4 (citing Attachment 1 (Worksheet D)).

²⁴ *Id.* (citing Attachment 1 (Worksheet D, column (g))).

²⁵ *Id.* at 5.

²⁶ *Id.*

²⁷ *Id.* at 6 (citing Attachment 1 (Worksheet D, columns (k), (l), (m), (n))).

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column representing the existing practice of calculating an average beginning of year and end of year balance for the purposes of the true-up calculation.²⁸

17. Finally, Golden Spread notes that SPS's proposed tariff changes lack sufficient detail to differentiate between those account balances to which it must apply a proration to comply with IRS regulations and those for which it should continue to use a simple average of beginning and year end projected balances in Worksheet D average rate base calculations of the SPS formula.²⁹ Golden Spread argues that SPS should be directed to clarify on Worksheet D of its transmission formula rate that only items that are subject to IRS regulations addressing accelerated depreciation should be subject to any application of a proration in the projected rate columns.

18. Golden Spread believes that a nominal suspension is appropriate, such that SPS's rates may become effective subject to refund on January 1, 2016.³⁰ To the extent that the Commission does not summarily require correction of the formula rate in its order, Golden Spread requests that the Commission set the issues associated with SPS's proration process for hearing and hold the hearing in abeyance, pending the outcome of the *Virginia Electric*³¹ proceeding and/or the issuance of industry-wide guidance by the Chief Accountant on this topic.³²

B. Xcel Energy Answer

19. Xcel Energy contends that the use of the proration formula in conjunction with beginning of year and end of year averaging is necessary to meet the IRS's normalization requirements.³³ Xcel Energy asserts that a purpose of the calculations in Worksheet D and

²⁸ *Id.* at 7 (citing PSCo and SPS Filing, Docket No. ER16-236-000, *et al.*, Exh. III (I.R.S. Priv. Ltr. Rul. 143241-14 at 12) and noting that the private letter ruling offered by PSCo and SPS is not binding precedent).

²⁹ *Id.* at 7-8.

³⁰ *Id.* at 10.

³¹ See *Virginia Electric*, 154 FERC ¶ 61,126.

³² Golden Spread Limited Protest at 3 (citing *Virginia Electric*, 147 FERC ¶ 61,254 at P 18), 10-11.

³³ Xcel Energy December 15 Answer at 8.

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D.2 is to continue compliance with Commission policy to create an average balance for ADIT, and that, as a result of that policy, the calculations in question are therefore necessary to maintain compliance with the IRS's consistency rule. Xcel Energy notes that the IRS concluded that "[f]ailure to average the deferred tax reserve, as prorated, before excluding the reserve from the average rate base will violate the consistency requirement of section 168(i)(9)(B)."³⁴ Xcel Energy argues that Golden Spread relies on an unsupported and unexplained presumption that proration serves the same function as the beginning of year and end of year averaging, which has been contradicted by the IRS in multiple PLRs.³⁵

20. Xcel Energy states that the true-up process cannot be used to unwind the proration calculation of ADIT. According to Xcel Energy, the IRS's view is that forward-looking formula rates with true-up procedures employ a future test period subject to normalization requirements, and such formula rates must use the proration formula in estimating ADIT amounts, including carrying forward the amounts of ADIT calculated using the proration formula into the true-up. Xcel Energy asserts that the IRS has stated that, "[i]n calculating the true-up, proration applies to the original projection amount,"³⁶ and notes that the originally projected amount is thus carried forward into the true-up, and therefore is not "unwound" by reversing the proration calculation.³⁷ Xcel Energy explains that the true-up component is determined by reference to a purely historical period and that there is no need to use the proration formula to calculate the differences between projected and actual balances. Xcel Energy contends that Golden Spread's argument would result in a true-up process that reverses the original proration calculation.

21. Xcel Energy asserts that the proration calculation must be applied to appropriate amounts in Account 190 estimated for the projected year. Xcel Energy maintains that deferred tax asset related to the net operating loss in Account 190 is inextricably related to accelerated depreciation, including bonus depreciation,³⁸ and that the only proposed change related to Account 190 balances in the instant filings is to incorporate the proration

³⁴ *Id.* at 9 (citing I.R.S. Priv. Ltr. Rul. 9202029 (Oct. 15, 1991)).

³⁵ *Id.* at 9-10 (citing I.R.S. Priv. Ltr. Rul. 9202029; I.R.S. Priv. Ltr. Rul. 9224040 (June 12, 1992); I.R.S. Priv. Ltr. Rul. 9313008 (December 17, 1992)).

³⁶ *Id.* at 11 (citing I.R.S. Priv. Ltr. Rul. 143241-14 at 8).

³⁷ *Id.* at 12.

³⁸ *Id.* at 13.

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calculation into the projections of these ADIT balances, which is done annually under the SPS transmission formula rate. Xcel Energy states that SPS believes it is reasonable to include all plant-related deferred tax balances used in the determination of rate base when it applies the proration due to the overall lower rates for customers that result. In response to Golden Spread's argument concerning lack of clarity in which Account 190 balances will be subject to proration, Xcel Energy notes that SPS is willing to submit further revisions to its Attachment O to include a footnote stating that "[p]roration is applied to plant related items impacted by Internal Revenue Service rules governing tax normalization."³⁹

22. Xcel Energy also notes that the Commission's policy is to set a filing for hearing and settlement judge procedures where the filing raises an issue of material fact that cannot be resolved based on pleadings before the Commission, and, even where there are disputed issues, the Commission need not conduct such a hearing if the issues may be adequately resolved based on the written record.⁴⁰ Xcel Energy asserts that the issues raised by Golden Spread concern the proper legal interpretation of IRS regulations, not a material fact that is in dispute between the parties, and therefore neither a hearing nor settlement judge procedures is appropriate. Xcel Energy states that the differences in Xcel Energy's and Golden Spread's positions turn on interpretations of the IRS's requirements, and at stake is the continued eligibility of SPS to use accelerated depreciation.

IV. Deficiency Letter, Response, and Related Pleadings

23. In the Deficiency Letter, Commission staff requested information to aid the Commission in evaluating PSCo's proposed revisions to comply with the IRS regulations by modifying how ADIT is calculated in its transmission and production formula rates. Commission staff requested that PSCo demonstrate the calculation of ADIT using the proration formula for both the estimated amounts of the annual projection and the actual amounts, explain how revising the calculations to conform to IRS regulations is also consistent with the formulas' existing use of average ADIT balances, explain why calculating an ADIT proration factor based on monthly balances is more appropriate than calculating an ADIT proration factor based on daily balances, and explain why the tariff

³⁹ *Id.* at 14-15.

⁴⁰ *Id.* at 16.

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revisions contemplated within PSCo's settlement agreement should be accepted within the context of this proceeding.⁴¹

24. In its Deficiency Response, PSCo submitted hypothetical, illustrative calculations with additional revisions, including changes to the descriptive titles of columns (k), (l), (m), and (n) of the true-up section of Table 8, Workpaper B-2,⁴² and revisions to Footnotes 5 and 6 of this section to clarify that PSCo is not proposing to apply the proration calculation to the difference between forecasted and actual amounts.⁴³ PSCo states that the revisions do not change the intent of the originally-proposed method of calculating the true-up, and that the revised tariff records submitted with the response make corresponding changes to the SPS transmission formula template (Attachment O-SPS) and the PSCo production template. In addition, PSCo also submitted revisions to address Golden Spread's assertions regarding the perceived lack of clarity in which Account 190 balances will be subject to the proration calculation by incorporating an additional footnote into SPS's transmission formula rate template, as discussed in Xcel Energy's Answer.⁴⁴

25. In response to staff's question regarding averaging, PSCo references section 1.167(1)-1(h)(6) of the IRS regulations that requires usage of a proration formula in determining projected ADIT amounts for rate calculation purposes in future test periods, and the "consistency requirement" in Internal Revenue Code section 168(i)(9)(B) that requires application of averaging to the ADIT amounts calculated through proration if the ratemaking methodology employs averaging.⁴⁵ PSCo states that the IRS has explained that the proration calculation serves a different purpose than the averaging used in the rate design methodology, and therefore, they are not duplicative calculations. PSCo asserts that the IRS's view on this matter is unambiguous, and has been confirmed on multiple occasions.⁴⁶

⁴¹ *Pub. Serv. Co. of Colo.*, Deficiency Letter, Docket No. ER16-236-000, *et al.*, at 1 (issued Dec. 23, 2015) (Deficiency Letter).

⁴² Deficiency Response at 2.

⁴³ *Id.* at 3.

⁴⁴ *Id.*

⁴⁵ *Id.* at 4.

⁴⁶ *Id.* at 5 & n.6.

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26. PSCo notes that Commission policy requires the use of an average rate base in the calculation of rates, and the Commission's regulations state that ADIT should be calculated as the average of the beginning and end of test year balances.⁴⁷ PSCo states that its and SPS's formula rates already reflect the use of beginning and end of test year balances. According to PSCo, in order to comply with both the consistency and proration requirements, PSCo and SPS must apply the beginning-of-year and end-of-year averaging.

27. In response to staff's question on the appropriateness of calculating the proration factor based on monthly balances versus daily balances, PSCo notes that the proration factor for its plant and SPS's plant is calculated based on monthly balances, as required by the Commission's regulations. PSCo asserts that the IRS consistency rules require the calculation of associated ADIT to be consistent, and, therefore, the ADIT proration factor must be based on monthly balances. PSCo states that, since its and SPS's plant is not calculated based on daily balances, calculating the ADIT proration factor based on daily balance would not meet the consistency requirement, and thus PSCo and SPS would not be in compliance with the IRS normalization rules.⁴⁸

28. In response to Commission staff's question on SPS's settlement agreement, PSCo clarifies that revisions to Tables 6 and 11 of Attachment O-SPS contemplated in the settlement agreement in Docket No. EL05-19-000 are not related to ADIT. PSCo explains that the settlement agreement revisions to Note K on Tables 6 and 11 relate to Postretirement Benefits Other Than Pensions expense. PSCo notes that the settlement agreement contained pro forma tariff sheets that included revisions to Tables 6 and 11 of Attachment O-SPS, with an effective date of January 1, 2015, thus predating the revisions proposed in this proceeding.⁴⁹

29. In response, Golden Spread states that it can accept SPS's preferred proration methodology in the projection as an alternative methodology that satisfies the goals of the IRS regulations, but only if SPS calculates the true-up correctly.⁵⁰ Golden Spread observes that it and the Commission raised concerns with SPS's proposal to apply a proration in the true-up, notwithstanding the fact that the true-up is performed in a subsequent rate year and

⁴⁷ 18 C.F.R. § 35.13(h)(6) (2015).

⁴⁸ Deficiency Response at 8.

⁴⁹ *Id.* at 9.

⁵⁰ Golden Spread Protest to Deficiency Response at 3 (citing PSCo and SPS Filing, Docket No. ER16-236-000, *et al.*, Exh. III (I.R.S. Priv. Ltr. Rul. 143241-14 at 4, 8, 11)).

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based on historical, audited data.⁵¹ Golden Spread argues that SPS has not changed this aspect of its rate change proposal and that the continued misapplication of the IRS regulations and PLR guidance results in SPS's proffered formula rate true-up mechanism substantially understating the true-up in a manner that harms customers.⁵² Golden Spread states that, under SPS's hypothetical example, the projection in both scenarios would yield a value of \$311,555,100.⁵³ Thus, Golden Spread further points out, SPS would calculate the true-up to yield a value of \$349,055,100, or a variance of \$37,055,100 from the projection. Under Golden Spread's proposed corrections, the true-up would now yield a value of \$362,500,000, or a variance of \$50,944,900.⁵⁴ Therefore, Golden Spread contends that, if SPS is permitted to prorate the true-up, customers would receive \$13.4 million less in credit to rate base. Golden Spread asserts that SPS's proposed Worksheet D amendments are not just and reasonable and are unduly discriminatory and preferential.

30. In its March 21 Answer, Xcel Energy contends that Golden Spread's suggestion in its Limited Protest that the Commission could consider holding this proceeding in abeyance pending the outcome of *Virginia Electric* has been effectively met. Xcel Energy states that, in *Virginia Electric*, the Commission accepted the proposed true-up methodology, which is the same as the methodology proposed in PSCo's filings, and rejected customers' arguments, which were the same arguments raised by Golden Spread.⁵⁵ Xcel Energy, however, notes two points in *Virginia Electric* not illustrated in PSCo's and SPS's true-up calculations: (1) when actual ADIT activity is less than projected ADIT activity, but still represents an overall increase in ADIT, the projected ADIT amount would be decreased in the formula rate by the difference between the projected and actual ADIT amounts; and (2) when actual ADIT activity is less than projected ADIT activity, and represents an overall decrease in ADIT, the formula would use the actual decrease in the ADIT value instead of the originally-projected ADIT

⁵¹ *Id.* at 4 (citing Deficiency Letter, Question 1).

⁵² *Id.* (citing SPS Worksheet D, Table 19).

⁵³ *Id.* at 5-8.

⁵⁴ *Id.*

⁵⁵ Xcel Energy March 21 Answer at 3-4.

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amount.⁵⁶ Xcel Energy states that PSCo and SPS commit to revise their formula rate templates to incorporate these additional steps upon direction of the Commission.

V. Discussion

A. Procedural Matters

31. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motion to intervene of Golden Spread in Docket No. ER16-236 serves to it a party to that proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), we grant Tri-State's, IREA's, and Holy Cross's joint motions to intervene out-of-time in Docket Nos. ER16-236 and ER16-239 given their interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

32. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept Xcel Energy's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

33. We find that PSCo's proposed tariff revisions represent a method of compliance with IRS regulations given their current rulings, and we will accept PSCo's filings, subject to the condition that PSCo submit revisions to PSCo's and SPS's formula rate templates, as discussed below.⁵⁷ In recent orders, the Commission has clarified that, when a section 205 filing is strictly limited to tax matters, the Commission will base its evaluation on whether "the proposed revisions are reasonable to comply with IRS regulations,"⁵⁸ and has

⁵⁶ *Id.* at 4-5.

⁵⁷ The Commission can revise a proposal filed under section 205 of the FPA as long as the filing utility accepts the change. *See City of Winnfield v. FERC*, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission's conditions by withdrawing its filing.

⁵⁸ *See, e.g., Midcontinent Indep. Transmission Operator, Inc.*, 153 FERC ¶ 61,371, at P 36 (2015) (*MISO*).

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expressly rejected the “objection that Private Letter Rulings issued by the IRS cannot be a basis for [] proposed rate revisions.”⁵⁹

34. Despite Golden Spread’s protests that certain proposed calculations in SPS’s Worksheet D unnecessarily average the prorated account balance, and that the initial proration factor creates the average that should be used to comply with IRS regulations, we find that PSCo’s methodology is reasonable. PSCo’s proposal determines the average rate base by taking the average net plant and subtracting an average of ADIT values. As the IRS indicated in a PLR, “[w]hile there are minor differences in the convention used to average all elements of rate base including depreciation expense on the one hand, and [ADIT] on the other . . . it is sufficient that both are determined by averaging and both are determined over the same period of time.”⁶⁰ We find that this interpretation also is consistent with the interpretation of other utilities applying the IRS regulations regarding proration.⁶¹

35. In addition, we dismiss Golden Spread’s related protest that SPS performs extra calculations in Worksheet D that skew the appropriate IRS-compliant prorated balance.⁶² While Golden Spread makes clear the distinction between how it interprets the method for calculating the average prorated balance and how such a calculation would be made under the proposed tariff revisions for SPS, Golden Spread has not demonstrated that the method proposed by SPS is inconsistent with IRS regulations. In addition, PSCo demonstrates through a hypothetical population that calculating an average prorated balance through an alternative, monthly approach results in the same answer as calculating the average prorated balance through the template method proposed in its tariff revisions.⁶³ Therefore, we find that PSCo’s proposed method for calculating the average ADIT balance is reasonable to comply with the IRS regulations.

⁵⁹ *Id.* P 40.

⁶⁰ PSCo, Docket No. ER16-236-000, Transmittal at 3 (citing I.R.S. Priv. Ltr. Rul. 143241-14 at 10).

⁶¹ *See, e.g., Virginia Electric*, 154 FERC ¶ 61,126; *MISO*, 153 FERC ¶ 61,371.

⁶² *See* Golden Spread Limited Protest at 4-6.

⁶³ Deficiency Response at 6-7.

Docket No. ER16-236-000, *et al.*

36. While Golden Spread objects to PSCo's proposal to apply the IRS's proration methodology for the originally-projected ADIT amount within the true-up calculation, we also find that this treatment is reasonable to comply with IRS regulations. As the IRS indicated in the PLR included with PSCo's filing, "in calculating the true-up, proration applies to the original projection amount but the actual amount added to the [ADIT] over the test year is not modified by application of the proration formula."⁶⁴ Golden Spread's contention that the proposed tariff amendments to the SPS transmission formula rate contradict IRS guidance and harm customers is grounded in an alternative interpretation of language in the cited PLR. However, the fact that the relevant language in the PLR might be susceptible to an alternative interpretation alone does not discount the reasonableness of the interpretation offered by PSCo. Based on the record in this proceeding, we find PSCo's proposed methodology for applying the proration formula to the true-up calculation to be consistent with the methodology approved in *Virginia Electric*, and a reasonable interpretation of the PLR.⁶⁵ If the IRS issues further clarifying guidance, it may be considered in future Commission decisions.

37. Further, while we find that PSCo's proposal to revise how ADIT is calculated in the PSCo and SPS formula rates generally conforms to the ADIT-related formula rate revisions accepted by the Commission in *Virginia Electric*, Xcel Energy has acknowledged in its March 21 Answer that certain steps are omitted from PSCo's and SPS's formula rate templates that are necessary to demonstrate how PSCo and SPS will implement the IRS's regulations concerning treatment of ADIT, consistent with *Virginia Electric*.⁶⁶ Therefore, we will direct PSCo to submit these additional calculations in a compliance filing to be submitted within 30 days of the date of this order.

38. We further find no merit to Golden Spread's assertions related to whether specific account balances will be subject to the proration requirement. Golden Spread admits that this issue is not readily apparent in proposed changes to the template included in PSCo's filing, and relies on evidence from the "SPS Projection."⁶⁷ Here, PSCo proposes to implement revisions to conform its formula rate to a methodology prescribed by the IRS in its regulations, and the issue of how application of these formula revisions applies to SPS's

⁶⁴ PSCo, Docket No. ER16-236-000, Transmittal at 3 (citing I.R.S. Priv. Ltr. Rul. 143241-14 at 8).

⁶⁵ *Virginia Electric*, 154 FERC ¶ 61,126.

⁶⁶ *Id.*

⁶⁷ See Golden Spread Limited Protest at 8-9.

Docket No. ER16-236-000, *et al.*

projected charges for 2016 is outside the scope of the issues raised in this proceeding. For such objections related to the inputs into the formula rate, Golden Spread may challenge the actual inputs when the annual update of the formula rate is filed. However, in response to Golden Spread's request that SPS be directed to clarify its Worksheet D regarding lack of clarity regarding which account balances will be subject to proration, we note that PSCo voluntarily submitted in its Deficiency Response revisions to SPS's Worksheet D clarifying in a new footnote that "proration is applied to plant related items impacted by Internal Revenue Service rules governing tax normalization."⁶⁸ Golden Spread has not protested this revision, and we find this clarification to be a reasonable method to comply with the relevant IRS regulations.

The Commission orders:

(A) PSCo's filings are hereby accepted, subject to condition, effective January 1, 2016, as requested, as discussed in the body of this order.

(B) PSCo is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission. Commissioner Clark is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶⁸ Deficiency Response at 2.

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☐ **Public Document**

Xcel Energy

Docket No.: E002/GR-15-826

Response To: MN Department of Commerce Information Request No. 1168

Requestor: Nancy Campbell, Dale Lusti, Angela Byrne

Date Received: May 5, 2016

Question:

Reference: No Reference

Subject: Federal Income Taxes

When is the last time Xcel Energy paid any federal income taxes? Please provide information to support your response.

Response:

Xcel Energy Inc. pays federal income tax on a consolidated basis for all its affiliates, which includes the utility operating companies (such as NSPM). Xcel Energy Inc. last paid material federal income taxes in 2008.¹ Please refer to Attachment A to this response, which is page one of the 2008 consolidated federal income tax return (Form 1120) filed by Xcel Energy Inc. and Affiliates. Line 31 of this form supports the consolidated \$22.3 million liability for 2008.

Consistent with prior treatment of the Company's income tax returns, Attachment A to this response has been marked Non-Public in its entirety, as it contains information the Company considers to be trade secret data as defined by Minn. Stat. §13.37(1)(b). It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who

¹ Since 2008, Xcel Energy Inc. has paid small amounts in federal income tax, totaling less than \$1 million for the period 2009-2015.

PUBLIC DOCUMENT: TRADE SECRET INFORMATION EXCISED
– PUBLIC DATA –

could obtain economic value and/or a competitive advantage from its disclosure or use. Thus, Xcel Energy maintains this information as a trade secret.

Attachment A provided with the non-public version of this response has been marked “Trade Secret” in its entirety. Pursuant to Minn. R. 7829.0500, subp. 3, the Company provides the following description of the excised material:

1. **Nature of the Material:** Attachment A includes page one of the 2008 consolidated federal income tax return (Form 1120) filed by Xcel Energy Inc. and Affiliates.
2. **Authors:** The form was prepared by Xcel Energy’s corporate tax department.
3. **Importance:** The form includes corporate financial information that Xcel Energy maintains as trade secret.
4. **Date the Information was Prepared:** The information was prepared in 2009 for filing with the Internal Revenue Service.

Preparer: Naomi Koch
Title: Manager, Tax Reporting
Department: Tax Services
Telephone: 612-330-7523
Date: May 18, 2016

PUBLIC DOCUMENT
TRADE SECRET INFORMATION AND NON-PUBLIC DATA EXCISED

Attachment A provided with the non-public version of this response has been marked “Trade Secret” in its entirety. Pursuant to Minn. R. 7829.0500, subp. 3, the Company provides the following description of the excised material:

1. **Nature of the Material:** Attachment A includes page one of the 2008 consolidated federal income tax return (Form 1120) filed by Xcel Energy Inc. and Affiliates.
2. **Authors:** The form was prepared by Xcel Energy’s corporate tax department.
3. **Importance:** The form includes corporate financial information that Xcel Energy maintains as trade secret.
4. **Date the Information was Prepared:** The information was prepared in 2009 for filing with the Internal Revenue Service.

**Tax Insights
from US Power & Utilities**

IRS rules that formula rate projections must include prorated accumulated deferred income taxes to avoid normalization violation

August 2015

In brief

In a series of private letter rulings (PLRs) for taxpayers in the power and utility industry, the IRS concluded that when a taxpayer's formula rate filing is based on a projected test period, the taxpayer must apply the so-called 'proration formula' to its accumulated deferred income taxes (ADIT).

The IRS determined in the PLRs that as long as the utility applies the proration formula in future filings, no normalization 'violation' would result.

In detail

Background

When a projected test period is used to determine a utility's revenue requirement, the Internal Revenue Code (IRC) requires ADIT to be deducted from the rate base (or included as zero-cost capital in the capital structure) and calculated using a 'proration formula.' The proration formula applies to ADIT related to accelerated depreciation.

The proration formula, described in Reg. sec. 1.167(l)-1(h)(6)(ii), is intended to account for the time for which the taxpayer has received the ADIT interest-free loan from the IRS. The proration formula limits the amount of ADIT that may be excluded from the rate base by considering the length of time the deferred tax accruals are actually recorded in ADIT.

For example, assume:

- A projected test year beginning January 1, 2017, and ending December 31, 2017
- Rate base determined using a 13-month average test year for plant in service and accumulated depreciation
- Proration credited to the deferred tax account mid-month each month

Under the proration formula, the taxpayer computes the related ADIT by beginning with the December 31, 2016, balance and adding the increase to ADIT for January 2017 multiplied by 345/365; the increase to ADIT for February 2017 by 315/365; the increase to ADIT for March 2017 by 284/365; and so forth until adding the increase to ADIT for December 2017, multiplied by 15/365. The assumption is that the utility will have the use of the ADIT interest-free loan from January 2017 for almost the entire year while the

December 2017 ADIT interest-free loan will be available only for a short time.

FERC formula rates

One jurisdiction that uses formula rates is the FERC. The FERC permits revenue requirements for transmission entities to be computed using a formula rate template. The components of the revenue requirements are the typical rate base, rate of return, and operating expense factors, relying heavily on the FERC Uniform System of Accounts. Revenue requirement filings are submitted on September 1, with new rates effective January 1 of the following year. The test period can be projected; and if it is, a true-up calculation is required once the actual FERC Form 1 is filed. Any 'over' or 'under' between projected revenue requirements and actual revenues and costs using Form 1 data is billed or refunded to customers.



www.pwc.com/us/utilities

Recent PLRs

The IRS addressed this issue in a recent series of PLRs. We assume “Commission” as used in the PLRs refers to FERC, but the redacted versions of the PLRs prevent us from being certain. Several taxpayers requested guidance regarding whether the proration formula is required for Commission formula rate filings when a projected test period is used. The question is whether the fact that the projection is trued up to actual means that, in substance, a historical test period is being used — that is, whether the true-up mechanism ‘converts’ the projected period to actual.

In these rulings — identical PLRs 201531010, 201531011, and 201531012 — the IRS noted that the consistency rules, which address consistency between the components of the rate base, provide that if an average test year is used to determine plant in service and accumulated depreciation, an average test period must be used for ADIT. The proration formula determines the end-of-period balance for ADIT. The IRS noted that ‘averaging’ and ‘pro rata’ are not the same.

The PLRs define the terms ‘historical period’ and ‘projected period’ as they apply to this issue. The projected period is the portion of the period when new rates are in effect. Thus, if the projected test period is January 1, 2017, through December 31, 2017, and new rates are to be effective beginning January 1, 2017, then the entire test period is a projection. If, on the other hand, the projected test period is January 1, 2017, through December 31, 2017 and new rates

will become effective April 1, 2017, then the proration formula would require the ADIT balance to be calculated beginning with the March 31, 2017, balance (end of the historical period) and applying proration to the period April 1, 2017, through December 31, 2017, (the projected period).

In the PLRs, the IRS concluded that when a formula rate filing is based on a projected test period, the proration formula is required. The PLR states:

“Here, Taxpayer has used a template approved by Commission to calculate formula-based rates. Commission has, at all times, required that utilities under its jurisdiction use normalization methods of accounting. Taxpayer also intended at all times to comply with the normalization rules. However, Taxpayer concluded that the use of the true-up would allow the entirety of the rate calculation to be considered a purely historical period and thus not require the application of the proration formula described in § 1.167(l)-1(h)(6)(ii). As concluded above, this conclusion is not in accord with the normalization rules. However because both Commission and Taxpayer at all times sought to comply, because Taxpayer merely populated a Commission-approved formula template rather than Commission carefully considering the calculation and ordering its use by Taxpayer, and because Taxpayer will take the corrective actions described above, it is not currently appropriate to apply the sanction of denial of accelerated depreciation to Taxpayer.”

The IRS determined that as long as the utility applied the proration formula in future filings, it would not declare a normalization ‘violation.’ The basis for this determination was that neither party had intentionally violated the normalization rules, which pertain to projected test periods as long as future filings follow those rules.

The takeaway

Utilities with formula rates and projected test periods should revise their filings to comply with the IRS guidance. This would include FERC filers.

Since a projected filing will be based on a pro-rata calculation, while the true-up calculation will not, the result will be a true-up ‘difference’ for this issue.

Because many utilities may seek a separate filing to adjust their FERC formula rate template to make it clear that the ADIT amount needs to be determined using proration, they should consider adjusting the income tax computation in the template to take into account certain adjustments to that computation for the effects of flow-through, non-deductible depreciation of capitalized AFUDC-Equity, and also for income tax rate change effects. Many FERC formula templates consider only the amortization of investment tax credits when determining income tax expense in calculating revenue requirements. They do not consider the impact of these other items in the computation.

Let's talk

For a deeper discussion of how this may affect your business, please contact:

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Xcel Energy

Docket No.: E002/GR-15-826

Response To: MN Department of Commerce Information Request No. 1139

Requestor: Nancy Campbell, Dale Lusti, Angela Byrne

Date Received: April 22, 2016

Question:

Reference: Direct Testimony of Lisa Perkett p 53-56, Schedule 11

Subject: Prorated Accumulated Deferred Taxes

- a) Please provide on a spreadsheet the calculations and resulting adjustments for both the 3-year and 5-year rate plans, which would replace the pro-rated ADIT balances (current year difference) with the actual non-prorated balances once the ADIT balances become actual in the following year. Please assume that the true-up in the following year is done the same way Xcel calculated the ADIT balances in past rate cases and riders by using beginning of year and end of year average ADIT balances. Please include amounts on a total company and Minnesota Jurisdictional basis and support the allocator used.
- b) Please reconcile your response for (a) with calculations shown on Schedule 11, when calculating the adjustments.

Response:

- a) As indicated in the Company's supplemental response to Information Request No. DOC-157, based on recent Private Letter Rulings (PLRs) and more importantly Xcel Energy's recent FERC decision to order the use of the specific pro-rate logic consistent with recent PLRs in the FERC regulated formula rate process for two of our operating companies (Public Service Company of Colorado and Southwestern Public Service Company), which includes a true-up provision to actual results, the Company believes this approach is required to meet the normalization requirements of the IRS. We understand this question to request

the Company to calculate the true-up without the proration that we believe is required by the IRS. As such we also believe that this would put the Company in a normalization violation for the Minnesota and all other jurisdictions. By way of perspective, the average Accumulated Deferred Income Tax (ADIT) offset to rate base is approximately \$2.0 billion in the 2016 Test Year, increasing to \$2.3 billion in the 2018 Plan Year. This rate base offset reduces overall annual revenue requirements, resulting in a benefit to customers of approximately \$217 million in 2016 and increasing to \$252 million in 2018. Violating normalization puts this rate base benefit for customers at risk. The FERC decision, with respect to this issue was included in DOC-157 as supplemented, is included as Attachment A to this response.

Attachment B to this response includes the calculated ADIT Prorated values and associated revenue requirement impacts included in the Company's 3-Year proposal. The 2016 amount was provided in the Direct Testimony of Ms. Anne E. Heuer's Schedule 23. The revenue requirement impact of these adjustments calculated at the last authorized ROE for the three years 2016 to 2018 are as follows for the original filing and does not reflect any changes due to the December 2015 federal tax law:

Year	Original Filed Amount
2016	6,334,566
2017	1,852,827
2018	1,771,531

Given that these adjustments are determined annually and without impact on the next year's determination, the numbers in the table above represent the maximum value of the reduction to revenue requirements that would occur when prorating ADIT balances for the true up.

With respect to allocations to the MN Electric Retail Jurisdiction, the ADIT Prorate calculations are based on the total annual deferred income tax expense at the MN Electric Retail Jurisdictional level including the expense calculated as part of the NOL determination which is based on the MN Retail taxable income. The basic deferred tax expense as provided at the Total Company level is first assigned or allocated to the electric utility operations and then assigned or allocated to the MN retail jurisdiction. The assignment or allocation of deferred tax expense follows the same process as all of the other capital related components of the asset such as the related plant balance, depreciation reserve balance, and book

depreciation expense. This process is described in Section VI of Ms. Heuer's Direct Testimony. Utility and Jurisdictional Allocations and further supported in the Direct Testimony of Company witness Mr. Adam R. Dietenberger.

In PLR 201541010, the IRS reasserts that in case of future test periods, the ADIT proration methodology described in Reg. Sec. 1.167(l)-1(h)(6) has to be used. The IRS also makes it clear that the true-up process cannot be used to unwind the proration calculation of ADIT. The IRS's view is that forward-looking formula rates with true-up procedures employ a future test period subject to normalization requirements, and such formula rates must use the proration formula in estimating ADIT amounts, including carrying forward the amounts of ADIT calculated using the proration formula into the true-up. The IRS in PLR 201541010 states that, "[i]n calculating the true-up, proration applies to the original projection amount." The originally projected amount is thus carried forward into the true-up, and therefore is not "unwound" by reversing the proration calculation. PLR 201541010 is included as Attachment C to this response.

- b) Schedule 11 to Company witness Ms. Lisa H. Perkett's Direct Testimony shows the prorate adjustment on annual deferred taxes that are at total Company and before rate adjustments. The bridge schedule included in Volume 4B Backup Workpapers, VIII. Adjustments, A38 ADIT Pro-rate, page A38-5 shows the link between Schedule 11 and Ms. Heuer's Schedule 23.

As set out in the Company's response to Information Request No. XLI-35, updated information to reflect the impacts of the 2015 PATH Act will be supplemented.

Witness:	Lisa H. Perkett
Preparer:	Lisa H. Perkett / Jeffrey C. Robinson
Title:	Principal Financial Consultant / Specialized Business Consultant
Department:	Capital Asset Accounting / Revenue Requirements - North
Telephone:	612-330-6950 / 612-330-5912
Date:	May 6, 2016

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Midcontinent Independent System)
Operator, Inc.)

Docket No. ER16-197-000

**MOTION TO LODGE ORDER ON REVISED ADIT TREATMENT
AND MOTION FOR RECONSIDERATION
OF AMEREN SERVICES COMPANY AND
XCEL ENERGY SERVICES INC.**

Pursuant to Rules 212 and 716 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ Ameren Services Company, on behalf of Ameren Illinois Company d/b/a Ameren Illinois (“Ameren Illinois”) and Ameren Transmission Company of Illinois (“ATXI”) (collectively, “Ameren”), and Xcel Energy Services Inc. (“XES”), on behalf of Northern States Power Company, a Minnesota corporation and Northern States Power Company, a Wisconsin corporation (“NSP Companies”),² respectfully move to lodge in Docket No. ER16-197-000 the attached *Order on Revised ADIT Treatment*, issued by the Commission on February 23, 2016 in Docket No. ER14-1831-001.³ The *Order on Revised ADIT Treatment* is directly relevant to the issues in Docket No. ER16-197 because it concerns the application of the proration methodology described in Section 1.167(l)-1(h)(6)(ii) of the Treasury regulations.⁴ Specifically, in the *Order on Revised ADIT Treatment*, the Commission

¹ 18 C.F.R. §§ 385.212 & 385.716.

² Ameren and XES are together referred to as “Indicated Transmission Owners.”

³ *PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,126 (2016) (“*Order on Revised ADIT Treatment*”). The *Order on Revised ADIT Treatment* is attached as Exhibit No. 1.

⁴ Treas. Reg. § 1.167(l)-1(h)(6)(ii).

accepted the proposal of Virginia Electric and Power Company, doing business as Dominion Virginia Power (“Dominion”) to continue to apply the proration methodology to the originally projected Accumulated Deferred Income Tax (“ADIT”) balances in performing the annual true-up calculations. In the Commission’s December 30, 2015 order in the captioned proceeding, the Commission rejected Ameren’s and the NSP Companies’ similar proposals to continue to apply the proration methodology to the originally projected ADIT balances in performing the annual formula rate true-up calculations.⁵ Indicated Transmission Owners therefore also move for reconsideration of the December 2015 Order, pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure.

I. BACKGROUND

On October 30, 2015, the Midcontinent Independent System Operator, Inc. (“MISO”) and Certain MISO Transmission Owners⁶ (collectively with MISO, “Filing Parties”) submitted a filing⁷ pursuant to section 205 of the Federal Power Act (“FPA”) proposing certain revisions to the formula rate included in Attachment O of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (“Tariff”) for

⁵ *Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,371 (2015) (“December 2015 Order”).

⁶ The Certain MISO Transmission Owners consist of: Ameren Services Company, as agent for Ameren Illinois and ATXI; Minnesota Power (and its subsidiary Superior Water, L&P) (collectively, “Minnesota Power”); Montana-Dakota Utilities Co. (“MDU”); Northern Indiana Public Service Company (“NIPSCO”); NSP Companies; Otter Tail Power Company (“Otter Tail”); and Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana) (“Vectren”).

⁷ Revisions to Attachment O Formula Rates of the Midcontinent Independent System Operator, Inc. and the Certain MISO Transmission Owners, Docket No. ER16-197-000 (Oct. 30, 2015) (“October 2015 Filing”).

Certain MISO Transmission Owners.⁸ Specifically, Filing Parties proposed to revise Note F of their company-specific Attachment Os in the Tariff to clarify that they would calculate the ADIT balances used in the calculation of the projected test year revenue requirement using the proration methodology set forth in Section 1.167(l)-1(h)(6)(ii) of the United States Treasury regulations.⁹ Three of Certain MISO Transmission Owners—Ameren Illinois, ATXI, and NSP Companies—further proposed to revise Note F of their company-specific Attachment Os to state that the calculations of ADIT balances in the annual true-up calculation would be performed so as to preserve the effect of the application of the proration methodology used in the projected test year calculation. The revised Note F required that Certain MISO Transmission Owners post the work papers supporting the ADIT calculations with each Annual True-Up and/or projected revenue requirement and include the work papers in their annual Informational Filing submitted to the Commission. Filing Parties requested an effective date of January 1, 2016, for the modifications proposed.

In the December 2015 Order, the Commission accepted the October 2015 Filing, subject to conditions. The Commission accepted the proposed revisions to Note F to apply the IRS regulations to the annual projected ADIT amounts for Minnesota Power, MDU, NIPSCO, Otter Tail, and Vectren.¹⁰ The Commission found, however, that the true-up provisions proposed by Ameren Illinois, ATXI, and NSP Companies had not

⁸ The company-specific Attachment Os were filed for Ameren Illinois, ATXI, Minnesota Power, MDU, NIPSCO, NSP Companies, Otter Tail, and Vectren.

⁹ See Treas. Reg. § 1.167(l)-1(h)(6)(ii).

¹⁰ December 2015 Order at P 37.

been justified as just and reasonable.¹¹ Accordingly, the Commission directed Filing Parties to “revise the proposed Tariff changes to remove reference to the use of an IRS calculation for the annual true-up, and to provide that annual true-up calculations will continue to use the average of the beginning-of-year and end-of-year balances for all ADIT accounts.”¹² In addition, the Commission directed Filing Parties, in a compliance filing, to include the work papers supporting the ADIT calculations with the company-specific Attachment O of each of Certain MISO Transmission Owners.¹³

On January 29, 2016, Indicated Transmission Owners submitted a request for clarification or, in the alternative, rehearing of the December 2015 Order.¹⁴ Indicated Transmission Owners requested the Commission clarify that, should the Internal Revenue Service (“IRS”) rule that the proration methodology described in Section 1.167(l)-1(h)(6)(ii) of the Treasury regulations must continue to be applied to the originally projected ADIT balances in performing the annual true-up calculations, Indicated Transmission Owners are not estopped by the December 2015 Order from making a future filing with the Commission consistent with the IRS’s direction.¹⁵ Furthermore, should the Commission deny their request for clarification, Indicated Transmission Owners requested rehearing of the December 2015 Order’s finding that the Treasury

¹¹ *Id.* at P 38.

¹² *Id.*

¹³ *Id.* at P 39.

¹⁴ Request for Clarification or, in the Alternative, Rehearing of Ameren Services Company and Xcel Energy Services Inc., Docket No. ER16-197-002. (“Request for Clarification of Rehearing”).

¹⁵ Request for Clarification or Rehearing at 5-6.

regulations do not require applying the proration calculation to any portion of the annual true-up.¹⁶ The Request for Clarification or Rehearing is currently pending before the Commission.

Also on January 29, 2016, Filing Parties submitted a compliance filing including work papers supporting the ADIT calculations for each company-specific Attachment O of each of the Certain MISO Transmission Owners.¹⁷ Filing Parties also modified the Attachment O templates of Ameren Illinois, ATXI, and NSP Companies as required.¹⁸

II. MOTION TO LODGE

The Commission grants motions to lodge where parties have presented good cause for granting the motion.¹⁹ Indicated Transmission Owners' motion to lodge is appropriate here because the December 2015 Order in contrary to the *Order on Revised ADIT Treatment*.

In the *Order on Revised ADIT Treatment*, the Commission accepted Dominion's proposal to retain the IRS's proration methodology for the originally projected ADIT amount when calculating the true-up.²⁰ The Commission summarized Dominion's proposal in Docket No. ER14-1831, stating that "[r]egarding the true-up adjustment, Dominion proposes to retain the IRS's proration methodology for the originally projected

¹⁶ *Id.* at 6-9.

¹⁷ Compliance Filing Revising Attachment O Formula Rates of Midcontinent Independent System Operator, Inc. and the Certain MISO Transmission Owners, Docket No. ER16-197-001 (Jan. 29, 2016) ("Compliance Filing").

¹⁸ Compliance Filing at 4.

¹⁹ 18 C.F.R. § 385.716.

²⁰ *Order on Revised ADIT Treatment* at 21.

[ADIT], but not to apply the proration to any actual [ADIT] activity in excess of that amount.”²¹ The Commission found Dominion’s proposal to be consistent with the Private Letter Ruling (“PLR”) Dominion filed in Docket No. ER14-1831.²² Specifically, the Commission quoted the PLR’s finding that “in calculating the true-up, proration applies to the original projection amount but the actual amount added to the [ADIT] over the test year is not modified by application of the proration formula.”²³

In the December 2015 Order, the Commission rejected Ameren’s and the NSP Companies’ proposal to apply the proration methodology to the originally projected ADIT amount in calculating the true-up. As Indicated Transmission Owners explained in their Request for Clarification or Rehearing, it is necessary to preserve the proration in the original projected ADIT balances by again applying the proration formula when adjusting the actual ADIT balances and calculating the true-up.²⁴ The Commission recognized this logic in the *Order on Revised ADIT Treatment*,²⁵ thus, the Commission should grant this motion to lodge that order in the record of this proceeding.

²¹ *Id.* at P 8.

²² *Id.* at P 21. See Filing Supplementing the Record with an Internal Revenue Service Private Letter Ruling and Requesting Additional Time for Compliance of Virginia Electric and Power Company, Docket No. ER14-1831-000, Attachment (Private Letter Ruling) (Aug. 14, 2015).

²³ *Order on Revised ADIT Treatment* at P 21 (quoting I.R.S. Priv. Ltr. Rul. 143241-14, at 8 (July 6, 2015)).

²⁴ Request for Clarification or Rehearing at 8.

²⁵ *Order on Revised ADIT Treatment* at P 8.

III. MOTION FOR RECONSIDERATION

The Commission also should grant Indicated Transmission Owners' motion for reconsideration of the December 2015 Order. As demonstrated above, Ameren's proposal in the October 2015 Filing to revise Note F of the Ameren Illinois and ATXI company-specific Attachment O to specify that the proration methodology would be applied in performing the true-up calculation mirrors the proposal which the Commission accepted for Dominion in Docket No. ER14-1831-001.²⁶ Similarly, the proposed changes to Note F of Attachment O-NSP also specify that the proration methodology would be applied in performing the true-up calculation.

Furthermore, with only a few minor differences, the illustrative ADIT work papers that Ameren included in its December 7, 2015 response to the protest of Southwestern Electric Cooperative, Inc. ("Southwestern")²⁷ are substantially similar to

²⁶ See October 2015 Filing, Exhibit II, Attachment O-AIC, Note F ("The calculations of ADIT for Account 282, as well as the portion of Account 190 related to federal net operating losses, in the projected net revenue requirement *and the Annual True-Up calculation* will be performed in accordance with IRS regulation Section 1.167(l)-1(h)(6).") (emphasis added); *id.*, Exhibit II, Attachment O-ATXI, Note F (same).

²⁷ Motion for Leave to Answer and Answer of Ameren Services Company, Docket No. ER16-197-000 (Dec. 7, 2015) ("Ameren Answer"). Exhibit No. 1 to the Ameren Answer is an illustrative work paper showing the actual proration calculation for the projected 2016 amounts for Account No. 282. Exhibit No. 2 to the Ameren Answer is a "true-up proration example" showing how Ameren expects the true-up proration calculation to work, once Ameren has 2016 actual amounts for the calculation. Ameren is including revised versions of these ADIT work papers as Exhibit No. 2 to this filing. The format of the ADIT revised work paper is consistent with the work paper filed in the Compliance Filing, which is now part of the Tariff. Ameren also notes that the true-up proration examples reflect a hypothetical population of the true-up template.

the ADIT work papers that Dominion included in its October 30, 2015 filing.²⁸ Therefore, to provide consistency and clarity regarding the application of the proration methodology when calculating the true-up for forward-looking formula rates, the Commission should grant Ameren's request for reconsideration of the December 2015 Order.

The calculations provided in Dominion's ADIT work papers are generally, though not entirely, consistent, as discussed below, with the calculations set forth in the illustrative work papers included in the Ameren Answer. Ameren, like Dominion, interprets the Treasury regulations to require that, in the event the projected ADIT amount is equal to the actual ADIT amount, the proration calculation must be applied to the original projected ADIT amount. Ameren, like Dominion, also interprets the Treasury regulations to require that, to the extent the actual ADIT amount exceeds the projected ADIT amount, the proration formula does not apply to the incremental difference between the actual ADIT amount and the projected ADIT amount. Similarly, to the extent the actual ADIT amount is less than the projected ADIT value, but still represents an increase in ADIT, Ameren agrees with Dominion that the projected ADIT amount is to be decreased by the difference between the projected and actual ADIT amounts.

The ADIT work papers included in the Ameren Answer differ from Dominion's ADIT work papers in a few minor respects. First, according to Dominion's work papers,

²⁸ Compliance Filing Revising ADIT Treatment in OATT Formula Transmission Rate of Virginia Electric and Power Company, Docket No. ER14-1831-001, Exhibit No. DVP-8 (Sample populated Attachment 1B), Exhibit No. DVP-9 (Sample populated Attachment 1C) (Oct. 30, 2015). Ameren has included Dominion's ADIT work papers as Exhibit No. 3.

when actual ADIT activity is less than projected ADIT activity, and represents an overall decrease in ADIT, Dominion will not use the originally projected ADIT amount. Dominion will instead use the actual decrease to the ADIT value. In the ADIT work papers included with the Ameren Answer, there was a formula problem in this column, causing this piece of the calculation to not agree with Dominion's methodology. However, in the revised ADIT work papers included herein as Exhibit No. 2, Ameren has corrected the formula in column Q (Partially prorated actual balance) to be consistent with the calculation in the Dominion work papers.

Second, in its ADIT work papers for Account No. 282, Dominion breaks the calculations down into transmission service plant in service, general plant, and computer software. Ameren's proposed ADIT work papers do not break Account No. 282 down into these components as Ameren does not track deferred taxes at this level in its ledger and does not forecast projected deferred taxes at this level. Finally, it appears that Dominion will be prorating only the federal ADIT. Conversely, Ameren's calculation is a proration of the entire portion of Account No. 282 attributable to transmission, as well as any deferred tax asset in Account No. 190 related to federal net operating losses.

The December 2015 Order is inconsistent with the *Order on Revised ADIT Treatment* to the extent it prohibits Ameren from applying the IRS's proration methodology in calculating the true-up. Moreover, the calculations contained in Ameren's revised ADIT work papers mirror those of Dominion, which the Commission accepted as just and reasonable.

As such, the Commission should grant Indicated Transmission Owners' motion for reconsideration. Ameren commits to making a compliance filing with revised Attachment O-AIC and Attachment O-ATXI templates, and including the revised ADIT

work papers upon the Commission's direction. Similarly, XES commits to making a compliance filing with a revised Attachment O-NSP template, and including revised ADIT work papers similar to the Dominion work papers accepted in the *Order on Revised ADIT Treatment* upon the Commission's direction. The revised templates and work papers would then be used in calculating the 2016 true-ups of the Attachment O-AIC, Attachment O-ATXI, and Attachment O-NSP templates performed in 2017.

IV. CONCLUSION

For the reasons set forth above, Indicated Transmission Owners respectfully request that the Commission grant its motion to lodge the *Order on Revised ADIT Treatment* in Docket No. ER16-197-000 and their motion for reconsideration of the December 2015 Order.

Respectfully submitted,

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March 11, 2016

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Northern States Power Company

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Exhibit No. 1

Northern States Power Company

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154 FERC ¶ 61,126
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

PJM Interconnection, L.L.C.
Virginia Electric and Power Company

Docket No. ER14-1831-001

ORDER ON REVISED ADIT TREATMENT

(Issued February 23, 2016)

1. On October 30, 2015, Virginia Electric and Power Company, doing business as Dominion Virginia Power (Dominion), submitted a compliance filing in the above referenced proceeding, following its receipt of an Internal Revenue Service (IRS) Private Letter Ruling (PLR).¹ As discussed below, we accept these company-specific revisions to Attachment H-16 of PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff (Tariff), with an effective date of May 1, 2014, as requested.²

I. Background

2. Under Commission ratemaking policies, income taxes included in rates are determined based on the return on net rate base calculated using straight-line depreciation. However, in calculating the actual amount of taxes due to the IRS, companies generally are able to take advantage of accelerated depreciation. Accelerated depreciation will generally lower taxes payable during the early years of an asset's life followed by corresponding increases in taxes payable during the later years of an asset's life. This means that a company's income taxes payable in a period will differ from its income tax expense in the same period for ratemaking purposes. The difference between the income taxes based on straight-line-depreciation and the actual taxes paid by the company are reflected in an account called Accumulated Deferred Income Taxes (ADIT)

¹ I.R.S. Priv. Ltr. Rul. 143241-14 (July 6, 2015) (PLR).

² PJM Interconnection, L.L.C., Intra-PJM Tariffs, [OATT ATT H-16A, OATT Attachment H-16A - Virginia Electric, 6.0.0.](#)

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or Accumulated Deferred Federal Income Taxes (ADFIT). Because the customers are, in effect, pre-paying taxes and providing the company with cost-free capital, the Commission subtracts the ADFIT from the company's rate base thereby reducing customer charges. This method of passing the benefits from accelerated depreciation on to ratepayers throughout the asset's life is referred to as tax normalization.

3. The depreciation normalization rules of the Internal Revenue Code (Normalization Rules) mandate the use of a very specific proration procedure in measuring the amount of future test period ADFIT that can reduce rate base. The IRS requires, for a utility that solely utilizes a future period (projected test year) to determine depreciation, that "the amount of the reserve [for deferred taxes] for the period is the amount of the reserve at the beginning of the period and a pro rata portion of the amount of any projected increase to be credited or decrease to be charged to the account during such period."³ The pro rata amount of any increase or decrease during the future portion of the period is determined by multiplying the increase or decrease by a fraction, the numerator of which is the number of days remaining in the period at the time the increase is to accrue, and the denominator of which is the total number of days in the future portion of the period.⁴ The purpose of the Proration Requirement is to prevent the immediate flow-through of the benefits of accelerated depreciation to ratepayers, allowing funds provided by accelerated depreciation to be used for investments.

4. The IRS requires utilities to follow its regulations in order to take advantage of accelerated depreciation. Dominion and other electric utilities have requested revenue rulings from the IRS regarding the calculation of ADFIT for formula rates which include a projection of expected investments for the coming year. These formula rates also include a true-up mechanism through which the utility calculates adjustments to its formula, for example, for the differences from investments that did not occur when projected.

5. On April 30, 2014, Dominion filed in Docket No. ER14-1831-000, pursuant to section 205 of the Federal Power Act,⁵ to change the methodology it uses to calculate the ADFIT component of its rate base to bring it into compliance with the Normalization Rules and thereby continue the availability of accelerated tax depreciation to the benefit of its customers. Specifically, Dominion stated that the IRS's proration formula must be applied to its ADFIT balance (Proration Requirement). Additionally, Dominion asserted that once the proration formula is applied, the ADFIT balance used to reduce rate base

³ Treas. Reg. § 1.167(1)-1(h)(6)(ii).

⁴ *Id.*

⁵ 16 U.S.C. § 824d (2012).

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must be calculated using the same 13-month average that is used in calculating the net plant component of rate base (Consistency Requirement). In a June 2014 Order,⁶ the Commission ruled that Dominion's particular tax question was "a case of first impression before this Commission ... on the specific matters of tax law raised," and ruled "that it is necessary to obtain the IRS's interpretation of how its Normalization Rules apply in the context of Dominion's Formula Rates."⁷ Accordingly, the June 2014 Order formally established a hearing, but held all proceedings at the Commission in abeyance until Dominion received guidance directly from the IRS. On July 6, 2015, the IRS released that guidance in the form of a PLR, which is its primary mode of ruling on fact-specific questions of interpreting the tax code.

6. On August 14, 2015, Dominion filed the PLR in this docket and announced that it had taken effect under IRS rules of procedure. Dominion had asked the IRS:

to determine whether the Proration and Consistency Requirements of the Normalization Rules are required in the case of a rate recovery mechanism, whereby: (1) the cost of service test period includes projected periods, i.e., periods subsequent to the effective date of the rates, and (2) the differences between such projected costs and the utility's actual incurred costs are included as an adjustment to cost-of-service in the next resetting of the rates for the recovery mechanism.⁸

According to Dominion, the PLR announced seven conclusions, five of which conformed with Dominion's expectations as reflected in its original filing, and two of which differed from Dominion's expectations.⁹ In particular, Dominion characterizes the IRS as ruling:

while the Proration Requirement applies to all future test periods and the estimated projection components of the Formula Rate, the Proration Requirement is not applicable to the increase of actual ADIT activity above the original projections when computing the true-up portion of the Formula Rate. It also ruled that the Consistency Requirement

⁶ *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,254 (2014) (June 2014 Order).

⁷ *Id.* P 18.

⁸ Dominion August 14, 2015 Supplemental Filing at 2.

⁹ *Id.* at 2.

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was not violated by using the two different averaging methodologies for plant components of rate base and related ADIT that has been historically used in Dominion's Formula Rate.

Dominion sought, and was granted, additional time to revise its tariff proposal to be in line with the IRS's determinations.

7. On October 30, 2015, Dominion submitted the instant compliance filing. Dominion addressed the calculation of ADFIT for use in both the projected test period and the true-up adjustment. Regarding the projected test period, Dominion states that its proposal on April 30, 2014, in which Dominion proposed to use proration in calculating ADFIT, is generally consistent with the PLR. However, Dominion asserts that it is unnecessary to use the same 13-month average that it uses to calculate net plant for ADFIT, and Dominion instead proposes to use an average based on the beginning-of-year and end-of-year prorated values. Dominion cites the PLR's finding that "[w]hile there are minor differences in the convention used to average all elements of rate base including depreciation expense on the one hand, and ADFIT on the other... it is sufficient that both are determined by averaging and both are determined over the same period of time."¹⁰

8. Regarding the true-up adjustment, Dominion proposes to retain the IRS's proration methodology for the originally projected ADFIT amount, but not to apply proration to any actual ADFIT activity in excess of that amount. In support of its proposed changes to the true-up calculation, Dominion refers to the PLR's finding that "In calculating the true-up, proration applies to the original projection amount but the actual amount added to the ADFIT over the test year is not modified by application of the proration formula."¹¹ Dominion contends that although this ruling "might at first appear counterintuitive, it preserves both the economic effect of the IRC-required proration and the definitions of 'future' and 'historical' test periods provided in the PLR."¹² Dominion advises that it has confirmed with the IRS that this was the intent of the PLR.¹³

¹⁰ PLR at 10, *cited in* Dominion October 30, 2015 filing at 6.

¹¹ PLR at 7, *cited in* Dominion October 30, 2015 filing at 7.

¹² Dominion October 30, 2015 filing at 7.

¹³ *Id.*

II. Notice and Responsive Pleadings

9. Notice of Dominion's filing was published in the Federal Register, 80 Fed. Reg. 68,528 (2015), with interventions and protests due on or before November 20, 2015. Virginia Municipal Electric Association No. 1, Old Dominion Electric Cooperative, and the North Carolina Electric Membership Corporation intervened and jointly (collectively, Indicated Customers) filed a timely protest. On December 8, 2015, Dominion filed a motion for leave to answer and answer to the protest of Indicated Customers. On December 22, 2015, Indicated Customers filed an answer to Dominion's answer.

10. Indicated Customers allege that Dominion misinterprets certain aspects of the IRS's regulations and the PLR's guidance. First, Indicated Customers complain that after Dominion performs its proration calculation, it takes the extra step of averaging the beginning and ending balance.¹⁴ Indicated Customers contend that this extra step is duplicative, because the proration process itself has the effect of averaging ADFIT balance over the December-to-December period. Second, Protestors contend that Dominion has incorrectly interpreted the IRS's response in the PLR to mean that only the difference between the forecast of the ADFIT during the year and the amount of ADFIT that was actually booked is exempt from the proration requirement.¹⁵ Indicated Customers contend that it is "the actual amount added to the ADFIT over the test year" – that is, all of the ADFIT accrued during the test year – that is exempt from proration, not merely the difference between the projection and the actual amount.¹⁶ Finally, Indicated Customers object to Dominion's proposed effective date. Indicated Customers assert that there is no need to restate the 2014 and 2015 projected amounts for ADFIT to reflect proration, since the projected rates have already been paid by transmission customers.

11. In answering the Indicated Customers' Protest, Dominion argues that the IRS's regulations require proration of the test period data and averaging of the prorated data over that period.¹⁷ According to Dominion, under the Consistency Requirement, it must apply the same convention (e.g., an averaging convention) to the prorated ADFIT amounts that it applies to the other elements of rate base. However, Dominion notes that the Consistency Requirement accommodates the use of variations in averaging conventions. In other words, the averaging methodology used for ADIT and other components of rate base can be based upon different conventions provided all related

¹⁴ Indicated Customers Protest at 4.

¹⁵ *Id.* at 5.

¹⁶ *Id.*

¹⁷ Dominion Answer at 5-7.

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components (plant, accumulated depreciation, ADIT) are averaged.¹⁸ Thus, Dominion explains that, since it averages balances in calculating other elements of its rate base, it must apply an averaging convention to the prorated ADFIT balances as well.¹⁹

12. With respect to the true-up, Dominion argues that the PLR requires it to preserve the proration of the ADFIT that was used for projected rates. Dominion explains that the PLR describes the true-up component as a reconciliation mechanism wherein actual amounts that are in excess of projections are collected from customers in a subsequent rate year.²⁰ Dominion quotes the PLR as stating, “the true up increases the ultimate accuracy of the rates but does not convert a future test period into a historical test period as those terms are used in the normalization regulations.”²¹ Dominion suggests that, under IRS regulations, a true-up is not the same as a historical test period. Dominion further notes that the PLR holds, “[i]n calculating the true-up, proration applies to the original projection amount but the actual amount added to the ADFIT over the test year is not modified by application of the proration formula.”²² Dominion explains that the true-up amount to be billed to customers represents only the difference between a revenue requirement determined in that recalculation and the revenue requirement determined in the original projected component of the formula rate. Dominion advises that recognition of this distinction is critical to understanding the PLR guidance provided by the IRS.

13. According to Dominion, the true-up adjustment included within the Annual Transmission Revenue Requirement (ATRR), as reflected in Dominion’s formula rate templates, is limited to the ADFIT included in the projected component of the formula rate but not to the incremental changes in ADFIT (the “actual amount added”) attributable to the differences between the projected amounts already included in the rate period and the total actual ADFIT balances. Dominion explains that it is only such differences in ADFIT activity, rather than the entirety of the ADFIT activity reflected in the recalculation, that would occur before the effective date of attendant rates or be considered *historical* as that term is used by the IRS in its interpretation of the proration

¹⁸ *Id.*

¹⁹ Dominion Answer at 7 (citing I.R.S. Priv. Ltr. Rul. 9202029 (October 15, 1991); I.R.S. Priv. Ltr. Rul. 9313008 (December 17, 1992); I.R.S. Priv. Ltr. Rul. 9224040 (March 16, 1992)).

²⁰ Dominion Answer at 9.

²¹ PLR at 8, *cited in* Dominion Answer at 12.

²² PLR at 8, *cited in* Dominion Answer at 8.

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formula provisions of its regulations. On the other hand, projected ADFIT activity, to the extent realized, has already impacted the revenue requirement underlying customer rates that became effective prior to the projected periods. Accordingly, only the differences are not subject to the proration requirements, Dominion argues.

14. Regarding its requested effective date, Dominion states that its goal is to limit the period of non-compliance with the Normalization Rules. Dominion states that its proposal would apply the PLR-compliant true-up computation beginning with the May 1, 2014 effective date established by the Commission (subject to refund) in this proceeding. Dominion states that this does not involve applying the Normalization Rules to the projections for 2014 through 2016.

15. Dominion states that if the Commission's decision in this proceeding varies from Dominion's understanding of the PLR, Dominion may determine that a subsequent PLR request is required to provide confirmation that the resulting tariff conforms to the IRS's requirements.

16. In their December 22, 2015 answer, Indicated Customers reiterate the objections summarized above. Indicated Customers assert that Dominion's proposal will needlessly increase rates for customers.

III. Discussion

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,²³ the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority.²⁴ We will accept Dominion's December 8, 2015 answer and Indicated Customers' December 22, 2015 answer.

18. In this filing, Dominion seeks to have the Commission accept revisions to its formula rate to reflect the IRS's regulations for calculating deferred income taxes for purposes of determining Dominions Transmission Formula Rate. Dominion asserts that these revisions are necessary in order to preserve Dominion's ability to use accelerated depreciation for federal income tax purposes. We agree with Dominion that its proposal is a reasonable interpretation of the PLR.

²³ 18 C.F.R. § 385.214 (2015).

²⁴ 18 C.F.R. § 385.213(a)(2) (2015).

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19. In recent orders, the Commission has clarified that, when a section 205 filing is strictly limited to tax matters, the Commission will base its evaluation on whether “the proposed revisions are reasonable to comply with IRS regulations,”²⁵ and expressly rejected the “objection that Private Letter Rulings issued by the IRS cannot be a basis for [] proposed rate revisions.”²⁶ The Indicated Customers, following this guidance, have limited its protest to arguing “that Dominion has misinterpreted certain aspects of the IRS’s guidance.”²⁷ Accordingly, Indicated Customers argue that, “Dominion has improperly calculated the net prorated amount for use in the projected formula rates,”²⁸ and “also misunderstood the guidance provided by the PLR regarding the true-up component of the formula rate;”²⁹ the Indicated Customers’ requested revisions to Dominion’s rates all flow from this argument.

20. Indicated Customers maintain that Dominion has added an unrequired separate step of averaging the beginning and ending ADFIT balances not required by the PLR. They maintain that prorationing is an average and that Dominion therefore should use the end of year pro rated ADFIT balance, as opposed to the simple average. We find, however, that Dominion’s methodology is reasonable. Dominion’s proposal determines the average rate base by taking the average net plant and subtracting an average of ADFIT values.³⁰ As the PLR states: “[w]hile there are minor differences in the convention used to average all elements of rate base including depreciation expense on the one hand, and ADFIT on the other... it is sufficient that both are determined by averaging and both are determined over the same period of time.”³¹ This interpretation

²⁵ *Midcontinent Independent System Operator, Inc.*, 153 FERC ¶ 61,371, at P 36 (2015).

²⁶ *Id.* P 40.

²⁷ Indicated Customers’ Protest at 3.

²⁸ *Id.* at 4.

²⁹ *Id.*

³⁰ Prorating an investment over time is not the equivalent of an average. Prorating weights the ADFIT from projected investments by the month in which they are incurred; an average uses the prorated monthly ADFIT values and determines the central or typical value from those data.

³¹ PLR at 10, *cited in* Dominion October 30, 2015 filing at 6.

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also is consistent with the interpretation of other utilities applying the IRS regulations regarding proration.³²

21. Indicated Customers also object to Dominion's proposal to retain the IRS's proration methodology for the originally projected ADFIT amount. This treatment is consistent with the PLR, which states "in calculating the true-up, proration applies to the original projection amount but the actual amount added to the ADFIT over the test year is not modified by application of the proration formula."³³ Indicated Customers' contention that unweighted values should be used for the true-up would effectively undo the proration calculation of rates required by the IRS.

22. Finally, Indicated Customers object to Dominion's proposed May 1, 2014 effective date. However, the PLR states that "[a]ny rates that have been calculated using procedures inconsistent with this ruling ('nonconforming rates') which are or which have been in effect and which, under the applicable state or federal regulatory law, can be adjusted or corrected to conform to the requirements of this ruling, must be so adjusted or corrected."³⁴ Dominion's filing is consistent with the PLR.

The Commission orders:

Dominion's filing is accepted, effective May 1, 2014, as requested.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

³² See, e.g., *Midcontinent Independent Transmission Operator, Inc.*, 153 FERC ¶ 61,374 (2015).

³³ PLR at 7, *cited in* Dominion October 30, 2015 filing at 7.

³⁴ PLR at 10, *cited in* Dominion December 8, 2015 Answer at 15.

Northern States Power Company

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Exhibit No. 2

Northern States Power Company

Ameren Illinois													
Accumulated Deferred Income Taxes													
Year Ended December 31, 2016													
Rate Year = Projected 2016													
Proration Used for Projected Revenue Requirement Calculation								Proration Used for True-up Revenue Requirement Calculation					
Account 190								Averaging Preserving Projected Proration - True-up					
Days in Period					Averaging with Proration - Projected								
A	B	C	D	E	F	G	H	I	J	K	L	M	N
Month	Days in the Month	Number of Days Prorated	Total Days in Future Portion of Test Period	Proration Amount (C / D)	Projected Monthly Activity	Prorated Projected Monthly Activity (E x F)	Prorated Projected Balance (Cumulative Sum of G)	Actual Monthly Activity	Difference between projected and actual activity	Partially prorate actual activity above Monthly projection	Partially prorate actual activity below Monthly projection but increases ADIT	Partially prorate actual activity below Monthly projection and is a reduction to ADIT	Partially prorated actual balance
December 31st balance Prorated Items							53,078,324						54,000,000
January	31	336	366	91.80%	1,746,377	1,603,231	54,681,555	1,500,000	(246,377)	-	226,182	-	55,377,049
February	29	307	366	83.88%	1,746,377	1,464,857	56,146,413	2,000,000	253,623	253,623	-	-	57,095,529
March	31	276	366	75.41%	1,746,377	1,316,940	57,463,353	(100,000)	(1,846,377)	-	-	(100,000)	56,995,529
April	30	246	366	67.21%	1,746,377	1,173,794	58,637,147	500,000	(1,246,377)	-	837,729	-	57,331,595
May	31	215	366	58.74%	1,746,377	1,025,877	59,663,024	-	(1,746,377)	-	1,025,877	-	57,331,595
June	30	185	366	50.55%	1,746,377	882,732	60,545,756	750,000	(996,377)	-	503,633	-	57,710,693
July	31	154	366	42.08%	1,746,377	734,814	61,280,570	350,000	(1,396,377)	-	587,547	-	57,857,961
August	31	123	366	33.61%	1,746,377	586,897	61,867,468	1,750,000	3,623	3,623	-	-	58,448,481
September	30	93	366	25.41%	1,746,377	443,752	62,311,219	(500,000)	(2,246,377)	-	-	(500,000)	57,948,481
October	31	62	366	16.94%	1,746,377	295,834	62,607,054	250,000	(1,496,377)	-	253,485	-	57,990,831
November	30	32	366	8.74%	1,746,377	152,689	62,759,742	50,000	(1,696,377)	-	148,317	-	57,995,203
December	31	1	366	0.27%	1,746,377	4,772	62,764,514	2,500	(1,743,877)	-	4,765	-	57,995,209
Total					20,956,525	9,686,190		6,552,500	(14,404,025)	257,246	3,587,535	(600,000)	
Beginning Balance					234.8.b		177,342,281						180,000,000
Less non Prorated Items					(Line 19 less line 21)		124,263,957			379,098			126,000,000
Beginning Balance of Prorated items					(Line 5, Col H)		53,078,324						54,000,000
Ending Balance					234.8.c		189,186,731						192,000,000
Less non Prorated Items					(Line 22 less line 24)		126,422,217						134,004,791
Ending Balance of Prorated items					(Line 17, Col H)		62,764,514						57,995,209
Average Balance					[(Lines 21 + 24) / 2]+[(Lines 20 +23)/2]		183,264,506						186,000,000
Less FASB 106 & 109 Items					Attachment O, Footnote F		1,628,313						1,600,000
Amount for Attachment O					(Line 25 less line 26)		181,636,193						184,400,000

(W0083806.1)

Northern States Power Company

Ameren Illinois										
Accumulated Deferred Income Taxes										
Year Ended December 31, 2016										
Rate Year = Projected 2016										
Proration Used for Projected Revenue Requirement Calculation										
Account 282										
Days in Period					Averaging with Proration - Projected					
A	B	C	D	E	F	G	H			
Month	Days in the Month	Number of Days Prorated	Total Days in Future Portion of Test Period	Proration Amount (C / D)	Projected Monthly Activity	Prorated Projected Monthly Activity (E x F)	Prorated Projected Balance (Cumulative Sum of G)			
December 31st balance Prorated Items					(1,198,222,664)					
January	31	336	366	91.80%	(5,595,391)	(5,136,752)	(1,203,359,416)			
February	29	307	366	83.88%	(5,493,020)	(4,607,533)	(1,207,966,949)			
March	31	276	366	75.41%	(5,704,282)	(4,301,589)	(1,212,268,539)			
April	30	246	366	67.21%	(5,705,742)	(3,835,007)	(1,216,103,546)			
May	31	215	366	58.74%	(5,826,898)	(3,422,905)	(1,219,526,450)			
June	30	185	366	50.55%	(5,357,351)	(2,707,951)	(1,222,234,401)			
July	31	154	366	42.08%	(5,357,697)	(2,254,332)	(1,224,488,733)			
August	31	123	366	33.61%	(5,297,944)	(1,780,457)	(1,226,269,190)			
September	30	93	366	25.41%	(5,607,420)	(1,424,836)	(1,227,694,026)			
October	31	62	366	16.94%	(5,867,505)	(993,949)	(1,228,687,975)			
November	30	32	366	8.74%	(5,735,411)	(501,457)	(1,229,189,432)			
December	31	1	366	0.27%	(5,049,218)	(13,796)	(1,229,203,227)			
Total					(66,597,881)	(30,980,564)				
										(1,200,000,000)
Beginning Balance					274.b					(1,200,000,000)
Less non Prorated Items					(Line 46 less line 48)					-
Beginning Balance of Prorated items					(Line 32, Col H)					(1,200,000,000)
Ending Balance					275.k					(1,226,153,956)
Less non Prorated Items					(Line 49 less line 51)					0
Ending Balance of Prorated items					(Line 44, Col H)					(1,226,153,956)
Average Balance					[(Lines 48 + 51) / 2] + [(Lines 47 + 50) / 2]					(1,213,076,978)
Less FASB 106 & 109 Items					Attachment O, Footnote F					-
Amount for Attachment O					(Line 52 less line 53)					(1,213,076,978)

Proration Used for True-up Revenue Requirement Calculation					
This matches Exhibit #2 filed in ER16-197 Revised 3/3/16					
Averaging Preserving Projected Proration - True-up					
I	J	K	L	M	N
Actual Monthly Activity	Difference between projected and actual activity	Partially prorate actual activity above Monthly projection	Partially prorate actual activity below Monthly projection but increases ADIT	Partially prorate actual activity below Monthly projection and is a reduction to ADIT	Partially prorated actual balance
					(1,200,000,000)
(5,795,391)	(200,000)	(200,000)	-	-	(1,205,336,752)
(5,093,020)	400,000	-	(335,519)	-	(1,209,608,767)
(5,704,282)	-	-	-	-	(1,213,910,356)
(4,705,742)	1,000,000	-	(672,131)	-	(1,217,073,232)
173,102	6,000,000	-	-	173,102	(1,216,900,130)
(4,557,351)	800,000	-	(404,372)	-	(1,219,203,709)
(5,257,697)	100,000	-	(42,077)	-	(1,221,415,964)
(5,297,944)	-	-	-	-	(1,223,196,421)
(5,307,420)	300,000	-	(76,230)	-	(1,224,545,028)
(5,967,505)	(100,000)	(100,000)	-	-	(1,225,638,977)
(5,735,411)	-	-	-	-	(1,226,140,434)
(4,949,218)	100,000	-	(273)	-	(1,226,153,956)
(58,197,881)	8,400,000	(300,000)	(1,530,601)	173,102	
					(1,200,000,000)
					-
					(1,200,000,000)
					(1,226,153,956)
					0
					(1,226,153,956)
					(1,213,076,978)
					-
					(1,213,076,978)

Proration Used for True-up Revenue Requirement Calculation

This matches Exhibit #2 filed in ER16-197 Revised 3/3/16

Averaging Preserving Projected Proration - True-up					
I	J	K	L	M	N
Actual Monthly Activity	Difference between projected and actual activity	Partially prorate actual activity above Monthly projection	Partially prorate actual activity below Monthly projection but increases ADIT	Partially prorate actual activity below Monthly projection and is a reduction to ADIT	Partially prorated actual balance

Northern States Power Company

Ameren Illinois														
Accumulated Deferred Income Taxes														
Year Ended December 31, 2016														
Rate Year = Projected 2016														
Proration Used for Projected Revenue Requirement Calculation														
Proration Used for True-up Revenue Requirement Calculation														
Account 283														
Days in Period					Averaging with Proration - Projected			Averaging Preserving Projected Proration - True-up						
A	B	C	D	E	F	G	H	I	J	K	L	M	N	
Month	Days in the Month	Number of Days Prorated	Total Days in Future Portion of Test Period	Proration Amount (C / D)	Projected Monthly Activity	Prorated Projected Monthly Activity (E x F)	Prorated Projected Balance (Cumulative Sum of G)	Actual Monthly Activity	Difference between projected and actual activity	Partially prorate actual activity above Monthly projection	Partially prorate actual activity below Monthly projection but increases ADIT	Partially prorate actual activity below Monthly projection and is a reduction to ADIT	Partially prorated actual balance	
December 31st balance Prorated Items							-							-
January	31	336	366	91.80%	-	-	-	-	-	-	-	-	-	-
February	29	307	366	83.88%	-	-	-	-	-	-	-	-	-	-
March	31	276	366	75.41%	-	-	-	-	-	-	-	-	-	-
April	30	246	366	67.21%	-	-	-	-	-	-	-	-	-	-
May	31	215	366	58.74%	-	-	-	-	-	-	-	-	-	-
June	30	185	366	50.55%	-	-	-	-	-	-	-	-	-	-
July	31	154	366	42.08%	-	-	-	-	-	-	-	-	-	-
August	31	123	366	33.61%	-	-	-	-	-	-	-	-	-	-
September	30	93	366	25.41%	-	-	-	-	-	-	-	-	-	-
October	31	62	366	16.94%	-	-	-	-	-	-	-	-	-	-
November	30	32	366	8.74%	-	-	-	-	-	-	-	-	-	-
December	31	1	366	0.27%	-	-	-	-	-	-	-	-	-	-
Total					-	-	-	-	-	-	-	-	-	-
Beginning Balance					276.b		(38,630,997)							-
Less non Prorated Items					(Line 73 less line 75)		(38,630,997)							-
Beginning Balance of Prorated items					(Line 59, Col H)		-							-
Ending Balance					277.k		(13,802,226)							-
Less non Prorated Items					(Line 76 less line 78)		(13,802,226)							-
Ending Balance of Prorated items					(Line 71, Col H)		-							-
Average Balance					[(Lines 75 + 78) / 2]+[(Lines 74 +77)/2]		(26,216,612)							-
Less FASB 106 & 109 Items					Attachment O, Footnote F		-							-
Amount for Attachment O					(Line 79 less line 80)		(26,216,612)							-

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Northern States Power Company

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Exhibit No. 3

Northern States Power Company

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EXHIBIT No. DVP-8

Virginia Electric and Power Company
ATTACHMENT H-16A
Attachment 1B

Projected Accumulated Deferred Federal Income Taxes Associated with Pro-rata Liberalized Depreciation

Applicable to the Projections of 2016 and Later and True-ups of 2014 and Later

If the formula rate population is for determining a projected ATRR, enter the year for which the projection is being made on line 1 and populate the remainder of this Attachment 1B with the projected data associated with that year.
If the formula rate population is for determining a true-up ATRR for use on Line A of Attachment 6, enter the year for which the true-up is being calculated on line 1 and populate the remainder of this Attachment 1B with the data that was included in Attachment 1B of the projection associated with that year.

Sheet 1 of 3

Line 1 Projection for Year: 2014
Line 2 Number of Days in Year: 365 (Enter 365, or for Leap Year enter 366)

HYPOTHETICAL
POPULATION

Part 1: Account 282, Transmission Plant In Service

Columns 3, 4, 7, and 8 are in dollars (except line 16).

Line	(1) Year	(2) Month	(3) Projected Transmission Plant in Service ADIT	(4) Activity	(5) Remaining Days	(6) Ratio	(7) Activity with Proration	(8) ADIT with Proration
3	2013	Dec	(900,000,000)					(900,000,000)
4	2014	Jan	(910,000,000)	(10,000,000)	335	0.917808	(9,178,082)	(909,178,082)
5	2014	Feb	(920,000,000)	(10,000,000)	307	0.841096	(8,410,959)	(917,589,041)
6	2014	Mar	(930,000,000)	(10,000,000)	276	0.756164	(7,561,644)	(925,150,685)
7	2014	Apr	(940,000,000)	(10,000,000)	246	0.673973	(6,739,726)	(931,890,411)
8	2014	May	(950,000,000)	(10,000,000)	215	0.589041	(5,890,411)	(937,780,822)
9	2014	Jun	(960,000,000)	(10,000,000)	185	0.506849	(5,068,493)	(942,849,315)
10	2014	Jul	(950,000,000)	10,000,000	154	0.421918	4,219,178	(938,630,137)
11	2014	Aug	(940,000,000)	10,000,000	123	0.336986	3,369,863	(935,260,274)
12	2014	Sep	(930,000,000)	10,000,000	93	0.254795	2,547,945	(932,712,329)
13	2014	Oct	(920,000,000)	10,000,000	62	0.169863	1,698,630	(931,013,699)
14	2014	Nov	(910,000,000)	10,000,000	32	0.087671	876,712	(930,136,987)
15	2014	Dec	(930,000,000)	(20,000,000)	1	0.002740	(54,795)	(930,191,782)
16	Total Transmission Plant In Service Net of GSU and GI Plant as a Percentage of Total Transmission Plant In Service:							95.00%
17	Amount to be Entered (in thousands) in Column D of the Account 282 Section of Attachment 1A Only When the Formula Rate Population is to Calculate a Projected ATRR:							(855,000,000)
18	Amount to be Entered (in thousands) in Column D of the Account 282 Section of Attachment 1 Only When the Formula Rate Population is to Calculate a Projected ATRR:							(883,682,193)

Explanations:

Col. 3	Projected Account 282 month-end ADIT (excludes cost of removal).
Col. 4	Monthly change in ADIT balance.
Col. 5	Number of days remaining in the year as of and including the last day of the month.
Col. 6	Col. 5 divided by the number of days in the year.
Col. 7	Col. 4 multiplied by col. 6.
Col. 8, Line 3	Amount from col. 3, line 3.
Col. 8, Lines 4-15	Col. 8 of previous month plus col. 7 of current month.
Col. 8, Line 16	Appendix A Line 24 ÷ Appendix A, Line 21 (from the projection population of the formula)
Col. 8, Line 17	Col. 8, Line 3 multiplied by line 16.
Col. 8, Line 18	Col. 8, Line 15 multiplied by line 16.

Northern States Power Company

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Attachment 1B (Continued)

2014

Sheet 2 of 3

Exhibit No. DVP-8

Page 2 of 3

HYPOTHETICAL POPULATION

Part 2: Account 282, General Plant

Columns 3, 4, 7, and 8 are in dollars.

Line	(1) Year	(2) Month	(3) Projected General Plant ADIT	(4) Activity	(5) Remaining Days	(6) Ratio	(7) Activity with Proration	(8) ADIT with Proration
1	2013	Dec	(51,000,000)					(51,000,000)
2	2014	Jan	(50,700,000)	300,000	335	0.917808	275,342	(50,724,658)
3	2014	Feb	(50,400,000)	300,000	307	0.841096	252,329	(50,472,329)
4	2014	Mar	(50,100,000)	300,000	276	0.756164	226,849	(50,245,480)
5	2014	Apr	(49,800,000)	300,000	246	0.673973	202,192	(50,043,288)
6	2014	May	(49,500,000)	300,000	215	0.589041	176,712	(49,866,576)
7	2014	Jun	(49,200,000)	300,000	185	0.506849	152,055	(49,714,521)
8	2014	Jul	(49,500,000)	(300,000)	154	0.421918	(126,575)	(49,841,096)
9	2014	Aug	(49,800,000)	(300,000)	123	0.336986	(101,096)	(49,942,192)
10	2014	Sep	(50,100,000)	(300,000)	93	0.254795	(76,438)	(50,018,630)
11	2014	Oct	(50,400,000)	(300,000)	62	0.169863	(50,959)	(50,069,589)
12	2014	Nov	(50,700,000)	(300,000)	32	0.087671	(26,301)	(50,095,890)
13	2014	Dec	(51,000,000)	(300,000)	1	0.002740	(822)	(50,096,712)
14	Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1A Only When the Formula Rate Population is to Calculate a Projected ATRR:							(51,000,000)
15	Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1 Only When the Formula Rate Population is to Calculate a Projected ATRR:							(50,096,712)

Explanations:

Col. 3	Projected Account 282 month-end ADIT (excludes cost of removal).
Col. 4	Current month change in ADIT balance.
Col. 5	Number of days remaining in the year as of and including the last day of the month.
Col. 6	Col. 5 divided by the number of days in the year.
Col. 7	Col. 4 multiplied by Col. 6.
Col. 8, Line 1	Amount from col. 3, line 1.
Col. 8, Lines 2-13	Col. 8 of previous month plus Col. 7 of current month.
Col. 8, Line 14	Col. 8, Line 1.
Col. 8, Line 15	Col. 8, Line 13.

Northern States Power Company

Attachment 1B (Continued)
2014

Sheet 3 of 3

Exhibit No. DVP-8
Page 3 of 3

HYPOTHETICAL POPULATION

Part 3: Account 282, Computer Software - Book Amortization

Columns 3, 4, 7, and 8 are in dollars.
The column and line explanations are as described for Part 2.

Line	(1) Year	(2) Month	(3) Projected Computer Software Book Amount ADIT	(4) Activity	(5) Remaining Days	(6) Ratio	(7) Activity with Proration	(8) ADIT with Proration
1	2013	Dec	39,600,000					39,600,000
2	2014	Jan	39,800,000	200,000	335	0.917808	183,562	39,783,562
3	2014	Feb	40,000,000	200,000	307	0.841096	168,219	39,951,781
4	2014	Mar	40,200,000	200,000	276	0.756164	151,233	40,103,014
5	2014	Apr	40,400,000	200,000	246	0.673973	134,795	40,237,809
6	2014	May	40,600,000	200,000	215	0.589041	117,808	40,355,617
7	2014	Jun	40,800,000	200,000	185	0.506849	101,370	40,456,987
8	2014	Jul	41,000,000	200,000	154	0.421918	84,384	40,541,371
9	2014	Aug	41,200,000	200,000	123	0.336986	67,397	40,608,768
10	2014	Sep	41,400,000	200,000	93	0.254795	50,959	40,659,727
11	2014	Oct	41,600,000	200,000	62	0.169863	33,973	40,693,700
12	2014	Nov	41,800,000	200,000	32	0.087671	17,534	40,711,234
13	2014	Dec	42,000,000	200,000	1	0.002740	548	40,711,782
14	Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1A Only When the Formula Rate Population is to Calculate a Projected ATRR:							39,600,000
15	Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1 Only When the Formula Rate Population is to Calculate a Projected ATRR:							40,711,782

Part 4: Account 282, Computer Software - Tax Amortization

Columns 3, 4, 7, and 8 are in dollars.
The column and line explanations are as described for Part 2.

Line	(1) Year	(2) Month	(3) Projected Computer Software Tax Amount ADIT	(4) Activity	(5) Remaining Days	(6) Ratio	(7) Activity with Proration	(8) ADIT with Proration
1	2013	Dec	(52,500,000)					(52,500,000)
2	2014	Jan	(52,750,000)	(250,000)	335	0.917808	(229,452)	(52,729,452)
3	2014	Feb	(53,000,000)	(250,000)	307	0.841096	(210,274)	(52,939,726)
4	2014	Mar	(53,250,000)	(250,000)	276	0.756164	(189,041)	(53,128,767)
5	2014	Apr	(53,500,000)	(250,000)	246	0.673973	(168,493)	(53,297,260)
6	2014	May	(53,750,000)	(250,000)	215	0.589041	(147,260)	(53,444,520)
7	2014	Jun	(54,000,000)	(250,000)	185	0.506849	(126,712)	(53,571,232)
8	2014	Jul	(54,250,000)	(250,000)	154	0.421918	(105,479)	(53,676,711)
9	2014	Aug	(54,500,000)	(250,000)	123	0.336986	(84,247)	(53,760,958)
10	2014	Sep	(54,750,000)	(250,000)	93	0.254795	(63,699)	(53,824,657)
11	2014	Oct	(55,000,000)	(250,000)	62	0.169863	(42,466)	(53,867,123)
12	2014	Nov	(55,250,000)	(250,000)	32	0.087671	(21,918)	(53,889,041)
13	2014	Dec	(55,500,000)	(250,000)	1	0.002740	(685)	(53,889,726)
14	Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1A Only When the Formula Rate Population is to Calculate a Projected ATRR:							(52,500,000)
15	Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1 Only When the Formula Rate Population is to Calculate a Projected ATRR:							(53,889,726)

Northern States Power Company

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EXHIBIT No. DVP-9

Northern States Power Company

Virginia Electric and Power Company
ATTACHMENT H-16A
Attachment 1C

True-up of Accumulated Deferred Federal Income Taxes Associated with Pro-rata Liberalized Depreciation

Applicable to the True-ups of 2015 and Later

If the formula rate population is for determining a projected ATRR, do not populate this Attachment 1C. If the formula rate population is for determining a true-up ATRR for use on Line A of Attachment 6, enter the year for which the true-up is being calculated on line 1 and populate the remainder of this Attachment 1C with the actual data associated with that year. Use the amounts from lines 17 and 18 of Part 1, and lines 14 and 15 of Parts 2, 3, and 4, in populating Attachment 1 and Attachment 1A as instructed in this Attachment 1C.

Sheet 1 of 3

Line 1 True-up Year: 2014 (If Populated, Must Match Attachment 1B, Part 1, Line 1)
Line 2 Number of Days in Year: 365 (From Attachment 1B, Part 1, Line 2)

**HYPOTHETICAL
POPULATION**

Part 1: Account 282, Transmission Plant In Service

Columns 3 through 12 are in dollars (except line 16).

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Line	Year	Month	Actual Transmission Plant In Service ADIT	Actual Activity	Projected Activity from Column (4) of Attachment 1B	Activity Difference	Reversal of Projected Activity Not Realized	Activity Not in Projection	Reversal of Projected Activity Not Realized With Proration	Projected Activity With Proration from Column (7) of Attachment 1B	ADIT Activity for True-up	ADIT Balances for True-up
3	2013	Dec	(900,000,000)									(900,000,000)
4	2014	Jan	(905,000,000)	(5,000,000)	(10,000,000)	5,000,000	5,000,000	0	4,589,041	(9,178,082)	(4,589,041)	(904,589,041)
5	2014	Feb	(915,000,000)	(10,000,000)	(10,000,000)	0	0	0	0	(8,410,959)	(8,410,959)	(913,000,000)
6	2014	Mar	(930,000,000)	(15,000,000)	(10,000,000)	(5,000,000)	0	(5,000,000)	0	(7,561,644)	(12,561,644)	(925,561,644)
7	2014	Apr	(925,000,000)	5,000,000	(10,000,000)	15,000,000	10,000,000	5,000,000	6,739,726	(6,739,726)	5,000,000	(920,561,644)
8	2014	May	(935,000,000)	(10,000,000)	(10,000,000)	0	0	0	0	(5,890,411)	(5,890,411)	(926,452,055)
9	2014	Jun	(945,000,000)	(10,000,000)	(10,000,000)	0	0	0	0	(5,068,493)	(5,068,493)	(931,520,548)
10	2014	Jul	(940,000,000)	5,000,000	10,000,000	(5,000,000)	(5,000,000)	0	(2,109,589)	4,219,178	2,109,589	(929,410,959)
11	2014	Aug	(930,000,000)	10,000,000	10,000,000	0	0	0	0	3,369,863	3,369,863	(926,041,096)
12	2014	Sep	(915,000,000)	15,000,000	10,000,000	5,000,000	0	5,000,000	0	2,547,945	7,547,945	(918,493,151)
13	2014	Oct	(920,000,000)	(5,000,000)	10,000,000	(15,000,000)	(10,000,000)	(5,000,000)	(1,698,630)	1,698,630	(5,000,000)	(923,493,151)
14	2014	Nov	(910,000,000)	10,000,000	10,000,000	0	0	0	0	876,712	876,712	(922,616,439)
15	2014	Dec	(930,000,000)	(20,000,000)	(20,000,000)	0	0	0	0	(54,795)	(54,795)	(922,671,234)

16 Total Transmission Plant In Service Net of GSU and GI Plant as a Percentage of Total Transmission Plant In Service: 95.00%

17 Amount to be Entered (in thousands) in Column D of the Account 282 Section of Attachment 1A Only When the Formula Rate Population is to Calculate a True-up ATRR: (855,000,000)

18 Amount to be Entered (in thousands) in Column D of the Account 282 Section of Attachment 1 Only When the Formula Rate Population is to Calculate a True-up ATRR: (876,537,672)

Explanations:

Col. 3	Actual Account 282 month-end ADIT (excludes cost of removal).
Col. 4	Monthly change in ADIT balance.
Col. 6	Col. 4 minus col. 5
Col. 7	The portion of the amount in col. 6 included in original projection but not realized.
Col. 8	The portion of the amount in col. 6 not included in original projection.
Col. 9	The amount in col. 7 multiplied by the ratio from col. 6 of Attachment 1B, Part 1.
Col. 11	The sum of col. 8, col. 9, and col. 10.
Col. 12, Line 3	Amount from col. 3, line 3.
Col. 12, Lines 4-15	Col. 12 of previous month plus col. 11 of current month.
Col. 12, Line 16	Appendix A, Line 24 ÷ Appendix A, Line 21 (from the true-up population of the formula)
Col. 12, Line 17	Col. 12, Line 3 multiplied by line 16.
Col. 12, Line 18	Col. 12, Line 15 multiplied by line 16.

Northern States Power Company

Attachment 1C (Continued)

2014

Sheet 2 of 3

Exhibit No. DVP-9

Page 2 of 3

HYPOTHETICAL POPULATION

Part 2: Account 282, General Plant

Columns 3 through 12 are in dollars.

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
			Actual General Plant ADIT	Actual Activity	Projected Activity from Column (4) of Attachment 1B	Activity Difference	Reversal of Projected Activity Not Realized	Activity Not in Projection	Reversal of Projected Activity Not Realized With Proration	Projected Activity With Proration from Column (7) of Attachment 1B	ADIT Activity for True-up	ADIT Balances for True-up
Line	Year	Month										
1	2013	Dec	(51,000,000)									(51,000,000)
2	2014	Jan	(50,800,000)	200,000	300,000	(100,000)	(100,000)	0	(91,781)	275,342	183,561	(50,816,439)
3	2014	Feb	(50,500,000)	300,000	300,000	0	0	0	0	252,329	252,329	(50,564,110)
4	2014	Mar	(50,100,000)	400,000	300,000	100,000	0	100,000	0	226,849	326,849	(50,237,261)
5	2014	Apr	(50,200,000)	(100,000)	300,000	(400,000)	(300,000)	(100,000)	(202,192)	202,192	(100,000)	(50,337,261)
6	2014	May	(49,900,000)	300,000	300,000	0	0	0	0	176,712	176,712	(50,160,549)
7	2014	Jun	(49,600,000)	300,000	300,000	0	0	0	0	152,055	152,055	(50,008,494)
8	2014	Jul	(49,800,000)	(200,000)	(300,000)	100,000	100,000	0	42,192	(126,575)	(84,383)	(50,092,877)
9	2014	Aug	(50,100,000)	(300,000)	(300,000)	0	0	0	0	(101,096)	(101,096)	(50,193,973)
10	2014	Sep	(50,500,000)	(400,000)	(300,000)	(100,000)	0	(100,000)	0	(76,438)	(176,438)	(50,370,411)
11	2014	Oct	(50,400,000)	100,000	(300,000)	400,000	300,000	100,000	50,959	(50,959)	100,000	(50,270,411)
12	2014	Nov	(50,700,000)	(300,000)	(300,000)	0	0	0	0	(26,301)	(26,301)	(50,296,712)
13	2014	Dec	(51,000,000)	(300,000)	(300,000)	0	0	0	0	(822)	(822)	(50,297,534)

14 Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1A Only When the Formula Rate Population is to Calculate a True-up ATRR: (51,000,000)

15 Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1 Only When the Formula Rate Population is to Calculate a True-up ATRR: (50,297,534)

Explanations:

Col. 3	Actual Account 282 month-end ADIT (excludes cost of removal).
Col. 4	Monthly change in ADIT balance.
Col. 6	Col. 4 minus col. 5
Col. 7	The portion of the amount in col. 6 included in original projection but not realized.
Col. 8	The portion of the amount in col. 6 not included in original projection.
Col. 9	The amount in col. 7 multiplied by the ratio from col. 6 of Attachment 1B, Part 2, 3 or 4 (as appropriate).
Col. 11	The sum of col. 8, col. 9, and col. 10.
Col. 12, Line 1	Amount from col. 3, line 1.
Col. 12, Lines 2-13	Col. 12 of previous month plus col. 11 of current month.
Col. 12, Line 14	Amount from col. 12, line 1.
Col. 12, Line 15	Amount from col. 12, line 13.

Northern States Power Company

Attachment 1C (Continued)
2014

Sheet 3 of 3

HYPOTHETICAL POPULATION

Part 3: Account 282, Computer Software - Book Amortization

Columns 3 through 12 are in dollars.
The column and line explanations are as described for Part 2.

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
			Actual Computer Software Book Amount ADIT	Actual Activity	Projected Activity from Column (4) of Attachment 1B	Activity Difference	Reversal of Projected Activity Not Realized	Activity Not in Projection	Reversal of Projected Activity Not Realized With Proration	Projected Activity With Proration from Column (7) of Attachment 1B	ADIT Activity for True-up	ADIT Balances for True-up
Line	Year	Month										
1	2013	Dec	(51,000,000)									(51,000,000)
2	2014	Jan	(50,700,000)	300,000	200,000	100,000	0	100,000	0	183,562	283,562	(50,716,438)
3	2014	Feb	(50,400,000)	300,000	200,000	100,000	0	100,000	0	168,219	268,219	(50,448,219)
4	2014	Mar	(50,100,000)	300,000	200,000	100,000	0	100,000	0	151,233	251,233	(50,196,986)
5	2014	Apr	(49,800,000)	300,000	200,000	100,000	0	100,000	0	134,795	234,795	(49,962,191)
6	2014	May	(49,500,000)	300,000	200,000	100,000	0	100,000	0	117,808	217,808	(49,744,383)
7	2014	Jun	(49,200,000)	300,000	200,000	100,000	0	100,000	0	101,370	201,370	(49,543,013)
8	2014	Jul	(48,900,000)	300,000	200,000	100,000	0	100,000	0	84,384	184,384	(49,358,629)
9	2014	Aug	(48,600,000)	300,000	200,000	100,000	0	100,000	0	67,397	167,397	(49,191,232)
10	2014	Sep	(48,300,000)	300,000	200,000	100,000	0	100,000	0	50,959	150,959	(49,040,273)
11	2014	Oct	(48,000,000)	300,000	200,000	100,000	0	100,000	0	33,973	133,973	(48,906,300)
12	2014	Nov	(47,700,000)	300,000	200,000	100,000	0	100,000	0	17,534	117,534	(48,788,766)
13	2014	Dec	(47,400,000)	300,000	200,000	100,000	0	100,000	0	548	100,548	(48,688,218)

14 Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1A Only When the Formula Rate Population is to Calculate a True-up ATRR: (51,000,000)

15 Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1 Only When the Formula Rate Population is to Calculate a True-up ATRR: (48,688,218)

Part 4: Account 282, Computer Software - Tax Amortization

Columns 3 through 12 are in dollars.
The column and line explanations are as described for Part 2.

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
			Actual Computer Software Tax Amount ADIT	Actual Activity	Projected Activity from Column (4) of Attachment 1B	Activity Difference	Reversal of Projected Activity Not Realized	Activity Not in Projection	Reversal of Projected Activity Not Realized With Proration	Projected Activity With Proration from Column (7) of Attachment 1B	ADIT Activity for True-up	ADIT Balances for True-up
Line	Year	Month										
1	2013	Dec	(52,500,000)									(52,500,000)
2	2014	Jan	(52,650,000)	(150,000)	(250,000)	100,000	100,000	0	91,781	(229,452)	(137,671)	(52,637,671)
3	2014	Feb	(52,800,000)	(150,000)	(250,000)	100,000	100,000	0	84,110	(210,274)	(126,164)	(52,763,836)
4	2014	Mar	(52,950,000)	(150,000)	(250,000)	100,000	100,000	0	75,616	(189,041)	(113,425)	(52,877,260)
5	2014	Apr	(53,100,000)	(150,000)	(250,000)	100,000	100,000	0	67,397	(168,493)	(101,096)	(52,978,356)
6	2014	May	(53,250,000)	(150,000)	(250,000)	100,000	100,000	0	58,904	(147,260)	(88,356)	(53,066,712)
7	2014	Jun	(53,400,000)	(150,000)	(250,000)	100,000	100,000	0	50,685	(126,712)	(76,027)	(53,142,739)
8	2014	Jul	(53,550,000)	(150,000)	(250,000)	100,000	100,000	0	42,192	(105,479)	(63,287)	(53,206,026)
9	2014	Aug	(53,700,000)	(150,000)	(250,000)	100,000	100,000	0	33,699	(84,247)	(50,548)	(53,256,574)
10	2014	Sep	(53,850,000)	(150,000)	(250,000)	100,000	100,000	0	25,479	(63,699)	(38,220)	(53,294,794)
11	2014	Oct	(54,000,000)	(150,000)	(250,000)	100,000	100,000	0	16,986	(42,466)	(25,480)	(53,320,274)
12	2014	Nov	(54,150,000)	(150,000)	(250,000)	100,000	100,000	0	8,767	(21,918)	(13,151)	(53,333,425)
13	2014	Dec	(54,300,000)	(150,000)	(250,000)	100,000	100,000	0	274	(685)	(411)	(53,333,836)

14 Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1A Only When the Formula Rate Population is to Calculate a True-up ATRR: (52,500,000)

15 Amount to be Entered (in thousands) in Column F of the Account 282 Section of Attachment 1 Only When the Formula Rate Population is to Calculate a True-up ATRR: (53,333,836)

Northern States Power Company
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 11th day of March, 2016.

/s/ Brett K. White
Brett K. White

**Attorney for the
Ameren Services Company and
Xcel Energy Services Inc.**

Northern States Power Company
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Ameren Illinois											
Accumulated Deferred Income Taxes											
Year Ended December 31, 2016											
Rate Year = Projected 2016											
Proration Used for Projected Revenue Requirement Calculation								Proration Used for True-up R			
Account 190											
Days in Period					Averaging with Proration - Projected			Averaging Preserving Pr			
A	B	C	D	E	F	G	H	I	J	K	
Month	Days in the Month	Number of Days Prorated	Total Days in Future Portion of Test Period	Proration Amount (C / D)	Projected Monthly Activity	Prorated Projected Monthly Activity (E x F)	Prorated Projected Balance (Cumulative Sum of G)	Actual Monthly Activity	Difference between projected and actual activity	Partially prorate actual activity above Monthly projection	
December 31st balance Prorated Items											
January	31	336	366	91.80%	1,746,377	1,603,231	54,681,555	1,500,000	(246,377)	-	
February	29	307	366	83.88%	1,746,377	1,464,857	56,146,413	2,000,000	253,623	253,623	
March	31	276	366	75.41%	1,746,377	1,316,940	57,463,353	(100,000)	(1,846,377)	-	
April	30	246	366	67.21%	1,746,377	1,173,794	58,637,147	500,000	(1,246,377)	-	
May	31	215	366	58.74%	1,746,377	1,025,877	59,663,024	-	(1,746,377)	-	
June	30	185	366	50.55%	1,746,377	882,732	60,545,756	750,000	(996,377)	-	
July	31	154	366	42.08%	1,746,377	734,814	61,280,570	350,000	(1,396,377)	-	
August	31	123	366	33.61%	1,746,377	586,897	61,867,468	1,750,000	3,623	3,623	
September	30	93	366	25.41%	1,746,377	443,752	62,311,219	(500,000)	(2,246,377)	-	
October	31	62	366	16.94%	1,746,377	295,834	62,607,054	250,000	(1,496,377)	-	
November	30	32	366	8.74%	1,746,377	152,689	62,759,742	50,000	(1,696,377)	-	
December	31	1	366	0.27%	1,746,377	4,772	62,764,514	2,500	(1,743,877)	-	
Total					20,956,525	9,686,190		6,552,500	(14,404,025)	257,246	
Beginning Balance					234.8.b		177,342,281				
Less non Prorated Items					(Line 19 less line 21)		124,263,957			379,098	
Beginning Balance of Prorated items					(Line 5, Col H)		53,078,324				
Ending Balance					234.8.c		189,186,731				
Less non Prorated Items					(Line 22 less line 24)		126,422,217				
Ending Balance of Prorated items					(Line 17, Col H)		62,764,514				
Average Balance					((Lines 21 + 24) / 2) + ((Lines 20 + 23) / 2))		183,264,506				
Less FASB 106 & 109 Items					Attachment O, Footnote F		1,628,313				
Amount for Attachment O					(Line 25 less line 26)		181,636,193				

Northern States Power Company
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Ameren Illinois										
Accumulated Deferred Income Taxes										
Year Ended December 31, 2016										
Rate Year = Projected 2016										
Proration Used for Projected Revenue Requirement Calculation								Proration Used for True-up R		
Account 282								This matches Exhibit #2 filed in ER16-197 Revised		
Days in Period					Averaging with Proration - Projected			Averaging Preserving Pr		
A	B	C	D	E	F	G	H	I	J	K
Month	Days in the Month	Number of Days Prorated	Total Days in Future Portion of Test Period	Proration Amount (C / D)	Projected Monthly Activity	Prorated Projected Monthly Activity (E x F)	Prorated Projected Balance (Cumulative Sum of G)	Actual Monthly Activity	Difference between projected and actual activity	Partially prorate actual activity above Monthly projection
December 31st balance Prorated Items							(1,198,222,664)			
January	31	336	366	91.80%	(5,595,391)	(5,136,752)	(1,203,359,416)	(5,795,391)	(200,000)	(200,000)
February	29	307	366	83.88%	(5,493,020)	(4,607,533)	(1,207,966,949)	(5,093,020)	400,000	-
March	31	276	366	75.41%	(5,704,282)	(4,301,589)	(1,212,268,539)	(5,704,282)	-	-
April	30	246	366	67.21%	(5,705,742)	(3,835,007)	(1,216,103,546)	(4,705,742)	1,000,000	-
May	31	215	366	58.74%	(5,826,898)	(3,422,905)	(1,219,526,450)	173,102	6,000,000	-
June	30	185	366	50.55%	(5,357,351)	(2,707,951)	(1,222,234,401)	(4,557,351)	800,000	-
July	31	154	366	42.08%	(5,357,697)	(2,254,332)	(1,224,488,733)	(5,257,697)	100,000	-
August	31	123	366	33.61%	(5,297,944)	(1,780,457)	(1,226,269,190)	(5,297,944)	-	-
September	30	93	366	25.41%	(5,607,420)	(1,424,836)	(1,227,694,026)	(5,307,420)	300,000	-
October	31	62	366	16.94%	(5,867,505)	(993,949)	(1,228,687,975)	(5,967,505)	(100,000)	(100,000)
November	30	32	366	8.74%	(5,735,411)	(501,457)	(1,229,189,432)	(5,735,411)	-	-
December	31	1	366	0.27%	(5,049,218)	(13,796)	(1,229,203,227)	(4,949,218)	100,000	-
Total					(66,597,881)	(30,980,564)		(58,197,881)	8,400,000	(300,000)
Beginning Balance					274.b		1,198,222,664			
Less non Prorated Items					(Line 46 less line 48)		2,396,445,328			
Beginning Balance of Prorated items					(Line 32, Col H)		(1,198,222,664)			
Ending Balance					275.k		1,229,203,227			
Less non Prorated Items					(Line 49 less line 51)		2,458,406,454			
Ending Balance of Prorated items					(Line 44, Col H)		(1,229,203,227)			
Average Balance					[(Lines 48 + 51) / 2] + [(Lines 47 + 50) / 2]		1,213,712,946			
Less FASB 106 & 109 Items					Attachment O, Footnote F		-			
Amount for Attachment O					(Line 52 less line 53)		1,213,712,946			

Northern States Power Company
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Ameren Illinois
Accumulated Deferred Income Taxes
Year Ended December 31, 2016

Rate Year = **Projected 2016**

Proration Used for Projected Revenue Requirement Calculation

Proration Used for True-up R

55	Account 283										
56	Days in Period					Averaging with Proration - Projected			Averaging Preserving Pr		
	A	B	C	D	E	F	G	H	I	J	K
	Month	Days in the Month	Number of Days Prorated	Total Days in Future Portion of Test Period	Proration Amount (C / D)	Projected Monthly Activity	Prorated Projected Monthly Activity (E x F)	Prorated Projected Balance (Cumulative Sum of G)	Actual Monthly Activity	Difference between projected and actual activity	Partially prorate actual activity above Monthly projection
57											
58											
59	December 31st balance Prorated Items							-			
60	January	31	336	366	91.80%	-	-	-	-	-	-
61	February	29	307	366	83.88%	-	-	-	-	-	-
62	March	31	276	366	75.41%	-	-	-	-	-	-
63	April	30	246	366	67.21%	-	-	-	-	-	-
64	May	31	215	366	58.74%	-	-	-	-	-	-
65	June	30	185	366	50.55%	-	-	-	-	-	-
66	July	31	154	366	42.08%	-	-	-	-	-	-
67	August	31	123	366	33.61%	-	-	-	-	-	-
68	September	30	93	366	25.41%	-	-	-	-	-	-
69	October	31	62	366	16.94%	-	-	-	-	-	-
70	November	30	32	366	8.74%	-	-	-	-	-	-
71	December	31	1	366	0.27%	-	-	-	-	-	-
72	Total					-	-	-	-	-	-
73	Beginning Balance					276.b		(38,630,997)			
74	Less non Prorated Items					(Line 73 less line 75)		(38,630,997)			
75	Beginning Balance of Prorated items					(Line 59, Col H)		-			
76	Ending Balance					277.k		(13,802,226)			
77	Less non Prorated Items					(Line 76 less line 78)		(13,802,226)			
78	Ending Balance of Prorated items					(Line 71, Col H)		-			
79	Average Balance					[(Lines 75 + 78) /2]+[(Lines 74 +77)/2]]		(26,216,612)			
80	Less FASB 106 & 109 Items					Attachment O, Footnote F		-			
81	Amount for Attachment O					(Line 79 less line 80)		(26,216,612)			

Revenue Requirement Calculation

Objected Proration - True-up

L	M	N
Partially prorate actual activity below Monthly projection but increases ADIT	Partially prorate actual activity below Monthly projection and is a reduction to ADIT	Partially prorated actual balance
		54,000,000
226,182	-	55,377,049
-	-	57,095,529
-	(100,000)	56,995,529
837,729	-	57,331,595
1,025,877	-	57,331,595
503,633	-	57,710,693
587,547	-	57,857,961
-	-	58,448,481
-	(500,000)	57,948,481
253,485	-	57,990,831
148,317	-	57,995,203
4,765	-	57,995,209
3,587,535	(600,000)	

180,000,000

126,000,000

54,000,000

192,000,000

134,004,791

57,995,209

186,000,000

1,600,000

184,400,000

Revenue Requirement Calculation

3/3/16

Objected Proration - True-up

L	M	N
Partially prorate actual activity below Monthly projection but increases ADIT	Partially prorate actual activity below Monthly projection and is a reduction to ADIT	Partially prorated actual balance

		(1,200,000,000)
-	-	(1,205,336,752)
(335,519)	-	(1,209,608,767)
-	-	(1,213,910,356)
(672,131)	-	(1,217,073,232)
-	173,102	(1,216,900,130)
(404,372)	-	(1,219,203,709)
(42,077)	-	(1,221,415,964)
-	-	(1,223,196,421)
(76,230)	-	(1,224,545,028)
-	-	(1,225,638,977)
-	-	(1,226,140,434)
(273)	-	(1,226,153,956)
(1,530,601)	173,102	

(1,200,000,000)
-
(1,200,000,000)
(1,226,153,956)
0
(1,226,153,956)
(1,213,076,978)
-
(1,213,076,978)

Revenue Requirement Calculation

Projected Proration - True-up	

L	M	N
Partially prorate actual activity below Monthly projection but increases ADIT	Partially prorate actual activity below Monthly projection and is a reduction to ADIT	Partially prorated actual balance

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Northern States Power Company

Docket No. E002/GR-15-826
DOC Information Request No. 1139
Attachment A - Page 42 of 42

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Document Content(s)

W0084173.PDF.....	1-35
W0083806.XLSX.....	36-41

Northern States Power Company
NSPM Minnesota Retail - Electric
IRS Pro-Rate Method Accumulated Deferred Tax Adjustment
Including NOL Annual Deferred at Last Authorized Rate of Return
Test Year Ending December 31, 2016

Docket No. E002/GR-15-826
DOC Information Request No. 1139
Attachment B, Page 1 of 3

At Last Authorized ROE

										2016	
RIS Annual Deferred Tax Expense			111,135,327		95,083,231		120,693,096		215,776,327		
	Days to Prorate	Prorate Factor	Total Company Plant Deferred *	Total Company Prorated Plant Deferred *	MN Jurisdiction Prorated Plant Deferred	MN Jurisdiction Prorated Plant Deferred	MN Jurisdiction NOL	MN Jurisdiction Prorated NOL	Monthly Expense	Prorated Monthly Expense	
January	335	91.78%	9,261,277	8,500,076	7,923,603	7,272,348	10,057,758	9,231,093	17,981,361	16,503,441	
February	307	84.11%	9,261,277	7,789,622	7,923,603	6,664,510	10,057,758	8,459,539	17,981,361	15,124,049	
March	276	75.62%	9,261,277	7,003,048	7,923,603	5,991,546	10,057,758	7,605,318	17,981,361	13,596,864	
April	246	67.40%	9,261,277	6,241,847	7,923,603	5,340,291	10,057,758	6,778,653	17,981,361	12,118,944	
May	215	58.90%	9,261,277	5,455,273	7,923,603	4,667,328	10,057,758	5,924,433	17,981,361	10,591,760	
June	185	50.68%	9,261,277	4,694,072	7,923,603	4,016,073	10,057,758	5,097,768	17,981,361	9,113,840	
July	154	42.19%	9,261,277	3,907,498	7,923,603	3,343,109	10,057,758	4,243,547	17,981,361	7,586,656	
August	123	33.70%	9,261,277	3,120,924	7,923,603	2,670,146	10,057,758	3,389,327	17,981,361	6,059,472	
September	93	25.48%	9,261,277	2,359,723	7,923,603	2,018,891	10,057,758	2,562,662	17,981,361	4,581,552	
October	62	16.99%	9,261,277	1,573,148	7,923,603	1,345,927	10,057,758	1,708,441	17,981,361	3,054,368	
November	32	8.77%	9,261,277	811,948	7,923,603	694,672	10,057,758	881,776	17,981,361	1,576,448	
December	1	0.27%	9,261,277	25,373	7,923,603	21,709	10,057,758	27,556	17,981,361	<u>49,264</u>	
Total Days										Total	99,956,659
Pro-Rate Method BOY/EOY Average										49,978,330	
BOY/EOY Average										<u>107,888,164</u>	
Rate Base Adjustment										57,909,834	
Composite Tax Rate										41.37%	
Weighted Cost of STD										0.02%	
Weighted Cost of LTD										2.22%	
Weighted Cost of Debt										2.24%	
<u>Weighted Cost of Equity</u>										<u>5.10%</u>	
Required Rate of Return										7.34%	
Equity Return Tax RR										3.60%	
RB Revenue Requirement Factor										10.94%	
Annual Revenue Requirement Impact										6,334,536	

Northern States Power Company
NSPM Minnesota Retail - Electric
IRS Pro-Rate Method Accumulated Deferred Tax Adjustment
Including NOL Annual Deferred
Period Ending December 31, 2017

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RIS Annual Deferred Tax Expense		77,182,080		62,998,563		0		2017	
	Days to Prorate	Prorate Factor	Total Company Plant Deferred *	Total Company Prorated Plant Deferred *	MN Jurisdiction Prorated Plant Deferred	MN Jurisdiction Prorated Plant Deferred	MN Jurisdiction NOL	MN Jurisdiction Prorated NOL	Monthly Expense
January	335	91.78%	6,431,840	5,903,196	5,249,880	4,818,383	-	-	5,249,880
February	307	84.11%	6,431,840	5,409,794	5,249,880	4,415,653	-	-	5,249,880
March	276	75.62%	6,431,840	4,863,528	5,249,880	3,969,772	-	-	5,249,880
April	246	67.40%	6,431,840	4,334,884	5,249,880	3,538,275	-	-	5,249,880
May	215	58.90%	6,431,840	3,788,618	5,249,880	3,092,395	-	-	5,249,880
June	185	50.68%	6,431,840	3,259,974	5,249,880	2,660,898	-	-	5,249,880
July	154	42.19%	6,431,840	2,713,708	5,249,880	2,215,018	-	-	5,249,880
August	123	33.70%	6,431,840	2,167,442	5,249,880	1,769,138	-	-	5,249,880
September	93	25.48%	6,431,840	1,638,798	5,249,880	1,337,641	-	-	5,249,880
October	62	16.99%	6,431,840	1,092,532	5,249,880	891,760	-	-	5,249,880
November	32	8.77%	6,431,840	563,887	5,249,880	460,263	-	-	5,249,880
December	1	0.27%	6,431,840	17,621	5,249,880	14,383	-	-	5,249,880
Total Days									Total

Pro-Rate Method BOY/EOY Average 14,591,791
BOY/EOY Average 31,499,282
Rate Base Adjustment 16,907,491

	<u>Requested</u>	<u>Last Authorized</u>
Composite Tax Rate	41.37%	41.37%
Weighted Cost of STD	0.05%	0.05%
Weighted Cost of LTD	2.21%	2.21%
Weighted Cost of Debt	2.26%	2.26%
<u>Weighted Cost of Equity</u>	<u>5.25%</u>	<u>5.10%</u>
Required Rate of Return	7.51%	7.36%
Equity Return Tax RR	<u>3.70%</u>	<u>3.60%</u>
RB Revenue Requirement Factor	11.21%	10.96%
Annual Revenue Requirement Impact	1,896,084	1,852,827

* Tie to Exhibit__(LHP-1), Schedule 11

Northern States Power Company
NSPM Minnesota Retail - Electric
IRS Pro-Rate Method Accumulated Deferred Tax Adjustment
Including NOL Annual Deferred
Period Ending December 31, 2018

Docket No. E002/GR-15-826
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									2018	
RIS Annual Deferred Tax Expense			73,263,890		60,234,388		0		60,234,388	
	Days to Prorate	Prorate Factor	Total Company Plant Deferred *	Total Company Prorated Plant Deferred *	MN Jurisdiction Prorated Plant Deferred	MN Jurisdiction Prorated Plant Deferred	MN Jurisdiction NOL	MN Jurisdiction Prorated NOL	Monthly Expense	Prorated Monthly Expense
January	335	91.78%	6,105,324	5,603,517	5,019,532	4,606,968	-	-	5,019,532	4,606,968
February	307	84.11%	6,105,324	5,135,163	5,019,532	4,221,908	-	-	5,019,532	4,221,908
March	276	75.62%	6,105,324	4,616,629	5,019,532	3,795,592	-	-	5,019,532	3,795,592
April	246	67.40%	6,105,324	4,114,821	5,019,532	3,383,027	-	-	5,019,532	3,383,027
May	215	58.90%	6,105,324	3,596,287	5,019,532	2,956,711	-	-	5,019,532	2,956,711
June	185	50.68%	6,105,324	3,094,479	5,019,532	2,544,147	-	-	5,019,532	2,544,147
July	154	42.19%	6,105,324	2,575,945	5,019,532	2,117,830	-	-	5,019,532	2,117,830
August	123	33.70%	6,105,324	2,057,411	5,019,532	1,691,514	-	-	5,019,532	1,691,514
September	93	25.48%	6,105,324	1,555,603	5,019,532	1,278,949	-	-	5,019,532	1,278,949
October	62	16.99%	6,105,324	1,037,069	5,019,532	852,633	-	-	5,019,532	852,633
November	32	8.77%	6,105,324	535,261	5,019,532	440,069	-	-	5,019,532	440,069
December	1	0.27%	6,105,324	16,727	5,019,532	13,752	-	-	5,019,532	13,752
Total Days									Total	27,903,099

Pro-Rate Method BOY/EOY Average 13,951,549
BOY/EOY Average 30,117,194
Rate Base Adjustment 16,165,645

	<u>Requested</u>	<u>Last Authorized</u>
Composite Tax Rate	41.37%	41.37%
Weighted Cost of STD	0.05%	0.05%
Weighted Cost of LTD	2.21%	2.21%
Weighted Cost of Debt	2.26%	2.26%
<u>Weighted Cost of Equity</u>	<u>5.25%</u>	<u>5.10%</u>
Required Rate of Return	7.51%	7.36%
Equity Return Tax RR	<u>3.70%</u>	<u>3.60%</u>
RB Revenue Requirement Factor	11.21%	10.96%
Annual Revenue Requirement Impact	1,812,890	1,771,531

* Tie to Exhibit__(LHP-1), Schedule 11

Washington, DC 20224

Person To Contact: _____, ID No. _____

Refer Reply To:
CC:PSI:B06
PLR-143241-14

Date:
July 06, 2015

Director =

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Taxpayer, a wholly-owned subsidiary of Parent, is primarily engaged in the business of generating, transmitting, distributing, and selling electric power to customers in State A and State B. It is subject to regulation by Commission A, Commission B, and Commission C with respect to terms and conditions of services, including the rates it may charge for its services. All three Commissions establish Taxpayer's rates based on Taxpayer's costs, including a provision for a return on the capital employed by Taxpayer in its regulated business.

The law of State A provides a process under which a utility may recover its costs relating to projects such as new electric generation facilities as a stand-alone rate adjustment added to customers' base rates. As relevant to this ruling request, the process for setting the rates involves two components. First, a taxpayer files estimated projections of all factors, including Accumulated Deferred Federal Income Taxes (ADFIT), relevant to the costs associated with the facility that is the subject of the rate adjustment. Rate base for this purpose is calculated using an average of the thirteen projected end of month balances of the components of rate base. The rate adjustment computed using these projections goes into effect at the beginning of the test period. The test period is a twelve month period. The anticipated collections from rate payers, the actual cost incurred with respect to the generating facility and any differences between anticipated amounts and actual amounts are reconciled by a "true-up" mechanism at the end of the test year. Under this mechanism, the reconciliation amount is either charged to ratepayers (if actual revenues are below estimates) or credited to ratepayers (if actual revenues exceed estimates) as part of the rates established for the forthcoming rate year. For both under and over collections, a carrying charge is imposed.

Taxpayer owns and operates electric transmission lines in several states, including State A and State B. These lines are integrated into Operator, a regional transmission operator. The rates that Taxpayer may charge its customers for these transmission services are set using a formula approved by Commission C. The formula rates are calculated using a methodology similar to that used to calculate the rate adjustments, inasmuch as the formula rates are calculated using projected costs to establish rates during the period for which rates are being set and a true-up based on over or under recoveries that are reflected in a subsequent rate year. The rates are determined by application of the formula approved by Commission C and go into effect with no additional action by Commission C.

Taxpayer claims accelerated depreciation on its tax returns to the extent permitted by the Internal Revenue Code. Taxpayer normalizes the federal income taxes deferred as a result of its use of accelerated depreciation and thus maintains an ADFIT balance on its regulatory books. In ratemaking proceedings before Commission A to authorize rate adjustments as well as in calculation of the formula rates, rate base is reduced by the calculated ADFIT balance. In calculating its ADFIT balance for purposes of both the projection and true-up elements of the rate adjustment

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calculations, Taxpayer followed the same averaging conventions it used for the other components of rate base. However, for prior formula rate filings, Taxpayer had calculated its ADFIT balance by an average of the beginning and ending balances notwithstanding that it used a 13-month average for computation of the plant portion of rate base. In those prior cases, the averages are calculated in accordance with the provisions of the Commission-approved template and the differences in averaging conventions are required by the regulations adopted by Commission C.

Section 1.167(l)-1(h)(6) of the Income Tax Regulations requires that a proration methodology be used by Taxpayer to calculate its applicable ADFIT balance for future test periods. Prior to Year A, Taxpayer had not used the proration methodology either in estimating its projected ADFIT balance or for the calculation of ADFIT for purposes of the true-up. Members of Taxpayer's tax department became concerned about the normalization implications of not using the proration formula during Year A. In filing Case A, Case B, and Case C, Taxpayer incorporated the proration methodology into the calculation of its projected ADFIT balance. In addition, Taxpayer incorporated the proration methodology into the calculation of the true-up in Case B. The staff of Commission A did not agree that the test period used for the rate adjustment ratemaking was a future test period and therefore asserted that the proration methodology was not required. In each of these cases, Commission A approved the use of the proration methodology in the projected ADFIT balance but denied its use in the true-up. When Commission A approved the use of the proration methodology for the projected ADFIT balance, it revised a portion of the Taxpayer's cash working capital allowance to reflect the adoption of the proration methodology. The adjusted portion was intended to compensate Taxpayer for the lag in time between when expenditures are made for services by Taxpayer and when collections for those services are received by Taxpayer. Commission A concluded that the item in the cash working capital allowance was duplicative of the effect of the proration methodology and was thus unnecessary. Due to the uncertainty surrounding the application of the proration methodology and the adjustment to cash working capital, Commission A directed Taxpayer to seek this ruling from the Internal Revenue Service.

Both Commission A and Commission C at all times have required that all public utilities under their respective jurisdictions use normalized methods of accounting.

Taxpayer requests that we rule as follows:

1. The proration methodology requirement does not apply to stand-alone rate adjustment ratemaking and to the Commission C formula rates even if they involve future test periods.
2. The estimated projection component of both the stand-alone rate adjustment ratemaking and the formula rate does not employ a future test period within the meaning of § 1.167(l)-1(h)(6)(ii) and therefore Taxpayer is not required to use the proration methodology in order to comply with the normalization rules.

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3. The true-up component of both the stand-alone rate adjustment ratemaking and the formula rate does not employ a future test period within the meaning of § 1.167(l)-1(h)(6)(ii) and therefore Taxpayer is not required to use the proration methodology in order to comply with the normalization rules.
4. In Taxpayer's stand-alone rate adjustment proceedings, an adjustment to eliminate from the Taxpayer's cash working capital allowance any provision for accelerated depreciation-related ADFIT if the proration methodology is employed does not conflict with the normalization rules.
5. In order to comply with the consistency requirement of the normalization rules, it is not necessary that the Taxpayer use the same averaging convention it uses in computing the other elements of rate base in computing its ADFIT balance for purposes of the formula rates.
6. If the Service rules adversely with respect to Rulings 1, 2, or 3, above, any failure by Taxpayer to employ the proration methodology prior to the proceedings in Cases A, B, or C or the effective date approved by Commission C for the requested modification of the formula rates was not a violation of the normalization rules requiring sanctions for such violation.
7. In the event that the Service rules adversely with respect to Ruling 5, above, Taxpayer's failure to comply with the consistency requirement in connection with its formula rates prior to the effective date approved by Commission C for the requested modification of the formula rates was not a violation of the normalization rules.

Law and Analysis

Issues 1 and 2

Former section 167(l) of the Code generally provided that public utilities were entitled to use accelerated methods for depreciation if they used a "normalization method of accounting." A normalization method of accounting was defined in former section 167(l)(3)(G) in a manner consistent with that found in section 168(i)(9)(A). Section 1.167(1)-1(a)(1) of the Income Tax Regulations provides that the normalization requirements for public utility property pertain only to the deferral of federal income tax liability resulting from the use of an accelerated method of depreciation for computing the allowance for depreciation under section 167 and the use of straight-line depreciation for computing tax expense and depreciation expense for purposes of establishing cost of services and for reflecting operating results in regulated books of account. These regulations do not pertain to other book-tax timing differences with respect to state income taxes, F.I.C.A. taxes, construction costs, or any other taxes and items.

Section 168(f)(2) of the Code provides that the depreciation deduction determined under section 168 shall not apply to any public utility property (within the

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meaning of section 168(i)(10)) if the taxpayer does not use a normalization method of accounting.

In order to use a normalization method of accounting, section 168(i)(9)(A) requires that a taxpayer, in computing its tax expense for establishing its cost of service for ratemaking purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, to use a method of depreciation with respect to public utility property that is the same as, and a depreciation period for such property that is not shorter than, the method and period used to compute its depreciation expense for such purposes. Under section 168(i)(9)(A)(ii), if the amount allowable as a deduction under section 168 differs from the amount that would be allowable as a deduction under section 167 using the method, period, first and last year convention, and salvage value used to compute regulated tax expense under section 168(i)(9)(A)(i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

Section 1.167(l)-1(h)(6) sets forth additional normalization requirements with respect to public utility property. Under § 1.167(l)-1(h)(6)(i), a taxpayer does not use a normalization method of accounting if, for ratemaking purposes, the amount of the reserve for deferred taxes excluded from the rate base, or treated as cost-free capital, exceeds the amount of the reserve for the period used in determining the taxpayer's ratemaking tax expense. Section 1.167(l)-1(h)(6)(ii) also provides the procedure for determining the amount of the reserve for deferred taxes to be excluded from rate base or to be included as no-cost capital. If, in determining depreciation for ratemaking tax expense, a period (the "test period") is used which is part historical and part future, then the amount of the reserve account for this period is the amount of the reserve at the end of the historical portion of the period and a pro rata amount of any projected increase to be credited to the account during the future portion of the period. The pro rata amount of any increase during the future portion of the period is determined by multiplying the increase by a fraction, the numerator of which is the number of days remaining in the period at the time the increase is to accrue, and the denominator of which is the total number of days in the future portion of the period.

Section 1.167(l)-1(h)(6)(i) makes it clear that the reserve excluded from rate base must be determined by reference to the same period as is used in determining ratemaking tax expense. A taxpayer may use either historical data or projected data in calculating these two amounts, but it must be consistent. As explained in section 1.167(l)-1(a)(1), the rules provided in section 1.167(l)-1(h)(6)(i) are to insure that the same time period is used to determine the deferred tax reserve amount resulting from the use of an accelerated method of depreciation for cost of service purposes and the reserve amount that may be excluded from the rate base or included in no-cost capital in determining such cost of services.

If a taxpayer chooses to compute its ratemaking tax expense and rate base

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exclusion amount using projected data then it must use the formula provided in section 1.167(l)-1(h)(6)(ii) to calculate the amount of deferred taxes subject to exclusion from the rate base. This formula prorates the projected accruals to the reserve so as to account for the actual time these amounts are expected to be in the reserve. As explained in § 1.167(l)-1(a)(1), the formula in section 1.167(l)-1(h)(6)(ii) provides a method to determine the period of time during which the taxpayer will be treated as having received amounts credited or charged to the reserve account so that the disallowance of earnings with respect to such amounts through rate base exclusion or treatment as no-cost capital will take into account the factor of time for which such amounts are held by the taxpayer.

The purpose of the proration formula is to prevent the immediate flow-through of the benefits of accelerated depreciation to ratepayers. The proration formula stops flow-through by limiting the deferred tax reserve accruals that may be excluded from rate base, and thus the earnings on rate base that may be disallowed, according to the length of time these accruals are actually in the reserve account.

The effectiveness of § 1.167(l)-1(h)(6)(ii) in resolving the timing issue has been questioned by its failure to define some key terms. Nowhere does this provision state what is meant by the terms "historical" and "future" in relation to the period for determining depreciation for ratemaking tax expense (the "test period"). One interpretation focuses on the type or quality of the data used in the ratemaking process. According to this interpretation, the historical period is that portion of the test period for which actual data is used, while the portion of the period for which data is estimated is the future period. The second interpretation focuses on when the utility rates become effective. Under this interpretation, the historical period is that portion of the test period before rates go into effect, while the portion of the test period after the effective date of the rate order is the future period.

The first interpretation, which focuses on the quality of the ratemaking data, is an attractive one. It proposes a simple rule, easy to follow and to enforce: any portion of the reserve for deferred taxes based on estimated data must be prorated in determining the amount to be deducted from rate base. The actual passage of time between the date ratemaking data is submitted and the date rates become effective is of no importance. But this interpretation of the regulations achieves simplicity at the expense of precision; in other words, it is overbroad. The proration of all estimated deferred tax data does serve to magnify the benefits of accelerated depreciation to the utility, but this is not the purpose of normalization. Congress was explicit: normalization "in no way diminishes whatever power the [utility regulatory] agency may have to require that the deferred taxes reserve be excluded from the base upon which the utility's permitted rate of return is calculated." H.R. Rep. No. 413, 91st Cong., 1st Sess. 133 (1969).

In contrast, the second interpretation of section 1.167(l)-1(h)(6)(ii) of the regulations is consistent with the purpose of normalization, which is to preserve for

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regulated utilities the benefits of accelerated depreciation as a source of cost-free capital. The availability of this capital is ensured by prohibiting flow-through. But whether or not flow-through can even be accomplished by means of rate base exclusions depends primarily on whether, at the time rates become effective, the amounts originally projected to accrue to the deferred tax reserve have actually accrued.

If rates go into effect before the end of the test period, and the rate base reduction is not prorated, the utility commission is denying a current return for accelerated depreciation benefits the utility is only projected to have. This procedure is a form of flow-through, for current rates are reduced to reflect the capital cost savings of accelerated depreciation deductions not yet claimed or accrued by the utility. Yet projected data is often necessary in determining rates, since historical data by itself is rarely an accurate indication of future utility operating results. Thus, the regulations provide that as long as the portion of the deferred tax reserve based on projected (future estimated) data is prorated according to the formula in section 1.167(l)-1(h)(6)(ii), a regulator may deduct this reserve from rate base in determining a utility's allowable return. In other words, a utility regulator using projected data in computing ratemaking tax expense and rate base exclusion must account for the passage of time if it is to avoid flow-through.

But if rates go into effect after the end of the test period, the opportunity to flow through the benefits of future accelerated depreciation to current ratepayers is gone, and so too is the need to apply the proration formula. In this situation, the only question that is important for the purpose of rate base exclusion is the amount in the deferred tax reserve, whether actual or estimated. Once the future period, the period over which accruals to the reserve were projected, is no longer future, the question of when the amounts in the reserve accrued is no longer relevant (at the time the new rate order takes effect, the projected increases have accrued, and the amounts to be excluded from rate base are no longer projected but historical, even though based on estimates).

There are two kinds of ratemaking at issue here, with identical components. For both the stand-alone rate adjustment and the formula rates, Taxpayer estimates the various components of rate base. Rates go into effect as of the beginning of the service year.¹ As such, the rates are in effect during the test year and the proration formula must be used. The addition of the true up increases the ultimate accuracy of the rates but does not convert a future test period into a historical test period as those terms are used in the normalization regulations. Therefore, Taxpayer is required to apply the proration formula in calculating accumulated deferred income taxes for purposes of calculating rate base.

Issue 3

¹ We note that, because Taxpayer is using estimated data for the test period, the test period at issue here constitutes a "future test period" under the first interpretation discussed above as well.

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As discussed above, where a taxpayer computes its ratemaking tax expense and rate base exclusion amount using projected data then must use the proration formula provided in section 1.167(l)-1(h)(6)(ii) to calculate the amount of deferred taxes subject to exclusion from the rate base. This formula prorates the projected accruals to the reserve so as to account for the actual time these amounts are expected to be in the reserve. As explained in § 1.167(l)-1(a)(1), the formula in section 1.167(l)-1(h)(6)(ii) provides a method to determine the period of time during which the taxpayer will be treated as having received amounts credited or charged to the reserve account so that the disallowance of earnings with respect to such amounts through rate base exclusion or treatment as no-cost capital will take into account the factor of time for which such amounts are held by the taxpayer.

The purpose of the proration formula is to prevent the immediate flow-through of the benefits of accelerated depreciation to ratepayers. The proration formula stops flow-through by limiting the deferred tax reserve accruals that may be excluded from rate base, and thus the earnings on rate base that may be disallowed, according to the length of time these accruals are actually in the reserve account.

In contrast to the projections discussed above, the true-up component is determined by reference to a purely historical period and there is no need to use the proration formula to calculate the differences between Taxpayer's projected ADFIT balance and the actual ADFIT balance during the period. In calculating the true-up, proration applies to the original projection amount but the actual amount added to the ADFIT over the test year is not modified by application of the proration formula.

Issue 4

In Taxpayer's stand-alone rate adjustment proceedings, Commission A adjusted the already-approved cash working capital allowance specifically to mitigate the effect of the use of the proration methodology, finding the effects duplicative. In general, taxpayers may not adopt any accounting treatment that directly or indirectly circumvents the normalization rules. See generally, § 1.46-6(b)(2)(ii) (In determining whether, or to what extent, the investment tax credit has been used to reduce cost of service, reference shall be made to any accounting treatment that affects cost of service); Rev. Proc 88-12, 1988-1 C.B. 637, 638 (It is a violation of the normalization rules for taxpayers to adopt any accounting treatment that, directly or indirectly flows excess tax reserves to ratepayers prior to the time that the amounts in the vintage accounts reverse). Here, Commission A adjusted the cash working capital allowance specifically to mitigate the effect of the application of the proration methodology. This is inconsistent with the normalization rules. We do not hold that the normalization rules require a similar type of cash working capital adjustment in all cases; we hold only that, where, as here, it is adjusted or removed in an attempt to mitigate the effects of the

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application of the proration methodology or similar normalization rule, that adjustment or removal is not permitted under the normalization rules.

Issue 5

Former section 167(l) of the Code generally provided that public utilities were entitled to use accelerated methods for depreciation if they used a "normalization method of accounting." A normalization method of accounting was defined in former section 167(l)(3)(G) in a manner consistent with that found in section 168(i)(9)(A). Section 1.167(1)-1(a)(1) of the Income Tax Regulations provides that the normalization requirements for public utility property pertain only to the deferral of federal income tax liability resulting from the use of an accelerated method of depreciation for computing the allowance for depreciation under section 167 and the use of straight-line depreciation for computing tax expense and depreciation expense for purposes of establishing cost of services and for reflecting operating results in regulated books of account. These regulations do not pertain to other book-tax timing differences with respect to state income taxes, F.I.C.A. taxes, construction costs, or any other taxes and items.

Section 168(f)(2) of the Code provides that the depreciation deduction determined under section 168 shall not apply to any public utility property (within the meaning of section 168(i)(10)) if the taxpayer does not use a normalization method of accounting.

In order to use a normalization method of accounting, section 168(i)(9)(A) requires that a taxpayer, in computing its tax expense for establishing its cost of service for ratemaking purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, to use a method of depreciation with respect to public utility property that is the same as, and a depreciation period for such property that is not shorter than, the method and period used to compute its depreciation expense for such purposes. Under section 168(i)(9)(A)(ii), if the amount allowable as a deduction under section 168 differs from the amount that would be allowable as a deduction under section 167 using the method, period, first and last year convention, and salvage value used to compute regulated tax expense under section 168(i)(9)(A)(i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

Section 168(i)(9)(B)(i) of the Code provides that one way the requirements of section 168(i)(9)(A) will not be satisfied is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with such requirements. Under section 168(i)(9)(B)(ii), such inconsistent procedures and adjustments include the use of an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under section 168(i)(9)(A)(ii), unless such estimate or projection is

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also used, for ratemaking purposes, with respect to all three of these items and with respect to the rate base.

In order to satisfy the requirements of §168(i)(9)(B), there must be consistency in the treatment of costs for rate base, regulated depreciation expense, tax expense, and deferred tax revenue purposes. Here, rate base, depreciation expense, and accumulated deferred income taxes are all calculated in consistent fashion – all are averaged over the same period. While there are minor differences in the convention used to average all elements of rate base including depreciation expense on the one hand, and ADFIT on the other, for purposes of §168(i)(9)(B), it is sufficient that both are determined by averaging and both are determined over the same period of time. Thus, the calculation of average rate base and accumulated deferred income taxes as described above complies with the consistency requirement of §168(i)(9)(B).

Because of the conclusion reached above, Taxpayer's seventh issue is moot and will not be considered further.

Issue 6

Because the Service has ruled in Issue 1 and 2 that Taxpayer was required to use the proration formula applicable to future test periods for the projected revenue requirement, prospectively adhering to the Service's interpretation of § 1.167(l)-1(h)(6)(ii) require adjustments to conform to this ruling. Any rates that have been calculated using procedures inconsistent with this ruling ("nonconforming rates") which are or which have been in effect and which, under applicable state or federal regulatory law, can be adjusted or corrected to conform to the requirements of this ruling, must be so adjusted or corrected. Where nonconforming rates cannot be adjusted or corrected to conform to the requirements of this ruling due to the operation of state or federal regulatory law, then such correction must be made in the next regulatory filing or proceeding in which Taxpayer's rates are considered. Specifically, the current timing of Taxpayer's stand-alone rate adjustment filings with Commission A will accommodate all adjustments or corrections to any prior estimated projections or true-ups necessary to conform to the requirements of this ruling in rates having an effective date no later Date X, including Case A, Case B, and Case C. In addition, Taxpayer has already sought an order from Commission C to make the necessary changes to the rate templates, not simply unilaterally adjusting the calculations (or the manner in which the templates are completed) in the next annual projections or true-up adjustments. If Taxpayer must request these changes through a filing with Commission C, Taxpayer has represented that it will make a filing with Commission C to amend its formula rate template within six months of receipt of this ruling letter, requesting that Commission C apply a methodology in accordance with this letter using an effective date of the first month following the date of the filing made with Commission C. Following Commission C's order in that filing, Taxpayer will prospectively apply the methodology consistent with

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this letter approved by Commission C. Until Commission C acts on the filing, Taxpayer will continue to use the methodology described above.

Section 168(f)(2) of the Code provides that the depreciation deduction determined under section 168 shall not apply to any public utility property (within the meaning of section 168(i)(10)) if the taxpayer does not use a normalization method of accounting. However, in the legislative history to the enactment of the normalization requirements of the Investment Tax Credit, Congress has stated that it hopes that sanctions will not have to be imposed and that disallowance of the tax benefit (there, the ITC) should be imposed only after a regulatory body has required or insisted upon such treatment by a utility. See Senate Report No. 92-437, 92nd Cong., 1st Sess. 40-41 (1971), 1972-2 C.B. 559, 581.

Here, Taxpayer has received stand-alone rate adjustments from Commission A without application of the proration methodology as required. In addition, Taxpayer used a template approved by Commission C to calculate formula-based rates. Both Commission A and Commission C have, at all times, required that utilities under their respective jurisdictions use normalization methods of accounting. Taxpayer also intended at all times to comply with the normalization rules. As concluded above, Taxpayer was required to use the proration methodology in these ratemaking proceedings. However because Commissions A and C as well as Taxpayer at all times sought to comply, and because Taxpayer will take the corrective actions described above, it is not currently appropriate to apply the sanction of denial of accelerated depreciation to Taxpayer.

Conclusions

1. The proration methodology requirement applies to all future test periods.
2. The estimated projection component of both the stand-alone rate adjustment ratemaking and the formula rate does employ a future test period within the meaning of § 1.167(l)-1(h)(6)(ii) and therefore Taxpayer is required to use the proration methodology in order to comply with the normalization rules.
3. The true-up component of both the stand-alone rate adjustment ratemaking and the formula rate does not employ a future test period within the meaning of § 1.167(l)-1(h)(6)(ii) and therefore Taxpayer is not required to use the proration methodology in order to comply with the normalization rules.
4. In Taxpayer's stand-alone rate adjustment proceedings, an adjustment to eliminate from the Taxpayer's cash working capital allowance any provision for accelerated depreciation-related ADFIT if the proration methodology is employed does conflict with the normalization rules.
5. In order to comply with the consistency requirement of the normalization rules, it is not necessary that the Taxpayer use the same averaging convention it uses in computing the other elements of rate base in computing its ADFIT balance for purposes of the formula rates.

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6. The Service rules adversely with respect to Rulings 1 and 2, above. Any failure by Taxpayer to employ the proration methodology prior to the proceedings in Cases A, B, or C or the effective date approved by Commission C for the requested modification of the formula rates was not a violation of the normalization rules requiring sanctions for such violation.
7. Because the Service rules favorably with respect to Ruling 5, above, Taxpayer's requested Ruling 7 is moot.

Except as specifically determined above, no opinion is expressed or implied concerning the Federal income tax consequences of the matters described above.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides it may not be used or cited as precedent. In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative. We are also sending a copy of this letter ruling to the Director.

Sincerely,

Peter C. Friedman
Senior Technician Reviewer, Branch 6
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

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
Public Comments**

Docket No. E002/M-15-805

Dated this 3rd day of August 2016

/s/Sharon Ferguson

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