

## Staff Briefing Papers

Meeting Date    December 20, 2018    Agenda Item 9\*\*

Company    Northern States Power Company, doing business as  
Xcel Energy

Docket No.    **G-002/M-17-894**

**In the Matter of the Petition of Northern States Power Company for Approval of  
Deferred Accounting for Manufactured-Gas-Plant Cleanup Costs**

Issues    Should the Commission reconsider its October 17, 2018 *Order Denying  
Petition for Deferred-Accounting Treatment* for the costs related to the  
cleanup of two manufactured gas plant sites?

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### Relevant Documents

### Date

PUC – Order Denying Petition for Deferred-Accounting Treatment	October 17, 2018
Xcel Energy – Petition for Reconsideration	November 6, 2018
Department of Commerce – Reply to Xcel Petition for Reconsideration	November 16, 2018

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

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

Should the Commission reconsider its October 17, 2018 *Order Denying Petition for Deferred-Accounting Treatment* for the costs related to the clean-up of two manufactured gas plant sites?

## **II. Background**

On December 26, 2017, Northern States Power Company, doing business as Xcel Energy (Xcel Energy, Xcel or the Company) filed a petition requesting deferred accounting treatment for clean-up costs related to two manufactured gas plant (MGP) sites, located in Fargo, ND and St. Cloud, MN. The total recovery sought by Xcel was estimated to be \$4.8 million.

On October 17, 2018, the Minnesota Public Utilities Commission (PUC or Commission) issued its Order denying Xcel's petition. Commissioners Tuma and Schuerger voted to deny the petition, while Commissioner Sieben voted in favor of Xcel's petition. Specifically, the PUC determined that it was not bound by its prior decisions regarding MGP clean-up costs. In the current docket, the PUC concluded that deferred accounting was not warranted primarily based on the magnitude of the costs. Xcel did not demonstrate that this cost increase would have a significant impact on its financial condition.

On November 6, 2018, Xcel filed its Petition for Reconsideration. The Minnesota Department of Commerce, Division of Energy Resources (Department) provided a reply to Xcel's petition on November 16, 2018.

## **III. Parties' Comments**

### **A. Xcel Energy**

Xcel filed a request for reconsideration arguing that the Commission's decision marks a major departure from prior decisions regarding MGP clean-up costs, state policy objectives, and principles of utility ratemaking.

#### **1. The Commission has historically approved deferred accounting treatment for MGP clean-up costs**

Xcel noted that the Commission has historically approved deferred accounting when "utilities have incurred sizable expenses to meet important public policy mandates" and that deferred accounting has been authorized for "costs that are unusual, unforeseeable, and large enough to have a significant impact on the utility's financial condition."

Xcel continues to argue that Minnesota public policy favors an approval of deferred accounting treatment for MGP clean-up costs. The Company quoted Minn. Stat. § 114C.01:

... It is the policy of the legislature that Minnesota should develop environmental regulatory methods that . . . encourage groups of facilities and communities to

work together to reduce pollution to levels below what is required by applicable law . . .

Xcel stated that North Dakota approved the Company's petition for deferred accounting for the MGP clean-up costs attributed to Fargo. Xcel also provided additional examples in which Minnesota, Wisconsin, and Colorado have uniformly approved deferred accounting treatment for MGP clean-up costs, highlighting the Company's position that the PUC's decision in this docket represents an outlier.

## **2. The MGP clean-up costs will have a significant impact on the Company's financial condition**

Xcel argued that the Commission considered the amount of the requested deferral as a function of operations and maintenance (O&M) expense solely due to the Department's comments and analysis. The Company characterizes this comparison of O&M expense as an arbitrary method of ascertaining the financial impact on Xcel.

Xcel argues that a better indicator of significance is to determine the percentage of financial impact after all other expenses. In the current docket, the \$4.8 million deferral request amounts to 15% of the Company's 2016 net income.

If O&M expenses are considered to be the standard by which utility expenses are considered significant, the Company questioned the standard by which the PUC considers expenses significant.<sup>1</sup>

Even if it were appropriate to compare a requested deferral to total O&M expenses, the Order provides no rationale for why 4.51% was significant but 3.39% is not. A one percentage point difference between what the Commission views as significant and insignificant appears to be setting an arbitrary numeric threshold somewhere between 3.4% and 4.5%. The Order also provides no explanation for why the Company's current petition differs from the Commission's 1999 Order in Docket No. G-002/M-99-248, in which the Commission approved a deferral of \$700,000 in MGP cleanup expenses, which amounted to just 0.67% of 1999 O&M expenses. [footnotes omitted]

## **3. Denying recovery creates a category of unrecoverable expense**

Xcel noted that a denial of deferred accounting creates a category of expense that is unlikely to be recovered in any context. While Xcel believes the expenses incurred are reasonable and prudent, the Company does not anticipate MGP clean-up costs as being recoverable in a general rate case test-year because they are extraordinary, generally unexpected and unforeseen and not part of Xcel's normal, test-year operating costs.

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<sup>1</sup> Xcel Energy, Petition for Reconsideration, Page 7

## **B. Department of Commerce**

The Department responded by noting that the arguments in Xcel's petition for reconsideration regarding significance have already been made. Additionally, the Department responded to Xcel's assertion that O&M expenses had never been considered to gauge the significance of a deferred accounting request. The Department noted that, in a filing made by Minnesota Power, Docket E-015/M-16-648,<sup>2</sup> the Commission used incremental O&M expenses to determine the significance of the deferred accounting request, ultimately denying the request in part due to the request not being considered significant.

The Department also noted that the Commission is not bound by its prior decisions involving deferred accounting in MGP clean-up requests. The Department, therefore, does not believe the Commission violated any longstanding ratemaking principles in its review of the deferred accounting request.

## **IV. Staff Analysis**

As the Department noted, the Commission may grant reconsideration when the petition: 1) raises new issues; 2) points to new and relevant evidence; 3) exposes errors or ambiguities in the prior decision; 4) persuades the Commission to reconsider; or 5) where the prior decision was inconsistent with the facts, the law, or the public interest.

Staff does not believe any new issues or evidence have been raised in Xcel's request for reconsideration. Xcel's request seems to focus on trying to expose errors or ambiguities in the Commission's decision stating that the Commission has created an unrecoverable expense for the Company, demonstrating that "significance" is subjective, and by stressing the importance of allowing cost recovery when Xcel's actions are providing a public benefit and promoting strong public policy.

## **V. Decision Options**

1. Grant Xcel's request and reconsider and reverse the October 17, 2018 Order denying Xcel Energy deferred accounting treatment of costs related to the remediation of two MGP sites located in St. Cloud, MN and Fargo, ND. (Xcel)
2. Deny Xcel Energy's request for reconsideration of the October 17, 2018 Order denying Xcel Energy deferred accounting treatment of costs related to the remediation of two MGP sites located in St. Cloud, MN and Fargo, ND. (Department)

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<sup>2</sup> In the Matter of a Petition for Approval of Deferred Accounting Treatment of Costs Related to the 2016 Storm Response and Recovery