

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben
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Chair
Commissioner
Commissioner
Commissioner

In the Matter of Northern States Power
Company d/b/a Xcel Energy for Approval of
True-Up Mechanisms

ISSUE DATE: March 13, 2020

DOCKET NO. E-002/M-19-688

ORDER APPROVING TRUE-UPS AND
REQUIRING XCEL TO WITHDRAW
ITS NOTICE OF CHANGE IN RATES
AND INTERIM RATE PETITION

PROCEDURAL HISTORY

On November 1, 2019, Northern States Power Company d/b/a Xcel Energy (Xcel or the Company) filed a Notice of Change in Rates and an Interim Rates Petition for a multiyear general rate case (the Rate Case and Interim Rates Petition).¹ Xcel’s petition proposes rate increases of \$201.4 million, or 6.5%, in 2020 (the test-year), an incremental increase of \$146.4 million, or 4.8%, in 2021, and another incremental increase of \$118.3 million, or 3.9%, in 2022, and a proposed interim-rate schedule.²

Also on November 1, 2019, Xcel filed a petition (the True-Up Petition) seeking approval to maintain its existing base rates with three “true-ups” that it proposed would ensure that rates remain just and reasonable. The Company stated that if the Commission approved the True-Up Petition it would withdraw its general rate case filing, and not file another prior to November 2, 2020.

On November 6, 2019, the Commission issued a notice requesting comment on the following topics:

- Should the Commission approve Xcel's proposed 2020 sales true-up that would operate similarly to the currently-approved sales true-up established in Xcel’s 2015 multiyear rate plan (MYRP) but would apply to all customer classes?
- Should Xcel’s revenue decoupling mechanism (RDM) be extended through December 31, 2020? Should any changes be made to the RDM?

¹ See Minn. Stat. § 216B.16, subd. 19, providing for multiyear rate plans.

² See *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 the State of Minnesota*, Docket No. E-002/GR-19-564 (the Rate Case Docket).

- Should the Commission approve Xcel’s proposed 2020 capital true-up that would operate consistently with the current capital true-up established in Xcel’s 2015 MYRP?
- What benchmark should the 2020 Capital true-up be compared against?
- Should the Commission approve Xcel’s proposed 2020 property tax true-up that would operate consistently with the current property tax true-up established in Xcel’s 2015 MYRP?
- Should the Commission approve Xcel’s request to delay any increase to the Nuclear Decommissioning Trust (“NDT”) accrual until January 1, 2021, or—alternatively—approval of an actual deferral so that Xcel can fund the increased accrual in 2020 and recover that expense in a future rate case?
- Should the Commission approve Xcel’s request to leave its base rates unchanged in 2020, and to withdraw its application for a general increase in rates in Docket No. E-002/GR-19-564?
- Are there other issues or concerns related to this matter?

By November 25, 2019, the following parties filed comments or reply comments on Xcel’s True-Up Petition:

- the Minnesota Department of Commerce, Division of Energy Resources (the Department);
- the Office of the Attorney General – Residential Utilities and Antitrust Division (the OAG);
- the Minnesota Chamber of Commerce (the Chamber);
- an ad hoc association of large industrial customers of Xcel comprising CHS Inc.; Flint Hills Resources Pine Bend, LLC; Gerdau Ameristeel US Inc.; Marathon Petroleum Corporation; and USG Interiors, Inc. (the Xcel Large Industrial group, or XLI);
- an ad hoc association of large commercial customers of Xcel that participated in Xcel’s last rate case (the Commercial Group);
- the Suburban Rate Authority;
- Energy CENTS Coalition;
- Fresh Energy, individually; and
- Clean Grid Alliance, Fresh Energy, and Minnesota Center for Environmental Advocacy (together, the Clean Energy Organizations)

On December 12, 2019, the Commission met to consider the Rate Case and Interim Rates Petition and the True-Up Petition.

On December 30, 2019, the Commission issued an order in the Rate Case Docket suspending Xcel’s proposed rate schedule and staying further consideration of the filing.

FINDINGS AND CONCLUSIONS

I. Summary of Commission Action

In this order, the Commission will approve Xcel’s True-Up Petition on the condition that Xcel withdraws its Rate Case and Interim Rates Petition and does not implement the rates set forth in

that petition. The Commission will also establish other related requirements to effectuate the purpose of the True-Up Petition, which is to take up the matter of an Xcel general rate proceeding no sooner than November 1, 2020, while maintaining just and reasonable base rates as established in Xcel's last rate proceeding.

II. Xcel's True-Up Petition

Xcel requests that the Commission approve a limited-time extension of three true-up mechanisms that it contends were approved as part of its most recently completed general rate proceeding.³ The Company requests approval of:

- A 2020 sales true-up that would operate similarly to the currently-approved sales true-up established in the 2015 MYRP but would apply to all customer classes;
- A 2020 capital true-up that would operate consistently with the current capital true-up established in [Xcel's] 2015 MYRP; and
- A 2020 property tax true-up that would operate consistently with the current property tax true-up established in [Xcel's] 2015 MYRP.

Continuation of these true-ups, Xcel says, would enable it to defer its requested rate increase in Docket No. E-002/GR-19-564 (the Rate Case Docket). According to Xcel the expected rate impact on customers of approval of this proposed alternative to its 2020 general rate proceeding would be a smaller near-term rate increase, effectively allowing for a more gradual phase-in of any rate increase that might ultimately be approved in a general rate case.⁴

A. The Sales True-Up

Xcel's currently approved rates include a sales true-up mechanism.⁵ This mechanism, similar to revenue decoupling, operates to sever the link between sales and revenues, ensuring that the utility will recover the revenue requirement established in a rate case even if the sales forecast over- or underestimates actual sales. The purpose of revenue decoupling is to reduce a utility's disincentive to promote energy efficiency.⁶

³ See *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, Docket No. E-002/GR-15-826 (Xcel's 2015 MYRP). Xcel also requests that the Commission "delay any increase to the Nuclear Decommissioning Trust ("NDT") accrual until January 1, 2021, or—alternatively—approval of an actual deferral so the Company can fund the increased accrual in 2020 and recover that expense in a future rate case." This aspect of Xcel's petition is addressed by separate order, in Docket No. E-002/M-17-828.

⁴ See Exhibit 1, Xcel's True-Up Petition (depicting a \$201.4 million general increase in the proposed 2020 test year, and a \$94.3 million general increase if the True-Up Petition alternative is approved).

⁵ See *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, Docket No. E-002/GR-15-826, Findings of Fact, Conclusions, and Order, at 10 (June 12, 2017).

⁶ Minn. Stat. § 216B.2412.

In this case, residential and small commercial customers' rates are subject to a revenue decoupling pilot program approved in a prior Xcel rate case,⁷ and that the Commission extended in 2017,⁸ while Xcel's remaining demand-metered commercial and industrial customers are subject to the sales true-up as part of the settlement approved in the 2015 rate proceeding. Xcel requests that these true-up mechanisms continue through 2020 in a slightly modified fashion to apply to all customers. Xcel would file its 2020 actual sales results by February 1, 2021, to serve as the basis for calculating the appropriate true-up.

Xcel asserts that this would effectively match its Rate Case and Interim Rates Petition proposal to implement decoupling for all customer classes, and would not have a significantly different result—Xcel observes that it has been recent practice to use updated actual sales information in general rate proceedings when it becomes available, so it is likely that in a general rate proceeding substantially similar updated, actual sales information would be used to calculate final rates. A forecasted decrease in sales accounts for a significant share of Xcel's requested rate increase in its Rate Case and Interim Rates Petition.

Xcel proposes that its extended sales true-up be implemented as follows:

1. Forecasted base revenues for 2019 will be calculated using 2016 weather normalized actual sales by class and current base rates (effective June 1, 2019, including reduction for a 2017 federal tax reduction).
2. Actual revenues for 2020 will be calculated using 2020 actual customer counts and actual sales and current base rates (effective June 1, 2019, including reduction for a 2017 federal tax reduction).
3. The 2020 revenue comparison will include the same C&I sales growth as assumed in 2018.
4. Any over/under collections from the 2019 decoupling and sales true-up mechanisms will be included with the 2020 results.
5. The true up will include all discounts and incentive rates approved by the Commission.
6. After 2020 actual sales are available in January 2021, the Company will provide the actual 2020 customer counts, sales, and resulting revenues by class for all classes in a compliance filing consistent with the method used in Docket No. E-002/GR-15-826, to be filed February 1, 2021.
7. If the 2020 revenues are greater than the approved plan year level, the difference will be deferred as a regulatory liability and refunded to customers. If the 2020 revenues are lower than the approved plan year level, the difference will be deferred as a regulatory asset and collected from customers. A refund or surcharge factor will be calculated for

⁷ See *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, Docket No. E-002/GR-13-868, Findings of Fact, Conclusions, and Order, at 77 (May 8, 2015).

⁸ See *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, Docket No. E-002/GR-15-826, Findings of Fact, Conclusions, and Order, at 23 – 25 (June 12, 2017).

each class based on the deferral amount and the current sales forecast. These factors will be placed on customer bills effective April 1, 2021 for 12 months.⁹

B. Property Tax and Capital True-Ups

Xcel asks for the extension of two other true-ups already currently in effect. The proposed property-tax true-up would apply the same methodology of annually adjusting for actual property tax expenses as has been in effect through the Company's existing multiyear rate plan. The proposed capital expenses true-up would likewise apply the same methodology as has been approved in the Company's multiyear rate plan for the 2017 – 2019 period. The capital true-up is asymmetrical, meaning that ratepayers would receive a refund if applicable capital expenditures fall below the baseline established in the last rate proceeding, but are protected from recovery of capital expenditures above the benchmark.

III. Comments of the Parties

A. Support for Xcel's True-Up Petition

The following parties and participants commented in support of Xcel's petition, or do not object to its implementation—their support in some cases offered in connection with certain modifications or clarifications: the Department, the Commercial Group, the Suburban Rate Authority, Energy CENTS Coalition, and the Clean Energy Organizations.

The Department reviewed Xcel's proposal to extend the true-up mechanisms through 2020, and recommended approval of the proposal. The Department concluded that there was no basis to justify requiring a change to the base rates established in Xcel's 2015 MYRP, and that Xcel's proposal was consistent with the Commission's order approving the 2015 MYRP. The Department also concluded that ratepayers would be charged less under the True-Up Petition proposal than they would under the proposed interim rates, and that the proposed true-ups could potentially result in additional benefits to ratepayers because the capital true-up is asymmetrical.

The Department reviewed the effects of the True-Up proposal on each customer class, and concluded that every customer class—except the Demand class—would be better off than they would under the proposed interim rate increase, and that for the Demand class “there may be little if any differential between costs charged to this class under the Petition or interim rates.”¹⁰ Based on its analysis, the Department recommended that the Commission approve Xcel's request to leave its established base rates in effect, approve the True-Up Petition, and authorize the withdrawal of Xcel's Rate Case and Interim Rates Petition.

The Energy CENTS Coalition supported Xcel's True-Up Petition because it would mitigate an otherwise much larger interim rate increase. The Coalition also urged that the Commission consider the ability for stakeholders with limited resources to participate in the multiple simultaneous rate cases and other significant dockets facing the Commission in 2020, and that approving the True-Up Petition and allowing Xcel to withdraw its rate case filing would allow those organizations to adequately represent their constituencies.

⁹ Xcel's True-Up Petition, at 10 –11.

¹⁰ Department's Comments, at 10 (November 18, 2019).

Fresh Energy did not raise an objection to Xcel's True-Up Petition, though it urged that if the Commission were to approve it, the Commission should require Xcel to file a proposal to revise its general time-of-day service rate design. But Fresh Energy also filed comments as part of the Clean Energy Organizations that reiterated Fresh Energy's position about time-of-day rates and joined with the Energy CENTS Coalition in suggesting that by deferring Xcel's general rate case the Commission would allow organizations with limited resources to more fully participate in the many significant proceedings before the Commission.

The Commercial Group supported the True-Up Petition on the basis that "rates for Xcel customers in general would be lower under the Petition than under Xcel's request for interim rates that it filed in Docket GR-19-564,"¹¹ but recommended that during the approved true-up extension that "an equal percentage" of the true-up amount be allocated to each rate class. It asserted that this would result in equity until Xcel's revenue requirement allocation could be more closely examined in its next rate case.

The Suburban Rate Authority commented that it did not object to Xcel's True-Up Petition subject to two clarifications: (1) that the settlement approved in the prior rate proceeding entailed an adjustment for certain LED capital costs, and that Xcel had agreed that the LED deferral would continue in effect during the proposed true-up extension, and (2) by not objecting to Xcel's petition, the Suburban Rate Authority would not forego rights under the Stipulation of Settlement pertaining to the prior rate proceeding.

B. Opposition to Xcel's True-Up Petition

The following parties and participants opposed Xcel's petition: the OAG, the Minnesota Chamber of Commerce, and XLI. Each of these entities recommended that the Commission deny Xcel's True-Up Petition and proceed with the general rate proceeding.

1. XLI

XLI asserted that Xcel's True-Up Petition is accurately characterized as an extension of the rates approved in the most recent rate case. In particular, XLI contended that the petition was an extension of a rate settlement and should be considered under the Minn. Stat. § 216B.16, subd. 1(b), standard for rate case settlements. XLI argued that Xcel has not demonstrated that its petition is in the public interest and nonprejudicial to ratepayers.

The group pointed to the anticipated effect on rates for the demand class, the effect of continuing to use 2016 weather-normalization data for calculating the true-up, the absence of a statutory right to refund of interim rates if the petition is approved, and the fact that expense reductions that had been identified in the rate case filing would not be incorporated into rates at this time.

2. The Chamber of Commerce

The Chamber of Commerce opposed the True-Up Petition on four separate grounds: (1) the proposal constitutes piecemeal ratemaking; (2) extending the asymmetrical capital true-up with an already established baseline could discourage the utility from making necessary and prudent

¹¹ Commercial Group Comments, at 1 (November 18, 2019).

investments; (3) the effect on the demand-metered customer class; and (4) the effect on the commercial and industrial class.

The Chamber identified adjustments to the sales true-up that, if adopted, could address its concerns. The Chamber recommended modifications centered on adjusting the allocation of the true-up in a manner different than provided for in the Company's approved true-up methodology.

3. The OAG

The OAG focused its comments primarily on the requested adjustments related to nuclear decommissioning, a matter addressed by separate order in Docket No. E-002/M-17-828. But the OAG opposed recommendations by the Chamber of Commerce and the Commercial Group to alter the revenue apportionment of the sales true-up in the absence of a full rate proceeding. The Office argued that such a determination is complex and should not be made on the record currently before the Commission.

IV. Commission Action

A. Granting the True-Up Petition is consistent with applicable law

First, concerning the argument by XLI that the Commission should regard this petition under Minn. Stat. § 216B.16, subd. 1a, the Commission concludes that the statute does not apply to these circumstances. Minn. Stat. § 216B.16, subd. 1a, provides a method for the Commission to consider settlements of all or part of a rate case when “the applicant and all intervening parties agree.” This is not such a circumstance. Nor is the petition an extension of a prior settlement, as XLI suggests. Accordingly, the Commission does not adopt the standard offered by XLI for reviewing Xcel's petition.

The petition is not offered as a settlement to an existing rate filing, but as an alternative to taking up a rate proceeding at this time. What Xcel has presented the Commission is a proposal for maintaining the status quo upon the conclusion of a Commission-approved multiyear rate plan established under Minn. Stat. § 216B.16, subd. 19.

Minn. Stat. § 216B.16, subd. 19, is silent about how to handle utility rates in the event that a multiyear rate plan ends absent a new rate determination. But it provides for the Commission to “by order, establish terms, conditions, and procedures for a multiyear rate plan necessary to implement this section and ensure that rates remain just and reasonable during the course of the plan, including terms and procedures for rate adjustment.” The Commission did so in its Order Establishing Terms, Conditions, and Procedures for Multiyear Rate Plans.¹²

The Commission recognized the statute's silence on what rates might apply at the expiration of a multiyear rate plan. The Commission's multiyear rate plan order required that utilities include a description of their proposal for the rates that would apply after the term of their rate plan ends.¹³ Xcel did that in its last multiyear rate plan proposal, proposing that “[r]ates during the final year

¹² *In the Matter of the Minnesota Office of the Attorney General – Antitrust and Utilities Division's Petition for a Commission Investigation Regarding Criteria and Standards for Multiyear Rate Plans under Minn. Stat. § 216B.16, subd. 19*, Docket No. E,G-999, M-12-587 (June 17, 2013).

¹³ *Id.*, at 14.

of the MYRP would remain in effect at the conclusion of the term of the MYRP, unless the Company files another MYRP 60 days prior to the conclusion of the term and proposes new interim rates.”¹⁴

Xcel’s True-Up Petition is effectively consistent with the first clause of that proposal: the petition holds Xcel’s base rates unchanged from the end of its multiyear rate plan, and continues the true-ups that allowed for adjustments for revenue decoupling, capital expenses, and property taxes. Accordingly, Xcel’s proposal is consistent with the terms established by the Commission’s order governing multiyear rate plans, and therefore, consistent with the statute that authorizes the Commission to establish such terms.

B. Granting the True-Up Petition, including withdrawal of the Rate Case Petition, is consistent with the public interest.

The chief complication of this analysis is Xcel’s simultaneous filing of its Rate Case and Interim Rates Petition, which presents the Commission with a unique dilemma: given the two mutually exclusive filings, the Commission must choose just one to effectuate. The Commission concludes that, on balance, ratepayers and the public are better served by approving the True-Up Petition.

In reviewing the Commission’s responsibility and authority regarding the two incompatible filings, the Commission views the pertinent question to be: is it necessary, under the Commission’s statutory responsibilities, to require Xcel to proceed with a general rate case?

The Commission’s answer to this question is no. The Commission is not persuaded that at this time it must compel Xcel to undergo a rate proceeding. Continuing the just and reasonable rates established in the most recent rate case is permissible under the multiyear rate plan statute, and consistent with the Commission’s prior orders governing multiyear rate plans. No statute precludes the withdrawal of a utility rate proceeding.¹⁵ On this record and under these circumstances, the Commission does not conclude that a general rate proceeding is presently necessary to establish just and reasonable rates.

There are several potential risks and benefits to ratepayers with Xcel’s proposal, that the Commission has considered and weighed. To begin, the Commission has identified several significant benefits. First, by not undertaking the rate proceeding, ratepayers generally will most likely experience a smaller rate increase than they would under interim rates. Second, by continuing the base rates and true-ups that have already been approved, ratepayers would continue to enjoy the protections the true-ups provide. Examples of this include: (1) the asymmetrical capital cost true-up would continue to ensure that ratepayers benefit from capital expense savings but not pay for capital expenses above the baseline; (2) the sales true up caps a surcharge for lost revenues built into Other Operating Revenues for Commercial and Industrial customer growth at \$9.9 million. Third, ratepayers and the public will be better served by allowing stakeholders to focus their limited resources on other significant proceedings pending

¹⁴ In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota, Xcel’s Initial Filing Vol 2A, 1 of 5 “Policy and Multi-Year Rate Plan” (November 2, 2015).

¹⁵ The Commission can, on its own motion, undertake a review of a utility’s rates. Minn. Stat. §§ 216A.05, subd. 2(2); 216B.15.

with the Commission this year.¹⁶ Commission decisions depend on rigorous record development, which results from the participation of a broad array of stakeholders representing diverse interests.

The Commission acknowledges that some of these factors also have shortcomings and risks; for example, the ratepayer benefits of deferring Xcel's rate proceeding to no sooner than 2021 may not be universal. However, it is impossible to predict with certainty the outcome of a full rate proceeding or the 2020 sales true-ups; arguments that certain classes of ratepayers would be better off with a full rate proceeding are speculative and, even if realized, benefits to some ratepayers are likely to be overwhelmed by detriments to others. And, while there is no certainty that proceedings before the Commission in 2021 will be easier on participants' limited resources, it is unlikely, for example, that pending rate cases in 2021 will match the number pending in 2020. Overall the ratepayer and public interest benefits of granting this True-Up Petition are more certain and broadly realized, and the risks less significant, than to deny this petition and to proceed with the rate case.

Therefore, overall, the Commission concludes that the likely benefits of approving the True-Up Petition outweigh the detriments. The Commission will approve the True-Up Petition, conditioned on the withdrawal of Xcel's Rate Case and Interim Rates Petition.

The Commission has reviewed the proposal to withdraw Xcel's rate case, based on the information available to the Commission and the arguments that have been made, concludes that withdrawal would meet the standard for permitting a contested withdrawal.¹⁷ Withdrawal would not contravene the public interest, but rather serves the public interest by deferring a rate proceeding that is not necessary at this time; withdrawal has not been established to prejudice any party—arguments concerning prejudice of not undertaking a rate proceeding presume the outcome of a hypothetical rate proceeding or the outcome of the 2020 sales true-up, which are too speculative and remote to establish such prejudice; and, for the reasons stated above, the withdrawal request does not concern a filing that raises issues requiring Commission action.

C. Other issues raised in comments

The Commission will take no action on the revenue apportionment and make no changes to the current true-up allocation methodology for the 2020 true-ups. The Commission does not believe this proceeding presents the right circumstance, nor this record an adequate basis, for modifying the apportionment and allocation determinations that were made in the 2015 MYRP. Those

¹⁶ Among other significant proceedings, the Commission has four pending rate proceedings (*In the Matter of the Application by Dakota Electric Association for Authority to Increase Rates for Electric Service in Minnesota*, E-111/GR-19-478; *In the Matter of the Application of Great Plains Natural Gas Co. for Authority to Increase Natural Gas Rates in Minnesota*, G-004/GR-19-511; *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Utility Service in Minnesota*, E-015/GR-19-442; and *In the Matter of the Application of CenterPoint Energy Resources Corp dba CenterPoint Energy Minnesota Gas for Authority to Increase Natural Gas Rates in Minnesota*, G-008/GR-19-524), as well as Xcel's 2020–2034 resource plan (*In the Matter of Xcel Energy's 2020-2034 Upper Midwest Integrated Resource Plan*, E-002/RP-19-368). Three of the pending rate proceedings have had the deadline for Commission decision extended under Minn. Stat. § 216B.16, subd. 2(f).

¹⁷ See Minn. R. 7829.0430.

decisions are best made, and can only be established to result in just and reasonable rates, in the context of a fully developed record in a full rate proceeding.

The Commission will, however, require Xcel to file a revised General Time of Day Service rate design, and will require Xcel to continue the LED capital cost deferral for one more year. The Commission agrees with the parties that raised these issues that these conditions are necessary to ensure that approval of the petition is in the public interest.

ORDER

1. Xcel's request to extend the sales true-up for all customer classes, capital true-up, and property true-up mechanisms for an additional year is approved, subject to the condition that Xcel withdraws and does not implement its pending request for a general increase in rates, in Docket No. E-002/GR-19-564.
2. Xcel shall withdraw its Notice of Change in Rates and Interim Rate Petition, filed on November 1, 2019, in Docket No. E-002/GR-19-564.
3. Xcel shall not file a rate case prior to November 1, 2020.
4. Xcel shall file a proposal to revise its General Time of Day Service rate design to be more reflective of hourly system costs and to send price signals that will reduce peak demand and increase system utilization by January 17, 2020.
5. Xcel shall continue the LED Deferral for one additional year.
6. Xcel shall submit revised tariff language and any other documentation as needed to demonstrate compliance with the Commission's order in this docket.
7. The Commission delegates authority to the Commission's Executive Secretary to vary time periods and approve notices for the duration of the proceeding in this docket and any proceeding that stems from this matter.
8. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Will Seuffert
Executive Secretary



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