

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of Xcel Energy’s Integrated
Distribution Plan and Advanced Grid
Intelligence and Security Certification
Request

PUC Docket No. E-002/M-19-666

XLI INITIAL COMMENT

The following companies – an ad hoc consortium of large industrial customers of Northern States Power Company d/b/a Xcel Energy (“Xcel”) known as the Xcel Large Industrials (“XLI”) – consisting of Flint Hills Resources Pine Bend, LLC; Marathon Petroleum Corporation; and USG Interiors, Inc. submit this comment in response to the Minnesota Public Utilities Commission’s (the “Commission”) Notice of Extended Comment Period dated February 12, 2020, regarding Xcel’s Integrated Distribution Plan (“IDP”).¹

I. INTRODUCTION

XLI submits this comment to question what appears to be an attempt by Xcel to piecemeal investments and cost-recovery requests in order to avoid standard oversight of its spending and rates. Relevant here, XLI is very concerned by Xcel’s attempt to obtain Commission certification of a multibillion-dollar distribution investment² despite simultaneously requesting to stay out of a rate case and implement true-ups. Xcel’s attempts to recover costs for the IDP investments in a rider instead of requesting such costs be examined in a rate case undermines the regulatory compact and is contrary to the law. To be sure, Xcel’s request for certification effectively combines a resource plan and a rate case, which should not be permitted by the Commission.

On November 1, 2019, Xcel filed its IDP in the above-titled docket.³ On the same day, Xcel also filed a rate case, seeking authority to increase electric rates through a new multi-year

¹ Notice of Extended Comment Period (Feb. 12, 2020) (eDocket No. 20202-160346-01).

² While certification is not cost-recovery approval, it is virtually certain that the Commission will approve such cost recovery after the investments have been certified and are in the ground.

³ Initial Filing – Integrated Distribution Plan – 01 Cover Letter IDP Report and ATTS A1 through C (Nov. 1, 2019) (eDocket No. 201911-157133-01) (the “Initial Filing”).

rate plan (“MYRP”).⁴ Xcel’s rate case petition requested an increase of \$201.4 million (6.5%) in 2020, an incremental increase of \$146.4 million (4.8%) in 2021, and an incremental increase of \$118.3 million (3.9%) in 2022 through a MYRP.⁵

Also on November 1, 2019, Xcel filed a petition to withdraw and delay its next MYRP by seeking approval of multiple financial true-up mechanisms.⁶ The Stay-Out Petition sought the following:

- 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 [the] 2015 MYRP;
- a 2020 property tax true-up that would operate consistently with the current property tax true-up established in [the] 2015 MYRP; and
- Commission approval to 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.^[7]

Additionally, if approved, Xcel committed to withdrawing its MYRP filing and not filing another general rate case before November 2, 2020.⁸ XLI opposed the Stay-Out Petition,⁹ citing statutory and procedural concerns as well as questioning Xcel’s claim that “the sales true-up would likely result in 2020 revenues that are similar to—or even less than—the revenues that would be

⁴ *In the Matter of the Application of Northern States Power Company, dba Xcel Energy, for Authority to Increase Rates for Electric Service in the State of Minnesota*, MPUC Docket No. E-002/GR-19-564, Initial Filing (Nov. 1, 2019) (“Xcel 2019 Rate Case Filing”).

⁵ *In the Matter of the Application of Northern States Power Company, dba Xcel Energy, for Authority to Increase Rates for Electric Service in the State of Minnesota*, MPUC Docket No. E-002/GR-19-564, Initial Filing – Vol. 1 Notice of Change in Rates and Interim Rate Petition at 2 (Nov. 1, 2019).

⁶ *In the Matter of the Petition of Northern States Power Company, d/b/a Xcel Energy for Approval of True-Up Mechanisms*, MPUC Docket No. E-002/M-19-688, Petition for Approval of True-Up Mechanisms (Nov. 1, 2019) (the “Stay-Out Petition”).

⁷ *Id.* at 2.

⁸ *Id.* at 3.

⁹ *In the Matter of the Petition of Northern States Power Company, d/b/a Xcel Energy, for Approval of True-Up Mechanisms*, MPUC Docket No. E-002/M-19-688, XLI Initial Comment and Exhibit A at 4 (Nov. 18, 2019) (“XLI Stay-Out Petition Initial Comment”).

realized in 2020 under interim rates.”¹⁰ Xcel’s Stay-Out Petition was ultimately granted by the Commission at a hearing on December 12, 2019, and via written order on March 13, 2020.¹¹

Despite the impending withdrawal of its MYRP, Xcel did not withdraw its requests in this docket, and the IDP is tracking pursuant to the Commission’s scheduling order.¹² The IDP filing seeks certification of an Advanced Distribution Planning Tool as well as certification of several investments that are part of Xcel’s Advanced Grid Intelligence and Security (“AGIS”) Initiative.¹³ The AGIS Initiative is comprised of: Advanced Metering Infrastructure (“AMI”); Field Area Network (“FAN”); Fault Location, Isolation, and Service Restoration (“FLISR”); and Integrated Volt Var Optimization (“IVVO”).¹⁴ Xcel notes that “[e]ach of these investments will take years to fully implement, [so Xcel is] requesting that the Commission certify the AGIS projects pursuant to Minn. Stat. § 216B.2425, subd. 3, so that the Company may request recovery of costs in concurrent or subsequent filings, as necessary.”¹⁵ The IDP Initial Filing also references Xcel’s MYRP and Stay-Out Petition filings.¹⁶ While it appears the MYRP will be withdrawn, Xcel notes that the Stay-Out Petition approval would mean that it

would no longer request AGIS cost recovery through base rates until the Company’s next general rate case is filed. [Xcel does], however, ask the Commission to make the more limited determination to

¹⁰ Stay-Out Petition at 9; Ex. 1. In its Initial Comment XLI notes that “[o]n November 15, 2019, Xcel circulated a chart titled ‘Comparison of 2020 sales True-Up and Interim by Class’” indicating that demand customers will receive a 0.6% increase in comparison to the proposed interim rates in the MYRP filing. XLI Stay-Out Petition Initial Comment at 4 n.14.

¹¹ *In the Matter of Northern States Power Company d/b/a Xcel Energy for Approval of True-Up Mechanisms*, MPUC 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 (Mar. 13, 2020) (the “Stay-Out Order”). XLI now expects Xcel to formally withdraw its MYRP filing upon receipt of the Stay-Out Order. To be sure, XLI maintains the objections from its comments in MPUC Docket No. E-002/M-19-688, and, to the extent they are applicable, incorporates them herein.

¹² Notice of Extended Comment Period (Feb. 12, 2020) (eDocket No. 20202-160346-01).

¹³ Initial Filing at 1.

¹⁴ *Id.* at 1-2.

¹⁵ *Id.* at 2.

¹⁶ Regarding the MYRP, Xcel states “we are also filing a General Rate Case...with a three-year plan through which we seek cost recovery for much—but not all—of these AGIS investments. Because the span of the AGIS investments goes beyond the 2020 test year and 2021-2022 plan years identified in our rate case filing, and in light of the concurrent submission of this 2019 IDP, our AGIS rate case testimony provides support for our AGIS investments beyond the term of the rate case and addresses Commission requirements that pertain to both certification and cost recovery for grid modernization investments. In light of this support of our long-term strategy, we believe certification of the full scope of the AGIS investments alongside rate case cost recovery determination is critical, so that we may complete our AGIS investments at an appropriate pace and potentially include the out-year costs in a rider.” Xcel also notes that portions of its rate case testimony are included in the IDP filing. *Id.*

certify the AGIS investments and Advanced Distribution Planning Tool in this IDP, so that [it] may plan for the implementation of [its] AGIS Initiative, and preserve the option to put the AGIS costs in a rider between general rate case filings.^[17]

It appears that Xcel's certification request correlates to a spend of over \$2 billion on distribution capital and Operations and Maintenance ("O&M") expenditures in Minnesota between 2020-2024.¹⁸ A portion of that amount will be allocated to the AGIS Initiative, accounting for approximately \$641.7 million in capital and O&M expenditures (a portion of which is for business systems, as opposed to distribution, and not included in the \$2 billion five-year distribution projection), and another portion attributable to the Advanced Distribution Planning Tool, which will cost approximately \$4 million in 2020.¹⁹ While Xcel included information on rate impacts for residential customers, it did not include – nor could XLI calculate from the information provided – rate impacts or estimated cost allocation for demand-level customers.²⁰

Given the complexity of Xcel's IDP as well as its interplay with various other Xcel Commission dockets, XLI is uncomfortable with the nature, volume, and transparency of Xcel's certification requests, given that Xcel purposefully avoided a rate case, which is where many of these requests can and should be fully analyzed by the Commission and other stakeholders. Additionally, XLI does not believe the provisions in Minn. Stat. § 216B.2425 allowing for certification of distribution investments are applicable now that Xcel is no longer under a MYRP. Therefore, absent substantial clarification from Xcel, XLI requests the Commission deny Xcel's request for certification of the investments outlined in its IDP.

II. ANALYSIS

A. **Because Xcel's MYRP Expired, Minn. Stat. § 216B.2425, subd. 2(e) Does Not Permit Certification of Investments**

Minn. Stat. § 216B.2425 does not allow Xcel to identify investments for Commission certification when it is not operating under a MYRP. Minn. Stat. § 216B.2425, subd. 2(e), states that "a utility operating under a multiyear rate plan approved by the commission under section

¹⁷ *Id.* at 3.

¹⁸ *See id.* at 12-16.

¹⁹ *Id.*

²⁰ Xcel notes that its filing and requests for certification are "extensive." *Id.* at 3. XLI, therefore, welcomes any overall cost and/or cost allocation clarifications Xcel may provide in reply comments.

216B.16, subdivision 19, shall identify in its report investments that it considers necessary to modernize the transmission and distribution system.” Then, pursuant to Minn. Stat. § 216B.2425, subd. 3, the Commission may approve or deny certification of the proposed investments. Xcel states that it seeks Commission certification of the grid modernization investments outlined in the Initial Filing, so that it may subsequently recover those costs in a rider.²¹

Xcel is statutorily precluded from Commission certification, because Xcel is no longer operating under a MYRP.²² Pursuant to the settlement agreed upon by the parties (including XLI) and approved by the Commission, Xcel’s previous MYRP expired in 2019.²³ The IDP specifically addresses the period beginning after the expiration of the MYRP: 2020 to 2029.²⁴ As outlined above, the Commission approved Xcel’s Stay-Out Petition; however, XLI, a party to the previous MYRP settlement, did not support Xcel’s position.²⁵ The Commission’s order in Docket No. E-002/M-19-688 states that the Stay-Out is not a settlement or extension of a settlement; rather, it is a continuation of the rates existing at the end of the MYRP and the true-ups.²⁶ Because the previously approved MYRP expired at the end of 2019, Minn. Stat. § 216B.2425, subd. 2(e) does not permit Xcel to seek certification of distribution investments under that provision.

Because Xcel’s IDP investments are statutorily barred from certification, Xcel is also precluded from seeking cost recovery of distribution investments through a rider. Though Xcel notes in the IDP Initial Filing that Commission certification will “preserve the option to put the AGIS costs in a rider between general rate case filings,”²⁷ Minn. Stat. § 216B.16, subd. 7b(b)(5) only permits cost recovery of investments certified under Minn. Stat. § 216B.2425. As outlined above, Xcel is no longer under a MYRP, so it cannot receive certification of distribution

²¹ *Id.* at 3.

²² Stay-Out Order at 7-8.

²³ *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, MPUC Docket No. E-002/GR-15-826, Findings of Fact, Conclusions, and Order at 8-16 (June 12, 2017); *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, MPUC Docket No. E-002/GR-15-826, Stipulation of Settlement at 4 (Aug. 16, 2016) (confirming that Xcel’s MYRP ran through 2019).

²⁴ Initial Filing at Cover Page.

²⁵ See XLI Stay-Out Petition Initial Comment.

²⁶ Stay-Out Order at 7-8.

²⁷ Initial Filing at 3.

investments under Minn. Stat. § 216B.2425, subd. 2(e). Xcel is, therefore, precluded from recovering IDP investments through a rider authorized by Minn. Stat. § 216B.16, subd. 7b(b)(5).

B. Approving Xcel's Request for Certification Without a New MYRP Promotes Negative Policies and Utility Incentives

XLI is extremely concerned about, and the Commission should be wary of, certifying Xcel's request without more record development. As noted above, Xcel, via the Stay-Out Petition (which XLI opposed),²⁸ no longer has a current or pending MYRP with the Commission. And, as such, the investments outlined in the IDP are not subject to full record development by stakeholders, the Office of Administrative Hearings, or the Commission. For at least three reasons, XLI questions the policy implications of allowing Xcel to withdraw a rate case filing, where parties would have the opportunity to fully review the prudence of, and potentially challenge, the investments outlined in the IDP, while certifying the same investments in a different docket (XLI views certification as a substantial step toward cost-recovery approval).

First, there is a significant concern regarding burden of proof, and who bears that burden. Resource planning and ratemaking have historically been separate proceedings. In the resource plan, the Commission makes generic size, type, and timing decisions.²⁹ After that decision is made, the utility will often go through various additional regulatory dockets (e.g., certificate of need, site permit, etc.) before addressing cost recovery and rate design in a rate case.³⁰ In each proceeding, the utility bears the burden to support its filing.³¹ In other areas, the Commission has intervened to protect unreasonable burden-shifting from the utilities to ratepayers, which XLI remains concerned about in this docket.³² Much like a resource plan, the investments at issue in

²⁸ See XLI Stay-Out Petition Initial Comment.

²⁹ *In the Matter of Xcel Energy's 2016-2030 Integrated Resource Plan*, MPUC Docket No. E-002/RP-15-21, Order Approving Plan with Modifications and Establishing Requirements for Future Resource Plan Filings at 3-4, 9 (Jan. 11, 2017).

³⁰ *In the Matter of the Request of Minnesota Power for a Certificate of Need for the Great Northern Transmission Line Project*, MPUC Docket No. E-015/CN-12-1163, Direct Testimony and Attachments of Dr. Stephen Rakow at Department Exhibit SR-2 (Sept. 19, 2014) (attached as Exhibit A).

³¹ See, e.g., Minn. Stat. § 216B.16 subd. 4; Minn. Stat. § 216B.03 (requiring that "[a]ny doubt as to reasonableness should be resolved in favor of the consumer").

³² *In the Matter of an Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments*, MPUC Docket No. E-999/CI-03-802, Order Approving New Annual Fuel Clause Adjustment Requirements and Setting Filing Requirements at 2-5, 8-10 (Dec. 19, 2017); See *In the Matter of an Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments*, MPUC Docket No. E-999/CI-03-802, Minnesota Large Industrial Group Reply Comment at 2 (May 26, 2017) (outlining MLIG's concern that "[t]he

the IDP are very significant (more than \$2 billion). As noted above, there is no statutory basis to permit a preliminary determination regarding cost recovery (i.e., certification) of such a significant level of investment. Furthermore, permitting it would offend long-standing principals of rate regulation and ratepayer protection outlined in Chapter 216B of the Minnesota Statutes because it is unclear how Xcel's burden of proof is not lessened via certification, which necessarily increases the burden customer advocates face in any subsequent cost-recovery proceedings.

Second, and on a related note, combining resource planning dockets with rate case dockets makes it increasingly difficult for stakeholders to adequately monitor utilities' compliance with the requirements of Minn. Stat. § 216B.03. XLI (and XLI suspects many other stakeholders) does not have the bandwidth to adequately scrutinize and invest resources in reviewing various utility proposals intentionally scattered across multiple dockets.

Third, XLI fears certification of the IDP investments will incentivize Xcel and other utilities to avoid traditional rate increase filings (i.e., a general rate case) and pursue cost recovery of large expenses through miscellaneous dockets and riders. In other words, XLI is concerned that granting the relief sought by Xcel regarding the IDP, combined with approval of the recent stay-out request, will set the Commission on a slippery slope to utility cost recovery with little oversight for all utilities in Minnesota.

C. XLI Requests Additional Information in Reply Comments

Because Xcel's "extensive" IDP filing contemplates significant investment without a clear understanding of, among other things, the total costs, revenue allocation, and rate design, XLI does not believe certification of the IDP investments is appropriate at this time. At the very least, Xcel must provide additional information, subject to supplemental comments. In reply comments, XLI requests that Xcel concisely address the following: (a) total cost to ratepayers; (b) proposed revenue allocation and rate design outlining bill impacts for each customer class over the five-year period; (c) explanation of the relationship of distribution investments to transmission-level customers; and (d) explanation of the proposed rider methodology. XLI believes this information

practical result is a review where doubt is inappropriately resolved in favor of the utility, rather than the ratepayer in accordance with Minnesota law.").

is well-within reason for a request and consistent with the spirit of Minn. R. 7843.0500, which governs resource plan approval.

III. CONCLUSION

XLI is grateful for the opportunity to provide initial comments on Xcel's IDP and proposed certification of various investments. XLI does not believe the Commission has statutory authority to certify Xcel's distribution investments outlined in the IDP. XLI remains concerned about the potential precedent that may be set if the Commission allows Xcel to withdraw a large MYRP filing while still certifying significant distribution investments that were to be scrutinized as part of the withdrawn filing. This will further incentivize utilities to avoid rate cases and abuse the use of riders. Stakeholders deserve the opportunity to scrutinize Xcel's proposals. Therefore, XLI requests the Commission deny certification at this time. XLI also respectfully requests the Commission notice a supplemental comment period to allow parties to address the supplemental information XLI requests from Xcel in reply comments.

Dated: March 17, 2020

Respectfully submitted,

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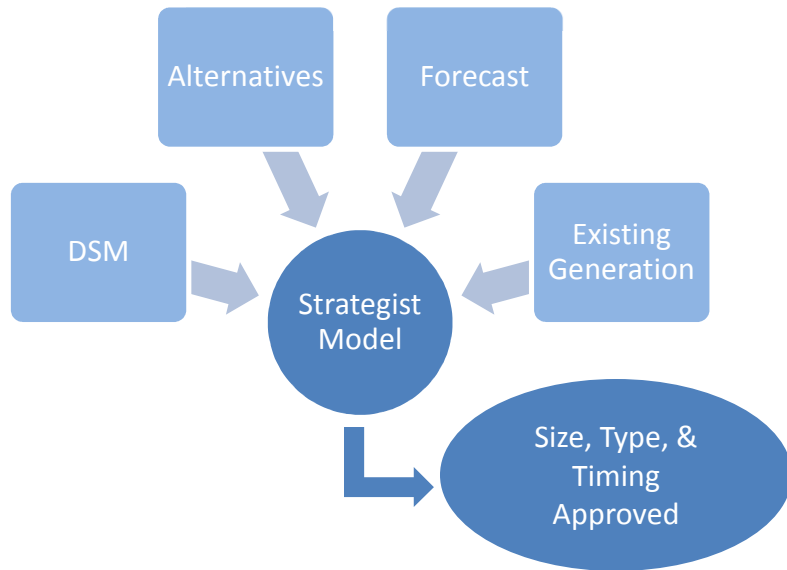
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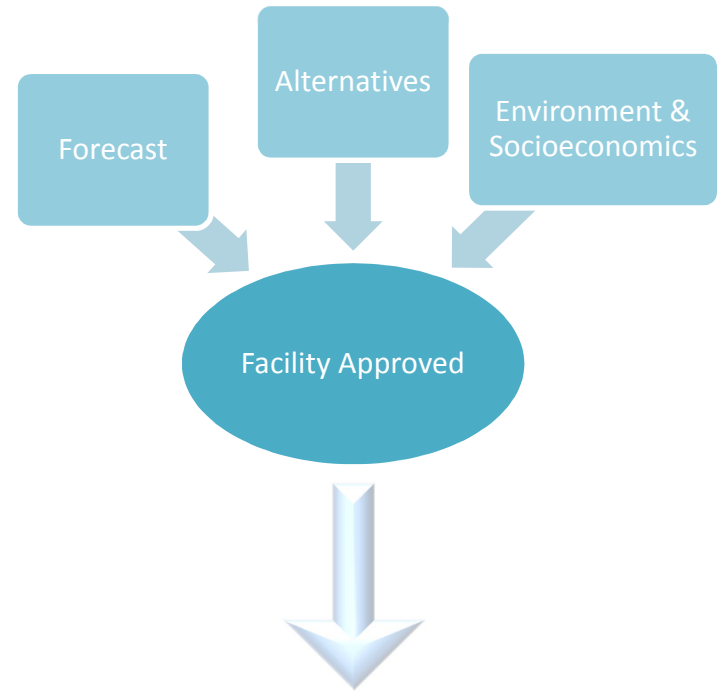
ATTORNEYS FOR XCEL LARGE
INDUSTRIALS

EXHIBIT A

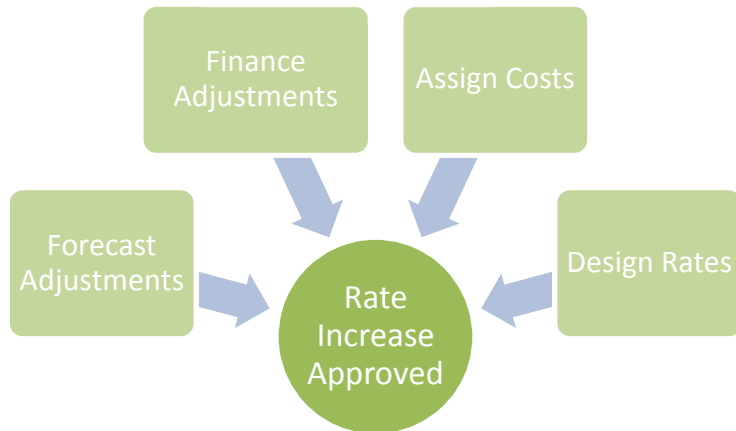
Resource Plan



Certificate of Need



Rate Case



Siting and Routing

