

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger  
David C. Boyd  
J. Dennis O'Brien  
Phyllis A. Reha  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

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

ISSUE DATE: December 26, 2012

DOCKET NO. E-002/GR-12-961

NOTICE AND ORDER FOR HEARING

**PROCEDURAL HISTORY**

On November 2, 2012, Northern States Power Company, d/b/a Xcel Energy (Xcel or the Company), filed a petition to increase its electric rates in Minnesota. The Company requested an annual rate increase of \$285,476,000, or approximately 10.7 percent.

On November 5, 2012, the Commission issued a notice to potentially interested parties requesting comments on whether the Commission should accept the filing as complete and whether it should refer the case to the Office of Administrative Hearings for contested case proceedings.

On November 19, 2012, the Minnesota Department of Commerce's Division of Energy Resources (the Department) filed comments recommending that the Commission accept Xcel's filing as complete and refer the matter to the Office of Administrative Hearings for contested-case proceedings.

Also on November 19, 2012, the group of Xcel retail customers known as Xcel Large Industrials filed comments recommending the matter be referred to the Office of Administrative Hearings for contested-case proceedings.

On December 13, 2012, the filing came before the Commission.

Contemporaneously with this order, the Commission issued two other orders in this case—one finding the rate case filing to be substantially complete, and suspending the proposed rates, and one setting an interim rate schedule for use during the suspension period.

## **FINDINGS AND CONCLUSIONS**

### **I. Jurisdiction and Referral for Contested Case Proceedings**

The Commission has jurisdiction over proposed rate changes under Minn. Stat. § 216B.16. If the Commission is unable to resolve all significant issues regarding the reasonableness of the proposed rates on the basis of the filing itself, the Commission is to refer the matter to the Office of Administrative Hearings for contested case proceedings. Minn. Stat. § 216B.16, subd. 2.

The Commission finds that it cannot satisfactorily resolve all questions regarding the reasonableness of the proposed rates on the basis of the Company's filing. The Commission will therefore refer the matter to the Office of Administrative Hearings for contested case proceedings.

### **II. Issues To Be Addressed**

Parties shall specifically and thoroughly address the following issues in the course of the contested case proceedings ordered herein:

- (1) Is the test year revenue increase sought by the Company reasonable or will it result in unreasonable and excessive earnings by the Company?
- (2) Is the rate design proposed by the Company reasonable?
- (3) Are the Company's proposed capital structure, cost of capital, and return on equity reasonable?

The Commission will require Xcel to file supplemental testimony concerning aspects of its capital structure, cost of capital, and return on equity in the Order Accepting Filing, Suspending Rates, and Requiring Supplemental Filing entered on this date. The parties may also raise and address other issues relevant to the Company's proposed rate increase.

### **III. Procedural Outline**

#### **a. Administrative Law Judge**

The administrative law judge assigned to this case is Jeanne M. Cochran. Her address and telephone number are as follows: Office of Administrative Hearing, 600 North Robert Street, St. Paul, Minnesota 55101 and (651) 361-7838. Her mailing address is P.O. Box 64620, St. Paul, Minnesota 55164-0620.

#### **b. Hearing Procedure**

- *Controlling Statutes and Rules*

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57 – 14.62; the rules of the Office of Administrative Hearings, Minn. Rules, parts 1400.5100 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, Minn. Rules, parts 7829.0100 to 7829.3200.

Copies of these rules and statutes may be purchased from the Print Communications Division of the Department of Administration, 660 Olive Street, St. Paul, Minnesota 55155; (651) 297-3000. These rules and statutes also appear on the State of Minnesota's website at [www.revisor.mn.gov/pubs](http://www.revisor.mn.gov/pubs).

The Office of Administrative Hearings conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota State Bar Association.

- *Right to Counsel and to Present Evidence*

In these proceedings, parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Under Minn. Rules, part 1400.7000, they may obtain subpoenas to compel the attendance of witnesses and the production of documents.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions.

- *Discovery and Informal Disposition*

Any questions regarding discovery under Minn. Rules, parts 1400.6700 to 1400.6800 or informal disposition under Minn. Rules, part 1400.5900 should be directed to Robert Harding, Public Utilities Rates Analyst, Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147, (651) 201-2237; or Lisa Crum, Assistant Attorney General, 1100 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (651) 757-1291.

- *Protecting Not-Public Data*

State agencies are required by law to keep some data not public. Parties must advise the Administrative Law Judge if not-public data is offered into the record. They should take note that any not-public data admitted into evidence may become public unless a party objects and requests relief under Minn. Stat. § 14.60, subd. 2.

- *Accommodations for Disabilities; Interpreter Services*

At the request of any individual, this agency will make accommodations to ensure that the hearing in this case is accessible. The agency will appoint a qualified interpreter if necessary. Persons must promptly notify the Administrative Law Judge if an interpreter is needed.

- *Scheduling Issues*

The times, dates, and places of public and evidentiary hearings in this matter will be set by order of the Administrative Law Judge after consultation with the Commission and intervening parties.

- *Notice of Appearance*

Any party intending to appear at the hearing must file a notice of appearance (Attachment A) with the Administrative Law Judge within 20 days of the date of this Notice and Order for Hearing.

- *Sanctions for Non-compliance*

Failure to appear at a prehearing conference, a settlement conference, or the hearing, or failure to comply with any order of the Administrative Law Judge, may result in facts or issues being resolved against the party who fails to appear or comply.

### **c. Parties and Intervention**

The current parties to this case are the Company and the Department of Commerce's Division of Energy Resources. Other persons wishing to become formal parties shall promptly file petitions to intervene with the Administrative Law Judge. They shall serve copies of such petitions on all current parties and on the Commission. Minn. Rules, part 1400.6200.

### **d. Prehearing Conference**

A prehearing conference will be held on Thursday, January 10, 2013 at 9:30 a.m. in the Large Hearing Room at the offices of the Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101-2147.

Persons participating in the prehearing conference should be prepared to discuss time frames, scheduling, discovery procedures, and similar issues. Potential parties are invited to attend the pre-hearing conference and to file their petitions to intervene as soon as possible.

### **e. Time Constraints**

The Commission is required to act on substantially complete rate case filings within ten months, although this ten-month period can be extended under certain circumstances. The Commission asks the Office of Administrative Hearings to conduct contested case proceedings in light of these time constraints and requests that the Administrative Law Judge submit her final report on or before July 3, 2013, to permit adequate consideration of the case by the Commission.

If the statutory deadline for the Commission's decision is extended beyond the normal ten months at any point during this proceeding for any reason (e.g., settlement discussions, waiver, etc.), the Commission requests the ALJ's report be submitted at least two months before the extended deadline for the Commission's decision.

## **IV. Application of Ethics in Government Act**

The lobbying provisions of the Ethics in Government Act, Minn. Stat. § 10A.01 et seq., apply to general rate cases. Persons appearing in this proceeding may be subject to registration, reporting, and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Campaign Finance and Public Disclosure Board, telephone number (651) 296-5148, with any questions.

## V. *Ex Parte* Communications

Restrictions on *ex parte* communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. Those restrictions and reporting requirements are set forth at Minn. Rules, parts 7845.7300 – 7845.7400, which all parties are urged to consult.

## VI. Notices Required; Delegation of Authority

Finally, the rate case statute and the Commission's rules require comprehensive notice of proposed general rate increases. Those notices are required in the ordering paragraphs below, and to promote administrative efficiency, the Commission will delegate to the Executive Secretary the authority to approve customer notices, bill inserts, and bill format for the duration of this proceeding.

### **ORDER**

1. The Commission hereby refers this case to the Office of Administrative Hearings for contested case proceedings, as set forth above.
2. The Company shall promptly mail copies of this Order to all municipalities, counties, and local governing authorities within its Minnesota service area.
3. Public hearings shall be held in this case at locations within the service area of the Company; those locations shall be set by the Administrative Law Judge after consultation with the parties and Commission staff.
4. The Company shall give the following notices of the evidentiary and public hearings:
  - a. Individual written notice to each customer, which may be in the form of a bill insert, and shall be served at least ten days before the first day of hearings.
  - b. Written notice to the governing bodies of all municipalities, counties, and local governing bodies in the area affected and to all parties in the Company's last two rate cases. These notices shall be mailed at least ten days before the first day of hearings.
  - c. Display advertisements in legal newspapers of affected counties and other newspapers of general circulation within the Company's Minnesota service area. These advertisements shall appear at least ten days before the first day of hearings. They shall include the heading **RATE INCREASE NOTICE**, which heading shall appear in bold face type no smaller than 30 points.
5. The company shall submit proposed notices for Commission approval prior to publication or service.

6. The Commission delegates to the Executive Secretary the authority to approve customer notices, bill inserts, and bill format for the duration of this proceeding.
7. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary



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

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
121 Seventh Place East Suite 350  
St. Paul, Minnesota 55101-2147

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**NOTICE OF APPEARANCE**

Name, Address and Telephone Number of Administrative Law Judge: Jeanne M. Cochran,  
Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101 and  
(651) 361-7838. Her mailing address is P.O. Box 64620, St. Paul, Minnesota 55164-0620.

TO THE ADMINISTRATIVE LAW JUDGE:

You are advised that the party named below will appear at the above hearing.

NAME OF PARTY:

ADDRESS:

TELEPHONE NUMBER AND E-MAIL ADDRESS:

PARTY'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PARTY OR ATTORNEY: \_\_\_\_\_

DATE: \_\_\_\_\_