

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of Northern States Power  
Company d/b/a Xcel Energy's Petition for  
Approval of Deferred Accounting Treatment  
for Various Tax Matters

ISSUE DATE: March 30, 2006

DOCKET NO. E-002/M-05-1471

ORDER APPROVING DEFERRED  
ACCOUNTING

**PROCEDURAL HISTORY**

On September 14, 2005, Northern States Power Company d/b/a Xcel Energy (Xcel) filed a petition seeking deferred accounting for \$471,678 of interest and tax credits after offset by fees paid to PriceWaterhouseCoopers (PWC) resulting from the Research and Experimentation tax credit project.

On November 29, 2005, Myer Shark filed comments challenging Xcel's practice of deferred accounting, arguing that Xcel is allowed to keep and use money belonging to ratepayers without paying interest on the money. Mr. Shark also challenged whether the level of expertise provided in the rate case budget was sufficient to staff an aggressive tax posture internally, or whether the services of PWC were required.

On January 13, 2006, the Department of Commerce (the Department) filed comments, recommending that the Commission grant deferred accounting. The Department recalculated the amount for which deferred accounting should be granted, to take into account the reduction it proposed for fees paid to PWC. The Department recommended that the Commission approve \$501,901 net tax refund amount for deferral to the current electric rate case to be recorded in Account 254, Other Regulatory Liabilities.

In its reply filed January 23, 2006, Xcel accepted the Department's adjustments to the fees paid to PWC and further revised the calculation of the interest and tax credits resulting in a total requested deferral amount of \$682,134.

On March 16, 2006, this matter came before the Commission.

## FINDINGS AND CONCLUSIONS

### **I. Positions of the Parties**

Xcel has concluded a Research and Experimentation credit project, and an IRS audit of the tax credits resulting from the project for years 1995 - 1997.<sup>1</sup> In its Petition, Xcel filed for approval of deferred accounting treatment of \$471,678 in interest income and tax, offset by fees paid to PWC as a result of the tax credit project.

Xcel asserted that the accounting treatment sought is consistent with that established by the Commission in Xcel's last electric rate case in 1992. Xcel requested that the funds be held in the deferred account for determination of future return to ratepayers in its pending electric rate case.

Xcel asserted that the requested deferral is: 1) related to electric utility operations for which ratepayers have incurred costs or received benefits; and 2) constitutes an unusual and significant amount. Xcel argued that it is appropriate to include the PWC fee as an offset to the interest and tax income, because the income would not have been generated without the fee being paid to PWC.

The Department of Commerce (Department) reviewed Xcel's Petition and recommended:

1. that the proposed deferred accounting treatment (prior to the netting of PWC fees) is consistent with those previously approved by the Commission in Docket Nos. E-002/M-93-1328 and E-02/M-04-1605;
2. that Xcel should be allowed to net \$132,619 of PWC fees instead of the requested \$162,842 of PWC fees; and
3. that Xcel's proposal of \$501,901 net tax refund amount should be allowed for deferral to the current electric rate case and recorded in Account 254, Other Regulatory Liabilities.

Xcel accepted the Department's adjustment, and further increased the amount for deferral to \$682,134 after the recalculation described in Xcel's reply comments.

### **II. Myer Shark Comments**

On November 29, 2005, ratepayer Myer Shark filed comments in this docket. Mr. Shark challenged Xcel's practice of deferred accounting, arguing that Xcel is allowed to keep and use money belonging to ratepayers, often for many years, without paying interest on the money.

---

<sup>1</sup> Although the R&E credit project covered the years 1995 - 2002, the present proposal only addresses the tax credits for the years 1995 - 1997, as the years after 1997 are still under audit with the IRS.

Mr. Shark argued that interest should be accrued as an incentive for Xcel to repay ratepayers promptly, just as Xcel's late fees are incentives for ratepayers to pay promptly.

Mr. Shark also challenged whether the level of expertise provided in the rate case budget was sufficient to staff an aggressive tax posture internally, or whether the services of PWC were required. Finally, Mr. Shark questioned whether maintenance of an aggressive tax posture by Xcel is a prerequisite of maintaining its certificated of need.

### **III. Commission Action**

#### **A. Prior Commission Treatment of Deferred Accounting Issues**

The final Order in Xcel's 1992 electric rate case<sup>2</sup> included adjustments for out of test year disputed income tax items and addressed the request for a tax tracker. The Commission denied the Company's request for the automatic accumulation of tax matters between rate cases. The Commission required Xcel to seek deferred accounting treatment for both tax credits and debits at the time the final decisions are received on disputed items.

To maintain an element of control over the items deferred, the Commission will require that the Company petition for deferred accounting status of both tax credits and debits at the time the final decisions are received on the disputed items.<sup>3</sup>

As a means to retain control over items to be deferred, the Commission required filing for its approval. The Commission limited requests for deferred accounting to tax items that are significant in amount and unusual in nature, and for which ratepayers have incurred costs or received benefits. Docket No. 92-1185 at 58.

In Docket No. E-002/M-93-1328, NSP filed for deferred accounting in the amount of \$1,558,881 of interest charges after an IRS audit of 1987 and 1988, Minnesota income tax charges for 1985 - 1988, and Minnesota sales and use tax return for 1985 - 1987. The Commission found that each item met the standards established in the 1992 rate case: that they are "significant and unusual;" and, "related to utility operations." The Commission accordingly granted the request.

Since the last rate case, Xcel has also filed for deferred accounting for tax adjustments in 1996<sup>4</sup>

---

<sup>2</sup> *In the Matter of the Application of Northern States Power Company for Authority to Increase Its Rates for Electric Service in the State of Minnesota*, Docket No. E-002/GR-92-1185, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER at 58 (September 29, 1993).

<sup>3</sup> *Id.* at 58.

<sup>4</sup> In Docket No. E-02/M-96-1293, the Commission denied the request for deferred accounting treatment, finding that although the interest income (which was for interest income

and 2004.<sup>5</sup>

## **B. Parameters for Deferred Accounting Status**

The Commission recognizes that deferred accounting is a regulatory tool that is not generally used. It has traditionally been reserved for costs that were unusual, unforeseeable and large enough to have a significant impact on the utility's financial condition.<sup>6</sup> Deferred accounting also has been permitted when utilities have incurred sizeable expenses to meet important public policy mandates.<sup>7</sup>

The Commission finds that the tax items for which Xcel petitioned for deferred status are similar in nature to those given deferred status by the Commission in its 1992 rate case - the appropriate handling of tax events occurring significantly after the original tax returns are filed and related levels of expense are set in rates. The Commission agrees with the Department and Xcel that deferred accounting should be permitted in this case.

Xcel has concluded an R&E credit project as well as the IRS audit of the tax credits resulting from the project for the years 1995 - 1997. The items for which deferral is sought are 1) related to electric utility operations for which ratepayers have incurred costs or received benefits; and 2) constitute a significant and unusual amount.

The Commission finds that the proposed deferred accounting treatment (prior to the netting of PWC fees) is consistent with those previously approved by the Commission in Docket Nos. E-002/M-93-1328 and E-02/M-04-1605. The Department and Xcel concur that the correct amount for deferred accounting treatment is \$651,911 in interest income and tax credits.

Further, the Commission will allow Xcel to net \$132,619 of PWC fees instead of the requested \$162,842 originally sought. Although the PWC efforts were responsible for obtaining the tax credits, base rates did include an amount for outside services of a similar nature. Therefore, it is

---

related to an IRS audit of 1989 - 1991 federal income tax returns) was related to Minnesota electric and gas operations, the size of the request was not "significant and unusual."

<sup>5</sup> In Docket No. E-002/M-04-1605, the Commission approved the proposed deferred accounting treatment sought for interest income and tax associated with Minnesota electric operations. The interest income and tax related to federal income tax returns filed from 1989 - 1994, 1995 - 1997, and Minnesota income tax returns filed from 1987 - 1994.

<sup>6</sup> *In the Matter of the Application of Northern States Power Company Gas Utility for Approval of Deferred Accounting for Certain Manufactured Gas Plant Site Cleanup Costs*, Docket No. G-002/M-94-104, ORDER GRANTING REQUEST FOR DEFERRED ACCOUNTING (September 6, 1994).

<sup>7</sup> *In the Matter of Peoples Natural Gas Company's Request to Establish a Tariff for Repairing and Replacing Farm Tap Lines*, Docket No. G-011/M-91-989, ORDER PERMITTING COMPANY TO CONTINUE DEFERRED ACCOUNTING (February 17, 1998).

appropriate to calculate an offset to the PWC fees for outside services built into base rates. Excluding the agreed-upon reduction in the PWC fee increases the net deferred interest and tax amount to \$682,134.

Finally, the Commission finds that the \$682,134 net tax refund amount should be allowed for deferral to the current electric rate case and recorded in Account 254, Other Regulatory Liabilities.

**ORDER**

1. The Commission hereby approves Xcel's request for deferred accounting, as set forth herein.
2. Xcel shall record \$682,134 net refund amount for deferral to the current Xcel electric rate case, with the amount recorded in Account 254, Other Regulatory Liabilities.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 201-2202 (voice) or 1-800-627-3529 (MN relay service).