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September 9, 2008

SEP 11 2008

PUBLIC SERVICE COMMISSION

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: Comments of the Minnesota Office of Energy Security
Docket No. G002/CI-08-871

Dear Dr. Haar:

Attached are the comments of the Minnesota Office of Energy Security (OES) in the following matter:

Investigation into Northern States Power Company d/b/a Xcel Energy Inaccurate Gas Meters, Recalculation of Bills, and Related Issues.

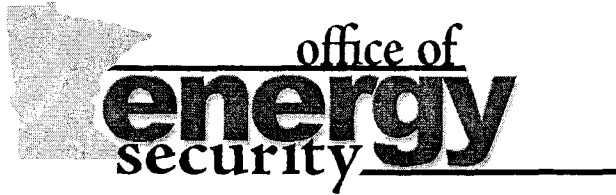
On August 1, 2008, the Minnesota Public Utilities Commission (Commission) issued a Notice Directing Xcel Energy to Make a Filing and Establishing Comment Periods. On August 21, 2008, Northern States Power Company, a Minnesota Corporation (Xcel or the Company) submitted its response to the Commission's August 1, 2008 Notice.

The OES recommends that the Commission conditionally approve Xcel Energy's proposed Rebilling Plan pending the submission and consideration of additional information.

Sincerely,

/s/ SUSAN MEDHAUG
Planner Principal

SM/jl
Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA OFFICE OF ENERGY SECURITY

DOCKET NO. G002/CI-08-871

I. BACKGROUND AND SUMMARY OF RESPONSE

According to the August 1, 2008 Minnesota Public Utilities Commission's (Commission) Notice Directing Xcel Energy to Make a Filing and Establishing Comment Periods (Notice), Northern States Power Company, a Minnesota Corporation (Xcel or the Company) informed Commission Staff on July 17, 2008 that some gas meters in the St. Cloud area appeared to be malfunctioning. The Notice directed Xcel to:

... clearly explain: the nature and scope of the metering equipment failures; the proposed method(s) for estimating usage; the proposed methods for calculating re-billings; the terms and conditions for repayment by customers; and how Xcel is complying with Minn. Rules, Part 7820.3900, including subp. 4.

The Notice also included a set of questions that Xcel was directed to answer.

On August 21, 2008, Xcel submitted its Response to Commission Notice and Rebilling Plan (Response). The Response can be summarized using the following three categories: 1) description and extent of the malfunction, 2) Xcel's reaction to the situation, and 3) Xcel's Proposed Rebilling Plan.

A. DESCRIPTION AND EXTENT OF THE MALFUNCTION

Xcel states that it discovered, subsequent to their installation, that a specific model of a natural gas meter-reading module (1074 v.2) is prone to mechanical malfunction. Specifically, the pins that attach the module's drive shaft to the meter and turn the meter index tend to shear off or bend. Sheared off pins result in the gas meter registering no usage. Bent pins result in the gas

meter registering intermittent usage. These malfunctions are caused by design flaws described in the Response and classified as trade-secret information.

Xcel states that the 1074 v.2 module was selected to be used in its plan to expand automated meter reading (AMR) in its system and for “new build” applications and routine maintenance. This particular module was used only on gas meters for residential and small commercial customers.

According to Xcel, approximately 64,500 1074 v.2 modules were installed in Minnesota beginning in March of 2006. The majority of the 1074 v.2 modules used in Minnesota were installed beginning in August 2007 as a result of the St. Cloud Expansion Project. A significant number were installed in the Moorhead and East Grand Forks areas. Several thousand were installed in the Twin Cities Metropolitan Area (approximately 7,600 modules) and various other areas (e.g. Princeton: 724 modules, Spicer: 1,182 modules, Delano: 1,291 modules). Installation of the 1074 v.2 module was discontinued in early 2008.

The Company estimates that approximately 20,500 natural gas AMR modules in Minnesota have been flagged as not registering any usage for a relevant time period. As of the end of July 2008, approximately 23,100 of the 1074 v.2 modules installed in Minnesota have been replaced. Xcel states that it is in the process of retrofitting all remaining 1074 v.2 modules on its Minnesota and Wisconsin systems. Approximately 1,300 customers have been rebilled and approximately 8,300 more are expected to be rebilled.

B. XCEL'S REACTION TO THE SITUATION

Xcel states that it began to notice billing anomalies in the Fargo/Moorhead area in January 2008. Field investigations revealed that the anomalies were caused by problems with the 1074 v.2 module. Due to this discovery, Xcel worked with its contractor, Cellnet,¹ to identify possible 1074 v.2 module failures in the St. Cloud, Fargo/Moorhead and Grand Forks/East Grand Forks area. In early February, 2008, the data received indicated that the AMR modules used for the St. Cloud Expansion Project as well as for an upgrade project in the Fargo/Moorhead and Grand Forks/East Grand Forks areas were showing no consumption.

Xcel states that, from February through July 28, 2008, it has rebilled Minnesota customers affected by the 1074 v.2 module failure. Rebilling stopped at the request of Commission Staff. Xcel further states that all collection activities have been put on a 60-day hold for customers already rebilled due to the 1074 v.2 module issue.

The Company states that, during the week of August 11, 2008, it began calling customers that were rebilled prior to July 29, 2008 who were participants in the Automatic Pay Plan (APP), Averaged Monthly Payment Plan (AMP), or who were on a payment arrangement. Xcel states

¹ Cellnet provides meter reading, maintenance, and deployment services for Xcel Energy.

that the rebilling process terminated these customers' participation in these plans. Xcel did not address why this was done in August of 2008 rather than as customers were being rebilled.

C. XCEL'S PROPOSED REBILLING PLAN

Xcel states that its proposed Rebilling Plan corrects for the unrecorded natural gas usage during the time of the module malfunction. The Company is reasonably able to determine the day the meter stopped registering usage and the date the module was replaced. In cases of intermittent recording of usage, Xcel states that billing records are used to approximate when the usage pattern changed.

Once the rebilling period has been determined, Xcel states that it proposes to use consumption information from the same period for the prior two years to determine an estimate of actual consumption during the period. The lower consumption level from the prior two years is used as the estimate for rebilling purposes. Should the customer provide evidence that a lower consumption level should be used (e.g. prolonged absence, installation of energy-efficient furnace), Xcel states that it will adjust its estimate.

In cases where historical consumption is not available, Xcel proposes to base its estimate on the prior occupant's usage level. For new construction with no prior usage, Xcel will not rebill the customer. If Xcel did not respond within 10 days to a customer inquiry regarding the meter module issue, the customer will not be rebilled for the period between the customer's inquiry and the date the meter was checked.

The Company states that all applicable rates, riders, taxes, purchased gas adjustments, and franchise fees in effect during the rebilling period are applied to the estimated usage.² Xcel states that a customer who has been rebilled will not be subject to late fees on the initial rebill or for the duration of any repayment plan. Payment arrangements of up to twelve months in duration are proposed to be offered. Xcel requests flexibility in addressing rebilling low-income customers.

II. OES ANALYSIS

The OES analysis focuses on Xcel's proposed Rebilling Plan and does not specifically address the causes of the billing errors, or Xcel's methods for detecting them and reporting them to the Commission. However, the OES is concerned that a billing error of this magnitude was not brought promptly to the attention of the Commission and the Commission's Consumer Affairs Office. Since Xcel's current process for communicating this sort of issue was clearly inadequate, the OES supports Xcel's plan to develop a process that will ensure timely and accurate communication with the Commission and other State Agencies. OES requests that Xcel provide

² Xcel states that all customer billings back to the affected period are first cancelled and then rebilled.

information regarding this new process, how it will be different from the current process, and a timeline for implementation.

The OES analysis below focuses on the reasonableness and appropriateness of Xcel's proposed Rebilling Plan, including whether the proposed customer communication relating to the issue is adequate. The OES also assesses whether Xcel's proposed Rebilling Plan results in consistent treatment among customers that will be rebilled under the Plan, customers affected by the 1074 v.2 module malfunction but rebilled prior to July 29, 2008, and customers affected by the 1074 v.2 module malfunction but not identified as such. Finally, the OES evaluates how well the Company's customer service agents may be prepared to assist customers subject to the rebilling process.

A. REASONABLENESS OF REBILLING PLAN

Minnesota Rules part 7820.3900, subp. 2 states:

When the average error cannot be determined by test because the meter is not found to register or is found to register intermittently, the utility may charge for an estimated amount of gas used, which shall be calculated by averaging the amounts registered over corresponding periods in previous years or in the absence of such information, over similar periods of known accurate measurement preceding or subsequent thereto, but in no event shall such charge be for a period longer than one year.

Further, subpart 3 states in part:

If the recalculated bills indicate that the amount due the utility exceeds \$10, the utility may bill the customer for the amount due. The first billing rendered shall be separated from the regular bill and the charges explained in detail.

Xcel's Minnesota Gas Rate Book, Section No. 6, 5th Revised Sheet No. 12 essentially repeats the rule, as follows:

In the event that a meter is inaccurate, fails to register, or registers intermittently, and this meter error results in a billing error, the Company shall recalculate bills for errors resulting in over-charges up to a maximum of three years from the date of discovery If a customer has been undercharged as a result of the error, the Company may rebill the customer if the amount due exceeds \$10.00. The first billing of the recalculated amount due will be

separately billed on a form different from the normal bill form and include a complete explanation of the billing.

Xcel's Rebilling Plan appears to comply with the basic requirements of the rule and its tariff. Xcel's Rebilling Plan sets forth additional detail, such as the time period used to estimate gas usage, the maximum number of months over which payment arrangements may span, and how situations in which the customer has relocated within the system or who is new to the system are handled. Sufficient detail is provided in most instances to allow the OES to conclude that the Plan may be reasonable.

However, not enough detail is provided to enable the OES to conclude that the Rebilling Plan addresses low-income customer accounts in a reasonable manner. Xcel requests flexibility when handling the rebilling of low-income customers but does not specifically justify or explain this request. Given the financial vulnerability of low-income customers, arguably more specificity should be included in a Rebilling Plan regarding the impacts of a rebilling for these customers than for others. Complications due to the customer's potential participation in the Low-Income Heating and Energy Assistance Program (LIHEAP) and other assistance programs may make it impossible for the same financial support to be available for the rebilling that may have originally been available to the customer had they been correctly billed. Although Xcel's proposed Rebilling Plan allows customers to establish payment arrangements with the Company to spread payment of the rebilled amount over a period of up to 12 months, the rebilling may still result in financial hardship caused by an error for which the customer was not at fault. Therefore, the OES recommends that Xcel inform the Commission of the guiding concepts it will use when making decisions regarding low-income customer accounts. Xcel should provide several examples of the situations it expects to handle, showing how the guidelines contribute to resolutions that are relatively consistent among customers and that is more likely to err in favor of the customer than the Company.

B. CUSTOMER COMMUNICATION

The OES reviewed the letter that Xcel included in the proposed Rebilling Plan (see Attachment 3 of Xcel's Response) that is intended to notify each affected customer of the gas meter malfunction and that a rebilling will occur. The OES concludes that the letter is fairly clear, with the exception of the note at the bottom pertaining to interest and late fees. A sentence in the body of the letter states:

If you choose to set up a payment arrangement, you will not be charged interest or late fees.**

The note associated with the sentence states:

****Per Xcel Energy credit guidelines, interest and late fees are waived so long as payments are received during the prescribed timeframe of the payment program. If payments are not received by the due date, interest and late fees may be charged.**

The last sentence of this note appears to conflict with the referenced sentence in the body of the letter and with the proposed Rebilling Plan.³ To enhance clarity, the OES recommends that the last sentence of the note be edited as follows:

If full payment ~~are~~ is not received by the ~~due date~~ end of the prescribed timeframe of the payment plan, interest and late fees may be charged.

The OES notes that payment arrangements are only discussed in the portion of the letter referring to previous plan participation and previous payment arrangements. The OES recommends that the letter make it clear that Xcel understands that the rebilling may be a financial hardship and assure all customers that they have the option of making payment arrangements – whether the customer had previously been on a payment arrangement or not. Therefore, the OES recommends the following addition (or something similar) to the second paragraph after the large box:

The other billing statement shows the recalculation of the billings subsequent to the new equipment being installed, and *is the statement you should use to submit payment.* Xcel understands that the amount now owed may be difficult for many customers to pay by the due date. Xcel encourages those customers to contact a Customer Service Representative to set up a Payment Arrangement.**

Further, the last sentence of the letter containing the phone number for Xcel's Customer Service Representative should incorporate the phrase "to establish or re-establish a payment arrangement" to the list of reasons to call.

³ The proposed Rebilling Plan states, "We will not assess late charges for the initial rebill or the duration of any repayment plan."

C. CONSISTENT TREATMENT OF ALL CUSTOMERS AFFECTED BY 1074 V.2 ISSUE

There are small, but potentially confusing inconsistencies within the filing which may indicate a disparity of treatment among those customers already rebilled, those who will be rebilled under the Rebilling Plan, and those who are rebilled who are not believed to be a part of the 1074 v.2 issue.

1. Already Rebilled vs. Not Yet Rebilled

On page 2 of Attachment 1 of Xcel's Response, the Company states:

If insufficient data exists for the premise (i.e., new construction) *we will not* rebill the customer." (*Emphasis added.*)

However, on page 13 of Attachment 2, Xcel states:

If the account is new construction, or we otherwise do not have sufficient consumption history for a customer at a specific premise, *our general practice is to not* rebill because we do not have sufficient data to accurately create an estimated rebill." (*Emphasis added.*)

The OES assumes that the quote from Attachment 2 refers to Xcel's handling of the rebilling prior to the development of the Rebilling Plan in the current docket. If so, a customer without sufficient prior consumption history may have been rebilled even though Xcel does not intend to rebill customers in the same situation going forward. The OES requests that Xcel explain in reply comments why these two statements above are somewhat different.

Further, the April 7, 2007 script provided to Xcel's Customer Service Representatives states, "However, we used the previous year's history to rebill these accounts." Under Xcel's proposed Rebilling Plan, two years of consumption date is reviewed in determining estimated consumption for rebilling purposes.

The OES recommends that the Commission direct Xcel to review accounts already rebilled to ensure that the terms of the Commission-approved Rebilling Plan are applied to them as well.

2. Appropriateness of Applying the Rebilling Plan to Customers in Selected Areas Only

The OES is also concerned that, although the 1074 v.2 module was installed in more places than the St. Cloud, Fargo-Moorhead, and Grand Forks-East Grand Forks areas; Xcel states the following on page 11 of Attachment 2:

The 1074 v.2 model module was installed in a number of communities in our service territory. However, we believe that this module only experienced abnormal failure rates in the Fargo/Moorhead, Grand Forks/East Grand Forks and St. Cloud areas. While the 1074 v.2 model module was installed in the Twin Cities Metropolitan area on a new build and maintenance basis, we are not aware of abnormal failure rates in this area.

Further, customer service scripts direct agents to follow certain guidance for “St. Cloud, MN, and Fargo and Grand Forks, ND, areas” and goes on to say, “However, Billing Services continues to work on routine dead register cancel/rebills on accounts **not** affected by this problem.” The guidance for July 17, 2008 states, “All customers affected by this issue have been identified and Xcel Energy is now undertaking the process of issuing a cancel/re-bill for those accounts.” However, Xcel states in Attachment 2, page 4, that approximately 23,100 of the 1074 v.2 modules (out of the 64,500 installed in Minnesota) have been replaced and that the Company continues to see module failures. The OES concludes that since the laws of physics apply fairly consistently throughout Minnesota, many customers who may have been or will be affected by the 1074 v.2 issue will be treated as a routine dead register situation rather than be included in the Rebilling Plan.

Whether it is appropriate to treat non-1074 v.2 situations differently than Xcel would any “routine dead register cancel/rebills” may not be an issue. However, the OES does not agree that it is appropriate to apply the Rebilling Plan only to customers in the Fargo-Moorhead, Grand Forks-East Grand Forks and St. Cloud areas when it is clear that thousands of customers in other areas may also be affected. Though it may be difficult to ascertain whether or not the customer has been affected by the 1074 v.2 issue, the Rebilling Plan should apply universally to all customers who are rebilled due to a 1074 v.2 module malfunction. It may be easier and more appropriate to apply the Rebilling Plan to all customers, regardless of the cause of the rebilling, until all of the 1074 v.2 modules have been replaced or retrofitted. The OES invites Xcel to respond to these two approaches, both (1) ensuring that all customers who had 1074.2 modules installed being subject to the Rebilling Plan when such modules fail, until all modules have been replaced or retrofitted, or (2) apply the Rebilling Plan to all customers, regardless of the cause of rebilling until all of the modules have been replaced or retrofitted.

D. INSTRUCTIONS TO CUSTOMER SERVICE REPRESENTATIVES

The OES observes that a reasonable plan is only reasonable on paper until it is properly implemented. While Xcel may agree to improve communications with the Commission and State Agencies regarding any similar issue that may occur in the future, it is also important for Xcel to clearly communicate all Commission requirements to Company staff who will be responsible for implementing those requirements. Given the examples in Xcel’s Response of scripts and directions given to the Company’s customer service staff, the OES sees the potential

for implementation of the Rebilling Plan to fall short of the Commission's goals due to incomplete or misleading information given to Xcel's Customer Service Representatives. Assuming the Commission will approve a Rebilling Plan in some form, the Customer Service Representatives and Billing Services staff should be required to read the Commission-approved Rebilling Plan in its entirety and use it when working with the affected customers.

E. MISCELLANEOUS

OES notes that Xcel mentions (Response Attachment 2, page 36 and 37) two financial reporting controls that were out of compliance in 2008, one of which remains out of compliance. OES requests that Xcel provide a plan and timetable for bringing this control into compliance.

Finally, in Attachment H of Xcel's Response, parts of the scripts for March and April 2007 seem to indicate that estimated bills were given to customers as the "dead meters" were identified and before they were fixed which were then rebilled once functioning equipment was installed.⁴ The OES notes that Minnesota Rules part 7820.3400 and Xcel's tariff allow estimated bills in instances where access to the meter cannot be gained and the customer does not supply a reading. The OES requests that Xcel clarify whether estimated bills were given to some customers prior to rebilling.

III. SUMMARY AND RECOMMENDATIONS

The OES recommends that the Commission conditionally approve Xcel's Rebilling Plan pending the submission and consideration of the following additional information:

- guiding concepts that Xcel intends to use when making decisions regarding rebilling low-income customer accounts;
- several examples of situations involving low-income customer accounts to illustrate how the guidelines contribute to relatively consistent resolutions among customers and that those resolutions are more likely to err in favor of the customer rather than Xcel;
- plan and timetable for bringing the out-of-compliance financial reporting control into compliance; and

⁴ e.g., "The problem created dead meter registration, which caused estimate billing." "If the account has been rebilled due to estimated usage, offer payment arrangements to eligible customers." "Assure customers that any late payment charges assessed because of an estimated bill will be reversed." "Billing began processing the PTJs by using an index to reset and correct the read back to actual read, which generated corrected billing."

- clarification regarding whether estimated bills were given to some customers affected by the 1074 v.2 issue prior to rebilling them.

Further, the OES recommends that the Commission require Xcel to:

- make certain edits to its proposed customer notification letter, as set forth in Section II.B of these comments;
- review accounts already rebilled to ensure that the terms of the Commission-approved Rebilling Plan are applied to them as well;
- apply the Rebilling Plan to: (1) all customers rebilled due to a 1074 v.2 module malfunction or to (2) all customers, regardless of the cause of the rebilling, until all of the 1074 v.2 modules have been replaced or retrofitted; and
- require Customer Service Representatives and Billing Services staff to read the Commission-approved Rebilling Plan in its entirety and use it when working with the affected customers.

/jl

G002/CI-08-871

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