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PUBLIC SERVICE COMMISSION

STATE OF MINNESOTA

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September 19, 2008

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

Re: *In the Matter of an Investigation into Northern States Power Company d/b/a Xcel
Energy Inaccurate Gas Meters, Recalculation of Bills, and Related Issues*
Docket No. G-002/CI-08-871

Dear Dr. Haar:

Enclosed herewith for filing please find Reply Comments of the Office of the Attorney General -- Residential and Small Business Utilities Division and an affidavit of service. By copy of this letter service is made upon all parties.

Sincerely,

s/ William T. Stamets

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Enclosure

cc: Parties on Service List

AG: #2310571-v1

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**Reply Comments of the MN Office of Attorney
General before the MN Public Utilities Commission**

Public Service Commission

PSC Staff

STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

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J. Dennis O'Brien	Commissioner
Tom Pugh	Commissioner
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Betsy Wergin	Commissioner

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

Docket No. G-002/CI-08-871

**REPLY COMMENTS OF THE OFFICE OF
THE ATTORNEY GENERAL
RESIDENTIAL AND SMALL BUSINESS
UTILITIES DIVISION**

The Office of the Attorney General -- Residential and Small Business Utilities Division ("OAG") offers these Reply Comments in response to the Minnesota Office of Energy Security's ("OES") September 9, 2008 Comments in the above referenced docket.¹

The OAG supports the OES's recommended conditions and agrees that the additional information requested by the OES would assist the Commission in designing a re-billing plan. However, the OAG disagrees that these conditions make Xcel's proposed re-billing plan appropriate. The OAG submits these brief Reply Comments to address the perceived deficiencies in the OES's analysis regarding the appropriateness of Xcel's proposed re-billing plan.

First, the OES concludes that Xcel's proposed re-billing plan appears to comply with the requirements of Minnesota Rule 7820.3900 and Xcel's tariff.² The OAG continues to believe

¹ Comments of the Minnesota Office of Energy Security, *In the Matter of an Investigation into Northern States Power Company, a Minnesota Corporation, Inaccurate Gas Meters, Recalculation of Bills, and Related Issues*, MPUC Docket No. G-002/CI-08-871 (September 9, 2008).

that Minn. R. 7820.3900 does not contemplate the widespread failure of metering equipment, and, in particular, does not contemplate failures due to design or manufacturing defects or where the company fails to notify anyone of the problem for approximately seven months.³ For this reason, the OAG disagrees with the OES to the extent that the OES believes that Xcel's apparent compliance with Minn. R. 7820.3900 and its tariff makes the proposed re-billing plan appropriate.

Second, the OAG believes that Xcel's proposed re-billing plan is inappropriate because it fails to fully acknowledge Xcel's service obligations under Minnesota Rule 7826.1000. Minn. R. 7826.1000 states:

Utilities shall replace a malfunctioning meter within ten calendar days of receiving a report from a customer questioning its accuracy *or within ten calendar days of learning in some other way that it may be inaccurate.*⁴

Xcel's proposed re-billing plan recognizes Xcel's obligation to respond to consumer inquiries about the accuracy of a meter within ten days of the consumer's inquiry.⁵ However, Xcel's proposed re-billing plan ignores Xcel's obligation to replace a malfunctioning meter *within ten calendar days of learning in some other way that it may be inaccurate.* The OAG disagrees with

(Footnote Continued From Previous Page)

² *Id.* at 5.

³ Comments of the Office of the Attorney General - Residential and Small Business Utilities Division, *In the Matter of an Investigation into Northern States Power Company, a Minnesota Corporation, Inaccurate Gas Meters, Recalculation of Bills, and Related Issues*, MPUC Docket No. G-002/CI-08-871 (September 9, 2008) at 3-4.

⁴ Emphasis added.

⁵ See Response to Commission Notice and Rebilling Plan, *In the Matter of an Investigation into Northern States Power Company, a Minnesota Corporation, Inaccurate Gas Meters, Recalculation of Bills, and Related Issues*, MPUC Docket No. G-002/CI-08-871 (August 21, 2008) at 8. (Xcel's re-billing plan proposes to exclude from re-billing all customers who contacted Xcel regarding meter performance if Xcel failed to investigate the meter problem within ten days).

the OES to the extent that it supports re-billing customers if Xcel failed to replace a malfunctioning meter within ten calendar days of learning that the meter may be inaccurate. The OAG believes that any re-billing plan that fails to recognize the second component of the Minn. R. 7826.1000 service obligation is inappropriate.

Xcel's August 21, 2008 Comments indicate that Xcel received data in early February 2008 indicating that 1074 v.2 model modules installed as part of the St. Cloud, Fargo/Moorhead, Grand Forks/East Grand Forks expansion showed no consumption.⁶ Pursuant to Xcel's obligations under Minn. R. 7826.1000, Xcel was required to replace these meters within ten calendar days of receiving the data. The OAG believes that Xcel violated its service obligations to the extent that it failed to replace all affected 1074 v.2 model modules in the expansion areas within ten calendar days of the early February 2008 date.

The OAG opposes any re-billing plan that fails to hold Xcel accountable for its obligations under Minn. R. 7826.1000 and therefore opposes the OES's recommendation to approve Xcel's re-billing plan as conditioned by the OES. Replacing the malfunctioning meters promptly, as required by the Rule, would have significantly reduced the amount consumers would be responsible for under a re-billing proposal. If the Commission is to design a re-billing plan, the OAG recommends that the Commission request from Xcel the exact date in early February that Xcel received the data indicating that 1074 v.2 model modules were not recording consumption. This information, combined with information regarding when each malfunctioning meter was replaced, will assist the Commission in designing a re-billing plan that appropriately recognizes Xcel's service obligations under Minn. R. 7826.1000.

⁶ *Id.* at Attachment 2, page 5.

Dated: September 19, 2008

Respectfully submitted,

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s/ William T. Stamets

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AG: #2308655-v1