THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF APPLICATION OF NORTHERN STATES POWER COMPANY D/B/A XCEL ENERGY FOR AUTHORITY TO INCREASE ITS ELECTRIC RATES — EL11-019

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Transcript of Proceedings
May 22, 2012

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BEFORE THE PUBLIC UTILITIES COMMISSION,
CHRIS NELSON, CHAIRMAN
KRISTIE FIEGEN, VICE CHAIRMAN
GARY HANSON, COMMISSIONER (BY TELEPHONE)

COMMISSION STAFF
John Smith
Karen Cremer
Greg Rislov
Brian Rounds
Jon Thurber
Brittany Mehlhaff
Matthew Tysdal
Dave Jacobson
Demaris Axthelm

APPEARANCES
Kari Valley, Xcel Energy

Reported By Cheri McComsey Wittler, RPR, CRR

TRANSCRIPT OF PROCEEDINGS, held in the above-entitled matter, at the South Dakota State Capitol Building, Room 413, 500 East Capitol Avenue, Pierre, South Dakota, on the 22nd day of May, 2012, commencing at 1 o'clock p.m.

CHAIRMAN NELSON: For the record all three Commissioners are either present in the room or on the line. We are at the point of taking up EL11-019, In the matter of the application of Northern States Power Company d/b/a Xcel Energy for authority to increase its electric rates.

And I believe at this point I will turn it over to Xcel. They are the Petitioning party wanting to raise rates, and you have your opportunity to explain to us why.

MS. VALLEY: Thank you, Chair Nelson. Good afternoon, Chair and Commissioners. I am Kari Valley, an in-house attorney with Xcel Energy appearing on behalf of the company today. With me here are Jim Wilcox, our manager of Government and Regulatory Affairs in South Dakota, Tom Kramer, the principal rate analyst in this case, and available by phone today are Deb Paulson, who is manager of rate cases, and Laura McCarten, our regional vice president, is also listening by phone.

The company and Commission Staff worked diligently to review this case and resolve as many issues as possible. The result of that effort is before you today in the form of a Settlement Stipulation resolving all of the issues except for ROE, cost of debt, capital structure, and cost recovery for Nobles. Those will be heard by the Commission in another meeting, and so my remarks won't address those issues today.

We initially sought a rate increase of approximately $14.6. Our initial filing was based on those cost categories that the Commission approved in the last case. To ensure our filing was accurate and reasonable, we made financial adjustments on our own where appropriate. Staff also diligently reviewed the case, and we worked with Staff to address their issues and make further adjustments where possible.

As the record demonstrates, the company brought the case due to a number of factors, including large infrastructure investments, increasing regulatory requirements, and generally challenging economic times.

Through hard work we have had some success in meeting these challenges in keeping costs low for our customers. However, near flat sales and increasing cost pressures have led to the need to address the revenue deficiency so we can maintain high quality service for our customers.

As our voice of the customer surveys demonstrate, South Dakota customer satisfaction levels are high. We've been achieving 90 percent and above levels of customer satisfaction for the last several years, and we're committed to maintaining these high level of service to our customers and customer satisfaction.

As part of that commitment we anticipate investing over $4 billion in our generating resources between 2010 and 2016 and an additional $2 billion in transmission and a billion dollars in our distribution system.

While those future investments aren't included in the current case, those investments will help us continue to provide that reliable cost effective service to our customers for decades into the future.

In addition to these capital investments, our O&M costs have continued to rise. Those costs include higher regulatory compliance costs, particularly with respect to new and expanding requirements related to our nuclear or transmission facility safety and security.

We're also experiencing the same cost pressures a lot of other businesses are. We're working to reduce costs and manage our business as best we can, but, for example, we've made modifications to our health care plans, our benefit plans, and moved to a high deductible health care plan. We've implemented a requirement that prescription drugs be purchased through mail order when appropriate, and those have helped to keep costs low. And while those have mitigated some of our cost increases, they haven't eliminated them.

We'll continue to work hard, though, to keep these costs of service low as we move forward with investments in our infrastructure, meeting regulatory requirements, and addressing those same cost increases other businesses are facing.

But the settlement before you today reflects that commitment while also providing for our increased cost of service. And we thank the Commission and your Staff for the time in reviewing this case, and we're available for any questions you have today.

CHAIRMAN NELSON: Thank you. I think I'll turn to Staff.

Karen.

MS. CREMER: Thank you, this is Karen Cremer of Staff.

Pursuant to ARSD 20:10:01:19, Staff and Xcel have filed a Joint Motion for Approval of the Settlement Stipulation in this Docket. The Settlement Stipulation reflects the efforts of many individuals. The parties were able to work through most of the issues that we encountered, and those that we did not reach agreement on are set forth in the Joint Motion and Settlement Stipulation.

Xcel worked diligently with Staff to address our concerns. Staff believes we have reached an appropriate balance of the various parties' interests, and the result of that is the Settlement Stipulation that is before you today. Staff believes the terms of the Settlement Stipulation agreed upon are just and reasonable and consistent with South Dakota Law.

Staff analysts are present, and our consultants, Dave Peterson and Bob Towers, are on the phone and available for questioning. Mr. Thurber will speak on behalf of Staff advocating our support of the Settlement Stipulation.

And if you want, I can make our recommendation now, or you can come back later.

CHAIRMAN NELSON: I think go ahead.

MS. CREMER: Okay. Thank you.

Staff would recommend the Commission grant the Joint Motion for Approval of the Settlement Stipulation and adopt the attached Stipulation without modification for resolution of all issues subject to this proceeding except, one, cost recovery for the Nobles Wind Plant and the adjustments associated with the level of the Nobles Wind Plant cost recovery allowed, and, two, rate of return on equity, cost of debt, and capital structure for Docket EL11-019.

Thank you.

CHAIRMAN NELSON: Thank you.

Mr. Thurber, anything to add?

Questions from the Commission.

Commissioner Fiegen.

COMMISSIONER FIEGEN: I'm not for sure who this should go to, but I'm going to start with Xcel and then Staff. That would be great.

It appears that in '92 or '93 the Commission ruled that the new FASB or the GAAP standards dealing with pension -- you kept PAYGO or something it's called instead of putting that accrued expense on your financial statements, which I think you have to put it on the financial statements. You just make an adjustment.

Would there be -- would there be a reason why the Commission may relook at that fact back in '92 and '93 with all the changes in retirement and actually an aging work force and et cetera where we would get a truer picture of our financial statements if we looked at the GAAP standards that you have in your current audit and not make that adjustment?

CHAIRMAN NELSON: If you could use the mic., please.

MR. KRAMER: Yeah. My name is Tom Kramer, and I'm a principal rate analyst for Xcel Energy.

And with regard to the FASB 106, yeah, the company has adopted that and did adopt it back in '92. And in the South Dakota rate case at that time the South Dakota Commission requested to continue with the pay as you go. Again, at that time the accruals were going to exceed cash outlays.

In all the other jurisdictions that NSP currently has operations in they are on the FASB 106, and we do not make any adjustments like we do in the South Dakota case here.

The only concern that would be is working out an equitable solution in that the South Dakota jurisdiction has not contributed to the development of the liability, the regulatory liability that we have on the books since that time frame. So, I mean, working through that type of solution.

But yeah. I mean, it would be a better, more indicative thing, and the whole idea of FASB 106 at that time was to recognize the costs associated with the current employees and the long-term costs associated with them.

COMMISSIONER FIEGEN: So South Dakota rate payers haven't been in charge of the liability so that current liability ratio that was affected probably in 2008 by all pension funds across the country, South Dakota didn't necessarily have that liability?

MR. KRAMER: Well, South Dakota has a liability. We jurisdictionalize the liability. But when we go in for rate regulatory treatment we don't recognize the liability as a liability in rate base -- reduction rate base and continue to -- and we change out the accrual associated with South Dakota, and we put in the actual costs, cash outlays. So cash basis, yes.

COMMISSIONER FIEGEN: Thank you.

And I'm going to ask the Staff the same question. Because accrual accounting is a truer picture. And I understand that sometimes that might be more expense to the rate payer according to what the company looks like on retirement and liability.

Could you address that question?

MR. THURBER: Yeah. This is Jon Thurber for Staff. And I'll address the question, but I'd also like Bob Towers to chime in because I don't want to give away his age but I do believe he was Staff's witness in the original case. So I think he'd be a valuable resource to ask the question to as well.

Just a couple points. First of all, FAS 106 is a standard implemented by FASB. They don't have any authority over South Dakota rate making. That responsibility is on this Commission.

Staff's primary concern is the fact that as you've noticed over time, the health care postretirement benefits in certain companies have been eliminated. And when you perform that accrual you are looking at future expenses. So it doesn't go by our standard known and measurable criteria.

Right now PAYGO, we include what the company actually pays on an annual basis. We're not including potential future expenses. And when we're not including potential future expenses, that benefits current rate payers because they may not be actually receiving that benefit for the cost that they're paying for it.

So those are a few of our concerns. And in terms of how we handled it in this settlement, when we pursue a settlement we rely heavily on past Commission precedent.

With that understanding, you know, you're absolutely right. From time to time we do need to relook at precedent. But in general we use that as our guide in achieving a settlement that we believe ends in just and reasonable rates and trying to implement what the Commission has done in the past.

Bob Towers, do you have anything to add?

MR. TOWERS: Yes. I would add a few things. Commissioner Fiegen, I think your initial question was a lot of time has passed since 1992 when the Commission made the decision to stay with PAYGO accounting.

In that case they issued a -- an order on January 26 of 1993 in EL92-016, which I think -- it was a long time ago and I was old even then and I didn't remember exactly what they said in the Findings of Fact until this morning. I went back and reviewed it.

And I think if -- I'd recommend that anyone interested take a look at those seven pages where the Commission listed several reasons that they would -- they decided to go -- or maintain PAYGO accounting. And I think virtually every one of those reasons is still valid today.

In fact, we heard just a few minutes ago the company describing how they have recently, I think, modified their healthcare benefits. In going to accrual accounting it's necessary to project what the benefits will be in the future. And we now know that that fact is always subject to change.

And even if the benefit levels stayed the same, that is the provisions of the plan stayed the same, the costs of the plan may escalate more or less than one would expect. So there are many projections that are involved in the determination of the accrual under the FASB rule.

So as John said, it certainly is not an expense that would meet the Staff's ordinary and generally applicable concept of a known and measurable cost.

Back in '92 the one thing I did see in that old order was that the change to accrual accounting at that time would have cost NSP customers -- the number in the order is $626,000 a year. And I must confess, I'm not sure if that's a revenue requirement number or an expense number.

But that, whichever it is, was actually greater than the adjustment that's made in this case of going from accrual accounting to pay-as-you-go accounting. I think the revenue requirement number, which is the larger number, is about 400 some thousand dollars.

So, you know, rate payers saved $600,000, say, in 1992 and thereafter because that was built into -- the allowance was built into rates, which if my recollection is correct, those NSP rates remained in effect for quite a while.

So, anyhow, I guess -- the bottom line I guess is what I'm saying is that most of the factors that the Commission considered in deciding to stay with PAYGO accounting are equally valid today so I don't really think there is a reason to revisit the issue.

COMMISSIONER FIEGEN: Thank you. Just one more quick question on accrual accounting. Would they make an adjustment at the next year's audit?

CHAIRMAN NELSON: Who would you like to direct that to?

COMMISSIONER FIEGEN: Mr. Towers.

Like in accrual accounting do they not make an adjustment on the following year on better projected expenses or actual --

MR. TOWERS: Yeah. I mean, they make -- there are actuarial studies that are done each year, and the accrual is redetermined. So you're correct that, you know, if you see the mega forecasts, for example, of health care cost inflation you're not going to use indefinitely. You're going to reevaluate it in each subsequent year.

COMMISSIONER FIEGEN: Great. Thank you.

CHAIRMAN NELSON: Other Commissioner questions?

I have just one, I believe. I know that we've made -- under the category of aviation expense we've made some adjustments there. But I'd like to ask and probably ask Xcel for your comment first.

I've got a March 16 news blurb from Energy Biz. And realizing it's a news account so it may or may not be entirely accurate, but I want to read just a couple of sentences and get your response and your thoughts.

The news article says that "Two executives from

Xcel Energy regularly commute by corporate jet from their homes in Colorado to the utility's Minneapolis headquarters, and rate payers are being asked to pay part of the tab. Regulators in Colorado have questioned the 268 roundtrip commutes, typically one per week, that the unidentified Xcel execs. have taken since 2009. They travel on the company's leased leer jets which cost 4,600 per flight hour to operate, regulatory filings say."

Now, again, that may or may not be an accurate accounting of what actually happened. I guess my ultimate question is are South Dakota rate payers paying for or have paid for any of those flights for those two executives? And I'd ask the company that first.

MS. VALLEY: Thank you, Chair Nelson, Commissioners.

Yes. Those aviation costs would be included in our base -- in our rate case here. As the Commission is aware, we do have our headquarters in Minnesota, and our executive officers work both in the Minneapolis office and our Denver, Colorado office. And we've found that the use of our corporate jet for travel between the two offices has enabled to be an effective use of those executive's time as they need to conduct business in both places.

CHAIRMAN NELSON: So where are these executives living? Where is their primary residence?

MS. VALLEY: Thank you, Chair Nelson. And I don't know what executives they're referring to in that article. Certainly -- I honestly can't tell you where our executive officers -- where they consider to be their primary residence. They do significant work in both locations.

CHAIRMAN NELSON: Thank you. Then let me ask Staff, any comments on the question that I've just asked? And then I do have a follow up.

MR. THURBER: We did not perform a level of audit to that level to identify the type of plane flights, who and when people are going on flights.

What we did do is we asked the company to identify all nonbusiness-related travel because we wanted to remove that from the rate case. And then, in addition to that, after looking at how some other jurisdictions have handled the aviation expense, we saw that out of the two airplanes some jurisdictions only allowed the cost related to one of the air crafts. And we thought that would be an appropriate balance without getting into that level of an audit.

But, no, we did not -- we do not have specific information on that executive.

CHAIRMAN NELSON: Okay. And that's a good basis for, I guess, my follow-up question.

When you talk about disallowing the expenses for one of the aircraft and the memo talks or the Stipulation talks about one of the corporate aircraft, is that aircraft owned by the company?

MR. THURBER: I would like the company to confirm it, but I believe that they're leased.

MS. VALLEY: Thank you. Yes. They are leased.

CHAIRMAN NELSON: So I guess the ultimate question, can anybody give me some assurance here that this disallowance that's part of the Stipulation is going to cover what I would consider not necessary expenditures for flying executives from Colorado from what has been identified as their residence in Colorado to headquarters in Minneapolis?

Is there any assurance that rate payers aren't paying for that?

MR. THURBER: Since they have two air crafts and we're only allowing cost recovery for one -- and when I talk about two air crafts in terms of the total amount of costs allocated to South Dakota, two air crafts was $128,000. So we removed $64,000.

So, in essence, to fly executives throughout their eight states that they serve as far north as Minnesota and as far south as Texas, South Dakota rate payers are paying $64,000.

Whether that is adequate to cover the plane flights related to that one specific executive that you're referring to, without knowing all the specific details, I can't give you a complete assurance. But to me it seems reasonable.

CHAIRMAN NELSON: Thank you. And it seems to make sense to me without going to the level of audit that you would need to to look at flight logs and who was on the plane over those years, by simply eliminating half the expense that seems to me like it would cover it.

Anything, Kari?

MS. VALLEY: Yes. Thank you, Chair Nelson.

And one other point I would like to make on this is we might agree when the article mentioned these are commuting expenses, certainly we track the business purpose of each expense.

So I don't think it's a fair characterization that they're commuting. It's travel for business-related purposes. Meetings take place in Minneapolis, and executives are required to be in different locations at different times.

CHAIRMAN NELSON: And I appreciate that clarification. Apparently, the regulators in Colorado weren't of that same opinion, but I appreciate your characterization.

Thank you.

Additional questions from the Commission?

Any questions from our advisors or legal Staff?

Is there a Motion? Wow. It got quiet in a hurry.

COMMISSIONER HANSON: Mr. Chairman, I'll make a Motion. I'm just pausing here to look over what we have and what we have to make a Motion on.

And I understand these rates will not be implemented until after our -- the additional work that we need to do on the rate of return on capital structure and the Nobles Wind Farm; is that correct?

CHAIRMAN NELSON: Well, yeah. I mean, interim rates are currently in effect, but the final rate you are correct is my understanding. And Mr. Smith is saying yes.

MR. SMITH: Right.

COMMISSIONER HANSON: Okay. Thank you. I'll make a Motion and then I'm not certain whether I'll have all the verbiage correct but I'll stand to be corrected.

I will move that in EL11-019 that the Commission grant the Joint Motion of Approval of the Settlement Stipulation, approve the terms and conditions in regards to the Staff's position -- let's see. I'm wondering whether I should include the Staff's position on that ROR at this juncture. I believe I should.

CHAIRMAN NELSON: Mr. Smith is saying no. And I believe the Settlement Stipulation includes the two exclusions, the two items that we'll deal with later.

COMMISSIONER HANSON: Well, then I struggle with -- excuse me. Go ahead.

MR. SMITH: Yeah. Commissioner Hanson, yes, the Settlement Stipulation specifically excludes any resolution of rate of return, capital structure, and the inclusion of the Nobles Wind Farm. And those are issues that are going to be heard through formal hearing on June 13 and 14.

So we really don't want to address any of that now because we will have then -- first of all, we will have decided an issue without giving a party a right to hearing on that because that is not part of the agreed Stipulation.

And those -- the treatment of rate of return and capital structure and Nobles are dealt with in the Settlement Stipulation through exclusion. They are excluded. And those are reserved for hearing to afford the company and Staff their mutual right to hearing on those issues.

Okay?

COMMISSIONER HANSON: Thank you, Mr. Smith. I'm at a loss then just how to articulate the portion of the Motion to Approve at this juncture.

MR. SMITH: You know, I think -- do you have the agenda there in front of you, Commissioner Hanson, at all?

COMMISSIONER HANSON: I do.

MR. SMITH: I think actually just reading it, reading the first question up through the question mark, I think it gets right where we need to go today. In terms of -- assuming we want to approve the Stipulation that Staff recommended as is, I think that gets us right there.

COMMISSIONER HANSON: All right. I've been jumping between Staff's memo and analysis by Mr. Rislov and the agenda and some other papers.

So I'll make the Motion then on EL11-019 that the Commission today grant the Joint Motion for Approval of Settlement Stipulation and the terms and conditions stipulated therein.

CHAIRMAN NELSON: Thank you. Discussion on the Motion?

Commissioner Fiegen.

COMMISSIONER FIEGEN: I do have a question of Xcel and maybe our General Counsel.

So when you put on an interim rate in January and you filed the end of June, any refund goes back to the rate payers for that first 12 months. What if the interim rate continues after July 1?

Will you refund that if there is excess to the rate payers after July 1, although the law doesn't require you to do that?

MS. VALLEY: Thank you, Commissioner Fiegen.

I am not prepared to answer that question. As you articulated, the law does provide that the refund obligation ends at the end of June here. So the company's position on the refund, we haven't discussed it. So I apologize. I can't respond to that question today.

COMMISSIONER FIEGEN: So just one more question. So we were supposed to hear this the first week in May. Did you postpone that, or did the Staff postpone that?

MS. VALLEY: I'll let Staff join in, but we were working together to develop -- both negotiate the issues in the case and establish a schedule that would allow for hearings and the submission of testimony on the issues that we couldn't agree to.

So there have been several modifications to the schedule as we have moved forward.

COMMISSIONER FIEGEN: So just let the record reflect this Commissioner would be very disappointed in Xcel Energy if for some reason the interim rate was extended past June 30 and the rate that was agreed upon by the Commission is less and there would be a refund. Not guaranteed that you would have to do that, but I would assume as a community citizen you would.

MS. VALLEY: Thank you, Commissioner Fiegen.

CHAIRMAN NELSON: Additional comments on the Motion.

I would simply say I appreciate both sides working very diligently to get this far. Obviously, there were a lot of issues that were dealt with in this memo that you've been able to resolve.

It's clear that you analyzed each of those very carefully, that there was some give and take in that, but that you were both comfortable with your final recommendations in the memo. I greatly appreciate that.

I will say that I'm looking forward to the June hearing when we can deal with what are obviously the larger issues here and making adjustments as appropriate to those resolution issues.

Any other comments on the Motion?

Seeing none, those in favor will vote aye, those opposed, nay.

Commissioner Hanson.

COMMISSIONER HANSON: Aye.

CHAIRMAN NELSON: Commissioner Fiegen.

COMMISSIONER FIEGEN: Fiegen votes aye.

CHAIRMAN NELSON: Nelson votes aye. Motion carries.

STATE OF SOUTH DAKOTA)
:SS CERTIFICATE
COUNTY OF SULLY)

I, CHERI MCCOMSEY WITTLER, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public in and for the State of South Dakota:

DO HEREBY CERTIFY that as the duly-appointed shorthand reporter, I took in shorthand the proceedings had in the above-entitled matter on the 22nd day of May, 2012, and that the attached is a true and correct transcription of the proceedings so taken.

Dated at Onida, South Dakota this 4th day of June, 2012.

Cheri McComsey Wittler,
Notary Public and
Registered Professional Reporter
Certified Realtime Reporter

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