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STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

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John Tuma	Commissioner

In the Matter of a Commission Investigation into the Impact of Severe Weather in February 2021 on Impacted Minnesota Natural Gas Utilities and Customers	DOCKET NO. G-999/CI-21-135
In the Matter of the Petition of CenterPoint Energy for Approval of a Recovery Process for Cost Impacts Due to February Extreme Gas Market Conditions	DOCKET NO. G-008/M-21-138
In the Matter of the Petition by Great Plains Natural Gas Co. for Approval of Rule Variances to Recover High Natural Gas Costs from February 2021	DOCKET NO. G-004/M-21-235 **COMMENTS OF THE OFFICE OF THE ATTORNEY GENERAL**

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division ("OAG") submits the following Comments in response to the Minnesota Public Utilities Commission's ("Commission") Notice of Extended Time Period for Comments issued on June 14, 2021 ("Notice").[1] Minnesota ratepayers should not reimburse profitable utilities for irresponsible business-as-usual decisions in the face of a well-predicted severe winter storm and corresponding price spike in the natural gas market.

[1] While these comments are limited to the OAG's prudence analysis, the OAG will also be filing a separate set of comments addressing the remaining topics open for comment set forth in the Notice.

Winter Storm Uri was an unprecedented event that led to severe natural gas price increases. The utilities did not cause this weather or its impact on market prices. They are, however, responsible for the actions they took—or failed to take—in response to the storm and the increased market prices it caused. Unfortunately, Minnesota's utilities did little to prepare for or react to these severe price increases and save their customers' money.

The OAG's examination of utilities' actions before and during Winter Storm Uri provides a sobering assessment. Both before and during the storm, the utilities took only paltry steps to reduce their gas costs. One reason for these tepid actions appears to be that utilities believed that they would not have to pay the high commodity prices they were facing, because these costs would be passed on to ratepayers. Whatever the motivation, the result of their price apathy is that they paid hundreds of millions of dollars in higher-than-normal gas costs in only a few days.

The utilities were ill-prepared to respond to the increased prices and made imprudent business judgments in at least two ways. First, utilities did not have a sufficiently diverse set of options to purchase their natural gas. This resulted in utilities being forced to pay higher prices than they needed. In some instances, utilities did not have sufficient geographic diversity for their spot market purchases—instead, they relied on only one or two hubs for all their needs. In other instances, utilities did not attempt to diversify their pricing options for gas purchases when faced with severe meteorological forecasts and firsthand real-world knowledge of impending and ongoing market volatility.

Second, utilities failed to fully deploy a variety of mitigation measures—such as peaking, curtailment, conservation messaging, and storage—that could have reduced the amount of gas they purchased. The result of these failures is that, when faced with an unprecedented emergency, utilities failed to reasonably respond and instead continued to buy gas under pricing structures and in quantities that did not reflect the ongoing emergency. They now seek to have ratepayers pay for those cost increases, even though ratepayers were not aware of the price increase until after it was over.

The public interest will be furthered only by holding shareholders—and not ratepayers—responsible for the utilities' unreasonable and imprudent business planning and judgment. For this reason, the Commission should deny recovery of $379.8 million in unreasonable and imprudently incurred gas costs as identified by the OAG.

BACKGROUND

This background is divided into six sections. The first section provides an overview of the commonalities between the Impacted Utilities'[2] Natural Gas Procurement Plans—including how those plans contemplate extreme weather events and market volatility—and how the Impacted Utilities recover natural gas costs. The second section discusses the increasingly dire national weather forecasts for mid-February 2021 and the impact that extreme cold can have on the price of natural gas given the concepts of supply and demand. The third section summarizes the Impacted Utilities' firsthand real-world knowledge of extreme market volatility in the week and days leading to the February Price Spike. The fourth section discusses how the Impacted Utilities did not alter their inherently flexible natural gas procurement strategies to minimize cost impacts on ratepayers despite extreme weather and market volatility. The fifth section provides a brief overview of the Department's prudence analysis regarding the Impacted Utilities' conduct leading up to and during the February Price Spike. Finally, the sixth section juxtaposes the Impacted

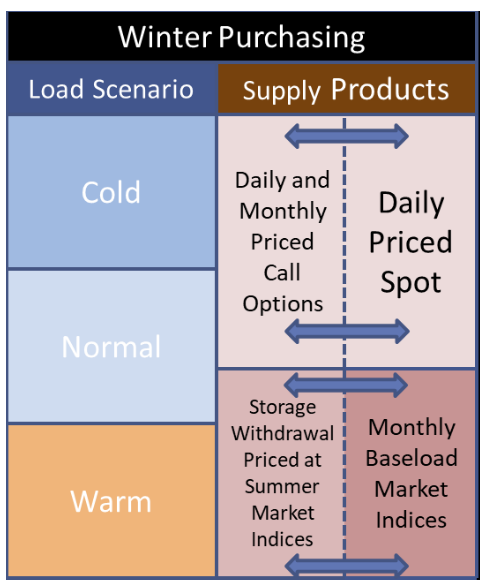
[2] The term "Impacted Utilities" refers collectively to CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas ("CenterPoint"), Great Plains Natural Gas Co. ("Great Plains"), Northern States Power Company, d/b/a Xcel Energy ("Xcel"), and Minnesota Energy Resources Corporation ("MERC").

Utilities' financial strength with ratepayers' struggles due to the ongoing pandemic, even prior to the February Price Spike.

I. COMMONALITIES BETWEEN THE IMPACTED UTILITIES' NATURAL GAS PROCUREMENT PLANS, THE EXTENT TO WHICH THOSE PLANS CONTEMPLATE EXTREME WEATHER EVENTS AND MARKET VOLATILITY, AND HOW THE IMPACTED UTILITIES RECOVER NATURAL GAS COSTS.

A. The Impacted Utilities Rely Heavily on the Daily Spot Market to Procure Peak Natural Gas without Accounting for National Weather Forecasts, while Recognizing that Fixed-Price Contracts Mitigate Price Volatility.

The Department noted—and the OAG agrees—that although the Impacted Utilities' "procurement plans and strategies differ" there exists "an important commonality between each of the [Impacted U]tilities' procurement plans; each utility uses normal monthly weather and resulting daily volumes as the framework of their daily gas procurement strategy."[3] The Impacted Utilities then use these derived normalized volumes to plan their day-to-day purchases using a suite of supply options (e.g., baseload, swing/call options, storage, peaking, etc.).[4] As explained both visually and textually by CenterPoint's Minnesota 2020 Gas Procurement Plan:



[3] Department Comments at 24 (May 10, 2021).
[4] *Id.*

> In warmer weather, baseload and storage withdrawals are used interchangeably depending on the amount of storage the company is committed to using. Monthly baseload is designed to provide stability of supply for a portion of our warmest scenario every day of the winter season. Gas withdrawn from storage at the average injection price is sourced from firm storage providing stability of both supply and price for the winter season.
>
> In colder weather, swing supply is used to serve that portion of gas requirements that fluctuate daily depending upon CenterPoint Energy's customers' demand.[5]

Put differently, the Impacted Utilities "generally meet expected need that exceeds daily normal levels by procuring daily spot priced gas."[6] This can present problems on colder-than-normal days "as a potentially significant portion of gas volumes will be priced at daily spot market prices, and therefore will be susceptible to price increases and market forces."[7]

The Impacted Utilities' natural gas procurement plans do not directly contemplate the role that extreme national—as opposed to local—weather events can have on the natural gas market.[8] While the Department found that the Impacted Utilities' standard planning and procurement strategies are based on expected local weather conditions, and not price mitigation,[9] fixed-price contracts are a critical tool to mitigate market volatility. CenterPoint's 2020 Gas Procurement Plan explains how fixed-price contracts can mitigate the market volatility of index-based contracts:

> Sometimes CenterPoint Energy may need to know the absolute price that it will pay for gas. A fixed price is the only product that removes the risk of price volatility and provides an absolute price guarantee; however, this strategy forgoes the flexibility of participating when prices move downward and therefore would not produce the most reasonable cost in a market with falling prices. A fixed price can be established by negotiating with the physical gas supplier for a mutually agreed upon price.[10]

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[5] *In the Matter of the Petition of CenterPoint Energy for Approval of an Extension of Rule Variances to Minnesota Rules to Recover Costs of Certain Natural Gas Financial Instruments Through the Purchased Gas Adjustment*, Docket No. G008/M-19-699, CenterPoint Minnesota 2020 Gas Procurement Plan (June 19, 2020) (hereinafter "CenterPoint 2020 Gas Procurement Plan").
[6] Department Comments at 24 (May 10, 2021).
[7] *Id.*
[8] *See generally* CenterPoint 2020 Gas Procurement Plan; *see also generally* Department Comments at Attachment 1 (May 10, 2021) (Impacted Utilities natural gas procurement plans and narrative overview of same).
[9] Department Comments at 27 (May 10, 2021).
[10] CenterPoint 2020 Gas Procurement at 37.

Fixed-based daily spot market contracts may, at times, be advantageous for the Impacted Utilities because, as CenterPoint's explains "[b]uying supplies based on a daily index basis . . . involves some risk that gas prices can spike to high levels when certain conditions exist in the market, such as the extreme, long lasting cold spells incurred during the winter of 2013-2014 or the short, extreme fly-up that occurred in December 2017."[11] The other Impacted Utilities have also acknowledged, either explicitly or implicitly, the role that fixed-price daily spot contracts can play to reduce price volatility in times of market uncertainty.[12]

B. The PGA Process Allows the Impacted Utilities to Rely Heavily on the Daily Spot Market.

The purchased-gas adjustment ("PGA") structure generally allows the Impacted Utilities to flow through all their natural gas costs, including those related to daily index-based spot market purchases. Minnesota law allows the Commission to permit utilities to automatically adjust charges for delivered natural gas.[13] Under this authority, the Commission has established a process whereby utilities forecast their gas-supply costs each month and update the PGA line item on customer bills to reflect the expected commodity prices for the coming month.[14] Actual market prices inevitably differ from the forecasted prices. Therefore, in addition to making forecasted monthly adjustments, the Commission allows utilities to annually adjust, or "true up," their PGA

[11] *Id.* at 51.
[12] *See, e.g.,* Department Comments at Attachment 1, p. 7 (May 10, 2021) (MERC's 2019-2020 Gas Procurement Policies note that it "is intended to provide reliable and reasonably priced natural gas to customers" through a "portfolio mix of firm supplies with varying terms purchased at: . . . Daily Spot Market – Gas Daily Daily Index (GDD) *or fixed price*.") (emphasis added); Xcel Initial Filing at 33 (Apr. 9, 2021) ("When making purchases of gas supply, the Company makes either *a fixed-price deal* or an index-based deal.") (emphasis added); Excerpt from Great Plains Response to OAG IR No. 5, enclosed herewith as Attachment 6 (2/5 Microsoft Teams messages involving a Great Plains discussion noting that "BP's *FP offer* was at $4.50" and that "[w]e need 6200 at CIG. *Offer at $6.00 FP*.") (emphasis added)
[13] *See* Minn. Stat. § 216B.16, subd. 7 (allowing for the automatic adjustment of charges "in direct relation to changes in" direct costs for natural gas delivered).
[14] *See* Minn. R. 7825.2500 (permitting automatic adjustment of charges for "[c]hanges in cost resulting from changes in the commodity-delivered gas cost and demand-delivered gas cost for purchased gas"), .2700, subp. 3 (specifying computation of adjustment), .2920, subp. 1 (providing for provisional approval upon filing).

charge to account for any cumulative over- or under-recovery during the preceding year.[15] This true-up occurs in September and is calculated to refund any surplus, or recoup any shortfall, over the following 12 months. While utilities must demonstrate that all their costs are prudently incurred, the true-up generally takes effect before the Commission and interested parties have finalized their prudence review.

One effect of the PGA structure is that the Impacted Utilities do not have a natural incentive to minimize fuel costs; they can usually expect to recover whatever they pay. Instead, the Impacted Utilities' incentive to minimize these costs stems from their perception that the Commission might reject costs that it determines to be imprudent.

II. THE IMPACTED UTILITIES KNEW, OR SHOULD HAVE KNOWN, IN EARLY FEBRUARY 2021 THAT FRIGID METEOROLOGICAL FORECASTS ACROSS THE UNITED STATES HAD A STRONG POTENTIAL FOR A NATURAL GAS PRICE SPIKE DUE TO INCREASED DEMAND AND DIMINISHED SUPPLY.

The Impacted Utilities knew, or should have known, in early February 2021 that extremely unseasonably cold weather was forecasted to affect a large swath of the United States, including in oil-and-gas-producing regions of the southwestern United States. The Impacted Utilities also knew, or should have known, that this unseasonably frigid weather had the strong likelihood to both increase the national demand for natural gas and the potential to reduce the southeastern regional supply of natural gas due to production disruptions, known as "freeze-offs." The increased demand for natural gas, coupled with the decreased supply, put the Impacted Utilities on notice in early February that natural gas prices may spike in mid-February.

[15] *See* Minn. R. 7825.2700, subp. 7 (specifying computation of true-up).

A. Publicly Available Meteorological Data from Early February Forecasted Unseasonably Cold Weather Across the Majority of the United States in Mid-February.

The National Oceanic and Atmospheric Administration ("NOAA") is a Bureau within the U.S. Department of Commerce with the stated mission to, in part, "understand and predict changes in . . . weather . . . [and] to share that knowledge and information with others . . . ."[16] Through NOAA's National Weather Service ("NWS"), that Bureau "provides weather, hydrologic, and climate forecasts and warnings for the United States . . . for the protection of life and property and the enhancement of the national economy."[17] NOAA and its NWS are critical tools to ensure national prosperity given that "[a]bout one-third of the U.S. economy – some $3 trillion – is sensitive to weather and climate."[18]

As reported by *The Washington Post*, as early as February 5, 2021, NOAA "highlighted the risk of unusually cold weather and winter storms across the central and southern United States."[19] In fact, "[m]aps produced by NOAA's Climate Prediction Center showed an 80 percent chance of below-average temperatures from Feb[ruary] 11 to 15, from Texas north to the Dakotas, with slightly lower chances of unusual cold stretching from coast to coast."[20] NOAA "also forecast a 70 percent likelihood of below-average temperatures from Texas to Indiana during the Feb[ruary] 13-19 period, an unusually high level of certainty so far in advance."[21]

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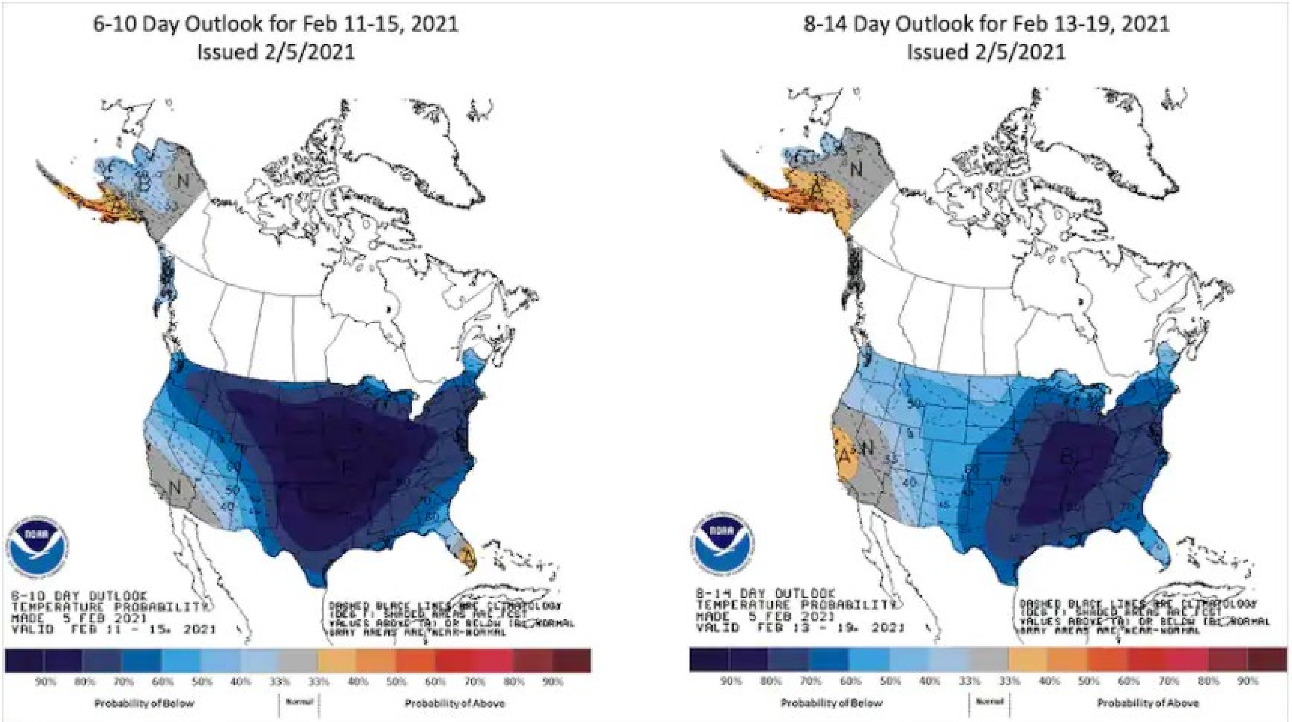
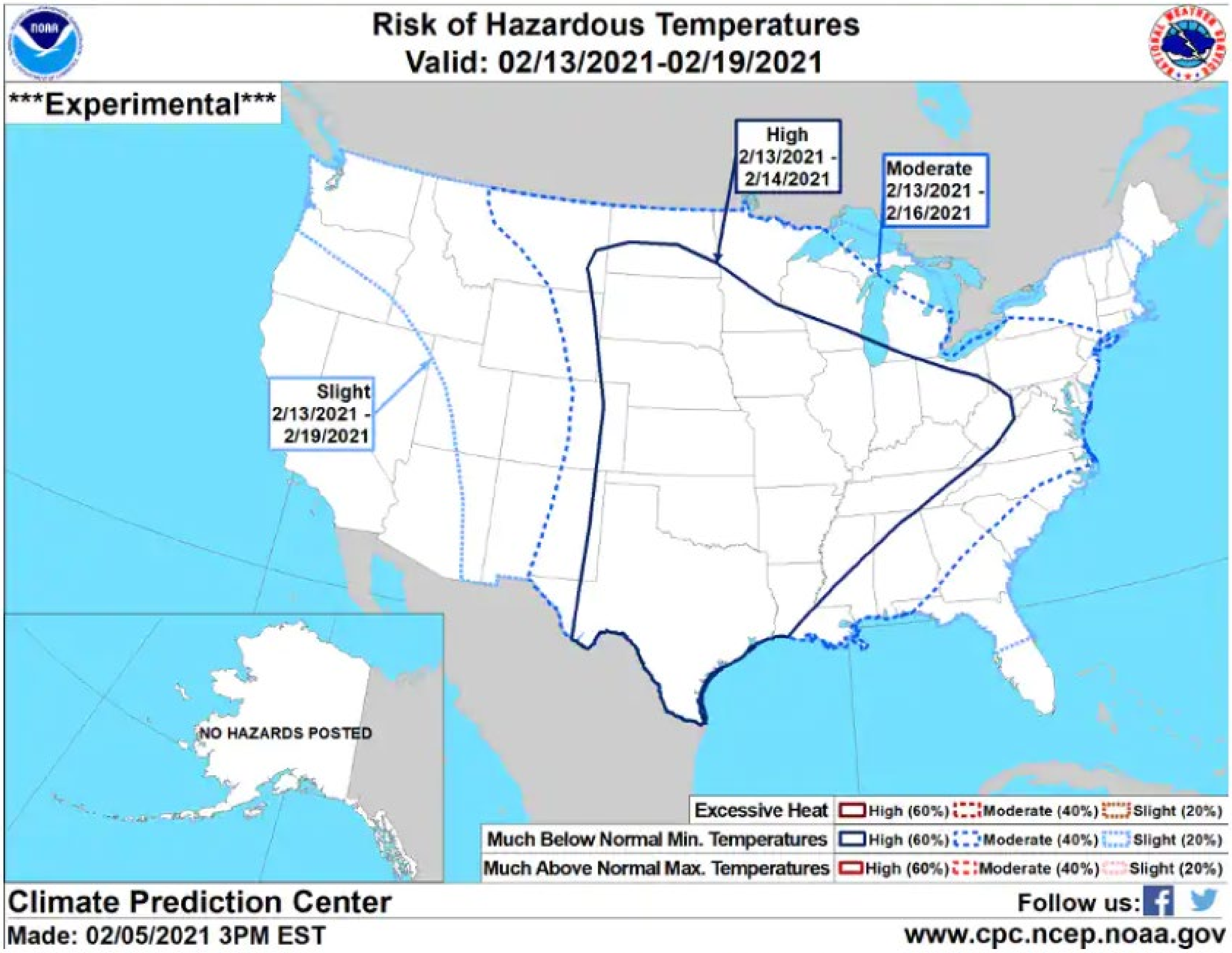
[16] U.S. Department of Commerce, NOAA, About our agency, https://www.noaa.gov/about-our-agency (last visited July 5, 2021).
[17] U.S. Department of Commerce, NOAA, About NOAA Weather, https://www noaa.gov/weather (last visited July 5, 2021).
[18] *Id.*
[19] Andrew Freedman, *Meteorologist for Texas Grid Operator Warned of the Winter Storm's Severity*, THE WASHINGTON POST (Feb. 19, 2021), https://www.washingtonpost.com/weather/2021/02/19/texas-cold-early-warning/
[20] *Id.*
[21] *Id.*



The NOAA Climate Prediction Center's temperature outlook issued on Feb. 5. (NOAA)

Also on February 5, 2021, NOAA's Climate Prediction Center "forecast a 'high' risk of 'hazardous cold' across the central United States, including Oklahoma and Texas, which corresponds with at least a 60 percent likelihood that such low temperatures would occur" between February 13-19.[22] In a subsequent outlook released on February 8, NOAA warned of "'much below normal temperatures' from Feb[ruary] 16 to 19 across the center of the Lower 48 states, including Oklahoma, Texas and Arkansas."[23]

[22] *Id.*
[23] *Id.*



Feb. 5 outlook for the risk of hazardous temperatures across the United States from the National Weather Service. (NOAA)

By February 9, 2021, NOAA's Weather Prediction Center included specific language about the cold temperatures in one of its outlooks, which stated, in part: "Arctic air extends across the Northern Rockies and Plains, Surging South across the Plains and MS Valley, with multiple cold temperature records expected."[24]

Xcel's internal meteorologists reached similar conclusions to NOAA. In Xcel's April 9, 2021, Initial Filing, the company noted the following:

> During the heating season, the Company's meteorologists routinely monitor changes in the weather to identify potential severe weather events that could impact our system. Leading up to Winter Storm Uri, our meteorologists noted that the temperature forecast covered greater portions of the mid-continent as the event

[24] *Id.* (citing and quoting NOA Extended Forecast Discussion, NWS Weather Prediction Center College Park, MD).

grew closer in time, and they issued an Extreme Cold Alert for Minnesota on February 4, 2021. These alerts continued through February 16, 2021.[25]

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Winter Storm Uri was remarkable both in the duration of the extreme cold weather in Minnesota and its coverage across much of the United States.[26]

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While the cold started in the upper Midwest on February 5, it did not spread to the southwestern United States until several days later. The map below shows the Company's five-day weather forecast as of February 11, 2021. It shows the expectation that temperatures from February 11-15 across the mid-continent to be *an average of* 15 degrees or more below normal temperatures.[27]

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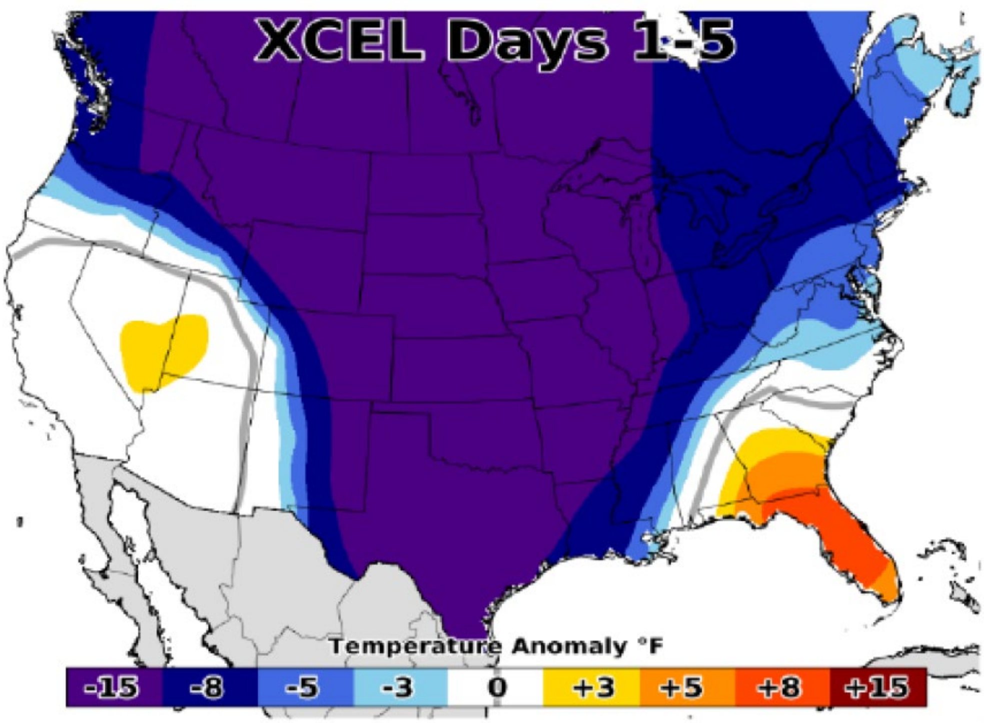
As forecast, actual temperatures were well below normal across the mid-continent as can be seen in the figure below.[28]



[25] Xcel Initial Filing at 19 (Apr. 9, 2021).
[26] *Id.* at 11
[27] *Id.* at 11-12.
[28] *Id.* at 12

B. Cold Weather Throughout the United States Increases Natural Gas Demand while Increasing the Likelihood of a Diminished Supply through Production Disruptions, which can Create a Price Spike.

Both increased demand and decreased supply on their own can impact natural gas prices in the upward direction. It is common sense that unseasonably cold weather strongly influences residential and commercial natural gas demand on a regional and national level and that such an event "can put upward pressure on prices."[29] Severe weather—including very cold weather—also has the potential to disrupt natural gas production through "freeze-offs,"[30] which can diminish supply and likewise increase natural gas prices.[31] When unseasonably cold weather drives up demand and shrinks supply due to natural gas supply disruptions, however, the United States Energy Information Administration warns that price spikes can be exacerbated: "If these supply disruptions occur when demand for natural gas is high, prices may increase more than expected."[32]

III. The Impacted Utilities were Well Aware of Extreme Market Volatility Before They Purchased Natural Gas During the February Price Spike.

The Department concluded that it had "concerns with aspects of how the [Impacted U]tilities executed portions of their purchasing strategy . . . [but] based on its analysis to date, the Department is unable to find evidence that gas utilities were aware of significant gas prices and chose not to deviate from their purchasing plan."[33] The OAG, however, has uncovered numerous

[29] U.S. Energy Information Administration, Natural Gas Explained, Factors Affecting Natural Gas Prices, https://www.eia.gov/energyexplained/natural-gas/factors-affecting-natural-gas-prices.php (last visited July 5, 2021).

[30] "Freeze-offs" occur "when water and other liquids in the raw natural gas stream freeze at the wellhead or in natural gas gathering lines near production activities." The U.S. Energy Information Administration notes that "[u]nlike the relatively winterized natural gas production infrastructure in northern areas of the country, natural gas production infrastructure, such as wellheads, gathering lines, and processing facilities, in Texas are more susceptible to the effects of extremely cold weather." *See* U.S. Energy Information Administration, Today in Energy, Texas Natural Gas Production Fell by Almost Half During Recent Cold Snap, *https://www.eia.gov/todayinenergy/detail.php?id=46896* (last visited July 5, 2021).

[31] U.S. Energy Information Administration, Natural Gas Explained, Factors Affecting Natural Gas Prices, https://www.eia.gov/energyexplained/natural-gas/factors-affecting-natural-gas-prices.php (last visited July 5, 2021).

[32] *Id.*

[33] Department Comments at 23 (May 10, 2021).

internal and external communications produced by the Impacted Utilities showing that those businesses were aware of market volatility before purchasing natural gas during the February Price Spike:

- An internal Great Plains email just before ***9 a.m. on Friday, February 12***, recounted that there had "been pretty significant volatility in gas prices this week, culminating with some interesting pricing for the upcoming 4-day weekend."[34]

- At ***7:15 a.m. Friday, February 12***, Great Plains received "price indications" from the gas supplier Tenaska for the Presidents' Day weekend warning that "[t]he market is really volatile right now so please keep in mind that these are best estimates" and showing that same-day gas was expected to be trading at "$100 per MMBtu" and that next-day gas was expected to go for $50.[35]

- An internal Great Plains email from ***8:15 a.m. Friday, February 12***, discussing Tenaska's price indications, suggested that next-day gas "is currently trading in the $30 range" but "[n]ot sure it will settle there" because "prices will be pretty steep for the weekend."[36]

- In MERC's ICE Log chats from the morning and ***afternoon of Thursday, February 11***, one of the company's procurement representatives stated that MERC is "not liking these prices, but we have to keep grandma warm in MN." After inquiring about weekend index-based prices and getting the response that there were "cuts and Force majeures everywhere it seems," MERC's procurement representative responded that "I know, crazy times right now."[37]

- In CenterPoint's ICE Log chats with several purveyors of natural gas on ***Thursday, February 11***, CenterPoint demonstrates that it had an acute sense of the ongoing market volatility. Around seven in the morning, CenterPoint asked if there were any index-based deals (instead of fixed-price deals) and heard back from a potential gas supplier that "we are not likely to participate in this pricing environment" and that it was "probably the same" for "the weekend." Around the same timeframe, CenterPoint asked "how are prices this morning" and affirmatively stated that "it[']s scary." Around two in the afternoon, CenterPoint heard from a purveyor that "the indications are a big premium to historical but [I] think this weekend may be in uncharted waters" given that there is "so much uncertainty out there as you know."[38]

[34] Excerpt from Great Plains Response to OAG IR No. 5, enclosed herewith as Attachment 6.
[35] *Id.*
[36] *Id.*
[37] Excerpt from MERC Response to OAG IR No. 5, enclosed herewith as Attachment 7.
[38] Excerpt from CenterPoint Response to OAG IR No. 5, enclosed herewith as Attachment 5.

- Great Plains' ICE Log chats from around ***eight in the morning on Friday, February 12***, reflect that the company turned down a fixed-price offer to purchase "500dth/d" at a fixed-price contract for $85 per unit and was told that "things are insane with all this weather."[39]

- In Xcel's ICE Logs from the morning of ***Thursday, February 11***, the company was discussing the price spikes at the Oklahoma Hub and stated "I think it is freeze off related" and that "got our power guys asking me about it" and the "crazy thing is tomorrow is going to be even more nut[s]." ***Around five-thirty in the morning***, Xcel stated that "I knew today would be expensive but this is ridiculous." ***Around seven-thirty in the morning***, Xcel's representative stated he "will be in a ball crying if you need me" in response to hearing that "tomorrow will be worse." ***Around eight-thirty in the morning***, Xcel's representative stated that he "d[id]n't remember ever seeing a price response like that historically" regarding the ongoing market volatility.[40]

- Xcel's ICE Logs from ***Friday, February 12***, likewise show that the company was aware of extreme market volatility. ***At five-thirty in the morning***, Xcel said "this is nuts" and that the Oklahoma Hub was "selling for 350 right now." Around that same time Xcel remarked that "can you imaging [sic] what people [sic] bills will be." ***At around six in the morning***, Xcel said that due to the market volatility "I bet people really wait out the fixed today." ***Around six-thirty in the morning***, Xcel said that "today is worse than yesterday" and that there was "expensive gas for the weekend." From ***around seven-thirty to eight-thirty in the morning***, Xcel stated that "this is a joke" and that "the world is ending" and that the market is "craziness" and exclaiming that its fixed-price trade at $75 was "trade of the year on your part" and that "who would think I would sell 75 and it be bad."[41]

IV. The Impacted Utilities Failed to Use the Inherent Flexibility in Their Natural Gas Procurement Plans to Minimize Ratepayer Cost Impacts, But Instead Impermissibly Shifted Risk onto Ratepayers by Relying on the Spot Market for Peak Supply.

The Impacted Utilities all agree that the February Price Spike materialized because supply cratered due to natural gas supply disruptions while demand skyrocketed due to a nearly nationwide cold snap. Yet the Impacted Utilities did not alter their inherently flexible natural gas procurement strategies to minimize cost impacts on ratepayers. The evidence obtained by the OAG shows that at least part of the reason behind the utilities' decision to maintain their existing

[39] Excerpt from Great Plains Response to OAG IR No. 5, enclosed herewith as Attachment 6.
[40] Excerpt from Xcel Response to OAG IR No. 5, enclosed herewith as Attachment 8.
[41] *Id.*

procurement strategies was their perceived ability to pass through the purchased cost of natural gas to ratepayers without fear of major disallowances due to the AAA/PGA process. This true-up mechanism enabled the Impacted Utilities to maintain a business-as-usual approach to their gas-buying plans, instead of reacting with the urgency these price spikes required.

A. The Impacted Utilities All Agree that the February Price Spike Materialized Precisely Because Supply Cratered While Demand Skyrocketed.

CenterPoint, Xcel, MERC, and Great Plains all agree about what caused the February Price Spike: A combination of natural gas supply shortages due to production disruptions while a practically nationwide cold spell increased natural gas demand. As discussed more fully in the previous section, the February Price Spike was predictable and foreseeable.

In CenterPoint's Initial Filing, that utility concluded that the February Price Spike was caused:

> at least in part, from the sharp rise in the demand for natural gas for heating due to the extreme, arctic cold temperatures across much of the country. At the same time demand was rising to record levels, the multi-day stretch of extreme cold weather also led to supply issues. . . . While the supply and demand effects would have impacted gas prices independently, when combined, the resulting market conditions were unprecedented.[42]

Similarly, Xcel concluded that:

> The extent of the cold caused significant increases in natural gas demand in many places nationally, including Minnesota. Ultimately, the cold in the southwestern United States—where temperatures abnormally fell below the freezing point—resulted in "freeze-offs" of many gas production and gathering facilities (i.e., water and other liquids falling out of the natural gas stream and freezing thereby blocking the flow of gas). The substantial increase in demand for natural gas across the country, combined with the drop off in supply, caused a dramatic short-term increase in gas prices across much of the central United States on the Friday before Presidents Day weekend, February 12, 2021.[43]

MERC, likewise, suggested that:

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[42] CenterPoint Initial Filing at 12-13 (Apr. 9, 2021).
[43] Xcel Initial Filing at 13-14 (Apr. 9, 2021).

> The extended cold weather that was experienced throughout Canada and most of the US, even dipping far South caused the elevated prices. When the cold dipped further south into the production is when the exceptionally high price gas was experienced. Gas Supply Commodity follows the laws of Supply and Demand, when freeze offs started to occur the amount of supply reduced and prices rose.[44]

Finally, Great Plains reach a similar conclusion as the other Impacted Utilities when it described the factors leading to the February Price Spike:

> Natural gas prices rose dramatically during a short period of February 2021 from a combination of factors. The primary driver was severe weather in the Southern United States. The impacts were centered in Texas, which resulted in energy shortages causing massive natural gas production curtailments. This production of natural gas is a significant supply source for the United States' Midwest Region. Another factor was cold temperatures in the Midwest increasing regional demand. The combination of reduced supply and increased demand led to an extraordinary increase in the price of natural gas.[45]

B. The Impacted Utilities Procure Peak Natural Gas Supply on the Spot Market and did not Deviate from this Practice Leading up to the February Price Spike Despite Extreme Market Volatility.

The Impacted Utilities "generally meet expected need that exceeds daily normal levels by procuring daily spot priced gas," which, as the Department explained, "can be problematic on colder-than-normal days, as a potentially significant portion of gas volumes will be priced at daily spot market prices, and therefore will be susceptible to price increases and market forces. This risk manifested itself over the President's Day weekend."[46] The OAG agrees, especially given the fact that the Impacted Utilities apparently took a business-as-usual approach by not altering their inherently flexible natural gas procurement plans to minimize the cost impacts on ratepayers during the February Price Spike. And this decision—or indecision, as it were—was made in the face of dire meteorological forecasts and real-time utility knowledge that the market was primed for a price spike event.

[44] MERC Initial Filing at 5 (Apr. 9, 2021).
[45] Great Plains Initial Filing at 3 (Apr. 9, 2021).
[46] *Id.*

The Impacted Utilities, however, did not alter their natural gas procurement protocols to avoid index-based daily spot market purchases despite both dire meteorological forecasts and first-hand evidence that the market was historically volatile.[47] In fact, many of the Impacted Utilities only altered their natural gas procurement plans by doubling-down on the index-based daily spot market by purchasing weekend natural gas on Thursday, February 11—not February 12—contrary to the Impacted Utilities' narrative to the Department:

- MERC's ICE Log chats from Thursday, February 11, demonstrate that the company actively purchased most or all of its Presidents' Day weekend supply that day. For example, at around one in the afternoon, MERC called on its "**[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** call at Spruce for the long weekend" and also bought "from **[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** dths at Spruce in USD for the long weekend." Around four in the afternoon, MERC stated that it just "bought **[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** for long weekend 2/13-2/16 at **[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]**." At around five in the afternoon, MERC indicated that "bought **[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** from you[] for the long weekend 2/13-2/16."[48]

- In CenterPoint's ICE Log chats with several purveyors of natural gas on Thursday, February 11, CenterPoint seeks to buy "**[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** for "the weekend" and that is on "top of calls" for **[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** for "the long weekend."[49]

- In internal CenterPoint emails from the morning of Thursday, February 11, CenterPoint procurement officials stated that he was "def going to build my plan today and buy some weekend volume tod[ay]." Other emails from that same day inquired about a weekend forecast and stated that CenterPoint was "going to go ahead and buy some weekend gas" and that "[I] already bought weekend gas from

[47] *See* Department Comments at Attachment 1 (May 10, 2021) (CenterPoint stated that "[t]he Company did not make any significant changes to its Procurement Plan after it was approved internally. The Procurement Plan is designed to be flexible in order to respond to variations within expected sales ranges and changes to demand."); *see also id.* (MERC stated that its "procurement plan was not adjusted in response to the Presidents' Day weekend event."); *id.* (Great Plains stated that it "was not required to adjust its procurement plans in response to the President's Day weekend event."); *id.* (Xcel stated that it "was not required to change the procurement plan following the President's Day weekend event.").
[48] Excerpt from MERC Response to OAG IR No. 5, enclosed herewith as Attachment 7.
[49] Excerpt from CenterPoint Response to OAG IR No. 5, enclosed herewith as Attachment 5.

**[TRADE SECRET DATA BEGINS …
… TRADE SECRET DATA ENDS]**."[50]

- Xcel's ICE Logs from Thursday, February 11, also show that the company was "trying to get ahead of this for the weekend" and reflects that the company made a deal "for the weekend" for "gd13-16."[51]

Despite unprecedented market volatility and exorbitant natural gas prices, the Impacted Utilities did not deviate from their typical approach of relying on index-based deals on the spot market. Internal communications reviewed by the OAG show that utility employees were aware of and openly discussed Minnesota's PGA process during the crisis. They understood and took comfort in the fact that the extraordinary prices they were facing would typically be paid by ratepayers, rather than the utilities:

- In an internal MERC email on the morning of Friday, February 12, the company stated that "gas prices are currently trading" at "**[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]**" and warning that while "I do not think these are as high as we might see" the "***increased prices are expected to be recovered through normal regulatory treatment from our LDC customers***."[52]

- In an internal CenterPoint email on the evening of Friday, February 12, the company noted that "[w]e experienced significant price increases today as we locked in our marginal natural gas supply for the next four days." With that preface, CenterPoint went on to note that "***this is fully recoverable as a pass through cost***."[53]

- In an internal Great Plains email from Tuesday, February 16, the company noted that it "will certainly see the gas price impact, at least very likely, that is significant" and that "***[t]he GCR/AAA would be our only other mechanism [for cost recovery that I can think of currently***."[54]

- In a Microsoft Teams chat between Great Plains employees at eight-thirty in the morning on Friday, February 12, one company representative noted that it felt like "***we play with funny-money sometimes***" in response to hearing that Great Plains

[50] *Id.*
[51] Excerpt from Xcel Response to OAG IR No. 5, enclosed herewith as Attachment 8.
[52] Excerpt from MERC Response to OAG IR No. 5, enclosed herewith as Attachment 7.
[53] Excerpt from CenterPoint Response to OAG IR No. 5, enclosed herewith as Attachment 5.
[54] Excerpt from Great Plains Response to OAG IR No. 5, enclosed herewith as Attachment 6.

> had "paid down some of our short-term debt recently and ***we have cushion for your extra $8M of gas for the weekend***."[55]

As a result of the Impacted Utilities' dependence on the index-based daily spot market, those companies collectively incurred over half-a-billion dollars in natural gas costs in less than a week.

V. THE DEPARTMENT'S PRUDENCE ANALYSIS REGARDING THE IMPACTED UTILITIES' ACTIONS DURING THE FEBRUARY PRICE SPIKE.

In its May 10 comments, the Department recommended reducing the Impacted Utilities' February Price Spike costs by approximately $90 million for failing to maximize storage withdrawals. Based on the information it had reviewed at the time, the Department seems to have also concluded that the Impacted Utilities acted reasonably and prudently with respect to their natural gas procurement, peaking, conservation messaging, and interruptible class curtailment practices during the event. This section explores the Department's reasoning.

A. The Department Found the Impacted Utilities' Storage Withdrawals Imprudent and Recommended a $90 Million Disallowance.

The Department noted that "storage is designed in part as a price mitigation tool" and therefore it was "necessary to review the utilities' deployment of available storage during" the February Price Spike.[56] "Based on th[e] information" provided by the Impacted Utilities to the Department, "it appears that the utilities did not fully deploy, to varying degrees, their available storage."[57] Accordingly, the Department concluded that the Impacted Utilities "could have saved a collective $90.2 million if they had used all available storage" during the February Price Spike.[58] The Department further explained that "[t]hese costs represent the difference between actual costs incurred by the utility and what costs would have been if maximum available storage volumes

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[55] *Id.*
[56] Department Comments at 26 (May 10, 2021).
[57] *Id.* at 25.
[58] *Id.* at 26.

were deployed."[59] The Department then broke down the $90.2 million utility-by-utility and recommended that "the Commission disallow the following amounts" from each utility:[60]

Utility	Disallowance Recommendation
CenterPoint	$47,831,374
Xcel Energy	$20,464,474
MERC	$21,219,372
Great Plains	$673,248
Total	**$90,188,468**

The Department reasoned that this $90.2 million disallowance was appropriate because the utilities did not even consider the extraordinary gas prices when deciding whether to deploy their stored gas:

> Given the fact that this cold weather event occurred past the historical coldest part of the heating season, and each utility had ample storage volumes available, the Department concludes that the gas utilities failed to protect ratepayer interests by not fully utilizing natural gas storage over the President's Day weekend. Even if natural gas prices had settled at $20 per Dth for the weekend, Minnesota natural gas utilities would have collectively incurred significant excess natural gas costs over the period from February 13 to February 17. The decision by the gas utilities to utilize a strictly weather-based approach to dispatch storage gas was inappropriate and not indicative of the decisionmaking process that a firm or purchaser without a flow-through of gas costs would make.[61]

B. The Department Found the Impacted Utilities were Unaware of Significant Natural Gas Prices Prior to Making Purchases for Presidents' Day Weekend and Therefore Found Natural Gas Procurement during the February Price Spike Reasonable and Prudent.

The Department broke out its natural gas procurement prudence analysis into two "related areas . . . with the first involving the timing of gas purchases and the second involving the execution of purchasing plans and the types of products purchased by the utility."[62] As explained in greater detail below, the Department apparently concluded that the Impacted Utilities' natural gas

[59] *Id.* at 29.
[60] *Id.*
[61] *Id.* at 28-29.
[62] *Id.* at 22.

procurement was prudent during the February Price Spike. In reaching this conclusion, the Department relied heavily on the timing of utilities' gas purchases, which demonstrated to the Department that utilities were not aware of the extent of the pricing emergency when they finalized purchases for gas. The Department acknowledged, however, that the Impacted Utilities' "execution of purchasing plans and the types of products purchased" were both "problematic" and "susceptible to price increases and market forces."[63] These views conflict, since the *reason* that the utilities did not understand the impact of the pricing emergency when they made their purchases was that the products they purchased were susceptible to price increases *after* the transactions were complete.

The Department further explained that the utilities did not deviate from their normal purchase programs during the pricing emergency. The Impacted Utilities all followed the "same general timeline in terms of gas procurement" during the February Price Spike.[64] It is not surprising that the utilities generally followed the same timeline, since the timeline they all followed was "the standard daily purchasing timeline which requires most purchases to be made between 7 a[.]m[.] and 9 a[.]m[.] on the morning of the day prior to the day the gas will be used."[65] The problem with using this standard timeline during an emergency, however, was that it resulted in utilities purchasing gas without knowing the final price.

C. The Department found Peaking Plant Decisions during the February Price Spike Reasonable and Prudent because it Agreed with the Impacted Utilities that such Facilities are Designed for Reliability Purposes.

The Department began its prudence discussion regarding peak shaving by providing a quick primer on the purpose and historical use of that resource type. Specifically, the Department

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[63] Department Comments at 24 (May 10, 2021).
[64] *Id.* at 22.
[65] *Id.*

found that "peak shaving, unlike storage, is not designed with price volatility mitigation as a purpose" and that "[p]eak shaving has historically been designed, and used in this market, as a reliability tool for the distribution system that supplements the system in the event of near design-day conditions or in response to other unexpected reliability issues."[66] The Department noted that "[a]lthough peak shaving was not fully deployed" during the February Price Spike, the Impacted Utilities "that have peak shaving available deployed it to varying degrees."[67] Accordingly, the Department concluded that the Impacted Utilities' "dispatch of available peak shaving was adequate during the" February Price Spike. Despite its prudence finding, the Department did acknowledge that peaking "resources may be appropriate to use as a price mitigation tool, but this modification in potential uses for peak shaving will require additional analysis and discussion."[68]

D. The Department Found the Impacted Utilities were Unaware of Significant Natural Gas Prices Prior to Making Purchases for Presidents' Day Weekend and Therefore Found the Impacted Utilities' Interruptible Class Curtailment and Conservation Messaging Practices Reasonable and Prudent.

The Department noted that the Impacted Utilities "did not issue general calls for conservation despite the significant price spikes that were evident by Friday afternoon" preceding Presidents' Day weekend.[69] In addition, the Department noted that while "Great Plains and MERC both stated that weather conditions did not warrant curtailments for reliability" both Xcel and CenterPoint "issued curtailments for certain interruptible customers, but these calls for curtailment were area specific to ensure system reliability."[70] Despite these failures by utilities to call for conservation or fully curtail their customers, the Department concluded that conservation or curtailments would not have resulted in significant cost savings during the February Price Spike.

[66] *Id.* at 26.
[67] *Id.*
[68] *Id.*
[69] Department Comments at 7 (May 10, 2021).
[70] *Id.* at 8-9.

The Department's reasoning for this was its perception that utilities were not aware of the pricing emergency when they finalized their weekend gas purchases on Friday morning:

> As a result of the natural gas market structure, the gas utilities were required to purchase gas for the entirety of the President's Day weekend early on Friday, February 12, with no knowledge of the final price. Since prices were not expected to reach unprecedented levels, and there was no apparent threat to physical supplies in Minnesota, there was no expectation that curtailments or conservation would be needed when the gas utilities secured their gas supply for the weekend.[71]

VI. While Utilities' Earnings Continue to Outpace Wall Street Forecasts, Many Ratepayers were Already Struggling Before the February Price Spike Due to the Pandemic Even.

CenterPoint, Xcel, MERC, and Great Plains incurred over a half-a-billion dollars in natural gas costs related to their Minnesota operations during the February Price Spike. Despite posting strong profits for their shareholders during the first quarter of 2021, these utilities intend to do everything in their power to protect shareholders by seeking to recover the enormous natural gas costs from ratepayers, many of whom were already struggling to stay afloat due to COVID-19.

A. Xcel, CenterPoint, MERC, and Great Plains Post Strong First Quarter Profits.

CenterPoint and Xcel both posted first quarter profits—respectively, $363 million and $362 million—that were comfortably higher than Wall Street forecasts.[72] CenterPoint's Chief Executive Officer boasted during an earnings call that "[w]e are off to a great start for the year" and that "[b]ecause the higher natural gas costs are passed through, they did not impact this quarter's results."[73] Likewise, Xcel's Chief Executive Officer noted that "[t]oday, we reported strong first quarter earnings" and that "[w]e're in the process of seeking recovery for incremental fuel cost."[74]

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[71] *Id.* at 9.
[72] Mike Hughlett, *Xcel, CenterPoint Make Millions while Customers Get Stuck with Bills after February Storm*, STARTRIBUNE (May 9, 2021), https://www.startribune.com/xcel-centerpoint-make-millions-while-customers-get-stuck-with-bills-after-february-storm/600055326/?refresh=true
[73] *Id.*
[74] *Id.*

MERC and Great Plains posted similarly positive financial results for the first quarter. The Executive Chairman of MERC's corporate parent, WEC Energy Group, reported a net income of $510.1 million—an increase of $57.6 million over last year's first quarter—and noted, in part, that the company's "positive first-quarter results were driven by colder weather."[75] Great Plains' corporate parent, MDU Resources Group, Inc., announced that its first quarter 2021 earnings of $52.1 million doubled the company's first quarter earnings from the year prior.[76]

B. Minnesota Ratepayers Struggling from the Pandemic are Dealt another Blow by Excessive February Price Spike Costs.

Even before the February Price Spike, Minnesota ratepayers were struggling to pay their utility bills due to the economic and health impacts felt by the ongoing pandemic; the February Price Spike costs add to these struggles. This point is made painfully clear by comments in this docket by ratepayer advocates, federal politicians, and average citizens alike.

In joint comments filed on May 10, 2021, the Minnesota Citizens Utility Board and the Energy CENTS Coalition highlighted the difficulties faced by ratepayers, especially low-income customers:

> The costs presented by Impacted Utilities are extraordinarily high. Low-income customers, many of whom already struggle to pay their energy bills, will be most affected. Moreover, these costs will hit customers at the same time as utilities are resuming disconnections for non-payment after a shut-off moratorium of over a year due to the COVID-19 pandemic. Arrearages have grown in that time, and many customers are already struggling to catch up. The Commission should require each Impacted Utility to propose a cost recovery plan that includes measures to mitigate the impact on residential customers and, particularly on low-income customers.[77]

Similarly, United States Senator Tina Smith submitted a letter to the Commission in this docket exclaiming that the February Price Spike "could be a significant financial burden for utilities and

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[75] Cision PR Newswire, WEC Energy Group Reports Solid First-Quarter Results, https://www.prnewswire.com/news-releases/wec-energy-group-reports-solid-first-quarter-results-301281424.html (last visited July 5, 2021).
[76] Seeking Alpha, MDU Resources Group, Inc. (MDU) CEO Dave Goodin on Q1 2021 Results – Earnings Call Transcript, https://seekingalpha.com/article/4425382-mdu-resources-group-inc-mdu-ceo-dave-goodin-on-q1-2021-results-earnings-call-transcript (last visited July 5, 2021).
[77] CUB and Energy CENTS Joint Comments at 11 (May 10, 2021).

their customers, especially as many Minnesota families are already struggling to get by in the current health and economic crisis."[78]

The sobering accounts provided in public comments further underscore the difficulty ratepayers were having to make ends meet due to the pandemic, even before the Impacted Utilities sought to recover the enormous natural gas costs from the February Price Spike. For example, Teri Ningen, from Tyler, Minnesota, wrote that she cannot afford "a natural gas bill that is as much as my monthly income" and that due to the February Price Spike, "people will not only have to choose between med[ications] and food and luxuries like toilet paper, now we have to choose between housing and heat for that housing."[79] Ms. Ningen goes on to juxtapose the financial strength of the Impacted Utilities compared with the dire situation facing many ratepayers: the "gas co[mpanies] and all the supplier business[es] down the line got or will get their money and come out of this fine but we, the poor, limited income person at the end pays the price."

Public comments submitted by Rachelle Rowe, Kaye Jensen, and Copper Harding expressed similar sentiments. Ms. Rowe protested that "many Minnesotans [are] just scrapping by during the current year" and aptly described the February Price Spike costs that the Impacted Utilities seek to pass along to ratepayers as "a life altering amount of money for many people right now."[80] Ms. Jensen likewise proclaimed that assessing the February Price Spike to ratepayers like her "could mean that thousands of customers may have difficulty paying their significantly increased bill[]s" and that she does not "see this as a reasonable solution," especially given that her "household has made many sacrifices over the past year to be able to meet our financial obligations."[81] Finally, Ms. Harding expressed both heartache and forced resignation when she

[78] United State Senator Tina Smith Letter at 1 (Feb. 22, 2021).
[79] Public Comment—Batch 2, Teri Ningen Comments at 3-4 (Apr. 27, 2021).
[80] Public Comment—Batch 1, Rachelle Rowe Comments at 2 (Apr. 27, 2021).
[81] Public Comment—Batch 1, Kaye Jensen Comments at 13 (Apr. 27, 2021).

declared that her "business has taken a loss and is barely surviving due to Covid[-]19" and that "[s]hareholders win" while "small businesses, homeowners, renters, families struggling lose, again."[82]

ANALYSIS

The Impacted Utilities employed unreasonable and imprudent business judgment both leading up to and during the February Price Spike. This resulted in unreasonably high costs for natural gas purchases that should not be paid by ratepayers.

Before and during the price spike, the Impacted Utilities failed to take a series of reasonable steps to protect ratepayers from excessive pricing. First, the Impacted Utilities did not reasonably protect ratepayers from price volatility by not establishing adequate diversity for their natural gas procurements. Leading up to the February Price Sike, some of the Impacted Utilities had not established sufficient geographic diversification for their spot market purchases. The result was that these utilities were entirely dependent on fulfilling their spot purchases from hubs that had particularly high prices; they could not take advantage of lower prices at other hubs. In addition, during the weeks and days leading up to the February Price Spike, the Impacted Utilities unreasonably failed to pursue fixed-price contracts in the face of dire meteorological and real-world warnings that a price spike was on the horizon. Instead, they continued their typical approach of buying indexed-priced gas, which did not provide any pricing protection. By diversifying their contract pricing and buying some fixed price contracts, the Impacted Utilities could have mitigated the impact of gas during the spike.

Second, the Impacted Utilities imprudently failed to employ mitigation strategies both before and during the Presidents' Day weekend, which would have limited the amount of high-

[82] Public Comment—Batch 1, Copper Harding Comments at 2 (Mar. 17, 2021).

priced natural gas they purchased. They did not fully maximize draws from stored gas, deploy their peaking facilities, curtail their interruptible customers, and ask customers to conserve. Each of these steps would have limited ratepayers' exposure to the severe financial impacts felt by the February Price Spike. Rather than deploying these tools during a pricing emergency, utilities operated in a business-as-usual approach while expecting ratepayers to absorb the excessive costs.

This section starts by providing an overview of the standard of review governing the Commission's prudence determination. The OAG then discusses both longer-term and shorter-term imprudent utility decision-making concerning the February Price Spike. Finally, the OAG provides a utility-by-utility overview of recommended downward corrections to February Price Spike costs that were imprudently and unreasonably incurred by the Impacted Utilities.

I. SHAREHOLDERS, NOT RATEPAYERS, ASSUME OPERATIONAL RISKS AND THE IMPACTED UTILITIES BEAR THE BURDEN TO DEMONSTRATE THAT THE NATURAL GAS COSTS INCURRED DURING THE FEBRUARY PRICE SPIKE WERE REASONABLE AND PRUDENT.

The Department's analysis has described the structure of utilities' AAA process, which the OAG will not repeat in detail. In general, the AAA process establishes a pass-through mechanism to recover utilities' fuel costs. This mechanism can create the false impression that ratepayers bear all the risk of changing gas prices. This is not true. While utilities can recover the actual costs of the gas they purchase, they must demonstrate that these costs were prudently incurred. Put differently, the AAA process does not change the Commission's duty to act in the public interest or utilities' burden to show that their costs are reasonable and prudent.

When presented with a AAA true-up docket, or a proposed variance thereto, the Commission is required to adhere to three important guiding principles, all of which require the Commission to consider the public interest when evaluating actions taken by the Impacted Utilities. First, the Impacted Utilities bear the burden of proof to demonstrate "that the rate change is just and reasonable."[83] Second, when the Commission analyzes whether the Impacted Utilities have met their burdens of proof, "[a]ny doubt as to reasonableness should be resolved in favor of the consumer."[84] Finally, given the large gulf in informational and operational disparities that exist between the Impacted Utilities and the ratepayers they serve, the Commission is required to insulate ratepayers from unreasonable risks taken by utilities.[85]

II. THE IMPACTED UTILITIES ACTED IMPRUDENTLY, UNREASONABLY AND CONTRARY TO THE PUBLIC INTEREST BY NOT HAVING A SUFFICIENTLY DIVERSE NATURAL GAS PROCUREMENT PORTFOLIO TO MITIGATE MARKET VOLATILITY.

The Impacted Utilities' natural gas procurement portfolios were not sufficiently diverse—both with respect to geographic diversity on the spot market and securing fixed-price contracts—to effectively mitigate against market volatility. Had these procurement best practices been appropriately implemented by the Impacted Utilities, those companies could have saved many millions of dollars over the February Price Spike.

A. The Impacted Utilities were not Geographically Diverse on the Daily Spot Market.

The Impacted Utilities failed to properly allocate pipeline capacity demand contracts to ensure they would have geographic diversity on the daily spot market. This resulted in several

[83] *See* Minn. Stat. §§ 216B.03, .16, subd. 4.
[84] Minn. Stat. § 216B.03.
[85] *See, e.g., In the Matter of the Application of N. States Power Co. for Auth. to Increase Rates for Elec. Serv. in the State of Minnesota*, E-002/GR-12-961, 2013 WL 4773053, at *17 (Minn. P.U.C. Sept. 3, 2013) ("This approach best balances the interests of ratepayers, who are responsible for prudently incurred costs reasonably necessary to provide electric service, with the interests of shareholders, who earn a rate of return calculated to compensate them for assuming the business and operational risks associated with providing utility service."); *In the Matter of the Petition of N. States Power Co., Minneapolis, Minnesota, for Auth. to Change Its Schedule of Elec. Rates for Retail Customers Within the State of Minnesota.*, E-002, 1981 WL 721400, at *21 (Minn. P.U.C. Apr. 30, 1981) ("The owners of the two NSP companies are able to . direct management in the selection of types, sizes, and location of the facilities in which those owners have chosen to invest. Those owners control their companies and assume the risks of ownership by investing. Minnesota ratepayers cannot be asked to insulate the owners from all financial risk.").

utilities paying excessive costs because they were not able to access lower-priced gas at different hubs.

It is natural gas procurement best practices for a utility to have geographic diversity when purchasing daily supply on the spot market. This is especially important when a utility—much like the Impacted Utilities here—is overdependent on the daily spot market when procuring peak supply. As utilities explain, geographic diversity is beneficial because it mitigates market volatility by "limit[ing] the impact of a price increase at any single market point"[86] and "ensur[ing] that the executed contracts are competitive in the marketplace."[87] For this reason, all of the utilities confirmed that having a geographically diverse purchasing plan is an industry best practice:

- CenterPoint stated that it "believes geographical diversity of supplies and pipelines is best practice."[88]
- Great Plains stated that it "believes that geographical diversity of suppliers and pipelines is a best practice for a utility's procurement strategy to the extent a utility can diversify."[89]
- MERC stated that it "believes that geographical diversity of suppliers is a best practice for a utility's procurement strategy" and that the company "strives for diversification of its suppliers, including when procuring in the spot market."[90]
- Xcel stated that its "acquisition strategy" includes "[a] regionally diverse supply mix [that] provides the company access to multiple gas supply basins, suppliers, and prices."[91]

But while utilities all acknowledge this industry best practice, several of them did not sufficiently implement this practice to protect against excessive spot market prices. Instead, while every Minnesota utility procures its gas from a variety of locations and suppliers, most utilities

[86] Xcel Response to OAG IR No. 103, enclosed herewith as Attachment 8.
[87] Great Plains Response to OAG IR No. 103, enclosed herewith as Attachment 6.
[88] CenterPoint Response to OAG IR No. 103, enclosed herewith as Attachment 5.
[89] Great Plains Response to OAG IR No. 103, enclosed herewith as Attachment 6.
[90] MERC Response to OAG IR No. 103, enclosed herewith as Attachment 7.
[91] Xcel Response to OAG IR No. 103, enclosed herewith as Attachment 8.

mismanaged their procurement practices to all but eliminate the pricing advantages that this supply diversity would provide. Utilities locked up all their capacity from some locations with baseload contracts, which left them vulnerable to spikes in the spot price markets at the few other hubs from which they could obtain supply. Had utilities managed their supply prudently, they would have been able to capitalize on a more diverse supply and purchase greater quantities of gas for lower prices.

The Impacted Utilities' geographic diversity for spot market purchases varied considerably; while Xcel employed adequate geographic diversity, the other Impacted Utilities had little, if any. This caused those utilities that did not have sufficient diversity to pay much higher prices than they would have otherwise. During the February Price Spike, the cost of natural gas on the index daily spot market at Viking/Emerson cost a fraction of the natural gas at both Demarc and Ventura. Yet only Xcel and MERC procured a portion of their daily spot from the Viking/Emerson Hub. Great Plains and CenterPoint failed to obtain *any* spot market natural gas from Viking/Emerson during the price spike. Had they done so, they would have saved significant fuel costs. In other words, had the Impacted Utilities managed their supply contracts to align with the best practice of geographic diversity on the spot market, those companies could have purchased at least some of the spot market gas they needed at a lower price.

Both CenterPoint and Xcel also produced documents demonstrating that they could not take full advantage of the comparatively stable pricing at the Viking/Emerson Hub. In an internal CenterPoint email from the afternoon of February 16, CenterPoint acknowledged that it "didn't purchase any Emerson daily supply" because "our supply is baseloaded for the month."[92] In other words, while CenterPoint does receive supply from Viking/Emerson, it mismanaged that supply

[92] Excerpt from CenterPoint Response to OAG IR No. 5, enclosed herewith as Attachment 5.

by designating it all as baseload. This meant that it was unable to increase purchases from this hub when its prices were lower than others. Similarly, even though Xcel was sufficiently geographically diverse, and was able to capitalize on lower spot prices at Viking/Emerson, its ICE Log chats from February 16 demonstrate the benefits of that strategy, and how it wished it could have purchased more: "[E]merson looks like a bargain again" and the procurement official remarked that he "wish[ed] [he] could lift those."[93]

Maximizing purchases from the Viking/Emerson Hub would have resulted in significant savings for Minnesota utilities. As noted above, Xcel appears to have had an adequate level of geographic diversity, which allowed it to benefit to some degree from the lower prices at the Viking/Emerson hub. Xcel had at least 258,784 Dth in total pipeline capacity from the Viking/Emerson Hub during the February Price Spike.[94] Xcel procured a total of 258,784 of daily natural gas from the Viking/Emerson Hub during the February Price Spike.[95] That constituted 13.8% of its daily spot market purchases over the course of the February Price Spike. Because Xcel had pipeline capacity to access the Viking/Emerson Hub commensurate with their daily spot market capacity at the other hubs, Xcel was able to save many millions of dollars during the February Price Spike.

CenterPoint had **[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** Dth in total pipeline capacity from the Viking/Emerson Hub for each day during the February Price Spike. CenterPoint procured a total of **[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS**] Dth of daily natural gas from the Viking/Emerson Hub during the February Price Spike. That constituted **[TRADE SECRET DATA BEGINS …**

[93] Excerpt from Xcel Response to OAG IR No. 5, enclosed herewith as Attachment 8.
[94] Xcel Response to OAG IR No. 201, enclosed herewith as Attachment 8.
[95] *Id.*

… TRADE SECRET DATA ENDS] of its daily spot market purchases from that hub over the course of the February Price Spike. If CenterPoint had increased pipeline capacity to access the Viking/Emerson Hub commensurate with their daily spot market capacity at other hubs, it could have saved approximately $70 million during the February Price Spike.[96]

MERC had at least **[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** Dth in total pipeline capacity from the Viking/Emerson Hub for each day during the February Price Spike.[97] MERC procured a total of **[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** Dth of daily natural gas from the Viking/Emerson Hub during the February Price Spike.[98] That constituted **[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** of its daily spot market purchases over the course of the February Price Spike. If MERC had increased pipeline capacity to access the Viking/Emerson Hub commensurate with their daily spot market capacity at other hubs, it could have saved approximately $11 million during the February Price Spike.[99]

Great Plains had at least 18,000 Dth in total pipeline capacity from the Viking/Emerson Hub for each day during the February Price Spike.[100] Great Plains procured a total of 0 Dth of daily natural gas from the Viking/Emerson Hub during the February Price Spike.[101] That constituted 0% of its daily spot market purchases over the course of the February Price Spike. If Great Plains had increased pipeline capacity to access the Viking/Emerson Hub commensurate with their daily spot market capacity at the other hubs, it could have saved approximately $2.8 million during the February Price Spike.[102]

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[96] *See* OAG chart entitled "Utility Geographic Diversification Cost Savings," enclosed herewith as Attachment 1.
[97] MERC Response to OAG IR No. 201, enclosed herewith as Attachment 7.
[98] *Id.*
[99] *See* OAG chart entitled "Utility Geographic Diversification Cost Savings," enclosed herewith as Attachment 3.
[100] Great Plains Response to OAG IR No. 101, enclosed herewith as Attachment 6.
[101] *See* OAG chart entitled "Utility Geographic Diversification Cost Savings," enclosed herewith as Attachment 2.
[102] *Id.*

If the Impacted Utilities had sufficient pipeline capacity to access to the Viking/Emerson Hub commensurate with their daily spot market capacity at the Demarc and Ventura Hubs those companies could have saved approximately $84 million dollars during the February Price Spike.[103] The Impacted Utilities acted unreasonably and imprudently by not fully employing sufficient geographical diversity on the daily spot market, contrary to natural gas procurement best practices. Ratepayers should not be forced to bail out poor decisions that created excessive costs due to spot-market price exposure. The Impacted Utilities made the decisions leading up to the February Price Spike, not the ratepayers. And, most importantly, "[a]ny doubt as to [the] reasonableness [of the Impacted Utilities' geographic diversity decisions] should be resolved in favor of the consumer."[104]

B. The Impacted Utilities Failed to Mitigate Price Volatility by Securing Fixed-Price Contracts After they were Aware of Severe National Weather Forecasts and Increasing Natural Gas Prices.

The Impacted Utilities also failed to maintain sufficient diversity of their contract pricing by relying almost exclusively on volatile, indexed-priced contract in the face of a supply crisis. Had the Impacted Utilities sought and secured at least some fixed-price daily spot market purchases, those companies could have saved many millions of dollars over the February Price Spike. This section first explains the role that fixed-price contracts play to mitigate market volatility, as demonstrated by documents produced by the Impacted Utilities. Next, the OAG provides examples where the Impacted Utilities could have—but did not—either inquire about or secure fixed-price contracts leading up to the February Price Spike. The Impacted Utilities' failure to secure fixed-price contracts prior to Presidents' Day weekend is then juxtaposed with examples

[103] *See generally* OAG chart entitled "Utility Geographic Diversification Cost Savings," enclosed herewith as Attachment 1.
[104] Minn. Stat. § 216B.03.

showing those companies' eagerness to execute fixed-price contracts *after* the Presidents' Day weekend. The OAG then explains why the Department's prudence conclusions concerning the Impacted Utilities' procurement decisions during the February Price Spike should be rejected. Finally, the OAG quantifies the potential cost savings attributable to securing fixed-price contracts during the February Price Spike.

1. The Impacted Utilities were aware that fixed-price contracts were the only procurement mechanism to wholly mitigate price volatility.

Fixed-price contracts on the daily spot market are a critical tool to mitigate market volatility. CenterPoint's 2020 Gas Procurement Plan explains that fixed-price daily spot market purchases can mitigate against the market volatility present in index-based contracts:

> Sometimes CenterPoint Energy may need to know the absolute price that it will pay for gas. A fixed price is the only product that removes the risk of price volatility and provides an absolute price guarantee; however, this strategy forgoes the flexibility of participating when prices move downward and therefore would not produce the most reasonable cost in a market with falling prices. A fixed price can be established by negotiating with the physical gas supplier for a mutually agreed upon price.[105]

Fixed-based daily spot market contracts may, at times, be advantageous for the Impacted Utilities because "[b]uying supplies based on a daily index basis . . . involves some risk that gas prices can spike to high levels when certain conditions exist in the market, such as the extreme, long lasting cold spells incurred during the winter of 2013-2014 or the short, extreme fly-up that occurred in December 2017."[106] While fixed price contracts have some downsides and are not a "silver bullet" solution to high gas prices, they can be a valuable tool in a prudently-managed procurement strategy to mitigate the risk of price spikes. All the other Impacted Utilities have acknowledged,

[105] CenterPoint 2020 Minnesota Gas Procurement Plan at 37.
[106] CenterPoint 2020 Minnesota Gas Procurement Plan at 51.

either explicitly or implicitly, the role that fixed-price daily spot contracts can play to reduce price volatility in times of market uncertainty.[107]

The February Price Spike is exactly the type of event that fixed-price contracts can mitigate. The Impacted Utilities had the ability to seek fixed-price deals to procure natural gas in the weeks and days leading up to the Presidents' Day weekend, when they were aware that supply would likely be constrained by severe weather across the entire mid-continent and had firsthand knowledge of an impending price spike. Many Impacted Utilities discussed fixed-price options and declined to secure such deals; other Impacted Utilities failed to even inquire about fixed-priced deals for the Presidents' Day weekend. And some were simply not in the market for volume on February 11, because they had already procured much of their gas need for the weekend with swing/call options and index-based daily spot market purchases where the price was not guaranteed. These decisions to lock-in supply early without fixed prices proved to be unreasonably costly.

2. The Impacted Utilities failed to secure fixed-price contracts leading up to the February Price Spike.

CenterPoint's ICE Log chats from Thursday, February 11, demonstrate the company's failure to adequately pursue fixed-price contracts for gas. The company inquired whether a natural gas seller had "been selling any Vent or Demarc GDD in the mornings." In response, the purveyor informed CenterPoint that they had "just been going fixed price" and offered "nothing gdd."[108]

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[107] *See, e.g.,* Department Comments at Attachment 1, p. 7 (May 10, 2021) (MERC's 2019-2020 Gas Procurement Policies note that it "is intended to provide reliable and reasonably priced natural gas to customers" through a "portfolio mix of firm supplies with varying terms purchased at: . . . Daily Spot Market – Gas Daily Daily Index (GDD) *or fixed price*.") (emphasis added); Xcel Initial Filing at 33 (Apr. 9, 2021) ("When making purchases of gas supply, the Company makes either *a fixed-price deal* or an index-based deal.") (emphasis added); Excerpt from Great Plains Response to OAG IR No. 5, enclosed herewith as Attachment 6 (2/5 Microsoft Teams messages involving a Great Plains discussion noting that "BP's *FP offer* was at $4.50" and that "[w]e need 6200 at CIG. *Offer at $6.00 FP*.") (emphasis added).

[108] Excerpt from CenterPoint Response to OAG IR No. 5, enclosed herewith as Attachment 5.

CenterPoint failed, however, to further inquire about the terms governing the fixed-price offering, and it never pursued the purchase. The next day, as prices were spiking, an internal CenterPoint email inquired whether the procurement representatives bought "fp or gdd in MN."[109] Had CenterPoint acted prudently on February 11, it could have possibly obtained the fixed-price contracts it was seeking the following day.

Also, on the morning of Friday, February 12, Great Plains was offered a fixed-price deal to acquire 500 decatherms of natural gas over the Presidents' Day weekend at $85. The company unreasonably declined that offer in the face of a skyrocketing market, despite the purveyor noting that "things are insane with all this weather."[110] Similarly, Xcel's ICE Log chats from Friday, February 12, just before six in the morning point out that "I bet people really wait out the fixed today" and also demonstrating that Xcel "will be working some fp" and declining an offer for indexed-price gas because it was "waiting on FP."[111]

In their filings with the Commission, each of the Impacted Utilities acknowledged that they did not obtain—and often failed to make serious efforts to obtain—fixed-price contracts in the days and weeks leading up to the February Price Spike:

- CenterPoint stated, without providing any evidence, that it "did explore fixed price contracts for natural gas purchases during the [February Price Spike], but did not purchase any fixed price gas during this time."[112]

- Great Plains stated that although "[t]hrough the normal course of daily purchasing Great Plains regularly receives fixed price quotes, solicited or unsolicited, "[d]uring the [February Price Spike], there was [one] offer of $85/Dth posted for gas days 12-16" which the company rejected."[113]

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[109] *Id.*
[110] Excerpt from Great Plains Response to OAG IR No. 5, enclosed herewith as Attachment 6.
[111] Excerpt from Xcel Response to OAG IR No. 5, enclosed herewith as Attachment 8.
[112] CenterPoint Response to OAG IR No. 104, enclosed herewith as Attachment 5.
[113] Great Plains Response to OAG IR No. 104, enclosed herewith as Attachment 6.

- MERC stated that it "did not seek quotes for any fixed-price contracts for the February 12-22 gas days."[114]
- Xcel stated that "the very limited number of short-term fixed price deals offered in the market tend to disappear during these events as sellers prefer to optimize profits by riding the peak of the pricing event" without explicitly answering whether it sought or secured any fixed-price deals.[115]

By failing to adequately seek and secure fixed-price deals, the Impacted Utilities effectively went all in on a natural gas procurement strategy that almost completely tied themselves to index-based daily spot market procurement to provide peak supply. This was not a prudent or reasonable decision when the utilities knew for weeks about the severe weather and the impacts it could cause on the natural gas markets.

While the Impacted Utilities showed ambivalence towards fixed-price daily spot deals leading up to Presidents' Day weekend, those companies reversed course only after the February Price Spike changed from a likelihood to a reality. In other words, utilities were caught flat-footed despite weeks of warnings about severe weather, and only attempted to "stop the bleeding" when it was too late. In a Microsoft Teams chat amongst Great Plains employees on the morning of February 16, one remarked to the other "[d]id we get any FP quotes? I am inclined to take it."[116] To emphasize, this employee was expressing an inclination to take a fixed-price contract *without knowing the price* only a few days after utilities did not seek these contracts, or outright rejected them. Similarly, on February 17, Xcel's ICE Log chats show that the company was "going to hang tight for fp right now."[117] In an internal CenterPoint email around noon on February 17, the company notes that when entering all natural gas trades on a spreadsheet that employees should

[114] MERC Response to OAG IR No. 104, enclosed herewith as Attachment 7.
[115] Xcel Response to OAG IR No. 104, enclosed herewith as Attachment 8.
[116] Excerpt from Great Plains Response to OAG IR No. 5, enclosed herewith as Attachment 6.
[117] Excerpt from Xcel Response to OAG IR No. 5, enclosed herewith as Attachment 8.

"check vols/pricing" given uncertainty whether "some are index vs fixed price."[118] Utilities were suddenly seeking fixed-price contracts only after they had incurred massive costs on their swing/call and indexed-price purchases.

3. The Impacted Utilities knew of dire meteorological warnings weeks before Presidents' Day weekend and had firsthand real-world knowledge of extreme market volatility in the days beforehand.

It was not reasonable for utilities to ignore the potential impacts of the impending weather and firsthand real-world knowledge of extreme market prices. As the Department noted, "[a] weather driven dispatch method is appropriate if significant price pressures are not present or reasonably expected."[119] In this case, significant price pressures should have been expected from the available data. The Department also expressed "concerns with aspects of how the [Impacted U]tilities executed portions of their purchasing strategy." It found such actions reasonable and prudent, however, because "based on its analysis to date, the Department [was] unable to find evidence that gas utilities were aware of significant gas prices and chose not to deviate from their purchasing plan."[120] The facts uncovered by the OAG that were not considered by or available to the Department, however, demonstrate that the Impacted Utilities were well aware of significant price increases in the days leading up to the February Price Spike.

Specifically, the information obtained from NOAA and its NWS caused *The Washington Post* to conclude that "[t]he operators of Texas's electrical grid, as well as state leaders and officials in surrounding states, had ample warning that a winter storm would bring record cold that could cause power demand to spike and threaten electrical infrastructure."[121] The same conclusion was,

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[118] Excerpt from CenterPoint Response to OAG IR No. 5, enclosed herewith as Attachment 5.
[119] Department Comments at 27 (May 10, 2021).
[120] *Id.* at 23.
[121] Andrew Freedman, *Meteorologist for Texas Grid Operator Warned of the Winter Storm's Severity*, THE WASHINGTON POST (Feb. 19, 2021), https://www.washingtonpost.com/weather/2021/02/19/texas-cold-early-warning/

or should have, been reached by the Impacted Utilities prior to the February Price Spike. Those same publicly available meteorological forecasts showing far below normal temperatures across a large swath of the nation put the Impacted Utilities on notice that the national demand for natural gas would skyrocket. After all, climate outlooks issued by NOAA's NWS "are used by utilities and financial firms to anticipate changes in prices for fuels used for heating, such as natural gas."[122]

The Department's May 10 comments provide additional evidence that utilities should have anticipated a significant price increase. Specifically, the Department referenced an article suggesting that "temperatures and natural gas consumption in the Canadian Province of Alberta reached record levels" and that "it is normally the case that temperatures and natural gas demand in Western Canada is a harbinger of the severity of the impacts on the American market and consumers."[123] While the Department couched its analysis of this article in the context of the Commission's prospective Investigation, the OAG generally agrees that "this is the kind of predictive information that the gas utilities and regulators can use to prepare for, and potentially forecast severity of, future cold weather events and execution of gas purchasing plans."[124] Utilities should have reacted to the extensive information available that predicted a large and substantial cold spell that would cause excessive demand.

In fact, internal Great Plains emails during the February Price Spike reveal that even the smallest of the Impacted Utilities recognized there were "significant gas prices *this week* culminating with some interesting pricing for the upcoming 4-day weekend."[125] And this market volatility communication even took place without mention of the dire nationwide meteorological forecasts issued by NOAA and NWS as February progressed or the price spike in Western Canada

[122] *Id.*
[123] Department Comments at 17 (May 10, 2021).
[124] *Id.*
[125] Excerpt from Great Plains Response to OAG IR No. 5, enclosed herewith as Attachment 6.

that transpired prior to the February Price Spike. In sum, the Commission should conclude that a reasonable utility would be aware of the conditions that Great Plains noted. The OAG doubts any of the Impacted Utilities will present a narrative claiming obliviousness to the volatile natural gas market in the week and days leading up to the February Price Spike, as demonstrated by those companies' actual knowledge set forth in the OAG's above-mentioned factual background.[126]

At bottom, the Impacted Utilities are savvy businesses with sophisticated gas purchasing operations. They should be expected to anticipate the risk of a forthcoming natural gas price spike based on real world data during the weeks and days leading up to the February Price Spike. While utilities will assuredly argue that the degree of the price spike could not have been predicted, they had numerous indicators that the weather was going to be uniquely severe over an extended region. And the Impacted Utilities also had firsthand real-world knowledge that a price spike was on the horizon prior to purchasing gas for the Presidents' Day weekend. They should have reacted appropriately to the gravity of these predictions. The evidence shows that they did not react with the urgency required.

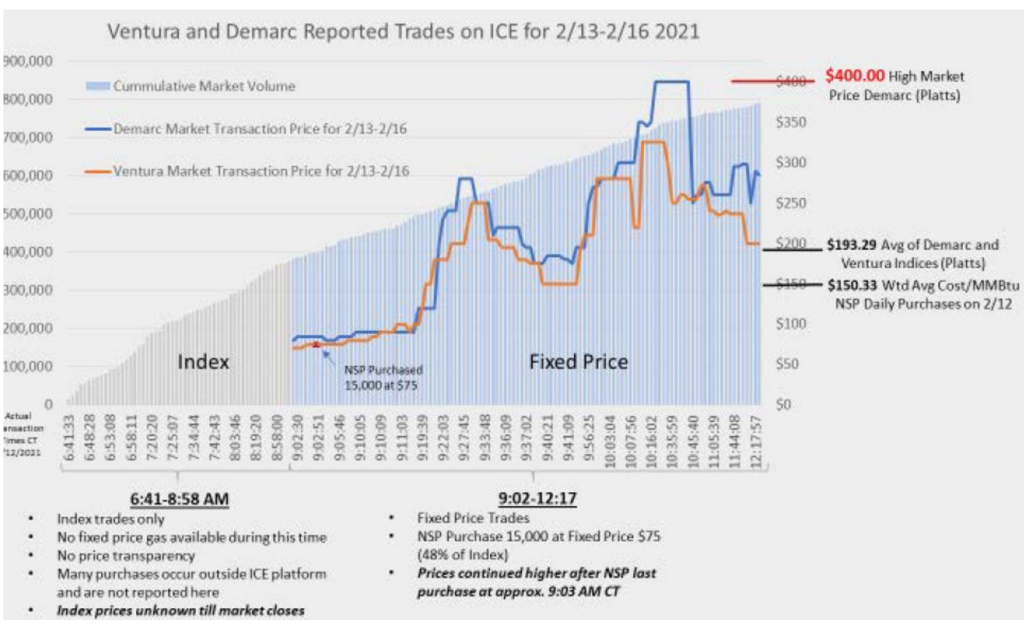
4. The Impacted Utilities could have saved many millions of dollars during the February Price Spike by searching for and securing fixed-price contracts to mitigate against extreme natural gas prices.

The OAG also notes that the Department found the Impacted Utilities' overreliance on the daily spot market to procure their peak natural gas supply "problematic."[127] The Department noted that this was because on "colder-than-normal days . . . a potentially significant portion of gas volumes will be priced at daily spot market prices, and therefore will be susceptible to price

[126] *See supra* Background Section III.
[127] Department Comments at 24 (May 10, 2021).

increases and market forces."[128] And, as the Department found, "[t]his risk manifested itself over the President's Day weekend."[129]

While difficult to quantify, the OAG's investigation suggests that the Impacted Utilities could have struck a deal to procure at least some natural gas over the Presidents' Day weekend in a short-term or daily spot fixed-price contract at a cost of $75 per Dth. This is a reasonable proxy because Xcel secured a fixed-price purchase of natural gas at $75 per unit on the morning of February 12, 2021.[130] Great Plains rejected a similarly priced offering, and other utilities did not pursue fixed-price options. The Commission should disregard any argument by the Impacted Utilities that fixed-price contracts were not available on the morning of Friday, February 12 or before, as the evidence submitted by Xcel is contrary to such an argument as reflected in the table below:[131]



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[128] *Id.*
[129] *Id.*
[130] Xcel Initial Filing at 34-35 (Apr. 9, 2021).
[131] *Id.* at 35, Figure 7 (Apr. 9, 2021).

To be clear, the OAG does not suggest that utilities should have or could have obtained *all* their spot market purchases though fixed-price contracts, or even most of their purchases. But they should have pursued these contracts for *some* of their gas purchases to diversify their portfolios. Even a small number of fixed-price purchases would have resulted in significant savings. Had the Impacted Utilities procured 5% of their daily purchases using a fixed-price contract at $75/Dth during the February Price Spike they would have collectively saved almost $21.3 million: CenterPoint would have saved approximately $13.8 million; Great Plains would have saved roughly $357,000; MERC would have saved about $1.7 million; and Xcel would have saved about $5.5 million.[132]

The OAG notes that these figures do not account for any contracts the utilities may have been able to secure in the week leading up to the event, or on February 11, which would likely have been priced even lower. To that end, the OAG requests that the Impacted Utilities create a similar table to that prepared by Xcel showing the fixed-price deals available at the Demarc and Ventura Hubs for each day during the week leading up to Presidents' Day weekend 2021, which will more accurately reflect potential cost savings had the companies sought and secured fixed-price contracts prior to Friday, February 12.

Given the weather and the volatile market conditions—and even the general concepts of supply and demand and the fact that cold weather can disrupt natural gas supplies—the Impacted Utilities acted unreasonably and imprudently by neither seeking nor securing short-term or daily spot fixed-price contracts to reduce their reliance on the daily spot market. Natural gas procurement plans are flexible documents meant to adapt to various market scenarios, including price spikes. A reasonable and prudent utility would have sought and secured at least some fixed-

[132] *See* OAG chart entitled "Utility Savings for 5% of NG Obtained at $75/Dth," enclosed herewith as Attachments 1-4.

price contracts to mitigate against market volatility leading up to Presidents' Day weekend. Ratepayers should not be forced to bail out poor business-as-usual decisions in the face of a clearly abnormal event. The Impacted Utilities made the decisions leading up to the February Price Spike, not the ratepayers. And, most importantly, "[a]ny doubt as to [the] reasonableness [of the Impacted Utilities' geographic diversity decisions] should be resolved in favor of the consumer."[133]

III. THE IMPACTED UTILITIES ACTED IMPRUDENTLY, UNREASONABLY AND CONTRARY TO THE PUBLIC INTEREST BY NOT FULLY DEPLOYING STORAGE WITHDRAWALS DURING THE FEBRUARY PRICE SPIKE.

The Department's May 10 comments explained that "storage is designed in part as a price mitigation tool" and it is "necessary to review the utilities' deployment of available storage during" the February Price Spike."[134] The Department found that "it appears that the utilities did not fully deploy, to varying degrees, their available storage."[135] If the Impacted Utilities "had used all available storage" during the February Price Spike, the Department concluded those companies "could have saved a collective \$90.2 million."[136] The Department then broke down the \$90.2 million utility-by-utility and recommended that "the Commission disallow the following amounts" from each utility:[137]

Utility	Disallowance Recommendation
CenterPoint	$47,831,374
Xcel Energy	$20,464,474
MERC	$21,219,372
Great Plains	$673,248
Total	**$90,188,468**

[133] Minn. Stat. § 216B.03.
[134] Department Comments at 26 (May 10, 2021).
[135] *Id.* at 25.
[136] *Id.* at 26. *See also id.* at 29 (The Department further explained that "[t]hese costs represent the difference between actual costs incurred by the utility and what costs would have been if maximum available storage volumes were deployed.")
[137] *Id.* at 29.

The Department reasoned that this $90.2 million disallowance was appropriate because the utilities strategy to deploy storage was based solely on weather, not on the market prices for natural gas:

> Given the fact that this cold weather event occurred past the historical coldest part of the heating season, and each utility had ample storage volumes available, the Department concludes that the gas utilities failed to protect ratepayer interests by not fully utilizing natural gas storage over the President's Day weekend. Even if natural gas prices had settled at $20 per Dth for the weekend, Minnesota natural gas utilities would have collectively incurred significant excess natural gas costs over the period from February 13 to February 17. The decision by the gas utilities to utilize a strictly weather-based approach to dispatch storage gas was inappropriate and not indicative of the decisionmaking process that a firm or purchaser without a flow-through of gas costs would make.[138]

The Impacted Utilities all understood the importance of maximizing storage withdrawals to reduce costs during the February Price Spike and those companies should be responsible for their failure to maximize storage deployment.[139] A reasonable and prudent utility would have recognized an impending price spike and maximized storage withdrawals—along with other mitigation tools—to limit the volume of natural gas it would need to purchase during the February Price Spike. And even if the Impacted Utilities were unaware of extreme market prices when they procured gas for Presidents' Day weekend—which is contrary to the factual record—a reasonable and prudent utility would have tried to reduce ratepayer exposure to expensive natural gas by maximizing storage and attempting to sell excess gas on the wholesale market over the weekend. Despite the Impacted Utilities' explanations why the Department's storage disallowance recommendations are misguided,[140] the OAG still agrees with the Department's reasoning and

[138] Department Comments at 28-29 (May 10, 2021).
[139] *See, e.g.,* Excerpt from Great Plains Response to OAG IR No. 5, enclosed herewith as Attachment 6 (GP Chat 2/10 @ 9:19 a.m.) ("I'm sure we have storage maxed out."); Excerpt from CenterPoint Response to OAG IR No. 5, enclosed herewith as Attachment 5 (CPE email 2/12 @ 1:59 from Grizzle to Lee et al.) ("We are seeing natural prices raise as we head into the weekend, but as always, CERC continues to mitigate our risk to these higher prices by utilizing our storage facilities to the fullest.").
[140] *See generally* Impacted Utilities Reply Comments (May 20, 2021).

conclusions. To the extent the Department revises its recommendations regarding storage disallowances in its July 6 comments, the OAG will provide a response on reply.

IV. CENTERPOINT ACTED IMPRUDENTLY, UNREASONABLY AND CONTRARY TO THE PUBLIC INTEREST BY NOT FULLY DEPLOYING PEAKING PLANTS DURING THE FEBRUARY PRICE SPIKE.

Unlike the other Impacted Utilities, CenterPoint had peaking facilities that it chose not to fully deploy during the February Price Spike.[141] Had CenterPoint fully deployed its peaking facilities during the February Price Spike, it could have saved many millions of dollars. This section first outlines the extent to which CenterPoint deployed its peaking facilities during the February Price Spike. Next, the OAG explains that there was no policy or tariff prohibitions against such a peaking deployment decision, even if done for economic reasons. The OAG then provides several examples of internal and external CenterPoint communications suggesting that the company did in fact deploy its peaking facilities for economic reasons during the February Price Spike. The OAG then explains why the Department's prudence conclusions concerning the Impacted Utilities' peaking deployment decisions during the February Price Spike are unsound. Finally, the OAG quantifies the potential cost savings attributable to a full peaking plant deployment during the February Price Spike.

A. CenterPoint was not Precluded from Fully Deploying its Peaking Plants for Economic Reasons and Internal Company Communications Show the Company did so, Albeit Partially.

During the February Price Spike, CenterPoint partially deployed its peaking facilities only from February 13 through February 15. CenterPoint contends that its "use of these peaking resources allowed the Company to avoid approximately $10 million in additional daily spot market

[141] While Xcel does have peaking facilities, the company has explained that those plants were out of service during the relevant timeframe. The Commission has already authorized the Department to hire an expert to assess whether it was prudent for Xcel's peaking facilities to be unavailable. Both MERC and Great Plains do not have peaking facilities.

purchases."[142] This is a significant savings, and it is unfortunate that CenterPoint did not fully deploy these facilities to generate more savings during this unprecedented emergency. CenterPoint tries to excuse its failure to fully deploy these facilities by claiming that as "[t]he Department correctly observes that 'peak shaving, unlike storage, is not designed with price volatility mitigation as a purpose.'"[143] But while peak shaving may not have been not "designed" with price mitigation as a purpose, it was, in fact, available for that purpose in this pricing emergency.

CenterPoint partially deployed its peaking facilities to mitigate prices; it cannot claim that those facilities could not have been fully deployed because they were not designed for that purpose. CenterPoint was not restricted by any policy or tariff prohibitions against deploying its peaking facilities for economic reasons during the February Price Spike.[144] In fact, both internal and external CenterPoint communications during the February Price Spike, as well as representations to the Commission, establish that CenterPoint can—and did—rely on its peaking facilities for economic reasons.

In CenterPoint's April 9 Initial Filing, the company represented to the Commission that its "peaking supplies which are designed to maintain reliability" also serve the function of "balancing price protection, stability of gas supply costs billed to customers, and reasonable prices" as part of its "diversified gas supply portfolio."[145] Additionally, on the early morning of February 12 a CenterPoint representative refused a gas supply purchase for the coming Sunday, explaining that he "d[i]d[']t need it" because "we are goi[]ng to look at LNG and propane."[146]

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[142] CenterPoint Reply Comments at 21 (May 20, 2021).
[143] CenterPoint Reply Comments at 21-22 (May 20, 2021).
[144] CenterPoint Response to OAG IR No. 110, enclosed herewith as Attachment 5; *see also* Xcel Response to OAG IR No. 110, enclosed herewith as Attachment 8.
[145] CenterPoint Initial Filing at 3 (Apr. 9, 2021)
[146] Excerpt from CenterPoint Response to OAG IR No. 5, enclosed herewith as Attachment 5.

Similarly, in an internal CenterPoint email just before noon on February 12, a representative stated that he "will look to run LNG and propane for [S]unday if [we] need more upside."[147] On Saturday, February 13, internal CenterPoint emails suggest that the company was "36,900 short on the day" for Sunday and that it "[planned] to use LNG and propane to cover the short position" given that the alternative choice would be to seek "LS Power Capacity Release of 34,120," which "would cost around **[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** per dth to buy this gas for this capacity."[148]

CenterPoint's decision to partially run its peaking units for economic reasons on Sunday, February 14, is further explained through ICE Log chats from Saturday, February 13. On the early morning of February 13, a supplier told CenterPoint to "[l]et me know if you are looking for weekend gas" because "I might have some options here."[149] The CenterPoint procurement representative responded to an offer for a quantity of gas at "**[TRADE SECRET DATA BEGINS … … TRADE SECRET DATA ENDS]** delivered" that "we are entertaining running LNG and propane before we buy any more gas" and further explained that "with prices as high as they are" CenterPoint was "going to hold off and look at cranking up LNG and propane."[150] In short, these communications demonstrate that CenterPoint chose not to purchase expensive natural gas but instead decided to deploy its peaking facilities on Sunday February 14 for economic reasons. CenterPoint should have made a similar decision both leading up to and during the entirety of the February Price Spike. And it should have fully—rather than partially—deployed its facilities.

[147] *Id.*
[148] *Id.*
[149] *Id.*
[150] *Id.*

B. Had CenterPoint Fully Deployed its Peaking Facilities, it Could Have Avoided Over $70 Million in Natural Gas Purchases.

The OAG agrees with the Department's general conclusion that peaking "resources may be appropriate to use as a price mitigation tool, but this modification in potential uses for peak shaving will require additional analysis and discussion."[151] While the OAG understands and agrees with the Department's desire for more discussion, this does not excuse utilities' failures to deploy these resources in a pricing emergency. Put differently, there is a difference between regularly using peaking resources to mitigate moderate price increases—something that regulators may want to further discuss—and expecting utilities to use these resources and other tools during a pricing emergency. Utilities, like all businesses, need to respond prudently to the facts at hand. They should not get a "pass" simply because the Commission did not affirmatively instruct them to utilize these resources when commodity prices increase by a multiple of 100.

The Commission should find that CenterPoint had the ability to fully deploy its peaking plants during the February Price Spike. Any choice to the contrary was an imprudent business decision that resulted in unreasonable natural gas costs. CenterPoint acted imprudently, unreasonably, and against the public interest by failing to appropriately react forcefully to the February Price Spike by deploying the tools it had available.

CenterPoint stated that its "[t]otal daily peaking capacity from propane and LNG facilities available is 221,000 Dths" but that "if the Company were to fully utilize [its] peaking capacity, it could only do so for 2-3 days before the peaking facilities would run out of fuel."[152] Therefore, if CenterPoint had deployed its peaking facilities at half capacity over the four-day Presidents' Day

[151] Department Comments at 26 (May 10, 2021).
[152] CenterPoint Response to OAG IR No. 117, enclosed herewith as Attachment 5.

weekend (February 13-16, 2021), it could have saved approximately $70.5 million dollars over the February Price Spike.[153]

V. THE IMPACTED UTILITIES ACTED IMPRUDENTLY, UNREASONABLY AND CONTRARY TO THE PUBLIC INTEREST BY NOT FULLY DEPLOYING INTERRUPTIBLE CLASS CURTAILMENT DURING THE FEBRUARY PRICE SPIKE.

Had the Impacted Utilities issued full curtailment orders to their interruptible class customers, the utilities would have saved many millions of dollars during the February Price Spike. This section first outlines the extent to which the Impacted Utilities issued formal calls for curtailment to their interruptible class customers during the February Price Spike. Next, the OAG explains that there was no policy or tariff prohibitions against such a curtailment call, even if done for economic reasons. Finally, the OAG quantifies the potential cost savings attributable to a full curtailment call during the February Price Spike.

A. The Impacted Utilities were not Precluded from Fully Curtailing Interruptible Class Customers for Economic Reasons and Internal Company Communications Demonstrate those Companies Considered such an Action.

The Impacted Utilities failed to curtail their interruptible class customers to varying degrees during the February Price Spike. While Xcel appears to have fully curtailed its interruptible class during the February Price Spike, the same is not true for CenterPoint, MERC, and Great Plains. CenterPoint, for example, had "approximately 1,300 interruptible service customers"[154] and curtailed approximately "30-40 percent of interruptible load."[155] This resulted in "an estimated 134,400 Dth of interruptible customer usage" over the Presidents' Day

[153] *See* OAG chart entitled "Potential Peak Savings – CenterPoint," enclosed herewith as Attachment 1.
[154] CenterPoint Reply Comments at 20 (May 20, 2021).
[155] *Id.*

weekend.[156] MERC and Great Plains did not formally curtail any of their interruptible class customers during the February Price Spike.[157]

The Impacted Utilities all agree that their tariff provisions do not prohibit economic curtailment.[158] Instead, those utilities argue that their past practices and curtailment-related tariff provisions had never been used to invoke economic curtailment.[159] These past practices do not help to establish what conduct would have been reasonable in an unprecedented pricing emergency. Moreover, the utilities' actions and internal discussions demonstrate that they did consider economic curtailment as an option to reduce the impact of the February Price Spike, even if this option was not fully deployed.

The utilities were aware that they could have deployed curtailment to mitigate the costs of the February Price Spike. For instance, an internal Great Plains email sent on the morning of Tuesday, February 16 had the apt subject line "buy or curtail." In the email, a Great Plains representative inquired whether "[f]or tomorrow we could make curtailments on GPNG taking us out of the need for this risky price environment."[160] In response, Great Plains' Director of Regulatory Affairs clarified the question posed to him by asking "I assume we have the capacity

[156] *Id.*
[157] Department Comments at 8-9 (May 10, 2021) ("Great Plains and MERC both stated that weather conditions did not warrant curtailments for reliability").
[158] Great Plains Response to OAG IR No. 108, enclosed herewith as Attachment 6; CenterPoint Response to OAG IR No. 108, enclosed herewith as Attachment 5; MERC Response to OAG IR No. 108, enclosed herewith as Attachment 7 (while MERC was the only of the Impacted Utilities to not affirmatively state that it was precluded from economic curtailment by "any legal, tariff, or contractual provisions," the company failed to adequately explain what, if any, language prevented such course of action); Xcel Response to OAG IR No. 108, enclosed herewith as Attachment 8.
[159] Xcel Reply Comments at 22 (May 20, 2021) ("Finally, we agree with the Department's comments that additional discussion is needed on the topic of economic interruptions, including a discussion of the policy implications and tariff changes that may be necessary"); CenterPoint Reply Comments at 19 (May 20, 2021) ("As discussed in greater detail below, CenterPoint Energy has historically curtailed interruptible customers only for operational reasons and to ensure sufficient supply for firm customers, and not based on economic circumstances or pricing."); MERC Reply Comments at 15 (May 20, 2021) ("[w]ith respect to MERC's actions regarding curtailment of customers during the February event, under MERC's current tariffs, the Company does not curtail its customers for economic reasons."); Great Plains Reply Comments at 3 (May 20, 2021) ("For instance, Great Plains' current tariff does not explicitly state that it has the authority to make or direct curtailments based on economic factors, such as price volatility.")
[160] Excerpt from Great Plains Response to OAG IR No. 5, enclosed herewith as Attachment 6.

and the curtailment would be price driven only. Is that true?"[161] After an affirmative response, Great Plains' Director of Regulatory Affairs and another utility representative concluded that "we can make the case" for economic curtailments "if curtailments is your intended route." An image of the applicable Great Plains internal email is excerpted below:

From:	Jacobson, Travis
To:	Nieuwsma, Shawn
Cc:	Connell, Kevin; Bosch, Stephanie
Subject:	RE: Buy or Curtail?
Date:	Tuesday, February 16, 2021 8:17:21 AM

I guess my only issue is that we have the capacity and our interruption tariffs really deal with only that issue. This is the section out of the tariff and the General Terms discusses when we curtail. There could be an argument made that 'operational reasons' is gas prices and it would be harmful to all customers and that is why we have requested the curtailments.

I visited with Steph as well and she agrees we can make the case if curtailments is your intended route.

Conditions of Service:

1. PRIORITY OF SERVICE – Deliveries of gas under this schedule shall be subject at all times to the prior demands of customers served on firm gas service rates. Customers taking service hereunder agree that the Company, without prior notice, shall have the right to curtail or interrupt such service, in Company's sole judgment, it may be necessary to do so to protect the interest of its customers whose capacity requirements are otherwise and hereby given preference. The priority of service and allocation of capacity shall be accomplished in accordance with the provisions of General Terms and Conditions, Section 6, Paragraph V.17.

The Impacted Utilities were not prevented from fully calling an economic curtailment; in fact, such a course of action was necessary.

Likewise, an internal MERC email from the afternoon of Friday, February 12, discussed the possibility of economic curtailment, showing why utilities should have taken this step to save its customers' money. While noting that "MERC has not called any curtailments," a company employee "want[ed] all [MERC's] leaders to be aware" that MERC's transportation customers

[161] *Id.*

were facing curtailments by their marketers. The reasons for these curtailments was that "customers that do not have 'fixed price' contracts, or customers who are on secondary firm, and giving them the option to curtail so they do not get hammered by the extremely high pricing."[162] MERC and other utilities should have considered the very similar situations they faced, and curtailed the customers they could in order to reap the substantial savings.

B. Had the Impacted Utilities Fully Curtailed their Interruptible Customers they Could have Avoided Tens of Millions of Dollars in Unnecessary Natural Gas Purchases.

The OAG agrees with the Department's conclusion concerning the Impacted Utilities' ability to engage in economic curtailment: "The Department reviewed the various utility tariffs and there is nothing in the tariff that prevents the gas utilities from engaging in economic curtailment[.]"[163] The Impacted Utilities all agree that no tariff language prevents economic curtailment.[164] The OAG likewise agrees with the Department's conclusion as to why the Impacted Utilities failed to invoke economic curtailment during the February Price Spike: "[I]t is important to note that gas utilities have little incentive to make economic curtailments, since demand and commodity gas costs are passed through directly to ratepayers."[165] Ironically, while the Impacted Utilities argue that they have never used curtailment for economic reasons, the companies that did curtail claim that curtailment measures resulted in cost savings during the February Price Spike. For example, CenterPoint Energy contends that its decision to partially curtail "avoided approximately $23 million in additional gas purchases."[166] It is disingenuous for

[162] Excerpt from MERC Response to OAG IR No. 5, enclosed herewith as Attachment 7.
[163] Department Comments at 10 (May 10, 2021).
[164] Great Plains Response to OAG IR No. 108, enclosed herewith as Attachment 6; CenterPoint Response to OAG IR No. 108, enclosed herewith as Attachment 5; MERC Response to OAG IR No. 108, enclosed herewith as Attachment 7 (while MERC was the only of the Impacted Utilities to not affirmatively state that it was precluded from economic curtailment by "any legal, tariff, or contractual provisions," the company failed to adequately explain what, if any, language prevented such course of action); Xcel Response to OAG IR No. 108, enclosed herewith as Attachment 8.
[165] Department Comments at 10 (May 10, 2021).
[166] CenterPoint Reply Comments at 20 (May 20, 2021).

the Impacted Utilities to contend that full economic curtailment cannot be used to measure additional cost savings during the February Price Spike, had it been fully deployed.

In addition to inaccurately claiming that they could not have curtailed their customers, some of the Impacted Utilities also argue that they could not have reduced their purchases because they would not know the extent to which interruptible customers would comply with the curtailment. While this may be true, the Impacted Utilities should also be held accountable for this failure.

In 2019, the Commission conducted an inquiry into a severe weather event that impacted natural gas service in two Minnesota communities.[167] During that inquiry, it became clear that interruptible customers of several natural gas companies failed to curtail in large numbers.[168] Specifically, 45 percent of MERC's curtailed customers, 39 percent of CenterPoint's curtailed customers, and 38 percent of Xcel's curtailed customers failed to fully comply with the curtailment.[169] In light of the interruptible customers' systemic and egregious non-compliance with their curtailment obligations, the OAG concluded that significantly harsher non-compliance penalties were necessary, and advocating for escalating penalties for repeat offenders.[170]

The utilities were not supportive of this recommendation. Despite seeing a 38 percent non-compliance rate, Xcel indicated that its existing penalty "provide[d] reasonable deterrence" and

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[167] *In the Matter of a Commission Inquiry into the Impacts of Severe Weather in January and February 2019 on Utility Operations and Service*, MPUC Docket No. E,G-999/CI-19-160, ORDER APPROVING MODIFICATION OF CURTAILMENT PENALTIES AND TARIFFS AND REQUIRING REPORTS at 1 (Nov. 6, 2019) (hereinafter "2019 Order").
[168] 2019 Order at 3.
[169] *In the Matter of a Commission Inquiry into the Impacts of Severe Weather in January and February 2019 on Utility Operations and Service*, MPUC Docket No. E,G-999/CI-19-160, Comments of Minnesota Energy Resources Corporation at 2 (Apr. 12, 2019); *In the Matter of a Commission Inquiry into the Impacts of Severe Weather in January and February 2019 on Utility Operations and Service*, MPUC Docket No. E,G-999/CI-19-160, CenterPoint Energy Initial Comments at 2 (Apr. 12, 2019); *In the Matter of a Commission Inquiry into the Impacts of Severe Weather in January and February 2019 on Utility Operations and Service*, MPUC Docket No. E,G-999/CI-19-160, Xcel Energy Comments at 11 (Apr. 15, 2019).
[170] *In the Matter of a Commission Inquiry into the Impacts of Severe Weather in January and February 2019 on Utility Operations and Service*, MPUC Docket No. E,G-999/CI-19-160, Response Comments of the Office of the Attorney General at 3–4 (Aug. 9, 2019).

indicated that it thought that it could address the problem by endeavoring to "communicate" and "educate" its customers.[171] Despite seeing a 39 percent non-compliance rate, CenterPoint opposed the changes recommended by the OAG and instead claimed that the problem could be solved "through education and discussion with our customers."[172] Despite seeing a 45 percent non-compliance rate, MERC opposed the requirements recommended by the OAG, instead arguing that its recent penalty increase would be "likely to serve as a significant deterrent to future non-compliance" and that it believed "conversations" with non-compliant customers "will increase interruptible customer compliance with future curtailment orders."[173] All three utilities had a problem with curtailment during 2019's significant event. All three successfully opposed the OAG's recommendations designed to increase compliance. All three argued that the problem could be solved with better communication. It turns out that two of them were wrong, and the third did not even try.

During the February pricing event, Xcel had a 45 percent non-compliance rates for curtailments,[174] a six percent *increase* to its non-compliance rate in 2019. Similarly, this year CenterPoint had a 39 percent non-compliance rate for curtailments,[175] a one percent *increase* to its non-compliance rate in 2019. MERC did not even bother to curtail. After seeing non-compliance rates of approximately forty percent in 2019 and representing to the Commission that the gas utilities would take steps to improve those numbers, somehow the numbers got *worse*. The gas

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[171] *In the Matter of a Commission Inquiry into the Impacts of Severe Weather in January and February 2019 on Utility Operations and Service*, MPUC Docket No. E,G-999/CI-19-160, Xcel Energy Reply Comments at 16 (Aug. 19, 2019).
[172] *In the Matter of a Commission Inquiry into the Impacts of Severe Weather in January and February 2019 on Utility Operations and Service*, MPUC Docket No. E,G-999/CI-19-160, CenterPoint Energy Reply Comments at 5 (Aug. 19, 2019).
[173] *In the Matter of a Commission Inquiry into the Impacts of Severe Weather in January and February 2019 on Utility Operations and Service*, MPUC Docket No. E,G-999/CI-19-160, Additional Reply Comments of Minnesota Energy Resources Corporation at 2 (Aug. 19, 2019).
[174] Report by Xcel Energy at 22 (Apr. 9, 2021).
[175] Report of CenterPoint Energy at 10-11 (Apr. 9, 2021).

utilities assumed responsibility for customer compliance when they told the Commission to reject the OAG's recommendations because they could solve this problem through communication. Ratepayers should not pay for the ineffectiveness of those communication efforts.

As the only one of the Impacted Utilities that did not even bother with curtailment, it should not be surprising that MERC's response to a Department IR offers the most cynical explanation of the group. MERC stated that "there is no guarantee with calling a full curtailment of all interruptible customers, or requesting that residential customers lower their thermostats, that some, much less all, customers will fully comply."[176] Of course there was no guarantee that all customers would comply. But that is, at least partially, because MERC successfully opposed the OAG's proposals that would have materially increased the consequences for non-compliance. And it does not excuse MERC's failure to even attempt to curtail during a pricing emergency. Given MERC's previous representations that it could improve the curtailment rate through improved communication, it should not be allowed to now argue that it should be held harmless because it could not assume that customers would actually curtail. If MERC's communication efforts were effective, it should have been able to assume a greater level of compliance and reduce its purchases in anticipation of a curtailment. If not, then it should bear the burden for its failures.

A reasonable and prudent utility would have recognized an impending price spike and maximized calls for curtailment—along with other mitigation tools—to limit the volume of natural gas purchased during the February Price Spike. And even if the Impacted Utilities were unaware of extreme market prices when they procured gas for Presidents' Day weekend—which is contrary to the factual record—a reasonable and prudent utility would have tried to reduce ratepayer exposure to expensive natural gas by maximizing curtailment and attempting to sell excess gas on

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[176] MERC Reply Comments at 16 (May 20, 2021).

the wholesale market over the weekend. For the foregoing reasons, the Commission should disallow the recovery of the cost of gas consumed by interruptible customers during the February pricing event, less the amount that interruptible customers were charged for that gas plus any penalties collected by the Impacted Utilities.

If CenterPoint had fully curtailed its interruptible customers prior to purchasing gas during the February Price Spike, that utility could have saved approximately $78.8 million in natural gas costs.[177] Likewise, Great Plains could have saved ratepayers approximately $5.4 million;[178] MERC could have saved ratepayers approximately $9.6 million;[179] and Xcel could have saved ratepayers approximately $3.8 million.[180]

Conversely, if the Commission agrees with the Impacted Utilities' claims that they were unaware of significant natural gas prices prior to purchasing during the February Price Spike, those companies could have still realized cost savings by curtailing interruptible customers and reselling half of its excess gas from curtailment at wholesale at a 50% discount from the daily spot prices.[181] Under this scenario, CenterPoint could have saved ratepayers approximately $19.7 million;[182] Great Plains could have saved ratepayers approximately $1.4 million;[183] MERC could have saved

[177] *See* OAG chart entitled "Potential Interruptible Curtailment Savings - CenterPoint," enclosed herewith as Attachment 1.
[178] *See* OAG chart entitled "Potential Interruptible Curtailment Savings - Great Plains," enclosed herewith as Attachment 2.
[179] *See* OAG chart entitled "Potential Interruptible Curtailment Savings - MERC," enclosed herewith as Attachment 3.
[180] *See* OAG chart entitled "Potential Interruptible Curtailment Savings - Xcel," enclosed herewith as Attachment 4.
[181] *See generally* the "Resale Scenario" for the OAG chart entitled "Potential Interruptible Curtailment Savings - CenterPoint," enclosed herewith as Attachment 1.
[182] *See* the "Resale Scenario" for the OAG chart entitled "Potential Interruptible Curtailment Savings - CenterPoint," enclosed herewith as Attachment 1.
[183] *See* the "Resale Scenario" for the OAG chart entitled "Potential Interruptible Curtailment Savings - Great Plains," enclosed herewith as Attachment 2.

ratepayers approximately $2.4 million;[184] and Xcel could have saved ratepayers approximately $944,000.[185]

VI. THE IMPACTED UTILITIES ACTED IMPRUDENTLY, UNREASONABLY AND CONTRARY TO THE PUBLIC INTEREST BY NOT FULLY DEPLOYING CONSERVATION MESSAGING DURING THE FEBRUARY PRICE SPIKE.

Had the Impacted Utilities issued comprehensive conservation messaging to ratepayers during the February Price Spike, those companies could have saved many millions of dollars. This section first outlines the extent to which the Impacted Utilities issued formal calls conservation during the February Price Spike. Next, the OAG explains that there was no policy or tariff prohibitions against such a conservation call, even if done for economic reasons. The OAG then highlights several instances where ratepayers filed public comments bemoaning the fact that the Impacted Utilities failed to disseminate conservation calls. Finally, the OAG explains why the Department incorrectly concluded that conservation efforts would not have resulted in significant cost savings while quantifying the potential cost savings attributable to a robust conservation messaging during the February Price Spike.

As noted by the Department, the Impacted Utilities "did not issue general calls for conservation despite the significant price spikes that were evident by Friday afternoon."[186] The Impacted Utilities all explained that they did not call for conservation because it has never been those companies' practice to issue conservation calls for economic reasons (i.e., high natural gas

[184] *See* the "Resale Scenario" for the OAG chart entitled "Potential Interruptible Curtailment Savings - MERC," enclosed herewith as Attachment 3.
[185] *See* the "Resale Scenario" for the OAG chart entitled "Potential Interruptible Curtailment Savings - Xcel," enclosed herewith as Attachment 4.
[186] Department Comments at 8 (May 10, 2021).

prices).[187] Nevertheless, the Impacted Utilities all agree there was no "legal, tariff, or contractual provisions" that would have prohibited making an economically based conservation call.[188]

Many ratepayers took the time to file public comments bemoaning that the Impacted Utilities failed to issue conservation calls during the February Price Spike. These ratepayers all contend that they would have voluntarily reduced their load had the Impacted Utilities issued conservation calls. For example, Heather Grey complains that her family was "not advised or given an opportunity to voluntarily reduce our usage to control costs," which would have been welcomed because she is "already trying to recover financially from losing my job over this pandemic" and is in a position where she "simply cannot afford to absorb more utility expenses along with increased costs of fuel, groceries, taxes, etc."[189]

Similarly, Joe Krekeler reasons that if he had "known that [he] was paying 70 times the normal price for gas [he] would have happily turned down [his] thermostat, [his] hot water temperature, not run [his] dryer, etc." Mr. Krekeler also points out the inequity of the situation: "[p]utting all of this financial burden on their customers does not seem fair given that the utility made no attempt to ask customers to voluntarily reduce load.[190]

Finally, Copper Harding compared the conservation messaging during the February Price Spike with the conservation calls during the cold snap during January 2019:

> [A]s we saw with the Jan[uary]2019 cold[]snap people could turn down their heat and cut back on gas use even during a cold[]snap to help out their neighbors. Most Minnesotans can be comfortable at 65 degrees, 63 degrees, etc. for a few days. Or

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[187] Great Plains Reply Comments at 5 (May 20, 2021) ("Great Plains agrees with the OAG's assessment that it has not called on customers to conserve based on market prices."); CenterPoint Reply Comments at 20 (May 20, 2021) ("CenterPoint Energy has traditionally . . . issued conservation calls based on a need to adjust loads, either in a specific area or the whole system, because these loads could potentially exceed supply."); Xcel Reply Comments at 21 (May 20, 2021) ("[W]e have never called on customers to conserve based on market price.").

[188] Great Plains Response to OAG IR No. 109, enclosed herewith as Attachment 6; CenterPoint Response to OAG IR No. 109, enclosed herewith as Attachment 5; MERC Response to OAG IR No. 109, enclosed herewith as Attachment 7; Xcel Response to OAG IR No. 109, enclosed herewith as Attachment 8.

[189] Public Comment—Heather Grey Comments at 1 (June 9, 2021).

[190] Public Comment—Batch 1, Joe Krekeler Comments at 1 (Apr. 23, 2021).

> we close off a few rooms and do not heat those. Some of us do that every winter and some need reminding but it is doable. But we were never asked or even given enough information to make a good decision.[191]

The Department concluded that "there is no evidence to show that conservation or widespread curtailments would have resulted in significant cost savings" for the Impacted Utilities over the February Price Spike, reasoning that:

> As a result of the natural gas market structure, the gas utilities were required to purchase gas for the entirety of the President's Day weekend early on Friday, February 12, with no knowledge of the final price. Since prices were not expected to reach unprecedented levels, and there was no apparent threat to physical supplies in Minnesota, there was no expectation that curtailments or conservation would be needed when the gas utilities secured their gas supply for the weekend.[192]

The Impacted Utilities all agree with the Department's conclusion that robust conservation calls would have made no difference in cost savings during the February Price Spike.

The OAG's review has presented evidence that the Department did not have; evidence that shows the utilities *did know* that gas prices could reach unprecedented levels before they made their purchases. Specifically, the evidence provided by the Impacted Utilities shows that on Thursday, February 11, 2021, and in the early morning hours of Friday, February 12, 2021—*before* the companies contend they purchased natural gas for the Presidents' Day weekend—they were aware of extreme market volatility.[193] Additionally, utilities were aware of dire meteorological forecasts in the weeks leading up to the February Price Spike. The Impacted Utilities could have reacted by asking the public to conserve to limit the amount of costly gas they needed to purchase. The few public comments received shows that this action would have at least had some effect.

The Impacted Utilities were all aware of an ongoing price spike materializing before their very eyes *prior* to purchasing natural gas for Presidents Day weekend. Yet those companies

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[191] Public Comment—Batch 1, Copper Harding Comments at 1-2 (Mar. 17, 2021).
[192] Department Comments at 9 (May 10, 2021).
[193] *See supra* Background Section III.

continued with a business-as-usual approach by relying on ratepayers to pay for a glut of exorbitantly priced gas. A reasonable and prudent utility would have relied on robust conservation calls to reduce the volume of natural gas purchased over the Presidents' Day weekend. A reasonable and prudent utility would have also issued calls for economic conservation during Presidents' Day weekend and attempted to sell excess gas on the wholesale market. The public interest required the Impacted Utilities to protect ratepayers' pecuniary interests during the February Price Spike. Unfortunately, the Impacted Utilities failed to deploy economic conservation messaging to reduce costs during the February Price Spike. For these reasons, the Commission should disallow the following costs that could have been saved through robust economic conservation messaging.

If CenterPoint had issued robust conservation calls prior to purchasing gas during the February Price Spike—and, assuming that 10% of the company's residential customers heeded such calls for conservation and lowered their thermostats to 62 degrees—that utility could have saved roughly 1% of its firm usage, which equates to a savings of approximately $9.8 million in natural gas costs.[194] Likewise, Great Plains could have saved ratepayers approximately $272,000;[195] MERC could have saved ratepayers approximately $1.9 million;[196] and Xcel could have saved ratepayers approximately $4.4 million.[197]

Conversely, if the Commission agrees with the Impacted Utilities' claims that they were unaware of significant natural gas prices prior to purchasing during the February Price Spike, those

[194] *See* OAG chart entitled "Potential Firm Customer Conservation Savings - CenterPoint," enclosed herewith as Attachment 1.
[195] *See* OAG chart entitled "Potential Firm Customer Conservation Savings - Great Plains," enclosed herewith as Attachment 2.
[196] *See* OAG chart entitled "Potential Firm Customer Conservation Savings - MERC," enclosed herewith as Attachment 3.
[197] *See* OAG chart entitled "Potential Firm Customer Conservation Savings - Xcel," enclosed herewith as Attachment 4.

companies could have still realized cost savings by issuing robust conservation calls and reselling half of its excess gas from conservation at wholesale at a 50% discount from the daily spot prices.[198] Under this scenario, CenterPoint could have saved ratepayers approximately $2.5 million;[199] Great Plains could have saved ratepayers approximately $68,000;[200] MERC could have saved ratepayers approximately $471,000;[201] and Xcel could have saved ratepayers approximately $1.1 million.[202]

VII. Utility-by-Utility Overview of the OAG's Recommended Disallowances from Costs Incurred During the February Price Spike.

The OAG's investigation demonstrates that the Impacted Utilities were aware of significant natural gas prices before purchasing during the February Price Spike and failed to react appropriately. Had they reacted appropriately, those companies could have collectively saved hundreds of millions of dollars as set forth in the table below:

Utility	Disallowance Category						Total
	Geographic Diversity	Fixed-Price Contracts	Storage	Peaking	Curtailment	Conservation	
CenterPoint	$70 million	$13.8 million	$47.8 million	$70.5 million	$78.8 million	$9.8 million	$290.7 million
Great Plains	$2.8 million	$357,000	$673,000	N/A	$5.4 million	$272,000	$9.5 million

[198] *See generally* the "Resale Scenario" for the OAG chart entitled "Potential Firm Customer Conservation Savings - CenterPoint," enclosed herewith as Attachment 1.
[199] *See* the "Resale Scenario" for the OAG chart entitled "Potential Firm Customer Conservation Savings - CenterPoint," enclosed herewith as Attachment 1.
[200] *See* the "Resale Scenario" for the OAG chart entitled "Potential Firm Customer Conservation Savings - Great Plains," enclosed herewith as Attachment 2.
[201] *See* the "Resale Scenario" for the OAG chart entitled "Potential Firm Customer Conservation Savings - MERC," enclosed herewith as Attachment 3.
[202] *See* the "Resale Scenario" for the OAG chart entitled "Potential Firm Customer Conservation Savings - Xcel," enclosed herewith as Attachment 4.

MERC	$11 million	$1.7 million	$21.2 million	N/A	$9.6 million	$1.9 million	$45.4 million
Xcel	N/A	$5.5 million	$20.5 million	N/A	$3.8 million	$4.4 million	$34.2 million
Approximate Sum of Disallowances for Impacted Utilities	**$83.8 million**	**$21.4 million**	**$90.2 million**	**$70.5 million**	**$97.6 million**	**$16.4 million**	**$379.8 million**

Moreover, even if the Commission agreed with the Impacted Utilities' claims that they were unaware of significant natural gas prices prior to purchasing during the February Price Spike, those companies could have still realized cost savings by reselling half of its excess gas at wholesale at a 50% discount from the daily spot prices.[203] Even under this scenario, the Impacted Utilities could have collectively saved hundreds of millions of dollars as set forth in the table below:

Utility	**Disallowance Category**						**Total**
	Geographic Diversity	Fixed-Price Contracts	Storage	Peaking	Curtailment	Conservation	
CenterPoint	$70 million	$13.8 million	$47.8 million	$70.5 million	$19.7 million	$2.5 million	$224.3 million
Great Plains	$2.8 million	$357,000	$673,000	N/A	$1.4 million	$68,000	$5.3 million

[203] *See generally* the "Resale Scenario" for the OAG chart entitled "Potential Firm Customer Conservation Savings - CenterPoint," enclosed herewith as Attachment 1.

MERC	$11 million	$1.7 million	$21.2 million	N/A	$2.4 million	$471,000	$36.8 million
Xcel	N/A	$5.5 million	$20.5 million	N/A	$944,000	$1.1 million	$28 million
Approximate Sum of Disallowances for Impacted Utilities	**$83.8 million**	**$21.4 million**	**$90.2 million**	**$70.5 million**	**$24.5 million**	**$4.1 million**	**$294.4 million**

CONCLUSION

For these and all the foregoing reasons, the OAG recommends that the Commission disallow the $379.8 million in excessive gas costs that the Impacted Utilities paid during the February Price Spike. While the Impacted Utilities did not cause this storm, they were responsible for reacting to it with the urgency demanded. They failed to do so, in part because they assumed that ratepayers would pay these higher gas costs. The Commission can, and should, protect ratepayers from the Impacted Utilities' many unreasonable and imprudent actions.

Dated: July 6, 2021

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