

The Commission met on **Thursday, November 9, 2006**, with Chair Koppendrayer and Commissioners Johnson, Nickolai, Pugh and Reha present.

Comment [COMMENT1]: Minutes by Marcia Johnson and Eric Witte. 7 motions were made.

The following matters were taken up by the Commission:

TELECOMMUNICATIONS AGENDA

P-3117/PA-06-1311

In the Matter of the Application for Approval to Transfer Control of Operator Service Company, LLC to INFONXX, Inc.

Commissioner Pugh moved to approve the transfer of control of Operator Services Company, LLC to INFONXX, Inc. and subsequently to its wholly owned subsidiary IFONXX Operating Company, with the following provisions:

1. Operator Services Company, LLC, may continue to operate under its current authority.
2. A check for \$1,000 payable to the Minnesota Department of Commerce (the Department) shall be submitted in lieu of penalties authorized by Minnesota Statutes § 237.74, subdivision 11, for violation of Minnesota Statutes § 237.74, subdivision 12. The Department shall deposit the remittance into the State of Minnesota General Fund. Payment of this settlement amount is due within 30 days of the receipt of the Order.

The motion passed 5-0.

P-999/CI-05-1516

In the Matter of Commission Inquiry Regarding Implementation of the 811 National Abbreviated Dialing Code in Minnesota

Commissioner Pugh moved to issue an order emphasizing the following points:

1. April 13, 2007, is the deadline for the implementation of 811 services.
2. There are no exceptions to the deadline.
3. Every regulated telephone company and telecommunications carrier that provides access to state One Call Centers is required to implement 811 by April 13, 2007 by using the point-to numbers listed on the 811 informational document of Gopher State One Call (GSOC), available at www.gopherstateonecall.org.
4. The Federal Communications Commission's order does not prohibit the use of two point-to numbers, as provided by GSOC (www.gopherstateonecall.org).

5. Every regulated telephone company and telecommunications carrier that provides access to state One Call Centers is required to confirm the successful implementation by testing its 811 implementation.
6. In the event of changes to the point-to numbers, GSOC will voluntarily notify the Commission in advance of the change to enable all regulated telecommunications carriers in Minnesota to implement the change.
7. Telephone companies and telecommunications carriers filing tariffs regarding 811 should serve a copy of the proposed tariff on GSOC on the same date the filing is received by the Commission.

The motion passed 5-0.

ENERGY AGENDA

E-017/D-06-1238

In the Matter of the Petition of Otter Tail Power Corporation for Approval of 2006 Annual Review of Depreciation Rates

Commissioner Johnson moved to do the following:

1. Approve the requested remaining service lives, salvage values, and resulting depreciation rates as proposed by Otter Tail Power Corporation (Otter Tail).
2. Require Otter Tail in future filing to include a table comparing A) retirement dates estimated in Otter Tail's Resource Plan filing and B) remaining lives filed for purposes of depreciation, and to explain any differences.

The motion passed 5-0.

E-002/M-06-1126

In the Matter of Xcel Energy's Petition for Approval of Deferred Accounting and Refund of DOE Settlement

Commissioner Reha moved to do the following:

1. Grant deferred accounting.
2. Approve the refund of the settlement amount from the federal Department of Energy, as netted for legal costs and interest, through the fuel clause adjustment.

3. Grant the necessary variance to the fuel clause adjustment rules to allow the inclusion of the legal costs and interest to be included in the fuel clause adjustment.
4. Direct Northern States Power Company d/b/a Xcel Energy to file a report of the amount refunded through the fuel account at the time the entry is made, including updated interest calculations.
5. Direct Xcel Energy to notify parties and the Commission if Xcel Energy incurs delays in obtaining approval in other jurisdictions and the refund is not completed by March 1, 2007.

The motion passed 5-0.

E,G-999/AA-05-1403

In the Matter of the Review of the 2005 Annual Automatic Adjustment of Charges for All Electric and Gas UtilitiesG-008/AA-05-1423 (Northern Area)G-008/AA-05-1424 (Viking Area)

Commissioner Nickolai moved to do the following:

1. Find that the Commission has the authority to grant the variance request from CenterPoint Energy (CenterPoint), a division of CenterPoint Energy Resources Corp.
2. Deny CenterPoint's request for a variance.
3. Require an independent audit of CenterPoint's financial statements, gas cost calculations, annual automatic adjustment reports, and annual purchased gas adjustment (PGA) true-up filings.

Selection of Auditor

4. Request proposals or bids from big accounting firms and firms that specialize in public utility audits for state regulatory agencies.

Scope of Audit – Subject Matter

5. Direct the auditor to address the following:
 - A reexamination of CenterPoint's computations of the PGA factors and true-ups.
 - CenterPoint's historical practices of reporting and recording purchased gas costs and revenues related to CenterPoint Energy Resources Corporation's restatement of its 2004 financial statements for inter-company eliminations.

- Estimated un-billed revenue and/or receivables.
- The original accounting entries, reversing entries, and subsequent entries.
- Lost and Unaccounted For Gas and all other add-ons and subtract-offs from the PGA and true-ups.
- Deferred accounting.
- Whether the “errors” led to CenterPoint’s filing its 2004 and 2005 general rate cases and whether CenterPoint has already recovered its shortfall.
- An examination of the appropriate methodology of both the prior and proposed methods.
- Whether the pricing of un-billed sales should be based on rates in effect in June of each year or some other method.
- The accuracy of the numbers, verified by some other verification method.
- All other pertinent issues that may arise as the audit proceeds.

Scope of Audit – Time Period of Audit

6. Direct the auditor to address information from PGA year 2005 (July 1, 2004 through June 30, 2005) and any relevant information from other years.
7. Until the audit is complete, refrain from addressing whether to refer this matter to the Office of Administrative Hearings.
8. Consolidate all of CenterPoint’s fiscal year 2005 AAA and fiscal year 2001 through 2005 true-up issues in CenterPoint’s 2005 true-up docket for its Northern rate area.
9. Delegate to the Commission’s Executive Secretary the authority to approve (I) the language in the request for proposals or bids for the audit engagement, (ii) the language in the engagement contract for the independent audit, and (iii) the selection of the independent auditor.

The motion passed 5-0.

E-002/M-04-1970

In the Matter of Xcel Energy’s Petition for Affirmation that MISO Day 2 Costs are Recoverable Under the Fuel Clause Rules and Associated Variances

E-015/M-05-277

In the Matter of Minnesota Power’s Petition for Approval of Revision to Rider for Fuel

Adjustment to Recover Costs and Pass-Through Related to MISO Day 2

E-017/M-05-284

In the Matter of Otter Tail Power Company's Petition for Approval of Revision to Rider for Fuel Adjustment to Recover Costs and Pass-Through Related to MISO Day 2

E-001/M-05-406

In the Matter of Interstate Power and Light Company's Petition for Approval of Revision to Rider for Fuel Adjustment to Recover Costs and Pass-Through Related to MISO Day 2

Commissioner Nickolai moved to do the following:

1. Authorize each petitioner to recover its current charges (offset by revenues via net accounting) arising from the "Day 2" market operations of the Midwest Independent Transmission System Operator, Inc. (MISO), through the calculation of the petitioner's fuel clause adjustment (FCA) pursuant to Minnesota Statutes § 216B.16, subdivision 7, and Minnesota Rules parts 7825.2390 - .2920 (except for the administrative charges related to MISO Schedules 16 and 17) for the period April 1, 2005 through a period ending 36 months from the date of the Order.
2. Direct the Department to file a report within 30 months of the date of the Order recommending how MISO Day 2 charges should be recovered in the future, and provide parties with an opportunity to comment on this report.

The motion failed 2-3. Chair Koppendrayner and Commissioners Pugh and Reha voted no.

Commissioner Nickolai moved to approve the Joint Report and Recommendation filed June 23, 2006 (Joint Report), as clarified by comments filed on November 6, 2006, and as modified below:

1. The Commission approves the current recovery of all MISO Day 2 charges (offset by revenues via net accounting) through the utilities' FCA calculations (except for the administrative charges related to MISO Schedules 16 and 17) for the period April 1, 2005 through a period of at least three years after the Order.
2. Virtual Energy transactions in the MISO Day 2 market are subject to the following conditions:
 - A. A utility may use virtual energy transactions to take positions (i) from the Day-Ahead to the Real-Time market or (ii) from the Real-Time to the Day-Ahead market, but only as a strategy to reduce risk and/or minimize costs assigned to retail customers.
 - B. Virtual energy transactions for retail customers that affect the FCA may not be used for speculative purposes.
 - C. Virtual energy transactions that affect the FCA shall be summarized on a monthly

basis and be included as a component of the monthly fuel clause reports to the Department.

- D. The utilities shall restrict the use of virtual transactions that affect the FCA to 10% of total megawatt-hours (MWh) subject to the FCA on a monthly basis with the understanding that the 10% limitation is a “soft-cap” that may be exceeded by any utility in any particular month, subject to the requirement that the utility must explain the reasonableness of any deviation above the 10% cap in its monthly fuel clause reporting.
 - E. The 10% limitation does not affect non-FCA virtual energy transactions (e.g. for non-asset based trading activities).
 - F. The 10% limitation is subject to review and may be reset at a later date by the Commission.
3. Each petitioner shall adopt the following accounting practices:
- A. Recording each transaction to a separate sub-account of Accounts 447 (Sale for Resale) and 555 (Purchased Power) of the Uniform System of Accounts promulgated by the Federal Energy Regulatory Commission (FERC).
 - B. Recording to Account 555 on an aggregated basis any revenues and costs linked to MISO’s Day 2 locational marginal pricing (LMP), including generation offers to the market and load purchases used to serve native load customers, marginal loss compensations, and marginal loss credits, if allowed through the fuel clause.
 - C. Using net accounting for purchases and sales for owned generation facilities.
 - D. Continuing to account for the fuel costs related to generation plants serving native load in Accounts 151 (Fuel Stock) and 501 (Fuel), the same way they are accounted for today.
 - E. Continuing to use Account 447 to reflect the true costs of off-system wholesale sales, including related MISO costs.
 - F. Tracking in a separate sub-account each MISO charge and revenue.
 - G. Allocating all MISO Day 2 charges pursuant to Exhibit C of the Joint Report.
4. The utilities shall provide to the Department the following additional reporting requirements in their monthly FCA reports and Annual Automatic Adjustment of Charges (AAA) reports filed pursuant to Minnesota Rules part 7825.2810:
- A. Beginning in 2006 and annually thereafter, in addition to the detailed two-year projections required by Minnesota Rules part 7825.2830, each utility shall file as part of its electric AAA report certain information regarding its plans with respect

to acquiring fuel and purchased energy.

- 1) Each AAA report shall include an overview by each utility of its anticipated events and planned actions to address fuel clause costs, and the actions planned by the utility to minimize or lower such costs whenever possible. The plans are intended to provide the utility with sufficient flexibility to respond to changing market conditions. Each utility shall provide a discussion of tools including: plans for use of financial instruments or other mechanisms to hedge the costs of natural gas or other fuels; plans to hedge purchased energy costs (either through forward bilateral purchases or financial instruments), including how the utility will plan for and cover fuel and energy risk during planned unit outages; and where deemed appropriate, plans for additional optimization of congestion cost hedging through the purchase and/or sale of Financial Transmission Rights (FTRs) in the MISO Day 2 Market.
 - 2) These plans are subject to annual review and audit in the AAA process. Congestion costs and revenues shall be reviewed in an annual filing. In addition, in the AAA review process customers may petition to intervene and seek either a technical review or, pursuant to appropriate protective agreements, be allowed to conduct an audit of utility's fuel and energy costs to review the prudence of the utilities' actions in relation to the market.
 - 3) Each utility shall provide and update a list of the network resources that it designates used to serve native load.
- B. To help customers manage their energy costs, each utility shall submit an annual FCA forecast of fuel and purchased power costs per MWh for the next 12 months (the FCA Forecast). The FCA Forecast shall include all fuel and energy costs associated with the operation of the utility's system, in addition to projected MISO Day 2 costs and revenues. The FCA Forecast shall identify major changes that affect the stability of the forecast resulting from underlying changes in the utility's cost inputs. The FCA Forecast shall also address projected variances in fuel costs and purchased power due to increased volatility in fuel markets. Finally, each utility shall explain the reasons for deviations in forecasts from actual costs in the previous year.
- C. Each utility shall prepare a summary of its AAA filing stating key factors affecting costs (including Revenue Sufficiency Guarantee (RSG) costs and Revenue Neutrality Uplift (RNU) costs) along with the FCA Forecast. The FCA Forecast shall be updated whenever deviations from the current forecast are sufficiently material such that it requires a re-forecast for the next 12-month period. The FCA Forecast shall be shared with customer representatives who sign a protective agreement. A copy of the revised FCA forecast shall also be provided

to the Department. The utility shall attempt to respond in a timely manner to questions from customers who have signed a protective agreement.

- D. Each utility shall meet with interested parties to discuss the FCA Forecast, the utility's progress in achieving the FCA Forecast, and address any new proposals in the MISO Day 2 Market. Protective agreements governing disclosure of confidential information may be necessary.
- E. Each utility shall prepare fuel and purchased energy forecasts for each monthly FCA filing, which the utility shall endeavor to file three days prior to the first day of the FCA billing month. To the extent the monthly fuel and purchased energy FCA forecast exceeds the budget for that month set forth in the then current FCA Forecast by more than 10%, to assure accountability, the utility shall provide an explanation of the cause(s) of this change.
- F. In the event that the utility's forecast of fuel and energy costs for a month deviates from actual fuel and energy costs by 15% or more, to assure accountability the utility shall prepare a monthly deviation explanation quantifying the major reasons such as unit outages, congestion costs, weather, and fuel price changes. The utility shall explain how the company can control these costs, or the extent to which the company is unable to control these costs. The Department shall promptly report to the Commission when, for any three month period, a utility forecast has deviated from actual costs by 15% or more.
- G. Each utility shall use a monthly FCA reporting format as agreed upon through the workgroup process (with minor variations as allowed by the Department based upon differences in reporting or other requirements). This reporting format lists each of the MISO costs broken out into seven main categories for each month with cumulative data for the calendar year for comparison purposes, shows how MISO Day 2 costs are allocated to the FCA (including allocations between retail, wholesale, and non-FCA), and shows utilities' break out of their purchases and sales on a monthly basis. This report format is included as part of Exhibit D of the Joint Report. This reporting is intended to help show the actual MISO costs being included in the FCA and their affect on the FCA, and the types and level of purchases and sales being made by the utilities.
- H. Each utility shall supplement its monthly fuel clause report to the Department with information on significant events affecting that month's fuel clause costs.
- I. These FCA reporting requirements are in addition to the utility's filing and reporting requirements under the Commission's FCA rules, the current monthly and annual AAA review process of FCA costs, and the currently accepted standard of review for recovery of fuel and purchased energy costs.

Each utility's monthly and annual costs (as described in the FCA reports provided above) are subject to prudence reviews by the Commission.

5. Because certain administrative costs related to MISO Day 2 may already be recovered in base rates, any potential or alleged "double recovery" of administrative costs is an area for further exploration within the rate case context. At the time of its next rate case, each utility must show benefits of these administrative costs in order to justify inclusion of these costs into rates.
6. Wholesale revenue margin sharing issues shall be addressed for Minnesota Power and Otter Tail no later than the time of each respective utility's next rate case, or earlier should events warrant. Previous Commission Orders for Interstate Power and Light Company¹ and Xcel Energy² have included provisions that address wholesale revenue margin sharing.
7. Each petitioner shall use its lowest cost generation or resource to serve its ratepayers. In response to concerns raised by the Residential and Small Business Utilities Division of the Office of the Attorney General that the implementation of the MISO Day 2 market could theoretically put at risk the loss of cost-based energy to retail native load pursuant to a FERC directive, the utilities shall challenge, both at the administrative level and through appeal (if necessary), any FERC action that would require any of the utilities to purchase energy to serve native load customers at LMP market clearing prices without the associated offset, as well as challenge any action that would preclude the utilities from netting payments/credits for owned generation or contracted purchases against the LMP payments made by retail load (as currently occurs under the MISO Day 2 tariff). The approval for cost recovery as outlined in this Order is revoked and shall be null and void 60 days following the effective date of any FERC final decision and order having the effect of requiring Minnesota utilities to purchase energy to serve native load customers in whole or in part at LMP market clearing prices, action that would prevent utilities from netting payments/credits for owned generation or contracted purchases

¹ See *In the Matter of a Petition by Interstate Power and Light Company for Authority to Increase Electric Rates in Minnesota*, Docket No. E-001/GR-03-767, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; ORDER MODIFYING SETTLEMENT (April 5, 2004).

² See *In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for Authority to Increase its Rates for Electric Service in Minnesota*, Docket No. E-002/GR-05-1428, FINDING OF FACTS, CONCLUSIONS OF LAW, AND ORDER; ORDER OPENING INVESTIGATION (September 1, 2006) (Xcel Energy rate case).

against the LMP payments made by retail load, or any other action preventing any utility from using its lowest cost generation or resource to serve its native load ratepayers.

8. The administrative charges of Schedule 16 and 17 are subject to deferred accounting beginning with the market start on April 1, 2005, until the Commission determines whether and how the charges are recoverable through base rates in each utility's next electric rate case.
 - A. Over a twelve-month period beginning January 2007 each utility shall refund through the FCA all Schedule 16 and 17 costs previously recovered through the FCA; Xcel Energy shall refund through the FCA all Schedule 16 and 17 costs previously recovered through the FCA from April 1 to December 31, 2005, prior to the effective date of interim rates in the Xcel Energy rate case. For each utility other than Xcel Energy, this refund amount shall be established as or included in the deferral balance. For Xcel Energy, the refund amount shall be added to the Schedule 16 and 17 costs subject to deferred accounting pursuant to the Commission's September 1, 2006 Order in the Xcel Energy rate case to establish the total deferral balance.
 - B. Each utility may continue deferring Schedule 16 and 17 charges without interest until the earlier of 36 months (beginning February 24, 2006) or until the utility's next electric rate case. In its next rate case the utility may seek to propose a method for recovering these costs at an appropriate level of base rate recovery for such charges to the extent that the costs were prudently incurred, reasonable, and resulted in benefits justifying recovery (with Schedule 16 and 17 charges and associated amortizations allowed in interim rates subject to final Commission approval). If the utility does not file a rate case by March 1, 2009, the utility shall begin amortizing the balance of the deferred MISO Day 2 costs over the next 36 months unless and until the utility files a rate case and the Commission rules on the utility's proposal for recovering the balance in that case.
 - C. For purposes of Otter Tail's fuel clause true-up calculations, the refunds for Schedule 16 and 17 charges will be reflected in the calculations for the periods during which they are made. The refund of Schedule 16 and 17 charges shall not affect prior true-ups, including the true-up that Otter Tail is currently implementing.³
 - D. For the purposes of Xcel Energy's forecasted fuel clause and true-up calculations, the refunds for 2005 Schedule 16 and 17 charges will be reflected in the forecasted monthly adjustment, subject to true-up in a manner similar to other costs included in the Xcel Energy fuel clause.

³ *In the Matter of Otter Tail Power Company's Petition for Approval of a Fuel Clause Adjustment True-up Mechanism*, Docket No. E-017/M-03-30.

9. By February 2009 the Department shall conduct a comprehensive review of the consequence of MISO Day 2 operations on Minnesota ratepayers and shall recommend changes as appropriate. Petitioners shall provide relevant data to the Department in their AAA reports due September 1, 2008.
10. The Commission will open an investigation into the best methods for assuring low-cost electricity in Minnesota. As part of that investigation, the Commission will do the following:
 - A. Solicit comments on the appropriate scope for this new docket.
 - B. Solicit comments on the following alternatives:
 - 1) Forming, by state law, a statewide transmission company.
 - 2) Forming a more regional transmission company or regional transmission organization incorporating facilities in Manitoba, Minnesota, North Dakota, South Dakota and Wisconsin, perhaps modeled on the Mid-Continent Area Power Pool.
 - 3) Developing alternatives for Minnesota utilities to pursue low-cost electricity, including the opportunity – but not the obligation – to buy and sell electricity in wholesale markets.
 - C. Convene a technical conference/forum on the topics identified to be within the investigation's scope.

The motion passed 5-0.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION: DECEMBER 27, 2006

Burl W. Haar, Executive Secretary