

The Commission met on **Thursday, May 5, 2005**, with Commissioners Johnson, Nikolai, Pugh, and Reha present. Commissioner Reha presided as Chair until 3:00 p.m., when she left the meeting and Commissioner Nikolai presided.

**Comment [COMMENT1]:** Minutes by Carol Casebolt. 8 motions were made.

The following matters were taken up by the Commission.

**P-999/CI-04-305**

**In the Matter of a Commission Investigation of Verification Procedures That Should Be Adopted Pursuant to the FCC's Lifeline Order**

**P-999/CI-05-334**

**In the Matter of Annual Consideration of Possible Changes to the Telephone Assistance Plan (TAP) Surcharge and the Telephone Assistance Plan State Credit for FY 2005**

Commissioner Pugh moved to determine that the Commission can adopt its own verification procedures.

Commissioner Nikolai proposed to amend the motion to conclude that the Commission can adopt its own verification procedures, but to acknowledge that the law is ambiguous and to ask the Federal Communications Commission (FCC) for clarification. Commissioner Pugh accepted the amendment.

Commission Pugh further moved to do the following:

- Direct eligible telecommunications carriers (ETCs) to do the verification of their Lifeline, Link-Up and Minnesota Telephone Assistance Plan (TAP) customers, but allow parties to study and submit proposals about a third-party verification agency for future consideration.
- Direct ETCs to follow the FCC's sampling guidelines.
- Direct that the pending rulemaking consider the issue of reimbursement of verification expenses from the TAP Fund.
- Decline to address the proposal that a single agency be responsible for all aspects of the Lifeline and TAP programs due to the fact that legislation would be required to achieve this end.

Commissioner Nikolai proposed to amend the motion to clarify that the verification procedures addressed here only apply to ETCs, including wireless carriers. Commissioner Pugh accepted the amendment.

The motion passed 4-0.

Commissioner Johnson moved to –

- Take no action affecting the TAP surcharge and benefit levels at this time, and
- Accept the TAP reports.

The motion passed 4-0.

Commissioner Pugh moved that the Commission take action in four dockets as follows:

**G-008/M-05-126**

**In the Matter of a Petition by CenterPoint Energy for a variance to Minn. Rules 7820.4000**

1. find that the requested variance complies with the requirements set forth in Minnesota Rules, Part 7829.3200; and
2. grant the requested variance to Minn. Rules, Part 7820.4000;

**E-002/M-04-1818**

**In the Matter of a Petition by Northern States Power Company d/b/a Xcel Energy to Close Purchase Option Lighting Service**

- acknowledge the Company's agreement 1) to make revisions to the tariff title and language suggested by the Department to clarify any confusion about lighting system ownership and 2) to make these revisions in conjunction with future consideration of these services and adjust this language in the Company's next electric rate case; and
- permit the Company to withdraw its petition from further consideration;

**E-275,134/SA-05-400**

**In the Matter of the City of Moorhead's Petition to Extend its Service Area into the Area Presently Served by Red River Valley Cooperative Power Association Under the Terms and Conditions Settlement Agreement in Docket No. E-275,134/SA-02-1707**

1. approve the transfer of service territory for the area detailed in the current petition from the Cooperative to the City under the Settlement Agreement in Docket No. E-275,134/SA-02-1707; and
2. change the service territory boundaries between the City and the Cooperative as described in the joint petition; and

**E-119,017/SA-05-336**

**In the Matter of a Joint Petition by Otter Tail Corporation d/b/a Otter Tail Power Company and Lake Region Electric Cooperative for Modification to Assigned Service Territories**

- approve the petition.

The motion passed 4-0.

**E-002/M-05-359**

**In the Matter of a Petition by Northern States Power Company d/b/a Xcel Energy for Approval of State Energy Policy Rate Rider and Compliance Filing**

Commissioner Nickolai moved that the Commission

1. accept Xcel's compliance filing and approve the Company's proposed State Energy Policy Rates for the period July 1, 2005 through June 30, 2006, as amended by the Department to incorporate actual RA and SGB expenses that were recently billed to Xcel; and
2. require Xcel to edit its proposed notice to customers to reflect the amended State Energy Policy Rates.

The motion passed 4-0.

**E-015/S-05-265**

**In the Matter of Minnesota Power's Petition for Approval of its Proposed Capital Structure and Authorization to Issue Securities**

Commissioner Nickolai moved that the Commission

1. Adopt the Department's recommendations as follows:

**RECOMMENDATIONS EXCLUDING THE RIGHTS PLAN**

- a. Approve MP's 2005 estimated capital structure. Approval will remain effective until the Commission issues a new capital structure Order for 2006.
- b. Approve MP's equity ratio of 58.42% plus/minus 15 percent. Equity ratios outside this range may not exceed a period of 60 days without prior Commission approval.
- c. Approve MP's total capitalization of \$1,490 million with a contingency cap of \$150 million. The Company may not exceed its total capitalization including the requested contingency amount for a period exceeding 60 days without Commission approval.
- d. Approve any securities issuance during 2005 that would not result in an equity ratio outside the proposed range, or a total capitalization exceeding its proposed cap for more than 60 days; and

- e. Require MP to obtain prior approval for issuance of any securities in calendar year 2005 that would result in an equity ratio outside the approved range, or a total capitalization exceeding its approved cap for more than 60 days.

RECOMMENDATIONS REGARDING THE RIGHTS PLAN

- f. Allow MP to forego prior Commission approval to issue securities under the Rights Plan and require the Company to refile a revised capital structure petition for review and approval by the Commission within six months after a triggering event, and
- g. Require that if MP either amend or terminates its Rights Plan prior to July 23, 2006, the Company must notify the Commission as soon as possible after such decision is made, and no later than MP's next earliest capital structure filing following such termination or amendment; and

*REGARDING REPORTING ON ACQUISITIONS*

- h. Require MP to report in its next capital structure filing details about any acquisitions that are made, including the amount paid for each acquisition, when the acquisition was made, a description of the entity acquired, and arguments for why each acquisitions is "reasonable and proper and in the public interest and will not be detrimental to the interests of the consumers and patrons affected thereby."
2. Direct the Company to file its 2006 capital structure petition before the first Friday in November 2005; and
  3. Require the Company to file detailed descriptions of the use of funds from the issuance of long term debt at least two weeks after the issuance.

The motion passed 4-0.

**E-002/PA-05-82**

**In the Matter of Northern States Power Company d/b/a Xcel Energy's Petition for Approval to Sell a Transformer to its Utility Affiliate Southwestern Public Service Company**

Commissioner Nickolai moved that the Commission

1. approve Xcel's transfer of the transformer to its affiliate Southwestern Public Service Company (SPS), valuing the transfer at the transformer's market value;
2. direct Xcel to provided information regarding the market value of the transformer;

3. direct Xcel to report in its AAA Reports, through September 2008, any incremental cost incurred due to the failure of any Company's transformers over what would have been incurred had the transformer not been transferred to SPS;
4. for the next two years, hold Xcel shareholders at risk for any incremental cost incurred due to the failure of any of the Company's transformers.

The motion passed 4-0.

**E-002/M-03-1883**

**In the Matter of the Request of Northern States Power Company d/b/a Xcel Energy for Approval of Selected Projects for the Second Funding Cycle of the Renewable Development Fund**

Commissioner Johnson moved to deny Minnesotans for an Energy-Efficient Economy's request to rehear and reconsider the Commission's February 23 Order.

The motion passed 3-1. Commissioner Nickolai voted no.

Commissioner Reha moved to toll the 60-day time period to permit sufficient time for deliberation and preparation of an adequate Order.

The motion passed 4-0.

The Commission recessed for lunch and reconvened at 1:30, when it heard the case listed below.

**E-015/PA-04-2020**

**In the Matter of Minnesota Power's Petition for Review of an Agreement Between Minnesota Power and the American Transmission Company**

The Commission heard oral argument on the case, with Commissioner Reha leaving the meeting at 3:00. Commissioner Nickolai chaired the meeting for the remainder of oral argument and stated that the Commission would hold deliberations on the merits of the case on May 11, 2005.

There being no further business, the meeting was adjourned.

**APPROVED BY THE COMMISSION: MAY 18, 2005**

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**Burl W. Haar, Executive Secretary**