

The Commission met on **Tuesday, December 20, 2005**, with Chair Koppendrayer and Commissioners Johnson, Nickolai, Pugh and Reha present.

**Comment [COMMENT1]:** Minutes by Eric Witte and Peter Brown. 11 motions were made.

The following matters were taken up by the Commission:

## TELECOMMUNICATIONS

### **P-515/AM-04-574**

**In the Matter of the Petition of Interstate Telecommunications Cooperative, Inc., for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. §251(f)(2)**

Commissioner Pugh moved to do the following:

1. Suspend the obligation of Interstate Telecommunications Cooperative, Inc. (ITC), to provide local number portability consistent with any Order of the South Dakota Public Utilities Commission (SDPUC).
2. Order ITC to provide a copy of the SDPUC Order as soon as ITC receives it.

The motion passed 5-0.

### **P-421/AR-97-1544**

**In the Matter of Qwest Corporation's Alternative Form of Regulation (AFOR) Plan**

Commissioner Nickolai moved to reconsider the Commission's ORDER AMENDING PLAN (August 4, 2005).

The motion passed 3-2. Commissioners Johnson and Pugh voted no.

Commissioner Reha moved to clarify the Order to state that Minnesota Statutes § 16A.151 does not apply retroactively.

The motion passed 5-0.

## ENERGY

### **G-008/CI-04-2001**

**In the Matter of CenterPoint Energy's Implementation of the Cold Weather Rule and Reconnection Policies**

The Commission received a status report on CenterPoint's 2005-2006 heating season disconnections and reconnections.

**ET-6131,ET-2,ET-6130,ET-10, ET-6444,E-017,ET-9/TR-05-1275**

**In the Matter of the Application to the Minnesota Public Utilities Commission for a Route Permit for the Big Stone Transmission Project in Western Minnesota**

Commissioner Reha moved to do the following:

3. Accept as complete the application of Otter Tail Power Company, *et al.*, for a route permit under the full permitting process.
4. Authorize the Minnesota Department of Commerce (the Department) to initiate the procedural actions required by Minnesota Rules parts 4400.1035 to 4400.1900 and to name a public advisor for the project.
5. Refer the matter to the Office of Administrative Hearings for a contested case proceeding.
6. Rather than establish an Advisory Task Force, instruct the Department to proactively consult and inform affected local units of governments and enlist their advice on the scope of the Environmental Impact Statement (EIS), including alternative routes to evaluate in the EIS.

The motion passed 5-0.

**E-002/TR-05-1192**

**EQB 05-95-TR-Eastwood**

**In the Matter of a Route Permit Application by Xcel Energy for a Double-Circuit 115 Kilovolt High Voltage Transmission Line Between the Summit-Loon Lake Line in Lime Township and the Eastwood Substation in Mankato Township, All in Blue Earth County**

Commissioner Johnson moved to approve and adopt the Findings of Fact, Conclusions and Order which does the following:

1. Determines that the Environmental Assessment and the record created at the public hearing address the issues identified in the scoping decision.
2. Designates a route for a double-circuit 115 kV transmission route for 3.5 miles from a tap into the Summit-Loon Lake line through to the Eastwood Substation in Blue Earth County.
3. Issues a Route Permit to Xcel Energy.

The motion passed 5-0.

## **BLOCK MOTION**

Commissioner Pugh moved to take the following actions in the following dockets.

### **E-017/M-05-1740**

#### **In the Matter of the Petition of Otter Tail Power Company for Approval of New Rate Codes**

- Approve Otter Tail Power Company's request to add New Rate Codes.

### **E-002/M-05-1686**

#### **In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of an Addendum to the Peak-Controlled Service Contract with Minnesota Life**

- Approve the addendum to the Peak-Controlled Service Contract between Northern States Power Company d/b/a Xcel Energy and Minnesota Life.

The motion passed 5-0.

### **E-015/S-05-1758**

#### **In the Matter of the Petition of Minnesota Power for Approval of its 2006 Capital Structures and Permission to Issue Securities**

Commissioner Nickolai moved to do the following:

1. Excluding consideration of the authority of Minnesota Power (MP) to issue shares pursuant to its Shareholder Rights Plan to prevent a hostile corporate take-over:
  - Approve MP's 2006 estimated capital structure. This approval would remain effective until the earlier of April 30, 2007, or the date at which the Commission issues a new capital structure Order.
  - Approve MP's equity ratio contingency of  $\pm$  15 percent around its 2006 proposed equity ratio. Equity ratios outside this range may not exceed a period of 60 days without prior Commission approval.
  - Approve MP's total capitalization contingency of \$160 million above its total 2006 capitalization. MP may not exceed its total capitalization including the requested contingency of \$160 million for a period longer than 60 days without prior Commission approval.
  - Approve any issuance of securities in calendar-year 2006 that would not result in an equity ratio outside the proposed range or a total capitalization exceeding its proposed cap for more than 69 days.
  - Require MP to obtain prior approval for issuance of any securities in calendar year

2006 that would result in an equity ratio outside the approved range or a total capitalization exceeding its approved cap for more than 60 days.

2. Regarding the Shareholder Rights Plan:
  - Allow MP to forego prior Commission approval to issue securities under the Rights Plan and require MP to refile a revised capital structure petition for review and approval by the Commission within six months after a Triggering Event.
  - Require that if MP either amends or terminates its Rights Plan prior to July 23, 2006, MP must notify the Commission as soon as possible, and no later than MP's next capital structure filing following such termination or amendment.
3. Regarding the effects of potential corporate restructuring on credit ratings:
  - Require MP to keep the Commission informed of any corporate restructuring.
  - Require MP to keep the Commission informed of any Rating Agency action.

The motion passed 5-0.

**E,G-002/S-05-1583**

**In the Matter of Northern States Power Company's Request for Approval of its 2006 Capital Structure Prior to Issuing Securities**

Commissioner Nickolai moved to approve the proposed capital structure for Northern States Power Company's Minnesota operating utility and subsidiaries United Power & Land Company and NSP Nuclear Corporation (collectively, NSP-MN) as follows:

1. Approve NSP-MN's requested 2006 capital structure. This approval remains effective until the date at which the Commission issues a 2007 capital structure order.
2. Approve a  $\pm$  10 percent range around NSP-MN's common equity ratio of 51.1 percent (i.e., a range of 45.99 to 56.21 percent).
3. Approve NSP-MN's proposed short-term debt issuance not to exceed 15 percent of total capitalization at any time while the 2006 Capital Structure is in effect.
4. Approve NSP's total capitalization contingency of \$494 million (i.e., a total capitalization of \$5,500 million).
5. Continue the variance authorizing NSP-MN to enter into multi-year credit agreements and issue associated notes thereunder, but require NSP-MN to also continue reporting on the use of such facilities, including –
  - how often they are used,
  - the amounts involved,

- rates and financing costs, and
  - the intended uses for the financing.
6. Approve NSP-MN's request to issue securities provided that NSP-MN remain within the contingency ranges or does not exceed them for more than 60 days.
  7. Approve NSP-MN's flexibility to use risk-management instruments that qualify for hedge accounting treatment under Statement of Financial Accounting Standard No. 133.
  8. Approve NSP-MN's request for relief from an Order point in the 2003, 2004 and 2005 Capital Structure Orders restricting NSP-MN to issue only financial instruments listed in the capital structure filing.

The motion passed 5-0.

**E-111/M-04-2049**

**In the Matter of the Petition of Dakota Electric for Approval of its Rider for Distributed Generation Service, Rider for Standby Service, and its Process and Technical Requirements Document**

Commissioner Nickolai moved to do the following:

8. Regarding the proposed Distributed Generation (DG) Rider of Dakota Electric Association (Dakota Electric), SERVICES, Capacity/Energy, Sheet 30.2, direct Dakota Electric to modify its proposed language as follows:

*If the Customer offers to sell energy to the Cooperative, then such energy and capacity shall ~~will~~ be purchased by the Cooperative's wholesale power supplier under the rates, terms and conditions for such purchases as established by the wholesale supplier....*

9. Regarding the DG Rider, SERVICES, Supply Services, Sheet 30.1, direct Dakota Electric to modify its proposed language as follows:

*Supply services include standby services such as scheduled maintenance, and ~~unscheduled outages and supplemental service~~ as provided under Cooperative's Rider for Standby ~~and Supplemental Service~~. Supplemental service is available under the Cooperative's firm retail electric rate schedule to which this Rider is attached.*

10. Regarding the DG Rider, DEFINITIONS, Supplemental Service, Sheet 30.0, direct Dakota Electric to add new definition language as follows:

Supplemental Service is electric energy, or energy and capacity, supplied by the Cooperative to the Customer when the Customer's non-utility source of electricity (distributed generation system) is insufficient to meet the Customer's own load. Supplementary Service can take two forms: residual retail service and load-following service. **Residual Retail Service** is intended for a Dakota Electric customer who has an alternate source of electric energy supply which normally supplies only a portion of the customer's electrical load requirements and who requires firm service for the remaining portion of the customer's electrical requirements. Such Residual Retail Service is available under the Cooperative's firm retail electric rate schedule to which this rider is attached. **Load Following Service** is intended for a Dakota Electric retail customer who has an alternate source of electric energy supply which has an output that is variable and dependent on the thermal load characteristics of the retail customer, and therefore, serves all or a portion of the customer's electrical load requirements for a portion of the time and requires use of utility service for supply of energy at all other times. This load following service will be evaluated and contracted for on an individual basis with a customer based on the specific variable load requirements of the customer. Since a customer may have control over the thermal load characteristics that affect the output of distributed generation facilities in this situation, we believe the best way of providing service is on an individual contracted basis. This will recognize that some customers may rely on utility service during high cost on-peak periods while other customers may require such utility service only during lower cost off-peak periods.

11. Regarding the DG Rider, SERVICES, Services from Cooperative to Customer, Sheet 30.1, authorize Dakota Electric to charge a monthly service fee to recover incremental metering operation and maintenance costs after Dakota Electric demonstrates and quantifies such costs.
12. Regarding the DG Rider, TERMS AND CONDITIONS OF SERVICE, (item 2), Sheet 30.3, authorize Dakota Electric to charge an initial fee to recover the cost of metering equipment and installation, and a monthly service charge to recover the additional cost of meter operation and maintenance after Dakota Electric demonstrates and quantifies such costs.
13. Regarding the Standby Rider, TERMS AND CONDITIONS OF SERVICE, (item 3), Sheet 28.3, authorize Dakota Electric to charge an initial fee to recover the cost of metering equipment and installation, and a monthly service charge to recover the additional cost of meter operation and maintenance after Dakota Electric demonstrates and quantifies such costs.
14. Regarding the DG Rider, SERVICES, Capacity/Energy, Sheet 30.2, direct Dakota Electric to include in its DG Rider the 2005 Special Rate Rider V "Distributed Generation" of Great River Energy (GRE) for purchases of capacity and energy, when it is approved, and to make appropriate language modifications referencing Rider V.
15. Regarding the DG Rider, SERVICES, Capacity/Energy, Sheet 30.2, direct Dakota Electric to make available to DG customers GRE's Distributed Generation Price Schedule for purchases of energy and capacity from customers.

16. Regarding the Standby Rider, BILLING DEMAND, Sheet 28.3, direct Dakota Electric to modify language as follows:

The Customer shall contract for a specific kilowatt demand of standby service with the maximum being the amount sufficient to meet the Customer's requirements.... However, if standby power is not purchased, it will not be available. Moreover, the Customer must guarantee that the facility will never take more than the contracted amount of standby service.

17. Regarding the Standby Rider, CHARGES FOR SERVICES, (Reservation Fees), Sheet 28.2, direct Dakota Electric to refer in its Standby Rider to GRE's pending 2005 Special Rate Rider V for pricing of generation and transmission reservation fees, and to make Rider V part of the Standby Rider.
18. Regarding the Standby Rider, CHARGES FOR SERVICES, (Reservation Fees), Sheet 28.2, direct Dakota Electric to make GRE's Distributed Generation Price Schedule available to DG customers.
19. Regarding the Standby Rider, CHARGES FOR SERVICES, (Reservation Fee), Sheet 28.2, direct Dakota Electric to delete language in its Standby Rider stating that generation and transmission Reservation fees will be billed to non-firm DG customers under the rates from its wholesale supplier. Acknowledge that –
- Dakota Electric states that other jurisdictions may cause GRE to begin charging generation and transmission reservation fees;
  - Dakota Electric states that if GRE begins charging generation and transmission reservation fees, Dakota Electric would likely seek authority to recover these fees from customers, including non-firm DG customers; and
  - the Commission discussed these matters.
13. Regarding the Standby Rider, CHARGES FOR SERVICES, (Stranded Investment), Sheet 28.3, direct Dakota to support the size of the proposed initial one-time charge to recover stranded distribution investments to physical assurance customers before it begins collecting the charge.
14. Regarding the Standby Rider, APPLICATION, (Exceptions - item B), Sheet 28.1, direct Dakota Electric to add the following language to its Rider:

For any Customer with distributed generation systems rated at 60 kW or less, standby service will be available to customers through their base rates.

15. Regarding the Standby Rider, APPLICATION, (Exceptions - item B), Sheet 28.1 –

- Direct Dakota Electric to eliminate the language limiting the number of customers generating no more than 60 kW that are may be exempt from paying standby charges,
- Acknowledge that Dakota Electric states that financial considerations may cause Dakota Electric to seek to limit the number of such exemptions in the future, and that the Commission discussed the matter, and
- Direct Dakota Electric to report in 24 months on the number of customers taking standby service for DG systems generating 60 kilowatts or less, and the aggregate usage taken by these customers.

16. Regarding the DG Rider, SERVICES, Distribution Credits, Sheet 30.2, direct Dakota Electric to modify the rider as follows:

~~*If the study cannot be incorporated as part of the Cooperative's annual distribution planning study, then such study will be pursued with Customer's approval at Customer's expense.*~~

17. Regarding the DG Rider, SERVICES, Line Loss Credits - new, Sheet 30.3, direct Dakota Electric to modify its proposed language as follows:

*Line Loss Credits.*

*If Customer requests the Cooperative to provide a specific line loss study, at the Customer's expense regardless of the study's outcome, Customer may be eligible for additional line loss credits if the study supports such credits.*

18. Regarding the DG Rider, SERVICES, Renewable Credits, Sheet 30.3, direct Dakota Electric to modify its proposed language as follows:

*If Customer installs a renewable distributed generation system ... the purchase of such renewable energy and capacity will ~~reflect~~ equal the avoided cost....*

19. Regarding the DG Rider, SERVICES, Renewable Credits, Sheet 30.3,

- Direct Dakota Electric to add the following language: *"In the event that Customer producing the power receives renewable energy credits – that is, the Customer is paid by the purchasing company the avoided cost of renewable energy purchases – then this transaction will constitute a transfer from the Customer to the purchasing company of the property rights for those renewable attributes specific to the renewable energy generated by the Customer and for which the purchasing company paid renewable energy credits. Customer may receive renewable credits or tradable emission credits but not both."*

- Find that the customer shall have the choice of receiving renewable or regular avoided cost. However, if the regular avoided cost is higher and the customer elects payment of this higher avoided cost, then the utility shall receive the green credit or tradable renewable credits. The avoided cost of renewable energy shall be based on the most recent utility cost of purchasing renewable energy from other sources.

20. Regarding the DG Rider, SERVICES, Tradable Emission Credits, Sheet 30.3, direct Dakota Electric to modify its proposed language as follows:

*If the purchase of energy and capacity by the Cooperative's wholesale power supplier ... then tradable emissions credits will be provided to the Customer under terms established by the wholesale power supplier that ~~reflects the economic value~~ equal the credit revenues associated with the DG facility of such emission credits.... Customer may receive either renewable credits or tradable emission credits but not both.*

21. Direct Dakota Electric to provide annually –

- An updated energy payment schedule if different from the previous year;
- An updated capacity payment schedule if different from the previous year;
- An updated renewable resource credit schedule if different from the previous year;
- The average tradable emissions credit for the previous year; and
- A discussion and support of any and all changes in the schedules.

22. Invite comments from parties to address the impact of FERC Order No. 2006, Final Rule (May 12, 2005) in Docket No. RM02-12-000 *In re Standardization of Small Generator Interconnection Agreements and Procedures* as it relates to the DG tariffs.

23. Direct Dakota Electric to file DG interconnection reports as required by Minnesota Statutes § 216B.1611, subdivision 4, no later than January 31 of each year.

24. Regarding concerns over excessive metering requirements, direct Dakota Electric to follow the requirements of the Technical Workgroup as they relate to metering for DG installations.

25. Direct Dakota Electric to post its Process and Technical documents on its website.

The motion passed 5-0.

Commissioner Nickolai moved to require Dakota to file revised tariff riders complying with the Commission's modifications within 30 days of the date of the Commission's Order and allow parties 10 days to file comments on Dakota's compliance filing.

The motion passed 5-0.

**E-114,001/SA-05-1711**

**In the Matter of the Joint Petition of Heron Lake BioEnergy, LLC and Federated Rural Electric Association to Serve Heron Lake BioEnergy Ethanol Plant**

Commissioner Reha moved to do the following:

25. Authorize Federated Rural Electric Association to provide electric service for the construction of the Heron Lake BioEnergy Ethanol Plant, while acknowledging that this authorization does not prejudice the claim of Interstate Power and Light Company to serve the plant thereafter.
26. Refer the question of who should provide service to the plant thereafter to the Office of Administrative Hearings for a contested case proceeding.

The motion passed 5-0.

There being no further business, the meeting was adjourned.

**APPROVED BY THE COMMISSION: JANUARY 25, 2006**

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**Burl W. Haar, Executive Secretary**