

The Commission met on **January 22, 2004**, with Chair Koppendrayer and Commissioners Johnson, Nikolai, Reha and Scott present.

Comment [COMMENT1]: Minutes by Ann Pollack. 8 motions were made.

ENERGY AGENDA

E-001/AI-03-1630

In the Matter of Interstate Power and Light Company's Petition for Approval of an Affiliated Interest Agreement with IEI Barge Services, Inc.

Commissioner Nikolai moved that the Commission approve the agreement.

The motion passed 5-0.

IP-6345/CN-03-1884

In the Matter of the Application of Calpine Corporation for a Certificate of Need for a Large Electric Generating Facility

Commissioner Scott moved that the Commission approve Calpine's request in its entirety with the qualifications included in the staff discussion in the January 22, 2004 briefing papers.

The motion passed 5-0.

E-017/M-03-30

In the Matter of Otter Tail Power Company's Petition for Approval of a Monthly Fuel Clause Adjustment True-Up Mechanism

Commissioner Nikolai moved to direct Otter Tail Power Company (OTP) to supplement its filing in this proceeding with an "annual true-up" alternative to allow for comparison. OTP's supplemental filing shall also consider implementation issues and the underlying issue as to whether it is appropriate to have a true-up. OPT shall make its supplemental filing 60 days after the Minnesota Department of Commerce files its comments in Docket No. E,G-999/AA-03-1264 *In the Matter of the Review of the 2003 Automatic Adjustment of Charges for All Gas and Electric Utilities*.

The motion passed 5-0.

E-002/CI-03-2044

In the Matter of the Requirement under Minnesota Statutes 216B.1691, subdivision 6 (c), for Northern States Power Company d/b/a Xcel Energy to Enter into a Purchased Power Agreement

At the request of the parties, the Commission took no action.

E-002/M-03-1569

In the Matter of Xcel's Request for Approval of a New Real Time Pricing Tariff

Commissioner Scott moved to:

2. Approve the proposed Real Time Pricing tariff and require Xcel to submit an evaluation report that discusses whether the proposed RTP tariff should continue or whether clear improvements can be made. This report should include
 - c. A cost-benefit analysis of the proposed rate design;
 - d. The number of participants along with the following information for each participant
 - i. The contract demand and actual demand
 - ii. Changes to actual demand
 - iii. Load factor;
 - e. The number of each day-type called;
 - f. The specific reasons Xcel used in practice to call the different day-types;
 - g. An explanation of whether any changes are needed to the Company's method of choosing different day-types;
 - h. Administrative costs of the program;
 - i. Any additional information the Company believes would be relevant.
2. Require the report to be filed by April 1, 2006 or the date Xcel files its next rate case, whichever is earlier.
3. Order Xcel to continue offering the existing Real Time Pricing Pilot until the end of 2004.

The motion passed 5-0.

E-002/M-03-1462

In the Matter of Northern States Power Company d/b/a Xcel Energy's Petition for Approval of Deferred Accounting for Costs Incurred for the Web Tool and Time-of-Use Pilot Project

Commissioner Koppendrayer moved that the Commission take the following action:

- direct further substantiation of the methods used in selecting Deloitte Consulting and evidence of what benefits were obtained for the costs incurred;
- delegate to the Executive Secretary the authority to determine scheduling;

The motion passed 5-0.

**E,G-002/CI-02-2034;
E-002/M-03-520**

In the Matter of an Investigation and Audit of Northern States Power Company's Service Quality Reporting

In the Matter of Northern States Power Company d/b/a Xcel Energy's Reliability Standards Report and Proposed Annual Standards for 2003 Pursuant to Minnesota Rules, Chapter 7826

Commissioner Scott moved that the Commission

1. reject the Settlement Agreement;
2. ask the parties to file comments regarding
 - the Fraudwise Final Report;
 - whether Xcel established compliance with relevant standards in the 2001 and 2002 reporting periods;
 - the need for the Commission to start a formal procedure using its authority under the provisions of Minn. Stat. §§ 216B.28, 216B.29 , 216B.30, 216B.31 to further the investigation, essentially to have the Commission in the role of subpoenaing witnesses, taking depositions, and questioning witnesses under oath, in conjunction with Fraudwise and that Xcel would continue to pay while it (Fraudwise) is working with the Commission; and
 - the propriety of the Commission retaining an outside firm that has no connection to any of the parties, preferably one that does not appear before the Commission for anyone on any issue, someone with trial experience, who could work with the Commission on developing questions as we go forward.

The motion failed, 2-3. Commissioners Koppendraye, Nickolai, and Reha voted no.

Commissioner Nickolai moved that the Commission

1. accept the Settlement Agreement with modifications:
 - a. require periodic audits, by an independent firm, of the accuracy of the customer outage data, paid for by Xcel and overseen by the Department and the OAG; and
 - b. add a penalty section to the Settlement Agreement whereby Xcel is committed to pay penalties for any pattern of data alteration or corruption that is identified through this audit process into the future and the penalties could be in amounts set by the Commission within the range of those penalties provided by Minn. Stat. § 216B.57, which is up to \$1,000/day per event. Commissioner Reha offered the following as a friendly amendment to Commissioner Nickolai's motion:

Direct Xcel to make a compliance filing for Commission approval that details how customer complaint numbers will be computed and reported by Xcel under the Settlement Agreement.

Commissioner Nickolai accepted this as an amendment to his motion.

Commissioner Reha also offered as a friendly amendment, in lieu of the foregoing 1b, that the Commission adopt the language of Revised Alternative 2,D which appears on page 4 of Commission Staff Briefing Papers dated January 22, 2004 as follows:

Add that insufficient or inaccurate documentation is a demonstration of under performance justifying the maximum total under performance payment.

Commissioner Nickolai accepted this as an amendment to his motion.

Commissioner Scott offered as a friendly amendment the following:

That Xcel acknowledge failure to establish compliance with the relevant standards in the years 2001 and 2002 and pay \$100,000 for each year.

Commissioner Nickolai declined to accept this as an amendment to his motion.

Commissioner Reha offered as a friendly amendment that the Commission accept the Fraudwise Report into the record and recognize its finding that the system was corrupted.

Commissioner Nickolai accepted this as an amendment to his motion.

Commissioner Nickolai's motion, as amended, therefore, was that the Commission

1. accept the Settlement Agreement with modifications:
 - a. require periodic audits, by an independent firm, of the accuracy of the customer outage data, paid for by Xcel and overseen by the Department and the OAG; and
 - b. add that insufficient or inaccurate documentation is a demonstration of under performance justifying the maximum total under performance payment.
2. direct Xcel to make a compliance filing for Commission approval that details how customer complaint numbers will be computed and reported by Xcel under the Settlement Agreement; and
3. accept the Fraudwise Report into the record and recognize its finding that the system was corrupted.

The motion, as amended, passed 3-2. Commissioners Johnson and Scott voted no.

G-007,011/M-03-276

In the Matter of a Filing by Aquila, Inc. to Establish a Large Volume Daily Balancing Service

Commissioner Johnson moved that the Commission take the following action:

1. approve Aquila's proposed LVBS with the following changes recommended by the Department:
 - approve the LVBS on a pilot basis ending August 31, 2005, with any proposed changes to the service being filed by the Company no later than May 31, 2005;
 - approve the proposed rate of \$5.47 per unit of LVBS;
 - restrict participation to any non-General Service Transportation customers that has telemetry installed or to any marketer that has pooled the volumes of any Large Volume Transportation customer that has telemetry installed;
 - allow participation in the LVBS by only Large Volume Transportation customers during the pilot period;
 - allow Aquila to restrict the amount of LVBS that a customer can purchase to a maximum of twenty percent of that customer's peak day usage;
 - allow Aquila to suspend the LVBS on days when the pipeline issues SOL Days, SUL Days, or Critical Days, consistent with NNG's SMS provisions;
 - allow Aquila to suspend the LVBS on days when Aquila issues a Curtailment or any other day that Aquila believes that the service could be detrimental to its General Service customers;
 - limit the amount of LVBS that will offered during the pilot period to 2,000 units;
 - require Aquila to obtain Commission approval prior to changing the SMS component;
 - require Aquila to obtain Commission approval prior to changing the Firm Capacity component;
 - require Aquila to obtain Commission approval prior to changing the Commodity Risk component;
 - require Aquila to include the following information in its May 31, 2005 filing:

- a) the number of customers that are participating in the pilot project,
- b) the amount of LVBS subscribed to by each customer,
- c) the costs associated with implementing the pilot project, and
- d) the revenues associated with the pilot project;

- require Aquila to address the stranded costs issue, together with possible alternative solutions, in its May 31, 2005 filing;
- adopt the Department's proposed tariff language in the fifth paragraph of proposed Section 12:1 of Aquila's Transportation Rate Schedule, as described in section II.B.vii of the Department's comments; and
- require Aquila to file, within 20 days of the Commission's Order in this docket, relevant tariff sheets that reflect the Commission's determination in this docket;

2. Require that no party may purchase more than one-half of the available units;

The motion carried 4-0. Commissioner Nickolai was not present.

There being no further business the meeting was adjourned.

APPROVED BY THE COMMISSION: FEBRUARY 7, 2004

Burl W. Haar, Executive Secretary