

The Commission met on **Thursday, January 9, 2003**, with Acting Chair Reha and Commissioners Gavin, Johnson and Scott present.

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

The following items were taken up by the Commission:

### TELECOMMUNICATIONS AGENDA

#### **P-6196/NA-02-1773**

Application by Alticom, Inc. for a Certificate of Authority to Provide Interexchange Service

Commissioner Johnson moved to deny the application.

Commissioner Johnson amended his motion to table the issue.

The motion passed 4-0.

#### **P-3050,3034,5034/C-02-1495**

In the Matter of the Complaint by the Department of Commerce Against NOS Communications, Inc., NOSVA Limited Partnership and Affinity Network, Inc.

Commissioner Johnson moved to do the following:

1. Find that the subject of this complaint is within the Commission's jurisdiction and that there are reasonable grounds to investigate the matter. Require NOS Communications, Inc., NOSVA Limited Partnership and Affinity Network, Inc. to file an answer to the complaint within 30 days pursuant to Minnesota Rules part 7829.1800, subpart 2. The answer shall address all allegations of the complaint and the recommendation of the Department of Commerce (the Department) that the companies should show cause why the Commission should not revoke their certificates of authority.
2. Request that the Department file replies to the answer within 20 days of the filing of the answer.

The motion passed 4-0.

## **ENERGY AGENDA**

### **E-002/M-99-577**

Petition for Extension of the Variance to Fuel Clause Adjustment Rules

Commissioner Johnson moved that the Commission take the following action:

- grant Xcel a one-year extension of the variance granted by the Commission in its Order of February 14, 2002; and
- require Xcel to file the same information and on the same timetable as required in parts 4 and 5 of the Commission's March 2, 2001 Order;

The motion passed 4-0.

### **E-015/M-02-1864**

Petition for Approval of an Amended and Restated Electric Service Agreement between Mesabi Nugget LLC and Minnesota Power

Commissioner Johnson moved that the Commission take the following action:

- approve MP's petition;

The motion passed 4-0.

### **ET-2/CN-02-536**

In the Matter of the Application of Great River Energy and Wright-Hennepin Cooperative Electric Association for a Certificate of Need for a High Voltage Transmission Line

Commissioner Scott moved that the Commission

- (2) find the application substantially complete as of the date the supplementary material is filed with the Commission, require a contested case proceeding on the merits of the Company's filing, and (to facilitate the orderly and expeditious processing of the application) include in the order (or one the orders) coming out of this meeting:
  - notice of a prehearing conference (with a specified date, time, and location to be determined by the Administrative Law Judge and Commission staff);
  - the name and telephone number of the Commission employee designated to facilitate citizen participation in the process;
  - a request that the Department of Commerce continue to study the issues and provide testimony on the reasonableness of granting a certificate of need to the Company;
  - a requirement that the Applicants facilitate in every reasonable way the continued

examination of the issues by the Department of Commerce and other official intervening parties;

- a directive that Commission staff work with the Administrative Law Judge in selecting suitable locations for the public and evidentiary hearings on the application; and
  - in addition to any direct mail notice that may be required, a directive that the Applicants provide notice of the public and evidentiary hearings in newspapers of general circulation at least ten days prior to the start of the hearings, that such notice be in the form of visible display ads, that the applicant obtain proofs of publication of such ads from the newspapers selected, and that the applicant consult with Commission staff on the timing, text, and distribution of such ads prior to publication;
- (2) decline to vary Minn. Rules, part 7849.0230 but encourage the EQB Staff to intervene in the proceeding and provide an environmental analysis as part of its prefiled testimony in the proceeding;
- (3) require the Applicants to use best efforts to provide direct mail notice of the certificate of need application and hearings to persons in the corridor of potential routes indicated in their application (e.g., in Figure 3-1), as well as to persons along the existing 69-kilovolt route scheduled for upgrading as part of this application.

The motion passed 4-0.

**IP-6202/CN-02-2006**

In the Matter of the Application of Faribault Energy Park, LLC for a Certificate of Need for a 250-Megawatt Electric Generating Facility.

Commissioner Reha moved that the Commission:

1. decide that the application will be deemed substantially complete as of the date the last supplementary material is filed with the Commission, require a contested case proceeding on the merits of the Company's filing, and (to facilitate the orderly and expeditious processing of the application) include in the order (or one of the orders) coming out of this meeting:
  - notice of a prehearing conference (with a specified date, time, and location to be determined by the Administrative Law Judge and Commission staff);
  - the name and telephone number of the Commission employee designated to facilitate citizen participation in the process;
  - a request that the Department of Commerce continue to study the issues and provide recommendations on the reasonableness of granting a certificate of need to the Company;
  - a requirement that the Company facilitate in every reasonable way the continued examination of the issues by the Department of Commerce and other official

intervening parties;

- a directive that Commission staff work with the Administrative Law Judge in selecting suitable locations for the public and evidentiary hearings on the application; and
  - in addition to any direct mail notice that may be required, a directive that the Company provide notice of the public and evidentiary hearings in newspapers of general circulation at least ten days prior to the start of the hearings, that such notice be in the form of visible display ads, that the Company obtain proofs of publication of such ads from the newspapers selected, and that the Company consult with Commission staff on the timing, text, and distribution of such ads prior to publication;
2. request that the Department of Commerce coordinate state agency efforts to carry out the responsibilities listed in Minn. Rules, part 4410.7100, including preparation of the Draft Environmental Report, the distribution of the report, the response to comments from the public, and the notice of completion of the Final Environmental Report in the EQB Monitor; and
  3. require FEP to use best efforts to provide direct mail notice of the certificate of need application and hearings to persons owning and/or living on property designated in the Company's application to the EQB as a possible site for the proposed facility.

The motion passed 4-0.

**E-002/CI-01-1024;**

**E-002/M-02-1894**

In the Matter of an Investigation into Using Rate Design to Achieve the Demand-Side Management Goals of Xcel Energy

In the Matter of Xcel Energy's Time of Use Rate Proposal

Commissioner Scott moved –

- to determine that the April 1, 2003, implementation date for the Time of Use Pilot program should be extended, and to suspend the implementation date with the intent of setting a new date after the Commission has addressed the substantive issues of the Time of Use proposal, and
- to determine that the February 1, 2003, implementation date for the web tool should be changed, and to suspend the implementation date with the intent of setting a new date after the Commission has addressed the substantive issues of the Time of Use proposal.

The motion passed 4-0.

**ET-10,E-126,E-332/CI-02-1501**

In the Matter of the Complaint of Nobles Cooperative Electric for a Service Territory Violation by Missouri River Energy Services and Worthington Public Utilities.

Commissioner Scott moved that the Commission take the following action:

- find that the provision of service to the wind turbine project does not constitute retail service under Minn. Stat. § 216B.40 and dismiss the complaint;

The motion passed 4-0.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION

Approval Date:

January 23, 2003

Burl W. Haar  
Executive Secretary