

The Commission met on **Thursday, January 10, 2008**, with Chair Koppendrayer and Commissioners Boyd, Pugh and Reha present.

The following matters were taken up by the Commission:

TELECOMMUNICATIONS AGENDA

P-442, 5798, 5340, 5826, 5025, 5643, 443, 5323, 5668, 4661/C-04-235

In the Matter of the Complaint of the Minnesota Department of Commerce for Commission Action Against AT&T Regarding Negotiated Contracts for Switched Access Services

Commissioner Pugh moved to allow AT&T Communications of the Midwest, Inc., 30 days from the effective date of the Commission's order to fulfill its requirement to file the Second Unfiled Agreement, Exhibit 13, as a public document.

The motion passed 4 - 0.

P-5496/C-06-498

In the Matter of the Department of Commerce's Formal Complaint and Request for Commission Action Regarding TCG Minnesota, Inc.

Commissioner Reha moved to do the following:

1. Take administrative notice of the record of Docket No. P-442, 5798, 5340, 5826, 5025, 5643, 443, 5323, 5668, 4661/C-04-235, *In the Matter of the Complaint of the Minnesota Department of Commerce for Commission Action Against AT&T Regarding Negotiated Contracts for Switched Access Services*, including the ORDER FINDING VIOLATIONS, ASSESSING PENALTIES AND REQUIRING DISCLOSURE (October 26, 2007).
2. Adopt the recommendation of the Administrative Law Judge (ALJ) to grant the Motion for Summary Disposition filed by of the Minnesota Department of Commerce (the Department) and to find that TCG Minnesota, Inc., (TCG) did knowingly and intentionally violate Minnesota statutes and rules in its provision of intrastate switched access services to MCImetro Access Transmission Services LLC (now d/b/a Verizon Access Transmission Services) and MCI Communications Services, Inc. (now d/b/a Verizon Business Services).
3. Refer this matter back to the ALJ to supplement the record concerning the penalty factors as it applies to TCG pursuant to Minnesota Statutes § 237.462.

The motion passed 4 - 0.

ENERGY AGENDA

IP-663/CN-07-789

In the Matter of the Application of Elm Creek Wind, LLC, for a Certificate of Need for a Large Wind Energy Conversion System

Commissioner Boyd moved that the Commission:

- 1) Find that the environmental report adequately addresses the issues identified in the September 25, 2007 scoping decision;
- 2) Find that the applicant has met the statutory and rule criteria for a certificate of need; and
- 3) Grant the certificate of need to Elm Creek, LLC, for up to 100 MW of wind generation.

The motion passed, 4 - 0.

IP-6631/WS-07-388

In the Matter of the Application of Elm Creek Wind, LLC, for a Large Wind Energy Conversion System Site Permit for the Elm Creek Wind Project in Martin County

Commissioner Boyd moved that the Commission:

- 1) Adopt the proposed Findings of Fact, Conclusions and Order; and
- 2) Issue the Site Permit as recommended by the Department to Elm Creek Wind, LLC, for up to a 100 MW Large Wind Energy Conversion System in Jackson and Martin counties.

The motion passed, 4 - 0.

IP-6646/AS-07-839

In the Matter of the Application of enXco Development Corporation for a Large Wind Energy Conversion System Site permit for the Wapsipinicon Wind Farm - Mower County

Commissioner Pugh moved that the Commission:

- 1) Adopt the proposed Findings of Fact, Conclusions and Order for the Wapsipinicon Wind Project/Grand Meadow 205.5-Megawatt Large Wind Energy Conversion System in central Mower county, Minnesota;
- 2) Issue the proposed LWECS Site Permit for the 100.5-Megawatt Grand Meadow Wind Farm to enXco Development Corporation;

- 3) Authorize the Commission Executive Secretary to re-issue LWECS Site Permit for the 100.5 Megawatt Grand Meadow Wind Farm to Northern States Power Company, d/b/a Xcel Energy upon submission of a compliance filing by both enXco and Northern States Power Company pursuant to site permit condition III.K.6;
- 4) Withhold issuance of a LWECS Site Permit for the 105-Megawatt Wapsipinicon Wind Project until such time as enXco Development Corporation or the entity purchasing the energy or owning the facility can satisfy the requirements of Minn. Stat. § 216B.243, subd. 2 and Minn. Rules Chapter 7849. Upon satisfying those requirements the Commission will reconsider LWECS Site Permit issuance for the 105-Megawatt Wapsipinicon Wind Project.

The motion passed, 4 - 0.

IP-6630/WS-07-318

In the Matter of the Application of Comfrey Wind Energy, LLC, for a Large Wind Energy Conversion System Site Permit for the Comfrey Wind Project in Brown and Cottonwood Counties

Commissioner Koppendrayer moved that the Commission:

- 1) Adopt the proposed Findings of Fact, conclusions and Order;
- 2) Issue the proposed Site Permit to Comfrey Wind Energy, LLC, for up to a 31.5 MW Large Wind Energy Conversion System in Brown and Cottonwood counties.

The motion passed, 4 - 0.

ET-6657/CN-07-1425

In the Matter of the Application of Wisconsin Power and Light Company for a Certificate of Need for the Bent Tree Wind Facility

Commissioner Koppendrayer moved that the Commission grant the exemption request as outlined by the Department of Commerce in its December 6, 2007 comments.

The motion passed, 4 - 0.

E-275, E-002/SA-07-1219

In the Matter of the Territorial Agreement Between Northern States Power Company, a Minnesota Corporation and Wholly Owned Subsidiary of Xcel Energy, Inc. And Moorhead Public Service

Commissioner Koppendrayer moved that the Commission give notice to interested parties and approve the petition.

The motion passed, 4 - 0.

E-111/M-07-1093

In the Matter of the Request to Modify the Rider for Standby Service

Commissioner Koppendrayer moved that the Commission approve Dakota Electric Association's proposal to establish a Distribution Primary Service Reservation Fee, along with DEA's proposed Agreement for Electric Standby Service.

The motion passed, 4 - 0.

G-008/M-07-1190

In the Matter of the Petition for Approval of Standard Customer Billing Form

Commissioner Koppendrayer moved that the Commission approve the petition as modified.

The motion passed, 4 - 0.

G-007,011/M-07-1188

In the Matter of the Requests by Minnesota Energy Resources Corporation-PNG and MERC-NMU for Approval of the Companies' Proposed Winter Construction Charges Addendum and the Companies' Proposed Supplement to Winter Construction Charge Addendum

Commissioner Boyd moved that the Commission:

- 1) Approve MERC's proposed two-tiered Winter Construction Charges as follows:
 - a) a base \$9.90 per lineal foot charge for situations where snow removal or plowing is required, where six to twelve inches of frost exists, or where burners must be used to thaw the ground; and
 - b) an additional \$5.50 per lineal foot charge for those portions main or service lines where twelve or more inches of frost exists;

- 2) Require MERC to show, in the Companies' next general rate case, that no Winter Construction Charges were assessed to customers outside the tariffed Winter Construction Charges period (i.e., November 1 through April 1), and that no Winter Construction Charges incurred by the Companies from NPL, or any other winter construction contractor, outside the tariffed Winter Construction Charges period are proposed to be recovered from other ratepayers;
- 3) Require MERC to submit, as a compliance filing within 30 days of the issue date of the Commission's Order in the present docket, a report that identifies:
 - a) Winter Construction Charges assessed for main installation for each customer from November 1, 2006 through April 1, 2007 and November 1, 2007 to the most recently available data for the present winter construction period; and
 - b) The cost of installing main for each customer identified by MERC in response to Department Recommendation No. 3) a);
- 4) Approve the Department's recommended tariff language concerning MERC's proposed two-tiered Winter Construction Charges, as discussed in Section II.B above;
- 5) Require MERC to submit, for Commission approval, any future proposed changes to the Companies' approved Winter Construction Charges tariff; and
- 6) Require MERC to file, as a compliance filing within 10 days of the Order issue date in the present docket, the relevant tariff sheets that comply with the Commission's determinations in this proceeding.

The motion passed, 4 - 0.

G-001/M-07-1295

In the Matter of a Petition Submitted by Interstate Power and Light Company Requesting Approval by the Minnesota Public Utilities Commission of a Proposed Natural Gas Affordability Program, Including a Cost Recovery Surcharge

Commissioner Boyd moved that the Commission approve IPL's proposed tariff, conditioned upon requiring those modifications to IPL's Proposed Gas Affordability Program (GAP) listed below:

- 1) IPL shall revise its tariff to reflect the change in the per therm charge from \$.0026 to \$.0023;
- 2) IPL shall send out a notice to ratepayers that has been approved by the Commission, with approval delegated to the Executive Secretary;

- 3) IPL shall revise its tariff to include all language on financial evaluation criteria and annual reports identical to CenterPoint's and Xcel's tariff language on GAP, i.e., Sections 5.1, 5.2, and 5.3 of CenterPoint's tariff and Xcel's evaluation section, paragraphs 1, 2, and 3;
- 4) IPL shall revise its tariff to include all language on prudence of costs, and gaining regulatory approval related to the program identical to CenterPoint's tariff language on GAP, i.e., Sections 4.3, 6, and 7. IPL may petition the Commission to revisit and modify the \$0.0023 rate in order to true up the Program balance in the Tracker at the conclusion of the four-year pilot project;
- 5) The above tariff revisions (including a new tariff effective date) and notice must be completed within 30 days of the Commission's Order in this docket;
- 6) IPL may charge a carrying cost with respect to the GAP once it makes a filing in its tariff to include this cost, and such filing is approved by the Commission;
- 7) The Commission may revisit or modify any aspect of the Program at any future time, including in a rate case; and
- 8) In the event that IPL makes changes to its customer bill format during the four-year pilot project or thereafter, IPL shall at the first opportunity include a separate line item for the GAP recovery fee on its bill;
- 9) The new tariff effective date will be February 1, 2008, with costs prorated for the calendar year.

The motion passed, 4 - 0.

E,G-999/AA-06-1208

In the Matter of the Review of the 2006 Annual Automatic Adjustment of Charges for All Electric and Gas Utilities

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 Recovery 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 Recovery 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 Recovery Costs and Pass-Through Related to MISO Day 2

Commissioner Reha moved that the Commission take the following actions:

1. Accept the electric utilities' fiscal-year 2006 annual automatic adjustment reports as filed, and subsequently amended by the electric utilities, as being substantially complete as to Minnesota Rules 7825.2390 through 7825.2920.
2. Find that all of the electric utilities have satisfied the Commission's directive in Docket No. E, G-999/AA-05-1403 relating to NYMEX futures and options transactions.
3. Require all utilities to allocate costs associated with Revenue Neutrality Uplift and Revenue Sufficiency Guarantee charges on a straight MWh basis between retail customers and the wholesale sector. Amend the allocation methodology authorized in the Commission's December 20, 2006 ORDER ESTABLISHING ACCOUNTING TREATMENT FOR MISO DAY 2 COSTS to reflect this change.
4. Authorize Xcel to implement this change effective January 1, 2007.
5. Require Otter Tail to implement this change effective January 1, 2007, excluding resettlements from prior periods, which were addressed using earlier allocation methods.
6. Permit utilities to allocate Reserve Sufficiency Guarantee revenue to wholesale transactions only if these resources are called on by MISO to support the market rather than to serve retail customers and if the utility can show that the lowest cost resources are assigned to retail customers. Amend the allocation methodology authorized in the Commission's December 20, 2006 ORDER ESTABLISHING ACCOUNTING TREATMENT FOR MISO DAY 2 COSTS to the extent necessary to reflect this change.
7. Require Xcel, MP, OTP, and IPL to provide in future monthly FCA filings a table showing for each unit the type of plant (steam,...), the outage category (planned, unplanned), the reasons for the outage (tube leak, boiler maintenance, ...), the corresponding outage dates, the duration of the outage, the outage MWh, the outage MWh replaced by purchases, the average purchase cost (\$/MWh), the unit incremental cost (\$/MWh) and the changes in energy costs (\$) due to the outage. (For an example of this suggested format, please see the Department's response comments, attachment E2). [DOC, response comments, recommendation #17]

8. Require Xcel, MP, OTP, and IPL to provide in future monthly FCA filings a table showing a side-by-side comparison of their actual energy costs and forecasted costs, with a breakdown of these costs (MWh, \$, and \$/MWh) into main components, using a format similar to MP's. (For an example of MP's format, please see the Department's response comments, attachment E3). [DOC, response comments, recommendation #18]
9. Require Xcel, MP, OTP, and IPL to provide in future monthly FCA filings a table showing a side-by-side comparison of their actual and forecasted generator outages showing for each unit the type of plant, the outage days, the outage MWh, the outage replacement costs and the reasons for the outage, using a format similar to MP's. (For an example of MP's format, please see the Department's response comments, attachment E4). [DOC, response comments, recommendation #19]
10. Require Xcel, MP, OTP, and IPL to provide in future monthly FCA filings a table showing a side-by-side comparison of their monthly fuel and purchased energy FCA forecast and the budget set forth in the then current FCA forecast, with a breakdown of these costs (MWh, \$, and \$/MWh) into main components, using a format similar to MP's, where the actual data is replaced by the current month forecast data. (For an example of MP's format, please see the Department's response comments, attachment E3). [DOC, response comments, recommendation #20]
11. Require Xcel Electric to provide, in its future AAA filings, a Wind Curtailment Summary Report Table similar to the table that Xcel is already providing in its AAA filings, but expanded to include the amount of any curtailment payments made under the following four curtailment categories:

1 = lack of firm transmission as described in Attachment C of the MISO OATT (or equivalent successor provision);
2 = low load;
3 = transmission loading relief or MISO directive for reasons other than (1) above; and
4 = other – please explain in detail if compensation requested.
12. Conclude that Xcel Electric has satisfied the Commission's directive in Docket No. E-002/CI-00-415 to provide a monthly comparison of generation costs allocated to retail and wholesale customers for the months of June, July and August with its AAA report, and continue to require Xcel Electric to report this generation cost allocation in future AAA filings.
13. Accept Xcel Electric's compliance regarding the incremental costs related to transformer failures in Docket No. E-002/PA-05-82.
14. Accept Xcel Electric's compliance filing in Docket No. E-002/M-01-1953 regarding accounting treatment and related processes necessary to separate the cost accounting for natural gas financial instruments purchased to meet the needs of jurisdictional retail

electric and natural gas customers from the natural gas financial instruments purchased to support Xcel Electric's non-jurisdictional wholesale electric sales activities.

15. Discontinue the requirement that utilities report, as a condition of approval of the transfer of operational control of transmission facilities to MISO (MISO Day 1) "each instance where MISO directed Companies to redispatch Companies' owned generation for reliability reasons, including an explanation of financial impact on rates, in any, and the reason for the redispatch, if known."
16. Find the Companies' responses to be adequate pertaining to the requirements made with approval of the transfer of operational control of transmission facilities to MISO (MISO Day 1) in this docket.
17. Require that, if additional resources are available to sell in the Real-Time market, either because retail customers use less than expected or because generation resources become available, the revenues from such sales must be credited to retail customers.
18. Require the utilities to provide, as requested by the Department, the actual expenses pertaining to maintenance of generation plants, compared to the generation maintenance budget from the utility's most recent rate case.
19. Require OTP to refund to Minnesota retail customers an adjustment of \$558,486 to reflect MISO Day 2 revenues that should have been credited to retail customers to reflect revenues from energy sales in MISO's Real-Time market.
20. Require OTP to refund to Minnesota retail customers an adjustment of \$125,496 for asset-based FTR revenues.
21. Require Xcel, MP, OTP, and IPL to provide information requested by the Department in Docket No. E,G-999/AA-07-1130 according to the spreadsheet attached to the 2007 Report pertaining to MISO Day 2 charges, one for every month in the AAA period and as a summary of MISO Day 2 charges for the entire AAA period, for a total of 13 pages in each utility's AAA filing.
22. Require Xcel, MP, OTP, and IPL to use the spreadsheet attached to the 2007 Report of MISO Day 2 charges in their monthly AA filings.
23. Require Xcel, MP, OTP, and IPL to look carefully at data filed with the Department to ensure that the data is truly trade secret before marking it as such.
24. Require Xcel, MP, OTP, and IPL to provide clear documentation of the allocations of MISO Day 2 costs and revenues between retail and wholesale sectors.

The motion passed 4-0.

E-017/M-04-1751

In the Matter of Otter Tail Power Company's Report on a Call to its Ethics Hotline

Commissioner Pugh moved to deny reconsideration of the Order of December 12 and to clarify that (1) the Order neither anticipates nor requires that the entire record of this investigation be incorporated into the record of the general rate case; and (2) the Order does not affect and was not intended to affect the Administrative Law Judge's management of the general rate case or its evidentiary record.

The motion passed 4-0.

There being no further business, the meeting was adjourned.

Approved by the Commission, JANUARY 23, 2008: approval attested to by Burl W. Haar, Executive Secretary.