

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Petition by Xcel Energy for
Approval of a Three-Plant Emissions
Reduction Proposal and Rate Rider to Recover
Costs

ISSUE DATE: July 15, 2003

DOCKET NO. E-002/M-02-633

ORDER REQUIRING TECHNICAL
CONFERENCE, PUBLIC HEARINGS,
NEGOTIATIONS, AND REPORTS

PROCEDURAL HISTORY

In 2001, the Minnesota Legislature adopted Minn. Stat. § 1692 (Emissions Reduction Rider) into law. The statute allows the Commission to approve a utility rider for the recovery of costs of qualifying emissions reduction projects outside of a general rate case. Under this law, a public utility must submit a plan for emissions reduction projects prior to a proposal for an emissions reduction rider.

On May 3, 2002, Xcel submitted a *plan* for an emissions reductions project under this legislation.

On July 26, 2002, Xcel submitted a *proposal* for a three-plant emissions reduction project and rate rider to recover the costs of the project.

On December 30, 2002, the Minnesota Pollution Control Agency (MPCA) filed an evaluation report and specific data regarding Xcel's emissions reduction proposal with the Commission.¹

On January 8 and February 11, 2003, the Commission issued notices seeking procedural and/or substantive comments on Xcel's emissions reduction proposal and the associated costs recovery mechanism, and on MPCA's report.

On March 27, 2003, the Commission met to review the state of the record in this case and to determine appropriate action. The Commission asked the Minnesota Department of Commerce (the Department) to file its initial comments on Xcel's proposal within 30 days, by April 28, 2003. In addition, it requested Xcel to file answers to a number of questions.

¹ Under Minn. Stat. § 216B.1692, subd. 4, the Minnesota Pollution Control Agency (MPCA) is required to evaluate a utility's emissions reduction project filing and provide the Commission with specific data.

On April 1, 2003, the Commission issued a notice reiterating its request to the Department and Xcel and stating that once the Department's comments and Xcel's answers were provided, parties would have until May 28, 2003 to file reply comments and to address how, when, and where public hearings should be conducted and to suggest procedural options for reaching a final decision on the merits.

On April 28, 2003, the Department filed its comments and MPCA filed its review of Xcel's Alternative Proposal.

On May 2, 2003, Xcel filed its Supplemental Comments.

On May 15, 2003, the West Side Citizens Organization filed comments.

Reply Comments were filed by the following organizations or persons: Rural Minnesota Energy Task Force, North American Water Office, Clean Water Action Alliance, Office of the Attorney General, Sierra Club Air Toxics Campaign, Xcel Energy, Izaak Walton League of America, the Minnesota Chamber of Commerce and the Minnesota Energy Consumers, the Department, the City of Minneapolis, Myer Shark, North Star Steel, the MPCA, Clean Energy Now!, Clean Water Action Alliance, and the Southeast Como Improvement Association (SECIA) Environment Committee. The Commission also received a large number of written comments from members of the public.

On May 12, 2003, Xcel filed a document entitled Recent Legislative Action Effect on Open Dockets in this and other dockets.

The Commission met on June 26, 2003 to consider this matter.

FINDINGS AND CONCLUSIONS

In this Order, the Commission decides how, in light of the comments received to-date, it will proceed to make the determinations required of it by Minn. Stat § 216B.1692, as amended.

I. CONTESTED CASE NOT NECESSARY AT THIS TIME

A contested case proceeding on cost and cost recovery issues has been requested by North Star Steel. A similar request is made by Xcel ratepayer Myer Shark. All other parties opposed a contested case proceeding at this time. Some argued that a contested case could never be appropriate since in this matter the Commission faces policy issues only, not disputes of material facts. Others argued that it is not clear whether factual disputes that exist are material to the case and suggest that a combination of public hearings and a technical conference may resolve factual issues to the extent that a contested case would be unnecessary.

II. PROCEDURE ADOPTED

The Commission believes that a multilateral approach to record building in this case will best build the record it needs in this case.

A. Technical Conference and Public Hearings

First, the Commission notes that members of the public have a statutory right to provide written and oral comments on the proposed emissions reduction rate rider proposal. Minn. Stat. § 216B.1692, Subd. 5. Accordingly, the Commission will authorize its Executive Secretary to make arrangements for public hearings at various locations in Xcel's service territory, including in the vicinity of the three generation plants identified by Xcel for this project. In addition to identifying the locations for the public hearings, the Executive Secretary will review the customer notice for these hearings prepared by Xcel.

The cost of natural gas will affect the operating costs of two of the three plants proposed in this project. This cost, therefore, warrants special inquiry, if not contested case handling. The Commission will, therefore, convene a technical conference in the Commission's Large Hearing Room to focus on the anticipated costs of building and operating the natural gas-fueled components of this project. The technical conference will be a public meeting, open to all, and will attempt to move toward consensus on what is knowable and not knowable about future natural gas supply and costs based on the best information currently available about those costs. In addition, since it would be desirable to provide information on that topic as background information for those attending the public hearings, the technical conference will be scheduled in advance of the public hearings if the Executive Secretary finds that it is feasible to do so within the information gathering timeframe contemplated by the Commission.

B. Party Discussions/Negotiations

Concurrent with the technical conference and the public hearings, the Commission will direct Xcel to work with the parties to reduce the number of disputed issues and report on its progress within 90 days of this Order.

C. Role of the Office of Administrative Hearings

The Commission will request the Office of Administrative Hearings (OAH) to assign an Administrative Law Judge (ALJ) to conduct the public hearings. The ALJ is asked to provide a summary report on these meetings similar to what it provides when it summarizes and reports public hearings and public comments in its contested case document entitled FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS.

D. Timeframe

The Commission seeks to move expeditiously to prepare the record necessary to make the determinations required of it by Minn. Stat § 216B.1692. Accordingly, the ALJ and all parties are asked to conduct the foregoing activities within 90 days of this Order.

ORDER

1. A technical conference focusing on the fuel cost of operating Xcel's proposed natural gas fueled generation plants at Riverside and High Bridge will be held in the Commission's Large Hearing Room on a date and time determined by the Executive Secretary.

2. Public hearings will be held in Xcel's service territory, including in the immediate vicinity of the three facilities in the plan. These public hearings shall be held at locations and on dates and times determined by the Executive Secretary.
3. The Office of Administrative Hearings is requested to assign an Administrative Law Judge (ALJ) to conduct the public hearings and to file a written report with the Commission regarding the substance of those public meetings.
4. Xcel shall notify all customers of its emissions reduction proposal filed with the Commission using a bill insert or direct mail. Xcel shall also inform all customers of the times, place, and locations of the technical conference and the public hearings and shall advertise these public meetings in local as well as major newspapers. Xcel shall have its notices and newspaper advertisements reviewed and approved by the Commission's Executive Secretary prior to distribution.
5. Xcel shall work with interested parties (including but not limited to the state agencies) in an attempt to reach agreement on cost, competitive bidding, and other issues and to report back to the Commission on progress within 90 days after the Commission's Order.
6. It is anticipated that the technical conference, the public hearings, and the ALJ's report on the public hearings will also be completed within 90 days of this Order.
7. The Executive Secretary shall have authority to schedule the technical conference and public hearings, review and approve notices, and arrange related administrative matters.
8. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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