

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Phyllis A. Reha  
Gregory Scott

Chair  
Commissioner  
Commissioner  
Commissioner

In the Matter of Xcel Energy's Petition for  
Approval of a Renewable Energy Rider

ISSUE DATE: September 15, 2003

DOCKET NO. E-002/M-01-1479

ORDER REQUIRING CREDIT,  
DISCUSSION AND REPORTS ON FUTURE  
CREDIT, INDEPENDENT VERIFICATION  
AND TRUE-UP, AND OTHER FILINGS

**PROCEDURAL HISTORY**

On May 7, 2002, the Commission issued an Order approving Xcel Energy's (Xcel's) renewable energy rider in this docket. In its Order, the Commission also required Xcel to report annually, beginning May 1, 2003 on its tracker account, marketing and administrative costs, program participation and customer sign-up levels, methods to allow savings from larger purchases to flow back to customers making these purchases, and methods for tying approval of marketing costs to the number of kWh sold.

On May 1, 2003, Xcel filed a report to comply with the May 7, 2003 Order.

On May 2, 2003, the Commission issued a notice seeking comments on the report.

On June 2, the Department of Commerce (Department) and the Minnesota Interfaith Climate Change Campaign (ICCC) filed comments.

On June 13, 2003, Minnesotans for an Energy Efficient Economy/Minnesota Center for Environmental Advocacy (ME3/MCEA) filed comments and Xcel filed reply comments.

The Commission met on August 13, 2003 to consider this matter.

**FINDINGS AND CONCLUSIONS**

In this Order, the Commission addresses six issues that arose during the review of Xcel's May 1, 2003 compliance report :

- 1) whether and how Xcel should account for the fact that it charged green customers a green premium starting March 1, 2003, several months before its certified renewable resources became operational;

- 2) how to account to green premium paying customers in the future if no renewable energy is available to Xcel from certified green pricing sources for more than 30 days;
- 3) whether independent verification of the Windsource Program is warranted and if, so, how that should that be done;
- 4) the advisability of instituting a true-up process to match the amounts customers pay for renewable energy with the company's purchases of renewable energy once certified projects become operational;
- 5) how to shorten the lead time required to add small renewable energy projects to Xcel's system;
- 6) whether the requests Xcel files with the Department requesting certification of sources for its green pricing program should also be filed with the Commission.

## **I. Credit to Windsource Customers**

### **A. The Department's Proposal**

In the course of its review of Xcel's compliance filing, the Department learned through an information request that beginning in March 2003 Xcel charged green customers the green pricing premium on electricity they used even though Xcel had no certified green generation operational on its system. In its written comments filed June 2, 2003, the Department recommended that the Commission order Xcel not to charge Windsource customers until the renewable energy under the green pricing tariff is available to the Company. The Department also recommended that the Commission order Xcel to provide an appropriate credit on the next monthly statement of customers who have been charged the premium.

### **B. Xcel's Initial Response**

Xcel initially objected to the refund recommendation, contending, among other things, that the Department's recommendation is inconsistent with both the letter and intent of the green pricing statute. Xcel stated that the intent of the statute is for customers to directly effect an increase in the supply of their energy that will be produced from renewable sources. Xcel stated that refunding the green pricing premium paid by customers would essentially erase the customer's desire to support renewable energy for that period and require the customer to resubmit funds in a future period, thereby postponing customer-driven renewable energy.

### **C. The Department - Xcel Agreement**

At the hearing on this matter, Xcel and the Department submitted an agreement that Xcel would provide an appropriate credit to customers who have been charged a premium for renewable energy during the period that the Company's Department-certified green-pricing project was not operational (i.e. up to August 9, 2003). Under the agreement, Xcel agreed to provide the credit calculation to the Department of Commerce for review and upon the Department's review, implement the refund in the next available opening in the billing system for providing credits.

#### **D. Commission Action**

The Commission finds that the agreement between Xcel and the Department is reasonable and appropriate and will approve it. Xcel will be required to provide the credit as described above.

### **II. Future Customer Credits When Renewable Energy is Unavailable**

#### **A. The Department's Proposal**

The Department noted that, on an ongoing basis, there may be times when wind energy is unavailable, due for example, to the need to maintain the wind generators. In such cases, the Department recommends that the Commission require the Company to provide an appropriate credit on the customers' next monthly statement whenever the renewable energy under the green pricing rate schedule is unavailable for more than 30 consecutive days.

The Department explained that this would be consistent with an approach approved for Otter Tail Power Company's (OTP) green pricing tariff (see Order in Docket No. E017/M-01-199, issued June 8, 2001). That Order specifies that OTP will provide an appropriate credit on the customers' next monthly statement whenever the renewable energy under the schedule is unavailable to OTP for more than 30 consecutive days.

#### **B. Xcel's Response**

Xcel acknowledged that it can do more to better match the money that flows in with the money that flows out of the Windsource program. However, Xcel believes the real problem is how to reduce lead-time for the new renewable energy project designated to supply energy under the Windsource program. Xcel stated that a tracker account rather than a crediting approach would create the proper incentives.

#### **C. Commission Action**

The Commission believes this issue will benefit from further discussion between the Department and Xcel. The Commission therefore will order Xcel to discuss with the Department of Commerce and Commission staff the provision of a credit on the customers' next monthly statement whenever there is no renewable energy available to Xcel from certified green pricing sources for more than 30 consecutive days. Xcel will be further required to provide a compliance filing describing an appropriate response to such a situation that Xcel, the Department and Commission staff believe is consistent with previous Commission Orders. If Xcel, the Department, and Commission staff do not agree on what would be an appropriate response in those circumstances, the Company will be required to file a mechanism for approval.

### **III. Independent Verification of the Windsource Program**

#### **A. Minnesota Interfaith Climate Change Campaign (ICCC) Proposal**

The Minnesota Interfaith Climate Change Campaign (ICCC), a task force of volunteers under the Minnesota Council of Churches, stated that it has experienced negative responses from consumers who question whether utilities will use the green pricing premium to purchase new renewable energy. Based on its experience, ICCC argued that there is a need to assure consumers that the revenues collected are used to acquire new sources of renewable energy as required by statute.

ICCC stated that the spirit of Minn. Stat. § 216B.169 requires the Commission to establish a verification mechanism for green pricing programs and noted with concern that the Commission does not audit Xcel's operations and documents to assure that the Company is properly complying with the green pricing law. ICCC proposed that the Commission require utilities to undergo an annual audit by an accredited, independent auditor that specializes in the accreditation and verification of green pricing programs. ICCC stated that this was necessary to increase consumer confidence in (and hence use of) the program. ICCC recommended the Center for Resource Solutions (CRS), a non-profit agency, as highly qualified to perform such an audit.

**B. Comments of Minnesotans for an Energy Efficient Economy/Minnesota Center for Environmental Advocacy (ME3/MCEA)**

ME3/MCEA supported the proposal by the ICCC for an audit to verify that Xcel and other Minnesota utilities do not charge consumers a premium that does not result in the addition of renewable energy not otherwise mandated or required. ME3/MCEA noted that environmental organizations have had the same problems as ICCC in providing members of the public with assurance that the premium price paid for green power actually translates into new investments in renewable energy.

ME3/MCEA recommended that the Commission include an audit component in its oversight of utility green pricing programs in order to 1) ensure that utility revenues from green pricing programs result in new renewable energy; and 2) verify that utility green pricing investments are not "double counted," i.e., that they are not counted toward a utility's Renewable Energy Objective (REO), which is a separate legal requirement.

**C. Xcel's Response**

In written comments submitted prior to the hearing on this matter, Xcel recommended that the Commission reject the recommendation to retain CRS to provide certification services and maintain the Commission's and Department's current roles and jurisdiction.

Xcel objected that the costs of the verification by CRS will be too high and should not be paid using funds from Windsource customers. Xcel stated that hiring CRS to provide verification services would conflict with the oversight duties assigned to state agencies as set forth in the Minnesota green-pricing statute. Xcel noted that under Minn. Stat. § 216B.169, subd. 3, the Department provides certification of the actual projects used to supply the renewable energy for these programs. In addition, Xcel claimed that the Commission has required annual reports and has asserted ongoing oversight consistent with its duties under both this particular statute and its general oversight responsibilities.

Xcel noted that its annual compliance reports on the Windsource Program will be available for interested parties to review and comment upon. In contrast, Xcel noted, the verification methods, principles, meaning and process of the proposed CRS review were not provided in this record.

At the hearing on this matter, Xcel acknowledged that CRS's verification of the Windsource Program would have customer benefit but indicated a desire to know whether CRS would be willing to assess Windsource solely under Minnesota statutes, rules, and Orders rather than under other standards that CRS deemed appropriate. Xcel stated that only a Minnesota-specific analysis would be appropriate. Xcel also questioned the cost value of CRS's oversight and indicated that the cost of CRS's independent verification would have to be weighed against regular Commission

oversight. Xcel agreed with the parties' joint recommendation that the Company be required to discuss with the parties how independent verification would be developed and to report back on the progress of those discussions within 45 days of this Order.

#### **D. The Department's Comments**

The Department did not file reply comments regarding ICCC's recommendation but at the hearing presented a proposal on this issue supported by all the parties.

#### **E. The Parties' Joint Proposal**

The parties proposed that the Commission require Xcel to discuss with the parties how independent verification of the Windsource program will be developed and report back to the Commission in 45 days on this process.

#### **F. Commission Action**

The Commission finds that the parties' proposal is reasonable and will accept it. The Commission takes no position at this time as to whether the independent verification is best provided by an expanded charge to the Department<sup>1</sup> or by authorizing a separate entity with relevant expertise to monitor and verify certain aspects of the program. But the record in this matter indicates that independent verification of key aspects of the Windsource Program could help the Program achieve its potential and the Commission appreciates the parties' willingness to work together to develop reasonable ways for that independent verification to occur.

It is anticipated that the parties will consider the specifics of various possible independent verification scenarios that are consistent with Minnesota law and the purpose of independent verification, including the costs associated with each scenario to the extent that those costs can be known. Xcel's report will reflect that discussion.

### **IV. Future Use of a True-up Process**

#### **A. Background**

In comments filed February 19, 2002 in this docket, Xcel stated that the tracker account would not be used to true-up revenues and expenses from the program. Accordingly, the Company's May 1, 2003 compliance report shows that program revenues and expenses were tracked, but the tracker account was not used to true-up, change rates, or to defer costs and expenses for later recovery.

In June 13, 2003 reply comments countering the Department's recommendation to require Xcel to provide a credit to customers who paid the green premium when there was no certified green energy supplier on Xcel's system, Xcel stated that a tracker account would be preferable to a crediting approach.

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<sup>1</sup> Under the renewable energy statute, Minn. Stat. § 216B.169, subd. 3, the Department already has responsibility to certify projects used to supply the renewable energy for green-pricing programs. In addition, it is anticipated that the Department will continue to review Xcel's future annual reports on the program, as it did June 2, 2003 regarding the annual report filed by Xcel on May 1, 2003.

As noted elsewhere in this Order, Xcel subsequently agreed to credit customers in this particular instance and will be ordered to do so.

### **B. The Department/Xcel Joint Recommendation**

As to future use of the tracker to true-up, Xcel and the Department proposed at the hearing that the Commission require Xcel to discuss the tracker/true-up issue with the Department of Commerce and Commission staff and provide a compliance filing describing a tracker/true-up mechanism that Xcel, the Department and Commission staff believe is consistent with previous Commission Orders. Xcel and the Department further recommended that if agreement regarding previous Orders is not reached, Xcel should be required to file a proposed mechanism for approval.

### **C. The Commission's Action**

The Commission finds that the Department/Xcel joint recommendation is reasonable and will approve it.

## **V. Reducing the Lead Time and Filing Certification Requests**

### **A. Lead Time**

Xcel has stated that there are significant lead times for the green pricing projects since they are customer-driven and must be new (or satisfy a "developed for this green pricing program only" test). To illustrate the complexity of the process, the Company noted that, after contracting with Xcel, developers must obtain financing, provide sufficient payments to the turbine manufacturer to assure a delivery date and schedule for delivery of the turbine, arrange construction which requires timing to avoid road restrictions in winter and other conditions in spring and summer, provide for interconnection, work with Xcel to assure that the Midwest Independent Systems Operator (MISO) will confirm that adequate transmission exists for a network service designation, and electrically interconnect and test the equipment.

The Commission agrees that reasonable steps should be taken to reduce the lead time to add small renewable energy projects to Xcel's system. The Commission therefore will require Xcel to specifically address how to shorten the lead time required to add small renewable energy projects to its system. At a minimum, Xcel should propose ways to overcome the barriers of complexity, time delay, and cost of interconnection studies for small wind developers and report back to the Commission on ways to address these problems within 45 days of the date of this Order.

### **B. Certification Filings**

Xcel files requests for certification of sources for its green pricing program with the Department, pursuant to Minn. Stat. § 216B.169 because it is the Department's role to review and approve or deny such requests. To help keep the Commission apprised of developments in its green pricing capacity, it would be appropriate for Xcel to file a copy of its requests (and any subsequent filings related thereto) with the Commission as well, for informational purposes. At the hearing Xcel agreed to do so.

## ORDER

1. The Commission hereby accepts Xcel's agreement with the Department of Commerce to provide an appropriate credit to customers who have been charged a premium for renewable energy during the period that the Company's Department-certified green-pricing project was not operational (which is up to August 9, 2003). Under the agreement, Xcel shall provide the credit calculation to the Department of Commerce for review and upon the Department's review, implement the refund in the next available opening in the billing system for providing credits.
2. Xcel shall discuss with the parties how independent verification of the Windsorce Program will be developed. Xcel shall report back to the Commission in 45 days on this process.
3. Regarding a true-up process for matching customer purchases of supply with renewable energy once certified projects are operational, Xcel shall
  - a) discuss with the Department of Commerce and Commission staff the tracker/true-up issue (true-up process for matching customer purchases of supply with renewable energy once certified projects are operational) and provide a compliance filing describing a tracker/true-up mechanism that Xcel, the Department and Commission staff believe is consistent with previous Commission Orders or file for approval of a mechanism in the event agreement regarding previous Orders is not reached; and
  - b) discuss with the Department of Commerce and Commission Staff the provision of a credit on the customers' next monthly statement whenever there is no renewable energy available to Xcel from certified green pricing sources for more than 30 consecutive days and provide a compliance filing describing an appropriate response to such a situation that Xcel, the Department and Commission Staff believe is consistent with previous Commission Orders or file for approval of a mechanism in the event agreement regarding previous Orders is not reached.
4. Xcel shall specifically address how to shorten the lead time required to add small renewable energy projects to its system. At a minimum, Xcel shall propose ways to overcome the barriers of complexity, time delay, and cost of interconnection studies for small wind developers and report back to the Commission on ways to address these problems within 45 days of the date of this Order;
5. Xcel shall file with the Commission all filings made with the Department related to requests for certification of sources for its green pricing program, under Minn. Stat. § 216B.169, as part of Docket No. E-002/M-01-1479.

6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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