

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Petition to Revise Xcel's
Low-Income Discount Program to Comply
with Modifications in Minnesota Statutes
§ 216B.16, Subdivision 14

ISSUE DATE: April 26, 2005

DOCKET NO. E-002/M-04-1956

ORDER APPROVING PROGRAM
CHANGES

PROCEDURAL HISTORY

On December 10, 2004, Northern States Power Company d/b/a Xcel Energy (Xcel) proposed changes to its Low Income Discount Energy Rider which sets forth its Low-Income Discount Program. Xcel revised its proposal on December 13.

On December 16, 2004, the Energy Cents Coalition filed comments supporting Xcel's proposal.

On January 13, 2005, the Minnesota Department of Commerce (DOC) filed comments supporting Xcel's proposal with modifications.

On January 21, 2005, Xcel accepted the DOC's modifications.

On March 31, 2004, this matter came before the Commission.

FINDINGS AND CONCLUSIONS

I. Background

In 1994 the Legislature adopted Minnesota Statutes § 216B.16, subdivision 14. This statute directed public utilities with more than 200,000 residential electric customers to reduce by half the rate charged to low income residential electric customers for the first 300 kilowatt-hours (kWh) consumed in a monthly billing period. The statute defined a low income customer as one who receives assistance through the federal Low-Income Home Energy Assistance Program (LIHEAP).¹ The statute also gave the Commission the discretion to allow recovery of the discount rate program on a timely basis, rather than delaying the recovery until the utility's next rate case.

¹ 42 U.S.C. §§ 8621-8629.

In 1995 the Commission approved a Low Income Energy Discount Rider and associated cost recovery for Northern States Power Company (NSP).² Xcel agreed to provide the statutorily-prescribed discounts to each participant's electric bills retroactive to the previous October (the beginning of LIHEAP's fiscal year), but in no event prior to January 1, 1995.³

Beginning in 1996, NSP began filing annual status reports on the program, including the level of participation in the program, discount costs, administrative costs, cost recovery, and customer payment histories.

In 2001 the Commission approved changes to the cost-recovery formula.⁴ The program is currently funded through a \$0.39 surcharge on monthly customer charges.⁵

In 2004 the Legislature changed the statute. The new statute directs large electric utilities to use the program's revenues to target assistance to consumers with the lowest incomes and highest energy costs. That is, utilities would no longer be constrained to offer a 50% discount or to limit the discount to the first 300 kWh of service, or compelled to offer the discount to all LIHEAP recipients. But the new statute requires at least the same level of benefits for consumers who are 62 years old or older, or have disabilities, as the old statute did.

In October 2004, NSP (now doing business as Xcel) suspended its Low-Income Discount Program until it could conform the program to the new requirements.

II. Xcel's Proposal

Xcel states that its proposal is designed to conform its former Low-Income Discount Program to the new statutory directives.

² *In the Matter of the Petition of Northern States Power Company to Establish an Electric Rate Discount for Certain Low-Income Electric Customers*, Docket No. E-002/M-94-925 ORDER APPROVING LOW-INCOME DISCOUNT PROPOSAL WITH MODIFICATIONS (January 11, 1995).

³ Northern States Power Company's Minnesota Electric Rate Book, Section No. 5, Low Income Energy Discount Rider, Terms and Conditions of Service No. 8 states, "For the 1994 LIHEAP fiscal year, the applicable discount will become effective January 1, 1995."

⁴ See, for example, *In the Matter of a Request by Northern States Power Company d/b/a Xcel Energy for Approval of Recovery of Low-Income Discount Program Costs*, Docket No. E-002/M-01-1087 ORDER (September 14, 2001).

⁵ *In the Matter of a Petition by Northern States Power Company d/b/a Xcel Energy to Increase Rates for the Recovery of the Low Income Discount Program Costs*, Docket No. E-002/M-03-1557 ORDER APPROVING INCREASE IN COST RECOVERY FOR LOW INCOME DISCOUNT PROGRAM (March 3, 2004).

The proposed program has much in common with its former program. It maintains the same surcharge, although Xcel notes that it could seek additional funding in the future. And it maintains at least the same level of benefits for consumers who are 62 years old or older or have disabilities.

But rather than spreading the rest of the program's benefits over all LIHEAP recipients, Xcel proposes to target assistance to LIHEAP recipients who spend more than 3% of their annual household income on electricity, have a history of electric consumption that exceeds the residential average of 750 kWh per month, and have the lowest incomes. Xcel proposes to offer an "affordable monthly bill" to such customers that agree to make "affordable monthly payments." Initially, Xcel would target support with the goal of keeping a household's electricity bill within 3% of its income. Each participant would have his or her electricity bills recalculated pursuant to the participant's new billing formula retroactive to the previous October, the beginning of LIHEAP's fiscal year.

In addition to budgeting program funds to offer discounts to seniors, customers with disabilities and targeted households, Xcel proposes that some funds be used to pay overdue customer utility bills ("arrears forgiveness"). Xcel plans to offer to forgive overdue bills on a case-by-case basis with the goal of helping a household complete its payment agreement. In making its determination, Xcel plans to consider the customer's age, disability, and commitment to use external payment assistance programs; the customer's history of nonpayment, disconnection, and communications with Xcel; the existence of medically-necessary electrical equipment in the household; and the magnitude of the accrued unpaid electric bill.

Xcel proposes to work with outside parties to promote and deliver the new program. In addition, Xcel proposes to continue to report annually on program results, including participation costs, average benefit per household, statistics comparing the rate of disconnections among program participants to the rate of disconnection among other residential customers, and referrals for conservation initiatives.

Finally, if by November 1 of any given year the program's revenues exceed its costs, Xcel proposes to use the surplus to provide a supplemental benefit to participants. Xcel initially proposed giving this benefit to seniors, but subsequently extended the proposal to include participants with disabilities as well. In support of this proposal, Xcel states:

Since the discount began in 1995, there have been years where low-income participation levels were below projections and ratepayer funds were rolled into the [account tracking the program's costs and revenues] for subsequent years with interest accrued. The company believes that zeroing out the tracker [account] would better reflect the program cost/benefit and lead to meaningful data collection by allowing for better year-to-year comparisons.

III. Comments of the Parties

A. Energy Cents Coalition Comments

In support of Xcel's proposal, Energy Cents offers an explanation of how the proposal was developed. Energy Cents supported Xcel's previous Low-Income Discount Program but notes that the statute prohibited Xcel from targeting assistance to where it was most needed. The resulting program provides more than 40,000 LIHEAP recipients with an added benefit of roughly \$9 per month. But this level of benefit, even when combined with LIHEAP support, was insufficient for the most needy households to meet their energy needs.

Subsequently, Energy Cents and Xcel gained additional experience through a supplemental program called "POWER On." This program demonstrated that increased funds targeted to households with the greatest need, combined with services promoting energy conservation, could help increase payment rates while reducing disconnections and collection costs. This insight prompted Energy Cents to support modifying § 216B.16, subdivision 14, to permit targeting.

Energy Cents offers to work with Xcel in implementing its new Low-Income Discount Program to target resources, implement outreach strategies, and evaluate results.

B. DOC Comments

The DOC identifies four ways in which Xcel's proposal would change its Low-Income Discount Rider. First, it provides that only authorized LIHEAP agencies would certify the eligibility of a residential customer, rather than other "Community Action Agencies."

Second, it provides for Xcel to direct assistance to households that use more than 3% of their annual income for electricity, have a history of consuming more than 750 kWh per month, and have "the lowest income."

Third, it provides for Xcel to offer a payment plan to each household based on its approved LIHEAP benefits, household income and current billing information.

Fourth, it would delete a section pertaining to offering low-income discounts to a household living in a multi-tenant building sharing an electric meter. Xcel had concluded that this section conflicts with other parts of its tariff, and potentially with Commission orders,⁶ regarding liability for the cost of electricity measured by a shared meter.

⁶ See, for example, *In the Matter of the Complaint of Ila Whittaker, Priscilla Harris and Community Action of Suburban Hennepin County Against Northern States Power Regarding Responsibility for Shared Meter Charges*, Docket No. E-002/C-00-1563, *In the Matter of the Shared-Metering Miscellaneous Tariff Proposed by Xcel Energy*, Docket No. E-002/M-02-129 ORDER APPROVING TARIFF WITH MODIFICATIONS AND CLOSING DOCKET 00-1563 (August 1, 2002).

The DOC concludes that these changes are reasonable and consistent with statute, and recommends that the Commission approve them. The DOC recommends that the Commission continue to have Xcel report annually on the program's implementation, including average benefit per household, number of households referred for conservation initiatives, and statistics on the number of households disconnected from service.

Finally, the DOC finds no fault with Xcel's proposal for using surplus program funds to provide a supplemental benefit. In implementing this benefit, the DOC recommends that the Commission direct Xcel to report annually on the amount of surplus funds remaining, the amount of supplemental benefits each recipient receives, and the average bill per recipient.

C. Xcel

In response to the DOC's comments, Xcel agreed to make the annual reports requested.

In addition, Xcel agreed to a number of provisions at hearing. Xcel had proposed to spend the program's surplus on a one-time additional benefit to participating seniors and customers with disabilities; however, Xcel did not object to a substitute proposal to use any surplus in the program's annual budget for an added benefit for all program participants.

Xcel also did not object to omitting obsolete tariff language barring participants from receiving benefits prior to 1995.

While the parties discussed how to spend the program's surplus funds, no party's comments discussed how to respond to any future program deficit. At hearing, Xcel did not object to the proposal that any deficit in the program's annual budget would be recovered from following year's surcharge revenues, even if this would result in reduced benefits available in the following year.

Finally, at hearing Xcel reminded the Commission that its Low-Income Discount Program is currently suspended pending approval of these revisions. In the interest of expediency, Xcel asked to be permitted to begin implementing its revised program as soon as practicable, potentially on the day of the Commission's meeting. No party objected to this request.

IV. Commission Action

Having reviewed the comments of all parties and finding no objections, the Commission finds Xcel's proposed changes to its Low Income Discount Rider reasonable and consistent with the changes to Minnesota Statutes 216B.16, subdivision 14. The Commission will therefore approve Xcel's proposal as modified below.

As discussed above, the Commission finds that the tariff language barring participants from receiving benefits prior to 1995 no longer serves any purpose; in the interest of simplicity, the Commission will direct Xcel to delete this language from the tariff.

The Commission will direct Xcel to take the necessary administrative steps to implement these changes. In particular, Xcel should finance this program using the funds generated by the existing \$0.39 surcharge on monthly customer service charges until Xcel obtains approval for some different level of revenues. Xcel will need to plan the program's budget accordingly.

Xcel proposes to use surplus program funds to provide a supplemental benefit for eligible seniors or customers with disabilities or both. The Commission is not persuaded that the surpluses accrued from prior years should be used for this purpose; doing so would frustrate Xcel's purpose of facilitating "meaningful data collection by allowing for better year-to-year comparisons." But the Commission agrees that supplemental benefits could be offered in any given fiscal year to the extent that the program's budgeted revenues exceed its costs for that year. In any event, the Commission does not see the need to target supplemental benefits exclusively to seniors or those with disabilities. Rather, any household that participates in Xcel's program should be eligible to receive these supplemental benefits.

To the extent that the program's costs exceed its revenues in any LIHEAP fiscal year, Xcel should recover the balance from following year's surcharge revenues and reduce the amount of benefits provided in the following year to compensate. These policies will help ensure that the benefits provided by the Low-Income Discount Program are timely matched to the resources made available for the program that year.

The Commission finds merit in the DOC's recommendation that Xcel continue to provide annual reports on the program's implementation and that Xcel include reports on the disbursement of the program's surpluses. These proposals will be adopted as well.

The Commission appreciates Xcel's willingness to work with outside parties in implementing these program changes, and Energy Cents' willingness to participate. Xcel should continue to consult with the DOC, Energy Cents, Commission staff and others as additional changes to the program or guidelines become necessary.

Finally, no party objected to Xcel beginning to implement its revised Low-Income Discount Program as soon as practicable. The Commission finds this request reasonable and will grant it.

The Commission will so order.

ORDER

1. Xcel's proposed discount program is approved as modified.
2. The amount of funds available for the discount program shall be the amount currently received from the surcharge until Xcel can demonstrate that additional funding is required. Xcel shall establish the program's annual budget based on the approved funding method. Program revenues that exceed program costs in any LIHEAP fiscal year may be used to supplement benefits for eligible participants. If the year's costs exceed its revenues, conversely, Xcel shall recover the surplus costs from the next year's surcharge revenues and will reduce the program's costs for the following year accordingly.

3. Xcel shall report annually on participation costs, average benefit per household, residential disconnection statistics compared to participant number of disconnections and referrals to conservation initiatives, the balance of funds recovered, the amount of supplemental benefits per recipient, and the average bill per recipient.
4. Xcel shall delete the last sentence of paragraph 8 under Terms and Conditions of Service that states, "For the 1994 LIHEAP fiscal year, the applicable discount will become effective January 1, 1995."
5. Xcel shall consult with the Minnesota Department of Commerce, the Energy Cents Coalition, Commission staff and any other appropriate interested parties if the program or guidelines need to be revised in the future.
6. Xcel may implement its revised Low-Income Discount Program as soon as practicable.
7. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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