

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of the Petition of Northern States
Power Company d/b/a Xcel Energy for
Approval of a Community-Based Energy
Development Tariff

ISSUE DATE: May 3, 2006

DOCKET NO. E-002/M-05-1887

ORDER APPROVING XCEL'S
COMMUNITY-BASED ENERGY
DEVELOPMENT TARIFF AS MODIFIED

PROCEDURAL HISTORY

On December 2, 2005, Xcel Energy filed a proposed community-based energy development (C-BED) tariffs pursuant to recently enacted Minn. Stat. § 216B.1612.¹

On January 31, 2006, the North American Water Office (NAWO) filed comments.

On February 2, 2006, comments were filed by Windustry (jointly with The Minnesota Project, Institute for Local Self-Reliance, and Minnesotans for an Energy Efficient Economy), and the Minnesota Department of Commerce (the Department).

On February 23, 2006, Windustry, G. McNeilus, LLC, Xcel Energy, and the NAWO filed reply comments.

The Commission met on April 20, 2006 to consider this matter.

¹ Minn. Stat. § 216B.1612, subd. 1 states: “A tariff shall be established to optimize local, regional, and state benefits from wind energy development and to facilitate widespread development of community-based wind energy projects throughout Minnesota.” Other proposed C-BED tariffs were filed by Otter Tail Power Company, Interstate Power and Light Company, and Minnesota Power and assigned to separate dockets.

FINDINGS AND CONCLUSIONS

I. BACKGROUND

The 2005 Minnesota Legislature enacted Minn. Stat. § 216B.1612 to encourage community based wind energy (C-BED) projects. All Minnesota utilities are required by the statute to put a tariff in place to encourage and promote local participation in wind energy development.

Under this legislation, C-BED projects are to provide for local ownership, development and expansion of wind projects in Minnesota. The legislation establishes detailed project ownership criteria dependent on the size of the project, fixes a payment limit and pattern for the pricing stream and allows each utility to work within its own resource cost and reliability requirements to determine the acceptance of C-BED projects under this tariff.

Consistent with the statutory language, the tariff is not a standing offer to buy all C-BED wind energy, however, nor does it set a specific price for such energy. The C-BED tariff is to provide a framework for qualifying wind energy developers and utilities to negotiate power purchase agreements (PPAs).

II. ISSUES RAISED

Comments on Xcel's C-BED tariff as initially proposed were generally favorable, but several concerns were raised. These concerns have been resolved to the parties' satisfaction in the course of this proceeding.

A. NAWO's Concerns

The NAWO was concerned with Xcel's assertion that it would not consider C-BED projects in counties (specifically, Lincoln, Murray, and Pipestone) where more than 150 MW of nameplate wind generation was already under sale to Xcel. It would be preferable, the NAWO said, to consider transmission constraints if and when they affect the ability of a proposed C-BED project to deliver energy into the system. This would be more reasonable than simply turning these geographical areas (or any other) into a blanket exclusionary zone.²

B. Windustry's Concerns

Windustry cautioned against the reporting of C-BED projects based upon ownership criteria alone. It said only projects entering a contract with Xcel under the C-BED tariff should be reported as C-BED projects.

² In its reply comments, Xcel agreed with the NAWO on this issue and withdrew the county location criterion.

Windustry also expressed concern over the standards that may be used to assure security of performance under the contract, and said the most reasonable and efficient mechanism is a maintenance escrow account jointly controlled by the Company and the project. Funds in the account should be available to the project for repairs or replacement of major components. Other forms of assurance, such as cash set-asides, letters of credit, or bonds that cannot be accessed for repairs place an undue burden of the project's access to and cost of capital. At the hearing on this matter, Windustry clarified that it favored a tariff that was silent regarding assurances of security, thereby leaving it to the parties to find appropriate methods on a case-by-case basis.

Finally, Windustry suggested that the technical criteria for interconnecting C-BED projects under 10 MW be those in the Company's distributed generation tariffs and that larger projects should be interconnected in compliance with MISO standards.

C. The Department's Concerns

The Department recommended several changes in the tariff language, all of which Xcel has agreed to make.

The Department recommended that Xcel include several items of information regarding the C-BED program on its home page web site. In reply comments, Xcel agreed to provide the information on the web, but requested that it be permitted to design and organize its web site in the way it saw fit.

The Department recommended that the Commission require the Company to make available on written request the list of substation areas or feeders identified through its distribution planning process where additional generating capacity may benefit the system as under the Distributed Generation (DG) Tariff proceedings for facilities 10 MW or less.

The Department recommended that the Commission require Xcel to track any C-BED proposals that were rejected due to insufficient capacity available in existing distribution and transmission facilities, and include in the next biennial transmission plan a report discussing potential upgrades that would be needed to support C-BED development.

The Department recommended that Xcel include the 7.95 percent normal discount rate in the tariff under *Rate*. The Department stated that if this discount rate changes, as it might as the result of a rate case, the Company should be required to file an update to this rate in the tariff with an explanation of the change, and the necessary support for it.

The Department also asked the Company to provide support for the 7.95 percent discount rate and to clarify whether there would be charges associated with service under the proposed tariff. Xcel responded to these requests.

Finally, the Department recommended that the Commission require Xcel to provide annual reports

covering seven areas of information: 1) the number of proposals submitted under the tariff, including proposed size (MW); 2) location, price and length of contract; 3) the number of proposals rejected, along with the reasons for rejection; 4) the number of proposals that adopted service under a different tariff; 5) the number of executed contracts including size (MW), location, price and length of contract; 6) steps taken by the Company to address part (a) under Subdivision 5 of the law; and 7) any other pertinent information the Company wishes to provide; and all proposals eliminated from consideration due to Xcel's threshold screening and the specific screen causing elimination from further consideration. In its reply comments, Xcel agreed to make these annual reports.

D. G. McNeilus, LLC's Concerns

G. McNeilus, LLC (GM Wind) objected to the proposal that C-BED prices be published. Instead, GM Wind stated, traditional trade secret procedures should remain in place. Further, the process for contract review should be designed to accomplish the legislative purpose of prompt approval in the absence of some compelling reason to the contrary.

III. COMMISSION ANALYSIS AND ACTION

Through an exchange of comments and reply comments of the parties and in oral comments at the hearing on this matter, it appears that the parties are in agreement regarding Xcel's proposed C-BED tariff and all the issues raised by parties regarding the tariff. The Commission has also reviewed the tariff language along with the modifications suggested by the Department and agreed to by Xcel. The Commission finds this tariff language reasonable. The Commission has also reviewed the parties' proposed resolution of the issues raised by the parties. The Commission finds that each such resolution is reasonable.

Accordingly, the Commission will approve the tariff language as modified and agreed.

Items specified: the Commission will direct Xcel to 1) provide C-BED information on its web site in the format it deems most appropriate and 2) provide, on written request, a list of substation areas and feeders where generation would be beneficial and not require that the discount rate be stated in the tariff itself.

The Commission will also adopt the reporting requirements proposed by the Department and agreed to by Xcel, noting that any claims for trade secret status contained in power purchase agreement (PPA) filings would be asserted pursuant to the Commission's established protocol for filing information regarded by the Company as trade secret. Finally, the Commission will require proof that price is within the 2.7¢ net present value ceiling.

The Commission will provide notice of C-BED related PPA filings on the Commission's website in a separate location.

ORDER

1. The Commission hereby approves Xcel's Community-Based Energy Development (C-BED) tariff language as modified and agreed.
2. Within 14 days of this Order, Xcel shall file a finalized tariff reflecting the decisions made in this Order.
3. Xcel shall provide C-BED information on its web site, organized and in a format determined by the Company.
4. On written request, Xcel shall provide a list of substation areas and feeders where generation would be beneficial.
5. The Commission determines that the discount rate need not be included in the tariff.
6. Xcel shall comply with the reporting requirements proposed by the Department and agreed to by Xcel. In so doing, the Company shall follow the Commission's established protocol for asserting trade secret classification.
7. When filing for approval of a PPA under the C-BED tariff, Xcel shall provide proof that price is within the 2.7¢ net present value ceiling;
8. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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