

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
Marshall Johnson
Ken Nickolai
Thomas Pugh
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Formal Complaint Against
Xcel Energy and Request for Investigation by
Linwood Township

ISSUE DATE: June 21, 2006

DOCKET NO. G-002/C-06-155

ORDER RESOLVING COMPLAINT AND
SETTING CRITERIA FOR NON COST-
JUSTIFIED MAIN EXTENSION PROJECTS

PROCEDURAL HISTORY

On February 3, 2006, Linwood Township (the Township) filed a complaint stating that Xcel Energy (Xcel) refused to extend gas utility service to the Boettcher Farm Preserve development in violation of Minn. Stat. §§ 216B.03 and 216B.04.

On February 28, 2006, Xcel responded to the complaint and recommended that it be dismissed.

On March 3, 2006, the Commission requested comments from interested parties on this matter.

On April 25, 2006, the Commission met to consider the matter. The Commission concluded that the record was inadequate to resolve or dismiss the complaint. On May 8, 2006, the Commission issued an order finding jurisdiction, opening an investigation and requesting a report from the Department of Commerce (the Department).

On May 25, 2006, the Department filed its report and recommendations.

On June 2, 2006, Xcel filed reply comments.

On June 7, 2006, Linwood Township filed reply comments.

On June 8, 2006, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

I. Summary of Complaint

The Township complained that Xcel refused to extend gas utility service to the Boettcher Farm Preserve development in violation of Minn. Stat. §§ 216B.03 and 216B.04. The Township stated that Xcel provides service to homes in developments around and abutting the Boettcher Farm Preserve development. The Township argued that Xcel's refusal is inconsistent within a class of customers and unreasonably discriminatory.

The Township further stated that the developer of the Boettcher Farm Preserve development has offered to reimburse 100% of Xcel's cost to extend the necessary gas mains. The Township finally stated that no other gas utility would agree to provide the service to Boettcher Farm Preserve because Xcel has essentially surrounded the site with its facilities.

II. The Department's Report and Recommendations

The Department filed its report and recommendations on May 25, 2006. The Department concluded that Xcel had consistently and correctly applied its criteria -- based on the tariff -- for non-cost justified main extension projects to the Boettcher Farms development as well as the other projects to which facilities were not extended. The Department recommended, however, that Xcel improve its communication of the criteria utilized for project acceptance.

The Department determined that Xcel's current New Area Surcharge (NAS) tariff is silent with respect to the conditions for providing service to a non-cost justified project. The Department found that nothing prevents Xcel from applying its NAS to include a single upfront payment, and recommended that Xcel utilize the NAS to extend service to the Boettcher Farms development.

The Department recommended that the Commission:

- allow Xcel to use its modified NAS analysis for extending service to the Boettcher Farms development, as provided in the Company's response to the Department's verbal request Nos. 12 and 13, as being consistent with the Company's NAS tariff;
- require Xcel to submit revised and or new tariff language that will incorporate, on a going forward basis, the specific criteria Xcel proposes to use to determine the conditions under which the Company would extend service to a non-cost justified project;
- require Xcel to submit a comprehensive plan that details how criteria for accepting or rejecting non-cost justified extension projects, as provided in the approved tariff, will be communicated to interested parties;
- require Xcel to submit revised and or new tariff language regarding NAS extensions to clarify that the Company may use this provision to serve development projects that are non-cost justified, and that the Company may require an upfront payment in

a single lump sum by a party (e.g., a developer) other than affected ratepayers in a new area.

III. Xcel's Reply

On June 2, 2006, Xcel filed reply comments accepting the Department's recommendation to use a modified NAS for projects previously filed. Xcel requested 90 days to submit revised tariffs instead of the 30 days recommended by the Department.

IV. Commission Action

The Commission thanks both the Department and Xcel for the prompt and thorough investigation into and appropriate and timely resolution of this matter.

A. Xcel's Criteria for Non-Cost Justified Main Extension Projects

Xcel's natural gas extension tariff has provisions allowing the Company to extend its facilities for non-cost justified extension projects, including residential main extension projects such as are at issue here. Xcel has the discretion to extend service to non-cost justified projects; however, there is a potential for the Commission to disallow the project at the time of the next rate case if Xcel does not show that it collected the appropriate contribution in aid of construction (CIAC), according to its tariff.

Xcel has instituted decision criteria by which to judge which non-cost justified main extension projects to pursue. In the period January 2005 to May 2005, these included approval of a project, if: the project is served with city sewer and water; the customer is willing to pay the CIAC; and the project's main lead-in is less than 200 feet. In the period June 2005 to the present, the decision criteria included approval of a project, if: the project is served with city sewer and water; the customer is willing to pay the CIAC; and, there is no non-refundable CIAC associated with the project.

The Commission finds that city sewer and water, customer payment of the CIAC, and no refundable CIAC are consistent with Xcel's tariff. After review, however, the Commission finds that while the criterion relating to a main lead-in of less than 200 feet does not appear to be unreasonable, it is not specifically found in Xcel's tariff. To avoid customer confusion, the Commission will require Xcel to submit revised tariff language that will incorporate, on a going forward basis, the specific criteria Xcel proposes to use to determine the conditions under which it would extend service to a non-cost justified project.

Further, to ensure that the Xcel's criteria for accepting or rejecting a non-cost justified project are clear to all potential customers, the Commission will require Xcel to submit a comprehensive plan that details how criteria for accepting or rejecting non-cost justified extension projects, as provided in its approved tariff, will be communicated to interested parties.

B. Boettcher Farms Development

1. Xcel's Initial Cost Justification

The request to Xcel to serve the Boettcher Farms development was submitted in January, 2005. Boettcher Farms development was not served with city sewer and water and had a main lead-in greater than 200 feet. Applying the criteria in effect at that time (January - May, 2005), the Commission concludes that Xcel appropriately chose not to extend service to the development.

2. Application of Xcel's New Area Service Tariff

The Department also reviewed Xcel's new area service (NAS) tariff for possible application to the development. The Department concluded that Xcel's NAS tariff is silent with respect to conditions of providing service to a non-cost justified project, including an upfront single payment of the NAS by a party (e.g. a developer) other than the affected ratepayers in the new area.

The Commission concludes that application of the NAS tariff to the Boettcher Farms development, while not currently contemplated under the applicable tariff, is a reasonable solution in this matter. Application of a revised NAS tariff will allow Xcel to extend natural gas service to the development without creating an undue burden on Xcel's extant natural gas customers.

Finally, the Commission approves the Department's modifications of Xcel's currently approved NAS benefit/cost model with modifications to accommodate the application to a single developer with an upfront contribution, rather than a monthly customer surcharge.

The proposal modifies the existing calculation to include a capital costs contingency, because the capital costs used in the calculation are averages which do not reflect the costs for the projects at issue here, and an operations and management (O & M) expense escalation factor. The Commission believes these modifications are reasonable, and will so order.

3. Application of NAS Tariff to Serve Additional Non-Cost Justified Projects

The Commission will require Xcel to submit, within 90 days of the order in this matter, revised and or new tariff language regarding NAS extensions to clarify that it may use this provision to serve projects that are not cost justified, and that it may require an upfront payment in a single lump sum by a party other than the affected ratepayers in the new area. The Commission will also require that the tariff include provisions that specifically address the manner by which non-approved extension projects are prioritized for possible service at a later time should funds become available for new construction.

The Commission is satisfied that the use of the NAS tariff in this manner will not impose an undue burden on existing ratepayers, and will make it more economically feasible for Xcel to extend natural gas service to the Boettcher Farms development.

C. Other Non-Cost Justified Extension Projects

Based on its review, the Department concluded that Xcel has consistently and correctly applied its criteria, as set forth above for the applicable time periods at issue, to non-cost justified main extension projects. According to the Department, Xcel applied its criteria for non-cost justified projects in 2005 in a manner which did not result in undue subsidization by other ratepayers.

To provide more clarity for Xcel customers, however, the Commission will require Xcel to submit revised tariff language that will incorporate, on a going forward basis, the specific criteria it proposes to use to determine the conditions under which it will extend service to a non-cost justified project. Upon Commission approval of the criteria, Xcel will be required to show, in its next natural gas rate case, that Xcel consistently and correctly applied the approved criteria for all extension projects covered by its tariff.

Finally, in connection with the Department's investigation in this matter, Xcel set forth the criteria it utilizes to determine if an extension project that was previously denied might be eligible to have service extended in the event additional funding becomes available. These criteria include: 1) each main extension project's cost per customer; 2) the potential for future growth in the area; 3) the potential for road expansion or construction that may require Xcel to move gas facilities; and 4) the current phase of a multi-phase construction for the development.

The Commission finds that these criteria are reasonable, provided that they are consistently and correctly applied. The Commission will require Xcel to show, in its next natural gas general rate case, that it has consistently and correctly applied these criteria to any denied main extension project which was subsequently approved by Xcel.

D. Development of a Non-Heating Rate for Natural Gas Service

The Department observed that in some areas near Xcel's facilities, non-natural gas space and water heating options (*i.e.*, electric cooperative rebates) were being offered to developers. Based upon the Department's recommendation, the Commission will examine a possible non-heating rate for natural gas service to reflect the fact that the revenue under current rates associated with service to non-heating residential developments may not be sufficient to cover the cost of extending service to such developments. The Commission will require Xcel to present, in its next natural gas general rate case, the possibilities of constructing such a rate class.

ORDER

1. Xcel is permitted to use its modified NAS analysis for extending service to the Boettcher Farms development, as provided in the Company's response to the Department Verbal Request Nos. 12 and 13 with the corrections identified by Staff with the contribution being non-refundable.
2. Xcel is permitted to use the modified NAS as used for Boettcher Farms for other denied projects until revised or new tariffs are filed.
3. Xcel shall develop a tariff (as part of its extension tariff) based on the NAS that should be used for non-justified projects. This tariff shall modify the NAS to allow single upfront payment of the contribution, a capital contingency, and O&M escalator, provision that the contribution is non-refundable, the conditions under which the tariff applies and the information to be communicated to the customer (the number of customers, the forecasted gas usage and the feet of main used in the calculation). This tariff is shall be filed within 90 days of the Order in this docket.
4. Within 90 days of this Order, Xcel shall submit, revised and or new tariff language to incorporate, on a going forward basis, the specific criteria Xcel proposes to use to determine the conditions under with the Company will extend service to non-cost justified projects. Xcel shall also provide an explanation and justification for including city sewer and water service as a criterion.
5. Within 30 days of this Order, Xcel shall submit, a comprehensive plan that details how criteria for accepting or rejecting non-cost justified extension projects, as provided in the approved tariff, will be communicated to interested parties.
6. Xcel shall show, in the Company's next natural gas general rate case, that:
 - a. the criteria in the approved tariff used by Xcel to deny non-cost justified main extension projects are reasonably communicated in writing by Xcel to interested parties;
 - b. Xcel consistently and correctly applies its approved extension tariff and any criteria therein for any main extension project that was submitted to Xcel;
 - c. Xcel consistently and correctly applies its criteria relating to the evaluation of denied main extension projects should additional funding become available to any denied main project which was subsequently approved by the Company; and
 - d. Xcel consistently and correctly applies the revised approved NAS tariff.

7. Xcel shall present, in the Company's next natural gas general rate case, the possibilities of constructing a separate rate class for customers who do not use natural gas service for space and/or water heating.
8. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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