

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

Chair
Commissioner
Commissioner
Commissioner
Commissioner

Inquiry Into Possible Effects of Financial
Difficulties at NRG and Xcel on
NSP and its Customers and Potential
Mitigation Measures

ISSUE DATE: August 24, 2006

DOCKET NO. E,G-002/CI-02-1346

ORDER REQUIRING XCEL TO PROVIDE
INFORMATION REGARDING CERTAIN
CLAIMS

PROCEDURAL HISTORY

On September 30, 2005, Meyer Shark served information requests on Xcel Energy (Xcel) along with a Petition for Additional Procedures and Comments.

On December 1, 2005, Xcel served responses to Mr. Shark's information requests.

On May 16, 2006, Mr. Shark filed a Motion for Order Mandating Answers to Information Requests, alleging that Xcel's answers to the information requests were evasive, incomplete, and unresponsive.

On May 25, 2006, Xcel responded to Mr. Shark's May 15 Motion.

On June 1, 2006 Mr. Shark renewed his September 30, 2005 Petition for Additional Procedures and Comments.

On June 5, 2006, Mr. Shark responded to Xcel's May 25 filing.

On June 30, 2006, Xcel filed a supplemental response to Mr. Shark.

On July 25, 2006, Mr. Shark filed a motion requesting that the Commission not consider Xcel's June 30, 2006 comments when it met July 27, 2006 to consider Mr. Shark's Motion for Order Mandating Answers to Information Requests.¹

The Commission met on July 27, 2006 to consider this matter.

¹ At the commencement of the Commission's consideration of this matter, Mr. Shark informed the Commission that he was withdrawing his objection to Commission consideration of Xcel's June 30, 2006 filing.

FINDINGS AND CONCLUSIONS

The general purpose of this inquiry has been to explore potential impacts of the financial difficulties of Xcel and its subsidiary NRG Energy, Inc. (NRG) on another Xcel subsidiary, the regulated utility Northern States Power Company (NSP), and NSP's ratepayers.

I. Meyer Shark's Information Requests

In his September 29, 2005 Information Requests to Xcel, Meyer Shark noted that a September 30, 2003 10Q Report to the Securities and Exchange Commission (SEC) reported Xcel Energy, Inc.'s payment of \$752 million to NRG Energy, Inc. (NRG) for the benefit of NRG creditors and steering committee for NRG bond holders in consideration for their waiver of any existing and potential claims against Xcel Energy.

Mr. Shark's five information requests related to that report, seeking, in brief summary, information about the nature, source, amount and documentation regarding the existing and potential claims for which the \$372 million payment was made.

II. Xcel Energy's Response to Information Requests

On December 1, 2006, Xcel stated that earlier filings in this docket, filed before Mr. Shark intervened in the matter, resolved his concerns and answered his questions. The Company stated that it would provide references to the relevant 2002 and 2003 filings that addressed his questions. In other respects, the Company's responses speak for themselves.²

At the hearing on this matter, the Company offered to provide responsive information that it believed was available in the bankruptcy proceeding filings or in filings made to the SEC within ten days or sooner if possible.

III. Meyer Shark's Motion for Order Mandating Answers

In a motion to compel filed May 16, 2006, Mr. Shark stated that Xcel's response was evasive, incomplete, and unreasonable and explained the basis for those conclusions. For each of his five Information Requests, Mr. Shark specified the kind of response he believed was required. For example, Mr. Shark indicated that in response to his inquiries regarding the nature, source, and amount of existing and potential claims by NRG against Xcel that were settled by payment of the \$752 million to NRG (Information Requests 1 and 2), Xcel should provide photocopies of the pertinent parts of the filings that Xcel believed provided the information sought rather than referencing filings as a whole.

IV. Commission Analysis and Action

Xcel has stated its belief that the information Mr. Shark has requested regarding the nature, source, and amount of the claims against Xcel is contained 1) in existing documents filed with the

² See Shark Motion for Order Mandating Answers to Information Requests, Exhibit C.

Commission in this docket; 2) in NRG's bankruptcy proceeding; or 3) in the various 10-Q Reports to the SEC. The Company has undertaken to provide documents relevant to Mr. Shark's inquiry from among these three sources.

The Commission also clarifies that it will be revisiting this investigation docket after addressing Xcel's rate case to determine at that time whether there are issues remaining which require attention (including the production of documents) or whether this inquiry should be terminated and the docket closed.

With these understandings, the Commission finds reasonable Xcel's hearing day offer to provide, within 10 days of the hearing or sooner if possible, documents from this docket, the NRG bankruptcy proceeding, and the 10-Q Reports to the SEC showing what creditors were alleging as the basis for claims against Xcel.

This Order will confirm and transform into a directive the Company's offer to provide the promised information within ten days of the July 27, 2006 meeting,³ i.e., on or before August 7, 2006.

ORDER

1. Within ten days of the June 27, 2006 hearing in this matter, Xcel shall have provided Meyer Shark with documents responsive to Information Request Nos. 1 and 2 from documents 1) previously filed with the Commission in this matter; 2) in NRG's bankruptcy proceedings; and 3) in 10-Q Reports to the Securities and Exchange Commission (SEC).
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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³ Normally, the time period for performance of any requirement imposed in the Order begins as of the issuance date of the Order. In this case, the Commission finds that Xcel's proposal to respond to Mr. Shark's Information Request within ten days of the hearing is reasonable. The Company's proposal mirrors the normal ten-day period for replying to Information Requests and the Commission will confirm its application. See Order Paragraph 1.