

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: September 29, 2006

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

ORDER WAIVING COMPETITIVE BID  
REQUIREMENT REGARDING C-BED  
PROJECTS

**PROCEDURAL HISTORY**

On August 18, 1994, the Commission directed Northern States Power Company, now d/b/a Xcel Energy (Xcel), to solicit competitive bids whenever it sought to contract for 12 megawatts (MW) or more of electricity from a third party.<sup>1</sup>

In 2005 the Legislature directed retail electric public utilities, among others, to file tariffs facilitating the development of locally-owned wind-powered electric generators through the “community-based energy development” (C-BED) program.<sup>2</sup> The Legislature also directed this Commission to approve qualified C-BED power purchase agreements within 30 days of filing unless some party raises objections.<sup>3</sup>

On May 3, 2006 the Commission approved a C-BED tariff for Xcel.<sup>4</sup>

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<sup>1</sup> *In the Matter of an Investigation into Establishing a Bidding Process to Select Resources to Meet the Future Capacity Needs of Northern States Power Company*, Docket No. E-002/CI-93-6, ORDER ACCEPTING COMPANY’S PROPOSAL WITH MODIFICATIONS AND REQUIRING FURTHER FILINGS.

<sup>2</sup> Minn. Stat. § 216B.1612.

<sup>3</sup> Minn. Stat. § 216B.1612, subd. 7(e).

<sup>4</sup> This docket, ORDER APPROVING XCEL’S COMMUNITY-BASED ENERGY DEVELOPMENT TARIFF AS MODIFIED.

On August 23 and 30, 2006, Xcel petitioned for approval of C-BED power purchase agreements for more than 12 MW.<sup>5</sup> In each case, Xcel asked the Commission to waive the requirement to solicit competitive bids for C-BED projects.

The Commission met on September 21, 2006, to consider this matter. No party objected to Xcel's waiver request.

## **FINDINGS AND CONCLUSIONS**

### **I. XCEL'S PETITION**

Xcel asks the Commission to waive the requirement that it solicit competitive bids before entering into a power purchase agreement with a third party developer of a qualified C-BED project for 12 MW or more. Xcel argues that waiving the competitive bid requirement would remove a significant barrier to the development of C-BED projects and would be consistent with the C-BED statute's implied encouragement of larger projects.<sup>6</sup> Moreover, Xcel argues that the C-BED process achieves much of the benefit of a competitive bid process because Xcel is able to select the lowest-cost C-BED proposals from among the many proposals Xcel receives from third party wind power developers.

### **II. COMMISSION ANALYSIS AND ACTION**

The Legislature adopted the C-BED statute "to optimize local, regional, and state benefits from wind energy development and to facilitate widespread development of community-based wind energy projects throughout Minnesota."<sup>7</sup> On the basis of the uncontested record of this case, the Commission concludes that a formal competitive bidding process would impede the achievement of these ends and that the current C-BED process achieves many of the benefits of the competitive bidding process anyway. Consequently, where Xcel enters into a power purchase agreement with a third party developer of a C-BED project that meets the statutory requirements, the Commission will waive its 1994 requirement that Xcel first solicit competitive bids.

## **ORDER**

1. The Commission hereby waives Xcel's obligation arising from the August 18, 1994 *ORDER ACCEPTING COMPANY'S PROPOSAL WITH MODIFICATIONS AND*

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<sup>5</sup> See *In the Matter of Northern States Power Company d/b/a Xcel Energy Request for Approval of Power Purchase Agreement with Kenyon Wind LLC (Kenyon)*, Docket No. E-002/M-06-1196, Petition (August 23, 2006) (19 MW); *In the Matter of Northern States Power Company d/b/a Xcel Energy Request for Approval of Power Purchase Agreement with Jeffers Wind 20 LLC (Jeffers)*, Docket No. E-002/M-06-1234, Petition (August 30, 2006) (50 MW).

<sup>6</sup> See Minn. Stat. § 216B.1612, subd. 3(b).

<sup>7</sup> Minn. Stat. § 216B.1612, subd. 1.

*REQUIRING FURTHER FILINGS* in Docket Nos. E-002/CI-93-6, *In the Matter of an Investigation into Establishing a Bidding Process to Select Resources to Meet the Future Capacity Needs of Northern States Power Company*, to solicit competitive bids before entering into a power purchase agreements for 12 MW or more with a C-BED project developer.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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