

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Northern States Power
Company d/b/a Xcel Energy's Application for
Approval of its 2005-2019 Resource Plan

ISSUE DATE: October 18, 2006

DOCKET NO. E-002/RP-04-1752

ORDER AFTER RECONSIDERATION
CLARIFYING FILING REQUIREMENTS,
REQUIRING NOTICE TO ALTERNATIVE
PROVIDERS, SETTING DEADLINES FOR
BASELOAD PROPOSALS, AND
ACCEPTING REPORTS

PROCEDURAL HISTORY

On July 28, 2006, the Commission issued its ORDER APPROVING RESOURCE PLAN AS MODIFIED, FINDING COMPLIANCE WITH RENEWABLE ENERGY OBJECTIVES STATUTE, AND SETTING FILING REQUIREMENTS in this case. Among other things, that Order required Xcel Energy to file a certificate of need application for 375 megawatts of baseload generation, which would initiate the new competitive resource-acquisition process established by an earlier Order in this case.¹

On August 17, 2006, Northern States Power Company d/b/a Xcel Energy (Xcel) filed a petition for clarification or reconsideration of the July 28 Order, seeking amendment of two of the Order's 28 ordering paragraphs. One paragraph related to the baseload-generation filing and the other to a filing on proposed upgrades to three existing generating plants.

On September 1, 2006, the Minnesota Department of Commerce (the Department) filed comments on the Company's petition. The Department did not oppose clarifying the two ordering paragraphs but was concerned that language proposed by the Company might contribute to further confusion.

On October 12, 2006, the petition came before the Commission. The following parties appeared:

- Northern States Power Company d/b/a Xcel Energy
- Minnesota Department of Commerce

¹ Order Establishing Resource Acquisition Process, Establishing Bidding Process Under Minn. Stat. § 216B.2422, and Requiring Compliance Filing, this docket, May 31, 2006.

- Gascoyne Project
- Izaak Walton League of America – Midwest Office, Minnesotans for an Energy-Efficient Economy, Union of Concerned Scientists, and Minnesota Center for Environmental Advocacy, filing jointly (“Environmental Intervenor”)

The Gascoyne Project and the Environmental Intervenor appeared mainly for the purpose of requesting further guidance on how the new competitive resource-acquisition process would work in practice.

No one opposed the Company’s request to clarify the two ordering paragraphs, and the parties ultimately agreed on what clarifying language they would recommend. No one opposed the request that the Commission or the Department act to facilitate alternative providers’ participation in the new competitive resource-acquisition process.

FINDINGS AND CONCLUSIONS

I. Ordering Paragraphs Clarified

A. Ordering Paragraph 10: Filing a Certificate of Need for Baseload Capacity

Currently, ordering paragraph 10 reads as follow:

10. On or before November 1, 2006, Xcel shall file a certificate of need application to initiate the competitive resource acquisition process for 375 megawatts of baseload capacity with an intended in-service date of 2015.

The Company asked that this paragraph be changed to clarify that what it must file by November 1 is not necessarily a certificate of need application, but a filing beginning the formal competitive resource-acquisition process required for the 375 megawatts of baseload capacity the Order requires it to secure.

The Company proposed changing the current ordering paragraph to the one set forth below:

10. On or before November 1, 2006, Xcel shall initiate the competitive resource acquisition process for 375 megawatts of baseload capacity with an intended in-service date of 2015 by filing its proposal for meeting that need, consistent with Xcel Energy’s August 28th compliance filing implementing the approved process.

The Department of Commerce (the Department) concurred with the Company that filings other than a certificate of need application – such as a purchased power agreement(s) – could also meet the intent of this ordering paragraph. That intent, of course, is not to require the Company to build a power plant, but to require the Company to begin the formal, competitive process to acquire the 375 megawatts of baseload capacity the Commission has determined it will soon need.

The Department was concerned, however, to make it clear that the Company must file a document actually beginning the resource-acquisition process, not a proposal for beginning that process. The Department therefore recommended that the ordering paragraph be modified to read as

follows:

10. On or before November 1, 2006, Xcel shall file a certificate of need application or a signed power purchase agreement to initiate the competitive resource acquisition process for 375 megawatts of baseload capacity with an intended in-service date of 2015.

The Commission concurs with the Department that the Company's proposed language may risk further confusion and delay and will therefore adopt the order language recommended by the Department.

B. Ordering Paragraph 11: Filing for Review or Approval of Upgrades to Baseload Facilities

Currently, ordering paragraph 11 reads as follows:

11. By December 31, 2006, Xcel shall make a filing requesting any mandatory Commission review or approval for any upgrades to its Sherco, Prairie Island, and Monticello baseload facilities discussed in its resource plan filing.

The Company asked that this paragraph be changed to limit the December 2006 filing to a report on the planned upgrades and to move the deadline for any necessary applications for certificates of need for these upgrades to September 1, 2007. The Company explained that planned upgrades to the Sherco plant would not require a certificate of need, making a report sufficient, and that it would be more efficient to file certificate of need applications for upgrades to the two nuclear facilities, Prairie Island and Monticello, after final action on pending applications for additional nuclear waste storage at Monticello and for the relicensing of the Monticello plant.

The Company proposed that ordering paragraph 11 be modified to read as set forth below:

11. By December 31, 2006, Xcel shall make a filing providing additional detail on its planned upgrades to its Sherco, Prairie Island, and Monticello baseload facilities. Xcel shall file any required certificates of need for these upgrades no later than September 1, 2007.

The Department concurred with the Company's request, pointing to the efficiencies to be gained by avoiding a premature certificate of need filing.

The Commission agrees with the parties. The detailed report the Company will file in December 2006 will adequately apprise regulators and stakeholders of the nature, costs, and benefits of the proposed plant upgrades without diverting limited resources to a premature certificate of need proceeding.

II. Measures Adopted to Facilitate Proposals from Alternative Providers

On November 1, Xcel will make its first filing under the new competitive resource-acquisition process adopted in this docket.

The Company, the Department, and the intervenors who appeared at hearing all agreed that additional guidance would be useful as alternative providers prepare and file competing baseload proposals. The Commission concurs, and will set the requirements described below, which were unopposed at hearing.

A. Department to Facilitate Alternative Providers' Participation

Clearly, it is impossible to anticipate all the issues and questions that will arise as alternative providers prepare and submit their baseload-generation proposals. Nor is it possible to rely on formal Commission action to iron out every detail of this new process. At the same time, however, the success and integrity of the process depend upon clear and effective channels of communication, process transparency, and the even-handed application of uniform requirements.

To address these needs, the Department has agreed to facilitate alternative providers' participation in the competitive resource-acquisition process. The Department will act as a liaison between alternative providers and the Company, will provide guidance on process and procedural issues, and will generally help ensure that this process meets the goals outlined in the May 31 Order that established it.

The Commission is gratified by the Department's willingness to play this important role.

B. Term Sheet Required

As the Commission noted when it established the new competitive resource-acquisition process, the old competitive process fell short in part because its open-endedness and flexibility tended to undermine the certainty, transparency, and accountability required in the commercial context.² To inject as much certainty as possible into this process, and to provide valid grounds for comparing alternative proposals, the Commission will require the Company to prepare and file a term sheet, listing minimum terms that must be met for alternative proposals to receive consideration. This term sheet will accompany both the Company's baseload proposal, to be filed by November 1, and the notice soliciting baseload generation proposals that the Company will send potential alternative providers under other provisions of this Order.

C. Filing Deadline for Alternative Proposals Set

To give alternative providers the best possible understanding of Xcel's baseload generation requirements, the Commission will move the deadline for filing alternative baseload generation proposals from the original November 1 deadline to 45 days after Xcel files its proposal and term sheet. This interval should help prevent misunderstandings about the nature and extent of Xcel's generation needs.

D. Notice to Potential Alternative Providers Required

Although alternative providers capable of providing baseload generation are, in the main, sophisticated and highly informed, there is still value in providing all of them with timely and uniform notice of the opportunity to file baseload generation proposals, the date by which proposals must be filed, and the terms that must be included. Timely, uniform, across-the-board

² May 31 Order at 2-3.

notice ensures that all potential competitors receive at least the same baseline information, and it demonstrates the Company's commitment to an open, even-handed process.

The Commission will require the Company to work with the Department in composing and distributing the notice, will require distribution of the notice within 20 days of the October 12 hearing (i.e., by November 1), and will require a compliance filing no later than November 15 describing the notice and the notice process.

III. Reporting Obligation Found Satisfied

Finally, Xcel, as the state's only nuclear utility, must include in its periodic resource plans, filings addressing three nuclear-specific issues listed at Minn. Stat. § 116C.772: (1) a transition plan for the Prairie Island work force in the event of a lengthy plant shut-down; (2) a plan for the eventual phase-out of nuclear generation; and (3) a decommissioning plan for the nuclear waste storage casks after they are emptied.³

The Company's resource plan filing did include these reports, which met the statutory requirements and will be accepted by the Commission.

ORDER

1. Ordering paragraph 10 of the July 28, 2006 Order in this case is modified to read as set forth below:
 10. On or before November 1, 2006, Xcel shall file a certificate of need application or a signed power purchase agreement to initiate the competitive resource acquisition process for 375 megawatts of baseload capacity with an intended in-service date of 2015.
2. Ordering paragraph 11 of the July 28, 2006 Order in this case is modified to read as set forth below:
 11. By December 31, 2006, Xcel shall make a filing providing additional detail on its planned upgrades to its Sherco, Prairie Island, and Monticello baseload facilities. Xcel shall file any required certificates of need for these upgrades no later than September 1, 2007.
3. In the November 1 filing required under the July 28 Order, Xcel shall file, in addition to a certificate of need application and/or a signed power purchase agreement, a term sheet that alternative providers may use in preparing and submitting alternative proposals for a baseload resource.
4. On or before November 1, 2006, Xcel shall provide notice to potential alternative providers of the opportunity to file proposals to provide baseload resources as part of the competitive resource acquisition process. The Company shall work with the Department of Commerce in composing and distributing the notice. The notice shall inform notice recipients that the Department has agreed to facilitate alternative providers' participation in the resource-acquisition process, will provide guidance on process and procedural issues,

³ This requirement appears at Minn. Stat. § 216C.051, subd. 3 (d).

- and will generally help ensure that the process meets the goals outlined in the May 31 Order that established it.
5. On or before November 15, 2006, Xcel shall make a compliance filing describing the notice content and process.
 6. Alternative proposals intended to compete with Xcel's proposal for the provision of 375 megawatts of baseload capacity with an intended in-service date of 2015, required under ordering paragraph 10 of the July 28 Order, shall be filed no later than 45 days from the date of Xcel's filing.
 7. The Commission accepts Xcel's filing under Minn. Stat. § 216C.051, subd. 3 (d) as meeting statutory requirements.
 8. In all other respects, the July 28 Order is affirmed and remains in full force and effect.
 9. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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