

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye	Chair
David C. Boyd	Commissioner
Marshall Johnson	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	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: September 28, 2007

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

In the Matter of Northern States Power
Company d/b/a Xcel Energy's Emissions
Reduction Project at the Sherburne County
Generating Plant

DOCKET NO. E-002/M-07-2

In the Matter of the Petition of Northern States
Power Company d/b/a Xcel Energy to Initiate a
Competitive Bidding Resource Acquisition
Process for 375 MW Base Load Generation

DOCKET NO. E-002/CN-06-1518

ORDER SUSPENDING CONTESTED CASE
PROCEEDING, DELAYING FILING
DATES, AND ADVANCING DATE FOR
FILING NEXT RESOURCE PLAN

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 Docket No. E-002/RP-04-1752.¹

On October 18, 2006, the Commission issued its ORDER AFTER RECONSIDERATION CLARIFYING FILING REQUIREMENTS, REQUIRING NOTICE TO ALTERNATIVE PROVIDERS, SETTING DEADLINES FOR BASELOAD PROPOSALS, AND ACCEPTING REPORTS.

¹ *In the Matter of Northern States Power Company d/b/a Xcel Energy's Application for Approval of its 2005-2018 Resource Plan.*

On June 11, 2007, the Commission issued its ORDER EXTENDING TIME TO FILE RESOURCE PLAN. In this Order the Commission granted Xcel's request to file its next resource plan no later than March 3, 2008. Xcel sought the extension to allow the Company time to incorporate the requirements of the recently enacted Renewable Energy Standard and the results of various resource acquisition dockets currently pending before the Commission.

On July 20, 2007, Northern States Power Company d/b/a Xcel Energy, filed a *Notice of Changed Circumstances, Request to Modify Schedule for Resource Acquisition Proceedings, and Proposal for New Resource Plan Filing* in Docket No. E-002/RP-04-1752. Concurrent with that Notice, Xcel filed its *Request for Extension of Filing Dates* in Dockets E-002/RP-04-1752, E-002/CN-06-1518, and E-002/M-07-2.

On July 31, 2007, the Commission issued its NOTICE OF COMMENT PERIOD AND PROCEDURES ON NOTICE OF CHANGED CIRCUMSTANCES AND REQUEST FOR EXTENSION OF FILING DATES. In that notice, it was stated that:

Because the September 1, 2007 date is so near, Commission Staff intends to ask the Commission, likely at the August 16, 2007 agenda meeting, to suspend the filing dates on an interim basis until October 1, 2007. Parties may make oral comments on the interim suspension at that meeting. This interim step will allow time for parties to comment and the Commission to rule on the merits of the Notice of Changed Circumstances and Requests for Extension of Filing Dates.

The Notice requested comments on the merits of Xcel's July 20, 2007 *Notice of Changed Circumstances, Request to Modify Schedule for Resource Acquisition Proceedings, and Proposal for New Resource Plan Filing*, in Docket No. E-002/RP-04-1752 and *Request for Extension of Filing Dates*, in Dockets E-002/RP-04-1752 and E-002/M-07-2 no later than Friday, August 10, 2007 and reply comments no later than Monday, August 20, 2007.

On August 31, 2007, the Commission issued its ORDER EXTENDING DEADLINES FOR FILING CERTIFICATE OF NEED APPLICATIONS, in Dockets E-002/RP-04-1752 and E-002/M-07-2. In this Order, the Commission modified the Ordering Paragraph requiring a September 1, 2007 filing date for Xcel's certificate of need applications for plans to upgrade the Sherco, Prairie Island, and Monticello baseload plant. The date for filing the certificate of need applications was extended to October 1, 2007.

The Commission met on September 13, 2007 to consider this matter.

FINDINGS AND CONCLUSIONS

I. Xcel's Request

Xcel's petition requested either a delay or suspension of three of its current resource acquisition proceedings, and a proposal to file its new resource plan by December 14, 2007. Specifically, Xcel requested that the Commission :

- suspend the current schedule in the 375 MW baseload acquisition contested case proceeding, in Docket No. E-002/CN-06-1518
- delay the filing date for the Environmental Improvement Rider and Capacity Expansion at Sherco Units 1, 2, & 3, in Docket No. E-002/M-07-2
- delay the filing date for the Certificate of Need for the Prairie Island Uprate and Additional Spent Fuel Storage, and the Certificate of Need for Monticello Power Uprate, until at least December 14, 2007
- file its next resource plan on December 14, 2007, prior to the current due date of March 3, 2008

Xcel argued that the significant new requirements for renewable energy and DSM enacted by the 2007 Minnesota Legislature have created changed circumstances that warrant the comprehensive evaluation provided by a new resource plan proceeding. Xcel maintained that a new resource plan is required to 1) further assess the impacts of the new legislation on the Company's resource needs and system operations; 2) evaluate the appropriateness of the Company's current five-year action plan and make the necessary changes to reconcile the size, type, and timing of needed resources with the new requirements established by the 2007 Legislature; and 3) provide an updated, consistent analytical basis for resource acquisition proceedings.

Xcel requested that the Commission acknowledge that the circumstances surrounding the Company's 2004 Resource Plan have significantly changed due to the new legislative initiatives, that such changes may affect the Company's resource needs, and that it is appropriate to undertake a comprehensive assessment of these changes to determine whether modification to the Company's approved five-year action plan is warranted. The Company asked that the Commission approve the Company's proposal to modify the current resource acquisition proceedings' schedules pending verification of the size, type and timing of the Company's customers' resource needs and to accept the Company's commitment to file a new Resource Plan by December 14, 2007, several months earlier than the Company's current requirement to file by March 1, 2008.

In sum, Xcel argued the proposed delays, suspensions, and an earlier resource plan filing date are appropriate for two reasons. First, the new statutory requirements have a significant impact on the Company's current plan and will affect the nature of Xcel's resource needs. Second, the Company can temporarily suspend current resource acquisition schedules pending the verification of need and identification of appropriate resources without jeopardizing its ability to secure these resources if they are confirmed to be needed.

II. Parties' Comments

Comments on the Company's request were filed by the Minnesota Department of Commerce (the Department), the North American Water Office (NAWO), Westmoreland Power, Inc.

(Westmoreland), Excelsior Energy, Inc. (Excelsior), and the Environmental Intervenors². These parties also presented oral comments at the Commission's September 13, 2007 hearing on this matter.

All commenting parties except Westmoreland agreed that the recently adopted legislation cited by Xcel does present changed circumstances that may significantly influence the selection of the Company's next resource plan. Westmoreland argued that Xcel has the burden of proving that it is in the public interest to suspend action and has not met that burden. Westmoreland asserted that the essence of Xcel's argument was that it does not know the consequences of the new legislation and argued that such an argument is insufficient to satisfy the required burden of proof.

Among the parties agreeing that recently adopted legislation represents changed circumstances that may significantly influence the selection of the Company's next resource plan, there was general agreement about which dockets were affected and what action the Commission should take with respect to those dockets in light of the changed circumstances.

III. Commission Analysis and Action

The changed circumstances requirement in Minn. Rules, Part 7843.0500, subp. 5 is as follows:

The utility shall inform the commission and other parties to the last resource plan proceeding of changed circumstances that may significantly influence the selection of resource plans. Upon receiving notice of changed circumstances, the commission shall consider whether additional administrative proceedings are necessary before the utility's next regularly scheduled resource plan proceeding.

The rule requires a utility, such as Xcel, to inform the Commission and other parties to its most recent resource plan proceeding of changed circumstances that may significantly influence the selection of resource plans. Once a utility has performed that obligation, it is up to the Commission to determine what responsive changes, if any, should be taken with respect to affected dockets.

The Commission finds that the newly adopted legislation cited by Xcel changes the circumstances so significantly as to potentially influence the selection of resources plans. Perhaps most notable is the new Renewable Energy Standards (RES)³ which requires that 30 percent of retail sales must be provided by qualifying the renewable resources by 2020, of which wind must provide

² The Izaak Walton League of America, Fresh Energy, and the Minnesota Center for Environmental Advocacy, are collectively referred to in this Order as the Environmental Intervenors.

³ See Minn. Session Laws 2007, Chapter 3.

25 percent.⁴ In addition, in the Energy Efficiency and Conservation Act⁵, the Legislature significantly modified current requirements for energy conservation and demand-side management (DSM), moving from a spending-based requirement to a comprehensive goal of saving 1.5 percent of retail electric sales beginning in 2010. In contrast, Xcel's existing programs would achieve estimated annual savings of about 0.8 percent of retail electric sales.

The Commission finds that taken together, these two new laws direct substantial change, change that warrants detailed analysis before the Company commits to any new baseload resource acquisitions. The requirement for substantial amounts of new wind on Xcel's system may reduce the amount of other resources required to meet customer needs, but clearly will impact the nature of those needs and overall system operations. The new DSM requirements will also reduce the amount of customer needs, but will likely also impact the overall load profile and the type of resources best suited to meeting system needs.

Having reviewed the parties' written and oral comments, the Commission concludes that the public interest would be served by adjusting the timing of several dockets affected by the legislation as specified below in the Ordering Paragraphs of this Order.

The Commission is not insensitive to the concern expressed by Westmoreland that any undue delay may prejudice its participation in Xcel's Competitive Bidding Resource Acquisition Process for 375 MW Base Load Generation in Docket No. E-002/CN-06-1518. However, the significant change in utility energy goals and source requirements resulting from the new legislation means that proceeding with resource acquisition dockets without first securing a reasonable assessment of the impact of this new legislation upon the Company's resource needs and resulting plans would be imprudent, irresponsible and contrary to the public interest. To do so would risk wasting a considerable amount of administrative and utility resources in approving plans that may have to be discarded or significantly modified as the implications of the new legislation came to light.

In these circumstances, the Commission will suspend proceedings in several affected dockets, as specified below in the Order Paragraphs. However, to assure that these dockets proceed expeditiously once the implications of the new legislation are taken into account, the Commission will require Xcel, as part of its proposed resource plan on or before December 14, 2007, to file a clear procedure for resolving each of the temporarily suspended resource acquisition proceedings. The Commission will require the Company to explain why, given the Company's resource plan filing, each of the proposed procedural paths is reasonable.

⁴ Compliance with this standard will require the addition of 3,000 to 4,400 MW of new wind resources on the Company's system, or about 300 MW annually until 2020. In contrast, Xcel's 2004 Resource Plan required the addition of 1,6870 MW of wind buy 2019.

⁵ See Minn. Session Laws 2007, Chapter 136, Article 2.

The Commission finds that delaying and suspending the current resource acquisition proceedings in this manner will allow the Company the time necessary to prepare a comprehensive resource plan filing that reflects new 2007 legislative requirements, updated forecasts and assumptions, and compliance requirements from the 2004 resource plan.

ORDER

1. The Commission approves the following modifications to Xcel's resource acquisition proceeding schedule:
 - a. the current schedule in the 375 MW baseload acquisition contested case proceeding (Docket No. E-002/CN-06-1518) is temporarily suspended, until such time that a plan, as discussed in (e) below, is filed by Xcel and the Commission has acted on that plan;
 - b. Xcel's request to delay the filing date for the Environmental Improvement Rider and Capacity Expansion at Sherco Units 1, 2, & 3 (Docket No. E-002/M-07-2) is granted until at least December 14, 2007;
 - c. Xcel's request to delay the filing date for the Certificate of Need for the Prairie Island Uprate and Additional Spent Fuel Storage, and the Certificate of Need for Monticello Power Uprate is granted until at least December 14, 2007;
 - d. Xcel's request to file its next resource plan on December 14, 2007, prior to the current due date of March 3, 2008, is granted;
2. On or before filed December 14, 2007 (the same date as Xcel's next resource plan), Xcel shall file a plan which clearly lays out a proposed procedure for resolving each of the temporarily suspended resource acquisition proceedings above. The plan shall include explanation of why, given the Company's resource plan filing, each of the proposed procedural paths is reasonable.
3. As part of the resource plan it files on or before December 14, 2007, Xcel shall
 - a. address any newly legislated CO2 management and reduction goals and policies in Minnesota statute;
 - b. consider opportunities for the installation of distributed generation as required under Minn. Stat. § 216B.2426;

- c. provide clear, consistent, and transparent information about the natural gas prices and forecasts used in its resource plan, making as much of that information public as possible,
 - d. provide the results of model runs using base case, high, and low gas price assumptions, and be as clear as possible about the sensitivity of the resource outcomes to the gas price assumptions; and
 - e. clearly discuss why Xcel believes that its models use reasonable assumptions (in light of, for example, actual annual aggregate volume of natural gas consumed for power generation for Xcel's owned and contracted natural gas plants and current natural gas storage capacity in Minnesota) and produce logical results.
4. On or before its December 14, 2007 resource plan filing, Xcel shall file its utility renewable energy plan.
 5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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