

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer	Chair
David C. Boyd	Commissioner
Marshall Johnson	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of a Commission Investigation
into Xcel Energy's Fixed Monthly Payment
Pilot Program

ISSUE DATE: October 8, 2007

DOCKET NO. G-002/CI-07-541

In the Matter of the Petition of Northern States
Power Company d/b/a Xcel Energy for
Approval of a Fixed Bill Option Tariff and
Rule Variance

DOCKET NO. G-002/M-05-393

LEAD COMMISSIONER'S ORDER
COMPELLING DISCOVERY

PROCEDURAL HISTORY

On September 24, 2007, Xcel Energy filed an application with the Lead Commissioner in this case, Commissioner Thomas Pugh, requesting that the Commission issue a subpoena duces tecum under Minn. Stat. § 216B.28 compelling it to produce tape recordings requested by the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) in Information Request # 29. At the Commission's request, the RUD-OAG is taking primary responsibility for conducting the investigation in this case.¹

The tape recordings sought in the Information Request are recordings of telephone conversations between Xcel's customers and the third-party call center that handled customer inquiries regarding the fixed bill program that is under investigation. Xcel stated that it could not comply with the Information Request because it had adopted a policy prohibiting the release of tape recordings of customer calls, with three exceptions: (1) in emergencies; (2) with customer consent; and (3) in response to subpoenas. Xcel stated that it would produce the tape recordings upon receipt of a subpoena.

¹ The investigation was initiated in docket G-002/M-05-393, *In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of a Fixed Bill Option Tariff and Rule Variance*. The Commission asked the RUD-OAG to assume primary responsibility for conducting the investigation in its Order of April 27, 2007, Order Appointing Lead Commissioner, Commencing Investigations, and Requiring Further Data.

On October 3, 2007, the RUD-OAG filed a response opposing Xcel's request for a subpoena as unnecessary, stating that the Commission had clear authority to require production of the recordings under Minn. Stat. §§ 216B.05, 216B.08, and 216B.12-.14.

On October 5, 2007, Xcel filed a letter stating its willingness to produce the tape recordings at the Commission's direction.

FINDINGS AND CONCLUSIONS

The Lead Commissioner concurs with the RUD-OAG that Xcel is required to produce the requested recordings under Minn. Stat. §§ 216B.12-14, which require utilities subject to Commission jurisdiction to produce books and records at the Commission's request. Individual utilities' internal policies cannot and do not supersede their responsibilities under these statutes.

The subpoena authority cited by Xcel, which also appears at Minn. Stat. § 216.18, exists to permit the Commission to acquire the evidence of persons who are not normally subject to Commission jurisdiction. Xcel is fully subject to Commission jurisdiction, and it must produce the tape recordings requested under the statutes applicable to Minnesota utilities.

The Commission will so order.

ORDER

1. Xcel shall comply forthwith with Information Request # 29.
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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