

February 2, 2021

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E002/M-20-842

Dear Mr. Seuffert:

Attached are the Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department), in the following matter:

Petition of Northern States Power Company for Approval of Customer Identity and Access Management Platform Terms and Conditions and Amendments to Electric and Natural Gas Utility Rate Books

The Petition was filed on November 24, 2020 by:

Bria Shea
Director, Regulatory Pricing and Strategic Analysis
Xcel Energy
414 Nicollet Mall
Minneapolis, MN 55401

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve Northern States Power Company d/b/a Xcel Energy's (Xcel or the Company) changes to its terms and conditions related to its various digital platforms, which are included in its electric and natural gas tariffs, with modifications.** The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/CHRISTOPHER T. DAVIS
Analyst Coordinator

CTD/ar
Attachment

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Before the Minnesota Public Utilities Commission

Comments of the Minnesota Commerce Department Division of Energy Resources

Docket No. E002/M-20-842

I. BACKGROUND

On October 16, 2009, Northern States Power Company d/b/a Xcel Energy (Xcel or Company) filed a petition with the Commission seeking approval of the terms of use associated with its My Account service. In that petition, the Company requested Commission action pursuant Minn. Stat. §216B.05 and Minn R. 7829.1300. See Docket No. E,G002/M-09-1191. On October 6, 2009 the Department recommended approval of Xcel's petition. On March 31, 2010, the Commission approved Xcel's proposed terms of use and that they be included in in the Company's tariffs.

In addition, on January 13, 2015, the Company filed a petition (Docket No. E,G002/M-15-43) with the Commission seeking approval of proposed terms of use for Quick Pay and One-Time My Account Payment services, along with proposed amendments to the My Account and eBill customer agreements, and updates to the Company's bill backer. Through an order on the consent calendar, the Commission approved Xcel's request on February 27, 2015. The Commission also approved Xcel's Bill Backer tariff revisions on sheet 8-7 in the Company's electric and gas tariffs in its January 27, 2015 order in Docket No. G002/M-14-336. Together, these approvals resulted in revisions or new tariff provisions on electric tariff sheets 7-62 through 7-74, 7-87 through 7-97, and 8-7. These approvals also resulted in revisions or new tariff provisions on gas tariff sheets 7-43 through 7-66, and 8-7.

II. SUMMARY OF PROPOSAL

Xcel submitted a petition on November 24, 2020, requesting Commission approval of changes to the Company's customer terms and conditions related to its various digital platforms¹, which are included in its electric and natural gas tariffs. Xcel proposed changes to streamline the language in its terms and conditions and to make them applicable to all its digital platforms, rather than platform specific. Xcel's Petition seeks approval of consolidated terms and conditions associated with its customers' ability to transact business around its regulated offerings.²

Xcel stated that the Company used its existing tariffed MyAccount Online Agreement, along with the Customer Mobile Application Terms of Use as the starting point for its proposed modifications to

¹ Platforms refers to sites or apps that customers use to interact with the Company.

² None of Xcel's proposed changes discussed in the Petition would expand the types of customer data currently collected, retained, or used by the Company. The data privacy components of the terms and conditions are not being changed in this update.

consolidate its digital customer terms and conditions associated with its customers' ability to transact business digitally around Xcel's regulated offerings. Xcel classified the changes in two groups. First, Xcel stated that it proposed modifications with the intention of making the terms and conditions language more general and easier to understand, making them more universal to all its digital business offerings. Second, Xcel proposed changes and additions to the terms and conditions to bring them more in-line with industry standards common among digital terms and conditions for other utilities in the Company's peer group. Each of these groups is described below.

A. MORE GENERAL AND SIMPLER TERMS

Currently, each digital service that Xcel offers has a distinct set of terms and conditions. The Company's proposed modified terms and conditions, however, will generally apply to all services digitally available from the Company. The Company believes that this change will improve customer understanding of the features provided in the service such as the ability to view account balances and pay bills; manage payments and payment plans; view and monitor energy usage; control certain energy management products; establish communication preferences; view and search outage information; report outages; start, stop, or transfer utility service; as well as sign up for programs and services offered by Xcel. Xcel stated that the proposed modifications will allow customers to only have to read and understand one set of terms and conditions of the service, rather than several different terms and conditions for the individual digital services they wish to take from the Company.

In its proposed digital terms and conditions, the Company consolidated the list of services available by xcelenergy.com and other Xcel Energy websites, apps, and digital services that enables customers to manage their Xcel Energy utility account and other products and services offered through Xcel Energy. By doing this, Xcel intends for customers to quickly see the services they will have access to, or may have access to in the future, and will be able to access several functions from one platform.³

In addition, Xcel edited the language of the terms and conditions to make them easier for customers to understand. For example, the Company eliminated mentions of each Xcel Energy operating affiliate in the opening paragraph⁴, which confused customers who generally understand their utility provider as Xcel Energy. In addition, the Company replaced the mention of "premises" with "addresses" because the term addresses is more understandable to customers than the term premises.

B. ALIGNMENT OF TERMS AND CONDITIONS WITH INDUSTRY STANDARDS

Xcel recommended several changes to its digital terms and conditions to bring its terms and conditions into alignment with industry standards and the terms and conditions its peers use for the digital services. Through the process of reviewing potential modifications for the terms and conditions, Xcel compared its existing terms and conditions to those of other companies, principally Pacific Gas and

³ The list of features that will be accessible from the new platform can be found in Section 1 of the terms.

⁴ For example, Northern States Power Company – Minnesota, Northern States Power Company – Wisconsin, Public Service Company of Colorado, and Southwestern Public Service Company.

Electric and CenterPoint Energy. By conducting the comparisons, Xcel identified content missing from its terms that will be protect customers and the Company as digital service use continues to expand. Based on its comparisons, Xcel proposed three new sections to its digital terms and conditions. Each of these sections has been added to protect customers and/or the Company, either regarding protections that were previously missing or new functionality. These sections are summarized below.

1. Intellectual Property Rights

Xcel's current terms and conditions do not include protection of intellectual property rights, so Xcel proposed Section 9 – Intellectual Property Rights, which summarizes some of the Company's intellectual property that may be contained on the Company's digital platforms and highlights the restrictions on customer use of that property.

In addition, Xcel proposed Section 14 – Your Content. This proposed new section highlights customers' rights and responsibilities in relation to content (e.g., pictures, text, graphics, or logos) that they may share with Xcel through the Company's digital platforms. While Xcel's digital platforms will not feature this functionality in the near term, it may be an added enhancement in the future. Adding this section now anticipates future developments in eliminating mentions of each Xcel Energy operating affiliate in the opening paragraph, which served to confuse customers who generally understand their utility provider as Xcel Energy. In addition, the Company also proposed to replace the mention of premises with addresses because the term "addresses" is more understandable to customers than the term "premises".

Finally, Xcel proposed adding Section 15 – Reporting Claims of Copyright Infringement. This proposed section describes the process that customers can go through if they believe that content hosted by the Company violates the customer's legitimate copyright. This section will be necessary if customers begin sharing content with Xcel. As with the addition of Section 14, adding this section now would eliminate the need for a future modification request.

2. Digital Customer Experience Improvements

Xcel proposed to streamline the sign-in process so that a customer no longer must sign into different software platforms to access different Company platforms. In addition, Xcel's new digital platforms will feature:

- An improved password recovery process;
- The ability to sign in with a favorite social media provider; and
- The ability to opt-in to additional security two-factor authentication.

3. Xcel's Proposed Implementation Plan

If the Commission approves Xcel's Petition, the Company intends to submit a compliance filing that would use the proposed terms and conditions to replace the following several pages in Section 7 of its rate books:

- Electric Utility Rate Book, Section No. 7, Pages 62 through 68 – MyAccount Online Agreement;
- Electric Utility Rate Book, Section No. 7, Pages 106 through 112 – Customer Mobile Application Terms of Use;
- Natural Gas Utility Rate Book, Section No. 7, Pages 43 through 49 – My Account Online Agreement;
- Natural Gas Utility Rate Book, Section No. 7, Pages 67 through 73 – Customer Mobile Application Terms of Use.

4. Xcel's Procedural Proposal for Future Modifications

Xcel requested that the Commission approve a process that enables quick approval of future changes to the wording of tariffs regarding on-line services. Specifically, the Company proposed to make a miscellaneous filing pursuant to Minn. R. 7829.1400, and that if there is no timely opposition filed, the proposal be allowed to go onto the Commission's consent calendar for the Commission's consideration. This approach is the process used for the Company's proposed tariff changes in Docket No. E.G002/M-15-43 and in other dockets. Under the proposed process, if there is a timely filed objection, then the Commission could consider that objection as it ordinarily would. But changes to tariffs with no opposition could be implemented in an efficient way while maintaining transparency for all stakeholders.

III. DEPARTMENT ANALYSIS

For its analysis, the Department reviewed the Company's proposed changes and submitted several information requests for clarification.

Based on our review, the Department recommends that the Commission approve with modifications the proposed "Xcel Energy's Online Terms of Use" as presented in Attachment A of the Petition and Xcel's proposal to streamline the future approval of changes to the online terms of use, as explained below.

A. *ONLINE TERMS OF USE (TOU)*

In Department's Information Request No. 2. (DOC IR No. 2) the Department asked:

In its Terms of Use ("TOU") preamble, the Company stated that "Xcel Energy may modify these terms at any time in its sole discretion, with or without notice" to the user. Does the Company agree that it may only modify terms in a filed tariff to the extent permitted by the applicable public utilities commission?

In its reply, the Company stated:

The Company agrees that modifications to tariffed terms and conditions must follow Commission rules. This clause in our proposed terms and conditions simply means that we do not need to provide notice to customers before we request a modification from the Commission.

As written in the proposed TOU, Xcel Energy has the unilateral right to amend its terms. The Department recommends that the terms be revised in two spots so that the Company must engage in reasonable efforts to notify users of the changes. The Department believes it would be unreasonable to assume that customers are going to regularly check to see if Xcel's terms have changed or to place that responsibility entirely on them.

On page 1 of the proposed "Xcel Energy's Online Terms of Use", the Department suggests the following modification:

XCEL ENERGY MAY MODIFY THESE TERMS AT ANY TIME IN ITS SOLE DISCRETION, WHILE XCEL ENERGY WILL MAKE REASONABLE EFFORTS TO NOTIFY YOU OF MATERIAL CHANGES TO THESE TERMS OF USE, WITH OR WITHOUT NOTICE TO YOU, YOU ARE RESPONSIBLE ~~TO~~ FOR REVIEWING THESE TERMS OF USE ON A REGULAR BASIS.

On page 4 of the proposed "Xcel Energy's Online Terms of Use", the Department suggests the following modification:

These Terms of Use, or portions thereof as provided by law, may be subject to the jurisdiction of certain public utilities commissions that regulate Xcel Energy's provision of utility services to you (the "Commission"). Xcel Energy may submit a copy of these Terms of Use with each such Commission. Please check the general terms and conditions of these Terms of Use regularly. In the future, Xcel Energy may modify these Terms of Use. While Xcel Energy will make reasonable efforts to notify you of material changes to these Terms of Use, Please note, however, that your continued access or use of the Service after amendments are posted will

constitute your acceptance of such amendments. If you have any questions about these Terms, contact Xcel Energy at the relevant contact information found at <http://www.xcelenergy.com/ContactUs>.

B. STREAMLINING APPROVAL PROCESS

In Xcel's response to DOC IR 9, the Company clarified that the proposed streamlined process is only intended for changes to online terms of use. Xcel's response is included as DOC Attachment A. With this clarification, the Department recommends that the Commission approve Xcel's proposal for streamlining the future approval process for the wording of tariffs. Specifically, the Company proposed to make a miscellaneous filing pursuant to Minn. R. 7829.1400, and that if there is no timely opposition filed, the proposal be allowed to go onto the Commission's consent calendar for the Commission's consideration.

IV. DEPARTMENT RECOMMENDATIONS

The Department recommends that the Commission approve Xcel Energy's Online Terms of Use with the following modifications:

Page 1 of the TOU should be amended to read:

XCEL ENERGY MAY MODIFY THESE TERMS AT ANY TIME IN ITS SOLE DISCRETION, WHILE XCEL ENERGY WILL MAKE REASONABLE EFFORTS TO NOTIFY YOU OF MATERIAL CHANGES TO THESE TERMS OF USE, WITH OR WITHOUT NOTICE TO YOU, YOU ARE RESPONSIBLE ~~TO~~ FOR REVIEWING THESE TERMS OF USE ON A REGULAR BASIS.

Page 4 of the TOU should be amended to read:

These Terms of Use, or portions thereof as provided by law, may be subject to the jurisdiction of certain public utilities commissions that regulate Xcel Energy's provision of utility services to you (the "Commission"). Xcel Energy may submit a copy of these Terms of Use with each such Commission. Please check the general terms and conditions of these Terms of Use regularly. In the future, Xcel Energy may modify these Terms of Use. While Xcel Energy will make reasonable efforts to notify you of material changes to these Terms of Use, Please note, however, that your continued access or use of the Service after amendments are posted will constitute your acceptance of such amendments. If you have any questions about these Terms, contact Xcel Energy at the relevant contact information found at <http://www.xcelenergy.com/ContactUs>.

In addition, the Department recommends that the Commission streamline how Xcel Energy can modify its Online Terms of Use by allowing the Company to make a miscellaneous filing pursuant to Minn. R. 7829.1400, and that if there is no timely opposition filed, the proposal be allowed to go onto the Commission's consent calendar for the Commission's consideration.

/ar

- Not Public Document – Not For Public Disclosure
 Public Document – Not Public Data Has Been Excised
 Public Document

Xcel Energy Information Request No. 9
Docket No.: E,G002/M-20-842
Response To: Department of Commerce
Requestor: Christopher T. Davis
Date Received: January 4, 2021

Question:

On page 9 of its filing, the Company stated:
Further, for future modifications to these tariff provisions we seek approval for the Company to file a miscellaneous filing pursuant to Minn. R. 7829.1400, and that if there is no timely opposition filed, the filing be allowed to go onto the Commission's consent calendar for the Commission's consideration.

- a. Please explain what "these tariff provisions" refers to.
- b. Would the proposed process apply to changes in language for all Xcel tariffs, or just ones relating to on-line services?

Response:

- a. We are referring to the tariff pages that we propose to add to the electric and natural gas for the new digital terms and conditions.
- b. No, we are not proposing a wholesale change to the process for approving tariff changes.

Preparer: Brandon Kirschner
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Telephone: 612-215-5361
Date: January 14, 2021