



PowerWorks Wind Turbines LLC

20 August 2013

Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, Minnesota 55101-2147
sent via e-mail to PublicComments.PUC@state.mn.us

Attention: Dr. Burl W. Haar, Executive Secretary

Subject: Xcel Energy should have recommended PowerWorks Wind Turbines's project as an Energy Production project in its RDF RFP

Dear Dr. Haar,

PowerWorks Wind Turbines LLC ("**PowerWorks**") hereby contests Xcel Energy's ("**Xcel**") final Energy Production project recommendations to the Minnesota Public Utilities Commission ("**MPUC**"). Using a "holistic approach" with "subjective criteria," which defies rational explanation and the quantitative measurement and evaluation of the disinterested third-party expert, Sargent & Lundy (the "**Independent Expert**"), Xcel improperly rejected PowerWorks's proposal and recommended a more costly and less productive wind project to the MPUC. If the MPUC accepts Xcel's recommendation, it will be in violation of the parameters and processes of the Fourth Funding Cycle Renewable Development Fund ("**RDF**") Request For Proposals ("**RFP**") as well as Minnesota state law. For this reason, the MPUC should reject Xcel's recommendation, and award PowerWorks the Energy Production grant based on the Independent Expert's analysis.

The project selected did NOT follow the process approved by the MPUC. Xcel did not follow the approved selection process for two reasons: first, Xcel did not properly utilize the objective evaluation of the Independent Expert; second, Xcel is unable to make the results of the RDF projects available to the public.

1. Xcel did not properly utilize the objective evaluation of the Independent Expert. The RFP makes it clear that, when making its recommendations to the MPUC, "Xcel Energy is required to utilize an [Independent Expert] to evaluate proposals submitted in response to this RFP." Xcel will then consider both the "[Independent Expert's] evaluation as well as the recommendations of the RDF advisory group." (See page 13 of Xcel's RFP, 15 February 2013.)

Using quantifiable criteria and data, the Independent Expert scored each of the submitted RFP bids on a 230 point scale. This scoring focused on proposal completeness, technical feasibility, project technical and financial risk, and benefits to Xcel ratepayers. Although PowerWorks received a score of 173.75, by far the highest of any wind project in the Energy Production

class, Xcel recommended a project that received a score of 129.57, which is 44.18 points less than PowerWorks. The difference in these scores is more than 19% of all available points.

Rejecting the findings of the Independent Expert, Xcel adopted the RDF advisory group's "holistic approach." (See page 11 of Xcel's Selection Report, 29 July 2013, emphasis added.) While the RDF advisory group supposedly considered "the technical scoring completed by the [Independent Expert]," their review also included "a certain degree of subjective consideration." (See page 11 of Xcel's Selection Report, emphasis added.) Using this "holistic approach" with "subjective considerations," Xcel and the RDF advisory board selected a more costly and less productive wind project, despite the significant score disparity in the Independent Expert's objective study.

Because Xcel's process employed a "holistic approach" with "subjective considerations," which apparently trumped all of the Independent Expert's objective and quantifiable data and findings combined, it's clear that Xcel did not follow the MPUC approved process — therefore, as a result, the MPUC should not approve Xcel's recommendation. However, even if the MPUC accepts the process followed by Xcel, the MPUC should reject Xcel's recommendation and select PowerWorks's project for the grant award because it embodies each of the "unique and less quantifiable" considerations provided by Xcel. (See page 11 of Xcel's Selection Report.)

2. Xcel is unable to make the results of the RDF projects available to the public. The RDF guidelines specify that "results of RDF projects must be made available to the public." (See page 1 of Xcel's RFP.) Only through this requirement can Xcel be directly held accountable to the public for the recommendation it makes to the MPUC.

Clearly, making results publicly available implies providing to the public the name(s) of the recommended project(s). However, to give this requirement any significance, Xcel must also explain how and why a particular project was recommended over the other projects.

Through its objective evaluation, which was based on the framework and criteria outlined in the RFP, the Independent Expert systematically scored each of the proposals. While this methodology could be independently verified, it also had the designed benefit of informing the public how and why certain proposals were more in line with the parameters of the RDF than others. Xcel approved this methodology when Xcel selected Sargent & Lundy as the Independent Expert through its extensive RFP and interview process.

However, Xcel limited the findings of the Independent Expert's report. While Xcel acknowledged that the Independent Expert's technical review "was sound and helpful," Xcel seems to have rejected the objective report of the Independent Expert and adopted the RDF advisory board's "holistic approach" and "subjective consideration" of a non-exhaustive list of "less quantifiable aspects of the proposals." (See page 11 of Xcel's Selection Report.) With its reasoning shrouded in this ambiguity, Xcel then made its recommendation to the MPUC, despite the fact that the recommended project received 44.18 less points than PowerWorks in the Independent Expert's evaluation. While Xcel did highlight some of the subjective merits of the selected wind Energy Production project, it failed to explain how or why those highlighted merits overcame the deficit that was objectively calculated in the Independent Expert's study. (See page 20 of Xcel's Selection Report.)

Without explaining how the recommended project overcame its deficit, it cannot be determined whether or not Xcel followed the approved process with respect to this public notice

requirement. This failure effectively diminished any semblance of objectivity in this RFP to insignificance and deprived the public of any purposeful notice.

Even if the MPUC determines that Xcel followed its approved process and used the Independent Expert properly, then Xcel must justify why it selected an Independent Expert that created a methodology with which Xcel fundamentally disagreed. Furthermore, Xcel must justify why it fundamentally disagreed with the Independent Expert's methodology. If the MPUC finds this explanation unnecessary, then the MPUC should not require Minnesota ratepayers to pay for such a purposeless Independent Expert.

3. The process followed by Xcel was NOT appropriate. Regardless of whether or not Xcel followed the MPUC approved process, the process Xcel used was inappropriate on other grounds. While the exclusion of all subjectivity from the RFP evaluation process is likely unfeasible, it was inappropriate for Xcel to attach such significance to the "subjective considerations" analyzed through the RDF advisory board's "holistic approach."

Given that these "subjective considerations," which apparently were given more weight than all of the Independent Expert's quantifiable data and findings combined, were not announced prior to the RFP submission deadline, the parties who bid into the RFP were not notified of the actual criteria against which their projects would be evaluated. As a result of this lack of notice, bidding parties, like PowerWorks, weren't able to highlight those aspects of their project in their proposals, which potentially rendered the entire RFP selection process arbitrary.

Further, Xcel is unwilling to provide an exhaustive list of "the unique and less quantifiable aspects of the proposals" that were supposedly used in the RDF advisory board's "holistic approach" that guided their recommendation. (See page 11 of Xcel's Selection Report.) This lack of certainty or clarity seriously draws the legitimacy and appropriateness of Xcel's decision making process into question.

Given these weaknesses, the MPUC should not accept the decision making process Xcel followed. However, even if the MPUC accepts the process followed by Xcel, PowerWorks's proposal still should have been the recommended project for it demonstrates each of the "unique and less quantifiable" considerations that Xcel has been able to provide no less than the wind Energy Production project that was recommended.

4. Xcel's recommendation is NOT in accordance with Minnesota Statute, Section 116C.779. This statute mandates the types of expenditures for which RDF funds may be used. Most relevantly, these are: "(1) to increase the market penetration within the state of renewable electric energy resources at reasonable costs; ...and (4) to develop near-commercial... renewable electric projects..." (emphasis added).

4.1 Reasonable costs. The Independent Expert found that PowerWorks submitted a project with a very reasonable cost, as reflected in its "Total Resource Cost \$/kWh" category, and awarded it a perfect score of 60. At \$0.09/kWh, PowerWorks was able to significantly underbid the recommended wind Energy Production project by \$0.18/kWh. To give some perspective, the only other wind Energy Production project that received a perfect score of 60 from the Independent Expert bid \$0.13/kWh. In other words, PowerWorks was able to underbid a project with a perfect "Total Resource Cost \$/kWh" score by \$0.04/kWh. Similarly, with 13.33, PowerWorks scored significantly higher in the Independent Expert's "Potential Benefits to

Minnesota and Ratepayers” category than the recommended wind Energy Production project, Bergey Windpower Co.’s Minnesota Clustered Small Wind Project (EP4-24), which scored 9.17.

However, Xcel not only disregarded PowerWorks for the grant award, it didn’t even recommend PowerWorks for the Tier I or Tier II Reserve Projects. In so doing, Xcel ensured higher costs and fewer benefits for its ratepayers. For this reason alone, Xcel owes the public and PowerWorks an explanation as to how it made its decision.

4.2 Development of renewable energy projects and near-commercial renewable electric projects. As for the statutory requirements that the RDF attract and develop near-commercial renewable electric projects, Xcel’s recommendation will likely have the opposite effect if accepted by the MPUC.

If Xcel is able to reject the objective and quantifiable data and findings of the Independent Expert that it selected through an RFP process simply for a “holistic approach” with “subjective considerations” of vague factors, then Xcel and the MPUC will not only lose credibility, but legitimate renewable energy developers will be less likely to go through the hurdles of submitting RFP bids in the future.

In conclusion, MPUC should reject Xcel’s recommendation and award the RDF grant to PowerWorks.

Sincerely,

PowerWorks Wind Turbines LLC



Bob Eggers
Legal Counsel

cc: Mr. Mark Ritter, RDF Grant Administrator, Xcel Energy