



414 Nicollet Mall  
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July 24, 2014

Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101

—Via Electronic Filing—

RE: COMMENTS  
PRIVACY POLICIES OF RATE-REGULATED ENERGY UTILITIES  
DOCKET NO. E,G999/CI-12-1344

Dear Dr. Haar:

Northern States Power Company, doing business as Xcel Energy, submits the enclosed Comments in response to the regarding the July 14, 2014 Petition for Rehearing and Reconsideration submitted by CenterPoint Energy (CPE).

We have electronically filed this document with the Minnesota Public Utilities Commission, and copies have been served on the parties on the attached service list. Please contact Jody Londo at [jody.l.londo@xcelenergy.com](mailto:jody.l.londo@xcelenergy.com) or (612) 330-5601 if you have any questions regarding this filing.

Sincerely,

/s/

CHRISTOPHER B. CLARK  
REGIONAL VICE PRESIDENT  
RATES AND REGULATORY AFFAIRS

Enclosures  
c: Service List

STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	Chair
David Boyd	Commissioner
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Betsy Wergin	Commissioner

IN THE MATTER OF A COMMISSION  
INQUIRY INTO PRIVACY POLICIES OF  
RATE-REGULATED ENERGY UTILITIES

DOCKET NO. E,G999/CI-12-1344

**COMMENTS**

**INTRODUCTION**

Northern States Power Company, doing business as Xcel Energy, submits to the Minnesota Public Utilities Commission these Comments regarding the July 14, 2014 Petition for Rehearing and Reconsideration submitted by CenterPoint Energy (CPE). CPE's Petition respectfully requests the Commission reconsider aspects of its June 24, 2014 ORDER REQUIRING UTILITIES TO ADOPT AND DOCUMENT PROCESSES REGARDING PERSONALLY IDENTIFIABLE INFORMATION AND OTHER ACTION in the above-referenced docket.

In their Petition, CPE described concerns they have realized as they have analyzed and attempted to determine the implications of the Order on the Company, its operations and its customers. Similarly, we have been doing the same in preparation for submitting the compliance filing required by the Order. While our plan has been to outline for the Commission how we believe we comply with the intent of the Order, we agree with CPE that certain aspects of the Order are ambiguous and would benefit from further record development.

Specifically, we agree with CPE that the Commission's definition of Personally Identifiable Information (PII) and related requirements:

- Are overly-broad and create significant ambiguity with respect to utility compliance;
- Exceed and are inconsistent with statutory requirements imposed on other Minnesota businesses, and if explicitly applied, are likely to result in significant costs and customer confusion; and

- Were established without a sufficient record from which the Commission could examine and understand customer and utility impacts.

#### **A. The Order Establishes Ambiguous and Overly-Broad Standards**

CPE's Petition discussed that the National Institute of Standards and Technology (NIST)-based definition of PII that the Commission linked to specific standards and requirements in its Order was intended to be a starting point for companies to develop risk-based and risk-appropriate privacy and security controls, which is how Xcel Energy has used the related NIST guidelines to date. We agree with CPE that the Order's requirement to treat all PII the same conflicts with NIST's intent for its guidelines, creates significant ambiguity for utilities with respect to their ongoing compliance with the Commission's expectations, imposes greater requirements on utilities than other Minnesota businesses, and if explicitly-applied, is likely to result in significant utility costs and customer confusion.

As we have examined the Order's requirements in preparation for our compliance filing also required by the Order, our intent has been to discuss our risk-based approach to classifying various types of customer data, consistent with the NIST guidelines cited in the Order, such as Name, Address, Xcel Energy Account Number, and Social Security Number (SSN) – reserving our most stringent controls for the types of data that have been identified by Federal and Minnesota laws, and industry best practices, as having the greatest risk to customer privacy, such as SSN. We also planned to state our intent with respect to customer notification of a data security breach, which we believe should be reserved for only those circumstances contemplated by existing Federal and State laws developed for this specific purpose.

We acknowledge, however, that our intended approach to demonstrate our compliance with the Order's requirements is not without risk. While our practices are consistent with NIST and other leading guidance, are compliant with all applicable Federal and State laws, and by all other measures, are appropriately responsible, because of the way the Order defines PII and states related requirements, this or a future Commission may determine that our practices are not compliant with the Order's explicit requirements. We therefore agree with CPE that the Order, as written, creates an unacceptable level of ambiguity for utilities.

#### **B. The Explicit Standards are Inconsistent with State Statute**

As CPE discusses, the Order's breach notification mandate, when combined with the NIST SP 800-53 broad definition of PII, is inconsistent with the requirements and

goals of the Minnesota breach notification statute, and does not otherwise enhance the privacy or security of customer data. An explicit application of the Order would require notification in any instance of unauthorized use or disclosure of any PII, including instances where the exposure involved only publicly-available details such as a customer's name or address. This requirement would result in customers receiving notice that information that is publically available in many forums may have been viewed inconsistent with our internal policies and procedures. This sort of access would not pose any risk to the customers, and the notice likely would not be of any value to them.

Breach notification statutes are intended to allow individuals to mitigate harm that may result from unauthorized access to their personal information, to give individuals early warning when their personal information has fallen into the hands of an unauthorized person, so that they can take steps to protect themselves against potential identity theft or to mitigate the crime's impact. To achieve this purpose, state breach notification statutes, including the Minnesota statute, limit the scope of personal information for which breach notice is required to details that can – when accessed by unauthorized persons – be sufficient to commit identity theft or other fraud. It is a risk-based approach, where notification is only provided when it is meaningful.

We agree with CPE that customer notices that are not tailored to risk do not warn affected individuals of danger that they can counteract, or give them other actionable information. Instead, such notices are likely to lead to over-notification and desensitize customers to security breaches involving actual risk. Over-notification raises the risk that customers will ignore important notices, and thus compromise the security of their personal information. As noted previously, the broad NIST definition of PII specified in the Order was never intended to be applied directly to requirements that are designed to mitigate risk inherent to only a limited subset of personal information.

Finally, we agree with CPE that utility practices with respect to the varied types of customer data they maintain must reflect the nature of their business and the sensitivity of the information, like the Minnesota state statute requires of all businesses. The Commission's Order goes beyond state statute and imposes requirements on utilities that are not rooted in a risk-based approach and that are much more stringent than the requirements for other Minnesota businesses, contrary to its decision with regard to collection and use of SSNs.

### **C. The Record Would Benefit from Further Development**

As CPE notes, the definition of PII and the other specific requirements outlined in the Commission's Order were distributed and then modified on the day of the Agenda Meeting for this matter. Parties had very little time to consider the potential costs and other implications of the proposed PII definition and other standards and requirements for which there had also been no previous record development. Therefore, we support further exploration of the concepts and requirements contained in the Order to ensure the costs and customer and utility consequences are fully understood before they are imposed.

### **CONCLUSION**

Xcel Energy respectfully requests that the Commission consider these Comments as it contemplates CPE's request for reconsideration of the Commission's June 24, 2014 Order. While our plan has been to outline for the Commission how we believe we comply with the intent of the Order, we agree with CPE that certain aspects of the Order are ambiguous and would benefit from further record development.

Dated: July 24, 2014

Northern States Power Company

Respectfully submitted by:

/s/

CHRISTOPHER B. CLARK  
REGIONAL VICE PRESIDENT  
RATES AND REGULATORY AFFAIRS

**CERTIFICATE OF SERVICE**

I, Theresa Sarafolean, hereby certify that I have this day served copies or summaries of the foregoing document on the attached list of persons.

xx by depositing a true and correct copy thereof, properly enveloped with postage paid in the United States Mail at Minneapolis, Minnesota

xx electronic filing

**DOCKET No. E,G-999/CI-12-1344**

Dated this 24th day of July 2014

/s/

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Theresa Sarafolean

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