COMMERCE DEPARTMENT

August 2, 2017 **PUBLIC DOCUMENT**

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: **PUBLIC Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E002/M-17-531

Dear Mr. Wolf:

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

Petition for Approval to Terminate the Pine Bend Purchase Power Agreement.

The Petition was filed on June 30, 2017 by:

Aakash H. Chandarana
Regional Vice President, Rates and Regulatory Affairs
Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve the petition**. The Department is available to respond to any questions the Commission may have.

Sincerely,

/s/ STEVE RAKOW
Analyst Coordinator

SR/lt
Attachment

COMMERCE DEPARTMENT

Before the Minnesota Public Utilities Commission

PUBLIC Comments of the Minnesota Department of Commerce
Division of Energy Resources

Docket No. E002/M-17-531

I. INTRODUCTION

On June 30, 2017, Northern States Power Company, doing business as Xcel Energy (Xcel or the Company) filed the Company's *Petition for Approval to Terminate the Pine Bend Purchase Power Agreement* (Petition) pursuant to Minnesota Statutes § 216B.1645 along with Minnesota Rules 7829.3200 and 7829.1300. The Petition seeks Commission approval of the *Agreement to Terminate the Power Purchase Agreement by and between Northern States Power Company and Gas Recovery Systems Energy, LLC* (Termination Agreement).

The Termination Agreement provides for early termination of a power purchase agreement (PPA) between Xcel and Gas Recovery System Energy, LLC (GRS). The PPA is currently scheduled to terminate on December 31, 2025. According to the information in Appendix J of Xcel's petition in the Company's most recent resource plan (Docket No. E002/RP-15-21) GRS's Pine Bend facility has a maximum capacity of 12 MW and is fueled with landfill gas. The Petition states that Pine Bend produces about 36,000 MWh per year. [1]

The Company requests that the Commission:

- approve the proposal to terminate the PPA with GRS;
- approve cost recovery through the fuel clause adjustment (FCA) of the expenses and costs associated with the transaction; and
- grant a three-year FCA variance.

Below are the comments of the Minnesota Department of Commerce, Division of Energy Resources, Energy Regulation and Planning (Department) regarding the Petition.

[1] The Department reviewed Xcel's recent Federal Energy Regulatory Commission (FERC) Form 1 filings and confirmed that 36,000 MWh per year is a reasonable estimate.

II. DEPARTMENT ANALYSIS

A. GOVERNING STATUTES AND RULES

The Company filed the Petition pursuant to Minnesota Statutes § 216B.1645, which states in part:

> Subdivision 1. Commission authority. Upon the petition of a public utility, the Public Utilities Commission shall approve or disapprove power purchase contracts, investments, or expenditures entered into or made by the utility to satisfy the wind and biomass mandates contained in sections 216B.169, 216B.2423, and 216B.2424, and to satisfy the renewable energy objectives and standards set forth in section 216B.1691
>
> …
>
> Subd. 2. Cost recovery. The expenses incurred by the utility over the duration of the approved contract or useful life of the investment and expenditures made pursuant to section 116C.779 shall be recoverable from the ratepayers of the utility, to the extent they are not offset by utility revenues attributable to the contracts, investments, or expenditures. Upon petition by a public utility, the commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover the expenses or costs approved by the commission under subdivision 1, which, in the case of transmission expenditures, are limited to the portion of actual transmission costs that are directly allocable to the need to transmit power from the renewable sources of energy. The commission may not approve recovery of the costs for that portion of the power generated from sources governed by this section that the utility sells into the wholesale market.

The Department notes that the renewable energy standards set forth in Minnesota Statutes § 216B.1691 subdivision 1 (a) (5) includes landfill gas in the definition of renewable energy. Thus, GRS's Pine Bend facility qualifies as renewable.

The Petition qualifies as a miscellaneous tariff filing. Minnesota Rules part 7829.1300 contains the completeness requirements for miscellaneous filings. The Department reviewed the Petition for compliance with the completeness requirements and concludes that the Petition is complete.

B. REVIEW OF THE TERMINATION AGREEMENT

1. Pricing Terms

Under the current PPA Xcel pays GRS an "all-in" price per MWh. The price paid by Xcel for energy from Pine Bend is provided in Table 1 of the Petition. The PPA price is greater than the current prices in the Midcontinent Independent System Operator, Inc.'s (MISO) energy spot market and is greater than the current price for the least cost renewable energy source (wind).

Under the Termination Agreement, Xcel would cease taking energy from Pine Bend on the first day of the month following approval of the Termination Agreement. The Termination Agreement would then set up a monthly payment from Xcel to GRS, based upon the current contract price and the locational marginal price (LMP) as follows:

Formula 1: Monthly Termination Payment

[3,000 MWh * Current Contract Price] – [3,000 MWh * (NSP.NSP node LMP + $10)]

The monthly termination payment would continue until the earlier of 3 years or the total payment reaching $1.05 million. In addition to the termination payment, Xcel would have to acquire replacement energy. In Xcel's model the assumption is that replacement energy—to replace the energy no longer acquired from GRS—is acquired at the assumed MISO spot market price.

The Department reviewed Xcel's model of the Termination Payments and concludes that the model is reasonable. To test the validity of Xcel's assumptions, the Department started with Xcel's model and increased the assumed NSP.NSP node LMP until the resulting ratepayer savings were close to zero. This process demonstrated that ratepayers would be better off at LMP's up to Xcel's forecast plus $25. The degree of increase that would have to occur for LMPs to reach the breakeven point is illustrated below in Figure 1. Based upon the data in Figure 1, the Department concludes that it is unlikely that LMPs will exceed or equal the breakeven point on a sustained basis in the near future.

Figure 1: Historical and Break Even LMPs

[TRADE SECRET DATA HAS BEEN EXCISED]

2. Other Terms

The Department typically reviews PPAs to ensure that ratepayers are protected from financial and operational risks of the underlying project. In this case there are no operational risks since the Termination Agreement would end Xcel's purchases from Pine Bend. The two main financial risks are:

- a seller default and termination of the PPA before the expiration of the contract period, and
- entitlement by a lender or other party, as a result of the seller's failure to pay debt, to take over the project and terminate the PPA.

In this case GRS is not making any payments, thus default is unlikely. Further, the short term nature of the Termination Agreement and the fact that Xcel will not be relying upon Pine Bend for energy or capacity support a conclusion that the financial risks of the Termination Agreement are minimal. Therefore, the Department concludes that Xcel's ratepayers are reasonably protected from financial risks under the proposal.

C. REVIEW OF COST RECOVERY

Xcel requests that the Commission approve recovery that provides for the automatic adjustment through the FCA of associated costs with the Termination Agreement. Xcel states that:

> Commission approval of cost recovery through the FCA for this proposal is warranted as we will continue to incur monthly expenses to be paid to a third party related to an existing PPA in an effort to save our customers money. The fact that we are not receiving energy or capacity in exchange for this payment is overcome by the substantial customer savings that will flow from making these necessary payments.

The Petition recognized that the proposed cost recovery requires a variance from the Commission's rules since the Termination Agreement does not involve Xcel purchasing energy or fuel. Specifically, Minnesota Rules 7825.2500 states, in part:

> Provisions for the automatic adjustment of charges must encompass:
>
> A. Changes in cost resulting from changes in the federal regulated wholesale rate for energy purchased and changes in the cost of fuel consumed in the generation of electricity. This provision is entitled electric energy adjustment.

Furthermore, Minnesota Rules 7825.2600 subpart 2 states in part "The adjustment per kWh is the sum of the current period cost of energy purchased and cost of fuel consumed per kWh less the base electric cost per kWh."

Minnesota Rules 7829.3200 states that the Commission shall grant a variance to its rules when it determines that the following requirements are met:

- enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- granting the variance would not adversely affect the public interest; and
- granting the variance would not conflict with standards imposed by law.

Xcel addresses the requirements for granting a variance as follows:

- Excessive Burden—If the Commission does not approve a variance for collection of these costs, the Company will be unable to proceed with the proposed transaction. As a result, customers will lose the chance to save more than $5 million (net present value).
- Public Interest—Granting the requested variance is in the public interest due to the anticipated cost savings for customers and the Company. In addition, all contracting parties support the proposed transactions.
- Conflict with Legal Standards—Granting the variance would not violate any standards imposed by law.

The Department generally agrees with Xcel's analysis of the criteria for granting a variance and recommends that the Commission approve the proposed variance.

D. RESOURCE PLAN IMPACTS

1. Expansion Plan

The Company's most recent resource plan (Docket No. E002/RP-15-21) assumed the Pine Bend unit retired at the end of December, 2025. Potentially, early termination of the GRS PPA in 2017 might impact the Company's expansion plan. Therefore, the Department reviewed the modeling files from the resource plan.[2]

Technically, the unit in Strategist representing the Pine Bend is flagged as must run (until the retirement date). In combination with other inputs, this flag indicates to Strategist that Pine Bend must be dispatched before any non-must run unit is dispatched. Thus, to Strategist early termination of Pine Bend in December 2017 is equivalent to increasing the forecast for the years 2018 to 2025. That is, removing must run supply and increasing the demand and energy forecast are equivalent actions in terms of the operation of dispatchable units and for consideration of the addition of optional, expansion units.

A change in the forecast equivalent to approval of the Termination Agreement is far smaller than the forecast contingencies used by the Department and Xcel. Therefore, the Department concludes that the resource plan analysis already analyzed contingencies with a similar, but far larger impact than the Termination Agreement. Since the Department's recommended expansion plan already considered a far higher forecast, early termination of the PPA with GRS should not be expected to materially impact the Department's recommended expansion plan from Xcel's last resource plan.

2. Renewable Energy Standard Compliance

The Company's April 13, 2017 response to Commission Information Request No. 6 in Docket No. E002/M-16-777 stated "The addition of the 1550 MW Wind Portfolio, as proposed, extends the [renewable energy standard] RES compliance forecast through year 2044." The Department's May 19, 2017 supplemental comments agreed with Xcel's analysis. However, this analysis assumed that renewable energy credits (RECs) from the Pine Bend PPA were obtained by Xcel.

[2] The Department tested the expansion plan impact of all four pending PPA proceedings (Docket Nos. E002/M-17-530, E002/M-17-531, E002/M-17-532, and E002/M-17-551) in Docket No. E002/M-17-551.

Xcel's petition implies that 36,000 RECs are obtained annually. Thus, early retirement of the Pine Bend might result in a total of about 0.3 million lost RECs annually. This amount is less than the number of RECs that might be expected to be provided by a 100 MW of wind unit in one year. Thus, the lost RECs represent a small fraction of the RECs expected to be obtained from the 1,550 MW wind portfolio approved in Docket No. E002/M-16-777. Therefore, the Department concludes that the Petition will not significantly impact Xcel's ability to comply with the RES for the foreseeable future.

III. DEPARTMENT RECOMMENDATION

The Department recommends that the Commission approve the Petition, including the proposed Termination Agreement and the requested rule variances.

/lt

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Minnesota Department of Commerce
Public Comments

Docket No. E002/M-17-531

Dated this 2nd day of August 2017

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
David	Aafedt	daafedt@winthrop.com	Winthrop & Weinstine, P.A.	Suite 3500, 225 South Sixth Street Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_17-531_M-17-531
Christopher	Anderson	canderson@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022191	Electronic Service	No	OFF_SL_17-531_M-17-531
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_17-531_M-17-531
Alison C	Archer	aarcher@misoenergy.org	MISO	2985 Ames Crossing Rd Eagan, MN 55121	Electronic Service	No	OFF_SL_17-531_M-17-531
Ryan	Barlow	Ryan.Barlow@ag.state.mn.us	Office of the Attorney General-RUD	445 Minnesota Street Bremer Tower, Suite 1400 St. Paul, Minnesota 55101	Electronic Service	No	OFF_SL_17-531_M-17-531
James J.	Bertrand	james.bertrand@stinson.com	Stinson Leonard Street LLP	150 South Fifth Street, Suite 2300 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-531_M-17-531
William A.	Blazar	bblazar@mnchamber.com	Minnesota Chamber Of Commerce	Suite 1500 400 Robert Street North St. Paul, MN 55101	Electronic Service	No	OFF_SL_17-531_M-17-531
James	Canaday	james.canaday@ag.state.mn.us	Office of the Attorney General-RUD	Suite 1400 445 Minnesota St. St. Paul, MN 55101	Electronic Service	No	OFF_SL_17-531_M-17-531
Jeanne	Cochran	Jeanne.Cochran@state.mn.us	Office of Administrative Hearings	P.O. Box 64620 St. Paul, MN 55164-0620	Electronic Service	No	OFF_SL_17-531_M-17-531
John	Coffman	john@johncoffman.net	AARP	871 Tuxedo Blvd. St, Louis, MO 63119-2044	Electronic Service	No	OFF_SL_17-531_M-17-531

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Corey	Conover	corey.conover@minneapolismn.gov	Minneapolis City Attorney	350 S. Fifth Street City Hall, Room 210 Minneapolis, MN 554022453	Electronic Service	No	OFF_SL_17-531_M-17-531
Carl	Cronin	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_17-531_M-17-531
Joseph	Dammel	joseph.dammel@ag.state.mn.us	Office of the Attorney General-RUD	Bremer Tower, Suite 1400 445 Minnesota Street St. Paul, MN 55101-2131	Electronic Service	No	OFF_SL_17-531_M-17-531
Ian	Dobson	Residential.Utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_17-531_M-17-531
John	Farrell	jfarrell@ilsr.org	Institute for Local Self-Reliance	1313 5th St SE #303 Minneapolis, MN 55414	Electronic Service	No	OFF_SL_17-531_M-17-531
Emma	Fazio	emma.fazio@stoel.com	Stoel Rives LLP	33 South Sixth Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-531_M-17-531
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_17-531_M-17-531
Stephen	Fogel	Stephen.E.Fogel@XcelEnergy.com	Xcel Energy Services, Inc.	816 Congress Ave, Suite 1650 Austin, TX 78701	Electronic Service	No	OFF_SL_17-531_M-17-531
Edward	Garvey	edward.garvey@AESLconsulting.com	AESL Consulting	32 Lawton St Saint Paul, MN 55102-2617	Electronic Service	No	OFF_SL_17-531_M-17-531
Janet	Gonzalez	Janet.gonzalez@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 55101	Electronic Service	No	OFF_SL_17-531_M-17-531

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Michael	Hoppe	il23@mtn.org	Local Union 23, I.B.E.W.	932 Payne Avenue St. Paul, MN 55130	Electronic Service	No	OFF_SL_17-531_M-17-531
Julia	Jazynka	jjazynka@energyfreedomcoalition.com	Energy Freedom Coalition of America	101 Constitution Ave NW Ste 525 East Washington, DC 20001	Electronic Service	No	OFF_SL_17-531_M-17-531
Alan	Jenkins	aj@jenkinsatlaw.com	Jenkins at Law	2265 Roswell Road Suite 100 Marietta, GA 30062	Electronic Service	No	OFF_SL_17-531_M-17-531
Linda	Jensen	linda.s.jensen@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota Street St. Paul, MN 551012134	Electronic Service	No	OFF_SL_17-531_M-17-531
Richard	Johnson	Rick.Johnson@lawmoss.com	Moss & Barnett	150 S. 5th Street Suite 1200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-531_M-17-531
Sarah	Johnson Phillips	sjphillips@stoel.com	Stoel Rives LLP	33 South Sixth Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-531_M-17-531
Mark J.	Kaufman	mkaufman@ibewlocal949.org	IBEW Local Union 949	12908 Nicollet Avenue South Burnsville, MN 55337	Electronic Service	No	OFF_SL_17-531_M-17-531
Thomas	Koehler	TGK@IBEW160.org	Local Union #160, IBEW	2909 Anthony Ln St Anthony Village, MN 55418-3238	Electronic Service	No	OFF_SL_17-531_M-17-531
Michael	Krikava	mkrikava@briggs.com	Briggs And Morgan, P.A.	2200 IDS Center 80 S 8th St Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-531_M-17-531

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Douglas	Larson	dlarson@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	No	OFF_SL_17-531_M-17-531
Peder	Larson	plarson@larkinhoffman.com	Larkin Hoffman Daly & Lindgren, Ltd.	8300 Norman Center Drive Suite 1000 Bloomington, MN 55437	Electronic Service	No	OFF_SL_17-531_M-17-531
Paula	Maccabee	Pmaccabee@justchangelaw.com	Just Change Law Offices	1961 Selby Ave Saint Paul, MN 55104	Electronic Service	No	OFF_SL_17-531_M-17-531
Peter	Madsen	peter.madsen@ag.state.mn.us	Office of the Attorney General-DOC	Bremer Tower, Suite 1800 445 Minnesota Street St. Paul, Minnesota 55101	Electronic Service	No	OFF_SL_17-531_M-17-531
Kavita	Maini	kmaini@wi.rr.com	KM Energy Consulting LLC	961 N Lost Woods Rd Oconomowoc, WI 53066	Electronic Service	No	OFF_SL_17-531_M-17-531
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E St. Paul, MN 55106	Electronic Service	No	OFF_SL_17-531_M-17-531
Joseph	Meyer	joseph.meyer@ag.state.mn.us	Office of the Attorney General-RUD	Bremer Tower, Suite 1400 445 Minnesota Street St Paul, MN 55101-2131	Electronic Service	No	OFF_SL_17-531_M-17-531
David	Moeller	dmoeller@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	OFF_SL_17-531_M-17-531
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-531_M-17-531
David	Niles	david.niles@avantenergy.com	Minnesota Municipal Power Agency	220 South Sixth Street Suite 1300 Minneapolis, Minnesota 55402	Electronic Service	No	OFF_SL_17-531_M-17-531

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Carol A.	Overland	overland@legalectric.org	Legalectric - Overland Law Office	1110 West Avenue Red Wing, MN 55066	Electronic Service	No	OFF_SL_17-531_M-17-531
Jeff	Oxley	jeff.oxley@state.mn.us	Office of Administrative Hearings	600 North Robert Street St. Paul, MN 55101	Electronic Service	No	OFF_SL_17-531_M-17-531
Kevin	Reuther	kreuther@mncenter.org	MN Center for Environmental Advocacy	26 E Exchange St, Ste 206 St. Paul, MN 551011667	Electronic Service	No	OFF_SL_17-531_M-17-531
Amanda	Rome	amanda.rome@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 5 Minneapoli, MN 55401	Electronic Service	No	OFF_SL_17-531_M-17-531
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750 St. Paul, MN 55101	Electronic Service	No	OFF_SL_17-531_M-17-531
Inga	Schuchard	ischuchard@larkinhoffman.com	Larkin Hoffman	8300 Norman Center Drive Suite 1000 Minneapolis, MN 55437	Electronic Service	No	OFF_SL_17-531_M-17-531
Zeviel	Simpser	zsimpser@briggs.com	Briggs and Morgan PA	2200 IDS Center80 South Eighth Street Minneapolis, MN 554022157	Electronic Service	No	OFF_SL_17-531_M-17-531
Ken	Smith	ken.smith@districtenergy.com	District Energy St. Paul Inc.	76 W Kellogg Blvd St. Paul, MN 55102	Electronic Service	No	OFF_SL_17-531_M-17-531
Byron E.	Starns	byron.starns@stinson.com	Stinson Leonard Street LLP	150 South 5th Street Suite 2300 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-531_M-17-531

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
James M.	Strommen	jstrommen@kennedy-graven.com	Kennedy & Graven, Chartered	470 U.S. Bank Plaza 200 South Sixth Street Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-531_M-17-531
Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_17-531_M-17-531
Lisa	Veith	lisa.veith@ci.stpaul.mn.us	City of St. Paul	400 City Hall and Courthouse 15 West Kellogg Blvd. St. Paul, MN 55102	Electronic Service	No	OFF_SL_17-531_M-17-531
Joseph	Windler	jwindler@winthrop.com	Winthrop & Weinstine	225 South Sixth Street, Suite 3500 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-531_M-17-531
Cam	Winton	cwinton@mnchamber.com	Minnesota Chamber of Commerce	400 Robert Street North Suite 1500 St. Paul, Minnesota 55101	Electronic Service	No	OFF_SL_17-531_M-17-531
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_17-531_M-17-531
Patrick	Zomer	Patrick.Zomer@lawmoss.com	Moss & Barnett a Professional Association	150 S. 5th Street, #1200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-531_M-17-531