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April 28, 2014

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
350 Metro Square Building
121 7th Place East
St. Paul, Minnesota 55101-2147

**RE: Comments of the Minnesota Department of Commerce-Division of Energy
Resources**
Docket No. E002/M-00-1553

Dear Dr. Haar:

Attached are the comments of the Minnesota Department of Commerce-Division of Energy Resources in the following matter:

An Annual Compliance Report by Northern States Power Company d/b/a Xcel Energy and a request for Commission approval to discontinue or modify the reporting requirements associated with Xcel Energy's exempt wholesale generators (EWG) and foreign utility company (FUCO) investments as Ordered on March 26, 2001.

The compliance report and request was filed on March 19, 2014. The petitioner is:

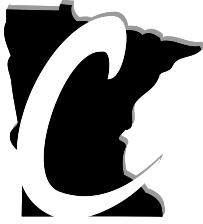
Paul J. Lehman
Manager, Regulatory Compliance and Filings
Xcel Energy
414 Nicollet Mall
Minneapolis, Minnesota 55401

The Department recommends approval of the petition as modified, and is available to answer any questions the Commission may have.

Sincerely,

/s/ DALE V. LUSTI
Financial Analyst

DVL/lt
Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET NO. E002/M-00-1553

I. BACKGROUND

On November 12, 1997, former Northern States Power Company (NSP or Company) in Docket No. E002/S-97-1652 requested certification from the Minnesota Public Utilities Commission (the Commission) to make investments in foreign utility companies (FUCOs) by NSP or its current or future affiliates, including NRG Energy, Inc. (NRG), its wholly-owned subsidiary, up to a dollar limit of \$500 million. In that filing, the Commission on March 10, 1998, approved the petition subject to the following conditions and limitations:

- 1) The certification is limited to NRG or other affiliate utility company equity investment in geographic areas included in this filing up to \$500 million, representing a total foreign utility company investment of 10.7 percent of NSP's total capitalization.
- 2) NSP will provide advance notification of any other intent to acquire any interest in foreign utility companies beyond the \$500 million limit and obtain separate certification for any such additional investments.
- 3) NSP will not encumber any Minnesota property because of these investments.
- 4) NSP shall file with the Commission:
 - a. Copies of required filings and reports relating to NSP's foreign utility investments filed with the [U.S. Securities

- b. and Exchange Commission (SEC)] at the time reports are filed with the SEC;
 - c. Copies of all SEC rulings or Orders in this matter; and
 - d. An annual report on all NSP and subsidiary foreign investments (Annual Report) to be filed one year from the date of Commission approval. The annual report will contain the following information:
 - (1) NSP's total foreign investment to date by the subsidiary and country;
 - (2) A list of all outstanding bonds issued for any foreign investment acquired by NSP or its subsidiaries;
 - (3) NSP's consolidated capital structure, including short-term debt; and
 - (4) The ratio of NSP's total foreign utility company investments relative to NSP's total assets and capitalization.
 - e. The certification is conditioned on and subject to being removed or withdrawn by the Commission as to any future foreign utility company investments if the Commission deems such action is warranted.
- 5) NSP will inform the Commission in a timely manner of the acquisition of any ownership in any foreign utility under this certification.
- 6) The Commission, the Department of [Commerce], and the [Office of Attorney General-Residential Utilities Division (OAG-RUD)] will have access to the relevant books, records and financial statements (or copies thereof) of NSP's business with foreign utilities, to the extent necessary to protect NSP's ratepayers.
- 7) Accounting procedure will remain in place to assure that NSP and its ratepayers are adequately and fairly compensated for any common or joint costs incurred for the benefit of the foreign utility.
- 8) All Minnesota Regulatory Agencies' costs charged to NSP for the direct costs incurred by those agencies for the review of foreign investment notification and any related foreign investment compliance reviews shall not be charged to NSP's jurisdictional customers. (NSP will allocate time pursuant to the 1008 docket)

- 9) Any investment made under this certification shall comply with applicable Minnesota and Federal law including the public Utility Holding Act of 1935, as amended.

On June 12, 2000, the Commission approved the merger petition of Northern States Power Company (NSP) and New Century Energies, Inc. (NCE) with certain conditions. The final merger approval was received from the SEC on August 18, 2000, creating Xcel Energy (Xcel).

On November 15, 2000, in Docket No. E002/M-00-1553, NSP requested two certifications from the Commission. The first certification (the 100 Percent Certification) is to make investments in exempt wholesale generators (EWGs) and foreign utility corporate organizations (FUCOs) in an amount up to 100 percent of its consolidated retained earnings. The second certification (the SPS Restructuring Certification) is related to the anticipated implementation of retail competition in the service territory of Southwestern Public Service Company (SPS), an affiliated public utility providing electric service in New Mexico, Texas, Kansas and Oklahoma.

On January 16, 2001, the Department of Commerce (the Department) recommended approval of the 100 percent Certification request subject to conditions and limitations, and denial of the SPS Restructuring Certification request without prejudice.

On March 26, 2001, the Commission approved the Department's recommendation in Docket No. E002/M-00-1553, subject to the following conditions and limitations:

- A. Xcel will not encumber any Minnesota property because of foreign investments.
- B. NSP shall file with the Commission an annual report on all Xcel and subsidiary EWG and FUCO investment (Annual Report) to be filed one year from the date of Commission approval. This Annual Report shall contain the following information:
 1. Xcel's total EWG and FUCO investment to date by subsidiary and country;
 2. A list of all outstanding bonds issued for an secured by any foreign investment acquired by Xcel or its subsidiaries;
 3. Copies of all SEC orders relating to Xcel's EWG and FUCO investments;
 4. The ratio of Xcel's total EWG and FUCO investments relative to Xcel's total assets and capitalization; and
 5. The ration of Xcel's total EWG and FUCO investments relative to Xcel's consolidated retained earnings.

- C. The certification is conditioned on and subject to being removed or withdrawn by the Commission as to any future EWG and FUCO investments if the Commission deems such action is warranted.

The Department notes the Company annually submitted reports in compliance with the Commission's March 26, 2001 Order.

II. SUMMARY OF XCEL ENERGY'S REQUEST

On May 19, 2014, the Company submitted its Annual Compliance Report and a request for Commission approval to discontinue or modify the reporting requirements associated with Xcel Energy's exempt wholesale generators (EWG) and foreign utility Company (FUCO) investments as Ordered on March 26, 2001.

III. LEGAL STANDARDS

A. LEGAL STANDARDS REFERENCED BY THE COMMISSION IN ITS MARCH 26, 2001 ORDER, IN DOCKET NO. E002/M-00-1553, PRIOR TO THE REPEAL OF PUHCA

The Public Utility Holding Company Act (PUHCA), Sections 32 and 33 provides exemptions for the ownership and operation of EWGs and FUCOs. The SEC implemented these sections, in part, by adopting Rule 53.¹

The SEC rule provides for a safe harbor of 50% of retained earnings to be invested in EWGs and FUCOs but provided that registered companies can seek authorization beyond the safe harbor limit. If the safe harbor limit of 50% under SEC Rule 53(a) will be exceeded, a registered holding company may obtain SEC financing authorization if it can, under SEC Rule 53(c), affirmatively demonstrate that its proposed investments: (i) will not have a substantial adverse impact upon the financial integrity of the registered holding company system; and (ii) will not have an adverse impact on any utility subsidiary of the registered holding company, or its customers, or on the ability of State Commissions to protect such subsidiary or customers. The SEC has requested certification from the State Commissions to meet the requirements of (ii), above.

B. SUBSEQUENT TO THE REPEAL OF PUHCA ON AUGUST 8, 2005

On August 8, 2005, the Energy Policy Act of 2005 repealed PUHCA.

¹ SEC Rules 250.53.

IV. DEPARTMENT ANALYSIS

Due to reporting changes of the SEC and Federal Energy Regulatory Commission (FERC) subsequent to the repeal of PUHCA, there is no requirement for the utility to file the previously required information with either the SEC and/or FERC.

The Department notes that Xcel Energy has not had any EWG and/or FUCO investments since prior to the repeal of PUHCA. Thus, the Department concludes that it is reasonable for the Commission to either discontinue or modify the reporting requirements of Docket No. E002/M-00-1553.

The Department identifies three options for the Commission to consider:

1. Accept the report; and modify the reporting requirements to state: Provided Xcel Energy has not made any EWG and/or FUCO investments, the Company may simply note in its Annual Report that it does not have any EWG and/or FUCO investments. If it does have EWG and/or FUCO investments, then it must continue to provide the previously required information.
2. Accept the report; and modify the reporting requirements to only require the filing of the previously required information in years that Xcel Energy does have EWG and/or FUCO investments.
3. Accept the report and discontinue the previous reporting requirements.

V. DEPARTMENT RECOMMENDATION

The Department recommends the acceptance of either Option 1 or 2.

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