

September 16, 2019

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

RE: **Supplemental Response Comments of the Minnesota Department of Commerce,
Division of Energy Resources**
Docket No. E002/PA-18-777

Dear Mr. Wolf:

The Minnesota Department of Commerce, Division of Energy Resources (Department) requests that the Minnesota Public Utilities Commission (Commission) accept these brief supplemental response comments regarding the response by Northern States Power Company, doing business as Xcel Energy (Xcel) on Minnesota Rules 7825.1800 and 7825.1400.

The Department continues to recommend that the Commission **approve Xcel's proposed amendments to the purchase power agreements** that Xcel has negotiated with Longroad Energy for the Community Wind North facilities. The Department does not recommend approval of Xcel's proposed acquisition of the facilities.

Sincerely,

/s/ JOHN KUNDERT
Financial Analyst

JK/ar
Attachment



Before the Minnesota Public Utilities Commission

Supplemental Response Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E002/PA-18-777

In its Reply Comments dated August 19, 2019 Northern States Power Company, doing business as Xcel Energy (Xcel) responded to the Minnesota Department of Commerce, Division of Energy Resources' (Department) recommendations, including that the Minnesota Public Utilities Commission (Commission) not grant a variance to providing the filing requirement in Minn. R. 7825.1400, items A to J.

Specifically, Xcel noted in its Reply Comments that the Department has “consistently recommended that such variances be granted.”¹ The Company then referenced three prior dockets in which the Department had recommended approval in purchase acquisition (PA) dockets.^{2,3,4} However, the facts in those proceedings are all materially different from the facts in this proceeding.

Two of the referenced dockets concerned proposed *sales* of facilities, rather than an acquisition with associated risks while the other involved a lease rather than ownership of a small, pre-existing hydro-electric power plant. By contrast, Xcel’s proposal in the instant docket involves proposed purchases of wind facilities, with associated risks, including:

- Decommissioning costs associated with the facilities would become the responsibility of Xcel and its ratepayers;
- Plant outages and equipment failures would become the responsibility of Xcel and its ratepayers;
- Property tax increases would be shifted to Xcel and its ratepayers, and
- Increases in operations and maintenance expenses would also be shifted to Xcel and its ratepayers.

The results of the analysis in the Department’s March 25, 2019 Comments (page 11-12) concluded in part that “early failure of the facilities would result in higher costs being charged to ratepayers than simply allowing the [Community-Based Energy Development] C-BED contracts to continue under current contracts.” Thus, the risk of equipment failures and plant

¹ Xcel Comments at page 3.

² In Docket No. G002/PA-18-294 Xcel requested that the Commission approve the sale of certain natural gas related assets to an unregulated third party. The Company determined that the assets were no longer needed (i.e. providing benefits to ratepayers) and requested that it be allowed to sell them.

³ In Docket No. E002/PA-10-685 Xcel requested that the Commission approve the sale of a short transmission line that ran between non-Xcel two substations to the new owner of those substations.

⁴ In Docket No. E002/PA-08-1238, the Company requested that the Commission approve an interconnection agreement and lease agreement for a small, pre-existing hydro-electric plant.

outages noted above is a particular concern. By contrast, the amendments to the power purchase agreements would provide benefits to ratepayers without any transfer of risks.

Xcel states on pages 3-4 of its Reply Comments that Minnesota Rule 7825.1400 applies only to issuances of securities or debt:

The focus of Rule 7825.1400 is on a petitioner's capital structure and any *issuance* of securities or debt. Indeed, the actual phrase used in the rule "the issue or assumption of liability." [footnote omitted] This suggests that any assumption of liability to be discussed under Rule 7825.1400 must be similar in kind to an issuance of securities—and not simply the normal assumption of risks attendant to a particular piece of property.

However, Xcel's discussion omits the filing requirements under Minnesota Rule 7825.1800, *Filing Requirements for Petitions to Acquire Property*, which clearly requires all of the information identified in Minnesota Rule 7825.1400, items A to J, including "Copies of the resolutions by the directors authorizing the petition for the issue or assumption of liability in respect to which the petition is made" along with "A signed copy of the opinion of counsel in respect to the legality of the issue or the assumption of liability." (Emphasis added).

In requiring information about the "liability in respect to which the petition is made" Minnesota Rules reasonably require information about possible risks that may be shifted to ratepayers. Thus, the Department continues to conclude that Xcel did not meet the requirement to show that "Granting the variance would not adversely affect the public interest" to obtain a variance from Minnesota Rule 7825.1800.

Regardless of whether or not the Commission grants a variance to Minnesota Rule 7825.1800, the Department continues to conclude that Xcel's proposed amendments to the existing purchased power agreements are reasonable; however, the Department does not recommend that the Commission approve Xcel's proposal to acquire the facilities.

The Department appreciates this opportunity to respond and continues to recommend that the Commission approve Xcel's proposed amendments to the purchase power agreements.

/ar

CERTIFICATE OF SERVICE

I, Linda Chavez, hereby certify that I have this day served copies of the following document on the attached list of persons by electronic filing, 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 – SUPPLEMENTAL RESPONSE COMMENTS

Docket Nos. **E002/PA-18-777**

Dated this **16th** day of **September, 2019**.

/s/Linda Chavez

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