

July 8, 2014

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

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. E002/M-14-490

Dear Dr. Haar:

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

Petition for Approval of the First Amendment to a Power Purchase Agreement with Best Power Intl., LLC.

The petition was filed on June 11, 2014 by:

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

The Department recommends approval of the Amended Power Purchase Agreement. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ SAMIR OUANES  
Rates Analyst

SO/lt  
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE  
DIVISION OF ENERGY RESOURCES

DOCKET NO. E002/M-14-490

**I. SUMMARY OF XCEL ENERGY'S PETITION**

On June 11, 2014, Northern States Power Company, d/b/a Xcel Energy (Xcel or the Company) filed a *Petition for Approval of the First Amendment to a Power Purchase Agreement (Amended PPA) with Best Power Intl, LLC (Best Power)*.

Best Power owns and operates a 400 kW solar photovoltaic electrical generation facility (Best Power project) located in Stearns County in Collegeville, Minnesota.

The First Amendment proposes to increase the Best Power project's committed nameplate capacity from 400 kW to 500 kW. The original facility uses a motorized horizontal-axis tracking array, and the modules sit on beams that rotate east to west on a horizontal axis throughout the day, following the path of the sun. The new array will incorporate fixed-tilt technology and provide an on-site, side-by-side comparison of competing solar technologies between the original array and the new array (Project). The Commercial Operation Date for the Project is expected to be late 2014 or early 2015.

As discussed below, the Project has been recently approved for a Renewable Development Fund (RDF) grant to increase the capacity of the Best Power project using this new technology.

**II. BACKGROUND**

The Best Power project was selected by the RDF Board through the RDF third funding cycle request for proposal process. The RDF itself was established to further the statutory goal of renewable energy development. On April 1, 2008, the Commission approved the Best Power project for funding, as recommended by the RDF Board.<sup>1</sup>

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<sup>1</sup> Source: *Order Approving Selected RDF Projects with Exceptions and Revising Procedures for Future Cycles*, Docket No. E-002/M-07-675.

On December 30, 2009, the Company filed a petition for approval of a Power Purchase Agreement for solar power with Best Power (PPA).<sup>2</sup>

On June 25, 2010, the Commission approved the PPA.

On November 29, 2012, Xcel filed a notice of its intent to proceed with the fourth funding cycle of its RDF program and a petition for approval of standard grant contracts for certain RDF projects.<sup>3</sup>

On February 6, 2013, the Commission issued an *Order Approving Requests for Proposals (RFP) and Standard Contracts as Modified* (2013 Order). The 2013 Order set several requirements for the RFP process and required Xcel to submit its final project selections to the Commission for approval.

Xcel issued its RFP on February 15, 2013, and accepted proposals through April 15, 2013. The Company received 67 qualifying proposals with a combined funding request of \$133.5 million, more than four times the available funding.

On July 29, 2013, Xcel filed its RDF Cycle 4 selection report, recommending 20 projects with a total price tag of \$30 million. Xcel requested that the Commission approve its recommended grant awards and list of reserve projects. Xcel also requested authority to terminate contract negotiations that the Company reasonably believes have reached an impasse and to move forward with a reserve project.

On August 9, 2013, Xcel filed a supplement to its selection report, providing additional details about the selection process.

On September 13, 2013, Xcel filed a second supplement to its selection report correcting several scoring errors.

On September 27, 2013, the Division of Energy Resources of the Minnesota Department of Commerce (DOC or the Department) filed comments requesting that Xcel combine its selection report and supplements into one document to facilitate Commission review of the selection process. The Department also requested that Xcel further explain its biomass project selections and clarify the process it intends to use to fund reserve projects.

On December 12, 2013, Xcel filed reply comments providing a full record of the selection process, a scoring audit, and a response to comments submitted by the Department and other stakeholders.

On January 20, 2014, Xcel filed a letter stating that additional funds had accumulated in the RDF account during 2013 and recommending that the Commission approve another \$12 million to fund reserve projects and increase higher-education grants.

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<sup>2</sup> Docket No. E002/M-09-1481.

<sup>3</sup> Docket No. E002/M-12-1278.

On March 11, 2014, the Commission issued its *Order Approving RDF Grant Recommendations, Establishing Funding Procedures, and Requiring Compliance Filings* (2014 Order). In its 2014 Order, the Commission approved Xcel's December 12, 2013 selection of energy production (EP) and research and development (R&D) projects, recommendations for block grant awards to institutions of higher education, and reserve list. The Commission also required Xcel to apply the additional funding proposed in Xcel's January 20, 2014 letter to fund the projects numbered 1-9 on Xcel's reserve list.

As shown in Attachment C of the 2014 Order, the Project is ranked number 9 on Xcel's reserve list. The 4<sup>th</sup> RDF cycle funding amount granted to the Project is \$172,213.

### **III. DEPARTMENT ANALYSIS**

The Department files these comments in support of the proposed PPA as modified by the First Amendment (Amended PPA) since the proposal meets the analysis criteria described below.

In general, the Department recommends that the Commission approve a PPA if and only if the PPA is in the best interest of Xcel's ratepayers. To be in the best interest of Xcel's ratepayers, the PPA must meet the following three requirements:

- The purchase price to be paid by Xcel for solar energy is reasonable,
- Xcel's ratepayers are appropriately protected from the financial and operational risks of the solar project, and
- Curtailment provisions are appropriate.

#### **A. THE PRICE OF THE AMENDED PPA**

The Amended PPA would not change the Commission-approved PPA price.

The Department concludes that the price of the Amended PPA is appropriate for the following reasons:

- the PPA price was approved by the Commission,
- the First Amendment would not change the Commission-approved PPA price, and
- the PPA would still remain in full force and effect if the Amended PPA is not approved by the Commission.<sup>4</sup>

#### **B. PROTECTION OF XCEL'S RATEPAYERS FROM FINANCIAL AND OPERATIONAL RISKS**

Based on its analysis of the PPA, the Department concluded that the provisions in the PPA appropriately protected Xcel's ratepayers from the financial and operational risks of the

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<sup>4</sup> Source: Section 5(b) of the Amended PPA.

project.<sup>5</sup> The Amended PPA would not change any of these provisions. Therefore, the Department concludes that the Amended PPA would continue to appropriately protect Xcel's ratepayers from the financial and operational risks of the project.

### C. *CURTAILMENT PROVISIONS*

The Commission-approved PPA did not include a curtailment provision. As a result, payment under the PPA is only for energy that is actually delivered. Since the Amended PPA does not add any curtailment provisions, the Department concludes that the Amended PPA would appropriately protect Xcel's ratepayers from curtailment risks.

### D. *COST RECOVERY*

As in the Crown Hydro PPA, the Amended PPA presents a unitary price, i.e., a price designed to recover both energy and capacity costs without separately pricing the capacity and energy components.<sup>6</sup> The Commission's fuel clause rule does not allow capacity charges to flow through the fuel adjustment.<sup>7</sup> Capacity charges are established in rate proceedings, while the costs of fuel and purchased energy are adjusted in the fuel clause.

However, Minnesota Statute section 216B.1645, subdivision 2 states:

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](#) [Funding for Renewable Development] 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.

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<sup>5</sup> Source: DOC's March 31, 2010 comments at 4-6 in Docket No. E002/M-09-1481.

<sup>6</sup> See Docket No. E002/M-03-547.

<sup>7</sup> The FCA Rules solely authorize adjustments of rates to reflect changes in the cost of energy delivered to customers from those costs authorized by the Commission in the utility's most recent general rate case. The Rules do not authorize automatic adjustment of rates based on increased capacity costs. See Minnesota Rules, Part 7825.2390 and Part 7835.4000.

The Department notes that in its June 10, 2003 Order, the Commission found that “in the context of a Renewable Development Fund (RDF) project such as the Crown Hydro Project a reasonable interpretation of Minnesota Statute Section 216B.1645, subdivision 2 is that the statute takes precedence over fuel clause rule language.”<sup>8</sup> As a result, the Commission authorized Crown Hydro to recover the Amended PPA’s energy and capacity costs through the FCA.

Subsequent to the June 10, 2003 Order, the Commission made similar findings in the context of RDF projects which involved unitary-priced PPAs, including the Best Power project<sup>9</sup>

Therefore, consistent with the Commission’s finding above, the Department recommends that the Commission authorize Xcel to recover the Amended PPA’s combined energy and capacity costs through the FCA. The Department also recommends that the Commission require Xcel to offset its recovery of costs by any revenues Xcel receives from any and all sources as a result of the Amended PPA. To this end, the Department recommends that the Commission require Xcel to report in its annual automatic adjustment reports whether Xcel obtains any revenue from any source as a result of the Amended PPA and to itemize any such revenues by source and amount.

#### *E. COMPLIANCE WITH THE 2013 ORDER*

The 2013 Order states that all finalized grant contracts must be filed with the Commission prior to the start of the project or program. If a grant contract executed with a winning bidder contains no changes from the standard form contract for EP or R&D projects, the grant contract shall be filed with the Commission (and in the docket) for informational purposes only. However, if a final grant contract deviates from the standard form contract, the grant contract shall be filed with the DOC (and in the docket) for DOC compliance review. If the DOC identifies issues that cannot be resolved, it will bring the contract to the Commission for review. Otherwise, the DOC will file a letter with the Commission indicating compliance review approval. Xcel shall provide a red-lined version of any grant contract that differs from the standard form contract at the time the contract is filed for compliance review.

The Department notes that Xcel stated that “[t]he applicant [Best Power] has agreed to use the standard RDF grant contract.”<sup>10</sup>

The Company has not yet filed the grant contract with the Commission (and in the docket) required by the 2013 Order.

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<sup>8</sup> Source: Commission’s June 10, 2003 Order in Docket No. E002/M-03-547.

<sup>9</sup> Source: Commission’s December 1, 2006 Order in Docket No. E002/M-06-1295, July 13, 2007 Order in Docket No. E002/M-06-1197 and June 25, 2010 Order in Docket No. E002/M-09-1481.

<sup>10</sup> Source: Xcel’s July 29, 2013 Selection Report at 28, Docket No. E002/M-12-1278.

For clarity and completeness of the record in this matter, the Department recommends that Xcel explain in reply comments when and how it will comply with the 2013 Order requiring the Company to file the Project's finalized grant contract with the Commission (and in the docket) prior to the start of the Project.

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

##### **A. CONCLUSIONS**

Based on its review and analysis of the First Amendment, the Department concludes that:

1. The price of the Amended PPA is appropriate.
2. Xcel's ratepayers would be appropriately protected from the financial and operational risks of the Amended PPA.
3. Xcel's ratepayers would be appropriately protected from curtailment risks since there are no curtailment provisions included in the original or in the Amended PPA.

##### **B. RECOMMENDATIONS**

Based on its review and analysis of the First Amendment and based on its conclusions, the Department recommends that the Commission:

1. Approve the Amended PPA subject to Xcel's continued obligation to prudently administer the Amended PPA;
2. Allow Xcel to recover the cost of the Amended PPA through the Fuel Clause Rider pursuant to Minn. Stat. §216B.1645;
3. Require that Xcel's recovery of costs be offset by any revenues it receives as a result of the Amended PPA; and
4. Report and itemize those revenues by source and amount in its annual automatic adjustment reports.

For clarity and completeness of the record in this matter, the Department requests that Xcel explain in reply comments when and how it will comply with the 2013 Order requiring the Company to file the Project's finalized grant contract with the Commission (and in the docket) prior to the start of the Project.

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## 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  
Comments**

**Docket No. E002/M-14-490**

**Dated this 8<sup>th</sup> day of July 2014**

**/s/Sharon Ferguson**



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