

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
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Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Xcel Energy's 2010 – 2025
Integrated Resource Plan

ISSUE DATE: October 4, 2013

In the Matter of the Petition of Xcel Energy for
Approval of the Competitive Resource
Acquisition Proposal and Certificate of Need

DOCKET NO. E-002/RP-10-825
DOCKET NO. E-002/CN-12-1240
DOCKET NO. E-002/M-13-603
DOCKET NO. E-002/M-13-716

In the Matter of the Petition of Xcel Energy for
Approval of the Acquisition of 600 MW of
Wind Generation

ORDER REQUIRING NOTICE OF
CHANGED CIRCUMSTANCES AND
GRANTING INTERVENTION

In the Matter of the Petition of Xcel Energy for
Approval of the Acquisition of 150 MW of
Wind Generation

PROCEDURAL HISTORY

On November 21, 2012, the Commission addressed closely related issues concerning Northern States Power Company d/b/a Xcel Energy's (Xcel) resource planning by establishing a competitive resource acquisition process in Docket No. E-002/CN-12-1240 (the "competitive resource acquisition docket"). In order to facilitate the process of securing needed generation resources in a timely fashion, the Commission established a schedule for reevaluation of Xcel's resource action plan and the evaluation of proposals to meet Xcel's projected resource need.

On March 5, 2013, the Commission approved for planning purposes Xcel's 2010 – 2025 Integrated Resource Plan and closed the Integrated Resource Plan Docket (E-002/RP-10-825). Also on March 5, the Commission modified the competitive resource acquisition procedure and timeline in the competitive resource acquisition docket. To balance the need for time to develop resource proposals with the need to ensure adequate and cost-effective resources were in place, the Commission extended the bidding deadline to April 15, 2013.

On June 3, 2013, more than seven weeks after the bidding period closed, Ecos Energy petitioned to submit a competitive solar energy proposal in the competitive resource acquisition docket.

On June 7, 2013, Ecos Energy filed a petition to intervene in the competitive resource acquisition docket. Xcel, Calpine Corporation, Geronimo Energy, and Invenergy Thermal Development LLC filed comments objecting to the petition.

On June 21, 2013, the Commission issued a Notice and Order for Hearing, referring the competitive proposals to the Office of Administrative Hearings for consideration. The Commission denied Ecos Energy's petition to submit an untimely proposal. Ecos Energy filed a petition for reconsideration on July 11, 2013. The Commission denied reconsideration on August 5, 2013.

On July 16, 2013, Xcel filed a petition for approval of 600 megawatts (MW) of wind generation.¹

On July 25, 2013, the Commission initiated separate comment periods to address the merits and the procedural and statutory issues raised by Xcel's July 16 wind generation petition. Sargo Fuels, the Minnesota Department of Commerce – Division of Energy Resources (the Department), the Minnesota Chamber of Commerce (the Chamber), Ecos Energy, and Geronimo Energy filed initial comments concerning the procedural and statutory issues. Xcel, Ecos Energy and Geronimo Energy filed reply comments.

On August 9, 2013, Xcel filed a petition for approval of an additional 150 MW of wind generation.²

On August 13, 2013, Ecos Energy filed a petition to intervene in the 600 MW wind acquisition docket.

On August 27, 2013, Ecos Energy, together with Summit Wind Inc., Jeffers South LLC, Greenhead Wind LLC, Garvin Wind LLC, Gadwall Wind LLC, Watonwan Wind LLC, Hurricane Wind LLC, and Highwater Wind LLC (the Joint Intervenors) filed a petition to intervene in Docket Nos. E-002/M-13-603 and E-002/M-13-716 (the "wind acquisition dockets"), requested consolidation of the dockets, and requested a contested case proceeding. Geronimo Energy filed comments objecting to the petition.

On September 4, 2013, the Commission met to consider whether Xcel's petitions in Docket Nos. E-002/M-13-603 and E-002/M-13-716 constitute a changed circumstance affecting its resource plan under Minn. R. 7843.0500, subp. 5, and to consider Ecos Energy's and the Joint Intervenors' petitions to intervene.

FINDINGS AND CONCLUSIONS

I. Background

These proceedings are four closely-related dockets pertaining to Xcel's resource acquisition plans. In an earlier order, the Commission approved for planning purposes Xcel's 2010 – 2025 Integrated Resource Plan. The Plan identified a need for 150 MW of additional generation resources by 2017,

¹ *In the Matter of the Petition of Xcel Energy for Approval of the Acquisition of 600 MW of Wind Generation*, Docket No. E-002/M-13-603.

² *In the Matter of the Petition of Xcel Energy for Approval of the Acquisition of 150 MW of Wind Generation*, Docket No. E-002/M-13-716.

increasing to 500 MW by 2019.³ Because Xcel's resource plan demonstrated a need for 150 MW of generating capacity by 2017, the Commission established a competitive resource acquisition process with a timeline intended to facilitate the selection and acquisition of cost-effective generation resources in time to meet Xcel's need.

Minnesota Rule 7843.0500, subp. 5, requires a utility to inform the Commission and other parties to the utility's last resource plan if changed circumstances "may significantly influence the selection of resource plans." Xcel has requested Commission approval to acquire 750 MW of wind generation resources following a Request for Proposals (RFP) for up to 200 MW that Xcel issued in February 2013. At issue is whether Xcel's selection of 750 MW from that RFP constitutes changed circumstances and if so, whether the Commission should require additional filings or administrative proceedings.

Also at issue are the intervention petitions filed by Ecos Energy and the Joint Intervenors. Ecos Energy requested permission to submit a competitive solar energy proposal in the Xcel competitive resource acquisition docket after bidding had closed, a request that the Commission denied.

II. Changed Circumstances

A. Positions of the Parties

The Department, the Chamber, and Ecos Energy contend that Xcel's plans to acquire 750 MW of wind generation constitutes a changed circumstance under the resource planning rules. In its initial comments Xcel disagreed. At the Commission meeting, however, Xcel agreed that the proposals constitute a changed circumstance. Xcel asserts that its initial filings in the wind acquisition dockets were adequate notice of the change in circumstances and that the Commission should not require any additional filings or administrative proceedings.

The Department recommends that Xcel be required to file a notice of changed circumstances. Ecos Energy and Sorgo Fuels recommend additional administrative proceedings to evaluate the proposals in light of Xcel's approved resource plan. The Chamber does not advocate additional administrative proceedings at this time, in part because it anticipates Xcel will produce additional information as part of the pending wind acquisition dockets that will allow adequate analysis of issues relating to Xcel's proposals.

Geronimo Energy, a developer of two of the wind generation proposals for which Xcel seeks Commission approval, shares Xcel's view that Xcel's initial petitions in the wind acquisition dockets satisfy the rule's requirement that Xcel provide notice of changed circumstances and that no additional administrative proceedings are warranted. Geronimo Energy asserts that time is of the essence because the cost effectiveness of proposals in the wind acquisition dockets depends in part on a federal production tax credit for which projects must qualify before the end of 2013.

³ Order Approving Plan, Finding Need, Establishing Filing Requirements, and Closing Docket, Docket No. 10-825 (March 5, 2013).

B. Commission Action

The Commission agrees that the proposed acquisition of 750 MW of wind generation constitutes a change in circumstances that may significantly influence the selection of resource plans. The Commission will therefore require Xcel to file a notice of changed circumstances in the resource plan and competitive resource acquisition dockets, to ensure that parties in both cases are notified of the change.

The Commission concludes that it is unnecessary to reopen the resource planning docket for additional administrative proceedings at this time. Proceedings in the wind acquisition dockets will allow adequate scrutiny of the proposals' effect on Xcel's resource planning. The Department and Xcel have represented that the record in the competitive resource acquisition and wind acquisition dockets will reflect updated modeling and analysis of Xcel's resource needs in light of the proposed acquisitions. If record development in the existing dockets does not meet Commission expectations in that regard, the Commission may consider additional proceedings at that point.

III. Petitions to Intervene

A. Positions of the Parties

Ecos Energy, along with the other Joint Intervenors, asks to intervene in the wind acquisition dockets, asks that the dockets be consolidated, and asks that the dockets be addressed in a contested case proceeding. Ecos argues that it is authorized to intervene by statute as well as by Commission rule, and contends that its interests are not adequately represented by other parties to the matters. It also contends that consolidation and a contested case proceeding are warranted to adequately address its concerns with the proposed wind acquisitions.

Geronimo Energy objects to the petitions to intervene, stating that Ecos did not establish the facts necessary for intervention required by Minn. R. 7829.0800. Geronimo Energy also asserts that Ecos's interests can be adequately protected by participating in the dockets as a public commentator.

B. Commission Action

The Commission will grant the petitions to intervene in dockets E-002/M-13-603 and E-002/M-13-716.⁴

The Commission concludes that the Joint Intervenors' interests in the wind acquisition dockets are not adequately represented by existing parties. The Joint Intervenors may provide valuable perspective and expertise pertinent to Xcel's proposed wind acquisitions and, as a developer whose proposal was excluded from consideration in the competitive resource acquisition docket, their interest is not the same as the public as a whole. The Commission is not persuaded, however, that action on the requests to consolidate or refer the matters to contested case proceedings is

⁴ Ecos Energy petitioned to intervene in the competitive resource acquisition docket shortly before that proceeding was referred to the Office of Administrative Hearings (OAH). The proceeding is subject to OAH rules, and the Administrative Law Judge has denied Ecos Energy's motion to intervene.

warranted. The Commission can consider the need for additional process at a later time, if it concludes that the record is likely to be inadequate.

ORDER

1. The Commission finds that Xcel's proposed acquisition of 750 MW of wind generation is a changed circumstance.
2. As soon as is practicable, Xcel shall file a Notice of Changed Circumstances in dockets E-002/RP-10-825 and E-002/CN-12-1240.
3. Joint Intervenors' petitions to intervene in dockets E-002/M-13-603 and E-002/M-13-716 are granted.
4. The Commission finds that further administrative proceedings beyond those already in process are not necessary.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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