

June 22, 2015

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: *Response Comments* of the Minnesota Department of Commerce, Division of Energy Resources  
Docket No. E002/M-15-401

Dear Mr. Wolf:

In the matter of the *Petition* of Northern States Power Company, d/b/a Xcel Energy (Xcel or the Company), for approval of the acquisition of the 200 MW Courtenay Wind Farm, attached please find the Minnesota Department of Commerce, Division of Energy Resources (DOC or the Department) *Response Comments* to the *Reply Comments* of Xcel.

Based on our review of Xcel's *Reply Comments*, the DOC recommends **conditional approval** as set forth in the attached *Response Comments*, and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ MARK JOHNSON  
Financial Analyst

MJ/ja  
Attachments

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

RESPONSE COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE  
DIVISION OF ENERGY RESOURCES

DOCKET No. E002/M-15-401

I. BACKGROUND

In February 2013, Northern States Power Company d/b/a Xcel Energy (Xcel) solicited proposals to buy up to 200 megawatts (MW) of power generated from wind, or to buy wind-powered generating plants capable of generating up to 200 MW, or some combination thereof. The Minnesota Public Utilities Commission (Commission) has established a process by which Xcel may acquire new sources of electricity by soliciting proposals from other parties.<sup>1</sup>

On July 16, 2013, Xcel filed a petition for approval to acquire 600 MW of wind-powered electricity in Docket No. E002/M-13-603 (13-603).

On August 9, 2013, Xcel filed a petition for approval of an additional 150 MW of wind-powered electricity in Docket No. E002/M-13-716 (13-716).

On December 13, 2013, the Commission issued its *Order Approving Acquisitions with Conditions* in Docket Nos. 13-603 and 13-716 for the following four wind projects:

- **Border Winds**, a build-to-transfer agreement with RES Americas to buy a collection of wind turbines and related facilities to be erected as a wind farm in Rolette County, North Dakota, with a combined generating capacity of 150 MW (13-716).

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<sup>1</sup> See Docket No. E-002/RP-04-1752, In the Matter of Northern States Power Company d/b/a Xcel Energy's Application for Approval of its 2004 Resource Plan, Order Establishing Resource Acquisition Process, Establishing Bidding Process Under Minn. Stat. § 216B.2422, Subd. 5 and Requiring Compliance Filing (May 31, 2006).

- **Courtenay**, a purchase power agreement (PPA) with Geronimo Energy (Geronimo) to purchase the output of a 200 MW wind farm to be erected in Jamestown, North Dakota (13-603).
- **Odell**, a PPA with Geronimo to purchase the output of a 200 MW wind farm to be erected in Mountain Lake, Minnesota (13-603).
- **Pleasant Valley**, a build-to-transfer agreement with RES Americas to buy a 200 MW wind farm to be erected in Austin, Minnesota (13-603).

On April 30, 2015, Xcel filed the instant petition requesting Commission approval to purchase, develop, construct, own, and operate the Courtenay Project as an Xcel asset.

On May 5, 2015, the Commission issued its *Notice of Comment Period* requiring parties to file initial comments by June 1, 2015 and reply comments by June 11, 2015. In addition, the Commission stated that the following topics were open for discussion:

- Is Xcel's proposal to acquire the Courtenay Project consistent with the public interest, including, but not limited to the price of energy and the allocation of risk?
- Does the record demonstrate that the acquisition of the Courtenay Project is a reasonable and prudent approach for fulfilling Xcel's obligations under the Renewable Energy Standard, Minn. Stat. § 216B.1691?
- Should the Commission approve the investments in the Courtenay Project, with or without conditions?
- Should the Commission find that the Courtenay Project is eligible for cost recovery under Xcel's Fuel Clause Rider pursuant to Minn. Stat. § 216B.1645, subd. 2a?
- Are there other issues the Commission should consider?

On June 1, 2015, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed its *Comments*. The Department concluded that:

- the record demonstrates that the acquisition of the Courtenay Project is a reasonable and prudent approach for fulfilling Xcel's obligations under Minnesota's Renewable Energy Standard, with the conditions precedent identified by Xcel;
- the Courtenay Project is eligible for cost recovery under Xcel's Renewable Cost Recovery Rider; and

- Xcel's proposal to purchase and develop the Courtenay project appears reasonable and consistent with the public interest, provided that Xcel either credits its Minnesota ratepayers for their proportionate share of the North Dakota Investment Tax Credits (NDITCs), based on the pro-rata share of the costs of the Courtenay project that is charged to Minnesota ratepayers or adequately explains why this requirement is not needed.

In addition, the Department recommended that the Commission approve Xcel's proposal to purchase and develop the Courtenay Project along with Xcel's proposal to forgo capital costs that exceed their estimates in this proceeding and that Xcel credit its Minnesota ratepayers for their proportionate share of the NDITCs, based on the pro-rata share of the costs of the Courtenay project that is charged to Minnesota ratepayers.

On June 11, 2015, Xcel filed its *Reply Comments*.

## II. DOC ANALYSIS

### A. NORTH DAKOTA INVESTMENT TAX CREDITS

Beginning on page 2 of its *Reply Comments*, Xcel stated that:

The Department requested that we provide the following information in our Reply: (1) Whether our levelized cost calculations and Strategist analysis under a Company-owned scenario assumed use of all or a portion of the North Dakota Investment Tax Credit associated with the Courtenay Project; and (2) the extent to which we expect to use the North Dakota Investment Tax Credits over the life of the Courtenay Project.

By way of background, North Dakota Century Code Section 57-38-01.8 provides for a tax credit based on the amount invested in certain qualifying renewable energy facilities, including the Courtenay Project. The tax credit applies against North Dakota income tax liability, which can be utilized over a period of years that is less than the expected life of a wind farm. Consequently, for these tax credits to be fully utilized by the owner of a qualifying project, the owner must have at least as much North Dakota income tax liability as the credit.

While we have some North Dakota income tax liability, it is insufficient to utilize the North Dakota Investment Tax Credit we receive for our ownership of the Courtenay Project for all but the

final year that the Project is eligible for the credit. This is due to our utilization of the same tax credit for the Border Winds Project, which will go into service approximately one year before the Courtenay Project. The tax credits we receive for the Border Winds Project more than offset our North Dakota income tax liability, leaving no additional North Dakota income tax liability against which to apply the tax credits we are eligible to receive for the Courtenay Project. Consequently, we have no additional North Dakota income tax liability to offset with the tax credits we receive for the Courtenay Project, except for in the final year of the credit eligibility period.

Additionally, because the North Dakota Investment Tax Credit is structured to only offset North Dakota income taxes, it is not available as an offset to the cost of service for the remaining four jurisdictions in the NSP System (Michigan, Minnesota, South Dakota, Wisconsin). This is because state-level taxes are direct-assigned to the respective states, so only our North Dakota customers incur North Dakota income tax liability in their cost of service. In other words, because only our North Dakota customers pay the costs that we can offset with the North Dakota Investment Tax Credit, we can only apply any savings to their cost of service. This is in contrast to the Federal Production Tax Credit which is an offset to our federal tax liability and property taxes on assets in our rate base, both of which are allocated to all of our jurisdictions. Similarly, in Minnesota, Minnesota state income taxes are directly-assigned to our Minnesota customers. Thus, the same outcome is true for our Minnesota customers when Minnesota law provides for a similarly structured tax credit. For example, the Credit for Increasing Research Activities (a/k/a Minnesota Research and Development Credit) is applied to Minnesota state income tax, therefore, directly reducing the Minnesota cost of service for Minnesota customers.

Because of our inability to use the North Dakota Investment Tax Credit for the Courtenay Project for all but one year, and because it would only offset the cost of service of only one of our five retail electric jurisdictions, we did not include the effects of the North Dakota Investment Tax Credit in either our levelized cost analysis or our Strategist analysis for our ownership and development of the Courtenay Project.

Finally, since our economic analyses of our ownership and development of the Courtenay Project did not include the effects of the North Dakota Investment Tax Credit, and the Department supports approval of our ownership of the Project based on our levelized cost analysis, we do not believe that any additional conditions related to the North Dakota Investment Tax Credit are necessary. [Footnotes omitted.]

The Department agrees that Xcel did not include NDITCs associated the Courtney Project in their Strategist analysis and levelized cost calculation. In addition, the Department agrees that Xcel may not be able to utilize the NDITCs associated with the Courtney Project for all but one year. However, the Department notes that Xcel appears to have changed its position on whether Minnesota ratepayers should be credited for their proportionate share of NDITCs. Xcel stated in its Renewable Energy Rider in Docket No. E002/M-10-1066 that:

North Dakota Investment Tax Credit: In order to calculate this credit, we first calculated an average of the North Dakota state taxes calculated in our annual cost of service study over the last six years. We used six years in order to get an adequate representation of the effect of other tax credits. Based on this representation of taxes, we calculated the total tax credit that would be available over the next 25 years and assigned the applicable portion to the MN jurisdiction. We included this in the revenue requirement calculations from the time the Merricourt Wind Project goes into service in 2011 forward.<sup>2</sup>

Furthermore, the Department notes that Xcel credited Minnesota ratepayers for their proportionate share of NDITCs associated with the Merricourt Wind Farm and the Wind2Battery Project in their initial revenue requirement calculations in Docket No. E002/M-10-1066.<sup>3</sup> Although the Merricourt Wind Farm was later cancelled by Xcel and removed from the revenue requirement calculations, the Wind2Battery Project remained in the final revenue requirement calculations and included NDITC credits to Minnesota ratepayers.<sup>4</sup> Similarly, the Department notes that Otter Tail Power Company credited Minnesota ratepayers for their proportionate share of NDITCs associated with several wind farms in their Renewable Energy Rider in Docket No. E017/M-09-1484.<sup>5</sup> In both cases, the Commission's determinations in those dockets were consistent with the proposed NDITC

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<sup>2</sup> Xcel's October 5, 2010 initial filing in Docket No. E002/M-10-1066, Page 16.

<sup>3</sup> Xcel's October 5, 2010 initial filing in Docket No. E002/M-10-1066, Attachment C, Schedule 1.

<sup>4</sup> Xcel's April 11, 2011 supplemental filing in Docket No. E002/M-10-1066, Attachment C.

<sup>5</sup> Otter Tail Power Company's December 31, 2009 initial filing in Docket No. E017/M-09-1484, Attachments 1-3.

treatment. Thus, the Department concludes that Xcel and Otter Tail Power Company have credited Minnesota ratepayers for their share of NDITCs in previous renewable riders.

Based on the above, the Department recommends that Xcel credit its Minnesota ratepayers for their proportionate share of utilized NDITCs associated with the Courtney Project, based on the pro-rata share of the costs of the Courtenay project that is charged to Minnesota ratepayers.

**B. GENERATOR INTERCONNECTION AGREEMENT UPDATE**

Beginning on page 3 of its Reply Comments, Xcel provided an update on its Generator Interconnection Agreement for the Courtney Project. According to Xcel, the Company posted a surety bond to secure work that Otter Tail Power Company must perform to support the interconnection of the Courtney Project. As a result, Xcel stated that they have cured the applicable default that was discussed in the Company's initial filing and MISO has withdrawn its Notice of Termination of the Generator Interconnection Agreement. In addition, Xcel stated that the Generator Interconnection Agreement is currently in full force and effect, thereby resolving any open issues related to the Courtney Project's Generator Interconnection Agreement. As a result, the Department concludes that this issue has been resolved.

**III. DOC RECOMMENDATIONS**

The Department recommended that the Commission approve Xcel's proposal to purchase and develop the Courtenay Project along with Xcel's proposal to forgo capital costs that exceed their estimates in this proceeding. In addition, the Department recommends that the Commission require Xcel to credit its Minnesota ratepayers for their proportionate share of utilized NDITCs associated with the Courtney Project, based on the pro-rata share of the costs of the Courtenay project that is charged to Minnesota ratepayers.

/ja

## **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  
Response Comments**

**Docket No. E002/M-15-401**

**Dated this 22<sup>nd</sup> day of June 2015**

**/s/Sharon Ferguson**



First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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_15-401_PUC Official List
Christopher	Anderson	canderson@allete.com	Minnesota Power	30 W Superior St  Duluth, MN 558022191	Electronic Service	No	OFF_SL_15-401_PUC Official List
Alison C	Archer	alison.c.archer@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 5  Minneapolis, MN 55401	Electronic Service	No	OFF_SL_15-401_PUC Official List
James J.	Bertrand	james.bertrand@leonard.com	Leonard Street & Deinard	150 South Fifth Street, Suite 2300  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_15-401_PUC Official List
Michael	Bradley	mike.bradley@lawmoss.com	Moss & Barnett	150 S. 5th Street, #1200  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_15-401_PUC Official List
Christina	Brusven	cbrusven@fredlaw.com	Fredrikson Byron	200 S 6th St Ste 4000  Minneapolis, MN 554021425	Electronic Service	No	OFF_SL_15-401_PUC Official List
Jeffrey A.	Daugherty	jeffrey.daugherty@centerpointenergy.com	CenterPoint Energy	800 LaSalle Ave  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_15-401_PUC Official List
Ian	Dobson	ian.dobson@ag.state.mn.us	Office of the Attorney General-RUD	Antitrust and Utilities Division 445 Minnesota Street, BRM Tower St. Paul, MN 55101	Electronic Service	No	OFF_SL_15-401_PUC Official List
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500  Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_15-401_PUC Official List
Benjamin	Gerber	bgerber@mnchamber.com	Minnesota Chamber of Commerce	400 Robert Street North Suite 1500 St. Paul, Minnesota 55101	Electronic Service	No	OFF_SL_15-401_PUC Official List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Todd J.	Guerrero	todd.guerrero@kutakrock.com	Kutak Rock LLP	Suite 1750 220 South Sixth Street Minneapolis, MN 554021425	Electronic Service	No	OFF_SL_15-401_PUC Official List
S Mike	Holly	4358@brainerd.net	Sorgo Fuels and Chemicals, Inc.	34332 Sunrise Blvd  Crosslake, MN 56442	Electronic Service	No	OFF_SL_15-401_PUC Official List
Michael	Hoppe	il23@mtn.org	Local Union 23, I.B.E.W.	932 Payne Avenue  St. Paul, MN 55130	Electronic Service	No	OFF_SL_15-401_PUC Official List
Alan	Jenkins	aj@jenkinsatlaw.com	Jenkins at Law	2265 Roswell Road Suite 100 Marietta, GA 30062	Electronic Service	No	OFF_SL_15-401_PUC Official List
Richard	Johnson	Rick.Johnson@lawmoss.com	Moss & Barnett	150 S. 5th Street Suite 1200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_15-401_PUC Official List
Mark J.	Kaufman	mkaufman@ibewlocal949.org	IBEW Local Union 949	12908 Nicollet Avenue South  Burnsville, MN 55337	Electronic Service	No	OFF_SL_15-401_PUC Official List
Thomas	Koehler	TGK@IBEW160.org	Local Union #160, IBEW	2909 Anthony Ln  St Anthony Village, MN 55418-3238	Electronic Service	No	OFF_SL_15-401_PUC Official List
Frank	Kohlasch	frank.kohlasch@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd N.  St. Paul, MN 55155	Electronic Service	No	OFF_SL_15-401_PUC Official List
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_15-401_PUC Official List
Douglas	Larson	dlarson@dakotaelectric.com	Dakota Electric Association	4300 220th St W  Farmington, MN 55024	Electronic Service	No	OFF_SL_15-401_PUC Official List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Paul J.	Lehman	paul.lehman@xcelenergy.com	Xcel Energy	414 Nicollet Mall Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_15-401_PUC Official List
John	Lindell	agorud.ecf@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_15-401_PUC Official List
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E  St. Paul, MN 55106	Electronic Service	No	OFF_SL_15-401_PUC Official List
Thomas	Melone	Thomas.Melone@AllcoUS.com	Minnesota Go Solar LLC	222 South 9th Street Suite 1600 Minneapolis, Minnesota 55120	Electronic Service	No	OFF_SL_15-401_PUC Official List
Andrew	Moratzka	apmoratzka@stoel.com	Stoel Rives LLP	33 South Sixth Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_15-401_PUC Official List
David W.	Niles	david.niles@avantenergy.com	Minnesota Municipal Power Agency	Suite 300 200 South Sixth Street Minneapolis, MN 55402	Electronic Service	No	OFF_SL_15-401_PUC Official List
Regulatory	Records	Regulatory.Records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7  Minneapolis, MN 554011993	Electronic Service	Yes	OFF_SL_15-401_PUC Official List
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750  St. Paul, MN 55101	Electronic Service	No	OFF_SL_15-401_PUC Official List
Ken	Smith	ken.smith@districtenergy.com	District Energy St. Paul Inc.	76 W Kellogg Blvd  St. Paul, MN 55102	Electronic Service	No	OFF_SL_15-401_PUC Official List
Ron	Spangler, Jr.	rlspangler@otpc.com	Otter Tail Power Company	215 So. Cascade St. PO Box 496 Fergus Falls, MN 565380496	Electronic Service	No	OFF_SL_15-401_PUC Official List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Byron E.	Starns	byron.starns@leonard.com	Leonard Street and Deinard	150 South 5th Street Suite 2300 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_15-401_PUC Official List
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_15-401_PUC Official List
Eric	Swanson	eswanson@winthrop.com	Winthrop Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_15-401_PUC Official List
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_15-401_PUC Official List
Paul	White	paul.white@prwind.com	Project Resources Corp./Tamarac Line LLC/Ridgewind	618 2nd Ave SE  Minneapolis, MN 55414	Electronic Service	No	OFF_SL_15-401_PUC Official List
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_15-401_PUC Official List