

June 24, 2022

Will Seuffert
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/CN-08-510

Dear Mr. Seuffert:

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

Request for Change in Spent-Fuel Storage Technology

The Petition was filed on April 30, 2021 by:

Bria E. Shea
Director, Regulatory & Strategic Analysis
Xcel Energy
414 Nicollet Mall, 401 – 7th Floor
Minneapolis, MN 55401

The Department recommends **approval with conditions** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ STEVE RAKOW
Analyst Coordinator

SR/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E002/CN-08-510

I. INTRODUCTION

On May 16, 2008 Northern States Power Company, doing business as Xcel Energy (Xcel or the Company) filed the Company's *Application to the Minnesota Public Utilities Commission for Certificates of Need for the Prairie Island Nuclear Generating Plant for Additional Dry Cask Storage and Extended Power Uprate* (CN Petition). The CN Petition stated that the Company's "first request is for a CON to allow for sufficient dry cask storage at the existing Independent Spent Fuel Storage Installation ("ISFSI") at Prairie Island in order to accommodate plant operations through 2034."

On December 18, 2009 the Minnesota Public Utilities Commission (Commission) issued its *Order Accepting Environmental Impact Statement, and Granting Certificates of Need and Site Permit with Conditions* (Order) in Docket Nos. E002/CN-08-509, E002/CN-08-510, and E002/GS-08-690. The Order stated at point 4B that the Commission "hereby grants Xcel's request for a Certificate of Need for additional dry cask storage at the Prairie Island Nuclear Generating Plant as provided herein on the condition that Xcel provide a compliance filing/status report on its emergency response plans."¹

On April 30, 2021 Xcel filed the Company's *Request for Change in Spent-Fuel Storage Technology* (Petition). The Petition requested certain Commission determinations regarding use of alternative spent-fuel containers already approved by the U. S. Nuclear Regulatory Commission (NRC) at the Prairie Island Nuclear Generating Plant (Prairie Island).

On May 28, 2021 comments were filed by:

- Minnesota Department of Commerce, Division of Energy Resources (DOC-DER); and
- Minnesota Department of Commerce, Energy Environmental Review and Analysis (DOC-EERA).

On June 17, 2021 reply comments were filed by Xcel and DOC-EERA.

¹ For purposes of this proceeding the Order was not changed in a significant way by the Commission's January 27, 2010 *Order Granting Reconsideration and Clarifying Order* in Docket Nos. E002/CN-08-510, E002/CN-08-509 and E002/GS-08-690.

On October 1, 2021 the Commission issued an order stating that the Commission was taking no action until a supplement to the *2009 Prairie Island Final Environmental Impact Statement* has been issued in accordance with Minnesota Statutes §116D.04 and Minnesota Rules 4410.3000 as recommended by DOC-EERA.

On April 26, 2022, DOC-EERA issued the *Final Supplemental Environmental Impact Statement: Prairie Island Spent Fuel Storage* (Final SEIS).

On May 26, 2022, the Minnesota Department of Commerce issued its *Findings of Fact, Conclusions, and Order Finding Supplemental Environmental Impact Statement Adequate*, concluding that the Final SEIS was adequate.

On May 31, 2022 the Commission issued a Notice of Comment Period (Notice) stating that the following topics were open for comment:

- Should the Commission approve Xcel Energy's request for use of an alternative dry cask storage technology?
- If approved, what, if any, additional condition(s) should be included in the Commission's order?
- Should the Commission make any findings regarding cost recovery in this docket?
- Are there other issues or concerns related to this matter?

Below are the comments of DOC-DER regarding the issues in the Notice.

II. DOC-DER ANALYSIS

A. SHOULD THE COMMISSION APPROVE XCEL ENERGY'S REQUEST?

The first question in the Notice is "Should the Commission approve Xcel Energy's request for use of an alternative dry cask storage technology?" As stated in DOC-DER's May 28, 2021 comments and September 24, 2021 supplemental comments DOC-DER recommends that the Commission approve Xcel's proposal with additional reporting requirements as part of the Company's proposed filing reporting the results of the bidding process. These requirements are restated below.

B. WHAT CONDITIONS SHOULD BE INCLUDED IN THE COMMISSION'S ORDER?

The second question in the Notice is "If approved, what, if any, additional condition(s) should be included in the Commission's order?" As stated in DOC-DER's September 24, 2021 supplemental comments DOC-DER recommends the Commission require the following types of information be included in the Company's filing reporting the results of the bidding process:

- a. a copy of the request for proposals (RFP);
- b. information regarding how the RFP was advertised;
- c. a statement of the evaluation criteria used by the Company;
- d. an overview of each proposal received in response to the RFP—at a minimum the overview should include:
 - a cost estimate; and
 - how the casks will facilitate transportation out of state to a permanent or interim storage facility as soon as feasible;
- e. the Company's evaluation of each proposal; and
- f. the Company's ultimate determination regarding the RFP and resulting proposals.

DOC-DER leaves to the Company to propose the timing of the reporting requirement.

C. SHOULD THE COMMISSION MAKE ANY FINDINGS REGARDING COST RECOVERY?

The third question in the Notice is "Should the Commission make any findings regarding cost recovery in this docket?" In the Petition Xcel made two requests. Xcel's first request is stated in the Petition as follows: "The Company is seeking a determination from the Commission that the use of designs certified by the NRC under their rules for dry cask storage contained in 10 CFR Part 72 (other than the existing TN-40 casks currently in use) does not require recertification under Minn. Stat. 216B.243."

Xcel's second request, which is closely related to the first request, is stated in the Petition as follows:

The Company seeks to maintain this authorized capacity for spent fuel storage [equivalent to a capacity of 2,560 spent fuel assemblies], but requests elimination of any tie to a specific number of casks or a specific type of cask design. We are not requesting approval of any operational or life change—only a change in the type of storage technology we are authorized to pursue for storing spent-fuel assemblies at the plant. This would allow the Company to bid for and select the best cask technology for future storage.

The Petition does not contain a request regarding cost recovery therefore DOC-DER concludes that no findings regarding cost recovery are necessary at this time. Issues regarding cost recovery can be addressed once the actual technology selected is known.

D. ARE THERE OTHER ISSUES OR CONCERNS RELATED TO THIS MATTER?

The fourth question in the Notice is "Are there other issues or concerns related to this matter?" DOC-DER has no other issues or concerns at this time.

III. DOC-DER RECOMMENDATION

DOC-DER recommends the Commission require the following types of information be included in the Company's filing reporting the results of the bidding process:

- a. a copy of the RFP;
- b. information regarding how the RFP was advertised;
- c. a statement of the evaluation criteria used by the Company;
- d. an overview of each proposal received in response to the RFP—at a minimum the overview should include:
 - a cost estimate; and
 - how the casks will facilitate transportation out of state to a permanent or interim storage facility as soon as feasible;
- e. the Company's evaluation of each proposal; and
- f. the Company's ultimate determination regarding the RFP and resulting proposals.

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/CN-08-510

Dated this **24th** day of **June 2022**

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Michael	Ahern	ahern.michael@dorsey.com	Dorsey & Whitney, LLP	50 S 6th St Ste 1500 Minneapolis, MN 554021498	Electronic Service	No	OFF_SL_8-510_Official Service List
B. Andrew	Brown	brown.andrew@dorsey.com	Dorsey & Whitney LLP	Suite 1500 50 South Sixth Street Minneapolis, MN 554021498	Electronic Service	No	OFF_SL_8-510_Official Service List
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_8-510_Official Service List
Carol	Duff	carolduff@me.com	-	728 W 4th St Red Wing, MN 55066	Electronic Service	No	OFF_SL_8-510_Official Service List
Kristen	Eide Tollefson	healingsystems69@gmail.com	R-CURE	28477 N Lake Ave Frontenac, MN 55026-1044	Electronic Service	No	OFF_SL_8-510_Official Service List
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	Yes	OFF_SL_8-510_Official Service List
Thomas P.	Harlan	harlan@mdh-law.com	Madigan, Dahl & Harlan, P.A.	222 South Ninth Street Suite 3150 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_8-510_Official Service List
Kay	Kuhlmann	Teri.Swanson@ci.red-wing.mn.us	City Of Red Wing	315 West Fourth Street Red Wing, MN 55066	Electronic Service	No	OFF_SL_8-510_Official Service List
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Samantha	Norris	samanthanorris@alliantenergy.com	Interstate Power and Light Company	200 1st Street SE PO Box 351 Cedar Rapids, IA 524060351	Electronic Service	No	OFF_SL_8-510_Official Service List

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Carol A.	Overland	overland@legalelectric.org	Legalelectric - Overland Law Office	1110 West Avenue Red Wing, MN 55066	Electronic Service	No	OFF_SL_8-510_Official Service List
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_8-510_Official Service List
Jeff	Schneider	jeff.schneider@ci.red-wing.mn.us	City of Red Wing	315 West 4th Street Red Wing, MN 55066	Electronic Service	No	OFF_SL_8-510_Official Service List
Jessie	Seim	jessie.seim@piic.org	Prairie Island Indian Community	5636 Sturgeon Lake Rd Welch, MN 55089	Electronic Service	No	OFF_SL_8-510_Official Service List
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_8-510_Official Service List
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	7400 Lyndale Ave S Ste 190 Richfield, MN 55423	Electronic Service	No	OFF_SL_8-510_Official Service List
Lynnette	Sweet	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_8-510_Official Service List
Heather	Westra	heather.westra@piic.org	Prairie Island Indian Community	5636 Sturgeon Lake Rd Welch, MN 55089	Electronic Service	No	OFF_SL_8-510_Official Service List

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Sarah	Beimers	sarah.beimers@state.mn.us	Department of Administration - State Historic Preservation Office	50 Sherburne Avenue Suite 203 St. Paul, MN 55155	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
David	Bell	david.bell@state.mn.us	Department of Health	POB 64975 St. Paul, MN 55164	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Randall	Doneen	randall.doneen@state.mn.us	Department of Natural Resources	500 Lafayette Rd, PO Box 25 Saint Paul, MN 55155	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
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Todd	Green	Todd.A.Green@state.mn.us	Minnesota Department of Labor & Industry	443 Lafayette Rd N St. Paul, MN 55155-4341	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
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Ray	Kirsch	Raymond.Kirsch@state.mn.us	Department of Commerce	85 7th Place E Ste 500 St. Paul, MN 55101	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Chad	Konickson	chad.konickson@usace.army.mil	U.S.Army Corps of Engineers	180 5th St # 700 Saint Paul, MN 55101	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Stacy	Kotch Egstad	Stacy.Kotch@state.mn.us	MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd. St. Paul, MN 55155	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Dawn S	Marsh	dawn_marsh@fws.gov	U.S. Fish & Wildlife Service	Minnesota-Wisconsin Field Offices 4101 American Blvd E Bloomington, MN 55425	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
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Jayne	Trusty	execdir@swrdc.org	SWRDC	2401 Broadway Ave #1 Slayton, MN 56172	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, Minnesota 55155-4040	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Kenneth	Westlake	westlake.kenneth@epa.gov	US Environmental Protection Agency	Environmental Planning & Evaluation Unit 77 W Jackson Blvd. Mailstop B-19J Chicago, IL 60604-3590	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Alan	Whipple	sa.property@state.mn.us	Minnesota Department Of Revenue	Property Tax Division 600 N. Robert Street St. Paul, MN 551463340	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS
Jonathan	Wolfgram	Jonathan.Wolfgram@state.mn.us	Office of Pipeline Safety	445 Minnesota St Ste 147 Woodbury, MN 55125	Electronic Service	No	SPL_SL__CN - CERTIFICATE OF NEEDS