

## Staff Briefing Papers

Meeting Date Thursday, July 6, 2023 Agenda Item 2\*\*

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Company Xcel Energy

Docket No. E002/M-21-222 & E002/M-19-33

**In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of a Renewable\*Connect Program Modification**

**In the Matter of the Petition of Northern State Power Company d/b/a/ Xcel Energy for Approval of a Renewable\*Connect Program**

Issues Should the Commission grant the petition for reconsideration?

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### Relevant Documents

### Date

Order Approving Renewable\*Connect Program Modifications

May 18, 2023

A. Hanson—Petition for Reconsideration

June 7, 2023

Department of Commerce—Letter

June 15, 2023

Xcel Energy—Letter

June 20, 2023

A. Butts—Letter

June 20, 2023

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

## 1. Statement of the Issues

Should the Commission reconsider its decision in the May 18, 2023 *Order Approving [Xcel Energy's] Renewable\*Connect Program Modifications* in the above-cited matter?

## 2. Background

On May 18, 2023, the Commission issued its *Order Approving Renewable\*Connect Program Modifications*, in Docket Nos. E002/M-21-222 and E002/M-19-33. In this Order, the Commission approved Xcel Energy's updated Renewable\*Connect compliance items and corresponding tariff modifications as well as program modifications and reporting requirements.<sup>1</sup>

On June 7, 2023, A. Hanson filed a Petition for Reconsideration.

Petitions for reconsideration are subject to Minn. Stat. §216B.27 and Minn. R. part 7829.3000.

Minn. Stat. §216B.27, subd. 1 provides that the Commission may grant a rehearing if it believes sufficient reason exists. Subd. 2 requires that the application for a rehearing shall set forth specifically the grounds on which the applicant contends the decision is unlawful or unreasonable. Subd. 3 provides that if after rehearing it appears that the original decision, order, or determination is in any respect unlawful or unreasonable, the Commission may reverse, change, modify, or suspend the original action accordingly.

The standard the Commission has applied previously for reconsideration includes:

1. raises new issues,
2. points to new and relevant evidence,
3. exposes errors or ambiguities in the underlying order, or
4. otherwise persuades the Commission that it should rethink its previous order.

## 3. A. Hanson Petition for Reconsideration

A. Hanson, a Minnesota Xcel Energy customer and Windsource subscriber, requested the Commission reconsider the discontinuation of Windsource and merger of Windsource subscribers into Renewable\*Connect due to harm caused to Month-to-Month subscribers.<sup>2</sup>

In their petition, A. Hanson discussed the difference in subscription pricing between the Windsource program and Renewable\*Connect program, stating that since 2019, Windsource has been providing annual refunds.<sup>3</sup> A. Hanson also expressed concern that the Renewable\*Connect program would price at a premium compared to the current fuel clause and felt this to be a violation of MN Statute §216B.169.

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<sup>1</sup> [Commission Order](#)

<sup>2</sup> 21-222, A. Hanson, Reconsideration Petition, p. 3

<sup>3</sup> *Id.*, p. 2

A. Hanson noted a perceived focus by the Minnesota Public Utilities Commission on the voluntary nature of the program as a justification for failure to ensure fair rates in accordance with §216B.07.

Hanson also charged that the PUC has made no effort to hold Xcel accountable for the pricing conditions outlined in the PUC's original price-contingent approval.<sup>4</sup>

Hanson discussed the passage of SF4/HF7, the 100% carbon free energy legislation passed in 2023 that amended MN statute §216B.1691 to consider factors beyond cost and reliability. Hanson referenced statewide air emission reduction benefits and the impact on Minnesotans' opportunity to participate fully in the clean energy economy. Hanson felt the change to statute should warrant reconsideration.<sup>5</sup>

Hanson also expressed frustration with the use of their personal unpaid time to provide thoughtful assessment to assist the PUC as a party to this docket but still felt left out of the conversation. Hanson noted he was not asked any questions during the agenda item on May 11, 2023 while the Commissioners stressed they did not want the public to feel as if it was being ignored while asking Xcel Energy to weigh in on A. Hanson's analysis and decision items. Hanson felt the Commission offered no deliberation or argumentation to explain its decision to the public before making its decision.<sup>6</sup>

A. Hanson requested a detailed accounting of Commission deliberation.<sup>7</sup>

## 4. Response to Petitions for Reconsideration

### A. Department of Commerce Letter

The Department noted they felt the petition for reconsideration offered no new arguments, information, or facts that the Commission did not already consider in its approval of the R\*C program in Docket No. E002/M-19-33 or that A. Hanson did not already bring forth in his Joint Comments with A. Butts in response to Xcel's request for tariff modifications in Docket No. E002/M-21-222.

The Department noted that it is not uncommon for there to be no oral argument and little to no questions from Commissioners on items during an agenda hearing due to the fact that Commission decisions are primarily based upon the building of a written record, which A. Hanson participated in and which the Commission fully considered when making its decision.

The Department did not recommend reconsideration of the Commission's Order due to their opinion that the Commission's decision was based on sound rate-making principles and its consistency with prior Commission Orders in Docket E002/M-19-33.<sup>8</sup>

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<sup>4</sup> *Id.*, p. 3

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> 21-222, DOC, letter, p. 1

## B. Xcel Energy Letter

In Xcel Energy's response to the petition for reconsideration, the Company stated the petition fails to identify valid reasons why the Minnesota Public Utilities Commission should amend or reconsider the May 18, 2023 Order accepting the R\*C program modifications and pricing. Xcel noted petitions are governed by MN §216B.27, subd. 3 which permits reconsideration of Commission decisions if they are "in any respect unlawful or unreasonable." Xcel noted Minn. R. 7829.3000 provides additional procedural requirements that "set forth specifically the grounds relied upon, or errors claimed."<sup>9</sup>

Xcel stated that the petition fails to satisfy the Commission standards for reconsideration.

Xcel stated that the program does not violate MN statute §216B.169 as argued by A. Hanson, citing the Commission's review and approval in E002/M-19-33 in the August 12, 2019 Order. Xcel stated the May 18, 2023 Order approved the final pricing of the program but did not alter the program design already approved by the Commission's August 12, 2019 Order.

Xcel discussed A. Hanson's concern regarding the increase in costs to subscribers. Xcel noted the rate for Windsource was set during Xcel's 2006 electric rate case which updated pricing from \$2.00 per 100 kWh block to \$3.53 per 100 kWh block.<sup>10</sup> Xcel stated that Windsource's administratively fixed price is due for an update however, given the Commissions approval to sunset the program, Xcel stated updating Windsource pricing is unnecessary. In their letter, Xcel stated A. Hanson is aware their participation in Windsource or Renewable\*Connect is voluntary.<sup>11</sup>

Xcel discussed A. Hanson's concern that the Commission left them out of the agenda process by not being given the opportunity to speak or be asked questions. Xcel noted Minnesota Statutes explicitly grant the Commission quasi-judicial and quasi-legislative functions and that there is no requirement that the Commission ask questions of the parties or individual members of the public. Xcel felt the nature of this proceeding did not require that each party be allowed to state its case verbally. Xcel noted rules require the Commission to give parties an opportunity to make oral arguments only in certain types of cases or situations and that this agenda meeting was a public meeting with detailed discussions where the Commissions had all the facts, were briefed on the issues, and had the opportunity to ask questions if clarification was required.<sup>12</sup>

In response to the discussion to the 100% carbon free bill (SF4/HF7) that amended Minn. Stat. §216B.1691 to require the Commission to consider factors beyond cost and reliability when making renewable energy program compliance decisions, Xcel noted the legislation addresses utilities' Integrated Resource Plans, not the voluntary Renewable\*Connect program.

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<sup>9</sup> 21-222, Xcel Energy, Letter, p. 1

<sup>10</sup> Findings of Fact, Conclusions of Law, and Order; Order Opening Investigation (set. 1, 2006), Docket No. E002/GR-05-1428

<sup>11</sup> 21-222, Xcel Energy Letter, p. 2

<sup>12</sup> Ibid., pp. 2-3

Xcel ultimately recommended denying the petition for reconsideration.<sup>13</sup>

### **C. A. Butts Letter**

In their letter, A. Butts stated A. Hanson’s petition offers no new arguments, information, or facts but felt that none of the key arguments or facts have been directly or clearly addressed by any party in the docket. A. Butts expressed exhaustion with the process as they felt their concerns had been talked around, minimized, and ignored.<sup>14</sup>

A. Butts expressed frustration with intervenor compensation for citizens, speaking to the fact that they cannot recover from ratepayers their expenses in assisting the Commission through their docket work like a utility can. They also expressed frustration with having to work via the Commission or Department’s assistance to get involved with dockets. A. Butts stated that they have asked for help but have been unable to receive support.

A. Butts described their interactions with Commission and Department staff, expressing frustration due to changes in staff members assigned to this docket and statements made during the previous agenda meeting regarding positions the Department took.

A. Butts then described their interaction with the Office of Attorney General’s Residential Utilities Division, stating they ultimately ignored him after communicating the Department would handle the items of concern.<sup>15</sup>

A. Butts expressed frustration with Xcel’s communication to him within the docket and outside of the docket via a call by Xcel’s program manager. They then stated Xcel did not have their correct address to send their refund check and that Xcel’s claim in the record that they reached out to them was false.<sup>16,17</sup>

A. Butts noted the updates to MN statute §216B.1691 via SF4/HF7 (the new carbon free energy bill) and stated that the Commission should consider how that alters this docket.

A. Butts expanded upon their background, including experience as a community organizer, non-profit founder, former Scout, and educational background in public policy.<sup>18</sup>

## **5. Staff Analysis**

The petition raises concerns regarding the cost of Renewable\*Connect compared to Windsource as well as the new carbon free law (SF4/HF7, MN statute §216B.1691) and Windsource participants’ frustrations regarding the complexity of interacting with Minnesota’s utility regulatory process.

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<sup>13</sup> Ibid., p. 3

<sup>14</sup> 21-222, A. Butts Letter, p. 1

<sup>15</sup> Ibid., p2

<sup>16</sup> Xcel statements can be found in 21-222, Xcel Reply Comment on 6/14/21, pp. 2-3. [Found here.](#)

<sup>17</sup> 21-222, A. Butts Letter, p. 3

<sup>18</sup> Ibid., p. 4

Staff's assessment is that the petitions do not raise new issues, point to new and relevant evidence, or expose errors or ambiguities in the underlying order. If the Commission is persuaded by the petitions, it could reopen the proceeding to place additional limitations or protections on the program.

Staff note that cost concerns of Renewable\*Connect and Windsource were included in the record by A. Hanson and A. Butts as well as the Department of Commerce, ultimately being integrated into Staff Briefing Papers.<sup>19</sup>

Staff note the carbon free law was signed by the Governor on February 7, 2023 while the notice of supplemental comment period where parties were able to raise concerns regarding that law was issued on February 17, 2023 and closed on April 7, 2023.<sup>20</sup>

Staff notes that the petitioners raised concerns regarding their participation in the PUC's complex processes. Staff regret not being able to live up to A. Hanson's expectations of their public servants and will continue to look for ways to improve public participation in the Commission's processes. Staff encourages public comments and believes the analysis provided by commenters in this docket strengthened the R\*C program, noting that party comments instigated increased reporting requirements to monitor cost and other concerns raised by A. Hanson and A. Butts.

Staff clarify that **Decision Option 3** below is the same as was submitted by A. Hanson and A. Butts on May 3, 2023. It was combined with the other Briefing Paper Decision Options in the Revised Decision Options document submitted to the record on May 11, 2023 to help Commissioners in their decision making process during the May 11 agenda meeting. The Revised Decision Options document was provided via edockets and hard copy in the hearing room. This Decision Option was recommended for reconsideration by A. Hanson in his June 7, 2023 Petition for Reconsideration.<sup>21</sup>

## 6. Decision Options

1. Grant reconsideration of the May 18, 2023, Order. (A. Hanson)
2. Deny reconsideration of the May 18, 2023, Order. (Xcel, Dept)

*If the Commission grants reconsideration, take one or more of the following steps:*

3. Approve Xcel Energy's updated Renewable\*Connect programs as proposed, WITHOUT the automatic merger and discontinuation of the Windsource program and resources

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<sup>19</sup> A. Butts and A. Hanson Supplemental Reply Comment on 4/7/23; DOC Supplemental Comment on 3/20/23; and PUC Briefing Papers on 5/11/23

<sup>20</sup> Docket 21-222, Notice of Supplemental Comment Period, 2/17/2023, p. 1

<sup>21</sup> 21-222, A. Hanson, Reconsideration Petition, p. 3

into Renewable Connect Month-to-Month, AND require Xcel Energy to do the following:

(A. Hanson)

- a. Accurately update Windsource program pricing to reflect the prior 12 months of program expenses/sales under the existing price structure and issue a refund reflecting any remaining over-recovery.
- b. Maintain open, uncapped enrollment in Windsource.
- c. Perform an analysis projecting the net Windsource costs (program costs minus FCA credit) for all classes of subscribers where Xcel Energy procures enough wind generation capacity at current market rates to meet the full demand of the Windsource program and reduces curtailment to industry standard levels.
  - i. Include scenarios where Windsource sales double and quadruple.
  - ii. Include separate projections for each line item of the neutrality adjustment if it were applied to the Windsource pricing structure under these three scenarios.
- d. Provide an assessment and discussion of the differences in costs between these Windsource scenarios and the actual costs of the R\*C MTM program. Specifically include discussion of the benefits and drawbacks to ratepayers of merging Windsource into R\*C MTM under current and projected conditions, and procurement timelines.
- e. Notify all windsource subscribers of the ability to offer public comments in a commission proceeding about this analysis and assessment to either support a merger of the Windsource and R\*C MTM programs, or to preserve them as separate programs. 6. Allow any Windsource subscribers that wish to voluntarily transition to the R\*C MTM program to do so at any time during this process.

*If the Commission grants reconsideration, the following procedural option may also be selected:*

4. For procedural purposes only, grant reconsideration of the March 15, 2023, order for the limited purpose of tolling the 60-day time period to allow additional time for the preparation of the Commission's written order on the merits. (Staff)