

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
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In the Matter of a Request by Xcel Energy to
Issue Renewable Development Fund Cycle 4
Requests for Proposals and Petition for
Approval of a Standard Grant Contract

ISSUE DATE: February 6, 2013

DOCKET NO. E-002/M-12-1278

ORDER APPROVING REQUESTS FOR
PROPOSALS AND STANDARD
CONTRACTS AS MODIFIED

PROCEDURAL HISTORY

On November 29, 2012, Northern States Power Company d/b/a Xcel Energy (Xcel, or the Company) filed a notice of its intent to proceed with the fourth funding cycle of its Renewable Development Fund (RDF) Program, and a petition for approval of standard grant contracts for certain RDF projects.

Between December 20 and December 28, 2012, Newport Partners, LLC, the Metropolitan Council, the Minnesota Solar Energy Industry Association (the MnSEIA), and the Division of Energy Resources of the Minnesota Department of Commerce (the Department) filed comments. Newport Partners, the Metropolitan Council, and the MnSEIA raised concerns about aspects of the request for proposals (RFP) process, including the timing and selection criteria.

The Department recommended approval of Xcel's proposed standard grant contracts and request for proposals, with the following qualifications: (1) that in reply comments Xcel reasonably justify the absence of a "March-In Rights" provision in the proposed research and development contract, and (2) that certain changes be made to the RFP process.

On January 11, 2013, Xcel filed reply comments addressing the Department's concern about the absent provision in the proposed standard research and development contract. Xcel also filed revised proposed RFPs addressing some of the concerns raised by commenters.

On January 22, 2013, the Department filed reply comments. In the Department's estimation, Xcel had reasonably justified the contents of the proposed standard research and development contract. But the Department stated that it "strongly suggests that the RDF Requests for Proposals include a similar level of clarity for the scoring approach as was provided for the RDF Request for Proposals for the 3rd Funding Cycle."

On January 31, the matter came before the Commission.

FINDINGS AND CONCLUSIONS

I. Introduction

Xcel's Renewable Development Fund program was established to satisfy its obligations under Minnesota Statutes section 116C.779. The statute directs the owner(s) of the Prairie Island and Monticello nuclear power plants—Xcel—to fund a renewable development account in connection with the dry-cask storage of spent nuclear fuel at those facilities. According to Xcel's initial filing, the RDF Program's previous three funding cycles granted approximately \$78 million to renewable energy research and production projects since 2001.

The renewable development fund statute was amended in 2012.¹ Among other changes, the statute now provides more detailed guidance for use of the funds, clarifies the Commission's authority in the funding process, codifies the use of an advisory group, and requires that the utility administering the fund must "strongly consider, where reasonable, potential benefit to Minnesota citizens and businesses and the utility's ratepayers."² Xcel contends that its proposal for the fourth funding cycle accounts for the statutory changes as well as the lessons it learned in the previous funding cycles.

II. Positions of the Parties

Xcel proposes to make \$30 million available for projects in the following broad categories:

- near commercial-scale demonstration projects that produce and/or deliver renewable electric energy;
- renewable energy projects that will increase the market penetration of renewable electric energy in the state at reasonable cost; and,
- projects to stimulate research and development into renewable energy technologies within the state.

The Company proposes to issue two RFPs, the first for projects related to energy production and research and development, and the second soliciting projects from Minnesota institutions of higher education for renewable energy research and development. Xcel's proposal sets forth selection

¹ 2012 Minn. Laws ch. 196.

² Minn. Stat. § 116C.779, subd. 1(f).

criteria, a selection process, and proposed standard contracts that Xcel contends reflect the 2012 statutory changes and previous Commission orders.

At the time of the Commission meeting, Xcel had modified its proposal in response to some but not all of the issues raised in comments. Newport Partners, LLC, the Metropolitan Council, and the MnSEIA recommended modifications to the proposed RFP process that they contend would improve the process. In its reply comments, Xcel responded to the suggestions, amending its RFP proposal to address a number of the concerns raised by these parties. The Department's concerns with the proposed standard research and development contract were also ameliorated by Xcel's reply comments.

But the Department remained critical of the level of clarity in Xcel's approach to scoring RFP responses, and contended that the scoring system did not provide an adequate level of transparency for the Department to meaningfully review program funding decisions. Xcel argued that a scoring system with too much detail could discourage proposals, and reduce the creative diversity of the proposals that would be submitted.

At the Commission meeting on this matter, Xcel, the Department, and some members of the RDF Advisory Group³ agreed that Xcel would submit a revised scoring approach that would incorporate sufficient detail to satisfy the Department. A member of the Advisory Group asserted that it was important that the revised scoring rubric incorporate a consideration of ratepayer impacts, and stated that the process in the third funding cycle did not go far enough in that regard.

III. Commission Action

The Commission has considered the issues raised by the parties, and concludes that Xcel's proposal, as modified in its reply comments, establishes a reasonable process for soliciting and selecting RDF fund recipients under Minn. Stat. § 116C.779, with the following modifications.

The Commission shares the Department's commitment to greater transparency in the selection process. Ultimately, the Commission must approve selections made as a result of the RFP process; objective information about the relative merit of the proposals will aid the Commission's decision. The Commission believes there is room for the scoring system to provide more detail without meaningfully diminishing participation or proposal creativity.

Accordingly, the Commission will require Xcel to provide a scoring approach with a similar level of scoring clarity as in RDF Cycle 3, and that it include more direction on how preference criteria will be counted for both proposed RFPs. This requirement is not intended to limit the preference criteria or scoring, only to ensure that the detail in the RFP scoring and selection process is sufficient to be meaningfully reviewed by the Commission, the Department, and other stakeholders.

³ The utility must consult with an advisory group comprising, among others, representatives of its ratepayers. Minn. Stat. § 116C.779, subd. 1(f).

Having considered the parties' expressed interest in getting this funding cycle underway, and their agreement at the meeting that Xcel would adopt an approach that synthesized the scoring system of Cycle 3 with new criteria and concepts proposed by Xcel for Cycle 4, the Commission will approve Xcel's proposal as modified below, with the understanding that the revised RFP scoring system will be submitted in a compliance filing as soon as is practicable.

ORDER

1. The Commission hereby approves the overall goals for RDF Cycle 4 proposed by Xcel and the Advisory Group, as follows:
 - a. near commercial-scale demonstration projects that produce and/or deliver renewable electric energy
 - b. renewable energy projects that will increase the market penetration of renewable electric energy in the state at reasonable cost
 - c. projects to stimulate research and development into renewable energy technologies within the state

2. The Commission hereby approves the list of preference criteria (not ranked in order of preference) for RDF Cycle 4 as proposed by Xcel and the Advisory Group, contained in the revised red-lined RFPs filed January 11, 2013, and clarified below:
 - a. support of the Prairie Island Indian Community for the project
 - b. projects located within the Energy Innovation Corridor (EIC)
 - c. projects that are structured to receive a lump-sum payment grant payment upon project completion
 - d. energy production (EP) project proposing to use electricity on-site located within Xcel's service territories in Minnesota and Wisconsin will receive preference; however, EP projects can be located anywhere within the state of Minnesota or Wisconsin
 - e. research and development (RD) projects that demonstrate a high likelihood of royalty returns and propose a larger royalty sharing with the RDF
 - f. projects sponsored by a K-12 school or local unit of government to construct a solar photovoltaic (PV) facility
 - g. for proposed anaerobic digester systems, proposals that use non-agricultural residue as feedstock

3. The Commission hereby approves the revised red-lined RFPs proposed by Xcel and the Advisory Group and filed by Xcel on January 11, 2013 modified as follows:
 - a. Xcel shall provide a more explicit scoring approach with a similar level of scoring clarity as that in the RDF Cycle 3, including more direction on how preference criteria will be counted, for both the proposed RFPs.

4. The Commission hereby approves Xcel's standard form grant contracts for energy production (EP) and research and development (RD) filed November 29, 2012.

5. Xcel shall submit a compliance filing, as soon as reasonably possible, to reflect changes to the RFPs and standard form contracts as decided by the Commission at its January 31, 2013 meeting. Following DOC compliance approval, but no later than February 15, 2013, Xcel shall issue the Cycle 4 RFPs and standard grant contracts.
6. Xcel shall follow the procedural steps below for RDF Cycle 4 and for all future RDF cycles until such time as the Commission approves revisions:
 - a. The Commission reviews and approves selection criteria as proposed by Xcel with input from the Advisory Group.
 - b. With input from the Advisory Group, Xcel develops and files an RFP based on approved selection criteria. Xcel files the proposed RFP and standard form contracts with the Commission and Department. If no comments are received within 30 days and unless otherwise directed by the Commission, Xcel issues the proposed RFP.
 - c. With input from the Advisory Group, Xcel oversees the project selection process and makes a final project selection recommendation to the Commission.
 - d. Xcel utilizes an independent third-party expert to evaluate project proposals for EP and RD projects. The Company may also decide whether to retain an independent third-party to assist in the review of responses to the RFP for institutions of higher education.
 - e. Within 60 – 90 days of receiving project proposals in response to both RFPs, Xcel submits its final project selections to the Commission for approval. The final selection report shall include a detailed explanation of any deviations from the rankings for EP, RD and institutions of higher education projects provided by an independent third-party evaluator or other evaluator.
 - f. If within 90 days of the project proposal receipt date the Company's final project selections are not filed with the Commission, Xcel shall file a letter with the Commission explaining the reasons for the delay and shall continue to file such a letter every 30 days until the final project selection is submitted to the Commission.
 - g. At the discretion of the Commission, prior to formal Commission consideration of Xcel's final project selection, the Company shall organize a question-and-answer session for the Commission with stakeholders, potential grantees selected by Xcel, and members of the RDF Advisory Group.
 - h. Once the Commission approves a final selection of projects, Xcel may execute grant contracts with the approved projects. All finalized grant contracts must be filed with the Commission prior to the start of the project or program.
 - i. If a grant contract executed with a winning bidder contains no changes from the standard form contract for EP or RD 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.

- j. Xcel shall file with the Commission for approval all grant contracts executed with institutions of higher education resulting from the separate RFP.
 - k. Xcel shall submit annual progress reports to the Minnesota House and Senate energy committees and to the Commission addressing the operation of the RDF program as required by statute. The annual report should also include the information required by the Commission in the current biennial report.
 - l. Xcel shall continue to file quarterly informational and progress reports on ongoing RDF projects and grant contracts with the Commission.
 - m. Xcel shall post all final reports, mid-project status reports, and RDF account financial reports on the Commission-designated public website. All projects must provide a written final technical report and a clearly written summary for non-technical readers.
7. Xcel shall post online all RDF-related final reports, mid-project status reports, and account financial reports on a public website designated by the Commission.
 8. The Commission hereby designates the Company's RDF website (www.xcelenergy.com/rdf) as the public site for posting all RDF-related final reports, mid-project status reports, and account financial reports.
 9. Within 10 days of the issue date of the RFPs, Xcel shall submit a compliance filing to the Commission demonstrating the Company's issuance of the Cycle 4 RFP and standard contracts.
 10. Within 60 days of the date of this Order, Xcel, in conjunction with the Advisory Group, shall submit to the Commission as a compliance filing in this matter an updated RDF mission statement that incorporates the requirements of the current RDF statute (Minn. Stat. § 116C.779).
 11. Xcel shall report annually by February 15 to the chair and ranking minority member of the legislative committees with jurisdiction over energy policy on projects funded by the account for the prior year and all previous years. The report must, to the extent possible and reasonable, itemize the actual and projected financial benefit to the public utility's ratepayers of each project. The Report shall also be filed with the Commission in this docket.
 12. The provisions of this order governing the process, preference criteria, standard contracts, and RFPs are effective as of January 31, 2013.

13. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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