

**STATE OF MINNESOTA
FOR THE PUBLIC UTILITIES COMMISSION**

In the Matter of the Petition of Northern
States Power company d/b/a Xcel Energy
for Approval of Competitive Resource
Acquisition Proposal and Certificate of
Need

PUC Docket Nos.: E-002/CN-12-1240
E-002/M-14-788
E-002/M-14-789

**ENVIRONMENTAL INTERVENORS' INITIAL COMMENTS REGARDING XCEL'S
SEPTEMBER 23, 2014 COMPLIANCE FILING**

I. INTRODUCTION

Environmental Intervenors submit these comments in response to the Commission's September 25, 2014 Notice Seeking Comments on Xcel's Compliance Filing. The Commission indicated the following topic for comment:

- Is Xcel's filing and the accompanying recommendations reasonable, including the Company's request to delay the in-service dates of the thermal power purchase agreements ("PPA")?

Environmental Intervenors argue below that: (1) The Commission should approve the PPA with Geronimo because it is in the public interest. How much additional solar the Commission should approve as a consequence of the on-going solar RFP process is a separate question and should be dealt with in the solar RFP docket. (2) With regard to the thermal PPAs, the Commission should note Xcel's revised capacity need forecast as changed circumstances significantly influencing the selection of resources. Because there is no longer a capacity need for any of the thermal units, the Commission should defer consideration of additional resources to the company's Integrated Resource Plan ("IRP").

II. THE COMMISSION SHOULD DETERMINE THAT THE GERONIMO PPA IS IN THE PUBLIC INTEREST BASED ON THE RECORD IN THIS PROCEEDING.

A. The Sole Question Before The Commission Is Whether The Terms Of The Proposed PPA With Geronimo Are In The Public Interest.

As an initial matter, it is important for the Commission to acknowledge what question is and what question is not currently pending. Xcel's September 23, 2014 Compliance Filing seeks to muddy the issue, but the Commission's May 23, 2014 Order was crystal clear. That Order directed Xcel to "negotiate a draft power purchase agreement with Geronimo . . . and submit the agreement for Commission review to ensure that the negotiated terms are consistent with the public interest."¹ The Commission clearly defined for itself what question remains in this case and the only decision now before the Commission is whether the PPA *terms* Xcel negotiated on behalf of its customers are consistent with the public interest.

Xcel's Compliance Filing invites the Commission to answer a different question, i.e., whether Geronimo's bid should be compared to bids it has received in response to the solar RFP. That question was already asked and answered. In its exceptions to the ALJ Report, Xcel submitted the same recommendation to the Commission:

[W]e continue to recommend that it is in the public interest to consider Geronimo's solar proposal in our upcoming solar solicitation. That way it can be compared against other solar energy proposals so we can adequately confirm that we are obtaining solar generation at the lowest possible price.²

The Commission, however, did not agree with Xcel's position. Indeed, its May 23, 2014 Order thoroughly evaluates all the certificate of need and public interest criteria and concludes:

"Weighing all factors explored in this record, the Commission affirms the ALJ's

¹ *In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of Competitive Resource Acquisition Proposal and Certificate of Need*, MPUC Docket No. E-002/CN-12-1240, Order (May 23, 2014) at 36.

² *Id.* Xcel Energy's Exceptions to ALJ Report (January 21, 2014) at 21.

recommendation and *will select* Geronimo's proposal."³ Thus, Xcel asks the Commission to reconsider a determination it made final in its May 23, 2014 Order. Its request is untimely and must be rejected.^{4,5}

This case is procedurally similar to the all-source bidding process that resulted in Xcel's 2003 PPA with Manitoba Hydro.⁶ There, as here, the Commission had selected the bid but reserved approval of the PPA until it was negotiated. The Commission rejected an attempt by other intervening parties to revisit its earlier selection of the Manitoba Hydro bid:

The Commission has already approved Xcel's selection of Manitoba Hydro's bid and the issue before the Commission is whether the Commission will approve Xcel's proposed PPA. Accordingly, issues . . . regarding the appropriateness of Xcel's selection of Manitoba Hydro, are no longer before the Commission. Efficient and effective regulatory process requires that parties may not be allowed to continue to require the Commission and other affected parties to revisit, at any stage of the proceedings, issues properly resolved at earlier stages.⁷

The selection of Geronimo's bid was made final at an earlier stage of this proceeding. Xcel's request that the Commission revisit that decision should be rejected.

B. The Geronimo PPA Is In The Public Interest And Should Be Approved.

The Commission should approve the Geronimo PPA because it is in the public interest. As described in Xcel's Compliance Filing the PPA is fully consistent with Geronimo's bid. It

³ *Id.* Order (May 23, 2014) at 34.

⁴ Minn. Stat. 216B.27 (requiring that request for rehearing be filed within 20 day of order or determination).

⁵ While the Commission could, on its own motion, reconsider its earlier decision, it should decline to do so for all the reasons Environmental Intervenors stated in their Reply to Exceptions to the ALJ Report. In particular, Geronimo's bid is not comparable to the bids received in response to Xcel's solar RFP because the Geronimo project is designed to provide *capacity* and the solar RFP is for energy. See Environmental Intervenors Reply to Exceptions to ALJ Report (January 31, 2014) at 18-21.

⁶ *In the Matter of the Petition of Northern States Power Company for Review of its 1999 All Source Request for Proposals*, MPUC Docket No. E-002/M-99-888.

⁷ *Id.* Order (March 18, 2003) at 24. Affirmed *In re N. States Power Co.*, 676 N.W.2d 326 (Minn. Ct. App. 2004).

maintains the project's in-service date, ensuring sufficient capacity resources in the near term.⁸

The price, which the Commission has already determined reasonable in light of the benefits the solar project offers, has remained the same. And, as noted in Xcel's Filing, the PPA does not shift risk to ratepayers.⁹

Because the Commission has already selected the Geronimo bid and because the PPA is consistent with the bid and does not put ratepayers at risk, the PPA is in the public interest and should be approved.

C. The Amount Of Additional Solar To Acquire Should Be Considered In The Solar RFP Docket.

Xcel's Compliance Filing raises a question about the amount of large-scale utility solar to acquire. Environmental Intervenors agree that this is a good question for the Commission to consider in light of the expiration of the Investment Tax Credit ("ITC") at the end of 2016. However, that question should be explored in the Solar RFP docket, not here.

Environmental Intervenors submit that, in light of the favorable bids Xcel received in response to the Solar RFP, it is likely in the public interest for Xcel to select more solar than is required to comply with the existing Solar Energy Standard ("SES"). As described in Xcel's Compliance Filing, the ITC represents a 30% cost reduction and is not guaranteed to be renewed or extended beyond the current expiration date. In addition, the SES does not preclude the acquisition of additional solar. The SES is a floor, not a ceiling. Moreover, while the SES *requires* 1.5% of public utility retail sales from solar by 2020, the statute sets a state-wide goal of

⁸ See Response to MNPUC IR 5, Table B (showing that current projections, absent solar, predict a 21 MW capacity shortfall in 2019).

⁹ *In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of Competitive Resource Acquisition Proposal and Certificate of Need*, MPUC Docket No. E-002/CN-12-1240, September 23, 2014 Xcel's Compliance Filing at 19-20.

generating 10% of Minnesota’s electricity from solar by 2030.¹⁰ If the bids in response to Xcel’s solar RFP are reasonable and beneficial to ratepayers based on all the socio-economic and environmental benefits the Commission must consider, then additional solar should be acquired. But that decision isn’t relevant here and should be made in the Solar RFP docket.

III. THE COMMISSION SHOULD NOT APPROVE ANY ADDITION OF THERMAL CAPACITY.

Parties, including Environmental Intervenors, raised concerns about Xcel’s projected capacity need during its 2010 IRP and extending into this docket. The Commission, in its May 23, 2014 Order, reasoned that uncertainty surrounding the forecasted capacity need would justify more than the minimal amount identified by the ALJ, but the Commission did not settle on or order an exact figure. It provided for flexibility moving forward. The circumstances have now changed such that many of the uncertainties underlying the Commission’s order have been eliminated, and the Commission should therefore refrain from approving any of the additional thermal capacity.

A. The Commission’s May 23, 2014 Order Did Not Make A Final Decision With Regard To Need For A Thermal Unit.

In its May 23, 2014 Order, the Commission provided itself with flexibility to later decide whether Xcel’s capacity need would warrant a thermal unit in addition to the solar project that it selected. The Commission noted that it “concurs with the view that changed circumstances may justify Xcel *reducing or delaying* its acquisition of new capacity.”¹¹ In its ordering point, the Commission made clear that it may, in the end, select none of the proposed thermal projects: “Xcel shall negotiate draft power purchase agreements . . . [and] submit the agreements and

¹⁰ Minn. Stat. § 216B.1691, subd. 2f.

¹¹ *In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of Competitive Resource Acquisition Proposal and Certificate of Need*, MPUC Docket No. E-002/CN-12-1240, Order (May 23, 2014) at 30 (emphasis added).

terms for Commission review to determine which of these project(s), *if any*, best addresses Xcel's overall system needs...."¹² Environmental Intervenors submit that the Commission's Order did not make a final decision on the need for any of the proposed units and it should conclude, based on the change in Xcel's capacity requirements, that none of the projects is now needed.

B. Xcel Has Demonstrated That It Does Not Have Capacity Need For Any Of The Proposed Thermal Projects.

As Environmental Intervenors have argued previously in this and other cases, a central tenet of good resource planning is that decisions be based on the best available information on projected resource needs.¹³ Here, Xcel has supplied the Commission with more recent and reliable information from which to draw conclusions about its actual capacity need. This new information demonstrates with certainty that the addition of a thermal unit is not warranted at this time.

Xcel's new calculation of its capacity need is conservative. As we have set out elsewhere, utilities and the Department have consistently offered forecasts that overstate need.¹⁴ Some additional amount of Xcel's capacity need could be met by accessing the demand response studies show is available on Xcel's system.¹⁵ Additionally, increasing efficiency gains from new programs and rate structures, such as decoupling and the Inclining Block Rate currently under

¹² *Id.* Order (May 23, 2014) at 36 (emphasis added).

¹³ See *In the Matter of Xcel Energy's 2010-2015 Integrated Resource Plan*, MPUC Docket No.: E002/RP-10-825, Environmental Intervenors Reply Comments (January 19, 2013) at 3 (arguing in Xcel's IRP, which was central to considerations of need in this docket, that readily available updated forecasts should have been used in Xcel's and the Department's modeling for the IRP).

¹⁴ *In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of Competitive Resource Acquisition Proposal and Certificate of Need*, MPUC Docket No. E-002/CN-12-1240, Environmental Intervenors Reply to Exceptions to ALJ Report at 11-13.

¹⁵ *In the Matter of Xcel Energy's 2010-2015 Integrated Resource Plan*, MPUC Docket No.: E002/RP-10-825, Environmental Intervenors Reply Comments at 4-5.

consideration in Xcel's rate case, are not factored into Xcel's forecast. For these reasons, in addition to those supplied by Xcel, Environmental Intervenors conclude that the predicted flat growth in capacity need is conservative and should be relied on by the Commission.

Because the best available information shows that Xcel does not have a need for any of the proposed thermal projects, the Commission should not approve the PPAs for those bids and should close the docket (E-002/M-14-789). Xcel requested that the Commission order it to "work with the thermal bidders . . . to update terms and pricing that reflect in-service timing in the 2019-2021 timeframe." But Xcel's own need forecast shows no need for the addition of thermal capacity in that timeframe. As it noted in its filing, it has other resources, including additional hydro and a life extension at Blue Lake that could cover the small capacity deficit that is projected for only one year (2020) in the coming decade.¹⁶ Circumstances have changed. There is no longer a need for the thermal resources bid in this docket, and selecting one or extending the negotiations is not in ratepayers' interests. The docket, therefore, should be closed.

C. The Commission Should Rely On Resource Planning To Identify The Next Resources Needed For Xcel's System.

The evaluation of Xcel's future capacity (and energy) needs, if any, is precisely the purpose of resources planning. Xcel is scheduled to file its next IRP in just two months. For several reasons, that proceeding should become the docket in which the need for any additional thermal units in the 2020 time frame is evaluated.

First, it is clear that there is no urgent need to make a decision now. Xcel's first projected capacity deficit will not occur until 2020, if at all, given the potential capacity that Xcel has

¹⁶*In the Matter of the Petition of Northern States Power company d/b/a Xcel Energy for Approval of Competitive Resource Acquisition Proposal and Certificate of Need*, MPUC Docket No. E-002/CN-12-1240, September 23, 2014 Xcel's Compliance Filing at 11.

identified to fill the deficit. There is sufficient time to evaluate in the IRP how a capacity deficit in 2020 can best be met.

Second, the IRP is designed to allow the Commission to take a broad look at what resources are available to meet Xcel's needs under different scenarios and assumptions. If, in fact, a thermal addition is the best resource to meet a 2020 need, it will be evident as a result of the IRP. But it is equally possible that what are determined to be the most likely scenarios result in different resource selections, or none at all. Resource planning protects ratepayers from unnecessary and unwise utility investments. It should not be circumvented in this instance.

Finally, Xcel's 2015 IRP will include alternative plans that evaluate the retirement of Sherco Units 1 and 2 consistent with the "Sherco Study" which the Commission ordered following Xcel's last IRP (2010). The retirement of one or both Sherco units will leave Xcel's system with a significant amount of capacity need. Natural gas units may have to replace some of that capacity and the IRP is the forum to evaluate what size, geographic location and other conditions for replacement power are appropriate. No doubt the thermal bidders want to supply power to Xcel that is actually needed – the IRP is the appropriate process to determine that need going forward.

IV. CONCLUSION

Environmental Intervenors submit that the Commission already selected the Geronimo bid in its earlier Order and must only consider now whether the terms of the PPA are in the public interest. Because the PPA terms are consistent with the bid and in the public interest, the PPA should be approved. How much additional solar Xcel should acquire should be determined in the Solar RFP docket. Further, because Xcel has demonstrated that it has no need for additional capacity until at least 2020, the Commission should decide not to select a thermal

resource at this time. Xcel's specific needs and the resources appropriate to meet those needs going forward should be evaluated in the IRP.

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Respectfully submitted,

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