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March 9, 2015

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

**RE: Answer to Requests for Clarification or Reconsideration**  
Docket Nos. E002/CN-12-1240, E002/M-14-788, and E002/M-14-789

Dear Mr. Wolf:

Attached is the Minnesota Department of Commerce, Division of Energy Resources' answer to petitions for reconsideration or clarification of the Minnesota Public Utilities Commission's *February 5, 2015 Order Approving Power Purchase Agreement with Calpine, Approving Power Purchase Agreement with Geronimo, and Approving Price Terms with Xcel*.

Sincerely,

/s/ STEVE RAKOW  
Rates Analyst

/s/ CHRISTOPHER SHAW  
Rates Analyst

SR/CS/lt  
Attachment



## BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

DOCKET Nos. E002/CN-12-1240, E002/M-14-788, and E002/M-14-789

#### I. INTRODUCTION

On February 5, 2015, the Minnesota Public Utilities Commission (Commission) issued the Commission's *Order Approving Power Purchase Agreement with Calpine, Approving Power Purchase Agreement with Geronimo, and Approving Price Terms with Xcel* (February 5 Order).

On February 25, 2015, requests for clarification or reconsideration were filed by:

- Minnesota Department of Commerce, Division of Energy Resources (Department);
- Northern States Power Company, doing business as Xcel Energy (Xcel);
- Invenergy Thermal Development LLC (Invenergy); and
- Xcel Large Industrials (XLI).<sup>1</sup>

Minnesota Rules 7829.3000 subp. 4 states that answers to petitions for reconsideration are due within 10 days. Below is the answer of the Department to the petitions for reconsideration of Xcel and Invenergy. Since the XLI petition for reconsideration does not make a clear recommendation other than to modify the February 5 Order so as "to come within a zone of reasonableness based on record evidence," the Department does not address XLI's petition.

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<sup>1</sup> XLI consists of Flint Hills Resources, LP; Gerdau Ameristeel US, Inc.; Unimin Corporation; and USG Interiors, LLC.

**II. ANSWER**

**A. XCEL**

**1. Origin of Ordering Point 2A**

Xcel's February 25, 2014 *Petition for Clarification* (Xcel Petition) at page 2 states that Ordering Point 2A of the Commission's May 23, 2014 *Order Directing Xcel to Negotiate Draft Agreements with Selected Parties* (May 23 Order) reflects the Department's proposed approach to cost recovery for all thermal proposals. Ordering point 2A states:

Calpine, Geronimo, Invenergy, and Xcel shall be held to the prices and terms used to evaluate each bid for the purpose of cost recovery from Xcel ratepayers. Ratepayers must not be put at risk for costs that are higher than bid or for benefits assumed in bids that do not materialize. If actual costs are lower than bid, the bidders should be allowed to keep those savings.

The Department agrees with the Xcel Petition that this ordering point reflects the Department's position regarding cost recovery for all bids. Specifically, a letter from the Department filed in this proceeding on July 29, 2013 noted that Xcel, Invenergy and Calpine Corporation (Calpine) all claimed that some costs associated with their bids were either not included and assumed to be borne by Xcel, or were estimated subject to revisions. In response, the Department's July 29 Letter stated that:

While the Department is aware that some costs, particularly costs related to the facilities necessary to interconnect to the transmission system, can be difficult to estimate, bidders are in the best position to estimate those costs. Further, the competitive bidding is most fair to all bidders and ratepayers if each bid is evaluated based on the total costs that ratepayers will pay. The treatment of interconnection costs noted above proposed by the bidders in the details of their submittals make a fair comparison difficult.

Therefore, consistent with past practices, the Department intends to hold each of the bidders to the prices used to evaluate the bids... ultimately, the Minnesota Public Utilities Commission has the authority to decide whether to allow cost recovery from ratepayers... it is within the Commission's discretion whether to accept, reject, or modify the Department's recommendations.

The Department agrees with Xcel's characterization that the May 23 Order adopted the Department's position.

## 2. Xcel's Proposed Revision

The Xcel Petition proposes to revise the Commission's February 5 Order as follows:

Xcel first addresses cost: Consistent with the ~~first part of the~~ Commission's admonition Xcel states that it will forgo recovery of any costs that exceed its proposal (plus financing costs). But ~~distinct from the second part of the admonition,~~ Xcel states that ~~it would not seek to recover from ratepayers more than the project's actual costs, plus financing costs, even if this proves to be less than the amount of Xcel's bid.~~ ~~if the actual cost of the project is less than the estimate, the full capital cost estimate along with AFUDC associated with actual incurred costs will be put in rate base.~~ ~~The Company would create a regulatory asset on its books to recognize the difference between actual cost and that included in rate base.~~

The Department agrees that Xcel's proposed revision better reflects the cost recovery authorized by Ordering Point 2A in the Commission's May 23 Order. Therefore, the Department recommends that, should the Commission reconsider its February 5 Order, the Commission approve the revision proposed by Xcel to clarify cost recovery expectations.

## B. INVENERGY

### 1. Low Forecast and Least Cost Proposal

While generally supportive of much of Invenergy's February 25, 2015 *Petition for Rehearing and Reconsideration* (Invenergy Petition), particularly regarding the importance of preserving the integrity of the bidding process, the Department questions the validity of one of Invenergy's arguments supporting its request.

The Invenergy Petition requests that the Commission "rehear this matter, reconsider its [February 5, 2015] Order and approve the Invenergy PPA – the lowest cost resource for Xcel ratepayers." One issue that the Invenergy Petition states supports a reconsideration request is the size of the need. Specifically, the Invenergy Petition states that the need "appears to be well lower than the original 170 to 500 MW assumed to be needed."<sup>2</sup> Therefore, Invenergy concludes that Commission approval of three projects totaling 650 MW should be reconsidered and reversed.

If the Commission were to agree with Invenergy's characterization of the need, the appropriate response is not necessarily to approve the smallest project or the project with the lowest capital cost. Instead, the appropriate response would be to review an analysis of Xcel's system that assumed a lower forecast. This information is available in the record. For

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<sup>2</sup> Note that this quote appears to contain a typographical error since the Commission clearly found a need of 150 to 500 MW.

example, see Table 2 of the Department's October 23, 2015 Comments, which shows that the Invenergy project becomes more cost-effective under lower forecast scenarios, when a non-firm gas supply is assumed, and that a package of projects continues to be more cost-effective than a single project.

Furthermore, as stated in the Department's October 23, 2014 comments:

Given that Xcel's most recent forecast would not materially affect the need for capacity resources in the 2017-2019 timeframe and remains within the band of demand forecasts analyzed by the DOC through 2024, the DOC concludes that there is no need to reopen the Commission's March 13, 2013 Order in this proceeding to reflect Xcel's most recent forecast.

## *2. Change in Risk Assignment and Added Costs Contradict Prior Orders*

The Invenergy Petition at pages 3 to 7 claims that, in approving the proposed power purchase agreement between Calpine and Xcel, the Commission inappropriately reassigned risk from Calpine to Xcel's ratepayers and added a new cost, which contradicted prior Commission orders in this proceeding.

As to reassigned risk, the Department agrees with the Invenergy Petition that the record is clear that \$1.5 million in potential transmission interconnection costs were included in Calpine's proposal. As stated in our February 25 Request for Clarification or Reconsideration, the Department seeks clarification that the Commission would require Xcel to obtain approval of any transmission costs that exceed \$1.5 million and that the Commission may consider requiring Xcel to terminate the PPA should transmission costs prove to be excessive.

As to added cost, the Department notes that the February 5 Order states, "The Department reviewed the draft agreement's terms governing price and promised nameplate capacity, and concluded that they were consistent with the Calpine proposal." However, the Department's October 23, 2014 comments stated,

In addition, the price terms were changed from those bid to mirror the same terms in the existing Mankato Energy Center PPA. This change added a dispatchability payment that was not included in Calpine's bid. The change slightly increases the total expected capacity payments to Calpine.

Therefore, the Department recommends that, should the Commission reconsider its February 5 Order, the Commission clarify the order to indicate that, while the Department noted that the capacity price and promised nameplate capacity did not change from the bid, the Department indicated that other terms of the PPA were not consistent with the bid and the Commission's Ordering Point 2A, the result of which increased the cost of the PPA over the costs relied on when evaluating the bids.

### **III. RECOMMENDATION**

The Department continues to support its February 25, 2015 *Request for Clarification or Reconsideration*.

Should the Commission decide to reconsider its February 5 Order, the Department:

1. supports consideration of the revision proposed by Xcel clarifying cost recovery expectations; and
2. supports a revision that clarifies the statement “The Department reviewed the draft agreement’s terms governing price and promised nameplate capacity, and concluded that they were consistent with the Calpine proposal” to reflect the Department’s full analysis which concluded that certain terms of the PPA were not consistent with the cost assumptions used to evaluate the bid.

/It

## 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  
Answer to Requests for Clarification or Reconsideration

Docket No. **E002/CN-12-1240; E002/M-14-788 and E002/M-14-789**

Dated this 9<sup>th</sup> day of March 2015

/s/Sharon Ferguson

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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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