

January 22, 2016

Daniel P. Wolf
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. E287, E002/SA-16-22

Dear Mr. Wolf:

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

The Joint Request of the City of North St. Paul and Northern States Power Company (d/b/a Xcel Energy) for approval to terminate a Service Exception Agreement.

The petition was filed on January 5, 2016 by:

Kaela Brennan
McGrann Shea Carnival Straughn & Lamb, Chtd.
800 Nicollet Mall, Suite 2600
Minneapolis, MN 55402

The Department recommends that the Minnesota Public Utilities Commission (Commission) approve the Parties' request that (1) Xcel Energy provide service by exception to the nine locations identified within the City's assigned service territory; that (2) the City once again provide service to the 2360 White Bear Ave N location, that (3) the Compensation Agreement be approved, and finally that (4) the Commission's maps be updated to reflect the service area designations as shown on the maps in the two Agreements. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ DALE V. LUSTI
Financial Analyst

DVL/lt

c: Allison Archer
MNGeo

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. E287, E002/SA-16-22

I. BACKGROUND

North Saint Paul Municipal (North Saint Paul or the City) is an electric municipal utility formed pursuant to the provisions of Minn. Stat. Chapter 308A. Northern States Power Company, d/b/a Xcel Energy (Xcel Energy) is a Minnesota corporation and a public utility under Minn. Stat. 216B.02, subd. 4.

On November 8, 2012, North Saint Paul and Xcel Energy, collectively the Parties, entered into an EXCEPTION AGREEMENT (the 11/8/12 Agreement)¹ that allowed Xcel Energy to provide electric service by exception to the following ten residential/commercial locations within North Saint Paul's assigned service area:

- 1877 County Rd B T29 R22W map
- 1883 County Rd B T29 R22W map
- 1884 County Rd B T29 R22W map
- 1890 County Rd B T29 R22W map
- 1896 County Rd B T29 R22W map
- 3120 Geneva Ave N T29 R22W map
- 2465 Beam Ave E T29 R22W map
- 2360 White Bear Ave N T29 R22W map
- 1830 County Rd B T29 R22W map
- 2905 Century Ave T29 R22W map

The Parties acknowledged in the 11/8/12 Agreement that there were no existing customers of North Saint Paul in the exception area, and that no compensation is owed to North Saint Paul by Xcel Energy for the limited right to serve customers by exception in the exception area.

¹ Submitted as Exhibit 1 with the January 5, 2016 Petition in Docket No. E287, E002/SA-16-22.

The parties specifically addressed Future Service Rights in the 11/8/12 Agreement. The Parties acknowledged that the limited right to serve by exception the exception area as contemplated in the Agreement does not convey permanent rights to serve the exception area. In the event that North Saint Paul chose to exercise its right to serve the exception area in the future, the Parties addressed and agreed to the following six topics surrounding future service rights:

- Notice,
- Compensation for Facilities,
- Lost revenue,
- Agreement in Writing,
- Resolution, and
- Late Charges.

The Parties also specifically noted in the 11/8/12 Agreement, that the Agreement is subject to the jurisdiction of the Minnesota Public Utilities Commission (Commission), and that the Agreement will be filed with the Commission.

The Parties confirmed by e-mail the Minnesota Department of Commerce, Division of Energy Resource's (Department or DOC) assumption that the 11/8/12 Agreement was never submitted to the Commission since neither the Department nor the Parties could find documentation that it had been submitted.

II. SUMMARY OF PROPOSAL

On January 5, 2016, North Saint Paul and Xcel Energy submitted a Petition to terminate a service-by-exception arrangement for the Affected Area and to update the Commission's official service territory records. Specifically, the Affected Area is the 2360 White Bear Ave N (T29 R22W map) location, which is one of the ten areas that the Parties agreed Xcel Energy could serve by exception pursuant to the 11/8/12 Agreement.

Exhibit 2 to the January 5, 2016 Petition is the Parties June 2, 2015 COMPENSATION AND ORDERLY TRANSFER AGREEMENT AND BILL OF SALE (the June 2, 2015 Agreement). Under terms of the 11/8/12 Agreement, the City may choose to serve the exception area (1) by providing 90-days' notice to Xcel Energy, and (2) by paying compensation for applicable Xcel Energy facilities. According to Exhibit 2, the City provided such notice to Xcel Energy in a letter dated December 23, 2014, that it intended to serve the Affected Area previously described as the 2360 White Bear Ave N (T29 R22W map) location.

III. DEPARTMENT ANALYSIS

A. ASSIGNED SERVICE AREA

Minnesota Statutes section 216B.40, states:

... each electric utility shall have the exclusive right to provide electric service at retail to each and every present and future customer in its assigned service area and no electric utility shall render or extend electric service at retail within the assigned service area of another electric utility unless the electric utility consents thereto in writing...

B. THE NOVEMBER 8, 2012 AND THE JUNE 2, 2015 AGREEMENTS

Since the Parties agree that the 11/8/12 Agreement was never submitted to the Commission for Approval, the Department reviewed in this docket both Agreements and will address in these *Comments* both Agreements.

The Department notes that the 11/8/12 Agreement allowed Xcel Energy to provide electric service by exception to ten residential/commercial locations within North Saint Paul's assigned service area. However, the 6/2/15 Agreement provided that the City would terminate the service-by-exception arrangement for the Affected Area at 2360 White Bear Ave N (T29 R22W map). Thus, the 11/8/12 Agreement continues to allow Xcel Energy to provide service by exception to the following nine residential/commercial locations within the City's assigned service area:

- 1877 County Rd B T29 R22W map
- 1883 County Rd B T29 R22W map
- 1884 County Rd B T29 R22W map
- 1890 County Rd B T29 R22W map
- 1896 County Rd B T29 R22W map
- 3120 Geneva Ave N T29 R22W map
- 2465 Beam Ave E T29 R22W map
- 1830 County Rd B T29 R22W map
- 2905 Century Ave T29 R22W map

The Department agrees with the Parties that pursuant to the 11/8/12 and 6/2/15 Agreements, it is appropriate for Xcel Energy to provide service by exception to the nine residential/commercial locations identified above, and for the City to once again provide service to the 2360 White Bear Ave N (T29 R22W map) location.

C. COMPENSATION

According to the Agreement, the Parties agreed the City will pay Xcel Energy the net book value (original cost less depreciation) of the electric service facilities in place in the Affected Area at the time of the December 23, 2014 Notice. The Parties also agreed the City shall provide no compensation to Xcel Energy, including, but not limited to, payment for loss of revenue, integration expense, or other appropriate factors.

Thus, the Department agrees that the Compensation addressed in the 11/8/12 and 6/2/15 Agreements is reasonable.

IV. RECOMMENDATION

The Department recommends that the Commission approve the Parties' request that (1) Xcel Energy provide service by exception to the nine locations identified above in the City's assigned service territory; that (2) the City once again provide service to the 2360 White Bear Ave N (T29 R22W map) location, that (3) the Compensation Agreement be approved, and finally that (4) the Commission's maps be updated to reflect the service area designations as shown on the maps in the two Agreements.

/lt

CERTIFICATE OF SERVICE

I, Linda Chavez, hereby certify that I have this day served copies of the following document on the attached list of persons by electronic filing, 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 Nos. **E287,002/SA-16-22**

Dated this **22nd** day of **January, 2016**.

/s/Linda Chavez

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_16-22_SA-16-22
Alison C	Archer	alison.c.archer@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 5 Minneapolis, MN 55401	Electronic Service	No	OFF_SL_16-22_SA-16-22
Kathleen M.	Brennan	kmb@mcgrannshea.com	McGrann Shea Carnival, Straughn & Lamb, Chartered	N/A	Electronic Service	No	OFF_SL_16-22_SA-16-22
Scott	Duddeck	Scott.Duddeck@ci.north-saint-paul.mn.us	Duddeck, Inc.	2827 Helen St N North St Paul, MN 55109-1609	Electronic Service	No	OFF_SL_16-22_SA-16-22
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_16-22_SA-16-22
Brian	Frandle	brian.frandle@ci.north-saint-paul.mn.us	North St. Paul City Hall	2400 Margaret St. N. St. Paul, MN 55109-3020	Electronic Service	No	OFF_SL_16-22_SA-16-22
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_16-22_SA-16-22
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_16-22_SA-16-22