

August 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. E257, E002/SA-16-287

Dear Mr. Wolf:

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

The Joint Request of the Kasson Public Utilities, City of Kasson (Kasson) and Northern States Power Company (d/b/a Xcel Energy) for approval to terminate a Service Exception Agreement.

The petition was filed on April 4, 2016 by:

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

The petition was modified on July 1, 2016 by:

Allison C. Archer
Assistant General Counsel
Xcel Energy
414 Nicollet Mall
Minneapolis, MN 55401

On August 18, 2016 the Department was notified by the Petitioner that the Department's August 1, 2016 *Comments*, following a description from Page 2 of Xcel's modified filing of July 1, 2016, incorrectly identified the location of Kasson's waste water treatment plant as being in Goodhue County, when in fact it is located in Dodge County. The Department confirmed that the legal description as shown on Exhibit A to the Agreement, which is also Exhibit 3, Page 6 of 7 of the July 1, 2016 filing, does in fact reference Dodge County as the location of the waste water treatment plant parcel.

The Department recommends that the Minnesota Public Utilities Commission (Commission) approve the Parties' request that (1) Xcel Energy provide service by exception to the fourteen locations identified above in Kasson's assigned service territory; (2) Kasson

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provide service to the Kasson waste water treatment plant in its own assigned service territory, (3) the Compensation Agreement be approved, and (4) MnGeo update the Commission's maps to reflect the service area designations as shown on the maps in the two Agreements.

Sincerely,

/s/ DALE V. LUSTI
Financial Analyst

DVL/lt
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. E257, E002/SA-16-287

I. BACKGROUND

Kasson Public Utilities, City of Kasson (Kasson) 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 April 24, 2013, Kasson and Xcel Energy, collectively the Parties, entered into an EXCEPTION AGREEMENT (the 4/24/13 Agreement)¹ that allowed Xcel Energy to provide electric service by exception to the following fourteen residential/commercial locations within Kasson's assigned service area:

101 16 th Street NE	T107 R16W map submap #1
101 16 th Street NE	T107 R16W map submap #1
101 16 th Street NE	T107 R16W map submap #1
101 16 th Street NE	T107 R16W map submap #1
101 16 th Street NE	T107 R16W map submap #1
301 16 th Street NE	T107 R16W map submap #1
1601 Mantorville Ave	T107 R16W map submap #1
1701 Mantorville Ave	T107 R16W map submap #1
1701 Mantorville Ave	T107 R16W map submap #1
1801 Mantorville Ave	T107 R16W map submap #1
201 16 th Street NE	T107 R16W map submap #1
404 16 th Street NE	T107 R16W map submap #1
504 16 th Street NE	T107 R16W map submap #1
62236 240 th Ave	T107 R16W map submap #1

¹ Submitted as Exhibit 1 with the April 4, 2016 Petition in Docket No. E257, E002/SA-16-287.

The Parties acknowledged in the 4/24/13 Agreement that there were no existing customers of Kasson Municipal in the exception area, and that no compensation is owed to Kasson Municipal by Xcel Energy for the limited right to serve customers by exception in the exception area.

The parties specifically addressed Future Service Rights in the 4/24/13 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 Kasson would choose 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 4/24/13 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 acknowledge in the Petition that the 4/24/13 Agreement was never previously submitted to the Commission.

On July 1, 2016, the Parties submitted an *Amended and Restated Compensation and Orderly Transfer Agreement and Bill of Sale*.

II. SUMMARY OF PROPOSAL

On April 4, 2016, Kasson 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 Kasson's waste water treatment plant, which at the time of the filing was assumed to have been one of the fourteen (14) areas that the Parties agreed Xcel Energy could serve by exception pursuant to the 4/24/13 Agreement.

On July 1, 2016, the Parties modified their April 4, 2016 filing by submitting an *Amended and Restated Compensation and Orderly Transfer Agreement and Bill of Sale*, Exhibit 3 to the Parties filing. Exhibit 3 replaces Exhibit 2, from the April 4, 2016 filing.

The Parties acknowledge in Exhibit 3 that Xcel Energy had been serving Kasson's waste water treatment plant under an unwritten-service-by-exception arrangement. When Kasson notified Xcel Energy by letter dated September 24, 2014 of its desire to serve the Affected

Area, Kasson paid 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 notice. The Parties also acknowledged that service to the Affected Area remains in Kasson's assigned electric service territory, and Xcel Energy's unwritten service by exception terminates.

According to Exhibit 3, the abbreviated legal description of Kasson's waste water treatment plant in Dodge County is:

Sect-27 Twp-107 Range-016 80.00 AC E1/2 NW ¼.

The map of Kasson's waste water treatment plant is in Exhibit 3 to the Petition, on Page 6 of 7 of the July 1, 2016 modified Petition.

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 APRIL 24, 2013 AND THE MAY 16, 2016 AGREEMENTS

Since the Parties agree that the 4/23/13 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 4/24/13 Agreement allowed Xcel Energy to provide electric service by exception to the following fourteen (14) residential/commercial locations within Kasson's assigned service area:

101 16 th Street NE	T107 R16W map submap #1
101 16 th Street NE	T107 R16W map submap #1
101 16 th Street NE	T107 R16W map submap #1
101 16 th Street NE	T107 R16W map submap #1
101 16 th Street NE	T107 R16W map submap #1
301 16 th Street NE	T107 R16W map submap #1
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404 16 th Street NE	T107 R16W map submap #1
504 16 th Street NE	T107 R16W map submap #1
62236 240 th Ave	T107 R16W map submap #1

The Department agrees with the Parties that pursuant to the 4/24/13 Agreement, it is appropriate for Xcel Energy to provide service by exception to the fourteen residential/commercial locations identified above. The Department also agrees that pursuant to the 5/16/16 Agreement, that it was appropriate for Xcel to transfer back to Kasson on January 4, 2016, the right to provide service to the Affected Area.

C. *COMPENSATION*

According to the 5/16/16 Agreement, the Parties agreed that Kasson 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 September 24, 2014 Notice. The Parties also agreed that Kasson 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 5/16/16 Agreement is reasonable.

IV. *RECOMMENDATION*

The Department recommends that the Commission approve the Parties' request that (1) Xcel Energy provide service by exception to the fourteen locations identified above in the Kasson's assigned service territory; (2) Kasson provide service to the Kasson waste water treatment plant in its own assigned service territory, (3) the Compensation Agreement be approved, and (4) MnGeo update the Commission's maps 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 – REVISED COMMENTS

Docket Nos. **E257,002/SA-16-287**

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

/s/Linda Chavez

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Alison C	Archer	alison.c.archer@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 5 Minneapolis, MN 55401	Electronic Service	No	OFF_SL_16-287_SA-16-287
Kathleen M.	Brennan	kmb@mcgrannshea.com	McGrann Shea Carnival, Straughn & Lamb, Chartered	N/A	Electronic Service	No	OFF_SL_16-287_SA-16-287
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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_16-287_SA-16-287