

February 10, 2018

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

RE: Request for Reconsideration. in the Matters of the Petitions, by Xcel Energy to Terminate the Power Purchase Agreements with Benson Power LLC, Acquire the Benson/Fibromin Plant, and Close the Facility; and Terminate the Laurentian PPA. Docket No. E-002/M-17-530 & Docket No. E-002/M-17-551

Mr. Wolf,

Carlson Timber & Land Clearing, Shawn Fletcher Trucking, Dukek Logging, Sawyer Timber Company, Harbo Mulch Inc, Dick Walsh Forest Products, and Precision Landscape and Tree Inc (the "Benson Power Biomass Suppliers"), along with Huls Bros. Trucking, Inc., and D&D Ventures Inc. (collectively the "Benson Power Suppliers and Haulers"), are a Party to the above referenced Proceeding.

Pursuant to Minn. Statute 216B.27, and Minn. R. 7829.300, request reconsideration of the Minnesota Public Utilities Commission's (the "Commission") Orders of January 23, 2018, Approving Petitions, Approving Cost Recovery, and Granting Variances.

Respectfully,



On behalf of the Benson Power Suppliers and Hauler
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The Benson Power Biomass Suppliers and Haulers are intervenors in the Matter of the Petition, by Xcel Energy (or “Xcel”) to Terminate the Power Purchase Agreements with Benson Power LLC, Acquire the Benson/Fibromin Plant, and Close the Facility, Docket No. E-002/M-17-530.

Shortly after the 2017 Session of the MN Legislature, the Benson Power Suppliers and Haulers were informed by Xcel Energy that they had reached an agreement to acquire the Benson Power/Fibromin Facility, Terminate the PPA with Benson Power and close the facility. Further, they were informed that Legislation passed in the 2017 Minnesota Legislative Session (S.F.No. 1456), provided Xcel the ability (at no risk to Xcel) to recover 100% of its cost associated with this Transaction (plus earn a return). Meanwhile, Xcel informed the Benson Power Suppliers and Haulers that their contracts to supply Biomass Fuel and Transportation Services would be terminated; and that there would be no compensation for the tens of millions of dollars of investment that the Benson Suppliers and Haulers have made when they relied on:

- The actions of prior Minnesota Legislatures, in requiring Xcel (then, Northern States Power Company) to enter into agreements to purchase biomass generated electricity;
- The actions of prior Minnesota Public Utilities Commissions, when they approved the Power Purchase Agreement with Benson Power; and
- Representations from Benson Power that the facility would operate through the term of the PPA, September, 2028 (if the Benson Power Supplier and Haulers made certain pricing concessions).

On June 30, 2017, Xcel Energy filed its petition seeking approval to Terminate the Power Purchase Agreements with Benson Power LLC, Acquire the Benson/Fibromin Plant, and Close the Facility. Between June 30; and November 30, the Commission received multiple comments from the various interested parties. On November 30, 2017, the Commission held a Public Meeting to hear oral arguments from Xcel and the intervenor group on Xcel’s Petition(s); and to consider approval.

During Its deliberation on November 30, 2017, the Commission indicated Approval of the Xcel Petition; and on January 23, 2018, the Commission issued an Order approving Xcel’s Petition.

The Commission erred in Its approval of the Xcel Petition by:

- A) Failing to create a record that included information about alternative courses of action that could have resulted in alternative paths which achieved the same, or similar, benefit to Xcel’s ratepayers without the inherent uncertainty with Xcel’s current plan; and
- B) Not “...providing independent, consistent, professional and comprehensive oversight...”¹ of Xcel’s plan by including “Public Interest” in its analysis of the plan to terminate the Benson Power and Laurentian Power Purchase Agreements, and close the Benson/Fibromin Facility.

¹ From the MN PUC Website, “[About PUC](#)”

By failing to create a record that includes any discussion of alternative courses of action, the Commission, blindly, accepts the Xcel Energy plan as being the best, and only, path forward. Had Xcel put forward a plan that did, in actual fact, save ratepayers only a nominal amount (and was agreed to by the counterparties to the PPAs) the Commission, by its own statements, would have necessarily been compelled to approve that plan, since that plan would meet the narrow interpretation of the requirement that resulted from the 2017 Minnesota Legislative Session (as advocated by Xcel and adopted by the Commission).

Xcel Energy's filing includes information about a single, discrete, alternative. There is a, real world potential, that circumstances (which may have been mitigated) could affect implementation of a plan; and may result in added cost, delay or otherwise reduce the expected benefits. This is particularly true when there is significant opposition (as in this case). This could end badly for Xcel's ratepayers who risk not receiving the projected benefits, which are now anticipated based on the Commission's Approval. Of course, Xcel has protected themselves, and their investors, by obtaining a variance that allows their cost to be passed through the Fuel Adjustment Clause, so they bear no risk in the outcome.

Unless the Commission (supported by Commission Staff) had performed an, independent, analysis of options, it would know nothing more than what Xcel had proposed; and would have been compelled to accept any Xcel proposal that was put forward (so long as the plan met the interpreted requirements from S.F.No. 1456). Instead, the Commission should have fully vetted Xcel's plan by requiring analysis and discussion of alternatives that would have resulted in equal, or similar, ratepayer benefit.

The Commission has not exercised independence in rendering approval of the Xcel Plan. By the Commissioners own statement(s) during the Public Meeting on November 30, 2017, despite the clear use of the phrase "may approve" in S.F.No. 1456 (and despite Minnesota Statutes 645.44 Subd. 15, clearly, defining may as permissive), they interpret that the result of the 2017 Legislation was that the Commission **MUST** go along with Xcel's request, if the two conditions (savings and agreement among the parties) are met. Had the Commission exercised its role independently, they would have included other factors before rendering a decision.

Minnesota Statute 216B.242, clearly requires inclusion of Public Interest in the review process for resource decisions. It should not have been ignored in these proceedings.

Public Interest is considered to be the welfare of the general public (in contrast to the selfish interest of a person, group, or firm) in which the whole society has a stake and which warrants recognition, promotion and protection by the government and its agencies. Regardless of the 2017 legislation, consideration of factors beyond Xcel Energy's self-interest (and the self-interest of its ratepayers), should have been included in the process. The impact of these factors, which include:

- The cost impact for the management of forests that are damaged (fire, wind, etc.) and diseased (insects);
- The reduction in fees collected by State, County, Federal and private land owners for stumpage, due to reduced demand for all types of biomass;

- The negative impacts from the loss of revenues experienced by the Benson Power Suppliers and Haulers, when their contracts are terminated;
- The impact on the rural Minnesota economy;
- ...

When these, Public Interest, factors are included in the analysis, they would significantly alter analysis of the benefit of the proposal to terminate the Benson Power and Laurentian PPAs.

For the reasons above, the Benson Biomass Suppliers and Haulers requests reconsideration by the Commission.