

January 21, 2020

Ryan Barlow
Acting Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E002/M-20-39

Dear Mr. Barlow:

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

Petition of Northern States Power, doing business as Xcel Energy for Approval of a Power Purchase Agreement with the University of Minnesota for Its South East Plant in Minneapolis.

The Petition was filed on January 6, 2020 by:

Bria Shea
Director, Regulatory & Strategic Analysis
Xcel Energy
414 Nicollet Mall (401 – 7th Floor)
Minneapolis, MN 55401.

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve the petition**. The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/ STEPHEN COLLINS
Rates Analyst
SC/??
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce
Division of Energy Resources

Docket No. E002/M-20-39

I. INTRODUCTION

On January 6, 2020, Northern States Power Company, doing business as Xcel Energy (Xcel or the Company), filed a petition requesting approval of a power purchase agreement (PPA) with the Regents of the University of Minnesota (U of M) for the purchase of up to 10 megawatts (MW) of excess energy from the U of M's South East Plant (SEP) in Minneapolis, a 16.4 megawatt (MW) cogeneration facility. Specifically, Xcel requests that the Minnesota Public Utilities Commission (Commission):

- Approve the PPA (Attachment A to the Petition) and
- Authorize the Company to recover from Minnesota retail customers the Minnesota jurisdictional portion of the costs incurred by the Company under the PPA, pursuant to Minnesota statutes section 216B.16, subdivision 7(3).

The Minnesota Department of Commerce, Division of Energy Resources (Department) reviews these requests below.

II. BACKGROUND

Xcel and the U of M entered into the PPA on October 31, 2019. The PPA obligates Xcel to buy, for a term of at least 5 years, any excess energy from the SEP during the months of December through February and occasionally during other months, up to a maximum of 10 MW per hour. The PPA sets the purchase price at 75% of the real-time locational marginal price (LMP), minus any applicable Midcontinent Independent System Operator (MISO) market charges and minus an administrative fee of \$1.00/megawatt-hour (MWh).¹ This price and the other terms of the PPA were negotiated by Xcel and the U of M.

The SEP is a 16.4 MW cogeneration facility and, as explained below, is a "qualified facility" under Minnesota administrative rules part 7835.0100, subpart 19, which defines "qualifying facility" as "a cogeneration or small power production facility which satisfies the conditions established in Code of Federal Regulations [CFR], title 18, part 292." Specifically, the cogeneration facility must satisfy CFR title 18, section 292.203(b), which states:

¹ If the real-time LMP is negative, the U of M must pay Xcel 125% of the LMP, plus any applicable market charges and an administrative fee of \$1.00/MWh.

A cogeneration facility, including any diesel and dual-fuel cogeneration facility, is a qualifying facility if it:

- (1) Meets any applicable standards and criteria specified in sections 292.205(a), (b), and (d); and
- (2) Unless exempted by paragraph (d), has filed with the [Federal Energy Regulatory] Commission a notice of self-certification; or has filed with the Commission an application for Commission certification pursuant to section 292.207(b)(1), that has been granted.

The U of M has filed with the Federal Energy Regulatory Commission (FERC) a notice of self-certification, which Xcel provided as Attachment B to its petition. This notice also includes a description of the SEP in relation to applicable standards and criteria under sections 292.2059(a), (b), and (d). Therefore, the SEP satisfies requirements (1) and (2) of C.F.R. title 18 section 292.203(b) and is a qualifying facility under Minnesota Rules part 7835.0100, subpart 19.

III. DEPARTMENT ANALYSIS

Xcel's first request is that the Commission approve the PPA. Under Minnesota statutes section 216B.164, subdivision 4,² and Minnesota administrative rules part 7835.4019,³ Xcel must purchase all energy and capacity made available by a qualifying facility and pay the qualifying facility Xcel's full avoided costs as negotiated by the parties, as set by the Commission, or as determined through competitive bidding approved by the Commission. In this case, the parties chose to negotiate the price. As the SEP is a qualifying facility and Xcel and the U of M negotiated the purchase price, Xcel must buy power from the SEP under at the negotiated price. The Department concludes that the proposed price of the PPA is reasonable and in the public interest since it was negotiated between the parties, reflects market conditions, and would protect ratepayers.

² Minnesota statutes section 216B.164, subdivision 4, states in part as follows:

- (a) Except as otherwise provided in paragraph (c), this subdivision shall apply to all qualifying facilities having ... 1,000-kilowatt capacity or more if interconnected to a public utility, which elect to be governed by its provisions.
- (b) The utility to which the qualifying facility is interconnected shall purchase all energy and capacity made available by the qualifying facility. The qualifying facility shall be paid the utility's full avoided capacity and energy costs as negotiated by the parties, as set by the commission, or as determined through competitive bidding approved by the commission. The full avoided capacity and energy costs to be paid a qualifying facility that generates electric power by means of a renewable energy source are the utility's least cost renewable energy facility or the bid of a competing supplier of a least cost renewable energy facility, whichever is lower, unless the commission's resource plan order, under section 216B.2422, subdivision 2, provides that the use of a renewable resource to meet the identified capacity need is not in the public interest.

³ Minnesota administrative rules part 7835.4019 states in part: "A qualifying facility with capacity of 1,000 kilowatt capacity or more must negotiate a contract with the public utility to set the applicable rates for payments to the customer of avoided capacity and energy costs."

To ensure that the remainder of the PPA is in the public interest, the Department reviewed all other clauses of the PPA and concludes that they are reasonable, insofar as they provide sufficient protection to ratepayers. The Department therefore recommends that the Commission approve the PPA.

Xcel's second request is that the Commission authorize the Company to recover from Minnesota retail customers the Minnesota jurisdictional portion of the costs incurred by the Company under the PPA, pursuant to Minnesota statutes section 216B.16, subdivision 7(3), which states as follows:

Notwithstanding any other provision of this chapter, the commission may permit a public utility to file rate schedules containing provisions for the automatic adjustment of charges for public utility service in direct relation to changes in costs for fuel used in generation of electricity or the manufacture of gas.

Xcel intends to recover the Minnesota jurisdictional costs of the PPA under its Fuel Clause Rider, which allows Xcel to recover, among other costs, "the energy cost of purchases from a qualifying facility." As the PPA only contains energy costs, the Department agrees that the costs of the PPA are eligible to be recovered under the Fuel Clause Rider.

These costs will be considered in Docket No. E002/AA-19-293, in which the Commission's November 14, 2019 Order *In the Matter of Northern States Power Company d/b/a Xcel Energy, Incorporated's (Xcel) Petition for Approval of its 2020 Annual Fuel Forecast and Monthly Fuel Cost Charges* (2020 Fuel Rate Order) set Xcel's monthly 2020 fuel cost rates. These rates were set pursuant to the Commission's December 19, 2017 Order Approving New Annual Fuel Clause Adjustment Requirements and Setting Filing Requirements in the E999/CI-03-802 docket *In the Matter of an Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments* (Fuel Rate Reform Order). Under this new process, the rates set in the 2020 Fuel Rate Order will remain in effect "unless a utility can show a significant unforeseen impact."⁴

⁴ The Commission's Fuel Rate Reform Order identified the overall process as follows:

- a. The Commission will set recovery of the utility's fuel, power purchase agreements, and other related costs (fuel rates) in a rate case or an annual fuel clause adjustment filing unless a utility can show a significant unforeseen impact.
- b. Each electric utility will publish the monthly fuel rates in advance of each year to give customers notice of the next year's monthly electric fuel rates.
- c. The monthly fuel clause adjustment will not operate – each electric utility will charge an approved monthly rate.
- d. Utilities will be allowed to track any changes in \$/MWh fuel costs that occur over the year and there will be no carrying charge in the tracker.
- e. Annually, each electric utility will report actual \$/MWh fuel costs in each month by fuel type (including identification of costs from specific power purchase agreements) and compare the annual revenue based on the fuel rates set by the Commission with annual revenues based on actual costs for the year.
- f. Each electric utility will refund any over-collections and show prudence of costs before allowing recovery of under-collections. If annual revenues collected (\$/MWh) are higher than total actual costs, the utility must refund the over-collection through a true-up mechanism. If annual revenues collected are lower than total

The PPA is likely to decrease Xcel's fuel cost somewhat; however, it is not known at this time whether there would be any material effects on Xcel's overall fuel costs. Xcel states on pages 5-6 of the petition:

Per the PPA's terms, the Company will purchase the Excess Energy from the Plant. In the PPA, "Excess Energy" is defined as energy the Seller (the University) elects to deliver to the Company "from the SEP up to 10 MW per hour during the months of December through February (and occasionally other months) at the Point of Delivery less any Auxiliary Energy..." Auxiliary Energy means the Energy used by the University to operate the Plant itself. While the precise amount of energy delivered to the Company under the PPA will vary depending on the University's usage, it is expected that the average annual energy delivered will be between approximately 2,100 to 3,800 megawatt-hours.

Therefore, the Department does not recommend any adjustment to Xcel's 2020 fuel rates at this time. Any reductions to Xcel's fuel cost recovery will be addressed in the Company's reconciliation of actual costs compared to authorized rates when Xcel files its reconciliation filing in early 2021.

The Department recommends that the Commission grant Xcel's request to recover from Minnesota retail customers the Minnesota jurisdictional portion of the costs incurred by the Company under the PPA under the reformed fuel recovery process.⁵

IV. RECOMMENDATION

The Department recommends that the Commission approve Xcel's petition.

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actual costs, the utility must show why it is reasonable to charge the higher costs (under-collections) to ratepayers through a true-up mechanism.

⁵ Note that Xcel's Fuel Clause Rider also requires that Xcel refund to ratepayers "the fuel-related costs recovered through intersystem sales." Therefore any revenue that Xcel earns from the PPA in excess of the PPA's costs will be refunded to ratepayers.