

**BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE  
MINNESOTA PUBLIC UTILITIES COMMISSION\**

In the Matter of the Application of Great  
River Energy, Northern States Power  
Company (d/b/a/ Xcel Energy) and others  
for Certificates of Need for the Cap X  
345-kV Transmission Projects

OAH Docket No. 15-2500-19350-2

PUC Docket No. CN-06-1115

**MOTION FOR LIMITED DISCOVERY and  
MOTION TO REOPEN HEARING BASED ON NEW INFORMATION  
or in the alternative, CERTIFICATION TO THE COMMISSION**

Significant new information regarding decreased energy use has been disclosed by Xcel that has a direct impact on the need for CapX 2020. An article in the Wall Street Journal, “Surprise Drop in Power Use Delivers Jolt to Utilities” was published, reporting on a significant drop in overall energy use, and in residential, ranging from 3% to 9%, rather than typical increases of from 1-2%. Exhibit A, “Surprise Drop in Power Use Delivers Jolt to Utilities,” November 21, 2008.<sup>1</sup>

Dick Kelly, chief executive of Xcel Energy Inc., Minneapolis, says his company, which has utilities in Colorado and Minnesota, saw home-energy use drop 3% in the period from August through September, “the first time in 40 years I’ve seen a decline in sales” to homes.

Id. A 3% drop, rather than a 1-2% increase is a change of 4-5%. What about other CapX utilities?

*The data are early and incomplete, but if the trend persists, it could ripple through companies' earnings and compel major changes in the way utilities run their businesses. Utilities are expected to invest \$1.5 trillion to \$2 trillion by 2030 to modernize their electric systems and meet future needs, according to an industry-funded study by the Brattle Group. However, if electricity demand is flat or even declining, utilities must either make significant adjustments to their investment plans or run the risk of building too much capacity. That could end up burdening customers and shareholders with needless expenses.*

...

*Michael Morris, the chief executive of AEP, one of the country's largest utilities, says he thinks the industry should to be wary about breaking ground on expensive new projects. "The message is: be cautious about what you build because you may not have the demand" to justify the expense, he says.*

Id.

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<sup>1</sup> Attached as Exhibit A, and available online: <http://online.wsj.com/article/SB122722654497346099.html>

The need for CapX 2020, as presented by the Applicants, is dependent on an increase in energy use, and a decline in energy use as significant as that reported has an impact on the need for the CapX projects. Where energy use departs so significantly from that forecasted, more information is necessary for a sufficient record on which a decision can be made on a \$1.7 billion dollar project. The fact of this disclosure would render the current record inadequate to support a decision.

At this time, NoCapX 2020 requests limited Discovery on this matter. An Information Request, NoCapX 2020 IR 20 to CapX 2020, has been sent and is attached as Exhibit B. Other parties may have other limited Information Requests, and NoCapX 2020 requests that all parties have an opportunity to address the reported significant decrease in energy use.

NoCapX 2020 also requests that the hearing be narrowly reopened for testimony from CapX 2020 utilities regarding documentation of energy use trends and the impact of the decrease in energy use on the need for CapX 2020, related cross-examination, and associated exhibits.

NoCapX 2020 further requests, if deemed necessary or prudent, that this Motion be Certified to the Commission. Certification is appropriate where a final determination by the agency on the motion would materially advance the ultimate termination of the hearing; and/or when it is necessary to promote the development of the full record and avoid remanding. Minn. R. 1400.7600. By these standards, Certification is appropriate.

NoCapX 2020 requests a telephone hearing on this Motion. Minn. R. 1400.6600.

All parties that wish to contest this Motion must file a written response with the judge and serve copies on all parties, within ten working days after it is received. Minn. R. 1400.6600.



November 23, 2008

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## EXHIBIT A

<http://online.wsj.com/article/SB122722654497346099.html>

### Surprise Drop in Power Use Delivers Jolt to Utilities

November 21, 2008

By [REBECCA SMITH](#)

An unexpected drop in U.S. electricity consumption has utility companies worried that the trend isn't a byproduct of the economic downturn, and could reflect a permanent shift in consumption that will require sweeping change in their industry.

Numbers are trickling in from several large utilities that show shrinking power use by households and businesses in pockets across the country. Utilities have long counted on sales growth of 1% to 2% annually in the U.S., and they created complex operating and expansion plans to meet the needs of a growing population.

"We're in a period where growth is going to be challenged," says Jim Rogers, chief executive of [Duke Energy](#) Corp. in Charlotte, N.C.

The data are early and incomplete, but if the trend persists, it could ripple through companies' earnings and compel major changes in the way utilities run their businesses. Utilities are expected to invest \$1.5 trillion to \$2 trillion by 2030 to modernize their electric systems and meet future needs, according to an industry-funded study by the Brattle Group. However, if electricity demand is flat or even declining, utilities must either make significant adjustments to their investment plans or run the risk of building too much capacity. That could end up burdening customers and shareholders with needless expenses.

To be sure, electricity use fluctuates with the economy and population trends. But what has executives stumped is that recent shifts appear larger than others seen previously, and they can't easily be explained by weather fluctuations. They have also penetrated the most stable group of consumers -- households.

Dick Kelly, chief executive of [Xcel Energy](#) Inc., Minneapolis, says his company, which has utilities in Colorado and Minnesota, saw home-energy use drop 3% in the period from August through September, "the first time in 40 years I've seen a decline in sales" to homes. He doesn't think foreclosures are responsible for the trend.

[Duke Energy](#) Corp.'s third-quarter electricity sales were down 5.9% in the Midwest from the year earlier, including a 9% drop among residential customers. At its utilities operating in the Carolinas, sales were down 4.3% for the three-month period ending Sept. 30 from a year earlier.

[American Electric Power](#) Co., which owns utilities operating in 11 states, saw total electricity consumption drop 3.3% in the same period from the prior year. Among residential customers, the drop was 7.2%. However, milder weather played a role.

Utility executives question whether the recent declines are primarily a function of the broader economic downturn. If that's the case, says Xcel's Mr. Kelly, then utilities should continue to build power plants, "because when we come out of the recession, demand could pick up sharply" as consumers begin to splurge again on items like big-screen televisions and other gadgets.

Some feel that the drop heralds a broader change for the industry. Mr. Rogers of Duke Energy says that even in places "where prices were flat to declining," his company still saw lower consumption. "Something fundamental is going on," he says.

Michael Morris, the chief executive of AEP, one of the country's largest utilities, says he thinks the industry should be wary about breaking ground on expensive new projects. "The message is: be cautious about what you build because you may not have the demand" to justify the expense, he says.

Utilities are taking steps to get a better understanding of the cause. Some are asking customers who reduced usage to explain what is influencing them. Xcel and other utilities, for example, have been running environmentally focused campaigns to urge consumers to use less energy recently, a message that might be taking hold.

Power companies are also questioning the reliability of the weather-adjustment models they use to harmonize fluctuating sales from quarter to quarter. "It's more art than science," says Bill Johnson, Chief Executive of [Progress Energy](#) Inc., Raleigh, N.C.

If the sector is entering a period of lower demand -- which could accelerate further if the automotive sector collapses -- many utilities will have to change the way they cover their costs.

Utilities are taking a hard look at the way they set rates and generate profits. Many companies are embracing a new rate design based on "decoupling," in which they set prices aimed at covering the basic costs of delivery, with sales above that level being gravy. Regulators have resisted the change in some places, because it typically means that consumers using little energy pay somewhat higher rates.

**Write to** Rebecca Smith at [rebecca.smith@wsj.com](mailto:rebecca.smith@wsj.com)

**EXHIBIT A**  
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**Utility Information Request**

Docket Number: CN-08-509;510;690 Date of Request: November 22, 2008

Requested From: Michael Krikava, Lisa Agrimonti Response Due: December 2, 2008  
 Briggs & Morgan

Party Requesting Information: NoCapX 2020

Type of Inquiry:     .....Financial                   .....Rate of Return                   .....Rate Design  
                           .....Engineering                   .....Forecasting                   .....Conservation  
                           .....Cost of Service                   .....CIP                                   .....Energy Use

*If you feel your responses are trade secret or privileged, please indicate this on your response. If a Non-Disclosure agreement is desired, provide same for review.*

Request No.	
20	<p>Attached and linked please find Wall Street Journal article with the following quote:</p> <p><a href="#"><u>Dick Kelly, chief executive of Xcel Energy Inc., Minneapolis, says his company, which has utilities in Colorado and Minnesota, saw home-energy use drop 3% in the period from August through September, "the first time in 40 years I've seen a decline in sales" to homes.</u></a></p> <p>Please provide:</p> <ol style="list-style-type: none"> <li>a. All CapX participants' monthly energy use documentation from January 1, 2005 through December 1, 2008 (or November date this information is supplied, if earlier than December 1, 2008);</li> <li>b. Documentation of this drop in home-energy use cited by Xcel CEO Kelly including geographic depiction (map showing percentages increase/decrease);</li> <li>c. Documentation of commercial and industrial use for this time period including geographic depiction;</li> <li>d. Documentation of all combine use for this time period including geographic depiction;</li> <li>e. Revised forecasting for scenarios presented in CapX docket based on this drop in use;</li> <li>f. Reports and memoranda within Xcel and between Xcel and other CapX 2020 partners regarding this drop in useage, need for CapX and impact on need;</li> <li>g. Any and all other information in CapX utilities' possession regarding decrease in use.</li> <li>h. Utility by utility, will individual CapX utilities claim decrease as connected to the 1.5% conservation mandate?</li> </ol>