



2200 IDS Center
80 South 8th Street
Minneapolis MN 55402-2157
tel 612.977.8400
fax 612.977.8650

June 11, 2009

Michael C. Krikava
612.977.8566
mkrikava@briggs.com

VIA ELECTRONIC FILING

Burl W. Haar
Minnesota Public Utilities Commission
Suite 350
121 East Seventh Place
St. Paul, MN 55101-2147

**Re: 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
Three 345 kV Transmission Lines with Associated System Connections
MPUC Docket No.: ET-2, E-002, et al./CN-06-1115
OAH Docket No.: 15-2500-19350-2**

Dear Dr. Haar:

Enclosed for electronic filing please find Applicants' Request for Reconsideration in the above-captioned matter. By copy of this letter, all parties of record are being served with same.

Very truly yours,

BRIGGS AND MORGAN, P.A.

A handwritten signature in black ink, appearing to read "Michael C. Krikava", written over a horizontal line.

Michael C. Krikava

MCK/rlh
Enclosure
cc: Service List

**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

David Boyd	Chair
J. Dennis O'Brien	Commissioner
Thomas Pugh	Commissioner
Phyllis Reha	Commissioner
Betsy Wergin	Commissioner

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
Three 345 kV Transmission Lines with
Associated System Connections

MPUC Docket No. E002/CN-06-1115

**APPLICANTS' REQUEST FOR
RECONSIDERATION**

I. INTRODUCTION

Northern States Power Company, a Minnesota corporation ("Xcel Energy") and Great River Energy, a Minnesota Cooperative Corporation ("Great River Energy") (collectively "Applicants") respectfully request that the Minnesota Public Utilities Commission ("Commission") reconsider and eliminate Order Point No. 3(A) through 3(D) (the "Wind Conditions") of its May 22, 2009 *Order Granting Certificates of Need With Conditions* ("Order"). This request is made pursuant to Minn. Stat. § 216B.27, subd. 1 and the Commission's procedural rules, Minn. R. 7829.3000.

Applicants appreciate the Commission's Certificates of Need authorizing the Fargo – Twin Cities 345 kV Project ("Fargo Project"), the La Crosse – Twin Cities 345 kV Project ("La Crosse Project") and the Brookings County – Twin Cities 345 kV Project ("Brookings Project") (collectively "345 kV Projects"). This authorization encourages significant new transmission infrastructure development to serve multiple consumer needs in Minnesota and the region through 2020 and beyond.

Further, Applicants fully understand the importance of the debate over the Wind Conditions and their interaction with other important State and Federal policies

addressed in this Docket, including enhancing regional reliability, addressing specific community needs, and supporting new renewable and non-renewable generation. Applicants support the State's renewable energy policies and recognize the need for a robust transmission system to accommodate cost-effective renewable resources.

But Applicants respectfully disagree with the proposition that the Wind Conditions are the appropriate way to implement generation policies. Based on the record and applicable law, Applicants believe the appropriate way to balance the competing State and Federal policies is to authorize the Brookings Project without the Wind Conditions. Generation policy can be implemented through resource planning proceedings where a complete record can be fully developed on those issues. As a result, Applicants request that the Commission eliminate the Wind Conditions.¹

II. BACKGROUND

The Minnesota Center for Environmental Advocacy ("MCEA") and other intervenors sought the Wind Conditions. Applicants, the Office of Energy Security ("OES") and the Midwest Independent System Operator ("MISO") opposed them. The ALJ recommended against them based on the record. The Commission unanimously rejected the Wind Conditions on the Fargo and La Crosse projects, but by a 3-2 vote, imposed them on the Brookings Project. The Wind Conditions require:

- A. Applicants shall sign power purchase agreements (PPAs) or commit to utility-owned renewable generation projects within the timeframe of Minn. Stat. § 216B.1691 [RES], coordinated with the proposed in-service dates of each segment of the Brookings Project.
- B. Applicants shall submit network (firm) transmission service requests to the Open Access Same Time Information System of the MISO for the total amount of new capacity enabled by this line to attempt, to the extent lawfully possible, to try to achieve full subscription of the capacity for renewable generation.

¹ Applicants do not object to condition 3(E) and other reasonable reporting requirements on the deployment of generation utilizing the Brookings Project's capacity.

- C. Applicants shall make a compliance filing within 30 days of obtaining the Certificates of Need, detailing the allocation of the new transmission capacity among owners. The compliance filing shall address how much capacity will be enabled by this transmission line; the allocation of the capacity among Applicants; and the type of MISO transmission service Applicants will seek to serve the renewable generated electricity to be carried on this line, recognizing that MISO allocation and restriction of MISO managed transmission capacity is beyond the scope and authority of this Commission.
- D. As necessary to comply with condition A., Applicants shall designate the new, renewable commitments as Network Resources pursuant to MISO's federal Transmission & Energy Markets Tariff ("TEMT"), and seek the designation as soon as permitted under the MISO rules, but no later than 10 days after the Commission approves the PPAs or commitments.
- E. Applicants shall report to the Commission any changes at MISO or the federal level that could affect these conditions.

III. DISCUSSION

The Wind Conditions require Applicants to subscribe the system outlet enabled by the Brookings Project with wind generation. On reconsideration, Applicants request the Commission recognize that the record and applicable law support different conclusions. In short, the Wind Conditions carry unintended risks, such as excess cost, timing, and compliance issues, all supporting their elimination.

A. Cost Risks

Applicants are concerned the Wind Conditions will risk making wind generation development more expensive and unduly complex in a number of ways.

1. Distortion of Market Forces

First, by requiring Applicants to procure wind generation associated with the Brookings Project, the Commission is prejudging the location of the next several hundred megawatts of wind generation. Applicants support vigorous wind generation expansion throughout the region, including on the Buffalo Ridge. But the Wind Conditions assure that the next large increment will be on the Buffalo Ridge, creating,

in effect, a “locational monopoly” for those generators who already have advantageous queue positions compared to generators elsewhere in the region.

By eliminating broader locational competition, Applicants will lose bargaining leverage at increased consumer cost. For example, the record reflects that the Regional Incremental Generation Outlet (“RIGO”) projects near Rochester are likely next additions to the system.² The RIGO projects will provide significant generator outlet as well as regional reliability benefits. Without the Wind Conditions, Buffalo Ridge wind projects would have to compete with RIGO generation, to the benefit of consumers who can take advantage of the competition.³

Second, depending upon the interpretation of the Wind Conditions, they could accelerate Applicants’ RES milestones by several years at significant consumer cost. Applicants did not propose the Brookings Project to meet RES requirements. In fact, the Brookings Project was proposed long before the RES was enacted.⁴ Applicants are currently in compliance with the RES and have submitted resource plans outlining their procurement strategy for the future regardless of the Brookings Project.⁵

Great River Energy and other utilities such as, Ottertail, SMMPA, Minnesota Power, have RES compliance plans elsewhere on the system.⁶ And Xcel Energy recently received approval of wind projects elsewhere.⁷

² Xcel Energy is investigating wind projects in Southeastern Minnesota where a number of significant projects have recently been developed. Ex. 98 at 2 (King Rebuttal) (“At present, there are approximately 12,000 MW of projects seeking to interconnect in southeastern Minnesota.”)

³ “[E]stablishing a market for a particular type of generation at certain sites and dates limits the competitiveness of the market by limiting the number of potential projects. Any time competitiveness is reduced, the result is that consumers are exposed to potential cost increases caused by reduced competition.” Ex. 308 at 3 (Rakow Statement).

⁴ All three transmission projects are needed for multiple reasons and the RES does not stand out as more important than many of the other rationales. 14 Vol. 160:11-23 (Alders).

⁵ 22 Vol. 108-109 (Peirce); Ex. 132 at 25-26 (Alders Rebuttal).

⁶ Ex. 132 at 26 (Alders Rebuttal).

While the RES does not preclude early compliance, accelerating the milestones increases consumer cost and exposes Applicants to unreasonable demands from generators by placing the Applicants in an inferior bargaining position. Consequently, generators will be able to extract better terms and pricing, to customers' detriment.⁸ Absent the Wind Conditions, all utilities would be able to negotiate cost-effective generation anywhere on the system in a timeframe that meets customer needs.

Third, Applicants – as transmission planners – focused on region-wide needs rather than the specific generation need of their specific load serving utilities.⁹ Focusing the Wind Conditions only on Applicants will result in generation being used only by Applicants (whether or not needed), will require resource plan modifications, and will force other utilities to propose alternate generation and transmission projects to meet their own needs. The cost implications of this impact have not been studied in this Docket and is more appropriate to consider them in resource plan filings.

2. *Redundant Costs*

The Commission found (p. 35-36) the Brookings Project is essentially a single-purpose facility, dedicated only to renewable generators. There is no question that enabling renewable generation on the Buffalo Ridge is one important reason for the Brookings Project, but not the only one.¹⁰ The record also demonstrates that the

⁷ *In the Matter of the Petition of Northern States Power Company, a Minnesota Corporation, for Approval of Investments in Two Wind Power Projects: 200 MW Nobles Wind Project and 150 MW Merricourt Wind Project*, Docket No. E002/M-08-1437.

⁸ “[A]n obligation to meet a certain amount of wind power in a certain location by a certain date has to the effect of reducing --reducing competition. It reduces the geography, it reduces the timing, it reduces the number of competitors within that market and, to the extent we can maintain flexibility, we have hopefully more opportunities to provide power at the lowest cost.” 15 Vol. 105-106 (Alders).

⁹ 13 Vol. 168:9-14 (Alders).

¹⁰ On page 37 of its Order, the Commission states without record citation that “[i]t is plain that the Brookings Project, unlike the other project[s] (sic) has been offered for the purpose of securing access to renewable energy resources.” The multiple purposes of the Brookings Project are to increase generation outlet – of whatever character – in the region of Minnesota with significant

Brookings Project will improve community service¹¹ and regional reliability¹² needs, and shows that the project was not dedicated only to renewable generation sources.¹³

Limiting outlet capacity to renewable generation means outlet could not be used for non-renewable generation¹⁴ and redundant transmission may be needed¹⁵ at excess consumer costs. One characteristic of wind generation is that it is “variable” and the electrical system needs other capacity-based generation (*e.g.*, natural gas) to back it up when the wind is not blowing. The Wind Conditions could require redundant transmission for any natural gas generation deployed to firm up the wind.¹⁶

The Order states (p. 36) that the Brookings Project is not on the list of “common projects” in the Vision Plan and therefore it does not serve regional reliability needs. This conclusion is based on NoCapX2020’s incorrect statement at the May 15, 2009 Oral Argument. In fact, a line from South Dakota to the Twin Cities (Ellendale – Blue Lake) was an integral part of the Vision Plan.¹⁷ While the

interest in wind generation. But, unlike the prior 825 MW Proceeding, Applicants have never suggested that the purpose of the line is to secure renewable energy.

¹¹ Ex. 56 at 36-37 (Webb Direct); Ex. 104 at 7-8 (Alholinna Direct); ALJ Report at ¶¶ 250-51.

¹² The Brookings Project will relieve congestion and create reliability benefits. ALJ Report at 197.

¹³ Report at 261, 458; Ham Surrebuttal at 1-2; Ex. 275; Rogelstad Vol 1b at 58-59, 75, 80 and 82; Rogelstad Vol 2a at p. 20; Rogelstad Vol 2b at 62-63, 105; Rogelstad at Vol 3 at p. 33, 77 and 79-80; Lacey Vol. 4 at p. 39; Webb Direct Testimony at p. 34; Webb 5 Vol. at p. 13, 59; Alholinna Vol. 9 at p. 172-73; Alholinna Vol. 10 at p. 57-58, 63, 68, 156-57 and 160-62; Alholinna Vol. 11 at p. 17, 49-54 and 75-76; Lennon Vol 11 at 107-08; Grivna Vol. 12 at 29-30; Alders Vol 13 at 104, 106 and 116; Alders Rebuttal at p. 10; Alders Vol 15 at p. 75; Rakow Vol 25 at p. 10-11; Application at p. 1.14, 3.52, 4.36, 4.40 and 6.50.

¹⁴ But to address regional reliability, OES calculated that 1,269 MW to 2,094 MW of non-renewable generation will be needed by 2020 to serve Minnesota consumers. Ex. 275 at 1 (Ham Surrebuttal). The conditions would preclude such generation from utilizing this transmission capacity.

¹⁵ 20 Vol. 64-65 (Ellison)

¹⁶ Notably all of the studies supporting the Brookings Project assumed both renewable and nonrenewable generation would have access to the line. ALJ Report at ¶¶ 260-261; Ex. 108 at App. I (“EHV Study, Vol. II”); Ex. 1 at 6.14-6.24 (Application).

¹⁷ Ex. 1 (Application) at Appendix A-4 (EHV Study), 8-9.

endpoints evolved, the reliability need and benefits remained.¹⁸ A review of the maps also confirms that a line from South Dakota was always part of the Vision Plan.¹⁹

3. *Ample Wind Generation Available*

Applicants are concerned that the hypothetical risk of a coal plant taking some of the system capacity enabled by the Brookings Project does not justify the cost of the Wind Conditions. Fifty-eight projects representing 4,358 MW of wind generation have been studied associated with the transmission capacity enabled by the Brookings Project.²⁰ There is no evidence supporting a conclusion that coal plants could take any of the capacity enabled by the Brookings Project with so much wind generation already waiting for the transmission.²¹ There is also a moratorium against additional coal-fired generation or imports in Minnesota.²² And the Commission has ample authority through resource planning to further limit the types of generation allowed.

4. *BRIGO Projects*

Xcel Energy's recent experience with the Buffalo Ridge Incremental Generation Outlet ("BRIGO")²³ projects highlight that transmission construction in

¹⁸ The Blue Lake termination described in the Vision Plan did not optimize the electrical benefits from the line and was subsequently moved to a new substation in the Southeastern Metro *Id.* at 8 ("Although Blue Lake Substation is conceptually attractive . . . it also has several" limitations.)

¹⁹ Ex. 1 (Application) p. 1.13; 6.27; 6.29; 6.31; 6.34; 6.36; and 6.38.

²⁰ Ex. 56 at 35 (Webb Direct).

²¹ The Brookings Project is not part of Big Stone II's pending interconnection request. 3 Vol. 10-11 (Rogelstad); 5b Vol. 18-19 (Webb); 10 Vol. 125-127 (Alholinna); Alders 15 Vol. 54 (Alders). If Big Stone II wanted to change its interconnection to the Brookings Project, Big Stone II would be subordinate to the 4,300 + MW of wind generation that is currently being studied. 21 Vol. 8-9, 12 (Ellison). *See also* ALJ Report at ¶¶ 260-61 (rejects claims Brookings Project will serve coal generation due to the current regulatory climate); *Id.* at ¶ 411 (Big Stone II will not displace wind projects); *Id.* at ¶ 412 (dismisses claim Brookings Project was subterfuge for moving coal power).

²² Minn. Stat. § 216H.03, subd. 3. Notably this moratorium precludes BOTH construction of Minnesota coal generation AND importation of coal-generated energy from other states. Thus the notion that Minnesota could have a coal plant unwillingly foisted upon it from another State is false.

²³ *In the Matter of Application of Northern States Power Company d/b/a Xcel Energy for Certificates of Need for Three 115 kV Transmission Lines in Southwestern Minnesota*, Docket No. E-002/CN-06-154, Order Granting Certificates of Need, September 14, 2007.

wind-rich areas will facilitate wind development. In BRIGO, Xcel Energy sought to add 300-400 MW of generator outlet to the system. While the capacity was not specified as “wind generation” (similar to the present case), it was acknowledged (similar to the present case) that the likely users of the capacity would be wind generation because of proximity to the Buffalo Ridge. And the Commission found the BRIGO facilities addressed multiple needs (similar to the present case).

In granting the BRIGO certificates of need, the Commission recognized transmission was needed to facilitate additional wind development.²⁴ Yet the Commission did not impose any conditions upon the BRIGO facilities. Notably, no coal plants have attempted to utilize the BRIGO capacity; rather, that capacity is available for the numerous projects in this wind-rich area. The Commission’s decision in BRIGO is fully consistent with Applicants’ position here.

B. Timing Risks

The Wind Conditions present difficult questions around the timing of the Brookings Project and associated wind generation.

1. Coordination

Condition 3(A) requires Applicants to procure renewable generation within the timeframe required by the RES and “coordinated with the proposed in-service dates” of the segments of the Brookings Project, currently projected as 2012 and 2013. If the RES milestones are to be “coordinated” with the current in-service dates, this means that generation commitments would need to be made as early as 2012 to accommodate the current schedule for the Brookings Project. This will require Applicants to add renewable generation by 2012-13, exceeding RES milestones by

²⁴ “Xcel provides evidence that the facilities would enable the development of additional wind-powered generators along Buffalo Ridge. The record shows that wind power developers have already contracted to provide more than 900 MW of power, which is more than Xcel says the current transmission system can reliably support. Adding transmission capacity would facilitate further development.” BRIGO Order at 7.

several years.²⁵ Conversely, if the in-service dates of the Brookings Project segments are to be “coordinated” with the RES, then timing of the Brookings Project becomes clouded by the mismatch of when the generation is needed for customer needs and when it is required by the Wind Conditions. One outcome could be a delay in the Brookings Project to better align with customer needs. Applicants do not recommend the approach of “coordinating” between the RES and the Brookings Project as it would exacerbate the same “chicken and egg” problem that has vexed transmission planners for a decade or more.²⁶

2. *825 MW Proceeding*

The Order assumes that because the conditions “worked” in the 825 MW Proceeding, they will work here. But the 825 MW Proceeding was factually and legally distinguishable, and those conditions complicated wind development. This case is much more like BRIGO, where no conditions were imposed.

In the 825 MW Proceeding, Xcel Energy was under statutory and resource plan mandates to develop 825 MW of wind generation during a specific timeframe. Those specific mandates do not exist here. Many of the utilities subject to the RES are not applicants in this case. Generation milestones (such as the RES) are not driving the timing of the Brookings Project. And timing the generation to match the transmission in the 825 MW Proceeding created difficult implementation issues. Generally wind generation can be built faster than transmission. This sequencing (mandated by the conditions) required the Commission to accept significant consumer exposure for curtailment expenses in order to match the generation with

²⁵ Ex. 132 at 24 (Alders Rebuttal).

²⁶ If transmission is unavailable then generation must be delayed; yet if transmission must wait for generation to materialize then the transmission will always be late and the generation delayed. To overcome this “chicken and egg” problem, the record established the need for transmission to get ahead in anticipation of predictable future generation needs, regardless of the RES milestones. See Ex. 171 at p. 12-13 (Gramlich Direct); Ex. 132 at 26-28 (Alders Rebuttal).

the conditions.²⁷ These timing difficulties were exacerbated by the production tax credit and the need for generation to qualify for those benefits. Timing generation with the Brookings Project in the 2012-13 timeframe will present similar issues.

3. *Robust Planning*

The Wind Conditions could have the unintended effect of precluding other utilities from utilizing the transmission capacity and could result in expensive, time-consuming and potentially redundant transmission, contrary to the regional and cooperative planning efforts of CapX2020 and the Upper Midwest Transmission Development Initiative (“UMTDI”) that is being pursued by policy makers from the five-State region.²⁸ The record establishes utility interest in wind generation to be exported to utilities to the east.²⁹ And there is broad interest in neighboring states.

The Wind Conditions promote a policy that if a utility develops new transmission capacity, it must also use that capacity.³⁰ This could diminish interstate cooperation and will impede regional transmission solutions, encouraging utilities to time transmission projects to specifically match statutory milestones. And the Wind Conditions could encourage multiple smaller, incremental transmission projects to avoid over-committing while discouraging major facilities that exceed a utility’s minimum needs.³¹ In sum, “future applicants would have no incentive to propose

²⁷ Ex. 132 at 30-31 (Alders Rebuttal).

²⁸ UMTDI was created by the Governors of Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin to: (1) establish a plan that will guide and encourage the construction of interstate transmission lines to serve the upper Midwest region’s commitment to cost-effective renewable generation while maintaining reliability; and (2) develop an equitable cost-sharing methodology.

²⁹ Ex. 171 at 9-10 (Gramlich Direct). “I have been advised that Northern Indiana Public Service Company has sought regulatory approval in Indiana for a wind resource purchase from Brookings County, South Dakota.” Ex. 132 at 33 (Alders Rebuttal).

³⁰ Dr. Rakow explained the Wind Conditions require “if you build the interconnection capability, you buy the interconnection capability.” This will preclude transmission development beyond what they need for themselves. *See* April 15, 2009 Oral Argument Hearing Transcript at p. 152 (Rakow).

³¹ Ex. 132 at 27-28 (Alders Rebuttal).

new transmission which would create incremental transfer capability greater than their own immediate needs, resulting in a balkanized, less efficient transmission system.”³²

C. Compliance Difficulties

Conditions 3(B), 3(C), and 3(D) all create difficult compliance issues, suggesting the better outcome is to eliminate them. They include requirements that are unnecessary, potentially unenforceable, and confusing.

1. Transmission Conditions

Condition 3(B) requires Applicants to submit network (firm) transmission service requests (“TSRs”) to MISO for the total amount of new capacity enabled by the Brookings Project. This condition is substantially the same as one that the Commission imposed in the 825 MW Proceeding. Condition 3(D) also requires Applicants to designate the new renewable commitments as Network Resources. However in light of MISO’s tariff changes since the 825 MW Proceeding, these requirements will not work as intended.

Under MISO’s tariff, there are two ways to qualify as a capacity resource. First, an interconnection request can be submitted for Network Resource Interconnection Service (“NRIS”).³³ MISO’s evaluation will identify the transmission system upgrades required to qualify the generation resource as being deliverable to MISO’s footprint.³⁴ Under MISO’s tariff, the interconnection request must be submitted by the generator.

³² Ex. 308 at 4 (Rakow Statement). As Dr. Rakow stated at the April 15 Agenda Meeting Oral Argument, new major transmission initiatives such as the Corridor Project (double-circuit 345 kV line from the Buffalo Ridge to the Twin Cities) could be substantially delayed if the proposing utilities would be required to guarantee development of the entire 2,000 MW of capacity projected for that project. April 15, 2009, Oral Argument Transcript at p. 152-53 (Rakow).

³³ An interconnection request can be submitted either for NRIS or Energy Resource Interconnection Service (“ERIS”). NRIS requires more robust system upgrades and is deliverable to the entire MISO footprint (including the Applicant’s systems) and qualifies as a capacity resource, while ERIS may require fewer upgrades, and does not qualify as a capacity resource. Neither provide transmission service, but both utilize existing transmission service on an as available basis.

³⁴ MISO tests for 20% of nameplate wind generation, meaning the maximum capacity accreditation is 20% of the nameplate generation.

Thus, Applicants, as transmission owners, are not eligible to submit these requests under power purchase agreements. Second, a Network Integrated Transmission Service (“NITS”) request can be submitted by the purchasing utility. NITS provides firm delivery to a specifically identified load. MISO’s evaluation of a NITS request is different than NRIS, as MISO will identify the transmission system upgrades required for firm delivery to the specific load.³⁵ NITS must be requested by the utility.

Accordingly, MISO’s tariff does not allow Applicants to seek interconnection service as contemplated by Condition 3(D), since NRIS must be requested by the interconnecting generator. Applicants are eligible to submit NITS requests under Condition 3(B) but cannot comply with this requirement because a NITS request must specify the source’s location and the amount of service. So the pursuit of NITS cannot begin until specific generating facilities have been identified.

Condition 3(B) speaks in terms of submitting TSRs. But application for TSRs will have no effect on guaranteeing firm transmission under MISO’s tariff. Since MISO implemented its “Day 2” market, generators do not need TSRs to deliver energy to the real-time market. The only requirement to be eligible to deliver to the MISO market is that a generator obtain interconnection service. The TSR process is not a requirement. This aspect of Condition 3(B) is, therefore, largely ineffective.

Condition 3(D) requires Applicants to designate the renewable generation enabled by the Brookings Project as Network Resources within 10 days following the resource commitment. Under MISO’s tariff, Applicants could only designate the generator as a Network Resource only upon either passing the MISO “deliverability test”³⁶ or making the required network upgrades that would allow the generator to

³⁵ Also, MISO will evaluate the full amount of transmission service requested, allowing a requester to seek firm delivery for the full nameplate generation (as opposed to the 20% capacity for wind generation under MISO’s Resource Adequacy rules).

³⁶ A generator that is certified deliverable (not bottled up) under the MISO Deliverability Test could be designated by any Load Serving Entity (“LSE”) within the Midwest Energy Market footprint to satisfy its Resource Adequacy requirement.

qualify as a Network Resource. These events occur after construction, not when the resource commitment is made. Condition 3(D) would, thus, not work as intended.

Notably, the Network Resource requirement results in greater costs to consumers for no return value. As noted above, NITS allow the Applicant to obtain firm delivery rights of the entire nameplate output of the generation from the source to the Applicant's load. Under the current MISO Resource Adequacy rules, a utility can claim 20% of the nameplate as capacity to meet its resource adequacy requirements. Thus network upgrades for 100% of the nameplate would be required while only 20% would be credited. From a capacity value standpoint, there is no incremental value in obtaining both Network Resource designation and NITS.

2. *Condition 3(C)*

Condition 3(C) raises several issues. First, it requires Applicants to allocate the capacity between themselves. FERC open access and non-discrimination principles preclude utilities from unilaterally dividing transmission capability between themselves.³⁷ Further, the steps required by the Wind Conditions would result in Applicants effectively allocating all of the Brookings Project capacity for themselves and denying that capacity to other users. This would also be inconsistent with open access policies. MCEA has argued that so long as each step of the conditions is lawful, then the outcome is lawful regardless of its discriminatory result. But it is unclear how FERC or a court would deal with this, if challenged by a wind generator or regional utility who was disadvantaged as a result of the Wind Conditions.

Second, condition 3(C) requires Applicants to make a compliance filing within 30 days of the Order detailing: (1) how much capacity will be enabled by the Brookings Project; (2) the allocation of the capacity among Applicants; and (3) the type of MISO transmission service Applicants will seek to serve the renewable

³⁷ As the Commission acknowledged, "MISO allocations and restrictions on MISO-managed transmission capacity are beyond the scope and authority of this Commission." Order at 40.

generated electricity to be carried on this line. While Applicants will diligently attempt to comply with this requirement, much of the required information is unknown and some of it is unknowable. As a result, the compliance filing may not be meaningful.

For example, because this is a system element and not a single-purpose facility, the amount of generation outlet capacity enabled by the Brookings Project cannot be determined at this time. While parties use 700 MW as 'shorthand' for one possible outcome, the total is wholly dependent upon the assumptions used.³⁸ The amount could be higher or lower depending upon the substations utilized, location of generators, and interaction with other facilities.

The allocation of the unknown amount of capacity cannot be made within 30 days. As noted above, neither Applicants nor other utilities need additional wind generation from this area in the 2012-13 timeframe. It is not clear when or how this issue could be resolved, but it is clear that a 30-day compliance filing will only set the stage for a series of additional questions. But in any case, these compliance difficulties do not change the fact that there is over 4,300 MW of wind generation waiting for the Brookings Project. Under MISO's tariff, these wind projects will have every opportunity to interconnect and utilize the system capacity enabled by the Brookings Project before any other generators.

The process of complying with the Wind Conditions will by necessity be very open-ended and take much longer than the 30 days permitted by the Order. In light of the MISO tariff issues and the important resource planning questions raised here, the Wind Conditions create more questions than they answer. And in the end the conditions are not necessary because ample wind generation is already available.

³⁸ 13 Vol. 154 (Alders).

IV. CONCLUSION

Applicants appreciate the Commission's granting Certificates of Need for the 345 kV Projects. This regulatory concurrence will allow Minnesota's transmission utilities to implement important infrastructure for long-term consumer benefit. With regard to the Brookings Project, however, Applicants respectfully request that the Wind Conditions be eliminated as unsupported by the record and applicable law.

Dated: June 11, 2009

Respectfully submitted:

Priti R. Patel
Assistant General Counsel
Xcel Energy Services Inc.
414 Nicollet Mall
Minneapolis, MN 55401

Eric Olson
Vice President and General Counsel
Great River Energy
12300 Elm Creek Boulevard
Maple Grove, MN 55369
2363864v6

BRIGGS AND MORGAN

By: 

Michael Krikava (#182679)

Lisa M. Agrimonti (#272474)


2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
(612) 977-8400

**Attorneys for Northern States Power
Company, a Minnesota Corporation**

**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 Three 345 kV
Transmission Lines with Associated System
Connections**

**CERTIFICATE OF SERVICE
MPUC Docket No. CN-06-1115
OAH Docket No. 15-2500-19350-2**

Roshelle Herstein certifies that on the 11th day of June, 2009, she filed a true and correct copy of Applicants' Request for Reconsideration by posting it on www.edockets.state.mn.us. Said document(s) were also served via U.S. Mail and e-mail upon those listed on the Service List attached hereto.



Roshelle Herstein

SERVICE LIST

IN THE MATTER OF THE APPLICATION OF GREAT RIVER ENERGY AND NORTHERN STATES POWER COMPANY (D/B/A XCEL ENERGY) AND OTHERS FOR CERTIFICATES OF NEED FOR THREE 345 KV TRANSMISSION LINES WITH ASSOCIATED SYSTEM CONNECTIONS

MPUC DOCKET No. ET-2, E002/CN-06-1115

Burl W. Haar (E-Filing)
Minnesota Public Utilities Commission
Suite 350
121 East Seventh Place
St. Paul, MN 55101-2147

The Honorable Beverly Heydinger
Administrative Law Judge
Minnesota Office of Administrative Hearings
P.O. Box 64620
St. Paul, MN 55164-0620

Julia Anderson
Minnesota Office of the Attorney General
1400 BRM Tower
445 Minnesota Street
St. Paul, MN 55101-2131

David M. Aafedt
Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, MN 55402

Kenneth & Myron Alberts, A Limited
Partnership
54046 265th Avenue
Pine Island, MN 55963

Brett Anderson
P.O. Box 191
Sauk Centre, MN 56378

Keith L. Beall
Midwest ISO Legal Department
PO Box 4202
Carmel, IN 46082

Sharon Ferguson (E-Filing)
Minnesota Department of Commerce
Suite 500
85 7th Place East
St. Paul, MN 55101-2198

David Birkholz
Minnesota Department of Commerce
Suite 500
85 7th Place East
St. Paul, MN 55101-2198

John Lindell
OAG-RUD
900 BRM Tower
445 Minnesota Street
St. Paul, MN 55101-2130

Lisa M. Agrimonti
Briggs and Morgan, P.A.
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402

Richard Alberts Ptr.
David L. & Duane O. Alberts
53951 265th Avenue
Pine Island, MN 55963

John Bailey
Institute for Local Self-Reliance
1313 Fifth Street SE
Minneapolis, MN 55414

Catherine Biestek
Briggs and Morgan, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402

SERVICE LIST

**IN THE MATTER OF THE APPLICATION OF GREAT RIVER ENERGY AND NORTHERN STATES
POWER COMPANY (D/B/A XCEL ENERGY) AND OTHERS FOR CERTIFICATES OF NEED FOR THREE
345 kV TRANSMISSION LINES WITH ASSOCIATED SYSTEM CONNECTIONS**

MPUC DOCKET No. ET-2, E002/CN-06-1115

Kevin Blanchette
25709 Hilltop Road
Richmond, MN 56368

Christy Brusven
Fredrikson & Byron, P.A.
Suite 4000
200 South Sixth Street
Minneapolis, MN 55402-1425

Brady Busselman, P.E., CPESC
McCombs Frank Roos Associates, Inc.
Suite 140
14800 28th Avenue North
Plymouth, MN 55447

Current Chair
Rural Minnesota Energy Board
Suite 1
2401 Broadway Avenue
Slayton, MN 56172

Delane Christenson
3700 Hazelwood Avenue
Webster, MN 55088

Jim Clowes
Rt. 1 Box 1773
Hermitage, MO 65688

Mike and Becky Creglow
16481 Circle Drive
Welch, MN 55089

George Crocker
North American Water Office
P.O. Box 174
Lake Elmo, MN 55042

Robert Dahse
30319 Wiscoy Ridge Road
Winona, MN 55987

Lois Dandurard
26446 Langford Avenue
New Prague, MN 56071

Lisa Daniels
Windustry
2105 First Avenue South
Minneapolis, MN 55404

Delmar Debbaut
P.O. Box 116
Milroy, MN 56263-0116

Atina Diffley
Gardens of Eagan
25498 Highview Avenue
Farmington, MN 55024

John E. Drawz
Fredrikson & Byron, P.A.
Suite 4000
200 South Sixth Street
Minneapolis, MN 55402-1425

SERVICE LIST

IN THE MATTER OF THE APPLICATION OF GREAT RIVER ENERGY AND NORTHERN STATES POWER COMPANY (D/B/A XCEL ENERGY) AND OTHERS FOR CERTIFICATES OF NEED FOR THREE 345 KV TRANSMISSION LINES WITH ASSOCIATED SYSTEM CONNECTIONS

MPUC DOCKET No. ET-2, E002/CN-06-1115

Joseph R. Dudak
ITC Holdings Cor./ITC Transmission
Suite 200
39500 Orchard Hill Place Drive
Novi, MI 48375

Carl and Alyssa Forhan
1736 Chippewa Drive NW
Rochester, MN 55901

Elizabeth Goodpaster
Minnesota Center for Environmental
Advocacy
26 East Exchange Street, Suite 206
St. Paul, MN 55101

Gary Ground
9200 280th Street West
Northfield, MN 55057

Joseph & Theresa Headley
225 Crossroads Blvd. #422
Carmel, CA 93923

Loren Ingebretsen
8438 100th Avenue North
Felton, MN 56536

Rebecca Johnson
7000 Derby Drive
Chanhassen, MN 55317

John Jossart
Krass Monroe, P.A.
Suite 1000
8000 Normal Center Drive
Minneapolis, MN 55437

Craig Empey
Empey Law Office
Suite 204, American Financial Center
1060 Dakota Drive
Mendota Heights, MN 55120

Kelly Fuller
Energy and Nature
P.O. Box 6732
Minneapolis, MN 55406

Mike Greco
25452 Ipava Avenue West
Lakeville, MN 55044

Dale Hartman
2203 Raspberry Court
Buffalo, MN 55313

Bill & Carolyn Hovland
26835 Jaquard
Lakeville, MN 55044

Grant Johnson
1883 15th Avenue NW
New Brighton, MN 55112

Peter Jones
5636 Sturgeon Lake Road
Welch, MN 55089

Will Kaul
Great River Energy
PO Box 800
17845 East Highway 10
Elk River, MN 55330-0800

SERVICE LIST

IN THE MATTER OF THE APPLICATION OF GREAT RIVER ENERGY AND NORTHERN STATES POWER COMPANY (D/B/A XCEL ENERGY) AND OTHERS FOR CERTIFICATES OF NEED FOR THREE 345 KV TRANSMISSION LINES WITH ASSOCIATED SYSTEM CONNECTIONS

MPUC DOCKET NO. ET-2, E002/CN-06-1115

Chuck Kerr
Great Northern Power Development, L.P.
Suite 3600
601 Jefferson Street
Houston, TX 77002-7906

Larry Kirkland
1527 20th Street NE
Byron, MN 55920

Leo Klisch
230 17th Avenue Southeast
St. Joseph, MN 56374

John A. Knapp
Winthrop & Weinstine
Suite 3500
225 South Sixth Street
Minneapolis, MN 55402-4629

Harold Kolbe
60702 194th Street
Pacific Junction, IA 51561-4014

Phillip R. Krass
C. John Jossart
Krass Monroe, P.A.
8000 Norman Center Drive, Suite 1000
Minneapolis, MN 55437

Michael C. Krikava
Briggs and Morgan, P.A.
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402

Alan C. Lakes
Great Northern Power Development LP
1749 Pinto Place
Bismarck, ND 58503

Dan Lemm
11380 Cameron Avenue NE
Monticello, MN 55362

Joel Levie
21467 County Road 24 NW
Evansville, MN 56326

Donald Liefert
Douglas County
PO Box 398
Alexandria, MN 56308

Karen Lloyd
18150 East Souix Vista Drive
Jordan, MN 55352

Dave Lynchman
P.O. Box 21
Jordan, MN 55352

Paula Maccabee
Just Change Consulting
1961 Selby Avenue
St. Paul, MN 55104

SERVICE LIST

IN THE MATTER OF THE APPLICATION OF GREAT RIVER ENERGY AND NORTHERN STATES POWER COMPANY (D/B/A XCEL ENERGY) AND OTHERS FOR CERTIFICATES OF NEED FOR THREE 345 kV TRANSMISSION LINES WITH ASSOCIATED SYSTEM CONNECTIONS

MPUC DOCKET NO. ET-2, E002/CN-06-1115

Phil Mahowald
Prairie Island Indian Community
5636 Sturgeon Lake Road
Welch, MN 55089

Nicholas D. & Mary E. Majerus
Safari Estates Well System Two
1707 75th Street NW
Rochester, MN 55901-8634

Mary Winston Marrow
Minnesota Center for Environmental
Advocacy
Suite 206
26 East Exchange Street
St. Paul, MN 55101-1667

Russell Martin
11600 East 270th Street
Elko, MN 55020

Laureen Ross McCalib
Great River Energy
17845 East Highway 10
PO Box 800
Elk River, MN 55330-0800

Corey McDonald
C.Mc D Home Inspection, Inc.
35002 Wagner Hill Way
Cannon Falls, MN 55009

Harvey McMahan
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56537

Mike Michaud
N802 240th Street
Maiden Rock, WI 54750

David R. Moeller
Minnesota Power
30 West Superior Street
Duluth, MN 55802-2093

Charles Myrbach
10599 State Hwy 19
Marshall, MN 56258

Kyle Nelson
447 73rd Street Northwest
Rochester, MN 55901

Janell Nygal
24568 County Highway 88
Fergus Falls, MN 56537

Bob & Alice Nytes
5710 West 26th Street
New Prague, MN 56071

Bruce Odegaard
2948 Jersey Avenue North
Crystal, MN 55427

SERVICE LIST

IN THE MATTER OF THE APPLICATION OF GREAT RIVER ENERGY AND NORTHERN STATES POWER COMPANY (D/B/A XCEL ENERGY) AND OTHERS FOR CERTIFICATES OF NEED FOR THREE 345 kV TRANSMISSION LINES WITH ASSOCIATED SYSTEM CONNECTIONS

MPUC DOCKET NO. ET-2, E002/CN-06-1115

Joyce H. Osborn
P.O. Box 1165
Burnsville, MN 55337

Carol Overland
Overland Law Office
P.O. Box 176
Red Wing, MN 55066

Bill Pascoe
Pascoe Energy Consulting, LLC
104 Country Club Lane
Butte, MT 59701

Priti R. Patel
Xcel Energy
414 Nicollet Mall, 5th Floor
Minneapolis, MN 55401-1993

Sherwood E. Peterson, Jr.
494 73rd Street NW
Rochester, MN 55901

Drew Pierce
8574 60th Street West
Lonsdale, MN 55046

Ken & Milo Pomije
120 East 260th Street
New Prague, MN 56071

Jim Prokes
25300 Drexel Avenue
New Prague, MN 56071

Steven J. Quam, Esq.
Fredrikson & Byron, P.A.
Suite 4000
200 South Sixth Street
Minneapolis, MN 55402-1425

R.L. Reid
Jill V. Trescott
30150 Cannon River Boulevard
Randolph, MN 55065

John C. Reinhardt
Laura A. Reinhardt
3552 26th Avenue South
Minneapolis, MN 55406

Erin Stojan Ruccolo
Fresh Energy
Suite 220
408 St. Peter
St. Paul, MN

Antone J. Rude
Great Northern Power Development LP
10127 93rd Street NE
Monticello, MN 55362

Nancy Sackett
25870 Freeborn Avenue
New Prague, MN 56071

SERVICE LIST

IN THE MATTER OF THE APPLICATION OF GREAT RIVER ENERGY AND NORTHERN STATES
POWER COMPANY (D/B/A XCEL ENERGY) AND OTHERS FOR CERTIFICATES OF NEED FOR THREE
345 kV TRANSMISSION LINES WITH ASSOCIATED SYSTEM CONNECTIONS

MPUC DOCKET NO. ET-2, E002/CN-06-1115

Christopher Sandberg
Lockridge Grindal Nauen & Holstein
Suite 2200
100 Washington Avenue South
Minneapolis, MN 55401

Matthew J. Schuerger, P.E.
Energy Systems Consulting Services, LLC
P.O. Box 16129
St. Paul, MN 55116

Kim Skappel
Homer Township Treasurer
24185 County Road 9
Winona, MN 55987

Beth H. Sohlt
Wind on the Wires
Suite 203
1619 Dayton Avenue
St. Paul, MN 55104-6206

Bev Topp
26045 Ipava Avenue West
Lakeville, MN 55044

Tom van der Linden & Jean Silberman
30585 County Road 1
La Crescent, MN 55947

Gerald Worm
12837 Zebra Avenue
Nya, MN 55368

Larry L. Schedin
LLS Resources, LLC
Suite 1137
12 South Sixth Street
Minneapolis, MN 55402

Janet Shaddix Elling
Shaddix and Associates
9100 West Bloomington Freeway
Suite 122
Bloomington, MN 55431

Jennifer Smestad
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56537

SaGonna Thompson
Xcel Energy
414 Nicollet Mall, 7th Floor
Minneapolis, MN 55401-1993

Roger & Joyce Tupy
26445 Langford Avenue
New Prague, MN 56071

Heather Westra
Prairie Island Indian Community
5635 Sturgeon Lake Road
Welch, MN 55089