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May 27, 2010

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: **Comments on Request for Reconsideration**
Docket No. E002/M-09-1048

Dear Dr. Haar

Attached are the comments of the Minnesota Office of Energy Security (OES) in the following matter:

Request for Reconsideration or Clarification on the Transmission Cost Recovery (TCR) Rider.

The petition was filed by:

Mark Suel
Regulatory Case Specialist
Xcel Energy
414 Nicollet Mall
Minneapolis, Minnesota 55401

The OES recommends the Commission **deny** the petition for reconsideration or clarification, and is available to answer any questions that the Commission may have.

Sincerely,

/s/ SUSAN L. PEIRCE
Rate Analyst

SLP/ja
Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA OFFICE OF ENERGY SECURITY

DOCKET NO. E002/M-09-1048

I. BACKGROUND INFORMATION

On September 3, 2009, Northern States Power, a Minnesota Corporation (Xcel or the Company) filed a petition requesting approval of its 2010 Transmission Cost Recovery (TCR) Rider project eligibility and rate factors, and 2009 True-Up Report. As part of its petition, Xcel requested to begin recovery of expenses the Brookings CapX Project.

On December 4, 2009, the Office of Energy Security (OES) filed comments recommending that the Commission:

1. Approve Xcel's petition to recover costs reflecting only the minimum ownership levels for TCR Project Eligibility for the LaCrosse, Fargo and Bemidji CapX Projects. Deny recovery for the Brookings CapX Project until cost allocation issues are resolved. Approve recovery of the Nobles Wind Farm Project costs and \$6 million of the Blue Lake-Wilmarth Project costs.
2. Approve recovery of cost changes to the BRIGO and 825 Wind Projects, and approve cost recovery for the Chisago-Apple River Project for the undergrounding of distribution facilities at Lindstrom, and \$865,000 in cost recovery for underground facilities near Taylors Falls.
3. Require Xcel to use the rate of return and allocators approved in its 2008 rate case, Docket No. E002/GR-08-1065, and to submit revised rate adjustment factors in its reply comments.
4. Approve Xcel's 2009 TCR True-Up Report.

Pertaining to the Brookings project, the subject of Xcel's request for reconsideration, the comments of the OES stated (footnotes deleted):

On May 22, 2009, the Commission issued an Order granting Certificates of Need for the CapX2020 Fargo, Brookings and LaCrosse 345 kV transmission lines. On July 14, 2009, the Commission granted a Certificate of Need for the Bemidji 230 kV transmission line. Xcel is requesting approval to recover approximately \$3.5 million in 2010 for the four CAPX projects. Xcel's costs are based on its projected share of each project as determined by its project development contracts.

Under the terms of the development contracts, Xcel states that CAPX participants have the right, but not the obligation to take ownership up to the identified project development percentages. Xcel states it has no plans to reduce its ownership level below the stated percentages for each project. Consequently, the costs included in the 2010 revenue requirement noted above reflect Xcel's minimum ownership percentage.

In addition to the ownership terms, the Company states that cost allocation of the Brookings Project may change significantly because of the Project's designation as a Generation Interconnection Project by the Midwest Independent System Operator (MISO). Under the MISO current cost allocation tariff up to 50 percent of the project costs could be borne by the CapX utilities, and the remaining 50 percent by the generators for whom the line is providing interconnection. MISO has proposed to the Federal Energy Regulatory Commission (FERC) to modify this tariff to allocate 90 percent of the costs of network upgrade facilities at 345 kV or higher to the generators and 10 percent to the transmission users. Xcel indicates that the generators who will actually use the Brookings Project are currently unknown, and none of the generators identified by MISO as requiring the Project's completion in order to interconnect has signed an interconnection agreement under which they have agreed to bear the allocated cost. Consequently, the outcome of this MISO process may have a significant impact on the final allocation of costs to Xcel and other MISO members.

Because of the uncertainty surrounding the cost allocation of the Brookings Project, the OES concludes that cost recovery is premature, and should be rejected at this time. Xcel

ratepayers should not be required to pay for costs that may ultimately be assigned to other parties. This issue is particularly important since allowing Xcel to recover costs from its ratepayers at this time may have an undue influence on the subsequent proceedings regarding ownership and cost responsibility.

All of the CapX projects are in the development or permitting stage, and consequently, have not received construction bids. Xcel states such bids will be obtained once the route permitting processes designate routes for each transmission line. Xcel provided an additional breakdown of its projected costs for the CapX Projects for 2010 in response to OES Information Requests Nos. 1 and 2B. The OES recommends approval of cost recovery only for the minimum ownership levels for the La Crosse, Fargo, and Bemidji Projects at this time. The OES recommends denial of cost recovery for the Brookings Project until the cost allocation issues have been resolved.

(Emphasis added)

On April 27, 2010, the Minnesota Public Utilities Commission issued its Order Approving 2010 TCR Project Eligibility and Rider, 2009 TCR Tracker Report and TCR Rate Factors. In its April 2010 Order, the Commission denied recovery for the Brookings CapX Project until cost allocation issues are resolved. The Commission's Order stated:

Xcel estimated its costs of the Brookings project for 2010 were \$1,946,057. However, Xcel stated that cost allocation of the Brookings project may change significantly because of the project's designation as a Generation Interconnection Project by MISO. Xcel explained that under the MISO current cost allocation tariff up to 50 percent of the project costs could be borne by the CapX utilities, and the remaining 50 percent by the generators for whom the line is providing interconnection. MISO has proposed to the Federal Energy Regulatory Commission (FERC) to modify this tariff to allocate 90 percent of the costs of network upgrade facilities at 345 kV or higher to the generators and 10 percent to the transmission users.

Xcel stated that the generators who will actually use the Brookings project are currently unknown, and none of the generators identified by MISO as requiring the project's completion in order to interconnect has signed an interconnection agreement under which

they have agreed to bear the allocated cost. Xcel stated that the outcome of the MISO process may have a significant impact on the final allocation of costs to Xcel and other MISO members.

In reply comments, Xcel acknowledged the uncertainty of final cost allocations, but argued that its portion of whatever allocation is assigned to the Company will be more than its currently requested recovery. Xcel also updated its revenue request, based on actual rather than estimated expenditures through April of 2009, and updated its MISO formula transmission rate effective January 1, 2010. The two updates reduced the revenue requirement for the Brookings project from approximately \$1.9 to \$1.2 million. Xcel argued that the reduced recovery request for the Brookings project should proceed, as ratepayers will be protected from over-recovery through the annual true-up process.

The OES recommended denial of recovery for costs associated with the Brookings CapX line. OES argued that until a final determination of the allocation of costs among the transmission system users is determined, recovery of any amount from ratepayers would be premature, and should be rejected.

The Commission concurs with the OES, that it is speculative and premature to commence rate recovery on the Brookings CapX line at this point. While the Company suggests that its more conservative request for cost recovery of \$1.2 million should justify inclusion of the Brookings project in its 2010 revenue requirement, the Commission does not agree. Allowing Xcel to recover costs from its ratepayers at this time could potentially have an impact on a subsequent proceeding regarding ownership and cost responsibility for the project. Therefore, the Commission will not take action as to cost recovery for the Brookings project in 2010, due to the continuing uncertainty related to the MISO process and its impact on the final level of cost allocations among the various participants.

On May 17, 2010, Xcel filed a request for reconsideration of the Commission's decision on the Brookings CapX project. In its request for reconsideration, Xcel states that, in the event the Commission chooses not to reconsider its decision, the Company seeks "clarification and guidance" from the Commission on: (1) whether further project development activities should continue, be scaled back, or cease; and (2) if the project development efforts are to continue, the investment amount the Company should not exceed pending resolution of the MISO cost allocation issue.

II. OES RESPONSE

Since the beginning of this docket, OES has been aware, through the OMS and other MISO processes, that many meetings, discussions, presentations and other actions have taken place regarding new cost allocation methods for future transmission projects as well as for the Brookings project in particular. None of these efforts have yet reached fruition but two things are clear:

1. Generators have stated that they object to FERC's now-approved cost allocation method cited above of 90% of the costs allocated to generators and 10% of the costs allocated to the local load, and
2. MISO is obligated to file a new cost allocation method with FERC by July 15, 2010 which must address the 90/10 percent current cost allocation method.

Because of the generators' opposition to the currently-approved cost allocation method and the fact that a new cost allocation method is mere weeks away from filing, OES continues to be concerned that expecting ratepayers to begin paying Brookings project costs, even costs that can be trued-up later, sends the wrong signals that ratepayers are available to "pick up the slack" for costs that are yet to be allocated elsewhere or costs that others oppose paying.

In fact, Xcel itself makes a very similar point in its Notice of Change filing in Docket No. E002/CN-06-1115, where the Company states, "One of the critical requirements that must be established with some certainty to obtain utility commitments of the capital necessary to proceed with construction of the Brookings Project is the implementation of a final and enforceable cost allocation and recovery mechanism under the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff." The OES concurs that cost allocation certainty is a critical requirement for Xcel's ratepayers, as well as its shareholders..

Further, the OES recognizes that denial of cost recovery by Xcel at this time in no way suggests that Xcel will never be allowed to recover these costs. In fact, as evidenced by the OES's recommendations and the Commission's decisions regarding cost recovery for other projects in this proceeding, the regulatory process is fully supportive of timely recovery of prudent costs. However, it is important to ensure that rates are reasonable and that Minnesota costs are minimized.

Therefore the OES recommends the Commission deny reconsideration of its decision to reject cost recovery of the Brookings CAPX Project without prejudice to Xcel again making a cost recovery request once cost allocation methods pertaining to the Brookings project are more clearly known.

Xcel requested clarification from the Commission on whether to continue project development activities, and if so, how much investment the Company should undertake pending resolution of the cost allocation issue. The OES recommends that if the Commission decides to provide a response to this request it not take any action that might influence the resolution of any future cost recovery issues. One response that OES offers is to urge Xcel to continue to actively participate in the current MISO cost allocation proceedings and to participate in resulting FERC proceedings after the July 15th filing, making every effort to protect their ratepayers interests. OES also urges Xcel to apprise OES and Commission Staff of actions, issues discussions and results of such proceedings as they occur during the coming months.

III. OES RECOMMENDATION

The OES recommends that the Commission deny reconsideration of its decision to reject cost recovery of the Brookings CAPX Project without prejudice to Xcel again making a cost recovery request once cost allocation methods pertaining to the Brookings project are more clearly known.

/ja

CERTIFICATE OF SERVICE

I, Sharon Ferguson, 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 Office of Energy Security
Comments**

Docket No. E002/M-09-1048

Dated this 27th of May, 2010

/s/Sharon Ferguson

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