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May 16, 2011

Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. E002/CN-10-694

Dear Dr. Haar:

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

Application for a Certificate of Need for Two 115 kV High Voltage Transmission Lines in the Midtown Area of South Minneapolis, Hennepin County: Hiawatha Project.

The Petitioner is:

Teresa M. Mogensen  
Vice President, Transmission and Operating Services  
Northern States Power Company  
414 Nicollet Mall  
Minneapolis, Minnesota 55401-1993

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve the certificate of need, reject Xcel's reply comments without prejudice**, and is available to answer any questions the Commission may have.

Sincerely,

/s/ STEVE RAKOW  
Rates Analyst

SR/sm  
Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE,  
DIVISION OF ENERGY RESOURCES

DOCKET No. E002/CN-10-694

**I. INTRODUCTION**

**A. PROCESS BACKGROUND**

1. *Notice Plan*

On June 23, 2010 Northern States Power Company, a Minnesota Corporation (Xcel or the Company) submitted the Company's *Certificate of Need Notice Plan: Two 115 kV Transmission Lines in the Midtown Area of South Minneapolis* (Notice Petition). The Notice Petition provided Xcel's proposed notice plan for a set of 115 kV transmission line upgrades in the city of Minneapolis, Minnesota.

Comments on the Notice Petition were filed by the Minnesota Department of Commerce, Division of Energy Resources (Department), f.n.a. Office of Energy Security (OES), on July 13, 2010. On July 29, 2010 the Company filed reply comments.

Finally, on August 17, 2010 the Minnesota Public Utilities Commission (Commission) issued an Order that approved the proposed notice plan.

2. *Completeness*

On November 29, 2010 Xcel filed the Company's *Application for a Certificate of Need for Two 115 kV High Voltage Transmission Lines in the Midtown Area of South Minneapolis, Hennepin County: Hiawatha Project* (Petition). The Petition describes the proposed facilities as follows:

- A new 115 kV distribution substation near Hiawatha Avenue and 28<sup>th</sup> Street;
- A new 115 kV distribution substation near Oakland Avenue and 29<sup>th</sup> Street; and
- Two 115 kV transmission lines between the new substations (Collectively, Hiawatha Project).

On December 27, 2010 the Department filed comments regarding the completeness of the Petition and the review process. Other parties filing comments on completeness included:

- Hennepin County, the City of Minneapolis, and the Midtown Greenway Coalition;
- East Phillips Improvement Coalition;
- Midtown Phillips Neighborhood Association, Inc.; and
- the Midtown Greenway Coalition (separately).

On January 6, 2011 Xcel submitted a supplement which provided the additional data requested by the Department. Separately on January 7, 2011 the Company submitted a reply comment on completeness.

On February 15, 2011 the Commission issued its *Order Finding Application Complete and Initiating Informal Review Process* (Second Order) which determined Xcel's Petition was complete.

On February 17, 2011 the Commission issued its *Notice of Comment Periods* (Notice). The Notice indicates that comments on the merits of the Petition are due March 31, 2011 and reply comments are due April 29, 2011. Comments on the Petition were filed by the Department. Reply Comments were filed by Xcel, Carol Overland, the City of Minneapolis and Hennepin County jointly, and Carrie Anne Johnson. Supplemental comments were filed on May 3, 2011 by the Suburban Rate Authority. Below the Department responds to certain issues raised in reply comments.

## **II. DEPARTMENT ANALYSIS**

### **A. NEED ANALYSIS**

First, Ms. Overland discusses Xcel's system forecasts at some length, especially at pages 1 to 3 of her reply comments. Ms. Johnson also mentions Xcel's system forecasts at page 2 of her reply comments. In response, the Department notes that the system forecasts are not relevant to this proceeding since Xcel is not making a claim based upon a system-wide need. Rather, Xcel's claimed need is particular to the local area. Therefore, forecasts in the local area are the relevant focus in this proceeding.

Second, Ms. Johnson quotes the Department's comments regarding the accuracy of the forecast and asks "Since when do we get to wave our hands and ignore the law... nothing in these laws says that if the past energy demand exceeds capacity that it suddenly makes the law irrelevant." The Department notes that the full statement is:

Based on this information the OES concludes that the accuracy of the forecast of demand is not relevant to a determination of need because the area has already experienced historical demand greater than the ability of the infrastructure to reliably provide service (i.e. N-1). Therefore, regardless of the forecast of future demand, the current level of demand indicates that transmission and/or distribution improvements are needed.

Therefore, the Department's analysis is that the area has already experienced historical demand greater than the ability of the infrastructure to reliably provide service. Thus, differences in forecasted growth rates in energy requirements are not determinative; it is only if a party provides a forecast indicating that future peak demand will decline significantly would forecast analysis be relevant. No such forecast was provided by any party, including the Department.

#### *B. ALTERNATIVES ANALYSIS*

First, Ms. Johnson cites Minnesota Statutes 216B.243, subd. 3a regarding the requirement to use environmental costs in an analysis of alternatives and states, "Unless I missed something, I have not read any analysis either from Xcel or from the DOC that includes the environmental costs, as this law demands. The Department refers Ms. Johnson to section II C 4 on page 18 of the Department's March 31, 2011 comments for the relevant analysis.

Second, Ms. Johnson states that she did not see "the DOC suggest that the Commission should follow MN Rule 7849.0120 A (5)." Note that this rule addresses the effect of the proposed facility in making efficient use of resources. While it is not clear in the text of the Department's comments, the Department comments indicate a reliance upon the Environmental Report (ER) "for its socioeconomic analysis in a CN [certificate of need] proceeding... therefore, the OES recommends that the Commission consider the ER." Also, Attachment 1 at page 2 of 4 notes that Minnesota Rule 7849.0120 A (5) is addressed in the ER. Therefore, the Department reiterates that it relies upon the ER for socioeconomic analysis in a CN proceeding, including Minnesota Rule 7849.0120 A (5).

Third, the Department notes that Ms. Overland's reply comments provide new information regarding claimed future plans that Xcel is not revealing regarding constructing a 345 kV transmission line between Roseville and Richfield. The route identified by Ms. Overland would appear to include the Hiawatha Project. If the Commission is at all concerned regarding future, higher voltage transmission needs in the area served by the Hiawatha Project, the Department recommends the Commission require Xcel to provide information regarding "overbuilding" the

proposed project. That is, the Commission could require Xcel to provide information on building the project to 345 kV standards but initially operating it at 115 kV so that the Hiawatha Project can be adapted to this new use if and when such a need is demonstrated in a future certificate of need petition. This approach would be similar to the Commission's approval of the CapX facilities as double-circuit capable but single-side strung. (See Docket No. ET2, E002/CN-06-1115 for details.) Such information from the Company should be followed by a comment and reply comment process so that all interested parties can review the information and provide their perspective to the Commission.

### *C. RATE REQUEST*

Xcel's reply comments state that the Company requests the Commission to "provide policy direction on how Project costs ought to be recovered under Xcel Energy's Tariff." Further, the Company states, "We believe it would be in all stakeholders' best interest to provide explicit guidance concerning the extent to which the Commission's mitigation decisions should be interpreted as (Standard) or (Special) in the terminology of the special facilities Tariff." In response, the Department notes that Minnesota Rules 7829.1300 provides the service and content requirements for miscellaneous tariff and price list filings. Subpart 5 of this rule states that, "The Commission shall reject a filing found to be substantially out of compliance with this chapter or applicable statutory requirements." Xcel clearly has not complied with numerous portions of Minnesota Rule 7829.1300, including, at a minimum:

- on a separate page, a one-paragraph summary of the filing, sufficient to apprise potentially interested parties of its nature and general content;
- the date the proposed rate or service change will go into effect;
- the statute that the utility believes controls the time frame for processing the filing; and
- a description of the filing, its impact on rates and services, and its impact on the utility and affected ratepayers.

Also, miscellaneous tariff filings must be filed upon all parties on the applicable general service list. It is not clear to the Department whether Xcel has served all of the correct parties on the applicable general service list. Therefore, the Department recommends that the Commission reject without prejudice Xcel's reply comment as being substantially out of compliance with Minnesota Rules Chapter 7829.

The Department also notes that Xcel currently has an open rate case proceeding (Docket No. E002/GR-10-971). Thus, any necessary interpretations or clarifications of "Standard" and "Special" in the terminology of the special facilities Tariff should have been raised by Xcel so that parties could address this issue for the Commission to decide this matter in the on-going rate case. Since the Department had previously advised Xcel, numerous times, to ensure that all parties to Xcel's rate case be noticed on this issue and be allowed

to comment, it is not clear to the Department why the Company has not used the open rate case to obtain the desired clarification rather than create the inefficiencies inherent in opening multiple proceedings to address the same issue.

### **III. DEPARTMENT RECOMMENDATION**

The Department recommends that the Commission reject without prejudice Xcel's reply comment as being substantially out of compliance with Minnesota Rules Chapter 7829. The Department continues to recommend that the Commission approve Xcel's Petition for a Certificate of Need for two 115 kV distribution lines connecting the Hiawatha and Midtown substations.

/sm

## **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, certified mail, 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 Department of Commerce  
Comments**

**Docket No. E002/CN-10-694**

**Dated this 16<sup>th</sup> of May, 2011**

**/s/Sharon Ferguson**

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