

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In The Matter of the Application of Northern States Power Company, d/b/a Xcel Energy, for Authority to Increase Rates for Electric Service in the State of Minnesota

ORDER DENYING INTERVENTION TO CAROL A. OVERLAND AND NO CAPX 2020 AND GRANTING INTERVENTION TO THE COMMERCIAL GROUP, THE SUBURBAN RATE AUTHORITY, AND THE CITY OF MINNEAPOLIS

On December 23, 2015, Carol A. Overland as an individual and No CapX 2020 filed a petition to intervene in the above-captioned matter, citing Minn. R. 7829.0800 and 7843.0300, subp. 7 (2015). The petition refers to a number of prior electric utility proceedings in Minnesota and Wisconsin that the petitioners have participated in. The petition describes a number of issues the petitioners are interested in and asserts the petitioners' distinct particular interests as "freedom from funding incentives and requirements to advocate certain issues and positions"¹

On December 29, 2015, the Commercial Group filed its petition to intervene. The Commercial Group consists of a number of large commercial customers of Xcel who will be affected by Xcel's proposed rate increases.² No party objected to the Commercial Group's petition.

On January 4, 2016, Northern States Power Company d/b/a Xcel Energy (Xcel) filed its objection to No CapX 2020's and Carol A. Overland's Petition to Intervene. Xcel asked that the petition be denied for failure to demonstrate "an interest in this rate case recognized by statute."³ Xcel further contended that petitioner failed to show that the petitioners' interests are distinct from those of other ratepayers or that the Department of Commerce cannot adequately represent their interests.⁴

On January 5, 2016, the Suburban Rate Authority (SRA) filed its petition to intervene, citing Minn. R. 7829.0800. The petition claims that most of the SRA's municipal members take electric service from Xcel and these members have a direct

¹ PETITION FOR INTERVENTION at 3 (December 22, 2015).

² PETITION TO INTERVENE OF THE COMMERCIAL GROUP at 1-2 (December 29, 2015).

³ NORTHERN STATES POWER COMPANY'S OBJECTION TO NO CAPX 2020'S AND CAROL A. OVERLAND'S PETITION TO INTERVENE at 1 (January 4, 2016).

⁴ *Id.* at 2-3.

interest in the proposed rate increases and other issues in this proceeding.⁵ No party objected to SRA's petition.

On January 6, 2016, Carol A. Overland and No CapX 2020 filed a response to Xcel's objection to its petition to intervene. In their response, the petitioners contend that their interests are distinguishable from others because they have taken unique positions in other electric utility cases.⁶ The petitioners argue that parties have intervened in other proceedings without objection on less of a showing than they have made. Finally, they contend that there is no guarantee that the Department of Commerce will advocate on the issues important to them because they have differed in other proceedings.

On January 11, 2016, the city of Minneapolis (City) filed its petition to intervene. The City's petition noted its extensive use of electric power from Xcel for street lighting, traffic control, water treatment, and other municipal utility uses. The petition also noted that as the center of a large urban area, the City had concerns related to air pollution and the environment.⁷ No party objected to the City's petition.

As noted above, Carol A. Overland's, No CapX 2020's, and SRA's petitions to intervene refer to Minn. R. 7829.0800 as governing such petitions in this proceeding.⁸ However, subpart 6 of that rule provides that "[d]uring the time that a matter is before an administrative law judge, intervention procedures are governed by the rules of the Office of Administrative Hearings and by orders issued under those rules by the administrative law judge." In its "Notice of and Order for Hearing" in Docket No. E-002/GR-15-826 (Dec. 22, 2015), the Public Utilities Commission transferred this proceeding to this Administrative Law Judge. Since that date, Minn. R. 1400.6200 (2015) governs petitions for intervention in this matter. Subpart 1 of this rule requires that:

[t]he petition shall show how the petitioner's legal rights, duties, or privileges may be determined or affected by the contested case; shall show how the petitioner may be directly affected by the outcome or that petitioner's participation is authorized by statute, rule, or court decision; shall set forth the grounds and purposes for which intervention is sought; and shall indicate petitioner's statutory right to intervene if one should exist.

Subpart 2 of rule 1400.6200 permits parties to object to petitions to intervene "by filing a written notice of objection with the judge within seven days of service of the petition if there is sufficient time before the hearing." Minnesota Rules part 1400.6100 (2015) provides that:

⁵ SUBURBAN RATE AUTHORITY PETITION TO INTERVENE at 1 (January 5, 2016).

⁶ NO CAPX 2020 AND OVERLAND RESPONSE TO NORTHERN STATES POWER COMPANY D/B/A XCEL ENERGY'S OBJECTION TO PETITION TO INTERVENE at 3-4 (January 6, 2016).

⁷ PETITION TO INTERVENE OF THE CITY OF MINNEAPOLIS at 1-2 (January 11, 2015).

⁸ Carol A. Overland and No CapX 2020 also refer to Minn. R. 7843.0200 (2015) as applicable to their petition to intervene. As Chapter 7843 (2015) concerns resource plans for electric utilities, its relevance to this proceeding is unclear.

In computing any period of time prescribed by parts 1400.5100 to 1400.8400 . . . the day of the last act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday.

Carol A. Overland and No CapX 2020 filed their petition on December 23, 2015. Accordingly, objections to their petition were due by December 30, 2015. Xcel's January 4, 2016 objection is **Denied** as untimely.

Turning to the merits of the petitions to intervene, the petition to intervene by Carol A. Overland and No CapX 2020 is **Denied** without prejudice to refiling as the petition does not meet the requirements of Minn. R. 1400.6200, subp. 1. The petition fails to show how petitioners may be directly affected by the outcome. There is no statement that Carol A. Overland is an Xcel ratepayer or that any of the members of No CapX 2020 are ratepayers. The petition does not provide any information as to the members of No CapX 2020 from which ratepayer status could be inferred. The petitioners' assertions of their involvement in other proceedings and that their advocacy is not restrained by funding sources does not explain petitioner's distinctive interests in this rate case.⁹

The petitions to intervene by the Commercial Group, SRA, and the City are **Granted**. The membership of the Commercial Group and the Suburban Rate Authority include Xcel ratepayers. Large commercial customers and suburban municipalities have a significant interest in the rates Xcel have proposed in this proceeding. The City is a large Xcel ratepayer with distinct interests as a large urban area and as a large municipal customer.

ORDER

Based on the submissions in the record and pursuant to Minn. R. 1400.6200,

IT IS HEREBY ORDERED:

1. Xcel's objection to the petition to intervene of Carol A. Overland and No CapX 2020 is **DENIED** as untimely.
2. Carol A. Overland's and No CapX 2020 petition to intervene as a party with full rights is **DENIED** without prejudice to refiling.
3. The Commercial Group's petition to intervene as a party with full rights is **GRANTED**. The Commercial Group shall be subject to the provisions of the First Prehearing Order dated January 8, 2016.

⁹ In making this determination, the Administrative Law Judge also considered Carol A. Overland's and No CapX 2020's response to Xcel's objection to their petition.

4. SRA's petition to intervene as a party with full rights is **GRANTED**. SRA shall be subject to the provisions of the First Prehearing Order dated January 8, 2016.
5. The City's petition to intervene as a party with full rights is **GRANTED**. The City shall be subject to the provisions of the First Prehearing Order dated January 8, 2016.

Dated: January 22, 2016

s/Jeffery Oxley
JEFFERY OXLEY
Administrative Law Judge



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January 22, 2016

See Attached Service List

Re: *In The Matter of the Application of Northern States Power Company, d/b/a Xcel Energy, for Authority to Increase Rates for Electric Service in the State of Minnesota*

**OAH 19-2500-33074
MPUC E-002/GR-15-826**

To All Persons on the Attached Service List:

Enclosed and served upon you is the Administrative Law Judge's **ORDER DENYING INTERVENTION TO CAROL A. OVERLAND AND NO CAPX 2020 AND GRANTING INTERVENTION TO THE COMMERCIAL GROUP, THE SUBURBAN RATE AUTHORITY, AND THE CITY OF MINNEAPOLIS** in the above-entitled matter.

If you have any questions, please contact my legal assistant Denyse Johnson at (651) 361-7888 or denyse.johnson@state.mn.us, or facsimile at (651) 539-0310.

Sincerely,

s/Jeffery Oxley

JEFFERY OXLEY
Administrative Law Judge

JO:dsc
Enclosure

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
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CERTIFICATE OF SERVICE

In The Matter of the Application of Northern States Power Company, d/b/a Xcel Energy, for Authority to Increase Rates for Electric Service in the State of Minnesota	OAH Docket No.: 19-2500-33074 MPUC E-002/GR-15-826
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Denyse Johnson, certifies that on January 22, 2016 she served the true and correct **ORDER DENYING INTERVENTION TO CAROL A. OVERLAND AND NO CAPX 2020 AND GRANTING INTERVENTION TO THE COMMERCIAL GROUP, THE SUBURBAN RATE AUTHORITY, AND THE CITY OF MINNEAPOLIS** by eService, and U.S. Mail, (in the manner indicated below) to the following individuals:

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