

HENNEPIN COUNTY  
MINNESOTA

August 14, 2017

PUBLIC DOCUMENT

Mr. Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101

RE: **Public Reply Comments of Hennepin County, Docket No. E002/M-17-532**

Dear Mr. Wolf:

Attached are Hennepin County's Reply Comments to the Minnesota Department of Commerce, Division of Energy Resources' ("Department") Initial Comments submitted on August 2<sup>nd</sup> in the following matter:  
Petition for approval of Amendment No. 1 to the Power Purchase Agreement (PPA) with the Hennepin Energy Recovery Center ("HERC")

The initial petition was filed on June 30, 2017 by:  
Aakash H. Chandarana  
Regional Vice President, Rates and Regulatory Affairs  
Northern States Power Company  
414 Nicollet Mall  
Minneapolis, MN 55101

Hennepin County recommends that the Minnesota Public Utilities Commission ("Commission") **reject the Department's recommendation to pursue arbitration and other inaccuracies in the Department's analysis and approve the negotiated pricing and other provisions in Amendment No. 1.** The County is available to respond to any questions the Commission may have.

Sincerely,

  
David J. Hough  
County Administrator

Hennepin County Administration  
300 South Sixth Street, Minneapolis, MN 55487  
612-348-7574 | hennepin.us



STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange	Chair
Dan Lipschultz	Commissioner
Matthew Schuerger	Commissioner
Katie Sieben	Commissioner
John A. Tuma	Commissioner

IN THE MATTER OF THE PETITION OF  
NORTHERN STATES POWER COMPANY  
FOR APPROVAL OF AMENDMENT NO. 1  
TO A POWER PURCHASE AGREEMENT  
WITH THE HENNEPIN ENERGY  
RECOVERY CENTER

DOCKET No. E002/M-17-532

**REPLY COMMENTS**

**INTRODUCTION**

On July 29, 1986, the Minnesota Public Utilities Commission (Commission) approved the Resource Recovery Electric Sale Agreement (“Agreement”) between Hennepin Energy Resource Co., Limited Partnership and Northern States Power Company (“Xcel”). The Agreement governed the payments for electrical energy produced at the Hennepin Energy Recovery Center (“HERC”) located at 505 North Sixth Avenue, Minneapolis, Minnesota. Hennepin Energy Resource Co., Limited Partnership assigned all rights and obligations of the Agreement to Hennepin County (“County”) in 2003. The Agreement terminates on December 31, 2017 but includes an option for a seven-year extension. Xcel and County commenced negotiations on an extension on or about May 2015 and concluded negotiations in June 2017. On June 29, 2017, Xcel and County finalized the two-year negotiation and signed the First Amendment to the Agreement (“PPA”) which modified the payment structure in the Agreement by eliminating monthly capacity payments and changing the amount paid by Xcel for the electrical energy. On June 30, 2017, Xcel filed with the Commission a Petition for Approval of the PPA. On August 2, 2017, the Minnesota Department of Commerce Division of Energy Resources (“Department”) filed comments with the PUC noting its opposition to the PPA and recommending the PPA be rejected and that Xcel and County proceed to arbitration.

Hennepin County appreciates the opportunity to provide Reply Comments in response to the Department regarding the PPA. The Department missed key avoided cost elements of the value attributable to the HERC resource and seems to have also misunderstood the value of avoiding arbitration. Hennepin County urges the Commission reject the Department's recommendations regarding the HERC PPA Amendment for the following principal reasons:

- I. The Department fails to consider that HERC is an important community resource;
- II. The Department fails to consider avoided costs associated with HERC's strategic location
- III. The Department incorrectly argues that Xcel will benefit from a double recovery; and
- IV. The Department fails to consider the implications of the arbitration option

#### **I. HERC IS AN IMPORTANT COMMUNITY RESOURCE**

Located in downtown Minneapolis, HERC is a community resource in operation since 1990, owned locally by Hennepin County, converting 365,000 tons of municipal solid waste (MSW) annually into electricity and steam with planned operation at least another 20 or more years. HERC is an efficient combined heat and power (CHP) facility. It recovers waste heat for snow melt over the entire pedestrian surface of the Target Field Station platform, sends steam to Target Field and the downtown steam loop, and provides capacity during Light Rail Transit ("LRT") station construction, to allow future hot water distribution in the warehouse district. This versatile capacity and energy recovery makes HERC an efficient resource in the heart of a growing and energy-demanding downtown region.

Hennepin County is also a major retail customer of Xcel Energy purchasing the approximate equivalent of half of the energy produced at HERC for Hennepin County buildings at a rate approximately twice that of the negotiated rate in the PPA. The Department fails to consider the foregoing importance of HERC as a community resource as well as the importance of Hennepin County as a major Xcel customer.

#### **II. HERC IS STRATEGICALLY LOCATED IN THE CENTER OF MINNESOTA'S HIGHEST LOAD DEMAND**

HERC is located in the heart of Xcel's highest load density area. This strategic location greatly reduces transmission losses (both capacity and demand) and requires almost no transmission for outlet. This strategic location in close proximity to load also adds to grid reliability compared to other sources. Transmission costs as measured by the Network Integrated Transmission Service ("NITS") paid by customers, comprise one of the fastest growing components of utility rates. As noted by Xcel in response to an informational request by the Minnesota Chamber of Commerce in Xcel Energy's rate case submitted in November 2014 in docket E-002/GR-15-826, NITS was projected to increase by approximately 20% between 2015 and 2018.<sup>1</sup> This NITS rate increase places HERC output at a strong strategic advantage compared to the output of remote wind resources and any potential replacement generation at the Sherco power plant. The associated avoided costs associated with losses and transmission are not considered in the Department's analysis.

### **III. THERE WILL BE NO DOUBLE RECOVERY FROM RATE PAYERS**

The Department is also concerned that Xcel Energy may be double recovering capacity costs associated with HERC PPA – once through existing rates and then again, through the all-in energy rate which includes the negotiated capacity value. County agrees with the comments by Xcel in Xcel's reply to Department's comments in this matter. Xcel proposes to remove the HERC capacity value component currently in base rates and credit the Fuel Cost Adjustment ("FCA") to eliminate the potential for double recovery in 2017.

### **IV. THIS NEGOTIATED AGREEMENT IS SIGNIFICANTLY SUPERIOR TO ARBITRATION**

In its comments, the Department recommends arbitration rather than negotiation to set prices in the PPA simply because it believes that the requested pricing is too high with respect to Xcel's future forecasted LMP's and because arbitration is an option in the Agreement. In doing so, the Department

---

<sup>1</sup>Schedin, Attachment 3, eDocket No. E002/GR-15-826, Document 20166-122244-01

ignores the provision in Minnesota Statute §216B.164, subdivision 4(b) which it cites and accepts as relevant as follows:

“The qualifying facility shall be paid the utility’s full avoided capacity and energy costs as negotiated by the parties, as set by the Commission, or as determined through competitive bidding approved by the Commission.” (Emphasis Added)

The negotiated agreement serves to further the purpose of that section stated in Minnesota Statute §216B.164, subdivision 1 which provides that the section “shall at all times be construed to give the maximum possible encouragement to cogeneration ... consistent with protection of the ratepayers and the public” (Emphasis Added). The negotiated PPA properly considers HERC’s baseload energy and strategic location as a basis for determining a fair price for Xcel and County as well as ratepayers.

By citing only market prices as the basis for future pricing, Department ignores the foregoing strategic advantages of HERC and the fact that the unit is effectively a base-load unit (typically operating at 70% capacity factor). HERC, therefore, must be compared to resources with similar operating characteristics in similar strategic locations. Thus, HERC generation cannot be directly compared to renewable energy from wind (typically operating at 42% annual capacity factor), or renewable energy from solar (typically at 16% annual capacity factor). In fact, County believes that avoided costs of similar renewable facilities are higher than the negotiated price and would argue such in arbitration. As a non-energy expert arbitrator will examine the same pricing factors already considered in the negotiations, it is very possible that arbitration may result in an arbitrated price higher than the negotiated price with a corresponding higher burden on ratepayers.

Implementation of Department’s recommendation to arbitrate, therefore, represents a waste of valuable time and resources as well as increased uncertainty compared to the negotiation process under which the proposed prices have already been established by Xcel and County.

## CONCLUSION

For the above reasons, we respectfully request that the Commission approve Xcel's Petition for Approval of Amendment No. 1 to the Power Purchase Agreement with the Hennepin Energy Recovery Center filed on June 30, 2017.

Respectfully submitted,

MICHAEL O. FREEMAN  
Hennepin County Attorney

Dated: August 14, 2017

By: s/Charles H. Salter  
CHARLES H. SALTER (130655)  
Assistant Hennepin County Attorney  
2000A Government Center  
Minneapolis, MN 55487  
Telephone: (612) 348-8197