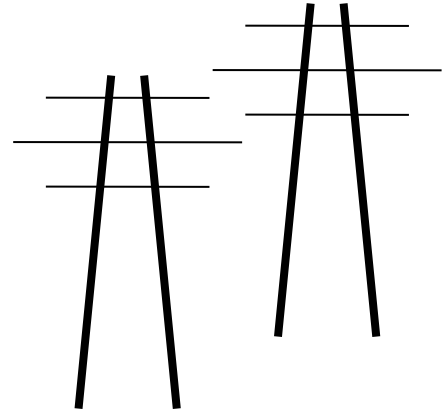


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September 21, 2021

Will Seuffert
Executive Director
Public Utilities Commission
121 – 7th Place East, Suite 350
St. Paul, MN 55101

via eDockets only

RE: Additional Comments re: NRC FOIC - Cask Seals, Unloading, and Part 72
Xcel Request for Change in Spent-Fuel Storage Technology
PUC Docket E-002/CN-08-510

Dear Mr. Seuffert:

I'm just off a TEAMS call with NRC FOIA staff and the Region 3 inspector: Steve Ellis FOIA, contractor; Margo Stevens, FOIA Team Leader; John McKirgan, Chief of Storage and Transportation Licensing Branch and Licensing Part 72; and Rhex Edwards, Inspector Region 3 Dry Casks), where we're narrowing down my FOIA request.

What I've learned and verified this morning is important for your consideration of Xcel's request, to be dealt with going forward, but it's important that you know this now:

- Rhex Edwards, NRC Dry Cask Inspector, stated that he is not aware that any TN-40 or TN-40HT seals have been replaced.
- Rhex Edwards, NRC Dry Cask Inspector stated that he is not aware of any unloading of TN-40 or TN-40 HT casks.
- John McKirgan, Part 72 Licensing, stated and I verified, that the Part 72 license is specifically linked to use of the TN-40 and TN-40HT casks, and that while multiple casks are licensed for use at Part 50 and Part 52 facilities, to use any cask other than TN-40 and TN-40HT at the Prairie Island Part 72 facility, an amendment via NRC is needed.

Minnesota law requires that if/when storage AND transport casks are available, the Commission SHALL order their use “REPLACE” the TN-40s:

116C.776 ALTERNATIVE CASK TECHNOLOGY FOR SPENT FUEL STORAGE.

If the Public Utilities Commission determines that casks or other containers that allow for transportation as well as storage of spent nuclear fuel exist and are economically feasible for storage and transportation of spent nuclear fuel generated by the Prairie Island nuclear power generating plant, the commission shall order their use to replace use of the casks that are only usable for storage, but not transportation. If the commission orders use of dual-purpose casks under this section, it must authorize use of a number of dual-purpose casks that provides the same total storage capacity that is authorized under sections [116C.77](#) to [116C.779](#); provided, that the total cask storage capacity permitted under sections [116C.77](#) to [116C.779](#) may not exceed the capacity of the TN-40 casks authorized under section [116C.77](#).

This means that the Commission SHALL order use of casks “that allow for transportation as well as storage” which implies that the casks shall REPLACE TN-40s, the ones currently used for storage. On approval of a storage and transport casks, the existing TN-40 and TN-40HT casks would be replaced, i.e., spent fuel would be unloaded from the TN-40s and put into the new casks. Then, what happens with the TN-40 casks? This process and disposition of the used TN-40 casks has not been addressed. The requirement of the statute to “**REPLACE**” has been avoided by both Xcel and the Commission.

Further, Xcel addresses both its Part 72 license at Prairie Island, which is cask specific, and its Part 50 and 52 license, and appears to be saying that it can pick any cask and use it at its dry cask storage facility because it has the Part 50 license. From Xcel’s request:

E. Nuclear Regulatory Commission Regulations

The dry cask storage site at Prairie Island has a site-specific license³ issued by the NRC under 10 CFR Part 72. This license allows up to 64 TN-40 casks to be stored in the facility. Although changes to most aspects of the license generally require NRC review and approval, use of a different NRC-certified cask design would not require prior NRC approval.

The NRC has a general license process where a cask design receives an NRC Certificate of Compliance allowing for use at nuclear sites without further review and approval by the NRC. Any reactor site licensed by the NRC under either 10 CFR Part 50 or Part 52 is granted a General License to store used fuel in a Certified cask without further NRC approval, including Prairie Island. An example of this is the Monticello dry cask storage site, which uses the Certified NUHOMS storage system. Prior to use of a Certified cask a site must notify the NRC and document a thorough evaluation that the use is consistent with the conditions of the NRC approval.

A change of technology at Prairie Island would be implemented using a cask certified by the NRC. The site would be required to notify the NRC and perform the

³ NRC Materials License SNM-2506

evaluation described above prior to use. No NRC approval would be required beyond the existing cask Certificate of Compliance issued to the cask design. In addition to being licensed for on-site storage, any cask selected would be designed for transportation to an offsite location as well.

Xcel Energy Request for Change in Spent-Fuel Storage Technology, p. 8 (April 30, 2021).

Xcel's NRC Materials License SNM-2506 referenced above is its Part 72 ISFSI license. The ISFSI is a Part 72 facility which requires an amendment prior to use of a different cask.

Again, I am not representing any party in this docket, but I will be participating as an individual with a lot of specific expertise and history in this area. Please keep me on the service list!!

Very truly yours,



Carol A. Overland
Attorney at Law

cc: Electronic Service List
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Ray Kirsch, DoC-EERA raymond.kirsch@state.mn.us (Ray Kirsch is not on the project service list so I am emailing a copy of this comment.)