



STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

January 28, 2010

Senator Yvonne Prettner Solon, Chair
Senate Energy, Utilities, Technology and Communications Committee
75 Rev. Dr. Martin Luther King Jr. Blvd., Room G-9
St. Paul, Minnesota 55155-1606

Senator Satveer S. Chaudhary
Senate Environment and Natural Resources Committee
75 Rev. Dr. Martin Luther King Jr. Blvd., Room 205
St. Paul, Minnesota 55155-1606

Representative Bill Hilty, Chair
House Energy Finance and Policy Committee
559 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Representative Ken Eken
575 State Office Building
House Environment Policy and Oversight Committee 2009-2010
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Subject: **Supplemental Filing to the *Legislative Report concerning Certificate of Need for additional dry cask storage facility, Prairie Island Nuclear Generating Plant Independent Spent Fuel Storage Installation (MPUC Docket No. E-002/CN-08-510)***

Dear Senator Solon:

On January 15, 2010, the Minnesota Public Utilities Commission (Commission) submitted a report to the Legislature concerning a certificate of need granted for expansion of an independent spent fuel storage facility at the Prairie Island Nuclear Generating Plant in Red Wing, Minnesota. This report was submitted in fulfillment of the requirements of Minnesota Statutes 116C.83, subdivision 3.

As noted in the Report, the Commission had received two petitions for reconsideration of the certificate of need. The Commission reviewed these petitions at its January 21, 2010 Agenda Meeting.

Upon review of the petitions, the Commission has issued the enclosed *Order Granting Reconsideration and Clarifying Order* dated January 26, 2010 (Attachment A). Based on the written and oral record, the Commission chose to clarify its December 18, 2009 *Order Accepting Environmental Impact Statement, and Granting Certificates of need and Site Permit with Conditions*. The first revision clarified the monitoring results for tritium levels in ground water near the generating plant. The second revision clarified the Commission's conclusions regarding the City of Red Wing's request for ad valorem funding of its emergency response programs.

With these exceptions, the Commission denied the remainder of the parties' petitions for reconsideration and concluded that its earlier decisions are the most consistent with the facts, the law and the public interest.

The full public version of the record for this proceeding can be accessed via the Commission's web page (www.puc.state.mn.us) under "eDockets & eFiling".

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Burl Haar". The signature is written in a cursive, flowing style.

Burl Haar, Executive Secretary
651/201-2222

Enclosure:

Attachment A: *Order Granting Reconsideration and Clarifying Order*, January 27, 2010

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd
J. Dennis O'Brien
Thomas Pugh
Phyllis A. Reha
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for Certificate of Need for an Extended Power Uprate at the Prairie Island Nuclear Generating Plant

ISSUE DATE: January 27, 2010

DOCKET NO. E-002/CN-08-509

DOCKET NO. E-002/CN-08-510

In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for Certificate of Need for Additional Dry Cask Storage at the Prairie Island Nuclear Generating Plant

DOCKET NO. E-002/GS-08-690

ORDER GRANTING RECONSIDERATION AND CLARIFYING ORDER

In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for an LEPGP Site Permit for the Extended Power Uprate Project at the Prairie Island Nuclear Generating Plant

PROCEDURAL HISTORY

On October 21, 2009, the Administrative Law Judge (ALJ) presiding over these cases issued his Findings of Fact, Conclusions of Law and Recommendations (ALJ's Report), recommending granting Certificates of Need and a Site Permit to Northern States Power Company d/b/a Xcel Energy (Xcel). The Commission received exception to the ALJ's report from the City of Red Wing (Red Wing), the Prairie Island Indian Community (the Community), and the Prairie Island Nuclear Generating Plant Study Group (the Study Group), among others.

On December 18, 2009, the Commission issued its Order Accepting Environmental Impact Statement, and Granting Certificates of Need and Site Permit with Conditions, largely adopting the ALJ's recommendations. The Commission received petitions for reconsideration from the Community, Red Wing, and the Study Group.

On January 19, 2009, Xcel filed an answer opposing the petitions.

FINDINGS AND CONCLUSIONS

Having reviewed the parties' filings, the Commission finds as follows:

I. Tritium Levels in Drinking Water

The federal Environmental Protection Agency (EPA) requires drinking water to contain no more than 20,000.pico-Curies per liter (pCi/l) of tritium.¹ The Commission's Order states that the wells around the Prairie Island Plant have "never demonstrated tritium levels significantly higher than 10% of the limit allowable in drinking water."² The Community cites evidence that the amount of tritium measured in well P-10 in September 2006, reached 3,773 pCi/l, or approximately 19% of the legal limit.

Xcel acknowledges the 3,773 pCi/l reading, but disputed the suggestion that this justifies any change in the Commission's decisions.

The Commission will correct its finding with respect to the levels of tritium found in wells near the Prairie Island Plant to acknowledge that one well demonstrated a level approaching 19% of the EPA's limit. The larger point – that the level of tritium in the groundwater is well within safety limits – remains unchanged. Consequently this revision provides no basis for altering the Commission's decision to grant the requested Certificates of Need or the Site Permit, or the conditions attached to those certificates or permit.

II. Emergency Response Plan

Red Wing argues that Xcel's "Emergency Response Plan" for the Prairie Island Plant may be inadequate because, absent an annual transfer of additional funds, Red Wing may not be able to afford to maintain sufficient emergency services. The Order addresses this argument at pages 20 - 22 in the context of discussing Xcel's proposal to store additional waste at the Independent Spent Fuel Storage Installation adjoining the Prairie Island Plant. Red Wing objects that the Order neglects to also address this matter later in the context of analyzing Xcel's proposal to expand the Prairie Island Plant's generating capacity.

Red Wing's objection is unfounded; at page 29, in the context of discussing Xcel's proposal to expand the Prairie Island Plant's generating capacity, the Order concurs in the ALJ's Report, Findings 175 - 253, which discusses Red Wing's concerns. In the interest of clarity, however, the Commission will state that the reasons the Commission articulated at pages 20 - 22 for rejecting Red Wing's objections to Xcel's proposal to store additional waste at the storage installation apply with equal force to Xcel's proposal to increase the Prairie Island Plant's generating capacity.

This clarification also provides no basis for altering the Commission's decision to grant the requested Certificates of Need or the Site Permit, or the conditions attached to those certificates or permit.

¹ ALJ's Report, Finding 246.

² Order Accepting Environmental Impact Statement, and Granting Certificates of Need and Sit Permit with Conditions (December 18, 2009) at 20.

III. Other Grounds for Reconsideration

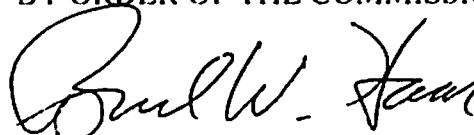
The Commission has reviewed the record and the arguments of the parties. On this basis, the Commission concludes that the petitions do not otherwise raise new issues, do not point to new and relevant evidence, do not expose errors or ambiguities in the December 18, 2009 order, and do not prompt the Commission to otherwise revise its earlier decisions.

With the clarifications noted above, the Commission concludes the decisions set forth in its Order Accepting Environmental Impact Statement, and Granting Certificates of Need and Site Permit with Conditions (December 18, 2009) are the ones most consistent with the facts, the law, and the public interest. Consequently the remainder of the parties' petitions for reconsideration will be denied.

ORDER

1. The Commission grants the petitions for reconsideration for the limited purpose of clarifying its Order Accepting Environmental Impact Statement, and Granting Certificates of Need and Site Permit with Conditions (December 18, 2009) as set forth above. In all other respects, the petitions for reconsideration are denied.
2. The Commission notes that that the amount of tritium measured in well P-10 in September 2006, reached 3,773 pCi/l, or approximately 19% of the legal limit established by the federal Environmental Protection Agency.
3. For the reasons set forth in the ALJ's Report, Findings 175 - 253, and the Commission's Order, pages 20 - 22, Red Wing's concerns about Xcel's Emergency Response Plan do not warrant rejection of Xcel's proposal to increase the Prairie Island Plant's generating capacity.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary

(S E A L)

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STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

I, Margie DeLaHunt, being first duly sworn, deposes and says:

That on the 2nd day of February, 2010 she served the attached

LETTER RE: SUPPLEMENTAL FILING TO THE LEGISLATIVE REPORT
CONCERNING CERTIFICATE OF NEED FOR ADDITIONAL DRY CAST STORAGE
FACILITY, PRAIRIE ISLAND NUCLEAR GENERATING PLANT INDEPENDENT
SPENT FUEL STORAGE INSTALLATION.

MNPUC Docket Number: E-002/CN-08-510

- XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid
- XX By personal service
- XX By inter-office mail

to all persons at the addresses indicated below or on the attached list:

Commissioners
Carol Casebolt
Peter Brown
Marcia Johnson
Kate Kahlert
Bob Cupit
Tricia Debleeckere
Bret Eknes
Mike Kaluzniak
DOC Docketing
AG - PUC
Julia Anderson - OAG
John Lindell - OAG

Margie DeLaHunt

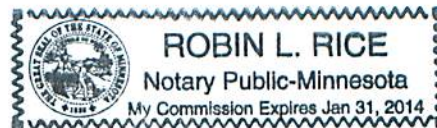
Subscribed and sworn to before me,

a notary public, this 2nd day of

February, 2010

Robin L. Rice

Notary Public



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OFF_SL_8-510_CC-SL-7-2-09	Patricia	Silberbauer	Pat.Silberbauer@state.mn.us		Suite 1400 445 Minnesota Street St. Paul, MN 55101-2131	Electronic Service	Yes
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