

The Commission met on **Thursday, March 18, 2010**, with Chair Boyd and Commissioners O'Brien, Pugh, Reha and Wergin present.

## **ENERGY AGENDA**

### **E-002/M-09-1067**

**In the Matter of a Request by Xcel Energy for Variance to the Billing Error Rules**

### **E-017/M-09-1302**

**In the Matter of Otter Tail Power Company's Petition for Approval of a Variance to the Customer Service Rules Governing Billing Errors**

Commissioner Wergin moved that the Commission

1. find that the facts articulated by Xcel do fall within the circumstances articulated by the Commission's Billing Errors Rule and approve the variance request and one time modification of Xcel's Billing Errors Tariff;
2. find that the facts articulated by Otter Tail do fall within the circumstances articulated by the Commission's Billing Errors Rule and approve the variance request and one time modification of Otter Tail and approve the variance request; and
3. suggest that the utilities consider contacting the Consumer Affairs Office and the Office of Energy Security prior to filing a request for a variance to the Commission's Billing Errors Rule and discuss the necessity of the filing; if all parties agree that a variance is unnecessary, the utility should proceed with making the customer whole through cooperation with CAO; if, however, a party believes that the Billing Error Rule applies, the utility should devote a section of the filing to detailing how the fact pattern at issue meets one of the fact scenarios provided by the Rule, thoroughly detailing the circumstances of the error and how the error is best characterized as an "incorrect reading of the meter, incorrect application of rate schedule, incorrect connection of the meter, application of an incorrect multiplier or constant or other similar reasons."

The motion was adopted, 5-0.

### **G-004/M-10-53**

**In the Matter of Petition by Great Plains Natural Gas Company for a Variance of Minnesota Rule 7820.4000 Governing Billing Errors**

Commissioner Wergin moved that the Commission

1. approve Great Plains' request for a variance to Minn. Rules, Part 7820.4000 to allow a full refund to the six customers named in the Company's petition; and

2. suggest that the utility consider contacting the Consumer Affairs Office (CAO) and the Office of Energy Security prior to filing a request for a variance to the Commission's Billing Errors Rule and discuss the necessity of the filing; if all parties agree that a variance is unnecessary, the utility should proceed with making the customer whole through cooperation with CAO; if, however, a party believes that the Billing Error Rule applies, the utility should devote a section of the filing to detailing how the fact pattern at issue meets one of the fact scenarios provided by the Rule, thoroughly detailing the circumstances of the error and how the error is best characterized as an "incorrect reading of the meter, incorrect application of rate schedule, incorrect connection of the meter, application of an incorrect multiplier or constant or other similar reasons."

The motion was adopted, 5-0.

**E-002/GR-08-1065**

**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 Minnesota**

Commissioner Reha moved that the Commission

1. approve Xcel's January 27, 2010 compliance filing, as filed, including schedules of new rates, an interim rate refund plan, and the proposed MISO-related language (in 8th Revised Sheet No. 91.1);
2. require Xcel to submit two additional compliance filings, as follows:
  - a. require Xcel to resubmit, within 10 days after final rates become effective, a schedule detailing the CIP tracker balance at the beginning of interim rates, the revenues (Conservation Cost Recovery Charge and CIP Adjustment Factor) and costs recorded during the period of interim rates, and the CIP tracker balance at the time final rates become effective;
  - b. require Xcel to file, within 10 days of the completion of the refund for all of its customers, a compliance filing that separately shows the actual refunds and interest paid by rate class including supporting calculations;
3. authorize Xcel to implement new, final rates on a prorated basis effective April 1, 2010 for services rendered on and after April 1, 2010;
4. direct the Company to carry out the interim rate refund plan, with the interim rate refunds commencing on April 17, 2010; and
5. approve Xcel's customer notice of final rates as attached to Commission staff briefing papers.

The motion was adopted, 5-0.

**G-008/GR-08-1075**

**In the Matter of an Application by CenterPoint Energy for Authority to Increase Natural Gas Rates in Minnesota**

Commissioner O'Brien moved that the Commission deny CPE's request for reconsideration and clarification of the Commission's January 11, 2010 Order.

The motion was adopted, 5-0.

**TELECOMMUNICATIONS AGENDA**

**P-6014/PA-10-106**

**In the Matter of a Joint Application by FTTH Communications, LLC and Everest FTTH Acquisition LLC for Approval of a Transfer of Control**

Commissioner Pugh moved that the Commission approve the transfer of control of FTTH Communications, LLC, with the following requirements:

- applicants shall inform the Commission that the proposed transaction has closed within 20 days of its consummation, and continue to file jurisdictional annual reports and pay regulatory assessments for FTTH Communications, LLC;
- FTTH Communications, LLC will operate under its existing certificate of Authority;
- the Minnesota Department of Public Safety and Metropolitan Emergency Services Board are hereby notified of this transaction in the event that it has any 911 Plan implications; applicants should contact the appropriate agency regarding any update to their respective 911 Plans if any changes occur as a result of the proposed transaction;
- FTTH Communications, LLC must file its 2008 Telephone Assistance Plan in compliance with the Commission's Order in Docket No. P-6014/EP-09-950; and
- the Commission finds that applicants violated Minn. Stat. § 237.74, subd. 12 and Minn. Rules, Part 7812.0500; a settlement in the amount of \$1,000 payable to the Department of Commerce has been negotiated between the Applicants and the Department of Commerce; agreement to this settlement is not an admission of a knowing and intentional violation of Minnesota law; payment of this settlement is due within 30 days of the receipt of this Order; the Department of Commerce will deposit the remittance into the State of Minnesota General Fund.

The motion was adopted, 5-0.

**P-6518,413,6714,5882/PA-09-1453**

**In the Matter of a Joint Petition by Windstream Corporation, Buffalo Merger Sub, Inc., Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom, Lakedale Telephone Company, Lakedale Link, Inc., Lakedale Link, LLC, ENTEL Communications, LLC, and Direct Communications, LLC for Approval of Agreement and Plan of Merger**

Commissioner O'Brien moved that the Commission approve the transfer of control of Lakedale Telephone Company, Lakedale LINK, Inc., Lakedale Link, LLC, EN-TEL Communications, LLC, and Direct Communications, LLC (the Minnesota Regulated Entities) from Iowa Telecommunications, Inc. to Windstream Corporation, with the following requirements;

- Petitioners shall inform the Commission that the proposed transaction has closed within 20 days of its consummation;
- Lakedale Telephone Company, Lakedale LINK, Inc., Lakedale Link, LLC, ENTEL Communications, LLC and Direct Communications, LLC will operate under their existing certificates of authority;
- the Minnesota Department of Public Safety and Metropolitan Emergency Services Board are hereby notified of this transaction in the event that it has any 911 Plan implications; the appropriate agency should be contacted regarding any update to a 911 Plan if any changes occur as a result of the proposed transaction;
- if Windstream Corporation is required to make any concessions for approval of this merger in other jurisdictions, it should be required to inform the Commission of the commitment and discuss how the same commitment may be applicable to exchanges served by Lakedale Telephone Company in Minnesota.

The motion was adopted, 5-0.

**P-6186/M-09-938**

**In the Matter of the Midcontinent Communications Access Services Tariff**

Commissioner Pugh moved that the Commission approve the proposed tariff as revised on January 28, 2010.

The motion was adopted, 5-0.

**P-999/CI-09-258**

**In the Matter of Department of Commerce/Telecommunications Access Minnesota's FY 2010 Proposed Budget and Surcharge Recommendation**

**P-999/M-10-182**

**In the Matter of a Proposed Amendment to the Department of Commerce/ Telecommunications Access Minnesota's FY 2010 Budget**

Commissioner Reha moved that the Commission approve the Department of Commerce/Telecommunications Access Minnesota's proposed amendment to its FY 2010 budget.

The motion was adopted, 5-0.

**P-421/CI-09-1066**

**In the Matter of a Commission Investigation into Qwest Corporation's Provision of Network Elements to CLECs and into Related Marketing Practices**

Pulled.

**IP-6839/WS-10-119**

**In the Matter of the Application of Oak Glen Wind Farm, LLC for a Site Permit for a 44 MW Large Wind Energy Conversion System Project in Steele County**

Commissioner O'Brien moved that the Commission

1. find the application, combined with the supplemental information, complete with the condition that Oak Glen Wind Farm, LLC, will also provide additional information as requested by the Commission and Office of Energy Security Energy Facilities Permitting for the Oak Glen Wind Farm;
2. authorize the Office of Energy Security Energy Facilities Permitting staff to name a public advisor for this project; and
3. find, based on the information in the record to date, that a certificate of need is not required.

The motion was adopted, 5-0.

There being no further business, the meeting was adjourned.

**APPROVED BY THE COMMISSION: MARCH 31, 2010**



---

**Burl W. Haar, Executive Secretary**