

The Commission met on **Thursday, January 28, 2010**, with Commissioners O'Brien, Pugh, Reha and Wergin present.

The following matters were taken up by the Commission:

### **TELEPHONE AGENDA**

**P-5096, 5542/C-09-265**

**In the Matter of the Complaint by Qwest Communications Company, LLC Against Tekstar Communications, Inc. Regarding Traffic Pumping**

Commissioner O'Brien moved the following:

1. Refer QCC's and Sprint's allegations to the Office of Administrative Hearings for contested case proceedings
2. Do not require QCC and Sprint to make payments for termination of intrastate traffic to FCSCs to Tekstar or to an escrow account pending the resolution of the complaint.
3. After the determination of the legality of the charges, and in the event the ALJ determines that Tekstar's tariff applies to the disputed charges, require that the justness and reasonableness of Tekstar's access rate levels be developed in the course of the contested case proceeding.

The motion passed, 4 - 0.

### **ENERGY AGENDA**

**IP-6830/CN-09-1110**

**In the Matter of the Application of Paynesville Wind, LLC for a Certificate of Need for the 95 MW Paynesville Wind Project in Stearns County**

Commissioner Pugh moved that the Commission:

1. Accept the application as substantially complete as filed on December 8, 2009;
2. Direct the use of the informal review process;
3. Delegate administrative authority to the Executive Secretary; and
4. Adopt the additional six items identified by Commission staff in the briefing papers for this item.

The motion passed, 4 - 0.

**IP-6688/CN-08-961**

**In the Matter of the Application of Eco Harmony West Wind, LLC for a Certificate of Need for a 280 MW Wind Farm in Freeborn County in Southeastern Minnesota**

Commissioner Wergin moved to do the following:

1. Find that the Environmental Report prepared by the Office of Energy Security's Energy Facility Permitting (EFP) Staff from the Minnesota Department of Commerce (the Department) adequately addresses the issues identified by the Department's Environmental Report Scoping Decision.
2. Grant EcoHarmony West Wind, LLC, a Certificate of Need for up to 280 megawatts (MW) for the EcoHarmony wind project and associated facilities.

The motion passed, 4 - 0.

**IP-6688/WS-08-973**

**In the Matter of the Application of EcoHarmony West Wind, LLC, for a Site Permit for a 280-Megawatt Large Wind Energy Conversion System and Associated Facilities in Fillmore County**

Commissioner Wergin moved to do the following:

1. Adopt the Findings of Fact, Conclusions of Law and Order for the 280 MW EcoHarmony West Project in Fillmore County, as that document was prepared and amended by the EFP Staff.
2. Issue the large wind energy conversion system Site Permit for the 280 MW EcoHarmony West Wind Project to EcoHarmony West Wind, LLC, as that document was prepared and amended by the EFP Staff.

The motion passed, 4 - 0.

**E-017, ET-6131, ET-6130, ET-6444, ET-6135, ET-10/CN-05-619**

**In the Matter of the Application of Otter Tail Power Company and Others for Certification of Transmission Facilities in Western Minnesota**

**E-017, ET-6131, ET-6130, ET-6444, ET-6135, ET-10/TR-05-1275**

**In the Matter of the Application to the Minnesota Public Utilities Commission for a Route Permit for the Big Stone Transmission Project in Western Minnesota**

Commissioner Wergin moved to do the following:

1. With respect to the Commission's Order Granting Certificate of Need With Conditions (March 17, 2009) in Docket No. E-017, ET-6131, ET-6130, ET-6444, ET-6135, ET-10/CN-05-619, issue an Order –

A. Extinguishing the rights and obligations of Otter Tail Power Company, Central Minnesota Municipal Power Agency, Heartland Consumers Power District, Montana-Dakota Utilities Co., and Western Minnesota Municipal Power Agency/Missouri River Energy Services arising under that order, and

B. indicating that a new certificate of need would be required for any person that seeks to build the project.

2. With respect to the Commission's Order Issuing Route Permit (March 17, 2009) in Docket No. E-017, ET-6131, ET-6130, ET-6444, ET-6135, ET-10/TR-05-1275, issue an Order –

A. Requiring the Permittee to report at 90 day intervals on the status of discussions with potential parties who may apply for a certificate of need for all or portions of the approved transmission line route, and may qualify under Commission rules to become the transferee of the Route Permit,

B. Acknowledging special conditions,

C. Suspending the Route Permit without prejudice and subject to Minnesota Rules, part 7850.4700, and

D. Deeming the Route Permit revoked if, after one year, no application for a Certificate of Need for the same or similar transmission facilities that could utilize the Route Permit has been filed with the Commission.

The motion passed, 4 - 0.

### **E,G-002/M-09-852**

#### **In the Matter of Xcel Energy's Request for Approval of a Proposed Accounting Treatment for a Natural Gas Capacity Use plan for Xcel's Gas distribution and Electric Generation Business Units**

Commissioner O'Brien moved that the Commission

1. Approve the request for the Gas Modification Program with the following modifications:
  - a. that the proposal be a three year pilot program;
  - b. that the report included in the annual automatic adjustment (AAA) report list each individual transaction showing quantities and cost, the specific accounting entries and a brief explanation of the transaction;
  - c. that NSP Gas not be allowed to obtain additional capacity that would be used so interruptible customers would not have to be curtailed, unless these capacity costs were directly assigned to the interruptible classes;

- d. that Xcel be directed to work with Staff and the OES in determining the specific accounting entries for these transactions; and
2. Direct Xcel to include in its September 1, 2010 AAA, a proposal to directly assign to the interruptible classes, pipeline interruptible capacity purchases and any capacity purchases under the Capacity Utilization Program used so interruptible customers would not have to be curtailed, including those for the 2009/2010 natural gas true up period.

The motion passed, 4 - 0.

**E-017/M-09-955**

**In the Matter of Otter Tail Power Company's Integrated Resource Plan Extension Request and Resource Adequacy**

Commissioner O'Brien moved that the Commission

1. Take no action at this time regarding rates with the understanding that the OES intends to review any future cost recovery petitions on the issues discussed here;
2. Take no action at this time regarding OTP's use of short-term purchases to meet its capacity needs; and
3. Accept OTP's agreement to file its graphic entitled "Load and Capability Under MOSO Module E through 2015," along with an explanation of that graphic, within 60 days.

The motion passed, 4 - 0.

**G-999/AA-08-1011**

**In the Matter of the Review of the 2007-2008 Annual Automatic Adjustment Reports and 2007-2008 Annual Purchased Gas Adjustment True-Up Filings**

**G-001/AA-08-1046**

**In the Matter of the Review of Interstate Power and Light's 2007-2008 Annual Automatic Adjustment Report and 2007-2008 Annual Purchased Gas Adjustment True-Up Filing**

**G-008/AA-08-1050**

**In the Matter of the Review of CenterPoint Energy's 2007-2008 Annual Automatic Adjustment Report and 2007-2008 Annual Purchased Gas Adjustment True-Up Filing**

**G-002/AA-08-1054**

**In the Matter of the Review of Northern States Power Company's 2007-2008 Annual Automatic Adjustment Report and 2007-2008 Annual Purchased Gas Adjustment True-Up Filing**

**G-004/AA-08-1066**

**In the Matter of the Review of Great Plains Natural Gas Company's 2007-2008 Annual Automatic Adjustment Report and 2007-2008 Annual Purchased Gas Adjustment True-Up Filing**

**G-007/AA-08-1067**

**In the Matter of the Review of Minnesota Energy Resources Corporation-NMU's 2007-2008 Annual Automatic Adjustment Report and 2007-2008 Annual Purchased Gas Adjustment True-Up Filing**

**G-011/AA-08-1068**

**In the Matter of the Review of Minnesota Energy Resources Corporation-PNG's 2007-2008 Annual Automatic Adjustment Report and 2007-2008 Annual Purchased Gas Adjustment True-Up Filing**

**G-022/AA-08-1100**

**In the Matter of the Review of Greater Minnesota Gas' 2007-2008 Annual Automatic Adjustment Report and 2007-2008 Annual Purchased Gas Adjustment True-Up Filing**

Commissioner Pugh moved the following:

1. Accept the fiscal-year 2008 annual reports as filed, and subsequently amended, by all of the utilities except CenterPoint, as being complete as to Minnesota Rules, parts 7825.2390 through 7825.2920 (the Company's fiscal-year 2008 true-up filing is included for consideration in the next item on the agenda for this Commission meeting).
2. Regarding Greater Minnesota Gas, Inc., accept the Company's fiscal-year 2008 true-up filing in Docket No. G-022/AA-08-1100 and approve the Company's implementation of its fiscal-year 2008 true-up, as shown in Attachment G5 of the Office of Energy Security's June 15, 2009, *Review of the 2007-2008 Annual Automatic Adjustment Reports*.
3. Regarding Great Plains, accept the Company's fiscal-year 2008 true-up filing in Docket No. G-004/AA-08-1066 and approve the Company's implementation of its true-up, as shown in Attachment G6 of the Office of Energy Security's June 15, 2009, *Review of the 2007-2008 Annual Automatic Adjustment Reports*.
4. Regarding Interstate Gas, accept the Company's fiscal-year 2008 true-up filing in Docket No. G-001/AA-08-1046 and approve the Company's implementation of its true-up, as shown in Attachment G7 of the Office of Energy Security's June 15, 2009, *Review of the 2007-2008 Annual Automatic Adjustment Reports*.
5. Regarding MERC-PNG:
  - a. Accept the Company's fiscal-year 2008 true-up filings in Docket No. G-011/AA-08-1068 as filed on September 5, 2008 and revised on April 29, 2009.

b. Approve the Company's implementation of its fiscal-year 2008 true-ups, as shown in Attachment G8a and G8b of the Office of Energy Security's June 15, 2009, *Review of the 2007-2008 Annual Automatic Adjustment Reports*.

c. Require the Company to provide a detailed report explaining, describing, and identifying the program procedures, parameters, and calculations Vertex uses for billing errors, cancellations, and/or re-bills on MERC's behalf and to show how these particular procedures, parameters, and calculations comply with Minnesota Rules and Statutes regarding customer billing errors, cancellations, and/or re-bills. This report should be filed by the Company within 60 days of the Commission's Order in the current docket for the fiscal-year 2008 AAA reports.

d. Require the Company to include the revenues from balancing and aggregation services as a separate line item credit to the commodity cost of gas in future true-up filings.

e. Explicitly note in its Order in this proceeding that the Commission's past acceptance and approval of the Company's revised true-up factors is not intended to establish precedent regarding approval without the Company's required requests for variances to Minnesota Rule 7825.2910, subpart 4, and Minnesota Rule 7825.2700, subpart 7.

f. Require the Company to provide in its next Annual Automatic Adjustment filing a complete post-mortem review of its fiscal-year 2009 heating season natural gas purchasing strategy, including all information, data, and assumptions (in Microsoft Excel format where applicable) necessary to replicate this analysis.

6. Regarding MERC-NMU:

a. Accept the Company's fiscal-year 2008 true-up filing in Docket No. G-007/AA-08-1067 as filed on September 5, 2008 and revised on April 29, 2009;

b. Approve the Company's implementation of its fiscal-year 2008 true-up filing, as shown in Attachment G9a and G9b of the Office of Energy Security's June 15, 2009, *Review of the 2007-2008 Annual Automatic Adjustment Reports*;

c. Require the Company to provide a detailed a explaining, describing, and identifying the program procedures, parameters, and calculations Vertex uses for billing errors, cancellations, and/or re-bills on the Company's behalf and to show how these particular procedures, parameters, and calculations comply with Minnesota Rules and Statutes regarding customer billing errors, cancellations, and/or re-bills. This report should be filed by the Company within 60 days of the Commission's Order in the current docket for the fiscal-year 2008 AAA reports;

d. Require the Company to include the revenues from balancing and aggregation services as a separate line item credit to the commodity cost of gas in future true-up filings.

e. Explicitly note in its Order in this proceeding that the Commission's past acceptance and approval of the Company's revised true-up factors is not intended to establish precedent regarding approval without the Company's required requests for variances to Minnesota Rule 7825.2910, subpart 4, and Minnesota Rule 7825.2700, subpart 7.

f. Require the Company to provide in its next Annual Automatic Adjustment filing a complete post-mortem review of its fiscal-year 2009 heating season natural gas purchasing strategy, including all information, data, and assumptions (in Microsoft Excel format where applicable) necessary to replicate this analysis.

7. Regarding CenterPoint Energy :

a. Defer action on the Company's fiscal-year 2008 true-up filing in Docket No. G-008/AA-08-1050 (the Company's fiscal-year 2008 true-up filing is included for consideration in the next item on the agenda for this Commission meeting).

b. Terminate the compliance reporting requirements established in Docket No. G-008/M-01-974.

c. Terminate the compliance reporting requirements established in Docket No. G-008/AI-04-152.

d. Require the Company to provide in its next Annual Automatic Adjustment filing a complete post-mortem review of its fiscal-year 2009 heating season natural gas purchasing strategy, including all information, data, and assumptions (in Microsoft Excel format where applicable) necessary to replicate this analysis.

e. Require the Company to provide in its next Annual Automatic Adjustment filing a discussion of how the Company has 1) chosen the level of acceptable volatility; and 2) minimized the level of costs for this level of volatility.

8. Regarding Xcel Gas:

a. Accept the Company's fiscal-year 2008 true-up filing in Docket No. G-002/AA-08-1054.

b. Approve the Company's implementation of its true-up, as shown in Attachment G11 of the Office of Energy Security's June 15, 2009, *Review of the 2007-2008 Annual Automatic Adjustment Reports*;

- c. Require the Company to provide in its next Annual Automatic Adjustment filing a complete post-mortem review of its fiscal-year 2009 heating season natural gas purchasing strategy, including all information, data, and assumptions (in Microsoft Excel format where applicable) necessary to replicate this analysis.
  - d. Require the Company to provide in its next Annual Automatic Adjustment filing a discussion of how the Company has 1) chosen the level of acceptable volatility, and 2) minimized the level of costs for this level of volatility.
9. Regarding Xcel's true-up rule variance request:
- a. Grant the Company's request for a variance to Minn. Rule 7825.2700, subpart 7 (the true-up rule) to allow Xcel to include \$285,541 of un-billable fiscal-year 2009 PGA revenue in the fiscal-year 2008 true-up.
10. Require CenterPoint, Xcel, and MERC to provide the following information about their hedging programs for the OES to review, beginning in fiscal year 2010:
- a. Clearly defined and quantified description of the risk (i.e. catastrophic or other type of event) the companies are insuring against through the implementation of these hedging strategies, and a clearly defined and quantified estimate of the probability of these events occurring.
  - b. A quantitative analysis of the value of reducing price volatility and managing price risk - i.e. the cost and benefit of these programs to all customers and the companies- that includes:
    - 1. A comparison of what actual low, average, and high usage customer bills (on a monthly basis) would have been with (and without) the hedging strategies implemented during the relevant time period.
    - 2. A comparison to what these customer bills (as described above) would have been under budget billing, assuming normal gas usage for low, average, and high usage customers, and assuming catastrophically high prices.
  - c. The companies should also provide a quantitative definition of "catastrophically high prices" (in absolute and relative terms) and a bill analysis that shows how these prices would impact low, average and high usage customer bills.
11. Require all gas utilities to provide a specific justification for each piece of information for which the designation of trade secret is claimed in their annual reports and true-up filings. All companies shall limit the designation of trade secret to words, numbers, or phrases that are actually trade secret and not designate entire paragraphs or pages which contain the trade secret words, numbers, or phrases.

12. Request the Office of Energy Security to include the same Commission –requested information in its fiscal-year 2009 Review as included in its fiscal-year 2008 Review.
13. Request the Office of Energy Security to continue its investigation of the amount of pipeline capacity release revenue the gas utilities receive from the pipelines and the amount of revenue the gas utilities refund to their customers.
14. Request the Office of Energy Security to continue developing and reporting a summary and comparison of each regulated natural gas utilities' lost-and-unaccounted-for gas percentages.

The motion passed, 4 - 0.

**G-008/AA-05-1423 (Northern area) G-008/AA-05-1424 (Viking area)  
In the Matter of the Review of CenterPoint Energy, a Division of CenterPoint Energy Resources Corp., 2005 Annual Automatic Adjustment Reports and True-up Filings**

**E.G-999/AA-05-1403  
In the Matter of the Review of the 2005 Annual Automatic Adjustment of Charges for All Electric And Gas Utilities**

**G-008/AA-06-1269  
In the Matter of the Review of CenterPoint Energy's 2006 Annual Automatic Adjustment Reports and True-up Filing**

**E.G-999/AA-06-1208  
In the Matter of the Review of the 2006 Annual Automatic Adjustment of Charges for All Electric and Gas Utilities**

**G-008/AA-07-1171  
In the Matter of the Review of CenterPoint Energy's 2006-2007 Annual Automatic Adjustment Reports and True-up Filing**

**E.G-999/AA-07-1130  
In the Matter of the Review of the 2006-2007 Annual Automatic Adjustment Reports and Annual PGA True-Ups**

**G-008/AA-08-1050  
In the Matter of the Review of CenterPoint Energy's 2007-2008 Annual Automatic Adjustment Reports and 2007-2008 Annual Purchased Gas Adjustment True-up Filing**

**G-999/AA-08-1011  
In the Matter of the Review of the 2007-2008 Annual Automatic Adjustment Reports and 2007-2008 Annual Purchased Gas Adjustment True-up Filings**

Commissioner Wergin moved to:

1. Authorize CenterPoint to recover \$7,384,572 in unrecovered gas costs from fiscal-year 2005;
2. Authorize CenterPoint to add \$7,384,572 as a separate line item to the true-up balance it calculates for the fiscal-year 2010 true-up period and to incorporate this amount in the true-up factors that will be charged starting on September 1, 2010. This alternative authorizes CenterPoint to carry forward the \$7,384,572 as a single line item in the September 1, 2010 true-up filing;
3. Authorize CenterPoint to recover the \$7,384,572 from its Northern-area customers only.
4. Accept CenterPoint's fiscal-year 2005 Annual Automatic Adjustment reports in Docket No. E,G-999/AA-05-1403, and annual True-up filings in Docket No. G-008/AA-05-1423 (Northern area) and Docket No. G-008/AA-05-1424 (Viking area).
5. Require CenterPoint to credit the nine Small Volume Duel Fuel customers in the Viking rate area for the difference between what they were charged over twelve months (using fiscal-year 2006 volumes) and what they would have been charged if the consolidation of the Northern and Viking-area true-up balances had not occurred as of June 30, 2005.
6. Require CenterPoint to submit a compliance filing within 30 days that explains how CenterPoint will credit these customers for the amounts they are owed.
7. Accept CenterPoint's fiscal-year 2006 Annual Automatic Adjustment reports in Docket No. E,G-999/AA-06-1208, and annual True-up filing in Docket No. G-008/AA-06-1269, and allow CenterPoint to implement its fiscal-year 2006 true-up as shown in Attachment G-10 of the Office of Energy Security's April 16, 2007 report, in Docket No. E,G-999/AA-06-1208.
8. Accept CenterPoint's fiscal-year 2007 Annual Automatic Adjustment reports in Docket No. E,G-999/AA-07-1130, and annual True-up filing in Docket No. G-008/AA-07-1171, and allow CenterPoint to implement its true-up, as shown in Attachment G-10 of the Office of Energy Security's June 12, 2008 Review.
9. Accept CenterPoint's fiscal-year 2008 Annual Automatic Adjustment reports in Docket No. G-999/AA-08-1011, and annual True-up filing in Docket No. G- 008/AA-08-1050.
10. Approve CenterPoint's new method of estimating unbilled revenue.
11. Require CenterPoint to exclude, in the first month (July 2009) of the next annual true-up period, Unbilled Gas Cost Recoveries as a separate step in calculating Deferred Gas Cost.
12. Require CenterPoint to submit a compliance filing identifying the accounting entries it proposes recording to implement the Commission's decision.
13. Require CenterPoint to submit a compliance filing within thirty days of the date of this Order that;

- A. Fully discusses all accounting entries and revised gas cost recovery (GCR) factors related to this matter that the Company proposes to record or implement, and
  - B. Fully discusses the beginning balances in the fiscal-year 2006, 2007, 2008, and 2009 AAA/True-up Reports and explain whether an adjustment is necessary to remove the out-of-period gas costs from fiscal years 2001, 2002, 2003, and 2004, as discussed on page 6-4 of the McFadden Report.
14. Require CenterPoint to continue filing updated lost-and-unaccounted-for gas factors annually in the Company's AAA Reports.
15. Require unbilled volumes to be priced at the currently effective rates during the month for which unbilled volumes are being estimated.
16. Take no action at this time with respect to the recommendations in the McFadden Report to :
- A. Implement a more rigorous review of gas cost recovery mechanisms;
  - B. Eliminate gas cost from base rates;
  - C. Establish detailed directives regarding the calculation of the purchased gas adjustment; and
  - D. Limit any collections or refunds due to errors in calculating deferred gas costs to a specific period.

The motion passed, 4 - 0.

There being no further business, the meeting was adjourned.

**APPROVED BY THE COMMISSION: FEBRUARY 24, 2010**



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**Burl W. Haar, Executive Secretary**