

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
David C. Boyd
J. Dennis O'Brien
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 a
Certificate of Need for an Extended Power Uprate
at the Prairie Island Nuclear Generating Plant

ISSUE DATE: February 27, 2013

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

ORDER TERMINATING CERTIFICATE
OF NEED PROSPECTIVELY

PROCEDURAL HISTORY

On December 18, 2009, the Commission issued its Order Accepting Environmental Impact Statement, and Granting Certificates of Need and Site Permit with Conditions (2009 Order). Among other things, the Commission granted to Northern States Power Company d/b/a Xcel Energy (Xcel or the Company) a Certificate of Need to increase the generating capacity of, or uprate, the Prairie Island Nuclear Generating Plant (Prairie Island Plant).¹

On March 30, 2012, Xcel filed a Notice of Changed Circumstances and Petition under Minn. R. 7849.0400, subp. 2(H), proposing to delay the implementation date and change the capacity resulting from the Prairie Island Plant uprate. And on October 22 and 25, 2012, Xcel filed comments stating that continued pursuit of the Prairie Island Plant uprate was no longer in customers' interests.

On November 7, 2012, the Commission issued its Order to Show Cause, inviting interested persons to present arguments why the Commission should not terminate Xcel's Prairie Island Uprate Certificate of Need prospectively.

By December 11, 2012, the Commission had received comments from the following parties:

- The City of Red Wing (Red Wing), the municipality where the Prairie Island Plant is located
- The Minnesota Department of Commerce (the Department), a state agency charged with promoting the public interest

¹ The federal Nuclear Regulatory Commission (NRC) uses the term "extended power uprate" to refer to the process of authorizing a commercial nuclear power plant to increase its generating capacity by 7 to 20 percent pursuant to 10 C.F.R. Part 50. See United States Nuclear Regulatory Commission, Review Standard 001 (December 2003), <http://www.nrc.gov/reactors/operating/licensing/power-uprates/rs-001-rev-0-dec2003.pdf>

The Office of the Attorney General's Antitrust and Utilities Division (OAG)

- Xcel

On December 20, 2012, the matter returned to the Commission.

FINDINGS AND CONCLUSIONS

I. Summary

Circumstances that justified uprating the Prairie Island Plant have changed. Xcel petitioned to cancel further implementation of the uprate, and provided sound argument in support of its petition. Having provided opportunity for all parties to be heard on this issue, the Commission finds that the record supports Xcel's petition, and consequently the petition will be granted.

II. Xcel's Claims of Changed Circumstances

While Xcel has already implemented some changes at its Prairie Island Plant in accordance with its Certificate of Need, Xcel argues that new circumstances have reduced the potential benefits associated with completing the uprate.

First, Xcel found that it could increase the Prairie Island Plant's generating capacity, even without fully implementing its uprate proposal, through better management of feed water flow.

Second, contrary to expectations, new studies indicate that installation of low-pressure turbines would not prove cost-effective, according to Xcel.

Third, Xcel argues that delay is unusually costly to this project because the Prairie Island Plant has a limited operating life enforced by federal licensure. Yet Xcel anticipates ever more delays:

- Xcel planned to complete the uprate during the generators' refueling outages, but an unscheduled outage provided Xcel with an early opportunity to refuel the plant. Xcel seized this chance, but in so doing, missed the opportunity to finish uprating the plant. Moreover, the new fuel will last six months longer than the old fuel did, further delaying the next opportunity.
- Federal regulatory approval is taking longer, according to Xcel, in part due to the regulatory resources now dedicated to analyzing the March 2011 failure of the Fukushima Daiichi nuclear plant in Japan and its implications for facilities in the United States.

Fourth, Xcel reports that for various reasons nuclear projects throughout the country are incurring costs well above anticipated levels.

Fifth, Xcel reports that alternative sources of energy have grown less expensive. For example, the growth of the hydraulic fracturing industry, or fracking, has increased the supply -- and reduced the price -- of natural gas.

Finally, Xcel states that the economy has grown more slowly than it initially projected, and this has reduced customer demand for electricity.

The combined effects of these changed circumstances prompt Xcel to ask the Commission to terminate, prospectively, the Certificate of Need the Commission issued to uprate the Prairie Island Plant.

III. Party Comments

Red Wing urged the Commission to refrain from acting in this docket until it had received more information about how Xcel's change in plans could affect 1) plant safety and 2) the tax revenues available to Red Wing to ensure that services are available to manage any emergency that might arise from the plant.

Xcel provided additional information addressing Red Wing's concerns, and argues that the record is sufficient to justify terminating the Certificate of Need prospectively.

Neither the Department nor the OAG opposed rescinding Xcel's Certificate of Need prospectively. But these parties cautioned the Commission, in issuing such an order, to refrain from ruling on the prudence of Xcel's expenditures to date, or on the adequacy of Xcel's electric supply if and when the uprate is canceled.

IV. Commission Action

Xcel initially petitioned for relief under Minn. R. 7849.0400, subp. 2(H). When a project developer receives a Certificate of Need to build a large energy facility, this rule directs the developer to notify the Commission and other parties if a substantial change arises in the size, type, timing, or ownership of the proposed facility. The rule contemplates that the developer will seek to maintain its Certificate of Need and continue to build its proposed facility. But as of October 2012, Xcel no longer seeks that outcome.

Instead, Xcel provides analysis supporting the conclusion that, due to various changing circumstances, it is now in the public interest to discontinue the uprate project. In response to this analysis, and consistent with Minn. R. 7849.0400, the Commission solicited comments from parties on the proposed termination of Xcel's Certificate of Need.

Having reviewed the record, the Commission concludes that 1) Xcel has demonstrated that it is in the public interest to discontinue its uprate project, and 2) no party has shown cause for continuing the construction of that project. Consequently the Commission will terminate Xcel's Certificate of Need prospectively.

While Red Wing suggests the possibility that discontinuing the uprate of the Prairie Island plant could affect the plant's safety, it offers no supporting facts or arguments. Xcel noted that the United States Nuclear Regulatory Commission, which has primary jurisdiction over nuclear safety issues, had reviewed the safety of the plant improvements made in the early stages of the uprate and had issued license amendments approving them.² The Commission concludes that no party has shown any cause to reject Xcel's proposal on the grounds of safety. Red Wing also raised financial concerns, claiming Xcel must prove that the City can maintain its readiness to respond to potential plant-related emergencies without the increased tax revenues that the uprated plant would provide. In seeking its Certificate of Need, Xcel predicted that Red Wing's

² Xcel comments (December 11, 2012) at 2-3.

receipt of Utility Valuation Transition Aid would grow from \$750,000 to \$1.5 million, and its receipt of property taxes would grow from \$4.2 million to \$9.2 million.³ Now that Xcel plans to discontinue uprating the Prairie Island Plant, Xcel anticipates that its property tax payments will reach only \$7.2 million.⁴ While this is less than the anticipated \$9.2 million figure, it remains a substantial increase.

More importantly, there is no evidence to suggest that Red Wing's safety-related costs have increased or will increase because of the uprate, or the uprate's discontinuance. The Commission finds that the record does not demonstrate cause to reject Xcel's proposal on grounds of adequacy of finances for emergency services.

Finally, the Commission clarifies that its decision to terminate Xcel's Certificate of Need does not address Xcel's resource needs; that topic is being addressed in the context of Xcel's resource planning docket.⁵ Nor does the decision address the prudence of Xcel's investments or the recovery of those costs; those judgments may be made in the context of Xcel's rate case.⁶

ORDER

1. Xcel's Certificate of Need issued in this docket is terminated prospectively.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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³ 2009 Order at 20-22.

⁴ Xcel comments (December 11, 2012) at 3.

⁵ See, for example, *In the Matter of Xcel Energy's 2011-2025 Integrated Resource Plan*, Docket No. E-002/RP-10-825.

⁶ See *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, Docket No. E-002/GR-12-961.