

132 FERC ¶ 61,170
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

August 26, 2010

In Reply Refer To:
Xcel Energy Services Inc.
Docket Nos. ER08-313-004; ER08-923-003; ER08-1307-002; ER08-1308-003; ER08-1357-002; ER08-1358-002; ER08-1359-002; ER08-313-002; ER08-313-003; ER08-923-001; ER08-923-002; ER08-1307-001; ER08-1308-002; ER08-1308-006; ER08-1357-001; ER08-1358-001; and ER08-1359-001

William S. Scherman
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, NW
Washington, DC 20005

Reference: Uncontested Settlement

Dear Mr. Scherman:

1. On June 30, 2010, you filed an Offer of Settlement and Settlement Agreement (Settlement) by Xcel Energy Services Inc. (Xcel) on behalf of itself, Southwestern Public Service Company (SPS), and Farmers' Electric Cooperative, Inc., Lea County Electric Cooperative, Inc., Central Valley Electric Cooperative, and Roosevelt County Electric Cooperative Inc., Golden Spread Electric Cooperative, Inc., Tri-County Electric Cooperative, Inc., West Texas Municipal Power Agency, Occidental Permian Ltd., Occidental Power Marketing, L.P., and Cap Rock Energy Corporation (Settling Parties). On July 7, 2010, Trial Staff filed initial comments in support of the Settlement. No other comments were filed. On July 16, 2010 the Presiding Administrative Law Judge certified the Settlement to the Commission as uncontested.¹

2. The Settlement resolves all remaining issues set for hearing in the above-captioned dockets. Specifically, the parties have resolved issues regarding the classification of

¹ *Xcel Energy Services, Inc.*, 132 FERC ¶ 63,004 (2010).

certain SPS transmission facilities that are to be included in, or excluded from, as appropriate, transmission rates in accordance with Attachment AI of the Southwest Power Pool Regional Open Access Transmission Tariff.

3. Article IV, Section 4.8 of the Settlement provides that the applicable standard of review for a modification of the Settlement proposed by a Settling Party, but not agreed to by all the Settling Parties, shall be the “public interest” standard under the *Mobile-Sierra* doctrine. Section 4.8 also provides that the standard of review for any modification to the Settlement proposed by a non-settling third party or initiated by the Commission shall be the most stringent standard permissible under applicable law.

4. The Settlement appears to be fair and reasonable and in the public interest and is hereby approved. The Commission’s approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

5. If Xcel has made its baseline electronic tariff filing pursuant to Order No. 714, and did not file the Settlement in the eTariff format required by Order No. 714, it is required to make a compliance filing in eTariff format to ensure that its electronic tariff provisions reflect the Commission action in this order.² Such a compliance filing also is necessary for any Settlement filing containing pro forma tariff sheets, but is not necessary if the Settlement was filed in eTariff format with actual tariff records (as opposed to pro forma records).

6. Any amounts collected in excess of the Settlement rates shall be re-billed and refunded in accordance with the terms of the Settlement.

7. This letter terminates Docket Nos. ER08-313-004; ER08-923-003; ER08-1307-002; ER08-1308-003; ER08-1357-002; ER08-1358-002; ER08-1359-002; ER08-313-002; ER08-313-003; ER08-923-001; ER08-923-002; ER08-1307-001; ER08-1308-002; ER08-1308-006; ER08-1357-001; ER08-1358-001; and ER08-1359-001.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

² See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 96 (2008).