

125 FERC ¶ 61,039  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Xcel Energy Services, Inc.

Docket No. OA08-71-000

ORDER CONDITIONALLY ACCEPTING COMPLIANCE FILING AND  
REQUIRING FURTHER COMPLIANCE FILING

(Issued October 16, 2008)

1. On March 17, 2008, under section 206 of the Federal Power Act (FPA),<sup>1</sup> Xcel Energy Services Inc., on behalf of Xcel Energy Operating Companies (Xcel),<sup>2</sup> submitted proposed revisions to its Joint Open Access Transmission Tariff (OATT) to comply with Order No. 890-A.<sup>3</sup> In this order, we accept Xcel's revised OATT, as modified and subject to a further compliance filing, as discussed below.

**I. Background**

2. In Order No. 890-A, the Commission granted limited rehearing and clarification of Order No. 890, largely affirming its reforms. The Commission in Order No. 890-A continues its Order No. 890 objectives of ensuring that electric transmission service is provided on a nondiscriminatory, just and reasonable basis, helping to improve the foundation for a competitive electric power market, and providing for more effective regulation and transparency in the operation of the transmission grid.

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<sup>1</sup> 16 U.S.C. § 824e (2006).

<sup>2</sup> Xcel is comprised of four operating companies: Public Service Company of Colorado (PSCo), Southwestern Public Service Company (SPS), Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin company (the latter two, together, NSP Companies).

<sup>3</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

3. The revisions in Order No. 890-A address, among other things, how transmission providers process service requests; under what circumstances long-term customers may renew (roll over) their transmission service; the ability of network customers to designate certain resources; and how point-to-point customers may reassign transmission capacity. As discussed in further detail below, the Commission also directed transmission providers to address certain issues related to the calculation of available transfer capability (ATC) and the calculation of incremental costs for purposes of imbalance charges.

## **II. Xcel's Compliance Filing**

4. Xcel states that its tariff sheets incorporate most of the clarifications to the non-rate terms and conditions specified by Order No. 890-A into the Joint OATT verbatim. Such revisions are not limited to, but include: (1) revisions to Schedules 4 and 9 to clarify that the transmission owner may charge a transmission customer a penalty for either hourly generator imbalances under Schedule 9 or hourly energy imbalances under Schedule 4 for imbalances occurring during the same hour, but not both unless the imbalances aggravate rather than offset each other; (2) a revision to Schedule 9 to require the transmission owner to offer generator imbalance service to anyone in its control area, and to state that the transmission owner is only required to provide generator imbalance service from its own resources or from resources available to it to the extent that it is physically feasible to do so; (3) an amendment to section 23.1 to lift the price cap on reassignments of capacity only until October 1, 2010; (4) revisions to Schedules 7 and 8 to reflect that neither the discount rule nor the price ceilings apply to reassignments of capacity; (5) revisions to section 32.3 to make clear that the information required in a System Impact Study is nearly identical for network and point-to-point customers; (6) amendments to section 15.4(b) to clarify that the transmission owner is obligated to provide planning redispatch to customers requesting long-term firm point-to-point service, but not to customers requesting short-term service; and (7) revisions to sections 17.2 and 18.2 to more accurately reflect that pre-confirmation service should be available to all eligible customers seeking short-term firm and non-firm transmission services.

5. In response to the Commission's requirement that Attachment C should include the step-by-step modeling study methodology and criteria for adding or eliminating flowgates, Xcel explains that such information would be included in the compliance filings of the Midwest ISO (for NSP Companies) and Southwest Power Pool (for SPS), and does not apply to PSCo since it does not use the Available Flowgate Capability (AFC) methodology. Xcel provides a similar rationale for why it does not include an explanation related to changes in Total Transfer Capability caused by the AFC methodology (as was required in Order No. 890-A).

6. Xcel requests that its revised tariff sheets be made effective March 17, 2008.

### **III. Notice of Filing and Responsive Pleadings**

7. Notice of Xcel's filing was published in the *Federal Register*, 73 Fed. Reg. 16,003 (2008), with interventions and protests due on or before April 7, 2008.

8. On April 7, 2008, the Municipal Energy Agency of Nebraska (MEAN)<sup>4</sup> filed a motion to intervene and protest.

### **IV. Discussion**

#### **A. Procedural Matters**

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

#### **B. Substantive Matters**

10. We find that Xcel's filing, with certain modifications, complies with Order No. 890-A. Accordingly, we accept Xcel's filing to be effective March 17, 2008, subject to a further compliance filing as discussed below. Xcel is directed to make the compliance filing within 30 days of the date of issuance of this order.

#### **1. Incremental Costs in Imbalance Charges**

11. In Order No. 890-A, the Commission granted rehearing and found that transmission providers should base imbalance charges on the actual cost to correct the imbalance, which may be different than the cost of serving native load. As a result, the Commission modified the definition of imbalance charges to include the cost of the last 10 MW dispatched for any purpose, whether to serve native load, correct imbalances, or make off-system sales.<sup>5</sup> The Commission also required each transmission provider to provide language in its OATT clearly specifying the method by which it calculates incremental costs for purposes of imbalance charges, as well as the method it will use to obtain each component of the calculation.<sup>6</sup> If start-up costs are incurred during an hour

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<sup>4</sup> MEAN is a political subdivision of the State of Nebraska and is a transmission-dependent utility that provides power supply and related energy services to 64 municipalities and one public power district in the states of Nebraska, Colorado, Iowa, Kansas, and Wyoming.

<sup>5</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 309.

<sup>6</sup> *Id.* P 310.

different from the hour of excess imbalance, the start-up costs may also be included in the calculation of incremental costs as long as they are associated with providing imbalance service.<sup>7</sup>

**a. Xcel's Filing**

12. Xcel proposes that for Schedule 4 (Energy Imbalance Service) and Schedule 9 (Generator Imbalance Service), incremental cost and decremental cost represent the transmission provider's actual average hourly cost of the last 10 MW dispatched for any purpose, i.e., to supply the transmission provider's native load customers, correct imbalances, or make off-system sales, based on the replacement cost of fuel, unit heat rates, start-up costs (including any commitment and redispatch costs), incremental operation and maintenance costs, and purchased and interchange power costs and taxes, as applicable.

**b. Protest**

13. MEAN states that, while three of Xcel's operating companies (the two NSP Companies and SPS) do not provide imbalance service, PSCo offers both energy and generator imbalance services. MEAN maintains, however, that Xcel has failed to include tariff language addressing the calculation of incremental costs in its compliance filing, as required by Order No. 890-A, and provides no explanation for this omission. MEAN requests that the Commission direct Xcel to revise its compliance filing to include the calculation of incremental costs for imbalance charges.

**c. Commission Determination**

14. Xcel has complied with our directive to modify the definition of imbalance charges. However, Xcel does not clearly specify the method by which it calculates incremental costs for purposes of imbalance charges, or the method it will use to obtain each component of the calculation, as required by Order No. 890-A. For both energy imbalance and generator imbalance services, Xcel merely lists various cost categories without explaining how it would obtain them or the method it would use to calculate incremental costs. Xcel's compliance filing therefore fails to provide transparency and fails to minimize opportunities for undue discrimination.<sup>8</sup> We therefore direct Xcel to file, within 30 days of the date of this order, a further compliance filing that explains such methodology and criteria.

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<sup>7</sup> *Id.* P 312.

<sup>8</sup> *Id.* P 310.

## 2. Rollover Rights

15. In Order No. 890, the Commission adopted a five-year minimum contract term in order for a customer to be eligible for a rollover right and adopted a one-year notice period. The Commission determined that this rollover reform should be made effective at the time of acceptance by the Commission of a transmission provider's coordinated and regional planning process. On July 13, 2007, in Docket No. OA07-39-000, Xcel submitted its compliance filing pursuant to Order No. 890, and included the rollover reform language in that initial filing. In an order issued April 17, 2008,<sup>9</sup> the Commission determined that Xcel prematurely replaced its previously effective rollover standards and directed Xcel to file a revised tariff sheet that reflected the previous language of section 2.2 of the Joint OATT.

### a. Xcel's Filing

16. Xcel submitted the instant filing before we issued the April 17 Order, and section 2.2 continues to include the Commission's rollover reform language as contained in the July 13 filing. In its transmittal letter, Xcel reiterates its commitment to submit revised sheets for section 2.2 upon acceptance of the regional planning process attachment rather than reinstating its previously effective tariff language.<sup>10</sup>

### b. Protests and Comments

17. MEAN asserts that reinstatement of section 2.2 of the OATT is necessary to conform to the Order No. 890-A requirement that a transmission provider continue to apply its previously existing rollover provisions until the Commission accepts that transmission provider's transmission planning compliance filing. MEAN contends that, while Xcel's transmittal letter acknowledges the Commission's deferral of the effectiveness of the new rollover standards until acceptance of transmission planning proposals, Xcel has not taken the requisite next step of reinstating its previous section 2.2 language reflecting its current rollover standards. MEAN therefore requests that the Commission direct Xcel to amend its compliance filing accordingly.

### c. Commission Determination

18. Xcel has made additional filings relating to rollover rights after it submitted the filing in this docket. On May 19, 2008, Xcel made a filing seeking to reinstate the

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<sup>9</sup> *Xcel Energy Operating Companies*, 123 FERC ¶ 61,053 (2008) (April 17 Order).

<sup>10</sup> Xcel Energy Services Inc. March 17, 2008 Filing, Docket No. OA08-71-000 at 2.

previous rollover language in section 2.2, effective July 13, 2007.<sup>11</sup> On August 18, 2008, following the Commission's conditional acceptance of Xcel's regional planning process, Xcel submitted a filing to include the new Order No. 890 rollover language effective August 18, 2008, but also included a corrected tariff sheet, effective March 17, 2008, that re-inserts the pre-Order No. 890 language for section 2.2.<sup>12</sup> The Commission will therefore address the rollover rights issue in Docket Nos. OA07-39-001 and OA07-39-002.

The Commission orders:

(A) Xcel's compliance filing is hereby accepted, as modified, effective March 17, 2008, subject to a further compliance filing and to the disposition of the rollover rights issue being addressed in Docket Nos. OA07-39-001 and OA07-39-002, as discussed in the body of this order.

(B) Xcel is hereby directed to submit a further compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>11</sup> This filing is currently pending in Docket No. OA07-39-001.

<sup>12</sup> This filing is currently pending in Docket Nos. OA07-39-002 and OA08-71-001.