

122 FERC ¶ 61,233  
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.

Revised Public Utility Filing Requirements  
for Electric Quarterly Reports; Xcel Energy  
Services Inc.

Docket No. RM01-8-008

ORDER GRANTING CLARIFICATION  
AND DENYING WAIVER AS MOOT

(Issued March 20, 2008)

1. Xcel Energy Services Inc. (Xcel) has filed a request for clarification or waiver on behalf of its affiliates, Northern States Power Company-Wisconsin (NSPS-W) and Northern States Power Company-Minnesota (NSPS-M, collectively, the Northern States Companies). Specifically, NSPS-M has been including information about contracts and transactions involving NSPS-W in its Electric Quarterly Reports (EQRs) filed on behalf of NSPS-M, rather than NSPS-W filing a separate EQR covering its own contracts and transactions. Xcel seeks clarification that NSPS-M's filings were proper, and alternatively seeks a waiver of the EQR filing requirements to allow NSP-W to report its energy sales transactions and contracts under the NSP-M EQR.
2. In this order, we clarify that the Northern States Companies may report their transactions made under a joint tariff collectively, but in instances where the contract identifies only one of the companies as the selling party, accuracy dictates that the specific affiliate making the sale, and that affiliate alone, should be identified as the "Seller" in Northern States Companies' EQR filing. Given this clarification, we will deny the Northern States Companies' waiver request as moot.

## **I. Background**

3. On April 25, 2002, the Commission issued Order No. 2001, a final rule establishing revised public utility filing requirements.<sup>1</sup> This rule revised the Commission's filing requirements to require companies subject to the Commission's regulation under section 205 of the Federal Power Act to file quarterly reports that: (1) provide data identifying the utility on whose behalf the report is being filed (ID Data); (2) summarize pertinent data about the utility's currently effective contracts (Contract Data); and (3) summarize data about wholesale power sales the utility made during the reporting period (Transaction Data). The requirement to file EQRs replaced the requirement to file quarterly transaction reports summarizing a utility's market-based rate transactions and sales agreements that conformed to the utility's tariff.

4. On January 4, 2008, Xcel filed its instant request for clarification or waiver seeking clarification that NSPS-M's filings were proper. In the alternative, in the event that the Commission finds that the Commission's EQR rules require NSPS-W to file a separate EQR summarizing its contracts and transactions, Xcel requests that the Commission grant NSPS-W a waiver of the EQR filing requirements that would allow NSP-W to continue to report its energy sales transactions and contracts as part of the NSP-M EQR.

## **II. Discussion**

5. Xcel states that the activities of the Northern States Companies are highly integrated and coordinated and that the two subsidiaries make their wholesale sales on a joint basis. Xcel argues that the joint nature of the activities of the two affiliates makes it infeasible to separately track the sales transactions attributable to the two affiliates. In fact, Xcel states that the market-based sales authorization of the two affiliates is governed by a joint tariff and that it satisfied the Commission's generation power standard on a

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<sup>1</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, 67 FR 31043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (Apr. 25, 2002), *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reconsideration and clarification denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filings*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), Order No. 2001-D, *order directing filings*, 102 FERC & 61,334, Order No. 2001-E, *order refining filing requirements*, 105 FERC ¶ 61,352 (2003), *clarification order*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004).

combined basis.<sup>2</sup> Moreover, Xcel cites the fact that in Docket No. ER98-2640-021 the Commission directed it to file quarterly transaction summaries for the two affiliates on a combined basis.

6. The EQR filing requirements established by the Commission in Order No. 2001 include the requirement, under 18 C.F.R. § 35.10(b), for companies to “file an updated Electric Quarterly Report with the Commission covering all services it provides pursuant to this part” (i.e., services provided pursuant to 18 C.F.R. Part 35).<sup>3</sup> Accordingly, the contracts and transactions reported in the EQR are those that occur under Commission-authorized tariffs pursuant to 18 C.F.R. Part 35.

7. The EQR filing requirements established by the Commission in Order No. 2001 left intact the requirement in 18 C.F.R. § 35.1(a) for public utilities to file and post “full and complete rate schedules...clearly and specifically setting forth all rates and charges for any transmission or sale of electric energy subject to the jurisdiction of this Commission, the classifications, practices, rules and regulations affecting such rates and charges and all contracts which in any manner affect or relate to such rates, charges, classifications, services, rules, regulations or practices.” This same provision kept intact the clause stating that, in cases where two or more public utilities share the same rate schedule, they have the option of posting and filing their rates collectively or separately.<sup>4</sup> If the public utilities opt to file collectively, the non-filers are directed to file a certificate of concurrence under 18 C.F.R. § 131.52, or they can authorize the filing company to file on their behalf if, after written request, they receive Commission authorization to file collectively.<sup>5</sup>

### **Commission Conclusion**

8. The Northern States Companies operate under a single joint tariff that was approved by the Commission after receipt of a written application from the Northern States Companies. Thus, pursuant to 18 C.F.R. § 35.1(a), the Northern States Companies may appropriately report their sales collectively under the Northern States Power Companies’ FERC Electric Tariff (Original Volume No. 6) on a joint basis, and need not file a certificate of concurrence to do so. Such reporting complies with the requirements of both 18 C.F.R. § 35.1(a) and of 18 C.F.R. § 35.10b.

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<sup>2</sup> *Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)*, 83 FERC ¶ 61,293 (1998).

<sup>3</sup> 18 C.F.R. § 35.10b (2007).

<sup>4</sup> 18 C.F.R. § 35.1(a) (2007).

<sup>5</sup> *Id.*

9. Notwithstanding the Northern States Companies' ability to report sales jointly in the EQR, the contracts reported in the EQR must accurately reflect the terms of the service agreement. If both companies are identified as parties to an agreement, either individually or collectively, that contract may be reported as a joint agreement. However, where only one of the companies is identified as the selling party, accuracy dictates that the specific affiliate making the sale, and that affiliate alone, should be identified as the "Seller" in Northern States Companies' EQR filing.

The Commission orders:

(A) The Commission hereby grants Northern States Companies' request for clarification, as discussed in the body of this order.

(B) Given the clarification provided above, the Commission hereby denies Northern States Companies' request for a limited waiver as moot.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.