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FEDERAL ENERGY
REGULATORY COMMISSION
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Docket No.: EC19-38

South Dakota Public Utilities Commission
Secretary
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Pierre, SD 57501-

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**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

167 FERC ¶ 62,091
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Northern States Power Company, a Minnesota Corporation Docket No. EC19-38-000
Mankato Energy Center, LLC
Mankato Energy Center II, LLC

ORDER AUTHORIZING DISPOSITION OF JURISDICTIONAL FACILITIES AND
ACQUISITION OF EXISTING GENERATION FACILITY

(Issued May 3, 2019)

On December 14, 2018, as amended on March 29, 2019, Northern States Power Company, a Minnesota Corporation (Northern States); Mankato Energy Center, LLC (Mankato I); and Mankato Energy Center II, LLC (Mankato II) (collectively, Applicants) filed an application pursuant to section 203(a)(1)(A) of the Federal Power Act (FPA)¹ requesting authorization for a transaction whereby Southern Power Company (Southern Power) will dispose of Mankato I and Mankato II to Northern States (Proposed Transaction). The jurisdictional facilities involved in the Proposed Transaction consist of market-based rate tariffs, Mankato I's Reactive Rate Schedule, interconnection facilities, power purchase agreements, and related contracts, books, and records.

Applicants explain that Northern States is a wholly owned utility operating company subsidiary of Xcel Energy Inc. (Xcel). Northern States provides retail electric utility service and retail natural gas utility service to customers in Minnesota, North Dakota, and South Dakota. Northern States is a vertically integrated transmission-owning member of the Midcontinent Independent System Operator, Inc. (MISO). Within MISO, Northern States and its affiliates own approximately 8,150 megawatts (MW) of generation and hold 3,960 MW of long-term purchases or exchange agreements.

According to Applicants, Xcel is a publicly traded holding company that indirectly serves electric and natural gas customers in Colorado, Michigan, Minnesota, New Mexico, North Dakota, South Dakota, Texas, and Wisconsin.

Applicants represent that Mankato I is the owner of a 375 MW natural gas- and fuel oil-fired, combined cycle generating facility located in Mankato, Minnesota, that is interconnected with the transmission system owned by Northern States and controlled by MISO (Mankato I Facility). Mankato I has a tolling agreement with Northern States that provides for the output of the Mankato I facility through July 2026. Further, Mankato II

¹ 16 U.S.C. § 824b (2012).

owns a 345 MW expansion of the Mankato I Facility, which is currently under construction (Mankato II Facility) (together, Mankato Facilities). The Mankato II Facility is expected to reach commercial operation by June 1, 2019 and the capacity and energy generating capability of the Mankato II Facility are fully committed to Northern States pursuant to a long-term power purchase agreement.

Applicants state that Southern Power currently owns the membership interests in Mankato Facilities and develops and owns natural gas, wind, solar, and biomass-generating assets with a total capacity of 12,200 MW. Southern Power is a wholly owned subsidiary of The Southern Company (Southern), which owns and operates public utilities in Mississippi, Georgia, and Alabama.

Applicants explain that pursuant to the Proposed Transaction, Northern States will purchase from Southern Power 100 percent of the membership interests in Mankato I and Mankato II. Mankato I and Mankato II will then merge into Northern States such that Mankato I and Mankato II will no longer exist.

Applicants state that the Proposed Transaction will have no adverse effect on competition. Applicants state that there are no horizontal competitive concerns because the Proposed Transaction will not result in a change of control of the output of the Mankato Facilities which are committed under long-term agreements to Northern States. Applicants explain that while the Proposed Transaction will result in a change in ownership over the Mankato Facilities, there is no change in the disposition of the generation facilities' output.

Applicants state that the Proposed Transaction will not have an adverse effect on vertical competition. Access to the Northern States' transmission system is governed by the MISO Tariff, and MISO has functional control over those transmission facilities. Applicants explain that the Proposed Transaction will have no effect on coal supply sources or facilities or any other inputs to electricity products that would raise vertical market power issues.

Applicants state that the Proposed Transaction will have no adverse effect on rates. The Proposed Transaction will not have an adverse effect on transmission service rates because subject to the Proposed Transaction are generation facilities and not transmission facilities. Applicants state that the cost of interconnection facilities associated with the Mankato Facilities will be recorded as generator interconnection costs and not included in MISO transmission rates. Applicants explain that the Proposed Transaction will not have an adverse effect on the rates of wholesale customers as Northern States currently does not provide wholesale requirements service to any customers, and the Proposed Transaction will not affect the rates paid by Northern States' customers served at market-based rates. Applicants further state that Northern States is already committed to paying the costs of the Mankato Facilities due to the power

purchase agreements in effect.

Applicants state that approvals for the Proposed Transaction include a written order by the Minnesota Public Utilities Commission approving the purchase to be consistent with the public interest under Minnesota law, and North Dakota Public Service Commission approval of the purchase as prudent under North Dakota law. Applicants explain that the Proposed Transaction will have no adverse effect on regulation and will not affect the ability of the Commission or state regulators to regulate the facilities.

Applicants verify that, based on facts and circumstances known to them or that are reasonably foreseeable, the Proposed Transaction will not result in, at the time of the Proposed Transaction or in the future, any cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company, including: (1) any transfer of facilities between a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, and an associate company; (2) any new issuance of securities by a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company; (3) any new pledge or encumbrance of assets of a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company; or (4) any new affiliate contract between a non-utility associate company and a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, other than non-power goods and service agreements subject to review under sections 205 and 206 of the FPA.

Applicants' submission of Exhibit N of the includes proposed accounting entries recording Northern States' acquisition of 100 percent of the membership interests in Mankato I and Mankato II from Southern Power. Northern States proposes to clear the acquisition through Account 102, Electric Plant Purchased or Sold, and record the original cost and related accumulated depreciation on Northern States' books. Additionally, Northern States' proposed accounting entries record an acquisition adjustment of \$96,194,000 in Account 114, Electric Plant Acquisition Adjustments. Northern States proposes to amortize the acquisition adjustment to Account 406, Amortization of Electric Plant Acquisition Adjustments, based on the approval of retail rate recovery of this acquisition adjustment by the state commissions. Northern States further states that if retail rate recovery of the acquisition adjustment is not approved, and the Proposed Transaction closes, the amortization would be recognized in Account 425, Miscellaneous Amortization.

The filings were noticed on December 17, 2018 and March 29, 2019, with comments, protests, or interventions due on or before January 4, 2019 and April 12,

2019. None were filed.

Information and/or systems connected to the bulk system involved in these transactions may be subject to reliability and cybersecurity standards approved by the Commission pursuant to FPA section 215. Compliance with these standards is mandatory and enforceable regardless of the physical location of the affiliates or investors, information database, and operating systems. If affiliates, personnel or investors are not authorized for access to such information and/or systems connected to the bulk power system, a public utility is obligated to take the appropriate measures to deny access to this information and/or the equipment/software connected to the bulk power system. The mechanisms that deny access to information, procedures, software, equipment, etc., must comply with all applicable reliability and cybersecurity standards. The Commission, North American Electric Reliability Corporation or the relevant regional entity may audit compliance with reliability and cybersecurity standards.

When a controlling interest in a public utility is acquired by another company, whether a domestic company or a foreign company, the Commission's ability to adequately protect public utility customers against inappropriate cross-subsidization may be impaired absent access to the parent company's books and records. Section 301(c) of the FPA gives the Commission authority to examine the books and records of any person who controls, directly or indirectly, a jurisdictional public utility insofar as the books and records relate to transactions with or the business of such public utility. The approval of the Proposed Transaction is based on such examination ability.

Order No. 652 requires that sellers with market-based rate authority timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.² To the extent that a transaction authorized under FPA section 203 results in a change in status, sellers that have market-based rates are advised that they must comply with the requirements of Order No. 652.

After consideration, it is concluded that the Proposed Transaction is consistent with the public interest and is authorized, subject to the following conditions:

- (1) The Proposed Transaction is authorized upon the terms and conditions and for the purposes set forth in the application;
- (2) Applicants must inform the Commission of any material change in circumstances that departs from the facts or representations that the

² *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, 110 FERC ¶ 61,097, order on reh'g, 111 FERC ¶ 61,413 (2005).

Commission relied upon in authorizing the Proposed Transaction within 30 days from the date of the material change in circumstances;

- (3) The foregoing authorization is without prejudice to the authority of the Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of costs, or any other matter whatsoever now pending or which may come before the Commission;
- (4) Nothing in this order shall be construed to imply acquiescence in any estimate or determination of cost or any valuation of property claimed or asserted;
- (5) If the Proposed Transaction results in changes in the status or upstream ownership of Applicants' affiliated qualifying facilities, an appropriate filing for recertification pursuant to 18 C.F.R. § 292.207 (2018) shall be made;
- (6) The Commission retains authority under sections 203(b) and 309 of the FPA to issue supplemental orders as appropriate;
- (7) Applicants shall make any appropriate filings under section 205 of the FPA, as necessary, to implement the Proposed Transaction;
- (8) Applicants shall notify the Commission within 10 days of the date that the disposition of jurisdictional facilities has been consummated; and
- (9) Northern States shall account for the transaction in accordance with Electric Plant Instruction No. 5 and Account 102, Electric Plant Purchased or Sold, of the Uniform System of Accounts. Northern States shall submit proposed accounting entries within six months of the date that the transaction is consummated, and the accounting submission shall provide all the accounting entries and amounts related to the transfer along with narrative explanations describing the basis for the entries.

This action is taken pursuant to the authority delegated to the Director, Division of Electric Power Regulation - West, under 18 C.F.R. § 375.307 (2018). This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713 (2018).

Carlos D. Clay, Acting Director
Division of Electric Power
Regulation - West