

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED)	FINDINGS OF FACT AND
BY DALE RIEDLINGER, SIOUX FALLS, SOUTH)	CONCLUSIONS OF LAW;
DAKOTA, AGAINST XCEL ENERGY)	NOTICE OF ENTRY OF
REGARDING POOR MAINTENANCE SERVICE)	ORDER
AND THE BURYING OF OVERHEAD)	
ELECTRICAL LINES)	CE01-002

On August 20, 2001, the Public Utilities Commission (Commission) received a complaint filed by Dale Riedlinger, Sioux Falls, South Dakota (Complainant), against Xcel Energy (Xcel). The Complainant stated that Xcel did a very poor job of trimming his tree located near an overhead electric line. The Complainant requested that Xcel bury the electric line at no cost or a reasonable cost.

On August 20, 2001, the complaint was faxed to Xcel. Pursuant to ARSD 20:10:01:09, Xcel was notified that it must satisfy the complaint or file an answer in writing with the Commission by September 10, 2001. On September 10, 2001, the Commission received a letter response from Xcel.

A hearing was held on October 10, 2001, in Room 412 of the State Capitol Building. The issue at the hearing was whether Xcel shall be required to bury the electric line at no cost or a reasonable cost, or whether some other relief would be appropriate.

At its January 3, 2002, meeting, the Commission considered how to proceed in this matter. The Commission voted to find that, if requested by the Complainant, Xcel shall bury the electric line consistent with the terms of its tariff, General Rules and Regulations, Section 5.5, Replacement of Overhead with Underground, A. General.

Based on the evidence of record, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On August 20, 2001, the Commission received a complaint filed by Dale Riedlinger, Sioux Falls, South Dakota, against Xcel. Mr. Riedlinger's complaint stated that Xcel did a very poor job of trimming his tree located near an overhead electric line. He requested that Xcel bury the electric line at no cost or a reasonable cost.

2. At the hearing, Mr. Riedlinger stated that Xcel's tree trimming contractor "did a very, very poor job" trimming his tree. TR. at 5. Mr. Riedlinger bought the property 15 years ago and the power line was there. TR. at 9. He stated that his neighbor to the north also would like his lines buried. TR. at 10. He stated that the electric line runs in front of his property for 170 feet and his neighbor's electric lines encompasses 250 feet. Id. He

requested that if the lines could not be buried then the poles should be moved closer to the road. TR. at 9.

3. Jim Wilcox, Xcel's manager of government and regulatory affairs, stated that Xcel trims trees for safety and reliability reasons. TR. at 18, 21. Xcel trims trees on a four-year cycle and the extent of trimming depends on the type of tree since trees have different growth rates. TR. at 24.

4. Mr. Wilcox explained the work that would need to be done to bury the line. TR. at 27-28. Pursuant to Xcel's tariff, a customer is responsible for the costs of burying an electric line. Exhibit F (General Rules and Regulations, Section 5.5, Replacement of Overhead with Underground, A. General). He stated that, based on the formula in the tariff, the estimated cost of the project was \$8,431.00. TR. at 29; Exhibit G. Mr. Wilcox stated that Xcel does not have a policy on how costs should be allocated if more than one customer requests the burying of an electric line. TR. at 43.

5. The overhead electric line is located in the public right of way near the property line. Exhibit B. In a letter dated October 24, 2001, in response to requests for further information from the Commission, Mr. Wilcox stated that "[w]henever a street is constructed, Xcel Energy works closely with City Planners to coordinate where our electrical facilities will be placed. Generally and virtually without exception, electrical facilities are placed at the outside edge of the public right of way or in some cases beyond the public right of way in private easement." Mr. Wilcox further noted that the street in question did not have a "curb to restrict errant traffic" and concluded that moving "the line closer to the road would be an extraordinary remedy at best and at worst could be an invitation to disaster."

6. The Commission declines to require Xcel to move the electric line due to safety concerns involved in placing the line closer to the street.

7. Xcel's tariff provides that Xcel "will replace its overhead facilities with underground facilities upon the request of a customer. . . ." Exhibit F (General Rules and Regulations, Section 5.5, Replacement of Overhead with Underground, A. General). The Commission finds that Mr. Riedlinger can request that the electric line be buried pursuant to the terms of Xcel's tariff and the formula for determining the costs. The Commission further finds that if Mr. Riedlinger's neighbor also requests that the electric line be buried, the costs should be apportioned based upon the length of the line that runs in front of each person's property.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-34A, including 49-34A-3, 49-34A-26, 49-34A-27, and 49-34A-58.

2. Pursuant to Xcel's tariff, a customer is responsible for the costs of burying an electric line. Exhibit F (General Rules and Regulations, Section 5.5, Replacement of Overhead with Underground, A. General).

3. The Commission finds that Mr. Riedlinger can request that the electric line be buried pursuant to the terms of Xcel's tariff and the formula for determining the costs. The Commission further finds that if Mr. Riedlinger's neighbor also requests that the electric line be buried, the costs should be apportioned based upon the length of the line that runs in front of each person's property.

It is therefore

ORDERED, that Mr. Riedlinger can request that the electric line be buried pursuant to the terms of Xcel's tariff and the formula for determining the costs. The Commission further finds that if Mr. Riedlinger's neighbor also requests that the electric line be buried, the costs should be apportioned based upon the length of the line that runs in front of each person's property.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 17th day of January, 2002. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 17th day of January, 2002.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u>Delaine Kolbo</u>
Date:	<u>1/17/02</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

ROBERT K. SAHR, Commissioner
abstaining

