

Consent Decree

I. Introduction

1. This Consent Decree is entered into by the Enforcement Bureau of the Federal Communications Commission ("Bureau") and Xcel Energy Inc.

II. Background

2. Xcel Energy Inc. is a Minneapolis-based electricity and natural gas energy company with annual revenues of nearly \$7 billion. Xcel provides energy-related products and services to three million electricity customers and 1.5 million natural gas customers through its regulated operating companies in 12 Western and Midwestern states.

3. On January 1, 1993, Western Gas Supply Company ("WGS") merged into Public Service Company of Colorado ("PSCO"), and ceased to exist. At the time of the merger, WGS held three private operational fixed microwave authorizations. Although this transaction effectuated a substantial transfer of control requiring prior Commission consent pursuant to Section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(d), the parties did not file an application for consent to the assignment of the three authorizations until July 14, 2000. The Commission granted the application on August 23, 2000.

4. On August 1, 1997, PSCO and Southwestern Public Service Company ("SPS") merged and became wholly-owned subsidiaries of a newly formed holding company, New Century Energies, Inc. ("NCE"). At the time of the merger, PSCO held approximately 107 microwave licenses and approximately 199 land mobile licenses; and SPS held approximately 72 microwave licenses and approximately 93 land mobile licenses. In addition, Cheyenne Light Fuel & Power Company (a subsidiary of PSCO) held seven land mobile licenses; Quixx Corporation (a subsidiary of SPS) held one land mobile license; and e prime Networks (a non-utility subsidiary of PSCO) held one land mobile license. As part of the merger transaction, the shareholders of PSCO received approximately 62% of the outstanding common stock of NCE, and shareholders of SPS received approximately 38% of the common stock of NCE. Consequently, as to PSCO, the merger constituted a *pro forma* transfer of control of the PSCO and its subsidiary-held licenses; and as to SPS, the merger constituted a substantial transfer of control of the SPS and its subsidiary-held licenses. NCE did not file appropriate applications for Commission consent to the transfer of these authorizations until July 14, 2000. All transfers have since been granted.

5. On March 13, 2000, e prime Networks dissolved, and control of the one land mobile station of which e prime Networks was the licensee was transferred to its parent, e prime, Inc., a wholly-owned subsidiary of NCE. Although this transaction effectuated a *pro forma* transfer of control requiring prior Commission approval, the parties did not file an application for Commission consent to the assignment of the license until July 14, 2000. The Commission granted the application on September 25, 2000.

6. Effective August 21, 2000, NCE merged with Northern States Power Company-Minnesota ("NSP-MN") and ceased to exist. NSP-MN, the surviving corporation, subsequently changed its name to Xcel Energy, Inc. As a result of the merger, SPS and PSCO (and their respective subsidiaries) became wholly-owned subsidiaries of Xcel Energy Inc. The parties to this transaction timely filed all required applications, and the applications have since been granted.

III. Definitions

7. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) "Commission" means the Federal Communications Commission.
 - (b) "Bureau" means the Commission's Enforcement Bureau.
 - (c) "Xcel" means Xcel Energy Inc.
 - (d) "Order" means the order of the Enforcement Bureau adopting this Consent Decree.
 - (e) "Final Order" means the Order that is no longer subject to administrative or judicial reconsideration, review, appeal, or stay.
 - (f) "Act" means the Communications Act of 1934, as amended, Title 47 of the United States Code.

IV. Agreement

8. Xcel agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

9. The Bureau and Xcel agree that this Consent Decree does not constitute an adjudication on the merits or any finding on the facts or law regarding any violations of the Act or the Commission's rules committed by Xcel.

10. Xcel agrees that it shall make a voluntary contribution to the United States Treasury in the amount of \$20,000 within 10 calendar days after the Bureau releases the Order adopting this Consent Decree.

11. Xcel agrees to implement, within 10 calendar days after the Bureau releases the Order adopting this Consent Decree, a comprehensive internal program, a summary of which is attached hereto, to ensure Xcel's future compliance with the Act, the Commission's rules, and the Commission's policies.

12. In express reliance upon the representations contained herein, the Bureau agrees to terminate its investigation into the matters discussed in paragraphs 3 - 6, above.

13. The Bureau agrees not to institute any new proceeding, formal or informal, of any kind against Xcel for apparent violations of Section 310(d) of the Act or Section 301 of the Act arising from the matters discussed in paragraphs 3 - 6, above.

14. In the event that Xcel is found by the Commission or its delegated authority to have engaged in a violation of Section 310(d) of the Act and/or Section 301 of the Act subsequent to the release of the Order adopting this Consent Decree, Xcel agrees that the conduct described in paragraphs 3 - 6, above, may be considered by the Commission or its delegated authority in determining an appropriate sanction.

15. Xcel waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent

Decree and the Order adopting this Consent Decree, provided the Order is limited to adopting the Consent Decree without change, addition, or modification.

16. Xcel and the Bureau agree that the effectiveness of this Consent Decree is expressly contingent upon issuance of the Order, provided the Order adopts the Consent Decree without change, addition, or modification.

17. Xcel and the Bureau agree that in the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

18. Xcel and the Bureau agree that if Xcel, the Commission, or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Order adopting this Consent Decree, neither Xcel nor the Commission shall contest the validity of the Consent Decree or Order, and Xcel and the Commission shall waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and shall consent to a judgment incorporating the terms of this Consent Decree.

19. Xcel agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, Title 5 U.S.C. § 504 and 47 C.F. R. § 1.1501 *et seq.*, relating to the matters discussed in paragraphs 3 - 6 , above.

20. Xcel agrees that any violation of the Order adopting this Consent Decree shall constitute a separate violation and subject Xcel to appropriate administrative sanctions.

21. Xcel and the Bureau agree to be bound by the terms and conditions stated herein.

22. Xcel and the Bureau agree that this Consent Decree may be signed in counterparts.

**ENFORCEMENT BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: _____
David H. Solomon
Chief

Date

Xcel ENERGY INC.

By: _____
Wayne H. Brunetti
President and Chief Executive Officer

Date

**SUMMARY OF COMPLIANCE PROGRAM
OF
Xcel ENERGY INC.**

Background

Xcel Energy Inc. was established in August of 2000 by the merger of Northern States Power Company and New Century Energies, Inc. Xcel is the parent of nine companies which hold FCC authorizations: Northern States Power Company, Northern States Power Company-Wisconsin, Viking Gas Transmission Company, Middletown Power LLC, Public Service Company of Colorado, Southwestern Public Service Company, Cheyenne Light Fuel & Power Company, e prime, Inc., and Quixx Corporation. Because of the scale of this merger, Xcel is still in the process of centralizing its operations and establishing a compliance program.

Corporate Compliance Program to Include FCC Regulations

Xcel's Section 310(d) compliance program is part of a larger FCC compliance program that involves the following elements: a compliance manual and a training program, which include identifying and handling potential transfers covered by Section 310(d).

Xcel Compliance Manual

A compliance manual is in the process of being drafted and will be updated as necessary. Xcel's licensing personnel will have ready access to the compliance manual and are to follow the procedures contained in it. Such personnel will also be encouraged to contact the company's law department with any questions they may have.

Compliance Training Program

Xcel, in conjunction with outside telecommunications counsel, will establish an FCC compliance training specifically geared to employees who engage in FCC licensing-related activities beginning in the first quarter of 2001. The program will include a thorough review of FCC transfer of control issues. It is anticipated that the training sessions will be conducted at least annually to ensure compliance with the Communications Act of 1934, as amended, and the FCC's regulations.

Internal Process

Xcel is establishing a centralized process for the handling of all FCC licensed facilities and related FCC applications and matters. This will help ensure that all FCC rules are being adhered to prior to and during any corporate restructuring, acquisitions, or related transactions. Xcel is sensitive to the requirements of 47 U.S.C. § 310(d) and will remain open to communications among its personnel in order to prevent any *pro forma* or substantive unauthorized assignments and/or transfers of control.