Future of the Renewable Development Fund (RDF)

<u>2011 RDF "Freeze" Legislation</u>

Laws 2011, chapter 97, section 32 suspended the authority of the public utilities commission to approve expenditures of the RDF until July 1, 2012. The suspension was in response to concerns raised by the office of the legislative auditor and to more generalized concerns about the wisdom of the fund legislation and operation. The intent of the suspension was to give time to the legislature during the interim before the 2012 session to address the RDF law.

<u>History</u>

The original RDF law (Laws 1994, chapter 641, article 1, section 10) required Xcel to transfer to an internal company account $500,000 per cask, per year, for each dry cask stored at Prairie Island after January 1, 1999. The law provided that funds in the account be expended only for development of renewable energy sources. The law was silent as to the administration and oversight of the account. The law was codified in Minnesota Statutes, section 116C.779.

Laws 1999, chapter 200, section 1, amended section 116C779, by requiring PUC approval for account expenditures and that preference be given to funding renewable energy source projects located in Minnesota.

Laws, 2003, 1st special session, chapter 11, article 2, section 1, amended section 116C.779 by eliminating the per cask contribution and instituting a flat $16,000,000 per year contribution each year Prairie Island was operating. A contingent $7,500,000 obligation was established for each year the plant was not in operation. Chapter 11 also provided the first legislative appropriation from the account. $6,000,000 was annually appropriated through 2017 for the purpose of making certain renewable energy production incentive (REPI) payments that had formerly been paid by the state general fund.

Laws 2005, 1st special session, chapter 1, article 4, section 14, increased the amount appropriated for renewable production incentives to $10,900,000 per year.

Laws 2007, chapter 57, article 2, section 9 required a $350,000 payment for cask storage at the Monticello nuclear plant in the same manner as provided for Prairie Island. Xcel was authorized to seek grants from the account.

Laws 2009, chapter 110, section 2 allocated $20,000,000 of account money to the University of Minnesota, Initiative for Renewable Energy and the Environment. Each July 1, from 2009 to 2012, $5,000,000 is so allocated. The last $5,000,000 allocation has been repealed.

Laws 2010, chapter 361, article 5, section 2 provided that the Prairie Island cask obligation is $500,000 per cask once there are at least 32 casks stored at Prairie Island. Section 3 allocated $21,000,000 for a solar rebate program codified as Minnesota Statutes, section 116C.7791.

Reasons for examining the RDF

It is always a good idea for the legislature to monitor and engage in oversight over legislative programs particularly those requiring expenditures. In no particular order the following are some reasons for examining the RDF program.

1. The original law was scant on details as to the operation and administration of the fund and to the purpose, manner, and method of fund expenditures. The public utilities commission, without explicit legislative guidance, has issued a series of orders regulating RDF activities
2. The number of casks and the duration of storage have increased substantially above that contemplated at the time of the original law with the result that substantially more money must be deposited in the fund than was originally anticipated.
3. The office of the legislative auditor issued a report in 2010 outlining some concerns about the RDF.
4. The renewable energy standard law enacted in 2007 (requiring non Xcel utilities to generate 25 percent of their electric power by renewable fuel by 2025, and Xcel 30 percent by 2020) required the development of renewable energy sources to the extent arguably, that the purpose of the RDF is met by that law.
5. Changes in the CIP law since the RDF law was enacted have allowed the use of up to 5 percent of required CIP expenditures to develop renewable electric generation.
6. The gradual phase out of REPI support by the RDF will make substantially more funding available for other RDF expenditures.

Questions to consider

The following is a nonexclusive list of questions.

1. Is the RDF law still needed given the many federal and state laws and programs promoting renewable energy sources enacted since the RDF was enacted in 1994?
2. What should be the statutorily defined purpose of the RDF?
3. What should be the required level of Xcel payments into the fund?
4. How should decisions regarding fund expenditures be made and approved?
5. What review of fund expenditures should exist?
6. How should the probable benefit to Xcel and its ratepayers be assessed and used in making fund expenditures?
7. How can fund expenditures be best leveraged and coordinated with other spending such as CIP or RES?
8. What is the proper role of the legislature in overseeing these expenditures?