

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger  
Nancy Lange  
Dan Lipschultz  
John A. Tuma  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Request of Minnesota Power  
for a Certificate of Need for the Great Northern  
Transmission Line

ISSUE DATE: June 30, 2015

DOCKET NO. E-015/CN-12-1163

ORDER GRANTING CERTIFICATE  
OF NEED WITH CONDITIONS

**PROCEDURAL HISTORY**

On October 21, 2013, Minnesota Power (the Company or the Applicant) filed an application under Minn. Stat. § 216B.243 and Minn. R. 7849.0120 A-D for a certificate of need for the Great Northern Transmission Line Project (project) from the United States/Canadian border to the Applicant's Blackberry Substation in Grand Rapids. The approximately 220 mile 500 kilovolt (kV) proposed project is to be located in Beltrami, Itasca, Koochiching, Lake of the Woods, and Roseau counties.

On January 8, 2014, the Commission issued an Order Accepting Filing, Varying Timelines, and Notice and Order for Hearing, referring the case to the Office Administrative Hearings (OAH) for contested case proceedings. The OAH assigned Administrative Law Judge (ALJ) Ann O'Reilly to preside over the matter.

The following parties participated in the certificate of need proceeding:

- Large Power Intervenors (LPI)<sup>1</sup>
- Residents and Ratepayers Against Not-So-Great Transmission (RRANT)<sup>2</sup>
- Department of Commerce Division of Energy Resources (Department)
- Minnesota Power

---

<sup>1</sup> The Large Power Intervenors are the following entities: ArcelorMittal USA (Minorca Mine); Boise, Inc.; Enbridge Energy, Limited Partnership; Hibbing Taconite Company; Mesabi Nugget Delaware, LLC; NewPage Corporation; PolyMet Mining, Inc.; Sappi Cloquet, LLC; UPM – Blandin Paper Company; USG Interiors, LLC; United States Steel Corporation (Keewatin Taconite and Minntac Mine); and United Taconite, LLC.

<sup>2</sup> In its petition to intervene, RRANT described itself as: “potentially directly affected landowners, farmers and residents and directly affected ratepayers within the immediate vicinity of the proposed Great Northern Transmission Line and in Minnesota in the service territory of Minnesota Power.”

On October 7, 8, 14, and 15, 2014, ALJ O'Reilly held seven public hearings in the cities of Roseau, Baudette, Littlefork, Kelliher, Bigfork, and Grand Rapids on the certificate of need proceeding. The ALJ accepted written comments into the record until December 3, 2014.<sup>3</sup>

On November 12 and 14, 2014, the ALJ conducted evidentiary hearings in this matter.

On January 16, 2015, the hearing record closed upon the filing of post-hearing briefs.

On March 16, 2015, the ALJ filed Findings of Fact, Conclusions of Law, and Recommendation (ALJ Report).

On March 31, 2015, the Department, LPI, and Minnesota Power filed exceptions to the ALJ Report.

The matter came before the Commission on May 13 and 14, 2015, for oral argument, and the record closed on May 14, 2015 after deliberation by the Commission.<sup>4</sup>

## **FINDINGS AND CONCLUSIONS**

### **I. Summary of Commission Action**

Finding that Minnesota Power has demonstrated the need for building the proposed transmission line, the Commission approves the Administrative Law Judge's Report and grants Minnesota Power a certificate of need with the following conditions:

- Limit Minnesota Power's recovery in riders to an amount equal to 28.3 percent of the total capital costs of the project or \$201 million (in 2013 dollars), whichever is less;
- Allow Minnesota Power to request recovery of any excess costs only in a rate case where the costs will be subject to full prudence review;
- Put Minnesota Power on notice that it will have the burden of demonstrating the prudence of any additional costs and to show why it would be reasonable to recover the additional costs from ratepayers given the representations made in this certificate of need proceeding;
- Require Minnesota Power to obtain prior approval from the Commission if it proposes to charge ratepayers for operation and maintenance costs greater than 33 percent of the project's total operations and maintenance (O&M) costs at any time in the future; and
- Require Minnesota Power to use the Commission's current externality values in all future certificate of need applications and certificate of need proceedings.

---

<sup>3</sup> Approximately 20 members of the public provided oral comments at the public hearings. Most comments were related to the route permit process.

<sup>4</sup> Minn. Stat. § 14.61, subd. 2.

## **II. The Proposed Project**

The proposed project is a 500 kV transmission line to be located between the province of Manitoba in Canada and the Blackberry Substation in Itasca County (approximately 200 miles). The project is part of a joint effort with Manitoba Hydro to construct a new Canada-United States transmission interconnection. The project is intended to provide hydropower and wind storage energy products to Minnesota Power's customers and will provide an additional 500 MW of transfer capacity from the line. The project is participant-funded. Manitoba Hydro has proposed to construct and have sole ownership of the Canadian portion of the new interconnection through a subsidiary—Manitoba Ltd. Minnesota Power will construct the Minnesota portion of the line. For the Minnesota portion of the project, Manitoba Hydro will own 49 percent of the project and Minnesota Power will own 51 percent of the project.<sup>5</sup>

Various contracts between Manitoba Hydro and Minnesota Power form the basis for the certificate of need application. The contracts, described below, provide for the exchange of wind and hydro energy intended for transmission by the project, and establish the relative financial responsibilities of the two entities.

## **III. Joint Minnesota Power/Manitoba Hydro Projects**

### **A. 250 MW Power Purchase Agreements with Manitoba Hydro**

In its 2010 resource plan, Minnesota Power projected an increase in energy needs as well as expected capacity deficits in the 2020 to 2035 timeframe. The Company stated that it intended to pursue a 250 MW power purchase agreement and a 250 MW Energy Exchange Agreement with Manitoba Hydro and build a new transmission line to deliver the power purchased. The Commission approved the agreements as well as an associated Energy Exchange Agreement on February 1, 2012.<sup>6</sup>

### **B. Renewable Optimization Agreements**

In 2014, Minnesota Power and Manitoba Hydro entered into a 133 MW Energy Sale Agreement and a 133 MW Energy Exchange Agreement (together referred to as Renewable Optimization Agreements). The agreements provide for an exchange of wind and hydro energy between the two companies, which allows Minnesota Power to send energy from its wind-generating facilities to Manitoba Hydro when wind production is high (and not needed for its customer load), and allows Manitoba to temporarily reduce its hydropower generation by decreasing the flow of water through its plants when Minnesota Power's wind is available, and later send power to Minnesota Power when wind production is low or customer needs high.

The Commission approved the agreements on January 30, 2015, clarifying that the action did not prejudice any issue in the certificate of need and site permit dockets.<sup>7</sup>

---

<sup>5</sup> Manitoba Ltd. has indicated that it plans to sell all or a portion of its share in the project to one or more United States utilities by mid-2016.

<sup>6</sup> *In the Matter of Minnesota Power's Request for Approval of a Power Purchase Agreement with Manitoba Hydro*, Docket No. E-015/M-11-938 (February 1, 2012).

<sup>7</sup> *In the Matter of Minnesota Power's Petition for Approval of a 133 MW Power Purchase Agreement with Manitoba Hydro*, Docket No. E-015/M-14-960 (January 30, 2015).

### **C. Facilities Construction Agreement**

In September 2014 Minnesota Power, Manitoba Hydro and the Midcontinent Independent System Operator (MISO) entered into a Facilities Construction Agreement (FCA) that set forth the ownership percentages and financial responsibilities for the project. The agreement requires Manitoba Hydro to provide an additional five percent of the project's capital costs as a contribution in aid of construction payment to Minnesota Power, in light of the additional transfer capacity accorded to the project.<sup>8</sup>

### **IV. Proceedings before the Administrative Law Judge**

The Office of Administrative Hearings assigned ALJ Ann O'Reilly to hear the case.

On August 8, 2014, Minnesota Power filed its direct testimony and on September 19, 2014, the Department and LPI filed their direct testimony. On October 24, 2014, Minnesota Power and the Department filed rebuttal testimony. On November 7, 2014, the Company, the Department and LPI filed surrebuttal testimony prior to the opening of evidentiary hearings.

After evidentiary hearings on November 12 and 14, 2014, the parties filed briefs and reply briefs. The Company also filed proposed findings of fact. LPI and the Department filed revisions to the proposed findings.

### **V. Public Comments**

Seven public hearings were held on the certificate of need proceeding. Some 20 members of the public provided oral comments during the public hearings. Most of the comments involved questions regarding the cost of the project, its relationship to other Minnesota Power facilities, the Company's contracts with Manitoba Hydro, as well as various route questions and objections. Most of the written comments related to route permit issues, including environmental and community impacts, decreased land values, and the placement of power lines on private land.

MISO submitted comments in support of the project, stating that it is the result of its collaborative transmission planning process and is necessary to address system needs through a series of long-term, firm transmission service requests.

John Dunn, a resident of Wisconsin, argued that hydropower from Manitoba is not "clean" energy, and that conservation, energy efficiency, load management, and locally produced solar power would provide greater benefits for the cost. Luis Contreras, an Arkansas resident, submitted several letters arguing that Minnesota Power has not proven that there is a public need for the project, and that a power purchase agreement does not establish one.

---

<sup>8</sup> See, ALJ Report, Findings 129 - 131.

## **VI. Legal Standard for a Certificate of Need**

### **A. The Original Statutory Factors**

The certificate-of-need statute identifies twelve factors for the Commission to consider in evaluating the need for a proposed large energy facility.<sup>9</sup>

No proposed large energy facility shall be certified for construction unless the applicant can show that demand for electricity cannot be met more cost effectively through energy conservation and load-management measures and unless the applicant has otherwise justified its need. In assessing need, the commission shall evaluate:

- (1) the accuracy of the long-range energy demand forecasts on which the necessity for the facility is based;
- (2) the effect of existing or possible energy conservation programs under sections 216C to 216C.30 and this section or other federal or state legislation on long-term energy demand;
- (3) the relationship of the proposed facility to overall state energy needs, as described in the most recent state energy policy and conservation report prepared under section 216C.18, or, in the case of a high-voltage transmission line, the relationship of the proposed line to regional energy needs, as presented in the transmission plan submitted under section 216B.2425;
- (4) promotional activities that may have given rise to the demand for this facility;
- (5) benefits of this facility, including its uses to protect or enhance environmental quality, and to increase reliability of energy supply in Minnesota and the region;
- (6) possible alternatives for satisfying the energy demand or transmission needs including but not limited to potential for increased efficiency and upgrading of existing energy generation and transmission facilities, load-management programs, and distributed generation;
- (7) the policies, rules, and regulations of other state and federal agencies and local governments;
- (8) any feasible combination of energy conservation improvements, required under section 216B.241, that can (i) replace part or all of the energy to be provided by the proposed facility, and (ii) compete with it economically;
- (9) with respect to high-voltage transmission lines, the benefits of enhanced regional reliability, access, or deliverability to the extent these factors improve the robustness of the transmission system or lower costs for electric customers in Minnesota;

---

<sup>9</sup> Minn. Stat. § 216B.243, subd. 3. As initially enacted, the statute identified eight factors to consider. The Legislature subsequently amended the statute to add four additional factors (Factors 9-12).

- (10) whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691 and 216B.2425, subdivision 7, and have filed or will file by a date certain an application for certificate of need or for certification as a priority electric transmission project under section 216B.2425 for any transmission facilities or upgrades identified under section 216B.2425, subdivision 7;
- (11) whether the applicant has made the demonstrations required under subdivision 3a; and
- (12) if the applicant is proposing a nonrenewable generating plant, the applicant's assessment of the risk of environmental costs and regulation on that proposed facility over the expected useful life of the plant, including a proposed means of allocating costs associated with that risk.

The statute also prohibits the Commission from granting a certificate of need unless the application demonstrated that the need for electricity could not be met more cost effectively through energy conservation and load management.<sup>10</sup> Finally, the statute also directs the Commission to “adopt assessment of need criteria to be used in the determination of need for large energy facilities pursuant to the section.”<sup>11</sup>

## **B. The Commission's Rules**

In compliance with its statutory obligation to establish assessment-of-need criteria, in 1983 the Commission adopted the certificate-of-need rules, Minn. R. Ch. 7849. One of those rules, Minn. R. 7849.0120, addressed the factors identified in the statute and directed the Commission to issue a certificate of need when the applicant demonstrates that:

- A. the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states;
- B. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record;
- C. by a preponderance of the evidence on the record, the proposed facility, or a suitable modification of the facility, will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health; and
- D. the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

---

<sup>10</sup> *Id.*, subd. 3.

<sup>11</sup> *Id.*, subd. 1.

## **VII. Positions on the Merits**

### **A. Minnesota Power**

Minnesota Power has proposed to construct a 500 kV high-voltage transmission line from the Canadian border to a substation near Blackberry. The Company proposed to complete the project in partnership with Manitoba Hydro, a Canadian company based in Winnipeg, Manitoba.

According to Minnesota Power, the project is needed to enable additional deliveries of energy to meet the needs of Minnesota Power and its customers, as well as to increase regional transmission system reliability, transfer capability, and optimization of renewable energy resources. Specifically, the articulated need for the project is to provide better access to Manitoba Hydro's hydropower generation stations and to facilitate storage of wind power so as to address the Company's industrial load concentration and the anticipated new load in its service territory in the 2020 time period.

According to the Company, the project is designed to address the following needs:

- To deliver the power called for under 1) the Commission-approved 250 MW System Power Sale Agreement and Energy Exchange Agreement between the Company and Manitoba Hydro, and 2) the 133 MW Renewable Optimization Agreement; and
- State and Regional Needs, including 1) delivery of the power called for in other power purchase agreements that Manitoba Hydro is pursuing, 2) provision of economic benefits to the entire MISO footprint, and 3) provision of reliability benefits during outages of the existing 500 kV line between Manitoba and Minnesota.

Specifically, the project is designed to deliver some 383 MW of hydropower and wind storage energy products to Minnesota Power's customers and will provide an additional 500 MW of transfer capacity from the line. The project is planned in conjunction with related transmission facilities to be owned by Manitoba Hydro. After completion of the project, the proposed Great Northern Transmission Line will be maintained by Minnesota Power and operated by MISO.

### **B. The Department**

There were no unresolved issues between the Department and Minnesota Power in this proceeding. After analysis of the record under Minn. R. 7849.0120 and Minn. Stat. § 216B.243, subd. 3, the Department concluded that the project is needed in Minnesota, neighboring states, and the region, and that a more reasonable alternative has not been demonstrated. In its January 16, 2015 filing, the Department recommended that the Commission approve the proposed project conditioned on the following requirements, with which Minnesota Power agreed:

- Approving the Company's 133 Renewable Optimization Agreements (second ESA and EEA) and the Facilities Construction Agreement (approved by the Federal Energy Regulatory Commission);<sup>12</sup>

---

<sup>12</sup> The Commission approved the 133 MW power purchase agreement with Manitoba Hydro in its January 30, 2015 order in Docket No. E-015/M-14-960.

- Ordering the Company to use the Commission’s externality values in future certificate of need proceedings; and
- Ordering the following “soft cap” on cost recovery:
  - 1) Limit the Company’s recovery in riders to the amount of costs that it proposed in this proceeding;
  - 2) Allow the Company to recover costs above the amount in the certificate of need only in a rate case; and
  - 3) The Company would have the burden of proof to show that any such costs are prudent and why it would be reasonable to recover such costs from ratepayers.

### **C. LPI**

LPI did not oppose granting a certificate of need for the project. However, LPI made three recommendations regarding cost recovery and cost allocation in this proceeding, including 1) its proposed use of alternative for funds used during construction (AFUDC) in lieu of current recovery (through construction work in progress, or CWIP; 2) rider cost recovery, and 3) cost allocation issues. LPI echoed these arguments in its exceptions. While acknowledging that these issues are generally addressed in ratemaking or rider proceedings rather than certificate of need proceedings, LPI asserted that the facts of this proceeding are unique and mandate accruing AFUDC, as well as rider recovery for at least five years after the project is placed in service. These issues are discussed below.

### **D. RRANT**

In its written arguments,<sup>13</sup> RRANT recommended that the Commission deny a certificate of need for the proposed project because the Company had neither met its burden of proof nor its burden of production, and, therefore, has not justified the need for the project. RRANT argued that the project is oversized when compared to the level of need claimed by the Company, and that a smaller 230 kV transmission line would meet the Company’s claimed need. RRANT also claimed that the proposed project is but a single segment of a much longer planned transmission line, and that no studies have examined the benefits of this section as a separate project.

Finally, in the alternative, RRANT requested that the Commission impose the conditions requested by the Department and LPI, should the ALJ recommend that the certificate of need be approved.

## **VIII. The ALJ Report**

On March 16, 2015, the ALJ filed her Findings of Fact, Conclusions of Law, and Recommendation. The ALJ Report is well reasoned, comprehensive, and thorough. The ALJ held a formal evidentiary hearing and seven public hearings. She reviewed the testimony of all witnesses and related hearing exhibits. She heard testimony from members of the public who appeared at the public hearings and read all written comments submitted by members of the public.

---

<sup>13</sup> RRANT filed no testimony or exceptions in this proceeding.



The ALJ received and reviewed initial and reply post-hearing briefs from the parties, as well as the Company’s proposed findings of fact and conclusions of law. The ALJ made some 329 findings of fact, 27 conclusions of law, and four recommendations. She also proposed that five conditions be imposed on the Applicant. Some 121 findings of fact specifically addressed the need criteria set forth above (Findings 162-283). The ALJ Report also included a summary of the public comments made in this proceeding.

The Commission has itself examined the record, considered the report of the Administrative Law Judge, considered the exceptions to that report, and heard oral argument from the parties. Based on the entire record, the Commission concurs in most of the Administrative Law Judge’s findings and conclusions. On some issues, the Commission will accept the clarifications or minor modifications proposed by the parties, and delineated below. On all other issues, the Commission accepts, adopts, and incorporates the ALJ’s findings, conclusions, and recommendations.

In her Report, the ALJ concluded that Minnesota Power has satisfied the criteria set forth in Minnesota Stat. § 216B.243 as incorporated into Minn. R. 7849.0120. Citations to the ALJ’s Findings and Conclusions relevant to Part 7849 are set forth below:

<b>Minn. Rules, 7849.0120</b>	<b>ALJ Finding and Conclusion</b>
“A certificate of need shall be granted to the applicant if it is determined that:	Conclusion 19
A. the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant’s customers, or to the people of Minnesota and neighboring states	Findings 168 and Conclusion 21
(1) the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;	Findings 169-185 (with Finding 185 as amended <i>infra</i> ); Findings 186-187
(2) the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;	Findings 188-193 Conclusion 20
(3) the effects of promotional practices of the applicant that may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974;	Findings 194 - 198
(4) the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand; and	Findings 199-210
(5) the effect of the proposed facility, or a suitable modification thereof, in making efficient use of resources.	Findings 211-223

B. A more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record, considering:	Finding 224 and Conclusion 22 and 24
(1) the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives;	Findings 225-231; Findings 232-261
(2) the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives;	Findings 232-262
(3) the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives; and	Findings 262- 266; Findings 268-280
(4) the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives.	Findings 262-266
C. By a preponderance of the evidence on the record, the proposed facility, or a suitable modification of the facility, will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health.	Findings 268-280 and Conclusion 25
D. The record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.	Findings 281-283 and Conclusion 26

On the basis of this analysis, the ALJ recommended that the Commission grant a Certificate of Need to Minnesota Power for the construction of the new transmission line.

Finally, the ALJ Report concluded that: the project will: 1) enable the delivery of needed capacity and energy resources to Minnesota Power and its customers; 2) optimize Minnesota Power's wind energy resources; 3) diversify Minnesota Power's supply portfolio and reduce its dependence on coal-based energy sources; 4) reduce the risks of future emissions regulations; 5) support State and regional energy needs; and 6) enhance the efficiency and reliability of the transmission system.<sup>14</sup>

---

<sup>14</sup> ALJ Report, Conclusion of Law, 23, page 67.

The ALJ Report recommended the following with respect to the proposed certificate of need:

- That the Commission grant a Certificate of Need to Minnesota Power for the construction of the Great Northern Transmission Line and associated facilities;
- That the Commission impose the following conditions on the Certificate of Need:  
(1) limit Minnesota Power's recovery in riders to an amount equal to 28.3 percent of the total capital costs of the project or \$201 million (in 2013 dollars), whichever is less;  
(2) allow Minnesota Power to request recovery of any excess costs only in a rate case where the costs will be subject to full prudence review; and (3) put Minnesota Power on notice that it will have the burden of demonstrating the prudence of any additional costs and show why it would be reasonable to recover the additional costs from ratepayers given the representations made in this certificate of need proceeding;
- That the Commission require Minnesota Power to obtain prior approval from the Commission if it proposes to charge ratepayers for operation and maintenance costs greater than 33 percent of the project's total operations and maintenance (O&M) costs at any time in the future; and
- That the Commission require Minnesota Power to use the Commission's current externality values in all future certificate of need applications and certificate of need proceedings.<sup>15</sup>

## **IX. Proposed Modifications to the ALJ Report**

In its Exceptions, Minnesota Power recommended numerous minor modifications to the ALJ Report that include technical corrections and clarifications to which no party has objected. These proposed modifications, as well as certain other minor modifications, are set forth below:

### **Finding 35**

This Finding states that the Company's March 14, 2014 filing was its Notice Plan. Minnesota Power advised that the March 14, 2014 filing was a compliance filing regarding implementation of the Notice Plan. The Commission concurs with Minnesota Power and will therefore strike Finding 35 as recommended.

35. ~~Minnesota Power served its Notice Plan on stakeholders and local governments on March 14, 2014.~~<sup>44</sup>

<sup>44</sup> ~~Ex. 63 (Mailed Notice Plan).~~

### **Findings 76, 125, 131, and 132**

Minnesota Power raised concerns that in footnote 110 to Finding 76, the ALJ stated that it is difficult to decipher which Manitoba Hydro entity is responsible for various obligations under the FCA. Minnesota Power asserted that the record does contain information related to the

---

<sup>15</sup> ALJ Report Recommendation, page 68-69.

specific entities responsible for Contribution of Construction Payments and Must Take Fees provided in the FCA agreement. Minnesota Power recommended deleting footnote 110 to Finding 76, and referring to Manitoba Hydro as the Sub, to clarify the language of Findings 125, 131, and 132.

The Commission concurs with the Company that the record contains adequate information regarding the responsibilities of these entities, and will delete footnote 110 to Finding 76. The Commission will also, instead of adopting Minnesota Power's recommendation to refer to the entity as Sub, replace the words Manitoba Hydro in these Findings with 6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro, (Manitoba Hydro Ltd.) as used in the FCA.

Footnote 110 to Finding 176

~~<sup>110</sup> Throughout this proceeding, Manitoba Hydro has referred to Manitoba Ltd. as "Manitoba Hydro." Therefore, it is difficult to decipher which entity is responsible for various obligations, including the contribution of construction payments and Must Take Fees provided for in the various agreements described in this Report.~~

125. In acknowledgement of the additional capacity associated with the Project due to the addition of the 133 MW ROAs (resulting in a total transmission capacity of 883 MW as opposed to the original estimate of 750 MW), the FCA includes provisions requiring Manitoba Hydro 6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro (Manitoba Hydro Ltd) to provide an additional five percent Contribution in Aid of Construction (CIAC) payment to Minnesota Power.

131. Minnesota Power reduced its financial obligation for capital costs in the Manitoba Hydro Agreements through two contractual provisions. First, under the 133 MW ROAs, Manitoba Hydro is responsible for a Must Take Fee, which Minnesota Power asserts is equal to 17.7 percent of the Project's total capital and O&M costs. Second, in recognition of the additional transfer capacity, Manitoba Hydro 6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro (Manitoba Hydro Ltd.) agreed to provide a five percent CIAC payment to Minnesota Power, further reducing Minnesota Power's total financial obligation.

132. As a 51 percent owner of the Project, Minnesota Power would normally be expected to pay 51 percent of both the Project's capital costs as well as on-going O&M costs. However, as a result of Manitoba Hydro's 6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro (Manitoba Hydro Ltd.) five percent CIAC obligation provided for in the FCA, Minnesota Power's financial responsibility for the Project's capital costs is reduced from 51 percent to 46 percent (51% - 5% CIAC = 46%).

### **Findings 101 and 105**

Minnesota Power recommended deletion of these Findings, asserting that the record contains evidence of the need for the power and need for the project. The Commission agrees with the Company that the Findings are unnecessary and deletion is appropriate.

~~101.— Minnesota Power did not present specific evidence of increased need for energy or capacity in this proceeding, relying instead on the Commission's approval of its 2010 IRP.~~

~~105. The 250 MW Agreements were approved by the Commission in 2012.<sup>157</sup> Minnesota Power relies on the Commission's approval of its 2010 IRP and the 250 MW Agreements to establish the accuracy of its forecast of demand as well as the need for more electricity and capacity for its customers.~~

~~157. In the Matter of Minnesota Power's Petition for Approval of a 250 MW Power Purchase Agreement with Manitoba Hydro, PUC Docket No. E015/M-11-938, ORDER (February 1, 2012).~~

### **Finding 117**

Minnesota Power recommended deletion of this Finding, asserting that Finding 131 accurately represents the financial obligations related to the Must Take fee. The Commission concurs that deletion of this Finding is therefore appropriate.

~~117. Because the energy provided by the ROAs is in excess of the amount needed by Minnesota Power, the ROAs require Manitoba Hydro to pay for the additional transmission delivery costs for the energy associated with the 133 MW ESA through a monthly fee for the term of the EEA.<sup>179</sup>~~

<sup>179</sup> ~~Ex. 43 at 18 (Rudeck Direct).~~

### **Finding 140**

Minnesota Power proposed that Finding 140 be clarified as set forth below. The Commission concurs and so modifies.

140. For the purpose of this proceeding, it is important for the Commission to ensure that when Manitoba Ltd. divests itself of its shares, Minnesota Power ratepayers are not left liable for any more than 28.3 percent of the Project's capital costs or any more than 33.3 percent of the O&M expenses of the Project. Otherwise, all of the important financial justifications presented by Minnesota Power in support of the Project are meaningless could be lost.

### **Finding 142**

Minnesota Power proposed that Finding 142 be deleted, stating that the testimony provided was consistent with the testimony regarding the financial obligations of the parties set out in Finding 141. The Commission agrees that this Finding is unnecessary, and will delete it, as Finding 147 and Recommendation 32 of the ALJ Report address these aspects of the parties' prospective financial obligations and ownership interests.

~~142. — As summarized below, the testimony provided by Minnesota Power witnesses was not entirely consistent with this table.~~

### **Findings 146 and 148**

Minnesota Power recommended the following changes to Findings 146 and 148 to clarify Manitoba Hydro Ltd.'s responsibility for operations and maintenance expenses of the project if it transfers its shares. With respect to Finding 146, the Commission concurs that the record supports Minnesota Power's share of the financial responsibility for operations and maintenance

expenses as 33.3 percent, as set forth below. As in previous Findings, the Commission will also replace the words Manitoba Hydro with 6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro, as used in the FCA in these Findings, instead of adopting Minnesota Power's recommendation to refer to the entity as Sub.

~~146. What is less clear in the record, however, is what happens with Manitoba Ltd.'s 49 percent share of the O&M expenses upon a transfer of all shares of the Project to Minnesota Power. Minnesota Power appears to assert, but no witness testified to the fact that, Manitoba Hydro will remain liable for 49 percent of the expenses. Regarding operations and maintenance expenses, the record demonstrates that whether 6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro (Manitoba Hydro Ltd.) transfers its shares to Minnesota Power or assigns its shares to a third party, Minnesota Power will continue to be responsible for only 33.3 percent of the operations and maintenance costs associated with the Project. (Ex. 40, p. 8.)~~

Minnesota Power recommended deletion of the following language from Finding 148:

~~148. The Administrative Law Judge adopts this recommendation as a reasonable one, given the representations made by Minnesota Power in this proceeding and the ambiguity in its witnesses' testimony.~~

The Commission does not agree with Minnesota Power that the ALJ's Finding requires any change or modification, and will retain the original language in the ALJ Report, without the proposed deletion.

### **Finding 152**

Minnesota Power recommended that Finding 152 be deleted entirely, as not supported by the record. The Commission agrees that the Finding is largely unnecessary, as ALJ Recommendation # 2 addresses this item. The Commission will modify the Finding, however, as set forth below, to clarify that only a pro-rated share of capital costs revenue requirements and operation and maintenance revenue requirements for those shares may be borne by Minnesota Power ratepayers if the transfer of shares is to Minnesota Power (or one of its subsidiaries).

~~152. If Manitoba Ltd. transfers all or part of its 49 percent interest in the Project to another MISO transmission owner, Manitoba Hydro has no responsibility for the corresponding shares or financial obligations. In that scenario, Minnesota Power must ensure the new assignee will assume Manitoba' Ltd.'s 49 percent share of both the capital and O&M expenses as part of the transaction. Should the sale of shares from 6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro, transfer to Minnesota Power and/or one of its subsidiaries, potential capital costs revenue requirements and operation and maintenance revenue requirements for those shares will not be borne by Minnesota Power ratepayers without preapproval by the Commission.~~

### **Finding 155**

Minnesota Power recommended that the final sentence of Finding 155 be modified to more accurately reflect the record. The Commission concurs that the proposed language provides additional clarity with respect to the record, and will so modify.

155. Minnesota Power represents to the Commission in this proceeding that it will not consent to any transfer of shares from Manitoba Ltd. to a third party unless the third party assumes all of Manitoba Ltd.'s 49 percent share in the Project expenses (both capital costs and O&M expenses). This is a material representation that Minnesota Power must be held accountable for in the future. Otherwise, Minnesota Power could be saddled with financial liability for the Project well in excess of the 28.3 percent of capital costs and the 33.3 percent of O&M costs asserted in this case. Such a change in financial circumstances would negate the important financial justifications for the Project articulated by Minnesota Power. for the Project itself.

### **Finding 169 and 170**

Minnesota Power recommended deletion of Finding 169 and proposed alternative language, as well as modification of Finding 170. The Company asserted that Finding 169 mischaracterizes the record evidence on the need for the energy and capacity to be delivered by the Project. The Commission agrees that ALJ Finding 169 should be deleted, but will replace it with the language set forth below, in lieu of the language proposed by Minnesota Power.

~~169.— No specific evidence or testimony was presented by Minnesota Power in this proceeding to demonstrate a projected increase in the need for energy or capacity. Rather, the Company relies upon the analyses presented to the Commission in its 2010 Integrated Resource Plan,<sup>236</sup> 2013 Integrated Resource Plan,<sup>237</sup> Petition for Approval of the 250 MW Agreements,<sup>238</sup> and Petition for Approval of the 133 MW ROAs.<sup>239</sup>~~

~~236— In the Matter of Minnesota Power's Application for Approval of its 2010-2024 Resource Plan, PUC Docket No. E015/RP-09-1088, PETITION (October 5, 2009).~~

~~237— In the Matter of Minnesota Power's Application for Approval of its 2013-2027 Resource Plan, PUC Docket No. E015/RP-13-53, INITIAL FILING—RESOURCE PLAN (March 1, 2013).~~

~~238— In the Matter of Minnesota Power's Petition for Approval of a 250 MW Power Purchase Agreement with Manitoba Hydro, PUC Docket No. E015/M-11-938, PETITION— (September 16, 2011).~~

~~239— In the Matter of Minnesota Power's Petition for Approval of a 133 MW Power Purchase Agreement with Manitoba Hydro, PUC Docket No. E015/M-14-960, PETITION— (November 6, 2014).~~

New 169. ~~No specific evidence or testimony was presented by Minnesota Power in this proceeding to demonstrate a projected increase in the need for energy or capacity. Rather, the Company~~ Minnesota Power relied in part upon the analyses presented to the Commission in its 2010 Integrated Resource Plan, 2013 Integrated Resource Plan, Petition for Approval of the 250 MW Agreements, and Petition for Approval of the 133 MW ROAs. The record also identifies the need for the power to be delivered under both the 250 MW Agreements and the ROAs, and made possible by the Project.<sup>240</sup>

<sup>240</sup> Testimony of Mr. Rudeck (Ex. 43, pp. 9-13), the Commission Order approving the 250 MW Agreements (Ex. 12), Minnesota Power's 2013 Advanced Forecast Report (AFR) (Ex. 18), MP's 2014 AFR, (Ex.43, Schedule1) 11 and MP's 2013 Resource Plan filing (Ex. 20).

The Commission also agrees that the Company's proposed changes to Finding of Fact 170 provide clarity, and will so adopt.

170. No evidence was presented by the other Parties to this proceeding to negate the accuracy of ~~the Minnesota Power's forecasts for demand or its testimony regarding the need for the energy and capacity provided for in the 250 MW Agreements and ROAs and to be delivered by the Project. presented by Minnesota Power in the other~~ dockets.

### **Findings 182-184**

Minnesota Power asserted that these findings improperly attempt to tie the Renewable Optimization Agreements (ROAs) to the Company's 2013 resource plan. Minnesota Power recommended that Finding 182 and 183 be deleted, and Finding 184 modified to delete the introductory word, "nonetheless." The Commission concurs that these changes clarify the record.

~~182 The Company's 2013 IRP did not identify the need for the 133 MW ROAs.~~

~~183. It is unclear from the record whether the execution of the 133 MW ROAs is in response to the need for additional energy cited in the Commission's order approving Minnesota Power's 2013 IRP.~~<sup>259</sup>

<sup>259</sup> Ex. 43 at 15-16 (Rudeck Direct).

184. ~~Nonetheless,~~ The Commission approved the 133 MW RPAs in January 2015, adopting the DOC-DER's recommendation and ultimate conclusion that the 133 MW ROAs are needed to meet Minnesota Power's need for additional energy and capacity.<sup>260</sup>

### **Finding 185**

Both Minnesota Power and the Department recommended that ALJ's Finding 185 be deleted and replaced with language that more accurately reflects the Department's evaluation of project need in this case, based on the testimony of the Department's witness Shah. The Commission finds that the Department's proposal most accurately reflects the record in this matter, providing additional context to the ALJ Finding, and will so adopt.

~~ALJ 185. — In this proceeding, the DOC-DER did not perform an analysis of the 2010 AFR or 2013 AFR, nor did it develop alternative forecasts to determine if Minnesota Power has a need for energy and capacity. Rather, the DOC-DER concluded that the issue of need has been adequately reviewed and accepted by the Commission in the 2010 Resource Plan Docket, 250 MW PPA Docket, and 2013 Resource Plan Docket.~~<sup>261</sup>

~~Therefore, the DOC-DER summarily concurs with Minnesota Power that a need exists for the proposed Project.~~<sup>262</sup>

<sup>261</sup> Ex. 52 at 3-11 (Shah Direct).

<sup>262</sup> Id.



DOC 185. In this proceeding, the DOC-DER did not perform an analysis of the 2010 AFR or 2013 AFR, nor did it develop alternative forecasts to determine if Minnesota Power has a need for energy and capacity. Rather, the DOC-DER concluded that the issue of need has been adequately reviewed and accepted by the Commission in the 2010 Resource Plan Docket, 250 MW PPA Docket, and 2013 Resource Plan Docket, based on analyses conducted by the Department in those proceedings. Further, the Department noted that the requested certificate of need is required to deliver a generation resource that the Commission has already authorized. However, the Department confirmed in this proceeding that recent sales data for Minnesota Power shows that the 250 MW of generation continues to be needed to serve MP's customers reliably. Therefore, the DOC-DER confirmed that ~~summarily concurs with~~ Minnesota Power has ~~that~~ a need exists for the proposed Project.

### **Findings 310 and 314**

The Commission makes the following modifications to clarify Findings 310 and 314 and more accurately reflect the Commission's position on these matters.

310. The Commission has ~~consistently~~ approved transmission cost recovery (TCR) filings that provide for "a current return on construction work in progress" (CWIP). ~~To deny Minnesota Power the ability to make such a filing would mark a significant departure from Commission precedent as detailed below.~~

314. ~~In every Commission order to date~~ Minnesota Power has been allowed to recover a current return on CWIP for transmission projects that have not yet been placed in service, consistent with Minn. Stat. 216.16, subd. 7b(b)(5).

## **X. Disputed Cost Recovery Issues**

The Large Power Intervenors did not dispute the need for the project, but raised numerous cost recovery concerns that were addressed by the parties and the Administrative Law Judge, including whether to impose a "soft" or "hard" cap on Minnesota Power's cost recovery in this proceeding and whether to address other rate-related issues in this proceeding. LPI repeated these arguments in its Exceptions to the ALJ Report.

## **XI. Capping Cost Recovery**

### **A. Positions of the Parties**

#### **1. Large Power Intervenors**

LPI recommended that the Commission prohibit cost recovery for the project above the cost estimate cited in the Facilities Construction Agreement (\$676,947,930), to impose a "hard cap" on cost recovery. LPI argued that such a cap is necessary to ensure that the Company's ratepayers benefit from the claimed value of the project, as well as the related Minnesota Power/Manitoba Hydro projects. LPI asserted that a hard cap, which would prohibit recovery of costs over the level initially set in the certificate of need, is needed, as Minnesota Power has increased its estimated project cost several times since the project application was filed.

Further, while LPI agreed that the more typical “soft cap” might be appropriate for transmission lines being constructed in anticipation of generation in the region, a hard cap is appropriate in the narrow circumstances present in this matter. LPI argued that as the cost of the project is similar to the cost of the natural gas-fired combined cycle alternative presented in this proceeding, no cost above the Company’s projection would be reasonable or prudent for ratepayers to bear.

Finally, LPI reasoned that the hard cap it proposed is reasonable, as it is greater than the midpoint between the range midpoint and the upper end of the range used by the Company for the Facilities Construction Agreement, and includes some \$92 million for contingencies that might be encountered during the routing process. LPI proposed a number of changes to the ALJ’s Findings and Conclusions as they relate to its position on its proposed hard cap.

## **2. The Department**

The Department first argued that it is not necessary to address the issue of a cost cap at this time, because cost recovery is usually addressed in a subsequent rider or rate case proceeding. The Department recommended that, in lieu of the hard cap recommended by LPI, the Commission adopt a “soft cap” on costs, consistent with the Commission’s general ratemaking approach, and conditions regarding future cost recovery, consistent with its approach in other recent certificate of need cases.

To protect ratepayers from unreasonable cost overruns, the Department recommended that the Commission impose the following conditions: 1) limit recovery in riders to only the amount of costs proposed in this proceeding; 2) allow the Company to request recovery of costs over the certificate of need amount only in a rate case; and 3) impose the burden of proof on the Company to show that any such costs are prudent and why it would be reasonable to recover such costs from ratepayers.

Finally, the Department argued that a hard cap on costs is not appropriate because such an approach could incent the Company to incur non-capital intensive costs in lieu of capital costs, which could lead to higher total costs for ratepayers.

## **3. Minnesota Power**

Minnesota Power agreed with the Department’s recommendation to impose a soft cap on cost recovery in this proceeding instead of a hard cap, noting that it would be consistent with the Commission’s approach in other recent cases.<sup>16</sup> Minnesota Power asserted that with a soft cap the Commission still retains the power to disallow costs not prudently incurred. Imposition of a soft cap, however, allows a utility to recover unforeseen but prudently incurred costs not anticipated during the certificate of need proceeding.

The Company further noted that, with respect to potential costs above current cost estimates, it agrees to proactively report any significant changes to the projected total project cost, both in its annual transmission rider filings and as a compliance filing in this docket.

---

<sup>16</sup> See, e.g., Dockets E-015/M-12-920 (November 5, 2013) and ET-6675/CN-12-1053 (November 25, 2014).

## **B. Recommendation of the Administrative Law Judge**

The Administrative Law Judge recommended that the Commission reject the hard cap on cost recovery proposed by LPI, and instead adopt the more typical soft cap on cost recovery recommended by the Department and the Company.

The ALJ recommended that the Commission continue its practice of limiting cost recovery in riders to the costs put forward by an applicant in certificate of need proceedings. However, the ALJ also noted that the Commission has recognized that cost overruns can be prudently incurred, and should be fairly compensated, when a utility is faced with unanticipated complications during the routing proceeding. Accordingly, the ALJ recommended that the Commission cap the Company's rider cost requests at the lesser of 1) 28.3 percent of the project's total capital costs; or 2) \$201 million (in 2013 dollars), the high end of Minnesota Power's current estimate of the amount customers will pay for the project.

The Administrative Law Judge also recommended that the Commission condition approval of the certificate of need on the additional cost recovery criteria specified by the Department and set forth above.

## **C. Commission Action**

The Commission concurs with the Administrative Law Judge and accepts her findings, conclusions, and recommendations regarding rejection of the hard cap cost recovery recommended by LPI. Instead, the Commission will impose the soft cap on cost recovery recommended by the ALJ, the Department, and the Company in these proceedings.

The Commission also concurs with the ALJ and the parties that issues regarding the details of cost recovery are not directly relevant to the issue of need, and will be more appropriately addressed in a future rider or rate case proceeding. The Commission agrees, however, that it is reasonable to put Minnesota Power on notice about its future cost recovery options for the project.

Finally, the Commission acknowledges and accepts the Company's promise to proactively report to the Commission any significant changes to projected total project costs in its rider filings and in this docket.

## **XII. Other Cost Recovery and Cost Allocation Proposals**

### **A. AFUDC**

#### **1. Positions of the Parties**

LPI argued that the Commission should condition approval of the certificate of need application on Minnesota Power's accrual of AFUDC and allow recovery of those funds only after the project is placed in service. LPI agreed with Minnesota Power and the Department that the Commission has heretofore consistently approved transmission cost recovery filings that provide for a current return (CWIP), but argued that until now no party has ever protested such a request. Despite the specific statutory authorization for current recovery, LPI argued that the delayed recovery provided under AFUDC recovery still allows the Company an eventual recovery of its

costs. Further, LPI concluded that there is no evidence in the record to demonstrate that a current return is necessary for Minnesota Power to maintain its financial health.

Minnesota Power argued that LPI's recommendation is contrary to law and sound public policy. The Company argued that there is specific legislative authorization for its current CWIP recovery.<sup>17</sup> The Department argued that delayed recovery would increase the project's overall revenue requirements, could harm the Company's cash flow and financial ratings, and should be denied. Both parties argued that the Commission should not address cost recovery issues in this proceeding, as ratepayers generally were not put on notice of such issues and a full record would need to be developed to adequately examine the issues.

## **2. Recommendation of the Administrative Law Judge**

The Administrative Law Judge concluded that the record established in this matter failed to demonstrate that requiring AFUDC treatment of the project construction costs would result in more reasonable rates than allowing a current return on CWIP. The ALJ recommended that the Commission not require AFUDC treatment at this time.

## **3. Commission Action**

The Commission concurs with the Administrative Law Judge and accepts her findings, conclusions, and recommendations regarding AFUDC recovery of costs versus CWIP recovery. Based on the record developed in this proceeding, the Commission finds no basis on which to depart from the current return on CWIP cost recovery mechanism used by the Company in its filings since 2007, as argued by the parties and recommended by the ALJ.

Further, and importantly, the Commission finds that it would be beneficial to have broader record development of the issues raised, including notice to all ratepayers, to justify such a departure from recent practice.

Finally, the Commission will modify Findings 316 and 317 of the ALJ Report as set forth below to appropriately reflect its decision on this issue herein.

~~316. — Requiring AFUDC treatment of construction costs could also create the possibility of “rate shock” to customers once the Project is placed into service. Compared to AFUDC treatment, allowing a return on CWIP gradually phases in rate increase rather than creating a one-time rate adjustment for the entirety of the Project.~~

~~317. Requiring ADUDC treatment of Project construction costs would harm Minnesota Power's cash flow, which, in turn, can lower its financial ratings and impose additional costs on ratepayers due to the higher cost of capital. The DOC-DER noted that while these harms are difficult to measure, standard recovery of Project costs through a return on CWIP may bring ratepayer benefits due to Minnesota Power's improved cash flow and stronger financial rating.~~

---

<sup>17</sup> Minn. Stat. § 216B.16, subd. 7(b).

## **B. Rider Cost Recovery**

LPI also raised concerns regarding cost recovery, including whether project costs will be collected from ratepayers in base rates or through a rate rider. LPI recommended that the Commission allow the Company to recover all project costs only through a transmission cost recovery rider, and not require it to wait for recovery of project costs until its next rate case.

### **1. Positions of the Parties**

LPI argued that recovery of project costs through base rates set in a general rate case is problematic, and instead requested that cost recovery of project costs be made through a transmission cost recovery (TCR) rider. LPI argued that numerous factors support its position including that 1) rider recovery would ensure that customers pay no more and no less than actual project costs; 2) once the project is in-service, its costs will be depreciated for book and tax purposes (reducing the revenue requirement); and 3) the must-take fee revenues (under the 133 MW Renewable Optimization Agreements with Manitoba Hydro) can more easily be tracked if in one docket.

In its exceptions, LPI argued that the Commission should condition approval of the certificate of need application on rider recovery of project costs for a minimum of five years after the project is placed in service. LPI continued to argue that the combination of contractual and other arrangements under which the Company will receive revenue, including the must-take fee and possible MISO revenue credits, are unique and create the potential for inefficiencies in tracking the revenue requirements without the use of a rider.

The Department argued that the Commission has never mandated recovery of transmission costs through a TCR rider. Both the Department and the Company asserted that while Minnesota law allows recovery of transmission costs through a TCR rider, the statutes in no way require recovery under a rider, and in fact anticipate that transmission costs will be moved from a transmission rider to general rates, once approved by the Commission in a general rate case.

### **2. Recommendation of the Administrative Law Judge**

The ALJ found that neither LPI's original recommendation, to require that Minnesota Power use rider recover for project costs, nor its alternative proposal, to require rider recovery of project costs for five years, is supported by the record in this case. The ALJ found that it would be unreasonable to require rider recovery of project costs, because recovery through base rates might prove to be the more reasonable approach.

The ALJ also recommended that the Commission retain the ability to address the issue in future proceedings to ensure that customers do not pay unreasonable rates.

### **3. Commission Action**

The Commission concurs with the Administrative Law Judge that it would be unreasonable to require rider recovery of transmission costs in this case, either for the lifetime of the project or alternatively, for the first five years of the project. The Commission's practice has not been to prejudge recovery of transmission costs only through a TCR rider, and it sees no reasonable basis upon which to require the Company to do so here. Once the project is built and in service, a better

outcome might be achieved for ratepayers by addressing this significant new asset through a traditional general rate case.

The Commission will retain its flexibility to use the most reasonable, accurate, and efficient cost-recovery mechanism available – a rate case, recognizing that riders must be used with care because cost-recovery inquiries in rider proceedings are necessarily less thoroughgoing than those in general rate cases. For these reasons, the Commission will not authorize recovery of project costs through a rider at this time.

### **C. Cost Allocation among Customer Classes**

Finally, LPI argued that the Commission should condition approval of the Company's application on the Company's allocation of costs among customer classes based on base revenues. LPI recommended that the Commission direct the Company to pre-determine the allocation of project costs among classes of customers before a cost recovery proceeding has been commenced.

#### **1. Positions of the Parties**

LPI argued that pre-determined cost allocations among the customer classes would help to partially remedy the subsidies provided by the large power class to other classes stemming from the Company's most recent general rate case. LPI asserted that the rate impacts on customer classes have been recognized as an issue in this matter since its filing. Thus, adequate notice of this issue has been given. Finally, LPI argued that it would be administratively more efficient to address the issue of cost allocation in this docket than await a cost recovery proceeding.

Both the Department and Minnesota Power asserted that cost allocation matters are best addressed in future cost recovery or rate case proceedings, as customer cost allocation involves both fact and policy decisions best left to proceedings where all customer classes as well as all utility customers are on notice that ratemaking decisions will be made.

#### **2. Recommendation of the Administrative Law Judge**

The Administrative Law Judge recommended that the issue of cost allocation be left to future cost recovery proceedings where all customer classes are on notice that ratemaking decisions will be made.

#### **3. Commission Action**

The Commission concurs with the Administrative Law Judge that adequate notice has not been provided to Minnesota Power customers to alert them that project cost allocation issues such as those raised by LPI might be decided in this docket, and considered binding in future cost recovery filings. LPI's concerns can better be brought forward for appropriate determination at the time Minnesota Power seeks rate recovery of project costs.

### **XIII. The Department's Environmental Report**

In response to the scoping decision (issued on April 23, 2014), the Department prepared and filed an environmental report on July 14, 2014. The environmental report describes the human and

environmental impacts of the proposed project, alternatives to the project, and methods to mitigate anticipated adverse impacts.

As part of its analysis, the Department considered possible alternatives to the proposed project (as required by Minn. R. 7849.1500, subp. 1(B)) that might be able to fill the stated need for the project. The Department considered and evaluated a no-build alternative, demand side management/conservation alternatives, purchased power, and facilities of a different size than proposed by the applicant.

The Department evaluated the potential for developing transmission lines of different design voltages to accommodate increased hydropower transfers between Manitoba and the United States, including a 230 kV alternative, a 345 kV alternative, and a 765 kV alternative. The Department found that the 230 kV alternative and the 345 kV alternative did not meet Minnesota Power's stated purpose and need for the project. The Department agreed with Minnesota Power that the 765 kV alternative, while it would meet the capacity forecasted by the Company, is not feasible given the extensive incompatibilities associated with the engineering and system design of the electrical grid in the United States and Canada.

Finally, the Department evaluated possible generation alternatives, including a natural gas fired power plant, combustion turbines, and a combined cycle plant. The Department concluded that any generation alternative would likely require the construction of new transmission line infrastructure.

Having reviewed the environmental report and the record supporting the report, the Commission finds that the report and supporting record address the issues identified by the Department's scoping decision and the issues required in Minn. R. 7849.1500, subp. 1.

#### **XIV. Commission Action on Proposed Certificate of Need**

First, the Commission is not persuaded by RRANT's arguments to deny the Company's request for a certificate of need. The ALJ Report establishes that the Company and the Department clearly refuted RRANT's primary argument that a smaller transmission alternative such as a 230 kV transmission line would better meet Minnesota Power's needs than the proposed 500 kV line.<sup>18</sup> The Commission is not persuaded by RRANT's various arguments in support of a smaller line.

RRANT's arguments similarly fail to take into account the negative cost implications of the smaller line. As demonstrated by the record, the estimated costs of a 230 kV line (\$277 – 355 million), would be borne entirely by Minnesota Power ratepayers, and would be significantly higher than the Company's proposed 500 kV line. Due to the agreements reached with Manitoba Hydro, Minnesota Power ratepayers would bear only 28.3 percent of the capital costs for the proposed project (estimated between \$158 and \$201 million in 2013 dollars) and one third of the operations and maintenance costs. In addition, the proposed project would add significantly less in MISO revenue requirements than a 230 kV line.

In addition, the ALJ found that the evidence established that a 230 kV line will not provide the same long-term benefits that a 500 kV line can offer. The ALJ observed that developing a transmission solution now that has sufficient capacity to help meet anticipated future demand for

---

<sup>18</sup> See ALJ Report, Findings 234-244.

hydropower in Minnesota and the region is more reasonable and prudent than the 230 kV transmission alternative.

Further, the Commission finds no merit in the various other arguments raised by RRANT. Contrary to RRANT's claim, economic considerations with respect to a high-voltage transmission line are relevant under the certificate of need statute, as set forth in Minn. Stat. § 216B.243, subd. 3(9). In addition, RRANT's claim that the proposed project is part of a longer transmission line is not relevant in this proceeding, as it is only the instant project that is before the Commission for determination. For these reasons, the Commission will deny RRANT's request to deny Applicant's request for a certificate of need.

Based on the record, the Commission makes findings on these four points: First, based on a consideration of the factors set forth in Minn. Rules, part 7849.0120(A), the Commission concludes that the probable result of denying the application would adversely affect the future adequacy, reliability, or efficiency of the energy supply to the Applicant, the Applicant's customers, or the people of Minnesota and neighboring states.

The Commission finds that the project will address multiple needs for Minnesota Power. As found by the ALJ, the project will enable the delivery of needed capacity and energy resources to the Company and its customers. The project will also optimize the Company's wind energy resource and diversify its supply portfolio and reduce its dependence on coal-based energy sources. The project will also reduce the risks of future emissions regulations. Finally, the project will support regional energy needs and enhance the efficiency and reliability of the transmission system.

Second, based on a consideration of the factors set forth in Minn. Rules, part 7849.0120(B), the Commission concludes that a more reasonable and prudent alternative to the project has not been demonstrated by a preponderance of the evidence in the record. While LPI argued that the projected cost of a combined cycle alternative was very close to that of the proposed project, the ALJ did not agree, and the Commission concurs, that such an alternative is not more reasonable and prudent than the Company's proposed project based upon the factors enumerated in statute and rule.

Third, based on a consideration of the factors set forth in Minn. Rules, part 7849.0120(C), the Commission concludes that the preponderance of the evidence in the record demonstrates that the project, with appropriate permit conditions and requirements, will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health. The Commission therefore finds that the consequences to society of granting the certificate of need are more favorable than the consequences of denying the certificate of need.

Fourth, based on a consideration of the factors set forth in Minn. Rules, part 7849.0120(D), the Commission concludes that the record does not demonstrate that the design, construction, or operation of the project, or a suitable modification of the project, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

Finally, based on its review of the record and the analysis and findings set forth above, the Commission concludes that granting a certificate of need for the proposed project will serve the public interest.



## ORDER

1. The Commission accepts and adopts the ALJ's Findings of Fact, Conclusions of Law, and Recommendation for Minnesota Power's proposed Great Northern Transmission Line Project (March 16, 2015) with the modifications set forth herein.
2. The Commission grants Minnesota Power a certificate of need for Minnesota Power's Great Northern Transmission Line with the following conditions:
  - A) Limit Minnesota Power's recovery in riders to an amount equal to 28.3 percent of the total capital costs of the Project or \$201 million (in 2013 dollars), whichever is less;
  - B) Allow Minnesota Power to request recovery of any excess costs only in a rate case where the costs will be subject to full prudence review;
  - C) Put Minnesota Power on notice that it will have the burden of demonstrating the prudence of any additional costs and show why it would be reasonable to recover the additional costs from ratepayers given the representations made in this proceeding;
  - D) Require Minnesota Power to obtain prior approval from the Commission if it proposes to charge ratepayers for operation and maintenance costs greater than 33 percent of the project's total operation and maintenance costs at any time in the future; and
  - E) Require Minnesota Power to use the Commission's current externality values in all future certificate of need proceedings.
3. The Commission finds that the July 14, 2014 environmental report and the record created at the public hearing address the issues identified in the environmental report scoping decision.
4. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf  
Executive Secretary



This document can be made available in alternative formats (e.g., large print or audio) by calling 651.296.0406 (voice). Persons with hearing loss or speech disabilities may call us through their preferred Telecommunications Relay Service.