



Energy Facility Permitting
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May 3, 2013

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: Comments and Recommendations of Department of Commerce
Energy Facility Permitting Staff
Docket No. E002/CN-12-1240

Dear Dr. Haar,

Attached are comments and recommendations of Department of Commerce, Energy Facility Permitting (EFP) staff in the following matter:

In the Matter of the Petition by Northern States Power Company d/b/a Xcel Energy to Initiate a Competitive Resource Acquisition Process

The petition was filed on December 21, 2012, by:

James R. Alders
Xcel Energy
414 Nicollet Mall
Minneapolis, MN 55401

Staff is available to answer any questions the Commission may have.

Sincerely,

A handwritten signature in black ink that reads "Ray Kirsch". The signature is written in a cursive, flowing style.

Ray Kirsch
EFP Staff

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF MINNESOTA DEPARTMENT OF COMMERCE ENERGY FACILITY PERMITTING STAFF

DOCKET No. E002/CN-12-1240

Date: May 3, 2013

EFP Staff: Ray Kirsch.....651-296-7588
Suzanne Steinhauer.....651-296-2888

In the Matter of the Petition by Northern States Power Company d/b/a Xcel Energy to Initiate a Competitive Resource Acquisition Process

Issues Addressed: These comments and recommendations address the environmental review of proposals submitted into the competitive resource acquisition process.

Additional documents and information can be found on eDockets:
<https://www.edockets.state.mn.us/EFiling/search.jsp> (12-1240).

This document can be made available in alternative formats (i.e., large print or audio) by calling 651-296-0391.

Introduction and Background

On November 21, 2012, the Commission established a competitive resource acquisition process for selecting the resource(s) which Xcel Energy will need to meet the energy requirements of its service area through 2020.¹ The Commission's order established a bidding process and timeline.² Through this process, five proposals were received by the Commission. These proposals are listed and described in Table 1. On April 17, 2013, the Commission issued a notice seeking comments on the completeness of the proposals received and "any other completeness or initial procedural issues that should be addressed before the review process and the evaluation of the merits begin."³

¹ Commission Order Closing Docket, Establishing New Docket, and Schedule for Competitive Resource Acquisition Process, November 21, 2012, Docket Nos. E-002/CN-11-184, E-002/CN-12-1240, eDockets Number [201211-80952-01](#).

² Id.

³ Notice of Comment Period on the Completeness of Xcel Energy and Alternative Bidders' Resource Proposal, April 17, 2013, eDockets Number [20134-85789-01](#).

Table 1. Proposals Received in Response to Bidding Process

Proposer	Size of Proposed Project (Megawatts, MW)	Facility Type / Energy Source	Number of Sites
Geronimo Energy ⁴	Up to 100 MW	Distributed Solar Energy	Up to 31
Calpine Corporation ⁵	345 MW	Combustion Turbine Generator / Natural Gas	One
Xcel Energy ⁶	645 MW	Combustion Turbine Generators / Natural Gas	Two
Great River Energy ⁷	Existing Capacity	Mixed / MISO Zone 1 Resource Credits	NA
Invenergy ⁸	536 MW	Combustion Turbine Generators / Natural Gas	Two

Regulatory Process and Procedures

The Minnesota Environmental Policy Act (MEPA) requires an assessment of the potential environmental impacts of proposed governmental actions, as an aid to the decision-making process for such actions.⁹ A governmental action is an activity that is “wholly or partially conducted, permitted, assisted, financed, regulated or approved by units of government, including the federal government.”¹⁰ The requirements of MEPA are typically implemented through agency rules. Since 2005, the MEPA-required environmental review for energy facilities approved by the Commission has been conducted by Department of Commerce, Energy Facility Permitting (EFP) staff.

Environmental Review – Need

EFP staff conducts environmental review for large energy facilities when the need for such facilities is being determined by the Commission. Staff is required to prepare “an environmental report on a proposed high voltage transmission line or a proposed large electric power generating

⁴ Geronimo Energy’s Distributed Solar Energy Proposal, April 15, 2013, eDockets Number [20134-85728-01](#).

⁵ Calpine Corporation Mankato Energy Center Expansion Proposal, April 15, 2013, eDockets Number [20134-85727-01](#).

⁶ Xcel Energy Petition to the Minnesota Public Utilities Commission for Approval for a Competitive Resource Acquisition Proposal and for a Certificate of Need, April 15, 2013, eDockets Number [20134-85714-01](#).

⁷ Great River Energy Offer to Participate in Competitive Resource Acquisition Process, April 15, 2013, eDockets Number [20134-85704-02](#).

⁸ Invenergy Cannon Falls Peaking Expansion and Hampton Energy Center, April 15, 2013, eDockets Numbers [20134-85765-01](#), [20134-85765-02](#).

⁹ Minnesota Statute 116D.04.

¹⁰ Id.

plant at the need stage.”¹¹ An environmental report (ER) includes an “analysis of the human and environmental impacts of a [proposed] project.”¹²

Environmental Review – Siting

EFP staff conducts environmental review for the siting and routing of energy facilities.¹³ Depending upon the size and fuel of the facility, staff prepares either an environmental impact statement or an environmental assessment for large electric power generating plants.¹⁴

EFP Staff Analysis and Comments

EFP staff believes that the Commission's approval of specific resources in this resource acquisition process meets MEPA's statutory definition of a governmental action requiring environmental review. What is less clear is what type of environmental review is appropriate and useful to assist in the Commission's decision in this matter.

As noted above, Commission rules require preparation of an environmental report for a proposed large electric power generating plant at the need stage. Though the competitive resource acquisition process of this docket is not a certificate of need by name, it appears that the results of the process will function as a certificate of need.¹⁵ Additionally, the procedures to be followed are “certificate-of-need-like proceedings.”¹⁶

With respect to siting, of the five proposals received, the combustion turbine generators proposed by Calpine, Xcel Energy, and Invenegy meet the statutory definition of a large electric power generating plant and would require a site permit.¹⁷ Should one of these proposals be selected by the Commission, EFP staff would conduct environmental review of the proposal during the site permitting process. The potential environmental impacts of combustion turbine generators are fairly well known and are available to the Commission through environmental review in previous dockets.¹⁸

EFP staff notes that it is unclear what type of permitting and environmental review is required for Geronimo Energy's proposal. Geronimo Energy indicates in its proposal that the project will require local land use permits. Though this is a plausible permitting scenario, other scenarios are also possible. For example, if the project were considered in total, i.e., as an up to 100 MW

¹¹ Minnesota Rule 7849.1200.

¹² Minnesota Rule 7849.1500.

¹³ Minnesota Statute 216E.03, Subd. 5; Minnesota Rules Chapter 7850.

¹⁴ Minnesota Rules Chapter 7850.

¹⁵ Commission Order Establishing Resource Acquisition Process, Establishing Bidding Process Under Minn. Stat. 216B.2422, Subd. 5, and Requiring Compliance Filing, May 31, 2006, E-002/RP-04-1752, eDockets Number [3131110](#). The Commission's order adopts a two-track certificate of need like process where, upon successful negotiation of a power purchase agreement, a selected resource would proceed to obtain any remaining permits but would not require a certificate of need.

¹⁶ Id.

¹⁷ Minnesota Statute 216E.01 (noting that a site permit is required for large electric power generation plants capable of generating 50,000 kilowatts or more).

¹⁸ See, e.g., Cannon Falls Energy Center, MEQB Docket No. 04-85-PPS-Cannon Falls EC; Mankato Energy Center, MEQB Docket No. 04-76-PPS-Calpine.

project, it would be a large electric power generating plant with permitting by the Commission and environment review by EFP staff. It's also possible that select portions of the project, rather than the project in total, could be considered as connected actions such that these portions of the project would require an environmental assessment worksheet prepared by the Environmental Quality Board.¹⁹ Even in the case of local permitting, EFP staff notes that not all counties in which Geronimo's proposals are located currently have ordinances that cover large solar projects.

Geronimo Energy's proposal is also novel in that the potential environmental impacts of the project are relatively uncertain. That is, though the application provided by Geronimo Energy provides information on the potential environmental impacts of the project, the state's experience with environmental review of solar energy projects (as well as that of local governments) is sparse. Thus, compared with combustion turbine generators, the Commission does not have a well of environmental review experience to draw upon.

EFP Staff Recommendation

EFP staff recommends that the Commission determine what type of environmental review, if any, is required for the proposals under consideration in this resource acquisition process. EFP staff is willing and able to prepare an environmental report, or some equivalent environmental review document, for the proposals received in this bidding process to assist in the Commission's decision making.

¹⁹Minnesota Rule 4410.4300, Subp. 3. The Environmental Quality Board is the responsible governmental unit for electric power generating plants capable of operating at a capacity between 25 megawatts (MW) and 50 MW. For such plants, an environmental assessment worksheet is mandatory.