

**BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS  
600 North Robert Street  
St. Paul, Minnesota 55101**

**FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
121 Seventh Place East, Suite 350  
St. Paul, Minnesota 55101-2147**

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

**OAH Docket No. 60-2500-30782  
MPUC Docket No. E-015/CN-12-1163**

**MINNESOTA POWER REPLY BRIEF**

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## INTRODUCTION

The record of this proceeding establishes that the Great Northern Transmission Line (“Project”) provides resources necessary for maintaining the adequacy, efficiency and reliability of energy supply to Minnesota Power (“Minnesota Power” or “Company”) and its customers, the State and the region. No alternative put forward in the record provides these needed resources in a manner more reasonable and prudent than the Project. Moreover, uncontroverted record evidence demonstrates that the Project provides these resources in a manner compatible with the environment, while also providing substantial societal benefits. Finally, the record shows Minnesota Power’s commitment to compliance with all applicable rules and regulations. As such, Minnesota Power has met each of the criteria established by the Minnesota Public Utilities Commission (“Commission”) for the granting of a Certificate of Need (“CON”). A CON should be granted so that Minnesota Power, its customers, the State and the region can capitalize on the unique opportunity provided by the Project.

In its testimony and again in its Initial Brief, the Department of Commerce – Division of Energy Resources (“Department” or “DOC-DER”) provides a thorough analysis of the Project and recommends that the Commission grant a Certificate of Need. Among the other parties to this proceeding, *only* the Department fully analyzed the Project’s relationship to the adequacy, efficiency and reliability of energy supply for the Company, the state and the region. In addition, *only* the Department fully analyzed potential alternatives to the Project and *only* the Department considered the environmental and socioeconomic impact analysis included in the Environmental Report

and submitted by the Department's Energy Environmental Review and Analysis Division ("DOC-EERA").

In its testimony and Initial Brief, the Large Power Intervenors ("LPI") state that they "do not oppose" the Commission granting a CON for the Project. In stating this position, LPI does not analyze the impact of the Project on the overall adequacy, efficiency or reliability of energy supply, and does not consider the broader State or regional benefits of the Project. Moreover, LPI does not argue that a more reasonable and prudent alternative can meet the Company's, customers and State and regional needs. Rather, LPI presents an incomplete analysis of one particular alternative, an unidentified and unspecified combined cycle natural gas plant, to argue that such an alternative may be "close" in economic impact to ratepayers. Because of this alleged "close call" on the sole criterion of cost, LPI then argues in favor of certain conditions being placed on the CON for the Project. However, LPI's ratemaking and cost recovery conditions do not go to Project need, raise issues beyond the scope of this proceeding, would impact other ratepayers not on notice or participating in this Docket, and run contrary to statute, Commission precedent, and the public interest. For all of those reasons, LPI's recommendations must be rejected.

Residents and Ratepayers Against Not-So-Great Northern Transmission ("RRANT") provided no testimony. In its Initial Brief, RRANT describes a project not before the Commission. As such, RRANT provides no basis for denying a CON for the Project.

In this Reply Brief, Minnesota Power responds to certain statements or arguments contained in the Initial Briefs of the other parties<sup>1</sup> by following the format of its Initial Brief and the Issues Matrix submitted by all parties on December 5, 2014. This Reply Brief will thus respond to the other parties': (1) discussion of the applicable law and framing of the issues; (2) description of the Project; (3) analysis of the relevant rule criteria for granting a CON; and (4) recommendations regarding placing conditions on the CON.<sup>2</sup>

## **I. APPLICABLE LAW AND ISSUES TO BE ADDRESSED**

All parties agree that Minnesota Statutes § 216B.243 and Minnesota Rules Part 7849.0120 govern the Administrative Law Judge's ("ALJ") and Commission's consideration of the issues in this proceeding.<sup>3</sup> In addition, as the Department stated, given that the Commission's Rule criteria for granting a CON are more detailed than the corresponding statutory factors, the Commission's Rules provide the appropriate framework for considering Minnesota Power's CON Application.<sup>4</sup>

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<sup>1</sup> This Reply Brief does not attempt to respond to every assertion made in other parties' Initial Briefs, particularly assertions made with no citation to the record and that lack any record support. Therefore, silence should not be interpreted as agreement with any particular statement in those Briefs.

<sup>2</sup> Minnesota Power ("MP") attaches as Appendix A to this Reply Brief its own "Issues Matrix," setting forth the Parties' Initial Brief positions on an issue-by-issue basis with cites to the Initial Briefs, similar to the Issues Matrix submitted by all parties on December 5, 2014. Appendix A reflects Minnesota Power's analysis of the other parties positions and the Company did not seek input from other parties on this document beyond analyzing the Parties' Initial Briefs.

<sup>3</sup> DOC-DER Initial Brief ("Br."), pp. 6-7; LPI Br., p. 1; RRANT Br., pp. 5-7.

<sup>4</sup> DOC-DER Br., p. 7.

Using this common set of law as the backdrop, among the other parties only the Department goes on to accurately frame the issues before the ALJ and Commission. As the Department states, the ALJ and Commission must analyze:

1. whether Minnesota Power “has met its burden of demonstrating that the proposed Project is needed under the criteria found in Minnesota Rules part 7849.0120;”<sup>5</sup>
2. whether “a more reasonable and prudent alternative” has been demonstrated by a preponderance of the evidence in the record;<sup>6</sup> and
3. “whether certain cost recovery, financial and rate design issues should be dealt with in this proceeding.”<sup>7</sup>

Neither LPI nor RRANT directly frame the issues beyond either quoting the applicable statute and rules or, in the case of LPI, also quoting the Commission’s Notice and Order for Hearing.<sup>8</sup> LPI then claims that its Initial Brief “examines the need criteria, particularly the reasonableness of alternatives to the Project.”<sup>9</sup> However, LPI’s discussion of alternatives then focuses solely on the cost of the Project compared to the alleged cost of a single generation alternative – a generic natural gas-fired combined cycle generating plant.<sup>10</sup> Of course, the relevant inquiry is not whether, based on one sub-factor alone, there may an alternative to the Project that is “close” to the Project in its impact. First, the Commission is limited to considering “only those alternatives proposed before the close of the public hearing and for which there exists substantial evidence on

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<sup>5</sup> *Id.*, p. 6.

<sup>6</sup> *Id.*, p. 7.

<sup>7</sup> *Id.*, p. 6.

<sup>8</sup> LPI Br., pp. 1-3; RRANT Br., pp. 5-7.

<sup>9</sup> LPI Br., p. 3. As discussed in Section III, B, 1, b below, even on this single criterion, LPI presents an incomplete analysis.

<sup>10</sup> LPI Br., pp. 4-5.

the record with respect to each of the criteria” in Minnesota Rules 7940.0120.<sup>11</sup> LPI’s reference to a generic generation alternative does not meet this Commission standard. Nevertheless, even if that consideration were deemed to be met, the Commission Rules call for an examination of whether or not “a more reasonable and prudent alternative” has been demonstrated on the record after consideration of multiple factors, including the size, type and timing of the alternative, its impact on the natural and socioeconomic environments, and its reliability.<sup>12</sup> Moreover, it is not an applicant’s duty to “disprove” alternatives.<sup>13</sup> Rather, once an applicant has demonstrated the need for the power to be supplied by a project, the inquiry becomes whether or not a “more reasonable and prudent alternative” has been demonstrated that should be pursued instead. For all of these reasons, LPI frames the issue with respect to alternatives in an incomplete and misleading manner not consistent with Minnesota law.

## **II. PROJECT DESCRIPTION**

The Department provides a thorough and accurate description of the Project, its relationship to other dockets, and the proposed Project ownership.<sup>14</sup> As the Department summarizes, the Project involves construction of a 500 kV transmission line from the United States/Canada border to Minnesota Power’s Blackberry substation near Grand Rapids, Minnesota, along with series compensation and an expansion of the Blackberry

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<sup>11</sup> Minn. R. 7949.0110.

<sup>12</sup> Minn. R. 7849.0120 (B).

<sup>13</sup> *In the Matter of the Application of the City of Hutchinson (Hutchinson Utilities Commission) for a Certificate of Need to Construct a Large Natural Gas Pipeline*, Minn. App. A03-99, September 23, 2003, p. 11 (citing *State v. Paige*, 256 N.W.2d 298, 304 (Minn. 1977)) (emphasis added).

<sup>14</sup> DOC-DER Br., pp. 7-13.

substation to accommodate both the new line and the existing transmission lines to that substation.<sup>15</sup>

Ms. Overland, on the other hand, describes a transmission project not put forward by Minnesota Power and not the subject of this proceeding. The RRANT Initial Brief simply errs when it states that “Minnesota Power’s Great Northern Transmission Project, as applied for, is an Extra High Voltage 500 kV triple-bundled transmission line stretching into the U.S. from the Dorsey substation in Canada to various points in Minnesota, Wisconsin, and on to Michigan.”<sup>16</sup> The Project is no such endeavor, as the record makes clear. Rather, the Project terminates at the Blackberry substation, near Grand Rapids, Minnesota.<sup>17</sup> Any additional high voltage transmission in Minnesota would constitute a separate project and be subject to a separate Certificate of Need proceeding under Minnesota Statutes § 216B.243.

RRANT also errs when it claims the Project provides “1100 MW of transfer capability.”<sup>18</sup> Nothing in the record supports this claim. Rather, the record demonstrates that the Project supports 883 MW of increased transfer capability.<sup>19</sup> RRANT’s mischaracterization and misunderstanding of the Project permeates its Initial Brief, rendering most of its discussion irrelevant to the issues properly before the ALJ and Commission.

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<sup>15</sup> *Id.*, pp. 7-8.

<sup>16</sup> RRANT Br., p. 5.

<sup>17</sup> Ex. 9, p. 24; Ex. 42, p. 3 (Winter Direct).

<sup>18</sup> *See Id.*, p. 16.

<sup>19</sup> Ex. 42, p. 3 (Winter Direct).

### **III. ANALYSIS OF THE PROJECT UNDER THE COMMISSION'S CON CRITERIA**

Similar to the Company's Initial Brief, the Department's Initial Brief tracks the Commission's Certificate of Need criteria subpart-by-subpart and presents a thorough discussion of Minnesota Power's forecasts, the need for the energy supplied by the Project, the inability of existing facilities to fill that need, and a comparison of the Project to the potential alternatives.<sup>20</sup> The Department concluded that the record demonstrates the overall need for the Great Northern Transmission Line.

In contrast, the LPI and RRANT Initial Briefs address the Certificate of Need criteria haphazardly at best, while staying silent on the overwhelming majority of the relevant issues. In the few instances where LPI or RRANT address the criteria, they do so in an incomplete or misleading manner that the record does not and cannot support.

#### **A. Adequacy, Reliability and Efficiency of Energy Supply**

The first of the criteria established by the Commission for the granting of a CON requires an examination of whether:

the probable result of denial [of the Certificate of Need] 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, considering:

- (1) the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;
- (2) the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;

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<sup>20</sup> DOC-DER Br., pp. 14-33.

(3) the effects of promotional practices of the applicant that may have given rise to the increase in the energy demand, particularly promotional practices that have occurred since 1974;

(4) the ability of current and planned facilities not requiring certificates of need to meet the future demand; and

(5) the effect of the proposed facility, or a suitable modification thereof, in making efficient use of resources.<sup>21</sup>

As Minnesota Power and the Department discussed in their Initial Briefs, the record supports the need for the Project on each of these points.

### **1. Forecast and the Need for the Energy and Capacity to be Delivered via the Project**

Minnesota Power's and its customers' need for the energy and capacity made available by the Project has been well documented over several proceedings, and again in this docket, dating back to the Company's 2009 Integrated Resource Plan ("IRP"), accepted by the Commission in MPUC Docket No. E-015/RP-09-1088 ("1088 Docket").<sup>22</sup> Indeed both the Company's 2013 IRP, approved by the Commission in MPUC Docket No. E-015/RP-13-53, and its 2014 Advanced Forecast Report<sup>23</sup> ("AFR") show the need for additional energy and capacity for Minnesota Power to be able to continue providing adequate, efficient and reliable electric service to its customers.

The Department fully analyzed Minnesota Power's forecasts and supporting materials and agreed that the Project meets critical needs for Minnesota Power and its customers. As the Department noted, the Company's need for additional power was first

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<sup>21</sup> Minn. R. 7849.0120 (A).

<sup>22</sup> See MP Br., pp. 23-36.

<sup>23</sup> Ex. 43 (AJR), Schedule 1.

identified in the 1088 Docket.<sup>24</sup> That docket was followed by Minnesota Power’s filing for approval of the 250 MW Power Sale Agreement and Energy Exchange Agreement (“250 MW Agreements”) with Manitoba Hydro to meet those needs.<sup>25</sup> After “extensive review,” the Department and Commission-approved the 250 MW Agreements as the most appropriate resources to meet Minnesota Power’s and its customers’ needs.<sup>26</sup> Of course, the Commission also noted that new transmission must be built to supply the capacity and energy contracted for in the 250 MW Agreements.<sup>27</sup>

The Department also noted that both the 2013 IRP and the 2013 AFR (since updated by the Company in the 2014 AFR) show an ongoing need for Minnesota Power to add capacity to its system, even after approval of the 250 MW Agreements.<sup>28</sup>

Finally, the Department noted that the record also demonstrates a broader regional need for the energy and capacity to be delivered over the Project. Specifically, the Department observed that the transmission service requests (“TSRs”) between the Midcontinent Independent System Operator (“MISO”) and Manitoba Hydro involving Wisconsin Public Service “provide support for potential need for more transmission capacity in addition to the capacity required for the [Minnesota Power-Manitoba Hydro] agreements.”<sup>29</sup>

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<sup>24</sup> DOC-DER Br., pp. 14-15.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*, p. 15.

<sup>27</sup> Ex. 12, Commission Order and Department Comments, p. 13.

<sup>28</sup> DOC-DER Br., p. 18.

<sup>29</sup> *Id.*, p. 16.

In contrast to the Department's full consideration and discussion of these critical forecast and power supply issues, both the LPI testimony and its Initial Brief fail to even mention the Company's and customers' need for the power delivered by the Project. Similarly, RRANT fails to discuss Minnesota Power's and its customers' needs. Paradoxically, though, RRANT suggests that the regional need for power is so great that it is "quite likely" that the Project will end up supporting more than the 883 MW of transfers discussed in the record.<sup>30</sup>

## **2. Conservation**

The Department also analyzed Minnesota Power's conservation programs and found that conservation programs do not provide a reasonable alternative to the Project.<sup>31</sup> Moreover, the Department noted that additional transmission capacity is needed on the interface between the United States and Manitoba and that conservation does not change that fact.<sup>32</sup>

Neither LPI nor RRANT addressed the issue of conservation in testimony or in their Initial Briefs.

## **3. Promotional Practices**

The Department analyzed the issue of promotional practices, including any promotional practices of Manitoba Hydro, even though Manitoba Hydro is not the applicant for the Certificate of Need. This analysis concluded that any such practices

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<sup>30</sup> RRANT Br., p. 19.

<sup>31</sup> DOC-DER Br., p. 19, citing Ex. 53, pp. 20-21 (Rakow Direct).

<sup>32</sup> *Id.*, citing Ex. 53, p. 21 (Rakow Direct).

have not created the demand for the energy to be provided over the Project.<sup>33</sup> Moreover, the Department noted that regulations such as the Mercury Air Toxics Standard are likely to affect the availability of fossil fuel generation, meaning that hydropower from Manitoba will be needed in Minnesota and neighboring states, regardless of any “promotional” activities.<sup>34</sup>

LPI did not discuss the issue of promotional activities in testimony or in its Initial Brief.

RRANT provided no testimony on this issue, but suggests in its Initial Brief that the contracts between Minnesota Power and Manitoba Hydro for the delivery of needed capacity and energy may somehow constitute “promotional activities that may have given rise to the demand for this facility.”<sup>35</sup> How regulated business agreements reviewed and, in the case of the 250 MW Agreements, already approved by the Commission constitute a “promotional activity” remains a mystery and has not basis in law or fact.

#### **4. Current Facilities**

As Minnesota Power discussed in its Initial Brief, and as the Commission recognized in approving the 250 MW Agreements, existing facilities cannot meet the needs covered by those Agreements.<sup>36</sup> Additionally, the Commission recognized that both Manitoba Hydro and Minnesota Power would need to construct new transmission

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<sup>33</sup> DOC-DER Br., pp. 19-20, citing Ex. 53, p. 13 (Rakow Direct).

<sup>34</sup> *Id.*

<sup>35</sup> RRANT Br., p. 15.

<sup>36</sup> MP Br., pp. 33-34.

facilities to deliver the power under the 250 MW Agreements and the Commission required updates on the status of Minnesota Power's efforts in that regard.<sup>37</sup>

The record of this proceeding confirms that “the existing interface between Manitoba and the United States, consisting of three 230 kV lines and one 500 kV line, is unable to accommodate increased transfer of energy from Manitoba into the United States.”<sup>38</sup> As the Department notes in its Initial Brief, “current and planned facilities not requiring CONs are not a reasonable alternative to the proposed Project.”<sup>39</sup> The Department too noted that the current transmission system cannot accommodate increased energy transfers and that not building the Project does nothing to address that fact.<sup>40</sup>

Neither LPI nor RRANT addressed the inability of current or planned facilities to meet the Company's and customers' needs in testimony or in their Initial Briefs.

## **5. Efficient Use of Resources**

The record contains extensive discussion regarding the Project's ability to support the efficient use of resources. As the Company discussed in its Initial Brief, the Project will allow for the optimization of Minnesota Power's wind resources through the wind-hydro synergies made available due to the unique “energy storage” feature of the Company's agreements with Manitoba Hydro.<sup>41</sup> The Project will also result in reduced

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<sup>37</sup> Ex. 12 at Ordering Paragraph 2.

<sup>38</sup> Ex. 42, p. 9 (Winter Direct).

<sup>39</sup> DOC-DER Br., p. 20.

<sup>40</sup> *Id.*, citing Ex. 53, p. 13 (Rakow Direct).

<sup>41</sup> MP Br., pp. 4-7.

wind curtailments in the northern region of MISO.<sup>42</sup> In addition, by being sized at 500 kV, the Project avoids the need to “build twice” as additional transfer capability over the Manitoba-Minnesota interface becomes necessary. Finally, and critically for Minnesota Power and its ratepayers, the Project provides the economies of scale of a large project and facilitates the delivery of 383 MW of power from Manitoba Hydro, while only imposing on Minnesota Power and its ratepayers the financial responsibility for 250 MW of that capacity.<sup>43</sup>

The Department did not directly address the issue of efficient use of resources in its testimony or Initial Brief.<sup>44</sup> However, the Department confirmed that, given the structure of the Company’s agreements with Manitoba Hydro, the Project “ would have far lower revenue requirements” to be borne by ratepayers, than they would bear if the Company pursued a smaller project.<sup>45</sup> Further, the Department found that the Project “would likely also result in long-term cost savings for electric consumers in Minnesota,” given the Project’s impact on locational marginal prices.<sup>46</sup> Finally, the Department noted that compared to the Project a western transmission option would lead to less overall efficiency due to a “misallocation of costs” under that alternative.<sup>47</sup> In each of these ways, the Project makes efficient use of resources.

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<sup>42</sup> Ex. 41, pp. 7-8 (Hoberg Direct); Ex. 19 (MISO Hydro Wind Synergy Study).

<sup>43</sup> See Ex. 34, pp. 12-13 (McMillan Direct).

<sup>44</sup> See DOC-DER Br., p. 14, fn. 19.

<sup>45</sup> *Id.*, p. 29, citing Ex. 53, pp. 38-40 (Rakow Direct).

<sup>46</sup> *Id.*, citing Ex. 53, pp. 40-42 (Rakow Direct).

<sup>47</sup> *Id.*, p. 32, citing Ex. 53, pp. 47-49 (Rakow Direct).

Neither LPI nor RRANT addressed the Project's ability to make for an efficient use of resources in testimony or in their Initial Briefs.

## **6. Summary on Adequacy, Reliability and Efficiency of Energy Supply**

Considering the issues of the forecasted need for energy, conservation, promotional practices, the ability of current facilities to meet the need for energy, and the Project's ability to make efficient use of resources, the probable result of denial of a CON for the Project would be an adverse effect on the adequacy, reliability and efficiency of energy supply to Minnesota Power, its customers, the State and the region. No party provided any evidence to the contrary and the only party contesting need in its Initial Brief, RRANT, failed to address the question of how an adequate, reliable and efficient energy supply can be maintained without the Project.

### **B. Alternatives**

Under its second criterion for assessing need, the Commission must determine that:

a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record, considering:

- (1) the appropriateness of the size, type and the timing of the proposed facility compared to those of reasonable alternatives;
- (2) the cost of the proposed facility and the cost of energy of the proposed facility compared to the cost of reasonable alternatives;
- (3) the effects of the proposed facility upon the natural and socioeconomic environments compared to the effect of reasonable alternatives; and
- (4) the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives.

Like Minnesota Power, the Department's Initial Brief provided a thorough discussion of the extensive record evidence on potential alternatives to the Project and stated that no more reasonable or prudent alternative than the Project meets Company, customer, State and regional needs.<sup>48</sup> In contrast, LPI provided only scant discussion purporting to compare the cost of a natural gas-fired generation alternative to the cost of the Project and RRANT provided a thin discussion alleging that Minnesota Power's need could be met by a smaller transmission line. Both discussions are incomplete, misleading and cannot support a determination that a "more reasonable and prudent alternative" has been demonstrated in the record.

## **1. Size, Type and Timing**

### **a. Transmission Alternatives**

As Minnesota Power and the Department discussed, alternative sized transmission line or transmission lines with alternative endpoints fail to provide a more reasonable and prudent alternative than the Project.<sup>49</sup> In fact, the Department stated that neither a 345 kV nor a 765 kV line passed a screening process and did not merit further consideration.<sup>50</sup> However, because a 230 kV line would be sufficient for Minnesota Power to take delivery from Manitoba Hydro under the 250 MW Agreements, the Department studied that alternative more vigorously.<sup>51</sup> That analysis indicated that the

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<sup>48</sup> DOC-DER Br., pp. 20-33.

<sup>49</sup> See MP Br., pp. 40-48; DOC-DER Br., pp. 21-23.

<sup>50</sup> DOC-DER Br., p. 22, citing Ex. 53, p. 17 (Rakow Direct).

<sup>51</sup> *Id.* Note, though, that the Department stated no opinion as to whether a 230 kV line would provide sufficient capacity to support both the 250 MW Agreements and the 133

Project “would have far lower revenue requirements than a stand-alone 230 kV alternative,” as discussed further, below.<sup>52</sup> Finally, the Department’s analysis of alternative endpoints indicated that lines such as the more western Fargo Study Concept (“Concept”), with an endpoint near Barnesville, Minnesota would result in a significant misallocation of costs.<sup>53</sup> In contrast, the Project would likely result in long-term cost savings for electric ratepayers.<sup>54</sup> Moreover, as the Company explained, given that no entity is currently pursuing a western alternative such as the Concept, such a line would not be able to meet the timing needs of Minnesota Power and its customers, which requires a 2020 in-service date.

LPI did not address transmission alternatives in testimony or in their Initial Briefs. RRANT provided no testimony but now argues that the Project is over-sized for Minnesota Power’s need.<sup>55</sup> Of course, the relevant issue is not just Minnesota Power’s need for delivery of power under the Manitoba Hydro Agreements. While the ability of the Project to support the Manitoba Hydro Agreements is a critical piece of the need for the Project, the Project also provides significant State and regional benefits, including reliability benefits.<sup>56</sup> More importantly, perhaps, RRANT ignores the record evidence

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MW Renewable Optimization Agreements (“ROAs”) (collectively with the 250 MW Agreements, the “Manitoba Hydro Agreements”).

<sup>52</sup> DOC-DER Br., p. 29.

<sup>53</sup> *Id.*, p. 32, citing Ex. 53, pp. 47-49 (Rakow Direct).

<sup>54</sup> *Id.*, p. 29, citing Ex. 53, pp. 40-42 (Rakow Direct).

<sup>55</sup> RRANT Br., pp. 16-17.

<sup>56</sup> *See* Minnesota Statutes § 216B.243, subd. 3(9) (“with respect to a high-voltage transmission line, the benefits of enhanced regional reliability, access, or deliverability to the extent those factors improve the robustness of the transmission system or lower costs for electric consumers in Minnesota.”) and Minn. R. 7849.0120 (B) (4) (requiring

conclusively demonstrating the cost advantage the Project has over a smaller 230 kV alternative. As such, a smaller transmission alternative cannot provide a more reasonable and prudent alternative than the Project.

b. Generation Alternatives

Both the Company and the Department also analyzed generation alternatives and concluded that such alternatives are not more reasonable and prudent than the Project.<sup>57</sup> The Department concluded that new generation, distributed generation and C-BED alternatives “all fail to pass a screening test,” in that there is no reason to conclude that such alternatives could meet the Company’s needs.<sup>58</sup> As such, the Department agreed with Minnesota Power that these generation-side alternatives fail to provide reasonable and prudent alternatives to the Project.<sup>59</sup>

RRANT did not address generation alternatives in its Initial Brief.

LPI discussed a combined cycle natural gas-fired alternative, but provided no information to the record concerning where such a facility would be built, by whom, at what size, by what time or what new transmission might be required to deliver the power

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consideration of “the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives”).

<sup>57</sup> See MP Br., pp. 38-39; DOC-DER Br., pp. 23-24. In its Initial Brief, the Department incorrectly states that the Company “did not reconsider whether alternative resources should be pursued for this CN proceeding.” In fact, the Company fully considered market purchases, advanced coal-fired generation, natural gas-fired generation, other renewable resources, and increased conservation and demand side management, before entering into the Manitoba Hydro Agreements, including the recent 133 MW ROAs currently before the Commission for approval. See Ex. 43, pp. 29-33 (Rudeck Direct). Moreover, the Company considered both distributed generation and community based energy development (“C-BED”) projects in its application and in testimony. *Id.*

<sup>58</sup> Ex. 53, p. 20 (Rakow Direct).

<sup>59</sup> DOC-DER Br., p. 24.

from such a facility to Minnesota Power and its customers.<sup>60</sup> Moreover, LPI ignores the fact that the Commission has already determined that the capacity and energy to be delivered under the 250 MW Agreements provides the best means of meeting that portion of Minnesota Power's and its customers' needs and that the 133 MW ROAs are in the process of a similar analysis. As such, the record cannot support a determination that a combined cycle natural gas-fired facility provides a more reasonable and prudent alternative than the Project.

## **2. Cost**

### **a. The 230 kV Transmission Alternative**

As discussed above, while RRANT suggests that a 230 kV transmission alternative could meet Minnesota Power's needs, RRANT ignores the detrimental cost impact of such a decision – an impact that would be borne not just by Minnesota Power customers but also by Minnesota electric customers more broadly. Minnesota Power addressed this issue at length in its testimony and Initial Brief and will not repeat that discussion here.<sup>61</sup> In the words of the Department, the Project “would have far lower revenue requirements than a stand-alone 230 kV alternative,” given that Minnesota Power ratepayers would bear 100% of the cost of such a line as opposed to bearing only 28.3% of the cost of the Project.<sup>62</sup> In addition, the Project would likely result in long-term cost savings for electric ratepayers, given its positive impact on locational marginal

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<sup>60</sup> See LPI Br., pp. 4-5.

<sup>61</sup> See MP Br., pp. 49-50.

<sup>62</sup> DOC-DER Br., p. 29, citing Ex. 53, p. 38 (Rakow Direct).

pricing.<sup>63</sup> Thus, even viewed from a pure cost perspective and ignoring all other concerns, a smaller transmission line cannot provide a more reasonable and prudent alternative than the Project.

b. The Natural Gas Generation Alternative

LPI does not claim that a natural gas-fired generating plant provides a more reasonable and prudent alternative for Minnesota Power and its customers than the Project. However, LPI does argue that, viewed on cost alone, a natural gas-fired combined cycle plant is a “close call” on cost effectiveness compared to the Project. Of course, in analyzing potential alternatives the ALJ and Commission must consider many factors in addition to cost. As the record demonstrates, the Project and the Manitoba Hydro Agreements made possible due to the Project provide more price certainty and mitigate carbon risks in Minnesota Power’s future power supply, compared to a gas-fired facility.<sup>64</sup> Additionally, when combined with Minnesota Power’s wind supply portfolio, the Manitoba Hydro Agreements optimize the value of both resources and bring a flexible energy supply with base load characteristics.<sup>65</sup> Moreover, the cost “analysis” conducted by LPI to support its claim that natural gas and the Project are a “close call” on cost compared only the 250 MW Agreements and the Project with a natural gas-fired alternative.<sup>66</sup> As such, LPI ignores the substantial economic and environmental benefits

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<sup>63</sup> *Id.*, p. 29, citing Ex. 53, pp. 40-42 (Rakow Direct).

<sup>64</sup> Ex. 43, p. 30 (Rudeck Direct).

<sup>65</sup> *Id.*

<sup>66</sup> *See* Ex. 50, pp. 7-8 (Kollen Direct).

Minnesota Power ratepayers will receive from the 133 MW ROAs.<sup>67</sup> This incomplete analysis cannot provide a basis for determining that a natural gas-fired facility provides a more reasonable and prudent alternative than the Project.

### **3. Impact on Natural and Socioeconomic Environments**

As Minnesota Power discussed in its testimony and Initial Brief, the Project is not only compatible with the natural and socioeconomic environments when compared to alternatives, it provides substantial benefits.<sup>68</sup> The Department's Initial Brief noted the extensive environmental analysis conducted by the DOC-EERA and also noted that inclusion of environmental costs in the economic analysis of the Project increases the benefits of the Project.<sup>69</sup> Neither LPI nor RRANT addressed the issue of the impact of the Project on the natural and socioeconomic environments, either alone or in comparison to potential alternatives.

### **4. Reliability**

As the Company discussed in its Initial Brief, the record demonstrates that the Project will enhance the reliability of Minnesota Power's energy supply to its customers while also providing broader State and regional benefits.<sup>70</sup> Neither the Department nor

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<sup>67</sup> The Commission has issued a Notice of Commission Meeting to consider Minnesota Power's Petition for Approval of the 133 MW ROAs in MPUC Docket No. E-015/M-14-960 ("960 Docket") on January 29, 2015. While LPI recommended that Commission approval of the CON for the Project be conditioned on its approval of the 133 MW ROAs, as discussed further below, LPI filed no comments in the 960 Docket. Only the Department filed comments, on December 29, 2014, recommending Commission approval of the agreements.

<sup>68</sup> See MP Br., pp. 50-51.

<sup>69</sup> See DOC-DER Br., pp. 30-31, 33.

<sup>70</sup> See MP Br., pp. 50-51.

LPI addressed reliability issues related to the Project or alternatives in testimony or in Initial Briefs. RRANT provided no testimony on any issue in this proceeding, but in its Initial Brief asserts with no foundation whatsoever that, rather than appropriately addressing transmission system needs, the Project could “destabilize the grid.”<sup>71</sup> RRANT’s baseless speculation must be rejected as contrary to a mountain of evidence in the record and contrary to the direct statement of MISO, the regional transmission organization responsible for maintaining reliable transmission of power in Minnesota and the region. As MISO stated:

As the result of MISO’s work with the Applicant in the above-captioned case and its independent review of the proposed transmission project, MISO considers the Great Northern Transmission Line Project a result of sound execution of MISO’s collaborative Transmission Planning process. This Project was reviewed under both the transmission service request process found in Module B of MISO’s Tariff, and as a targeted study under a technical study task force exploring the value added by this transmission Project to the MISO footprint as described in Attachment FF, Transmission Expansion Planning Protocol, of MISO’s Tariff. Both studies confirmed the appropriateness of the Project to address system needs and opportunities.<sup>72</sup>

Moreover, with the Federal Energy Regulatory Commission’s (“FERC”) approval of the Facilities Construction Agreement (“FCA”) for the Project,<sup>73</sup> MISO considers the Project an approved project under the MISO tariff and MISO has moved the Project to

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<sup>71</sup> RRANT Br., p. 14.

<sup>72</sup> Office of Administrative Hearings Public Comment Ex. C, MISO Comment Letter, November 20, 2014, p. 1 (eDocket Document ID 201411-104808-01).

<sup>73</sup> Ex. 64.

Appendix A of the MISO Transmission Expansion Plan 14 (“MTEP14”).<sup>74</sup> These actions by MISO demonstrate the utter lack of any basis to speculate that the Project may somehow create concerns on the regional transmission grid.

## **5. Summary on Alternatives**

No party to this proceeding provided testimony supporting an alternative as a more reasonable and prudent choice than the Project. Further, no party supported an alternative over the Project in briefing. While LPI suggested a natural gas-fired generating plant may be a “close call” with the Project on cost alone, LPI did not propose under the CON rules nor explain how, when, where or by whom such a plant would be built or funded. LPI similarly failed to discuss the implications of such a choice on reliability or on the natural and socioeconomic environments. RRANT seemed to suggest that a smaller transmission line could meet Minnesota Power’s needs. However, such a line would impose more cost on Minnesota Power and its ratepayers than the Project. Moreover, such a line cannot provide the broader State and regional benefits that accompany the Project.

As the record conclusively demonstrates, no alternative has been brought forward that more reasonably and prudently meets the need of Minnesota Power, its customers, the State and the region than does the Project.

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<sup>74</sup><https://www.misoenergy.org/Planning/TransmissionExpansionPlanning/Pages/MTEP14.aspx>. MISO’s approval of the Project is an update from the discussion in the Department’s Initial Brief at page 11.

### C. Natural and Socioeconomic Environmental Effects

As its third criterion for review of a CON application, the Commission examines whether:

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, considering:

- (1) the relationship of the proposed facility, or a suitable modification thereof, to overall state energy needs;
- (2) the effects of the proposed facility, or a suitable modification thereof, upon the natural and socioeconomic environments compared to the effects of not building the facility;
- (3) the effects of the proposed facility, or a suitable modification thereof, in inducing future development; and
- (4) the socially beneficial uses of the output of the proposed facility, or a suitable modification thereof, including its uses to protect or enhance environmental quality.<sup>75</sup>

Minnesota Power fully addressed this criterion in its Initial Brief, discussing the substantial record evidence showing the Project's compatibility with the natural environment and its socioeconomic benefits.<sup>76</sup> As noted above, the Department's Initial Brief noted the extensive environmental analysis conducted by the DOC-EERA and also noted that inclusion of environmental costs in the economic analysis of the Project increases the benefits of the Project.<sup>77</sup> Neither LPI nor RRANT addressed the issue of the impact of the Project on the natural and socioeconomic environments either in testimony or their Initial Briefs. As such, the only record evidence demonstrates that the

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<sup>75</sup> Minn. R. 7849.0120 (C).

<sup>76</sup> See, e.g., MP Br., pp. 52-54.

<sup>77</sup> See DOC-DER Br., pp. 30-31, 33.

Project will meet Minnesota Power, customer, State and regional needs in a manner compatible with the natural and socioeconomic environments.

#### **D. Regulatory Compliance**

The final criterion used by the Commission in determining need states that a CON will be granted if:

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>78</sup>

Only Minnesota Power provided testimony or briefing on this criterion. On behalf of Minnesota Power, Mr. McMillan testified that: “Minnesota Power will continue to work with all federal, State and local governmental authorities to obtain all necessary permits and is fully committed to compliance with those permits.”<sup>79</sup> The record evidences the Company’s commitment in this regard, including its early and frequent outreach to federal, State, and local officials and its support of a coordinated State and federal environmental review for the Route Permit and Presidential Permit for the Project.<sup>80</sup> Therefore, the record establishes no basis to find that the Project will fail to comply with any relevant policies, rules and regulations.

#### **IV. POTENTIAL CONDITIONS**

As noted above, LPI does not oppose granting a Certificate of Need for the Project. Indeed, a review of the record and of LPI’s testimony reveals no basis on which

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<sup>78</sup> Minn. R. 7849.0120 (D).

<sup>79</sup> Ex. 34, p. 26 (McMillan Direct).

<sup>80</sup> See MPUC Docket No. E-015/TL-14-21.

LPI could base any such opposition, as neither LPI nor its witness Mr. Kollen did any examination of the underlying need for the Project. Rather, LPI reveals its true focus in the first sentence of its Initial Brief. There, LPI does not comment on the Project, the need for adequate, efficient and reliable energy, or the compatibility of the Project with the natural or socioeconomic environments. Rather, LPI focuses on past Commission-approved rate changes, increasing the electric supply cost to its member companies.

Certainly, Minnesota Power recognizes the importance of its Large Power customer and understands that these customers have faced rate increases over the past several years due to a variety of factors.<sup>81</sup> However, these concerns cannot justify turning a Certificate of Need proceeding into a forum for seeking reconsideration of or redress from Commission-approved rate changes nor can these concerns warrant transforming a CON proceeding into a mechanism for preemptively determining cost recovery or rate design issues that will be addressed in future proceedings.<sup>82</sup> Moreover, the short-term concerns of one class of customers, however important those customers may be, cannot justify imposing future cost recovery or future rate design conditions on the Company and all other customers when those conditions may be contrary to long-term customer interests and when they run contrary to statute, Commission precedent, and sound public policy.

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<sup>81</sup> See Transcript Volume (“Tr.”) 1, pp. 50-51 (McMillan).

<sup>82</sup> See Ex. 35, pp. 17-18 (McMillan Rebuttal).

### **A. Approval of Other Agreements**

While LPI did not discuss the issue of other agreements in its Initial Brief, given the importance of the 133 MW ROAs and the FCA to the Project, Minnesota Power, the Department and LPI all agreed that it is reasonable to condition approval of the CON on Commission approval of the 133 MW ROAs and FERC approval of the FCA.

On November 26, 2014, FERC approved the FCA.<sup>83</sup> Thus, a “condition” is no longer necessary for the FERC approval.

Regarding the 133 MW ROAs, comments have been filed in the 960 docket and the matter is now scheduled for hearing by the Commission.<sup>84</sup> As the Company noted above, while recommending conditioning the CON on Commission approval of the 133 MW ROAs, LPI filed no comments in the 960 Docket. Only the Department filed comments, recommending Commission approval of the agreements after a full analysis. Only Minnesota Power filed reply comments, concurring with the Department’s analysis. The Company continues to have no objection to conditioning approval of a CON for the Project on Commission approval of the 133 MW ROAs.

### **B. Cost Recovery and Cost Apportionment**

Despite the fact that Minnesota Power has no cost recovery request before the Commission at this time, LPI makes a number of recommendations related to future cost recovery. As both the Company and the Department discussed, these requests are

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<sup>83</sup> See Ex. 64.

<sup>84</sup> On January 16, 2015 the Commission issued its Notice of Commission Meeting indicating that Minnesota Power’s Petition for Approval of the 133 MW ROAs will be heard on January 29, 2015.

inappropriate in a Certificate of Need proceeding and need not be addressed until the issue of cost recovery comes before the Commission in a future filing.<sup>85</sup> If, however, the ALJ and Commission consider these LPI recommendations, Minnesota law and sound public policy require they be rejected at this time, with no prejudice to LPI or any other party's ability to properly raise the issues in future dockets, if relevant.

### **1. Cost Caps**

First, LPI recommends establishment of a “hard cap” on the Project costs that Minnesota Power can recover.<sup>86</sup> Such a “hard cap” would prohibit cost recovery above the specified amount, whether through a rider or in general rates. As part of its rationale for such a “hard cap,” LPI disingenuously states that “the Commission has recent experience with cost caps,” referring to the Boswell 4 environmental upgrade docket, suggesting that the Commission has approved a “hard cap” in that or other past dockets.<sup>87</sup> The Commission has not.

As LPI well knows, the Commission action in the Boswell 4 docket was reviewed under a specific section of Minnesota Statutes dealing with emissions-reduction riders, not under the transmission cost recovery statute that will govern recovery of Project costs.<sup>88</sup> Moreover, Minnesota Power's initial cost recovery petition in that docket stated: “The Company understands, based on Commission precedent, that cost recovery of eligible rider expenses is limited to the cost estimates as established in the Company's

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<sup>85</sup> Despite purportedly representing ratepayers, RRANT filed no testimony and took no position on the LPI recommendations in its Initial Brief.

<sup>86</sup> LPI Br., pp. 5-6.

<sup>87</sup> *Id.*, p. 6.

<sup>88</sup> Minn. Stat. § 216B.1692.

initial petition. The Company may see recovery of other costs on a prospective basis, with no deferred accounting in a subsequent rate case.<sup>89</sup> LPI participated in that docket and agreed with Minnesota Power’s interpretation of Commission precedent and requested that the Commission “cap the amount Minnesota Power can recover through its proposed rider to the cost estimates established in the Project Petition.”<sup>90</sup> The Commission agreed with Minnesota Power’s interpretation and LPI’s request and placed a cap on rider recovery of the Boswell 4 retrofit costs.<sup>91</sup>

Nothing about the Commission’s Boswell 4 Order provides precedent for the imposition of a “hard cap” that would prohibit either rider or general rate case recovery of costs prudently incurred in completion of transmission projects eligible for rider recovery under a different statute.<sup>92</sup> In fact, the Commission’s “recent experience” with transmission cost recovery riders has been solely to put in place “soft caps,” as recommended in this proceeding by the Department. As the Department explained, such “soft caps” provide incentive to the utility to manage costs while avoiding the perverse incentives that can be sent by imposition of a “hard cap.”<sup>93</sup> Specifically, the Department noted that imposition of “hard caps” could encourage utilities to abandon capital intensive projects that may be in the long-term best interest of ratepayers and instead

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<sup>89</sup> MPUC Docket No. E-015/M-12-920, Minnesota Power’s March 7, 2013 Petition (emphasis added).

<sup>90</sup> MPUC Docket No. E-015/M-12-920, LPI’s May 14, 2013 Comment (emphasis added).

<sup>91</sup> MPUC Docket No. E-015/M-12-920, Order Approving Boswell Energy Center Unit 4 Retrofit Project And Authorizing Rider Recovery (“Boswell 4 Order”), November 5, 2013, p. 5.

<sup>92</sup> Minn. Stat. § 216B.16, subd. 7b.

<sup>93</sup> DOC Br., pp. 33-35.

pursue shorter-term but more expensive projects that would provide current cost recovery.<sup>94</sup> LPI fails to address this concern and fails to acknowledge the unprecedented nature of its “hard cap” recommendation. For these reasons, and as discussed in testimony and the Minnesota Power and Department Initial Briefs,<sup>95</sup> LPI’s recommendation of a “hard cap” must be rejected.

## **2. Current Recovery (CWIP) vs. Delayed Recovery (AFUDC)**

Despite clear statutory language allowing Minnesota Power to request a current return on Project construction costs once construction work begins (“construction work in progress” or “CWIP”), LPI continues to recommend that the Commission prohibit such recovery and instead require the Company to accrue on its books an allowance for funds used during construction (“AFUDC”) and seek recovery later. As Minnesota Power discussed in its Initial Brief, LPI’s recommendation is unprecedented, contrary to law and sound public policy, and may result in increased overall costs to ratepayers.<sup>96</sup>

The Department agrees, noting that ratepayers generally were not put on notice that cost recovery issues may be addressed in this CON proceeding and that a full record would need to be developed to determine whether current (CWIP) or delayed (AFUDC) recovery by Minnesota Power would ultimately prove to benefit ratepayers.<sup>97</sup> The Department also noted the specific legislative authorization for current recovery, stating that it was not aware of a single instance in which the Commission has denied such

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<sup>94</sup> *Id.*, citing Tr. 2, p. 92 (Rakow).

<sup>95</sup> MP Br., pp. 57-64; DOC-DER Br., pp. 33-35.

<sup>96</sup> *See* MP Br., pp. 68-72.

<sup>97</sup> DOC-DER Br., p. 35, citing Ex. 57, p. 6; Tr. 2, p. 70 (Johnson Surrebuttal).

current recovery since passage of the statute.<sup>98</sup> Moreover, the Department noted that delaying recovery would increase the Project's overall revenue requirements, potentially harming ratepayers in the long-term.<sup>99</sup> Finally, the Department noted that delayed recovery would harm Minnesota Power's cash flow and financial ratings compared to current recovery and could lead to greater rate shock when the full Project costs were reflected in rates.<sup>100</sup>

Against these arguments, LPI asserts that delayed recovery still allows the Company eventual recovery of its costs and that there is "no evidence in the record to demonstrate that a current return is necessary for Minnesota Power to bolster or retain its financial health."<sup>101</sup> Minnesota Power does not dispute that mandated AFUDC treatment would eventually provide full cost recovery. However, it would so do at grave cost – to the Company and potentially to ratepayers. Regarding LPI's claim that no record evidence demonstrates the need for a current return, LPI simply misstates the record. Certainly, the Department acknowledged on the record that the Company's financial health could be adversely affected by delayed recovery – an impact that could lead to overall increased costs to ratepayers.<sup>102</sup> In addition, Minnesota Power witness Mr. McMillan testified that mandating delayed recovery of Project costs would severely harm the Company's cash flow, which can harm the Company's financial rating and impose

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<sup>98</sup> *Id.*, p. 36, citing Minn. Stat. § 216B.16, subd. 7b(b)(5); Ex. 57, p. 6 (Johnson Surrebuttal).

<sup>99</sup> *Id.*, citing Ex. 57, pp. 7-8 (Johnson Surrebuttal).

<sup>100</sup> *Id.*, citing Ex. 57, pp. 8-9 (Johnson Surrebuttal).

<sup>101</sup> LPI Br., pp. 8-9.

<sup>102</sup> Ex. 57, pp. 8-9 (Johnson Surrebuttal).

higher costs on ratepayers due to higher costs of capital for the Company.<sup>103</sup> These are not just speculative concerns, but reflect the “steady conversation” between the Company and the investment community about cash flow and its importance to the economic health of the Company.<sup>104</sup>

The Legislature specifically modified Minnesota Statutes to allow utilities to receive a current return on CWIP for its new transmission projects. In doing so, the Legislature sought to remove the financial disincentive of delayed recovery that discouraged utilities from pursuing large, capital-intensive transmission projects such as the Great Northern Transmission Line.<sup>105</sup> Consistent with this legislative direction, with Commission precedent, and with sound public policy, LPI’s recommendation to prohibit a current return on CWIP must be rejected.

### **3. Prohibition of Recovery of Costs in a Future Rate Case**

LPI again continues to ignore clear legislative direction and consistent Commission precedent when it asks the ALJ to recommend and the Commission to mandate that Minnesota Power only be allowed recovery of Project costs through a transmission cost recovery “TCR” Rider.<sup>106</sup> As Minnesota Power and the Department discussed, while the statutes allow recovery of transmission costs through a TCR Rider, the statutes do not require such recovery in perpetuity.<sup>107</sup> Rather, the transmission cost adjustment statute specifically provides that a TCR Rider shall remain in place until

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<sup>103</sup> Tr. 1, pp. 68-70 (McMillan).

<sup>104</sup> *Id.*

<sup>105</sup> Ex. 35, p. 12 (McMillan Rebuttal).

<sup>106</sup> LPI Br., p. 9.

<sup>107</sup> MP Br., pp. 73-74; DOC-DER Br., p. 38.

“costs have been fully recovered or have otherwise been reflected in the utility’s general rates.”<sup>108</sup> Thus, the statute clearly anticipates that utilities may move recovery of transmission costs from a TCR Rider to its general rates, if approved by the Commission in a general rate case.<sup>109</sup>

Given this clear language, the Commission has never mandated recovery of transmission costs only through a TCR Rider.<sup>110</sup> Again, sound public policy supports the Commission’s past practice, since better ratemaking outcomes may be achieved for customers by addressing this major new asset addition through a traditional general rate case.<sup>111</sup> For all of these reasons and as discussed in the Company and Department Initial Briefs, the Commission should continue its past practice, consistent with statute, and not pre-emptively foreclose in this Docket an option that may prove to be in the best interest of ratepayers.

#### **4. Predetermining Cost Allocation**

Finally, LPI continues to recommend that the Commission determine now the cost allocation to be applied to Project costs when the Company makes a cost recovery filing in the future. In doing so, LPI suggests that Minnesota Power has proposed a cost allocation method that would harm Large Power customers.<sup>112</sup> The Company has done no such thing. Rather, the Company simply provided information for the record demonstrating the potential rate impacts that would occur if Project costs were allocated

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<sup>108</sup> Minn. Stat. § 216B.16, subd. 7b(b)(9) (emphasis added).

<sup>109</sup> Ex. 57, p. 11 (Johnson Surrebuttal).

<sup>110</sup> *Id.*

<sup>111</sup> Ex. 34, p. 14 (McMillan Rebuttal); Ex. 57, p. 10 (Johnson Surrebuttal).

<sup>112</sup> LPI Br., p. 10.

in a manner similar to the manner in which costs were allocated in past transmission cost recovery riders. In addition, the Company provided information to the record showing the potential rate impacts that would occur if costs were allocated in the manner preferred by LPI. However, Minnesota Power has taken no position on the “proper” cost allocation method at this time since cost recovery is not at issue. In fact, the Commission has never addressed such issues in a CON and neither other customers nor the Company had any reason to believe it would do so in this case until LPI raised this issue in Direct Testimony. Given these facts, the ALJ and Commission should decline LPI’s invitation to set new precedent.

LPI also plainly states that it has brought forward its cost allocation proposal now to partially address the “inequity” of past Commission-approved rate increases that have impacted Large Power customers more than residential or general service customers.<sup>113</sup> However, CON proceedings should not become vehicles for particular customer groups to address grievances they may have from past cases, or to request the Commission to pre-judge future cases. Simply put, LPI’s concerns on cost allocation are misplaced in this proceeding and can be brought forward at the time Minnesota Power seeks rate recovery of Project costs.

### **CONCLUSION**

Based on the record, Minnesota law and Commission precedent, Minnesota Power respectfully requests that the Administrative Law Judge recommend to the Commission and that the Commission grant Minnesota Power a Certificate of Need for the Great

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<sup>113</sup> *Id.*

Northern Transmission Line, conditioned upon: (1) Commission approval of the 133 MW Renewable Optimization Agreements; and (2) establishment of a “soft cap” on the total construction cost recovery allowed through a Transmission Cost Recovery Rider equal to the Company’s estimated construction costs in this record.

Dated: January 16, 2015

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ATTORNEYS FOR MINNESOTA POWER

**APPENDIX A**

**BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS  
600 North Robert Street  
St. Paul, Minnesota 55101**

**FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
121 Seventh Place East, Suite 350  
St. Paul, Minnesota 55101-2147**

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

**OAH Docket No. 65-2500-31196**

**MPUC Docket No. E-015/CN-12-1163**

**MINNESOTA POWER ISSUES MATRIX – PARTIES’ INITIAL BRIEF POSITIONS**

**January 16, 2015**

Minnesota Power (“MP”) developed this post-briefing issues matrix to provide the Administrative Law Judge (“ALJ”) and Minnesota Public Utilities Commission (“Commission”) with a mapping from: (1) the Commission’s Certificate of Need Rules Criteria (and the corresponding statutory factors, where applicable) to the pages of Parties’ Initial Briefs discussing those criteria; and (2) the suggested conditions recommended to be attached to any granting of a Certificate of Need to the pages of the Parties’ Initial Briefs discussing those conditions. For a mapping of these issues to the record evidence, Minnesota Power continues to refer the ALJ and Commission to the Issues Matrix filed by all Parties on December 5, 2014.

<b>Certificate of Need Statute and Rule Related Issues</b>	<b>MP</b>	<b>DOC-DER</b>	<b>LPI</b>	<b>RRANT</b>
<b>1. Should the Commission Grant MP a Certificate of Need for the Great Northern Transmission Line?</b>	Yes  “The record establishes the need for the Project.”  MP Initial Brief (“Br.”), pp. 22-56	Yes  “MP has satisfied the legal criteria for a Certificate of Need under Minn. Stat. § 216B.243 and Minn. R. 7849.0120.”  DOC Br., pp. 7-33	“LPI does not oppose the Application”  LPI Br., p. 11	No  “The Applicant has not met the burden of proof and burden of production”  RRANT Br., p. 20.
<b>2. Does the record support the granting of a Certificate of Need, under the criteria set forth in MPUC Rules (Minn. R. 7849.0120)?</b>	Yes  MP Br., pp. 22-56	Yes  DOC Br., pp. 7-33	Did not directly address, but “does not oppose the Application”  LPI Br., p. 11	Did not directly address but recommends denial of a Certificate of Need  RRANT Br., p. 20
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 considering:	Yes  MP Br., pp. 23-36	Yes  DOC Br., pp. 14-20	Did not address	Did not directly address but claims a smaller capacity line would meet MP’s needs  RRANT Br., pp. 16-17

<b>Certificate of Need Statute and Rule Related Issues</b>	<b>MP</b>	<b>DOC-DER</b>	<b>LPI</b>	<b>RRANT</b>
<p>(1) the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;</p> <p>(Aligns Minn. Stat. § 216B.243, subp. 3 (1))<sup>1</sup></p>	<p>Forecast supports need</p> <p>MP Br., pp. 23-31</p>	<p>Forecast supports need</p> <p>DOC Br., pp. 14-19</p>	<p>Did not address</p>	<p>Did not address</p>
<p>(2) the effects of the applicant's existing or expected conservation programs and State and federal conservation programs;</p> <p>(Aligns with Minn. Stat. § 216B.243, subp. 3 (2) and (8))</p>	<p>Conservation cannot replace need for Project</p> <p>MP Br., pp. 31-32</p>	<p>Conservation cannot replace need for Project</p> <p>DOC Br., p. 19</p>	<p>Did not address</p>	<p>Did not address</p>
<p>(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;</p> <p>(Aligns with Minn. Stat. § 216B.243, subp. 3 (4))</p>	<p>Promotional activities did not impact need</p> <p>MP Br., pp. 32-33</p>	<p>Promotional activities did not impact need</p> <p>DOC Br., pp. 19-20</p>	<p>Did not address</p>	<p>Did not directly address but claims the Manitoba Hydro Agreements constitute “promotional activity”</p> <p>RRANT Br., p. 15</p>

<sup>1</sup> This Matrix lists the relevant statutory factors under the Commission Rules subparts with which they align. As indicated in the Parties’ December 5, 2014 Issues Matrix, the statutory factors for consideration listed at Minn. Stat. § 216B.243, subp. 3 (10) and (12) do not apply to this proceeding. In addition, Minn. Stat. § 216B.243, subp. 3 (11) is met since hydro power is a “renewable energy source” under Minnesota law. Minn. Stat. § 216B.243, subp. 3a.

<b>Certificate of Need Statute and Rule Related Issues</b>	<b>MP</b>	<b>DOC-DER</b>	<b>LPI</b>	<b>RRANT</b>
<p>(4) the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand; and</p> <p>(Aligns with Minn. Stat. § 216B.243, subp. 3 (3) and (9))</p>	<p>Current facilities cannot meet need</p> <p>MP Br., pp. 33-34</p>	<p>Current facilities cannot meet need</p> <p>DOC Br., p. 20</p>	<p>Did not address</p>	<p>Did not address</p>
<p>(5) the effect of the proposed facility, or a suitable modification thereof, in making efficient use of resources;</p>	<p>Project makes efficient use of resources</p> <p>MP Br., pp. 34-35</p>	<p>Did not directly address</p> <p>DOC Br., p. 14</p>	<p>Did not address</p>	<p>Did not address</p>
<p>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:</p>	<p>No more reasonable and prudent alternative has been demonstrated</p> <p>MP Br., pp. 36-52</p>	<p>The Project is “the most reasonable alternative to meet the projected energy demand”</p> <p>DOC Br., pp. 20-33</p>	<p>Did not directly address but claims the cost difference between the Project and a combined-cycle natural gas plant “is small”</p> <p>LPI Br., pp. 4-5</p>	<p>Did not directly address but claims a smaller capacity line would meet MP’s needs</p> <p>RRANT Br., pp. 16-17</p>
<p>(1) the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives;</p> <p>(Aligns with Minn. Stat. § 216B.243, subp. (6))</p>	<p>No better size or type of facility has been shown which can meet the need for a 2020 in-service date</p> <p>MP Br., pp. 37-49</p>	<p>No better size or type of facility has been shown</p> <p>DOC Br., pp. 20-24</p>	<p>Did not directly address but claims the cost difference between the Project and a combined-cycle natural gas plant “is small”</p> <p>LPI Br., pp. 4-5</p>	<p>Did not directly address but claims a smaller capacity line would meet MP’s needs</p> <p>RRANT Br., pp. 16-17</p>

<b>Certificate of Need Statute and Rule Related Issues</b>	<b>MP</b>	<b>DOC-DER</b>	<b>LPI</b>	<b>RRANT</b>
<p>(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;</p> <p>(Aligns with Minn. Stat. § 216B.243, subp. (8))</p>	<p>Other alternatives, including a smaller capacity line, would be more costly for MP ratepayers</p> <p>MP Br., pp. 49-50</p>	<p>Other alternatives, including a smaller capacity line, would be more costly for MP ratepayers</p> <p>DOC Br., pp. 25-30</p>	<p>Did not directly address but claims the cost difference between the Project and a combined-cycle natural gas plant “is small”</p> <p>LPI Br., p. 4-5</p>	<p>Did not address</p>
<p>(3) the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives; and</p> <p>(Aligns with Minn. Stat. § 216B.243, subd. 3 (5))</p>	<p>Consideration of natural and socioeconomic impacts shows significant benefit to Project</p> <p>MP Br., pp. 50-51</p>	<p>Consideration of social costs shows slight benefit for Project but “does not materially change the analysis”</p> <p>DOC Br., pp. 30-31</p>	<p>Did not address</p>	<p>Did not address</p>
<p>(4) the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives;</p> <p>(Aligns with Minn. Stat. § 216B.243, subd. 3 (5))</p>	<p>Project provides reliability benefits compared to alternatives</p> <p>MP Br., pp. 51-52</p>	<p>Did not address</p>	<p>Did not address</p>	<p>Did not address</p>

<b>Certificate of Need Statute and Rule Related Issues</b>	<b>MP</b>	<b>DOC-DER</b>	<b>LPI</b>	<b>RRANT</b>
<p>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; considering:</p>	<p>“The Project meets Minnesota Power, state and regional needs in a manner compatible with protecting the natural and socioeconomic environments.”</p> <p>MP Br., pp. 52-55</p>	<p>“The proposed project will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including public health”</p> <p>DOC Br., p. 33 (referencing the Environmental Report)</p>	<p>Did not address</p>	<p>Did not address</p>
<p>(1) the relationship of the proposed facility, or a suitable modification thereof, to overall State energy needs;</p>	<p>The Project helps meet overall State and regional energy needs</p> <p>MP Br., pp. 28-31; 53-54</p>	<p>Did not address</p>	<p>Did not address</p>	<p>Did not address</p>

<b>Certificate of Need Statute and Rule Related Issues</b>	<b>MP</b>	<b>DOC-DER</b>	<b>LPI</b>	<b>RRANT</b>
(2) the effects of the proposed facility, or a suitable modification thereof, upon the natural and socioeconomic environments compared to the effects of not building the facility;	<p>The Project is compatible with the natural environment and brings significant socioeconomic benefits</p> <p>MP Br., pp. 50-11; 53-55</p>	<p>“The proposed project will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including public health”</p> <p>DOC Br., p. 33 (referencing the Environmental Report)</p>	Did not address	Did not address
(3) the effects of the proposed facility, or a suitable modification thereof, in inducing future development; and	<p>The Project brings significant economic development and other benefits</p> <p>MP Br., pp. 50-51; 54</p>	Did not address	Did not address	Did not address
(4) the socially beneficial uses of the output of the proposed facility, or a suitable modification thereof, including its uses to protect or enhance environmental quality; and	<p>The Project helps diversify the Company’s energy portfolio and optimize its wind resources, lowering emissions</p> <p>MP Br., pp. 26-27; 53-54</p>	Did not address	Did not address	Did not address

<b>Certificate of Need Statute and Rule Related Issues</b>	<b>MP</b>	<b>DOC-DER</b>	<b>LPI</b>	<b>RRANT</b>
<p>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.</p> <p>(Aligns with Minn. Stat. § 216B.243, subp. (7))</p>	<p>The Project will comply with all relevant policies, rules and regulations</p> <p>MP Br., pp. 55-56</p>	<p>Did not address</p>	<p>Did not address</p>	<p>Did not address</p>

## SUGGESTED CONDITIONS

Should the Following Conditions Be Attached to the Certificate of Need?	MP	DOC-DER	LPI	RRANT
<b>3. Should the Commission require Commission approval of the 133 MW Renewable Optimization Agreements and FERC approval of the Facilities Construction Agreement?</b>	Yes MP Br., pp. 56-57	Yes DOC-DER Br., p. 33	Yes LPI Br., p. 2	Did not address
<b>4. Should the Commission decide cost recovery issues as part of this proceeding?</b>	No MP Br., pp. 64-67	No DOC-DER Br., pp. 37- 39	Yes LPI Br., p. 2	Did not address
A. Should the Commission require AFUDC treatment rather than CWIP?	No MP Br., pp. 68-72	No DOC-DER Br., pp. 35-37	Yes LPI Br., pp. 7-9	Did not address
B. Should the Commission require rider recovery for the entirety of Minnesota Power’s cost recovery and prohibit recovery through base rates?	No MP Br., pp. 73-74	No DOC-DER Br., p. 38	Yes LPI Br., p. 9	Did not address
C. Should the Commission impose a “hard cap” on cost recovery?	No MP Br., pp. 57-64	No DOC-DER Br., pp. 33-35	Yes LPI Br., pp. 5-6	Did not address

<b>Should the Following Conditions Be Attached to the Certificate of Need?</b>	<b>MP</b>	<b>DOC-DER</b>	<b>LPI</b>	<b>RRANT</b>
D. Should the Commission impose a “soft cap” on cost recovery?	Yes  MP Br., pp. 57-64	Yes  DOC-DER Br., pp. 33-35	Did not address	Did not address
<b>5. Should the Commission determine the allocation of costs of the Project to Minnesota Power’s customer classes in this proceeding?</b>	No  MP Br., pp. 64-67; 74-76	No  DOC-DER Br., pp. 37- 39	Yes  LPI Br., p. 10	Did not address
A. If so, should the Commission require the allocation of costs based on base revenues excluding fuel and other riders?	No position  MP Br., p. 76	No position  DOC-DER Br., p. 39	Yes  LPI Br., p. 10	Did not address