



November 1st, 2019

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 Seventh Place East, Suite 350  
St. Paul, MN 55101-2147

VIA ELECTRONIC SERVICE

**Re: Sierra Club, Fresh Energy, and the Minnesota Center for Environmental  
Advocacy's Motion to Compel Basin's Response to Information Requests, Docket  
No. ET6125/RP-19-425**

Dear Mr. Wolf:

Attached is the Motion to Compel Basin's Response to Information Requests of Sierra Club,  
Fresh Energy, and the Minnesota Center for Environmental Advocacy in the following matter:

In the Matter of Basin Electric Power Cooperative's Optional Integrated Resource Plan

Sincerely,

/s/ S. Laurie Williams  
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Enclosures

**STATE OF MINNESOTA  
PUBLIC UTILITIES COMMISSION**

In the Matter of  
Basin Electric Power Cooperative's  
Optional Integrated Resource Plan

DOCKET NO. ET6125/RP-19-425

**MOTION TO COMPEL BASIN'S RESPONSE TO INFORMATION REQUESTS BY  
SIERRA CLUB, FRESH ENERGY AND THE MINNESOTA CENTER FOR  
ENVIRONMENTAL ADVOCACY**

**I. Procedural History**

On June 27, 2019, Basin Electric Power Cooperative ("BEPC", "Basin" or the "Company") filed its 2019 Optional Integrated Resource Plan ("O-IRP"). On July 16, 2019, Sierra Club, Fresh Energy, and the Minnesota Center for Environmental Advocacy (collectively, "Environmental Intervenors") petitioned to intervene in the proceeding and simultaneously filed a set of six information requests ("IRs") to Basin. At the same time, Environmental Intervenors filed a request to extend the comment deadline by 30 days in order to provide Basin Electric sufficient time to respond to the IRs. On July 26th, Basin filed an "Opposition to Sierra Club, Fresh Energy, and the Minnesota Center for Environmental Advocacy's ("Petitioners," "Environmental Intervenors") Petition to Intervene and First Set of Information Requests." On August 9, Environmental Intervenors requested that the comment deadline be extended until 30 days after the Commission disposed of Basin's objection. On September 12, 2019, the Commission heard oral arguments on Environmental Intervenors' petition to intervene, and also heard arguments on whether Basin should respond to the July 16th IRs. On October 4, the Commission issued an order granting Environmental Intervenors' petition to intervene, and requiring Basin to respond or otherwise object to the IRs within 14 days. The Commission also indicated orally at the hearing that parties were expected to meet and discuss the IRs. On October

14th, representatives for the Environmental Intervenors and Basin met, at which time Basin indicated that it planned to object to the IRs. On October 18th, Basin filed its responses to the IRs (“Basin Objections”), in which it generally objected to the requests, other than providing a response to IR 1-SCFEMCEA-5 (its load forecast) and 1-SCFEMCEA-2(a) (seeking the Request for Proposal (“RFP”) referenced by Basin in its O-IRP; Basin provided the RFP but objected to providing the RFP responses).

Basin Electric’s O-IRP projects significant demand growth. O-IRP at 5. Basin identifies its load obligations within the Midcontinent Independent System Operator (“MISO”) Local Resource Zone (“LRZ”) 1 and 3 as including Minnesota.<sup>1</sup> O-IRP at 2. Exhibit B1 to the O-IRP shows Basin’s MISO Zone 1 load growing from 232 MW in 2019 to 361 MW in 2034, while its resources meeting that load drop from 325 MW in 2019 to 250 MW in 2023 and to zero in 2028. Starting in 2023, the exhibit indicates a resource deficit begins, with Basin projecting it will be meeting *none* of its resource needs by 2028 for that zone. Exhibit B2 shows Basin’s MISO Zone 3 resource supply adequacy projection. That projection shows a resource supply deficit beginning in 2026. The O-IRP broadly discusses Basin’s future resource options, including seeking short term and long term proposals for capacity or capacity and energy for its MISO and SPP areas, as well as renewable proposals for both MISO and SPP. It further stated that it received proposals back in March of 2019 and was in the process of analyzing those proposals.

Upon review of Basin’s O-IRP, Environmental Intervenors filed six requests for information, seeking basic data regarding the costs of certain Basin’s generating resources as well as information about the RFPs referenced in Basin’s O-IRP. These requests were directed at standard information that would allow Environmental Intervenors to assess whether Basin’s

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<sup>1</sup> A portion of the Southwestern Power Pool (“SPP”) is also in Minnesota, and of course SPP is also a part of the Eastern Interconnection, the larger grid system in which MISO and Minnesota are located.

major existing generating resources are economic resources, and allow Environmental Intervenor to ascertain whether Basin is appropriately considering meeting its projected needs with cleaner and lower cost options.

To each of these requests, Basin objected on the grounds that each “seeks information that is not relevant and is beyond the statutory scope of this proceeding” because “it does not relate to the issues in this proceeding as specified in Minn. Stat. Section 216B.2422, subd. 2b, which are the ‘projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies.’” *See, e.g.*, Objections at 16. Basin also objects to each of these requests for seeking information that “is not aggregate data.” *See, e.g., id.* Basin also objects to each request “on the grounds that the regulation of such operations exceeds the jurisdiction of the Commission.” Basin further objects to each as overly burdensome.

On October 22nd, upon review of Basin’s filed Objections, Environmental Intervenor emailed Basin to ask whether the Company would be willing to respond to a more narrow set of the information requests. Basin responded on October 24th that it maintained its objections to providing any additional information.

Environmental Intervenor, through this Motion, now seek to compel Basin to respond to IRs 1-SCFEMCEA-1 (a), (c), (d), (i), and (j); IR 1-SCFEMCEA-2(b); IR 1-SCFEMCEA-4; and IR 1-SCFEMCEA-6. With respect to IR 1-SCFEMCEA-1, Environmental Intervenor further limit the scope of that request to information related to Basin’s coal-fired generating units in the eastern interconnect.

Each of Basin’s objections is without merit and unsupported by the law or the facts. The information sought in these requests is all directly tied to the most foundational level of information relevant to a resource plan: the existing generation meeting Basin’s customers’

needs; its cost and affordability; and its plans to acquire additional resources. The O-IRP makes clear that Basin is projecting load growth in the zones in which Minnesota is located, but that it has no plans to meet that load growth, or even its existing load. Environmental Intervenors are concerned that Basin Electric is not seeking the lowest cost, cleanest resources possible to meet those needs. Environmental Intervenors therefore respectfully request that the Commission compel a response from Basin to the IRs, as discussed in more detail below.

Below, Environmental Intervenors respond first to Basin's general objections, and then specifically regarding each of the IRs to which we now seek to compel a response. Environmental Intervenors will provide the practical reasons for granting this motion in the second section discussing each IR.

## **II. Response to Basin's General Objections**

### **Basin Objection 1: Scope of Discovery in O-IRP proceedings**

Basin's primary objection is that the information requests are beyond the scope of the Optional IRP-Report Statute, Minn. Stat. Section 216B.2422, subd. 2b (Basin Objections at 4-10) and as interpreted by the Commission's past regulatory orders (*id.* at 10-13). Neither of these assertions are accurate characterizations of the law nor of the Commission's past practice.

#### **1. The information requested is well within the statutory scope of the Commission's authority.**

##### **A. The plain language of the statute indicates that the Commission retains its broad oversight authority in the O-IRP process.**

In its Objections, Basin repeatedly asserts that 2012 legislation, codified at Minn. Stat. Section 216B.2422, subdivision 2b ("O-IRP Statute"), limits discovery in this proceeding to information related to "projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies." *See* Objections at 4-5. Basin points to statutory

language providing that, in lieu of filing a resource plan under the general integrated resource planning statute, a cooperative such as Basin may instead file a report that “must include projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies.” *Id.*

However, this language only establishes a streamlined reporting requirement, and does not otherwise modify the Commission’s statutory authority to oversee resource adequacy and affordability for Minnesotans. The O-IRP statute establishes a streamlined report, and sets the minimum standard for what types and depth of analyses that report must include. Other than limits on information regarding individual distribution cooperatives, nothing in the O-IRP statute expressly limits the scope of the information the Commission may review in an O-IRP proceeding, nor does it limit discovery in an O-IRP proceeding.

The statutory language indicates that the legislature did not intend to reduce the O-IRP process to a mere paper exercise, as Basin would now have the Commission find. The statute states: “The commission may take whatever action in response to a report under this subdivision that it could take with respect to a report by a cooperative under subdivision 2.” Minnesota Statute 216.2422, subdivision 2 states: “A utility shall file a resource plan with the commission periodically in accordance with rules adopted by the commission. The commission shall approve, reject, or modify the plan of a public utility, as defined in section 216B.02, subdivision 4, consistent with the public interest.” Subdivision 2(b) states that for utilities that do not meet the definition of a “public utility” under 216B.02, subdivision 4, “the commission’s order shall be advisory and the order’s findings and conclusions shall constitute prima facie evidence which may be rebutted by substantial evidence in all other proceedings.” Thus, the Commission is authorized to issue an advisory order that accepts or rejects Basin’s O-IRP, and that order carries

weight in future proceedings. That the legislature authorized the Commission to issue advisory orders in response to O-IRP filings indicates that the legislature intends for the Commission to be able to investigate the merits of the O-IRPs and respond to them in the same manner that it responds to traditional “resource plans” filed by a cooperative under Minn. Stat. Section 216B.2422, Subd. 2.

The Commission’s rules regarding its review of resource plans, Minn. R. 7843.0500, do not distinguish between O-IRPs and traditional IRPs. The plain language of Minn. R. 7843.0200, Subp. 1, states that “the purposes of parts 7843.0100 to 7843.0600 is to prescribe the contents of and procedures for regulatory review of resource plan filings.” Thus, the Commission’s procedural rules apply not only to “resource plans,” as this term is defined by Minn. Stat. Section 216B.2422, Subd. 1(d), but to all “filings” under Minn. Stat. Section 2422 related to resource planning. These rules are generally applicable except to the extent that they are either in direct conflict with Minn. Stat. Section 216B.2422, Subd. 2b, or are superseded by Commission order. Those rules list, in subpart 3, factors that must be considered when reviewing a resource plan. They include: adequacy and reliability; keeping customers’ bills and utility’s rates as low as practicable; minimizing adverse socioeconomic effects and adverse effects upon the environment; and limiting risk exposure.

**B. The legislative history is consistent with Environmental Intervenors’ interpretation of the statutory language.**

Basin contends that the O-IRP statute’s legislative history makes it unambiguously clear that the legislature intended to limit discovery in O-IRP proceedings. But tellingly, Basin does not cite to a single sentence in the legislative history in which a legislator stated that it intended to limit the scope of discovery or otherwise limit the Commission’s broad oversight. The

legislative history only makes clear, as is also clear from the statutory language, that the legislature intended to streamline the O-IRP filing itself. *See, e.g.*, Objections at 8.

Notably, Basin provides as Exhibit C to its Objections an email from the Department of Commerce (“Department”) proposing the legislative compromise that was codified in the O-IRP statute. That email describes the proposed compromise as follows: “We think that this concept balances an alternative method of reporting for Dairyland and Basin (along the lines of what you have indicated is your current business practice in other states) while maintaining adequate protections for the state and Minnesota consumers from the effects of potential reliability issues and/or increased electric costs.” This language is clear: the intent was to streamline the report itself while maintaining Commission oversight into the issues of reliability, resource adequacy, and cost. The email continues: “If a qualifying utility chooses option ii, submission of the presentation report to the Commission does not exempt the utility from making adequate infrastructure investments, undertaking sufficient preventative maintenance with regard to generation, transmission, and other facilities and furnishing safe, adequate, efficient and reasonable service.” The email further states that the “presentation report must include the expected level of demand and generation resources covering the next 15 years and, if applicable, outline solutions for meeting any generation deficiencies identified in the report.” This supports Environmental Intervenors’ interpretation of the statute, not Basin’s.

**C. Even under a narrow interpretation of the statutory language, Environmental Intervenors’ requests fall within the statutory scope.**

Basin acknowledges that the O-IRP statute requires reports to include “projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies.” Even if the Commission were to find that discovery should be limited to demand and generation resources, all of Environmental Intervenors’ Information Requests are directed at



information that is plainly and unambiguously within the scope of this language. The IRs seek basic information about Basin's existing generation resources, the costs of those resources, Basin's plans to secure resources to meet its identified load, and the cost of resources that could meet that load. The IRs directly reference statements made in the O-IRP regarding Basin's existing generation resources and its plans to address identified resource deficiencies.

If Environmental Intervenors' information requests seeking more information about Basin's load and generating resources are outside the scope of an O-IRP, as Basin contends, then this begs the question as to what information would ever fall within the scope, under Basin's interpretation. Basin is arguing that the O-IRP statute is akin to a paper exercise where any additional inquiry into its filing is "out of scope." If that were the case, the statute would have explicitly changed the Commission's authority with respect to the O-IRP, or altered the procedures governing it. Instead, the statute *explicitly* states that the O-IRP "shall be done in accordance with procedures established by the commission" and that "[t]he commission may take whatever action in response to a report under this subdivision that it could take with respect to a report by a cooperative under subdivision 2." Minn. Stat §216B.2422 subd. 2b. Basin's argument that the statute actually means the opposite of its plain language should be rejected by the Commission.

**III. The Commission's past practice supports Environmental Intervenors' position that the requested information is within the scope of the Commission's authority.**

Basin further incorrectly states in its Objections that "since the enactment of Optional-IRP Report Statute in 2012, the Commission has recognized the limited scope of the Optional-IRP Report.... On every previous occasion, the Commission has acted in a manner consistent with limiting the issues in the Optional IRP Report proceedings to those directly related to"

projected demand and generation resources. Objections at 10. This assertion mischaracterizes the Commission's past orders. In fact, in every prior O-IRP order, the Commission has made clear that it maintains the authority to require Basin to provide additional, more detailed information about its generating resources and its ability to meet its resource needs, but that it was deciding not to exercise that authority at that time. These past Commission decisions show that the Commission has never accepted the absurdly narrow interpretation Basin now asserts.

The 2012 O-IRP proceeding was the first O-IRP filed after the new O-IRP statute was passed, and provides insight into the Department and the Commission's view of the statute's meaning at the time. In that proceeding, the Commission issued a notice seeking comments on whether Basin's O-IRP filing complied with the new statute. See Docket No. E-6125/RP-12-723, July 10, 2012 Notice of Comment Period. The Department filed comments expressing concerns with Basin's filing. *See* DOC Comments in Docket No. E-6125/RP-12-723, dated July 30, 2012. The Department commented that Basin had identified growing demand, but not the resources to meet the demand. The Department stated:

“Since Basin hasn't identified the amount of resources the cooperative intends to obtain even in the near future, it isn't clear that the filing complies with the requirement to provide “generation resources to meet any projected generation deficiencies.” For example, Basin Electric projects a short-term need of more than 500 MW by 2016, but it isn't clear from the information provided to date how Basin plans to meet that need.

Such information appears to be fundamental to the process before the Commission. The Department recommends that the Commission decide whether the information provided in Basin Electric's O-IRP is sufficient to comply with the requirements of the law. If the Commission decides that the filing is incomplete, the Commission should identify whatever further information Basin Electric should provide and obtain that information from Basin in a reasonable manner. For example, the Commission may choose to require Basin to file a more specific generation procurement plan once Basin Electric's present RFP process is completed.”

*Id.* at 5. In response to the Commission’s more general question regarding what procedures it should establish for O-IRPs, the Department offered the following:

“The purpose of integrated resource plans (IRPs) is for utilities to provide information to the Minnesota Commission showing that each utility has adequate resources to meet its customers’ or members’ needs for reliable electric service over the next 15 years. This showing of resource adequacy is one of the most important functions of a resource plan for any utility since failure of any utility’s plan to meet the needs of its customers or members could impose costs on customers of other utilities by increasing the costs of scarce energy resources. Thus, the Commission must assess whether Basin Electric’s plan would adequately meet the needs of its members.

There are entities involved with reliability issues; notably the Midwest Reliability Organization (MRO), to which both the Midwest Independent System Operator (MISO) and the Mid-Continent Area Power Pool (MAPP) report data. However, the Commission’s assessment is particularly important since only states can require an entity that is violating a reliability standard to build more facilities. Accordingly, the new O-IRP statute retains the requirement that utilities qualifying for the O-IRP option “must include projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies.”

In assessing whether Basin’s resource plan will provide enough resource adequacy, and thus promote a reliable system, the Commission will need to determine to its satisfaction that Basin’s O-IRP has a reasonable forecast of demand by its members in sufficient detail to determine the type of any new resource that might be needed, and that Basin has adequate resources that will be available and capable in the future to meet that need.

The Department recommends that the Commission decide whether the information in Basin’s OIRP is adequate for the Commission to reach a conclusion as to whether or not Basin will be able to ensure reliable service to Basin’s members over the planning period. .... If not, the Commission should obtain from Basin in a reasonable manner whatever further information the Commission believes it necessary to reach its conclusions.

*For example, the Commission may determine that more information is needed regarding the expected lives of Basin’s existing resources, including a timeline for when those resources may be improved or retired, and the potential issues that may be encountered in that process. The Commission may also want to know more about the resources that Basin plans to procure to meet its members’ needs. The Commission could choose to ask Basin to divide this resource information into a short-term period, such as the next five years, and a longer-term. For the*

*short term, the information should be specific as to size, type, and timing of resources* (e.g., construction or purchase of 125 MW combustion turbine peaking unit in year 3). For the longer term period, the information could include more generic resources. As the Commission has decided with other utilities, any reliance on pure energy market purchases (purchases that are not backed up with resources) should only be for short periods (perhaps two or three years) and as a bridge to a long-term resource.

*Id.* at 5-6 (emphasis added).

In short, a mere two months after the O-IRP statute was passed, the Department felt that it was appropriate and within the scope of the O-IRP statute for the Commission to seek precisely the sort of information that Environmental Intervenors now request.

In the Commission's Order on Basin's 2012 O-IRP, the Commission stated: "The Commission shares the Department's concern that Basin's report lacks detail on how the cooperative plans to meet its projected generation deficiency. However, rather than require further filings in this docket, the Commission will allow Basin to address the concerns raised by the Department in its next report." Commission Order in Docket No. E-6125/RP-12-723 (December 19, 2012).

In Basin's 2013 O-IRP, the Commission again decided not to reach the merits of the filing, but expressly preserved its right to take other actions in future proceedings. Order Acknowledging Receipt of Compliance Report and Closing Docket, Docket No. ET-6125/RP-13-562 (Sept. 26, 2013) ("In view of the limited scope of *compliance reports* and without limiting its options for future filings, [the] Commission acknowledges receipt of Basin's compliance report....").

In Basin's 2014 O-IRP, MCEA filed comments urging the Commission to require Basin to consider greenhouse-gas emissions and environmental cost in its report. *See* Docket No. ET-6125/RP-14-534. The Department commented that it did not believe that subdivision 2c of the resource planning statute *required* Basin to include that information in its report, but "stated that

the Commission could request that they provide this information.” Order Acknowledging Receipt of compliance Report and Closing Docket, Docket No. ET-6125/RP-14-534 (Dec. 16, 2014) at 2. The Commission agreed with the Department, stating that Basin was not obligated to file a statement regarding its progress towards achieving the greenhouse gas goals in its report, but that the Commission had the authority to request it if it so desired: “While the Commission agrees that it could require Basin to file this information, and reserves the right to do so in the future, the Commission declines to do so at this time.” *Id.*<sup>2</sup>

In sum, consistent with the O-IRP statute, all of the Commission’s past orders on Basin’s O-IRPs have recognized and preserved the Commission’s ability to seek additional information regarding Basin’s resource plans if it so desires.

Basin also points to Dairyland’s 2013 O-IRP (Docket No. RP-13-565) to support its position that the Commission has limited the scope of O-IRP proceedings, Objections at 11, but once again, this mischaracterizes the Commission’s actions. In that proceeding, Environmental Intervenors filed a set of nine discovery requests. Dairyland objected to those requests. Environmental Intervenors did not then file a motion to compel, but instead simply noted in their comments that the additional information would be useful. The Commission did not reach or address the issue in its order, stating only: “In view of the limited scope of compliance reports, and without limiting its options for future filings, Commission acknowledges receipt of

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<sup>2</sup> Basin asserts in its Objections that in its 2015 IRP, DOC asked and received resource adequacy information, which Basin states “is a topic properly considered within the scope of the Optional-IRP Report Statute.” Objections at 12, citing RP-15-643. Basin fails to disclose that the Department in fact commented in that proceeding that “The Minnesota Department of Commerce (Department) is unable to obtain data from Basin to test the statements in Basin’s OIRP (there is inadequate information to assess the forecast for all of Basin’s system—the documents provided by Basin discuss forecast outputs but generally do not provide the inputs and forecasting methods that created the forecast outputs.)” In other words, Basin in the past has failed to provide even information that it agrees is relevant.

Dairyland’s compliance report, finds the report complete, and will close the current docket.” Order Acknowledging Receipt of Compliance Report and Closing Docket, Docket No. ET-003/RP-13-565 (Oct 3, 2013) at 2.

For the foregoing reasons, Basin’s objection that our information requests are outside the statutory scope are without merit when considering the law, rules, past Commission decisions and the legislative history. The Commission should therefore reject Basin’s objections and compel the limited IRs requested by Petitioners.

**Basin Objection 2: not aggregate data**

Basin also objects to each request to “the extent that it seeks information that is not aggregate data....” See, e.g., Objections at 14. However, the statutory reference to “aggregate data” is clearly referencing aggregate load data for member cooperatives, not aggregate data about generating resources. In its Objections, Basin provides the legislative history for this provision, noting that in 2008, the Department sought “detailed, confidential load and forecast information from Basin’s 113 out of state cooperatives,” and that this request was a driver in Basin’s request to change its resource plan reporting obligations. Objections at 3. Environmental Intervenors are not now seeking information about individual member cooperatives’ load data, nor any data specific to any member cooperative. This objection is therefore without merit.

**Basin Objection 3: regulation of such operations exceeds the jurisdiction of the Commission**

Basin also objects to the information requests “to the extent that it seeks information regarding Basin’s operations outside of Minnesota on the grounds that the regulation of such operations exceeds the jurisdiction of the Commission.” See, e.g., Objections at 20. This objection is also misplaced. In this motion to compel, Environmental Intervenors have limited their information requests to resources interconnected to the Eastern Interconnection -- that is,

resources connected to the bulk transmission grid that serves Minnesota customers. These include generation resources that currently serve Basin's Minnesota customers, or could do so as Basin determines how to meet its load in the future.

As the Department pointed out in 2012, the Commission is responsible for ensuring that Basin will be able to ensure reliable, efficient, and affordable service to Basin's members in Minnesota over the planning period. Whether the resources generating the electricity needed to satisfy that obligation are located in Minnesota or outside of it is irrelevant. Decisions regarding resources that serve Minnesota electric customers are well within the jurisdiction of the Commission.

#### **Basin Objection 4: overly burdensome**

For each of the IRs to which Environmental Intervenors now seek to compel a response, Basin does not object that the requested information does not exist.<sup>3</sup> They assert merely that "it is unreasonably burdensome because the burden and expense of the proposed production exceeds the likely benefit." Basin does not provide an amount of time or expense it would take to gather and provide the requested data. The Company appears to be asserting that spending any amount of time at all would be "unreasonably burdensome." The information requested is routine, common place information that any prudent utility would have readily available. It is apparent

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<sup>3</sup> It is worth noting that, in instances where Basin objected in part because the document requested does not exist, Basin stated that "all parties appear to agree (based on the positions taken at the hearing on the petition to intervene on September 12, 2019) that the production of documents that do not exist is unreasonable in this proceeding." Environmental Intervenors state for the record that this misstates our position. We stated at the hearing that we are currently only seeking existing information in Basin's possession. In this Motion to Compel, we are not asking Basin to create or produce analyses it does not currently have (such as analyses of replacing coal generation with clean energy or market purposes, which Basin asserts it has not done, see p. 27 of Objections). But this does not mean it is our position that the Commission lacks the authority to request this information from Basin, or that it would be unreasonable for the Commission to do so. Because we are not asking the Commission to compel production of documents that do not exist, the question of the Commission's authority on that issue is not currently before it.

that Basin has spent far greater resources objecting to and litigating Environmental Intervenors' motion to intervene and discovery than it would have taken to produce the requested documents. Basin's objection on the grounds of burden is therefore unsupported.

**IV. Practical Rationale For Why the Commission Should Grant Environmental Intervenors' Motion.**

As established above, the Commission clearly has the authority to seek additional information regarding Basin's resource plans, but has refrained from exercising that authority in the past.

There are several reasons why it would be useful and informative for the Commission to grant Environmental Intervenors' request at this time. First and foremost, the information requested is fundamental information that any interested stakeholders would need in order to evaluate the adequacy of Basin's plan. Environmental Intervenors are interested in analyzing whether it would be economic and in the interest of Minnesota customers for Basin to transition away from fossil fuel resources to additional renewables; and are also interested in understanding Basin's resource decision-making processes so that we can identify barriers to that transition.

Moreover, it is apparent from Basin's O-IRP that Basin has identified a large gap between its load and its existing generating resources, but has offered no concrete plans to address that gap. In its O-IRP, Basin states that its Minnesota load is located in MISO Local Resource Zone 1 and 3. O-IRP at 2. Basin provides its load and resource forecast for MISO Zone 1 as Exhibit B1 to the O-IRP, and for MISO Zone 3 in Exhibit B2. For MISO Zone 1, Basin projects its total load growing from 232 MW in 2019 to 361 MW in 2024. At the same time, it projects its resources to drop from 325 MW in 2019 to 250 MW in 2023, 180 MW in 2025, and zero MW in 2028. In other words, starting in 2028, Basin projects it will have *no* resources to meet its MISO Zone 1 demand. Basin also identifies a deficit in MISO Zone 3, beginning in



2027. Notably, 100% of the resources Basin identifies as meeting its MISO Zone 3 needs are coal plants.<sup>4</sup> Moreover, for many utilities, existing coal plants are more expensive than new wind and solar. It therefore would be reasonable to expect Basin and its stakeholders to perform a basic analysis as to whether this may be the case for Basin and its resources serving Minnesota customers. Basin does not provide this analysis in its O-IRP. As such, Environmental Intervenor asked: i) if Basin had done such an analysis, to provide it; and ii) to provide fundamental cost information from sources referenced in the O-IRP so that we could perform a preliminary analysis of that question ourselves. *See* IR 1-SCFEMCEA-1, IR 1-SCFEMCEA-3, and IR 1-SCFEMCEA-4.

Basin states that it “released a Power Supply Request for Proposals (RFP) in February of 2019 and received proposal packages back in March 2019.” O-IRP at 5. “This RFP was requesting all short term and long term proposals for capacity or capacity and energy to be delivered to the MISO and SPP areas” as well as “renewable proposals in both MISO and SPP.” *Id.* Basin states that it has not committed to any new purchases or made any decisions about new renewable projects as of June 1, 2019. *Id.* Basin also asserts, without explanation, that “all wind that Basin Electric has or likely will have in the future is within SPP...” *Id.*

In sum: Basin has a large resource gap in the MISO Zones in which Minnesota is located; has offered no plans for filling that gap; is issuing RFPs for new resources now; and has offered no insights into whether it is assessing whether it can meet its resource needs affordably and reliably with renewable energy. Moreover, to the extent that its Minnesota customers are located in MISO Zone 3, Basin plans to meet 100% of that need with coal generation, and has not undertaken any analysis as to whether those coal plants are the most economic source of energy

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<sup>4</sup> Walter Scott 3 and 4 and Neal 4 are all Iowa coal plants operated by MidAmerican; the Duane Arnold nuclear plant is closing

for its customers. *See* Basin Objections at 26 (objecting to Environmental Intervenors’ request for any analysis in Basin’s possession evaluating the cost of continued operation of coal units in comparison to renewable resources, in part because “the documents requested do not exist”). The Commission should support Minnesota stakeholders seeking to investigate these costs and environmental issues that are well within both the O-IRP statute and Commission discretion.

In response to Environmental Intervenors’ information requests, Basin provided as Exhibit G, its 2018 Integrated Resource Plan submitted to the Western Area Power Administration, which was not provided in Basin’s O-IRP filing (“2018 WAPA IRP”).<sup>5</sup> This WAPA IRP contains far greater detail than the O-IRP filed with this Commission, and provides greater insight into Basin’s resource planning process. It explains Basin’s approach as follows:

“Once it is determined when new power supply will be needed to meet forecasted member power obligations, market conditions in the various power supply regions needs to be assessed to see if neighboring utilities are expected to have excess power that they may be willing to sell at a market price. These prices for market power are compared to the cost of building new resources. Market prices for bilateral arrangements are determined by issuing a Request for Proposals (RFP) for power supply.

After we can determine if we can secure additional power supply through bilateral contracts with neighboring utilities at economically justifiable prices and know the duration in which that power supply can be secured, we then utilize all of the above information as an input into the power supply model to determine the optimal long term power supply expansion alternatives outside of what we are able to secure through the RFP process if needed....

With the current coincident peak demand forecasts and Basin Electric’s power supply portfolio... there is a relatively near term need for capacity in a few of Basin Electric’s

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<sup>5</sup> We note that the WAPA IRP should have been filed as part of the O-IRP, pursuant to the Commission’s requirement that Basin include any IRPs filed in other states as part of its O-IRP filing. Basin O-IRP Order, Docket No. RP-13-562, September 26, 2013, at 3 (Order Point 3. “The Commission requests that Basin include in future reports a link to resource planning information filed with the Western Area Power Administration...”), *see also* Minn. Stat. §216B.2422, subd. 2b “To supply the information required in a report under this subdivision, a cooperative may use reports submitted under section 216C.17, subdivision 2, reports to regional reliability organizations, or similar reports submitted to other state utility commissions.”

Power Supply Planning Regions. Based on this need, Basin Electric is recommending to move forward with the following bilateral purchases with neighboring utilities for their available surplus capacity.”

2018 WAPA IRP at 4-5 (Objections Exhibit G).

It appears that Basin has employed this strategy of entering into short-term contracts from neighboring utilities in the recent past, as well. For example, in Exhibit B1 to the O-IRP, the last line under the “resources” section is marked “2018 RFP capacity (MN Power).” The exhibit shows Basin adding 100 MW from MN Power from 2025 through 2027. While Basin provides no other explanation of this data, it appears that as a result of its 2018 RFP, Basin entered a contract with Minnesota Power for 100 MW of capacity and/or energy. This is the same amount of capacity Basin currently obtains from Minnesota Power’s Boswell coal plant. In other words, Basin’s RFPs to meet its customers’ needs in Minnesota appear to be driving continued demand for existing Minnesota fossil generation. To the extent that Basin may be contracting with fossil fuel resources in Minnesota, rather than contracting for new renewable energy that is potentially more economic, cleaner and more closely aligned with Minnesota policy goals, there is a public interest in providing more information into Basin’s decision-making processes now. The Commission has an interest in understanding which utilities, and for which specific resources, Basin is exploring entering into bilateral contracts to meet its Minnesota customers’ needs. It also has an interest in learning whether lower cost renewable energy is available to meet those needs. At a bare minimum, it should support stakeholders’ ability to receive basic information on these points.

The 2018 WAPA IRP also includes the following information:

“Currently Basin Electric’s needs can likely be met via bilateral contracts with neighboring utilities in the near term and then likely building peaking and intermediate natural gas facilities such as SCCTs, RICEs, and CCCTs sometime in the future probably around 2026 to 2028 at the earliest. While these peaking and intermediate resources are good for meeting Basin Electric’s capacity needs, they may not make up for all of Basin

Electric's energy needs but provide for a backstop to the market or other energy alternatives. While some exposure to the energy markets is acceptable, wind resources make for a good way to reduce Basin Electric's energy exposure due to being a relatively cheap resource and having moderately high average annual capacity factors in our footprint. Basin Electric has already constructed and secured power purchase agreements for more than 1,300 MW of wind currently online with contracts for another 400MW to be online by the end of 2020 and is also considering securing even more PPAs for wind generation to further reduce Basin Electric's energy exposure to the market."

2018 WAPA IRP at 134 (Objections Exhibit G).

In other words, it appears that Basin's short term strategy is to secure near-term bilateral contracts -- possibly with coal plants -- and then to build natural gas facilities. To the extent Basin may be postponing decisions to enter wind PPAs to meet its Minnesota customers' needs now, Basin may be foreclosing the opportunity to take advantage of wind projects that have maximized use of the production tax credits. Basin may also be failing to consider the ability of combinations of renewable resources such as solar and storage to meet these needs at lower cost than bilateral contracts or new gas plants. It is these questions that Environmental Intervenors seek to investigate through these information requests.

**V. Environmental Intervenors' Responses to Basin's Objections to Specific Information Requests**

1. IR 1-SCFEMCEA-1

Environmental Intervenors seek to compel response to IR 1-SCFEMCEA-1(a), (c), (d), (i), and (j), and further limits those requests to information related to Basin's coal-fired generating units in the Eastern Interconnection. IR 1-SCFEMCEA-1(a), (c), (d), (i), and (j) request the following information: for each of Basin's coal-fired generating units as referenced on page 3 of its IRP, provide

- (a) Remaining book life for each unit as of the present date;
- (c) Fixed operating and maintenance expenses ("O&M") for the last three years;

(d) Variable O&M by unit for the last three years;

(i) Planned capital additions

1. Environmental capital expenditures
2. Non-environmental capital expenditures
3. Depreciable life for each of the above capital additions.

(j) Recent capital additions.

1. Identify and describe any capital project over \$5 million at any unit over the past 5 years

This data represents the most basic information about the costs associated with generating units that may be serving Minnesota customers now or in the future. This information is needed to assess whether the units represent a cost effective source of electricity, and whether cleaner resources could meet Basin's Minnesota customers' needs more cost effectively.

2. IR 1-SCFEMCEA-2(b)

On page 5 of Basin's O-IRP, it states that "Basin Electric released a Power Supply Request for Proposals (RFP) in February of 2019 and received proposal packages back in March 2019." IR 1-SCFEMCEA-2(b) requests the responses to the RFP that Basin received. Basin objects that the requested information is "not relevant because it does not relate" to "projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies." This request is clearly directed at how Basin intends to meet projected generation deficiencies and load in the future. The O-IRP identifies a projected generation deficiency and states that an RFP was issued to address that deficiency. This request could not be more squarely within the scope of the O-IRP. Basin has now provided, in response to IR 1-SCFEMCEA-2(a), the 2019 RFPs. One is for resources in MISO Zone 1, in which Minnesota is located; the other is

for resources in SPP, which includes a portion of Minnesota. The responses to these RFPs are therefore directly relevant to whether Basin is securing the lowest cost, cleanest resources to meet its Minnesota customers' needs; whether it is giving fair consideration to renewable energy options; and whether it is foregoing opportunities to obtain low cost renewables in favor of short-term bilateral contracts with existing resources.

As discussed above, on page 5 of the O-IRP, Basin states that “all wind that Basin Electric has or likely will have in the future is within SPP....” Basin does not explain why it is not considering wind in Minnesota, or otherwise located in an area that could serve its Minnesota load in MISO. It would be useful to know whether renewable energy is lower cost than its contracts with coal plants, and which resources Basin is choosing to enter new contracts with.

3. 1-SCFEMCEA-4. This request states: “Please refer to page 4 of the IRP. Please provide the agreements under which Basin Electric Power Cooperative purchases output from George Neal Station Unit 4, Walter Scott Units 3 & 4, and Boswell Energy Center Unit 4.”

All of these plants are located in MISO Zones 1 and 3 and appear to be serving Minnesota customers. The price of these contracts, their duration, and their exit clauses are all relevant to whether Basin is securing energy and capacity at prices that are competitive with the market or new clean energy alternatives.

4. IR 1-SCFEMCEA-6. This request states: “Please refer to page 5 of the IRP, referencing a power purchase agreement for 200 MW signed in 2016 for the Burke Wind project and a second power purchase agreement signed in 2017 for Prevailing Wind Park. Please provide the power purchase price of wind in each PPA in \$/MWh. If the price is not available in that format, please provide it in the format in which it is available.”

This request, again, goes to statements directly made by Basin in its O-IRP. The IRP states that Basin has entered into these wind PPAs; we asked for their price. This is basic, readily available information. This information would be useful for the same reasons described above; Basin appears to be planning to secure short-term bilateral contracts with unknown resources at

unknown cost, and does not appear to be considering securing additional renewables to meet Minnesota customers' needs now, even though the wind Production Tax Credits are being phased out. Obtaining existing wind PPA prices is helpful in ascertaining whether Basin's bilateral contracts (whether for coal plants or for other resources) are lower cost than renewable alternatives, or whether Basin is missing the opportunity to transition to cleaner, less costly resources for its Minnesota customers.

**VI. Conclusion**

For the foregoing reasons, Environmental Intervenors respectfully request that the Commission compel Basin's response to the above-listed information requests. The Commission may also find it helpful to ask other relevant questions to Basin arising out of the issues discussed above. Alternatively, if the Commission decides to decline to exercise its authority to seek this information in this proceeding, Environmental Intervenors request that the Commission expressly state that it preserves the broad authority to do so and will consider granting information requests in future proceedings.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I, S. Laurie Williams, hereby certify that I have, served or caused to be served copies of the following document on the attached list of persons by electric filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States mail.

### **Sierra Club Motion to Compel Basin's Response to Information Requests**

Docket No. ET6125/RP-19-425

Dated this 1st day of November 2019

*/s/ S. Laurie Williams*

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