

February 4, 2015

Kate Kahlert  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
Saint Paul, MN 55101-2147

Re: Comments on Possible Amendments to Minnesota Rules, Chapter 7835  
PUC Docket No. E-999/R-13-729

Dear Ms. Kahlert:

This letter is in response to the Minnesota Public Utilities Commission (Commission) notice dated December 18, 2014 requesting comments on proposed amendments to rules governing cogeneration and small power production. Missouri River Energy Services (MRES) appreciates the Commission's efforts to ensure that its rules are consistent with recent statutory changes to Minn. Stat. § 216B.164, and offers the following comments relating to the proposed rules that govern interconnections between utilities and cogeneration or small power production facilities.

MRES has identified four changes that it believes should be made to the proposed rules to increase clarity, avoid ambiguity, and more closely conform the rules with Minn. Stat. § 216B.164, the Public Utility Regulatory Policies Act of 1978, as amended, and the Federal Energy Regulatory Commission's implementing regulations. For the convenience of the reader, MRES' comments are presented in the order in which the rule parts appear in the proposed rules.

#### **7835.2100 – Electrical Code Compliance**

The proposed rule does not indicate what version of the National Electrical Safety Code (NESC) applies in this subpart. If the intent is to have the most recently published edition of the NESC apply, MRES recommends the proposed rule be modified as shown below in red.

Subpart 1. Compliance; standards. The interconnection between the qualifying facility and the utility must comply with the requirements **in the most recently published edition** of the National Electrical Safety Code, ~~1981 edition~~, issued by the Institute of Electrical and Electronics Engineers as ~~American National Standards Institute Standard C2 (New York, 1980).~~ The interconnection is subject to subparts 2 and 3.

#### **7835.4750 – Interconnection Standards**

The proposed rule requiring a utility to provide a customer a copy of, or link to, the commission's interconnection standards would impose a significant financial and administrative

burden on small municipal electric utilities with limited resources. Additional language should be inserted in this rule provision to allow a utility to notify its customers of their commission's interconnection standards by publishing notice of those standards in a newspaper of general circulation in the service area of the utility. This would ease the burden on small municipal electric utilities while ensuring that customers are aware of their commission's standards. MRES recommends the proposed rule be modified as shown below in red.

Prior to signing the uniform statewide contract, a utility must distribute to each customer a copy of, or electronic link to, the commission's order establishing interconnection standards dated September 28, 2004, in docket number E-999/CI-01-1023. The utility must provide each customer a copy of, or electronic link to, subsequent changes made by the commission to any of those standards. A utility may satisfy this requirement by publishing notice in a newspaper of general circulation in the service area of the utility information that the Commission established interconnection standards in docket E-999/CI-01-1023, and describing where a copy of the commission's interconnection standards may be reviewed.

#### **7835.5900 – Existing Contracts**

The proposed rule provides that any existing interconnection contract executed between a utility and a qualifying facility (QF) with capacity of less than 40 kW remains in force until terminated by mutual agreement of the parties. However, there may be provisions in an existing interconnection contract that allow a party to unilaterally terminate the contract without having to obtain consent of the other party. For example, a utility may exercise a right to terminate an existing interconnection contract if the QF is not, or at any time ceases to be, a “qualifying facility” under the Public Utility Regulatory Policies Act of 1978 or if the utility determines that its purchases from the QF would result in costs greater than those which the utility would incur if it did not make such purchases. *See* 18 C.F.R. § 292.304(f). The proposed rule should take into account existing contracts that may be terminated under law by means other than mutual agreement of the parties. MRES recommends the proposed rule be modified as shown below in red

Any existing interconnection ~~contracts~~ contract executed between a utility and a qualifying facility with installed capacity of less than 40 kilowatts before November 13, 1984, may be canceled and replaced with the uniform statewide contract at the option of either party by either party giving the other written notice remains in force until terminated by mutual agreement of the parties, or as otherwise specified in the contract. The notice is effective upon the shortest period permitted under the existing contract for termination, but not less than ten nor more than 30 days.

#### **7835.9920 – Non-standard Provisions**

The proposed rule requires utilities, including municipally owned electric utilities, which intend to implement provisions other than those included in the uniform statewide contract to file a

request for authorization with the Commission. As written, the proposed rule is inconsistent with Minnesota Statutes § 216B.164, subd. 9., which authorizes the local governing body of each municipal electric utility to regulate matters concerning cogeneration and small power production as long as the governing body adopts and has in effect rules implementing Minnesota Statutes § 216B.164 which are consistent with the cogeneration and small power production rules adopted by the Commission. The proposed rule should be modified to clarify that the local governing body of a municipal electric utility has authority to determine the provisions in the contract as long as it has adopted and has in effect rules consistent with *Minnesota Rules* Chapter 7835. This could be accomplished by adding part 7835.9920 to the definition of "utility" under part 7835.0100. MRES recommends the proposed rule be modified as shown below in red.

Subp. 24. Utility. "Utility" means:

A. for the purposes of parts 7835.1300 to 7835.1800 and 7835.4500 to 7835.4550, any public utility, including municipally owned electric utilities or cooperative electric associations, that sells electricity at retail in Minnesota; or

B. for the purposes of parts 7835.0200 to 7835.1200, 7835.1900 to 7835.4400, 7835.4600 to 7835.6100, and 7835.9910 to 7835.9920, any public utility, including municipally owned electric utilities and cooperative electric associations, that sells electricity at retail in Minnesota, except those municipally owned electric utilities that have adopted and have in effect rules consistent with this chapter.

MRES appreciates the opportunity to provide these brief comments on proposed rules governing cogeneration and small power production. MRES requests that these comments be incorporated into the draft rules proposed by the Commission.

Respectfully submitted,

MISSOURI RIVER ENERGY SERVICES

By: /s/ Derek Bertsch

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**STATE OF MINNESOTA  
BEFORE THE PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger  
John Tuma  
Nancy Lange  
Dan Lipschultz  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Possible Amendments  
to Rules Governing Cogeneration and  
Small Power Production

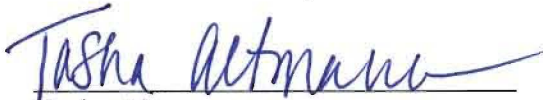
Docket No. E-999/R-13-729  
Date: February 4, 2015

**MISSOURI RIVER ENERGY SERVICES  
COMMENTS ON POSSIBLE  
AMENDMENTS TO MINNESOTA  
RULES, CHAPTER 7835**

AFFIDAVIT OF SERVICE

STATE OF SOUTH DAKOTA    )  
  ) SS.  
COUNTY OF LINCOLN        )

I, Tasha Altmann, being first duly sworn, depose and state that on the 4 day of February, 2015, I served a true and correct copy of the **MISSOURI RIVER ENERGY SERVICES COMMENTS ON POSSIBLE AMENDMENTS TO MINNESOTA RULES, CHAPTER 7835**, on behalf of Missouri River Energy Services, by electronic filing, to the Minnesota Public Utilities Commission, 121 7<sup>th</sup> Place East, Suite 350, St. Paul, MN, 55101-2147, and where not served by email, I have served a true and correct copy thereof by depositing the same in the US Mail at Sioux Falls, South Dakota.

  
\_\_\_\_\_  
Tasha Altmann

Subscribed and sworn to before me

this 4<sup>th</sup> day of February, 2014

  
\_\_\_\_\_  
Derek Bertsch

My commission expires: 4/6/18

