

Minnesota Public Utilities Commission

Staff Briefing Papers

*Meeting Date: July 1, 2015 Agenda Item # 6

Companies: All Electric Utilities Subject to Minnesota Statutes §216B.1691

Docket No. **E999/M-14-237**
In the Matter of Commission Consideration and Determination on Compliance with Renewable Energy Standards

E999/PR-14-12
In the Matter of a Renewable Energy Certificate Retirement Report for Compliance Year 2013

E999/PR-13-186
In the Matter of a Renewable Energy Certificate Retirement Report for Compliance Year 2012

Issue: What action should the Commission take on the RES plans filed by electric utilities?

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Relevant Documents

Commission, *Notice* April 17, 2014
Otter Tail Power, *Report and Attachments* May 7, 2014
Dairyland Power Cooperative, *Compliance Filings (3 parts)* May 14, 2014
Minnkota Power Cooperative, *Compliance Filings (3 parts)* May 21, 2014
Missouri River Energy Services, *Compliance Filings (3 parts)* May 28, 2014
Basin Electric Power Cooperative, *Compliance Filing* May 28, 2014
L&O Power Cooperative, *Reports and Attachments* May 29, 2014
East River Electric Power Cooperative, Inc, *Compliance Filings (3 parts)* May 28, 2014
SMMPA, *Report and Attachments (3 parts)* May 30, 2014
Great River Energy, *Compliance Filing (3 parts)* May 30, 2014
Minnesota Municipal Power Agency, *Compliance Filings (5 parts)* May 30, 2014
Central MN Municipal Power Agency, *Reports (3 parts)* May 30, 2014

Heartland Consumers Power District, <i>Compliance Filing, 3 parts</i>	May 30, 2014
Interstate Power and Light Company, <i>Report and Attachments (3 parts)</i>	June 2, 2014
Minnesota Power, <i>Compliance Filings (3 parts)</i>	June 2, 2014
Xcel Energy, <i>Report and Attachments</i>	June 2, 2014
Department of Commerce, <i>Report</i>	January 28, 2015
Commission, <i>Notice of Comment Period</i>	February 2, 2015

The attached materials are workpapers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

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Statement of the issues

What action should the Commission take on the RES plans filed by electric utilities?

Background

The current docket represents the Commission's process to document its responsibilities to regularly investigate compliance with Minnesota's Renewable Energy Standard (RES), Minnesota Statute §216B.1691.

In 2001, Minnesota's renewable energy objective statute, Minnesota Statute §216B.1691, was first passed. Modifications to the statute were made in later years. In 2003, a requirement was added that utilities file reports with the Commission and that the Commission detail the standards and criteria for judging a utility's good faith efforts to meet the objective. The Commission began setting those criteria in a June 1, 2004 Order, which set reporting requirements for utilities to demonstrate their efforts to comply with the statute. Significant modifications were made to the statute in 2007, including the addition of a Renewable Energy Standard (RES) to accompany the already-existing Renewable Energy Objective (REO).

The statute in its current form requires all 16 utilities subject to the REO-RES to file with the Commission a report showing its compliance with the statute and its plans for complying in the future. By statute, these plans must be submitted to the Commission every two years.¹ The statute further states that the Commission must investigate utilities' compliance with the statute.² As listed later in these briefing papers, staff will discuss the time period covered by this docket.

Beginning in 2008, the Commission memorialized its process for receiving these biennial reports and for fulfilling its statutory duty to investigate compliance with the statute.³ The Commission required utilities to file, by November 15 of every other year, a report with specific content to satisfy the reporting requirement under the statute. The Commission made findings of compliance in its 2008, 2010, and 2012 biennial compliance dockets. This docket represents the Commission's fourth biennial renewable energy compliance docket.

There are two differences between this fourth biennial docket and the previous three. First, this is the first biennial docket where utilities have used a new standard reporting format, a spreadsheet that was developed in coordination with Department staff. Second, this is the first biennial process where the utilities are subject only to the RES, which is a mandate, rather than the REO, which required good faith efforts.

¹ Minn. Stat. §216B.1691, subd. 3(a).

² Minn. Stat. §216B.1691 subd. 7.

³ "Making findings on compliance status is the most effective way to ensure individual utility compliance and to achieve the statewide renewable energy goals set by the legislature." See also Ordering Paragraph 6, requiring biennial compliance filings from each of the 16 utilities subject to the RES. ORDER SETTING FILING REQUIREMENTS AND CLARIFYING PROCEDURES, Docket E999/CI-03-869, Issued November 12, 2008, pages 7 and 9, respectively.

Attachments

Attachments to this report are:

Attachment 1: Department Comments, 2012 and 2013 REC Retirement Dockets

Attachment 2: REC pricing data (TRADE SECRET and Public Versions)

Biennial RES Reports

There are no disputes present in this docket, and the Department has recommended that the Commission find all utilities in compliance with the RES. No one replied to the Department's recommendation, even after the Commission issued a Notice seeking comments.

In past briefing papers for the biennial RES docket, staff summarized each of the 16 utilities' reports. However, in those past dockets, each utility's report looked slightly different. This time, utilities have used a standard format created jointly by the Department and Commission staff, making responses much more uniform.⁴ For that reason, staff instead highlights items that may be of interest to the Commission.

Staff Analysis

Finding of Compliance

Staff agrees with the Department that utilities have retired the correct number of RECs for years 2012 and 2013. Staff also believes, based upon the reports of each utility, that the utilities have reasonable plans to comply in the future. As with the past two biennial dockets, staff believes that the Commission could make a finding of compliance for the past two years and a finding for plans going forward two years. (*Staff note:* Northwestern Wisconsin Electric Company filed its report in a different format than the other 15 utilities, which was permitted by the Commission in a past Order, due to NWEC's small presence in Minnesota relative to Wisconsin.⁵)

Finding of Compliance versus Role of Resource Plans

Staff clarifies that it is in the current docket where a finding of compliance or non-compliance with the RES is made. In the past, some commenters have requested (or assumed) that the finding be made in resource plan dockets. The Commission has in recent years resisted making a finding in resource plan dockets, for the following reasons:

⁴ Previously, the Commission outlined a uniform set of topics to discuss in the reports, but each utility's response was slightly different and used different formats.

⁵ "At its discretion, the company may file the renewable energy compliance information it has provided to the Wisconsin Public Service Commission as the biennial compliance report filed under this order."

ORDER FINDING UTILITIES IN COMPLIANCE WITH MINN. STAT. §216B.1691 AND MODIFYING BIENNIAL REPORTING PROCEDURES, Issued May 28, 2013, Docket Nos. E999/M-12-958, E999/CI-03-869, E---/PR-11-189, and E999/PR-12-334, Ordering Paragraph 5B.

- Not all 16 utilities subject to the RES file resource plans, and;
- The RES statute requires RES compliance filings every two years, yet many resource plans are not heard every two years.

In addition, the current docket is perhaps more accessible to stakeholders that are simply interested in following RES compliance, in that it is a docket where only RES filings are made. Resource plans certainly play an important role because they allow the Commission and stakeholders to review a utility's long term plans to meet the RES, but if the legislature had intended for resource plans to be the primary docket for examining RES compliance, it would have subjected all utilities subject to the RES to file an IRP, which it has not done.⁶

A Finding for Past Two Years and Two Years Forward

In the Commission's past two biennial RES proceedings, the Commission made a finding for the past two years and estimated compliance for two years going forward. This timeframe outlined in the Commission's finding ensured that it was covering all relevant years given the biennial nature of this docket and fulfilling its statutory duty to look at past compliance plus efforts to meet the standard in future years.

A new feature of this year's reports that help provide insight on future compliance has been compiled at Table 2, page 9 of the Department's comments. The Commission now requires utilities to report on their estimated year through which utilities can comply with the RES given their current resources. Ten of the sixteen utilities subject to the RES estimate they already have portfolios that will be compliant through 2025 and beyond.

One utility that stands out on the Department's chart is IPL. IPL states it is only in compliance through 2013 with Minnesota-allocated RECs. IPL, like other investor-owned utilities, allocates its RECs to each of its jurisdictions. Because its renewable obligations for Iowa are much lower than for Minnesota, IPL can transfer RECs from its Iowa jurisdiction and continue to remain in compliance with Minnesota's RES. This is also addressed in staff's briefing papers for the IPL resource plan.

REC Prices and Availability

As with the previous biennial process, staff has compiled an attachment listing the prices for REC purchases and sales. Tracking REC prices can be useful because it can assist the Commission and stakeholders in knowing whether there is a functioning REC market, whether utilities are relying on decoupled REC purchases to meet RES requirements, and how many surplus RECs are in the market. REC prices also help the Commission understand how utilities are managing their REC portfolios.

⁶ See, for example, the Commission's 2011 Order on MP's resource plan: "The Commission takes no action on the question of whether Minnesota Power is in compliance with its renewable energy requirements. The Commission will address this issue in a pending, industry-wide proceeding [citing to the Commission's biennial RES docket pending at that time]." ORDER ACCEPTING RESOURCE PLAN AND REQUIRING COMPLIANCE FILINGS, Docket E015/RP-09-1088, Issued May 6, 2011, page 7.

Staff has recently learned that some states that have RPS goals or objectives may not require utilities offering service in their states to retire RECs. This phenomenon may increase the number of RECs available to meet Minnesota RES compliance. This has happened in one other region and has given rise to the phrase “tainted RECs.” Staff does not have a recommendation on this issue but simply flags it so that the Commission is aware.

Utilities Cite to Fewer Obstacles Than in Past Reports

Overall, utilities seem to be citing to fewer obstacles to meeting the RES than in past reports. For instance, in GRE’s 2010 Biennial RES report, GRE included several pages of concerns in meeting the RES, including integrating wind into the MISO footprint, long term reliability, equipment supplies and costs, and transmission capacity. GRE was concerned enough at that time to state, “If a satisfactory solution to the unintended consequences of poor wind energy economics isn’t identified and implemented...GRE may need to evaluate requesting a delay of the standard from the Commission as set forth in Minn. Stat. §216B.1691, subd. 2a.”⁷ In this year’s report, GRE’s identification of obstacles is much shorter and different in tone. It is not surprising and perhaps expected that as utilities and developers have gained experience with renewable energy, compliance with the RES has become more predictable. To be clear, some concerns have still been expressed in this year’s reports, but they have evolved compared to previous reports.

SMEC Will Be Subject to Biennial RES Docket Going Forward

As a result of the IPL-SMEC transaction, SMEC will be the entity subject to the RES rather than IPL. Therefore, in the future, SMEC will be responsible for filing annual REC retirement reports and participating in the biennial RES compliance dockets. Staff has placed SMEC on the service list for this docket so it can become familiar with the process.

The chart below illustrates the uniqueness of the IPL-SMEC relationship and how that relationship impacts responsibility for filings with the Minnesota Commission.

Utility	Subject to RES?	Subject to IRP statute?	Other
Xcel Energy	Yes	Yes	
Great River Energy	Yes	Yes	
Minnesota Power	Yes	Yes	
SMMPA	Yes	Yes	
Otter Tail	Yes	Yes	
Minnkota/NMPA	Yes	Yes	
MMPA	Yes	Yes	
MRES	Yes	Yes	
Dairyland	Yes	Yes ⁸	

⁷ GRE biennial report, Docket E999/M-10-989, November 16, 2010, page 8.

⁸ Under Minn. Stat. §216B.2422, subd. 2b, Dairyland can file a streamlined IRP (often referred to as an “O-IRP.”) This O-IRP is different from the advisory IRPs filed by other cooperatives and municipal power agencies.

Basin	Yes	Yes ⁹	
CMPA	Yes	No, does not meet size threshold	
NWEC	Yes	No, does not meet size threshold	
Heartland	Yes	No, does not meet size threshold	
East River	Yes	No, does not meet size threshold	
L&O	Yes	No, does not meet size threshold	
Interstate Power and Light	No	Yes ¹⁰	Is the wholesale power supplier for SMEC
SMEC	Yes ¹¹	No	

As seen above, IPL's IRP will be the only one filed with the Commission where the entity is also not subject to the RES. Although IPL is the wholesale power supplier for SMEC, SMEC intends to be the entity subject to the RES.

While staff is not aware of any specific problems associated with this split of filing responsibilities, it is possible that in the future there could be adjustments made to reporting requirements.

Overall, the reports and the Department's comments can assist the Commission in continuing to fulfill its statutory obligation to monitor compliance with the RES. No one has recommended the content of the reports nor the reporting process itself be changed. Staff recommends findings similar to those it made in the past two biennial RES filings, as outlined below.

Decision Options

Requirement to File Report

A. Find that Dairyland Power Cooperative, Interstate Power and Light, Missouri River Energy Services, East River Electric Power Cooperative Inc, Heartland Consumers

⁹ Basin, like Dairyland, can also file an O-IRP.

¹⁰ See the Department's December 8, 2014 comments in Docket PA-14-322, agreeing that IPL may continue to be responsible for filing resource plans for the duration of its wholesale agreement with SMEC. Under Minn. Stat. §216B.2422, subd. 2, the Commission's Order on IPL's resource plan will become advisory once IPL is no longer offering retail service in Minnesota.

¹¹ See IPL and SMEC's comments in Docket 14-322 at pages 26-28, where the Joint Petitioners agree that SMEC will be considered a G&T Cooperative, which subjects it to Minnesota's RES pursuant to Minn. Stat. §216B.1691, subd. 1(b). As was discussed in the IPL-SMEC asset sale docket, SMEC does not own any generation or transmission, but the statute does not define G&T Cooperative in any specific manner.

Power District, Central Minnesota Municipal Power Agency, Otter Tail Power Company, Southern Minnesota Municipal Power Agency, Xcel Energy, Basin Electric Power Cooperative, L& O Power Cooperative, Great River Energy, Northwestern Wisconsin Electric, Minnkota Power Cooperative, Minnesota Power, and Minnesota Municipal Power Agency have complied with the requirement of Minn. Stat. §216B.1691 subd. 3(a) by reporting on their plans, activities, and progress with regard to RES. OR;
B. Make some other finding.

II. Compliance with the 2012 and 2013 renewable energy objectives

A. Find that the 16 utilities enumerated above and subject to Minn. Stat. §216B.1691 have complied with the 2012 and 2013 standards of twelve percent. OR;
B. Make some other finding.

III. Future Compliance

A. Find that the 16 utilities subject to Minn. Stat. §216B.1691 have submitted what appear to be reasonable plans to meet the renewable energy standards for 2014-2016. This finding does not imply that particular generation projects are counted under the REORES statute, but is a general finding that the plans filed by the companies demonstrate planned compliance, subject to confirmation of individual project eligibility through normal regulatory processes. OR;
B. Make some other finding.

Staff Recommendation

Staff recommends I.A, II.A, and III. A. These options are consistent with the decisions made by the Commission in previous biennial dockets.