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February 4, 2015

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E999/R-13-729

Dear Mr. Wolf:

On December 18, 2014, the Minnesota Public Utilities Commission (Commission) issued a Notice of Intent to Adopt Rules in Docket E999/R-13-729. Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in this matter.

The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ SUSAN L. PEIRCE
Rate Analyst

SLP/lt
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET NO. E999/R-13-729

I. BACKGROUND INFORMATION

The 2013 Legislature amended Minn. Stat. §216B.164 governing cogeneration and small power production affecting interconnections between qualifying facilities and public utilities. As a result of those legislative changes a rulemaking proceeding was undertaken to incorporate the statutory changes.

On December 18, 2014, the Minnesota Public Utilities Commission (Commission) issued a *Dual Notice of Intent to Adopt Rules without a Public Hearing unless 25 or more Persons request a hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received.*

II. DEPARTMENT COMMENTS

The Department recommends a number of edits to the proposed rules. The Department believes one issue, the definition of “firm power,” may warrant further discussion in a public hearing if the Commission determines a public hearing is necessary.

A. DEFINITION OF FIRM POWER

The use and definition of “firm power” in the current and now proposed rules is outdated, is contrary to Midcontinent Independent System Operator (MISO) rules and practices, contradicts recent Commission orders, and is inconsistent with recent Department positions.

Consistent with Department positions in recent dockets and the subsequent Commission Orders (e.g., E002/M-13-315, Rate for Large Solar PV), this outdated concept of “firm power” in the proposed rules should be replaced with the current reliability-based loss of load expectation (LOLE) approach to determining capacity for planning resources and the definition should be anchored in MISO’s Resource Adequacy Business Practice Manual (MISO BPM-011-r14, effective 9/1/14).

<https://www.misoenergy.org/Library/BusinessPracticesManuals/Pages/BusinessPracticesManuals.aspx>

The language of concern is found in:

7835.0100 DEFINITIONS

Subp. 9 Firm Power. "Firm Power" means energy delivered by the qualifying facility to the utility with at least a 65% on-peak capacity factor in the month. The capacity factor is based on the qualifying facility's maximum on-peak metered capacity delivered to the utility during the month.

Firm Power is subsequently referenced numerous times throughout the proposed rules, and affects the compensation paid to a qualifying facility. The references include:

- I. 7835.3200 Standard Rates For Purchases by Cooperative Electric Associations and Municipal Utilities From Qualifying Facilities.
- II. 7835.4011 Standard Rates For Purchases by Public Utilities From Qualifying Facilities.

Subpart 2 to each of these rule parts includes similar language. The proposed language in Minn. Rules pt. 7835.4011, subp. 2 states (emphasis added):

Subp. 2. Negotiated Rates. A qualifying facility with 1,000 kilowatt capacity or more has the option to negotiate a contract with a utility or, if it commits to provide firm power, be compensated under standard rates.

- III. 7835.4014 Simultaneous Purchase and Sale Billing Rate
- IV. 7835.4015 Time-of-Day Purchase Rates

Subp. 2, B. of each of these rules includes similar language. The proposed language in Minn. Rules pt. 7835.4015, subp. 2, B states (emphasis added):

B. If the qualifying facility provides firm power to the utility, the capacity component must be the utility's net annual avoided capacity cost per kilowatt-hour averaged over all hours shown on schedule B; or if the generating utility has not filed schedule B, the capacity component must be the demand charge per kilowatt, if any, of the retail rate schedule applicable to the qualifying facility, filed in lieu of schedules A and B, divided by the number of hours in the billing period, or if the nongenerating utility has not filed schedule B, the capacity component must be the capacity cost per kilowatt shown on schedule H, divided by the number of hours in the billing period. If the qualifying facility does not provide firm power to the utility,

no capacity component may be included in the compensation paid to the qualifying facility.

The Department recommends the definition of firm power be revised to read:

7835.0100 Subp. 9 Firm Power. For purposes of this chapter, “Firm power” means the capacity credit for the specified type of generation as determined by the methodology in the most recently approved MISO Resource Adequacy Business Practices Manual.

B. MINN. RULES PT. 7825.0800, SCHEDULE E

Minn. Rules pt. 7835.0800 governs the utility’s filing of its safety standards in Schedule E. The proposed rule strikes the sentence, “These standards and procedures must not be more restrictive than the interconnection guidelines listed in parts 7835.4800 to 7835.5800.”

The Department recommends that, rather than striking this sentence, it be revised to read “These standards and procedures must not be more restrictive than the interconnection guidelines listed in parts ~~7835.4800 to 7835.5800~~ 7835.2100 and 7835.4750.”

Minn Rules 7835.2100 requires compliance with the National Electric Code, and 7835.4750 requires that the utility provide customers with a copy of the Commission’s September 28, 2004 Order in docket No. E999/CI-01-1023 establishing interconnection standards and any subsequent revisions. The inclusion of this proposed sentence with the Department’s proposed revision will ensure customers remain protected from the imposition of excessive technical requirements.

C. UNIFORM STATEWIDE CONTRACT; MINN. RULES PT. 7835.9910

The Uniform Statewide Contract contains language setting forth a qualifying facility’s (QF) election for the rate schedule under which the utility will buy electricity from the QF. Specifically, the contract states:

The QF and the Utility agree:

1. The Utility will sell electricity to the QF under the rate schedule in force for the class of customer to which the QF belongs.
2. The Utility will buy electricity from the QF under the current rate schedule filed with the Commission. The QF elects the rate schedule category hereinafter indicated:
 - a. Net energy billing rate under part 7835.3300
 - b. Simultaneous purchase and sale billing rate under part 7835.3400
 - c. Time-of-day purchase rates under part 7835.3500.

A copy of the presently filed rate schedule is attached to this contract.

3. The Utility will buy electricity from the QF under the current rate schedule filed with the Commission. If the QF has less than 40 kilowatts capacity, the QF elects the rate schedule category hereinafter indicated:

- ___a. Net energy billing rate under part 7835.4013
- ___b. Simultaneous purchase and sale billing rate under part 7835.4014
- ___c. Time-of-day purchase rates under part 7835.4015.

A copy of the presently filed rate schedule is attached to this contract.

4. The Utility will buy electricity from the QF under the current rate schedule filed with the Commission. If the QF has at least 40 kilowatts capacity but less than 1,000 kilowatt capacity the QF elects the rate schedule category hereinafter indicated:

- ___a. Net energy billing rate under part 7835.4013
- ___b. Simultaneous purchase and sale billing rate under part 7835.4014
- ___c. Time-of-day purchase rates under part 7835.4015.

A copy of the presently filed rate schedule is attached to this contract.

The rates referred to under No. 2 in the Uniform Contract, and set forth in Minn. Rules pts. 7835.3200 - .3500 specifically refer to the standard rates for purchases by Cooperative Electric Associations and Municipal Utilities from Qualifying Facilities. The rates referred to under Nos. 3 and 4 in the Uniform Contract, and set forth in Minn. Rules pts. 7835.4013 - .4015 refer to Public Utilities.

The Department recommends that additional clarifying language be added to the Uniform Contract to specifically identify that No. 2 in the contract pertains to Cooperative Electric Associations and Municipal Utilities, and Nos. 3 and 4 pertain to Public Utilities. The Department recommends the following additions:

2. The Utility Cooperative Electric Association or Municipal Utility will buy electricity from the QF under the current rate schedule filed with the Commission.
3. The Public Utility will buy electricity from the QF under the current rate schedule filed with the Commission.
4. The Public Utility will buy electricity from the QF under the current rate schedule filed with the Commission.

D. AREA ELECTRIC POWER SYSTEM

Minn. Rules pt. 7835.2100, subp. 2 states “The Area Electric Power System will require proof of complying with the NEC before the interconnection is made.” The proposed rules do not include a definition of the Area Electric Power System.

The Commission's Interconnection Standards contained in its September 28, 2004 Order in Docket No. E999/CI-01-1023 defines an Area Electric Power System as "an electric power system (EPS) that serves Local EPS's. Note. Typically an Area EPS has primary access to public rights-of-way, priority crossing of property boundaries, etc." The Department recommends the definition of an Area Electric Power System be added to the list of definitions contained in Minn. Rules pt. 7835.0100.

III. SUMMARY OF DEPARTMENT RECOMMENDATIONS

The Department recommends that the Commission adopt the proposed Rules Governing Cogeneration and Small Power Production with the following revisions:

1. 7835.0100 Subp. 9 Firm Power. ~~"Firm power" means energy delivered by the qualifying facility to the utility with at least a 65 percent on peak capacity factor in the month. The capacity factor is based upon the qualifying facility's maximum on peak metered capacity delivered to the utility during the month.~~ For purposes of this chapter, "Firm power" means the capacity credit for the specified type of generation as determined by the methodology in the most recently approved MISO Resource Adequacy Business Practices Manual.
2. 7835.0800 Schedule E. Schedule E must contain the utility's safety standards, required operating procedures for interconnected operations, and the functions to be performed by any control and protective apparatus. ~~These standards and procedures must not be more restrictive than the interconnection guidelines listed in parts 7835.4800 to 7835.5800.~~ These standards and procedures must not be more restrictive than the interconnection guidelines listed in parts 7835.2100 and 7835.4750.
3. 7835.9910 Uniform Statewide Contract
 2. The Utility Cooperative Electric Association or Municipal Utility will buy electricity from the QF under the current rate schedule filed with the Commission.
 3. The Public Utility will buy electricity from the QF under the current rate schedule filed with the Commission.
 4. The Public Utility will buy electricity from the QF under the current rate schedule filed with the Commission.
4. Minn. Rules pt. 7835.0100 Definitions. Area Electric Power System "Area Electric Power System" is an electric power system (EPS) that serves Local EPS's. Note. Typically an Area EPS has primary access to public rights-of-way, priority crossing of property boundaries, etc.

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Analyst assigned: Susan L. Peirce
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The Department concludes that the definition of “firm power,” may warrant further discussion in a public hearing if the Commission determines a public hearing is necessary.

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CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. E999/R-13-729

Dated this 4th day of February 2015

/s/Sharon Ferguson

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