

**BASIN ELECTRIC
POWER COOPERATIVE**

1717 EAST INTERSTATE AVENUE
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August 22, 2014

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

Re: In the Matter of Basin Electric Power Cooperative's Optional Integrated Resource Plan
Docket No. ET6125/RP-14-534 – Reply Comments

Dear Dr. Haar:

Enclosed please find Basin Electric Power Cooperative's filing regarding the above captioned matter.

Should you have any questions regarding this filing, please contact me at cjacobson@bepc.com or (701) 557-5413.

Respectfully submitted,

A handwritten signature in black ink that reads "Casey J. Jacobson".

Casey J. Jacobson
Sr. Staff Counsel

cjj/ds
enclosure

cc: Service List
Becky Kern
Aaron Ramsdell
Steve Tomac
Mike Ahern, Dorsey & Whitney LLP

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

Beverly Jones Heydinger
David C. Boyd
Nancy Lange
Dan Lipschultz
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

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

DOCKET No. ET6125/RP-14-534

REPLY COMMENTS OF BASIN ELECTRIC ELECTRIC POWER COOPERATIVE

The only comments received on Basin Electric Power Cooperative's ("Basin Electric") Optional Integrated Resource Plan Report (O-IRP) were from the Minnesota Center for Environmental Advocacy (MCEA). These comments in response to the MCEA's filing.

Contrary to MCEA's arguments, Basin Electric is not statutorily mandated to comply with Minn. Stat. § 216B.2422, subd. 2c ("subdivision 2c"). Basin Electric agrees with the position of the Department of Commerce Division of Energy Resources regarding the application of subdivision 2c (as stated in their comments to the Dairyland O-IRP filing).¹ Basin Electric filed its O-IRP pursuant to Minn. Stat. § 216B.2422, subd. 2b ("subdivision 2b"), which states in relevant part:

A cooperative may, in lieu of filing a resource plan under subdivision 2, elect to file a report to the commission under this subdivision.

¹ Letter From Christopher T. Davis, Rates Analyst, Minnesota Department of Commerce to Burl W. Haar, Executive Secretary, Minnesota Public Utilities Commission, Re: Minnesota Department of Commerce, Division of Energy Resources, Response for Comments on Two Issues, Docket No. ET3/RP-14-572 (Aug. 5, 2014).

The language cited by the MCEA from subdivision 2c, is clear that the subdivision applies to utilities “required to file a resource plan under subdivision 2.”² Basin Electric is not required to file a resource plan under subdivision 2. This statute does not apply to cooperatives that have elected to file a “report” (rather than a resource plan) under subdivision 2b. It should also be noted that even if the provisions of subdivision 2c were somehow meant to be applicable to Basin Electric, the cited legislation that adopted subdivision 2c was not effective until August 1, 2014, one month after the July 1, 2014 due date for Basin Electric’s current O-IRP filing.³

Further, the MCEA’s assertions regarding the addition of environmental costs to a subdivision 2b report are similarly not supported by a plain reading of the statute. So long as a subdivision 2b filing contains projected demand levels and the resources necessary to meet any projected generation deficiencies, a report’s requirements can also be met with filings from other states or regional reliability organizations. No imputed environmental costs statutorily required.

Basin Electric has no generation resources in Minnesota. Basin Electric acknowledges that should it build any generation resources in Minnesota, the Commission’s inclusion of environmental costs will be among the factors to be considered in any State approval proceeding.

Finally, as to the potential extraterritorial application of Minnesota energy laws to out of state generators, the issue is very much in dispute. The recent decision in *North Dakota v. Heydinger*⁴ (a matter to which Basin Electric is a party) has raised serious questions about the scope and enforceability of Minnesota’s energy laws to entities like Basin Electric. A U.S. District Court in Minnesota has found portions of Minnesota’s energy laws unconstitutional as

² Minnesota Center for Environmental Advocacy, Initial Comments on Basin Electric Power Cooperative’s Optional Integrated Resource Plan Compliance, Docket No. ET6125/RP-14-534, at 2 (August 12, 2014) (“MCEA Comments”) (citing MINN. STAT. § 216B.2422, subd. 2).

³ Chapter 254 – H.F. No. 2834 (the bill that enacted subdivision 2c) provided effective dates for some provisions of the bill but not a specific effective date applicable to subdivision 2c or the bill as a whole. Therefore, pursuant to MINN. STAT. § 654.02, the statute was not effective until August 1, 2014.

⁴ 2014 WL 1612331 (D. Minn. Apr. 18, 2014).

applied to out-of-state generation. Accordingly, it would be prudent for all parties to await final resolution of this litigation before proceeding further in this area. Similarly, it would not seem to be the appropriate time to consider the MCEA's further assertions that the Commission somehow has inherent powers beyond those set forth in statute to enforce compliance upon Basin Electric.⁵

The above arguments demonstrate that Basin Electric's O-IRP filing and supplement meet the O-IRP requirements. Basin Electric respectfully requests that the Commission accept its O-IRP compliance filing as filed and supplemented and close the docket.

DATE: August 22, 2014

Respectfully Submitted,



Casey Jacobson

cc: Service List

⁵ See MCEA Comments at 4-5.

STATE OF MINNESOTA

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
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Dr. David C. Boyd
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

IN RE:	
IN THE MATTER OF BASIN ELECTRIC POWER COOPERATIVE'S OPTIONAL INTEGRATED RESOURCE PLAN COMPLIANCE	DOCKET NO. ET6125/RP-14-534

AFFIDAVIT OF SERVICE

STATE OF NORTH DAKOTA)
)ss
COUNTY OF BURLEIGH)

That on the 22nd day of August, 2014, copies of the foregoing Affidavit of Service, together with Basin Electric Power Cooperative's Presentation, was served upon the parties on the attached service list, by e-filing and first-class mail, proper postage pre-paid from Bismarck, North Dakota.


Darlene Steffan

Subscribed and sworn before me this 22 day of August, 2014.


Notary Public

DEBORAH LEVCHAK
Notary Public
State of North Dakota
My Commission Expires September 26, 2015

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