


Staff Briefing Papers - Addendum

Staff notes the following additional filing from Basin Electric Power Cooperative was not listed in the Relevant Documents and was also not included in the background section of Staff Briefing Papers filed last week. The following paragraphs supplement the information included on pages 17-18 of briefing papers filed on June 10, 2020.

 Relevant Documents	Date
Basin's Response to the Environmental Intervenors' Motion to Compel	November 15, 2019

Background

On November 15, 2019, Basin filed a response to the Environmental Intervenors' Motion to Compel and recommended that the Commission deny the Motion to Compel. In its Response to the Motion to Compel, Basin argued: a) the Commission lacks jurisdiction to require it to respond to Environmental Intervenors' IRs; b) the IRs are unreasonable because they are irrelevant to the Commission's inquiry under the O-IRP Report Statute; c) the O-IRP Statute does not require Basin to meet the requirements of the traditional IRP Statute and regulations and the traditional IRP rules are inapplicable to O-IRP reports; d) the legislative history of the O-IRP Statute does not support broad discovery; and the Motion to Compel should be denied because the IRs seek more than aggregate data. Basin also noted in its response that there is no dispute about the completeness of Basin Electric's O-IRP Report. In addition, Basin urged that the Commission decline the request by the Environmental Intervenors to preserve its broad authority to conduct discovery in future O-IRP proceedings.

A. Commission Jurisdiction

Given that the Commission's role is merely advisory to Basin Electric's Board of Directors, and is further limited by the scope of the O-IRP Report, Basin asserted the Environmental Intervenors' broad IRs are outside the Commission's jurisdiction. Basin argued the Commission's jurisdiction is limited, because cooperative electric associations are effectively regulated and controlled by the membership. Therefore, the Commission does not regulate the cooperatives' rates or reliability of service. Basin explained these decisions are entrusted to cooperatives' member-

elected Boards of Directors and cooperatives are exempt from all provisions of the Public Utilities Act, unless specifically provided in the Act. According to Basin, The IRP statute reflects the Commission's limited jurisdiction over electric cooperatives. Basin noted The IRP statute provides that the Commission's decision on a cooperative's IRP is advisory only and the Commission does not approve or direct the resource planning decisions for any cooperative. Under the O-IRP statute, Basin argued the Commission's jurisdiction is even more circumscribed with respect to certain cooperatives, like Basin Electric, that have limited contacts to Minnesota.¹

B. Irrelevant to the Commission's inquiry under the O-IRP Report Statute

Because any Commission action is advisory only, Basin claimed, for discovery requests to be reasonable, they must be within the scope of the statute, relevant, and helpful to the decision-maker. Here, the decision-maker—Basin Electric's Board of Directors—asserted that the discovery requests are not helpful and should be denied. Basin noted, the O-IRP Report Statute requires Basin's Report to "include projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies." Basin submitted such information about its projected demand levels for the next 15 years and the generation resources necessary to meet any deficiencies. According to Basin, the remaining inquiry before the Commission is properly whether the Report is complete, i.e., provides demand projections for 15 years and the cooperative's plans to meet that demand. Basin argued that Environmental Intervenors' IRs are impermissible because they seek information regarding matters beyond the scope of the Statute and unrelated to whether the Report is complete.²

C. The O-IRP Statute does not require Basin to meet the requirements of the traditional IRP Statute and regulations.

Basin argued that incorporating the requirements of the traditional IRP Statute into the O-IRP Statute would preclude Basin from avoiding the time and cost of complying with the Traditional IRP Statute and the Commission should reject Environmental Intervenors' attempt to incorporate the numerous and burdensome requirements of the traditional IRP Statute into the streamlined O-IRP Report. Basin noted the Commission has never sought to "approve, reject, or modify," an O-IRP Report, and the most the Commission has determined is whether the Report is complete. According to Basin, the Commission's past handling of the Reports acknowledge that Basin has met the limited requirements of the O-IRP Statute. In addition, Basin asserted that the traditional IRP Rules are inapplicable to Basin's Report and do not justify broad discovery. According to Basin, the traditional rules apply to "an electric utility with more than 1,000 retail customers in Minnesota," and Basin has no retail customers in Minnesota. Further, Basin claimed it is not an "electric utility" as defined by the traditional IRP Rules. Basin argued that because it sells no electricity at retail and is not rate-regulated, the Cooperative falls

¹ Basin Response to El's Motion to Compel, November 15, 2019, pp. 5-6.

² *Id.*, pp. 7-10.

outside the definition “electric utility” under the traditional IRP Rules, and the traditional IRP Rules are inapplicable.³

D. Environmental Intervenor’s IRs seek more than aggregate data

Because the IRs request data about individual generation resources, power purchase agreements (PPAs), and responses to requests for proposal, they seek more than aggregate data and are thus improper under the Statute. Basin stated the O-IRP Statute allows Basin to provide aggregate data regarding both demand and generation resources and Environmental Intervenors’ request detailed information regarding individual coal-fired generating facilities, such as planned and recent capital additions and information about individual PPAs. Basin claimed these individualized requests ask for information the Statute does not require Basin to produce. Therefore, Basin argued the Environmental Intervenors’ IRs are too broad, and the Commission should deny their Motion to Compel.⁴

³ *Id.*, pp. 10-12.

⁴ *Id.*, pp. 14-15.