


Staff Briefing Papers

Meeting Date	March 28, 2019	Agenda Item 2**
Company	Minnesota Power (MP or the Company)	
Docket No.	E-015/AI-17-568	
	In the Matter of Minnesota Power's Petition for Approval of the EnergyForward Resource Package	
Issues	Should the Commission reconsider its January 24, 2019 Order Approving Affiliate Interest Agreements with Conditions?	
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 Relevant Documents	Date
<i>Order Approving Affiliated Interest Agreements with Conditions</i>	January 24, 2019
<i>Clean Energy Organizations, Petition for Reconsideration</i>	February 13, 2019
<i>Honor the Earth, Petition for Reconsideration</i>	February 13, 2019
<i>Minnesota Power, Answer</i>	February 25, 2019

The Commission has the authority to accept or decline a petition for reconsideration with or without a hearing or oral argument. Minnesota Rules 7829.3000, Subpart 6. In other words, a decision on a petition for reconsideration can be made without taking oral comments at the Commission meeting.

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The attached materials are work papers 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.

I. Statement of the Issues

Should the Commission reconsider its January 24, 2019 *Order Approving Affiliated Interest Agreements with Conditions*?

II. Background

On July 28, 2017, Minnesota Power (MP) filed a petition for approval of its *EnergyForward* Resource Package, which proposed three generation resources to meet the need the Company identified in its 2015 Integrated Resource Plan (IRP):¹

- A power purchase agreement (PPA) for the purchase of 250 MW of wind-generated energy and capacity from the Nobles 2 wind facility in southwestern Minnesota;
- A PPA for the purchase of 10 MW of solar-generated energy and capacity from the Blanchard solar facility in Morrison County, Minnesota; and
- Agreements dedicating to MP 48% of the capacity of the Nemadji Trail Energy Center (NTEC), a 525 MW natural gas combined-cycle power plant in Superior, Wisconsin.

On September 19, 2017, the Commission referred consideration of MP's proposed gas plant to the Office of Administrative Hearings for contested case proceedings to be conducted by an ALJ (Referral Order).

On October 24, 2017, MP resubmitted its *EnergyForward* petition, limited to the portions relevant to the NTEC purchase, along with a revised demand forecast.

On July 2, 2018, the ALJ filed her *Findings of Fact, Conclusions of Law, and Recommendation* (ALJ Report).

On January 24, 2019, the Commission issued its *Order Approving Affiliated Interest Agreements with Conditions*. Among other things, the Commission determined that MP's proposed NTEC purchase is needed and reasonable based on all relevant factors. Therefore, the Commission approved the affiliated interest agreements needed to effectuate the purchase, with conditions.

On February 13, 2019, petitions for reconsideration were filed by the Clean Energy Organizations² (CEOs) and Honor the Earth.

On February 25, 2019, MP filed a response to the petitions (MP Answer).

¹ Docket No. E-015/RP-15-690, *In the Matter of Minnesota Power's 2016–2030 Integrated Resource Plan*.

² Clean Grid Alliance, Fresh Energy, Minnesota Center for Environmental Advocacy, Sierra Club, and the Union of Concerned Scientists.

III. Applicable Rules and Statutes

Petitions for reconsideration are subject to Minn. Stat. § 216B.27 and Minn. Rules 7829.3000. Petitions for reconsideration are denied by operation of law unless the Commission takes action within sixty (60) days of the request.³

Minn. Stat. § 216B.27, subd. 2 requires that the application for rehearing identify the specific grounds on which the applicant contends the decision is unlawful or unreasonable. The Commission has historically reviewed petitions for reconsideration based on whether they raise new issues, new and relevant evidence, and errors or ambiguities.

If the Commission takes no action on either petition, the requests would be considered denied as of April 14, 2019. Because April 14, 2019 is a Sunday, this denial would arguably not be in effect until Monday, April 15, 2019.

If the Commission takes up a party's request for reconsideration, the Commission can: (1) reconsider, and (a) affirm, (b) modify or (c) reverse its initial decision, or (2) deny the petition for reconsideration and thereby affirm the initial decision. The Commission may also reconsider its Order on its own motion.

In accordance with the Commission's adopted meeting procedures, only a Commissioner voting on the prevailing side may move to reconsider. If the motion to reconsider passes, then the matter is again before the Commission.

At the October 29, 2018 Commission meeting, the Commission voted on two separate motions. The motion to deny petitions from Honor the Earth and the CEOs requesting preparation of an Environmental Assessment Worksheet (EAW) passed 5-0. The motion which included the approval of the affiliated interest agreements passed 3-2, with Commissioners Schuerger and Sieben voting against the motion.

Minnesota Rule 4410.5200, subp. 1 requires the Commission to publish a notice of its decision on the need to prepare an EAW pursuant to part 4410.1500, item A.

IV. Honor the Earth Petition

A. EQB's Mandatory EAW and Environmental Impact Statement (EIS) Categories

The Honor the Earth petition asserted that NTEC falls under the EQB's Mandatory EAW and Environmental Impact Statement (EIS) categories, and therefore the Commission must conduct an environmental analysis. In the alternative, Honor the Earth requested that the Commission reconsider its decision to deny its petition requesting preparation for an EAW for the project.

³ Minn. Stat. §216B.27, subd. 4.

MP Answer

MP asserted that the Commission’s decision does not require an environmental review because there is no “project” as defined under the Minnesota Environmental Policy Act (MEPA)⁴ before the Commission. According to MP, the Commission Order correctly determined that:

the requested “government action” in this case is solely approval of affiliated interest agreements that will allow Minnesota Power to purchase energy and capacity from the NTEC facility, if it is permitted and built.⁵ Approval of these agreements will not grant permission to construct or operate the plant, and thus does not constitute a “project” or “government action” that “cause[s] the physical manipulation of the environment.”⁶

MP also noted that MEPA cannot apply to a power plant located in Wisconsin. MP cited several court decisions to support its position. For example, MP argued that “[t]he U.S. Constitution’s dormant Commerce Clause ‘precludes application of a state statute to commerce that takes place wholly outside of the state’s borders.’”⁷ This is similar, MP argued, to the scenario addressed in the *North Dakota v. Heydinger* case, which rejected extraterritorial reach of Minnesota environmental laws.⁸

V. Clean Energy Organizations Petition

A. Environmental Review

The CEOs’ petition asserted that MEPA requires an environmental review of the affiliated interest agreements. In support of its position, the CEOs argued that approval of the affiliated interest agreements constitutes a government action having significant environmental effects, and that the Commission erred in interpreting that MEPA does not apply to projects outside state borders.

MP Answer

In its Answer, MP addressed the MEPA issue by responding to both parties’ petitions at once; therefore, staff includes no additional arguments beyond what is summarized in the “MP Answer to Honor the Earth” section of the briefing paper.

⁴ Minnesota Statutes Chapter 116D.

⁵ Order, at 6.

⁶ *Id.*

⁷ MP Answer, at 5.

⁸ *Id.* at 6.

B. The IRP Process and Lack of Size, Type, and Timing Determination

According to the CEOs, by filing the *EnergyForward* Petition in July 2017—in-between IRPs—MP ignored the Commission’s 2016 IRP Order and “subverted the intent” of Minnesota’s IRP law. The Commission deviated from past practice and procedures by allowing MP to defer resource planning in favor of simply moving forward with the gas plant proposal.⁹

The CEOs remarked, “[t]o this day, there has never been a size, type, and timing determination approving the construction of a new gas-fired plant.”¹⁰ Therefore, there was no basis for MP to issue an RFP for up to 400 MW of natural gas capacity to begin with, and the Commission should not have approved an affiliate agreement for the construction and operation of a large energy facility in the absence of a size, type, and timing determination.

To remedy these perceived flaws in the process, the CEOs recommended the Commission require MP to evaluate the forecasted capacity and energy needs in its next IRP, or at a minimum order the Company to initiate an all-source RFP with an updated need.

The CEOs also argued that the approval an affiliate agreement for the construction and operation of a large energy facility—outside an IRP and with no finding of need—conflicts with a number of state laws. In particular, Minn. Stat. §§ 216B.2422, 216B.243 and 216B.2401 all share in common the State’s clear preference for renewable energy and conservation. MP failed to demonstrate that its alleged need cannot be met more cost-effectively with renewable energy and conservation, and the Commission’s Order failed to choose clean energy first.

MP Answer

MP argued that the CEOs’ complaint over the procedural process is untimely; the route of a contested case was resolved when the Commission referred MP’s proposed NTEC purchase to the OAH.¹¹ The Commission issued its Referral Order on September 19, 2017. No party filed a petition to reconsider that decision; therefore, MP contends, “it is too late for the CEOs to suggest a new IRP is needed before the 250 MW NTEC purchase can be approved.”¹²

MP further argued that the resource need had a sufficient evidentiary basis for the Commission to decide that NTEC is needed and reasonable. Parties thoroughly examined practical and available alternatives across a reasonable range of scenarios and sensitivities to determine which resources most economically meet MP’s forecasted energy and capacity needs.

⁹ CEO Petition, at 15.

¹⁰ CEO Petition, at 13.

¹¹ MP Answer, at 8.

¹² *Id.* at 9.

C. *The Renewable Preference Statute and Minnesota Greenhouse Gas Goals*

The CEOs argued that the Commission’s obligation is to “ensure that fossil-fuel resources are approved only after renewable alternatives have been shown to be harmful to the public interest,”¹³ and the CEOs disagreed that renewable energy alternatives were meaningfully considered in this case.

The Commission’s Order determined that the Department’s modeling was sufficiently robust to meet the requirements of the renewable preference statute.¹⁴ According to the CEOs, however, the Commission should not rely on the Department’s modeling as the threshold for the Company’s compliance with the renewable preference statute. In part, this is because the Department’s modeling contained several fundamental flaws.

The CEOs also argued that the Commission failed to consider the greenhouse gas reduction goals under Minn. Stat. § 216H.02. The NTEC proposal did not show how it will help the utility achieve the State’s greenhouse gas reduction goals, as required by statute. In fact, MP projects its CO₂ emissions after 2030 will remain flat, and then will actually *increase* between 2025 and 2034.¹⁵

MP Answer

MP responded that the Commission’s approval is consistent with law and policy; as stated in its Order, the Commission’s decision was clearly guided by all applicable statutes:

Because the NTEC purchase involves resource-planning and resource-acquisition considerations, the Commission’s determination of whether the affiliated-interest agreements are ‘reasonable and consistent with the public interest’ is guided by relevant factors from Minnesota’s resource planning and certificate-of-need statutes, Minn. Stat. §§ 216B.2422 and .243.¹⁶

The Order also recognized the comprehensive, robust modeling results conducted by the Department, which sufficiently addressed the renewable preference statute:

The Department’s model consistently selected NTEC as least-cost under scenarios with various ranges of customer demand, energy storage, and demand response, and with or without environmental costs. Moreover, by comparing NTEC’s impact on overall system costs to that of wind and solar resources, the Department’s analysis met the renewable-resource requirements of Minn. Stat. §§ 216B.2422 and 216B.243, subd. 3a.¹⁷

¹³ CEO Petition, at 9.

¹⁴ Order, at 21.

¹⁵ Ex. CEO-5, at 8 (Hamilton Direct).

¹⁶ Order, at 11.

¹⁷ Order, at 21.

The Commission recognized the renewable preference statute in its Order, as well as how the statutory criteria were met by the Department's Strategist modeling; thus, the Company believes the CEOs' argument is without merit. MP contended that "the CEOs' characterization of the extensive modeling as deficient ... is illogical and incorrect."¹⁸ To the contrary, MP continued, "the Department's modeling included a variety of assumptions for the future, including reasonable assumptions pertaining to the amount and cost of generation alternatives and the feasibility of a broad range of futures."¹⁹

MP also argued that a number of operational issues discussed by the Company's witnesses should be considered when determining whether MP complied with the renewable preference statute. For instance, according to MP, "adding significantly more wind not only fails to meet the Company's energy needs, but could result in many hours of the year when the available wind generation far exceeds Minnesota Power's hourly demand without meeting its energy needs at other times."²⁰ Moreover, after accounting for Nobles 2 Wind, MP's energy position could vary up to 850 MW in an hour, depending on weather conditions.²¹ Therefore, adding more renewable energy in conjunction with a natural gas combined cycle unit has many benefits for MP's system beyond just the Strategist outcomes.

The Company also disagreed that the Commission failed to fully consider the greenhouse gas reduction goals in Minn. Stat. § 216H.02. One reason why the CEOs' position is contrary to the record is because, unlike the Commission's Order, the CEOs ignore issues such as (1) local and regional grid reliability; (2) the utility and ratepayers resulting from the intermittent nature of renewable energy facilities, including the costs of purchasing wholesale electricity in the market and providing ancillary services; and (3) portfolio diversification.²²

D. Modeling Flaws

The CEOs asserted that the Commission's Order is not supported by evidence in the record, and moreover, the Commission's finding that the Department's modeling was robust and reliable is unsupported by the record.

The CEOs emphasized it that was not just the CEOs and Large Power Intervenors who disputed MP's and the Department's modeling, but the ALJ to whom the Commission referred this case. The ALJ, like the CEOs, found that MP's and the Department's modeling were insufficient to show NTEC is needed and reasonable; the CEOs stated:

After hearing the evidence in this case and developing this voluminous record, the ALJ concluded that "the Company's Strategist analysis of NTEC and other resource options is insufficient to demonstrate that NTEC is needed and reasonable as

¹⁸ MP Answer, at 12.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 13.

²² *Id.* at 14.

compared to other alternatives to meet the future electric needs of Minnesota Power's customers." She continued: "Similarly, the Department's Strategist results are not sufficiently robust or reliable for purposes of determining whether the 250 MW NTEC purchase is needed and reasonable because its analysis also used a number of unreasonable assumptions." She concluded that "[t]he CEO's Strategist modeling, which reached different results with more reasonable assumptions, confirms that a more robust alternatives analysis is necessary.

According to the CEOs, the Commission disagreed with the ALJ by relying on two main premises, both of which are incorrect:

- the CEOs' preferred assumptions are within the range of forecast contingencies evaluated by the Department, and so even correcting for the CEOs' identified flaws would not change the outcome; and
- the Department appropriately limited the model's selection of NTEC to 2025 because there is no evidence in the record to suggest that NTEC is available in any other year.

The Order states that, to the extent that the CEOs' criticisms of DOC's modeling assumptions have merit, "correcting the assumptions would likely not have changed the outcome."²³ The Order further states that "even assuming the CEOs are correct that greater levels of demand response and energy efficiency should have been evaluated, their preferred assumptions are still within the range of forecast contingencies evaluated by the Department."²⁴

The CEOs noted that the Department's range was not, in fact, broad enough to encompass their concerns. For example, the Department did not remedy MP's flawed assumption that did not assign wind resources a capacity credit. When the CEOs' Strategist expert, Ms. Sommer, assigned wind a capacity credit, NTEC was not selected as a least-cost option.

Further, the Department did not examine a reasonable range of demand response and energy efficiency, and the Commission erroneously determined that the variation of the Department's forecast contingencies covered the range of energy efficiency and demand response.

The Department explained in testimony that a number of changes to the Strategist model can all have the same effect, such as:

- a decrease in the demand and energy forecast;
- an increase in energy conservation;
- an increase in the supply of non-dispatchable resources (such as wind); and

²³ Order at 21.

²⁴ *Id.*

- an increase in the must-run segment of dispatchable resources.

The CEOs disagreed that these four factors are substitutable for one another, and claiming they are is a flawed oversimplification of how Strategist works. According to the CEOs, it is not the case that increasing the supply of wind, for instance, would necessarily result in the same shape and magnitude of energy as increasing the must-run segment of a dispatchable resource.

Most importantly, the CEOs argued that the biggest flaw in the Department's modeling was that it "failed to examine key variables in combination with each other."²⁵ The CEOs stated that in no model run did the Department examine the following combinations:

- The Department did not run a combination of additional energy storage and additional demand response;
- The model was not allowed to choose wind at a price less than the base case assumption and solar at a lower cost than the base case assumption without also presuming that gas CCs and CTs experienced the same percentage reduction in capital cost;
- Strategist could not pick between energy storage and demand response and energy efficiency while also considering renewables at a cost lower than the Department's base case assumptions; and
- The Department never allowed Strategist to pick additional wind before 2020, despite the fact that in every model run the Department's modeling selected 400 MW of wind, the maximum the Department allowed it to select by that year.

Because the set of assumptions MP used was unreasonable, and given the Department's failure to consider combinations of alternatives, the CEOs believe the Commission should reconsider its conclusion that "correcting the assumptions would likely not have changed the outcome."²⁶

MP Answer

MP argued that the Commission already considered the CEOs' criticisms of the modeling, which are only repeated in its petition for reconsideration. Furthermore, the Order appropriately took into account a wide range of variables:

Resource-planning assessments are necessarily imprecise; they involve evaluating multiple future scenarios to account for uncertainty. In this case, the Department's modeling captured the effect of a wide range of both demand response and energy efficiency by varying customer demand and energy efficiency levels. In other words, even assuming the CEOs are correct that greater levels of

²⁵ CEO Petition, at 22.

²⁶ Order at 21.

demand response and energy efficiency should have been evaluated, their preferred assumptions are still within the range of forecast contingencies evaluated by the Department.²⁷

MP cited areas of the record where the Department's modeling results disprove the CEOs' assertions. For instance, MP referenced the following key findings from the Department:

- The NTEC 250 MW purchase was selected by the Department's model in virtually every case because its "energy output reduces overall societal costs, not because NTEC is filling a capacity need."²⁸
- If capacity (rather than energy) was the driving factor, then Strategist would have selected a peaking unit.²⁹
- NTEC will reduce ratepayer exposure to spot market risk.³⁰

The CEOs identified a number of assumptions they believed to be flawed, but MP claimed the CEOs were either incorrect, or that even changing the assumptions would not have affected the outcome. The CEOs' adjustment to the wind capacity credit, for instance, did not impact the result that NTEC decreased energy and societal costs in MP's or the Department's modeling.

Additionally, MP stated that the CEOs demand a "level of false precision" that is "neither required nor even preferable in resource planning."³¹ The CEOs' petition recommends making specific, narrow changes to the inputs, while the record supports using forecast bands and contingencies/sensitivities instead.

VI. Staff Analysis

As noted above, petitions for reconsideration or rehearing must be filed within 20 days of a Commission order, and must specify the errors claimed or grounds for rehearing. The Commission may reverse, change, modify, or suspend its original decision only if the original decision, order, or determination is in any respect unlawful or unreasonable.

In determining whether to grant a petition, the Commission should consider whether the petition raised new issues, identified new and relevant evidence, exposed errors or ambiguities, or otherwise provided persuasive justification for rethinking its decisions.

²⁷ Order at 21.

²⁸ Department's Exceptions at 12 (citing Ex. DER-12 at 42 (Rakow Surrebuttal)).

²⁹ Department Initial Brief, at 19-20.

³⁰ Ex. DER-11 at 53 (Rakow Surrebuttal).

³¹ MP Answer, at 18.

Should the Commission choose to reconsider its original decision, it will need to decide whether it will do so based on one or more of the reconsideration petitions or on its own motion.

A. Environmental Review

Regarding the need for an environmental review, staff agrees with MP that approval of the affiliated interest agreements does not require an environmental review under MEPA and that the petitions fail to raise new arguments or introduce new evidence that would justify reconsideration or render MEPA applicable.

After the Commission's decision on this matter, staff will prepare and publish a notice of the Commission's previous decision on the EAW petitions in the EQB Monitor.

B. Comments on the CEOs' Petition

For the most part, staff has already discussed the CEOs' IRP-related arguments in its October 11, 2018 briefing papers; therefore, staff will not repeat its analysis here. Instead, it might be helpful to refer to the oral argument hearing transcripts because the Commission had many questions regarding the same topics discussed in the CEOs' petition for reconsideration.

One of the main issues discussed in CEOs' petition was the Commission's reliance on the Department's modeling. The Department did not file an Answer to the CEO Petition, but Dr. Rakow was asked a number of questions during oral argument about his Strategist analysis. (The same issues were discussed in his testimony, but staff decided not to basically replicate the summaries of testimony from the October 11, 2018 staff briefing papers.)

The CEOs stated that perhaps the most important Strategist modeling issue was that "Dr. Rakow's modeling process is fundamentally flawed because it failed to examine key variables in combination with each other."³² Dr. Rakow was questioned at great length during oral argument about his modeling process and testing of combinations of sensitivities.

Dr. Rakow cited the logistical challenges of testing combinations in a way that would meet the CEOs' standard for sufficient analysis. When asked specifically why the Department did not run varying wind prices and load forecasts, for instance, Dr. Rakow replied:

The reason is, I have, in fact, a generic setup in the machines in the Department where you can do that and it entails running 972 cases. And that's just varying five things, coal, gas, forecasts, CO₂, and capacity costs, it doesn't vary anything else. And if you ran that on one machine, it would take two weeks if it's only a 20-minute run for each scenario, which is typical, 15 to 20 minutes would be typical for a run. Even if I broke it down into, say, three of the machines, I'm probably

³² CEO Petition, at 22.

looking at a whole week of those machines sitting there. And so the duration that it takes makes it infeasible.³³

Another issue the CEOs raised in their petition was that Dr. Rakow placed inappropriate and unreasonable limitations on the amount of renewable energy the model could select. According to the CEOs, “[p]erhaps most foundationally, the Department programmed the model to restrict the amount of wind and solar the model could select, particularly in the early years of the planning period.”³⁴

At oral argument, Dr. Rakow was asked to comment on the CEOs’ criticism about certain restrictions on selecting renewable energy. Dr. Rakow explained that there are judgments any modeler has to make about what is realistic, and Dr. Rakow noted that transmission was one issue he considered when deciding how much wind and solar Strategist could select:

The biggest deal, to be honest, is transmission. I’m going to hit transmission limits long before I hit limits on wind. I ran some experiments because I wanted to see what it would take to get NTEC out of this expansion plan ... it was 800 megawatts of wind and 400 megawatts of solar and finally it would start knocking NTEC out ... you have to have way more wind and solar than is reasonable to expect to get through the queue.³⁵

In staff’s view, how the CEOs described the Department’s limits on wind and solar is partially true, but it does not tell the full story. Anticipating the question of what a least-cost, all-renewable alternative to NTEC would be, Dr. Rakow tested a number of possible expansion plans in the model before running several hundred futures applying ranges around key variables. Considering the number of sensitivities that were run, choices need to be made at some point, and staff believes the CEOs’ characterization of Dr. Rakow’s modeling choice as an “artificial cap on renewable energy”³⁶ seems both unfair and inaccurate.

The CEOs introduced new evidence showing the results of recent RFPs for wind and solar resources, which they claim undermines the validity of the Department’s modeling. Of note, the CEOs, in their modeling, used a wind price that was higher than the low end of MP’s and the Department’s range, which the CEOs stated was “derived from a survey of 163 of ‘the world’s foremost wind experts.’”³⁷ Nevertheless, according to Dr. Rakow, “lowering the wind prices would have absolutely no impact”³⁸ on whether NTEC was selected by the model.

³³ Hearing Transcript, at 180 (October 18, 2018).

³⁴ CEO Petition, at 10.

³⁵ Hearing Transcript, at 138-139 (October 18, 2018).

³⁶ CEO Petition, at 11.

³⁷ Ex. CEO-3, at 23 (Sommer Direct).

³⁸ Hearing Transcript, at 182 (October 18, 2018).

The CEOs also claimed that NTEC is not needed to protect ratepayers from spot market risk.³⁹ The CEOs quoted Dr. Rakow's risk analysis from Direct Testimony, which stated, "the level of risk appears to be manageable without NTEC."⁴⁰

At oral argument, Dr. Rakow elaborated on his conclusion, noting:

the reason it's manageable isn't because MP isn't exposed [to the spot market], they have a large amount of exposure for their size, the issue is, in recent history of LMPs, is they're consistently low and there are no sustained spikes ... If I thought gas prices were going to go up or I thought transmission constraints were going to go away, both of those would lead towards more spot market volatility, more spikes in Minnesota, and increase the value of the insurance against those that Nemadji Trail provides.⁴¹

Additionally, the Commission's Order required MP to include in its next IRP a baseload retirement analysis—specifically a plan for the early retirement of Boswell 3 and 4—along with a securitization plan that could be used to mitigate potential ratepayer impacts associated with any early retirement of one or both of the Boswell 3 and 4 facilities.⁴²

Dr. Rakow was asked about spot market risk in the context of Boswell 3 and/or 4 retirement, and he responded:

If you took out either Boswell 3 or Boswell 4, you double [the] exposure, roughly ... [T]hose units are easily 350 [MW] for one and I think the other is four or five hundred megawatts, in that neighborhood. So it would be a big increase in exposure and to me it would be a problem.⁴³

The Department's testimony, briefs, and Exceptions are more informative and detailed sources if the Commission is interested in further explanation of the Department's modeling; however, as noted earlier, these are issues staff already covered in the October 11, 2018 briefing papers.

³⁹ CEO Petition, at 25-26.

⁴⁰ Ex. DER-8 at 20.

⁴¹ Hearing Transcript, at 192 (October 18, 2018).

⁴² Order at 29.

⁴³ Hearing Transcript, at 193-194 (October 18, 2018).

VII. Decision Options

A. Petitions for Reconsideration

1. On its own motion the Commission grants reconsideration or rehearing and specify the procedural treatment to be followed.
2. Accept Honor the Earth's petition for reconsideration and specify the procedural treatment to be followed.
3. Accept the Clean Energy Organization's petition for reconsideration and specify the procedural treatment to be followed.
4. Deny Honor the Earth's requests made in its petition for reconsideration of the Commission's January 24, 2019 Order.
5. Deny the Clean Energy Organizations' petition for reconsideration of the Commission's January 24, 2019 Order.
6. Take some other action deemed appropriate

Recommendation: Options 4 and 5.