

Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date: October 30, 2014.....Agenda Item #12

Companies: Basin Electric Power Cooperative
Dairyland Power Cooperative

Docket Nos. **ET6125/RP-14-534**
ET3/RP-14-572

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

In the Matter of Dairyland Power Cooperative’s Optional Integrated Resource Plan Compliance

Issue: What action should the Commission take on Basin and Dairyland’s filings?

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Relevant Documents

ET6125/RP-14-534

Basin, Initial Filing June 26, 2014
Basin, Compliance Filing..... July 11, 2014
Minnesota Center for Environmental Advocacy, *Comments* August 12, 2014
Basin, Reply Comments..... August 22, 2014

ET3/RP-14-572

Dairyland, *Initial Filing* June 30, 2014
Minnesota Center for Environmental Advocacy, *Comments* August 5, 2014
Department of Commerce, *Letter* August 5, 2014
Dairyland, *Reply Comments*..... August 15, 2014

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Statement of the issue

What action should the Commission take on Basin and Dairyland's filings?

Background

Legislation passed in 2012 amended the integrated resource plan statute, Minnesota Statute §216B.2422 by adding a subdivision 2b, which states:

Subd. 2b. Optional integrated resource plan compliance for certain cooperatives. For the purposes of this subdivision, a "cooperative" means a generating and transmission cooperative electric association that has at least 80 percent of its member distribution cooperatives located outside of Minnesota and that provides less than four percent of the electricity annually sold at retail in the state of Minnesota. A cooperative may, in lieu of filing a resource plan under subdivision 2, elect to file a report to the commission under this subdivision. The report must include projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies. To supply the information required in a report under this subdivision, a cooperative may use reports submitted under section 216C.17, subdivision 2, reports to regional reliability organizations, or similar reports submitted to other state utility commissions. A report must be submitted annually by July 1, but the commission may extend the time if it finds the extension in the public interest. Presentation of the annual report shall be done in accordance with procedures established by the commission. Data in a report under this subdivision may be aggregate data and need not be separately reported for individual distribution cooperative members of the cooperative. The Commission may take whatever action in response to a report under this subdivision that it could take with respect to a report under subdivision 2.

It is understood that two cooperatives qualify under this new legislation: Basin Electric Power Cooperative and Dairyland Power Cooperative.

To date, the Commission has addressed three O-IRPs:

Basin's first O-IRP, in Docket ET6125/RP-12-723

Basin's second O-IRP, in Docket ET6125/RP-13-562

Dairyland's first O-IRP, in Docket ET3/RP-13-565.

Reports

Basin's Initial Filing

Basin's filing appeared to include discussions on all the topics outlined in previous orders on its past O-IRPs. Consistent with the Commission's Order in its second O-IRP, included links to

reports it files in other jurisdictions, including reports to the North and South Dakota Commissions, an update to its IRP filed with the Western Area Power Administration (WAPA), and reports with MRO.

First, Basin included a summary of its decision to join the Southwest Power Pool (SPP).¹

Second, Basin discussed its projected demand. It included Exhibits A and B which were load and capability calculations of its system (Exhibit A covering the IS/SPP system, Exhibit B covering the MISO region).

Third, Basin listed the sixteen (16) generation facilities it owns in whole or in part, and the 20 facilities it purchases output from through long term arrangements (more than 10 years). Basin did not include a list of the generation facilities for which it has PPAs of less than 10 years. This is consistent with its 2013 O-IRP.

Fourth, Basin discussed its future needs, resource development, and resource options. The cooperative is forecasting its entire member system to grow by more than 2,200 MW between this year and 2035. More than 1,600 MW of this load growth is related to the oil development within the Williston Basin area of North Dakota and Montana. It listed the following actions:

- Basin is continuing to develop the Lonesome Creek Generation Station (135 MW), a 3 unit simple cycle natural gas peaking facility in North Dakota. Unit 1 is already operational as of September 2013, and Units 2 and 3 are anticipated to be operational in December of this year;
- After releasing a RFP in June 2013, Basin purchased three (3) long term wind projects totaling 376 MW. All three are scheduled to be online in December 2015;
- Through the resource planning process within the IS/SPP system, it is anticipated that two 100 MW peaking units may be built and operational by June 2016, with 100 MW needed in 2017 and 2018, and a 650 MW combined cycle facility operational by June 2019. These resources are not listed in Exhibit A since they have not been fully committed to as of the date of this filing.
- Basin has entered into two PPAs for a total 100 MW of baseload power delivered to the IS/SPP system from 2017-2021, which are shown in Exhibit A.
- Because Basin is forecasting growth of its members that are located in MISO, Basin plans to serve this load with its generation located in MISO and PPAs with entities delivering power into the MISO footprint for the next number of years. These additional purchases are shown in Exhibit B.
- To meet long term resource needs, Basin is working with Minnkota, Dairyland, and other Midwest utilities to explore the possibility of a highly efficient advanced class natural gas combined cycle project with a planned commercial operation date (COD) of 2021-2023. Different power purchase options and potential ownership structures are being explored.

Fifth, Basin discussed distributed generation, which was an item the Commission previously identified as needing discussion in O-IRPs. Basin explained it generally does not enter into

¹ Basin has service area in both SPP and MISO.

PPAs for DG under 5 MW; these types of purchases are better handled at the membership level. Beyond establishing the rate and basic terms of interconnection, Basin does not get involved in negotiation and purchase of DG by its member cooperatives. It is Basin's understanding that its Minnesota members file information with the Commission regarding cogeneration.²

Sixth, Basin discussed environmental externalities, which was another item the Commission previously (verbally) identified for O-IRPs. Basin stated that all of its owned generation, both current and planned, is physically located outside of Minnesota. Thus, there are not any Minnesota resource options to which an evaluation of environmental values would be warranted and as such are not applicable to this submission.

Supplement by Basin

The Commission's notice in Basin's O-IRP docket also requested that Basin file its MISO-OMS Resource Planning Balance Sheets. Basin did so on July 14, 2014. The Commission staff involved in MISO matters has received this document and reviewed it.

Dairyland's Filing

The first section of Dairyland's report references the O-IRP legislation and why Dairyland is eligible to file an O-IRP report in lieu of a traditional resource plan. Dairyland also, consistent with the Commission's Order in its first O-IRP, included links to reports it files in other jurisdictions, including a report to the Wisconsin Commission, to MISO, and to the Department.

Second, Dairyland described its load trends. It provides wholesale electric service to 25 member distribution cooperatives. Its energy sales increased at an average of 1.0% annually over the last five years, while its peak grew at an average of 3.4% over the same time period, due mostly to the growth of the Large Commercial and Industrial (C&I) class. Energy for the large C&I class has grown from 12.9% (2008-2013) to 15.6% of Class A sales now. Dairyland also provides wholesale service to 17 municipal utilities and classifies the sales as Class D. Residential customers still account for 63.4% of Class A energy sales and 80.5% of customers. Dairyland conducts load forecasting on a two-year cycle, with the last forecast finalized in fall of 2012. The Cooperative's energy and peak growth are forecast to grow at an annual rate of 1.0% over the next 20 years.

Third, Dairyland discussed some of its resource decisions.

² Staff note: Basin is referring to the distributed generation reports filed annually by all distribution utilities, including municipal and cooperative utilities, in Dockets 14-10 and 14-9. The reports in Docket 14-10 include a list of existing DG facilities, new DG facilities added in the past year, and other related information. The reports in Docket 14-9 include a list of net energy billed qualifying facilities and related information.

- The Cooperative announced that it will indefinitely suspend operations at the coal-fired Alma Station (Units #4 and #5) by early 2015 (combined 2014 UCAP rating of 94.5 MW).
- Dairyland previously signed a 50MW capacity purchase for the years 2013-2015. It followed this purchase with a second capacity purchase for 2014-2015 and 100 MW for 2016-2018. Dairyland recently completed a third larger capacity purchase that starts at 50 MW in plan year 2018 and increases to 150 MW for plan years 2019-2022.
- Dairyland is evaluating a number of potential renewable energy project purchases which could be used to fill its 4 MW deficit in 2015, 12 MW deficit in 2016, and 19 MW deficit in 2017. If Dairyland does not complete the renewable purchases, Dairyland plans on purchasing capacity from the MISO Capacity Auction for these years.
- Dairyland also mentioned its possible highly efficient advanced class natural gas combined cycle project, consistent with Basin's summary in its filing.
- The Cooperative discussed its pollution control equipment installed at various Dairyland generation stations and the conclusion of litigation through a consent decree agreed to by Dairyland, the EPA, and the Sierra Club. The consent decree was modified to reflect that Dairyland would cease coal generation at Alma #4 and #5 by no later than December 31, 2014.

Fourth, at pages 9-14 of its report, Dairyland discussed its progress toward the Renewable Energy Standard. Staff has not summarized the details here except to say that it appears Dairyland has made reasonable efforts to meet the standard. (A finding of compliance with the state's RES will be made in the pending biennial RES compliance docket, Docket No. E999/M-14-237.)

Fifth, Dairyland summarized the status of solar project additions on its system, starting at page 14 of its report. The Cooperative has signed an agreement for a solar project in Rochester and in Westby, Wisconsin. Five of its member distribution cooperatives are adding community solar projects. The five projects are at various stages of development and some have already sold out of their panels available for purchase. The five cooperatives are listed at page 15 of Dairyland's report.

Sixth, Dairyland discusses distributed generation. Dairyland has implemented a small renewable tariff (net metering for projects under 40kW) that is available to retail members of Dairyland's Minnesota member distribution cooperatives. In the entire Dairyland system there are 462 member-owned solar and wind projects having a nameplate capacity size of less than 40 kW each. Through 2013, retail members of Dairyland's member distribution cooperatives installed 2,460 kW of distributed solar projects and 1,786 kW of wind distributed projects of various sizes. Figure 5 at page 16 of Dairyland's report shows that the number of member-owned DG installations continues to increase, with solar representing nearly 75% of all DG installations at the end of 2013. Solar installations have been increasing at a rate of 55 to 60 new installations annually, resulting in a tenfold increase since 2007.

Seventh, Dairyland discussed its membership in the National Renewable Cooperative Organization (NRCO) and M-RETS. Staff has not repeated the summary here, located at page 17 of its report.

Eighth, Dairyland discussed externalities. Dairyland affirmatively stated that it is not required to use externalities as part of its O-IRP because the externalities statute only requires the values to be used in “proceedings,” and an O-IRP is not a “proceeding.” Dairyland states that the definition of a “proceeding” is defined in Minn. Rule 7829.0100, subpart 18, which provides:

Subp. 18.Proceeding. "Proceeding" means a formal or informal undertaking of the commission, in which it seeks to resolve a question or issue taken up on its own motion or presented to it in a complaint, petition, or notice of a proposed change in a rate, service, or term or condition of service.

Under this definition, Dairyland states, an O-IRP is not something taken up by the Commission’s own motion, or presented to the Commission in a complaint or petition. Nor does Dairyland’s O-IRP report propose any changes in a rate, service, or term or condition of service.

From a more practical perspective, Dairyland states that an O-IRP is intended to provide the Commission with an annual update of whether a qualifying G&T cooperative will have adequate generation resources to meet its load. In addition, Dairyland’s share of total Minnesota retail sales is small, constituting only 1.25% of total Minnesota retail sales in 2013. With the exception of a relatively small amount of Minnesota renewable generation purchased by Dairyland, all of Dairyland’s owned or purchased generation is located outside Minnesota. At this time, Dairyland is not planning to build any generation that would require a Minnesota Certificate of Need; therefore, there are no Minnesota resource options for which an evaluation of environmental values would be merited.

At page 19 of its report, Dairyland requested that the Commission conclude it is eligible to submit an O-IRP report and that the report includes projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies. Dairyland further requested that the Commission acknowledge receipt of its O-IRP report, find the report complete, and close the docket.

Party Comments

MCEA filed comments in both Basin and Dairyland’s dockets; the Department filed comments in Dairyland’s docket.

Issues Common to Both O-IRPs

MCEA raised three concerns in both dockets. First, MCEA argued that the environmental externalities statute applies to O-IRPs and therefore both utilities must use them in their filings; second, that the newly passed legislation on greenhouse gas goals applies to O-IRPs; and third,

even if the Commission did not find that the statutes strictly applied, the Commission had the authority to require a discussion of each statute in the O-IRPs.

Externalities

For both Basin and Dairyland's O-IRPs, MCEA requested that the Commission order the utilities to use externalities:

The Minnesota Legislature defined which "utilities" must participate in resource planning. Minn. Stat. § 216B.2422, subd. 1(b) defines a "utility" as "an entity with the capability of generating 100,000 kilowatts or more of electric power and serving, either directly or indirectly, the needs of 10,000 retail customers in Minnesota." This definition includes Basin Electric and Basin Electric is therefore subject to the resource planning statute.

The Minnesota Legislature also determined, in 1993, that these utilities must use "a range of environmental costs associated with each method of electricity generation" "in conjunction with other external factors, including socioeconomic costs, when evaluating and selecting resource options in all proceedings before the commission, including resource plan and certificate of need proceedings." Minn. Stat. § 216B.2422, subd. 3(a). There is no geographic limitation or distinction tied to this requirement. Based on the definition of utility, it only applies to those entities with a certain level of business tied to Minnesota, but that level of business brings those utilities within the jurisdiction of the Minnesota Public Utilities Commission and state law requires those utilities to consider environmental costs when making resource decisions that will affect Minnesota customers—regardless of where the generation sources are located. Accordingly, as Basin Electric makes plans for future resources, it must consider the environmental costs associated with each method of electricity generation for those generation sources located within 200 miles of Minnesota when selecting resource options.³

GHG Goal

Both the Department and MCEA filed comments on the issue of the GHG goal applying to O-IRPs.

Newly passed legislation in 2014 added a subdivision 2c to the resource planning statute:

Subd. 2c. Long-range emission reduction planning. Each utility required to file a resource plan under subdivision 2 shall include in the filing a narrative identifying and describing the costs, opportunities, and technical barriers to the utility

³ MCEA comments, pp. 3-4.

continuing to make progress on its system toward achieving the state greenhouse gas emission reduction goals established in section 216H.02, subdivision 1, and the technologies, alternatives, and steps the utility is considering to address those opportunities and barriers.

MCEA

Citing to the new legislation, MCEA stated the following:

The requirement contained in Minnesota Statute section 216B.2422, subdivision 2c is specific to those utilities “required to file a resource plan under subdivision 2.” Basin Electric is one of the utilities required to file a resource plan under subdivision 2. Subdivision 2 states that “[a] utility shall file a resource plan with the commission,” and a “utility,” in turn, is defined as “an entity with the capability of generating 100,000 kilowatts or more of electric power and serving, either directly or indirectly, the needs of 10,000 retail customers in Minnesota.” Minn Stat. § 216B.2422, subd.1(b). Basin Electric meets this definition of utility and is therefore “required to file a resource plan under subdivision 2.” See *id.*, subd. 2c. The fact that Basin Electric elected to follow an alternative compliance path to meeting this requirement does not change the underlying requirement.

The alternative compliance path that Basin Electric elected to follow was created in 2012 when the legislature added subdivision 2b to Minn. Stat. § 216B.2422, which states that “[a] cooperative may, in lieu of filing a resource plan under subdivision 2, elect to file a report to the commission under this subdivision.” *Id.*, subd. 2b. Filing a report under subdivision 2b is an optional procedural route for complying with subdivision 2—it does not exempt Basin Electric from the substantive requirement of resource planning in Minnesota.

Accordingly, Basin Electric is “required to file a resource plan under subdivision 2” and therefore must comply with the requirement in the newly enacted subdivision 2c to include a narrative describing its path to making progress toward Minnesota’s greenhouse gas emissions reduction goals.⁴

Department of Commerce

The Department pointed out in its comments the new legislation refers to those utilities filing a resource plan under subd. 2, not those utilities (Basin and Dairyland) which file a report under subd. 2b. Minnesota Statutes §16B.2422, subd. 2b refers to the O-IRP as a “report” that is “in lieu of filing a resource plan under subdivision 2”:

⁴ MCEA comments in Basin docket, pp. 2-3. MCEA filed similar comments in the Dairyland docket.

For the purposes of this subdivision, a "cooperative" means a generating and transmission cooperative electric association that has at least 80 percent of its member distribution cooperatives located outside of Minnesota and that provides less than four percent of the electricity annually sold at retail in the state of Minnesota. A cooperative may, in lieu of filing a resource plan under subdivision 2, elect to file a report to the commission under this subdivision.

Thus, the Department concluded, it appears the statute did not intend to require Dairyland to comply with the new legislation. The Department, however, concluded that the Commission could request Dairyland to provide the information in this or its next O-IRP.

Commission Authority to Order a Discussion of GHG and Externalities, even if not statutorily required

Even if inclusion in the O-IRPs are not statutorily required, MCEA argues that the Commission should order Dairyland and Basin to comply with both the externalities and GHG statute, for policy reasons. MCEA states:

...[I]t is within the Commission's authority to order Dairyland to include this type of information in its IRP report. There is certainly nothing in the statutory scheme that prohibits the Commission from requiring this information. The state legislature has made it very clear that it is the policy of this state to prefer and support renewable energy generation and that the purpose of this state policy is to account for the health and environmental effects of fossil fuel combustion. By ordering Dairyland to include this information, the Commission would be furthering state policy and protecting the health of its citizens and environment.⁵

Issues Specific to Dairyland's Filing

The Department filed a letter in Dairyland's O-IRP docket. The Department referenced filings Dairyland makes in other jurisdictions, including a filing in Wisconsin, to MISO (also submitted to Commission staff), and an annual report to the Department. The Department stated it was unable to confirm whether Dairyland has sufficient resources to provide reliable service since it was not possible, for example, to verify Dairyland's forecasts of energy use by its members. The annual report submitted to the Department does not include the information needed by the Department to verify Dairyland's statements regarding its future sales, and the Department was unable to verify from the references to other sources whether Dairyland will be able to provide reliable service. The Department suggested that the Commission may wish to request the

⁵ MCEA comments in Dairyland docket, p. 5. MCEA filed very similar comments regarding the Basin O-IRP, at pp. 4-5.

Wisconsin Public Service Commission and MISO to indicate whether Dairyland will be able to provide service over the planning period.⁶

MCEA filed concerns specific to Dairyland's filing, since Dairyland's filing stated an O-IRP wasn't a proceeding and therefore didn't need to include externalities. MCEA first stated that there is nothing in the statute to indicate the legislature intended to exempt O-IRPs from using externalities.

Second, MCEA points out that Dairyland's interpretation would exempt many dockets from the definition of "proceeding":

Dairyland claims and an IRP report does not meet this definition because "[i]t is not something taken up by the Commission's own motion, or presented to the Commission in a complaint or petition." Dairyland 2014 IRP report p. 18. The problem with this assertion is that, if followed to its logical conclusion, environmental costs would not need to be considered in *any* resource plan proceeding because no IRP—whether submitted under subdivision 2 or 2b—is something "taken up by the Commission's own motion, or presented to the Commission in a complaint or petition." And yet the legislature specifically indicated that environmental costs must be considered in all proceedings, *including resource plan proceedings*, regardless of whether the utility elects to submit a plan under subdivision 2 or 2b.⁷

MCEA further notes that Chapter 7829 specifically clarifies that the chapter governs practice and procedure in matters before the commission except when a statute or rule on a specific topic contains procedural requirements in direct conflict with the chapter.

Reply Comments

Dairyland and Basin filed reply comments.

GHG

Both Dairyland and Basin agreed with the Department that the GHG statute does not apply to O-IRPs. Dairyland noted that the O-IRP statute refers to an O-IRP as being filed "in lieu of" a resource plan. Dairyland also offered some alternatives to deciding now that the two cooperatives provide GHG analysis.

⁶ Department comments in Dairyland, p. 2.

⁷ MCEA comments, p. 4. Emphasis in original.

First, Dairyland noted that in the pending SMMPA resource plan, the Department offered a straw proposal. The Commission has not yet issued in order addressing the proposal.⁸

Second, Dairyland stated that due to the EPA's proposed Clean Power Plan, a better use of the Commission's and Dairyland's resources would be to see what is ultimately required for Dairyland to comply with the EPA's rule and State Implementation Plans (SIPs).

Externalities

On the topic of externalities, Basin and Dairyland had different responses.

Basin appeared to agree that externality values would apply to its O-IRP if it built generation in Minnesota:

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.⁹

However, the Cooperative also stated:

So long as a subdivision 2b filing contains projected demand levels and the resource 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.¹⁰

Basin also cautioned the Commission on applying values to out of state generation.

Dairyland, on the other hand, repeated its argument that an O-IRP is not a proceeding and therefore externalities are not required to be used. In response to the MCEA's argument, Dairyland pointed out that an O-IRP is to be filed in lieu of a resource plan and stated:

MCEA's argument ignores the language in Subd. 3 that requires a utility to use the externality values "when evaluating and selecting resource options in all proceedings before the commission, including resource plan and certificate of need proceedings." (Emphasis added.) Subd. 3 did not simply state that the externality values needed to be used "in all proceedings." The legislature appears to have recognized a narrower definition of "proceedings" than that urged by the MCEA, so it expressly identified resource plan and certificate of need proceedings as "proceedings" for purposes of externality values consideration.

⁹ Basin Reply Comments, p. 2.

¹⁰ Basin Reply Comments, p. 2.

But the Commission's consideration of an O-IRP report under subd. 2b was not identified as being a "proceeding" for purposes of externality value consideration. Since the submittal of an O-IRP report is not identified in Subd. 3 as a resource planning proceeding, externality values need not be addressed by the O-IRP report.

In addition, the submittal of an O-IRP report is not a proceeding in which resource options are evaluated and selected...Subd. 2b does not require an O-IRP report to evaluate or select resource options for the next 15 years. An O-IRP report is intended to provide the Commission with an annual update of whether a qualifying G&T Cooperative will have adequate generation resources to meet its projected load. In addition, an O-IRP report will provide the Commission with notice of planned infrastructure projects such as new power plants that may be undertaken by a qualifying G&T cooperative.¹¹

Dairyland goes on to point out that it would be unreasonable to read the statute to require O-IRP reports to annually address externality values established by the Commission as opposed to the 2 to 3 year schedule for filing a full-blown IRP under Subd. 2.

Dairyland

Reliability

Dairyland also responded to the Department's concerns over reliability. Dairyland noted that it submits a forecast to the Rural Utilities Service (RUS) every 24-36 months which reviews the forecast. The cooperative attached an early 2013 letter stating that Dairyland's forecast was reasonable. Dairyland further stated:

Since the Dairyland system (load and resources) is overwhelming outside the state of Minnesota, Dairyland does not believe DOC is required to or needs to replicate Dairyland's system forecast to address reliability for Dairyland's Minnesota members....Since an O-IRP report may rely upon reports submitted in other proceedings to other government agencies, the Commission should recognize and take comfort that Dairyland's forecast has been verified by RUS.¹²

Staff Analysis

In past O-IRP dockets, the Commission has reviewed the filings as high level documents. Consistent with the Commission's approach to date on these filings, staff has reviewed them as a summary. From that perspective, the reports are helpful as an information filing by providing

¹¹ Dairyland Reply Comments, pp. 9-10.

¹² Dairyland Reply Comments, pp. 4-5.

general narratives of the Cooperatives' statuses and plans. One interesting piece of information was Dairyland's summary of the solar developments in its territory.

While both O-IRPs contained similar information, they did not always cover the same topic nor reference the same reports. Dairyland provided more solar and RES information than Basin. Basin included a link to its report to MRO but Dairyland did not. The two utilities may want to communicate in advance of filing their next reports to be aware of the topics they intend to cover in their filings.

However, there are disputes relevant to what should be included in an O-IRP. The main issues in dispute are:

- 1) To what extent should reliability be reviewed in an O-IRP?
- 2) Should the GHG goal be explored in O-IRPs?
- 3) Should externalities be used in O-IRPs?

O-IRP Legislation: Background

First, prior to 2012, the resource planning statute required "traditional" IRPs from any utility that directly or indirectly served at least 10,000 Minnesota customers and had the ability to generate at least 100 MW. The O-IRP legislation does not change the 10,000 customer/100 MW threshold, but identifies an alternate filing for certain G&T cooperatives that have much of their load in other states and who have a small percentage of Minnesota's overall retail sales.

The O-IRP legislation was proposed when Basin raised concerns about providing all of their forecasting information from all of their member cooperatives, including those outside the state of Minnesota, as part of their IRPs. In contrast, the Department pointed out that it could not verify the reliability of Basin's system if it did not have access to this information. Rather than directing Basin to provide it, the Commission suggested the two parties work together:

Given that Minnesota represents such a small portion of Basin's total operations, and given Basin's limited plans for acquiring new resources in Minnesota within the next five years, the Commission is not persuaded of the urgency to resolve this matter in this docket. In the interest of comity the Commission will refrain from compelling Basin to provide the disputed data at this time. Instead, the Commission will direct the parties to continue to discuss this matter with each other and with the Commission's staff.¹³

Commission staff's recollection is that Basin and the Department did hold a meeting, with staff in attendance, and were not able to resolve their differences.¹⁴

¹³ Docket ET6125/RP-08-846, ORDER ACCEPTING PLAN, February 11, 2010, page 7.

¹⁴ While Dairyland did not have the same exact experience, it had previously raised concerns about the amount of information it was filing in IRPs.

Much of the language in subdivision 2b is in direct response to the dispute in Basin’s 2008 IRP:

The report must include projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies. To supply the information required in a report under this subdivision, *a cooperative may use reports submitted under section 216C.17, subdivision 2, reports to regional reliability organizations, or similar reports submitted to other state utility commissions....*

AND

Data in a report under this subdivision *may be aggregate data and need not be separately reported for individual distribution cooperative members of the cooperative.* (Emphasis added)

Thus it is now clear that Basin and Dairyland can present aggregate data in their O-IRPs. However, some of the other language in subd. 2b suggests the Commission still retains considerable discretion on the O-IRP:

The commission may take whatever action in response to a report under this subdivision that it could take with respect to a report by a cooperative under subdivision 2.

For example, the Commission has rejected a traditional IRP. The language above seems to suggest that the Commission could reject an O-IRP, even if it relied on reports filed with other agencies or jurisdictions.

Other statutes in Chapter 216B either expressly refer to requirements to file certain content in resource plans, or, more significantly, requirements for “proceedings”.

As the parties have pointed out, the GHG goal is one provision that refers to a filing requirement in “resource plans.” Some other statutes in 216B that either refer to resource plans or proceedings:

216B.2426	“The commission shall ensure that opportunities for the installation of distributed generation, as that term is defined in section 216B.169, subdivision 1, paragraph (c), <i>are considered in any proceeding under section 216B.2422, 216B.2425, or 216B.243.</i> ” (Emphasis added)
216B.2422, subd. 3(a) (in part)	“...A utility shall use the values established by the commission in conjunction with other external factors, including socioeconomic costs, when evaluating and selecting resource options <i>in all proceedings before the</i>

	<i>commission</i> , including resource plan and certificate of need proceedings.”
216B.1612, subd. 5(b)	“Each utility <i>shall include in its resource plan</i> submitted under section 216B.2422 a description of its efforts to purchase energy from C-BED projects, including a list of the projects under contract and the amount of C-BED energy purchased.”
216B.1691, subd. 2e (in part)	“Each electric utility must submit to the commission and the legislative committees with primary jurisdiction over energy policy a report containing an estimation of the rate impact of activities of the electric utility necessary to comply with this section...After the initial report, <i>a report must be updated and submitted as part of each integrated resource plan</i> or plan modification filed by the electric utility under section 216B.2422.”

This is not a new issue for the Commission; these same 4 statutes were raised in briefing papers for Basin’s original O-IRP filing in Docket 12-723 and both Basin and Dairyland commented on them. The Commission discussed the matter and determined that because the O-IRP refers to the filing as being a report “in lieu of a resource plan,” the two latter statutes above did not apply to O-IRPs, while the statute on externalities and distributed generation did apply, because they referred to “proceedings.” **Appendix A** includes the resource planning statute, including the O-IRP amendment.

Basin’s supplemental filing from 2012 referenced the Commission discussion.¹⁵ However, the Commission did not adopt a written motion and therefore the requirement was not memorialized in an Order. Instead, the Commission decided not to rule on Basin’s O-IRP in order to give it time to supplement its filing with a discussion of DG and externalities.¹⁶ Once Basin supplemented its filing, the Commission then did acknowledge receipt of the filing, found the filing complete as supplemented, and closed the docket.¹⁷

Staff believes the Commission’s analysis of the issue in 2012 was sound, the most logical reading of the statutes in question. Whether the Commission wants to memorialize that decision

¹⁵ “At the Commission meeting on September 6, 2012, there was much discussion regarding the required content of OIRP reports...the Commission deliberations suggested that an OIRP should at least address the statutory references regarding distributed generation and environmental costs. Accordingly, Basin Electric supplements the OIRP filing with the following information:...” Basin October 19, 2012 Supplemental filing at 2, Docket 12-723.

¹⁶ Docket ET6125/RP-12-723, ORDER ESTABLISHING PROCEDURES FOR OPTIONAL INTEGRATED RESOURCE PLAN COMPLIANCE, September 18, 2012.

¹⁷ Docket ET6125/RP-12-723, ORDER ACKNOWLEDGING RECEIPT OF COMPLIANCE REPORT AND CLOSING DOCKET, December 19, 2012.

in an Order, however, is a judgment call for the Commission. There are good arguments for and against.

Staff's recollection from the original 2012 Basin O-IRP is that because the Commission did not feel it had enough experience with these types of filings, and, because Basin did not seem opposed to supplementing its filing with a discussion of both DG and externalities, there was no need to memorialize the filing requirement in a written order. In contrast, staff and stakeholder resources are being used on the current dispute and it may make sense to issue a clarification this time to avoid disputes on this same issue in future O-IRPs.

The other path the Commission could take is to not rule on the dispute and simply acknowledge receipt of the filing. Part of the dispute may be moot, at least for Basin, because Basin has previously stated that its generation is geographically located such that externalities need to be used. Dairyland states in its filing that it has no generation in Minnesota but did not clarify whether it also has generation within 200 miles of Minnesota.

Externalities

If the Commission adopts its informal determination from the 2012 O-IRP, then it would be deciding that both externalities and distributed generation must be filed in O-IRPs. Staff notes this means the Commission would be rejecting Dairyland's argument that an O-IRP is not a proceeding. Staff agrees with the MCEA that an O-IRP is a proceeding, or at least that it is within the Commission's discretion to interpret "proceeding" as it sees fit. As MCEA points out, then many dockets before the Commission would not be proceedings.¹⁸ Further, Dairyland's interpretation hinges on the assumption that its filing is not a "petition" as that term is used in the Commission's Rules. Merriam Webster defines "petition" as: "a formal written request made to an official person or organization." It is completely reasonable to find an O-IRP filing to be a petition, and probably the most logical reading of the rule. If the O-IRP is a petition, it then falls within the definition of a proceeding under the Commission's Rules. **Appendix A** includes both the resource planning statute and the definition of proceeding in the Commission's Rules.

Of particular note: the O-IRP legislation states the Commission may take any action it can take under the traditional IRP statute with respect to cooperatives or municipal power agencies. That statute states the Commission's "findings and conclusions shall constitute prima facie evidence in prima facie evidence in all other proceedings." It would be helpful for Dairyland to explain why the Commission could issue an order with findings and conclusions in a docket that would not be considered a proceeding.

¹⁸ In addition, many of the Commission's other requirements in Chapter 7829, its rules of Practice and Procedure, hinge on "proceedings" and therefore would cause confusion. For example, Minn. Rules 7829.0700 requires service lists for "proceedings"; if an O-IRP is not a proceeding, then it is not clear what service list requirement Basin and Dairyland would have.

It is also worth noting that even if the Commission finds externalities must be used in O-IRP filings, the statute still gives the Commission discretion to decide how much detail should be provided. In the original 2012 Basin O-IRP where the issue first came up, Basin simply indicated that it did not have generation inside Minnesota or within 200 miles, and therefore the externalities did not need to be applied. Staff recommended that this be considered acceptable and the Commission agreed. Even if externalities had to be applied to specific generation in an O-IRP, the Commission may presumably still accept a narrative, or data in an aggregate format, consistent with the intent of the O-IRP statute. Nor do externalities dictate resource decisions; they simply inform the record.

Dairyland may argue that because it did not address externalities in its 2013 O-IRP and the Commission accepted its report, the Commission should again accept its report without externalities. Staff notes, however, that no one raised the externality concern in initial comments. Staff raised it in briefing papers, but there were other disputes among Dairyland and commenters that took up much of the Commission's attention at that time. Because the 2013 O-IRP was Dairyland's first filing under the statute, there was clearly the expectation that O-IRP proceedings would evolve in later years as the Commission and parties gained experience with them.

GHG Legislation

If the Commission were to formally adopt its unofficial determination from the 2012 Basin O-IRP, it would then be finding that the GHG legislation does not apply to O-IRPs, because the GHG legislation refers to "resource plans" rather than "proceedings." **Appendix A** also lists the GHG legislation, which is subd. 2c of the resource planning statute.

As to MCEA's request that the Commission still require a GHG goal analysis even if not statutorily required, staff defers to the Commission as this is a policy decision. As noted by Dairyland, other options exist, including monitoring developments on the EPA's Clean Power Plan and/or waiting for a Commission decision in the SMMPA resource plan, where more indepth comments have been received on the GHG goal. Staff has included this concept as a decision option.

Reliability

Dairyland, in particular, argues that the Department need not look at detailed data in O-IRPs to ascertain reliability and that the Rural Utilities Service's review of its forecast should give the Commission some comfort.

The O-IRP statute lends support to both the Department's concern as well as Dairyland's. By mandating that the Cooperatives include projected demand levels for the next 15 years as well as the generation resources to meet any deficiencies, the legislation is certainly focused on reliability. However, by specifying that the data filed in the report can be aggregate and not

broken down by individual distribution cooperatives, the legislation departs from one common method to assess reliability in traditional resource plans.

Staff does not have any particular suggestions on how to resolve this tension. Staff suggests that perhaps, consistent with its decisions in the 2013 O-IRPs, the Commission simply acknowledge receipt of the filings and close the docket, without making a finding on reliability.

The Department suggested the Commission contact the Wisconsin Commission, and staff did so. Wisconsin Commission staff provided the following response:

Dairyland referenced the Wisconsin Strategic Energy Assessment, which is a Wisconsin statewide outlook at resource adequacy vs. forecasted load, as well as other electric industry interests such as rates. The final 2014-2020 document is now publicly released; however it will not have specifics on Dairyland. In addition, since it is a statewide outlook, the Commission does not make determination of adequacy or compliance for individual LSEs, including Dairyland, for this assessment.¹⁹

As to Dairyland's assertions with respect to the Rural Utilities Service, staff suggests no findings. The Rural Utilities Service may be reviewing Dairyland's forecast for a particular purpose other than reliability, and has not directly filed comments in this record explaining its role. Other utilities borrow from the RUS and if the Commission is interested in this topic as it relates to resource planning, those other utilities should be part of the discussion.

Decision Options

(Staff note: the term "O-IRP" is used throughout the briefing papers to refer to the Basin and Dairyland filings. In the decision options below, staff has used the phrase "compliance report," which was used in the Ordering Paragraphs in last year's Orders.)

Basin: ET6125/RP-14-534

1. Acknowledge receipt of Basin's compliance report, find the report complete, and close the docket. *(Finding made last year on Basin's report)*
2. Find that the Commission's externality values established under Minn. Stat. §216B.2422, subd. 3:
 - a) Shall be used by Basin in its compliance report if it has generation within Minnesota or within 200 miles of Minnesota; OR
 - b) Is not required in Basin's compliance report.

¹⁹ Wisconsin Commission staff e-mail to Minnesota Commission staff, October 21, 2014.

3. Find that a description of a utility's progress towards the greenhouse gas goal referenced in Minn. Stat. §216B.2422, subd. 2c:
 - a) Shall be used by Basin in its compliance report; or
 - b) Are not required in Basin's compliance report;
 - c) Will be deferred for additional discussion in Basin's next compliance report.

Dairyland: ET3/RP-14-572

4. Acknowledge receipt of Dairyland's compliance report, find the report complete, and close the docket. (*Finding made last year on Dairyland's report*) OR;
5. Direct Dairyland to file a discussion of externalities as a supplement to its compliance report.
6. Find that the Commission's externality values established under Minn. Stat. §216B.2422, subd. 3:
 - a) Shall be used by Dairyland in its compliance report if it has generation within Minnesota or within 200 miles of Minnesota; OR
 - b) Are not required in Dairyland's compliance report.
7. Find that a compliance report under Minn. Stat. §216B.2422, subd. 2b is a proceeding within the meaning of Minnesota Rules 7829.0100, subpart 18. (*Alternative finding; could be adopted in lieu of decision option 6 or in addition to decision option 6*)
8. Find that a description of a utility's progress towards the greenhouse gas goal referenced in Minn. Stat. §216B.2422, subd. 2c;
 - a) Shall be used by Dairyland in its compliance report;
 - b) Are not required in Dairyland's compliance report; OR
 - c) Will be deferred for additional discussion in Dairyland's next compliance report.

Appendix A: Resource Planning Statute and Commission Rule Defining Proceeding

216B.2422 RESOURCE PLANNING; RENEWABLE ENERGY.

§ Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Utility" means an entity with the capability of generating 100,000 kilowatts or more of electric power and serving, either directly or indirectly, the needs of 10,000 retail customers in Minnesota. Utility does not include federal power agencies.

(c) "Renewable energy" means electricity generated through use of any of the following resources:

- (1) wind;
- (2) solar;
- (3) geothermal;
- (4) hydro;
- (5) trees or other vegetation;
- (6) landfill gas; or
- (7) predominantly organic components of wastewater effluent, sludge, or related by-products from publicly owned treatment works, but not including incineration of wastewater sludge.

(d) "Resource plan" means a set of resource options that a utility could use to meet the service needs of its customers over a forecast period, including an explanation of the supply and demand circumstances under which, and the extent to which, each resource option would be used to meet those service needs. These resource options include using, refurbishing, and constructing utility plant and equipment, buying power generated by other entities, controlling customer loads, and implementing customer energy conservation.

(e) "Refurbish" means to rebuild or substantially modify an existing electricity generating resource of 30 megawatts or greater.

§ Subd. 2. Resource plan filing and approval. A utility shall file a resource plan with the commission periodically in accordance with rules adopted by the commission. The commission shall approve, reject, or modify the plan of a public utility, as defined in section 216B.02, subdivision 4, consistent with the public interest. In the resource plan proceedings of all other utilities, the commission's order shall be advisory and the order's findings and conclusions shall constitute prima facie evidence which may be rebutted by substantial evidence in all other proceedings. With respect to utilities other than those defined in section 216B.02, subdivision 4, the commission shall consider the filing requirements and decisions in any comparable proceedings in another jurisdiction. As a part of its resource plan filing, a utility shall include the least cost plan for meeting 50 and 75 percent of all new and refurbished capacity needs through a combination of conservation and renewable energy resources.

§ Subd. 2a. Historical data and advance forecast. Each utility required to file a resource plan under this section shall include in the filing all applicable annual information required by section 216C.17, subdivision 2, and the rules adopted under that section. To the extent that a utility complies with this subdivision, it is not required to file annual advance forecasts with the department under section 216C.17, subdivision 2.

§ Subd. 2b. Optional integrated resource plan compliance for certain cooperatives. For the purposes of this subdivision, a "cooperative" means a generating and transmission cooperative electric association that has at least 80 percent of its member distribution cooperatives located outside of Minnesota and that provides less than four percent of the electricity annually sold at retail in the state of Minnesota. A cooperative may, in lieu of filing a resource plan under subdivision 2, elect to file a report to the commission under this subdivision. The report must include projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies. To supply the information required in a report under this subdivision, a cooperative may use reports submitted under section 216C.17, subdivision 2, reports to regional reliability organizations, or similar reports submitted to other state utility commissions. A report must be submitted annually by July 1, but the commission may extend the time if it finds the extension in the public interest. Presentation of the annual report shall be done in accordance with procedures established by the commission. Data in a report under this subdivision may be aggregate data and need not be separately reported for individual distribution cooperative members of the cooperative. The commission may take whatever action in response to a report under this subdivision that it could take with respect to a report by a cooperative under subdivision 2.

§ Subd. 2c. Long-range emission reduction planning. Each utility required to file a resource plan under subdivision 2 shall include in the filing a narrative identifying and describing the costs, opportunities, and technical barriers to the utility continuing to make progress on its system toward achieving the state greenhouse gas emission reduction goals established in section 216H.02, subdivision 1, and the technologies, alternatives, and steps the utility is considering to address those opportunities and barriers.

§ Subd. 3. Environmental costs. (a) The commission shall, to the extent practicable, quantify and establish a range of environmental costs associated with each method of electricity generation. A utility shall use the values established by the commission in conjunction with other external factors, including socioeconomic costs, when evaluating and selecting resource options in all proceedings before the commission, including resource plan and certificate of need proceedings.

(b) The commission shall establish interim environmental cost values associated with each method of electricity generation by March 1, 1994. These values expire on the date the commission establishes environmental cost values under paragraph (a).

§ Subd. 4. Preference for renewable energy facility. The commission shall not approve a new or refurbished nonrenewable energy facility in an integrated resource plan or a certificate of need, pursuant to section 216B.243, nor shall the commission allow rate recovery pursuant to section

216B.16 for such a nonrenewable energy facility, unless the utility has demonstrated that a renewable energy facility is not in the public interest. The public interest determination must include whether the resource plan helps the utility achieve the greenhouse gas reduction goals under section 216H.02, the renewable energy standard under section 216B.1691, or the solar energy standard under section 216B.1691, subdivision 2f.

§ Subd. 5. Bidding; exemption from certificate of need proceeding. (a) A utility may select resources to meet its projected energy demand through a bidding process approved or established by the commission. A utility shall use the environmental cost estimates determined under subdivision 3 in evaluating bids submitted in a process established under this subdivision.

(b) Notwithstanding any other provision of this section, if an electric power generating plant, as described in section 216B.2421, subdivision 2, clause (1), is selected in a bidding process approved or established by the commission, a certificate of need proceeding under section 216B.243 is not required.

(c) A certificate of need proceeding is also not required for an electric power generating plant that has been selected in a bidding process approved or established by the commission, or such other selection process approved by the commission, to satisfy, in whole or in part, the wind power mandate of section 216B.2423 or the biomass mandate of section 216B.2424.

§ Subd. 6. Consolidation of resource planning and certificate of need. A utility shall indicate in its resource plan whether it intends to site or construct a large energy facility. If the utility's resource plan includes a proposed large energy facility and construction of that facility is likely to begin before the utility files its next resource plan, the commission shall conduct the resource plan proceeding consistent with the requirements of section 216B.243 with respect to the proposed facility. If the commission approves the proposed facility in the resource plan, a separate certificate of need proceeding is not required.

Minn. Rules 7829.0100, Subp. 18.

Proceeding.

"Proceeding" means a formal or informal undertaking of the commission, in which it seeks to resolve a question or issue taken up on its own motion or presented to it in a complaint, petition, or notice of a proposed change in a rate, service, or term or condition of service.