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May 21, 2014

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

Re: In the Matter of a Commission Inquiry into Ownership of Renewable Energy Credits  
Used to Meet Minnesota Requirements - Minnesota Docket No. E999/CI-13-720

Dear Dr. Haar:

Dairyland Power Cooperative submits the enclosed Supplemental Comments in Response to the Minnesota Public Utilities Commission's Information Request **PUBLIC VERSION**. A copy of this filing has been served on all parties on the service list in this docket.

Thank you for your consideration.

Sincerely,

WHEELER, VAN SICKLE & ANDERSON, S.C.

*/s/ Mary Beth Peranteau*

Mary Beth Peranteau

MBP/lak

Enclosures  
by electronic filing  
cc: Service List

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

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In the Matter of Commission Inquiry Into  
Ownership of Renewable Energy Credits  
Used to Meet Minnesota Requirements

Docket No. E-999/CI-13-720

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**DAIRYLAND POWER COOPERATIVE'S  
RESPONSE TO UTILITY INFORMATION REQUEST  
DATED MAY 13, 2014**

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**INFORMATION REQUEST PUC #1:**

- a) Dairyland's February 7, 2014 comments in the above-referenced docket state, "As a condition of reimbursement, the DG-4 rate rider provides that Dairyland receive all renewable attributes/rights associated with its member cooperatives' purchases of the output of the renewable QF distributed generation." Please reconcile that statement with Dairyland's statement on page 7 of its comments that "Dairyland acknowledges FERC's conclusion that the issue of REC ownership is not governed by PURPA and is a matter of state law and policy."

**RESPONSE:** Dairyland's DG-4 rate rider is the mechanism by which Dairyland complies with Minn. Stat. § 216B.164, subd. 3(e), which provides:

If the qualifying facility or net metered facility is interconnected with a nongenerating utility which has a sole source contract with a municipal power agency or a generation and transmission utility, the nongenerating utility may elect to treat its purchase of any net input under this subdivision as being made on behalf of its supplier and shall be reimbursed by its supplier for any additional costs incurred in making the purchase."

(Emphasis added.)

The DG-4 rate rider reimburses Dairyland's Minnesota wholesale all-requirements customers<sup>1</sup> for the difference between Dairyland's wholesale rate and the cost to those distribution cooperatives for purchases of net metered distributed generation at their respective retail rates. The DG-4 rate ride is not a PURPA tariff, nor does it apply to purchases from QFs at avoided cost.

The DG-4 rate rider reimburses Minnesota cooperative members for the additional cost incurred by those cooperatives to pay for the cost of purchasing energy from DG generators on greater than avoided cost basis. As such, DPC reserves the right under the rate rider to require the distribution cooperative to obtain the associated RECs from the net metering generator and to transfer those RECs to DPC so that DPC can use those RECs for RPS compliance. The REC transfer condition of the DG-4 rate rider is the equivalent of the terms of Dairyland's renewable energy power purchase agreements that include a REC transfer provision when the PPA compensates the producer at a higher than avoided cost rate.

The DG-4 rate rider reflects Dairyland's compliance with applicable Minnesota law. To the extent that the REC transfer requirement in the rate rider is a rule affecting compensation for service, it is a rate regulation potentially subject to policy determinations of the state legislature. However, in the absence of legislative action prohibiting a distribution cooperative from requesting the RECs associated with renewable generation in exchange for

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<sup>1</sup> Eligibility for reimbursement under the DG-4 rate rider was modified effective May 1, 2014, to apply where reimbursement is mandated by applicable state law, or for a 10-year period expiring April 30, 2024, if an existing QF distributed generation system was operating prior to May 1, 2014. It is no longer generally available to all Class A member distribution cooperatives.

a subsidized purchase price, Dairyland does not perceive a conflict between the terms of the DG-4 rate rider and Minnesota policy.

In addition, there is ample historical precedent in Minnesota for excluding cooperatives and municipal utilities from the Commission's regulation of REC ownership. When chapter 216B was originally enacted in 1974, cooperative associations were included in the definition of public utilities. See *Taylor v. Beltrami Electric Cooperative, Inc.*, 319 N.W.2d 52, 55 (Minn.1982). In 1978, however, the legislature removed cooperatives from the ratemaking authority of the MPUC. Act April 7, 1978, ch. 795, 1978 Minn.Laws 1220. In support of the exclusion of cooperative electric associations from the definition of public utilities subject to regulation by the MPUC, the legislature found:

It is hereby declared to be in the public interest that public utilities be regulated as hereinafter provided . . . . Because . . . cooperative electric associations are presently effectively regulated and controlled by the membership under the provisions of chapter 308, it is deemed unnecessary to subject such utilities to regulation under this chapter except as specifically provided herein.

Minn.Stat. § 216B.01 (1982). In *Beltrami*, the Supreme Court of Minnesota held as follows with respect to the rate-setting power of the MPUC over cooperatives:

The legislative history indicates that the 1978 amendments were intended to reduce unnecessary bureaucracy in ratesetting by cooperatives. The statutory scheme is designed to exempt from state regulation those activities of a cooperative which the members can control by themselves. A cooperative need not be subject to the Commission in setting rates because the membership through its voting power can effectively review and modify the proposal and because the members of the cooperative are the ultimate recipients of any profit made.

*Beltrami*, 319 N.W.2d at 55 (footnote omitted). Dairyland believes that the same policy rationale for excluding cooperatives from general rate regulation supports the exclusion of

cooperatives from any rules that may be developed in this docket regarding the terms for REC ownership in the context of net metering or otherwise. Terms for REC ownership are squarely within the purview of activities that cooperative members can control themselves, through their voting power.

- b) **Please provide a copy of Dairyland's DG-4 rate rider which includes the relevant language cited above.**

**RESPONSE:** Please see copy of the current DG-4 rate rider, effective as of May 1, 2014, attached hereto as **EXHIBIT 1**.

Dated this 21st day of May, 2014.

Respectfully submitted,

WHEELER, VAN SICKLE & ANDERSON, S.C.  
Attorneys for Dairyland Power Cooperative

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**DAIRYLAND POWER COOPERATIVE**  
**WHOLESALE POWER RATE**  
**DG-4, SMALL DISTRIBUTED GENERATION**  
**QUALIFIED FACILITY (QF) RATE RIDER**

**Date Effective – May 1, 2014**

**[REDACTED]**

EXHIBIT 1

DG-4, SMALL DISTRIBUTED GENERATION  
QUALIFIED FACILITY (QF) RATE RIDER

**[REDACTED]**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document on those parties listed on the service list for this docket attached hereto.

Dated at Madison, Wisconsin, this 21st day of May, 2014.

Respectfully submitted,

*/s/ Mary Beth Peranteau* \_\_\_\_\_  
Mary Beth Peranteau



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Gerard	Paul	gpaul@minnkota.com	Minnkota Power Cooperative	1822 Mill Road Grand Forks, ND 58208-3200	Electronic Service	No	OFF_SL_13-720_Official
Mary Beth	Peranteau	mperanteau@wheelerlaw.com	Wheeler Van Sickle & Anderson SC	Suite 801 25 West Main Street Madison, WI 537033398	Electronic Service	No	OFF_SL_13-720_Official
Charlie	Pickard	cpickard@aladdinsolar.com	Aladdin Solar	1215 Lilac Lane Excelsior, MN 55331	Electronic Service	No	OFF_SL_13-720_Official
Donna	Pickard	dpickard@aladdinsolar.com	Aladdin Solar	1215 Lilac Lane Excelsior, MN 55331	Electronic Service	No	OFF_SL_13-720_Official
William	Pickrell		North American Hydro	PO Box 167 116 State Street Neshkoro, WI 54941	Paper Service	No	OFF_SL_13-720_Official
Julie	Pierce		Minnesota Power	30 West Superior Street Duluth, MN 558022093	Paper Service	No	OFF_SL_13-720_Official
Gayle	Prest	gayle.prest@minneapolis.mn.gov	City of Mpls Sustainability	350 South 5th St, #315 Minneapolis, MN 55415	Electronic Service	No	OFF_SL_13-720_Official
John C.	Reinhardt		Laura A. Reinhardt	3552 26Th Avenue South Minneapolis, MN 55406	Paper Service	No	OFF_SL_13-720_Official
Kevin	Reuther	kreuther@mncenter.org	MN Center for Environmental Advocacy	26 E Exchange St, Ste 206 St. Paul, MN 551011667	Paper Service	No	OFF_SL_13-720_Official

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Enio	Ricci	ericci@invenergyllc.com	Invenergy LLC	17830 New Hampshire Ave Ste 300 Ashton, MD 20861	Paper Service	No	OFF_SL_13-720_Official
Michelle	Rosier	michelle.rosier@sierraclub.org	Sierra Club	2327 E. Franklin Avenue Minneapolis, MN 554061024	Paper Service	No	OFF_SL_13-720_Official
Craig	Rustad	crustad@minkota.com	Minkota Power	1822 Mill Road PO Box 13200 Grand Forks, ND 582083200	Electronic Service	No	OFF_SL_13-720_Official
Robert K.	Sahr	bsahr@eastriver.coop	East River Electric Power Cooperative	P.O. Box 227 Madison, SD 57042	Electronic Service	No	OFF_SL_13-720_Official
Raymond	Sand	rms@dairy.net	Dairyland Power Cooperative	P.O. Box 8173200 East Avenue South LaCrosse, WI 546020817	Electronic Service	No	OFF_SL_13-720_Official
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750 St. Paul, MN 55101	Electronic Service	No	OFF_SL_13-720_Official
Larry L.	Schedin	Larry@LLSResources.com	LLS Resources, LLC	12 S 6th St Ste 1137 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_13-720_Official
Matthew J.	Schuenger P.E.	mjsreg@earthlink.net	Energy Systems Consulting Services, LLC	PO Box 16129 St. Paul, MN 55116	Electronic Service	No	OFF_SL_13-720_Official
Dean	Sedgwick	N/A	Itasca Power Company	PO Box 457 Bigfork, MN 56628-0457	Paper Service	No	OFF_SL_13-720_Official

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Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	Ste 122 9100 W Bloomington Bloomington, MN 55431	Paper Service Fwy	No	OFF_SL_13-720_Official
Gary	Shaver	N/A	Silicon Energy	3506 124th St NE Marysville, WA 98271	Paper Service	No	OFF_SL_13-720_Official
Erin	Shea	eshea@silicon-energy.com	Silicon Energy	11168 Sumter Circle Bloomington, MN 55438	Electronic Service	No	OFF_SL_13-720_Official
Doug	Shoemaker	dougs@mnRenewables.org	MRES	2928 5th Avenue South Minneapolis, MN 55408	Paper Service	No	OFF_SL_13-720_Official
Mrg	Simon	mrgsimon@mnenergy.com	Missouri River Energy Services	3724 W. Avera Drive P. O. Box 88920 Sioux Falls, SD 571098920	Electronic Service	No	OFF_SL_13-720_Official
Beth H.	Soholt	bsoholt@windonthewires.org	Wind on the Wires	570 Asbury Street Suite 201 St. Paul, MN 55104	Electronic Service	No	OFF_SL_13-720_Official
Chanti	Sourignavong	chantipal.sourignavong@honeywell.com	Honeywell	1985 Douglas Drive North MN10-111A Golden Valley, MN 55422-3992	Paper Service	No	OFF_SL_13-720_Official
Erin	Stojan Rucolo	ruccolo@fresh-energy.org	Fresh Energy	408 Saint Peter St Ste 220 Saint Paul, MN 55102-1125	Electronic Service	No	OFF_SL_13-720_Official
James M.	Strommen	jstrommen@kennedy-graven.com	Kennedy & Graven, Chartered	470 U.S. Bank Plaza 200 South Sixth Street Minneapolis, MN 55402	Electronic Service	No	OFF_SL_13-720_Official
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Steve	Thompson		Central Minnesota Municipal Power Agency	459 S Grove St Blue Earth, MN 56013-2629	Paper Service	No	OFF_SL_13-720_Official
SaGonna	Thompson	Regulatory.Records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_13-720_Official
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Pat	Treseler	pat.jplaw@comcast.net	Paulson Law Office LTD	Suite 325 7301 Ohms Lane Edina, MN 55439	Electronic Service	No	OFF_SL_13-720_Official
Lise	Trudeau	lise.trudeau@state.mn.us	Department of Commerce	85 7th Place East Suite 500 Saint Paul, MN 55101	Electronic Service	No	OFF_SL_13-720_Official
Darryl	Tveitbakk		Northern Municipal Power Agency	123 Second Street West Thief River Falls, MN 56701	Paper Service	No	OFF_SL_13-720_Official
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Paul	White	paul.white@prowind.com	Project Resources Corp./Tamarac Line LLC/Ridgewind	618 2nd Ave SE Minneapolis, MN 55414	Electronic Service	No	OFF_SL_13-720_Official
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Thomas J.	Zaremba	TZaremba@wheelerlaw.co m	WHEELER, VAN SICKLE & ANDERSON	Suite 801 25 West Main Street Madison, WI 537033398	Electronic Service	No	OFF_SL_13-720_Official