

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

Katie Sieben
Joseph K. Sullivan
Hwikwon Ham
Audrey Partridge
John Tuma

Chair
Vice Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Petition of Minnesota
Power for the Acquisition of ALLETE by
Canada Pension Plan Investment Board and
Global Infrastructure Partners

DOCKET NO. E-015/PA-24-198

**EXCEPTIONS OF THE OFFICE OF
THE ATTORNEY GENERAL—
RESIDENTIAL UTILITIES DIVISION
TO THE ADMINISTRATIVE LAW
JUDGE’S REPORT**

The Office of the Attorney General—Residential Utilities Division (OAG) submits these exceptions in response to the July 15, 2025 Findings of Fact, Conclusions of Law, and Recommendations of the Administrative Law Judge (ALJ’s report). Based on a voluminous record, including a three-day evidentiary hearing, the ALJ concluded that the Petitioners had not met their burden of proof to show that the proposed acquisition of ALLETE is consistent with the public interest. The ALJ therefore recommended that the Commission deny approval of the proposed acquisition.

For the reasons explained below, the OAG recommends that the Commission adopt the ALJ’s report in full. In addition, the OAG requests that the Commission rule on its March 17, 2025 motion to publicly release rate-increase projections that ALLETE furnished to the Partners in negotiating the deal but has thus far withheld from the public.

I. THE COMMISSION SHOULD ADOPT THE ALJ’S REPORT IN FULL.

The ALJ’s report is well-reasoned, comprehensive, and thorough. The report examines each potential benefit and detriment of the proposed acquisition, including the Petitioners’

48 proposed commitments. The ALJ finds the commitments to be of limited value.¹ The ALJ also finds that new commitments in a July 11 stipulation between the Minnesota Department of Commerce and the Petitioners do not change her recommendation to deny approval.²

In her conclusions of law and an attached memorandum, the ALJ lays out several key findings, including that:

- The Petitioners have not shown that the proposed acquisition will improve ALLETE's access to capital or even that ALLETE needs improved access.³
- The Petitioners did not prove by a preponderance of evidence that they will be unable to meet the Carbon Free Standard without the acquisition, or that the standard will be met as a result of the acquisition.⁴
- The acquisition poses foreseeable risks of harm to ratepayers, the energy transition, and ALLETE's long-term financial health.⁵
- On balance, risks of the deal outweigh the possible benefits, and approval of the acquisition would result in net harm to the public interest.⁶

Each of these findings is supported by substantial record evidence and reflects the ALJ's credibility determinations⁷ regarding the acquisition's potential benefits and harms. The OAG concurs with the ALJ's findings, conclusions, and recommendation to deny approval of the proposed acquisition. The Commission should adopt her report in full.

II. THE OAG TAKES EXCEPTION TO THE ALJ REPORT'S LACK OF RULING ON THE OAG'S MOTION TO LIFT TRADE-SECRET DESIGNATIONS.

The OAG takes exception to the ALJ's report in only one respect: its omission of a ruling on the OAG's motion to lift trade-secret designations. On March 17, 2025, the OAG filed a motion

¹ See ALJ Report ¶¶ 140–80.

² See *id.* at 67 n.549.

³ *Id.* at 61 ¶ 16.

⁴ *Id.* at 66.

⁵ *Id.* at 61 ¶ 16.

⁶ *Id.*

⁷ See, e.g., *id.* at 25, 40, 44, 45, 47, 66, 67 n.547.

to remove trade-secret protection from rate-increase projections that ALLETE provided to the Partners in negotiating the proposed acquisition. The Minnesota Department of Commerce filed a memorandum in support of the OAG’s motion, and ALLETE filed a response in opposition. Despite listing the motion and responses in its procedural history,⁸ the ALJ’s report does not rule on the motion or contain any other findings concerning it.

“Once a judge has issued a report . . . the judge loses jurisdiction to amend the report.”⁹ Motions made to the ALJ that have not been certified to the Commission are to be “considered by the agency in its consideration of the record as a whole subsequent to the filing of the judge’s report.”¹⁰ For the reasons given in the OAG’s memorandum in support of the motion and discussed below, the Commission should grant the motion to lift trade-secret designations.

III. MOTION TO LIFT TRADE-SECRET DESIGNATIONS

The OAG incorporates its prior motion filing by reference¹¹ and requests a ruling that ALLETE’s responses to Sierra Club IR No. 26 (including attachment 26.02) and OAG IR No. 42 do not meet the definition of “trade secret information” under Minn. Stat. § 13.37, subd. 2(a). The Commission should further require ALLETE to provide updated public versions of these documents with the inappropriate redactions removed.¹²

All government data is presumed public unless subject to a statutory exception.¹³ As the Department concluded, there is “clearly a significant public interest” in understanding the rate

⁸ *Id.* ¶¶ 42, 44, 46.

⁹ Minn. R. 1400.8300.

¹⁰ Minn. R. 1400.7600.

¹¹ [Notice of Motion and Motion to Lift Trade Secret Designations](#) (Mar. 17, 2025).

¹² In addition to being attached to the OAG’s motion, the information requests at and/or attachments at issue have been filed in eDockets in Ex. Sierra-1100 (Lane Direct, attach. CL-3) and Ex. OAG-402 (Lebens Surrebuttal, sched. BPL-S-1).

¹³ Minn. Stat. § 13.03, subd. 1.

increases on which the proposed acquisition is premised.¹⁴ Releasing the data is particularly important for public transparency because, as the ALJ found, “Petitioners’ agreements and private discussions do not comport with their public statements” about the acquisition.¹⁵

The key element of trade secret data is that it “derives independent economic value . . . from not being generally known to . . . other persons who can obtain economic value from its disclosure or use.”¹⁶ ALLETE’s chief concern with releasing the information here is not that others will derive economic value from it, but that the projections will be taken out of context.¹⁷ But the risk that data will be taken out of context is not a basis for withholding it under the Minnesota Government Data Practices Act. The standard is not that information is embarrassing or inconvenient—or even, as framed by ALLETE, that its disclosure poses “a significant risk of harm”¹⁸ to ALLETE. Rather, the focus of the standard is on how *other persons* can derive economic value from the information.

The data in dispute here include projections of Minnesota Power’s revenue requirements over 2023–2032.¹⁹ The overall revenue requirements are allocated to each customer class in proportion to the class’s base revenue as a high-level modeling assumption.²⁰ Minnesota Power’s retail customers are generally captive and have no alternatives. As a result, there would appear to be little if any competitive advantage in maintaining the secrecy of these projections, and it is hard to fathom what a competitor of ALLETE, if one exists, would do with them.

¹⁴ Department Memo. at 2 (Mar. 25, 2025).

¹⁵ ALJ Report at 66.

¹⁶ Minn. Stat. § 13.37, subd. 1(b).

¹⁷ See Minnesota Power Memo. in Opposition to Motion at 4, 8–10 (Mar. 31, 2025).

¹⁸ See *id.* at 7.

¹⁹ Response to Sierra Club IR No. 26.

²⁰ Response to OAG IR No. 42.

The only even remotely plausible basis that ALLETE has identified for the projections being trade secret is that large industrial customers might use the projections in negotiating electric-service agreements with the utility.²¹ But if the Commission agrees with this argument, the appropriate remedy is to redact large-customer-related portions of the projections and release the rest—not to treat the entire document as a trade secret.

Finally, ALLETE’s arguments about “context” are specious. ALLETE has had ample opportunity to provide context for the projections and has done so both through its public responses to the discovery requests at issue and in live testimony. The OAG would support providing additional context by publicly releasing the hearing transcript in which ALLETE’s witness explains the projections.²² But the mere fact that ALLETE may be embarrassed or inconvenienced by the release of this information is not grounds to hide it from the public. On the contrary, withholding it deprives the public of important context on a matter of great concern to Minnesota Power’s ratepayers, northern Minnesota, and the state as a whole.

Dated: August 4, 2025

Respectfully submitted,

KEITH ELLISON
Attorney General
State of Minnesota

/s/ **Peter G. Scholtz**

PETER G. SCHOLTZ
Assistant Attorney General
Atty. Reg. No. 0389936

445 Minnesota Street, Suite 600
St. Paul, Minnesota 55101
(651) 757-1473 (Voice)
(651) 296-9663 (Fax)
peter.scholtz@ag.state.mn.us

²¹ See Minnesota Power Memo. in Opposition at 10–14.

²² See Evid. Hrg. Tr. vol. 1 at 302–309.

ATTORNEYS FOR MINNESOTA
OFFICE OF THE ATTORNEY GENERAL—
RESIDENTIAL UTILITIES DIVISION