

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd
J. Dennis O'Brien
Thomas Pugh
Phyllis A. Reha
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Detailing Criteria and Standards
for Measuring an Electric Utility's Good Faith
Efforts in Meeting the Renewable Energy
Objectives Under Minn. Stat. § 216B.1691

ISSUE DATE: March 19, 2010

DOCKET NO. E-999/CI-03-869

ORDER CLARIFYING CRITERIA AND
STANDARDS FOR DETERMINING
COMPLIANCE UNDER MINN. STAT.
§ 216B.1691

PROCEDURAL HISTORY

I. The Renewable Energy Standards

Under Minn. Stat. § 216B.1691, all Minnesota investor-owned electric utilities, generation and transmission cooperatives, municipal power agencies, and power districts (hereinafter, "utilities") must generate or procure specific percentages of their total retail sales using eligible renewable technologies by specific year-end deadlines. These requirements, called the Renewable Energy Standards, are different for nuclear and non-nuclear utilities and are set forth below:¹

<i>Non-Nuclear Utilities</i>		<i>Nuclear Utility</i>	
2012	12%	2010	15%
2016	17%	2012	18%
2020	20%	2016	25%
2025	25%	2020	30%

The statute directs and authorizes the Commission to oversee utilities' compliance with the Renewable Energy Standards. It requires utilities to report on compliance efforts at least every two years and directs the Commission to regularly investigate each utility's compliance. It authorizes the Commission to enter orders requiring specific performance by non-complying utilities and to assess financial penalties if those orders are not obeyed.

¹ The state has only one nuclear utility, Xcel Energy.

The statute also directs the Commission to establish a program and protocols for trading renewable energy credits and to require all utilities to participate.² The Commission has implemented this directive by requiring utilities to use the Midwest Renewable Energy Tracking System (M-RETS) to record and track – in the form of Renewable Energy Credits issued by M-RETS – all renewable generation and purchased power supplies they propose to count toward compliance with the Renewable Energy Standards.³

Finally, the statute grants the Commission the authority to modify or delay any utility obligation under the Renewable Energy Standards if it is in the public interest to do so.⁴

II. This Proceeding

Implementing the Renewable Energy Standards – and the Renewable Energy Objectives, which preceded them – has been and remains a complex, iterative process. The Commission has issued a series of orders in this docket on implementation issues, detailing the criteria and standards it will use to determine utilities' compliance with the statute. Each time, the Commission has first requested comments from utilities and other stakeholders to help develop the issues as fully as possible.

On September 2, 2009, the Commission again issued a notice requesting comments on implementation issues. The notice focused on how to measure compliance with the higher renewable generation requirements imposed by the transition from the Renewable Energy Objectives to the Renewable Energy Standards. It also sought comment on how the Commission should exercise its authority to require compliance, assess penalties, and grant modifications or delays of utility obligations.

The following persons and organizations filed comments in response to the notice:

- Office of Energy Security of the Minnesota Department of Commerce (OES)
- Northern States Power Company d/b/a Xcel Energy
- Great River Energy
- Dairyland Power Cooperative
- Otter Tail Power Company
- Minnesota Power
- East River Electric Power Cooperative, Inc.
- Interstate Power and Light Company
- Missouri River Energy Services
- Southern Minnesota Municipal Power Agency
- Central Minnesota Municipal Power Agency

² Minn. Stat. § 216B.1691, subd. 4.

³ See orders dated October 9, 2007 and December 18, 2007 in *In the Matter of a Commission Investigation into a Multi-State Tracking and Trading Systems for Renewable Energy Credits*, Docket No. E-999/CI-04-1616.

⁴ Minn. Stat. § 216B.1691, subd. 2b.

- Heartland Consumers Power District
- Minnesota Rural Electric Association
- Minnkota Power Cooperative, Inc.
- Minnesota Municipal Utilities Association
- Excelsior Energy Inc.
- Minnesota Chamber of Commerce
- ArcelorMittal USA; Blandin Paper Company; Boise, Inc.; Enbridge Energy Limited Partnership; Gerdau Ameristeel Corporation; Hibbing Taconite Company; Marathon Petroleum Company, LLC; NewPage Corporation; Sappi Cloquet, LLC; United States Steel Corporation; and United Taconite, LLC; filing jointly as “the Large Industrial Group”

On February 4, 2010, the case came before the Commission.

FINDINGS AND CONCLUSIONS

I. The Issues

The issues on which the Commission sought comment, and the issues raised in stakeholder comments, are summarized below:

- 1) How should utilities account for power received from the Western Area Power Administration in calculating their total retail sales?
- 2) How should the Commission measure compliance for the compliance years listed in the statute and for the years between those compliance years?
- 3) Should the Commission set procedural requirements for petitions to modify or delay utility obligations under the Renewable Energy Standards? Should the Commission clarify whether persons other than utilities may file those petitions?
- 4) Should the Commission set reporting requirements or establish a framework for evaluating how compliance with the Renewable Energy Standards affects rates or system reliability, two factors that can justify modifying or delaying utility obligations under the Renewable Energy Standards obligations?
- 5) Should the Commission provide guidance on the factors it will take into account in considering enforcement or penalty proceedings for non-compliance with the Renewable Energy Standards?

These issues will be addressed in turn.

II. Accounting for WAPA Power

A. Introduction

The statute requires utilities to generate or procure specific percentages of their total retail sales – including wholesale sales to distribution utilities, defined as retail sales under Minn. Stat. § 216B.1694, subd. 1 (c) – from “eligible energy technologies.” Eligible energy technologies do not include large-scale hydroelectric facilities, just hydroelectric facilities with a capacity under 100 megawatts.⁵

Excluding large hydroelectric facilities from eligible energy technologies essentially excludes from counting toward the Renewable Energy Standards all supplies from the Western Area Power Administration (WAPA), a federal power marketing administration that provides substantial amounts of hydroelectric power from large hydro facilities to municipal utilities, rural electric cooperatives, and at least five Native American tribes within the state. In most cases these WAPA supplies have no impact on anyone’s Renewable Energy Standard obligations, since the entities receiving WAPA power – municipal utilities, rural electric cooperatives, and native American tribes – are not “utilities” under the statute and do not have Renewable Energy Standard obligations.⁶

There are a handful of cases, however, in which WAPA-eligible entities have pooled their WAPA allocations, have merged those allocations with the other power supplies of their utility providers – who *do* have Renewable Energy Standard obligations – and now purchase WAPA power directly from their providers as part of larger power purchases. From the comments made in this docket, this appears to be true for some members of two generation and transmission cooperatives, East River Electric Power Cooperative and L & O Power Cooperative, and for five Native American tribes who take service from Otter Tail Power Company.⁷

B. Positions of the Parties

The Office of Energy Security (OES) recommended that the Commission clarify that when WAPA allocations are aggregated and the power sold to members or customers by utilities with Renewable Energy Standard obligations, the WAPA kilowatt-hours are properly included in the total retail sales on which the utilities’ Renewable Energy Standard obligations are based.

East River Electric Power Cooperative and Otter Tail Power Company, supported by the Minnesota Municipal Utilities Association, the Minnesota Rural Electric Association, and several generation and transmission cooperatives, opposed the OES’s position. They emphasized that the legislative stakeholder coalition that had supported passage of the Renewable Energy Standards had agreed that WAPA allocations would be excluded from the retail sales on which obligations arising under the Standards would be based.

⁵ Minn. Stat. § 216B.1691, subd. 1 (a)

⁶ Minn. Stat. § 216B.1691, subd. 1 (b).

⁷ Initially, the Office of Energy Security thought this was also true of some or all of the members of Great River Energy, but Great River has since clarified that it provides only transmission and billing services to its WAPA-eligible distribution cooperatives, who continue to hold their WAPA allocations individually.

They also argued that it was unfair or discriminatory to treat aggregated WAPA power differently from WAPA power directly sold to WAPA-eligible entities. And they argued that WAPA power should be excluded from total retail sales as a matter of policy, since WAPA power was socially beneficial, no-carbon or low-carbon, and essentially renewable.

C. Commission Action

The Commission concurs with the OES that the plain meaning of the statute requires the inclusion of WAPA power in the total retail sales of utilities who aggregate and sell WAPA power to members or customers. The statutory definition of “total retail electric sales” reads as follows:

(c) "Total retail electric sales" means the kilowatt-hours of electricity sold in a year by an electric utility to retail customers of the electric utility or to a distribution utility for distribution to the retail customers of the distribution utility.

Minn. Stat. § 216B.1691, subd. 1 (c)

This definition does not exclude certain kilowatt-hours on the basis of where they originate, how they are generated, or any other basis – if kilowatt-hours are sold by a utility to retail customers or to a distribution utility for distribution to retail customers, those kilowatt-hours are part of the utility’s “total retail electric sales.”

The words of the statute are clear and free from all ambiguity. Under Minn. Stat. § 645.16, the Commission therefore lacks the authority to interpret the statutory definition to conform with any presumed legislative intent or to reflect the Commission’s or anyone else’s understanding of sound public policy:

When the words of a law in their application to an existing situation are clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit.

Finally, the OES reported that East River Electric Power Cooperative, L & O Power Cooperative, and Otter Tail Power Company may have excluded WAPA sales from the total retail electric sales reported for purposes of demonstrating their compliance with the Renewable Energy Objectives and Standards in the 2008 docket the Commission opened for that purpose.⁸ The Commission will require supplemental filings from these three utilities to ensure adequate baseline compliance information going forward.

⁸ *In the Matter of Commission Consideration and Determination on Compliance with Renewable Energy Obligations and Renewable Energy Standards*, Docket No. E-999/M-08-1163.

III. Compliance Metrics for Compliance Years Listed in Statute and for Years Between Listed Years

The statute requires utilities to generate or procure the following percentages of their total retail sales using eligible renewable technologies by the ends of the years listed:

<i>Non-Nuclear Utilities</i>		<i>Nuclear Utility</i>	
2012	12%	2010	15%
2016	17%	2012	18%
2020	20%	2016	25%
2025	25%	2020	30%

In an earlier order in this docket, the Commission clarified how it would measure compliance with the statutory target dates and renewable-energy percentages required under the Renewable Energy Objectives, which preceded the Renewable Energy Standards.⁹ In that order the Commission clarified that compliance meant acquiring the specified percentages of renewable energy by the specified dates *and maintaining those percentages* during the years leading up to the next mandated percentage increase.¹⁰ The September notice requested comment on whether the Commission should continue this approach to measuring compliance with the new Renewable Energy Standards.

The commenting parties generally concurred that the reasoning in the Commission's order on the Renewable Energy Objectives was equally applicable here and that the statutory performance dates properly function as ratchets steadily increasing utilities' renewable energy obligations. The Commission agrees. It would defeat the clear meaning of the statute to permit renewable energy percentages to drop between listed compliance years. Similarly, the Commission concurs with the parties that the listed renewable-energy percentages must be met (unless extended or modified by the Commission) by the last day of the listed years.

Further, the parties are correct that the non-nuclear utilities must meet (or demonstrate good faith efforts to meet) the Renewable Energy Objectives' final target renewable energy percentage of 7% in 2011. (Xcel, the nuclear utility, is subject to the higher percentages mandated in the Renewable Energy Standards before that date.) And all utilities, nuclear and non-nuclear, must use the procedures outlined in the December 3, 2008 order in this docket to demonstrate and verify compliance.

In short, for the non-nuclear utilities, the mandated percentages of total retail sales to be generated or procured using eligible renewable technologies are as set forth below. Once set, each percentage remains in effect for all subsequent years, until the next mandated percentage goes into effect.

⁹ Third Order Detailing Criteria and Standards for Determining Compliance under Minn. Stat. § 216B.1691 and Setting Procedures for Retiring Renewable Energy Credits, this docket, December 3, 2008.

¹⁰ Since the Renewable Energy Objectives are just that – objectives – compliance can be demonstrated on the basis of good faith efforts as well as actual performance. While the Renewable Energy Standards do not permit good faith efforts to substitute for performance, they do permit the Commission to modify or delay any Renewable Energy Standard obligation when modification or delay is in the public interest.

2011	7%
2012-2015	12%
2016-2019	17%
2020-2024	20%
2025	25%

IV. Petitions to Modify or Delay Renewable Energy Standard Obligations

The statute lists substantive considerations the Commission must weigh in acting on petitions to modify or delay Renewable Energy Standard obligations, requires petitioning utilities to file plans for achieving eventual compliance, and identifies resource plan proceedings as one appropriate procedural vehicle for these petitions.¹¹ The September 2009 notice asked what further procedural guidance would be helpful at this point.

The commenting parties recommended procedural flexibility, with content requirements and procedural details addressed on a case-by-case basis as the Commission and stakeholders gain experience under the new Standards. Stakeholders disagreed on whether rate cases were likely to be good procedural vehicles, but agreed it was important to permit stand-alone petitions to delay or modify Renewable Energy Standard obligations at any time. The OES also recommended that any delay/modification petition explain why the petitioner believed that purchasing Renewable Energy Credits was not a viable compliance option.

The Commission concurs with the commenting parties that it is too early to provide detailed procedural guidance on delay/modification petitions. The Renewable Energy Standards do not go into effect for non-nuclear utilities until 2012, and no serious compliance issues have yet arisen. Still, meeting the Standards is a long-term project the utilities have already begun, and it is reasonable to provide some basic procedural guidance on how to deal with compliance obstacles.

The Commission concurs with the parties that petitions to modify or delay a Renewable Energy Standard obligation may be filed at any time, independent of any resource plan proceeding that may be pending or on the horizon. Petitions should comply with the statutory requirement to include a plan for future compliance¹² and should include an explanation as to why purchasing Renewable Energy Credits would not be a viable alternative to modifying or delaying a Renewable Energy Standard obligation.

The procedural template for delay/modification petitions, at least at the outset of the proceeding, will be parts 7829.1300 and 7829.1400 of the Commission’s Rules of Practice and Procedure. Those provisions describe the service, filing, and content requirements for “miscellaneous tariff filings,” the rules’ default classification for filings whose procedural treatment is not separately addressed.¹³

¹¹ Minn. Stat. § 216B.1691, subs. 2b and 2c.

¹² Minn. Stat. § 216B.1691, subd. 2b (c).

¹³ Minn. Rules 7829.0100, subp. 11.

Finally, delay/modification petitions should state the time frame within which the petitioner seeks a final decision. While these time frames cannot always be met, consistent with the requirements of due process and informed decision-making, it is important for the Commission to know in advance of any time constraints perceived by the petitioning party.

V. Tracking Rate Impacts and Reliability Impacts

A. Introduction

Under Minn. Stat. § 216B.1691, subd. 2b (a), two of the statutory grounds for modifying or delaying a Renewable Energy Standard obligation are

(1) the impact of implementing the standard on its customers' utility costs, including the economic and competitive pressure on the utility's customers; and

(2) the effects of implementing the standard on the reliability of the electric system.

In both cases, the Commission may delay or modify an obligation only if it finds that requiring compliance “would cause significant rate impact, requires significant measures to address reliability, or raises significant technical issues.”¹⁴

The September 2009 notice sought comments on whether the Commission should set reporting requirements or establish a framework for evaluating how compliance with the Renewable Energy Standards might affect rates or system reliability.

B. Parties' Comments

1. Rates

No commenting party claimed that the Renewable Energy Objectives or Standards had adversely affected rates so far, and at least two utilities, Xcel and Otter Tail, maintained that their investments in eligible renewable technologies had reduced ratepayer costs.

The commenting parties generally agreed that resource plan proceedings provide the most comprehensive opportunity currently available for examining the rate impacts of the Renewable Energy Standards.¹⁵ They noted, however, that five of the sixteen utilities subject to the Renewable Energy Standards are not required to file resource plans.

¹⁴ Minn. Stat. § 216B.1691, subd. 2b (a).

¹⁵ Under Minn. Stat. § 216B.2422, entities capable of generating at least 100,000 kilowatts of electric power and serving, either directly or indirectly, the needs of at least 10,000 Minnesota retail customers must file periodic, comprehensive resource plans, detailing the projected future needs of their service areas and their plans for meeting those needs.

The utilities pointed out that the Commission continually monitors the rate impact of their resource choices through many different types of proceedings – e.g., rate cases, resource plans, certificate of need applications, purchased power contract approval proceedings, renewable energy and transmission rider approval requests. They stated their willingness to provide forward-looking cost comparisons between different resource choices, including, when relevant, resource choices that could require delay or modification of their Renewable Energy Standard obligations. They cautioned against being required to provide backward-looking data, however, saying that attempting to reconstruct hypothetical past costs quickly becomes speculative and onerous.

The OES concurred with the utilities that forward-looking, long-term data was the most reliable for gauging the rate impacts of different resource scenarios, but did not recommend precluding parties from providing other data, depending upon its reliability, probative value, and other factors.

The Chamber of Commerce and the Large Industrial Group emphasized the importance of energy costs to the business community and the economy; these parties cautioned against limiting the kinds of information parties may introduce or request when the rate impacts of the Renewable Energy Standards are at issue. The Chamber also recommended requiring utilities filing resource plans to file a “reference case” scenario based on the assumption that the Renewable Energy Objectives and Renewable Energy Standards had not been enacted.

2. Reliability

Most parties agreed that utility-specific reliability issues are best addressed in the context of the utilities’ annual reliability filings under Minnesota Rules 7826.0500 through 7826.0700 and that statewide and regional reliability issues are best addressed in the biennial transmission filings required under Minn. Stat. § 216B.2425 and by regional organizations charged with ensuring regional reliability.

C. Commission Action

The parties are clearly correct that resource plan proceedings generally offer the best opportunity to examine the utility-specific rate impact of meeting the Renewable Energy Standards. These proceedings are designed to provide detailed, long-term cost comparisons between different resource mixes; in theory they are ideally suited for gauging the rate impacts of resource choices resulting from legislative mandates. There is therefore no generalized need to establish a separate procedural track for monitoring the rate impact of the Renewable Energy Standards.

While five of the sixteen utilities subject to the Standards do not file resource plans, because their customer numbers within the state are too low, the Commission, the OES, and interested stakeholders will continue to monitor their rates, will accept voluntary filings on rate impact in the annual filings detailing their compliance with the Standards, and will of course examine rate impact information submitted in any petition to modify or delay any obligation under the Renewable Energy Standards. These safeguards are adequate at present and can be supplemented should the need arise.

The Commission concurs with the OES that forward-looking, long-term cost information is the most probative, reliable, and helpful in gauging the rate impacts of the Renewable Energy

Standards. Both the Standards and the utility initiatives undertaken to meet them are long-term projects whose costs and rate impact must be examined primarily in the future and in the long term. While the costs of past projects, undertaken or forgone, may have some relevance – and parties should not be precluded from introducing such evidence – the Commission concurs with the utilities that compelling them to develop and produce such cost information carries costs and risks that normally exceed its value.

The Commission will therefore clarify that intervenors in a resource plan proceeding who request information related to the rate impact of future compliance with the Renewable Energy Standards are making a reasonable request for information under Minn. Rules 7843.0300. Utilities must respond to these requests completely and under the time frames set by rule. Further, the Commission urges all parties not to lose sight of the fact that utilities always have the burden of proof to demonstrate that any cost they seek to recover from ratepayers is just and reasonable, whatever the nature of the cost.¹⁶

With these clarifications, the Commission sees no need at present to establish additional filing or reporting requirements on the rate impact of the Renewable Energy Standards.

Finally, as to reliability impacts, the Commission concurs with the OES and other stakeholders that the annual reliability reporting requirements of Minnesota Rules Chapter 7826 will promptly and adequately apprise the Commission, the OES, and other stakeholders of any utility-specific drop in reliability. The Commission also concurs that statewide reliability issues are best monitored through the biennial transmission filings, required under Minn. Stat. § 216B.2425 and specifically designed to reveal any systemic threats to statewide reliability. Similarly, regional reliability issues are best monitored by the regional organizations charged with ensuring regional reliability, such as the North American Electric Reliability Corporation and the Midwest Independent Transmission System Operator, which liaise with the Commission on reliability issues.

VI. Factors to be Weighed in Enforcement/Penalty Proceedings

A. Introduction

Under Minn. Stat. § 216B.1691, subd. 7, the Commission must regularly investigate utilities' compliance with the Renewable Energy Objectives and Standards and may issue orders to noncompliant utilities requiring them to build facilities, execute purchased power contracts, buy Renewable Energy Credits, or engage in other activities to achieve compliance. If noncompliant utilities disobey these orders, the Commission is authorized to assess financial penalties in an amount not to exceed the cost of compliance.

The September 2009 notice asked whether it would be helpful for the Commission to develop factors it would take into consideration in considering enforcement or penalty actions.

¹⁶ Minn. Stat. § 216B.03.

B. Stakeholder Comments

Several stakeholders considered it premature to begin articulating factors to consider in enforcement or penalty proceedings, since none of these proceedings have been held or are pending. Others thought that guidance was always helpful, but that another round of comments and/or further staff work was required before meaningful guidance could be given. Xcel pointed out that the Commission had articulated standards for judging the good faith of compliance efforts under the Renewable Energy Objectives in an earlier order and that those standards were essentially transferrable to the Renewable Energy Standards as well.

C. Commission Action

The Commission concurs with Xcel that the factors it has developed and articulated for evaluating compliance with the Renewable Energy Objectives are equally relevant to the Renewable Energy Standards. Those standards, which are set forth in section X of the first substantive order issued in this case, focus on whether the utility has committed the time, money, and other institutional resources necessary to meet its statutory obligations.¹⁷ These standards will be the starting point for evaluating compliance with the Renewable Energy Standards.

The Commission will also consider whether a non-complying utility promptly brought its noncompliance to the attention of the Commission and whether Renewable Energy Credits are available for purchase at a price that makes them a viable compliance alternative.

Apart from these basic considerations, the Commission concurs with the commenting stakeholders that situations raising enforcement or penalty issues are likely to be factually distinct and utility-specific and to require examination on a case-by-case basis.

ORDER

1. The Commission clarifies that it interprets Minn. Stat. § 216B.1691, subd. 1 to require the inclusion of supplies from the Western Area Power Administration in the total retail sales of utilities who aggregate and sell those supplies to members or customers.
2. Within 30 days of the date of this order, East River Electric Power Cooperative, L & O Power Cooperative, and Otter Tail Power Company shall make compliance filings in this docket stating whether and how their Renewable Energy Objectives/ Renewable Energy Standard percentages have changed from those reported in their earlier filings in Docket No. 08-1163.
3. The Commission clarifies that the percentages of total retail sales that non-nuclear utilities must generate or procure from eligible renewable technologies are as set forth below for the year identified and for every year forward until the next year and percentage identified:

¹⁷ Initial Order Detailing Criteria and Standards for Determining Compliance with Minn. Stat § 216B.1691 and Requiring Customer Notification by Certain Cooperative, Municipal, and Investor-Owned Distribution Utilities (June 4, 2004).

2011: 7%
2012-2015: 12%
2016-2019: 17%
2020-2024: 20%
2025: 25%

4. The Commission clarifies that a petition to modify or delay a Renewable Energy Standard may be filed at any time.
5. Any petition to modify or delay a Renewable Energy Standard shall include the following information: (a) a discussion of the reasons for concluding that compliance cannot be achieved by buying Renewable Energy Credits; (b) a plan for future compliance, as required under Minn. Stat. § 216B.1691, subd. 2b (c); and (c) the time frame within which the petitioner requests Commission action.
6. Petitions to modify or delay any Renewable Energy Standard shall comply with the service and filing requirements of Minnesota Rules 7829.1300 and, at least initially, follow the procedural track set forth in Minnesota Rules 7829.1400.
7. The Commission clarifies that it will use the proceedings and methods discussed in section V of this order to track the rate and reliability effects of the Renewable Energy Objectives and Standards. The Commission will accept voluntary filings on the rate impact of the Renewable Energy Objectives and Standards in the biennial compliance reports filed by utilities not required to file resource plans.
8. The Commission clarifies that it favors forward-looking, long-term cost information when analyzing the rate impacts of the Renewable Energy Objectives and Standards but will not preclude other types of cost information from being presented by the parties.
9. The Commission clarifies that intervenors in a resource plan proceeding who request information related to the rate impact of future compliance with the Renewable Energy Standards are making a reasonable request for information under Minn. Rules, part 7843.0300, subp. 8, and that utilities must promptly respond.
10. The Commission clarifies that it will evaluate compliance with the Renewable Energy Standards on a case-by-case basis, but will also consider the factors set forth below:
 - a. The factors articulated in its June 4, 2004 order for evaluating compliance with the Renewable Energy Objectives.
 - b. Whether the utility brought the noncompliance to the attention of the Commission in a timely manner.
 - c. Whether Renewable Energy Credits are available for purchase, and at what price.

11. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary



(SEAL)

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STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

I, Margie DeLaHunt, being first duly sworn, deposes and says:

That on the 19th day of March, 2010 she served the attached

ORDER CLARIFYING CRITERIA AND STANDARDS FOR DETERMINING
COMPLIANCE UNDER MINN. STAT. 216B.1691.

MNPUC Docket Number: E-999/CI-03-869

XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid

XX By personal service

XX By inter-office mail

to all persons at the addresses indicated below or on the attached list:

Commissioners
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Peter Brown
Eric Witte
Marcia Johnson
Kate Kahlert
Janet Gonzalez
Michelle Rebholz
Susan Mackenzie
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Julia Anderson - OAG
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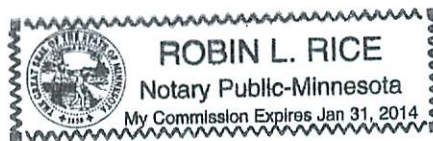
Subscribed and sworn to before me,

a notary public, this 19th day of

March, 2010

Robin L. Rice

Notary Public



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Darrell	Gerber		Clean Water Action Alliance of Minnesota	308 Hennepin Ave. E. Minneapolis, MN 55414	Paper Service	No	OFF_SL_3-869_1
Ronald M.	Giteck	ron.giteck@state.mn.us	Office Of Attorney General	Residential Utilities Division 445 Minnesota Street, 900 BRM Tower St. Paul, MN 55101	Paper Service	No	OFF_SL_3-869_1
Elizabeth	Goodpaster	bgoodpaster@mncenter.org	MN Center for Environmental Advocacy	Suite 206 26 East Exchange Street St. Paul, MN 551011667	Paper Service	No	OFF_SL_3-869_1
Bryan	Gower	N/A	APX, Inc.	224 Airport Parkway Suite 600 San Jose, CA 95110	Paper Service	No	OFF_SL_3-869_1
William	Grant	bgrant@iwla.org	Izaak Walton League, Midwest Office	1619 Dayton Ave Ste 202 St. Paul, MN 551046206	Paper Service	No	OFF_SL_3-869_1
Michael R.	Gravelle	michael.gravelle@avantenergy.com	Avant Energy Services	Suite 300 200 South Sixth Street Minneapolis, MN 55402	Paper Service	No	OFF_SL_3-869_1
Burl W.	Haar	burl.haar@state.mn.us	MN Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_3-869_1
Ronald	Harper	rharper@bepc.com	Basin Electric Power Cooperative	1717 East Interstate Avenue Bismarck, ND 585030564	Paper Service	No	OFF_SL_3-869_1

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Bill	Heaney	billheaney@billheaney.com	IBEW Minnesota State Council	P. O. Box 65397 St. Paul, MN 551550397	Paper Service	No	OFF_SL_3-869_1
John	Helmrs	helmrs.john@co.olmsted.mn.us	Olmsted County Waste to Energy	2122 Campus Drive SE Rochester, MN 559044744	Paper Service	No	OFF_SL_3-869_1
Annete	Henkel	mui@mnuutilityinvestors.org	Minnesota Utility Investors	413 Wacouta Street #230 St. Paul, MN 55101	Paper Service	No	OFF_SL_3-869_1
Ashley	Houston			120 Fairway Rd Chestnut Hill, MA 24671850	Paper Service	No	OFF_SL_3-869_1
Lori	Hoyum		Minnesota Power	30 West Superior Street Duluth, MN 55802	Paper Service	No	OFF_SL_3-869_1
Casey	Jacobson	cjacobson@bepc.com	Basin Electric Power Cooperative	1717 East Interstate Avenue Bismarck, ND 58501	Paper Service	No	OFF_SL_3-869_1
Paula N.	Johnson		Interstate Power and Light Company	200 First Street SE PO Box 351 Cedar Rapids, IA 524060351	Paper Service	No	OFF_SL_3-869_1
Larry	Johnston	lw.johnston@smpa.org	Southern Minnesota Municipal Power Agency	500 1st Ave SW Rochester, MN 55902-3303	Paper Service	No	OFF_SL_3-869_1
Nate	Jones	njones@hcpd.com	Heartland Consumers Power	PO Box 248 Madison, SD 57042	Electronic Service	No	OFF_SL_3-869_1
Nancy	Kelly	nkelly@greeninstitute.org	The Green Institute	#110 2801 21st Avenue Minneapolis, MN 55407	Electronic Service	No	OFF_SL_3-869_1

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julie	Ketchum		Waste Management	1901 Ames Drive Burnsville, MN 55306	Paper Service	No	OFF_SL_3-869_1
Kelly	Knauer	kknauer@greenergy.com	Great River Energy	12300 Elm Creek Boulevard Maple Grove, MN 553694718	Paper Service	No	OFF_SL_3-869_1
John	Knofczynski		Heartland Consumers Power District	PO Box 248 203 W. Center Street Madison, SD 570420248	Paper Service	No	OFF_SL_3-869_1
Deborah Fohr	Levchak	dlevchak@bepc.com	Basin Electric Power Cooperative	1717 East Interstate Avenue Bismarck, ND 585030564	Paper Service	No	OFF_SL_3-869_1
John	Lindell	agorud.ecf@state.mn.us	OAG-RUD	900 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_3-869_1
Mark	Lindquist		The Minnesota Project	1026 North Washington Street New Ulm, MN 56073	Paper Service	No	OFF_SL_3-869_1
Mary A.	Martinka		Xcel Energy	7th Floor 414 Nicollet Mall Minneapolis, MN 554011993	Paper Service	No	OFF_SL_3-869_1
Mike	McDowell		Heartland Consumers Power District	PO Box 248 Madison, SD 570420248	Paper Service	No	OFF_SL_3-869_1
Dave	McNary		Hennepin County DES	417 N. Fifth Street Minneapolis, MN 55401	Paper Service	No	OFF_SL_3-869_1

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Stacy A.	Miller	stacy.miller@state.mn.us	MN Dept. of Commerce	State Energy Office 85 7th Place East, Suite 500 St. Paul, MN 55101	Paper Service	No	OFF_SL_3-869_1
David	Moeller	dmoeller@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	OFF_SL_3-869_1
Andrew	Moratzka	apm@mcmlaw.com	Mackall, Crouse and Moore	1400 AT&T Tower 901 Marquette Ave Minneapolis, MN 55402	Paper Service	No	OFF_SL_3-869_1
Bryan	Morlock	bmorlock@otpc.com	Otter Tail Power Company	215 South Cascade Street Box 496 Fergus Falls, MN 565380496	Electronic Service	No	OFF_SL_3-869_1
David W.	Niles		Avant Energy Services	Suite 300 200 South Sixth Street Minneapolis, MN 55402	Paper Service	No	OFF_SL_3-869_1
Thomas L.	Osteraas	tomosteraas@excelsiorenergy.com	Excelsior Energy	Suite 305 11100 Wayzata Boulevard Minnetonka, MN 55305	Paper Service	No	OFF_SL_3-869_1
Greg	Oxley		MMUA	Suite 400 3025 Harbor Lane North Plymouth, MN 554475142	Paper Service	No	OFF_SL_3-869_1
Gerad	Paul	gpaul@minnkota.com	Minnkota Power Cooperative	1822 Mill Road Grand Forks, ND 58208-3200	Paper Service	No	OFF_SL_3-869_1
Mary Beth	Peranteau	mperanteau@wheelerlaw.com	Wheeler Van Sickle & Anderson SC	Suite 801 25 West Main Street Madison, WI 537033398	Paper Service	No	OFF_SL_3-869_1

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Randall	Porter		Avant Energy Services	Suite 300 200 South Sixth Street Minneapolis, MN 55402	Paper Service	No	OFF_SL_3-869_1
John C.	Reinhardt		Laura A. Reinhardt	3552 26Th Avenue South Minneapolis, MN 55406	Paper Service	No	OFF_SL_3-869_1
Kevin	Reuther		MN Center for Environmental Advocacy	Suite 206 26 East Exchange Street St. Paul, MN 551011667	Paper Service	No	OFF_SL_3-869_1
Trudy	Richter		Minnesota Resource Recovery Assn.	477 Selby Avenue St. Paul, MN 55102	Paper Service	No	OFF_SL_3-869_1
Robert K.	Sahr	bsahr@eastriver.coop	East River Electric Power Cooperative	P.O. Box 227 Madison, SD 57042	Electronic Service	No	OFF_SL_3-869_1
Raymond	Sand	rms@dairy.net	Dairyland Power Cooperative	P.O. Box 8173200 East Avenue South LaCrosse, WI 546020817	Electronic Service	No	OFF_SL_3-869_1
Richard	Savelkoul	rsavelkoul@felhaber.com	Felhaber, Larson, Fenlon & Vogt, P.A.	444 Cedar St Ste 2100 St. Paul, MN 55101-2136	Paper Service	No	OFF_SL_3-869_1
Matthew J.	Schuerger P.E.		Energy Systems Consulting Services, LLC	P.O. Box 16129 St. Paul, MN 55116	Paper Service	No	OFF_SL_3-869_1
Dean	Sedgwick		Itasca Power Company	PO Box 457 Spring Lake, MN 566800457	Paper Service	No	OFF_SL_3-869_1
Mrg	Simon	mrgsimon@mrenergy.com	Missouri River Energy Services	3724 W. Avera Drive P.O. Box 88920 Sioux Falls, SD 571098920	Electronic Service	No	OFF_SL_3-869_1

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Jake	Smith		Hennepin County DES	417 N. Fifth Street Minneapolis, MN 55401	Paper Service	No	OFF_SL_3-869_1
Beth H.	Soholt	bsoholt@windonthewires.org	Wind on the Wires	Suite 203 1619 Dayton Avenue St. Paul, MN 551046206	Paper Service	No	OFF_SL_3-869_1
Dale	Sollom	dsollom@minnkota.com	Minnkota Power Cooperative, Inc.	PO Box 13200 Grand Forks, ND 582083200	Electronic Service	No	OFF_SL_3-869_1
Steve	Thompson		Central Minnesota Municipal Power Agency	459 S Grove St Blue Earth, MN 56013-2629	Paper Service	No	OFF_SL_3-869_1
SaGonna	Thompson	Regulatory.Records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_3-869_1
Darryl	Tveitbakk		Northern Municipal Power Agency	123 Second Street West Thief River Falls, MN 56701	Paper Service	No	OFF_SL_3-869_1
Roger	Warehime	warehimer@owatonnautilities.com	Owatonna Public Utilities	208 South Walnut PO Box 800 Owatonna, MN 55060	Paper Service	No	OFF_SL_3-869_1
Paul	White	paul@projectresources.net	Project Resources Corp.	618 Second Avenue SE Minneapolis, MN 55414	Paper Service	No	OFF_SL_3-869_1
Robyn	Woeste	robynwoeste@alliantenergy.com	Interstate Power and Light Company	P.O. Box 351 200 First St SE Cedar Rapids, IA 524060351	Paper Service	No	OFF_SL_3-869_1
Thomas J.	Zaremba		WHEELER, VAN SICKLE & ANDERSON	Suite 801 25 West Main Street Madison, WI 537033398	Paper Service	No	OFF_SL_3-869_1

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James	Alders		Xcel Energy	7th Floor 414 Nicollet Mall Minneapolis, MN 554011993	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
Janet	Anderson		MN Witness For Environmental Justice	1799 Sargent St. Paul, MN 55105	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
John T.	Anderson		Northern Municipal Power Agency	123 Second Street West Thief River Falls, MN 56701	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
Julia	Anderson	Julia.Anderson@state.mn.us	MN Office Of The Attorney General	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	SPL_SL_3- 869_2_Interested Parties
David	Benson		Nobles County Commissioners	315 10Th Street Worthington, MN 56187	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
David L.	Blair		East River Electric Power Cooperative	121 SE First Street PO Box 227 Madison, SD 57042	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
William A.	Blazar	bblazar@mnchamber.com	Minnesota Chamber Of Commerce	Suite 1500 400 Robert Street North St. Paul, MN 55101	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
Michael J.	Bull	mbull@windonthewires.org	Wind on the Wires	Suite 203 1619 Dayton Avenue St. Paul, MN 55104	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
Current	Chair	netty@swrdc.org	Rural Minnesota Energy Board	Suite 1 2401 Broadway Avenue Slayton, MN 56172	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
Christopher	Clark	christopher.b.clark@xcelenergy.com	Xcel Energy	5th Floor 414 Nicollet Mall Minneapolis, MN 554011993	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
Corey	Conover	corey.conover@ci.minneapolis.mn.us	City Of Minneapolis	350 South 5th Street City Hall, Room 210 Minneapolis, MN 554022453	Paper Service	No	SPL_SL_3- 869_2_Interested Parties

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
George	Crocker	gwillc@nawo.org	North American Water Office	PO Box 174 Lake Elmo, MN 55042	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Mark F.	Dahlberg	markdahlberg@nweco.com	Northwestern Wisconsin Electric Company	P.O. Box 9 104 South Pine Street Grantsburg, WI 548400009	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Curt	Dieren	cdieren@dgrmet.com	L&O Power Cooperative	1302 South Union Street PO Box 511 Rock Rapids, IA 51246	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Steve	Downer	sdowner@mmua.org	MMUA	3025 Harbor Ln N Ste 400 Plymouth, MN 554475142	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Stefanie	Dunfee	stefanie.dunfee@brooklynpark.org	City of Brooklyn Park	5200 85th Ave. N. Brooklyn Park, MN 554434300	Paper Service	No	SPL_SL_3-869_2_Interested Parties
John R.	Dunlop, P.E.	JRDunlop@igc.org	American Wind Energy Association	Suite 300 448 Morgan Ave. S. Minneapolis, MN 554052030	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Kristen	Eide-Tollefson	ket@wro-ns.net	R-CURE	P O Box 130 Frontenac, MN 55026	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Sharon	Ferguson	sharon.ferguson@state.mn.us	State of MN - DOC	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	Yes	SPL_SL_3-869_2_Interested Parties
Darrell	Gerber		Clean Water Action Alliance of Minnesota	308 Hennepin Ave. E. Minneapolis, MN 55414	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Elizabeth	Goodpaster	bgoodpaster@mncenter.org	MN Center for Environmental Advocacy	Suite 206 26 East Exchange Street St. Paul, MN 551011667	Paper Service	No	SPL_SL_3-869_2_Interested Parties

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William	Grant	bgrant@iwla.org	Izaak Walton League, Midwest Office	1619 Dayton Ave Ste 202 St. Paul, MN 551046206	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
Todd J.	Guerrero	tguerrero@fredlaw.com	Fredrikson & Byron, P.A.	Suite 4000 200 South Sixth Street Minneapolis, MN 554021425	Electronic Service	No	SPL_SL_3- 869_2_Interested Parties
Burl W.	Haar	burl.haar@state.mn.us	MN Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	SPL_SL_3- 869_2_Interested Parties
Ronald	Harper	rharper@bepc.com	Basin Electric Power Cooperative	1717 East Interstate Avenue Bismarck, ND 585030564	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
Annete	Henkel	mui@mutilityinvestors.org	Minnesota Utility Investors	413 Wacouta Street #230 St. Paul, MN 55101	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
Clarence	Hightower		Minneapolis Urban League	2100 Plymouth Avenue North Minneapolis, MN 55411	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
Larry	Johnston	lw.johnston@smmpa.org	Southern Minnesota Municipal Power Agency	500 1st Ave SW Rochester, MN 55902-3303	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
John	Lindell	agorud.ecf@state.mn.us	OAG-RUD	900 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	SPL_SL_3- 869_2_Interested Parties
Paula	Maccabee	Pmaccabee@visi.com	Just Change Consulting	1961 Selby Avenue St. Paul, MN 55104	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
T.A.	Micheletti			519 Ferndale Rd. N. Wayzata, MN 55391	Paper Service	No	SPL_SL_3- 869_2_Interested Parties

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David	Morris		Institute For Local Self-Reliance	1313 - 5th Street SE Minneapolis, MN 55414	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Michael	Noble		Fresh Energy	Hamm Bldg., Suite 220 408 St. Peter Street St. Paul, MN 55102	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Carol	Overland	overland@legalectric.org	Legalelectric, Inc.	P.O. Box 176 Red Wing, MN 55066	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Bethany	Owen		Minnesota Power	30 West Superior Street Duluth, MN 55802	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Deborah	Pile	Deborah.Pile@state.mn.us	State of MN - DOC	Suite 50085 7th Place East St. Paul, MN 551012198	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Judy	Poferl	judy.m.poferl@xcelenergy.com	Xcel Energy Services, Inc.	414 Nicollect Mall 7th Floor Minneapolis, MN 554011993	Paper Service	No	SPL_SL_3-869_2_Interested Parties
John C.	Reinhardt		Laura A. Reinhardt	3552 26Th Avenue South Minneapolis, MN 55406	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Michael	Sarafolean	MSarafolean@gerdauameristeel.com	Gerdau Ameristeel US, Inc.	4221 W Boy Scout Blvd Ste 600 Tampa, FL 33607	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Matthew J.	Schuerger P.E.		Energy Systems Consulting Services, LLC	P.O. Box 16129 St. Paul, MN 55116	Paper Service	No	SPL_SL_3-869_2_Interested Parties
Beth H.	Soholt	bsoholt@windonthewires.org	Wind on the Wires	Suite 203 1619 Dayton Avenue St. Paul, MN 551046206	Paper Service	No	SPL_SL_3-869_2_Interested Parties

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
SaGonna	Thompson	Regulatory.Records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	SPL_SL_3- 869_2_Interested Parties
David	Thomton		MN Pollution Control Agency	520 Lafayette Road St. Paul, MN 55101	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
Darryl	Tveitbakk		Northern Municipal Power Agency	123 Second Street West Thief River Falls, MN 56701	Paper Service	No	SPL_SL_3- 869_2_Interested Parties
David	Weirens		Association Of Minnesota Counties	125 Charles Avenue St. Paul, MN 55103	Paper Service	No	SPL_SL_3- 869_2_Interested Parties