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February 3, 2014

**PUBLIC DOCUMENT- TRADE SECRET  
DATA HAS BEEN EXCISED**

Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **PUBLIC** Comments from the Minnesota Department of Commerce, Division of Energy Resources

Docket Nos: E,G001/AI-12-32  
E,G001/AI-12-187  
E,G001/AI-12-192  
E,G001/AI-12-792  
E,G001/AI-12-1157  
E,G001/AI-13-787  
E,G001/PA-13-788

Dear Dr. Haar:

Attached are the PUBLIC comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matters:

Interstate Power and Light's Petition for Approval of an Affiliated-Interest Agreement with Franklin County Wind, LLC regarding a Common Facilities Capacity Agreement (Docket No. E,G001/AI-12-32);

Interstate Power and Light's Petition for Approval of an Affiliated-Interest Agreement with Franklin County Wind, LLC regarding a Land Lease Agreement (Docket No. E,G001/AI-12-187);

Interstate Power and Light's Petition for Approval of an Affiliated-Interest Agreement with Franklin County Wind, LLC regarding a Local Balancing Authority Agreement (Docket No. E,G001/AI-12-192);

Interstate Power and Light's Compliance Filing regarding its agreements transferring land easements, wind rights, and rights to purchase wind turbines with Franklin County Wind, LLC (Docket No. E,G001/AI-12-792);

Interstate Power and Light's Petition for Approval of an Affiliated-Interest Agreement with Franklin County Wind, LLC regarding a Services Agreement (Docket No. E,G001/AI-12-1157);

Interstate Power and Light's Petition for Approval of an Affiliated-Interest Agreement with Franklin County Wind, LLC regarding its sale and transfer of land easements, wind rights, and rights to purchase wind turbines to its affiliate – Franklin County Wind, LLC (Docket No. E,G001/AI-13-787); and

Interstate Power and Light's Petition for Approval of Transfer of Land Easements, Wind Rights, and Rights to Purchase Wind Turbines, to its Affiliate Franklin County Wind, LLC (Docket No. E,G001/PA-13-788).

The petitions were filed on January 6, 2012, March 2, 2012, March 7, 2012, August 27, 2012, October 24, 2012, August 30, 2013, and August 30, 2013, respectively, by:

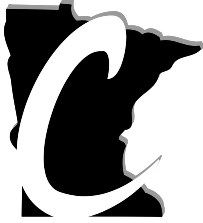
Kent M. Ragsdale  
Managing Attorney – Regulatory  
Interstate Power and Light Company  
PO Box 351  
Cedar Rapids, IA 52406

The Department recommends Commission **approval, with one exception** as discussed herein, and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ MARK A. JOHNSON  
Financial Analyst

MAJ/sm  
Attachments



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

PUBLIC COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE  
DIVISION OF ENERGY RESOURCES

DOCKET NO. E,G001/AI-12-32, E,G001/AI-12-187, E,G001/AI-12-192,  
E,G001/AI-12-792, E,G001/AI-12-1157, E,G001/AI-13-787, E,G001/AI-13-788

**I. BACKGROUND**

On June 29, 2011, Interstate Power and Light Company (IPL or the Company) signed a Wind Development Assets Purchase and Sale Agreement (Sale Agreement) with its affiliate, Franklin County Wind, LLC (FCW). Pursuant to the Sale Agreement, on June, 29, 2011, IPL sold, and FCW purchased from IPL, certain land easements, wind rights, and rights to purchase wind turbines. The affiliate plans to construct a wind farm referred to as the Franklin County Wind Farm (FCWF) on the transferred land, which is immediately adjacent to a wind farm owned by IPL referred to as the Whispering Willow East Wind Farm (WWE). IPL did not file the agreement or seek Commission approval of the transfer.<sup>1</sup>

On January 6, 2012 in Docket No. E,G001/AI-12-32 (12-32), IPL filed a petition under the affiliated interest statute, Minn. Stat. § 216B.48, for approval of a Common Facilities Capacity Agreement with FCW. Under the agreement, the affiliate would purchase from IPL the interconnection capacity necessary to connect a wind farm with the transmission grid. IPL stated that due to the original design of its WWE interconnection facilities and the Midwest (now Midcontinent) Independent Transmission System Operator (MISO) interconnection request for FCWF, FCW requested permission from IPL to use the remaining capacity of the WWE interconnection facilities to accommodate interconnection of the FCWF to the transmission grid.

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<sup>1</sup> The fact that IPL made no mention of the affiliated-interest transaction at that time is concerning since the Commission had just heard oral arguments and decided issues in IPL's 2010 rate case (Docket. No. E001/GR-10-276), in which there was considerable debate regarding IPL's proposed cost recovery of a similar wind facility, with proposed rates in the rate case that were higher than the costs of the wind facility in the affiliated transaction. IPL never adequately addressed that concern.

On March 2, 2012 in Docket No. E,G001/AI-12-187 (12-187), IPL filed a second petition under the affiliated interest statute, Minn. Stat. § 216B.48, this time for approval of a Land Lease Agreement with FCW. The Land Lease Agreement would permit the affiliate to use IPL's land as a staging area for the construction of FCWF.

On March 7, 2012 in Docket No. E,G001/AI-12-192 (12-192), IPL filed a third petition under the affiliated interest statute, Minn. Stat. § 216B.48, for approval of a Local Balancing Authority Agreement with FCW. According to IPL, the Local Balancing Authority Agreement is necessary because the FCWF is located within IPL's Local Balancing Authority (LBA) Area, the Alliant Energy West (ALTW) LBA Area. Therefore, as the entity responsible for the ALTW LBA Area, IPL has a directive to meet certain reliability requirements imposed upon LBA's, and as part of these requirements, IPL requires that it own, operate, and maintain meters within the ALTW LBA area to ensure meter data integrity. Under the agreement, FCW would permit IPL to meter the wind farm in order to fulfill IPL's obligation to meet reliability requirements in its local balancing authority area.

On July 24, 2012, the Commission issued its Order in 12-32, 12-187, and 12-192, finding that it would be premature to evaluate IPL's petitions without considering the underlying June 29, 2011 transfer of turbine, land, and wind rights. The Commission created Docket No. E,G-001/AI-12-792 (12-792) and ordered IPL to file in that docket agreements transferring land easements, wind rights, and rights to purchase wind turbines to FCW.

On August 27, 2012 in 12-792, IPL made a compliance filing and provided its Wind Development Assets Purchase and Sale Agreement with Franklin County Wind (Sale Agreement). In addition, IPL stated that the document contained all the agreements it was required to file under the Commission's July 24 Order. IPL maintained its position that Commission approval of the Sale Agreement was not required.

On October 24, 2012 in Docket No. E,G001/AI-12-1157 (12-1157), IPL filed a fourth petition under the affiliated interest statute, Minn. Stat. § 216B.48, for approval of a Services Agreement with FCW. The Services Agreement would allow IPL to perform "reactive" work on the FCWF if another third party contractor was unavailable to perform the work in a timely manner.

On April 16, 2013, the Commission issued its *Order Requiring Further Filings* in the above referenced dockets, which stated that:

1. Interstate Power and Light Company's Wind Development Assets Purchase and Sale Agreement with Franklin County Wind, LLC, is subject to Commission approval under Minnesota Statutes §§ 216B.48 and 216B.50.
2. Interstate Power and Light Company shall file a complete petition for approval of the Wind Development Assets Purchase and Sale Agreement under Minn. Stat. § 216B.48 in accordance with the Commission's September 14, 1998 order in Docket No. E, G999/CI-98-651 and Minnesota Rule 7825.2200.

3. Interstate Power and Light Company shall make a filing seeking Commission approval of the Wind Development Assets Purchase and Sale Agreement under Minn. Stat. § 216B.50.
4. This Order shall become effective immediately.

On May 6, 2013, IPL filed its Petition for Reconsideration and Rehearing of the Minnesota Public Utilities Commission's *Order Requiring Further Filings* issued on April 16, 2013.

On July 1, 2013, the Commission issued its *Order Denying Reconsideration and Requiring Filings*.

On August 30, 2013 in Docket No. E,G001/AI-13-787, IPL complied with the Commission's *Order Requiring Further Filings* and filed a fifth petition under the affiliated interest statute, Minn. Stat. § 216B.48, for the Sale Agreement with Franklin County Wind, LLC. In addition, IPL filed, under Minn. Stat. § 216B.50, a purchase-acquisition petition for approval of the Sale Agreement with Franklin County Wind, LLC in Docket No. E,G001/PA-13-788.

The Minnesota Department of Commerce, Division of Energy Resources (DOC or the Department) refers to the above affiliated-interest agreements collectively as "the Agreements."

The procedural history in a highly related proceeding is also informative. *In the Matter of Interstate Power and Light Company's Petition for Approval of Eligibility for Investment in Whispering Willow-East, Renewable Energy Recovery Adjustment, and 2010 Rates*, Docket No. E001/M-10-312, the following occurred, as summarized in the Commission's December 26, 2013:

On April 2, 2010, Interstate Power and Light Company (IPL) filed a petition requesting that the Commission (a) find that its recently constructed wind farm, Whispering Willow East (WWE), was a qualifying renewable energy project under the renewable energy standards statute, Minn. Stat. § 216B.1691; and (b) find the costs of the project reasonable and prudent and permit the recovery of the Minnesota portion through a renewable energy rider under Minn. Stat. § 216B.1645, subd. 2a.

On May 25, 2010, the Commission directed that development of issues relating to recovery of costs under IPL's proposed renewable rider be addressed in IPL's electric rate case, Docket No. E-001/GR-10-276.

In its August 12, 2011 decision in IPL's electric rate case (Docket No. E-001/GR-10-276), the Commission determined that the record was not adequate to fully decide the issues related to WWE and therefore referred the matter to this docket for further record development.

On October 26, 2012, the Commission referred the issue of recovery of WWE costs and cost recovery to the Office of Administrative Hearings (OAH) for contested case proceedings. In the interim, the Commission authorized a temporary renewable energy rider and established a temporary rate of cost recovery, to continue until this docket is completed. [Footnote: *In the Matter of the Application of Interstate Power and Light Company for Authority to Increase Rates for Electric Service in Minnesota, Findings of Fact, Conclusions of Law, and Order*, Docket No. E-001/GR-10-276 (August 12, 2011).]

On February 22, 2013, the Commission referred the issue of recovery of WWE costs for 2013 to this docket.

The following were the due dates in the 10-312 proceeding:

- Direct (IPL): January 25, 2013
- Direct (DOC): March 1, 2013
- Rebuttal (IPL): May 10, 2013
- Surrebuttal (DOC): June 7, 2013
- Initial Brief (IPL): July 17, 2013
- Reply Brief (DOC): August 9, 2013

All of these dates preceded the August 30, 2013 date of IPL AI petition discussed in these comments.

The Commission's December 26, 2013 Order in 10-312 stated:

[T]he Commission accepts, adopts, and incorporates the ALJ's Report, including all findings, conclusions, and recommendations, and hereby takes the following actions:

1. The Commission finds that IPL's investment in WWE was incurred to satisfy the renewable energy objective and standards set forth in Minn. Stat. §216B.1691, subd. 2 and 2a.

2. IPL's investment in WWE, and its associated costs, are approved as eligible for recovery under Minn. Stat. §216B.1645, subject to the terms and conditions of the final Proposal.
3. The Commission finds the stipulated costs of WWE are reasonable and prudent, subject to the adoption of the terms and conditions of the Final Proposal.
4. IPL may recover the Minnesota portion of WWE's investment costs through a renewable energy standards rider under Minn. Stat. §216B.1645, subds. 2 and 2a, as provided in the Final Proposal reached by IPL and the Department.
5. Implementation of a renewable energy standards rider, under the express terms and conditions of the Final Proposal stated below is approved.
6. The 2013 renewable energy standards rider rate, as set forth in the Final Proposal below, is approved.
7. The Commission adopts the final proposal accepted by IPL and the Department, which provides as follows:
  - A. The final revenue requirement amount determined by the Commission in this proceeding shall commence January 1, 2013, with true-up from that date. Recovery amounts that exceed the amounts shown in Column G of Attachment 1 to this Order, will be subject to a reasonableness review, as provided in subparagraph (g) below.
  - B. The revenue requirement approved by the Commission shall be based on the full investment of WWE, plus the current annual Operations and Maintenance (O&M) costs assuming a January 1, 2013 start date. Recovery amounts that exceed the amounts shown in Column G of Attachment 1 will be subject to a reasonableness review, as provided in subparagraph (g) below.
  - C. IPL shall forego recoveries of the approved amount above \$1.9 million per year, from April 2, 2010 (initial application for cost recovery) through December 31, 2012.

- D. Current recovery levels (a revenue requirement of approximately \$1.9 million per year, including Production Tax Credits, or the equivalent of \$51 /MWH estimated levelized cost) would continue to be recovered in the renewable rider until the final decision in this docket, which is assumed to be January 1, 2014.
- E. IPL will retain a renewable rider and all PTCs and RECs shall flow through the renewable rider and be reconciled annually. The first reconciliation shall be for calendar year 2013.
- F. In the next rate case, IPL expects to propose that all prudent capital and O&M costs (excluding PTCs and RECs) will be moved into base rates, subject to review by other parties and approval by the Commission.
- G. IPL is on notice that, if IPL seeks any increase above an effective levelized cost of \$56.40/MWh in any rate proceeding, IPL must include detailed and transparent information supporting the request. Further, IPL bears the burden of proof regarding a future rate increase such that any doubt as to the reasonableness of the request (or of the information filed in support of the request) will go to the ratepayer.

## **II. DEPARTMENT ANALYSIS**

The Department has drawn upon the numerous dockets, filings, and information requests in this proceeding to conduct its analysis. Given the fact that most of this information can be found in several places in the record, the Department's citations refers to only the most relevant discussion of each issue.

### **A. STATUTORY REQUIREMENTS**

IPL bears the burden of demonstrating that its proposed Agreements are reasonable and consistent with the public interest, in accordance with the following statutes. Minn. Stat. §216B.48, subd. 3 governing affiliated-interest transactions states:

The commission shall approve the contract or arrangement made or entered into... only if it clearly appears and is established upon investigation that it is reasonable and consistent with the public interest....The burden of proof to establish the reasonableness of the contract or arrangement is on the public utility.



Minn. Stat. §216B.50, subd. 1 governing property transfers (sale of property) and mergers states that:

No public utility shall sell, acquire, lease, or rent any plant as an operating unit or system in this state for a total consideration in excess of \$100,000, or merge or consolidate with another public utility or transmission company operating in this state, without first being authorized to do so by the commission. Upon the filing of an application for the approval and consent of the commission, the commission shall investigate, with or without public hearing. The commission shall hold a public hearing, upon such notice as the commission may require. If the commission finds that the proposed action is consistent with the public interest, it shall give its consent and approval by order in writing. In reaching its determination, the commission shall take into consideration the reasonable value of the property, plant, or securities to be acquired or disposed of, or merged and consolidated.

Regarding Minn. Stat. § 216B.48, the Department agrees with the Commission that the Agreements between IPL and FCW listed above fall under the purview of the Commission pursuant to this statute and the filing requirements provided in Docket No. E,G999-CI-98-651. Minn. Stat. §216B.48 requires a finding that affiliated-interest contracts are reasonable and in the public interest as part of the Commission's approval of such contracts. As a result, IPL has the burden of proof to establish the reasonableness of its Agreements, and the Commission shall approve the Agreements only if the Commission finds that the Agreements are reasonable and consistent with the public interest.

Regarding Minn. Stat. § 216B.50, the Department also considers the Agreements to fall under the purview of the Commission pursuant to this statute. Although IPL disputed whether its Sale Agreement with FCW was subject to approval under Minn. Stat. §216B.50, the Commission concluded that the agreement was subject to the Commission's jurisdiction in its April 16, 2013 *Order Requiring Further Filings* and in its July 1, 2013 *Order Denying Reconsideration and Requiring Filings*. As a result, the Department recommends that the Commission consider the provisions under Minn. Stat. §216B.48 and Minn. Stat. §216B.50 in determining whether IPL has shown that its proposed Agreements are reasonable and consistent with the public interest.

#### **B. FILING REQUIREMENTS**

In its September 14, 1998 Order in Docket No. E,G999/CI-98-651, the Commission provided the following minimum filing requirements that are consistent with Minnesota Rule 7825.2200, subpart B, for all affiliated interest filings.

1. A heading that identifies the type of transaction.
2. The identity of the affiliated parties in the first sentence.

3. A general description of the nature and terms of the agreement, including the effective date of the contract or arrangement and the length of the contract or arrangement.
4. A list and the past history of all current contracts or agreements between the utility and the affiliate, the consideration received by the affiliate for such contracts or agreements, and a summary of the relevant cost records related to these ongoing transactions.
5. A descriptive summary of the pertinent facts and reasons why such contracts or agreement is in the public interest.
6. The amount of compensation and, if applicable, a brief description of the cost allocation methodology or market information used to determine cost or price.
7. If the service or good acquired from an affiliate is competitively available, an explanation must be included stating whether competitive bidding was used and, if it was used, a copy of the proposal or a summary must be included. If it is not competitively bid, an explanation must be included stating why bidding was not used.
8. If the arrangement is in writing, a copy of that document must be attached.
9. Whether, as a result of the affiliate transaction, the affiliate would have access to customer information, such as customer name, address, usage or demographic information.
10. The filing must be verified.

The Department reviewed the petitions and confirmed that IPL complied with the affiliated-interest requirements of Minnesota Rule 7825.2200, subpart B, by providing the information for each requirement and a brief explanation on how the Company has satisfied each requirement. As a result, the Department concludes that IPL has substantially provided the required information in compliance with the Commission's Order and rules, specifically, Minnesota Rules 7825.2200, subpart B.

### *C. ANALYSIS OF THE AGREEMENTS*

#### 1) Sale Agreement

As ordered by the Commission, IPL filed a copy of the Sale Agreement with FCW in 12-792. In addition, IPL provided a second copy of the Sale Agreement along with a complete affiliated-interest petition in 13-787.

Under the terms of the Sale Agreement, IPL sold, and FCW purchased from IPL, certain land easements, wind rights, and rights to purchase wind turbines. In consideration, IPL received **[TRADE SECRET DATA HAS BEEN EXCISED]** from FCW for the land rights, wind rights, and reimbursement of other incurred project costs. In addition, IPL received **[TRADE SECRET DATA HAS BEEN EXCISED]** from FCW for the turbine rights.

With regards to how the consideration amounts were determined under the Sale Agreement, IPL stated on page 8 of its petition in 13-787 that:

The transfer of these non-utility assets were transferred to FCW, and FCW remitted to IPL the higher of cost or market. As outlined in IPL's response to the Department's Information Request Nos. 1 and 2, the market cost of the Turbines was determined by analyzing confidential discussions with potential third party purchasers, market research, and industry reports, which led to the conclusion that the cost of the turbines surpassed the market value at the time of transfer.<sup>2</sup> The market cost of the land and wind rights were also analyzed using a series of quantitative and qualitative factors, and it was determined that the market value of the land and wind rights were equivalent to IPL's cost.<sup>3</sup>

IPL stated in its May 14, 2012 Reply Comments in 12-32, 12-87, and 12-187 that:

Irrespective of jurisdiction under Minn. Stat. § 216B.48, IPL recognizes that the transfer was from a utility to an affiliate and to avoid cross subsidization, the transfer must be at the higher of cost or market. As outlined in IPL's response to the Departments Information Request Nos. 1 and 2,<sup>4</sup> IPL conducted a thorough market analysis to determine if cost was above or below market value, and in accordance with the FERC cross-subsidization rules established in FERC Order No. 707, IPL transferred the Turbine, Land, and Wind rights at cost which was above the market value.

As to why IPL decided to sell the wind assets to its affiliate, IPL stated on page 5 of its petition (13-787) that due to changing environmental, political, economic, and regulatory climates, the Company re-evaluated the need to build additional wind projects, and concluded that construction and ownership of additional wind projects was not in the public interest at the time. IPL stated that recent events in Minnesota supported IPL's conclusions regarding the change in

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<sup>2</sup> Responses to the Department's Information Requests 1 and 2 were included in the Departments [sic] April 6, 2012, comments in Docket Nos. E,G-001/AI-12-32 E,G-001/AI-12-187 and E,G-001/AI-12-192 as Attachment 1 and 2.

<sup>3</sup> IPL provided a similar description, regarding the Wind Development Assets Purchase and Sale Agreement, in its May 14, 2012, Reply Comments in Docket Nos. E,G-001/AI-12-32, E,G-001/AI-12-187 and E,G-001/AI-12-192.

<sup>4</sup> Responses to the Department's Information Requests 1 and 2 were included in the Departments [sic] April 6th Comments as Attachment 1 and 2.

regulatory climates for any additional IPL-owned wind projects. IPL stated that in its 2010 electric rate case (Docket No. E-001/GR-10-276), the DOC expressed concerns regarding IPL's construction cost for WWE and placed particular emphasis on the costs associated with the turbines and cited to the Administrative Law Judge's Findings of Fact, Conclusion, and Recommendations, which stated in part that:

The OES [now DOC] contends that the Commission should deny IPL full cost recovery for the WWE because the costs of constructing the facility were unreasonably high. The OES infers that the primary reason why the WWE's costs were unreasonably high was IPL's decision to accelerate construction of WWE to assure that facility would be in service by the end of 2009. Because of that decision, the OES argues, IPL did not procure its WTGs through a competitive bidding process, and that, in turn, resulted in unreasonably high WTG costs. (Administrative Law Judge's Findings of Fact, Conclusions and Recommendation issued on April 27, 2011, ¶ 210, p. 54). Footnotes omitted

In a related docket, Docket No. E001/M-10-312, the DOC was concerned that IPL kept its more expensive wind farm (Whispering Willow East) for its regulated utility while selling the assets of a cheaper yet undeveloped wind farm (Whispering Willow West, now FCWF) to its non-regulated affiliate FCW. As a result, the DOC asked IPL, in DOC Information Request No. 10, to provide the levelized cost of the FCWF. IPL replied that the estimated levelized cost of the FCWF was approximately [TRADE SECRET DATA HAS BEEN EXCISED].<sup>5</sup> Thus, the DOC notes that the levelized cost of the FCWF is estimated to be [TRADE SECRET DATA HAS BEEN EXCISED] than the levelized cost of \$56.40 per MWh awarded to IPL for recovery of WWE in Docket No. E001/M-10-312.<sup>6</sup>

The DOC reviewed IPL's various petitions and the related Sale Agreement. Based on our review, the DOC agrees that IPL sold the wind assets to its affiliate at the higher of cost or market value, and it did not result in cross-subsidization. As a result, the Department concludes that the Sale Agreement appears to be reasonable and not contrary to the public interest. Thus, the DOC recommends that the Commission approve IPL's proposed Sale Agreement with Franklin County Wind, LLC, effective June 29, 2011.

## 2) Common Facilities Capacity Agreement in 12-32

Under the terms of the Common Facilities Capacity Agreement (CFCA), IPL agreed to sell to FCW the interconnection capacity necessary to connect FCWF with the transmission grid. IPL stated that, due to the original design of its WWE interconnection facilities and the MISO interconnection request for the FCWF, FCW requested permission from IPL to use the remaining

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<sup>5</sup> Per IPL's Response to DOC Information Request No. 10, Attachment A in Docket No. E001/M-10-312.

<sup>6</sup> Per Commission's December 26, 2013 Order in Docket No. E001/M-10-312.

capacity of WWE's interconnection facilities to accommodate interconnection of the FCWF to the transmission grid.

Under the terms of the CFCA, FCW agreed to pay IPL **[TRADE SECRET DATA HAS BEEN EXCISED]** share of capacity of the interconnection facilities, also known as common facilities. In addition, FCW agreed to pay IPL **[TRADE SECRET DATA HAS BEEN EXCISED]** share of operations and maintenance expense associated with the common facilities.

IPL stated on page 6 of its petition that the Company's WWE facilities are not harmed by FCW's use of the common facilities since, under the terms of the CFCA, IPL has **[TRADE SECRET DATA HAS BEEN EXCISED]** of the common facilities capacity when the **[TRADE SECRET DATA HAS BEEN EXCISED]**. IPL stated that this provision holds IPL ratepayers harmless since any time IPL is **[TRADE SECRET DATA HAS BEEN EXCISED]** of WWE under this Agreement, WWE would be required to be **[TRADE SECRET DATA HAS BEEN EXCISED]** in that situation regardless of the presence of the FCWF.

With regards to competitive bidding, IPL stated on pages 7 and 8 of its petition that:

Competitive bidding was not sought for this transaction, and would be difficult if not impossible to obtain. FCW is purchasing the right of use of the capacity on the common facilities equivalent to **[TRADE SECRET DATA HAS BEEN EXCISED]** share of actual costs, while negotiating other terms in the Agreement. It is impossible to determine what the capacity would be valued at in the market place when factoring in the terms of the CFCA. It is reasonable to conclude that the capacity is valued at **[TRADE SECRET DATA HAS BEEN EXCISED]** share of the cost to construct and maintain the facility, however, by applying the terms of the CFCA **[TRADE SECRET DATA HAS BEEN EXCISED]** the amount actually paid by FCW is above the actual cost to IPL. IPL paid for the entire capacity of the line by paying for its construction. IPL's use of the capacity is limited only by external factors. The cost of a portion of the line would only be valued at **[TRADE SECRET DATA HAS BEEN EXCISED]** share of the line if it was attributed **[TRADE SECRET DATA HAS BEEN EXCISED]** share of the capacity to use at all times. Since this Agreement **[TRADE SECRET DATA HAS BEEN EXCISED]** the cost to FCW is above the actual cost of the capacity. Thus,

while no market is available, the higher of market or cost standard is met because FCW is not receiving an equivalent product that IPL receives.

The DOC reviewed IPL's various petitions and the related CFCA. Based on our review, the DOC concludes that IPL's decision to sell capacity to FCW does not result in any cross-subsidization by IPL's ratepayers since FCW agrees to pay IPL [**TRADE SECRET DATA HAS BEEN EXCISED**] share of the cost to construct and maintain the facility even though IPL and its regulated wind farm, WWE, receive preferential treatment over the FCWF under the terms of the CFCA. As such, the DOC concludes that IPL's ratepayers are held harmless by this transaction. As a result, the Department concludes that the CFCA appears to be reasonable and consistent with the public interest. Thus, the DOC recommends that the Commission approve the CFCA with Franklin County Wind, LLC, effective December 7, 2011.

### 3) Land Lease Agreement in 12-187

Beginning on page 3 of petition, IPL stated that the need for the Land Lease Agreement arises out of the fact that FCW is developing the FCWF which is adjacent to IPL's recently developed WWE windfarm. To erect its wind turbine generators, FCW requires the use of land as a laydown area that is rocky and level for a construction staging site. IPL stated that its former laydown yard used for WWE is currently sitting idle and is ideal for this purpose.

Under the terms of the Land Lease Agreement, FCW agreed to pay IPL for the use of vacated property in monthly rental payments. IPL stated that it is a common real estate practice to calculate fair annual rent by taking 10 percent of a property's actual cost. According to IPL, its land costs totaled \$983,864.16. As a result, IPL proposed to charge FCW an annual rental amount of \$98,386.42 or \$8,198.87 per month.

The Land Lease Agreement became effective February 1, 2012. The Land Lease Agreement was scheduled to terminate by December 31, 2012, after FCW gave IPL 30 day's prior written notice to terminate.

IPL stated that the Land Lease Agreement is reasonable and consistent with the public interest because it allows IPL ratepayers to benefit from a payment from FCW to IPL for the use of a vacant property that IPL would otherwise need to continue to maintain by regularly controlling for weeds. In addition, IPL stated that it will not be developing another windfarm in the immediate area and has no need for the use of this land. Lastly, IPL stated that offers by IPL to sell or lease the land to others have been far below market levels.

With regards to competitive bidding, IPL stated on page 7 of its petition that:

Competitive bidding was not sought for this transaction, and would be difficult if not impossible to obtain. The vacant property in question is located in an Agricultural Zoned District and therefore the need for a graveled parking lot is virtually non-existent. FCW

Project is the first opportunity for the vacant property to be utilized since the construction of WWE. Without use by FCWF, the land would continue to sit vacant and not generate revenue. Moreover, IPL would continue to provide basic maintenance of the property including weed control.

The DOC reviewed IPL's various petitions and the related Land Lease Agreement. The DOC notes that under normal circumstances IPL's proposed 10 percent rule to determine rental payments may be reasonable. However in this case, IPL's regulated operations end up paying a much higher price to use a laydown area than IPL's non-regulated operations.

IPL stated in its petition that it initially purchased the property for \$166,650. IPL then spent an additional \$817,214.16 in land improvements (primarily grading and gravel) for a total investment of \$983,864.16. In addition, IPL will incur ongoing property taxes and maintenance. In contrast, FCW will have incurred, at most, short-term monthly rental payments totaling \$90,188.<sup>7</sup> Although IPL will continue to own this land in the future, rental options and resale value are limited as indicated above by the Company's statements. As a result, it appears highly unlikely that IPL will ever fully recover its investment in this property.

Given IPL's statements regarding the limited use of this land and the apparent lack of response to IPL's offers to sell or lease this land to others, the DOC recommends that the Commission require IPL and FCW to share equally in the total costs necessary to purchase, develop, and maintain this land. In addition, the DOC recommends that IPL and FCW share equally in any future rental income and/or gains or losses in the event the land is leased or sold. This approach would provide some assurances that IPL's ratepayers are not cross-subsidizing FCW by paying substantially more for land used as a laydown area, which has ongoing costs and limited rental opportunities and resale value, than FCW would pay for the same purpose.

Based on the above, the Department recommends that the Commission deny IPL's proposed Land Lease Agreement with FCW. Instead, the Department recommends that the Commission require IPL and FCW to share equally in the costs necessary to purchase, develop, and maintain the land used as a laydown area for the development of IPL's regulated wind farm WWE and FCW's non-regulated windfarm FCWF. In addition, the DOC recommends that IPL and FCW share equally in any future rental income and/or gains or losses associated with this land in the event that it is ever leased or sold.

In addition, the Department requests that IPL indicate in reply comments the effect, if any, this recommendation may have on the basis of the rate imposed under IPL's renewable energy rider in Docket No. E001/M-10-312

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<sup>7</sup> \$8,198.87 per month x 11 months (February 1, 2012 to December 31, 2012) = \$90,188

4) Local Balancing Authority Agreement in 12-192

Beginning on page 3 of its petition, IPL stated that the need for this agreement arises out of the fact that the FCWF is located within IPL's Alliant West Energy (ALTW) Local Balancing Authority (LBA) Area. As such, IPL is the entity responsible for the ALTW LBA Area and has a directive to meet certain reliability requirements including owning, operating, and maintaining meters within the ALTW LBA Area to ensure meter data integrity. According to IPL, the LBA Agreement is designed to recover costs incurred by IPL to install, operate, and maintain necessary equipment for IPL to meet its LBA metering requirements due to the FCWF interconnecting with the ALTW LBA Area. The LBA Agreement outlines each party's obligations and responsibilities relating to operations and communications for reliable operation.

IPL stated that it will charge FCW for the actual costs incurred, plus overhead but not profit, to install, own, and maintain the required LBA metering for the FCWF.

IPL stated on page 4 of its petition that the LBA Agreement is reasonable and consistent with the public interest because it would allow IPL to recover from FCW all costs associated with installing, owning, and maintaining LBA metering dedicated to the FCWF. In addition, IPL stated that:

...IPL requires execution of such an Agreement for all new generators locating within and generating into the ALTW LBA Area that are connected to the ITC Midwest transmission system. Because IPL is no longer a transmission owner, IPL is not a party to generator interconnection agreements for generators connecting to the transmission system within the ALTW LBA Area; the LBA Agreement was developed to meet IPL's LBA metering requirements for new generators connecting on the ITC Midwest transmission system located within the ALTW LBA Area. Because LBA meters are used to calculate the load and generation needs of IPL, it is in the best interest of IPL to own, operate, and maintain these meters.

IPL also stated that the LBA Agreement is reasonable and consistent with the public interest because it holds IPL ratepayers harmless to the costs incurred by IPL to install, own, operate, and maintain the LBA meter as required by IPL. IPL stated that it recovers its costs for the LBA metering, and books the assets at \$0, so that IPL's ratepayers are held harmless. In addition, IPL stated that since the LBA meters are used by IPL to calculate load and generation requirements, it is in the best interest of IPL to own, operate, and maintain these meters.

With regards to competitive bidding, IPL stated that:

Competitive bidding was not sought for this transaction. IPL will charge FCW for actual costs incurred, plus overheads but not profit, to install, own, operate, and maintain the required LBA metering.



The DOC reviewed IPL's various petitions and the related LBA Agreement. Based on our review, the DOC agrees that IPL's decision to charge its affiliate for LBA metering costs does not result in cross-subsidization by IPL's ratepayers. As a result, the Department concludes that the LBA Agreement appears reasonable and consistent with the public interest. Thus, the DOC recommends that the Commission approve IPL's proposed LBA Agreement with Franklin County Wind, LLC, effective February 7, 2012.

5) Services Agreement in 12-1157

Beginning on page 3 of its petition, IPL stated that the need for this agreement arises out of the fact that FCW is developing a windfarm (FCWF) which is adjacent to IPL's recently developed WWE windfarm. According to IPL, the intent of the Services Agreement is to provide a back-stop for FCW to use IPL for "reactive" work on FCWF, if another third party contractor is unavailable to perform work in a timely manner. IPL stated that it is not the intent of either FCW or IPL that FCW would use the Services Agreement for regularly scheduled or planned work for the FCWF.

The Services Agreement was signed on September 24, 2012 for a one year period. The Services Agreement automatically renews for additional one-year periods and may be terminated by either party upon ten days' written notice.

IPL stated that the Services Agreement is reasonable and consistent with the public interest because it would allow IPL ratepayers to benefit from any payments from FCW to IPL in the event FCW calls upon IPL to provide services on the FCWF. Under the terms and conditions of Article 3 of the Services Agreement, IPL shall only be required to provide Services when available to serve the FCWF without detriment to IPL's operations, and shall not incur any penalty or default in the event IPL is required to discontinue Services to respond to IPL's operations or obligations.

With regards to competitive bidding, IPL stated that:

Competitive bidding was not sought before the Services Agreement was negotiated, however, the specific terms of the agreement provide that market prices will be sought before IPL receives compensation for any services provided. FCW has bargained for the opportunity to request IPL to supply reactive services for FCWF is [sic] third party vendors are not available. Per the terms and conditions of Article 4 of the Services Agreement, FCWF shall pay to IPL the higher of (a) the fair market value of the Services rendered or (b) IPL's fully loaded costs. This article of the Services Agreement also provides that fair market value shall be determined by comparison to regularly scheduled maintenance work provided to FCWF by other third party Contractors. Thus, the higher of market or cost standard is met.

The DOC reviewed IPL's various petitions and the related Services Agreement. Based on our review, the DOC agrees that IPL's decision to charge its affiliate for services at the higher of IPL's fully-loaded costs or market value does not result in cross-subsidization by IPL's ratepayers. As a result, the Department concludes that the Services Agreement appears to be reasonable and consistent with the public interest. However, to monitor this Service agreement in practice, the Department recommends that the Commission require IPL to report annually on: 1) the number of times this agreement is used, 2) itemization of the services provided, 3) IPL's costs of providing each service, and 4) the market value, including foundation for the estimated market value of the services. Thus, with this reporting, the DOC recommends that the Commission approve IPL's proposed Services Agreement with Franklin County Wind, LLC, effective September 24, 2012.

## **V. DEPARTMENT RECOMMENDATIONS**

The Department recommends that the Commission:

1. Approve IPL's proposed affiliated-interest Sale Agreement with Franklin County Wind, LLC, effective June 29, 2011;
2. Approve IPL's affiliated-interest Common Facilities Capacity Agreement with Franklin County Wind, LLC, effective December 7, 2011;
3. Deny IPL's proposed affiliated-interest Land Lease Agreement with Franklin County Wind, LLC, effective February 1, 2012. Instead, the Department recommends that the Commission require IPL and FCW to share equally in the costs necessary to purchase, develop, and maintain the land used as a laydown area for the development of IPL's regulated wind farm WWE and FCW's non-regulated windfarm FCWF. In addition, the DOC recommends that IPL and FCW share equally in any future rental income and/or gains or losses associated with this land in the event that it is ever leased or sold. The Department requests that IPL indicate in reply comments the effect this recommendation may have on the basis of the rate imposed under IPL's renewable energy rider.
4. Approve IPL's affiliated-interest Local Balancing Authority Agreement with Franklin County Wind, LLC, effective February 7, 2012; and
5. Approve IPL's affiliated-interest Service Agreement with Franklin County Wind, LLC, effective September 24, 2012, with the following reporting requirements to monitor this agreement in practice:
  - a) the number of times this agreement is used,
  - b) itemization of the services provided,
  - c) IPL's costs of providing each service, and
  - d) the market value, including foundation for the estimated market value of the services.

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce  
Public Comments**

**Docket No. E,G001/AI-12-32; E,G001/AI-12-187; E,G001/12-192; E,G001/AI-12-792; E,G001/AI-12-1157; E,G001/AI-13-787; and E,G001/PA-13-788**

Dated this 3<sup>rd</sup> day of **February 2014**

**/s/Sharon Ferguson**

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Cortlandt C	Choate, Jr.	N/A	Alliant Energy	4902 N Biltmore Ln  Madison, WI 53711	Paper Service	No	OFF_SL_12-32_Official
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Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500  Saint Paul, MN 551012198	Electronic Service	Yes	OFF_SL_12-32_Official
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_12-32_Official
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_12-32_Official
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Robyn	Woeste	robynwoeste@alliantenergy.com	Interstate Power and Light Company	200 First St SE  Cedar Rapids, IA 52401	Electronic Service	Yes	OFF_SL_12-32_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_12-187_Official
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Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500  Saint Paul, MN 551012198	Electronic Service	Yes	OFF_SL_12-187_Official
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_12-187_Official
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Cortlandt C	Choate, Jr.	N/A	Alliant Energy	4902 N Biltmore Ln  Madison, WI 53711	Paper Service	No	OFF_SL_12-192_Official
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Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500  Saint Paul, MN 551012198	Electronic Service	Yes	OFF_SL_12-192_Official
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Christopher	Anderson	canderson@allete.com	Minnesota Power	30 W Superior St  Duluth, MN 558022191	Electronic Service	No	OFF_SL_13-788_PA-13-788
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_13-788_PA-13-788
William A.	Blazar	bblazar@mnchamber.com	Minnesota Chamber Of Commerce	Suite 1500 400 Robert Street North St. Paul, MN 55101	Electronic Service	No	OFF_SL_13-788_PA-13-788
Michael	Bradley	mike.bradley@lawmoss.com	Moss & Barnett	Suite 4800 90 S 7th St Minneapolis, MN 55402-4129	Electronic Service	No	OFF_SL_13-788_PA-13-788
City	Clerk	sschulte@ci.albertlea.org	City of Albert Lea	221 E Clark St  Albert Lea, MN 56007	Paper Service	No	OFF_SL_13-788_PA-13-788
Ian	Dobson	ian.dobson@ag.state.mn.us	Office of the Attorney General-RUD	Antitrust and Utilities Division 445 Minnesota Street, BRM Tower St. Paul, MN 55101	Electronic Service	No	OFF_SL_13-788_PA-13-788
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500  Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_13-788_PA-13-788
David	Grover	dgrover@itctransco.com	ITC Midwest	444 Cedar St Ste 1020  Saint Paul, MN 55101-2129	Electronic Service	No	OFF_SL_13-788_PA-13-788
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_13-788_PA-13-788

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Linda	Jensen	linda.s.jensen@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota Street  St. Paul, MN 551012134	Electronic Service	No	OFF_SL_13-788_PA-13-788
Jim	Krueger	jkrueger@fmcs.coop	Freeborn-Mower Cooperative Services	Box 611  Albert Lea, MN 56007	Electronic Service	No	OFF_SL_13-788_PA-13-788
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_13-788_PA-13-788
Kavita	Maini	kmairi@wi.rr.com	KM Energy Consulting LLC	961 N Lost Woods Rd  Oconomowoc, WI 53066	Electronic Service	No	OFF_SL_13-788_PA-13-788
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E  St. Paul, MN 55106	Electronic Service	No	OFF_SL_13-788_PA-13-788
David	Moeller	dmoeller@allete.com	Minnesota Power	30 W Superior St  Duluth, MN 558022093	Electronic Service	No	OFF_SL_13-788_PA-13-788
Carl	Nelson	cnelson@mncee.org	Center for Energy and Environment	212 3rd Ave N Ste 560  Minneapolis, MN 55401	Electronic Service	No	OFF_SL_13-788_PA-13-788
Steven	Nyhus	swnyhus@flaherty-hood.com	Flaherty & Hood PA	525 Park St Ste 470  Saint Paul, MN 55103	Electronic Service	No	OFF_SL_13-788_PA-13-788
Kent	Ragsdale	kentagsdale@alliantenergy.com	Alliant Energy-Interstate Power and Light Company	P.O. Box 351 200 First Street, SE Cedar Rapids, IA 524060351	Electronic Service	Yes	OFF_SL_13-788_PA-13-788

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Matthew J.	Schuerger P.E.	mjsreg@earthlink.net	Energy Systems Consulting Services, LLC	PO Box 16129  St. Paul, MN 55116	Electronic Service	No	OFF_SL_13-788_PA-13-788
Ron	Spangler, Jr.	rlspangler@otpc.com	Otter Tail Power Company	215 So. Cascade St. PO Box 496 Fergus Falls, MN 565380496	Electronic Service	No	OFF_SL_13-788_PA-13-788
Robyn	Woeste	robynwoeste@alliantenergy.com	Interstate Power and Light Company	200 First St SE  Cedar Rapids, IA 52401	Electronic Service	No	OFF_SL_13-788_PA-13-788