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August 9, 2013

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

RE: Comments of the Minnesota Department of Commerce, Division of Energy Resources;  
Docket No. E015/M-12-920

Dear Dr. Haar:

On July 23, 2013, the Minnesota Public Utilities Commission (Commission) issued a *Notice of Comment Period* seeking comment on Minnesota Power's (MP or the Company) responses to Commission information requests regarding the Environmental Improvement Plan for MP's Boswell Unit 4.

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in this matter. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ SUSAN L. PEIRCE  
Rate Analyst

SLP/jl  
Attachment

**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

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

**DOCKET NO. E015/M-12-290**

**I. BACKGROUND INFORMATION**

On August 31, 2012, Minnesota Power (MP or the Company) filed its mercury emission reduction plan for its Boswell Energy Center Unit 4 generating unit (BEC4). The Company submitted its plan in compliance with Minn. Stat. §216B.6851. Specifically, MP proposes to retrofit BEC4 to reduce multiple pollutants, to comply with the Minnesota Mercury Emissions Reduction Act (MERA), and the Environmental Pollution Agency's Mercury and Air Toxics Rule (MATS).

On March 1, 2013, the Minnesota Pollution Control Agency (MPCA) issued its report on MP's BEC4 Environmental Improvement Plan.

On March 7, 2013, MP filed its request for approval of the BEC4 Rider.

On April 24, 2013, the Minnesota Center for Environmental Advocacy (MCEA) filed a citizen's petition with the Environmental Quality Board (EQB) requesting completion of an environmental assessment worksheet (EAW) prior to a Commission decision on MP's proposed retrofit project at BEC4.

On June 6, 2013, the Commission met to consider the EAW request. As a result of questions arising at the Commission's agenda meeting on the merits of the plan, Commission staff issued additional information requests to Minnesota Power. The Company submitted responses to the staff information requests on July 3, 2013.

The Commission's recent request for comment provides opportunity for parties to offer supplemental comments on the Company's responses to staff information requests.

## **II. DEPARTMENT ANALYSIS**

The Commission sought additional information from MP on the investment and costs necessary to retrofit BEC4, if compliance was limited to the Minnesota Mercury Emissions Reduction Act (MERA) and the Federal Mercury and Air Toxics Standards (MATS). In addition, the Commission asked what investment and costs would be necessary to address the EPA's Notice of Violation, as well as the cost of retiring BEC4.

The Department has reviewed the Company's responses to staff information requests, and concludes that the responses support the Department's original recommendation contained in its May 14, 2013 comments.

Specifically, MP indicated that after extensive evaluation and study, the Company concluded that compliance with the mercury statutes requires replacement of the wet scrubber at BEC4. In addition, the Company indicated that the installation of a circulating dry scrubber system (CDS) would provide additional reductions in Sulfur Dioxide (SO<sub>2</sub>) and other acid gases as an ancillary benefit to the primary focus of the project in reducing mercury. In other words, filing a mercury reduction plan as opposed to a multi-pollutant reduction plan would not result in significant change in the cost of the retrofits.

With respect to alternatives to the retrofit, MP states that it evaluated natural gas generation replacement alternatives beginning with the Baseload Diversification Study filed in February 2012 in Docket No. E015/RP-09-1088, as well as with its current BEC4 filing and determined that its BEC4 project continues to be least cost. As reflected in the results of the Department's analysis of MP's baseload diversification study, and reiterated in the Department's comments in this proceeding:

The Department removed the retirement unit for Boswell 4. MP had built into its modeling a generic resource that would retire Boswell 4 if selected as part of the least cost plan. MP's Baseload Study indicates that retiring Boswell 4, regardless of the level of EPA regulation would result in substantial costs to MP's ratepayers. Since Boswell 4 will be subject to costs imposed by EPA regulation, it is reasonable for Boswell 4 to be included by MP in the retirement analysis. However, initial Department analysis determined that, at the expected level of environmental compliance costs, retiring Boswell 4 is not a cost-effective option. Therefore, the Department removed this generic retirement as an option in a separate scenario.<sup>i</sup>

The Department evaluated the option of retiring Boswell 4 as part of its analysis in the baseload diversification study, and found that BEC4 was not retired even under an assumption of a "stringent" level of EPA compliance costs. Moreover, the first and lowest cost plan to include retirement of Boswell 4 did not retire the unit until 2027, a date that would necessitate retrofitting

the unit to comply with emissions reductions, and was \$225.7 million greater than the expansion plan in terms of the present value of societal cost (PVSC). The first plan to retire Boswell 4 in 2020 or earlier was \$267.6 million PVSC greater than the expansion plan.

In response to information requests on the amount of investments or upgrades that would be necessary to address the Notice of Violation (NOV) in the absence of the BEC4 project, MP stated that it believes the projects subject to the NOV were in full compliance with the Clean Air Act, but that settlement discussions with the EPA and Minnesota Pollution Control Agency are ongoing. The Company stated that its discussions are subject to a confidentiality agreement, and that the “EPA will not consent to disclosure of details regarding proposed settlement offers.” The Department is thus not in a position to assess the accuracy of MP’s statements regarding the NOV. As noted in its initial comments, the Department believes the Company should be directed to keep the Commission apprised of the status of its NOV, and additionally recommends that the Company identify and explain any and all costs associated with the NOV for which it seeks recovery in any future BEC4 Rider rate adjustment filings, rate cases, or other rate proceedings.

### **III. DEPARTMENT RECOMMENDATIONS**

The Department continues to support adoption of its recommendations as reflected in its initial comments, and as set forth below.

The Department recommends that the Commission:

- Approve Minnesota Power’s Boswell 4 Emissions Reduction Plan,
- Approve Minnesota Power’s request for a Boswell 4 Rider,
- Direct the Company to make annual rate factor adjustment filings,
- Direct the Company to include an update on its discussions with the EPA to resolve the NOV, and identify and explain any costs related to the NOV included in its rate factor adjustment filings or other rate proceeding.

/jl

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<sup>i</sup> In the Matter of Minnesota Power’s Baseload Diversification Study Compliance Report, Comments of the Minnesota Department of Commerce, Division of Energy Resources, May 7, 2012, p. 23, Docket No. E015/RP-09-1088.

## **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**  
**Comments**

**Docket No. E015/M-12-920**

Dated this 9<sup>th</sup> day of **August, 2013**

**/s/Sharon Ferguson**

[illegible]

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