

**STATE OF MINNESOTA
BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE APPLICATION OF
MINNESOTA POWER FOR A CERTIFICATE
OF NEED FOR THE HVDC MODERNIZATION
PROJECT IN HERMANTOWN, SAINT LOUIS
COUNTY;

OAH Docket No. 5-2500-39600
MPUC Docket No. E015/CN-22-607

IN THE MATTER OF THE APPLICATION OF
MINNESOTA POWER FOR A ROUTE PERMIT
FOR A HIGH VOLTAGE TRANSMISSION LINE
FOR THE HVDC MODERNIZATION PROJECT
IN HERMANTOWN, SAINT LOUIS COUNTY.

MPUC Docket No. E015/TL-22-611

MOTION TO TAKE ADMINISTRATIVE NOTICE

Minnesota Power (or the “Company”) respectfully moves for an order pursuant to Minn. Stat. § 14.60, subd. 4 (2022) and Minn. R. 1400.7300, subp. 4 (2023) to take administrative notice of a final decision issued by the Federal Energy Regulatory Commission (“FERC”) on May 8, 2024 in Docket No. ER24-1440-000 (attached as **Exhibit A**).¹ FERC’s decision accepts for filing certain Facilities Construction Agreements (“FCAs”) entered into by the Midcontinent Independent System Operator, Inc. (“MISO”) and Minnesota Power for the direct-current and alternating-current infrastructure proposed by Minnesota Power to modernize the existing high-voltage direct-current system and was not protested by any person after FERC issued the required federal notice.

¹ FERC’s decision is also publicly available electronically in FERC’s eLibrary at: https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20240508-3042.

The Commission has previously taken administrative notice of agency decisions.² “Agencies may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within their specialized knowledge.” Minn. Stat. § 14.60, subd. 4. In addition, an administrative law judge “may take notice of judicially cognizable facts but shall do so on the record and with the opportunity for any party to contest the facts so noticed.” Minn. R. 1400.7300, subp. 4. Under the Minnesota Rules of Evidence, a court may take judicial notice of adjudicative facts in a civil case, but the “fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Minn. R. Evid. 201(b).

Minnesota Power therefore respectfully requests that the Administrative Law Judge take administrative notice of the final decision issued by FERC on May 8, 2024 in Docket No. ER24-1440-000 accepting for filing certain FCAs entered into between MISO and Minnesota Power. A final decision issued by FERC is a judicially cognizable fact that is not subject to reasonable dispute in that it is “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.”

Pursuant to Minn. R. 1400.6600, parties wishing to contest the motion must file a written response with the Administrative Law Judge and serve copies on all parties within 10 working days after it is received.

² See, e.g., *In re Application of Minn. Energy Res. Corp. for Auth. to Increase Rates for Natural Gas Serv. in Minn.*, Docket No. G007, 011/GR-10-977, Findings of Fact, Conclusions, and Order at 35 (July 13, 2012) (taking administrative notice of property tax appeal decisions); *In re Summary Investigation into Intrastate Switched Access Charges Proposed by Nw. Bell Telephone Co. for its Minn. Customers*, Docket Nos. P421/CI-85-352; P421/CI-86-88; P421/CI-86-89, Order After Reconsideration at 10 (June 25, 1986) (taking administrative notice of Federal Communication Commission decisions).

Dated: May 22, 2024

Respectfully submitted,

MINNESOTA POWER

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OFFICE OF ENERGY MARKET REGULATION

Midcontinent Independent System Operator, Inc.
Docket No. ER24-1440-000

Issued: May 8, 2024

On March 11, 2024, Midcontinent Independent System Operator, Inc. (MISO) submitted Facilities Construction Agreements among the merchant function of Minnesota Power, a division of ALLETE, INC.; the transmission function of Minnesota Power, a division of ALLETE, INC.; and MISO.¹ MISO requested that the filing be accepted effective February 28, 2024. Pursuant to authority delegated to the Director, Division of Electric Power Regulation – Central, under 18 C.F.R. § 375.307, the submittal is accepted for filing, effective February 28, 2024, as requested.²

The filing was publicly noticed. No protests or adverse comments were filed. Pursuant to Rule 214 of the Commission’s regulations (18 C.F.R. § 385.214), notices of intervention, timely-filed motions to intervene, and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted.

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in the filed document(s); nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such action is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against the applicant(s).

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Issued by: Natalie Y. Tingle-Stewart, Director, Division of Electric Power Regulation – Central

¹ Midcontinent Independent System Operator, Inc., Midwest ISO Agreements, [SA 4208, MP-MP FCA Square Butte TSR 0481026 95418167 \(31.0.0\)](#); [SA 4209, MP-MP FCA Square Butte TSR 91365462 \(31.0.0\)](#).

² See 18 C.F.R. § 35.3(a)(2).