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October 14, 2019

**VIA ELECTRONIC FILING**

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, MN 55101-2147

Re: In the Matter of the Annual Filing of Cogeneration and Small  
Power Production Rates  
**Docket No. E999/PR-19-09**

Dear Mr. Wolf:

Minnesota Power hereby submits its Supplemental Comments in the above-referenced Docket. If you have any questions regarding this filing, please contact me at (218) 723-3448 or [jwarmuth@mnpower.com](mailto:jwarmuth@mnpower.com).

Sincerely,

Jenna Warmuth  
Senior Public Policy Advisor

JW:sr  
Attach.

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

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In the Matter of 2019 Cogeneration and  
Small Power Production Reports

Docket No. E999/PR-19-09  
**SUPPLEMENTAL COMMENTS**

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**I. INTRODUCTION**

On August 30, 2019 the Minnesota Public Utilities Commission (or, “Commission”) issued a Notice of Supplemental Comment Period in Docket No. E999/PR-19-09 (or, “Notice”). The Notice addresses what, if any, of the trade secret designated information in Minnesota Power’s Annual Cogeneration and Small Power Production reports should be filed as public. These Supplemental Comments address the topics posed in the docket.

**II. RESPONSE TO TOPICS OPEN FOR COMMENT**

- a) *Minnesota Power, Otter Tail Power, and Xcel Energy revised 2019 annual cogeneration and small power production filings with the data each utility has proposed to make public and the rationale for these changes to trade secret designation.*

As explained in the Company’s September 10, 2019 filing, the following Trade Secret changes were made:

- Schedule A - The current year (2019) cells 11-19 have been designated Public.
- Schedule B - Net Annual Avoided Capacity Costs cells 56-57 have been designated Public.
- Schedule G - Net Annual Avoided Capacity Costs cells 89-94 have been designated Public.

These modifications were made because the information was publicly available through the Rider for Parallel Generation tariff. The net annual avoided capacity costs shown at the bottom of Schedules B and G can be deduced by subtracting the public tariff rates with and without firm power capacity credits.

- b) *Provide further explanation of how the specific information claimed to be trade secret does or does not qualify as trade secret under the Data Practices Act, Minnesota Statute Chapter 13.*

As seen in the September 10 filings, portions of schedules B and G were marked Trade Secret, as allowed for in Minn. Stat. § 13.37. Minnesota Power detailed reasons why this designation is appropriate in its March 18, 2019 Comments in the docket.

- c) *Is any of the specific, trade secret-designated information required by Minnesota rules under part 7835.0500 (Schedule A); part 7835.0600 (Schedule B); and part 7835.1000 (Schedule G) not required by PURPA?*

PURPA Rule 18 CFR §292.302 allows for two alternative methods of compliance, 18 CFR §292.302(b) or 18 CFR §292.302(d). The latter allows a substitution of alternative method where the utility may provide different data if avoided costs can be derived from the original data. This method (18 CFR §292.302(d)) is currently being utilized in Minnesota, and therefore consistent with PUPRA.

- d) *Discuss the ‘public inspection’ requirement under PURPA and Minn. Rules 7835.1200 and whether that can be satisfied by granting developers interested in providing generation as qualifying facilities (QFs), and their consultants and advisors, access to the data required by the rules under a commission-approved nondisclosure agreement.*

Both PURPA and Minn. Rules 7835.1200 allow for non-public filing of information in the Company’s September 10 filing of Schedule B and Schedule G. While a commission-approved nondisclosure agreement (“NDA”) can sometimes be used to share data, there must be valid reasons as to why a party needs the data.

There are situations where providing information under an NDA is not appropriate and risks harming rate payers. Examples of when it is not appropriate are when a requesting developer recently bid or plans to bid on an RFP issued by Minnesota Power, selling energy and capacity into the MISO market or engages in market trading of energy or capacity. When providing developers this non-public data it results in an unequitable market place for Minnesota Power and third parties participating in similar activities.

Furthermore, there are circumstances in which a party may have a valid reason for requesting an NDA but sharing information is still inappropriate. (e.g., a consultant later works with a new company who responds to an RFP issued by Minnesota Power or participates in selling energy and capacity in the market.)

### III. CONCLUSION

The Company appreciates the opportunity to respond to the supplemental comment topics regarding trade secret designation in Annual Cogeneration and Small Power Production reports. While the company understands that some parties would like increased access to data, both state and federal law allow for the trade secret designation of portions of Annual Cogeneration and Small Power Production reports. Further, the Company believes that the use of NDA's only partially mitigates the risk that the disclosure of this information could negatively impact the company and ratepayers.

Dated: October 14, 2019

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jenna Warmuth".

Jenna Warmuth  
Senior Public Policy Advisor  
218-355-3448  
jwarmuth@mnpower.com

STATE OF MINNESOTA    )  
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COUNTY OF ST. LOUIS    )

AFFIDAVIT OF SERVICE VIA  
ELECTRONIC FILING

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SUSAN ROMANS of the City of Duluth, County of St. Louis, State of Minnesota, says that on the **14<sup>th</sup>** day of **October, 2019**, she served Minnesota Power's Supplemental Comments in **Docket No. E999/PR-19-09** on the Minnesota Public Utilities Commission and the Office of Energy Security via electronic filing. Parties for the above-mentioned Docket's E-Dockets Official Service List were served as noted.



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Susan Romans