

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of the Application of Minnesota Power for a Certificate of Need for a High Voltage Transmission Line for the HVDC Modernization Project in Hermantown, Saint Louis County

MPUC Docket No. E-015/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. E-015/TL-22-611

PETITION FOR RECONSIDERATION

The Large Power Intervenors (“LPI”)¹ submit the following Petition for Reconsideration (“Petition”) of the Minnesota Public Utilities Commission’s (“Commission”) October 25, 2024, Order Granting Certification of Need and Issuing Route Permit for Minnesota Power’s High-Voltage Direct-Current (“HVDC”) Modernization Project (“Project”).² This Petition raises four significant instances where the Commission deviated from longstanding precedent. Namely, the Commission deviated from longstanding precedent by:

- a. not requiring Minnesota Power to demonstrate a need to expand the capacity of the system to provide service to its customers in Minnesota;
- b. not determining an appropriate cost allocation for the Project;

¹ An *ad hoc* consortium of large industrial end users of electric energy on Minnesota Power’s (or the “Company”) system, consisting for purposes of this filing of Blandin Paper Company; Boise White Paper, a Packaging Corporation of America company, formerly known as Boise, Inc.; Cleveland-Cliffs Minorca Mine Inc.; Enbridge Energy, Limited Partnership; Gerdau Ameristeel US Inc.; Hibbing Taconite Company; Sappi Cloquet, LLC; United States Steel Corporation (Keetac and Minntac Mines); United Taconite, LLC; and USG Interiors, Inc.

² *In the Matter of the Application of Minnesota Power for a Certificate of Need for a High Voltage Transmission Line for the HVDC Modernization Project in Hermantown, Saint Louis County and 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 Nos. E-015/CN-22-607 and E-015/TL-22-611 (respectively), Order Granting Certificate of Need and Issuing Route Permit (October 25, 2024) (eDocket No. 202410-211332-02) (“Order Granting Certificate of Need and Routing Permit”).

- c. not imposing conditions to protect ratepayers from undue risk and ensure that ratepayers receive any and all of the benefits that might flow from the Project; and
- d. failing to take into account that the impact of this Project and other planned investments will result in rates that are unjust and unreasonable.

In addition, the Commission should reconsider the policy of its decision, which will encourage transmission-owning utilities to forgo regional transmission planning processes to avoid cost sharing and maximize rate base.

LPI accordingly seeks reconsideration of the Commission’s Order and requests the Commission issue a new Order imposing appropriate conditions that place risk of the unnecessary expansion on the Company and protect ratepayers from paying costs that were unnecessarily incurred and from which they will not benefit.

I. INTRODUCTION

On June 1, 2023, Minnesota Power filed an application for a certificate of need and route permit for a HVDC modernization project (“the Project”), which will cost nearly \$1 billion. In its application, Minnesota Power never proposed to expand the capacity of the HVDC system. Only in discovery did LPI learn that the Company proposed to almost triple the capacity of the existing system the Project will replace, from 550 MW to 1500 MW, but only after additional costs, in excess of the nearly \$1 billion estimated for this Project. On June 21, 2024, the ALJ issued its Findings of Fact, Conclusions of Law, and Order finding that Minnesota Power satisfied the criteria for the issuance of a certificate of need and route permit for the HVDC Project,³ and on October 25, 2024, the Commission issued its Order adopting nearly all of the ALJ’s findings.

In response to LPI’s position that the expandability portion of the Project should be denied, the Commission characterized LPI’s arguments as “fundamentally cost-based,” stating Minnesota Power’s “decision to invest in such equipment upgrades will be subsequently considered in a separate proceeding.”⁴ The Order pointed to Minnesota Power’s assurance that “it would seek

³ *In the Matter of the Application of Minnesota Power for a Certificate of Need for the HVDC Modernization Project in Hermantown, Saint Louis County and 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*, OAH 5-2500-39600, MPUC Docket Nos. E-015/CN-22-607 and E-015/TL-22-611 (respectively), Findings of Fact, Conclusions of Law and Recommendation (June 21, 2024) (eDocket No. 20246-207868-01).

⁴ Order Granting Certificate of Need and Routing Permit at 14.

recovery of costs related to any amounts associated with additional transmission capacity over 550 MW in a rate case proceeding, which would subject the Company's claimed costs to a high level of scrutiny."⁵ Ultimately, the Commission was undeterred by LPI's concerns and granted a certificate of need for the project, without delineating 1) the ultimate capacity of the HVDC Project; 2) its estimated cost; or 3) the additional cost that will be necessary to increase the capacity to 900 or 1500 MW. Despite the vagueness of the application, Project, and Order and the significant costs involved, the Commission did not impose conditions to protect ratepayers.⁶ The Commission's Order unduly subjects Minnesota Power's customers to inappropriate cost allocations and financial risk and the Commission should reconsider its Order to place the risk on the Company, not customers.

II. ANALYSIS

A. Introduction and Standard

"A petition for rehearing, amendment, vacation, reconsideration, or reargument must set forth specifically the grounds relied upon or errors claimed."⁷ The Commission typically reviews petitions to determine whether they (1) raise new issues, (2) point to new and relevant evidence, (3) expose errors or ambiguities in the underlying order, or (4) otherwise persuades the Commission that it should rethink its previous order.⁸ Here, LPI respectfully requests the Commission take into account its longstanding precedent and new evidence and reevaluate its Order to limit its approval to replacement of the System at its existing capacity and place conditions on its approval to protect ratepayers.

B. The Order Violates Long-Standing Minnesota Law and Commission Precedent

The Order violates Minnesota law because it 1) ignores that Minnesota Power has not proven a need to expand the capacity of the system; 2) fails to allocate the cost of the Project according to principles of cost causation; 3) fails to implement conditions and ratepayer protections

⁵ *Id.*

⁶ *Id.*

⁷ Minn. R. 7829.3000, subp. 2.

⁸ *See, e.g., In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota*, MPUC Docket No. E-002/GR-13-868, Order Denying Petitions for Reconsideration, at 1 (July 13, 2015) (eDocket No. 20157-112358-01).

to place the risk of the unnecessary expansion on Minnesota Power; and 4) fails to mitigate against exorbitant rate increases.

1. Minnesota Power Did Not Demonstrate the Need to Expand the Capacity of the HVDC System.

LPI fundamentally disagrees with the premise that the Project as proposed and approved is needed. During the course of this proceeding, Minnesota Power undisputedly admitted that it did not need expanded capacity on the HVDC System, but only the 550 MW of existing capacity.⁹ Currently, Minnesota Power's system peak demand is 1600 MW and therefore, increasing the System capability from 550 MW to 1500 MW greatly exceeds what Minnesota ratepayers need, and the Commission erred in approving Minnesota Power's request to upgrade the capacity of the HVDC System.

While LPI understands and supports the need to replace and modernize the HVDC System at its existing capacity, it adamantly contends that it is unnecessary to expand and upgrade the capacity of the HVDC System as Minnesota Power proposes beyond its stated need for 550 MW.¹⁰ The Company is expanding the capacity of the HVDC System by 350 MW it does not need, which it will plan to use if need arises at some point in the future. Alternatively, if the need never materializes, the Company will assign the capacity on a "limited basis" under the premise, entirely unsupported in the record, that the limited assignments will "benefit customers." Minnesota Power offered no support or calculations as to how customers would benefit from the assignment of the new 350 MW of capacity to third parties.¹¹ Throughout this case, LPI argued that the Company had not demonstrated that its proposed upgrades were necessary and asserted that the additional project costs attributable to the planned upgrades were therefore prohibitive. Contrary to the Commission's characterization of LPI's arguments in the Order, the focus of LPI's opposition is primarily that the Company has not demonstrated that there is a current need for the incremental 350 MW capacity secured by the new transmission service requests to increase the HVDC system capacity to 900 MW at a cost of \$372 million (or even asked for that increase in its initial application).

⁹ Minnesota Power Initial Brief at 33.

¹⁰ Minnesota Power Initial Brief at 33.

¹¹ Minnesota Power Initial Brief at 33.

Simply put, Minnesota Power has not proven the need to expand the capacity of the System and as such, LPI requests the Commission revise its Order in light of Minnesota Power’s failure to meet one of the core requirements for a certificate of need – demonstrated need – by permitting only a like-size replacement at greatly reduced costs.

2. The Commission Erred in Allocating All of the HVDC Project Costs to Minnesota Power Customers.

The Commission should reevaluate its Order so that Minnesota Power customers are not paying for benefits realized in other states or service areas in Minnesota. Cost allocation for local transmission projects is governed by principles established by FERC Order 1000.¹² These principles include ensuring that costs are roughly commensurate with estimated benefits, that those who do not benefit from transmission have no cost burden, and that benefit-to-cost thresholds are not too high to eliminate projects with significant net benefits.¹³

In the development of its case in this proceeding, Minnesota Power stated that the HVDC Modernization Project is needed to modernize aging HVDC assets, continue to position the grid for the clean energy transition, and improve the reliability of the transmission system in Minnesota and North Dakota.¹⁴ According to the principles of cost causation and transmission cost allocations, any costs associated with the Project’s expandability beyond the size capability needed for Minnesota Power’s customers, including the improvement of the North Dakota transmission system, should be subject to cost sharing and assigned to those that benefit.

In its initial filing in this proceeding, Minnesota Power repeatedly stated the Project was necessary for the “regional” benefits it would bring. In total, Minnesota Power used the term “regional” 48 times in its initial filing. In the same vein, Minnesota Power repeatedly stated that its Project will benefit the MISO system, and those benefits should be recognized as MISO considers long-term reliability needs. For example, Minnesota Power stated that it “believes the Square Butte HVDC corridor has long-term significance for the regional transmission system, enabling efficient and flexible long-distance transfer of high-value and zero fuel cost renewable

¹² *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011) (“Order 1000”).

¹³ Order 1000 at ¶¶ 10, 219, 646.

¹⁴ Minnesota Power Initial Brief at 1.

energy resources in North Dakota to customers throughout MISO.”¹⁵ The Company requested MISO designate the Project to receive cost sharing allocation in the MISO region, but MISO rejected that request and instead has designated the Project (more specifically, the 900 MW version of the Project) as a local project that will not receive cost sharing apportionment to the regions that Minnesota Power has stated will benefit from it.¹⁶

Despite saying 48 times in its initial petition that the Project will yield regional benefits, during the August 1 hearing in this matter the Company stated that the Project “is not a regional benefit today, as far as what the project is in front of you, it is a benefit for our customers.” The Project as proposed is the same Project that was approved, even though the Company claimed it would result in regional benefits, and then claimed it would not.

Regarding high-voltage transmission lines, the certificate of need statute requires Commission consideration and evaluation of “the benefits of enhanced regional reliability, access, or deliverability **to the extent these factors improve the robustness of the transmission system or lower costs for electric consumers in Minnesota.**”¹⁷ The Commission should reconsider its Order to determine and explain where in the record Minnesota Power established that benefits will materialize for Minnesota, North Dakota, Wisconsin, other areas within the MISO region, and Minnesota Power customers, and, once established, how those costs should be allocated for those benefits.

Furthermore, the Commission’s Order must incorporate appropriate measures to protect Minnesota ratepayers from unfairly bearing costs for upgrades for which they do not enjoy a benefit. The Company should bear the costs and risks associated with any expansion or upgrade of the System, not ratepayers, and the Commission should implement appropriate protections to ensure costs and risks are fairly allocated.

¹⁵ *In the Matter of the Application of Minnesota Power for the HVDC Modernization Project*, MPUC Docket Nos. E-015/TL-22-611 and E-015/CN-22-607, Initial Filing - Combined Application for Certificate of Need and Route Permit Application for the HVDC Modernization Project, at 39 (June 1, 2023) (eDocket No. 20236-196333-01).

¹⁶ See MISO’s 2024 Transmission Expansion Plan, Appendix A, New Local Reliability Projects Recommended for Approval, designating the HVDC Project as a 900 MW Transmission Delivery Service Project that is not subject to MISO cost sharing.

¹⁷ Minn. Stat. § 216B.243, subd. 3(9) (emphasis added).

- 3. Given the Risk to Ratepayers, the Commission Should Reconsider Its Order and Include Ratepayer Protections.**
 - a. The Commission Should Require Minnesota Power to Show Ratepayers Benefited from the Expansion of the HVDC System before It Can Recover Project Costs.**

The Order failed to properly account for the cost impacts of the Project on ratepayers, particularly large industrial ratepayers that will bear the brunt of Project costs. LPI requests the Commission reconsider its approval of the certificate of need and include conditions that protect customers from undue risk, and ensure that all benefits that result from the Project flow to customers and not Minnesota Power's affiliates.

Minnesota Power did not provide a cost-benefit analysis to prove that even if the capacity is not needed ratepayers would still benefit from the revenues generated from the assignment of capacity to other users. Minnesota Power stated that if it is able to assign all or a portion of the 350 MW TSRs for a "period of time," Minnesota Power customers will receive the financial benefit of the investments it made through reimbursement for its use from the costs assigned through the MISO process. This vague and unquantified representation is insufficient to prove a value to customers; the costs assigned through the MISO process, according to Minnesota Power, have no relation to the incremental cost to build the expanded capacity. But to provide a benefit, the revenues received from assignment through the MISO process must be greater than the incremental cost to build, so it is incorrect to say those costs have no relation to each other. The Minnesota Commission should condition its approval so that Minnesota Power cannot recover the cost of its 350 MW expansion until it demonstrates that customers have benefited financially, in excess of the costs necessary to implement the expansion.

Specifically, LPI requests the Commission require Minnesota Power to prove customers will benefit from this capacity expansion in advance of need before it grants cost recovery for the incremental cost of that expansion. Therefore, the Commission should condition any approval for this Project so that Minnesota Power does not recover the incremental costs, in a range of \$149 to \$372 million, until it can demonstrate customers have financially benefited from them.

Similarly, the Commission should place the risk on the Company if the promised grant money does not materialize. It is undisputed that there is no guarantee Minnesota Power will

actually meet the funding requirements and receive all of the funding it has provisionally secured. But if the Company is convinced the Project should be approved at its requested size because of the potential to actually receive funding, the Company should bear the risk if that funding does not materialize. LPI asks the Commission to condition any approval of this Project so it is clear the risk of not securing grant funding falls on the Company and not customers.

b. The Commission Should Impose a Cost Cap on Minnesota Power's Cost Recovery.

The Commission should condition its approval so that Minnesota Power is held to the low-end of its cost estimate of \$660 million. The estimated cost to construct the Project is significant, and as initially proposed by the Company, the cost estimates range between \$660 and \$940 million.¹⁸ Establishing reasonable cost caps would be consistent with Minnesota Power's concessions during briefing. For example, Minnesota Power acknowledged "[i]n issuing any Certificate of Need or Route Permit, the Commission may impose on a Permittee or Permittees certain conditions for the construction and operation of a certified or permitted facility;"¹⁹ "[l]ongstanding Commission precedent provides that a rate-regulated utility may not recover any amounts...in excess of the amounts estimated at the time a project is initially approved by the Commission.;"²⁰ and that "[a] request to allow cost recovery for project costs above the amount of the initial estimate may be brought for Commission review only if unforeseen or extraordinary circumstances arise on a project."²¹

Longstanding Commission precedent requires the Commission to impose cost controls as part of its approval of the Project, as Minnesota Power has recognized. For example, in Xcel's Huntley-Wilmarth 345-kV Transmission Line Project, the Commission imposed a cost cap on the project costs, which was well below the high range of estimated costs. The Huntley-Wilmarth project was a project jointly owned by Xcel Energy and ITC and classified by MISO as a Market Efficiency Project ("MEP") and consequently, the project costs were allocated throughout the

¹⁸ Ex. MP-104 at 12-13 (Combined Application).

¹⁹ Minnesota Power Post-Hearing Brief at 73.

²⁰ Minnesota Power Post-Hearing Brief at 76.

²¹ Minnesota Power Post-Hearing Brief at 47, n. 153; *see also In the Matter of the Application of Xcel Energy and ITC Midwest LLC for a Certificate of Need and a Route Permit Application for the Huntley-Wilmarth 345-kV Transmission Line Project*, MPUC Docket No. E-002, ET-6675/CN-17-184, Order Finding Environmental Impact Statement Adequate, Granting Certificate of Need, Issuing Route Permit, and Requiring Additional Analysis (August 5, 2019) (eDocket No. 20198-154935-02) (adopting ALJ Report and imposing cost cap).

MISO region pursuant to the MISO cost allocation tariffs.²² In determining the appropriate cost cap for that project, the ALJ noted:

As a MEP, the Project's costs will ultimately be shared within the region such that Xcel Energy's NSP Companies' load will pay 16.96 percent of the total monetary costs. Customers from outside of Xcel's service territory in Minnesota will benefit from the Project and absorb, through their serving utilities, some of the Project's costs.... Once the line is in service, Xcel Energy will begin to receive wholesale revenues from its joint ownership of the transmission line. These revenues will reduce the annual revenue requirement arising from the Project's costs that Xcel Energy must recover from its end user ratepayers. Xcel Energy includes and recovers MISO Schedule 26 costs net of revenues from rate payers through its Transmission Cost Recovery Rider. Minn. Stat. § 216B.16, subd. 7b(b)(2) (2018), specifically permits electric utilities such as Xcel Energy to include these costs in its annual transmission rider, provided that the costs are offset by revenues from transmission sales.²³

Therefore, pursuant to MISO's allocation, Xcel was responsible for only 16.96% of the project costs, with the remainder of the costs allocated to other entities benefiting from the project. In other words, in the Huntley-Wilmarth project, the Commission imposed a cost cap on cost recovery for a project that was:

- Approximately one-fifth of the estimated costs of Minnesota Power's HVDC Project;
- Approved by MISO as an MEP project;
- Cost-allocated to those that benefited, such that Xcel's costs (approximately \$30 million) amounted to only a fraction of the overall project cost; and
- Generating wholesale transmission revenues that would offset Xcel's revenue requirement.

²² *In the Matter of the Application of Xcel Energy and ITC Midwest LLC for a Certificate of Need and a Route Permit Application for the Huntley-Wilmarth 345-kV Transmission Line Project*, MPUC Docket No. E-002, ET-6675/CN-17-184, Findings of Fact, Conclusions of Law, and Recommendation, at P 192 (May 22, 2019) (eDocket No. 20195-153100-02) ("ALJ Report"):

A MEP project reduces energy costs throughout a region. Accordingly, MISO allocates the costs of a MEP project such that the more an area benefits from a project, the larger is its share of the project's costs. MISO first determines what specific areas or local resource zones (LRZ) will benefit from the MEP and assigns utilities operating in LRZ proportionate shares of the costs of the MEP. Under Attachment FF of the MISO Tariff, recovery of MEP project costs will be governed by Attachment GG and Schedules 26 of the MISO Tariff.

²³ ALJ Report at PP 194-95.

In contrast, MISO has not approved this HVDC Project, it has no cost sharing and only possibly might generate wholesale transmission revenues through the use of TSRs at some unknown price, and will cost Minnesota Power customers up to \$1 billion or more. If the cost cap was warranted in the Huntley-Wilmarth project, it is certainly warranted here. The Commission should abide by its longstanding precedent and impose a cost cap on recovery for the HVDC Project.

4. The Commission Should Reconsider Its Order to Assess Whether this Project as Approved will Result in Unjust and Unreasonable Rates.

Because the Company has plans for an extraordinary amount of investment in the near term, the Commission must evaluate the overall project cost and its impact on rates in light of the tripling of Minnesota Power's rate base. The Commission must consider slowing Minnesota Power's investment pace, so rates remain just and reasonable.

Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable and any doubt as to reasonableness should be resolved in favor of the consumer.²⁴ Merely showing that the utility incurred expenses does not meet the utility's burden of demonstrating that it is just and reasonable for ratepayers to bear those expenses.²⁵

If implemented, the HVDC Modernization Project could potentially add close to one billion dollars to Minnesota Power's rate base. It appears that, as a result of the identified planned investments including the HVDC Modernization Project, Minnesota Power's rate base could triple over a twenty-year period from roughly \$1 billion in 2010 to approximately \$3 billion in 2030, all while the peak demand on its system drops from roughly 1800 MW to 1600 MW or less.²⁶ The first-year revenue requirements provided by Minnesota Power in its Certificate of Need Application range from \$86.4 million to \$101.86 million respectively – on a system wide basis, this range represents a substantive increase of 11.6% to 13.7% respectively, when compared to

²⁴ Minn. Stat. 216B.03; Minn. Stat. § 216B.16, subd. 4.

²⁵ *In re N. States Power Co.*, 416 N.W.2d 719, 723 (Minn. 1987).

²⁶ Ex. LPI-300 at 10:12-17 (Maini Direct).

present rate revenues.²⁷ The estimated rate increase for the HVDC Modernization Project to LPI's members ranges from 9.82% to 14.01%.²⁸

In addition to the cost of the Proposed Project, the Company is making significant investment in other transmission projects within the state and MISO has projected a cost range of \$17 billion to \$23 billion for its Tranche 2 Portfolio. Therefore, Minnesota Power ratepayers will bear cost responsibility for a portion of MISO's significant investment plans, in addition to bearing exclusive cost responsibility for the HVDC Project. Moreover, the proposed rate impacts, while highly substantial, do not fully reflect all of the rate increases that Minnesota Power ratepayers will be expected to bear in the future. Minnesota Power is a small utility, serving only approximately 150,000 customers. The projected investments, if approved, could result in rate shock and unjust and unreasonable rates. The Company and the Commission must be cognizant of this risk and control the rate at which investments can be approved, and appropriately conditioned, to ensure that Minnesota Power's rates are just and reasonable.

C. The Commission Should Reconsider the Policy Ramification and Potential Unintended Consequences of Its Decision.

The Commission should carefully consider the policy and potential unintended consequences of this decision so that utilities are not encouraged to propose and build major transmission projects outside of the regional planning process. Furthermore, the Commission should avoid sending any signal that significant investments of any kind, including transmission investments, can be approved on minimal record evidence and an absence of need. And where need is largely premised on an unquantified acknowledgment that the U.S. transmission system is aging and must be expanded and modernized, it is crucial that costs be broadly socialized. To be sure, if the utility fails to demonstrate a need to increase its transmission capacity or generating capacity based on the demands of its native load, then it is wholly unreasonable to approve construction and cost recovery exclusively from that native load. Given this crucial time in the development of regional transmission planning initiatives, LPI encourages the Commission to reevaluate the policy ramifications of its decision.

²⁷ Ex. MP-104 at 15 (Combined Application).

²⁸ Ex. MP-104 at 15 (Combined Application).

III. CONCLUSION

Because the Order fails to address substantive deficiencies in Minnesota Power’s attempt to meet state requirements for its Project, the Commission should amend its Order and remedy the aforementioned errors by conditioning approval of the certificate of need, by: (1) permitting only a like-size replacement at greatly reduced costs, instead of the HVDC System expansion Minnesota Power proposed; (2) limiting its approval to replacement of the aging components and if Minnesota Power chooses to move forward with the expansion, requiring it do so at its own risk without recovering Project costs until it can demonstrate its buildout resulted in financial benefit for Minnesota Power customers; (3) considering slowing Minnesota Power’s investment pace so rates remain just and reasonable; (4) imposing a cost cap of \$660 million for the Project; and (5) including conditions to protect customers from undue risk and ensuring that all benefits that result from the Proposed Project flow to customers and not Minnesota Power’s affiliates.

Accordingly, LPI respectfully urges the Commission to correct its Order in accordance with the suggestions made above, rendering it consistent with Commission precedent and established Minnesota law.

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Respectfully submitted,

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