

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

Katie Sieben	Chair
Joseph Sullivan	Vice-Chair
Valerie Means	Commissioner
Matt Schuerger	Commissioner
John Tuma	Commissioner

In the Matter of Minnesota Power’s
2021-2035 Integrated Resource Plan

DOCKET NO. E-015/RP-21-33

**REPLY COMMENTS OF THE OFFICE
OF THE ATTORNEY GENERAL**

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (“OAG”) respectfully submits these reply comments in response to the Minnesota Public Utilities Commission’s (“Commission”) July 13, 2022 Notice of Amended Reply Comment Schedule regarding the petition of Minnesota Power (“MP” or “the Company”) for approval of its 2021-2035 Integrated Resource Plan (“IRP”).

Sections I and II of these reply comments respond to the comments of the Minnesota Department of Commerce (“the Department”) and Section III responds to the comments of the Clean Energy Organizations (“CEOs”). The Department provided several recommendations to improve Minnesota Power’s proposed bidding process for future resource acquisitions; these recommendations would provide needed customer protections and should be adopted in full. In addition, the Department’s modeling supplement provides evidence that the proposed Nemadji Trail Energy Center (“NTEC”) would increase costs for Minnesota Power’s customers. Finally, the CEOs detailed the public health and environmental justice impacts of Minnesota Power’s thermal generation resources. The OAG supports the CEOs’ recommendation that these impacts be considered in this IRP.

ANALYSIS

I. THE DEPARTMENT'S RESOURCE ACQUISITION RECOMMENDATIONS SHOULD BE ADOPTED.

The Department's Initial Comments analyzed Minnesota Power's proposed bidding process for future resource acquisitions and provided several recommended improvements.¹ The Department's recommendations would provide valuable customer protections and should be adopted by the Commission.

Of the Department's bidding process recommendations, two would be particularly valuable customer protections. The first is the Department's recommendation that any right of first offer clauses in potential power purchase agreements ("PPA") be capped at net book value. As the Department explained, this requirement is necessary because both parties to a PPA have an incentive to inflate the right of first offer price.² Second, the Department recommended that any competitive bidding processes initiated by the Company for generation resources be required to seek proposals for both PPAs and build-operate-transfer projects.³ Open competitive bidding for renewables has routinely resulted in pricing far below utilities' resource plan projections.⁴ Harnessing competition ensures that customers are getting the best possible value for their money.

The Department's resource acquisition recommendations would provide valuable customer protections and they should be adopted in full.

¹ Department of Commerce, Initial Comments at 83-87 (Apr. 29, 2022) (eDocket No. [20224-185342-01](#)).

² *Id.* at 86.

³ *Id.* The OAG notes that the Department included this recommendation in its narrative discussion on page 86, but not in the list of bidding process recommendations on pages 87 and 92. However, Department Staff have confirmed that this omission was unintentional, and that the Department intends for it to be included in the list of recommendations.

⁴ *See, e.g.*, MP's 2016 solar RFP, as summarized in the Sedway Consulting Independent Evaluation Report (July 10, 2017) (eDocket No. [20211-169735-05](#)); Xcel Energy's response to PUC Staff Information Request 15 in Docket 19-368 (Sept. 23, 2021) (eDocket No. [202110-178521-08](#)); Xcel Energy Colorado's 2017 all-source bidding solicitation, as summarized in Xcel's response to OAG Information Request 4 in Docket 19-368 (July 7, 2021) (eDocket No. [20217-176294-05](#)). Even Otter Tail Power's recent solar RFP, which was not open to all developers, still resulted in much lower prices than forecasted in that utility's 2016 IRP (*In the Matter of Otter Tail Power Company's 2017-2031 Resource Plan*, Docket No. E-017/RP-16-386, Compliance Filing, ex. 1 (July 1, 2020) (eDocket No. [20207-164461-02](#)).

II. THE DEPARTMENT’S MODELING SUPPLEMENT PROVIDES ADDITIONAL EVIDENCE THAT THE NEMADJI TRAIL ENERGY CENTER WOULD INCREASE CUSTOMER COSTS.

While the Department’s modeling supplement did not examine a scenario in which NTEC was removed entirely, the Department did analyze the costs of Minnesota Power owning a 50 percent share or a 20 percent share of NTEC under its full range of contingencies, carbon futures, and load forecasts.⁵ Comparing the costs of 50 and 20 percent ownership under each scenario provides insight into NTEC’s potential cost impact.

The Department’s modeling shows that reducing the NTEC ownership share would lower costs in 87 percent of the scenarios analyzed, with average savings of \$118 million. The results are also remarkably robust: reducing NTEC ownership would lower costs (on average) in all carbon futures, under both load forecasts, and in virtually all contingencies examined by the Department. Moreover, the only contingencies in which reducing NTEC ownership would not reduce cost—i.e., the “No Sales and Purchases” scenario and the “50 percent Lower Gas Price” scenario—are arguably the two least likely contingencies examined.⁶ When these two improbable contingencies are excluded, reducing the NTEC ownership share would lower costs in 91 percent of scenarios.

Thus, the Department’s supplemental modeling suggests that NTEC will increase costs for customers. This provides further support for the OAG’s recommendation that the Commission remove NTEC from the resource plan and rescind the NTEC affiliated-interest agreements.

III. THE COMMISSION SHOULD CONSIDER THE PUBLIC HEALTH AND ENVIRONMENTAL JUSTICE IMPACTS OF MINNESOTA POWER’S GENERATION RESOURCES IN THIS IRP.

The CEOs presented compelling analyses regarding the public health and environmental justice impacts of Minnesota Power’s thermal generation resources. Specifically the CEOs found

⁵ Department of Commerce, Supplemental Comments, Attachment 4 (July 29, 2022) (eDocket No. [20227-187976-01](#)).

⁶ While the “No Sales and Purchase” scenario may be a useful thought exercise, it does not reflect the reality that Minnesota Power is—and presumably will continue to be—a member of MISO. In addition, the [Henry Hub](#) natural gas price rose from \$2.71/MMBtu in January 2021 (i.e., when MP filed its IRP) to \$7.28 in July 2022; thus, the prospect of gas prices falling 50 percent from MP’s IRP forecast appears highly unlikely.

that “emissions from Boswell, Hibbard, and Minnesota Power’s purchases from Milton R. Young were responsible for excess deaths and \$177 million in public health costs in 2021” and that operating these plants through 2035 would result in “an additional 100 premature deaths (on average, 6-7 deaths per year) and over \$1 billion in public health costs.”⁷ Moreover, the CEOs found that the impact of the pollution from these plants is not distributed equally, but falls disproportionately on low-income communities and communities of color. The CEOs argued that the Hibbard generation facility was a particularly large source of public health costs, and that its pollution disproportionately impacts lower-income communities and Native populations.⁸ Similar concerns were also raised by the Fon du Lac Band of Lake Superior Chippewa.⁹

If true,¹⁰ the findings of the CEOs’ analysis are deeply concerning. The OAG is charged with identifying and promoting the needs of residential and small business consumers,¹¹ and Attorney General Keith Ellison strives to help Minnesotans afford their lives and live with dignity, safety, and respect. Clean air is not a luxury, it is essential to Minnesotans’ safety and dignity. If Minnesota Power’s generation resources are increasing public health costs and shortening Minnesotans’ lives, it is imperative to account for these impacts in resource planning.

The OAG supports the CEOs’ recommendation that the Commission “consider the magnitude of these public health impacts when making decisions about future plant operations and Minnesota Power’s generation portfolio,” particularly with respect to the Hibbard plant.¹²

⁷ Clean Energy Organizations, Initial Comments at 70-71 (Apr. 29, 2022) (eDocket No. [20224-185372-02](#)).

⁸ *Id.* at 72-74.

⁹ Fon du Lac Band of Lake Superior Chippewa, Comments at 2-4 (June 29, 2022) (eDocket No. [20226-186996-01](#)).

¹⁰ The OAG has not critically analyzed the CEO’s quantitative analysis but has no reason to doubt its veracity.

¹¹ Minn. Stat. § 8.33, subd. 2.

¹² Clean Energy Organizations, Initial Comments at 74 (Apr. 28, 2022) (eDocket No. [20224-185372-02](#)).

CONCLUSION AND RECOMMENDATION

The Department of Commerce's recommendations regarding the bidding process for future resource acquisitions would provide essential customer protections and should be approved in full. Further, the Department's supplemental modeling provides additional evidence that NTEC would increase customer costs and is not in the public interest. In addition, the CEOs presented compelling analyses regarding the public health and environmental justice impacts of Minnesota Power's thermal generation resources; the OAG supports the CEOs' recommendation that these impacts be considered in this IRP, particularly with respect to the Hibbard plant. Finally, the OAG continues to recommend that the Commission remove NTEC from Minnesota Power's resource plan and rescind the NTEC affiliated-interest agreements.

Dated: August 29, 2022

Respectfully submitted,

KEITH ELLISON
Attorney General
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/s/ **Andrew Twite**

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August 29, 2022

Mr. Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

Re: *In the Matter of Minnesota Power's 2021-2035 Integrated Resource Plan*
MPUC Docket No. E-015/RP-21-33

Dear Mr. Seuffert:

Enclosed and e-filed in the above-referenced matter please find Reply Comments of the Minnesota Office of the Attorney General—Residential Utilities Division.

By copy of this letter all parties have been served. A Certificate of Service is also enclosed.

Sincerely,

/s/ **Kristin Berkland**

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Enclosures

CERTIFICATE OF SERVICE

Re: *In the Matter of Minnesota Power's 2021-2035 Integrated Resource Plan*
MPUC Docket No. E-015/RP-21-33

I, JUDY SIGAL, hereby certify that on the 29th day of August, 2022, I e-filed with eDockets *Reply Comments of the Minnesota Office of The Attorney General—Residential Utilities Division* and served a true and correct copy of the same upon all parties listed on the attached service list by e-mail, electronic submission, and/or United States Mail with postage prepaid, and deposited the same in a U.S. Post Office mail receptacle in the City of St. Paul, Minnesota.

/s/ Judy Sigal

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