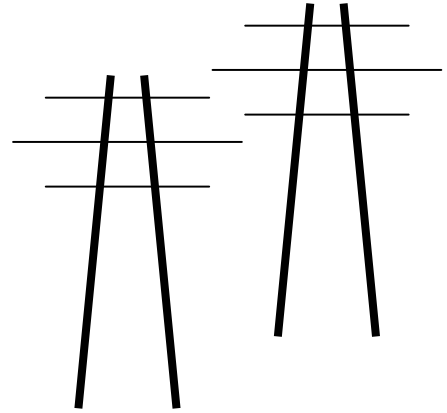


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January 17, 2018

Dan Wolf
Executive Secretary
Public Utilities Commission
121 – 7th Place East, Suite 350
St. Paul, MN 55101

via eFile and eServe

RE: Motion for Reconsideration – Neighbors Against the Burner, Carol A. Overland
and Alan Muller
PUC Docket Number: E002/M-17-532

Dear Mr. Wolf

On behalf of Neighbors Against the Burner, myself, and Alan Muller, enclosed please find Motion for Reconsideration in the above-entitled docket.

Please let me know if you have any questions or require anything further.

Very truly yours,

Carol A. Overland
Attorney at Law

Enclosure

cc: Service via eFiling and eService
Nancy Hone – Neighbors Against the Burner

**BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

**Nancy Lange
Dan Lipschultz
Matt Schuerger
Katie Sieben
John A. Tuma**

**Chair
Commissioner
Commissioner
Commissioner
Commissioner**

**In the Matter of Petition for Approval of
an Amendment to the HERC PPA**

PUC Docket Number: E002/M-17-532

Certificate of Service

I, Carol A. Overland, hereby certify that I have this day, served copies of the attached Motion for Reconsideration by electronic eFiling and eService



January 17, 2018

Carol A. Overland MN #254617
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**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

**Nancy Lange
Dan Lipschultz
Matt Schuerger
Katie Sieben
John A. Tuma**

**Chair
Commissioner
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Commissioner**

**In the Matter of Petition for Approval of
an Amendment to the HERC PPA**

PUC Docket Number: E002/M-17-532

MOTION FOR RECONSIDERATION

**NEIGHBORS AGAINST THE BURNER,
ALAN MULLER, AND CAROL A. OVERLAND**

Neighbors Against the Burner, Alan Muller, and Carol A. Overland, commentors in the above-captioned docket, bring this Motion for Reconsideration of the Commission's decision to deny the Power Purchase Agreement Minn. R. 7829.3000; Minn. Stat. §216B.25; Minn. Stat. §216B.27. While we strongly support denial of the proposed amendment, we are also concerned about some of the details and perhaps unintended consequences.

Neighbors Against the Burner, a state-wide advocacy organization focusing on waste management and air equality issues, Alan Muller as an individual, and Carol A. Overland as an individual, ask that the Commission reconsider its decision and address details including adding Order points to reflect that the parties must return to the Commission with a proposed amendment and set a deadline for filing of that proposed amendment; that the current Power Purchase Agreement is not a reasonable approximation of the current fair market value of HERC's electrical output and not valid for the interim; that parties must propose an interim

agreement immediately; and that HERC must use best efforts to secure a renewed air permit. The Commission must also assure that parties commenting and participating in this docket receive notice of filings of an interim agreement and/or amendment if it is filed in a docket other than this docket.¹

I. THE PARTIES MUST RETURN TO THE COMMISSION WITH A PROPOSED AMENDMENT AND SET A DEADLINE FOR FILING OF THAT PROPOSED AMENDMENT.

During Commission deliberation and discussion, there was agreement that the current agreement is not a reasonable approximation of the current fair market value of HERC's electrical output, and there was a conclusion that the parties must, and would, return to the Commission with a revised amended agreement. However, there were no deadlines set. In the interim, it appears that the unreasonably high priced power purchase agreement may still be in effect. Ratepayers are overcharged as this unreasonably high priced power purchase agreement remains. For this reason, Neighbors Against the Burner, Alan Muller, and Carol A. Overland request that the Commission set a deadline for return to the Commission with another agreement to protect the ratepayers against overpriced HERC energy.

II. PARTIES MUST PROPOSE AND FILE AN INTERIM AGREEMENT IMMEDIATELY.

Upon information and belief, the parties are working on an interim agreement. Mr. Muller contacted Hennepin County and learned that an interim agreement was in the works and that "the price is based off the MISO market price," was expected to be complete with a matter of days, but no further information has been provided and no contract has been filed. That was some time ago, and it has yet to be filed. As of this date, the parties may still be operating under the unreasonably priced agreement.

¹ Neighbors Against the Burner also notes that while its earlier Petition to Intervene was not acted on, another will be filed when the next Comment period opens, to keep the public and the public interest represented in this docket.

Neighbors Against the Burner, Alan Muller, and Carol A. Overland request that the Commission require an interim agreement be filed immediately to protect the ratepayers against continued price-gouging while Commission approval of an amendment to the Power Purchase Agreement is pending.

III. HERC MUST USE BEST EFFORTS TO SECURE A RENEWED AIR PERMIT.

In comments, and in Commission discussion and deliberation, it was noted that the air Permit for the HERC burner has expired, and has been expired for many years. It was also correctly noted that the Commission does not have jurisdiction over air permits, which rests with the Minnesota Pollution Control Agency. However, the Commission does have authority to put conditions on an Order, which it often does in siting permits, stating that the applicant must be permitted from specific agencies.

Neighbors Against the Burner, Alan Muller, and Carol A. Overland request that the Commission condition approval of an amendment on HERC permit renewal, with notice to both parties and the MPCA of this condition. The Commission does have the ability to spur action on the part of the MPCA.

IV. RECORD REFLECTS DECADES OF OVERCHARGES TO RATEPAYERS

The record so far developed in this matter and especially the analysis by Mr. Rakow, makes clear that Xcel ratepayers have been paying excessive rates for HER power for many years. This is a clear indication that the Commission should pay close attention to this matter in order that ratepayer interests be protected going forward. The Commission should also consider reimbursement to ratepayers in a rate true-up for these admittedly excessive costs, whether just

during this interim period, or going back to when the overcharges were first brought to Commission attention, or going back to the original execution of the Power Purchase Agreement.

Neighbors Against the Burner, Alan Muller, and Carol A. Overland ask that the Commission reconsider its decision, as above, and amend its Order points to reflect that the parties must return to the Commission with a proposed amendment and set a deadline for filing of that proposed amendment; that the current Power Purchase Agreement is not a reasonable approximation of the current fair market value of HERC's electrical output and not valid for the interim; that parties must propose an interim agreement immediately; and that HERC must use best efforts to secure a renewed air permit.

Respectfully submitted,

January 17, 2018



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