

September 30, 2019

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

RE: **Supplemental Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E999/CI-19-9

Dear Mr. Wolf:

The Minnesota Department of Commerce, Division of Energy Resources (Department) files these supplemental comments in response to the Minnesota Public Utilities Commission's (Commission) August 30, 2019 *Notice of Supplemental Comment Period* (Notice) in the following matter:

In the Matter of 2019 Cogeneration and Small Power Production Reports.

The Notice identified the following overall issue and items open for comment:

Issue: What, if any, of the trade secret designated information in Minnesota Power, Otter Tail Power, and Xcel Energy's Annual Cogeneration and Small Power Production reports should be filed as public?

Topic(s) 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.
- 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.
- 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?

- 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 non- disclosure agreement.

The Department provides this brief background and response.

Between January 2 and January 18, 2019, Minnesota Power, Otter Tail Power, and Xcel Energy filed their 2019 annual cogeneration and small power production reports in this docket; including filing requirements outlined in Minn. Rules Chapter 7835, which result in annual updates to compensation rates for qualifying distributed generation facilities.

On January 29, 2019, Joint Commenters (Environmental Law and Policy Center and Institute for Local Self-Reliance) filed comments objecting to the utility’s Trade Secret designation of their annual cogeneration and small power production tariff filings.

Between February 22 and March 18, 2019, the Commission received comments from the Department of Commerce, Joint Commenters, Minnesota Power, Otter Tail Power, Ridge Energy LLC, and Xcel Energy.

On August 22, 2019, the Commission met to consider this issue. The Commission requested supplemental comments addressing the topics outlined in the above-referenced Notice. During oral arguments and in the initial round of comments, Minnesota Power, Otter Tail Power and Xcel Energy proposed making some of the previously designated trade secret data public.

On September 10, 2019, Minnesota Power, Otter Tail Power and Xcel Energy, submitted compliance filings that included resubmissions of their annual cogeneration and small power production tariff filings with some information initially marked as trade secret now marked as public.

The Department reviewed the electric utilities compliance filings and note that they are all similar in that each utility determined that since their 2019 estimated marginal energy costs can be accessed in other regulatory filings publicly or can be derived using publicly available information, they can make these costs public for their 2019 cogeneration and small power production tariff filings. In addition, Otter Tail made the following information public, which Minnesota Power and Xcel Energy – Electric already considered public:

- Subp. 4. Utility’s overall average percentage of line losses due to distribution, transmission, and transformation of electric energy.
- Subp. 5 The Averaged on Peak hours and Average Over All Hours.
- Subp. 6 The Averaged on Peak hours and Average Over All Hours used to calculate the Net annual avoided capacity cost.

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The Department appreciates the changes in trade secret designation made by each of the electric utilities.

On September 30, 2019, the three electric utilities will respond to topics b, c and d of the Commission's Notice. On October 10, 2019 the Department will submit Reply Comments to the utilities' September 30, 2019 comments.

Sincerely,

/s/CHRISTOPHER T. DAVIS
Analyst Coordinator

CTD/ar
Attachment

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Supplemental Comments**

Docket No. E999/CI-19-9

Dated this **30th** day of **September 2019**

/s/Sharon Ferguson

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