

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Dan Lipschultz	Commissioner
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
John A. Tuma	Commissioner

In the Matter of Basin Electric Power  
Cooperative's Integrated Resource Plan

ISSUE DATE: October 4, 2019

DOCKET NO. ET-6125/RP-19-425

ORDER GRANTING INTERVENTION  
AND REQUIRING BASIN TO  
RESPOND TO INFORMATION  
REQUESTS

**PROCEDURAL HISTORY**

On June 27, 2019, Basin Electric Power Cooperative (Basin or the Cooperative) filed its optional integrated resource plan (O-IRP) under Minn. Stat. § 216B.242, subd. 2b.

On July 16, 2019, Sierra Club, Fresh Energy, and Minnesota Center for Environmental Advocacy (Petitioners) filed a petition to intervene in the proceeding; Petitioners also filed certain information requests (IRs) on that date.

On July 27, 2019, the Cooperative filed an objection to the petition to intervene and the information requests. Basin argued that Petitioners did not meet the grounds for intervention to participate in an O-IRP proceeding and, that as Petitioners were not (yet) designated as a party to the proceeding, they had no right to file discovery requests.

On September 12, 2019, the Commission met to consider the matter.

**FINDINGS AND CONCLUSIONS**

**I. Optional Integrated Resource Plan Statute**

The 2012 Minnesota Legislature amended the integrated resource plan statute, Minnesota Statutes § 216B.2422, by adding subdivision 2b. Subdivision 2b, entitled "Optional Integrated Resource Plan Compliance," allows generating and transmission cooperative electric associations for certain cooperatives located outside of Minnesota, which provide less than four percent of the electricity annually sold at retail in the state of Minnesota, to, in lieu of filing a resource plan under subdivision 2 of the statute, file a report under subdivision 2b.

Under subdivision 2b, a generating and transmission electric cooperative that has at least 80 percent of its membership located outside of Minnesota and that provides less than four percent of the state's annual retail electricity may instead file a yearly report with projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies.

## **II. Standard for Intervention**

Minn. R. 7829.0800, subp. 2 states that a petition for intervention must be granted upon a showing that:

- 1) The person is specifically considered by statute to be interested in the particular type of matter at issue;
- 2) The person is specifically declared by statute to be an interested party;
- 3) The outcome of the proceeding will bind or affect the person with respect to an interest peculiar to that person, as distinguished from an interest common to the public or other ratepayers in general; or
- 4) The person's interests are not adequately represented by one or more other parties participating in the case.

## **III. The Petition to Intervene**

Petitioners are non-profit environmental organizations that have regularly participated in resource planning dockets before the Commission. Petitioners argue that the Commission should grant the petition to intervene pursuant to Minn. R. 7829.0800 and 7843.0300 on the grounds that:

- Sierra Club members in Basin service territory have an interest in maximizing the amount of their electricity consumption that comes from renewable, affordable, and environmentally responsible energy resources;
- Petitioners regularly participate in Integrated resource plan proceedings with an interest in advancing resource choices that minimize or eliminate pollutant emissions and advancing the transition to clean, affordable, renewable energy and energy efficiency; and
- Basin's O-IRP has real consequences for future proceedings and resource decision in which the petitioners have an interest in the outcomes.

Petitioners argue that no other party adequately represents their interests in this proceeding. Petitioners assert that they wish to ensure that Basin's O-IRP is appropriately designed to advance the goals of energy conservation, increased use of renewable energy, and affordability. Petitioners also assert that they have an interest in understanding the costs of the cooperative's generating resources and whether Basin explored lower cost, cleaner resource alternatives that may be necessary to achieve Minnesota's greenhouse gas emission targets.

## **IV. Basin's Response**

Basin objected to Petitioners' motion to intervene in this proceeding. Basin argued that Petitioners failed to satisfy any of the grounds on which intervention could be granted, arguing first that 1) Petitioners are not persons who are specifically considered by the O-IRP statute to be

interested in the particular type of matter at issue; and 2) Petitioners have not been declared to be interested parties under the statute.

Basin also argued that Petitioners have provided no support that would satisfy the third or fourth prong of Minn. R. 7829.0800, subp. 2—that they “have an interest in the outcome of this proceeding” and that “[n]o other party can adequately represent their organizations” interests. Finally, Basin argued that Petitioners cannot show that the outcome of the proceeding will bind or affect them with respect to an interest peculiar to them and as distinguished from an interest common of the public or other ratepayers in general.

Finally, Basin asserted that, as Petitioners had not yet established its status as a party, Basin did not substantively address any objections it might have to the specific discovery requests posed.

## **V. Commission Action**

The resource planning rules allow interested persons to intervene in resource plan proceedings under the Commission’s general rules of practice and procedure.<sup>1</sup> Under those rules persons may intervene in Commission proceedings that will affect interests peculiar to them. The Petitioners have longstanding, widely recognized, and distinct interests in preserving the natural environment and advancing resource choices that minimize or eliminate pollutant emissions, and advancing the transition to clean, affordable, renewable energy and energy efficiency.

Petitioners meet the requirements for intervention and the Commission will therefore grant Petitioners’ petition to intervene in this proceeding. Prior Commission orders recognize that the Commission has discretion and wide latitude in how to handle resource plan proceedings, and both the O-IRP statute and prior orders allow the Commission to take any action in an O-IRP that it could take on a resource plan filed by a cooperative.

Finally, the Commission has frequently allowed environmental and consumer advocacy groups such as Petitioners to intervene in numerous past resource planning proceedings. The Commission finds no reason to depart from the broad participatory practice traditionally common in Minnesota in this matter.

Accordingly, the Commission will grant the petition to intervene.

Having taken such action, the Commission will order Basin to respond or otherwise object to the Information Requests filed by Petitioners that are within the statutory scope of this type of proceeding. Basin shall file specific objections to each separate request with the Commission within 14 days, detailing why the particular request is beyond the scope of Minn. Stat. § 216B.2422, subd. 2b.

It is so ordered.

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<sup>1</sup> Minn. R. part 7843.0400, subp. 2.

## ORDER

1. The Commission grants Petitioners' petition to intervene.
2. Within 14 days, Basin Electric Power Cooperative shall respond to Information Requests from the parties that are within the statutory scope of this type of proceeding or file with the Commission specific objections to each separate request detailing why the particular request is beyond the scope of Minn. Stat. § 216B.2422, subp. 2b.
3. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf  
Executive Secretary



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