

Staff Briefing Papers

Meeting Date June 18, 2020 Agenda Item 3**

Company Basin Electric Power Cooperative

Docket No. **ET-6125/RP-19-425**

In the Matter of Basin Electric Power Cooperative’s (Basin) Integrated Resource Plan

Issues Should the Commission grant approval of Sierra Club, Fresh Energy, and the Minnesota Center for Environmental Advocacy’s (SCFEMCEA, Environmental Intervenors or EI) Motion to Compel Basin’s Response to Information Requests (IRs)?

What action should the Commission take on Basin Electric Power Cooperative’s (Basin) Optional Integrated Resource Plan?

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 **Relevant Documents**

Date

Basin Electric Power Cooperative O-IRP (Initial Filing)	June 27, 2019
SCFEMCEA Petition to Intervene	July 16, 2019
SCFEMCEA Information Requests	July 16, 2019
Basin Electric Power Cooperative, Objection	July 26, 2019

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

 **Relevant Documents**

Date

Commission Order Granting Intervention and Requiring Basin to Respond to Information Request	October 4, 2019
Basin Response to SCFEMCEA Information Requests	October 18, 2019
SCFEMCEA Motion to Compel	November 1, 2019
Public Utilities Notice of Comment Period	11/21/2019
Minnesota Rural Electric Cooperative Comments	12/13/2019
State Senator Dan Sparks Comments	12/13/2019
Basin Comments	12/20/2019
Dairyland Power Cooperative Comments	12/20/2019

I. Statement of the Issues

- A. Should the Commission grant approval of Sierra Club, Fresh Energy, and the Minnesota Center for Environmental Advocacy's (SCFEMCEA, Environmental Intervenors or EI) Motion to Compel Basin's Response to Information Requests (IRs)?
- B. What action should the Commission take on Basin Electric Power Cooperative's (Basin) Optional Integrated Resource Plan?

II. Background

On June 27, 2019, Basin filed its 2019 Optional Integrated Resource Plan (O-IRP) pursuant to Minn. Stat. § 216B.2422; Subd. 2b.

On July 16, 2019, the Environmental Intervenors petitioned to intervene in the proceeding and simultaneously filed the following set of six IRs to Basin:

1. For each of Basin Electric Power Cooperative's coal fired electric generating units referenced on page 3 of its IRP, please provide the following information:
 - a. Remaining book life for each unit as of the present date
 - b. A copy of most recent depreciation study/analysis, and the current depreciation schedule
 - c. Fixed operating and maintenance expenses ("O&M") by unit for the last three years
 - d. Variable O&M by unit for the last three years
 - e. Fuel contract duration and terms
 - f. Percentage of fuel by unit that is purchased on the spot market
 - g. Break fees, if any, that are stipulated in existing fuel contracts
 - h. Copies of the existing fuel contracts
 - i. Planned capital additions
 - 1) Environmental capital expenditures
 - 2) Non-environmental capital expenditures
 - 3) Depreciable life for each of the above capital additions
 - j. Recent capital additions
 - 1) Identify and describe any capital project over \$5 million at any unit over past 5 years
 - k. Outage information
 - 1) Number and duration of forced outages, maintenance outages, and other derating events, by unit, by month, over past five years
 - 2) Projected effective forced outage rate, by unit, by month, for next 10 years
 - 3) Any planned derates or uprates of coal plant capacity for next 10 years

- 4) Current heat rate of each unit and projected changes in heat rate for each unit for next 10 years.
2. Please reference page 5 of the IRP, stating that “Basin Electric released a Power Supply Request for Proposals (RFP) in February of 2019 and received proposal packages back in March 2019.”
 - a. Please provide a copy of the RFP
 - b. Please provide the responses to the RFP
 - c. Please provide a summary of the RFP responses, including resource type, size, timing, and price as a levelized cost of energy, if available.
3. For each of the company’s coal-fired electric generating units referred to on page 3 of the IRP, please provide any existing analysis in Basin Electric Power Cooperative’s possession comparing the cost of continued operation of the unit with retiring and replacing the unit's energy and capacity with a combination of any of the following energy resources:
 - Demand-side management
 - Market purchases
 - Purchase power agreements
 - Existing natural gas combined cycle plant or combustion turbine(s)
 - New natural gas combined cycle plant or combustion turbine(s)
 - Conversion of existing natural gas combined cycle plant or combustion turbine(s)
 - Combined heat and power
 - Wind
 - Solar
 - Geothermal
 - Energy storage
 - Demand response
 - Any combination of the above
4. Please refer to page 4 of the IRP. Please provide the agreements under which Basin Electric Power Cooperative purchases output from George Neal Station Unit 4, Walter Scott Units 3 & 4, and Boswell Energy Center Unit 4.
5. Please refer to page 5 of the IRP: “Basin Electric is forecasting its entire member system to grow by more than 1900 MW between 2019 and 2050; with more than 600 MW of this anticipated load growth related to oil development within the Williston Basin area of North Dakota and Montana.” Please provide the referenced load forecast and underlying assumptions.
6. Please refer to page 5 of the IRP, referencing a power purchase agreement for 200 MW signed in 2016 for the Burke Wind project and a second power purchase agreement

signed in 2017 for Prevailing Wind Park. Please provide the power purchase price of wind in each PPA in \$/MWh. If the price is not available in that format, please provide it in the format in which it is available.

On July 27, 2019, Basin filed an objection to the petition to intervene and the information requests.

On October 4, 2019, the Minnesota Public Utilities Commission (Commission) issued its *Order Granting Intervention and Requiring Basin to Respond to Information Requests*. In its Order, the Commission required Basin to respond to Information Requests, within 14 days, 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.¹

On October 18, 2019, with the exception of IR 5 (relating to Basin's forecast of anticipated load growth) – Basin objected to the Environmental Intervenors' IRs as beyond the scope of Minn. Stat. § 216B.2422, subp. 2b. Specifically, Basin objected to each of these IRs because the information sought was:²

- a. Not relevant;
- b. Not aggregate data;
- c. Outside of Minnesota and therefore exceeds the jurisdiction of the Commission; and
- d. Unreasonably burdensome.

On November 1, 2019, the Environmental Intervenors (EI) filed a motion seeking to Compel Basin to respond to the following IRs:³

- IR 1 (a), (c), (d), (i), and (j);
- IR 2(b);
- IR 4; and
- IR 6.

With respect to IR 1, EI further limited the scope of its request to information related to Basin's coal-fired generating units in the eastern interconnect.

III. Minnesota IRP⁴ and O-IRP Statute⁵

Minn. Stat. § 216B.2422 states the following:

¹ *Order Granting Intervention and Requiring Basin to Respond to Information Requests*, October 4, 2019, Ordering ¶12, p. 4.

² Basin Response to SCFEMCEA Information Requests, October 18, 2019, pp. 14-30.

³ SCFEMCEA Motion to Compel, November 1, 2019, p. 3.

⁴ Minn. Stat. § 216B.2422.

⁵ Minn. Stat. § 216B.2422, Subd. 2b.

216B.2422 RESOURCE PLANNING; RENEWABLE ENERGY.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Utility" means an entity with the capability of generating 100,000 kilowatts or more of electric power and serving, either directly or indirectly, the needs of 10,000 retail customers in Minnesota. Utility does not include federal power agencies.

(c) "Renewable energy" means electricity generated through use of any of the following resources:

- (1) wind;
- (2) solar;
- (3) geothermal;
- (4) hydro;
- (5) trees or other vegetation;
- (6) landfill gas; or
- (7) predominantly organic components of wastewater effluent, sludge, or related by-products from publicly owned treatment works, but not including incineration of wastewater sludge.

(d) "Resource plan" means a set of resource options that a utility could use to meet the service needs of its customers over a forecast period, including an explanation of the supply and demand circumstances under which, and the extent to which, each resource option would be used to meet those service needs. These resource options include using, refurbishing, and constructing utility plant and equipment, buying power generated by other entities, controlling customer loads, and implementing customer energy conservation.

(e) "Refurbish" means to rebuild or substantially modify an existing electricity generating resource of 30 megawatts or greater.

Subd. 2. **Resource plan filing and approval.** (a) A utility shall file a resource plan with the commission periodically in accordance with rules adopted by the commission. The commission shall approve, reject, or modify the plan of a public utility, as defined in section 216B.02, subdivision 4, consistent with the public interest.

(b) In the resource plan proceedings of all other utilities, the commission's order shall be advisory and the order's findings and conclusions shall constitute prima facie evidence which may be rebutted by substantial evidence in all other proceedings. With respect to utilities other than those defined in section 216B.02, subdivision 4, the commission shall consider the filing requirements and decisions in any comparable proceedings in another jurisdiction.

(c) As a part of its resource plan filing, a utility shall include the least cost plan for meeting 50 and 75 percent of all energy needs from both new and refurbished generating facilities through a combination of conservation and renewable energy resources.

Subd. 2a. **Historical data and advance forecast.** Each utility required to file a resource plan under this section shall include in the filing all applicable annual information required by section 216C.17, subdivision 2, and the rules adopted under that section. To the extent that a utility complies with this subdivision, it is not required to file annual advance forecasts with the department under section 216C.17, subdivision 2.

Subd. 2b. **Optional integrated resource plan compliance for certain cooperatives.** For the purposes of this subdivision, a "cooperative" means a generating and transmission cooperative electric association that has at least 80 percent of its member distribution cooperatives located outside of Minnesota and that provides less than four percent of the electricity annually sold at retail in the state of Minnesota. A cooperative may, in lieu of filing a resource plan under subdivision 2, elect to file a report to the commission under this subdivision. The report must include projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies. To supply the information required in a report under this subdivision, a cooperative may use reports submitted under section 216C.17, subdivision 2, reports to regional reliability organizations, or similar reports submitted to other state utility commissions. A report must be submitted annually by July 1, but the commission may extend the time if it finds the extension in the public interest. Presentation of the annual report shall be done in accordance with procedures established by the commission. Data in a report under this subdivision may be aggregate data and need not be separately reported for individual distribution cooperative members of the cooperative. The commission may take whatever action in response to a report under this subdivision that it could take with respect to a report by a cooperative under subdivision 2.

...

IV. Introduction

In these Briefing Papers Staff provides a long discussion on the history of Integrated Resource Plans (IRP) and Commission jurisdiction over Cooperatives required to file an IRP. In particular, staff notes the Commission's practice of taking a light regulatory touch toward the generating and transmission cooperative electric associations, Basin and Dairyland Power Cooperative, since the passage of the Minn. Stat. § 216B.2422; Subd. 2b in 2012. While this statutory provision allows the Commission broad discretion for taking action in response to reports filed under the statute, the Commission appears to have interpreted Subd. 2b as reducing the regulatory burden upon generating and transmission cooperative electric associations who may file a report in lieu of an IRP filed under subdivision 2.

After Basin filed its 2019 Optional Integrated Resource Plan (O-IRP) pursuant to Minn. Stat. § 216B.2422; Subd. 2b (Optional-IRP or O-IRP report statute), the Environmental Interveners petitioned to intervene in the proceeding and simultaneously filed a set of six IRs to Basin. Basin objected to both the petition to intervene and the information requests, and the Commission issued its October 4, 2019 *Order Granting Intervention and Requiring Basin to Respond to Information Requests*. The Order required Basin to respond to the IRs within 14 days or file with the Commission specific objections to each separate request detailing why the particular

request is beyond the scope of the O-IRP statute. Basin objected to 5 of the 6 IRs filed by the EI as beyond the scope of the O-IRP statute, and on November 1, 2019, EI filed a motion seeking to compel Basin to respond to parts of 4 of the original set of 6 IRs.

The Environmental Intervenors are composed of three groups: Fresh Energy, Minnesota Center for Environmental Advocacy, and Sierra Club. Fresh Energy is an independent energy policy nonprofit dedicated to leading Minnesota's transition to a clean energy economy through policy analysis and advocacy in legislative and regulatory settings. The Minnesota Center for Environmental Advocacy (MCEA) is a nonprofit environmental organization that works in the courts, the legislature, and state agencies to protect Minnesota's wildlife, natural resources and the health of Minnesotans. Sierra Club is a national nonprofit environmental organization with approximately 790,000 members nationwide, and over 18,700 members in Minnesota. Sierra Club works to protect and improve air and water quality in Minnesota, limit the adverse effects of climate change, and promote Minnesota's transition to clean and affordable energy. EI stated it has an interest in the outcome of basin's O-IRP proceeding, because Basin's O-IRP has a direct impact on its resource decisions. Consistent with each of the Environmental Intervenors respective missions, EI stated they all regularly participate in resource planning proceedings before the Commission 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.⁶

In its October 4, 2019 Order, the Commission recognized that the Environmental Intervenors "...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."⁷

Basin described itself as a three-tier generation and transmission (G&T) cooperative that currently serves 141 member distributive cooperatives in nine states. Basin supplies wholesale power to its member distribution cooperatives. Basin has no generation facilities in Minnesota and its 12 Minnesota member cooperatives constitute nine percent of Basin's membership. Basin also stated it has no plans to build generation facilities in Minnesota.⁸

A. Commission Jurisdiction

In its Objection to the Environmental Intervenor's IR's, Basin provided specific objections to each IR, which will be described below. However, Basin also objected to the Commission's jurisdiction and authority to grant EI's motion to Compel. Therefore, before addressing whether the remaining IRs in EI's motion to compel fall within the scope of the O-IRP statute, the Commission may wish to address Basin's assertion of the Commission's limited authority to decide the matter.

⁶ SCFEMCEA Petition to Intervene, pp. 2-3.

⁷ Commission Order Granting Intervention and Requiring Basin to Respond to Information Request, October 4, 2019, p. 3.

⁸ Basin Response to SCFEMCEA Information Requests, October 18, 2019, p. 2.

Basin's argument ultimately rests on its belief that the Commission lacks jurisdiction over Basin resource planning. To date, Basin argued neither the Commission nor Environmental Intervenor have addressed the limited nature of the PUC's jurisdiction over Basin.⁹ Given the jurisdictional concerns, Basin asserted that no party should be allowed to use discovery to probe for resource planning analysis and data that cannot be helpful to the Commission in fulfilling the limited role that it has in an O-IRP proceeding. Basin emphasized that Commission's order on the Report is "advisory" only and only the Cooperative's Board has decision-making authority over resource planning. Basin was clear that EI's discovery would not be helpful to the Board's resource planning.¹⁰

According to Basin, the primary issue before the Commission is whether the Cooperative satisfied the requirements of the O-IRP Report Statute by submitting a report that "include[s] projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies." Basin answered that there is no serious dispute regarding whether it has satisfied this requirement of the O-IRP Statute. Therefore, Basin argued any additional discovery would not be relevant to the Commission's advisory decision regarding whether the Report is complete.¹¹

Basin claimed further that the Commission's jurisdiction is limited and it may only act in an advisory, and not in a regulatory, capacity. Since the Commission lacks resource-planning jurisdiction, Basin argued the IRs relating to resource planning are not relevant, and the Commission must deny the Motion to Compel. According to Basin, the Commission's limited jurisdiction to only act in an advisory capacity is fatal to the Motion.¹² Basin's argument extends beyond the O-IRP statute to all Cooperatives filing traditional IRP's subject to Minn. Stat. § 216B.2422, Subd. 2:

Given the Commission's limited jurisdiction, the Motion to Compel should be denied whether this matter was proceeding as a traditional IRP or by filing of a streamlined O-IRP report. In both cases, Commission lacks resource-planning jurisdiction. Under Minnesota law, that right rests with Basin Electric's Board of Directors. With that right comes the Board's responsibility to ensure the Cooperative complies with the requirements of various state laws, as well as the requirements of the Midcontinent Independent System Operator, Southwest Power Pool and North American Electric Reliability Corporation.¹³

⁹ Basin Comments, December 20, 2019 p. 3.

¹⁰ *Id.*, p. 7.

¹¹ *Id.*, p. 4, 12.

¹² *Id.*, p. 3.

¹³ *Id.*, fn. 6, p. 3.

B. PUC Notice of Comments

On November 21, 2019, Commission Staff issued a Notice of Comment Period seeking additional insight and clarification into the scope of the Minnesota IRP and O-IRP statute. Specifically, Commission Staff was seeking additional Comments from interested Parties interpreting the above statutes and the limitations the statutes place, if any, on the Commission's ability to compel information from Cooperatives – and, if so, under what circumstances these limitations would be in effect.

C. Comments on Specific Topics in PUC Notice

The Commission received comments from Minnesota State Senator Dan Sparks, Minnesota Rural Electric Association (MREA), Dairyland Power Cooperative (Dairyland), Basin and public comments from 10 members of Minnesota electric distributive cooperatives served by Basin.

The public comments expressed a concern for rising costs of fossil fuel generation, and expressed support for the potential costs savings and economic development opportunities associated with renewable generation. As such, the majority of the comments expressed support for increased transparency in Basin's resource planning process and more rigorous oversight by the Commission; and specifically recommended the Commission Compel Basin to respond to the Environmental Intervenor's IRs.

Senator Sparks and MREA's Comments focused on the legislative history and intent on the O-IRP Statute. Senator Sparks advised the Commission that granting the Environmental Intervenors's motion to compel Basin's response would defeat the legislative intent, because Basin would be required to put significant time, money, and personnel towards a burdensome regulatory process that the O-IRP Statute seeks to avoid.¹⁴

MREA also asserted that the time, expense and work required to respond to the Environmental Intervenor's IRs is exactly what the O-IRP statute was enacted to avoid. While MREA stated the PUC and other state regulatory bodies have some statutory duties to oversee electric service in Minnesota, MREA maintained that the legislature has strived to carefully balance these roles with upholding the cooperative model. MREA claimed this is evidenced by the fact that any IRP or report under the O-IRP statute remains advisory and that cooperatives retain authority with respect to resource mix, costs, and other measures to provide affordable and reliable electric service to its members.¹⁵

Dairyland and Basin Responded to each of the topics in the PUC Notice as follows:

1. Are IRs 1-SCFEMCEA-1 (a), (c), (d), (i), and (j); IR 1-SCFEMCEA-2(b); IR 1-SCFEMCEA-4; and IR 1-SCFEMCEA-6 within the scope of Minn. Stat. § 216B.2422, subp. 2b? If any of

¹⁴ State Senator Dan Sparks Comments, December 13, 2019.

¹⁵ Minnesota Rural Electric Cooperative Comments, December 13, 2019.

the above is not within the scope, please provide a detailed reason why the specific inquiry is beyond the scope of Minn. Stat. § 216B.2422, subd. 2b.

Basin reiterated that the IR's are not within the scope of the O-IRP statute, because the Commission lacks resource-planning jurisdiction. In addition, Basin argued the IRs are outside the scope of the O-IRP Report Statute because they do not relate to the "projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies."¹⁶

Dairyland claimed that all of the listed IRs are beyond the scope of Minn. Stat. § 216B.2422, subd. 2b, because the O-IRP statute was enacted to reduce the regulatory burden on cooperatives whose resource planning decisions are made by democratically elected boards of directors and whose operations in Minnesota are small enough that the Legislature recognized they have little impact on statewide reliability.¹⁷

2. Subd. 2b states a "cooperative may, in lieu of filing a resource plan under subdivision 2, elect to file a report to the commission." What is the significance of the term "report" to describe the filing to be made, relative to the term "Resource plan," defined in subdivision 1? Please describe how a "report" may differ from a "Resource plan" as well as how a "report" may be similar to a "Resource plan."

Basin stated that while a resource plan must include alternative "resource options," a report need not include resource options. Therefore, Basin asserted that the issues the Environmental Intervenor's IRs are aimed at are appropriate to address in the context of a resource plan but not in response to the narrow confines of an O-IRP report.¹⁸

According to Dairyland, a report is a filing made solely to inform the Commission of the resource planning decisions that have already been made by democratically elected board of directors of cooperatives and a report does not require subsequent factual development and no factual findings need be made by the Commission.¹⁹

3. Subd. 2b states, "The report must include projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies." Does this sentence limit the discovery for O-IRP to only the content referenced in this sentence? If so, please explain how and why.

Under the O-IRP Statute, Basin asserted it is only required to provide "projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies,"

¹⁶ Basin Comments, December 20, 2019 pp. 5-6.

¹⁷ Dairyland Power Cooperative Comments, December 20, 2019, pp. 2-3.

¹⁸ Basin Comments, December 20, 2019 pp. 6-7.

¹⁹ Dairyland Power Cooperative Comments, December 20, 2019, p. 3.

and any discovery must not go beyond projected demand and the resources necessary to meet demand.²⁰

Dairyland claimed that discovery is not appropriate for this proceeding – including discovery on projected demand levels and projected generation deficiencies – because the use of discovery in an advisory proceeding to consider a “report” is inconsistent with both the plain language of the statute and the legislative intent to simplify the Commission’s review of the resource planning process.²¹

4. Subd. 2b states, “to supply the information required in a report under this subdivision, a cooperative may use reports submitted under section 216C.17, subd. 2, reports to regional reliability organizations, or similar reports submitted to other state utility commissions.” Does this sentence impact the Commission’s ability to compel additional information? Why or why not?

Basin claimed that the ability to meet the Statute’s requirements through existing reports demonstrates that once a cooperative satisfies the requirements of the Statute—either through submission of an existing or new report—the cooperative has no further obligation, including responding to discovery.²² Dairyland agreed with Basin that this language indicates that discovery is not appropriate for O-IRP filings.²³

5. Subd. 2b also states “The commission may take whatever action in response to a report under this subdivision that it could take with respect to a report by a cooperative under subdivision 2.” Does this sentence impact the Commission’s ability to compel additional information? Why or Why not?

Basin stated that The O-IRP statute anticipates that the cooperative will give a “[p]resentation of the annual report . . . in accordance with procedures established by the commission.” According to Basin, the presentation was meant as a substitute for a discovery process, although Basin affirmed that the Commission could ask the cooperative questions about the report and resource adequacy. In regard to the provision quoted above, Basin claimed it only incorporate the advisory nature of an IRP for a cooperative into the O-IRP Report Statute and confirms that the Commission can accept or a reject an O-IRP report—on an advisory basis.²⁴

Dairyland conceded the sentence authorizes the Commission to take whatever action on a cooperative’s O-IRP as it could take with respect to an IRP. However, Dairyland cautioned that the referenced language was not intended to nullify the purpose of the 2012 legislation, which indicates that the O-IRP should not be burdensome, and the order should be advisory and

²⁰ Basin Comments, December 20, 2019 p. 7.

²¹ Dairyland Power Cooperative Comments, December 20, 2019, p. 4.

²² Basin Comments, December 20, 2019 p. 8.

²³ Dairyland Power Cooperative Comments, December 20, 2019, pp. 4-5

²⁴ Basin Comments, December 20, 2019 pp. 8-9.

informational only. According to Dairyland, the only Commission action authorized by Subd. 2b for the Commission to take is to issue an advisory order and therefore requiring a cooperative filing an O-IRP to respond to IRs would be inconsistent with the Commission's authority and the purposes of the O-IRP statute.²⁵

6. Are there any practical or policy implications the Commission should be aware of for multi-jurisdictional cooperative utilities filing O-IRPs, or IRPs?

Basin noted that the Statute allows the Cooperative to meet the Statute's requirements by submitting reports submitted in other jurisdictions and this provision is applicable to O-IRP reports, not IRP's.²⁶ Dairyland noted that O-IRP Reports are required to be filed annually, not every two years for filing an IRP. Dairyland asserted that that requiring a cooperative to respond to IRs about its O-IRP would delay a Commission decision coming much later after an extensive discovery process, which would extend into the time period of the next required annual report.²⁷

7. In interpreting Minn. Stat. § 216B.2422, subd. 2, what weight should be given to regulatory or legislative history? What conclusions should be drawn from the regulatory or legislative history if it is given any weight, and are there any other factors that should be considered?

According to Basin, the legislative history confirms that the purpose of the Statute was to offer a streamlined compliance report alternative to the IRP resource-planning process and to provide significant time and cost savings to cooperatives with a limited presence in Minnesota. Basin also asserted that the regulatory history confirms that any discovery should be limited and in response to Basin Electric's first three O-IRP Reports, the Commission simply acknowledged their receipt, found them complete, and closed the docket.²⁸

Dairyland reiterated that the legislative history and the plain language of the statute is clear that the purpose of Minn. Stat. § 216B.2422, subd. 2b was to reduce the cost of compliance for both cooperatives, the Department of Commerce (Department), and the Commission by simply requiring the provision of a report that is informational only and that results only in an advisory order.²⁹

V. Basin's Objection to the Environmental Intervenors' IRs.

As stated above, On October 18, 2019, with the exception of IR 5 (relating to Basin's forecast of anticipated load growth) – Basin objected to the Environmental Intervenors' IRs as beyond the scope of Minn. Stat. § 216B.2422, subp. 2b. The objection included the IRs subject to the

²⁵ Dairyland Power Cooperative Comments, December 20, 2019, p. 5.

²⁶ Basin Comments, December 20, 2019 pp. 9-10.

²⁷ Dairyland Power Cooperative Comments, December 20, 2019, p. 6-7

²⁸ Basin Comments, December 20, 2019 pp. 11-12.

²⁹ Dairyland Power Cooperative Comments, December 20, 2019, p. 8.

Environmental Intervenor’s Motion to Compel, IRs 1(a), (c), (d), (i) and (j), 2(b), 4 and 6, because the information sought was not relevant, not aggregate data, outside of Minnesota and unreasonably burdensome. Specifically, Basin stated the information requested by EI was:³⁰

- Not relevant and beyond the statutory scope of the proceeding, because the requested information does not relate to the issues in the proceeding as specified in Minn. Stat. § 216B.2422, subd. 2b, which are the “projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies;”
- Not aggregate data – on the grounds that such information is not consistent with the terms of the Optional-IRP Report Statute or the “streamlined” process established by the Statute;
- Outside of Minnesota and therefore the regulation of such operations exceeds the jurisdiction of the Commission; and
- Unreasonably burdensome, because the burden and expense of the proposed production exceeds the likely benefit, considered in light of the limited issues in this proceeding and the needs of the case.

According to Basin, the specific language of the O-IRP statute unambiguously limits the issues in its O-IRP Report to “projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies.” Due to the narrow scope of the O-IRP Report Statute, Basin argued that any permissible discovery afforded by the Statute should be subject to the same limitation. Basin objected to the information requested by EI was beyond the scope of the O-IRP Report Statute and argued that reasonable discovery in this case should be limited, as a matter of law, to the issues the O-IRP Report addresses. According to Basin, EI have not recognized this limitation nor explained how the information is relevant or useful in conjunction with Basin’s O-IRP Report.³¹

Basin argued further that the O-IRP statute does not empower the Commission to allow discovery beyond the limited issues specified in the statute. Although the statute provides that “[t]he commission may take whatever action in response to a report under this subdivision that it could take with respect to a report by a cooperative under subdivision 2,” Basin argued that Subdivision 2 does not expand the scope of permissible discovery in connection with an O-IRP Report.³² Although Basin does not believe there is any ambiguity regarding the O-IRP Report Statute, should ambiguity be alleged in an effort to broaden the scope of the Statute, Basin argued legislative intent controls.³³

³⁰ Basin Response to SCFEMCEA Information Requests, October 18, 2019, pp. 14-30.

³¹ *Id.*, pp. 4-5.

³² *Id.*, p. 5.

³³ *Id.*, p. 10.

VI. Environmental Intervenor's Motion to Compel

If the Commission determines it as authority to grant EI's motion to Compel, it must next turn its attention to the individual IRs that the Environmental Intervenor's requested the Commission compel Basin to respond to. Upon review of Basin's O-IRP, EI filed six requests for information, seeking data regarding the costs of certain Basin's generating resources and information about the RFPs referenced in Basin's O-IRP. According to EI, the requested information would allow EI to assess whether Basin's major existing generating resources are economic resources, and allow EI to ascertain whether Basin is appropriately considering meeting its projected needs with cleaner and lower cost options.³⁴

According to EI, Basin has a large resource gap in the Midcontinent Independent System Operator (MISO) Zones in which Minnesota is located; has offered no plans for filling that gap; is issuing RFPs for new resources now; and has offered no insights into whether it is assessing whether it can meet its resource needs affordably and reliably with renewable energy. Moreover, EI claimed Basin plans to meet 100% of its resource needs for Minnesota customers located in MISO Zone 3 with coal generation and has not undertaken any analysis as to whether those coal plants are the most economic source of energy for its customers. EI argued the Commission should support Minnesota stakeholders seeking to investigate costs and environmental issues that are well within both the O-IRP statute and Commission discretion.³⁵

As described by EI, Basin Electric's O-IRP projects significant demand growth and identifies its load obligations within the MISO Local Resource Zone 1 and 3 as including Minnesota. EI noted that Exhibit B1 to the O-IRP shows Basin's MISO Zone 1 load growing from 232 MW in 2019 to 361 MW in 2034, while its resources meeting that load drop from 325 MW in 2019 to 250 MW in 2023 and to zero in 2028. According to EI, a resource deficit begins in 2023, with Basin projecting it will be meeting none of its resource needs by 2028 for that zone.³⁶

In addition, EI noted that Exhibit B2 to the O-IRP shows Basin's MISO Zone 3 resource supply adequacy projection, which projects a resource supply deficit beginning in 2026. According to EI, the O-IRP broadly discusses Basin's future resource options, including seeking short term and long term proposals for capacity or capacity and energy for its MISO and (Southwestern Power Pool (SPP) areas, as well as renewable proposals for both MISO and SPP. EI noted a portion of the SPP is also in Minnesota, and the SPP is a part of the Eastern Interconnection, the larger grid system in which MISO and Minnesota are located.³⁷

EI also stated it was concerned that Basin's short term strategy is to secure near-term bilateral contracts -- possibly with coal plants -- and then to build natural gas facilities. EI argued that, to the extent Basin may be postponing decisions to enter wind PPAs to meet its Minnesota customers' needs now, Basin may be foreclosing the opportunity to take advantage of wind

³⁴ SCFEMCEA Motion to Compel, November 1, 2019, pp. 2-3.

³⁵ *Id.*, p. 16.

³⁶ *Id.*, p. 2.

³⁷ *Id.*

projects that have maximized use of the production tax credits. EI also stated it was concerned Basin may be failing to consider the ability of combinations of renewable resources such as solar and storage to meet these needs at lower cost than bilateral contracts or new gas plants. It is these questions that EI stated it wished to investigate through these information requests.³⁸

EI argued that all of Basin's objections to the information requested by EI are without merit and unsupported by the law or the facts. EI claimed the information sought in its requests is foundational level information relevant to a resource plan: (1) the existing generation meeting Basin's customers' needs; (2) its cost and affordability; and (3) its plans to acquire additional resources. As described by EI, the O-IRP makes clear that Basin is projecting load growth in the zones in which Minnesota is located, but that it has no plans to meet that load growth, or even its existing load. EI stated it had concerns that Basin is not seeking the lowest cost, cleanest resources possible to meet those needs and requested the Commission compel a response from Basin to the IRs, as discussed in more detail below.³⁹

1. Environmental Intervenors' Motion to Compel

EI requested that the Commission compel Basin to respond to IRs 1(a), (c), (d), (i) and (j), 2(b), 4 and 6. Alternatively, if the Commission decides to decline to exercise its authority to seek this information in this proceeding, EI requested that the Commission expressly state that it preserves the broad authority to do so and will consider granting information requests in future proceedings.⁴⁰

The Information Requests EI requested the Commission compel Basin to respond to are as follows:

a) IR 1(a), (c), (d), (i), and (j)

EI requested the following information: for each of Basin's coal-fired generating units as referenced on page 3 of its IRP, provide:⁴¹

- (a) Remaining book life for each unit as of the present date;
- (c) Fixed operating and maintenance expenses ("O&M") for the last three years;
- (d) Variable O&M by unit for the last three years;
- (i) Planned capital additions
 - 1. Environmental capital expenditures
 - 2. Non-environmental capital expenditures
 - 3. Depreciable life for each of the above capital additions.
- (j) Recent capital additions.

³⁸ *Id.*, p. 19.

³⁹ *Id.*, pp. 2-3.

⁴⁰ *Id.*, p. 22.

⁴¹ *Id.* pp. 19-20.

1. Identify and describe any capital project over \$5 million at any unit over the past 5 years

EI further limited these requests to information related to Basin's coal-fired generating units in the Eastern Interconnection. EI explained these requests seek the most basic information about the costs associated with generating units that may be serving Minnesota customers now or in the future and is needed to assess whether the units represent a cost effective source of electricity, and whether cleaner resources could meet Basin's Minnesota customers' needs cost effectively.⁴²

b) IR 2(b)

EI requested the responses to the RFP that Basin received. The RFP was referenced on page 5 of Basin's O-IRP, which states that "Basin Electric released a Power Supply Request for Proposals (RFP) in February of 2019 and received proposal packages back in March 2019." EI explained this request is directed at how Basin intends to meet projected generation deficiencies and load in the future, and therefore is related to "projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies."⁴³

EI explained further that the O-IRP identifies a projected generation deficiency and states that an RFP was issued to address that deficiency. According to EI, its request for responses is within the scope of the O-IRP. EI noted that Basin provided the RFPs, in response to IR 2(a), and one is for resources in MISO Zone 1, in which Minnesota is located; the other is for resources in SPP, which includes a portion of Minnesota. EI argued that responses to these RFPs are relevant to whether Basin is securing the lowest cost, cleanest resources to meet its Minnesota customers' needs; whether it is giving fair consideration to renewable energy options; and whether it is foregoing opportunities to obtain low cost renewables in favor of short-term bilateral contracts with existing resources.⁴⁴

EI noted that on page 5 of the O-IRP, Basin states that "all wind that Basin has or likely will have in the future is within SPP..." and Basin does not explain why it is not considering wind in Minnesota, or otherwise located in an area that could serve its Minnesota load in MISO. EI claimed it would be useful to know whether renewable energy is lower cost than its contracts with coal plants, and which resources Basin is choosing to enter new contracts with.⁴⁵

c) IR 4

EI requested the Basin provide the agreements under which Basin Electric Power Cooperative purchases output from George Neal Station Unit 4, Walter Scott Units 3 & 4, and Boswell

⁴² *Id.*

⁴³ *Id.* pp. 20-21

⁴⁴ *Id.*

⁴⁵ *Id.*

Energy Center Unit 4. EI explained that these plants are located in MISO Zones 1 and 3 and appear to be serving Minnesota customers. According to EI, the price of these contracts, their duration, and their exit clauses are all relevant to whether Basin is securing energy and capacity at prices that are competitive with the market or new clean energy alternatives.⁴⁶

d) IR 6

EI requested Basin provide the power purchase price of wind (\$/MWh or other format) in each PPA referenced on page 5 of the IRP (PPA for 200 MW signed in 2016 for the Burke Wind project and a PPA signed in 2017 for Prevailing Wind Park). EI argued this information would be helpful in ascertaining whether Basin's bilateral contracts (whether for coal plants or for other resources) are lower cost than renewable alternatives, or whether Basin is missing the opportunity to transition to cleaner, less costly resources for its Minnesota customers.⁴⁷

2. Environmental Intervenor's Response to Basin's specific objections

EI stated that Basin's argument that the IR's seeking more information about Basin's load and generating resources are outside the scope of an O-IRP begs the question as to what information would ever fall within the scope, under Basin's interpretation of the O-IRP statute. EI claimed that Basin is arguing that the O-IRP statute is akin to a paper exercise where any additional inquiry into its filing is "out of scope." However, EI maintained that the statute does not change the Commission's authority with respect to the O-IRP, or alter the procedures governing it. Instead, EI noted the statute states that the O-IRP "shall be done in accordance with procedures established by the commission" and that "[t]he commission may take whatever action in response to a report under this subdivision that it could take with respect to a report by a cooperative under subdivision 2."⁴⁸

Even if the Commission were to find that discovery should be limited to demand and generation resources, EI argued that the above IRs are all directed at basic information about Basin's existing generation resources, the costs of those resources, Basin's plans to secure resources to meet its identified load, and the cost of resources that could meet that load. EI agreed with Basin that the O-IRP statute requires reports to include "projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies," and EI maintained that the IRs directly reference statements made in the O-IRP regarding Basin's existing generation resources and its plans to address identified resource deficiencies.⁴⁹

As noted above, Basin objected to each of the four IRs because the information sought was: (a) not relevant and outside the statutory scope of the proceeding; (b) not aggregate data; (c)

⁴⁶ *Id.* p. 21.

⁴⁷ *Id.* pp. 21-22.

⁴⁸ *Id.* p. 8.

⁴⁹ *Id.* pp. 7-8.

outside of Minnesota and therefore exceeds the jurisdiction of the Commission; and (d) unreasonably burdensome. EI responded to each objection as described below.

a) Not relevant and outside the statutory scope of the proceeding

EI argued that the information requested is well within the statutory scope of the Commission's authority, because (i) The plain language of the statute indicates that the Commission retains its broad oversight authority in the O-IRP process, (ii) The legislative history is consistent with EI's interpretation of the statutory language; and (iii) The Commission's past practice supports EI's position that the requested information is within the scope of the Commission's authority.

i. The Plain Language and Broad Authority

EI maintained that, other than limits on information regarding individual distribution cooperatives, the O-IRP statute does not limit the scope of the information the Commission may review, nor does it limit discovery in an O-IRP proceeding. EI noted the O-IRP statute states, "[t]he commission may take whatever action in response to a report under this subdivision that it could take with respect to a report by a cooperative under subdivision 2," and Minn. Stat. § 216.2422, subdivision 2 states, "[a] utility shall file a resource plan with the commission periodically in accordance with rules adopted by the commission. The commission shall approve, reject, or modify the plan of a public utility, as defined in section 216B.02, subdivision 4, consistent with the public interest." In addition, EI noted that Subdivision 2(b) states that for utilities that do not meet the definition of a "public utility" under 216B.02, subdivision 4, "the commission's order shall be advisory and the order's findings and conclusions shall constitute prima facie evidence which may be rebutted by substantial evidence in all other proceedings." EI argued that this language indicates that the legislature intends for the Commission to be able to investigate the merits of the O-IRPs and respond to them in the same manner that it responds to traditional "resource plans" filed by a cooperative under Minn. Stat. § 216B.2422, Subd. 2.⁵⁰

The O-IRP states that "[a] cooperative may, in lieu of filing a resource plan under subdivision 2, elect to file a report to the commission under this subdivision. The report must include projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies."⁵¹ EI claimed that this language does not limit discovery in this proceeding only to information related to "projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies," as argued by Basin. According to EI, this language only establishes a streamlined reporting requirement, and sets the minimum standard for what types and depth of analyses the report must include. EI interpreted the O-IRP statute as not otherwise modifying the Commission's statutory authority to oversee resource adequacy and affordability for Minnesotans.⁵²

⁵⁰ SCFEMCEA Motion to Compel, November 1, 2019, pp. 5-6.

⁵¹ Minn. Stat. § 216B.2422, Subd. 2b.

⁵² SCFEMCEA Motion to Compel, November 1, 2019, pp. 4-5.

EI also noted that the Commission’s rules, regarding its review of resource plans (Minn. R. 7843.0500) do not distinguish between O-IRPs and traditional IRPs and these rules are generally applicable, except to the extent that they are either in direct conflict with Minn. Stat. § 216B.2422, Subd. 2b, or are superseded by Commission order. Minn. R. 7843.0200, Subp. 1, states that “the purposes of parts 7843.0100 to 7843.0600 is to prescribe the contents of and procedures for regulatory review of resource plan filings.” Therefore, EI maintained that the Commission’s procedural rules apply not only to “resource plans,” as defined by Minn. Stat. § 216B.2422, Subd. 1(d), but to all “filings” under Minn. Stat. § 2422 related to resource planning. EI noted further that the rules also list factors that must be considered when reviewing a resource plan, which include: adequacy and reliability; keeping customers’ bills and utility’s rates as low as practicable; minimizing adverse socioeconomic effects and adverse effects upon the environment; and limiting risk exposure.⁵³

ii. Legislative History

In response to Basin’s assertion that the O-IRP statute’s legislative history makes it unambiguously clear that the legislature intended to limit discovery in O-IRP proceedings, EI stated that Basin did not cite to a single sentence in the legislative history demonstrating the legislator intended to limit the scope of discovery or otherwise limit the Commission’s broad oversight. According to EI, the legislative history only makes clear that the legislature intended to streamline the O-IRP filing itself as reflected in the statutory language.⁵⁴

iii. Commission Past Practice

EI disagreed with Basin’s characterization that the Commission has recognized the limited scope of the O-IRP Report and has acted in a manner consistent with limiting the issues in the O-IRP Report proceedings to those directly related to projected demand and generation resources. EI asserted that the Commission has instead made it clear, in its O-IRP Orders, that it maintains the authority to require Basin to provide additional, more detailed information about its generating resources and its ability to meet its resource needs.⁵⁵ EI stated that all of the Commission’s past orders on Basin’s O-IRPs have recognized and preserved the Commission’s ability to seek additional information regarding Basin’s resource plans if it so desires.⁵⁶

b) Not aggregate data

EI described the statutory reference to “aggregate data” as referencing aggregate load data for member cooperatives, not aggregate data about generating resources. EI stated it is not seeking information about individual member cooperatives’ load data, nor any data specific to any member cooperative and this objection is without merit.⁵⁷

⁵³ *Id.*, p. 6.

⁵⁴ *Id.*, pp. 6-7.

⁵⁵ *Id.*, p. 7.

⁵⁶ *Id.*, pp. 11-12.

⁵⁷ *Id.*, p. 13.

c) Outside of Minnesota and exceeds the jurisdiction of the Commission

EI also argued that Basin's objections that the information requests exceeds the jurisdiction of the Commission on the grounds that it seeks information regarding Basin's operations outside of Minnesota is misplaced. In its motion to compel, EI limited their information requests to resources interconnected to the Eastern Interconnection, which EI described as resources connected to the bulk transmission grid that serves Minnesota customers and includes generation resources that currently serve Basin's Minnesota customers, or could do so as Basin determines how to meet its load in the future. EI asserted that decisions regarding resources that serve Minnesota electric customers are within the jurisdiction of the Commission. According to EI, the Commission is responsible for ensuring that Basin will be able to ensure reliable, efficient, and affordable service to Basin's members in Minnesota over the planning period and whether the resources generating the electricity needed to satisfy that obligation are located in Minnesota or outside of it is irrelevant.⁵⁸

d) Overly burdensome

EI claimed that Basin's objection on the grounds of burden is not supported. According to EI, the information requested is routine, common place information any utility should have readily available. EI stated that Basin does not provide an amount of time or expense it would take to gather and provide the requested data and instead only asserted that "it is unreasonably burdensome because the burden and expense of the proposed production exceeds the likely benefit."⁵⁹

VII. Staff Comments

The Environmental Intervenors have requested that the Commission compel Basin to respond to specific IRs. Before addressing the specific IR's, the Commission should consider Basin's contention that the Commission lacks authority to compel discovery in an O-IRP proceeding, because the Commission lacks jurisdiction over resource planning. Staff comments will focus on the following topics as they relate to Minnesota cooperative electric associations, including generating and transmission cooperatives such as Basin.

- Commission authority over resource planning;
 - What is a resource plan?
 - What is an advisory order?
 - Commission policy on discovery;
- The scope of the O-IRP statute
 - Contents of a report;
 - What action may the Commission take;
 - Review of Commission Orders

⁵⁸ *Id.*

⁵⁹ *Id.*, pp. 13-14.

- Commission Alternatives and Recommendations.

A. Commission Authority over Resource Planning.

The Commission precedent and procedures for how it has handled IRPs filed by Cooperatives since the enactment of Minn. Stat. § 216B.2422 by the Minnesota Legislature in 1993 has been long standing. This precedent was recently affirmed by the Commission in its previous Order in this proceeding. In its Order Granting Intervention, the Commission acknowledged that “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.”⁶⁰

1. What is a Resource Plan?

Minn. Stat. § 216B.2422, Subd. 1(d) defines a Resource plan as “a set of resource options that a utility could use to meet the service needs of its customers over a forecast period, including an explanation of the supply and demand circumstances under which, and the extent to which, each resource option would be used to meet those service needs. These resource options include using, refurbishing, and constructing utility plant and equipment, buying power generated by other entities, controlling customer loads, and implementing customer energy conservation.”

Minn. Stat. § 216B.2422, Subd. 2 requires utilities to file a resource plan according to rules adopted by the Commission. The statutory language governing Minnesota cooperative electric association is found in Minn. Stat. § 216B.2422, Subd. 2 (b), which states that the Commission’s order for resource plans filed by these utilities “shall be advisory and the order’s findings and conclusions shall constitute prima facie evidence which may be rebutted by substantial evidence in all other proceedings.”

Finally, Minn. Stat. § 216B.2422 Subd. 2b (O-IRP statute) governs compliance for a resource plan for certain utilities such as Basin that are “generating and transmission cooperative electric association that has at least 80 percent of its member distribution cooperatives located outside of Minnesota and that provides less than four percent of the electricity annually sold at retail in the state of Minnesota.” Utilities that meet this criteria may elect to file a report to the commission under this subdivision in lieu of filing a resource plan under subdivision 2.

Minn. Stat. § 216B.2422 Subd. 2b requires the report to include “projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies.” The statute allows a utility to provide this information using “reports submitted under section 216C.17, subdivision 2, reports to regional reliability organizations, or similar reports submitted to other state utility commissions.” The statute also allows that the information may be aggregate data and need not be separately reported for individual distribution cooperative

⁶⁰ Commission Order Granting Intervention and Requiring Basin to Respond to Information Request, October 4, 2019, p. 3.

members of the cooperative. In response to a report filed under the O-IRP Statute, the statute states that the Commission “may take whatever action... that it could take with respect to a **report** by a cooperative under subdivision 2.” [Emphasis added]

Staff notes that the O-IRP statute refers to a traditional resource plan filed under the O-IRP as a “**report**.” [Emphasis added] In other words, a “resource plan” and a “report” appear to be synonymous under Minn. Stat. § 216B.2422 and any distinctions between the two terms are only found within the specific language of the O-IRP statute governing “compliance” for qualifying utilities.

2. What is an advisory order?

In this section, staff provides the history of integrated resource plans in Minnesota and the role of the Commission in providing advisory orders for municipal utilities, cooperatives and wholesalers filing resource plans.

In 1990, the Commission promulgated rules requiring rate-regulated electric utilities to file integrated resource plans for Commission review every two years. (Minn. Rules, parts 7843.0100 to 7843.0600). The rules required utilities to file biennial reports on the projected energy needs of their service areas over the 15 years, their plans for meeting projected need, the analytical process they used to develop their plans, and their reasons for adopting the specific resource mix proposed. The rules were designed to strengthen utilities' long term planning processes by providing input from the public, other regulatory agencies, and the Commission. They were also intended to ensure that utilities making resource decisions give adequate consideration to factors such as the environmental and socioeconomic impact of different resource mixes. The original rules did not apply to municipal utilities, cooperatives, or wholesalers.⁶¹

In 1993, the Minnesota legislature enacted Minn. Stat. § 216B.2422, which expanded the number of electric utilities required to file resource plans under the Commission's integrated resource planning rules to include all electric utilities with generating capacities of at least 100,000 kilowatts and serving at least 10,000 Minnesota retail customers.⁶²

Minn. Stat. § 216B.2422, Subd. 2 (b) states that the Commission’s order for resource plans filed by cooperative electric associations “shall be advisory and the order's findings and conclusions shall constitute prima facie evidence which may be rebutted by substantial evidence in all other proceedings.”

On October 20, 1994, the Commission issued its first advisory Order under Minn. § Stat.

⁶¹ Docket No. ET-7/RP-94-467, *In the Matter of United Power Association’s 1994 Biennial Resource Plan Filing*, Order Accepting Resource Plan Filing and Establishing Requirements for 1996 Filing, May 16, 1995, p. 2.

⁶² Docket No. E-999/RP-93-729, *In the Matter of Establishing a Schedule for the Resource Plan Filings of Cooperatives and Municipal Utilities Required to File Under Laws of Minnesota 1993, Chapter 356, Section 3*, Order Establishing Filing Schedule, p. 1.

216B.2422, Subd. 2 (b) in the Matter of Southern Minnesota Municipal Power Agency's (SMMPA) 1993 Resource Plan.⁶³ In its Order, the Commission stated the following in regard to its oversight role for Cooperatives and municipal utilities filing resource plans under the newly enacted statute.

The Minnesota legislature has recognized that formally structured integrated resource planning by utilities is a responsible and reasonable means to promote the utilities' readiness to meet the energy needs of their customers in ways that are least costly and overall beneficial to the public good. Accordingly, the legislature has adopted resource plan requirements for investor owned rate-regulated electric utilities and for other utilities of a certain size. This "other utilities" group consists primarily of the state's larger municipal and cooperative utilities, including SMMPA.

Both groups of utilities (investor owned and the municipal and cooperative utilities of a certain size) are required to file with the Commission periodic resource plans as defined in the statute and in accordance with Commission rules for resource plans.

The Commission has a different oversight role, however, regarding resource plans filed by the two utility groups. As to the resource plans of investor owned rate-regulated electric utilities, the Commission has authority to approve, reject, or modify the plan. For resource plans filed by other utilities, such as SMMPA, the Commission plays an educational and advisory role to the utility regarding the utility's compliance with resource planning requirements.⁶⁴

In its October 20, 1994 order, the Commission ordered the following:

1. Southern Minnesota Municipal Power Agency (SMMPA or the Agency) shall file its next integrated resource plan with the Commission on July 1, 1996.
2. With respect to forecasting, SMMPA shall:
 - a) comply fully in its next resource plan filing with the forecasting requirements of Minnesota Rules, part 7843.0400;
 - b) strongly consider the forecasting recommendations as described in the Department's March 29, 1994 comments and previously in this Order;
 - c) provide reasons in its next resource plan for rejecting any of the forecasting recommendations described in the Department's comments and in these briefing papers; and

⁶³ Docket No. ET-9/RP-93-1203, *In the Matter of Southern Minnesota Municipal Power Agency's (SMMPA) 1993 Resource Plan*, Order Reviewing Resource Plan, Identifying Areas for Improvement and Requiring Progress Report, October 20, 1994.

⁶⁴*Id.*, p. 2.

- d) initiate discussions with the Department and Commission staff, as necessary, as an aid in understanding and/or implementing recommendations a-c above.
3. With respect to supply-side issues, SMMPA's next Resource Plan should include the following:
 - a) a complete analysis of the potential for capacity exchanges;
 - b) an analysis of the potential for cost-effective cogeneration in its member's service territory; and
 - c) an analysis of purchased power supply options available through MAPP.
4. With respect to demand-side issues, SMMPA should include the following modifications in its DSM analysis:
 - a) conduct additional end-use research to obtain a comprehensive understanding of the Agency's DSM potential;
 - b) include a market-penetration study and an explanation of assumptions made in conducting the study;
 - c) account for externalities in determining whether DSM options are cost-effective; and
5. Also in connection with demand-side issues, the Agency shall include in its next resource plan, a status report concerning member adoption of its DSM program, as well as a detailed description of the efforts provided by the Agency in marketing and assisting with the implementation of these programs.
6. With respect to integration of supply- and demand-side resource options, SMMPA should work with the Department to develop an integrated approach to resource planning.
7. With respect to contingency planning, SMMPA should consider the following contingency scenarios and shall report on them in its next resource plan SMMPA:
 - a) failure of the member unit upgrades to achieve planned capacity;
 - b) the effects of weather in its sensitivity analysis of the forecast; and
 - c) the effects on capacity needs under various DSM achievement scenarios (e.g. 70 and 85 percent).
8. With respect to social costing, in its next resource plan SMMPA
 - a) shall use the interim values for emissions established by the Commission unless final values are determined before SMMPA's next RP filing;
 - b) shall provide the cost estimates of resource options at the three levels required in the March 1, 1994 Order;
 - c) should use a social cost approach when determining the most appropriate mix of resources;

- d) should discuss the impact of the Clean Air Act on the Agency's (and its members') generation sources and on the need for developing an allowance trading strategy.
9. With respect to rate design, SMMPA should provide the following information in its next resource plan:
 - a) a discussion on the progress of implementing cost-based rates;
 - b) a discussion on the details of the design and implementation of the Agency's interruptible rates, including its potential impact on the Agency's future resource needs;
 - c) a discussion of the potential of and feasibility of implementing TOD rates to its members and an analysis on the administrative feasibility of assisting its members in developing end-user time of day (TOD) rates and the potential impact on the Agency's future resource needs; emphasizing evaluation of TOD rates over implementation; and
 - d) an analysis of how the Agency's costs fluctuate seasonally and a discussion on the administrative feasibility of implementing seasonally adjusted rates.
10. If the Agency declines to adopt any recommendation made in this Order, it shall provide a detailed explanation supporting its decision in its next resource plan filing.
11. On July 1, 1995, the Agency shall submit a report regarding its progress in preparing its next integrated resource plan consistent with this Order.⁶⁵

In subsequent Orders accepting resource plans by municipalities, cooperatives and wholesalers, the Commission continued to make recommendations and to issue requirements for compliance and completeness. For example, in its September 7, 1995 Order, the Commission found Dairyland's initial resource plan filing complete contingent upon a filing by Dairyland that provided:

- A description of alternative plans that replace 50 and 75 percent of its new and refurbished capacity with conservation and renewable resources, and
- An explanation of how the use of the Commission's interim values for environmental costs would change Dairyland's ranking of alternative resource plans.⁶⁶

On July 18, 2008, Basin filed its initial resource plan pursuant to Minn. Stat. § 216B.2422 and Minn. Rules 7843.0400 after exceeding 10,000 Minnesota retail customers making it

⁶⁵ *Id.*, Ordering ¶¶1-11, pp. 9-11.

⁶⁶ Docket No. ET-3/RP-95-635, *In the Matter Of Dairyland Cooperative's 1995 Resource Plan*, Order Finding Resource Plan Complete, Contingent upon the filing of Certain Further Information, September 7, 1995, Ordering ¶1, p. 3.

subject to the Commission's resource planning laws.⁶⁷ In its Order Accepting Plan, the Commission required Basin to collect demand side management achievement information from its members and to continue discussions with the Department, and with Commission staff, the appropriate scope of forecasting data to include with Basin's resource plans. In addition, for Basin's next resource plan to be filed in January 2012, the Commission required Basin to:

- Identify the forecasting data it has provided and the data it has not provided, and explain its choices.
- Identify the model or analysis it used, and explain how that model or analysis helps Basin fulfill statutory and regulatory requirements as well as Basin's operational needs.⁶⁸

3. Commission policy on discovery

Staff notes the importance of discovery in proceedings before the Commission by intervening parties given the Commission's Quasi-Judicial function. In the case of resource plans, the Commission rules state that responses to Information requests by the Commission, other parties and other interested persons are required.⁶⁹

Subp. 8. Information requests. The parties shall comply with reasonable requests for information by the commission, other parties, and other interested persons. A copy of an information request must be provided to the commission and to known parties. Parties shall reply to information requests within ten days of receipt, unless this would place an extreme hardship upon the replying party. At least one copy of information provided to a party or other interested person must be filed with the commission. The replying party must also provide a copy of the information to any other party or interested person upon request. Disputes regarding information requests may be taken to the commission or, if a contested case proceeding has been ordered, to the assigned administrative law judge.

In its first Order reviewing a resource plan under Minn. Stat. § 216B.2422, Subd. 2, the Commission noted the essential role that discovery plays in resource plan proceedings and in informing the Commission, so it can issue its advisory order.

SMMPA's responses to information requests were slow in coming and cursory at best. This is the first year that SMMPA and many other non-IOU utilities have been required to file resource plans. SMMPA may have had some confusion over the important role of information requests in the resource planning process.

⁶⁷ Docket No. ET-6125/RP-08-846, In the Matter of Basin Electric Power Cooperative's 2008 Resource Plan for the Years 2006-2021, Order Accepting Plan, February 11, 2010, p. 1.

⁶⁸ *Id.*, Ordering ¶¶2-4, p. 8.

⁶⁹ Minn. Rules 7843.0300, Subp. 8.

To clarify, the Commission views the utility's responses to information requests as a means by which a utility may complete its filing. As such, they are essential. In addition, SMMPA's prompt response to information requests is required by Commission rule. Minn. Rules, Part 7843.0300, Subp. 8.⁷⁰

B. Scope of the O-IRP Statute

As noted above, Minnesota's resource-planning statute requires utilities to file a detailed resource plan for the Commission's approval. However, in 2012, the Minnesota Legislature amended the integrated resource plan statute by adding subdivision 2b. Subd. 2b, entitled "Optional Integrated Resource Plan Compliance." (O-IRP Statute). The O-IRP Statute 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 file a report, in lieu of filing a resource plan under Subdivision 2.

1. What are the contents of the optional resource plan?

While Minn. Rules 7843.0400 govern the contents for a traditional resource plan, the O-IRP statute only states that the optional resource plan "must include projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies."

Basin has argued that once it has filed its report including projected demand levels for 15 years and identified the generation resources to meet any projected generation deficiencies, it has complied with all of the requirements of the O-IRP statute and the Commission is limited in its authority and oversight of the filing. EI has argued that the O-IRP statute was merely meant to streamline the reporting process for certain cooperatives and the provision for 15 years of projected demand and the generation resources identified to meet that demand is a minimal requirement for compliance with the O-IRP statute. As such, Utilities filing a report under the O-IRP statute may potentially be subject to all other requirements for traditional IRPs as spelled out in Minnesota Rules. However, in Orders acknowledging the receipt of compliance reports under the O-IRP statute, the Commission has referred to the scope of the compliance reports as limited.⁷¹

2. What action may the Commission take on an optional resource plan?

The O-IRP statute states that the Commission may take any action on a compliance report that it could take on a traditional resource plan filed by a cooperative. The O-IRP statute also authorizes the Commission to establish procedures regarding the presentation of an annual report.

⁷⁰ Docket No. ET-9/RP-93-1203, *In the Matter of Southern Minnesota Municipal Power Agency's (SMMPA) 1993 Resource Plan*, Order Reviewing Resource Plan, Identifying Areas for Improvement and Requiring Progress Report, October 20, 1994, p. 3.

⁷¹ See Section 3, Review of Commission Orders on Optional Resource Plan Compliance, below.

A plain language reading of Minn. Stat. § 216B.2422, including the amended language from 2012 allowing the Commission to take whatever action in response to the optional resource plan that it would take for a traditional resource plan, appears to provide the same allowance for the Commission to follow its long standing precedent and procedures for how it has handled IRPs filed by Cooperatives since the enactment of Minn. Stat. § 216B.2422 by the Minnesota Legislature in 1993.

However, since the enactment of the O-IRP statute, the Commission has elected to handle optional resource plans with a very light regulatory touch, while at the same time preserving its authority to take additional measures in future proceedings. In its relatively few Orders accepting optional resource plans since 2012, the Commission appears to have given credence to Basin and Dairyland's viewpoint that the O-IRP statute was meant to reduce the regulatory burden for qualifying generation and transmission cooperatives filing the optional resource plan.

3. Review of Commission Orders on Optional Resource Plan Compliance

a) 2012 Compliance Reports

On June 29, 2012, Basin became the first generating and transmission cooperative to file under the new optional integrated resource plan compliance statute. On September 18, 2012, in its Order Establishing Procedures for Optional Integrated Resource Plan Compliance, the Commission set a comment period for Basin's optional Resource plan – initial comments were due 30 days after the order and reply comments were due 10 days thereafter.⁷²

In Comments filed on July 30, 2012, the Department expressed concern over the lack of detail in Basin's Optional Resource Plan.

Since Basin hasn't identified the amount of resources the cooperative intends to obtain even in the near future, it isn't clear that the filing complies with the requirement to provide "generation resources to meet any projected generation deficiencies." For example, Basin Electric projects a short-term need of more than 500 MW by 2016, but it isn't clear from the information provided to date how Basin plans to meet that need. Such information appears to be fundamental to the process before the Commission.⁷³

On October 19, 2012, Basin submitted comments addressing environmental costs and distributed generation, issues that were not initially developed in its optional resource plan. On December 19, 2012, the Commission acknowledged receipt of Basin's compliance report, found

⁷² Docket No. E-6125/RP-12-723, *In the Matter of Basin Electric Power Cooperative's Optional Integrated Resource Plan Compliance*, Order Establishing Procedures for Optional Resource Plan Compliance, September 18, 2012.

⁷³ *Id.*, Department of Commerce Comments, July 30, 2012, p. 5.

the report complete as supplemented, and closed the docket.⁷⁴ In its Order, the Commission shared the Department's concern over the lack of detail in Basin's report.

The Commission shares the Department's concern that Basin's report lacks detail on how the cooperative plans to meet its projected generation deficiency. However, rather than require further filings in this docket, the Commission will allow Basin to address the concerns raised by the Department in its next report, due on July 1, 2013. By that time, Basin should have a clearer picture of its future energy needs. The Commission will solicit comments on the new report, and any remaining concerns regarding Basin's ability to provide reliable service can be raised at that time.⁷⁵

b) 2013 Compliance Reports

On June 27, 2013 Basin filed its next optional resource plan under the O-IRP statute. On August 1, 2013, the Department filed a letter stating that it would not be providing comments on Basin's report because the report did not contain the detailed information necessary to assess the adequacy of Basin's system-wide resources. On August 12, 2013, Basin filed reply comments claiming that the information filed met statutory requirements.⁷⁶

In view of the limited scope of compliance reports, and without limiting its options for future filings, the Commission acknowledged receipt of Basin's compliance report, found the report complete, and closed the current in its September 26, 2013 Order. In addition, the Commission requested that Basin include in future reports a link to resource planning information filed with other regulatory jurisdictions or reliability organizations. The Commission also establish the following procedures for the orderly and efficient processing of future compliance reports:

- Initial comments will be due 30 days from the filing of the report, with reply comments due ten days later.
- Parties may issue information requests within the initial and reply comment periods.
- If no party requests Commission action, the docket will be closed 60 days after the date of the initial filing.⁷⁷

On June 28, 2013, Dairyland filed its first optional resource plan. The Department filed a letter stating it would not be filing comments on Dairyland's report because the report did not contain the detailed information necessary to assess the adequacy of Dairyland's system-wide resources. The Commission also received a letter submitted by three environmental organizations (the Izaak Walton League – Midwest Office, Fresh Energy, and the Minnesota

⁷⁴ *Id.*, Order acknowledging Receipt of Compliance Report and Closing Docket, December 19, 2019.

⁷⁵ *Id.*, p. 2.

⁷⁶ Docket No. E-6125/RP-13-562, *In the Matter of Basin Electric Power Cooperative's Optional Integrated Resource Plan Compliance Report*, Order Acknowledging Receipt of Compliance Report and Closing Docket.

⁷⁷ *Id.*, pp. 2-3.

Center for Environmental Advocacy), which highlighted several topics on which they wanted more information and requested that the Commission allow discovery and order Dairyland to respond to information requests. On August 12, Dairyland responded to the environmental organizations and claimed that its report met statutory requirements and contesting the Environmental Intervenors' right to obtain discovery.⁷⁸

In its October 3, 2013 Order Acknowledging Receipt of Compliance Report, the Commission took similar action as it had done with Basin's 2013 optional resource plan.

In view of the limited scope of compliance reports, and without limiting its options for future filings, Commission acknowledges receipt of Dairyland's compliance report, finds the report complete, and will close the current docket. The Commission will also establish the following procedures for the orderly and efficient processing of future compliance reports:

- Initial comments will be due 30 days from the filing of the report, with reply comments due ten days later.
- Parties may issue information requests within the initial and reply comment periods.
- If no party requests Commission action, the docket will be closed 60 days after the date of the initial filing.

Finally, the Commission is aware that Dairyland files resource-planning documents in other jurisdictions. To the extent that these documents contain greater detail than Dairyland's Minnesota report, they provide a convenient supplement to the report. The Commission will therefore request that Dairyland include in future reports an electronic link to resource planning information filed with other regulatory jurisdictions or reliability organizations.⁷⁹

c) 2014 Compliance Reports

On June 26, 2014, Basin filed a compliance report under the O-IRP statute. On August 12, 2014, the Minnesota Center for Environmental Advocacy (MCEA) filed comments urging the Commission to require Basin to consider greenhouse-gas emissions and environmental costs in its report. On August 22, 2014, Basin filed reply comments claiming that the information filed met statutory requirements. On October 30, 2014, the matter came before the Commission. The Department provided brief oral comments suggesting that the Commission clarify that it was making no finding on the reliability of Basin's system.⁸⁰

⁷⁸ Docket No.ET-003/RP-13-565, *In the Matter of Dairyland Ppower Cooperative's Optional Integrated Resource Plan Compliance Report*, Order Accepting Receipt of Compliance Report and Closing Docket, October 3, 2013.

⁷⁹ *Id.*, pp. 4-5

⁸⁰ Docket ET-6125/RP-14-534, *In the Matter of Basin Electric Power Cooperative's Optional Integrated Resource Plan compliance Report*, Order Acknowledging Receipt of Compliance Report and Closing the

In its December 16, 2014 Order acknowledging Receipt of Compliance Report, the Commission found Basin's report complete. The Commission concurred with Basin that the Cooperative is not obligated to file a narrative describing its progress toward achieving state greenhouse-gas emissions reduction goals. The Commission stated that it did not believe that a fuller analysis of the environmental costs of Basin's generation was required at that time. The Commission stated:

And while further analysis of the environmental costs associated with Basin's generation might be informative, its practical value is limited at this point because Basin has no current plans to build any generation in Minnesota. At present, the cost of a full-fledged analysis of environmental costs would outweigh its benefits, particularly when considering subdivision 2b's evident goal of streamlining the compliance process for qualifying cooperatives. As with greenhouse-gas emissions, the Commission will have an opportunity to revisit the issue of environmental costs, if necessary, when Basin files its next compliance report.

The statute provides the Commission with wide latitude as to how to handle compliance reports. Having found Basin's report complete, the Commission will acknowledge receipt of the report and close the docket. The Commission clarifies that it is making no finding as to the reliability of Basin's system.⁸¹

On June 30, 2014, Dairyland filed a compliance report under the O-IRP statute. On August 5, 2014, the Minnesota Center for Environmental Advocacy (MCEA) filed comments urging the Commission to require Dairyland to consider greenhouse-gas emissions and environmental costs in its report and the Department filed comments stating that it was unable to confirm whether Dairyland has sufficient resources to provide reliable service. On August 15, 2014, Dairyland filed reply comments claiming that its report met statutory requirements.⁸²

In its December 16, 2014 Order, the Commission made similar findings that it made in its Basin 2014 Order described above. The Order reiterated that the O-IRP statute provides the Commission with wide latitude as to how to handle compliance reports. The Commission found Dairyland's report complete, acknowledged receipt of the report and closed the docket. The Commission also clarified that it was making no finding as to the reliability of Dairyland's system.⁸³

Docket, December 16, 2014.

⁸¹ *Id.*, pp. 4-5

⁸² Docket No. ET-003/RP-14-572, *In the Matter of Dairyland Power Cooperative's Optional Integrated Resource Plan Compliance Report*, Order Acknowledging Receipt of Compliance Report and Closing Docket, December 16, 2014.

⁸³ *Id.*, pp. 4-5

d) 2015 Compliance Reports

On June 30, 2015, Basin and Dairyland submitted optional resource plans under the O-IRP statute. On July 31, 2015, the Department filed comments stating that Basin's own data indicates that more resources are needed to serve the Cooperative's firm load. The Department had concerns whether Basin's plans were sufficient to provide reliable electric service to Minnesota customers, which must rely on Basin's system.⁸⁴ The Department similarly filed comments on Dairyland's compliance report and stated that it could not confirm whether the Cooperative's proposed resource additions were adequate for reliability purposes.⁸⁵

Both Basin and Dairyland filed Reply Comments suggesting the Commission accept its compliance reports and find them complete. In both dockets the Commission issued a Notice Closing Docket on September 8, 2015 following the process the Commission outlined in Docket No. ET6125/RP-13-562 whereby O-IRP dockets may be closed 60 days after the date of initial filing. The two Notice Closing Docket stated "[b]y closing the docket, the Commission is not making a finding that it endorses, approves, or has otherwise made a determination on the merits of the Dairyland [Basin] filing or on the reliability of Dairyland's [Basin's] system."⁸⁶

e) 2016-2019 Compliance

On May 6 and June 30, 2016, Dairyland and Basin, respectively, filed optional resource plans. On July 25, 2016, the Department filed a letter stating, "[g]iven the limited scope of these filings... the Department does not intend to submit comments in either proceeding. The Department's lack of participation is not intended to be an indication of, nor a response to, any assessment of the merits of the Cooperatives' filings." On December 19, 2016, the Commission followed the process outlined in Docket ET6125/RP-13-562, and issued a Notice Closing Docket.⁸⁷

On June 30, 2017, Dairyland and Basin filed optional resource plans and on November 29, 2017 the Commission filed a Notice Closing Docket in both dockets.⁸⁸ On June 25, 2018 and June 28, 2018, Dairyland and Basin, respectively, filed optional resource plans.⁸⁹ The Commission has not taken any action on either report at this time.

Both Basin and Dairyland filed a 2019 optional resource plan on June 27, 2019.

⁸⁴ Docket No. ET6125/RP-15-643, *In the Matter of Basin Electric Power Cooperative's Optional Integrated Resource Plan*, Department of Commerce Comments, July 31, 2015.

⁸⁵ Docket No. ET-003/RP-15-568, *In the Matter of Dairyland Power Cooperative's Optional Integrated Resource Plan Compliance Report*, Department of Commerce Comments, July 31, 2015.

⁸⁶ Docket No. ET6125/RP-15-643 and Docket No. ET-003/RP-15-568, Notice Closing Docket, September 8, 2015.

⁸⁷ Docket No. ET3/RP-16-403, *In the Matter of Dairyland's Optional Integrated Resource Plan Compliance*, Notice Closing Docket, December 19, 2016.

⁸⁸ Docket No. ET6125/RP-17-518 and Docket No. ET-003/RP-17-525.

⁸⁹ Docket No. ET6125/RP-18-437 and Docket No. ET-003/RP-18-434.

C. Commission Alternatives and Recommendations.

Staff believes that the remaining IRs in the Environmental Intervenors' motion to compel are, at least generally, relevant to "projected demand levels for the next 15 years and generation resources to meet any projected generation deficiencies" for customers in Minnesota. However, the Environmental Intervenors argued that the necessity for obtaining the information is to ascertain whether Basin is considering renewables as potential least-cost alternatives for generation on its system. Staff notes that, while the O-IRP statute allows the Commission to take "whatever action in response to a report... that it could take with respect to a report by a cooperative under subdivision 2," the Commission may wish to consider the larger practical question about whether compelling Basin to answer the IRs is necessary, given the limiting language in the O-IRP statute. While the Commission may find the information useful for giving Basin sound advice on least-cost generation, ultimately Basin will make the final determination on whether or not to follow such advice. Staff suggests that the Commission consider whether the O-IRP was enacted to reduce the regulatory burden on qualifying Cooperatives and whether this purpose should be given greater weight for determining the Commission's decision on the Motion to Compel than the relevancy of the specific IRs.

The Commission has a role over cooperatives filing optional resource plans under the O-IRP statute. In past orders, the Commission has referred to the scope of the optional resource plans as limited. While the O-IRP states the Commission may take whatever action on an optional resource plan that it could take with a traditional resource plan, given the Commission's view that the scope of a compliance report filed under the O-IRP statute is limited, how far the Commission's authority extends over these cooperatives and the action that the Commission may take has not been made clear. Although the O-IRP statute has been in place since 2012, the Commission has not taken significant action beyond acknowledging receipt of the report, accepting it as complete and closing the docket. Staff notes further that, by statute, Basin's next O-IRP will be due July 1, 2020.

Staff notes that Basin has stated it has no current plans to build any generation in Minnesota and many of the same concerns noted by EI on the reliability of Basin's system were similarly noted by the Department in previous O-IRP reports filed by Basin. Staff recommends the Commission follow the process the Commission outlined in Docket No. ET6125/RP-13-562, whereby O-IRP dockets may be closed 60 days after the date of initial filing. By closing the docket, the Commission would not be making a finding that it endorses, approves or has otherwise made a determination on the merits of Basin's filing or on the reliability of Basin's system. The Commission may also wish to direct Basin to continue discussions with the Environmental Intervenors and to provide an update on the discussions in its next report.

VIII. Decision Options

A. Should the Commission grant approval of the Environmental Intervenors' Motion to Compel Basin's Response to Information Requests?

1. Grant approval of the Environmental Intervenors' Motion to Compel Basin's Response to Information Requests;
2. Do not grant approval of the Environmental Intervenors' Motion to Compel Basin's Response to Information Requests;
3. Take no action on the Environmental Intervenors' Motion to Compel.

B. What Action should the Commission take on Basin's Optional Integrated Resource Plan?

1. Follow the process outlined in Docket ET6125/RP-13-562 whereby O-IRP dockets can be closed 60 days after the date of initial filing. By closing the docket, the Commission is not making a determination on the merits of Basin's filing or on the reliability of Basin's system.
2. Direct Basin to continue discussions with the Environmental Intervenors and to provide an update on the discussions in its 2021 report.