MINNESOTA DEPARTMENT OF COMMERCE

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September 27, 2016 **PUBLIC DOCUMENT**

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

RE: **PUBLIC Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E015/M-16-534

Dear Mr. Wolf:

Attached are the **PUBLIC** *Comments* of the Minnesota Department of Commerce, Division of Energy Resources (Department), in the following matter:

> Petition of Minnesota Power for Approval of an Amended and Restated Electric Service Agreement between United Taconite LLC, Northshore Mining Company, and Minnesota Power.

The *Petition* was filed on June 22, 2016 by:

> David R. Moeller
> Senior Attorney
> Minnesota Power
> 30 West Superior Street
> Duluth, Minnesota 55802-2093

The Department recommends the Commission **approve the petition and require MP to provide information in its next integrated resource plan.** The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ MICHAEL N. ZAJICEK
Rates Analyst

MNZ/ja
Attachment

MINNESOTA DEPARTMENT OF COMMERCE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION
PUBLIC COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET NO. E015/M-16-534

I. BACKGROUND

In a May 24, 2016 press release, Cliffs Natural Resources Inc. (Cliffs) announced that it had entered into multiple agreements with Minnesota Power (MP or the Company), including a supply agreement related to Silver Bay Power plant, which is owned by Northshore Mining Company, a subsidiary of Cliffs Natural Resources, Inc.. This agreement was not mentioned in the Company's then-ongoing Integrated Resource Plan (IRP) (Docket No. E015/RP-15-690). MP indicated in response to Clean Energy Organizations' (CEO) Information Request No. 61 that the new agreements would not affect the Company's IRP process. MP filed copies of two non-firm energy transaction agreements executed with Silver Bay Power Company, and the "Amended and Restated Electric Service Agreement" (ESA) between MP and United Taconite, LLC (UT) and Northshore Mining Company (NSM)[1] in the IRP docket just prior to the June 9, 2016 Minnesota Public Utilities Commission's (Commission) agenda meeting held to discuss the Company's IRP.

The Commission issued its *Order Approving Resource Plan with Modifications* on July 18, 2016. Commission Staff noted that it could not provide an analysis of MP's deal with Cliffs because staff was not made aware of the deal until briefing papers in the IRP were being finalized. Thus, the Commission did not specifically address the Cliffs agreements in its Order.

II. INTRODUCTION

On June 22, 2016, MP petitioned the Commission for approval of an amended and restated ESA between UT, NSM, and MP. Under the proposed ESA, MP would provide power to Cliffs' UT and NSM facilities near Eveleth, Minnesota and Babbitt, Minnesota, respectively. Under

[1] Throughout the remainder of these comments, United Taconite LLC and Northshore Mining Company are collectively referred to as Cliffs.

the proposed ESA, Cliffs would purchase all of its electric service requirements for the UT and NSM facilities from Minnesota Power through at least 2026.

MP previously entered into an ESA with UT in Docket No. E015/M-08-1301 to provide electric service to UT facilities. Additionally MP entered into an ESA with NSM in Docket No. E015/M-95-1284 to provide electric service to NSM facilities. Under the proposed ESA, all of UT and NSM's electric service requirements will be provided under MP's Large Power (LP) Service Schedule. Under the existing agreements, NSM's facility takes service under the Large Light & Power Service Schedule and previously only received economic replacement energy service as it produced the majority of its electricity onsite.

MP indicated that the proposed ESA would:

- Ensure that Cliffs will purchase all the electric service requirements of UT and NSM through at least 2026;
- Allow Cliffs to operate its two facilities on a complementary basis to optimize production thresholds, maintenance outages, etc.;
- Provide Cliffs with additional operating flexibility and cost reduction potential through MP's ability to register and accredit a curtailable amount (selected by Cliffs) as a Load Modifying Resource in accordance with the Midcontinent Independent System Operator's Module E-1; and
- Allow incorporation of updated contract language reflecting modifications made in Docket No. E015/M-08-1344.

Upon Commission approval, MP indicated that the prior agreements with NSM and UT will be terminated.

III. DEPARTMENT ANALYSIS

A. NECESSARY CONDITIONS FOR APPROVAL OF THE PROPOSED ESA

In past dockets, the Minnesota Department of Commerce (Department) has identified conditions necessary for the Department to recommend approval of a proposed ESA.[2] The proposed ESA should be approved only if it is in the public interest. For the ESA to be in the public interest, it must meet the following conditions:

[2] See Docket No. E015/14-130

1. No party affected by the proposed ESA should be worse off as a result of the amendment.

2. The rates and terms of the ESA must not be discriminatory, namely the terms must be consistent with MP's approved tariffs and available to any other similarly situated large power customer.

B. TERM

Under paragraph 2 of the proposed ESA, Cliffs would take service from MP through at least 2026, without any prior right of termination. Consistent with terms of the LP Service Schedule, the ESA may be terminated after 2026 with written notices four years in advance of cancellation. Thus, MP would be obligated to provide firm service to Cliffs through at least 2030.

C. SERVICE REQUIREMENT

The Service Requirement is provided under "take-or-pay" conditions, meaning that the customer must pay for the Minimum Billing Requirement, regardless of the level of service actually taken. The proposed ESA requires a Minimum Billing Requirement of [TRADE SECRET DATA HAS BEEN EXCISED] in monthly bills. Under Paragraph 5 of the proposed ESA, Cliffs is obligated to purchase all its power and energy requirements for UT and NSM from MP.

There are additional provisions which include Incremental Production Service, Allowance for Scheduled Maintenance, and Increases and Decreases in Service Requirements. These provisions generally allow the customer more flexibility regarding its electric requirements while providing MP with appropriate compensation. As noted above, similar service is currently provided to Cliffs' UT facility under similar terms.

D. PUBLIC INTEREST DETERMINATION

1. No party affected by the proposed Amendment should be worse off as a result of the ESA

The Parties that may be affected under the proposed ESA are the Company, Cliffs, and MP's ratepayers. Since MP and Cliffs agreed on the proposed ESA and since they are both assumed to act in their own best interest, clearly neither the Company nor Cliffs are worse off as a result of the proposed ESA.

Regarding MP's other ratepayers, the Department notes that, under the proposed ESA, Cliffs would take service under the approved LP tariff, which the Commission has found to be just and reasonable. Further, under the proposed ESA, MP would have an obligation to provide firm service to Cliffs' facilities at least through 2030. This provision is consistent with Minnesota Statute section 216B.40, under which MP has "the exclusive right to provide electric service at retail to each and every present and future customer in its assigned service area." That is, MP has an obligation to provide service to each and every present and future customer in its service territory.

Under the proposed ESA, Cliffs would provide additional contribution to MP's system's fixed costs, thus benefiting MP's other ratepayers so long as no new resources are needed to provide service to these large customers. But, given that resources would be needed during the planning period of MP's integrated resource plan to continue to provide service to Cliffs, further analysis is needed about the effects of the ESA on MP's other ratepayers.

While the ESA could be considered to be a "changed circumstance" since MP would need to provide firm service to the Cliff facilities at least through 2030, MP already has an obligation under Minnesota Statutes to serve each and every present and future customer in its assigned service area. Nonetheless, the fact remains that it is difficult to plan for a utility system when several large customers have a material effect on the utility's planning and there is uncertainty about the long-term load of such customers. For example, MP has identified both United Taconite and North Shore Mining as being "subject to globally competitive pressures" under Minnesota Statute section 216B.1696.

The Department notes that MP's proposed ESA provides some protection to other ratepayers by the proposed Minimum Firm Demand (take-or-pay) provision in paragraph 4(A) of the ESA. However, to address the growing uncertainty of serving large customers that are subject to globally competitive pressures, the Department recommends that, in its next IRP, MP address how to ensure that MP has sufficient yet not excessive capacity resources to serve the Cliffs facilities under the terms of this ESA. For example, given the special nature of these customers, it may be appropriate for MP to use short-term market capacity resources for these customers rather than building a new power plant and burdening other ratepayers if the large customers succumb to competitive pressures. Such proposals would need to be carefully vetted to ensure that other ratepayers are not unduly burdened.

However, for purposes of this ESA, the Department concludes that the ESA is consistent with MP's obligations to provide service and provides some protection to other ratepayers through the take-or-pay provision.

2. Non-Discriminatory Rates under the proposed ESA

The rates under the proposed ESA are offered to Cliffs under the LP tariff. Clearly such rates are available to any other customer meeting the requirements of the LP tariff. Therefore, they are not discriminatory. Moreover, any specific terms of the contract are similar to the specific terms in previous dockets[3] and would be available to any other large customer of MP facing similar circumstances to those of Cliffs. Therefore, the Department concludes that the rates and terms of the proposed ESA are non-discriminatory.

IV. CONCLUSION

The Department concludes that the ESA between MP and Cliffs is in the public interest as it is consistent with MP's obligation to serve customers in its service territory and Cliffs would take service using the Company's existing LP tariff. In addition, the ESA provides some protection to other ratepayers through the take-or-pay provision.

Further, the Department notes that this agreement is similar to other ESAs between MP and its large power customers and the Company stated that it intends to continue its practice of "ensuring similar terms and conditions are available to all LP customers who make similar commitments."

However, to address the growing uncertainty of serving large customers that are subject to globally competitive pressures, the Department recommends that the Commission require MP, in its next IRP, to address how to ensure that MP has sufficient yet not excessive capacity resources to serve the Cliffs facilities under the terms of this ESA.

V. RECOMMENDATION

The Department recommends that the Commission approve the petition for an Electric Service Agreement between Minnesota Power and Cliffs. The Department also recommends that the Commission require MP, in its next IRP, to address how to ensure that MP has sufficient yet not excessive capacity resources to serve the Cliffs facilities under the terms of this ESA.

/ja

[3] E015/M-11-823, E015/M-13-93, E015/M-14-130, and E015/M-15-699

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

Nonpublic [ ]

Public [x]

Utility Information Request

Docket Number: E015/RP-15-690 Date of Request: 5/25/2016

Requested From: Minnesota Power Response Due: 6/6/2016

Requested by: Elizabeth Goodpaster; Leigh Currie

Attorneys for Fresh Energy, Wind on the Wires, Sierra Club, and Minnesota Center for Environmental Advocacy (collectively "Clean Energy Organizations")

Type of Inquiry:

[ ] Financial	[ ] Rate of Return	[ ] Rate Design
[ ] Engineering	[ ] Forecasting	[ ] Conservation
[ ] Cost of Service	[ ] CIP	[ ] Other:

If you feel your responses are trade secret or privileged, please indicate this on your response.

Request No.	
61	Please indicate how the addition of Northshore Mining to your customer base affects your 2015 IRP. In particular,

a. How does the addition of this customer change the demand and energy outlooks?

b. Does the addition of this customer alter Minnesota Power's preferred plan and/or its small coal analysis? If so, how?

c. Does the ownership of the two coal units at the Silver Bay Power plant alter Minnesota Power's plans with respect to Taconite Harbor Energy Center or Boswell Energy Center? Why or why not?

d. Does Minnesota Power intend on operating the coal units at Silver Bay Power plant?

e. If the answer to (d) is yes, what pollution control technology is required to operate those coal units and what is the estimates cost to install that technology?

f. If the answer to (d) is not, how will Minnesota Power meet the demand from this new customer?

Response:

Minnesota Power is not adding a new full-requirements retail customer as a result of entering into the long-term power supply agreements ("Agreements") with Cliffs Natural

Response by: Julie Pierce
Title: Director, Power Supply
Department: Strategy and Planning
Telephone: (218) 355-3829

List sources of information:

Resources' subsidiary Silver Bay Power Company ("SBPC"). These Agreements are in conformance with prior agreements between Minnesota Power and SBPC approved by the Commission in Docket Nos. E015/M-01-692, E015/M-94-1092, and E015/M-90-398, and Minnesota Power's Rider for Large Power Incremental Production Service and language applicable to customers with self-generation. SBPC has and will remain the owner and operator of the two generating units located at its facility.

Over the years, Minnesota Power has occasionally sold energy to SBPC as a Non-firm Retail customer and Qualified Facility as provided for under PURPA (Public Utility Regulatory Policy Act) and federal and state regulations when needed, such as when SBPC's onsite power plant was offline for maintenance. Likewise, Minnesota Power has occasionally purchased energy and capacity from SBPC. Under the Agreements, Minnesota Power will now provide additional economic replacement energy to SBPC on an ongoing basis as it continues to optimize its generating unit operation for North Shore Mining Co. electric needs.

The expansion to the economic replacement energy services provided to SBPC does not create any new firm demand needs on Minnesota Power's system. The non-firm energy to serve SBPC will be sourced from excess energy on Minnesota Power's system and market purchases. Similarly, the Agreements do not alter Minnesota Power's position and recommendation to idle Taconite Harbor Energy Center beginning in 2017. As SBPC does not require any demand or capacity as part of the expanded agreements, the Taconite Harbor Energy Center will remain available to provide regional support for MISO (Midcontinent Independent System Operator) as needed on an economic and emergency basis and not directly serve SBPC.

The Company considered whether entering into the Agreements would create a changed circumstance as defined in Minn. Rule 7843.0500 Subp. 5, which states, "[t]he utility shall inform the commission and other parties to the last resource plan proceeding of changed circumstances that may significantly influence the selection of resource plans." Because expanding the economic replacement energy services provided to SBPC does not create any new firm demand needs on Minnesota Power's system, and the non-firm energy will be sourced from excess energy on Minnesota Power's system and market purchases, there will be no alteration to the Commission's selection of resources plans in the pending 2015 Integrated Resource Plan ("2015 Plan").

At this time SBPC provides energy and capacity for North Shore Mining Co. If SBPC makes a future decision to no longer provide energy and demand to North Shore Mining Co., Minnesota Power will have the opportunity to serve the North Shore Mining Co. as a firm full-requirements customer within its retail service territory.

Minnesota Power provides the following responses to the Clean Energy Organizations' specific questions:

a. Minnesota Power's demand and energy outlooks will not change with the arrangements. Minnesota Power currently forecasts all of the North Shore Mining Co. demand as part of its forecast process as they are within the Minnesota Power retail service territory. The SBPC generators will continue to be distributed generating resources and included consistently as they have been in Minnesota Power's resource adequacy outlooks.

Response by:	Julie Pierce	List sources of information:
Title:	Director, Power Supply	
Department:	Strategy and Planning	
Telephone:	(218) 355-3829	

As there is not a change in firm energy requirements for Minnesota Power the demand and energy forecasts will not be impacted. There will be no change needed to its forecasts that are utilized in the 2015 Plan.

b. As there is not a change to Minnesota Power's current demand forecast due to the Agreements, there will be no alteration to Minnesota Power's Preferred Plan and/or its small coal analysis as part of its 2015 Plan.

c. Minnesota Power will not own the two coal units at the SBPC facility; therefore, it will not have an impact on Minnesota Power's plans with respect to Taconite Harbor Energy Center or Boswell Energy Center.

d. Minnesota Power does not intend to operate the coal units at the SBPC facility.

e. Not applicable per response to item d.

f. SBPC will continue to be responsible for providing the demand required for North Shore Mining Co.

Response by:	Julie Pierce	List sources of information:
Title:	Director, Power Supply	
Department:	Strategy and Planning	
Telephone:	(218) 355-3829	