



---- Via Electronic Filing ----

12/13/2019

Daniel P. Wolf
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

**RE: Comments of the Minnesota Rural Electric Association
In the Matter of a Motion to Compel Basin Electric's
Response to Information Requests (IRs).**

DOCKET NO.: ET-6125/RP-19425

Date: 12/13/2019

Dear Mr. Wolf:

The Minnesota Rural Electric Association (MREA) respectfully submits the attached comments in response to the request for comments from the Minnesota Public Utilities Commission (Commission) issued by the Commission in the above-referenced docket.

MREA represents the interests of the state's 45 electric distribution cooperatives and the six generation and transmission cooperatives that supply them with power. Our member cooperatives are not-for-profit electric utility businesses that are locally owned and governed by the member-consumers they serve.

The Minnesota Rural Electric Association appreciates the opportunity to submit comments in this matter on behalf of the member-owned electric cooperatives across Minnesota.

Sincerely,

/s/ Joyce Peppin

Joyce Peppin
Director of Government Affairs and General Counsel
Minnesota Rural Electric Association

**State of Minnesota
before the
Minnesota Public Utilities Commission**

Katie Sieben	Chair
Daniel Lipschultz	Commissioner
Matt Schuerger	Commissioner
Valerie Means	Commissioner
John Tuma	Commissioner

Comments of the Minnesota Rural Electric Association In the Matter of a Motion to Compel Basin Electric’s Response to Information Requests (IRs).

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

**Minnesota Rural Electric
Association Comments**

INTRODUCTION

The Minnesota Rural Electric Association (MREA) represents Minnesota’s 45 distribution and six generation and transmission cooperatives, including Basin Electric Power Cooperative. MREA files comments today against the motion by Sierra Club, Fresh Energy, and the Minnesota Center for Environmental Advocacy to compel Basin Electric’s response to Information Requests (IRs).

DISCUSSION

MREA generally responds to the topics contained within this notice by stating that the Motion to Compel Basin Electric’s Response to IRs, and the questions posed by the Minnesota Public Utilities Commission (PUC) are beyond the scope of Minn. Stat. §216B.2422 Subd. 2b. By filing its report under the Optional Integrated Resource Plan (O-IRP) statute, Basin Electric has satisfied the requirements of the plain language of the statute, as well as the legislative intent in enacting this measure.

By way of background, in 2012, MREA in conjunction with Basin Electric and Dairyland Power, spearheaded the effort to pass the legislation that created the O-IRP report option for generation and transmission (G&T) cooperatives with at least 80 percent of their member distribution cooperatives located outside of Minnesota, and that provide less than four percent of the electricity annually sold at retail.

The impetus for the O-IRP legislation grew out of the fact that both Basin Electric and Dairyland Power represent a very small presence in Minnesota’s energy mix. However, experience in preparing their advisory Integrated Resource Plans (IRPs) had demonstrated that the Minnesota IRP process required a greatly disproportionate amount of time, effort and expense to these cooperatives. In fact, with respect to Basin Electric, the time and expense required to complete an advisory IRP for Minnesota exceeded the time and expense for Basin Electric to complete its regulatory filings in the other eight states it serves *combined*.¹

¹ See *In the Matter of Basin Electric Power Cooperative’s Optional Integrated Resource Plan*, Docket No. ET-6125/RP-19-425, *Basin Electric Power Cooperative’s Responses to Sierra Club, Fresh Energy, and the Minnesota Center for Environmental Advocacy’s First Set of Information Requests*, Exhibit B, Prepared Testimony of Steve Tomac, Senior Government Relations Representative, Basin Electric Power Cooperative (Oct. 18, 2019).

Therefore, these cooperatives asserted, and the legislature agreed, that the cooperative membership and Minnesota taxpayers would be better served if there was an alternative to the IRP process. The initial legislation, SF 2098/HF2747, sought to exempt Basin Electric and Dairyland Power from preparing IRPs due to their limited presence in Minnesota. That version of the legislation actually passed both the Senate and House policy committees, and was awaiting action on the respective floor of each chamber. However, discussions with the Department of Commerce and the authors of the pending legislation resulted in a proposal that eventually became the O-IRP statute. This bill was adopted unanimously in the Senate, passed by a wide margin in the House, and was ultimately signed into law by Governor Dayton.²

Under the new statute, instead of enduring the expensive and time-consuming IRP process every 2-3 years, eligible cooperatives could provide a yearly report to the PUC on their systems' projected electric demand levels for the next 15 years, and generation resources to meet any projected generation deficiencies. In turn, the PUC would schedule a yearly meeting at which the cooperative could answer questions on the report. The legislation made clear that any existing reports to other jurisdictions or entities could suffice.³ The fact that an existing report could meet the cooperative's reporting requirement was thought to make clear that no "discovery" as exists in the IRP process was intended. This was to be a report, not an analysis of options as exists in an IRP.

As such, MREA believes the time, expense and work required to fulfill the IRs in this docket is exactly what the O-IRP statute was enacted to avoid. The statutory reference that the PUC "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"⁴ is not an invitation to recreate the burdens of an IRP through endless discovery, but rather an affirmation that any report acted on by the PUC is, at best, merely advisory to the cooperative's board of directors.

Following the 2012 legislation creating the O-IRP, the Minnesota legislature continues to recognize the unique nature of electric cooperatives and their ability to make decisions regarding electric service and cost through their democratically-elected board of directors. In 2017, the Minnesota legislature passed legislation creating an electric cooperative dispute resolution process related to distributed energy resources, and affirmed that in such a process an electric cooperative board of directors is exempt from regulation by the PUC and assumes the authority delegated to the PUC.⁵

While the PUC and other state regulatory bodies have some statutory duties to oversee electric service in Minnesota, the legislature has strived to carefully balance these roles with upholding the cooperative model. This is evidenced in the fact that any IRP or report under the O-IRP statute remains advisory and

² 2012 Minn. Laws ch. 268 (codified at Minn. Stat. § 216B.2422, Subd. 2b).

³ Minn. Stat. § 216B.2422, Subd. 2b, provides:

Optional integrated resource plan compliance for certain cooperatives. "...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,...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."

⁴ *Id.*

⁵ Minn. Stat. § 216B.164, Subd. 11.

that cooperatives retain authority with respect to resource mix, costs, and other measures to provide affordable and reliable electric service while complying with state and federal law.

The request of the Denver-based Sierra Club and others seeking to compel answers to extensive questions about Basin Electric's electric generating facilities, none of which are in Minnesota, is a prime example of what the O-IRP statute was enacted to avoid. The MREA urges the PUC to deny the Motion to Compel and follow the letter and spirit of the O-IRP statute. To do otherwise ignores the clear direction the legislature provided the PUC in 2012, as well as the State of Minnesota's longstanding recognition and appreciation for the cooperative model, reaffirmed as recently as 2017.

Thank you again for this opportunity to submit comment on this important issue.

CERTIFICATE OF SERVICE

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

Minnesota Rural Electric Association

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