Taft/

2200 IDS Center, 80 South 8th Street
Minneapolis, MN 55402-2210
Tel: 612.977.8400 | Fax: 612.977.8650
taftlaw.com

Elizabeth M. Brama
612.977.8624
EBrama@taftlaw.com

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VIA E-FILING

Mike Bull
Acting Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul. MN 55101-2147

Re: *In the Matter of the Petition of Minnesota Power for Acquisition of ALLETE by Canada Pension Plan Investment Board and Global Infrastructure Partners*
Response to Renewed Motion to Lift Trade Secret Designations
MPUC Docket No. E015/PA-24-198

Dear Mr. Bull:

On March 17, 2025, the Minnesota Office of the Attorney General – Residential Utilities Division ("OAG") filed a Motion to Lift Trade Secret Designations ("Motion"), seeking to lift confidential redactions of the proprietary and trade secret data contained in Minnesota Power's responses to Sierra Club IR 26 Attachment 26.02 and OAG IR No. 42 (the "IRs").[1] Minnesota Power filed its Response in Opposition to the OAG's Motion on March 31, 2025, thoroughly addressing the OAG's arguments.[2] The Administrative Law Judge ("ALJ") stated during the evidentiary hearing that she intended to issue a decision and order but never did so.[3]

On August 4, 2025, the OAG incorporated its Motion into its Exceptions to the ALJ Report in this proceeding, and asked the Commission to lift the trade secret designations contained in the IRs.[4] The OAG reiterated its prior arguments that Minnesota Power does

[1] OAG Motion to Lift Trade Secret Designations (March 17, 2025) ("OAG Motion") (eDocket No. 20253-216485-02).
[2] Minnesota Power Response to OAG Motion (March 31, 2025) (eDocket No. 20253-217020-01) ("Minnesota Power Response").
[3] *See* Evid. Hr. Tr. at 854:6—855:17 ("I also realize I have an outstanding motion that needs to be decided, and I'm going to try and work through that tomorrow and over the weekend so that before the public hearing we have some closure.") Counsel for the Company and the OAG raised concerns about an oral decision at a public hearing and the ALJ stated she intended to issue a written order. *Id*.
[4] OAG Exceptions to the ALJ Report at 3-5 (eDocket No. 20253-216485-02).

not face economic harm from the public release of the information contained in the IRs, and, at a minimum, the Commission should partially lift the trade secret designation.

Minnesota Power addressed the OAG's arguments in its March 31, 2025 Response, which is provided as **Appendix A** to this letter for convenience. By way of summary, it is first important to recognize that under the Commission's Rules of Practice "[n]othing in [Minn. R. Ch. 7829, governing Utility Proceeding, Practice, and Procedure] requires public disclosure of protected data or any disclosure of privileged data."[5] The data designated as trade secret under Minn. Stat. § 13.37 that the OAG seeks to make public here is especially sensitive for a utility, because it reflects proprietary long-term revenue requirement modeling and related outputs.[6] Removing its trade secret status would have negative impacts for customers and the utility within and beyond this proceeding – not only by publicizing the Company's proprietary forecasting model, but by enabling other entities to use or misuse confidential and sensitive internal scenario planning for their own benefit or to the Company's or its customers' detriment.[7]

For example, it is not beneficial to Minnesota Power's customers or other Minnesota utilities for entities considering self-generation, or who are deciding in which state or utility's service territory to site new enterprises, to be able to draw conclusions (whether right or wrong) from scenario planning that was never intended to be used for such purposes.[8] Publication of this model could also affect current investor decisions, municipal contracting, and existing customer contract negotiations.[9] The model also contains customer-specific data that is discernible from full or partial disclosure.[10]

For these same or similar reasons, utilities' financial forecasts beyond a rate case test year or plan year(s) are routinely and appropriately treated as confidential.[11] For example, in the Company's last rate case, the Company offered similar trade secret justifications for the protection of forecasting data.[12] Notably, the OAG was a party to the case and did not suggest that such justifications were inadequate. Thus, the trade secret information fully satisfies Minn. Stat. § 13.37, subd. 1(a), as it was supplied by the utility in discovery, is the subject of Minnesota Power's efforts to maintain its secrecy, and derives independent economic value to both Minnesota Power and its customers as a result of "not being readily ascertainable [made public] by persons who can obtain economic value from its disclosure or use."[13]

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[5] Minn. Stat. 7829.0500, Subp. 1.
[6] Minnesota Power Response at 8-9 (eDocket No. 20253-217020-01).
[7] *Id*.
[8] *Id*. at 8-13; Declaration of Joshua D. Taran ("Taran Decl.") at 3-4 (eDocket No. 20253-217020-01).
[9] Taran Decl. at 3-4 (eDocket No. 20253-217020-01).
[10] *Id.*
[11] *See* Minnesota Power Response at 13-15 (eDocket No. 20253-217020-01)..
[12] *Id*. at 14 (eDocket No. 20253-217020-01).
[13] Taran Decl. At 3-4 (eDocket No. 20253-217020-01).

Here, the model is not relevant to this proceeding, as it was not driven by the Acquisition in any way and the Company is neither proposing nor requesting any rate changes as part of the Acquisition.[14] Additionally, there is no clear reason why removing the trade secret designations is necessary for the OAG to make its case. Under the applicable Protective Order, there is no dispute that legal counsel and witnesses for all parties, including the OAG as well as the Commission and Staff, have access to all of the data for use in this proceeding, and parties provide no evidence of difficulty making their case simply because the data is not public.[15] Rather, the OAG waited more than two months after receiving the IR response to seek the removal of the trade secret designations and did not renew its motion to the ALJ before the contested case record closed, underscoring that there is no evidence the model or outputs needs to be made public at any time, let alone now, or that removing the trade secret designation is in the public interest.

Minnesota Power is also concerned about the potential for misuse of the model and its outputs if made public. The scenario contained in the IRs was based on information available at the time of its creation, and is not reflective of current conditions.[16] It specifically predates interim Commission rate case decisions, as well as significant changes in technology, customer load, and federal tax policy. Making such a proprietary financial model with stale inputs public would only invite misuse, efforts to extrapolate the obsolete data in improper ways, or unfair and inaccurate rhetoric about its meaning.

Overall, the Response (with supporting Declarations) appended to this letter fully addresses the OAG's Motion. The Response further confirms that the Company's trade secret designations are narrowly tailored, as Minnesota Power previously identified portions of the OAG's IR (which the OAG marked nonpublic) that could be made public without jeopardizing the Company's protected data. Minnesota Power also remains open to ongoing dialogue with the OAG if there is a path to resolve the matter, and in that event will provide an update to the Commission.

Sincerely,

Taft Stettinius & Hollister LLP

Elizabeth M. Brama

[14] *See* Minnesota Power Response to OAG Motion at 3 (eDocket No. 20253-217020-01). Minnesota Power objected that the data was not relevant and provided the information subject to that objection; the ALJ also did not decide this issue.
[15] Protective Order (December 12, 2024) (eDocket No. 202412- 212750-01).
[16] Taran Decl. at 4-5 (eDocket No. 20253-217020-01).

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of Minnesota Power for the Acquisition of ALLETE by Canada Pension Plan Investment Board and Global Infrastructure Partners	OAH Docket No. 25-2500-40399 MPUC Docket No. E-015/PA-24-198 MPUC Docket No. E-015/M-24-383

MINNESOTA POWER'S RESPONSE IN OPPOSITION TO THE OFFICE OF THE ATTORNEY GENERAL – RESIDENTIAL UTILITIES DIVISION'S MOTION TO LIFT TRADE SECRET DESIGNATIONS

ALLETE, Inc. d/b/a Minnesota Power (the "Company") hereby responds to the Office of the Attorney General – Residential Utilities Division's ("OAG") Motion to Lift Trade Secret Designations dated March 17, 2025 ("Motion"). For the reasons set forth below, the OAG's Motion should be denied. However, the Company believes certain portions of the material OAG redacted as nonpublic in its own data request can be unredacted, as discussed herein. The Company has worked hard to narrowly tailor the data it seeks to maintain confidential. Overall, the OAG and other Parties have ample access to the proprietary data without publicly disclosing it.

FACTUAL AND PROCEDURAL BACKGROUND

On December 5, 2024, the Administrative Law Judge issued a Protective Order that incorporates the Minnesota Government Data Practices Act's ("MGDPA") definition of "trade secret."[1]

[1] *See* Protective Order and Protective Order for Trade Secret Data ¶ 1 (Dec. 5, 2024) ("The 'protected data' as used in this Protective Order is defined as: … (2) 'security information,' 'trade secret information,' or 'not public data' within the meaning of Minn. Stat. §§ 13.02, subd. 8a, 13.37, subd. 1(a), (b)").

Under the MGDPA definition, information must remain nonpublic if: "(1) it is supplied by the affected individual or organization; (2) it is the subject of reasonable efforts to maintain its secrecy; and (3) it derives independent economic value from not being generally known or readily ascertainable."[2]

On December 23, 2024, Sierra Club served Sierra Club Information Request ("IR") No. 26 upon the Company, requesting "the estimated revenue requirement" and the estimated "monthly bill impacts for an average residential customer."[3]

On January 7, 2025, the Company served its response to Sierra Club IR No. 26. Attached to its response to Sierra Club IR No. 26, the Company provided an Excel spreadsheet titled "SIERRA IR 0026.02 Attach TS.xlsx" ("Attachment 26.02 TS").[4] The Company designated the spreadsheet as trade secret in its entirety.[5] The Company provided the following justification for designating the information within Attachment 26.02 TS as trade secret:

> SIERRA CLUB IR 0026.02 Attach TS includes trade secret information as defined by Minn. Stat. § 13.37, subd. 1(b). This information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain value from its disclosure or use. Thus, the Company has made reasonable efforts to maintain its secrecy. Because the Company has classified the entire document as trade secret information, the Company provides the following description of the excised material as required by Minn. R. 7829.0500, subp. 3: [][6]

One week later, on January 16, 2025, the OAG sent the Company OAG IR No. 42 asking questions regarding Attachment 26.02 TS.[7] In issuing OAG IR No 42, the OAG made most of the

[2] Minn. Stat. § 13.37, subd. 1(b).
[3] Taran Decl. ¶ 3.
[4] Taran Decl. ¶ 4; Brama Decl. ¶ 3.
[5] Taran Decl. ¶ 4 Brama Decl. ¶ 3.
[6] Brama Decl. ¶ 4 (Minn. R. 7829.0500, subp. 3 description omitted).
[7] Taran Decl. ¶ 5; Brama Decl. ¶ 5.

request nonpublic and did not indicate any concerns with the Company's trade secret designation of the underlying Attachment 26.02 TS on which OAG IR No. 42 was premised.[8]

On January 29, 2025, the Company provided its response to OAG IR No. 42.[9] In the Company's response to Question A.4 of OAG IR No. 42, the Company marked the average rate increase number, which was from the model in Attachment 26.02 TS, as trade secret.[10] As indicated in the Company's OAG IR No. 42 Response, the Company objected to OAG IR 42 to the extent the request sought information that is not relevant or proportional to the needs of the case, as the Company has not requested and is not anticipating any particular rate change as part of this proceeding or as a result of the Acquisition.[11] However, the Company responded to OAG IR No. 42 over the objection, as described above.[12] The Company provided the following justification for the designation:

> The information designated as trade secret herein is financial information and is designated as such because this information is not generally known to and not readily ascertainable by investors and competitors of the Company who could obtain economic value from its disclosure. Thus, this information is trade secret information as defined by Minn. Stat. § 13.37, subd. 1(b).[13]

In providing its overall response, the Company reiterated that it was not anticipating any particular rate change over the specified time period.[14] Rather, Attachment 26.02 TS was a high-level modeling exercise of potential revenue requirements based on a set of assumptions at a point in time.[15] The actual level of required revenue would change based on a multitude of factors over this time period, including potential future decisions of the Commission in cost recovery

[8] Brama Decl. ¶ 6.
[9] Taran Decl. ¶ 6; Brama Decl. ¶ 7.
[10] Brama Decl. ¶ 7.
[11] Brama Decl. ¶ 8.
[12] *Id*.
[13] Brama Decl. ¶ 9.
[14] Taran Decl. ¶ 7.
[15] Taran Decl. ¶ 8.

proceedings, on which the Company cannot speculate.[16] However, the model reflects the Company's proprietary model and modeling outcomes. These facts limit the relevance of the information for this proceeding, while at the same time underscoring that the information, if made public, could be taken out of context, and misused as discussed in more detail below.

Waiting until more than two months after the Company served its response to Sierra Club IR 26 and roughly two weeks before the evidentiary hearing, the OAG served a letter on the Company by email and U.S. Mail (received the following week) during the afternoon of Thursday, March 13, 2025 that requested that the Company voluntarily remove trade-secret designations from SIERRA IR 0026.02 Attach TS and from its response to OAG IR No. 42 and requesting to meet and confer regarding the OAG's request.[17] The OAG did not state a deadline for its conferral.[18] Both counsel appearing for the Company were traveling March 13-14, 2025.[19]

On Monday, March 17, counsel for the OAG threatened to file a motion if the Company did not respond that day.[20] The Company proposed a time to confer, and met with the OAG that same day.[21] During the conferral, the OAG stated it might withhold its motion if the Company agreed to a partial resolution.[22] After the conferral the OAG sent an email identifying extensive unredactions to which the Company needed to agree to that afternoon, or else the OAG would file its motion.[23] In light of the confidentiality of the underlying model and data, as well as the time provided and in light of the OAG's unreasonable demands, the parties did not come to a resolution.[24]

[16] *Id*.
[17] Brama Decl. ¶ 10.
[18] *Id*.
[19] Brama Decl. ¶ 11.
[20] Brama Decl. ¶ 12.
[21] *Id*.
[22] *Id*.
[23] *Id*.
[24] *Id*.

The OAG served its Notice and Motion to Lift Trade Secret Designations that same day.[25] The Company is therefore compelled to respond in the last two weeks before the evidentiary hearing and overlapping with receipt of all parties' extensive Surrebuttal less than a week before the evidentiary hearing.

TRADE SECRET DESIGNATIONS

I. Classification of Trade Secrets Under the MGDPA

Under the MGDPA, all data held by a government entity are presumed public "unless classified by statute . . . as nonpublic or protected nonpublic."[26] "Trade secret information" is statutorily defined as "government data including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use."[27]

Further, Minnesota Rules governing protected data in Minnesota Public Utilities Commission matters only require an "accompanying statement justifying the state agencies treating the data as protected data," including "an explanation of how the data is classified under the [MGDPA] or is privileged under a rule of privilege recognized by law."[28] Certain specific additional information is required where the data is nonpublic in its entirety.[29] Importantly,

[25] *See* Office of the Attorney General—Residential Utilities Division's Notice of Motion and Motion to Lift Trade Secret Designation ("OAG Motion") (March 17, 2025) (eDocket No. 20253-216485-02).
[26] Minn. Stat. § 13.03, subd. 1.
[27] Minn. Stat. § 13.37, subd 1(b).
[28] Minn. R. 7829.0500, Subp. 5.
[29] Minn. R. 7829.0500, Subps. 3 and 5.

"[n]othing in [Minn. R. 7829] requires public disclosure of protected data or any disclosure of privileged data."[30]

OAG does not dispute that the Company provided explanations as required by Minnesota Rules, nor that the Company meets the first two criteria of the definition of "trade secret information." Rather, the OAG disputes whether Attachment 26.02 TS "derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use."[31] As shown below, the redacted data in Attachment 26.02 TS and the Company's response to OAG IR No. 42 are protected and privileged data of the Company.

ARGUMENT

I. Standard of Review

The OAG's Motion is effectively a motion to compel the Company to produce publicly its proprietary model and modeling data. Minnesota Rules governing administrative proceedings before the Office of Administrative Hearings ("OAH") provide that in a motion to compel production of a document, "the party seeking discovery shall have the burden of showing that the discovery is needed for the proper presentation of the party's cases, is not for purposes of delay, and that the issues or amounts in controversy are significant enough to warrant the discovery. In ruling on a discovery motion, the judge shall recognize all privileges recognized at law."[32] As such, at a minimum the OAG should have the burden to prove the nonpublic data must be made

[30] Minn. R. 7829.0500, Subp. 1.
[31] OAG Motion at 4; Minn. Stat. § 13.37, subd 1(b).
[32] Minn. R. 1400.6700, Subp. 2. Even if the OAG's motion is not treated as a motion to compel, the OAG's position that Minnesota Power is not entitled to protect information that would create a competitive advantage if known to others – whether to customers, investors, other utilities, or future rate case intervenors - and that Minnesota Power has gone to great lengths to maintain as trade secret, is not supported by the rules and standard practice in Commission matters.

public in order for "the proper presentation of [its] case" and that the motion is not for purposes of delay.

Further, "[w]hen a party is asked to reveal material considered to be proprietary information or trade secrets, or not public data, that party may bring the matter to the attention of the judge, who shall make such protective orders as are reasonable and necessary or as otherwise provided by law."[33] Here, at the last minute the Company is being asked to make nonpublic, trade secret data public so that the OAG can publicly disclose it in this proceeding, despite the Company's compliance with a pre-existing, mutually agreed (including by the Company, OAG, Department of Commerce, and all other parties to the case) Protective Order issued by the Administrative Law Judge in this case. Notably, OAG does not suggest that the Company has failed to comply with the pre-agreed Protective Order. Finally, as previously noted, within the Commission's own procedural rules "[n]othing in [Minn. R. Ch. 7829, governing Utility Proceeding, Practice, and Procedure] requires public disclosure of protected data or any disclosure of privileged data."[34]

II. Disclosure of This Data Poses a Significant Risk of Harm to the Company

The MGDPA protects information "that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use."[35] The OAG erroneously argues that confidential data can only confer economic value if it offers a competitive advantage to one regulated utility vis a vis another utility. In doing so, the OAG implies that a regulated utility faces no competition and therefore cannot claim trade secret protection for the

[33] Minn. R. 1400.6700, Subp. 4.
[34] Minn. R. 7829.0500, Subp. 1.
[35] Minn. Stat. § 13.37, subd 1(b) (emphasis added).

information marked trade secret in Attachment 26.02 TS and the Company's OAG IR No. 42 Response.

A plain reading of the statute suggests that the third prong of the definition is not limited to competitors, let alone "competitors" according to the OAG's overly narrow definition. Nor is it limited to only information that gives other persons a "competitive advantage." Nothing in the statute narrows the third prong of the trade secret definition to only those scenarios in which a regulated utility faces direct competition from another regulated utility. Instead, the analysis should focus on whether the redacted data genuinely holds economic value because it is not publicly available. That is clearly the case here. Further, even under a restrictive reading of the statute in which the redacted information must give a third-party a "competitive advantage," the disclosure of the redacted information contained in Attachment 26.02 TS and the Company's OAG IR No. 42 Response still meet this standard.

A. The Information Contained in Attachment 26.02 TS Derives Economic Value from Not Being Generally Known to or Readily Ascertainable by Other Persons

The redacted information contained within Attachment 26.02 TS and the OAG IR No. 42 Response has economic value derived from not being known because it includes customer-specific information that is confidential and critical to protecting the Company and its customers in ongoing and future negotiations with other Company customers.[36]

First, Attachment 26.02 TS contains long term financial forecasts, which may be used by current investors to make investment determinations.[37] The spreadsheet was not prepared to be shared with investors in public markets, as it lacks proper disclaimers or contextual information

[36] Taran Decl. ¶ 9.c.
[37] Taran Decl. ¶ 9.a.

that would indicate it should not be relied upon for investment purposes, and could potentially lead to misguided investment decisions based on outdated or incomplete data.[38]

Second, the overall document is the Company's proprietary approach to forecasting rate scenarios.[39] Releasing the complete document, or even only certain lines or cells, allows interested persons to deduce the confidential mechanics underlying the Company's broader forecasting processes and undermine the Company's confidential business planning efforts.[40]

Third, even if the model were not live, the overall analysis and results of the spreadsheet were derived from a high-level modeling exercise of potential revenue requirements based on a set of assumptions at a point in time.[41] Making the outputs of such scenario planning public would undermine the proprietary nature of the Company's scenario planning processes, and mistakenly cause third parties to take the inputs or outputs out of context.[42]

Fourth, the results of Attachment 26.02 TS reflect one scenario prepared by the Company and it does not represent a forecast vetted for public disclosure.[43] Assumptions within the forecast change regularly, and the disclosure of this data could harm the Company's standing with customers even though it is not any particular outcome the Company expects it or customers to experience and the underlying assumptions have already shifted.[44] The actual level of required revenue will very likely change based on a multitude of factors over this time period, including unknowable potential future decisions of the Commission in cost recovery proceedings.[45] Importantly, Paragraph 2(e) of the Protective Order also provides that "All protected data furnished

[38] *Id*.
[39] Taran Decl. ¶ 9.b.
[40] *Id*.
[41] Taran Decl. ¶ 8.
[42] *Id*.
[43] Taran Decl. ¶ 10.
[44] *Id*.
[45] *Id*.

in this proceeding shall be… [u]sed solely for the purposes of this proceeding, and not used or disclosed for any other purpose or in any other manner, without an order from the Administrative Law Judge."[46] In this context, there is a substantial risk that public disclosure could create unnecessary public prejudgment about future rate increases that may never materialize.[47]

B. Even Under the OAG's Restrictive Understanding of "Competitive Advantage," the Potential Harm to Minnesota Power Is Plain

While the OAG contends that the Company has "captive" customers and thus faces no traditional competition, the Company does compete for favorable terms with large power customers that collectively account for a substantial portion of its load. Disclosure of these customers' rate information could allow interested parties, such as large power customers, to unfairly benefit from insights into the Company's strategic positioning, potentially disadvantaging the Company's standing with other customer classes.[48]

This is true in several respects. First, Attachment 26.02 TS contains rate information for municipal customers with specific contracts.[49] Disclosing this information could harm the Company's ability to negotiate future contracts with these customers or similar customers in the future.[50]

Second, the information contained in the Attachment 26.02 TS, particularly in regard to rate information by customer class, is critical to protecting competitive advantages.[51] Specifically, the Company has a small number of large industrial customers who, with access to this level of data, could discern other customers' rates based on the Company's projections by class and the

[46] Protective Order and Protective Order for Trade Secret Data ¶ 2(e).
[47] Taran Decl. ¶ 10.
[48] Taran Decl. ¶ 9.d.ii.
[49] Taran Decl. ¶ 9.c.ii.
[50] *Id.*
[51] Taran Decl. ¶ 9.d.i.

customers' knowledge of their own contracts.[52] This is discussed in more detail in Section III, below. Giving large industrial customers such information would likewise potentially give them insights into each other's contracts and operational strategies, thereby compromising the competitive landscape.[53]

Third, release of the rate forecast contained in Attachment 26.02 TS will directly affect the Company's ability to attract new customers and impact future contract negotiations.[54] Electric utilities throughout Minnesota are working to attract new, large commercial customers, such as data centers, to their service territories. Disclosing the commercially sensitive and customer-specific information would unequivocally give interested third parties a competitive advantage, or potentially put Minnesota Power at a disadvantage relative to other utilities who are not compelled to disclose such forecasts (particularly when they are not intended to indicate any particular future rate forecast).

In short, whether viewed under the plain language of the MGDPA (protecting data that confers economic value from remaining confidential) or under the OAG's incorrect assumption that only "competitors" matter, the redacted information in Attachment 26.02 TS and the Company's OAG IR No. 42 Response satisfies the third prong of the MGDPA's trade secret definition and, thus, should not be publicly disclosed. The harm of disclosure would be real, significant, and contrary to the public interest, which the MGDPA is designed to protect.

[52] Taran Decl. ¶ 9.c.i.
[53] Taran Decl. ¶ 9.d.i.
[54] Taran Decl. ¶ 9.d.iii.

C. Partial Disclosure Would Invite Third Parties to Reverse Engineer or Back Into Proprietary Data and Calculations

The OAG suggested that partial redaction or targeted disclosure of the spreadsheet's contents would be a sufficient alternative solution.[55] However, this approach fails to consider the inherent risks involved in releasing only portions of Attachment 26.02 TS.

By providing partial access to the document, the Company would open the door for third parties to reverse engineer the underlying data and calculations, which would compromise the integrity of the Company's trade secrets. This concern is especially pronounced here because the Company has a smaller number of large power customers that collectively account for a disproportionately high share of its load, making the data easier to piece together.[56] For example, if only certain rate projections or revenue assumptions are made public, interested parties, like large industrial customers who already have insights into its own actual data and forecasts, could use this information to "back into" the remaining calculations and assumptions that were not disclosed.[57]

When coupled with other publicly available information, such as what is included in the Company's response to OAG IR No. 42 and the known rates for the forecast period, these parties could deduce information about other customer classes, including negotiated rates with other industrial customers.[58] This would provide them with a tactical advantage in negotiating with the Company. And because the Company must recover a certain quantity of revenue to cover its cost of service, which are allocated (shared) between customer classes, lower revenue from one large industrial customer translates to higher rates for other customers. Therefore, making this

[55] OAG Motion at 5.
[56] Taran Decl. ¶ 9.c.i.
[57] *Id*.
[58] *Id*.

information public would provide a direct a competitive advantage with respect to the Company's negotiations with some customers and would translate into a disadvantage for other customers.

Ultimately, this process of reverse engineering proprietary data would make it much easier for interested third parties to figure out the details of the Company's strategic positioning by giving them valuable information that was intended to remain confidential and arming them with leverage in future negotiations. By disseminating even a fraction of these highly sensitive and carefully guarded details, the Company's trade secrets and strategic business information would be severely compromised, defeating the purpose of any confidentiality protections.

III. The Nature of this Data and the Trade Secret Justifications Provided are Routinely Protected by the Commission.

The OAG states that "reciting the statutory definition cannot support ALLETE's claim that its projections of customer rate impacts are trade secret."[59] However, this argument, and the reliance on *Rahr Malting Co*., is misplaced. In general, the Minnesota Public Utilities Commission ("Commission") favors simplistic justifications for trade secrets designations.[60] The nature of the data contained in Attachment 26.02 TS and the Company's OAG IR No. 42 response is routinely considered nonpublic and justified using the favored simplistic justifications.[61]

[59] OAG Motion at 4 (citing *In re Rahr Malting Co*., 632 N.W.2d 572, 576 (Minn. 2001)).

[60] *See In re 1998 Annual Automatic Adjustment of Charges*, Docket No. E-999/AA-98-1130, ORDER ACCEPTING ANNUAL AUTOMATIC ADJUSTMENT REPORTS at 5 (Aug. 23, 1999) ("While the use of the trade secret designation is sometimes necessary and useful, the practice carries with it certain complications, such as difficulties in preparing regulatory documents. Utilities should remain conscious of the balancing of interests when materials are marked 'trade secret.' For this reason, the Commission continues to favor requiring a simple justification of the 'trade secret' claim for each piece of information so designated.")

[61] *See e.g. In the Matter of the Application by Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, Docket No. E015/GR-23-155, INITIAL FILING VOLUME 1 – NOTICE OF CHANGE IN RATES AND INTERIM PETITION at 3-16 (Nov. 1, 2023); *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota - 2019 Sales Actual Data and Related Revenue Calculations Submitted by Northern States Power Company d/b/a Xcel Energy (Xcel Energy), Pursuant to the Minnesota Public Utilities Commission's June 12, 2017 Findings of Fact, Conclusions of Law, and Order*, Docket No. E-002/GR-15-826, ORDER at Attachment 1 pg. 14 (May 22, 2020) (justifying the trade secret designation in IR requests as "Attachment A is marked "Not-Public" as it includes information the Company considers to be trade secret data as defined by Minn. Stat. § 13.37(1)(b). The information has independent economic value from not being generally known to and not being readily ascertainable by other parties who could obtain economic value from its disclosure or use.")

For example, in the Company's latest rate case, the Company offered similar language to justify the protection of sales and pricing data.[62] In justifying trade secret designations in that case, the Company stated:

> "The information in Table 5 includes sales data the Company considers to be trade secret information protected by the Minnesota Data Practices Act. This information has economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons and is subject to efforts by the Company to protect the information from public disclosure or use. For this reason, the Company asks that the data be treated as nonpublic data pursuant to Minn. Stat. § 13.37, subd. 1(b)."[63]

The Company also stated:

> "The information contained in this table includes capacity price information the Company considers to be trade secret, as defined by Minn. Stat. § 13.37, subd. 1(b). This information has important economic value to Minnesota Power as a result of this information remaining not public, and Minnesota Power has taken reasonable precautions to maintain its confidentiality.[64]

The OAG was a party to the Company's latest rate case and did not suggest that such justifications were inadequate. Further, the OAG was also a party to the other cited instances where similar justification language was used, and the OAG never took issue with the justification language either. When providing this justification, the Company was following the long-standing recognized trade secret justification favored by the Commission.

Additionally, the Commission has routinely protected designated trade secrets from disclosure when disclosure of the trade secret data is irrelevant to the docket or may harm bargaining positions and customer negotiations.[65] In Docket No. ET-2/RP-14-813, the

[62] *See In the Matter of the Application by Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, Docket No. E015/GR-23-155, INITIAL FILING VOLUME 1 – NOTICE OF CHANGE IN RATES AND INTERIM PETITION at 3-16 (Nov. 1, 2023).
[63] *Id*. at 8.
[64] *Id*.
[65] *See In the Matter of Great River Energy's 2015-2029 Resource Plan*, Docket No. RT-2/RP-14-813, ORDER DENYING MOTION TO COMPEL, ACCEPTING RESOURCE PLAN, AND SETTING FUTURE FILING REQUIREMENTS at 7 (October 25, 2015); *In the Matter of the Annual Filing of Cogeneration and Small Power Production Rates*, Docket No. E999/PR-19-09, ORDER ACCEPTING TRADE SECRET DESIGNATIONS AND REQUIRING PUBLIC FILINGS at 8-9 (Feb. 21, 2020).

Commission denied a motion to compel disclosure of certain Great River Energy ("GRE") cost data, finding that GRE had demonstrated these figures were both sensitive and irrelevant to the precise resource-planning questions at issue.[66] Specifically, GRE's operations and maintenance costs were deemed competitively sensitive because releasing them could impair GRE's bargaining position in wholesale market transactions and customer negotiations.[67] The Commission noted that no party had shown the public release of these numbers to be necessary for evaluating GRE's overall resource plan, and thus allowed the information to remain designated as trade secret.[68]

Similarly, in Docket No. E-999/PR-19-09, the Commission concluded that classifying certain avoided-cost data as trade secret was consistent with the MGDPA because public disclosure of that specific information could allow bidders to manipulate pricing.[69] The utilities argued that disclosing detailed cost data would allow potential bidders to tailor bids to the utilities' internal estimates, potentially raising prices above a truly competitive level.[70] Opponents of trade secret protection countered that the information should be publicly available to satisfy federal and state "public inspection" obligations.[71] The Commission ultimately found that protecting the data was justified under the MGDPA, concluding that making this information public might compromise utilities' negotiation positions and increase costs for ratepayers.[72]

In both instances, the Commission balanced transparency against the potential harm of disclosure. Where the data's relevance to the proceedings was minimal and its disclosure

[66] *See In the Matter of Great River Energy's 2015-2029 Resource Plan*, Docket No. RT-2/RP-14-813, ORDER DENYING MOTION TO COMPEL, ACCEPTING RESOURCE PLAN, AND SETTING FUTURE FILING REQUIREMENTS at 7 (October 25, 2015).
[67] *Id*.
[68] *Id*.
[69] *In the Matter of the Annual Filing of Cogeneration and Small Power Production Rates*, Docket No. E999/PR-19-09, ORDER ACCEPTING TRADE SECRET DESIGNATIONS AND REQUIRING PUBLIC FILINGS at 8-9 (Feb. 21, 2020).
[70] *Id.*
[71] *Id.*
[72] *Id.*

threatened to undermine the utilities' ability to negotiate favorable terms, the Commission protected it as trade secret. The same reasoning should be applied here because public disclosure of the commercially sensitive data contained within Attachment 26.02 TS and the Company's OAG IR No. 42 Response could harm the Company's ability to fairly negotiate contracts with new and existing customers, and the information the OAG seeks to make public is irrelevant to the proceeding at hand.

Even if the justification were not sufficient in the discovery response (which is not the case), that does not end the inquiry. *Rahr* stands in part for the proposition that it is the trier of fact's responsibility to inquire carefully before deciding whether or not to protect arguably nonpublic data, not that there is an assumption to make disputed data public.[73] In *Rahr*, the taxpayer's request to protect information amounted to little more than an assertion that disclosure would be "devastating," without explaining how the information satisfies trade secret criteria.[74] Rather, than requiring the data to be made public, the Minnesota Supreme Court remanded to ensure the taxpayer had the opportunity to present sufficient facts to demonstrate that its information constituted a protectable trade secret.[75]

By contrast, the Company has provided a justification for redacting the information in Attachment 26.02 TS and the Company's OAG IR No. 42 Response – a justification, as shown above, that has been adequate in the past. The mere fact the OAG in unhappy with it is irrelevant to the analysis. Additionally, unlike in *Rahr*, the Company did not provide "conclusory allegations of harm." Instead, the Company, in an effort to be as transparent as possible while protecting

[73] *In re Rahr Malting Co*., 632 N.W.2d at 576 (Minn. 2001) ("The tax court is in the best position to weigh the competing needs and interests of the parties.")
[74] *Id.* ("that disclosure of the data would be 'devastating' and affect the 'survivability' of the company. Although Rahr claims some of the information it seeks to protect constitutes trade secrets, Rahr does not explain how the information satisfies the criteria established in Minn. Stat. § 325C.01, subd. 5 (2000).")
[75] *Id.* at 577.

confidential information, provided a fulsome response to OAG IR No. 42 as largely public, designating only the numeric estimated average rate change included in the model as trade secret.[76] And rather than inquiring further if it was unsatisfied and enabling a supplemental discovery response, the OAG waited several months and only sought to confer with a motion to compel already prepared. Thus, the Company here has more than met its burden of demonstrating that the redacted information is highly sensitive and warrants trade secret protection.

In sum, the OAG's suggestion that reciting the statutory definition is an inadequate basis for a trade secret claim overlooks the Commission's long-standing practice of accepting concise justifications for designating sensitive data as nonpublic. Repeatedly, the Commission has protected cost, pricing, and other competitively sensitive information when it has little or no bearing on the central issues in a docket and could harm a utility's bargaining position if disclosed. Consequently, the Company has more than met its burden of demonstrating that the redacted information is legitimately protectable as trade secret.

IV. The OAG has Not Established that the Proper Presentation of OAG's Case Within this Docket Requires the Nonpublic Information to Be Made Public, nor that the Motion is Not for Purposes of Delay.

As stated above in Section I, the OAG's Motion seeks to compel the Company to publicly disclose a model and modeling data that the Company has properly designated as trade secret. However, there is no showing that the information must be made public for the proper representation of a party's case, or that the motion is not for the purposes of delay.

Here, there is no dispute that the OAG's (and DOC's) legal counsel and witness have access to all of the data it seeks to make public, as do all parties, under the existing Protective Order. Further, because the data is not highly confidential, any representative who signs the non-

[76] Brama Decl. ¶ 8.

disclosure agreement may review and rely upon these materials to advocate on behalf of customers without the need to publicly disclose proprietary information. Commission Staff, this tribunal, and the Commission likewise have access. As such, there is no showing that the data needs to be made public for any party to properly make its case or for the Commission or the ALJ to evaluate the record.

Despite this, the OAG makes generalized policy arguments about transparency, but fails to articulate how public disclosure of this confidential commercial data is necessary. The Department of Commerce ("DOC") similarly makes a blanket statement about the public interest without showing justification.[77] However, they fail to identify how making this confidential and proprietary information public is actually necessary, let alone beneficial. As previously discussed, the data is not determinative of future outcomes and the Company is not suggesting any particular future rate scenario. Moreover, making this data publicly available would provide competitive advantages to parties who could misuse it for their own strategic purposes, including in negotiations with the Company.[78] This is potentially detrimental to customers, who do not benefit if one customer uses proprietary information to obtain favorable outcomes at the expense of other customers.

Finally, the data the OAG seeks to make public is not particularly relevant to this proceeding, meaning that any asserted need for transparency is particularly low – calling into question the OAG's claimed motivation for seeking to make confidential commercial data public. The timing and approach of the OAG's Motion reinforce the concerns regarding the OAG's intent. For more than two months following the Company's initial disclosure of this information in

[77] *See* Department of Commerce's Memorandum in Support of OAG's Motion to Lift Trade Secret Designations at 2 (March 25, 2025) (eDocket No. 20253-216782-01) ("There is clearly a significant public interest regarding this information.")
[78] Taran Decl. ¶ 9.

response to Sierra Club IR No. 26 and subsequently to OAG IR No. 42, the OAG did not object to the Company's trade secret designations. Yet, on March 13, 2025, weeks before the evidentiary hearing and while the Company's counsel were traveling, the OAG suddenly demanded removal of the trade secret designations.[79] The OAG did not set a deadline for its conferral in its March 13 letter, but on Monday, March 17 the OAG insisted on a same-day deadline for conferral, threatened to move immediately if its demands were not met, and quickly filed its Motion when the parties did not come to a resolution.[80] The OAG's belated request, compressed deadlines, and refusal to engage in meaningful discussion do not suggest a need for the proper presentation of its case – rather, they call into question whether the OAG is seeking to disrupt preparations for these proceedings and/or to publicize irrelevant data at some future time in an effort to solicit public support for its positions.

Finally, the December 5, 2024 Protective Order on which all parties agreed specifies that "Protected data for which a designation is removed shall not be made public until five (5) days after the determination, or another time as determined by the Administrative Law Judge, to provide an opportunity to seek further review of the determination."[81] The five-day window was agreed to by all parties in the proceeding, as a reasonable period for a party to assess the determination and what, if any, next steps should be taken. As such, even if the OAG's Motion were granted in any respect, the underlying data still could not be made public until after the close of the evidentiary hearing. Given this timing, OAG's motion does not appear to be tailored to actual needs for the record in this case and again calls into question the intended purpose of seeking that the information be made public.

[79] Brama Decl. ¶ 10.
[80] Brama Decl. ¶¶ 10-12.
[81] Protective Order, Paragraphs 11(c) and 13.

Overall, the economic value of maintaining confidentiality significantly outweighs any marginal public benefit gained from disclosure. The data in question contains proprietary modeling and commercially sensitive projections that, if publicly disclosed, could be misused by competitors or other parties for strategic advantage in negotiations with the Company. The Company has legitimate, ongoing commercial interests in preserving the confidentiality of its modeling and proprietary data. Conversely, the public interest in understanding high-level financial forecasts is relatively limited when compared to the potential harm caused by disclosure. And by waiting until the final stage of the contested case to challenge the existing designation and then insisting on unreasonably short response times, the OAG has failed to demonstrate that its Motion is not for the purposes of delay or disruption. Accordingly, the Motion must be denied.

V. Partial Disclosure with Continued Protection of Proprietary Information Contained Within the OAG's Request in OAG IR No. 42

Notwithstanding the foregoing, the Company acknowledges and appreciates that, despite the OAG's position that much of the information in Attachment 26.02 TS does not warrant trade secret protection, the OAG took care to mark OAG IR No. 42 as nonpublic to avoid inadvertently violating the protective order in this proceeding.[82] The Company also acknowledges that portions of the OAG's request in OAG IR. No. 42 can be unredacted, with the exception of questions A.4, including footnote 1, and B.1 that contain information based on the redacted trade secret information contained in Attachment 26.02 TS.

CONCLUSION

For the reasons stated above, the Company respectfully requests that the Administrative Law Judge deny the OAG's Motion to Lift Trade Secret Designations. The information contained in Attachment 26.02 TS and the OAG IR No. 42 Response clearly meets the definition of trade

[82] OAG Motion at Exhibit C.

secret under the MGDPA, therefore, the Company respectfully requests that the trade secret designations remain intact in its entirety.

Dated: March 31, 2025

Respectfully submitted,

Elizabeth M. Brama #0301747
Kodi J. Verhalen #0391056
Taft Stettinius & Hollister LLP
2200 IDS Center
80 South Street,
Minneapolis, MN 55402
Phone: 612-977-8624
EBrama@taftlaw.com
KVerhalen@taftlaw.com

Matthew R. Brodin
ALLETE Senior Attorney
ALLETE d/b/a Minnesota Power
30 West Superior Street
Duluth, MN 55802
Phone: 651-592-8312
MBrodin@allete.com

ATTORNEYS FOR ALLETE, INC. D/B/A MINNESOTA POWER

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of Minnesota Power for the Acquisition of ALLETE by Canada Pension Plan Investment Board and Global Infrastructure Partners	OAH Docket No. 25-2500-40399 MPUC Docket No. E-015/PA-24-198 MPUC Docket No. E-015/M-24-383

DECLARATION IN SUPPORT OF MINNESOTA POWER'S RESPONSE IN OPPOSITION TO THE OFFICE OF THE ATTORNEY GENERAL – RESIDENTIAL UTILITIES DIVISION'S MOTION TO LIFT TRADE SECRET DESIGNATIONS

DECLARATION OF JOSHUA D. TARAN

I, JOSHUA D. TARAN, declare under penalty of perjury:

1. I am employed by ALLETE, Inc. d/b/a Minnesota Power ("Minnesota Power" or the "Company") which is a Minnesota investor owned public utility. My business address is 30 West Superior Street, Duluth, Minnesota 55802. My title is Manager – Financial Planning.
2. I am submitting this Declaration on my own personal knowledge, and on information and belief in support of Minnesota Power's Response in Opposition to the Office of Attorney General – Residential Utilities Division's March 17, 2025 Notice and Motion to Lift Trade Secret Designations ("Response").
3. On December 23, 2024, Sierra Club served SIERRA IR No. 26 upon the Company, requesting "the estimated revenue requirement" and the estimated "monthly bill impacts for an average residential customer."

4. On January 7, 2025, the Company served its response to Sierra Club Information Request ("IR") No. 26. Attached to its response to Sierra Club IR No. 26, the Company provided an Excel spreadsheet titled "SIERRA IR 0026.02 Attach TS.xlsx." The Company designated the spreadsheet as trade secret in its entirety.
5. On January 16, 2025, the OAG served the Company with OAG IR No. 42 seeking clarifications regarding SIERRA IR 0026.02 Attach TS.
6. On January 29, 2025, the Company provided its response to OAG IR No. 42. In the Company's response to Question A.4 of OAG IR No. 42, the Company marked the estimated average rate increase, as trade secret. The redacted estimate was based on the assumptions contained in SIERRA IR 0026.02 Attach TS.
7. SIERRA IR 0026.02 Attach TS, referred to in the Company's Response as "Attachment 26.02 TS," is a spreadsheet containing a high-level point in time scenario of customer rates that was provided to our Partners and financial advisors in the process that led to the signing of the Merger Agreement. It is not a forecast of actual anticipated or expected rates, and the Company is not requesting any rate changes as part of this Acquisition proceeding.
8. The Company did not expect the assumptions in the spreadsheet to be "accurate" over the specified time period. The spreadsheet was a high-level modeling exercise of potential revenue requirements based on a set of assumptions at a point in time. The actual level of required revenue would change based on a multitude of factors over this time period, including potential future decisions of the Commission in cost recovery proceedings, on which the Company cannot speculate. Making such scenario planning public would undermine the proprietary nature of the Company's scenario planning processes, and potentially enable third parties to take the inputs or outputs out of context.

9. Within those justifications, the data is specifically trade secret in full because:

    a. Attachment 26.02 TS contains long term financial forecasts, which may used by current investors to make investment determinations. This is concerning as the spreadsheet was not prepared to be shared with investors in public markets, lacks proper disclaimers or contextual information that would indicate it should not be relied upon for investment purposes, and could potentially lead to misguided investment decisions based on outdated or incomplete data.

    b. The overall document is the Company's proprietary approach to forecasting rate scenarios. Releasing the complete document, or only certain lines or cells, allows interested persons to deduce the confidential mechanics underlying the Company's broader forecasting processes and undermine the Company's confidential business planning efforts.

    c. The data contained within Attachment 26.02 TS includes customer-specific information, forward-looking cost analyses and rate forecasts, which are confidential and critical to maintaining our competitive edge in ongoing and future negotiations with customers.

        i. Attachment 26.02 TS contains rate information for large power customers, of which the Company has a smaller number that make up an outsized portion of its load compared to other utilities. With partial disclosure of data contained in Attachment 26.02 TS, it is possible for customers or members of the public to back into the calculations. When coupled with the public information that is already available in the Company's response to

OAG IR No. 42, and rates in the actual time period, interested parties could back into an estimate for other customer classes.

ii. Attachment 26.02 TS contains rate information for municipal customers with specific contracts. Disclosing this information could harm the Company's ability to negotiate future contracts with these customers or similar customers in the future.

d. The information includes commercially sensitive data in several respects:

i. The information contained in the Attachment 26.02 TS, particularly in regard to rate information by class, is critical to protecting competitive advantages. If released, it could allow large customers, to gain insights into each other's contracts and operational strategies, thereby compromising the competitive landscape.

ii. Making such data publicly available could allow interested parties, such as Large Power customers, to unfairly benefit from insights into our strategic positioning, potentially disadvantaging our standing with other customer classes.

iii. Furthermore, release of the rate forecast contained in Attachment 26.02 TS will directly affect the Company's ability to new attract customers and impact future and ongoing contract negotiations.

10. Attachment 26.02 TS is one scenario prepared by the Company, and it does not represent a forecast vetted for public disclosure. Assumptions within the forecast change regularly, and the disclosure of this data could harm the Company's standing with customers. There is a risk that it could create unnecessary concerns about future rate increases that may never

materialize. Key assumptions, such as those related to rate case settlements, load forecasts, and 2023-2025 actual data, have already shifted, and these changes are not reflected in the forecast data currently under review.

11. The Petition the Company filed in this proceeding explicitly states that the Acquisition is not expected to impact retail or wholesale customer rates. Attachment 26.02 TS and the response to OAG IR No. 42 contain potential revenue requirements based on a set of assumptions at a point in time, but those assumptions are not tied to the Acquisition in any way. Lifting the trade secret designations of the documents would introduce assumptions into the public record about the rate setting process controlled by the Commission, about which the Company cannot speculate on the outcomes.

12. The document has been treated confidentially and is not broadly available, ensuring that it is kept within the context of these proceedings and does not undermine the Company's strategic interests.

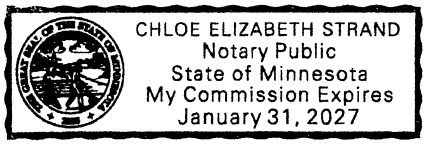
I declare under penalty of perjury that everything I have stated in this document is true and correct.

Dated: March 31, 2025

/s/ Joshua D. Taran

Joshua D. Taran
ALLETE, Inc. d/b/a Minnesota Power
30 West Superior Street,
Duluth, Minnesota 55802
Phone: 218-355-3332
Email: JTaran@allete.com

State of MN, County of St. Louis
Signed before me on this 31st day
of March 2025 by Joshua Taran
Notary Public Chloe Strand
Chloe Strand



STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of Minnesota Power for the Acquisition of ALLETE by Canada Pension Plan Investment Board and Global Infrastructure Partners	OAH Docket No. 25-2500-40399 MPUC Docket No. E-015/PA-24-198 MPUC Docket No. E-015/M-24-383

DECLARATION IN SUPPORT OF MINNESOTA POWER'S RESPONSE IN OPPOSITION TO THE OFFICE OF THE ATTORNEY GENERAL – RESIDENTIAL UTILITIES DIVISION'S MOTION TO LIFT TRADE SECRET DESIGNATIONS

DECLARATION OF ELIZABETH M. BRAMA

I, ELIZABETH M. BRAMA, declare under penalty of perjury:

1. I am an attorney at Taft Stettinius & Hollister LLP, and I represent ALLETE, Inc. d/b/a Minnesota Power ("Minnesota Power" or the "Company") in the above captioned matter.
2. I submit this Declaration on my own personal knowledge in support of Minnesota Power's Response in Opposition to the Office of Attorney General – Residential Utilities Division's March 17, 2025 Notice and Motion to Lift Trade Secret Designations ("Response").
3. On January 7, 2025, the Company served its response to Sierra Club Information Request ("IR") No. 26. Attached to its response to Sierra Club IR No. 26, the Company provided an Excel spreadsheet titled "SIERRA IR 0026.02 Attach TS.xlsx." The Company designated the spreadsheet as trade secret in its entirety.

4. The Company provided the following justification for designating the information contained in Attachment 26.02 TS as trade secret:

> SIERRA CLUB IR 0026.02 Attach TS includes trade secret information as defined by Minn. Stat. § 13.37, subd. 1(b). This information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain value from its disclosure or use. Thus, the Company has made reasonable efforts to maintain its secrecy. Because the Company has classified the entire document as trade secret information, the Company provides the following description of the excised material as required by Minn. R. 7829.0500, subp. 3: [][1]

5. On January 16, 2025, the OAG served the Company with OAG IR No. 42 seeking clarifications regarding Attachment 26.02 TS.

6. In issuing OAG IR No 42, the OAG made most of the request nonpublic and did not indicate any concerns with the Company's trade secret designation of the underlying Attachment 26.02 TS on which OAG IR No. 42 was premised.

7. On January 29, 2025, the Company provided its response to OAG IR No. 42. In the Company's response to Question A.4 of OAG IR No. 42, the Company marked the average rate increase number, which was from the model in Attachment 26.02 TS, as trade secret.

8. As indicated in the Company's OAG IR No. 42 Response, the Company objected to OAG IR 42 to the extent the request sought information that is not relevant or proportional to the needs of the case, as the Company has not requested and is not anticipating any particular rate change as part of this proceeding or as a result of the Acquisition. However, the Company responded to OAG IR No. 42 over the objection, as described above.

9. The Company provided the following justification for the designation:

> The information designated as trade secret herein is financial information and is designated as such because this information is not generally known to and not readily ascertainable by investors and competitors of the

[1] Minn. R. 7829.0500, subp. 3 description omitted.

Company who could obtain economic value from its disclosure. Thus, this information is trade secret information as defined by Minn. Stat. § 13.37, subd. 1(b).

10. Waiting until more than two months after the Company served its response to Sierra Club IR 26, during the afternoon of Thursday, March 13, 2025, the OAG served a letter on the Company by email and U.S. Mail requesting that the Company voluntarily remove trade-secret designations from SIERRA IR 0026.02 Attach TS and from its response to OAG IR No. 42 and requesting to meet and confer regarding the OAG's request. The OAG did not state a deadline for its conferral. A copy of the OAG's letter is attached as **Exhibit A**.

11. Both counsel appearing for the Company were traveling March 13-14, 2025. My email provided automatic out of office responses to inform email senders, like the OAG, that I was traveling.

12. On Monday, March 17, at 10:13 A.M., I received an email from counsel for the OAG that stated the OAG would file a motion to compel public disclosure of the nonpublic material if the Company did not respond by 1:00 P.M. that day. I responded at 10:21 A.M. that same day, and met with counsel for the OAG at the mutually agreed time of 2:00 P.M. that same day. During the conferral, the OAG stated it might withhold its motion if the Company agreed to a partial resolution. After the conferral, at 2:46 P.M. that same day, the OAG sent an email identifying extensive unredactions to which the Company needed to agree by 4:00 pm that same day or else the OAG would file its motion. In light of the confidentiality of the underlying model and data, as well as the time provided and in light of the OAG's unreasonable demands, the parties did not come to a resolution.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Dated: March 31, 2025

Elizabeth M. Brama

Elizabeth M. Brama #0301747
Taft Stettinius & Hollister LLP
2200 IDS Center
80 South Street,
Minneapolis, MN 55402
Phone: 612-977-8624
Email: EBrama@taftlaw.com

Subscribed and sworn to before me this
31st day of March, 2025 Hennepin County, MN

Carly L Krause

Notary Public Carly L. Krause

CARLY L KRAUSE
Notary Public
Minnesota
My Commission Expires January 31, 2029

The Office of
Minnesota Attorney General Keith Ellison
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March 13, 2025

VIA E-MAIL AND U.S. MAIL

Elizabeth Brama
Taft Stettinius & Hollister LLP
2200 IDS Center
80 South 8th Street
Minneapolis MN 55402
ebrama@taftlaw.com

Re: ***In the Matter of the Petition of Minnesota Power for the Acquisition of ALLETE by Canada Pension Plan Investment Board and Global Infrastructure Partners***
MPUC No. E-015/PA-24-198

Dear Ms. Brama:

I write on behalf of the Office of the Attorney General – Residential Utilities Division (OAG) to request that ALLETE Inc., d/b/a Minnesota Power, voluntarily remove trade-secret designations from Attachment 26.02 to ALLETE's response to Sierra Club Information Request (IR) No. 26 and from ALLETE's response to OAG IR No. 42. I also offer to meet and confer with ALLETE regarding this request to remove trade-secret designations.

Sierra Club IR No. 26 requested, among other things, "the estimated annual revenue requirement" and the "monthly bill impacts for an average residential customer" associated with Minnesota Power's forecasted capital expenditures.[1] In response, ALLETE provided, as Attachment 26.02, an Excel spreadsheet with "detail on the portion of [ALLETE's] estimated revenue requirements that are anticipated to be collected from Minnesota Power customers" in 2023–2032.[2]

ALLETE provided its response to Sierra Club IR No. 26 to the OAG. The OAG then sent ALLETE an information request, OAG IR No. 42, to better understand Attachment 26.02. In its response, ALLETE describes the calculations performed in Attachment 26.02. Despite asserting that Attachment 26.02 is "a nonpublic model" in its entirety, ALLETE designates only 12 words of its response to OAG IR No. 42 as trade secret.[3]

The OAG marked its questions in IR No. 42 as nonpublic to avoid inadvertently violating the protective order in this case. But the OAG does not agree that much, if any, of the information contained in Attachment 26.02 meets the definition of "trade secret."[4]

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[1] ALLETE Response to Sierra Club IR No. 26 at 1.
[2] *Id.* at 2.
[3] *See* ALLETE Response to OAG IR No. 42 at 3–5.
[4] *See* Protective Order and Protective Order for Trade Secret Data at 2 (Dec. 5, 2024) (incorporating definition of "trade secret" from Minn. Stat. § 13.37, subd. 1(b)).

Minnesotans' access to the records of the State and its political subdivisions is governed by the Minnesota Data Practices Act (the Act). The Act provides that "[a]ll government data collected, created, received, maintained or disseminated by a government entity *shall be public* unless classified by statute . . . as nonpublic or protected nonpublic."[5] The presumption that government data is public reflects "a fundamental commitment to making the operations of our public institutions open to the public."[6] As a result, the courts construe the Act in favor of public access to information held by government agencies.[7]

Trade secret data are a type of "nonpublic data" that are exempt from the Act's public-disclosure requirement.[8] "Trade secret data" means "government data . . . (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use."[9]

ALLETE's response to Sierra Club IR No. 26 claims without explanation that Attachment 26.02 "derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain value from its disclosure or use."[10] But merely reciting the statutory definition cannot support ALLETE's claim that its projections of customer rate impacts are trade secret.[11] On the contrary, cursory review of Attachment 26.02 and ALLETE's description of the attachment in response to OAG IR No. 42 strongly suggests that it is not entitled to trade-secret protection.

Attachment 26.02 contains projections of Minnesota Power's future rate increases broken down by customer class. Data about pricing for individual, large customers may have independent economic value to a utility if there is a risk that those customers could be poached by providers of alternative fuels.[12] In general, however, Minnesota Power's ratepayers are captive and have no alternatives.[13] As a result, there appears to be little if any competitive advantage for ALLETE of maintaining the secrecy of these projected rate increases.

It is hard to fathom what a competitor of ALLETE, if one exists, would do with the rate-increase information in Attachment 26.02. ALLETE itself characterizes the information as a

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[5] Minn. Stat. § 13.03, subd. 1 (emphasis added).
[6] *Prairie Island Indian Cmty. v. Minn. Dep't of Pub. Safety*, 658 N.W.2d 876, 884 (Minn. Ct. App. 2003).
[7] *Id.*
[8] Minn. Stat. § 13.37, subd. 2(a).
[9] *Id.*, subd. 1(b); *accord* Protective Order and Protective Order for Trade Secret Data at 2.
[10] ALLETE Response to Sierra Club IR No. 26 at 2.
[11] *See In re Rahr Malting Co.*, 632 N.W.2d 572, 576 (Minn. 2001) ("Conclusory allegations of harm do not support a finding that data constitutes a trade secret.").
[12] *See, e.g.*, *N. States Power Co. v. N.D. Pub. Serv. Comm'n*, 502 N.W.2d 240, 243 (N.D. 1993) (affirming that price and sales-volume data contained in negotiated contracts between utility and certain large customers "derives independent economic value from not being generally known to and not being readily ascertainable by proper means by providers of alternative fuel").
[13] MPUC Docket No. E-015/PA-24-198, Lebens Direct at 3 (Feb. 4, 2025).

"high-level point in time" forecast that may or may not come to pass, in part because "Minnesota Power will remain fully regulated by the Commission, and any authorizations of future rate changes through base rates or cost recovery riders will remain subject to the Commission's jurisdiction."[14] ALLETE insists that it "is not assuming that it will increase rates by any particular amount" over the 2023–2032 time period depicted in Attachment 26.02.[15] Having qualified its projections to such a degree, ALLETE cannot seriously claim that they hold value to its competitors.

Finally, ALLETE has asserted that Attachment 26.02 is a "nonpublic model,"[16] implying that it contains proprietary assumptions. But ALLETE has not demonstrated that a competitor could derive economic value from any of the assumptions used in Attachment 26.02. The attachment reflects assumptions about the overall rate increase Minnesota Power ratepayers will experience by 2032, as well as each class's base revenue and annual sales volume over that period.[17] If ALLETE believes that assumptions in Attachment 26.02 are trade secret, ALLETE needs to explain why each assumption it wishes not to disclose derives economic value from not being disclosed. And even if ALLETE can make this showing, the proper course of action would be targeted redaction only of the trade-secret assumptions, rather than of the entire document as ALLETE has done.[18]

The public has an interest in understanding the potential rate impacts of ALLETE's capital-spending plans. If ALLETE will not voluntarily agree to remove the trade-secret designations from Attachment 26.02 and the response to OAG IR No. 42, the OAG will be forced to seek relief from the ALJ under the terms of the protective order. Please contact me at your earliest convenience so that we can find a time to discuss this request.

Sincerely,

/s/ **Peter G. Scholtz**

PETER G. SCHOLTZ
Assistant Attorney General

(651) 757-1473 (Voice)
(651) 296-9663 (Fax)
peter.scholtz@ag.state.mn.us

cc: Kodi Verhalen

[14] ALLETE Response to OAG IR No. 42 at 3.
[15] *Id.* at 4.
[16] *Id.* at 3.
[17] *See* Attachment 26.02.
[18] *See Prairie Island Indian Cmty.*, 658 N.W.2d at 888 ("When a document contains both public and nonpublic information, it is appropriate to redact the protected information and release the public information.").