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Via Electronic Filing

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

Re: *In the Matter of a Request for a Minor Alteration to Great River Energy's 170 MW, Natural Gas-Fired, Simple Cycle Combustion Turbine Generator at its Cambridge 2 Peaking Plant Site near Cambridge, Isanti County, Minnesota, Docket No. ET-2/GS-22-122*

Answer of Great River Energy

Dear Mr. Seuffert:

Pursuant to Minn. R. 7829.3000, Subp. 4, Great River Energy ("GRE") respectfully submits this brief Answer to the Petition for Rehearing of the Minnesota Public Utilities Commission's ("Commission") December 7, 2023 *Order Approving Minor Alteration Application* ("Order") filed by CURE, Minnesota Center for Environmental Advocacy, and Sierra Club North Star Chapter ("Petitioners") in the above captioned proceeding. As discussed below, the Commission's Order is well-reasoned and supported by the record developed in this proceeding. Nothing in Petitioners' Petition for Rehearing demonstrates that the Order is inconsistent with the record developed, applicable law, or the public interest. Accordingly, Petitioners' Petition for Rehearing should be denied.

I. ANSWER

A. Petitioners Reliance on the SONAR is Misplaced.

In their Petition, Petitioners largely rely on arguments the Commission has previously considered and rejected in its Order. One of the principal arguments raised by Petitioners is that the Commission's minor alteration rule, Minn. R. 7850.4800, was never intended to be used to authorize the addition of dual-fuel capability at an existing power plant such as Cambridge Unit 2. This argument was specifically noted and rejected in the Commission's Order.¹ The Commission correctly found that "the EAW shows that the human and environmental impacts of the Project will be insignificant" and under the plain

¹ December 7 Order at 9 (noting that "MCEA argues that pursuing a dual-fuel conversion through a minor alteration application is unprecedented in Minnesota").

language of Minn. R. 7850.4800, “that is enough on its own to meet the requirements for approving a minor alteration.”²

Notwithstanding the plain language of Minn. R. 7850.4800, Petitioners cite the Statement of Need and Reasonableness (“SONAR”) issued when the rule was promulgated for their position that the rule was not intended to be used for a change in the fuel source of a power plant. Petitioners allege that the SONAR “repeatedly stated that dirtier fuels require higher levels of permitting scrutiny,”³ which ignores the fact that GRE is not changing the primary fuel at Cambridge Unit 2; it is adding back-up fuel capability.⁴ As the SONAR acknowledges: “Natural gas plants always have a backup source of fuel. It is common for such plants to have a supply of fuel oil available as backup. Relying on another source of fuel as a backup will not disqualify a proposed natural gas plant from review under the alternative form of review.”⁵ Accordingly, to the extent the Petitioners’ introduction of the SONAR has any bearing on the Commission’s December 7 Order, it only further supports the Commission’s determination.

More importantly, the Commission’s rules specifically recognize that a change in fuel (and certainly the addition of an alternative back-up fuel) could constitute a minor alteration if not otherwise exempt from the site permitting process. Minn. R. 7850.1500 specifically provides that although “a change in the fuel or an expansion of the developed portion of the plant site” does not qualify an existing facility for an exemption from permitting, “the modification or change may qualify for a minor alteration under part 7850.4800.” Neither the SONAR nor the language of the Commission’s siting rules supports Petitioners’ overly narrow view of their applicability in this case.

B. Petitioners’ Argument that the Commission Failed to Consider the Impacts of Unit 2 Operating at its Air Permit Limits is Wrong.

Petitioners allege that the Commission erred in finding that there is not potential “for a significant change in the environment occasioned by this Project.”⁶ In support of their position, Petitioners contend

² December 7 Order at 14. Minn. R. 7850.4800, Subp. 1 defines a minor alteration as “a change in a large electric power generating plant or high voltage transmission line that does not result in significant changes in the human or environmental impact of the facility.”

³ Petition for Rehearing at 4.

⁴ This fact is noted in the Commission’s December 7 Order at 3.

⁵ Sonar at 50-51. Petitioners’ misplaced reliance on the SONAR is similarly evident in its contention “that if a gas-fired peaking plant were to be altered ‘to change the fuel or increase the number of hours the plant is operated to make it a baseload plant. . . . a permit from the EQB is required.’” Petition for Rehearing at 4 (quoting SONAR at 72) (alteration in original). However, read in context, that comment only applies to a facility that was previously “permitted by [a] local unit of government [rather than the EQB or Commission] as a natural gas-fired peaking plant” under what is now Minn. Stat. § 216E.05. SONAR at 72.

⁶ Petition for Rehearing at 3.

that since the Commission did not impose a limit on the number of hours Cambridge Unit 2 could operate on back-up fuel, it must assume the Unit will operate on back up fuel up to its permitted limit.⁷ Petitioners assert that “the Commission should assess the potential change to the environment from this project according to what the Project can emit in terms of pollution, not what the Commission hopes it will limit itself to.”⁸ Petitioners’ argument ignores the record in this proceeding.

First, the Commission previously found that “even if Cambridge 2 operates on ULSD up to the maximum emissions allowed under its air permit, which would be much longer than GRE’s stated maximum annual operating assumption of 75 hours per year, air quality impacts would still be well below health risk benchmarks.”⁹ The Environmental Assessment Worksheet (“EAW”) prepared for the Project studied a wide range of potential operational futures, and supports the Commission’s determination.¹⁰ In this respect, the Commission did in fact consider whether the impacts from Cambridge Unit 2 operating on ULSD up to its permitted maximum would result in significant impacts and correctly determined that it would not, based on substantial record evidence and robust analysis provided to the Commission.

Furthermore, the record clearly shows that Cambridge Unit 2 is highly unlikely to operate on back-up ULSD more than 24 hours per year on average – a far cry from the 1,357 hours cited by Petitioners.¹¹ As the Commission noted in its Order, GRE’s “entire combustion turbine fleet of 10 turbines averaged ULSD operation from 6 to 16 hours annually over a 10-year period. The highest annual ULSD operation was 51 hours, which occurred during Winter Storm Uri.”¹² As a safeguard against the Unit operating significantly above historical levels without justification, the Commission also required GRE “to file a report when Cambridge 2 exceeds 24 hours of annual ULSD usage.”¹³ This requirement ensures that the Commission has continuing visibility into the actual operation of Cambridge Unit 2 on back-up ULSD.¹⁴

⁷ Petition for Rehearing at 3-4 (citing *State by Smart Growth Minneapolis v. City of Minneapolis*, No. 27-CV-18-19587, 2022 WL 17957328 (Minn. Ct. App. Dec. 27, 2022), a non-precedential opinion under Minn. R. Civ. App. P. 136.01, subd. 1(c)).

⁸ *Id.* at 4.

⁹ December 7 Order at 11.

¹⁰ See e.g., EAW at 34 (“As seen in Table 9, the result of the RASS for both scenarios is well below the acute, subchronic, and chronic health risk guideline values of 1. If the project were to emit at its permitted maximum allowable Air Permit limit under the alternate operating scenario of 240 tpy of NOx the results still demonstrate that the project would not be expected to contribute significantly to human health impacts in the area.”).

¹¹ Petition for Rehearing at 3.

¹² December 7 Order at 7.

¹³ December 7 Order at 12.

¹⁴ Indeed, the Commission has continuing authority over the site permits it issues, including the authority to amend or suspend site permits for cause as provided for in Minn. R. 7850.4900 and Minn. R. 7850.5100.

C. Petitioners' Argument that the Commission Failed to Consider Cumulative Impacts is Wrong.

Petitioners allege that the EAW accepted by the Commission failed to adequately consider the cumulative impacts of the Project.¹⁵ Petitioners' argument is not supported by the record. The EAW adequately addressed cumulative potential effects, finding that such cumulative impacts are not significant. In particular, the EAW specifically addresses existing air quality in the Project area and concluded that "health risks from air pollutants released by permitted and non-permitted sources near the project area (Census Tract 130302) are in the lowest 30 percent of Minnesota air scores."¹⁶ The MNRISKS model cited in the EAW identifies the most significant existing emissions sources in the area as "wood burning for home heating (33 percent); traffic emissions (25 percent); and agricultural and yard waste burning (12 percent)."¹⁷ Moreover, the air pollution score for Project area is 0-1, which "is the [MNRISKS] tool's lowest score representing the spectrum of outdoor air quality that can impact health in Minnesota."¹⁸

The EAW also noted that the Project area is "in attainment of National and State ambient air quality standards."¹⁹ Furthermore, as discussed at length in the EAW and previously mentioned in this response, extensive modeling was conducted using the Minnesota Pollution Control Agency's Air Emissions Risk Analysis and Risk Assessment Screening Spreadsheet ("RASS") tool.²⁰ The modeling work contained in the EAW was verified by a third party.²¹ Importantly, the RASS tool inherently considers cumulative impacts in its threshold risk guideline value of 1. If a proposed project meets that threshold, it must complete additional modeling. If the results of modeling with the RASS tool do not meet the threshold risk guidance value of 1, those results indicate a project will not contribute to cumulative effects. Given that the results for the Project even under the most conservative operations scenarios fall far below the risk guideline value,²² cumulative potential effects are not expected. Accordingly, the EAW sufficiently addresses cumulative potential effects – including those related to existing air quality – and the Commission correctly concluded in its Order that further analysis on the Project's cumulative potential effects is not warranted.²³

¹⁵ Petition for Rehearing at 5.

¹⁶ EAW at 46.

¹⁷ *Id.*

¹⁸ *Id.* at 47.

¹⁹ *Id.*

²⁰ *Id.* at 33.

²¹ The Third-Party Assessment is appended to the EAW at Appendix H.

²² EAW at 34, Table 9.

²³ December 7 Order at 12. As the Commission appropriately noted in its Order, "the Project requires permits from the MPCA, DNR, and the Commission. Additionally, Cambridge 2 and the Project must comply with federal SPCC

D. Petitioners' Argument that the Commission Should Have Considered Alternatives to the Project is Unsupported.

Petitioners raise additional arguments throughout their Petition for Rehearing that the EAW should have considered need, alternatives, and cost of the Project – presumably similar to requirements if the Commission was considering a certificate of need or an RFP process. For instance, Petitioners assert that “the Commission risks violating MEPA by approving of an alternative that increases pollution for economic reasons alone.”²⁴ However, Petitioners’ arguments misconstrue the purpose of the EAW and have no basis in the relevant rules.

The sole requirement for an evaluation of need in the EAW content criteria is implicated only if the project will be carried out by a governmental unit.²⁵ Similarly, Petitioners’ reliance on the Minnesota Environmental Policy Act ignores the requirements Minn. Stat. § 116D.04, Subd. 6.²⁶ Specifically, an action or permit is prohibited only if it (1) “significantly affect[s] the quality of the environment” or “materially adversely affects . . . the environment”²⁷ **and** (2) “there is a feasible and prudent alternative.”²⁸ The EAW demonstrated that the Project does not have the potential for significant environmental effects, obviating the need for the Commission to fully analyze alternatives to the Project in its Order.²⁹

II. CONCLUSION

The Commission’s Order granting GRE a minor amendment to its site permit for Cambridge Unit 2 is supported by the record in this proceeding and applicable law. The record shows that the Project (1) does not have a potential for significant environmental effects requiring the preparation of an Environmental Impact Statement (“EIS”); and (2) will not result in significant changes in the human or environmental impact of Cambridge Unit 2. Petitioners’ Petition for Rehearing does not introduce any valid points that have not been considered by the Commission in this record and should be denied.

requirements. The EPA has ongoing regulatory authority over the ULSD AST with respect to SPCC requirements . . . These measures are expected to help mitigate the environmental impacts of the project.” *Id.*

²⁴ Petition for Rehearing at 9.

²⁵ See Minn. R. 4410.1200(G).

²⁶ Petition for Rehearing at 9.

²⁷ See Minn. Stat. § 116D.04, Subd. 1a(b); *id.* 116B.02, Subd. 5. (defining “pollution, impairment, or destruction”).

²⁸ Minn. Stat. § 116D.04, Subd. 6.

²⁹ Similarly, Petitioners’ argument that Minn. Stat. § 216B.2422, Sub. 3 “requires the Commission to establish, and the applicant to use, environmental cost values ‘when evaluating and selecting resource options in all proceedings before the commission’” ignores the fact that the Commission is not evaluating and selecting resource options in this proceeding. Petition for Rehearing at 8.

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