WINTHROP & WEINSTINE

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March 2, 2015

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VIA E-FILING AND U.S. MAIL

Mr. Daniel Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101

Re: In the Matter of Great River Energy's 2014 Integrated Resource Plan (IRP)
MPUC Docket No. ET2/RP-14-813

Dear Mr. Wolf:

Enclosed please find Al-Corn Clean Fuel and Heartland Corn Products' Initial Comments in the above-referenced docket. These documents have been filed with the E-Docket system and served on the attached service list. Also enclosed is our Affidavit of Service.

Very truly yours,

WINTHROP & WEINSTINE, P.A.

/s/ David M. Aafedt

David M. Aafedt

Enclosures

cc: Service List

10084189v1

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101-2147

In the Matter of Great River Energy's 2014 Integrated Resource Plan

MPUC Docket No. ET2/RP-14-813

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Rachel M. Tillemans, of the City of Minneapolis, County of Hennepin, the State of Minnesota, being first duly sworn, deposes and says that on the 2nd day of March, 2015, she served the attached **Al-Corn Clean Fuel and Heartland Corn Products' Initial Comments** to all said persons on the attached Service List, true and correct copies thereof, by E-Filing and/or by depositing the same enclosed in an envelope, postage prepaid in the United States Mail in the post office at Minneapolis, Minnesota.

__/s/ Rachel M. Tillemans________________

Subscribed and sworn to before me
this 2nd day of March, 2015.

_/s/ Jennifer Flynn_____________________________
Notary Public

My Commission Expires: _January 31, 2020________

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101-2147

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
John Tuma	Commissioner
Betsy L. Wergin	Vice Chair

In the Matter of Great River Energy's 2014 Integrated Resource Plan (IRP) — MPUC Docket No. ET2 / RP-14-813

AL-CORN CLEAN FUEL AND HEARTLAND CORN PRODUCTS' INITIAL COMMENTS[1]

I. Introduction.

Pursuant to Minnesota Statutes Section 216B.2422, Great River Energy ("GRE") is required "to file a resource plan with the Commission periodically in accordance with rules adopted by the Commission." Accordingly, GRE filed its 2014 Resource Plan ("IRP") with the Public Utilities Commission ("Commission") on October 31, 2014.

GRE is a generation and transmission cooperative that is owned by 28-member cooperatives. GRE's 28 owners serve approximately 645,000 members in Minnesota and a small membership in Wisconsin.

Al-Corn is a farmer-owned ethanol production cooperative in Claremont, Minnesota. Al-Corn's 525 members invest in the company financially and agree to deliver a quantity of corn to the plant determined by their investment. Al-Corn grinds 17.5 million bushels of corn and produces 50 million gallons of ethanol annually. In addition, the plant produces 132,000 tons of

[1] As the parties are still in the process of issuing and responding to information requests, and Al-Corn Clean Fuel and Heartland Corn Products are still conducting their analysis of Great River Energy's Resource Plan, Al-Corn Clean Fuel and Heartland Corn Products reserve the right to raise additional comments at a later date.

high protein livestock feed and 12 million pounds of corn oil. Al-Corn also captures 70,000 tons of beverage grade carbon dioxide, all of which are resold.

Al-Corn is a significant industrial customer of Steele-Waseca Distribution Cooperative ("Steele-Waseca") located in Claremont, Minnesota. Steele-Waseca is one of the 28-member distribution cooperatives that make up GRE. Steele-Waseca is 1 of 20 all-requirements members of GRE, while the remaining 8 are fixed-obligation customers. On an annual basis, Al-Corn uses over 37 million kilowatt hours with a peak load of approximately 4800 kilowatts and an average monthly peak demand of 4700 kilowatts.

Heartland is a farmer-owned ethanol production cooperative in Winthrop, Minnesota. Heartland produces over 100 million gallons of ethanol annually, in addition to other products, such as corn oil for use in bio-diesel applications. Heartland is a significant industrial customer of Brown County Rural Electrical Association ("Brown County") and McLeod Cooperative Power Association ("McLeod"). Brown County and McLeod are two of the 28-member distribution cooperatives that make up GRE. Both Brown County and McLeod are all-requirements members of GRE.

On December 2, 2014, Al-Corn Clean Fuel and Heartland Corn Products ("C&I Customers"), two large industrial end-users of GRE's energy, submitted a petition to intervene in GRE's IRP docket.

On December 11, 2014, GRE took the rare step of objecting to the C&I Customers' intervention.

On January 12, 2015, the C&I Customers filed initial comments in support of their intervention.

On January 14, 2015, the Minnesota Department of Commerce, Division of Energy Resources ("DOC") filed comments related to the C&I Customers' petition for intervention.

On January 22, 2015, GRE filed comments in opposition to the C&I Customers' petition to intervene. Also on January 22, 2015, the C&I Customers filed reply comments in support of their petition to intervene.

On February 24, 2015, the Commission granted the C&I Customers' petition to intervene. Thus, the C&I Customers are proper intervenors in this IRP proceeding.

The C&I Customers appreciate this opportunity to comment. The C&I Customers respectfully submit that GRE has failed to meet its burden in showing that its Resource Plan complies with Minnesota law. Given this failure, the C&I Customers respectfully submit that GRE's IRP should be rejected.

II. Comments.

A. Statutory Background.

The C&I Customers understand and appreciate that this is not a rate case and that the Commission has limited authority over GRE.[2] That being said, resource plans are governed by Minnesota Statutes section 216B.2422 and Chapter 7843 of the Minnesota Rules. The resource plan should propose a list of resource options the utility could use to meet its customers' needs during the next fifteen years and should include an explanation of the supply and demand circumstances that each resource option was developed to address.[3] The applicant must submit detailed information supporting its selection of the preferred plan, including (1) a complete list of resource options, (2) supporting information regarding process and analytical techniques, (3) a five-year action plan to obtain new resources, (4) a narrative discussion of why the plan is in the

[2] *See* Minn. Stat. § 216B.2422, subd. 2 ("the Commission's order shall be advisory").
[3] *See* Minn. R. 7843.0400, subp. 2 and 7843.0100, subps. 6 & 9.

public interest, and (5) a nontechnical summary describing the five-year action plan and its likely impact on customer rates.[4]

The Commission must scrutinize GRE's Resource Plan closely, and must make factual findings and draw conclusions. As part of this process, the Commission should fully scrutinize GRE's forecasting process and whether GRE's decisions are in the public, including GRE's ratepayers', interest.[5] The Commission is then obligated to review the record, which includes both the plan itself and the utility's responses to information requests, and "approve, reject, or modify" the plan "consistent with the public interest."[6]

In conducting its analysis, the Commission must evaluate a proposed resource plan's ability to:

A. Maintain or improve the adequacy and reliability of utility service;

B. Keep the customers' bills and the utility's rates as low as practicable, given regulatory and other constraints;

C. Minimize adverse socioeconomic effects and adverse effects upon the environment;

D. Enhance the utility's ability to respond to changes in the financial, social, and technological factors affecting its operations; and

E. Limit the risk of adverse effects on the utility and its customers from financial, social, and technological factors that the utility cannot control.[7]

As previously stated, a resource plan must contain a proposed plan for meeting the service needs of a utility's customers over the forecast period in question.[8] When a utility's resources are inadequate to meet projected service needs, the utility's resource plan should

[4] *See* Minn. R. 7843.0400, subps. 3, 4.
[5] Minn. Stat. § 216B.2422.
[6] *Id.*
[7] Minn. R. 7843.0500, subp. 3.
[8] Minn. R. 7843.0400, subp. 2.

consider resource expansion.[9] On the other hand, when a utility's resources no longer serve customer needs or otherwise not needed, a utility must "discuss plans to reduce existing resources through sales, leases, deratings or retirements."[10]

GRE's IRP fails to describe how GRE: (1) intends to keep its customers' and end-users' rates as low as practicable; (2) enhances its ability to respond to changes in the financial, social, and technological factors affecting its operations; and (3) limits the risk of adverse effects on GRE and its customers from financial, social, and technological factors that GRE cannot control. Thus, GRE has failed to meet its burden and its IRP should be rejected.

B. Analysis.

While the C&I Customers understand that the IRP is a "forward-looking" process, GRE's past and future rates are based on GRE's wasteful spending decisions and forward-looking "doubling-down" on the Spiritwood facility.

Prior to, and contemporaneous with, the Great Recession, GRE constructed a number of facilities to increase capacity. Specifically, GRE expanded by building the:

- Cambridge 2 Substation in 2007, a 181 MW nameplate gas peaker;
- Elk River Peaker in 2009, a 204 MW nameplate gas peaker; and
- Spiritwood Substation in 2012, a 99 MW nameplate combined baseload/peaker combined heat and power facility).

The purported justification for these projects were overly optimistic load projections that never materialized. These unneeded expansion activities cost GRE, and ultimately its ratepayers, hundreds of millions of dollars. GRE's poor expansion decisions also resulted in GRE

[9] Minn. R. 7843.0400, subp. 3.
[10] Minn. R. 7843.0400, subp. 2.

increasing its wholesale rates by 52% between 2006 and 2012.[11] As wholesale rates make up approximately 75% of a member's retail rates, GRE's dramatic increase in wholesale rates based on the need to recover the cost of its expansion projects resulted in a corresponding large increase to ratepayers.[12] At the same time, GRE enjoyed record profits. As GRE explained in its 2013 Annual Report, "Great River Energy's 2013 financial results were very impressive."[13] Indeed, GRE beat its budgeted margin by $10.8 million.[14]

The aforementioned projects were based on overly optimistic projections of need and future sales. They were not needed as GRE's IRP clearly sets forth that GRE has, and will continue to have, excess generating capacity.[15] As such, the risk presented by GRE is not that GRE's ratepayers will suffer from a generation shortfall, but rather that they will be forced to incur continued rate increases to pay for unneeded capacity. Indeed, after the Spiritwood facility was constructed and GRE realized that it was unneeded, GRE took the unprecedented step of mothballing the $425 million facility. GRE has incurred tens of millions of dollars more in ongoing annual expenses with the unnecessary Spiritwood facility. In other words, when construction and ongoing costs are combined, GRE has spent over half of a billion dollars on Spiritwood. GRE's decision to build unneeded plants has had a devastating impact on rates and

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[11] Minneapolis Star-Tribune, *Electric co-op Great River plans another rate increase* (Nov. 8, 2012) (available online at http://www.startribune.com/business/178025181.html?refer=y) (reporting past rate increase percentages).

[12] *Id.* Seventy-five percent figure attributed to Mike Bash, Chief Financial Officer of Connexus Energy, a GRE member cooperative that serves Anoka County.

[13] GRE Annual Report, p. 22 (available online at http://www.greatriverenergy.com/aboutus/financial/).

[14] *Id.*

[15] IRP, p. 86 (explaining that GRE currently has over .5 GW of excess capacity and that it does not need new generation resources to meet its obligations at all during the 15-year forecast period.)

ratepayers because such plants, including Spiritwood, do not earn self-supporting revenue and have little-to-no economic value to ratepayers.[16]

Despite the fact that it is undisputed that GRE has, and will have throughout the 15-year period subject to the IRP, excess capacity, GRE's IRP fails to adequately discuss plans to decrease its generation or conduct legitimate sales to third parties, as required by Minnesota Rule 7843.0400, subp. 2. Rather, GRE's IRP does the exact opposite. Specifically, GRE's IRP claims that the previously mothballed Spiritwood facility, and all of its associated expenses, should now be taken "live." What GRE failed to disclose in its IRP is that GRE created the customer for Spiritwood's steam for the express purpose of generating a need for Spiritwood to be operational. In other words, rather than discussing plans for Spiritwood's retirement or how Spiritwood can be economically viable on its own, GRE's IRP proposes a "doubling-down" so that GRE controls both the supply and the demand, along with all related expenses. GRE's Machiavellian proposal does not comply with Minnesota law and is not in the best interests of its members or ratepayers.

GRE's 2014 IRP proudly claims that Spiritwood is now operational and is selling its steam to the Dakota Spirit AgEnergy Facility ("Dakota Spirit").[17] However, the use of Dakota Spirit (which was not even built until after Spiritwood was constructed and mothballed) to justify the use and continued expense of Spiritwood—an expense which is passed on to GRE's members and end-users—is suspect for a number of reasons.

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[16] To the extent that GRE claims that the economic value is GRE's ability to sell its excess capacity, it begs the question of whether a "member-owned" energy cooperative should be essentially hedging future energy demand when such a hedge results in higher rates to its members.

[17] IRP, pp. 32-33.

First, the ownership structure of Dakota Spirit reveals that GRE is a majority owner of the company that owns Dakota Spirit.[18] Specifically:

- GRE is the majority owner of a company called Midwest AgEnergy.[19]
- Midwest AgEnergy wholly owns Dakota Spirit AgEnergy Finance, LLC, a North Dakota limited liability company that was formed for the special purpose of being the borrower of a loan that financed the construction of Dakota Spirit.
- Dakota Spirit is owned by Dakota Spirit AgEnergy, LLC, which is wholly owned by Dakota Spirit AgEnergy Finance, LLC.
- GRE has acknowledged that the genesis of forming Midwest AgEnergy and forming Dakota Spirit AgEnergy and seeking financing for Dakota Spirit was because Great River Energy had additional steam capacity [at Spiritwood], and so Great River Energy decided to develop [Dakota Spirit] as a steam purchaser from Great River Energy.[20]

In other words, GRE is using a facility that it created and owns to provide an after-the-fact justification for the necessity of the nearly $500 million Spiritwood facility.[21] GRE's artificial generation of demand for Spiritwood cannot be used to justify GRE's costly building and operation of the unneeded Spiritwood facility. Importantly, this is not solely a criticism of GRE's past decisions. Rather, it recognizes a shortcoming with GRE's IRP, which fails to establish the legitimate need for Spiritwood's operation, as opposed to retirement or sales of energy to a legitimate, third-party purchaser that is not financed (albeit unwillingly) from GRE's ratepayers.

Unfortunately, this is not GRE's first attempt to create its own demand. Indeed, in 2005, GRE, along with another investor, formed Blue Flint Ethanol, LLC ("Blue Flint"), an ethanol

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[18] Nonetheless, GRE has refused to provide information related to Dakota Spirit in response to the C&I Customers' Information Requests. (GRE's Resp. to the C&I Customers' Information Req. No. 8)

[19] Indeed, Midwest AgEnergy and GRE have significant overlapping management. (GRE's Response to C&I Customers' Information Request No. 22).

[20] GRE's Response to C&I Customers' Information Request No. 22.

[21] Ironically, GRE argues that because it "has over $1 billion invested in [its] coal plants," its coal plants "are least cost resources." (IRP, pp. 6-7).

facility that was designed to purchase the steam from the Coal Creak Substation.[22] Pursuant to an agreement, effective January 1, 2012, GRE acquired full ownership of Blue Flint (51%). Prior to this acquisition, GRE owned 49 percent of Blue Flint.[23] In 2013, GRE transferred its ownership interest in Blue Flint to Midwest AgEnergy, the GRE owned subsidiary that also owns Dakota Spirit.[24] GRE's IRP fails to address how the continued operation of Spiritwood, as well as GRE's investment in Dakota Spirit and Blue Flint, assists GRE in keep its customers' bills and its rates as low as practicable, as opposed to simply requiring GRE's customers and ratepayers to cover for GRE's continued wasteful spending. As GRE has failed to meet its burden, its IRP should be rejected.

Second, GRE's decision to "double-down" and spend hundreds of millions of dollars in building an ethanol plant could not have been at a worse time. As has been widely reported, the ethanol industry is losing money nationwide as a result of the high price of corn, the low price of gasoline, the decreased demand for gasoline, and the "so-called" blend wall.[25]

Based on the foregoing, GRE's IRP fails to meet its burden and establish how "use" of the Spiritwood facility, as well as its decision to finance, build, and operate the Dakota Spirit facility serves to:

- keep GRE's customers' bills and the utility's rates as low as practicable;
- enhance GRE's ability to respond to changes in the financial, social, and technological factors affecting its operations; and

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[22] http://www.greatriverenergy.com/aboutus/pressroom/pdoc257708.html; GRE's 2013 Annual Report, pp. 34-35.
[23] *Id.*
[24] GRE's 2013 Annual Report, p. 35.
[25] Business Week, *Ethanol Going Ugly* (November 7, 2012) (available online at http://www.bloomberg.com/news/articles/2012-11-07/ethanol-going-ugly-turns-bush-plan-to-obama-test-energy-markets); Minnesota Star Tribune, *Drop in oil price squeezes ethanol producers* (February 9, 2015) (available online at http://www.startribune.com/business/291209431.html);

- limit the risk of adverse effects on GRE and its customers from financial, social, and technological factors that the utility cannot control.

Lastly, GRE's IRP, as well as GRE's responses to the C&I Customers' information requests,[26] fail to explain how GRE's wasteful spending—both past and in the future—meet its obligations under Minnesota law in the form of installing solar panels on GRE's facilities or GRE's Electric Vehicle Program addresses the above-referenced factors under Minnesota Rule 7843.0500.

III. Conclusion.

GRE has failed to meet its statutory burden in establishing that its IRP is in the public's (not just GRE's) best interest. As a result, the C&I Customers respectfully request that the Commission issue an order rejecting GRE's 2014 IRP.

Respectfully submitted,

Dated: March 2, 2015

WINTHROP & WEINSTINE, P.A.

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26 Interestingly, while GRE claims to have discussed these issues with "external stakeholders" during multiple forums and meetings with GRE, GRE failed to invite the C&I Customers to such meetings—even though Al-Corn was an intervenor in GRE's last resource planning docket.