

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger  
David C. Boyd  
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J. Dennis O'Brien  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Investigation into  
Environmental and Socioeconomic Costs  
Under Minn. Stat. § 216B.2422, Subd. 3

ISSUE DATE: February 10, 2014

DOCKET NO. E-999/CI-00-1636

ORDER REOPENING INVESTIGATION  
AND CONVENING STAKEHOLDER  
GROUP TO PROVIDE  
RECOMMENDATIONS FOR  
CONTESTED CASE PROCEEDING

**PROCEDURAL HISTORY**

In 1993, the Legislature enacted Minn. Stat. § 216B.2422, subd. 3,<sup>1</sup> to require the Commission to “quantify and establish a range of environmental costs associated with each method of electricity generation.” The statute requires utilities to use the values in Commission proceedings “in conjunction with other external factors, including socioeconomic costs, when evaluating and selecting resource options . . . .”

The Commission established interim cost values in 1994, and final values in 1997, for Sulfur Dioxide (SO<sub>2</sub>), Carbon Monoxide (CO), Carbon Dioxide (CO<sub>2</sub>), Nitrogen Oxides (NO<sub>x</sub>), Lead (Pb), and particulate matter less than 10 microns in diameter (PM<sub>10</sub>).<sup>2</sup>

On December 14, 2000, in this docket, the Commission initiated an investigation into whether the environmental cost values should be updated or expanded, and whether and how socioeconomic costs can be compared for all electricity generation sources. As a result of the investigation, the

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<sup>1</sup> 1993 Minn. Laws Ch. 356, § 3.

<sup>2</sup> See *In the Matter of Quantification of Environmental Costs Pursuant to Laws of Minnesota 1993, Chapter 356, Section 3*, Docket No. E-999/CI-93-583, Order Establishing Environmental Cost Values (January 3, 1997), and Order Affirming in Part and Modifying In Part Order Establishing Environmental Cost Values (July 2, 1997).

Commission concluded that it would update the cost values by adjusting them to account for inflation.<sup>3</sup> The cost values were updated annually thereafter, except in 2006.

On October 9, 2013, the Izaak Walton League of America – Midwest Office, Fresh Energy, the Sierra Club, the Center for Energy and Environment, the Will Steger Foundation, and the Minnesota Center for Environmental Advocacy (the Clean Energy Organizations) filed a motion requesting that the Commission update its cost values for CO<sub>2</sub> and NO<sub>x</sub> emissions, to establish a cost value for particulate matter less than 2.5 microns in diameter (PM<sub>2.5</sub>), and to reestablish a value for SO<sub>2</sub>.<sup>4</sup>

The Commission solicited comments in response to the Clean Energy Organizations' motion. Several individual members of the public and the following organizations commented generally in support of the motion:

- Clean Up the River Environment
- The City of Minneapolis
- The Minnesota Pollution Control Agency (the PCA)
- Wind on the Wires

The Minnesota Department of Commerce, Division of Energy Resources (the Department) stated that relevant scientific knowledge on environmental externalities have changed over the 17 years since the Commission first established cost values. The Department asserted that updating the existing values and establishing values for other pollutants would result in more accurate energy resource plan evaluation. According to the Department, updated values would reduce the possibility for harm from faulty resource planning decisions based on outdated information.

The following organizations commented generally in opposition to the motion, either in whole or in part:

- Great River Energy
- Otter Tail Power Company
- Minnesota Power
- Minnetonka Power Cooperative, Inc.
- Missouri River Energy Services
- The Minnesota Chamber of Commerce
- The Minnesota Large Industrial Group
- The American Coalition for Clean Coal Electricity and the Lignite Energy Council
- Xcel Energy

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<sup>3</sup> Order Updating Externality Values and Authorizing Comment Periods on CO<sub>2</sub>, PM<sub>2.5</sub>, and Application of Externality Values to Power Purchases (May 3, 2001).

<sup>4</sup> The Commission concluded in its January 3, 1997, order that, after 2000, a federal cap-and-trade program would fully internalize the environmental costs of SO<sub>2</sub> emissions. Since 2000, the Commission's cost value for SO<sub>2</sub> has been \$0.

Interstate Power and Light filed a letter stating that it would not take a position at this time, but that it would monitor the docket and consider whether to participate in the future. The State of North Dakota commented to oppose expanding geographic limits on the application of the externality cost values, or raising values that affect facilities in North Dakota.

On December 19, 2013, the matter came before the Commission. At the commission meeting, in addition to those who provided written comments, several additional members of the public spoke in support of and in opposition to the motion.

## **FINDINGS AND CONCLUSIONS**

### **I. Summary of Commission Action**

The Commission will reopen its investigation as requested by the Clean Energy Organizations and will investigate the appropriate range of externality values for PM<sub>2.5</sub>, SO<sub>2</sub>, NO<sub>x</sub>, and CO<sub>2</sub>. The investigation will not reconsider the geographic limitations of its environmental cost value for CO<sub>2</sub>.

The Commission will request that the Department and the Pollution Control Agency convene a stakeholder group to provide further recommendations on the scope of the investigation, and on whether the Commission should engage an expert authorized by Minn. Stat. § 216B.62, subd. 8, and if so, what role such an expert would play. The Commission will require the stakeholder group to provide its recommendations four months from the date of this order.

The Commission has determined to refer the matter to the Office of Administrative Hearings, but will defer referring the matter until it has determined the scope and process of the investigation with the input of the Department, the Pollution Control Agency, and the stakeholder group.

These actions are explained below.

### **II. Motion to Update Externality Values**

The Clean Energy Organizations assert that the Commission's environmental cost values "are no longer supported by scientific evidence" and move that the Commission reopen its investigation into appropriate environmental cost values associated with electricity generation. Specifically, the Clean Energy Organizations' initial motion requested updated cost values for SO<sub>2</sub>, NO<sub>x</sub>, and CO<sub>2</sub>, and for the Commission to establish a cost value for PM<sub>2.5</sub>. According to the Clean Energy Organizations, they limited the scope of their request to those pollutants and issues that they assert require the most immediate attention.

The motion included several procedural recommendations, including that the Commission either solicit comments in response to the independent analysis or refer the matter to the Office of Administrative Hearings for a contested case proceeding, that the Commission complete the reopened investigation within one year, and that the Commission retain an independent consultant to provide an initial analysis on relevant environmental costs. In particular, the Clean Energy Organizations recommended that the Commission use its authority under Minn. Stat. § 216B.62, subd. 8, to hire a consultant to aid in the investigation.

### **III. Comments in Response to Motion**

The Commission solicited public comments on the following issues:

- Should the Commission grant the motion of Clean Energy Organizations to start a proceeding to establish and update environmental values?
- If so, should the scope of the issues addressed in the proceeding be as recommended by the Clean Energy Organizations?
- Should the Commission engage a consultant as recommended by the Clean Energy Organizations?
- Should the Commission refer the matter to the Office of Administrative hearings or set some other procedure?
- Should the Commission set a 12-month deadline for a decision?

The Commission received a range of responses in support of and in opposition to the motion. Arguments against reopening the investigation included: that state and federal regulations have internalized the costs, that the cost or burden of the investigation would exceed any benefit, and that reopening the investigation at this time would be premature, in light of pending environmental regulatory action at the federal level.

Those in favor of reopening the investigation argued that the existing values are not supported by scientific evidence, that there are additional environmental pollutants that do not have Commission-established cost values, and that effective implementation of state policies related to electricity generation and planning depend upon the accuracy of the cost values required by the statute.

The comments reflected no clear consensus on the appropriate scope of the investigation, or on whether the Commission should engage a consultant, and if so, what the role of that consultant should be. The Department recommended that the Commission consider including in the investigation's scope several non-CO<sub>2</sub> greenhouse gasses: methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>). The Clean Energy Organizations and the PCA supported this suggestion.

The parties generally agreed that if the Commission were to reexamine its environmental cost values that the matter should be referred to the Office of Administrative Hearings (OAH) for the record to be developed in the context of a contested case proceeding. A number of parties, including the Department, commented that if the investigation were to take place, a 12-month deadline would be difficult to meet.

### **IV. Commission Action**

Having considered the arguments raised for and against the motion, the Commission concludes that there is an adequate basis to consider updating or expanding the environmental cost values established under Minn. Stat. § 216B.2422, subd. 3.

To fulfill its statutory mandate to quantify and establish a range of environmental costs, the Commission relied on the evidence available when it determined the values in 1997. As required by Minn. Stat. § 216B.2422, subd. 3, these values are used in Commission proceedings that

involve electricity generation resource planning—proceedings that establish, among other things, which plants should be built, using which energy source, and when. The scientific evidentiary support for the existing values has been reasonably called into question. The Commission agrees that now is an appropriate time to reconsider the cost values in light of current evidence. The Commission will therefore reopen its investigation as requested by the Clean Energy Organizations. The Commission will investigate the appropriate range of externality values for PM<sub>2.5</sub>, SO<sub>2</sub>, NO<sub>x</sub>, and CO<sub>2</sub>.

The Commission will not, as a part of this investigation, reexamine its earlier decision not to apply the CO<sub>2</sub> environmental cost values to facilities in North Dakota.<sup>5</sup> The Commission concluded in 1997 that important factors—the cost/benefit balance of applying CO<sub>2</sub> values to North Dakota facilities, and interstate comity—weighed against applying CO<sub>2</sub> cost values to North Dakota facilities. The Commission’s evaluation of those factors, and its conclusion as it concerns CO<sub>2</sub> values, have not changed.

The Commission agrees that because of the significance and complexity of the issues involved, the investigation will likely require more than twelve months to resolve. The Commission will not adopt a deadline for the investigation at this time. The Commission also concurs that the significant and complex issues raised by this investigation would be best resolved in the context of a contested case proceeding. The Commission will therefore refer the investigation to the Office of Administrative Hearings.

Prior to formally referring the matter to OAH, however, the Commission will seek additional input concerning the scope and conduct of the investigation, and whether to retain an expert. The Commission will ask the Department and the PCA to convene a stakeholder group, and will ask them to provide the stakeholder group’s recommendations about whether the investigation should address other issues—including whether to investigate the costs of methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), and perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>)—and the need for and possible role of an expert, if the Commission were to retain one.

After the Commission receives the stakeholder group’s recommendations, the Commission will issue a Notice and Order for Hearing establishing the scope of the investigation and referring the matter to OAH.

### **ORDER**

1. The Commission grants the motion to reopen the Commission’s investigation into environmental and socioeconomic costs under Minn. Stat. § 216B.2422, subd. 3, as described herein.
2. The Commission requests that Department and the Pollution Control Agency convene a stakeholder group to address the scope of the investigation, whether to retain an expert under Minn. Stat. § 216B.62, subd. 8, and the possible role of an expert, should one be retained.

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<sup>5</sup> Docket No. E-999/CI-93-583, Order Affirming in Part and Modifying In Part Order Establishing Environmental Cost Values (July 2, 1997).

3. Four months from the date of this order the Commission requests that the Department and the Pollution Control Agency report the stakeholder group's conclusions to the Commission.
4. The Commission will not at this time reopen the Commission's previous decision regarding the geographical scope of application of externality values for CO<sub>2</sub>.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary



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