



## *Minnesota Timber Producers Association*

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February 6, 2018

Mr. Daniel P. Wolf

Executive Secretary ó Minnesota Public Utilities Commission

121 7<sup>th</sup> Place Street, Suite 350

St. Paul, MN 55101

Re: In the Matter of Petitions to Terminate the Power Purchase Agreements with Benson Power LLC and Laurentian Energy Authority

Docket No. E-002/M-17-530 &

Docket No. E-002/M-17-551

Dear Mr. Wolf:

The Minnesota Timber Producers Association (TPA) are intervenors in the above referenced Dockets and respectfully Petitions that the decision issued on January 23, 2018 be reconsidered by the Public Utilities Commission.

TPA submitted filings on the Benson Power LLC Petition on August 30, 2017 and on the Laurentian Energy Petition on September 12, 2017. We request that these submissions and attachments be incorporated by this reference.

### The Commission Erred in Not Considering the Public Interest in the Request for Rule Variances

Neither MN Rules 7829.0100 nor MN Statutes provide a definition of “public interest” for this matter. For the purpose of these comments the term “public interest” is taken broadly.

This portion of the Petitions requesting a variance from MN rules should stand and be judged alone and not be governed by the legislation passed in 2017. The Department of Commerce regularly argues and the Commission considers broad “public interests” including socio-economic and environmental interests. This was done by the Department most recently in filings related to the Enbridge Pipeline matter.

It is appropriate for the Commission to reconsider the “public interest” in this matter and we urge it to do so.

NSP seeks a variance from MN Rules 7825.2600 in its filing. MN Rules 7829.3200 establishes the three conditions, each of which must be met, in order to grant a variance. Subpart 1.B. states:

*“granting the variance would not adversely affect the public interest: and”*

1. Xcel primarily supports its request to terminate the operations of Benson Power LLC contained in this Docket with projected cost savings. These savings are offset by the negative economic impact of closing this facility. MN DNR Economist Don Deckard estimates the annual economic impact of Benson Power LLC as nearly \$56 million. This estimate is attached as Appendix B.

The \$56 million economic impact of Benson Power is greater than the \$43.6 million annual saving claimed by Xcel (Petition page 22, total savings of \$480 million over 11 years).

There is a clear public interest in economic activity and economic development in Minnesota. The annual economic impact of \$56 million from Benson Power would be lost if this filing is approved.

2. Xcel also supports its filings with projected savings to its customers by using projections for the life of its contract with Benson Power LLC. Terminating the biomass contracts at Benson Power is estimated to save Xcel customers \$0.46 on a \$100 bill.

Xcel Energy's 2016 Annual Report shows \$9.5 billion in electrical revenues for NSP MN. Xcel claims \$480 million in savings from cancelling these contracts or \$43.6 million per year for eleven years. Dividing the purported annual savings by 2016 revenue results in 0.46 percent.

This would result in a savings of \$0.46 on a \$100 electrical bill.

3. We have surveyed loggers who supply Benson Power and Laurentian Energy. This survey represents 2/3 of the loggers who supply the biomass to these companies. This survey shows that these loggers have:
  - 265 employees producing biomass
  - Purchased \$48.8 million of logging equipment, trucks and trailers to produce and deliver biomass
  - Canceled \$1.5 million in orders for chippers and grinders
  - Canceled \$600,000 in orders for trailers to deliver biomass

These loggers' businesses will be devastated if NSP's filing is approved.

4. Many sawmills sell their residuals to Benson Power and Laurentian Energy either directly or through loggers with biomass contracts. These residuals include bark, sawdust, shavings etc.

It is not possible to run a profitable sawmill without a market for these residuals. A sawmill that was built in Browerville, MN three years ago has provided information that the loss of its biomass market (Benson Power) would cost \$765,000 (decreased revenue and increased cost) and make the mill unprofitable. Appendix C.

In a letter, Appendix D, Chris Nagel owner of Pillsbury Forest Hardwoods Inc. states *“Fifteen year ago we had to pay to get our sawdust hauled to landfills or other dumping areas where it was left to rot.”*

5. These biomass markets provide important revenue to family forest landowners, County Land Departments, DNR Division of Forestry, Permanent School Trust Fund, US Forest Service and large forest land owners.

Many of the stands that are harvested for biomass are uneconomical for other uses. Without biomass markets, these stands which have poor quality wood, low volumes, may have suffered blowdown or insect and disease infestations will be left to rot or burn.

The emerald ash borer infestation continues to march through Minnesota's urban and rural forests. The DNR estimates that there are 1 billion ash trees in State Forests and another 2.65 million on other public and private lands.

With limited industrial markets for ash, the most likely use for these infested trees will be biomass. Without biomass markets the costs for disposal will be extreme.

In the past six years 73,493.4 acres of DNR administered forestlands have sustained blowdowns. 71.1% of these acres sustained heavy damage (50%+), 16.4% sustained moderate damage (25-50%) and 12.4% sustained light damage (<25%). It is estimated that 908,000 cords of wood were subject to this damage.

The market for damaged wood has been primarily biomass for Benson Power, Laurentian Energy and other facilities. If Xcel is allowed to terminate these contracts as requested it will make it unlikely that damaged acres on state or other lands will be cleaned up and returned to a healthy condition. This will create the conditions for wildfire and insect infestations.

In an April 24, 2017 letter Mr. Al Sharp, President, Sharp's Forestry Consulting LLC (Appendix E), describes the importance of biomass markets to private landowners and the environment.

6. While stands harvested for biomass tend to be low quality as described above, they do produce pulpwood for paper and oriented strand board manufacturing and logs for sawmills. Loggers harvesting stands for biomass will sort out the higher quality wood and deliver it to these markets. Without a biomass market it is unlikely that these stands will be harvested. The volumes of pulpwood and logs from these stands will decrease. As supply decreases it will increase the overall cost of wood.

Minnesota already has very high wood costs. Continued increases in these costs jeopardizes the viability of paper and wood product mills.

7. NSP made commitments to develop renewable energy, including biomass, in order to obtain the ability to store nuclear waste at its Prairie Island nuclear facility. Members of the public and affected communities have relied on these commitments.

In a May 16, 2017 letter (Appendix F), the Prairie Island Indian Community stated in the second paragraph:

*"The authority for Xcel (then NSP) to store nuclear waste at Prairie Island was made contingent upon commitments by NSP to lessen its dependence on nuclear power by moving towards renewable forms of energy. A commitment to develop biomass power was part of the commitment..."*

The items shown above clearly demonstrate that numerous public interests would be adversely impacted if Xcel's filing is approved.

#### Contract to Purchase Biomass Power

MS 116C.773 requires the utility operating the Prairie Island nuclear plant (Northern States Power dba Xcel Energy) to enter into a contract with the State of Minnesota prior to the provisions of law allowing additional nuclear waste storage becoming effective. This statute is as follows:

#### ***116C.773 CONTRACTUAL AGREEMENT.***

*The authorization for dry casks contained in section 116C.77 is not effective until the governor, on behalf of the state, and the public utility operating the Prairie Island nuclear plant enter into an agreement binding the parties to the terms of sections 116C.771 and 116C.772 and the mandate for 200 megawatts of wind power and 75 megawatts of biomass required by December 31, 2002, in sections 216B.2423, subdivision 1, and 216B.2424. The Mdewakanton Dakota Tribal Council at Prairie Island is an intended third-party beneficiary of this agreement and has standing to enforce the agreement.*

This statute has not been amended or repealed since its enactment in 1994.

NSP signed the contract contemplated in this statute. A copy is attached as Appendix A.

Then Governor Arne Carlson provided the Public Utilities Commission a copy of the signed contract in a letter dated May, 20, 1994 which is also included as part of Appendix A.

Both MS 116C.773 and the contract require NSP to obtain 75 megawatts of biomass power.

The requested actions in this Docket and in Docket no. E002/M-17-530 would reduce NSP's biomass power by 90 megawatts which would put them vastly below the required 75 megawatts.

The requested actions in this Docket and in Docket no. E002/M-17-530 would be a breach of the contract and a violation of MS 116C.773.

Both the statute and the contract require that the acquisition of 75 megawatts of biomass power occur by December 31, 2002.

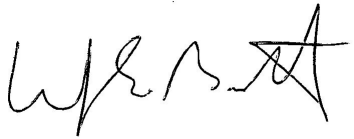
Neither the statute nor the contract state a termination date for this requirement. There is no termination date.

Because both MS 116C.773 and the contract it required remain in force the Public Utilities Commission must reject NSP's filings in this Docket.

The Department of Commerce argues and the Commission adopts a view that the contract signed by the State of Minnesota does not apply in this matter due to various deficiencies. This argument is a folly as the production of high-cost biomass based electricity at the Benson and Laurentian facilities were repeatedly approved by the Commission.

Thank you very much for your consideration of this Petition. We appreciate the Commission's careful consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. E. Brandt', with a stylized, large 'A' at the end.

Wayne E. Brandt  
Executive Vice President