

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION FOR
APPROVAL TO TERMINATE THE PPA
WITH BENSON POWER, LLC, ACQUIRE
THE BENSON/FIBROMINN PLANT, AND
CLOSE THE FACILITY

MINNESOTA TURKEY
GROWERS ASSOCIATION'S
PETITION TO AMEND ORDER

DOCKET No. E002-/M-17-530

INTRODUCTION

Pursuant to Minn. R. 7829.3000, subp. 2, the Minnesota Turkey Growers Association (MTGA) as intervenors in the above-referenced Matter submits this Petition to Amend the Order of the Commission dated January 23, 2018. A petition for rehearing, amendment, vacation, reconsideration, or reargument must set forth specifically the grounds relied upon or errors claimed. Minn. R. 7829.3000, subp. 2. A request for amendment must set forth the specific amendments desired and the reasons for the amendments. Id.

GROUND FOR AMENDMENT

The Commission erred by ignoring the 1994 statutory requirement and accompanying Contractual Agreement. In exchange for the privilege of storing dry casks of spent nuclear fuel, NSP agreed to purchase 200 megawatts of wind power and 75 megawatts of biomass power by December 31, 2002. The agreement was not only codified in Minn. Laws 1994, Chapter 641, Article 1, Sections 2 and 3, but also in a May 20, 1994 Contractual Agreement signed between then Governor Arne Carlson, on behalf of the State of Minnesota, and then President and CEO, Edwin Theisen, on behalf of NSP. The statute and Contract were designed to prevent future

legislatures from undoing the 1994 agreement and the commitments made by NSP. Our members have relied on this agreement and some of them have centered their disposal operations around the ability to deliver to the Benson plant at any time of the year. The Commission erred by failing to take the 1994 Agreement into account and failing to account for hardship that immediate closure would have on our members who need more time to find fields.

SPECIFIC AMENDMENT REQUESTED

The MTGA is specifically requesting that Item #10 of the January 23, 2018 Order be amended to become effective three years from the date of the original Order so that it would read: “This order shall become effective on January 23, 2021”. The reason for the proposed amendment is that our members need adequate time to locate enough fields to land apply the litter that would otherwise have gone to the plant. A three-year period is necessary because our members are required by Minnesota Pollution Control Agency rules to land apply manure at agronomic rates. Our members cannot simply spread the poultry litter anywhere; they need to find fields that can accept the nutrients and phase-in a land application program over a period of years. There is nothing in the statute prohibiting the Commission from adopting a delayed effective date; in fact, doing so would satisfy many of the concerns raised by the MTGA and the other intervening parties while at the same time allow compliance with the 2017 amendments passed the legislature that the Commission relied upon when making this decision. Immediate closure of the Benson plant would place a substantial burden on our members who deliver litter to the plant for what can only be described as a very nominal benefit to individual Xcel ratepayers.

Thank you for considering this Petition to Amend the Order of the Commission.

Dated: February 9, 2018

_____/S/
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