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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
OFFICE OF ENERGY SECURITY
ENERGY FACILITY PERMITTING STAFF

DOCKET NO. ET2/GS-07-715

Meeting Date: April 24, 2008.....Agenda Item #

Company: Great River Energy

Docket No. PUC Docket Number: ET2/GS-07-715

In the Matter of the Application for a LEPGP Site Permit for the Elk River Peaking Station and associated system upgrades.

Issue(s): Should the Commission find that the Environmental Impact Statement and the record adequately address the issues identified in the Scoping Decision? Should the Commission issue a LEPGP site permit identifying a specific site and permit conditions for the proposed GRE Elk River Peaking Plant project?

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Relevant Documents (in Commission Packet):

- 1. GRE's LEPGP Site Permit Application, June 14, 2007
- 2. PUC LEPGP Site Application Acceptance Order August 1, 2007
- 3. PUC's CON Application Acceptance Order August 1, 2007

(Relevant documents continued on next page)

4.	EIS/ER Scoping Decision	August 30, 2007
5.	Environmental Impact Statement	November 21, 2007
6.	Environmental Report	November 26, 2007
7.	Public Hearing Transcripts	December 19, 2008
8.	Final EIS	January 21, 2008
9.	Administrative Law Judge's Report	March 18, 2008
10.	Administrative Law Judge's Summary of Testimony	March 20, 2008

The enclosed materials are work papers of the Department of Commerce Energy Facility Permitting Staff. They are intended for use by the Public Utilities Commission and are based on information already in the record unless otherwise noted.

This document can be made available in alternative formats; i.e. large print or audio tape by calling (651) 201-2202 (Voice) or 1-800-627-3529 (TTY relay service).

Documents Attached:

1. Aerial Photograph of the GRE Elk River campus and preferred project overlay
2. Proposed Findings of Facts, Conclusions of Law and Order
3. Proposed Site Permit

(Note: Relevant documents and additional information can be found on eDockets (ET2/GS-07-715) or the PUC Facilities Permitting website <http://energyfacilities.puc.state.mn.us/>)

Statement of the Issue

Should the Commission find that the Environmental Impact Statement and the record adequately address the issues identified in the Scoping Decision? Should the Commission issue a LEPGP site permit, identifying a specific site and permit conditions, for the proposed GRE Elk River Peaking Plant project?

Introduction and Background

On June 14, 2007, Great River Energy (GRE) has submitted a LEPGP Site permit application for its proposed Elk River Peaking Station Project. The facility will use natural gas as its primary fuel and ultra-low sulfur distillate fuel oil as its backup fuel. The preferred project site is on GRE's campus in Elk River, Sherburne County, Minnesota.

Project Description

The proposed project consists of a single, simple-cycle combustion turbine generator (CT) with a nominal summer generating capacity of 175 MW and other associated facilities. The facility will use natural gas and ultra-low sulfur distillate fuel oil.

The preferred project site is on GRE's campus in Elk River, Sherburne County, Minnesota. The

Elk River campus currently includes the Elk River Station, a Refuse-Derived-Fuel (RDF) combustor that co-produces electricity, and GRE's corporate offices. The preferred site is an area of approximately 11 acres in the northeast portion of the campus.

An existing 69-kilovolt (kV) transmission line segment extending 5.6 miles in length from the Elk River site will be upgraded with new conductors and new poles. No change in voltage of the existing lines is necessary; therefore, no PUC High Voltage Transmission Line Route Permit is required. No other lines will require upgrades due to the project. GRE will obtain natural gas for the project from Northern Natural Gas Company already serving the site.

The alternative site is located on GRE's property in the city of Rosemount in Dakota County, Minnesota. The site is bordered on the south by County Highway 42, on the east by Emery Avenue, on the north by Ehler's Path and 140th Street. The property is currently leased to a farmer for crop production.

The natural gas and electric transmission line interconnects and wastewater discharge lines at the alternative site would require short corridors for completion. The natural gas corridor would extend from the project property south along Emery Avenue for approximately 1000 feet to the existing 42-inch, high pressure pipeline owned by Northern Natural Gas. As with the preferred site, Northern Natural Gas would permit, own and operate the new lateral pipeline. The plant would be interconnected to an existing transmission line that crosses the site. Water supply would likely be obtained from the existing or new onsite well. Wastewater would be discharged to an MCES interceptor at the Rosemount wastewater treatment plant through a new sewer line constructed along 140th street.

Determination of Need

No large energy facility shall be sited or constructed in Minnesota without the issuance of a Certificate of Need (CON) by the Commission pursuant to sections 216C.05 to 216C.30. GRE filed an application for a CON with the Commission for the project on May 18, 2007, in accordance with Minnesota Rules Chapter 7829 and 7849.

On August 1, 2007, the PUC issued an order finding the application substantially complete and adopting the review process (PUC Docket No. ET2/CN-07-678).

The DOC prepares an Environmental Report (ER) on proposed large electric power generating plants that come before the PUC for a determination of need (Minn. Rule Chapter 7849.7010 - .7070). The ER must contain information on the human and environmental impacts of the proposed project associated with the size, type, and timing of the project, system configurations, and voltage. The environmental report must also contain information on alternatives to the proposed project and shall address mitigating measures for anticipated adverse impacts.

The DOC EFP staff solicited comments pertinent to the scoping of the Environmental Report (CON process) during the initial public informational meetings held on August 17, 2007 and August 18, 2007.

The Department released the Order on the Content of the Environmental Report on August 30, 2007. The Department EFP staff released the ER on November 26, 2007.

Public hearings on the CON application were held on December 19, 2007 and December 20, 2007; the hearing were presided over by Administrative Law Judge Richard C. Luis. On March 20, 2008, the ALJ released a summary of public comments

Determination of LEPGP Site Permit

On June 14, 2007, Great River Energy (GRE) has submitted a LEPGP Site Permit application to the Minnesota Public Utilities Commission (PUC) for a 170 MW peaking station.

The addition of this generating unit at the Elk River site falls within the definition of a Large Electric Power Generating Plant (LEPGP) in the Power Plant Siting Act and, thus, requires a Site Permit from the PUC prior to construction. The Chapter 7849 rules provide for three different procedures for obtaining a site permit: full review, alternative review, and local review. GRE is applying for a site permit following the full review process. The project is not eligible for the alternative process because the proposed unit will be fueled by both natural gas and fuel oil. In the full review process, the applicant must identify in the application the preferred site for the power plant and one alternative site.

LEPGP Site permit applications under the full review process must provide specific information about the proposed project, applicant, environmental impacts, alternatives and mitigation measures (Minnesota Rule 7849.0220). The Commission may accept an application as complete, reject an application and require additional information to be submitted, or accept an application as complete upon filing of supplemental information (Minnesota Rule 7849.5230).

Under the Full Review Process, the Department of Commerce Energy Facility Permitting Staff prepares a document called an Environmental Impact Statement (EIS). An EIS is a written document that describes the human and environmental impacts of a proposed large electric power generating plant (and selected alternative sites) and methods to mitigate such impacts.

As part of this process, the Department holds an Initial Public Informational/EIS Scoping meeting within 60 days of Commission acceptance of the application. At this meeting the public has an opportunity to comment on the scope of the EIS and propose alternative sites. Following the completion of the draft EIS, the Department will hold another public meeting to summarize the draft EIS and hear public comments and concerns. In addition, a contested case hearing, presided over by an Administrative Law Judge (ALJ) will be held. The ALJ will issue a report containing findings, conclusions and a recommendation on whether the Commission should issue a LEPGP site permit, along with any permit conditions deemed appropriate.

The review process begins with the determination by the Commission that the application is complete. The Commission has one year to reach a decision from the time the application is accepted (Minnesota Rule 47849.5340).

The Commission accepted GRE's application for a LEPGP site permit on August 1, 2007.

Two public information/scoping meetings were held, August 17, 2007 (Elk River) and August 18, 2007 (Rosemount). Approximately 12 persons, excluding Department/PUC staff and the applicant's representatives, attended the meetings. The purpose of the public meetings was to provide the public with information about the project, afford the public an opportunity to ask questions and present comments, and to solicit input on the scope of the EIS (as well as the content of the ER).

During the initial public information/scoping meetings concerns raised regarding need included fuel type, load service area, simple cycle versus combined cycle operation, and cost of electricity. On the siting application concerns raised included air emissions, water usage, potential for future expansion, future plans for the alternative site (i.e., Rosemount), and potential noise impacts.

One comment letter was received regarding GRE's proposed Elk River peaking station; a request that the use of utility scale batteries be considered in place of the natural gas facility. These issues, along with the typical LEPGP siting impacts, were incorporated into the Scope of the Environmental Impact Statement and Content of the Environmental Report.

The Department released the Order on the Scope for the Environmental Impact Statement (as well as the Content of the Environmental Report) on August 30, 2007. The Department EFP staff released the draft Environmental Impact Statement (DEIS) on November 21, 2007.

Two public information meetings were held on the DEIS on December 19, 2007 (Rosemount) and December 20, 2007 (Elk River). Each of these meetings was immediately followed by the public hearing. Approximately 7 persons, excluding Department/Commission staff and the applicant's representatives, attended the meetings/hearings.

The purpose of the public meetings were to provide the public an opportunity to ask questions and present comments on the DEIS. The public had until Monday, December 31, 2007, to submit written comments to the Department on the DEIS.

The only written comments received on the DEIS were from the applicant as part of the direct testimony of Mr. Mark Strohfus.

The purposes of the contested case hearings were to allow the public an opportunity to comment on the LEPGP site permit application. The public had until Friday, February 8, 2008, to submit written comments to the Administrative Law Judge (ALJ) on GRE's application for a LEPGP site permit.

The final EIS was released on January 21, 2008.

The ALJ released his report on March 18, 2008.

DOC EFP Staff Analysis and Comments

DOC EFP staff has reviewed GRE's application for a LEPGP site permit. The proposed site and the alternative site were examined in detail in the EIS and at the public hearings.

Both sites are suitable for the construction and operation of the proposed facility relative to the factors to be considered under Minnesota Rule 7849.591. Additionally, both sites have adequate resources and infrastructure such as, land, availability and ownership structure; access to water and wastewater treatment facilities; electrical interconnection, and fuel supply.

The preferred site could possibly accommodate an additional CT and the proposed project is being designed to maximize future generating capacity options. The alternative site is approximately 320 acres and could accommodate a larger generating facility option in the future.

DOC EFP staff concludes that the applicant's preferred site (Elk River facility) is the more reasonable and prudent site.

Department EFP staff has incorporated the ALJ's report and public record into proposed Findings of Facts, Conclusions of Law and Order (**Attachment 2**), and has prepared a proposed LEPGP Site Permit (**Attachment 3**).

The proposed Site Permit includes measures to ensure the facility is constructed in a safe, reliable manner and that impacts are minimized or mitigated.

Commission Decision Options

A. Approve and Adopt the Findings of Fact, Conclusions of Law and Order for the GRE Elk River Peaking Plant Project (PUC Docket No. ET2/GS-07-715) which:

1. determines that the environmental impact statement and record created at the public hearing address the issues identified in the EIS Scoping Decision;
2. designates a site for the construction of the single, simple-cycle combustion turbine generator (CT) with a nominal summer generating capacity of 175 MW and other associated facilities; and
3. issues a LEPGP Site Permit, with appropriate conditions, to Great River Energy.

B. Approve and adopt the Findings of Fact, Conclusions and Order as above while imposing any further permit conditions as deemed appropriate.

C. Amend the Findings of Fact, Conclusions and Order and Site Permit as deemed appropriate.

D. Make some other decision deemed more appropriate.

EFP Staff Recommendation

Staff recommends Options A.