

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
Nancy Lange
Dan Lipschultz
John A. Tuma
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Mankato Energy Center II,
LLC's Application for a Site Permit for the 345
MW Expansion of the Mankato Energy Center

ISSUE DATE: October 14, 2015

DOCKET NO. IP-6949/GS-15-620

ORDER FINDING APPLICATION
COMPLETE, REQUESTING SUMMARY
REPORT, AND GRANTING VARIANCE

PROCEDURAL HISTORY

On August 5, 2015, Mankato Energy Center II, LLC (Mankato Energy Center) filed an application to expand the existing center, which is a 375 megawatt (MW) dual fuel combined-cycle generating facility located in Mankato. The expansion would increase integrated combined-cycle and peaking capacity by adding one natural gas-fired combustion turbine generator, a heat recovery steam generator, and related ancillary equipment, for a total increase of 345 MW. The project would be constructed within the existing center's 25-acre footprint.

On August 24, 2015, the Department of Commerce, Energy Environmental Review and Analysis (EERA) filed comments recommending that the Commission accept the application as complete.

On September 17, 2015, the application came before the Commission.

FINDINGS AND CONCLUSIONS

I. Jurisdiction

No person may construct a large electric power generating plant without a site permit from the Commission.¹ A large electric power generating plant is defined as "electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilovolts or more."² Mankato Energy Center has proposed expanding its existing facility by an increase of 345 MW, requiring the company to obtain a permit.

¹ Minn. Stat. § 216E.03, subd. 1.

² Minn. Stat. § 216E.01, subd. 5.

Mankato Energy Center filed its application under Minn. Stat. § 216E.04 and Minn. R. 7850.2800 to 7850.3900, which govern the alternative review process for eligible projects, including large electric power generating plants that are fueled by natural gas. The proposed project would be fueled solely by natural gas and the application is therefore eligible for review under the alternative permitting process.

II. Application Completeness

The EERA reviewed Mankato Energy Center's application under Minn. R. 7850.3100 to analyze whether the application contained the required information. Based on its analysis, the EERA stated that the application contained the required information and recommended that the Commission accept the application as complete. The Commission concurs with the EERA that the application meets the requirements of Minn. R. 7850.3100 and will accept the application as complete.

III. Commission Action

To facilitate development of the record on site permit issues, the Commission will authorize use of the alternative permitting process set forth in Minn. Stat. § 216E.04 and Minn. R. 7850.2800 to 7850.3900. Under this process, the Commission asks the Office of Administrative Hearings to hold at least one public hearing, scheduled in conjunction with Commission staff. The Commission will request that the Administrative Law Judge in this case prepare a summary report of the comments received during the public hearing comment period.

The Commission will also take the steps listed below to ensure adequate development of the record:

- Designate Tracy Smetana, Minnesota Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101-2147, (651) 296-0406, to act as the public advisor.
- Find that no additional sites will be added by the Commission for inclusion in the environmental assessment scoping decision.
- Delegate administrative authority over this case to the Executive Secretary, including the authority to establish or vary time periods under Minn. R. 7829.3100.
- Require Mankato Energy Center to place a compact disc and/or hard copy of the application for review in a government center and/or public library in each of the counties where the Project would be located.
- Direct Commission staff to work with the Administrative Law Judge and the Department staff in selecting suitable locations for a public hearing on the application.
- Direct staff to formally contact relevant state agencies to request their participation in the development of the record and public hearings under Minn. Stat. § 216E.10, subd. 3, and request that state agencies submit comments prior to the last day of the public hearing.

IV. Rule Variance

Under Minn. R. 7850.3700, the Department of Commerce is required to prepare an environmental assessment that evaluates the potential human and environmental impacts of the proposed project. Under the rule, the Department is required to hold a public scoping meeting where members of the public have the opportunity to provide comments. After the close of the public scoping meeting, the Department is required to provide a written comment period of at least seven days. Within 10 days of the close of the comment period, the Department must determine the scope of the environmental assessment.

Under Minn. R. 7829.3200, the Commission must vary its rules upon making the following findings:

- (1) enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- (2) granting the variance would not adversely affect the public interest; and
- (3) granting the variance would not conflict with standards imposed by law.

To ensure that the Department has sufficient time to evaluate comments and make a determination, the Commission will vary the rule to extend the 10-day timeline for determining the scope of the environmental assessment.

The Commission finds that enforcement of the rule would impose an excessive burden on those affected by the rule by jeopardizing the Department's ability to fully consider comments and make an informed decision on the scope of the environmental assessment. Further, granting the variance would not adversely affect the public interest, and would, in fact, serve the public interest by providing the Department with sufficient time to make a scoping decision. And finally, granting the variance would not conflict with standards imposed by law, since the time frame is set by rule and not by statute.

ORDER

1. The Commission hereby accepts the site permit application as complete and authorizes review under the alternative permitting process as set forth in Minn. Stat. § 216E.04 and Minn. R. 7850.2800 to 7850.3900.
2. The Commission requests that an Administrative Law Judge from the Office of Administrative Hearings be appointed to preside over the public hearing and prepare a summary report of the comments received.
3. The Commission hereby delegates administrative authority over this case to the Executive Secretary, including the authority to establish or vary time periods under Minn. R. 7829.3100.

4. The Commission hereby designates Tracy Smetana of Commission staff to serve as the public advisor.
5. The Commission also:
 - a. Finds that no additional sites will be added by the Commission for inclusion in the environmental assessment scoping decision.
 - b. Requires Mankato Energy Center to place a compact disc and/or hard copy of the application for review in a government center and/or public library in each of the counties where the Project's pipeline is located.
 - c. Directs Commission staff to formally contact relevant state agencies to request their participation in the development of the record and public hearings under Minn. Stat. § 216E.10, subd. 3, and request that state agencies submit comments prior to the last day of the public hearing.
6. The Commission hereby varies the time period of Minn. R. 7850.3700, subp. 3, to extend the 10-day time limit for the Department to issue its scoping decision.
7. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
Executive Secretary



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