MINNESOTA DEPARTMENT OF COMMERCE

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August 24, 2015

Daniel Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: EERA Comments and Recommendations on Application Completeness
Mankato Energy Center Expansion
Docket No. IP6949/GS-15-620

Dear Mr. Wolf,

Attached are comments and recommendations of Department of Commerce, Energy Environmental Review and Analysis (EERA) staff in the following matter:

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

The application was filed on August 5, 2015, by:

> Heidi Whidden
> Calpine Corporation
> 500 Delaware Ave., Suite 600
> Wilmington, DE 19801

EERA staff recommends acceptance of the application as complete. Staff is available to answer any questions the Commission may have.

Sincerely,

Ray Kirsch
EERA Staff

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF MINNESOTA DEPARTMENT OF COMMERCE ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS

DOCKET NO. IP6949/GS-15-620

Date: August 24, 2015

EERA Staff: Ray Kirsch……651-539-1841

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

Issues Addressed: These comments and recommendations address the completeness of the site permit application submitted for the project, the presence of disputed issues, and the need for an advisory task force.

Additional documents and information can be found on eDockets: https://www.edockets.state.mn.us/EFiling/search.jsp (15-620) and on the Department's website: http://www.mn.gov/commerce/energyfacilities/Docket.html?Id=34238.

This document can be made available in alternative formats (i.e. large print or audio) by calling 651-539-1530 (voice).

Introduction and Background

On August 5, 2015, Mankato Energy Center II, LLC (applicant) filed a site permit application to construct and operate a new 345 megawatt (MW) electric generating facility in the city of Mankato in Blue Earth County.[1] On August 10, 2015, the Commission issued a notice soliciting comments on the completeness of the application, the presence of contested issues of fact, and the need for an advisory task force.[2]

Project Purpose

The proposed project was selected in a Commission resource acquisition process to provide a new

[1] Mankato Energy Center II, LLC, Application for a Site Permit for the Proposed 345 MW Expansion of the Mankato Energy Center, August 5, 2015, eDockets Numbers 20158-113056-01, 20158-113056-02, 20158-113056-03, 20158-113056-04 [hereinafter Site Permit Application].

[2] Notice of Comment Period on Application Completeness, August 10, 2015, eDockets Number 20158-113135-01.

source of electrical power to meet the projected needs of Xcel Energy's electric power customers.[3]

Project Description
The applicant proposes to add a combustion turbine generator (CTG), a heat recovery steam generator (HRSG), and associated equipment to the existing Mankato Energy Center (MEC) in Blue Earth County. This expansion of the MEC will allow for the production of an additional 345 megawatts. The MEC was designed and constructed to accommodate this expansion.

The project will use natural gas as a fuel source. Existing infrastructure installed for the MEC (e.g., electrical transmission, gas pipeline, water service) will be used for the project. The applicant indicates that construction of the project is anticipated to begin in 2016, with a projected operational date of July 1, 2018.

Regulatory Process and Procedures

In Minnesota, no person may construct a large electric power generating plant without a site permit from the Commission.[4] A large electric power generating plant is defined as electric power generating equipment and associated facilities designed for and capable of operation at a capacity of 50,000 kilowatts or more (50 MW).[5] The proposed project will have an electric generation capacity of 345 MW and therefore requires a site permit from the Commission.

While a certificate of need (CN) is required to construct a large electric power generating plant,[6] a CN is not required if the facility is selected in a bidding process established by the Commission.[7] The proposed project was selected in such a process by the Commission.[8] As a result, the project does not require a CN.

Applicants intending to submit a project under the Commission's alternative permitting process for a large electric power generating plant are required to provide a 10-day advance notice of this intent to the Commission before submitting their site permit application.[9] On June 29, 2015, the applicant filed a letter with the Commission indicating its intent to submit a site permit application for the proposed project under the alternative permitting process.[10] Because the project will be fueled by natural gas, and only natural gas, the project qualifies for the Commission's alternative permitting process.[11]

Permit Application and Acceptance
Site permit applications for large electric power generating plants must provide specific information about the proposed project including information about the applicant, a description of the project, and

[3] Docket No. E-002/CN-12-1240. See Order Approving Power Purchase Agreement with Calpine, Approving Power Purchase Agreement with Geronimo, and Approving Price Terms with Xcel, February 5, 2015, eDockets Number 20152-107070-01 [hereinafter Order Approving Power Purchase Agreement].
[4] Minnesota Statute 216E.03.
[5] Minnesota Statute 216E.01.
[6] Minnesota Statutes 216B.2241, Subd. 2, and 216B.243, Subd. 2.
[7] Minnesota Statute 216B.2422, Subd. 5(b).
[8] Order Approving Power Purchase Agreement.
[9] Minnesota Rule 7850.2800.
[10] Notice of Intent by Mankato Energy Center II, LLC to Submit a Site Permit Application under the Alternative Permitting Process, June 29, 2015, eDockets Number 20156-111855-01.
[11] Minnesota Rule 7850.2800.

discussion of potential environmental impacts and mitigation measures.[12] Review under the alternative permitting process does not require an applicant to propose alternative sites in their permit application.[13] However, if the applicant has evaluated and rejected alternative sites they must describe these sites and the reasons for rejecting them in their application.[14]

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.[15] The environmental review and permitting process begins on the date the Commission determines that a permit application is complete; the Commission has six months (or nine months, with just cause) from the date of this determination to reach a permit decision.[16]

Environmental Review

Site permit applications are subject to environmental review conducted by Department of Commerce, Energy Environmental Review and Analysis (EERA) staff. Projects proceeding under the alternative permitting process require the preparation of an environmental assessment (EA).[17] An EA is a document which describes the potential human and environmental impacts of a proposed project and possible mitigation measures. A public information and scoping meeting will be held to solicit comments on the scope of the EA. The Department of Commerce (Department) determines the scope of the EA.[18]

Public Hearing

Site permit applications under the alternative permitting process require that a public hearing be held in the project area after the EA for the project has been completed and released.[19] The hearing is typically presided over by an administrative law judge (ALJ) from the Office of Administrative Hearings. The Commission may request that the ALJ provide a summary of the hearing (summary report). Alternately, the Commission may request that the ALJ provide findings of fact, conclusions of law, and recommendations regarding the site permit application (summary proceeding).

Advisory Task Force

The Commission may appoint an advisory task force as an aid to the environmental review process.[20] An advisory task force must include representatives of local governmental units in the project area.[21] A task force would assist EERA staff with identifying specific impacts and mitigation measures, including alternative site and routes, to be evaluated in the EA for the project. A task force expires upon issuance of the EA scoping decision by the Department.[22]

[12] Minnesota Rules 7850.1900 and 7850.3100.
[13] Minnesota Rule 7850.3100.
[14] Id.
[15] Minnesota Rule 7850.3200.
[16] Minnesota Statute 216E.04, Subd. 7.
[17] Minnesota Rule 7850.3700.
[18] Id.
[19] Minnesota Rule 7850.3800.
[20] Minnesota Statute 216E.08.
[21] Id.
[22] Minnesota Rule 7850.3600.

The Commission is not required to appoint an advisory task force for every project. In the event that the Commission does not name a task force, citizens may request appointment of a task force.[23] If such a request is made, the Commission would then need to determine at a subsequent meeting if a task force should be appointed or not.

The decision whether to appoint an advisory task force does not need to be made at the time of application acceptance; however, it should be made as soon as practicable to ensure its charge can be completed prior to the EA scoping decision by the Department.

EERA Staff Analysis and Comments

EERA staff has conferred with the applicant about the proposed project and has reviewed a draft application. EERA staff believes that staff comments on the draft application have been addressed in the application submitted to the Commission. Staff has evaluated the application against the application completeness requirements of Minnesota Rule 7850.3100 (see attached Table 1).[24] Staff finds that the application contains appropriate and complete information with respect to these requirements, including description of the proposed project and discussion of potential environmental impacts and mitigation measures.

Accordingly, staff believes that the application meets the content requirements of Minnesota Rule 7850.3100 and is complete. The Commission's acceptance of the application will allow EERA staff to commence the environmental review process.

Disputed Issues of Fact

EERA staff is not aware, at this time, of any disputed issues of fact with respect to the representations in the application. However, issues may be identified during the EA scoping process.

EERA staff notes that though potential issues or impacts may be identified during the scoping process, alternative sites that may minimize these impacts would appear to be precluded in the scoping process for this project. To EERA staff's understanding, the Commission, through its resource acquisition process, has selected the applicant's proposed project, including the site for the project, i.e., the Mankato Energy Center.[25] Potential human and environmental impacts of this selection with respect to other sites were analyzed by EERA staff in an environmental report.[26] This report was utilized by the Commission in its resource acquisition process.

Assuming alternatives sites are precluded in the scoping process, EERA staff believes (1) that it is unnecessary for EERA staff to present site alternatives to the Commission for its input prior to issuing

[23] Id.
[24] The completeness requirements of Minnesota Rule 7850.3100 (alternative permitting process) and Minnesota Rule 7850.1900 (full permitting process) are identical with one exception -- under the alternative permitting process an applicant is not required to propose alternative sites in their application; they must, however, describe any alternative sites evaluated and rejected prior to application submittal.
[25] Order Approving Power Purchase Agreement.
[26] Environmental Report: Xcel Competitive Resources Acquisition Proposals, October 14, 2013, eDockets Numbers 201310-92487-01, 201310-92487-02, 201310-92487-03, 201310-92487-04.

the scoping decision,[27] and (2) that a summary report from the public hearing would be appropriate for the project. A tentative (and hypothetical) schedule incorporating these two points is provided in Table 2 (attached).

Advisory Task Force

EERA staff has analyzed the merits of establishing an advisory task force for the applicants' proposed project. Staff concludes that a task force is not warranted for the project.

In analyzing the need for an advisory task force for the project, EERA staff considered four characteristics: project size, project complexity, known or anticipated controversy, and sensitive resources.

- **Project Size.** The proposed project is a relatively large electric generating plant. However, the project will be placed within an existing generating facility, the MEC, which has been designed and constructed to accommodate the project. Thus, the size of the project – its footprint on the Minnesota landscape – is relatively small.

- **Project Complexity.** The proposed project is relatively straightforward. The project is an expansion of an existing electric generating facility, within the existing boundaries of the MEC. The expansion will utilize existing MEC infrastructure – existing electrical transmission, a gas pipeline, and water service. EERA staff believes the project presents a low level of complexity.

- **Known or Anticipated Controversy.** Because the project is an expansion within an existing facility, EERA staff anticipates a relatively low level of controversy concerning the project. Based on the site permit application, the MEC is in compliance with all applicable permits and has not received complaints about its operation.

- **Sensitive Resources.** The project will be located within an existing electric generating facility. This facility is located in a commercial and industrial area within the city of Mankato. Thus, EERA anticipates minimal impacts to sensitive resources as a result of the project.

Based on the above analysis, EERA staff believes that an advisory task force is not warranted for the project.

EERA Staff Recommendation

EERA staff recommends that the Commission accept the application for the Mankato Energy Center expansion project as complete. Additionally, EERA staff recommends that the Commission take no action on an advisory task force at this time.

[27] Related to this point, it would also be unnecessary to vary Minnesota Rule 7850.3700 to afford time for Commission input regarding site alternatives in the scoping decision.

Table 1. Application Completeness Requirements

Minnesota Rule 7850.1900, Subpart 1	Location in Site Permit Application	EERA Staff Comments
A. a statement of proposed ownership of the facility as of the day of filing and after commercial operation;	2.1, 2.2	Information is provided to satisfy this requirement. Mankato Energy Center II, LLC will own the project.
B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;	2.2	Information is provided to satisfy this requirement. Mankato Energy Center II, LLC will be the permittee. Transfer of the permit is not contemplated at this time.
C. at least two proposed sites for the proposed large electric power generating plant and identification of the applicant's preferred site and the reasons for preferring the site;	2.6	Information is provided to satisfy this requirement. Additional sites are not required per Minnesota Statute 216E.04, Subd. 3.
D. a description of the proposed large electric power generating plant and all associated facilities, including the size and type of the facility;	2.0	Information is provided to satisfy this requirement. The description includes infrastructure to be shared with the existing facility.
E. the environmental information required under subpart 3.	See Minnesota Rule 7850.1900, Subpart 3 below.	
F. the names of the owners of the property for the proposed site;	2.1	Information is provided to satisfy this requirement.
G. the engineering and operational design for the large electric power generating plant at each of the proposed sites;	2.0, 3.0, Figure 3	Information is provided to satisfy this requirement.
H. a cost analysis of the large electric power generating plant at each proposed site, including the costs of constructing and operating the facility that are dependent on design and site;	2.8	Information is provided to satisfy this requirement. Additional cost information has been included, as requested by EERA staff.

Minnesota Rule 7850.1900, Subpart 1	Location in Site Permit Application	EERA Staff Comments
I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;	2.9, 3.0	Information is provided to satisfy this requirement.
J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;	3.0	Information is provided to satisfy this requirement. The project will make extensive use of existing systems and infrastructure.
K. a listing and brief description of federal, state, and local permits that may be required for the project at each proposed site; and	11.0	Information is provided to satisfy this requirement.
O. a copy of the Certificate of Need for the project or documentation that an application for a Certificate of Need has been submitted or is not required.	1.3	Information is provided to satisfy this requirement. The project was selected in a bidding process established by the Commission. Accordingly, per Minnesota Statute 216B.2422, Subd. 5(b), a Certificate of Need is not required for the project.

Minnesota Rule 7850.1900, Subpart 3	Location in Site Permit Application	EERA Staff Comments
A. a description of the environmental setting for each site;	4.1	Information is provided to satisfy this requirement.
B. a description of the effects of construction and operation of the facility on human settlement, including, but not limited to, public health and safety, displacement, noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;	4.2 through 4.8, 5.0	Information is provided to satisfy this requirement. Additional information has been included regarding potential noise impacts and potential public health impacts due to air emissions, as requested by EERA staff.
C. a description of the effects of the facility on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;	6.0	Information is provided to satisfy this requirement.

Minnesota Rule 7850.1900, Subpart 3	Location in Site Permit Application	EERA Staff Comments
D. a description of the effects of the facility on archaeological and historic resources;	7.0	Information is provided to satisfy this requirement.
E. a description of the effects of the facility on the natural environment, including effects on air and water quality resources and flora and fauna;	8.0	Information is provided to satisfy this requirement. Additional information has been included regarding flora and fauna, as requested by EERA staff.
F. a description of the effects of the facility on rare and unique natural resources;	9.0	Information is provided to satisfy this requirement.
G. identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific site or route; and	10.0	Information is provided to satisfy this requirement.
H. a description of measures that might be implemented to mitigate the potential human and environmental impacts identified in items A to G and the estimated costs of such mitigative measures.	Chapters 4 through 10	Information is provided to satisfy this requirement. Each chapter describing potential impacts includes mitigation measures that could be implemented.

Table 2. Tentative Project Process and Schedule

Approximate Date	Day	Permitting Process Step	Responsible Actor(s)
August 5, 2015		Application Submitted	Applicant
August 24, 2015		Application Completeness Comments	Multiple
August 31, 2015		Reply Comments	Multiple
September 17, 2015		Commission considers Application Acceptance	Commission
September 18, 2015		Public Information Meeting and EA Scoping Notice	Commission/EERA
Acceptance through Environmental Assessment			
October 1, 2015	0	Application Acceptance Order	Commission
October 7, 2015	10	Public Information/Scoping Meeting	Commission/EERA
October 19, 2015	20	EA Scoping Comment Period Closes	EERA
October 30, 2015	30	Scoping Decision Issued	Department
January 29, 2016	120	EA Issued/Public Hearing Notice	EERA/Commission
Public Hearing			
February 10, 2016	130	Public Hearing	OAH
February 22, 2016	140	Public Hearing Comment Period Closes	OAH
February 29, 2016	147	Hearing Transcript and Comments from Hearing Filed in eDockets	OAH
March 7, 2016	154	Proposed Findings and Conclusions	Applicant
March 21, 2016	168	Responses to Comments on EA; Technical Analysis; Replies to Applicant Proposed Findings	EERA
March 22, 2016	170	ALJ Summary Report	OAH
April 21, 2016	200	Commission considers Site Permit Issuance	Commission