



MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

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February 24, 2010

Dr. Burl W. Haar
MN Public Utilities Commission
350 Metro Square Building
121 Seventh Place East
St. Paul, MN 55101

Re: *In the Matter of the 2009 Annual Hearing on the Power Plant
Siting Program; OAH Docket No. 3-2500-21007-2*

Dear Dr. Haar:

Enclosed herewith and served upon you by mail is the Administrative Law Judge's Report to the Commissioner in the above-entitled matter. Also enclosed is the official record, including the original transcript of the hearing. Our file in this matter is now being closed.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen D. Sheehy".

KATHLEEN D. SHEEHY
Administrative Law Judge

Telephone: (651) 361-7848

KDS:nh

Encl.

Cc: All Parties on the Attached Service List

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the 2009 Annual
Hearing on the Power Plant Siting
Program

REPORT TO THE COMMISSION

On December 15, 2009, the Minnesota Public Utilities Commission requested that the Office of Administrative Hearings conduct on its behalf the 2009 Annual Hearing on the Power Plant Siting Program, held pursuant to Minn. Stat. § 216E.07 (2008). Administrative Law Judge Kathleen D. Sheehy conducted the public hearing commencing at 10:00 a.m. on December 29, 2009, at the offices of the Minnesota Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota.

The Annual Hearing is intended to advise the public of matters relating to the siting of large electric power generating plants and routing of high voltage transmission lines and to afford interested persons an opportunity to be heard regarding the Commission's activities, duties or policies pursuant to the Power Plant Siting Act, Minnesota Statutes Chapter 216E, or the Commission's Power Plant and Transmission Line Siting Rules, Minnesota Chapter 7850.1000 to 7850.5600 (2007).

Notice

Minn. Stat. § 216E.07 requires the Commission to hold an annual public hearing in order to afford interested persons an opportunity to be heard regarding any matters relating to the siting of large electric generating power plants and routing of high-voltage transmission lines. The Commission must provide at least ten days but no more than 45 days' notice of the annual meeting by mailing or serving electronically a notice to those persons who have requested notice and by publication in the EQB Monitor and the commission's weekly calendar. Notice of the hearing must be accompanied by a tentative agenda for the hearing.¹

On December 4, 2009, the Commission served notice of the annual hearing, along with a tentative agenda, to those persons who requested notice.² The notice was

¹ See Minn. Stat. § 216E.07; Minn. R. 7850.5400, subp. 2.

² Ex. 1.

published in the EQB Monitor on December 14, 2009.³ On December 18, 2009, the Commission sent the notice and tentative agenda by U.S. mail to the Technical Representatives of the Environmental Quality Board.⁴ In addition, notice of the hearing and the agenda were posted on the Commission's web calendar beginning on December 18, 2009, and continuing through the date of the hearing.⁵ The record remained open for written comments until February 1, 2010.⁶

Summary of Proceeding

Approximately 16 members of the public (not including staff of the Office of Energy Security or staff of the Commission) attended the hearing.⁷

Bob Cupit of the Minnesota Public Utilities Commission staff introduced himself and offered the exhibits documenting the Commission's compliance with the applicable notice requirements. He explained that the Power Plant Siting Act is administered jointly by the Commission and the Minnesota Office of Energy Security (OES). Mr. Cupit described the OES Energy Facility Permitting unit, whose staff members are responsible for managing the development of siting and routing decision records, conducting environmental reviews, and making recommendations to the Commission. He also described the work of the Commission's Energy Facilities Permitting Unit.

Deborah Pile of the OES introduced herself and described the work of the ten-member team of project managers, who are responsible for managing the application process and provide the environmental review associated with each project. She also described the role of the Energy Facility Permitting Unit's public participation specialists, including a new position to deal specifically with coordinating public participation in projects involving wind permits. Ms. Pile described the unit's responsibility for managing its website and the maintenance of both general lists of persons who desire to monitor or participate in all permitting processes, as well as lists of persons who wish to monitor or participate in specific projects.

Mr. Cupit then described the role that other state agencies have in the siting and routing process. He encouraged representatives of other state agencies to provide comments at the hearing or to submit written comments afterward. No representatives of other state agencies made comments during the hearing or submitted written comments afterward.

Next, Ms. Pile summarized the work completed by the OES Energy Facility Permitting Staff in 2009. OES staff assisted the Commission in permitting 16 energy facilities in Minnesota during 2009: a 164-megawatt (MW) power plant (the Prairie Island Power Upate and Spent Fuel Storage Expansion); five transmission lines,

³ Ex. 3.

⁴ Ex. 2.

⁵ Ex. 4; Tr. at 5.

⁶ Tr. at 4.

⁷ Ex. 8.

including Big Stone II; one petroleum pipeline (Enbridge); and ten wind farms (598.5 MW).⁸

OES included information about wind projects for informational purposes, even though these projects are not subject to the Power Plant Siting Program, because this is a growing area of work for the Energy Facility Permitting Staff. OES noted that among states, Minnesota currently ranks fourth in the nation in installed wind generation capacity (1,085 MW).⁹ OES noted that in addition to its permitting work on specific wind projects, it is collaborating with the Commission and staff of the Department of Natural Resources to determine next steps in bird and bat monitoring for wind farms and working with the Department of Health to develop a white paper on the potential health impacts of wind turbines. OES also noted that its staff had implemented new tools to facilitate public participation in the permitting process, including the ability to submit comments electronically and the development of a public comment period after acceptance of the application for a wind farm.¹⁰

OES also provided information about projects pending as of December 2009. Those projects include one power plant (the Mesaba Energy Project, 1,200 MW); ten transmission lines (including four 345-kV lines); and nine wind farms (1,088.5 MW). OES also noted a possible power plant project (800 MW natural gas), four additional possible transmission line projects, and 28 additional possible wind projects.¹¹

Mr. Cupit noted that the Commission and OES have been working on a large number of dockets in the last several years. He indicated that this period has been one of the most active in terms of expanding the energy facility infrastructure in the state since the 1970s. He asked for comments or observations on the public role in the power plant siting and transmission line routing processes. No members of public offered any comments during the hearing.

Two written comments were received before the hearing. Kristen Eide-Tollefson wrote to say that she would not be attending the hearing for the first time since 1996. She was critical of the public hearing format, stating that it provides for “very limited inputs, provokes antagonism, and isolates public comments and concerns in a ‘record’ that appears to [go] nowhere.” She stated that the issues raised through the years have been similar—notice, EMF, alternative routes and technologies—but that few changes have been made in response to these expressed concerns.¹²

In addition, Scott Riddlemoser wrote concerning county processes for permitting of wind projects. He stated that Lyon County had assumed permitting authority in March 2008 but that county officials were refusing to appropriately acknowledge the Commission’s General Wind Permit Standards in local ordinances. Mr. Riddlemoser

⁸ Ex. 5; Ex. 7.

⁹ Ex. 5.

¹⁰ *Id.*

¹¹ Ex. 6.

¹² Ex. 9.

believes that it is important to incorporate these standards into local ordinances in order to provide transparency to the public regarding landowner wind and property rights.¹³

Mr. Cupit then noted that, to facilitate the receipt of public comment on these issues throughout the coming year, the Commission's consumer affairs office had created a comment portal on the Commission's website and that this portal was now operational. The public may provide comments at any time during the year through the portal, and staff intends to collect and include the comments in the record of the annual hearing for 2010.

The Administrative Law Judge advised the public that the record for the 2009 annual hearing would remain open until February 1, 2010, for any written comments regarding these processes.¹⁴ No written comments were received.

Dated: February 24, 2010


KATHLEEN D. SHEEHY
Administrative Law Judge

Reported: Transcribed (Shaddix & Assoc).

¹³ Ex. 10.

¹⁴ Tr. at 15.

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
600 NORTH ROBERT STREET
ST. PAUL, MN 55101

CERTIFICATE OF SERVICE

Case Title: <i>In the Matter of the 2009 Annual Hearing on the Power Plant Siting Program;</i>	OAH Docket No. 3-2500-21007-2
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Nancy J. Hansen certifies that on the 24th day of February, 2010, she served a true and correct copy of the attached Report to the Commissioner by placing it in the United States mail with postage prepaid, addressed to the following individuals:

Dr. Burl W. Haar MN Public Utilities Commission 350 Metro Square Building 121 Seventh Place East St. Paul, MN 55101	All parties on the attached service list
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