

October 22, 2002

The Honorable Kathleen Sheehy  
Administrative Law Judge  
Office of Administrative Hearings  
100 Washington Square, Suite 1700  
Minneapolis, MN 55401-2138

Re: Amendment of Environmental Quality Board Power Plant Siting Rules – Chapter  
4400  
Rebuttal Comments  
OAH Docket No. 58-2901-15022-1

Dear Judge Sheehy:

The Association of Minnesota Counties wishes to enter rebuttal comments into the matter of the Environmental Quality Board Power Plant Siting Rules (Minn. Rules Chapter 4400).

Specifically, the EQB staff proposes to delete Minn. Rules 4400.0650 subpart 4. The Association of Minnesota Counties supports this proposal and requests it be accepted in the final rule.

Local government's need the authority to regulate energy projects that might be proposed in the future. Local government's regulation of power plants and transmission lines can include more than site issues. County approvals can include a variety of conditions intended to ensure a proposed activity is in harmony with the area in which it is proposed. These conditions can include issues relating to water runoff, noise, odor, lighting, appearance, and so on. These conditions are developed through an open public process. Prohibiting local regulation of energy facilities may lead to increased conflict between local residents and the owners of these facilities.

Local regulations cover new and existing facilities. What happens to a facility that was approved in the past by a county conditional use permit, but now falls under the Power Plant Siting Act due to changes passed in 2001? Would the conditional use permit be made null and void under the rules as originally proposed? In our opinion, it is inappropriate to change the rules on how existing facilities are regulated.

In addition, local approvals are governed by Minnesota Statutes 15.99 that requires decisions to be made within 120 days from the date a completed application is received. Concerns that allowing local review will unduly delay projects is unwarranted.

Thank you for the opportunity to comment on these rules.

Sincerely,

David Weirens  
Policy Analyst