

E-002/M-94-730 ORDER APPROVING REQUEST FOR PROPOSAL, AS MODIFIED

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Request by Northern States  
Power Company for Approval of a Request for  
Proposal to Supply 100 Megawatts of Wind  
Generation Resources

ISSUE DATE: October 21, 1994

DOCKET NO. E-002/M-94-730

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**PROCEDURAL HISTORY**

**I. Proceedings to Date**

In May, 1994, as part of the legislation authorizing nuclear waste storage at Northern States Power Company's (NSP's or the Company's) Prairie Island Nuclear Generating Plant, the Minnesota Legislature increased NSP's wind requirements to 425 MW by 2002. In addition, in order to receive its next increment of four nuclear waste storage casks (after the five authorized immediately by the law), NSP must develop or arrange to purchase 100 MW of wind generation (in addition to the 25 MW currently operational) by December 31, 1996.

On July 15, 1994, the Commission issued an Order in Docket No. E-002/RP-93-630 (the "Resource Plan Docket"). On August 18, 1994, the Commission issued an Order in the joined dockets, the resource Plan Docket and Docket No. E-002/CI-93-6 (the "Competitive Bidding Docket"). In these Orders, the Commission determined that NSP would use its competitive bidding process to acquire this 100 MW of wind generation.

On August 8, 1994, NSP filed a Request for Proposal and a standard form Power Purchase Agreement for Commission review and approval. The filing was accompanied by several appendices, including a standard form Power Purchase Agreement.

On August 10, 1994, NSP filed additional appendices that it had inadvertently omitted from its August 8, 1994 filing.

On August 12, 1994, the Commission, at the request of the Minnesota Department of Public Service (the Department) ordered an extended initial comment period until October 10, 1994. Subsequently, the Commission granted NSP's request for an expedited comment period with Initial Comments due August 31, 1994 and Reply Comments due on September 8, 1994.

On August 22, 1994, the Department filed a letter stating that it could meet the expedited comment period requested by NSP and therefore would withdraw its request for an extended comment period.

On August 31, 1994, the Department and the Izaak Walton League of America (IWLA) filed comments regarding NSP's proposed (Request for Proposal) RFP.

On August 31 and September 6, 1994, Vestas-American Wind Technology, Inc. (Vestas) filed comments.

On September 1, 1994, the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) filed comments.

On September 8, 1994, the Commission received reply comments from NSP, the Department,

and the RUD-OAG.

On October 11, 1994, NSP filed a list of fourteen independent evaluators for the Commission's review and approval.

On October 13, 1994, the Commission met to consider this matter.

## **FINDINGS AND CONCLUSIONS**

### **II. NSP's Filing**

NSP's filing consists of the proposed RFP and several appendices, including a standard form purchased power agreement. The RFP consists of five major sections: Introduction and Overview, Scope of Work, Instructions to Bidders, Proposal Threshold Requirements, and NSP Site Information & Requirements. The Appendices include the Response Package (including the Proposal Scoring Work Sheet), the Proposed Wind Generation Purchase Agreement, a Topographic Map and Site Description, a Wind Data Summary, the Minnesota Power Plant Siting Rules, a Sample Easement Agreement, a Preliminary Site Map, the Minnesota State Noise Pollution Rules, and two NSP Transmission Standards.

NSP's RFP for this 100 MW of wind is based on both its generic RFP, filed in the Competitive Bidding Docket, and the RFP it issued in April, 1993 for 25 MW of wind generation at its Lake Benton site. As with the Lake Benton project, the Company intends to procure wind rights and make available a site capable of supporting 100 MW of wind generation for any developer who wishes to bid on NSP's site.

NSP recognized, however, that several developers have been actively procuring wind rights in the Buffalo Ridge area and may wish to develop a bid based on their own sites. NSP has agreed to include provisions in the RFP to credit developers proposing their own sites with any site procurement costs avoided by NSP.

### **III. Parties' Comments**

As required by the Commission, NSP held several meetings with interested parties (the Department of Public Service, the OAG, the Izaak Walton League and Commission staff) to discuss the outstanding issues in the RFP and attempt to reach agreement on those issues for this issuance.<sup>1</sup> The parties concluded that while there was not complete agreement on all issues discussed with respect to the RFP, there was sufficient understanding achieved to move forward with this project.

The parties have raised three major issues associated with this RFP: site procurement, non-price factors, and contract pre-approval. The issues have largely been raised in the context of things to monitor or which may require further work after the issuance of the RFP; no party has suggested that the RFP be disapproved or delayed.

### **IV. Commission Analysis and Action**

The Commission will approve NSP's proposed RFP for this project with the following modifications and clarifications:

#### **A. Site Acquisition**

Two issues were raised with respect to site acquisition: first, whether NSP would have sufficient

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<sup>1</sup> See the Commission's July 15, 1994 ORDER APPROVING NSP'S 1993 RESOURCE PLAN AS MODIFIED, REQUIRING DETAILED COMPLIANCE FILING, AND SETTING REQUIREMENTS FOR 1995 RESOURCE PLAN FILING in Docket E-002/RP-93-630.

control over the site to give bidders some certainty of having a site available, and second, how to properly compare bids using the NSP site and those proposing alternative sites.

In its response comments, NSP submitted its proposed site maps and indicated that a site would be identified prior to the time bidders would need to commit. The OAG indicated that its concerns in this area are lessened by NSP's response.

With respect to the bid comparability issue, all parties agree that there should be a level playing field for all bids, regardless of whether they are offered for NSP's site or an alternative site. The exact nature and amount of the costs incurred by NSP to provide its site still need to be ascertained, and can be done so prior to the evaluation period.

The Commission will adopt the parties' position with respect to comparability of bids: all unique costs incurred by NSP in developing its site should be credited against bids offered on alternative sites. In addition, the Commission will require adjustment to the language in the RFP to this effect and require NSP to file its cost estimates and methodology for comparing alternatively sited bids prior to the evaluation period.

## **B. Non-Price Factors**

The Department noted that of the three non-price categories, Community Acceptance appeared to be the most difficult to evaluate. While the Department acknowledged the importance of community acceptance, it expressed concern that NSP ratepayers may be paying too much for that acceptance. No party has had adequate time to thoroughly evaluate acceptance issues. The Department argued that this issue merits further study and recommended that the Commission require NSP to develop better quantitative methods to examine community acceptance issues in its next wind bid.

The Commission agrees that NSP should monitor community acceptance issues and find better ways of quantifying community acceptance, in order to assure that ratepayers are not paying unnecessarily high costs for wind generation. The Commission will require the Company to report on its efforts to better quantify community acceptance issues either in its next resource plan filing or its next wind RFP, whichever is filed first with the Commission.

### C. Proposed Wind Generation Purchased Power Contract

NSP included with its filing a document titled "Wind Generation Purchase Agreement between NSP and XXX (Seller)". In its cover letter, the Company characterized this document as a "standard form Power Purchase Agreement".

The RUD-OAG interpreted NSP's filing a request that the Commission approve the contract as presented. The RUD-OAG objected to such a request, maintaining that the purchased power contract was a complex document and required careful examination prior to Commission pre-approval. It recommended that the Commission take further comment on the issue of contract pre-approval.

The Department supported the RUD-OAG position, noting that notwithstanding the language in the Commission's Bidding Order it would be appropriate for the Commission to withhold pre-approval in this docket based on NSP's request for an expedited review process.

In response to the RUD-OAG and Department's comments, NSP clarified that it was not requesting approval for the contract as such. The Company explained that it merely sought approval to include this document as part of its RFP.

The Commission clarifies that when it discussed pre-approval in its Bidding Order, it was referring to Commission approval of contracts *resulting* from the bidding process, not the standard form contract to be included in the RFP. The "pre-approval" contemplated was a Commission determination that the terms of the specific contract *resulting* from the bidding process were fair and reasonable. The purpose of such pre-approval would be to resolve the fairness and reasonableness of the contract prior to entering into the contract so that the fairness and reasonableness of the contract would not be in doubt pending resolution of the Company's next rate case. In short, the approval contemplated was to be pre-commencement of the contract, not pre-issuance of the RFP.

With respect to the Company's clarified request, the Commission believes that it is appropriate for NSP to include *a* form contract with the RFP in order to notify bidders of its position with respect to the terms and conditions of the bids. The Commission will approve inclusion of the filed document for this RFP only; the Commission is not approving the document as the standard form contract (i.e. the contract which the Company would be authorized to include as part of any future wind RFPs) without additional analysis and comment from parties. To ensure that potential bidders are not misinformed on this point, the Commission will require the Company to explicitly note in the RFP that this contract has **not** received regulatory approval as the standard form contract.

### D. Miscellaneous Issues

NSP has adequately addressed parties' comments on the independent evaluator. It has submitted a list of evaluators for approval prior to the selection of an evaluator in this project. Once the RFP is issued, there will be about ten weeks for bids to be submitted before the evaluation period begins.

The criteria which will be used to establish the short list and the final winner are not explicitly set out in the RFP. NSP will be directed to make that issue clear in the Instructions to Bidders.

Finally, with respect to the IWLA's comments on capacity factors, the Commission agrees with the OAG that this issue should continue to be monitored, with experience applied in future wind and other resource bids.

### **ORDER**

1. The Request for Proposal as submitted by Northern States Power Company, Inc. (NSP or the Company) is approved subject to the following modifications and conditions:

- a. NSP shall modify the RFP language to make clear that all costs of developing the NSP site will be considered when comparing it with alternative sites; NSP shall file cost information and comparison methods with the Commission prior to bid evaluation.
  - b. NSP shall specifically note that the standard form contract has not been approved by the Commission.
  - c. NSP shall report on its efforts to better quantify community acceptance factors in its next resource plan or its next wind RFP, whichever is filed earlier.
  - d. NSP shall explicitly set out, in the Instructions to Bidders, the criteria used to establish the short list and select the ultimate winner(s) of the bid.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)