

ISSUE DATE: June 30, 1999

DOCKET NO. IP-3/CN-98-1453

ORDER GRANTING CERTIFICATE OF NEED

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey	Chair
Joel Jacobs	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayner	Commissioner
Gregory Scott	Commissioner

In the Matter of the Application of Lakefield Junction LLP for a Certificate of Need for a Large Electric Generation Facility in Martin County

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PROCEDURAL HISTORY

I. INITIAL PROCEEDINGS

On October 8, 1998, Lakefield Junction LLP (formerly known as Lakefield Junction LLC) filed a petition stating that it intended to submit an application for a certificate of need for the construction of a 540-megawatt natural gas-fired power plant in southern Minnesota.

On November 30, 1998, the Commission issued its ORDER GRANTING EXEMPTIONS FROM FILING REQUIREMENTS. The Commission exempted Lakefield from certain filing requirements, either because they could be better supplied by Lakefield's utility-customers or because they were not necessary to determine the need for the facility.

On January 4, 1999, Lakefield filed an application for a certificate of need to construct a large energy facility as defined in Minn. Stat. § 216B.2421, subd. 2(a).

On February 16, 1999, the Commission issued a NOTICE AND ORDER FOR HEARING. The Commission referred the matter to the Office of Administrative Hearings, which assigned Administrative Law Judge (ALJ) Richard C. Luis to conduct contested case proceedings.

On February 16, 1999, the Commission also issued its ORDER ACCEPTING FILING AND DELEGATING PREPARATION OF ENVIRONMENTAL REPORT. The Commission found that Lakefield's application was substantially complete and should be accepted for processing. The Commission delegated to the Department of Public Service (the Department) the preparation of the environmental report required under Minn. Rules, part 4410.7100.

II. PARTIES AND REPRESENTATIVES

Lakefield Junction was represented in these proceedings by Charles K. Dayton and James J. Bertrand, Leonard, Street, and Deinard, PA, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

The Department of Public Service was represented by Julia E. Anderson, Assistant Attorney General, Suite 1200 NCL Tower, 445 Minnesota Street, St. Paul, MN 55101.

Intervenor Minnesota Power was represented by Christopher D. Anderson, Minnesota Power, 30 West Superior Street, Duluth, Minnesota 55802.

Minnesota Power did not file testimony in the proceeding.

III. PUBLIC AND EVIDENTIARY HEARINGS

Public hearings were held in Fairmont and Trimont, Minnesota, on April 29, 1999. Approximately 17 persons attended the Fairmont hearing; approximately 32 persons attended the Trimont hearing. Another public hearing was held in St. Paul on May 3, 1999, but no members of the public attended. No members of the public expressed opposition to the project at any of the public hearings.

The evidentiary hearing was held on May 3, 1999. ALJ Richard C. Luis issued his Findings of Fact, Conclusions of Law and Recommendation on May 28, 1999. ALJ Luis recommended that the Commission grant Lakefield a certificate of need without condition.

IV. PROCEEDINGS BEFORE THE COMMISSION

The matter came before the Commission for consideration on June 24, 1999.

FINDINGS AND CONCLUSIONS

I. FACTUAL BACKGROUND

The certificate of need applicant, Lakefield Junction LLP, is a limited liability partnership between NRG Lakefield, Inc. and Tenaska Minnesota, Inc. NRG Lakefield, Inc. is a subsidiary of NRG Energy, Inc. (NRG); NRG in turn is a wholly-owned subsidiary of Northern States Power Company (NSP). Tenaska Minnesota, Inc. is a subsidiary of Tenaska, Inc.

Lakefield Junction proposes building a large energy facility using six simple cycle combustion turbine-generators. The combined nominal net electric generating capacity of the six combustion turbine generators is 550 MW. The combustion turbines will use natural gas as a primary fuel and No. 2 fuel oil as a backup fuel. The natural gas will be transported to the site via Northern Border

Pipeline's (NBPL's) underground pipeline, which originates in Canada. The proposed facility requires only upgrading of existing transmission systems and not the construction of new transmission lines.

Lakefield plans to operate the plant as a "peaking unit" that sells power at wholesale to public utilities and electric cooperatives. The peaking unit will provide a dedicated source of electricity to help meet electricity demand during contingencies and peak consumption periods.

NRG and Tenaska have undertaken a process to qualify Lakefield Junction as an Exempt Wholesale Generator under federal law. In operating the facility, Lakefield Junction will act as an Independent Power Producer. It will thus be independent of the franchised electric utility serving the area in which the project is to be located and will not control the transmission facilities essential to customers who will purchase electricity produced by the project.

The estimated capital cost of the facility is \$206 million. The projected start date for plant operations is May, 2001.

II. CERTIFICATE OF NEED CRITERIA; ALJ'S FINDINGS

The criteria for the Commission's granting a certificate of need for a large energy facility are found in Minn. Stat. § 216B.243 and Minn Rules, parts 7849.0010 through 7849.0400.

Minn. Rules, part 7849.0120 states four criteria which must be met in order to establish need for the proposed generating facility. Each of these criteria, along with some of the ALJ's major findings concerning them, will be discussed in turn.

A. The probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states.

The ALJ found that Minnesota's capacity deficits cannot be met by existing resources beyond 2003, according to data from the Mid-Continent Area Power Pool (MAPP) and individual utilities' Integrated Resource Plans. New facilities that are small enough not to require a certificate of need would have to be very numerous to meet Minnesota's growing energy needs. The proposed facility represents an important source of new capacity for Minnesotans. The MAPP and individual utility forecasts are reasonably accurate predictors of future energy demands.

The proposed facility makes efficient use of existing resources because it will use NSP's existing 345 kV transmission line and NBPL's existing pipeline as its source of natural gas for its primary fuel source.

B. A more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record.

The ALJ found that renewable resources cannot reasonably be expected to meet the reasonable project objectives: 1) creating a reliable source of peaking power; 2) meeting the MAPP 10-minute startup criteria; 3) achieving high, year-round availability and starting reliability; 4) assuring cost-effectiveness; and 5) utilizing existing fuel transportation and existing transmission infrastructure.

Lakefield provided a general, rather than detailed, cost analysis of renewable alternatives, and the Department concurred in that approach. The ALJ concluded that the project is less expensive, including environmental costs, than power generated by renewable energy sources.

The Company also compared the following alternatives: effects of additional conservation and energy efficiency; a fuel-oil fired combustion-turbine facility; a natural gas-fired combined cycle facility; a pulverized coal facility; and purchased power. The ALJ concluded that they did not represent more reasonable or prudent alternatives to the proposed facility.

For water use, land use and transportation requirements, the proposed facility will have an equal or lesser impact on the natural environment than the other non-renewable alternatives. In air emissions, the proposed facility will have low emissions compared to other fossil-fuel-fired alternatives reasonably meeting peak service demands.

The project will generate real property taxes of a minimum of \$575,000 per year for 20 years. The proposed facility will create about 150 jobs during peak construction and about three full time jobs during operation. The project will not place any significant additional demands on local governmental services, including roads, schools, hospitals, social welfare, or police. The project will have a reasonable effect on the socioeconomic environment, when compared to reasonable alternatives.

The proposed facility is at least as reliable as the alternatives.

C. By a preponderance of the evidence on the record, the proposed facility, or a suitable modification of the facility, will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health.

The ALJ found that the proposed facility represents an important source of new capacity for Minnesotans and, combined with other new resources, will help ensure that Minnesotans' growing demand for electricity is met.

The proposed facility is more efficient in terms of BTU per kilowatt-hour than all but one of MAPP's 53 existing natural gas turbine units.

Because the proposed facility will be newer than existing units, and will have new pollution control equipment, a lower amount of pollutants will be emitted into the environment from the proposed facility than will be the case if existing turbines continue to be used to meet peaking

needs. Also, whenever the project displaces units using fuel oil as their primary fuel, the environment will benefit as a result of lower emissions to the atmosphere.

The project is expected to have socioeconomic benefits from investment of the construction cost of approximately \$206 million, sales tax revenue in Minnesota of about \$1.8 million, and increased property taxes in Martin County of a minimum of \$575,000. The project will provide 150 temporary jobs during peak construction periods and will provide about \$8.8 million in wages and benefits. Three full-time equivalent jobs over a 30-year life will produce wages totaling a present value of \$2.4 million.

The proposed project will support future economic growth in Minnesota by contributing to a stable infrastructure.

The facility will provide valuable energy services by making available generation capacity and energy, particularly in peaking and contingency situations. In addition, by providing “black-start” capability¹, the facility will contribute to emergency planning. Finally, because of its greater efficiency as compared with most existing turbine units, it is likely to reduce net air emissions in peaking or contingency situations.

D. The record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules and regulations of other state and federal agencies and local governments.

The ALJ noted that the Department testified as to the potential permits and approvals required for the construction and operation of the facility. The ALJ concluded that there is no indication in the record that the design, construction, or operation of the facility will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments. The issuance of a certificate of need will not conflict with any other regulatory requirements.

III. COMMISSION ANALYSIS

The certificate of need proceeding was conducted in compliance with relevant Minnesota statutes and rules. The public was granted the opportunity to participate in public hearings conducted by the ALJ. No party expressed opposition to the proposed large energy facility.

The Department investigated the proposal. The Department concluded that no alternative was more reasonable and prudent than the proposal, and that the consequences to society from granting the certificate of need are more favorable than the consequences of denying the certificate of need.

¹ “Black start” capability allows a facility to start without an external source of electricity.

In order to demonstrate agreement on all material facts, the Department and Lakefield Junction submitted proposed findings of fact and conclusions of law to the ALJ. The ALJ accepted the proposed findings and conclusions but also conducted a full evidentiary hearing. After taking testimony, receiving exhibits, and conducting full proceedings, the ALJ adopted findings and conclusions which were like in form and substance to the parties' proposed version. The ALJ's Findings of Fact, Conclusions of Law and Recommendation presented a thorough analysis of the proposal under relevant statute and rule criteria.

Having examined the full record and provided an opportunity for all parties to address the Commission, the Commission agrees with the ALJ that granting a certificate of need for Lakefield Junction's proposed project is reasonable and necessary. The Commission adopts the ALJ's findings of fact and conclusions of law. The Commission grants Lakefield Junction's petition for a certificate of need for a large energy facility.

ORDER

1. The Commission grants Lakefield Junction's petition for a certificate of need for a large energy facility.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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