

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayner	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of Request by Great River Energy
for a Site Permit to Construct a 170 MW,
Natural Gas-Fired, Simple Cycle Combustion
Turbine Generator at its Existing Peaking Plant
Site Near Cambridge in Isanti County

ISSUE DATE: November 28, 2005

DOCKET NO. ET-2/TR-05-1315

ORDER ADOPTING ALJ'S REPORT, AS
AMENDED, AND ISSUING A SITE PERMIT
TO CONSTRUCT A LARGE ENERGY
FACILITY

PROCEDURAL HISTORY

On February 28, 2005, Great River Energy (GRE or the Applicant) filed an application for a Certificate of Need to construct a 170-megawatt, gas-fired combustion turbine at the site of its existing Cambridge Peaking Plant in Cambridge Township, Isanti County, Minnesota. The proposed facility is a large energy facility, as defined in Minn. Stat. § 216B.2421, subd. 2 (1). The matter was assigned to Docket No. ET-2/CN-05-347 (the Certificate of Need Docket).

On March 11, 2005, GRE filed a Site Permit Application with the Environmental Quality Board (EQB).¹

On April 8, 2005, the Commission issued its NOTICE AND ORDER FOR HEARING. In that Order, the Commission appointed Administrative Law Judge (ALJ) Kathleen D. Sheehy to conduct contested case proceedings. The Order authorized joint hearings regarding the

¹ This Commission Order addresses the merits of the application for a Site Permit that GRE initially and properly filed with the EQB because during the course of the Site Permit proceeding the Legislature transferred authority to issue Site Permits from the EQB to the Commission. The Commission, therefore, now has jurisdiction to issue both Certificates of Need and Site Permits. See S.F. 1368 - 84th Legislature Session, Article 3, Section 17 and Minn. Stat. § 216B.234, subd. 4 .

Certificate of Need that had been submitted to the Commission and the Site Permit Application which had been submitted to the EQB.

On April 8, 2005, the Commission issued an Order in Docket No. ET-2/CN-05-347 finding GRE's Certificate of Need filing substantially complete and authorizing a joint hearing on the Certificate of Need and GRE's application to the Environmental Quality Board (EQB) for a Site Permit. The Commission also referred the Certificate of Need application to the Office of Administrative Hearings for a contested case proceeding, appointed Administrative Law Judge (ALJ) Kathleen D. Sheehy to conduct contested case proceedings, and gave notice of the prehearing conference in that matter.

On April 11, 2005, the EQB published in the *EQB Monitor* notice of acceptance of the project and of the public meeting to be held at te Isanti County Fairgrounds on April 19, 2005,

On May 5, 2005, the chair of the EQB issued a decision delineating the scope of the Environmental Assessment (the scoping decision).

On May 31, 2005, the EQB posted the Environmental Assessment on the EQB web page and sent appropriate parties by certified mail a combined notice of the availability of the Environmental Assessment and notice of the public hearings.

On June 20, 2005, the EQB published a combined notice of the availability of the Environmental Assessment and notice of the public hearings in the *EQB Monitor*.

On July 10, 2005, the EQB published notice of the public hearings in *The Scotsman* and on July 13, 2005 published notice of the public hearings in the *Star Tribune*, the *Pioneer Press*, and the *Cambridge Star*.

On July 26, 2005, public hearings were held as advertised and the evidentiary hearing was held
July 28, 2005.

On October 4, 2005, ALJ Sheehy filed Findings of Fact, Conclusions of Law and Recommendation (ALJ's Report). The ALJ's Report covered both need and siting. The ALJ's Report is incorporated by reference.

On October 18, 2005, Mankato Energy Center (MEC) filed Exceptions to the Findings of Fact, Conclusions of Law and Recommendation of the Administrative Law Judge but filed no exceptions regarding the ALJ's findings, conclusions and recommendation regarding the requested Site Permit.

On the same day, GRE filed its Technical Corrections to ALJ Report, four of which related to the Site Permit portion of her Report.

On November 10, 2005, the Commission held oral argument and the record closed under Minn. Stat. 14.61, subd.2.

On November 23, 2005, the Commission issued an Order granting GRE a Certificate of Need for its proposed large energy facility at the Cambridge Station generating plant.²

FINDINGS AND CONCLUSIONS

Authority to construct a large energy facility in Minnesota requires the procurement of two items:

a certificate of need and a site or route permit. A previous Order issued by the Commission in Docket No. ET-2/CN-05-347 on November 23, 2005 granted GRE a Certificate of Need for its proposed large energy facility at the Cambridge Station generating plant.

The current Order addresses GRE's request that the Commission issue GRE a Site Permit to construct the proposed facility.

I. The ALJ's Report

The ALJ's Report in Docket No. ET-2/CN-05-347 addressed both need and siting issues relevant to GRE's proposed facility. The ALJ's Report consisted of 139 findings of fact, 15 conclusions, and two recommendations, one of which was to grant GRE's Site Permit to construct the proposed facility.

Regarding GRE's request for a Site Permit, the ALJ provided detailed findings (Paragraphs 98 - 139) and concluded that GRE's proposed site is acceptable under the applicable statute (Minn. Stat. § 116C.57, subd. 4) and Commission rule (Minn. Rules, Part 4400.3150). The ALJ recommended that the Commission issue the Company a Site Permit for the facility to be located as proposed, subject to any appropriate conditions.

II. GRE's Recommended Technical Corrections

GRE did not file exceptions to the ALJ's Report but did file a list of what it characterized as technical corrections. The Commission has adopted those corrections in its November 23, 2005 Order granting GRE a Certificate of Need for the proposed facility. With respect to

² See *In the Matter of the Application of Great River Energy for a Certificate of Need for the Cambridge Peaking Plant*, Docket No. ET-2/CN-05-347, ORDER ADOPTING ALJ'S REPORT, AS AMENDED, AND GRANTING A CERTIFICATE OF NEED (November 23, 2005).

the Site Permit portion of the ALJ's Report, the Company recommended that

- Finding 98 should be corrected to indicate that there would be "less than 1,000 feet of transmission line from the transformers to the existing Cambridge Substation;" and
- Findings 98, 105, and 125 should be corrected to indicate that the storm retention pond would be located at the northeast end of the site.

III. The Department's Recommendations

The Department recommended that the Commission adopt the ALJ's Report with two modifications:

- Footnote 15 related to Paragraph 16 should be modified to indicate that notices of the availability of the Environmental Assessment and notices of the public hearings were sent via certified mail as required by Minn. Stat. § 116C.57, subd. 2b and that the receipts are within the Department's project files.
- Paragraph 102 of the Judge's Report should be amended to read as follows:

Great River Energy (GRE) would construct a new well on the Project site south of 349th Avenue NE. The well would likely withdraw water from the Mt. Simon bedrock aquifer. The estimated annual groundwater appropriation for the Project is 4.7 Million gallons, with an estimated withdraw rate of 108 gpm. ~~108 gpm.~~ This is a relatively small amount and is not expected to result in any adverse impacts on the aquifer and regional water supplies. Mt. Simon aquifer wells can produce in excess of 1,500 gpm. The City obtains its water from the Mt. Simon aquifer.

The Department also recommended that the Commission make several findings:

1. that the Environmental Assessment and other record created at the public hearing addresses the issues identified in the scoping decision per Minn. Rules, Part 4400.2950, subp. 3;
2. that the Project qualifies for review under the Alternative Review Process set forth in Minn. Stat. § 116C.575 and Minn. Rules, Parts 4400.2000 to 4400.2950;
3. that the EQB has completed an Environmental Assessment on the Project as required by Minn. Stat. § 116C.575, subd. 5, and Minn. Rules, Part 4400.2750 and considered all the pertinent factors in determining which site to approve.

The Department submitted a draft Site Permit that it recommended the Commission issue to GRE. The Department's draft Site Permit contained several conditions. The Department

asked the Commission to find that the conditions were reasonable and appropriate and will help to minimize the impacts of the Project. The Department indicated GRE had agreed to these conditions.

V. Commission Analysis and Action

A. ALJ's Report

The ALJ recommended that the Commission issue GRE a Site Permit to a 170 MW simple-cycle combustion turbine large electric power generating plant to be located as proposed by GRE, i.e., at GRE's current Cambridge Station generating plant. In plenary support of that recommendation, the ALJ examined each of the responsibilities, procedures, and considerations listed in Minn. Stat. § 116C.57, subd. 4 and as implemented in Minn. Rules, Part 4400.3150.

The Commission agrees with the ALJ³ that GRE's application and the Environmental Assessment provided by the Environmental Quality Board⁴ contain adequate information to allow full consideration of all the factors relevant to the siting decision. Those factors include effects on human settlement, health and safety, the natural environment, and rare and unique natural resources. The factors covered also include design options that maximize energy efficiency, mitigate environmental effects, accommodate expansion, use parallel existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries, and use of existing large electric power generating plant sites. Other factors covered include use of existing transportation, pipeline, and electrical transmission systems or rights-of-way; electrical system reliability; costs of constructing, operating and maintaining the facility which are dependent on design and route; adverse human, natural, and environmental effects which cannot be avoided as a result of construction and operation of the plant; and irreversible and irretrievable commitments of resources.

Furthermore, the Commission finds that the ALJ has in fact properly considered those factors, as documented in her Report, and has properly concluded that the Commission should issue GRE the Site Permit it has requested.

B. GRE's Technical Corrections

Regarding the technical corrections submitted by GRE, the Commission notes that it adopted those corrections in its November 23, 2005 Order granting GRE a Certificate of Need for the proposed facility.⁵ The two technical correction relating to the Site Permit

³ See ALJ's Report, Finding of Fact 108.

⁴ The Environmental Assessment and the record as a whole adequately address all the items identified in the EQB chair's scoping decision.

⁵ See Footnote 2.

portion of the ALJ's Report and, hence, to this Order are:

- Finding 98 should be corrected to indicate that there would be "less than 1,000 feet of transmission line from the transformers to the existing Cambridge Substation."
- Findings 98, 105, and 125 should be corrected to indicate that the storm retention pond would be located at the northeast end of the site.

C. The Department's Recommended Amendments to the ALJ's Report

Regarding the Department's proposed two proposed amendments to the Report listed above, the Commission finds that they are appropriate and will adopt them. The Commission notes that they do not alter the sound basis for the Report's ultimate conclusions and recommendation regarding the Site Permit.

D. The Department's Additional Recommended Findings

The Commission finds that the Department's additional recommended findings (listed above in Section III) are appropriate and will make them in this Order as follows:

1. The Environmental Assessment and the record created at the public hearing address the issues identified in the scoping decision.
2. GRE's proposed Project qualifies for review under the Alternative Review Process set forth in Minn. Stat. § 116C.575 and Minn. Rules. Parts 4400.2000 to 4400.2950.
3. The EQB has completed an Environmental Assessment on the Project as required by Minn. Stat. § 116C.575, subd. 5, and Minn. Rules, Part 4400.2750 and considered all the pertinent factors in determining which site to approve.

E. Site Permit

The Commission finds that the Department's proposed Site Permit is generally in order and will adopt it with two minor modifications:

First, in the course of exercising a Site Permit issued by the Commission, it is appropriate that Site Permittees comply with any guidance that has been provided by other state agencies acting within the sphere of their expertise relating to the permit site and exercise of the Site Permit in question. In this case, the Minnesota Department of Natural Resources, Natural Heritage and Nongame Research Program has provided GRE such guidance and recommendations in a letter dated January 5, 2005. Accordingly, the Commission will add the following language at the end of the Department's proposed Section IV. Permit Conditions, Subsection D. Other Requirements to promote GRE's attention to the guidance provided by the Minnesota Department of Natural Resources.

The permittee shall comply with the recommendations contained in the

January 5, 2005 letter from the Minnesota Department of Natural Resources, Natural Heritage and Nongame Research Program.

Second, the Commission seeks to clarify that the only part of the SITE PERMIT that will be subject to amendment pursuant to Section V are the conditions listed in Section IV. The Commission, therefore, will add clarifying language to Section V of the Department's proposed Site Permit to that effect, as follows:

V. PERMIT CONDITIONS AMENDMENT

~~Theis~~ conditions listed in Section IV of this permit may be amended at any time by the MPUC. Any person may request an amendment of ~~theis~~ conditions ~~permit~~ pursuant to Minn. Rules, Part 4400.3840, by submitting a request to the Commission in writing describing the amendment sought and the reasons for the amendment. The Commission will mail notice of receipt of the request to the Permittee. The MPUC may amend the conditions ~~permit~~ after affording the Permittee and interested persons such process as is required.

ORDER

1. The Commission accepts the Environmental Assessment provided in this case as adequately addressing the issues identified in the Environmental Quality Board chair's scoping decision.
2. The Commission adopts the Administrative Law Judge's Report regarding the site permit aspect of this case, amended to reflect
 - a) the following technical corrections identified by GRE relating to the site permit:
 - Finding 98 is changed to indicate that there would be "less than 1,000 feet of transmission line from the transformers to the existing Cambridge Substation"; and
 - Findings 98, 105, and 125 are changed to indicate that the storm retention pond would be located at the northeast end of the site; and
 - b) the Department's two recommended changes to the Report:
 - Footnote 15 related to Paragraph 16 is modified to indicate that notices of Environmental Assessment availability/Public Hearing Notice to Isanti County, the City of Cambridge, and Cambridge Township were sent via certified mail as required by Minn. Stat. § 116C.57, subd. 2b and the receipts are within the Department's project files.

- Paragraph 102 of the Judge's Report is amended to read as follows:

Great River Energy (GRE) would construct a new well on the Project site south of 349th Avenue NE. The well would likely withdraw water from the Mt. Simon bedrock aquifer. The estimated annual groundwater appropriation for the Project is 4.7 Million gallons, with an estimated withdraw rate of 108 gpm, ~~108~~ gpm; This is a relatively small amount and is not expected to result in any adverse impacts on the aquifer and regional water supplies. Mt. Simon aquifer wells can produce in excess of 1,500 gpm. The City obtains its water from the Mt. Simon aquifer.

3. The Commission hereby issues to GRE the attached Site Permit for a 170 MW simple-cycle combustion turbine large electric power generating plant to be located in Isanti County at GRE's current Cambridge Station generating plant, as more specifically identified in Section III of the attached Site Permit.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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ATTACHMENT - Site Permit