

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of a Petition for Approval of  
Recovery of Property Taxes Paid by Lake  
Benton Power Partners

ISSUE DATE: September 20, 2006

DOCKET NO. E-002/M-05-2028

ORDER DENYING RECONSIDERATION

**PROCEDURAL HISTORY**

On June 29, 2006, the Commission issued an Order denying the third attempt of Lake Benton Power Partners I, LLC (Lake Benton) to amend a power purchase agreement (PPA) with Northern States Power Company (NSP), d/b/a Xcel Energy. The PPA, signed in 1996, required NSP to buy the electricity produced by Lake Benton's wind energy conversion facility in Lincoln county.

The proposed amendment would require NSP to reimburse Lake Benton for the difference between the amount of property or production taxes actually paid by Lake Benton with respect to its wind facility and the corresponding amounts for such taxes already assumed and incorporated into Lake Benton's PPA prices. In its June 29 Order, the Commission reaffirmed its prior decisions in this matter.<sup>1</sup>

On July 19, 2006, Lake Benton filed a Petition for Reconsideration, arguing that the Commission erred in finding that the evidence did not meet the statutory requirements for approval of the proposed amendment. In support, Lake Benton submitted an affidavit of Marion J. Horna, the person the Company asserted was responsible for locating and providing the data utilized by Lake Benton in its bid schedule.

On September 7, 2006, the Petition for Reconsideration came before the Commission.

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<sup>1</sup> *Order Rejecting Petition Without Prejudice*, Docket No. E-002/M-00-314 (March 12, 2002); *Order Denying Amendment to Xcel's Power Purchase Agreement with Lake Benton I*, Docket No. E-002/M-04-355 (October 29, 2004).

## FINDINGS AND CONCLUSIONS

The Commission has reviewed the record and heard the arguments of all parties.

The Commission is forced to conclude that the affidavit of Marion Horna provides no additional evidentiary support for the position asserted by Lake Benton in its Petition for Reconsideration. The bid at issue was made in June 1995. As acknowledged by counsel for Lake Benton at the Commission meeting on September 7, 2006, Mr. Horna was not even on the payroll at Lake Benton until 1999, and could not have participated in the preparation of the bid. Thus, the evidence submitted does not provide additional foundation for the bid documents.

The Commission finds that Lake Benton's petition does not raise new issues, does not point to new and relevant evidence, does not expose errors or ambiguities in the original Order, and does not otherwise persuade the Commission that it should rethink its three prior decisions in this matter, reflecting Lake Benton's failure to demonstrate that the bid price did not already include the amount of property taxes sought. The Commission concludes that the decision of June 29, 2006, is the one most consistent with the facts, the law, and the public interest, and will therefore deny the petition for reconsideration.

The Commission will so order.

### ORDER

1. Lake Benton's motion for reconsideration is denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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