

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Mankato Energy Center, LLC, a wholly owned subsidiary of Calpine Corporation<sup>[1]</sup>, for a Certificate of Need for a Large Electric Generating Facility

FIRST PREHEARING ORDER

A prehearing conference was held before Allan W. Klein, Administrative Law Judge, on April 23, 2004, at the Minnesota Public Utilities Commission, 121 E. 7<sup>th</sup> Place, St. Paul, Minnesota.

B. Andrew Brown of the firm of Dorsey & Whitney and Jason Goodwin of Calpine Corporation appeared on behalf of the Applicant, Mankato Energy Center, LLC. Karen Finstad Hammel and Ginny Zeller, Assistant Attorneys General, appeared on behalf of the Department of Commerce. Also present and participating were Alan R. Mitchell for the Minnesota Environmental Quality Board, George Crocker from the North American Water Office, Kristin Eide-Tollefson for C.U.R.E , and Lon Stanton for Northern Natural Gas. Also present and participating was David Jacobson, staff member, Public Utilities Commission.

Discussion was held among the participants and having considered all of the comments, and with due regard for the statutory timeline,<sup>[2]</sup> the Administrative Law Judge makes the following Prehearing Order.

**1. Public Participation and Intervention**

Members of the public need not become formal parties to participate in the hearing. Members of the public may offer either oral or written testimony, and they may offer exhibits for inclusion in the record. But any person desiring to become a formal party must file a Petition to Intervene.

Persons who wish to intervene in this proceeding must file a Petition to Intervene with the Administrative Law Judge, as set forth in Minn. R. 1400.6200, no later than June 7, 2004. A Notice of Appearance shall be filed with the Petition. The Petition and any objections shall be served upon all existing parties and the Commission.

**2. Hearing Schedule**

All hearing sessions are open to the public. The hearing for the parties will begin at **10:00 a.m. on Monday, July 12, 2004** at a location in Mankato to be determined.

Hearings for the public will be held at 7:00 p.m. on July 12 and again at 9:00 a.m. on July 13, 2004, in Mankato. The July 13 hearing will give first priority to the public, but may also include any unfinished evidentiary matters from the parties. The July 13 hearing will continue until all persons, party or public, have been heard. Additional days may be scheduled as needed.

### **3. Prefiled Testimony**

All parties shall file direct testimony by June 18, 2004. The Applicant may rely on its application, or it may add additional material. But it must, at a minimum, indicate which witnesses are sponsors of each section of evidence. All parties desiring to do so shall file rebuttal testimony by June 30, 2004.

The parties shall work together to propose a Protective Order for trade secret evidence in this matter. Proposed Protective Order language shall be filed with the Administrative Law Judge for approval.

Prefiled testimony will be marked as an exhibit and offered for admission into the record at the hearing. Prefiled testimony that is amended or not offered into the record shall be considered withdrawn and no witness shall be cross-examined concerning the withdrawn testimony. Any new affirmative matter that is not offered in reply to another party's direct case will not be allowed in rebuttal testimony and exhibits. Except for good cause shown, all revisions or corrections to any prefiled testimony shall be in writing and served upon the Administrative Law Judge and the parties no later than five days prior to the commencement of the hearing.

### **4. Examination of Witnesses**

Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

### **5. Filing of Documents**

All documents, including prefiled testimony but excluding information requests and responses, shall be filed as follows:

- A. The original shall be filed with the court reporter.
- B. One copy shall be filed with the Administrative Law Judge.
- C. Twelve (12) copies shall be filed with the Public Utilities Commission's Secretary for distribution among Commissioners and Commission staff.
- D. One (1) copy shall be served on the attorney for each party of record or, if there is no attorney, upon the party.

E. Four (4) copies shall be served personally or by mail on the Department.

Service and filing of documents is otherwise governed by Minn. R. 1400.5550. Electronic copies, if any, shall be sent on the same day as hard copies.

A service list is attached hereto as Exhibit A and made a part hereof. Service of documents shall be made according to the service list. This list will be amended as necessary to reflect any additional parties. Corrections should be brought to the attention of the Administrative Law Judge as soon as practicable.

Dated this 28<sup>th</sup> day of April 2004.

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ALLAN W. KLEIN  
Administrative Law Judge

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<sup>[1]</sup> When this docket was opened, Calpine Corporation was the applicant. However, since then, Mankato Energy Center, LLC has become the Applicant.

<sup>[2]</sup> Minn. Stat. § 216B.243, subd. 5 (2002).