

**REPORT TO THE MINNESOTA PUBLIC UTILITIES COMMISSION  
ON THE 2005 ANNUAL HEARING OF THE  
POWER PLANT SITING PROGRAM**

The Annual Hearing required by the Minnesota Power Plant Siting Act was conducted by the Minnesota Public Utilities Commission (the "Commission") at its Large Hearing Room on Wednesday, December 14, 2005. Upon 2005 enactment of legislation transferring the authority for siting of large energy facilities from the Minnesota Environmental Quality Board (EQB) to the Commission, this was the first of these annual hearings conducted by the Commission.

The annual hearing is intended to advise the public of matters relating to the siting of large electric power generating plants and routing of high voltage transmission lines and to afford interested persons an opportunity to be heard regarding any aspects of the Commission's activities, duties, or policies pursuant to the Power Plant Siting Act, Minnesota Statutes sections 116C.51-.69, or its Power Plant and Transmission Line Siting Rules, Minnesota Rules chapter 4400.

The official notice of the hearing is provided in Exhibit AH-1. The notice was published in the EQB Monitor, December 5, 2005, Vol.29, No. 16. Notice was also available on the Commission web homepage, and included in the Commission's Weekly Calendar editions Nov. 13, Dec. 2, and Dec. 9, 2005. The notice was mailed to all persons on the General List of the Power Plant Siting Program, maintained by and requested from the Department of Commerce's Energy Facility Permitting (the "Department") staff (formerly EQB staff). Certification and affidavits of notice provided are on file at the Commission.

Bob Cupit of the Commission staff presided at the annual hearing. Other staff members in attendance were Burl Haar, Bret Eknes, and Deborah Motz. Commissioners Tom Pugh and Ken Nickolai also attended. Representing the Department and assisting in the presentation of information were Marya White, Deborah Pile, George Johnson, Larry Hartman, and David Birkholz. About 10 other persons attended. An audio tape of the proceeding is on file at the Commission.

The record was kept open for additional written comments until December 30, 2005. A summary of the proceeding follows, including later additional written comments and staff comments.

**Summary Minutes of Proceeding**

Bob Cupit convened the hearing at approximately 2:00 PM, and moderated the discussion through the prepared agenda. Exhibit AH-1.

Burl Haar reviewed the 2005 legislation that transferred siting authorities under the Power Plant Siting Act from the EQB to the Commission. He described briefly the

manner in which the new responsibility has been incorporated into the Commission's staff structure. (A set of descriptive background documents relative to the new authority transfer were available as handouts. Exhibit AH-2

Marya White described how the former staff of the EQB has been integrated into the Energy Division of the Department of Commerce. A new unit – Energy Facility Permitting – has been created within the Division's Energy Planning and Advocacy Section. Deborah Pile will manage the unit, supported by project lead staff Larry Hartman, Bill Storm, David Birkholz, and George Johnson. John Wachtler had also moved over from the EQB, but had since left state service. Ms. White observed that the Department's programmatic and procedural support of the Commission's decision authority was working well. She emphasized that the Department was very cognizant of the environmental orientation from which the siting program was transferred, and of the concerns of some interests about how the statutory mission would be preserved. She noted the Department's intent to be aggressive in working with the EQB's member agencies to ensure they had continued access and input to the siting program. No statutory changes were made in the siting process to environmental criteria or to opportunities for any person to bring environmental concerns to the process.

Deb Pile described further how the siting processes were being managed by the Department, emphasizing that the website developed at the EQB continued to be managed in its entirety by the Department, and linked off the Commission's main page. Ms. White added that further development and convergence of the Department's responsibilities and the Commission's authorities is expected to lead to revisions of the 4400 rules, perhaps within the year. Mr. Cupit commented that early participation by interested persons in any specific discussions of rule changes would be invited.

Ms. Pile also briefly described several handouts listing Completed Projects by Type in 2005, Projects Under Review, and Projects Anticipated in 2006. Exhibit AH-3.

Upon completion of the information portion of the agenda, public comments and questions were invited.

Carol Overland asked about the status of the Simon Energy Generation Project in Waseca. Ms. Pile replied that there was continuing uncertainty about when an application would be filed, but the current understanding is that it will be in first quarter 2006.

Beth Soholt asked if Jim Alders of Xcel Energy could give an update on the expected schedule for the CapX Group 1 transmission projects. Mr. Alders reported that the CapX utilities were contemplating Certificate of Need filings for the Group 1 facilities in about the third quarter of 2006. They were currently working on developing notice plans for filing with the Commission in late first quarter or second quarter 2006.

Kristen Eide-Tollefson commented that the former EQB energy facilities website was excellent and encouraged the Department and Commission to ensure that its usefulness

was not diminished in the authorities transfer. Mr. Haar and Ms. White assured her that that was a commitment they had made.

Ms. Overland asked about edockets development and its features. Mr. Haar described the design characteristics of the initiative, noting that there would be more information available soon. It is intended to allow electronic filings, providing significant savings and enhanced public access to dockets. Bill Neuman commented that an additional feature that would be of great help to the public would allow persons to be on a list which would receive some kind of email notice when filings were made.

Ms. Eide-Tollefson thanked the Department and Commission staff for their recognition of the importance of environmental elements of the siting processes, and their intent to continue to work appropriately with the EQB agencies. She added that the legislative intent and design of the processes relating to public participation was also of key importance and the agencies should take great care in preserving and improving the public's access to and role in the permitting processes. Mr. Haar responded that the agencies shared that intent. Ms. Eide-Tollefson encouraged the agencies to continuously evaluate and think even more broadly about how the public can be involved.

John Wachtler emphasized the relationship between good planning and efficient permitting review. There is often a disconnect between system planning and manner in which projects are justified in the permit record. There should be a continued emphasis on achieving better public involvement during pre-application planning so that the trade-offs between reliability, costs, alternatives and environmental consequences can be deliberated. Mr. Neuman supported this emphasis.

Ms. Overland observed that planning for various components of electric supply and delivery are not well connected. Planning for generations resources does not appear to rationally reflect transmission assessments and vice versa. She believes outdated transmission plans are driving projects and do not reflect current needs.

Ms. Eide-Tollefson presented a series of comments summarized as follows:

- A useful approach to ensure reasonable public information and access would involve an analysis of the flow of record development for a project to recognize nodes or points where public participation is most important and useful.
- More thought needs to be given to the most effective timing and treatment of project alternatives.
- There is a provision in the Siting Act for an Advisory Committee. It was used regularly on a state-wide basis in the 1980's, and could again be used to evaluate appropriate streamlining objectives, particularly in designing appropriate planning and pre-application process needs.
- The efforts of the Minnesota Transmission Owners in developing the Biennial Transmission Plan and conducting public forums have been good, but could be more effective. In particular, there could be additional effort in working with local governments.

Mr. Wachtler noted that the American Transmission Company's ambitious program to take transmission planning into public forums was not particularly effective at getting the public to turn out for meetings, but not from lack of effort. Expectations about how to measure effectiveness are undefined.

Bill Neuman added an emphasis on the important role of local governments in transmission planning, noting that they are accountable to their constituency and should be given more strategic incentives and encouragement to participate. He commented also that the public is more savvy than often given credit, and can and will invest more in discussions of alternatives if given more opportunity.

Ms. Overland added to her earlier comments on the need for better and more integrated planning for electric infrastructure, advocating for a state energy plan. Mr. Neuman noted his perception that utility objectives and strategies lead to phased projects, mentioning the Chisago Project as an example, which limit the public's ability to see and understand the nature of grid development and operation. He also observed that federal scrutiny, via its many agencies, is similarly limited to single projects.

Ms. Eide-Tollefson offered a list of public participation tools for consideration in permitting processes. Exhibit AH-4 (IAP2 Public Participation Spectrum).

Her final comment was a suggestion that an alternative format for future annual hearings should be considered, perhaps more of a workshop than a hearing.

Several comments were made during the course of the hearing regarding concerns about how notice of the annual hearing was provided. Mr. Cupit stated that procedures prescribed in law and rule were followed, and offered as exhibits evidence of the required notice. It became evident through comments that the EQB staff had maintained an additional list of persons who had attended past annual meetings, and upon a change in siting program management, and the transfer of authority to the Commission, the existence of the list and where it could be found were not brought to Commission staff's attention. Mr. Cupit stated that he would follow up on this complaint. (Staff note: by later email to concerned persons, Mr. Cupit reviewed the notice procedure, and indicated a willingness to consider the need to continue the former special list, noting however that it would be in addition to legal requirements. Exhibit AH-5. Staff acknowledges its puzzlement about why complainants don't want to be on the general notice list, but concludes that maintenance of a discretionary special list should be evaluated.)

There being no further testimony, the hearing was adjourned at approximately 4:00 PM.

### **Written Comments Received After the Hearing**

#### Carol Overland letter of December 30, 2005 – Exhibit AH-6

Recommends that all intervenors in all siting projects be placed on a special notice list for the annual hearing.

Emphasized the importance of cost-benefit analyses and socioeconomic benefits.

Believes the 2005 legislation adding regional benefits to need criteria imbalances impacts of facilities built in Minnesota.

Environmental review needs to address the factors of socioeconomic benefits and Minnesota impacts to a higher degree for alternatives.

Improvements can be made to Commission website.

Permitting processes are too formal, not public friendly.

Attached 24"x24" map representing upper Midwest grid and proposed power plants.

Kristen Eide-Tollefson email of December 30, 2005 – Exhibit AH-7

Summarized intent of statutory intent for transferring siting authority to the Commission and aligns the transfer with prescriptions of the Minnesota Environmental Policy Act.

Expanding, and cumulative, social and environmental effects of energy production demands effective public participation.

Regulatory efficiency is not just expedited processes, but how well investment integrates and implements state energy and environmental policy goals.

Remainder of comment was a list of interesting, but expansive questions requiring thoughtful assessment and evaluation in a collaborative forum. Staff stated at the annual hearing that we would do our best to answer questions raised in comments in this summary. These questions cannot be answered simply or by a single staff person on behalf of the Commission or the Department. Most of the questions address principles and policies that will take time to settle into the Commission's practices and procedures as they relate to the new siting authority. It is important to note that in transferring the siting authority from the EQB to the PUC, the legislature did not change the policy language of the Power Plant Siting Act (Minn.Stat. 116C.53). Staff is not aware that the EQB had developed special, additional principles or policies that guided implementation of the Siting Act, which could serve as a guideline. Staff can commit to ensuring that the questions are given timely and deliberative opportunities for ensuring that Commission responsibilities under the authority transfer are fulfilled, and will solicit suggestions from all interested parties, and specifically the Department, on useful venues for discussion.

The questions, excerpted as necessary, are:

1. What principles or policies will guide PUC and DOC implementation of the new statutory authorities?
2. What principles or policies will guide PUC/DOC implementation of statutory purposes, specifically: a. greater public participation; and b. better integration and alignment of state energy and environmental policy goals with economic decision making.
3. What is the role of the public in informing PUC decisions? a. How can public participation be channeled and facilitated to effectively inform PUC proceedings? b. How might the PUC evaluate its present utilization of NGO (non-governmental organization) and other stakeholder involvement? How is this like and different from participation from unorganized and particularly unfunded members of the public? c. Advisory bodies - 116D.03 calls for use of, and evaluation literature confirms that, special and standing advisory bodies are among the most efficient and effective means of utilizing public participation in design, planning and public decision-making venues. How might PUC

utilize such bodies, and most effectively and efficiently harvest what is needed from them? d. See also item #6.

4. How will PUC and DOC define and support "greater" public participation? a. What will role and responsibility of 'public advisor' be? Who will play this role? And what are benefits & costs of various methods of providing this function? b. How can the public advisor's role help to facilitate continuity of public involvement/access through planning, certification & routing/siting? What other important functions does PUC see the PA serving? c. Citizen Advisory Task Forces - since the inception of the PPSA - have been a key tool for community/public deliberation in (often controversial) siting and routing proceedings. i. Who will decide whether or not a CATF will be used on a project. What will the criteria be? ii. What are the options, and comparative advantages and disadvantages? iii. What venues will PUC/DOC PPSA staff provide for education, deliberation and participation of affected communities? iv. How will length and nature of transmission proposal affect use of CATFs. d. PPSAC and other advisory boards/councils/committees - What role, if any, might they play in supporting public understanding and confidence in planning, permitting and routing and siting? e. What is the difference between "greater", "maximum" and "optimal"? How is this different from the perspective of public, stakeholders, utilities, agencies, others? What kind of criteria could help sort this out?

5. Pre-Application phase. Please elaborate on possible forms and functions of a pre-application phase. This item might benefit from a (single) multi-round-table discussion with utilities, advocates, agency people and members of the public -- like was mentioned at the hearing.

6. How could a 'diagrammatic' look at "the record", which CURE requested at the hearing, help determine where the critical points of public access, input, and information development are - within the procedures? a. What is the 'role' of the 'record' in PUC proceedings? b. What is the interface (diagrammatically) between planning, permitting and siting and routing records? c. What role does environmental review play in this scheme (see PPSAC comments) d. Are there potential points of 'collaboration' in the development of the record? What would that mean and how would it be effected? e. Why or how is the record important for public understanding, confidence and participation?

7. Opportunities in process realignment: Procedural foundations for a new era of infrastructure development in MN and the region are expected to better integrate social, economic/development, and environmental concerns. This responsibility falls on the state regulators. How can public engagement at planning, permitting and siting and routing stages be designed to support this integration? How can realignment of processes: 1. contribute to better implementation of public policy goals, 2. create a smooth transition for public confidence, 3. make better use of resources of all parties - and the Commission, 4. increase public forum opportunities that allow development of needed information/alternatives, while avoiding shifting the burden to stakeholders and public participants, and 5. create a framework that builds upon collaborations and process improvements already made.

Prepared by: Bob Cupit, Commission Staff

Date: March 2, 2006

## **EXHIBIT LIST**

### **2005 ANNUAL HEARING OF THE POWER PLANT SITING PROGRAM**

- AH-1      Agenda and Official Notice
- AH-2      Background documents relative to siting authority transfer
- AH-3      Completed Projects by Type in 2005, Projects under Review, and Projects Anticipated in 2006
- AH-4      Public Participation Spectrum
- AH-5      Staff Email Response to Notice Complaint
- AH-6      Filed Comment: Carol Overland letter of December 30, 2005
- AH-7      Filed Comment: Kristen Eide-Tollefson email of December 30, 2005