

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

In the Matter of a Petition by
Excelsior Energy, Inc. for Approval
Of a Power Purchase Agreement, Under
Minn. Stat. § 216B.1694,
Determination of Least Cost
Technology, and Establishment of a
Clean Energy Technology Minimum
Under Minn. Stat § 216B.1693

PUC Docket No. E-6472/M-05-1993
OAH Docket No. 12-2500-17260-2

**SURREBUTTAL TESTIMONY OF
MARGARET L. HODNIK**

1 The above matter is before Administrative Law Judges Steve M. Mihalchick and
2 Bruce Johnson. Pursuant to Minnesota Rules Chapter 1400, the following is submitted as
3 rebuttal testimony offered by Minnesota Power.

4 **Q. Please state your name.**

5 A. Margaret L. Hodnik

6

7 **Q. Are you the same Margaret L. Hodnik who filed rebuttal testimony in this**
8 **proceeding?**

9 A. Yes, I am.

10

11 **Q. What is the purpose of your rebuttal testimony?**

12 A. I wish to respond to the Excelsior Energy rebuttal testimonies of:

- 13 • Professor Jim Chen regarding incumbent utilities and public interest in
14 regulation
- 15 • Stephen D. Sherner regarding MISO's cost allocation methodologies

16 **Utilities and Public Interest in Regulation**

1

2 **Q. Have you reviewed the testimony Professor Chen submitted on behalf of**
3 **Excelsior Energy?**

4 A. Yes, I have.

5

6 **Q. Do you have comments on Professor Chen's testimony overall?**

7 A. Yes, I do. The bulk of Professor Chen's testimony is legal opinion on Minnesota
8 and federal statutes related to energy policy that is more appropriate for a legal
9 brief and may be moot light of the October 25, 2006 denial of Xcel Industrial
10 Intervenors' motion for summary disposition.

11

12 **Q. On what portion of Professor Chen's testimony do you offer rebuttal?**

13 A. The section concerning incumbent utility reaction to the Mesaba Project at pages
14 37-39.

15

16 **Q. What is your overall observation regarding Professor Chen's contention that**
17 **incumbent utilities understand the public interest to be coextensive only with**
18 **maximizing shareholders' return on investment?**

19 A. My observation is that Professor Chen's contention is overreaching. Since
20 shareholders provide the necessary capital for investor-owned utility investments,
21 shareholders naturally require appropriate stewardship of their investments to
22 continue their financial commitments. Investor-owned utilities can hardly ignore
23 shareholders. At the same time, Minnesota Power, like all of the State's regulated
24 utilities, must operate in accordance with Minnesota's regulations and policies in

1 order to successfully conduct its business; so Minnesota Power also could hardly
2 ignore those regulations and policies and stay in business. Investor-owned utilities
3 must meet the requirements of both shareholder and regulatory interests while
4 serving customers.

5
6 The State of Minnesota also has an interest in utility shareholders as a stakeholder
7 in the energy supply equation. Utility shareholders have helped to build the
8 State's investor-owned utilities into entities that can build or secure significant
9 energy resources and reliably deliver that energy to customers. A loss of
10 shareholder interest or damage to shareholder interests in Minnesota investor-
11 owned utilities would have financial consequences on those utilities that would
12 impact customers.

13
14 **Q. What is your response to Professor Chen's statement that "incumbent**
15 **utilities are so blinded by their pursuit" of the singular objective of**
16 **"excluding competition and maximizing profitability" despite its lack of**
17 **connection to the public interest?**

18 A. Professor Chen ignores the well-established and extensive regulatory process that
19 exists in Minnesota precisely to ensure that utility statutory requirements are met
20 and that the State has balanced energy policy outcomes. Public utilities in
21 Minnesota do not have a free hand in making economic, reliability and
22 environmental decisions about energy supply and delivery. Public utilities must
23 meet all requirements that the Minnesota Legislature has established through
24 Minnesota Utility Statutes as well as following all applicable Rules. Among other

1 things, the Statutes have prescribed processes for utility resource planning and
2 acquisition (Minn. Stat. § 216B.2422), particularly relevant in this proceeding
3 which concerns a purchased power agreement, conducted by the Commission on
4 behalf of customers in what are public undertakings. Utility resource plans and
5 resource addition proposals are publicized, vetted and ruled upon by the
6 Commission. Furthermore, utilities receive scrutiny by the Department of
7 Commerce and the Attorney General’s Residential Utilities Division, both with
8 years of experience examining, analyzing and questioning utility proposals and
9 actions. Any party, in addition to State agencies, with an interest can participate in
10 these proceedings to support, question or object to what is being proposed by a
11 utility. Under this regime, utilities can hardly ignore State energy policy interests
12 or other participants’ concerns in a proceeding, solely focus on shareholder
13 interests, and expect to receive regulatory approval.

14

15 **Q. Given your discussion of the State’s regulatory process in your previous**
16 **answer, what is the role of that process in vetting the Mesaba PPA?**

17 A. While the Mesaba PPA is put forward under special statutes (Minn. Stat. §§
18 216B.1693 and 216B.1694) designed to support the initiation of its proposal,
19 those statutes still provide that the Mesaba PPA be examined in a regulatory
20 proceeding with a final decision on it to be made by the Commission. This is the
21 process that is underway at the present time and it is a process that rightly allows
22 any interested party to participate and provide testimony or other filings
23 supporting, questioning or objecting to the PPA. Xcel Energy certainly has an
24 interest in this proceeding since it may be forced into the Mesaba PPA agreement.

1 Other utilities naturally have an interest in the Mesaba PPA as well since they
2 may be required to consider Mesaba (Minn. Stat. § 216B.1694, subd. 2(5)) as a
3 supply resource. Minnesota Power has another particular interest since it is
4 possible Minnesota Power's customers may be paying a significant share of the
5 transmission upgrade costs created by the Mesaba Project. Beyond these
6 particular interests qualifying them for participation in this proceeding, utilities
7 have expertise and experience in power plant construction and operation, fuel
8 procurement, transmission, environmental regulations and other aspects of
9 generation builds that may be appropriately applied in this proceeding to develop
10 the record concerning the Mesaba Project. The opportunity for parties to raise
11 questions about a generation resource proposal in a regulatory proceeding is
12 certainly nothing out of the ordinary under Minnesota regulation. Regulated
13 utilities will undergo public scrutiny without question on any resource addition
14 proposal they make. The Legislature has provided in Minn. Stat. §§ 216B.1693
15 and 216B.1694 that proposals such as the Mesaba Project also undergo public
16 scrutiny.

17 **MISO Cost Allocation Methodology**

18

19 **Q. Have you reviewed the Direct and Rebuttal Testimony of Stephen D. Sherner**
20 **submitted on behalf of Excelsior Energy?**

21 A. Yes, I have.

22

23 **Q. On what portion of Mr. Sherner's testimony do you offer rebuttal?**

1 A. Mr. Sherner’s Rebuttal Testimony on pages 21-22 concerning MISO’s proposed
2 cost allocation methodologies for transmission upgrades.

3

4 **Q. What are your comments on Mr. Sherner’s statements regarding Xcel and**
5 **MP’s support of MISO’s proposed cost allocation methodologies (Lines 14-17**
6 **page 21) and the socialization of transmission costs (lines 18- 22 page 21)?**

7 A. It is very important to understand the reality that, with the application of the
8 MISO cost allocation methods, Minnesota Power customers will bear some costs
9 for the transmission built to export power from the Mesaba Project. Since
10 Minnesota Power’s transmission system is now very satisfactory in terms of
11 serving our customers, these additional costs represent a burden to our customers
12 with no direct benefit.

13

14 From a policy standpoint, Minnesota Power recognizes that some degree of
15 transmission investment cost will be socialized among transmission users under
16 the MISO cost allocation method. However, Minnesota Power’s endorsement of
17 some need for cost socialization through MISO is not carte blanche approval by
18 Minnesota Power for socialization of any transmission costs occasioned by any
19 project on its system, including the Mesaba Project. In determining the need for
20 transmission builds beyond its own particular system, Minnesota Power considers
21 the biennial transmission planning process (Minn. Stat. § 216B.2425), the CapX
22 transmission effort by Minnesota utilities and the MISO transmission planning
23 process the appropriate venues for analyzing and recommending what investment
24 is needed for broader “socialized” transmission requirements.

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If the Mesaba PPA were approved, the Mesaba Project would be creating power delivery impacts on the grid that require additional transmission investment on others' systems. The fact that the Mesaba Project may be built and then would need new transmission investment to deliver power from Minnesota Power's control area to Xcel Energy does not mean the collateral transmission cost increases to others, including Minnesota Power, caused by the Mesaba Project result in optimal socialized transmission benefits on the system. In a report by ICF Resources LLC, dated June 2005 and submitted in the December 2005 Excelsior PPA filing, suggested side benefits resulting from the transmission build that would be made for the sake of the Mesaba Project are discussed. In considering the value of these purported side benefits from the potential Mesaba-caused transmission build, two fundamental points need to be kept in mind. Any substantial investment in transmission infrastructure can result in collateral benefits on the grid, due to the highly integrated nature of power delivery systems, so transmission infrastructure upgrades caused by the Mesaba Project may have collateral benefits. Secondly, utilities, MISO and other entities or individuals participating in ongoing joint planning activities such as MISO's planning process, CapX or the State transmission planning process are continually analyzing the grid to determine where and when the best investments might be made for general service ("socialized") improvements, as well as load additions, when looking at the region's power delivery needs as a whole. Thus, there are established, multi-participant vehicles for identifying and addressing transmission infrastructure needs as a "socialized" whole.

1 Finally, it should also be noted that the 2005 Minnesota Legislature enacted Minn.
2 Stat. § 216B.16, subd. 7b that allows utilities to obtain cost recovery for
3 transmission investments outside of a rate case for projects certified as needed
4 under Minn. Stat. §§ 216B.243 or 216B.2425. However, because the Mesaba
5 Project is exempt from certificate of need requirements, Minnesota Power would
6 not be able to recover transmission costs caused by the Mesaba Project through
7 these statutory provisions.

8

9 **Q: Does this conclude your surrebuttal testimony?**

10 A: Yes.