

2001 ANNUAL HEARING POWER PLANT SITING PROGRAM SUMMARY OF PROCEEDINGS

The following is a summary of the 2001 Annual Hearing of the Power Plant Siting Program held on December 1, 2001, at the EQB offices in St. Paul, Minnesota. The summary follows the items on the agenda that was prepared for the hearing.

I. INTRODUCTION

EQB staff member Alan Mitchell called the hearing to order at approximately 9:10 a.m. Alan Mitchell asked each person to be sure to sign the registration sheet. He then asked each person present to introduce himself or herself.

II. REGULATORY CHANGES

A. Energy Security and Reliability Act

Alan Mitchell explained the changes in the Power Plant Siting Act made by the 2001 Energy Security and Reliability Act. Mr. Mitchell identified the following major changes in the law: expanded jurisdiction of the EQB to include high voltage transmission lines over 100 kilovolts; elimination of the exemption provision of the existing law, the creation of an alternative shorter permitting process for certain smaller projects, and the modification of the certificate of need statutes to require a certificate of need for nearly every project requiring a permit from the EQB.

B. Proposed Power Plant Siting Rules

Alan Mitchell explained that the EQB has prepared draft amendments to the power plant siting rules, chapter 4400 of Minnesota Rules, to reflect the changes that have been made in the Power Plant Siting Act. He reported that the agency has published in the State Register a notice of intent to adopt amendments to chapter 4400. The public notice provides a period of time for the public to submit comments on the EQB's draft rules and that the comment period closes on December 7. In response to a question, Mr. Mitchell stated that only two written comments had been received to date but that he had discussions about the amendments with several persons, including Carol Overland and Pam Rasmussen, two people in attendance at this morning's hearing.

Alan Mitchell used a schematic of the permitting process to explain the manner in which the EQB anticipated administering the power plant siting program. A copy of the schematic is attached to this Report. During the course of the discussion, several questions and comments were raised, and these are summarized below.

Kristen Eide-Tollefson of Citizens United for Responsible Energy expressed concern over the EQB continuing to process an incomplete application. Mr. Mitchell explained

that the staff would request that applicants submit a draft application to the staff for review before filing a final application that would start the timeclock ticking. George Crocker of the North American Water Office asked whether there would be opportunities for the public to review draft applications. Mr. Mitchell explained that any public documents in the agency's files were available for review by any person. It was suggested by more than one person that placing a notice on the EQB webpage that a draft application had been submitted to the EQB would allow the public to know the status of a particular project and eliminate the need to frequently contact the staff regarding whether a draft application had been submitted. Mr. Mitchell said that there is a chart of pending projects on the EQB webpage and that perhaps this chart could be used to keep the public advised of pending projects. Beth Soholt with the Izaak Walton League agreed that processing an incomplete application was a concern and added that the public had recently objected to the idea of utilities supplementing incomplete applications on proposed transmission projects as part of the new transmission certification process before the Public Utilities Commission.

Alan Mitchell discussed the remaining rulemaking steps the EQB would be following to actually adopt amendments to the rules. He stated that once the public comment period closed on December 7, the staff would consider the comments that were received and begin the process of revising the proposed amendments and preparing a Statement of Need and Reasonableness so the whole package could be brought to the Board for authorization of final rulemaking. Mr. Mitchell also stated that the EQB would be amending the environmental review rules in chapter 4410 to address the obligation of the PUC to conduct environmental review at the certificate of need stage. He explained that since state rulemaking requirements allow any person to petition for a hearing on the proposed adoption of rule amendments by a state agency, if any person was inclined to request a hearing on the proposed amendments to the power plant siting rules, the EQB would simply schedule such a hearing from the outset and not publish notice of intent to adopt the amendments without a hearing. Carol Overland, attorney at law, indicated that she was likely to request a public hearing on the rules proposed for adoption, but that she would want to review the actual language before deciding.

Alan Mitchell then described the alternative, shorter permitting process established in the new legislation for certain projects. Again, a schematic of the process was used to explain the shorter process, and a copy of the schematic is attached. There were several questions raised about this shorter process. Most of the questions were about the hearing that would be held as part of the shorter process, such as who would preside and how could the public intervene. Mr. Mitchell responded that most of these questions had not been sorted out yet and that the EQB would welcome all comments on the proposed language in the draft rule amendments.

C. Proposed Wind Rules

Alan Mitchell explained the status of the proposed wind rules. He stated that public notice of the EQB's intent to adopt the rules without a public hearing was published in the State Register on November 26 and that the public comment period closes on January 25, 2002, and that the final rules would be brought to the Board soon after the comment period closes. No person raised any questions about the wind rules.

III. EQB PROJECT REVIEW

A. Discussion of Projects Completed in the Past Year.

EQB staff put together a list of the projects relating to large electric power facilities that had been completed during the past twelve months (December 2000 through November 2001). A copy of that list is attached to this Report. Alan Mitchell described each of the projects for the audience. There were no questions regarding any of the projects. One of the projects identified for the public was a short 115 kilovolt transmission line in the City of Bloomington, for which Xcel Energy has indicated it will seek local approval. Mr. Mitchell said that the Bloomington project was included on the list because the staff intends to keep a record of those smaller projects that qualified for local review under the new statutory provision, and this was the first of those projects.

B. Identification of Pending and Anticipated EQB Projects.

Alan Mitchell described for the audience the projects that the staff anticipates will come before the EQB for consideration in 2001. Mr. Mitchell identified the following projects:

Generating Plants. Mr. Mitchell identified the following projects that were anticipated to be before the EQB in the upcoming year: Rapids Power cogeneration facility, the Boise Cascade cogeneration facility, the Otter Tail Power Company Solway plant, and a proposal for a gas-fired peaking plant in St. Paul near the old Island Plant along the Mississippi River. Only the Rapids Power proposal exceeds 50 MW and will require an EQB permit. The other are under 50 MW and require only the preparation of an Environmental Assessment Worksheet.

Mr. Mitchell stated that the EQB staff intended to intervene as full parties in the Public Utilities Commission certificate of need proceeding on the Rapids Power facility. He indicated that the staff did not intend to advocate for a position regarding issuance of the certificate of need but would only help ensure that a complete record was compiled. Mr. Mitchell stated that this role was consistent with direction given by the EQB's Energy Committee for participation by the EQB.

Transmission Lines. Mitchell identified the following high voltage transmission lines that would likely be before the EQB in the next year: Xcel's 345 kilovolt line in southwestern Minnesota, its Chisago County line, and its 115 kV line in Minnetonka, and a short 115 kV line associated with the Solway plant. Mr. Mitchell stated that it was the staff's intent to intervene in the certificate of need proceedings on the 345 kV project and

the Chisago County project before the Public Utilities Commission. Pam Rasmussen of Xcel Energy stated that the company was undecided whether to seek a permit from Chisago County or from the EQB on the Chisago County line.

Mr. Mitchell reported that an issue had arisen with regard to the short 115 kV line that Otter Tail Power required to connect the new Solway Plant to the transmission system. The line qualifies for local approval under the statute, but Beltrami County does not have any kind of ordinance requiring local authorization to construct the line. EQB staff has written to the company and the county and explained that the staff's interpretation of the new statute is that if the local jurisdiction does not require any approval for a new high voltage transmission line, the local option is not available and an EQB permit is required. Mr. Mitchell added that if Beltrami County should adopt an ordinance before Otter Tail needs to begin construction of the line, the provision for local review could be utilized.

Mr. Mitchell also advised the public that the EQB is preparing a map of all transmission lines in the state 69 kilovolts and larger. The work is being done using the GIS system (Geographic Information System) and should be ready next June.

Wind Projects. Alan Mitchell identified two possible wind projects in Mower County that the staff had heard about, one by enXco and one by a company called Zilkha, but that the staff had no information in writing about either project.

Pipelines. To complete the summary, Mr. Mitchell mentioned that a routing permit for a crude petroleum pipeline from Clearbrook, Minnesota, to Superior, Wisconsin, by Lakehead Pipeline Company would likely come before the Board at its December meeting.

C. Use of EQB Web Page

Alan Mitchell explained that the staff had a computer and projector available to show the audience what information was available on the EQB webpage but that the agency was having difficulty with its server and that the webpage was unavailable. Those in the audience, however, were generally familiar with the EQB webpage.

Mr. Mitchell asked if the public had any suggestions or comments regarding the organization of the webpage or if there were suggestions for additional information to include. Laura Reinhardt requested that the EQB put the Board minutes on the web. Andrea Kiepe of Clean Water Action Alliance pointed out that the EQB was not listed separately on the Minnesota North Star page and a person seeking EQB material may have a difficult time finding the EQB if the person did not know that EQB was part of Minnesota Planning; she requested that EQB be listed separately. The general consensus was that the more material the EQB can place on the web, the better. Other speakers asked that all material in the monthly Board packets be put up on the web, including documents from persons outside the staff. Kristen Eide-Tollefson pointed out that the Public Utilities Commission is beginning to expand its use of the web to include a list of documents in its various docket matters and that many of these documents were actually

available on the web. She stated that she found this to be of great assistance and that she would encourage the EQB to attempt to do the same.

III. OTHER STATE AGENCY PROJECTS

A. State Transmission Report

The next discussion point was the transmission reports that were submitted to the Public Utilities Commission on November 1 under the new statutory provision creating a new process for certifying the need for new transmission projects. Mike Michaud of EQB staff presented a brief overview of the three reports that were submitted – one by a group of transmission line owners, one by an organization called Public Energy, Inc. describing an assortment of transmission lines in the Buffalo Ridge area, and one submitted by Kristen Eide-Tollefson presenting a concept for a low voltage underbuild on high voltage transmission lines to promote distributed generation. Participants were generally familiar with the reports.

Kristen Eide-Tollefson asked whether the EQB had considered conducting a study regarding the feasibility of constructing low voltage lines in conjunction with high voltage lines. George Crocker stated that the question of concern was how to use low voltage lines, which are generally considered to be distribution lines, for transmission purposes to allow smaller distributed generation facilities to tap into the transmission system. Mike Michaud responded that there is no bright line between distribution and transmission facilities. Mr. Michaud added that the EQB transmission mapping effort was looking at lines down to 69 kV and that the Department of Commerce was required by statute to maintain an inventory of transmission lines but that inventory would likely only include lines over 100 kilovolts.

There followed a brief discussion regarding participation in the PUC matter on the transmission reports.

B. State Energy Plan

Bob Cupit of the Department of Commerce gave a brief report on the draft State Energy Plan being prepared by the Department. Mr. Cupit indicated that the Department has received a large number of comments from the public about the draft plan and that the Department would compile the public comments and make them available to the public as part of the final plan. The Department hopes to have the final plan ready by the first of the year. He said that the Department has received numerous comments expressing a desire for renewables and for distributed generation and that the information in the report on emissions from power plants has generated many comments too.

Beth Soholt asked whether the Department envisioned any legislative changes this coming year and Bob Cupit stated that the Department did not intend to seek any changes this session.

A number of speakers indicated a concern over how the state was going to deal with merchant plants and merchant transmission lines and with the push by the Federal Energy Regulatory Commission to create large regional transmission operator (RTO) organizations to be responsible for planning and delivery of electricity over multi-state areas. The speakers want the state to ensure that it will address these concerns and maintain control over developments in the state. Bob Cupit responded that the issue of what criteria to apply to merchant facilities is one that state agencies are well aware of, but one that may have to be determined as we proceed because merchant projects may be proposed before there is time to amend rules or otherwise develop criteria.

The issue of the need for a low voltage underbuild was raised again by several speakers. George Crocker stated that modern technology is at a competitive disadvantage without the ability to tap into the transmission system and that the state must provide an equal ability for distributed capacity to compete with central station power if this new technology is to go forward. Crocker submitted two documents for inclusion in the record, one from the North American Water Office relating to the low voltage underbuild proposal and another from the Southwest Minnesota Energy Task Force regarding development of transmission facilities in the Buffalo Ridge area. Both documents are attached to this Report.

To conclude this part of the hearing and before moving to the solicitation of public comments, Alan Mitchell reported that the staff was completing the annual report on management of high-level radioactive wastes and that an outline of the report was available for review. Also, Mr. Mitchell announced that the EQB was planning to hold a full-day seminar early in 2001 to bring in speakers to address a number of significant issues relating to electric power, including speakers who could talk about developments at the federal level.

IV. PUBLIC QUESTIONS AND COMMENTS

The hearing was concluded with an opportunity for those in attendance to make any oral comments or statements they wished to make. The following is a summary of comments and statements made at the hearing.

Janet Anderson: U.S. Information Officer, Pimicikamak Cree Nation. Ms. Anderson emphasized that transmission is a crucial part of the electric energy system and that generation and transmission cannot be taken apart. She stated that the Pimicikamak Cree supports efficiency and conservation in Minnesota. She encouraged state officials to work together in a coordinated fashion when dealing with energy planning.

Joan Marshman: Florence Township Supervisor. Ms. Marshman commented that the newspaper that morning reported that the General Accounting Office had determined that Yucca Mountain was not ready for a site recommendation and that alternative siting was back in question and she was concerned that Florence Township could be back in consideration as a site for Prairie Island wastes. She stated that the Governor's Nuclear Waste Council has to be reactivated.

George Crocker: North American Water Office. Mr. Crocker agreed with Joan Marshman and indicated that Prairie Island would be full in 2007. He stated that the Skull Valley proposal for a private disposal site in Utah was not going to happen. He said the ball is squarely in Minnesota's court where it should be and the responsibility for nuclear waste disposal is the state's.

Kristen Eide-Tollefson: Citizens United For Responsible Energy. Ms. Eide-Tollefson also agreed with Ms. Marshman and stated that the GAO report was a significant development. There was a brief discussion over whether new legislation would be required to reactivate the Governor's Nuclear Waste Council, but whether legislation is required or not, the commenters wanted more involvement by the state over high-level radioactive waste disposal. She added that the annual nuclear waste report prepared by EQB staff was the only involvement the state had in the issue.

Diane J. Peterson: Quaker Congregation Twin Cities Friends Meeting. Ms. Peterson had questions for Bob Cupit about the number of public comments the Department of Commerce received on the draft energy plan. Mr. Cupit indicated that the Department had received 200 or so public comments. Peterson pointed out that Minnesota has a large number of citizens who are interested and involved in energy matters. She also raised the issue of who is going to bear the costs associated with providing security at the country's power plants. She emphasized that certain types of power plants, particularly nuclear power plants, present increased security risks which drive up the costs.

John Reinhardt: Minneapolis resident. Mr. Reinhardt commented that planning to meet the state's needs was not the same as meeting the needs of a larger region. He also stated that it was important to separate transmission from generation when conducting planning and building facilities.

Terry Kissner: Kenyon resident. Ms. Kissner commented that she was concerned about health problems of people in her area in Goodhue County that she suspected were related to energy production and that she would like to see the Department of Health take a look at the health of residents of Goodhue County.

George Crocker added a few more comments about nuclear power and Prairie Island. Crocker stated that a huge investment was going to be required at Prairie Island to address a concern over steam generators, perhaps as much as \$200 million. He also urged the state to take a look at the environmental impacts associated with the entire uranium chain, from mining to fabrication to power generation at reactor sites.

Beth Soholt: Izaak Walton League. Ms. Soholt commented that Minnesota must take a leadership role and be actively involved in regional planning matters through the Midwest Independent System Operator (MISO) and perhaps in other ways. She would like to see the EQB staff make recommendations on how the state should be involved in regional planning. She stated that it is difficult for nonprofit organizations, with limitations of time and money, to cover all these issues.

Carol Overland: Attorney at law. Ms. Overland stated that she would like to see a discussion in this year's nuclear report on the authority of state government to regulate nuclear power facilities. She stated that the state must continue to assert its jurisdiction over transmission facilities to determine what facilities are needed to satisfy local demands and that the state must not give away its jurisdiction to regional planning organizations. She also said that there is a need for some kind of intervenor compensation program so citizens can more effectively participate in proceedings on large energy facilities and to hire experts to help establish a complete record. She gave the example of the difficulties Florence Township had in funding its involvement in the Prairie Island dry cask storage matter.

Andrea Kiepe: Clean Water Action Alliance. Ms. Kiepe stated that the state must make more of an effort to consider the external costs associated with large energy facilities. She gave the example of how nuclear power is often considered to be cheap power, but that external costs, such as health-related impacts, are often forgotten. She urged the state to take into account the external costs associated with transmission lines and to consider the impacts a particular line would have in promoting central station generation. She wants the EQB and the Department of Commerce to make more of an effort to consider these external factors and to always keep the public interest in mind. Ms. Kiepe also added that Clean Water Action supports the reactivation of the Governor's Nuclear Waste Council.

Bob Cupit: Department of Commerce. Mr. Cupit stated that he wanted to follow up on comments of others about distributed generation. He stated that although there is no legislative policy at the moment regarding distributed generation, the Department is open minded on this issue and interested in exploring it. He stated that things are happening with distributed generation – interest is developing, new technologies are coming along, and communities across the state are beginning to encourage its development. The Department made a presentation to a LCMR [Legislative Commission on Minnesota Resources] committee recently and is working with others to put together a presentation to the entire LCMR on distributed generation to encourage the LCMR to consider energy funding in the long term. Mr. Cupit indicated that some cities and counties are exploring distributed generation options and that perhaps the proposal garnering the most attention is the transmission underbuild proposal for wind energy by a number of southwest Minnesota county commissioners; it has the attention of the EQB and the Department. People recognize that energy issues relate to many matters of interest to local officials, including economic development, land use, and tax revenues. The Chamber of Commerce and others like it, recognizing that distributed generation provides energy security. Mr. Cupit asked that the EQB work with the Department of Commerce and the public to explore opportunities for distributed generation.

Kristen Eide-Tollefson stated that she appreciates Mr. Cupit's comments and that she wanted to acknowledge that the public has in fact been involved in state planning activities and that she is encouraged to see state agencies working closely in various planning activities.

The hearing was adjourned at 12:20.