

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
David C. Boyd
Marshall Johnson
Phyllis Reha
Thomas Pugh

Chair
Commissioner
Commissioner
Commissioner
Commissioner

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

MPUC Docket: E/6472/M-05-1993

OAH Docket: 2500-17260-2

MCGP's REQUEST THAT COMMISSIONER REHA RECUSE HERSELF

MCGP requests that Commissioner Reha recuse herself to promote public confidence in the Commission and avoid the appearance of impropriety and loss of independence or impartiality of action.

The Commission had adopted a Code of Conduct which requires that:

A Commissioner ... shall respect and comply with the law and shall behave in a manner that promotes public confidence in the integrity and impartiality of the Commission's decision making process.

Minn. R. 7845.0400. It specifies that:

Commissioners... shall avoid any action that might result in or create a conflict of interest or the appearance of impropriety, including:

- A. using public office for private gain;
- B. giving preferential treatment to an interested person or entity;
- C. impeding the efficiency or economy of commission decision making;
- D. losing independence or impartiality of action;
- E. making a commission decision outside official channels; and
- F. affecting adversely the confidence of the public in the integrity of the commission.

Minn. R. 7845, Supb. 2 (2005). See also *In the Matter of the Commission Inquire Regarding Potential Proscribed Ex Parte Contacts Regarding Commissioner Scott*, July 31, 2007 (Minn. Ct. App.).¹

Impropriety has been an issue in this proceeding before, at an IGCC promotional event in Grand Rapids, where Chair Koppendraye appropriately felt the need to remove himself from the situation.² The

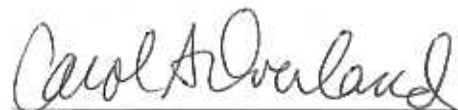
¹ Available on line at <http://www.courts.state.mn.us/opinions/coa/current/opa061578-0731.htm>

appearance of impropriety presents again where Commissioner Reha participated in an IGCC junket to Europe in July, 2006, sponsored by Great Plains Institute, as part of the Coal Gasification Work Group, and has not disclosed this trip during this proceeding. Commissioner Reha has also signed on to the Great Plains Institute's recently released "Roadmap" which endorses coal gasification, and has not disclosed this endorsement.

Great Plains Institute is anything but an independent resource -- GPI is funded by the Joyce Foundation and by the Foundation's own press release, Great Plains Institute has received that funding to **promote** coal gasification. MCGP 5060, Joyce Foundation Press Release. The "environmental" organizations, participating in the Great Plains Institute generally and going on the GPI European IGCC junket, such as Clean Air Task Force and the Izaak Walton League, are also all recipients of Joyce Funding. MCGP 5060, Joyce Foundation Press Release. Mike Gregerson, listed as Great Plains staff and present on junket to Europe, has also been a consultant for Excelsior Energy, as "Stability Consulting,"³ receiving over \$30,000.00 from Excelsior that was reimbursed with IRR funds. See Comment of Ron Gustafson, December 18, 2006 Public Hearing, Comment and Spreadsheet of IRR reimbursements to Excelsior Energy.

Commissioner Reha has participated in the Great Plains Institute's IGCC promotional activities, without disclosure on the record. MCGP requests that Commissioner Reha recuse herself to avoid the appearance of impropriety.

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² February 14, 2007, the IEDC held an IGCC promotional meeting in the heart of the area proposed for the Mesaba Project. For details, see <http://legalelectric.org/weblog/1333/>. All presenters took a decidedly pro-IGCC stance, so much so that Chair Koppendrayner acknowledged the ex parte problem when raised and he appropriately left the room.

³ Mike Gregerson, Stability Consulting, is on the Excelsior Energy Mesaba Project service list for PUC 05-1993.