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Dr. Burl Haar
Executive Secretary
Public Utilities Commission
121 East 7th Place
St. Paul, MN 55101

RE: Procedural Comments
Excelsior's Mesaba PPA
PUC Docket: E-6472/M-05-1993

Dear Dr. Haar:

Thank you for the opportunity to submit comments on appropriate process for this case. I would guess that this Power Purchase Agreement based in "entitlement" is a first impression and the Commission is likely to approach this with caution. Generally, I'd like to encourage even more caution.

I. PROCEDURAL MATTERS

The following are the clear-cut procedural matters that must be addressed by the Commission.

A. Contested Case

This matter should be set for a contested case hearing. Because this is an issue of first impression, it is important to have a thorough record, which cannot be had with the abbreviated process as requested by Excelsior.

B. Rate Case

As Excelsior requests, this should be regarded as a rate case. This proceeding should be declared a "rate case" by the Commission so that Intervening parties are eligible for the nominal Intervenor Compensation available in rate cases. Area residents and local governments near the site are not funded and don't otherwise have the resources to participate in a PUC proceeding, and this will help assure that their views as stakeholders and ratepayers are heard and that the

record will address their concerns about the costs, rate impacts and economic viability of this proposed plant.

C. Timeline

The timeline set by Excelsior is unreasonable. Excelsior's timeline is driven by their funding constraints and opportunities, but that does not mean that its timeline is in the public interest – and more likely the opposite is true. Excelsior's and public's and the ratepayers' and the Commission's interests are different. In this case, rushing this through is not in the public interest. Deliberateness is the root of deliberation!

D. Length of Discovery

The Discovery period must be extended beyond what Excelsior proposes. Excelsior claims in its Petition that it is eager to proceed with Discovery and will do so immediately upon securing an appropriate non-disclosure agreement. **STOP, HOLD THE PRESSES.** A Non-Disclosure Agreement has been circulated and forwarded to the PUC for approval. However, I would think it sufficient for the parties to agree, and don't think Commission approval is necessary, and Discovery shouldn't be sidetracked waiting on Commission approval.

E. Ability to Obtain Trade Secret Information

Excelsior has, as above, forwarded a Non-Disclosure Agreement to the PUC for approval. But this is not necessary and again, Discovery shouldn't be sidetracked.

II. SCOPE OF HEARING

The main determinants of the scope of the PUC's proceeding are the statutory requirements under which Excelsior claims its entitlement to a Power Purchase Agreement. Excelsior relies primarily upon the statutory definition of "innovative energy project" and the "regulatory incentives," set forth below in pertinent part, with emphasis added to the terms that provide the framework for the scope:

216B.1694 Innovative energy project.

Subdivision 1. Definition. For the purposes of this section, the term "innovative energy project" means a proposed energy-generation facility or group of facilities which may be located on up to three sites:

(1) that makes use of an innovative generation technology utilizing coal as a primary fuel in a highly efficient combined-cycle configuration with significantly reduced sulfur dioxide, nitrogen oxide, particulate, and mercury emissions from those of traditional technologies;

(2) that the project developer or owner certifies is a project capable of offering a long-term supply contract at a hedged, predictable cost; and

(3) that is designated by the commissioner of the Iron Range Resources and Rehabilitation Board as a project that is located in the taconite tax relief area on a site that has substantial real property with adequate infrastructure to support new or expanded development and that has received prior financial and other support from the board.

Subd. 2. Regulatory incentives. (a) An innovative energy project:

(4) shall qualify as a "clean energy technology" as defined in section 216B.1693;

(5) shall, prior to the approval by the commission of any arrangement to build or expand a fossil-fuel-fired generation facility, or to enter into an agreement to purchase capacity or energy from such a facility for a term exceeding five years, be considered as a supply option for the generation facility, and the commission shall ensure such consideration and take any action with respect to such supply proposal that it deems to be in the best interest of ratepayers;

(7) shall be entitled to enter into a contract with a public utility that owns a nuclear generation facility in the state to provide 450 megawatts of baseload capacity and energy under a long-term contract, subject to the approval of the terms and conditions of the contract by the commission. The commission may approve, disapprove, amend, or modify the contract in making its public interest determination, taking into consideration the project's economic development benefits to the state; the use of abundant domestic fuel sources; the stability of the price of the output from the project; the project's potential to contribute to a transition to hydrogen as a fuel resource; and the emission reductions achieved compared to other solid fuel baseload technologies; and

Excelsior also is requesting that Xcel purchase at least 2%, and in addition is requesting that Xcel purchase significantly more than that, under the opening of Minn. Stat. §216B.1693. There is a burden of production and proof which must be met under that statutory section, which states in pertinent part:

216B.1693 Clean energy technology.

(a) If the commission finds that a clean energy technology is or is likely to be a least-cost resource, including the costs of ancillary services and other generation and transmission upgrades necessary, the utility that owns a nuclear generating facility shall supply at least two percent of the electric energy provided to retail customers from clean energy technology.

(b) Electric energy required by this section shall be supplied by the innovative energy project defined in section 216B.1694, subdivision 1, unless the commission finds doing so contrary to the public interest.

Each of these statutory requirements must be addressed within this proceeding, and the recurrent theme is the form and level of proof that should be required of the Petitioner. Many material

terms have for the most part not been addressed by Excelsior, and these terms set out many issues that must be carefully reviewed prior to any action. Those terms are:

1. **highly efficient**

The efficiency of coal gasification, as a generation source, and of the Mesaba project as a whole, must be addressed. For example, this project proposes to site a plant with a 40% HHV efficiency rating hundreds of miles from load with at least a 30% line loss assumed (based on line loss assumptions for the SW Minnesota lines), which seriously calls efficiency into question.

2. **project developer or owner certifies**

Certification by the developer or owner should be backed up with sufficient proof to lend certification credibility.

3. **capable of offering**

The term “capable” and phrase “capable of offering” should be defined sufficient to both nail down potentialities concretely and sufficient evidence must be produced to assure that such an offer with these specific characteristics is indeed made, not just that that the developer is “capable of offering.”

4. **hedged**

The Commission needs to determine how this will be hedged!

5. **predictable**

This criteria must be compared with the risky nature of Mesaba, and must consider that the DOE finds the project to be too risky for market financing and instead is providing NETL grant money and guaranteed loans. A project that is too risky for the private market is not one with predictable costs or price. A venture that is an economic risk is hardly predictable.

6. **cost**

The cost of electricity, delivered, is the cost at issue in this proceeding, and must be addressed. The cost of energy generated by the Mesaba plant Phase I and Phase II must consider costs of grants and loans, other local infrastructure such as rail crossing upgrades and emergency response, cost of fuel and fuel delivery, efficiency of plant, capacity factor of plant, cost of emissions including CO₂ with probabilistic evaluation of future CO₂ restrictions and ability or lack thereof for facility to comply, cost of water procurement, transport, treatment and remediation of contamination; cost of transmission upgrades to deliver to Xcel’s metro load (not just put on grid), line loss and excess generation caused or avoided. Also be sure to consider the cost of having an extra gasifier laying around to assure that gasifier outage problems and resulting down time does not occur at Mesaba. Is the cost of

this extra gasifier reasonable – is coal gasification reasonable in light of the need to have a spare gasifier on hand?

7. **on a site that has substantial real property with adequate infrastructure to support new or expanded development**

Despite recent assurances by IRR that both the eastern and western site meet this statutory criteria, for the western site, and likely the eastern site, any such statement is contrary to fact. The scope of this proceeding must address this easy to determine criteria. The western Mesaba site in no way has adequate infrastructure to support new or expanded development, it just isn't there. If it has any infrastructure in the future, it will be infrastructure whatsoever only due to local government subsidies to Mesaba.

8. **that has received prior financial and other support**

Despite recent assurances by IRR that both the eastern and western site meet this statutory criteria, for the western site, and likely the eastern site, any such statement is contrary to fact. The scope of this proceeding must address this easy to determine criteria. The western Mesaba site in no way has received PRIOR financial and other support.

9. **shall be considered as a supply option**

This section seems to be a legal question that necessarily must be considered, an issue of Integrated Resource Planning, in which Excelsior is participating, and it seems that the scope of this proceeding must include whether this PPA proceeding is the appropriate manner to force this “consideration.”

10. **entitled to enter into a contract**

The scope of this proceeding is going to have to address this entitlement, but that's another legal question, not a factual question for a contested case proceeding.

11. **450 megawatts**

The scope of the contested case should clarify whether this is 450MW delivered.

12. **economic development benefits to the state**

The scope of this proceeding must include a detailed look at economic benefits and weigh these benefits against a detailed look at economic costs. What economic benefits does the Mesaba plan offer? Thus far, the Mesaba has provided a very limited number of jobs statewide, management/executive level positions for people in the metro, and has done nothing for the people near the site, and Excelsior's glowing “economic” report does not assign “Full Time Equivalent” values to the job numbers, such that even one job for one hour is considered a job, a misleading attribution of project benefits.

Thorough Cost/Benefit Analysis is necessary

A cost/benefit analysis of this project is necessary. Excelsior must demonstrate that Mesaba is indeed providing net benefits, which requires a cost/benefit analysis. This cost benefit analysis must include cash out-of-pocket societal costs including, but not limited to, the following grants:

<u>Millions</u>	<u>Source</u>
\$ 36.0	Department of Energy
9.5	IRR
10.0	Xcel Renewable Development Fund
42.0	Itasca Co. for infrastructure
60 ?	St. Louis Co. for infrastructure
97.5-157.5 million dollars	
\$800.0+	DOE - federally guaranteed loans

Cost/Benefit - Return of cost savings to ratepayers or community to offset local costs

Excelsior Energy's original plan included siting in an JOBZ zone where the corporation would generate no corporate income tax, sales tax or property tax for the community, and also a personal property tax exemption, which has since expired. The scope of this proceeding must include a determination of any tax benefits that will accrue to local governments. Cost savings to Excelsior, such as the federal, state and local grants and loans above, may be passed on to Xcel in the rates or may be returned to the community in any number of ways.

13. use of abundant domestic fuel sources

This proceeding must establish whether there is indeed an abundant domestic fuel source available to the Mesaba project. There is a large supply of coal, but there is no coal near the Mesaba plant, and coal fields are at best 300-400 miles distant. The cost of coal has doubled in the last two years, and the cost of rail shipment of coal has also increased exponentially. These price increases are hardly indicative of an abundant domestic fuel source.

14. stability of the price of the output

As with "predictable," above, as a criteria, this criteria must be compared with the risky nature of Mesaba, and must consider the economic risk, as does the DOE, which finds the project to be too risky for market financing and instead is providing grant money and guaranteed loans. A project that is too risky for the private market is not one with stable costs or price. A venture that is an economic risk is hardly stable.

15. project's potential to contribute to a transition to hydrogen

Potential has no value unless effort is made and potential is realized. The scope of this proceeding must address with specificity whether there is any actual potential to contribute to

a hydrogen economy, which includes a probabilistic analysis and an evaluation of whether utilizing this type of generation instead postpones transition to a hydrogen economy!

16. emission reductions achieved

The scope of this proceeding must include verification of emission reduction. Don't forget that emissions can also occur into water, and that with coal gasification, this is the primary focal point of contamination.

17. including the costs of ancillary services and other generation and transmission upgrades necessary

The statute mandates that the scope include “ancillary services and other generation and transmission upgrades necessary.” The cost of transmission upgrades necessary for this project to deliver to load is far greater than the cost of transmission proposed in conjunction with this project – there are significant costs/upgrades necessary beyond Forbes substation to deliver this power. The entire cost of transmission must be addressed, as it will be a substantial factor in total cost delivered assuming costs similar to the Arrowhead transmission line cost of \$2 million per mile. At present, in the G477 MISO study, only 90MW of Mesaba electricity was deliverable to load, and significant upgrades are necessary. Upgrades planned by CapX2020 and Excelsior include upgrades and new lines from Forbes to Arrowhead, Arrowhead to Chisago, and Chisago to Prairie Island. Given the cost of the Arrowhead line’s 220 mile route at half a billion dollars, the cost of the necessary Mesaba upgrades are likely to be comparable.

18. shall supply at least two percent and is or is likely to be a least-cost resource

This PPA proceeding must address whether it is or is not likely to be a least-cost resource and whether construction of this project is justifiable, whether it is a reasonable and prudent expense. This requires a high level of scrutiny given the DOE’s acknowledgement of risk. The level of risk and cost inherent in coal gasification is also demonstrated in the legislative exemption from Certificate of Need for plant, transmission and upgrades, this arguably mandated PPA, and the many grants and loans this project is receiving. Logically, if this project would generate electricity and be a least-cost resource, the state and federal government would not have need to create a market for it, the market would exist.

If you have any questions, or require anything further, please let me know.

Very truly yours,



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