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Via e-filing

Bret Eknes and Craig Janezich
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

Re: Application for a Minor Alteration to Great River Energy's 170 MW, Natural Gas-Fired, Simple Cycle Combustion Turbine Generator at its Cambridge 2 Peaking Plant Site near Cambridge, Isanti County, Minnesota, Docket No. ET-2/GS-22-122

Commission Staff,

Public Employees for Environmental Responsibility (PEER) respectfully submits this initial public comment on the draft Environmental Assessment Worksheet (EAW) prepared for the Minnesota Public Utilities Commission's (Commission) above-captioned matter. PEER is the representative of the EAW petitioners under the Minnesota Environmental Policy Act (MEPA),¹ and as such has a unique perspective on this EAW and the Commission's four questions.

Introduction and Summary of Argument

Because Great River Energy (GRE) has never obtained the legal permission to operate a facility of the size it now operates in Cambridge Minnesota, the Commission should take this opportunity to fix past errors and issue a legally-compliant Certificate of Need (CN) for the facility. Only after the CN process is completed can GRE seek a new Site Permit (Permit) for its facility. In that full permitting process GRE may propose any alternatives it would like, and conversely the Commission will be required to analyze the full slate of clean energy alternatives against GRE's preferred alternative.

Conducting a full environmental review, an Environmental Impact Statement (EIS), alongside the new CN and Permit will allow the Commission to understand how this proposal fits within the historic changes to state and federal law that have recently redirected the future of Minnesota's utilities. Such analysis was missing in the EAW and thus the existing environmental review is inadequate.

¹ See Petition for an Environmental Impact Worksheet, *Regarding Great River Energy's application to construct a 170 MW, oil-and-gas-fired dual fuel simple cycle combustion turbine generator near Cambridge, Isanti County, Minnesota*, e-dockets Document No. [20225-186172-02](#) at 2. See also Minnesota Rules 4410.1100, subp. 2, (laying out the EAW petition content including designation of a representative).

Without undertaking the full EIS analysis process, the Commission risks undercutting Minnesota's ability to obtain the maximum amount of federal aid for energy infrastructure, as well as failing to meet the clean energy mandate set by the state Legislature. Similarly, approving the "minor alteration" without more analysis risks approval of a facility that both causes and is affected by increased climate change impacts. For all of these reasons, the Commission must reject the "minor alteration" and start the permitting process to, at the very least, correct the legal error that was made when GRE first built its Cambridge facility.

1. GRE's Cambridge power plant requires a Certificate of Need that complies with Minnesota law, its current CN and Permit are legally deficient

Because the existing Cambridge plant was only described and analyzed with a maximum nameplate capacity of 170MW it is now the Commission's duty to address the fact that this facility is designed to run up to at least 190MW, and has been permitted by the Minnesota Pollution Control Agency (MPCA) to operate at that level since it was built over a decade ago. The fact that this facility was not correctly permitted by the Commission in the first place now allows the Commission to give the need for the instant proposed refueling a hard look while it corrects a past mistake.

A. Past and current environmental review documents, as well as permitting-derived information from other agencies shows that Cambridge is at least a 190 megawatt facility

Cambridge's current gas-only facility underwent environmental review nearly twenty years ago in a proceeding before the Commission. Both the 2005 and 2023 environmental review documents support the fact that GRE sought and obtained an invalid need determination, and then obtained an invalid Permit as a result. Consistently, information from EPA that is also supported by MPCA air permitting documents, shows that other agencies have long known that this facility is at least 190MW in size, and have permitted it as such.

The original Environmental Assessment (EA) scoping document for the existing gas-only Cambridge facility unequivocally stated: "GRE proposes to construct a 170 MW, natural gas-fired, simple cycle combustion turbine generator at its existing peaking plant site near Cambridge in Isanti County, Minnesota."² While there is apparently no additional discussion of the plant's overall capacity within that scoping document, the final EA's Appendices consistently include a scoping letter from the Environmental Quality Board

² EQB, *Scoping Document, Cambridge Station*, EQB Docket No. 05-92-PPS-GRE Cambridge Station, PUC Docket No. ET-2/CN-05-347, Apr. 11, 2005, at 3 (on file with author).

(EQB)³ quoting this same language about GRE's intent to build a 170 MW facility at this location.⁴ Consistently, the 2005 EA gave this overview of the project: "GRE submitted to the Minnesota Environmental Quality Board (MEQB) a site permit application regarding a proposal to construct and operate a natural gas-fired, simple-cycle electric generating peaking facility capable of producing 170 megawatts (MW)."⁵ This capacity limit of 170MW is repeated throughout the 2005 EA's analysis sections.

The only mention of a larger capacity is ambiguously presented and not fully analyzed in the 2005 documents. The higher nameplate capacity is mentioned inconsistently in a couple tables that appear following the EA's analysis sections – these inconsistent tables suggest that the planned plant had a summer operating capacity of 190MW and a winter capacity of 170MW in Table 1, but then said the opposite (170MW in summer and 190MW in winter) in Table 4.⁶ The higher capacity information in these two tables is then immediately rebutted because other tables that follow describe the generating capacity at 170 MW.⁷

The Draft EAW open for comment in this docket confirms that the Cambridge plant has a capacity to run up to at least 190MW, but only in a statement by EERA's contractor, HDR, appended at the end of the EAW. In that letter to EERA, HDR states that "The GRE Cambridge facility is an existing simple-cycle combustion turbine generating station located in Cambridge, Isanti County, Minnesota. The facility consists of one 29.3 megawatt (MW) combustion turbine (EQUI 11), one 190 MW combustion turbine (EQUI 10), one black-start generator (EQUI 2), one emergency diesel fire pump (EQUI 21), and two emergency generators (EQUI 22 and 23)."⁸ This contradicts the Draft EAW's statements

³ The EQB conducted the 2005 environmental review for the Commission's review and approval. Today this role has been reassigned to the Department of Commerce's EERA unit.

⁴ Letter from William Cole Storm, EQB Staff, to Robert A. Schroeder, EQB Chair, RE: EQB Staff Recommendation on EA Scoping Decision, GRE Cambridge Station, Isanti County, Minnesota, EQB Docket# 05-92-PPS-GRE Cambridge Station, May 5, 2005, (Reproduced in EQB, *Environmental Assessment: Great River Energy, Cambridge Station*, EQB Docket Number 05-92-PPS-GRE-CAMBRIDGE STATION, MPUC Docket ET-2/CN-05-347, May 2005, at Section 1.0 (Appendix A to this comment) [hereinafter "Cambridge Environmental Assessment 2005"] Appendices at PDF page 5 (Appendices on file with author)).

⁵ Cambridge Environmental Assessment 2005, *supra* note 4, at Section 1.0.

⁶ Compare *id.* at PDF page 72 (Table 1: Operational Information Summary) with *id.* PDF page 75 (Table 4: Comparison of Alternative: Operational).

⁷ See, e.g., *id.* at PDF page 76 (Table 5: Comparison of Alternative: Economic); *id.* PDF page 77 (Table 6: Cambridge • Elk River Site Comparison).

⁸ Letter from HDR Engineering, Inc., Gregory J. Raetz, PE, Senior Professional Associate, Ms. Jenna Ness, Environmental Review Manager, Energy Environmental Review and

earlier that “[GRE]’s Cambridge Station (facility) operates a **170 megawatt (MW)** natural gas peaking plant that generates electricity in a backup capacity when the transmission network requires it to maintain reliability in times of high electric use and demand.”⁹ HDR’s description also rebuts the Draft EAW’s equally inaccurate “Facility Description,” which states:

The facility operates as a peaking plant, providing electricity during times of peak demand throughout the year. The facility consists of Unit 1 CT, a 29.3 MW distillate fuel-fired combustion turbine, and Unit 2 CT, a **170 MW** natural gas-fired combustion turbine equipped with dry low nitrogen oxide (NOX) burners. The facility also includes two aboveground storage tanks (ASTs) for water and distillate fuel, black-start generator, emergency diesel fire pump engine, emergency diesel generator, emergency Telecom propane generator, and other associated facilities such as a substation, control building, warehouse, distillate fuel pump house, and a telecommunications tower (Map 1). Unit 1 CT operates approximately 40 hours per year and Unit 2 CT operates 400 to 800 hours per year due to a combination of Midcontinent Independent System Operator (MISO) testing and dispatch.¹⁰

Despite the Commission’s 2005 approval of a 170MW gas-only facility and current proposal for an upgrade that would maintain that capacity, it is clear that both GRE and other regulators know that this plant can operate at a higher capacity. EPA data on combustion power plants demonstrate that in 2019 EPA understood that the Cambridge plant operated at 194MW nameplate capacity.¹¹ This is likely because GRE has told air regulators that the plant’s capacity is larger than the capacity it reports to the Commission.

Indeed, in GRE’s 2021 application for a modification to its air pollution permit, in a form GI-09K submitted to the MPCA Air Quality Permit Program to cover the requirements of the Cross-State Air Pollution Rule (40 CFR Part 97), stated that the generator nameplate

Analysis – Minnesota Department of Commerce, Re: Dispersion Modeling and Air Emission Risk Analysis Review, Great River Energy – Cambridge, February 23, 2023 (Reproduced in: EERA, *Environmental Assessment Worksheet: Cambridge 2 Fuel Conversion, The human and environmental impacts of this dual fuel conversion project*, April 2023, Docket No. ET-2/GS-22-122, at PDF page 111, eDockets No. [20234-194679-01](#) [hereinafter “2023 EAW”]).

⁹ *Id.* at 2 (emphasis added).

¹⁰ *Id.* at 2–3 (emphasis added).

¹¹ See EPA, POWER PLANTS AND NEIGHBORING COMMUNITIES MAPPING TOOL, <https://experience.arcgis.com/experience/2e3610d731cb4cfcbbcec9e2dcb83fc94> (zoom in on Cambridge MN and click on circle to view data). At the time EPA’s data also demonstrate that a third of nearby residents were low-income, a fifth were over the age 64, and also that in 2019 the plant produced 659MWh of energy. *Id.*

capacity is 190 MWe.¹² Other forms in GRE's application, and confirmation letters by MPCA contained in the same packet, also indicate that this is a 190MW facility.¹³ This 2021 submission to MPCA was the contemporary application GRE submitted for the **same project** the Commission is reviewing in this very docket. But between the MPCA and the Commission GRE consistently misplaces 20MW of capacity.

B. GRE has never had a legal right to operate a facility larger than 170 megawatts at Cambridge

Far from being one-off mistakes in the environmental review, the 170MW capacity limit was formally approved and adopted by the Commission in the permitting documents allowing for operation of GRE's current facility.

The 2005 Commission Order granting a CN "for construction of a 170-megawatt, gas-fired combustion turbine at the site of its existing Cambridge Peaking Plant in Cambridge Township, Isanti County, Minnesota." adopted ALJ findings, including the fact that the summer capacity of the plant would be 170MW.¹⁴ Because of the Commission's and ALJ's consistent findings, the Commission Order and ALJ report can only be read to find the need for a gas-fired facility with a maximum capacity of 170MW.

Having found need, the Commission went on to approve the facility's Permit. The 2005 Permit states unambiguously: "Great River Energy (GRE) is authorized by this permit to construct a new natural-gas fuel, simple-cycle electric generating facility capable of producing 170 megawatts (MW) on the site of the Cambridge Station Generating Plant in Isanti County, Minnesota, identified in this Permit and in compliance with the conditions specified in this Permit."¹⁵ It goes on to say that it permits a facility "capable of producing 170 megawatts (MW)" and that "The project will have a nominal summer generating capacity of 170 MW[.]"¹⁶

¹² Facility information - Cross-State Air Pollution rule (CSAPR) or Transport rule requirements, Form GI-09K of the MPCA, completed by GRE, included in "Application for a Major Permit Amendment[,] Great River Energy - Cambridge Station[,] Permit No. 05900014" application packet submission to MPCA, Nov. 15, 2021 (on file with author).

¹³ See *id.* (Form GI-05B); *id.* (Letter from Kristen Baker, PE, MPCA Air Quality Permits Section, to Adam Salzer, GRE, requiring a major permit modification, Oct. 15, 2021).

¹⁴ Findings of Fact, Conclusions, and Recommendation, *In the Matter of the Application of Great River Energy for a Certificate of Need for the Cambridge Peaking Plant*, OAH Docket No. 3-2500-16554-2, PUC Docket No. ET-2/CN-05-347, at 2 (FOF 2) (on file with author).

¹⁵ Site Permit for Construction of a Large Electric Power Generating Plant in Isanti County, Minnesota, Issued to Great River Energy, DOC Docket No. 05-92-PPS-GRE, Cambridge Station, PUC Docket No. ET2/TR 05-1315, at 1 (on file with author).

¹⁶ *Id.* at 2.

No such plant exists. The current CN and Site Permit for the Cambridge facility are for a facility smaller than the one GRE built and operates.

This inconsistency renders the existing permitting documents invalid. Minnesota Rules clearly state: “The nominal generating capability of [a Large Electric Generating Facility (LEGF)] is considered its size. **If the nominal generating capability of an LEGF varies by season, the higher of the two seasonal figures is considered its size.**”¹⁷ Yet GRE has consistently—and to this day in this docket—described a 190MW facility as a 170MW facility. As a result, to this day the Commission has only authorized the construction and operation of a plant that is 20MW smaller than the plant that GRE operates.

Because the original CN was invalid, the plant’s current Permit is also invalid. Minnesota Rules state: “Certificate of need decision. The PUC shall not make a final decision on a permit for a project that requires a Certificate of Need from the Public Utilities Commission until the applicant has obtained the necessary approval.”¹⁸ Without correctly identifying the nameplate capacity for the facility, GRE never obtained the necessary approval on need, and therefore under the applicable regulations the Commission never had authority to issue a Permit for this 190MW facility.

The fact that neither the EQB in 2005 nor EERA today acknowledged how large this facility will be demonstrates both that the facility’s existing Permit is based on false assumptions, and that the current analysis is inadequate to support any permit for the proposed refueling of the facility with oil. Since the plant that GRE built is significantly larger than the plant that the permitting documents analyzed it is well within the Commission’s authority to reassess the need for this facility in a corrective CN proceeding.

2. Correcting the faulty CN will allow the Commission to properly address important issues such as the changed circumstances around alternative technologies and sites

Pairing a CN with a full environmental review will allow the Commission to adequately analyze alternatives that are barely addressed in the Draft EAW. It is evident in the 2005 environmental review (attached to this comment as an appendix) that the combination of a CN and environmental review resulted in a more robust consideration of alternatives, even though both environmental reviews were arguably at a similar EA/EAW level.

That 2005 analysis addressed alternatives including: demand-side management; alternative fuels; renewable energy (e.g. wind, hydropower, solar); emerging technologies; and alternative sites.¹⁹ Notably, that 2005 analysis devoted significantly more analysis to

¹⁷ Minn. R. 7849.0030, subp. 1(emphasis added).

¹⁸ Minn. R. 7850.2700, subp. 3.

¹⁹ Cambridge Environmental Assessment 2005, *supra* note 4, at 14–31.

clean energy and battery storage as an alternative than the Draft EAW prepared in 2023 — eighteen years ago batteries (and other forms of storage) were unavailable due to their expense.²⁰ The cost of meeting the applicant's need with battery storage or other forms of storage is a quickly changing and developing issue that bears significantly more study and analysis today than it did then. Yet, the Draft EAW contains no such analysis.²¹

Rather than meaningfully looking at such alternatives to the proposed refueling project, the current Draft EAW only says: "GRE noted a comparably sized energy storage system was also considered as an alternative and was deemed too costly."²² Failing to assess this alternative, which appears to be a less destructive alternative for public health and the environment, for economic reasons alone is a violation of both the Minnesota Environmental Rights Act (MERA) and the Minnesota Environmental Policy Act (MEPA).²³

The Commission's Order in this docket granting the EAW petition pursuant to Minnesota Administrative Rules Chapter 4410²⁴ implicitly required this Draft EAW to comply with

²⁰ *Id.* at 30.

²¹ The Draft EAW only discusses GRE's plans to install a demonstration battery at the Cambridge site in the cumulative impacts analysis, not as an alternative source of the peaking energy that GRE asserts it needs. *See* 2023 EAW, *supra* note 8, at 44–45.

²² *Id.* at 40.

²³ Minn. Stat. 116D.04, Subd. 6, ("No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit for natural resources management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state, so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction. **Economic considerations alone shall not justify such conduct.**" (emphasis added)); Minn. Stat. 116B.04(b) ("In any other action maintained under section 116B.03, whenever the plaintiff shall have made a prima facie showing that the conduct of the defendant has, or is likely to cause the pollution, impairment, or destruction of the air, water, land or other natural resources located within the state, the defendant may rebut the prima facie showing by the submission of evidence to the contrary. The defendant may also show, by way of an affirmative defense, that there is no feasible and prudent alternative and the conduct at issue is consistent with and reasonably required for promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction. **Economic considerations alone shall not constitute a defense hereunder.**" (emphasis added)).

²⁴ *See* Order Granting EAW Petition, *In the Matter of a Request for a Minor Alteration to Great River Energy's 170 MW, Natural Gas-Fired, Simple Cycle Combustion Turbine Generator at its*

MEPA's prohibition on ruling out alternatives for economic reasons. Also, the Commission is required to abide by this same requirement in this proceeding in accordance with MERA.²⁵ Thus, a failure to analyze and choose a less destructive alternative, apparently for the single reason that MEPA and MERA both explicitly prohibit, is a flagrant violation of Minnesota law. The Commission should decline to follow the Draft EAW's faulty analysis and thereby violate both of these legal requirements.

Ultimately the Commission, by ordering GRE to seek a CN, could remedy this obvious violation of both MEPA and MERA. That is because an EIS that is prepared with the additional data provided under the full CN process will be able to meaningfully address and analyze renewable energy and energy storage alternatives. Based on that corrected analysis and the need information associated with the CN, the Commission can choose a less harmful alternative if GRE's only justification for not choosing that options amounts to "economic considerations alone."

3. This cannot be approved as a "minor alteration" and the proposal must be subject to the full Permit process

Ever since the Commission approved the citizen petition in its August 1, 2022, Order²⁶ it has not been legally possible for a minor alteration to be approved. As that Order explained:

The standard for whether a requested modification qualifies as a minor alteration under Minn. R. 7850.4800 is whether the change in the large electric power generating plant results in significant changes in the human or environmental impact of the facility. If the proposed modification would result in significant changes in the human or environmental impacts of the

Cambridge 2 Peaking Plant Site near Cambridge, Isanti County, Minnesota, Docket No. ET-2/GS-22-122, Aug. 1, 2022, eDocket No. [20228-187993-01](#) [hereinafter "Order Granting EAW Petition"].

²⁵ See Minn. Stat. 116B.09, Subd. 2 ("In any such administrative, licensing, or other similar proceedings, the agency shall consider the alleged impairment, pollution, or destruction of the air, water, land, or other natural resources located within the state and no conduct shall be authorized or approved which does, or is likely to have such effect so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land, and other natural resources from pollution, impairment, or destruction. **Economic considerations alone shall not justify such conduct.**" (emphasis added))

²⁶ See Order Granting EAW Petition, *supra* note 24.

facility, then the matter is not eligible for a minor alteration and must undergo the full site permitting process under Minn. Stat. Ch. 216E.²⁷

Specifically, the applicable regulation defines the term “minor alteration” to only cover actions with a certainty of no impacts: “A minor alteration is a change in a large electric power generating plant or high voltage transmission line that **does not result** in significant changes in the human or environmental impact of the facility.”²⁸ This standard overlaps significantly with the legal standard for whether to grant a petition for an EAW, which is: “whether a project has the potential for significant environmental effects . . .”²⁹ In its August 2022 Order in this docket the Commission made numerous detailed findings that there were indeed potential significant environmental impacts.³⁰ The Draft EAW provides significantly more information showing that this proposal will not be immaterial to the surrounding environment.

Simply put, a project cannot have the potential for significant environmental impacts while also having no possibility of significant changes in the human or environmental impact. When there was a finding in this docket that there was such a potential for significant impacts, now fully backed up by analysis in a Draft EAW, it became incredibly improbable that the Commission could now find the opposite in order to grant a “minor alteration.” Since the Draft EAW discusses to some extent how construction, increased traffic, air pollution impacts, or potential oil spills can increase with this project’s approval, it is now no longer plausible that the Commission could find GRE can meet the strict no-impact standard for a “minor alteration.”

Additionally, the unique permitting situation of a gas-only facility being converted to burn oil also seems to suggest this may be an attempt to use the “minor alteration” process as an end-run around the applicable permitting process. The 2005 EA explained: “The proposed Cambridge Station project is eligible for the Alternative Review Process since power plants fueled by natural gas are eligible for the shorter process. Minnesota Statutes Section 116C.575.”³¹ This is only the case because the Legislature deemed gas-only facilities to be within the Alternative Review Process (now renumbered to Minn. Stat. § 216E.04). But the proposed facility will not be gas-only, it cannot be subject to the Alternative Review Process because it will burn fuel oil, and therefore it is not a “minor alteration” to a Permit that has only been vetted through Alternative Review. By omitting oil-burning facilities from the relevant statute the Legislature has already said that a full permitting process is required here.

²⁷ *Id.* at 3.

²⁸ Minn. R. 7850.4800, subp. 1 (emphasis added).

²⁹ Minn. R. 4410.1700, subp. 7 (listing factors to consider).

³⁰ Order Granting EAW Petition, *supra* note 24, at 5.

³¹ Cambridge Environmental Assessment 2005, *supra* note 4, at 10.

Additionally, as discussed at length above, the fact that the original CN and Permit were only for a 170MW plant, and the proposed facility has a nameplate capacity of 190MW, shows that a minor alteration is not appropriate or possible. That is an expansion in permitted capacity of nearly twelve percent over what the Commission approved in 2005. There is nothing minor about such a large change to the facility's approved capacity.

4. An EIS is required by Minnesota law, and is expected by both the Legislature and Minnesota residents who will be impacted by a new fossil fuel burning facility in their neighborhood

The Commission is required to follow MEPA, including the established mandatory categories for preparation of an EIS found in Minnesota Rules section 4410.4400. Those rules clearly require an EIS be prepared for construction of a large electric power generating plant.³² It is beyond question that GRE is proposing to engage in construction activities that would result in a large electric power generating plant that is capable of burning both diesel fuel oil and gas.³³ As such, MEPA and its implementing regulations require an EIS for this project and designate the Commission as the responsible government unit.³⁴

The EAW is entirely inadequate in that it doesn't give the Commission any information on how this proposed facility could comply with the recently-passed clean energy by 2040 law (commonly called the "100 percent" law). Currently the Commission has no information from the environmental review document that would help it to interpret how this proposal meets the clean energy requirement set by the Legislature. The Commission therefore cannot proceed with confidence based on this incomplete analysis. While this is an issue of EAW inadequacy, it is also something that can be fully remedied through an EIS.

³² Minn. R. 4410.4400, subp. 3, ("For construction of a large electric power generating plant, as defined in Minnesota Statutes, section 216E.01, subdivision 5, the PUC is the RGU. Environmental review must be conducted according to parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.").

³³ The word "construction" and descriptions of construction activities are found throughout GRE's original application for a "minor alteration." See Letter from Zac Ruzyski to Will Seuffert, *Application for a Minor Alteration to Great River Energy's 170 MW, Natural Gas- Fired, Simple Cycle Combustion Turbine Generator at its Cambridge 2 Peaking Plant Site near Cambridge, Isanti County, Minnesota*, Docket No. ET-2/GS-22-122, March 11, 2022, eDockets No. [20223-183729-01](https://www.puc.state.mn.us/etdocket/2022/183729-01).

³⁴ While there is also a citizen petition in this docket that supported the preparation of the Draft EAW, that petition serves as additional legal authority to commence an EIS but does not fully supplant the Chapter 4410 mandatory categories. Ignoring the command of a mandatory category in assessing the adequacy/analysis of a Draft EAW would be a misapplication of the MEPA regulations.

The Commission's oversight is particularly important due to a failure of other regulators to control pollution impacts. Federal regulators have failed to keep pace with regulating air pollution from both gas-fired and oil-fired electric generating units, and therefore the Commission's consideration of local air pollution and global climate impacts is an essential protection for the public. Even though EPA was required to amend and update air pollution standards for gas-burning power plants for nitrogen oxides (NO_x) and sulfur dioxide (SO₂) every eight years, it has not updated these standards since 2006,³⁵ meaning that a new unit installed at Cambridge would be held to standards no more stringent than were in effect when it was first permitted. EPA has recently agreed to settle a lawsuit over its delay by issuing any appropriate final standards by November 12, 2025,³⁶ but until then the standards remain entirely out of date, and currently GRE plans to have completed construction before the new standards would come into effect.³⁷

Similarly, and perhaps even more egregiously, in new rulemaking that will someday cover mercury and other air toxics emissions from coal and oil-fired facilities, EPA plans to not study or impose standards on new oil-fired facilities because it did not believe anyone would build such a facility in the future.³⁸ If EPA continues along this path, GRE's new oil-fired facility would escape any stronger emissions standards for mercury and other toxic emissions because the project is so improbable that federal regulators do not believe such a proposal could be furthered or approved. While the proposed facility would hopefully still be subject to air pollution standards for existing oil-fired facilities, it is notable that the main federal regulator of air pollution does not believe GRE would continue to offer up such out-of-date technologies.

Unfortunately for the Commission, EPA's failure of imagination does not automatically translate to a rejection of the application in this docket. EPA's weak standards for both gas-

³⁵ Sean Reilly, *EPA agrees to deal on gas-fired power plant regs*, E&E, June 12, 2023, <https://subscriber.politicopro.com/article/eenews/2023/06/12/epa-agrees-to-deal-on-gas-fired-power-plant-regs-00101510>.

³⁶ See EPA, Proposed Consent Decree, Clean Air Act Citizen Suit, 88 Fed. Reg. 38,507, 38,507-508, June 13, 2023, <https://www.federalregister.gov/documents/2023/06/13/2023-12626/proposed-consent-decree-clean-air-act-citizen-suit>.

³⁷ Kirsti Marohn, *Plan to convert Cambridge natural gas plant to burn diesel gets pushback*, MPR News, June 20, 2023 <https://www.mprnews.org/story/2023/06/20/plan-to-convert-cambridge-natural-gas-plant-to-burn-diesel-gets-pushback>.

³⁸ EPA, *National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review*, 88 Fed. Reg. 24,854, 24,858, Apr. 24, 2023, <https://www.federalregister.gov/d/2023-07383/p-135> ("The EPA is unaware of any new coal- or oil-fired EGUs in development and has not projected any new coal- or oil-fired EGUs in EPA modeling to support various power sector-related rulemakings. For that reason, the EPA has not reviewed and is not proposing any revisions to the MATS new source emission standards.").

burning and oil-burning electric generating units create a regulatory gap that perpetuates an ongoing heightened public health risk from this proposal. Such risk must be analyzed in an EIS accompanying a CN, and ultimately rejected in favor of more reasonable alternatives.

5. Approving this project will blight GRE's future attempts to get federal funding for its clean energy projects

Now is the time for utilities to adopt clean energy solutions, and by doing the opposite GRE may fail to obtain historic funding that would defray significant costs otherwise borne by ratepayers.

As a part of the 2021 Infrastructure Investment and Jobs Act (also called the Bipartisan Infrastructure Law) passed at the federal level, the U.S. Department of Energy (DOE) has three billion dollars in grant money to give out to entities participating in the Battery Manufacturing and Recycling Grants Program.³⁹ This money can be granted to nonprofit entities, like GRE, or for-profit companies, like Minnesota's investor-owned utilities, among others.⁴⁰ While the grant funding period is yet to open, it is meant to support "demonstration projects" in battery manufacturing and recycling,⁴¹ which may include installation of large battery infrastructure in Minnesota.

Consistently, the U.S. Department of Agriculture (USDA) has recently also announced the availability of an additional eleven billion dollars in funding to support the development of rural clean energy infrastructure.⁴² Nearly ten billion of this is dedicated to electric cooperatives, while another billion dollars is available to cooperatives, investor-owned utilities, and other entities.⁴³ These grants are only available for clean energy projects, or for pollution-reducing technologies such as carbon capture, and would not in any way support the current proposal to refuel a power plant with a more carbon-intensive fuel.

The proposed refueling in this docket menaces GRE's ability to seek funding for its planned groundbreaking green infrastructure that could benefit greatly from federal funding. That is to say, as repeatedly promoted by GRE and covered in the Draft EAW, the company plans to build a "first-of-its-kind, multi-day" iron air battery at the same site as the

³⁹ See U.S. Department of Energy, Battery Manufacturing and Recycling Grants, Office of Manufacturing and Energy Supply Chains, <https://www.energy.gov/mesc/battery-manufacturing-and-recycling-grants> (last visited June 14, 2023).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Press Release, *Biden-Harris Administration Makes Historic, \$11 Billion Investment to Advance Clean Energy Across Rural America Through Investing in America Agenda*, USDA, May 16, 2023, <https://www.usda.gov/media/press-releases/2023/05/16/biden-harris-administration-makes-historic-11-billion-investment>.

⁴³ *Id.*

proposed oil-burning facility.⁴⁴ Building both projects in Cambridge is not only inconsistent messaging on GRE's clean energy priorities, it is potentially inconsistent with requirements of federal grants for clean energy infrastructure.⁴⁵ If it fails to obtain these imminently-available grants for energy storage and renewables, GRE will ultimately force ratepayers to shoulder cost that otherwise could be covered by federal grants.

Worse still, if GRE does become ineligible for such grants it may cease to explore groundbreaking projects such as its announced iron-air battery, further widening the gap between GRE's polluting resources and the other utilities in the state and region. GRE's commitment to polluting projects over clean energy is already harming its ability to install its much-anticipated large demonstration battery. Even though GRE first announced its intention to build this battery nearly two years ago – and has already delayed the expected completion date from late 2023 to late 2024 – in the years that have passed it has already been leapfrogged by Xcel Energy in obtaining private grant funds for a different iron-air battery demonstration project with the same battery manufacturer. After first announcing plans to build a similar but larger battery in February 2023,⁴⁶ in May 2023 Xcel announced it had obtained twenty million dollars in grant funding to build its 10MW iron air battery at its retiring Sherco coal plant.⁴⁷ The funding flowing to a for-profit investor-owned utility might have helped GRE to keep its delayed project on track,⁴⁸ but instead the money is

⁴⁴ Press Release, *Battery project includes Minnesota flair*, GRE, Sept. 15, 2021, <https://greatriverenergy.com/company-news/battery-project-includes-minnesota-flair/>; see also, e.g., Draft EAW at 6 (“The applicant is working with Form Energy to construct a long duration energy storage pilot project (energy storage project). The energy storage project will be within the facility fence line. Construction is anticipated to begin in 2024. The energy storage project is expected to be operational no earlier than fourth quarter 2024.”)

⁴⁵ The full grant conditions for DOE battery grants appear to still be in development but USDA programs will accept applications in the coming weeks for new clean energy infrastructure. USDA Rural Development, Powering Affordable Clean Energy PACE Program, <https://www.rd.usda.gov/programs-services/electric-programs/powering-affordable-clean-energy-pace-program> (June 30, 2023 grant period opens); USDA Rural Development, Empowering Rural America New ERA Program, <https://www.rd.usda.gov/programs-services/electric-programs/empowering-rural-america-new-era-program> (July 31, 2023 grant period opens).

⁴⁶ Kirsti Marohn, ‘Rusty’ batteries could hold key to Minnesota’s carbon-free power future, MPR News, Feb 10, 2023, <https://www.mprnews.org/story/2023/02/10/rusty-batteries-could-hold-key-to-carbonfree-power-future>.

⁴⁷ Kirsti Marohn, Xcel gets \$20 million for batteries to store solar, wind power, MPR News, May 1, 2023, <https://www.mprnews.org/story/2023/05/01/xcel-gets-20-million-for-batteries-to-store-solar-wind-power>.

⁴⁸ “The energy storage project is expected to be in operation at the end of 2023 in Cambridge, Minnesota.” Press Release, *Battery project includes Minnesota flair*, GRE, Sept.

going to one of the most profitable companies in the state⁴⁹ rather than the nonprofit. Considering this disturbing sign and its potential long-term impact on ratepayers and members reliant on GRE, the Commission must take action that encourages GRE to seek out and obtain supportive innovation funding. Such funding could be fully analyzed in a CN and EIS process for the Cambridge facility.

By contrast, any Commission decision to approve GRE's "minor alteration" without more analysis could have lasting impacts that would undercut the state's energy goals, and specifically hamper GRE's ability to obtain the bulk of the clean energy grants that are available to it under DOE and USDA programs. Failing to appreciate the risk has the potential to impact ratepayers by assuring that GRE is saddled with last-century's technology, which is increasingly more expensive in addition to being more polluting. Wind and solar have thus far generated more energy than coal this year,⁵⁰ and oil-burning capacity is not a rational investment in light of the market trends towards renewables identified by the U.S. Energy Information Administration (EIA).⁵¹ Allowing GRE to go back fifty years or more in energy policy to an antiquated fuel will lead to stranded assets harming regular Minnesotans.⁵²

15, 2021, <https://greatriverenergy.com/company-news/battery-project-includes-minnesota-flair/>.

⁴⁹ According to Pioneer Press reporting from 2019, Xcel was Minnesota's thirteenth largest company at the time, with revenues of 11.58 billion dollars. *Minnesota's Fortune 500 companies: These are the largest companies in the state*, Pioneer Press, <https://www.twincities.com/mn-fortune-500-companies/> (last visited June 14, 2023).

⁵⁰ Benjamin Storrow, *In a first, wind and solar generated more power than coal*, E&E, June 12, 2023, <https://subscriber.politicopro.com/article/eenews/2023/06/12/in-a-first-wind-and-solar-generated-more-power-than-coal-00101319>.

Renewable energy generation exceeded coal-fired power in 2020 and 2022, but only when hydropower was counted as a source of renewable energy, according to figures compiled by the U.S. Energy Information Administration.

This year has been different. Wind and solar sources generated a combined 252 terawatt-hours through the first five months of 2023, compared with coal output of 249 TWh, EIA data shows. Hydro generated an additional 117 TWh through May.

Id.

⁵¹ See generally, EIA, Increased U.S. renewable and natural gas generation likely to reduce summer coal demand, June 8, 2023, <https://www.eia.gov/todayinenergy/detail.php?id=56760> (predicting generation by renewable energy and gas, but not oil and to a lessening magnitude coal, will continue in summer 2023).

⁵² The Biden Administration's plan to decarbonize the entire economy, while light on detail, appears to suggest that EPA has been tasked with increased regulation of oil and

By either rejecting this application for a “minor alteration,” or at the very least ordering an EIS that fully addresses these foreseeable economic downsides of foregone grant funding for clean energy, the Commission can avoid a predictable blunder. Prematurely approving a proposal that will undercut the Minnesota energy system’s ability to benefit from the oncoming wave of clean energy funding and development would hamper Minnesota’s considerable efforts to obtain such funding and clean up the energy grid.

6. GRE’s statements about when and how much the plant is likely to run are demonstrably false and must be properly vetted through a full permitting process

GRE’s confidence in the small runtime of its proposed oil-burning system is not supported by reliable evidence in this docket. Anecdotal evidence suggests that if they build it, it will run.

On August 18, 2022, GRE invited stakeholders in this docket and its IRP to a meeting at its Cambridge facility, where company representatives presented on the company’s announced iron-air battery, and GRE’s overall decarbonization efforts. While that meeting was taking place, the facility was called up by the Midcontinent Independent System Operator (MISO) and ran for eight hours.⁵³ On that day, the reason given to PEER staff in attendance for MISO needing this facility to be ready to produce energy was that the previous day’s storm had changed predictable wind patterns and taken large amounts of turbines out of production. The same storm pattern dropped historic rains on the City of Cambridge, causing localized flooding and damage to the city library.⁵⁴ “City officials asked residents to stay off the streets in the immediate wake of the storm, as crews were dealing with downed power lines in addition to flooded streets.”⁵⁵

gas development, foreseeably making the inputs to this facility progressively more costly, or even unreliable, as time goes on. *See generally* WHITE HOUSE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, NATIONAL INNOVATION PATHWAYS OF THE UNITED STATES (April 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/04/US-National-Innovation-Pathway.pdf>; *e.g. id.* at 4 (“EPA is also developing rulemaking proposals to address some of our nation’s largest sources of both climate- and health-harming pollution, such as the transportation, oil and natural gas, and power sectors and advance low and zero emissions technologies.”).

⁵³ This was told to PEER staff on the day of the tour and later confirmed by GRE staff in an email on file with author.

⁵⁴ Andrew Krueger, *Slow-moving storms cause flash flooding in parts of Minnesota*, Aug. 18, 2022, <https://www.mprnews.org/story/2022/08/18/storms-cause-flash-flooding-in-parts-of-minnesota>.

⁵⁵ *Id.*

This, admittedly totally anecdotal, example shows that the plant does not operate only on the hottest or coldest days of the year. It operates whenever MISO calls up the facility, which can be far more frequent than GRE's has intimated thus far in its "minor alteration" application materials. Indeed, the plant ran for eight hours on a relatively cold August day⁵⁶ following a climate-change-induced storm that caused severe flooding and damage in the Cambridge community.

Capacity is clearly needed to support reliability, but capacity that makes the climate system more random will only create a negative feedback loop that harms and impoverishes Minnesota's residents. The people of Cambridge should not be asked to live in an increasingly degraded and fragile community simply because GRE would like a short and simple permitting process.

The proposal before the Commission doesn't account for the significant uncertainty about how much the plant will operate in the future because of climate impacts. A full analysis of these impacts, and the resulting increase in demand for the more-polluting facility, is required by Minnesota law.

Conclusion

For the reasons stated above the Commission should reject this application for a "minor alteration" and make clear to GRE that if it seeks to proceed with this Project it must apply for a new CN under the full permitting procedure. This will trigger the preparation of an EIS, consistent with Commission and EQB regulations. Only after GRE has obtained a new CN may it consider embarking on this plan to add a new diesel fuel oil burning facility to its fleet, and the Commission should deny the new CN to the extent that a new diesel fuel oil facility is inconsistent with environmental justice and Minnesota's climate goals. The CN and EIS can assess less-damaging alternatives consistent with the requirements of both MERA and MEPA.

/s/ Hudson Kingston

Hudson B. Kingston

Litigation and Policy Attorney

Public Employees for Environmental Responsibility

P.O. Box 712, Ely, MN 55731

Tel: (202) 265-7337

hkingston@peer.org | www.peer.org

⁵⁶ The high temperature in Saint Cloud (indicative of the norm regionally) was 70 degrees Fahrenheit, and the low was 64, on August 18, 2022. Weather Underground, Saint Cloud, MN, Weather History, August 18, 2022, <https://www.wunderground.com/history/daily/KSTC/date/2022-8-18>.