

Hamre, John G.

From: Johnson, Brian L.
Sent: Friday, March 19, 2021 8:10 AM
To: Hamre, John G.
Subject: FW: Kessler v Minnesota Power - Case No PU-20-194 - OAH File No. 20200211 - Minnesota Power preliminary response to subpoena duces tecum
Attachments: KESSLER WT Subpoena Duces Tecum to Minnesota Power for 3-25-21 @ 9 AM 3-8-21-c.pdf

From: Mahlberg, Patrick <PMahlberg@fredlaw.com>
Sent: Tuesday, March 9, 2021 12:17 PM
To: Dawson, Timothy J. <tjdawson@nd.gov>
Cc: Smith, Mollie <msmith@fredlaw.com>; Johnson, Brian L. <brljohnson@nd.gov>; lynnbughey@midconetwork.com
Subject: Kessler v Minnesota Power - Case No PU-20-194 - OAH File No. 20200211 - Minnesota Power preliminary response to subpoena duces tecum

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Dear Judge Dawson—

We write regarding Mr. Boughey’s proposed subpoena duces tecum to Minnesota Power (a copy is attached for reference), which seeks to compel Minnesota Power to produce the following documents:

1. Minn Power documents evidencing amount of cost for putting up Turbine 441
2. Minn Power documents evidencing amount of cost for putting up all project Turbines
3. Minn Power documents evidencing annual production from Turbine 441 (MG and re-sale valuation)
4. Minn Power documents evidencing annual production from all project Turbines (MG and re-sale valuation)
5. Minn Power documents evidencing cost of decommissioning single Turbine such as 441

Under the Prehearing Conference Summary and Notice of Third Prehearing Conference, it is indicated that an expedited response to such requests will be required. Although there has not yet been a request for an expedited response, Minnesota Power hereby objects to issuance of this subpoena. These documents are outside the scope of the hearing, not probative of the issues to be considered, unduly burdensome, would contain confidential information, and the request is disproportionate to the needs of this matter. Minnesota Power will present more fulsome objections if requested.

Sincerely,

Pat

Patrick D.J. Mahlberg
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000

64 PU-20-194 Filed 03/09/2021 Pages: 4
Response to Subpoena Duces Tecum to Minnesota Power - docket No. 55
Allete, Inc.
Patrick Mahlberg, Fredrikson&Byron, P.A.

Minneapolis, MN 55402-1425

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STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Keith and Deanna Kessler,)	Case Nos. PU-20-194
)	OAH File No. 20200211
Complainants/Petitioners,)	
)	
vs.)	SUBPOENA DUCES TECUM
)	TO MINNESOTA POWER
Minnesota Power, a division of ALLETE,)	
Inc.,)	
)	
Respondent.)	

TO: MINNESOTA POWER

¶1 YOU ARE HEREBY SUBPOENAED AND COMMANDED to appear at the PSC Hearing Room, 12th Floor, State Capitol, Bismarck, ND 58505, on **Thursday, March 25, 2021, at 9:00 a.m.** then and there to testify and bring with you the following documents:

1. Minn Power documents evidencing amount of cost for putting up Turbine 441
2. Minn Power documents evidencing amount of cost for putting up all project Turbines
3. Minn Power documents evidencing annual production from Turbine 441 (MG and re-sale valuation)
4. Minn Power documents evidencing annual production from all project Turbines (MG and re-sale valuation)
5. Minn Power documents evidencing cost of decommissioning single Turbine such as 441

¶2 You may object to this subpoena by sending or delivering a written objection, stating your valid reason, to Boughey Law Firm, P.O. Box 1202, Mandan, ND 58554-1202. Any objection must be received within 10 days after

you receive the subpoena. If the time specified in the subpoena for compliance is less than 10 days, any objection must be received at least 24 hours before the time specified for compliance.

¶3 If you make a timely objection, you do not need to comply with this subpoena unless the court orders otherwise. You will be notified if the party serving the subpoena seeks a court order compelling compliance with this subpoena. You will then have the opportunity to contest enforcement.

¶4 Failure to obey this subpoena, without making a timely objection and stating a valid reason, may be contempt of court.

¶5 Dated this ____ day of _____, 2021.

Timothy J. Dawson
ALJ assigned by the Public Service Commission