

**BEFORE THE STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**KEITH AND DEANNA KESSLER
V.
MINNESOTA POWER, A DIVISION OF ALLETE, INC.**

CASE NO. PU-20-194

**PRE-FILED TESTIMONY OF BARRY GARTNER
ON BEHALF OF MINNESOTA POWER**

March 8, 2021

1 **I. INTRODUCTION AND QUALIFICATIONS**

2

3 **Q. Please state your name, employer, and business address.**

4 A. My name is Barry Gartner. I am a Project Development Leader for Minnesota
5 Power, a division of ALLETE, Inc. ("Minnesota Power"). My business address is 30
6 West Superior Street, Duluth, MN 55802.

7

8 **Q. Briefly describe your work history and education.**

9 A. I have been with Minnesota Power since January 2013. In my role as Project
10 Development Leader, I develop, screen, and implement projects and strategies that
11 support Minnesota Power's short and long-term plans. This involves assessing
12 project opportunities, including monitoring new technology developments and
13 industry trends; providing analytical and technical services for potential energy
14 projects; and managing projects through the development process, including
15 negotiating key project contracts.

16

17 Before joining Minnesota Power, I was a systems engineering supervisor at Xcel
18 Energy's Prairie Island Nuclear Generating Plant. Prior to working at Xcel Energy, I
19 was in various engineering and project management roles at Northwest Airlines and
20 Boeing Commercial Aircraft Company.

21

22 I have a Bachelor of Science in Mechanical Engineering from North Dakota State
23 University in Fargo, ND and a M.B.A. from the University of Minnesota, Minneapolis,
24 MN. A copy of my resume is provided as proposed **MP Exhibit 2-1**.

25

26 **II. PURPOSE OF TESTIMONY**

27

28 **Q. What is the purpose of your Direct Testimony?**

29 A. The purpose of my testimony is to discuss my role with respect to the Bison 4 Wind
30 Project ("Project") as it relates to the issues identified in the North Dakota Public
31 Service Commission's ("PSC") Notice of Hearing, including:

- 32 • Developing the turbine layout presented during the Certificate of Site
33 Compatibility Application (“CSC Application”) process;
34 • Identifying occupied residences for the CSC Application process; and
35 • Attending/testifying at the public hearing on the CSC Application.
36

37 **Q. What proposed hearing exhibits are provided with your testimony?**

38 A. The following proposed hearing exhibits accompany my testimony:

- 39 • MP Exhibit 2-1: Gartner Resume
40 • MP Exhibit 2-2: Exhibit 4 Exclusion and Avoidance Areas (from the CSC
41 Application)
42 • MP Exhibit 2-3: Exhibit 2 Exclusion and Avoidance Areas (part of the
43 supplemental materials filed with the PSC on August 7, 2013 and provided as
44 Exhibit 2 at the public hearing on September 13, 2013)
45 • MP Exhibit 2-4: Portions of the 2011 Oliver County Plat Book & Directory
46 • MP Exhibit 2-5: September 13, 2013 PSC Public Hearing Sign In Sheet
47 • MP Exhibit 2-6: Transcript of September 13, 2013 PSC Public Hearing
48

49 **III. PROJECT ROLE**

50

51 **Q. Please describe your role with respect to the Project.**

52 A. When I started with Minnesota Power in 2013, I took over the role of manager for the
53 Project. As Project manager, I coordinated with external consultants and internal
54 Minnesota Power teams (e.g., real estate, environmental, and engineering) to
55 design, permit, and construct the Project. With respect to the CSC Application
56 process, I provided design, turbine, and layout-related information, including the
57 location of occupied residences. I also testified on behalf of Minnesota Power at the
58 September 13, 2013 public hearing held by the PSC on the CSC Application.
59

60 **IV. PROJECT LAYOUT DEVELOPMENT**

61

32 **Q. Were you involved in development of the Project layout filed with the**
63 **Commission on August 7, 2013 and included in public hearing Exhibit 2 in**
64 **Case No. PU-13-127?**

65 A. Yes.

66
67 **Q. What process did Minnesota Power use to develop the Project layout?**

68 A. Our initial step was to identify preliminary layouts for the various turbine models
69 under consideration that complied with applicable siting, engineering, and
70 constructability requirements based on desktop analysis and available site-specific
71 data. The next step was to conduct micro-siting to optimize the designs, confirm
72 avoidance of sensitive resources, and ensure constructability. As part of the micro-
73 siting process, a team of internal Minnesota Power personnel and external
74 consultants (including Westwood, EAPC, Merjent, and Ulteig) visited each proposed
75 turbine location to gather site-specific data. Additionally, wetland/waterbody and
76 cultural resource field surveys were conducted (by WEST and Merjent). The site-
77 specific data was then used to adjust the designs, as needed. Once the turbine
78 model was selected, sound and shadow flicker modeling was conducted (by EAPC)
79 to confirm compliance with the PSC's sound requirement and shadow flicker
80 recommendation.

81

82 **Q. Is Turbine 441 the turbine location closest to the structure in Section 15,**
83 **Township 141 North, Range 87 West, Oliver County, North Dakota ("Section 15**
84 **Structure")?**

85 A. Yes.

86

87 **Q. Did you visit the proposed site of Turbine 441 during micro-siting?**

88 A. Yes, the micro-siting team visited each of the 83 proposed turbine locations,
89 including the proposed location of Turbine 441, during our micro-siting visit.

90

91 **Q. When did the micro-siting site visit occur?**

92 A. The micro-siting site visit occurred over four days, May 14-17, 2013.

33

94 **V. IDENTIFICATION OF OCCUPIED RESIDENCES**

95

96 **Q. Did Minnesota Power identify occupied residences in the Project vicinity for**
97 **the CSC Application?**

98 A. Yes. Occupied residences were identified in Exhibit 4 Exclusion and Avoidance
99 Areas, which was an appendix to the CSC Application (attached hereto as **MP**
100 **Exhibit 2-2**). Additionally, occupied residences were included in the updated
101 Exclusion and Avoidance Areas map labeled as Exhibit 2 in the supplemental
102 materials filed with the PSC on August 7, 2013, which were also provided as public
103 hearing Exhibit 2 (attached hereto as **MP Exhibit 2-3**).

104

105 **Q. What are the differences between Exhibit 4 Exclusion and Avoidance Areas**
106 **provided with the CSC Application, and the updated Exhibit 2 Exclusion and**
107 **Avoidance Areas provided with the supplemental materials/hearing exhibit?**

108 A. The main differences between Exhibit 4 to the CSC Application and Exhibit 2
109 presented in the supplemental materials and at the public hearing are as follows:

- 110 • The Project boundary was reduced in Exhibit 2;
- 111 • Occupied residences that were no longer within the Project boundary were
112 removed from Exhibit 2;
- 113 • The locations of Project turbines, a meteorological tower, and access roads
114 were added to Exhibit 2; and
- 115 • Cultural sites, National Gap Analysis Program (“GAP”) Landcover Prairie, and
116 Areas of Prairie Farmland were removed from Exhibit 2.

117

118 **Q. Were you involved in identifying the occupied residences shown in MP**
119 **Exhibits 2-2 and 2-3?**

120 A. Yes.

121

22 **Q. How were occupied residences identified?**
123 A. We initially identified occupied residences based on information gathered for the
124 prior Bison Wind Projects 1-3, information provided in the 2011 Oliver County Plat
125 Book & Directory ("Plat Book"), and review of satellite imagery. Additionally, during
126 the micro-siting site visits, we looked at structures in the vicinity of the proposed
127 turbine locations to see if they were occupied.
128
129 **Q. Did you confirm that all occupied structures depicted in MP Exhibits 2-2 and 2-
130 3 were, in fact, occupied?**
131 A. No. If a structure was identified as occupied in the Plat Book or had been previously
132 identified as occupied in connection with development of the prior Bison Wind
133 Projects 1-3, we identified the structure as occupied. There were no conflicts
134 between the Project design and the occupied residences identified, so based on that
135 information, there wasn't a concern that would have led us to question further
136 whether each residence was, in fact, occupied. As a result, we knew that we were
37 likely being over-inclusive when we identified occupied structures.
38
139 **Q. Was the structure in Section 15, Township 141 North, Range 87 West, Oliver
140 County, North Dakota ("Section 15 Structure") identified as an occupied
141 residence?**
142 A. No.
143
144 **Q. Why did you determine the Section 15 Structure was not occupied?**
145 In my view, the Section 15 Structure was not occupied. The Section 15 Structure
146 was not shown as occupied in the Plat Book, relevant portions of which are attached
147 hereto as **MP Exhibit 2-4**. The Plat Book maps include the following information:
148 "Farmsteads with livable buildings are indicated with an asterisk (*) and the name of
149 the current resident is listed next to the asterisk." (See **MP Exhibit 2-4**, page 3.) A
150 resident name was not listed for the Section 15 Structure. I also reviewed satellite
151 imagery, which did not indicate the Section 15 Structure was occupied. Further,

52 nothing our team identified in the field led us to believe the Section 15 Structure was
153 occupied.

154

155 **Q. Were there instances on this Project where someone with Minnesota Power**
156 **asked you to confirm compliance with siting requirements because of**
157 **something they saw on site?**

158 A. Yes. As an example, Matt Freudenrich asked me to confirm that the occupied
159 residence setback distance was met for Turbine 463 after driving by that turbine
160 location and the Aasmundstad place, which I did confirm.

161

162 **Q. What setback requirements applied to the Project with respect to occupied**
163 **residences?**

164 A. Neither the PSC nor the County had a specified setback from occupied residences
165 at the time the Project was permitted. However, the PSC had a sound requirement
166 limiting sound levels to 50 dBA within 100 feet of an inhabited residence or
57 community building. Additionally, at the request of PSC Staff, Minnesota Power
168 voluntarily committed to a 1,400 foot setback from occupied residences. Minnesota
169 Power also designed the Project to comply with the PSC's recommended shadow
170 flicker limit of 30 hours per year at occupied residences.

171

172 **Q. When you identified occupied/inhabited residences, what definition did you**
173 **use?**

174 A. Neither occupied residence nor inhabited residence are defined in PSC statute or
175 rules, so there wasn't a specific definition to apply. As noted above, we carried-over
176 some "occupied residence" designations from prior projects, and we included
177 structures identified as inhabited per the Plat Book. As to other structures, we took a
178 common sense approach and tried to identify each residential structure where
179 someone was living (i.e., their home) as an "occupied residence."

180

181 **VI. PSC PUBLIC HEARING**

182

33 **Q. Prior to the public hearing, did Minnesota Power provide information to**
184 **participating landowners about the proposed Project layout?**

185 A. Yes. On August 9, 2013, Minnesota Power sent a letter to participating landowners,
186 which informed them of the public hearing on the CSC Application, stated that a map
187 of the Project layout was available on the PSC's website, and provided the website
188 address and case number. The letter also provided contact information for the
189 Project's right-of-way agents, Wade Isaacson and Scott Monroe. A copy of this
190 letter was included in the supplemental materials filed on August 7, 2013 and
191 provided as Exhibit 2 at the September 13, 2013 public hearing, and is provided as
192 **MP Exhibit 5-2** to the Direct Testimony of Todd Simmons.

193

194 **Q. You indicated above that you attended and testified at the public hearing**
195 **conducted by the PSC on the CSC Application, is that correct?**

196 A. Yes.

197

198 **Q. Attached as MP Exhibit 2-5 is the public hearing sign in sheet filed in Case No.**
199 **PU-13-127. To your knowledge, does the sign in sheet identify the Minnesota**
200 **Power employees who attended the hearing?**

201 A. Yes.

202

203 **Q. On September 13, 2013, did you speak with Keith or Deanna Kessler**
204 **("Kesslers") before, during, or after the public hearing?**

205 A. No.

206

207 **Q. Have you reviewed the transcript of the public hearing?**

208 A. Yes.

209

210 **Q. Based on your recollection of the public hearing and your review of the**
211 **transcript of the same, to your knowledge, did the Kesslers speak with any**
212 **Minnesota Power employees before, during, or after the public hearing?**

13 A. Mr. Kessler testified during the public hearing about concerns related to an
214 underground water line, weed and vegetation management along roads, and access
215 road placement. Matt Freudenrich, who was with Minnesota Power at the time,
216 responded on the record to the concern regarding the underground water line, noting
217 that Minnesota Power would work with the landowners to avoid impacts, and would
218 be responsible if any impact did occur. Other than that exchange, I am not aware of
219 the Kesslers speaking with any Minnesota Power employees on September 13,
220 2013. A copy of the public hearing transcript is provided as **MP Exhibit 2-6** to my
221 testimony.

222

223 **Q. Did either of the Kesslers testify at the September 13, 2013 public hearing**
224 **regarding a concern about the placement of any turbines, including Turbine**
225 **441?**

226 A. No.

227

28 **Q. Did either of the Kesslers testify at the September 13, 2013 public hearing**
229 **regarding the Section 15 Structure?**

230 A. No.

231

232 **Q. Prior to the PSC's issuance of an Order granting a Certificate of Site**
233 **Compatibility to the Project on September 25, 2013 ("Order"), were you aware**
234 **of any planned use by the Kesslers or their sons of the Section 15 Structure?**

235 A. No.

236

237 **Q. Had you known the Kesslers' son planned to live in the Section 15 Structure**
238 **prior to issuance of the PSC Order, would that have factored into the Project's**
239 **design?**

240 A. Yes. Minnesota Power tries to work with landowners to avoid conflicts on wind
241 projects, as they are long-term assets that depend on a partnership with the
242 landowners. To that end, even though the Section 15 Structure wasn't occupied or

43 inhabited in 2013, if I had known there were plans for someone to live in the
244 structure in the future, I would have factored that into the design.

245

246 **Q. When was the Project constructed and operational?**

247 A. Construction of the Project started in late September 2013, continued through 2014,
248 and the Project began commercial operations in January 2015.

249

250 **Q. When did you first learn the Kesslers had a concern regarding the placement
251 of Turbine 441 in relation to the Section 15 Structure?**

252 A. I first learned of a concern regarding the placement of Turbine 441 in relation to the
253 Section 15 Structure in 2017. In February 2017, I learned that Mr. Kessler had just
254 informed Minnesota Power his son was living at the Section 15 Structure near
255 Turbine 441 and had indicated a concern regarding noise.

256

257 **VII. CONCLUSION**

58

259 **Q. Does this conclude your Direct Testimony?**

260 A. Yes.

261