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FERC Denies Muni Complaint on Proposed RNG Interconnection Request: Troutman Pepper

On November 30, 2023, the Commission denied the Minnesota Municipal Power Agency's ("MMPA") complaint alleging that Northern Natural Gas Company ("Northern") violated the Natural Gas Act ("NGA") by refusing to execute an interconnection agreement for MMPA's planned renewable natural gas ("RNG") facility in Elk River, Minnesota ("Elk River Project"). The Commission denied MMPA's complaint without prejudice because the complaint was unripe since Northern has yet to act on MMPA's interconnection request.

In November 2021, MMPA submitted an interconnection request to Northern to interconnect its Elk River Project. After the request was submitted, Northern clarified that MMPA would first need to conduct an environmental review for the Elk River Project. MMPA stated in its complaint that even after MMPA submitted an updated interconnection request, provided an environmental assessment, and responded to several informational requests, Northern still refused to execute an interconnection agreement. Eventually, MMPA filed its complaint at FERC requesting that the Commission require Northern to provide MMPA with an executed interconnection agreement to introduce RNG from the Elk River Project into Northern's pipeline system. In its complaint, MMPA alleged that Northern: (1) violated the NGA and Commission precedent by requiring that the RNG satisfy biomethane or RNG specifications that are not included in Northern's FERC gas tariff; (2) applied the Commission's interconnection policy improperly and applied it in an unduly discriminatory manner; (3) violated the Commission's open access requirements by applying "biomethane standards" that resulted in a different standard of review for interconnections involving RNG; and (4) caused business and financial harm to MMPA by refusing to sign MMPA's interconnection request.

Among other arguments in response, Northern requested that the Commission deny the complaint as unripe. Northern claimed that it had neither denied nor unreasonably delayed an interconnection with MMPA since its review of the Elk River Project was still ongoing. Specifically, Northern stated that it was still conducting its due diligence to avoid potential contamination of its system by hazardous waste and threats to pipeline operations. Northern added that the Elk River Project had to follow the same interconnection application process as other projects, and that additional review was needed for the proposed Elk River Project because it sources gas from a landfill that was a former Superfund site, as opposed to agricultural feedstock.

The Commission denied MMPA's complaint without prejudice, holding that the complaint was unripe because Northern had not yet acted on MMPA's interconnection request. The Commission explained that the record showed that discussions were ongoing at the time of the complaint and that Northern had narrowed its information requests to MMPA to reach a resolution, but MMPA had not responded at the time of the complaint.

The order can be found here.

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