

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - MINNESOTA**

### **Matter of Minnesota Power's Petition for Approval of EnergyForward Resource Package**

**Supreme Court of Minnesota - April 21, 2021 - N.W.2d - 2021 WL 1556816**

Objectors sought review of Public Utilities Commission's (PUC) order, 2019 WL 356543, approving electric utility's affiliated-interest agreements governing construction and operation of natural gas power plant in neighboring state without environmental review, environmental assessment worksheet (EAW), or environmental impact statement (EIS) under Minnesota Environmental Policy Act (MEPA).

The Court of Appeals reversed and remanded. Utility petitioned for review, which was granted.

In a case of first impression, the Supreme Court held that:

- Statute addressing affiliated-interest agreements does not require environmental review, EAW, or EIS before PUC approval;
- PUC's approval of agreements was not a project causing environmental effects under MEPA; and
- A reasonably close causal relationship between environmental effect and alleged cause is required under MEPA.

Statute requiring Public Utilities Commission's (PUC) approval of affiliated-interest agreements between a public utility and an affiliated interest does not require environmental review, an environmental assessment worksheet (EAW), or an environmental impact statement (EIS) before PUC approval.

Public Utilities Commission's (PUC) approval of electric utility's affiliated-interest agreements governing construction and operation of natural gas power plant in neighboring state was not a project causing environmental effects, and thus Minnesota Environmental Policy Act (MEPA) did not apply and no MEPA review, environmental assessment worksheet (EAW), or environmental impact statement (EIS) was needed for PUC approval; PUC's approval of the agreements did not grant a permit, did not approve construction or operation of plant, and did not authorize utility to proceed forward in other state.

A "but for" causal relationship is insufficient to make agency responsible for particular environmental effect under Minnesota Environmental Policy Act (MEPA); the line that must be drawn requires a reasonably close causal relationship between environmental effect and the alleged cause.