

# Minnesota Public Utilities Commission

## Staff Briefing Papers

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Meeting Date: January 29, 2015 .....Agenda Item \*\*2

Company: ITC Midwest LLC

Docket No. ET-6675/CN-12-1053

In the Matter of the Application of ITC Midwest LLC for a Certificate of Need for the Minnesota – Iowa 345 kV Transmission Line Project in Jackson, Martin, and Faribault Counties, Minnesota

Issues: Should the Commission reconsider its November 25, 2014 Order Granting Certificate of Need with Conditions?

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### Relevant Documents

Order Granting Certificate of Need with Conditions.....November 25, 2014  
Petition for Reconsideration (No CapX 2020)..... December 15, 2014  
Department of Commerce Response to Petition..... December 26, 2014  
ITC Midwest Response to Petition ..... December 26, 2014

The attached materials are work papers of the Commission staff. They are intended for use by the Minnesota Public Utilities Commission and are based upon information already in the record unless noted otherwise.

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## **I. STATEMENT OF THE ISSUES**

Should the Commission reconsider its November 25, 2014 Order Granting Certificate of Need with Conditions?

## **II. STATUTES AND RULES**

Under Minn. Stat. § 216B.27 and Minn. R. 7829.3000, a party or a person aggrieved and directly affected by a Commission decision or order may file a petition for reconsideration within 20 days of the date the decision or order is issued. A petition for reconsideration must set forth the specific grounds relied upon or the errors claimed. Other parties to the proceeding may file answers to the petition within 10 days of filing the petition. The Commission has the authority to decide a petition for reconsideration with or without a hearing or oral argument. The Commission may reverse, change, modify, or suspend its original decision if it finds its decision unlawful or unreasonable.

## **III. PROCEDURAL HISTORY**

On November 25, 2014, the Commission issued an Order Granting Certificate of Need with Conditions as follows:<sup>1</sup>

- Utilities subject to the Commission's ratemaking authority shall recover through their transmission cost riders no more than \$284 million or an amount in excess of that to the extent justified to the satisfaction of the Commission.
- ITC Midwest shall work with the Department to develop a spreadsheet and make a compliance filing containing a spreadsheet ITC Midwest can use to calculate the cost of alternatives, including the Commission's CO<sub>2</sub> internal cost and externality values, in future certificate of need filings in a consistent manner.
- ITC Midwest shall use the Commission's externality values and cost of future CO<sub>2</sub> regulation value in future certificate of need proceedings.

## **IV. PETITION FOR RECONSIDERATION**

On December 15, 2014, No CapX 2020 filed a Motion requesting that the Commission reconsider its Order Granting Certificate of Need with Conditions for the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project.

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<sup>1</sup> The Commission met on October 23, 2014, to decide this matter. The motion passed 4-0 (Commission Meeting Minutes, eDocket ID [201412-105849-02](#)).

In its Motion, No CapX 2020 requested that the Commission reconsider its decision and amend its Order Granting Certificate of Need as follows:

- Remove Finding of Fact 1 that indicates ITC Midwest LLC is a Minnesota Public Service Corporation.
- Deny the Certificate of Need Application on the grounds that the proceeding did not consider the costs and benefits of the entire MISO 17 project MVP Portfolio.

No CapX 2020 argued that ITC Midwest is not a Public Service Corporation under Minn. Stat. Ch. 322B and; therefore, does not have the authority to exercise the power of eminent domain.

No CapX 2020 argued that, in its decision, the Commission failed to consider the costs associated with all of the MIOS 17 project MVP Portfolio. No CapX 2020 contended that the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project (MVP Project 3) is one part of the larger portfolio of MVP projects, and that Minnesota will have a much higher cost than just this portion of the 17 MVP Projects. No CapX 2020 maintained that that all the 17 MVP Projects need to be built in order to achieve the full benefit package claimed by ITC Midwest.

## **V. DEPARTMENT OF COMMERCE RESPONSE TO PETITION**

On December 26, 2014, the Department of Commerce Division of Energy Resources (Department) filed a response to the Petition for Reconsideration. In its response, the Department identified several citations in the record of the proceeding that addressed the issues raised by No CapX 2020 in its Petition. The Department maintained that No CapX 2020 did not raise issues not already contained in the Commission's record; and, therefore, recommended the Commission reject the Motion for Reconsideration.

## **VI. ITC MIDWEST RESPONSE TO PETITION**

On December 26, 2014, ITC Midwest filed a response to the Petition for Reconsideration. In its response, ITC Midwest recommended that the Commission reject the Petition for the following reasons:

- The Petition did not identify any reconsideration criterion under which it seeks reconsideration.

- The Petition did not raise new issues, present any new facts, or identify errors or ambiguities in the Commission's Order. Rather, the Petition repeated the same arguments concerning ITC Midwest's status as a public service corporation and the Project/MVP Portfolio total costs and cost allocation, as contained in the record.

## **VII. STAFF DISCUSSION**

Based on its review, staff agrees with the Department. The Commission's decisions in this matter are consistent with the facts, the law, and the public interest. The Petition for Reconsideration did not raise new issues, did not point to new and relevant evidence, and did not disclose mistakes or uncertainties in the Commission's November 25, 2014 Order Granting Certificate of Need with Conditions. ITC Midwest's status as a public service corporation and the Project/MVP Portfolio total costs and benefits were fully evaluated and considered in this proceeding by the Administrative Law Judge, and by the Commission.

The Commission must decide whether the arguments and information presented in the Petition provide sufficient cause for the Commission to reconsider its original decision. If the Commission does not believe the Petition provides sufficient cause it should deny reconsideration. Alternatively, if the Commission decides there is sufficient cause to reconsider, it can hear additional argument from the Petitioner and other stakeholders at the meeting, order that additional information be provided through written submissions, or refer the matter back to the Administrative Law Judge with direction on how to proceed. Ultimately, the Commission may reverse, change, modify, or suspend its original decision if it finds its decision unlawful or unreasonable.

## **COMMISSION DECISION ALTERNATIVES**

1. Grant reconsideration or rehearing of the November 25, 2014 Order Granting Certificate of Need with Conditions, as petitioned.
2. Deny reconsideration or rehearing of the November 25, 2014 Order Granting Certificate of Need with Conditions, as petitioned.
3. Take some other action deemed appropriate.

**Staff Recommendation:** 2.