

**STATE OF MINNESOTA
IN COURT OF APPEALS**

**PETITION FOR WRIT
OF CERTIORARI**

**NORTH AMERICAN
WATER OFFICE, INSTITUTE FOR
LOCAL SELF RELIANCE**

Petitioners

vs.

**MINNESOTA PUBLIC UTILITIES
COMMISSION**

Respondent

**COURT OF APPEALS
NUMBER:**

**PUC DOCKET NUMBER:
ET-2, E-002, et al./CN-06-1115**

DECIDED: June 4, 2007

**ORDER DENYING MOTION
TO RECONSIDER ISSUED:
August 2, 2007.**

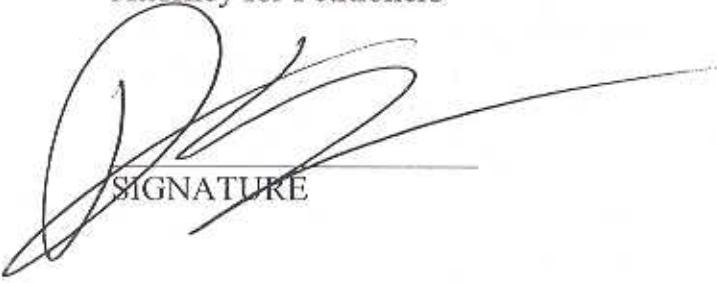
TO: The Court of Appeals of the State of Minnesota

The above-named petitioners hereby petition the Court of Appeals for a Writ of Certiorari to review a decision of the Minnesota Public Utilities Commission issued on the date noted above, upon the grounds that the order issued was in excess of the statutory authority granted to the Commission, obtained through error of law, unsupported by substantial evidence in view of the entire record as submitted, arbitrary and capricious. Minn. Stat. § 14.69. Review by writ of certiorari is authorized by Minn.

Stat. § 14.63. Review of an administrative decision pursuant to Chapter 14 is a matter of right. Minn. Stat. § 606.06.

DATED: August 13, 2007

Thomas Church
2550 University Avenue West
Suite 160 S
Saint Paul, MN 55114
651-254-2135
Attorney Number 0387261
Attorney for Petitioners



SIGNATURE

STATE OF MINNESOTA
IN COURT OF APPEALS

NORTH AMERICAN
WATER OFFICE, INSTITUTE
FOR LOCAL SELF RELIANCE

STATEMENT OF THE CASE OF
PETITIONERS

Petitioner

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vs.

MINNESOTA PUBLIC UTILITIES
COMMISSION

APPELLATE COURT CASE
NUMBER:

Respondent

1. Court or agency of case origination and name of presiding judge or hearing officer.

The matter before the Court arises from the August 2, 2007 decision of the Minnesota Public Utilities Commission, LeRoy Koppendraye Chairman, not to reconsider the Commission's June 4, 2007 ORDER DESIGNATING APPLICANTS AND SETTING FILING REQUIREMENTS.

2. Jurisdictional statement: Writ of Certiorari

Authority to Petition the Court of Appeals for Writ of Certiorari in the matter derives from Minn. Stat. §14.63, granting persons aggrieved by a final decision of a state agency the right to file a petition for judicial review within

thirty (30) days after the party receives the final decision and order of the agency. Petitioner timely requested that the Minnesota Public Utilities Commission (MNPUC) reconsider its June 4 decision on June 22, 2007. Petitioner's request for reconsideration was heard on July 26, 2007 and the MNPUC issued its written order denying the request for reconsideration on August 2. Timely request for reconsideration prior to filing a petition for a writ of certiorari is required by Minn. Stat. § 216B.27 subd.2. In the Matter of a Complaint against Northern States Power Company by Fusion Coatings, Inc., 447 N.W.2d 614 (Minn. App. 1989) (review denied)(writ discharged for failure to request reconsideration by MNPUC of its decision). A writ of certiorari for review of an administrative decision pursuant to Chapter 14 is a matter of right. Minn. Stat. § 606.06.

(D) Finality of order or judgment.

Does the judgment or order to be reviewed dispose of all claims by and against all parties, including attorney fees? Yes (X) No ()

3. State type of litigation and designate any statutes at issue.

This is a Petition for a Writ of Certiorari for review of an action by the Minnesota Public Utilities Commission regarding a request for certain Certificate of Need Application filing exemptions and designation of applicants by Xcel Energy. Statues at issue include: Minn. Stat. Chp. 14, Minn. Stat. Chp. 216A, Minn. Stat. Chp. 216B, Minn. Stat. Chp. 116D, Minn. Stat. Chp. 116B.

4. Brief description of claims, defenses, issues litigated and result below.

Petitioner North American Water Office (NAWO) intervened as a party in proceedings before the MNPUC wherein Northern States Power Company, a Minnesota Corporation and wholly-owned subsidiary of Xcel Energy, Inc. (Xcel) requested certain exemptions and modifications of the filing requirements set forth in Minnesota Rules Chp. 7849 which were promulgated to fulfill certain requirements contained in Minn. Stat. Chp. 216B. In the proceedings before the MNPUC, Xcel claimed that certain filing requirements pertaining to their anticipated Certificate of Need Application were burdensome, would not affect the determination of need for the proposed projects, and that alternative information would better serve the determination of need. Petitioner NAWO responded that the omitted information was vital to the accurate determination of need for the project in light of the statutory duty of the MNPUC to regulate public utilities in the public interest and to satisfy statutory obligations under Minn Stat. 14, Minn. Stat. 216A, Minn. Stat. 216B, Minn. Stat. 116D, Minn. Stat. 116B.

5. List specific issues proposed to be raised on appeal.

A. Petitioners NAWO and the Institute for Local Self Reliance (ILSR) will assert that the MNPUC violated its statutory obligations imposed by Minn. Stat. Chapter 14 and Minn. Stat. § 216B.243 to obtain the necessary information from Xcel to be able to evaluate their Certificate of Need Application for construction of new transmission lines.

B. Petitioners will also assert that determination of need for the proposed transmission lines is properly situated within the Integrated Resource Planning process. Minn. Stat. § 216B.2422, subd. 6.

C. NAWO and ILSR will also contend that the MNPUC has violated the statutory duty imposed across the state government by the Minnesota Environmental Policy Act to act in the public interest and to study, develop, and describe appropriate alternatives in the use of resources. Minn. Stat. § 116D.02. In addition, NAWO and ILSR will assert that the ORDER of the MNPUC is inconsistent with the stated purpose of the Minnesota Environmental Rights Act. Minn. Stat. § 116B.01.

6. Related appeals.

To the best of Petitioners' knowledge, there are no other prior or pending appeals arising from the same action or any separate action raising similar issues.

7. Contents of record.

Is a transcript necessary to review the issues on appeal? Yes (X) No ()

If yes, full (X) or partial () transcript?

Has the transcript already been delivered to the parties and filed with the trial court administrator? Yes () No (X)

If not, has it been ordered from the court reporter? Yes () No (X)

8. Is oral argument requested? Yes (X) No ()


If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2? Yes () No (X)

9. Identify the type of brief to be filed.

Formal brief under Rule 128.02. (X)

10. Names, addresses, zip codes and telephone numbers of attorney for petitioner and respondent.

Thomas Church
2550 University Avenue West
Suite 160 S
Saint Paul, MN 55114
651-254-2135
Attorney Number 0387261
Attorney for Petitioner


SIGNATURE

Dated: August 13, 2007

STATE OF MINNESOTA
IN COURT OF APPEALS

OFFICE OF
APPELLATE COURTS

AUG 13 2007

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WRIT OF CERTIORARI

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DECIDED: June 4, 2007

TO: Minnesota Public Utilities Commission

You are hereby ordered to return to the Court of Appeals within 10 days after the date relators' brief is due the record, exhibits, and proceedings in the above-entitled so that this court may review the decision of the Minnesota Public Utilities Commission issued on the date noted above.

Copies of this writ and accompanying petition shall be served forthwith either personally or by mail upon the respondent Minnesota Public Utilities Commission and upon the respondent or its attorney at:

Dr. Burl Haar
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

Office of the MN Attorney General
c/o Julia Anderson
1400 NCL Tower
445 Minnesota Street
St. Paul, MN 55101

Proof of service shall be filed with the clerk of the appellate courts.

DATED: August 13, 2007

Clerk of Appellate Courts

By: Melissa Meyer-Honey Assistant Clerk