

BEFORE THE STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Application of Great River Energy, Northern States Power Company (d/b/a Xcel Energy) and others for Certificates of Need for the CapX 345-KV Transmission Projects

Surrebuttal Testimony of

On Behalf of Fresh Energy

July 3, 2008

I. Introduction

1 **Q. Please state your name and business address.**

2 A. My name is Christopher T. Ellison. My business address is Ellison, Schneider &
3 Harris L.L.P., 2015 H Street, Sacramento, CA 95811-3109.

4 **Q. Are you the same Christopher T. Ellison who submitted direct testimony in**
5 **this proceeding?**

6 A. Yes.

7 **Q. Who are you representing in this proceeding?**

8 A. I am representing Fresh Energy , Izaak Walton League of America – Midwest
9 Office (“IWLA”), Minnesota Center for Environmental Advocacy (“MCEA”),
10 and Wind on the Wires (“WOW”) (collectively the “Joint Intervenors”), the same
11 Joint Intervenors I represented in my direct testimony.

12 **Q. What is the purpose of your surrebuttal testimony?**

13 A. My surrebuttal testimony addresses selected conclusions and recommendations in
14 the direct and rebuttal testimony of the following intervenors and applicants:

15 **Applicants:**

16 Xcel Energy witness, James R. Alders.

17 **Intervenors:**

18 Minnesota Office of Energy Security (OES), witness Dr. Steve Rakow.

19

20 **Xcel Energy witness James R. Alders**

21 **Q. Mr. Ellison, did you review the rebuttal testimony of Xcel Energy (“Xcel”)**
22 **witness James R. Alders?**

1 A. Yes. I reviewed Mr. Alders' testimony in its entirety, and specifically focused on
2 his opinion that it would be inappropriate to impose conditions on the applicants'
3 Certificate of Need ("CON").

4 **Q. What reasons did Mr. Alders provide to support his opinion?**

5 A. Mr. Alders believes that the proposed conditions should not be imposed for the
6 following reasons: (1) differences between the facts and circumstances of the
7 instant proceeding and the prior CON proceeding for 825 megawatts ("MW") of
8 wind energy outlet capacity from Southwestern Minnesota (Docket No. E-
9 002/CN-01-1958) (the "825 Proceeding") in which the Commission imposed
10 conditions similar to the proposed conditions; (2) changes in the Midwest
11 Independent System Operator ("MISO") transmission service tariff procedures,
12 and the availability of wind-energy generation; (3) his opinion that the conditions
13 would "lock up" all new transmission capacity for only wind-energy generation in
14 a manner inconsistent with his views of appropriate public policy; and (4) concern
15 that the conditions might reduce optionality or distort the market for future wind-
16 energy generation development. (Alders Rebuttal Testimony, p. 6.)

17 **Q. How does Mr. Alders seek to avoid the precedent of the prior 825 Proceeding**
18 **in which the Commission adopted conditions substantially the same as those**
19 **proposed in your testimony?**

20 A. Mr. Alders acknowledges that the Commission imposed substantially similar
21 conditions to those recommended in my testimony in the 825 Proceeding. In
22 response, however, he argues that in the prior proceeding only one category of
23 need was present. (*Id.* at 8.) Specifically, in the 825 Proceeding, the Commission

1 found that the conditions imposed were necessary to provide additional generator
2 outlet capacity for wind energy generation. Mr. Alders seeks to distinguish that
3 case by asserting that in this proceeding the applicants have put forward three
4 types of alleged need for the proposed facilities: “(i) community service reliability
5 in a number of communities throughout the State; (ii) system-wide growth in
6 order to accommodate increased consumer demand of several thousand
7 megawatts by 2020; and (iii) to support development of new generation to meet
8 that increased consumer demand.” (*Id.* at 9.)

9 **Q. On what basis does Mr. Alders conclude that the imposition of the proposed**
10 **conditions would interfere with the needs he identifies in his rebuttal**
11 **testimony?**

12 A. Mr. Alders is concerned that the proposed conditions will prevent nonrenewable
13 generators from accessing the proposed transmission capacity, causing the need
14 for additional and “potentially redundant” transmission lines to deploy
15 nonrenewable generation. (*Id.* at 12, 13.) Though Mr. Alders definitively
16 answers “Yes” to the question of whether the proposed conditions will “impede
17 meeting all of the categories of need identified in the application”, he fails to
18 address how the proposed conditions cannot meet the needs he has identified.
19 (*Id.*)

20 **Q. Do you agree with Mr. Alders’ conclusions?**

21 A. No. First of all, it is the Commission’s responsibility to determine the need for a
22 proposed project, not the applicants’. Second, even if the Commission were to
23 determine that all three needs identified by Mr. Alders were present in the instant

1 proceeding, the proposed conditions are not inconsistent with such needs.
2 Renewable generation facilities like wind generators can provide community
3 service reliability, accommodate system-wide growth, and support new
4 generation.

5 **Q. Can you explain how the proposed conditions are consistent with the needs**
6 **identified by Mr. Alders?**

7 A. Nothing in the proposed conditions prevents the applicants from operating the
8 proposed facilities to their full capacity. When so operated, the electricity
9 delivered by the lines will serve all the purposes identified by the applicants. Of
10 course, the proposed conditions will result in the capacity of the lines being
11 subscribed by wind generation facilities and such facilities are more variable in
12 their generation profile than some so-called dispatchable facilities. However,
13 whenever the wind energy is unavailable, then by definition there will be non-
14 firm capacity on the lines available to other resources. The applicants can use this
15 capacity to firm their system and meet all the needs they have identified even
16 when the wind energy is temporarily unable to fully subscribe the lines. As a
17 result, construction of “redundant” transmission lines will be unnecessary, as
18 there will not be a need for additional lines. Furthermore, Mr. Alders does not
19 offer any substantial evidence that use of the lines under the proposed conditions
20 will not meet any or all of the three needs asserted by the applicants.

21 **Q. Are there any additional points made by Mr. Alders in his rebuttal testimony**
22 **to which you would like to respond?**

1 A. Yes. Mr. Alders argues that the “conditions require judgments on generation and
2 fuel policy to be made in a transmission proceeding” and that “it is inappropriate
3 to prejudge all other types of generation resource development in this
4 transmission proceeding.” (*Id.* at 10.) There are several reasons that I disagree
5 with this opinion. First, as discussed above, the Commission implicitly rejected
6 this argument when it imposed generation conditions in the prior 825 Proceeding.
7
8 Second, these conditions do not require the Commission to “prejudge” generation
9 facilities nor to engage in generation resource planning in this proceeding. The
10 proposed conditions merely reflect the requirements of existing state law
11 regarding the use of particular fuel and generation types to satisfy RES goals.
12 The Commission need not “allocate” generation in this proceeding as the
13 legislature has already made the generation allocation determination by adopting
14 the RES.
15
16 Third, it is simply incorrect to suggest that transmission and generation policies
17 can be dealt with entirely separately. The fact is that generation and transmission
18 are inextricably related. Generation is useless without transmission to load and
19 transmission is useless without sufficient generation to operate it. Transmission is
20 particularly critical to the development of new wind generation simply because
21 wind generation must be located in wind rich areas which are typically removed
22 from load. Indeed, it is widely recognized that the lack of sufficient transmission
23 capacity is one of the largest obstacles threatening the achievement of public

1 policies, such as the RES statute, seeking to increase the percentage of renewable
2 generation.

3 Indeed, Mr. Alders himself states:

4 Our approach is to try to get out ahead of the development of the need for
5 future generation ***by expanding the system and building additional***
6 ***transmission outlet capacity.*** We believe this approach is necessary to
7 stay ahead of customer requirements, the overall system needs, ***as well as***
8 ***the RES requirements. We are trying to avoid the frustrating old***
9 ***dynamic of generation being delayed by the lack of transmission***
10 ***infrastructure necessary to support it.*** (*Id.* at 26-27, emphasis added.)
11

12 He also states that “a shortage of transmission outlet capacity can hinder or at
13 least delay generation projects.” (*Id.* at 27.)
14

15 Significantly, the RES statute itself provides an explicit “off-ramp” for RES
16 timing and compliance based on lack of transmission. Specifically, according to
17 the RES:

18 Modification or delay of standard. (a) The commission shall modify or
19 delay the implementation of a standard obligation, in whole or in part, if
20 the commission determines it is in the public interest to do so. The
21 commission, when requested to modify or delay implementation of a
22 standard, must consider:

23 ...
24 (6) ***transmission constraints preventing delivery of service***; and
25 (7) other statutory obligations imposed on the commission or a utility.
26

27 The commission may modify or delay implementation of a standard
28 obligation under clauses ... (4) to (6) only if it finds that the circumstances
29 described in those clauses were due to circumstances beyond an electric
30 utility’s control and make compliance not feasible. (Minn. Stat. §
31 216B.1691, Subd. 2b, emphasis added.)
32

33 Therefore, RES requirements may be delayed or modified based on a lack of
34 transmission capacity. Currently, the applicants and the Commission have the
35 opportunity to adopt conditions to ensure that the proposed transmission project is

1 utilized for renewable generation to help meet the RES. Adopting the proposed
2 conditions is a critical element in ensuring that transmission constraints will not
3 be cited as a basis for modifying or delaying compliance with the RES.

4
5 Accordingly, adoption of the proposed conditions is an entirely reasonable
6 method of assuring that the proposed facilities further comply with state law.
7 Ensuring such compliance with state law should be a key mission of the
8 Commission in this proceeding as it was in the prior 825 Proceeding.

9 **Q. In his testimony, Mr. Alders cites the existing MISO Tariff and queue**
10 **processes as barriers to your proposed conditions. Is his concern valid?**

11 A. No. In his testimony, Mr. Alders argues that the proposed conditions will be
12 ineffective because new additions to the queue will be “behind and subordinate to
13 all of the other projects already in the queue” and “rights to interconnect would be
14 secondary to the rights of those projects” already in the queue based on the “first
15 queued, first served” policy of the MISO Tariff. (*Id.* at 15, 18.) Mr. Alders
16 apparently assumes that the conditions require contracts with “new additions” not
17 already in the queue. However, the proposed conditions do not limit contracts to
18 new renewable projects that are not in the queue. Accordingly, compliance with
19 the proposed conditions can be achieved by contracting with renewable projects
20 that are already in the queue. By contracting with such projects, the proposed
21 conditions work with, rather than against, the existing MISO process.

22 **Q. Are there other reasons that the MISO process will not act as a barrier to**
23 **your proposed conditions?**

1 A. Yes. Even with respect to new entrants in the MISO queue, there are several
2 reasons why higher queued projects may not present a barrier to the ability of new
3 entrants to the queue to use the specific transmission facilities proposed here.
4 First, Mr. Alders seemingly ignores that many of the higher queued projects may
5 be located in areas that will not be served by the proposed transmission facilities
6 at issue here. MISO governs, after all, a very large geographic area and projects
7 in the MISO queue are proposed for a wide variety of locations. Mr. Alders'
8 testimony regarding "the MISO queue" is conspicuously devoid of any reference
9 to the queue for the specific capacity the proposed lines would create. (*Id.* at 14.)
10 Accordingly, such projects with high queue positions that need other transmission
11 capacity could have no impact on the use of these lines. Mr. Alders' assertion
12 that the proposed conditions conflict with the MISO queue process because
13 projects with a higher queue position will interconnect before projects with lower
14 queue positions is incorrect.

15 **Q. Are there additional reasons that the number of projects in the MISO queue**
16 **will not be a barrier to compliance with the proposed conditions?**

17 A. Yes. Even where there are higher queued projects seeking the specific capacity at
18 issue here, there is no guarantee that these projects will succeed and take such
19 capacity. Indeed, one of the principal reasons for the proposed conditions is to
20 provide contract opportunities AND transmission for projects already in the
21 queue. Without such contract opportunities, many projects with high queue
22 positions will have to drop out of the queue. Moreover, there may be some

1 projects in the current queue that are redundant or “phantom” projects. In fact,
2 Mr. Alders himself expresses this concern later in his rebuttal testimony:

3 “Unfortunately, there has also been somewhat of a problem of generators
4 making multiple interconnection requests in an effort to maximize their
5 position...And the project is free to ‘suspend’ its project for up to three
6 years.” (*Id.* at 19-20.)

7 **Q. Do you have any other responses to Mr. Alders’ position on the MISO**
8 **queue?**

9 A. Yes. The proposed conditions do not “seek to override or contradict the MISO
10 interconnection queuing process.” (*Id.* at 15.) Instead, the proposed conditions
11 work with the MISO process. The proposed conditions do not require the
12 applicants to allocate capacity for renewable generation, but simply to contract for
13 such capacity and follow MISO procedures to enable the contracted capacity to be
14 interconnected.

15 **Q. Does the MISO queue reform proposal affect your responses above?**

16 A. Yes, although it does not alter my position that the proposed conditions should be
17 adopted. The MISO queue reform proposal filed June 26, 2008 at the Federal
18 Energy Regulatory Commission (“FERC”) is another reason that I believe Mr.
19 Alders’ queue concerns are unwarranted. Mr. Alders’ rebuttal repeatedly
20 emphasizes the “first queued, first served” nature of the current MISO queue
21 process. Yet MISO’s reform proposal would abandon that approach in favor of a
22 milestone based approach where projects proceed after meeting certain
23 requirements or milestones. Accordingly, the proposed MISO reforms result in

1 more control by the developer in the project's ultimate movement through the
2 MISO queue and subsequent ability to access needed transmission.

3
4 According to the June 26, 2008 MISO News Release, attached hereto as
5 Attachment A, proposed changes to the queue process represent "a major shift
6 from current regulations, which require that projects are processed on a first-
7 come, first-served basis." (News Release, p. 1). One major proposed change is
8 the addition of a "fast-lane" for generation projects that have already made
9 significant progress through the development process." (*Id.*) Additionally:

10 The proposal also includes a sliding project deposit scale to collect funds
11 upfront that are closer to actual study costs that will be incurred for any
12 given project. It also adds new, more rigorous progress milestones that are
13 intended to demonstrate increasing levels of commitment and readiness on
14 the part of projects in the queue. Finally, it will allow projects to be
15 suspended only under extreme conditions, thus reducing uncertainty for
16 generation projects that enter the queue after the project is be suspended.
17 (*Id.*)

18 According to the MISO Vice President of Transmission Asset Management, Clair
19 Moeller, the queue reform proposal is necessary:

20 [W]e want to bring on more renewable energy, such as wind farms, that
21 can benefit from alternative planning methods and upgrades to
22 infrastructure. There are 23,000 MWs in wind requests in the Buffalo
23 Ridge, Minnesota area alone. With current renewable mandates in our

1 region requiring approximately 20,000 MWs of energy and the potential
2 for mandates of up to 40,000 MWs, we need to get some projects moving.

3 (*Id.*)

4 The proposed conditions will help wind projects achieve milestones under the
5 reformed MISO queue process and move ahead of other queued projects that have
6 not achieved as much progress. Therefore, while the MISO queue reform
7 proposal may create uncertainty around implementation of the new queue process
8 (assuming it is approved by FERC), the proposed conditions will help ensure that
9 renewable projects will become commercially operational by providing
10 transmission capacity for such projects.

11 **Q. Do you have anything else to add regarding Mr. Alders' testimony describing**
12 **the MISO process?**

13 A. Yes. Mr. Alders asserts that the proposed conditions are unnecessary as
14 “[i]nterest in developing wind-energy projects is strong and is increasing due to
15 the State’s RES and renewable energy initiatives,” and that as a result, “[i]t is
16 highly likely that cost-effective wind-energy projects will be able to take
17 advantage of the capacity created by the proposed transmission lines.” (*Id.* at 21.)
18 I agree that the wind market is robust, but maintain my position that the proposed
19 conditions are needed to achieve the RES goals. The fact that a large number of
20 renewable projects have been proposed does not assure that such projects will be
21 successful. Key elements required for a successful project include both an
22 executed contract and transmission access. My proposed conditions help ensure

1 that proposed renewable projects will have the critical transmission access needed
2 to achieve the goals of the RES statute.

3
4 Additionally, Mr. Alders' statement that the proposed conditions are not required
5 because it is highly likely that wind facilities will be able to take advantage of the
6 new capacity proposed here merely confirms that the conditions do not impose an
7 undue burden. If, as Mr. Alders rather vaguely implies, the lines will serve
8 substantial wind capacity, then compliance with the conditions should not be
9 onerous. That Mr. Alders resists the conditions so strenuously suggests that he
10 believes they will, in fact, make a material difference in the amount of capacity
11 made available to wind generation, notwithstanding his assertion that the
12 conditions are unnecessary. In my opinion, complying with the proposed
13 conditions will materially help achieve the RES.

14 **Q. Mr. Alders asserts that the fourth proposed condition is inconsistent with the**
15 **MISO process. Do you agree?**

16 A. No. In his rebuttal testimony, Mr. Alders states that the fourth condition's
17 requirement that the applicants make transmission service requests ("TSR") is
18 inconsistent with "[c]hanges in MISO's processes." (*Id.* at 15-17.) However, Mr.
19 Alders mischaracterizes the fourth proposed condition. According to my direct
20 testimony:

21 Under the MISO tariff, the Applicants have the option of seeking to serve
22 Network Load or Native Load...[T]he Applicants should be given an

1 opportunity to address the appropriate service in the context of the
2 compliance filing. (Ellison Direct Testimony, p. 9.)

3 Therefore, the applicants have the option to choose between serving Network
4 Load and Native Load and can choose the appropriate option to best satisfy the
5 MISO process.

6
7 Additionally, Mr. Alders asserts that a TSR is “not required” because “the
8 [Transmission and Energy Markets Tariff] requires that the requestor attest that
9 they have an executed power purchase agreement or it is a self-owned project.”
10 (Alders Rebuttal Testimony, p. 17.) However, as the proposed conditions require
11 that a PPA be executed, Mr. Alders’ argument is not relevant.

12 **Q. Mr. Alders testifies that there is no basis for a concern that new coal facilities**
13 **will use the proposed transmission absent the proposed conditions. Do you**
14 **agree?**

15 A. No. It is true that Minnesota law¹ now prevents the additional construction of
16 coal fired power plants, but the Big Stone II coal project was exempted from the
17 moratorium and could potentially use capacity on the proposed transmission
18 project. Mr. Alders alleges that the Big Stone II project will rely on its own
19 transmission. (*Id.* at 29.) However, separate transmission has not yet been
20 approved for the Big Stone II project and may not be approved. Additionally, the
21 Big Stone II project has a high queue position and may ultimately seek to
22 interconnect to the transmission projects proposed here. If that occurs, then these

¹ Minn. Stat. § 216H.03, subd. 3.

1 transmission facilities will be used in a manner that is inconsistent with the goals
2 of the RES statute.

3 **Q. Mr. Alders claims that the proposed conditions will accelerate the RES**
4 **milestones and are therefore inconsistent with that law. What is your**
5 **response?**

6 A. Mr. Alders raises a concern that the proposed conditions will accelerate “RES
7 milestones” and cause early achievement of the RES goals. (*Id.* at 23, 24.) His
8 concern is unfounded as the proposed conditions will help achieve, but do not
9 accelerate, the RES requirements. While the proposed conditions require the
10 utilities to enter into a “commitment” with renewable facilities two years prior to
11 the on-line date for the new facilities, such commitment does not mean that the
12 energy deliveries or the payments are accelerated. The commitment could be
13 structured so that energy deliveries would occur in future years, consistent with
14 RES schedules. The proposed conditions simply require that a commitment be
15 made at an early stage to help ensure time for interconnection of the facilities
16 within the MISO process in time for compliance with the RES schedule.

17
18 In so doing, the conditions simply reflect the practical reality already imposed by
19 the RES statute for reasonable planning to ensure compliance. In order to satisfy
20 the RES, commitments and transmission capacity must, as a practical matter, be
21 obtained prior to the RES deadlines. From a practical standpoint, in order to
22 satisfy the RES and its schedule, a utility must commence the process of making

1 the necessary renewable commitments and obtaining transmission before the RES
2 deadlines.

3 **Q. Mr. Alders suggests that the proposed conditions place an inequitable**
4 **burden on Minnesota utilities relative to others. Do you agree?**

5 A. No. Mr. Alders argues that due to the limits of the Commission's jurisdiction, the
6 burden of the proposed conditions will fall disproportionately on the applicants
7 relative to other utilities. (*Id.* at 26.) Mr. Alders' argument is not a valid reason
8 for opposing the proposed conditions. First of all, Mr. Alders' argument would
9 apply to virtually *any* conditions the Commission might impose on virtually *any*
10 network transmission application. The argument therefore implies that the
11 Commission should "rubber-stamp" the application without any conditions.

12
13 Secondly, this Commission's statutory responsibility is to protect the ratepayers
14 and citizens of Minnesota. Even where an application for transmission facilities
15 includes out-of-state entities, it is appropriate for the Commission to impose
16 conditions on a line proposed for Minnesota where such conditions are in the
17 public interest.

18
19 Finally, if Xcel is genuinely concerned over the potential disproportionate effects
20 of any conditions imposed by the Commission, Xcel and the other applicants
21 could contractually agree to share the burden of any imposed conditions in any
22 manner they deem equitable. Accordingly, Mr. Alders' argument is not a valid
23 reason to avoid the imposition of the proposed conditions.

1 **Q. Mr. Alders describes several of the foregoing issues as “public policy”**
2 **reasons for denial of the proposed conditions. Do you have any thoughts on**
3 **how “public policy” or the “public interest” should be ascertained?**

4 Yes. While Mr. Alders is certainly entitled to his position, his views should not
5 outweigh those of the Legislature and existing law. In determining public policy,
6 the Commission should give the greatest weight to the views of the public’s
7 elected representatives as reflected in adopted statutes like the RES. Conditions,
8 such as those I propose, that further the goals of statutory public policy are in the
9 public interest.

10 **Q. How would the proposed conditions affect small wind projects?**

11 A. In his testimony, Mr. Alders expresses concern that the proposed conditions will
12 disadvantage small wind projects by limiting the opportunities for utilities to
13 contract with such projects. (*Id.* at 23, 28, 33.) Mr. Alders’ concern is
14 unfounded. Nothing in the proposed conditions restricts or limits utilities from
15 contracting with small or community based wind projects. As the proposed
16 conditions allow commitments with both larger renewable projects and small and
17 community based wind projects, Mr. Alders’ concern is groundless and small
18 wind will not be adversely affected by imposition of the conditions on the
19 applicants.

20 **Q. Will the proposed conditions affect the ability of other states to procure wind**
21 **energy?**

22 A. Contrary to Mr. Alders’ concern in his rebuttal testimony that the proposed
23 conditions may affect the ability of other states to procure wind energy, nothing in

1 the conditions prohibits a utility from reselling renewable energy to another state
2 or utility. (*See* Alders Rebuttal Testimony, p. 33.) The proposed conditions
3 merely require the applicants to enter into commitments ensuring that the lines
4 will be used for delivery of energy from renewable resources. The intent of the
5 conditions would be achieved were the applicants to arrange commitments for use
6 of the lines to deliver such energy to out-of-state utilities should they elect to do
7 so, provided the commitments were sufficiently binding and consistent with the
8 RES statute. I would have no objection to the Commission making that clear in
9 its decision. (Of course, to the extent that the Minnesota utilities need to purchase
10 such energy to comply with the RES statute, then presumably they will do so
11 rather than arrange for delivery of such energy to out-of-state entities.)

12 **Q. Mr. Alders expressed various concerns that the proposed conditions will**
13 **impose additional risks upon utilities. What is your response?**

14 A. In his rebuttal testimony, Mr. Alders expresses concern that the early contracting
15 requirements of the proposed conditions will expose utilities to additional risks.
16 (*Id.* at 30, 31.) This is not the case. In fact, it is quite common for utilities to
17 execute power purchase agreements (“PPAs”) with generators two years (or
18 more) before the proposed online date for that generator. Contracting in advance
19 allows time for facility licensing, financing and construction. In my experience, it
20 is quite common within the industry for PPA’s with new generation facilities to
21 be executed two or more years prior to energy delivery.

1 Furthermore, Mr. Alders is concerned that early contracting could impose price
2 risks for renewable generation such as wind facilities. (*Id.* at 30.) However, Mr.
3 Alders' concern regarding price increases for wind or other renewable technology
4 is commensurate or less than the risks associated with other technologies. Indeed,
5 while Mr. Alders is correct that wind turbines and construction materials have
6 seen some cost increases recently, the potentially much larger risk of fuel price
7 increases is totally absent with wind generation. One need only pull into the
8 nearest gasoline station to appreciate the volatility of fossil fuels in today's
9 markets. Yet utilities seem able to deal with the risk of fuel price increases from
10 natural gas and coal facilities rather routinely.

11 **Q. Does Mr. Alders believe the proposed conditions will expose utilities to other**
12 **risks?**

13 A. Yes. Mr. Alders expresses additional concern that based on the impending
14 expiration of the production tax credit ("PTC") for wind generation development;
15 the proposed conditions will expose utilities to additional risks in contracting with
16 wind developers. Mr. Alders states that "PTCs are currently set to expire on
17 December 31, 2008 and will not be available for projects constructed in 2009 and
18 beyond." (*Id.* at 32.) He continues that the "net effect of this is that contracting
19 for a project two years into the future will require utilities to address the 'PTC
20 risk' – which is the economic value of PTCs to the project." (*Id.*) Although the
21 expiration of the PTC is a risk, it is not a new or unmanageable one. More
22 importantly, it is not a risk imposed by the proposed conditions—it is a risk
23 imposed by compliance with the RES. As a practical matter, Minnesota utilities

1 must contract with substantial amounts of wind resources to achieve compliance
2 with the RES statute. Moreover, as noted above, to ensure that sufficient projects
3 to meet the RES requirements are interconnected, financed, permitted and built
4 within the RES schedule, utilities will need to make commitments to such
5 facilities well in advance of the RES schedule dates. Such commitments will
6 necessarily have to address the issue of extension of the PTC, regardless of the
7 conditions I propose. Simply put, the risks identified by Mr. Alders are risks
8 inherent in compliance with the RES statute that were presumably considered by
9 the Legislature in enacting that law. They are not new risks imposed by the
10 conditions proposed in my testimony.

11
12 Furthermore, this is not the first time that we have been threatened with
13 expiration of the PTC. The PTC has been set to expire on previous occasions and
14 has routinely been extended. It is likely that the PTC will be extended again. Mr.
15 Alders himself states that he “expect[s] PTCs to be renewed.” (*Id.*)

16 **Q. Are there other risks according to Mr. Alders?**

17 A. Yes. In his rebuttal testimony Mr. Alders suggests that the proposed conditions
18 will disrupt market forces. (*See Alders Rebuttal Testimony p. 33.*) However, to
19 the extent that the “market” is altered by the proposed conditions, the Legislature
20 presumably considered that effect when adopting the RES. The proposed
21 conditions are simply implementing that law and should not be considered an
22 additional risk to utilities.

1 Alternatively, Mr. Alders suggests that there are already so many wind projects in
2 the MISO queue without the proposed conditions that the transmission project
3 will be largely used by wind facilities, and, therefore, there is no need for the
4 proposed conditions. According to his rebuttal testimony, Mr. Alders
5 acknowledges that “[s]o much wind-energy generation is already in the queue”
6 that “[i]t is highly likely that cost-effective wind-energy projects will be able to
7 take advantage of the capacity created by the proposed transmission lines.” (*Id.* at
8 20-21.) If Mr. Alders’ argument is correct, then the proposed conditions will not
9 alter the projects utilizing the transmission line and the conditions cannot be
10 considered a major market disruption. Accordingly, the proposed conditions
11 should be adopted.

12 **Q. Does Mr. Alders object to the proposed conditions on other grounds?**

13 A. Yes. According to Mr. Alders’ rebuttal testimony, the proposed conditions will
14 compel the applicants to alter their strategies for complying with the RES. Mr.
15 Alders states:

16 Mr. Ellison’s conditions, if adopted, would likely require modification of
17 both of those strategies [to develop small, community-based wind projects
18 and other wind projects]. I expect other utilities would also modify their
19 wind procurement strategies in order to accommodate these conditions.

20 (*Id.* at 25.)

21 I have already discussed why the proposed conditions do not constrain the
22 development of small, community-based facilities. As to requiring modification
23 of the utility strategies, I note first that there is nothing sacrosanct about utility

1 strategies that have never been submitted to or approved by the Commission.
2 Moreover, Mr. Alders is rather vague regarding the nature and extent of such
3 modifications. I am unaware of any evidence on record in this case specifically
4 describing these strategies or that they will, in fact, achieve compliance with the
5 RES. Furthermore, I am unaware of any showing by the applicants that a change
6 in strategy is per se detrimental to their position or contrary to the public interest.
7 Accordingly, the fact that the proposed conditions may alter utility strategies to
8 comply with the RES should not be used as an argument to oppose the conditions.

9 **Q. Is Mr. Alders' concern that imposition of conditions in this proceeding will**
10 **discourage future transmission proposals valid?**

11 A. No. Mr. Alders contends that the proposed conditions will discourage the
12 applicants from initiating proactive transmission proposals for fear that the
13 Commission will burden such proposals with conditions. He provides:

14 By locking up the transmission capacity for a single purpose, utilities will
15 be forced to analyze whether that particular purpose in isolation justifies
16 proceeding with a project. It could also cause utilities to examine future
17 projects and assess whether they should proceed now or be deferred until
18 future circumstances better match the required conditions. (*Id.* at 27.)

19 Before responding to this concern, I must emphasize that the Joint Intervenors
20 fully support proactive transmission planning and applaud the applicants for the
21 instant proposal in that regard. However, the argument that adopting the
22 proposed conditions in the instant case will discourage similar proactive
23 transmission proposals in the future is not persuasive. Once again, it is an

1 argument that applies not only to the proposed conditions, but to any conditions
2 the Commission may impose. Carried to its logical extension, Mr. Alders argues
3 that the Commission should merely “rubber-stamp” transmission applications lest
4 it discourage them in the future. As discussed above, the Commission has
5 imposed virtually identical conditions in the 825 Proceeding. These conditions
6 have not discouraged this application. Nor has Mr. Alders offered any examples
7 of specific transmission proposals that have been abandoned due to concern that
8 the Commission might condition them. As discussed above, the proposed
9 conditions do not impose an undue burden on the applicants, but merely seek to
10 implement existing law.

11 **Q. Were there other issues in Mr. Alders’ rebuttal testimony that you wish to**
12 **address?**

13 A. Yes. Throughout his testimony, Mr. Alders takes a number of inconsistent and
14 conflicting positions. For example, Mr. Alders argues that the goal of the
15 proposed conditions, achievement of the RES, will occur regardless of whether
16 the proposed conditions are adopted or not. Mr. Alders states:

17 [S]ignificant additional wind energy generation sources will be developed
18 in Minnesota and surrounding states over the coming 12-17 years in order
19 to comply with the State’s RES. While the range is broad (3,148-7,000
20 MW), all witnesses agree on the need for thousands of MW of additional
21 wind generation.

22 Further, Minnesota utilities are obligated by law to comply with the
23 State’s RES. The proposed conditions do not alter that legal obligation.

1 This means that somewhere in the 3,000-7,000 MW range of renewable
2 generation must be installed by 2025 whether or not the conditions are
3 imposed in this case. (*Id.* at pp. 11-12.)

4 However, Mr. Alders also takes the position that the proposed conditions will
5 distort the market. According to Mr. Alders, adoption of the proposed conditions
6 “distorts the market and creates a disincentive for regional utilities to maximize
7 wind generation in the region.” (*Id.* at 33.) He cannot have it both ways. If
8 achievement of the RES will already occur by contracting with thousands of
9 megawatts of wind projects, then by requiring the use of these transmission
10 facilities to serve that generation the Commission will not be distorting the
11 market.

12 Mr. Alders is similarly inconsistent on other issues. On one hand, Mr. Alders
13 argues that the existing “first queued, first served” MISO process is incompatible
14 with the proposed conditions. He states:

15 I do not think the conditions will work and...[t]o the extent that Mr.
16 Ellison’s conditions seek to override or contradict the MISO
17 interconnection queuing process, they would not be effective as MISO is
18 required by FERC to implement the [MISO Transmission and Energy
19 Markets Tariff] TEMT according to its terms without regard to the
20 conditions. (*Id.* at 15.)

21 On the other hand, Mr. Alders argues that the proposed conditions should not be
22 adopted because the MISO queue process is being reformed and “has developed
23 and evolved since the 825 MW Wind Outlet Proceeding.” (*Id.* at 14.) While both

1 arguments lack merit, as described in my testimony above, they cannot both
2 apply. As before, Mr. Alders cannot have it both ways.

3

4 **Minnesota Office of Energy Security witness Dr. Steve Rakow**

5 **Q. Mr. Ellison, did you review the rebuttal testimony of Minnesota Office of**
6 **Energy Security witness Dr. Steve Rakow?**

7 A. Yes. I reviewed Dr. Rakow's testimony in its entirety, and specifically focused
8 on his opinion that it would be inappropriate to adopt the proposed conditions.

9 **Q. What is your opinion regarding Dr. Rakow's rebuttal testimony?**

10 A. Dr. Rakow believes that the proposed conditions are inconsistent with the
11 applicants' purported need for the transmission project. According to Dr. Rakow,
12 the transmission project is needed for three reasons: (1) Community Service
13 Reliability, (2) System-Wide Growth, and (3) Generation Outlet. (Rakow
14 Rebuttal Testimony, p. 7.) As described in greater detail above in response to Mr.
15 Alders' rebuttal testimony, Dr. Rakow's position is incorrect for a variety of
16 reasons. First, it is the Commission's responsibility to determine the need for a
17 proposed project, not the applicants'. Secondly, the proposed conditions will not
18 prohibit or hinder the transmission lines from meeting all three of the identified
19 "needs."

20 **Q. Does Dr. Rakow have other concerns with the proposed conditions?**

21 A. Yes. According to Dr. Rakow, the proposed conditions cannot be implemented in
22 a timely manner based on the MISO queue process and the large number of
23 proposed projects in the queue. Dr. Rakow states:

1 [E]ven if the conditions were ordered by the Commission today, it is
2 already too late for Mr. Ellison's conditions to serve the intended
3 purpose...[as] any activity ordered by the Commission would have a place
4 in the MISO Queue behind many other requests to use the proposed
5 transmission lines. (*Id.* at 7.)

6 As described above, the proposed conditions do not limit contracts to new
7 renewable projects that are not in the queue. Accordingly, compliance with the
8 proposed conditions can be achieved by contracting with renewable projects that
9 are already in the queue. Furthermore, Dr. Rakow's logic is flawed based on the
10 fact that higher queued projects do not necessarily achieve interconnection before
11 lower queued projects. Projects with high queue positions can drop out altogether
12 or achieve later interconnection than lower queued projects based on factors such
13 as project location, permitting problems, financing problems and lack of PPAs.

14 **Q. Are there other issues you wish to address?**

15 A. Yes. Dr. Rakow claims that the proposed conditions will disproportionately
16 affect Xcel and Great River Energy ("GRE"), asserting that "the target of the
17 conditions is in error." (*Id.* at 8.) As discussed above, this is not a valid reason to
18 oppose the proposed conditions. This is the identical argument made by Mr.
19 Alders and my response above remains the same.

20 **Q. What else does Dr. Rakow assert in his rebuttal testimony?**

21 A. Dr. Rakow argues that a transmission permitting proceeding is the improper
22 forum to determine the issue of compliance with the RES. According to Dr.
23 Rakow:

1 [A]n attempt to use transmission permitting to determine the issue of
2 compliance with Minnesota Statutes §216B.1691 subd. 2b is
3 inappropriate. The proper forum for determining whether any of the
4 provisions for delaying implementation have been met is each individual
5 utility's integrated resource plan (IRP). (*Id.*)

6 While it is true that compliance determinations need not be evaluated in a
7 transmission proceeding, Dr. Rakow's argument that the Commission should
8 "assume [utility] compliance" with the RES based on the current status of a
9 utility's compliance with the RES is questionable at best. (*Id.*) Clearly, major
10 efforts and steps will need to be undertaken before the RES targets will be met.
11 Dr. Rakow asserts that a determination of what is necessary to meet the RES
12 should be evaluated in a utility's IRP proceeding and not in the current
13 proceeding. Although utility IRP proceedings are an appropriate forum to
14 evaluate RES planning goals, current regulatory compliance is not an indication
15 of future compliance with the RES, and the Commission has every right to impose
16 conditions to facilitate meeting RES goals in other proceedings. Such is
17 particularly the case given the importance of transmission to achievement of the
18 RES goals as I discuss in response to Mr. Alders above. Accordingly, the
19 proposed conditions are appropriate and will assist the utilities in satisfying RES
20 requirements.

21 **Q. Dr. Rakow asserts that the proposed transmission lines require non-**
22 **renewable resources to ensure cost effective and reliable service. What is**
23 **your response?**

Surrebuttal Testimony of Christopher T. Ellison

1 A. According to Dr. Rakow:

2 [A] reliable electric system depends upon both renewable and non-
3 renewable generators unless one wishes to ignore issues of cost or
4 reliability in the immediate timeframe. (*Id.* at 9.)

5 As described in my testimony above, renewable generation facilities like wind
6 generators can provide community service reliability, accommodate system-wide
7 growth, and support new generation.

8 **Q. Does this conclude your surrebuttal testimony?**

9 A. Yes.

LIST OF ATTACHMENTS

- 1. ATTACHMENT A: News Release, MidwestISO Energizing the Heartland,
 “Midwest ISO Initiates Queue Reform Proposal**