

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

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 Cap X 345-kV Transmission Projects.

**ORDER DENYING MOTION FOR
LIMITED DISCOVERY AND
TO REOPEN HEARING**

On November 23, 2008, NoCapX 2020 filed a motion requesting that the record in this matter be reopened to allow limited discovery and limited hearing to address changes in the economy in recent months that may affect the need for the proposed CapX lines. On December 1, 2008, North American Water Office (NAWO) and Institute for Local Self-Reliance (ILSR) filed a memorandum in support of the motion. On December 5, 2008, the Applicants, Great River Energy and Northern States Power Company (d/b/a Xcel Energy), and the Department of Commerce, Office of Energy Security (OES), filed responses objecting to the motion.

In support of its motion, NoCapX asserts that significant new information regarding decreased energy use has been disclosed by Xcel Energy that could have an impact on the need for the transmission projects that are the subject of this proceeding. NoCapX bases this assertion on the report of a statement made by Dick Kelly, chief executive of Xcel, that home-energy use has dropped significantly from August through September of this year. Attached to the motion is an article, apparently reprinted from the November 21, 2008, Wall Street Journal online, quoting Mr. Kelly. Also attached is a proposed discovery request to the Applicants, asking for an update of applicants' monthly energy use through November or December 2008, revised forecasts updating evidence in the evidentiary hearing record, and additional information.

NAWO/ILSR further explains the relevance of Mr. Kelly's statement. It points out that the local load service and community reliability analysis in the record was based on the assumption that electrical demand would increase, on average, 1 to 2 percent per year. The same assumption affects projected system-wide growth and generation outlet capacity. NAWO/ILSR asserts that the current trend should be more fully explored in this proceeding. It acknowledges that the Applicants have argued that demand will increase over time, and that the CapX proposal is not tied to demand increase in the short run. However, it asserts that projections that extend too far into the future may lead to future expansion that is not well-suited to future need.

The Applicants and OES oppose the motion. The most compelling reason stated is that a short term drop in consumption will have little impact on the longer range forecasting of peak demand developed for this certificate of need proceeding. It is too soon to know whether there is a longer term trend that will affect peak demand, and a delay of a few months will not answer that question. OES states that it cannot be known for a year or longer whether the decrease in energy consumption is a short-term phenomenon or a longer-term reflection of a structural change in energy consumption behavior. Thus, reopening the record to analyze short-term consumption will not materially affect the longer-term projections. A certificate of need decision must be based on evidence at a certain point in time. At some point, the record must close and decisions must be made.

Also, NoCapX has not offered new forecasts. NoCapX is speculating that there might be a difference, and seeking the Applicants' assistance in developing new data to support a possible argument. That is not an appropriate basis to reopen the record.

If NoCapX has newly discovered evidence, that is, new forecasts that it has run based on substantiated new information that was not available at the time of the hearing, it may make an offer of proof, and the evidence will be added to the record and forwarded to the Public Utilities Commission to consider if it chooses to do so.

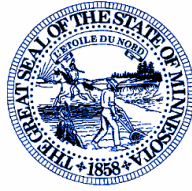
IT IS HEREBY ORDERED:

1. The Motion for Limited Discovery and to Reopen the Hearing is **DENIED**.

2. NoCapX may file an offer of proof if it has newly obtained evidence that calls into question the Applicants' peak demand forecasting. The offer of proof will be included in the record and forwarded to the Commission in the event that it chooses to review it.

Dated this 10th day of December, 2008.

s/Beverly Jones Heydinger
BEVERLY JONES HEYDINGER
Administrative Law Judge



MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

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December 10, 2008

To All Individuals on the Attached Service List

**Re: *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 Cap X 345-kV
Transmission Projects; PUC Docket No. CN-06-1115;
OAH Docket No. 15-2500-19350-2***

Dear Parties:

The document listed below has been filed with the E-Docket system and served as specified on the attached service list.

Order Denying Motion for Limited Discovery and to Reopen Hearing

Sincerely,

s/Beverly Jones Heydinger

BEVERLY JONES HEYDINGER
Administrative Law Judge

Telephone: (651) 361-7838

BJH:nh

**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 Cap X 345-kV Transmission Projects**

PUC Docket No. CN-06-1115

OAH Docket No. 15-2500-19350-2

OAH Service List as of May 5, 2008

All Parties have agreed to E-File documents at: www.edockets.state.mn.us.
Filing with edockets shall constitute service on the Public Utilities Commission,
the Department of Commerce and the Office of Administrative Hearings.

As of this date, all parties have agreed to accept service by e-mail at the e-mail
addresses listed. However, where indicated, parties have requested that the e-
mail be followed by mail or delivery of a hard copy.

In the event that a pleading or attachment cannot be filed and served
electronically, it must be filed and served on each of the parties at the addresses
listed.

Documents that contain trade secret or nonpublic data may be e-filed, but may
not be copied or served electronically.

Burl W. Haar (E-file or 15 copies) Minnesota Public Utilities Commission 350 Metro Square Building 121 Seventh Place East St. Paul, MN 55101-2147 Fax: 651-297-7073	Beverly Jones Heydinger (E-file or Original, plus e-mail and one hard copy, excluding IR Responses)* Office of Administrative Hearings 600 North Robert Street PO Box 64620 St. Paul, MN 55164-0620 Tele: 651-361-7838
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<p>Courtesy copy: David Aafedt and John Knapp Attorneys at Law Winthrop & Weinstine, PA 225 South Sixth Street, Suite 3500 Minneapolis, MN 55402-4629 Tele: 612-604-6400</p>	<p>Courtesy Copy (excluding IR's and IR responses): Robert Cupit (One hard copy)* David Jacobson, Bret Eknes, Mike Kaluzniak, and Tricia DeBleeckere Minn. Public Utilities Commission 350 Metro Square Building 121 Seventh Place East St. Paul, MN 55101-2147 Tele: 651-201-2255 Fax: 651-297-7073</p>

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Courtesy copy (e-mail only) Atina Diffley Organic FarmingWorks Consulting 25498 Highview Avenue Farmington, MN 55024	
*If there is a trade-secret version and a public version of the same document, only hard copies of the trade-secret version must be provided.	

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CERTIFICATE OF SERVICE

Case Title: <i>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 Cap X 345-kV Transmission Projects</i>	OAH Docket No. 15-2500-19350-2 PUC Docket No. CN-06-1115
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Nancy J. Hansen certifies that on the 10th day of December, 2008, she served a true and correct copy of the attached **Order Denying Motion for Limited Discovery and to Reopen Hearing** as specified on the attached service list.