

**BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

**David C. Boyd
J. Dennis O'Brien
Thomas Pugh
Phyllis A. Reha
Betsy Wergin**

**Chair
Commissioner
Commissioner
Commissioner
Commissioner**

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

MPUC: E002/CN-06-1115

NoCapX 2020 MOTION FOR RECUSAL OF COMMISSIONER PHYLLIS REHA

NoCapX 2020 makes this Motion, requesting that Commissioner Phyllis Reha recuse herself to avoid the appearance of impropriety and loss of independence or impartiality of action. Commissioner Reha has participated in CapX 2020 promotional efforts which call into question her impartiality.

The Commission had adopted a Code of Conduct which requires that:

A Commissioner ... shall respect and comply with the law and shall behave in a manner that promotes public confidence in the integrity and impartiality of the Commission's decision making process.

Minn. R. 7845.0400. It specifies that:

Commissioners... shall avoid any action that might result in or create a conflict of interest or the appearance of impropriety, including:

- A. using public office for private gain;
- B. giving preferential treatment to an interested person or entity;
- C. impeding the efficiency or economy of commission decision making;
- D. losing independence or impartiality of action;
- E. making a commission decision outside official channels; and
- F. affecting adversely the confidence of the public in the integrity of the commission.

Minn. R. 7845, Supb. 2 (2005).

Apparent impropriety on behalf of Commissioner Reha has been an issue before, in the Excelsior Energy Mesaba Project docket, and mncoalgasplant.com brought a similar motion at that time¹, but the Commission chose not to act as it was a “Petition,” and not a Motion. In that instance, Commissioner Reha had participated in an IGCC junket to Europe in July, 2006, sponsored by Great Plains Institute², as part of the Coal Gasification Work Group, signed on to the Great Plains Institute’s recently released “Roadmap” which endorses coal gasification, and has not disclosed this endorsement or the junket to Europe during that proceeding.

This is a similar case of Commissioner Reha’s promotional activities supporting a project which is now before the Commission. On February 15, 2006, Commissioner Reha made a presentation before the 2006 National Electricity Delivery Forum³ entitled “Enhancing the Nation’s Electricity Delivery System: Transmission System Needs. This presentation PRESUMES the need for CapX 2020 transmission and transmission infrastructure additions generally.

Commissioner Reha’s presentation promoted CapX 2020 by bringing CapX 2020 to the attention of state Commissioners, agency staff, and industry attendees, proposing it as a model for transmission expansion planning, for example, including a slide introducing CapX 2020 with the specific headline:

: **A Minnesota Initiative May have Promise as a Model**

Exhibit A, Slide 5. The presentation continued, describing the CapX initiative, asserting that it was a “collaborative effort; utilities, regulators, legislators, and other stakeholders.” Exhibit A, Slide 6. CapX 2020 was the focus of this presentation. In this presentation, Commissioner Reha accepted the

¹ See MCGP Petition to Recuse
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=viewDocument&documentId={4A67C37C-A696-4CDF-B75C-A7C22F84E6A1}&documentTitle=4740198>

² Great Plains Institute is anything but an independent resource -- GPI is funded by the Joyce Foundation and by the Foundation’s own press release, Great Plains Institute has received that funding to **promote** coal gasification. See Legalectric post: Joyce Foundation gives \$\$\$\$ and gets \$\$\$\$ <http://legalectric.org/weblog/2250/>

³ For more information on the National Electricity Delivery Forum, see:
http://sites.energetics.com/electricity_forum_2006/agenda.html

assumptions of need and purpose of CapX 2020 transmission – the assumptions were presumed true, stated as fact. Exhibit A. NoCapX 2020 does not know whether Commissioner Reha was paid for this presentation, or whether expenses were paid for attending the Forum.

Commissioner Reha has participated in CapX 2020 promotional activities, without disclosure on the record. NoCapX 2020 requests by this Motion that Commissioner Reha recuse herself to avoid the appearance of impropriety.

April 8, 2009



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Enhancing the Nation's Electricity Delivery System

Transmission System Needs

By

Commissioner Phyllis A. Reha

February 15, 2006

Transmission System Planning in the Upper Midwest Is Adapting to Change

- Pre-RTO era planning coordination among utilities was effective and continues in modified function.
- Open access and functional separation of transmission and generation operations has added uncertainty in planning assumptions, but planners are learning adaptive strategies.
- State regulators are having to re-evaluate their roles in planning.

Roles of Participants in Planning

- Local Utilities
 - Know their systems, and their neighbors' systems
 - Have the best view of probable developments in their area
 - In best position to do bottom-up planning for sub-regional needs.
- RTO's
 - MISO focuses on reliability, operational efficiencies and fairness, and does top-down planning.
- FERC
 - Where RTO's are effective, planning role should be limited

Roles of Participants Con't

- State Commissions
 - Should ensure state policies are well-fitted to local utility and RTO planning.
 - Balance needs of customers with changing grid dynamics and uses.

A Minnesota Initiative May Have Promise as a Model

- CAPital eXpenditure 2020 Initiative or “CAPX 2020”
 - Minnesota’s major electric utilities—a coalition of IOU’s, cooperatives, and municipals—have undertaken a voluntary, statewide effort to plan the next generation of high voltage transmission development.

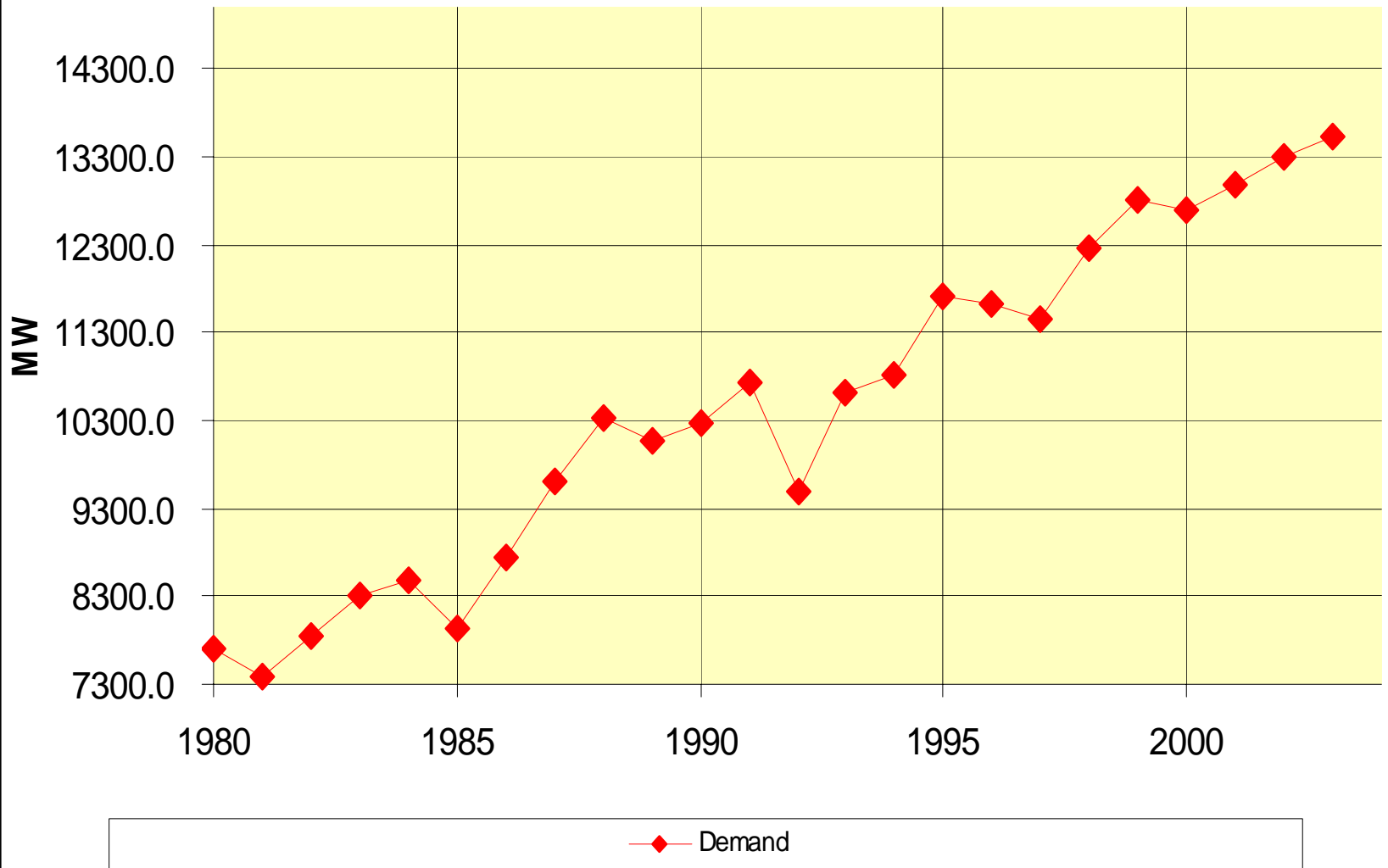
CAPX 2020

- Formed Spring 2004
- Eight Minnesota utility partners
- Focused on serving growing load in service territories; generation outlet, reliability, market efficiency
- Collaborative effort; utilities, regulators, legislators, and other stakeholders

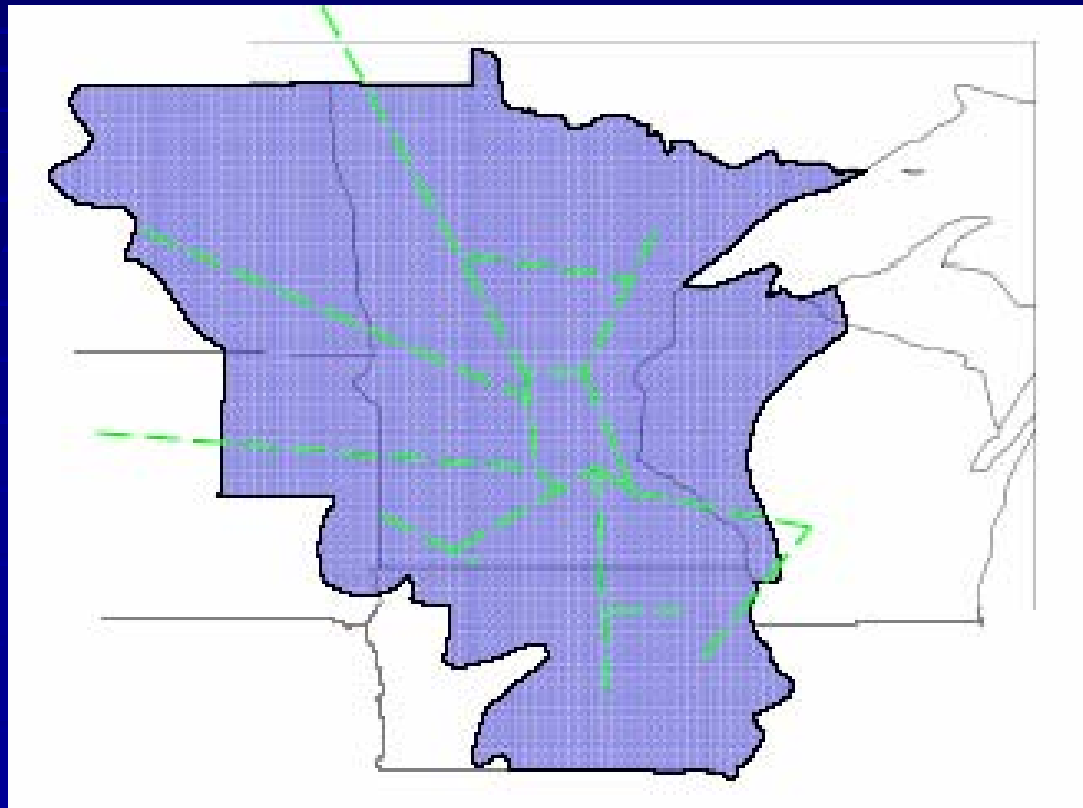
CAPX Vision Study Completed

- 15 year high level plan
- Integrated multiple planning studies
- Detailed studies completed on first anticipated projects
- Established by timing and priority of needs
- Forecast of capital investment—consolidated for all project groups
- \$2.3 Billion portfolio of high voltage (> 200kV) transmission assets to be built in the Minnesota region by 2020.

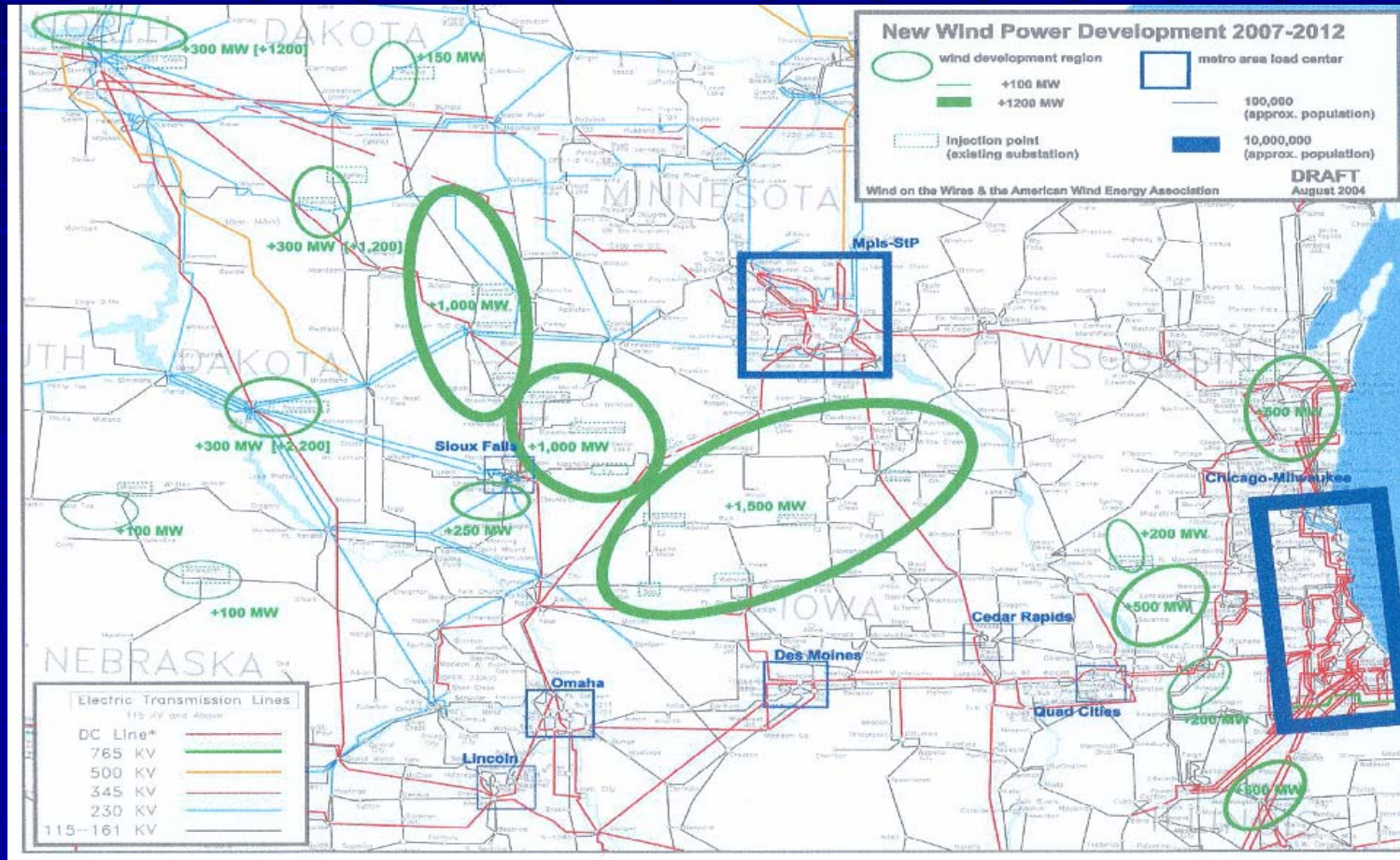
Forecasted capital Investment – Consolidated for all project groups



Transmission concept plan



CapX plans accommodate 2400 MW of wind generation in support of Minnesota's REO



Energy Efficiency, Conservation and Demand Response Programs

- Effective Transmission Planning at Local and Regional Levels Should Preserve and Expand Recognition of Conservation and Load Management Goals
 - Communication about how this is to be accomplished will be important to all stakeholders.
 - States will want to preserve their ability to apply as needed.

Regional Coordination and Conservation-The Difficult Questions

- How and to what objective should conservation be addressed?
- Do we need a real conservation goal and compliance showings that elevate conservation beyond “lip-service”?
- Is conservation a real and discreet alternative in transmission planning or are planners simply looking at load growth and reliability?
- Can states in a region, on their own initiative or through an RTO such as MISO, agree on a goal that makes sense to the public who would challenge land takings for transmission projects?
- Will federal policymakers and regulators force states in our region into a catch-22, compelling us to stand down public opposition to economic projects or default to federal backstop authority.?

How should EE, Conservation and Demand Response be included in the decision-making process of Regional and Local Planning ?

- The more aggressive state policies in a region will set the tone; however an RTO-wide goal may be appropriate.
- Goals and achievements will vary over time subject to many variables and need to be designed into planning models.
- Will be a challenge, but can become a focus of public debate about proposed new facilities, and must be addressed.

Regulatory Commission Cooperation in Development Regional Transmission Plans

- The Organization of MISO States has built an excellent model for state coordination.
- The Midwest Governor's Association has adopted a protocol that commits signatory states to further improvements in coordination and cooperation in interstate transmission planning and permitting
- States, including MN have responded to regional grid realities by achieving legislative support for certification criteria that recognize regional benefits of transmission development

Does EPACT 2005 Help or Hinder Grid Planning?

- The reliability provision will help define critical planning parameters
- Unclear how investment incentives will impact planning.
- Congestion study and listing of National Interest Transmission Corridors useful; subsequent possible pre-emption of state authority raises concerns.
- Still reviewing implications of other provisions.

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