BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd	**Chair**
J. Dennis 0'Brien	**Commissioner**
Thomas Pugh	**Commissioner**
Phyhs A. Reha	**Commissioner**
Betsy Wergin	**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 (and dockets 06-857; 06-979)**

MOTION FOR LIMITED DISCOVERY and
MOTION TO REOPEN HEARING BASED ON NEW INFORMATION

Once again, significant new material information has been disclosed by the applicants that inherently makes admissions regarding the purpose of CapX 2020 and which has a direct impact on the need for CapX 2020 Phase. We know CapX 2020 is a part of something larger, and as a result of recent press releases and publicity, we are learning just how big – and it is a material issue in this docket. The record must be reopened for evidence regarding the larger transmission plans of the utilities, of which the part of CapX 2020 that is before the Commission is but a small part.

I. INTRODUCTION

Several documents trace the disclosure of material information over the last two months. In reverse chronological order, beginning with the Xcel and GRE Press Release last Friday:

- April 3, 2009 – Mary Sandok, Xcel & GRE joint Press Release. NoCapX Exhibit A.
- March 31, 2009 – Southwest Twin Cities – Granite Falls Transmission Upgrade Study & Minnesota RES Update Study. NoCapX Exhibit B.

- March 26, 2009 – Testimony of Paul A. DeCotis, Deputy Secretary of Energy, on Behalf of the State of New York, to the United States Senate Committee on Energy and Natural Resources. NoCapX Exhibit C.

- February 8, 2009 – Joint Coordinated System Plan 2008. NoCapX Exhibit D.

- February 4, 2009 – NYISO and ISO-NE letter withdrawing from pending announcement of JCSP 2008. NoCapX Exhibit E.

The Commission may reopen this record on Motion of any party, or on its own initiative. NoCapX 2020 makes this Motion urging the Commission to look at the material and relevant information recently released, gather evidence and accept testimony regarding the plans of the CapX 2020 applicants and Midwest transmission owners, and information regarding their target market and market analysis relating to need for transmission infrastructure.

216B.25 FURTHER ACTION ON PREVIOUS ORDER.

> The commission may at any time, on its own motion or upon motion of an interested party, and upon notice to the public utility and after opportunity to be heard, rescind, alter, or amend any order fixing rates, tolls, charges, or schedules, or any other order made by the commission, and may reopen any case following the issuance of an order therein, for the taking of further evidence or for any other reason. Any order rescinding, altering, amending, or reopening a prior order shall have the same effect as an original order.

Minn. Stat. 216B.25.

The information recently released by the Applicants reflects the purpose and intent of the CapX 2020 project, and information recently released from the Midwest transmission target markets rejecting the Midwest's transmission plans should be given due consideration by the Commission.

The standard for review is whether newly discovered evidence would be admissible in the original hearing and whether it would be likely to have an effect on the decision. See Blake v. Denelsbeck, 170 N.W. 2d 337, 340 (Minn. 1969); Turner v. Suggs, 653 N.W. 2d 458, 467

(Minn. App. 2002); Disch v. Helary, 382 N.W. 2d 916, 918 (Minn. App. 1986). If the intense market drive for transmission is not matched by an intense market need, the investment in CapX 2020 would not be reasonable and prudent, and evidence showing lack of market need would likely have an effect on the Commission's decision.

II. FACTS AND DISCUSSION

At 9:50 a.m. on Friday, April 3, 2009, just several days ago, Mary Sandok of Xcel issued a joint Xcel and Great River Energy press release announcing large transmission infrastructure additions that build on CapX 2020. NoCapX Exhibit A, Sandok-Xcel Press Release, April 3, 2009[1]. The press release announces the "Final Report – Southwest Twin Cities – Granite Falls Transmission Upgrade Study & Minnesota ERS Update Study" and another Exhibit B, Final Report – Southwest Twin Cities – Granite Falls Transmission Upgrade Study & Minnesota ERS Update Study[2], March 31, 2009. As supporting documentation, there are two large Appendices[3]. The press release states:

> The studies also found that further upgrades in Minnesota and the Dakotas (beyond the 230-kilovolt line upgrade) will not provide significant benefit prior to installation of a high-voltage transmission line between the La Crosse, Wis., area and the Madison, Wis., area. Without a line to the east of Minnesota, the transmission system will reach a "tipping point" where reliability is compromised, according to the studies. The studies found that the combination of the new 345-kilovolt double circuit line between Granite Falls and Shakopee and a new Wisconsin line would increase the transmission system transfer capability by 1,600 megawatts for a total increase -- with the 2,000 megawatts from the new 345-kilovolt line in Minnesota – of approximately 3,600 megawatts.

See also Ex. B, Final Report, p. 9-10, "Tipping Point in Transmission System."

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[1] Exhibit A Press Release also available online at Xcel Energy's website: http://www.xcelenergy.com/Company/Newsroom/Pages/NewsRelease2009-04-03UpperMidwestUtilitiesIdentifyElectrictranmissionUpgrades.aspx

[2] Exhibit B, Final Report – Southwest Twin Cities – Granite Falls Transmission Upgrade Study & Minnesota ERS Update Study, Marck 31, 2009, online at http://www.minnelectrans.com/MTO-Study-Reports.pdf .

[3] MN RES Study Update Appendices, online at http://www.minnelectrans.com/MNRESUpdateStudy-Appendices.pdf ; Study Report of Electric Transmission Corridor Upgrade http://www.minnelectrans.com/CorridorStudyReport-Appendices.pdf

Building on CapX, the additions now proposed as of last Friday, April 3, 2009, are:

- LaCrosse – Madison Project
- Ashley – Hankinson Project
- Brookings – Split Rock Project
- Lakefield – Adams Project
- Adams – North LaCrosse Project

Figure 1 - Map of Corridor Upgrade and RES Update Projects

Exhibit B, Final Report – Southwest Twin Cities – Granite Falls Transmission Upgrade Study & Minnesota RES Update Study. P. 17.

What this study is saying, in its "tipping point" analysis, is that we don't need and are not able to use all the electricity generated and sunk into the metro area, and so it must be sent east, there must be an outlet, it must be exported. Id. p. 9-10. This claim of lack of need in Minnesota

paired with an admission that a large increase in export is necessary to stabilize the system should concern the Commission on the eve of a decision on need for CapX 2020.

These recent transmission proposals come on the heels of the Joint Coordinated System Plan announced in February, which laid out massive transmission infrastructure development plans from the Midwest to the East Coast. But just before that JCSP transmission plan was released, New York ISO and ISO-New England, two Independent Service Operators targeted as the recipients of energy transmitted by the JCSP transmission plan, withdrew their support from the plan. New York ISO and ISO-New England wrote a letter, dated February 4, 2009, giving several specific reasons for their withdrawal:

- Primary concern -- **Local resource development must be addressed in JCSP, and as yet, have not been incorporated**, therefore release of JCSP is premature and cannot be presented as a solution.

- Inclusion of cost allocation by JCSP is inappropriate as JCSP is not a policy making body.

- New York and New England have significant development and plans for renewable energy. **New York has over 1,000MW of wind and 8,000MW in queue, 4,800MW in the New England queue**, and both areas have a significant commitment to conservation.

- Given these activities, **it is reasonable to assume that these resources being developed in the Northeast may be deliverable to customers in our region sooner and more cost-effectively than Midwest wind resources**. Given the renewable development, energy efficiency, and likelihood of new ties to Canada, **the need to construct long transmission lines to the Midwest would likely be reduced** and in turn overall transmission costs may be lower.

- **"We note that the report also assumes the development of new coal-fired generation in the Midwest without recognition of current and future restrictions on carbon emissions and their associated costs… In addition, we believe it is likely that the transmission and wind project capital cost estimates contained in the initial JCSP are understated and suggest that modifications to the estimates and estimating process would help to develop a better understanding of the true costs of the expansion scenarios."**

Exhibit E, NYISO and ISO New England letter withdrawing from publication of JCSP, February 4, 2009[4](emphasis added). Illinois would likely have similar concerns, given over 7,000MW of wind in queue.

The JCSP plan was released in early February, 2009, without participation of NYISO and ISO-NE. Exhibit D, Executive Summary, Joint Coordinated System Plan 2008[5]. The plan echoes and builds on the CapX 2020 footprint and grid, and stretches east to the target market:

The types and approximate locations for the new transmission are shown in Figure 1-2.

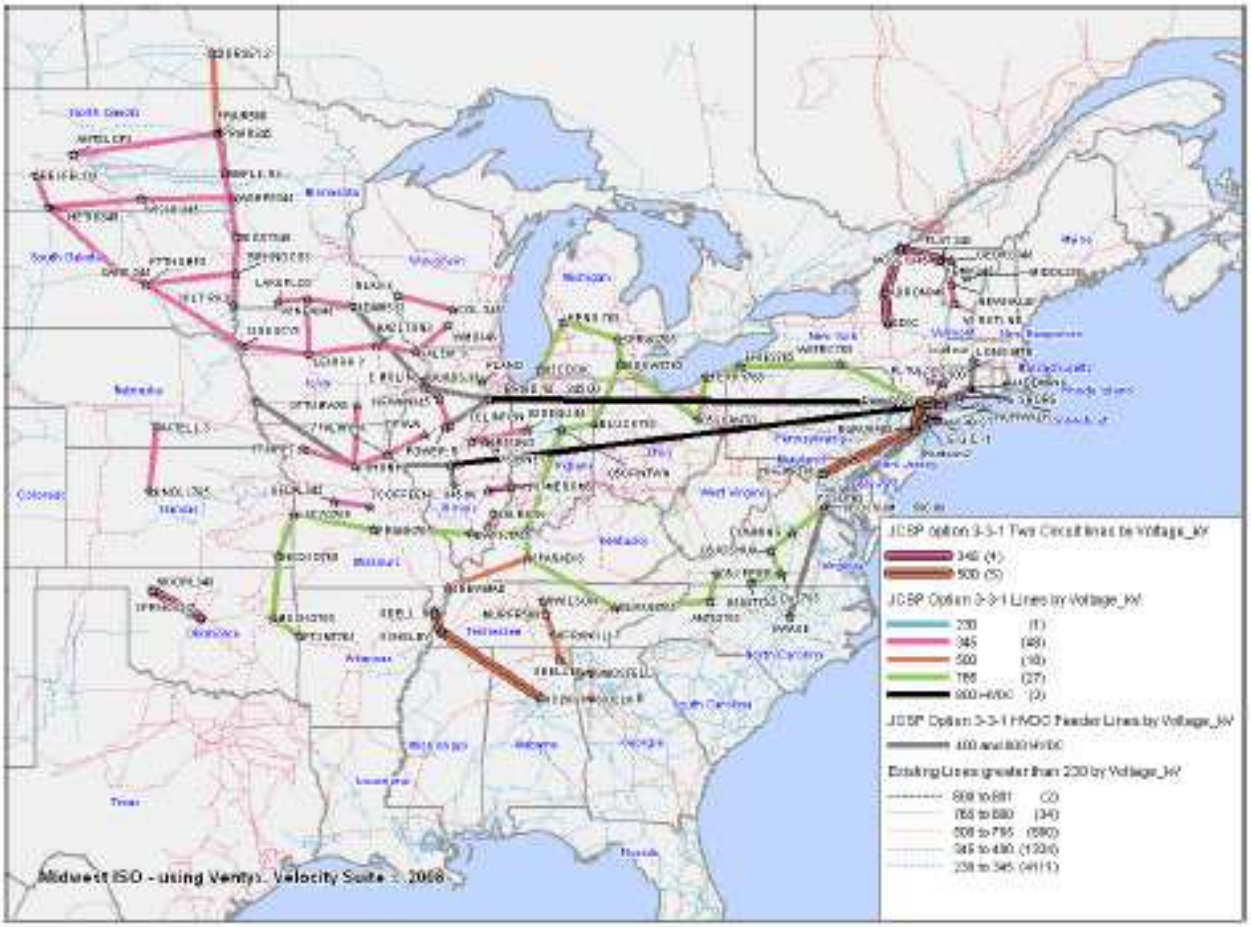


Figure 1-2: Reference Scenario Conceptual Transmission Overlay

The black DC lines of JCSP form an arrow to the target market – New York and New England.

[4] Exhibit C, NYISO and ISO New England letter withdrawing from publication of JCSP, February 4, 2009, online at http://legalectric.org/f/2009/02/2009_2_4_jcsp_letter_final.pdf

[5] Exhibit D, Executive Summary, Joint Coordinated system Plan 2008, available online JCSP'08 Volume 1 - Executive Summary (PDF) ; for full report click on "Report" at http://www.jcspstudy.org/

In testimony last week before the U.S. Senate Committee on Energy and Natural Resources, New York again showed its concerns, wanting a focus on local generation and acknowledgement of its own renewable efforts:

> New York stands ready to work with Congress and the President to transform the electricity industry. However, current proposals being discussed have the potential to undermine New York's efforts to further develop renewable electricity resources in the northeast. Transformation of the electricity system must be undertaken with a sound and well-defined purpose and a commitment to optimizing local and regional cost-effective renewable resources first. **The construction of significant amounts of renewable resources in geographic regions of the country requiring long transmission lines from remote load centers is unlikely to be the most cost-effective or practical approach to meeting the nation's renewable resource goals, should, therefore, be a last resort** for developing indigenous renewable resources, improving energy diversity and security, and achieving reductions in carbon emissions.

Exhibit C, Testimony of DeCotis, Deputy Secretary for Energy, on behalf of the State of New York[6] (emphasis added). DeCotis continued:

> The most cost-effective way to reduce dependence on imported and fossil energy and to reduce carbon emission is to first optimize local resources available. For example, **construction of a transmission line to bring lower-cost Canadian hydropower to New York might be the most cost-effective solution for reducing carbon emissions in New York, rather than building an exceptionally long electric transmission line from areas west of New York to bring both renewable, and potentially high fossil fuel-based energy to the State.** The consequences of designating a renewable energy zone must be carefully evaluated for both the zone itself and for areas not so designated.

Id (emphasis added). Continuing to raise the high probability of coal generation using new transmission:

> FERC must also consider the physical operation of the electric transmission system and other resources that might use the new transmission facilities. **For example, carbon emissions might increase nationally as a result of coal plants using the transmission facility during periods when renewable resources are not operating. These reasonably likely scenarios should also be factored into the analysis of the benefits and costs provided by a project.**

[6] Available online: http://legalectric.org/f/2009/04/ny-final_testimony-renewable_siting_ny-state_03262009.pdf

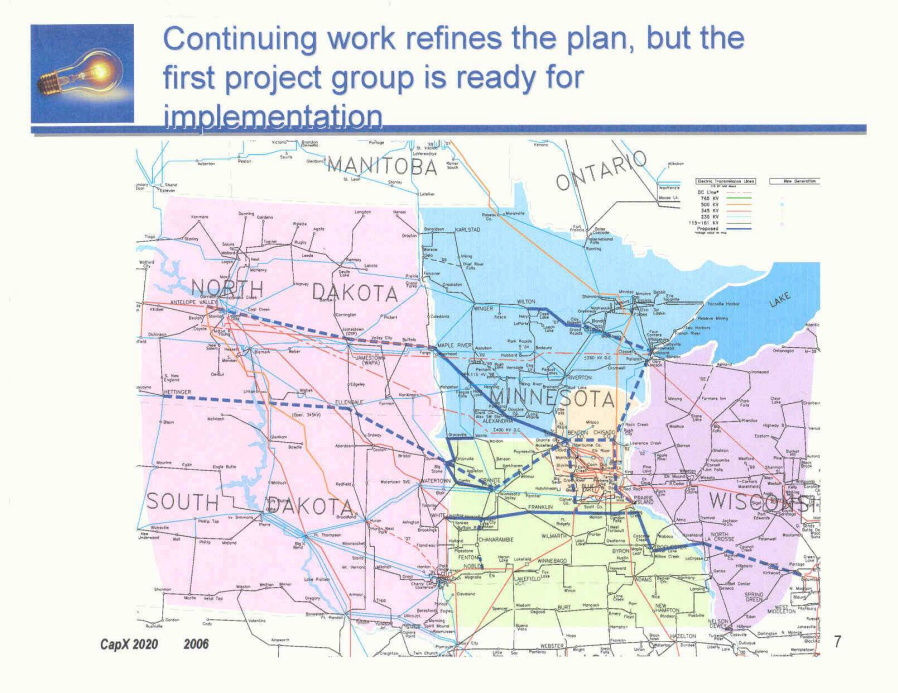
Id. (emphasis added).

The Commission should have a more complete record to address these concerns, concerns that call into question the fundamental premise, the "vision," of CapX 2020.

III. THE CAPX 2020 VISION

The CapX 2020 vision is found in the CapX 2020 Technical Report, from 2005, where the lines clearly begin in the coal fields of the Dakotas and extend to mid-Wisconsin. Ex. 1, Application, Appendix A-1. This CapX 2020 transmission plan and those other transmission plans CapX 2020 opened the door for, must be examined by the Commission in their totality, as they are all interdependent, building on the foundation and purpose of CapX 2020. NYISO and ISO-New England clearly identify the fundamental problems.

CapX 2020 stretches from the coal fields of the Dakotas, through Minnesota, to central Wisconsin:

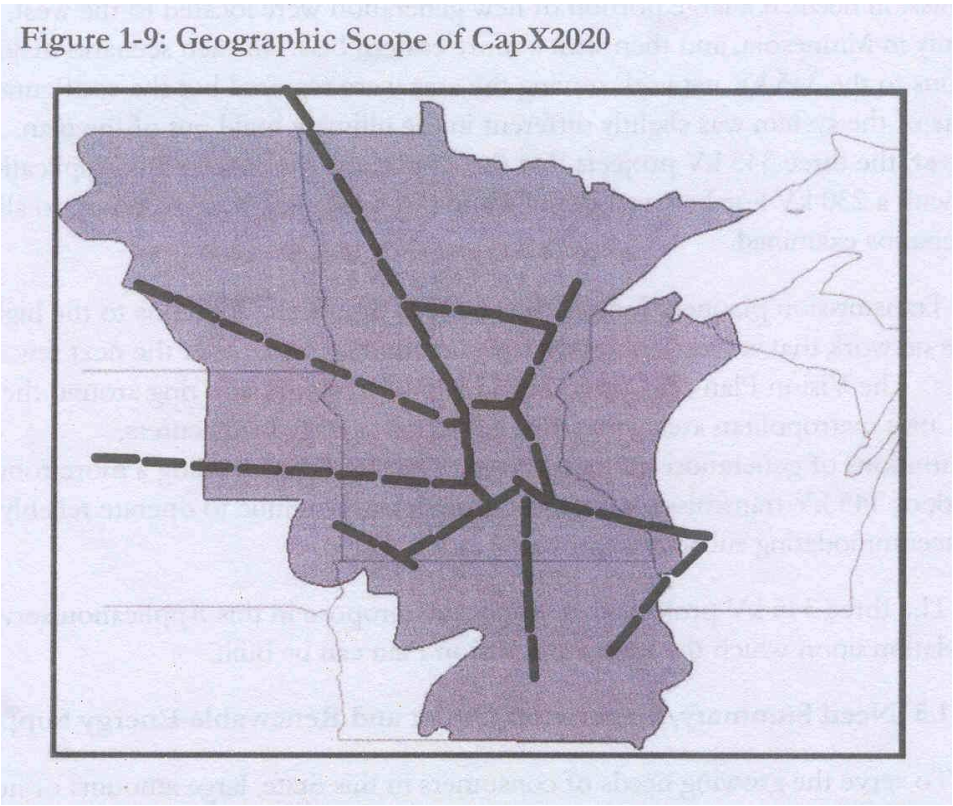


Hearing Exhibit 13[7], Slide 7 to Hearing Exhibit 12, CapX 2020 Update, June 12, 2006[8].

[7] Available online: https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=5465628

The CapX' extensions out of Minnesota in the Dakotas and Wisconsin are well documented in the Application and were the subject of extensive cross-examination during the hearing.

When CapX overlays its geographic area with its transmission "vision," this is its result:



Hearing Exhibit 1, Application, Figure 1-9, p. 1.13.

This application at hand is for three transmission lines in Phase I of at least three phases. Hearing Ex. 12, Slide 16, CapX 2020 Update, June 14, 2006. However, the application and appendices clearly lays out specific plans for at least three Phases of transmission infrastructure additions. The lines chosen for the immediate Phase I are from a list of common facilities from various scenarios, on the belief that these will need to be built no matter which scenario is presumed. Common Recommended Facilities, Hearing Exhibit 1, Application, Appendix A-1, p. 38; Common Recommended Facilities, Rogelstad, Direct p. 17; Rogelstad Testimony, Tr. Vol.

[8] Ex. 12 available online: https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=5465627

2A, pps. 59-76; Exhibit 17, 2005 Biennial Report Filed by Transmission Utilities (selected); Rogelstad Testimony, Tr. Vol. 2A, p. 71-78.

In table form, these "common elements" are:

Table 4. Summary of Vision Plan

Facility Name				
From	**To**	**V olt (kV)**	**Miles**	**Cost ($M)**
Alexandria, MN	Benton County (St. Cloud, MN)	345	80	60
Alexandria, MN	Maple River (Fargo, ND)	345	126	94.5
Antelope Valley (Beulah, ND)	**Jamestown, ND**	345	185	138.75
Arrowhead (Duluth, MN)	Chisago County (Chisago City, MN)	345	120	90
Arrowhead (Duluth, MN)	Forbes (Northwest Duluth, MN)	345	60	45
Benton County (St.Cloud, MN)	Chisago County (Chisago City, MN)	345	59	44.25
Benton County (St. Cloud, MN)	Granite Falls, MN	345	110	82.5
Benton County (St. Cloud, MN)	St. Bonifacius, MN	345	62	45.5
Blue Lake (Southwest Twin Cities, MN)	**Ellendale, ND**	345	200	150
Chisago County (Chisago City, MN)	Prairie Island (Red Wing, MN)	345	82	61.5
Columbia, WI	**North LaCrosse, WI**	345	80	60
Ellendale, ND	**Hettinger, ND**	345	231	173.25
Rochester, MN	**North LaCrosse, WI**	345	60	45
Jamestown, ND	**Maple River (Fargo, ND)**	345	107	80.25
Prairie Island (Red Wing, MN	Rochester, MN	345	58	43.5
TOTAL			**1620**	**$1,215 ($M)**

Hearing Exhibit 17, Portion of the 2005 Biennial Report Filed by Transmission Utilities, p. 36; Hearing Ex. 1, Application, App. A-1, Technical Update October 2005; see also Hearing Exhibit 12, CapX 2020 Update, June 14, 2006; Hearing Testimony Rogelstad, Vol. 2A, p. 69-74; Hearing Testimony Rogelstad, Direct p. 17; Hearing Testimony Rogelstad, Tr. Vol 2A, p. 39.

Common elements in the CapX 2020 Vision Study appear in the Joint Coordinated System Plan, all focused on transmission of electricity through Minnesota, toward the east. The high probability that the CapX 2020 lines, and the JCSP lines, would be used for coal generation has been recognized by NYISO and ISO-NE, and rejected. This high probability of transmission for coal is also reflected in MTEP 07, which states that there are 7,945MW of generation projects in the MISO queue, and of those, "the expected capacity are dominated by 4,511 megawatts of coal projects." Hearing Exhibit 58-59, MTEP 07, p. 37; see also Hearing Testimony Webb, Tr. 5A, p. 37-38; Webb, Tr. 5B p. 17 l.17-25 . The probability of coal generation using transmission is also evident in the proportion of coal capacity of projects in queue with signed MISO Interconnection Agreements, showing that a project is further along towards interconnection.

In MTEP 07, when the various types of projected likely generation are considered, and put into graph form, it shows the predominance of coal. Also, non-coal resources are not increasing as a proportion of generation, but instead remain essentially level, moving up on the graph only in relation to coal's movement – there is no significant gain by gas, hydro or wind:

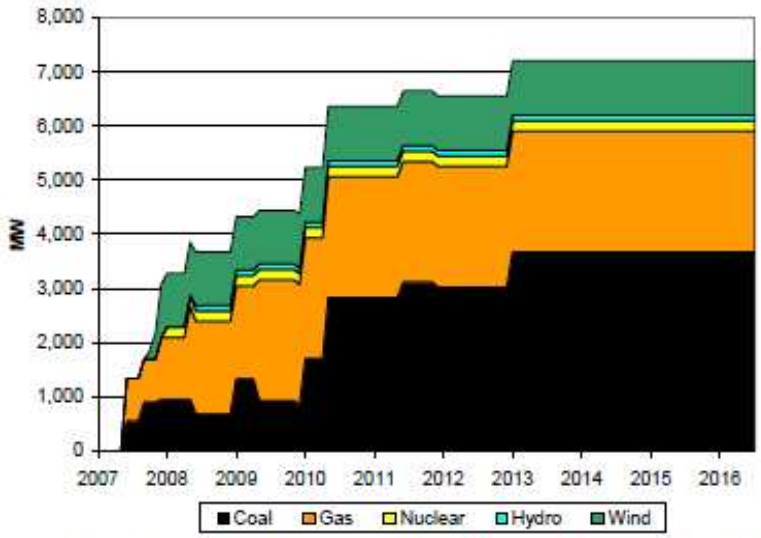


Figure 3.2-6: Capacity of Signed IA Queue Entries and Known Retirements by Fuel Type

Ex. 58-59, MTEP 07 p. 38, Figure 3.2-5; Webb, Tr. 5A p. 38.

IV. CONCLUSION

These grandiose Joint Coordinated System Plan and CapX 2020 applicants' transmission plans, now revealed, and the withdrawal of the potential "markets" of NYISO and ISO-NE from participation in Midwestern transmission plans, bears careful examination and formal administrative notice by the Commission prior to a determination regarding the CapX 2020 Certificate of Need. The Commission has the authority to reopen the record, and in this case, a thorough examination big picture transmission prior to significant ratepayer investment of irretrievable resources is the Commissions responsibility and obligation.

At this time, NoCapX 2020 requests the Commission narrowly reopen the record and permit limited Discovery on this matter. Other parties may have other limited Information Requests, and NoCapX 2020 requests that all parties have an opportunity to address this revelation of newly proposed transmission interconnecting into CapX 2020 Phase I.

NoCapX 2020 also requests that the hearing be narrowly reopened for testimony from CapX 2020 utilities regarding transmission plans revealed on April 3, 2009, the purpose of CapX 2020, the concerns raised by NYISO and ISO-NE, the "target markets, the relation of these recently revealed plans to the claimed need for and purpose of CapX 2020, related cross-examination, and associated exhibits.

April 9, 2009

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