



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

LORI SWANSON
ATTORNEY GENERAL

September 28, 2010

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The Honorable Richard Luis
Administrative Law Judge
Office of Administrative Hearings
P.O. Box 64620
St. Paul, MN 55164-0620

RE: Subpoena Requests; *In the Matter of the Application for a Route Permit for the CapX 2020 Brookings-Hampton High Voltage Transmission Lines*
OAH Docket No.: 7-2500-20283-2
PUC Docket No.: ET-2/TL-08-1474

Dear Judge Luis:

I submit this letter on behalf of the Minnesota Department of Commerce, Office of Energy Security Energy Facility Permitting Unit ("OES EFP") to respond to the requests for subpoena filed today by Counsel for NoCapX2020 and United Citizens Action Network ("NoCapX/UCAN"). The OES EFP does not take a position on the necessity for subpoena issuance, but responds to inform Your Honor as to the expected presence of agency witnesses who are the subjects of the subpoenas.

First, I spoke with Mr. David Seykora of MnDOT regarding his intent to attend the public hearings in LeSueur, Arlington and Belle Plaine. As Ms. Overland stated today in her withdrawal of subpoena request, Mr. Seykora intends to appear at all public hearings to comment and to be available for questions concerning MnDOT's interests with regard to the route options between the Cedar Mountain and Helena substations. As you know, OES EFP sponsored Mr. Seykora as a witness during the evidentiary hearings to facilitate his testimony.

Second, OES EFP had previously discussed with Ms. Jamie Schrenzel of the Minnesota Department of Natural Resources ("DNR") her availability and willingness to appear at hearings, and my understanding is that Ms. Schrenzel will attend at least one of the public hearings on October 5 in Belle Plaine and will present comments and be available for questioning on behalf of DNR.

Third, the OES EFP wishes to express concern regarding NoCapX/UCAN's intentions with regard to the EIS in this matter. The subpoena requests state that information from DNR witnesses about eagles and potential impacts from the routes "is particularly important because the DNR has not had sufficient information to be able to comment on the DEIS and FEIS." OES EFP notes that the DNR filed comments on the DEIS and these comments were addressed in the FEIS. OES EFP further notes that the only issue with regard to the FEIS for the Cedar Mountain

The Honorable Richard Luis
September 28, 2010
Page 2

to Hampton route segment is whether the FEIS is "adequate" pursuant to the criteria in Minn. R. 7850.2500, subp. 10. In addition, OES EFP believes that any further comment on the EIS is not appropriate at this time; EIS adequacy is not a subject of the Minnesota Public Utility Commission's Order Remanding to Office of Administrative Hearings in this matter. That stated, the Commission will rely not only on the FEIS in this matter, but also on the information that is already in the record and any additional record information developed during the public hearings to be held in this proceeding.

In summary, OES EFP believes that it is possible to further develop the record as requested by the Commission with the appearance of Ms. Schrenzel and Mr. Seykora as described above. Since there will be travel time between the two hearings on October 4, 2010 (Arlington and LeSueur), it may be preferable for these witnesses to be available in Belle Plaine on October 5, 2010, if they are not able to be present at all hearings. Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Finstad Hammel", written in a cursive style.

KAREN FINSTAD HAMMEL
Assistant Attorney General

(651) 757-1248 (Voice)
(651) 297-1138 (Fax)

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I hereby state that on the 28th day of September 2010, I efiled the attached Letter to Judge Richard C. Luis, and served the same by United States Mail, upon all parties on the attached service list, postage prepaid, by depositing the same at St. Paul, Minnesota.

s/ Pat Silberbauer

Subscribed and sworn to before me
on September 28, 2010

s/ Deborah A. Bastyr
Notary Public - Minnesota
My Commission Expires Jan. 31, 2013

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
P. O. BOX 64620
ST. PAUL, MINNESOTA 55164-0620

CERTIFICATE OF SERVICE

Case Title: <i>In the Matter of the Route Permit Application by Great River Energy and Xcel Energy for a 345 KV Transmission Line from Brookings County, South Dakota to Hampton, Minnesota</i>	OAH Docket No. 7-2500-20283-2 MPUC Docket No. ET-2/TL-08-1474
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Mary Osborn certifies that on the 18th day of August, 2010, she served a true and correct copy of the First Prehearing Order on Remand; by electronic mail (or as indicated on the Service List) to the following individuals:

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret
Lisa	Agrimonti	lagrimonti@briggs.com	Briggs And Morgan, P.A.	2200 IDS Center80 South 8th Street Minneapolis, MN 55402	Electronic Service	No
Julia	Anderson	Julia.Anderson@state.mn.us	Office of the Attorney General-DOC	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Paper Service	Yes
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Bob	Cupit	bob.cupit@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012198	Electronic Service	Yes

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