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

6 In the Matter of the Route Permit Application
7 by Great River Energy and Xcel Energy for a
8 345 kV Transmission Line from Brookings
9 County, South Dakota to Hampton, Minnesota

OAH DOCKET NO. 7-2500-20283-2
PUC DOCKET NO. ET-2/TL-08-1474

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**DIRECT TESTIMONY OF MARK and SHIRLEY KATZENMEYER
Exhibit MSK-1, Ex. _____**

16 **Q: Please state your name and address:**

17 A: We are Mark and Shirley Katzenmeyer, and we live at 450 Myrick Street, Le Sueur, MN
18 56058

19 **Q: Why are you providing this testimony?**

20 A: We are providing this testimony because we are directly affected by the Recommendation
21 of the ALJ and by any decision of the PUC regarding routing of the Brookings-Hampton
22 transmission line in regard to the River Crossing. From the beginning of the public participation
23 process, before we became directly affected parties, we have been active participants in the 345
24 kV Transmission Line from Brookings County, South Dakota to Hampton, Minnesota from the
25 initial Public Hearings, Task Force Meetings, Town Hall Meetings, DEIS comment meetings and
26 miscellaneous applicant sponsored workshops. We believe that the Myrick route alternative was
27 improperly proposed as a means to circumvent the DOT's legitimate prohibition of crossing its
28 scenic easements with transmission – something that CapX 2020 should have been aware of
29 through its many contacts with the DOT as this transmission proposal was planned. This origin
30 of the Myrick route alternative is reflected in the original Recommendation. Now this case has

1 been reopened, and we are concerned that this is yet another attempt to circumvent the objections
2 posed by USFWS. The Myrick route alternative must be withdrawn.

3 **Q: Have you testified at a Public Hearing for the Brookings route?**

4 A: Yes, I testified at the December 28, 2009 hearing in New Prague, Minnesota, the final
5 public hearing in the initial Brookings proceeding. At that hearing in New Prague, we brought
6 our Exhibit #396, photos of the homes along the route, homes of people who were not properly
7 notified of the Myrick Street Alternative Route. On December 26, 2009, just two days before the
8 hearing, the homeowners along Myrick Street received a postcard, from CapX 2020, which
9 announced the meeting date of December 28, 2009 in New Prague, Minnesota, rescheduled due
10 to a blizzard the evening before the originally scheduled date. The postcard did not specify that
11 we Myrick Street landowners would be directly impacted by a newly declared alternative route
12 along Myrick Street. It was not until after the December 28, 2009 hearing in New Prague, that
13 homeowners received a letter from CapX 2020, on January 2, 2010, which was “Notice of
14 Alternative Route Alignment Potentially Affecting your Property.” and a map showing the route.
15 None of the 14 homes (Exhibit #396) along Myrick Street, which are affected in some way or
16 another by the route change, were given proper notice or due process of law. There is a
17 significant difference between a general notice that a transmission line is proposed for the area,
18 and a specific notice that our land is directly affected. Although we had participated actively for
19 over a year, based upon a general notice we had received, we were not specifically informed by
20 the Applicants that our property was on an alternate route, directly affected, until after the
21 hearings were over.

22 **Q: How did landowners along Myrick Street receive notice?**

1 A: We personally learned of the proposal to route the transmission line along Myrick Street
2 by reading the NoCapX 2020 blog, where rough notes of the public hearings were published.

3 The few homeowners along Myrick Street who were present at the December 28, 2009
4 meeting in New Prague because I personally went door to door on December 24, 2009,
5 Christmas Eve, and notified them of the upcoming hearing on December 28, 2009. The Myrick
6 Street homeowners who were present attended the hearing not because of the “timely”
7 notification from CapX 2020, but rather because of my own personal efforts.

8 If the meeting would not have been rescheduled to December 28, 2009 because of the
9 snow event, no one on Myrick Street would have known about the earlier route changes that took
10 place during the Lakeville meeting that pertained specifically to Myrick Street.

11 Myrick Street homeowners did not have enough time related to the December 28, 2009
12 meeting to:

- 13 * Create PowerPoint, exhibits, posters, etc.
- 14 * Prepare to clearly present their position.
- 15 * Plan to attend the meeting
- 16 * Meet with the other affected neighbors to discuss our plight before the hearing

17 The Myrick Street homeowners had an option to submit written comments after the
18 December 28, 2009 meeting. However, this does not have the same impact as appearing and
19 speaking in-person at the December 28 meeting to the judge who makes a recommendation.

20 The Myrick Street residents were not able to take part in the previous Task Force
21 Meetings, EIS, or FEIS because they were just notified on December 24, 2009 of the process and
22 involvement.

23 Despite lack of notice of potential direct impact, the Recommendation stated that:

1 Applicants have included the lists of those given notice on December 30, 2008, in
2 the record of this proceeding. Examination of these lists shows a number of
3 addresses along the Myrick Alternative. Several of the persons who provided public
4 comment on the Myrick Alternative appear on the lists. There has been no failure
5 of notice to potentially affected landowners so as to preclude consideration of the
6 Myrick Alternative.

7
8 Recommendation, Finding 499.

9
10 **Q: How did the Myrick Street alternative come about?**

11 During the public hearings it became clear that the Applicant's route crossing the
12 Minnesota River at Le Sueur was not feasible due to the DOT's scenic easements.
13 Recommendation, Findings 105, 106. On December 7, 2009, at the Henderson, Minnesota
14 public hearing, in front of the ALJ, Duane Kamrath proposed two Le Sueur route options in the
15 spirit of accommodation. On December 15, 2009, the Applicants filed "Supplemental"
16 testimony adopting this option as their "Preferred" route. Exhibit MSK-2, Ex. _____, Myrick
17 Alternative, Poorker Sched. 50.

18 At this time, the Draft Environmental Impact Statement had been published, and the
19 Myrick Street route was not included in the Scoping Document or the DEIS, and Karen Hammel
20 of the Office of Energy Security had said that because it was not included in the DEIS, it was not
21 a choice available to the Public Utilities Commission.

22 On December 28, 2009, both of us testified at that New Prague hearing. In her
23 presentation, Shirley Katzenmeyer asked Judge Luis to strike Mr. Kamrath's proposal for Myrick
24 Street. Judge Luis informed her that the only way that is possible is through a withdrawal of Mr.
25 Kamrath's proposal. On January 4, 2010, after the hearings were over, Duane Kamrath issued a
26 letter to Judge Luis where he withdrew the options. Exhibit MSK-3, Ex. _____, Duane Kamrath
27 withdrawal letter, January 4, 2009. Duane Kamrath stated that he withdrew Option 3 – County
28 Road 28 option and Option 5 – Modified Myrick Street because he felt the options did not

1 preserve the scenic value and property values south and east of the Highway 169 Public Rest
2 Area.

3 At roughly the same time, the Mayor of the City of Le Sueur sent a letter of
4 “clarification” stating:

5 We must first make it clear that our proposal to cooperate with the CapX 2020
6 officials in offering the use of our City’s existing transmission corridor/easement
7 was made on the presumption that the stated “Preferred Route” was the inevitable
8 route as it approached the Minnesota River...

9
10 ... It has now come to our attention that CapX 2020 concludes they could not
11 benefit from our corridor offer. We also understand from testimony by
12 environmental, wildlife and transportation officials that the “Alternate Route”
13 which has the Minnesota River crossing occurring near Belle Plaine would be
14 preferred to the Le Sueur crossing.

15
16 We wish to make it clear that the City of Le Sueur never invited the “Preferred
17 Route” crossing. Our proposals were only made under the understanding that IF
18 WE WERE GOING TO BE COMPELLED TO DEAL WITH A
19 TRANSMISSION LINE CROSSING we wished to try to lessen its effects on our
20 citizens, natural resources, and neighbors while at the same time providing some
21 possible benefits in reliability and cost savings to our power customers. In affect
22 trying to make the best from a difficult yet inevitable situation.

23
24 Given the negative effects on the environment and citizenry and its nominal, if
25 any benefits, please allow the record to reflect the official position of the City of
26 Le Sueur on the CapX2020 transmission line route as it relates to the Minnesota
27 River Valley crossing is to support the “Alternative Route” or northern route in
28 the Belle Plaine Area...

29
30 Exhibit MSK-4, Ex. _____, City of LeSueur letter, January 2, 2009. The city of Le Sueur’s
31 letter to the Honorable Richard Luis that clarifies and restates their position that the City of Le
32 Sueur would not benefit from their corridor offer was not given enough weight and the Le Sueur
33 crossing was recommended to the Commission.

34 Duane Kamrath’s personal withdrawal of his proposal and the City of Le Sueur’s
35 “clarification” of their offer of accomodation should have eliminated the Myrick Street

1 Alternative Proposal, and Myrick Street should no longer be an option. We ask that the Myrick
2 Street alternative route be withdrawn.

3 **Q: Do you have any comments on the positions of US Fish and Wildlife Service in this**
4 **proceeding?**

5 A: Yes. The comments of the US Fish & Wildlife Service have been largely ignored.
6 USFWS was very clear in consistently recommending “non-aerial” crossings if there was to be a
7 crossing of the Minnesota River Valley. On May 13, 2010 Great River Energy and Xcel Energy
8 sent a letter to the United States Fish and Wildlife Service (“USFWS”) to request that the
9 USFWS provide helpful clarification on important issues associated with the Brookings County
10 – Hampton 345 kV Project. On June 10, 2010, the USFWS wrote to the applicants their
11 conclusions, which indicated that they preferred crossing at the Minnesota River at Belle Plaine.

12 The focus on the June 10, 2010 letter from USFWS as the reason for the determination
13 that a crossing of the Minnesota River Valley near Le Sueur does not make sense in light of the
14 earlier DOT determination that the applicant’s “Preferred Route” was not feasible.

15 **Q: Do you have any concluding comments?**

16 A: Yes. Having been involved in this matter before we were directly affected landowners,
17 and having been struck with the Myrick Street route at the very end of this long first proceeding,
18 with no notice until after all the hearings were over, the manner in which this was handled is not
19 acceptable. It appears to us, based on our experience thus far, that reopening of this docket is
20 another invitation to find a way to go around yet another agency’s objections and force it through
21 Le Sueur on the Myrick alternative. The Myrick alternative route should be withdrawn.

22 **Q: Does this conclude your testimony?**

23 A: Yes.