

December 5, 2008

**VIA E-FILING**

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

**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 CapX 345-kV Transmission Projects**

MPUC Docket No.: ET-2, E-002, et al./CN-06-1115  
OAH Docket No.: 15-2500-19350-2

Dear Judge Heydinger:

Please find the following documents which were filed today on [www.edockets.state.mn.us](http://www.edockets.state.mn.us):

- NAWO and ILSR's Initial Post-Hearing Brief on the Merits of the Application for Certificates of Need in the matter listed above.

A copy of this filing is also being served today via e-mail upon the persons on this docket's service list. A courtesy copy of this filing is also being provided to you via United States Mail.

Sincerely,

A handwritten signature in black ink, appearing to read "John Bailey". The signature is stylized and cursive.

John Bailey, ILSR

For:  
North American Water Office  
P.O. Box 174  
Lake Elmo, MN. 55042

Institute for Local Self Reliance  
1313 5th St. SE  
Minneapolis, MN 55414

**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA 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 Three 345 kV  
Transmission Lines with Associated  
System Connections

MPUC Docket No. ET-2,  
E-002, et al./CN-06-1115

OAH Docket No. 15-2500-19350-2

DATED: December 5, 2008

**INITIAL POST-HEARING BRIEF OF THE  
NORTH AMERICAN WATER OFFICE  
AND  
INSTITUTE FOR LOCAL SELF-RELIANCE**

---

**I. INTRODUCTION**

The electric utility paradigm is shifting. For an industry as broad and deep as the electric utility industry, fundamental change, finally, is occurring quickly. This shift toward efficiency and distributed energy development creates an unavoidable, overarching context for this decision. In the old paradigm, electric utility services were delivered, essentially, by a relatively few, very large and usually remote central-station power plants (Vol.3 P. 22 L 1-4) hooked up to load centers, primarily larger cities, with a relatively few extra-high voltage powerlines. In the new paradigm, existing and growing load centers will increasingly be served by a very large and growing number of smaller, dispersed generators that require a very different kind of transmission analysis and development.

Contrary to beliefs widely held by utility representatives, state agencies and regulators as well as many environmentalists, the paradigm shift, to the extent that it is recognized at all, is NOT from fossil fuels to renewable energy, although the change to alternative energy sources is a most beneficial attribute. Rather, from the perspective of electric utility infrastructure requirements, which, after all, is the subject of this proceeding, the paradigm shift is from central-station generation to dispersed generation, efficiency and demand side reductions.

As the utility industry goes through its transition period, flexibility is important because timing and economies of scale are fundamentally different. In the old paradigm, as central-station power plants got bigger, each unit of generation capacity got cheaper, to a point. These plants were each custom built with extremely long lead-times from components fabricated far away, shipped to the site, and assembled. But in the modern era, dispersed generation technologies are cost-competitive and often cheaper and faster to implement than central station based strategies. As the industry rapidly matures, the economies of scale will become even more attractive for distributed energy technologies.

All parties recognize that transmission requirements are determined by the size and location of generators, and the size and location of loads. While the size and location of loads remains about the same and predictable relative to historical patterns, the size and location of generation going forward will be exactly the opposite of the historical pattern: instead of being few, slow, big and centralized, new generation will be small, quickly installed, very numerous and spread out across wide geographic areas. The

fundamental flaw of this Application is that size, type, and timing of the transmission it proposes completely fails to account for this basic change in terms of size, timing and location of future generation. The Application's proposal also ignores the increasingly stringent requirements on utilities to dramatically reduce the energy consumption of their customers.

Applicants are therefore fatally mistaken when they claim, as they do in their Brief on page 6, that their proposed grid expansion, like that of the 345 kV ring that was installed around the Twin Cities in the late '60s and '70s, is “in anticipation of growth for decades into the future.” Rather, this proposed expansion amounts to a massive investment into analog technology just when the digital age is really getting underway. Instead of building in flexibility and economy going forward, they are set, at best, to install a sizable stranded investment, and at worst, to enable and promote further development of dirty, old paradigm central-station technology.

## **II. SUMMARY**

The facts that flow from, and that define the new electric utility reality, run counter to conventional wisdom that has guided the electric utility industry and its regulators for more than 70 years. The facts that should determine the outcome of this proceeding were not provided by Applicants, or by state agencies, or even by some in the environmental community. If the overriding decision-making principle in this proceeding is to protect the public interest, the facts that would best support that principle will have been provided by change agents and aroused citizens. When rules and statutes

that are supposed to govern this proceeding (see Applicants' Brief pp 53-58), are applied to those facts, the recommendations of witness Mike Michaud for the North American Water Office and the Institute for Local Self-Reliance, (Ex. 154, Conclusions beginning on p. 46) will be ordered. Reiterating here, Mr. Michaud recommended:

1) Regarding the system wide load growth need claimed for 2020, the Applicants have failed to show that the claimed need cannot be met by conservation and load management. They have not demonstrated that these lines are the appropriate solution to the generalized system load growth needs in 2020 because they have over projected load growth forecasts for 2020 and have not studied the applicability of their proposal and its alternatives in light of realistic Minnesota load growth forecasts.

2) The community reliability needs identified in the application that need to be remedied by 2020 can be met by lower cost alternatives to the proposed facilities.

A) The North Red River Valley issues can be fixed with the proposed Boswell 230 kV line,

B) Alexandria can be fixed with Smart Grid and/or competitive generation,

C) St. Cloud can be fixed with the short extension of a 345 kV line from Monticello, or competitive generation.

D) Rochester will be fixed by the construction of the RIGO lines, and additional reliability could be realized with DG and/or Smart Grid, or other 161 kV solutions.

E) La Crosse can be fixed by a combination of transmission, competitive generation and conservation and the Smart Grid.

3) The third category of need claimed in the Application is that of providing 700 MW of generation outlet for renewables. The alternative of developing dispersed generation resources has been shown to likely be the least cost alternative for getting the next increment of generation outlet to satisfy the RES Goals.

Before we proceed to implement the higher cost alternative proposed by the Applicants we should develop this least cost dispersed option. Therefore the Commission should consider requiring commitments for 600 MW of PPAs from dispersed 10 MW to 40 MW CBED renewables from the collective set of CAPX utilities within the next 2 years as a precondition to granting any certificate based on a need for renewable generation outlet capacity from the Brookings 345 kV line.

The recommendations were made *because through the planning horizon of this application, alternatives in the record will adequately meet claimed needs for load growth, system reliability, and generation outlet capacity*, and do so quicker, cheaper (Vol. 6 P. 122 L. 3-5, 23-24), and with much more flexibility than the proposed facilities.

### **III. STATUTORY REQUIREMENTS**

Before reviewing the claimed need for each facility, an examination of legal requirements for certification is in order, beginning with forecasting. As Witness Rogelstad agreed (Vol. 1B p. 69 L 24-25), lower loads means less transmission is needed. He further testified (Vol. 3 p. 101 L. 17-19) that decreased loads can delay the need for new facilities. This means that, as rule and statute recognize, load and energy forecasts really are quite important. The first criteria under Minn. Stat. §216B.243, subd. 3 (1) requires accuracy of the long-range energy demand forecasts on which the necessity for the facility is based, and the first criteria under Minn. R. 7849.0120 (A) (1) requires accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility. Forecast accuracy is essential in terms of justifying Certificates of Need for the proposed projects.

Many problems with Applicants' forecasting, detailed in the Direct Testimony of Mike Michaud (Exhibit 140, pp 2-7), are piled broad and deep, starting with the fact that Applicants used forecast assumptions that are four years old. On top of this pile of flaws, is the tanking economy. Witness Lacey testified that an economic downturn results in less electric consumption (Vol. 4 P. 19 L 6). And true to those words, this proceeding

must take administrative notice that due, at least in part, to low residential usage of electricity, Xcel Energy filed a request for a rate hike on November 3, 2008 with the Minnesota Public Utilities Commission. At a minimum, this proceeding should consider the more recent rate-case forecast and ideally should consider the broader economic realities in the United States and their impact on the Applicant's proposal. Higher electric rates will likely further dampen electric consumption.

Stunningly, rather than attempting to adjust or correct their forecasts based on new information or as a result of criticism, the Applicants simply expanded their forecast range and then, based on hide-bound, old-paradigm assumptions that are also at least four years old, claim that no adjustments would make any difference anyway. Their Brief states:

Even if the forecasts are further adjusted to take into account isolated issues it would make no difference. No party submitted evidence that demand growth would be less than 2,000 MW. And the uncontroverted testimony in this record is that demand growth as low as 2,000 MW would still justify these transmission lines on the basis of regional reliability.

Applicant Brief, P. 47

The fact is, however, that the same witness credited with this “uncontroverted testimony” (Witness Rogelstad) controverted it himself on pages 15-16 of Volume 2B when he testified that no analysis has been done by the Applicants to determine whether the CAPX 2020 powerlines would be needed under any systemic load growth lower than 4,500 megawatts. And the above statement on page 47 of the Applicant’s Brief is straight out contradicted by Witness Rogelstad when he testified that if system growth were only 2,000 MW, “I think certainly there would be less facilities.” (Vol. 1B P. 20 L. 1-8) So what we really have in this record is a witness testifying on behalf of the

Applicants that no analysis was done using lower load growth numbers, that growth of only 2,000 MW would require less transmission, and that study would be needed to identify what transmission would be needed in the reduced growth scenario. (Vol. 1B P. 20 L 9-10).

Either shoddy and legally deficient evidence and analysis passes muster, or it doesn't. If it does, nothing NAWO/ILSR can possibly say makes much difference, and we have all just wasted a colossal amount of time, energy, and resources. If it doesn't, the Applicant's burden has not been met, and little more needs saying. Either way, load growth has collapsed or, as evidenced by the aforementioned rate case filing, perhaps even gone negative to the point where any possible need for the full set of facilities, as proposed, within the timeframe required by this Application, does not exist.

A vital set of assumptions that must be incorporated into any forecast used for Certificate of Need purposes has to do with "Smart Grid" affects on system energy and capacity requirements. The digital future of the utility industry is perhaps best exemplified by the advent of "smart grid" technologies. The Federal Energy Independence and Security Act of 2007 makes smart-grid technology a focus of future transmission/distribution system development and an enhancement to the existing grid system. The law also requires states to consider the incorporation of smart grid planning into their decision-making proceedings, and administrative notice of these federal provisions must be taken. Smart grid technologies are immediately available and deployable. These technologies have the ability to dramatically reduce energy loads in



the very near term, and are included in a large set of technologies that have the ability to affect forecast energy and capacity requirements due to conservation. It turns out, of course, that the *second* criteria under Minn. Stat. § 216B.243, subd.3 (2) for whether a Certificate of Need should be granted, is “the effect of existing *or possible* energy conservation programs under sections 216C.05 to 216C.30 of this section or other *federal* or state legislation on long-term energy demand.” (emphasis added) Likewise, under Commission Rules, the second factor, after the accuracy of the applicant’s forecast, is about utility, state and federal conservation programs. [Minn. R. 7849.0120 A (2)]

NAWO/ILSR Witness Michaud provided much valuable information for the record about the role smart grid technologies *could certainly* be playing within the very early years of the forecast period. This evidence includes Exhibit # 147, entitled “Grid Wise Project Fact Sheet” by the Pacific Northwest National Laboratories. Exhibit #147 states:

The Olympic Peninsula Project demonstrated that an Internet-based network coordinated demand response can save consumers money on power, and *reduce peak load on the grid by approximately 15% over the course of one year.* (emphasis added)

Exhibit #147 also states:

*Up to 20 percent of the nation’s power usage could be put on hold* if GFA (Grid Friendly Appliance) controllers were installed in all compatible appliances. (emphasis added)

In other words, in any circumstances in which load growth causes power availability or reliability issues, smart grid technologies alone, and certainly in conjunction with other demand side efficiency opportunities and dispersed renewable

generation options, have the ability to delay new transmission infrastructure construction for many years into the future, if not permanently. Of course, first they need to be deployed, and therein lies the rub. Federal requirements and “least cost planning” policy objectives notwithstanding, there is no indication anywhere on the record that anyone from any of the applicant utilities knows anything about smart grid technologies despite the fact that results of smart grid testing by the Pacific Northwest Laboratories were impressive enough for Xcel Energy to justify a \$100 million investment for Boulder, Colorado. Applicant Witness Alders was assigned the task of fumbling our questions about it beginning on page 141 of Vol. 14 and continuing on to page 157. Applicant Witness Kline had no idea about smart grids and acknowledged in a backhanded sort of way that smart grid technologies were not included in any planning or forecasting for the proposed facilities. (Vol. 6 P. 144 L. 16-17)

A third set of criteria for certification has to do with “possible alternatives for satisfying the energy demand of transmission needs including but not limited to potential for increased efficiency and upgrading of existing energy generation and transmission facilities, load-management programs, and distributed generation:” [Minn. Stat. § 216B.243, subd. 3 (6)]. The need to prove a proposed facility is better than possible alternatives is further delineated by Minn. R. 7849.0120 (B).

The record in this proceeding is rich with evidence of opportunities for dispersed generation with quick and easy, non-Certificate of Need, lower voltage enhancements capable of meeting all needs claimed by Applicants. That the Applicants and the state

agencies charged with overseeing the utilities are blind to these opportunities, and therefore claim they do not exist, is not surprising considering that they never before had a power flow model that connected the lower voltage and higher voltage systems together. (Vol. 1B P. 35 L 6-17). Phase 1 results of the Dispersed Renewable Generation Transmission Study (DRG Study - Ex. 110) were only released just prior to the evidentiary hearings on this matter, and that study would not have been done at all without legislative directive. The legislative directive requiring this study was itself the result of major and totally unexpected (from the industry perspective) opportunity that began to be uncovered by the West Central Minnesota C-BED Study (Vol. 1B P. 57 L 13-16), which was the first study ever in which transmission planners looked in a concerted way about how to optimize local dispersed generation (Vol.1B P. 40). Further, the West Central Minnesota C-BED Study was only conducted as a result of a deal that the Big Stone 2 Consortium wanted with NAWO to keep NAWO out of Big Stone 2 transmission proceedings. NAWO proposed a dispersed generation transmission study, and the Consortium accepted the NAWO proposal because it thought it had a cheap way of keeping NAWO out of Big Stone 2. (Vol. 1B P. 36-37).

Instead, as a result of this study, in 2005 and 2006, the industry began learning how to refine dispersed generation scenarios (Vol. 1B P. 29 L 9-16), and how to construct a more cost-effective grid system as more dispersed generation is connected closer to load (Vol. 1B P. 28). By June 16, 2008, as part of the DRG Study, a collection of utility-led transmission engineers had found locations for 600 MW of new dispersed generation

without any new transmission upgrades (Vol. 1B P. 33 L. 7-10), including 160 MW in transmission-constrained Southwest Minnesota (Vol. 1B P. 48 L 11-13).

The fact that the DRG Study found specific locations for 600 MW of dispersed generation with no new transmission infrastructure requirements without reaching an upper limit is, in a major sense, beside the point. It is certainly a major finding and one having substantial implications for how Minnesota should meet its renewable energy standard. With that in mind, we are all cognizant that the specific locations for the specific amounts of generation in the study are completely dependent on the specific set of assumptions driving the power flow model. Policymakers and regulators should understand that the primary value of the study is that it employed a new methodology that for the first time analyzed the entire low and high voltage interconnected, integrated system, and found that the whole system is capable of absorbing a very large and so far undetermined amount of energy from smaller, strategically located projects *like a sponge*, and delivering it to market. The specific locations and amounts of generation analyzed simply serve to illustrate this primary value.

The methodology is therefore what's important and what must be applied in this decision-making proceeding because, as Applicant Witness Kline pointed out, enough sufficiently reliable generation in a region, along with strategic lower voltage enhancements, can displace the need for higher voltage transmission (Vol. 6 P. 119 L. 10-15). This reality on the record makes the dispersed generation opportunities identified in this record part of a viable, cost-effective alternative under rule and statute to the

proposed facilities. Without showing that the proposed facilities are better than this dispersed generation alternative, Applicants cannot meet their burden of proof by a preponderance of the evidence. The methodology that must be applied, considering the alternative opportunities identified by the DRG Study and the requirements of Minn. Stat. § 216B.243 subd. 3 and Minn. Rule 7849.0120, would be an iterative power flow analysis that strategically enhances the existing transmission system to accommodate the next increments of dispersed generation. The iterations would continue until a system was modeled that provided system reliability, local load serving benefits, and renewable generation support comparable to the facilities proposed by the Application. (That is, of course, after the needs claimed in the Application have been adjusted to account for more reasonable load growth, smart grid contributions, and so forth.) Once comparable models have been constructed and run, both for a dispersed generation/smart grid scenario and for a more conventional scenario, costs and time-line issues can be meaningfully compared, as contemplated by rule and statute.

Iterative power flow modeling and analysis is not new to transmission engineers. TLTG (transfer limit table generator) and the similar MUST (managing and using system transmission) analysis are routinely used planning tools (Vol. 9 P. 177 L 15, 25). What is new, and what has not been done, and what must be done as a matter of law before Certificate of Need criteria can be met, is the iterative modeling and analysis that actually looks at the entire interconnected high and low voltage systems. Because this has not been done, there is not, and cannot be any claim anywhere in the record that the proposed facilities constitute a “least cost” option. In fact, Applicant Witness McCarten testified

that she has no knowledge that the proposal is the least-cost option for providing the claimed need (Vol. 6 P. 16 L.7-9). The Application for the proposed facilities and the Applicants are therefore out of compliance with the provisions of Minn. R. 7849.0120 (B). The determination of the PUC that the Application was complete does not absolve the Applicants of their statutory burden to examine reasonable alternatives.

Unfortunately, Applicants labor beneath a mistaken presumption that to qualify as an alternative to their proposal, some monolithic thing must be labeled “The Alternative,” and meet the combined needs claimed in the Application. Hence, the only alternative to their proposal in the Record that they can recognize is their so called “upsizing” idea. This presumption is consistent with the central-station mentality they and their state agency cousins have demonstrated for decades. As the Administrative Law Judge clearly stated during the Pre-Hearing Conference, however, and according to provisions set forth in Minn. Stat. § 216B.243, subd.3 and Minn. R. 7849.0120 which speak exclusively about a singular “facility” and contain no provision for “piggybacking,” the Applicants must prove that each proposed line, standing alone, meets Certificate of Need criteria. Further, the assessment for each claimed need for each line must account for multiple ways of meeting that need, as required by the above cited rules and statutes. Applicants have failed to meet these requirements. Alternative electric utility system management options, in combination as envisioned by statute and rule and as presented in testimony by NAWO/ILSR Witness Michaud and by the NAWO/ILSR examination of witnesses, provide the Record with a set of cheaper, quicker, more equitable and more flexible options that meet the needs claimed by Applicants, such as they are. Further, the set of

options presented by NAWO/ILSR meets the needs of the system in a way that is much more compatible with Minnesota policy objectives of more renewable energy, more distributed generation, more community-based energy development, and more local economic development as a result of energy management decisions.

#### **IV. ANALYSIS OF NEED**

**The Applicants have failed to show that the CapX proposal is the most cost-effective alternative.**

Minn. Stat. § 216B.243 subd. 3 states that no large energy facility, including high-voltage transmission lines, shall be constructed without *the applicant* showing that the need for the facility cannot be met more cost effectively through conservation measures and load management. Nothing in the statute indicates that if the Applicant fails to propose a conservation or load management alternative to the project that no further analysis of cost-effectiveness is required. In the event that conservation and load management cannot cost-effectively meet the entire stated need, the extent and effectiveness of those conservation and load management measures necessarily influences the amount of need remaining to be satisfied. Therefore, the Applicants must accurately indicate just how much conservation and load management they intend or are required by law to undertake, with the remaining need being the focus of the proposal. The Applicants have admittedly failed to examine conservation and load management measures including dispersed generation and ‘smart grid’ technologies to fully meet the "needs" that they are claiming will be met with their preferred option. Without a full and

proper analysis of conservation and load management, followed by a cost-comparison, we are left with a deficient Application to consider. \$1.7 billion is too much to pay for an incomplete project based on an incomplete analysis.

**The record does not support a finding of ‘need’  
based on the accuracy of long-range energy forecasts.**

Minn. Stat. § 216B.243 subd. 3 goes on to require that the Applicant further justify the need for the facility in accordance with a 12-factor test. Subd. 3(1) requires that that Commission evaluate the accuracy of the long-range energy demand forecasts on which the need for the facility is based. It is well-established in the record that the long-range energy demand forecasts upon which the project was premised are no longer accurate. (Vol. 21 P138 L12-23). Furthermore, a motion to reopen the hearing based on significant, unanticipated, and unprecedented declines in electrical consumption has been brought forward by another party to these proceedings. Witness Michaud provided detailed testimony regarding the significance of the failure of the Applicants to study load growth of less than 4,500 MW. (Vol. 16 P69 L25 – P70 L10). Witness Michaud’s testimony in that regard was uncontroverted and was never challenged by the Applicants via cross-examination. The record does not support a finding that the proposed facilities are needed based on accurate long-range energy demand forecasts. Further study is required to determine the appropriate facilities to serve the anticipated future demand. Mere opinion that lowered demand forecasts have no impact on the need for the facilities cannot be substituted for objective analysis. (Vol. 15 P117 L25 – P119 L9).



**The record does not support a finding of ‘need’ based on an inability of existing or possible energy conservation programs to meet all or part of the ‘need.’**

Subd. 3(2) requires that the Commission evaluate the need for the proposed facilities based on the effect of existing *or* possible energy conservation programs. ‘Smart grid’ type programs certainly fall into the category of possible energy conservation programs. While the Applicants and OES are the only parties to these proceedings with the expertise and capacity to provide an analysis of the effect of possible energy conservation programs such as Smart Grid, no attempt to study that potential has been made in this proceeding. (Vol. 14 PP 141-157). Thus, the record cannot support a finding that the need for the proposed facilities cannot be met in part or in full based on the effect of existing or possible energy conservation programs.

**The record does not support a finding of ‘need’ based on regional transmission needs.**

Subd. 3(3) requires that the Commission evaluate the need for the proposed facilities taking into account regional transmission needs. Looking beyond the borders of Minnesota, the Applicants have not been willing to indicate that the project is needed to support the Big Stone II expansion in South Dakota or any other specific generation source either within Minnesota or beyond. The only element of regional transmission need that these lines are proposed to serve is presented by the Applicants as a need to satisfy an exaggerated estimate of general Minnesota utility system-wide load growth. There is, however, nothing in the record that indicates any plan to support regional transmission beyond the end-points of the proposed lines. On the contrary, MISO Witness James Webb indicates that these lines are not part of MISO regional expansion

plans. (Webb Direct, Ex. 56 P.11, L 18-21). Therefore, the record does not support a finding that the projects are needed to increase any regional transmission needs outside the immediate borders of the state of Minnesota. Regardless, any conclusions MISO could have provided regarding transmission needs inside Minnesota or beyond its borders would suffer the same fatal flaws as Applicants' claimed needs because MISO does not do load and energy forecasting. MISO merely uses data provided to it from its utility members. (Vol 4 P. 106 L. 2-5).

**The record does not support a finding of 'need' based on the project's potential benefits to environmental quality or reliability of the energy supply.**

Subd. 3(5) requires that the Commission evaluate the need for the proposed facilities in light of their benefits to the state with respect to the potential to protect or enhance environmental quality, and to increase the reliability of the energy supply in Minnesota and the region. The Applicants have stated that the CapX 345-kV transmission projects are needed, in part, to increase the generation outlet capacity for renewable resources and meet the state Renewable Energy Standards. In particular, the Applicants have identified a need for generation outlet capacity on the Buffalo Ridge in southwestern Minnesota to be served by the Brookings line. Common-sense would dictate that generation outlet capacity on the Buffalo Ridge would serve wind projects, presumably protecting and perhaps enhancing environmental quality in Minnesota. Yet, the Applicants have resisted the approval of any of the project lines, including Brookings, with conditions that guarantee the firm generation resources that are interconnected using the project lines come from renewable sources of energy. Those conditions would serve to protect and enhance the environmental quality of Minnesota. (Vol. 15 P23-53). The

presumption that greenhouse gas emissions harm and impair the environmental quality of Minnesota is codified in state law. Minn. Stat. § 216H.03 imposes a moratorium on the construction of new coal-fired plants in Minnesota and prohibits importation of coal-fired power from other states because of the deleterious environmental impacts associated with the release of greenhouse gas emissions. Without the imposition of conditions related to the generation sources to be enabled by the CapX transmission projects, the record cannot support a finding that the facilities will be used to protect or enhance the environmental quality of the state of Minnesota.

**The record does not support a finding based on a lack of possible alternatives for satisfying the stated transmission needs.**

Subd 3(6) requires that the commission take into account “possible alternatives for satisfying the energy demand or transmission needs including but not limited to potential for increased efficiency and upgrading of existing energy generation and transmission facilities, load-management programs, and distributed generation.” What is missing from this statutory language is any indication that those possible alternatives should be considered separately from one another. Rather, the word “including” seems to indicate an inclusive approach that would imply that all appropriate and possible alternatives be considered together. A common-sense reading of this statute would assume that the more complex and multi-faceted the Certificate of Need being sought, the more complex and multi-faceted the analysis of possible alternatives ought to be. Certainly the Applicants have paid lip service to each of those alternatives at a very superficial level in their Application. What the Applicants have failed to do is conduct a

comprehensive analysis of the possible alternatives to their proposal that engages the full bouquet of alternatives listed in the statute. It would certainly seem appropriate to require the most extensive and wide-ranging transmission infrastructure project ever proposed in the state to consider the full range of possible alternatives to the project. Can we afford to spend \$1.7 billion without at least considering the off-brand alternative?

**The record cannot support a finding of ‘need’ that takes into account the policies, rules, and regulations of other state and federal agencies and local governments.**

Subd 3(7) requires the commission to take into account the policies, rules, and regulations of other state and federal agencies and local governments. This subdivision of the statute can be split into two zones of analysis. As was noted earlier, the Federal Energy Independence and Security Act of 2007 strongly encourages the incorporation of smart grid planning into this type decision-making proceeding. In addition, over 900 mayors in the United States (more than 40 in Minnesota) have signed the U.S. Mayors Climate Protection Agreement highlighting the spread of local policies aimed at reducing greenhouse gas emissions.<sup>1</sup> There do not appear to be any local policies enacted in the United States celebrating or encouraging further greenhouse gas emissions for their own sake. Furthermore, ten (10) states that are downwind of Minnesota have implemented the Regional Greenhouse Gas Initiative (RGGI) that establishes a mandatory cap-and-trade system for carbon-dioxide emissions from the electricity sector.<sup>2</sup> The Midwestern Governors Greenhouse Gas Reduction Accord (nine states and two Canadian provinces involved) and the Western Climate Initiative (seven states and four Canadian provinces

---

<sup>1</sup> See, <http://www.usmayors.org/climateprotection/agreement.htm>

<sup>2</sup> <http://www.rggi.org/states>

involved) are poised to adopt even more stringent and far-reaching GHG reduction programs than RGGI.<sup>3</sup> Thus, it is evident that other state, federal, and local policies support reductions in emissions which can be directly tied to reduced electricity consumption, more effective load management, and transmission/distribution system infrastructure that encourages renewable energy production. In this respect, if the commission is to take the policies of other states, localities, and the federal government into account they cannot find that the CapX proposal as it stands furthers those other policies, rules, and regulations.

On the other hand, the lack of policies in neighboring states restricting the building of coal-fired power plants and the importation and consumption of fossil-fuel derived energy are also worthy of consideration by the commission. No legal barrier exists for neighboring states to produce and consume ever-increasing quantities of coal-fired power while using Minnesota as a conduit between western coal fields and eastern load centers. At the same time, Minnesota is under no obligation to encourage the policies of other states and according to subd 3(7) is entitled to consider those ramifications in making a decision to grant or deny a Certificate of Need. If the aforementioned policies are in fact considered, the clear choice is to deny the Application as presented, or impose the proposed conditions to limit the use of the new transmission to encourage renewable energy generation.

---

<sup>3</sup> See, <http://www.midwesternaccord.org/> and [http:// www.westernclimateinitiative.org](http://www.westernclimateinitiative.org)

**The record does not support a finding of ‘need’ based on a lack of economically feasible combination of energy conservation improvements.**

Subd 3(8) requires the commission to evaluate “any feasible combination of energy conservation improvements required under section 216B.241 that can (i) replace part or all of the energy to be provided by the proposed facility, and (ii) compete with it economically.” It is not clear that the Applicants have provided an adequate basis to allow the commission to evaluate any feasible combination of energy conservation improvements that can replace all or part of the proposed facilities. Certainly there has not been adequate cost data provided to allow the commission to make the evaluation required by this subdivision of the statute. Thus, the record cannot support a finding that the Certificates of Need should be granted based on the commission’s evaluation of any feasible combination of energy conservation improvements that can replace all or part of the proposed facility in a cost-effective manner.

**The record does not support a finding of ‘need’ based on reliability, robustness, access, deliverability, or lower consumer costs.**

Subd 3(9) requires the commission to consider “the benefits of enhanced regional reliability, access, or deliverability to the extent these factors improve the robustness of the transmission system or lower costs for electric consumers in Minnesota.” The benefits of enhanced regional reliability have been touted as a major improvement that the CapX lines will bring. Examined more closely, the local reliability that the lines are proposed to convey upon Rochester, Winona – La Crosse, Fargo, and Alexandria can all be achieved through alternative means. Only St. Cloud appears to exhibit reliability need

sufficient to justify building a portion of the Fargo line. “Regional reliability” therefore is not an appropriate description of what these projects will bring.

The statute also requires an examination of the benefits of “access” that the proposed facility will bring. Building high voltage transmission like the proposed 345-kV lines does not encourage access to the transmission grid for small suppliers. High voltage transmission does encourage access to large central station generators. The Applicants have not shown that a built-in preference for large central station generation will either improve the robustness of the transmission system or lower cost for electric consumers in Minnesota.

Moving on within the same section of the statute, the commission is required to consider the benefits of “deliverability” as well. It is important to note that the statute assumes consideration of deliverability to electric consumers in Minnesota – that is not a regional concern that is recognized by our laws. Therefore it is vital to consider the type of energy that is to be delivered via this project as deliverability of energy within Minnesota necessarily implicates generation sources. All electricity delivered by the transmission system for consumption in Minnesota implicates the RES. All load growth forecasts in Minnesota must consider the relevant balance between renewable and non-renewable generation that will allow for compliance with the RES. Therefore, when the commission considers “deliverability” via the transmission system it must consider the source of the electrical generation that is being delivered and the comparative cost of that delivery system.

Finally, the same section of the statute directs of the commission to consider the above factors to the extent that they improve the robustness of the transmission system or lower costs for electrical consumers in Minnesota. There is no indication that the proposed 345-kV project will lower electrical costs for Minnesota ratepayers. It is difficult to imagine how a \$1.7 billion sunk cost is going to reduce electrical costs and the Applicants have not provided any data that supports a finding that costs will decrease for consumers. Furthermore, the question of robustness of the transmission system should certainly be considered relative to any alternatives. Certainly high voltage transmission lines such as those proposed here will add some measure of robustness to the system, however, the flexibility of a dispersed generation model also adds significant robustness to the system. Without the Applicants fully developing a comparable alternative as a point of comparison, there is no way for the record to support a finding that the proposed 345-kV projects will add more robustness to the system and more benefits to Minnesota than a dispersed generation alternative.

**The record *absolutely* does not support a finding of ‘need’ based on support for renewable generation.**

Subd 3(10) requires the commission to consider whether the proposed projects are needed or will support renewable generation as necessary to help meet the state’s renewable energy standards. While the Applicants have purported that the projects, particularly the Brookings line, are necessary to provide generation outlet capacity for renewable energy projects, they have fought specific conditions requiring the lines to actually provide generation outlet capacity for renewable energy projects. The logic is



rather simple here. Either the lines are needed to meet the RES or they are not. If they are needed for that purpose, then there is no reason why they should not be conditioned to guarantee that they be used to meet the RES. On the other hand, if the lines are not needed to meet the RES, then the Applicants' arguments against imposing conditions make perfect sense. Thus, the commission must either ignore the Applicants' claims that the project is needed to support the RES, or proceed under the assumption that any approval of the project must incorporate conditions to ensure that the project are used to meet the RES.

**The record in no way can support a finding that the proposed transmission project has compared the true costs of transmitting renewable v. non-renewable generation – nor can it support an exemption from this subsection based on a failure to identify a particular generator.**

Last but not least, subd 3(11) requires that the commission evaluate whether the Applicant has demonstrated the requirements to Minn. Stat. Sec. 216B.243 subd 3(a). Subd 3(a) states that the commission “may not issue a certificate of need under this section for a large energy facility that. . .transmits power generated by a nonrenewable energy source, unless the applicant for the certificate of need has demonstrated to the commission’s satisfaction that it has explored the possibility of generating power by means of renewable energy sources and has demonstrated that the alternative selected is less expensive (including environmental costs) than power generated by a renewable energy source.” Nowhere has the Application attempted to comply with this portion of the statute. Rather, the Applicants have stated that they have no need to abide by this law because they have not identified any particular generator that the proposed transmission project will hook into. That conclusion can only be reached through an incredibly disingenuous reading of that passage.

The statute speaks directly to high voltage transmission projects. The statute is silent with respect to high voltage transmission linked to specific generators. Rather, the statute only refers to high voltage transmission that will transmit energy produced by non-renewable means. The choice of the commission here is once again quite simple. The commission may refuse to approve the transmission project that will carry energy generated from non-renewable sources until the appropriate studies and analysis has been done proving that the nonrenewable alternative is less expensive (including environmental costs). Or, the commission can move forward without waiting for that analysis, but must impose conditions on the lines to ensure that they are not used to transmit nonrenewable energy. That is the universe of options available at this point. Any other actions are outside the scope of the commission's authority and are not supported by Minnesota law or policy.

**In addition to failing to prove a 'need' for the proposed facilities under the statutory requirements, the Applicants have also failed to meet the requirements of Minn. R. 7849.0120.**

In order to implement the statutory criteria outlined above, Minn. R. 7849.0120 with all of its subparts was promulgated. For the most part, the requirements of the rules mirror those of the statute with four major factors having been identified, most of which have additional subparts. A focus on the highlights of this list serves to further emphasize the deficiencies in the Application and the abundance of legal grounds upon which a denial of the Certificates of Need is justified. Minn. R. 7849.0120 (A)(1) requires that the commission base its findings regarding the probable result of denial, in

part, on the accuracy of the Applicants' demand forecasts. The record is replete with uncontroverted testimony indicating the inadequacy of the Applicants' demand forecasts in this proceeding. Because the technical analysis of need in this proceeding with respect to local load service, system-wide growth, and generation outlet capacity are all based on assumptions from the demand forecasts – all of the studies and work presented by the Applicants is fatally flawed. All of their analysis was based on the wrong assumptions regarding load growth, and therefore the evidence presented that purportedly supports the need for these facilities is not based in science or engineering. The public is being asked to commit themselves to a \$1.7 billion investment based on severely inaccurate data. No study or analysis has been done to see what the transmission system needs are for a 3,900 MW or 2,000 MW increase in load growth in the project timeframe. Therefore, the record cannot support ANY finding regarding the probable result of denial. Without an accurate demand forecast and accurate studies, there is no way to know what the impacts of the no-build alternative would be, or what other alternatives might be sufficient to meet that level of need.

**The record clearly shows a more reasonable and prudent set of alternatives.**

Minn. R. 7849.0120(B) asks the commission to consider whether the preponderance of the evidence shows that no reasonable and prudent alternative to the facility has been identified in the record. The Applicants in their brief have failed to recognize the fact that the record clearly shows that a reasonable and prudent alternative to their proposal exists. For each element of need, for each line, a reasonable and prudent

alternative or set of alternatives has been clearly identified by various witnesses, including NAWO/ILSR Witness Michaud. As per Minn. R. 7849.0120(B)(1), the reasonable and prudent alternatives are all more appropriate than the proposed project with respect to size, type, and timing. With respect to Minn. R. 7849.0120(B)(2), no comparable costs for the alternatives have been fully presented. A portion of the costs associated with an alternative involving the Boswell 230-kV and the RIGO lines are accounted for in other proceedings and are therefore essentially ‘free’ as far as this proceeding is concerned. In Winona – La Crosse, building the lower voltage enhancements without adding in the 345-kV will assuredly cost less than the CapX proposal. That leaves the small segment of 345-kV near St. Cloud that may be needed and the different scenarios with Brookings. Off the back of the envelope the reasonable and prudent alternative seems to be significantly more cost-effective.

**The record shows that the alternatives have a positive impact on the natural and socioeconomic environments when compared to the Applicants’ proposal.**

The additional sub-factors in this section of the rule ask the commission to examine the impacts on natural and socioeconomic environments as well as the expected reliability of the proposal versus the reasonable and prudent alternative. As has been thoroughly discussed throughout these proceedings and elsewhere in this brief, the benefits of the reasonable and prudent alternative for the natural and socioeconomic environments over the CapX proposal are extraordinary. In addition, there is no associated decrease in reliability of the facilities.

**The record is clear the Applicants’ proposal will not protect the natural and socioeconomic environments or human health.**

Minn. R. 7849.0120(c) asks the commission to determine whether the preponderance of the evidence in the record shows that the proposed facilities will “provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health.” There is simply no way to construe the record as supporting a finding that the CapX facilities as proposed will serve to protect the natural and socioeconomic environments including human health. The only potential means of reaching that result would be through conditions on the lines restricting them to renewable energy interconnections and C-BED development. Even if conditions were imposed, the alternatives presented in the record would better provide the benefits identified in this section of the Rules.

**The record does not support a finding of ‘need’ based on compliance with other relevant policies, rules, and regulations of other state and federal agencies and local governments.**

Finally, Minn. R. 7849.0120(D) asks the commission to determine whether the record demonstrates that the proposed facility will comply with all relevant policies, rules, and regulations of other state and federal agencies and local governments. As discussed earlier, the proposed facilities certainly do not comply with the relevant policies, rules, and regulations of other governmental entities. Thus, there is no basis for a finding here in favor of granting the Certificates of Need.

## **V. LINE – BY – LINE ANALYSIS**

### **1. La CROSSE PROJECT**

Community service reliability has been identified by the Applicants as a need in the Rochester and Winona – La Crosse areas. Estimated costs for the La Crosse project range from \$389 million to \$432 million in 2007 dollars. (Ex. 89 at 4, Stevenson Surrebuttal). Alternative solutions to the community service reliability issues around Rochester as well as the Winona – La Crosse area have been identified in the record. No evidence has been provided in the record to indicate that the identified alternatives would not adequately serve the claimed need in those areas. Furthermore, no evidence has been provided in the record that the identified alternatives will cost more or take longer to build than the proposed 345-kV line. Finally, no evidence has been provided in the record that indicates that the identified alternatives will not have fewer environmental impacts than the proposed CapX transmission line. Thus, the record cannot support a finding that the La Crosse project should be granted a certificate of need to satisfy community service reliability needs around Rochester or in the Winona – La Crosse area.

#### **- Rochester**

The present situation in Rochester is not acceptable. Yet, the existence of a need for enhanced community service reliability is not a reason for panic. The record in this proceeding clearly indicates that demand forecasts are exaggerated and overstate the overall need to serve future load growth. In particular, the failure to incorporate conservation requirements and load management strategies serves to artificially inflate the demand forecasts. Additionally, while the Applicants have asked us to sever all

notion of generation from this proceeding, their case for need in the Rochester area is based on assumptions of generation facility retirement. At the same time, new generation that is planned to replace that retired generation is not factored into the calculations. Are we to have our cake here and eat it too? Where the probability of generation retirement and new generation are equally likely, why is only one side of that equation represented in the calculation of need?

More realistic load growth projections for Rochester along with additional dispatchable generation will not completely resolve the need in Rochester for transmission support. But add the RIGO lines and a planned re-conductoring of the Rochester/Adams 161 kV line, and the need is met. Applicant Witness King said it best when she said, “That’s correct,” (Vol. 9 P 11, L. 2) when asked if the existing system, plus the RIGO lines plus Rochester/Adams re-conductoring, will serve Rochester until 2032! That’s 12 years beyond the planning horizon claimed in this Application.

The RIGO lines are likely to be built, given the Applicants’ commitment to get regulatory approval. As a matter of administrative notice, the Certificate of Need has been filed (MPUC Docket No. 002-CN-08-992) with an on-line date of 2011, well before any of the facilities proposed in the CapX proceeding can possibly be available for service. More realistic growth projections, coupled with expected local generation capacity and the RIGO lines will provide community service reliability for the Rochester area, without the proposed 345 kV line, well beyond the planning horizon of this Application. Thus, the evidence cannot support a finding of need for the La Crosse 345-

kV line in order to support community service reliability concerns in Rochester. Additional lines will be built long before CapX that serve that need making any additional transmission infrastructure built to serve that same need redundant and an absolute waste of investment capital.

**- La Crosse**

As with Rochester, Applicant's forecasted load growth assumptions for the Winona /La Crosse area predate the 1.5% annual energy conservation requirement and exaggerate the claimed need for the region. It is well-established in the record that overstated load growth assumptions have presented an excessively pessimistic picture of transmission needs within the 2020 planning horizon identified in this application. Winona – La Crosse is no exception.

Uncontested testimony from NAWO/ILSR Witness Michaud provides substantial evidence that developing the underlying lower voltage system in the region, which consists of 161 kV, 115 kV and 69 kV facilities that must be upgraded anyway if the proposed facility is to be constructed, will fix reliability and load serving issues in the region without even bothering with the proposed facility. This fix will be substantially reinforced with additional cost-effective generation at French Island. (Michaud Direct Ex. #140, P. 21-23; Michaud Rebuttal Ex. #148 P. 9 L 8-19).

The marginal benefit of building the proposed 345-kV line to enhance reliability and provide local load service to La Crosse must be weighed against the significant cost



of the high voltage transmission infrastructure. La Crosse has local reliability and load serving issues. With or without the construction of the proposed CapX 345-kV line, the region's lower voltage system including 161-kV, 115-kV, and 69-kV facilities will need to be further upgraded and developed to address those issues. Those lower-voltage upgrades will serve the overwhelming bulk of the stated need for the La Crosse area. The remainder of the improvements could be achieved either via the CapX 345-kV line, or cost-effective generation at French Island. The Applicants have not provided any comparison of the costs associated with developing French Island generation versus construction of the CapX 345-kV line to serve La Crosse. Thus, no finding can be made based on the record that the claimed need for the La Crosse region is most cost-effectively served by the CapX proposal. If that line is to be deemed 'needed,' it must be for a different reason.

On the darker side, evidence of a "bait and switch" scheme cannot be ignored. The proposed Rochester to La Crosse 345 kV facility dead-ends amongst a bunch of lower voltage lines in La Crosse. While there is no quantitative evidence of the impact the proposed facility would or could have on the Minnesota / Wisconsin Index, the intent of utility players to engage in linked activity is on the record. American Transmission Company (ATC) and perhaps others are preparing to construct a 345 kV line east from La Crosse to Madison. (Vol. 9 P. 13 L. 12). At a very minimum, the cost of this linked activity should be considered in any system-wide analysis, which the present Application claims to represent, but it wasn't. Obviously, there is no legal prohibition against turning Minnesota into a "pass through" state, but when evidence supporting claimed needs is so

deficient while an ulterior motive is so blatant, public interests cannot be served if this reality is ignored.

If the proposed La Crosse Project is constructed under the guise of being for local load serving purposes, and industry players then proceed with a high voltage line east out of La Crosse, the primary function of the La Crosse project will be to provide a circuit for bulk power transfer from the Dakotas to Milwaukee and Chicago. Then, even that fraction of the transmitted energy that is renewable will pass through and not count toward Minnesota's Renewable Energy Standard (RES). As with the above paragraph, there's no law against passing energy through our state from wind or coal plants, but Minnesota public interests are better served by Minnesota owned projects that count and facilitate progress toward meeting Minnesota's commitment to renewable energy. Minnesota ratepayers should not subsidize this regional use for the facility by being forced to pay 80% of project costs. (Application, Ex. 2. App. D-5).

Meanwhile, neither the La Crosse / Winona region nor the Rochester region has had the benefit of smart grid analysis or implementation. The Applicants have continually reiterated the fact that the Boulder Smart Grid pilot project is just that, a pilot project and nothing more. If this argument is to have any relevance, the element of timing takes on the utmost importance. If the community service reliability problems in Rochester needed to be fixed yesterday and no alleviation of the problems other than the CapX line was in sight, moving forward with that line might be meritorious. In this case, the RIGO lines will extend the critical timeframe in Rochester from yesterday to at least

2032, plenty of time to evaluate the benefits of smart grid applications to enhance local reliability and service in the Rochester area. Similarly, many upgrades to the underlying voltage system in the Winona – La Crosse area must be made with or without the 345-kV line. By the time the lower-voltage enhancements have been made, the benefits and limitations of smart grid technologies to solve the remaining need will have come into much clearer focus. Not only have the Applicants failed to meet the statutory requirements for proving that the La Crosse project is needed for the stated reasons, common-sense policy also dictates that any investment in the 345-kV line be halted or delayed for the foreseeable future. To do otherwise would be akin to convicting someone of a crime while results of a DNA test are pending.

The contribution of the La Crosse Project to Minnesota’s RES is “0.” To the extent that generation outlet is required by renewable energy projects in the region, that outlet capacity is provided by the RIGO lines up to the 900 MW level.

## **2. FARGO**

Virtually 100% of the community reliability need of the Upper Red River Valley is provided by the Boswell 230 kV Line from Grand Rapids to Bemidji. (Application, Ex. 1, App. A3) Recognizing the need for reliability and load growth support in Alexandria and St. Cloud on the southern portion of the proposed Fargo Project, the St. Cloud to Monticello segment may need to be built to serve St. Cloud. (Michaud Direct Ex. 140 P. 29 L. 7-11). That leaves the Alexandria area.

Load growth for Alexandria is exaggerated by the same forecasting failure that is common to all the projects in the Application, in that load growth forecasting was done prior to the 1.5% legislative conservation requirement. Even with the exaggerated forecast, however, the load-serving shortage in 2020 is small, about 8 MW, and the Alexandria area could continue without violating reliability criteria until 2020 with no new transmission other than the 230 kV Boswell Line. (Michaud Direct, Ex. 140, P. 26).

To the extent that there is value in enhancing the transmission system prior to 2020, MISO Witness Webb identified low voltage fixes, including a 230 kV to Morris and 230 kV line north to Henning. (Webb Direct, Ex 56. P 23-24). These lower voltage fixes can be accomplished much more flexibly and much cheaper than the proposed Fargo Project.

In addition, deployment of smart grid technology and local dispersed renewable generation connected to the lower voltage system can cost-effectively and reliably meet load growth and reliability concerns in the Alexandria area well past the planning horizon of this Application.

The proposed Fargo Project would provide about 350 MW of additional generation outlet capability in the form of transfer capability across the North Dakota Index, (Kline Direct, Ex. 67, P. 12) and not all of the energy from that new capacity would be renewable, since significant coal facilities are waiting in the North Dakota MISO queue. (See Kline Rebuttal Schedule 2, Ex. #72). A \$400 million expenditure for

something less than 350 MW of renewable generation outlet capacity is not reasonable considering that the DRG Study identified locations where the existing system could connect with 600 MW of new dispersed generation capacity, and deliver the power to load, with no new transmission infrastructure costs. (See Ex. 110, Vol. 1 of the DRG Transmission Study).

### **3. BROOKINGS PROJECT**

The Brookings Line provides no specific local reliability benefits (Rakow Direct, Ex. 282 P. 17) and suffers from the same local forecast flaws that affect the other projects in the Application. The Brookings line was not studied to determine whether it is a least cost facility needed for local load serving attributes. The only function it serves for purposes of meeting this Certificate of Need decision requirement is a generation outlet function. And as the Applicants are intent on making clear, it is not just for renewable energy, and the generation outlet is not ascribed to any specific generation source, much less even guaranteed to be targeted for Minnesota RES purposes.

Ratepayer and Minnesota policy interests, however, are focused on meeting RES objectives cost-effectively as well as reducing GHG emissions. As shown in the Application Appendix D-5, the Brookings Line will cause substantial economic burden on Minnesota ratepayers. Minnesota ratepayers could be billed twice for the Brookings Line, once from the MISO cost allocation to load, but also from bearing the portion of costs MISO would allocate to generators if their energy is delivered to Minnesota consumers. (Ex. 2 Application Appendix D-5 P. 10).

Because of the low-cost generation outlet opportunity for dispersed renewable energy generation identified by the DRG Study, and in keeping with State policy guidelines favoring community-based energy development and energy management that provides for local economic development, construction of the Brookings Line, if approved, should therefore be conditioned. Regardless of the enforceability of requiring only renewable energy to flow on the Brookings line, the CAPX utilities with RES obligations should be required to procure at least 600 MW of dispersed C-BED capacity from statewide sources before the Brookings Line is energized. Therefore the Commission should require commitments for at least 600 MW of new PPAs from dispersed C-BED renewables from the collective set of CAPX utilities within the next 2 years as a precondition to granting any certificate based on a need for renewable generation outlet capacity from the Brookings 345 kV Line.

## **VI. CONCLUSION**

In this Certificate of Need proceeding, the Applicants have the burden of proving why Minnesota ratepayers should invest \$1.7 billion in a transmission infrastructure project. When considering such an enormous investment the public is entitled to more information than usual, clearer explanations than is typical, and a bullet-proof case of ‘need.’ Here, we have the opposite. This Application is a mess. The explanations of need have been shifting, circular, and exceedingly vague. The underlying assumptions of the entire process have been shown to be flawed. The strategy appears to be two-fold. First, propose a project that is big enough and complex enough to make most people

throw up their hands and grant the benefit of the doubt. Second, when the questions get pointed, make the answers vague. The problem with that strategy is that it doesn't make the project any more compliant with the laws and regulations governing the Certificate of Need process. Obfuscation or not, this Application simply does not meet the required criteria to be granted a Certificate of Need. Sometimes there are close calls. This Application is not one of them.

Respectfully Submitted,

Handwritten signature of George Crocker in black ink.

George Crocker, Executive Director  
North American Water Office  
PO Box 174  
Lake Elmo, MN 55042  
651-770-3861

Handwritten signature of John Bailey in black ink.

John Bailey  
Institute for Local Self Reliance  
1313 5th St. SE  
Minneapolis, MN 55414  
612-379-3815