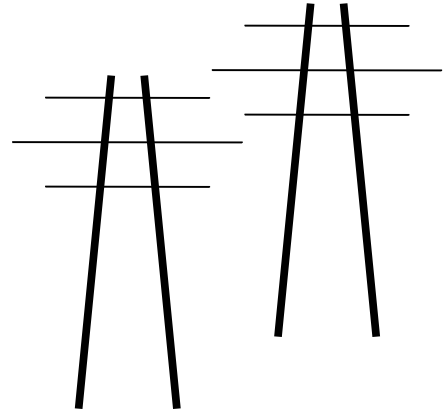


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May 9, 2011

RE: NoCapX 2020 & United Citizen Action Network Objection to ATC Intervention  
In the Matter of the Application for a Route Permit for the CapX 2020 Hampton-  
Rochester-LaCrosse High Voltage Transmission Lines  
OAH Docket No.: 3-2500-21181-2  
PUC Docket No.: E002/TL-09-1448

Dear Judge Sheehy:

Attached for filing please find this Objection to Intervention of ATC on behalf of NoCapX 2020 and United Citizens Action Network.

This has been eFiled and also served on ATC's counsel.

Thank you for your consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Carol A. Overland".

Carol A. Overland  
for  
NoCapX 2020 and United Citizen Action Network

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

In the Matter of the Route Permit Application  
by Great River Energy and Xcel Energy for a  
345 kV Transmission Line from Hampton to  
LaCrosse, Wisconsin

OAH DOCKET NO. 3-2500-21181-2  
PUC DOCKET NO. ET002/TL-09-1448

**NO CAPX 2020 AND UNITED CITIZENS ACTION NETWORK'S  
OBJECTION TO  
AMERICAN TRANSMISSION COMPANY'S  
PETITION FOR INTERVENTION**

NoCapX 2020 and United Citizens Action Network raise this objection to the Intervention of American Transmission Company. NoCapX and U-CAN have three objections. First, ATC must specify and distinguish its interest. Second, ATC must disclose whether its interest is as a prospective owner of CapX 2020 transmission assets and must be willing to be bound by its disclosures. Third, ATC makes a false statement in its Petition.

**I. ATC MUST SPECIFY AND DISTINGUISH ITS INTEREST.**

OAH Rules state that in a Petition for Intervention:

*The petition shall show how the petitioner's legal rights, duties, or privileges may be determined or affected by the proceedings, how those rights, duties, and privileges are not otherwise represented, and shall set forth the grounds and purposes for which intervention is sought and shall indicate petitioner's statutory or legal right to intervene, if one should exist.*

Minn. R. 1405.0900, Subp. 1; see also Minn. R. 7829.0800, Subp. 2. ATC only states it has an interest, but does not identify a specific

interest in this routing proceeding or distinguish its claimed interest from that of the Applicants in this proceeding in this proceeding.

*As a transmission-owning member of Midwest ISO and an owner and operator of transmission facilities located in both Wisconsin and Minnesota, ATC has an interest in the planning and development of the transmission grid and thus has an interest in the*

*Proposed Project and the outcome of this proceeding. In particular, as a transmission company serving a large portion of the state of Wisconsin, ATC has a unique interest in the regional development of transmission facilities terminating in the State of Wisconsin. Further, ATC recently announced plans to develop an approximately 150 mile 345 kV transmission line from the La Crosse area to the greater Madison area. While not an extension of the Proposed Project, ATC's planned "Badger Coulee Transmission Line" is also a part of the regional grid development and would similarly provide multiple benefits to the region including improved electric system reliability, economic savings for utilities and energy consumers, and access to additional renewable energy.*

While this statement in ATC's Petition claims ATC's "*interest in the planning and development of the transmission grid and thus has an interest in the Proposed Project and the outcome of this proceeding...*" and "*a unique interest in the regional development of transmission facilities terminating in the State of Wisconsin,*" ATC does not address any connection of this general interest with the instant proceeding. Further, in raising its "Badger Coulee Transmission Line" ATC does not address how its claimed interest is any different from that of Applicant Xcel Energy and the many other parties Xcel Energy is representing as the CapX applicant in this docket, and instead shows commonality of interest in "*regional grid development and...*" *multiple benefits to the region including improved electric system reliability, economic savings for utilities and energy consumers, and access to additional renewable energy.*"

ATC has not demonstrated a sufficiently independent and distinct interest in this proceeding.

## **II. ATC MAY WELL BE THE INTENDED "TRANSMISSION ONLY" OWNER OF CAPX 2020 TRANSMISSION**

CapX 2020 applicants have yet to disclose ownership of the project after construction has been completed. There is reason to believe that the applicants will transfer the completed CapX 2020 transmission lines to a transmission only company:

*"If we did not enhance our wholesale power marketing capabilities, we would risk losing customers and suffering declining margins," said Audrey Zibelman, President of Energy Marketin and Fuel Resources, in 1998. "We can't consider*

*ourselves just a regional utility anymore; it's a very national market. For NSP to be a significant player, we have to be willing to look outside of the Mid-Continent Area Power Pool (MAPP) an Mid-Area Interconnected Network, Inc., both as potential sell regions for our excess generation and purchasing regions to get resources for our customers.”<sup>1</sup>*

A transmission only company has long been a part of Northern States Power's strategy:

*As NSP-Wisconsin's Vice President of Transmission Systems, Schuster led a cross-functional team that was on a fast track to become the first-of-its-kind transmission company in the nation. When NSP's merger with New Century Energies was announced in March 25, 1999, it soon became apparent that federal accounting regulations would prohibit the transmission asset divestiture necessary to create a transmission company as envisioned by Schuster's team.*

...

*“We were the smallest transmission promoter by factors in the business, and just by the strength of our arguments, by the creativity, by the purity of the model, we had something that will leave a mark...”*

*The mark, he said, was a simple model – spin the transmission assets to shareholders, get a board of directors, elect officers and start a new business... he predicted that when the transmission industry evolves to its end game, **“I guarantee that you will see our fingerprints all over it.”***

*Schuster said he believes his team will head down the right path by gently shaking the industry – locally, regionally, and nationally – “to head in a direction where we want to go.” That path, he said, is one that incorporates the best of a responsive, profit-driven independent transmission concern within the Midwest ISO, perhaps by as early as June 2001.<sup>2</sup>*

In NSP's promotional piece, Wisconsin efforts are also cited, referencing the WRAO<sup>3</sup> report, which first proposed the line running from south of the Metro to LaCrosse and to Madison, then known as “2e” now Hampton-LaCrosse and Badger-Coulee.

Ownership of CapX 2020 transmission assets after construction has been a continuing point contention from the initial Certificate of Need proceeding through the present proceeding,

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<sup>1</sup> P. 370, *The Energy to Make Things Better: NSP, An Illustrated History of Northern States Power* (emphasis added).

<sup>2</sup> *Id.*, p. 387-390.

<sup>3</sup> Wisconsin Reliability Assessment Organization Report, available online at <http://www.arrowhead-weston.com/wrao.shtml> -- look for Alternative 2e.

primarily because CapX applicants are using their “public service corporation” status and its legislatively granted power of eminent domain to condemn land to build CapX 2020. If the intent is for these projects to be owned by a transmission only company, and CapX applicants are failing to disclose this fact, using “public service corporation” power eminent domain to condemn land, and then, once constructed, to transfer over to transmission only company that does not have land, that fact should be disclosed – and should have been disclosed in the Certificate of Need proceeding. Ownership of CapX 2020 transmission has been subject of several motions over the years... and a point of contention that remains unresolved, despite the PUC Order in the Certificate of Need, years ago, that the CapX applicants disclose ownership:

*As suggested by UCAN, the Commission will direct Applicants to make a compliance filing disclosing each project's transmission capacity, owners, and ownership structure.*

...

*4. Applicants shall make a compliance filing disclosing each project's transmission capacity, owners, and ownership structure.*

Commission Action B & Order Point 4, Certificate of Need Order, May 22, 2009. This compliance and filing has not yet been made regarding the CapX 2020 Hampton-LaCrosse transmission line.

ATC is a transmission only company, and utility owned transmission assets have been transferred to ATC. To be fair, ITC is also a transmission only company, and utility owned transmission assets have also been transferred to ITC. Xcel tried to develop its own transmission only company, TRANSLink, in conjunction with Interstate Power & Light<sup>4</sup>, and transfer its transmission assets to TRANSLink, but withdrew its application after embarking on the merger with Colorado’s Public Service Corporation, and also after garnering support, through a broad

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<sup>4</sup> See PUC Docket 02-2152(NSP) and 02-2122 (IP&L).

Settlement Agreement<sup>5</sup>, with environmental groups with resources and policy positions often resulting in opposition to Xcel initiatives and projects – the Settlement Agreement neutered opposition to TRANSLink and required support of transmission objectives. Gained was support for passage of legislation authorizing transmission only companies in Minnesota and transfer of transmission assets. Minn. Stat. §216B.02 and §216B.16. Xcel Energy/Northern States Power has transferred some transmission assets to a transmission only company, and there is no reason not to expect future transfers of assets.

ATC should be required to disclose its interests, including ownership interests and/or interests in ownership, specifically, whether it will be the owner of any CapX 2020 transmission project assets applied for and/or under construction, to identify all assets for which ownership is expected, contemplated, or under consideration, and should be held to those disclosures and future transfer of assets – ATC must disclose whether it will own CapX 2020 transmission and whether it has interest in ownership of CapX 2020 transmission assets -- if ATC claims that will not own CapX 2020 transmission, that it has no interest in ownership of CapX 2020 transmission assets, then no transfers to ATC should be allowed.

### III. ATC MAKES A FALSE CLAIM THAT ITS BADGER-COULEE TRANSMISSION LINE IS NOT CONNECTED TO CAPX 2020

In its Petition, ATC states:

*While not an extension of the Proposed Project, ATC's planned "Badger Coulee Transmission Line" is also a part of the regional grid development and would similarly provide multiple benefits to the region including improved electric system reliability, economic savings for utilities and energy consumers, and access to additional renewable energy.*

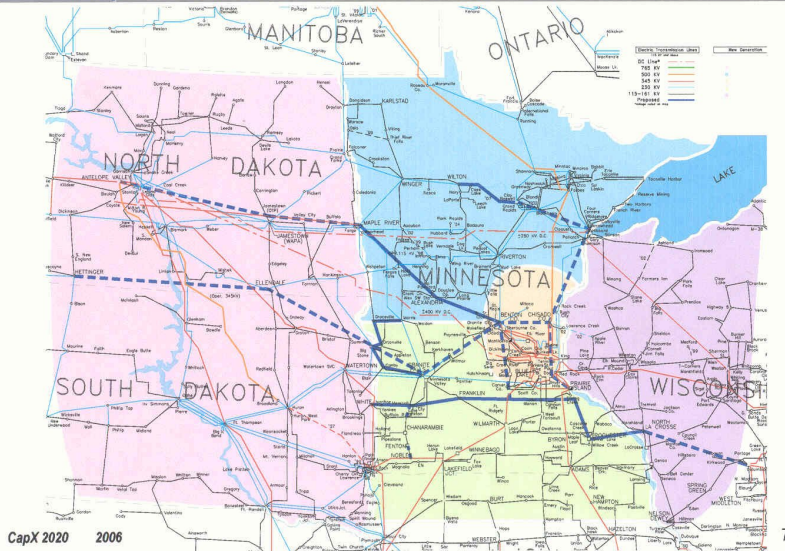
This statement is false. The Badger-Coulee line is part of the CapX 2020 Vision Plan, Phase I:

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<sup>5</sup> Settlement Agreement between Northern States Power and the Izaak Walton League, Minnesota Center for Environmental Advocacy, Minnesotans for an Energy Efficient Economy (ME3) and the North American Water Office, available online: <http://legalectric.org/f/2010/03/settlement-agreement-02-2152-me3-waltons-mcea-nawo.pdf>.



Continuing work refines the plan, but the first project group is ready for implementation



It is also shown on this map from the 2007 Biennial Transmission Plan<sup>6</sup> as a project next in line for development:

Figure 1 - Map of Corridor Upgrade and RES Update Projects



It's also present on the CapX 2020 Phase I project list, cited often in the Certificate of Need docket:

<sup>6</sup> 2007 Biennial Transmission Plan, available online at <http://www.minnelectrans.com/report-2007.html>

<b>Facility Name</b>				
<b>From</b>	<b>To</b>	<b>V olt (kV)</b>	<b>Miles</b>	<b>Cost (\$M)</b>
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
<b>TOTAL</b>			<b>1620</b>	<b>\$1,215 (\$M)</b>

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

The importance of outlet into Wisconsin was also addressed in the CapX 2020 Press Release<sup>7</sup> dated April 3, 2009:

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. A joint transmission planning study now under way by several utilities aims to determine the need for a new transmission line between La Crosse and Madison. The study is expected to be completed by 2010.

<sup>7</sup> Xcel/GRE Press Release, April 3, 2009, available online at <http://nocapx2020.info/wp-content/uploads/2011/05/addk-exhibitf-sandok4-3-09.pdf>



The Petition of ATC must be corrected.

**IV. ATC's PETITION TO INTERVENE SHOULD BE DENIED**

ATC's Petition to Intervene should be denied. ATC must specify and distinguish its interest from that of the Applicant, it must disclose whether its interest is as a prospective owner of CapX 2020 transmission assets and must be willing to be bound by its disclosures, and thirdly, ATC must correct its claim that the Badger Coulee transmission line is not an extension of the CapX 2020. After ATC supplements and corrects its Petition, it should refile upon Motion for Leave to Intervene Out of Time.

May 9, 2011



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