

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

In the Matter of the Application by Xcel
Energy for a Route Permit for the
Hampton-Rochester-La Crosse 345-kV
Transmission Line Project

SECOND PREHEARING ORDER

This matter came before Kathleen D. Sheehy, Administrative Law Judge, on the filing of petitions to intervene by Oronoco Township; the North Route Group; and American Transmission Company LLC and ATC Management, Inc. (collectively ATC). The record on the petitions to intervene closed on May 13, 2011, upon the filing of ATC's response to the objection made by No CapX 2020 and United Citizen's Action Network.

Lisa M. Agrimonti, Briggs and Morgan, P.A., 2200 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402, appeared for Xcel Energy (Applicant).

Phillip R. Krass, Rachel R. Myers, and Timothy J. Keane, Malkerson Gunn Martin LLP, 1900 U.S. Bank Plaza South Tower, 220 South Sixth Street, Minneapolis, MN 55402, appeared for Oronoco Township.

Brian M. Meloy, Leonard Street and Deinard, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402, appeared for ATC.

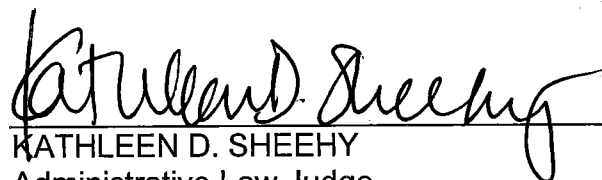
Carol Overland, Attorney at Law, P.O. Box 176, Red Wing, Minnesota 55066, appeared for NoCapX 2020, United Citizens Action Network (U-CAN), and the North Route Group.

Based upon the record, and for the reasons explained in the attached Memorandum, the Administrative Law Judge makes the following:

ORDER

The petitions to intervene of Oronoco Township, the North Route Group, and ATC are GRANTED. Oronoco Township, the North Route Group, and ATC have full party status in this matter.

Dated: May 20, 2011.


KATHLEEN D. SHEEHY
Administrative Law Judge

MEMORANDUM

In this matter Xcel Energy seeks a route permit for 90 miles of 345 kV high-voltage transmission line (HVTL) and 15 miles of 161 kV HVTL to be located in Dakota, Goodhue, Olmsted, and Wabasha counties in Minnesota. The proposed route would cross the Mississippi River into Wisconsin at a location near Alma, Wisconsin, and would terminate at a planned substation near La Crosse, Wisconsin.

Residents of Oronoco Township live in the immediate vicinity of the preferred route and substations proposed for Phase I of the transmission line. The North Route Group is an organization of landowners, farmers, and residents living in the vicinity of the northern alternate route proposed for the transmission line. No party has objected to the intervention of either Oronoco Township or the North Route Group.

ATC is a Wisconsin limited liability company created in accordance with Wisconsin state law as a single-purpose, for-profit transmission-only company. ATC owns, controls, and operates 9,400 miles of transmission lines in Wisconsin, Illinois, Minnesota, and Michigan. It is a transmission-owning member of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO). ATC asserts that it has an interest in the planning and development of the transmission grid and, in particular, it has a unique interest in the regional development of transmission facilities terminating in Wisconsin because it has plans to develop a transmission line from the La Crosse area to Madison, Wisconsin (the Badger Coulee transmission line).

NoCapX 2020 and U-CAN objected to ATC's intervention petition.¹ They argue that ATC has failed to show that its interests are different or distinguishable from those of Xcel Energy. In addition, they argue that ATC must disclose now whether it will own CapX 2020 transmission assets in the future, to avoid the scenario in which Xcel Energy builds the line using its authority as a public service corporation and later sells it to a transmission-only company such as ATC. Finally, they argue that ATC's intervention petition should be denied because it has made a false statement that the Badger Coulee Transmission line is not an extension of the CapX 2020 project.²

In response, ATC argues that it has a direct and independent interest in the outcome of this proceeding and that its interests cannot be adequately represented by any other party. It asserts that this proceeding will determine whether and where the transmission line will cross into Wisconsin, a determination that may affect the location of ATC's facilities in Wisconsin. It argues that its general interests in regional transmission planning and grid

¹ No CapX 2020 and U-CAN petitioned to intervene in February 2010 and were granted full party status, as noted in the Notice of Prehearing Conference (July 12, 2010).

² Objection to Intervention of ATC (May 9, 2011).

development, which are shared by Xcel Energy, do not negate its specific interest in providing input into decisions involving the location of a river crossing into Wisconsin. It further argues that unsupported speculation as to any future transfer of CapX 2020 facilities is irrelevant to any decision on intervention. Finally, it contends that it did not falsely characterize the Badger Coulee transmission line as not being an "extension" of this HVTL. Although the Badger Coulee line will interconnect with this HVTL in the vicinity of La Crosse, Wisconsin, the Badger Coulee line is a separately owned and distinct line that is not a part of this project.

A petition to intervene must 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 the petitioner's statutory or legal right to intervene, if one should exist.³ The administrative law judge shall allow intervention upon a proper showing, unless the administrative law judge finds that the petitioner's interest is adequately represented by one or more parties participating in the case. In the event the administrative law judge finds that one or more petitions are similar, the administrative law judge may order the petitions to be consolidated as one, allowing all such petitioners intervention but only as one party.⁴

ATC has shown that its interests are different and distinct from those of Xcel Energy. The Commission's decision in this case will determine whether and where ATC's facilities will be interconnected with this project in Wisconsin. ATC's petition to intervene is accordingly granted.

K.D.S.

³ Minn. R. 1405.0900, subp. 1.

⁴ Minn. R. 1405.0900, subp. 3.



MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

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May 20, 2011

To All Parties on the Attached Service List

Re: *In the Matter of the Application for a Route Permit for the
CapX2020 Hampton-Rochester-La Crosse High Voltage Transmission
Lines; OAH Docket No. 3-2500-21181-2; PUC No. E-002/TL-09-1448*

Dear Parties:

Enclosed herewith and served upon you mail, or by electronic service where indicated, is the Administrative Law Judge's Second Prehearing Order in the above-entitled matter.

Sincerely,

Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge

Telephone: (651) 361-7848

KDS:nh

Encl.

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
600 NORTH ROBERT STREET
ST. PAUL, MN 55101

CERTIFICATE OF SERVICE

Case Title: <i>In the Matter of the Application for a Route Permit for the CapX2020 Hampton-Rochester-La Crosse High Voltage Transmission Lines</i>	OAH Docket No. 3-2500-21181-2; PUC No. E-002/TL-09-1448
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Nancy J. Hansen certifies that on the 20th day of May, 2011, she served a true and correct copy of the attached Second Prehearing Order by serving it by U S Mail with postage prepaid, or by electronic service where indicated, addressed to the following individuals:

See attached list

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Service List Member Information

Electronic Service Member(s)

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Agrimonti	Lisa	lagrimonti@briggs.com	Briggs And Morgan, P.A.	Electronic Service	No
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Ferguson	Sharon	sharon.ferguson@state.mn.us	Department of Commerce	Electronic Service	Yes
Haar	Burl W.	burl.haar@state.mn.us	Public Utilities Commission	Electronic Service	Yes
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Krass	Phillip	prk@mgmlp.com	Malkerson Gunn Martin LLP	Electronic Service	No
Langan	Matthew	matthew.langan@state.mn.us	Office of Energy Security	Electronic Service	Yes
Lindell	John	agorud.ecf@state.mn.us	Office of the Attorney General-RUD	Electronic Service	Yes
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Thompson	SaGonna	Regulatory.Records@xcelenergy.com	Xcel Energy	Electronic Service	No

Paper Service Member(s)

Last Name	First Name	Company Name	Address	Delivery Method	View Trade Secret
Hackman	Stephen	North Route Group	59919 430th Avenue, Mazeppa, MN-55956	Paper Service	No
Hillstrom	Tom	Xcel Energy	7th Floor, 414 Nicollet Mall, Minneapolis, MN-554011993	Paper Service	No
Overland	Carol	Legalelectric, Inc.	P.O. Box 176, Red Wing, MN-55066	Paper Service	No
Sheehy	Kathleen D.	Office of Administrative Hearings	PO Box 64620, St. Paul, MN-551640620	Paper Service	Yes

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