

December 21, 2011

William Fannucchi
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via email: william.fannucchi@wisconsin.gov

RE: United Citizen Action Network's Comments – DEIS
CapX 2020 Hampton-Rochester-LaCrosse Transmission Project
PSC Docket No.: 05-CE-136

Dear Mr. Fannucchi:

Thank you for the opportunity to submit these comments. I am the Vice President of United Citizen Action Network, intervenors against CapX 2020 in Minnesota's Certificate of Need docket and the Fargo, Brookings and Hampton-Rochester-LaCrosse routing dockets. The Minnesota Hampton-Rochester-LaCrosse transmission project is the same project as has been proposed in Wisconsin.

As an active participant in the CapX 2020 Hampton-Rochester-LaCrosse Transmission Project docket in Minnesota, I have much first hand experience and access to other documentation and information about this project, and take issue with statements in the DEIS. I have worked with our attorney to gather the information and submit this comment – I ask that you carefully review the documentation I'm providing to you.

I was present at EIS Scoping and DEIS Comment meetings, and public hearings as well as evidentiary hearings. U-CAN was represented at all the Minnesota EIS Scoping and DEIS Comment meetings, and has collectively reviewed each and every comment made as disclosed in the Final EIS. I was also present at a 2008 RUS Scoping meeting in Wanamingo, and have reviewed the comments made to RUS on the scope of its EIS.

My primary concern is with the lack of alternatives to the one Mississippi River crossing, and the statement on p. 36 regarding Mississippi River crossings in the DEIS:

The applicants' decision on the proposed crossing was reinforced during the state of Minnesota EIS scoping process in the spring of 2010. The Minnesota Office of Energy Security (OES) convened two advisory task forces and a public scoping comment period on the issues and route alternatives that should be evaluated in the Minnesota EIS. If the comments from the task forces and the public did not indicate that the LaCrosse crossing should be reevaluated in addition to the Alma crossing, then the scope of the Minnesota EIS would include the Alma crossing as the only crossing. The OES scoping decision in August 2010 confirmed the Alma crossing as the one to be carried through

the two states' review processes. See appendix D, the Executive Summary of the Minnesota EIS, page 1¹.

Wisconsin PSC DEIS, p. 36 (emphasis added).

Where did this idea come from? It sure didn't come from the record in the Minnesota routing proceeding or the EIS. This statement is just not correct. I do not understand the basis for this statement, and I do not believe it is legal that only one Mississippi River crossing was proposed for both Minnesota and Wisconsin routing dockets. There must be alternatives.

When this project was granted a Certificate of Need, four river crossings were proposed for consideration. Alma, Winona, Trempealeau and LaCrosse. FOUR. For the RUS Macro-Corridor Study for the Hampton-Rochester-LaCrosse Transmission Project, three crossings were proposed, in Alma, Winona, and LaCrosse. THREE.

During the Minnesota routing docket, where only one Mississippi River crossing was in the application, many people, many times, stated that more than one Mississippi River crossing should be considered. U-CAN filed Motions before the PUC and the Administrative Law Judge raising this issue. We were ignored. We will raise this issue again when the PUC

Looking at the many objections by U-CAN, the objections and questions in public meetings, and the filings in Minnesota, even the MOES filings, there's no basis for this paragraph. People demanded alternative Mississippi River crossings, people questioned why there was only one and said there should be more. The Minnesota Scoping Decision did not say anything close to what this paragraph states. It's false.

The DEIS paragraph is also absurd because MOES doesn't decide what Wisconsin should review in its "review process." That is for Wisconsin to decide.

Please, remove this false paragraph and give a truthful explanation of why only one river crossing is being considered.

The truth is in the record. I have reviewed materials from the Minnesota docket with our attorney, and have found the following instances where the issue of the Mississippi River crossing was raised, where we questioned why there was only one and said that alternatives must be considered. Please look at these and check for yourself to verify – the people and the Task Force did make comments to include other Mississippi River crossings. The Minnesota Dept. of Commerce ignored our concerns.

Completeness Determination

February 23, 2010 NoCapX 2020 and U-CAN Comments on Completeness

Under Minn. Stat. § 216E.03, Subd. 3, the January 19, 2010 application is not complete because there are not two distinct corridors. The Applicants have not met one of the most basic application criteria. NO CAPX 2020 and United Citizens Action Network (U-

¹ Section 6 of the Minnesota OES EIS discusses the factors supporting the "Kellogg Crossing" at Alma in detail. It also discusses alternative crossing methods. CapX Hampton-Rochester-LaCrosse 345kV and 161kV Transmission Lines Project Environmental Impact Statement, August 2011. (footnote from PSC DEIS, p. 36)

CAN) request that the Commission declare the Application incomplete unless and until at least two separate and distinct routes are provided.

February 24, 2010 Maccabee Comments on Completeness

I have represented Citizens Energy Task Force in the certificate or need proceedings pertaining to the CapX2020 La Crosse Project. I am writing herein as a member of the public to request that the Public Utilities Commission reject the route permit application in the above-captioned matter as incomplete and in violation of Minnesota Statutes 216E.03, Subd. 3 and Minnesota Rules 7850.1900, Subp. 2.C mandating the following:

Any person seeking to construct a large electric power generating plant or a high-voltage transmission line must apply to the commission for a site or route permit. The application shall contain such information as the commission may require. The applicant shall propose at least two sites for a large electric power generating plant and two routes for a high-voltage transmission line. (Minn. Stat. 216E.03, Subd. 3) An application for a route permit for a high voltage transmission line shall contain the following information:

C. at least two proposed routes for the proposed high voltage transmission line and identification of the applicant's preferred route and the reasons for the preference. (Minn. R. 7850, Subp. 2).

In the Application for a Route Permit for the CapX2020 La Crosse Project, the failure to provide at least two proposed routes for the high voltage transmission line is a very substantial deviation from legal requirements. The proposed overhead route at Alma is within the Upper Mississippi River National Wildlife and Fish Refuge and would place migratory birds, nesting eagles and habitat at risk. Yet there is only one route proposed at this critical Mississippi River crossing.

March 9, 2010 PUC Completeness determination: Order by Commission for ATFs, upon Motion that more than one is necessary, two were established, one that shall “*examine issues at the Mississippi River crossing*” (#3). Also, the Commission stated in the order:

V. In light of the expressed and anticipated public interest in the Mississippi River crossing issues and due to the sensitivity of the environment and inter-governmental issues raised by any such crossing, the charge of at least one of the task forces should consist of or include examination of the issues surrounding the line's Mississippi River crossing to Wisconsin, above ground, underground, at Alma, or elsewhere.

March 10, 2010 Mississippi River Revival and Citizens Energy Task Force request for task force regarding Mississippi River crossing:

2) The charge of this Advisory Task Force, consistent with previous communications from the US Fish and Wildlife Service to Xcel Energy on February 19, 2008 and May 4, 2009, would be to conduct a comprehensive examination of an underground alternative to minimize impacts on the River, the Refuge and flora and fauna of concern. The Task Force would obtain information on impacts of overhead transmission lines on birds using the Mississippi River Flyway as well as visual and other environmental impacts on the River, Refuge

and surrounding communities. The Task Force would review benefits and costs of underground crossings at any point along the river from Alma to La Crescent. Staff would seek information on underground crossings from sources other than the Applicants, including contractors with experience in constructing underground transmission lines in sensitive environmental locations.

20103-47862-01 PUBLIC 09-1448 TL MISSISSIPPI RIVER REVIVAL AND CITIZENS ENERGY TASK FORCE LETTER 03/10/2010

EIS Scoping Comments

June 3, 2010 North Rochester-Mississippi Advisory Task Force. Comments on the Applicants preferred 345 kv route:

*Only one location for the crossing of Mississippi River proposed by Applicant; **need to look at additional options**; going underground (a line was placed under the St. Croix Wild and Scenic Riverway); additional crossing points for the Mississippi River need to be considered.*

MINNESOTA EIS SCOPING COMMENTS REFERENCING RIVER CROSSING OPTIONS

(online at: <http://energyfacilities.puc.state.mn.us/resource.html?id=28492>):

Pg 5- Mississippi River Parkway Commission of MN- “underground river crossing should not be ruled out as a possibility”.

Pg 8- MN DNR. Comment page 4. ‘A thorough analysis of underground engineering of possible crossings is recommended. This analysis may include locations other than previously described aerial crossings if engineering for underground configuration is more practical at another location.’ Jamie Schrenzel. April 29, 2011

Pg 11- MN DNR. Comment page 4. “The DEIS should include a robust description of possible underground crossings of the Mississippi River.....Underground route crossing options discussed in the DEIS should not only include an underground crossing at the location(s) best suited for considering aerial crossings, but should include an underground route at the location(s) best suited for engineering an underground route, which may or may not be in the same location as the Alma crossing. ...A comparison of impacts and mitigation should be included for aerial and underground crossings of the Mississippi It would be informative if the DEIS contained a brief discussion of the possible extent of impacts in Wisconsin, particularly related to how the choice of the Mississippi River crossing location affects routing in Wisconsin and Minnesota....” Jamie Schrenzel. May 10, 2010.

SCOPING MEETINGS: May, 2010 – Comments regarding River Crossings (available online at: <http://energyfacilities.puc.state.mn.us/resource.html?id=28492>)

May 4. Plainview. 6:30 PM.

Laura Kreofsky. Questioning why Alma? In comparison to other crossings? Hillstrom lengthy explanation of why Alma chosen by Applicants

Steve Walker. LaCrosse now too expensive to “buy” trucking company on industrial land. At one time the route was going 90 to LaCrosse

May 6.Cannon Falls 1:30.

Michael Collins. Why not use 52 to I-90 into LaCrosse using path already cut (check RPA Appendix for I-90 to LaCrosse route study...)

APPEAL OF SCOPING DECISION

NoCapX 2020 and U-CAN appealed the Scoping Decision, specifically regarding its failure to include more than one Mississippi River crossing:

2. The EIS must include analysis of more than one river crossing

The scoping decision includes only one river crossing, the solitary Alma river crossing proposed by applicants. This is not sufficient alternatives analysis under MEPA. A project this large, with impacts legally acknowledged as significant, must include additional alternatives. This request for review and analysis additional options to be included in the EIS was raised in the Task Force that covered the river crossing, yet I cannot find any alternative to the Alma crossing in the scoping decision. This is such an obvious scoping flaw that it's difficult to see a need for additional words! The RUS EIS is analyzing at least three locations, in Alma, Winona, and LaCrosse, and technical alternatives as well – this information is available online, at the link cited above. The Scoping decision should include river crossing options included in the RUS EIS.

[20108-53324-01](#) PUBLIC 09-1448 TL NOCAPX 2020 AND UCAN OTHER--APPEAL OF EIS SCOPING DECISION 08/09/2010

DEIS Comments

FEIS-DEIS COMMENTS/TESTIMONY: 2011 (See MOES' FEIS Appendix O)

ID#1- Appendix O. Dept. of Interior. “All three river crossings.....” paragraph 2

ID # 123. Pg O-282. Denise Leedham. Utilize highways 52 and I-90.

ID# 162. Pg. O-362. Lee Naus. Utilize Highways 52 & I-90 (across Mississippi).

ID# 168. Pg. O-379. US Dept of Interior. 2008. First and second choices of Mississippi crossing..... Also the “I-90 corridor” on second page of this letter...

ID# 168. Pg. O-399. NoCAPX and UCAN . Multiple crossings....168E.

ID# 204. Pg. O-477. Patricia Steffes. Utilize Hwy. 52 & I-90, facility in LaCrosse.

ID# 211. Pg. O-493. Tina Trihey Porter. Utilize I-90 (across Mississippi).

ID# 216. Bob Wallace. Pg. O-500. Assumed that I-90 corridor was being considered....

ID# 224. Joe Morse. Pg. O-517. More than one Mississippi River crossing.

ID# 238. Mike Collins. Pg. O-550. Utilize Hwy. 52 to I-90, and east (across Mississippi to LaCrosse...)

ID# 242. Kia Hackman. Pg. O-557. Utilize Highways 52 & 90 (across Mississippi)..

ID# 251. Larry Paul. Pg. O-577. Utilize Hwy 52 & I-90 to LaCrosse (across Mississippi)..

ID# 263. Carolyn Campbell. Pg. O-606. Thought the alternate route was Interstate 90.

ID# 271. Alan Muller. Pg. O-648. No build alternative. I never got this before, and thought this was good! After review of RUS.....

Comments at hearings

ALJ PUBLIC HEARINGS: 2011 (available online at:

http://energyfacilities.puc.state.mn.us/documents/25731/CapX%20DEIS%20Comment%20Sheet_web_20110513.pdf)

Dave Sykora, MN/DOT. June 15. Pine Island. 6:30. Starts on Pg 69. "I have a general sense there is a feeling among many people in the community that the reason this route doesn't go down to I-90 and over to LaCrosse is because MNDOT said you can't go there. And I'd like to clarify that. That did not happen." Continues to talk about using the I-90 corridor... So in the meetings, he, too, was hearing about I-90 across the Mississippi River to LaCrosse.....

June 14. Plainview. 1:30. Robert Wallace. Pg 59. "I hear of this project over a year ago, but at the time routes being considered were along the I-90 corridor in the Winona and Houston County area..."

June 14. Plainview. 6:30. Pat Melvin. "I support the transmission line from the 52 corridor to the I-90 to LaCrosse corridor..."

Barb Stussy. June 15. Pine Island 1:30. Pg 66. First USDA rural development. It was a macro corridor study..."

There were so many comments requesting more than one Mississippi River be considered and analyzed, there were so many comments requesting specific alternatives, and given the purpose and specific language of the Scoping Decision, the paragraph I've quoted above is false:

*The applicants' decision on the proposed crossing was reinforced during the state of Minnesota EIS scoping process in the spring of 2010. The Minnesota Office of Energy Security (OES) convened two advisory task forces and a public scoping comment period on the issues and route alternatives that should be evaluated in the Minnesota EIS. **If the comments from the task forces and the public did not indicate that the LaCrosse crossing should be reevaluated in addition to the Alma crossing, then the scope of the Minnesota EIS would include the Alma crossing as the only crossing.** The OES scoping decision in August 2010 **confirmed** the Alma crossing as*

*the one to be carried through the **two states**' review processes. See appendix D, the Executive Summary of the Minnesota EIS, page 1².*

Wisconsin PSC DEIS, p. 36 (emphasis added).

What is PSC rationale for only one Mississippi crossing?

In light of these comments from the public and Task Force, the statement on page 36 of the DEIS does not make sense:

*The applicants' decision on the proposed crossing was reinforced during the state of Minnesota EIS scoping process in the spring of 2010. The Minnesota Office of Energy Security (OES) convened two advisory task forces and a public scoping comment period on the issues and route alternatives that should be evaluated in the Minnesota EIS. **If the comments from the task forces and the public did not indicate that the LaCrosse crossing should be reevaluated in addition to the Alma crossing, then the scope of the Minnesota EIS would include the Alma crossing as the only crossing.** The OES scoping decision in August 2010 **confirmed** the Alma crossing as the one to be carried through the **two states**' review processes. See appendix D, the Executive Summary of the Minnesota EIS, page 1³.*

Wisconsin PSC DEIS, p. 36 (emphasis added).

Please correct this and provide an explanation for acceptance of only one Mississippi River crossing in the Application, and no alternatives reviewed in the DEIS, and provide legal authority for this position and explain how this is appropriate as environmental review.

Also, please add the RUS Macro-Corridor Study and Alternative Evaluation Study to the PSC's FEIS.

Thank you for considering my Comment. Please add me to your project mailing list and send me a copy of the Final Environmental Impact Statement.

Sincerely,

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P.O. Box 1165
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(952) 435-5984

(please use this address as I do not have email)

² Section 6 of the Minnesota OES EIS discusses the factors supporting the "Kellogg Crossing" at Alma in detail. It also discusses alternative crossing methods. CapX Hampton-Rochester-LaCrosse345kVand161kV Transmission Lines Project Environmental Impact Statement, August 2011. (footnote from PSC DEIS, p. 36).