

**PUBLIC SERVICE COMMISSION OF WISCONSIN**

Joint Application of Dairyland Power Cooperative, Northern States Power Company - Wisconsin, and Wisconsin Public Power, Inc., for Authority to Construct and Place in Service 345 kV Electric Transmission Lines and Electric Substation Facilities for the CapX Twin Cities - Rochester - La Crosse Project, Located in Buffalo, Trempealeau, and La Crosse Counties, Wisconsin

5-CE-136

**NOTICE OF POSSIBLE RECESSION OF ORDER  
GRANTING PARTY STATUS AND ORDER TO RESPOND**

This notice and order, pursuant to Wis. Admin. Code § PSC 2.04(1) and Wis. Stat. § 196.39(1), informs NoCapX 2020 of the possible recession of the order granting it party status, as applied to it, (PSC REF #: 150982) and orders a response.

NoCapX 2020 filings in this docket and in the *Application for Intervenor Compensation*, Docket 1-IC-454, contain discrepancies with respect to the existence of NoCapX 2020 members. NoCapX 2020 statements with respect to the existence of a membership formed the basis of its claim to party status by right.

In its request for intervention under Wis. Admin Code 2.21, NoCapX 2020 claimed a right to party status through its role representing the substantial interests of its members.

NoCapX's list of participants, members and directors have substantial interests that may be affected by any action in the above-captioned docket because the routes proposed could directly affect NoCapX members. NoCapX members are ratepayers of Xcel Energy a/k/a Northern States Power. No CapX members own land over which the Applicants have proposed transmission lines, and whose land could be taken by eminent domain if routed over their land. NoCapX members should be granted intervention as a matter of right. NoCapX 2020 received party status.

PSC REF #: 150324 at 2.

NoCapX 2020 also requested permissive intervention based on its past participation in CapX 2020 issues and that its participation, "...will promote proper disposition of the issues and will not impede completion of this proceeding in any way." PSC REF #: 150324 at 3-4. NoCapX 2020 received party status. PSC REF #: 150982. The order provided no designation of the party status as one of right or permission.

After receiving party status, NoCapX 2020 applied for intervenor compensation under Wis. Admin. Code § PSC 3.03. PSC REF #: 157221. On the first page of the application, NoCapX 2020 indicated it is not a membership organization. PSC REF #: 157221 at 1. However, in Appendix C ¶ 1c., NoCapX 2020 claimed 700 members. And in a subsequent response to a Commission data request, NoCapX 2020 stated that it represents:

[R]atepayers and landowners who have contacted NoCapX 2020, either by phone, email or in person at any of the many meetings held by the Wisconsin applicants or the Rural Utilities Service. Approximately 1/3 of the 704 persons who have signed up for our NoCapX 2020 Alert listserv are Wisconsin residents and ratepayers— approximately 234 people who are customers of the Applicant utilities.

PSC REF #: 157300 at 2.

The process for granting intervenor status relies on the filing of true and complete requests. Parties recently received an explanation of the importance of true and complete filings when NoCapX 2020 challenged the Clean Wisconsin request to intervene as inadequate. PSC REF #: 153886.

Clean Wisconsin received party status over the NoCapX 2020 objection. PSC REF#: 157221. The order granting the request addressed the importance of the Commission's reliance on statements made in a request.

When evaluating a request for intervention, the Commission assumes the truth of the facts asserted in the pleadings. Reason to deviate from this practice appeared nowhere in the NoCapX 2020 request. As a request made on the same basis, and

with no evidence to the contrary, the Clean Wisconsin request requires no further explanation with respect to Clean Wisconsin's interest in this proceeding.

PSC REF #: 157221 at 2.

The discrepancies between the NoCapX 2020 statements cited above call into question the basis for granting NoCapX 2020 intervention. NoCapX 2020 must adequately substantiate its claim to representational party status or face revocation of its intervention by right.

NoCapX 2020 must also provide adequate explanation of the discrepancies cited above, or lose any claim to permissive party status because of a lack of the necessary credibility required to promote the disposition of the issues.

NoCapX 2020 shall file its response to this notice and order by 12 noon, three days after its issuance. Failure to file an adequate and timely response may result in sanctions that may include, but not be limited to, revocation of party status. Other parties and Commission staff may file a response by the same deadline. If the Commission receives such a response, NoCapX 2020 shall reply by 12 noon two days after its filing.

Monday, January 09, 2012



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Michael E. Newmark  
Administrative Law Judge