

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

**ORDER TO CLARIFY PARTY STATUS**

This Order, pursuant to Wis. Admin. Code §§ PSC 2.04(1) and PSC 2.21, follows the Notice of Possible Recession [sic] of Order Granting Party Status and Order to Respond (Notice) (PSC REF#: 158071) and the No CapX 2020 Response (PSC REF#: 158128). This Order clarifies the party status of No CapX 2020 as a permissive intervenor.

The original Order granting No CapX 2020 party status provided no designation of that status as one of right or permission (PSC REF#: 150982). However, discrepancies with respect to the existence of No CapX 2020 members in filings of No CapX 2020 in this docket and in the *Application for Intervenor Compensation*, Docket 1-IC-454, raised doubt with respect to the legitimacy of the No CapX 2020 claim as intervenors by right under Wis. Admin. Code § PSC 2.21(1).

The Notice gave No CapX 2020 the opportunity to explain the apparent discrepancies, to defend its party status and allay doubts with respect to the veracity of its filings. The Notice also warned No CapX 2020 that sanctions may be imposed for an untimely or inadequate response, including the rescission of its party status. No CapX 2020 responded.

Instead of providing a productive response, No CapX 2020 for the most part unpersuasively critiqued the Notice itself. No CapX 2020's only attempt to address the matter in substance was an unsolicited amendment to its Request for Intervention. No CapX 2020 offered to replace the term "list participant members" with the term "listserve participants and members" (PSC REF#: 158128, at 5). However, the No CapX 2020 amendment not only failed to reconcile the matter, it restated the discrepancy between admitting it has no members with claiming to represent members who are Northern States Power ratepayers and landowners along the proposed transmission line routes.

The Response contained no adequate explanation for the basis of its claim to intervention by right through members who have a substantial interest in the proceeding. Therefore, No CapX 2020 had no right to intervene as a party. However, because No CapX 2020 demonstrated active participation in the prehearing process that may benefit the record, through advocacy and discovery, No CapX 2020 may continue to participate in this proceeding as a permissive intervenor.

Monday, January 23, 2012



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Michael E. Newmark  
Administrative Law Judge