

**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

**COMMENTS OF THE PUBLIC SERVICE COMMISSION OF WISCONSIN  
ON INTERVENOR CONWAY'S REQUEST FOR ISSUE TO BE  
INCLUDED ON ISSUES LIST**

The Public Service Commission of Wisconsin (Commission) has general regulatory jurisdiction over a public utility. Wis. Stat. § 196.02 (1). However, a cooperative association such as Dairyland Power Cooperative (Dairyland) is not a public utility. Wis. Stat. § 196.01(5)(b)1. Therefore, the Commission does not have general regulatory jurisdiction over Dairyland.

Whether Dairyland is acting within or outside the scope of its Articles of Incorporation is a matter between the cooperative and its member. There may be an appropriate forum for vetting this issue but it is not the Commission. The Commission does not have the authority to review this issue nor the ability to order a remedy if Dairyland is acting outside of the scope of its articles.<sup>1</sup>

Wisconsin Statute § 196.491(3)(a) only requires that a "person" be an applicant for a certificate of public convenience and necessity. Dairyland is a person for purposes of this statute. Wis. Stat. § 990.01(26). In this proceeding, all the co-applicants are persons and satisfy

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<sup>1</sup> The Commission is not taking a position on the merits of the question raised by Intervenor Conway by submitting these comments.

this criterion. Even if Dairyland were to withdraw as a co-applicant, the application would still be properly before the Commission and the proceeding would continue.

Because the issue raised by Intervenor Conway is a matter outside of the Commission's jurisdiction to decide, the suggested issue should not be added to the issues list in this proceeding.

Dated at Madison, Wisconsin, December 27, 2011.

For the Commission:

*/s/ John Lorence*

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John Lorence  
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