

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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

PSC Docket No. 05-CE-136

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**NO CAPX 2020 and CITIZENS ENERGY TASK FORCE**

**PETITION FOR REHEARING**

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NoCapX 2020 and Citizens Energy Task Force submit this Petition for Rehearing as provided by Wisconsin Statute §229.49 and request that the Commission reconsider its determinations regarding the requirements of Wis. Stat. §196.491; Wis. Stat. § 1.11 and Wis. Admin. Code § PSC 4.30. NoCapX 2020 and Citizens Energy Task Force request that this CPCN Order be stayed because it is not supported by the record, and that this CPCN Application be remanded to the Hearing Officer for additional fact finding.

The Prehearing Memorandum framed the issues for hearing in a manner slightly different than that set forth in the statutory criteria:

1. 196.491(2) Is a 345 kV transmission line needed to satisfy the reasonable needs of the public for an adequate supply of electric energy?
2. 196.491(3)(t) Does the proposed project provide usage, service or increased regional reliability benefits to wholesale and retail customers in Wisconsin that are reasonable in relation to its cost?
3. Does the proposed project comply with the requirements of Wis. Stat. §§ 196.49(3)(b) and 196.491(3)(d)5?
4. What is a reasonable cost for the proposed project?

5. What route for the proposed project is in the public interest, considering the requirements of Wis. Stat. §§ 1.12(6), 196.025(1m), and 196.491(3)(d)?
6. Should all or any part of the construction be subject to other specific design requirements or other conditions and, if so, how will they be enforced?
7. Has the proceeding complied with the requirements of Wis. Stat. § 1.11 and Wis. Admin. Code § PSC 4.30?

In particular, issue 4 above has a different focus, asking “What is a reasonable cost for the proposed project” rather than the statutory question “is the cost reasonable in relation to benefits.” NoCapX and CETF specifically request that the correct cost be used and the decision be reconsidered with the correct cost utilized in the cost benefit analysis and need determination.

The Commission should not have granted a Certificate of Convenience and Necessity for this project as it is not needed and is not in the public interest. Further, the record does not support granting of the permit and the Commission’s Order is fatally flawed.

NoCapX and CETF are parties in this proceeding and as such, are directly aggrieved parties with standing to submit a Petition for Rehearing under Wis. Stat. §229.49.

**I. ORDER DID NOT ADDRESS STATUTORY CRITERIA FOR TRANSMISSION NEED AND SITING**

The statutory criteria at issue in this proceeding were given short shrift by the Commission. The law requires that the Commission must make determinations regarding criteria as found in Wis. Stat. § 196.491(3)(d), however, the Commission did not make determinations, it made conclusory statements parroting the language of the statutes with no citations. It made 19 “Findings of Fact” but there are no citations whatsoever. A reviewing court would have no basis to affirm the Commission’s decision because there are no facts associated with the “Findings” and no way to determine, by review of the Commission’s Order,

which of the facts from the thousands of pages of documents in the file support the Order, or whether the Commission's decision is indeed supported by the record.

## II. COMMISSION ERRED BY USING THE WRONG COST AMOUNT

The Commission erred as a matter of fact and law in its analysis of the cost of the project. The PSC is to analyze the cost of the project and determine that it is reasonable in relation to the benefits it provides. Wis. Stat. §196.491(3)(t); 196.49(3)(b). However, the Commission made this determination, without citation, considering only half of the cost of the project.

The Commission erred where, in its second "Finding," it stated that the estimated cost of this project was \$211,100,000. This cost figure is wrong, and yet it was used throughout the decision. To the extent that the cost of \$211,100,000 is used, that figure should be substituted with the figure of \$507 million. Hahn Direct Testimony p. 23, Applicant's Response to 4-CUB/Inter-6(b). In this docket, cost was initially claimed to range from \$147-224 million for the line and an additional \$27 million for the substations, totaling \$174-251 million for the Wisconsin portion of the project. Application, p. 2-61 – 2-62, ERF 150042. The FEIS estimates costs for the Wisconsin portion of the project range from \$195-234 million plus substation costs at \$27 million, totaling \$222-261 million. P. 47, §4.5, FEIS. CUB's Hahn notes that the cost is \$507 million. Hahn Direct, p. 7, Figure 4. That is because CUB's Hahn is considering the full cost of the project. It is that full cost of the project that is the basis for the apportionment to Wisconsin ratepayers. See also Attachment F, Recommendation of ALJ, Feb. 27, 2009, MPUC Docket 06-1115, NoCapX/CETF Item 3, ERF 160014. Again, this is far above the \$211,100,000 used by the Commission.

The Commission erred in considering only the Wisconsin portion of this project and allocation of these costs to Wisconsin ratepayers. This is an error because Wisconsin ratepayers

pay a portion of the entire project, from Hampton, Minnesota, to La Crosse, Wisconsin, not just the Wisconsin portion of the project.

III. **THE COMMISSION ERRED IN ITS DETERMINATION THAT THE PROJECT ADEQUATELY ADDRESSES AND IS NECESSARY TO SATISFY NEEDS OF PUBLIC FOR ADEQUATE SUPPLY OF ELECTRICITY**

The Commission erred in permitting this project because a project should not be improved if it would provide facilities unreasonably in excess of the probable future requirements. Wis. Stat. § 196.49(3)(b)

The Commission did not consider that this project is unreasonably in excess of the probable future requirements. This project, if single circuited, has a capacity of 2050 MVA Capacity, and 4,100 MVA capacity if double circuited. Stevenson 18 & 19, Underground estimates ampacity rating; MTEP App A & B. Transfer capacity will be increased with an extension eastward.

The Commission also erred to the extent that it accepted statements that this project is to enhance renewable energy. Claims by applicants and supporting intervenors that “it’s for wind” are false. ATC’s Western Wisconsin Transmission Report (WWTR) focused in increasing transfer capacity between Minnesota and Wisconsin models zero wind generation in South Dakota, 583 MW in North Dakota and **2,823 MW in Wisconsin**, just the opposite of the scenario posited by WPPI’s Noeldner, who presumes Wisconsin’s wind resource is inferior to westward states such as North Dakota, and that RPS cannot be met with Wisconsin wind. WWTR p. 13; Noeldner Direct Testimony, p. 8 – 10 and Noeldner Exhibit 2.

This project is a very high capacity radial transmission line to LaCrosse that far exceeds the La Crosse need claim, which is also overstated. It is also not for wind, as it must serve all transmission customers, it would limit Wisconsin development if wind energy is procured by

Wisconsin utilities for Wisconsin RPS from states west of Wisconsin, and because it ends in LaCrosse, far from any logical sink, it will not enable transfer of wind energy into Wisconsin. The Commission erred in its determination that this project is not unreasonably in excess of public need.

IV. **THE COMMISSION ERRED IN ITS DETERMINATION THAT THE PROJECT PROVIDES REGIONAL RELIABILITY BENEFITS**

The Commission erred in accepting and applying Applicants framing of congestion as a reliability problem and of claims of “regional benefits” as “regional reliability benefits.” Congestion and “regional benefits” are economic market issues, and are not electrically-based factors of reliability. “Regional benefits” are economic, and “regional reliability benefits” are electrical. The Commission also erred in acceptance of Applicants framing of desire for increased transfer capability as a reliability problem, but again, it is not an electrical issue, it is an economically driven market issue. The purpose of this project is Applicants desire to participate in the market, to move western generation eastward toward a higher priced market, to sell its surplus generation of whatever source to eastern MISO sinks for private profit. The application is based on PROMOD modeling, which is economic, not electrical modeling. To the extent that the Commission accepted and adopted this framing of the CapX 2020 transmission build-out, the Commission erred as a matter of fact and law.

ii. **“Transfer capability” and relief of “congestion” are market issues.**

The Commission erred in accepting Applicants claim that the project is needed for regional benefits, that there are congestion problems in the area, that they need to increase transfer capability. Commission Order, Finding 6. Regional benefits are not the same as the statutory “regional reliability benefits,” because economic benefits and claims regional

congestion and inability to complete market transactions are not indicative of electrical reliability issues.

Claims of congestion show that this Hampton-LaCrosse project, a radial line to LaCrosse, will not address the congestion complained of. Applicants claims of benefits are reliant on PROMOD modeling, which is economic modeling, and not electric reliability modeling. Beuning Ex. 2 (PROMOD benefits included 345 kV Eastward expansion in base case). Further, the “Congestion-Based ones Modeled in 2014” cover much of Minnesota and have nothing to do with Wisconsin. SNS Study, King Ex. 7, p. 24. The map shows that southeast Minnesota and all of Wisconsin, with the exception of Milwaukee are congestion free. A line from Minnesota to LaCrosse will only bring the Minnesota congestion to LaCrosse! That is verified by the Applicants in their own studies!<sup>1</sup> Without the addition of a line from LaCrosse to Madison, expect system instability “to ensure reliable operation and enable full dispatch of new generation resources.”<sup>2</sup> The Stability Assessment showed that system stability was at risk and “significant new reactive capability will be necessary as variable and intermittent generation sources increase. This is due in large part to generation being located a significant distance from load centers.” Id. p. 14. This need for a LaCrosse-Madison extension of the 345kV system is also

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<sup>1</sup> Supporting Facilities for Corridor Upgrade –

- One outcome of studying a Midwest ISO market sink scenario is that the system requires additional facilities to deliver power east from LaCrosse, Wisconsin to the rest of the Midwest ISO footprint during low load and high wind periods in the Minnesota and Dakota areas. The Corridor Upgrade facility would then achieve its full potential in the Midwest ISO market dispatch.
- The Twin Cities metro sink scenario showed that in order to sink as much as 2000 MW of generation from the west to the Twin Cities, many metro area electric generation units must be shut down to allow the imported generation to remain online. To enable this new generation to be sunk in the Twin Cities metro and maintain reliable operation requires a significant list of metro area transmission upgrades.

Tipping Point in Transmission System – Following the addition of the Corridor upgrade (and associated underlying system upgrades required with a Twin Cities Metro sink scenario) any future transmission or generation capacity additions will require a facility from LaCrosse to Madison, Wisconsin area. In other words, without a line to the east of LaCrosse the system will reach a tipping point, where additional transmission and generation capacity additions cannot be accommodated due to the need to keep Twin Cities generation online for steady state and dynamic system stability. Id., p. 9-10.

<sup>2</sup> Id. at 13.

reflected in the Capacity Validation Study, which states that “a line to the east is needed,” and a line to Madison is assumed. CVS p. 8-9, p. 51; King Ex. 7, p. 13.

Beuning, an Xcel market manager, put it succinctly:

... a key step as part of a regional plan to attain substantial economic dispatch benefits. With the 345 kV Project development in-place, future high voltage upgrades from La Crosse to the east will reduce regional energy production costs.

Buening Direct Testimony, p. 3, l. 2-4; l. 13-15.

The market benefits of a transmission expansion build-out are clear:

This analysis was designed to focus on a subset of operational benefits available from Day-2 RTO operation which are quantifiable using commercially available models that simulate unit commitment and dispatch of electric generation. The focus was on production cost savings associated with centralized operations, and hence, primarily reflects estimation of the displacement of relatively more expensive generation with relatively less expensive generation made possible by centralized operations. In most cases the simulation indicated the potential displacement of gas-fired generation with coal-fired generation. This inter-fuel optimization is particularly important in the Midwest because the natural gas generation fleet includes a disproportionate level of expensive gas-fired peaking units as opposed to intermediate or less costly gas-fired combined cycle or gas-steam facilities. Further, Midwest ISO coal plants have very low operating costs even compared to other US coal-fired powerplants. Thus, any displacement of natural gas generation with coal generation can greatly decrease operating costs. Put another way, the use of a gas plant when somewhere else inside or outside of the Midwest ISO a coal plant with spare capacity and the needed transmission is available to displace the gas plant would increase costs significantly. As such, an important goal of grid optimization is to minimize these occurrences.

ICF – Independent Assessment of MISO Operations Benefits, p. 9, NoCapX/CETF Item 15, ERF 160024.

The MISO economic benefits study clearly describes the “benefits” of transmission and market dispatch:

The overall outcome of this analysis demonstrates that potential RTO benefits are large and are measured in hundreds of millions of dollars per year. While on a percentage basis the potential improvement appears modest, the magnitude of the production costs involved is so large that on a dollar basis, the efficiency improvements are substantial.

RTO operational benefits are largely associated with the improved ability to displace gas generation with coal generation, more efficient use of coal generation, and better use of import potential.

Id., p. 14, ERF 160024.

The studies provided by Applicants show that they have no intention of shutting down coal, and instead will keep it running, and reaping the benefits as demonstrated by ICF's study CVS p. 48-50, King Ex. 8; see also Final Report – SW Twin Cities – Granite Falls & Minnesota RES Update, King, Second Supplemental Direct Ex. 7, p. 13; see also Twin Cities sink scenario in both, presuming continued use of coal generation. CVS p. 49 and Corridor Study and MN RES Update Study p. 13.

The Commission's acceptance of this conflation between "regional benefits" which are economic, and "regional reliability benefits" which is electrical, and the resulting determination that the project provides "regional benefits" rather than "regional reliability benefits" as required by statute is an error of law.

V. **THE COMMISSION DID NOT PROPERLY ADDRESS CONSERVATION AND EFFICIENCY AND THE ENERGY HIERARCHY**

The Commission must also evaluate conservation, efficiency and renewable options, individually and in combination and must reject all or part of the project if it does not utilize the statutory energy hierarchy. That hierarchy is:

- Energy conservation and efficiency
- Noncombustible renewable energy resources
- Combustible renewable energy resources
- Nonrenewable combustible energy resources
  - Natural Gas
  - Oil or coal with a sulfur content of less than one percent
  - All other carbon-based fuels

Wis. Stat. § 1.12(4); see also Wis. Stat. §196.025(1)(b)(1). The Commission did not properly consider energy conservation and efficiency, the number one energy option under Wis. Stat.



§1.12(4); see also Wis. Stat. §196.025(1)(b)(1), and rather than consider these alternatives to transmission individually **AND** in combination, it rejected conservation and efficiency out of hand. It also placed emphasis on inability of efficiency and conservation to address regional benefits, but the Commission’s reliance on “regional benefits” rather than “regional reliability benefits” is an error, because as above, “regional benefits” are market-based economic benefits, and “regional reliability benefits” are benefits of the electrical system. This conflation, as above, is a fundamental error.

**VI. THE COMMISSION ERRED IN CONSIDERING THIS PROJECT WITHOUT THE ELECTRICALLY NECESSARY EXTENSION EASTWARD FROM LA CROSSE**

The Commission committed a fundamental error of law by failing to review the eastward La Crosse – Madison transmission project in conjunction with this Hampton-Rochester-La Crosse transmission project. The projects are electrically and economically related, are inextricably linked, and the Hampton-Rochester-La Crosse does not provide independent benefits, instead, as a radial line not connected to the 345 kV system, it sets up system instability. Under law, these projects cannot be segmented, either for need considerations, or purposes of environmental review. The projects are phased, cumulative and connected actions, closely related and each is necessarily dependent on the other for functioning as described and as applied for, parts of a larger action and which uses the larger action as the basis for its “need” and justification. WI Admin Code PSC 4.30, WI Statute 1.11; see also NEPA 40 C.F.R. §1508.25(a)(1).

In their testimony and exhibits, the Applicants repeatedly regarded the Hampton-Rochester-LaCrosse line as part of the larger Twin Cities to Madison line, and their testimony regarding benefits was based on modeling including the La Crosse – Madison transmission line.

For example, Applicant's Beuning regard the line as "coupled with added future upgrades made feasible by this preferred design" and:

... a key step as part of a regional plan to attain substantial economic dispatch benefits. With the 345 kV Project development in-place, future high voltage upgrades from La Crosse to the east will reduce regional energy production costs.

Buening Direct Testimony, p. 3, l. 2-4; l. 13-15.

The Hampton-Rochester-LaCrosse transmission project does not, on its own, provide significant increase in transfer capacity. This project requires additional line from LaCrosse to Madison to provide transfer capability. Without it, project is a radial tie to LaCrosse subject to voltage instability:

The west to east transfer capability of the existing transmission facilities through the Minnesota-Wisconsin Export (MWEX) interface is presently limited due to voltage stability and transient voltage recovery limitations.

WWTRS p. 1, 9; see also CVS p. 8-9; SNS p. 14.

Transfer capacity increase requires line extending to Madison and 345kV ring. CVS p. 9. "For any case that does not include the LaCrosse – West Middleton 345 kV transmission line..., an overload of the King – Eau Claire or the Eau Claire – Arpin 345 kV line before any other criteria are met, is a stopping point. Id., p. 39; see also p. 51 (a line to the east is needed).

The project was not analyzed independently, this is demonstrated in the record, and the Applicants did not provide any evidence of regional benefits for this project alone – the benefits were achieved with the assumption of additional MISO MTEP transmission further east. Hahn, Direct Testimony p. 25, l.19-25.

**Q Would you agree that the PROMOD modeling that they did, it is dependent on the 345 kV eastward expansion?**

**A It's my understanding that when analyzing the production cost benefits, they assumed the MVP projects were in service in addition to the baseline project being studied here.**

Hahn, Tr. Vol. 2, p. 73-74 (emphasis added).

ATC's witness Burmester agreed that the LaCrosse-Madison line is required:

Q: Would you agree that the -- part of what the -- the one thing that the study revealed was that the benefits -- that **an extension from La Crosse to Madison is necessary to achieve those benefits?**

A The benefits that were outlined in this report did, yes.

Burmester, Tr. Vol. 2, p. 92-93 (emphasis added)<sup>3</sup>.

Regarding an extension from La Crosse eastward, Applicants documented that it was the eastward extension providing benefits:

The studies further concluded that a 345 kV connection between Minnesota and Wisconsin was needed before significant capacity increase could occur. Lastly, the studies found that the 345 kV Project **in combination with a line from La Crosse to the Madison area**, would increase power transfer capability.

King Direct Testimony, p. 14, l. 6-9 (emphasis added). King is the witness sponsoring the "Supplemental Need Study," which begins with a clear statement linking the "benefits" to transmission to the east:

As outlined below, the presence of a 345 kV line from Minnesota into La Crosse combined **with the expected La Crosse to Madison 345 kV line** will provide significant regional benefits that will not be achievable with the completion of an alternative project.

King Ex. 2, SNS, p. 1, ERF152526 (emphasis added). In fact, regional benefits of this

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<sup>3</sup> See also Hahn, Tr. Vol. 2, p. 37 (emphasis added).

A: Well, yes. Because the alternative that I suggested would allow those -- those benefits -- those benefits are largely due to a 345 kV link from an MVP project, multi-value project in the west, **to a multi-value project in the east**. You could build a 345 kV line even if had you no local reliability problems in La Crosse and you could achieve those benefits. So what I tried to do is say, gee, is there a different solution here that solves the local reliability problem at a lower cost and still allows those benefits to occur, and that's what I came up with.

Q: Okay. **Wouldn't you agree that, and I think Applicants' testimony bears this out, that really the regional benefits are achieved when the 345 system is connected to the east, right?** Do you agree with that premises?

A: Well, it's also going to be connected to the west.

Q: That's -- it is connected to the west with a project that's already going to be beginning construction, the Brookings project?

A: **And eventually it needs to be connected to some 345kV project in the east.**

later build-out to Madison include stabilization of the inherently unstable system prior to extension beyond La Crosse:

The west to east transfer capability of the existing transmission facilities through the Minnesota-Wisconsin Export (MWEX) interface is presently limited due to voltage stability and transient voltage recovery limitations.

Western Wisconsin Transmission Reliability Study, p. 1, NoCapX/CETF Item 17, ERF 160026.<sup>4</sup>

Three of the seven options are in the corridor between North LaCrosse to Madison... **A 345 kV line in this corridor provides the voltage stability and interconnection to Minnesota which is one of the desired benefits of this study.**

Id., p. 3 (emphasis added). Another fundamental study cited by the Applicants notes that a La Crosse to Madison line is necessary to provide benefits:

One outcome of studying a Midwest ISO market sink scenario is that **the system requires additional facilities to deliver power east from LaCrosse, Wisconsin** to the rest of the Midwest ISO footprint during low load and high wind periods in the Minnesota and Dakota areas. The Corridor Upgrade facility would then achieve its full potential in the Midwest ISO market dispatch.

...

Tippling Point in Transmission System – Following the addition of the upgrade (and associated underlying system upgrades required with a Twin Cities Metro sink scenario) **any future transmission or generation capacity additions will require a facility from La Crosse to the Madison, Wisconsin area.** In other words, **without a line to the east of La Crosse the system will reach a tipping point, where additional transmission and generation capacity additions cannot be accommodated due to the need to keep Twin Cities generation online for steady state and dynamic system stability.**

Corridor Study Update, Ex.-7 Applicants-King-4., p. 9-10, ERF 158019 (emphasis added).

Specifically, Applicants evaluated what transfer capability would result after construction and what transfer capability could be achieved **if a 345 kV line were built to Appleton or Madison.** Additional information regarding the engineering analysis is included in the SNS, Ex.-Applicants-King-2, and Ex.-7 Applicants-King-4 and Ex.-Applicants-King-9.

King Direct Testimony, p.17, l.4-8

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<sup>4</sup> See also Id., p. 9: The west to east transfer through the Minnesota-Wisconsin Export (MWEX) interface is currently limited due to voltage stability and transient voltage recovery limitations.

**Q. One of the scenarios you listed was a 345 kV line between La Crosse and Madison. Has this connection been studied previously?**

A. Yes. In 2005, the CapX2020 group included a La Crosse – Madison connection as part of its Vision Study work. A La Crosse – Madison connection was also included in the 2009 Minnesota RES Update Study (“RES Update”) of which Northern States Power Company was a key participants.

More recently, a study by American Transmission Company, Northern States Power Company and Dairyland **analyzed the need for a new transmission line from La Crosse, Wisconsin to an endpoint in the Madison area.** This study work culminated in the Western Wisconsin Transmission Reliability Study (“WWTRS”).

King Direct Testimony, p. 17, l. 9-18 (emphasis added); see also Corridor Study, Ex.-7 Applicants-King-4, ERF 158019.

**Q. What did the WWTRS conclude?**

A. The WWTRS assessed the reliability needs and options in western Wisconsin in the eight- to ten-year future time frame. It concluded that **a 345 kV connection between the end-point of the Project (in north La Crosse) and north Madison, among other connections, would provide the most benefits in the region.** This study result was recently confirmed by MISO which, on December 8, 2011, included the segment from the Briggs Road Substation to the North Madison Substation in its 2011 Midwest Transmission Expansion Plan or “MTEP” and designated it as a “multi-value project” or “MVP” in accordance with the requirements and specifications of MISO’s tariff.

King Direct Testimony, p. 17-18 (emphasis added)<sup>5</sup>.

Each of the alternatives analyses included the eastward extension from LaCrosse:

A. Yes. I prepared the Supplemental Alternative Analysis (“SAA”) that is attached to my testimony as **Ex-Applicants-King-11**. The SAA focuses on the differences among alternatives in providing load serving support in the La Crosse/Winona

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<sup>5</sup> See also King Direct Testimony, p. 18, l. 5-16 (emphasis added).

**Q. Returning to the transfer analysis, please describe the results.**

A. The addition of the 345 kV Project or the La Crosse 161 kV Alternative alone increases the thermal transfer capability between Minnesota and Wisconsin by 775-850 MW. However, a 345 kV connection is more robust in that it also **provides for additional transfer capability as the 345 kV system is extended to the east.** Transfer study analysis indicates the additional capacity, depending on the eastern termination, could reach approximately 1150 MW over current system levels (depending on the eastern terminus). This 1150 MW increase is not realized if a lower voltage alternative is constructed initially. In fact, the lower voltage alternative followed by a 345 kV line to the east of La Crosse would actually reduce thermal transfer capability below current levels by approximately 700 MW. By increasing transfer capability, the 345 kV Project enhances overall regional reliability.

areas given that **all three would include a 345 kV line between Minnesota and Wisconsin that could be interconnected with additional 345 kV facilities to the east** and would reasonably be expected to compare similarly to the 345 kV Project in terms of regional benefits.

King Supplemental Direct I, p. 2-3 (emphasis added).

WPPI witness Tim Noeldner also testified that the increase transfer capability dependent on the eastward extension:

**Q. How important is transfer capability for WPPI's customers?**

A. As detailed in the direct testimony of Amanda King, the 345 kV Project is designed to provide an essential 345 kV link into Wisconsin that will enable approximately 1200 MW of transfer capability **when a 345 kV connection is made further to the east.**

Noeldner Direct Testimony, p. 4, l. 20-23 (emphasis added).

Applicant's witness Kline also emphasized the importance of the extension eastward from La Crosse and the long history of this planned extension:

A. From years of joint planning work for a second Twin Cities to Madison transmission path, regional utilities identified a variety of upgrades generally from west to east. First, planning efforts identified 345 kV circuits from the wind generation-rich regions in western Minnesota to the Twin Cities load center. Related studies also showed that over the long-term it is important to provide a high voltage link between the Twin Cities, Rochester and La Crosse. This long range plan provides significant load-serving benefits to the communities along the way and also provides a close electrical connection between these major load centers.

**The next segment identified would be a 345 kV transmission line from the eastern endpoint of the Project to the North Madison Substation**, a project that NSPW calls the La Crosse – Madison Line, and ATC has called (a portion of) the “Badger Coulee Project.”

**NSPW has been actively involved with the regional planning efforts for a La Crosse – Madison Line since before the formation of ATC.** Both NSPW and ATC actively participated in the study work that identified the La Crosse – Madison Line as a next logical segment in the overall high-voltage build-out from west to east. That joint study work assessed the reliability needs in western Wisconsin in the eight- to ten-year time frame, and also evaluated the extent to which different transmission options would meet these needs using various reliability measures.

Kline Rebuttal Testimony, p. 5, l. 2-20 (emphasis added).

Rather than reliability benefits, the project offers economic benefits for transmission owners and wholesale purchasers east of this project's terminus. The projects are electrically and economically related, are inextricably linked, and the Hampton-Rochester-La Crosse does not provide independent benefits, instead, as a radial line not connected to the 345 kV system, it sets up system instability. Under law, these projects cannot be segmented, either for need considerations, or purposes of environmental review. The projects are phased, cumulative and connected actions, closely related and each is necessarily dependent on the other for functioning as described and as applied for, parts of a larger action and which uses the larger action as the basis for its "need" and justification. WI Admin Code PSC 4.30, WI Statute 1.11; see also NEPA 40 C.F.R. §1508.25(a)(1).

The Commission's failure to link the projects, and to permit the Hampton-Rochester-La Crosse project independently, is an error of fact and law. The Commission's determination that the project provides regional benefits is not supported by the record.

**VII. THE COMMISSION ERRED IN FAILING TO DEFER TO THE DOT'S EXPERTISE REGARDING DOT EASEMENTS**

The Commission erred as a matter of law in failing to defer to the DOT's expertise regarding the easements under DOT control. Where an administrative decision is subjected to judicial review, the courts defer to the agency, however, in this case there are two agencies weighing in. The courts great deference to agencies is based on the agency's expertise, and in this case, it is the DOT with the expertise regarding the DOT easements, and the DOT's position as holder and administrator of those easements should be accepted by the Commission. For the Commission to disregard or overrule the DOT's policies regarding its easements is an error of law. The Commission has the authority to order undergrounding and WisDOT also has the authority to require undergrounding as a condition of a DOT permit.

The DOT has testified that it would not permit above-ground transmission near the Great River Road National Scenic Byway. The undergrounding reports and estimates reflect different specifications, conditions and terrain. If it is underground, it is no longer a visual intrusion in this scenic area, and could legitimately cross the Great River Road National Scenic Byway. Fasick, Tr. Vol. 3, p. The Commission has the authority to order undergrounding and WisDOT also has the authority to require undergrounding as a condition of a DOT permit. The Commission should exercise its authority and support the DOT's permitting conditions.

VIII. **THE COMMISSION SHOULD ORDER UNDERGROUNDING ACROSS THE MISSISSIPPI RIVER BECAUSE IT IS NOT COST PROHIBITIVE**

The Commission erred in not ordering that the crossing of the Mississippi River should be underground. Early in the permitting process for this project, USFWS stated it preferred an underground crossing to aerial crossing of the Mississippi River. USFWS 5/4/09 Letter to Hillstrom, NoCapX/CETF Item 21, ERF 161182. Undergrounding at the river crossing was later deemed "expensive," without any citation or basis. USFWS 4/29/11 DEIS Comment, Item 22, ERF 161183. However, the Mississippi River crossing is the most expensive segment of the project, at \$7.1 million per mile. Hahn Direct Testimony, p. 20-21; FEIS p. / Installing a transmission line under the Mississippi River is a mixed proposition. There are benefits in that it is no longer a 1.3 mile crossing one of North America's largest flyways, and an eagle take permit would likely not be required. If it is underground, it is no longer a visual intrusion in this scenic area, and could legitimately cross the Great River Road National Scenic Byway. Fasick, Tr. Vol. 3, p. When compared with the benefits, the cost is reasonable. The original Comments of USFWS should be given great deference.

IX. **THE COMMISSION SHOULD ORDER UNDERGROUNDING IN SENSITIVE AREAS**



The Commission also erred in not ordering undergrounding in sensitive areas. As above, undergrounding the line has been suggested for several locations by the DOT and USFWS, and has been demanded by the public in areas such as the corridors near the Holmen school. Several cost estimates have been introduced into the record, initially one included with the Application, and then two others from other CapX 2020 transmission proceedings, and additionally one estimate from Connecticut. Appendix F, Application, ERF 142791; Stevenson 18 & 19, ERF 160937 and 160938; NoCapX/CETF Item 19, Bethel to Norwalk Project Schedule 12C. The Commission should order undergrounding in sensitive areas.

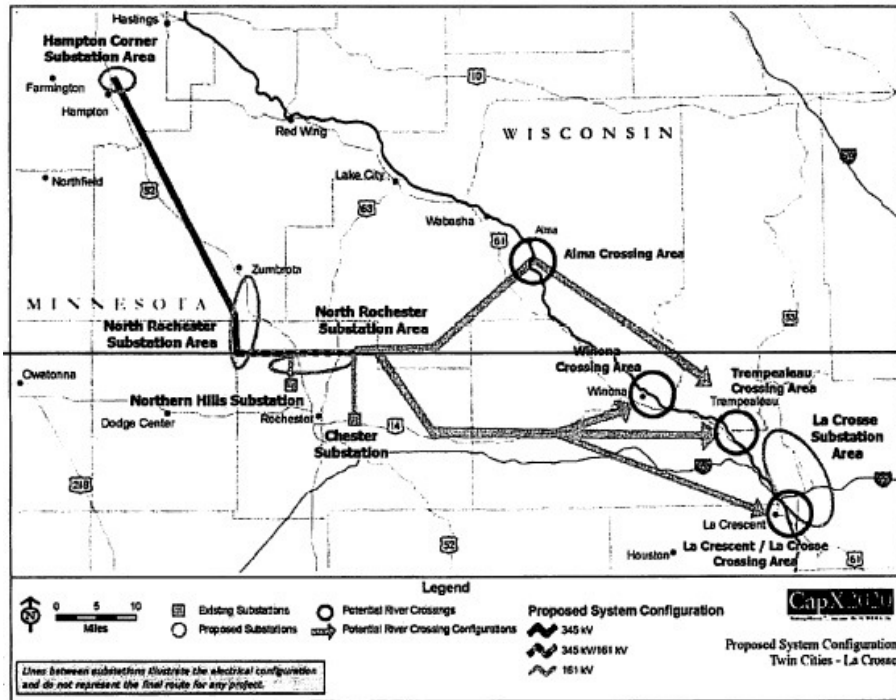
**X. THE COMMISSION ERRED IN FAILING TO CONSIDER MORE THAN ONE ALTERNATIVE MISSISSIPPI RIVER CROSSING**

The Commission erred as a matter of law by failing to consider more than one alternative Mississippi River crossing. Under Wisconsin law, there must be two viable route alternatives. Wis. Stat. § 196.025(2m)(c); see also FEIS p. XVI. The application as presented, and the environmental review for this project, includes only one route crossing of the Mississippi River. It is not sufficient under WEPA for the Commission to have only one route crossing of the Mississippi River under consideration. The Minnesota Certificate of Need proceeding for this project considered four route crossings<sup>6</sup>, one near LaCrosse, one near Trempealeau, another near Winona, and another near Alma. These four route crossings were evaluated by USFWS, which noted in a comparison table, that each had an existing transmission line crossing the river at that location. USFWS 5/4/09 Letter to Hillstrom, NoCapX/CETF Item 21, ERF 161182; see also USFWS 2/19/08 Letter to Rasmussen, NoCapX/CETF Item 20, ERF 161181. The Wisconsin DEIS, however, included only the Alma crossing based on a bizarre explanation relying on Minnesota Dept. of Commerce environmental review, which is not the deciding body for routing

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<sup>6</sup> See Item 1, Order Granting Certificates of Need with Conditions, May 22, 2009, MPUC Docket ET-2,E002/CN-06-1115, ERF 160012.

in Minnesota, and this was long before the Minnesota PUC had made any determination. DEIS ERF 155558; FEIS §4.3.2 ERF 158960 (regarding crossing alternatives).



The RUS EIS initially also addressed four Mississippi River crossings and narrowed it to three. See RUS DEIS p. 9-10, and Table ES-1 Comparison of Preliminary River Crossing Alternatives, Exec. Summary, FEIS, ERF 158972. In this Hampton-Rochester-LaCrosse proceeding, however, inexplicably and contrary to the most basic environmental and statutory tenets, only the Alma Mississippi River crossing was considered. DEIS p. 36, §4.3.2, ERF 155558; FEIS p. 43-44, §4.3.2, ERF 158960; FEIS, App. F, p. 4, ERF 158972.

Under Wisconsin law, there must be two viable route alternatives. Wis. Stat. § 196.025(2m)(c); see also FEIS p. XVI. Until there is a second viable alternative Mississippi River crossing for consideration, this project is non-compliant and not eligible for a permit.

**XI. PETITIONERS REQUEST REHEARING – THIS CPCN PERMIT IS FATALLY FLAWED**

No CapX 2020 and Citizens Energy Task Force request rehearing because this CPCN permit is fatally flawed by the Commission's numerous errors of fact and law.

The Commission did not properly address Wisconsin's statutory criteria for transmission need and siting; it used the wrong cost amount; erred in its determination regarding need; erred in its determination that the project provides regional benefits; did not properly address conservation, efficiency and the energy hierarchy, did not consider the necessary extension to Madison, did not defer to the DOT's expertise, did not order undergrounding, and failed to consider more than one alternative Mississippi River Crossing.

We respectfully request rehearing, and request oral argument of the Petitions for Rehearing.

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