

**STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

Beverly Heydinger
Phyllis Reha
Dr. David C. Boyd
J. Dennis O'Brien
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

**In the Matter of the Application by Xcel
Energy for a Route Permit for the
Hampton-Rochester-La Crosse 345-kV
Transmission Line Project**

**OAH 3-2500-21181-2
PUC No. E002/TL-09-1448**

**ORONOCO TOWNSHIP'S
OBJECTION AND MOTION TO
STRIKE AMENDED NOCAPX 2020,
LAYMEN FOR CHRIST, INC. AND
WOODLAND CAMP'S RESPONSE TO
ORONOCO TOWNSHIP'S MOTION
FOR RECONSIDERATION**

Intervenor Oronoco Township ("Oronoco") respectfully submits this objection and motion to strike Amended NoCapX2020, Laymen for Christ, Inc. and Woodland Camp's Response to Oronoco's Petition for Reconsideration ("Amended Response").

INTRODUCTION

On June 19, 2012, Oronoco submitted its Petition for Reconsideration ("Petition") of the Public Utilities Commission's ("Commission") May 30, 2012 Order Issuing Route Permit as Amended ("Order"), which selected Route 3P, and not the ALJ-recommended Route 3P-Zumbro-S, as the final route for the Hampton-Rochester-La Crosse 345-kV Transmission Line Project ("Project") in Segment 3. On July 9, 2012, 20 days after Oronoco filed its Petition, Intervenor NoCapX 2020, non-party Laymen for Christ and non-party Woodland Camp filed their Amended Response to Oronoco's Petition. Laymen for Christ and Woodland Camp do not have legal standing to file the Amended Response. NoCapX 2020's filing of the Amended Response on July 9, 2012 is untimely, since the 10-day deadline for filing an answer to

Oronoco's Petition under Minn. R. 7829.3000, subp. 4, expired on June 29, 2012. Additionally, neither Minnesota Statutes nor Minnesota Rules provide for the amendment of a party's answer to a timely-filed petition for reconsideration. As a result, the Commission should give the Amended Response no consideration and should strike it from the administrative record.

ARGUMENT

I. THE AMENDED RESPONSE SHOULD BE STRICKEN FROM THE RECORD UNDER MINNESOTA LAW.

The requirements for filing answers to Oronoco's Petition are clearly set forth under Minn. R. 7829.3000, subp. 4, which plainly provides, "Other parties to the proceeding shall file answers to a petition for rehearing, amendment, vacation, reconsideration or reargument within ten days of service of the petition." (emphasis added.) Oronoco filed its Petition on June 19, 2012. Pursuant to Minn. R. 7829.3000, subp. 4, the deadline for parties to file answers or responses to Oronoco's Petition was 10 days later on June 29, 2012. Laymen for Christ and Woodland Camp are not parties to this Action and have no legal right to file the Amended Response. NoCapX 2020's filing of the Amended Response on July 9, 2012 was 10 days after the June 29, 2012 statutory deadline and is therefore untimely. Additionally, neither Minnesota Statutes nor Minnesota Rules provide for the amendment of answers to a petition for reconsideration. Accordingly, the Amended Response should be stricken from the administrative record.

A. Laymen for Christ and Woodland Camp are not Parties to this Action and Have no Legal Right to File the Amended Response.

Laymen for Christ and Woodland Camp are not parties to this action. They never sought to intervene in the proceeding and were never granted formal party status. See Minn. R. 7829.0800, subp. 1 ("A person who desires to become a party to a proceeding shall file a petition

to intervene within the time set in this chapter.”); First Prehr’g Order, ¶¶ 2, 4 (Sept. 1, 2010) (setting deadline for intervention on May 2, 2011). Just as the law did not allow Laymen for Christ and Woodland Camp to file their original response to Oronoco’s Petition,¹ it also does not allow them to file their Amended Response to Oronoco’s Petition.

B. NoCapX 2020’s Filing of the Amended Response is Untimely.

While NoCapX 2020 is a party to this action and did have the right to file a response to Oronoco’s Petition under Minnesota Rules, NoCapX 2020 failed to file the Amended Response by the statutory deadline. Pursuant to Minn. R. 7829.3000, subp. 4, NoCapX 2020 was required to file the Amended Response by June 29, 2012—i.e., 10 days after Oronoco filed its Petition on June 19, 2012. No CapX 2020 did not file the Amended Response until July 9, 2012, which was 10 days too late under the Rules. The Amended Response is therefore untimely, and should not be considered by the Commission.

C. Amendments are not Allowed Under Minnesota Statutes or Minnesota Rules.

NoCapX 2020, Laymen for Christ, and Woodland Camp cite to no legal authority that would allow the amendment of Laymen for Christ and Woodland Camp’s original response, assuming Laymen for Christ and Woodland Camp even had standing under the law to file the original response, which they do not. Since NoCapX 2020 had not previously filed an answer to Oronoco’s Petition, there was nothing for it to amend. Additionally, neither Minnesota Statutes nor Minnesota Rules provide for amendments to petitions for reconsideration, and no attempt was made by either NoCapX 2020, Laymen for Christ, or Woodland Camp to seek leave from

¹ See Oronoco Township’s Objection and Mot. to Strike Laymen for Christ, Inc. and Woodland Camp’s Resp. to Oronoco Township’s Mot. for Reconsideration (July 3, 2012) (arguing that Laymen for Christ and Woodland Camp’s response to Oronoco’s Petition, which was filed on June 29, 2012, should be stricken from the administrative record, since only parties are allowed to file answers to a petition for reconsideration under Minn. R. 7829.3000, subp. 4, and Laymen for Christ and Woodland Camp are not parties to this action).

the Commission to file the Amended Response. Oronoco will be prejudiced if the Amended Response is allowed, since it was originally filed by non-parties and is untimely. Because the Amended Response lacks legal support and Oronoco will suffer prejudice if the Amended Response is allowed, the Commission should strike the Amended Response from the administrative record.

CONCLUSION

The Commission should not consider the Amended Response for three reasons: (1) Laymen for Christ and Woodland Camp are not parties to this proceeding and do not have standing to file their Response to Oronoco's Petition under Minnesota law; (2) NoCapX 2020's filing of the Amended Response is untimely; and (3) Minnesota law does not provide for amendments to answers to petitions for reconsideration. Accordingly, the Commission should grant Oronoco's motion and strike the Amended Response from the administrative record.

Respectfully submitted,

Dated: July 10, 2012

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