

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

Intervenor Oronoco Township ("Oronoco") respectfully submits this reply to NoCapX 2020, Laymen for Christ, Inc., and Woodland Camp's Response to Oronoco's Motion to Strike ("Response"), which was filed on July 9, 2012.

INTRODUCTION

On June 29, 2012, Laymen for Christ and Woodland Camp filed an answer to Oronoco's Petition for Reconsideration and Vacation, Rehearing, Amendment, or Reargument of the Commission's Order Granting Route Permit for Segment 3 of the Hampton-Rochester-La Crosse 345-kV Transmission Line Project ("Petition"), which Oronoco filed on June 19, 2012. On July 3, 2012, Oronoco filed a motion to strike Laymen for Christ and Woodland Camp's answer, since Laymen for Christ and Woodland Camp are not parties to this action and have no standing under Minnesota Statutes or Rules to file an answer. On July 9, 2012, NoCapX 2020, Laymen for Christ, and Woodland Camp filed a response to Oronoco Township's motion to strike, arguing that they should be allowed to file their answer to Oronoco's Petition, since the Commission must allow public participation, and proposing that Laymen for Christ and

Woodland Camp would file amended pleadings to join in with NoCapX 2020 in an attempt to gain standing.

Laymen for Christ and Woodland Camp's arguments ignore the plain language of Minnesota Statutes and Rules, as well as Administrative Law Judge Kathleen D. Sheehy's First Prehearing Order dated September 1, 2010 ("Prehearing Order"). As "participants" in this action, Laymen for Christ and Woodland Camp had the opportunity to, and actually did, file comments and provide testimony for the Commission's consideration. However, their status as "participants" does not equate to status as "parties." Laymen for Christ and Woodland Camp never sought to intervene and become formal parties, and the time for them to do so expired over one year ago, pursuant to the Prehearing Order. Plainly and simply, Laymen for Christ and Woodland Camp are not parties, it is too late for them to acquire party status, and their answer to Oronoco's Petition should be stricken from the administrative record.

ARGUMENT

I. AS PARTICIPANTS, AND NOT PARTIES, LAYMEN FOR CHRIST AND WOODLAND CAMP DO NOT HAVE STANDING TO FILE AN ANSWER TO ORONOCO'S PETITION.

In their Response, Laymen for Christ and Woodland Camp do not even address Minn. R. 7829.3000, subp. 4, or its requirement that only parties to the proceeding may file answers to a petition for reconsideration. See Minn. R. 7829.3000, subp. 4 ("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)). Instead, Laymen for Christ and Woodland Camp simply argue that the Commission is required to allow them to participate in the proceeding, and as a result, they should be allowed to file their answer to Oronoco's Petition. Laymen for Christ and Woodland Camp's argument completely ignores the

definitions of “participant” and “party” in the Minnesota Rules, as well as the plain language of Minn. R. 7829.3000, subp. 4. As participants, and not parties, Laymen for Christ and Woodland Camp do not have standing to file an answer to Oronoco’s Petition.

Minn. R. 7829.0100, subp. 13, defines “participant” as “a person who files comments or appears in a proceeding, other than public hearings held in contested cases and other commission proceedings conducted to receive general public comments, to present views without becoming a party.” Laymen for Christ and Woodland Camp already had the opportunity to, and actually did, participate in this proceeding. As participants, Laymen for Christ and Woodland Camp submitted comments for the Commission’s consideration and provided testimony at the public hearings and April 12, 2012 Commission meeting.¹

Minn. R. 7829.0100, subp. 14 defines “party” as

[A] person by or against whom a proceeding before the commission is commenced or a person permitted to intervene in a proceeding under this chapter. A party to a proceeding is styled a “petitioner,” “complainant,” “intervenor,” or “respondent,” according to the nature of the proceeding and the relationship of the party to the proceeding.

Laymen for Christ and Woodland Camp did not commence this proceeding, this proceeding is not against them, and they chose not to intervene in this proceeding. Said another way, Laymen for Christ and Woodland Camp are not petitioners, complainants, intervenors, or respondents, and thus, are not parties.

The plain language of the Minnesota Rules is clear: only parties are allowed to file answers to petitions for reconsideration. See Minn. R. 7829.3000, subp. 4. Laymen for Christ

¹ Merl Norman, president of the Laymen for Christ board, and his wife, Anna Norman, who together are the former owners of Woodland Camp, presented testimony and evidence at the April 12, 2012 Commission meeting after the close of the administrative record. (Hr’g Tr., 93-100 (Apr. 12, 2012).)

and Woodland Camp may be participants in this proceeding, but they are not parties. Accordingly, the law does not allow them to file their answer to Oronoco's Petition.

II. THE DEADLINE FOR INTERVENTION EXPIRED OVER ONE YEAR AGO ON MAY 2, 2011, AND LAYMEN FOR CHRIST AND WOODLAND CAMP CANNOT BECOME PARTIES AT THIS LATE STAGE IN THE PROCEEDING.

Laymen for Christ and Woodland Camp are not parties to this action, and it is too late for them to become parties now. The Prehearing Order was clear: "Persons who wish to intervene in this proceeding must file a written petition to intervene with the Administrative Law Judge **no later than May 2, 2011**, as set forth in Minn. R. 1405.0900, subp. 1, (2009)." First Prehr's Order, ¶ 2 (Sept. 1, 2010); see also 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."). Laymen for Christ and Woodland Camp never sought to intervene in this proceeding prior to the May 2, 2011 deadline for intervention and were never granted formal party status. They have made no attempt to amend the intervention deadline in the Prehearing Order, and even if they had, they would be unable to show any good cause for the amendment.

Over one year has passed since the May 2, 2011 intervention deadline. Laymen for Christ and Woodland Camp's proposed filing of amended pleadings does not remove Oronoco's "concern" regarding their standing to file an answer to Oronoco's Petition, since the filing of any amended pleadings at this late stage in the proceeding would prejudice Oronoco and the other parties and would violate Minnesota Statutes, Minnesota Rules, and the Prehearing Order. If Laymen for Christ and Woodland Camp truly wanted to intervene, become parties, and appear and argue in the contested-case proceeding, the time for them to do so was over one year ago, by May 2, 2011. That time has long since come and gone, and Laymen for Christ and Woodland Camp's neglect and failure to intervene should not be excused.

CONCLUSION

Laymen for Christ and Woodland Camp are not parties to this proceeding, cannot become parties at this late stage in the proceeding, and have no legal right to file their Response to Oronoco's Petition under Minnesota law. Accordingly, the Commission should not consider Laymen for Christ and Woodland Camp's Response and should strike it from the administrative record.

Respectfully submitted,

Dated: July 10, 2012

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