

**STATE OF MINNESOTA  
IN COURT OF APPEALS**

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**In the Matter of Application for a  
Route Permit for the CapX 2020  
Hampton-Rochester-LaCrosse  
High Voltage Transmission Project**

**Court of Appeals No. A12-1607**

**AGENCY DOCKET NUMBER:  
E002/TL-09-1448**

Oronoco Township,

Petitioner,

**RESPONDENTS NO CAPX 2020  
AND LAYMEN FOR CHRIST  
O/O OF WOODLAND CAMP'S  
STATEMENT OF THE CASE**

vs.

Minnesota Public Utilities Commission,

Respondent.

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Respondents No CapX 2020 and Laymen for Christ, o/o of Woodland Camp, for  
its

Statement of the Case, states as follows:

**1. Agency of case origination:**

This case originated with the Minnesota Public Utilities Commission (hereinafter "PUC") and the Application for the CapX 2020 Hampton-Rochester-La Crosse project, a roughly 90 mile three Segment transmission line in Minnesota. The Commission referred this docket to the Office of Administrative Hearings for contested case evidentiary proceedings, presided over by Administrative Law Judge and after which the ALJ issued a Recommendation to the PUC that the Zumbro River crossing be routed at the Zumbro Dam over Woodland Camp. The PUC issued its written Order on May 30, 2012, and then denied various Motions and Petitions for Reconsideration on August 14, 2012, triggering the Oronoco Township appeal of the Commission's Order regarding a portion of Segment 3 crossing the Zumbro River.

2 (A) N/A

**(B) Jurisdictional statement – Certiorari appeal:**

Appeals from final Public Utilities Commission decisions are taken pursuant to the Minnesota Administrative Procedures Act, Minn. Stat. §216B.52 and §216E.15. The Administrative Procedures Act authorizes review in the Court of Appeals by writ of certiorari. Minn. Stat. §14.63; Minn. R. Civ. App. P. 103.03(g) and 115.01.

Oronoco Township’s appeal served by mail September 13, 2012 was received on September 17, 2012, by No CapX/U-CAN/NRG after a prior unsuccessful attempt at service to an incorrect address, different from that on the Official Service List, that was provided to Oronoco by the Public Utilities Commission. Oronoco Township successfully served other parties by mail on September 7, 2012, and that date of service is presumed for this filing.

Respondent No CapX 2020 is an Intervenor party in the Public Utilities Commission docket. Minn. Stat. §216B.52. Laymen for Christ, o/o of Woodland Camp are “any other person, aggrieved by a decision and order and directly affected by it,” and its principals participated in numerous ways, including the Citizens Advisory Task Force, informational meetings, public hearings and Commission meetings. No CapX 2020 and Laymen for Christ filed a reply to Oronoco Township’s Motion for Reconsideration, in response to Oronoco Township’s desire to reverse the Commission’s decision and route over the Zumbro Dam and Laymen for Christ’s Woodland Camp. Minn. Stat. §216B.27. As a directly aggrieved person, Laymen for Christ, o/o of Woodland Camp may participate in response to the appeal of Oronoco Township. Minn. Stat. §216B.52. .

**(C) Other applicable proceedings:** N/A

**(D) Finality of order or judgment.**

**Does the judgment or order to be reviewed dispose of all claims by and against all parties, including attorney fees?** Yes.

**(E) Criminal only** N/A

**3. State type of litigation and designate any statutes at issue.**

This is an appeal of a Minnesota Public Utilities Commission routing decision and order, a state agency action, that followed an OAH facilitated Public Hearing and a Contested Case Hearing under the Minnesota Administrative Procedures Act, Minn. Stat. Ch. 14. Oronoco Township, in its appeal, claims the Public Utilities Commission’s decision and

Order was based on non-record testimony and evidence. The statute at issue in Oronoco Township's appeal is Minn. Stat. §14.61, Subd. 2; see also Minn. Stat. §14.62, Subd. 1; Minn. R. 1405.2400.

Oronoco Township's "due process" complaint is addressed by the Power Plant Siting Act, Minn. Stat. ch. 216E and Minn. R. ch. 7850; Minnesota APA, Minn. Stat. ch. 14 and Minn. R. ch. 1400 and 1405; Public Utilities Commission procedure Minn. R. ch. 7829.

#### **4. Brief description of claims, defenses, issues litigated and result below.**

The Public Utilities Commission issued a route permit for the CapX 2020 Hampton-Rochester-La Crosse transmission line, after an Application, Information Requests, and a Contested Case hearing, followed by a Recommendation of the Administrative Law Judge, and filed Exceptions. Parties filed subsequent Motions for Reconsideration, which were denied. The issue before the Commission was whether a transmission route permit should be issued -- designation of a route after review of the impacts of many route options presented for consideration.

At the April 12, 2012 meeting, the Commission properly rejected the Recommendation of the Administrative Law Judge to utilize the "Zumbro Dam" crossing of the Zumbro River in Segment 3. Utilizing information in the record, the Commission made note of the incorrect statements in the ALJ's Recommendation and Environmental Impact Statement regarding transmission corridor on Respondent's land, and made note of correct information regarding transmission on Respondent's land found in the Application and DEIS Comments, corrected the erroneous Findings of Fact to state there was no transmission over Woodland Camp, and then routed the transmission line along the White Bridge Road in Oronoco Township in compliance with Minnesota's policy of non-proliferation. Relator Oronoco Township then filed a Motion for Reconsideration, and Respondent Laymen for Christ, o/o of Woodland Camp filed a reply to Oronoco Township's Motion for Reconsideration. The Commission did not take up any Motions for Reconsideration, and thus all Motions for Reconsideration were denied.

Oronoco's appeal seeks to reverse the Commission's decision and affirm the Administrative Law Judge's selection and recommendation of the "Zumbro Dam" crossing. Should Oronoco Township be successful in reversing the decision of the Public Utilities Commission, in reversing the route to conform with the Recommendation of the Administrative Law Judge over the Zumbro Dam route crossing the Zumbro River, the route would traverse Respondent's Woodland Camp.

#### **5. List specific issues proposed to be raised on appeal.**

Respondents frame the Relator's issues and take the following positions:

**I. Whether the decision of the Public Utilities Commission was supported by the record.**

The Public Utilities Commission's Order for Segment 3's crossing of the Zumbro River utilizing the "White Bridge Road" route relies on information in the record, and includes record-based corrections of erroneous statements in the Environmental Impact Statement and in the ALJ's Findings of Fact that there was a transmission corridor at the Zumbro Dam crossing. The correct statements regarding transmission and an aerial crossing at the Zumbro Dam crossing are found in the record, specifically the project application and in Applicant Draft Environmental Impact Statement comments. Minn. Stat. §14.61, Subd. 2; see also Minn. Stat. §14.62, Subd. 1; Minn. R. 1405.2400.

**II. Whether the process utilized by the Commission provided parties with all due process of law.**

The Public Utilities Commission process afforded Oronoco Township and all parties with the full extent of process due under law, including opportunities as a party to present and receive evidence and inform the record, to argue its case, and to participate before the Commission. Oronoco Township availed itself of these opportunities. Power Plant Siting Act, Minn. Stat. ch. 216E, Minn. R. 7850; see also Minnesota APA, Minn. Stat. ch. 14 and Minn R. ch. 1400 and 1405.

**6. Related appeals.**

No additional appeals related to this area or route in Segment 3 are known to be contemplated or known to have been filed at this time.

An appeal of the Segment 1 routing decision by the Commission in this docket has been filed by St. Paul's Lutheran School and Church and Cannon Falls Landowners. Notice from the Court was received that the A12-1607 and A12-1632 appeals have been consolidated.

**7. Contents of record.**

There is an extensive record of the PUC proceeding. For the purposes of Rules 115.04, subd. 1 and 110.02, subd. 1(c), Respondents provide notice that a transcript is not necessary to review the issues on appeal because the transcript has been prepared of the prehearing conference, public and evidentiary hearings and agency decisional hearings in this matter, and the original transcript is part of the record and is on file with the PUC. These transcripts, and the record, will be transmitted to the Court of Appeals under Rule

111.01. Trout Unlimited, Inc. v. Minn. Dep't of Agriculture, 528 N.W. 2d 903, 908 (Minn. App. 1995) (all documents “available and in the possession of” the agency are part of the record.).

**8. Is oral argument requested? Yes.**  
**At another location? No.**

**9. Identify the type of brief to be filed.** Formal brief under Rule 128.02.

**10. Names, addresses, zip codes and telephone numbers of attorneys:**

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(also counsel for Intervenors United Citizens Action Network (U-CAN) and North Route Group (NRG), parties not participating in this appeal)

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September 21, 2011

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