

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

American Transmission Company LLC)	
)	
v.)	
)	Docket No. EL12-____-000
Midwest Independent Transmission System)	
Operator, Inc., and)	
)	
Xcel Energy Services Inc., Northern States)	
Power Company, a Wisconsin corporation,)	
and Northern States Power Company, a)	
Minnesota Company)	

**COMPLAINT
AND REQUEST FOR FAST TRACK PROCESSING
OF AMERICAN TRANSMISSION COMPANY LLC**

Pursuant to Section 306 of the Federal Power Act (“FPA”)¹ and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),² American Transmission Company LLC (“ATC”), by its corporate manager, ATC Management Inc. (collectively “ATCLLC”), respectfully submits this Complaint and Request for Fast Track Processing (“Complaint”) against the Midwest Independent Transmission System Operator, Inc. (“MISO”) and Xcel Energy Services Inc., on behalf of its operating company affiliates Northern States Power Company Wisconsin (“NSPW”) and Northern States Power Company Minnesota (“NSPM”).

¹ 16 U.S.C. § 825e (2006).

² 18 C.F.R. § 385.206 (2012).

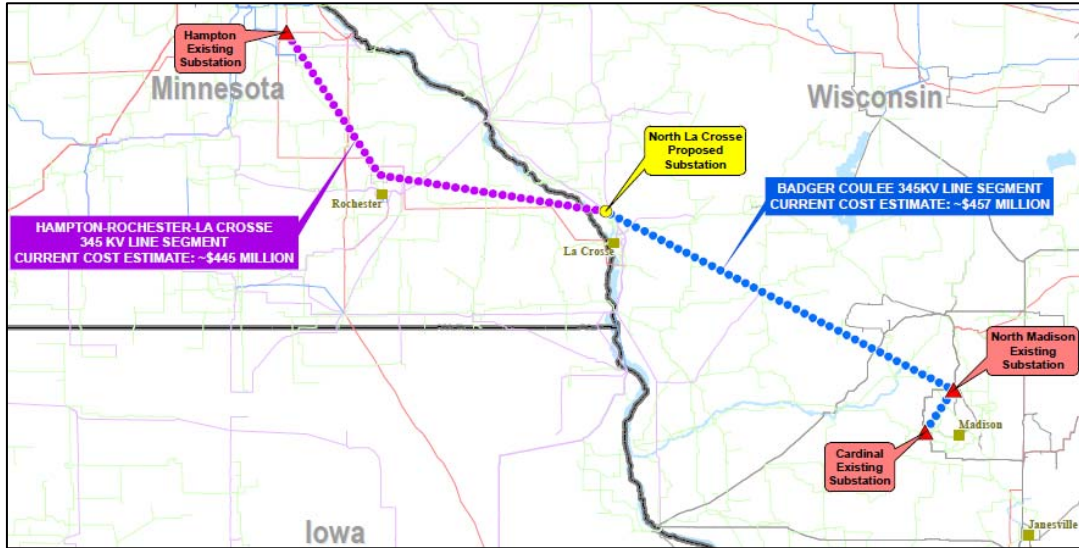
I. SUMMARY OF COMPLAINT

ATCLLC requests that the Commission direct MISO to apply Section VI of App. B to the MISO Transmission Owners Agreement³ to enable ATC to participate on an equal basis in a 345 kV transmission project that will interconnect NSPM's facilities with ATC's facilities. The Share Equally Provision provides as follows:

Ownership and the responsibilities to construct facilities which are connected between two (2) or more Owners' facilities belong equally to each Owner, unless such Owners otherwise agree, and the responsibility for maintaining such facilities belongs to the Owners of the facilities unless otherwise agreed by such Owners.

The question before the Commission in this proceeding is: What constitute the "facilities" between ATC and NSPM (both MISO transmission owners) that must be shared equally between the two owners. ATC contends that MISO has now approved the construction of a single 345kV transmission line interconnecting the facilities of ATC with those of NSPM, with a new substation to be built in the middle. This interconnection is being built in two phases, with a first 345 kV line segment from the Twin Cities area in Minnesota (owned by NSPM) to a new substation to be built near La Crosse, Wisconsin, and a second 345kV line segment from that substation to a substation in the Madison area in Wisconsin (owned by ATC). As described in detail below, and as Xcel Energy has acknowledged in pleadings filed with the Commission, the two segments, once completed, will form a new 345kV interconnection between NSPM and ATC running from NSPM's Hampton Substation near the Twin Cities to ATC's Cardinal Substation near Madison. The new 345 kV project is depicted on the map below.

³ "Agreement of the Transmission Facilities Owners' to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation," designated as Rate Schedule No.1 under the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff ("Tariff" or "MISO Tariff"), Fifth Rev. Vol. No. 1 ("TOA"), Appendix B, Section VI (hereinafter "Share Equally Provision").



The two line segments were approved by MISO in different planning cycles, but that does not change the essential fact that neither segment of the interconnecting 345kV line will provide the anticipated regional reliability and economic benefits identified by MISO to justify construction at 345 kV without the construction of the other segment. As shown below, Xcel Energy consistently has argued that the two segments of this interconnection are both necessary to provide sufficient benefits to justify regulatory approval, and the relevant studies reach the same conclusion. Accordingly, the applicable “facilities” for purposes of applying the Share Equally Provision consist of the entire 345 kV line that will interconnect NSPM’s facilities with ATC’s facilities. Under the Share Equally Provision as interpreted and applied by the Commission in the *Xcel Order*,⁴ ATC and Xcel Energy (on behalf of NSPM and NSPW) are each entitled to own and construct fifty percent of the 345 kV facilities.

Also consistent with Xcel Energy’s complaint in Docket No. EL12-28, ATCLLC respectfully requests that the Commission direct Xcel Energy to enter into negotiations with

⁴ *Xcel Energy Servs. Inc. v. American Transmission Co., LLC*, 140 FERC ¶ 61,058 (2012) (“*Xcel Order*”), *reh’g pending*.

ATCLLC to develop final terms and conditions for the equal shared ownership and construction of the above-described project in a manner compliant with the TOA. ATCLLC believes that the requested Commission determination will allow ATCLLC and Xcel Energy to negotiate terms for ownership consistent with the TOA in the same fashion that Xcel Energy seeks to negotiate an ownership interest in the La Crosse-Madison segment.

II. BACKGROUND

In the complaint that resulted in the *Xcel Order*, Xcel Energy urged the Commission to rule that the TOA supported Xcel Energy's position that MISO correctly designated NSPW to jointly construct and own a new 345 kV transmission line segment from La Crosse to Madison even though ATCLLC has been developing that line segment for the past several years. Xcel Energy argued that by virtue of ATC's plan to build the western end of that line segment to the planned Briggs Road Substation near La Crosse, ATC will be connecting its facilities at the new substation, thus implicating the Share Equally Provision. The NSPW "facilities" discussed by Xcel Energy (*i.e.*, the Briggs Road Substation) do not yet exist, however. Rather, they are being *developed* by Xcel Energy and other parties as the eastern endpoint of the Twin Cities-La Crosse segment of the 345kV interconnection between NSPM and ATC that was approved by MISO in the 2008 MISO Transmission Expansion Plan ("MTEP"). Construction of those facilities has yet to begin. Xcel Energy argued that because the La Crosse-Madison segment (which MISO subsequently approved as a "Multi-Value Project" ("MVP") in the 2011 MTEP) will attach to the Briggs Road Substation that *eventually* will be built, the TOA grants NSPW the right to share equally in the La Crosse-Madison segment.

In the *Xcel Order*, the Commission acknowledged that the Share Equally Provision acted as a right of first refusal ("ROFR") that Order No. 1000 found to be unjust and unreasonable:

In Order No. 1000, the Commission stated that it is unjust and unreasonable to grant incumbent transmission providers a federal right of first refusal with respect to transmission facilities selected in a regional transmission plan for purposes of cost allocation because doing so may result in the failure to consider more efficient or cost-effective solutions to regional needs and, in turn, result in the inclusion of higher-cost solutions in the regional plan.⁵

The Commission nevertheless held that Order No. 1000 did not preclude enforcement of the ROFR because the Commission previously decided to eliminate ROFRs only “on a prospective basis” upon Commission acceptance of Order No. 1000 compliance filings. *Xcel Order* at P 66. The Commission determined that the Share Equally Provision requires ATC and Xcel Energy to “share responsibility for the La Crosse-Madison Line,” and that it was therefore appropriate for MISO to designate both ATC and Xcel Energy “as the parties responsible” for developing that line. *Id.* at P 67.⁶

As part of its response to the Xcel Energy complaint, ATCLLC argued that if the Commission enforced the Share Equally Provision as the basis for granting Xcel Energy’s request for equal ownership of the La Crosse-Madison segment, it should afford ATC similar equal ownership rights in certain “CAPX2020 projects” being developed by Xcel Energy and other MISO utilities that, when viewed as a whole, will connect the existing facilities of ATC with those of Xcel Energy and other MISO transmission owners.⁷ As Xcel Energy itself explained, the CAPX2020 projects, which include the Twin Cities-La Crosse segment, are part of the same overall planning initiative that included evaluation of the La Crosse-Madison

⁵ *Xcel Order* at P 64.

⁶ ATCLLC filed a timely request for rehearing and motion for a stay of the *Xcel Order*, which are pending before the Commission. If the Commission grants ATCLLC’s request for rehearing, ATCLLC may withdraw this Complaint at that time.

⁷ As noted in the *Xcel Order* (at n.13), the CAPX2020 “is a comprehensive regional planning initiative by eleven utilities in the MISO region.”

segment, and they are intended to interconnect with that line segment. For that reason, ATCLLC argued that if the Share Equally Provision was valid, it should apply with equal force so as to grant ATC a 50 percent ownership right in the CAPX2020 projects.

The Commission did not rule on the merits of ATCLLC's arguments, finding them beyond the scope of Xcel Energy's complaint. The Commission noted, however, that ATCLLC's claim "is more appropriately characterized as a complaint relating to the CAPX2020 projects," and thus the Commission's rejection of ATCLLC's request pertaining to this issue was made "without prejudice." *Id.* at P 68.

III. COMMUNICATION AND SERVICE

ATCLLC requests that the following individuals be included on the official service list and designated to receive service and communications in this proceeding on behalf of ATCLLC:

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A copy of this Complaint will be served on counsel for MISO and Xcel Energy, and on the Public Service Commission of Wisconsin and the Minnesota Public Utilities Commission.

IV. DISCUSSION

A. The Parties

ATC is a Wisconsin limited liability company created in accordance with Wisconsin state law as a single-purpose, transmission-only company. ATC owns, controls, and operates more than 9,400 miles of transmission lines in the states of Wisconsin, Illinois, Minnesota, and

Michigan. ATC began providing transmission service on January 1, 2001, under a Commission-approved open access transmission tariff, and on February 1, 2002, transferred operational control of its transmission facilities to the MISO. As a transmission-owning member of MISO, ATC continues to engage in the day-to-day operational control of the transmission facilities that it owns. Transmission service over ATC's transmission facilities is provided under and governed by the terms of the MISO Tariff. ATC also has its own Commission-approved local planning process set forth in the MISO Tariff at Attachment FF-ATCLLC. Since its inception, ATC has invested more than \$2.8 billion in new transmission facilities.

MISO is a FERC-approved Regional Transmission Organization that is responsible for administering the regional transmission planning provisions of the MISO TOA and the MISO Open Access Transmission Energy and Operating Reserve Markets Tariff, Attachment FF. ATC and the transmission-owning affiliates of Xcel Energy have transferred operating control over their respective transmission systems to MISO pursuant to the MISO TOA.

NSPW is a Wisconsin corporation and a vertically integrated utility that, *inter alia*, provides electric generation, transmission, and distribution services. NSPM is a Minnesota corporation and a vertically integrated utility that, *inter alia*, provides electric generation, transmission, and distribution services. ATCLLC understands that NSPW and NSPM are first-tier subsidiaries of Xcel Energy Inc., a public utility holding company within the meaning of the Public Utility Holding Company Act of 2005. NSPW and NSPM are transmission owning members of MISO and signatories to the TOA and operate their respective transmission facilities as a single transmission system.

B. The Relevant “Facilities”

In its February 14, 2012 complaint in Docket No. EL12-28 (“Xcel Complaint”), Xcel Energy set out the background leading up to the development of the Twin Cities-La Crosse segment and the La Crosse-Madison segment of the 345 kV project interconnecting NSPM’s facilities in Minnesota with ATC’s facilities in Wisconsin. Except where otherwise specified in this Complaint, ATCLLC adopts Xcel Energy’s description of the segments at issue and the development efforts leading up to those segments.

1. Twin Cities-La Crosse Segment

As Xcel Energy explained, there are four CAPX2020 projects, one of which is a line that will be built between the Twin Cities and La Crosse. That line will be a new 345 kV line between an NSPM substation just south of the Twin Cities generally referred to as the “Hampton Substation,” and a newly authorized substation just north of La Crosse, Wisconsin, generally referred to as the “Briggs Road Substation.” The Twin Cities-La Crosse segment was approved in the 2008 MTEP. Xcel Complaint at 4. As Xcel Energy further explained, the Twin Cities-La Crosse segment “was not developed or proposed in isolation. It was studied extensively along with other region-enhancing transmission line projects as one aspect of a long-range, phased, program to deploy transmission assets throughout the Upper Midwest region to enhance regional reliability and facilitate the transfer of energy to major regional load centers.” *Id.* at 5. The studies showed that construction of the Twin Cities-La Crosse segment in conjunction with the La Crosse-Madison segment “would enhance the reliability and energy delivery benefits created by the Twin Cities-La Crosse Line.” *Id.* In other words, as Xcel Energy itself acknowledges, the studies show that the benefits to be derived depend upon a new transmission line between the

NSPM and ATC systems that runs all the way from Minneapolis, Minnesota, to Madison, Wisconsin.

As Xcel Energy further discussed, more than ten years ago NSPM began studying the transmission system to determine the need to reinforce the system running from southeastern Minnesota to southeastern Wisconsin. That study work “culminated in the WIRES Phase II study, published in 1999....” *Id.* The WIRES study work was an outgrowth of the direction of the Governor of Wisconsin and the Public Service Commission of Wisconsin (“PSCW”) that the Wisconsin utilities study transmission options that would improve reliability and strengthen Wisconsin’s interconnection to the Midwest region. Under this mandate, a large group of utilities in the upper Midwest (including the predecessor to Xcel Energy and executives responsible for the eventual formation of ATC) initiated and conducted the Wisconsin Interface Reliability Enhancement Study (“WIRES”)⁸ that initially, albeit generically, identified the need for an additional east-to-west interconnection between the Twin Cities and Madison areas in order to bolster the regional transmission system.⁹ Xcel Energy confirmed that the WIRES study “surveyed the benefits of a number of potential transmission system improvements, *including a line from Southeastern Minnesota to the Madison area.*” Xcel Complaint at 5, emphasis added. *See also id.* at 14 (the WIRES study “identified an east-to-west connection between the Twin Cities and Madison as a desirable long-term addition to regional transmission system.”).

Building on the work undertaken for the WIRES study, Xcel Energy explained to the Commission that the NSP companies and other participants began the CapX2020 initiative that

⁸ *See* Wisconsin Interface Reliability Enhancement Study, Phase I Report (August/September 1998) (“WIRES Phase I Report”); Wisconsin Interface Reliability Enhancement Study, Phase II Report (June 1999) (“WIRES Phase II Report”).

⁹ WIRES Phase II Report at 16.

resulted in the 2005 “CapX2020 Vision Study.” *Id.* That study further highlighted the need for many of the same transmission facilities described in the WIRES Phase II Report.¹⁰ The Twin Cities–La Crosse segment, which was one of the elements evaluated in that study, was evaluated by MISO and its stakeholders and ultimately was identified as a critical reliability need and approved by MISO in MTEP 2008 as a Baseline Reliability Project. *Id.* at 4, *see also* n.12.

The Twin Cities–La Crosse segment was evaluated by the Minnesota Public Utilities Commission (“MPUC”), which granted its approval in 2009. The MPUC found that the segment would provide community reliability, *regional reliability*, and generator outlet benefits to Minnesota *and neighboring states*.¹¹

That portion of the Twin Cities–La Crosse segment located in Wisconsin was approved in early 2012 by the PSCW. In order to secure the PSCW approval, NSPW was required to show that the Twin Cities–La Crosse segment, if constructed at a 345 kV voltage, provided *regional benefit* along with local reliability.¹² Notably, throughout submissions made to the PSCW by various parties, much of the case for justifying a 345 kV version of the Twin Cities–La Crosse segment explicitly referred to and/or relied upon the accrual of regional benefits that would be made possible *only* through the development of the La Crosse–Madison segment. The following excerpts are illustrative:

¹⁰ See CapX2020 Technical Update: Identifying Minnesota’s Electric Transmission Infrastructure Needs (Oct. 2005) (“CapX2020 Vision Study”).

¹¹ *Application of Great River Energy, Northern States Power Company (d/b/a Xcel Energy) and Others for Certificates of Need for the CAPX 345-kV Transmission Projects*, Order Granting Certificates of Need with Conditions, at 42, MPUC Docket Nos. ET-2, E-002, *et al.*/CN-06-1115 (May 20, 2009).

¹² *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*, Final Decision, at 17, PSCW Docket No. 5-CE-136 (May 30, 2012) (“PSCW Final Decision”).

- The Twin Cities–La Crosse segment would provide “a critical 345 kV connection across the Minnesota and Wisconsin interface [] that [would] improve regional reliability and efficiency, reduce wholesale prices throughout the region, and facilitate acquisition of lower cost renewable resources” and that such benefits, “coupled with local reliability enhancements for the La Crosse area” fully supported the requested approval.¹³
- “Congestion would be ‘exacerbated’ if other MVP projects were constructed but the ‘dots’ were not connected.”¹⁴
- “In addition, a higher voltage option aligns with the results of [MISO’s Candidate MVP Study], which is expected to result in the approval of a 345 kV line from La Crosse to Madison in [MTEP 2011]. 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.*”¹⁵
- “There are two lower voltage alternatives which provide 750 MW to the La Crosse area for lower cost; however, *these alternatives do not provide an equivalent level of regional benefits as the 345 kV Project...* While the resultant project has higher costs than certain lower voltage alternatives, a holistic solution that jointly addresses the needs of both areas as well as the need for future facilities results in the most efficient system development.”¹⁶
- “Increased Immediate and Future System Transfer Capability – Transfer limits between Minnesota and Wisconsin affect system operators’ ability to move power in response to a critical contingency or shifts in variable resources such as wind generation. Addition of the 345 kV Project or the La Crosse 161 kV Alternative alone adds 700-850 MW of thermal transfer capability between Minnesota and Wisconsin. *However, a 345 kV connection is more robust in that it also provides for additional transfers capability as the 345 kV system is extended to the east.* Transfer study analysis indicates the additional capacity, depending on the eastern termination, could be as high as 1,200 MW over current system levels (depending on the eastern terminus). This 1,200 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

¹³ *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*, Initial Brief in Support of Joint Application, at 3, PSCW Docket No. 5-CE-136 (March 30, 2012) (“Initial Brief”).

¹⁴ Initial Brief at 7 (citing Hahn Tr. at 85:15-20).

¹⁵ Supplemental Need Study at 1 (emphasis added).

¹⁶ Supplemental Need Study at 4 (emphasis added).

transfer capability *below* current levels. By increasing transfer capability, the 345 kV Project enhances overall regional reliability.”¹⁷

- This analysis does not prejudge the probability of an eastern 345 kV connection, but instead merely considers the high probability that MISO will approve a 345 kV connection between La Crosse and Madison in late 2011.”¹⁸

In addition, Xcel Energy’s Final Environmental Impact Statement (“EIS”) filed with the Wisconsin Department of Natural Resources included an entire discussion of the *regional* benefits that would accrue from the Twin Cities-La Crosse segment (Section 2.7: “Transfer Capability and Regional Market Assessments”). That section discussed, among other things, the transfer capability benefits of the project when combined with a 345 kV line to the Madison Wisconsin area. Notably, the regional transfer analysis was not included in Xcel Energy’s Draft EIS.

Based largely upon the foregoing evidence in the record, the PSCW concluded that the proposed Twin Cities–La Crosse segment would provide local *and regional* reliability benefits, generation support, and other regional benefits (*i.e.*, enhancement of power transfers from states located west of the Mississippi River, access to more economical generation and access to sources of renewable generation).¹⁹ Indeed, the PSCW’s consideration of these regional benefits was an important basis for its conclusion that sufficient need existed to approve construction of the proposed project at 345 kV for its entire length.²⁰

The 2008 MTEP Report and the PSCW ruling confirm that the Twin Cities–La Crosse segment would not have been approved at 345 kV in its entirety absent the benefits that would

¹⁷ Supplemental Need Study at 4 (emphasis added). *See also* Testimony of Donald G. Neumeyer, at 2-3, PSCW Docket No. 5-CE-136 (February 10, 2012).

¹⁸ Supplemental Need Study at 36.

¹⁹ PSCW Final Decision at 7.

²⁰ *Id.* at 17.

accrue to the region once that segment and the companion 345 kV La Crosse-Madison segment completed the interconnection between NSPM’s facilities in southeastern Minnesota and ATC’s facilities in southeastern Wisconsin.

2. La Crosse-Madison Segment

Consistent with the regulatory findings made in connection with approval of the Twin Cities-La Crosse segment, the CapX2020 Vision Study identified a 345 kV transmission line electrically similar to the Twin Cities–La Crosse segment as the first phase of a project that would include, as a second phase, an additional 345 kV transmission line electrically similar to the La Crosse–Madison segment.²¹ As Xcel Energy explained to the Commission, that study “specifically identified the need for a 345 kV transmission line from the La Crosse area to the Madison area as an important project (once the four foundational CapX2020 projects were constructed) to enhance reliability in the Upper Midwest region.” *Id.* Xcel Energy acknowledged that ATCLLC cooperated with CAPX2020 participants in preparing the 2005 study and, together with NSPM, studied a line “from the La Crosse area to Madison in connection with the 2007 Renewable Energy Standard Update (“RES Update”) study submitted with the 2007 Minnesota Biennial Transmission Project Reports to the Minnesota Public Utilities Commission. *Id.* at 6. While NSPM led the RES Update study efforts, ATC participated and contributed to those reports. *Id.* Like the CapX2020 Vision Study, the RES Update discussed the installation of a project substantially similar to the La Crosse–Madison segment, which was shown to provide significant benefits in all cases studied, as the appropriate facility to provide the crucial link between La Crosse and eastern Wisconsin.²²

²¹ See Xcel Complaint, Affidavit of Daniel P. Kline at ¶ 14 (“Kline Aff.”).

²² Kline Aff. at ¶ 21.

The La Crosse-Madison segment also was “specifically identified” in the 2010 Western Wisconsin Transmission Reliability Study (“WWTRS”). *Id.* That effort assessed the adequacy of various transmission solutions relative to western Wisconsin’s reliability needs on an 8- to 10-year horizon. Importantly, as acknowledged by Xcel Energy, the WWTRS report characterized the La Crosse–Madison segment as “extending” the Twin Cities–La Crosse segment and also “connecting” to the Twin Cities–La Crosse segment.²³ The report further concluded that the La Crosse–Madison segment was to be an extension of the CapX2020 Twin Cities–La Crosse segment.²⁴ Xcel Energy confirmed that the “final scope” of the project analyzed in this report was to interconnect the endpoint of the Twin Cities-La Crosse segment with a line into ATC’s North Madison Substation; *i.e.*, the La Crosse-Madison segment. *Id.*

As Xcel Energy continued, “[b]uilding on this extensive and collaborative regional study work, MISO...confirmed the need for and the regional benefits of the La Crosse-Madison Line” in the 2011 MTEP, and designated the line as an MVP project. *Id.*, *see also* n.13 In other words, MISO identified the La Crosse–Madison segment as necessary to meet regional reliability requirements while also remaining cost-effective and compliant with important regional public policy requirements. MISO characterized the line as follows: “This new transmission, *a continuation of the northern 345 kV path*, connects the North Lacrosse station at the Minnesota-Wisconsin border into the Madison load center. 2011 MTEP report at 106, emphasis supplied.

Consistent with MISO’s conclusion in the 2011 MTEP, Xcel Energy confirmed, “The La Crosse-Madison Line would enhance regional transmission reliability by providing, *in*

²³ Kline Aff. at ¶ 29.

²⁴ The conclusion of the WWTRS report is supported by MISO’s MVP analysis, which identified the La Crosse–Madison segment as connecting to the Twin Cities–La Crosse segment and then extending eastward to ATC’s North Madison Substation. Kline Aff. at ¶ 29.

conjunction with the Twin Cities-La Crosse Project, a second 345 kV line from eastern Minnesota to eastern Wisconsin – a historically transmission-constrained area – and provide enhanced deliverability of competitive energy supplies and renewable energy to MISO markets.” Xcel Complaint at 6, emphasis supplied. Xcel Energy further explained that the La Crosse–Madison segment would implement the “second segment of what will in the long run constitute a second high-voltage transmission path from near the Twin Cities in eastern Minnesota to near Madison in eastern Wisconsin” and that the line had “always been studied and designed to be the next necessary segment in the overall regional transmission configuration that allows for significant reliability and economic benefits.” *Id.* at 13-14.

Perhaps even more significantly, Xcel Energy asserted that “MISO’s MVP studies identified the benefits of extending the Twin Cities–La Crosse Project into the Madison, Wisconsin area as a main driver for the MVP designation of the La Crosse–Madison Line. Therefore, the La Crosse-Madison Line, to maintain its status as an MVP, must have its western terminus at a point electrically identical to the eastern terminus of the Twin Cities-La Crosse Project.” *Id.* at 26. Xcel Energy went on to explain that the Briggs Road Substation at the eastern terminus of the Twin Cities-La Crosse segment is purposefully “being developed to accept the additional 345 kV circuit that will be the La Crosse-Madison Line.” *Id.*, n. 73.

C. The Twin Cities-La Crosse Segment and the La Crosse-Madison Segment Make a Single Integrated 345 kV Project Designed to Interconnect Southeastern Minnesota and Southeastern Wisconsin

The foregoing discussion, based primarily on the information provided by Xcel Energy in Docket No. EL12-28, demonstrates that the regional reliability and economic benefits projected to result from the Twin Cities-La Crosse segment are inextricably linked to and interdependent upon the La Crosse-Madison segment that was at issue in the *Xcel Order*. Moreover, the

interdependent nature of the two line segments is borne out and supported by multiple studies in which these segments were identified and deemed to be the appropriate solution for a variety of critical *regional* transmission needs. Subsequent regulatory proceedings and approval processes on state and regional levels, as well as the simple physical electrical interconnection (if constructed according to existing plans), further support the interdependent nature of the project segments. While the line segments are being developed along different timetables, there can be little doubt that they constitute a unified plan to strengthen the *regional* grid between the Twin Cities area in southeastern Minnesota and the Madison area in southeastern Wisconsin, and thus constitute a single project.

Xcel Energy makes much of the fact that NSPW will own the eastern end of the Twin Cities-La Crosse segment, such that the subsequent interconnection of the La Crosse-Madison segment does not represent a situation where NSPW will be interconnecting to the ATC system. Xcel Energy contrasts the situation covered by its complaint, wherein it alleges that ATC must interconnect with the NSPW system at the Briggs Road Substation near La Crosse. That argument ignores the fact that there is no existing NSPW substation, and this Complaint argues that under the Share Equally Provision, ownership of that yet to be constructed substation should be shared by ATC and NSPW. Like most of the Twin Cities-La Crosse project east of the existing Hampton Substation, the Briggs Road Substation is being developed and will not be in service until 2015. In other words, just as ATC is developing a new project that will have its western terminus near that substation, Xcel Energy is developing a new project that will have its eastern terminus at that substation. The two line segments, when complete, will constitute a single 345 kV line between the NSPM system at the Hampton Substation and the ATC system at the Cardinal Substation near Madison.

The Twin Cities-La Crosse segment went through the MTEP process in 2008 because the then-current load projections indicated that there were local reliability needs that had to be addressed prior to the time that the La Crosse-Madison segment would be put into service.²⁵ As Xcel Energy explained, “the Twin Cities–La Crosse Project was pursued separately from the La Crosse–Madison transmission link due to study work that identified the need for nearer-term reliability enhancements in the areas of Rochester and La Crosse.” Xcel Complaint, Kline Aff. at ¶ 19. This sequencing is not unusual, as large-scale high-voltage transmission projects often are planned and developed with segments that will go into service at different times.²⁶

The timing of the MTEP approvals for these two inter-related line segments does not, however, undercut the fact that they are part of a single large, interdependent regional project. This is confirmed by Xcel Energy’s representations to the Commission:

MISO’s MVP studies identified the benefits of extending the Twin Cities-La Crosse Project into the Madison, Wisconsin area as a main driver for the designation of the La Crosse-Madison Line. Therefore, the La Crosse-Madison Line, to maintain its status as an MVP, must have its western terminus at a point electrically identical to the eastern terminus of the Twin Cities-La Crosse Project.²⁷

Although Xcel Energy did not complete the point, it goes without saying that, electrically, the Twin Cities-La Crosse segment cannot achieve the regional reliability and economic benefits

²⁵ As discussed above, when the load forecast was lowered, a PSCW approval based solely on local reliability needs was not likely because local needs could not justify the project at 345 kV. Only when additional data were provided to confirm the *regional* benefits that would accrue from interconnecting a 345 kV facility all the way to the Madison area was there a sufficient basis for the PSCW to approve the Twin Cities-La Crosse segment as a 345 kV project.

²⁶ In its March 20, 2012 Answer to ATCLLC’s Answer in Docket No. EL12-28 (“Xcel Answer” at 28), Xcel Energy confirmed that “MISO plans the regional transmission system on an incremental basis.”

²⁷ Xcel Complaint at 26.

identified by the regulators and by MISO if that line does not have its eastern terminus at a point electrically identical to the western terminus of the La Crosse-Madison segment. Indeed, Xcel Energy likely would not have been able to develop a 345 kV line to La Crosse if that segment were not planned to subsequently interconnect with the 345 kV segment that will tie into the Madison area.

That the two segments will come together at a new substation near La Crosse also does not detract from the point that they make up a single, integrated project. Xcel Energy's own expert, Daniel Kline, who formerly acted as a Senior Engineer for regional transmission planning and was responsible for coordinating Xcel Energy's involvement in many of the planning initiatives that gave rise to the project, explained that:

The exact location of where the Twin Cities–La Crosse Line terminates and the La Crosse–Madison Line begins is less important than the fact that *the two projects must begin and end at the same place to obtain the benefits inherent in the projects* and to avoid duplication of facilities. The MISO Candidate MVP studies resulted in approval of La Crosse–Madison as an MVP. Thus, even if the specific location of the interconnecting substation is changed in the PSCW CPCN process for Twin Cities–La Crosse, the fact remains that the La Crosse–Madison 345 kV Line needs to interconnect with the Twin Cities–La Crosse Line in order to achieve the east-west benefits consistently studied over the past decade and which allowed the La Crosse–Madison Line to satisfy the multiple criteria for designation as an MVP in MTEP11.²⁸

Further emphasizing that the benefits of the Twin Cities–La Crosse segment were wholly contingent on a plan that allowed for interconnection to the La Crosse–Madison segment, Mr.

Kline continued:

In any case, even if the PSCW decides to move the connection between the two lines to a different point, the 345 kV connection from the La Crosse area to Madison must connect directly with the

²⁸ Kline Aff. at ¶ 32 (emphasis added).

345 kV line from the Twin Cities to La Crosse in order to obtain the reliability and energy transfer benefits of a 345 kV connection between the two systems.²⁹

D. Application of the TOA

As discussed by Xcel Energy, MISO relied upon the ROFR provision in the TOA to designate Xcel Energy and ATC as joint owners of the La Crosse-Madison segment. Xcel Complaint at 7 & nn.15, 16. The Commission affirmed that finding in the *Xcel Order*, based on its determination that the ROFR provision “supports Xcel’s position as to ownership and the responsibility of owners to build facilities when such facilities are connected between two or more owners’ facilities.” *Xcel Order* at P 57. The Commission found that the provision was unambiguous (*id.* at 60), that enforcing it was not inconsistent with Order No. 1000 (*id.* at PP 65-66), and that MISO correctly exercised its authority under the TOA in designating Xcel Energy and ATC “as the parties responsible for the La Crosse-Madison Line.” *Id.* at 67.

While ATCLLC has sought rehearing of the *Xcel Order* and remains hopeful that the Commission will revisit its rulings, the rulings as to the applicability and enforceability of the TOA’s share equally provision represent the law of the case pending Commission action on rehearing. As such, for purposes of this Complaint, there can be no substantive argument as to the intent underlying the provision, how it operates, or whether it is legally enforceable.

Xcel Energy argued that the TOA’s share equally provision cannot apply to the Twin Cities-La Crosse Line because it would lead to “absurd results” for previously-approved projects to be covered by the provision each time a new interconnected project is approved. Xcel Answer at 28. That does not accurately describe the situation here, however.

²⁹ Kline Aff. at ¶ 35.

As Xcel Energy repeatedly acknowledged in its Complaint, interconnected line segments electrically similar to the Twin Cities-La Crosse segment and the La Crosse-Madison segment have been studied for nearly ten years in an effort to devise a plan to strengthen the interconnection between southeastern Minnesota and southeastern Wisconsin. Each of the regional studies recognized the interdependency of the line segments and acknowledged that the regional benefits of these segments could not be fully realized without building the entire 345 kV interconnection. Indeed, the PSCW would not have approved the Twin Cities-La Crosse segment at 345 kV but for the regional benefits resulting from connecting that segment to the La Crosse-Madison segment. The term “facilities” as used in the Share Equally Provision cannot reasonably refer to the new substation near La Crosse, Wisconsin because that substation does not yet exist. The Share Equally Provision was designed to assign responsibility for new MTEP-approved facilities based on the ownership of existing facilities of MISO transmission owners to which a new facility would connect. Moreover, through this Complaint, ATCLLC contends that ATC should be entitled to share equally in the construction and ownership of the new substation.

The Commission did not rule on the applicability of the TOA’s Share Equally Provision to the entire 345 kV interconnection between the Twin Cities and Madison because Xcel Energy presented its arguments only as to the La Crosse-Madison segment; *i.e.*, the outcome most favorable to Xcel Energy. The *Xcel Order* left that question for another day, ruling that ATCLLC should present its case in a separate complaint proceeding. This Complaint puts before the Commission the question of whether the Share Equally Provision should be applied to the entire 345 kV project, rather than just to the La Crosse-Madison segment. The facts set out above demonstrate the interdependency of the two line segments and confirm that they make up

a single project, notwithstanding the fact that MISO approved the line segments through separate MTEP cycles.

For all the reasons discussed herein, ATCLLC submits that the Commission should direct MISO to designate Xcel Energy (on behalf of NSPM and NSPW) and ATC as the parties responsible for developing, constructing, and owning the 345 kV line between NSPM's existing Hampton Substation and ATC's existing Cardinal Substation. Based on the relative cost of the line segments, the parties should be able to reach an agreement under which NSPM would own the Minnesota portion of the project, and ATC would have an ownership interest in the Wisconsin portion. The parties already are working collaboratively on the La Crosse-Madison segment and there is no reason why their joint efforts cannot include the Twin Cities-La Crosse segment. Such arrangements need not unwind any arrangements that Xcel Energy has made with its CAPX2020 partners and ATCLLC commits to work diligently to ensure that each segment of the projects meets the in-service dates established by MISO.

ATCLLC submits that the facts presented that support this Complaint should be viewed as uncontroverted, as they track rulings made by the MPUC and the PSCW, findings made by MISO in its MTEP reports, and facts presented to this Commission by Xcel Energy as supported by sworn affidavits in Docket No. EL12-28. These facts demonstrate how the Twin Cities-La Crosse and La Crosse-Madison segments make up a single 345 kV project. If the Commission nevertheless believes that this Complaint raises issues of material fact that cannot be resolved based on the pleadings, it should establish an evidentiary hearing, preceded by expedited settlement judge procedures.

V. ADDITIONAL FACTS REQUIRED UNDER 18 C.F.R. § 385.206(b)

In compliance with Rule 206(b) of the Commission's Rules of Practice and Procedure, ATCLLC provides the following additional information:

A. Impacts on ATCLLC

Under the Commission's decision in the *Xcel Order*, ATCLLC will forfeit half of the investment responsibility in the La Crosse-Madison segment. The current estimated cost of that segment is about \$457 million.³⁰ If that ruling stands, ATC will have been required to forfeit the investment responsibility for about \$228 million. The Twin Cities-La Crosse segment is estimated to cost about \$445 million.³¹ If the Commission grants this Complaint, ATC and NSPM/NSPW will be responsible funding fifty percent of the entire Twin Cities to Madison project, estimated currently at approximately \$900 million, meaning that the parties' respective shares of the project will be similar to the costs of the individual line segments. If the Commission does not require MISO to jointly designate NSPM/NSPW and ATC as the owners and developers of the project, ATC will have been required to forfeit the investment responsibility for \$228 million for the segment that it developed, and be precluded from having any investment responsibility for the remainder of the overall project.

B. Other Actions Pending

ATCLLC is the Respondent in, and therefore a party to, the complaint proceeding in Docket No. EL12-28. ATCLLC has sought rehearing and a stay of the July 19, 2012 *Xcel Order* issued in that proceeding. As discussed throughout this Complaint, the proceeding in Docket

³⁰ See Affidavit of John Flynn on Behalf of American Transmission Company LLC (Flynn Aff.) at ¶ 3, which is included as Attachment A hereto. In its Complaint (at 36), Xcel Energy estimated that the estimated cost of that line segment is approximately \$350 million.

³¹ *Id.*

No. EL12-28 applied the MISO TOA share equally provisions to the La Crosse-Madison segment. The Commission deferred a ruling on the Twin Cities-La Crosse segment.

C. Relief Requested

ATCLLC respectfully requests that the Commission: (1) find that MISO has not correctly implemented the Transmission Owners Agreement and the MISO Tariff; and (2) direct Xcel Energy (on behalf of NSPM and NSPW) to enter into negotiations with ATCLLC to develop final terms and conditions for the shared ownership and construction of the 345 kV interconnection from NSPM's Hampton Substation in the Twin Cities area to ATC's Cardinal Substation near Madison. The requested determination will allow ATCLLC and Xcel Energy to negotiate terms for ownership of this project consistent with MISO's collaborative planning approach and consistent with the Tariff.

D. Additional Documents

In support of this Complaint, ATCLLC provides as Attachment A the Affidavit of John Flynn. Also attached is a Notice of Complaint to be published in the Federal Register (Attachment B),

E. Alternative Dispute Resolution

ATCLLC has not sought other forums for alternative dispute resolution. Given Xcel Energy's disagreement in Docket No. EL12-28 with ATCLLC's position on the applicability of the Share Equally Provision to any facilities other than the La Crosse-Madison segment, ATCLLC believes that alternative dispute resolution would be futile. While Attachment HH of the MISO Tariff provides alternative dispute resolution procedures, Attachment HH allows a party to remove a disputed matter to the Commission in lieu of using the alternative dispute resolution procedures. Because issues relating to the TOA's Share Equally Provision are already

pending before the Commission in Docket No. EL12-28, it would be administratively efficient for the Commission to resolve the interrelated matter raised in this Complaint. As noted above, ATCLLC recommends that the Commission adopt settlement judge proceedings in the event that the Commission determines to set this matter for hearing.

VI. REQUEST FOR FAST TRACK PROCESSING

ATCLLC believes that time is of the essence for resolving the matter raised in this Complaint. Fast Track Processing is appropriate because if the Commission grants ATCLLC's requested relief, ATCLLC and Xcel Energy will need to negotiate terms and conditions for their equal rights to own and construct the project and these negotiations could take considerable amounts of time. In order to meet the December 2017 in-service date for the La Crosse-Madison segment that was requested by MISO, ATC will need to submit its regulatory filings (including the application for a certificate of public convenience and necessity) by March 2013. That timetable will be very tight as it is.³² Therefore, the sooner that the Commission resolves the matter, the higher the likelihood that ATCLLC and Xcel Energy will be able to undertake the various tasks necessary to meet the expected in-service dates for the line segments. Consequently, Fast Track processing is appropriate.

³² Flynn Aff. at ¶¶ 4-7.

VII. CONCLUSION

Based on the foregoing, ATCLLC respectfully requests that the Commission; (i) find that MISO has not complied with the express provisions of the Transmission Owners Agreement and the MISO Tariff; and (ii) direct Xcel Energy (on behalf of NSPM and NSPW) to enter into negotiations with ATCLLC to develop the terms and conditions for shared ownership and construction of the entire 345 kV project that will interconnect NSPM's existing facilities near the Twin Cities with ATC's existing facilities near Madison, Wisconsin.

Respectfully submitted,

/s/ David B. Raskin
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Attorneys for
American Transmission Company LLC

Dated: October 1, 2012

Attachment

Attachment A

Affidavit of John Flynn

1 **UNITED STATES OF AMERICA**
2 **BEFORE THE**
3 **FEDERAL ENERGY REGULATORY COMMISSION**
4

American Transmission Company LLC)
)
 v.)
) Docket No. EL12-____-000
Midwest Independent Transmission System)
 Operator, Inc., and)
Xcel Energy Services Inc. and Northern States)
 Power Company, a Wisconsin corporation,)
 and Northern States Power Company, a)
 Minnesota corporation.)

5 **AFFIDAVIT OF JOHN FLYNN ON BEHALF OF**
6 **AMERICAN TRANSMISSION COMPANY LLC**
7

8 State of Wisconsin:
9 City of Waukesha:

10 John Flynn, being duly sworn on oath, deposes and states, as follows:

- 11 1. My name is John Flynn. My business address is W234 N2000 Ridgeview Parkway
12 Court, Waukesha, Wisconsin 53188. I am the Vice President of Strategic Planning and
13 Project Development for ATC Management Inc., the corporate manager of American
14 Transmission Company LLC. I have more than 20 years' experience in the electric
15 utility industry. I have held several key transmission leadership roles at American
16 Electric Power in Columbus, Ohio, including Managing Director of Strategic Planning,
17 Finance & Business Development for AEP Transmission, as well as President of Pioneer
18 Transmission. LLC (a joint venture between AEP and Duke Energy), and Executive Vice
19 President of Electric Transmission America (a joint venture between AEP and
20 MidAmerican Holdings). I also have experience in financial, auditing, regulatory and
21 policy responsibilities with Northeast Utilities, Progress Energy and Arthur Andersen.
- 22 2. This purpose of this affidavit is to support ATC's Complaint in the captioned proceeding.
23
- 24 3. ATC for more than two years has been engaged in the preliminary routing, siting,
25 designing and development (including the specific fact and data collection) of the Badger
26 Coulee line (also referred to as the Madison – La Crosse line) necessary to prepare the
27 certificate of public convenience and necessity (CPCN) application to the Public Service
28 Commission of Wisconsin (PSCW) and the Utility Permit Application to the Wisconsin
29 Department of Natural Resources (WDNR). The Badger Coulee line, as proposed, is
30 approximately 150 miles in length and is currently estimated to cost \$457 Million (in
31 2017 dollars). Upon information and belief, the cost of the line segment from the Twin
32 Cities area to La Crosse, which will interconnect with the Badger Coulee line segment,
33 will cost about \$445 Million.

- 1 4. Based on the state of ATC's efforts to this point in order to develop sufficient
2 information for the CPCN, ATC anticipates making the CPCN application to the PSCW
3 and the Utility Permit Application to the WDNR in March 2013, in order to be able to
4 reasonably achieve the in-service date of December 2017, an in-service date that was
5 requested by the Midwest Independent Transmission System Operator, Inc. (Midwest
6 ISO), and which was included in the Midwest ISO 2011 transmission expansion plan
7 (MTEP) and approved by the Midwest ISO Board of Directors on December 8, 2011.
8
- 9 5. The time necessary to receive a CPCN and the companion utility permits under
10 Wisconsin law and regulation is no less than 13 months from the time the CPCN
11 application and Utility Permit Applications are made, and can take considerably longer.
12 For example, in the Twin Cities – La Crosse proceedings before the PSCW, the CPCN
13 was not issued until more than 18 months following the initial CPCN and Utility Permit
14 Applications.
15
- 16 6. If the CPCN and utility permits are issued by September 2014, that leaves only a 39-
17 month period of time within which to design, engineer, and construct more than 150
18 miles of new, 345 kV transmission facilities; obtain the land rights from more than 1,500
19 separate property owners; and to place in service the Badger Coulee line.
20
- 21 7. Any delay in submitting the CPCN application would likely jeopardize achieving the
22 Midwest ISO-planned in-service date.
23
- 24 8. Based on the current dialog between Xcel Energy Services, Inc. and ATC, there is a wide
25 disparity in how to continue to fulfill the CPCN requirements in light of the
26 Commission's July 19, 2012 Order in Docket No. EL12-28 and to meet a March 2013
27 CPCN filing. If the Commission expeditiously addresses the issues raised in this
28 Complaint, ATC believes that there will be sufficient guidance in order for the parties to
29 appropriately conclude the discussions necessary to give effect to the share equally
30 provisions of the Midwest ISO Transmission Owners' Agreement.
31
- 32 9. ATC believes that the resolution of its Complaint, which will determine the nature of the
33 "facilities" to which the share equally provisions of the Transmission Owners'
34 Agreement apply, will fulfill the Commission's July 19, 2012 Order while at the same
35 time providing the necessary direction to resolve the current controversy. Resolving that
36 controversy as early as possible will likely ensure the ability to achieve the Midwest
37 ISO-planned for in-service date for Badger Coulee.
38

39 **The Remainder of this Page Left Blank Intentionally**
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1 Further affiant sayeth not.

2

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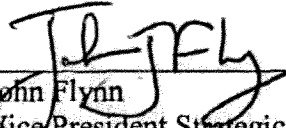
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7

8



 John Flynn
 Vice President Strategic Planning and Project Development
 ATC Management Inc. corporate manager for
 American Transmission Company LLC

9

10 Subscribed and sworn to before me this 1st day of October, 2012.

11


12

13

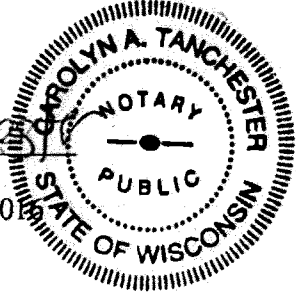
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 Notary Public
 My Commission is Expires March 20, 2014



Attachment B

Notice of Complaint

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

American Transmission Company LLC)	
)	
v.)	
)	Docket No. EL12-____-000
Midwest Independent Transmission System)	
Operator, Inc., and)	
)	
Xcel Energy Services Inc., Northern States)	
Power Company, a Wisconsin corporation,)	
and Northern States Power Company, a)	
Minnesota Company)	

NOTICE OF COMPLAINT

(October __, 2012)

Take notice that on October 1, 2012, American Transmission Company LLC (“ATC”), by its corporate manager, ATC Management Inc. (collectively, “ATCLLC”) filed a formal complaint against Midwest Independent Transmission System Operator, Inc. (“MISO”) and Xcel Energy Services Inc., on behalf of its operating company affiliates Northern States Power Company Wisconsin (“NSPW”) and Northern States Power Company Minnesota (“NSPM”) (collectively, “Xcel Energy”), pursuant to Section 306 of the Federal Power Act, 16 U.S.C. § 825e (2006), and Rule 206 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.206 (2012). The complaint alleges that, pursuant to relevant provisions of the MISO Tariff and the MISO Transmission Owners Agreement, as previously interpreted and applied by the Commission, ATC and the Xcel Energy (on behalf of NSPM and NSPW) are each entitled to own and construct fifty percent of the 345 kV facilities from the Twin Cities area in Minnesota to the Madison area in Wisconsin.

ATCLLC certifies that copies of the complaint were served on the contacts for Xcel Energy and the state public utility commissions of Minnesota and Wisconsin.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR §§ 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or

motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on (insert date).

Kimberly D. Bose
Secretary