

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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 for the CapX Twin Cities-Rochester-
La Crosse Project, Located in Buffalo, Trempealeau,
and La Crosse Counties, Wisconsin

Docket No. 05-CE-136

**NORTHERN STATES POWER COMPANY, A WISCONSIN CORPORATION,
DAIRYLAND POWER COOPERATIVE AND WPPI ENERGY'S RESPONSE TO
CITIZENS ENERGY TASK FORCE (CETF) AND SAVE OUR UNIQUE LANDS (SOUL)
REQUEST TO REOPEN THE CAPX2020 DOCKET BASED ON NEW INFORMATION**

I. INTRODUCTION

Northern States Power Company, a Wisconsin corporation, on behalf of itself and its co-applicants, WPPI Energy and Dairyland Power Cooperative (collectively, "Permittees"), submit this response to the request of Citizens Energy Task Force ("CETF") and Save Our Unique Lands ("SOUL") (collectively, "Petitioners") to reopen the Commission's May 30, 2012 Final Decision granting a Certificate of Public Convenience and Necessity ("CPCN") for the Wisconsin portion of the Hampton – Rochester – La Crosse 345 kV Project ("Project") to meet local and regional reliability needs. As Petitioners fail to identify any new evidence that warrants reopening this docket, the Commission should deny this request.

The Public Service Commission of Wisconsin ("Commission") thoroughly evaluated the need for the Project under a range of demand growth scenarios and carefully designated a route for the Project. The "new information" Petitioners allege in their Petition is neither contrary to the record evidence nor, in most cases, even relevant to the issues decided in the CPCN proceeding.

II. DISCUSSION

A. Legal Standard to Reopen Docket

Petitioners seek a rehearing pursuant to Wisconsin Statute § 196.39(2) which provides that “an interested party may request the reopening of a case under § 227.49.” Wisconsin Statute § 227.49, allows a petition for reopener to be granted based on “[t]he discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.”¹ None of the claims of “new” information, each addressed separately below, warrants reopening in this case.

B. Energy Sales vs. Peak Demand Growth

Petitioners claim that recent declines in electricity sales in Wisconsin and Minnesota requires reopening this docket. At least with respect to the local reliability needs in La Crosse and Winona, Petitioners’ argument is misguided. The local reliability need in the La Crosse/Winona area is driven by peak demand not energy sales and the peak demand growth justified the need for the Project to support community reliability. Petitioners present no new evidence regarding peak demand growth in La Crosse and Winona

The Commission fully evaluated a range of peak demand growth rates in the CPCN proceeding. Permittees, intervenors, and Commission staff each presented their own load growth estimates that varied from 1.46 percent² (Permittees) to 1.0 percent (Intervenor Citizens Utility Board) to a range of 0.78 to 1.28 percent (Commission staff).³ The Commission determined that the Project is needed for its regional benefits, including increased transfer capacity, and that

¹ Wis. Stat. § 227.49(3) (emphasis added).

² The Midcontinent Independent System Operator, Inc.’s witness Jeffrey Webb evaluated Permittees’ expected average annual load growth rate and found it to be reasonable. Final Decision (“Order”) at 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 FOR THE CAPX TWIN CITIES – ROCHESTER – LA CROSSE PROJECT, LOCATED IN BUFFALO, TREMPLEAU, AND LA CROSSE COUNTIES, WISCONSIN* (Docket No. 05-CE-136) (PSC REF #:165332)

³ Order at 13.

“even at the lower projected annual growth rates, it is undisputed that the La Crosse local area needs require additional electric infrastructure to provide adequate system reliability.”⁴ The Commission further found that at a peak demand growth rate of 1.28 percent, the Project is the least-cost alternative for serving the La Crosse local area need for a 20-year planning period.⁵

Significantly, the actual peak demand growth rates in these communities in 2012 and 2013 were consistently within the high end of the range of growth rates the Commission considered, confirming the local reliability need for the Project. In 2012, peak demand rose 3.44 percent from 2011 and in 2013, it rose 1.95 percent from 2012 numbers.⁶

Year	2002	2006	2008	2010	2011	2012	2013
La Crosse/Winona Area Actual Peak Demand (MW)	425.1	464.6	435.4	451.4	465.0	481.0	490.4

C. Conservation and Demand-Side Management

Petitioners further allege that “new” information regarding conservation and demand-side management (“DSM”) measures offer a way to alleviate or defer the local reliability need for the Project. Petitioners cite to a recent study on DSM and pronouncements from this Commission and the Minnesota Public Utilities Commission requesting additional information on DSM. However, Petitioners fail to explain how this new information calls into question the Commission’s prior finding that “energy efficiency and conservation and other sources of

⁴ Order at 13-15 (emphasis added).

⁵ Order at 14.

⁶ Peak demand at La Crosse/Winona area substations for 2011 and 2012 are provided in Appendix D, Ex. 9 at 2, *Joint Application for PSCW Certificate of Public Convenience and Necessity and WDNR Utility Permit Application for the Badger Coulee 345 kV Transmission Line Project* (Docket No. 05-CE-142)(PSC REF #: 191920). Additional information regarding peak demand at Winona/La Crosse area substations for 2013 can be provided at the Commission’s request.

electric supply are not technically feasible, cost-effective alternatives to the [P]roject.”⁷ The Commission reached this conclusion based on substantial evidence in the record including information in the Final Environmental Impact Statement and testimony from Commission staff witness Carol Stemrich, who conducted an independent analysis of the ability of energy efficiency and conservation to meet the need for the Project. Stemrich’s analysis indicated that an approximately eight percent reduction in peak load is needed immediately, in addition to the approximate 0.5 percent annual reduction already reflected in the demand forecasts, to alleviate the need for the Project.⁸ In the end, Stemrich concluded, and the Commission rightly agreed, that “it is unlikely that this level of load reduction can be achieved through energy efficiency and conservation.”⁹

D. Generator Repair and Retirement

Petitioners allege that the Commission failed to consider the possibility that French Island Unit 3 would return to service. This is contrary to the record. The Commission considered the evidence in the record regarding the possibilities of both the unavailability and the availability of French Island Unit 3 generation. Specifically, the Commission found that without French Island Unit 3, the critical load level for the La Crosse Area is 430 megawatts (“MW”) and that if French Island Unit 3 generation were available, the critical load level would be no higher than 500 MW.¹⁰ Regardless of whether the 430 or 500 MW critical load level used, the Commission found:

[e]ven at the most conservative estimate of annual load growth (0.7 percent), line loadings and voltages will be out of tolerance within

⁷ Order at 18.

⁸ Order at 18.

⁹ Order at 18.

¹⁰ Order at 12.

the five-to ten-year planning horizon without the proposed [P]roject.¹¹

Moreover, even if French Island Unit 3 were to become operational in the near future, the record is replete with evidence about why such generation is not a reasonable alternative to the proposed transmission line due to reliability and environmental considerations.¹² Further, the record also includes substantial evidence regarding the regional benefits of the 345 kV transmission line that are not offered by reliance on generation. As noted in the Commission's Order, the 345 kV Project will provide regional reliability and efficiency, reduce wholesale energy prices, and allow increased access to renewable energy resources.¹³

In addition, even if French Island Unit 3 were considered to be available, and the critical load level was raised to 500 MW, this level will be reached in the near term. The 2013 peak load was 490.4 MW. Using a very conservative 0.5 percent growth rate, lower than any rate proffered in the CPCN proceeding (and much lower than any growth rate observed in the past five years), area demand reaches the 500 MW level in 2017, just two years past the 2015 in-service date for the Project.

Petitioners also argue that the announced "closure"¹⁴ of Units 4 and 5 of the Alma Generating Station¹⁵ calls into question the Commission's decision to select the Q1-Galesville Route for the Project. Petitioners fail to articulate why the announced indefinite suspension of operations at Alma Units 4 and 5, which places more reliance on transmission capacity, merits a reexamination of the Commission's routing decision, as the location of the Alma generation

¹¹ Order at 12.

¹² Amanda King Direct at 22 (PSC REF #:157984); Stephen Beuning Rebuttal at 4 (PSC REF #:160005); Ex.- Applicants-Hillstrom-8 at 2-3 (PSC REF #:156283).

¹³ Order at 15.

¹⁴ Petitioners characterize Alma Units 4 and 5 as being "closed." Dairyland has announced that it will indefinitely suspend operations at Alma Units 4 and 5.

¹⁵ The first three units of the Alma Generating Station ceased coal-fired generation operations on December 31, 2011. See http://www.dairynet.com/energy_resources/alma2.php.

station was not a factor in the Commission's selection of the Q1-Galesville Route. Rather, the Commission's route selection focused on application of the Commission's siting criteria and its use of an existing transmission line corridor consistent with the state's siting priorities laws, Wis. Stat. §§ 1.12(6) and 196.025 (1m).¹⁶ Using these metrics, the Commission found the Q1-Galesville Route the most reasonable route noting:

[i]n selecting this route for the proposed project, the Commission notes that of all the route alternatives (excluding the Original Q1), the final EIS lists the Q1-Galesville Route as the one with the second lowest impacts in each of the following categories: total length, acres of new ROW, agricultural acres crossed, stream crossings, new upland forest area cleared, and estimated total construction cost. The final EIS also lists the Q1-Galesville alternative as having the fewest new woodland acres affected and the third lowest amount of wetland area affected.¹⁷

The indefinite suspension of operations at the Alma Generating Station would have no impact on the drivers behind the Commission's decision and therefore would not change the Commission's assessment.

Even if locating the line near existing generation were a consideration in the Commission's routing decision, the John P. Madgett Generating Station (424 Gross MW), located adjacent to the Alma Generating Station site, remains in service.¹⁸

E. Rebuild of Genoa – La Crosse 161 kV Line Does Not Alter Need Analysis

Petitioners also falsely contend that the Commission did not address or consider the recently completed rebuild of the Genoa – La Crosse 161 kV line in its decision. In response to an information request from Commission staff, Permittees explained that the rebuild of the Genoa – La Crosse 161 kV to higher capacity does not alter the most critical contingency in the

¹⁶ Order at 32-33.

¹⁷ Order at 32.

¹⁸ Order at 9.

area or change the amount of additional load serving capacity provided by the Project or the other alternatives under consideration.¹⁹

F. *Waller v. American Transmission Company*

Petitioners argue that the Wisconsin Supreme Court’s recent ruling in *Waller v. American Transmission Company*²⁰ could increase the Project’s land acquisition costs and that the docket must be reopened to determine the extent of these potential cost increases. Petitioners, however, fail to demonstrate that this case has broad applicability such that it will result in material cost increases for the Project.²¹ Inexplicably, Petitioners cite American Transmission Company, LLC’s recent filing with the Commission regarding cost increases related to land acquisition for its Pleasant Prairie – Zion Energy Center Project for support of this argument. However, an examination of this filing reveals that these cost overruns relate to land acquisition in Illinois where the *Waller* case is inapplicable.²² Even assuming that there are future land acquisition cost increases for the Project, the Commission’s Order provides a specific procedure to deal with material Project cost increases:

[i]f it is discovered or identified that the project cost...may exceed the estimated cost by more than 10 percent, the applicants shall promptly notify the Commission as soon as they become aware of the possible change or cost increase.²³

G. *Badger—Coulee 345 kV Project*

Petitioners' final justification for reopening this docket is the recent filing of the CPCN

¹⁹ See Ex.-Applicants-King-5 (PSC REF #:154715 and 154647).

²⁰ 350 Wis.2d 242, 833 N.W.2d 764 (2013).

²¹ The Wisconsin Supreme Court’s decision in *Waller* was based on a very unique set of circumstances in which the land in question “was already burdened by a 20-foot-wide easement from an existing transmission line on the north side along Mound Road, highway setbacks along Mound Road, and highway setbacks along Interstate 43” before ATC sought to purchase two additional transmission line easements. *Id.* at 252.

²² 5th Quarterly Progress Report, *Joint Application for PSCW Certificate of Authority and WDNR Utility Permit Pleasant Prairie –Zion Energy Center Project*, Docket No. 137-CE-161 (PSC REF #:192634) (the cost chart attached to this filing shows higher than expected in land acquisition (“Real Estate”) for the Illinois portion of the project and lower than expected costs for land acquisition for the Wisconsin portion of the project).

²³ Order at 50.

application for the Badger – Coulee 345 kV project in October 2013. Petitioners assert that these two transmission projects are interdependent such that the regional benefits and costs of these two projects must be examined together. The Commission, however, previously evaluated the regional benefits of this Project alone and the added transfer capability achieved with the addition of the Badger – Coulee 345 kV line. The Commission found that the “transfer capability and design of the [P]roject match long range plans for the area and are not in excess of probable future requirements.”²⁴

III. CONCLUSION

None of the alleged new information proffered by the Petitioners is “new evidence sufficiently strong to reverse or modify the order.” Therefore, the petition should be denied.

Dated: January 22, 2014

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²⁴ Order at 15-16.