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March 21, 2014

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**ELECTRONIC FILING**

Dr. Burl W. Haar  
Minnesota Public Utilities Commission  
350 Metro Square Building  
121 Seventh Place East  
St. Paul, MN 55101

**Re: In the Matter of the Application of ITC Midwest LLC for a Certificate of Need and a Route Permit for the Minnesota-Iowa 345 kV Transmission Line Project in Jackson, Martin, and Faribault Counties**  
**OAH Docket No.: 60-2500-30782**  
**PUC Docket No.: ET-6675/CN-12-1053**  
**PUC Docket No.: ET-6675/TL-12-1337**

Dear Dr. Haar:

Enclosed for electronic filing in the above-captioned matter is ITC Midwest LLC's Memorandum in Response to Citizens Energy Task Force and NoCapX2020's Motion to Compel and For Leave to Participate in Discovery and Cross-Examination.

Please contact me with any questions.

Sincerely,

*/s/ Lisa M. Agrimonti*

Lisa M. Agrimonti

LMA/rlr  
Enclosure  
cc: Service List

In the Matter of the Application of ITC  
Midwest LLC for a Certificate of Need and a  
Route Permit for the Minnesota-Iowa 345 kV  
Transmission Line Project in Jackson, Martin,  
and Faribault Counties

OAH Docket No.: 60-2500-30782  
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ET-6675/TL-12-1337

### **CERTIFICATE OF SERVICE**

Rachel L. Rolseth certifies that on the 21<sup>st</sup> day of March, 2014, she efiled true and correct copies of **ITC Midwest LLC's Memorandum in Response to Citizens Energy Task Force and NoCapX2020's Motion to Compel and For Leave to Participate in Discovery and Cross-Examination** via eDockets ([www.edockets.state.mn.us](http://www.edockets.state.mn.us)) in the above-referenced dockets.

Said documents were also served via U.S. Mail and email through the eDockets system as designated on the Official Service Lists on file with the Minnesota Public Utilities Commission in the above-referenced dockets.

*/s/ Rachel L. Rolseth* \_\_\_\_\_

Rachel L. Rolseth

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**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION**

In the Matter of the Application of ITC  
Midwest LLC for a Certificate of Need and a  
Route Permit for the Minnesota-Iowa 345 kV  
Transmission Line Project in Jackson, Martin,  
and Faribault Counties

OAH Docket No.: 60-2500-30782  
PUC Docket No.: ET-6675/CN-12-1053  
ET-6675/TL-12-1337

**ITC MIDWEST LLC'S MEMORANDUM IN RESPONSE TO  
CITIZENS ENERGY TASK FORCE AND NOCAPX2020'S MOTION TO COMPEL  
AND FOR LEAVE TO PARTICIPATE IN DISCOVERY AND CROSS-EXAMINATION**

**INTRODUCTION**

On March 7, 2014, Citizens Energy Task Force and NoCapX2020 (collectively, "CETF/No") submitted a Motion to Compel and Leave to Participate in Discovery and Cross-Examination in this proceeding. Applicant ITC Midwest LLC ("ITC Midwest") respectfully submits this response to the leave to participate portion of the motion ("Participation Motion"). ITC Midwest takes no position on the motion to compel portion of the filing.

**DISCUSSION**

On January 20, 2014, after the expiration of the intervention deadline, CETF/No filed an Out-of-Time Petition for Limited Intervention. In that petition, CETF/No sought "status as limited parties, with the narrow purpose of reviewing Discovery, and filing an Initial and Reply Brief and Exceptions". (Petition, p. 1.) By Order dated January 31, 2014, Administrative Law Judge ("ALJ") James E. LaFave granted CETF/No's request. ALJ LaFave's Order provided: "No other participation in this proceeding will be allowed" and that "because of the limited scope of intervention no other party will be prejudiced".

Two weeks after the ALJ's Order, on February 17, 2014, CETF/No served information requests 1-7 on the Minnesota Center for Environmental Advocacy, Wind on the Wires, Fresh Energy and the Izaak Walton League (collectively "MCEA"). (Carol Overland Aff. Par. 2). CETF/No also served multiple information requests on ITC Midwest and the Department of Commerce, Division of Energy Resources.

On February 18, 2014, MCEA notified CETF/No that it objected to CETF/No's information requests.

On February 24, 2014, ITC Midwest filed direct testimony of its witnesses in both dockets. Direct testimony of other parties is due March 28, 2014. CETF/No now apparently seek full party status in this proceeding with the exception that CETF/No would not sponsor witnesses. One of the stated reasons is to determine MCEA's position in the Certificate of Need docket.

As a general matter, the later in a proceeding an interested stakeholder is granted party status, the greater the risk of complications and potential prejudice to existing parties. CETF/No's initial request was made after the intervention deadline and since that time another two months have passed. Existing parties are preparing direct testimony and the Draft Environmental Impact Statement is issued today. Additional information requests or introduction of CETF/No as full parties in this proceeding at this time would place additional burdens on ITC Midwest and other parties and carries risks of complication, prejudice, or delay. Further, to the extent discovery is aimed at understanding other parties' positions, that information is expected to be detailed in the parties' direct testimony on March 28, 2014.

While ITC Midwest supports broad public participation, ITC Midwest believes careful consideration of the timing of this request is warranted. Given that CETF/No's initial late

limited intervention request was granted and the late stage of the proceedings for this second request, it would be prudent for CETF/No to further detail the discovery they believe is necessary and how that discovery will inform the issues presented in these dockets before being granted full party status.

### **CONCLUSION**

ITC Midwest appreciates the opportunity to provide this response and the ALJ's consideration of this matter.

Dated: March 21, 2014

**BRIGGS AND MORGAN, P.A.**

By: /s/ Lisa M. Agrimonti

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