

December 26, 2014

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Motion for Reconsideration**
Docket No. ET6675/CN-12-1053

Dear Dr. Haar:

Attached are the comments of the Minnesota Department of Commerce-Division of Energy Resources (Department) in the following matter:

No CapX 2020 - Motion for Reconsideration.

The petitioner is:

Carol A. Overland
Attorney at Law
Legalelectric, Inc.
1110 West Avenue
Red Wing, Minnesota 55066

The Department recommends the Commission **reject the Motion for Reconsideration**. The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ STEVE RAKOW
Rates Analyst

SR/ja
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES**

DOCKET No. ET6675/CN-12-1053

I. INTRODUCTION

On November 25, 2014 the Minnesota Public Utilities Commission (Commission) issued its *Order Granting Certificate of Need With Conditions* (Order) in Docket No. ET6675/CN-12-1053.

On December 15, 2014 NoCapX2020 filed its *Motion for Reconsideration* (Motion). NoCapX2020 requests reconsideration on two grounds:

1. ITC Midwest LLC (ITC) is not a “public service corporation” as defined by the laws of the State of Minnesota; and
2. the Commission did not address the cost of the Multi Value Projects (MVP) Portfolio to Minnesota ratepayers, nor did it address the issue that all the projects need to be built to achieve the full benefits.

II. DEPARTMENT ANALYSIS

The Motion argues several points regarding the “public service corporation” issue that are already addressed in the record:

- “ITC will need to acquire additional right-of-way for this project, and how that land might be acquired is an issue to be considered.”
 - Addressed on pages 95-98 of ITC’s March 22, 2013 *Application to the Minnesota Public Utilities Commission for a Certificate of Need Minnesota – Iowa 345 kV Transmission Project in Jackson, Martin, and Faribault Counties* (Petition).

- “The MVP 17 project portfolio is MISO’s promotional business plan to enable marketing of low-cost electricity from the Dakotas in the northwest to Madison/Milwaukee, Illinois, and beyond.”
 - The use of the line to send electricity from the Dakotas to points eastward is addressed in Appendix J and on pages 58-63 of ITC’s Petition.
- “... a legally cognizable “need” has not been defined or demonstrated.”
 - Need is defined on pages 7-8, of ITC’s Petition; need is demonstrated in Chapter 5 of the ITC’s Petition, the *Direct Testimony and Attachments of Adam J. Heinen* (Heinen Direct), and elsewhere in the record.
- “ITC Midwest, LLC is NOT a Minnesota “public service corporation.” ITC Midwest, LLC, is a private limited liability company organized under Minn. Stat. Ch. 322B.”
 - Addressed in ITC’s October 22, 2014 *Response to NoCapX2020 October 21, 2014 Letter* (Reply Letter).
- “In its deliberations, the Commission did not consider whether ITC Midwest was a “public service corporation” nor did it consider the impact of such a determination.”
 - Addressed in the Commission’s Order at pages 7-8.

There are additional overall arguments that address the public service corporation issue. First, the Certificate of Need (CN) Statute clearly anticipates a transmission company such as ITC applying for a CN since the CN Statute discusses the application fees required if an applicant is a transmission company. Second, the Department agrees with ITC’s Reply Letter and the Commission’s Order that ITC is an entity organized to acquire, construct, maintain, and operate transmission lines which are used for supplying the public with light, heat, or power. As such, ITC is a public service corporation pursuant to Minnesota Statutes §§ 301B.01 and 117.025, subd. 10.¹ Third, as noted above the issue of ITC’s status was thoroughly discussed in the record and in the Commission’s Order. NoCapX2020 does not raise issues that were not already contained in the Commission’s record.

Regarding project costs and benefits in the context of the entire MVP Portfolio, the Motion again argues several points that are already addressed in the record:

- “the Commission did not address the cost of the MVP Portfolio to Minnesota ratepayers.”
 - The costs of the MVP projects that are relevant to the Commission’s determination were thoroughly discussed in ITC’s Petition (for example, pages 28-30), in the Department’s testimony (for example, see the *Direct Testimony*

¹ Note that Minnesota Statutes Chapter 301B grants “public service corporations” the right of eminent domain and to mortgage or execute deeds of trust of the whole, or any part, of its property and franchises. Minnesota Statutes Chapter 117 deals with the right of eminent domain.

of *Dr. Steve Rakow* (Rakow Direct), and elsewhere. Also, the cost of the entire MVP portfolio was discussed in the Petition's Appendix I at page 11.

- “the Commission was been [sic] asked by Applicants to take into account a range of benefits, from those of MVP 3 and 4 to claimed benefits achieved only with the full 17 MVP Portfolio.”
 - Transmission modeling that produced the benefit information was discussed, for example, in Appendix M of ITC's Petition.²
- “This ITC MN/IA project is but a small part of a phased and connected action, part of a large portfolio of projects that will admittedly enable transmission of baseload generation through Minnesota to distant markets, contravening Minnesota energy policy.”
 - The need for the project in terms of enabling new generation outlet was discussed on pages 49-51 of the Petition.
- “The criteria used by MISO to develop the portfolio of projects is economic based, using economic modeling, much different than Minnesota's criteria for determining need.”
 - The project was judged by all parties throughout the record based upon Minnesota need criteria; for examples from the Department's testimony see Heinen Direct at page 5 and Rakow Direct at page 8; alternatively, see ITC's July 14, 2014 *Post-hearing Brief* which addressed every need criteria in Minnesota Statutes and Rules.

Finally, the Department notes that all modeling makes assumptions about the future. In this case NoCapX2020 argues that the modeling did not contain sufficient contingency analysis to address performance in alternative futures (futures without one or more MVP projects). Modeling was addressed in the record and there was ample opportunity for NoCapX2020 to rebut the contingencies analyzed in ITC's modeling.

III. DEPARTMENT RECOMMENDATION

The Department recommends that the Commission reject NoCapX2020's Motion.

/ja

² For example, Appendix M states at page 3 “The PROMOD analysis uses a “base case” in which all 17 projects in the MVP portfolio except MVPs 3 and 4 are assumed to be in service.” The Department notes that the Motion cites numerous specific documents in the record that demonstrate that information regarding all 17 projects was placed in the record and available to the Commission.

CERTIFICATE OF SERVICE

I Marcella Emeott, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Comments of The Minnesota Department of Commerce, Division of Energy Environmental-
Motion for Reconsideration

Docket No. ET-6675/CN-12-1053

Dated this 26th day of December 2014

/s/Marcella

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Lisa	Agrimonti	lagrimonti@briggs.com	Briggs And Morgan, P.A.	2200 IDS Center 80 South 8th Street Minneapolis, MN 55402	Electronic Service	No	OFF_SL_12-1053_Official CC Service List
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
Duane	Behrens	porkb@yourstarnet.net		1692 160th Ave Fairmont, MN 56031	Paper Service	No	OFF_SL_12-1053_Official CC Service List
Christina	Brusven	cbrusven@fredlaw.com	Fredrikson Byron	200 S 6th St Ste 4000 Minneapolis, MN 554021425	Electronic Service	No	OFF_SL_12-1053_Official CC Service List
Matthew S.	Carstens	mcarstens@itctransco.com	ITC Holdings Corp.	123 5th Street SE Cedar Rapids, IA 52401	Electronic Service	No	OFF_SL_12-1053_Official CC Service List
Kodi	Church	kchurch@briggs.com	Briggs & Morgan	2200 IDS Center 80 South Eighth Street Minneapolis, Minnesota 55402	Electronic Service	No	OFF_SL_12-1053_Official CC Service List
Katie	Clark Sieben	katie.clark.sieben@state.mn.us	DEED	332 Minnesota St, #E200 1st National Bank Bldg Saint Paul, MN 55101	Electronic Service	No	OFF_SL_12-1053_Official CC Service List
Leigh	Currie	lcurrie@mncenter.org	Minnesota Center for Environmental Advocacy	26 E. Exchange St., Suite 206 St. Paul, Minnesota 55101	Electronic Service	No	OFF_SL_12-1053_Official CC Service List
Warren J	Day	warren@warrendaylaw.com	Attorney-At-Law	2010 Hawkinson Rd Oregon, WI 53575	Electronic Service	No	OFF_SL_12-1053_Official CC Service List
Randall	Doneen	randall.doneen@state.mn.us	Department of Natural Resources	500 Lafayette Rd, PO Box 25 Saint Paul, MN 55155	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Scott	Ek	scott.ek@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
Travis	Germundson	travis.germundson@state.mn.us		Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
David	Grover	dgrover@itctransco.com	ITC Midwest	901 Marquette Avenue Suite 1950 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_12-1053_Official CC Service List
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
Susan	Heffron	susan.heffron@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
Timothy	Iannettoni	tiannettoni@itctransco.com	ITC Trans Co	123 Fifth Street SE Cedar Rapids, IA 52401	Electronic Service	No	OFF_SL_12-1053_Official CC Service List
Maynard	Jagodzinske	N/A		1506 120th Ave Welcome, MN 56181-1380	Paper Service	No	OFF_SL_12-1053_Official CC Service List
Sarah	Jagodzinske Rohman	sjago@hotmail.com		1126 150th St Welcome, MN 56181	Paper Service	No	OFF_SL_12-1053_Official CC Service List
Linda	Jensen	linda.s.jensen@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota Street St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Ray	Kirsch	Raymond.Kirsch@state.mn.us	Department of Commerce	85 7th Place E Ste 500 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
Karen	Kromar	karen.kromar@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
James	LaFave	james.lafave@state.mn.us	Office of Administrative Hearings	PO Box 64620 St. Paul, MN 55164-0620	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
Susan	Medhaug	Susan.medhaug@state.mn.us	Department of Commerce	Suite 500, 85 Seventh Place East St. Paul, MN 551012198	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
Bob	Patton	bob.patton@state.mn.us	MN Department of Agriculture	625 Robert St N Saint Paul, MN 55155-2538	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
Michele	Ross	michele.ross@state.mn.us	Department of Health	625 N Robert St Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	Ste 122 9100 W Bloomington Frwy Bloomington, MN 55431	Electronic Service	Yes	OFF_SL_12-1053_Official CC Service List
Jeffrey	Small	jsmall@misoenergy.org		MISO P.O. Box 4202 Carmel, Indiana 46082-4202	Electronic Service	No	OFF_SL_12-1053_Official CC Service List