

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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Joint Application of American Transmission Company LLC  
and Northern States Power Company-Wisconsin,  
as Electric Public Utilities, for Authority to Construct  
a 345kV Transmission Line from the La Cross area,  
in La Crosse County, to the greater Madison area,  
in Dane County, Wisconsin

Docket No. 5-CE-142

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**INTERVENOR SAVE OUR UNIQUE LANDS OF WISCONSIN, INC.'S  
REPLY BRIEF IN OPPOSITION TO THE APPLICATION**

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**ARGUMENT**

The Applicants have failed to prove that the proposed Badger-Coulee project is needed, or that it would be beneficial to all Wisconsin ratepayers to a degree sufficient to justify the project's cost, and that it would be superior to alternatives that can provide that same benefits. Unless and until each of these elements is proven, the Public Service Commission (the "Commission") cannot lawfully approve the Badger Coulee Project (the "Project").<sup>1</sup>

The Applicants' failure to establish that this Application meets statutory standards rests on their refusal to conduct a cost/benefit analysis based on a realistic scenario of no growth in energy demand for the project area. Given the faulty cost/benefit analysis alone, the Applicants have failed to meet their burden of showing that the Application is complete or reliable enough to allow the Commission to review it under the requirements of the CPCN statute.<sup>2</sup> Moreover, the Applicants have failed to prove the Project provides economic, reliability or public policy benefits to any degree – much less to the degree that makes the Project superior to alternatives or reasonable

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<sup>1</sup> See Wis. Stat. § 196.491 at §§ 196.491(3)(d)(2), 196.491(3)(d)(3), 196.491(3)(d)(3t), 196.491(3)(d)(4).

<sup>2</sup> See *id.* at § 196.491(3).

in cost. In this reply to the Applicants' Initial Brief, each of these failures will be addressed more fully below. SOUL contends that, despite the voluminous evidence presented by the Applicants, the deficiencies of the support offered for the project require the Commission to reject the application and deny the Applicants a CPCN.<sup>3</sup>

**I. The Project's Costs and Benefits Cannot Be Determined Absent a Cost/Benefit Analysis Based On A No Growth Scenario.**

The Applicants open their initial brief by seeking to assure the Commission that “[n]o intervenors dispute the Applicants’ methods of studying the Project or question any of the Applicants’ results.”<sup>4</sup> This is far from true. In fact, one of the main contentions that SOUL makes in this docket is that the Applicants overstate the Project’s potential benefits precisely because they fail to study one key, realistic future scenario: a scenario with zero growth in peak load in the transmission system (the “no-growth scenario”).<sup>5</sup>

The Applicants concede that they have not presented to the Commission any projection of the Project’s costs and benefits that is based on the no-growth scenario.<sup>6</sup> The Applicants defend this omission by criticizing CETF and SOUL for not having offered any support for the assertion that modeling a no-growth scenario would be a reasonable thing for the Applicants to do.<sup>7</sup> Specifically, the Applicants note that neither SOUL nor CETF have been able to point to other

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<sup>3</sup> *See id.*

<sup>4</sup> Applicants’ Initial Brief [hereafter “Applicants’ Brief”] (PSC Ref. # 230721), p. 2.

<sup>5</sup> *See, e.g.*, SOUL’s Initial Brief in Opposition to the Application [hereafter “SOUL’s Brief”] (PSC Ref. # 230710), p. 13.

<sup>6</sup> *See, e.g.*, Tr. vol. 8 (PSC Ref. # 230598), p. 126.

<sup>7</sup> Applicants’ Brief (PSC Ref. # 230721), p. 12.

utilities or regulatory agencies that have previously used no-growth or negative growth assumptions for planning purposes.<sup>8</sup>

The Applicants' criticism is unfounded. CETF and SOUL do have a basis for the assertion that the Applicants should have modeled a no-growth scenario: the fact that relevant utilities have projected no peak load growth in the future.<sup>9</sup> As indicated in the direct testimony of CETF/SOUL witness William Powers, a simple comparison between peak loads reported by ATC member-utilities and NSPW in the recent past and those utilities' own forecast peak loads submitted as part of the Commission's Strategic Energy Assessment 2020 shows a forecast of no load growth.<sup>10</sup> Zero load growth is not only a reasonable assumption, it is the most likely scenario based on the utilities own peak load history and forecasts.<sup>11</sup>

Similarly, MISO seeks to justify the Applicants' failure and its own failure to model a no-growth scenario on the assertion that "[a] zero percent peak load growth or negative peak load growth is not reasonable."<sup>12</sup> But a review based on historical data of recent peak load growth in Wisconsin shows the opposite: peak load growth has been either decelerating or stagnant.<sup>13</sup> Given that history, it is more than reasonable to assume that peak load will not grow in the future.

In any event, the question of whether the Applicants should model a no-load-growth scenario can by no goal of this proceeding be reduced to consideration of statistical probability.

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<sup>8</sup> *Id.*

<sup>9</sup> Direct-CETF/SOUL-Powers (PSC Ref. # 224737), p. 16–17.

<sup>10</sup> *Id.* at. pp. 5–9.

<sup>11</sup> *Id.* at. pp. 5–9, 16–17; Rebuttal-Applicants-King-Huffman (PSC Ref. # 226110), p. 3.

<sup>12</sup> Brief-MISO [hereafter "MISO's Brief"] (PSC Ref. # 230707), p. 12.

<sup>13</sup> Direct-CETF/SOUL-Powers (PSC Ref. # 224737), pp. 5–9, 16–17; Rebuttal-Applicants-King-Huffman (PSC Ref. # 226110), p. 3.

The Applicants are proposing a massive project with significant costs – which the Applicants are asking the Commission to impose on Wisconsin ratepayers.<sup>14</sup> The Commission and the ratepayers deserve full accountability of what the Project’s benefits would be, if any, for a no-load-growth scenario.

While it would be unreasonable to ask the Applicants to assume a no-growth scenario for all planning purposes, it is certainly not unreasonable to ask the Applicants to model a no-growth scenario as one of many potential futures. The Applicants went through the trouble of modeling six futures, whose load growth forecasts ranged from most optimistic to most pessimistic.<sup>15</sup> By the Applicants’ own account, “[t]he Applicants conducted a rigorous economic analysis of the Project, completing 126 different modeling runs using three different MISO data sets with 10 different scenarios<sup>16</sup> – but not a single one that analyzed a no-growth scenario. The Applicants did not provide one example of analysis that provides confidence. Runs with zero and negative load growth would have shown ratepayers and Commission staff the “break ahead” points where estimated return begin to exceed investment. Given that historical load growth data shows a significant possibility of a no-growth scenario materializing in the future,<sup>17</sup> the Applicants’ most pessimistic scenario should be the no-growth scenario.

Intervenor Energy Law and Policy Center (“ELPC”) correctly argues that the Commission should order the Applicants to forecast a no-growth scenario.<sup>18</sup> In support of its argument, ELPC

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<sup>14</sup> See Revised Application (PSC Ref. # 204860).

<sup>15</sup> *Id.* at 26.

<sup>16</sup> Applicants’ Brief (PSC Ref. # 230721), p. 4.

<sup>17</sup> Direct-CETF/SOUL-Powers (PSC Ref. # 224737), pp. 5–9, 16–17; Rebuttal-Applicants-King-Huffman (PSC Ref. # 226110), p. 3.

<sup>18</sup> Initial Brief of the Environmental Law and Policy Center (PSC Ref. # 230723), p. 4.

relies on Table 5 of William Powers' direct testimony.<sup>19</sup> Table 5 demonstrates that the weather-normalized ATC actual coincident peak loads identified by the Applicants for 2007 (12,888 MW) and 2013 (12,788 MW) are about the same as the forecast 2023 peak load of 12,801 MW in the "Limited Growth" scenario, which that assumes a 0.2 percent per year peak load growth rate.<sup>20</sup>

The data in Table 1 of Mr. Powers direct testimony is non-coincident peak load data.<sup>21</sup> The sum of the non-coincident peak loads of the individual ATC member utilities will always be higher than the coincident peak load. Therefore, had the Applicants updated the "Limited Growth" Scenario base case "Year 1" ATC peak load in the Applicants' revised March 31, 2014 Planning Analysis to reflect the most recently available actual 2013 ATC non-coincident peak load data, the forecast ATC coincident peak load in 2023 would have been much lower than the 12,801 MW identified by the Applicants for the Limited Growth Scenario.<sup>22</sup>

The 2023 forecast based on non-coincident peak load data would also be conservative because it would be lower than the 2023 non-coincident peak load. Assuming an actual ATCW non-coincident peak load of 12,113 MW in 2013 and a 0.2 percent per year peak load growth rate over ten years, the forecast ATCW peak load in 2023 would be 12,357 MW,<sup>23,24</sup> not 12,801 MW. A forecast of a 12,357 MW Limited Growth Scenario peak load would be about 230 MW below the ATCW 2012 actual non-coincident peak load of 12,589 MW.<sup>25</sup> A forecast of 12,357 MW for

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<sup>19</sup> *Id.*; see Direct-CETF/SOUL-Powers (Revised) (PSC Ref. # 229030), p. 8.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 6.

<sup>22</sup> *Id.* at 8–9.

<sup>23</sup> Forecast ATCW 2023 peak load assuming 12,113 MW peak load in 2013 base year and 0.2 percent per year peak load growth rate: base year peak load x growth rate<sup>10 years</sup> = 12,113 MW x 1.002<sup>10</sup> = 12,357 MW.

<sup>24</sup> Source of peak load growth forecast equation: Direct-CETF/SOUL-Powers (PSC Ref. # 224737), p. 13, n.15.

<sup>25</sup> Direct-CETF/SOUL-Powers (PSC Ref. # 224737), p. 6.

the ATCW 2023 coincident peak load would also be in line with the sum of the individual 2020 forecasts of the ATC member utilities themselves, which is 12,500 MW gross (without adjustment for load management or capacity sales or purchases) and 12,144 MW net (adjusting peak load for load management and capacity sales or purchases).

The conclusion drawn by ELPC that it is reasonably possible that there will be no significant load growth in the ATC footprint is correct when the most current actual ATCW non-coincident peak load 2013 value in the record is utilized as the base year for the Applicants 2023 ATCW peak load forecast.

## **II. The Project Does Not Provide Economic Benefits that Justify its Costs.**

### **A. The record lacks a factual basis for the Commission to determine whether or how any economic benefits will reach Wisconsin ratepayers.**

- 1. The Applicants have failed to provide any evidence that the Project's alleged economic benefits will in fact reach Wisconsin ratepayers.*

The Applicants argue that the Project provides an “un-contradicted” net economic benefit to Wisconsin ratepayers in an estimated amount of \$118 to \$702 million over the Project’s forty-year life.<sup>26</sup> The Applicants state that these benefits will apply to Wisconsin retail ratepayers.<sup>27</sup> But the record shows otherwise.

The Applicants have failed to prove the Project guarantees any economic benefits to ratepayers. Moreover the Applicants cannot guarantee the Project will actually generate economic benefits. As Applicant witness Dale Burmester admitted during cross-examination, the Project’s assumed economic benefits depend, at least in part, on contingencies such as a growth in energy

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<sup>26</sup> Applicants’ Br., pp. 5, 12. The \$118 million figure is the Applicants’ estimation for the “Slow Growth” future; the \$702 million figure is the Application’s estimation for the “Robust Economy” future.

<sup>27</sup> *Id.* at 21.

demand and the choice of energy consumers to purchase power from out-of-state sources – neither of which the Applicants can guarantee.<sup>28</sup> Should Wisconsin ratepayers choose not to purchase the “cheaper” out-of-state power upon which the Applicants rely, or should Wisconsin ratepayers choose to purchase less power altogether, the Project will bring no economic benefits to ratepayers.

The Applicants have also failed to prove that any economic benefits to ratepayers would actually pass on to *retail* ratepayers. As multiple of the Applicants’ witnesses admitted, the Applicants have no ability to predict or control whether any utilities that receive a hypothetical economic benefit from the Project, such as a reduction in the cost of energy, will actually pass that benefit to its retail customers.<sup>29</sup> To the contrary, these witnesses admitted that the Applicants did not even attempt to predict how economic benefits would pass on to retail-level ratepayers, or what the average benefit per ratepayer would be.<sup>30</sup>

The Applicants’ silence on how utilities would pass economic benefits to ratepayers is not a mere oversight. Neither the Applicants nor the Commission can guarantee that any hypothetical “aggregate” economic benefits would actually reach *retail* ratepayers. From both a practical and a legal standpoint, nothing requires Wisconsin utilities to pass reductions, in part or in whole, of their wholesale energy costs to their respective retail customers.<sup>31</sup> Utilities’ rate structures come from extremely complex formulas the Commission approves on a case-by-case basis in extremely complex cases.<sup>32</sup> Every case involves multiple and often fluctuating variables, such as other

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<sup>28</sup> Tr. vol. 8 (PSC Ref. # 230598), p. 140.

<sup>29</sup> Tr. vol. 8 (PSC Ref. # 230598), pp. 9, 209; Tr. vol. 9 (PSC Ref. # 230600), pp. 29, 244, 245.

<sup>30</sup> *Id.*

<sup>31</sup> See Wis. Stat. § 196.371; *Madison Gas & Elec. Co. v. Pub. Serv. Comm'n of Wisconsin* (“MG&E”), 105 Wis. 2d 385, 386, 313 N.W.2d 847, 848 (Ct. App. 1981) *aff'd sub nom. Madison Gas & Elec. Co. v. Pub. Serv. Comm'n of Wisconsin*, 109 Wis. 2d 127, 325 N.W.2d 339 (1982).

<sup>32</sup> See *id.*

operational costs.<sup>33</sup> Ultimately, even if the Project were to reduce the cost of electricity to any given utility, that utility could still *increase* the cost of electricity to retail consumers by citing to those other costs in a request for a rate increase.<sup>34</sup>

There is no mention of economic benefit to ratepayers in the statutory formula that guides the Commission in rate-making proceedings.<sup>35</sup> The Wisconsin Statutes approach rate-making from the perspective of the utility: the utility presents evidence to the Commission to demonstrate how high the rates need to be for the utility to cover its costs in purchasing or building the electricity generation facility.<sup>36</sup> There is nothing in the rate-making statute that requires or even encourages the Commission to consider economic benefit to ratepayers when evaluating how high rates should be in order for the utility to recover its costs.<sup>37</sup>

Utilities are not limited to recovering their costs.<sup>38</sup> The Wisconsin Court of Appeals recognized this in its review of Madison Gas and Electric's rates, stating:

MG&E is entitled to earn a fair and reasonable rate of return on the fair value of its investment. Whether MG&E can earn a fair rate of return depends on the rates the PSC allows it to charge for electric service. In determining rates that will allow MG&E to earn a reasonable rate of return, the PSC must first determine MG&E's investment "rate base," which consists of the property MG&E devotes to providing utility service. The PSC then determines the electric service rates necessary to generate income sufficient to allow MG&E to earn what the PSC has determined to be a reasonable rate of return on the rate base.<sup>39</sup>

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<sup>33</sup> *See id.*

<sup>34</sup> *See id.*

<sup>35</sup> *See* Wis. Stat. § 196.371.

<sup>36</sup> *Id.* at § 196.371(2).

<sup>37</sup> *See id.* at § 196.371.

<sup>38</sup> *MG&E*, 105 Wis. 2d at 386, 313 N.W.2d at 848.

<sup>39</sup> *Id.*



The Court does not mention economic benefit to ratepayers when describing what the Commission considers in rate-making cases.<sup>40</sup> Both statute and case law make it clear that there is nothing in the rate-making process that requires utilities to pass on their economic benefits to their customers.<sup>41</sup>

The Applicants failure to show that the Project guarantees benefits to Wisconsin retail ratepayers is sufficient for the Commission to deny the Applicants a CPCN.<sup>42</sup> In order to issue a CPCN, the Commission must find that a high-voltage transmission project provides *both wholesale and retail* customers with benefits that outweigh the project's cost.<sup>43</sup> In this case, the Applicants have given the Commission no more than conjecture and speculation: the estimation that the Project *may* provide ratepayer benefits, should utilities so choose, that *may* outweigh the Project's costs. Given the nature of utility rates, there is quite simply too much uncertainty for the Commission to determine that the Project *does* provide benefits that outweigh its costs.

2. *MISO's planning provides no evidence on how Wisconsin ratepayers would share the Project's costs and benefits with the rest of MISO's footprint.*

The Applicants have failed to present any evidence on exactly how the Project's costs and alleged economic benefits apply to Wisconsin ratepayers. As the Applicants' initial brief reveals, the Applicants and MISO are presenting the Project's costs and benefits in this docket as it applies

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<sup>40</sup> *See id.*

<sup>41</sup> *Id.*; *see also* Wis. Stat. § 196.371.

<sup>42</sup> *See id.* at § 196.491(3)(d).

<sup>43</sup> *Id.* at § 196.491(3)(d)(3)–(3t).

to all of MISO’s footprint – not as it applies to Wisconsin ratepayers.<sup>44</sup> In their initial brief, the Applicants write:

MISO found that the MVP portfolio of projects - including the Badger Coulee Project - will produce \$17.3 to \$59.6 billion in present value adjusted production cost benefits to the MISO region.<sup>45</sup>

In other words, the Applicants state that MISO has determined a range of benefits for “the MISO region” – without any indication of what share of those benefits apply to Wisconsin ratepayers.

Indeed, MISO’s planning allocates estimated costs and benefits of projects by artificial regions of MISO’s own creation.<sup>46</sup> For example, the triennial MTEP 14 document summarizes MISO’s cost/benefit analysis as follows:

MTEP14 estimates show the Multi-Value Portfolio creates \$13.1 to \$49.6 billion in net benefits to MISO North and Central Region [utility] members.<sup>47</sup>

In other words, MISO’s triennial reviews estimate aggregate costs and benefits from *all* MVP projects, and distributes them along artificial lines that do not correspond with state borders.<sup>48</sup>

This kind of “aggregate” estimation of costs and benefits cannot satisfy the Wisconsin Statutes’ criteria for a CPCN.<sup>49</sup> In order to issue a CPCN, the Commission must be able to ascertain the cost-benefit relationship of a project *to Wisconsin ratepayers*.<sup>50</sup> It is not sufficient for the Applicants or MISO to present evidence that the Project may provide more benefits than

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<sup>44</sup> See Applicants’ Brief (PSC Ref. # 230721), p. 10.

<sup>45</sup> *Id.*

<sup>46</sup> See Ex.-MISO-Rauch-3 (PSC Ref. # 218122), p. 24.

<sup>47</sup> See *id.*

<sup>48</sup> See *id.*

<sup>49</sup> See Wis. Stat. § 196.491(3)(d).

<sup>50</sup> See *id.* at § 196.491(3)(d)(3t) (requiring a finding that the project provides benefits to customers “in this state”).

costs throughout MISO’s artificial regions: if the majority of those costs ended up with Wisconsin ratepayers, but the majority of those benefits went to Iowa or Minnesota ratepayers, then the application fails to meet the statutory CPCN criteria.<sup>51</sup> At the very minimum, the Commission needs to be able to estimate Wisconsin’s share of those costs and benefits. That being absent from the record, the Commission cannot grant a CPCN.

3. *The Applicants have failed to provide any evidence on how the Project’s alleged economic benefits would break down to the average ratepayer.*

The Applicants argue that the Project will provide “significant” and “substantial” economic benefits to Wisconsin ratepayers that will “far exceed” the Project’s costs to those ratepayers.<sup>52</sup> There is no evidence, however, in the record supporting this argument.

Despite multiple requests from the Commission and private parties, the Applicants offered the Commission no evidence to determine what the Project’s economic benefits would be for the average Wisconsin ratepayer.<sup>53</sup> From the Project’s inception, multiple municipalities have asked the Applicants to produce an understandable estimation of what the average retail ratepayer could save in energy costs as a result of the Project. Subsequently, Commission staff made a similar request by asking the Applicants to update the application with a similar, ratepayer-friendly analysis.<sup>54</sup> As discussed in SOUL’s initial brief, the Applicants responded to neither.<sup>55</sup> To this

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<sup>51</sup> *See id.*

<sup>52</sup> *See, e.g.,* Applicants’ Br., pp. 5 (“[i]n every case, the Project produces for Wisconsin ‘economic benefits that significantly exceed its costs’”), 6 (“[t]he Applicants’ exhaustive economic analysis demonstrates that the Project will produce economic benefits that *far exceed* its costs to ratepayers”), 13 (“[t]he Applicants’ comprehensive economic analysis demonstrates that the benefits to Wisconsin will *far and away exceed* the Project’s costs to Wisconsin ratepayers”).

<sup>53</sup> *See, e.g.,* Commission Staff Data Request No. 1.90 (PSC Ref. # 193819).

<sup>54</sup> Commission Staff Data Request No. 1.90 (PSC Ref. # 193819).

<sup>55</sup> SOUL’s Brief (PSC Ref. # 230710), p. 8.

day, the Applicants have not estimated how the Project's alleged economic benefits would apply to the average ratepayer on an individual level.

Without that information, the Commission cannot determine whether the Project meets the criteria for a CPCN. In making its decision on whether the Project's costs are reasonable in light of the Project's purported benefits, the Commission must consider more. Until *both* costs and the potential savings are stated on the average, ratepayer level, it is wholly unknown how much Wisconsin ratepayers would be impacted.

What is reasonable in terms of a potential return, requires how much would be invested "up front" per month on average over 40 years and also how much would be returned per month on average over 40 years. Ratepayers are investors and the Commission is protecting their investment interests. Ratepayer must be able to weigh the potential up front investment of the Project and its potential return and then be enabled to compare these to other energy investments costs and returns, For example, the Project could cost a \$1 per month and return \$1.09 or cost \$5.00 and return \$5.09. Net savings can also hide assumptions about energy cost inflation that an investment line energy efficiency would not necessarily have to assume. It is the commission's responsibility to empower ratepayers to exercise full judgment about potential investment before granting this CPCN. Average ratepayer level estimates of both cost and potential returns are needed over the full course of years for market competition between all energy to exist.

**B. The Applicants overstate the Project's alleged economic benefits.**

1. *The Applicants' calculations of net present value exaggerate the Project's estimated economic benefits.*

The inputs the Applicants used to calculate net present value economic benefits shows that, even if those net economic benefits became a reality, they would not benefit Wisconsin ratepayers

to the extent the Applicant portrays.<sup>56</sup> The Applicants categorize four different components in their economic benefits net present value calculation: insurance value, savings in energy costs, savings in existing transmission line losses, and Renewable Investment Benefits (“RIB”).<sup>57</sup>

Of the four categories, the one that comprises the largest percentage of benefits in all six planning futures is RIB.<sup>58</sup> As evident from the Project’s planning analysis, between the six futures the Applicants use to estimate benefits, RIB amounts to anywhere between 40.5 percent and 66.8 percent of the net present value economic benefits calculation.<sup>59</sup> On average, RIB amounts to 48.73 percent of net present value economic benefits between the six planning futures.<sup>60</sup> In other words, up to two thirds of the economic benefits of this project would come in the form of Wisconsin ratepayers investing in out-of-state renewable resources.

The Applicants’ use of RIB significantly and artificially inflates the Project’s net economic benefits.<sup>61</sup> RIB is a speculative benefit: it assumes that Wisconsin energy customers will prefer to purchase renewable energy from other states over purchasing or generating energy from other alternatives.<sup>62</sup> More importantly, RIB provides little to no direct benefit to the Wisconsin ratepayer: it amounts to cash payments provided to out-of-state renewable energy developers, as

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<sup>56</sup> See (REDACTED COPY) Application Appendix D, Exhibits 1 and 2 Updated (PSC Ref. # 204739), Revised Appendix D, Exhibit 1, p. 9.

<sup>57</sup> *Id.*

<sup>58</sup> See *id.*; see also SOUL’s Brief (PSC Ref. # 230710), p. 30.

<sup>59</sup> *Id.*

<sup>60</sup> See *id.* (calculation conducted by adding the RIB percentages for all six planning futures and dividing the total by six).

<sup>61</sup> See SOUL’s Brief (PSC Ref. # 230710), p. 30.

<sup>62</sup> See (REDACTED COPY) Application Appendix D, Exhibits 1 and 2 Updated (PSC Ref. # 204739), Revised Appendix D, Exhibit 1, p. 55.

opposed to cash payments or cash savings to Wisconsin renewable energy developers, utilities or ratepayers.<sup>63</sup>

In sum, the Applicants' use of RIB shows that an average of almost 50 percent of the economic benefits which the Applicants allege the Project will generate comes from ratepayers sending money out of the state – as opposed to spending money on the state or saving money inside the state.<sup>64</sup>

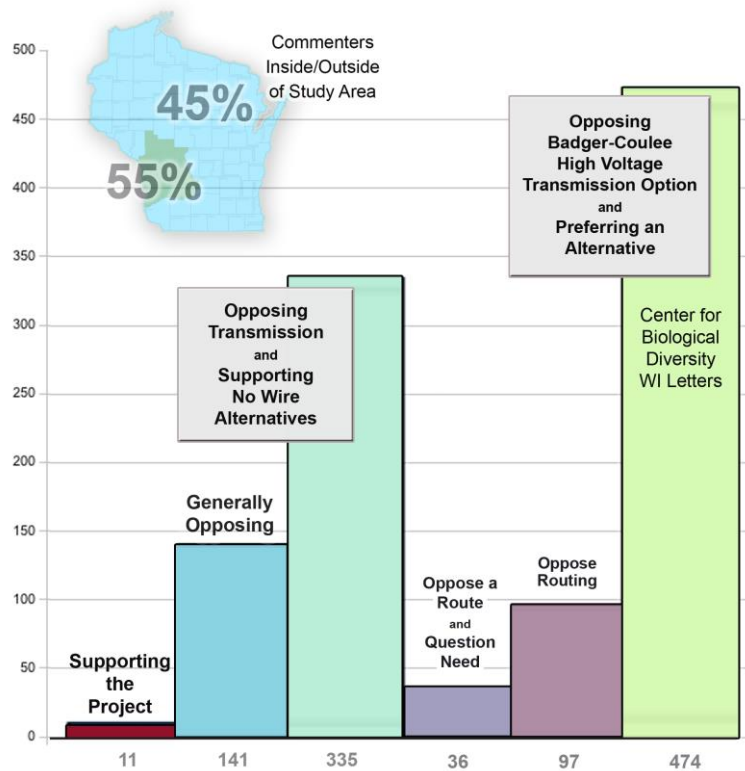
Recorded public comments by Wisconsin ratepayers evidence strong preference for in-state investments especially on-site and community renewable energy. There is virtually no mention of interest in furthering out of state renewable investment made by Wisconsin ratepayers.

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<sup>63</sup> *See id.*

<sup>64</sup> *See id.* at p. 9; *see also* SOUL's Brief (PSC Ref. # 230710), p. 30.

Table 1. Assessment of online and mailed in public comments.



Of these 1,094 comments tabulated above, 45 percent of the comments came from addresses outside of the Badger-Coulee study area with well less than 1% from out of state. Ratepayer support for Wisconsin energy investment is very evident in support of the No Wire Alternatives. About one-third of the 335 in this category emphasized energy efficiency and/or solar as preferred investments and not NWA's, specifically. The form letters received through the Center for Bio Diversity stressed environmental sensitivities and an alternative to “upgrade existing transmission lines.” Comments from parties outside of Wisconsin were excluded in the tally of these letters. Only eleven recorded comments or 1 percent tabulated support the Project. Verbal testimony made at the five the public hearings was assessed and found to be consistent. Opposition

included more mention of siting issues. These assessments are time-consuming. The approximate 300 comment forms handed in at the hearings were posted too late for assessment.

2. *The Applicants improperly consider benefits to out-of-state ratepayers.*

The application effectively asks the Commission to consider the benefits to out-of-state wind developers as a benefit to the Project. In its initial brief, MISO states:

Economic benefits from the Project include development of wind resources for the generation of electricity and the realization of the full benefit of existing wind turbine generation sources whose interconnection to the transmission system is conditioned upon the completion of the Badger-Coulee Project.<sup>65</sup>

In other words, the application relies on economic benefits arising from the promotion of prospective out-of-state wind farms, and the purchase of power from them.<sup>66</sup>

There are two major flaws with considering the success of out-of-state wind development as an economic benefit. First, the Wisconsin ratepayer is not likely to benefit from any such development – despite paying to subsidize it. Nothing suggests that any wind developer in the west, suddenly encouraged or enabled by the Project to build and sell wind energy, will actually sell that wind energy to Wisconsin utilities or ratepayers.

In fact, the evidence suggests the opposite: as Wisconsin has reached its renewable portfolio standards requirement, Wisconsin utilities are increasingly less likely to seek the purchase of wind power from any source.<sup>67</sup> In effect, nothing suggest that wind developers in the west would use the Project to send power *to* Wisconsin as opposed to *through* Wisconsin: they would be free, and indeed likely, to use the Project’s “interconnection to the transmission system”

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<sup>65</sup> See MISO’s Brief (PSC Ref. # 230707), p. 3.

<sup>66</sup> *Id.*

<sup>67</sup> Ex.-CETF/SOUL-Lanzalotta-5 (PSC Ref. # 220153), p. 43; Surrebuttal-CETF/SOUL-Powers (PSC Ref. # 226781), p. 11.



to sell wind power to buyers east of Wisconsin. In essence, the Project would become a “bridge” through which out-of-state sellers can ship power to out-of-state buyers – on the Wisconsin ratepayer’s dime.

The second is that it ignores the commonplace (and commonsense) policy of requiring generators to pay for transmission upgrades that benefit them.<sup>68</sup> As William Powers made clear during his cross-examination, it is commonplace for independent systems operators to have a policy that requires power generators to cover the costs of transmission upgrades necessary on account of their addition or retirement of generation that affects the transmission system.<sup>69</sup> To have Wisconsin ratepayers pay for transmission upgrades simply to enable wind power generators to sell their product is to turn Wisconsin ratepayers into utilities without customers.

**C. The Applicants’ own projections show the Project’s economic benefits are not significant enough to warrant the Project’s approval.**

Even taking the Applicants’ own projections, it is evident that the Project’s economic benefits, once applied to the average ratepayer, are nominal at best. Applying the Applicants’ range of \$118 million to \$702 million in savings to 2.9 million ratepayers over 40 years, the total savings the Project would offer would be between \$0.08 and \$0.51 per ratepayer per month. Over the life of the Project, that would amount to a total saving of between \$38.40 and \$244.80 per ratepayer.

These savings are not significant enough to make them reasonable in light of the Project’s costs, as Wisconsin law requires for the granting of a CPCN.<sup>70</sup> As previously mentioned, the

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<sup>68</sup> Tr. vol. 10 (PSC Ref. # 230600), pp. 49–50.

<sup>69</sup> *Id.*

<sup>70</sup> *See* Wis. Stat. § 196.491(3)(d)(3t).

Project entails not only significant ratepayer investment, but also significant opportunity costs insofar as it represents an investment in out-of-state development over in-state development.<sup>71</sup> To conclude that *potentially* saving an individual ratepayer a few pennies a month is reasonable in light of these significant costs is to stretch the reasonableness requirement of the CPCN statute beyond the breaking point.<sup>72</sup>

### **III. The Project Does Not Provide Reliability Benefits that Justify its Costs.**

#### **A. There are no reliability needs in the La Crosse/Winona area.**

##### *1. There is no evidence of future load growth in the La Crosse/Winona area.*

The Applicants argue that the Project will provide significant reliability benefits because it will address reliability needs in the La Crosse/Winona area.<sup>73</sup> The Applicants' base this argument on the premise that the La Crosse/Winona area will experience load growth in the future.<sup>74</sup>

The Applicants' absurdly assert that there is "no dispute" over their assertion that the load in the La Crosse/Winona area is expected to grow.<sup>75</sup> In support of that assertion, the Applicants cite – without elaboration – CETF/SOUL witness Peter Lanzalotta's cross-examination testimony.<sup>76</sup> But a quick review of the relevant testimony shows Mr. Lanzalotta never agreed to the proposition that the load in the La Crosse/Winona area will in fact grow: he merely conceded that, given the area has experienced some load growth in the past, it was appropriate for the

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<sup>71</sup> See (REDACTED COPY) Application Appendix D, Exhibits 1 and 2 Updated (PSC Ref. # 204739), Revised Appendix D, Exhibit 1, p. 9; see also SOUL's Brief (PSC Ref. # 230710), p. 30.

<sup>72</sup> See Wis. Stat. § 196.491(3)(d)(3t).

<sup>73</sup> Applicants' Brief (PSC Ref. # 230721), p. 14.

<sup>74</sup> See *id.*

<sup>75</sup> Applicants' Brief (PSC Ref. # 230721), p. 15.

<sup>76</sup> See *id.*

Applicants to use a number higher than zero for forecasting purposes.<sup>77</sup> Regardless, there is ample other evidence relied on by SOUL and CETF which emphatically and systematically disputes that peak load in the La Crosse/Winona area will grow.<sup>78</sup>

In any event, the Applicants improperly rely on previous load growth in the La Crosse/Winona area to support the argument that load will continue to grow there.<sup>79</sup> Much of the growth the Applicants cite followed a substantial decline in peak load in the 2006-2008 period.<sup>80</sup> NSPW opted not to deploy available load management resources that could have completely negated the peak load growth in 2012-2013 above the historic 2006 peak load.<sup>81</sup> The actual 2014 peak load would have occurred in July of 2014, based on historical peak trends in Wisconsin.<sup>82</sup>

The remaining evidence in the record gives the Commission every reason to believe that peak load will in fact not grow in the La Crosse/Winona area as of 2014. The LaCrosse/Winona area is approximately 30 percent of NSPW's load, and NSPW is forecasting no increase in peak load for NSPW as a whole.<sup>83</sup> The Applicants have presented no evidence to support a position that the zero peak load growth rate forecast for NSPW as a whole is any different for NSPW load in the LaCrosse/Winona area. Not surprisingly, the Applicants have not provided the Commission with 2014 peak load information on the La Crosse/Winona area.

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<sup>77</sup> See Tr. vol. 10 (PSC Ref. # 230601), p. 175.

<sup>78</sup> See, e.g., Direct-CETF/SOUL-Powers (Revised) (PSC Ref. # 229030), pp. 15–20; Surrebuttal-CETF/SOUL-Powers (PSC Ref. # 226781), p. 9.

<sup>79</sup> Applicants' Brief (PSC Ref. # 230721), p. 15.

<sup>80</sup> Rebuttal-Applicants-King-Huffman (PSC Ref. # 226110), p. 3.

<sup>81</sup> See Direct-CETF/SOUL-Powers (Revised) (PSC Ref. # 229030), pp. 17–19.

<sup>82</sup> Ex.-CETF/SOUL-Lanzalotta-5 (PSC Ref. # 220153), p. 7.

<sup>83</sup> Direct-CETF/SOUL-Powers (Revised) (PSC Ref. # 229030), pp. 17–19.

The lack of load growth in the La Crosse/Winona area fundamentally undermines the Applicants' argument that the Project deserves a CPCN on account, at least in part, of its "significant" reliability benefits. Absent load growth, the La Crosse/Winona area is unlikely to experience any reliability problems – or at least any that cannot be addressed with low voltage or no-wire alternatives. Ultimately, a project that costs ratepayers millions of dollars to address reliability concerns based on load growth that will likely not transpire is not one whose reliability benefits are reasonable in light of the project's costs.<sup>84</sup>

2. *There is no evidence that the Project would avoid any necessary reliability upgrades to the existing system in the LaCrosse-Winona area.*

The Applicants argue that one of the Project's main reliability benefits is the avoidance of reliability projects to improve the existing low-voltage system.<sup>85</sup> However, the Applicants have failed to present any evidence to substantiate the claim that the La Crosse/Winona area would actually need any such reliability projects – despite the Commission's requests to that effect.

The Commission has twice requested that the Applicants substantiate their claim regarding these reliability projects, often referred to as the low voltage alternative.<sup>86</sup> The goal of these requests was to determine the basis for any such reliability projects based on what Commission staff properly called "currently projected peak and energy requirements."<sup>87</sup> Commission staff requested as follows:

(Application p. 28; AFR Section 2.8.) Provide an updated reliability study to determine the base case reliability projects required. The study should reflect: lower currently projected peak and energy requirements; reliability projects that have

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<sup>84</sup> See Wis. Stat § 196.491(3)(d)(3t).

<sup>85</sup> Applicants' Brief (PSC Ref. # 230721), p. 14.

<sup>86</sup> See Commission Staff Data Request 1.93 (PSC Ref. # 193819); Commission Staff Data Request 5.05 (PSC Ref. # 206950).

<sup>87</sup> See Commission Staff Data Request 1.93 (PSC Ref. # 193819).

already been completed or will be completed regardless of any 345 kV alternatives; announced retirements such as Nelson Dewey Units 1 and 2, and Alma Units 1 through 5 and any transmission upgrades required; the latest MISO generation interconnection requests, and the latest transmission interconnections. Discuss any differences in assumptions to those used in the PROMOD analysis.<sup>88</sup>

(MTEP 13 Futures Sensitivities.) Provide an additional MTEP 13 PROMOD analysis for the Low Voltage alternative. Utilize the 10-year (2023) and 15-year (2028) study years. Include both ATC Customer Benefit Metric and the NSPW Adjusted Production Cost method. Provide separate tables for ATC and NSPW similar to Table 53 with the present value worksheet of annual revenue requirements and benefits for ATC and NSPW. Also provide separate tables similar to Table G1 for ATC and NSPW.<sup>89</sup>

Yet, the Applicants never provided PROMOD analyses in response to either request. Without PROMOD analyses to substantiate the claims regarding the “avoided reliability projects,” the Commission should not consider these “avoided costs” as the type of proven reliability benefits that the CPCN statute requires.<sup>90</sup>

**B. Projected facility overloads stem from unrealistic load growth assumptions.**

MISO argues that the Project provides reliability benefits insofar as it avoids NERC violations on a variety of facilities.<sup>91</sup> According to MISO, a laundry list of currently existing facilities would overload, and therefore experience category B NERC violations, if not for the addition of the Project to the system.<sup>92</sup>

MISO’s identification of these facilities as candidates for NERC violations does not create a separate reliability benefit from the Project. The specific NERC violations that MISO identifies

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<sup>88</sup> *Id.*

<sup>89</sup> Commission Staff Data Request 5.05 (PSC Ref. # 206950).

<sup>90</sup> *See* Wis. Stat. § 196.491(3)(d)(3t).

<sup>91</sup> MISO’s Brief (PSC Ref. # 230707), pp. 6–7.

<sup>92</sup> *See id.* The facilities MISO identifies are: the Werner–Rocky Run 345 kV line; the North La Crosse–Mayfair 161 kV line; the North La Crosse–La Crosse Tap 161 kV line; Seneca–Genoa 161 kV line; the Hydro Lane 161/115 kV transformer; the Arpin 345/138 kV transformer; and the Adams 345 / 161 kV transformer.

in these facilities stem from overload – and overload stems from load growth. As previously discussed, the Applicants have failed to prove that peak load will be growing in the near or distant future. There is no more reason to ascribe weight to MISO’s warning about NERC violations in these substations than there is to ascribe weight to the Applicants’ warning about an overload of the entire La Crosse/Winona area.

#### **IV. The Project Does Not Provide Public Policy Benefits that Justify its Costs.**

The Applicants argue that the Project provides public policy benefits by (1) increasing transfer capacity as to allow the import of wind power from the west, which in turn will (2) encourage the purchase of cheaper renewable energy in Wisconsin.<sup>93</sup>

But access does not automatically lead to use. There is no support in the record for the proposition that creating access to wind power from the west will translate into providing Wisconsin ratepayers with cheaper renewable energy. The record is entirely devoid of evidence showing that, once access is created, the so-called low-cost wind energy has any prospect of actually increasing the use of renewables or lowering the cost of energy in the Wisconsin market.

Perhaps Clean Energy Intervenors (“CEI”) witness Michael Goggin summarize the Project’s effect on the import of wind energy the best: “[The Project] is needed to *allow* greater amounts of low-cost wind energy resources to reach consumers in Wisconsin and the region.”<sup>94</sup> As far as the record shows, if built, the Project may end up as a “bridge to nowhere”: an access point to wind power that is neither developed nor consumed.

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<sup>93</sup> Applicants’ Brief (PSC Ref. # 230721), p. 1.

<sup>94</sup> Direct-CEI-Goggin (PSC Ref. # 224567), p. 1.

**A. There is no evidence that increasing access to out-of-state wind resources will spur the development or the interconnection of any such wind resources.**

CEI argues that the Project will enable the importing of wind power because, according to CEI, “[t]here is a large amount of wind generation operating under temporary generation interconnection agreements and at least 1,250 megawatts of new wind generation in the MISO queue that is ready to interconnect.”<sup>95</sup> CEI also argues that there is an additional 4,900 megawatts of new wind generation capacity in the MISO queue whose development would be triggered by the Project and the access it would bring to those resources.<sup>96</sup>

However, as William Powers noted in this pre-filed testimony, there is little reason to believe that those wind projects will actually be developed to the extent suggested by CEI. First, the fact that 4,900 megawatts of wind resources are in MISO’s queue is not particularly informative of what this particular project would do: MISO’s footprint reaches into thirteen states,<sup>97</sup> and the Applicants’ proposed benefit of importing wind energy is limited to energy from Iowa and Minnesota.<sup>98</sup> Second, in those two states, the combined amount of new wind capacity built between 2013 and 2014 was a meager 91 megawatts – a far cry of either the 1,250 megawatts figure or the 4,900 megawatts figure CEI cites.<sup>99</sup> Third, historically speaking, only about 11 percent of MISO interconnection requests have resulted in actual operational capacity.<sup>100</sup>

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<sup>95</sup> CEI Initial Post Hearing Brief [hereafter “CEI Brief”] (PSC Ref. # 231070), p. 3.

<sup>96</sup> *Id.* at 4.

<sup>97</sup> Those states are Illinois, Indiana, Iowa, Manitoba, Michigan, Minnesota, Missouri, Montana, Ohio, Nebraska, North Dakota, South Dakota, and Wisconsin.

<sup>98</sup> Surrebuttal-CETF/SOUL-Powers (PSC Ref. # 226781), p. 3.

<sup>99</sup> Direct-CETF/SOUL-Powers (Revised) (PSC Ref. # 229030), pp. 37–38. Iowa’s development was of 43 megawatts; Minnesota’s development was of 48 megawatts. *Id.*

<sup>100</sup> *Id.* at 32.

**B. There is no evidence that increasing access to out-of-state wind resources will spur the purchase of wind power.**

1. *There is no evidence in the record suggesting that the Wisconsin market is interested in purchasing wind power from the west.*

Even if the Applicants had demonstrated that building the Project would encourage wind generation, the record is entirely devoid of evidence that anyone in the Wisconsin market is actually interested in purchasing the resulting wind power. Neither the Applicants nor CEI have provided any evidence showing that the Wisconsin market would use any existing or new wind power from the west.

Neither the Applicants nor CEI have introduced evidence or arguments that Wisconsin utilities, wholesale customers or retail customers would actually purchase wind power from the west. Neither party has submitted any surveys showing that Wisconsin retail ratepayers have any interest in making renewable energy purchases from out of state. And neither party has submitted contracts or other evidence from stakeholders showing any renewable energy purchases they would make as a result of the Project. Unsurprisingly, not a single one of the utilities supporting the application and vying for ownership of the Project have expressed an interest in this docket for buying such wind power – despite having ample opportunity to do so.<sup>101</sup>

2. *The evidence in the record suggests that Wisconsin utilities and ratepayers will have little incentive to purchase wind power from the west.*

The evidence in the record actually indicates that participants in the Wisconsin market have little incentive to purchase the wind power that the Applicants present as a public policy benefit.

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<sup>101</sup> See, e.g., Initial Brief of SMMPA Wisconsin, LLC in Support of Joint Application (PSC Ref. # 230703), p. 2 (limiting discussion of public policy benefits to general terms); DPC's Initial Brief (PSC Ref. # 230708), p. 2 (same).



Witnesses confirmed that Wisconsin has reached its RPS requirements; other witnesses confirmed that Iowa has done the same, and Minnesota is about halfway to its target.<sup>102</sup> And witnesses confirmed that the meeting of RPS requirements eliminates a pivotal incentive for the purchase of wind power.<sup>103</sup>

The Commission need look no further than the Applicants' position on RPS requirements being met to determine that wind-derived public policy benefits in this case are nothing but speculation. Despite admitting that relevant RPS requirements have been met, and despite conceding that meeting RPS requirements is a major driver for the purchase of wind power, the Applicants insist that utilities "could ... procure additional renewable resources in the future" should Wisconsin *increase* its RPS requirements. While not impossible, this scenario is completely hypothetical: there is no evidence in the record to suggest an increase in RPS requirements. Notably, the same is true of an increase in similar federal requirements.<sup>104</sup>

**C. There is no evidence that purchasing out-of-state wind resources will benefit Wisconsin ratepayers or the Wisconsin market.**

Nothing in the record substantiates that renewable energy import can significantly lower cost of renewable energy purchases for Wisconsin ratepayers. The Applicants' only account of savings associated with renewable energy are RIB calculations. Those calculations do not show more than 3 to 5 cents of savings per ratepayer per month under higher than current slow growth conditions. Accordingly, there is little reason to believe that Wisconsin ratepayers will benefit

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<sup>102</sup> Tr. vol. 9 (PSC Ref. # 230600), pp. 50 – 52.

<sup>103</sup> *Id.* at 52–55; Tr. vol. 8 (PSC Ref. # 230598), pp. 158–159.

<sup>104</sup> *See generally* Ex.-CETF/SOUL-Lanzalotta-5 (PSC Ref. # 226777) (no mention of new EPA requirements in the Strategic Energy Assessment).

financially from purchasing wind power from the west as opposed to investing in in-state renewable resources and alternatives.

## CONCLUSION

The question posed to Mr. Lanzalotta provides ratepayers of Wisconsin with very easy to understand and prudent investment advice:

Q. Given your analysis of the costs and benefits of this proposal, the timing of this proposal and the fact that utilities have announced interests in additional, potentially connected high capacity transmission systems in Wisconsin, could this be a particularly pivotal energy decision for the state?

A. I think it is reasonable to infer that the decision will be unusually influential. Given the slow and/or negative growth conditions, and the rising interest in distributed solar and accelerated energy efficiency, should the ratepayers and the PSC not be ready to move forward with full confidence, a wise investor would probably pause at least a few years to see which trends truly develop.<sup>105</sup>

For the foregoing reasons, the Commission should deny the Applicants a CPCN.

Dated February 13, 2015.

Respectfully submitted,

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<sup>105</sup> Direct-CETF/SOUL-Lanzalotta (Revised) (PSC Ref. # 229027), p. 22.