

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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

Docket No. 05-CE-142

PETITION FOR REHEARING

Segment A Landowners¹ (hereinafter “Segment A Landowners”), submit this Petition for Rehearing as provided by Wisconsin Statute §229.49 and §227.42(1)(c), and request that the Commission reconsider its determinations regarding the findings required by Wis. Stat. §196.491; Wis. Stat. § 1.11 and Wis. Admin. Code § PSC 4.30, and to reconsider its Final Order of April 23, 2015, which granted a Certificate of Public Convenience and Necessity and established a route for the Badger Coulee transmission project. Segment A Landowners request that Segment A be rejected for the Authorized Project Route, and in the alternative, that if Segment A is used, that it be underground.

Petitioners Segment A Landowners are landowners directly affected by the Commission’s choice of Segment A for the route of this transmission project. As such, the Segment A Landowners are aggrieved parties with standing to submit a Petition for Rehearing under Wis. Stat. §229.49. The Commission has made material errors of law and material errors of fact in its Final Order.

¹ Segment A Landowners are Chris Moon, Mary Keohane, Sean Keohane, Jeff White, Julie Hamilton, Thomas Hamilton, Mike Forslund, Sarah Forslund, Christine Cannon, Ted Cannon, Barry Fermanich, Sheri Fermanich, Mary Brown-Satterlund, Nicol Feyrer, Brian Feyrer, Cheryl Lubben, Jeremy Lubben, Sean O’Sullivan, Dawn Holt, Kim Lowe, Jim Lowe, Katie Denzin, Kim Upton, Dave Upton, Andy Lushaj, Entela Lushaj, Bujar Jonuzi, Nexhmi Jonuzi, Michael Kauper, Julie Kauper.

I. INTRODUCTION

A fundamental problem in the Commission's Order is that impacts to Segment A are not adequately addressed. Impacts trigger a choice of "avoidance, mitigation, or compensation for unavoidable unmitigated impacts." The Commission chose Segment A, and did not avoid this route. If the impacts were acknowledged, and if mitigation of impacts is proposed, the mitigation does not adequately address the impacts, and where impacts are not adequately mitigation, there is no plan of compensation for these unmitigated impacts.

Routing on Segment A has higher impacts than routing on Segment B – this is reflected in the record, from the Application, to the FEIS, to Comments, to Testimony. When looked at in combination with totality of the 154-187 mile route, there is no reasonable factual or legal basis for routing along Segment A.

II. CRITERIA AND PROCEDURAL POSTURE

The Prehearing Memorandum framed the issues for hearing very broadly and sets out the statutory criteria for the Commission to use as the basis for its decision:

Does the proposed project comply with the applicable standards under Wis. Stat. §§ 1.11, 1.12, 196.025, 196.49, and 196.491, and Wis. Admin. Code chs. PSC 4, and PSC 111?²

The Application was refined through extensive Commission staff data requests and review. There were pre-application open houses held by the Applicants, DEIS comment sessions and public hearings held across the length of the proposed route, many intervenors, including many supporting the project for various reasons, and a week long technical hearing. Briefing proceeded on a compressed schedule, and the Commission met, made its decision, and issued its Order on April 23, 2015.

This Petition is a timely request for rehearing of this decision. Based on the record of the

² See Prehearing Memorandum, p. 2, [ERF#: 213409](#).

technical hearing, public comments, and the Environmental Impact Statement, Segment A is the wrong choice and not supported in the record. In granting the Certificate of Public Convenience and Necessity, while the criteria found in the statutes and code is listed, the Order often misstates or misconstrues the evidence in the record, or the Order citation contradicts the record. Because of the impacts set out in the record, and because of the Commission's abject failure to mitigate the impacts, Segment A should have been avoided.

III. THE COMMISSION'S SELECTION OF SEGMENT A IS AN ERROR OF FACT AND LAW

The fundamental error of the Commission's Order is that impacts of Segment A are not adequately stated or addressed, and in making its decision, the Commission considered only a narrow sliver of impacts. Impacts trigger a choice of avoidance, mitigation, or compensation for unavoidable unmitigated impacts. The Commission chose Segment A. In making this choice, the Commission did not avoid Segment A in routing, and impacts were for the most part not even acknowledged. For impacts that were acknowledged, most received no attempt at mitigation. Where mitigation of impacts is proposed, the mitigation does not adequately address the impacts. The Commission admits that many impacts are not addressed. Where impacts are not adequate, there is no plan of compensation for these unmitigated impacts.

The Commission's Order states:

The applicants identified a preferred route consisting of Segments P with P-east, N, M, K, H with H6-north, G, E, D, and A.⁵⁰ This route combination utilizes existing high-priority corridors to a much greater extent than alternative route combinations.⁵¹ The route combination is 91 percent within existing ROW by length and 62 percent within shared ROW by area. (See, e.g., [PSC REF#: 229699](#) at 5.) As such, it impacts fewer acres of new ROW, crosses less agricultural land, and impacts fewer residences.⁵² The Commission finds that Segments P with P-east, N, M, K, H with H6-north, G, E, D, and A with the modifications described in this Final Decision avoid adverse impacts to the environment and private properties and comprise the most reasonable route.

Order, p. 23. The segment by segment comparison is sparse, with only a few topics of focus:

Town of Springfield to Cardinal Substation

Segments A and B begin north of Middleton, southeast of the intersection of Riles and Ripp Roads, and end at the Cardinal Substation. (*Id.* at 357.) Segment A shares ROW with an existing 138 kV electric transmission line (13875) for much of its 4.6 mile length. (*Id.* at 357-58.) Segment B is located approximately 1.5 miles west of Segment A and would be just over 7.0 miles long. (*Id.* at 358-59.) Segment B is primarily a cross-country route that extends into the Cardinal Substation via either alternative Segments B-north or B-south. (*Id.*) Alternative Segment B-north travels east along new transmission ROW until intersecting with Segment A for the remainder of the segment. (*Id.*) Alternative Segment B-south continues south and then turns east along an existing lower-voltage transmission line (6927), before ending at the Cardinal Substation. (*Id.*)

Order, p. 23 (the “Id” referred to is the EIS, [PSC REF#: 223845](#)).

A. Segment A homeowners have more severe proximity impacts than found for Segment B.

The Commission Order erred when it stated there are fewer impacts on residences along Segment A than on Segment B and declared Segment A part of its Authorized Project Route:

Authorized Project Route

The applicants identified a preferred route consisting of Segments P with P-east, N, M, K, H with H6-north, G, E, D, and A.⁵⁰ This route combination utilizes existing high-priority corridors to a much greater extent than alternative route combinations.⁵¹ The route combination is 91 percent within existing ROW by length and 62 percent within shared ROW by area. (*See, e.g.*, [PSC REF#: 229699](#) at 5.) As such, it impacts fewer acres of new ROW, crosses less agricultural land, and impacts fewer residences.⁵² The Commission finds that Segments P with P-east, N, M, K, H with H6-north, G, E, D, and A with the modifications described in this Final Decision avoid adverse impacts to the environment and private properties and comprise the most reasonable route.

Order, p. 23 (citing [PSC REF#: 229699](#) at 5, a chart not reflecting these considerations). The order also refers to the FEIS “analysis” of Segment A, but that “analysis” is just two pages long. See FEIS, [PSC REF#: 223845](#) at 388-98. Only two pages in this page range relate to Segment A. *Id.*, p. 397-398 This is not a reasonable interpretation of the evidence in the record, nor is it reasonable to base this decision on just two pages of narrow tallying.

The number of homes in close proximity to the transmission line, at 51 – 100 feet, is greater for Segment A than Segment B, a much more extreme impact than if located further away. Because the distance categories are not set up to show homes within proposed Right of Way boundary, we cannot tell how many homes would be within the Right of Way, but the FEIS reports 3 homes within 100 feet of the proposed centerline; and a total of 4 homes within 150 feet of the centerline.

Table 11.3-1 Number of homes within 300 feet of the proposed centerline

Segment Combinations	Distance from Proposed Centerline				Total
	0-50 feet	51- 100 feet	101-150 feet	151-300 feet	
A		3	1	4	8
B and B-south		1	1	8	10
B and B-north			2	10	12

FEIS, p. 379.

For Segment B and B-south, there is one home within 100 feet and a total of two homes within 150 feet. For Segment B and B-north, there are no homes within 100 feet and 2 homes within 150 feet.

Living in a home between 51 and 100 feet of a 345 kV transmission line is a significant impact. One homeowner very close to the proposed centerline is David Salmon, who filed a public comment regarding proximity to the line, where he states that:

Its presence in my front yard, the ROW 10 feet from my front door, will most certainly decrease my property value and even worse, deem my home unsellable.

Salmon Comment, [PSC REF#: 229245](#).

Another landowner was not notified of the pending transmission line when his family purchased the home, and the closed on the house in August 2014. Public Comment of Lubben, Tr. Vol. 1, p. 43-52. “In summary, residential property owners will experience the greatest visual impact associated with the new transmission line on Segment A.” FEIS, p. 380.

The Commission must reconsider its Order and correct its findings regarding relative impacts on residences along Segment A and Segment B. The Commission should remove Segment A from consideration, and in the alternative, underground Segment A.

B. Corridor Distance and Utilization of Existing Corridor

The Commission’s Order selects an “Authorized Project Route” based solely upon RoW length and “shared RoW by area.” This is too broad a view, without consideration of the specific qualities of the impacts. The Order for the **Authorized Project Route** states:

The applicants identified a preferred route consisting of Segments P with P-east, N, M, K, H with H6-north, G, E, D, and A.⁵⁰ This route combination utilizes existing high-priority corridors to a much greater extent than alternative route combinations.⁵¹ The route combination is 91 percent within existing ROW by length and 62 percent within shared ROW by area. (See, e.g., [PSC REF#: 229699](#) at 5.) As such, it impacts fewer acres of new ROW, crosses less agricultural land, and impacts fewer residences.⁵² The Commission finds that Segments P with P-east, N, M, K, H with H6-north, G, E, D, and A with the modifications described in this Final Decision avoid adverse impacts to the environment and private properties and comprise the most reasonable route.

Order, p. 23. Footnote 52 is misleading. “[PSC REF#: 223845](#) at 402” is a project cost chart:

Table 12.3-1 Total project costs for four possible project route alternatives

	Project Route Alternative (not all possible combinations are shown)			
	Segments P with P-west, N, M, K, J, H, G, E, D, A	Segments P with P-east, N, M, K, J, H, G, E, D, A	Segments O, M, L, J, I, G, F, C, B with B-north	Segments O, M, L, J, I, G, F, C, B with B-south
Transmission Line Costs				
Briggs Road Substation to just north of Lyndon Station	\$311,160,000	\$308,640,000	\$254,340,000	\$254,340,000
Just north of Lyndon Station to the Wisconsin Dells	\$19,200,000	\$19,200,000	\$19,690,000	\$19,690,000
Wisconsin Dells to the town of Caledonia, Columbia County	\$61,230,000	\$61,230,000	\$72,580,000	\$72,580,000
Town of Caledonia to the North Madison Substation	\$39,330,000	\$39,330,000	\$47,910,000	\$47,910,000
North Madison Substation to the town of Springfield	\$47,070,000	\$47,070,000	\$43,460,000	\$43,460,000
Town of Springfield to the Cardinal Substation	\$17,340,000	\$17,340,000	\$21,900,000	\$22,090,000
Subtotal Transmission Line Costs	\$495,330,000	\$492,810,000	\$459,880,000	\$460,070,000
Substation Costs				
Briggs Road Substation	\$7,300,000	\$6,470,000	\$6,470,000	\$6,470,000
North Madison Substation	\$7,990,000	\$7,990,000	\$7,990,000	\$7,990,000
Cardinal Substation	\$3,990,000	\$3,990,000	\$3,990,000	\$3,990,000
Subtotal Substation Costs	\$19,280,000	\$18,450,000	\$18,450,000	\$18,450,000
Subtotal Transmission Line and Substation Costs	\$514,610,000	\$511,260,000	\$478,330,000	\$478,520,000
Calculation of Amounts Subject to Impact Fees				
Subtotal Transmission Line and Substation Costs	\$514,610,000	\$511,260,000	\$478,330,000	\$478,520,000
Less costs not subject to impact fees ²⁴	\$107,050,000	\$105,420,000	\$96,210,000	\$96,120,000
Subtotal Costs Subject to Impact Fees	\$407,560,000	\$405,840,000	\$382,120,000	\$382,400,000
Other Project Costs				
One-time 5.0% Environmental Impact Fee	\$20,378,000	\$20,292,000	\$19,106,000	\$19,120,000
Annual 0.3% Impact Fee (Calculated During 2-Year Construction Period Only)	\$2,445,400	\$2,435,000	\$2,292,700	\$2,294,400
Allowance for Funds Used During Construction	\$27,256,000	\$27,098,000	\$24,688,000	\$24,688,000
Pre-certification Costs	\$15,100,000	\$15,100,000	\$15,100,000	\$15,100,000
Subtotal Other Project Costs	\$65,179,400	\$64,925,000	\$61,186,700	\$61,202,400
Total Project Cost	\$579,789,400	\$576,185,000	\$539,516,700	\$539,722,400

This cost chart has nothing to do with the Commission’s finding that “it impacts fewer acres of new ROW, crosses less agricultural land, and impacts fewer residences.”

The second citation is [PSC REF#: 229699](#) at 5, which is a citation to Applicant Parret Direct, Table 1, which is a route summary chart which does not distinguish between the various route options and their impacts:

Table 1: Route Summaries											Residences within 300' of ROW Centerline	
Route	Length (miles)	% Shared ROW by Length	% Shared ROW by Area	Agricultural Land Use (acres) ¹	Prairie/Grassland (acres)	Non-Forested Wetland (acres)	Forested Wetland (acres)	Wetland (non-Forested + Forested) (acres)	Upland Woodland (acres)	Developed /Urban (acres) ²	Homes	Apartment Buildings
Northern Route	181.7	91%	62%	712.8	719.1	267.3	133.5	400.8	571.4	222.3	185	2
Northern Route with P-East	181.0	91%	62%	687.6	728.4	267.3	133.5	400.8	575.8	219.4	172	11
Southern Route	159.5	59%	35%	863.6	500.5	239.6	71.4	311	576.1	201.9	226	59
Southern Route with B-North	159.3	58%	35%	859.5	502.1	241.3	70.6	311.9	577	200.7	228	59
Northern Route Segments ³ + Segment O	154.4	71%	40%	863.6	582.2	174.9	71.8	246.7	521.0	158.7	190	59

The Order goes on to say that:

The Commission finds that Segments P with P-east, N, M, K, H with H6-north, G, E, D, and A with the modifications described in this Final Decision avoid adverse impacts to the environment and private properties and comprise the most reasonable route.

Order, p. 23. The Commission’s finding is not supported by the evidence to which it has cited.

Both segments A and B have existing corridor and linear infrastructure to utilize. Although the “Northern Route” has been indicated as the preferred route, the Applicants expressed a willingness to choose a more expensive and longer route in order to balance various impacts and interests involved. Applicant Initial Brief, p. 6. The Commissioners may choose any combination of segments and routes. Applicants’ brief states, “...routing intersections allow for the selection of different combinations of segments to obtain a complete route...” Applicant

Initial Brief, p.3. Choosing the preferred Northern Route need not necessarily include Segment A – instead, Segment B should be utilized.

Both Segment A, at 4.6 miles, and Segment B, at 7.4 miles, are a very short part of the preferred route of 182 miles. The difference between Segment A and Segment B is only 1.5% of the length of the entire project. Application, p. 40-41. Consideration of whether one route Segment or another is or is not “in the public interest” requires taking a high level view, where the 7.4 miles of Segment B and the 4.6 miles of Segment A should be incorporated and analyzed, in consideration of the 159-182 miles of the full route.. A few miles difference over 159-182 miles is not determinative in making a decision on route.

The Commission should reconsider its Order of Segment A as part of the Authorized Project Route based upon RoW length and “shared RoW by area,” and instead look at the specific nature of the impacts. Segment A should not be part of the Authorized Project Route.

C. Badger Coulee Should Take Advantage Of Corridor Sharing Contemplated With The Other Half Of MISO MVP 5

The Commission’s Order mentions MISO MVP portfolio, and Badger-Coulee specifically as a MISO MVP project, but does not address the fact that Badger-Coulee is one-half of MVP 5, the other part being the Cardinal – Hickory Creek line:

In its transmission expansion planning analyses, MISO found that the Badger-Coulee project will be needed to ensure the continued reliable operation of the regional transmission system, including the ATC and NSPW transmission systems, while meeting the renewable energy mandates of states located within the MISO footprint. (See [PSC REF#: 224234](#) at 20r.) In addition, MISO’s analyses show that its Multi-Value Project (MVP) portfolio of transmission projects, which includes the Badger-Coulee project, will provide additional connectivity across the grid, reducing congestion and enabling access to a broader array of generation resources to serve load in Wisconsin. (See *id.*) According to MISO, the MVP portfolio will increase market efficiency and competitive energy supply, and will provide opportunities for economic benefits to retail electric consumers. (See *id.*)

Order, p. 12.

The CPCN criteria has a hierarchical ordering of route choices which favors corridor sharing. Wis. Stat. §1.12(6)(a). Corridor sharing could best be utilized on Segment B with the other part of MISO MVP 5, the Cardinal – Hickory Creek line, because they are similar 345 kV extra-high voltage transmission lines moving from the same westerly direction into the same Cardinal substation in Middleton. These projects are directly connected. See Rauch Ex. 1, MISO MVP Portfolio January 12, p. 27-28. This corridor utilization would be a statutory preference, and a choice in the public interest, under the Wisconsin hierarchy for routing, and would utilize an existing ROW and roadway, one compatible with the planned MISO MVP 5.

The MISO MVP Chart and Map lists MVP 5, comprised of this Badger Coulee and the planned Cardinal-Hickory Creek³ lines, as one project, showing that these projects are interconnected in planning and literally interconnected at the Cardinal substation in Middleton. Rauch Ex. 1, MISO MVP Portfolio January 12, p. 27-28. Applicants’ Henn confirms this interconnected nature of the projects, and states that the interconnectivity is a very important benefit of these projects. Henn, Tr. Vol. 8, p. 59-60. A comparison of the Badger Coulee MVP rough map with that of the Dubuque (Hickory Creek)-Spring Green-Cardinal - project, yellow on the maps below:

Badger Coulee - North La Crosse to Cardinal

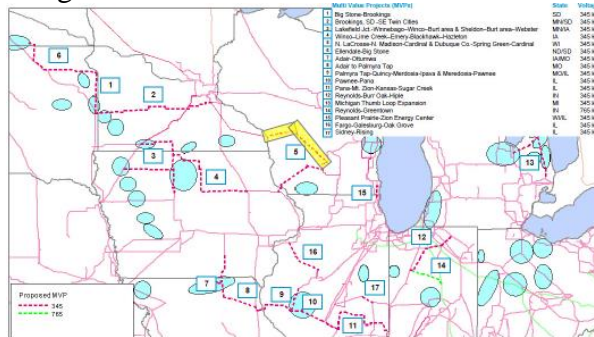


Figure 5.5: North LaCrosse to North Madison to Cardinal

Dubuque (Hickory Creek) to Cardinal

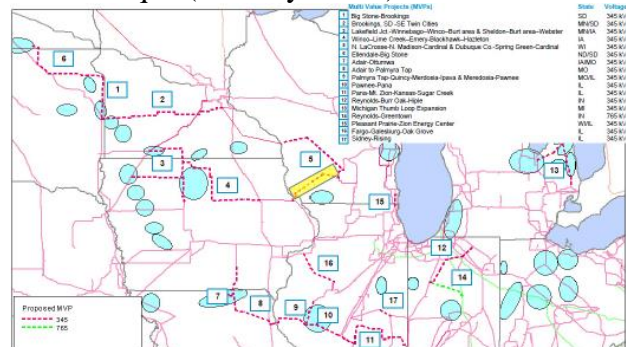


Figure 5.6: Dubuque to Spring Green to Cardinal

Rauch Ex. 1, MISO MVP Portfolio January 12, p. 27-28; see also Kunze 5 for study area.

³ See <http://www.cardinal-hickorycreek.com/>

As shown in these maps, both project routes approach the Cardinal substation from the west to connect these two lines to the Cardinal substation. *Id.*; see also Testimony of Ludtke, Vol. 10, p. 193, l. 5-9. The Town of Middleton expressed concern about the impact of these two projects on the town in testimony, and also noted the interconnectedness – the Town of Middleton has requested that the impacts of each of the transmission lines, and transmission lines collectively be recognized. See Ludtke Direct, p. 4, p. 3. This statutorily preferred connected corridor for Badger Coulee would be to use Segment B, and use the section which runs 1.875 miles west from the Cardinal Substation for both MVP 5 routes. *Id.*, see also FEIS, Vol. 2, 1.48.

Applicant testimony apparently agreed with colocation:

Q: So in other words, would you agree that it would make sense to impact one area when looking to share a line rather than impacting two separate lines needlessly?

A: Yes.

Hann, Tr. Vol. 8, p. 61, l. 13-17.

It is my opinion that Route B makes more sense from an overall project perspective, considering that links up with another proposed section of the line.

Public Comment of Lubben, Vol. 1, p. 51.

This 1.875 mile stretch shared by Badger-Coulee and Cardinal-Hickory would be a shared impact area, eliminating the need to impact lands further east on Segment A, only to double back and go west. Sharing that 1.875 miles of ROW would cut down not only the distance of Segment B through route sharing, but it would also decrease the corresponding construction costs and the one-time and annual Environmental Impact Fees for that area over the course of the two projects, Badger Coulee and Cardinal-Hickory Creek.⁴⁴

⁴⁴ This decrease should have been calculated and shown in the cost of Segments B-North and B-South, but was not.

Despite any efforts to co-locate, the impacts on the Town of Middleton will be extensive, and as the town notes, existing mechanisms such as shared revenue utility payment and impact fees will not adequately compensate the Town for the cumulative impacts of these transmission lines. See Ludtke Direct, p. 9; See also Town of Middleton Decision Matrix. Compensation for unavoidable impacts will be addressed further below.

IV. THE COMMISSION FAILED TO DETERMINE BENEFITS ATTRIBUTABLE TO THE BADGER-COULEE PROJECT AND TO WISCONSIN RATEPAYERS.

The Commission erred in its Order finding that the Applicants' economic analysis of benefits sufficient:

Opposing intervenors also criticize the applicants for not quantifying the projected net benefits of the project in terms of a per-retail-customer economic benefit, and for not providing guarantees of the magnitude of the benefit.³⁵ Calculation of a per-retail-customer economic benefit would require a complex analysis of many individual transmission customers' allocation of costs to retail customers and rate classes, considering each local distribution company's (LDC) individual rate structure. The proposed project is anticipated to provide economic benefits to transmission customers as a whole, which in turn will be passed along to transmission customers and subsequently retail customers. As such, the Commission finds the intervenors' criticism as misleading, inaccurate, and unnecessary.

The Commission is persuaded that applicants' economic analysis is robust and more than sufficient for purposes of this proceeding.

However, this is misleading, because Wisconsin law requires a cost benefit analysis of any project before the Commission, and that cost benefit analysis has not been completed:

For a high-voltage transmission line that is designed for operation at a nominal voltage of 345 kilovolts or more, the high-voltage transmission line provides usage, service or increased regional reliability benefits to the wholesale and retail customers or members in this state and the benefits of the high-voltage transmission line are reasonable in relation to the cost of the high-voltage transmission line.

The Applicants were only able to confirm the aggregate benefit, as purported by MISO, and did not identify or disclose the retail benefit to the ratepayer. Hodgson, Tr. Vol. 8, p 205:7-

15,21-24, p. 209:9-17.⁵

Applicants’ Henn confirms this interconnected nature of the projects, and states that the interconnectivity provides a very important benefit of these projects. Henn, Tr. Vol. 8, p. 59-60. The MISO MVP projects are not only interconnected, but to provide the benefits, all 17 of the projects are presumed built, thus any benefits are not attributable to one project or another, such as Badger-Coulee, but are collective benefits, attributable to all projects, and distributed among all recipients. The benefits claimed are wide ranging, many indirect.

The primary benefit of this MVP 17 project build-out is to add to the transmission web, providing needed outlet from La Crosse and to ship electricity via market dispatch from where there is a surplus and lower cost electricity to where there is a market with higher prices. See Rauch, Ex. 1, MVP Portfolio, p. 27-28, [ERF 218120](#). The MVP 17 project Portfolio includes a number of drivers, but look at a side by side of the two benefit claims in the record⁶ (increased benefits in grey):

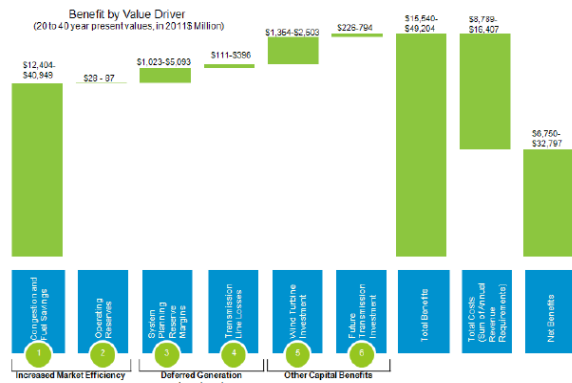


Figure 8-1: Recommended MVP portfolio economic benefits

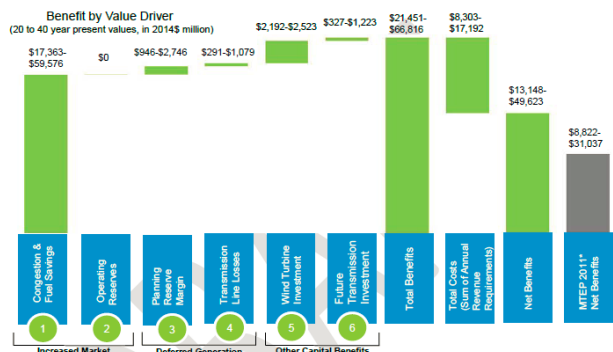


Figure E-1: MVP Portfolio Economic Benefits from MTEP14 MVP Triennial Review

For example, the initial MISO Midwest Transmission Expansion Plan (MTEP) benefits chart shows “Wind Turbine Investment” as a benefit of \$1.3 – 2.5 billion over 20-40 years, and

⁵ See also Henn, Tr. Vol. 8, p12:22-25, p13:1-25, p14:1-7; p. 17:12-25; p. 18:1-4, p 63:8-12; Burmester, Vol. 8, p125:15-17; Rauch, Tr. Vol. 9, p29:6-9, p. 32:18-22; PSC-Weiss-1, 4.5.11.1, p. 107.

⁶ MISO Rauch Ex. 1, MISO Portfolio 2012 [ERF 218120](#) & Ex. 3 MVP Triennial Review Report 2014 [ERF 218122](#).

\$2.1 - \$2.5 billion in the Triennial Review, an indirect benefit. The benefits claim also shows no calculation of potential negative repercussions to development of wind in the target markets such as Illinois or Indiana which have extensive wind development. “Fuel savings” is the lion’s share of claimed savings, at \$12.4 - \$40.9 billion and \$17.3 – 59.5 billion in the Triennial Review. These numbers are not supported because there is no evidence in the record that coal or gas consumption would go down, only claims that renewable generation would increase. The initial range of benefits, from \$8.8 billion - \$31 billion, and the Triennial Review \$13.1 - \$49 billion, when figured over 20 – 40 years, results in nominal annual net benefits.

The Draft MVP Triennial Review, without evidence, states that:

- Benefit increases are primarily congestion and fuel savings largely driven by natural gas price assumptions.
- The bulk of the increase in benefits is due to an increase in the assumed natural gas price forecast in MTEP14 compared to MTEP11.
- The increase in congestion and fuel savings benefits relative to MTEP11 is primarily due to an increase in the out-year natural gas price forecast assumptions (Figures E-2). The increased escalation rate causes the assumed natural gas price to be higher in MTEP14 compared to MTEP11 in years 2023 and 2028 - the two years from which the congestion and fuel savings results are based (Figure E-2).⁷

Without verification or analysis of these claims, the Commission accepts these “benefits” of the Badger-Coulee project.⁸ The original MTEP numbers and the material increases in “benefits” in the Triennial Review are wholly speculative, and not reasonable speculation at that – the red line of MTEP 14’s “forecast,” particularly considered in light of the MTEP 11 and MTEP 15 trends surrounding MTEP 15 in time:⁹

The statute requires consideration of the retail benefit, and the Commission claims, without verification or analysis, that the project will provide retail benefits. Order, p. 12.

⁷ Rauch Ex. 3, MVP Triennial Report, p. 2,4-5, [ERF 218122](#).

⁸ Order p. 8, 10, 12-14, 16-19; see also PSC Neumeyer Direct, p. 2, l. 16 [ERF 224603](#).

⁹ Id., p. 6, see also Application, App. D, Table E6: Natural Gas Prices, p. 219 [ERF 204739](#).

Without identification of the retail benefit, the Commission's Order is not credible.

The Commission further errs in its assumption, unsubstantiated, that benefits will trickle down to retail level, even though no estimate, range or other figure was assigned as a retail benefit in the course of the hearing. Order, p. 14. The FEIS statement regarding socio-economic costs and benefits was an admission of failure to quantify:

While socio-economic impacts are discussed in this EIS, a comprehensive socio-economic study quantifying those impacts was not completed due to a lack of available data and time constraints.

FEIS Appendices, pdf p. 544 of 638 (pages not numbered). Lack of available data and time constraints do not relieve the Commission of its statutory obligation.

Using available figures, if the low end of Projected Net Benefit were \$118, and that is divided by 40 years of project lifetime, and again divided by the 2.9 million Wisconsin ratepayers, there is a potential benefit of \$1.02 per year per ratepayer, before subtracting any distribution tariffs. Potentially, this project could operate as a loss. Because the Applicants have not disclosed calculations under those tariff rates, because PSC staff abdicated responsible due to "lack of available data and time constraints," we don't even know how high the net benefit would have to be to reach a break-even point – and logically, the low end would be a loss. While the statute gives the utility the right to recover losses, the statute does not protect the retail ratepayer against losses. WI Stat 196.487(3).

The Commission fails to comply with Wisconsin statute when it has not quantified benefits and apportion out Wisconsin's share of the MVP benefits, and where it has not determined the benefit to individual Wisconsin ratepayers.

V. THE COMMISSION FAILED TO ADDRESS COSTS TO WISCONSIN RATEPAYERS

The Commission's Order notes that if indirect costs were considered, it would also have

to consider indirect benefits. However, with indirect benefits, indirect costs must be considered.

First, the Commission’s Order states that costs are based on 2018 “dollars”

The applicants’ estimated cost of the proposed project is between \$540 million and \$580 million, depending on the route chosen. (*Id.* at 40.) The applicants’ estimated cost does not include modifications to the proposed project identified during the Commission’s review and required by this Final Decision. The estimated costs are based on 2018 dollars, the projected in-service year for the proposed project, and include transmission line, substation, existing transmission and distribution line relocation and allowance for funds used during construction (AFUDC). (*Id.*)

Order, p. 10. The citation refers, through multiple “*Id.*” citations, to the Revised Application, page 40. While the chart does refer to costs being based on a 2018 in-service date, it does not claim that the costs are in 2018 dollars.

Table 4.1-1 – Total Project Cost Estimates

	Cost Categories	Proposed Route			
		Northern	Northern w/P-East	Southern	Southern w/B-North
Biggs Road to North Madison Transmission Line	Material	16,040,000	115,190,000	100,360,000	100,360,000
	Construction Labor	212,230,000	211,560,000	194,810,000	194,810,000
	Real Estate	47,470,000	47,100,000	48,780,000	48,780,000
	Environmental	6,800,000	6,800,000	5,050,000	5,050,000
	Other Labor	46,790,000	46,710,000	41,790,000	41,790,000
	Distribution Modifications	1,600,000	1,050,000	3,720,000	3,720,000
	Subtotal	30,930,000	428,410,000	394,510,000	394,510,000
North Madison to Cardinal Transmission Line	Material	18,680,000	18,680,000	17,590,000	17,420,000
	Construction Labor	30,240,000	30,240,000	29,960,000	29,660,000
	Real Estate	5,870,000	5,870,000	8,770,000	8,730,000
	Environmental	900,000	900,000	950,000	950,000
	Other Labor	6,910,000	6,910,000	7,480,000	7,470,000
	Distribution Modifications	1,800,000	1,800,000	810,000	1,140,000
	Subtotal	64,400,000	64,400,000	65,560,000	65,370,000
	Subtotal Line Costs	495,330,000	492,810,000	460,070,000	459,880,000
	Subtotal Substation Costs	19,280,000	18,450,000	18,450,000	18,450,000
	Subtotal Line and SS Cost	514,610,000	511,260,000	478,520,000	478,330,000
Other Project Costs	Precertification	15,100,000	15,100,000	15,100,000	15,100,000
	One-Time 5.0% Environmental Impact Fee	20,378,000	20,292,000	19,120,000	19,106,000
	Annual 0.3% Environmental Impact Fee (During Construction)	2,445,400	2,435,000	2,294,400	2,292,700
	AFUDC	27,256,000	27,098,000	27,688,000	24,688,000
	Subtotal Other Project Costs	65,179,400	64,925,000	61,202,400	61,186,700
	Total Project Cost	579,789,400	576,185,000	539,722,400	539,516,700

Line construction cost estimates for each route alternative broken down by segment are provided in Table 4.1-2 below. Costs are based on the projected in-service year (2018). These cost estimates are provided to allow discreet analysis by the Commission for transmission line siting purposes.

The highest cost in this chart is just under \$580 million dollars.

The Commission Order acknowledges the estimated 15% cost to Wisconsin ratepayers of the Badger Coulee project:

As part of MISO's MVP portfolio, [PSC REF#: 224234](#)³² MISO found that the Badger-Coulee project will provide reliability, economic and public policy benefits. (*See* at 9r.) As such, under MISO's cost sharing rules, the cost of the Badger-Coulee project will be shared across the MISO footprint with approximately 15 percent of the cost allocated to transmission customers in Wisconsin.³³

Order, p. 12.

However, despite its consideration of the indirect benefits of MISO's MVP projects, the Commission did not consider acknowledge that 15% of the costs of the entire MISO MVP Portfolio will be paid by Wisconsin ratepayers, not just 15% of the Badger-Coulee project. The MISO MVP projects will be a significant cost to Wisconsin ratepayers.

The rate recovery scheme for MISO MVP transmission has changed from a cost-based historical requirement that generators pay for necessary upgrades to a formulaic cost-apportionment scheme of return set across all MISO balancing authorities, proposed by MISO and then approved by FERC. Does the proposed project provide usage, service or increased regional reliability benefits to wholesale and retail customers in Wisconsin that are reasonable in relation to its cost? It's impossible to tell with this record. As with the claims of benefits to Wisconsin retail customers, the cost of the project and the cost to Wisconsin ratepayers, as a part of the MISO MVP Portfolio is not clear. Although Applicant witness Hodgson repeatedly cites "Schedule 26A" and "Attachment MM" multiple times, explaining cost allocation, neither is attached as an Exhibit or linked in his testimony¹⁰. MISO Schedule 26 is not in the record, nor is MISO Tariff Attachment MM or Attachment O, the primary rate recovery documents. Where

¹⁰ Applicants will reap a 12.38% rate of return, set in a MISO tariff and approved by FERC; see also MISO Tariff MM and Schedule 26A.

Applicants cannot commit to benefits to ratepayers, and where the Commission does not require production of information and does not analyze the rate recovery scheme, there is no basis for any cost/benefit comparison.

Applicants state the cost of the Badger Coulee project is \$540 -- \$580 million, for just this part of MVP 5¹¹. The Commission's Order states the cost is \$581 million in 2018 dollars, which is not reflected in any of the documents cited.¹²

VI. THE PROJECT AS PROPOSED WILL UNREASONABLY INTERFERE WITH ORDERLY LAND USE AND DEVELOPMENT PLANS FOR "SEGMENT A."

The Commission's Order, errs when it states:

The Commission recognizes that the proposed project, as with any major construction project, will create impacts on the land use and development plans of affected areas, but finds that the proposed project will not unreasonably interfere with the orderly land use and development plans of the project area. (*See, e.g.*, [PSC REF#: 229699](#) at 5.)

Order, p. 25.

Regarding the town of Middleton's request about the project and conflicts with orderly land use and development plans discussed above, the Commission finds that the project does not unreasonably conflict with these plans. (no citation) The applicants should, however, work with the town of Middleton and other local units of government to reasonably modify or mitigate any conflicts with current and planned developments.

Order, p. 38.

In making its findings, the Commission dismisses the testimony and evidence on the record, and makes its findings based on the statements of the Applicants:

The city of Onalaska, the town of Middleton, the town of Holland, Ms. Kunze, and some members of the public contend that the proposed project would be inconsistent with, and as a result unreasonably interfere with, land use and development plans in their communities.⁵⁶ The applicants state that they have taken into account public and stakeholder feedback and land use plans, and have worked and will continue to work to mitigate such impacts. (*See, e.g.*, [PSC REF#: 218103](#) at 3-7.) The

¹¹ Application, p. 4; see also Hodgson Direct, p. 4.

¹² Commission Order cites to [PSC REF#: 204860](#) at 40-42, [PSC REF#: 223845](#) at 402, [PSC REF#: 229967](#) Holtz-1(Revised).

Commission recognizes that the proposed project, as with any major construction project, will create impacts on the land use and development plans of affected areas, but finds that the proposed project will not unreasonably interfere with the orderly land use and development plans of the project area. (*See, e.g., PSC REF#: 229699* at 5.)

Order, p. 24-25. Again, the citation of “*PSC REF#: 229699* at 5” is not relevant.

Land Use Plans are a community’s statement of the public interest, of its priorities for development, the community’s vision. For a project to receive a Certificate of Public Convenience and Necessity, the Commission must determine that:

The proposed facility will not unreasonably interfere with the orderly land use and development plans for the area involved.

Wis. Stat. § 196.491(3)(d)(6); see also Wis. Stat. §1.13, Land Use Planning Activities; Wis. Stat. §227.113. Wisconsin law gives strong emphasis on state agency recognition of local land use. Wis. Stat. §1.13(2).

The Commission’s Order, on the other hand, uses Applicant testimony to dismiss issues raised by Intervenors and the public:

The Commission recognizes that the proposed project, as with any major construction project, will create impacts on the land use and development plans of affected areas, but **finds that the proposed project will not unreasonably interfere with the orderly land use and development plans of the project area.** (*See, e.g., PSC REF#: 229699* at 5.)(emphasis added)

Order, p. 25. The citation in the Order, *PSC REF#: 229699* at 5, demonstrates nothing of the sort -- it is, again, the route summary chart found in Applicant Parret’s testimony:

Route	Length (miles)	% Shared ROW by Length	% Shared ROW by Area	Agricultural Land Use (acres) ²	Prairie/Grassland (acres)	Non-Forested Wetland (acres)	Forested Wetland (acres)	Wetland (non-Forested + Forested) (acres)	Upland Woodland (acres)	Developed /Urban (acres) ²	Residences within 300' of ROW centerline	
											Homes	Apartment Buildings
Northern Route	181.7	91%	62%	712.8	719.1	267.3	133.5	400.8	571.4	222.3	185	2
Northern Route with P-East	181.0	91%	62%	687.6	728.4	267.3	133.5	400.8	575.8	219.4	172	11
Southern Route	159.5	59%	35%	863.6	500.5	239.6	71.4	311	576.1	201.9	226	59
Southern Route with B-North	159.3	58%	35%	859.5	502.1	241.3	70.6	311.9	577	200.7	228	59
Northern Route Segments + Segment O	154.4	71%	40%	863.6	582.2	174.9	71.8	246.7	521.0	158.7	190	59

[PSC REF#: 229699](#) at 5. The Commission’s finding is not supported by the testimony to which it has cited. And looking at the record, public comments and Party testimony say that land use plans are not taken into account by the Applicants.

Land use plans are to be, and were included in the Badger Coulee Application as required. Application, p. 125, Appendix A, Figure 8. But the plans don’t seem to be more than an Appendix, and as the application states, the focus was on “inquiries and interested parties” which required action by the landowners or affected or interested parties, similar to the affirmative response that was required to be part of the Agricultural Survey and the Agricultural Impact Plan. Zuelsdorf, Tr. Vol. 11, p. 157. This approach is different than one which would actively utilize and consider the Land Use Plans in developing and designing the project. Land use plans were included in the application, and only mentioned in the Commission’s decision, with an unrelated citation tacked on.

The Applicants have disregarded local land use plans, the Commission has ignored evidence regarding the project’s disruption and contradictions to Land Use Plans, and thus, the project will unreasonably interfere with orderly land use and development plans. For example, the viewshed surrounding Segment A is protected by the Town of Springfield’s Agricultural Land Use Plan. Kunze 3; see Application, Appendix A, Figure 8, p. 10¹³. The Town of Springfield Land Use Plan, covering many acres of agricultural land, was included in the Application, but was not taken into consideration in the Agricultural Impact Statement, or in the Commission’s selection of Segment A. Halpin 2, Town of Springfield Land Use Map; see also Application, App. A, Figure 8, p. 10.

In addition to the Springfield Land Use Plan, the Stonebrook subdivision’s Stonebrook

¹³ Applicant’s chart shows Springfield Plan available at <http://town.springfield.wi.us/images-docs/landuse/2012/map6.pdf>

Estates Homeowners Association has a long established “Prairie Home Estates Prairie Landscape Plan,” coordinated with DNR staff to establish prairie, and is a popular recreation area because of the community’s preservation efforts. Stonebrook and other area homeowners made public comments regarding the impact on viewshed, recreation, and environment.

...Bronner Road, Cook Road, Vosen Road area is used by many people for recreational use and for access to the Town of Middleton Rec trail, of which the trail head is directly under the proposed line of Segment A.

Public Comment of Neuman, Tr. Vol. 1, p. 9.

I can tell you that in addition to what Ms. Neuman has just talked about, some houses have been specifically sited and selected and the lots laid out because of their particular view of the capitol. That view of the capitol building will now be crossed by this massive power line, and that will have a huge impact on the value and resale value of those homes.

Public Comment of Cox, Vol. 1, p. 11-12; see also Testimony of Kunze, p. /.

... I don’t know why the few bucks out of ATC, which is a for-profit company, why does that override the safety of an established community and schools, and, you know, and airport, and there’s also a landfill out there to consider for piking holes in that. We run the risk of contaminating our water supply. There’s just so many reasons not run this proposed route through this – through these existing neighborhoods.

Public Comment of O’Sullivan, Tr. Vol. 1, p. 23.

We’re concerned with the long-term effects not only of living 1,000 feet away, but also using the preserve, going on walks and bike rides with our kids, and entering and exiting our neighborhood every day directly beneath the lines.

Public Comment of Lubben, Tr. Vol. 1, p. 45.

I actually look out the kitchen window, and I see the power lines already...

My neighborhood consists of about 66 homes, all of which can pretty much see the power lines.

Not only that, but that area behind my home, as well as along Bronner, is used by a lot of people for recreational use and would actually – most of that recreating would actually be right underneath the power lines themselves.

Public Comment of Kauper, Tr. Vol. 1, p. 75-76.

In the area of Segment A, the Town of Middleton has been planning and working on changes to roads since 2007, long before ATC announced its plans for Badger Coulee.

Testimony of Ludtke, Tr. Vol. 10, p. 194 – 196 (ERF# 230601). The plans of ATC have had, are having, and will have a significant impact on the town:

- Q: In what other ways, if any, do – apart from just uncertainty, is there any direct way that they affect the town’s development?
- A: It definitely does. I mean, with the substation there, the overall cumulative impacts the town will incur are going to be huge or could be huge. You know, it’s not just one line, it’s two lines, it’s three lines and possible more into the future. So, you know, we’re a semi-urban community with dense population. There’s limited lands in the Town of Middleton that are available to be developed. We want to be able to maintain that quality of life that we provide to our residents for our current future – for our current residents and the future.

Cross of Ludtke, Tr. Vol. 10, p. 196-197 (230601). The Commission’s Order recognized the Town of Middleton’s concern about cumulative impacts:

The town argued that it is uniquely affected by transmission lines, more so than any other area in the state. (*See, e.g.,* [PSC REF#: 232488](#) at 8.) The town requested these additional payments in the amount of \$1,000 per household, updated annually, for the useful life of the transmission lines connected to the Cardinal Substation. (*Id.*)

Order, p. 50. Direct-Town of Middleton-Ludtke-3-6, 8; see also Ludtke, Tr. Vol. 10, 192-198, 207 (PSC REF#: 230601).

The City of Onalaska has an airport zoning overlay district, and Applicants claim they cannot be forced to comply with the ordinance. Henn, Vol. 8, p. 101, 102. Middleton has a similar situation, where an important land use plan was neglected in development of this project – the City of Middleton’s Height Ordinance, addressed below¹⁴. The EIS states that the FAA has expressed concern, and a measure of that concern are the many pages of correspondence from the FAA in the FEIS. FEIS, App. H. The FAA’s regulations and “suggestions” could be determinative

¹⁴ September 4, 2003 “[Height Limitation Zoning Map, Morey Airport](#)”

and impose pole height, marking and/or lighting requirements. Id., see also Lorenz, Tr. Vol. 9, p. 131-135. If the project uses Segment A, the transmission line will make use of the airport more difficult, IF the FAA approves the heights proposed as described in its Notices of Flight Hazard. An important distinction between Segments A and B is the potential impact on Morey Field, the airport in Middleton:

2. OBSTRUCTION STANDARDS EXCEEDED

Section 77.17(a)(3): A height that increases a minimum instrument flight altitude within a terminal area (TERPS criteria); the proposal would penetrate the departure Initial Climb Area (ICA) for RWY 28 by 31 feet requiring Take-off Minimums and (Obstacle) Departure procedures note. The current published departure procedures would mitigate an increase to the climb gradient.

Application, App. H, p. 16, see also p. 29, 36, 42.

If the height and placement of poles is altered, it will also increase impacts, because of "shorter structure that would result in structures being closer together.. Lorenz discusses implementation of Lorenz 65 foot structure height near Morey Field, tying this into a possible solution to the FAA's concerns regarding nearby Morey Field. If such a structure is utilized, the ROW will be wider, increasing the magnitude of impact. See Lorenz, Tr. Vol. 9, p. 131-135. If such a structure is utilized, the ROW will be wider, increasing the magnitude of impact. The FEIS map shows that Segment A6 would run directly across the runway approach, which is different than the line proposed in the Application. If the line is double circuited along this stretch near the airport, the FEIS notes that double circuiting may "create increased hazards for bird or airport flyways." FEIS Table 4.2-2, p. 86. This impact was neither disclosed for impact analysis nor accounted for in cost.

From commenters at the Public Hearing:

And lastly, probably the biggest point. I've spoken with the aerospace safety engineer or manager for the Department of Transportation, and he stated that there is a height restriction in relation to Morey Field where again Route A is being proposed, and without some type of variance, it would actually be illegal for these poles as they're being proposed for the height that they are in relation to

Morey Field and the approach to Morey Field. Unless there would be a variance, it would technically be illegal for these poles to come through on Route A.

Public Comment of Statz, Tr. Vol. 1, p. 40.

There's also an airport to consider, and I know that the – there have been many concerns about airplanes, you know, possibly hitting these power lines as they're coming in for a landing. I know that airplanes fly, you know, pretty low over my home right were the power lines would be...

Public Comment of O'Sullivan, Tr. Vol. 1, p. 21-22.

Based on the drawings in the environmental impact statements, the towers will clearly be an eyesore and will be made worse by the fact that the FAA is potentially requesting additional safety measures like red-and-white coloring and hazard lighting. That has yet to be clarified, and that's something I'd really like to see clarified before a decision is made and have that have some bearing on the decision...

... Regarding the FAA issue – and I hope I'm not repeating myself – I'd request the official clarification of this issue prior to the decision being made. Again, the addition of red-and-white striping, sight bouys, or lights will have a greater impact on our neighborhood's view and enjoyment of our property and needs to be factored into the route decision or decision to build the lien in general.

Adding this increased impact and the FAA's concerns, this should rule out Segment A for routing. Where land use plans are disregarded, as they were in the Commission's Order, the Commission should reconsider and open this docket up for rehearing. The Commission's approval of the Applicants' transmission proposal is unreasonable on its face because it disregarded orderly land use plans and development, contradicting Wisconsin law, particularly Wis. Stat. §1.13(2).

VII. COMPENSATION FOR IMPACTS NOT AVOIDED OR MITIGATED

The Commission's order rejects any notion of compensation for impacts not mitigated or avoided. Regarding some affected landowners, though not including any in Segment A, the Commission stated:

The Commission recognizes that these property owners will be significantly impacted; however, protections are already in place to ensure that appropriate

compensation is provided to landowners. To the extent applicants and the affected landowners do not reach a mutually acceptable negotiated resolution, remedies are available under the process established by Wis. Stat. ch. 32. Including a specific order point does not afford the landowners any additional legal protection, and there is nothing in the record to suggest that the applicants are unwilling to follow the procedures in Wis. Stat. ch. 32. The Commission is satisfied that existing protections under Wisconsin law are sufficient. Commissioner Montgomery agreed that the law provides an adequate remedy, but found these individual cases to be of concern and requested the applicants to keep the Commission informed of developments related to easement issues associated with these three properties.

Order, p. 32.

PSC staff testified that there were many impacts for which there is no compensation. In many situations, there will be cumulative impacts as well. Despite any efforts to co-locate, the impacts on the Town of Middleton will be extensive, and as the town notes, existing mechanisms such as shared revenue utility payment and impact fees will not adequately compensate the Town for the cumulative impacts of these transmission lines. See Ludtke Direct, p. 9; see also Direct-Town of Middleton-Ludtke-4-6, 8; Tr. 192-198, 207 (PSC REF#:230601).

Compensation for unavoidable impacts will be addressed further below.

As Condition Order Point 3, the Commission held:

Information from the pre-construction farm interviews and those included in landowner responses in the AIS should be incorporated into the bid packages and line lists used by the contractors, inspectors, and monitors, and shared with DATCP. Easements and compensation to landowners should be reflective of all concerns and economic impacts from the project.

Order, p. 35.

Opposing intervenors asserted that the final EIS was insufficient because it did not adequately consider socio-economic factors, such as alleged effects on property values, health effects, and aesthetic values, as required by Wis. Admin. Code § PSC 4.30(1)(b). (See, e.g., [PSC REF#: 231948](#) at 30-33, [PSC REF#: 231947](#) at 16-17, [PSC REF#: 230751](#) at 24, [PSC REF#: 230724](#) at 3-9.) While the Commission acknowledges that indirect costs associated with socio-economic factors were not quantified in the final EIS, many socio-economic factors including those listed by the opposing intervenors are discussed in the final EIS. (See [PSC REF#: 230602](#) at 161, [PSC REF#: 223845](#) at § 4.5.) In addition, the Commission notes that any analysis of indirect costs would also need to include indirect benefits. (See, e.g., [PSC REF#: 230598](#) at 103-104.)

Order, p. 54-55. The Commission relies on the EIS, claiming that “many socio-economic factors including those listed by the opposing intervenors are discussed in the final EIS.” This is not a correct statement. As above, the FEIS statement regarding socio-economic factors was instead:

While socio-economic impacts are discussed in this EIS, a comprehensive socio-economic study quantifying those impacts was not completed due to a lack of available data and time constraints.

FEIS Appendices, pdf p. 544 of 638 (pages not numbered). Lack of available data and time constraints do not relieve the Commission of its statutory obligation.

Testimony in the record reflects costs where compensation is not planned:

A particular precedent that already exists under the FEMA program is one that only requires that if you are proving a positive cost benefit, which we’re assuming American – the power lines are trying to do, has to include even pain and suffering, that this is a legitimate cost as a part of your cost benefit analysis.

Now in fact everyone in the Bridle Ridge neighborhood will be both visually and potentially from a health benefit impacted in a negative way, and so this must be included in the cost benefit analysis. To my knowledge, that is not included in the Environmental Impact Statement, so that is a void and invalidates that particular process.

... But the key thing is, there is a huge aesthetic and economic negative impact with the pathway taken. I think it’s called Route A, and that affects both Bridle Ridge and the other neighborhoods along Bronner and Vosen Roads, not just our neighborhood alone because they all are being impacted this way.

Public Comment of Cox, Vol. 1, p. 11-12.

The main residential subdivisions on Segment A are located in close proximity to the proposed double-circuit line and the new larger poles and wider ROW would be apparent to these residents, on a daily basis... removal of existing landscape trees and wooded buffers on their property exposing them to direct views of the new high-voltage line... In summary, residential property owners will experience the greatest visual impact associated with the new transmission line on Segment A.

Ex-PSC-Weiss-1, p. 380.

Perception is reality, and people perceive them as dangerous, and it will greatly diminish the value of our neighborhood and hundreds of thousands of dollars in

some cases per home.

Public Comment of O'Sullivan, Vol. 1, p. 14.

Valuation of property is based on the market, and that can be influenced by perception of health issues or problems:

Q ... But I have a question with regard to the perception. Do you agree that perception of health impacts of transmission lines can impact a property value?

A Yes, I agree with that.

Q Would you agree that property values are primary in economic and market determination?

A Definitely, yes.

Henn, Tr., Vol. 8, p. 61.

The EIS states that "Impacts to the property on the southeast corner of Bronner Road and Airport Road include the needless removal of mature vegetation." FEIS, p. 377.

Loss of property value has a direct impact on all landowners, and loss of property value has a direct impact on the town, county and state tax revenues. While these are significant losses for landowners, this type of damage was unilaterally deemed by ATC to be non-compensable.

... my neighbor's experience just two houses away who's been trying to sell their house for a number of months who had a buyer that was interested in the home, he also has a very nice view of the capitol and where the proposed power lines would go for Route A, and the buyer withdrew their offer and said I would never want to drive under these or look at them every single day after purchasing a home of this value.

Public Comment of Statz, Vol. 1, p. 39.

And another real estate transaction, where the buyer did not receive notice, in which the project has had a major externalized economic impact:

We had received no information or disclosure about it during the process of buying our home. And, needless to say, we were crushed. We felt betrayed, and we do feel betrayed, by the seller and the seller's agent. And we would not have

purchased this home and invested our hard-earned savings if we had known better. I cannot say that loudly or enough. There's no way we would have bought this house if we knew about that...

... We're concerned with the long-term effects not only of living 1,000 feet away, but also using the preserve, going on walks and bike rides with our kids, and entering and exiting our neighborhood every day directly beneath the lines.

... in terms of a financial impact, Route A will have a significant impact on the value of our home. There are other homes in Middleton that don't have exposure to power lines. And it's reasonable to assume – all the articles and studies we've read predict – that our home's value and our neighbors' values will be negatively impacted.

Public Comment of Lubben, Vol. 1, p. 44 – 45, 48.

Other indirect costs are societal costs:

Well, Dane County, not to speak of all the other counties this line will move through, has a \$1 billion tourism economy, and that access to local outdoor recreation and experiences depends on having that be a scenic experience... these high transmission lines are going to affect that.

So we are in agreement that this is a cost being externalized by utilities of – perhaps it does cost more to underground utilities and their transmission, but if so, then that cost should be distributed out to the customers and to those who are shareholders...

... I think the PSC should be in charge of making sure we get this cost benefit done with all the externalized costs taken into account.

... the externalized costs are enormous if you think about all those things...

Public Comment of Becker, Capitol Region Advocacy Network for Environmental Sustainability (C.R.A.N.E.S.), Vol.1, p. 32-35.

All costs must be considered.

Indirect benefits have been included in this project, as a foundation for the application, and are cited in the Order. For example:

6. The facilities approved by this Final Decision provide usage, service or increased regional benefits to wholesale and retail customers or members in this state, and the benefits of the facilities are reasonable in relation to their cost.¹³

Order, Findings of Fact #6. See discussion supra regarding “Wind Development Benefits” tallied by MISO in its MVP Portfolio Benefits claim. Indirect costs must be addressed as well. Avoidance, mitigation, and where avoidance is not accomplished, and where mitigation is not sufficient, those suffering indirect costs must be compensated.

Q. Okay. What's your definition of environmental justice?

A. I think it is inclusive of socioeconomic and environmental factors relating to governmental-based decision or public decisions.

Q. Okay. Does ATC have a policy of being - of striving for environmental justice or not?

A. We do not have a policy specifically related to environmental justice.

Justus, Tr. Vol. 8, p. 333, l: 10-16

PSC Staff acknowledged that “We did not conduct any socio-economic studies.” In doing so, PSC staff acknowledges existence and “unfairness” of these impacts. Weiss, Tr. Vol. 11, p.139, l. 7, p. 161, l. 14-18; see also Ex.-PSC-Weiss-1, p. 107, 109.¹⁵ There is no accountability or monetary responsibility attributable to Applicants for these burdens of their project. The burden of these socio-economic-driven costs is unfairly shifted to the property and business owners, as only easement costs were considered, which excludes impacted on nearby property values, perceived and real health effects, slower rate to sell property, loss of airport and other business and tourism.

VIII. INACCURATE AND UNSUPPORTED CITATIONS, FINDINGS, AND CONCLUSIONS MUST BE CORRECTED.

The Commission’s Order repeatedly uses citations that do not support the statements, findings, or conclusions referenced with an ERF citation. For each instance, the statement with

¹⁵ See also Justus, Tr. Vol. 8, p. 333 l. 8-16 and Rebuttal-Applicants-Justus-4, l. 6-7; Henn, Tr. Vol. 8, p. 12, l. 22-25, p. 13 l. 1-25, p. 14 l. 1-7, p.17 l. 12-25, p. 18 l. 1-4, p. 54 l. 15-21, p. 61 l. 1-10, 24, p. 62 l. 1-10, p. 63 l.8-12 p. 87 l. 10-24; Burmester, Tr. Vol. 8, p. 125 l. 15-17; Weiss, Tr. Vol. 11, p. 156 l. 21-24; p. 160 and Ex.-PSC-Weiss-1, Sec. 4.5.11.1, p. 107; Ex.-DTACP-Halpin-1, p. 60, 70; Zuelsdorff, Tr. Vol. 11, p. 170-172, p. 177:4-7; Surrebuttal-City of Onalaska-Grace-2-4.

the improperly cited ERF link should be deleted. As an example, [PSC REF#: 229699](#) is frequently used, yet it has no relation to the statement. For example:

19. Approval of the project is in the public interest and is required by the public convenience and necessity
The Citation to [PSC REF#: 229699](#) is pages 35 and 39, which claims no adverse environmental impacts, not whether it is in the public interest or required by the public convenience and necessity.

This route combination utilizes existing high-priority corridors to a much greater extent than alternative route combinations.⁵¹ The route combination is 91 percent within existing ROW by length and 62 percent within shared ROW by area. (*See, e.g.,* [PSC REF#: 229699](#) at 5.)

As above, this general summary chart does not address the route combinations claimed in the paragraph. It is improperly used for both footnote 51, age 23, and referenced in parentheses on the same page.

The Commission recognizes that the proposed project, as with any major construction project, will create impacts on the land use and development plans of affected areas, but finds that the proposed project will not unreasonably interfere with the orderly land use and development plans of the project area. (*See, e.g.,* [PSC REF#: 229699](#) at 5.)

Also as above, this quote from page 25 is the chart which has nothing to say about interference with orderly land use and development plans.

To the extent that Commission findings and conclusions are not supported by the evidence, and to the extent that Commission findings and conclusions are based on citations to something not representing the finding and conclusions, the Order is invalid.

IX. THE COMMISSION IMPROPERLY LIMITS PARTICIPATION BY NON-PARTY MEMBERS OF THE PUBLIC.

The Commission's decision is invalid due to the limitations placed on testimony and exhibits offered by the public, limitations not authorized by statute or code.

Wisconsin hearings are governed by the Wisconsin Chapter 227, Administrative Procedure and Review. The Commission's Notice and practice unreasonably and without authority limits public testimony to non-technical information and opinion, and to allow only one comment during a comment period:

A person shall limit a public comment to non-technical personal knowledge or personal opinion. A person may include references to other materials in a comment, but may not include as a part of a comment, any document not written or substantially modified by that person. The Commission shall only accept documents that a person offers to supplement a comment for the purpose of showing the basis of an opinion, not for proof of the matter asserted. Partis may object to the receipt of a public comment.

Any material submitted to the Commission is a public record and may appear on the Commission web site. Only one comment may be submitted per person during a comment period. The Commission may reject a comment that does not comply with the requirements described in this notice.

Notice of Hearing, [PSC REF#: 223328](#). There is no reference to authority for these limiting provisions or hearing procedures, as required by Wis. Stat. §227.44(2)(b).

Conversely, under Wis. Stat. §227.45(1), the evidentiary rules are more relaxed for hearings and contested cases than found in other venues:

Except as provided in s. [901.05](#), an agency or hearing examiner shall not be bound by common law or statutory rules of evidence. The agency or hearing examiner shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony or evidence that is inadmissible under s. [901.05](#). The agency or hearing examiner shall give effect to the rules of privilege recognized by law. Basic principles of relevancy, materiality and probative force shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

Wis. Stat. §227.45(1). Further:

No agency may implement or enforce any standard, requirement, or threshold, including as a term or condition of any license issued by the agency, unless that standard, requirement, or threshold is explicitly required or explicitly permitted by statute or by a rule that has been promulgated in accordance with this subchapter, except as provided in s. [186.118 \(2\) \(c\)](#) and [\(3\) \(b\) 3](#). The governor, by executive order, may prescribe guidelines to ensure that rules are promulgated in compliance with this subchapter.

Wis. Stat. §227.10(2)(m).

Of comments on Segments A and B, the overwhelming majority of comments were from Segment A, 76%, regarding concerns about impacts on aesthetics on land, property values and ability to resell, human and environmental impacts, individual hardships, and socio-economic and agricultural impacts.

There is no basis in the Wisconsin Administrative Procedure Act or Public Service Commission enabling statutes or rules that authorize such stringent limitations on public participation.

Segment 3 Landowners request that there be a full schedule of public hearings held in this matter that do not unreasonably limit public participation.

IX. SOME INTERVENORS MAY HAVE MORE INFLUENCE THAN OTHERS

On Segment B, only Anthony J. Kampling, 4827 Enchanted Valley Road, Middleton, intervened. [ERF #204701](#). Kampling did not overtly participate in any way. He filed no written comments, he filed no testimony, he did not appear at the public hearings or technical hearing, and did not submit a brief or comments on the Decision Matrix. However, Anthony J. Kampling is the husband of Patricia Leonard Kampling, CEO of Alliant Energy and member of the Board of Directors of American Transmission Company (ATC), an Applicant in this proceeding.¹⁶

X. ENVIRONMENTAL REVIEW IS INADEQUATE

The Commission erred in its Order that environmental review was adequate under the Wisconsin Environmental Protection Act:

The Commission has fulfilled its requirements under WEPA through the preparation and issuance of the EIS and the creation of the record of the

¹⁶ <http://www.alliantenergy.com/AboutAlliantEnergy/CompanyInformation/Leadership/>

technical and public hearings held in the project area. (See [PSC REF#: 229050](#).)

Order, p. 55. The [PSC REF#: 229050](#) is to PSC staff listing of the various ERF references for the sections of the Final EIS. There is no acknowledgement of the many comments received regarding the EIS, calling its adequacy into question.

A. General deficiencies in the FEIS

The FEIS is inadequate, and the deficiencies in the FEIS have impeded the ability of the Commissioners to make an informed decision on the potential impacts of the proposed Project along Segment A. Utilizing the information in the FEIS and other documents in the record, the choice of Segment A does not satisfy and comply with Wisconsin Stat. 196.491 due to the potential impact on material environmental values such as ecological balance, public health and welfare, individual hardship, aesthetics of land and recreational use, failure to mitigate those impacts, and failure to compensate landowners for the impacts not avoided.

Impacts for Segment A are not fully characterized in the FEIS. For example, the impacts related to pole height, structure and markings and painting on the structures could be significantly different, based on recommendations from FAA in Height Restricted Zoning Ordinance on Segment A. These environmental and economic impacts were not analyzed in the EIS. The Agricultural Impact Statement is not a complete analysis, as many landowners were not provided with an opportunity to review surveys and respond to questions. Potential impacts were not disclosed in a manner that would allow affected members of public, municipalities and businesses to comment, for example, the owner of airport and land, the City of Middleton, and the airport business owner were not contacted to register their concerns. See Zuelsdorff, Tr. Vol. 11, p. 169:16-25, p. 170:1-5; p. 171:19-25; 172:1-7; Halpin, Tr. Vol. 11, p. 12:13-21; Holtz, Tr. Vol. 8., p.291:2-5.

The main residential subdivisions on Segment A are located in close proximity to the proposed double-circuit line and the new larger poles and wider ROW would be apparent to these residents, on a daily basis... removal of existing landscape

trees and wooded buffers on their property exposing them to direct views of the new high-voltage line... In summary, residential property owners will experience the greatest visual impact associated with the new transmission line on Segment A.

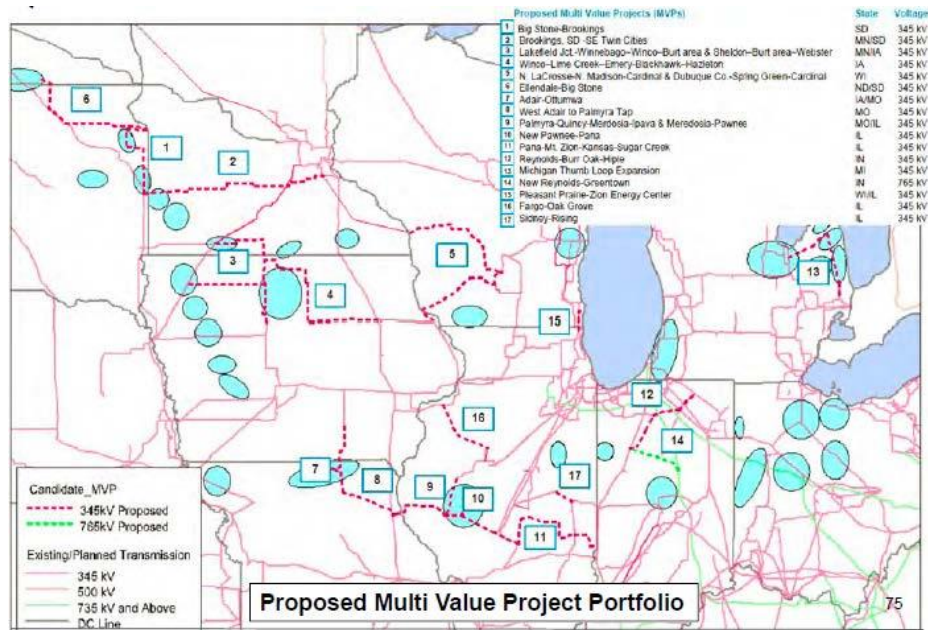
Ex-PSC-Weiss-1, p. 380.

B. FEIS Does Not Address Phased and Connected Actions and Segmentation

The EIS is inadequate because it does not report and analyze the impacts of this Badger Coulee part of MVP 5, MVP 5 and all 17 MVP Projects.

The project applied for is part of MVP 5, the other part of which is the Cardinal-Hickory line, and both are connected at the Cardinal substation in Middleton. These MVP 5 project transmission lines are also directly and electrically connected to the CapX 2020 Hampton-La Crosse transmission line at LaCrosse, and to MVP 4, and MVP 3, coming across southern Minnesota and Iowa, connecting to the Cardinal – Hickory Creek line near Dubuque. This Badger-Coulee project portion of MVP 5 is one of seventeen “Multi Value Projects” established by MISO in MTEP 11 that link with the extra high voltage (EHV) system to carry electricity from the Dakotas in the northwest to Illinois and beyond.

The FEIS must analyze the environmental impact of the Badger Coulee project, the directly connected and dependent projects such as Cardinal-Hickory Creek, MVP 3 and 4, and the environmental impacts of the entire 17 project MVP Portfolio, which is designed as a high voltage overlay. The cumulative benefits of the MISO MVP Portfolio are all presented in this docket as “benefits.” In addition to consideration of the full Portfolio costs, the EIS must evaluate the impacts of all 17 of these projects. These projects connect with existing 345 kV transmission to bring electricity from the Dakotas to Madison and beyond, and as such, have an extensive impact:



MISO’s Rauch Ex. 1, p. 2, MVP Portfolio January 2012 ([ERF 218120](#)); see also JCSP and Upper Midwest Transmission Development Initiative both cited by the Applicants. Application, App. D., Exhibit 1, p. 15 of 346. [ERF 204739](#).

The EIS must address whether this project is contingent upon a part of other projects, and if so, address the impacts of the other projects. The application specifically states that “The Project is not contingent upon part of a project under another docket number.” Application, p. 8, [PSC REF#: 204860](#). While that may be technically true, that there is no project under another docket number, this project is demonstrably part of the MVP Portfolio, and is demonstrably part of MVP 5, of which “Cardinal-Hickory Creek the other southern part is in Wisconsin. This is not a separate project. It is interdependent with the other of the MVP Portfolio.

C. Range of Amperage and MVA for EMF Calculations must be corrected

The FEIS is inadequate because it must verify conductor and transformer specifications and consider a range of potential current given the specifications of the project ranging from those provided by applicants to the emergency rating of the line, likely at 1,800 MVA. This has not been done. The conductor specifications are the same for this project as for the CapX 2020 Brookings

project. The chart produced in the Badger-Coulee Application, Table 8, lists peak amps for the 345 kV line at 215, and average at 144 amps. This is absurdly low. The MTEP Appendix rating for Badger Coulee, Project ID 3127, is 2110 MVA which would have an amperage rating of roughly 1800 amps, roughly 10 times the level disclosed in the Application. The electric and magnetic field modeling must be corrected to reflect the range of potential current and EMF levels.

Further, if the height of the transmission structures is shortened for placement near the Morley Field section of Segment A, the electric and magnetic field calculations are incorrect, falsely low, because EMF levels would be higher with conductors closer to the ground. This should be corrected.

D. Underground was not considered independently for this project.

The EIS is inadequate because undergrounding of this project was not given independent consideration, and instead, the Commission relied on an analysis of undergrounding in docket 05-CE-147, Rockdale-Middleton. Despite a request by Town of Middleton for undergrounding due to its unique situation, the Commission's response was dismissed out of hand. EIS, p. 551 of 638. This is similar to the one sentence dismissal of undergrounding in the application, stating, "The Project does not involve construction of underground lines." Application, p. 78 of 144.

With one sentence, the Applicants dismiss the option of undergrounding the project, and any portion of it. Undergrounding must be reviewed in the EIS as an alternative, particularly for areas where routing above ground is challenging, such as along Bronner Road near Morley Field.

E. The Agricultural Impact Statement is Inadequate

The Agricultural Impact Statement notification and survey was inadequate because of the state's practice of consideration of only those surveys returned to the agency, and that there was not independent verification of information received or solicitation of concerns or comments:

Q: So if a farmer were not aware of this project fully and they had not received a survey, would they know how to contact you ahead of time to help work through this issue and mitigate any potential impact?

A: They might not.

Halpin, Tr. Vol. 11, p. 18. This exclusion of so many from the survey also violates Wis. Stat. §196.025(2)(b), which provides for "Adequate opportunities for interested persons to be heard on environmental impact statements, including adequate time for the preparation and submission of comments."

For the length of Segment A and B, only 3 questionnaires were sent and 2 farmland owners responded. AIS, p. 59 The two returned were both from Segment B and none from Segment A. The AIS Agricultural Survey was sent only to those farmland owners with 4 or more acres of land crossed by the project right-of-way. Ex-PSC-Halpin-1, p. ii. Dane County has 2,541 farms, 1,181 of which are 0-49 acres. Ex-PSC-Halpin-1, Table 5, p. 13. Many parcels are oddly shaped, many others shared ROW with a neighbor or a road. This means that many of the farms in Dane County did not receive a survey. An entire demographic segment, farms of 0-49 acres, was left out, and a share of the next most demographic category, farms of 50-179 acres, would have been left out of the study. Few of Dane County farms received a survey because only 130 surveys were sent to the total project area, and only 70 were returned. Ex-PSC-Halpin-1, Table 5, p. 13. This is an insufficient response -- there was no representative sample of Dane County and Segment A farms and impacts were not adequately identified or analyzed.

Without this information, it is not apparent that Segment A has a much stronger impact on the agricultural sector, and that the Badger-Coulee has a much stronger impact on Segment A than the impact on Segment B.

From the AIS, Applicants propose routing 7.3 miles for total B-North and 4.6 miles total in Segment A. Despite a lower number of miles, Segment A has 61.9% of its ROW in agriculture, and more transmission structures in that shorter distance, 19 poles over 4.6 miles in

Segment A vs. only 16 poles spread over 7.3 miles for Segment B. Segment A also has the highest number of ROW acres in Prime Farmland. This shows higher impacts to agriculture in Segment A.

Dane County is the largest generator of agricultural sales in the state. Ex.-PSC-Halpin-1, p. 9. "Statewide trends show a decrease in the total number of farms statewide and in most counties. If the Badger-Coulee project is approved, the impacts on farms affected by the project ROW could add to stresses already felt by farm operations with existing economic concerns." Ex-PSC-Halpin-1, p. 12. The above analysis of Segment A bears out this disproportionate impact. Dane County already has experienced the highest, by far, percent decrease in farming operations at 26%. Ex-PSC-Halpin-1, p. 12. The Commission should reconsider this disproportionate, severe impact on the more agriculturally valuable Segment A.

All agencies of the state shall: (c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the human environment, a detailed statement, substantially following the guidelines issued by the United States council on environmental quality under P.L. 91-190, 42 USC 4331...

Wis. Stat. §1.11 (2).

This is an example of inappropriate and inadequate notice and outreach, and a demonstration of development of an Agricultural Impact Statement without sufficient information, in a way that skews the AIS. The Commission had no way to know of impacts to agriculture where so many affected landowners did not receive a survey and had no opportunity to provide comments and concerns for drafting of the AIS. The particularized and "special" agricultural use of many parcels, and the impact of the project on our land and agricultural operations, was not incorporated into the AIS and was not considered by the Commission.

XI. THE SEGMENT 3 LANDOWNERS PETITION FOR REHEARING OF THE COMMISSION'S BADGER-COULEE ORDER

Segment A Landowners and Laura Kunze, Intervenor, request that the Commission reconsider its determinations regarding the findings required of Wis. Stat. §196.491; Wis. Stat. § 1.11 and Wis. Admin. Code § PSC 4.30, and that it reconsider its Final Order of April 23, 2015, which granted a Certificate of Public Convenience and Necessity and established a route for the Badger Coulee transmission project. With the PSC's AIS and FEIS pointing to greater Agricultural and Residential impacts along Segment A and overwhelming majority of public comments over opposition to Segment A regarding impacts on human environment, the Commission's choice of Segment A is not supported by the record and is in compliance with Wisconsin law. Segment A must be rejected for the Authorized Project Route. In the alternative, we request that if Segment A is used, that it be undergrounded.

We ask that this CPCN Application be remanded to the Hearing Officer for additional fact finding and development of the record. The impacts of this project require a broader view than what was given by the Commission.

Respectfully submitted,



Dated: May 13, 2015

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for Segment A Landowners
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**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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

Docket No. 05-CE-142

NOTICE OF APPEARANCE

Carol A. Overland, Legalectric, is the authorized agent representing Segment A Landowners,
in this proceeding.

Please add the following to the Official Service List:

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Dated: May 13, 2015

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