

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

In the Matter of the Application of Northern  
States Power Company for Authority to  
Increase Rate for Electric Service in the  
State of MN (GR-15-826)

**ORDER DENYING INTERVENTION  
TO CAROL A. OVERLAND AND  
NO CAPX 2020**

**Petition of Carol A. Overland and No CapX 2020**

On December 23, 2015, Carol A. Overland as an individual and No CapX 2020 filed their first Petition to Intervene in the above-captioned proceeding. The Administrative Law Judge denied the petition without prejudice for failing to meet the standard for intervention under Minn. R. 1400.6200 (2015). On January 25, 2016, Carol A. Overland and No CapX 2020 filed their second Petition to Intervene (Petition).

On February 1, 2016, Northern States Power Company d/b/a Xcel Energy (Xcel) timely filed an objection to the Petition.

Based upon the Petition, Xcel's objections to the Petition, and Minn. R. 1400.6200, and for the reasons explained in the attached Memorandum, the Petition to Intervene is **DENIED**.

**ORDER**

Carol A. Overland's and No CapX 2020's petition to intervene as parties is **DENIED**.

Dated: February 9, 2016



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Jeffery Oxley  
Administrative Law Judge

## MEMORANDUM

Carol A. Overland is an attorney and an Xcel Energy ratepayer. She seeks intervention in this proceeding as an individual. Overland has represented parties and participants in transmission proceedings before the Minnesota Public Utilities Commission (Commission).<sup>1</sup> Overland asserts that she “has an interest in transmission cost recovery, cost apportionment, state and federal jurisdiction, opposes a shift from CWIP [Construction Work in Progress] to general rates as proposed by Xcel Energy, and opposes use of a multi-year rate based on Xcel Energy’s business plan rather than demonstrated cost.”<sup>2</sup>

Overland explains that as an attorney, she has “represented numerous individuals and organizations” in various forums.<sup>3</sup> The Petition states that the issues Overland wishes to address in the case include ten subjects that are described in the Petition.<sup>4</sup> Overland contends that her interests are “unique” or “peculiar”<sup>5</sup> because they are different from those of other intervenors. To support this claim, Overland cites her opposition to the e21 Initiative in contrast to “the usual intervenors in rate cases,” who either supported or did not oppose the initiative.<sup>6</sup> She also asserts her particular interests are distinct because she is free “from funding incentives and requirements to advocate certain issues and position.”<sup>7</sup>

According to Overland, No CapX 2020 “is a Minnesota non-profit business organization.” She writes that No CapX 2020 was “specifically formed to intervene in the CapX 2020 Certificate of Need docket to address transmission issues related to CapX 2020 and subsequently to address transmission issues related to MISO’s 17 project MVP Portfolio.”<sup>8</sup> The Petition continues with “**No CapX 2020’s Board members are Xcel Energy ratepayers, and general members and supporters are primarily landowners affected by transmission who are scattered across Minnesota and in various parts of Xcel Energy services territory . . .**”<sup>9</sup> No CapX 2020 has intervened in many transmission dockets before the Commission.<sup>10</sup> No CapX 2020’s interests are identical with the issues of interest to Overland and are “unique” for the same reasons that Overland’s interests are unique.<sup>11</sup>

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<sup>1</sup> Overland states she has “represented numerous individuals and organizations, including No CapX 2020, before the Commission in Certificate of Need, Routing, Power Plant Siting, Power Purchase Agreement, rulemaking, PPSA Annual Hearings, and other proceedings in various other jurisdictions and venues . . .” PETITION at 3 (January 25, 2016).

<sup>2</sup> Petition at 1-2.

<sup>3</sup> *Id.* at 3.

<sup>4</sup> *Id.* at 4-5.

<sup>5</sup> *Id.* at 6.

<sup>6</sup> *Id.* at 7.

<sup>7</sup> *Id.* at 9.

<sup>8</sup> *Id.* at 2.

<sup>9</sup> *Id.* (Bold typeface and underlining in original.)

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.* at 5-8.

Xcel, in its objection to Overland's and No CapX 2020's Petition to Intervene, argues that Overland and No CapX 2020 have failed to establish:

(1) that the interests they raise are relevant and proper for consideration in this proceeding, (2) that any alleged relevant interest they may have in this proceeding is not already adequately represented by the other parties to this proceeding, or (3) that they will be directly affected by the outcome of this case.<sup>12</sup>

With respect to Overland, Xcel contends that she "has not established that her interests as an Xcel ratepayer or in rate recovery issues are not adequately represented by the Department of Commerce ("Department") or Office of the Attorney General ("OAG") or that she will be uniquely affected by the outcome of the case."<sup>13</sup> Xcel states that Overland's "past representations as an attorney on behalf of clients" do not establish that she "has an interest that is not adequately represented by a party to this proceeding."<sup>14</sup>

With respect to the intervention of No CapX 2020, Xcel asserts that the petition fails to explain how the organization's interests "are proper and relevant in this forum." The dockets that No CapX 2020 was formed to intervene in are closed. This docket involves a general rate case and is not the proper forum in which to raise issues related to "MISO's [Midcontinent Independent System Operator's] 17 Project MVP Portfolio."<sup>15</sup>

Xcel further argues that while "unidentified members of No CapX 2020 may be Xcel ratepayers, that fact alone cannot support intervention as a party."<sup>16</sup> Attempting to distinguish No CapX 2020's interests from those of other intervenors because No CapX 2020 does not have obligations due to funding incentives does not provide a relevant basis for intervention as a party,<sup>17</sup> nor does No CapX 2020's interest in regional planning provide such a basis.<sup>18</sup> The Petition further does not claim that No CapX 2020 actually represents the interests of its members, it only contends that "ratepayers, individuals, members, and organizations working with No CapX 2020 will be directly affected by the outcome of this proceeding."<sup>19</sup> Even if No CapX 2020 "actually represented these individuals and organizations," Petitioners fail to "explain why such interests are not represented by the Department and the OAG."<sup>20</sup>

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<sup>12</sup> NORTHERN STATES POWER COMPANY'S OBJECTION TO NO CAPX 2020'S AND CAROL A. OVERLAND'S SECOND PETITION TO INTERVENE AT 2 (February 1, 2016).

<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.* at 3.

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

<sup>16</sup> *Id.* at 3-4.

<sup>17</sup> *Id.* at 4.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 6 (quoting from Overland's and No CapX 2020's PETITION TO INTERVENE at 9 and adding emphasis).

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

Intervention in this proceeding is governed by Minn. R. 1400.6200. Subpart 1 of this rule states that a petition to intervene:

shall show how the petitioner's legal rights, duties, or privileges may be determined or affected by the contested case; shall show how the petitioner may be directly affected by the outcome or that petitioner's participation is authorized by statute, rule, or court decision; shall set forth the grounds and purposes for which intervention is sought; and shall indicate petitioner's statutory right to intervene if one should exist.

Subpart 3 for this rule states that the administrative law judge "shall allow intervention upon a proper showing pursuant to subpart 1 unless the judge finds that the petitioner's interest is adequately represented by one or more parties participating in the case."

Overland is an Xcel ratepayer and consequently has the rights and duties pertaining to ratepayers, such as the right to be charged reasonable rates, and the duty to pay Xcel for the electricity the Company supplies her. Overland has not shown that she will be affected by the outcome of the case any differently than how any other ratepayer will be affected.

That Overland has participated in dockets related to transmission issues as an attorney and is personally concerned about transmission issues is not evidence that the Department of Commerce (DOC) and the Office of the Attorney General – Residential Utilities Division (OAG-RUD) cannot or will not represent her interests as a ratepayer. That the DOC did not take the same position as Overland with respect to the e21 Initiative, does not evidence what positions it will take on issues in this general rate case. With respect to OAG-RUD, Overland asserts that there is not "any inkling, much less any guarantee, that OAG-RUD will advocate and represent" her interests.<sup>21</sup> That assertion too fails to demonstrate that Overland's interests as a ratepayer will not be adequately represented in the proceeding. For these reasons, the Administrative Law Judge agrees with Xcel that Overland's Petition to Intervene should be denied.

With respect to No CapX 2020's request for intervention, the Petition to Intervene does not identify any of its "legal rights, duties, or privileges" that will be affected by the case, other than the interests of its members as ratepayers. While a subheading in the Petition states: "**OVERLAND AND NO CAPX 2020 ARE XCEL ENERGY RATEPAYERS**" (all capitals and bold in original), the Petition also states that "**Members of No CAPX 2020 are Xcel Energy ratepayers**" (bold and underlining in original), but does not repeat the assertion of the subheading that No CapX 2020 is an Xcel ratepayer in the body of the Petition. Although the Petition includes a copy of a recent invoice to Overland from Xcel, no invoice is provided for No CapX 2020.

As Xcel correctly notes, the Petition does not state that No CapX 2020 represents the interests of its ratepayer members in this proceeding. Even if the

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<sup>21</sup> PETITION at 8.

Administrative Law Judge assumes that No Cap X 2020 is an Xcel ratepayer, the Petition does not provide any information as to why No CapX 2020 or its members as ratepayers cannot be adequately represented by the state agencies. Further, the Petition states that purposes for which No CapX 2020 was “specifically formed”<sup>22</sup> was to participate in dockets which are now closed, raising the question of why No CapX 2020 continues to exist. The Petition lists a number of topics that No CapX 2020 seeks to weigh in on, but does not explain how No CapX 2020 or its members are such that their interests in this rate case may be distinguished from those of other ratepayers. All ratepayers have an interest in the effect transmission costs will have on rates.

As with respect to Overland’s intervention, assertions by No CapX 2020 that the DOC has taken different positions than those advocated by No CapX 2020 in other proceedings, or that OAG-RUD has not demonstrated that it will represent No CapX 2020’s positions, do not show that either agency will fail to represent the ratepayer interests of No CapX 2020 or its members. For these reasons, the Administrative Law Judge agrees with Xcel that No CapX 2020 be denied intervention.

**J. O.**

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<sup>22</sup> *Id.* at 2.



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February 9, 2016

See Attached Service List

**Re: In the Matter of the Application of Northern States Power Company  
for Authority to Increase Rate for Electric Service in the State of MN  
(GR-15-826)**

**OAH 19-2500-33074  
MPUC GR-15-826**

To All Persons on the Attached Service List:

Enclosed and served upon you is the Administrative Law Judge's **ORDER DENYING INTERVENTION TO CAROL A. OVERLAND AND NO CAPX 2020** in the above-entitled matter.

If you have any questions, please contact my legal assistant Denyse Johnson at (651) 361-7888 or [denyse.johnson@state.mn.us](mailto:denyse.johnson@state.mn.us), or facsimile at (651) 539-0310.

Sincerely,

A handwritten signature in black ink that reads 'Jeffery Oxley'. The signature is written in a cursive, slightly slanted style.

JEFFERY OXLEY  
Administrative Law Judge

JO:dj  
Enclosure  
cc: Docket Coordinator

STATE OF MINNESOTA  
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**CERTIFICATE OF SERVICE**

In the Matter of the Application of Northern States Power Company for Authority to Increase Rate for Electric Service in the State of MN (GR-15-826)	OAH Docket No.: 19-2500-33074
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Denyse Johnson, certifies that on February 9, 2016 she served the true and correct **ORDER DENYING INTERVENTION TO CAROL A. OVERLAND AND NO CAPX 2020** by eService, and U.S. Mail, (in the manner indicated below) to the following individuals:

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