

OAH Docket No. 8-2500-17840-2

MPUC Docket Nos. E-002 / CN-04-1176
E-002 / TL-06-1677

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

In the Matter of the Petition of Northern
States Power Company d/b/a Xcel
Energy and Dairyland Power
Cooperative for a Certificate of Need for
a 115 kV and 161 kV Transmission Line
from Taylors Falls to Chisago County
Substation

**SECOND ORDER
ON INTERVENTION**

This matter came before Administrative Law Judge Eric L. Lipman by way of a Motion and a supplemental filing from the Concerned River Valley Citizens association. Based upon the movant's filings and all of the proceedings herein,

IT IS HEREBY ORDERED THAT:

The motion for intervention of the Concerned River Valley Citizens is hereby GRANTED.

Dated this 24th day of April, 2007.

s/Eric L. Lipman
ERIC L. LIPMAN
Administrative Law Judge

MEMORANDUM

Because of the concerns Concerned River Valley Citizens ("CRVC") raised in its filings as to the extent of public participation if its motion for intervention as a party were not granted, a few points deserve special emphasis.

It bears noting that while the Administrative Law Judge had concerns as to who might make an appearance on behalf of CRVC in these proceedings there was never a serious question as to whether, as an association of affected

landowners, CRVC had a legal right to raise questions or be heard as to the proposed project. Similarly, there was never a risk that the views of CRVC would not be sought, or integrated in a meaningful way, into hearing record. Likewise, it is free from doubt that Mr. Neuman, Ms. Johnson or other affected landowners, could have intervened in their individual capacity, without counsel. The fact is that our system of due process delights in the contributions that genuinely motivated parties make toward building a record for later decision-making.

The much narrower item of concern for the Administrative Law Judge was whether Mr. Neuman or Ms. Johnson, neither of whom are attorneys, could permissibly make an appearance on behalf of CRVC – which is a corporate entity. The general, and more familiar rule, is that a corporation must be represented by an attorney in legal proceedings.¹

There is, however, an important exception to this general rule. The predecessor Environmental Quality Board² had a specific representation rule for proceedings “involving ... the routing of high voltage transmission lines” that is more generous and permissive than both the common law rule and the representation rule for contested cases under the Minnesota Administrative Procedures Act. Rule 1405.0600 permits “all persons” to be “represented by legal counsel, or by a person of their choice, or they may represent themselves.”³ Under these same rules, the definition of “person” is broad enough to include corporate entities such as CRVC.⁴

Because of these more generous rules, which are specific to these proceedings, granting CRVC’s request as it was submitted by its chosen representatives, is appropriate.

¹ See, generally, *Save Our Creeks v. City of Brooklyn Park*, 699 N.W.2d 307, 309 (Minn. 2005) (“It is well settled under Minnesota common law that a corporation must be represented by an attorney in legal proceedings”); *Nicollet Restoration, Inc. v. Turnham*, 486 N.W.2d 753, 754 (Minn. 1992) (appearance by corporation through non-attorney in court proceedings constitutes unauthorized practice of law and is prohibited); *Cary & Co. v. F.E. Satterlee & Co.*, 208 N.W. 408, 409 (1926) (“[T]he right of a party to a suit in court to appear in person therein does not entitle him to appear for a corporation, even if he owns all its capital stock, for the corporation is a distinct legal entity”).

² See, Minn. Stat. 216E.16 (2006).

³ See, Minn. R. 1405.0600 (2003).

⁴ See, Minn. R. 1405.0200 (4) (2003) (definition of “person”).



STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

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April 24, 2007

See Attached Service List

Re: *In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy and Dairyland Power Cooperative for a Certificate of Need for a 115 kV and 161 kV Transmission Line from Taylors Falls to Chisago County Substation*

OAH NO.: 8-2500-17840-2

PUC DOCKET NO. E-002/CN-04-1176; E-002/IL-06-1677

Dear Parties:

The document listed below has been filed with the E-Docket system and served as specified on the attached service list.

Second Order on Intervention
Service List as of 4/24/07

Sincerely,

s/Eric L. Lipman

ERIC L. LIPMAN
Administrative Law Judge

Telephone: (612) 341-7601

ELL:dsc

Enclosure

Providing Impartial Hearings for Government and Citizens
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Administrative Law Division & Administrative Services
Facsimile: (612) 349-2665

Workers' Compensation Hearings Division
Facsimile: (612) 349-2691

Workers' Compensation Settlement Division
Facsimile: (612) 349-2634

SERVICE LIST

In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy and Dairyland Power Cooperative for a Certificate of Need for a 115 kV and 161 kV Transmission Line from Taylors Falls to Chisago County Substation

OAH Docket No. 8-2500-17840-2

All Parties have agreed to E-File documents at: www.edockets.state.mn.us.

Filing with E-dockets shall constitute service on the Public Utilities Commission, the Department of Commerce and the Office of Administrative Hearings. As of this date, all parties have agreed to accept service by e-mail at the e-mail addresses listed below. However, where indicated, parties have requested that the e-mail be followed by mail or delivery of a hard copy. In the event that a pleading or attachment cannot be filed and served electronically, it must be filed and served on each of the parties at the addresses listed.

Documents that contain trade secret or nonpublic data may be e-filed, but may not be copied or served electronically.

Burl Haar (E-Filing or 15 Copies, No IRs) Executive Secretary Minnesota Public Utilities Commission 121 East Seventh Place - Suite 350 St. Paul, MN 55101-2147	Sharon Ferguson (E-Filing or 4 Copies) Docket Coordinator MN Department of Commerce 85 7th Place East - Suite 500 St. Paul, MN 55101-2198
James P. Johnson Xcel Energy 5th Floor 414 Nicollet Mall Minneapolis, MN 55401-1993 James.p.johnson@xcelenergy.com	Michael Krikava Catherine Biestek Briggs and Morgan 2200 IDS Center 80 South 8 th Street Minneapolis, MN 55402 mkrikava@briggs.com cbiestek@briggs.com

<p>Julia E. Anderson Valerie M. Smith Telecommunications & Energy Division Office of the Attorney General 1400 Bremer Tower 445 Minnesota Street St. Paul, MN 55101-2131</p> <p>Julia.Anderson@state.mn.us Valerie.smith@state.mn.us</p>	<p>Jeffrey L. Landsman Niles Berman Joshua Gildea Wheeler, Van Sickle & Anderson 25 West Main Street - Suite 801 Madison, WI 53703-3398</p> <p>jlandsman@wheelerlaw.com jgildea@wheelerlaw.com</p>
<p>Curt Nelson OAG-RUD 900 NCL Tower 445 Minnesota Street St. Paul, MN 55101-2130</p>	<p>Chuck Thompson Dairyland Power Cooperative P.O. Box 817 3200 East Avenue South LaCrosse, WI 54602-0817</p>
<p>SaGonna Thompson Xcel Energy 5th Floor 414 Nicollet Mall Minneapolis, MN 55401-1993</p>	<p>Carol A. Overland Overland Law Office P.O. Box 176 Red Wing, MN 55066</p> <p>overland@redwing.net</p>
<p>John Olinger City of Lindstrom 13292 Sylvan Avenue Lindstrom, MN 55045</p> <p>jolinger@cityoflindstrom.us</p>	<p>Bill Neuman Shellene Johnson c/o Bill Neuman 18837 Osceola Road Shafer, MN 55074</p> <p>ayelink@frontiernet.net</p>
	<p><u>COURTESY COPY TO REPORTER:</u> (Pleadings, Testimony, No IRs)</p> <p>Janet Shaddix Shaddix & Associates Suite 122 9100 West Bloomington Freeway Bloomington, MN 55431 jshaddix@janetshaddix.com</p>

SUPPLEMENTARY NOTICE LIST:

Persons listed below are not on the official service list of this proceeding. These persons are not currently formal parties or participants in this matter. The intervention deadline in this matter is 4:30 p.m. on Monday, March 19, 2007.

Persons seeking to join as parties (with rights to service copies) must contact the Administrative Law Judge. The following persons are receiving this mailing to ensure that they have notice of the opportunity to participate in this proceeding:

Todd J. Guerrero Lindquist & Vennum 4200 IDS Center Minneapolis, MN 55402	Christopher Greenman Excelsior Energy Suite 305 11100 Wayzata Boulevard Minnetonka, MN 55305
Tod Sherman MN/DOT Metropolitan Division 1500 West County Road B2 Roseville, MN 55113	Charles and Gloria Wilberg Trout Brook Farm 2414 75th Avenue Osceola, WI 54020
John C. and Laura A. Reinhardt 3552 26th Avenue South Minneapolis, MN 55406	

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
100 WASHINGTON SQUARE, SUITE 1700
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CERTIFICATE OF SERVICE

<p>Case Title: In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy and Dairyland Power Cooperative for a Certificate of Need for a 115 kV and 161 kV Transmission Line from Taylors Falls to Chisago County Substation</p>	<p>OAH Docket No. 8-2500-17840-2 MPUC Docket No. E-002/CN-04-1176; E-002/IL-06-1677</p>
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Denise Collins, certifies that on the 24th day of April, 2007, she served a true and correct copy of the attached the **SECOND ORDER ON INTERVENTION and Service List as of 4/24/07**; by placing it in the United States mail with postage prepaid, addressed to the following individuals:

See Attached Service List