

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
David C. Boyd
Marshall Johnson
Phyllis Reha
Thomas Pugh

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Petition by Excelsior Energy, Inc.
for Approval of a Power Purchase Agreement under
Minn. Stat. §216B.1694, and Determination of Least
Cost Technology and Establishment of a Clean Energy
Minimum Under Minn. Stat. §216B.1693.

MPUC Docket: E/6472/M-05-1993

OAH Docket: 2500-17260-2

**MCGP's MINN. STAT. §216A.037 COMPLAINT AND REQUEST FOR SANCTIONS
REGARDING EXCELSIOR ENERGY'S EX PARTE CONTACT**

Under Minn. Stat. 216A.037 and Minn. R. 7845.0200, direct and indirect ex parte contact is strictly prohibited. The Complaint process is laid out in Minn. Stat. §216.037, and mncoalgasplant.com submits this verified Complaint.

1) Name and address of Complainant:

Mncoalgasplant.com
c/o Ron Gustafson
P.O. Box 1
Bovey, MN 55709

2) Name and address of Complainant's counsel

Carol A. Overland
Attorney for mncoalgasplant.com
OVERLAND LAW OFFICE
P.O. Box 176
Red Wing, MN 55066

(612) 227-8638
overland@redwing.net

3) Name and address of each person violating ex parte prohibition:

Leanne Stanley
Public Affairs Representative
Excelsior Energy
11100 Wayzata Blvd, Suite 305
Minnetonka, MN 55305

and through agency:

Excelsior Energy
11100 Wayzata Blvd., Suite 305
Minnetonka, MN 55305

4) Name and address of Respondent's Counsel in PUC docket 05-1993:

Thomas Osteraas, Chris Greenman
Excelsior Energy
11100 Wayzata Blvd, Suite 305
Minnetonka, MN 55305

Byron Starns, Brian Meloy, Scott Harris
Leonard, Street & Deinard
150 So. 5th St., Suite 2300
Mpls., MN 55402

5) **Facts constituting violation:** On July 26, 2007, emails soliciting prohibited indirect ex parte contact were sent by Excelsior and received by counsel for mncoalgasplant.com shortly thereafter.

First email (emphasis added and Commissioner emails redacted):

>>> "Leanne Stanley" <LeanneS@excelsiorenergy.com> 7/26/2007 10:42 AM >>>

Hello everyone – as you know, our hearing before the Public Utilities Commission is next Tuesday, July 31. We've been working hard to prepare, and as you've seen by our recent announcements, the Project itself is shaping up quickly. We have passed a lot of milestones this summer, including getting our transmission interconnection agreement signed so our output will be deliverable throughout MISO, getting site control of our second site, kicking off the final phase of engineering before construction starts, and nearing the date our joint state/federal EIS will be published. But, now is crunch time – you have been so helpful and supportive in the past, but I would like to ask you to do one more thing before the hearing – please email the PUC Commissioners and express your support for the Mesaba Project. Just a few sentences in your own words would be extremely helpful. Here are the email addresses for the Commissioners: Please reference The Mesaba Energy Project PPA Docket No. 05-1993

(Excelsior linked PUC Commissioner's emails here — REDACTED BY CAO!)

Please do not hesitate to contact Pat Micheletti at 651-214-5184 or me at 218-245-1205 if you have any further questions. As always, thank you so much for your continuing support!

*Leanne Stanley
Public Affairs Representative*

Second email:

>>> "Leanne Stanley" <LeanneS@excelsiorenergy.com> 7/26/2007 11:00 AM >>>

Leanne Stanley would like to recall the message, "UPCOMING PUC HEARING - COULD YOU SEND AN EMAIL FOR US?"

Third email:

>>> "Leanne Stanley" <LeanneS@excelsiorenergy.com> 7/26/2007 12:10 PM >>>

Hi –

Please disregard the email you received from me earlier today. It was sent in error. Please do not send any emails to any of the people listed in my earlier email request. I apologize for any inconvenience caused by my earlier message.

Thank you,

*Leanne Stanley
Public Affairs Representative*

Counsel for mncoalgasplant.com immediately contacted the PUC, and Excelsior's solicitation of ex parte contact was acknowledged by Bob Cupit and Janet Gonzalez, PUC Staff, both of whom stated that the matter had been handled by the PUC staff.

6) Sanctions requested: Appropriate sanctions cannot be requested until MCGP can ascertain the number and impacts of indirect contacts generated by Excelsior's impermissible ex parte solicitation of communications with Commissioners. **Therefore, MCGP requests that all parties be immediately provided with:**

- A) The complete and unredacted Excelsior Energy list of email addresses and names to which the July 26, 2007 request was sent;
- B) PUC records and documentation of each and every direct contact to Commissioners regarding Excelsior Energy's Mesaba Project, such records and documentation to be provided immediately, electronically, to all parties today, for review before tomorrow;
- C) That records and documentation of these contacts be posted and accessible on the PUC eDockets site for 05-1993 prior to the start of tomorrow's oral arguments.

With this information, the extent and impact of Excelsior's ex parte contact and solicitation may be evaluated and appropriate sanctions be requested.

July 30, 2007

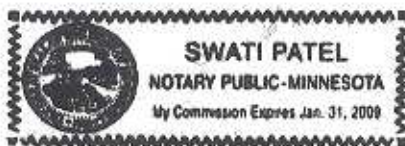
Signed and sworn to before me this
30th day of July, 2007.

Swati Patel

Notary Public

Carol A. Overland

Carol A. Overland #254617
Attorney for MCGP
OVERLAND LAW OFFICE
P.O. Box 176
Red Wing, MN 55066
(612) 227-8638
overland@redwing.net



In the Matter of a Petition by Excelsior Energy, Inc., . . . Administrative Law Judges' Service List

Burl W. Haar (15) eFiled
Public Utilities Commission
Suite 350
121 East Seventh Place
St. Paul, MN 55101-2147

Steve M. Mihalchick (no,record closed)
Office of Administrative Hearings
Suite 1700
100 Washington Square
Minneapolis, MN 55401-2138

Bruce H. Johnson (no,record closed)
Office of Administrative Hearings
Suite 1700
100 Washington Square
Minneapolis, MN 55401-2138

Sharon Ferguson (4) eFiled
Department of Commerce
Suite 500
85 7th Place East
St. Paul, MN 55101-2198

Julia Anderson eFiled
Assistant Attorney General
1400 Bremer Tower
445 Minnesota St
St. Paul, MN 55101-2131

Valerie M. Smith eFiled
Assistant Attorney General
1400 Bremer Tower
445 Minnesota Street
St. Paul, MN 55101-2131

Thomas L. Osteraas eFiled
Excelsior Energy
Suite 305
11100 Wayzata Blvd
Minnetonka, MN 55305

Byron E. Starns eFiled
Leonard, Street and Deinard
150 South Fifth Street, Suite 2300
Minneapolis, Minnesota 55402

Scott G. Harris eFiled
Leonard, Street and Deinard
150 South Fifth Street, Suite 2300
Minneapolis, Minnesota 55402

Brian M. Meloy eFiled
Leonard, Street and Deinard
150 South Fifth Street, Suite 2300
Minneapolis, Minnesota 55402

Christopher Clark eFiled
Xcel Energy
414 Nicollet Mall, 5th Floor
Minneapolis, MN 55401-1993

Michael C. Krikava eFiled
Briggs and Morgan
2200 IDS Center
Minneapolis, MN 55402

SaGonna Thompson eFiled
Xcel Energy
414 Nicollet Mall, 7th Floor
Minneapolis, MN 55401-1993

Judy Pofert eFiled
Xcel Energy Services, Inc.
414 Nicollet Mall, 5th Floor
Minneapolis, MN 55401-1993

Chuck Kerr eFiled
Great Northern Power Development LP
Suite 3600
601 Jefferson Street
Houston, TX 77002-7906

David R. Moeller eFiled
Minnesota Power
30 West Superior Street
Duluth, MN 55802-2093

Annette Henkel eFiled
Minnesota Utility Investors
405 Sibley Street, #227
St. Paul, MN 55101

Antone J. Rude eFiled
Great Northern Power Development LP
10127 93rd Street N.E.
Monticello, MN 55362

Bray Dohrwardt eFiled
Briggs and Morgan, P.A.
2200 IDS Center
80 South 8th St
Minneapolis, MN 55402

Mark Rolfes eFiled
Otter Tail Power Company
215 South Cascade Street
P.O. Box 496
Fergus Falls, MN 56538-0496

John E. Drawz eFiled
Fredrikson & Byron, P.A.
Suite 4000
200 South Sixth Street
Minneapolis, MN 55402-1425

Mollie M. Smith eFiled
Fredrikson & Byron, P.A.
Suite 4000
200 South Sixth Street
Minneapolis, MN 55402-1425

Steven J. Quam eFiled
Fredrikson & Byron, P.A.
Suite 4000
200 South Sixth Street
Minneapolis, MN 55402-1425

William A. Blazar eFiled
Minnesota Chamber Of Commerce
Suite 1500
400 Robert Street North
St. Paul, MN 55101

Richard J. Savelkoul eFiled
Felhaber, Larson, Fenlon & Vogt
444 Cedar Street
Suite 2100
St. Paul, MN 55101

Kevin Reuther eFiled
Minnesota Center For
Environmental Advocacy
26 E. Exchange St., Suite 206
St. Paul, MN 55101-1667

Eric F. Swanson eFiled
Winthrop & Weinstine, P.A.
225 South Sixth St, Suite 3500
Minneapolis, MN 55402

Robert S. Lee eFiled
Mackall, Crouse & Moore, PLC
1400 AT&T Tower
901 Marquette Ave
Minneapolis, MN 55402

Michael Gregerson eFiled
President
Stability Consulting, Inc.
3215 Rosewood Lane North
Plymouth, MN 55441

Peter H. Grills eFiled
W2800 First National Bank Bldg
332 Minnesota Street
St. Paul, MN 55101

janet.gonzalez@state.mn.us
steve.mihalchick@state.mn.us
bruce.johnson@state.mn.us
maria.lindstrom@state.mn.us
julia.anderson@state.mn.us
christopher.b.clark@xcelenergy.com
tomosteraas@excelsiorenergy.com
sharon.ferguson@state.mn.us
squam@fredlaw.com
msmith@fredlaw.com
jdrawz@fredlaw.com
dmoeller@allete.com
overland@redwing.net
christophergreenman@excelsiorenergy.com
byron.starns@leonard.com
brian.meloy@leonard.com
scott.harris@leonard.com
teresa.j.kowles@xcelenergy.com
jennifer.sanner@xcelenergy.com
mkrikava@briggs.com
susan.mackenzie@state.mn.us
mgregerson@gpisd.net

Todd J. Guerrero eFiled
Lindquist & Vennum
4200 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2274

David M. Aafedt eFiled
Winthrop & Weinstine, P.A.
225 South Sixth St, Suite 3500
Minneapolis, MN 55402

Robert H. Schulte eFiled
Schulte Associates LLC
9072 Palmetto Drive
Eden Prairie, MN 55347

David Sasseville eFiled
Lindquist & Vennum
4200 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2274

Jerry Larsen eFiled
HPC-LLC
4610 IDS Center
80 S. 8th Street
Minneapolis, MN 55402

Kathleen L. Winters eFiled
Assistant Attorney General
Suite 900 Bremer Tower
445 Minnesota Street
St. Paul, MN 55101-2127
(MPCA)

valerie.smith@state.mn.us
bblazar@mnchamber.com
dsasseville@lindquist.com
tguerrero@lindquist.com
rsl@mcmlaw.com
eswanson@winthrop.com
bgoodpaster@mncenter.org
mrolfes@otpco.com
apm@mcmlaw.com
bdohrwardt@briggs.com
daafedt@winthrop.com
ahenkel@mnuutilityinvestors.org
jerome.larsen@hpc-llc.com
rhs@schulteassociates.com
pete.grills@grillslegal.com
sclimmer@ucsusa.org
jshaddix@janetshaddix.com
kathleen.winters@state.mn.us
nicok@excelsiorenergy.com
rdthomasinc@earthlink.net
rsavelkoul@felhaber.com
wflynn@lindquist.com

Carol A. Overland, after being duly sworn on oath, states and deposes that she has served the above parties by mail or by eDockets or email as noted, with mncoalgasplant.com's Motion to Strike and Complaint of Excelsior's Ex Parte contact by mailing copies to the parties at the addresses above in envelopes with proper postage at the Red Wing Post Office.

Signed and sworn to before me this
30th day of July, 2007.

Carol A. Overland

Carol A. Overland, Atty. for mncoalgasplant.com

Swati Patel

Notary Public

