

Carol A. Overland
Attorney at Law
OVERLAND LAW OFFICE
402 Washington St. So.
Northfield, MN 55057
overland@redwing.net

(612) 227-8638

Fax: 1 (651) 388-1112

September 7, 2006

Steve M. Mihalchick, ALJ
Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, MN 55401-2138

RE: Request for Subpoena for Hearing Testimony
In the Matter of a Petition by Excelsior Energy, Inc. ...
MPUC Docket E/6472/M-05-1993
OAH Docket 12-2500-17260-2

Dear Judge Mihalchick:

Enclosed please find Subpoena Request of mncoalgasplant.com in the above-entitled matter, hard copy to follow with check for \$5.00 for the cost of the subpoena.

I'm sending this via email to all the parties, and, given the prior fracas, ask that the parties be mindful of the rules that specify that only a party served with a subpoena may object. Minn. R. 1400.7000, Subp. 3. The IRR has received notice both in the cover letter with my original Data Practices Requests and verbally that this subpoena would be requested for testimony at the hearing.

Please let me know if you have any questions or require anything further.

Very truly yours,



Carol A. Overland
Attorney at Law

Enclosure

cc: Service List via email

OFFICE OF ADMINISTRATIVE HEARINGS 100 Washington Avenue South Suite 1700 Minneapolis, Minnesota 55401-2138 612/341-7600 FAX 612/349-2665		SUBPOENA REQUEST FORM Minn Rule Pt. 1400.7000 OAH File 2500-17260 Request Date: June 19, 2006
Name of Judge: Steve Mihalchick	Type of Subpoena (Check one) Testimony at Hearing	

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: 12-2500-17260-2

Requesting Party or Attorney Carol A. Overland, for Intervenor MCGP OVERLAND LAW OFFICE P.O. Box 176 Red Wing, MN 55066 (612) 227-8638 Fax: Call to arrange overland@redwing.net (email preferred)	Person Being Served Sandy Layman Commissioner Iron Range Resources 4261 Hwy. 53 South Eveleth, MN 55738-0441 (218) 744-7400
--	--

Date and Location of Hearing: TESTIMONY BY PHONE, DATE TO BE ARRANGED

November 20-22, 2006 continuing to November 27-December 1, 2006
 Date certain to be arranged, likely week of November 27, 2006

Location: Public Utilities Commission, Large Hearing Room
 121 – E. 7th St.
 St. Paul, MN 55101

Relevancy of Testimony

The law requires that to be an "Innovative Energy Project," a project meet three statutory criteria, one of which requires that the IRR Commissioner certify that the "site that has substantial real property with adequate infrastructure to support new or expanded development." The relevant statute is below:

216B.1694 INNOVATIVE ENERGY PROJECT.

Subdivision 1. [DEFINITION.] For the purposes of this section, the term "innovative energy project" means a proposed energy generation facility or group of facilities which may be located on up to three sites:

(1) that makes use of an innovative generation technology utilizing coal as a primary fuel in a highly efficient combined-cycle configuration with significantly reduced sulfur dioxide, nitrogen oxide, particulate, and mercury emissions from those of traditional technologies;

(2) that the project developer or owner certifies is a project capable of offering a long-term supply contract at a hedged, predictable cost; and

(3) that is designated by the commissioner of the iron range resources and rehabilitation board as a project that is located in the taconite tax relief area on a site that has substantial real property with adequate infrastructure to support new or expanded development and that has received prior financial and other support from the board.

Minn. Stat. 216B.1694, Subd. 1(3) (emphasis added).

Excelsior's PPA application is replete with references of infrastructure needed, including millions of dollars worth of rail line, Scenic Highway 7 to be moved and deemed the "plant access road," a natural gas pipeline, pipelines for potable water and up to 6,500gpm of process water, wastewater treatment facilities and discharge pipeline network, transmission interconnection and network system upgrades.

The Commissioner's testimony is necessary to establish the basis for her Certification, including knowledge of Excelsior's preferred West site and the basis for the Certification, which goes to the legitimacy of the Certification and whether the West site meets the statutory criteria for an Innovative Energy Project.

mncoalgasplant.com requests this subpoena be issued for a date to be established as the scheduling is determined, and that the Commissioner participate by telephone.

Dated: September 07, 2006



Carol A. Overland Lic. No. 254617
Attorney for mncoalgasplant.com
OVERLAND LAW OFFICE
P.O. Box 176
Red Wing, MN 55066
(612) 227-8638 (c)
overland@redwing.net

Check for \$5.00 is enclosed with hard copy request.