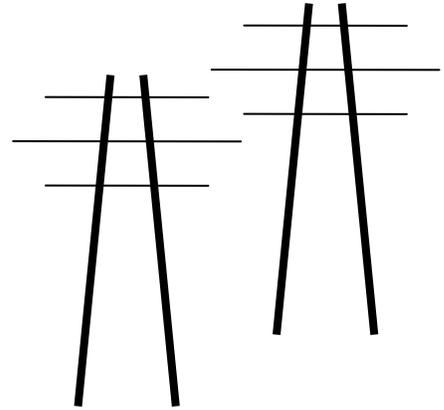


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June 10, 2013

Christopher Moseng, Staff Attorney
Public Utilities Commission
121 – 7th Place East, Suite 350
St.Paul, MN 55101

RE: Rulemaking - Comments on Minn. R. Ch. 7829

Dear Mr. Moseng:

Enclosed please find my Comments on 7829 pre-Rulemaking draft and my March 24, 2011 **Petition for Rulemaking** sent to Burl Haar.

Again, I wish to express my dismay and disbelief that I was not provided notice of the 7829 rulemaking. Because I was excluded from this process, I expect that my late comments will be accepted and considered. I am also attaching my earlier Petition for Rulemaking – Ch. 7829, which serves as the basis for many of my comments.

In order of appearance:

7829.0100 Definitions

“Exigent circumstances” is used in 7829.2800 and should be defined.

“Qualified complainant” is used in 7829.1600 and should be defined

Subp. 18. Protected data.

a. Properly identified and justified as nonpublic data...

7829.0411 REPRESENTATIONS TO THE COMMISSION

(for the most part, mirroring Comments of Charter regarding use of Rule 11 language) I encourage specific reference to “Rule 11 or other applicable professional code of conduct” as it is not only attorneys filing – others file testimony and make statements under oath.

7829.0600 GENERAL SERVICE LIST and 7829.1400 Subp. 1.

Given the ease of electronic service and filing, I think it’s time for a utility’s general service list to be housed at the Commission.

7829.0600, Subp. 1. The language is too vague and leaves up to utility to make these decisions, again, should be with Commission (noting that Commission doesn’t do so well on service lists either).

7829.0700 OFFICIAL SERVICE LIST.

Subpart 1. Content.

The official service list for each proceeding consists of the names of the parties and the names of participants who have filed a written request for inclusion on the service list with the executive secretary. The official service list shall be limited to one individual per party. Those on service lists must identify party represented. Access to officially filed documents shall be available through subscription to eDockets or viewing the website for a particular docket.

Subp. 3. Limiting service list.

The official service list shall be limited to one individual per party. Access to officially filed documents shall be available through subscription to eDockets or viewing the website for a particular docket. On its own motion or at the request of a party, the commission shall limit the service list to parties to the proceeding if it finds that requiring service on participants is unduly burdensome.

Subp. 5. Proceeding before administrative law judge.

In proceedings before an administrative law judge in which the judge establishes a service list, the names on that service list must remain on the official service list for the remainder of the proceeding. The official service list in a contested case hearing shall be limited to one individual per party.

7829.0800 PETITION TO INTERVENE.

Subpart 1. Filing and service.

A person who desires to become a party to a proceeding shall file a petition to intervene within the time set in this chapter. The petition must be served on known parties and those persons on the utility's general service list for the matter, if applicable. If during the contested case the scope of impacts is broadened to include new parties, the intervention deadline shall be extended to allow intervention by newly affected parties.

Subp. 2. Grounds for intervention.

The petition must allege the grounds for intervention and must be granted upon a showing that: the person is specifically considered by statute to be interested in the particular type of matter at issue; the person is specifically declared by statute to be an interested party; or the outcome of the proceeding will bind or affect the person with respect to an interest peculiar to that person, as distinguished from an interest common to the public or other ratepayers in general, or the person's interests are not adequately represented by one or more other parties participating in the case. Parties wishing to intervene jointly, and counsel representing more than one party, must specify distinct interests and demonstrate that distinct interests are not in conflict or duplicative.

Where interests overlap or are duplicative, such petitioners shall petition to intervene as one party.

Subp. 5. Disposition of petition.

If there is no objection to intervention and a petition to intervene is not denied or suspended within 15 days of filing, the petition to intervene must be considered granted, unless the matter is referred to the Office of Administrative Hearings for contested case proceedings before the expiration of the 15-day period. Once granted party status, party intervenors are not required to submit testimony or maintain any specific level of participation to retain party status.

7829.1000 REFERRAL FOR CONTESTED CASE PROCEEDING.

If a proceeding involves contested material facts and there is a right to a hearing under statute or rule, upon petition, or if the commission finds that all significant issues have not been resolved to its satisfaction, the commission shall refer the matter to the Office of Administrative Hearings for contested case proceedings, unless:

A. all parties have expressly waived their rights to contested case proceedings and instead request informal or expedited proceedings, and the commission finds that informal or expedited proceedings would be in the public interest; or

B. a different procedural treatment is required by statute.

7829.1100 PUBLIC HEARING.

When a public hearing is held in connection with a contested case proceeding, the commission shall, whenever possible, schedule the public hearing to be held before the evidentiary hearings in the area where the infrastructure in question would be located.

7829.1250 UNCONTESTED PROCEEDING SUBCOMMITTEE

This should have an “opt in” requirement rather than an “opt out” based upon objections. Also, because of the time frame, it should provide for objection by a “person” and not a party, if it’s uncontested, there likely would be no “parties” to object.

7829.2600 STAFF COMMENTS.

Written comments on a filing by commission staff must be made available to those persons on the service list at the same time they are provided to the commission. If commission staff recommend action not advocated by any party, all interested and formal parties must be provided opportunity for written comment, and written commentors be granted oral comment at the request of any interested or formal party.

The need or reasons for the requested changes are detailed above or in my testimony at the 2010 Annual Power Plant Siting Act hearing and above in my comment letter.

7829.2560 NOTICE PLANS... PIPELINES

Why not move this to pipelines, as well?

7829.2800 GENERAL NOTICE REQUIREMENT

Define "exigent circumstances"

7829.3000 PETITION AFTER COMMISSION DECISION

The executive secretary shall serve a decision and order of the commission on all parties and participants in the proceeding, including those on the official service list.

The official service list is not always inclusive of "all parties and participants," e.g., the recent Brookings hearing where people participated and spoke before the commission but were not served with the order.

CenturyLink raises the 20/30 day conundrum present in the Goodhue Wind docket, where the Commission essentially directed parties to appeal after 30 days or lose their right to appeal, and the appellate ultimately clarified that the time is tolled. Clarification of this in the rules would be helpful, utilizing the language of the decision.

7829.3150 UNTIMELY FILINGS

Need a provision to oppose Motion: If a party or person with interest wishes to oppose the Motion, such written opposition shall be filed and served on parties and participants within 10 days.

Agree with Commerce DER that Subp. 2 should state "not be excluded" rather than "why it should be considered...."

Agree with Xcel that "notice" should be added...

GENERAL COMMENTS

Overall, I agree with most of the Comments of Charter and Commerce-DER by Asst. A.G. Julia Anderson, and OAG-AUD by Ian Dobson, and CenturyLink.

This rulemaking should take into account the proposals of OAH for 1400 and 1405, and hold firm and retain the opportunities for public participation that are the foundation of utility regulatory practice in Minnesota.

Again, the notice for this docket was unacceptably narrow and ineffective.

If you have any questions or require anything further, please let me know.

Very truly yours,



Carol A. Overland
Attorney at Law