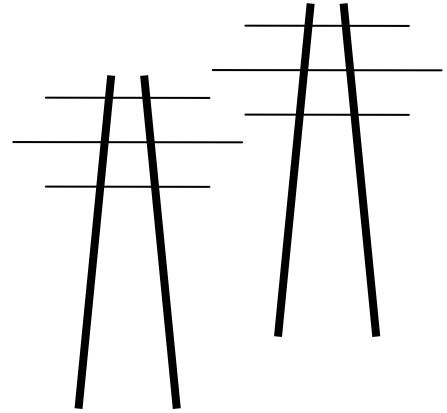


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## **Senate Environment and Energy Committee – Rm. 107**

### **SF 1735 (and others) and e21 Initiative**

At last month's e21 Initiative meeting, PUC Commissioner Lipschultz asked a key question:

- What's preventing utilities from being innovative? What's stopping you?

Look and listen for the words “transition.” Why is ‘transition’ presumed?

**S.F. 1735** links “Performance-based multiyear rate plan” with business plan, and there is no logical connection. E21 Initiative focuses on substituting utility business plan with rate case, but “Performance-based multiyear rate plan” is not necessarily a utility business plan. But S.F. 1735 defines it as such.

What prevents utilities from submitting “Performance-based multiyear rate plan” in a rate case? There is no necessary link between initiating “performance-based metrics” and replacement of rate cases with a business plan. So why?

### **Look at drivers of this shift and what S.F. 1735 would do:**

#### **Utility Driver – Eliminate rate cases**

- Recent rate cases haven't resulted in the rates that Xcel wanted, couldn't prove up case
  - Major cost overruns on Monticello plant – over 2x estimate!
  - Rehab of Sherco 3 over \$200 million (and offline for almost 2 years)
- CapX 2020 and MISO MVP transmission bills are coming due (and Construction Work in Progress payments are allowed under 2005 amendments to 216B.16).
  - CapX 2020 – over \$2 billion, over \$1 billion for Minnesota ratepayers
  - MISO MVP – \$5.214-5.821 billion for ITC, 1<sup>st</sup> MVP project permitted in MN
    - CapX Brookings line declared MVP long after it was permitted by PUC
  - \$8.789-16.407 billion when totaling revenue requirements of 17 MVP projects.
  - Minnesota pays 13.3% or \$1.2 – 2.1 billion – that's due to show up in rates now.

## Utility Driver – Eliminate scrutiny of rate requests and the standards utilities can't meet

- Eliminate contested cases at OAH and Recommendation to PUC
- Remove from OAH handling of contested case and Recommendation, and put in hands of one Commissioner to submit report.
- Shift to “stakeholder” process and agreements (odd, agreements are common and provided for in Minn. Stat. §16B.16, Subd. 1a).
- Shift standards to “just and reasonable.” Where is “prudent?” Where is “public interest?”
- E21 Initiative participants populated by groups known to have made “agreements” in past against public interest:
  - 1994 Prairie Island agreement – nuclear waste storage; wind; mandate to locate new nuclear waste storage in Goodhue Co.; biomass mandate; Renewable Development Fund (Excelsior Energy got \$11 million for coal gasification).
  - 1999 Merger Agreement – beginning of overt transmission promotion.
  - 2003 TRANSLink Agreement – many material issues in 2005 Energy Omnibus such as transmission only companies, recovery for transmission CWIP<sup>1</sup>...
  - 2003 Prairie Island agreement – relicense and increase storage, transmission promotion, biomass changes, MERP cost recovery, water use for gas plants, promotion, subsidies and grants and power of eminent domain for Excelsior Energy coal gasification.
  - 2005 Energy Omnibus Bill – notably authorizing transmission only company and transfer of assets, transmission CWIP recovery, Certificate of Need criteria shift to “regional” need, C-BED wind tariff, promotion of transmission “for renewables” (remember, under FERC, transmission can't discriminate), transfer of Power Plant Siting Act permitting to PUC and staff review and environmental review to Commerce.
  - The by e21 Initiative supporting non-profits, in addition to agreements, have intervened in support of projects, i.e., Certificate of Need for CapX 2020 and ITC Midwest MN/IA 345 kV transmission, and Excelsior Energy coal gasification, and promotional efforts for these projects. What do funding agreements require?

The situation we're in is NOT new to Xcel or any other utility. It has developed over time, and through choices of the utilities.

- **Distribution** system is utility responsibility as franchise holder and regulated utility, fully recoverable in rates. Yet they've neglected the distribution system over decades. Utilities have chosen not to upgrade and not to bring it into the 21st Century. That neglect is not ours to correct. Xcel has twice tried to invade and inflict communities with transmission when they had identified a distribution system deficit -- Hiawatha and Hollydale.<sup>2</sup>
- **Transmission** deficit a decade ago was caused by interconnection of generation without requiring transmission upgrades and neglect of transmission system.<sup>3</sup> It also became an issue when Big Stone II was proposed because at that time it was "cause cost pays" and

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<sup>1</sup> Remember Dr. Arjun Makhijani's warnings about use of Construction Work in Progress rate recovery?

<sup>2</sup> See PUC Dockets Hollydale 11-152 and 12-113; Hiawatha 09-38.

<sup>3</sup> See TLTG tables for the SW MN 345 kV line, PUC Docket 01-1958.

were going to charge BSII for interconnection costs.<sup>4</sup> Utilities and funded supportive NGOs went to MISO and FERC to revamp allocation of transmission construction costs, which they did. Ratepayers will be paying billions for transmission construction all around the country.<sup>5</sup> The PUC has yet to address how that Minnesota percentage of MISO MVP cost will be incorporated into the rates -- but wait, those are FERC rates, not PUC state rates... how will that huge bill be handled? That capital cost is for private purpose transmission, market sales, and not a public service – it is not ours to pay.

- **Generation** changed decades ago too, moving away from utility construction and ownership, collecting revenue for that, and it morphed to an IPP (Independent Power Producer) mode where a third party takes on risk and cost of construction and sells power to utilities. It's been that way for decades. Xcel has done some coal plant updates, the MERP conversions, and nuclear update/uprate (grossly over budget by factor of 2+), all recoverable in rates. But utilities are not financing and building new plants and have opted out of that traditional revenue stream. This shift was a business choice of utilities, but now they're looking to make up that revenue that they don't get for building the plants and want rate recovery for being the middleman on PPAs. That business choice is not ours to "fix."
- **Deregulation** -- The "e21 Initiative" looks and feels like the 2000 deregulation push to me, particularly with all the support of "environmental" and "advocacy" organizations.<sup>6</sup> Utilities wanted deregulation (back when Enron and Xcel's NRG was making 300% profits screwing over California in an orchestrated rate skyrocket) and at that time, Xcel had all the "environmental" organizations behind it as "inevitable restructuring." Everyone was jumping on the deregulation bandwagon, and that's how this e21 feels.<sup>7</sup>

Please consider the implications and consequences of SF 1735 and say NO!

Very truly yours,



Carol A. Overland  
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<sup>4</sup> See "standstill agreement" and withdrawal of Bill Gates' Cascade Investment from that project at Legalectric: [Bill Gates & Otter Tail at the PUC Tuesday...](#)

<sup>5</sup> See Schedule 26A of MISO Tariff, also Tariff MM.

<sup>6</sup> Well-funded, and those funding agreements should be disclosed.

<sup>7</sup> Back in that earlier deregulation push, the utilities also had support to pay for "stranded costs" for their large generating plants. Thankfully it was pointed out that deregulation is a disaster where ever it goes, and that the claimed "stranded costs" were really stranded assets, and if anyone owed anyone money, the utilities owed us for their assets that were paid for and fully depreciated. Read former Asst. A.G. Steve Corneli on stranded assets and other issues: <http://legalectric.org/f//home/mauler/overland/public/legalectric.org/f/2007/04/corneli-stranded-assets-1997.pdf>.

## Resources to get a sense of electrical market and demand:

### MISO LMP Contour Map – watch electric market in real time:

[https://www.misoenergy.org/LMPContourMap/MISO\\_All.html](https://www.misoenergy.org/LMPContourMap/MISO_All.html)

**Source: SEC 10-K filings 1995 – 2014** (transmission is built for “peak” and market sales occur in the valleys, the larger the valleys, the greater opportunity for market sales of excess generation)

Xcel Peak Demand - SEC 10-K		
Year	Forecast	Actual
1995	7,229	7,519
1996	7,326	7,487
1997	7,468	7,353
1998	7,427	7,660
1999	7,623	7,990
2000	7,696	7,936
2001	7,747	8,334
2002	7,880	8,259
2003	8,090	8,868
2004	8,278	8,665
2005	8,369	9,212
2006	9,401	9,787
2007	9,623	9,427
2008	9,737	8,697
2009	9,662	8,615
2010	9,280	9,131
2011	9,357	9,732
2012	9,213	9,475
2013	9,215	9,524
2014	9,212	8,848
2015	9,301	????

At a House Energy meeting recently, it was stated that Minnesota should become an energy exporting state. PJM is often regarded as a target market for MISO generation, but PJM also reports significant drop in demand:

Table 1 PJM Market Summary Statistics, 2013 and 2014<sup>3</sup>

	2013	2014	Percent Change
Load	784,515 GWh	780,505 GWh	(0.5%)
Generation	799,842 GWh	808,287 GWh	1.1%
Net Actual Interchange	3,099 GWh	(324) GWh	(110.5%)
Losses	17,389 GWh	17,150 GWh	(1.4%)
Regulation Requirement*	688 MW	664 MW	(3.5%)
RTO Primary Reserve Requirement	2,063 MW	2,063 MW	0.0%
Total Billing	\$33.86 Billion	\$50.03 Billion	62.0%
Peak	Jul 18, 2013 16:00	Jun 17, 2014 16:00	
Peak Load	157,508 MW	141,673 MW	(10.1%)
Load Factor	0.57	0.63	10.6%
Installed Capacity	As of 12/31/2013	As of 12/31/2014	
Installed Capacity	183,095 MW	183,724 MW	0.3%

\* This is an hourly average stated in effective MW.

Source: 2014 State of the Market Report.

- [Volume I](#) (2MB PDF) contains the introduction.
- [Volume II](#) (14MB PDF) contains detailed analysis and results.

Further, East Coast Governors and others have loudly declared that they don't want transmission to the East Coast “for renewables” because it's not efficient; it would hamper local renewable development, and that the transmission would likely be used for coal. See Legalectric posts:

- <http://legalectric.org/weblog/5571/>
- <http://legalectric.org/weblog/4970/>
- <http://legalectric.org/weblog/3401/>