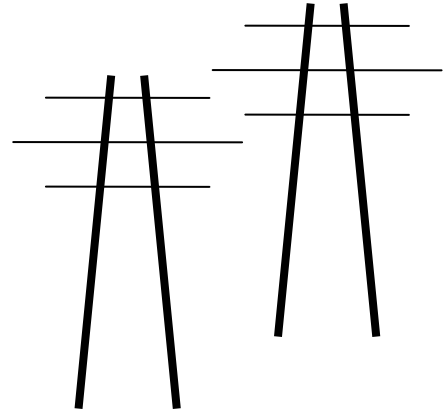


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July 20, 2015

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

eFiled only

RE: Comment on Proposed Rulemaking
PUC Docket: R-13-24

Dear Mr. Moseng:

Thank you for the opportunity to comment on the proposed Chapter 7829 Rule changes. I am making this comment as an individual and not in the course of representation of any party.

I note the DNR Comment today and wholeheartedly support development of a new and distinct status category for agency participation:

Minnesota Rules Chapter 7829.0800 includes rules regarding intervention in proceedings and party status. The DNR recommends that the Public Utilities Commission (PUC) consider a change to these rules that would create a specific status for state agencies other than the Department of Commerce. We believe that neither the commenter nor the party status is particularly well-suited for agencies like the DNR to convey technical information and agency perspectives to the PUC. We further believe the special agency status would better facilitate interagency coordination on permitting and other key considerations. We would be pleased to work with the PUC to identify a mechanism in rule to formalize an interagency coordination role in proceedings.

State agencies do not necessarily participate in the Commission's dockets, unless requested, but their participation is sorely needed, particularly the MPCA, DOT and DNR. A distinct status should also convey the necessity of agency participation.

A distinct status would not only encourage participation, but it would increase the likelihood of recognition of and reception of those comments by decision makers, parties, and the public.

Agency participation helps inform the record with specialized information not common knowledge, and as such, agency participation is very valuable to parties, and I'd presume it is also valuable to Commerce, agency, Applicant and Commission too! In the past, when

representing intervenors in dockets, I had to both request Commission action¹ and subpoena state agencies several times² until agency participation became **much appreciated** rote behavior. I noted that in the Enbridge Sandpiper docket, the request for subpoena to bring the agencies into the docket, with their unique information and testimony, was inexplicably denied by the Administrative Law Judge!³ Why would informing the record ever be discouraged?

A special status for agencies would also increase visibility of agency comments and testimony. In cases where agency participation was not formal, there were also instances where agency comments were not entered into the record and instead languished in the environmental review commentary (comments are typically applicable to both EIS and routing), hidden from view of the public. Agency comments have also been improperly filed under the authors' name rather than the agency. In two instances that I am aware of, agency comments were not taken seriously by applicants – in two cases where DOT comments on routing restrictions rendered the applicants' "Preferred" route not permissible. Had that information been more visible to the public, to Commerce, the Administrative Law Judge. More importantly, had the information in the comments been more visible, the Applicants would not have been able to persist in their misguided preference for a route that could not be permitted.

These issues have been raised by me and others in the Chapters 7849 and 7859 docket rulemaking, and should also be addressed in the Chapter 7829 rulemaking.

Thank you for your consideration of these matters. Please let me know if you have any questions or require anything further.

Very truly yours,



Carol A. Overland
Attorney at Law

¹ See Excelsior Energy Mesaba Project, PUC Docket 05-1993 and request for MPCA participation and analysis of air emissions and Commission letter to MPCA.

² See e.g., Chisago III, PUC Dockets CN-04-1176 & TL-06-1677; CapX 2020 dockets CN-06-1115 (Certificate of Need); TL-08-1474 (Brookings – Hampton routing, remand due to DOT scenic easements that rendered Le Sueur Route not permissible); TL-09-1056 (Fargo – Monticello routing); TL-09-1448 (Hampton – La Crosse routing, DOT restrictions at 19 & 52 interchange).

³ See Sandpiper Pipeline PUC Docket 13-474.