

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, Minnesota 55101

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101-2147

In The Matter of the Application of
Northern States Power Company, d/b/a
Xcel Energy, for Authority to Increase
Rates for Electric Service in the State of
Minnesota

OAH Docket No. 19-2500-33074
MPUC Docket No. E-002/GR-15-826

**NORTHERN STATES POWER COMPANY’S OBJECTION TO NO CAPX
2020’S AND CAROL A. OVERLAND’S PETITION TO INTERVENE**

Northern States Power Company, d/b/a Xcel Energy (“Xcel”) respectfully objects to the Petition to Intervene filed by No CapX 2020 and Carol A. Overland (collectively, “Petitioners”) because Petitioners have not met the standard set forth in Minn. R. 7829.0800, subp. 2. Petitioners have not demonstrated: (1) that they have an interest in this rate case recognized by statute; (2) that their interests in Xcel’s rate case are “peculiar,” as distinguished from interests common to other ratepayers; and (3) that such interests will not be adequately addressed by the Department of Commerce (“Department”).

Under Minn. R. 7829.0800, subp. 2, intervention must be granted upon a showing that petitioner has satisfied any of the following four conditions: (1) petitioner is specifically deemed by statute to be interested in the particular type of matter involved; (2) petitioner is specifically declared by statute to be an interested party; (3) the outcome

of the proceeding will bind or affect petitioner with respect to an interest peculiar to petitioner as distinguished from an interest common to the public or the taxpayers in general; or, (4) petitioner's interests are not adequately represented by one or more parties participating in the case.¹

Although Petitioners claim eligibility for intervener status under the third and fourth categories, they have not demonstrated that they meet any of the conditions set out in Minn. R. 7829.0800, subp. 2. Certainly, Carol Overland, as an individual ratepayer, has not established any basis on which she should be granted party status. Ms. Overland can participate as all other members of the public can participate – through the public hearing and public comment process.

With respect to No CapX 2020, Petitioners contend that “ratepayers, individuals, members, and organizations working with No CapX 2020 will be directly affected by the outcome of this proceeding.” (Emphasis added.) Petitioners do not state that No CapX 2020 actually represents the interests of these ratepayers, individuals, members or organizations who have worked with them. Even if No CapX 2020 actually represented these individuals and organizations, Petitioners fail to demonstrate that their petition to intervene should be granted.

Petitioners contend that they have distinct interests “from other intervenors due to the our [sic] freedom from funding incentives and requirements to advocate certain issues

¹ Minn. R. 7829.0800, subp. 2 specifically provides:

The petitioner must allege the grounds for intervention and must be granted upon a showing that: the person is specifically considered 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.

and positions, particularly promotion of transmission, transmission cost allocation and finish rate recovery schemes” and that “No CapX is interested in the shift of focus from native load to market transactions, and jurisdictional issues present in the subtle and not-so-subtle shifting toward legitimization of ‘regional’ planning and rate authority, and away from state and Commission authority.” Such claims cannot support intervention. Simply put, Petitioners’ alleged interests are not “peculiar” and, therefore, do not support intervention. A peculiar interest is “unique.” *In re AT&T*, Docket No. P-442,3123/PA-99-1021, 1999 WL 33595243 *2 (Minn. P.U.C. 1999). To warrant intervention, Petitioners must demonstrate that in the proceeding before the Commission their “interests are different from the interests of other ratepayers or the interests of the general public.” *Matter of Proposed Merger of Minnegasco, Inc. with Arkla, Inc.*, Docket No. G-008/PA-90-604, 1990 WL 600868 (Minn. P.U.C. 1990); *see also In re AT&T*, 1999 WL 33595243 at *2.

Petitioners’ interests in Xcel’s rate case are not unique to Petitioners. Petitioners have not explained how, let alone established that, their interests in the issues in this rate case are any different or “peculiar” than that of the general public and all of Xcel’s ratepayers. By way of example, Petitioners specifically state that they are interested in Xcel’s “[r]ate recovery plan for the other CapX projects,” the rate of return that Xcel will seek under its Minnesota general rates, “the equity of rate recovery authorized by FERC under Schedule 26A,” and “propose[d] [rate] recovery schemes that raise jurisdictional issues between Minnesota v/ [sic] and FERC for MVP Portfolio projects.” Rate recovery authorized by FERC and alleged jurisdictional issues are not relevant issues in this

proceeding. Moreover, interests such as Xcel's rate of return are not unique to Petitioners. Rather, they are general interests that are shared by all ratepayers and the general public.

Petitioners have also failed to demonstrate that their interests will not be adequately represented by the Department. As the Commission has recognized, concerns "common to the general ratepayers . . . are properly represented by the Department," and therefore are not grounds for intervention. *In re MCI Commc'ns Corp.*, Docket P-443,3012/PA-97-1532, 1998 WL 307947 (Minn. P.U.C. 1998). Any legitimate interests of the Petitioners in this rate case are already represented here by the Department, which is an intervener as of right. *See* Minn. R. 7843.0300, subp. 7.

For the foregoing reasons, Petitioners have not satisfied the requirements for intervention set forth in Minn. R. 7829.0800, subp. 2, and their Petition to Intervene should be denied.

Dated: January 4, 2016

WINTHROP & WEINSTINE, P.A.

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