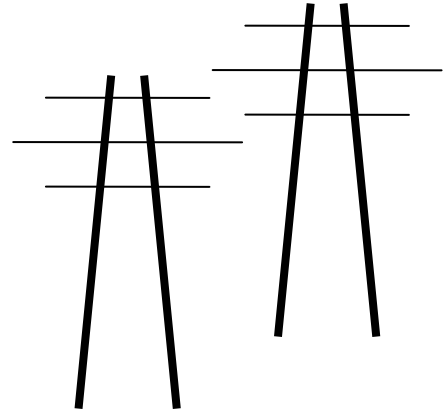


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January 6, 2016

Jeffrey Oxley
Administrative Law Judge
Office of Administrative Hearing
P.O. Box 64620
St. Paul, Minnesota 55164-0620

U.S. Mail and eFiled

RE: Response to Xcel Objection to Petition for Intervention
Northern States Power Company Rate Case
PUC Docket No. E002/CI-15-826

Dear Judge Oxley:

Attached please find Response to Objection of Xcel to Petition for Intervention of Carol A. Overland (as individual) and No CapX 2020.

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

Very truly yours,

Carol A. Overland
Attorney at Law

Enclosure: Response to Xcel's Objection to NoCapX and Overland Petition for Intervention;
Certificate of Service

cc: Parties and others eServed via eDockets

CERTIFICATE OF SERVICE

**In the Matter of the Application of
Northern States Power Company, doing
business as Xcel Energy, for Authority to
Increase Rates for Electric Service in the
State of Minnesota**

**OAH Docket No. 19-2500-33074
PUC Docket No. E002/GR-15-826**

I, Carol A. Overland, hereby certify that I have this day, served copies of the attached No CapX 2020 and Carol A. Overland Petition for Intervention by electronic filing eService and/or U.S. Mail.

Dated: January 6, 2015



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**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
for the
MINNESOTA PUBLIC UTILITIES COMMISSION**

**In the Matter of the Application of
Northern States Power Company, doing
business as Xcel Energy, for Authority to
Increase Rates for Electric Service in the
State of Minnesota**

**OAH Docket No. 19-2500-33074
PUC Docket No. E002/GR-15-826**

**NO CAPX 2020 AND OVERLAND RESPONSE TO
NORTHERN STATES POWER COMPANY d/b/a XCEL ENERGY'S OBJECTION TO
PETITION FOR INTERVENTION**

No CapX 2020 and Carol A. Overland hereby make this Response to Northern States Power Company d/b/a Xcel Energy's (hereinafter "Xcel") Objection to No CapX 2020 and Carol A. Overland's Petition for Intervention as full parties, with all the rights of a party, in the above-captioned rate case docket. No CapX 2020 (hereinafter "No CapX") and Carol A. Overland (hereinafter "Overland") have requested leave to intervene as provided generally and pursuant to the Commission's Order of December 22, 2015, and Xcel objects.

Curiously, after a review of the Xcel post-merger rate cases, it appears that Xcel has only once before objected to intervention of a party, and that was in the 2010 rate case¹, where Minwind, Petitioned to Intervene 5 weeks after the Intervention deadline, complaining that Xcel had failed to execute a Power Purchase Agreement, the material term of a Settlement Agreement in a Southwestern Minnesota transmission line Certificate of Need case.² Xcel did not object to

¹ PUC Docket GR-10-971.

² See SW Minnesota Certificates of Need TL-01-1958, and Minwind Petition for Intervention in 2010 Rate Case, PUC Docket GR-10-971:

20114-61822-01	PUBLIC	10-971	GR	MINWIND ENERGY LLC	INTERVENTION--& NOTICE OF APPEARANCE	04/27/2011
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the untimely filing of AARP in the 2013 rate case.³

Xcel objected to the Minwind intervention, noting lateness, and that “Minwind’s requested participation in the rate case is explicitly intended to create leverage for its position that Xcel Energy should be required to enter into a PPA with its constituent members.”⁴ ALJ Heydinger⁵ filed an Order Granting Limited Intervention to Minwind Energy the following day.⁶

In a Reply Comment in that rate case⁷, Minwind noted it would have no further filings, and that:

6. Minwind participated in contested case proceedings from June 1 through June 8, 2011. Through parallel efforts, Minwind and Xcel Energy also attempted to resolve issues pertaining to Community Wind South.

... and:

8. In addition, on July 6, 2011, Xcel Energy and Community Wind South entered into PPAs for approximately 30 megawatts of locally-owned wind generation, which was filed for MPUC review and approval on August 4, 2011.

In contrast to this solitary objection to Intervention in a rate case outlined in the above situation, No CapX and Overland have filed a timely Petition to Intervene, in fact the first one in this docket. No CapX and Overland have no extortionate intent in this docket, and has no intent,

³

20143-97340-01	PUBLIC	13-868	<input type="checkbox"/>	GR	OAH	ORDER--GRANTING PETITION TO INTERVENE OF AARP WITH LIMITATIONS	03/14/2014
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⁴

20115-62207-01	PUBLIC	10-971		GR	XCEL ENERGY	OTHER--OBJECTION TO MINWIND INTERVENTION	05/03/2011
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⁵ Current Commission Chair, and ALJ of the 2010 Rate Case, had also presided over the SW MN transmission Certificate of Need and had been appointed facilitator in subsequent disputes in that docket.

⁶

20115-62250-01	PUBLIC	10-971		GR	OAH	ORDER--ORDER GRANTING LIMITED INTERVENTION TO MINWIND ENERGY	05/04/2011
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⁷

20118-65526-01	PUBLIC	10-971		GR	MINWIND ENERGY LLC	REPLY COMMENTS--MINWIND ISSUES RESPONSE	08/19/2011
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or ability, to utilize this rate case docket to leverage a resolution to a dispute in another docket, and unlike other intervenors, No CapX 2020 and Overland have not participated in negotiations or settlement agreements with Xcel Energy or its predecessor, Northern States Power, agreements that could have an impact on positions taken or not taken in an intervention.

Instead, No CapX 2020 and Overland have a unique perspective and interest as a nearly constant presence in Certificate of Need and Transmission Routing and Power Plant Siting dockets, has raised issues of cost apportionment and rate recovery in the CapX 2020 and MISO MVP 17 project portfolio dockets, and in those cases, the ALJs and Commission correctly held that rate issues are for rate cases and would not be decided in other dockets. This is that rate case where these transmission rate issues will be addressed.

No CapX 2020 and Overland's interests are indeed unique, or "peculiar" as Xcel would say, a perspective taken from a position different than other intervenors. Other likely intervenors, such as Wind on the Wires, Fresh Energy, Izaak Walton League, and MCEA have received millions of dollars to promote regulatory and legislative changes to facilitate transmission generally,⁸ a shift to increased federal jurisdiction, to participate in development of FERC approved MISO tariffs for cost apportionment and cost recovery, and incentives for and promotion of the CapX 2020 and MISO MVP transmission build-out.⁹ On the other hand, No CapX 2020 and Carol A. Overland, as individual and as attorney for intervenors, have opposed the transmission build-out, and opposed extraction of costs from Minnesota ratepayers, because construction of transmission is a revenue-driven and generating exercise which shifts the burden of construction and costs to others than those benefitting from the construction and operation of

⁸ See Minnesota 2005 Session Laws Ch. 97 S.F. 1368, re: transmission only companies, CWIP, regional need, online: <https://www.revisor.mn.gov/laws/?year=2005&type=0&doctype=Chapter&id=97>

⁹ See e.g., Merger Stipulation para. 4, December 15, 1999; Settlement Agreement TRANSLINK PUC Docket 02-2152; Wind on the Wires funding; RE-AMP funding.

transmission, and facilitates construction of transmission for a private purpose, profit and economic benefit, rather than a public purpose.

Other likely intervenors were participants in the Xcel driven e21 Initiative, where consensus was reached regarding a Multi Year Rate Plan and “performance outcomes.”¹⁰

*2) Shifting away from a regulatory system that rewards the sale of electricity and building large, capital-intensive power plants and other facilities toward one that rewards utilities for achieving an **agreed-upon set of performance outcomes** that the public and customers want (e.g., energy efficiency, reliability, affordability, emissions reductions, predictable rates, etc.)*

e21 Final Report, p. 9. Because an agreement is reached by a cherry picked group of funded participants does not mean that it is in the public interest. It only means that there is sufficient incentive to obtain “stakeholder” consensus, and nothing more.

Overland was one of few to testify against the e21 Initiative before Senate and House Committees, and OAG-RUD testified against it as well, and though the room was packed with the usual intervenors in rate cases, the “participants” or “stakeholders” were SILENT and did not testify against it. Minn. Stat. §216B.16, Sub. 19. The e21 Final Report lists those participating in the effort that reached consensus on the Multi-Year Rate Plan, in particular, representatives of potential intervenors Fresh Energy and Wind on the Wires (and because MCEA is likely representing these and other “parties,” there can be no divergence of position without impermissible conflict). Overland, also representing No CapX 2020, participated in the Citizens’ League e21 effort and there strongly opposed e21 Initiative positions, which notably did NOT reach consensus and did not support the e21 legislation. Thus, the No CapX 2020 and Overland positions and perspective on transmission construction, cost apportionment, cost recovery,

¹⁰ See e21 Final Report:
https://www.betterenergy.org/sites/www.betterenergy.org/files/e21_Initiative_Phase_I_Report_2014.pdf.

CWIP, FERC v. state jurisdiction, etc., are very “peculiar” and are very different from those of the “usual suspects.”

Xcel’s objections that “[p]etitioners have not demonstrate...” are also curious in that the Intervention Petition of No CapX and Overland is much more specific and detailed than those previously filed in other rate cases and not objected to, in this case, for example, the Intervention Petition of the Commercial Group.¹¹ That intervention is by an “ad hoc association of large commercial customers” which includes some named entities, but apparently includes others. Regarding other potential intervenors, what are the XLI interests and how are those different from those of the ICI interests? What are the “peculiar” interests of MCEA (as attorney or as an intervenor?), Fresh Energy, Sierra, Wind on the Wires, NRDC, and if they are so similar, how are the then not adequately represented by just one of those many parties? If they are distinct, yet all represented by the same attorney, would that not be a conflict? The Petitions for Intervention should address these issues.

Xcel relies also on participation by Commerce to object to No CapX 2020 and Overland participation, claiming that:

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,”

Xcel Objection, p. 4. Commerce is indeed a party as an “intervenor as of right” and intervenes to address “concerns ‘common to the general ratepayers,’” although Xcel mistakenly cites to the Resource Planning rule. Conversely, No CapX and Overland have laid out multiple specific, or “peculiar” concerns not addressed by any other party. There is no inkling, much less any

¹¹

201512-116820-01	PUBLIC	15-826	GR	THE COMMERCIAL GROUP	INTERVENTION	12/29/2015
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guarantee, that the Dept. of Commerce will advocate and represent the “peculiar” interests of No CapX 2020 and Overland, nor is there any inkling, much less any guarantee, that OAG-RUD will advocate and represent those interests. Worth noting is that Bill Grant, Deputy Commissioner of Energy and Telecommunications, Dept. of Commerce, was a participant¹² in the “e21 Initiative” and as a representative of Commerce was part of the consensus reached by that “e21 Initiative” group which included promotion of a Multi-Year Rate Plan. Grant directs the Energy activities of the Dept. of Commerce, and it is not clear whether Commerce participation will be in line with the e21 Initiative consensus or if it will vary from that position.

No CapX meets the criteria for intervention and again respectfully requests intervention as a full party, participating jointly, with all the rights of a party, in the above-captioned proceeding.

Respectfully submitted,

Dated: January 6, 2016



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¹² See p. 4, e21 Final Report:
https://www.betterenergy.org/sites/www.betterenergy.org/files/e21_Initiative_Phase_I_Report_2014.pdf

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