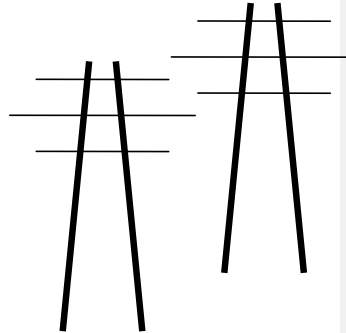


Legalelectric, Inc.

Carol Overland Attorney at Law, MN #254617
Energy Consultant—Transmission, Power Plants, Nuclear Waste
overland@legalelectric.org

P. O. Box 176
Red Wing, Minnesota 55066
612.227.8638

P.O. Box 69
Port Penn, Delaware 19731
302.834.3466



March 24, 2011

Burl Haar, Executive Secretary
Public Utilities Commission
121 – 7th Place East, Suite 350
St. Paul, MN 55101

RE: Petition for Rulemaking based on 2010 PPSA Annual Hearing Comments
Minn. R. Chapter 7850.100, .1200, .1900, .2000, .2100, .2200, .2400, .2500.

Dear Dr. Haar:

Enclosed for filing please find **Petition for Rulemaking**, Minn. R. Chapter 7850.

I am making this Petition as an individual, and not in the course of representation of any specific party, although for the last 15 years I have been representing local governments, activist groups and individuals in utility regulatory and Power Plant Siting Act dockets, ranging from nuclear waste, transmission, coal gasification, wind, and natural gas, and have gleaned these comments from that extensive experience.

For most of that 15 years, I've been participating in the Annual Power Plant Siting Act hearing. To avoid reinventing the wheel, I am incorporating prior Annual Power Plant Siting Act records into my Comment to insure inclusion. As anyone who has testified at the PPSA hearing before would know, the same issues are raised year after year after year after year, and the problems continue. Legislative changes have been made to suit utility desires that exacerbate these problems. Parties raising issues are often regarded as "impediments" and the public interest has been mowed down as so much Right of Way vegetation. It is my hope that the **Petition for Rulemaking** can bring some of these issues into focus.

I've set out the proposed amendments below based on 15 years of working within the Power Plant Siting Act constraints, problems observed over the years, and am using the outline for my oral comments at the hearing as the basis for the Petition, incorporated within.

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

Very truly yours,

A handwritten signature in cursive script that reads "Carol A. Overland".

Carol A. Overland
Attorney at Law

AMENDED PETITION FOR RULEMAKING
TO THE
OFFICE OF ADMINISTRATIVE HEARINGS
And the
MINNESOTA PUBLIC UTILITIES COMMISSION

OAH Docket No. OAH Docket 8-2500-21746-2
PUC Docket No.10-222

Name: Carol A. Overland

Group Represented or Title: Petition made as an individual

Address: Legalectric, P.O. Box 176, Red Wing, MN 55066

I request that the Public Utilities Commission amend Minnesota Rules, parts:

Minn. R. Chapter 7850.100, .1200, .1900, .2000, .2100, .2200, .2400, .2500.

The need or reasons for the rulemaking are detailed in my testimony at the 2010 Annual Power Plant Siting Act hearing outlined below, with specific proposals in track changes below that.

Statutes & Rules have holes

There are areas not specifically covered by the PPSA that should be because some matters are “open to interpretation.” Worse, sometimes staff or ALJ interpretation is contrary to rule, against public interest, or thwarts public participation, which is a large part of the purpose of the PPSA.

- Task Force formation should be presumed, without resistance from Commerce
- Task Force implementation – need “CITIZENS” on the Task Force (see rule)
- Notices are sent late, particularly for those routes added in scoping, and sometimes notice is not sent at all
- Scoping is broadening inquiry rather than funnel down – facilitators of task force have this exactly backwards
- Shifting burden of proof requires project opponents to function beyond means
- Definition of “adequacy” of environmental review is too narrow

Intervenor funding is necessary to facilitate public participation

Intervenors are at an extreme disadvantage in utility infrastructure proceedings, and need direct and indirect support. All the public participation opportunities in the world are useless if the public cannot navigate the system or maintain the investment necessary to be present. It is very difficult for the public learn of their options, the system is arcane and cumbersome, and the process is necessarily long, but long enough to try anyone's patience. For members of the public, presented with so many hurdles, the question is "Why bother? It's a done deal."

Direct or indirect funding is needed for expert witnesses, transcripts, and intervenor compensation. Often transcripts are available at local libraries, but not always, and as in other states, they should be provided to parties as a matter of course.

Minnesota needs a Dept. of Public Advocate/Public Intervenor, as is found in New Jersey, Delaware, Iowa, Wisconsin and California. The "Public Advisor" must at least provide inquiring persons with public participation statutes and rules!

Participation as a party by the Residential Utilities Division of the AG's office should be mandatory in all dockets affecting ratepayers.

PPSA Specific issues addressed in rule amendments proposed

Notice must be required, and flawed notice should at some point be fatal flaw to application

- facilitate local gov't participation, gov't's need notice to show up (CATF, Intervene)
- as route changes, notice landowners immediately
 - o Brookings – scoping routes, didn't get notice until 2-3 monts later
 - o Myrick didn't get notice until after hearings had ended!!!

Environmental review- routes not reviewed are not within universe of routes to select from, yet applicants propose them and they are regarded as options for routing.

Adequacy of environmental review is based only on whether it covers what's raised in scoping decision, and not scope or quality of treatment of issues raised

FEIS for many projects are typically not released until AFTER the hearing. This means that at the time of the hearing, parties have no way to know whether there are deficiencies in the FEIS and/or in the content of responses to Comments to be able to raise them in a timely manner.

Agency participation – Agencies must participate in dockets in which they have a stake. I am tired of filing subpoena requests, but will continue to do so until participation is a matter of course. Rules change to require state agencies to appear.

The Commission must adopt a policy to ENCOURAGE state and federal agencies to appear.

- Mesaba – took PUC directive to get MPCA to weigh in, PUC could specifically request participation by state and Federal agencies.
- Brookings – took subpoena request x 2

- Fargo – they were getting used to it

Agency comments – must be put into routing/siting record **immediately upon receipt**, labeled as agency comments, and posted on eDockets for that docket, and not hidden in EFP site or withheld until release of FEIS.

Incomplete applications should be rejected, with project not moving forward until information required is provided

- CapX failure to disclose ultimate owner, at same time Xcel is transferring transmission assets to ITC

Advisory Task Forces – interpretation of rules has been skewed

- Citizen Advisory Task Force is the name of rule, yet citizens excluded from participation
- Necessity of petitioning because Commerce resists forming Task Forces – Chisago, Mesaba, CapX Brookings & LaX
- Task Forces increase load for staff, and require commitment of resources – funding needed.
- No opportunity for public comments at Task Force meetings, takes the “citizen” out of the process, limits broad public participation.
- Failure to provide basic, essential information (I was told to leave meeting when I responded to Task Force member question re: why only one site for Mississippi River crossing was proposed and RUS environmental review addresses three crossings)
- Membership – CapX CATF membership limited to local governments “Land Use Professionals”
- Everything framed from “Land Use” perspective
- Members told to narrow issues, not brainstorm
- Members told to make recommendation, revolted and refused

Local Review

- Local gov’t generally not equipped for local review of energy projects
- May not admit it, i.e. Freeborn County’s review of Bent Tree
- No expertise or sense, i.e., Freeborn Co. cut and paste application as EA
- Local gov’t choosing route not reviewed in EA (likely, decision later today, Co. Atty. has been notified of issue and has not weighed in, it was farmed to outhouse attorney.
- Question of intervention – parties CAN intervene in county permitting, issue is whether it is a proceeding.
- Local permits denied with substantial record – Xcel started suing and they caved.
- Devo Agreement with local government before environmental review completed is a MEPA problem.

Funding of projects prior to completion of environmental review is MEPA problem.

...a governmental decision cannot be made to grant any related permit until the environmental impact statement has been determined to be adequate. Minn. Stat. 116D.04,

subdiv. 2b; Minn. R. 4410.3100, subp. 1. “Permit” is specifically defined to include “the

commitment to issue or the issuance of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, by a governmental unit.” Minn. R. 4410.0200, subp. 58.

How is administrative process working?

- Parties booted out where testimony not submitted – no basis for this.
- Non-party public not given adequate time or opportunity to question witnesses.
- Intervention – TWICE ordered by ALJ to be incorporated -- no basis for this
- Hurdles to participate
- Transcripts – how to participate without access to transcript

SPECIFIC AMENDMENTS TO RULES

7850.1000 DEFINITIONS.

Subpart 1. Scope.

As used in parts [7850.1000](#) to [7850.5600](#), the following terms have the meanings given them.

Subp. 2. Act.

"Act" means the Power Plant Siting Act of 1973, as amended, Minnesota Statutes, chapter 216E.

Subp. 3. Associated facilities.

"Associated facilities" means buildings, equipment, and other physical structures that are necessary to the operation of a large electric power generating plant or a high voltage transmission line, [including nuclear waste storage facilities](#).

Subp. 4. Commission.

"Commission" means the Public Utilities Commission.

Subp. 5. Certified HVTL list.

"Certified HVTL list" means the transmission projects certified by the Public Utilities Commission as priority projects under Minnesota Statutes, section [216B.2425](#).

Subp. 6. Developed portion of the plant site.

"Developed portion of the plant site" means the portion of the LEPGP site that is required for the physical plant and associated facilities.

Subp. 7. Environmental assessment.

"Environmental assessment" means a written document that describes the human and environmental impacts of a proposed large electric power generating plant or high voltage transmission line and alternative routes or sites and methods to mitigate such impacts. [An environmental assessment does not satisfy the requirements of Minnesota Statutes, section 116D.04.](#)

Subp. 8. Environmental impact statement or EIS.

"Environmental impact statement" or "EIS" means a detailed written statement that describes proposed high voltage transmission lines and large electric power generating plants and satisfies the requirements of Minnesota Statutes, section [116D.04](#).

Subp. 9. High voltage transmission line or HVTL.

"High voltage transmission line" or "HVTL" means a conductor of electric energy and associated facilities designed for and capable of operating at a nominal voltage of 100 kilovolts or more either immediately or without significant modification. Associated facilities shall include, but not be limited to, insulators, towers, substations, and terminals.

Subp. 10. Large electric power facilities.

"Large electric power facilities" means high voltage transmission lines and large electric power generating plants.

Subp. 11. Large electric power generating plant or LEPGP.

"Large electric power generating plant" or "LEPGP" means electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more. Associated facilities include, but are not limited to, coal piles, cooling towers, ash containment, fuel tanks, water and wastewater treatment systems, [nuclear waste storage facilities](#) and roads.

Subp. 12. Mail.

"Mail" means either the United States mail or electronic mail by e-mail, unless another law requires a specific form of mailing.

Subp. 13. Person.

"Person" means any individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, ~~however whether or not formally~~ organized.

Subp. 14. PUC.

"PUC" means the entire Public Utilities Commission, including the commission and staff.

Subp. 15. Right-of-way.

"Right-of-way" means the land interest required within a route for the construction, maintenance, and operation of a high voltage transmission line.

Subp. 16. Route.

"Route" means the location of a high voltage transmission line between two end points. A route may have a variable width of up to 1.25 miles within which a right-of-way for a high voltage transmission line can be located. The "alignment" is the proposed placement of a transmission line within the route.

Subp. 17. Route segment.

"Route segment" means a portion of a route.

Subp. 18. Site.

"Site" means an area of land required for the construction, maintenance, and operation of a large electric power generating plant.

Subp. 19. Utility.

"Utility" means any ~~entity~~ public service corporation engaged or intending to engage in this state in the generation, transmission, or distribution of electric energy including, but not limited to, a private investor owned utility, a cooperatively owned utility, a public or municipally owned utility, a limited liability company, ~~or a private corporation.~~

7850.1200 APPLICABILITY.

Parts 7850.1000 to 7850.5600 establish the requirements for the processing of permit applications by the Public Utilities Commission for large electric power generating plants and high voltage transmission lines. Requirements for environmental review of such projects before the commission are established in the applicable requirements of chapter 4410, ~~and~~ parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.

7850.1500 EXCEPTIONS TO PERMITTING REQUIREMENT FOR CERTAIN EXISTING FACILITIES.

Subpart 1. No permit required.

The following projects are not considered construction of a large electric power generating plant or high voltage transmission line and may be constructed without a permit from the commission:

A. equipment additions at an existing substation that do not require expansion of the land needed for the substation and do not involve an increase in the voltage or changes in the location of existing transmission lines, except that up to the first five transmission line structures outside the substation may be moved to accommodate the equipment additions provided the structures are not moved more than 500 feet from the existing right-of-way;

B. high voltage transmission lines:

- (1) maintenance or repair of a high voltage transmission line within an existing right-of-way;
- (2) reconductoring or reconstruction of a high voltage transmission line with no change in voltage or capacity and no change in right-of-way, provided that any new structures that are installed are not designed for and capable of operation at higher voltage; or
- (3) relocation of a high voltage transmission line that is required by a local or state agency as part of road, street, or highway construction; or

C. large electric power generating plants:

- (1) maintenance or repair of a large electric power generating plant;
- (2) modification of a large electric power generating plant to increase efficiency as long as the capacity of the plant is not increased more than ten percent or more than 100 megawatts, whichever is greater, and the modification does not require expansion of the plant beyond the developed portion of the plant site. If a subsequent modification results in a total of more than 100 megawatts of additional capacity, this provision does not apply. An increase in efficiency is a reduction in the amount of BTUs (British Thermal Units) required to produce a kilowatt hour of electricity at the facility;
- (3) refurbishment of a large electric power generating plant that does not expand the capacity of the plant or expand the plant beyond the developed portion of the plant site and the refurbishment does not require a certificate of need from the public utilities commission;
- (4) conversion of the fuel source of a large electric power generating plant to natural gas, as long as the plant is not expanded beyond the developed portion of the plant site; or
- (5) start-up of an existing large electric power generating plant that has been closed for any period of time one year or less at no more than its previous capacity rating and in a manner that does not involve a change in the fuel or an expansion of the developed portion of the plant site.

Subp. 2. Minor alteration.

In the event a modification or other change in an existing substation, high voltage transmission line, or large electric power generating plant does not qualify for an exception under this part, the modification or change may qualify for a minor alteration under part [7850.4800](#).

Subp. 3. Notice.

Any person proposing to move transmission line structures under subpart 1, item A, or to reconductor or reconstruct a high voltage transmission line under subpart 1, item B, subitem (2), or to implement changes to a large electric power generating plant under subpart 1, item C, subitem (2), (3), (4), or (5), must notify the commission in writing at least 30 days before commencing construction on the modification or change.

7850.1900 APPLICATION CONTENTS.

Subpart 1. Site permit for LEPGP.

An application for a site permit for a large electric power generating plant must contain the following information:

- A. a statement of proposed ownership of the facility as of the day of filing and after [commencement of](#) commercial operation;
- B. the precise name of any person or organization to be ~~initially~~ named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;
- C. at least two proposed sites for the proposed large electric power generating plant and identification of the applicant's preferred site and the reasons for preferring the site;
- D. a description of the proposed large electric power generating plant and all associated facilities, including the size and type of the facility;
- E. the environmental information required under subpart 3;
- F. the names of the owners of the property for each proposed site;
- G. the engineering and operational design for the large electric power generating plant at each of the proposed sites;
- H. a [detailed](#) cost analysis of the large electric power generating plant at each proposed site, including the costs of constructing and operating the facility that are dependent on design and site;
- I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;
- J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;
- K. a listing and brief description of federal, state, and local permits ~~that may be~~ required for the project at each proposed site; and
- L. a copy [or link to](#) ~~of~~ the Certificate of Need for the project from the Public Utilities Commission or documentation that an application for a Certificate of Need has been submitted or is not required.

Subp. 2. Route permit for HVTL.

An application for a route permit for a high voltage transmission line shall contain the following information:

- A. a statement of proposed ownership of the facility at the time of filing the application and after [commencement of](#) commercial operation;
- B. the precise name of any person or organization to be ~~initially~~ named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;
- C. at least two [feasible distinct](#) proposed routes for the proposed high voltage transmission line [without overlap](#) and identification of the applicant's preferred route and the reasons for the preference;
- D. a description of the proposed high voltage transmission line and all [cumulative and](#) associated facilities including the size and type of the high voltage transmission line, [including conductor specifications, voltage and capacity](#);
- E. the environmental information required under subpart 3;
- F. identification of land uses and environmental conditions along the proposed routes;
- G. the names [and addresses](#) of each owner whose property is within any of the proposed routes for the high voltage transmission line;
- H. United States Geological Survey topographical maps or other maps acceptable to the commission showing the entire length of the high voltage transmission line on all proposed routes;
- I. identification of existing [corridor of](#) utility and public rights-of-way along or parallel to the proposed routes that have the potential to share the right-of-way with the proposed line;
- J. the engineering and operational design concepts for the proposed high voltage transmission line, including information on the [range of](#) electric and magnetic fields of the transmission line [from light loading, expected loading, and thermal limits](#);
- K. [detailed](#) cost analysis of each route, including the [itemized](#) costs of constructing, operating, and maintaining the high voltage transmission line that are dependent on design and route;
- L. a description of possible design options [and costs](#) to accommodate expansion of the high voltage transmission line in the future;
- M. the procedures and practices proposed for the acquisition and restoration of the right-of-way, construction, and maintenance of the high voltage transmission line;
- N. a listing and brief description of federal, state, and local permits ~~that may be~~ required for the proposed high voltage transmission line; and
- O. a copy of the Certificate of Need or the certified HVTL list containing the proposed high voltage transmission line or documentation that an application for a Certificate of Need has been submitted or is not required.

Subp. 3. Environmental information.

An applicant for a site permit or a route permit shall include in the application the following environmental information for each proposed site or route to aid in the preparation of an environmental impact statement:

- A. a description of the environmental setting for each site or route;

- B. a description of the effects of construction and operation of the facility on human settlement, including, but not limited to, public health and safety, displacement, noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;
- C. a description of the effects of the facility on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;
- D. a description of the effects of the facility on archaeological and historic resources;
- E. a description of the effects of the facility on the natural environment, including effects on air and water quality resources and flora and fauna;
- F. a description of the effects of the facility on rare and unique natural resources;
- G. identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific site or route; and
- H. a description of measures that might be implemented to mitigate the potential human and environmental impacts identified in items A to G and the estimated costs of such mitigative measures.

7850.2000 APPLICATION REVIEW.

Subpart 1. Review by commission.

Within ten working days of receipt of an application for a site permit or a route permit, the commission shall [issue notice of receipt of application and 15 day comment period. After 15 day comment period has run, the commission shall](#) determine whether the application is complete and notify the applicant in writing of the acceptance or rejection of the application. If the commission rejects an application, the commission shall advise the applicant of the deficiencies in the application.

Subp. 2. Resubmission of rejected application.

If the commission should reject an application, an applicant may decide to address the deficiencies identified by the commission and resubmit the application with additional information. In this event, the commission shall again [issue notice of receipt of application and 15 day comment period and after the 15 day comment period has run,](#) review the application within ten days and determine whether the application is complete and advise the applicant of the commission's determination.

Subp. 3. Reasons for rejection.

The commission shall not reject an application if the information that is missing can be obtained from the applicant within 60 days from the date of the application and the lack of the information will not interfere with the public's ability to review the proposed project. [If the missing information is not provided, the application will be deemed dismissed and applicants shall resubmit with missing information.](#)

Subp. 4. Schedule.

The date of the commission's determination that an application is complete marks the start of the schedule for the commission to make a final decision on a permit application, [unless waived by applicants](#).

7850.2100 PROJECT NOTICE.

Subpart 1. Notification lists.

The PUC shall maintain the notification lists described in items A and B.

A. The PUC shall maintain a list of persons who want to be notified of the acceptance of applications for site permits or route permits. Any person may request to have that person's name or an organization's name included on the list. The PUC may from time to time request that persons whose names are on the list advise the PUC whether they want to remain on the list, and the PUC may delete any names for which an affirmative response is not received within a reasonable time [with notice that the person has been deleted from the list](#). A person whose name has been removed may request to have the name added back on the list. The PUC shall provide an applicant with the general list upon acceptance of an application.

B. The PUC shall maintain a project contact list for each project for which an application for a permit has been accepted. The project contact list must contain the names of persons who want to receive notices regarding the project. Any person may request to have that person's name or an organization's name included on a project contact list. The PUC [shall coordinate with and include names from other sections or agencies, and](#) may add a person's name to the list if the PUC believes the person would like to receive notices about the particular project. The PUC shall provide an applicant with the project contact list upon request.

Subp. 2. Notification to persons on general list, to local officials, and to property owners.

Within 15 days after submission of an application, the applicant shall mail written notice of the submission to the following people:

- A. those persons whose names are on the general list maintained by the PUC for this purpose;
- B. each regional development commission, county, incorporated municipality, and township in which any part of the site or route or any alternative is proposed to be located; and
- C. each owner whose property is adjacent to any of the proposed sites for a large electric power generating plant or within any of the proposed routes for a high voltage transmission line. For purposes of giving notice under this item, owners are those persons shown on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer, or any other list of owners approved by the commission.

Subp. 3. Content of notice.

The notice mailed under subpart 2 shall contain the following information:

- A. a description of the proposed project, including a map showing the general area of the proposed site or proposed route and each alternative;
- B. a statement that a permit application has been submitted to the PUC, the name of the permit applicant, and information regarding how a copy of the application may be obtained;
- C. a statement that the permit application will be considered by the PUC under the provisions of parts [7850.1000](#) to [7850.5600](#) and the Power Plant Siting Act and describing the time periods for the PUC to act;
- D. a statement that the PUC will hold a public meeting within 60 days and the date of the meeting if it is known at the time of the mailing. [If the date of the public meeting is not known, a subsequent notice must be mailed when the meeting is scheduled;](#)
- E. the manner in which the PUC will conduct environmental review of the proposed project, including the holding of a scoping meeting [and formation of an Advisory Task Force](#) at which additional alternatives to the project may be proposed;
- F. the name of the PUC staff member who has been appointed by the commission to serve as the public advisor, if known, or otherwise, a general contact at the PUC;
- G. the manner in which persons may register their names with the PUC on the project contact list;
- H. a statement that a public hearing will be conducted after the EIS is prepared;
- I. a statement indicating whether a certificate of need or other authorization from the Public Utilities Commission is required for the project and the status of the matter if such authorization is required;
- J. a statement indicating whether the applicant may exercise the power of eminent domain to acquire the land necessary for the project and the basis for such authority, [including “Buy the Farm” Minn. Stat. §216E.12, Subd. 4;](#) and
- K. any other information requested by the commission to be included in the notice.

Subp. 4. Publication of notice.

Within 15 days after submission of an application, the applicant shall publish notice in a legal newspaper of general circulation in each county in which a site, route, or any alternative is proposed to be located that an application has been submitted and a description of the proposed project. The notice must also state where a copy of the application may be reviewed. [The Commission shall send the mailed notice as a press release to legal newspapers in each affected county.](#)

Subp. 5. Confirmation of notice.

Within 30 days after providing the requisite notice, the applicant shall submit to the PUC documentation that all notices required under this part have been given. The applicant shall document the giving of the notice by providing the PUC with affidavits of publication or mailing and copies of the notice provided.

Subp. 6. Failure to give notice.

The failure of the applicant to give the requisite notice does not invalidate any ongoing permit proceedings provided the applicant has made a bona fide attempt to comply, although the commission ~~may shall~~ extend the time for the public to participate if the failure has interfered with the public's right to be informed about and participate the project.

7850.2200 PUBLIC ADVISOR.

Upon acceptance of an application for a site or route permit, the commission shall designate a staff person to act as the public advisor on the project. The public advisor ~~must be available~~ shall to answer questions from the public about the permitting process and provide information about participation, comment and intervention opportunities. This information shall include dissemination of siting and routing statutes and rules for guidance. The public advisor shall not give legal advice or other advice that may affect the legal rights of the person being advised, and the public advisor shall not act as an advocate on behalf of any person or any project applicant.

7850.2400 CITIZEN ADVISORY TASK FORCE.

Subpart 1. Authority.

The commission has the authority to appoint a citizen advisory task force. The commission shall determine whether to appoint such a task force as early in the process as possible. The commission shall establish the size of the task force and appoint its members in accordance with Minnesota Statutes, section 216E.08. The commission shall advise of the appointment of the task force at the next monthly commission meeting.

Subp. 2. Commission decision.

If the commission decides not to appoint a citizen advisory task force and a person would like such a task force appointed, the person may request that the commission create a citizen advisory task force and appoint its members. Upon receipt of such a request, the commission shall place the matter on the agenda for the next regular monthly commission meeting.

Subp. 3. Task force responsibilities.

Upon appointment of a citizen advisory task force, the commission shall specify in writing the charge to the task force. The charge shall include the identification of additional sites or routes or particular impacts to be evaluated in the environmental impact statement. The commission may establish additional charges, including a request that the task force express a preference for a specific site or route if it has one. [Task forces appointed to evaluate sites or routes considered for designation shall be comprised of as many persons as may be designated by the commission, but at least four citizens and non-governmental organization representatives and one representative from each of the following: Regional development commissions, counties and municipal corporations and one town board member from each county in which a site or route is proposed to be located. It is the responsibility of the citizens advisory task force to address the breadth of the scope of the environmental review, to propose alternate routes, and raise environmental concerns. The citizens advisory task force shall issue a report inclusive of all issues raised and siting/routing options suggested. The public shall be afforded opportunity to make public comments at a designated time in the meeting.](#)

Subp. 4. Termination of task force.

The task force [shall meet as many times as is necessary to complete its charge, and](#) expires upon completion of its charge, designation by the commission of alternative sites or routes to be included in the environmental impact statement, or the specific date identified by the commission in the charge, whichever occurs first.

7850.2500 EIS PREPARATION.

Subpart 1. EIS required.

The commissioner of the Department of Commerce shall prepare an environmental impact statement on each proposed large electric power generating plant and high voltage transmission line for which a permit application has been accepted by the commissioner.

Subp. 2. Scoping process.

The commissioner of the Department of Commerce shall provide the public with an opportunity to participate in the development of the scope of the environmental impact statement by holding a public meeting and by soliciting public comments. The public meeting required under part [7850.2300](#) satisfies the requirement to hold a scoping meeting [if noticed as such](#). The commissioner shall provide a period of at least seven days from the day of the public meeting for the public to submit comments on the scope of the EIS. The commissioner shall determine the scope of the environmental impact statement as soon after holding the public meeting as possible. Within five days after the decision, the commissioner shall mail notice of the scoping decision to those persons whose names are on either the general list or the project contact list. [The scoping decision may be appealed to the Department of Commerce Commissioner within 10 days of issuance of the scoping decision. After an appeal, the Commissioner's decision may be brought before the Commission for review.](#) Once the commissioner has determined the scope of

the environmental impact statement, the scope must not be changed except upon decision by the commissioner, [upon his own or upon Petition](#), that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives.

Subp. 3. Alternative sites or routes.

During the scoping process, a person may suggest alternative sites or routes to evaluate in the environmental impact statement. A person desiring that a particular site or route be evaluated shall submit to the commissioner of the Department of Commerce, during the scoping process, an explanation of why the site or route should be included in the environmental impact statement and any other supporting information the person wants the commissioner to consider. The commissioner shall provide the applicant with an opportunity to respond to each request that an alternative be included in the environmental impact statement. The commissioner shall include [a listing of suggested sites and routes in the scoping decision, but shall include](#) the suggested site or route in the scope of the environmental impact statement only if the commissioner determines that evaluation of the proposed site or route will assist in the commissioner's decision on the permit application.

Subp. 4. Scope of EIS.

The scoping process must be used to reduce the scope and bulk of an environmental impact statement by identifying the potentially significant issues and alternatives requiring analysis and establishing the detail into which the issues will be analyzed. The scoping decision by the commissioner of the Department of Commerce shall at least address the following:

- A. the issues to be addressed in the environmental impact statement;
- B. the alternative sites and routes to be addressed in the environmental impact statement; and
- C. the schedule for completion of the environmental impact statement.**
- [D. copies of all agency comments received in the scoping process.](#)

Subp. 5. Matters excluded.

When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the environmental impact statement shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

Subp. 6. Draft EIS.

Formatted: Font: 10 pt
Formatted: Normal

The draft environmental impact statement must be written in plain and objective language. The draft environmental impact statement shall follow the standard format for an environmental impact statement prescribed in part [4410.2300](#) to the extent the requirements of that rule are appropriate. [The Draft EIS shall include copies of all agency comments received in the scoping process.](#)

Subp. 7. Public review.

Upon completion of the draft environmental impact statement, the commissioner of the Department of Commerce shall make the document available for public review by placing a copy of the document in a public library or other governmental office in each county where the proposed project may be located. The commissioner shall send notice of the availability of the draft environmental impact statement to each person on the project contact list maintained under part [7850.2100](#), subpart 1. The commissioner shall also place a notice in the EQB Monitor of the availability of the draft environmental impact statement. The commissioner shall post the environmental impact statement on the agency's Web page if possible.

Subp. 8. Informational meeting.

The commissioner of the Department of Commerce shall schedule ~~an informational meeting hearing~~ to provide an opportunity for the public to comment on the draft environmental impact statement. The ~~meeting-hearing~~ must not be held sooner than 20 days after the draft environmental impact statement becomes available. The meeting must be held in a location convenient to persons who live near the proposed project. The commissioner shall send notice of the informational meeting to each person on the project contact list maintained under part [7850.2100](#), subpart 1. The commissioner shall also place notice in the EQB Monitor. The ~~informational meetinghearing~~ may be held just prior to the holding of a contested case hearing on the permit application. The commissioner shall hold the record on the environmental impact statement open for receipt of written comments for not less than ~~ten-thirty~~ days after the close of the ~~informational meetinghearing~~.

Subp. 9. Final EIS.

The commissioner of the Department of Commerce shall respond to the timely substantive comments received on the draft environmental impact statement consistent with the scoping decision and prepare the final environmental impact statement. The commissioner may attach to the draft environmental impact statement the comments received and its response to comments without preparing a separate document. The commissioner shall publish notice of the availability of the final environmental impact statement in the EQB Monitor and shall supply a press release to at least one newspaper of general circulation in the areas where the proposed sites or routes are located. [The contested case hearing record shall remain open for at least ten days for comments regarding the Final EIS.](#)

Subp. 10. Adequacy determination.

The Public Utilities Commission shall determine the adequacy of the final environmental impact statement. The commission shall not decide the adequacy for at least ~~ten~~thirty days after the availability of the final environmental impact statement is announced in the EQB Monitor. The final environmental impact statement is adequate if it:

A. addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information ~~and the time limitations for considering at the time of the permit application review~~;

B. provides responses to the timely substantive comments received during the draft environmental impact statement review process; and

C. was prepared in compliance with the procedures in parts [7850.1000](#) to [7850.5600](#).

If the commission finds that the environmental impact statement is not adequate, the commission shall direct the staff to respond to the deficiencies and resubmit the revised environmental impact statement to the commission as soon as possible.

Subp. 11. Cost.

The applicant for a site permit or route permit shall pay the reasonable costs of preparing and distributing an environmental impact statement. The costs must not be assessed separately from the assessment under part [7850.1800](#) unless that assessment is inadequate to cover the commissioner's reasonable costs of considering the permit application.

Subp. 12. Environmental review requirements.

The requirements of chapter 4410 and parts [7849.1000](#) to [7849.2100](#) do not apply to the preparation or consideration of an environmental impact statement for a large electric power generating plant or high voltage transmission line except as provided in parts [7850.1000](#) to [7850.5600](#).

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

This petition is being filed via email and posting to the PPSA Annual Hearing docket, 10-222, and is also filed as required by Minn. R. 1400.2020 and 1400.2500 with the Executive Secretary of the Minnesota Public Utilities Commission by United States mail.



Date: March 24, 2011

Carol A. Overland, Petitioner