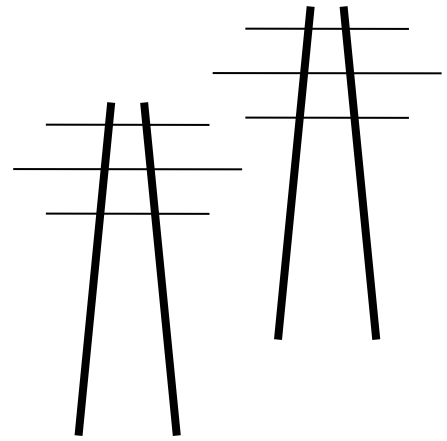


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January 15, 2020

David J. Osmek, Chair, Senate Energy and Utilities Finance and Policy Committee
Andrew Mathews, Vice Chair
Erik Simonson, Ranking Minority Member
Energy Committee members D. Scott Dibble, John A. Hoffman, John Marty, Eric R. Pratt, Jason Rarick,
Julie A. Rosen, David H. Senjem

RE: SC No. 5558-6 – Clean Energy First DRAFT – Version Number 6

To all Senate Energy and Utilities Finance and Policy Committee members:

First, I want to thank you for holding this evening’s meeting in Rochester. Our area has been significantly affected by energy policy, particularly with CapX 2020 roaring through southeast Minnesota, two nuclear reactors in Red Wing, garbage burners in Red Wing and Rochester, solar projects including those in Dodge Center, Pine Island, Red Wing, Wabasha, Waseca, Faribault and Zumbrota (and this November, my home in Red Wing!), and proposed and existing wind projects in many locations, including ones I’ve worked on in Kenyon (permit revoked), Goodhue County (withdrawn), and Freeborn County (now at PUC and Appellate Court).

I’ve been working on utility issues for 25 years now, starting in nuclear and nuclear waste, then transmission, coal gasification and carbon capture and storage, natural gas plants and storage, wind, residential and utility scale solar, and biomass and garbage incineration. Because of this experience, I have experience with and knowledge of policy, technology and impact considerations that should be considered by the Senate Committee. This letter just touches on these topics, and more information is available by searching my site, www.legalelectric.org, for various topics, i.e., “carbon capture” or “utility personal property tax” or “wind noise” and “ground effect” (major issue, as applicants are grossly understating noise of projects by using improper modeling inputs), “incineration emissions,” etc.

The two most important points are:

- **DEMAND IS DOWN, IT PEAKED IN 2006. WE DON’T NEED MORE GENERATION. WE NEED TO CAREFULLY CHOOSE THE WHAT, WHEN, AND WHERE OF GENERATION.** This is a very important time, as our policy choices now will carry into the future.
- **THE CONCEPT OF “BASELOAD” NEED IS HISTORY.** Storage is reality, evidenced in the Cardinal-Hickory Creek transmission docket in Wisconsin. Storage is now regarded as a substitute for transmission and the price is dropping, making it feasible. As fossil is shut down, transmission capacity opens up. Solar follows peak and price has plummeted, but solar siting

should focus on distributed generation on rooftops and not prime ag land. Solar should be located on big box, public buildings and schools, warehouses, hospitals, parking lots, brownfield sites, sites where there is load and interconnection is easy, no transmission required. It's a new era.

With that frame, I have the following comments on SC5558-6 DRAFT, recognizing, hoping, that it will change. Over the years, I've seen some dreadful energy "ominous" (omnibus) bills that have laid the groundwork for building and charging ratepayers for unnecessary transmission, promotion of the Excelsior Energy Mesaba Project boondoggle, burning turkey litter rather than using as fertilizer, ethanol projects that sucked an aquifer dry in southwest Minnesota, and promotion of the siting of wind projects as fast as possible, anywhere, with no siting rules for large wind projects and no regard for the communities faced with a nuisance encroaching. Environmental review of energy projects has been lax, evidenced by recent Appellate Court decisions and dockets at the Public Utilities Commission. And then there's the economics of Xcel's desire for "business plan" rates and shifting revenue streams to capital expenditures with very high rates of return for projects of questionable need to Minnesota.

Twenty years ago, we successfully evaded total deregulation in this state, but bit by bit, Xcel Energy has implemented too many facets of de facto deregulation. There's a reason utilities were regulated – they were running roughshod over consumers and ratepayers. The legislature needs to regulate, needs to provide guidance to the Public Utilities Commission and agencies, and needs to empower and direct the PUC and agencies to do their job!

Cost recovery: There is a lot of misinformation floating around about the cause of rate increases. There's been a shift in utility revenue sources and streams. Rates have skyrocketed due to cost recovery of capital costs of revenue-seeking projects, i.e., the \$2+ billion transmission build-out of CapX 2020; Minnesota's share of MISO's \$6.65 billion MVP projects across Midwest; cost of refurbishing the Monticello nuclear plant at 2 times the estimate; cost of rebuilding Sherco 3 and paying for it to then take Sherco 1 & 2 offline; and partial redo of Prairie Island (uprate cancelled due to no need). Please be thoughtful and careful – don't incentivize building more projects that aren't needed.

Garbage is NOT "renewable" (l. 4.19-4.20): Do not make burning garbage "renewable." Adding it to the definition of "renewable" does not make it so. Burning generates emissions. This is basic science. As the MPCA says in its burn-barrel materials, "If you're burning garbage, you're making poison." Garbage incinerators are not "high tech" or loaded with pollution controls. Our garbage burner here in Red Wing, which burns much of Ramsey County and Washington County's garbage, is Xcel's old coal burner with high emissions and an air permit that's been expired since 2009! Burning "mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste" generates not just CO₂ but lead, arsenic, mercury, dioxin, particulate matter, etc. Burning garbage also creates toxic ash. Just NO! Garbage is not renewable.

Local workers – Wind industry has historically used non-union workers from out of state, and unions are now raising this issue in wind dockets. What about other utility contracting, i.e., the CapX2020 transmission build-out? Has IBEW supported solar training? I see the Rochester union hall has some solar in the parking lot, is there a training program? Use of out-state v. local workers affects any cost/benefit analysis. See also Minn. Stat. §116C.772. There should be consideration of whether projects proposed are make-work projects or legitimately needed.

Carbon capture and storage (CCS) – I'm disturbed to see this coming up again. To be clear: CCS is energy inefficient, environmentally dangerous, and economically absurd – it's unworkable. It's a Pipe dream of Green and Clean.

<https://legalelectric.org/f/2016/11/IGCC-Pipedreams-of-Green-Clean.pdf>

Some CCS history as I observed it. CCS was heavily promoted starting about 15 years ago, and I have an extensive knowledge base of CSS. I first remember the phrase used by Beth Soholt, then Izaak Walton League, and Bill Grant, also Waltons ad recently Asst. Commissioner of Commerce, Energy Division, during 2005 legislative lobbying planning. Their organization and others had received significant funding to promote coal gasification after the 2003 Prairie Island bill that opened the door for “innovative energy project.” Minn. Stat. §216B.1694 ([1Sp2003 c 11 art 4 s 1](#)). In a webinar about coal gasification that same year, Grant spoke of a desire to “find a way forward for coal.” I was present in 2002 when Tom Micheletti first proposed the project to Senate and House energy committees, and watched it grow in plan to a two plant 1,200+MW project, with cost going from \$800,000 when first announced to \$2,155,680,783 in the last known DOE estimate. CCS was discussed but not “incorporated” into the Mesaba Project until very late in the hearing process, when it was apparent that it was not environmentally sound – CCS was offered to placate objectors, but the CCS as proposed would capture only a small percentage of the carbon generated, about 30%, and it took it only to the plant gate, no transport or storage was envisioned.

I represented local residents and landowners in opposing the Mesaba Project for about 5 very intense years and learned more than I wanted to know about coal gasification and carbon capture and storage, gleaned from project filings, discovery, TRADE SECRET and NON-PUBLIC filings, EPRI reports, and studies and reports from other coal gasification and carbon capture proposals. Please do some homework on carbon capture and storage.

Promotion of CSS is nothing more than facilitation of continued use of fossil fuel, typically planned in tandem with coal gasification. CCS is very inefficient. The first 30% is “easy” and after that, much harder and MUCH more costly and very importantly, takes a lot of parasitic energy to operate, reducing efficiency of an already inefficient generating source. CSS is costly, both in removal technology and environmental impacts, the pipeline to wherever, pumping stations every 75 miles using more parasitic energy, and storage where? CSS is environmentally unsound, considering the potential for leakage and impacts, and the likelihood of seismic impacts of pumping gas into ground whether for EOR or storage. For info about seismic impacts/earthquakes, see “*Gas Migration: Events Preceding Earthquakes*” by Khilyuk, et al.

We do not need to reinvent the wheel. Lessons of the Mesaba Project showed that promises of carbon capture are lies. There is no excuse for promotion of CSS.

<https://legalectric.org/f/2016/11/IGCC-Pipedreams-of-Green-Clean.pdf>

Market exception (l. 8.28-8.31) -- **NO**. Xcel has filed at PUC to run the King and Sherco coal generation plants and sell to MISO market, using transmission system built for wholesale transfer. PUC Docket 19-809. This means Xcel does not need the electricity here, but wants to market it elsewhere. No, do not legislatively grant Xcel a “market exception.” Shut them down, NO to continued burning to sell on market and increase toxic and hazardous emissions, CO₂, and ash.

NO NEW NUCLEAR – Demand is down, down, down. There’s no need for new nuclear generation. Xcel didn’t uprate Prairie Island because it wasn’t needed and couldn’t justify the cost. Nuclear is the highest cost generation. Some states are now subsidizing existing nuclear that are not economical to keep uneconomic plants open, and some states are adding the cost of those subsidies to the cost of non-nuclear generation to “level the playing field.” That’s just absurd. Deleting Minnesota’s new nuclear prohibition is bad policy, and would be a legislative addition to existing nuclear subsidies. Further, until there’s some solution to the nuclear waste pileup, new nuclear, and continued nuclear generation, is not acceptable. By

the way, the TN-40 casks require cask seal replacement every 20 years. To my knowledge, that cask seal replacement has not happened yet on any of the casks used for storage starting in 1995. Do check in to this!

Minnesota has sited wind for 25 years with no wind-specific siting rules! See Minn. R. ch. 7854. In 1995, the legislature mandated that wind siting rules be developed. Minn. Stat. §215F.06. The legislature specifically mandated promulgation of rules with “criteria that the commission shall use to designate LWECS sites, which must include the impact of LWECS on humans and the environment” and “requirements for environmental review of the LWECS.” That didn’t happen. **ARE YOU AWARE THAT THERE IS NO ENVIRONMENTAL REVIEW FOR WIND PROJECTS, NO EAW, NO EIS?** Association of Freeborn County Landowners has filed a Petition for EAW on the Freeborn Wind project, and the EQB referred that Petition to the Public Utilities Commission on January 3, 2020. PUC Docket 17-410.

The Public Utilities Commission has relied on the small wind siting standards as guidance for siting large wind project, and that’s improper. See PUC Docket 07-1102. Setbacks established in wind permits are found in the Dept. of Commerce’s wind permit template, but when asked in the Freeborn wind hearing where those setback distances came from, Commerce staff had no idea! Wind project noise violations demonstrated in the Bent Tree project were at 1,175 and 1,525 feet from the nearest turbines, yet setbacks continue at lesser distances, with noise violations probably. An important concept – wind projects move into communities without regard for those who have to live with the projects. Project developers routinely install shades for landowners experiencing shadow flicker (so they must live in the dark?). So far there have been 2 landowner buyouts due to proven noise standard exceedences.

I personally have filed two rulemaking petitions with the PUC for wind siting rules, and both were denied. I personally have filed one rulemaking petition with the MPCA for wind-specific noise rules, but it was rejected. How many more rulemaking petitions and landowner buyouts are needed before rulemaking begins to establish wind siting rules and wind-specific noise rules? How long will the legislature allow the Public Utilities Commission to ignore the legislative rulemaking mandate?

Power Plant Host Community Transition – This is an issue I’ve been tracking since the 1994 road shows around Goodhue County where communities were lobbied by then NSP to push the legislature about the Prairie Island nuclear plant. After “rallying the troops” to storm the legislature in 1994 to keep Prairie Island open and “preserve the tax base,” Xcel, f/k/a NSP, pulled the rug out from those host communities starting in 1995, right after 1994 Prairie Island bill passed, slashing Utility Personal Property Tax in court, Dept. of Revenue administrative proceedings, and legislatively. Host communities are hurting. Communities must plan... for what? In the meantime, legislature should restore Utility Personal Property Tax rates. Xcel paid less than \$1 million in federal income taxes 2009-2015, how much currently? How much in taxes paid to state?

- There is a Prairie Island conversion natural gas plan: <https://legalectric.org/f/2018/01/PI-Conversion-Appendix-B-2002-Resource-Plan.pdf>
- There is a related plan at MISO: https://legalectric.org/f/2018/01/Prairie-Island-Replacement-Study-SS01_report.pdf

There may be other reports and studies. Xcel? The Benson turkey poop burner is a recent example of poor policy, lack of planning, burning for high cost electricity, an improper use of “Renewable Development Fund” dollars, and foisting of costs on ratepayers. Don’t repeat it!

Transmission study – We DON’T need more transmission. In its e21 Report, Xcel complained that only 55% of grid is utilized! Transmission is now a major utility revenue source, and one reason Xcel wants to

change from a cost-based rate structure to a “business plan.” Xcel can make more money building infrastructure such as transmission than they can selling electricity to Minnesotans. We’ve built transmission we don’t need, and we don’t need to build MORE. Say NO to CapX 2050. This is not rocket science, it’s only transmission. Shut down the emission generating facilities and that frees up transmission capacity. Build solar on rooftops near load, which eliminate need for transmission. Plan generation and siting carefully, and address any need right where the need is!

Again, thank you for bringing this legislative road show to Rochester. 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