

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Joint Application of American Transmission)
 Company, ITC Midwest LLC, and Dairyland)
 Power Cooperative, for Authority to Construct)
 And Operate a New 345 kV Transmission Line)
 From the Existing Hickory Creek Substation in) 5-CE-146
 Dubuque County, Iowa, to the Existing)
 Cardinal Substation in Dane County,)
 Wisconsin, to be Known as the Cardinal-)
 Hickory Creek Project)

**DALC/WWF COMMENT ON AMERICAN TRANSMISSION CO.,
ITC MIDWEST LLC, AND DAIRYLAND POWER COOPERATIVE'S
REQUEST TO REOPEN THE RECORD**

Earlier this week, the transmission companies American Transmission Co. (“ATC”) and ITC Midwest LLC (“ITC”) revealed that ATC’s senior Manager-State Government Relations and a former independent contractor for ITC used the encrypted messaging app “Signal” to secretly communicate with PSC Commissioner Michael Huebsch and several other unidentified individuals over a period of “several years,” including during the Public Service Commission’s consideration of ATC and ITC’s application for a certificate of public convenience and necessity (“CPCN”) for the proposed Cardinal-Hickory Creek transmission line.

This revelation took place in the midst of a court-administered discovery process, in which (among many other issues) the attorneys for WEC Energy Group (which owns 60% of ATC) acknowledged that WEC’s Executive Vice President for External Affairs “exchanged approximately 200 phone calls” with Commissioner Huebsch during the CPCN proceeding.

It follows earlier revelations that Dairyland Power Cooperative’s Vice President of External and Member Relations communicated with Commissioner Huebsch throughout the CPCN proceeding and that, just weeks after voting to approve Dairyland’s CHC transmission

line and the controversial Nemadji Trail gas plant, Huebsch resigned from the PSC and applied to become Dairyland's CEO.

In May, Dane County Circuit Judge Jacob Frost ruled that the public's right to an impartial decision maker is fundamental to due process and that a serious appearance of bias on the part of Commissioner Huebsch, if proven true, would taint the entire PSC proceeding, including the votes and participation of Chair Valcq and Commissioner Nowak in this case. Over the PSC and the utilities' objections, the Court set a trial date in late September to get to the bottom of these and other concerning revelations. Many other facts are being uncovered in the state court discovery process regarding the close web of relationships and communication between MISO, ATC, ITC, Dairyland, and the PSC. With each passing day, it becomes clearer that the CPCN proceeding for the Cardinal-Hickory Creek transmission line was fundamentally flawed and the certificate must be reversed and vacated.

It is likely that none of this information would have been revealed publicly had not Dane County, Iowa County, the Driftless Area Land Conservancy, the Wisconsin Wildlife Federation, and several other Wisconsin towns, nonprofit groups, and concerned citizens risen up to challenge the PSC's flawed process in court.

Thus, it is not surprising that ATC, ITC, and Dairyland are now trying to shut down the court-administered discovery process and return to the PSC on the eve of depositions and a trial. They apparently do not want the Circuit Court or the Wisconsin public to discover any other embarrassing facts about the utilities' practices to embed and ingratiate themselves with Wisconsin regulators in a web of *ex parte* relationships and communications.

Under the circumstances, the PSC should immediately rescind the CPCN for the Cardinal-Hickory Creek transmission line. However, the question of what comes next is more

difficult. This controversy has revealed serious irregularities at the PSC that appear to extend far beyond the CHC transmission line case and cannot be simply swept under the carpet. There must be a full public accounting of the extent of misconduct and *ex parte* communications at the PSC so the public has a full record of what happened and has confidence it won't happen again. Who else was Comm. Huebsch talking to? Who else were ATC's, ITC's, Dairyland's and MISO's senior officials and other representatives communicating with among the Commissioners? How long has this been going on? What other cases and issues are affected? These are questions that the courts and, potentially, Wisconsin's Attorney General, should investigate and answer.

Most importantly, the PSC must not be perceived as an accomplice to a utility strategy to avoid disclosure and accountability. Only with a fresh start and a fresh set of eyes can the PSC begin to rebuild public trust. This requires, at the very least, a new record for Wisconsin's transmission needs that reflects reality as it exists on the ground today, including updated assumptions about the costs and benefits of alternative transmission solutions such as battery storage, solar, and other distributed energy resources. It also requires the PSC to implement a new process that is free from the reality or appearance of bias. The CPCN proceeding for the CHC transmission line has been fatally tainted and it requires Chair Valcq and Comm. Nowak to recuse themselves from any further participation in this matter.

Regardless of the PSC's actions in the coming months, DALC and WWF will continue to pursue answers in state court and other appropriate venues to pursue transparency and a full public accounting so that they and the public can begin to trust the PSC.

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Respectfully Submitted,

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