

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Joint Application of American Transmission Company LLC, 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 Dubuque County, Iowa, to the Existing Cardinal Substation in Dane County, Wisconsin, to be Known as the Cardinal-Hickory Creek Project

Docket No. 5-CE-146

**INTERVENOR KLOPP REPLY COMMENTS ON COMMISSIONS
NOTICE OF INTENT AND REQUEST FOR COMMENTS**

ANALYSIS OF INITIAL COMMENTS

It is important to consider what the Initial Comments, submitted on July 12, 2021, said to the Commission. Of 153 comments, there were only 4 comments that supported rescission. Two of those came from the Applicants and their supporters, the Clean Energy Organizations.¹ Those Commenters clearly opposing the project numbered 147. There were 120 Comments that specifically addressed whether the PSC should rescind the CPCN and 97% said the Court should continue with its crucial, factual inquiries and should wrong doings be found, the Court, not the PSC, should define the remedies. On the question of what steps should be taken, if the PSC rescinded the CPCN, out of 141 Commenters, 98% said the second review should be as complete as the first time around with updated evidence. Without being asked, the overwhelming majority of the comments expressed dismay about the wrongdoing that has already come to light and distrust of the fairness and integrity of the PSC going forward. This is a very clear and strong message to the PSCW. Ms. Klopp believes, in the interest of restoring public faith and confidence in

¹ Of the other two supporting comments, one suggested a one year waiting period before considering other steps and the other said rescind and abandon the project.

the Commission, that the views of 149 public comments should be honored over the comments of corporate monopoly utility interests who have a vested financial interest in the outcome.²

INTERVENOR KLOPP'S POSITION ON BEST COMMISSION RESPONSE

Ms. Klopp urges the PSCW to:

- **Take No Action** on the Applicants Request to Reopen Docket No. 05-CE-146 (“Request”) and allow the Dane County Circuit Court (“Court”) appeal to move forward, unobstructed, with discovery, depositions and completion of the judicial review.
- **Next Steps** - If the Commission intends to rescind the CPCN, it should first: Delay action until investigation of bias in the Dane County Circuit Court Appeal can be completed and/or; Delay action pending a Commission investigation of the Applicants claims, verifying whether former Commissioner Huebsch’s alleged communications concerned CHC. If the Commission does rescind the CPCN, a full re-review is the only reasonable course of action, as defined by Wis. Stat. § 227.49 (6): “**Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing** except as the agency may otherwise direct,” (emphasis added).
- **Unbiased Decision-Making** - Any re-review must be overseen and voted on by unbiased adjudicators. The Court’s May, 25, 2021 Decision and Order (“*Court’s Decision*”) on the tainted panel and discovery issues,³ argues that, if former Commissioner Huebsch was improperly biased or his participation created an improper appearance of bias, the three-person panel (The Commission) that issued the original decision on CHC⁴ was tainted, making Chairperson Valcq and Commissioner Nowak’s participation in any re-vote also tainted.⁵ In the Court Petitioner’s⁶ most recent Circuit Court filing,⁷ a model of possible

² Please note that, RENEW Wisconsin has submitted Reply Comments. Ms. Klopp wishes the Commission to be clear that RENEW Wisconsin receives utility funding, so should be grouped with those having a vested interest.

³ County of Dane et al. v. Public Service Commission of Wisconsin et al., DANE COUNTY BRANCH 9 CIRCUIT COURT, Case No. 19-CV-3418, Document 322

⁴ Final Decision Signed and Served 09-26-19

⁵ County of Dane et al. v. Public Service Commission of Wisconsin et al., DANE COUNTY BRANCH 9 CIRCUIT COURT, Case No. 19-CV-3418, Document 322, page 9, “Because of this, even if no actual harm occurred by virtue of Comm. Huebsch’s alleged bias, meaning that the other commissioners would still have reached the same decision regardless of his comments, there is still a real harm by the proceedings forever appearing tainted due to his involvement. Allowing a decision rendered in violation of the parties’ due process rights to stand dam-

replacement adjudicators is presented, “Wisconsin statutes generally allow for the PSC to delegate decision-making authority to a staff member, but not if that staff member has already been tainted by ex parte communications or by the statements and positions of Commissioners who have been disqualified from hearing the matter. The Circuit Court and the parties could also consider appointment of a reserve or retired judge, or other such special master, to adjudicate the case.”⁸

RESPONSE TO INITIAL COMMENTS OF APPLICANTS AND CLEAN ENERGY ORGANIZATIONS

I. Appropriate Commission Actions

The Applicants’ ask that the Commission rescind the CPCN, reconsider the existing record and re-vote on the project, so that they may keep their current construction schedule:

“In short, the Applicants encourage the Commission to rescind the CPCN, reconsider the existing evidentiary record, and re-vote as expeditiously as reasonably possible.”⁹

“rescinding the CPCN and then re-voting, if the vote occurs in a timely fashion and the Project is re-approved, would allow the Project to keep its current construction schedule and meet its scheduled in-service date.”¹⁰

ages the public’s ability to trust the PSC process and the integrity of its decisions,” page 7, “As Judge Adelman noted, five of the six circuits to address this issue held that one biased member tainted the entire decision. I agree. If Commissioner Huebsch should have recused himself, his failure to do so taints the entire proceeding and I must vacate the PSC decision and remand for proceedings before the PSC that are compliant with the parties’ due process rights.”

⁶ Dane county et al.: Dane county, Iowa county, village of Montfort, town of Wyoming and DALC/WWF

⁷ DANE COUNTY, IOWA COUNTY, VILLAGE OF MONTFORT, TOWN OF WYOMING, DRIFTLESS AREA LAND CONSERVANCY AND WISCONSIN WILDLIFE FEDERATION’S RESPONSE TO THE INTERVENOR-RESPONDENTS’ MOTION FOR LIMITED STAY AND STATUS CONFERENCE, Court Document 376

⁸ DANE COUNTY, IOWA COUNTY, VILLAGE OF MONTFORT, TOWN OF WYOMING, DRIFTLESS AREA LAND CONSERVANCY AND WISCONSIN WILDLIFE FEDERATION’S RESPONSE TO THE INTERVENOR-RESPONDENTS’ MOTION FOR LIMITED STAY AND STATUS CONFERENCE, Court Document 376. Page 14

⁹ THE APPLICANTS’ COMMENTS ON THE PROPOSED RESCISSION OF THE FINAL DECISION AND NEXT STEPS, page 2

¹⁰ THE APPLICANTS’ COMMENTS ON THE PROPOSED RESCISSION OF THE FINAL DECISION AND NEXT STEPS, page 3-4

By dangling improper communications with unsubstantiated content (and possibly unverifiable, if they cannot be retrieved),¹¹ the Applicants are attempting to throw out a Red Herring, in an attempt to get the PSCW to thwart the appeal process (and circumvent discovery and depositions). Additionally, this tactic would avoid any instructions or limitations the Court may place on the Commission's process if the project were vacated and remanded by the Court. Ms. Klopp would like to point out that the Applicants appear to have a great deal of confidence, that the Commission will do its bidding. With that in mind, unless the PSCW establishes a basis for these actions¹² and judiciously reconsiders the project including contemporaneous factors, what the Applicants have asked for, appears to the public as collusion between the Commission and the Applicants. Since this inquiry is about bias, the Commission and the Public would be best served by following a process that does not implicate the Commission and that builds public confidence in the agency. With the *Court's Decision* having stated that "If Commissioner Huebsch should have recused himself, his failure to do so taints the entire proceeding and I must vacate the PSC decision and remand for proceedings before the PSC that are compliant with the parties' due process rights," Ms. Klopp believes it is very clear that if any proceeding resulting from the Applicants Request, are not "compliant with the parties' due process rights," there will be further litigation. The Commission should remember that there is a long list of grounds for judicial review, that have not yet been resolved, of which bias is just one.

II. Issues Surrounding the Tainted Panel

The Applicants argument regarding the appropriateness of Chairperson Valcq and Commissioner Nowak re-voting on the project can be typified by these statements:

¹¹ Applicants Correspondence: Request to Reopen Docket No. 05-CE-146, PSC REF# 414396, page 2, "We have no information that these Signal communications were related to the Project or the CPCN docket. And we are working to retrieve these communications. However, given the retention settings of the Signal application, we are presently uncertain whether these messages can be fully recovered."

¹² INTERVENOR KLOPP INITIAL COMMENTS ON COMMISSIONS NOTICE OF INTENT AND REQUEST FOR COMMENTS, page 3, "Ms. Klopp finds that the Commission currently has no actual evidence that supports action at this time, as the information brought forward by the Applicants only reveals that communications occurred, but does not establish whether those communications had any relation to the CHC project or whether it will be possible to establish this."

*“First and most importantly, rescinding the CPCN and then re-voting without former Commissioner Huebsch’s participation will remove all questions of potential bias in the proceeding. ... The state court has already decided that DALC and WWF’s allegations of bias against Commissioner Valcq were unsupported, and no one has ever asserted that Commissioner Nowak was (or has ever been) biased in favor of the Project. Indeed, numerous courts, including the Wisconsin Supreme Court, have allowed the same decision makers to reconsider their prior decision on remand without the allegedly biased decision maker.”*¹³

While the Court ruled that the concerns presented by DALC/WWF on potential bias on the part of Chairperson Valcq, were not substantial *enough* to go forward with the discovery process, this is not the equivalent to the Applicants statements that “allegations of bias against Commissioner Valcq were unsupported.” Without further discovery, what can be said is that, convincing evidence¹⁴ of bias against Chairperson Valcq had not been discovered yet and the Court was not persuaded to authorize further discovery in the matter. What is important about the Applicants statements on bias regarding Chairperson Valcq and Commissioner Nowak, is that they have absolutely nothing to do with former Commissioner Huebsch’s affect on the overall decision-making process. In fact, if former Commissioner Huebsch is shown to have been biased, the *Court’s Decision* established that his participation in the CHC Decision taints the entire panel, a completely opposite conclusion from what the Applicants are suggesting. If the Commission decides to ignore the *Court’s Decision* on this matter, in the mind of the public, it will prove that bias was present.

The Applicants have an entire subsection in their comments entitled “Commissioners Valcq and Nowak can and should decide the case again,”¹⁵ where they cite stare decisis on a host of decisions. What the Applicants fail to reveal is that they have already presented these precedents to the Court, as did the Petitioners¹⁶ and the Court stated “I also find the case law Petitioners rely on, including the decisions involving judicial conduct, more compelling than the law Respondents cite,” as part of the *Court’s Decision*. It would be imprudent and a violation of par-

¹³ THE APPLICANTS’ COMMENTS ON THE PROPOSED RESCISSION OF THE FINAL DECISION AND NEXT STEPS, page 3

¹⁴ Meaning evidence that was substantial enough to convince the Court.

¹⁵ THE APPLICANTS’ COMMENTS ON THE PROPOSED RESCISSION OF THE FINAL DECISION AND NEXT STEPS, page 8-9

¹⁶ PETITIONERS’ JOINT RESPONSE BRIEF REGARDING JUDICIAL BIAS AND “STRUCTURAL ERRORS”, Court Document 308

ties’ due process rights, for the Commission to now attempt to ignore and countermand the *Court’s Decision*.

The Clean Energy Organizations (CEOs), Initial Comments suggest that a re-vote without former Commissioner Huebsch would “preserve the transparency, fairness and integrity of the Commission’s process in this matter and allow the case to proceed.” Nothing could be further from the truth. The arguments of the Applicants and CEOs make one wonder if they had been paying attention during the CHC appeal proceeding at all.

III. Jurisdiction Over Issues Currently Under Appeal

The Applicants would like us to think that they can just exit a judicial review process, established for parties to an Administrative proceeding in Wis. Stat. § 227.52, and put together a new playbook. If this was possible or the intent of the law, the right to judicial review would be effectively eliminated, as appeal respondents could change up the script to dispense with the review, anytime the going got tough. The Applicants claim:

“Second, rescinding the CPCN and then re-voting will moot the pending state court action and/or deprive the circuit court of jurisdiction over that action because the Final Decision that the challengers appealed, if rescinded, will no longer be a final appealable agency action under Wis. Stat. § Ch. 227.”¹⁷

On July 14, 2021, Petitioners in the appeal filed a Response¹⁸ with the Court that substantially addresses the Applicants claims that PSCW actions on their Request would moot the judicial review process. Petitioners detail the many ways in which case law supports jurisdiction by the Court on this issue.¹⁹ Ms. Klopp will present a few key arguments the Petitioners made. Pe-

¹⁷ THE APPLICANTS’ COMMENTS ON THE PROPOSED RESCISSION OF THE FINAL DECISION AND NEXT STEPS, page 3

¹⁸ DANE COUNTY, IOWA COUNTY, VILLAGE OF MONTFORT, TOWN OF WYOMING, DRIFTLESS AREA LAND CONSERVANCY AND WISCONSIN WILDLIFE FEDERATION’S RESPONSE TO THE INTERVENOR-RESPONDENTS’ MOTION FOR LIMITED STAY AND STATUS CONFERENCE, Court Document 376

¹⁹ DANE COUNTY, IOWA COUNTY, VILLAGE OF MONTFORT, TOWN OF WYOMING, DRIFTLESS AREA LAND CONSERVANCY AND WISCONSIN WILDLIFE FEDERATION’S RESPONSE TO THE INTERVENOR-RESPONDENTS’ MOTION FOR LIMITED STAY AND STATUS CONFERENCE, Court Document 376, pages 12-20

tioners state: “That’s not correct as a matter of law, as a matter of fundamental fairness, or as a matter of common sense. Even if the PSC were to rescind the CPCN at the Transmission Companies’ request, this state court appeal will not be moot ...”²⁰ To support this statement, petitioners outline three criteria:

- Chairperson Valcq and Commissioner Nowak’s ongoing participation in CHC decision-making, even after the *Court’s Decision* on the Tainted Panel combined with ongoing actions in both state and federal courts.
- Wisconsin Environmental Policy Act questions related to a current Environmental Impact Statement.
- Relevant mootness exceptions that apply to the CHC case.

Petitioners elaborate on Mootness exceptions in this passage:

“Even if the PSC were to attempt to rescind the CPCN before the Court reaches the merits of this appeal, there are several applicable exceptions to the mootness doctrine under Wisconsin law that provide for this Court to retain jurisdiction to issue a ruling on the merits of the due process issues in this case. As explained by the Wisconsin Supreme Court, courts have generally applied exceptions to the general rule of mootness where:

the issues are of great public importance; the constitutionality of a statute is involved; the precise situation under consideration arises so frequently that a definitive decision is essential to guide the trial courts; the issue is likely to arise again and should be resolved by the court to avoid uncertainty; or, a question is capable and likely of repetition and yet evades review because the appellate process usually cannot be completed and frequently cannot even be undertaken within a time that would result in a practical effect upon the parties.”²¹

Matter of G.S., 118 Wis. 2d 803, 805, 348 N.W.2d 181, 182–83 (1984).

²⁰ DANE COUNTY, IOWA COUNTY, VILLAGE OF MONTFORT, TOWN OF WYOMING, DRIFTLESS AREA LAND CONSERVANCY AND WISCONSIN WILDLIFE FEDERATION’S RESPONSE TO THE INTERVENOR-RESPONDENTS’ MOTION FOR LIMITED STAY AND STATUS CONFERENCE, Court Document 376, page 12

²¹ DANE COUNTY, IOWA COUNTY, VILLAGE OF MONTFORT, TOWN OF WYOMING, DRIFTLESS AREA LAND CONSERVANCY AND WISCONSIN WILDLIFE FEDERATION’S RESPONSE TO THE INTERVENOR-RESPONDENTS’ MOTION FOR LIMITED STAY AND STATUS CONFERENCE, Court Document 376, pages 14-15

A continued reading of the Petitioners argument details how the CHC Decision and Appeal fall under these exceptions. The Applicants would have us believe that they can skirt the legal process of justice, when in actuality, they cannot. If the PSCW attempts to remove the decisions currently being made by the court, back to the Commission, more damage to public confidence in the agency will occur. This is an opportunity for the Commission to show the public, that it is truly looking out for the Public Interest, by choosing the fair and just path.

IV. The Record should be Augmented to Include Contemporaneous Information

A. Fair and Objective Action Requires a Full Re-Review

A fair and objective re-review, undertaken in the public interest, requires following the rule of law in consideration of all of the circumstances pertaining to the situation. Wis. Stat. § 227.49 (6) states: “**Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing** except as the agency may otherwise direct” (emphasis added). If the CPCN for CHC was vacated and remanded by the Court, statute provides for broad authority in directing the agency’s “further review.” In the case of a structural error, such as a biased judge, the Court may vacate or reverse the decision in addition to remanding it for further review. Relevant citations include:

- **Wis. Stat. § 227.57(9):** “The court’s decision shall provide whatever relief is appropriate irrespective of the original form of the petition. If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as it finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.”
- **28 U.S.C. § 455(a):** “We conclude that in determining whether a judgment should be vacated for a violation of § 455 (a), it is appropriate to consider the risk of injustice to the parties in the particular case, the risk that the denial of relief will produce injustice in other cases, and the risk of undermining the public's confidence in the judicial process.”²²

²² Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847, 865 (1988), Also see KLOPP RESPONSE BRIEF TO DALC/WWF’S SUPPLEMENTAL BRIEF ON MOTION TO ACCEPT NON-RECORD EVIDENCE, Court Document 255, page 11, footnotes 26 and 27

Upon Court remand, and in light of other statutory requirements, a variety of provisions could be placed on the Commission's re-review process. Taking these factors into account, it seems benign for a PSCW re-review to allow pertinent and relevant information to be considered. In light of the current appeal challenges to many other aspects of the CHC Decision, using a standard CPCN review process would allow the Commission to avoid a repeat of the judicial review process, by repairing the procedural deficits that led to those complaints.

Applicants claims:

“The Project has been continually studied for well over a decade and, as the record demonstrates, every time it has been studied, the need for the Project has increased.”²³

Ms. Klopp directs the Commissions attention to Ex.-MISO-Ellis-4, MTEP 18, which states “Benefit estimates are slightly lower compared to the MTEP17 Triennial Review due to lower fuel price assumptions and the removal of carbon cost adders from MTEP future scenario assumptions.” This illustrates that changing conditions can have effects on project performance. At the time of the CHC proceeding: PSCW engineers found flaws in the Applicants modeling and a litany of problems with the Applicants analysis, all leading to a favoring of project economics and: many costs of the project were not included in the PROMOD analysis.²⁴

“After years of litigation, the challengers have still presented no evidence that undermines the need for the Project.”²³

The evidence that undermines the need of the project during the CHC proceeding and in the current appeal (from expert witnesses, citizen intervenors and PSC staff analyses) was so massive, that treatment of it here would not be able to do justice to it. If the Applicants are not aware of the the ongoing dispute on need for the project, Ms. Klopp wonders where they have been for the last 3 years as these proceedings have been taking place.

²³ THE APPLICANTS' COMMENTS ON THE PROPOSED RESCISSION OF THE FINAL DECISION AND NEXT STEPS, page 7

²⁴ Initial Brief-Klopp, pages 2-11

“The Commission has a duty to protect Wisconsin’s ratepayers and ensure that those ratepayers receive adequate, affordable and reliable electric service. Wis. Stat. §§ 196.487(2) and 196.491(3)(d).”²³

Wis. Stat. 196.49 (3) (b) 2&3 provides that the facilities of a project seeking a CPCN, not be unreasonably in excess of probable future requirements or add to the cost of service without proportionately increasing the value or available quantity of service. To the average citizen, it makes sense not to live beyond ones means. In terms of our energy future, that means not adding utility debt when one has plenty of energy. While the MISO MTEP process assumes load growth, the current state of flat energy usage was openly assumed in the PSCW CHC proceeding. Energy use has plummeted in the last 1-2 years. The outcome (benefits or costs) of MTEP modeling is dependent on energy growth. Reduced electricity use, reduces the benefit. Since the PSCW staff engineer analysis of the project showed negative benefits, or costs, in a majority of the scenarios,²⁵ contemporaneous factors matter to Wisconsin ratepayers.

B. Appropriateness of Reopening the Record

Applicant claims:

In their comments on the Applicants’ request to rescind the CPCN, DALC and WWF have already taken the position that this Commission should completely start over and create a brand- new record that “reflects reality as it exists on the ground today.” (PSC REF#: 414829) This is not necessary, nor is it required by existing law or consistent with the Commission’s past practice.²⁶

Ms. Klopp suggests that the current chain of events do not represent situations common to “Commission’s past practice.” Subsection IV.A. above discusses why it is necessary.

In other situations, the Commission only re-opened the record on remand from judicial review, as necessary to address the specific issues that the court directed it to correct.²⁷

²⁵ Ex.-PSC-Vedvik-1

²⁶ THE APPLICANTS’ COMMENTS ON THE PROPOSED RESCISSION OF THE FINAL DECISION AND NEXT STEPS, page 4

The PSCW has no way of knowing, what instructions would be handed down by the Court in this situation. The wound that must be healed in a proceeding with so many defects, especially one with alleged judicial bias, is likely different from those from the “other situations,” referenced by the Applicants.

*And Commissioner Huebsch, like all commissioners, had no role in creating the evidentiary record in this case.*²⁷

Whether former Commissioner Huebsch had anything to do with creating the record is irrelevant to the question of why or whether the record should be opened.

C. No Harm will come from Delaying CHC

Applicant claims:

*Moreover, the existing record unequivocally demonstrates that any delay to the Project’s planned in-service date will harm Wisconsin’s ratepayers and the public.*²⁸

DALC/WWF’s expert, Desu states: “More specifically, when faced with a transmission planning decision, he poses the question “[i]s the best response to long-run uncertainties to delay transmission investments and avoid the risk of stranded assets by waiting until uncertainties are resolved?” As stated in my direct testimony, I believe that committing to the CHC project reduces adaptability and will most probably result in stranded costs. ... As explained both in my direct and rebuttal testimony, I believe that understanding the interactions of the generation fleet and any transmission investment are crucial when looking into long term system benefits. The Applicants did not follow this approach and as a result I do not have confidence in their conclusions.”²⁹

²⁷ THE APPLICANTS’ COMMENTS ON THE PROPOSED RESCISSION OF THE FINAL DECISION AND NEXT STEPS, page 6

²⁸ THE APPLICANTS’ COMMENTS ON THE PROPOSED RESCISSION OF THE FINAL DECISION AND NEXT STEPS, page 7

²⁹ Surrebuttal-DALC/WWF-Desu pages 15-16

*The record unequivocally demonstrates that, if the Project's in-service date is delayed, Wisconsin's ratepayers and thousands of megawatts of renewable generators will suffer. Construction of the Project is slated to begin in Wisconsin in October of this year; therefore, time is of the essence.*³⁰

Delaying the many MW's of renewable generation that is being proposed to line the pockets of big investors and utilities, leading Wisconsin electricity generation far over capacity, with no proof that these facilities are significantly reducing carbon emissions, WILL SAVE RATEPAYERS, NOT A COST THEM.

*The already-existing evidentiary record demonstrates that the Project needs to be placed in service as soon as possible, but certainly no later than the planned in-service date in 2023. Failure to place the Project into operation by then will jeopardize the in-service dates of thousands of MWs of renewable generators in Wisconsin and in areas to the west. Moreover, until the Project goes into service, MISO may place limits on the electrical output from numerous existing renewable generators in the region. During the CPCN proceeding and since, the challengers have presented no credible evidence to the contrary.*³¹

In their surrebuttal testimony, both DALC/WWF expert Konidena and PSC engineer, Dr. Grant, testified that delaying the project would not create problems.

CONCLUSION

To summarize Ms. Klopp's comments: The Commission should take no action on the Applicants Request, allowing the Court appeal to proceed. If the Commission intends to take action, they should delay action until: the appeal discovery process has been completed, or; the Commission has completed an in-house investigation of the applicant claims. If the PSCW rescinds the project, it should undertake a full re-review of the project, allowing new information to bring it up to date. Re-voting on the project should use an untainted panel. Ms. Klopp is opposed to the project.

³⁰ THE APPLICANTS' COMMENTS ON THE PROPOSED RESCISSION OF THE FINAL DECISION AND NEXT STEPS, page 2

³¹ THE APPLICANTS' COMMENTS ON THE PROPOSED RESCISSION OF THE FINAL DECISION AND NEXT STEPS, page 4

Ms. Klopp has responded to the many inaccurate and/or distorted claims made by the Applicants in their Initial Comments. Holding the Applicants to a scientific burden of proof, would go a long way in healing the relationship between the Commission and the public.

Ms. Klopp concurs with and supports the position of Intervenor Joe Schwarzmann in his Initial Comments³² regarding nullification of easements, if the PSCW should rescind the CPCN.

Dated this 19th day of July, 2021.

Respectfully submitted,

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³² INTERVENOR JOE SCHWARZMANN'S COMMENT ON AMERICAN TRANSMISSION CO., ITC MID-WEST LLC, AND DAIRYLAND POWER COOPERATIVE'S REQUEST TO RESCIND THE CPCN AND REOPEN THE RECORD FOR DOCKET NO. 05-CE-146, page 5