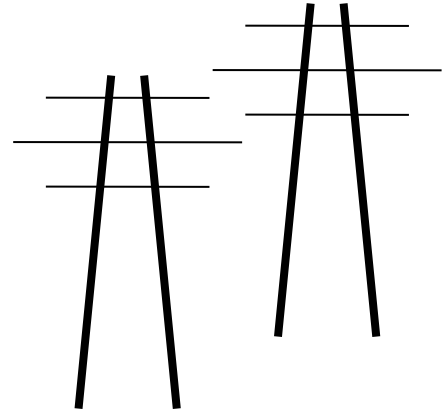


Legalelectric, Inc.

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

1110 West Avenue
Red Wing, Minnesota 55066
612.227.8638



December 28, 2021

Kimberly Middendorf
Administrative Law Judge
Office of Administrative Hearings
PO Box 64620
St. Paul, MN 55164-0620

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

RE: Proposed Amendments to Rules - Minn. R. ch. 7849 and 7850
OAH Docket 21-9004-37814; PUC Docket E,ET,IP-999/R-12-1246

Dear ALJ Middendorf and Mr. Seuffert:

Reviewing the last minute filings in the Public Utility Commission’s eDocket system, and listening to the comments at the hearing was most disturbing. The Commission’s meeting on December 16, 2021, and the Commission’s withdrawal of the rule, though not yet formally filed in the docket, was even worse. Frustrated as I am with the way too long “process” to get these rules to the Commission, the way these rules are now being derailed is infuriating. I strongly object to withdrawal of the rules.

Of the 90+ last minute Comments and Hearing Requests received between November 12 and 22, 2021, all but a handful were from individuals and organizations who did not show up for the NINE YEARS of rulemaking. The Comments were mostly cut and paste versions, which carry little weight, raising issues of climate change, mitigation and adaptation. Some, with a vested interest in open season siting of solar on prime farm land, are demanding a change in the “Prime Farmland Rule” in this rulemaking. Many objected to the composition of the Advisory Committee! The door was open, where have they been for nine years!

Both “climate change” and “prime farmland” would be best handled through a targeted rulemaking petition to address these issues, because those issues are not based on the 2005 legislative changes triggering this rulemaking. A separate rulemaking is needed on those issues. It’s not reasonable to use these issues to further delay adoption of these rules.

The prospect of this potential delay, after the seven year delay after the 2005 legislation, and nine year delay since the 2012 beginning of this rulemaking, would be a repeat performance of massive transmission certification and routing without updated rules. The 2005 legislation

closely preceded the 2006 filing of the CapX 2020 Certificate of Need, followed by four or five separate routing proceedings, all without updated rules. I worked on three in Minnesota representing client landowner groups. All 700+ miles of CapX 2020 was certified and routed without updated rules due to the Commission's failure to act. As we speak, CapX 2020 is being revived as "CapX 2050" and "Grid North Partners" and they are embarking on another massive transmission buildout, a capital project with a very high rate of return and extreme rate impacts. To also allow this next transmission buildout to go forward without even this modest and flawed attempt at updated rules is abdication of regulatory responsibility by the Commission. To do it twice, ostensibly based on this last minute flurry of orchestrated and cut and paste "comments," is absurd – it's intentional acquiescence to regulatory capture.

I strongly object to this subversion and abuse of process. Rulemaking is not rocket science, the procedure is clearly laid out in "[Rulemaking in Minnesota: A Guide](#)" and in statute and rules. Last minute cut and paste comments doth not a rulemaking make! It's a time consuming and frustrating process that requires showing up for the duration.

Those many who have filed objecting to these rules and/or a lack of content that they want to see in rules can file a rulemaking petition – the way to do this is found in statute. See Minn. Stat. §14.09, and Minn. R. 1400.2400 for content requirements and procedure, and a form is available at Minn. R. 1400.2500. The matter of siting on prime farmland is an issue requiring due consideration, not sneaking in through the back door at the end of this overly long and delayed rulemaking for Minn. R. ch. 7849 and 7850, and instead should be addressed both by Dept. of Agriculture and the PUC. I've seen in Wisconsin the impacts of siting on prime ag land, having represented farmer and landowner intervenors in the Badger Hollow and Grant County solar dockets at the Wisconsin Public Service Commission. Changing the prime farmland rule to suit the whims of commentators slams the door on distributed generation efforts and is not in the public interest. Intentional consideration of the prime farmland rule is necessary.

I urge your report to recommend that the rules go forward, and that those wanting additional issues addressed in rules file separate rulemaking petitions, to be submitted to the Public Utilities Commission regarding the specific rules and language which commentators believe is needed, such as climate change generally, mitigation, and adaptation; and a separate rulemaking petition to address desired changes for solar siting on prime farmland. Those submitting rulemaking petitions should also commit to follow through, attending meetings, drafting language and comments on language, for the duration of that rulemaking.

If you have questions or require anything further, do not hesitate to call or email.

Very truly yours,



Carol A. Overland
Attorney at Law

cc: ALJ Middendorf via Michelle Severson, michelle.severson@state.mn.us
All parties – eFiled via Public Utilities Commission's eDockets