

From: "Carol A. Overland" <overland@redwing.net>  
Subject: Notes from today's PUC meeting  
Date: May 15, 2006 8:16:32 PM CDT  
To: undisclosed-recipients::

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Here are notes from the meeting -- please let me know if I'm missing anything or if something's not right:

**Prehearing Conference – May 15, 2005**

**Mesaba PPA**

**OHA Docket: 2500-17260**

**PUC Docket: E6472/M-05-1995**

Steve Mihalchick, ALJ, Presiding

Maria Lindstrom, OAH Staff (612) 349-2527 [maria.lindstrom@state.mn.us](mailto:maria.lindstrom@state.mn.us)

Janet Gonzalez, PUC Staff

Julia Anderson, Asst A.G. PUC

Elizabeth Goodpaster, MCEA (ME3, Waltons, WoW)

Byron Starns, LSD for Excelsior (with Harris or Meloy)

Tom Osteraas, Excelsior

David Moeller, Minnesota Power

Chris Clark, Xcel

Mike Krikava, Briggs & Morgan, for Xcel

John Drawz, Fredrickson & Byron for Great Northern Power Development

Carol Overland, OLO (& Linda Castagneri) (and many others seated right behind Excelsior who MADE THIS INTERVENTION HAPPEN!!!)

Todd Guererro, Lindquist & Vennum, Big Stone II (announced filing of Notice of Appearance)

Bill Blazer, MN Chamber of Commerce (later, may file intervention)

Judge Mihalchick opened, introduced Maria Lindstrom, the one to go to with questions.

**INTERVENTION PETITIONS**

Eliz. Goodpaster came in late, said she represented MCEA, ME3, Waltons, WoW (not AWEA and UCS, they weren't mentioned at least) (no Notice of Appearance). ALJ asked her intent, she said that she believed that today there'd be a decision about the Intervention deadline, and they'd look at resources, they are involved in many proceedings and will have to make a determination.

**INTERVENTION DEADLINE – JUNE 5, 2006**

Judge asked if there was also a site permit under 216B (and that's wrong statute, and no Certificate of Need proceeding, he seems confused about posture of this) [mncoalgasplant.com](http://mncoalgasplant.com) Intervention is pending. MN Chamber of Commerce had submitted a Notice of Appearance, but no one there, Intervention intention??? Also, BS II would be filing Notice of Appearance per Todd – deadline was changed at this point to coincide with Intervention.

Discussion of mncoalgasplant, Excelsior still objecting, I stressed keeping with issues at hand, as I'd done in Comment, and we had no intention of straying far afield. The Public Interest Determination is most important, but there are cost issues. I also raised analogy with GNDP because their impact isn't "direct"

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but this decision has significant impact on them in similar way. ALJ asked why they weren't objecting to Chamber (hasn't submitted Intervention Petition yet). They didn't really have an answer! Anyway, decision:

- 1) WE'RE ADMITTED AS PARTY, "at least through 'defining issues.'" He's looking for a way to keep me out.
- 2) Chamber – admitted as non-party participant (Bill Blazer came in later and said they'd probably be intervening. (on what basis, hold them to standard!))

### **SCHEDULING ISSUES**

Excelsior – get this fact tracked, legislative intent emphasized need for power (utter nonsense). Suggests we file Answers to their Petition. Urgency, inservice date of 2011. Repeatedly said we NEED it.

Xcel – There's no urgency, they just want it in 2011. Don't bifurcate on Phase I & II, bifurcate on statutory basis, 450MW and 13%. Compare process with MERP. This will take a while, and it's a \$1.97 billion project, so take the necessary time.

ALJ: Why does legislature require Xcel buy it?  
(buy Range votes so PI would go through – and mandate when there is no need)

Excelsior: Legislature wants to get going on different technology

Xcel: Deal to keep PI open

MP: This is in their service territory, and there may be associated transmission lines. We're in this because of 216B.1694, where Excelsior gets top priority over other fossil plants.  
Let's develop the legal issues first.

MCEA: Not seeing legal briefing – the MERP proceeding was too long. We need definitions, but (and backed off on participating)

Excelsior: There's a difference between litigation and access  
Offered info, take it subject to restrictions, and if ruled otherwise, OK, fine  
No need to delay discovery  
Price & Cost info has to be disclosed  
Urgency (again) – barriers of access to markets – schedule can be used to defeat the project  
Best way to define the legal issues is to Answer their Petition

GNDP: Has schedule suggestions, will be complete Aug 2007 (almost year more than Excelsior wants)

Mnccoalgasplant.com: Agree with Xcel – bifurcate based on statutes rather than Phase I and Phase II  
Schedule fine – as laid out by GNDP  
Agree with GNDP – nearly every word must be defined, as I proposed in my comments.  
Urgency is false sense of urgency – no need – no CoN, and this PPA demonstrate  
Public Hearing before written public comments due

ALJ: Is there gas pipeline involved?

Excelsior: Yes, can operate on a number of fuels. Gas needed to restart it, and could be used to run it.

**ALJ: Week to respond on scheduling issues, SEND IN WORD! Due 5/22  
(will go along lines proposed by GNDP)**

Xcel: Disagrees that Excelsior is a market player. They're a good lobbyist, but NOT market player. This is an attempt to shift the burden. We may be fine with it once we see what they're proposing, and the public sees it, but it's got to be disclosed. They say we've been sitting on it since December, but we've been looking at a lot of blank pages.

ALJ: Is there nothing productive with Answering as Excelsior suggests?

Xcel: No, need access to filing, have to resolve that  
Deal with Protective Agreement & Public Disclosure

Excelsior: Hard core cost info == and the Tariff itself is a unique design

### **Trip to Wabash**

GNDP: Depends on who gets to ask questions. Is it controlled?  
When is time frame, need to nail that down

### **Protective Order**

Three ways:

- 1) Can designate as trade secret
- 2) Can move to have designation removed
- 3) Can get protective order – somewhere in between

Don't need to have public access determined at same time as protective order  
Need access to others cost data – for alternatives  
Need to look at relative costs – i.e., in comparison with supercritical coal

### **Intervention**

Chamber: Will decide whether they want to be a party

### **Protective Order – again**

Xcel: LS Power – in Resource Plan. Excelsior is not disclosing what we are in our IRP  
Look at baseload report, p.. 31

The risk associated with this project has to be Public Energy

Capacity factor of plant – is it 70's or 80's and is that risk transferred to ratepayers?

\$1.97 billion – at 90% capacity, but if it's actually 70%, it adds to cost

If we propose an alternative, we don't have to make it available to everyone

IRP – expect a July resolution

**Excelsior is trying to shift the burden of proof to Xcel, and they aren't proving up their case**

Regarding the Xcel IGCC in Colorado, their consultants won't have access to that info

OK with protective order with burden of proof on Excelsior

GNDP: They bought Burlington Northern's coal reserve, on short list on IRP

*MCEA: We've entered into protect agreements – concerned about levels of info. Have info categorized  
Define those things that have to be kept public/private*

*ALJ: Not unusual to have different levels of Discovery for different parties*

*Discovery – trade secret info not to send by email*

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