

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Minnesota Power for a Certificate of Need for the HVDC Modernization Project in Hermantown, Saint Louis County;

**ORDER DENYING THE WORLD
ORGANIZATION FOR LANDOWNER
FREEDOM'S PETITION TO INTERVENE
AS A FULL PARTY**

In the Matter of the Application of Minnesota Power for a Route Permit for a High Voltage Transmission Line for the HVDC Modernization Project in Hermantown, Saint Louis County.

This matter came before Administrative Law Judge Jim Mortenson on the World Organization for Landowner Freedom's (W.O.L.F.) Petition for Intervention, filed January 8, 2024. On January 16, 2024, American Transmission Company, LLC (ATC), filed an Objection to the Petition. On January 17, 2024, W.O.L.F. filed a Response to ATC's Objection. Minnesota Power filed a letter on January 17, 2024, noting it did not object to the Petition.

Carol A. Overland, Legalectric – Overland Law Office, appeared on behalf of W.O.L.F. Eric F. Swanson and Christopher J. Cerny, Winthrop & Weinstine, P.A., appeared on behalf of ATC. David R. Moeller, ALLETE Senior Regulatory Counsel, appeared on behalf of Minnesota Power.

Pursuant to Minn. R. 1400.5500, .6200 (2023), and for the reasons explained below,

IT IS HEREBY ORDERED, W.O.L.F.'s Petition is DENIED.

Dated: January 22, 2024



JIM MORTENSON
Administrative Law Judge

MEMORANDUM

Minnesota Power has filed applications for a certificate of need and a site permit related to modernizing its high-voltage direct-current (HVDC) transmission line across northern Minnesota. The HVDC line terminates at a substation in Hermantown, Minnesota. On November 29, 2023, the Public Utilities Commission (Commission) referred this matter to the Office of Administrative Hearings for a contested case proceeding.¹ The purpose of the proceeding is to develop the record to enable the Commission to better consider ATC's alternative proposal to Minnesota Power's modernization plan.² The Commission determined that the contested case process "will allow the Commission to make a thorough, informed, and well-reasoned decision."³

W.O.L.F. is a "non-stock corporation" from Hawkins, Wisconsin.⁴ W.O.L.F. petitioned to intervene in this case because it participated as an intervenor in Minnesota Power's Arrowhead Exemption Application before the Environmental Quality Board (EQB) in 1999.⁵ That matter apparently relates to the present substation at issue. W.O.L.F. claims its contribution to the outcome of the case before the EQB was the requirement that only low-noise transformers be used at the substation. W.O.L.F. has provided no substantive information about who or what it is.⁶

Intervention in a contested case proceeding is governed by Minn. R. 1400.6200. Under that rule, a person seeking to intervene must show:

- (1) how the petitioner's legal rights, duties, or privileges may be determined or affected by the contested case;
- (2) how the petitioner may be directly affected by the outcome of the case or that petitioner's participation is authorized by statute, rule, or court decision;
- (3) the grounds and purposes for which intervention is sought; and
- (4) petitioner's statutory right to intervene if one should exist.⁷

The presiding judge shall allow intervention if the petitioner establishes these elements, unless the judge finds that petitioner's interests are adequately represented by one or more parties already participating in the case.⁸ Further, the judge must specify the

¹ Order Identifying Alternative Proposal for Environmental Assessment Scope, Granting Variance, and Notice and Order for Hearing, Docket Nos. E-015/CN-22-607, E-015/TL-22-611 (Nov. 29, 2023).

² *Id.* at 5.

³ *Id.* at 6.

⁴ The Judge was able to determine this through a link Petitioner provided in its Response to ATC's objection, not through any statement made by Petitioner in its filings.

⁵ Petition for Intervention (Jan. 8, 2024).

⁶ *Id.*; Response to ATC's Objection (Jan. 17, 2024).

⁷ Minn. R. 1400.6200, subp. 1.

⁸ *Id.*, subp. 3.

extent of the petitioner's participation, as the rule allows for limited or full intervention.⁹ Under Minn. R. 1400.6200, subp. 3(A)-(C), an intervenor may be allowed to: (1) file a written brief without acquiring the status of a party; (2) intervene as a party with all the rights of a party; or (3) intervene as a party with all the rights of a party but limited to specific issues and to the means necessary to present and develop those issues.

Petitioner has shown the grounds and purposes for which intervention is sought. It has not, however, made a showing of how its legal rights, duties, or privileges may be determined by this contested case. Nor has it shown how it may be directly affected by the outcome of this case or that it has some other legal authorization to intervene. Therefore, the Judge will not make Petitioner a party to this matter.

Petitioner's prior involvement in a case concerning the development of the substation at issue here does not explain to the Judge who or what Petitioner is. Without knowing who or what Petitioner is - besides a Wisconsin "non-stock corporation" - the court cannot venture what its legal rights are, what its duties are, or what privileges it has, which it seeks to protect. Nor is Petitioner's interest in preserving some facet of a prior agency determination the same as a legal right, duty, or privilege which belongs to Petitioner. Without legal rights, duties, or privileges to protect, there is no basis for intervention, absent a statutory right to intervene.

Petitioner also failed to make a showing of how it may be directly affected by this case. Petitioner has articulated that determinations made in a 25-year-old EQB matter may be impacted. But that does not equate to Petitioner being impacted. Neither the Petition nor Petitioner's response to ATC's objection provide any meaningful information about W.O.L.F. and how the outcome of the pending case may directly impact it. W.O.L.F.'s status as a "non-stock corporation", with an agent in north-central Wisconsin, only appears to demonstrate it will not be affected by this case. Moreover, there is no claim or showing that any statute, rule, or court decision authorizes Petitioner's intervention as a party. W.O.L.F.'s participation in a proceeding 25 years ago before another agency does not create an authorization for this matter before the Commission.¹⁰

Finally, mindful of the Commission's purpose in referring this matter for a contested case, W.O.L.F. is advised that there will be two public hearings on March 13, 2024. It may comment and ask questions of the parties at either of those hearings.¹¹ Moreover, the Judge will accept written comments from the public, including W.O.L.F., through March 28, 2024. The Judge may also permit members of the public, including W.O.L.F., to participate in the evidentiary hearing on March 19, 2024. Such participation will be in accordance with the contested case rules and at the discretion of the Judge.¹²

J. R. M.

⁹ *Id.*

¹⁰ Likewise, W.O.L.F.'s participation before the Minnesota Court of Appeals in that prior matter does not automatically create a right to intervene in the pending matter.

¹¹ See Prehearing Order (Dec. 6, 2023).

¹² See, e.g., Minn. R. 1400.6200, subp. 5.

January 22, 2024

See Attached Service List

Re: *In the Matter of the Application of Minnesota Power for a Certificate of Need for the HVDC Modernization Project in Hermantown, Saint Louis County;*

In the Matter of the Application of Minnesota Power for a Route Permit for a High Voltage Transmission Line for the HVDC Modernization Project in Hermantown, Saint Louis County.

**OAH 5-2500-39600
MPUC E-015/CN-22-607
MPUC E-015/TL-22-611**

To All Persons on the Attached Service List:

Enclosed and served upon you is the Administrative Law Judge's **ORDER DENYING THE WORLD ORGANIZATION FOR LANDOWNER FREEDOM'S PETITION TO INTERVENE AS A FULL PARTY** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7853, majeste.phillip@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



MAJESTE PHILLIP
Legal Specialist

Enclosure

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
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ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

<p>In the Matter of the Application of Minnesota Power for a Certificate of Need for the HVDC Modernization Project in Hermantown, Saint Louis County;</p> <p>In the Matter of the Application of Minnesota Power for a Route Permit for a High Voltage Transmission Line for the HVDC Modernization Project in Hermantown, Saint Louis County.</p>	<p>OAH Docket No.: 5-2500-39600</p>
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On January 22, 2024, a true and correct copy of the **ORDER DENYING THE WORLD ORGANIZATION FOR LANDOWNER FREEDOM’S PETITION TO INTERVENE AS A FULL PARTY** was served by eService, and United States mail, (in the manner indicated below) to the following individuals:

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