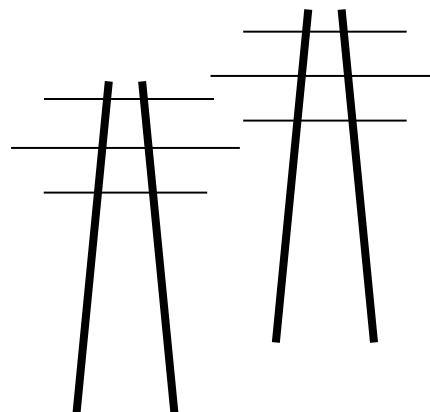


# Legalelectric, Inc.

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September 6, 2024

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

via eDockets only

RE: NoCapX 2020 - Initial CoN Comment on Merits  
MN Energy CON - Lyon Co. to Sherco Transmission Line  
PUC Dockets E001/CN-22-131 and E001/TL-22-132

Dear Mr. Seuffert:

I'm filing these comments on behalf of NoCapX 2020, a past intervenor in the CapX 2020 Certificate of Need docket, and Intervenor in three of the CapX 2020 routing dockets in concert with local grassroots groups.

The range of topics for Comment, per the Commission, was quite broad:

- Should the Commission grant a certificate of need for the proposed project?
- If granted, what additional conditions or requirements, if any, should be included in the certificate of need?
- Are there other issues or concerns related to this matter?

In its June 5, 2024 request for Comments, the Commission does not address the need claim for this project, much less clearly state that the point of this project is to utilize the “**valuable interconnection rights,**” the driving rationale for this project.<sup>1</sup>

## **SHOULD THE COMMISSION GRANT A CoN FOR THE PROPOSED PROJECT?**

NO. It should be very clear, as it is blatantly stated in the application, that the point of this project is to provide generation to interconnect to the “valuable interconnection rights” at the Sherco plant. That is not a recognized “need.” It’s a want, a corporate desire.

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<sup>1</sup> See Xcel’s project Application, pps. 1, 3, 4, 5, 13, 14, 17, 20, 21, 40, 44,57, 71, 75, 76.

For example:

4. Re-using Interconnection Rights to Interconnect Renewable Generation

Large power plants, such as the coal units at Sherco, interconnect to the regional transmission grid, and the incumbent generation owner owns the associated transmission interconnection rights. Those rights cannot be bought or sold as standalone assets.<sup>46</sup> The closure of the Sherco coal units will open up approximately 2,000 MW of transmission interconnection rights to Xcel Energy (the incumbent transmission owner). MISO rules require replacement generation to achieve commercial operation within three years of the closure date of the existing facility.<sup>47</sup>

Interconnection rights are a valuable asset in part because the regional transmission grid is congested: there is not currently enough transmission capacity on the regional system to accommodate all the renewable energy projects that wish to interconnect. Although additional infrastructure is planned, interconnection delays and high estimated upgrade costs are expected to persist. Therefore, reusing available, existing interconnection rights can speed the addition of renewable energy resources, in this case, replace retiring thermal generation.

Further, Xcel states:

2. Promotional Activities

Xcel Energy has not conducted any promotional activities or events that have triggered the need for the Project. In fact, Xcel Energy engages in significant demand-side management and conservation programs, as discussed further in [Appendix E](#). Therefore, the Project is not needed due to growth in demand due to Xcel Energy's promotional activities. Rather, the Project is needed to meet energy needs and retain the interconnection rights connected to Sherco Units 1 and 3, and the benefits associated with reusing those existing and valuable interconnection rights.

However, this project is inherently a promotional effort, devised to enlist the public, via the Commission, to pay \$1.14 BILLION to preserve Xcel's "valuable transmission interconnection rights." NO!

If the Commission should adopt this corporate-welfare rooted convoluted hare-brained concept of "need," the Commission should Order the cost of this line to be borne by Xcel and its shareholders, and not the public. Burdening the public with the cost of preserving Xcel's "valuable interconnection rights" is in Xcel's corporate interest, and is contrary to the public interest.

**NEED – SIZE, TYPE, & TIMING – somewhat based on comments filed previously**

At the public hearings, it was repeatedly stated that the EIS will address matters of need, and specifically "size, type, and timing" and the "no-action alternative." The Commission must also address these in the CoN (non-EIS) proceeding. Xcel did receive exemptions from certain "**application** data requirements" in a consent Order of June 28, 2022:

2. Approved the following exemptions from the certificate of need application data requirements conditioned on Xcel Energy providing alternative data:
  - a. 7849.0260, subp. A (3) and C (6)—granted the requested exemption with the provision of the proposed alternative data;
  - b. 7849.0260, subp. B (4) and B (8)—granted the requested exemption;
  - c. 7849.0270—granted the requested exemption with the provision of the proposed alternative data and require Xcel to provide updated demand and energy forecasting data;
  - d. 7849.0280, subp. B through I—granted the requested exemption with the provision of the proposed alternative data and required Xcel to state any updates to the quantity of new generation needed based upon the updated demand and energy forecasting provided under Minnesota Rules 7849.0270;
  - e. 7849.0290, subp. F—granted the proposed exemption and required Xcel to present a summary of the conservation information in the IRP and CIP filings rather than replicate the data in the instant docket;
  - f. 7849.0300 and 7849.0340—granted the requested exemption with the provision of the proposed alternative data; and
  - g. 7849.0330, subp. G—granted the requested exemption with the provision of the proposed alternative data.

Order, June 28, 2022. While the Commission has exempted Xcel from providing that data itemized above from its rules for **application content**, Xcel is not exempted from providing that data in the process of review of its application, if consideration of that data is warranted and is requested.

In considering “need,” there are specifics for the Commission, that **NO PROPOSED LARGE ENERGY FACILITY SHALL BE CERTIFIED...**” The statutory Certificate of Need requirements can be found in Minn. Stat. § 216B.243, of which each and all of them have environmental components and this showing necessary for a Certificate of Need goes beyond that which is required for an application.

### **Subd. 3. Showing required for construction.**

No proposed large energy facility shall be certified for construction unless the applicant can show that demand for electricity cannot be met more cost effectively through energy conservation and load-management measures and unless the applicant has otherwise justified its need...

Minn. Stat. § 216B.243, Subd. 3.

## **SIZE OF PROJECT IS FAR BEYOND CLAIMED NEED**

There are two aspects of size that should be addressed by the Commission. The first is that the project as designed at 3,583 MVA is grossly overstated for the claimed “need” of 1,996MW.

At the January 25, 2024 Scoping meeting, Xcel engineer Jason Standing admitted that each of the circuits, comprised of twisted and then bundled conductors had a capacity rating of 1,792 MVA, and as a double circuit, double that, 3,583 MVA. MVA and MW are essentially equal, and Xcel should explain this for the record.

If the “need” is for 1,996 MW to interconnect, which is all Xcel has interconnection rights for, why build a project capable of 3,583 MVA? This is 1,795 MVA, nearly double what’s claimed to be “needed.” The application also states that the project could enable up to 4,000 MW of generation! Commerce DER notes this discrepancy.

Where the size is all out of proportion to what is claimed to be “needed,” there is insufficient justification for the project as proposed. More importantly, there is insufficient justification for the project where Xcel intends to foist the cost of the project onto Minnesota ratepayers.

### **SIZE AND COST OF PROJECT -- HUNDREDS OF MW AT HIGH COST MUST BE BUILT TO MAKE UP FOR LINE LOSS**

The second aspect related to need is that due to line losses, at least 200 MW of additional generation will have to be built to make up for the line loss of this project, admitted to be at least 204MW for the 1,996 MW to be received at the Sherco point of interconnection.

The first of the Commission’s exemptions provides that Xcel need not disclose line losses in its application. However, the Commission did require “alternative data” in its Order of June 2, 2023. In the Commission’s August 10, 2023 Order Authorizing Joint Procedures in this Certificate of Need docket, the order sets out a very important fact: that 2,200 MW of generation would deliver “approximately 1,996 MW to the Sherco Substation.” In this Order, the Commission presumes “approximately” 204 MW line loss, if 160 miles, 12.75%, and if 180 miles, 11.33% is lost. I’m very grateful to see that at long last the Commission is recognizing, in an Order, the inherent inefficiencies of transmission over distance. Going forward, in its need determination, the Commission must consider the impacts of line loss necessitating additional generation to make up for that percentage.

Once more with feeling: In the Commission’s Order of August 10, 2023, the commission admitted, after interconnection of 2,200 MW, line losses of approximately 204MW, to result in 1,996 delivered to the Sherco substation. From the application:

The two lines would be located on the same set of structures (i.e., a double-circuited transmission line) and would connect at least 2,200 megawatts (MW) of generation and deliver (after losses) approximately 1,996 MW to the Sherco Substation.

Whether 160-180 miles, line losses would be 11.75% to 12.33%. For the 3,583 MVA, line losses would be approximately 370MW. That gives a range of 204 to 370MW depending on line loading. That’s two to almost four times the largest solar project, at 100MW, now operating in Minnesota. For the 300MW Badger Hollow solar project in Wisconsin, the initial cost as approved by the Public Service Commission on April 18, 2019 was \$389.7 million, excluding allowance for funds used during construction (AFUDC)<sup>2</sup>. The cost of Badger Hollow solar has since risen. The short version, which should be updated to today’s prices, is that preservation of Xcel’s valuable interconnection rights would cost \$1.14 billion for the line itself, cost of reactive power/synchronous condensers, additional cost for land rights, and approximately an additional

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<sup>2</sup> [Order and Final Decision Signed and Served 04-18-19](https://apps.psc.wi.gov/ERF/ERFview/viewdoc.aspx?docid=364436), or <https://apps.psc.wi.gov/ERF/ERFview/viewdoc.aspx?docid=364436>

\$400 million for generation to replace line loss to get the required input to Sherco.

### **SIZE must also address the solar generation to be built adjacent to SHERCO**

Also linked below is a Strib article of September 21, 2023<sup>3</sup>, “Minnesota regulators vote to move forward the third large Xcel solar project in Becker.” This article notes the Commission’s prior approval of “Sherco Solar 1 and 2” of 460 MW, and the approval of “Sherco 3” solar at 250 MW. The “Sherco 3” project is large enough to compensate for the line loss of the Lyon Co. to Sherco line!

The 710 MW of these projects discussed in that article is over one third of the interconnection capacity of 1,996 MW that Xcel wants to preserve at that Sherco site. 1,996 less 710 is 1,286 MW remaining of transmission interconnection capacity for Xcel to find. Xcel has no justification for over 1,286MW, much less the 3,584MVA for which this project is designed.

### **SIZE, TYPE, AND TIMING – Xcel has excess capacity to market**

The Commission must address the issues of size, type, and timing regarding Xcel’s claim of need for generation, and determine whether that is credible, whether the impacts and costs should be borne by ratepayers, landowners, and the public, and particularly in light of Xcel statement in SEC filings that it is selling 1,500MW into the MISO market:

***MISO Capacity Credits*** — The NSP System offered 1,500 MW of excess capacity into the MISO planning resource auction for June 2022 through May 2023. Due to a projected overall capacity shortfall in the MISO region, the 1,500 MWs offered cleared the auction at maximum pricing and is expected to generate revenues of approximately \$90 million in 2022 and approximately \$60 million in 2023. During the three and nine months ended Sept. 30, 2022, the NSP System received approximately \$40 million and \$50 million, respectively, of capacity credits. These amounts will primarily be used to mitigate customer rate increases or returned through earnings sharing or other mechanisms.

Xcel 2022 3Q SEC filing, p. 32 of 46.<sup>4</sup> How about 2023?? 2024?

### **TYPE & TIMING – The “usual suspects” are not addressing the transmission projects now in progress or even pre-existing transmission in the area, nor is Xcel**

It’s surprising, well, perhaps not, that the comments of the usual suspects such as “Clean Energy Economy Minnesota” and the joint comment of Citizens Utility Board of Minnesota, Minnesota Center for Environmental Advocacy, Fresh Energy, Center for Rural Affairs, and Clean Grid Alliance don’t mention the projects listed below that are in progress at PUC or pre-existing and

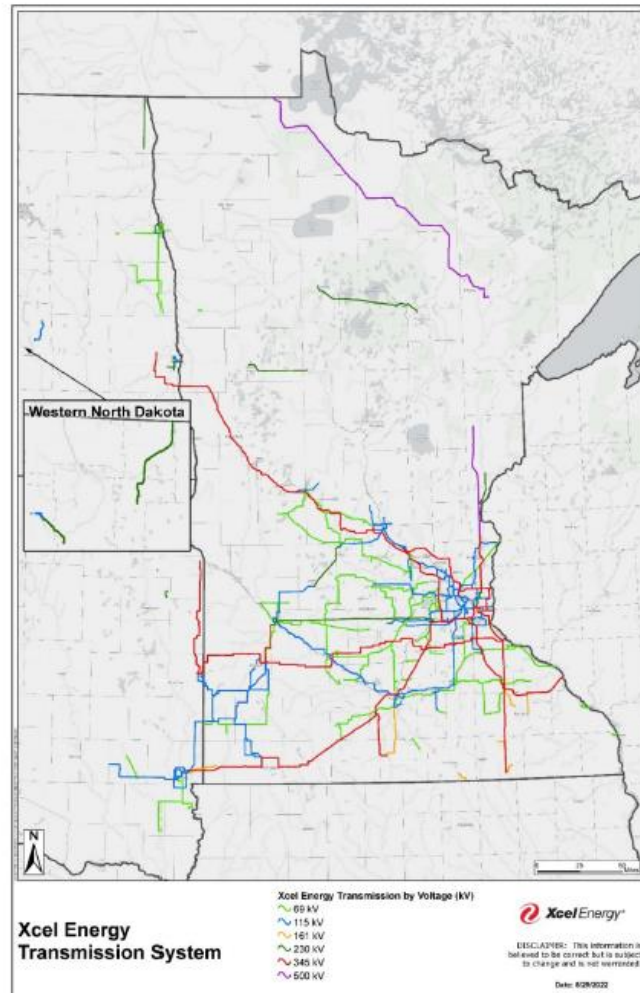
<sup>3</sup> Online at: <https://www.startribune.com/minnesota-public-utilities-commission-votes-to-move-forward-third-large-xcel-solar-project-in-becker/600306452/>

<sup>4</sup> Online at: <https://d18rn0p25nwr6d.cloudfront.net/CIK-0000072903/206b8ecf-96d1-40a6-a8d4-681dec91da13.pdf>  
The 2023 10-K is expected to be released any minute...

built but not shown on Xcel Energy’s map (Application, p. 36). Is it a matter of institutional memory? Many were not present through these projects, and too many were provided grant funding to support the transmission build-out.

Xcel’s map, by only including its own transmission (Application, p. 36) is missing transmission relevant to need in southwest and southern Minnesota:

Image 3.2: Xcel Energy’s Transmission System in Minnesota, North Dakota, and South Dakota<sup>35</sup>



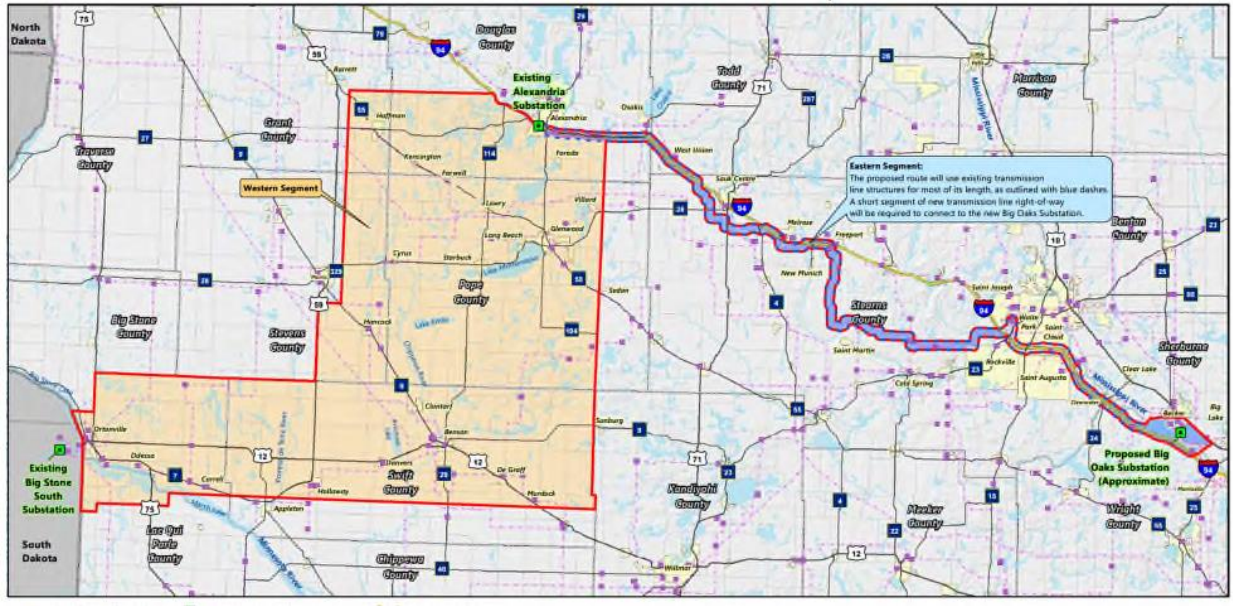
A. **TYPE & TIMING – Big Stone-Alexandria-Big Oaks would bring electricity from Big Stone to the Sherco area**

The Commission must consider need the transmission line proposed in light of the application for a transmission line from Big Stone to Alexandria to Big Oaks, essentially from the Lyon Co. area to the Sherco area. Yes, Big Stone is near Lyon County, proposed for the start of MN Energy CON. Why another? For some reason, no commentator other than NoCapX has raised this project, which could connect to Sherco substation, in relation to the MN Energy CON line, and could/would have an impact in loading in southern Minnesota and the Sherco substation. See



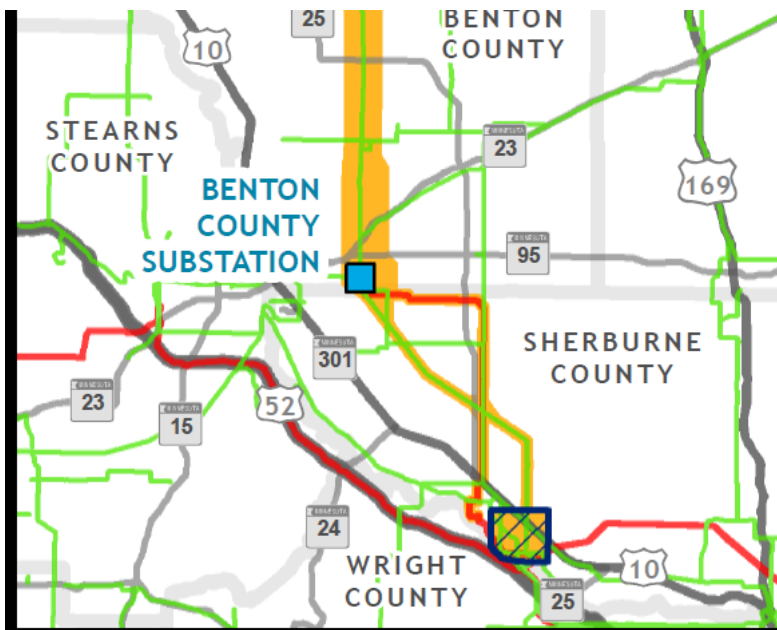
PUC’s Big Stone South-Alexandria-Big Oaks, Docket E002, E017, ET2, E015, ET10/CN-22-538:

**Figure 1: Big Stone South – Alexandria – Big Oaks  
345 kV Transmission Line Project**



**B. TYPE & TIMING – the Northern Reliability Project would bring electricity to the Sherco area**

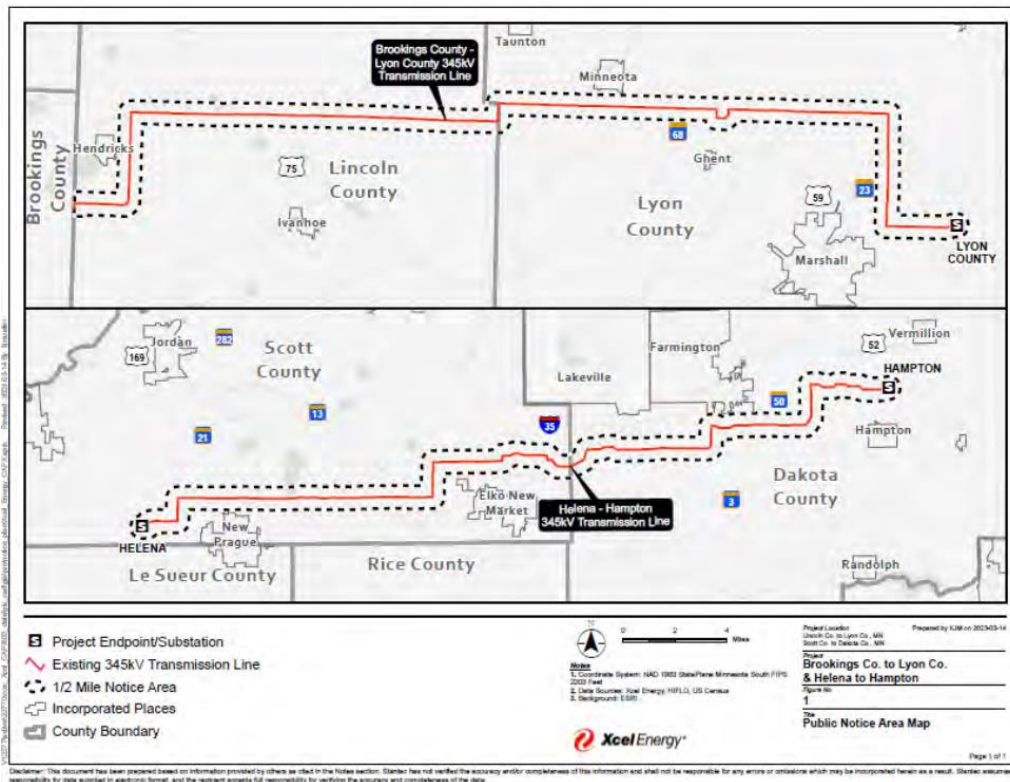
The Northern Reliability Project, E015,ET2/CN-22-416 and E015,ET2/TL-22-415, which runs from the Itasca County substation near Grand Rapids down to the “Big Oaks” substation near Sherco. For some reason, only NoCapX 2020 has raised the current transmission projects in the area, and this is yet another project that could interconnect at Sherco:



**C. TYPE & TIMING: The CapX 2020 Brookings line is now being uprated, double-circuited, and would bring generation out of the Lyon Co. area**

Xcel is double-circuiting two portions of its “Brookings-Hampton” CapX 2020 transmission project. No CapX 2020 was an initial intervenor in this docket, ET-2/TL-08-1474, together with United Citizens Action Network (U-CAN). See also ET-02?CN-23-200. This transmission uprate will increase capacity out of Lincoln and Lyon Counties. Again, for some reason, no commenter other than NoCapX 2020 has referenced this uprate, which logically has an impact on transmission loading in southern Minnesota and transmission to the metro and points east.

Figure 1



**D. TYPE & TIMING – The Mankato-Mississippi/Wilmarth-Tremval transmission project would bring generation from southern Minnesota eastward.**

The Xcel Mankato-Mississippi transmission project, a/k/a Wilmarth-Tremval (WI) is also an ongoing transmission project, applied for, accepted as complete, and the routing docket forwarded to OAH for a contested case hearing. See PUC Dockets E002/CN-22-532 and E02/TL-23-157, NoCapX 2020 and The Prehn Family have petitioned for Intervention due to the impacts on so many already burdened by the CapX 2020 Brookings-Hampton application and construction and the potential for impacts if the southern route near Waterville would be chosen. The CenterPoint underground natural gas storage facility, significant utility infrastructure, was not, and has yet to be, included in the application – Xcel did not even meet with CenterPoint



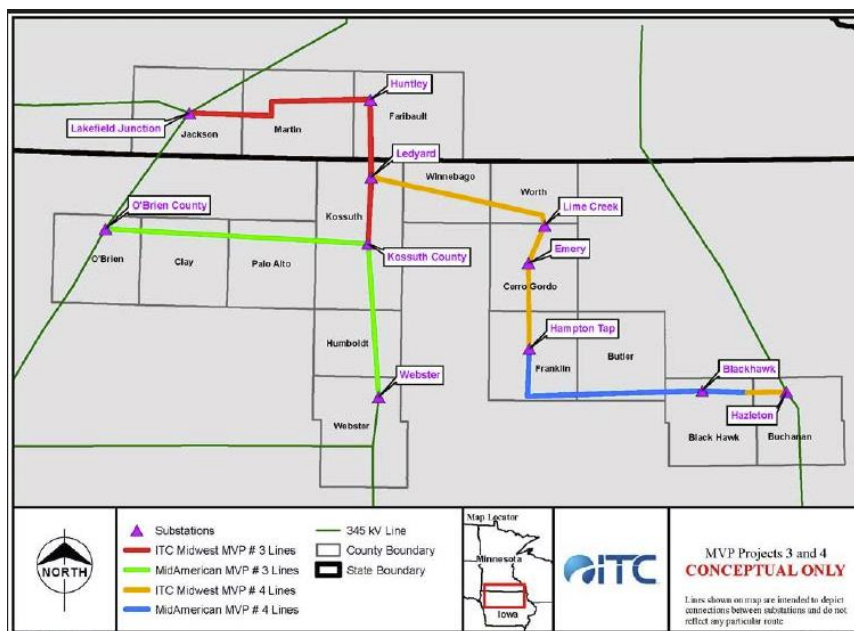
until after the application was filed<sup>5</sup>.

Map 1-1  
Project Overview



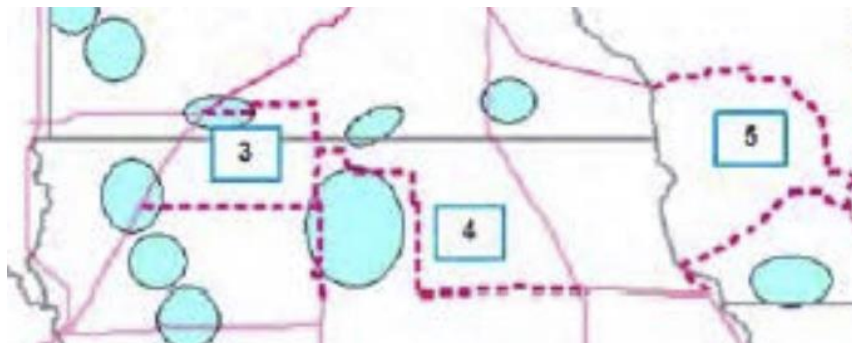
**E. XCEL FAILS TO INCLUDE THE ITC LINES, MVP 3, 4, & 5 ON ITS MAP**

Xcel fails to include significant and relevant transmission existing in southern Minnesota that is available for generation in southwest Minnesota – the ITC transmission, MVP projects 3, from Lakefield Junction to Huntley in Minnesota, to Ledyard and Kosseth County substation in Iowa:



<sup>5</sup> See Xcel’s Supplemental Comments, May 6, 2023 [20245-206448-01](#)

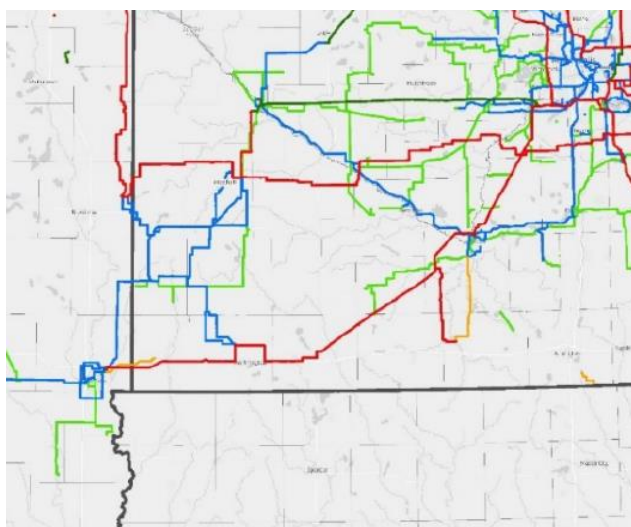
In considering need for Xcel's MN Energy CON, the ITC lines MVP 3 and 4 in Minnesota and into Iowa, and MVP 5, the northern part known as Badger Creek/CapX 2020 from La Crosse to North Madison, and the southern part known as Cardinal-Hickory Creek, going across the Mississippi towards Madison.



ITC's MVP 3 was the first MVP project applied for in Minnesota, MISO's MVP 3. See PUC Dockets ET-6675/CN-12-1053; ET-6675/TL-12-1337<sup>6</sup>. These projects were permitted and constructed nearly a decade ago to bring generation from southern Minnesota to the southeast, ostensibly the area targeted for marketing of generation. These MVP projects fill in much of the open area in Xcel's map (Application, p. 36). Perhaps this is, again, a case of failure of institutional memory.

**F. ANY NEED CONSIDERATION CAN ONLY BE MADE IF THE FULL RANGE OF EXISTING AND PROPOSED TRANSMISSION PROJECTS IN AND AROUND SOUTHWEST MINNESOTA ARE DRAWN ON THE MAP!**

Anyone can see the hole in Xcel's transmission map in southwest Minnesota where it plans to start its Lyon County-Sherco MN Energy CON transmission line. Application, p. 36. However, Xcel's map tells only part of the story – only Xcel's transmission is shown:



<sup>6</sup> See also MISO's MVP Portfolio, in particular 3, 4 & 5, on p. 11 & 12:  
<https://cdn.misoenergy.org/MTEP17%20MVP%20Triennial%20Review%20Report117065.pdf>

Xcel's transmission does not exist in a bubble. As we say in transmission, "It's all connected!" As above, the Commission must start with that Xcel map and add the existing ITC lines, MVP projects 3, 4 and 5, which draw energy out of southwest Minnesota and consider the impact on capacity. The Commission must also consider all those transmission projects now before it that have an impact on the transmission system and transmission capacity. The Commission must draw existing projects not owned by Xcel on the map, must put these applied for projects on the map, and consider the impact of all these lines on transmission capacity. Xcel is revealing only part of the picture.

Specifically, the Commission must add to Xcel's map (Application, p. 36) the following projects for consideration of their impact on the southwest area of Minnesota, and must also add any other projects having an impact on southwest Minnesota. These have an impact on need:

- **MISO MVP 3, 4, &5. ITC's MVP 3** :PUC Dockets ET-6675/CN-12-1053; ET-6675/TL-12-1337;
- **Big Stone South-Alexandria-Big Oaks**, PUC Dockets E002, E017, ET2, E015, ET10/CN-22-538;
- **Northern Reliability Project**, PUC Dockets E015,ET2/CN-22-416 and E015,ET2/TL-22-415;
- **Brookings-Lyon Co. & Helena-Hampton Uprate**: PUC Dockets ET-02/CN-23-200 and ET-02/TL-08-1474; and
- **Mankato-Mississippi transmission project, a/k/a Wilmarth-Tremval (WI)**: PUC Dockets E002/CN-22-532 and E02/TL-23-157.

### **TIMING – Xcel's "need" for additional generation?**

The Commission must critically examine Xcel's latest IRP claim of a marked and unexpected material increase in demand. This increase is too convenient to be believed, and must be balanced with the point of this project, which is to **preserve valuable interconnection rights**.

In its application for the MN Energy CON transmission line is the admission of nominal increase in peak demand<sup>7</sup>. The Commission should remember history of Xcel demand projections. The initial projected demand this is a much more realistic projection than the revised IRP "demand," which is too similar to that used to justify CapX 2020, the absurd 2.49% of demand increase that at the time intervenors knew was a gross overstatement, and which obviously did not pan out. Peak demand has not yet met the 2006 peak. AG-RUD has noted in comments Xcel's propensity to exaggerate demand when it's useful, and we must be skeptical.

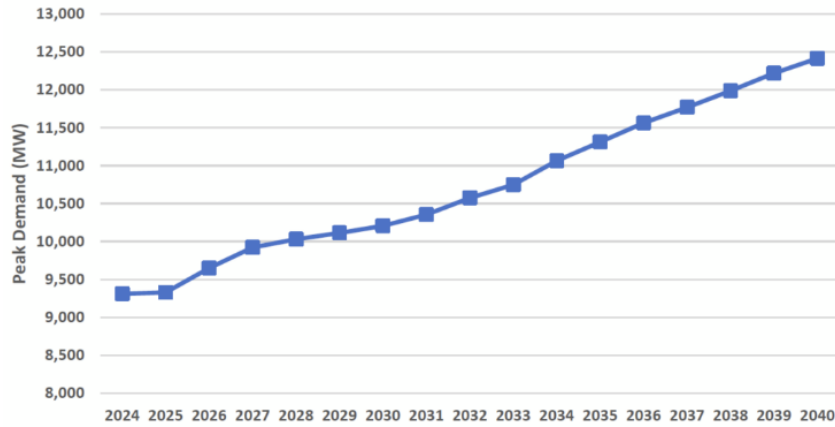
What demand projection? Look at Xcel's convenient claim of an annual 1.8% increase in peak demand, as of its just filed Integrated Resource Plan, PUC Docket RP-24-67. It contains a chart

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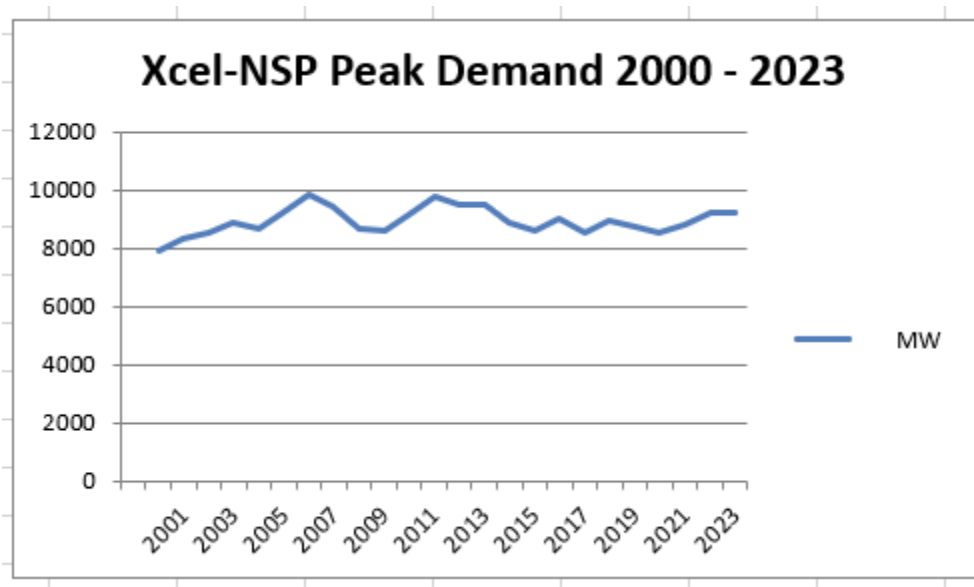
<sup>7</sup> Note the application is inconsistent in its IRP claim, first that peak demand is expected to increase at a rate of 0.2% into the 2030s, and later in the application, that number is -0.2%. Search the application for 0.2% and -0.2%!

that is eerily reminiscent of the grossly overblown CapX 2020 demand projections of 2.49%, see IRP Chapter 3, page 2 of 29:

**Figure 3-2: NSP System Median Base Summer Peak Demand (MW)**  
(Includes modeled EE Adjustment)



That IRP projection is laughable, and hopefully not taken seriously by the Commission. Referring to their CapX peak demand projections as “grossly overblown” is not hyperbole. Here is their peak demand as taken from the Xcel Energy 10-K filings with the SEC:



As this docket moves forward, the Commission should also keep in mind that Xcel was selling 1,500MW of “excess capacity” on the market, energy not needed to serve its native load. What is the status of this “excess capacity” in 2024?

The Commission should consider the fossil generation taken off line balanced with replacement generation that so many say is waiting in the wings for transmission.

Is the “need” claimed in line with the decrease in reserve margins? For decades we’ve been told that transmission build-out will decrease the necessary reserve margin. Has that at long last happened, and is that decrease admitted by Xcel. Typically, the MAPP, then MISO, reserve margin was set at 15%. The NERC Long-Range Transmission Reliability Assessment through the years has shown that with projected generation additions, there is far above that 15% of generation projected over and above area “need.” The Commission should take into account the analysis of utility provided information when considering “need” for any project.

This project has not been reviewed by MISO, and what would that reveal, and what about the cost attribution? Utilities have become dependent, have relied on MISO to justify “need” for a project, not a legitimate demonstration of need, but one too often accepted by the Commission.

The Applicant must include a cost benefit analysis of the project, and none has been produced. In MISO cost/benefit determinations, the benefits are all to the utility/members of MISO. Similarly with this project, the benefits accrue to Xcel, and ONLY Xcel in preserving its “valuable transmission interconnection rights” and continued transmission service revenue, and the costs are falling to the ratepayers, to the projects lining up to interconnect, and to landowners who lose their land for easements. What is the benefit to the public? The Commission’s CoN cost/benefit analysis must address the variety of costs and benefits to ratepayers, landowners, and the general public

The NERC guidance regarding security and reliability of radial lines should be taken into account. Radial lines are regarded as problematic<sup>8</sup>.

### **THE COMMISSION MUST CAREFULLY ADDRESS THE NEED ISSUES OF SIZE, TYPE, AND TIMING**

The Commission needs to take a hard look at the Certificate of Need aspects of size, type, and timing/ A claim of need based on corporate desire, planning to push the massive cost of “preserving valuable interconnection rights” for the utility onto ratepayers is not a valid statement of need. The mere suggestion that this project should be approved is absurd. It should not be approved or constructed when we know Xcel wants this project for corporate desires, and not for any regulatory definition of need. It is not the job of ratepayers and landowners to shoulder the burden of fulfilling Xcel’s corporate desires and wants.

Very truly yours,



Carol A. Overland

Attorney at Law, for NoCapX 2020

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<sup>8</sup> Radial lines are most common in low voltage distribution lines, though the radial line to Grand Marais has been a problem for decades. See Reliability Analysis of a Radial Distributed Generation System:

[https://www.iit.comillas.edu/documentacion/revista/IIT-13-](https://www.iit.comillas.edu/documentacion/revista/IIT-13-185A/Reliability_analysis_of_a_radial_distributed_generation_distribution_system.pdf)

[185A/Reliability\\_analysis\\_of\\_a\\_radial\\_distributed\\_generation\\_distribution\\_system.pdf](https://www.iit.comillas.edu/documentacion/revista/IIT-13-185A/Reliability_analysis_of_a_radial_distributed_generation_distribution_system.pdf) NERC BES Definition

Approved: <https://www.nerc.com/pa/RAPA/BES%20DL/BES%20Definition%20Approved%20by%20FERC%203-20-14.pdf>