

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Joint Application of American Transmission Company, 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

05-CE-146

JEWELL JINKINS INTERVENORS INITIAL BRIEF

Jewell Jenkins Intervenors (hereinafter “JJJ”) submit this Initial Brief, and based on the record and arguments herein, request that the Commission deny the Applicants’ request for a Certificate of Public Convenience and Necessity because they have not met the requirements of Wisconsin law. JJJ’s primary concerns are those of individual hardship, and the visual and aesthetic changes inherent in the project and the impact these changes would have on the historic nature of the Jewell historic homestead parcel, and the property values of other affected parcels. From information revealed during the proceeding, it’s apparent that project benefits are illusory, and when considered over the 40 years of the estimates, the benefits are nominal. While the cost of these MISO MVP projects are spread across a wide area, and the cost to Wisconsin is also nominal in light of the gross project cost, the less tangible but expected costs, such as property value loss, community character, environmental harms, and interference with agricultural production, overshadow those nominal benefits.

The Public Service Commission has not properly developed route and system alternatives, as required by the Wisconsin Environmental Policy Act and the National Environmental Policy Act, and the project cannot go forward until the environmental review is

in compliance, until alternatives are developed, analyzed, and a determination made regarding the least impactful alternative.

The Cardinal-Hickory Creek transmission project should not be granted a Certificate of Public Convenience and Necessity.

I. THE ISSUES FOR THIS PROCEEDING WERE BROADLY FRAMED.

In a Prehearing Memorandum, the issues for this proceeding were broadly framed as:

Does the proposed project comply with the applicable standards under Wis. Stat. §§ 1.11, 1.12, 196.025, 196.49, and 196.491, and Wis. Admin. Code chs. PSC 4, and 111?

Generally, a CPCN is reviewed under Wisc. Stat. §196.491(3)(d). The relevant CPCN statutory criteria are as follows:

- (d) Except as provided under par. (e), the commission shall approve an application filed under par. (a) 1. for a certificate of public convenience and necessity **only** if the commission determines all of the following:
 - 2. The proposed facility **satisfies the reasonable needs of the public for an adequate supply of electric energy.** This subdivision does not apply to a wholesale merchant plant.
 - 3. The design and location or route is in the public interest considering **alternative sources of supply, alternative locations or routes, individual hardships**, engineering, economic, safety, reliability and environmental factors, except that the commission may not consider alternative sources of supply or engineering or economic factors if the application is for a wholesale merchant plant...
 - 3r. For a high-voltage transmission line that is proposed to increase the transmission import capability into this state, **existing rights-of-way are used to the extent practicable** and the routing and design of the high-voltage transmission line minimizes environmental impacts in a manner that is consistent with achieving reasonable electric rates.
 - 3t. For a high-voltage transmission line that is designed for operation at a nominal voltage of 345 kilovolts or more, the high-voltage transmission line provides usage, service or increased regional reliability benefits to the **wholesale and retail customers or members in this state** and the benefits of the high-voltage transmission line are reasonable in relation to the cost of the high-voltage transmission line.
 - 4. The proposed facility will not have undue adverse impact on other environmental values such as, but not limited to, ecological balance, public health and welfare, **historic sites**, geological formations, **the aesthetics of land** and water and recreational use. In its consideration of the impact on other environmental values, the commission may not determine that the proposed facility will have an undue adverse impact on these values because of the impact of air pollution if the proposed facility will meet the requirements

of ch. 285.

Wis. Stat. §196.491(3)(d)(selected).

The environmental review must comply with the Wisconsin Environmental Policy Act, including, specifically, development of alternatives. The Commission's charge is to:

Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

Wis. Stat. §1.11(e).

The Commission must also determine that the Applicants' project complies with transmission siting priorities:

- (6) SITING OF ELECTRIC TRANSMISSION FACILITIES. In the siting of new electric transmission facilities, including high-voltage transmission lines, as defined in s. [196.491\(1\)\(f\)](#), it is the policy of this state that, to the greatest extent feasible that is consistent with economic and engineering considerations, reliability of the electric system, and protection of the environment, the following corridors should be utilized in the following order of priority:
- (a) Existing utility corridors.
 - (b) Highway and railroad corridors.
 - (c) Recreational trails, to the extent that the facilities may be constructed below ground and that the facilities do not significantly impact environmentally sensitive areas.
 - (d) New corridors.

Wis. Stat. §1.12 (emphasis added); see also 196.025, 196.49, and Wis. Admin. Code chs.

PSC 4, and 111.

II. PROJECT OVERVIEW

In very basic terms, this is a 345 kV transmission line proposed by Applicants American Transmission Company, LLC (ATC), Dairyland Power Cooperative (DPC), and ITC Midwest, LLC (ITC). The line would stretch 84 to 105 miles, depending on the route, from the Hickory Creek substation in Iowa, to the Cardinal Substation west of Madison, Wisconsin. FEIS xxv, 1 (PSC REF# 366195). As roughly one-half of MVP 5 (the other half being the Badger Coulee

transmission line), the “overall cost of the project is expected to range between \$474 and \$560 million, depending on the final route.” Id.-3, see also 47-49. That is roughly one-half of the \$1.016 billion designated for MVP 5 of the \$6.651 billion MISO MVP transmission project portfolio. MVP Triennial, p. 19, Ex.-MISO-Ellis-3 (PSC REF# 364903). As with all of the \$6.651 MISO MVP transmission project portfolio, the costs of this project are apportioned across the region, with cost to Wisconsin “customers” of this project expected to be roughly \$67-72.7 million. Id. 50. The apportioned cost to Wisconsin “customers” of the entire MVP \$6.651 17 transmission project portfolio is not incorporated into the cost considerations for this project nor is it addressed in this proceeding. FEIS p. 47-50, particularly §2.4.3, p. 50 (PSC REF# 366195)

III. JURISDICTIONAL QUESTIONS ARISE WITH STATE REVIEW OF MISO MVP PROJECTS

This is a Wisconsin Public Service Commission docket, where the Commission will determine whether or not to grant a Certificate of Public Convenience and Necessity. Much of the Applicants’ need claim focuses on MISO process and “MISO approval” -- that this project was “approved” as a Multi-Value Project, or MVP, as part of the \$6.651¹ billion MISO MVP 17 project portfolio which was approved as a whole. Ex.-MISO-Ellis-3, MTEP 2017 Triennial Review, p. 19 (PSC REF# 364903). Two jurisdictional issues present are 1) the practice of presenting projects to the Commission after MISO “approval” of transmission projects and subsequent transmission owners’ assumption of an “obligation” to build those projects; and 2) the passing on of costs as set out in the MISO cost allocation to Wisconsin customers, those of this project specifically, and also the Wisconsin share of the balance of the \$6.651 billion portfolio without direct Commission approval.

¹ The FEIS p. 71 states “The cost of the approximately \$5.2 billion...” and then fn. 96 states \$5.2 billion was the ORIGINAL cost and the most recent estimate is \$6.65 billion in 2017 dollars. The first sentence of 3.2.4 should state, “The cost of the approximately \$6.65 billion...” As it is, the sentence in the FEIS is misleading.

The Application and Environmental Impact Statement go on at length about the MISO MVP process by which the 17 project portfolio was selected. Direct-MISO-Ellis-7-46 (PSC REF# 364899). What does “MISO approval” mean in a Public Service Commission proceeding – what weight does that “approval” carry when the criteria for that “approval” is so different from state criteria? What does it mean that this is the last of the MVP projects to come before state regulators, where the “benefits” are claimed to rely on all of the projects being constructed?

Secondly, by accepting the MISO allocated share of Cardinal-Hickory Creek, as was done with Badger Coulee transmission, the other half of MVP 5, is that tacit approval and acceptance of the full share allocated by MISO of the other 16 projects in the \$6.651 billion portfolio, or will the Commission consider these costs in another docket?

The “issues” as set for the hearing are broad and vague. Prehearing Memorandum, PSC REF# 361296) Likewise, the Public Service Commission has broad powers, “jurisdiction to supervise and regulate every public utility in this state and to do all things necessary and convenient to its jurisdiction.” Wis. Stat. §196.02(1). The Commission should take a necessary close look at this project, and perhaps especially if not convenient, the Commission should not abdicate or acquiesce its regulatory authority and responsibility to the ratepayers, who are distinct from “customers” who benefit from this project.

IV. APPLICANTS HAVE NOT MET THE BURDEN OF PROOF FOR A CERTIFICATE FOR PUBLIC CONVENIENCE AND NECESSITY. A CPCN MAY NOT BE GRANTED.

Wisconsin statute provides that a Certificate of Public Convenience and Necessity may be Issued only if the Commission finds that specific criteria have been met. This transmission project as proposed would affect many parcels of land in which Jewell Jenkins Intervenors have an interest, and they would be directly harmed and would suffer extreme individual hardships if

this transmission project is put on their land. There are also economic, environmental and historical factors at issue, issues of impacts of electric and magnetic fields, and for Wisconsin ratepayers and “customers,” issues of need. Because the Commission may issue a CPCN to Applicants **ONLY** upon finding that the criteria has been met, and it has not, the CPCN should not be issued.

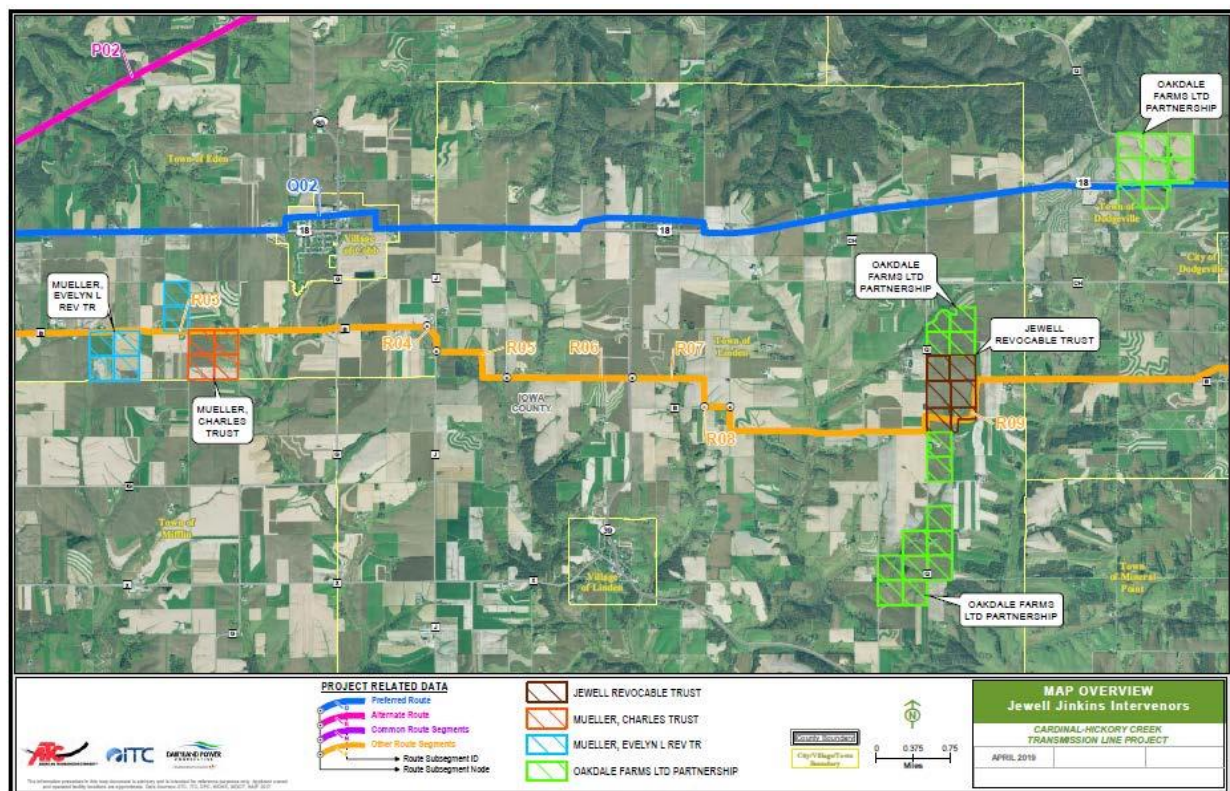
A. Individual Hardship to Jewell Jenkins Intervenors are extreme, particularly because use of Route Segment R-09 at Jewell homestead would destroy its historical value and aesthetic, taking their use and enjoyment of their property.

Individual hardships are to be considered by the Commission, and the Commission may issue a CPCN only where it determines that the route chosen is in the public interest, considering, among other things, individual hardships. Wis. Stat. § 196.491(3)(d)3. The Commission may also issue a CPCN only where it determines that “[t]he proposed facility will not have undue adverse impact on other environmental values such as, but not limited to, ecological balance, public health and welfare, **historic sites**, geological formations, **the aesthetics of land and water and recreational use**. Wis. Stat. 96.491(3)(d)4 (emphasis added).

Obviously, wherever the project is routed there likely will be some individual concerns and even hardship, but the number and significance of particularized individual hardships that will affect Jewell Jenkins Intervenors’ property, no matter what route alternative is used, are extreme, and prohibit issuance of a CPCN. These individual particularized hardships were documented in Jewell’s testimony, and were unchallenged by the Applicants or Commission staff. Direct-JJI-Jewell; Direct-JJI-Jewell-s; Rebuttal-JJI-Jewell; Surrebuttal-JJI-Jewell. These individual hardships must rise to the Commission’s attention for consideration and elimination of route segments affecting these properties. Of all the parcels set forth in testimony, the historic Jewell homestead along Alternative Route segment R-09 must be avoided. See Direct-JJI-

Jewell-8; 12-13.

The Jewells are large property owners in Iowa County, with 48 parcels held in the names of several entities, and itemized in Jewell's testimony. Direct-JJI-Jewell-4-7. These properties affected by both Applicants preferred and alternate routes through Iowa County. Id. Applicants provided a map of potentially affected Jewell properties, however, in addition to those shown, the Bloomfield Farms, LLC properties just east of Cobb and legally described below, were not included on this map provided by Applicants. Ex.-JJJ-Jewell-2:

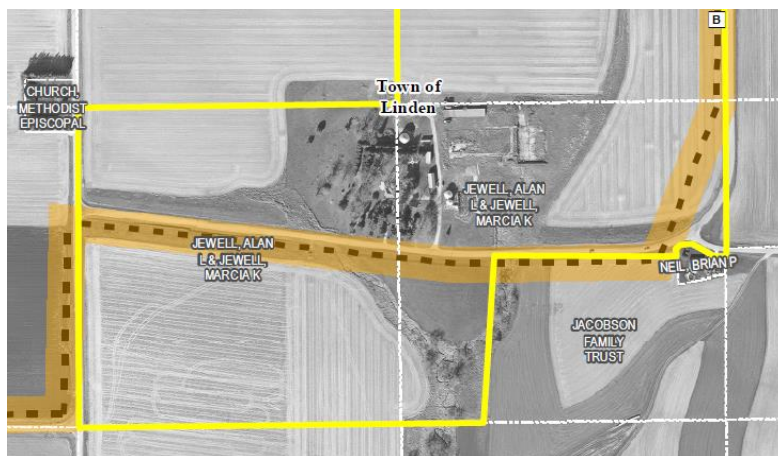


The most important consideration, the most significant and harmful individual hardship, would be the impact of this transmission line on the Jewell's home, located on segment R-09 of Applicants' alternative route. The Jewell's home, also known as the William J. Bennett House, is located at 3362 County Road B, Dodgeville, Wisconsin (County Road B, north side, ¼ mile east of County Road Q), and was built in 1860. This home is listed by the Wisconsin Historical

Society's Wisconsin Architecture and History Inventory, reference number 46941. It is a Greek Revival home, built of stone by Cornish settlers, and has been in the Jewell family since 1915.



Direct-JJI-Jewell-12-13. This home is located on Segment R-09, and whether on the north or



south side of the road, transmission in the vicinity of this historic home would diminish its historical and monetary value by degrading its setting and through a dramatic change in the viewshed and aesthetics. See Direct-Jewell-10-

13. Construction of this transmission line, forever altering the historic character of the area, would take away much of the use and enjoyment, the intrinsic value, of this property. Id.

Other very important considerations of individual hardship is the Q-02 route section

planed over the Oakdale Farms/Bloomfield grain facility at 2232 US Highway 18, in Dodgeville and the Walter and Anderson home at 504 E. Main St., Cobb. Direct-JJI-Jewell-r-7. The heavily utilized grain elevator facility houses large grain bins, a shop, and an office building. The AIS notes that only an 18 foot clearance is required for transmission over grain bins. AIS, p. 136, Ex.-DATCP-Weiss-1(PSC REF# 367010). This proximity is not only unacceptable, but it may preclude new construction, maintenance, or repair of the grain bins. While routing over agricultural land is a concern generally, routing over the grain facility would have a severe impact on operations.

Property values would likely drop for this parcel, and the primarily agricultural parcels. Id., 10-11; Rebuttal-Jewell-18-20 (PSC REF# 367842. Loss of value would be catastrophic, and agricultural parcels could be hit hardest by value loss, perhaps 17-44%. Id.; see also Kielisch Tr. 1916-1918 (re: Surrebuttal-Rolling-3-4).

B. The proposed facility does not satisfy the reasonable needs of the public for an adequate supply of electric energy and the design and location or route is not in the public interest considering alternative sources of supply.

The “need” for this project is based on an economic model, one based on desire for benefits, and not an electrical reliability need as set forth in Wisconsin statute, requiring a determination that “[t]he proposed facility satisfies the reasonable needs of the public for an adequate supply of electric energy.” Wis. Stat. §196.491(3)(d)2; see Application, Need, p. 30-58; Direct-Applicant-Dagenais-3-4. Other intervenors and Commission staff are better equipped to address need, but there are a few points regarding need that stand out.

The focus of the “need” statute is the need of the public, but the focus of “need” in the project application and the MISO MVP 17 project portfolio is the “customer.” The “customers” here are not ratepayers, and “customers” are not the public, they are the utilities themselves:

Q: And you just said a word that I think we need to define. I haven't heard that yet. How are you defining Wisconsin customers?

A: For our analysis, Wisconsin customers starts at the Wisconsin utilities that are serving load. So then the end use load-serving customers are customers of those Wisconsin customers.

Q: So that's not related to -- that's distinct from ratepayers, correct?

A: Correct. The ratepayers are customers of those utilities.

Tr. p. 497. The focus is on those “customers” that will receive the benefits, with emphasis on, greater benefits to, those west of Wisconsin.

However, it is not easily determined exactly what the costs and benefits are to Wisconsin.

The Applicants prepared an estimate of total benefits over 40 years of various alternatives:

Table 2: Monetized Range of Net Benefits of Alternatives to Wisconsin

Net Benefits of Evaluated Alternatives (Including Costs ¹ ; \$Millions – 2018 PV)				
Future	No Action	Project ²	LVA	NTA
Existing Fleet (EF) ³	0.0	22.7	(132.4)	(5.4)
Existing Fleet with Foxconn and PSCW Changes (EFPSCW) ³	0.0	22.7	(132.4)	(7.2)
Policy Regulations with Low Energy (PRLE)	0.0	156.1	(18.6)	3.7
Policy Regulations (PR)	0.0	105.5	(47.7)	(6.0)
Policy Regulations with Foxconn (PRFoxconn)	0.0	129.2	(15.3)	(19.9)
Policy Regulations with Foxconn and PSCW Changes (PRPSCW)	0.0	94.8	(43.3)	(5.8)
Accelerated Alternative Technologies (AAT)	0.0	349.3	270.4	29.7
Accelerated Alternative Technologies with Foxconn and PSCW Changes (AATPSCW)	0.0	325.1	220.3	21.2

Direct-Applicants-Dagenais-10. See also PVRR, Table 3-12, FEIS p. 102.

These “net benefits” in Table 2 are benefits over 40 years, thus calculating the annual “benefits” offered, they range from, at the low end, just \$567,500 annually, the midrange benefit is just \$3.23 million, and upper benefit is just \$8.7325 million annually.

If that’s the extent of the benefit to Wisconsin, where are the MVP

benefits going? The costs of the MVP portfolio have risen from \$5.197 billion to \$6.651 billion, and the costs of all the projects are apportioned to all the zones. Id. p. 5; Ex.-MISO-Ellis-1, MTEP 2011 MVP Portfolio, p. 2 (PSC REF# 364901). The benefits are apportioned by zones as well.

MISO’s 2017 MTEP Triennial Review shows that the benefits to eastern Wisconsin, Zone 2, have consistently dropped since the 2011 MTEP MVP Portfolio, with sharply increasing benefit/cost ratio ranges focused on the western generating states in zones 1 and 3. Figure E-3, Ex.-MISO-Ellis-3, MTEP 2017 Triennial Review, p. 8 (PSC REF# 364903). The benefit/cost ratio is greater, and on an increasing rather than decreasing curve, for those states to the west of Wisconsin. Is this project, much less the entire MVP 17 project portfolio good for Wisconsin?

Next, let’s look at the “value drivers.” They are Congestion and Fuel Savings, Operating Reserves, Planning Reserve Margin, Transmission Line Losses, Wind Turbine Investment, and Future Transmission Investment. The ones underlined are particularly difficult to justify as “benefits” to Wisconsin – benefits to the “customers” and/or producers, but Wisconsin?

The economic focus of the MVP projects and the region-wide cost sharing makes them different from reliability justified transmission projects. The economic “benefits” that were initially claimed as MVP benefits, circa 2011, were:

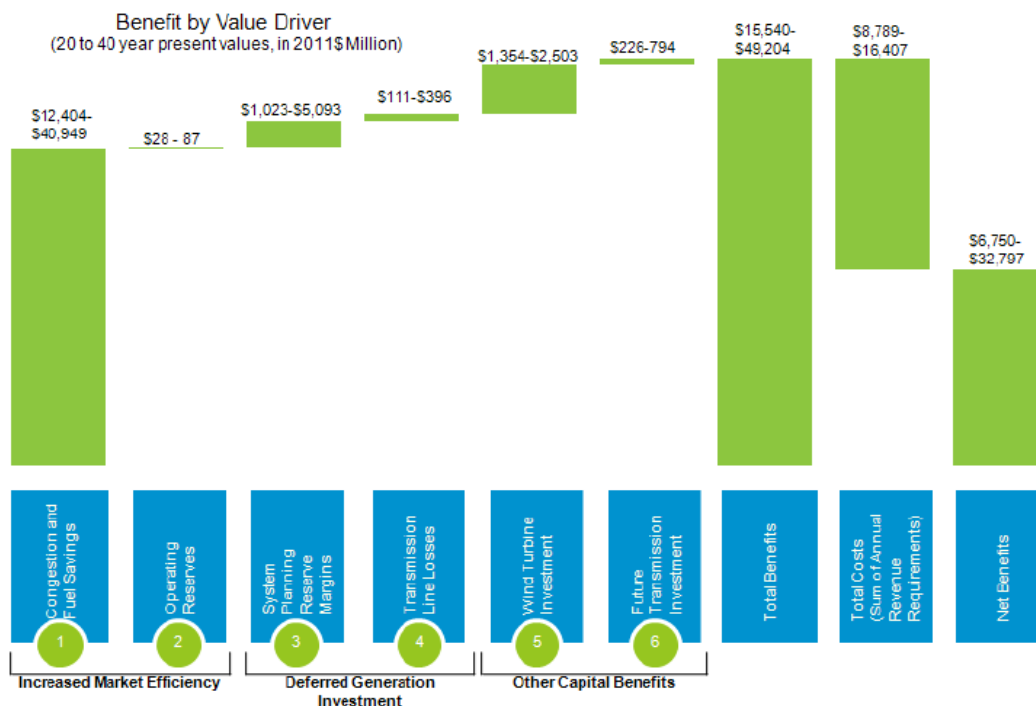


Figure 8.1: Recommended MVP portfolio economic benefits

Ex.-MISO-Ellis-1,p. 49 (PSC REF# 364901). By 2017, some benefits had dropped significantly:

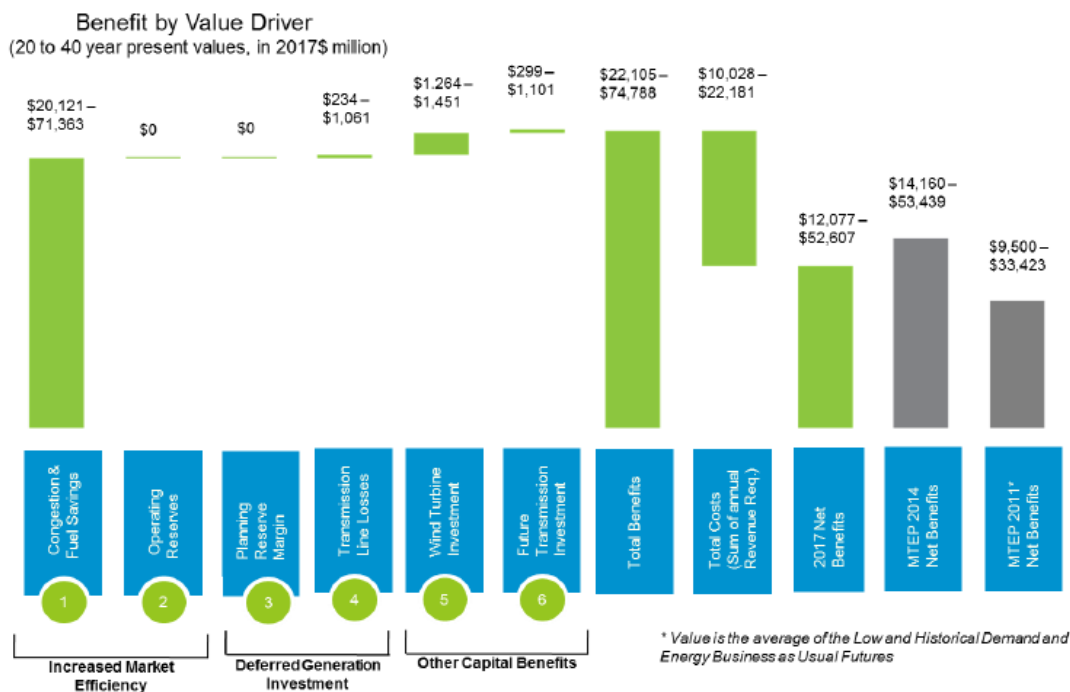


Figure E-1: MVP Portfolio Economic Benefits from MTEP17 MVP Triennial Review

Ex.-MISO-Ellis-3, p. 4, 23((PSC REF# 364903). Operating reserves and planning reserve margin “benefits” have dropped to zero as of the 2017 Triennial Review. Congestion and fuel cost savings have risen, which is logical if the intent is increasing wind generation in the west – and benefitting producers – but that does nothing for Wisconsin.

The benefits have changed as time has passed and all the MVP projects have been built but Cardinal-Hickory Creek, thus it’s important to look at the meaning of the shift. Claims were made that failure to build one of the projects could have a “negative economic impact on ratepayers² in portions of the MISO footprint, including Wisconsin.” Id., 47. However, testimony in the record reflects that, as engineering judgment, if the project were not built, and as the last of the MVP projects under consideration, if the project is not individually of much, or of no, benefit, the balance of benefits may increase if not built. Tr. at 1469.

² Throughout this proceeding, the term “customers” has been used, and not ratepayers, because it is the “customers” that will receive the benefits.

On these facts, what are the reasonable needs of the public and the public interest? How are they considered? To grant a CPCN for this project the Commission must find that “the high-voltage transmission line provides usage, service or increased regional reliability benefits to the **wholesale and retail customers or members in this state...**” Wis. Stat. §196.491(3)(d)3t. This project provides greater benefits to states west of Wisconsin, and not Wisconsin. Wisconsin? Not so much.

V. **THE PROJECT DOES NOT COMPLY WITH TRANSMISSION ROUTING PRIORITIES.**

The transmission project, as proposed, is not in compliance with transmission routing priorities, which require:

(6) SITING OF ELECTRIC TRANSMISSION FACILITIES. In the siting of new electric transmission facilities, including high-voltage transmission lines, as defined in s. 196.491 (1) (f), it is the policy of this state that, to the greatest extent feasible that is consistent with economic and engineering considerations, reliability of the electric system, and protection of the environment, the following corridors should be utilized in the following order of priority:

- (a) Existing utility corridors.
- (b) Highway and railroad corridors.
- (c) Recreational trails, to the extent that the facilities may be constructed below ground and that the facilities do not significantly impact environmentally sensitive areas.
- (d) New corridors.

Wis. Stat. §1.12(6). Further, the transmission corridor priority is reinforced.

TRANSMISSION CORRIDORS. The commission shall implement the policy specified in s. 1.12 (6) in making all decisions, orders, and rules affecting the siting of new electric transmission facilities.

Wis. Stat. §196.025(1m). This is doubly reinforced by the primary transmission statutory criteria, which states:

For a high-voltage transmission line that is proposed to increase the transmission import capability into this state, **existing rights-of-way are used** to the extent practicable and the routing and design of the high-voltage transmission line minimizes environmental impacts in a manner that is consistent with achieving reasonable electric rates.

Wis. Stat. §196.491(3)(d)3r (emphasis added).

As stated in JJI Rebuttal, JJI is “particularly concerned about the Agricultural Impact Statement and aspects of PSC Weiss’s testimony.” Rebuttal-JJI-Jewell-11. Weiss’ testimony and the Agricultural Impact Statement confirms and discusses the many specific detrimental impacts associated with cross-country routing, the very reasons why the state’s transmission routing priorities are as they are:

Constructing through the middle of farms and fields instead of along field edges or property boundaries often increases the impact of a project on agricultural operations. The increased impact is felt during construction and long afterwards.

Cross-country routing increases the potential for: damage to topsoil which can significantly affect future crop yields; interference with or damages to agricultural erosion control and/or water management practices and facilities necessary for farming in hilly terrains; interference with fencing and livestock management; contamination of organic farms; and extensive tree removal causing forest fragmentation, interference with forest management plans, and a reduction in farm income from timber.

The cross-country nature of the routes also may require electric poles to be located within farm fields. After construction is completed, the areas around these electric poles become islands of non-farmable land that can become havens for weed and insect pests that require additional management from the farmer. Depending on their locations, poles in fields may also become obstacles to fieldwork, which could lower the efficiency of farming these fields.

Cross-country routes also require the construction and use of numerous and lengthy access roads to reach these structures not accessible by road, causing additional acres of farmland impacts. These off right-of-way (ROW) access roads may be located in less than optimal places for the farmer, especially if they become permanent maintenance roads. Permanent off-ROW access roads are possible for any access road identified in the application.

Direct-PSC-Weiss-5-6. (PSC REF# 367009). Weiss also states that “Due to the increased impacts associated with cross-country routes, DATCP general prefers routes that follow the edges of fields or property boundaries.” Cross-country routes are dead last in the state’s priority for transmission routes, and property boundaries and field edges do not even make the list.

The Agricultural Impact Statement and Weiss’ testimony acknowledges this failure to comply

with transmission routing priorities, sufficient that the project should not be permitted.

VI. THE EIS IS INADEQUATE BECAUSE IT DOES NOT PROPERLY DEVELOP ALTERNATIVES AS REQUIRED BY WEPA AND NEPA, AND THE EIS WAS NOT SUPPLEMENTED.

There are at least two important facets of analysis that are missing from the FEIS, and which must be further developed for the EIS to comply with WEPA and NEPA. First is the U.S. Highway 151 route alternative, was raised by Jewell Jenkins Intervenors, in a request to supplement the FEIS. Motion-JJI (PSC REF# 367901). That Motion was denied (Tr. Status Conference PSC REF#370362), and then again a request was made to the WEPA Coordinator and a Request for Interlocutory Review (PSC REF#370239). The second facet missing in the FEIS is development of a combined “Staff Base Asset Renewal” and “Non-Transmission Alternative (NTA)” alternative, one that is feasible, by combining renewal of assets scheduled for rebuild with use of viable non-transmission alternatives in already in consideration in this docket. This obviate the claimed need for the Cardinal-Hickory Creek transmission line.

A. The U.S. Highway 151 alternative is a reasonable and feasible alternative which should be fully developed in the EIS.

Once again, JJI requests that the U.S. Highway 151 alternate route from a Platteville, Wisconsin Hill Valley Substation along U.S. Highway 151 to Dodgeville, towards the Cardinal substation be fully developed and analyzed in a supplement to the Environmental Impact Statement. Because the Final EIS has been issued, and because important alternatives were not developed, JJI requests that the Commission prepare both a draft Supplement and a final as required by rule. Wis. Code PSC 4.35(2)c.

Vedvik, the PSC’s electrical engineer in the Division of Energy Regulation, submitted Direct Testimony in the above-captioned docket. In this testimony, he proposed a route alternative along U.S. Highway 151 corridor (hereinafter “Hwy. 151”). Direct-PSC-Vedvik-25-

26. This route alternative was discussed in detail in the Environmental Impact Statement, but not in enough detail for the Commission to formally consider it as a route. The EIS stated that “If the proposed Hill Valley Substation could instead be placed in the Platteville area, the USH 151 corridor from Platteville to Dodgeville could be a viable route alternative that may have a lower cost than Western-South and may have less associated impacts than Western-North.” FEIS-PSC-31 (PSC REF #366195). Lower cost and less associated impacts makes it a reasonable alternative that deserves consideration.

The specifics of the “Hwy 151” route alternative, from Vedvik’s testimony:

Locating the intermediate substation in the Platteville, Wisconsin area would enable additional routing options for the 345 kV transmission line from the proposed Hill Valley Substation to the Cardinal Substation. One route for study that is electrically viable could include the U.S. Highway 151 corridor from Platteville, Wisconsin to Dodgeville, Wisconsin. For purposes of assessing whether the location of the Hill Valley substation could have a meaningful impact on the proposed project’s costs, I assumed a hypothetical route that would follow the applicants’ alternative route from Cassville, Wisconsin to a new Hill Valley Substation located near Platteville, Wisconsin, then follow the U.S. Highway 151 corridor from Platteville, Wisconsin to Dodgeville, Wisconsin, and then follow the applicants’ preferred route along the U.S. Highway 151 corridor from there on.

Ex.-PSC-Data Request: Response 8.3 states that this route would add approximately 5.5 miles of 345 kV transmission line, as compared to the applicants’ preferred route. The applicants’ applied an approximately \$3.6 million/mile cost to calculate the cost of this route to be \$19.8 million more than the preferred route. However, the applicants have pointed out that as the project is eligible for MVP cost sharing, this \$19.8 million increase in capital cost would cost Wisconsin transmission network customers approximately \$2 million on a net present value basis. The applicants’ alternative route is approximately \$51 million more than the applicants’ preferred route.

Q. Would siting the proposed Hill Valley Substation adjacent to, and electrically connected to, the existing Hillman 138 kV Substation in the Platteville, Wisconsin area, impact the performance of the proposed Cardinal-Hickory Creek project?

A. No. Ex.-PSC-Data Request: Response 8.2 provided PowerWorld modeling of the proposed Cardinal-Hickory Creek project, with the proposed Hill Valley Substation located adjacent to the Hillman 138/69 kV Substation. The applicants’ response also states that “changing the intermediate substation location from Montfort to Platteville would not impact the avoided reliability benefits included in the joint application.” In summary, siting the proposed Hill Valley Substation adjacent to the Hillman 138/69 kV

Substation would not impact the performance or general electrical characteristics of the proposed Cardinal-Hickory Creek project.

Direct-PSC-Vedvik-25-26 (PSC REF #365153)(fn. omitted); also see Ex.-PSC-Data Request: Response 8.1(PSC RE#360184); Ex.-PSC-Data Request: Response 8.2 (PSC REF #360974, 360975) and Ex.-PSC-Data Request: Response 8.3(PSC REF#360184).

This Hwy. 151 route alternative, using information provided in the Data Requests, was also discussed in detail in the FEIS, which stated. FEIS-PSC-31 (PSC REF #366195).

The applicants' stated in the response to Data Request 8.1 that they "did not consider a new 345/138 kV substation in the vicinity of the Hillman 138/69 kV Substation in Platteville, Wisconsin. The Montfort/Eden Substation area is stronger electrically and is therefore better situated to provide regional support to the ATC system." The applicants' response to Data Request 8.2 included PowerWorld modeling with the proposed Hill Valley Substation located in the Platteville area. The modeling showed no significant changes to power flows in southwestern Wisconsin. The applicants' response states that "based on these results, changing the intermediate substation location from Montfort to Platteville would not impact the Avoided Reliability Benefits included in the Joint Application." If the proposed Hill Valley Substation could instead be placed in the Platteville area, the USH 151 corridor from Platteville to Dodgeville could be a viable route alternative that may have a lower cost than Western-South and may have less associated impacts than Western-North. This route alternative was not considered by the applicants.

The applicants siting process included a multi-stage process to narrow the initial project corridor down to the proposed route alternatives presented in docket 5-CE-146. As stated by the applicants, the preliminary route corridors were based on the siting priorities listed in Wis. Stat. § 1.12(6).

FEIS-PSC-31 (fn. omitted)(see Ex.-PSC-Data Request: Response 8.1. 8.2 and 8.3, PSC REF # 560184, 360794, 360975).

Locating the intermediate substation in the Platteville area could enable additional routing options for the 345 kV transmission line from the proposed substation to the Cardinal Substation. One such route could include the USH 151 corridor from Platteville to Dodgeville. For purposes of assessing whether the location of the proposed substation could have a meaningful impact on project costs, this route alternative could follow Western-South from Cassville to a new substation near Platteville, then follow the USH 151 corridor from Platteville to Dodgeville, and then follow Eastern-South along the USH 151 corridor from there on. The applicants' response to Data Request 8.3 states that this route would add approximately 5.5 miles of 345 kV transmission line, as compared to the Western-North with Eastern-South alternative.

The estimated total increase in cost for such an option is estimated to be approximately \$19.8 million, for a total estimated cost of approximately \$512 million. For comparison, this route would be less costly than any route alternative supplied by the applicants that uses the entire Western-South route from Cassville to Montfort, since the lowest cost proposed route alternative involving Western-South is estimated to be approximately \$51 million more than using the Western-North with Eastern-South alternative. Wis. Stat. § 1.12(6) requires as a first priority use of existing utility corridors to the greatest extent feasible for new transmission lines. The second-highest priority listed in Wis. Stat. § 1.12(6) is highway and railroad corridors. Much of Western-North is existing transmission corridor, and the USH 151 corridor is a highway corridor.

FEIS-PSC-31-32 (fn. omitted)(see Ex.-PSC-Data Request: Responses 8.1. 8.2 and 8.3).

Commission staff worked with the applicants to refine their PowerWorld modeling to ensure that it accurately reflects the configuration of the current electric system, specifically around the proposed new Nelson Dewey Mississippi River crossing location in the models, and other changes proposed as part of the Cardinal-Hickory Creek project. The applicants' response to Data Request 8.2 stated that "changing the intermediate substation location from Montfort to Platteville would not impact the Avoided Reliability Benefits included in the Joint Application." If the proposed Hill Valley Substation could be located in the Platteville area with no change to the electrical performance of the Cardinal-Hickory Creek project, then the USH 151 corridor from Platteville to Dodgeville could be a viable route alternative.

In order to consider such a route, potentially affected landowners along the corridor would need to be given notice in this proceeding, and the applicants would need to develop a route alternative that follows this corridor. For the Commission to authorize such a route, the route would need to fit within the siting priorities listed in Wis. Stat. § 1.12(6). The proposed Cardinal-Hickory Creek project would likely be delayed due to the time required to develop this route alternative and give landowners along this possible route alternative notice and a chance to participate in the CPCN process. While it is unknown how much this could delay the in-service date of the proposed Cardinal-Hickory Creek project, a delay in the in-service date could impact the costs and benefits associated with the proposed Cardinal-Hickory Creek project.

FEIS-PSC-93-94 (fn. omitted)(PSC REF #366195)(see Ex.-PSC-Data Request: Response 8.1.

8.2 and 8.3, PSC REF #360184, 360974, 360975). And finally, in the FEIS summary:

If the proposed Hill Valley Substation could instead be placed in the Platteville area, the USH 151 corridor from Platteville to Dodgeville could be a viable route alternative that may have a lower cost than Western-South and less associated impacts than Western-North. This route option was not considered by the applicants. The applicants siting process for the proposed project is discussed in Section 2.1. In order for the Commission to consider such a route, potentially affected landowners along the corridor would need to be given notice in this proceeding, and the applicants would need to develop a route

alternative that follows this corridor. For the Commission to authorize such a route, the route would need to fit within the siting priorities listed in Wis. Stats. 1.12(6).

FEIS-PSC-538 (PSC REF #366195).

This route alternative, as a highway corridor, falls high within the siting priorities listed in Wis. Stats. 1.12(6), much higher than routing offered by Applicants. As above, it satisfies the stated project purpose; it does not have negative reliability impacts; and it provides benefits to Wisconsin landowners by utilizing an existing corridor. The EIS should be supplemented with a thorough analysis of this alternative to be included in a revised FEIS.

Based on the details of the Final Environmental Impact Statement, responses to WPSC Data Requests 8.1, 8.2 and 8.3 above and in the record, and PSC's Vedvik's testimony, this Highway 151 route alternative is cost effective and technically feasible, without negative impact on the transmission system, and it would provide benefits to landowners affected by this Cardinal-Hickory Creek transmission proposal. The U.S. Highway 151 route, its practicality, electrical impact, and PowerWorld modeling as described by PSC staff and applicants' Data Request responses showed that siting of the substation "would not impact the performance or general electrical characteristics of the proposed Cardinal-Hickory Creek project. The requisite more detailed and rigorous evaluation of the Hwy. 151 alternative route has not yet been performed and included in the FEIS.

Per the statutory annotation for Siting of Electric Transmission Facilities:

When the Public Service Commission (PSC) makes a determination under the plant siting law, s. 196.491, it applies sub. (4) in the context of determining whether to approve the requested plant siting. The question the PSC should ask is: Given the requirements of the plant siting law, what is the highest priority energy option that is also cost effective and technically feasible? *Clean Wisconsin, Inc. v. PSC*, 2005 WI 93, 282 Wis. 2d 250, 700 N.W.2d 768, 04-3179.

Annotation, Wisc. Stat. §1.12(6). The Commission cannot determine the highest priority energy

option without analysis regarding cost effectiveness and technical feasibility of a range of alternatives, and by studying and developing that range of alternatives.

Noteworthy is that the U.S. Highway 151 route is an option raised by PSC staff and demonstrated through modeling by applicants to not have a detrimental impact on avoidable reliability benefits, performance or electrical characteristics. It was not dismissed out of hand, nor is it a last minute Intervenor's back-of-the-napkin route alternative tossed out by intervenors seeking to delay the process – PSC staff partially developed this alternative route with information over time, through analysis of the application and presentation of scenarios in Data Requests, with the Applicant modeling demonstrating its potential.

A route alternative with the benefits as described should have been incorporated into the EIS, and although the PSC had this information, it was not. That can and should be corrected.

The failure to develop this route alternative is not in compliance with the intent and the letter of WEPA and NEPA. P.L. 91-190, 42 USC 4331; Wis. Stat. §1.11(2)(d); 40 C.F.R. pts. 1500-1508; see also Wis. Admin. Code § PSC 4.30(1)(a); see also Wisconsin's Environmental Decade, Inc. v. Public Service Commission, 79 Wis.2d 161, 175 - 176, 255 N.W.2d 917, 926 (1977); Wis.'s Env'tl. Decade, Inc. v. Wis. Dep't of Nat. Res., 115 Wis. 2d 381, 403, 340 N.W.2d 722 (1983). In the environmental review for this docket, the U.S. Highway 151 route alternative is an obvious and cited alternative raised in the Data Request responses, the FEIS, and staff testimony, and yet has not been rigorously explored. The record also reflects some consideration of the cost of delay, and the record of potential cost of delay should be developed in tandem with development of the U.S. Highway 151 alternative. Surrebuttal-PSC-Vedvik-17 (PSC REF #368839); Ex.-PSC-Vedvik-7 (PSC RE #368843).

This proposal of a route alternative is significant information which is relevant to

environmental concerns and has bearing on the transmission project proposed -- it provides a means to avoid substantial impacts to Wisconsin agricultural landowners potentially affected by other routes and it does so at a nominal cost to Wisconsin electric customers due to the MISO MVP cost allocation scheme, which would allocate only a small percentage of increased cost to Wisconsin electric customers. Wisconsin would benefit through fewer harmful impacts achieved at a relatively low increased cost due to cost apportionment. PSC-Data Request-1.169. This is sufficient reason to justify a supplement the EIS. Wis. Code PSC 4.35 (2)(a)1, 2. WEPA and NEPA provide even more reason, and an imperative that the Commission give serious consideration to this option.

B. A combined “Base with Asset Renewal” and “Non-Transmission Alternatives” is a reasonable and feasible alternative which should be developed in the EIS.

Although there were multiple alternative system alternatives analyzed, there was no thorough review of a combination of alternatives. The “Base with Asset Renewal” case came close to addressing the full claimed “need” at a reasonable cost, as did the “Non-Transmission Alternatives,” particularly considering the advent of reliable and cost-effective storage. Direct-Applicants-Dagenais-10. See also PVRR, Table 3-12, FEIS p. 102. The “base with asset renewal alternative” would eliminate the need to perform scheduled upgrades, and with reasonable certainty would increase transfer capability. Vedvik, Direct-PSC-Vedvik-13; Tr. 1563. There was no “Base with Asset Renewal” **AND** “Non-Transmission Alternatives” alternative combination studied sufficiently to be considered as an alternative. Vedvik, Tr. 1562-3.

The EIS should be supplemented with a thorough analysis of this system alternative to be included in a revised FEIS. A system alternative with the benefits near to those provided by the project, and in combination with another alternative with benefits near to those provided by the project, can fulfill the need, and should have been incorporated into the EIS.

C. WEPA and NEPA Require Development of Alternatives Sufficient for Consideration by the Commission.

Again, for the record, the FEIS is not in compliance with the intent and the letter of WEPA and NEPA, and the alternatives should be developed and the FEIS supplemented. P.L. 91-190, 42 USC 4331; Wis. Stat. §1.11(2)(d); 40 C.F.R. pts. 1500-1508; see also Wis. Admin. Code § PSC 4.30(1)(a); see also Wisconsin's Environmental Decade, Inc. v. Public Service Commission, 79 Wis.2d 161, 175 - 176, 255 N.W.2d 917, 926 (1977); Wis.'s Env'tl. Decade, Inc. v. Wis. Dep't of Nat. Res., 115 Wis. 2d 381, 403, 340 N.W.2d 722 (1983). The Commission has improperly relied on the Applicants' alternatives, and only the Applicants' alternatives, in the FEIS. The Commission has not developed alternatives, and has unreasonably dismissed what appears to be a practicable and reasonable alternative route – U.S. Highway 151, and a practicable and reasonable system alternative, the “Base with Asset Renewal” **AND** “Non-Transmission Alternatives” alternative combination. Nowhere does it say that only Applicants' alternatives are the alternatives to be considered, and instead the converse is clearly stated in law, that alternatives must be developed. Yet in this proceeding, Applicants' “alternatives” offered the only ones sufficiently studied to be considered by the Commission as a choice for routing.

The heading in the DEIS is “APPLICANTS' ALTERNATIVES TO THE PROPOSED PROJECT.” DEIS, p. III, 80-86 (PSC REC #360500). This section ends with this statement:

As such, the proposed Cardinal-Hickory Creek project is the applicants' preferred transmission system alternative.

DEIS, p. 86 (PSC REF #360500). Applicant's preferred transmission system alternative isn't a criteria, nor should review be limited to that preference. The “Summaries and Comparisons of Route Alternatives” is also exclusively focused on “applicants” route alternatives, and again, Applicant's preference is not a routing criteria. DEIS, Chapter 10 (PSC REF #360500).

Information regarding additional project options and alternatives available and being discussed were not included. The Applicant's preference is not dispositive or a limitation to alternatives considered. JJI raised this issue in its DEIS comments, yet there was no change. The heading in the FEIS remains "APPLICANTS' ALTERNATIVES TO THE PROPOSED PROJECT," and the many instances of "Applicants' Alternatives" remain. FEIS p. 94, et seq. (PSC REF #366195).

Adequate development of alternatives has been litigated in Wisconsin:

"Several courts have found the description of alternatives to be the heart of the environmental impact statement." *Milwaukee Brewers Baseball Club v. Wis. Dep't of Health & Soc. Services*, 130 Wis. 2d 56, 73, 387 N.W.2d 245, 252 (1986). The Commission's responsibility, requirement, to study and develop alternatives is supported by case law:

[The EIS] should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. Guidelines, §15.02(14)

The purposes of this "study, develop and describe" requirement is to assure that alternatives are adequately explored in the initial decision-making process, to provide an opportunity for those removed from that process to evaluate the alternatives, and to provide evidence that the mandated decision-making process has taken place.

Wisconsin's Environmental Decade, Inc. v. Public Service Commission, 79 Wis.2d 161, 175 - 176, 255 N.W.2d 917, 926 (1977).

By allowing the Applicants to define the range of "alternatives," based on the Applicants constrained "purpose and need" for the project, that inherently limits alternatives studied.

The analysis of need provided in the project application relied heavily on the planning process of the Midcontinent Independent System Operator (MISO). This stated need could be summarized under the following three categories of benefits that MISO's multi-value (MVP) projects are required to provide: 1) improve electric system reliability locally and regionally; 2) deliver economic savings for Wisconsin utilities and electric consumers; and 3) expand infrastructure to support the public policy of greater use of renewables. More information about the MISO process and purpose of the proposed project is included in Chapter 3.

FEIS, XXIX (PSC REF #366195). Again, it is neither the Applicants' choice of alternatives nor the Applicants "purpose and need" at issue. Those factors can be a consideration, a launching point, but the Commission is to be guided by the statutes, and for an EIS, NEPA and its guidelines also apply:

[A]gencies must look hard at the factors relevant to the definition of purpose . . . Perhaps more importantly [than the need to take private interests into account], an agency should always consider the views of Congress, expressed, to the extent that the agency can determine them, in the agency's statutory authorization to act, as well as in other congressional directives.

Nat'l Parks & Conservation Ass'n v. BLM, 606 F.3d 1058, 1070 (9th Cir. 2010).

The PSC's charge is, through regulation, protection of the environment, protection of the public and ratepayers from risks, costs, hardships, and impacts beyond those necessary to ensure the adequate supply of electricity, to comply with the state's energy priorities, and to comply with the state's siting and routing hierarchy. The Commission's task is to "accept but verify" and to develop reasonable alternatives, to "develop alternatives to a point of reasonable comparability." The Applicants have the burden of proof, and the Commission has the obligation to develop the alternatives and to weigh them against the other alternatives such that an evaluation can be made. Wisc. Stat. 1.11(2)(3). The Commission also has the resources and expertise to develop these alternatives, resources and expertise that Intervenors do not possess.

The CEQ guidelines cited above, and the PSC rules adopting those guidelines, require the PSC to prepare a "record of decision" which: (i) identifies "all alternatives considered by the agency in reaching its decision," (ii) indicates the "environmentally preferable," alternative(s), and (iii) states "whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted" and if not, why not. 40 C.F.R. § 1505.2(b) and (c). Alternatives must be "rigorously explore(d) and objectively evaluate(d)." Guidelines,

§1502.14(a). Alternatives must be explored in enough detail “so that reviewers may evaluate their comparative merits.” Id. “Alternatives that must be analyzed within EIS include “alternatives not within the jurisdiction of the lead agency.” Id.

The Commission has yet to make a “record of decision” in this case. The Commission has the ability to correct the fundamentally flawed environmental review before such a record of decision is issued.

The EIS is inadequate because it failed to develop known project alternatives, individually, or in combination, to a reasonable degree of comparability, and did not compare this alternative against the project. This is contrary to Wisconsin and federal environmental law and policy. The FEIS improperly relies on and reviews only the Applicants’ alternatives, and did not identify an “environmentally preferred alternative,” and did not issue a “record of decision” as required. Adequate development and consideration of alternatives was an issue in the recent Badger-Coulee MVP docket (PUC Docket 5-CE-142), and lessons learned in that docket have not been carried forward.

Wisconsin’s Environmental Policy Act (hereinafter “WEPA”) was modeled after the National Environmental Policy Act (hereinafter “NEPA”), and NEPA and PSC Code requires that environmental analysis be consistent with, “substantially following the guidelines issued by the United States Council on Environmental Quality (hereinafter “CEQ”) under P.L. 91-190, 42 USC 4331. Wis. Stat. §1.11(2)(d); 40 C.F.R. pts. 1500-1508; see also Wis. Admin. Code § PSC 4.30(1)(a); see also Wisconsin's Environmental Decade, Inc. v. Public Service Commission, 79 Wis.2d 161, 175 - 176, 255 N.W.2d 917, 926 (1977); Wis.'s Env'tl. Decade, Inc. v. Wis. Dep't of Nat. Res., 115 Wis. 2d 381, 403, 340 N.W.2d 722 (1983). There are both substantive and procedural requirements:

[The EIS] should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. Guidelines, §15.02(14)

The purposes of this "study, develop and describe" requirement is to assure that alternatives are adequately explored in the initial decision-making process, to provide an opportunity for those removed from that process to evaluate the alternatives, and to provide evidence that the mandated decision-making process has taken place.

Wisconsin's Environmental Decade, Inc. v. Public Service Commission, 79 Wis.2d 161, 175 - 176, 255 N.W.2d 917, 926 (1977) (emphasis added)³. "Initial" is emphasized above because all parties would agree that it is more practicable, to address a potential alternative earlier in the process than later – as administrative processes move forward, consideration of options narrows. The process has moved forward, but the inadequacy of the FEIS has not been addressed.

WEPA establishes procedural protections through the steps of decision making. Its evaluative and determinative purpose, "action forcing," becomes possible when an agency develops a sufficient Environmental Impact Statement ("EIS"). An inadequate EIS does not fulfill the requirements of WEPA and NEPA.

It is also the Public Service Commission's charge to route transmission using its own routing hierarchy. Wis. Stat. §1.12(6).

The routes proposed for this project are primarily "new corridors" not in keeping with the state's routing hierarchy. As noted above, the Agricultural Impact Statement says it clearly:

Most of the potential routes for this project are cross-country. They run across fields, woodlots, and open areas, following no particular boundaries.

Agricultural Impact Statement, p. 2 (PSC REF #367010).

³ Responses to JJI's initial Motion for Supplement to EIS state that this need for a supplement should be addressed in briefing regarding adequacy of the EIS, which of course it should, but that is too late for the record to be developed for a Commission decision scheduled within a few months. In an administrative proceeding, delay is never a good option, particularly in record development. This is further addressed below.

Where “most of the potential routes for this project are cross-country,” with new corridors dead last in the order of statutory priorities, additional alternatives are necessary.

The Commission’s environmental charge is to:

(e) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

Wisc. Stat. 1.11(2)(3).

The directive is rooted in federal law. NEPA is persuasive authority on WEPA.

Wisconsin's Environmental Decade, Inc. v. Public Service Commission, 79 Wis.2d 161, at 174; 255 N.W.2d 917, at 925 (1977). The PSC’s rule requires its analysis to be consistent with guidelines issued by the Federal Council on Environmental Quality’s (“CEQ’s”) “CEQ Guidelines.” Wis. Admin. Code § PSC 4.30(1)(a); 40 C.F.R. pts. 1500-1508. The Wisconsin Supreme Court explicitly described CEQ Guidelines as requirements “to be followed” in environmental review:

WEPA must be interpreted to advance substantive environmental goals, which include “.... assur[ing] . . . aesthetically and culturally pleasing surroundings” and “minimiz[ing] degradation, risk to health or safety, or other undesirable and unintended consequences.” Wis. Stat. § 1.11(1); Chapter 274, laws of 1971, section 1. For the PSC, the environmental considerations of CPCN law are in play. The PSC cannot approve a CPCN if a facility that will “have undue adverse impact on other environmental values such as, but not limited to, ecological balance, public health and welfare, historic sites, geological formations, the aesthetics of land and water and recreational use.” Wis. Stat. § 196.491(3)(d)4. It must also implement the State’s energy priorities, which emphasize, as a first option, energy efficiency and conservation. Wis. Stat. § 1.12(4). Wis. Stat. § 196.025. WEPA’s substantive goals are accomplished through procedural protections in decision making. Its “action forcing” purpose becomes possible when an agency develops a sufficient Environmental Impact Statement (“EIS”).

“The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government.” 40 CFR § 1502.1

Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 349, 109 S.Ct. 1835, 1845 (1989).

Again, the Commission's statutory environmental charge is to:

(e) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

Wisc. Stat. 1.11(2)(3). The Commission is to "study." The Commission is to "develop." In this case, the Commission has not.

VII. THE AGRICULTURAL IMPACT STATEMENT IS INADEQUATE BECAUSE NOTICE TO LANDOWNERS WAS INSUFFICIENT AND FARMERS SUCH AS JEWELL DID NOT HAVE ABILITY TO MEANINGFULLY PARTICIPATE.

Alan Jewell has a material interest in the Agricultural Impact Statement. The map above on page 7 shows affected property.⁴

In his testimony, Alan Jewell stated that he did not receive a survey to voice his concerns to DATCP. Rebuttal-JJI-Jewell-12 (PSC RE# 667842). Weiss testified that "for this project, we sent out questionnaires to everybody that would have – be effected by three or more acres." Tr. at 1645. As a large landowner with 48 parcels in Iowa County, as listed above, he should have received that survey from DATCP, which "sent a questionnaire to agricultural property owners who may have 3 or more acres acquired as an easement or purchased for this project." Direct-Weiss-3 (PSC REF# 367009). The AIS states that there are 895 potentially affected property owners, with 692 owning agricultural properties. The AIS states "DATCP sent questionnaires to 377 property owners representing 89 percent of all potentially affected agricultural acres." AIS p.1 & 12, 2, Ex.-DATCP-Weiss-1(PSC REF# 367010). Doing the math, 11% were not sent surveys. The "Mailing List" in the AIS is only a list of those parties to which a copy of the AIS was sent, with no addresses, and it was sent only to those requesting it. AIS. Mailing List, p.

⁴ As above, the Oakdale Farms Ltd Partnership/Bloomdale Farms LLC property with grain bins along Hwy 18 near Cobb aren't identified on the map provided by Applicants.

138-140; Tr. at . There was an AIS section of the DEIS, but it did not include the AIS, only a summary. DEIS-App. G-DATCP Summary of AIS Analysis and Recommendation (PSC REF# 360510). Because it was only a summary, there was no opportunity to comment on the AIS.

What of the known property owners who were not sent a survey? How was it decided who would receive a survey and who would not? There is no mailing list for the survey or questionnaire and no affidavit of mailing for this survey in the filed AIS exhibits. It is impossible to tell who was sent this survey. Ex.-DATCP-WEISS-1 (PSC REF# 367010); Tr. at 1641. There is no statutory requirement that landowners be sent a survey/questionnaire, and no requirement that landowners be given an opportunity to comment on issues or a draft, and there is no requirement that landowners be sent a final AIS. Wis. Stat. §32.035. A landowner must request a copy of the AIS, or “show interest” to receive a copy. Id.

The Recommendation to the Commission in the full AIS contains language regarding one of Jewell’s properties that was not present in the DEIS Summary:

Oakdale Farms LTD Partnership/Bloomfield Farms LLC (Eastern South Route Part 1, Subsegment Q02): Agricultural structures are in the ROW

AIS, p. 4, Ex.-DATCP-WEISS-1 (PSC REF# 367010). It is possible that comments made by Jewell at scoping meetings were incorporated into the full AIS, but not all of Jewell’s concerns were taken into account, and there is no section in the AIS identifying comments on behalf of Oakdale Farms or Jewells. Id.

The AIS is inadequate and should be supplemented and landowners affected by this project have a fair opportunity to state their concerns to be incorporated into the AIS.

VIII. THE CPCN FOR THE CARDINAL-HICKORY CREEK MUST BE DENIED, AND ENVIRONMENTAL REVIEW AND AIS BE SUPPLEMENTED FOR FURTHER REVIEW.

Jewell Jinkins Intervenors request that the Commission deny the Applicants’ request for a

Certificate of Public Convenience and Necessity because the Applicants have not met the burden of proof or the requirements of Wisconsin law. JJI would suffer extreme individual hardship and the material impacts of visual and aesthetic changes that would also destroy the historical nature of one homestead parcel on Route Segment R-09, and reduce the property values of other affected property. From information revealed during the proceeding, it's apparent that the benefits are illusory, and when considered over the 40 years of the estimates, the benefits are nominal. While the cost of these MISO MVP projects are spread across a wide area, and the cost is also nominal in light of the gross project cost, the less tangible but expected costs, such as property value loss, community character, environmental harms, and interference with agricultural product, overshadow the nominal benefits. Other parties have done a credible job of addressing these issues not raised in detail above, and JJI appreciates the need arguments of DALC, SOUL, CUB and PUC staff, particularly because it is beyond our expertise.

The Public Service Commission has not properly developed route and system alternatives, as required by the Wisconsin Environmental Policy Act and the National Environmental Policy Act, and the project cannot go forward until the environmental review is in compliance, until alternatives are developed, analyzed, and a determination made regarding the least impactful alternative. The Cardinal-Hickory Creek transmission project should not be granted a Certificate of Public Convenience and Necessity.

Dated this 12th day of July, 2019



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