Legalectric, Inc.

Carol Overland **Attorney at Law, MN #254617**

Energy Consultant—Transmission, Power Plants, Nuclear Waste

overland@legalectric.org

1110 West Avenue
Red Wing, Minnesota 55066
612.227.8638

June 30, 2026

Jessica A. Palmer-Denig
Chief Judge
Court of Administrative Hearings

RE: **Affidavit of Disqualification of ALJ Jim Mortenson**
Iron Range – Arrowhead Transmission Line
PUC Docket E015/CN-25-111 **AND** E015/TL-25-112
CAH 5-2500-41817-

Dear Judge Palmer-Denig:

Attached please find Affidavit of Disqualification of ALJ Jim Mortenson for prejudice and/or bias.

I have attached and filed the Affidavit and exhibits. These were sent to all three legal assistants last Friday with questions as to how this should be filed, as I was not confident this would not be protected information. Today, I was able to reach Sarah Mazera, Associate General Counsel, who instructed me to efile in eDockets.

Please let me know if you have any questions or require anything further.

Very truly yours,

Carol A Overland

Carol A. Overland
Attorney at Law

cc: Linda Hanson, World Organization for Landowner Freedom

CAH Docket 5-2500-41817
PUC Dockets CN-25-111 and TL-25-112

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

In the Matter of Iron Range - St. Louis County – Arrowhead 345 kV Transmission Project

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CORRECTED CERTIFICATE OF SERVICE

AFFIDAVIT OF DISQUALIFICATION AND EXHIBITS

I, Carol A. Overland, hereby certify that I have this day served a true and correct copy of the attached World Organization for Landowner Freedom Cover, this Certificate of Service, Affidavit of Disqualification and Exhibits to all persons at the email addresses on the Public Utilities Commission eDockets service list by eFiling and eService.

July 2, 2026

Carol A. Overland

Carol A. Overland MN #254617
Attorney for World Organization for
Landowner Freedom
Legalectric – Overland Law Office
1110 West Avenue
Red Wing, MN 55066
(612) 227-8638
overland@legalectric.org

CAH 5-2500-41817
MPUC CN-25-1111/TL-25-112

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

In the Matter of Iron Range- St. Louis County – Arrowhead 345 kV Transmission Project	**AFFIDAVIT OF PREJUDICE**

AFFIDAVIT OF CAROL A. OVERLAND
REGARDING PREJUDICE AND/OR BIAS REGARDING
ALJ JIM MORTENSON

STATE OF MINNESOTA)
) ss.
COUNTY OF GOODHUE)

I, Carol A. Overland, state and affirm as follows:

1. I am an attorney licensed in the state of Minnesota, Lic. No. 254617;

2. I represent World Organization of Landowner Freedom in the above-captioned Public Utilities Commission Dockets.

3. I have represented World Organization of Landowner Freedom (WOLF) for decades, beginning with the Arrowhead Transmission Project before the Minnesota Environmental Quality Board, Docket **MP-HVTL-EA-1-99** and in Wisconsin before the Public Service Commission, Docket 05-CE-113. I have represented in other Public Utilities Commission dockets ranging from Power Plant Siting Act Annual Hearings, the HVDC Modernization Project, and the above-captioned docket. The primary issue of concern is the 800 MVA limitation at the Arrowhead substation, set in 2001 to limit bulk power transfer through Minnesota into Wisconsin.

4. I have today returned to the office following a week camping in North Dakota, and received the Order for Prehearing Conference, with notice that Administrative Law Judge Jim Mortenson is to preside over this docket.

5. Minn. R. 1400.6400 requires that an affidavit of prejudice be filed no later than five days prior to the date of the hearing, which is scheduled for June 30, 2026 at 11:00 a.m.

Having just received this notice, on the 26th of June, I acknowledge that this is not filed 5 days prior to the hearing.

6. On April 11, 2025, ALJ Mortenson filed a retaliatory Complaint against me with the Office of Lawyers Professional Responsibility, attached as Exhibit A. LPR File No. 49702.

7. On April 30, 2025, I filed a responsive Affidavit and Exhibits, attached as Exhibit B.

8. On May 20, 2025, ALJ Mortenson filed a response to my filing, attached as Exhibit C.

9. On October 31, 2025, the Director of the Office of Lawyers Professional Responsibility filed a **DETERMINATION THAT DISCIPLINE IS NOT WARRANTED.**

10. Based on the above, I believe that ALJ Mortenson is impermissibly prejudiced and/or biased, and should be disqualified. I ask that ALJ Mortenson be removed from this docket.

11. I am sending this directly to all three of Chief Judge Palmer-Denig's legal assistants nichole.sletten@state.mn.us, samantha.cosgriff@state.mn.us, and cara.hunter@state.mn.us because of this late-filed affidavit, and that I do not know whether ALJ Mortenson's Complaint should be regarded as confidential or not. I have no objection to this being public, but I am not sure of Court of Administration policy. If this should be filed on the Commission's eDockets system, please do not hesitate to let me know.

Further your affiant sayeth naught.

Carol A Overland

Carol A. Overland Lic. No. 254617
Attorney for W.O.L.F.
1110 West Avenue
Red Wing, MN 55066

612-227-8638
overland@legalectric.org

Signed and affirmed before me this 26th day of June, 2026

Lori A. Anderson

Notary Public

LORI A. ANDERSON
Notary Public
Minnesota
My Commission Expires Jan. 31, 2030

Attachment A

In the Matter of the Complaint of
JAMES R. MORTENSON
P.O. Box 64620
St. Paul, MN 55164-0620
against CAROL A. OVERLAND
1110 West Avenue
Red Wing, MN 55066,
a Minnesota Attorney,
Registration No. 0254617.

NOTICE OF INVESTIGATION PURSUANT TO RULE 8(a), RULES ON LAWYERS PROFESSIONAL RESPONSIBILITY (RLPR)

Our File No. 49702

To: James R. Mortenson:

Your complaint has been received. It will be investigated, as provided by Rule 8(a), RLPR. You will be contacted if further information is required. You will receive written notice of the final decision.

In accordance with Rule 6(b), RLPR, your complaint will be investigated by an attorney in this Office. If you have any questions or further information, please contact the attorney named below.

This Office can only investigate complaints of unethical conduct and take appropriate action. We cannot represent you in any legal matter or give you legal advice. You must retain your own attorney if you need legal advice or representation.

To: The Above-Named Respondent Attorney:

Enclosed is a copy of the complaint identified above, which is being investigated without referral to a district ethics committee.

Pursuant to Rule 25, RLPR, and Rule 8.1(b), Minnesota Rules of Professional Conduct, please respond completely to the complaint in a writing mailed or emailed to the undersigned within 14 days of this notice.

Thank you in advance for your cooperation.

SUSAN M. HUMISTON
DIRECTOR OF THE OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY
445 Minnesota Street, Suite 2400
St. Paul, MN 55101-2139
(651) 296-3952

Caitlin Guilford
Caitlin Guilford
2025.04.17 10:41:12
-05'00'

By ______________________________
Caitlin Guilford
Assistant Director
Caitlin.guilford@courts.state.mn.us

Attachment A

RECEIVED

APR 11 2025

OFFICE OF LAWYERS PROF. RESP.

MINNESOTA
OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY
COMPLAINT FORM

Complaints cannot be filed against a firm, you must name an individual lawyer. If you have complaints regarding more than one lawyer, please complete a separate form for each.

Fields denoted by * are required.

Your Name, Address and Phone Numbers

O X Mr. O Mrs. O Miss O Ms.

*First	Middle:	*Last:
James	Robert	Mortenson

***Address 1**

P.O. Box 64620

Address 2

*City:	*State:	*Zip Code:
St. Paul	MN	55164-0620

Phone Numbers:

Home:	Work:	Cell:
NA	651-361-7902	952-934-1314

May we or others contact you by email? __X__ **Yes** ______ **No**

Email Address:

james.mortenson@state.mn.us

Do you need an interpreter? If so, which language?

No

Lawyer's Name, Address and Phone Number

*First	Middle:	*Last:
Carol	A.	Overland

***Address 1**

1110 West Ave.

*City:	*State:	Zip Code
Red Wing	MN	55066

Phone Numbers:

Office:	Cell:
612-227-8638	

I am the: (check one)

O Client	O Opposing Attorney
O Former Client	O Creditor
O Opposing Party	O X Other

If you are a client or former client, give the approximate date you hired the lawyer, and the nature of your legal case.

NA

If you are someone other than the client, please state your connection to the lawyer.

I am a judge and Overland appeared before me.

***Complaint: Please state what the lawyer did or failed to do that you feel is unethical. Please also attach copies of any documents that would help explain or support your complaint. If you need more pages, please attach them.**

See attached complaint statement. Also included on a flash drive are recordings of the two relevant proceedings, Cases nos. 21-0325-40437 and 21-0325-40438. Copies that are playable on a Windows Player are included. The recordings were too large to email.

Are you submitting documents with this complaint?

O No

O X Yes

***Dated:** April 9, 2025 **Signature:** ______________

MAIL (or Email) TO:

Office of Lawyers Professional Responsibility
445 Minnesota Street, Suite 2400
St. Paul, MN 55101-2139
(651) 296-3952
Toll-Free 1-800-657-3601
Fax (651) 297-5801
OLPRComplaintDocs@courts.state.mn.us
TTY USERS CALL MN RELAY SERVICE TOLL FREE 1-800-627-3529

If you have a disability and anticipate needing an accommodation, please contact Susan Humiston at lprada@courts.state.mn.us or at 651-296-3952. All requests for accommodation will be given due consideration and may require an interactive process between the requestor and the Office of Lawyers Professional Responsibility to determine the best course of action. If you believe you have been excluded from participating in, or denied benefits of, any Office of Lawyers Professional Responsibility service because of a disability, please visit www.mncourts.gov/ADAAccommodation.aspx for information on how to submit an ADA Grievance form.

Wednesday, April 9, 2025

OLPR Complaint

Filed by Administrative Law Judge James Mortenson, Minnesota Office of Administrative Hearings

Carol Overland, Attorney ID #0254617, appeared for two Fair Campaign Practices hearings at the Office of Administrative Hearings before a panel consisting of Judges Kimberly Middendorf (presiding), myself, and Megan McKenzie on February 24, 2025. She was a complainant on her own behalf. The hearings concerned Overland's allegations that a candidate for local government had violated Minn. Stat. § 211B.15.

During the first hearing (case no. OAH 21-0325-40437), I asked Overland if she could distinguish her case from the Federal District Court's holding in *Minnesota Chamber of Commerce v. Gaertner*, 710 F. Supp. 2d 868 (D. Minn. 2010), which held that a portion of Minn. Stat. § 211B.15, subd. 2 was unconstitutional.[1] I was interested in whether that Court's ruling had any impact on Overland's case. Overland did not provide a clear response and following the hearing, the Panel discussed the question and we determined that the holding in *Gaertner* did not have bearing on the present case.

Later in the day, the Panel convened the second hearing (OAH 21-0325-40438). After Overland was sworn in to testify, she moved for my recusal, claiming my question during the prior hearing (above) demonstrated I was biased against her.[2] She threatened that if I raised the same question in the present case, she would "take it further." She also referenced a different case which I had not raised in my question, which caused the Panel considerable confusion.

Because the Panel had determined *Gaertner* had no bearing on the two complaints at issue (they were similar complaints against the same candidate), I did not ask about it a second time. I declined to recuse myself because the accusation was outrageous. I have no bias against Overland and there was no conceivable way my question demonstrated bias. In fact, Presiding Judge Middendorf was so befuddled by Overland's statements that she paused the hearing so that the Panel could confer about what was happening.

Overland's behavior in this instance is serious enough. Her motivation is not clear. This is not, however, the first time she has made a baseless claim of bias against me in an apparent effort to influence my decision-making or remove me from a case. In 2024, following an unfavorable ruling I made regarding Overland's client (World Organization for Landowner Freedom) in case no. 5-2500-39600 (In the Matter of the Application of Minnesota Power for a Certificate of Need for the HVDC Modernization Project in Hermantown, Saint Louis County), she publicly complained about the notice I gave to a non-attorney appearing in the case on behalf of a labor union.[3] In that instance, she copied the Chief Administrative Law Judge, who is responsible for ethics complaints about other judges with the Office of Administrative Hearings.[4]

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1 Hearing Recording 21-0325-40437 at 0:50 15 (Feb 24, 2025).

2 Hearing Recording 21-0325-40438 at 0:06 17 (Feb 24, 2025)

3 Comment on Order Granting "Labor Intervenors" Intervention, PUC TL-22-611 (Jan 26, 2024) https://www.edockets.state.mn.us/documents/%7BE059478D-0000-CC3B-877B-D540E0A473FA%7D/download?contentSequence=0&rowIndex=258

4 Minn Stat § 14.48, subd 3(d) (2024)

Wednesday, April 9 2025
OLPR Complaint
Filed by Administrative Law Judge James Mortenson, Minnesota Office of Administrative Hearings

I let the incident in 2024 go, as it was of minor concern given the quantity of work on my docket at the time. The re-occurrence of this type of behavior, however, requires addressing. The behavior, whatever its cause, undermines the judicial system. I believe Overland's conduct requires examination by the Office of Lawyers Professional Responsibility and, if necessary, the Board, to ensure or processes are respected and to aid her in her practice.

April 9, 2025

X
Jim Mortenson
Administrative Law Judge

Attachment A

OAH_0325_40438_20250224.m4a

OAH_0325-40437_20250224.m4a

Attachment A

LPR File No. 49702

In the Matter of the Complaint of
JAMES R MORTENSON
P.O. Box 64620
St. Paul, MN 55164-0620

against

CAROL A. OVERLAND
1110 West Avenue
Red Wing, MN 55066,
a Minnesota Attorney,
Registration No. 0254617

OVERLAND RESPONSE TO MORTENSON COMPLAINT

I, Carol A. Overland, Respondent in the above entitled matter, after being duly sworn on oath, state and depose as follows:

Thank you for the opportunity to file this Response. Based on the narrative of the Complaint, including several instances of "behavior," I'll first provide the "short answer" to the instant complaint, and then walk through some relevant history.

First, I fully admit that when I was questioned by Complainant, near the end of the first hearing (OAH 25-0325-40437), and I was not familiar with the case named, identified only by name, no citation, and did not know of its relation to the instant case. After a pause to look at the statute, I did provide a "clear response" that I did not know how that case related. The recording reflects this admission. I was aware that a subdivision of the statute had been declared unconstitutional, but that decision did not come to mind as that subdivision has been removed. The statutory subdivision on which the Campaign Finance Complaint was based was not affected by that decision and remains valid.

When the second hearing (OAH 25-0325-40437) began after a short break during which I did a quick search, I brought up the wrong case, "Minnesota Chamber of Commerce v. Choi" rather than the cited "Minnesota Chamber of Commerce v. Gaertner," cited in the Complaint, and claimed that it (Choi) had no relation to the case at hand. However, the issue I raised then, that the case I was questioned about was not related to the Campaign Finance Complaint that was the subject of the hearing, was directly on point! When Judge Middendorf asked what I was asking for, I did say that I'd let it go, but if that "question"/issue was raised again "I'd take it further." ALJ Middendorf did state that I'd threatened a judge and had violated the Rules of Professional Responsibility. As I stated it, it was not a threat – it was my answer to ALJ Middendorf's question, and by "further" my intended meaning was that let it go for now and that if it came up again, I'd be taking action as provided by administrative rules. There was no follow up on that point by either of us.

On reading the Complaint, **the question and case brought up at the end of the first hearing**

were unrelated to my Campaign Finance Complaint – it "had no bearing.". Complainant Mortenson's complaint noted this was verified by the Panel, and it is stated twice in the Complaint. That the "Minnesota Chamber of Commerce v. Gaertner" case and the unconstitutionality of that portion of the statute that's been removed was not in any way related to this Campaign Finance Complaint is something that Complainant Mortenson knew or should have known, raising the question of why this was brought up in the hearing.

As Complainant Mortenson admitted twice in the Complaint:

> *… the Panel discussed the question and we determined that the holding in Gaertner* ***did not have bearing*** *on the present case.*
>
> …
>
> *Because the Panel had determined that Gaertner* ***had no bearing*** *on the two complaints at issue…*

Complaint narrative, p. 1 (emphasis added). At the beginning of the second hearing (OAH 25-0325-40438) this determination that the case "had no bearing" by "the Panel" was evident in the pronounced change in tone of voice and demeanor, a likely change of ALJ Middendorf's assessment, initially perhaps "befuddlement," with statements of "threatening a judge" and "violation of the Rules of Professional Responsibility" before she called a break for discussion amongst the panel. When the hearing resumed after the panel break for discussion, and **their determination that the case had no bearing**[1], I was simply asked, in a very different tone with no facial expressions of "befuddlement," whether my comments should be regarded as a Motion to Recuse, to which I replied "Yes…", Complainant Mortenson chose not to recuse, and the hearing went forward.

At this point, as Complainant brought up history, that "[t]his is not, however, the first time she has made a baseless claim of bias against me…" I am going back to the two incidents raised by Complainant regarding "my behavior," both in Minnesota Power's HVDC Modernization project dockets, E-015/CN-22-607 and E-015/TL-22-611.

The first is regarding Complainant's denial of the Intervention Petition of World Organization of Landowner Freedom (W.O.L.F.), and his assertion that I had "made a baseless claim of bias against me in an apparent effort to influence my decision-making or remove me from a case." Complaint at 1. The record reflects that there was no claim of bias or effort to influence decision-making or remove Complainant Mortenson from the case. See Attachment A, W.O.L.F. Petition for Intervention; Attachment B, Order Denying Intervention; and Attachment C, Denial of Intervention. After W.O.L.F.'s Intervention was denied, on its behalf, I filed a Motion for Reconsideration and a Motion Certification to the Commission to review the denial, the administrative next step. Had I wanted to remove Complainant from the case, I am familiar with the process and would have filed such a Motion, as I have in other Public Utilities Commission dockets. I did not file such a Motion.

I've represented W.O.L.F. beginning in 1999 and over the following 5 years, through the duration

[1] At that time, I was not notified that the panel had determined that the Gaertner case had **no bearing,** but the tone was a dramatic change from before the break to after the break. I attribute that change to the fact that they as a panel had discussed it and agreed that the case "had no bearing," that it was irrelevant.

of Minnesota Power's (MP) Arrowhead Transmission Project dockets in both Minnesota[2] and Wisconsin. The record in the dockets reflects the years of intense work and advocacy, the depth and breadth of our work resulted in 13 bankers boxes of files on my shelves. Ultimately the transmission line was permitted and constructed, but with conditions placed on operation. After permitting, it went through several iterations regarding the increasing costs, all of which W.O.L.F. participated in. The most highly contested issue in the Minnesota docket was whether the line would be used for bulk power transfer of coal, and intervenors focused on prevention of bulk power transfer. The most important condition placed on the project was an 800MVA (essentially megawatts) limitation at the Arrowhead substation:

> - Minnesota Power shall apply to the Minnesota Environmental Quality Board under section 116C.57 for authorization to make any changes in the Arrowhead substation that would allow Minnesota Power to increase the capability of the substation to transmit power over the transmission line beyond 800 MVA.

See Attachment A, W.O.L.F. Petition, p. 3.

After permitting and construction of the Arrowhead Transmission Project, along came Minnesota Power's HVDC Modernization Project, two decades later, which proposed to upgrade equipment coming into and at the Arrowhead Substation. MP filed its application, and Wisconsin transmission owner ATC intervened, and proposed in a late-filing a "system alternative." This was a hijacking of MP's project, because it focused on circumventing the Arrowhead substation and thwarting the purpose of the 800MVA condition. It was this condition that was the focus of ATC's "alternative" to eliminate that limitation, and ATC's attempt to eliminate it served as the basis for W.O.L.F.'s urgent January 2024 Petition for Intervention focused on preservation of the limitation of bulk power transfer. There was no party, other than applicant MP, concerned about ATC's late-filed "alternative" to circumvent the substation and circumvent the 800MVA condition. This was electrically and process-wise a major deviation from the purpose of Minnesota Power's project and the Order of the EQB (since 2005, permitting is under the jurisdiction of the Public Utilities Commission).

W.O.L.F.'s Petition for Intervention explicitly stated its unique interest and that that interest was focused on the 800 MVA condition in the Arrowhead permit:

> W.O.L.F.'s interest in the instant proceeding is in preservation of the conditions established by the Environmental Quality Board, and in particular, preservation of the 800 MVA limitation at the Arrowhead substation which ATC seeks to circumvent. W.O.L.F's interest is distinct from that of Minnesota Power, as Minnesota Power's interest as a regulated utility is focused on preservation of the project as proposed, which is needed and designed to extend the lifespan of transmission from North Dakota to utilize that DC transmission line to bring energy to its service territory to serve its customers.

[2] At that time, the Environmental Quality Board was the agency charged with permitting transmission line routes, in this case, an application for exemption from permitting requirements due to the short length of the line in Minnesota. Since that time, permitting of routes has been transferred to the Public Utilities Commission. Because of this transfer of permitting authority, it's not really a different agency, as issues with transmission permits granted by the EQB would now be addressed by the PUC.

Attachment A, W.O.L.F. Petition at 2. That intent stated in that first sentence above couldn't be clearer.

W.O.L.F.'s interest was specifically stated, and was different from that of any other party:

> W.O.L.F. has a unique interest that is not, and cannot be, represented by any other party. W.O.L.F.'s interest is distinct from that of Minnesota Power, as above. Minnesota Power's primary focus is its corporate interest, to hold on to their proposed project, designed to facilitate use of the Center to Arrowhead transmission line for the foreseeable future, and to secure transmission to serve its customers. Minnesota Power's project application claims it will also continue use of the transmission facilities in furtherance of renewable energy goals, something ATC's proposal does not address.[8]
>
> W.O.L.F.'s primary interest is to preserve the hard won 800 MVA limitation[9] to prevent bulk power transfer, and bulk power transfer capability is precisely what ATC would like to gain through this proposal and its expansion plans. However it's not "only" ATC's plan to run around the substation. W.O.L.F. also is concerned about the impacts to Minnesota ratepayers, and equally concerned as a utility regulatory docket participant, of the precedent of an entity from another state at the last minute attempting to pull a long-planned project out from under a Minnesota legacy utility, a regulated utility.

Id. No intervening party had an interest, an investment, in that 800MVA limitation.

Minnesota Power supported W.O.L.F.'s intervention and filed a letter stating it had no objection to Intervention by W.O.L.F., its years' long adversary in the Arrowhead Transmission Project dockets. Attachment B, MP Letter.

> W.O.L.F.'s Petition was denied, the Memorandum stating that:
> *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 as the requirement that only low-noise transformers be used at the substation.***

Attachment C, Order Denying the World Organization for Landowner Freedom's Petition to Intervene as a Full Party, Memorandum p. 1, January 22, 2024. **That statement is patently false – this was NOT W.O.L.F.'s claim of its contribution.** Attachment A, Petition of W.O.L.F. And "apparently?" According to the Prehearing Order one month earlier, the ONLY matter at issue in that docket was ATC's "alternative" to circumvent the substation:

> **Issue**
>
> 2. What is the impact of ATC's alternative to constructing a new 345/230-kV substation and associated transmission line?

Prehearing Order, p. 2, December 6, 2023[3].

In the Memorandum there are also odd statements regarding Petitioner W.O.L.F, questioning "who or what Petitioner is," rather than consideration of Intervention mindful of the Commission's charge to encourage "a broad spectrum of public participation," mandated by Minnl Stat. §216I.16 (formerly Minn. Stat. §216E.08), consideration of W.O.L.F.'s years long investment in extremely involved advocacy, and the current shocking discovery of ATC's move to circumvent, to undo, the limitation that had been a condition of the Arrowhead transmission permit Id., p. 3 . There were no other grassroots groups seeking Intervention, Minnesota Power well knew of W.O.L.F.'s work, and did not object to W.O.L.F. intervention.

> 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]

Id. This writer has not encountered a similar depth of inquiry in 30 years of practice focused on utility permitting, representing individuals, large and small non-profit corporations (state and federal), and more often loose associations of grass roots advocates.

Intervention is open to "any person, liberally defined in the rules. Minn. R. 1405.0900;

> "Person" means an individual, partnership, joint venture, private or public corporation, association or society, firm, public service company, cooperative, political subdivision, municipal corporation, governmental unit or agency, public utility district, or any other entity, public or private, however organized.

Minn. R. 1405.0200.

Disappointed by this denial of Intervention? Yes, of course. After this denial, W.O.L.F. appropriately went through available steps – a Motion for Reconsideration and a Motion for Certification to the Public Utilities Commission. Certification was denied, with this footnote:

[3] Prehearing Order, December 6, 2023, online at 202312-201040-01

[3] *Id.* at 7. W.O.L.F. mistakenly believes the decision to deny its Petition was due to a misunderstanding of the issue it is most concerned about. In fact, the decision turned on the fact the Judge could not determine what W.O.L.F.'s "legal rights are, what its duties are, or what privileges it has, which it seeks to protect" as a result of its failure to more clearly identify itself. Merely providing a link to the State of Wisconsin's website showing W.O.L.F. is a non-stock corporation out of a small town in north-central Wisconsin sheds little light on who or what it is, regardless of what it has done in the past. *See*, Order Denying the World Organization for Landowner Freedom's Petition to Intervene as a Full Party at 3 (Jan. 22, 2024).

Attachment D, Denial of Certification, p. 2. There was no Order regarding Reconsideration. This ended W.O.L.F.'s attempts at Intervention, and thereafter W.O.L.F. continued as a "participant," to the extent possible, attending the public hearing at Solway Town Hall on March 13, 2024[4], questioning witnesses, and entering Exhibits 1-4, then Exhibits 5 and 6 on March 18, 19 pages of written Comments on March 28, 2024 accompanied by supporting Affidavit and previously entered or filed Exhibits 1-6 plus Exhibit 7[5].

W.O.L.F.'s purpose in its Intervention filings was to gain Intervention in this docket to advocate for preservation of the 800 MVA limitation at the Arrowhead substation. That was clearly stated. Other than applicant Minnesota Power, W.O.L.F. was the only entity to express concern about retaining this 800 MVA permit condition and to provide historical context regarding its origin.

There was no other intent or purpose in any of these filings in the HVDC Modernization Project beyond intervention. There was no "effort to influence my decision-making or remove me from a case," as claimed in the Complaint. If there was an intent, an "effort to influence my decision-making or remove me from a case," a specific filing would have been made for that purpose, as I have filed several times previously where PUC Commissioners have had a conflict of interest in a proceeding.

As for the second "behavior" raised in the Complaint, where Complainant states:

> … she publicly complained about the notice I gave to a non-attorney appearing in Administrative Law Judge, who is responsible or ethics complaints about other judges with the Office of Administrative Hearings.

Complaint Narrative, p. 1

Yes, I absolutely "complained about the notice," though if I had to do it over, I would publicly file a formal complaint. While my "Comment on Order" was linked in footnote 3 of Mortenson's Complaint to the Lawyers Board of Professional Responsibility, the Complainant's "Order Granting Labor Intervenors Intervention" that was the basis for my letter was not. It should have been disclosed, because of the threat it contained.

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[4] W.O.L.F.'s principal, Linda Hansen, was unable to attend due to work commitment.

[5] Online at PUC's eDockets CN-22-607 and TL-22-611: Ex. 1 20243-204276-02; Ex. 2 20243-204277-01; Ex.3 20243-204278-01; Ex. 4 20243-204285-02; Ex. 5 20243-204437-02; Ex. 6 20243-204437-04; Ex. 7 20243-204710-01; W.O.L.F. Participant Public Comment 20243-204759-01; Affidavit 20243-204759-03. Note these exhibits were incorrectly noted as "W.O.L.F. Comments on EA – but they were substantive comments on the Certificate of Need and Routing dockets, NOT the EA. W.O.L.F. only participated in the substantive aspects of this docket, need and routing. See Affidavit.

The "Comment on Order" that I filed was based on an open threat to the two union representatives advocating for their unions found in a footnote in that Order:

[1] The Judge does not know if Runke or Kolodzieski are licensed attorneys in Minnesota. If either gentleman is not, he is reminded that this matter is a contested case, pursuant to the Public Utilities Commission's Order of November 29, 2023. Importantly, Minn. Stat. § 481.02, governing the unauthorized practice of law, does not appear to permit a non-lawyer to represent a labor union in court. The exception is that a "bona fide labor organization [may give] legal advice to its members in matters arising out of their employment." Minn. Stat. § 481.02, subd. 3(5) (2022). In short, while the Judge does not intend to manage the practice of law in this matter, parties should be aware that potential issues could arise for non-lawyers who are not statutorily exempted from the general prohibition of non-lawyer practice of law in Minn. Stat. § 481.02. The Lawyers Professional Responsibility Board may be a resource for more information on this topic.

Attachment E, Order Granting the Labor Intervenors' Petition To Intervene as a Full Party, p. 1.

I filed the "Comment on Order" based on the following statements, quoted, followed here by my comments. See Id., and Attachment F, Overland Comment, January 26, 2024:

- "The Judge does not know if Runke or Kolodzieski are licensed attorneys in Minnesota." Any Minnesota attorney is familiar with the MARS registration system and how easy it is to determine whether someone is licensed as an attorney. https://mars.courts.state.mn.us/

- "Importantly, Minn. Stat. §481.02, governing the unauthorized practice of law, does not appear to permit a non-lawyer to represent a labor union in court." A PUC Docket is administrative, not court, and an ALJ should be clear in that distinction. **Minn. Stat. §481.02 has no bearing on the union representatives advocating in the administrative venue.** https://www.revisor.mn.gov/statutes/cite/481.02

- "In short, while the Judge does not intend to manage the practice of law in this matter…" From this footnote, the opposite seems to be the point.

- "… parties should be aware that potential issues could arise for non-lawyers who are not statutorily exempted from the general prohibition of non-lawyer practice of law in Minn. Stat. §481.02." How could this be interpreted as anything but a threat?

- "The Lawyers Professional Responsibility Board may be a resource for more information on this topic." Perhaps the writer should consult the LPRB.

This footnote is improper. Minnesota rules governing administrative practice expressly allow representation by non-lawyers, and an administrative law judge should be well aware of these administrative rules. For reference:

> **1405.0600 RIGHT TO COUNSEL.**
> All persons may be represented by legal counsel, or by a person of their choice, or they may represent themselves.

1400.5800 RIGHT TO COUNSEL.
Parties may be represented by an attorney throughout the proceedings in a contested case, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. Persons appearing in contested case proceedings in a representative capacity must conform to the standards of professional conduct required of attorneys before the courts of Minnesota. If any representative fails to conform to these standards, the judge may exclude the person from the proceeding.

7829.0800 PETITION TO INTERVENE.
Subpart 1. Filing and service.
A person who desires to become a party to a proceeding shall file a petition to intervene within the time set in this chapter. The petition must be served on known parties and those persons on the utility's general service list for the matter, if applicable. A petition to intervene must be signed by the person wishing to become a party, or by the person's attorney or authorized representative.

On seeing the footnote in this Order, and knowing, having looked at MARS, that Runke and Kolodzieski are not attorneys, I felt compelled, an obligation, to file a very public and firm denunciation of this threat. I filed this letter as an individual and attorney licensed in the state of Minnesota – filed as an individual to own the statements I made in this letter, and also filed as an individual to separate from my client W.O.L.F., which had no role in filing this letter. This is a situation where I believe to be silent is to be complicit.

This footnoted threat made a significant impression on me – I regarded it as judicial abuse of power and believed that it would have a chilling effect on the union's participation. Again, if I could do this over, I would file a formal complaint against Complainant Mortenson. Though Complainant Mortenson regards the denunciation letter as my problematic behavior, I regard that threat as problematic behavior on his part, and I would regard an attorney's silence on observing such a misguided threat as a problem as well.

After denial of intervention and this footnote and letter, W.O.L.F participated in the public hearing and via comments and exhibits filed. However, in the ALJ's Recommendation for MP's HVDC Modernization Project, W.O.L.F.'s substantive comments on the CN and the TL dockets are mischaracterized, listed as "Comments on the EA" (Environmental Assessment) in two instances. Based on that mischaracterization, it appears that those comments were wholly disregarded. The Recommendation on p. 18, Finding 62 states:

> 62. By of the close of the written comment period for the EA on March 28, 2024, a number of parties and stakeholders had submitted Comments on the EA, including Minnesota Power,[79] ATC,[80] and W.O.L.F.[81]

Footnote 81 of the Recommendation again falsely states our CN and TL substantive comments filed in both dockets were instead Comments on EA, which is separate from the CN and TL:

> [81] W.O.L.F. Comments on EA (eDocket Nos. 20243-204285-01, 20243-204285-02, 20243-204278-02, 20243-204278-01, 20243-204277-02, 20243-204277-01, 20243-204276-01, 20243-204276-02, 20243-204437-03, 20243-204437-04, 20243-204437-01, 20243-204437-02, 20243-204759-04, 20243-204759-03, 20243-204759-02, 20243-204759-01, 20243-204710-02, 20243-204710-01).

The eDockets description for CN-22-607 and TL-22-611, in the second column on the right, shows that these are part of the W.O.L.F. **Public Comments**, not EA Comments The descriptions of the exhibits are obviously transmission planning documents and reports – exhibits not related to environmental review.

373	20243-204276-02	Public	22-607 (CN)	WORLD ORGANIZATION FOR LANDOWNER FREEDOM W.O.L.F.	Comments	W.O.L.F. PUBLIC COMMENT EX. 1 MISO GI DPP AUGUST 2017 WI AREA PHASE I	03/13/2024
374	20243-204277-01	Public	22-607 (CN)	WORLD ORGANIZATION FOR LANDOWNER FREEDOM W.O.L.F.	Comments	W.O.L.F. PUBLIC COMMENT 2_ATC 10 YEAR PLAN Q4 2023 UPDATE	03/13/2024
375	20243-204278-01	Public	22-607 (CN)	WORLD ORGANIZATION FOR LANDOWNER FREEDOM W.O.L.F.	Comments	W.O.L.F. PUBLIC COMMENT EX. 3 - MAP OF MISO TRANCHE 1 PROJECTS	03/13/2024
376	20243-204285-02	Public	22-607 (CN)	WORLD ORGANIZATION FOR LANDOWNER FREEDOM W.O.L.F.	Comments	WOLF PUBLIC COMMENT EX 4 - BURGUM SANFORD LAUD HISTORIC TRANSFER OF COAL CREEK	03/13/2024
377	20243-204437-02	Public	22-607 (CN)	WORLD ORGANIZATION FOR LANDOWNER FREEDOM W.O.L.F.	Comments	WOLF EX. 5_MAPP 6-25-1998 REPORT	03/18/2024
378	20243-204437-04	Public	22-607 (CN)	WORLD ORGANIZATION FOR LANDOWNER FREEDOM W.O.L.F.	Comments	WOLF EX. 6_WRAO REPORT	03/18/2024
379	20243-204710-01	Public	22-607 (CN)	WORLD ORGANIZATION FOR LANDOWNER FREEDOM W.O.L.F.	Comments	W.O.L.F. COMMENT EX. 7 MP-ATC AGREEMENTS D AND E	03/28/2024
380	20243-204759-01	Public	22-607 (CN)	WORLD ORGANIZATION FOR LANDOWNER FREEDOM W.O.L.F.	Comments	WOLF PARTICIPANT PUBLIC COMMENT	03/28/2024
381	20243-204759-03	Public	22-607 (CN)	WORLD ORGANIZATION FOR LANDOWNER FREEDOM	Comments	WOLF AFFIDAVIT OF OVERLAND	03/28/2024

This is important because the eDockets descriptions and even the most cursory look at the actual documents filed shows that these are NOT Environmental Assessment comments – these are comments on "need" and routing. The caption on the first page of the 19 pages is entitled "Participant Public Comment of World Organization for Landowner Freedom." This mischaracterization in both the Recommendation Finding 62 and footnote 81 demonstrates that these substantive comments and exhibits were not looked at, much less given any consideration.

In the HVDC Modernization docket, W.O.L.F. was denied Intervention, went through the steps provided for Reconsideration and Certification, and was denied. W.O.L.F. then was an active "Participant," appeared at the Public Hearing. After the hearing, W.O.L.F. filed Public Comments, and an Affidavit with Exhibits, which were disregarded. This looks, walks, and quacks like bias.

Use of an irrelevant case in that HVDC Modernization docket to threaten the union representatives came to mind during the first Campaign Finance hearing (25-0325-40437), when I was asked by Complainant Mortenson to distinguish a "Minnesota Chamber of Commerce" case from my Complaint in this docket. I admit I did not catch the "Gaertner" and had a blank line in my notes. When asked, I could not think of any case related to the section of the statute on which I'd based this Campaign Finance complaint, or any case related to the several Campaign Finance Reports that I'd filed in the previous election cycle where violations of Minn. Stat. §211A.02 had been found and fines assessed. I was on alert and I suspected that this was another case which had no bearing on the case at hand.

During the break between cases, I looked up "Minnesota Chamber of Commerce" federal campaign cases, and I admit that the case I found, "Minnesota Chamber of Commerce v. Choi," was the wrong case. Yes, I was questioned about an inapplicable case, and my statements were based in the inapplicability of that case, the wrong case. However, it turns out that "Minnesota

Chamber of Commerce v. Gaertner" is also inapplicable, not a matter of interpretation but that it was completely off point and unrelated to the case at hand -- **as Complainant states twice in the Complaint, and as Panel agreed, it had no bearing on the Campaign Finance case at hand.**

The inapplicability of this case is something that an Administrative Law Judge on a Campaign Finance case panel knew or should have known. Where it had "no bearing," why was this a "question" and why was this inapplicable case raised? This is problematic, and raises questions of intent, intent of the questioning and of this Complaint.

Again, I fully admit that when I was questioned by Complainant, near the end of the first hearing (OAH 25-0325-40437), I was not familiar with the case named, and I admitted on the record that I did not know of its relation to the instant case. After a pause at that moment to look at the statute, I did provide a "clear response" that I did not know how that case related. The recording reflects this admission.

In the second hearing (OAH 25-0325-40438) shortly after, I admit that I challenged Complainant Mortenson with bias in raising an inapplicable case with no bearing on the case at hand (mindful of the union threat, and not knowing I had the wrong Chamber of Commerce case in hand) and requested recusal or removal. When asked by Juge Middendorf before their break to discuss this challenge, what I was asking for, I stated that I would let it go, but if this came up again, I'd take it further. By taking it further, I meant to again push for recusal rather than let it go, though there was no discussion of my intent. I was told that I'd threatened a judge and that I'd violated Rules of Professional Responsibility, which I took very seriously. A break was quickly called for a panel discussion. After the break, Judge Middendorf did not repeat her statement about threatening a judge and violating PR rules, and merely asked if I would frame it as a Motion to Recuse. I agreed with that, Complainant Mortenson was asked if he would recuse and did not. I do not know details of the panel discussion. I was not told that I had the wrong case, and I was not informed of the inapplicability of the case raised by Complainant Mortenson, that it had "no bearing." After ComplainantMortenson did not recuse, the hearing commenced.

I have attached several background documents:

1. Attachment A is a true and correct copy of W.O.L.F.'s Petition for Intervention in PUC Dockets E-015/CN-22-607 and E-015/TL-22-611.

2. Attachment B is a true and correct copy of Minnesota Power's January 17, 2024 letter that it does not object to W.O.L.F.'s intervention. W.O.L.F. was the only grassroots organization to request intervention.

3. Attachment C is a true and correct copy of the January 22, 2024 Order Denying the World Organization for Landowner Freedom's Petition to Intervene as a Full Party.

4. Attachment D is the Denial of Certification to the Public Utilities Commission.

5. Attachment E is a true and correct copy of the Order Granting Union Intervention with this footnote:

[1] The Judge does not know if Runke or Kolodzieski are licensed attorneys in Minnesota. If either gentleman is not, he is reminded that this matter is a contested case pursuant to the Public Utilities Commission's Order of November 29, 2023. importantly, Minn. Stat. § 481.02, governing the unauthorized practice of law, does not appear to permit a non-lawyer to represent a labor union in court. The exception is that a "bona fide labor organization [may give] legal advice to its members in matters arising out of their employment." Minn. Stat. § 481.02, subd. 3(5) (2022). In short, while the Judge does not intend to manage the practice of law in this matter, parties should be aware that potential issues could arise for non-lawyers who are not statutorily exempted from the general prohibition of non-lawyer practice of law in Minn. Stat. § 481.02. The Lawyers Professional Responsibility Board may be a resource for more information on this topic.

6. Attachment F is a true and correct copy of my letter filed as an individual and not on behalf of W.O.L.F., dated January 26, 2024 to Complainant Mortenson regarding the footnote threat to the unions, copied to Chief Judge Jenny Starr.

The Complaint and my Response are being copied to Linda Hanson, founder of World Organization of Landowner Freedom (W.O.L.F.), W1806 Wilson Road, Hawkins, WI 54530.

Based on the record and the information above in this Response, I ask that this Complaint against me be dismissed.

Further your affiant sayeth naught.

Carol A Overland

Carol A. Overland MN #254617
Attorney at Law
Legalectric – Overland Law Office
1110 West Avenue
Red Wing, MN 55066
(612) 227-8638
overland@legalectric.org

Signed and sworn to before me this
30 day of April, 2025

Notary Public

KAYLA ELAYNE REHDER
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31, 2028

Attachment B

OAH: 5-2500-39600
PUC: E-015/CN-22-607
E-015/TL-22-611

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;

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.

PETITION FOR INTERVENTION
WORLD ORGANIZATION FOR LANDOWNER FREEDOM

World Organization for Landowner Freedom, hereinafter "W.O.L.F." hereby makes this Petition for Intervention as a full party, with all the rights of a party, in the Certificate of Need and Route Permit dockets for the above-captioned "HVDC Modernization Project," as provided by statute and rule. Minn. R. 1405.6200, 7829.0800; see also Minn. Stat. §216E.08 Public Participation:

> The commission shall adopt broad spectrum citizen participation as a principal of operation. The form of public participation shall not be limited to public hearings and advisory task forces and shall be consistent with the commission's rules and guidelines as provided for in section 216E.16.

W.O.L.F. has a material interest, a particular and unique interest, in this proceeding, satisfying the requirements for Intervenor status in the above-captioned dockets. W.O.L.F. is highly invested in these dockets because it was an active intervenor in Minnesota Power's Arrowhead Exemption Application (herein "Arrowhead") before the Environmental Quality

Board[1], and of the many Intervenors, W.O.L.F. was the only Relator at the Court of Appeals.[2] W.O.L.F. also was an intervenor in the Wisconsin PSC's docket, initially applicants Wisconsin Power and Service (WPS) and Dairyland Power Cooperative (DPC), and later transferred from WPS to American Transmission Company (ATC).

In the Environmental Quality Board Arrowhead docket, W.O.L.F. made many substantive contributions[3], informing the record on topics including health impacts of magnetic fields, aesthetic and visual impacts, noise, reliability (system adequacy and security), the historic Oliver bridge, relation of reduction in line loss to market and generation, use of the project to increase bulk power transfers of coal generation, and inability of landowners to utilize Minnesota's Buy the Farm law if the project were exempted.[4] The ALJ's Arrowhead Project recommendation had a single condition that "noise impacts be reduced," and "Noise mitigation by the use of sound barriers, the installation of quieter transformers, or the use of both."[5] The Environmental Quality Board approved the ALJ's Recommendation of Exemption of the Arrowhead Project from the Power Plant Siting Act[6], Minn. Stat. ch. 216E, with the addition to Finding of Fact 11:

- The approximate rating of these transformers is 800 MVA.

The project was ultimately approved with several conditions in the Order, including:

- Minnesota Power shall install the low-noise transformers identified in the application at the Arrowhead substation.

[1] In the Matter of the Exemption Application by Minnesota Power for a 345/230 kV High Voltage Transmission Line Known as the Arrowhead Project, MEQB Docket: MP-HVTL-EA-1-99.
[2] In the Matter of the Exemption Application by Minnesota Power for a 345/230 kV High Voltage Transmission Line Known as the Arrowhead Project, Court of Appeals, C4-01-1022 (January 15, 2002).
[3] See Recommendation, Findings of Fact, Conclusions and Recommendation, and fn. 43,45, 55, 56, 58, 97, 119, 120, 126-128,142, 145-146,154-155,166, OAH Docket 10-2901-12620-2, online at: https://mn.gov/oah/assets/290112620.rt_tcm19-159974.pdf
[4] Id.
[5] Id, p. 15 and 26 of 31.
[6] See Attachment 1, EQB Order, Minnesota Power's Response to Route Alternative and Conditions… September 29, 2023 (20239-199286-02)

- Minnesota Power shall apply to the Minnesota Environmental Quality Board under section 116C.57 for authorization to make any changes in the Arrowhead substation that would allow Minnesota Power to increase the capability of the substation to transmit power over the transmission line beyond 800 MVA.

W.O.L.F.'s interest in the instant proceeding is in preservation of the conditions established by the Environmental Quality Board, and in particular, preservation of the 800 MVA limitation at the Arrowhead substation which ATC seeks to circumvent. W.O.L.F's interest is distinct from that of Minnesota Power, as Minnesota Power's interest as a regulated utility is focused on preservation of the project as proposed, which is needed and designed to extend the lifespan of transmission from North Dakota to utilize that DC transmission line to bring energy to its service territory to serve its customers.

W.O.L.F. advocated for conditions in the Arrowhead-Weston transmission proceedings, resulting in conditions which in Minnesota were based on an extensive record before the Administrative Law Judge and recommendation. That record was reviewed by, and upon which the Environmental Quality Board granted, the Exemption to Minnesota Power.

ATC fails to address the existence and need for 800 MVA limitation of the phase shifting transformer[7], which demonstrates failure to consider electrical impacts of its "plan." The phase shifting transformer is necessary due to voltage stability issues and the high potential for separation and inability to successfully close the circuit in the event of a fault. ATC's failure to address this limitation, and to advance a hare-brained attempt to further its corporate interest, is stunning.

Due to W.O.L.F.'s years' long active participation in the Minnesota and Wisconsin Arrowhead dockets, learning more about transmission than anyone should need to know, its

[7] This is an example of the importance of institutional history. The Arrowhead Project was applied for in 1999, and the Wisconsin CPCN docket, 05-CE-113, was closed in 2005. ATC needs to review history.

participation in months of hearings, our presentation of material exhibits cited in Minnesota and Wisconsin Commission Orders, extensive discovery, motion practice and briefing, our investment of time and effort to secure conditions to the Exemption in Minnesota and the CPCN in Wisconsin, W.O.L.F.'s interest is reflected in the record in both states. W.O.L.F. has an interest and may be directly affected by the outcome of this case because acceptance and permitting of the ATC "alternative" would undo the ground gained in our years of work to obtain the two of many permit conditions proposed that were approved. The most important condition was the EQB's 800 MVA limitation.

W.O.L.F. has a unique interest that is not, and cannot be, represented by any other party. W.O.L.F.'s interest is distinct from that of Minnesota Power, as above. Minnesota Power's primary focus is its corporate interest, to hold on to their proposed project, designed to facilitate use of the Center to Arrowhead transmission line for the foreseeable future, and to secure transmission to serve its customers. Minnesota Power's project application claims it will also continue use of the transmission facilities in furtherance of renewable energy goals, something ATC's proposal does not address.[8]

W.O.L.F.'s primary interest is to preserve the hard won 800 MVA limitation[9] to prevent bulk power transfer, and bulk power transfer capability is precisely what ATC would like to gain through this proposal and its expansion plans. However it's not "only" ATC's plan to run around the substation. W.O.L.F. also is concerned about the impacts to Minnesota ratepayers, and equally concerned as a utility regulatory docket participant, of the precedent of an entity from

[8] We do not know ATC's intent, and we'd have to look at powerflows to determine what generation ATC thinks it could service. It's possible ATC's long plan is to capture wind from the Dakotas and/or hydro from Manitoba Power out from under Minnesota Power. However, there's not enough in its "plan" to determine what it's trying to do, other than engorge its corporate interest.

[9] While Minnesota Power recognizes the 800 MVA limitation -- it's something that they did not want at the time of the Exemption decision, and likely would rather not have – but MP has respected the Order and has had to work and plan transmission infrastructure with this legal and system limitation in mind.

another state at the last minute attempting to pull a long-planned project out from under a Minnesota legacy utility, a regulated utility.

The “alternative” offered by ATC was not timely filed, and a “modified” realignment was filed even later – it’s so very odd that the ATC “alternative” was added to the scope of the Environmental Assessment. ATC’s proposal is not electrically, economically, or environmentally sound. Alternatives have been proposed by intervenors in other dockets that have not been added to the scope for review where Commerce-EERA believes it does not fulfill the intent of the project proposer. This ATC proposal goes even farther than “not fulfilling the intent of the project proposer” by proposing a wholly separate project that has no relation whatsoever in purpose or design to what Minnesota Power is proposing[10]. There is not sufficient information provided by ATC to even review its proposal as a serious alternative. Most importantly to W.O.L.F., again, ATC’s “alternative” would circumvent the 800 MVA limitation of the Arrowhead substation by literally, electrically, going around the substation’s Phase Shifting Transformer to connect to the Arrowhead transmission line.

ATC is thumbing its corporate nose at the Arrowhead Project and the long extensive review before the Minnesota Exemption and Wisconsin Certificate of Convenience and Necessity approvals were granted. ATC is also disregarding Minnesota’s Certificate of Need and Power Plant Siting Act statutes and rules in its manipulation of process. Most likely, hopefully, this will be explored in the ongoing process, but it should not need to go that far -- that parties even need to expend effort and resources to challenge this untoward proposal is an unreasonable

[10] Going through the process of a challenge to ATC’s proposal is similarly needless as it was to challenge the notion of a Dodge County Wind 345kV line proposed last minute through Dodge Center’s residential back yards, which was quickly dropped after environmental review, but requiring intense effort of residents to expose the absurdity. IP6981/TL-20-867. The public should not be saddled with these struggles but cannot and must not sit back in a snooze/lose proposition. The other side of the Commission’s charge of “broad spectrum of public participation” is that the public must show up.

burden. W.O.L.F. is very limited in resources, but of necessity, requests to intervene.

World Organization for Landowner Freedom requests permission to Intervene as a full party, with all the rights and responsibilities of a party, in the Certificate of Need and Route Permit dockets for the above-captioned "HVDC Modernization Project." W.O.L.F. has demonstrated its unique interest and historical background in continued participation in matters regarding the Arrowhead-Weston transmission line, the Arrowhead substation, and will work to weigh in and shape the outcome of this proceeding.

Carol A Overland

January 8, 2024

Carol A. Overland MN #254617
Attorney for World Organization of Landowner Freedom
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Attachment B

minnesota power
AN ALLETE COMPANY

30 West Superior Street
Duluth, MN 55802-2093
www.mnpower.com

January 17, 2024

VIA E-FILING

The Honorable James Mortenson
Administrative Law Judge
Office of Administrative Hearings
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

Re: *In the Matter of the Application of Minnesota Power for a Certificate of Need and Route Permit for the HVDC Modernization Project in Hermantown, Saint Louis County*
OAH Docket No. 5-2500-39600; MPUC Docket Nos. E015/CN-22-607 and E015/TL-22-611

Dear Judge Mortenson:

Minnesota Power does not object to the intervention petition submitted by the World Organization for Landowners Freedom ("WOLF"). As WOLF states in its petition, it participated in an earlier proceeding before the Minnesota Environmental Quality Board involving Minnesota Power's application for an exemption from the Power Plant Siting Act for the Arrowhead project, which involved the same ATC[1] 345 kV Arrowhead Substation included in ATC's alternative request in this proceeding.[2] Minnesota Power also has no objection to the intervention petitions submitted by the International Union of Operating Engineers Local 49 and North Central States Regional Council of Carpenters or the Laborers District Council of Minnesota and North Dakota ("LiUNA").[3] LiUNA, International Union of Operating Engineers Local 49, and North Central States Regional Council of Carpenters have all participated in this docket prior to it being ordered by the Minnesota Public Utilities Commission to a contested case proceeding.

By copy of this letter, I am providing service to those listed on the service lists on file with the Minnesota Public Utilities Commission. If you have any questions regarding this filing, please contact me at (218) 723-3963 or dmoeller@allete.com.

Yours truly,

David R. Moeller

David R. Moeller
ALLETE Senior Regulatory Counsel

cc: Service Lists

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[1] In this letter, ATC refers to American Transmission Company LLC through its corporate manager, ATC Management, Inc.

[2] Note that, while the ATC 345 kV Arrowhead Substation that is the interconnection point for the 345 kV Arrowhead – Weston transmission line that is the subject of the 800 MVA limited noted by WOLF is owned by ATC, the prior proceeding was sponsored by Minnesota Power for the Minnesota portion of the Arrowhead – Weston Project, as explained in Minnesota Power's Response filed September 29, 2023 in this proceeding.

[3] Minnesota Power notes that LiUNA's intervention petition was submitted late, but it otherwise has no objection.

Attachment B

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

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;

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.

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

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 it's 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.

Attachment B

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

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;

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.

ORDER DENYING THE WORLD ORGANIZATION FOR LANDOWNER FREEDOM'S MOTION TO CERTIFY ITS PETITION TO INTERVENE

On January 27, 2024, the World Organization for Landowner Freedom (W.O.L.F.), a non-stock corporation from Hawkins, Wisconsin, filed a Motion for Certification of Administrative Law Judge Jim Mortenson's denial of W.O.L.F.'s petition for intervention (Motion). On February 6, 2024, American Transmission Company, LLC (ATC), filed a letter objecting to W.O.L.F.'s request for certification.

Carol A. Overland, Legalectric – Overland Law Office, appeared on behalf of W.O.L.F. Eric F. Swanson, Winthrop & Weinstine, P.A., appeared on behalf of ATC.

Pursuant to Minn. R. 1400.5500, .7600 (2023), and for the reasons explained below,

IT IS HEREBY ORDERED,

W.O.L.F.'s Motion is **DENIED**.

Dated: February 12, 2024

JIM MORTENSON
Administrative Law Judge

MEMORANDUM

W.O.L.F. requests certification of the denial of its Petition to Intervene to the Public Utilities Commission.[1] W.O.L.F. wants to be a party because it wants to preserve the requirement that the substation in involved in the HVDC Modernization Project (Project) be limited to 800 megavolt-amperes (MVA).[2] W.O.L.F. wants to be sure it may "inform the record in this proceeding."[3]

Minn. R. 1400.7600 sets forth the standards for certifying a motion to an agency when a contested case is pending before an administrative law judge. The rule specifically excludes "rulings on the admissibility of evidence or interpretations of parts 1400.5100 to 1400.8400" from being certifiable questions.[4]

The decision denying W.O.L.F.'s Petition to Intervene was based on Minn. R. 1400.5500 and .6200 (2023). Therefore, the denial of the Petition is not eligible for certification. Moreover, the denial of the Petition did not deprive W.O.L.F. the opportunity to participate as a member of the public in the contested case, pursuant to Minn. R. 1400.6200, subp. 5, .7150 (2023), and 1405.0800 (2023), or from informally collaborating with and supporting other parties. Specifically, W.O.L.F. may file offer direct testimony in written form at or following the hearing and may cross-examine witnesses by submitting questions in writing to the Administrative Law Judge to ask them before or during the hearings.

J. R. M.

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[1] Motion for Certification of Motion for Intervention of World Organization for Landowner Freedom at 3 (Jan. 27, 2024).
[2] *Id.* at 2.
[3] *Id.* at 7. W.O.L.F. mistakenly believes the decision to deny its Petition was due to a misunderstanding of the issue it is most concerned about. In fact, the decision turned on the fact the Judge could not determine what W.O.L.F.'s "legal rights are, what its duties are, or what privileges it has, which it seeks to protect" as a result of its failure to more clearly identify itself. Merely providing a link to the State of Wisconsin's website showing W.O.L.F. is a non-stock corporation out of a small town in north-central Wisconsin sheds little light on who or what it is, regardless of what it has done in the past. *See*, Order Denying the World Organization for Landowner Freedom's Petition to Intervene as a Full Party at 3 (Jan. 22, 2024).
[4] Minn. R. 1400.7600.

Attachment B

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

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;

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.

ORDER GRANTING THE LABOR INTERVENORS' PETITION TO INTERVENE AS A FULL PARTY

This matter came before Administrative Law Judge Jim Mortenson on the International Union of Operating Engineers Local 49 (Local 49) and North Central States Regional Council of Carpenters (NSRCC) (collectively, Labor Intervenors) Petition for Intervention, filed January 16, 2024. On January 17, 2024, Minnesota Power (Applicant), filed a letter noting it did not object to the Unions' intervention.

Nate Runke, Regulatory and Political Affairs Coordinator Local 49, and Richard Kolodziejski, Government Affairs Director NSRCC, appeared on behalf of Labor Intervenors.[1] 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,

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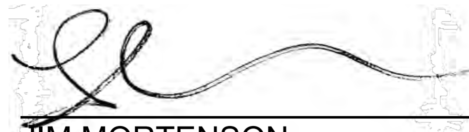
[1] The Judge does not know if Runke or Kolodzieski are licensed attorneys in Minnesota. If either gentleman is not, he is reminded that this matter is a contested case, pursuant to the Public Utilities Commission's Order of November 29, 2023. Importantly, Minn. Stat. § 481.02, governing the unauthorized practice of law, does not appear to permit a non-lawyer to represent a labor union in court. The exception is that a "bona fide labor organization [may give] legal advice to its members in matters arising out of their employment." Minn. Stat. § 481.02, subd. 3(5) (2022). In short, while the Judge does not intend to manage the practice of law in this matter, parties should be aware that potential issues could arise for non-lawyers who are not statutorily exempted from the general prohibition of non-lawyer practice of law in Minn. Stat. § 481.02. The Lawyers Professional Responsibility Board may be a resource for more information on this topic.

IT IS HEREBY ORDERED,

1. The Petition is **GRANTED**.

2. Labor Intervenors may intervene as a party with all the rights of a party.

Dated: January 26, 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.[2] The purpose of the proceeding is to develop the record to enable the Commission to better consider American Transmission Company's (ATC) alternative proposal to Minnesota Power's modernization plan.[3] The Commission determined that the contested case process "will allow the Commission to make a thorough, informed, and well-reasoned decision."[4]

Labor Intervenors are labor organizations representing more than 24,000 employees in Minnesota.[5] They are advocating for their members' interests impacted by the construction and outcome of the Applicant's project, or the alternative, at issue here.[6] The particular version of the project the Commission selects may impact the work opportunities of their members.[7] Likewise, it may impact other electric infrastructure projects which employe their members.[8] Finally, the safety and reliability of the electrical grid upon which Labor Intervenors' members and their communities rely upon for living and work are identified interests.[9]

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

---

[2] 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).
[3] *Id.* at 5.
[4] *Id.* at 6.
[5] Petition for Intervention (Jan. 16. 2024).
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*

Attachment B

(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.[10]

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.[11] Further, the judge must specify the extent of the petitioner's participation, as the rule allows for limited or full intervention.[12] 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.

Labor Intervenors have shown how their duties or privileges may be impacted by the case and the grounds and purposes for which intervention is sought. Which project is selected to proceed will affect the employment opportunities of union members for both the immediate project and other or future energy infrastructure projects. These are things Labor Intervenors advocate on behalf of their members for regularly. Moreover, the safety and reliability of the grid for members' communities may also be affected by the project, and the well-being of their members is central to Labor Intervenors' purpose and existence. These interests in the current and future construction opportunities presented by the project, and its safety, functionality, and reliability, are all cause to permit full party status to the Labor Intervenors and permit them provide insights into the record in the contested case. The number of members employed for this project, and other projects which may be impacted, is a significant outcome for which Labor Intervenors will be permitted to advocate on.

For these reasons, Labor Intervenors are permitted to participate in this contested case as a full party.

J. R. M.

[10] Minn. R. 1400.6200, subp. 1.
[11] *Id.*, subp. 3.
[12] *Id.*

Attachment B

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

1110 West Avenue
Red Wing, Minnesota 55066
612.227.8638

January 26, 2024

James Mortenson
Administrative Law Judge eFiled only
600 N Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

RE: Comment on Order Granting "Labor Intervenors" Intervention
PUC Dockets E015/CN-22-607 and TL-22-611

Dear Judge Mortenson:
:
Your order granting "Labor Intervenors" intervention arrived in my inbox just now. I am filing this correspondence as an individual and attorney licensed in the state of Minnesota.

I'm stunned to read footnote 1 in the Order, a threat to Mr. Runke and Mr. Kolodzieski that is cut and pasted here:

> 1 The Judge does not know if Runke or Kolodzieski are licensed attorneys in Minnesota. If either gentleman is not, he is reminded that this matter is a contested case, pursuant to the Public Utilities Commission's Order of November 29, 2023. Importantly, Minn. Stat. § 481.02, governing the unauthorized practice of law, does not appear to permit a non-lawyer to represent a labor union in court. The exception is that a "bonafide labor organization [may give] legal advice to its members in matters arising out of their employment." Minn. Stat. § 481.02, subd. 3(5) (2022). In short, while the Judge does not intend to manage the practice of law in this matter, parties should be aware that potential issues could arise for non-lawyers who are not statutorily exempted from the general prohibition of non-lawyer practice of law in Minn. Stat. § 481.02. The Lawyers Professional Responsibility Board may be a resource for more information on this topic.

The MARS Attorney Registration attorney look-up page is readily available to determine whether someone is a Minnesota licenses attorney. However, as I understand it, neither Mr. Runke nor Mr. Kolodzieski are claiming to be attorneys, so a look-up is not necessary.

The Minnesota Power Plant Siting Act Rules expressly provide for representation by non-attorneys before OAH:

> **1405.0600 RIGHT TO COUNSEL.**
>
> All persons may be represented by legal counsel, or by a person of their choice, or they may represent themselves

See also Minn. R. 5800.00:

> **1400.5800 RIGHT TO COUNSEL.**
>
> Parties may be represented by an attorney throughout the proceedings in a contested case, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. Persons appearing in contested case proceedings in a representative capacity must conform to the standards of professional conduct required of attorneys before the courts of Minnesota. If any representative fails to conform to these standards, the judge may exclude the person from the proceeding.

This issue has come up in other dockets that I’ve participated in, and in each instance, the non-attorney persons representing Intervenors were allowed to represent those parties. In particular, this has most often occurred when a member, staff, or Board member of an environmental organization is participating in a Commission docket.

It's very disturbing to see this threat that is contrary to the PPSA and Administrative Rules in an Order, and contrary to the Public Participation charge of the Commission found in Minn. Stat. §216E.08.

Very truly yours,

Carol A Overland

Carol A. Overland
Attorney at Law

cc: Chief Judge Jenny Starr, via Denise Collins denise@state.mn.us

Attachment C

MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

PO Box 64620
Saint Paul, MN 55164-0620
mn.gov/oah

PH (651) 361-7900
TTY (651) 361-7878
FAX (651) 539-0310

May 20, 2025

Caitlin Guilford
Office of Layers Professional Responsibility
445 Minnesota St., STE 2400
St. Paul, Minnesota 55101-5801

VIA EMAIL ONLY
Caitlin.Guilford@courts.state.mn.us

Re: Complaint of James R. Mortenson against Carol A. Overland
OLPR File No. 49702

Dear Ms. Guilford,

Thank you for sharing the response from attorney Overland to the complaint I filed. You requested a response from me, and I am happy to oblige. I will be brief.

Nothing in the response excuses Overland's behavior toward me (one of the panel judges) on February 24 of this year. There are two points to be made, based on the response. First, a person who criticizes or attacks a judge's ruling does not create a basis for the judge to recuse themself. *See e.g.* U.S. v. Bayless, 201 F.3d 116, 129 (2nd Cir. 2000). Likewise, a judge's ruling does not demonstrate bias on behalf of the judge. *See* State v. Burrell, 743 N.W.2d 596, 601-02 (Minn. 2008). It follows that a judge cannot reasonably be viewed as biased for raising a question of law with a party appearing before the judge. Indeed, a hearing is the opportunity for parties and judges to discuss questions of law. As I stated in the complaint, this is not the first time Overland publicly complained about my otherwise impartial judicial activities. A member of the bar implicitly threatening to file a complaint against a judge if a prospective ruling is not made in one's favor is inherently prejudicial to the legal process and should never be countenanced.

This brings me to the second point readily apparent in Overland's response. Overland demonstrates an apparent fixation on her positions. That is, Overland refuses to accept adverse court rulings to the point of disruption to the legal process (as described in the complaint). This view comes to light from the volume and redundancy of the material Overland provided in her response. She not only agrees with the facts recited in the complaint, she reiterates her arguments rather than address her unprofessional behavior.

Indeed, Overland continues her frivolous attempts to relitigate the adverse final decision she received in one of the cases giving rise to this complaint, OAH 21-0325-40438. Overland, following receipt of the panel decision of March 7, 2025, filed a Motion for Order to Show Cause, despite the finality of the March 7 decision. Overland demanded that the pro se respondent be ordered to show cause why he should not be sanctioned for conduct well outside Overland's campaign complaint, an abuse of process that appears calculated to harass the respondent. The Motion was denied and Overland then filed a Motion for

Reconsideration on May 12, 2025, claiming the presiding judge erred by not agreeing with Overland.[1]

In short, Overland's response further illustrates the conduct of which she may be unconscious. Judges must make decisions with which someone will be unhappy. This is the nature of the adversarial process. It is expected that a member of the bar understands and abides by this basic principle. Moreover, attorneys are expected to follow proper legal procedure, such as appealing to an appellate court, when challenging a decision with which they disagree. Overland's fixation on her positions or views obscures her ability to conduct herself appropriately before a court, as exhibited in the scenario described in the complaint.

Respectfully,

Jim Mortenson
Administrative Law Judge

[1] Judge Kimberly Middendorf, the presiding judge, is currently processing the matter.

In the Matter of the Complaint of
JUDGE JAMES R. MORTENSON
P.O. Box 64620
St. Paul, MN 55164-0620
against CAROL A. OVERLAND,
a Minnesota Attorney,
Registration No. 0254617.

DETERMINATION
THAT DISCIPLINE
IS NOT WARRANTED

TO: Complainant Judge Mortenson and Respondent Attorney Carol A. Overland:

Based upon the entire file, the Director of the Office of Lawyers Professional Responsibility determines that discipline is not warranted pursuant to Rule 8(d)(1), Rules on Lawyers Professional Responsibility. A memorandum stating the basis for the determination is attached.

NOTICE TO COMPLAINANT OF RIGHT TO APPEAL

If you are not satisfied with this decision, an appeal may be made by notifying the **Lawyers Professional Responsibility Board (Board), 25 Rev. Dr. Martin Luther King, Jr. Blvd., Ste. 305, St. Paul, MN 55155,** in a letter postmarked no later than fourteen (14) days after the date of this notice, or by email to **LPRBgeneral@courts.state.mn.us**. The letter of appeal should state the reason(s) why you disagree with the decision. A Lawyers Professional Responsibility Board member will review the appeal. The Lawyers Board is comprised of 14 lawyers and 9 nonlawyers appointed by the Minnesota Supreme Court. Appeals are assigned to individual Lawyers Board members in rotation according to when they are received. The Board members' options on appeal are limited to (1) approving this decision; (2) requiring further investigation; or (3) if it appears that public discipline is warranted, directing that the case be submitted to a hearing panel. This determination will generally be based upon the information which is already contained in the file.

Susan M. Humiston
Humiston, Susan
2025.10.31 12:51:39
-05'00'

SUSAN M. HUMISTON
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Minnesota Judicial Center, Suite 105
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155
(651) 296-3952

MEMORANDUM

Complainant James Mortenson, an administrative law judge, filed a complaint with the Director against respondent attorney Carol Overland. The complaint related to a matter in which Judge Mortenson was part of a panel considering Ms. Overland's campaign finance complaints against G.I., a candidate for mayor of Red Wing, Minnesota, claiming that he had failed to disclose a campaign contribution and had accepted an illegal campaign contribution from a corporation. Judge Mortenson alleged that Ms. Overland made claims that he was biased and requested his recusal in the matter without a basis to do so—and had done so in a prior matter. Judge Mortenson also alleged that Ms. Overland filed frivolous motions following the final determination of her complaints. The Director's Office investigated the matter without referral to a district ethics committee and, although Ms. Overland's conduct is concerning, finds insufficient evidence to support a violation of the Rules of Professional Conduct. Therefore, the Director concludes that discipline is not warranted.

FACTUAL FINDINGS

Respondent attorney Carol Overland's practice focuses on utility regulatory cases, and she frequently participates in administrative hearings. In 2024, Ms. Overland filed two "Fair Campaign Practices" complaints related to campaign activity in Red Wing, Minnesota by a candidate for mayor. Ms. Overland filed a complaint regarding the candidate's campaign sign on the roof of a private business and a complaint for the same candidate's alleged failure to disclose the in-kind campaign contribution implicated by the roof advertisement. Minnesota Statute § 211A.02 imposes reporting requirements on candidates who receive contributions or make disbursements over $750 in a calendar year.

In February 2025, hearings were conducted before a three-judge panel on both complaints. Judge Mortenson was one of the administrative law judges on the panel conducting the hearings. At the hearing on the first complaint, Judge Mortenson asked Ms. Overland whether she could distinguish her complaint from the Federal District Court's holding in *Minnesota Chamber of Commerce v. Gaertner*, 710 F. Supp. 2d 868 (D. Minn. 2010), which held that a portion of Minn. Stat. $ 211B.15, subdiv. 2, was unconstitutional. Ms. Overland was unfamiliar with the case but engaged in a colloquy with Judge Mortenson about whether the holding was applicable.

In recess, the panel determined that *Gaertner* was inapplicable to the issues presented in Ms. Overland's complaint—the court in *Gaertner* addressed a different provision from that at issue in Ms. Overland's complaint. Also during the recess, Ms. Overland reviewed case law, but mistakenly thought Judge Mortenson had referenced a different case, *Minnesota Chamber of Com. v. Choi*, No. 23-CV-2015 (ECT/JFD), 2025 WL 437276 (D. Minn. Feb. 7, 2025), a case she reviewed during the break.

During the hearing on the second complaint, Ms. Overland moved for Judge Mortenson's removal on the basis of bias against her, citing his questioning about the *Gaertner* holding during the prior hearing. Ms. Overland stated that Judge Mortenson's questions were "rather bizarre" and that she was "thinking that perhaps Judge Mortenson should be recused or removed . . . based on the absolute irrelevance of the case that I was to discuss that is about foreign corporations and [the] First Amendment, it has absolutely nothing to do with that case . . . and the same statutes in that case are applicable [here]." Ms. Overland continued, "In this case, this was misrepresented, it was grossly misrepresented, it's something that's not even relevant." The chief judge noted that Judge Mortenson had not made any specific statements and that there was no basis for a finding of bias. The chief judge accused Ms. Overland of violating the ethics rules in making her accusations about Judge Mortenson. The panel took a brief recess to consider Ms. Overland's motion. When the panel returned to the hearing, the chief judge stated that she did not have authority to remove Judge Mortenson and characterized Ms. Overland's motion as a request for Judge Mortenson to recuse himself. Judge Mortenson declined to recuse himself and the panel ultimately denied the motion in its written decision, finding that "merely inquiring about an inapposite case does not establish bias." The panel dismissed Ms. Overland's first complaint but found that the candidate had violated campaign reporting requirements under Minn. Stat. § 211A.02, as asserted in Ms. Overland's second complaint.

Following the panel's decision, Ms. Overland filed a motion for an order to show cause and then a motion for reconsideration based on the candidate's failure to correct his campaign finance reporting. These motions were denied and Judge Mortenson felt that the filings were frivolous and an abuse of process, stating:

> Indeed, Overland continues her frivolous attempts to relitigate the adverse final decision she received in one of the cases giving rise to this complaint, OAH 21-0325-40438. Overland, following receipt of the panel decision of March 7, 2025, filed a Motion for Order to Show Cause, despite the finality of the March 7 decision. Overland demanded that the pro se respondent be ordered to show cause why he should not be sanctioned for conduct well outside Overland's campaign complaint, an abuse of process that appears calculated to harass the respondent.

In his complaint to the Director's Office, Judge Mortenson also noted another incident involving Ms. Overland's intervention in a Minnesota Power project. This other matter implicated, among other public concerns, organized labor/union interests. Judge

Mortenson had explained to a union representative that he could not appear in a hearing in that matter without an attorney. Ms. Overland sent a letter to Judge Mortenson, copying the Chief Administrative Law Judge, arguing that Judge Mortenson's position regarding the union representative's appearance at the hearing was incorrect.

ANALYSIS

The standard of proof required in attorney disciplinary proceedings is "full, clear, and convincing evidence." *In re Nelson*, 733 N.W.2d 458, 461 (Minn. 2007). This standard is met when "the truth of the facts asserted is highly probable." *In re Disciplinary Action against Dedefo*, 752 N.W.2d 523, 529 (Minn. 2008). Clear and convincing evidence is established by more than a preponderance of the evidence but less than proof beyond a reasonable doubt. *Weber v. Anderson*, 269 N.W.2d 892, 895 (Minn. 1978).

Judicial and Legal Officials – Rule 8.2(a), Minnesota Rules of Professional Conduct (MRPC)

Rule 8.2(a), MRPC, provides that "[a] lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer, or public legal officer, or of a candidate for election or appointment to judicial or legal office."

Judge Mortenson felt that Ms. Overland's motion to recuse and related allegation that he exhibited bias during the administrative hearing were improper and implicated the ethics rules, as also noted by the chief judge during the hearing. Judge Mortenson also believes that Ms. Overland's motion at the February 2025 hearing and the previous letter related to the Minnesota Power case were improper. On the other hand, Ms. Overland felt that Judge Mortenson had asked her about the inapplicable *Gaertner* case to confuse her based on her past experiences with him. During this investigation, Ms. Overland stated, again, that the statutes at issue and the holding in *Gaertner* were not applicable to her campaign finance complaints—and, indeed, Judge Mortenson and the panel agreed that *Gaertner* was inapplicable to the issues raised in Ms. Overland's complaints.

Before the panel, Ms. Overland accused Judge Mortenson of "grossly misrepresenting" the relevance of the *Gaertner* case. When she was doing so, Ms. Overland noted that she thought he was referring to a different case that was inapplicable—*Choi*, which, like *Gaertner*, also addressed Minn. Stat. § 211B.15. Neither case—*Gaertner*, the case Judge Mortenson referenced, or *Choi*, the case Ms. Overland thought he referenced—was relevant to the campaign complaint. Because she misunderstood the case Judge

Mortenson was referencing, Ms. Overland assumed he was misrepresenting the facts and relevance because they did not match what she read over the break in the hearing. Ms. Overland did not stop to think whether she was missing something but instead believed that in fact Judge Mortenson was misrepresenting the facts. Although Ms. Overland's statement is false, it cannot be considered a knowingly false statement given her own error.

However, whether Ms. Overland exhibited a "reckless disregard" in her statements is a closer question. It is common for judges to ask about the applicability of case law during hearings and attorneys are expected to provide a response to facilitate a better understanding of the presented legal issues. Sometimes, judges may ask about cases that are arguably or even clearly not relevant, as Judge Mortensen apparently did here. Judges make mistakes. It is for the advocate to respond to the court's questions and use the opportunity to distinguish case law and redirect the court to legal principles that support their client's position. Ms. Overland herself was mistaken in that she did not review the case Judge Mortensen was referencing during the break, and her review of a different case led her to a mistaken conclusion, that Judge Mortensen was misrepresenting a decision.

It is hard to say, however, that Ms. Overland acted with reckless disregard because she believed what she was stating based upon her own error. In this matter, there is insufficient clear and convincing evidence that Ms. Overland exhibited a reckless disregard as to the truth of statements she made. The Director nonetheless strongly cautions Ms. Overland to exercise better judgment when advocating for her clients and positions—she should be able to distinguish a case or otherwise challenge the merits of a judicial officer's statements, even when mistaken or off point, and even when her own assumptions suggest they are really off point, with a more measured approach that challenges the legal position, not the judicial officer.

Ms. Overland also accused Judge Mortenson of exhibiting bias. Ms. Overland stated that her belief was based not only on Judge Mortenson's questioning at the hearing but also their past dealings in other administrative law cases, including the Minnesota Power case Judge Mortenson mentioned in his complaint. Ms. Overland also referenced another case from 2015, where Judge Mortenson did not permit her client to testify under oath and denied her request to submit certain evidence she felt should have been admitted at an administrative hearing. Ms. Overland's statements about Judge Mortenson were based on her subjective belief that he was treating her unfairly based on their history. The Director found Ms. Overland to be credible when relating her position and that her belief was sincere— therefore, her statements could not be considered false or reckless. However, again, the Director cautions Ms. Overland to more carefully consider arguments for recusal. Rule 8.2(a), MRPC, exists because reckless or knowingly false statements about judicial officers undermine public confidence in the administration of justice. Advocates and judicial officers may disagree, and both may hold opinions about the qualifications or skills of the other, but such opinions should not influence how professionals do their job. And before casting allegations of bias, advocates should be very clear on the correctness of their factual basis before doing so. Ms. Overland was mistaken and drew conclusions based upon that mistake, and although a close questions, not necessarily reckless.

Under these circumstances, there is insufficient clear and convincing evidence of a violation of Rule 8.2(a), MRPC.

Meritorious claims – Rule 3.1, MRPC

Rule 3.1, MPRC, provides that a lawyer "shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law."

Judge Mortenson expressed concern that Ms. Overland's post-decision motions were frivolous attempts to relitigate the dismissed campaign finance complaint. Ms. Overland stated that her motions properly raised the issue that the candidate had not followed through on his statement, under oath at the hearing, that he had a receipt for the payment related to the roof sign and intended to correct the campaign finance report with the information.

Here, the related finding of fact stated, "Respondent paid the invoice during the week prior to the evidentiary hearing and intends to file an updated Campaign Finance Report reflecting that disbursement once the check he wrote to Wylie Wilson Truckin' Inc. has cleared." Ms. Overland stated that an appeal would not have been appropriate because she would have been limited to the record. Minnesota Rule 1400.8300 identifies several bases for motions for reconsideration or rehearing in administrative hearings, including "material evidence newly discovered that with reasonable diligence could not have been found and produced at the hearing," "mistake," or where, "the decision is not justified by the evidence." Minn. R. 1400.8300(C), 1400.8300(E), 1400.8300(F).

While it is not the Director's role to determine whether Ms. Overland's position in the order to show cause and motion for reconsideration was correct, she apparently had a good-faith basis for seeking relief—i.e., that the candidate had not actually disclosed proof of payment or revised the campaign finance report to reflect the in-kind contribution as they testified they planned to do. The rule provides an opportunity for such rulings to be reconsidered, and Ms. Overland is correct that the new information –

that the candidate had not, as of the date of her filing, disclosed the receipt –would not have been a part of the record on appeal. Based upon this, Ms. Overland believes she had a good-faith legal and factual basis to assert her claims. The Director is not a subject matter expert on administrative law proceedings so cannot comment on whether the motion for an order to show cause and reconsideration was the appropriate manner to raise the point that Ms. Overland was attempting to make, but Ms. Overland's explanation demonstrates that she was not frivolously attempting to collaterally attack a ruling but rather following up on material evidence (or the absence thereof) that was part of the record the panel relied upon to dismiss the first complaint.

Therefore, the Director finds that there is insufficient clear and convincing evidence that Ms. Overland violated Rule 3.1, MRPC.

CONCLUSION

For the reasons stated above, the Director concludes that no discipline is warranted.