

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

In the Matter of the Application of
Minnesota Power and American
Transmission Company, LLC for a
Certificate of Need and Route Permit
for the Iron Range – St. Louis County
– Arrowhead 345 kV Transmission
Project

**ORDER DENYING REQUEST FOR
DISQUALIFICATION**

This matter is pending before Chief Administrative Law Judge Jessica A. Palmer-Denig upon a request for disqualification of Administrative Law Judge Jim Mortenson submitted by Carol A. Overland (Overland), pursuant to affidavits and exhibits filed with the Minnesota Public Utilities Commission (Commission) on July 1 and 2, 2026.¹

Having reviewed the files and record related to the request for disqualification, and as explained in the accompanying Memorandum, the Chief Administrative Law Judge issues the following:

ORDER

The request for disqualification of Administrative Law Judge Jim Mortenson is **DENIED**.

Dated: July 27, 2026


JESSICA A. PALMER-DENIG
Chief Administrative Law Judge

¹ Affidavit of Carol A. Overland Regarding Prejudice and/or Bias Regarding ALJ Jim Mortenson (June 26, 2026) (eDocket No. 20266-233633-01) (Affidavit); Second Affidavit of Carol A. Overland Regarding Prejudice and/or Bias Regarding ALJ Jim Mortenson (July 2, 2026) (eDocket No. 20267-233779-01) (Second Affidavit).

MEMORANDUM

The Commission referred this matter to the Court of Administrative Hearings and requested that an administrative law judge preside over joint public hearings for a certificate of need and route permit application, issue Findings of Fact, Conclusions of Law, and a Recommendation on the merits of the route selection and any permit conditions, and prepare a summary of public comments regarding the public hearing as to the certificate of need.² Administrative Law Judge Jim Mortenson was appointed to adjudicate this case.

Overland has submitted two affidavits requesting that Judge Mortenson be disqualified from presiding over this matter and all other proceedings in which she appears for a client. Minn. R. 1400.6400 (2025) governs disqualification in contested cases under Minn. Stat. §§ 14.57-.62 (2024) and provides that a party may file an affidavit of prejudice seeking disqualification. The rule states:

The judge shall withdraw from participation in a contested case at any time if he or she deems himself or herself disqualified for any reason. Upon the filing in good faith by a party of an affidavit of prejudice, the chief judge shall determine the matter as a part of the record provided the affidavit shall be filed no later than five days prior to the date set for hearing. A judge must be removed upon an affirmative showing of prejudice or bias. A judge may not be removed merely because of rulings on prior cases.³

The Commission did not refer this matter for contested case proceedings, so Minn. R. 1400.6400 does not apply. Nonetheless, it is clear that administrative law judges must remain free from bias and prejudice when performing their judicial duties regardless of the application of this specific procedure.⁴ Therefore, consistent with Minn. R. 1400.6400, the Chief Judge has reviewed this matter and makes this Order as a part of the record.

Overland identifies two bases for disqualification. First, she maintains that Judge Mortenson is biased because he submitted a complaint regarding Overland to the Office of Lawyers Professional Responsibility (OLPR) related to Overland's conduct in proceedings before him.⁵ That complaint was resolved following an investigation by the OLPR with the issuance of the OLPR Director's Determination that Discipline is Not Warranted on October 31, 2025.⁶ Second, Overland asserts that Judge Mortenson is

² Order (July 1, 2026) (eDocket No. 20267-233654-01).

³ Minn. R. 1400.6400.

⁴ See Minn. Stat. § 14.48, subd. 3(d) (2024) (providing that administrative law judges are subject to the Code of Judicial Conduct); Code of Judicial Conduct Rule 2.2 (a judge "shall perform all duties of judicial office fairly and impartially"), Rule 2.3 ("A judge shall perform the duties of judicial office ... without bias or prejudice."), Rule 2.11 ("A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned" including when the judge "has a personal bias concerning a party or a party's lawyer.").

⁵ Affidavit, ¶¶ 6-10, Ex. A.

⁶ Affidavit, Ex. D.

biased based on her interactions with him during a prehearing conference in this matter.⁷ Overland alleges that Judge Mortenson failed initially to allow her to note her appearance for the record and then failed to identify her appearance in a prehearing order he subsequently issued.⁸

A judge must hear and decide matters assigned to that judge, except when disqualification is required under Rule 2.11.⁹ The first step in an analysis of this issue is to determine whether a judge is actually biased or whether the judge's impartiality might reasonably be questioned. Generally, a showing of prejudice or bias requires more than allegations related to disagreements over the applicable law, dissatisfaction with rulings in previous cases, or a fear of an unfavorable ruling in the current or future cases.¹⁰ Meeting the standard requires a substantial showing of facts that establish a decisionmaker is "actually biased with respect to factual issues being adjudicated."¹¹ "While removal is warranted when the judge's impartiality might reasonably be questioned, a petitioner's subjective belief that the judge is biased does not necessarily warrant removal."¹²

The Minnesota Board on Judicial Standards has issued Formal Advisory Opinion 2025-1 titled Judicial Disqualification Issues Arising from Party's or Attorney's Actions: *Should I Stay or Should I Go*, which discusses whether judges must recuse based on their complaints against lawyers made to disciplinary authorities. The Advisory Opinion states:

Recusal is generally unnecessary if an attorney's misconduct or impairment requires a judge under Rule 2.14 or 2.15 to report the attorney to the Office of Lawyers Professional Responsibility or take other appropriate action. "A judge should not be disqualified for faithfully performing the duties of his office." *U.S. v. Mendoza*, 468 F.3d 1256, 1261-63 (10th Cir. 2006).¹³ Recusal may be appropriate if the judge's report of the lawyer under Rule 2.14 or 2.15 occurred before the current case was assigned to the judge.¹⁴

⁷ Second Affidavit, ¶¶ 6-10.

⁸ *Id.*, ¶¶ 7, 9.

⁹ Code of Judicial Conduct Rule 2.7.

¹⁰ *Schweiker v. McClure*, 456 U.S. 188, 195, 102 S. Ct. 1665, 72 L.Ed.2d 1 (1982) (holding that a reviewing court starts "from the presumption that the hearing officers ... are unbiased. This presumption can be rebutted by a showing of conflict of interest or some other specific reason for disqualification.") (citations omitted).

¹¹ *A.M. v. Dist. of Columbia*, 933 F. Supp. 2d 193, 206-07 (D.D.C. 2013) (quotation omitted).

¹² *Hooper v. State*, 680 N.W.2d 89, 93 (Minn. 2004) (interpreting disqualification under the Code of Judicial Conduct).

¹³ In this case, the court held that "[u]nfavorable judicial rulings do not themselves call into question the impartiality of a judge. Nor do referrals for disciplinary review." *Mendoza*, 468 F.3d at 1262 (citation omitted).

¹⁴ Advisory Opinion 2025-1 at 5.

Therefore, in Minnesota, as in other jurisdictions, recusal or disqualification is not automatically required when a judge has reported a lawyer to disciplinary authorities.¹⁵

Judge Mortenson filed a complaint regarding Overland with the OLPR in April 2025, related to Overland's conduct toward him in a hearing in February 2025, and referencing earlier proceedings before him.¹⁶ Judge Mortenson also submitted a letter responding to Overland's OLPR response on May 20, 2025.¹⁷ According to the complaint, Judge Mortenson believed that Overland made baseless claims of bias against him.¹⁸ The OLPR Director determined that discipline was not warranted, but did investigate the matter, "strongly caution[ed] Ms. Overland to exercise better judgment when advocating for her clients and positions," and counseled her to "more carefully consider arguments for recusal."¹⁹ This complaint was resolved with the Director's decision, as Judge Mortenson did not appeal.

It is possible in some circumstances that a judicial officer's complaint against an attorney could give rise to a concern about the judicial officer's impartiality or create evidence of actual bias. That is not the case here. Judge Mortenson's complaint had a narrow scope relating solely to concerns about the basis for Overland's accusations of judicial bias.²⁰ It has been over one year since Judge Mortenson's last participation in the complaint process, and the complaint is fully resolved. There is no evidence of any ongoing personal issue related to the complaint or between Judge Mortenson and Overland in this matter or any other. Under these circumstances, the Chief Judge does not find a sufficient basis exists to disqualify Judge Mortenson in this case or to preemptively disqualify Judge Mortenson in all future matters in which Overland participates on behalf of a client.

¹⁵ *In re Disqualification of Lynch*, 135 Ohio St. 3d 1277, 1278-79, 986 N.E.2d 1000, 1001-02 (Ohio 2013) (holding that disqualification of judge who made a disciplinary report regarding a lawyer was not required, judge's belief that she had duty to report did not create an appearance of impropriety, and that the appearance of bias or prejudice must be compelling to overcome presumption that judges can set aside influences and decide cases based on the law and facts); *5-H Corp. v. Padovano*, 708 So.2d 244, 247-48 (Fla. 1997) (judges who reported attorney to the state bar were not disqualified, disqualification under these circumstances could discourage judges from fulfilling their responsibility to report questionable attorney behavior, and the fact that the bar ultimately dismissed the complaint against the attorney was not determinative); *State v. Mata*, 71 Haw. 319, 323-25, 789 P.2d 1122, 1124-26 (Haw. 1990) (judge had a duty to report violations of ethical rules by attorney and to respond to inquiries of disciplinary authorities, and doing so did not establish bias or require judge's disqualification); *see also Henderson v. Dep't of Pub. Safety and Corrections*, 901 F.2d 1288, 1295-96 Cir. 1990) (considering requirement in federal law that a judge shall recuse if the judge has personal bias or prejudice concerning a party or if the judge's impartiality might reasonably be questioned, and noting that in order for bias against an attorney to require disqualification, the bias must be of a "continuing and personal nature"); *In re Beard*, 811 F.2d 818, 830 (4th Cir. 1987) (same).

¹⁶ Affidavit, Ex. A.

¹⁷ *Id.*, Ex. C.

¹⁸ *Id.*, Exs. A, C.

¹⁹ *Id.*, Ex. D at 4.

²⁰ *See* Minn. R. Prof. Conduct 8.2(a) ("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").

The Chief Judge also does not find evidence of bias or partiality with regard to Judge Mortenson's conduct at the prehearing conference or related to the text of Judge Mortenson's prehearing order. Overland asserts that Judge Mortenson did not recognize her at the outset of the proceeding in order to allow her to note her appearance on behalf of her client, World Organization of Landowner Freedom or W.O.L.F. Neither Overland nor W.O.L.F. are parties to this matter and they are currently participating in this proceeding as members of the public.

The transcript of the prehearing conference reflects that Overland spoke on the record and identified that she represented W.O.L.F.²¹ Judge Mortenson did not fail to recognize Overland or prevent her from speaking during the prehearing conference. Indeed, Overland made several statements related to the public hearings and the availability of briefing and discovery. Overland also expressly notified Judge Mortenson that she was seeking his disqualification, and Judge Mortenson did not respond in a manner that indicates any bias or partiality. The record includes the following exchange:

JUDGE MORTENSON: Okay. Ms. Overland, I see there's like a hand raised on my screen. Go ahead.

MS. OVERLAND: Thank you. I do have a procedural or housekeeping issue here. On Friday I did file an affidavit of disqualification for prejudice and bias, and that is based upon your filing of a complaint against me with the Lawyer's Board of Professional Responsibility that was dismissed with discipline not warranted. And I did file this with all three of the Chief Judge's Assistants because I'm not sure about the confidentiality of that complaint that you made, but I did not hear back. But I did file that and that is pending.

JUDGE MORTENSON: Okay.

MS. OVERLAND: And I think you should be removed from this case because of prejudice and bias.

JUDGE MORTENSON: All right. Thank you.²²

The Prehearing Order Judge Mortenson issued on July 2, 2026, does not list Overland's appearance on behalf of her client.²³ The Judge's Order identifies the parties to this proceeding and the members of the Commission's staff who participated in the conference. This is a standard procedure for this Court's orders in Commission matters involving public participation. It does not indicate bias or partiality. Overland and W.O.L.F.'s participation in this case is well established in the Commission's dockets. Failing to list Overland and W.O.L.F. in the introductory recitals in the Prehearing Order

²¹ Prehearing Conference Transcript (July 14, 2026) (eDocket No. 20267-234114-01).

²² *Id.* at 7-8.

²³ Prehearing Order (July 2, 2026) (eDocket No. 20267-233767-01).

does not impact their past or future participation in these proceedings.²⁴ In fact, the Prehearing Order specifically states that:

People who are interested in this project are invited and encouraged to participate in this standard review of the applications and need not intervene as a party. They can subscribe to the case using the PUC Docket number in eDockets and monitor filings and attend one of the public hearings. At the public hearings, anyone may make comments and ask questions of the Applicant and the PUC staff.²⁵

The Chief Judge takes complaints of judicial bias very seriously. The Chief Judge has fully reviewed and carefully considered Overland's request and determines that disqualification of Judge Mortenson is not warranted by this record.

J. P. D.

²⁴ See Minn. R. 1405.0800 (2025) (providing broad options for participation in Commission matters without the necessity of intervention).

²⁵ Prehearing Order at 1.