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May 6, 2006

Steve M. Mihalchick, ALJ
Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, MN 55401-2138

RE: In the Matter of a Petition by Excelsior Energy, Inc. for Approval of a Power Purchase Agreement under Minn. Stat. §216B.1694, and Determination of Least Cost Technology and Establishment of a Clean Energy Minimum Under Minn. Stat. §216B.1693.
MPUC Docket E/6472/M-05-1993
OAH Docket _____

Dear Judge Mihalchick:

Enclosed please find Petition for Intervention, Notice of Appearance, and Affidavit of Service in the above-entitled matter.

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

Very truly yours,



Carol A. Overland
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Enclosures

cc: Burl Haar, PUC
Julia Anderson, A.G. Commerce
Tom Osteraas, Excelsior Energy
Christopher Clark, Xcel
David Moeller, Minnesota Power
John Drawz, Great Northern Power Development

**BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

In the Matter of a Petition by Excelsior Energy, Inc.
for Approval of a Power Purchase Agreement under
Minn. Stat. §216B.1694, and Determination of Least
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MPUC Docket: E/6472/M-05-1993

OAH Docket:

PETITION FOR INTERVENTION

mncoalgasplant.com is an informal organization of landowners and residents in the immediate vicinity of Excelsior's "preferred" west site for its Mesaba coal gasification plant near Taconite, Minnesota. Members of mncoalgasplant.com will be directly affected by the outcome of this proceeding. Under the provisions of Minn.R. 1400.6200, subp.1, mncoalgasplant.com makes this Petition for an Order granting intervention as a full party, with all the rights of a party, in the above-captioned proceeding.

Excelsior Energy has Petitioned the Public Utilities Commission to force a Power Purchase Agreement (hereinafter "PPA") between Excelsior and Xcel Energy, claiming legislatively mandated entitlement. Minn. Stat. §216B.1693; 216B.1694. The Mesaba project lives or dies by this agreement – the PPA is Excelsior's equity in the project, and without the Power Purchase Agreement and the equity it provides, the project will not go forward.¹ In order to claim its "entitlement," Excelsior must meet many conditions for the initial 450MW PPA, particularly that this plant can provide a "long-term supply contract at a hedged, predictable cost," "taking into consideration the project's economic development benefits to the state, the use of abundant domestic fuel sources, the stability of the price of the output from the project, the project's potential to contribute to a transition to hydrogen as a fuel resource, and the emission reductions achieved compared to other solid fuel baseload technologies." Minn. Stat.

¹ See Initial Filings, Attachments, "Deploying IGCC In This Decade with 3 Party Covenant Financing, Vol. I & II" bcsia.ksg.harvard.edu/BCSIA_content/documents/igcc_vol1.pdf; bcsia.ksg.harvard.edu/BCSIA_content/documents/igcc_vol2.pdf; see also "Financing IGCC – 3 Party Covenant" bcsia.ksg.harvard.edu/BCSIA_content/documents/FinancingIGCC.pdf.

§216B.1694, Subd. 1(2); Subd. 2(7). In its Petition, Excelsior reaches further, demanding a PPA for a percentage of Xcel's baseload as a "Clean Energy Technology," which requires that the Commission find this plant "is or is likely to be a least cost resource, including the costs of ancillary services and other generation and transmission upgrades necessary." Minn. Stat. §216B.1693(a). This project is exempt from the Certificate of Need requirement, but in many ways this PPA proceeding serves the same purpose through demonstration of "least cost resource" and an evaluation of economic benefits provided. Minn. Stat. §216B.1694, Subd. 2(1). A "Public Interest Determination" must be made as a part of this analysis.

mncoalgasplant.com is an informal association of landowners and residents of the area immediately adjacent to the "west" site northeast of Taconite. Two members are landowners who live on Dunning Lake, and eight others are landowners who live along Diamond Lake and Diamond Lake Road. Others own property in the area and will be affected by the plant and connecting infrastructure. If the Mesaba project goes forward mncoalgasplant.com members will have Mesaba infrastructure -- railroad tracks, transmission lines, a 24" natural pipeline and a very, very large water pipe capable of handling 6,500 gallons per minute -- all across their land. In addition, Scenic Hwy. 7 is going to be rerouted for the Mesaba project, and Diamond Lake Road, now a dirt path, will be rebuilt as the new "Scenic" Hwy. 7, expanding into the property of mncoalgasplant.com members, and this new road will become the principal access road for the Mesaba plant. All this new infrastructure is necessary because, contrary to the legislation, the site chosen has no infrastructure whatsoever. In addition to the physical intrusions of infrastructure, mncoalgasplant.com members will experience a fundamental change in their community and the noise, truck traffic, 100+ car coal trains, dust, water contamination and emissions of this plant. mncoalgasplant.com interests are not represented by any other party..

mncoalgasplant.com seeks Intervention for the purpose of addressing the statutory PPA provisions and necessary cost calculations from a perspective not taken by any other party because of the direct impact of this proposed gasification plant and ancillary services and transmission. In addition, the function of the "3 Party Covenant" financing model used for this project is to shift the cost, risk and burden of a private for-profit enterprise onto the public, and if this is done, mncoalgasplant.com members

will bear a disproportionate share of that burden. See Initial Filings, *supra* fn. 1. This PPA docket is a critical undertaking of first impression at the PUC, and as said by staff, “[t]he Commission is faced with applying two new, complicated statutes that raise difficult issues.” Staff Briefing Papers, p. 4, April 6, 2006. mncoalgasplant.com requests Intervention to address the application of these laws, the formation of issues to be raised in that process, evaluation of economic development benefits provided by the project, project costs incurred by entities other than Excelsior, and a very close scrutiny of characterization of the costs of this project. mncoalgasplant.com has been participating at the local and legislative level to address Excelsior’s transfer of costs to the public, and will continue this participation to address the “Public Interest Determination” necessary in this proceeding.² Transfer of costs from a private enterprise to the public has a significant impact on the project as a “least cost” option. mncoalgasplant.com seeks intervention to assure costs are considered in the Commission’s calculation.

mncoalgasplant.com, as landowners whose land will be condemned for four or five different types of invasive and pervasive utility infrastructure, have an interest in this proceeding, including cost calculations and the “Public Interest Determination” for this project, and in assuring that review of the statutory criteria considers the full range of costs and benefits. As landowners directly affected by this project, no other party in this proceeding represents their interest.

mncoalgasplant.com requests Intervenor status as a full party with all the rights of a party in the above-captioned Excelsior Power Purchase Agreement proceeding.

Dated: May 6, 2006


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² These exemption bills were introduced without knowledge of the local governments, and when Itasca County learned of these bills, the Board immediately passed a Resolution that the legislation be amended to require local government approval and a Host Fee Agreement. SF 2750 has been amended to reflect the County’s position, but HF 3020 has not. At this time, exemption and bonding legislation are moving targets, and the impact on cost to this project is unknown.

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OAH Docket:

NOTICE OF APPEARANCE

You are advised that the party named below will appear for mncoalgasplant.com in the
above-entitled matter:

NAME OF PARTY:	Carol A. Overland Attorney at Law
ADDRESS:	OVERLAND LAW OFFICE 402 Washington St. So. Northfield, MN 55057
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Dated: May 6, 2006



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