

THE
PUBLIC SERVICE COMMISSION
OF WISCONSIN

Joint Application of Minnesota
Power Company and Wisconsin
Public Service Corporation for
Authority to Construct and Place
in Service Electric Transmission
Lines and Other Electric Facilities
for the Arrowhead-Weston Project,
Located in St. Louis County in
Minnesota and Chippewa, Clark
Douglas, Lincoln, Marathon, Oneida,
Price, Rusk, Sawyer, Taylor and
Washburn Counties in Wisconsin.

Docket No. 05-CE-113

**REPLY OF INTERVENOR
WORLD ORGANIZATION FOR LANDOWNER FREEDOM (W.O.L.F.)
TO ATC MOTION TO RECONSIDER REOPENING OF THE ARROWHEAD DOCKET**

Applicant American Transmission Company, has submitted a letter, dated September 16, 2005, to the Commission, which was deemed by the Commission as a Motion, and notice of this determination was provided by email to parties on September 22, 2005. Because this letter was not identified as a Motion by ATC, and was notified of this determination on September 22, 2005, W.O.L.F. is assuming that the 10 day reply timeline under begins upon that notice of the Motion sent and received on September 22, 2005.

ATC's letter is simple, consisting of just one paragraph:

Applicants are delighted to report that they have reached an agreement with Douglas County allowing the Arrowhead-Weston transmission project to be built on lands owned by Douglas County. Therefore, the project may be built on the Douglas County route as originally approved by the Commission in its October 31, 2001 order. Because there is no longer a need to consider alternative routes in Douglas County, Applicants request that the Commission reconsider its February 14, 2005 decision to reopen this docket. The Applicants will soon be notifying all of the property owners on the proposed alternative routes that these routes are no longer being considered.

Notably, a copy of the Settlement Agreement was not served on the parties with ATC's letter.

Settlement agreements have an impact beyond the direct impact on the parties of the Agreement. In an administrative proceeding, the agency should not close a docket without first securing a copy of the Agreement for the file, assuring that all parties have been served with a copy of the agreement, and then the Commission must review the Agreement to assure that it addresses all issues pending. Intervenors other than those party to the Agreement must have an opportunity for review and comment, as must the general public, many of whom are affected landowners who likely did not or will not receive the largess of benefits that Douglas County will receive as a result of this Agreement. Because this Agreement is only a part of a much larger proceeding, the interests of Intervenors and the public interest must be taken into account. If, after review, the Commission determines that all issues are indeed addressed, that the Settlement Agreement is equitable, and has addressed issues in a manner that is not injurious to the public interest, then it may be appropriate to close the docket.

For example, in the Chisago proceeding, Xcel filed a copy of its agreement between the utility and the cities of St. Croix Falls and Taylors Falls with the PSC.¹ In the Chisago case, as with the Arrowhead, there were Intervenors other than those party to the Agreement whose interests may be affected by the Agreement. In the Chisago case, impacts extended to Circuit Court proceedings, which were properly dismissed after Court review of the Agreement in light of various interests of the parties.² Impacts were broader than apparent through side deals which have been acknowledged but have never been publicly disclosed.

The route approved by the Commission passes through approximately 2.5 miles of land owned by Douglas County for which there are no existing utility easements that would permit adding a line. Other portions of the approved route cross county lands with easements that permit rebuilding. Since

¹ See WI-PSC Dockets 1515-CE-102 & 4220-CE-157, Settlement Agreement, Exhibit A, Response Comments of Xcel Energy and Dairyland Power Cooperative on Scope Change, dated December 12, 2001.

² See *Concerned River Valley Citizens v. Public Service Commission of Wisconsin*, Polk County Circuit Court, Branch 2, Court Files: 99-CV-232 and 99-CV-236.

applicants will be assigned these existing easements from the easement holders, the Board's vote only impacts the 2.5 miles where either there are no existing easements or the existing easements do not permit adding a line.³

According to *The Country Today*, September 21, 2005, p. 3A, "[T]he company and county officials have declined to discuss details about exactly how much American Transmission will pay for the easements, but Mr. Williamson has said it would be less than \$1 million." The Commission and all intervenors and landowners affected by this transmission line have an interest in the details of this settlement, including but not limited to: amounts of payments to the County for 2.5 miles of easements, legal fees, costs or other payments; whether there are side deals not addressed in the main agreement, such as those associated with the Chisago Agreement; and the relation of settlement proceeds to construction incentives under Act 204.

At this time, W.O.L.F. requests service on all Intervenor of the Douglas County Agreement and filing of this Agreement with the PSC. W.O.L.F. also requests that ATC's Motion for reconsideration of the reopening of the Arrowhead docket be denied. The parties and the Commission must have time to review the agreement between the parties and determine whether closure of the docket is the appropriate choice.



Dated: September 26, 2005

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³ Appendix B, p. 2 of March 15, 2005 letter to Sec. Christy Zahner, PSC from Lauren Azar, ATC; from Applicant's

Certificate of Service

Carol A. Overland, attorney for World Organization for Landowner

Freedom, certifies that I have served the following parties by email this 26th day of

September, 2005 at the following addresses listed in the PSC email Service List:

Amberg, Deborah MP <damberg@allete.com>, Azar, Lauren L. <lazar@michaelbest.com>, Ceel, Forrest L. <fceel@ibewlocal2150.com>, Taylor, Gerald and Linda <hillside@centurytel.net>, Chalfant, Alan <achalfant@consultbai.com>, Clifford, Linda WIEG <lclifford@gklaw.com>, Crocker, George <gwille@mtr.org>, Cullen, Lee ELCW <cullen@cwpb.com>, Day, Warren J. <wjday@attglobal.net>, Dums, Dennis CUB <dums@wiscub.org>, Edgar, George CUB <gre@weccusa.org>, Gallucci, Anita MEUW <agallucci@boardmanlawfirm.com>, Garvey, Edward R. <garvey@garveystoddard.com>, Gustafson, Earl WPC <gustafson@wipapercouncil.org>, Hartman, Elizabeth WPPI <ehartman@wppisys.org>, Hemaidan, Jordan J. <jjhemaidan@michaelbest.com>, Hough, James WEDA <hough@hamilton-consulting.com>, Johnson, Douglas Q. <dgj@supranet.net>, Landsman, Jeff DPC <jlandsman@wheelerlaw.com>, Lewandowski, Richard <rjl@dewittross.com>, Lindholm, Bob MP <blindholm@mpower.com>, Loehr, Kira <kloehr@cwpb.com>, McGillivray, Pamela SOUL <mogillivray@garveystoddard.com>, Moghadam, B.J. <bmoghadam@cwpb.com>, Nekola, Katie <knekola@cleanwisconsin.org>, Pirlot, R.J. WMC <rjpirilot@wmc.org>, Rasmussen, Pamela NSP-W <pamela.jo.rasmussen@xcelenergy.com>, Reuter, Bart WPSC <breuter@foleylaw.com>, Schmidt, Rebecca A. <schmidt@cwpb.com>, Stoddard, Glenn M. <stoddard@garveystoddard.com>, Stuart, Michael <mstuart@wppisys.org>, Sturgeon, Ritchie WPL <ritchiesturgeon@alliantenergy.com>, Thompson, Chuck DPC <cat@dairynet.com>, Valcq, Rebecca <Becky.Valcq@we-energies.com>, Will, Trevor J. <twill@foleylaw.com>, Gilles, Dave PSC <Dave.Gilles@psc.state.wi.us>, Lepinski, Jim PSC <Jim.Lepinski@psc.state.wi.us>, Ramthun, Diane PSC <Diane.Ramthun@psc.state.wi.us>



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