

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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**Chair
Commissioner
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In the Matter of the Application for a Certificate
of Need for the “Power on Midwest”
765kV High Voltage Transmission Line Project

DOCKET NO. ET3, E002/CN-25-117
CN-25-118, CN-25-119, CN-25-120

OVERLAND - LEGALELECTRIC – CERTIFICATE OF NEED REPLY COMMENT

The Comments of Commerce, MISO, and Joint Commenters were in lockstep inexplicably supporting both the notion that there are no contested issues of fact, and the use of a non-existent Certificate of Need “informal process.” Those Comments deserve refutation in a loud and strong Reply. The Commission should consider why these parties would assert such absurd positions, in concert, in this docket, the first of the 765kV transmission projects proposed in Minnesota. These projects are likely the most impactful in Minnesota transmission history. These parties’ claim that there are no contested issues of fact before any comments are even in the record and are lobbying for a reduction of process – an affront to affected landowners¹, the environment, the public, and the ratepayers.

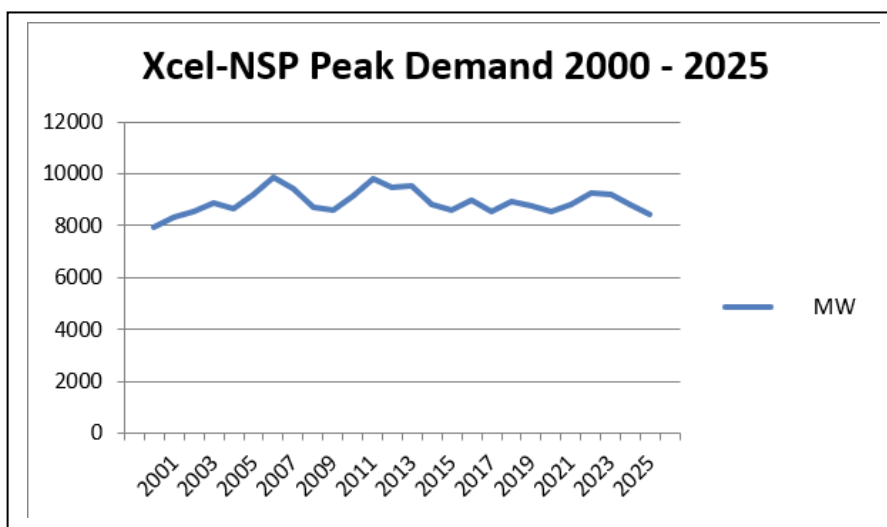
I. THERE ARE MANY CONTESTED ISSUES OF FACT, SUFFICIENT TO TRIGGER REFERRAL TO CAH FOR A CONTESTED CASE

There are many contested issues of fact, the primary one being whether the line is needed as defined by Minnesota statutes. Need for the line is an issue of fact, framed with these issues:

¹ Landowners did not receive notice of this comment period – how can they participate if they have no notice?

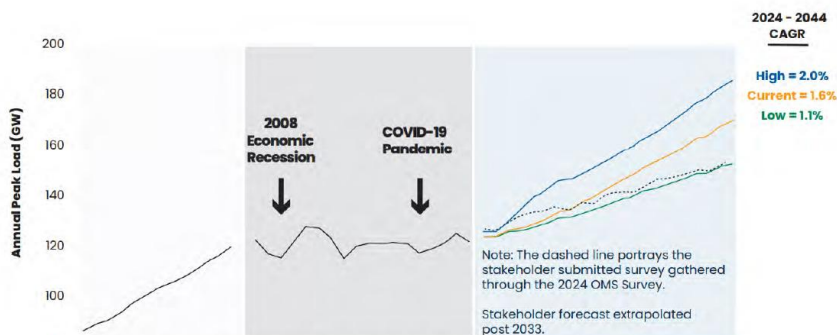
- The very essence of “need” is a contested issue of fact. Applicants rely on MISO for claim of need, citing Tranche 2.1 and MISO MTEP24², which is a regional transmission expansion and marketing plan, not a Minnesota need.
- Applicants repeatedly cite, as does MISO, the MISO “approval” of Tranche 2.1 as basis for Commission approval. MISO is not the regulator, and the Commission must not abdicate its regulatory authority.
- Xcel Energy’s peak demand is down, down 377MW from 2024, and down roughly 1,000MW from the 2006 high.

Xcel Peak	MW
2000	7,936
2001	8,344
2002	8,529
2003	8,868
2004	8,665
2005	9,212
2006	9,859
2007	9,427
2008	8,697
2009	8,615
2010	9,131
2011	9,792
2012	9,475
2013	9,524
2014	8,848
2015	8,621
2016	9,002
2017	8,546
2018	8,927
2019	8,774
2020	8,571
2021	8,837
2022	9,245
2023	9,231
2024	8,822
2025	8,445



Where Xcel Energy, the largest Minnesota utility, has had flat peak demand for 20 years, are we to believe the MISO forecast?

Figure 5.3-1: MISO Region Net Peak Load Expectations Over Time (1994 to 2044)¹³⁸



- The cost of the project is a contested issue of fact.

² MTEP = Midwest Transmission **Expansion** Plan. This is not a transmission reliability plan, whether adequacy or security, it is an EXPANSION plan.

- Project cost is an issue of fact because cost was estimated by MISO using 2023³ information. The application repeatedly claims the estimates are in 2024 dollars, but Futures 1A was issued in 2023. Acceptance of 2023
- Project cost is an issue of fact because cost has undoubtedly risen significantly, likely enough to trigger a MISO Tariff FF Variance Analysis as in the Northland Reliability Project CN-22-416.
- Project cost is issue of fact because cost has undoubtedly risen due to imposition of illegal tariffs.
- Project cost is at issue because the MISO cost estimate for projects 22, 23, 24 and 25 is \$4.251 BILLION, and covers projects with many miles in South Dakota and Iowa. The Application cost estimate for only the Minnesota portions ranges from \$3.327-\$4.343 BILLION, and Applicants define “High-Range” as “Base Plus Contingency,” despite “contingency” being a basic cost assumption in estimates. In essence, the Applicants estimate the Minnesota portions of MISO 22, 23, 24 and 25 as costing \$4.343 BILLION, more than the full MISO estimate for the entire projects, including Minnesota, South Dakota, and Iowa portions comprising MISO’s 22, 23, 24 and 25.

Table 2.4-1 Project Cost Estimate by Project Component		
Project Component	Base (\$2024)	High-Range (Base Plus Contingency) (\$2024)
765 KV TRANSMISSION LINES		
MN/SD State Line to Lakefield Junction	\$582 million	\$756 million
Lakefield Junction to MN/IA State Line	\$115 million	\$150 million
Lakefield Junction to Pleasant Valley	\$813 million	\$1.056 billion
Pleasant Valley to North Rochester	\$196 million	\$255 million
345 KV TRANSMISSION LINES		
Pleasant Valley to North Rochester	\$160 million	\$207 million
North Rochester to Hampton	\$74 million	\$96 million
SUBSTATIONS		
Lakefield Junction Substation	\$434 million	\$564 million
Pleasant Valley Substation	\$393 million	\$512 million
North Rochester Substation	\$553 million	\$718 million
Hampton Substation	\$7 million	\$9 million
PROJECT TOTAL	\$3.327 billion	\$4.323 billion

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- Capacity rating and operating range of the project a contested issue of fact,

³ See Application Appendix E, MISO’s MTEP24 Series 1A Futures Report issued in 2023!

⁴ Application, p. 37, Table 2.4-1.

ranging from 2,264⁵ to 3,000⁶ to 4000⁷ amps. The terms megavolt amperes, or MVA, or apparent power are not used in this Application.

- It is a contested issue of fact whether this, and MISO Tranche 2.1 as well, reduce CO₂ emissions. The application claims the project is needed to enable the energy transition, yet there is no discussion of retirement of coal/fossil generation west of Minnesota.

Enabling Generation Transition (Section 6.5)	5.6 TWh to 7.2 TWh reduced curtailment (annual)	Reduction in “wasted” energy from generators which safeguards system reliability, improves system efficiency, and reduces emissions.
	Enabled generation: 24 GW	New carbon-free generation which with the Studied Projects can be reliably interconnected to the grid.
	Reduction in CO ₂ emissions = 3.6 million tons (annual)	Studied Projects-enabled generation interconnections and reduced curtailment helps utilities to meet Minnesota’s Carbon-Free by 2040 law.

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- It is a contested issue of fact whether the 765kV projects are more than a Minnesota pass through. In its “Studied Projects,” Applicants have lumped not only MISO projects 22, 23, 24, and 26, but also 26, which is North Rochester to Columbia substation near Portage, Wisconsin.⁹
- It is a contested issue of fact what measure the claimed benefits of “Reliability Need,” “Cost Effectiveness/Economic Benefits” and “Enabling Generation Transition,” provide to Minnesota.¹⁰
- It is a contested issue of fact whether underground Direct Current is a reasonable and economic alternative. The permitting of the Soo Green transmission line along railroad easements, and the PJM “approval” of project a 185 mile underground transmission line with 6,000 MW capacity on Dominion right-of-way between Heritage substation near Freeman, Virginia and the Mosby substation near suburban Washington, D.C. in Aldie, Virginia¹¹, and two HVDC converters at each end of the line demonstrate that the economics of transmission and routing considerations have rendered DC underground as an alternative the Commission should consider.

There are other contested issues of fact, but this list should be sufficient to dispel the premature statements that there are no contested issues of fact and demonstrate that there are sufficient contested issues of fact to trigger referral to CAH for contested case proceedings.

⁵ Application, p. 182.

⁶ Application p. 32, 182.

⁷ Id.

⁸ Application, Table 6.0-1, p. 106.

⁹ Application, Section 6.1.

¹⁰ See Application, full Table 6.0-1 and Sections 6.3, 6.4, and 6.5.

¹¹ New HVDC Transmission Link from Heritage to Mosby - <https://www.pjm.com/-/media/DotCom/planning/rtep-dev/expan-plan-process/ferc-order-1000/rtep-proposal-windows/2025-rtep-window-1-redacted-proposals/2025-w1-815.pdf>

II. THERE IS NO “COMMISSION INFORMAL PROCESS”

Although Commerce, MISO, and Joint Intervenors state that the project should be reviewed under the “Commission’s informal process,” none of these commenters provided a citation in statute or rule for this “informal process.” Why? Because there is no such thing as an “informal process” for Certificate of Need review. The Commission had suggested this “Commission’s informal process” in the Notice of Comment period, and though no one can cite to a “Certificate of Need” informal process, the Initial Comments show just how suggestive Commerce, MISO, and Joint Intervenors are. Why might commentors adopt this notion?

Joint Commenters, for example, state:

While the scope and scale of the proposed transmission development is significant, we believe the project can be appropriately reviewed and analyzed within the context of the Commission’s informal docket procedures. We believe there are unlikely to be substantial disputes regarding the need for the line, which would necessitate a contested case proceeding. Following the Commission’s informal process would allow the Joint Commenters and the public to more fully and effectively participate in Commission proceedings.

For these reasons, we recommend that the Commission utilize its informal process to develop the record for this matter.

There is no citation to the “Commission’s informal process,” again, likely because there isn’t one. In a related docket, for connected 765kV transmission on the other side of the state, Joint Commentors stretched to justify dismissing contested case process and stated:

Given the amount of public engagement already generated by the proposed project, we believe utilizing the informal process is appropriate, as it would allow the Joint Commenters and the public to more fully and effectively participate in Commission proceedings. In the alternative, and if the Commission sees a need, it could appoint a hearing examiner for the purpose of developing a comprehensive record without requiring full contested case proceedings. In the Commission’s decision on application completeness related to the Big Stone South – Alexandria – Big Oaks Transmission Project, it requested the Office of Administrative Hearings (1) assign an administrative law judge as a hearing examiner for public hearings, consistent with Minn. R. 7850.3800; and (2) develop a full report based on the evidence developed through the informal and alternative review processes.⁵ While Minn. R. 7850.3800 has since been repealed, we are not aware of any prohibitions against employing a similar process in this proceeding. A primary goal of regulatory review is to ensure the public has an opportunity to express their opinions “on the necessity of granting a certificate of need.”⁶ Pairing public hearings with informal review—either with or without an administrative law judge overseeing the process—would facilitate public engagement and ensure a robust record is developed from which the Commission can make an informed decision.

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¹² Joint Commenters Initial Comment, p. 2-3, Gopher to Badger, CoN Docket 25-121.

Yes, it's quite a stretch to attempt to constrain Certificate of Need process citing a Routing rule, Minn. R. 7850.3800, and a repealed one at that! "... we are not aware of any prohibitions against employing a similar process in this proceeding." There is no basis whatsoever for the conclusion:

Pairing public hearings with informal review—either with or without an administrative law judge overseeing the process—would facilitate public engagement and ensure a robust record is developed from which the Commission can make an informed decision.

Id.

The Commission's rules provide for an "informal process" under very limited circumstances, that "informal or expedited proceedings may be used when contested case proceedings are not required, for example, when there are no material facts in dispute, or the parties and the commission have agreed to informal or expedited proceedings; or informal or expedited proceedings are authorized or required by statute." Minn. R. 7829.1200. In this case there are material facts in dispute; there are no parties at this time and no agreement for informal or expedited proceedings, and informal proceedings are not authorized or required statute. A 3 second internet search turns up this rule and verifies that it's inapplicable.

A reminder that appears necessary, and a reminder of the rulemaking mandate:¹³

216L.16 PUBLIC PARTICIPATION.

Subdivision 1. Public participation; generally.

The commission must adopt broad spectrum citizen participation as a principal of operation. The form of public participation must not be limited to public meetings and hearings and must be consistent with the commission's rules and guidelines under section [216L.26](#).

The Commission should exercise caution in suggesting an "informal process" as it did in this Notice, in essence directing Commentors to parrot the notion of "informal process." This

¹³ The Commission is also reminded of a decade of Minn R. ch. 7849 and 7850 rulemaking tossed out by the Commission. See R-12-1246.

raises the issue of Commission regulatory capture and calls into question the motivation and credibility of Commerce, MISO, Joint Commentors, and any others advocating for use of this non-existent “informal process.”

III. MINNESOTA STATUTE REQUIRES A JOINT PROCESS WITH CERTIFICATE OF NEED AND ROUTE PERMITS

As noted in the Initial Comment, this project should be reviewed in a joint proceeding for the Certificate of Need docket and the yet to be applied for Route Permit docket:

Unless the commission determines that a joint hearing on siting and need under this subdivision and chapter 216I is not feasible or more efficient, or otherwise not in the public interest, a joint hearing under this subdivision and chapter 216I must be held.

Minn. Stat. §216B.243, Subd. 4. Joint process also provides a more robust environmental review in an Environmental Impact statement.

That determination rejecting a joint hearing has not yet occurred, and should not, as a joint hearing is neither “not feasible or more efficient,” nor is it “not in the public interest.” A joint hearing is feasible, efficient, and is most certainly in the public interest.

IV. CONCLUSION

This Certificate of Need application is essentially complete and though Commerce did request additional information, information missing can be obtained through Information Requests. This is a problem because this is a shift of the burden of production to those seeking the information, likely to those with far less in resources than applicant or the funded participants or intervenors. This burden shift doesn’t go unnoticed.

Contested issues of fact focused on need, cost, and cost benefit have been raised, others as well, contested issues of fact sufficient to justify referral to the Court of Administrative Hearings for a contested case proceeding.

Despite the inclusion in the Notice “Topics for Comment,” the “Commission’s informal

process” does not exist, and informal process of any sort is not appropriate. Though not argued by any Commenter in this docket, an “informal process” as provided by Minn. R. 7829.1200 is inapplicable – it does not fit any of the three criteria.

Thorough environmental review is necessary, particularly where there are reasonable and available system alternatives.

This Certificate of Need application should be referred to CAH for a joint Contested Case process, with a stay of the Certificate of Need Application until the Route Application is filed, with multiple public hearings in the many counties along the route, a robust evidentiary hearing, and thorough environmental review as provided in an Environmental Impact Statement.

As noted in my previous comment, I have at least two clients on other issues, one a land use issue and another a wind lease, and they are likely directly affected, likely in the path of this transmission project.¹⁴ I’m weighing in, seeking, gathering additional information to gamble, to guess, whether it is worthwhile to intervene. This remains early in the process, whatever that process may be. A contested case may be requested at any time before the public hearing closes.

Thank you for the opportunity to file these comments in the “Power on Minnesota” transmission line dockets CN-25-117 (including CN-25-118, CN-25-119, and CN-25-120).



Dated: March 2, 2026

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¹⁴ This commenter also recognizes the scale and significance of the project. It was applicants’ choice to consolidate these many dockets with many miles of transmission and billions of dollars at issue. Much like the CapX 2020 Certificate of Need proceeding, it’s unwieldy!

