

**BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

**Katie J. Sieben
Hwikwon Ham
Audrey C. Partridge
Joseph K. Sullivan
John A. Tuma**

**Chair
Commissioner
Commissioner
Commissioner
Commissioner**

In the Matter of the Application for a Certificate
of Need for the Gopher to Badger Link
765kVHigh Voltage Transmission Line Project

DOCKET NO. ET3, E002/CN-25-121

In the Matter of the Application for a Certificate
of Need for the “Power on Midwest”
765kVHigh Voltage Transmission Line Project

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

SUPPLEMENTAL COMMENTS OF NORTH ROUTE GROUP AND NO765MN

AND

PETITION FOR CONSOLIDATION OF CN-25-121 AND CN-25-117

AND

REQUEST FOR LEAVE TO BEGIN DISCOVERY DURING STAY

**NOTICE: ANY PARTY OBJECTING TO THIS PETITION FOR CONSOLIDATION
SHALL SERVE AND FILE THEIR OBJECTIONS WITHIN TEN CALENDAR DAYS
FOLLOWING SERVICE OF THE PETITION FOR CONSOLIDATION.**

The North Route Group and NO765MN (hereinafter “NRG and NO765MN¹”) offer the

¹ For the record, it is “NRG and NO765MN” and not “Legalelectric group.” Unlike the “Joint Commenters,” these are distinct groups with distant locations, directly affected by differing transmission proposals in different segments, with some distinct non-conflicting issues, and some shared issues. “NRG and NO765MN” is the conjoined name of the party.

following Supplemental Comments regarding Applicants' Reply Comments filed on March 4, 2026 in the "Gopher to Badger" CN-25-121 docket and Applicants in the "Power on Midwest" CN-25-117 docket(s). NRG and NO765MN hereby petition the Commission for consolidation of Gopher to Badger CN-25-121 and Power on Midwest CN-25-117 (CN-25-117 was previously consolidated to include CN-25-118, CN-25-119, and CN-25-120. The 765kV projects are a connected web of transmission into and through Minnesota.

In the Gopher to Badger docket, CN-25-121, Applicants have changed their requested process from the non-existent "informal process" to one which is more fitting for review of such a large and novel transmission project – a stay of the Certificate of Need until the Route application is filed – NRG and NO765MN agree with this proposal, and it is much appreciated.

In the Power on Midwest docket, CN-25-117, Applicants urge the Commission to require requests for a Contested Case be accompanied with a Petition for Intervention. NRG and NO765MN's Supplemental comment does just that -- a Request for Contested Case and Petition for Intervention are attached and filed in addition to this Petition for Consolidation.

I. APPLICANTS NOW REQUEST THAT THE COMMISSION STAY THE CERTIFICATE OF NEED APPLICATION AND PROCESS IT JOINTLY WITH THE ROUTE PERMIT APPLICATION.

In the second paragraph of its Reply, the Applicants have taken a more realistic position on the procedure and timing for review of the Certificate of Need, stating:

... the Applicants that the Commission stay the Certificate of Need Application and process it jointly with the Route Permit Application, which applicants intend to submit this fall.

Applicant Reply Comment, p. 1.

... Applicants agree that a joint hearing is feasible and efficient and request that the Commission hold a joint hearing pursuant to Minn. Stat. §216B.243, Subd. 4.

... Because the Certificate of Need Application will be stayed until Fall 2026, the

Applicants respectfully submit that it is not necessary for the Commission to decide at this time whether the Certificate of Need will proceed under the informal process or be referred to a contested case. Rather, such a decision should be made after the Route Permit Application is filed to ensure consistent proceedings and reduce public confusion. In any event, Route Permit Application will proceed under the Major Review process and will allow ample opportunity for public participation, record development regarding route alternatives, and the preparation of an Environmental Impact Statement (EIS) – the topics which appear to be of primary interest to members of the public at this time.

Id., p.4. NRG and NO765MN ask that the Commission decision on Completeness precede a stay.

NRG and NO765MN agree with this request for a stay and greatly appreciate the Applicants' reappraisal of process. This stay and a joint proceeding will offer the public and Intervenors a wider range of opportunities for participation, which is, after all, the Commission's mandate. Minn. Stat. §216I.16. However, the Commission should address Completeness to facilitate Intervention and Discovery during the stay.

II. THE SCOPE AND BREADTH OF THESE PROJECTS COMPELS A STAY OF ALL THE INTERCONNECTED 765kV PROJECTS AND COMPELS REVIEW IN A JOINT PROCEEDING OF NEED AND ROUTE.

The Applicants' request for stay until the Route application is filed should also be adopted for the related, connected, 765kV routes comprising the group of Power on Midwest "Studied Projects." These "Studied Projects" include all of the consolidated "Power on Midwest" projects,² and at the very least those tied directly to the MISO #26 North Rochester – Columbia, in Minnesota known as Gopher-Badger, PUC Docket CN-25-121. These Power on Midwest projects directly connected to Gopher to Badger, CN-25-121, are:

MISO 22 Big Stone South–Brookings Co.–Lakefield Jct.	CN-25-117
MISO 24 Lakefield Jct.-Pleasant Valley-North Rochester	CN-25-119
MISO 25 Pleasant Valley-North Rochester-Hampton Corner	CN-25-120

² PUC Docket CN-25-117, now also including CN-25-118, CN-25-119, and CN-25-120.

These projects indeed “are all connected,” as we say in transmission. They are also inarguably connected to MISO 26, the Gopher-Badger transmission project, as demonstrated in the “Power on Midwest” choice of projects for analysis of “Studied Projects.”³

The “Power on Midwest” application demonstrates this connection and relies on the entire group of MISO’s 765kV projects for its need claim. Power on Midwest focuses on the “Studied Projects” for its need claim and argues that together MISO projects 22, 23, 24, 25 and also 26, North Rochester to Columbia, meet the three needs set out by applicants and MISO:

- **Reliability Need – Power on Midwest Application Section 6.3**
- **Cost-Effectiveness/Economic Benefits – Section 6.4**
- **Enabling Generation Transition – Section 6.5**

Power on Midwest Application, Section 6, pps. 105-146.

Due to this interconnection and reliance, these projects must be consolidated and be considered in a joint proceeding of Certificate of Need and Routes. Minn. R. 1400.6350. These cases present substantially the same issues of fact and law of a Certificate of Need proceeding. Because these transmission projects are inextricably connected, a holding in one case would affect the rights of parties in another case. Consolidating the cases for hearing would save time and costs. Consolidation would not prejudice any party. Consolidation should be granted as provided by Minn. R. 1400.6350.⁴

MISO’s 22, 23, 24, and 25 were earlier consolidated into the Commission’s CN-25-117, that is, CN-25-117 now contains CN-25-118, CN-25-119, and CN-25-120. The Gopher-Badger CN-25-121 was inexplicitly left separate despite its inclusion in the Power on Midwest “Studied

³ Application, Section 1.4, Section 6

⁴⁴ Minn. R. 1400.6350, rather than Chapter 1405, which is for review of routing dockets.

Projects,” and relied on for the Power on Midwest need claim⁵. That “Studied Projects,” showing the interconnection and interdependence of all these projects, is the basis for this consolidation request.

The scope and purpose and claimed need of these projects compels consolidation of all the 765kV projects and a stay of the Certificate of Need proceeding for all the interconnected 765kv projects as requested by applicants for the Gopher to Badger CN-25-121 project. On filing of the routing applications, these dockets Could then move forward in a joint proceeding as directed by statute. Minn. Stat. §216B.243, Subd. 4.

III. PARTIES SHOULD BE ABLE TO AVOID DELAY AND UTILIZE TIME UNTIL ROUTE APPLICATION IS FILED TO GATHER INFORMATION TO INFORM THE CERTIFICATE OF NEED RECORD.

The time from now until the filing of the route application offers a window to gather information that’s needed in the Certificate of Need docket, examples of which can be found in both NRG and NO765MN and the Department of Commerce-DER’s Initial Comments. Productive use of this time would help assure a timely review.

NRG and NO765MN have raised many issues of fact that must not be ignored⁶. Commerce-DER has raised similar issues of fact.⁷ Particularly crucial is updated information about cost, that is, seeking 2026 cost estimates rather than 2023 or 2024. Bearing in mind that MISO projects 22, 23, 24, 25, and 26 have several hundred miles in South Dakota, Iowa, and Wisconsin, what part of the **\$6.175 BILLION**⁸ cost estimates for these projects, analyzed as “Studied Projects,” are attributable to the Minnesota portions of those MISO Tranche 2.1

⁵ Id. Studied Projects.

⁶⁶⁶⁶ See attached NRG and NO765MN Request for Contested Case.

⁷ See Commerce-DER Initial Comment on Completeness, asking for much information, particularly regarding cost, while stating application is substantially complete.

⁸

projects? Transmission proposals of this magnitude are deserving of scrutiny. Inherent in this cost query, when considering the cost increases for the Minnesota parts of these projects, and the entire cost of the MISO 22, 23, 24, 25, and 26 projects used by MISO in its cost-benefit analysis, is whether that cost-benefit ratio calculated by MISO that was used to declare the projects economically sound still retains claimed benefits greater than the cost. Without updated project costs, without identifying costs attributable to the Minnesota parts of the projects, and without updated MISO cost-benefit analysis for all of these projects, we cannot say that the projects are or are not worthwhile. There is not sufficient information to support a Commission decision.

How do we get this crucial information? This is the type of information that is typically obtained through Information Requests. This raises procedural issues. Because the clock begins to tick when the Commission makes its “completeness” determination, and because discovery follows interventions, and interventions logically would not be granted until after a completeness determination by the Commission, the Commission should address procedure. As a demonstration of good faith, NRG and NO765MN have filed a Request for Contested Case and Petition for Intervention as requested by Power on Midwest, CN-25-117.

At this time, NRG and NO765MN request the Applicants Stipulate, and the Commission Order, the time period of the stay open for exchange of Information Requests of NRG and NO765MN and others seeking additional information, such as Commerce-DER, in the interim prior to Commission determination that the Certificate of Need application is complete and the filing of the Route application. A Commission granted discovery schedule⁹ incorporating this pre-Route-application window would enable a smoother proceeding by providing Applicants sufficient time to address reasonable Information Requests, and would avoid a delay caused by a

⁹ See attached pages of OAH Order for example of Discovery procedure.

flood of Information Requests at the time of the Route Application filing.¹⁰

In the alternative, NRG and NO765MN request that the Commission determine that the multiple applications are substantially complete and then grant Intervention for the purposes of initiating Discovery pending filing of the Route applications.

Scheduling is typically an agreement between the parties as a prelude to a Scheduling Order. NRG and NO765MN ask that Applicants of Gopher to Badger and Power on Midwest transmission work with interested parties to facilitate the Certificate of Need review process through agreeing to propounding discovery in this window prior to filing of the Applications.¹¹

IV. NRG AND NO765MN ATTACH OUR PETITION FOR A CONTESTED CASE AND MOTION TO INTERVENE, AND IF APPLICANTS AGREE TO DISCOVERY IN THIS INTERIM, REQUEST THAT COMMISSION ACTION BE STAYED PENDING THE ROUTE APPLICATION.

NRG and NO765MN request that Discovery in this Certificate of Need docket proceed in this interim time prior to filing of the Route application and the Commission's Completeness determination. The Request for a Contested Case and a Petition to Intervene is attached with the understanding that Applicants would like some certainty, given the request in the "Power on Midwest" CN-25-117 docket:

To allow for full development of the record—whether under the informal or contested case process—and also avoid potential schedule delays in the future, the Applicants respectfully request that the Commission decline to order a contested case proceeding at this time and request that **further contested case requests be submitted with a petition to intervene** and before the close of the scoping comment period in this matter to allow the Commission to resolve such requests when it considers the scope of the Environmental Report.

...

The Applicants further request that the Commission decline to order a contested case proceeding at this time and request that **further contested case requests be**

¹⁰ This timing is similar to the Wisconsin process, where the WI PSC staff issues intense Data Requests prior to the PSC's consideration of whether an application is complete. This process has been very helpful in gaining an understanding of the project.

¹¹ If Applicants are reluctant, the Commission could Order discussions, or issue a Discovery Order.

submitted with a petition to intervene and before the close of the scoping comment period.

Reply Comments, Power on Midwest, p. 2 and 15.

This is a reasonable request of Applicants, and NRG and NO765MN also agree that avoiding schedule delays and delays of review is desired. For this reason, attached please find a request for Contested Case and Petition to Intervene. To the extent that these dockets are all connected, NRG and NO765MN are submitting this Supplemental Comment, Request for a Contested Case, and Petition to Intervene to both dockets, not only the Gopher-Badger Certificate of Need docket CN-25-121 but also the Power on Midwest consolidated docket CN-25-117.

V. CONCLUSION

NRG and NO765MN agree with applicants that the Commission should stay the Certificate of Need Application and process it jointly with the Route Permit Application, and agree that a joint hearing is feasible and efficient and request that the Commission hold a joint hearing pursuant to Minn. Stat. §216B.243, Subd. 4. The 765kV dockets, those of Gopher to Badger and Power on Midwest, should be referred to the Court of Administrative Hearings for a Contested Case when Route applications are filed.

At this time, we request that the Certificate of Need dockets CN-25-117, already consolidated with three other dockets, and CN-25-121 be consolidated for the Certificate of Need as was done with CapX 2020.¹² At this time, we also request leave to proceed with Discovery beginning now and extending through whatever date specified in the future Scheduling Order issued by the Court of Administrative Hearings. Gathering information at this time pending filing

¹² See Commission docket ET-2, E-002, et. al./CN-06-1115 incorporated the Brookings to Hampton, Hampton to La Crosse, and Fargo to St. Cloud, reflecting the interconnected nature of these projects.

of the Routing applications will avoid delay.

Thank you for the opportunity to file these Supplemental Comments in the Gopher to Badger and Power on Midwest transmission line dockets.



Dated: March 9, 2026

Carol A. Overland MN Lic. 254617
Attorney at Law
Attorney for North Route Group and
NO765MN
1110 West Avenue
Red Wing, MN 55066
(612) 227-8638
overland@legalelectric.org

OAH 65-2500-40099
MPUC E-022/CN-22-532
MPUC E-022/TL-23-157

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

In the Matter of the Application of Xcel
Energy for a Certificate of Need and Route
Permit for the Mankato - Mississippi River
345 kV Transmission Line in Southeast
Minnesota

SECOND PREHEARING ORDER

The above-entitled matters came before Administrative Law Judge Ann C. O'Reilly for a prehearing conference on August 14, 2024.

Valerie T. Herring, Taft Stettinius & Hollister, LLP, and Lauren Steinhäuser, Xcel Energy Services Inc., appear on behalf of Xcel Energy (Xcel or Applicant). Also appearing on behalf of Xcel is Ellen Heine, Principal Siting and Land Rights Agent.

Katherine Arnold, Assistant Attorney General, appears on behalf of the Minnesota Department of Commerce (Department). Also appearing on behalf of the Department is Richard Davis, Environmental Review Manager for the Energy Environmental Review and Analysis unit (EERA), and Jamie MacAlister, Director of Regulatory Affairs for the Division of Energy Resources (DER).

Amelia Vohs and Abigail Hencheck appear on behalf of the Minnesota Center for Environmental Advocacy (MCEA), Fresh Energy, and Clean Grid Alliance (collectively the Clean Energy Organizations or CEOs).

Carol Overland, Legalectric, appears on behalf of NoCapX2020 and the Prehn Family.

Bret Eknes and Cezar Panait appear as staff for the Commission.

Between December 16, 2024 and January 7, 2025, the parties, in consultation with Commission staff, presented a revised prehearing schedule to accommodate the identification of additional routes and alternatives, as set forth in the Final Scoping Decision issued on December 2, 2024.

Based upon the stipulations of the parties and as approved by the Commission,

IT IS HEREBY ORDERED:

Parties to the Contested Proceedings and Intervention

1. **Deadline to Intervene.** Persons or entities that wish to intervene as parties in this proceeding must file a petition to intervene that complies with Minn. R. 1400.6200 (2023) no later than **4:30 p.m. on January 14, 2025**. Copies of the petition to intervene must be served upon the Administrative Law Judge, all existing parties and participants, and the Commission. A notice of appearance must be filed with the petition. Petitioners shall provide an electronic mail address on the petition or notice of appearance. **All intervenors will be held to the schedule set forth below.** Unless extraordinary circumstances exist, the schedule will not be modified to accommodate late intervention. Therefore, parties intending to intervene should do so as early in the process as possible.

2. **Objections to Intervention.** Any objection to a petition for intervention shall be filed within **seven (7) days** of the filing of the petition. See Minn. R. 1400.6200, subp. 2 (2023). The objection shall state the party's reasons for objection and shall be served upon the Administrative Law Judge, all existing parties and participants, and the Commission.

3. **Parties.** As of the Commission's Order on June 26, 2024, the only parties to this proceeding were Applicant and the EERA. On September 9, 2024, the Administrative Law Judge granted the intervention petition of NoCapX and the Prehn Family. On January 3, 2025, the Judge granted the intervention of the CEOs. Other persons or entities that wish to intervene as parties in this proceeding must file a petition to intervene that complies with Minn. R. 1400.6200 (2023) with the Administrative Law Judge as set forth above.

4. **Service List.** The service list has now been established for this matter and shall only be amended upon the granting of a petition to intervene by the Administrative Law Judge and the filing of a notice of appearance. Interested members of the public who are not on the service list are invited to receive notifications through the "Subscribe to Dockets" feature of the PUC's eDocket system. Only parties and intervenors shall file notices of appearance. All other interested individuals shall subscribe to the docket on the PUC's eDocket system. Filing a notice of appearance does not place a person or group on the official service list, nor does it grant a person or group party status.

5. **Public Participation.** It is not necessary to be an intervenor or party to participate in these proceedings. Members of the public are encouraged to submit written comments during the public comment period, appear at all hearings, and participate in the public hearings. The public hearings will be open to all members of the public and will provide opportunities for individuals and groups to present evidence and argument on the issues in each case. Members of the public may receive notices of filings and access to public documents filed in the case by subscribing to the docket on the PUC's eDocket system: [MN DOC Efiling \(state.mn.us\)](https://state.mn.us/mn-doc-e-filing). To subscribe, enter the docket number(s) of these proceedings. Upon subscribing to the docket, you will be provided with electronic notice of all filings, as well as access to the public documents filed in the case.

Prehearing and Hearing Schedule

6. Below is the prehearing and hearing schedule. The dates set forth below will only be modified by the Administrative Law Judge for good cause shown.

DATE	EVENT	DESCRIPTION
December 2, 2024	Environmental Impact Statement (EIS) Scoping Document	The Department shall issue the Environmental Impact Statement Scoping Document
January 14, 2025	Intervention Deadline	All petitions for intervention shall be served and filed by this date.
March 28, 2025	Direct Testimony Due	Direct testimony shall be served and filed by this date
April 25, 2025	Notice of Public Hearings Issued	The Commission shall issue and serve the Notice of Public Hearings. The Commission shall submit a draft of the Notice to the Administrative Law Judge for approval prior to publishing/issuing/serving.
May 5, 2025	Draft EIS Due	The Department shall issue the Draft Environmental Impact Statement (DEIS)
May 12, 2025	Rebuttal Testimony Due	All rebuttal testimony shall be served and filed by this date.
May 19, 2025	Surrebuttal Testimony Due	All surrebuttal testimony shall be served and filed by this date.
May 21, 2025	Third Prehearing Conference 9:30 a.m. via Microsoft Teams Join the meeting now	All parties and participants shall appear for a third prehearing conference to discuss hearing logistics. The prehearing conference shall be conducted via videoconference using Microsoft Teams (Teams). An electronic invitation will be provided to all parties and participants. Other interested parties may appear by telephone by calling <u>651-395-7448</u> and entering conference code 880 243 424#.

DATE	EVENT	DESCRIPTION
May 28, 2025	Service and Filing of Proposed Witness Lists, Proposed Exhibit Lists, and Proposed Exhibits	By 4:30 p.m. on May 28, 2025, the parties shall serve and file, in the eDockets system, their proposed witness lists and proposed exhibit lists. Proposed exhibit lists shall be clearly titled as: “[Party Name’s] Proposed Exhibit List.” The parties shall also circulate among themselves via email, their proposed exhibit lists. The parties shall include the Administrative Law Judge and the Court Reporter in the email circulation of the proposed exhibit list. The proposed exhibit list shall be in the template form provided by the court reporter so that it can be compiled by Applicant into a Master Exhibit List. At the conclusion of the hearing, Applicant shall prepare the Master Exhibit List using the template provided by the court reporter. The Master Exhibit List shall be given to the court reporter and filed in eDockets. The Master Exhibit list shall contain live links to the documents in eDockets and include the eDocket document number.
May 28, 2025	Draft Witness Summaries	By 4:30 p.m. on May 28, 2025, the parties shall file one- to two-page summaries for each of their witnesses and shall circulate a copy of those summaries to all parties via email prior to the third prehearing conference so that any objections can be addressed at that conference. The summaries shall be limited only to the subject matters and testimony provided in pre-filed testimony. No new matters shall be addressed.

DATE	EVENT	DESCRIPTION
May 27-29, 2025	Public Hearings In-person hearings and one remote hearing Notice will be provided pursuant to rule and law prior to the hearings.	The locations, dates, and times of the public hearings have yet to be determined. The parties shall cooperate with Administrative Law Judge in determining the dates, times, and locations for the public hearings prior to finalizing. Once the dates, times, and locations are selected, the Judge will issue a Second Prehearing Order with the information. There shall be in-person hearings and at least one remote (WebEx) hearing, as directed by the Commission. Public hearings start promptly at the start time and end when all persons present have had an opportunity to be heard. Therefore, it is important to arrive at the start time. The Commission shall issue a Notice of Public Hearings and Evidentiary Hearing with the dates, times, locations, and instructions on how to attend a virtual hearing (including links, codes, and passwords).
May 30, 2025	Evidentiary Hearing 9:30 a.m. Public Utilities Commission, 121 7th Place, 3rd Floor, St. Paul, MN	An evidentiary hearing will be held at the Minnesota Public Utilities Commission, commencing at 9:30 a.m. The parties may stipulate to some witnesses appearing remotely via Microsoft Teams. The parties shall arrange with Commission staff to obtain a video conference link. Commission staff will coordinate video capability for remote witnesses in the hearing room. Members of the public who wish to attend the hearing may do so in person.

DATE	EVENT	DESCRIPTION
June 10, 2025	Close of Draft EIS Informational Meeting and Public Hearing Comment Period	All public comments regarding the proposed project and the Draft EIS must be eFiled or receive by the Commission by 4:30 p.m. on June 10, 2025.
July 25, 2025	Final Environmental Impact Statement Due	The Department shall file the Final Environmental Impact Statement (FEIS).
August 1, 2025	Initial Post-Hearing Briefs Due ¹ Proposed Findings Due Applicant's Responses to Public Comments Due	By 4:30 p.m., the parties shall serve and file their Initial Post-Hearing Briefs and Applicant shall serve its Proposed Findings. In addition to serving and filing their briefs in the eDockets system, the parties shall provide the Administrative Law Judge with: (1) a paper copy of their Initial Briefs via personal delivery or U.S. Mail; and (2) a Microsoft Word version of their Initial Briefs via email at: ann.oreilly@state.mn.us. In addition to serving and filing its Proposed Findings in the eDockets system, Applicant shall provide the Administrative Law Judge with (1) a paper copy of its Proposed Findings via personal delivery or U.S. Mail; and (2) a Microsoft Word version of its Proposed Findings via email at: ann.oreilly@state.mn.us.

¹ Per the Commission's June 26, 2024 Order, the Certificate of Need Application is being handled through the informal process. The post-hearing briefs and findings of fact will address the Route Permit Application.

DATE	EVENT	DESCRIPTION
August 15, 2025	Responsive Briefs Due Revised Proposed Findings Due Public and Party Comments on Adequacy of FEIS Due	By 4:30 p.m., the parties shall serve and file their Response Briefs and their revisions to Applicant's Proposed Findings. Responding parties shall redline Applicant's Proposed Findings to indicate their proposed changes. In addition to serving and filing their documents in the eDockets system, the parties shall provide the Administrative Law Judge with: (1) a paper copy of their documents via personal delivery or U.S. Mail; and (2) a Microsoft Word version of their Responsive Briefs and Revised Proposed Findings via email at: ann.oreilly@state.mn.us .
October 30, 2025 ²	Administrative Law Judge's Report Due	The Judge shall file her Findings of Fact, Conclusions of Law, and Recommendation.
November 15, 2025	Exceptions Due	By 4:30 p.m., the parties shall serve and file their Exceptions to the Administrative Law Judge's Report

7. **Timeliness.** The Commission's Order for June 26, 2024, asked that the Administrative Law Judge submit her Report to the Commission by May 16, 2025. However, due to the Department's need for additional time to complete the Draft and Final Environmental Impact Statement, the Commission has consented to extend the deadline for the Administrative Law Judge's Report.

Public Hearings

8. **Public Hearings.** There will be in-person public hearings in the service area and at least one (1) virtual public hearing, depending on the requirements set by the Commission. The locations, dates, and times of the public hearings have yet to be determined. The parties shall cooperate with Administrative Law Judge in determining the dates, times, and locations for the public hearings prior to finalizing. Once the dates, times, and locations are selected, the Judge will issue a Third Prehearing Order with the information.

² This date was proposed by the parties and agreed to by Commission staff.

The Commission shall issue a Notice of Public Hearings and Evidentiary Hearing with the dates, times, locations, and instructions on how to attend a virtual hearing (including links, codes, and passwords). The Commission shall submit the Notices to the Administrative Law Judge for review and approval prior to service and publication. The Commission shall also file the Notices in eDockets.

Public hearings start promptly at the start time and end when all persons present have had an opportunity to be heard. Therefore, it is important to arrive at the start time.

Third Prehearing Conference and Evidentiary Hearing

9. **Third Prehearing Conference.** A third prehearing conference is scheduled for **9:30 a.m. on May 21, 2025**. This conference shall be conducted using **Microsoft Teams**. Attorneys for each party have been sent an electronic invitation for the third prehearing conference. Participants shall use the log-in link provided to them in that invitation to join the conference. Attorneys are responsible for ensuring that their clients are present at the conference and receive the electronic invitation to join the conference. The Judge will only be sending the invitation to the attorneys or to the named representative of a party should the party have no attorney of record.

10. **Location of Hearing.** The evidentiary hearing in this matter will be conducted **in person** at the **Office of the Public Utilities Commission**, 121 7th Place East, St. Paul, Minnesota, on **May 30, 2025**, commencing at **9:30 a.m.** The hearing is scheduled for one (1) day.

11. **Video Conference Option.** The parties may stipulate to some witnesses appearing for the evidentiary hearing via video conference using **Microsoft Teams (Teams)**. The parties shall confer and discuss this option prior to the Third Prehearing Conference on May 21, 2025. Commission staff shall operate, and coordinate appearances of witnesses appearing via Teams at the evidentiary hearing and shall provide counsel with electronic invitations for such appearances. Attorneys are responsible for ensuring that their witnesses who are appearing remotely receive the log-in link or electronic invitation so that they can join the video conference.

Discovery

12. **Requests for Information.** A party may serve requests for information on any other party. All requests for information shall be made in writing by electronic mail. The parties may use the eService function of the eDockets system to facilitate electronic service of information requests on any other party. Information requests shall not be filed or served on the Administrative Law Judge or the court reporter. Similarly, responses to information requests shall not be filed or served on the Administrative Law Judge or court reporter. Any request received by electronic mail or other means after 4:30 p.m. on a business day, on a weekend day, or on a Minnesota state holiday, is considered received on the next business day.

13. **Responses to Requests for information.** The party responding to the request shall provide the requested information to the requesting party within **eight (8) business days** of receipt of the information request. A business day does not include a weekend day or a Minnesota state holiday. In accordance with Minn. R. 1400.6100, subp. 1 (2023), the day that the information request is received is not counted in the eight-day period. If the request is received after 4:30 p.m. on a business day, the following business day is also not counted in the calculation of the eight-day response period.

Responses to information requests shall be submitted by electronic mail message. If expressly requested by another party, the responding party shall follow the electronic mail message with a copy of the response sent by regular U.S. mail or other delivery service. Any response received after 4:30 p.m. is considered to be received the following business day.

If the responding party is unable to send the response by electronic mail because of the volume or nature of information included in a response, the responding party shall send the response by U.S. mail or delivery service so that the requesting party receives the entire response including any material designated as Trade Secret or Nonpublic by the date due. Responding parties may utilize flash drives to convey large volumes of data.

There shall be a continuing obligation to update and supplement information responses with any responsive material that may subsequently be discovered or acquired by the responding party. If the responsive information cannot be supplied within eight (8) business days, the responding party shall notify the requesting party as soon as reasonably possible in advance of the deadline of the reasons for not being able to supply the information and attempt to work out a schedule of compliance with the requesting party.

14. **Discovery Disputes.** All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion. Such motions shall be filed through the eDocket system. A courtesy copy of the motion shall be submitted to the Administrative Law Judge by electronic mail. The motion will be heard by Microsoft Teams or telephone conference.

15. **Protective Order.** The parties will work together and submit a stipulated Protective Order which will be executed by the Judge. The Protective Order will govern access to material designated Trade Secret or Nonpublic Data. Material designated Trade Secret or Nonpublic Data shall be prepared and marked in accordance with the Minnesota Government Data Practices Act, Minn. Stat. ch. 13 (2024), and the Public Utilities Commission's 2021 Data Practices Policy available at <https://mn.gov/puc/about-us/data-practices/>.

16. **Trade Secret/Non-Public Information.** To the extent that a request includes material designated as Trade Secret or Nonpublic under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13, the providing party may require that the requesting party comply with the terms of the Protective Order issued in this case

before providing the information. A request containing such material shall only be between the requesting party and responding party, and the requesting party shall follow the electronic mail message with a public version of the request sent by regular U.S. mail or other delivery service to all parties. Requests shall be sent to the person(s) designated to receive data requests by the party from whom the information is sought.

Pre-filed Testimony and Exhibits

17. **Exhibit Format.** Exhibits may be in any reasonable format that is understandable, logically organized, searchable by key terms, and capable of being cited by page and line number, paragraph number, or similar identifier. All exhibits filed in eDockets shall be searchable, preferably in a PDF or Excel format, that can be easily searched using key terms.

18. **Pre-filed Testimony.** All pre-filed testimony shall be a separate exhibit for each witness and filed in eDockets. Direct, rebuttal, and surrebuttal pre-filed testimony of a witness shall be marked as separate exhibits. All pre-filed testimony shall be in a format that is searchable by key terms. The parties shall provide a paper courtesy copy of the pre-filed testimony and attachments to the Administrative Law Judge at the time of eFiling by placing the document in the mail to the Judge.

Pre-filed testimony that is not offered into the record as an exhibit at hearing or stricken portions of pre-filed testimony that is offered into the record, shall be considered withdrawn and no witness shall be cross-examined concerning the withdrawn testimony. Any new affirmative matter that is not offered in reply to another party's direct case will not be allowed in rebuttal testimony and exhibits. Any new affirmative matter that is not offered in reply to another party's rebuttal testimony and exhibits will not be allowed in surrebuttal testimony and exhibits. Except for good cause shown, all revisions or corrections to any pre-filed testimony shall be in writing, filed, and served on all parties no later than **4:30 p.m. on May 21, 2025**. Corrections to any pre-filed testimony shall be marked as a new exhibit and entered into the hearing record.

19. **Trial Exhibits.** Parties shall bring paper copies of their exhibits to the hearing for each party, the witness stand, and the Judge. The parties need not provide the Judge with additional copies of the Application or pre-filed testimony, so long as they have provided the Judge with a paper copy of the pre-filed testimony prior to the hearing. The Judge will bring her paper copies of the Application and pre-filed testimony into the courtroom to avoid unnecessary duplication.

20. **Witnesses Appearing Via Teams.** Witnesses who appear remotely via Microsoft Teams shall have readily available to them either paper copies or electronic copies of all exhibits at their remote locations. Counsel for the party whose witnesses appear remotely are responsible for ensuring that their witnesses have copies of all exhibits available to them at the time the witness is called to testify. Witnesses may refer to electronic copies of exhibits during their testimony so long as it does not negatively affect the efficient presentation of evidence.

21. **Exhibit Numbering.** The parties shall mark their exhibits in numerical order, starting with the number 1, and include the following party identifiers before the exhibit number (e.g., EERA-1, EERA-2, etc.):

Applicant	Xcel
DOC-EERA	EERA
DOC-DER	DER
Commission	PUC
NoCapX 2020/Prehn Family	PRE
Clean Energy Organizations	CEO

Additional intervenors will be assigned a party identifier upon permission to intervene.

22. **Master Exhibit List.** After the close of the hearing, Applicant shall prepare a Master Exhibit List that identifies each exhibit in the hearing record, with its hearing exhibit number and unique eDocket identifying number. The parties shall use the master exhibit list template supplied by the Court Report to make compilation of a Master Exhibit List easier for Applicant. Please contacted Applicant's counsel for the template.

23. **Official Record.** The documents filed in eDockets constitute the official record of the proceeding, along with any supplemental record data that is offered at the hearing. Any supplemental exhibits offered at the evidentiary hearing will be marked by the Administrative Law Judge at the hearing and must be eFiled in eDockets by the offering party to be included in the official record.

Witnesses

24. **Order of Presentation.** Subject to change by agreement of the parties or further order of the Administrative Law Judge, the order of presentation of testimony shall be: (1) Applicant; (2) future intervenors, if any, in order of intervention; and (3) EERA. Questioning of the witnesses shall proceed in the same order: Applicant; Intervenors (in the order of Intervention); EERA; Commission staff; members of the public; and the Administrative Law Judge.

25. **Witnesses Testimony.** At the evidentiary hearing, witnesses will be permitted to read their summary of pre-filed testimony circulated to the parties prior to the hearing before cross examination. This brief oral summary shall be limited to what is contained in the witness' pre-filed testimony only and any new material will be stricken. In order for a witness to include new information in his or her testimony, the party offering that witness's testimony must obtain the prior approval of the Administrative Law Judge upon a motion with a showing of good cause for not having addressed that information in pre-filed testimony.

26. **Examination of Witnesses.** Parties shall examine witnesses through their attorneys if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through one representative chosen by the party.

27. **Objections to Testimony.** Except for good cause shown, objections by any party as to the qualifications of a witness or the admissibility of any portion of a witness's pre-filed testimony are waived unless the objecting party states its objection by motion made to the Administrative Law Judge, no later than **4:30 p.m. on May 21, 2025**. The parties shall make their best efforts to address objections to testimony as soon as such objection arises, rather than wait until May 21, 2025.

Service and Filing of Documents; Courtesy Copies

28. **eDockets.** Original documents shall be filed using the Commission's eDockets system where feasible, in accordance with Minn. Stat. § 216.17, subd. 3 (2024), and the Commission's standards. **The parties are not required to file documents with the Office of Administrative Hearings.** An oversized exhibit may be received into the hearing record, with approval of the Administrative Law Judge, provided that a duplicate original of the exhibit conforming to the standards of Minn. R. 1400.5275 (2023), is submitted into the electronic record.

29. **Effective Time of Filing.** The effective date and time of filing shall be the date and time the document is filed and accepted into eDockets. Parties using the eDockets system should retain the unique document identifier as proof of filing through that system.

30. **Service Through eDockets.** The parties agree that filing through the eDockets system shall constitute service on all other parties in this matter. Anything that cannot be filed in eDockets shall be served by U.S. mail or delivered to the persons indicated on the official service list by the date the document is required to be served. The service list will be revised as necessary by the Commission.

31. **Trial Briefs and Proposed Findings.** A courtesy copy of all briefs, motions, memoranda, and proposed findings shall be sent to the Administrative Law Judge and Court Reporter by electronic mail at ann.oreilly@state.mn.us. The Judge also requests a courtesy paper copy of all briefs and proposed findings to be sent to her via U.S. Mail. Proposed findings should be sent by electronic mail to the Administrative Law Judge (and copied to all parties and participants) in a Microsoft Word format that permits editing.

32. **Copy of Application.** Applicant shall provide the Administrative Law Judge with a paper copy of the Certificate of Need and Route Permit Applications. Applicant need not provide another copy of the application to the Judge at hearing if a paper copy is provided to the judge prior to the hearing.

Requests for Accommodation and Contact with Judge

33. **Accommodations or Interpreters.** No person has requested accommodation for a disability or appointment of an interpreter. The Office of Administrative Hearings shall be notified promptly, in writing, if either an accommodation

or interpreter is needed. The Office of Administrative Hearings requires that any party requesting an accommodation for a disability fill out a request for accommodations form **as soon as possible** to ensure that all accommodation requests are fulfilled. That form can be found at: https://mn.gov/oah/assets/ada-accommodation-request-form-title-ii_tcm19-440435.pdf.

34. **Contact with Judge.** Ex parte contact with the Administrative Law Judge is strictly prohibited. Procedural questions or concerns can be directed to Judge O'Reilly's legal assistant, Nichole Sletten, at Nichole.Sletten@state.mn.us. Communications directed to the Judge must include all other parties.

Dated: January 8, 2025

A handwritten signature in black ink, appearing to read 'A. O'Reilly', is positioned above a solid horizontal line.

ANN C. O'REILLY
Administrative Law Judge