

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

In the Matter of the 2013 Annual Hearing
on the Power Plant Siting and
Transmission Line Routing Program

REPORT TO THE COMMISSION

On or about November 21, 2013, the Minnesota Public Utilities Commission (PUC or Commission) requested that the Office of Administrative Hearings conduct, on its behalf, the 2013 Annual Hearing on Power Plant Siting and Transmission Line Routing Programs, pursuant to Minn. Stat. § 216E.07.¹ Administrative Law Judge Ann O'Reilly conducted the public hearing at 1:00 p.m. on December 18, 2013, at the Saint Paul offices of the Minnesota Public Utilities Commission. Following the published post-hearing public comment period, the hearing record closed at 4:30 p.m. on January 31, 2014.²

The Annual Hearing has two key purposes. First, it is intended to advise the public of matters relating to the siting of large electric power generating plants and routing of high voltage transmission lines. Second, the annual hearing affords interested persons an opportunity to be heard regarding the Commission's activities, duties, and/or policies pursuant to the Power Plant Siting Act (PPSA).³

NOTICE OF THE ANNUAL HEARING

Minnesota Statutes section 216E.07 and Minnesota Rules part 7850.5400 require that the Commission hold a public hearing each year to afford interested persons an opportunity to be heard on any matter relating to the siting of large electric generating power plants and the routing of high-voltage transmission lines. At the meeting, the Commission shall advise the public of the permits issued by the Commission in the past year.⁴ The Commission must provide at least ten (10) days but no more than 45 days' notice of the annual meeting, along with a tentative agenda for the hearing.⁵ The hearing notice must be mailed or served electronically to those

¹ Unless otherwise noted, all citations to Minnesota Statutes and Rules shall be to the 2013 versions thereof.

² See, NOTICE OF THE POWER PLANT SITING AND TRANSMISSION LINE ROUTING PROGRAM ANNUAL HEARING, PUC Docket No. E-999/M-13-965 (November 26, 2013), efiled as Document ID 201311-94108-01.

³ See Minn. Stat. § 216E.07; Minn. R. 7850.5400, subp. 2 (2012).

⁴ *Id.*

⁵ *Id.*

persons who have requested notice, and must be published in the *EQB Monitor* and on the Commission's calendar.⁶

On November 25, 2013, the Commission sent a copy of the Notice of the Power Plant Siting and Transmission Line Routing Program Annual Hearing (Notice of Hearing or Notice) to the *EQB Monitor* for publication in the December 9, 2013 issue of the publication.⁷ The Environmental Quality Board (EQB) confirmed receipt of the request for publication and indicated that it would publish the Notice of Hearing in the December 9, 2013 issue.⁸

On November 26, 2013, the Commission served, by U.S. Mail or electronic mail,⁹ the Notice of Hearing on those persons who requested notice.¹⁰ The Notice contained a tentative agenda for the hearing, as required by Minn. R. 7850.5400.¹¹ Additionally, the Commission served, by U.S. Mail, a copy of the Notice to all persons who signed up for notice on any active project handled by the PUC in 2013.¹² A copy of the Notice was mailed to over 1,600 persons.¹³

The Commission also posted the Notice on the Commission's web calendar throughout notice and public comment periods.¹⁴

Due to an administrative error by the EQB, the Notice of Hearing was not published in the *EQB Monitor* on December 9, 2013, as requested by the Commission.¹⁵ However, the Notice of Hearing was published on the EQB's website at www.eqb.state.mn.us/project.html on November 26, 2013.¹⁶

When the Commission discovered the EQB's error, it requested that the Notice of Hearing be published in the next issue of the *EQB Monitor*.¹⁷ The Notice of Hearing was published, post-hearing, in the *EQB Monitor* on December 23, 2013.¹⁸ The Notice advised members of the public that the public hearing was held on December 18, 2013, and that a copy of the agenda from the hearing was available on the Commission's website at www.puc.state.mn.us.¹⁹ The Notice further advised that the public comment period was open through January 31, 2014, and explained how written comment could be submitted to the Administrative Law Judge for inclusion in the hearing record.

⁶ *Id.*

⁷ Ex. 7.

⁸ *Id.*

⁹ Minn. Stat. § 216.17, subd. 2, permits service of notices by electronic mail.

¹⁰ See, CERTIFICATE OF SERVICE AND SERVICE LIST, efiled in PUC Docket No. E-999/M-13-965 on November 26, 2013, as Document ID 201311-94108-02.

¹¹ Ex. 10.

¹² Ex. 17; See also Public Hearing Transcript at 14.

¹³ *Id.*

¹⁴ See, <http://www.puc.state.mn.us/puc/calendar/index.html>.

¹⁵ Public Hearing Transcript at 14.

¹⁶ *Id.*; Ex. 8.

¹⁷ Public Hearing Transcript at 14.

¹⁸ *EQB Monitor* Publication, Vol. 37, No. 26, dated December 23, 2013, efiled in PUC Docket No. E-999/M-13-965 on January 16, 2014, as Document ID 20141-95534-01.

¹⁹ *Id.*

The Administrative Law Judge concludes that the notice provided to the public was sufficient and that the error made by the EQB was harmless. The Notice of Hearing was: (1) published on the EQB's website during the notice and comment period; (2) served upon all persons who requested notice from the Commission, as well as all persons on service lists for all projects active in 2013; (3) served by mail upon over 1,600 persons; and (4) published on the Commission's calendar, along with the hearing agenda.

In addition, the Notice was published in the *EQB Monitor* on December 23, 2013, and advised the public that the comment period continued until January 31, 2013. Thus, the public was provided with 39 days to provide written comment *after* the December 23, 2013 publication of the Notice in the *EQB Monitor*. Accordingly, the EQB's failure to publish the Notice on December 9, 2013, as specifically instructed by the Commission, was harmless error and did not deprive the public of an opportunity to be heard.

Approximately 17 members of the public (not including staff of the Commission, Department of Commerce, and the Department of Natural Resources) attended the hearing.²⁰ Six (6) individuals gave oral testimony during the hearing (two of which also provided written comments); and nine (9) other individuals provided written comments.²¹ All comments received are summarized below.

INTRODUCTIONS AND COMMENTS FROM PUC, DOC, AND DNR STAFF

A. *Tricia DeBleeckere, Public Utilities Commission*²²

Tricia DeBleeckere, an Energy Facility Planner at the Public Utilities Commission, explained that the Commission's Energy Facilities staff manages the general oversight of applications submitted to the Commission to construct or modify large energy facilities in Minnesota, including electric power plants, transmission lines, wind power generation facilities, and gas and petroleum facilities. Ms. DeBleeckere stated that the role of Commission staff is to ensure all steps in the site and route permitting processes are followed.

As part of the project review process, Commission staff will prepare a document summarizing the positions of the parties and participants, and the implications of the various options for each project. In addition, the staff guides and advises the Commission. The Commission's procedures incorporate compliance with the Minnesota Environmental Policy Act, and provide for broad public participation by requiring timely public notice and opportunity for public comment.

²⁰ Ex. 18.

²¹ *Id.*; See *Public Hearing Transcript* and Exs. 5, 6, 12, 13, 14A, 14B, 14C, 15, 16, 19, 20, 21, 22, 23, and 24; PUBLIC COMMENT filed with the PUC, efiled in PUC Docket No. E-999/M-13-965 on January 31, 2014, as Document ID 20141-96091-01 and refiled on February 27, 2014, as Document ID 20142-96853-01.

²² *Public Hearing Transcript* at 12-18; Ex. 17.

Ms. DeBleekere noted that the Commission is currently undertaking rulemaking to amend Minnesota Rules Chapters 7849 and 7850, which govern large electric generating facilities and high-voltage transmission lines.

B. *Kate Kahlert, Public Utilities Commission*²³

Kate Kahlert, a staff attorney for the Commission, specifically addressed the on-going rule-making that the Commission is undertaking to amend Minnesota Rules Chapters 7849 and 7850.²⁴ Ms. Kahlert generally explained the rule-making process.²⁵

According to Ms. Kahlert, the Commission commenced the rule-making process in December 2012 by publishing a Request for Comments in the *State Register* and through mass mailings.²⁶ In response to that Request, the Commission received comments from various interested parties, as well as requests by individuals to serve on an Advisory Committee established by the Commission in March 2013 to discuss possible rule changes.²⁷ The Advisory Committee started meeting approximately one time per month in May 2013.²⁸ Currently, there is a working draft of the proposed changes to Chapter 7850.²⁹

After the Advisory Committee is completed with its work on the draft rules, it will present proposed rules to the Commission for its consideration.³⁰ If the Commission approves those proposed rules, the Commission will publish them in the *State Register*, along with a Notice of Intent to Adopt the Rules.³¹ At that time, there will be an opportunity for public comment on the proposed rules.³² Ms. Kahlert noted that she is available for questions from the public about the rule-making process.³³

C. *Ray Kirsch, Department of Commerce*³⁴

Ray Kirsch, Environmental Review Manager with the Minnesota Department of Commerce (DOC) Energy Environmental Review and Analysis Unit (EERA), explained that the EERA conducts environmental review required for proposed energy facilities in Minnesota, and serves as technical staff to the Commission with respect to permitting and regulating energy facilities.³⁵ In its role as technical advisor to the PUC, the EERA prepares guidance materials; conducts research; develops and disseminates

²³ *Public Hearing Transcript* at 18-20.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at 19.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.* at 19-20.

³⁴ *Public Hearing Transcript* at 20-23.

³⁵ *Id.* at 21

information to the public about projects; and coordinates with other state agencies on environmental review.³⁶

Mr. Kirsch presented the "Power Plant Siting Act 2013 Year in Review," a document describing the EERA's work with the PUC in 2013.³⁷ In 2013, the EERA assisted the Commission in permitting five energy facilities (three transmission lines and two wind farms); and prepared seven environmental review documents (five environmental assessments and two environmental reports).³⁸ In addition, the EERA performed numerous permit compliance reviews for preconstruction, pre-operation, and in-service projects.³⁹

Mr. Kirsch provided a list and description of six transmission line projects in process with applications accepted in 2013; three transmission lines projects that were permitted in 2013; and three transmission line route permits in which amendments were requested.⁴⁰ In addition, Mr. Kirsch presented a list and description of two wind projects whose applications were accepted; two wind projects that had permits issued; and 12 wind projects in which site permit amendments or other Commission action was requested.⁴¹

Lastly, Mr. Kirsch presented a list of all compliance reviews conducted or completed by the EERA in 2013.⁴² This list includes a description of the resolutions for outstanding 2012 annual reviews for wind projects, and the status of the 2013 annual reviews of existing wind projects.⁴³ The list also includes a description of compliance reviews conducted on five other energy, transmission, and pipeline projects.⁴⁴

D. *Jamie Schrenzel, Department of Natural Resources*⁴⁵

Jamie Schrenzel, Principal Planner for the Minnesota Department of Natural Resources (DNR) Environmental Review Unit, explained the DNR's participation in the Power Plant Siting and Transmission Line Routing Program (Program); presented the highlights of its work with the DOC and PUC in 2013; described its involvement in transmission line, wind project, and pipeline review; explained changes to the Minnesota Endangered Species List; and discussed future areas of focus for the DNR with respect to the Program.⁴⁶

Ms. Schrenzel first explained the DNR's involvement in the Program through licensing and permitting, as well as the provision of input to the DNR during project

³⁶ *Id.*

³⁷ Ex. 1.

³⁸ *Id.* See also, *Public Hearing Transcript* at 22.

³⁹ Ex. 1.

⁴⁰ Ex. 2.

⁴¹ Ex. 3.

⁴² Ex. 4.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Public Hearing Transcript* at 18-24; Ex.11.

⁴⁶ Ex. 11.

planning, public comment periods, meetings, and project development and construction.⁴⁷

Next, Ms. Schrenzel described the DNR's involvement in the Program in 2013. Ms. Schrenzel praised the interagency coordination in 2013 among the DNR, DOC, and PUC through the Interagency Energy Working Group (IEWG).⁴⁸ Two particular highlights included: (1) the work that was started on the State Wildlife Grant to study the effects of wind energy on bats and birds; and (2) the guidance that the IEWG provided to wind developers related to turbine siting and wildlife surveys.⁴⁹

With respect to transmission line review, the DNR explained that it reaches out to developers of transmission projects; provides comments on projects during the route permitting and environmental review processes; and issues and oversees DNR permits and licenses after the PUC site and route permits have been issued.⁵⁰ Ms. Schrenzel noted that over the last few years, there has been an increase in natural resource details in the DOC's environmental reviews, and that such detail is helpful in the work the DNR does once the PUC permits are issued.⁵¹

The DNR recommends that the PUC establish more defined comment periods on key compliance filings, such as the Construction Environmental Control Plan.⁵² Ms. Schrenzel notes that such comment periods would be helpful in coordinating with the DNR's efforts on upcoming, complex projects.⁵³

Ms. Schrenzel acknowledged that the DOC and the DNR worked well together in 2013 to react quickly to the evolving understanding of wind energy and its impact on wildlife.⁵⁴ However, Ms. Schrenzel reminds the PUC that the Minnesota Endangered Species List was recently updated and includes changes in statuses of Bald Eagles, Trumpeter Swans, Loggerhead Strikes, several plant species, Big Brown Bats, and Little Brown Myotis Bats.⁵⁵ The DNR advises the PUC that White Nose Syndrome, a bat disease, may threaten bat populations in Minnesota, causing bats to become rare. If this occurs, it will impact DNR's input on wind projects due to their effects on bat species.⁵⁶

The DNR notes that its early review of wildlife fatality surveys, required in site permits, may help to better inform the PUC regarding the siting, impacts, and oversight of existing permits.⁵⁷ In addition, the DNR advocates for the early review of Avian and

⁴⁷ *Public Hearing Transcript* at 29-30.

⁴⁸ *Id.* at 30.

⁴⁹ Ex. 11.

⁵⁰ *Public Hearing Transcript* at 31.

⁵¹ *Id.*

⁵² *Id.* at 32.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* at 32-33.

⁵⁶ *Id.*

⁵⁷ *Id.* at 33.

Bat Protection Plans during the PUC siting process.⁵⁸ The DNR urges the PUC to consider the cumulative impacts of energy projects during environmental review.⁵⁹

With respect to pipeline projects, the DNR explained that it is actively engaged in project review, and will continue to provide comment to the PUC and DOC regarding the potential for substantial impacts to the state's natural resources.⁶⁰ Future areas of focus related to pipeline projects include: (1) the large transmission and pipeline projects planned in northern Minnesota, which could impact large parts of public lands and wilderness areas; (2) the increase in solar energy projects; and (3) its efforts to address and adapt to climate change and the production of greenhouse gases.⁶¹

SUMMARY OF PUBLIC HEARING TESTIMONY AND WRITTEN COMMENTS SUBMITTED

The following individuals provided oral testimony at the Public Hearing on December 18, 2013:

Eugene Lehman
David Mumm
Kevin Fahey
Dustyn Hartung
Carol Overland, Esq.
Mark Henry

Written comments were received within the comment period ending at 4:30 p.m. on January 31, 2014, from the following individuals:

Jerome and Ruth DeVine
Timothy Anderson
Marjorie Newton
Jon Whitehead
John Peters
Barbara Dick
Richard and Susan Hareldson
Kevin Fahey
Mark Henry

The written and oral comments received during the comment period are summarized below.⁶²

⁵⁸ *Id.*

⁵⁹ *Id.* at 34.

⁶⁰ *Id.*

⁶¹ *Id.* at 34-36.

⁶² Where individuals submitted both oral testimony and written comments, those individuals' oral and written comments are summarized together below, as they were, in all cases, duplicative or complementary.

Summary of Public Testimony

A. Testimony from Eugene Lehman⁶³

Eugene Lehman, a resident of Fairmont, Minnesota, directed his comments to the ITC Midwest Minnesota to Iowa 345 kV Transmission Line Project (PUC Dockets TL-12-1337; CN-12-1053). Mr. Lehman operates a farm and lives along one of the proposed routes (Plan A) identified in the project. Mr. Lehman expressed concern that the placement of high voltage lines in close proximity to his home and the homes of his neighbors will pose health risks to the residents. Mr. Lehman noted that he has several grandchildren and great-grandchildren that visit his home and he is concerned that the lines may be harmful to the children's health.

Mr. Lehman argues that where other routes are available which run along major highways or within existing rights-of-way, the PUC should select one of those route alternatives because the impacts would be less significant. Specifically, Mr. Lehman asks the PUC to consider Alternative Route B in the above-referenced dockets because that route would have fewer human impacts.

B. Testimony from David Mumm⁶⁴

David Mumm of Farmington, Minnesota, addressed his experiences with the Brookings County to Hampton 345 kV Transmission Line Project (PUC Docket No. TL-08-1474). Mr. Mumm lives in close proximity to the high voltage line constructed in Castle Rock Township. Mr. Mumm explains that he lives across the street from the line and his home is approximately 150 feet from the facilities. Although the power lines do not cross his property, Mr. Mumm argues that he is detrimentally impacted by the line, in terms of negative aesthetics, increased health risks, noise pollution, and decreased property value.

Mr. Mumm urges the PUC and the State to adopt rules or laws that recognize the rights of neighboring property owners and provide a right to compensation for the losses caused by public utilities. Mr. Mumm explains that when a utility crosses private property, the owner is entitled to compensation for the taking. However, owners of neighboring properties, which are also negatively impacted by the facilities due to their close proximity, do not have a right to recovery. Mr. Mumm asserts that the damages suffered by neighboring properties are sometimes substantial and the owners are entitled to compensation for their losses.

Mr. Mumm also notes that in the Brookings-Hampton project, the utility, Great River Energy (GRE), took possession of a township road and failed to provide compensation to the township. (See Comments of Mark Henry below.)

⁶³ *Public Hearing Transcript* at 23-27.

⁶⁴ *Id.* at 36-39.

C. *Testimony and Written Comments from Kevin Fahey*⁶⁵

Kevin Fahey of Belle Plaine, Minnesota, submitted both oral testimony and written comment regarding the Brookings County to Hampton 345 kV Transmission Line Project, PUC Docket No. TL-08-1474. Mr. Fahey resides in close proximity to the power lines.

Mr. Fahey asserts that during the permitting process, he warned the PUC about the potential for significant noise pollution caused by 345 kV lines. At the same time, the utility represented that the noise would be minimal, at best.

Now that the transmission lines have been constructed, Mr. Fahey attests that the noise caused by the lines is substantial. According to Mr. Fahey, when the wind is blowing from the north, it sounds like a constant siren. When the wind is from the south, it sounds as though there is a freight train in his front yard.

Mr. Fahey argues that his property value, health, and quality of life have been detrimentally impacted by the transmission lines. Mr. Fahey asserts that his property has been devalued to the point where he will not be able to sell his land due to the noise caused by the lines. In addition, Mr. Fahey questions the health risks to himself and his family presented by the high voltage lines. Mr. Fahey argues that he is entitled to compensation for the losses he has suffered, and is continuing to suffer, as a result of the utility lines.

Mr. Fahey expressed his extreme disappointment and disillusionment in the PUC's two-year siting and permitting process. Mr. Fahey explained that during the proceedings, a preferred route was initially identified that had fewer new or human impacts. Despite the arguments in favor of the original route, and the Administrative Law Judge's (ALJ) Recommendation favoring the original route, the PUC ultimately selected an alternative route that runs through his property. Mr. Fahey questions the PUC's wisdom in rejecting the ALJ's Recommendation and advocates for more oversight over the agency's decision-making authority.

D. *Testimony from Dustyn Hartung*⁶⁶

Dustyn Hartung is a resident of Fairmont, Minnesota. Mr. Hartung's family owns property located near one of the proposed routes in the ITC Midwest Minnesota to Iowa 345 kV Transmission Line Project (PUC Dockets TL-12-1337; CN-12-1053). The Hartung family resides and runs a hog farm on the property.

According to Hartung, there were two route alternatives originally identified for the project: Route A and Route B. Now, however, additional route alternatives are being discussed. Mr. Hartung expressed concern over the sudden addition of new proposed routes and the ambiguity related to the same. According to Hartung, he and

⁶⁵ *Id.* at 39-45; Ex. 24.

⁶⁶ *Public Hearing Transcript* at 45-51.

other potentially affect properties owners are confused as to which routes are actually being considered.

Mr. Hartung specifically opposes Route B, as it would run in close proximity to the Hartung's hog farm. Mr. Hartung identified two major concerns he has for the project: (1) the health risks associated with the electro-magnetic fields (EMFs) created by the high voltage lines; and (2) its effect on his family's hog operation.

Mr. Hartung asserts that the health risks associated with EMFs are unknown, and he is concerned that having power lines so close to homes could cause a health risk for the residents. In addition, Mr. Hartung is concerned about the possible health risks to the pigs he raises. Furthermore, Mr. Hartung states that the proposed placement of the facilities will impact his ability to expand his barn.

Mr. Hartung explained that his family farm raises approximately 2,000 head of nursery pigs on a contractual basis. While the Hartung's raise the hogs, the animals are owned by third parties. Mr. Hartung asserts that high voltage power lines have been shown to have adverse effects on livestock. Therefore, the placement of these lines so close to his farm is likely to detrimentally impact his business, as pig owners will not want their animals raised on his property.

In addition, Mr. Hartung explained that the proposed route cuts his field in half, causing him difficulty in harvesting. Mr. Hartung explained that he will have to purchase new equipment to spray and plant around the power lines and poles.

Mr. Hartung also expressed concern about the impact of the lines on wildlife and nature areas in the Eagle Lake area.

Finally, Mr. Hartung urges the PUC to: (1) require the undergrounding of utilities, when possible; and (2) select routes that use existing rights-of-way, are located where utility lines already exist, and result in fewer new impacts.

E. *Testimony from Carol Overland*⁶⁷

Carol Overland, an attorney with Legalectric in Red Wing, Minnesota, presented a number of specific suggestions and concerns for the PUC to consider.

First, Ms. Overland presented several exhibits to assert that the energy production needs in Minnesota and elsewhere are currently being met by existing facilities, and that there is no real need for additional energy production in Minnesota. Ms. Overland asserts that the energy produced in Minnesota by the newly proposed projects will serve areas outside the state, specifically the mid-Atlantic area. Therefore, Ms. Overland asserts that Minnesota has no need to create new transmission lines and facilities.

⁶⁷ *Public Hearing Transcript* at 51-72; Exs. 12-16.

To support her position, Ms. Overland presented: (1) a page from the North American Electric Reliability Corporation (NERC) Reliability Assessment released December 6, 2013;⁶⁸ (2) a Regional Transmission System Reinforcement Options map published by the Wisconsin Reliability Assessment Organization (WRAO);⁶⁹ (3) a list of CapX 2020 project lines;⁷⁰ (4) a map depicting the CapX 2020 transmission lines;⁷¹ (5) a map prepared from the Joint Coordinated System Plan (JCSP) depicting anticipated “new transmission lines” throughout the country;⁷² (6) a chart from the CapX 2020 Biennial Plan Projects;⁷³ and (7) some pages from the 2013 Midwest Transmission System Operator, Inc. (MISO) Transmission Expansion Plan.⁷⁴

Second, Ms. Overland addressed the PUC advisory task forces. Ms. Overland asserts that there is a need to include more citizens on those task forces so that the public is made a part of the process. Ms. Overland argues that the task forces are “unreasonably limited in their scope of review” and that the task forces are not provided with sufficient time to review pertinent information related to various proposed routes. Ms. Overland asserts that the public needs to have more access to information on all possible routes being considered and that such information must be available early in the permitting process.

Third, Ms. Overland expressed the need for other state agencies to be part of the PUC permitting process. Ms. Overland praised the Department of Transportation (MnDOT) and the DNR for increasing their participation in the permitting process in recent years. Ms. Overland hopes that the ongoing rulemaking process will include a requirement for comment by other state agencies.

Fourth, Ms. Overland expressed that there was not enough interaction between environmental review and the routing process. Specifically, Ms. Overland is concerned with the identification of alternative routes late in the permitting process after environmental review has been completed. In such cases, Ms. Overland argues, a full environmental assessment is not performed on possible alternative routes, including those that may be ultimately selected.

Ms. Overland advocates for a strict cut-off for the identification of new routes in the scoping decision. Ms. Overland asserts that the PUC should not consider route alternatives identified outside that timeframe. Otherwise, individual impacted by alternative routes are not provided with a full and fair opportunity to organize, comment, and oppose the alternate routes. This is especially true when the intervention deadline has already expired before an alternative route is identified. Ms. Overland cites to the CapX 2020 Brookings County to Hampton 345 kV Transmission Line Project as an

⁶⁸ Ex. 12.

⁶⁹ Ex. 13.

⁷⁰ Ex. 14A.

⁷¹ Ex. 14B.

⁷² Ex. 14C.

⁷³ Ex. 15.

⁷⁴ Ex. 16.

example of when last-minute alternative routes are identified and ultimately selected, thereby depriving affected citizens of their rights to be fully heard.

Fifth, Ms. Overland recommends the creation of a state agency, such as a "Department of Public Advocate" or "Department of Public Intervenor," which could represent the public interest in matters brought under the PPSA. In addition to her suggestion for a public interest agency, Ms. Overland advocates for intervenor funding to facilitate public participation. Ms. Overland explains that, to be effective participants in PUC matters, members of the public need significant financial and technical resources. To "level the playing field" and provide for effective public participation, individual stakeholders need the financial resources to retain experts and specialized legal counsel, perform testing, and obtain consultants. According to Ms. Overland, intervenor compensation would allow individual stakeholders and members of the public the ability to fairly compete with well-funded and well-organized utility companies.

Ms. Overland praised the PUC for requiring that transcripts of hearings be available at public libraries. However, Ms. Overland suggests that the PUC require the provision of transcripts to intervenors at taxpayer or rate-payor expense.

Sixth, Ms. Overland asserts that the PUC and DOC need additional funding from the state to hire experts to fully evaluate certificate of need and route permit applications, and to advocate for or against the utilities in such proceedings. Specifically, Ms. Overland cites a need for electrical engineers who are able to forecast electrical needs for the state.

Seventh, Ms. Overland praised the PUC and DOC for clarifying their websites to ensure the public understands that the PUC docket is the primary source for information and filing in any route or certificate of need proceeding.

Eighth, Ms. Overland suggests that the Administrative Law Judges in public hearings swear witnesses under oath, as is common in other types of administrative proceedings. Ms. Overland explains that this would increase the reliability of the testimony provided; allow for more weight to be placed on the testimony; and discourage untruthful testimony.

Ninth, Ms. Overland noted that a number of wind projects have had their permits revoked in recent years. Ms. Overland suggests that the PUC examine why so many permits were revoked and identify if any patterns exist so as to improve the wind energy permitting process. Ms. Overland recommends that the PUC appoint a task force to undertake this type of analysis.

Ms. Overland further argues that environmental review should be a required part of any wind project permitting process, as it is for other energy projects. Such review must necessarily include an evaluation of the potential effects on wildlife and transmission noise.

Tenth, Ms. Overland suggests that the proposed changes to Minn. R. ch. 7850 incorporate the “Buy the Farm” requirements applicable in state law, as landowners have experienced difficulty in asserting their rights when their land is condemned or devalued as part of a public utilities project. Ms. Overland advocates for compensation to all landowners whose properties are impacted by utility projects.

Finally, Ms. Overland expresses concerns about the potential health effects of exposure to EMFs created by high-voltage transmission lines. According to Ms. Overland, the impact of EMFs is “consistently underreported” in environmental assessments. Ms. Overland asserts that EMF levels should be evaluated based upon the maximum capacity of a line so that the risks are fully evaluated.

F. *Testimony and Written Comments from Mark Henry*⁷⁵

Mark Henry of Castle Rock Township, Minnesota, directed his comments to the Brookings CapX 2020 High Voltage Transmission Line Project (PUC Docket No. TL-08-1474). In addition to his testimony at the hearing, Mr. Henry filed supporting materials with the PUC in this docket.

Mr. Henry’s comments specifically address GRE’s use of right-of-way acquired by Castle Rock Township for the construction of 230th Street. Mr. Henry asserts that 230th Street is an “easement road,” not a “trunk highway.” Mr. Henry contends that because the road is an “easement road,” not a “trunk highway,” the adjacent landowners along the road maintain an ownership of the property over which the road is located.

As part of the utility project, GRE is constructing facilities within the township’s right-of-way on 230th Street without providing compensation to the abutting landowners who granted easements to the township for that road. Mr. Henry argues that the abutting property owners continue to own the land used for the road, including the area of right-of-way. Thus, Mr. Henry asserts, the landowners are entitled to compensation for GRE’s use of the land under laws of eminent domain.⁷⁶

Mr. Henry contends that, in addition to GRE’s use of the right-of-way, the abutting property owners suffer diminution of their property values, as well as potential health risks caused by the high voltage lines, for which they are not receiving compensation. Mr. Henry questions GRE’s legal authority for constructing facility within the right-of-way without providing compensation to the township or abutting property owners who bear the cost of maintaining such road.

⁷⁵ *Public Hearing Transcript* at 72-83; PUBLIC COMMENT, filed in PUC Docket No. E-999/M-13-965 on January 31, 2014, as Document ID 20141-96091-01 and refiled on February 27, 2014, as Document ID 20142-96853-01.

⁷⁶ *In Great River Energy v. Pal-Mar Holdings, LLC*, Dakota County District Court File No. 19HA-CV-13-1541, the Dakota County District Court ruled that the Township and affected property owners must initiate an inverse condemnation action if they seek compensation. An objection to the condemnation petition is insufficient to assert such action. See document included with PUBLIC COMMENT, filed in PUC Docket No. E-999/M-13-965 on January 31, 2014, as Document ID 20141-96091-01

Mr. Henry further questions GRE's authority to require the township to provide signage and road upgrades to accommodate the project. Mr. Henry described a situation in which GRE shut down 230th Street and diverted a school bus as part of its construction project. Mr. Henry emphasized that GRE does not have legal authority to close roads or divert traffic. Mr. Henry describes this event as an example of GRE's disregard for the township and its residents, as well as its abuse of authority.

Finally, Mr. Henry asserts that GRE's construction is unlawfully disturbing wetlands in Dakota County as part of its construction of the project. Mr. Henry asks the PUC to consider these issues when issuing or enforcing route permits in the future.

Summary of Additional Written Public Comments

The following is a summary of written comments submitted during the public comment period.

A. Written Comments from Jerome and Ruth DeVine⁷⁷

Jerome and Ruth DeVine of Byron, Minnesota, provided written comments specific to the ITC Midwest Minnesota to Iowa 345 kV Transmission Line Project (PUC Docket No. TL-12-1337). The DeVines own real property in Jackson County in the proposed project area. The DeVines advocate for the adoption of proposed Route Alternative A, rather than Route Alternative B. According to the DeVines, Route Alternative B runs near and/or through their property and would negatively affect their farm land by diminishing its market value.

In addition, the DeVines note that they have nesting eagles on their property that would be impacted by Route B. The DeVines argue that the project, as a whole, does not benefit Minnesota because the power created is transported and used outside the state. Accordingly, the DeVines assert that Minnesota property should not be negatively impacted by the addition of Route B. The DeVines urge the PUC to require that Route A be selected and constructed to carry the full amount of power necessary for the project.

B. Written Comments from Timothy Anderson⁷⁸

Timothy Anderson of Plymouth, Minnesota, submitted written comments specific to the Route Permit Application for the Hollydale 115 kV Transmission Line Project (PUC Docket No. TL-11-152). Mr. Anderson urges the PUC to approve a route that does not negatively impact existing neighborhoods. Specifically, Mr. Anderson advocates for the adoption of a route that runs along Highway 55 and Interstate 494, instead of alternative routes that impact residential neighborhoods.

⁷⁷ Ex. 5.

⁷⁸ Ex. 6.

Mr. Anderson also urges the PUC to require undergrounding of a portion of the line. Mr. Anderson asserts that cost alone should not dictate the PUC's decisions in matters such as this. Instead, the PUC should consider all of the impacts to existing neighborhoods, and should select routes that directly impact those actually benefited by the upgrade.

C. *Written Comments from Marjorie Newton*⁷⁹

Marjorie Newton of Lakeville, Minnesota, submitted comments related to the use of eminent domain, specifically the "Quick Take" and "Buy the Farm" laws used to condemn private property for public use in public utility projects. Ms. Newton's property was taken as part of the CapX 2020 Project.

Ms. Newton explained that a Quick Take motion was granted in October 2013, which allowed the utility, GRE, to acquire title to her property. GRE immediately began construction by clear cutting two acres of trees and building its facilities. Although GRE was able to fully utilize the property for its project, Ms. Newton was only given 10 percent of the appraised property value, while the condemnation action continued.

According to Ms. Newton, the property was appraised in 2012 and GRE accepted Ms. Newton's "Buy the Farm" election. Yet the utility has still not presented her with a single purchase offer. In addition, GRE now is requesting to extend the deadline to complete the matter to April 30, 2015.

Ms. Newton expressed concern that utilities are able to utilize "Quick Take" procedures to immediately gain possession of property, but property owners are forced to wait years to get full compensation for their losses. According to Ms. Newton, such procedures unfairly impose significant hardship on a small number of landowners for the benefit of large utility companies. Ms. Newton urges the PUC and the State Legislature to carefully review the "Buy the Farm" process to ensure that affected property owners are fairly and timely compensated for their losses.

D. *Written Comments from Shan Whitehead*⁸⁰

Shan Whitehead of Sherburn, Minnesota, writes to express his concern about a proposed route in the ITC Midwest Minnesota to Iowa 345 kV Transmission Line Project (PUC Docket No. TL-12-1337). Mr. Whitehead urges the PUC to select a route that does not run through the town of Sherburn. Mr. Whitehead expresses that his primary concern is for the health and safety of his family and neighbors. His secondary concern is the negative impact the proposed route would have on his property value.

⁷⁹ Ex. 19.

⁸⁰ Ex. 20.

E. *Written Comments from John Peters*⁸¹

John Peters of Plymouth, Minnesota, directed his comments to the Route Permit Application for the Hollydale 115 kV Transmission Line Project (PUC Docket No. TL-11-152). Mr. Peters urges the PUC to consider the collateral costs of route alternatives, including the decrease in property values and the resulting decline in property tax revenue. Mr. Peters asserts that the utility should compensate each homeowner adversely affected by a utility line for the diminution in his/her property value, including property in which a line crosses through the property, even if no pole structures are placed there.

F. *Written Comments from Barbara Dick*⁸²

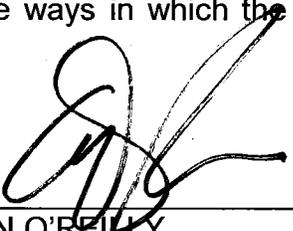
Barbara Dick of Randolph, Minnesota, writes to express her concern about a possible route change in the CapX 2020 Hampton-Rochester-LaCrosse 345 kV and 161 kV High Voltage Transmission Line Project (PUC Docket No. TL-09-1448). According to Ms. Dick, the PUC specifically selected a route along Highway 52 that did not impact Harry Avenue in Randolph. Now, however, Ms. Dick understands that the utility seeks to modify the approved route. Ms. Dick expresses her opposition to any route changes at this juncture, especially any modification that would impact Harry Avenue.

G. *Written Comments from Richard and Susan Hareldson*⁸³

Richard and Susan Hareldson, address unknown, submitted written comments specific to the CapX 2020 Hampton-Rochester-LaCrosse 345 kV and 161 kV High Voltage Transmission Line Project (PUC Docket No. TL-09-1448). The Hareldsons urge the PUC to consider a change to the adopted route, from the "White Bridge Route" to the "Power Dam Route." According to the Hareldsons, the Power Dam Route is less expensive and involves fewer human impacts because it runs through a less densely populated area.

The Hareldsons live in an area impacted by the adopted route and express extreme disapproval for the PUC's acceptance of the White Bridge Route. The Hareldsons also express concern about the ways in which the transmission lines will impact their properties and lives.

Dated: March 3, 2014



ANN O'REILLY
Administrative Law Judge

Reported: Transcribed (Shaddix & Associates)

⁸¹ Ex. 21.

⁸² Ex. 22.

⁸³ Ex. 23.



MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

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March 3, 2014

See Attached Service List

**Re: In the Matter of the 2013 Annual Hearing on the Power Plant Siting
and Transmission Line Routing Program**

**OAH 65-2500-31078
MPUC E999 / M-13-965**

To All Persons on the Attached Service List:

Enclosed herewith and served upon you is the Administrative Law Judge's
REPORT TO THE COMMISSION in the above-entitled matter.

If you have any questions, please contact my legal assistant, Rachel Youness, at
(651) 361-7881 or rachel.youness@state.mn.us.

Sincerely,

s/Ann C. O'Reilly

ANN C. O'REILLY
Administrative Law Judge

ACO:ry
Enclosure
cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the 2013 Annual Hearing on the Power Plant Siting and Transmission Line Routing Program	OAH 65-2500-31078 MPUC E999 / M-13-965
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Rachel Youness, certifies that on March 3, 2014 she served a true and correct copy of the attached **REPORT TO THE COMMISSION** by eService, and U.S. Mail, (in the manner indicated below) to the following individuals:

Electronic Service Member(s)

Last Name	First Name	Email	Company Name	Delivery Method	View Trade Secret
Anderson	Julia	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	Electronic Service	No
Ferguson	Sharon	sharon.ferguson@state.mn.us	Department of Commerce	Electronic Service	No
Haar	Burl W.	burl.haar@state.mn.us	Public Utilities Commission	Electronic Service	No
Lindell	John	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	Electronic Service	No
O'Reilly	Ann	ann.oreilly@state.mn.us	Office of Administrative Hearings	Electronic Service	Yes
Overland	Carol A.	overland@legalelectric.org	Legalelectric - Overland Law Office	Electronic Service	No
Schrenzel	Jamie	jamie.schrenzel@state.mn.us	Minnesota Department of Natural Resources	Electronic Service	No
Shaddix Elling	Janet	jshaddix@janetshaddix.com	Shaddix And Associates	Electronic Service	Yes