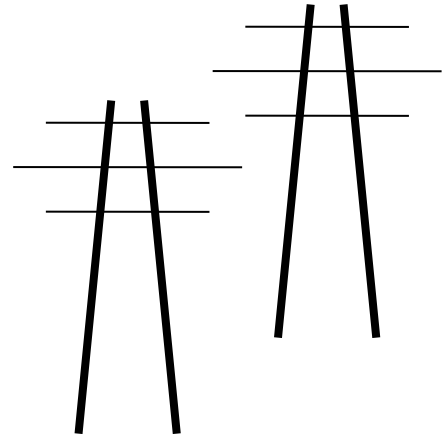


# Legalelectric, Inc.

**Carol Overland** Attorney at Law, MN #254617  
Energy Consultant—Transmission, Power Plants, Nuclear Waste  
overland@legalelectric.org

1110 West Avenue  
Red Wing, Minnesota 55066  
612.227.8638

P.O. Box 69  
Port Penn, Delaware 19731  
302.834.3466



August 12, 2015

Judge Ann O'Reilly  
Office of Administrative Hearings  
PO Box 64620  
St. Paul, MN 55164-0620

In Re: Motion for Leave to Intervene Out-of-Time  
In the Matter of the Application of Minnesota Power for a Route Permit for the  
Great Northern Transmission Line Project in Roseau, Lake of the Woods,  
Beltrami, Koochiching and Itasca Counties  
PUC Docket No.: E15/TL-14-21  
OAH Docket No.: 65-2500-31637

Dear Judge O'Reilly:

Enclosed and eFiled please find Residents and Ratepayers Against Not-so-Great Northern  
Transmission (RRANT)'s Motion For Leave to Intervene Out-of-Time, Motion To Extend  
Intervention Deadline For Newly Affected Landowners, and Motion To Supplement EIS.

Very truly yours,

A handwritten signature in cursive script that reads "Carol A. Overland".

Carol A. Overland  
Attorney at Law

cc: eFile Service List  
Julie Ann Smith, DOE juliea.smith@hq.doe.gov

**CERTIFICATE OF SERVICE**

I, Carol A. Overland, hereby certify that on August 12, 2015, I have served copies of the cover letter, RRANT's Motion for Leave to Intervene Out-of-Time, Motion to Extend Intervention Deadline for Newly Affected Landowners, and Motion to Supplement EIS to Include Land of "ADDITIONAL new landowners" and July 27, 2015 Notice to "ADDITIONAL new landowners" via eDockets with hard copy to Administrative Law Judge O'Reilly.

PUC Docket No.: E015/TL-14-21

OAH Docket No.: 65-2500-31637



Dated: August 12, 2015

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Carol A. Overland  
Attorney at Law  
1110 West Avenue  
Red Wing, MN 55066  
(612) 227-8638  
[overland@legalelectric.org](mailto:overland@legalelectric.org)

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

In the Matter of the Application of Minnesota  
Power for a Route Permit for the Great  
Great Northern Transmission Line Project in  
Roseau, Lake of the Woods, Beltrami,  
Koochiching and Itasca Counties

OAH Docket No.: 65-2500-31637  
PUC Docket No.: E15/TL-14-21

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**MOTION FOR LEAVE TO INTERVENE OUT-OF-TIME, MOTION TO EXTEND  
INTERVENTION DEADLINE FOR NEWLY AFFECTED LANDOWNERS, AND  
MOTION TO SUPPLEMENT EIS TO INCLUDE NEW ROUTE ALIGNMENTS**

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Residents and Ratepayers Against Not-so-Great Northern Transmission (RRANT) has discovered that on the late date of July 27, 2015, twenty four landowners were first provided notice that their land may be affected by this project. Based on this late notice, RRANT hereby submits this Motion for Leave to Intervene Out-of-Time, Motion to Extend Intervention Deadline for Newly Affected Landowners, and Motion to Supplement EIS to Include Land of “ADDITIONAL new landowners.”

**I. REQUEST TO INTERVENE**

Residents and Ratepayers Against Not-so-Great-Northern Transmission Line Project makes this request to Intervene with full party status for briefing, exceptions, and oral argument to assert due process rights of affected landowners, open opportunities for participation, and to assure adequate environmental review. RRANT was an Intervenor with full party status in the Great Northern Certificate of Need Docket (12-1163). RRANT had not yet intervened in this route permit docket<sup>1</sup> due to lack of resources to enable intervention and resistance to taking any

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<sup>1</sup> The deadline for intervention in this docket was established in the 4<sup>th</sup> Prehearing Order as April 15, 2015.

position on routing and pit landowners against each other in a “stick it there” exercise. However, for three years now, RRANT has been actively participating in this docket, the Certificate of Need docket, and the DOE Environmental Review. This participation includes working to increase public awareness and knowledge of this project and facilitate public participation in the administrative process through meetings and communications with Applicant, landowners, interested parties in Minnesota and Canada, and state and federal agency staff, and at public meetings and hearings providing information via flyers and comments for the record. RRANT has also filed two comments in this docket, and RRANT counsel Overland has also filed DEIS Comments as an individual. RRANT requests intervention status as a watchdog of public process and public interest.

In reviewing the record as these Routing docket public hearings and “contested case” moved forward, a filing in late July came to light. On July 27, 2015, EERA, Dept. of Commerce, filed the attached Certificate of Service for “Other – Newly Affected Landowner Notice.”<sup>2</sup> This notice was sent to landowners, for the first time notifying them that this project may have a direct impact on their land.

**II. REQUEST FOR EXTENSION OF INTERVENTION DEADLINE FOR “ADDITIONAL NEW LANDOWNERS”**

Residents and Ratepayers Against Not-so-Great-Northern Transmission Line Project also makes a request to extend the deadline for intervention for the “ADDITIONAL new landowners,” and only the “ADDITIONAL new landowners,” to assure these newly identified landowners have the opportunity to participate. As it stands, these landowners have been denied due process. The July 27, 2015 Notice to “ADDITIONAL new landowners” was sent more than

<sup>2</sup> See attached “ADDITIONAL new landowner” notice, available online:

<a href="#">20157-112741-01</a>	PUBLIC	14-21	<input type="checkbox"/>	TL	DOC EERA	OTHER--NEWLY AFFECTED LANDOWNER NOTICE	07/27/2015
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16 months after the GNTL Application was filed, long after the DEIS Scoping Decision was released last January,<sup>3</sup> after the DEIS was released for Comment in June,<sup>4</sup> and 12 days prior to the close of the DEIS Comment period. Most importantly, this Notice was sent out just one week prior to the routing public hearings and “contested case.”<sup>5</sup> The record for this routing docket closes on September 1, 2015.

The short amount of time provided by this late Notice before the hearings and closing of the record is insufficient for affected persons to educate themselves about the project, find an attorney that knows something about utility administrative process and arrange for a consult, determine options, and knowingly decide to act or not to act. These landowners and the public also have had no opportunity to review the impacts on the areas owned by these landowners. Landowners need more time to educate themselves, determine their course of action, and if they wish, they must have an opportunity to intervene, particularly because it is the late noticed landowners who are most likely to be hosting a transmission line.

**III. REQUEST FOR SUPPLEMENT OF EIS**

Residents and Ratepayers Against Not-so-Great-Northern Transmission Line Project makes this request to supplement the EIS. It is not clear whether these “ADDITIONAL new landowners” were added because alignments were altered or because they were missed and later discovered. Either way, these landowners’ participatory rights were diminished. If the

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<a href="#">20151-106026-01</a>	PUBLIC	14-21	<input type="checkbox"/>	TL	DOC EERA	NOTICE--EIS SCOPING DECISION	01/09/2015
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<a href="#">20156-111642-01</a>	PUBLIC	14-21	<input type="checkbox"/>	TL	DOC EERA	NOTICE--OF AVAILABILITY OF DRAFT EIS, STATE PUBLIC INFORMATION MEETINGS, AND FEDERAL PUBLIC HEARINGS	06/22/2015
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<sup>5</sup> “Contested hearings” because there are no intervenors in this docket as of this date.

properties for which Notice was provided on July 27, 2015 were not covered in the scope and review in the DEIS, then the EIS is inadequate. Also, because these landowners were not notified prior to July 27, 2015, they were not notified prior to scoping, and they were not able to participate in scoping or the Citizens Advisory Task Force, and for these reasons, the EIS is also inadequate. These landowners also did not have the opportunity to review and comment on the DEIS with specific knowledge that this project may have an impact on their land. The Commission may only utilize routes that have been analyzed in the EIS -- these “ADDITIONAL new landowner” parcels may not have been included. Because the Commission may select only from routes reviewed and evaluated in the DEIS, the EIS must be supplemented and opened for comment on the additions and changes if the intent of the Notice is to make these parcels part of a route available for Recommendation to the Commission and for selection by the Commission.

RRANT has an interest in this proceeding and its interests are not represented by any other party. There are **NO** intervenors in this routing docket, there is no party representing the public interest.<sup>6</sup> RRANT intervened in the Certificate of Need docket, and has been participating in this docket, as a watchdog of public process<sup>7</sup>. Late notice is a recurring issue in transmission routing proceedings, and late notice is unacceptable. RRANT counsel has represented Intervenor in Commission dockets where landowners received very late notice, to their extreme detriment, and has strongly objected in those instances. In the CapX 2020 Brookings docket, the Le Sueur “Myrick Alternative” Minnesota River crossing was informally proposed during a public hearing as a means to avoid the DOT scenic easements, and then it was introduced by applicants after release of the DEIS and hearings, after completion of the routing public hearings and during the contested case, **two years after filing of the Application**. This case was

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<sup>6</sup> EERA Commerce is not a party and does not represent the public interest, as Asst. A.G. Hammel stated in the hearing record in the CapX 2020 Brookings docket (08-1474).

<sup>7</sup> RRANT does not, and is not claiming to, represent any specific “ADDITIONAL new landowners.”

remanded to the ALJ by the Commission for rehearing regarding the Minnesota River crossing.<sup>8</sup> Ultimately, another route was selected after remand.

In the CapX 2020 La Crosse docket, similarly, a route option was added through Cannon Falls during the time of the public hearings.<sup>9</sup> That was also after release of the DEIS and completion of public comment on the DEIS. At that time, No CapX 2020 filed a Motion to Extend Intervention Deadline to give landowners an opportunity to participate.<sup>10</sup> No CapX 2020's Motion was denied.<sup>11</sup> The Commission selected a route over those landowners land and St. Paul's Lutheran Church and School and Cannon Falls Landowners filed a Motion for Reconsideration<sup>12</sup> which was denied, and it was then appealed<sup>13</sup> and the Commission's decision affirmed. That part of the CapX 2020 project is under construction over those landowners' land.

<sup>8</sup> See CapX 2020 Brookings-Hampton, 08-1474:

<a href="#">20107-52970-01</a>	PUBLIC	08-1474	<input type="checkbox"/>	TL	PUC	ORDER--REMANDING TO OFFICE OF ADMINISTRATIVE HEARINGS	07/27/2010
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<sup>9</sup>

<a href="#">20116-63548-01</a>	PUBLIC	09-1448	<input type="checkbox"/>	TL	NORTHERN STATES POWER COMPANY	LETTER--AFFIDAVIT OF MAILING POTENTIAL ALIGNMENT HWY 19	06/14/2011
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<sup>10</sup>

<a href="#">20116-63772-01</a>	PUBLIC	09-1448	<input type="checkbox"/>	TL	NOCAPX2020 AND UCAN	MOTION---TO EXTEND INTERVENTION DEADLINE	06/17/2011
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<sup>11</sup>

<a href="#">20116-64296-01</a>	PUBLIC	09-1448	<input type="checkbox"/>	TL	OAH	ORDER--ORDER ON MOTION REGARDING FINAL ENVIRONMENTAL IMPACT STATEMENTS AND MOTION TO EXTEND INTERVENTION DEADLINE	06/30/2011
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<sup>12</sup>

<a href="#">20126-75809-01</a>	PUBLIC	09-1448	<input type="checkbox"/>	TL	ST. PAULS LUTHERAN CHURCH AND SCHOOL AND CANNON FALLS LANDOWNERS	MOTION--ST PAULS LUTHERAN SCHOOL AND CHURCH AND CANNON FALLS LANDOWNERS MOTION FOR RECONSIDERATION	06/19/2012
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<sup>13</sup>

Due to history of parties receiving late notice and then being subjected to a Commission Order routing over their land, leading to remands and appeals, this issue has been a focus of the Commission’s Minn. Ch. 7850 rulemaking docket, and Commission rulemaking drafts address this specific issue. Late notice, and late notice which deprives landowners of their opportunity to participate and circumvents their due process rights, is not acceptable.

RRANT raises the late notice issue in this docket, and makes this Motion for Leave to Intervene Out-of-Time, Motion To Extend Intervention Deadline For Newly Affected Landowners, and Motion To Supplement EIS To Include New Route Alignments.

No party will be prejudiced by acceptance of RRANT as an Intervenor with full party status and as a placeholder for “ADDITIONAL new landowners,” and an extension of the Intervention deadline should they desire to participate, either with RRANT or on their own, and no party would be prejudiced by supplementation of the DEIS to include the new route alignments. RRANT is familiar with this docket and is not requesting a delay in the schedule to enable its participation – RRANT can file a brief and exceptions within the schedule. The Applicant Minnesota Power, and Commerce and EERA staff Bill Storm, chose and facilitated the routing options that affect these “ADDITIONAL new landowners,” with full knowledge of the timing. The Applicant is the primary benefactor of addition of new routes, and it is to their benefit to afford landowners right to sufficient notice and opportunities for participation. The Applicant Minnesota Power, Commerce EERA staff Bill Storm, and Commission and staff too, would not be surprised or caught unawares of these notice issues as they’ve been a recurring theme over the last 20 years, late notice having been the subject of Motions before the

<a href="#">20129-78637-01</a>	PUBLIC	09-1448	<input type="checkbox"/>	TL	RELATOR ST. PAUL'S LUTHERAN SCHOOL AND CHURCH AND CANNON FALLS LANDOWNERS	OTHER--WRIT	09/13/2012
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Commission and appeals, and which is being discussed and addressed in the Commission's current ongoing Minnesota Rules Chapter 7850 rulemaking.<sup>14</sup> On the other hand, if provisions are not made for landowner participation, those "ADDITIONAL new landowners" will suffer extreme prejudice, and because they have no meaningful opportunity to participate, they would be deprived of due process. If there are "ADDITIONAL new landowners" desiring to intervene or participate in some other way, RRANT requests best efforts be made to provide reasonable flexibility in the schedule for them to participate. Supplementation of the EIS will take some time, and scheduling flexibility for participation of any "ADDITIONAL new landowners" could be incorporated into that timing.

RRANT hereby requests leave to intervene out-of-time and requests full party status with all rights and obligations of a party; requests an extension of the intervention deadline for newly affected landowners and that direct Notice be provided to those landowners of the extension, and that Commerce EERA and the DOE supplement the EIS to include any new route alignments land of "ADDITIONAL new landowners."

Respectfully submitted,



Dated: August 12, 2015

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Carol A. Overland  
Attorney at Law  
1110 West Avenue  
Red Wing, MN 55066  
(612) 227-8638  
[overland@legalelectric.org](mailto:overland@legalelectric.org)

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<sup>14</sup> See PUC Minn. R. Ch. 7849 & 7850 Rulemaking Docket ET999,E999/R-12-1246.

FirstName	LastName	AddressLine1	City	State	Zip
GARY L.	BAILEY	1946 RANGE LINE RD SW	WILLIAMS	MN	56686
JASON S	BRAATEN	30957 340TH ST	BADGER	MN	56714
	C/O ITASCA COUNTY LAND DEPT	1177 LARAIRIE AVENUE	GRAND RAPIDS	MN	55744
DIANNE	EISELE	1089 78TH AVE NW	WILLIAMS	MN	56686
JACK & MARIANN & JOSEPH	ENFIELD	14180 BROADMOOR DR APT 305	BAXTER	MN	56425
	FISHER VILLIAM T REVOC TRUST	PO BOX 241	ROCKFORD	MN	55373
	GRAND RIVER TREE FARMS LLLP	PO BOX 100	WARROAD	MN	56763
	GREAT RIVER ENERGY	12300 ELM CREEK BLVD	MAPLE GROVE	MN	55369
	HAGMAN, MATTHEW & MARGUERITE TRUST	17748 DURANT STREET NE	HAM LAKE	MN	55304
DUANE D	HAMDORF	PO BOX 415	COOK	MN	55723
	HAUGEN & SLUKA FAMILY LIVING TRUST	31057 400TH ST	ROSEAU	MN	56751
RANDY & JOYCE	HELL	4589 HWY 11	INT'L FALLS	MN	56649
LORIE	HOMME	53744 CO RD 137	SALOL	MN	56756
	HONTVET FARMS LLC	63038 CO RD 134	WARROAD	MN	56714
DAVID A	JOHNSON	3962 143RD ST W	ROSEMOUNT	MN	55608
TERRY	JOHNSON C/O HARVEY F JOHNSON	36527 COUNTY RD 13	SALOL	MN	56756
	JOHNSON RICHARD L TRUST	606 8TH AVE SW #304	ROSEAU	MN	56751
	JOHNSON, ROY ALVIN TRUST	21000 NW QUATAMA RD UNIT 188	BEAVERTON	OR	97006
RAYMOND D	MOSER	22522 CO RD 13	ROSEAU	MN	56751
WAYNE	OLSON	11112 RHODE ISLAND AVE S	BLOOMINGTON	MN	55438
	RICHARD L JOHNSON TRUST	2134 E 170TH SOUTH CIR	SAINT GEORGE	UT	84790
	ROBERT A EASTMAN TRUST	607 5TH AVE NE	ROSEAU	MN	56751
	RODNEY G JOHNSON TRUST	846 MEADOWRIDGE DR SW	AURORA	MN	60504
	WAHLBERG TRUST	309 7TH AVE SE	ROSEAU	MN	56751

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce  
Newly Affected Landowner Notice**

**Docket No. E015/TL-14-21**

**Dated this 27<sup>th</sup> day of July 2015**

**/s/Sharon Ferguson**