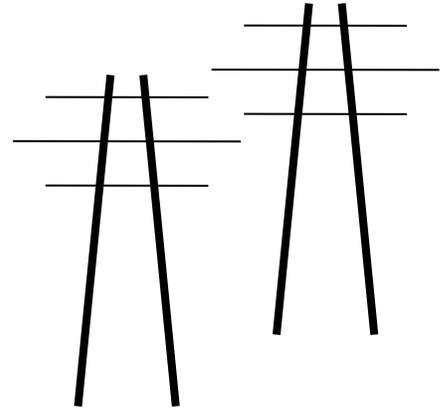


# Legalelectric, Inc.

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January 28, 2022

Rep. Zach Stephenson  
and  
All House Climate and Energy Finance and Policy Committee Members

via email: [mike.molzahn@house.mn](mailto:mike.molzahn@house.mn)

RE: [HF XXX \(Stephenson\) Permitting Reform - 1/27/2022](#)  
<https://www.house.leg.state.mn.us/comm/docs/oZNIWiSuHUaz5pejh-EOHw.pdf>

Dear Rep. Stephenson, and members of House Climate and Energy Finance Committee:

I've noticed your proposed "Permitting Reform" bill, and while I appreciate the focus of a mandate and incentives to hire local workers, several other parts are most concerning.

My interest is based on my experience as attorney with over two decades of practice focused on public participation and representation of individuals, groups, and local governments in utility proceedings, and in particular, transmission, power plant, and wind Certificate of Need and Routing dockets at the Public Utilities Commission.

## **PRESUMPTION OF TRANSMISSION IS ELECTRICAL AND LOGICAL ERROR**

Reviewing this proposal, in the order, presented, I'll start on p. 5, lines 5.9 – 5.19, "Transmission planning in advance of generation retirement." This paragraph sets up a binary notion of retirement planning, i.e., "(1) replace the nonrenewable energy facility; and (2) upgrade any transmission or other grid capabilities needed to support the retirement of that nonrenewable energy facility."

Electrically, and logically, **that second point makes no sense**. When a generation source is retired, that frees up transmission capacity. Generation capacity takes up transmission, and if a source is retired, it would make more sense for planners to focus on siting and interconnection to utilize the freed up transmission capacity. A simple way to envision removal of generation from the system is to get out of the bathtub and look at all the room for more water!!!

A more technical issue is that our overall demand has dropped due to increased efficiency and decreased load. For example, Xcel's load has not yet reached its 2006 peak (waiting, at this time,

for Xcel's 2021 SEC 10K filing with that peak demand information for 2021, it should be out within a few weeks).

This second point presumes that transmission is needed, and that is a false presumption. No transmission is every required for "retirement." The facility closes, which does not "require" transmission. Further, **REPLACEMENT** does not necessarily require transmission, and it's an error to assume replacement requires transmission. Replacement and "need" for transmission is dependent on siting and the capacity of the electric grid for interconnection.

In fact, as a part of the Biennial Transmission Plan docket, the Dept. of Commerce Division of Energy Resources requested information on transmission need of all Minnesota transmission owning utilities:

Question:

Topic: 2021 Biennial Transmission Projects Report

- A. Please list all areas where historical demand has been greater than the supply capability after a single contingency occurs.
- B. For each of these areas please provide an estimated data by which reliability would be restored.

See Attachment A, Commerce-DER Information Request 1, PUC Docket E999/M-21-111 (note in B that "data" should be "date").

**Each utility answered "None" to the first question.** There is no need for new transmission. Last year's MISO MTEP had the same result. In addition, if and when generation is retired, as above, there is even more capacity on the lines, and reserve margins are in excess of what is needed<sup>1</sup>.

Another consideration is that energy storage, in particular batteries, is now regarded as an alternative to transmission. The reliance, and the promotion, of transmission in that paragraph is not in keeping with technology developments, and instead is biased toward an outmoded means of getting energy to load.

Another issue is that transmission is inherently inefficient. Line loss is a part of any movement of electricity over transmission, higher with alternating current than with direct current, and the percentage of energy lost should be considered in any transmission proposal.

Another issue is that promotion of transmission locks our electrical system into the central station power mode, and shuts out a shift to distributed generation, which is siting generation near load. Distributed generation not only lessens reliance on transmission for increased efficiency, it is more reliable as there is less opportunity for breakdowns of the system in the lessened distance from generation to load. The system breakdowns are why the Public Utility

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<sup>1</sup> See 2021 NERC Long Term Reliability Assessment:  
[https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC\\_LTRA\\_2021.pdf](https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_2021.pdf)

Commission tracks utility reliability SAIDI, SAIFI, CAIDI indices – utilities have a service requirement and must keep outages to a minimum.

For this subdivision, I'd recommend elimination of the presumption of transmission, and addition of language requiring specifics of capacity freed up through retirements, and consideration of non-transmission alternatives:

**Subd. 8. Transmission planning in advance of generation retirement.**

A utility must identify in a resource plan each nonrenewable energy facility on the utility's system that has a depreciation term, probably service life, or operating license term that ends within 15 years of the resource plan filing date. For each nonrenewable energy facility identified, the utility must include in the resource plan an initial plan to: (1) replace the nonrenewable energy facility using demand side management, followed by distributed generation; and (2) upgrade any transmission or other grid capabilities needed to support the retirement of that nonrenewable energy facility identify capacity in transmission system available due to retirement of nonrenewable facility; (3) identify whether any of that facility's energy output needs to be replaced, the amount, and a plan for replacement; (4) identify non-wires options including storage and distributed generation for replacement; (5) identify interconnection points and capacity available for replacement generation for use following implementation of non-wires options.

**EXEMPTION OF ELECTRICAL AND SOLAR IS UNNECESSARY**

What is the basis for the exemption of 6.18-6.23? If there is a Power Purchase Agreement, the project is exempted. WHY? And why is this retroactive? What project(s) is intended to be the benefactor of this exemption?

**DON'T CHANGE FIVE MILE DISTANCE FOR TRANSMISSION SITING EXEMPTION – IT'S THERE FOR A REASON!**

The five mile distance exemption for transmission over 200kV was enacted after the Arrowhead Transmission Project in Minnesota and Wisconsin, following the exemption of that project from permitting by the EQB (now PUC), and the problems presented by exemption of that ~15 mile transmission project, and potential exemption of the Chisago transmission project, from the Power Plant Siting Act.

Who's pushing for this change? I imagine it's Xcel, planning transmission lines broken down in 29 mile increments to avoid regulation, to avoid routing proceedings. Why? Demand details!

A point raised during the Arrowhead exemption proceedings is that when a project is exempted, the landowners affected by that project are not able to elect the "Buy the Farm" provision, and instead, via eminent domain, the utility can take an easement on their land and the landowner is forced to live with that project. Buy the Farm allows a landowner to elect to have the utility buy out their parcel and let the landowner move away (no one wants to leave, but many view being

bought out better than having to live with transmission). Minn. Stat. §216E.12, Subd. 4. Do not strip landowners of opportunity to elect “Buy the Farm.”

Based on my 26+ years working on utility issues, I don’t see this proposed bill has merit.

If you have questions or require anything further, do not hesitate to call or email.

Very truly yours,

A handwritten signature in cursive script that reads "Carol A. Overland". The signature is written in black ink and is positioned above the typed name.

Carol A. Overland  
Attorney at Law

cc: All members of House Climate and Energy Committee



**L&O Power Cooperative**

- A. None.
- B. Not applicable.

**Minnesota Power**

- A. None.
- B. Not applicable.

**Minnkota Power Cooperative, Inc.**

- A. None.
- B. Not applicable.

**Missouri River Energy Services**

- A. None.
- B. Not applicable.

**Northern States Power Company**

- A. None.
- B. Not applicable.

**Otter Tail Power Company**

- A. None.
- B. Not applicable.

**SMMPA**

- A. None.
- B. Not applicable.

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Date: December 9, 2021

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