UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Priority Rights to New Participant-Funded Transmission	Docket No. AD11-11-000

COMMENTS OF THE TRANSMISSION ACCESS POLICY STUDY GROUP FOLLOWING UP ON MARCH 15 TECHNICAL CONFERENCE

Pursuant to the Commission's March 18, 2011 Supplemental Notice Requesting Comments, and its April 8, 2011 Notice of Extension of Time, the Transmission Access Policy Study Group ("TAPS") hereby submits the attached document to supplement the oral and written comments[1] of Mr. Terry Wolf, Missouri River Energy Services ("MRES"), at the March 15, 2011 technical conference in the above-captioned proceeding.

INTEREST OF TAPS

TAPS is an informal association of transmission-dependent utilities in more than 30 states, promoting open and non-discriminatory transmission access.[2] As entities entirely or predominantly dependent on transmission facilities owned and controlled by others, TAPS members recognize the importance of both open access and a robust transmission grid to competitive generation markets, and have long advocated policies to

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[1] Statement of Terry Wolf on Behalf of Missouri River Energy Services and the Transmission Access Policy Study Group, *Priority Rights to New Participant-Funded Transmission*, Docket No. AD11-11-000 (Mar. 15, 2011), eLibrary No. 20110316-4012.

[2] Tom Heller, Missouri River Energy Services, chairs the TAPS Board. Cindy Holman, Oklahoma Municipal Power Authority, is Vice Chair.

get needed transmission built. *See* TAPS, Effective Solutions for Getting Needed Transmission Built at Reasonable Cost (June 2004).[3]

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COMMENTS

Mr. Wolf's technical conference comments emphasized the continuing importance of assuring open, non-discriminatory access to transmission service, including over new participant-funded transmission lines, whether generator tie-lines or merchant facilities. During the technical conference, the Commission was bombarded by requests to relax the requirements on the developers of such lines. TAPS urges the Commission to resist those calls to compromise the underpinnings of competitive wholesale markets. Particularly in light of comments by other technical conference panelists[4] highlighting the "ability and incentive" to use control over participant-funded

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[3] http://www.tapsgroup.org/sitebuildercontent/sitebuilderfiles/effectivesolutions.pdf.

[4] *See*, *e.g.*, Transcript of March 15, 2011 Technical Conference at 167, *Priority Rights to New Participant-Funded Transmission*, Docket No. AD11-11-000 (Mar. 15, 2011), http://www.ferc.gov/EventCalendar/Files/20110328070902-AD11-11-3-15-11.pdf ("Tr.") (Kris Zadlo) (responding to comments regarding a potential exclusivity period for generator tie-line developers and the obligation to expand):

> And here's the issue: That line ends some place, and that is the place where I'm doing my marketing effort. And it may take some time. PPAs are very scarce, very difficult to come by, and it takes a lot of marketing effort to get into a PPA.
>
> So if I build this gen tie-line with multiple phases, I'm out there actively marketing. And what happens when, oh, you know, my friend Kurt here from First Wind submits a request on my line. He's there competing with me, and I have no period of exclusivity to market my power. You

transmission facilities to limit competition in generation markets,[5] it is crucial that the Commission maintain the open access protections that are the key to fostering robust wholesale markets and to assuring that rates for electricity are just and reasonable. The Commission's policy on generator lead lines—which requires the filing of an Open Access Transmission Tariff ("OATT") upon receipt of a third-party service request, and restricts the generator lead-line owner's priority rights to the capacity for which it has achieved material progress towards specific pre-existing expansion plans—appears to be on the right track and to be consistent with the principles of Orders 888 and 890. Those basic principles should continue to inform the Commission's treatment of both merchant transmission and generator tie-lines.

Contrary to the remarks of some panelists, successful transmission development does *not* require the Commission to choose between merchant development accompanied by an erosion of open access principles and regional planning, or no new transmission upgrades.[6] The CapX 2020 transmission planning and development process in the Upper Midwest, which Mr. Wolf described generally in his oral and written comments, provides

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> know, a project that I've gone out there, taken on considerable risk to build and construct. I've planned multiple phases. And I don't even have an opportunity to market the power for some period of time.

[5] Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,539, 21,568 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036, at 31,683 (1996), *clarified*, 76 FERC ¶ 61,009 (1996), *modified*, Order No. 888-A, 62 Fed. Reg. 12,274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 62 Fed. Reg. 64,688 (Dec. 9, 1997), 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in part and remanded in part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002) (concluding that transmission providers "will continue to engage in unduly discriminatory practices, unless we fashion a remedy to eliminate their ability and incentive to do so").

[6] *See, e.g.*, Tr. 94-95 (Cynthia Marlette, Western Independent Transmission Group), 96 (David Gates, Northwestern Energy), 96-97 (Stephen Conant, Anbaric Transmission).

one example of a viable alternative model for developing major transmission upgrades over which all transmission service will be made available under an open access tariff at non-pancaked rates. It also illustrates the success of broad joint ownership in getting transmission sited and built that is both sized to benefit the region as a whole and designed to support multiple, different, and competing generation scenarios.

The attached document, which was prepared for the Minnesota Power Systems Conference 2006, provides additional information on the CapX process. It describes the alternative generation scenarios that were evaluated as part of the CapX planning process, and how specific transmission projects were identified and selected based on that evaluation. Attach. at 1-4. The document also describes the regulatory and public affairs strategy associated with the CapX proposals to build over 600 miles of new high voltage transmission lines, noting, even before the siting process had started, that "[t]he strong alliance of municipals, co-ops and investor-owned utilities provides a unique opportunity to engage the public and local government officials through people they are used to working with." *Id.* at 4-5.[7]

Rather than adopt measures that are likely to result in the proliferation of undersized, single-purpose merchant transmission facilities, and an increase in the number of rate pancakes to reach wholesale customers, we urge the Commission both not

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[7] *See also*, *Cent. Minn. Mun. Power Agency*, 134 FERC ¶ 61,115, P 19 n.23 (2011) (noting that "encouraging public power participation in such projects is consistent with the goals of section 219 of the FPA by encouraging a deep pool of participants.") and Partial Dissent of Commissioner Norris ("In addition to encouraging a deeper and more collaborative pool of participants in the transmission development process, public power participation can generate key support for needed transmission projects that often face difficult siting decisions by state and local authorities. Public power entities play a significant role in meeting the energy needs of consumers across the country, and it is important to have these entities at the table as we move forward to plan and develop needed new transmission infrastructure.").

to erode its open access policies, and to consider and take steps to promote broader use of inclusive joint ownership approaches to transmission development, which can deliver better results consistent with the Commission's open access and competitive market goals.

Respectfully submitted,

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Attachment

CapX 2020 Transmission Initiative – Progress Through a Consortium Effort

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An Overview of CapX 2020 Initiative

- CapX is a multi-utility consortium that will develop transmission infrastructure to maintain reliability as demand for electricity in the region increases.
- The CapX utilities foresee significant growth in customer demand for electricity in Minnesota and neighboring states that will require new generation. Regardless of the type and location of new generation, substantial new transmission infrastructure will be required to support it.
- The CapX utilities in Minnesota and neighboring states are working together to devise a long-term plan to meet the growing need for new transmission capacity.
- The CapX utilities have embarked on a long and rigorous regulatory process to gain approval for the first group of transmission projects identified in their plan.
- CapX will engage the public in a broad discussion of the need for these facilities and, if it's determined that they're needed, where they should be located. CapX utilities plan a comprehensive effort to notify and involve the public in the need assessment and routing processes
- The initiative will require a large experienced staff and CapX has planned for this need and developed an innovative approach to organizing and managing the effort.

Background and the Transmission Projects

Minnesota's high-voltage electric transmission infrastructure, a network of transmission lines of 230 kilovolts and higher, was designed and built primarily during the 1960s and 1970s. Over the last two decades, we've seen increasing use of the transmission system resulting from increased customer demand as well as from the open access restructuring of transmission. As a result, current high voltage transmission infrastructure is not adequate to ensure future reliability of the region's electric delivery system. To support customers' growing demand for electricity, the high-voltage transmission system in Minnesota and neighboring states requires major upgrades and expansion over the next 15 years.

Recognizing this, transmission-owning utilities that serve Minnesota and surrounding states came together in 2004 to collaborate to meet the region's needs. Utilities saw the need for a long-range plan to address this issue, and decided to look at a 15 year period, out to the year 2020. The Midwest Independent System Operator (MISO) has thus far had to focus on shorter term needs (~ 5 years) but was supportive of this initiative. MISO is extending the horizon of its plans and incorporating other needs, such as identifying projects required to improve the efficiency in its energy market, and future CapX planning will be coordinated with MISO.

The first step in developing a long-range plan was to forecast the growth in electricity demand out to 2020. We based our forecast on load projections for utilities with customers in Minnesota, published by the Mid-Continent Area Power Pool (MAPP) in the *2004 MAPP Load and Capability Report* and in recent utility resource plan filings. We forecast the annual growth in customer demand to be 2.49%,

resulting in load growth of 6,300 megawatts (MW). To account for required reserves and energy lost during transmission, approximately 8,000 MW of new generation will be needed to meet the 6,300 MW of increased demand. The analyses of needed transmission facilities also looked at a lower growth rate of about 2/3 of the forecast, 4,500 MW.

The next step was to identify transmission facilities needed for various future generation scenarios. Our intent was to identify a flexible and robust plan for new transmission facilities that would be independent of where or what type of generation actually developed in the future.

Using information from independent power producers, wind developers, utility resource planning staff, and the MISO's generation interconnection queue, the planning team worked out three generation scenarios to illustrate potential locations of new electric generating plants or wind farms.

Minnesota Bias

All generation is modeled as inside Minnesota, except for 1300 MW of wind generation modeled in North Dakota, South Dakota, and Iowa.

Eastern Bias

New generation modeled is more heavily based on importing generation into Minnesota from Wisconsin and Iowa.

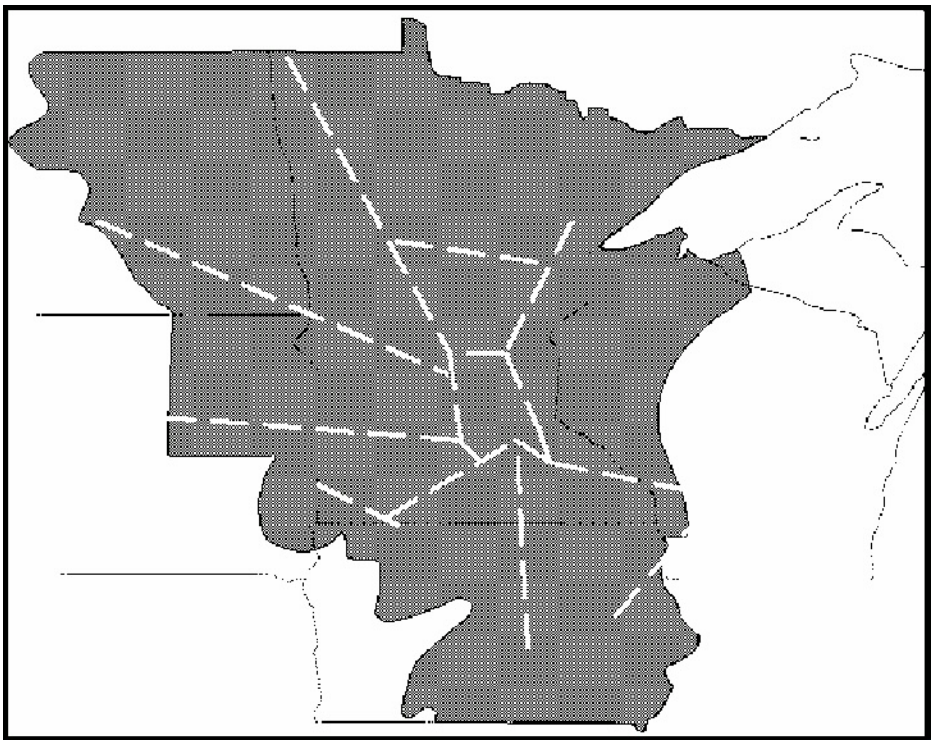
North/West Bias

New generation modeled is more heavily based on importing generation from Manitoba, North Dakota, South Dakota, and Iowa.

The team considered planning requirements for meeting the Minnesota Renewable Energy Objective, addressed issues related to relieving transmission congestion, and focused on high-voltage solutions that best addressed the three different generation scenarios. Facilities common to at least two of the generation scenarios were identified as the cornerstone of the CapX 2020 initial Vision Plan.

Our analyses identified a large amount of new transmission facilities that would be needed to maintain reliability and for any future generation scenario. The complete vision encompasses over 1,600 miles of new 345 kV transmission lines at a cost of over $3 billion. The first two phases of transmission investment would be needed to ensure regional reliability, and would secondarily also address local load reliability issues.

CapX 2020 - Initial Vision of New Transmission Needed by 2020



The new facilities are grouped corresponding to the timing of the need, and are shown in the following table. Subsequent more detailed planning studies refined certain portions of the initial vision plan. The facilities that are needed most urgently to ensure regional reliability comprise the Group 1 projects and are being pursued now. Additionally these projects were selected since they enable at least approximately 1,000 MW of new renewable energy sources, primarily wind energy, to come on-line. The later Group 2 and 3 projects are projected to enable at least another 1,400 MW of renewable to come on-line. The amount of renewable and other types of generation ultimately installed will be determined by regulatory policy and utility resource procurement decisions, not by CapX.

CapX Project Groups	**Desired In-Service Date**
Group 1 (total preliminary cost estimate, approximately $1.3 billion) SE Twin Cities-Rochester-LaCrosse, WI / 345kV (approx. 150 miles, $260M) Bemidji – Grand Rapids / 230kV (approx. 70 miles, $110M) Fargo, ND – St. Cloud / Monticello area / 345kV (approx. 200 miles, $310 M) Brookings, SD – SE Twin Cities / 345kV (approx. 230 miles, $600 M)	2011-2012
Group 2 – Around the Outer Twin cities	2014 to 2020
Group 3 – Provide Future Generation Outlet	2014 to 2020

These utilities are expected to participate in one or more of the Group 1 projects:

- Dairyland Power Cooperative, LaCrosse, Wis.
- Great River Energy, Elk River, Minn.
- Midwest Municipal Transmission Group, Des Moines, Iowa
- Minnesota Power, Duluth, Minn.
- Minnkota Power Cooperative, Grand Forks, N.D.
- Missouri River Energy Services, Sioux Falls, S.D.
- Otter Tail Power Company, Fergus Falls, Minn.
- Rochester Public Utilities, Rochester, Minn.
- Southern Minnesota Municipal Power Agency, Rochester, Minn.
- Wisconsin Public Power Inc., Sun Prairie, Wis.
- Xcel Energy, Minneapolis, Minn.

Public Affairs

We know that proposals to build over 600 miles of new high voltage transmission lines will raise a lot of interest and concerns. The Notice Plans that precedes the Minnesota Certificate of Need (CON) filing will result in contacts with approximately 200,000 landowners in MN. The approval of the Notice Plan by the Minnesota Public Utilities Commission requires notice to landowners and other parties about one month prior to the actual filing of the CON application. Our public affairs strategy includes a communications plan to ensure proactive and ongoing contacts with the public, local government leaders, business organizations, legislators, the media and other stakeholder groups in addition to the formal outreach required by the state and federal permitting processes. Providing timely, complete, accurate and understandable information will be critical to establishing creditability with the public and other groups. The strong alliance of municipals, co-ops and investor-owned utilities provides a unique opportunity to engage the public and local government officials through people they are used to working with. CapX commissioned a professional state-wide survey and the approximate Brookings route corridor to gauge public attitudes on general energy issues and electric transmission and their interest in the potential projects.

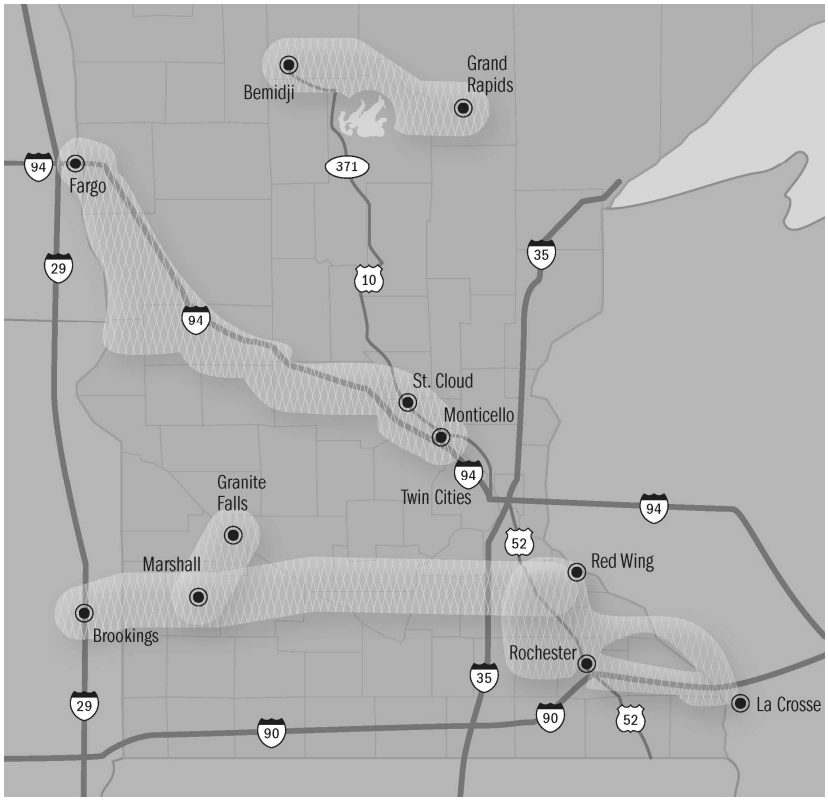
Regulatory Strategy

Our plan is to file a consolidated Certificate of Need (CON) for the 345 kV lines with the Minnesota PUC, and a separate, but coordinated CON for the Bemidji 230 kV line. We intend to start engaging with the public on the routing effort shortly after we file the CON. Our regulatory strategy involves focusing on these key issues:

- All four Group 1 CapX projects are needed to ensure regional reliability.
- CapX utilities carefully designed a transmission system for the future that is flexible enough to accommodate all reasonable scenarios for new generation. The blend of coal, natural gas, wind and other generation resources that the new transmission lines will accommodate will be determined separately in the public policy arena. The CapX effort is “non-denominational” as it relates to generation resources.
- Minnesota and the other involved states have robust review process for need and routing that provide ample opportunity for public involvement. We will proactively engage the public on these issues.

- Minnesota rules require detailed energy use data, by customer class, which is not relevant to the question of whether transmission is needed. More pertinent than energy use is customer demand. We will request approval to customize the data included in the CON to reflect this.
- In addition to the lengthy and detailed reviews required in Minnesota, these projects are also subject to state regulatory reviews in ND, SD and WI, as well as several types of federal environmental reviews. We will work with the state and federal regulators to coordinate reviews among the states and the federal agencies, share information, and reduce inefficiency and redundancy.
- The initial steps in the Minnesota regulatory review process for high voltage transmission lines have just begun with the approval of the Notice Plans for the 345 kV line corridors. The picture below shows the approximate broad Notice Plan corridors associated with the CON review process.
- The state and federal processes for obtaining permits for the specific locations of the new facilities often follow the approval of project need. However, CapX will engage stakeholders after the CON is filed about routing issues, and subject to regulatory approval, begin the formal routing processes while the CON is still undergoing regulatory review.

Group 1 Projects - Notice Plan Corridors

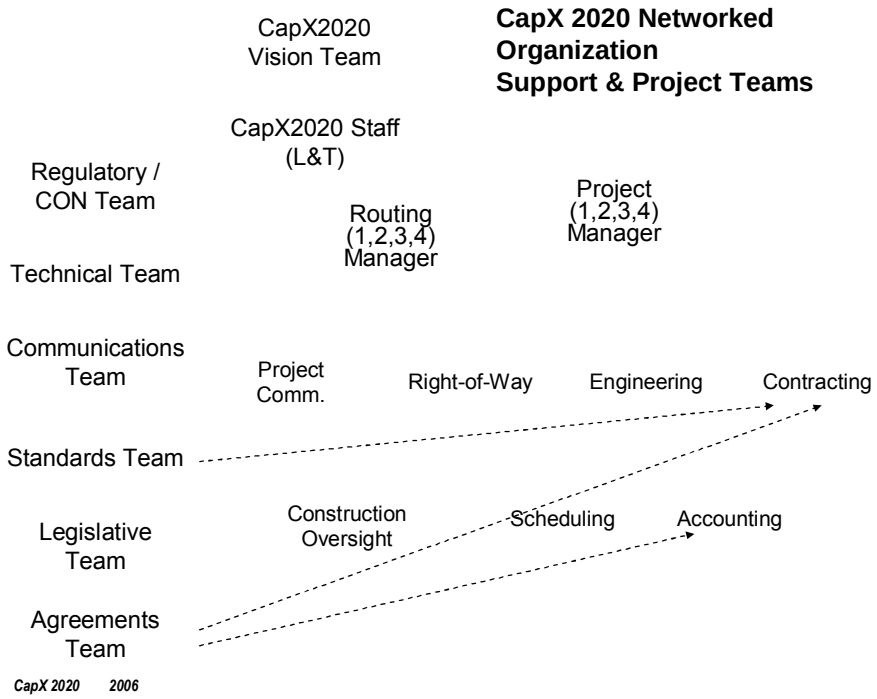


Providing Resources and Organizing the Effort

Permitting and constructing the Group 1 projects and the related improvements to the underlying system along with planning, permitting and constructing subsequent Groups 2 and 3 is a huge undertaking, even for a consortium of eleven utilities. Additionally, the overall effort is not simply a collection of separate individual projects occurring in a concurrent time frame. It is highly integrated means of meeting a variety of inter-related system needs. It is a very long duration effort, occurring continuously between now and 2020 or beyond.

With these challenges in mind, the CapX utilities considered a variety of organizational structures. A "virtual organization" model was chosen on the basis that it was the most expedient and efficient for supporting implementation of Group 1 projects and near-term efforts on Group 2 and 3. The virtual organization did not require forming a new business entity with the complex and time-consuming negotiations that would entail, but it is flexible enough to fit the existing vertically integrated structure of the participating utilities and it could be adapted to or subsumed by later business transmission structures should they be adopted. The virtual organization allowed centralized control of tasks that spanned the projects, such as pursuing a single CON for the three 345 kV projects in Group 1, while allowing other more unique portions of individual projects to be managed by different lead utilities, albeit with a great deal of coordination between them. A chart with a simplified view of the virtual organization is shown below. To make the virtual organization successful, those involved will need to communicate effectively with many people outside of their organization, accept work direction from management or peers from other organizations and embrace techniques and even standards from other organizations. Fortunately in the transmission business, there is a long successful history of collaboration to build on. The virtual organization is also likely to take a great deal of continuing attention from all levels of management at the supporting organizations.

The virtual organization relies on skilled resources that exist within the participating utilities. There must also be tight coordination among the many organizations and staff members. Experienced staff has been and will continue to be assigned full-time or in part to CapX. A key need is to retain staff as for long as possible and to have robust succession plans to deal with transitions. To support this objective, the staff must be working at a pace that is sustainable by them over the long term, have adequate support from management and feel that working on CapX is a rewarding experience. Increased staff will be needed as the effort continues from the permitting phase through the "build" phase. Efforts to-date to increase staff have mainly consisted of re-assigning experienced personnel to CapX activities and back-filling their previous duties with added staff. The participating utilities have hired outside new staff, in some cases relatively recent graduates, so CapX is also responsible for introducing some much needed "new blood" into the transmission segment of the electric utility industry. The projects teams have recently started to analyze the amount of skilled craft labor that will be required when the projects are actually constructed. If the results of this analysis suggest that there will be a significant shortfall of available craft labor, plans will need to be developed that accommodate this. Potential mitigation measures might include staging the construction of various segments of the CapX and underlying system projects, as well as possibly expanding the labor force.



Impact on customer bills:

- Transmission is a small percentage of a customer's electric bill. For instance, for Xcel Energy customers, it amounts to about 7 percent of the total bill. Customers will begin seeing small increases on their bills as construction work gets under way. Once the projects go into service (about 2012), the CapX 2020 investment could result in an increase of approximately $1.50 per month on a typical residential customer's bill.
- The increased revenue will pay for investment to ensure a reliable electric system and increased access to renewable energy sources. Also, transmission investment will enable access to other competitively priced wholesale energy supplies, which could offset the increase for transmission investment and result in an overall lowering of a customer's bill.

Summary:

The CapX consortium is making good progress in implementing the intial projects needed to maintain reliability and on planning for subsequent projects. The entire effort is being pursued as a holistic solution rather than piecemeal projects. In large part, the progress is due to the high degree of consensus among participants from different industry segments to collaborate in innovative ways and to supply the necessary resources.