

**STATE OF IOWA
DEPARTMENT OF COMMERCE
IOWA UTILITIES BOARD**

**IN RE:
ITC MIDWEST LLC
DAIRYLAND POWER COOPERATIVE'S**

DOCKET NO. E-22386

**INTERVENOR KLOPP RESPONSE TO
ITC MIDWEST AND DAIRYLAND POWER COOPERATIVE'S
MOTION TO STRIKE TESTIMONY AND EXHIBITS OF KLOPP**

INTRODUCTION

ITC Midwest and Dairyland Power Cooperative's (the Petitioners) "Motion to Strike Testimony and Exhibits" seeks to limit relevant information the Petitioners failed to provide to this proceeding, from informing the record. The Petitioners have an apparent motivation for limiting the information available to the IUB, Parties and the Public. The Petitioners attempt to strike the testimony of Ms. Klopp would avoid inclusion of the evidence she presents, that questions their premise that this project will benefit Iowa.

The Petitioners claim that Ms. Klopp's Reply testimony was filed late. Ms. Klopp's testimony was actually filed on time, but was refiled to accommodate changes in exhibit format at the request of IUB staff.

The Petitioners accuse Ms. Klopp of seeking relitigation of issues from Wisconsin. Ms. Klopp questions the Petitioners omissions that have a bearing on the Public interest, from the standpoint of a ratepayer and landowner. Ms. Klopp cites information on the project that exists, for consideration, to fill the void left by the Petitioners failure to provide basic economic information to the IUB, amongst other things. In lieu of the Petitioners having performed economic analysis of the project, it is not likely that any information is more relevant to the

Public costs of this project, than the extensive analysis and expert testimony from the Wisconsin proceeding. The use of the Wisconsin exhibits are meant to provide examples of the information that is currently missing from consideration, but is not intended as relitigation.

The Petitioners assert that Ms. Klopp's Reply contains information outside of Intervenor Klopp's personal experience and knowledge and for which she lacks expertise. As section 2 of her Reply testimony explains, Ms. Klopp's contributions to this proceeding are founded on the expressed, written interests in the record from a governmental unit, ratepayers, landowners and requests for information they made. Ms. Klopp's exhibits are described by source in her arguments below. Except for energy usage, generation and reliability data from the Energy Information Administration (EIA), website, the exhibits supporting her Reply are primarily taken from docket E-22386 witnesses, discovery and MISO's documents (60%).¹

Ms. Klopp agrees that due process is an important standard to protect. She finds that the Petitioners' motion does not protect these standards but seeks to undermine it by silencing the voices of the public and keeping information that is academic to this proceeding from becoming part of the final record.

Ms. Klopp objections to the Petitioners Motion to Strike and respectfully asks that it be denied. Ms. Klopp will address the Petitioners claims below and provides addition facts and insights in this discussion.

ARGUMENT

I. Timeliness of Testimony and Exhibit Filings

On October 31, 2019 Ms. Klopp uploaded Exhibit 1 to her Reply testimony to make sure she would have no problems uploading documents.² Ms. Klopp also filed her Reply testimony on October 31, 2019, at approximately 4:25 pm, followed by several exhibits. Ms. Klopp did

¹ Attachment A, Source of Exhibits for Klopp Reply

² Attachment B, IUB Notification of Exhibit 1 filing Used notice that was emailed as the docket is down.

take pictures of many of the files uploaded on October 31st.³ Due to time constraints, not all of the uploads were photographed. Ms. Klopp received a phone call from IUB Help Desk Staff member, James (hereto referred to as “James” in this document), after he had an opportunity to reviewed her Reply testimony and identify there were many exhibits. He informed her that it worked better for the IUB EFS system, if exhibits were combined into bundles and uploaded as groupings of several exhibits.⁴ Ms. Klopp understood that James would reject the exhibits that had been uploaded and Ms. Klopp would refile exhibits as bundles. Ms. Klopp stated that she would attempt to refile on November 1, 2019 (having no sense of what effort it would take to complete this task). Also at this time Ms. Klopp inquired as to the refile of a revision of her Reply testimony to allow for superficial edits to make it cleaner. She was told that revised testimony could be filed at any time. Ms. Klopp was unaware that, in addition to exhibits, James would be rejecting her original Reply testimony.

On November 1, 2019, Ms. Klopp began working to make the changes requested related to exhibit bundling. Ms. Klopp did not discover that her Reply testimony had also been rejected until sometime in the afternoon. The IUB Notification accompanying the rejection contained the following statement “Rejected as Ms. Klopp filed her exhibits as individual filings. I contacted her and asked her to resubmit them as groups of documents in filings. She will resubmit. JB 11/1.”⁵ While Ms. Klopp had suggested to James that she would upload the exhibits on November 1, 2019, she had no idea the magnitude of effort it would take to combine multiple pdf files into bundles, observing a specific maximum file size, etc. Because the formatting changes were being requested by the IUB, and Ms. Klopp believed she would be able to accomplish this by the following business day (Monday, November 4, 2019), it did not occur to her that it was necessary to call James and report that she would not be able to refile on November 1, 2019, or that she should notify the service list of the reason her filings had been delayed.

³ Attachment C, Examples of files submitted on October 31,2019

⁴ Ms. Klopp recalls that she received a telephone call from James (IUB staff member) on the evening of October 31st and spoke with him further on November 1st. She attempted to confirm whether her memory was accurate regarding when she was first contacted, through a conversation with James on November 13th. James was uncertain whether the first contact was on the 31st or the 1st, but confirmed that it was on one of those dates. Ms. Klopp is convinced that she would have uploaded all exhibits on the evening of October 31st, if she had not spoken with James. She discontinued uploading exhibits, knowing that reformatting was being asked for.

⁵ Attachment D, IUB Notification of Rejected Files

While Ms. Klopp was happy to comply with IUB wishes James requested on reformatting, she believes that her original attempt to upload documents on October 31st had met the stated procedural standards listed in the April 29, 2019 “ORDER ESTABLISHING PROCEDURAL SCHEDULE ...”⁶ Ms. Klopp would like to draw attention to the following statements on page 2 of that document, “Exhibits shall be filed separately from the testimony. Examples: “[Filing Party Name] Smith Direct Exhibit 1” or “[Filing Party Name] Smith Direct Exhibits 1, 2, 3.” **Parties may combine exhibits** into a single filing subject to a limit of five megabytes and fewer than 20 separate documents per filing.” The use of the term “may” indicated to Ms. Klopp, that combining exhibits into a larger document was not a requirement, but an option. Combining many pdf’s is a complex and error prone process.

Ms. Klopp was unable to complete the substantial effort of combining exhibits into bundled files by November 1, 2019. She completed this process along with updating her Reply testimony to accurately reflect the exhibit format changes (eliminating the need to file a revision) by November 4, 2019 (the first business day following November 1, 2019). Ms. Klopp contends that the original timely filing of her Reply testimony should be considered, as she had no way of knowing, prior to the call from James, that the extensive changes to exhibit format would be requested.

Contrary to the Petitioners representation of this situation, Ms. Klopp believes she complied with the expected standards and IUB authority under 199 IAC 7.10(1) in the matter of submitting a timely filing of her Reply testimony. Ms. Klopp can see now, that it would have been better to communicate with James as soon as she received the notice that her Reply testimony had been rejected, and to notify the service list at that time.

With regard to timeliness, Ms. Klopp would like to point out that, in relation to discovery requests made to the Petitioners and their supporters, she has been made every attempt to accommodate discovery responses that were provided late⁷ and has extended consideration for

⁶ Order Establishing Procedural Schedule; Granting Deutmeyer's, Kurt's, and Iowa Environmental Council's Petitions to Intervene; and Granting Admission Pro Hac Vice filed on April 29, 2019

⁷ Klopp-Reply-Exhibit-13, Dairlyland Power Cooperative Discovery Response, late by 6 days, Clean Energy intervenors witness Michael Goggin Discovery Response was late by 3 days, received by Ms. Klopp on Oct. 31st

stated circumstances, even when it was inconvenient for her.

The Petitioners express concern over the length of Ms. Klopp's testimony and the number of exhibits, given the scheduling constraints for their Rebuttal testimony (11 days).⁸ Ms. Klopp would like to point out that both of the Petitioners are large corporations with staff, including attorneys, legal secretaries and technical staff available to respond to the testimony of only one citizen intervenor and the Office of Consumer Advocates. To contrast this, all parties responding to their rebuttal, will have only 6 days⁹ to respond to the testimony of the many supporting witnesses that the Petitioners have, without the luxury of staff to accomplish this. Respectfully, Ms. Klopp is **not** objecting to the schedule in any manner, simply pointing to the irony of the Petitioners statement.

II. Relevance and Pertinence of Klopp Reply Testimony

Ms. Klopp sought in her Reply testimony to inform the record of this proceeding, from the standpoint of a ratepayer and a landowner that would be substantially affected by the project at hand, if it were to be approved. The Petitioners point out that Ms. Klopp's affected property does not reside within the boundaries of the State of Iowa.¹⁰ These are facts that were known when Ms. Klopp was granted intervention. Ms. Klopp points to the obvious detail that the Petitioners have left out – that the Cardinal-Hickory Creek Transmission Line (CHC), does not reside solely within the boundaries of the State of Iowa. The Petitioners are directly affecting Wisconsin landowners as the physical project is shared by Iowa and Wisconsin. If the CHC project in Iowa were approved, it would have as much impact on affected landowners in Wisconsin as it does on those in Iowa. The Petitioners choose to paint a picture of exclusion, but the legacy that is born from this decision is something both Iowa and Wisconsin would share.

⁸ "Instead, she filed and served her Reply Testimony (which is almost 50 pages long) and is accompanied by 47 exhibits on November 4, 2019. As the time for rebuttal was already short, with a deadline of November 15, the delay was significant.", ITC MIDWEST LLC AND DAIRYLAND POWER COOPERATIVE'S MOTION TO STRIKE CHRIS KLOPP REPLY TESTIMONY AND EXHIBITS, page 3

⁹ Order Establishing Procedural Schedule; Granting Deutmeyer's, Kurt's, and Iowa Environmental Council's Petitions to Intervene; and Granting Admission Pro Hac Vice filed on April 29, 2019, Attachment A

¹⁰ ITC MIDWEST LLC AND DAIRYLAND POWER COOPERATIVE'S MOTION TO STRIKE CHRIS KLOPP REPLY TESTIMONY AND EXHIBITS, page 2

Beyond this, ratepayers in all of the ten northern states of MISO would be financially responsible for paying for this project, guaranteeing the Petitioners a rate of return on the Public's investment.

To complete this picture, the information that the Petitioners have submitted to support their interest in the project is not directly relevant to CHC (neither the entire line, nor the part that is the subject of this proceeding). The information presented by the Petitioners thus far, relates to the entire MVP Portfolio of 17 transmission lines¹¹ and has many buried costs and assumptions. Some of those costs and assumptions have been uncovered as part of discovery. The Petitioners would benefit greatly by striking Ms. Klopp's testimony and exhibits, as it would keep essential details from becoming part of the record.

The Petitioners object to testimony from the Wisconsin proceeding as relitigation of the issues in Wisconsin.¹² Ms. Klopp argues that the evidence presented in Wisconsin informs this proceeding because it is the only project specific information available, due to the Petitioners failure to provide their own analysis for the record. Because no project specific economic analysis has been provided by the Petitioners, for review by the IUB, Parties or the Public, it seems reasonable that information already established, that is specific to this project be considered. Allowance of this information, still leaves the IUB ample room for their own interpretation. Additionally, even if economic analysis specific to the Iowa portion of the project had been made available, it would seem logical to be interested in other available information for comparison. It is not uncommon for evidence established in related dockets to be cited. Evidence from a state regulatory process is imparted with an assumed level of credibility and self-authentication. Ms. Klopp believes the IUB's franchising authority allows for broad jurisdiction in the determination of the types and sources of information upon which their decision will be made.¹³

III. Ms. Klopp's Qualifications as an Intervenor

¹¹ Klopp-Klopp-Repy-9, footnote 7, Klopp-Klopp-Reply-22

¹² ITC MIDWEST LLC AND DAIRYLAND POWER COOPERATIVE'S MOTION TO STRIKE CHRIS KLOPP REPLY TESTIMONY AND EXHIBITS, page 2

¹³ 199 IAC 1.3(17A,474,476,78GA,HF2206)

The Petitioners claim that Ms. Klopp lacks personal knowledge and expertise to speak to any of the topics in her testimony.¹⁴ Ms. Klopp does not and has never claimed to be providing expert testimony. Non-expert witness testimony is allowed. Ms. Klopp does have a BS in Chemistry including a strong grasp of mathematics and the scientific method and this knowledge can be applied to the analysis of many different topics and questions pertinent to this project,¹⁵ from a non-expert, citizen perspective. Ms. Klopp has spent the last year and a half becoming familiar with the intricacies of the CHC transmission line project and has sought information to educate herself on the topic of transmission as it relates to the issues important to citizens. Also within that period of time, Ms. Klopp spent a significant amount of time interacting with the Public in both Wisconsin and Iowa.¹⁶ Ms. Klopp will address issues related to the evidence in her Reply testimony in the section on evidence below.

Ms. Klopp points to how important citizen input is to this proceeding. Landowners who reside in communities that would be affected by the project, have a unique viewpoint that should not be overlooked. They have on the ground knowledge of their properties and communities and have actively educated themselves in order to find out how this project threatens their way of life, financial well-being, etc. Citizen intervenors would be unable to address a large percentage of the Petitioners claims, if they are unable to question, compare or analyze any of the Petitioners claims or access any information from experts who are part of our society at large. In fact, without access to information available from experts in relevant fields pertaining to this case, Ms. Klopp believes the record is diminished. Ms. Klopp submits that this entire inquiry is about getting all of the relevant information on the table to inform the Iowa Utility Board. Limiting citizen intervenor input to topics for which they are experts would essentially eliminate the voice of the Public's Interest.

Ms. Klopp has the right to ask questions and compare information already in the record to examples of credible evidence. Much of the evidence (60%), that Ms. Klopp has presented in her Reply testimony has been written and/or provided by parties to this proceeding who are by definition, witnesses that must be available for cross examination (evidence such as testimony,

¹⁴ ITC MIDWEST LLC AND DAIRYLAND POWER COOPERATIVE'S MOTION TO STRIKE CHRIS KLOPP REPLY TESTIMONY AND EXHIBITS, page 5

¹⁵ Klopp's "PETITION TO INTERVENE", page 4

¹⁶ Attachment E, Direct-CK-Klopp-r2-4 &5

discovery responses and MISO documents).¹⁷ Some evidence (5%) comes from governmental agencies¹⁸ commonly considered to be self-authenticating and of known credibility. Most of the remaining evidence¹⁹ (35%), is taken directly from the Wisconsin CHC proceeding.

Ms. Klopp possesses the right to represent local government, ratepayer and landowner interests in this proceeding as they are expressed, in writing, in the record. The interests of Objectors is already documented in the record. Ms. Klopp has documented the interests of Dubuque County in her Reply testimony²⁰ as it relates to questions asked at a Dubuque County Board Meeting and a resolution adopted by the county requesting the Petitioners provide additional information about the Project (Resolution #18-233).²¹ Ms. Klopp perceives these governmental representatives and citizen objectors to be intelligent, discerning and analytical. For example, they have requested cost benefit analysis related specifically to ratepayers.

In attempting to represent Public Interests, Ms. Klopp has sought to frame statements made by the Petitioners in their testimony, in relation to requests from governmental representatives and citizen objectors on carbon dioxide emissions reductions. To do so, Ms. Klopp has taken data provided by Dr. Anne Smith (an expert witness for the Applicants in the Wisconsin CHC proceeding, of which the Petitioners were part), and compared it to the Petitioners single estimate²² of CO2 emission reductions for this proceeding.²³ Ms. Klopp uses this comparison to examine whether the Petitioners figure is significant or not, using readily available bench marks like verified Iowa CO2 emissions from the EIA (U.S. Energy Information Administration). The “analysis”²⁴ that Ms. Klopp undertook to make this comparison is little more than a mathematical calculation involving addition and division. The Petitioners are welcome to check Ms. Klopp’s math, as the proceeding provides them ample opportunity to conduct additional analysis and argue their understandings. The Petitioners rely on analysis to

¹⁷ Attachment A, First group, 60%

¹⁸ Attachment A, Second group, 5%

¹⁹ Attachment A, Third group, 35%

²⁰ Klopp-Klopp-Reply-7

²¹ Klopp-REPLY-Exhibit-15, Dubuque County Resolution

²² In regard to potential emission reductions, the petitioners and supporting parties, thus far, have only provided an estimate for all 17 MVP projects for a single year.

²³ Klopp-Klopp-Reply-29, Table 14 Carbon Reduction Data from MVP Triennial Review

²⁴ Ms. Klopp’s “analysis” consisted of making liberal assumptions about the amount of CO2 emission reduction from the 17 MVP’s (MISO’s number) could be attributed to the CHC project.

assist the positions they argue. Due process allows all parties in a proceeding to present evidence.

Moreover, if the Petitioners had provided estimates of CO2 reduction for the Project over time as requested by the written Public Interests (that Ms. Klopp is attempting to represent), seeking out existing data from the Wisconsin CHC Docket would not be necessary to evaluate the topic of CO2 emission reduction, which is relevant and material to this proceeding. Thus far, the “single estimate”, referred to above, is the only estimate of CO2 emission reductions provided by the Petitioners and it is for all 17 MVP projects in a single year (not the entire CHC project or that part of it that is under consideration in Iowa in this proceeding).²⁵ The outcome is a number with no analytical significance to this proceeding.

IV. Adherence to Procedural and Evidentiary Standards

Ms. Klopp made every attempt to comply with the procedural and evidentiary standards. As a citizen intervenor, Ms. Klopp has attempted to represent the Public Interest by filing testimony that asks relevant questions and covers topics raised repeatedly by landowners and citizens regarding transmission projects.

The Petitioners make a variety of claims with respect to Ms. Klopp’s testimony that are unwarranted and misleading. The Petitioners claim that Ms. Klopp’s testimony is irrelevant and immaterial,²⁶ while much of her testimony follows up on questions and comments made by a County Government and Objector comments. Iowa Code 2019 478.3 states that the Petitioners shall “set forth an allegation that the proposed construction represents a reasonable relationship to an overall plan of transmitting electricity **in the public interest**”. The interests of governmental representatives and citizens must certainly qualify as the Public Interest.

With this in mind, Ms. Klopp would like to point out what the main thrust of her Reply testimony is, to illustrate the topics that the Petitioners find to be irrelevant and immaterial. Ms.

²⁵ Klopp Reply Exhibit 1-12, Data Request No. 9, Klopp-Reply-Exhibit-18-10, Follow-Up Request to MISO Partial Reply to No 9A and 9B, Note: The Petitioners have relied solely on MISO for these analytical numbers.

²⁶ ITC MIDWEST LLC AND DAIRYLAND POWER COOPERATIVE’S MOTION TO STRIKE CHRIS KLOPP REPLY TESTIMONY AND EXHIBITS, page 4

Klopp's Reply testimony examines the economic viability of the project.²⁷ Whether this project is going to cost Iowa ratepayers or whether it will benefit them.²⁸ Ms. Klopp's Reply considers questions related to Carbon emissions.²⁹ The Petitioners have provided no defensible analysis of carbon emission reduction projections for the project.³⁰ Ms. Klopp's Reply investigates whether the reliability projects, cited as a justification for the project, are truly needed and how they relate to previously scheduled upgrades to the facilities in question.³¹ Ms. Klopp's Reply explores whether the Petitioners have considered alternatives to the project.³² The Petitioners rely on evidence from the Wisconsin CHC proceeding for dismissing consideration of alternatives (even though they are critical of Ms. Klopp for citing the Wisconsin proceeding). To sum up the topics that the Petitioners find to be "immaterial and irrelevant to the proceeding,"³³ Ms. Klopp finds economics of the project, reduction of carbon emissions, analysis of reliability projects and evaluation of alternatives.

Ms. Klopp would like to address the Petitioners claim that the exhibits have not been authored or created by her and are from specific sources.³⁴ Much of the evidence (60%), that Ms. Klopp has presented in her Reply testimony has been written and/or provided by parties to this proceeding who are by definition, witnesses that must be available for cross examination (evidence such as testimony, discovery responses and MISO documents).³⁵ Some evidence (5%) comes from governmental agencies³⁶ commonly considered to be self-authenticating and of known credibility. Most of the remaining evidence³⁷ (35%), is taken directly from the Wisconsin

²⁷ Klopp-Klopp-Reply-18

²⁸ With growth of electric usage steadily decreasing and electric rates in Iowa increasing, this is a serious concern of ratepayers. The Petitioners rely entirely on MISO in contending that the project is economically beneficial, but answers to discovery requests show MISO presents no project specific analysis and has no connection to the outcome for ratepayers.

²⁹ Klopp-Klopp-Reply-25

³⁰ The Petitioners make many innuendos about the need to **enable** wind generation to meet state renewable energy goals. The main motivation for increasing renewable energy generation is the reduction of carbon emissions.

³¹ Klopp-Klopp-Reply-32

³² Klopp-Klopp-Reply-41

³³ ITC MIDWEST LLC AND DAIRYLAND POWER COOPERATIVE'S MOTION TO STRIKE CHRIS KLOPP REPLY TESTIMONY AND EXHIBITS, page 1

³⁴ ITC MIDWEST LLC AND DAIRYLAND POWER COOPERATIVE'S MOTION TO STRIKE CHRIS KLOPP REPLY TESTIMONY AND EXHIBITS, page 2, "Rather, the exhibits are testimony of at least five witnesses from a different proceeding, news articles, numerous transmission planning documents, and discovery requests and responses from various parties."

³⁵ Attachment A, First group, 60%

³⁶ Attachment A, Second group, 5%

³⁷ Attachment A, Third group, 35%

CHC proceeding. Information from the Wisconsin proceeding has been primarily used as examples of information that the Petitioners have not provided for the Iowa proceeding or for comparison to claims made by Petitioners. The petitioners, having been Applicants in the Wisconsin proceeding, have had the opportunity to cross examine all witnesses that were parties to that proceeding to the extent that they saw fit (making their claim³⁸ unfounded). One newspaper article,³⁹ cites the FERC ruling providing for the “golden parachute” mentioned in Ms. Klopp’s Reply testimony.⁴⁰

Ms. Klopp will be available for cross examination and will be happy to answer any questions the Petitioners may have about her testimony and exhibits. Ms. Klopp would like to point out that a few exhibits (approximately four),⁴¹ are intended only to show support for statements Ms. Klopp made and inform other parties as to the basis or source underlying a statement made in testimony and are not intended to be evidentiary.

CONCLUSION

Ms. Klopp questions the wisdom of eliminating the only ratepayer voice (to date), providing evidentiary testimony as a party to this case. Ms. Klopp sincerely hopes that there will be testimony added to this proceeding from the three other parties who clearly represent a ratepayer perspective, Ms. Kurt, Mr. Deutmeyer and Ms. Grice. To be fair, even if all of these representatives of Public Interest step forward and add value and perspective to this proceeding, the representation of utility interests will far outnumber those of the Public.

Ms. Klopp apologizes, if the final acceptance of her filing, appearing as untimely, has been problematic, but she vigorously maintains that she is working diligently to conform to the process and procedural constructs of this proceeding, as laid out by the IUB.

³⁸ ITC MIDWEST LLC AND DAIRYLAND POWER COOPERATIVE’S MOTION TO STRIKE CHRIS KLOPP REPLY TESTIMONY AND EXHIBITS, page 1, “. . . because Applicants have no ability to seek discovery of or cross-examine the multiple witnesses on their testimony from another proceeding that Ms. Klopp incorporates in her Reply Testimony.”

³⁹ Klopp-Reply-Exhibit-19

⁴⁰ Klopp-Klopp-Reply-12

⁴¹ Klopp-Reply-Exhibit- 23, Klopp-Reply-Exhibit-121, Klopp-Reply-Exhibit-123, Klopp-Reply-Exhibit-153

Ms. Klopp objections to the Petitioners Motion to Strike and respectfully asks that it be denied. Ms. Klopp believes she has spoken to all of the concerns that the Petitioners have raised and she invites the IUB to read selected portions of her Reply testimony to determine its compliance. Ms. Klopp is confident that it will speak for itself.

Respectfully Submitted this 16th day of November, 2019 by

/S/ Chris Klopp

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