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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

NORTHERN PLAINS RESOURCE
COUNCIL, et al,

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS
AND LIEUTENANT GENERAL
TODD T. SEMONITE (IN HIS
OFFICIAL CAPACITY AS U.S. ARMY
CHIEF OF ENGINEERS AND
COMMANDING GENERAL OF THE
U.S. ARMY CORPS OF ENGINEERS),
DEFENDANTS,

TC ENERGY CORPORATION, ET AL.
DEFENDANT-INTERVENORS.

Defendants.

Cause No. CV 19-44-GF-BMM

**MOTION OF INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS FOR LEAVE TO JOIN
PROPOSED AMICUS BRIEF
UNDER LOCAL RULE 7.5**

INTRODUCTION

International Brotherhood of Electrical Workers (“IBEW”) requests to join Edison Electric Institute (“EEI”) and Utility Water Act Group (“UWAG”) (together, “Electric Utility Amici”) in moving under L.R. 7.5 for leave to file a joint amicus curiae brief in support of Defendants the United States Army Corps of Engineers (“Corps”), et al., as well as Defendant-Intervenors. Defendants and Defendant-Intervenors represented through counsel that they do not oppose this motion. Plaintiffs represented through counsel that they will oppose this motion.

Plaintiffs ask this Court to declare unlawful Nationwide Permit 12 (“NWP 12”), under which critical infrastructure projects are constructed by IBEW’s members. That permit is essential to the construction and maintenance of transmission and distribution lines that provide jobs to many of IBEW’s members. Because many of these jobs rely on projects moving forward under NWP 12, IBEW’s unique perspective will aid this Court’s understanding of the issues in this case. IBEW therefore requests that the Court permit it to join the proposed Electric Utility Amici in filing one amicus brief supporting Defendants and Defendant-Intervenors, no longer than 5,000 words, on or before January 6, 2020.¹

¹ One line in Electric Utility Amici’s Motion for Leave to File Amicus Brief incorrectly referred to January 10, 2020, as the proposed filing deadline for amici; to clarify, Electric Utility Amici seek to file their brief on January 6, 2020.

STATEMENT OF INTEREST

IBEW is an unincorporated international labor organization representing approximately 750,000 active members and retirees working in a variety of fields, including utilities, construction, telecommunications, broadcasting, manufacturing, railroads, and government. In total, IBEW local unions represent approximately 250,000 utility workers in dozens of bargaining units across the United States and Canada, including System Operators who maintain the flow of electricity to customers in more than twenty-three states. The relationships between IBEW local unions and electric utility companies span more than thirty-five years. In Montana, IBEW supports local unions 768 in Kalispell, 233 in Helena, and 253 in Billings.

ARGUMENT

IBEW incorporates the arguments in the Electric Utility Amici's Motion for Leave to File Amicus Brief. IBEW submits that it can further aid this Court's understanding of this case by addressing the impact on Montana electric utility sector jobs if Plaintiffs' facial challenge to NWP 12 succeeds.

The supply of electricity throughout the country requires the hard work of thousands of individual workers who are needed to maintain, service, and build the electrical grid. This case is of particular significance to IBEW because ongoing and future electric utility projects under NWP 12 may be threatened if this Court declares NWP 12 unlawful and remands the permit. Depending on the Corps'

actions in response, electric utility projects may be put on hold, postponed, or cancelled, which would result in a loss of employment for many IBEW members. The Corps could also potentially suspend some or all uses of NWP 12, or seek to impose additional requirements or limits on uses of NWP 12 to remedy any deficiency perceived by this Court, which would likely make it more difficult for IBEW members to find employment. In short, a decision stating that NWP 12 is unlawful could have serious consequences for IBEW's members.

IBEW's motion is timely. Plaintiffs filed their opening summary judgment brief on November 22; the Federal Defendants' and Defendant-Intervenor TC Energy's briefs are not due until December 23; and the remaining Defendant-Intervenors' briefs are not due until December 30. *See* ECF Doc. 68. Given that IBEW proposes simply to join the Electric Utility Amici in filing one amicus brief no longer than 5,000 words, shortly after all Defendant-Intervenors have filed their briefs, its participation will not delay this action or unfairly prejudice Plaintiffs. IBEW thus should be permitted to join the Electric Utility Amici group to provide its views on Plaintiffs' challenge to NWP 12.

CONCLUSION

For the foregoing reasons, IBEW respectfully requests that this Court grant its motion for leave to file a joint amicus brief with Electric Utility Amici in support of Defendants, no longer than 5,000 words, on or before January 6, 2020.

DATED this 5th day of December 2019.

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CERTIFICATE OF COMPLIANCE

The undersigned, Robert L. Sterup, certifies that the foregoing Motion for Leave to Join Proposed Amicus Brief complies with the requirements of Rule 7.1(d)(2). The lines in this document are double spaced, except for footnotes and quoted and indented material, and the document is proportionately spaced with Times New Roman Font typeface consisting of fourteen characters per inch. The total word count is 672 words, excluding caption and certificates of compliance and service. The undersigned relies on the word count of the word processing system used to prepare this document.

/s/ Robert L. Sterup
Robert L. Sterup

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of December 2019, the foregoing motion was mailed for conventional filing with the Clerk of the Court. I further certify that on the 5th day of December 2019, I served true and correct copies of the foregoing motion via first-class mail, postage prepaid, upon each of the following counsel of record:

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