

Staff Briefing Papers

Meeting Date	February 20, 2020	Agenda Item 2 *	
Company	Xcel Energy		
Docket No.	E002/MC-19-758		
Issues	<p>In the Matter of the Application for a Minor Alteration of Xcel Energy's 500 kV Transmission Line 5702</p> <p>Should the Commission authorize the minor alteration request? If the minor alteration is approved, should any conditions be required?</p>		
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Relevant Documents

Date

Xcel Energy - Application for a Minor Alteration (2 parts)	November 27, 2019
Commission - Notice of Comment Period	December 9, 2019
MNDOT – Comments	December 13, 2019
DOC EERA – Comments – Recommendations	December 20, 2019
Global Minerals Engineering – Public Comment	December 26, 2019
Xcel Energy – Late Reply Comments	January 20, 2020

Attachments

Complaint Handling Procedures (3 Pages)

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

I. Statement of the Issues

Should the Commission authorize the minor alteration request? If the minor alteration is approved, should any conditions be required?

II. Procedural History

On November 27, 2019, Northern States Power Company (Xcel Energy or The Company) petitioned the Minnesota Public Utilities Commission (Commission) for a minor alteration to reroute an approximately 3-mile section of an existing 500-kV high-voltage transmission line #5702 in Chisholm, Minnesota.

On December 9, 2019, the Commission issued a notice of comment period on the minor alteration application requesting comments by December 23, 2019, and reply comments by January 6, 2020. The notice was sent to landowners potentially impacted by the Project, potentially interested agencies, and those expressing interest to receive notice regarding projects processed under the Power Plant Siting Act.¹

On December 13, 2019, the Minnesota Department of Transportation (MnDOT) submitted comments recommending that if the project is permitted, Xcel be required to coordinate Project activities with their agency.

On December 20, 2019, the Department of Commerce Energy Environmental Review and Analysis (Department or EERA) submitted comments and recommendations recommending that the minor alteration be approved by the Commission with conditions.

On December 26, 2019, Global Minerals Engineering (GME) submitted comments recommending approval of the minor alteration subject to several conditions (discussed below).

On January 14, 2020, Xcel Energy submitted reply comments.

III. Statutes and Rules

A minor alteration is defined under Minn. R. 7850.4800, subp. 1, as a change in a large electric power generating plant or high voltage transmission line that does not result in significant changes in the human or environmental impact of the facility.

In accordance with Minn. R. 7850.4800, a permittee requesting a minor alteration must submit an application to the Commission describing the modifications to be made and an explanation why the alteration is minor. Upon receiving a minor alteration application the Commission is required to provide at least a 10-day period for interested persons to submit comments on the request. After close of the comment period the Commission must decide whether to authorize

¹ Minn. Rule 7850.2100 (A)

the minor alteration and impose reasonable conditions as necessary, or determine that the alteration is not minor and require a full permitting decision.

Minnesota Statute 216E.03 Subdivision 7, and Minn. Rule 7850.4100 identify the factors the Commission must consider in making when designating sites and routes.

IV. Minor Alteration Request

Xcel Energy petitioned the Commission on November 27, 2019, for a minor alteration to reroute an approximately 3-mile section of its existing 250-mile, 500-kV high-voltage transmission line (HVTL) #5702 in Chisholm, Minnesota (Project). The route crosses the State border near the city of Warroad, MN in Roseau County and runs to the Chisago County Substation, southwest of North Branch. Xcel Energy is proposing to reroute the 3-mile portion of the existing HVTL to accommodate the planned eastward expansion of the Hibbing Taconite Company's (HibTac) existing mining operations.



The existing line was originally permitted by the Minnesota Environmental Quality Council in 1977 (Docket No. NSP-TR-1) before the route permitting and Power Plant Siting Act authority was transferred to the Commission in 2005. Under Minn. R. 7850.4800, the Commission is authorized to approve minor alterations to facilities that have been permitted by the Commission and facilities that were not previously permitted by the Commission, but meet the definition of a HVTL under applicable law.

The HVTL was built on right-of-way (ROW) using a license agreement rather than (a more common agreement) perpetual easement because a perpetual easement would prevent landowner access to the minerals below and adjacent to the ROW.² The agreement would have required Xcel to compensate the landowner for the value of the minerals encumbered under the perpetual easement. The license agreement approach was considered to be less costly than a perpetual easement given the possibility of having to move the line.² Xcel Energy stated it expects to use the same kind of license agreement with the landowners of the new ROW.²

The Minor Alteration would remove 16 lattice towers that would be replaced by 13 new lattice towers and two tubular structures at each end of the rerouted section. The proposed Project ROW would remain the same at 200-feet wide. The towers to be used would range in height from 130 to 140 feet and would be spaced between 450 and 1,690 feet apart.³

In its application, Xcel described the potential human and environmental impacts of the request in relation to route selection standards and criteria as set forth in Minn. R. 7850.4100, as follows:

- The almost 3-mile section of 500 kV HVTL would be located within a new 200 foot-wide right-of-way.⁴ The line would cross three roads; State Highway 5, 6th Street SW, and State Highway 73/Highway 169.⁴
- The Project would cross 55.1 acres of forested land, 1.8 acres of open land, 5.1 acres of developed land (roads, parking lots, building rooftops) and 12.8 acres of wetlands.⁵ The impacts to wetlands would be minimal and limited to structure footings.⁸ No agricultural land or public waterways are impacted by the Project right-of-way.⁴
- The Minnesota Department of Natural Resources (DNR) identified four rare or significant plant species potentially located in the Project area. Xcel Energy contracted with Barr Engineering to complete a botanical survey for the Project area. The survey identified no protected species within the Project area.⁶
- The Project is within an action area of four federally listed animal species. Impacts to the Northern Long Eared Bat can be avoided by clearing trees outside of the pup rearing season. The other three species are not located within the Project Area.⁷

² See *Page 2, Section B Project Description*, Xcel Energy Application Initial Filing. Submitted November 27, 2019. Document ID [201911-157913-01](#)

³ See *Page 3, Section B Project Description*, Xcel Energy Application Initial Filing. Submitted November 27, 2019. Document ID [201911-157913-01](#)

⁴ See *Page 12, Section E.3*, Xcel Energy Application Initial Filing. Submitted November 27, 2019. Document ID [201911-157913-01](#)

⁵ See *Page 12, Table 4: Project Impact Summary: Land Cover*, Xcel Energy Application Initial Filing. Submitted November 27, 2019. Document ID [201911-157913-01](#)

⁶ See *Page 12, Table 4: Project Impact Summary: Sensitive Natural Resources*, Xcel Energy Application Initial Filing. Submitted November 27, 2019. Document ID [201911-157913-01](#)

⁷ See *Page 14, Table 5: Assessment of Impacts of Requested Alignment*, Xcel Energy Application Initial

- Xcel Energy stated there would be no anticipated impacts on human settlements and no displacement required.⁸
- Noise levels would be below state standards.⁸
- Xcel Energy said there are no anticipated impacts on public health and safety. There are also no safety concerns with the construction and operation of the line.⁸
- Xcel Energy stated that the Project would allow the HibTac mine to continue to expand east. Any impacts on the Minnesota Discovery Center are addressed in an existing memorandum of understanding.⁸
- No archaeological or historical resources are expected to be impacted. Xcel Energy stated the company will continue to coordinate with the State Historic Preservation Office (SHPO).⁸
- The Project does not cross any areas (state or national wilderness areas, parks, scientific and natural areas) prohibited under Minn. R. 7850.4300.⁸

In addition, Xcel Energy indicated that it met with landowners and stakeholders along the proposed reroute. The Project will affect a total of 14 individual parcels. Mineral rights in these parcels are owned by 19 parties. Stockpiles present on 8 parcels are owned by 23 parties.⁸ Xcel Energy stated that all landowners had agreed in principle with the proposed reroute and some have already signed license agreements.⁹

The DNR was consulted throughout the route development process. Xcel Energy filed copies of its correspondence with the agency in its application (Attachment E).¹⁰ In correspondence dated May 9, 2019, the DNR recommended the use of flight diverters, suggested adjusting the proposed route and pole locations to avoid clearing wetlands, and doing any construction or maintenance activities in frozen conditions in order to minimize impacts. The DNR also noted that there is a public water crossing at the southern end of the route that will require a DNR license to cross public waters for the location.^{11, 12} Also in comments filed on September 19, 2019, the DNR indicated support for the proposed minor alteration. The DNR also encouraged continued coordination in the future.¹⁰

Filing. Submitted November 27, 2019. Document ID [201911-157913-01](#)

⁸ See Page 4, *Section D. Land License Agreement Status*, Xcel Energy Application Initial Filing. Submitted November 27, 2019. Document ID [201911-157913-01](#)

⁹ See Page 4, *Table 2. Land License Agreement Status*, Xcel Energy Application Initial Filing. Submitted November 27, 2019. Document ID [201911-157913-01](#)

¹⁰ Xcel Energy Application, Attachment E – Initial Filing – *Application [sic] For Minor Alteration of the Xcel Energy Transmission Line*. Submitted November 27, 2019. Document ID [201912-158603-02](#)

¹¹ Xcel Energy Application, Attachment E - *Application [sic] For Minor Alteration of the Xcel Energy Transmission Line* – Letter dated May 9, 2019. Submitted November 27, 2019. Document ID [201912-158603-02](#)

¹² Xcel Energy Application, Attachment E - *Application [sic] For Minor Alteration of the Xcel Energy Transmission Line* – Letter dated September 19, 2019. Submitted November 27, 2019. Document ID [201912-158603-02](#)

Finally, Xcel Energy stated that the proposed modification does not significantly change the human or natural environments and therefore should qualify as a minor alteration to the existing facility.¹³

V. Comments

The Commission received comment letters from MnDOT, EERA, and Global Minerals Engineering. There were no comments received during the reply comment period. Xcel Energy provided Late Reply Comments on January 14, 2020.

MnDOT

In its December 13, 2019 comments, MnDOT stated Xcel Energy had consulted with them during the route development process prior to application submittal. MnDOT noted that it prefers that highway crossings occur at as close to right angles as possible with pole placement located an adequate distance from the highway ROW. MnDOT stated that it understands the need for the angle crossing and indicated that a Utility Accommodation Permit for the Highway 169 work is feasible. MnDOT encouraged continued coordination with its staff.

EERA

EERA submitted comments on December 20, 2019 (document dated December 23, 2019). EERA's comments noted the proposal was consistent with the Department's interpretation of Minn. R. 7850.4800. EERA stated the proposed change to the location of the line does not have significant human or environmental impacts, and recommended the Project be approved. EERA also recommended six permit conditions to include if the minor alteration request were to be approved. The conditions are similar to what is generally found in more recently issued Route Permits. The permit conditions recommended by EERA are:

1. Best Management Practices. Xcel Energy shall take precautions to avoid the spread of invasive plants by heavy equipment during construction and maintenance activities; use wildlife-friendly erosion control materials (<http://files.dnr.state.mn.us/eco/nongame/wildlife-friendly-erosioncontrol.pdf>) to reduce mortality to small nongame species; work with landowners to preserve, wherever possible, low-growing shrub species that can provide wildlife habitat; and use only native seed mixes where reseeding of vegetated areas is needed.
2. Complaint Procedures. Prior to the start of construction, Xcel Energy shall submit to the Commission the procedure that will be used to receive and respond to

¹³ See *Page 15, Conclusion*, Xcel Energy Application Initial Filing. Submitted November 27, 2019. Document ID [201911-157913-01](#)

complaints. The procedure shall be in accordance with the requirements set forth in the Commission's standard complaint handling procedures.¹⁴

3. Notification to Landowners. Xcel Energy shall provide all affected landowners with a copy of the Commission's order authorizing a minor alteration. Xcel Energy shall also provide all affected landowners with a copy of the complaint procedure upon contacting landowners to begin construction
4. Notification to Commission. At least three days before the line is to be placed into service, Xcel Energy shall notify the Commission of the date on which the line will be placed into service and the date on which construction was complete. Within 60 days after completion of construction, Xcel Energy shall submit to the Commission geo-spatial information for all above ground structures associated with the Project.
5. Plan and Profile. At least 30 calendar days before right-of-way preparation for construction begins on any segment or portion of the Project, Xcel Energy shall provide the Commission with a plan and profile of the right-of-way and the specifications and drawings for right-of-way preparation, construction, structure specifications and locations, cleanup, and restoration for the transmission line. The documentation shall include maps depicting the plan and profile including the right-of-way, alignment, and structures. Xcel Energy may not commence construction until the Commission has advised Xcel Energy in writing that it has completed its review of the documents and determined that the planned construction is consistent with the authorized minor alteration. If Xcel Energy intends to make any significant changes in its plan and profile or the specifications and drawings after submission to the Commission, it shall notify the Commission at least five days before implementing the changes.
6. Field Representative. At least 14 days prior to commencing construction, Xcel Energy shall advise the Commission in writing of the person or persons designated to be the field representative. The field representative's address, phone number, emergency phone number, and email shall be provided to the Commission and shall be made available to affected landowners, residents, public officials and other interested persons.

Global Minerals Engineering

GME submitted comments on December 26, 2019 (document dated December 23, 2019). GME wrote in support of the minor alteration and indicated its concern that all affected land and

¹⁴ Complaint Handling Procedures are attached to these briefing papers.

mineral owners be fairly compensated and assured of the ability to provide notice to the utility and have the HVTL moved in the future to access the underlying minerals.

Lastly, GME brought up two issues: 1) “No more than 4 years should be allowed to notice and require the movement of the high-volt transmission line infrastructure by the Lessor, landowner, mineral owner, or mineral stockpile owner;” and 2) GME does not want the HVTL to prevent access across the approved route for adjacent land, mineral, and mineral stockpile owners.

Xcel Energy – Late Reply Comments

Xcel Energy submitted Reply Comments on January 14, 2020. In its reply comments the Company indicated its agreement with EERA’s analysis and recommendation, including the recommended permit conditions.

Xcel Energy stated it appreciated MnDOT’s analysis that found the angle of the HVTL crossing of Highway 169 was feasible and stated it will continue to work with the agency.

Xcel Energy stated that it has been working with GME throughout the stakeholder process it used to evaluate the minor alteration. Xcel Energy agrees with GME regarding land, mineral, and stockpile owner notification and has contacted these parties.

Xcel Energy provided context for GME’s comment that no more than four years be allowed to require movement of the transmission line and that the line must not prevent access across the approved route. Xcel stated that these requirements are typically part of the license agreements between the landowner and the Company and not directly addressed by the Commission. Xcel Energy added that it is working to obtain the necessary land rights and agreements for the 3-mile minor alteration route. The land rights being sought by the Company will be in the form of a temporary easement and would require Xcel Energy to move the HVTL again if future mining operations would impact the new location. Lastly, Xcel Energy stated its belief that if the line were to be moved again it would likely require the route being further east, possibly along Hwy. 169. If the route is further east it would run between the Discovery Center and the city of Chisholm and parkland along Highway 169. Xcel stated it believes that kind of move would require using the route permit process rather than the minor alteration which may make it unfeasible to place a four year time limit on a future line relocation.

VI. Staff Analysis

Staff has reviewed the application for a minor alteration and agrees with the Department that the requested alteration is minor and does not significantly change the human or environmental impacts of the facilities. Therefore, staff recommends that the Commission approve Xcel Energy’s minor alteration request with the conditions recommended by the EERA.

VII. Decision Options

- A. Authorize the minor alteration request.
- B. Authorize the minor alteration request and
 - 1. require the additional permit conditions proposed by EERA; or
 - 2. require the additional permit conditions proposed by EERA with modifications.
- C. Determine that the requested alteration is not minor and require a full permitting decision.
- D. Take some other action deemed appropriate.

Staff Recommendation: B2

ATTACHMENT 1
Complaint Handling Procedures for Permitted Energy Facilities

**MINNESOTA PUBLIC UTILITIES COMMISSION
COMPLAINT HANDLING PROCEDURES FOR
PERMITTED ENERGY FACILITIES**

VIII. Purpose

To establish a uniform and timely method of reporting and resolving complaints received by the permittee concerning permit conditions for site preparation, construction, cleanup, restoration, operation, and maintenance.

IX. Scope

This document describes complaint reporting procedures and frequency.

X. Applicability

The procedures shall be used for all complaints received by the permittee and all complaints received by the Minnesota Public Utilities Commission (Commission) under Minn. R. 7829.1500 or Minn. R. 7829.1700 relevant to this permit.

XI. Definitions

Complaint: A verbal or written statement presented to the permittee by a person expressing dissatisfaction or concern regarding site preparation, cleanup or restoration or other route and associated facilities permit conditions. Complaints do not include requests, inquiries, questions or general comments.

Substantial Complaint: A written complaint alleging a violation of a specific permit condition that, if substantiated, could result in permit modification or suspension pursuant to the applicable regulations.

Unresolved Complaint: A complaint which, despite the good faith efforts of the permittee and a person, remains unresolved or unsatisfactorily resolved to one or both of the parties.

Person: An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

XII. Complaint Documentation and Processing

1. The permittee shall designate an individual to summarize complaints for the Commission. This person's name, phone number and email address shall accompany all complaint submittals.
2. A person presenting the complaint should to the extent possible, include the following information in their communications:
 - a. name, address, phone number, and email address;
 - b. date of complaint;
 - c. tract or parcel number; and
 - d. whether the complaint relates to a permit matter or a compliance issue.
3. The permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
 - a. docket number and project name;
 - b. name of complainant, address, phone number and email address;
 - c. precise description of property or parcel number;
 - d. name of permittee representative receiving complaint and date of receipt;
 - e. nature of complaint and the applicable permit condition(s);
 - f. activities undertaken to resolve the complaint; and
 - g. final disposition of the complaint.

XIII. Reporting Requirements

The permittee shall commence complaint reporting at the beginning of project construction and continue through the term of the permit. The permittee shall report all complaints to the Commission according to the following schedule:

Immediate Reports: All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to the Commission's Consumer Affairs Office at 1-800-657-3782 (voice messages are acceptable) or consumer.puc@state.mn.us. For e-mail reporting, the email subject line should read "PUC EFP Complaint" and include the appropriate project docket number.

Monthly Reports: During project construction and restoration, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be filed by the 15th of each month to Daniel P. Wolf, Executive Secretary, Public Utilities Commission, using the eDockets system. The eDockets system is located at:

<https://www.edockets.state.mn.us/EFiling/home.jsp>

If no complaints were received during the preceding month, the permittee shall file a summary indicating that no complaints were received.

XIV. Complaints Received by the Commission

Complaints received directly by the Commission from aggrieved persons regarding site preparation, construction, cleanup, restoration, operation and maintenance shall be promptly sent to the permittee.

XV. Commission Process for Unresolved Complaints

Commission staff shall perform an initial evaluation of unresolved complaints submitted to the Commission. Complaints raising substantial permit issues shall be processed and resolved by the Commission. Staff shall notify the permittee and appropriate persons if it determines that the complaint is a substantial complaint. With respect to such complaints, each party shall submit a written summary of its position to the Commission no later than ten days after receipt of the staff notification. The complaint will be presented to the Commission for a decision as soon as practicable.

XVI. Permittee Contacts for Complaints and Complaint Reporting

Complaints may be filed by mail or email to:

[Name]

[Mailing Address]

[Phone]

[Email]

This information shall be maintained current by informing the Commission of any changes as they become effective.