

October 8, 2014

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. ET2, E015/CN-14-787

Dear Dr. Haar:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources, Energy Regulation and Planning (Department) in the following matter:

Notice Plan Petition for the Application of Great River Energy and Minnesota Power for a Certificate of Need for the Menahga Area 115 kV Transmission Line Project in Hubbard, Wadena and Becker Counties, Minnesota.

The petition was filed on behalf of Great River Energy and Minnesota Power (together, the Applicants) on September 18, 2014 by:

Carole L. Schmidt
Great River Energy
Supervisor, Transmission
Permitting and Compliance
12300 Elm Creek Blvd
Maple Grove, MN 55369

The Department recommends that the Commission **approve the petition, with modifications**, and **reject** the Applicants' request for a variance to Minnesota Rules 7829.2500, subp. 5. The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ MICHAEL N. ZAJICEK
Rates Analyst

MNZ/lt
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. ET2, E015/CN-14-787

I. INTRODUCTION

On September 18, 2014, Great River Energy (GRE), on behalf of itself and Minnesota Power (the Applicants) filed a *Notice Plan Petition for the Application of Great River Energy and Minnesota Power for a Certificate of Need for the Menahga Area 115 kV Transmission Line Project in Hubbard, Wadena and Becker Counties, Minnesota* (Notice Petition). The Notice Petition provides the Applicants' proposed Notice Plan to communicate its intent to construct a 115 kilovolt (kV) transmission line and construct/modify substations in the Menahga area in Hubbard, Wadena, and Becker counties. According to GRE, the project is required to serve a proposed new Minnesota Pipe Line Company (MPL) pumping station, but Minnesota Power is a joint applicant to capture load-serving needs in the area. The Notice Petition includes a draft notice for landowners and residents, a draft notice for governmental entities, and a draft newspaper notice.

Below are the Comments of the Minnesota Department of Commerce, Division of Energy Resources, Energy Regulation and Planning (Department) on the Notice Petition.

II. DEPARTMENT ANALYSIS

The Department's Energy Environmental Review and Analysis Staff (EERA) staff has coordinated with its Division of Energy Resources, Energy Regulation and Planning unit staff, and is submitting separate comments regarding the proposed Notice Plan.¹

¹ See EERA's comments for specific recommended edits

A. *TYPES OF NOTICE*

Minnesota Rules 7829.2550, subp. 3 requires the following types of notice:

- direct mail notice, based on county tax assessment rolls, to landowners reasonably likely to be affected by the proposed transmission line;
- direct mail notice to all mailing addresses within the area reasonably likely to be affected by the proposed transmission line;
- direct mail notice to tribal governments and to the governments of towns, statutory cities, home rule charter cities, and counties whose jurisdictions are reasonably likely to be affected by the proposed transmission line; and
- newspaper notice to members of the public in areas reasonably likely to be affected by the proposed transmission line.

Regarding landowner and resident notice, the Applicants proposed to provide notice to landowners in the notice area via names and addresses obtained using county GIS data, which includes tax record information. The Department concludes that this is reasonable. Regarding newspaper notice, the Applicants listed and selected four local newspapers to the newspaper notice list. The Department concludes that the Applicants' proposed plan for newspaper notice is reasonable.

Regarding governmental notice, the Department's review of the Applicants' list of governments proposed to receive notice complies with the requirements of the rule, with the addition of certain governmental bodies identified by EERA staff.² Regarding tribal governments, the Applicants identified no tribal governments whose jurisdictions are reasonably likely to be affected by the proposed project. The Applicants, however, proposed to provide notice to the White Earth Band of Ojibwe and the Leech Lake Band of Ojibwe. Further, the Applicants proposed to provide notice to state and federal senators and representatives whose districts are within the Notice Area. The Department concludes that providing notice to senators, representatives, and the White Earth and Leech Lake Bands of Ojibwe is reasonable.

In summary, the Department concludes that the Applicant's Notice Plan for residents, landowners, and governmental entities is reasonable.

² See EERA's comments for the list of additional governmental entities.

B. CONTENT OF NOTICE

Minnesota Rules 7829.2550, subp. 4 require the notices to provide the following information:

- a map showing the end points of the line and existing transmission facilities in the area;
- a description of general right-of-way requirements for a line of the size and voltage proposed and a statement that the applicant intends to acquire property rights for the right-of-way that the proposed line will require;
- a notice that the line cannot be constructed unless the Minnesota Public Utilities Commission (Commission) certifies that it is needed;
- the Commission's mailing address, telephone number, and Web site;
- if the applicant is a utility subject to chapter 7848, the address of the Web site on which the utility applicant will post or has posted its biennial transmission projects report required under that chapter;
- a statement that the Environmental Quality Board³ will be preparing an environmental report on each high-voltage transmission line for which certification is requested;
- a brief explanation of how to get on the mailing list for the Environmental Quality Board's proceeding; and
- a statement that requests for certification of high-voltage transmission lines are governed by Minnesota law, including specifically chapters 4410 and 7849, and Minnesota Statutes, section 216B.243.

The Department reviewed the cover letters and maps provided by the Applicants and concludes that the Applicants' proposal for the resident/landowner notice, governmental notice, and newspaper notice generally contains the required information and is acceptable after inclusion of the EERA's edits as listed in the EERA's comments.

C. NOTICE TIMING

Minnesota Rules 7829.2550, subp. 6, requires the applicant to implement the Notice Plan within 30 days of its approval by the Commission. Regarding the timing of the implementation of the proposed Notice Plan, the Applicants requested that the Commission modify the notice implementation rule in order to allow implementation no more than 60 days prior to the filing of the Certificate of Need (CN) petition. The Commission has ordered a similar approach, typically a 30-day window, in several dockets.⁴

³ The Department notes that while the statutes have changed regarding routing authority and location of the staff preparing the environmental report, Minnesota Rules have not yet been updated to reflect these changes

⁴ Examples include:

- November 3, 2006 in Docket No. E002, ET2, et al/CN-08-1115;

Minnesota Rules 7829.3200 governs such variance requests and establishes the following criteria:

1. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. granting the variance would not adversely affect the public interest; and
3. granting the variance would not conflict with standards imposed by law.

The Department concludes that enforcement of the rule would burden all parties involved by separating the provision of notice from the start of the proceeding. Granting the variance would not adversely affect the public interest since the Applicant's proposal would more closely tie the implementation of notice to the beginning of the CN proceeding. The Department is not aware that the variance would conflict with standards imposed by law. Therefore, the Department recommends that the Commission approve the Applicant's request to implement the notice plan no more than 60 days prior to the filing of the CN petition.

D. NEWSPAPER NOTIFICATION REQUIREMENTS

Minnesota Rules 7829.2500, subp. 5, requires the applicant to publish newspaper notice of the filing in a newspaper of general circulation throughout the state after the filing of a CN application. The Applicants have requested a variance to this rule due to its request that the Applicants implement the Notice Plan no more than 60 days before the CN is filed.

As noted above, the criteria in Minnesota Rules 7829.3200 governs whether a variance is reasonable. As more fully discussed below, the Department concludes that the Applicant's request fails the criteria set forth in Minnesota Rules.

First, the Department notes that the Applicants' did not provided any evidence that compliance with the newspaper notice requirement in Minnesota Rules 7829.2500, subp. 5 would constitute an excessive burden. Second, removing a required notice opportunity is contrary to the public interest. The rules provide for newspaper notice 3 months prior to an application being filed and again once the application is filed. If the Applicants' request for a variance to the timing of the Notice Plan implementation is approved, the application may be filed 2 months, rather than 3 months, after Notice Plan implementation. A difference of one month is not substantial when considering the purpose of the notices. The Department considers complete and thorough public notice to be crucial in ensuring that the public is aware of, can participate in, and affect the outcome of a CN proceeding. Thus, a second

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- November 29, 2007 in Docket No. E017, E015, ET6/CN-07-1222;
 - November 12, 2008 in Docket No. E002/CN-08-992;
 - January 26, 2010 in Docket No. E002/CN-09-1390; and
 - August 17, 2010 in Docket No. E002/CN-10-694.
 - February 4, 2013 in Docket No. E002/CN-12-1235

required newspaper notification is beneficial to the public as it increases the likelihood that affected parties become aware of, or remain aware of, the CN proceeding and have the opportunity to participate. Thus, the Department concludes that granting a variance to remove an instance of required newspaper notification would fail the second criteria of Minnesota Rules 7829.3200. While the Department is not aware that the variance would conflict with standards imposed by law, the Department recommends that the Commission reject the Applicants' request for a variance to the newspaper notification requirement of Minnesota Rules 7829.2500, subp. 5 since the Applicants have not shown that 2 of the 3 criteria needed for variance approval have been met.

III. DEPARTMENT RECOMMENDATIONS

As discussed above, the Department recommends that the Commission approve the Applicants' proposed Notice Plan with the modifications recommended by EERA staff.

Further, the Department recommends that the Commission grant the Applicants a variance to Minnesota Rules 7829.2550, subp. 6 to allow implementation of the Notice Plan no more than 60 days prior to the filing of the CN petition.

Finally, the Department recommends that the Commission reject the Applicants' request for a variance to Minnesota Rules 7829.2500, subp. 5, which requires additional newspaper notification of the CN application upon its filing.

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CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. ET2, E015/CN-14-787

Dated this 8th day of October 2014

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_14-787_Official
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_14-787_Official
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_14-787_Official
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_14-787_Official
Michelle	Lommel	mlommel@GREnergy.com	Great River Energy	12300 Elm Creek Blvd Maple Grove, MN 55369	Electronic Service	No	OFF_SL_14-787_Official
David	Moeller	dmoeller@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	OFF_SL_14-787_Official
Carole	Schmidt	cschmidt@grenergy.com	Great River Energy	12300 Elm Creek Boulevard Maple Grove, MN 553694718	Electronic Service	No	OFF_SL_14-787_Official
Donna	Stephenson	dstephenson@grenergy.com	Great River Energy	12300 Elm Creek Boulevard Maple Grove, MN 55369	Electronic Service	No	OFF_SL_14-787_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Katie	Clark Sieben	katie.clark.sieben@state.mn.us	DEED	332 Minnesota St, #E200 1st National Bank Bldg Saint Paul, MN 55101	Electronic Service	No	SPL_SL_CN - CERTIFICATE OF NEEDS
Randall	Doneen	randall.doneen@state.mn.us	Department of Natural Resources	500 Lafayette Rd, PO Box 25 Saint Paul, MN 55155	Electronic Service	No	SPL_SL_CN - CERTIFICATE OF NEEDS
Travis	Germundson	travis.germundson@state.mn.us		Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	SPL_SL_CN - CERTIFICATE OF NEEDS
Ray	Kirsch	Raymond.Kirsch@state.mn.us	Department of Commerce	85 7th Place E Ste 500 St. Paul, MN 55101	Electronic Service	No	SPL_SL_CN - CERTIFICATE OF NEEDS
Karen	Kromar	karen.kromar@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	SPL_SL_CN - CERTIFICATE OF NEEDS
Susan	Medhaug	Susan.medhaug@state.mn.us	Department of Commerce	Suite 500, 85 Seventh Place East St. Paul, MN 551012198	Electronic Service	No	SPL_SL_CN - CERTIFICATE OF NEEDS
Bob	Patton	bob.patton@state.mn.us	MN Department of Agriculture	625 Robert St N Saint Paul, MN 55155-2538	Electronic Service	No	SPL_SL_CN - CERTIFICATE OF NEEDS
Michele	Ross	michele.ross@state.mn.us	Department of Health	625 N Robert St Saint Paul, MN 55101	Electronic Service	No	SPL_SL_CN - CERTIFICATE OF NEEDS