

Minnesota Public Utilities Commission
Staff Briefing Papers

Meeting Date: December 19, 2013Agenda Item *3

Company: Minnesota Power

Docket No. E015/CN-12-1163

In the Matter of the Application of Minnesota Power for a Certificate of Need for the Great Northern High Voltage Transmission Line Project from the Manitoba, Canada – Minnesota Border to the Blackberry Substation near Grand Rapids, Minnesota

Issue(s): Should the Commission accept the certificate of need application as substantially complete?
Should the Commission refer the Matter to the Office of Administrative Hearings for a contested case proceeding?
What action should the Commission take regarding other procedural items?

Staff: Michael Kaluzniak | 651-201-2257 | mike.kaluzniak@state.mn.us

Relevant Documents

Minnesota Power Certificate of Need Petition (25 parts) October 21-22, 2013
Dept. of Commerce Energy, Regulation & Planning (DER) CommentsNovember 19, 2013
Large Power Intervenors CommentsNovember 19, 2013
Regional Utilities’ (Xcel, OTP, GRE & MRES) CommentsNovember 19, 2013
DER Correction to CommentsNovember 21, 2013
Minnesota Power Reply Comments December 3, 2013

Note – Numerous public comments were received during the initial and reply comment periods, mostly related to routing matters. Refer to the e-Dockets record for comments.

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

This document can be made available in alternative formats (i.e., large print or audio) by calling 651-296-0406 (voice). Persons with hearing or speech disabilities may call us through their preferred Telecommunications Relay Service.

Statement of the Issues

1. Should the Commission accept the certificate of need application as complete?
2. Should the Commission direct that the certificate of need application be reviewed using the informal or expedited process or refer the matter to the Office of Administrative Hearings for a contested case proceeding?
3. Should the Commission vary the time limits of its rules that relate to the timing of public meetings?

Project Overview

The Great Northern Transmission Line (Project) includes high voltage connections between the province of Manitoba in Canada and the Blackberry Substation in Itasca County, Minnesota to enable additional electric energy deliveries from Manitoba Hydro to meet existing and future energy needs. The transmission line would be approximately 235-270 miles in length and likely impact Beltrami, Clearwater, Itasca, Kittson, Koochiching, Lake of the Woods, Marshall, Roseau and Pennington Counties, depending upon selection of the final route location.¹ The project also includes an expansion of the Blackberry Substation to accommodate the 500 kV line, a 500/230 kV transformer and associated 230 kV & 500 kV equipment.² The project would join with a new 90-130 mile transmission line in Canada to form a new international transmission interconnection to provide approximately 750 megawatts (MW) of transfer capability.

Statutes and Rules

Large Energy Facility - Completeness

Minn. Stat. § 216B.243, subd. 2 states that no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the Commission. The proposed project is a large energy facility as defined by Minn. Stat. § 216B.2421, subd. 2(2), because it is a high-voltage transmission line with a capacity greater than 200 kV and greater than 1,500 feet in length. The content requirements for a certificate of need application for a large high-voltage transmission line are described in Minn. Rules, parts 7849.0240 and 7849.0260 through 7849.0340.

Review Procedure

A determination on the appropriate review process for the proposed project application must also be made by the Commission. Under Minn. Rules, part 7829.1000, the Commission may elect to refer the matter to the Office of Administrative Hearings for a contested case proceeding, or the Commission may authorize the use of the informal or expedited review process described in Minn. Rules, part 7829.1200.

Variance

Minnesota Rule 7829.3200 provides that the Commission may grant a variance to its rules upon determining that enforcement of the rule would impose an excessive burden upon the applicant or

¹ The Project as identified in the Notice Plan Petition also included a 50 to 70-mile double-circuit 345 kV transmission line to be located between the Blackberry Substation and the Arrowhead Substation near Hermantown in Saint Louis County. Refer to e-Dockets file #[201210-80007-01](#), October 29, 2012.

² See Application, e-Dockets File #[201310-92790-04](#), October 22, 2013.

others affected by the rule; granting the variance would not adversely affect the public interest; and granting the variance would not conflict with standards imposed by law.

Procedural History

On October 29, 2012, Minnesota Power (MP) filed a notice plan petition for its Great Northern High Voltage Transmission Line project in northern Minnesota. MP requested an exemption from certain certificate of need application requirements of Minn. Rules, chapter 7849 on November 20, 2012. The Commission approved the notice plan, varied the time to consider completeness of the application, and granted the exemption requests in an order issued on February 28, 2013.

On October 21-22, 2013, MP filed a certificate of need application for the construction of the Great Northern Transmission Line.

A notice soliciting comments on the completeness of the certificate of need application was issued on October 22, 2013; Initial comments due by November 19, 2013 and Reply comments due by December 3, 2013.

On October 28, 2013, the O'Brien Township in Beltrami County filed a resolution requesting that the Commission make every effort to evaluate and develop local generation and demand-side measurements as alternatives to the project.

During the initial comment period, the Commission received approximately 25 public comments including a petition with approximately 271 signatures.

Comments concerning the completeness of MP's certificate of need application were filed by the Large Power Intervenors and by the Regional Utilities on November 19, 2013 and by the Department of Commerce, Division of Energy Resources (Department) on both November 19, 2013 and November 21, 2013.

On December 3, 2013, MP filed reply comments.

Comments on Application Completeness

Department of Commerce, Division of Energy Resources Comments

In their initial comments, the Department indicated that it was unable to locate detailed substation-specific level data as required by Minnesota Rule 7849.0270, Subp. 2 (B and C); and stated that MP should be required to provide the proposed alternative data at the detailed substation-specific level before the Commission finds MP's petition to be complete. On November 21, 2013, the Department filed a letter stating that it recognized it had previously recommended granting MP an exemption to this data requirement and, therefore, the Department recommended that the Commission find that the application to be substantially complete.

The Department did not identify any disputes as to material facts. However, the Department stated that the proposed project would operate at the highest existing voltage used in the state and that

Appendix I to the application indicated there is a potential for competing alternatives. Because of these facts, the Department recommended that the Commission refer the Petition to the Office of Administrative Hearings for a contested case proceeding.

Large Power Intervenors

A group of retail customers referred to as the Large Power Intervenors filed comments on the procedural treatment of the matter.³ The Large Power Intervenors stated that there are numerous potential contested material issues of fact and therefore the Commission should refer the matter to the Office of Administrative Hearings for a contested case proceeding. The issues include the cost of the Great Northern Transmission Line, the issues surrounding various routes and alternatives, and the potential for consideration of related issues such as reliability, industrial load growth, and increased demand for renewable generation.

Regional Utilities

Northern States Power Company d/b/a Xcel Energy, Otter Tail Power Company, Great River Energy and Missouri River Energy Services filed joint comments as the Regional Utilities. Members of the regional utilities are all transmission owners within the Midcontinent Independent System Operator, Inc. (MISO) region, and also participants within the CapX2020 joint regional transmission planning efforts.

The Regional Utilities stated that the application contains sufficient information addressing the required application content requirements to proceed with processing and analyzing the certificate of need application.

Regarding procedural treatment of the application, the Regional Utilities stated there a 500-kV alternative to the project (Western Option) has been explored as part of the MISO transmission service request planning process. The Regional Utilities stated that the Western Option provides a reasonable alternative to meet MP's current needs and offers a cost effective solution at higher power transfer levels that may be required in the future. The Regional Utilities stated that they have conducted additional studies on the Western Option that merit additional record development through use of a contested case proceeding.

Public Comments

The public comments generally opposed particular route(s) for the project, citing environmental impacts of the project and/or proposed alternative sources of energy. One commenter stated that there were numerous potential contested material issues of fact and requested that the matter be referred to the Office of Administrative Hearings for a contested case proceeding.

Minnesota Power Reply Comments

In their reply comments, Minnesota Power agreed that a contested case is the correct procedure to ensure the Commission has the necessary record in which to make its decision. Minnesota Power also agreed that the application is complete.

³ The Large Power Intervenors include ArcelorMittal USA (Minorca Mine); Boise, Inc.; Enbridge Energy, Limited Partnership; Hibbing Taconite Company; Mesabi Nugget Delaware, LLC; NewPage Corporation; PolyMet Mining, Inc.; Sappi Cloquet, LLC; UPM – Blandin Paper Company; USG Interiors, LLC; United States Steel Corporation (Keewatin Taconite and Minntac Mine); and United Taconite, LLC.

Minnesota Power stated that it could not determine if the Regional Utilities intended to provide a formal alternative project which they ask the Commission to consider under Minn. Rules 7849.0110, or whether they view the Western Option as a hypothetical scenario that can test the suitability of the GNTL Project under the alternatives analysis required by Minn. Rules 7849.0260.

MP noted that it seeks a June 1, 2020 in-service date as required under the Power Purchase Agreement for the project. Minnesota Power stated that the Regional Utilities have not demonstrated a unique interest in the project.

Staff Discussion

Application Completeness

Staff has reviewed the certificate of need application and the comments received. Staff agrees with the recommendation of the Department that the Commission should find the application substantially complete.

Regulatory Proceeding

Staff agrees with the recommendations of the Applicant, the Department and other commenters that the Commission should refer the matter to the Office of Administrative Hearings for a contested case proceeding.

If a contested case proceeding is ordered staff recommends that the Commission require a prehearing conference at a date, time, and place to be set by the administrative law judge in consultation with the Applicant, as well as DOC and Commission staff.

Administrative Responsibilities

To facilitate the review process, staff recommends that the Commission delegate administrative authority to the Executive Secretary and include the following additional items in the appropriate orders issued in this matter:

- Designate Tracy Smetana (consumer.puc@state.mn.us, or 651-296-0406)) as the Public Advisor to facilitate citizen participation in the process
- Request that the Department continue to study the issues and indicate during the hearing process its position on the reasonableness of granting a certificate of need.
- Require MP to facilitate in every reasonable way the continued examination of the issues by the Department and Commission staff.
- Require MP to place a copy of the application (printed or compact disc) for review in at least one government center or public library in each county where the proposed transmission line project is located.
- Direct Commission staff to work with the Administrative Law Judge and the staff of the Department in selecting a suitable location for the public hearings on the application.
- Direct MP to work with Commission staff to arrange for publication of the notice of hearings in newspapers of general circulation at least ten days prior to the hearings, that

such notice be in the form of visible display ads, and that proof of publication be obtained from the newspapers selected.

Staff identified two areas where the process could be improved. First, staff recommends that those members of the public who were initially included in the notice plan for the southernmost portion of the project should receive supplemental notice that their community is not under consideration for the current project. Secondly, staff recommends that because the public comments received during consideration of the certificate of need application primarily spoke to routing matters, these comments should be filed to that docket once a route permit application is open for comment.

Time Variance Requests

Minn. Rules, part 7849.1400, subp. 3, requires the Department to hold a public meeting and begin the process of preparing an environmental report within 40 days after receipt of a certificate of need application.

The timeline of 40 days does not allow sufficient time to fully review the application for completeness, solicit comments, schedule a commission meeting and prepare a written order. The 40-day time limit ended during the first week December 2013. Staff believes there is good cause for the Commission to vary and extend the 40-day time limit of Minn. Rules, part 7849.1400, subp. 3, to ensure that the application is substantially complete and any supplemental information is provided before holding the scoping meeting on the environmental report.

Commission Decision Alternatives

A. Application Completeness

1. Accept the application as complete.
2. Reject the application and indicate the specific deficiencies.
3. Take some other action deemed more appropriate.

B. Regulatory Proceeding

1. Refer the matter to the Office of Administrative Hearings for a contested case proceeding.
2. Require a prehearing conference at a date, time, and place to be set by the administrative law judge in consultation with the Applicant, as well as DOC and Commission staff.
3. Direct that the certificate of need application be reviewed using the informal or expedited process.
4. Take some other action deemed more appropriate.

C. Administrative Responsibilities

1. Delegate administrative authority to the Executive Secretary and include the following additional items in the appropriate order(s) issued in this matter:
 - a. Provide the name, telephone number, and email address of the staff person designated as Public Advisor to facilitate citizen participation in the process.
 - b. Request that the Department continue to study the issues and indicate during the hearing process its position on the reasonableness of granting a certificate of need.
 - c. Require MP to facilitate in every reasonable way the continued examination of the issues by the Department and Commission staff.
 - d. Require MP to place a copy of the application (printed or compact disc) for review in at least one government center or public library in each county where the proposed transmission line project is located.
 - e. Direct Commission staff to work with the Administrative Law Judge and the staff of the Department in selecting a suitable location for the public hearings on the application.
 - f. Direct the applicant to provide notice to the public in the area between the Blackberry and Arrowhead Substations who would no longer be affected by the line.
 - g. Direct the public advisor to e-File the public comments received during the completeness comment period to the corresponding route permit docket once the application is open for comment.
2. Take some other action deemed more appropriate.

Staff Recommendations: A.1, B.1, and C.1(a-g).