

## **APPENDIX C**

### **Commission's Exemption Order**

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben  
Hwikwon Ham  
Valerie Means  
Joseph K. Sullivan  
John A. Tuma

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Application of Great River  
Energy, Otter Tail Power Co., Western  
Minnesota Municipal Power Agency, Agralite  
Electric Coop., and the City of Benson for  
a Certificate of Need for the Appleton to Benson  
115 Kilovolt Transmission Line Project

SERVICE DATE: October 1, 2024

DOCKET NO. ET-2,E-017,ET-6135,  
E-100/CN-24-263

The above-entitled matter has been considered by the Commission and the following disposition made:

- 1. Modified the Greenfield notice area buffer to 2,800 feet, excluding the City of Benson.**
- 2. Granted the requested exemption to Minnesota rules 7829.2500 Subp. 5 and required the applicants to publish notice in the Star Tribune as part of the notice plan and not after the Certificate of Need (CN) petition is filed.**
- 3. Required the applicants to determine a single point of contact for tribal outreach and notification.**
- 4. Required the applicants to work with the Department of Commerce – Energy Environmental Review and Analysis (EERA) to include language to reflect the transition of the unit from the Department to the Commission.**
- 5. Granted a variance to Minnesota Rules 7829.2550, Subp. 6 and directed the notices occur no more than 60 days and no less than one week prior to the filing of the CN application.**
- 6. Granted exemptions to the following:**
  - a. Minnesota Rules 7849.0260 Subps. A(3) and C(6) with the provision of the proposed alternative data.**
  - b. Minnesota Rules 7849.0270 Subps. 1 and 2 with the provision of the proposed alternative data, and a full exemption to Subps. 3 to 5.**
  - c. Minnesota Rules 7849.0280 Subps. B through I.**
  - d. Minnesota Rules 7849.0290 with the provision of the proposed alternative data.**
  - e. Minnesota Rules 7849.0300 and 7849.0340 with the provision of the proposed alternative data.**

**This decision is issued by the Commission's consent calendar subcommittee, under a delegation of authority granted under Minn. Stat. § 216A.03, subd. 8 (a). Unless a party, a participant, or a Commissioner files an objection to this decision within ten days of receiving it, it will become the Order of the full Commission under Minn. Stat. § 216A.03, subd. 8 (b).**

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order.



BY ORDER OF THE COMMISSION

A handwritten signature in black ink that reads "Will Seuffert".

Will Seuffert  
Executive Secretary

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us) for assistance.

August 19, 2024

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. ET2,E017,ET6135,E100/CN-24-263

Dear Mr. Seuffert:

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

Application for a Certificate of Need for the Appleton to Benson 115 Kilovolt Transmission Line Project: Notice Plan Approval Request.

The petition was filed by Frederikson & Byron on July 29, 2024 on behalf of Great River Energy, Otter Tail Power Company, Western Minnesota Municipal Power Agency, Agralite Electric Cooperative, and the City of Benson.

The Department recommends **approval with modifications** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ Dr. Sydnie Lieb  
Assistant Commissioner of Regulatory Analysis

AZ/ad  
Attachment



## Before the Minnesota Public Utilities Commission

### Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. ET2,E017,ET6135,E100/CN-24-263

#### I. INTRODUCTION

On July 29, 2024, Great River Energy (GRE), Otter Tail Power Company (OTP), Western Minnesota Municipal Power Agency (WMMPA), Agralite Electric Cooperative (Agraline), and the City of Benson (Benson) (together, “Applicants”) filed the Applicants’ *Notice Plan Petition*.<sup>1</sup> The Petition provides the Applicant’s proposal to provide notice to all persons reasonably likely to be affected by the Appleton to Benson area transmission project.

The Appleton to Benson area transmission project consists of a 115 kilovolt (kV) high voltage transmission line project in Swift County Minnesota. The proposed project will construct approximately 29 miles of new 115 kV transmission line, of which approximately 18 miles will replace an existing 41.6 kV transmission line and approximately 1 mile will rebuild/reconductor an existing 115 kV transmission line. The proposed project will construct a new Appleton Substation, modify or build a new Moyer Substation, and modify substations at Shible Lake, Danvers, and Benson. All proposed transmission lines and facilities are located in Swift County, Minnesota (Project).

Also on July 29, 2024, the Applicants filed the Applicants’ *Request for Exemption from Certain Certificate of Need Application Content Requirements* (Exemption Petition). The Exemption Petition will be addressed in separate comments.

On August 8, 2024, the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period on Request for Exemption from Certain Certificate of Need Filing Requirements and Proposed Notice Plan* (Notice). The Notice established due dates for comments on the Exemption Petition and indicated that one topic is open for comment:

- Should the Commission grant the exemptions to the certificate of need (CN) application content requirements as requested by the Applicants in their July 29<sup>th</sup> filing?

Below are the comments of the Minnesota Department of Commerce (Department) regarding the Petition.

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<sup>1</sup> *In the Matter of the Application of Great River Energy, Otter Tail Power Company, Western Minnesota Municipal Power Agency, Agralite Electric Cooperative, and the city of Benson for a Certificate of Need for the Appleton to Benson 115 Kilovolt Transmission Line Project*. Docket No. ET2, E017, ET6135, E100/CN-24-263, (July 29, 2024). (eDocket No. [20247-209055-01](#)). Hereinafter “Petition.”

## II. DEPARTMENT ANALYSIS

### A. GOVERNING STATUTES AND RULES

The Applicants filed the Petition pursuant to Minnesota Rules 7829.2550, Subp. 1 which states in part “[t]hree months before filing a certificate of need application for a high-voltage transmission line as defined by Minnesota Statutes, section 216B.2421, the applicant shall file a proposed plan for providing notice to all persons reasonably likely to be affected by the proposed line.”

Minnesota Statutes § 216B.2421 includes in its definition of a Large Energy Facility (LEF) “any high-voltage transmission line with a capacity of 100 kilovolts or more with more than ten miles of its length in Minnesota.” In turn, Minnesota Statutes § 216B.243 requires a LEF obtain a certificate of need (CN). Given that the proposed Project is a 115 kV transmission line spanning 29 miles, the proposed Project falls within the definition of a LEF which triggers a CN requirement, and, therefore, also requires a notice plan.

### B. TYPES OF NOTICE

Minnesota Rules 7829.2550, Subp. 3, requires types of notice as follows:

- 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.

The list of individuals and entities to be provided notice is to be complied by the Applicants as follows:

- Regarding landowner notice—The Applicants will review county tax assessment rolls and other relevant county records to determine the names and addresses of landowners who own property within the proposed transmission line corridor.
- Regarding notice to mailing addresses—The Applicants obtained a list of mailing addresses from Swift County and will “direct mail notice to all mailing addresses in the area that are reasonably likely to be affected by the proposed transmission line.”<sup>2</sup>
- Regarding notice to tribal governments— The Applicants will provide direct mail notice to all tribal governments located in Minnesota.

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<sup>2</sup> Notice Plan Petition at 4.

- Regarding notice to local governmental jurisdictions—The Applicants identified officials associated with the following governing bodies: Swift County, City of Appleton, City of Benson, City of Holloway, City of Danvers, Appleton Township, Shible Township, Moyer Township, Edison Township, Maryland Township, Six Mile Grove Township, Torning Township, and Clontarf Township.
- Regarding newspaper notice—The Applicants will provide notice in *The Swift County Monitor-News*.

The Department concludes that The Applicants' general process for identification of individuals, local governments, and tribal governments that should receive notice of the proposed Project meets the notice provisions in Minnesota Rules 7829.2550, Subp. 3 in process, but not in scope. The project map, included as Attachment A to the Applicant's Petition states that "The notice area is approximately 400 feet wide along the Project route, approximately 400-2,800 feet wide in the vicinity of Project substations, and up to 1,200 ft wide in the City of Benson." While the proposed notice area of 400 ft is sufficient for the replacement/redconductoring of existing transmission lines, the notice area is not sufficient for the approximately 10 miles of greenfield sites. Any greenfield sites will be subject to route planning, which may identify alternative routes that could fall outside of the 400 ft buffer area. Therefore, the Department recommends a notice area of 2,800 ft, consistent with the substation buffer zone, to account for future routing deviations from the proposed plan.

Regarding newspaper notice, while technically not part of the notice plan, the Department notes that Minnesota Rules 7829.2500, Subp. 5, requires an applicant publish newspaper notice of the filing in a newspaper of general circulation throughout the state at the time the CN petition is filed. Therefore, the Department recommends that the *Star Tribune* be added to the list of newspapers to cover this requirement.

Regarding notice to tribal governments, the Department recognizes the Applicant's Petition is compliant with Minnesota Rules 7829.2550, Subp. 3, the Department requests a discussion of the Applicants' intention to coordinate its efforts with tribal governments.

**C. CONTENT OF NOTICE**

Minnesota Rules 7829.2550, Subp. 4 requires 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 Commission certifies that it is needed;
- the Commission's mailing address, telephone number, and website;

- if the applicant is a utility subject to chapter 7848, the address of the website 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 Board<sup>3</sup> 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 chapter 4410, parts 7849.0010 to 7849.0400, and 7849.1000 to 7849.2100, and Minnesota Statutes § 216B.243.

The Department reviewed the text of the proposed notices provided in the Petition and recommends the Commission require:

- the Applicants work with the Department's Energy Environmental Review and Analysis (EERA) unit to include language to reflect the transition of EERA from the Department to the Commission.

*D. 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. In this case the Department recommends that the Commission grant a variance and direct the notices occur no more than 60 days and no less than one week prior to the filing of the CN application. 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 the requirements for a variance are met as follows:

1. The notice requirements would burden all parties by potentially separating notice provided to interested stakeholders from the start of the proceeding;
2. granting the variance would not adversely affect the public interest because the variance ties implementation of the notice to filing the CN petition; and
3. granting a variance would not conflict with standards imposed by law.

Regarding the second criterion, the Department notes that granting the variance would promote the public interest by avoiding separation between implementation of the notice plan and the start of the

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<sup>3</sup> This function has since been transferred to the Commission and the Department.

CN proceeding. In addition, the Commission has approved similar variances in other CN proceedings, with the Commission's April 19, 2023 Order in Docket No. E017,ET02, E002, ET10, E015/CN-22-538 being a recent example.<sup>4</sup> Therefore, the Department recommends the Commission approve the variance.

### **III. DEPARTMENT RECOMMENDATION**

Based on review of the Petition and applicable statutes and rules, the Department recommends the Commission:

- modify the greenfield notice area to 2,800 ft;
- add the *Star Tribune* to the list of newspapers;
- discuss the Applicants' intention to coordinate its efforts with tribal governments;
- require the Applicants to work with EERA to include language to reflect the transition of the unit from the Department to the Commission.

Finally, the Department recommends that the Commission grant a variance to Minnesota Rules 7829.2550, Subp. 6 and direct the notices occur no more than 60 days and no less than one week prior to the filing of the CN application.

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<sup>4</sup> See the Commission's April 19, 2023 Order: [20234-194943-01](#)

August 28, 2024

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101-2147

**RE: Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. ET2,E017,ET6135,E100/CN-24-263

Dear Mr. Seuffert:

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

Application for a Certificate of Need for the Appleton to Benson 115 Kilovolt Transmission Line Project:

The petition was filed by Haley L. Waller Pitts, Attorney, Frederikson & Byron, P.A. on July 29, 2024 on behalf of Great River Energy, Otter Tail Power Company, Western Minnesota Municipal Power Agency, Agralite Electric Cooperative, and the City of Benson

The Department recommends **approval with modifications** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ Dr. Sydnie Lieb  
Assistant Commissioner of Regulatory Analysis

AZ/ad  
Attachment



## Before the Minnesota Public Utilities Commission

### Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. ET2,E017,ET6135,E100/CN-24-263

#### I. INTRODUCTION

On July 29, 2024, Great River Energy (GRE), Otter Tail Power Company (OTP), Western Minnesota Municipal Power Agency (WMMPA), Agralite Electric Cooperative (Agraline), and the City of Benson (Benson) (together, “Applicants”) filed the Applicants’ *Request for Exemption from Certain Certificate of Need Application Content Requirements*.<sup>1</sup> The Petition provides the Applicants’ proposal to obtain exemptions from certain data requirements of Minnesota Rules 7849.0010 to 7849.0400 for the Appleton to Benson area transmission project.

The Appleton to Benson area transmission project consists of a 115 kilovolt (kV) high voltage transmission line project in Swift County Minnesota. The proposed project will construct approximately 29 miles of new 115 kV transmission line, of which approximately 18 miles will replace an existing 41.6 kV transmission line and approximately 1 mile will rebuild/reconductor an existing 115 kV transmission line. The proposed project will construct a new Appleton Substation, modify or build a new Moyer Substation, and modify substations at Shible Lake, Danvers, and Benson. All proposed transmission lines and facilities are located in Swift County, Minnesota (Project).

Also on July 29, 2024, the Applicants filed the Applicants’ *Certificate of Need Notice Plan Approval Request* (Notice Petition). The Notice Petition will be addressed in separate comments.

On August 8, 2024, the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period on Request for Exemption From Certain Certificate of Need Filing Requirements* (Notice). The Notice established due dates and indicated that one topic is open for comment:

- Should the Commission grant the exemptions to the certificate of need (CN) application content requirements as requested by the Applicants in their July 29<sup>th</sup> filing?

Below are the comments of the Minnesota Department of Commerce (Department) regarding the Petition.

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<sup>1</sup> *In the Matter of the Application of Great River Energy, Otter Tail Power Company, Western Minnesota Municipal Power Agency, Agralite Electric Cooperative, and the city of Benson for a Certificate of Need for the Appleton to Benson 115 Kilovolt Transmission Line Project.* Docket No. ET2, E017, ET6135, E100/CN-24-263, (July 29, 2024). (eDocket No. [20247-209055-01](#)). Hereinafter “Petition.”

## **II. DEPARTMENT ANALYSIS**

### **A. GOVERNING STATUTES AND RULES**

The Company filed the Petition pursuant to Minnesota Rules, 7849.0200, Subp. 6 which states, in part:

Before submitting an application, a person is exempted from any data requirement of parts 7849.0010 to 7849.0400 if the person (1) requests an exemption from specified rules, in writing to the commission, and (2) shows that the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document. A request for exemption must be filed at least 45 days before submitting an application.

Based on this standard the Commission may grant exemptions when the data requirements are shown to be unnecessary to determine need or can be satisfied by submitting alternative information. In the Petition the Applicants requested to be exempted from certain data requirements of parts 7849.0010 to 7849.0400.

### **B. REQUESTED EXEMPTIONS**

The Petition requests exemptions from the following data requirements:

- 7849.0260 Subps. (A) (3) and (C) (6)—line-specific losses;
- 7849.0270—forecasting;
- 7849.0280 Subps. (B) through (I)—system capacity;
- 7849.0290—conservation programs;
- 7849.0300—consequences of delay; and
- 7849.0340—no facility alternative.

The Department examines each specific exemption request separately. The required criterion is whether the Applicants have shown that “the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document”<sup>2</sup> as discussed above.

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<sup>2</sup> Minnesota Rules, 7849.0200, Subp. 6

**C. ANALYSIS OF EXEMPTION REQUESTS**

**1. 7849.0260 Subps. A (3) and C (6)**

Minnesota Rules 7849.0260, Subps. A (3) and C (6) require an applicant for a CN provide estimated “losses under projected maximum loading and under projected average loading in the length of the transmission line and at the terminals or substations.” The Petition explains that:

The electrical grid operates as a single, integrated system, which prevents electricity from being “directed” along a particular line or set of lines. Consequently, heat loss takes place across the entire transmission system and is not isolated to a single transmission line within the integrated regional electric grid. Therefore, losses should be calculated across the entire system rather than based on a single transmission line.<sup>3</sup>

The Department agrees that line losses for the system are more relevant than line losses for an individual line. Also, as indicated in the Petition, this variance request is consistent with the approach previously approved by the Commission in several other transmission line CN dockets.<sup>4</sup> Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0260 Subps. A (3) and C (6) with the provision of the proposed alternative data.

**2. 7849.0270**

Minnesota Rules 7849.0270 requires an applicant for a CN to provide detailed forecasting information as follows:

- Subpart 1—establishes the scope of the forecast to be peak demand and annual electrical consumption within the Applicants’ service area and system;
  - Instead, the Applicants propose to provide demand data supporting the need for the proposed Project in the affected load area—specifically, historical and forecasted substation load data for the Project area substations;
- Subparts 2(A) and (B)—require a Minnesota service area energy forecast, forecast of the number of consumers and amount of energy consumed by customer class;
  - As noted above, the Applicants propose to provide data regarding the local load area.
- Subpart 2(C)—requires an estimate of the peak demand both for the system as a whole and by customer class at the time of annual system peak demand;

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<sup>3</sup> Exemption Petition at 6.

<sup>4</sup> For two recent examples, see the Commission’s June 28, 2022 order in Docket No. E002/CN-22-131 [20226-186932-01](#) and June 21, 2023 order in Docket No. E015, ET2/CN-22-416 [20236-196704-01](#)

- As noted above, the Applicants propose to provide data regarding the local load area.<sup>5</sup>
- Subpart 2(D)—requires provision of monthly peak demand data for the applicant’s system;
  - As noted above, the Applicants propose to provide data regarding the local load area.
- Subpart 2(E)—requires an estimate of the annual revenue requirement per kilowatt-hour for the system in current dollars as a result of the proposed Project;
  - GRE proposes to provide “an explanation of how wholesale electricity costs are spread among users of the transmission grid and the general financial effects of the Project on Great River Energy’s member cooperatives.”<sup>6</sup> WMMPA proposes to “provide an explanation of the general financial effects of the Project on its member municipal utilities.”<sup>7</sup> The proposal does not specifically address how Otter Tail Power Company, the Agralite Electric Cooperative, or the City of Benson will comply with Subpart 2(E). However, the Department understands that GRE will address Agralite and WMMPA will address Benson.
- Subpart 2(F)—requires an applicant to provide the average system weekday load factor by month;
  - The Applicants request a full exemption from this requirement because load factor is not a relevant measure when evaluating the need for the proposed Project.
- Subparts 3 to 6—require provision of information on the applicant’s forecast methodology along with the data and assumptions used, and a description of forecast coordination;
  - The Applicants request a full exemption from this requirement because substation load data is more relevant than forecasted load data.

In summary, the Applicants request a full exemption from Minnesota Rules 7849.0270 and will provide:

- demand data supporting the ongoing need for the proposed Project in the affected load area—specifically historic loading and system forecast growth rates;
- information on the reliability risks faced by not constructing the proposed Project;
- explanation of how revenue requirement impacts will be relatively inconsequential; and
- a description of the forecast methodology and sources used to produce the alternative forecast information.

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<sup>5</sup> Note that data by customer class is not relevant and the proposed data is likely the best that can be done for a project impacting a small, localized area.

<sup>6</sup> Exemption Petition at 8.

<sup>7</sup> id., at 8.

The Department generally agrees with the Applicants that the proposed alternative data is superior to the data required by the rule. A system-wide forecast as required under the rule has no relation to the need for a project which is designed to impact a small, localized area. The Department understands that, to demonstrate that the revenue requirement is relatively inconsequential, the Applicants would have to calculate the total annual revenue requirement (not per kWh).

The Department notes that exemptions to Subparts 3 to 5 is standard practice, but not Subpart 6. Subpart 6 specifically requires the Applicants to discuss the coordination of their forecasts “with those of other systems.” While the Department does not expect a discussion of the coordination with the power pool, here Midcontinent Independent System Operator, Inc. (MISO), the Department does expect to see a discussion of the coordination of historical and forecasted substation data among the multiple applicants in this Petition.

With that understanding, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0270 with the following provisions:

- the Applicants provide the proposed alternative data, including an annual revenue requirement and historical and forecasted substation load data for the Project area;
- the Applicants clarify in reply comments how OTP will comply with Minnesota Rules 7849.0270 Subpart 2(E);
- the Commission approve exemptions only for Subparts 3 to 5.

### 3. *7849.0280 Subps. (B) through (I)*

Minnesota Rules 7849.0280, Subps. (B) through (I) requires an applicant for a CN provide information that describes the ability of the existing system to meet forecasted demand; in essence, load and capability information. The Applicants state that the general purpose of this information is to provide a discussion of generation adequacy, which is not relevant when the issue is transmission adequacy. Thus, the Applicants request an exemption for Subps. (B) through (I).

The Department agrees with the Applicants that the Commission has previously granted exemption requests from Minnesota Rules 7849.0280, Subps. (B) through (I) in transmission line CN dockets where, as here, the issue relates to transmission adequacy rather than generation adequacy.<sup>8</sup> The Department also agrees that system-wide load and capability information is unlikely to be of use in this proceeding. Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0280, Subps. (B) through (I).

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<sup>8</sup> For a recent example of a previous transmission line CN docket where the Commission granted a similar exemption request, see Docket No. E015/CN-22-607; [20232-192809-01](#)

Finally, the Department notes that the Petition requests a full exemption in Table 1,<sup>9</sup> but only includes a justification for Subps. (B) through (I) in Section IV (C).<sup>10</sup> As the Applicants have not identified a justification for the exemption of Subp. (A), the Department recommends an exemption for Subps. (B) through (I), as is standard practice.

4. 7849.0290

Minnesota Rules 7849.0290 requires an applicant for a CN provide general conservation program information and a quantification of the impact of conservation programs on the forecast. The Applicants argue that this information is not relevant here. Instead, the Applicants propose to provide substitute summary information related to their conservation programs.

The Department notes that similar exemptions have been granted in recent CN proceedings.<sup>11</sup> Given the localized nature of the forecast, conservation impacts would be difficult or impossible to determine with any certainty. In addition, the impact of past conservation activities is embedded in the historic energy and demand data the Applicants will provide. Therefore, the Department agrees with the Applicants that the proposed information will provide an adequate starting point in the record for parties to review the impact of conservation on the need for the proposed Project. Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0290 with the provision of the proposed alternative data.

5. 7849.0300 and 7849.0340

Minnesota Rules 7849.0300 requires an applicant for a CN provide detailed information regarding the consequences of delay at three specific, statistically-based levels of demand and energy consumption. Similarly, Minnesota Rules 7849.0340 requires an applicant for a CN provide a discussion of the impact of the no-build alternative on existing generation and transmission facilities at the same three levels of demand as specified in Minnesota Rules 7849.0300. The Applicants state that the Applicants will evaluate the consequences of delay and a no build alternative. However, the Applicants state that “there is no need to discuss these items in terms of three levels of demand.”<sup>12</sup> Rather, as noted above, for evaluating the need for the Project, the relevant inquiry is whether the system can meet peak demand.

The Department agrees with the Applicants that information on the consequences of delay and a no build alternative tied to three specific, statistically-based levels of demand and energy consumption is not likely to be a useful part of the analysis for the proposed Project and that a general discussion is

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<sup>9</sup> Exemption Petition at 4.

<sup>10</sup> Exemption Petition at 10.

<sup>11</sup> See the Commission’s April 19, 2023 order in Docket No. E017, ET2, E002, ET10, E015/CN-22-538, available at [20234-194943-01](#)

<sup>12</sup> Exemption Petition at 12.

reasonable.<sup>13</sup> This is due to consistency with similar dockets and the small, localized area to which the forecast will apply. Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0300 and 7849.0340 with the provision of the proposed alternative data.

### **III. DEPARTMENT RECOMMENDATION**

Based upon Minnesota Rules, the Department's analysis, and consistency with similar dockets the Department recommends that the Commission approve the requested exemptions, as presented, with the following provisions/exceptions:

- the Applicants provide the proposed alternative data, including an annual revenue requirement and historical and forecasted substation load data for the Project area;
- the Applicants clarify how OTP will comply with Minnesota Rules 7849.0270 Subpart 2(E);
- the Commission approve exemptions only for Minnesota Rules 7849.0270 Subparts 3 to 5;
- the Commission approve exemptions only for Minnesota Rules 7849.0280, Subps. (B) through (I).

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<sup>13</sup> As noted in the Petition similar exemptions were approved in several other transmission CNs.

September 12, 2024

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Supplemental Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. ET2,E017,ET6135,E100/CN-24-263

Dear Mr. Seuffert:

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

Application for a Certificate of Need for the Appleton to Benson 115 Kilovolt Transmission Line Project: Notice Plan Approval Request.

The petition was filed by Frederikson & Byron on July 29, 2024 on behalf of Great River Energy, Otter Tail Power Company, Western Minnesota Municipal Power Agency, Agralite Electric Cooperative, and the City of Benson.

The Department recommends **approval with modifications** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ Dr. Sydnie Lieb  
Assistant Commissioner of Regulatory Analysis

AZ/ad  
Attachment



## Before the Minnesota Public Utilities Commission

### Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. ET2,E017,ET6135,E100/CN-24-263

#### I. INTRODUCTION

On July 29, 2024, Great River Energy (GRE), Otter Tail Power Company (OTP), Western Minnesota Municipal Power Agency (WMMPA), Agralite Electric Cooperative (Agralite), and the City of Benson (Benson) (together, “Applicants”) filed the Applicants’ *Request for Exemption from Certain Certificate of Need Application Content Requirements* (Exemption Petition).<sup>1</sup> The Exemption Petition provided the Applicants’ proposal to obtain exemptions from certain data requirements of Minnesota Rules 7849.0010 to 7849.0400 for a future certificate of need petition regarding the Appleton to Benson 115 kV transmission project. On the same date the Applicants filed their *Certificate of Need Notice Plan Approval Request* (Notice Petition).<sup>2</sup> The Petition provides the Applicants’ proposal to provide notice to all persons reasonably likely to be affected by the Appleton to Benson area transmission project.

On August 8, 2024, the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period on Request for Exemption from Certain Certificate of Need Filing Requirements* (Notice). The Notice established due dates for comments on the Exemption Petition and indicated that one topic is open for comment:

- Should the Commission grant the exemptions to the certificate of need (CN) application content requirements as requested by the Applicants in their July 29<sup>th</sup> filing?

On August 19, 2024, the Minnesota Department of Commerce (Department) filed comments regarding the Notice Petition. The Department’s recommendations were as follows:

- modify the greenfield notice area to 2,800 ft;
- add the *Star Tribune* to the list of newspapers;
- require the Applicants to work with the Department’s Energy Environmental Review and Analysis (EERA) unit to include language to reflect the transition of EERA from the Department to the Commission.

On August 28, 2024, the Department filed comments regarding the Exemption Petition. The Department recommends that the Commission approve the requested exemptions as recommended in the Department’s initial comments. The Department’s recommendations are to grant the following requested exemptions:

<sup>1</sup> *In the Matter of the Application of Great River Energy, Otter Tail Power Company, Western Minnesota Municipal Power Agency, Agralite Electric Cooperative, and the city of Benson for a Certificate of Need for the Appleton to Benson 115 Kilovolt Transmission Line Project*. Docket No. ET2, E017, ET6135, E100/CN-24-263, (July 29, 2024). (eDocket No. [20247-209055-01](#)). Hereinafter “Petition.”

<sup>2</sup> *Id.*

- Minnesota Rules 7849.0260 Subps. A (3) and C (6) with the provision of the proposed alternative data.
- Minnesota Rules 7849.0270 Subps. 1 and 2 with the provision of the proposed alternative data,<sup>3</sup> and a full exemption to Subps. 3 to 5.
- Minnesota Rules 7849.0280 Subps. (B) through (I).
- Minnesota Rules 7849.0290 with the provision of the proposed alternative data.
- Minnesota Rules 7849.0300 and 7849.0340 with the provision of the proposed alternative data.

On September 9, 2024 the Applicants filed reply comments regarding the Exemption Petition and the Notice Petition.<sup>4</sup>

Below are the Department's supplemental comments.

## **II. DEPARTMENT ANALYSIS**

### **A. NOTICE PETITION**

#### *1. Notice Area Buffer*

In its initial comments, the Department recommended that the notice area buffer in greenfield sites be expanded to 2,800 feet. The Applicants expressed concern primarily based on expanding the notice area in the City of Benson. The Applicants state that if the notice area was expanded, then it would include approximately 250 residential parcels, where routing would be impractical, whereas the existing notice area plans to route the transmission line in a light industrial area with fewer routing constraints. The Applicants further state that because of the proposed joint permitting process, there is no need to expand the notice area because there is already a determined route. Alternative routes will be considered as part of the scoping and environmental review process, and landowners and residents impacted by alternative routes can be notified at that time.

The Department notes that the Applicants only raise issue with the notice area in the City of Benson. Based on the Applicants' description, the Department agrees that expanding the notice area in the City of Benson is unnecessary. However, the Department does not agree that expanding the notice area in greenfield sites outside of the City of Benson is also unnecessary. As stated by the Applicants, notice should be given to landowners and residents who are "reasonably likely to be affected by the proposed transmission line."<sup>5</sup> It is unknown at this time that the Applicants' proposal will be approved as

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<sup>3</sup> GRE and WMMPA request to provide alternative data, but OTP does not.

<sup>4</sup> *In the Matter of the Application of Great River Energy, Otter Tail Power Company, Western Minnesota Municipal Power Agency, Agralite Electric Cooperative, and the city of Benson for a Certificate of Need for the Appleton to Benson 115 Kilovolt Transmission Line Project.* Docket No. ET2, E017, ET6135, E100/CN-24-263, (September 9, 2024). (eDocket No. [20249-210072-01](#)). Hereinafter "Applicants' reply comments."

<sup>5</sup> Minnesota Rules 7829.2550, Subps. 3(A) and (B).

presented with only a 400 ft buffer to entertain alternative routes in greenfield sites.<sup>6</sup> Minnesota Rules 7829.2550 allows all parties sufficient time to prepare their response to the need for the project and potential alternatives. The determination of the population affected by the route should not err conservatively when there exists substantial uncertainty as to the routing between two points. Based on the Applicants' feedback, the Department modifies its recommendation to the following: modify the greenfield notice area buffer to 2,800 ft, excluding the City of Benson.

## *2. Publication in the Star Tribune*

In its initial comments, the Department recommended to include a publication in the Star Tribune as part of the Notice Plan. The Applicants state in reply comments that they are willing to publish the notice in the Star Tribune, but request a variance to Minnesota Rules 7829.2500 Subp. 5 in order to avoid publishing the notice as part of the notice plan and again as part of the application.<sup>7</sup>

The Applicants' request for a variance to Minnesota Rules 7829.2500 Subp. 5 is reasonable because the duplication of notice does not serve any purpose, as described by the Applicants. It is standard practice to grant a variance to Minnesota Rules 7829.2500 Subp. 5. For one example, see the Commission's December 12, 2023 Order in Docket No. E-002/CN-22-532.<sup>8</sup> The Department recommends the Commission grant the requested exemption to Minnesota Rules 7829.2500 Subp. 5, and accordingly require the Applicants to publish notice in the Star Tribune.

## *3. Tribal Coordination*

In its initial comments, the Department requested a discussion of the Applicants' intention to coordinate efforts with tribal governments. As discussed in initial comments, the Department does not take issue with the Applicants' compliance with Minnesota Rules 7829.2500 Subp. 3(C). Beyond sending the required mail notice to all Minnesota tribes, the Applicants state that Tribal Historic Preservation Officers (THPO) and the Minnesota Indian Affairs Council will be invited to an open house.<sup>9</sup> Further coordination will take place as part of the cultural resources analysis of the project, which includes providing reports and survey data to interested THPOs.<sup>10</sup>

As a best practice, the Department expects that additional tribal consultation will be conducted as the certificate of need and routing processes progress, beyond notification and information sharing. Additionally, the Department recommends the Applicants determine a single point of contact for tribal outreach and notification to reduce confusion and to facilitate coordination.

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<sup>6</sup> The proposed notice area is only recommended for the certificate of need, and does not apply to the separate process of route planning.

<sup>7</sup> Applicants' Reply Comments at 2-3.

<sup>8</sup> *In the Matter of the Application of Xcel Energy for a Certificate of Need for the Mankato to Mississippi River 345 kV Transmission Line Project*. Docket No. E-002/CN-22-532, (December 12, 2023). (eDocket No. [202312-201137-01](#)).

<sup>9</sup> Applicants' Reply Comment at 3-4.

<sup>10</sup> *Id.*

#### *4. Transition of the EERA to the Commission*

In its initial comments, the Department recommended the Applicants be required to work with the Department's EERA unit to include language to reflect the transition of the unit from the Department to the Commission. The applicants agree with the recommendation and will coordinate with the EERA.

#### *5. Notice Timing*

In its initial comments the Department recommended that the Commission grant a variance to Minnesota Rules 7829.2550, Subp. 6 and direct the notices occur no more than 60 days and no less than one week prior to the filing of the CN application. The Applicants agree with this recommendation.<sup>11</sup>

### **B. EXEMPTION PETITION**

In its initial comments, the Department recommended several changes to the exemption requests of the Applicants. The Applicants agree to all recommended changes, as summarized in the Applicants' reply comments.<sup>12</sup>

The Department notes that, in response to the Department's request for the Applicants to discuss how OTP intends to comply with Minnesota Rules 7849.0270 Subp. 2 (E), the Applicants clarify that OTP is not seeking an exemption to the rule.<sup>13</sup> With this clarification, the Department has no further recommendations.

### **III. DEPARTMENT RECOMMENDATION**

In light of the foregoing analysis, the Department's final recommendations regarding the Notice Petition are listed as follows:

- Modify the greenfield notice area buffer to 2,800 ft, excluding the City of Benson.
- Grant the requested exemption to Minnesota Rules 7829.2500 Subp. 5 and require the Applicants to publish notice in the Star Tribune as part of the notice plan and not after the CN petition is filed.
- Determine a single point of contact for tribal outreach.
- Require the Applicants to work with EERA to include language to reflect the transition of the unit from the Department to the Commission.

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<sup>11</sup> *Id.* at 4.

<sup>12</sup> *Id.* at 4-5.

<sup>13</sup> *Id.*

- Grant a variance to Minnesota Rules 7829.2550, Subp. 6 and direct the notices occur no more than 60 days and no less than one week prior to the filing of the CN application.

The Department's final recommendations regarding the Exemption Petition are for the Commission to grant exemptions to the following:

- Minnesota Rules 7849.0260 Subps. A (3) and C (6) with the provision of the proposed alternative data.
- Minnesota Rules 7849.0270 Subps. 1 and 2 with the provision of the proposed alternative data,<sup>14</sup> and a full exemption to Subps. 3 to 5.
- Minnesota Rules 7849.0280 Subps. (B) through (I).
- Minnesota Rules 7849.0290 with the provision of the proposed alternative data.
- Minnesota Rules 7849.0300 and 7849.0340 with the provision of the proposed alternative data.

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<sup>14</sup> GRE and WMMPA request to provide alternative data, but OTP does not.

## **CERTIFICATE OF SERVICE**

I, Hannah Olson, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

### **Minnesota Public Utilities Commission ORDER**

Docket Number ET-2,E-017,ET-6135,E-100/CN-24-263  
Dated this 1st day of October, 2024

/s/ Hannah Olson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Lisa	Agrimonti	lagrimonti@fredlaw.com	Fredrikson & Byron, P.A.	60 South Sixth Street Suite 1500 Minneapolis, MN 55402-4400	Electronic Service	No	OFF_SL_24-263_CN-24-263
Cody M.	Bauer	cbauer@fredlaw.com	Fredrikson & Byron, P.A.	60 South 6th Street, Suite 1500  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_24-263_CN-24-263
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_24-263_CN-24-263
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_24-263_CN-24-263
Thomas	Hoffman	thoffman@agralite.com	Agralite Cooperative	320 Highway 12 SE  Benson, MN 56215	Electronic Service	No	OFF_SL_24-263_CN-24-263
Breann	Jurek	bjurek@fredlaw.com	Fredrikson & Byron PA	60 S Sixth St Ste 1500  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_24-263_CN-24-263
Kris	Koch	kkoch@otpc.com	Otter Tail Power Company	215 S. Cascade Street  Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_24-263_CN-24-263
Stephen	Kowal	skowal@bensonmnlaw.com	Wilcox Law Office, P.A.	1150 Wisconsin Avenue  Benson, MN 56215	Electronic Service	No	OFF_SL_24-263_CN-24-263
David C.	McLaughlin	dmclaughlin@fluegellaw.com	Western Minnesota Municipal Power Agency	129 2nd Street  Ortonville, MN 56278	Electronic Service	No	OFF_SL_24-263_CN-24-263
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_24-263_CN-24-263

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350  Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_24-263_CN-24-263
Mark	Strohfus	mstrohfus@grenergy.com	Great River Energy	12300 Elm Creek Boulevard  Maple Grove, MN 553694718	Electronic Service	No	OFF_SL_24-263_CN-24-263
Haley	Waller Pitts	hwallerpitts@fredlaw.com	Fredrikson & Byron, P.A.	60 S Sixth St Ste 1500  Minneapolis, MN 55402-4400	Electronic Service	No	OFF_SL_24-263_CN-24-263
Brian	Zavesky	brianz@mrenergy.com	Missouri River Energy Services	3724 West Avera Drive P.O. Box 88920 Sioux Falls, SD 57108-8920	Electronic Service	No	OFF_SL_24-263_CN-24-263