

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben
Valerie Means
Matthew Schuerger
Joseph K. Sullivan
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application Completeness
Certificate of Need for Two Gen-Tie Lines from
Sherburne County to Lyon County, Minnesota

SERVICE DATE: May 2, 2023

DOCKET NO. E-002/CN-22-131

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

- 1. Accepted Xcel Energy's Certificate of Need Petition as complete, as supplemented by Xcel Energy's reply comment.**
- 2. Authorized use of the informal review process under Minn. R. 7829.1200, recognizing that a contested case may be requested through the deadline for public comments.**

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



Will Seuffert
Executive Secretary



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April 17, 2023

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

RE: Supplemental Comments of the Minnesota Department of Commerce, Division of Energy Resources

Docket No. E002/CN-22-131

Dear Mr. Seuffert:

Based upon the Revised Appendix E in the April 12, 2023 reply comments of Northern States Power Company, doing business as Xcel Energy (Xcel) the Minnesota Department of Commerce, Division of Energy Resources (DOC-DER) recommends that the Minnesota Public Utilities Commission (Commission) determine Xcel's petition to be substantially complete.

Regarding process, Xcel misunderstood DOC-DER's analysis. The variables cited by Xcel and reviewed by DOC-DER are used to estimate the probability that other parties will request a contested case at a later point in the process.¹ In this case the variables discussed in DOC-DER's comments and cited by Xcel all indicate a higher probability that a contested case will be requested at a later point in the process:

- Voltage—the higher the voltage the greater the impact perceived by the public and, in turn, the greater the chance of a request for a contested case;
- Length—the longer the line the greater the number of impacted parties and thus the greater the chance of a request for a contested case;
- Need Case—a new need case is more likely to trigger requests for a contested case than a need case that the public has heard about numerous times; and
- Public Comments—receiving public comments early in the process is a clear indication that the public is interested in the proposal, the public has to be interested in a proposed project before they will request a contested case.

¹ DOC-DER notes that the Commission's standard procedure for processing a certificate of need is that members of the public may request a contested case at a later point in the process, typically until the close of the public comment period.

Nothing in Xcel's reply comments indicates the above analysis was in error. The primary factor indicating a lower probability that a contested case will be requested later, and not discussed in DOC-DER's comment, is the separation of need and routing processes—often a contested case on a certificate of need petition is triggered by concerns related to a particular site or route.

Given that Xcel opposes a contested case, that individuals or parties can request a contested case at a later date, and that switching to a contested case later on will not slow down the overall regulatory process—Xcel's proposed project requires a route permit which has not yet been filed—DOC-DER does not object to use of the Commission's informal process at this time.

DOC-DER recommends that the Commission determine Xcel's certificate of need petition, as supplemented by Xcel's reply comment, to be complete. DOC-DER also recommends that the Commission use the informal process and clearly state a contested case may be requested through the deadline for public comments.

DOC-DER is available to answer any questions the Commission may have.

Sincerely,

/s/ STEVE RAKOW
Analyst Coordinator

SR/ar

April 18, 2023

VIA EDOCKETS

Will Seuffert
Executive Secretary
Public Utilities Commission
121 Seventh Place East, Suite 350
Saint Paul, MN 55101-2147

RE: Minnesota Energy Connection Project
Application Completeness
Docket No. E002/CN-22-131

Executive Secretary Seuffert:

Commerce staff reviewed Xcel Energy's April 14, 2023, Reply Comments. We appreciate the inclusion of a revised Chapter 8. Staff will continue to work with the company regarding the additional information requested. We believe the environmental report process the most appropriate avenue for this information exchange.

Staff finds the environmental information provided is substantially complete. We are available to answer any questions the Commission might have.

Sincerely,



Andrew Levi
Energy Environmental Review and Analysis

cc: Craig Janezich, Public Utilities Commission
Bret Eknes, Public Utilities Commission
Ray Kirsch, Energy Environmental Review and Analysis

March 21, 2023

Will Seuffert
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. E002/CN-22-131

Dear Mr. Seuffert:

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

The Application of Xcel Energy for a Certificate of Need for Two Gen-Tie Lines from Sherburne County to Lyon County, Minnesota.

The Petition was filed on March 9, 2023 by:

Bria E. Shea
Regional Vice President, Regulatory Policy
414 Nicollet Mall
Minneapolis, MN 55401

The Department recommends **determine that the petition is substantially complete upon submission of additional data** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ STEVE RAKOW
Analyst Coordinator

SR/ar
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E002/CN-22-131

I. INTRODUCTION

A. NOTICE PETITION

On May 2, 2022, Northern States Power Company, doing business as Xcel Energy (Xcel or the Company) filed the Company's *Notice Plan Petition* (Notice Petition). The Notice Petition requested that the Minnesota Public Utilities Commission (Commission) approve Xcel's proposed notice plan to communicate the Company's intent to file a certificate of need (CN) petition for two 345 kV generation-tie lines from Sherburne County to Lyon County, Minnesota (Initial Project).

On May 23, 2022 comments on the Notice Petition were filed by Minnesota Department of Commerce (Department).

On June 28, 2022 the Commission issued an order approving the Notice Petition with conditions.

B. EXEMPTION PETITION

On May 2, 2022 Xcel filed the Company's *Request for Exemption from Certain Certificate of Need Application Content Requirements* (Exemption Petition). The Exemption Petition requested the Commission approve the Company's proposed exemptions to certain filing requirements for a CN petition for the Initial Project.

On May 23, 2022 comments on the Exemption Petition were filed by:

- the Department's Energy Regulation and Planning staff;
- the Department's Energy Environmental Review and Analysis staff;
- Operating Engineers Local 49 and North Central States Regional Council of Carpenters; and
- LIUNA Minnesota & North Dakota.

On May 31, 2022 Xcel filed rely comments.

On June 2, 2022 the Department filed supplemental comments agreeing that the data Xcel described in the Company's reply comments would be sufficient for a complete petition.

On June 28, 2022 the Commission issued an order approving the Exemption Petition with conditions.

C. MAIN PETITION

On March 9, 2023 Xcel filed the Company's *Application to the Minnesota Public Utilities Commission for a Certificate of Need for the Minnesota Energy Connection Project* (Petition). In the Petition Xcel proposes to construct an approximately 160- to 180-mile double circuit 345 kilovolt (kV) transmission line connecting the existing Sherburne County Generation Station Substation (Sherco Substation) in Becker, Minnesota, and a new substation in Lyon County, Minnesota, and other associated facilities, including intermediate and voltage support substations (Project). Note that the Project is slightly different, one double circuit versus two single circuits, from what was described in the Notice Petition and Exemption Petition. The Department does not consider the difference to be significant for the CN proceeding.

Below are the comments of the Department regarding the completeness of the Petition.

II. DEPARTMENT ANALYSIS

A. CN PROCESS

Minnesota Statutes § 216B.2421, Subd. 2 (2) defines a large energy facility as "any high-voltage transmission line with a capacity of 200 kilovolts or more and greater than 1,500 feet in length." Further, Minnesota Statutes, section 216B.243, Subd. 2 states that, "[n]o large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the commission." Since the voltage of the proposed Project is greater than 200 kV and has a distance greater than 1,500 feet a CN is required.

The Commission's review of CN applications primarily consists of two steps:

1. determine whether the application meets certain content requirements; and
2. based on a complete application, determine whether the facility is needed, and if so, grant the CN.

At this stage in Xcel's CN proceeding, the Commission is in the first step.

B. CONTENT REQUIREMENTS

Minnesota Rules 7849.0220, Subp. 2, states that each transmission CN application:

shall include all of the information required by parts 7849.0240 and 7849.0260 to 7849.0340. If, however, a proposed [large high voltage transmission line] LHVTL is designed to deliver electric power to a particular load center within the applicant's system, the application shall contain the information required by part 7849.0270 for that load center rather than for the system as a whole.

Minnesota Rules 7849.0200, Subp. 6, allows for exemptions from any of the content requirements of CN applications if the applicant demonstrates that the requirement is not necessary for determining whether the facility is needed. As noted above, the Commission's June 28, 2022 order approved exemptions as follows:

- 7849.0260, subp. A (3) and C (6)—granted the requested exemption with the provision of the proposed alternative data;
- 7849.0260, subp. B (4) and B (8)—granted the requested exemption;
- 7849.0270—granted the requested exemption with the provision of the proposed alternative data and required Xcel to provide updated demand and energy forecasting data;
- 7849.0280, subp. B through I—granted the requested exemption with the provision of the proposed alternative data and required Xcel to state any updates to the quantity of new generation needed based upon the updated demand and energy forecasting provided under Minnesota Rules 7849.0270;
- 7849.0290, subp. F—granted the proposed exemption and required Xcel to present a summary of the conservation information in the IRP and CIP filings rather than replicate the data in the instant docket;
- 7849.0300 and 7849.0340—granted the requested exemption with the provision of the proposed alternative data; and
- 7849.0330, subp. G—granted the requested exemption with the provision of the proposed alternative data.

C. COMPLETENESS REVIEW

The Department reviewed the Petition for completeness considering the rule requirements and exemptions granted by the Commission in the June 28, 2022 order. Below is a table that summarizes the Department's completeness review of the Petition, indicating what data and information is required by Minnesota Rules, the location of that data and information in the Petition, whether Xcel was granted an exemption to the applicable Minnesota Rule, and whether the Petition contained the relevant data and information.

Table 1: Department Completeness Review

Minnesota Rule	Short Description	Exemption?	Location	Complete?
7829.2500	Brief Summary	None	Summary and Cover Letter	Yes
7849.0200	Cover Letter and Table of Contents	None	Summary and Cover Letter	Yes
7849.0240	Need Summary and Additional Considerations	None	I.E and I.L	Yes
7849.0260	Proposed LHVTL and Alternatives Application	<ul style="list-style-type: none"> • subp. A (3) and C (6)—Exemption with Alternative Data • subp. B (4) and B (8)—Full Exemption. 	I.C, II.A, II.C, V.C, V.F, VII.E, VII.F	Yes
7849.0270	Peak Demand and Annual Consumption Forecast	Exemption with Alternative Data	Appendix E, Chapter IV	Yes
7849.0280	System Capacity	subp. B through I—Exemption with Alternative Data	Chapter IV (qualitative update)	Yes
7849.0290	Conservation Programs	subp. F—Exemption with Alternative Data	Appendix E	No; Parts A and C
7849.0300	Consequences of Delay	Exemption with Alternative Data	V.F	Yes
7849.0310	Environmental Information	None	Chapter VIII	Yes
7849.0320	Generation Alternatives	None	No LEGF Alternative	Yes
7849.0330	Transmission Alternatives	subp. G—Exemption with Alternative Data	II.A , II.B, VI.B to VI.F, VII.C to VII.E, VIII, Appendix F	Yes
7849.0340	No Facility Alternative	Exemption with Alternative Data	V.F	Yes

The Department notes that, as shown above, the Company received an exemption from Minnesota Rules 7849.0290, subp. F but not the other subparts of that rule. In reviewing the Petition for completeness, the Department was unable to locate the information required by Minnesota Rules 7849.0290 subparts A and C.¹ Therefore, the Department recommends the Commission determine that the Petition is substantially complete per Minnesota Rules 7849.0200 subp. 5 upon Xcel’s submitting the information required by Minnesota Rules 7849.0290 subparts A and C. Alternatively, it would be reasonable for Xcel to state where that required information is located in the Company’s conservation improvement program (CIP) processes if it is voluminous.

¹ The required information is:

- Subpart A—the name of the committee, department, or individual responsible for the applicant's energy conservation and efficiency programs, including load management; and
- Subpart C—a description of the specific energy conservation and efficiency programs the applicant has considered, a list of those that have been implemented, and the reasons why the other programs have not been implemented.

D. PROCESS REVIEW

The Department has not identified any contested issues at this time. However, the Department has not initiated its analysis of the merits of the Petition. Minnesota Rules 7829.1200 provides three examples for when the Commission's comment process may be used:

- A. there are no material facts in dispute;
- B. the parties and the Commission have agreed to informal or expedited proceedings; or
- C. informal or expedited proceedings are authorized or required by statute.

At this time, the Department has not identified any disputes as to material facts. However, there are circumstances surrounding the proposed Project that indicate a contested case might be of value:

- the proposed Project would be of the second highest voltage in the state;
- at approximately 160- to 180-miles long the proposed Project will impact numerous parties;
- the primary need for this Project—re-use of existing interconnection rights—is different than other transmission projects in Minnesota which have been to address reliability and/or new generation outlet; and
- the few public comments filed to date indicate the potential for contested issues.

Therefore, the Department recommends that the Commission refer the Petition to the Office of Administrative Hearings for a contested case proceeding.

III. DEPARTMENT RECOMMENDATION

The Department recommends that the Commission determine that the Companies' Petition is substantially complete upon Xcel's submitting the information required by Minnesota Rules 7849.0290 subparts A and C. The Department also recommends that the Commission refer the Petition to the Office of Administrative Hearings for a contested case proceeding.

CERTIFICATE OF SERVICE

I, Robin Benson, 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: **E-002/CN-22-131**

Dated this **2nd** day of **May, 2023**

/s/ Robin Benson

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.	200 South Sixth Street Suite 4000 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-131_CN-22-131
Mara	Ascheman	mara.k.ascheman@xcenergy.com	Xcel Energy	414 Nicollet Mall Fl 5 Minneapolis, MN 55401	Electronic Service	No	OFF_SL_22-131_CN-22-131
Sarah	Beimers	sarah.beimers@state.mn.us	Department of Administration - State Historic Preservation Office	50 Sherburne Avenue Suite 203 St. Paul, MN 55155	Electronic Service	No	OFF_SL_22-131_CN-22-131
David	Bell	david.bell@state.mn.us	Department of Health	POB 64975 St. Paul, MN 55164	Electronic Service	No	OFF_SL_22-131_CN-22-131
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_22-131_CN-22-131
Randall	Doneen	randall.doneen@state.mn.us	Department of Natural Resources	500 Lafayette Rd, PO Box 25 Saint Paul, MN 55155	Electronic Service	No	OFF_SL_22-131_CN-22-131
Adam	Duininck	aduininck@ncsrcc.org	North Central States Regional Council of Carpenters	700 Olive Street St. Paul, MN 55130	Electronic Service	No	OFF_SL_22-131_CN-22-131
Bret	Eknes	bret.eknes@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	No	OFF_SL_22-131_CN-22-131
Kate	Fairman	kate.frantz@state.mn.us	Department of Natural Resources	Box 32 500 Lafayette Rd St. Paul, MN 551554032	Electronic Service	No	OFF_SL_22-131_CN-22-131
Annie	Felix Gerth	annie.felix-gerth@state.mn.us		Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_22-131_CN-22-131

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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_22-131_CN-22-131
Todd	Green	Todd.A.Green@state.mn.us	Minnesota Department of Labor & Industry	443 Lafayette Rd N St. Paul, MN 55155-4341	Electronic Service	No	OFF_SL_22-131_CN-22-131
Kari	Howe	kari.howe@state.mn.us	DEED	332 Minnesota St, #E200 1ST National Bank Bldg St. Paul, MN 55101	Electronic Service	No	OFF_SL_22-131_CN-22-131
Breann	Jurek	bjurek@fredlaw.com	Fredrikson & Byron PA	200 South Sixth St Ste 400 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-131_CN-22-131
Ray	Kirsch	Raymond.Kirsch@state.mn.us	Department of Commerce	85 7th Place E Ste 500 St. Paul, MN 55101	Electronic Service	No	OFF_SL_22-131_CN-22-131
Chad	Konickson	chad.konickson@usace.army.mil	U.S.Army Corps of Engineers	180 5th St # 700 Saint Paul, MN 55101	Electronic Service	No	OFF_SL_22-131_CN-22-131
Nicholas	Korn	NJKORN@GMAIL.COM		27445 County Road 23 Albany, MN 56307	Electronic Service	No	OFF_SL_22-131_CN-22-131
Stacy	Kotch Egstad	Stacy.Kotch@state.mn.us	MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd. St. Paul, MN 55155	Electronic Service	No	OFF_SL_22-131_CN-22-131
Karen	Kromar	karen.kromar@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_22-131_CN-22-131
Dawn S	Marsh	dawn_marsh@fws.gov	U.S. Fish & Wildlife Service	Minnesota-Wisconsin Field Offices 4101 American Blvd E Bloomington, MN 55425	Electronic Service	No	OFF_SL_22-131_CN-22-131

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Kevin	Pranis	kpranis@liunagro.com	Laborers' District Council of MN and ND	81 E Little Canada Road St. Paul, Minnesota 55117	Electronic Service	No	OFF_SL_22-131_CN-22-131
Stephen	Rakow	stephen.rakow@state.mn.us	Department of Commerce	Suite 280 85 Seventh Place East St. Paul, MN 551012198	Electronic Service	No	OFF_SL_22-131_CN-22-131
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_22-131_CN-22-131
Stephan	Roos	stephan.roos@state.mn.us	MN Department of Agriculture	625 Robert St N Saint Paul, MN 55155-2538	Electronic Service	No	OFF_SL_22-131_CN-22-131
Nathaniel	Runke	nrunke@local49.org		611 28th St. NW Rochester, MN 55901	Electronic Service	No	OFF_SL_22-131_CN-22-131
Christine	Schwartz	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_22-131_CN-22-131
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_22-131_CN-22-131
Bria	Shea	bria.e.shea@xcelenergy.com	Xcel Energy	414 Nicollet Mall Minneapolis, MN 55401	Electronic Service	No	OFF_SL_22-131_CN-22-131
Jayme	Trusty	execdir@swrdc.org	SWRDC	2401 Broadway Ave #1 Slayton, MN 56172	Electronic Service	No	OFF_SL_22-131_CN-22-131

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Jen	Tyler	tyler.jennifer@epa.gov	US Environmental Protection Agency	Environmental Planning & Evaluation Unit 77 W Jackson Blvd. Mailstop B-19J Chicago, IL 60604-3590	Electronic Service	No	OFF_SL_22-131_CN-22-131
Garrick	Valverde	garrick.valverde@apexcleanenergy.com	Apex Clean Energy	8665 Hudson Boulevard North Suite 200 Lake Elmo, MN 55042	Electronic Service	No	OFF_SL_22-131_CN-22-131
Haley	Waller Pitts	hwallerpitts@fredlaw.com	Fredrikson & Byron, P.A.	200 S 6th St Ste 4000 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-131_CN-22-131
Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, Minnesota 55155-4040	Electronic Service	No	OFF_SL_22-131_CN-22-131
Alan	Whipple	sa.property@state.mn.us	Minnesota Department Of Revenue	Property Tax Division 600 N. Robert Street St. Paul, MN 551463340	Electronic Service	No	OFF_SL_22-131_CN-22-131
Jonathan	Wolfgram	Jonathan.Wolfgram@state.mn.us	Office of Pipeline Safety	445 Minnesota St Ste 147 Woodbury, MN 55125	Electronic Service	No	OFF_SL_22-131_CN-22-131