

Minnesota Public Utilities Commission
Staff Briefing Papers

Meeting Date: June 19, 2014Agenda Item *1

Company: Minnesota Pipe Line Company, LLC

Docket No. PL-5/CN-14-320

In the Matter of the Application for a Certificate of Need for the Minnesota
Pipe Line Reliability Project

Issue(s): Should the Commission approve the notice plan petition?

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Relevant Documents

Minnesota Pipe Line Company, Notice Plan Petition April 17, 2014
Department of Commerce Comments on Notice Plan Petition May 6, 2014
MPL Reply Comments and Revised Notice Plan Petition..... May 27, 2014
Department of Commerce Letter.....June 6, 2014

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

I. STATEMENT OF THE ISSUES

Should the Commission approve the notice plan proposal?

II. PROJECT OVERVIEW

Minnesota Pipe Line Company, LLC's ("MPL" or "Company") has filed a Notice Plan Petition related to its proposed Minnesota Pipeline Reliability Project, to increase the capacity of its existing Line 4 crude oil pipeline in Minnesota from its current level of 165,000 barrels per day (bpd) to its design capacity of 350,000 bpd when needed to meet demand.

MPL is proposing to construct six new pump stations along its existing Line 4 on land that the Company already owns or will purchase. The six new pump stations are proposed to be located in Hubbard, Wadena, Morrison, Meeker, McLeod and Scott counties, Minnesota. Along with these six new pump stations, the Company proposes to upgrade the two existing pump stations located in Clearwater and Stearns counties.

The purpose of the project, as described by MPL, is to increase reliability by providing flexibility to shift capacity to Line 4 from its other three older pipelines in the event of an outage, and to allow MPL to conduct maintenance on other segments of its pipeline system as needed, without disrupting crude supplies to the Twin Cities refineries. MPL intends to complete this project by 2018.

III. PROCEDURAL HISTORY

On April 17, 2014, MPL filed a notice plan petition for the proposed project. Initial comments on the notice plan proposal were accepted until May 7, 2014, reply comments were accepted until May 27, 2014.

On May 6, 2014, the Minnesota Department of Commerce, Division of Energy Resources (Department DER) filed initial comments on the notice plan proposal.

On May 27, 2014, MPL filed reply comments and revisions to its notice plan proposal in response to the Department DER comments.

IV. STATUTES AND RULES

Under Minn. Rule 7853.0030, D, a petroleum supplier that proposes a project to increase capacity of an existing large petroleum pipeline by either 20 percent of its rated capacity or 10,000 bpd, whichever is greater, is required to obtain a certificate of need by the Commission.

The proposed project will increase the capacity of Line 4 from 165,000 bpd to 350,000 bpd, which amounts to an increase of 185,000 bpd or 112 percent from its current rating and therefore requires a certificate of need.

At least three months before filing a certificate of need application for a pipeline project, the applicant must file a proposed plan for providing notice to all persons reasonably likely to be affected by the proposed pipeline in accordance with Minn. Rules, part 7829.2560.

Minn. Rules, part 7829.2560, establishes requirements for notice plans when seeking a certificate of need for a pipeline. The rule includes certain criteria for identifying notice recipients, methods for distributing notices, required content of notices, and the timing for implementation of the notice plan.

V. MPL'S NOTICE PLAN PROPOSAL

On April 17, 2014, MPL filed a notice plan petition for its proposed Minnesota Pipe Line Reliability Project.¹ Components of the notice plan required by Minn. Rules, part 7829.2560, are summarized below.

Procedural Schedule

Minn. Rules, part 7829.2560, subp. 2, requires the applicant to include with the proposed notice plan a clear and visible notice that initial and reply comments will be accepted on the proposed notice plan.²

In accordance with rule, MPL clearly indicated on page 1 of its notice plan petition that initial comments would be accepted until May 7, 2014, and reply comments would be accepted until May 27, 2014.

Distribution of Notice Plan Proposal

As required under Minn. Rules, part 7829.2560, subp. 1, MPL sent the notice plan proposal to the Department of Commerce, the Residential and Small Business Utilities Division of the Office of the Attorney General (OAG-RUD), and the Army Corps of Engineers. MPL also provided copies of the notice plan proposal to other relevant state agencies.³

¹ Minnesota Pipe Line Company, LLC, Initial Filing – Certificate of Need Notice Plan (April 17, 2014), Document ID [20144-98442-01](#).

² Initial comments on proposed notice plans must be filed within 20 days of the date of filing. Reply comments must be filed within 20 days of the expiration of the initial comment period.

³ A Certificate of Need Notice Plan Service List and Affidavit of Service (April 17, 2014) is attached to the notice plan proposal filing.

Notice Area

The applicant stated that its proposed Notice Plan includes all landowners with property traversed by Line 4, and all landowners with property adjacent to sites where new Line 4 pump stations are proposed to be constructed. Similarly, MPL proposed to notify all mailing addresses (residences) through which Line 4 runs and all residences abutting the proposed new pumping stations.

Direct Mail and Published Notice

Under Minn. Rules, part 7829.2560, subp. 3, a proposed notice plan must include notice of the proposed project to the following persons by the method specified:

- Direct mail notice to landowners, based on tax assessments, likely to be affected by the proposed pipeline;
- Direct mail notice to all mailing addresses within the area likely to be affected by the proposed pipeline;
- Direct mail notice to tribal governments and local governmental units (towns, cities, and counties) whose jurisdictions are likely to be affected by the proposed pipeline; and
- Published notice in newspapers with general circulation in the areas likely to be affected by the proposed pipeline.

Landowners and Mailing Addresses

MPL will provide direct mail notice to all landowners and mailing addresses affected by this project.⁴

Tribal, Local, State and Federal Governments

MPL stated that direct mail notice will be provided to applicable/nearby/regional tribal governments and the governments of towns, statutory cities, home rule charter cities, and counties in those jurisdictions that may be affected by the Project, as well as the appropriate state Senators and state Representatives and U.S. Senators and U.S. Representatives.⁵

Newspaper Publication

⁴ Section II.A of the notice plan proposal.

⁵ Section II.C of the notice plan proposal.

MPL indicated that it will publish newspaper notices in areas reasonably likely to be affected by the proposed project.⁶ A proposed list of newspapers is attached to MPL's notice plan proposal as Exhibit G, and includes at least one or more newspapers in each county that Line 4 traverses, as well as the St. Paul Pioneer Press.

Notice Content

Under Minn. Rules, part 7829.2560, subp. 4, a proposed notice must provide the following information in all notices:

- A map showing the location and end points of the pipeline, existing related pipelines, and related facilities in the area;
- A description of the right-of-way requirements for the proposed pipeline and a statement that the applicant intends to acquire property rights for the right-of-way that the proposed pipeline will require;
- A statement that the pipeline cannot be constructed unless the Commission certifies that it is needed;
- The Commission's mailing address, telephone number and website address;
- An explanation of how to get on the Commission's mailing list for the proceeding; and
- A statement that the requested certificate of need for the pipeline is governed by Minnesota law, including specifically Minn. Stat. § 216B.243 and Minn. Rules, chapter 7853.

Sample notices that MPL proposes to mail and publish are attached to its notice plan proposal as Exhibits B and C (landowners and residents within Notice Area), Exhibit D (Tribal, Local, State and Federal Government Officials), and Exhibit F (Newspaper Notice).

Notice Timing

Minn. Rules, part 7829.2560, subp. 6, requires an applicant to implement the notice plan within 30 days of its approval by the Commission. MPL intends to comply with this timeframe.

VI. COMMENTS ON THE NOTICE PLAN PROPOSAL

The only entity to provide comments on MPL's notice plan proposal within the comment period established was the Minnesota Department of Commerce Division of Energy Resources.

⁶ Section II.D of the notice plan proposal.

There was a public comment⁷ received during the reply comment period from an anonymous citizen not impacted by this project, but that resides close to MPL's older pipelines 1-3. The commenter expressed dissatisfaction with the noise pollution produced by a nearby pump station located on lines 1-3.

Minnesota Department of Commerce Division of Energy Resources

On May 6, 2014, the Department DER provided initial comments on MPL's notice plan proposal.⁸ The comments provided an analysis and recommendations concerning the names and addresses of landowners and residents and provided corrections to the list of local government officials, notice content and other clarifications with respect to Minn. Rules, 7829.2560. The Department identified the following items of the notice plan proposal that should be corrected by MPL prior to approval:

- The Department noted a number of discrepancies on the list of elected and agency government officials included as Exhibit E of the notice plan proposal that should be corrected. The Department also recommended that the head of the Minnesota Department of Public Safety be added to the list of government officials to be noticed.
- A description of how MPL will identify the names and addresses of the landowners and residents it is required to provide with direct mail notice under Minnesota Rules 7829.2560, subp.3 (A) and (B);
- A confirmation that it will provide notice to all landowners and residents that own or live on land abutting the land on which pumping stations will be constructed or upgraded;
- A clarification of how the map required by Minnesota Rules 7829.2560, subp.4 will be included in the notice letters sent to landowners, residents, and government officials, and;
- Revised letters to landowners, abutting residents, and local and state government officials (Exhibits B, C, and D) in which the additional information requested by the Department regarding the pumping station sites and their locations is presented in the Tabular form described on pages 5 and 6 of its comments.

The Department concluded that with the changes identified above, the notice plan petition generally complies with the content requirements of Minn. Rules, part 7829.2560, and recommended that the Commission accept the notice plan, subject to the recommended corrections.

MPL Reply Comments

⁷ Public Comment, Document ID [20145-99891-01](#)

⁸ Comments of the Minnesota Department of Commerce, Division of Energy Resources (May 6, 2014), Document ID [20145-99220-01](#).

On May 27, 2014, MPL filed reply comments on its notice plan proposal in response to comments submitted by the Department.⁹

MPL agreed with the Department's recommendations to provide additional information, clarifications and certain corrections, where appropriate, as outlined below:

1. MPL has identified the list of landowners to receive direct mail notice by reviewing local property records in each of the counties through which Line 4 traverses. Revised Exhibit B is the proposed notice for the landowners.
2. MPL confirmed that it will provide notice to all landowners and residents that own or live on land abutting the location on which the pump stations will be constructed or upgraded. Revised Exhibit C provided by the applicant is the proposed notice to landowners and residents described above in this paragraph.
3. MPL investigated the discrepancies in the lists of elected and agency government officials (Exhibit E and supplemental filing listing township officials of the notice plan proposal) as identified by the Department, and made the corrections as requested. Revised Exhibit E was submitted with the reply comments and now includes the list of all tribal, local, state, and federal government officials with the corrections included. The corrections made were summarized in Exhibit E-1 of the reply comments.
4. MPL will include the project overview map as an attachment to the notice letters.
5. MPL revised notice letters (Exhibits B, C, and D) to include the pumping stations (new and existing) in a tabular form, as requested by the Department.
6. Lastly, MPL included a revised Exhibit A (overview project map) and new aerial maps of each pumping station location, identified as Exhibits A-1 through A-8.

On June 6, 2014, the Department filed a letter in response to MPL's May 27, 2014 reply comments and revised notice plan indicating MPL had satisfactorily addressed the identified discrepancies and recommended that the Commission accept the notice plan petition as revised.¹⁰

VII. STAFF DISCUSSION

Staff has reviewed the notice plan petition, the Department DER's comments, and MPL's reply comments along with the revised notice plan provisions. Staff believes the notice plan, as revised, meets the requirements outlined in Minn. Rules, part 7829.2560, with one additional clarification:

⁹ MPL Co., Inc., Reply Comments (May 27, 2014), Document ID [20145-99848-01](#).

¹⁰ Letter from the- Minnesota Department of Commerce, Division of Energy Resources (June 6, 2014), Document ID [20146-100222-01](#).

As staff noted above, MPL proposed to include the Project Overview Map (Revised Exhibit A) as an attachment to the letters to notice recipients. MPL has included in its reply comments eight detailed aerial maps labeled Exhibit A-1 through A-8; however, it is not clear from MPL's notice plan or reply comments if MPL intends to include the aerial maps of the pump stations in any of the notices.

Staff believes that while the revised Project Overview Map (Revised Exhibit A) may be sufficient to notify landowners, residents and government officials elsewhere along the entire pipeline alignment, for the specific category of landowners and residents that own or live on land abutting the pump stations (proposed or existing), the notice map(s) should include both the overview map and the applicable detailed aerial map for the particular recipients.

COMMISSION DECISION ALTERNATIVES

A. Notice Plan Approval

1. Approve the notice plan petition as originally submitted.
2. Approve the notice plan petition as modified in the May 27, 2014 reply comments and submissions.
3. Approve the notice plan petition as modified in the May 27, 2014 reply comments and submissions and to further require the applicant to include Commission staff's recommendations as outlined above.
4. Reject the notice plan proposal and indicate the deficiencies that need to be corrected.
5. Take some other action deemed appropriate.

Staff Recommendation: A3