

MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Daniel Lipschultz	Commissioner
Matthew Schuerger	Commissioner
John Tuma	Commissioner

Docket No. E-015/TL-14-21
Issue Date: April 11, 2016

In the Matter of the Application of Minnesota Power
For a Route Permit for the Great Northern 500kV
Transmission Line Project in Roseau, Lake of the
Woods, Beltrami, Koochiching, and Itasca
Counties

WILLINS/McBEE PETITION FOR REHEARING AND RECONSIDERATION

SYNOPSIS

The Commission's April 11, 2016 Route Permit in this matter included two maps of the Effie Variation, which result in widely different impacts upon the property owned by Linda Willins (formerly McBee). Although the family is discussing potential resolution of the ultimate line location as to their property, to preserve their legal arguments, they ask the Commission to reconsider or clarify its adoption of the Minnesota Power alignment as to the Effie Variation, and to direct the negotiations between Minnesota Power and the Department of Natural Resources as to the line location be completed as part of the Plan and Profile filing.

FACTS

The Commission's Order dated April 11, 2016 (the "Order") in this matter approved and adopted the ALJ's Findings of Fact, Conclusions of Law, and Recommendations. Order at 18. The Order also issued the route permit (the "Route Permit"). *Id.* at 19. As to the Effie Variation, the Order adopted the ALJ's recommendation. *Id.* at 11 (rejecting revised findings requested by Minnesota Power). As noted by the Commission, the ALJ Report recommended the Effie Variation because of the existing utility corridor, which prevents "new environmental impacts to untouched wilderness areas of the state, and prevent[s] forest fragmentation of these pristine forest areas." Order at 10; *id.* at 11 (quoting ALJ Finding 587). The Environmental Impact Statement map included with the ALJ Report depicted the Effie Variation, with close proximity to the existing utility corridor. Appendix S to ALJ Report, Map 52.

The Commission's Order reflected skepticism as to Minnesota Power's arguments that significant additional distance was required from the existing transmission lines. Order at 10 (noting that "Xcel Energy, which owns the middle line, did not object to the selection of the Effie Variation"); (noting DNR request that triple-line provide "as little separation as practicable, with no forested strip separating the lines, consistent with other required permits or licenses."); *id.* at 11 (noting with approval ALJ report finding that electromagnetic field and audible noise concerns identified by Minnesota Power were "merely speculative"). At the Commission

hearing, it appears that Minnesota Power backed away from arguments against the Effie Variation. Order at 10 (noting that the “Company initially disagreed” but later concluding that “at the Commission meeting, the Company acknowledged that while separation of the lines is necessary, it is willing to work with the DNR to see if a compromise can be reached on the separation distance.”).

The Order also referenced Minnesota Power’s proposed centerline map and stated that “[t]he Commission agrees with this modification” and noted that the “proposal is entirely within the Effie Variation route corridor.” *Id.* at 16. The Order concluded that “[t]he centerline alignment modification will be attached to the Route Permit as part of the Route Maps.” *Id.*

The Route Permit, in turn, includes maps of both the Effie Variation as recommended by the ALJ Report (Part III, page 12 of 23) and the Minnesota Power centerline alignment (Part IV, page 7 of 34). The Route Permit references the attached maps: “The route designated by the Commission in this permit is the route described below and shown on the route maps attached to this permit.” Route Permit, § 3.0, at 4. The general description in the body of the Route Permit encompasses both options.¹ The Route Permit also states that “[t]he approved route widths with anticipated alignments are shown on the detailed maps provided in

¹ *See id.* at 5 (noting the transmission line, after rejoining the existing 230kV and 500 kV lines, “continues southwest approximately 0.9 miles then proceeds in an east-southeasterly direction following the 230/550 Corridor for approximately 11.1 miles as it crosses Forest Road 138. ...”).

Volume II: Part 3, Appendix S of the Final Environmental Impact Statement for the project.” Route Permit, § 3.1, at 5. It is unclear from the face of the Route Permit which map should control, which results in particular uncertainty as to the Willins/McBee Property.

Linda Willins (formerly McBee) owns approximately 75 acres of land along the Effie Variation (the “Property”). The alignment of the transmission line directly affects the degree of impact upon the Property. See Declaration of Rob McBee at 1. The Effie Variation recommended by the ALJ Report results in either no impact or a minimal (i.e. visual or audible) impact upon the Property. Attached as Exhibit 1 is the ALJ Report recommended map, incorporated within the Route Permit as Part 3, with the Property outlined in red and with the residence noted in red. By contrast, the modification proposed by Minnesota Power results in a significant bifurcation of the Property, as shown in Exhibit 2, which was provided to Mr. McBee by Minnesota Power, with the Property outlined in red. Exhibit 2 reflects a significant shift of the centerline on the Property, with distances from the existing transmission lines of 1,000 feet or more in portions of the Property. The home on the Property is not depicted on the EIS map or apparently any of the maps for this area.² Exhibits 1 and 2 include a red diamond to reflect the location of the home. It should also be noted

² When Ms. Willins, in the past, inquired about expanding the existing structure of the home, she was informed that it would not be permissible because of the surrounding protected forest. McBee Declaration at 2.

that additional structures either previously existed or still exist in the general vicinity of the home including a garage, shed, and bunkhouse.

Representatives of the Property owner and Minnesota Power have conferred, in good faith, as to the impact of the transmission line upon the Property.³ Minnesota Power has noted that it cannot avoid the Property. It is anticipated that the parties will continue to confer as to a potential resolution, but the reconsideration deadlines and Route Permit amendment process (see Route Permit, Section 6), require filings with the Commission.

Finally, although the Order noted the willingness of Minnesota Power and the DNR to seek a compromise on the separation distance between and among the transmission lines in the Effie Variation, the Order did not require a deadline or joint submission as part of the Plan and Profile process. Instead, the Order required Minnesota Power to file a letter before “actual construction” as to study of the triple-line corridor by the Regional Planning Authority/Planning Coordinator and Transmission Planner as to system planning requirements, including NERC reliability standards. *Id.* at 19. Ms. Willins and Mr. McBee respectfully request that this process

³ Ms. Willins and Mr. McBee were notified of the modification in conjunction with the Commission’s Order, by mail to England, where Ms. Willins lives. She is currently staying at another location in England for considerable periods to care for her mother-in-law, who is seriously ill. This Petition for Reconsideration provided the first opportunity after the Commission’s Order to respond to the decision to include the modification, and it is a timely under the Commission’s rules and procedures.

be conducted as part of the Plan and Profile phase, rather than awaiting pre-construction.

ARGUMENT

I. The Commission Should Reconsider or Clarify the Minnesota Power Alignment of the Effie Variation.

As drafted, the Route Permit is unclear as to the approved contours of the Effie Variation. The Route Permit relies upon and references the maps attached. Here, the maps include both the Effie Variation as recommended by the ALJ Report, relying upon the existing utility corridor (Part III, page 12 of 23) and the Minnesota Power centerline alignment proposed in its exceptions to the ALJ Report (Part IV, page 7 of 34). As to the specific issue of the route width, the Route Permit references only the maps attached in Part III, which comport with the ALJ Report as to the Effie Variation. Route Permit, Section 3.1. But the Route Permit does not clearly delineate which map should control as to the Effie Variation.

Because the two maps result in dramatically different impacts upon the Property, Ms. Willins and Mr. McBee request that the Commission reconsider or clarify its Order and Route Permit as to the Effie Variation. The Commission's Order expressed skepticism as to Minnesota Power's arguments that significant additional distance was required, and ultimately rejected Minnesota Power's proposed revised findings. Order at 10-11. Instead, the Order required a letter reflecting input from

the Regional Planning Authority/Planning Coordinator and Transmission Planner as to the triple-line corridor before “actual construction.” Order at 19.

Based upon the record that was developed before the ALJ – which emphasized the use of existing utility corridor – the Commission should revise or clarify Minnesota Power’s centerline realignment. Minnesota Power’s centerline adjustment results in a significant increased distance from the existing utility corridor – at times a change of 1,000 feet or more in portions of the Property. The Effie Variation should more closely track the existing utility corridor, which the public overwhelmingly supported, and the ALJ recommended. Order at 10-11. This approach supports the overarching goals of limiting the impacts on wilderness, human developments, and preventing forest fragmentation.

CONCLUSION

Ms. Willins and Mr. McBee respectfully request that Commission reconsider or clarify its adoption of the Minnesota Power alignment as to the Effie Variation, and to direct that the negotiations between Minnesota Power and the Department of Natural Resources and study by the Regional Planning Authority/Planning Coordinator and Transmission Planner be completed as part of the Plan and Profile filing process.

Date: May 2, 2016

MCGRANN SHEA CARNIVAL
STRAUGHN & LAMB, CHARTERED

By:  _____

Kathleen M. Brennan #256870

Kevin A. Schaekel #0394751

800 Nicollet Mall, Suite 2600

Minneapolis, MN 55402

Telephone: (612) 338-2525

*Attorneys for Linda Willins (formerly McBee)
and Rob McBee*

EXHIBIT 1



- Proposed Routes**
- Blue Route
- Alternatives**
- Route Variation
 - Anticipated Route Width
 - Anticipated Right-of-Way
- Residences**
- Commercial or Non-Residential Structure
 - County Well Index
 - Mineral Exploration or Engineering Drillhole
 - PWI Watercourse
 - NHD Watercourse
- Ecologically Important Lowland Conifers**
- Public Land Survey Section
- Existing Transmission Lines**
- 230 kV
 - 500 kV
- Home**
- Property Lines



Appendix S - Map 52

MAP BOOK - CENTRAL SECTION
Great Northern Transmission Line
Final Environmental Impact Statement





Linda McBee

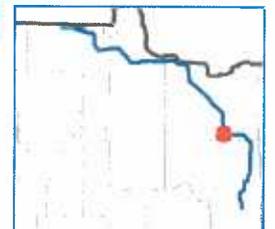
3 Churchwell Close
Bradford Abbas
Dorset, England



Legend

-  Commenter's Area of Interest
-  Preliminary Centerline
-  Preliminary Right-of-way
-  MPUC Approved Route

 Home



MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Daniel Lipschultz	Commissioner
Matthew Schuerger	Commissioner
John Tuma	Commissioner

Docket No. E-015/TL-14-21
Issue Date: April 11, 2016

In the Matter of the Application of Minnesota Power
For a Route Permit for the Great Northern 500kV
Transmission Line Project in Roseau, Lake of the
Woods, Beltrami, Koochiching, and Itasca
Counties

DECLARATION of ROB McBEE

I, Robert McBee, declare and state as follows:

1. I have personal knowledge of the matters described in this Declaration and in the Petition for Rehearing or Reconsideration. My mother, Linda Willins (formerly McBee), owns the property depicted on the exhibits, (the "Property") along the Effie Variation. The maps attached to the Petition as Exhibit 1 and Exhibit 2 accurately reflect the Property lines and the existing home.

2. The Great Northern Transmission Line route significantly affected the Property because of the adoption of the Effie Variation and the Minnesota Power alignment modification in its April 11, 2016 order. My mother lives in England, and is staying at a separate location for significant periods of time to help care for her mother-in-law, who is seriously ill. This routing issue has created a great deal of stress on her. She received a map reflecting the impact of the

Effie Variation and the Minnesota Power alignment modification. These changes essentially bisect the Property.

3. The Property has been in my family for over 40 years, and we would like to continue to use the Property without dealing with a transmission line running through the center of the Property. It looks like the project that is being proposed would come close to the house (if not through it).

4. The home is tucked back in the woods a couple of hundred yards from the country road, which is very important because of the seclusion from the neighbor's property and home. It also was important because my mother has health issues related to dust, and it was away from the road and shielded by the trees.

5. My father used the northern and eastern parts of the Property for hunting, and we would like to be able to use it for that purpose in the future. There is value to our family in keeping these areas forested. In addition, my parents previously rented out the home and renters have had livestock on the Property. We wish to preserve the ability to use it for this purpose again.

6. At one point, my mother was told by an attorney involved with the project that the Department of Natural Resources would object to modifying the existing house. The reasoning given was that the DNR voiced significant concerns because of the scenic and protected surrounding forest. A high-voltage transmission line provides a more significant disruption to the environment.

7. We have used the brook for fishing and enjoyed spending time in the seclusion of the Property, and as we get older I would imagine spending more time up there. We wish to preserve the natural environment and wildlife to the fullest extent possible.

8. The proposed transmission line will be damaging to the scenic beauty of the Property, as well as affecting the use of the Property. There are not many 75 acre parcels with homes on them in this region, and the transmission line will destroy the value of the Property, including the sentimental value to my mother. I also have concerns about the potential dangers a transmission line creates for living on the Property in the future.

9. The line would be less disruptive if it ran to the north of the Property and was kept off of it.

I swear and declare under penalty of perjury under the laws of the United States and the State of Minnesota that the foregoing is true and correct to the best of my knowledge.

Dated: 5-2-16

Robert D. McBee, Jr.
Robert McBee