

**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger
David C. Boyd
Nancy Lange
Dan Lipschultz
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Great River Energy for a Route Permit for the Elko New Market and Cleary Lake Area 115 kV Transmission Project in Scott and Rice Counties

PUC Docket no. ET2/TL-12-1245

OAH Docket no. 48-2500-31007

**DOC EERA'S EXCEPTIONS TO
ADMINISTRATIVE LAW
JUDGE'S REPORT**

I. INTRODUCTION

The Department of Commerce, Energy Environmental Review and Analysis (EERA), respectfully submits the following exceptions to the Findings of Fact, Conclusions, and Recommendation (Report) issued by Administrative Law Judge Steve Mihalchick (ALJ) for the proposed Elko New Market and Cleary Lake Area 115 kV Transmission Project (Project). Overall, the report provides a comprehensive analysis of the record evidence. EERA offers the following comments to address certain technical points in the Report and to support approval of the ALJ's recommended route. Specifically, EERA recommends that the Minnesota Public Utilities Commission (Commission) approve a Route Permit for the Project authorizing the Proposed Route with the "Existing Line" option in the north area and the "West" option in the south area,¹ including the ALJ's recommended Permit Conditions.

¹ ALJ Report at 33, ALJ Steve Mihalchick, May 14, 2014, eDocket no. [20145-99487-01](#)

II. PROPOSED MODIFICATIONS TO ALJ REPORT

EERA respectfully suggests the following changes to the ALJ's report.

FINDINGS OF FACT

EERA does not recommend any exceptions to the ALJ's Findings of Fact.

CONCLUSIONS OF LAW

EERA staff notes Conclusion (5) should be edited to exclude the references in Minn. R. 7850.2500 for preparation of an Environmental Impact Statement. The subparts in Minn. R. 7850.3700 are properly referenced for preparation of an Environmental Assessment. The ALJ also properly included references back to the full process where they were indicated in the statute and rule for the alternative process. However, Minn. R. 7850.3700 does not reference back to 7850.2500, so those subparts are not necessary or applicable in this Conclusion.

5. Notice was provided by EERA and the Commission as required by applicable statutes and rules, namely, Minn. Stat. §§ 216E.03, subd. 6; 216E.04, subd. 6; and Minn. R. 7850.2300, subp. 2; ~~7850.2500, subps. 2, 7, 8 and 9;~~ 7850.3500, subp 1; 7850.3700, subps. 2, 3, and 6; and 7850.3800.

EERA notes the inaccuracy in Conclusion (11) that the "The East Option is somewhat shorter." The East Option is approximately one mile *longer* than the West Option. There is, however, ambiguity in the proper way to correct that inaccuracy. The question is if "East" should be changed to "West" or if "shorter" should be changed to "longer." Although the West Option has arguably greater potential environmental impacts, EERA believes the following reading is most likely closest to the ALJ's intent, given his final Recommendation.

11. In the southern area, the West Option is generally superior to the East Option. The East Option is somewhat ~~shorter~~ longer, ~~but~~ and has negative impacts upon planned road projects, parkland, and possible other environmental impacts. The City of Elko New Market opposes the East Option.

RECOMMENDATION

As noted above, EERA concurs with the ALJ's Recommendation for a route. EERA also concurs with the ALJ's Conclusions (12, 20) that the general Route Permit conditions are appropriate for the Project. EERA also concurs with the ALJ's recommendations concerning special permit conditions conveyed in Conclusions (13-19). In its Comments and Recommendations to the ALJ, EERA recommended specific language for those Special Conditions,² which further develops the conditions described in the above Conclusions.

EERA staff appreciates the opportunity to submit these exceptions.

Dated: May 29, 2014

Respectfully submitted,

David E. Birkholz
Environmental Review Manager
ph: (651) 539-1838 fx: (651) 539-0109
Email: david.birkholz@state.mn.us

Minnesota Department of Commerce
Energy Environmental Review and Analysis
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

² Comments and Recommendations at 8-10, EERA, April 14, 2014, eDocket no. [20144-98284-02](#)

CERTIFICATE OF SERVICE

I, Jan Mottaz, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Response of the Minnesota Department of Commerce, Division of Energy Environmental Review & Analysis

Docket no. ET2/TL-12-1245

Dated this 29th day of May 2014

/s/Jan Mottaz

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_12-1245_Official CC Service List
Gina M.	Aulwes	ginaau@bolton-menk.com	Bolton & Menk, Inc.	12224 Nicollet Avenue Burnsville, MN 55337	Electronic Service	No	OFF_SL_12-1245_Official CC Service List
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	Yes	OFF_SL_12-1245_Official CC Service List
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_12-1245_Official CC Service List
Will	Kaul	wkaul@greenergy.com	Great River Energy	12300 Elm Creek Blvd Maple Grove, MN 553694718	Electronic Service	No	OFF_SL_12-1245_Official CC Service List
Stacy	Kotch	Stacy.Kotch@state.mn.us	MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd. St. Paul, MN 55155	Electronic Service	Yes	OFF_SL_12-1245_Official CC Service List
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_12-1245_Official CC Service List
Steve	Mihalchick	steve.mihalchick@state.mn.us	Office of Administrative Hearings	PO Box 64620 St. Paul, MN 551640620	Electronic Service	Yes	OFF_SL_12-1245_Official CC Service List
Joseph H.	Mose	N/A	Department of the Army	St. Paul District, Corps of Engineers 180 Fifth St E Ste 700 St. Paul, MN 55101-1678	Paper Service	No	OFF_SL_12-1245_Official CC Service List
Mark	Nagel	mnagel@ci.enm.mn.us	City of Elko New Market	601 Main Street, PO Box 99 Elko New Market, MN 55020	Electronic Service	No	OFF_SL_12-1245_Official CC Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Carole	Schmidt	cschmidt@greenergy.com	Great River Energy	12300 Elm Creek Boulevard Maple Grove, MN 553694718	Electronic Service	No	OFF_SL_12-1245_Official CC Service List
Jamie	Schrenzel	jamie.schrenzel@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Saint Paul, MN 55155	Electronic Service	Yes	OFF_SL_12-1245_Official CC Service List
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	Ste 122 9100 W Bloomington Frwy Bloomington, MN 55431	Electronic Service	Yes	OFF_SL_12-1245_Official CC Service List
Mark	Themig	N/A	Scott County	Scott County Government Center 200 Fourth Avenue West Shakopee, MN 55379-1220	Paper Service	No	OFF_SL_12-1245_Official CC Service List
Jonathan	Vlaming	jvlaming@threeriversparkdistrict.org	Three Rivers Park District	3000 Xenium Ln N Plymouth, MN 55441	Electronic Service	No	OFF_SL_12-1245_Official CC Service List