

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
Nancy Lange
Dan Lipschultz
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Betsy Wergin

Chair
Commissioner
Commissioner
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Commissioner

In the Matter of the Application of Great River Energy and Minnesota Power for a Certificate of Need and Route Permit for the Motley Area 115 kV Project in Morrison, Cass and Todd Counties

ISSUE DATE: May 27, 2015

DOCKET NO. ET-2,E-015/CN-14-853

DOCKET NO. ET-2,E-015/TL-15-204

ORDER ACCEPTING APPLICATION AS COMPLETE, DIRECTING USE OF ALTERNATIVE PERMITTING PROCESS, AND GRANTING VARIANCE

PROCEDURAL HISTORY

On March 19, 2015, Great River Energy and Minnesota Power filed an application for a certificate of need and route permit to construct a 115 kilovolt (kV) line in Morrison, Cass, and Todd Counties.

On April 2, 2015, the Department of Commerce (the Department) filed comments in the certificate of need docket recommending that the Commission find that the application is substantially complete and order a contested case hearing if a party requests one and provides reasonable grounds to do so.

On April 6, 2015, the Department of Commerce, Energy Environmental Review and Analysis staff (EERA) filed comments in the route permit docket recommending that the Commission accept the application as complete.

On April 30, 2015, the application came before the Commission.

FINDINGS AND CONCLUSIONS

I. The Proposed Project

Great River Energy and Minnesota Power filed an application for a certificate of need and for a route permit to construct the Motley Area 115 kV transmission line in Morrison, Cass, and Todd Counties.

They proposed constructing a new single circuit 115 kV transmission line, approximately 15-16 miles in length and a new Crow Wing Fish Trap Lake Substation. The project would include converting the existing 34.5 kV Motley substation to 115 kV service and adding a three-way switch; constructing a new substation to serve a new pipeline pump station; adding breakers to the existing Minnesota Power Dog Lake substation and constructing a one-half mile long 115 kV transmission line between the substation and the existing Minnesota Power 24 Line; and installing a three-way switch to be used for the construction of a future Crow Wing Power Shamineau substation.

They stated that the project is needed to address power system overload issues in the project area and that it will serve a new pump station that has been proposed by the Minnesota Pipe Line Company and is under consideration in a separate Commission proceeding.¹

They filed their applications under Minn. Stat. § 216B.243 and Minn. Stat. § 216E.04, which govern certificates of need for large energy facilities and route permits for large high voltage transmission lines. A high voltage transmission line with a capacity of 100 kV or more with more than ten miles of its length in Minnesota is a large energy facility requiring a certificate of need.² A high voltage transmission between 100 and 200 kV requires a route permit and is eligible for review under an alternative permitting process.³

II. Comments

Both the Department and the EERA recommended that the Commission find the certificate of need and route permit applications complete. No one recommended a contested case proceeding nor objected to the request of Great River Energy and Minnesota Power to use the alternative review procedures for evaluating the proposed route. Further, no one recommended holding separate public hearings or conducting separate environmental review proceedings to develop the record on the certificate of need and route permit applications.

III. Rule Variance

Under Minn. R. 7849.0200, subp. 5, the Commission is required to determine, within 30 days of receiving a certificate of need application, whether the application is substantially complete. Under Minn. R. 7849.1400, subp. 3, the Commission is required to hold a public meeting within 40 days after receiving the application.

Under Minn. R. 7829.3200, the Commission must vary its rules upon making the following findings:

- (1) enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;

¹ See *In the Matter of Minnesota Pipe Line Company, LLC for a Certificate of Need for the Minnesota Pipe Line Reliability Project to Increase Pumping Capacity on the Line 4 Crude Oil Pipeline in Hubbard, Wadena, Morrison, Meeker, McLeod, and Scott Counties*, Docket No. PL-5/CN-14-320.

² Minn. Stat. § 216B.2421, subd. 3.

³ Minn. Stat. § 216E.01, subd. 4 and 216E.04; and Minn. R. 7850.2800.

- (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 Commission finds that enforcement of these rules would impose an excessive burden on those affected by the rule by jeopardizing the Commission's ability to fully consider comments before determining the completeness of the application and scheduling a public meeting. Further, granting the variance would not adversely affect the public interest, and would, in fact, serve the public interest by providing the Commission with sufficient time to evaluate the application and schedule a public meeting. And finally, granting the variance would not conflict with standards imposed by law.

Under Minn. R. 7850.3700, the Department is required to prepare an environmental assessment that evaluates the potential human and environmental impacts of the proposed project. Under the rule, the Department is required to hold a public scoping meeting where members of the public have the opportunity to provide comments. After the close of the public scoping meeting, the Department is required to provide a written comment period of at least seven days. Within 10 days of the close of the comment period, the Department must determine the scope of the environmental assessment. To ensure that the Department has sufficient time to evaluate comments and make a determination, the Commission will vary the rule to extend the 10-day timeline.

The Commission finds that enforcement of the rule would impose an excessive burden on those affected by the rule by jeopardizing the Department's ability to fully consider comments and make an informed decision on the scope of the environmental assessment. Further, granting the variance would not adversely affect the public interest, and would, in fact, serve the public interest by providing the Department with sufficient time to make a scoping decision. And finally, granting the variance would not conflict with standards imposed by law.

IV. Commission Action

The Commission has reviewed the application and the comments and will accept the application as complete.

The Commission has the discretion to evaluate certificate of need applications using either contested case proceedings or an informal notice and comment process.⁴ The informal process is a less formalized method of developing the record and provides an opportunity for the identification of contested issues, which would shape the scope of contested case proceedings, should they later be determined to be necessary.

The Commission will therefore authorize staff to develop the record and prepare this case for Commission action without contested case proceedings under Minn. Stat. §§ 14.57 *et seq.*, unless those proceedings are later determined to be necessary. Under the informal review process the Commission still asks the Office of Administrative Hearings to hold at least one public hearing, scheduled in conjunction with Commission staff. The Commission will request that the Administrative Law Judge in this case prepare a summary report of the comments received during the public hearing comment period.

⁴ Minn. R. 7829.1200.

To facilitate development of the record on route permit issues, the Commission will authorize use of the alternative permitting process set forth in Minn. Stat. § 216E.04 and Minn. R. 7850.2800 to 7850.3900 and will direct use of joint public hearings and environmental review for both the certificate of need and route permit application.

Both Minn. Stat. § 216B.243, subd. 4, and Minn. Stat. § 216E.08 encourage public participation in certificate of need and route permit proceedings. Under the siting and routing statute, the Commission is required to designate a staff person to act as the public advisor on the project and to be available to answer questions from the public about the permitting process. The Commission will designate Tracy Smetana of Commission staff to serve as the public advisor. In addition, the Commission will take the following steps:

- Request that the Department continue to study issues and indicate during the hearing process its position on the reasonableness of granting a certificate of need and a route permit.
- Require Great River Energy and Minnesota Power to facilitate in every reasonable way the continued examination of the issues by the Department and Commission staff.
- Require Great River Energy and Minnesota Power to place a copy of the application, in printed or compact disc format, for review in at least one government center or public library in each county where the proposed transmission line project would be located.
- Direct Commission staff to work with the Administrative Law Judge and the staff of the Department in selecting suitable locations for the public hearings on the application.
- Direct Great River Energy and Minnesota Power to work with Commission staff to arrange for publication of the notice of hearings in newspapers of general circulation at least ten days prior to the hearings, and require that such notice be in the form of visible display ads, and that proof of publication be obtained from the newspapers selected.
- Request that the EERA present comments on the scope of the Environmental Assessment to the Commission for its input prior to the issuance of the final scoping decision by the Department.
- Direct staff to formally contact relevant state agencies to request their participation in the development of the certificate of need and route permit records and public hearings under Minn. Stat. § 216E.10, subd. 3, and request that state agencies submit comments prior to the last day of the public hearing.

- Direct Great River Energy and Minnesota Power to file proposed findings of fact, conclusions, and recommendations and direct the Department to file a response to the applicants' proposal.

ORDER

1. The Commission hereby accepts the certificate of need and route permit application as complete.
2. The Commission hereby approves joint hearings and combined environmental review for the certificate of need and route proceedings.
3. The Commission hereby directs use of the informal review process to develop the record for the certificate of need.
4. The Commission requests that the Administrative Law Judge file a summary report of the comments received during the public hearing comment period regarding the certificate of need.
5. The Commission hereby directs use of the summary report process to develop the record for the route permit.
6. The Commission requests that the Administrative Law Judge file a summary report of the comments received regarding the route permit application.
7. The Commission hereby directs the Great River Energy and Minnesota Power to file proposed findings, conclusions, and recommendations and directs the EERA to file a response to the company's filing.
8. The Commission hereby varies Minn. R. 7849.0200, subp. 5, to extend the 30-day deadline for the Commission to consider application completeness.
9. The Commission hereby varies Minn. R. 7849.1400, subp. 3, to extend the 40-day deadline for the Department to conduct a scoping meeting.
10. The Commission hereby varies Minn. R. 7850.3700, subp. 3, to extend the 10-day deadline for the Department to issue its scoping decision.
11. The Commission hereby designates Tracy Smetana of commission staff to serve as the public advisor.
12. The Commission also:
 - Requests that the Department continue to study issues and indicate during the hearing process its position on the reasonableness of granting a certificate of need and a route permit.

- Requires Great River Energy and Minnesota Power to facilitate in every reasonable way the continued examination of the issues by the Department and Commission staff.
- Requires Great River Energy and Minnesota Power to place a copy of the application, in printed or compact disc format, for review in at least one government center or public library in each county where the proposed transmission line project would be located.
- Directs Commission staff to work with the Administrative Law Judge and the staff of the Department in selecting suitable locations for the public hearings on the application.
- Directs Great River Energy and Minnesota Power to work with Commission staff to arrange for publication of the notice of hearings in newspapers of general circulation at least ten days prior to the hearings, and require that such notice be in the form of visible display ads, and that proof of publication be obtained from the newspapers selected.
- Requests that the EERA present comments on the scope of the Environmental Assessment to the Commission for its input prior to the issuance of the final scoping decision by the Department.
- Directs staff to formally contact relevant state agencies to request their participation in the development of the certificate of need and route permit records and public hearings under Minn. Stat. § 216E.10, subd. 3, and request that state agencies submit comments prior to the last day of the public hearing.

13. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
Executive Secretary



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