

## **Staff Briefing Papers**

Meeting Date September 11, 2025 Agenda Item 1\*

Company Dairyland Power Cooperative

Docket No. ET3/TL-24-95

In the Matter of the Application of Dairyland Power Cooperative for a Route Permit for a 161 kV Transmission Line in Fillmore County, Minnesota

Issues

- Should the Commission adopt the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendations?
- Should the Commission find that the Environmental Assessment and record created at the public hearing adequately address the issues identified in the scoping decision?
- Should the Commission grant a route permit for Dairyland's 161 kV
   Transmission Line in Fillmore County?

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✓ Relevant Documents	Date
Dairyland Power Cooperative – Route Permit Application (14 Parts)	08/26/2024
PUC – Order (Application Completeness)	10/15/2024
PUC – Notice of Public Information and Scoping Meeting	10/22/2024
MN DNR – Comment Letter & Attachment (2 Parts)	12/03/2024
OAH – First Prehearing Order	12/04/2024
Dairyland Power Cooperative – Reply scoping comments	12/13/2024

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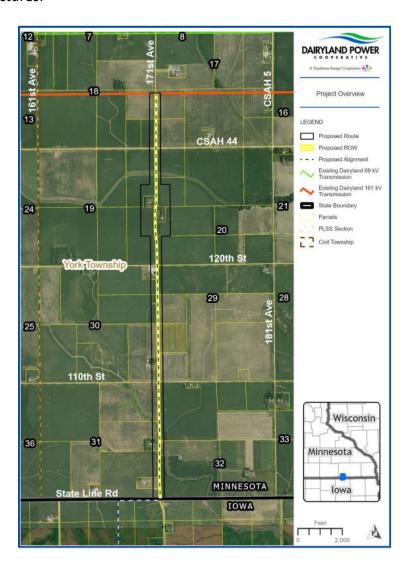
The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

<b>✓</b> Relevant Documents	Date
Information/Scoping Meeting Transcripts	12/17/2024
DOC EERA – Scoping Summary and Recommendation	12/19/2024
PUC – Order	01/07/2025
DOC EERA – Scoping Decision	01/23/2025
OAH – Second Prehearing Order	02/18/2025
PUC – Notice of Public Hearings and Availability of EA	04/07/2025
Dairyland Power Cooperative – Testimony – Yvonne Gildemaster	04/08/2025
DOC EERA – Environmental Assessment	04/11/2025
Dairyland Power Cooperative – Comments on EA and DRP	04/17/2025
PUC – Public Comment – Corey Prins	05/02/2025
MN DNR – Letter and Attachment (2 Parts)	05/13/2025
Minnesota Interagency Vegetation Management Planning Working Group – Comments	05/14/2025
PUC – Public Comment	05/19/2025
PUC – Public Comment	05/19/2025
Dairyland Power Cooperative – Proposed Findings of Fact, Conclusions of Law, and Recommendations	05/27/2025
Dairyland Power Cooperative – Response to Comments	05/27/2025
OAH – Findings of Fact, Conclusions of Law and Recommendations	07/28/2025
PUC-EIP Exceptions to ALJ Report	08/11/2025
Dairyland Power – Exceptions to ALJ Report	08/12/2025

#### PROJECT DESCRIPTION

The proposed project involves the construction of a new approximately 3.5-mile, 161 kilovolt (kV) high-voltage transmission line and associated facilities. The applicant is requesting a 500-foot-wide proposed route, with some portions consisting of a 1,320-foot-wide route to accommodate existing buildings and features. The right of way will be 100-110 ft (50-55ft on either side of the centerline), depending on the road right of way it is paralleling as structures are typically installed one to ten feet outside the road right of way.

Dairyland will use single-pole steel structures, with pole heights ranging from 75 to 140 feet above ground and spans between structures from 300 to 1,000 feet. The proposed project is collocated with other road or utility rights-of-way for the entirety of its length. MiEnergy, a distribution cooperative serving members in the area, has existing overhead distribution lines within the proposed route. Dairyland plans to coordinate with MiEnergy about burying these lines where they are overtaken by the proposed project, rather than co-locating them on the new 161 kV structures.



Dairyland anticipates the project to cost approximately \$4 million (2020 dollars). Construction would begin as early as the First Quarter 2026, and the estimated in-service date is the end of the Third Quarter 2027.

#### **OUTREACH**

Dairyland contracted with ROW agents from HDR to make personal contact with impacted landowners. HDR utilized tax rolls and GIS information to develop a contact list of landowners along the primary route (the preferred route) and the secondary route (parallel to the primary route, but one mile west of the primary route). Using the created contact list, an introductory letter was mailed to landowners introducing the project, providing contact information, requesting additional contact details, and encouraging landowners to engage with ROW agents. ROW agents responded to those who provided feedback and made further attempts to connect with those who did not respond to the letter.

HDR and/or Dairyland also attended a regular meeting of the Township Board in York and Beaver Townships to introduce board members to the project and let them know land agents would be in the area attempting to connect with landowners.

Dairyland sent initial notification letters to federal, state, and local units of government in May 2024 and to 11 Tribal Nations in June 2024. At the time of application, Dairyland had not received responses from the Tribal Nations.

#### **RULES AND STATUTES**

## A. Route Permit

Minn. Stat. § 216E.03, subd. 2,<sup>1</sup> provides that no high-voltage transmission line shall be sited or constructed in Minnesota without the issuance of a route permit by the Commission.

Under Minn. Stat. § 216E.01 subd., 4,<sup>2</sup> a high-voltage transmission line is defined as a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and that is greater than 1,500 feet in length. The proposed project is a new 3.5-mile 161-kilovolt transmission line and, therefore, requires a route permit from the commission.

The proposed project qualified for alternative review because it is a high-voltage transmission line between 100 and 200 kV. Under the alternative permitting process: (1) the applicant is not required to propose alternative routes in its application but must identify other routes it examined and discuss the reasons for rejecting those routes; (2) an environmental assessment is prepared instead of an environmental impact statement; (3) a public hearing is conducted,

<sup>&</sup>lt;sup>1</sup> Minn. Stat. § 216E.03, subd. 2

<sup>&</sup>lt;sup>2</sup> Minn. Stat. § 216E.01 subd. 4

but a contested case hearing is not required.

The proposed project is subject to Minn. Stat. Chapter 216E, which requires that high-voltage transmission lines be routed in a manner consistent with the state's goals to conserve resources, minimize adverse human and environmental impacts, and other land use conflicts, and ensure the state's electric energy security and reliability through efficient, cost-effective power supply and electric transmission infrastructure. The statute also allows the Commission to specify the design, route, right-of-way preparation, facility construction, and any other necessary conditions when issuing a high-voltage transmission line permit. The rules for the review of high-voltage transmission line route permit applications are found in Minnesota Rules Chapter 7850.<sup>3</sup>

#### B. Environmental Assessment

Minn. Stat. § 216E.04, subd. 5<sup>4</sup> requires the Commissioner of the Department of Commerce to prepare an environmental assessment on behalf of the Commission on proposed high-voltage transmission lines being reviewed under the alternative permitting process. The environmental assessment must contain information on a proposed project's potential human and environmental impacts and alternative routes considered, and address mitigation measures for identified impacts.

## PROCEDURAL HISTORY

On August 26, 2024, Dairyland Power Cooperative (Dairyland) applied for the construction of a new 3.5-mile, 161 kilovolt (kV) high-voltage transmission line and associated facilities.

On October 15, 2024, the Commission issued an Order accepting the application as complete, declining to appoint a task force, and requesting an Administrative Law Judge conduct the public hearings and provide a report with findings of fact, conclusions of law, and recommendations. The Commission also authorized, through the Executive Secretary, the applicant to consult with the Minnesota State Historic Preservation Office (SHPO).

On October 22, 2024, the Commission issued a Notice of Information and Environmental Assessment Scoping Meetings.

On December 3, 2024, the Minnesota Department of Natural Resources (DNR) provided a comment letter and attachment. The subject of the letter was hydrology, rare features, facility lighting, dust control, and wildlife-friendly erosion control.

On December 12, 2024, the Office of Administrative Hearings (OAH) issued its First Prehearing Order. The Order established the schedule for the informal proceeding.

<sup>&</sup>lt;sup>3</sup> Minnesota Rules Chapter 7850

<sup>&</sup>lt;sup>4</sup> Minn. Stat. § 216E.04, subd. 5

On December 13, 2024, Dairyland responded to DNR's recommendations. They agreed to all the conditions outlined by DNR, except for one. DNR requested facility lighting that does not apply to this project, as there are no substations related to this application.

On December 17, 2024, and December 19, 2024, the Department of Commerce, Energy, Environmental Review and Analysis (EERA) filed submitted the transcript from the scoping meetings as well as its summary and recommendation for scoping into the record.

On December 19, 2024, EERA submitted a scoping recommendation that only the proposed route be studied in the Environmental Assessment (EA).

On January 7, 2025, the Commission issued a consent Order allowing EERA to study only the route specified in Dairyland Power Cooperative's permit application.

On January 23, 2025, EERA issued the Scoping Decision into the record.

On February 18, 2025, the OAH issued a second prehearing order. This order moved the release of the EA from March 27, 2025, to April 11, 2025.

On April 7, 2025, the PUC issued a Notice of Public Hearings and Availability of the Environmental Assessment.

On April 8, 2025, Dairyland submitted testimony from Yvonne Gildemaster.

On April 11, EERA filed the EA into the record.

On April 17, 2025, Dairyland filed its response to the EA and the draft route permit.

On May 2, 2025, the PUC filed a public comment submitted by Corey Prins.

On May 13, 2025, the DNR submitted comments after reviewing the EA for the Project. The DNR recommended special permit conditions requiring Dairyland to comply with the Minnesota Endangered Species Statute and associated rules, a Karst Survey Plan, a prohibition on the use of specific products for dust control, and a restriction on the use of plastics for wildlife-friendly erosion control. DNR also included information on DNR Water Appropriation Permits.

On May 14, 2025, the Minnesota Interagency Vegetation Management Planning Group (VMPWG) submitted hearing comments. The letter recommended that the applicant continue working with VMPWG.

On May 15, 2025, the Commission filed two public comments from Corey Prins.

On May 27, 2025, Dairyland filed comments in response to public comments received during

the public hearing and subsequent comment period as well as its proposed Findings of Fact, Conclusions of Law, and Recommendations.

On June 9, 2025, EERA submitted its reply comments. EERA responded to Dairyland's comments on the EA and proposed draft permit stating they had no modifications or exceptions to the findings of fact proposed by Dairyland.

On July 28, 2025, the OAH issued the Findings of Fact, Conclusions of Law, and Recommendations.

On August 11, 2025, EERA filed a letter indicating it had no exceptions to the ALJ Report.

On August 12, 2025, Dairyland filed a letter indicating it had no exceptions to the ALJ Report.

# ADMINISTRATIVE LAW JUDGE REPORT SUZANNE TODNEM

At the time of application completeness, the Commission requested that the Office of Administrative Hearings appoint an administrative law judge (ALJ) to ensure the record was fully developed. The Commission requested the ALJ oversee the public hearings on the project and provide a report that included findings of fact, conclusions of law, and recommendations for the project's public hearing.

On April 7, 2025, the Commission issued a notice for public hearings and the availability of the environmental assessment to be held on April 22 and 23, 2025. The ALJ used the comments at those hearings and the entirety of the record to develop her report, which was published on July 28, 2025. The report contained 235 Findings of Fact and 14 Conclusions of Law.

Staff includes a summary of the ALJ's report below and refers the Commission to the entire ALJ report for a complete analysis.

## C. Public Hearing Comments

On April 22<sup>nd</sup> and 23rd, 2025, ALJ Todnem held a public hearing in person and virtually. The written comment period remained open through May 13, 2025. The ALJ received comments and questions from members of the public focused on:

- An impacted landowner was concerned about pole locations on their property, whether they would be compensated for the use of their land, and the abandonment of transmission lines currently in place.
- A representative from York Township was concerned about road repairs.
- An attendee wanted to know the purpose of the line.

<sup>&</sup>lt;sup>5</sup> OAH, Order – Findings of Fact, Conclusions of Law and Recommendations, July 28, 2025.

• Mr. Prins and Lisa Sauder voiced concern that no alternatives were looked at, impacts on landowners, the size of the easement the applicants were seeking, soil compaction, and the effect it would have on the charitable trust. Mr. Prins alternative route is reviewed in the Staff Discussion portion of this document.

#### D. Environmental Assessment Completeness

The ALJ stated that the EA and the record address the issues identified in the scoping decision to a reasonable extent. Additionally, the ALJ wrote in her Conclusions of Law that the EA was prepared in compliance with Minn. R. 7850.3700.<sup>6</sup>

#### E. Route Permit

The ALJ recommended that the Applicant's route is the best route for the project. Additionally, the proposed route satisfies the relevant statutes and rules and all other legal requirements. The ALJ recommended that the "Commission issue a Route Permit to Dairyland Power Cooperative to construct and operate the project and associated facilities in Fillmore County."

#### F. Route Permit Conditions or Revisions to the Draft Site Permit

The ALJ wrote that the record supports several permit conditions and revisions to the draft site permit. Staff has included the suggested permit conditions and revisions below:

- The ALI recommended language changes to the draft permit based on comments submitted by Dairyland. These changes are included in Sections 2 and 3 of the Proposed Draft Permit. The proposed changes provided clarification concerning an existing tap line and further described the anticipated alignment. The language describing the alignment is as follows:
  - The anticipated alignment continues southerly along the Easterly side of 171st Avenue for approximately 1.0 mile.
- The ALJ recommended adoption of the special permit conditions as proposed by EERA and DNR and agreed to by Dairyland. These permit conditions are carried in the Proposed Draft Permit.
  - Section 6.1: Karst Geology The Permittee shall conduct a geotechnical investigation for the transmission line right-of-way to determine the presence of sinkholes or sinkhole development. If a sinkhole is identified, the Permittee shall confer with the Minnesota Department of Natural Resources and develop a Karst Contingency Plan. The Plan and Profile submitted under Section 9.2 of this permit shall indicate any structures that have been located or shifted due to a sinkhole or sinkhole development.

<sup>&</sup>lt;sup>6</sup> Ibid. p. 49, Finding 5

<sup>&</sup>lt;sup>7</sup> Ibid., p. 50

- Section 6.2: Northern Long-Eared Bats The Permittee will coordinate with the
  U.S. Fish and Wildlife Service regarding the timing of tree-clearing and any other
  construction or restoration actions that may impact the Northern Long Eared
  Bat. The Permittee shall keep records of compliance with this section and
  provide them upon the request of Commission staff.
- Section 6.3: Dust Control The Permittee shall utilize non-chloride products for onsite dust control during construction.
- Section 6.4: Wildlife-Friendly Erosion Control The Permittee shall use only "bionetting" or "natural netting" types of erosion control materials and mulch products without synthetic (plastic) fiber additives.
- The ALJ further recommended adoption of the special permit conditions proposed by the DNR and agreed to by Dairyland. These permit conditions are included in the proposed draft permit and read as follows:
  - State-listed Endangered and Threatened Species The Permittee shall comply with applicable requirements related to state-listed endangered and threatened species in accordance with Minnesota's Endangered Species Statute (Minn. Stat. § 84.0895) and associated Rules (Minn. R. 6212.1800 to 6212.2300 and Ch. 6134).
  - <u>Calcareous Ferns</u> The Permittee must work with DNR to determine if any impacts to any calcareous fens will occur during any phase of the Project. If the Project is anticipated to impact any calcareous fens, the Permittees must develop a Calcareous Fen Management Plan in coordination with the DNR, as specified in Minn. Stat. § 103G.223. Should a Calcareous Fen Management Plan be required, the approved plan must be submitted concurrently with the plan and profile required in Section 9.2 of the Permit.

#### **EXCEPTIONS**

## G. PUC-EIP

PUC-EIP reviewed the Findings of Fact, Conclusions of Law, and Recommendations issued by the ALJ and had no exceptions.<sup>8</sup>

## H. Dairyland Power Cooperative

Dairyland filed a letter indicating that it did not have any exceptions to the ALJ Report.9

<sup>&</sup>lt;sup>8</sup> PUC, EIP – Exceptions to ALJ, August 11, 2025.

<sup>&</sup>lt;sup>9</sup> Dairyland, Exceptions to ALJ, August 12, 2025.

#### DISCUSSION

## I. The ALJ Report

Staff recommends that the Commission adopt the ALJ report. In doing so, the Commission would be approving the standard transmission line route permit and the following Special Conditions:

- Karst Geology Section 6.1
- Northern Long-Eared Bats Section 6.2
- Dust Control Section 6.3
- Wildlife-Friendly Erosion Control Section 6.4
- State-listed Endangered and Threatened Species Section 6.5
- Calcareous Ferns Section 6.6

#### J. Environmental Assessment

Staff agrees with the ALJ in finding that the evidence in the record demonstrates the EA is adequate because it addressed the issues raised in the scoping decision.

#### K. Route Permit

An alternative route was brought forward during the ALJ-hosted public hearing and associated comment period. The letter was submitted by Corey Prins, Northwest Farm Management, on behalf of his client, Guardian Charitable Trust (GCT).<sup>10</sup> Lisa Sauder supported Mr. Prins' letter.<sup>11</sup> The letter submitted by Mr. Prins stated that alternative routes were never presented to the public for opinion or comment.

Mr. Prins most significant concern is for potential hazards to six residential sites that will be impacted by the line along 171<sup>st</sup> Avenue, and the impacts to farming operations and land values in the area. Mr. Prins stated that the presence of objects in a field creates safety hazards and efficiency disruptions, resulting in lower yields and reduced land values. This is especially important because GCT, a non-profit, uses farmland income to assist underprivileged families with food and shelter. Mr. Prins also had concerns that, despite Dairyland's claims on restoring compacted soil, in his experience, it may take over 10 years to fully restore the disturbed soil. As a result of GCT's concerns, the alternative in Attachment A was proposed.

Under Minn. Stat. § 216E.04, Subd 3, and Minn R. 7850.3100, an applicant is required to identify any alternative routes considered and rejected for the Project. In this case, the applicants had studied the same alternative route submitted by Mr. Prins during its preapplication process. The Applicants rejected the alternative since it would cause greater

<sup>&</sup>lt;sup>10</sup> PUC, <u>Public Comment</u>, May 19, 2025; PUC, <u>Public Comment – Corey Prins</u>, May 2, 2025.

<sup>&</sup>lt;sup>11</sup> Public Utilities Commission, Public Comment, May 19, 2025.

land impacts and greater impacts to agricultural operations than the proposed route mainly due to the fact that it is not along an existing road. Furthermore, the alternative route would be more difficult and costly to construct.

Staff agrees with the ALJ in recommending adoption of the Applicant's proposed route. The alternative route submitted by the GCT was late in the process, so it was not studied in the EA. Additionally, property owners along the alternative route submitted by GCT may not have been notified about its possibility. Lastly, the GCT alternative follows 161st street for half a mile but then continues south by following property lines through fields for three miles before reaching the Minnesota-lowa border. The Applicant stated in their reply comments that one existing agricultural building would be within 20 feet of the alternative route submitted by GCT, which would require the route to be moved further into a farm field or the building to be removed.

#### **DECISION OPTIONS**

## **ALJ Report**

1. Adopt the ALJ Report to the extent it is consistent with the Commission's decisions. (Staff)

## **Environmental Assessment**

2. Find the Environmental Assessment and the record created at the public hearing address the issues identified in the Scoping Decision. (ALJ, Staff, EERA, Applicants)

## Route Permit

3. Issue a route permit to Dairyland Power Cooperative authorizing their proposed route. (ALJ, Staff, EERA, Applicant)

Or

4. Issue a route permit to Dairyland Power Cooperative authorizing the route submitted by Guardian Charitable Trust. (GCT)

## **Permit Conditions**

5. Include the conditions recommended by the ALJ in the route permit. (ALJ, Staff, EERA, Applicant)

## <u>Administrative</u>

- 6. Delegate authority to the Executive Secretary to modify the proposed route permit to correct typographical or formatting errors and ensure consistency with the Commission's Order. (Staff)
- 7. Authorize the Executive Secretary to modify or delete the ALJ Findings of Fact and Conclusions of Law identified herein and any other paragraphs of the ALJ Report as appropriate for consistency with this decision. (Only necessary if DO 4 is selected or another modification is made to the ALJ's Report)

Staff Recommendation: 1-3, 5, 6

Attachment A: Map

