

December 16, 2025

VIA E-FILING

Sasha Bergman
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, MN 55101-2147

Re: In the Matter of the Application for a Certificate of Need and Route Permit for the Appleton to Benson 115 Kilovolt Transmission Line Project

MPUC Docket Nos. ET2,E017,ET6135,E100/CN-24-263 and TL-24-264
CAH Docket No. 23-2500-40748

Dear Ms. Bergman:

Great River Energy, Otter Tail Power Company (Otter Tail Power), Western Minnesota Municipal Power Agency, Agralite Electric Cooperative, and the City of Benson (together, “Applicants”) appreciate the thorough analysis and recommendations contained in the Administrative Law Judge’s Findings of Fact, Conclusions of Law, and Recommendations (Report) dated December 5, 2025, in the above-referenced matter.¹ Overall, the Report presents a comprehensive, thoughtful, and detailed review of the record in this proceeding.

The Applicants respectfully submit these exceptions to the Report – primarily regarding the Report’s proposed route permit conditions. By way of background, Minnesota Public Utilities Commission (Commission) Energy Infrastructure Permitting (EIP) Staff included a Draft Route Permit as Appendix C to the Environmental Assessment (EA) which proposed nine special permit conditions for the Project.² Applicants indicated that they did not object to Proposed Special Conditions 6.3, 6.4, 6.5, and 6.9, and provided suggested revisions to the remaining Proposed Special Conditions.³ EIP Staff noted in comments that it supported the Applicants’ revisions.⁴ The Report recommended the Commission adopt the Applicants’ revisions to Proposed Special Conditions 6.6, 6.7, and 6.8, as well as the Applicants’ additional proposed conditions regarding substation construction and vegetation clearing (included as Special Condition 6.10 in the Report), but made additional revisions to other proposed Special Conditions as well as one Standard Condition. The Applicants offer exceptions to the Report regarding Special Conditions 6.1 and 6.2, and Standard Condition 5.3.9 as follows.

¹ Findings of Fact, Conclusions of Law, and Recommendations (hereafter, Report) (Dec. 5, 2025) (eDocket No. [202512-225564-01](#)).

² See Ex. PUC-8 at Appendix C (EA, Draft Route Permit).

³ Ex. APP-35 at 3-11 (Comments regarding Environmental Assessment).

⁴ EIP Response to Hearing Comments and Applicants’ Proposed Findings of Fact at 2-3 (Oct. 22, 2025) (eDocket No. [202510-224205-01](#)).

I. Special Condition No. 6.1 – Impacts to Irrigators

Draft Route Permit	Applicants' Revisions	Report Recommendation
The Permittees shall coordinate with landowners that maintain irrigation equipment within the proposed route to ensure that irrigation operations are not impacted by Project construction or operation. Landowners should be consulted during the Project's design phase to ensure that pole placement and clearances will not negatively impact irrigation operation.	The Permittees shall coordinate with landowners that maintain irrigation equipment within the proposed route to ensure that <u>impacts to irrigation operations are avoided, minimized, and/or mitigated. This coordination shall include consultation with landowners regarding pole placement.</u> Landowners should be consulted during the Project's design phase to ensure that pole placement and clearances will not negatively impact irrigation operations. ⁵	The Permittees shall coordinate with landowners that maintain irrigation equipment within the proposed route to ensure that irrigation operations are not impacted by Project construction or operation. Landowners should be consulted during the Project's design phase to ensure that pole placement and clearances will not negatively impact irrigation operations. <u>To the extent irrigation equipment avoidance is not feasible, Permittees shall coordinate with landowners to minimize or mitigate impact.</u> ⁶

Applicants maintain their proposed revisions to Special Condition 6.1 more succinctly provide flexibility to Applicants in coordinating with landowners to a mutually agreeable solution to mitigate and minimize impact to irrigators. As part of the land acquisition process for the Project, Applicants will coordinate with landowners to identify irrigation equipment and avoid, minimize, and/or mitigate impacts to that equipment. Although Applicants' primary intention is to avoid impacts to irrigation equipment altogether, to the extent complete avoidance is not possible, Applicants request that the Route Permit acknowledge that mitigation, including compensation (as part of the easement acquisition process), may also be appropriate in some circumstances. The Applicants request that the Commission adopt their version of Special Condition 6.1.

II. Special Condition No. 6.2 – Blanding's Turtle

Draft Route Permit	Applicants' Revisions	Report Recommendation
The Permittees must work with DNR to develop a Blanding's Turtle avoidance plan for those portions of the project DNR determines applicable for the project. The avoidance plan must include measures to be taken to minimize disturbance to the species and seasonal maps of	<u>The Permittee will comply with applicable Minnesota Department of Natural Resources requirements related to the Blanding's turtle. The Permittee shall keep records of compliance with this section and</u>	The Permittees must work with DNR to develop a Blanding's Turtle avoidance <u>and mitigation</u> plan <u>consistent with applicable DNR requirements related to the Blanding's turtle</u> for those portions of the project DNR determines applicable for the project. The avoidance <u>and</u>

⁵ Ex. APP-35 at 4 (Comments regarding Environmental Assessment).

⁶ Report at ¶ 346.

disturbance areas overlayed with the timing of project impact.	provide them upon the request of Commission staff. ⁷	<u>mitigation</u> plan must include measures to be taken to minimize disturbance to the species and seasonal maps of disturbance areas overlayed with the timing of project impacts. <u>Permittees shall keep records of compliance with this section and provide them upon the request of Commission staff.</u> ⁸
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The Applicants maintain that Special Condition 6.2 as proposed in the Draft Route Permit and as modified in the Report is overbroad and inconsistent with MDNR requirements and recommendations. First, the Minnesota Department of Natural Resources' (MDNR) January 14, 2024 MCE Correspondence # 2023-00817 does not require an avoidance and/or mitigation plan. Rather, it requires an applicant to implement avoidance measures.⁹ The Applicants' proposed revision more closely reflect MDNR's guidance and comments filed in this docket, was included in a prior route permit,¹⁰ and complies with applicable statute and rule. However, in light of the Report's proposed condition, the Applicants propose a modification to this condition, which requires the submission of a Natural Heritage Review and continued coordination with the MDNR, and has been acceptable in prior dockets at the Commission to protect state-listed species:¹¹

Special Condition 6.2 – Blanding's Turtles

Prior to the start of construction, the Permittee shall resubmit a Natural Heritage Review and continue to consult with the MDNR regarding implementation of avoidance measures for state- protected threatened and endangered species. The Permittee will comply with applicable Minnesota Department of Natural Resources requirements related to state-listed endangered and threatened species in accordance with Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134). The Permittee shall keep records of compliance with this section and provide them upon the request of Commission staff.

⁷ Ex. APP-35 at 4-5 (Comments regarding Environmental Assessment).

⁸ Report at ¶ 347.

⁹ See MDNR January 18, 2024 Correspondence # MCE 2023-00817.

¹⁰ See *In the Matter of the Application of Great River Energy for a Route Permit for the 115-kV Pilot Knob to Burnsville Rebuild and Upgrade Project in Dakota County, Minnesota*, MPUC Docket No. ET2/TL-23-410, Order Adopting Administrative Law Judge Report and Issuing Route Permit as Revised at Condition No. 6.9 (Dec. 27, 2024).

¹¹ See *In the Matter of the Application of Gopher State Solar, LLC for a Site Permit for the up to 200 MW Gopher State Solar Project in Renville County, MN*, MPUC Docket No. IP-7127/GS-24-106, Order at Condition No. 5.13 (Aug. 26, 2025).

III. Standard Condition 5.3.9 – Wetlands and Water Resources

Draft Route Permit	Applicants' Revisions	Report Recommendation
<p>***</p> <p>The Permittees shall contain soil excavated from the wetlands and riparian areas and not place it back into the wetland or riparian area. The Permittees shall access wetlands and riparian areas using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts. The Permittees shall not place staging or stringing set up areas within or adjacent to wetlands or water resources, as practicable. The Permittees shall assemble power pole structures on upland areas before they are brought to the site for installation.</p> <p>***</p>	<p>***</p> <p>The Permittees shall contain soil excavated from the wetlands and riparian areas and not place it back into the wetland or riparian area. The Permittees shall access wetlands and riparian areas using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts. The Permittees shall not place staging or stringing set up areas within or adjacent to wetlands or water resources, as practicable. The Permittees shall assemble power pole structures on upland areas before they are brought to the site for installation, as practicable.</p> <p>***¹²</p>	<p>***</p> <p>The Permittees shall contain soil excavated from the wetlands and riparian areas and not place it back into the wetland or riparian area. The Permittees shall access wetlands and riparian areas using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts. The Permittees shall not place staging or stringing set up areas within or adjacent to wetlands or water resources, as practicable. The Permittees shall assemble power pole structures on upland areas before they are brought to the site for installation unless, after consultation with MDNR, it is shown that assembling certain structures on site is less impactful than assembly on upland areas.</p> <p>***¹³</p>

Applicants proposed this revision to request flexibility to assemble structures on site, if needed and if such assembly would be less impactful. There is a possibility that it could be more impactful to assemble structures upland, which could require the use of larger, heavier equipment to move the assembled steel structures, resulting in increased compaction in the upland areas. Upland assembly could also require additional matting and workspace to be established in the wetlands to be able to maneuver the structures, which typically exceed 100 feet in height. The proposed revision allows the Applicants the flexibility to proceed with construction in a lesser impactful manner. EIP Staff did not object to the proposed modification. The Report modifies Standard Condition 5.3.9 to impose additional burden on the Applicants to consult with MDNR. The Applicants will consult with the MDNR where there are potential impacts to public waters within MDNR's jurisdiction, as defined in Minn. Stat. § 103G.201 and in accordance with Minn. Admin Rules Chapter 6135, but the suggested revision to Section 5.3.9 imposes an additional burden on the Applicants and goes beyond the scope of MDNR's jurisdiction. This consultation

¹² Ex. APP-35 at 9 (Comments regarding Environmental Assessment, with Attachments).

¹³ Report at ¶ 343.

will likely result in construction delays and additional impact. Applicants understand that the original text of Section 5.3.9 is a standard route permit condition, but nonetheless believe that the requested revision better accomplishes the overall purpose of this condition, which is to avoid and minimize wetland impacts. Thus Applicants continue to respectfully request the Commission adopt their version of Standard Condition 5.3.9.

IV. Otter Tail Power Cost Cap Condition

In addition, the Minnesota Department of Commerce (Department) recommended, and the Report adopts, a condition that the Commission cap Otter Tail Power's cost recovery for Otter Tail Power's portion of the Project's overall cost.¹⁴ Otter Tail Power indicated it does not oppose reporting its share of the overall cost of the Project and requests the opportunity to do so after a route permit is issued, similar to other recent Commission decisions.¹⁵ Specifically, Otter Tail Power requests that the Commission require Otter Tail Power to file a final cost cap number or cap amount for Otter Tail Power's share of the cost of the Project within 90 days of the Commission's order issuing a route permit.¹⁶ The Report recommended inclusion of this condition, but did not include reference to Otter Tail Power's 90-day period to file a final cost cap number. Otter Tail Power respectfully requests the Commission include a 90-day period for Otter Tail Power to comply with this condition.

This document has been e-filed today through www.edocket.state.mn.us. A copy of this filing is also being served upon the persons on the Official Service Lists of record. Please let me know if you have any questions regarding this filing.

Sincerely,

/s/ Haley Waller Pitts

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¹⁴ Department Comments at 23 (September 30, 2025) (eDocket No. [20259-223398-01](#)).

¹⁵ See *In the Matter of the Applications of Xcel Energy for a Certificate of Need and Route Permit for the Minnesota Energy Connection Project in Sherburne, Stearns, Kandiyohi, Wright, Meeker, Chippewa, Yellow Medicine, Renville, Redwood, and Lyon counties in Minnesota*, MPUC Docket Nos. CN22-131, TL-22-132, Order Modifying and Adopting Administrative Law Judge Report, Granting Certificate of Need, and Issuing Route Permit for the Minnesota Energy Connection Project, at Ordering ¶ 6 (June 11, 2025).

¹⁶ See Applicants' Reply to Department Comments (Oct. 8, 2025) (eDocket No. [202510-223699-01](#)).

**In the Matter of the Application for a
Certificate of Need and Route Permit for
the Appleton to Benson 115 Kilovolt
Transmission Line Project
MPUC Docket Nos.
ET2,E017,ET6135,E100/CN-24-263 and
TL-24-264**

CERTIFICATE OF SERVICE

Breann L. Jurek certifies that on the 16th day of December, 2025, she e-filed on behalf of Applicants, a true and correct copy of Applicants' Exceptions to the Administrative Law Judge's Findings of Facts, Conclusions of Law, and Recommendations with the Minnesota Public Utilities Commission via eDockets (www.edockets.state.mn.us).

Said document was also served on the Official Service Lists of record on file with the Minnesota Public Utilities Commission and as attached hereto.

Executed on: December 16, 2025

Signed: /s/ Breann L. Jurek

Fredrikson & Byron, P.A.
60 South Sixth Street
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#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
1	Lisa	Agrimonti	lagrimonti@fredlaw.com	Fredrikson & Byron, P.A.		60 South Sixth Street Suite 1500 Minneapolis MN, 55402-4400 United States	Electronic Service		No	24-263 Official CC Service List
2	Cody M.	Bauer	cbauer@fredlaw.com	Fredrikson & Byron, P.A.		60 South 6th Street, Suite 1500 Minneapolis MN, 55402 United States	Electronic Service		No	24-263 Official CC Service List
3	Generic	Commerce Attorneys	commerce.attorneys@ag.state.mn.us		Office of the Attorney General - Department of Commerce	445 Minnesota Street Suite 1400 St. Paul MN, 55101 United States	Electronic Service		Yes	24-263 Official CC Service List
4	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		No	24-263 Official CC Service List
5	Thomas	Hoffman	thoffman@agralite.com	Agralite Electric Cooperative		320 Highway 12 SE Benson MN, 56215 United States	Electronic Service		No	24-263 Official CC Service List
6	Breann	Jurek	bjurek@fredlaw.com	Fredrikson & Byron PA		60 S Sixth St Ste 1500 Minneapolis MN, 55402 United States	Electronic Service		No	24-263 Official CC Service List
7	Kris	Koch	kkoch@otpc.com	Otter Tail Power Company		215 S. Cascade Street Fergus Falls MN, 56537 United States	Electronic Service		No	24-263 Official CC Service List
8	Stacy	Kotch Egstad	stacy.kotch@state.mn.us		MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd. St. Paul MN, 55155 United States	Electronic Service		No	24-263 Official CC Service List
9	Stephen	Kowal	skowal@bensonmnlaw.com	Wilcox Law Office, P.A.		1150 Wisconsin Avenue Benson MN, 56215 United States	Electronic Service		No	24-263 Official CC Service List
10	Sam	Lobby	sam.lobby@state.mn.us		Public Utilities Commission	350 Metro Square Building 121 7th Place East St. Paul MN, 55101 United States	Electronic Service		No	24-263 Official CC Service List
11	David C.	McLaughlin	dmclaughlin@fluegellaw.com	Western Minnesota Municipal		129 2nd Street Ortonville MN, 56278	Electronic Service		No	24-263 Official CC

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
				Power Agency		United States				Service List
12	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		Yes	24-263 Official CC Service List
13	Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates		7400 Lyndale Ave S Ste 190 Richfield MN, 55423 United States	Electronic Service		No	24-263 Official CC Service List
14	Suzanne	Todnem	suzanne.todnem@state.mn.us		Office of Administrative Hearings	600 Robert St N PO Box 64620 St. Paul MN, 55164 United States	Electronic Service		No	24-263 Official CC Service List
15	Haley	Waller Pitts	hwallerpitts@fredlaw.com	Fredrikson & Byron, P.A.		60 S Sixth St Ste 1500 Minneapolis MN, 55402-4400 United States	Electronic Service		No	24-263 Official CC Service List
16	Sam	Weaver	sam.weaver@state.mn.us		Department of Commerce		Electronic Service		No	24-263 Official CC Service List
17	Brian	Zavesky	brianz@mrenergy.com	Missouri River Energy Services		3724 West Avera Drive P.O. Box 88920 Sioux Falls SD, 57108-8920 United States	Electronic Service		No	24-263 Official CC Service List

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1	Lisa	Agrimonti	lagrimonti@fredlaw.com	Fredrikson & Byron, P.A.		60 South Sixth Street Suite 1500 Minneapolis MN, 55402-4400 United States	Electronic Service		No	Official 24-264
2	Cody M.	Bauer	cbauer@fredlaw.com	Fredrikson & Byron, P.A.		60 South 6th Street, Suite 1500 Minneapolis MN, 55402 United States	Electronic Service		No	Official 24-264
3	Sasha	Bergman	sasha.bergman@state.mn.us		Public Utilities Commission	121 7th PI E Ste 350 St. Paul MN, 55101 United States	Electronic Service		Yes	Official 24-264
4	Mike	Bull	mike.bull@state.mn.us		Public Utilities Commission	121 7th Place East, Suite 350 St. Paul MN, 55101 United States	Electronic Service		Yes	Official 24-264
5	Generic	Commerce Attorneys	commerce.attorneys@ag.state.mn.us		Office of the Attorney General - Department of Commerce	445 Minnesota Street Suite 1400 St. Paul MN, 55101 United States	Electronic Service		Yes	Official 24-264
6	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		No	Official 24-264
7	Thomas	Hoffman	thoffman@agralite.com	Agralite Electric Cooperative		320 Highway 12 SE Benson MN, 56215 United States	Electronic Service		No	Official 24-264
8	Breann	Jurek	bjurek@fredlaw.com	Fredrikson & Byron PA		60 S Sixth St Ste 1500 Minneapolis MN, 55402 United States	Electronic Service		No	Official 24-264
9	Kris	Koch	kkoch@otpc.com	Otter Tail Power Company		215 S. Cascade Street Fergus Falls MN, 56537 United States	Electronic Service		No	Official 24-264
10	Stacy	Kotch Egstad	stacy.kotch@state.mn.us		MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd. St. Paul MN, 55155 United States	Electronic Service		No	Official 24-264

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11	Stephen	Kowal	skowal@bensonmnlaw.com	Wilcox Law Office, P.A.		1150 Wisconsin Avenue Benson MN, 56215 United States	Electronic Service		No	Official 24-264
12	Sam	Lobby	sam.lobby@state.mn.us		Public Utilities Commission	350 Metro Square Building 121 7th Place East St. Paul MN, 55101 United States	Electronic Service		No	Official 24-264
13	David C.	McLaughlin	dmclaughlin@fluegellaw.com	Western Minnesota Municipal Power Agency		129 2nd Street Ortonville MN, 56278 United States	Electronic Service		No	Official 24-264
14	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		Yes	Official 24-264
15	Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates		7400 Lyndale Ave S Ste 190 Richfield MN, 55423 United States	Electronic Service		No	Official 24-264
16	Mark	Strohfus	mstrohfus@greenergy.com	Great River Energy		12300 Elm Creek Blvd Maple Grove MN, 55369 United States	Electronic Service		No	Official 24-264
17	Suzanne	Todnem	suzanne.todnem@state.mn.us		Office of Administrative Hearings	600 Robert St N PO Box 64620 St. Paul MN, 55164 United States	Electronic Service		No	Official 24-264
18	Haley	Waller Pitts	hwallerpitts@fredlaw.com	Fredrikson & Byron, P.A.		60 S Sixth St Ste 1500 Minneapolis MN, 55402-4400 United States	Electronic Service		No	Official 24-264
19	Sam	Weaver	sam.weaver@state.mn.us		Department of Commerce		Electronic Service		No	Official 24-264
20	Brian	Zavesky	brianz@mrenergy.com	Missouri River Energy Services		3724 West Avera Drive P.O. Box 88920 Sioux Falls SD, 57108-8920 United States	Electronic Service		No	Official 24-264