

The Commission met on **Friday, February 26, 2016**, with Chair Heydinger, and Commissioners Lange, Lipschultz, Tuma, and Schuerger present.

ENERGY AGENDA

E-015/RL-14-21

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

1. Commissioner Lipschultz moved to find that the Environmental Impact Statement meets the requirements of Minn. R. 7850.1500, subp. 10, in that it:
 - Addresses the issues and alternatives raised in scoping to a reasonable extend considering the availability of information and the time limitations for considering the permit application;:
 - Provides responses to the timely substantive comments received during the draft environmental impact statement review process; and
 - Was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.

The motion passed 5-0.

2. Commissioner Lipschultz moved to approve and adopt the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendation for the Great Northern Transmission Line Project with the modifications to the findings and permit conditions proposed by staff in the Exceptions Attachment to the Briefing Papers (Attachment A) and the February 26, 2016 Amended Decision Options A 1 and 2 and B-1 through B-5 as set forth below:

Exceptions Attachment

Commission Action on Minnesota Power Proposed Exceptions

- Modify Finding of Fact 577 to delete the word infrequent;
- Incorporate into the route permit the centerline alignment for the Effie and East Bear Lake variation routing modification proposed by Minnesota Power as Exhibit B to their Exceptions;
- Modify Finding of Fact 688 as set forth below:

The Trout Lake Alignment Modification shifts the centerline away from the two residences located west of the comparable segment of the Proposed Blue Route, so only one residence would be located within 1,000 feet of the alignment. All other land ownership along the Trout Lake Alignment Modification is corporate. Although the

Alignment Modification would avoid impacts to the landowner's private property, it would be 150 feet longer and would add three additional angle structures, raising cost and feasibility concerns.

In addition to the Variations discussed above, a number of Alignment Modifications (or shifts of the anticipated alignment of the Project within the currently designated route) were included in the environmental review of the Project. Generally, such shifts of the precise alignment come forward during the "Plan and Profile" stage of routing. Once a route is approved, the Company will work with landowners and gain additional "on the ground" information, including conducting field surveys. That information often leads to the Company and landowners agreeing to move the alignment to some place other than originally anticipated and designated in the record.

- Require Applicant to provide an informational filing regarding the Trout Lake Alignment modification cost of angle structures, specific feasibility concerns, and an overall comparison of impacts previously identified in the record. Request the Department to provide additional analysis of these materials and make a recommendation to the Commission for a final determination as part of the Plan and Profile process.

- Modify ALJ Recommendation 21 as follows:

~~21. The Administrative Law Judge further recommends that the Commission adopt the Trout Lake Alignment Modification so as to minimize the impact of the Blue Route on residences in that alignment area. Other alignment modifications shall be considered during the Commission's review and in the Plan and Profile process and that Minnesota Power work with landowner to minimize impacts to landowners in determining route alignments.~~

- Modify Finding of Fact 301 to state:

~~301. Manitoba Hydro asserts that if it is required to amend its application to the NEB to address a different border crossing location and thus select a different route for the Canadian portion of the line, such change will "jeopardize" the Project as a whole because it will cause delays in the process and could potentially impact the June 2010 2020 in-service date agreed to by Minnesota Power and Manitoba Hydro in their contracts for this Project. The record reflects that the formal Canadian approval process began in November 2014 and is based on a specific international border crossing. Unfortunately, the record is unclear as to how long the Canadian approval process could take if a border crossing location is selected other than the Proposed Border Crossing. 349~~

Commission Action on Minnesota Department of Natural Resources Exceptions

- Modify Finding of Fact 277 as follows:

277. ~~While~~ The 230 kV Variation crosses the least amount of land (both public and private). ~~a~~An airstrip, important to the region, would be located within one mile from the anticipated alignment for the Highway 310 Variation.³²⁴ Public comment overwhelmingly opposed any HVTL that could interfere with this airstrip important to residents in the area.

- Strike Finding 597

~~597.—The East Bear Lake Variation would cross nearly two times more agricultural land than the Orange Route (160 acres versus 85 acres). Both the Orange Route and the East Bear Lake Variation would cross a relatively similar amount of state forest land. The East Bear Lake Variation would cross more expired or terminated mineral lease lands. However, the East Bear Lake Variation would parallel an existing utility corridor for the majority of its length.~~⁶⁰⁴

Commission Action on Staff Initiated Recommendations

- Modify Finding of Fact 704 to state:

704. The DOC-EERA did not expressly oppose the Company's request to use the NESC 5 mA Rule for remote areas of the line. The Generic Route Permit includes standards for electric performance including for electric fields. Specifically, section 4.7.2 of the Generic Route Permit states "The transmission line shall be designed, constructed, and operated in such a manner that the electric field measured one meter above ground level immediately below the transmission line shall not exceed 8.0 kV/m rms." ~~However,~~ ~~The~~ Administrative Law Judge is without sufficient information in the record to provide analysis of the Company's request and can, therefore, make no informed recommendation related to this request.

- Correct the citation for Finding of Fact 59 as follows:

59. In addition to soliciting public comment at the scoping meetings, on July 31, 2014, the Commission sent a letter to various state agencies requesting their participation in the development of the record, the environmental review, and the public hearings for the Project.⁷⁷

77. ~~Ex. 101 (Notice of Public Information and Scoping Meeting).~~ Minnesota Public Utilities Commission Letter to State Agency Technical Representatives Regarding Participation in Record Development and Public Hearings, e-Dockets Filing Number 20148-10111956-01, August 1, 2014.

February 26, 2016 Amended Decision Options

A) Recent Filings

- Take administrative notice of the U.S. Fish and Wildlife Service February 12, 2016 filing to the proceeding.
- Allow the Minnesota Department of Natural Resources February 5, 2016 Exceptions letter to be entered into the record.

B) Further Clarifications and Corrections

- Amend the title of Item 5.A of the Staff Exceptions Table to read as follows:
5.A ALJ Recommendation #23 and Findings of Fact # 689-704".
- Do not incorporate any changes to Item 6.A as indicated in the Staff Exceptions Table for Findings of Fact #87 & &88.
- The total length of the project HVTL will be determined depending upon the consideration of route alternatives, alignment modifications and engineering considerations. The route permit and order for the proceeding will be changed to indicate the anticipated total line length of the Blue Route as approximately 215 miles and the Blue Route, as modified by the Effie Variation to be approximately 224 miles in length.
- Delete the following sentence of Staff Comments identified as Item 1.C in the Staff Exceptions Table: ~~Additionally, the record does not provide a robust analysis of this portion of a 3-line corridor in relation to portion of 3-line corridor in the West Section proposed by the applicant.~~
- Include the word "maintenance" in Section A of Attachment B to the Proposed Route Permit.

The motion passed 5-0.

3. Commissioner Lipschultz moved to approve the modifications of the Route Permit language C.1.1 – C.1.7 as follows:

- **C.1.1:**

5.1 4.2.7 Soil Erosion and Site Sediment and Erosion Control

The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency (MPCA) Construction Stormwater Program.

The Permittee shall implement reasonable measures to minimize erosion and sedimentation during construction and shall employ perimeter sediment controls, protect exposed soil by promptly planting, seeding, using erosion control blankets and turf reinforcement mats, stabilizing slopes, protecting storm drain inlets, protecting soil stockpiles, and controlling vehicle tracking. Contours shall be graded as required so that all surfaces provide for proper drainage, blend with the natural terrain, and are left in a condition that will facilitate re-vegetation and prevent erosion. All areas disturbed during construction of the facilities shall be returned to pre-construction conditions.

When utilizing seed to establish temporary and permanent vegetative cover on exposed soil the Permittee shall select site appropriate seed certified to be free of noxious weeds. To the extent possible, the Permittee shall use native seed mixes. The Permittee shall consult with landowners on the selection and use of seed for replanting.

In accordance with MPCA, the Permittee shall obtain a National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater permit from the MPCA.

- **C.1.2:**

5.1 Permit Distribution and Notification

Within 30 days of permit issuance, the Permittee shall provide all affected landowners with a copy of this permit and the complaint procedures. In no case shall the landowner receive this route permit and complaint procedures less than five days prior to the start of construction on their property. The Permittee shall contact landowners prior to entering the property or conducting maintenance along the route. The Permittee shall work with landowners to locate the high-voltage transmission line to minimize the loss of agricultural land, forest, and wetlands, and to avoid homes and farmsteads.

At the time of first contact, the Permittee shall also provide all affected landowners with a copy of the Department of Commerce's Rights-of-Way and Easements for Energy Facility Construction and Operation fact sheet.¹

http://mn.gov/commerce/energyfacilities/documents/Easements%20Fact%20Sheet_08.05.14.pdf

- **C.1.3:**

5.2.10 Application of Herbicides

The Permittee shall restrict herbicide use to those herbicides and methods of application approved by the Minnesota Department of Agriculture and the U.S. Environmental Protection Agency. Selective foliage or basal application shall be used when practicable. The Permittee shall contact the landowner or his designee to obtain approval for the use of herbicide prior to any application on their property. The landowner may request that there be no application of

¹ http://mn.gov/commerce/energyfacilities/documents/Easements%20Fact%20Sheet_08.05.14.pdf

herbicides on any part of the right-of-way within the landowner's property. All herbicides shall be applied in a safe and cautious manner so as not to damage crops, orchards, tree farms, or gardens. The Permittee shall provide notice of herbicide application to known beekeepers operating apiaries within one mile of the project site at least 14 days prior to such application.

- **C.1.4:**

5.2.12 Noxious Weeds

The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil the Permittee shall select site appropriate seed certified to be free of noxious weeds. To the extent possible, the Permittee shall use native seed mixes. The Permittee shall consult with landowners on the selection and use of seed for replanting.

- **C.1.5:**

5.2.12 Roads

The Permittee shall advise the appropriate governing bodies having jurisdiction over all state, county, city or township roads that will be used during the construction phase of the project. Where practical, existing roadways shall be used for all activities associated with construction of the solar facility. Oversize or overweight loads associated with the facility shall not be hauled across public roads without required permits and approvals.

The Permittee shall construct the least number of site access roads it can. Access roads shall not be constructed across streams and drainage ways without the required permits and approvals. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

- **C.1.6:**

5.2.18 Pollution and Hazardous Wastes

All appropriate precautions to protect against pollution of the environment must be taken by the Permittee. The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all wastes generated during construction and restoration of the right-of-way.

- C.1.7:

- 5.2.20 Notification

Before entering a landowner's property for construction or maintenance the Permittee shall notify landowners or their designee at least 14 days but not greater than 60 days in advance of notice.

The motion passed 5-0.

4. Commissioners Tuma and Lipschultz moved to modify the Modified Route Permit to incorporate the following changes to the Route Permit language proposed by the Department of Natural Resource with further amendments:

- A. 4.8.1

The Permittee shall comply with applicable NERC planning standards and requirements of the NESC including clearances to ground, clearance to crossing utilities, clearance to buildings, right-of-way widths, erecting power poles, and stringing of transmission line conductors.

When triple paralleling lines within the permitted route width, lines shall be located in compliance with above standards and in compliance with other required permits or licenses recognizing safety, access and operating and maintenance issues for all impacted lines regardless of ownership. Permittee shall consult with MNDNR regarding forestry and other potential corridor impacts prior to submitting the Plan and Profile for review by the Department and the Commission.

- B. 5.01

5.0.1 Construction Environmental Control Plan (CECP)

Construction Environmental Control Plan. The Permittee shall develop a Construction Environmental Control Plan (CECP) that shall include all environmental control plans and special conditions imposed by permits or licenses issued by state or federal agencies related to agency-managed resources. Plans within the CECP shall include, but not be limited to, the Agricultural Impact Mitigation Plan, the Avian Mitigation Plan, the Vegetation Management Plan, ~~the Mineral Resource Plan,~~ and a Stormwater Pollution Prevention Plan. The CECP shall be filed with the Commission 30 days prior to submitting the plan and profile for any segment of the Project. ~~The Mineral Resource Plan shall be filed 30 days prior to tower erection construction.~~

The Permittee shall provide dedicated independent environmental inspectors and monitors to oversee the construction process and to monitor compliance with 1) the Vegetation Management Plan, 2) the Avian Mitigation Plan, and 3) the requirements of this and all other environmental permits, excluding any mineral resource plan.

C. 5.0.6 Mineral Resource Plan

The Permittee must develop a Mineral Resource Plan (MRP) to be submitted as a compliance filing 30 days prior to the Plan and Profile. The Permittee shall consult with the MNDNR regarding the scope and content of the MRP. The purpose of the MRP will be to identify measures to avoid interference with the exploration or mining operations conducted on state-owned mining units. The MRP would include (1) General description of state-owned mineral resources in the project area; and (2) Documentation of consultation with the MNDNR regarding measures to avoid interference with exploration and encumbrance of state-owned minerals.

The motion passed 5-0.

5. Commissioner Lipschultz moved to find that the draft route permit satisfies the consideration of permitting criteria contained in Minn. Stat. § 216E/03, subd. 7(b) and Minn. R. 7850.4100 and grant Minnesota Power's route permit for the Project with the previously approved route conditions set forth in item 3 above.

The motion passed 5-0.

6. Commissioner Schuerger moved to require that prior to actual Project construction, Minnesota Power file a letter stating that the Regional Planning Authority has determined or confirmed that the Project meets all applicable NERC standards.

The motion passed 5-0.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION: May 11, 2016



Daniel P. Wolf, Executive Secretary