

Appendix C

Commission's Exemption Order

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben
Hwikwon Ham
Valerie Means
Joseph K. Sullivan
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Dairyland
Power Cooperative for a Certificate of Need for
the Wabasha Relocation 161 kV Transmission
Line Project in Wabasha County, Minnesota

SERVICE DATE: February 13, 2024

DOCKET NO. ET-3/CN-23-504

The above entitled matter has been considered by the Commission and the following disposition made:

- 1. Approved the Notice Petition with the following modifications:**
 - a. Required that all residents and landowners in the 5-mile buffer area shown on the map be included in the notice.**
 - b. Required that the following local governments be added to the notice plan:**
 - i. the counties of Wabasha and Winona; and**
 - ii. the cities of Plainview and Kellogg.**
 - c. Required that the Upper Mississippi River Wildlife and Fish Refuge be added.**
 - d. Required that the Star Tribune be added to the list of newspapers.**
 - e. Required that the map be modified to show the proposed end points of the line and existing transmission facilities in the area.**
 - f. Required that the text of the notices be modified to mention the website on which the biennial transmission projects report is posted (minnelectrans.com).**
- 2. Granted a variance to Minnesota Rules 7829.2550, Subp. 6 so that the notices occur no more than 60 days and no less than one week prior to the filing of the CN application.**
- 3. Approved the Exemption Petition with the following condition:**
 - a. Dairyland Power Cooperative must provide a discussion of the availability of alternatives under Minnesota Rules 7849.0260 Subps. (B) (1), (4), (6) and (8) as agreed to by DPC.**

This decision is issued by the Commission's consent calendar subcommittee, under a delegation of authority granted under Minn. Stat. § 216A.03, subd. 8 (a). Unless a party, a participant, or a Commissioner files an objection to this decision within ten days of receiving it, it will become the Order of the full Commission under Minn. Stat. § 216A.03, subd. 8 (b).

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order.

BY ORDER OF THE COMMISSION



Will Seuffert
Executive Secretary



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January 2, 2024

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. ET3/CN-23-504

Dear Mr. Seuffert:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Application of Dairyland Power Cooperative for a Certificate of Need for the Wabasha Relocation 161 kV Transmission Line Project in Wabasha County, Minnesota: Notice Plan Approval Request.

The petition was filed by Christina K. Brusven, Attorney, Frederikson & Byron, P.A., Attorneys for Dairyland Power Cooperative on December 13, 2023.

The Department recommends **approval with modifications** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ LOUISE MILTICH
Assistant Commissioner of Regulatory Affairs

/s/ STEVE RAKOW
Analyst Coordinator

SR/ar
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. ET3/CN-23-504

I. INTRODUCTION

On December 13, 2023, Dairyland Power Cooperative (DPC or the Cooperative) filed the Cooperative's *Certificate of Need Notice Plan Approval Request* (Petition). The Petition provides DPC's proposal to provide notice to all persons reasonably likely to be affected by the Wabasha 161 kV relocation project.

The Wabasha 161 kV relocation project consists of relocating approximately 10.4 miles of an existing 161 kilovolt (kV) transmission line between the Wabaco Substation and Mississippi River, including construction of approximately 14 miles of 161-kV transmission on a new right-of-way and a new 161/69-kV substation near Kellogg, Minnesota, in Wabasha County (Project).¹ In addition, the Petition states that "the 69-kV transmission line from Kellogg, Minnesota to Alma, Wisconsin will be converted to 161-kV operation to allow for an additional 345-kV circuit across the Mississippi River, requiring a new Kellogg 161/69-kV substation." Since this converted line would be greater than 100 kV and cross a state line the Department concludes that it also meets the definition of a LEF and requires a CN. Therefore, the Department recommends that all materials in the notice plan, including the map, list of residents, and list of landowners be adjusted so that this 69 kV to 161 kV conversion is also covered.

Also on December 13, 2023, DPC filed the Cooperative's *Request for Exemption from Certain Certificate of Need Application Content Requirements* (Exemption Petition). The Exemption Petition will be addressed in separate comments.

On December 18, 2023, the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period on Request for Exemption From Certain Certificate of Need Filing Requirements* (Notice). The Notice indicated that two topics are open for comment:

- Should the Commission grant the exemptions to the certificate of need (CN) application content requirements requested by Dairyland Power Cooperative in its December 13th, 2023 filing?
- Should the Commission approve the proposed notice plan?

Below are the comments of the Minnesota Department of Commerce (Department) regarding the Petition and the second topic regarding approval of the proposed notice plan.

¹ The current 161-kV transmission line is co-located with the Hampton-Rochester-La Crosse 345-kV project between Plainview and Kellogg and will need to be relocated if a separate project, the Mankato to Mississippi 345-kV Transmission Line, is permitted to be operated on the second circuit of the existing 345-kV double circuit capable structures; see Docket No. E002/CN-22-532 for further details.

II. DEPARTMENT ANALYSIS

A. GOVERNING STATUTES AND RULES

DPC filed the Petition pursuant to Minnesota Rules 7829.2550, Subp. 1 which states in part “[t]hree months before filing a certificate of need application for a high-voltage transmission line as defined by Minnesota Statutes, section 216B.2421, the applicant shall file a proposed plan for providing notice to all persons reasonably likely to be affected by the proposed line.”

Minnesota Statutes § 216B.2421 includes in its definition of a Large Energy Facility (LEF) “any high-voltage transmission line with a capacity of 100 kilovolts or more with more than ten miles of its length in Minnesota or that crosses a state line.” In turn, Minnesota Statutes § 216B.243 requires a LEF obtain a CN. Given that the proposed Project is a 161 kV transmission line longer than 10 miles, the proposed Project falls within the definition of a LEF which triggers a CN requirement, and, therefore, also requires a notice plan. As mentioned above, the 69-kV to 161-kV conversion for the transmission line from Kellogg, Minnesota to Alma, Wisconsin also requires a CN.

B. TYPES OF NOTICE

Minnesota Rules 7829.2550, Subp. 3, requires types of notice as follows:

- direct mail notice, based on county tax assessment rolls, to landowners reasonably likely to be affected by the proposed transmission line;
- direct mail notice to all mailing addresses within the area reasonably likely to be affected by the proposed transmission line;
- direct mail notice to tribal governments and to the governments of towns, statutory cities, home rule charter cities, and counties whose jurisdictions are reasonably likely to be affected by the proposed transmission line; and
- newspaper notice to members of the public in areas reasonably likely to be affected by the proposed transmission line.

The list of individuals and entities to be provided notice is to be compiled by DPC as follows:

- Regarding landowner notice—DPC will review county tax assessment rolls and other relevant county records to determine the names and addresses of landowners who own property within or adjacent to the proposed transmission line corridor.
- Regarding notice to mailing addresses—DPC gather addresses from mailing lists maintained by the United States Post Office or from bulk mailing firms.
- Regarding notice to tribal governments—DPC will provide direct mail notice to all tribal governments located in Minnesota.
- Regarding notice to local governmental jurisdictions—DPC did not identify any local governments.
- Regarding newspaper notice—DPC will provide notice in Wabasha County Herald.

The Department concludes that DPC's general process for identification of individuals and tribal governments that should receive notice for the Project meets the required notice in Minnesota Rules 7829.2550, Subp. 3 as long as all residents and landowners in the 5-mile buffer area shown on the map in the Petition are included along with residents and landowners potentially impacted by the 69-kV to 161-kV conversion.^{2, 3}

Regarding the process for identification of local governments, the Petition did not mention any local governments. Therefore, the Department recommends that the following local governments be added to the notice plan:

- the counties of Wabasha and Winona; and
- the cities of Plainview and Kellogg.

In addition, while not listed as a requirement in Minnesota Rules, the Department recommends that notice be provided to the Upper Mississippi River Wildlife and Fish Refuge, which is shown on the map and included within 5-mile buffer.

Regarding newspaper notice, while technically not part of the notice plan, the Department notes that Minnesota Rules 7829.2500, Subp. 5, requires an applicant publish newspaper notice of the filing in a newspaper of general circulation throughout the state at the time the CN petition is filed. Therefore, the Department recommends that the Star Tribune be added to the list of newspapers to cover this requirement.

C. CONTENT OF NOTICE

Minnesota Rules 7829.2550, Subp. 4 requires the notices to provide the following information:

- a map showing the end points of the line and existing transmission facilities in the area;
- a description of general right-of-way requirements for a line of the size and voltage proposed and a statement that the applicant intends to acquire property rights for the right-of-way that the proposed line will require;
- a notice that the line cannot be constructed unless the Commission certifies that it is needed;
- the Commission's mailing address, telephone number, and website;
- if the applicant is a utility subject to chapter 7848, the address of the website on which the utility applicant will post or has posted its biennial transmission projects report required under that chapter;

² This is implied by the text of the second notice which states "We have sent a similar notice to residents and landowners within or adjacent to the corridor outlined in the enclosed map..." but is not clear from the rest of the Petition's text.

³ In analyzing the Petition, the Department also referred to the map included on the proposed Project's website, at: <https://www.dairylandpower.com/wabasha-relocation-project>

- a statement that the Environmental Quality Board⁴ will be preparing an environmental report on each high-voltage transmission line for which certification is requested;
- a brief explanation of how to get on the mailing list for the Environmental Quality Board's proceeding; and
- a statement that requests for certification of high-voltage transmission lines are governed by Minnesota law, including specifically chapter 4410, parts 7849.0010 to 7849.0400, and 7849.1000 to 7849.2100, and Minnesota Statutes, section 216B.243.

The Department reviewed the text of the proposed notices provided in the Petition and recommends the Commission require:

- the map to be modified to show the proposed end points of the line and existing transmission facilities in the area; and
- the text to be modified to mention the website on which the biennial transmission projects report is posted (minnelectrans.com).

D. NOTICE TIMING

Minnesota Rules 7829.2550, Subp. 6, requires the applicant to implement the notice plan within 30 days of its approval by the Commission. In this case the Department recommends that the Commission grant a variance and direct the notices occur no more than 60 days and no less than one week prior to the filing of the CN application. Minnesota Rules 7829.3200 governs such variance requests and establishes the following criteria:

1. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
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 Department concludes that the requirements for a variance are met as follows:

1. The notice requirements would burden all parties by separating notice provided to interested stakeholders from the start of the proceeding;
2. granting the variance would not adversely affect the public interest because the variance ties implementation of the notice to filing the CN petition; and
3. granting a variance would not conflict with standards imposed by law.

Regarding the second criterion, the Department notes that granting the variance would promote the public interest by avoiding separation between implementation of the notice plan and the start of the CN proceeding. In addition, the Commission has approved similar variances in other CN proceedings,

⁴ This function has since been transferred to the Commission and the Department.

with the Commission's April 19, 2023 Order in Docket No. E017,ET02, E002, ET10, E015/CN-22-538 being a recent example.⁵ Therefore, the Department recommends the Commission approve the variance.

III. DEPARTMENT RECOMMENDATION

Based on review of the Petition and applicable statutes and rules, the Department recommends the Commission:

- require that all materials in the notice plan, including the map, list of residents, and list of landowners be adjusted so that the conversion of the 69 kV transmission line from Kellogg, Minnesota to Alma, Wisconsin to 161 kV be included;
- require that all residents and landowners in the 5-mile buffer area shown on the map be included in the notice;
- add the following local governments to the notice plan:
 - the counties of Wabasha and Winona; and
 - the cities of Plainview and Kellogg;
- add the Upper Mississippi River Wildlife and Fish Refuge;
- add the Star Tribune to the list of newspapers;
- modify the map to show the proposed end points of the line and existing transmission facilities in the area; and
- modify the text of the notices to mention the website on which the biennial transmission projects report is posted (minnelectrans.com).

Finally, the Department recommends that the Commission grant a variance to Minnesota Rules 7829.2550, Subp. 6 and direct the notices occur no more than 60 days and no less than one week prior to the filing of the CN application.

⁵ See [20234-194943-01](#)

January 2, 2024

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. ET3/CN-23-504

Dear Mr. Seuffert:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Application of Dairyland Power Cooperative for a Certificate of Need for the Wabasha Relocation 161 kV Transmission Line Project in Wabasha County, Minnesota: Request for Exemption from Application Content Requirements.

The petition was filed by Christina K. Brusven, Attorney, Frederikson & Byron, P.A., Attorneys for Dairyland Power Cooperative on December 13, 2023.

The Department recommends **approval with modifications** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ LOUISE MILTICH
Assistant Commissioner of Regulatory Affairs

/s/ STEVE RAKOW
Analyst Coordinator

SR/ar
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. ET3/CN-23-504

I. INTRODUCTION

On December 13, 2023, Dairyland Power Cooperative (DPC or the Cooperative) filed the Cooperative's *Request for Exemption from Certain Certificate of Need Application Content Requirements* (Petition). The Petition provides DPC's proposal to obtain exemptions from certain data requirements of Minnesota Rules 7849.0010 to 7849.0400.

The proposed project consists of relocating approximately 10.4 miles of an existing 161 kilovolt (kV) transmission line between the Wabaco Substation and Mississippi River, including construction of approximately 14 miles of 161-kV transmission on a new right-of-way and a new 161/69-kV substation near Kellogg, Minnesota, in Wabasha County (Project).¹ In addition, the Petition states that "The 69-kV transmission line from Kellogg, Minnesota to Alma, Wisconsin will be converted to 161-kV operation to allow for an additional 345-kV circuit across the Mississippi River, requiring a new Kellogg 161/69-kV substation." Since this converted line would be greater than 100 kV and cross a state line the Department concludes that it also meets the definition of a LEF and requires a CN. The Department considered the conversion when analyzing the Petition.

Also on December 13, 2023, DPC filed the Cooperative's *Certificate of Need Notice Plan Approval Request* (Notice Petition). The Notice Petition will be addressed in separate comments.

On December 18, 2023, the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period on Request for Exemption From Certain Certificate of Need Filing Requirements* (Notice). The Notice indicated that two topics are open for comment:

- Should the Commission grant the exemptions to the certificate of need (CN) application content requirements requested by Dairyland Power Cooperative in its December 13th, 2023 filing?
- Should the Commission approve the proposed notice plan?

Below are the comments of the Minnesota Department of Commerce (Department) regarding the Petition and the first topic—granting exemptions.

¹ The current 161-kV transmission line is co-located with the Hampton-Rochester-La Crosse 345-kV project between Plainview and Kellogg and will need to be relocated if a separate project, the Mankato to Mississippi 345-kV Transmission Line, is permitted to be operated on the second circuit of the existing 345-kV double circuit capable structures; see Docket No. E002/CN-22-532 for further details.

II. DEPARTMENT ANALYSIS

A. GOVERNING STATUTES AND RULES

The Cooperative filed the Petition pursuant to Minnesota Rules, 7849.0200, Subp. 6 which states, in part:

Before submitting an application, a person is exempted from any data requirement of parts 7849.0010 to 7849.0400 if the person (1) requests an exemption from specified rules, in writing to the commission, and (2) shows that the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document. A request for exemption must be filed at least 45 days before submitting an application.

Based on this standard the Commission may grant exemptions when the data requirements are shown to be unnecessary to determine need or can be satisfied by submitting alternative information. In the Petition the DPC requested to be exempted from certain data requirements of parts 7849.0010 to 7849.0400.

B. REQUESTED EXEMPTIONS

The Petition requests exemptions from the following data requirements:

- 7849.0260 Subps. (A) (3) and (C) (6)—line-specific losses;
- 7849.0260 Subps. (B) (1),(4), (6) and (8)—alternative end points;
- 7849.0260 Subp. (C) (5)—effect on rates;
- 7849.0270—forecasting;
- 7849.0270 Subp. 2 (E)—annual revenue requirements;
- 7849.0280 Subps. (B) through (I)—system capacity;
- 7849.0290—conservation programs;
- 7849.0300—consequences of delay; and
- 7849.0340—no facility alternative.

The Department examines each specific exemption request separately. The required criterion is whether the Cooperative has shown that “the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document” as discussed above.

C. ANALYSIS OF EXEMPTION REQUESTS

1. 7849.0260 Subps. A (3) and C (6)

Minnesota Rules 7849.0260, Subps. A (3) and C (6) require an applicant for a CN provide estimated “losses under projected maximum loading and under projected average loading in the length of the transmission line and at the terminals or substations.” The Petition explains that:

The electrical grid operates as a single, integrated system, which prevents electricity from being “directed” along a particular line or set of lines. Consequently, losses take place across the entire transmission system ... It is necessary, therefore, to calculate losses across the system affected by the addition of new transmission lines.

The Department agrees that line losses for the system are more relevant than line losses for an individual line. Also, as indicated in the Petition, the proposal is consistent with the approach previously approved by the Commission in several other transmission line CN dockets.² Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0260 Subps. A (3) and C (6) with the provision of the proposed alternative data.

2. 7849.0260 Subps. (B) (1), (4), (6) and (8)

Minnesota Rules 7849.0260 (B) requires an applicant for a CN to provide a “discussion of the availability of alternatives to the facility” including:

- (1) new generation of various technologies, sizes, and fuel types;
- (4) transmission lines with different terminals or substations;
- (6) if the proposed facility is for DC (AC) transmission, an AC (DC) transmission line; and
- (8) any reasonable combinations of the alternatives listed in subitems (1) to (7).

Regarding this data DPC states that “the purpose of the Project is to relocate the existing 161-kV line from the CapX2020 poles to accommodate the Mankato to Mississippi 345 line.” Therefore, DPC argues that new generation, a transmission line with different endpoints, or a DC transmission line would not be feasible because they would not meet the identified need.

The purpose of the proposed Project is not to relocate the existing 161-kV line from the CapX2020 poles; instead that is DPC’s preferred alternative. The purpose of the proposed Project is to maintain a 161 kV source to the 69 kV network in the area. There may be superior alternatives for maintaining that energy.³ Therefore, the Department recommends the Commission reject this exemption request.

² For two recent examples, see the Commission’s June 28, 2022 order in Docket No. E002/CN-22-131 [20226-186932-01](#) and June 21, 2023 order in Docket No. E015, ET2/CN-22-416 [20236-196704-01](#)

³ The Department recognizes that the discussion of these alternatives in a CN petition may be brief but the screening analysis required Minnesota Rules 7849.0260 B should take place for all alternatives.

3. 7849.0260 Subp. (C) (5)

Minnesota Rules 7849.0260 Subp. (C) (5) requires an applicant for a CN to provide, for the proposed facility and for each alternative that could address the asserted need, a discussion of “an estimate of its effect on rates systemwide and in Minnesota, assuming a test year beginning with the proposed in-service date.” DPC argues that the proposed Project is part of Midcontinent Independent System Operator, Inc.’s (MISO) long range transmission planning (LRTP) tranche 1 portfolio. Therefore, DPC requests an exemption from this requirement and proposes instead to provide an explanation of how MISO LRTP project costs are allocated.

The Department agrees that providing information regarding how the costs for MISO’s LRTP projects are actually allocated would be more appropriate to the analysis than using the information required by the rule since the information in the rule has no relation to how the proposed Project’s costs would be allocated. Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0270, Subp. 2 (E) with the provision of the proposed alternative data.

4. 7849.0270

Minnesota Rules 7849.0270 requires an applicant for a CN to provide detailed forecasting information as follows:

- Subpart 1—establishes the scope of the forecast to be peak demand and annual electrical consumption within the applicant's service area and system;
 - instead, DPC proposes to provide demand data supporting the ongoing need for the proposed Project in the affected load area.
- Subparts 2(A) and (B)—require a Minnesota service area energy forecast, forecast of the number of consumers and amount of energy consumed by customer class;
 - As noted above, DPC proposes to provide data regarding the local load area.
- Subpart 2(C)—requires an estimate of the peak demand both for the system as a whole and by customer class at the time of annual system peak demand;
 - As noted above, DPC proposes to provide data regarding the local load area.
- Subpart 2(D)—requires provision of monthly peak demand data for the applicant’s system;
 - DPC proposes to provide information on the reliability risks faced by not constructing the proposed Project.⁴
- Subpart 2(E)—requires an estimate of the annual revenue requirement per kilowatt-hour for the system in current dollars as a result of the proposed Project;
 - DPC proposes to provide an explanation of how the costs of LRTP projects are allocated by MISO.⁵

⁴ The Cooperative states that this data will demonstrate reliability risks to DPC’s members when power demand in the affected load area exceeds the transmission system’s capacity.

⁵ The Cooperative also notes that the Commission has previously granted similar requests. See Docket No. E015, ET2/CN-22-416 for an example; [20236-196704-01](#)

- Subpart 2(F)—requires an applicant to provide the average system weekday load factor by month;
 - DPC requests a full exemption from this requirement because load factor is not a relevant measure when evaluating the need for the proposed Project.
- Subparts 3 to 5—require provision of information on the applicant’s forecast methodology along with the data and assumptions used;
 - DPC proposes to provide simplified load data demonstrating that continued operation of the 161-kV system and related power transformations to the 69-kV system are needed in the local area.

In summary, DPC requests a full exemption from Minnesota Rules 7849.0270 and will provide:

- demand data supporting the ongoing need for the proposed Project in the affected load area;
- information on the reliability risks faced by not constructing the proposed Project;
- an explanation of how the costs of LRTP projects are allocated by MISO; and
- simplified load data demonstrating that continued operation of the 161-kV system and related power transformations to the 69-kV system are needed in the local area.

The Department agrees with DPC that the proposed alternative data is superior to the data required by the rule. Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0270 with the provision of the proposed alternative data.

5. 7849.0280 Subps. (B) through (I)

Minnesota Rules 7849.0280, Subps. (B) through (I) requires an applicant for a CN provide information that describes the ability of the existing system to meet forecasted demand; in essence, load and capability information. DPC states that the general purpose of this information is to provide a discussion of the ability of the existing system to meet the forecasted demand, which is not relevant when the claimed need is local rather than system wide.⁶ Thus, DPC requests a full exemption from the rule.

The Department agrees with DPC that the Commission has previously granted exemption requests from Minnesota Rules 7849.0280, Subps. (B) through (I) in transmission line CN dockets where, as here, the issue relates to transmission adequacy rather than generation adequacy. Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0280, Subps. (B) through (I).

⁶ The Cooperative cites a previous transmission line CN docket where the Commission granted similar exemption request, see Docket No. E015/CN-22-607; [20232-192809-01](#)

6. 7849.0290

Minnesota Rules 7849.0290 requires an applicant for a CN provide general conservation program information and a quantification of the impact of conservation programs on the forecast. DPC argues that this information is not relevant here. Instead, DPC proposes to provide substitute summary information related to its conservation programs.

The Department notes that similar exemptions have been granted in recent CN proceedings.⁷ The Department agrees with the Cooperative that the proposed information will for an adequate starting point in the record for parties to review the impact of conservation on the need for the proposed Project. Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0290 with the provision of the proposed alternative data.

7. 7849.0300 and 7849.0340

Minnesota Rules 7849.0300 requires an applicant for a CN provide detailed information regarding the consequences of delay at three specific, statistically-based levels of demand and energy consumption. Similarly, Minnesota Rules 7849.0340 requires an applicant for a CN provide a discussion of the impact of the no-build alternative on existing generation and transmission facilities at the same three levels of demand as specified in Minnesota Rules 7849.0300. DPC states that the Cooperative will evaluate the consequences of delay and a no build alternative. However, DPC “requests a variance from the portions of these rules that require the examination to incorporate the three specific levels of demand.”

The Department agrees with DPC that information on the consequences of delay and a no build alternative tied to three specific, statistically-based levels of demand and energy consumption is not likely to be a useful part of the analysis for the proposed Project and that a general discussion is reasonable.⁸ Therefore, the Department recommends that the Commission grant the requested exemption to Minnesota Rules 7849.0300 and 7849.0340 with the provision of the proposed alternative data.

III. DEPARTMENT RECOMMENDATION

The Department recommends that the Commission approve the requested exemptions, with the provision of the proposed alternative data, with the exception that the Cooperative should be required to provide a discussion of the availability of alternatives under Minnesota Rules 7849.0260 Subps. (B) (1), (4), (6) and (8).

⁷ See the Commission’s April 19, 2023 order in Docket No. E017, ET2, E002, ET10, E015/CN-22-538, available at [20234-194943-01](#)

⁸ As noted in the Petition similar exemptions were approved in several other transmission CNs.

January 25, 2024

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Supplemental Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. ET3/CN-23-504

Dear Mr. Seuffert:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Application of Dairyland Power Cooperative for a Certificate of Need for the Wabasha Relocation 161 kV Transmission Line Project in Wabasha County, Minnesota: Exemption and Notice Petitions.

The petitions were filed by Christina K. Brusven, Attorney, Frederikson & Byron, P.A., Attorneys for Dairyland Power Cooperative on December 13, 2023.

The Department recommends **approval with modifications** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ LOUISE MILTICH
Assistant Commissioner of Regulatory Affairs

/s/ STEVE RAKOW
Analyst Coordinator

SR/ad
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

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I. INTRODUCTION

On December 13, 2023, Dairyland Power Cooperative (DPC or the Cooperative) filed the Cooperative's *Request for Exemption from Certain Certificate of Need Application Content Requirements* (Exemption Petition). The Exemption Petition provided DPC's proposal to obtain exemptions from certain data requirements of Minnesota Rules 7849.0010 to 7849.0400 for a future certificate of need petition regarding the Wabasha 161 kV relocation project. On the same date DPC filed the Cooperative's *Certificate of Need Notice Plan Approval Request* (Notice Petition). The Notice Petition provided DPC's proposal to provide notice to all persons reasonably likely to be affected by the Wabasha 161 kV relocation project.

On December 18, 2023, the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period on Request for Exemption From Certain Certificate of Need Filing Requirements* (Notice). The Notice established comment periods and topics open for comment.

On January 2, 2024, the Minnesota Department of Commerce (Department) filed comments regarding the Exemption Petition. The Department recommends that the Commission approve the requested exemptions, with the provision of the proposed alternative data, with the exception that the Cooperative be required to provide a discussion of the availability of alternatives under Minnesota Rules 7849.0260 Subps. (B) (1), (4), (6) and (8). Regarding Notice Petition, the Department recommended the Commission:

- require that all materials in the notice plan, including the map, list of residents, and list of landowners be adjusted so that the conversion of the 69 kV transmission line from Kellogg, Minnesota to Alma, Wisconsin to 161 kV be included;
- require that all residents and landowners in the 5-mile buffer area shown on the map be included in the notice;
- add the following local governments to the notice plan:
 - the counties of Wabasha and Winona; and
 - the cities of Plainview and Kellogg;
- add the Upper Mississippi River Wildlife and Fish Refuge;
- add the Star Tribune to the list of newspapers;
- modify the map to show the proposed end points of the line and existing transmission facilities in the area;
- modify the text of the notices to mention the website on which the biennial transmission projects report is posted (minnelectrans.com); and
- grant a variance to Minnesota Rules 7829.2550, Subp. 6 and direct the notices occur no more than 60 days and no less than one week prior to the filing of the CN application.

On January 22, 2024 DPC filed reply comments regarding the Exemption Petition and the Notice Petition.

Below are the Department's supplemental comments.

II. DEPARTMENT ANALYSIS

A. NOTICE PETITION

DPC's reply states that the lines crossing the state border are operated at 345/161/69 kV. The eventual goal is to operate the border crossing lines at 345/345/161 kV. DPC also states that no new construction is required to achieve the 345/345/161 kV configuration. This demonstrates that the incremental impact of the change is that the 69 kV circuit would become a 345 kV circuit with no other changes required. Also, the updated map provided in DPC's reply comment shows that all of the transmission lines in question would be within the notice corridor. Therefore, the Department withdraws the recommendation to "require that all materials in the notice plan, including the map, list of residents, and list of landowners be adjusted so that the conversion of the 69 kV transmission line from Kellogg, Minnesota to Alma, Wisconsin to 161 kV be included." This is because all of the transmission lines in question are already in the notice corridor and the incremental impact of the overall changes at the border crossing is to convert a 69 kV circuit to a 345 kV circuit. Note that the additional 345 kV circuit is being addressed separately in Docket No. E002/CN-22-532.

All other Department recommendations regarding the Notice Petition were agreed to by DPC. The Department considers the other recommendations regarding the Notice Petition to be resolved.

Regarding the Exemption Petition DPC agreed to provide a brief screening analysis of the alternatives as suggested in footnote 3 of the Department's comments. The Department considers all of the recommendations regarding the Exemption Petition to be resolved.

II. DEPARTMENT RECOMMENDATION

Regarding the Notice Petition, as agreed to by DPC, the Department recommends the Commission approve the Notice Petition with the following modifications:

- require that all residents and landowners in the 5-mile buffer area shown on the map be included in the notice;
- add the following local governments to the notice plan:
 - the counties of Wabasha and Winona; and
 - the cities of Plainview and Kellogg;
- add the Upper Mississippi River Wildlife and Fish Refuge;
- add the Star Tribune to the list of newspapers;
- modify the map to show the proposed end points of the line and existing transmission facilities in the area;

- modify the text of the notices to mention the website on which the biennial transmission projects report is posted (minnelectrans.com); and
- grant a variance to Minnesota Rules 7829.2550, Subp. 6 and direct the notices occur no more than 60 days and no less than one week prior to the filing of the CN application.

Regarding the Exemption Petition, the Department recommends that the Commission approve the Exemption Petition but require DPC to provide a discussion of the availability of alternatives under Minnesota Rules 7849.0260 Subps. (B) (1), (4), (6) and (8) as agreed to by DPC.

CERTIFICATE OF SERVICE

I, Robin Benson, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

Minnesota Public Utilities Commission ORDER

Docket Number: **ET-3/CN-23-504**

Dated this **13th** day of **February, 2024**

/s/ Robin Benson

[illegible]

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Ray	Kirsch	Raymond.Kirsch@state.mn.us	Department of Commerce	85 7th Place E Ste 500 St. Paul, MN 55101	Electronic Service	No	OFF_SL_23-504_CN-23-504
Chad	Konickson	chad.konickson@usace.army.mil	U.S.Army Corps of Engineers	180 5th St # 700 Saint Paul, MN 55101	Electronic Service	No	OFF_SL_23-504_CN-23-504
Stacy	Kotch Egstad	Stacy.Kotch@state.mn.us	MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd. St. Paul, MN 55155	Electronic Service	No	OFF_SL_23-504_CN-23-504
Dawn S	Marsh	dawn_marsh@fws.gov	U.S. Fish & Wildlife Service	Minnesota-Wisconsin Field Offices 4101 American Blvd E Bloomington, MN 55425	Electronic Service	No	OFF_SL_23-504_CN-23-504
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_23-504_CN-23-504
Stephan	Roos	stephan.roos@state.mn.us	MN Department of Agriculture	625 Robert St N Saint Paul, MN 55155-2538	Electronic Service	No	OFF_SL_23-504_CN-23-504
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_23-504_CN-23-504
Jayne	Trusty	execdir@swrdc.org	SWRDC	2401 Broadway Ave #1 Slayton, MN 56172	Electronic Service	No	OFF_SL_23-504_CN-23-504
Jen	Tyler	tyler.jennifer@epa.gov	US Environmental Protection Agency	Environmental Planning & Evaluation Unit 77 W Jackson Blvd. Mailstop B-19J Chicago, IL 60604-3590	Electronic Service	No	OFF_SL_23-504_CN-23-504

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, MN 55155-4040	Electronic Service	No	OFF_SL_23-504_CN-23-504
Alan	Whipple	sa.property@state.mn.us	Minnesota Department Of Revenue	Property Tax Division 600 N. Robert Street St. Paul, MN 551463340	Electronic Service	No	OFF_SL_23-504_CN-23-504
Jonathan	Wolfgram	Jonathan.Wolfgram@state.mn.us	Office of Pipeline Safety	445 Minnesota St Ste 147 Woodbury, MN 55125	Electronic Service	No	OFF_SL_23-504_CN-23-504