

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of the Route Permit Application for the Minnesota Energy Connection Project in Sherburne, Stearns, Kandiyohi, Wright, Meeker, Chippewa, Yellow Medicine, Renville, Redwood, and Lyon Counties in Minnesota

ISSUE DATE: January 24, 2024

DOCKET NO. E-002/TL-22-132

NOTICE OF AND ORDER FOR HEARING

**PROCEDURAL HISTORY**

On October 30, 2023, Xcel Energy (Xcel, the Company) filed a route permit application for the Minnesota Energy Connection Project (the Project). The Project consists of a new 171- to 174-mile 345 kilovolt (kV) double-circuit transmission line between the existing Sherburne County Generation Station Substation (Sherco Substation) in the city of Becker and a new substation (Terminal Substation) near the town of Garvin in Lyon County.

By November 20, 2023, the Commission received comments on the application from the Department of Commerce Energy Environmental Review Analysis unit (EERA) and the International Union of Operating Engineers Local 49 and North Central States Regional Council of Carpenters (IUOE Local 49 and Carpenters).

On November 27, 2023, the Commission received reply comments from Xcel.

The Commission did not receive any supplemental comments.

The Commission also received several comment letters from interested members of the public and from two local government units, Meeker County Board and Harvey Township Board.<sup>1</sup>

On December 21, 2023, the application came before the Commission for an evaluation of completeness.

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<sup>1</sup> The Commission started receiving these comments before the certificate of need application was submitted in September 2023 and continued to receive them through the current route permit application comment period. The comments almost exclusively focus on concerns over potential impacts and the general merits of the project, including preferences for a certain route or general opposition to the project. They will therefore be retained and included with other comments received during the environmental impact scoping (EIS) process.

## FINDINGS AND CONCLUSIONS

### I. The Proposed Project

The Project is a result of Xcel's approved 2020-2034 *Upper Midwest Integrated Resource Plan*.<sup>2</sup> The Project includes a new 345 kV double-circuit transmission line between the existing Sherco Substation and the new Terminal Substation.

In compliance with statutory requirements, Xcel proposes two route alternatives. The alternatives include the Purple Route, which is 171 miles in length, and the Blue Route, which is 174 miles in length. Xcel has also proposed four connector segments that would enable the final route to utilize different portions of each alternative route (Connector Routes).

The Project further includes:

- A new 3.1-mile single-circuit 345-kV transmission line between the existing Sherco and Sherco Solar West substations in Becker, Minnesota (Green Route). This segment of the new transmission line would be co-located with Xcel Energy's Line 5651, occupying the open position on the existing double-circuit-capable structures.
- Modifications to the existing Sherco Substation and Sherco Solar West Substation.
- A voltage-supporting substation to be located 80 miles south of the Sherco Substation in either Meeker, Kandiyohi, or Renville County, depending on the final route.
- An intermediate substation to be located 20 miles north of the proposed Terminal Substation near Garvin in Lyon County.

Xcel generally requests a route width of 1,000 feet and a final right-of-way width of 150 feet. To enable flexibility in routing, Xcel requests route widths ranging from 0.3 to 1.25 miles in certain areas.

### II. The Route Permit Application<sup>3</sup>

The Project would be a conductor of electric energy with associated facilities that is designed for and capable of operation at a nominal voltage of 100 kV or more and that is also greater than 1,500 feet in length. Therefore, the Project meets the definition of a high-voltage transmission line under Minn. Stat. § 216E.01, subd. 4. Under Minn. Stat. § 216E.03, subd. 2, construction of

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<sup>2</sup> Docket No. E-002/RP-19-368.

<sup>3</sup> The Company previously submitted a certificate of need application. The Commission accepted that application as complete and authorized the use of informal proceedings for developing the record. After the Commission continued to receive comments related to the route permit application in the certificate of need docket, and to avoid administrative inefficiencies and confusion for the public, the Commission directed the certificate of need and route permit applications to be considered in joint proceedings. This includes joint public meetings, joint public hearings, and combined environmental review of the certificate of need and route permit applications through preparation of an EIS in lieu of an environmental report pursuant to Minn. R. 7849.1900, subp. 2. Consequently, the Commission suspended review of the certificate of need application pending receipt of a route permit application.

a high voltage transmission line requires a route permit from the Commission, and a high-voltage transmission line may be constructed only along a route approved by the Commission. Minn. Stat. § 216E.03 and Minn. R. 7850.1700-2700 establish the full permitting process that governs review of the Project.

### **III. Jurisdiction and Referral for Contested Case Proceedings**

The Commission decision accepting the route permit application as complete is as to form only and implies no judgement on the merits of the application. The Commission finds that it cannot resolve the issues raised in the application on the basis of the record before it. The issues turn on specific facts that are best developed in formal evidentiary hearings, consistent with the full permitting process set forth under Minn. Stat. § 216E.03. The Commission will therefore refer the application to the Office of Administrative Hearings for contested case proceedings.

The Administrative Law Judge assigned to this matter will conduct hearings as described in this Notice and submit a Report to the Commission. Following receipt of the Administrative Law Judge's Report, the Commission will proceed to make its final decision in accordance with Minn. Stat. Ch. 14 and 216B, and 216E.

### **IV. Issues to be Addressed**

The Commission expects that in the course of this case the parties will develop a full record addressing issues raised that are relevant to the Commission's permit decisions.

### **V. Procedural Outline**

#### **A. Administrative Law Judge**

The Administrative Law Judge assigned to this case is James Mortenson. His address is as follows: Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101. His mailing address is P.O. Box 64620, St. Paul, Minnesota 55164-0620. He can be reached through his legal assistant, Majeste Phillip, at 651-361-7853 or [majeste.phillip@state.mn.us](mailto:majeste.phillip@state.mn.us).

#### **B. Hearing Procedure**

- *Controlling Statutes and Rules*

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57-14.62; the rules of the Office of Administrative Hearings, Minn. R. 1405.0200 to 1405.2700. Regarding any issue on which Chapter 1405 is silent, the provisions of Minn. R. 1400.5100 to 1400.8400 regarding contested cases shall apply, and to the extent they are not superseded by those rules, the Commission's rules of Practice and Procedure, Minn. R. 7829.0100 to 7829.4000. Hearings may be recessed and reset by the Administrative Law Judge pursuant to Minn. R. 1405.1400 to .2300.

Copies of these rules and statutes may be purchased from the Print Communications Division of the Department of Administration, 660 Olive Street, St. Paul, Minnesota 55155; (651) 297-3000.

These rules and statutes also appear on the State of Minnesota's website at [www.revisor.mn.gov/pubs](http://www.revisor.mn.gov/pubs).

The Office of Administrative Hearings conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota State Bar Association.

- *Right to Counsel and to Present Evidence*

In these proceedings, parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Under Minn. R. 1405.1300, they may obtain subpoenas to compel the attendance of witnesses and the production of documents.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions.

- *Discovery and Informal Disposition*

Any questions regarding discovery under Minn. R. 1400.6700 to 1400.6800 or informal disposition under Minn. R. 1400.5900 should be directed to Scott Ek (651) 539-1070, Minnesota Public Utilities Commission, 121 7<sup>th</sup> Place East, Suite 350, St. Paul, Minnesota, 55101-2147.

- *Protecting Not-Public Data*

State agencies are required by law to keep some data not public. Parties must advise the Administrative Law Judge if not-public data is offered into the record. They should take note that any not-public data admitted into evidence may become public unless a party objects and requests relief under Minn. Stat. § 14.60, subd. 2.

- *Accommodations for Disabilities; Interpreter Services*

At the request of any individual, this agency will make accommodations to ensure that the hearing in this case is accessible. The agency will appoint a qualified neutral interpreter if necessary. Persons must promptly notify the Administrative Law Judge if an interpreter is needed.

- *Scheduling Issues*

The times, dates, and places of evidentiary hearings in this matter will be set by order of the Administrative Law Judge after consultation with the Commission and intervening parties.

- *Notice of Appearance*

Any party intending to appear at the hearing must file a notice of appearance (Attachment A) with the Administrative Law Judge within 20 days of the date of this Notice and Order for Hearing.

- *Sanctions for Non-compliance*

Failure to appear at a prehearing conference, a settlement conference, or the hearing, or failure to comply with any order of the Administrative Law Judge, may result in facts or issues being resolved against the party who fails to appear or comply.

### **C. Parties and Intervention**

The current parties to this case are the Applicant and the Department. Other persons wishing to become formal parties must do so pursuant to Minn. R. 1405.0900. Subpart 1 of that rule prescribes the timing and contents of a petition to intervene. Subpart 2 prescribes the timing and content of any objection to the petition, and subpart 3 sets forth the standards for granting, denying, or requiring consolidation of similar petitions.

The hearing process established under Rule Chapter 1405 is designed to facilitate public participation, and persons need not intervene as parties to participate. All public participants have significant procedural rights, including but not limited to, the right to be present throughout the proceeding, to offer direct testimony in oral or written form, to question all persons who testify, and to submit comments to the Administrative Law Judge and the Commission.

Persons who intervene and are granted party status have additional rights and responsibilities, including, but not limited to, the right to object to another's petition for intervention, the right to submit direct testimony and conduct cross-examination of other parties' witnesses, and the duty to submit prefiled testimony, comply with discovery requests, produce witnesses, file briefs, and serve all documents on all other parties.

The description of rights in this section is summary in nature, as required by Minn. R. 1405.0500, subpart 1(I), and is not intended to be comprehensive. Interested parties are encouraged to review Chapter 1405 to identify the scope of rights and authority to act given to "persons" or restricted to "parties" under the various provisions of that chapter.

### **D. Prehearing Conference**

A prehearing conference will be held on Wednesday, March 27, 2024, at 10:00a.m., via telephone, using the following call-in information:

Call-in Number: 651-395-7448  
Phone Conference ID: 355 405 256#

Persons participating in the prehearing conference should be prepared to discuss time frames, scheduling, discovery procedures, and similar issues. Potential parties are invited to attend the prehearing conference and to file their petitions to intervene as soon as possible.

## **VI. Ex Parte Communications**

Restrictions on *ex parte* communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of

this Order. Those restrictions and reporting requirements are set forth in Minn. R. 7845.7300 – 7845.7400, which all parties are urged to consult.

### ORDER

1. The Commission hereby refers the route permit application to the Office of Administrative Hearings for contested case proceedings.
2. The Commission requests that the Administrative Law Judge assigned to the case prepare a report setting forth findings of fact, conclusions of law, and a recommendation on the merits of the proposed project, as well as on permit conditions, considering the applicable statutory and rule criteria.
3. The Commission hereby delegates administrative authority to the Executive Secretary, to determine timing issues.
4. The Commission hereby takes steps to facilitate record development as described herein.
5. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert  
Executive Secretary



This document can be made available in alternative formats (e.g., large print or audio) by calling 651.296.0406 (voice). Persons with hearing or speech impairment may call using their preferred Telecommunications Relay Service or email [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us) for assistance.

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Route Permit  
Application for the Minnesota Energy  
Connection Project in Sherburne,  
Stearns, Kandiyohi, Wright, Meeker,  
Chippewa, Yellow Medicine, Renville,  
Redwood, and Lyon Counties in  
Minnesota.

**NOTICE OF APPEARANCE**

TO: Administrative Law Judge James Mortenson, 600 North Robert Street, PO  
Box 64620, St. Paul, MN 55164

**PLEASE TAKE NOTICE that:**

1. The party named below will appear at the prehearing conference and  
subsequent proceedings in the above-entitled matter.

2. By providing its email address below, the party named below hereby  
acknowledges that it has read and agrees to the terms of the Office of  
Administrative Hearings' e-Filing policy and chooses to opt into electronic  
notice from the Office of Administrative Hearings with respect to this matter.

**Note: Provision of an email address DOES NOT constitute the party's  
consent to electronic service from the opposing party/ies in this  
proceeding.**

3. The party named below agrees to use best efforts to provide the  
Office of Administrative Hearings with the email address(es) for opposing  
parties and their legal counsel and to advise the Office of Administrative  
Hearings of any change in all parties' email address(es).

**Party's/Agency's Name:** \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Party's/Agency's Attorney:** \_\_\_\_\_

Firm Name: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Respondent's/Opposing Party's Name:** \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Dated: \_\_\_\_\_

## **CERTIFICATE OF SERVICE**

I, Mai Choua Xiong, 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 NOTICE OF AND ORDER FOR HEARING**

Docket Number **E-002/TL-22-132**  
Dated this 24<sup>th</sup> day of January, 2024

/s/ Mai Choua Xiong



First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Lisa	Agrimonti	lagrimonti@fredlaw.com	Fredrikson & Byron, P.A.	60 South Sixth Street Suite 1500 Minneapolis, MN 55402-4400	Electronic Service	No	OFF_SL_22-132_Official
Mara	Ascheman	mara.k.ascheman@xcelen ergy.com	Xcel Energy	414 Nicollet Mall Fl 5  Minneapolis, MN 55401	Electronic Service	No	OFF_SL_22-132_Official
Sarah	Beimers	sarah.beimers@state.mn.us	Department of Administration - State Historic Preservation Office	50 Sherburne Avenue Suite 203 St. Paul, MN 55155	Electronic Service	No	OFF_SL_22-132_Official
David	Bell	david.bell@state.mn.us	Department of Health	POB 64975  St. Paul, MN 55164	Electronic Service	No	OFF_SL_22-132_Official
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_22-132_Official
Randall	Doneen	randall.doneen@state.mn.us	Department of Natural Resources	500 Lafayette Rd, PO Box 25  Saint Paul, MN 55155	Electronic Service	No	OFF_SL_22-132_Official
Bret	Eknes	bret.eknes@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	No	OFF_SL_22-132_Official
Kate	Fairman	kate.frantz@state.mn.us	Department of Natural Resources	Box 32 500 Lafayette Rd St. Paul, MN 551554032	Electronic Service	No	OFF_SL_22-132_Official
Annie	Felix Gerth	annie.felix- gerth@state.mn.us		Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_22-132_Official
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_22-132_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Todd	Green	Todd.A.Green@state.mn.us	Minnesota Department of Labor & Industry	443 Lafayette Rd N  St. Paul, MN 55155-4341	Electronic Service	No	OFF_SL_22-132_Official
Kari	Howe	kari.howe@state.mn.us	DEED	332 Minnesota St, #E200 1ST National Bank Bldg St. Paul, MN 55101	Electronic Service	No	OFF_SL_22-132_Official
Breann	Jurek	bjurek@fredlaw.com	Fredrikson & Byron PA	60 S Sixth St Ste 1500  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_22-132_Official
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_22-132_Official
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_22-132_Official
Nicholas	Korn	NJKORN@GMAIL.COM		27445 County Road 23  Albany, MN 56307	Electronic Service	No	OFF_SL_22-132_Official
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_22-132_Official
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_22-132_Official
James	Mortenson	james.mortenson@state.mn.us	Office of Administrative Hearings	PO BOX 64620  St. Paul, MN 55164-0620	Electronic Service	No	OFF_SL_22-132_Official
Stephen	Rakow	stephen.rakow@state.mn.us	Department of Commerce	Suite 280 85 Seventh Place East St. Paul, MN 551012198	Electronic Service	No	OFF_SL_22-132_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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_22-132_Official
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_22-132_Official
Christine	Schwartz	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7  Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_22-132_Official
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350  Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_22-132_Official
Bria	Shea	bria.e.shea@xcelenergy.com	Xcel Energy	414 Nicollet Mall  Minneapolis, MN 55401	Electronic Service	No	OFF_SL_22-132_Official
Jayme	Trusty	execdir@swrdc.org	SWRDC	2401 Broadway Ave #1  Slayton, MN 56172	Electronic Service	No	OFF_SL_22-132_Official
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_22-132_Official
Garrick	Valverde	garrick.valverde@apexcleanenergy.com	Apex Clean Energy	8665 Hudson Boulevard North  Suite 200 Lake Elmo, MN 55042	Electronic Service	No	OFF_SL_22-132_Official
Haley	Waller Pitts	hwallerpitts@fredlaw.com	Fredrikson & Byron, P.A.	60 S Sixth St Ste 1500  Minneapolis, MN 55402-4400	Electronic Service	No	OFF_SL_22-132_Official

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_22-132_Official
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_22-132_Official
Jonathan	Wolfgram	Jonathan.Wolfgram@state.mn.us	Office of Pipeline Safety	445 Minnesota St Ste 147  Woodbury, MN 55125	Electronic Service	No	OFF_SL_22-132_Official