Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date:	October 28, 2016.....Agenda Item *3
Company:	Minnkota Power Cooperative, Inc.
Docket No.	ET6/TL-14-665
	In the Matter of the Application of Minnkota Power Cooperative, Inc. for a Route Permit for the Clearbrook-Clearbrook West 115 kV Transmission Line Project in Clearwater County
Issues:	Whether the Commission should consider imposing conditions on Minnkota Power Cooperative's request to withdraw its route permit application for its proposed Clearbrook-Clearbrook West 115 kV transmission line project.
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Relevant Documents

Application for a Route Permit.....November 25, 2015
Commission Order – Reopening ..Previous Order (OAH Referral)..... May 24, 2016
Minnkota Petition to Withdraw Route Permit Application ..... September 13, 2016
Erie-Bourdeaux Family Trust Comments..... September 30, 2016
Office of Administrative Hearings Order Suspending Proceedings.....October 3, 2016

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

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I. STATEMENT OF ISSUES

Whether the Commission should consider imposing conditions on Minnkota Power Cooperative's request to withdraw its route permit application for its proposed Clearbrook-Clearbrook West 115 kV transmission line project.

II. PROJECT DESCRIPTION

Minnkota Power Cooperative, Inc. (Minnkota) has applied to the Minnesota Public Utilities Commission (Commission) for a route permit to construct a 5.3 mile long 115 kV high voltage transmission line and a new 115/41.6 kV substation in Clearwater County. The project is known as the Clearbrook-Clearbrook West 115 kV Transmission Line (or Project) and is proposed to be located to the west and south of the city of Clearbrook. The proposed Project was to provide electrical energy to a pumping station that was proposed as part of the Sandpiper pipeline project.

III. PROCEDURAL HISTORY

On November 25, 2015, Minnkota filed an application for a high-voltage transmission line route permit.

On January 25, 2016, the Commission issued an order accepting the route permit application as complete under the alternative review process. The matter was referred to the Office of Administrative Hearings (OAH) for hearing under the Commission's summary proceeding process in the Commission's May 2016 Order (listed as a relevant document)..

On September 13, 2016, Minnkota filed a petition that requested the withdrawal of its route permit application. On September 19, 2016, the Commission issued a notice soliciting comments on the request for withdrawal.

On September 30, 2016, comments were filed in this matter by Carol A. Overland on behalf of the Erie-Bourdeaux Family Trust and the Department of Commerce Energy Environmental Review and Analysis (EERA). DOC EERA recommended that the withdrawal be authorized by the Commission. The Erie-Bourdeaux Family Trust requested that the application be withdrawn with prejudice, as the Enbridge pipeline projects have been terminated and the Erie-Bourdeaux lands are already overburdened.

On October 3, 2016, the OAH suspended proceedings and referred the matter back to the Commission due to the withdrawal request.

IV. STATUTES AND RULES

Withdrawal of Filings. Under Minn. R. 7829.0430, subp. 1, if the party seeking withdrawal of its filing serves notice of its withdrawal request on the persons on the official service list for the filed matter and (i) no person opposes withdrawal of the filing within 14 days of service of the notice, and (ii) no Commissioner or Commission staff person has identified a reason that the matter should not be withdrawn, the Executive Secretary has the authority to approve the withdrawal.

Under subp. 2 of Minn. R. 7829.0430, if any person opposes the withdrawal request within the requisite 14- day period for doing so, the Commission will allow the filing to be withdrawn upon determining that the proposed withdrawal:

- does not contravene the public interest;
- does not prejudice any party; and
- does not concern a filing that raises issues requiring commission action.

If the Commission determines that withdrawal would contravene the public interest or prejudice a party, the Commission may permit withdrawal only subject to conditions that mitigate the harm identified.

V. STAFF DISCUSSION

A. Withdrawal of the Filing

While the Erie-Bourdeaux Trust proposed conditions on Minnkota's request to withdraw its route permit application, they do not oppose the withdrawal request. The withdrawal request therefore meets the conditions set forth under Minn. R. 7829.0430, subp. 1, and the Executive Secretary can grant approval of Minnkota's withdrawal request.

B. Withdrawal Conditions

Staff believes that the question of whether any conditions should be imposed on the withdrawal is one that must be answered by the Commission. In the event the Commission is inclined to consider whether any conditions should be imposed at all, staff recommends against the conditions proposed by the Erie-Bourdeaux Trust. The proposed condition is that the Commission deem the withdrawal to be "with prejudice." The 'with prejudice' language as proposed here would preclude Minnkota from proposing a project in this area in the future. Staff believes each forthcoming project should be considered on its own need, merits, and the

alternatives available at that time. Staff does not believe the Commission should preclude consideration of future alternatives.

VI. COMMISSION DECISION ALTERNATIVES

1. Do not consider imposing any conditions on Minnkota's withdrawal request.
2. Order that the Executive Secretary grant approval of Minnkota's withdrawal request with prejudice.
3. Order some other condition deemed appropriate.

Staff Recommendation: 1