



Energy Facility Permitting
85 7th Place East, Suite 500
St. Paul, Minnesota 55101-2198
ph 651.539.1838 | fx 651.539.0109
mn.gov/commerce/energyfacilities

September 4, 2013

Burl W. Haar, Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 350
St. Paul, MN 55101-2147

Re: Minor Alteration Request, Alexandria-N. D. Border, Segment 4, Structures 315 to 319

Dear Dr. Haar:

Attached are the review and comments of the Minnesota Department of Commerce Energy Facility Permitting (EFP) staff in the below matter:

In the Matter of the Application for a Route Permit for the Fargo to St. Cloud 345 kV Transmission Line Project (PUC Docket No. E002, ET2/TL-09-1056)

Xcel Energy, Inc. and Great River Energy have submitted an application pursuant to Minnesota Rule 7850.4800 for approval of a Minor Alteration of the permitted route for the Fargo to Alexandria portion of the Fargo-St. Cloud 345 kV Transmission Line Project in Wilkin County.

This filing was made on August 19, 2013, by:

Tom Hillstrom
Permit Project Lead
Xcel Energy, Inc.
800 Nicollet Mall
Minneapolis, Minnesota 55401

EFP staff is available to answer any questions the Commission may have.

Sincerely,

A handwritten signature in black ink, appearing to read "David Birkholz". The signature is fluid and cursive, with the first name "David" and last name "Birkholz" clearly distinguishable.

David Birkholz, EERA Staff

This page intentionally left blank.



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF MINNESOTA DEPARTMENT OF COMMERCE ENERGY FACILITY PERMITTING STAFF

DOCKET NO. E002, ET2/TL-09-1056

Date: September 4, 2013

EFP Staff: David E. Birkholz651-539-1838

In the Matter of the Application for a Route Permit for the Fargo to St. Cloud 345 kV
Transmission Line Project

Issue(s) Addressed: These comments address, whether the request for a route width variation for Poles 315-319 should be approved and whether, if approved, any additional permit conditions would be necessary.

Additional documents and information can be found on the EFP website
<http://mn.gov/commerce/energyfacilities/Docket.html?Id=25053> or on eDockets
<https://www.edockets.state.mn.us/EFiling/search.jsp> (Year "9" and Number "1056").

This document can be made available in alternative formats; i.e. large print or audio tape by calling (651) 539-1530.

INTRODUCTION AND BACKGROUND

Xcel Energy and Great River Energy (Permittees) filed an application¹ with the Public Utilities Commission (Commission) for a route permit on October 1, 2009, to build a 345 kV transmission line from Fargo to St. Cloud (Project). The Commission issued an Order² approving a route permit on June 24, 2011. The Commission issued orders for permit amendments for route alterations on January 9, 2012³ and April 12, 2012,⁴ for alterations in the Alexandria to St. Cloud segment of the Project. On July 18, 2013,⁵ the Commission issued approvals for the four Minor Alterations.

¹ "[Route Permit Application](#)," Northern States Power, dba Xcel Energy and Great River Energy, October 1, 2009

² Minnesota Public Utilities Commission Order for a Route Permit, eDockets no. [20116-64023-01](#), June 24, 2011

³ [Order Approving Minor Alterations And Issuing a Route Permit Amendment](#), January 9, 2012

⁴ [Order Approving Minor Alterations And Issuing a Route Permit Amendment](#), April 12, 2012

⁵ [Minor Alterations Approved without Conditions](#), Xcel Energy, July 18, 2013

On July 10, 2013,⁶ the Commission issued a letter accepting the Plan and Profile for Poles 277-371, of which the segment in question is a part. (It is notable in that, even at that point, it was still not evident that a route width expansion would be required.) On August 6, 2013,⁷ Permittees filed a request for Plan and Profile approval for a route width variation for poles 315 to 319 under Route Condition III.A. On August 13, 2013,⁸ Commission staff requested the Permittees re-file the route width variation Plan and Profile as a Minor Alteration request. On August 19, 2013,⁹ Permittees complied with that request.

REGULATORY PROCESS AND PROCEDURE

The permit issued on June 24, 2011 contains Route Permit Condition III.A, which provides specific reasons for and conditions under which the transmission route width may be modified through the standard Plan and Profile review process:

Route width variations outside the designated route may be allowed for the Permittee to overcome potential site specific constraints. These constraints may arise from any of the following:

- 1) Unforeseen circumstances encountered during the detailed engineering and design process.
- 2) Federal or state agency requirements.
- 3) Existing infrastructure within the transmission line route, including but not limited to roadways, railroads, natural gas and liquid pipelines, high voltage electric transmission lines, or sewer and water lines.
- 4) Planned infrastructure improvements identified by state agencies and local government units (LGUs) and made part of the evidentiary record during the record for this permit.

Any alignment modifications arising from these site specific constraints that would result in right-of-way placement outside the designated route shall be located to have comparable overall impacts relative to the factors in Minn. Rule 7850.4100 as does the alignment identified in this permit and also shall be specifically identified in and approved as part of the Plan and Profile submitted pursuant to Part IV.A of this permit.

Permittees' August 6, 2013 request proposed a route width modification to avoid a Natural Resource Conservation Service Wetlands Reserve Program easement under the existing permit, Route Condition III.A's "federal or state agency requirements" condition. The requested change would have placed the alignment outside the designated route width, as is specifically allowed by the existing permit's "federal or state agency requirements" condition.

⁶ Letter to Tom Hillstrom, Dr. Burl Haar, July 10, 201

⁷ Compliance Filing--Request For Plan And Profile Approval-Route Width Variation Poles 315 To 319, Xcel Energy, August 6, 2013

⁸ Commission Letter to Tom Hillstrom, Dr. Burl Haar, August 13, 2013

⁹ Request For Minor Alteration Including Route Width Variation Due To Federal Agency Requirement, Xcel Energy, August 19, 2013

This condition allows certain changes that do not have a significantly changed impact on the factors considered by the Commission when the permit was approved, including conflicting impact on human settlement and property owners.

As requested, the Permittees re-filed to amend the Route Permit to allow the proposed change by filing a Minor Alteration request under Minnesota Rule 7850.4800, subp. 2. The rule states:

The application shall be in writing and shall describe the alteration in the large electric power generating plant or high voltage transmission line to be made and the explanation why the alteration is minor.

In subp. 1, the same rule states:

A Minor Alteration is a change in a large electric power generating plant or high voltage transmission line that does not result in significant changes in the human or environmental impact of the facility.

ANALYSIS AND COMMENTS

EFP evaluates changes in a Plan and Profile filing and Minor Alteration requests in exactly the same manner. To help develop the necessary information to facilitate an informed decision, EFP has provided Plan and Profile guidance¹⁰ to permittees. This guidance states the type of data and analysis that can provide EFP, and eventually the Commission, with the information necessary to evaluate whether a modification results in significant changes to the impacts of the facility.

The Permittee filed a table of comparative statistics for both the anticipated alignment and the alignment modification. The Permittees submitted information that assesses impacts relative to the routing factors found in Minnesota Rule 7850.4100 that are reviewed by the Commission in determining a route. EFP also assessed the request using available data and maps.

Alignment Modification Request

The actual request for a change is relatively straightforward. The Permittees have altered the alignment to avoid crossing a USDA Natural Resource Conservation Service (NRCS) Wetlands Reserve Program (WRP) Easement. (The federal easement was granted less than a month before the Route Permit was issued by the Commission in 2011.) WRP easements do not allow utility placement within the easement. Permittees could apply for an exemption, but the process is lengthy, resulting in up to a year's delay in building the Project. In addition, Permittees represented that NRCS could provide no assurance that approval would be likely.

Permittees could not move the alignment to the other side of Hwy 94 within the designated route width, as the easement is on both sides of the highway. So they have proposed moving the alignment to the north outside the designated route width. The change results in a minor increase in agricultural land crossed (1.5 acres) but a decrease in wetlands crossed (0.3 acres), including moving the line outside the wetlands restoration area. The alteration results in a net increase in costs of \$200,000 due primarily to the structures required to bypass the reserve and the slight increase in line length.

¹⁰ Plan and Profile Guidance for Transmission Lines, DOC Energy Facility Permitting, June 2012

Permittees have related that the landowners, the same landowners within the anticipated alignment, have not only received notice of the proposed modification and an opportunity to address the proposed modification, but have already agreed to contracts for the proposed alignment modification. There are no changes in the new right-of-way that require additional environmental review or conditions and the concomitant delay to construction that such an additional review entails.

Plan and Profile Review

The segment in question was previously reviewed¹¹ as part of an earlier Plan and Profile submission for Segment 4 (Poles 277-371). Permittees have included a Plan and Profile revision for the requested Minor Alteration, which is also standard practice for alignment modification requests outside a designed route submitted as part of a Plan and Profile review pursuant to Route Permit Condition III A.

A Plan and Profile is the final technical filing for construction according to Permit Condition IV.A, including, "specifications and drawings for right-of-way preparation, construction, cleanup, and restoration for the transmission line. The documentation shall include maps depicting the plan and profile in relation to the route and alignment approved per the permit."

Since the request is being reviewed as a Minor Alteration, the requested alteration cannot be considered part of the route and alignment approved per the permit. However, if the Commission issues an Order amending the permit to include the Minor Alteration, EFP would immediately undertake a compliance review of the Plan and Profile. .

CONCLUSIONS AND RECOMMENDATION

Commission staff noted in the Hillstrom Letter (8/13/13) that, "Although the route deviation is being requested to avoid constraints arising from federal agency requirements, it is still a deviation outside the route permitted by the Commission. Minnesota Stat. § 216E.03, subd. 2, provides that 'a high-voltage transmission line may be constructed only along a route approved by the Commission.' Consequently, the requested route width variation is a change to a high-voltage transmission line or a minor alteration as defined under Minn. Rules, part 7850.4800."

EFP believes the change could have been considered under Route Condition III.A. That is an existing condition of the route in force, approved by the Commission, that allows the Permittees the option to widen the route width under certain restrictive circumstances, such as the federal requirements acknowledged by Commission staff. The original submission was for an alignment deviation outside the route width, but the change would still be within the terms and conditions of the Route Permit.¹²

¹¹ Letter to Tom Hillstrom, Dr. Burl Haar, July 10, 2013

¹² The route approved by the Commission consists of at least four parts: 1) the designated route (a particular or variable width depicted on maps); 2) an anticipated alignment (also depicted on maps); 3) written descriptions (which can speak to specific placement issues such as avoidance areas and ROW sharing); and 4) route width variations to overcome site specific constraints discovered during Plan and Profile development (e.g., soil borings, detailed engineering design or requirements of other state or federal agencies).

EFP files these comments: (1) to recommend approval of the pending Request; and (2) to urge consideration by the Commission when determining the need for Minor Alteration Requests in circumstances such as are presented here.

Route Permit Condition III.A helps facilitate a timely review. As noted above, this required change was not evident until well into the planning, engineering and even construction phase. Widening the route width in a Plan and Profile could have allowed a properly reviewed change to have been made as early as the end of August.

Regardless, whether it had been reviewed as an alignment change within a Plan and Profile or as a Minor Alteration, the end determination is the same environmentally. Review as a Minor Alteration requires the alteration does not make a significant change in the human or environmental impact of the facility. Review under Route Condition III.A requires the alignment modification have comparable impacts to the anticipated alignment, an arguably more stringent standard.¹³ Under either review, the change passes the test for impacts.

EFP concludes the requested modification does not significantly change the human or environmental impact of the facility and is, therefore, minor.

EFP recommends the Commission approve Permittees' alignment modification request.

Since the modification is minor, and no new significant human or environmental impacts would be incurred, EFP also recommends that no additional permit conditions are necessary; noting that all permit conditions in the original permit applying to the anticipated alignment would apply equally to these alterations.

¹³ The conditions under which the route width can be varied under Route Condition III.A are limited and restrictive. This is intentional in the Route Permit, as the review of Plans and Profiles do not generally go before the Commission for a determination.