

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
Nancy Lange
Dan Lipschultz
John A. Tuma
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of
Great River Energy for a Route Permit for
the Bull Moose 115 kV Transmission Line in
Cass County, Minnesota

ISSUE DATE: October 13, 2015

DOCKET NO. ET-2/TL-15-628

ORDER FINDING APPLICATION
COMPLETE, DIRECTING USE OF
SUMMARY REPORT REVIEW
PROCESS, AND GRANTING VARIANCE

PROCEDURAL HISTORY

On August 7, 2015, Great River Energy filed an application to construct approximately 2.5 miles of 115 kilovolt (kV) transmission line to serve a proposed new pump station near Backus in Cass County.

On August 27, 2015, the Department of Commerce, Energy Environmental Review and Analysis (EERA) filed comments recommending that the Commission accept the application as complete.

On September 17, 2015, the application came before the Commission.

FINDINGS AND CONCLUSIONS

I. Jurisdiction

No person may construct a high voltage transmission line without a route permit from the Commission.¹ A high voltage transmission line includes any transmission line longer than 1,500 feet that will operate at a voltage of at least 100 kilovolts.² Great River Energy has proposed constructing a 115 kV transmission line longer than 1,500 feet, requiring the company to obtain a permit.

Great River Energy filed its application under Minn. Stat. § 216E.04 and Minn. R. 7850.2800 to 7850.3900, which govern the alternative review process for eligible projects, including transmission lines that will operate at a voltage between 100 and 200 kilovolts. Great River Energy

¹ Minn. Stat. § 216E.03, subd. 2.

² Minn. Stat. § 216E.01, subd. 4.

stated that the project would provide electric service to a proposed Backus crude oil pumping station located approximately three miles south of Backus. Enbridge Energy, Limited Partnership has proposed construction of the pumping station in a separate docket.³

II. Application Completeness

The EERA reviewed Great River Energy's application under Minn. R. 7850.3100 to analyze whether the application contained the required information. Based on its analysis, the EERA recommended that the Commission accept the application as complete. The Commission concurs with the EERA that the application meets the requirements of Minn. R. 7850.3100 and will accept the application as complete.

III. Referral to the Office of Administrative Hearings

To facilitate development of the record on route permit issues, the Commission will authorize use of the alternative permitting process set forth in Minn. Stat. § 216E.04 and Minn. R. 7850.2800 to 7850.3900. Under this process, the Commission asks the Office of Administrative Hearings to hold at least one public hearing, scheduled in conjunction with Commission staff. The Commission will request that the Administrative Law Judge in this case use the summary report review process and prepare a summary report of the comments received during the public hearing comment period.

The Commission will also take the steps listed below to ensure adequate development of the record:

- Designate Tracy Smetana, Minnesota Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101-2147, (651) 29-0406, to act as the public advisor.
- Request that the Department continue to study issues and provide, during the hearing process, its position on the reasonableness of granting a route permit.
- Require Great River Energy to facilitate, in every reasonable way, the continued examination of the issues raised by the Department and Commission staff.
- Require Great River Energy to place a compact disc and/or hard copy of the application for review in a government center and/or public library in each of the counties where the Project's transmission line would be located.
- Request that the Department present to the Commission comments on the scope of the environmental assessment for Commission input prior to the issuance of the scoping decision.

³ *In the Matter of the Application of Enbridge Energy, Limited Partnership for a Routing Permit for the Line 3 Replacement Project in Minnesota from the North Dakota Border to the Wisconsin Border*, Docket No. PL-9/PPL-15-137.

- Direct Commission staff to work with the Administrative Law Judge and the Department staff in selecting suitable locations for a public hearing on the application.
- Direct Great River Energy to work with Commission staff and the Department to arrange for publication of the notice of the hearings in newspapers of general circulation at least ten days prior to the hearings, and require that such notice be in the form of visible display ads and that proof of publication of such ads be obtained from the newspapers selected.

Finally, the Commission will delegate administrative authority over this case to the Executive Secretary.

IV. Rule Variance

Under Minn. R. 7850.3700, the Department of Commerce is required to prepare an environmental assessment that evaluates the potential human and environmental impacts of the proposed project. Under the rule, the Department is required to hold a public scoping meeting where members of the public have the opportunity to provide comments. After the close of the public scoping meeting, the Department is required to provide a written comment period of at least seven days. Within 10 days of the close of the comment period, the Department must determine the scope of the environmental assessment.

Under Minn. R. 7829.3200, the Commission must vary its rules upon making the following findings:

- (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.

To ensure that the Department has sufficient time to evaluate comments and make a determination, the Commission will vary the rule to extend the 10-day timeline for determining the scope of the environmental assessment.

The Commission finds that enforcement of the rule would impose an excessive burden on those affected by the rule by jeopardizing the Department's ability to fully consider comments and make an informed decision on the scope of the environmental assessment. Further, granting the variance would not adversely affect the public interest, and would, in fact, serve the public interest by providing the Department with sufficient time to make a scoping decision. And finally, granting the variance would not conflict with standards imposed by law, since the time frame is set by rule and not by statute.

ORDER

1. The Commission hereby accepts the route permit application as complete.
2. The Commission hereby directs use of the summary report review process to develop the record for the route permit and requests that the Office of Administrative Hearings compile a summary report of the comments received regarding the route permit application.
3. The Commission hereby delegates administrative authority over this case to the Executive Secretary.
4. The Commission hereby designates Tracy Smetana of Commission staff to serve as the public advisor.
5. The Commission also:
 - a. Requests that the Department continue to study issues and provide, during the hearing process, its position on the reasonableness of granting a route permit.
 - b. Requires Great River Energy to facilitate, in every reasonable way, the continued examination of the issues raised by the Department and Commission staff.
 - c. Requires Great River Energy to place a compact disc and/or hard copy of the application for review in a government center and/or public library in each of the counties where the Project's pipeline is located.
 - d. Requests that the Department present to the Commission comments on the scope of the environmental assessment for Commission input prior to the issuance of the scoping decision.
 - e. Directs Commission staff to work with the Administrative Law Judge and Department staff in selecting a suitable location for a public hearing on the application.
 - f. Directs Great River Energy to work with Commission staff and the Department to arrange for publication of the notice of the hearings in newspapers of general circulation at least ten days prior to the hearings, and require that such notice be in the form of visible display ads and that proof of publication of such ads be obtained from the newspapers selected.

6. The Commission hereby varies the time period of Minn. R. 7850.3700, subp. 3, to extend the 10-day time limit for the Department to issue its scoping decision.
7. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
Executive Secretary



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