

# Minnesota Public Utilities Commission

## Staff Briefing Papers

---

Meeting Date: January 28, 2016 ..... Agenda Item \*\*

Company: Great River Energy and Minnesota Power

Docket No. ET2, E015/CN-14-787 (Certificate of Need)  
ET2, E015/TL-14-797 (Route Permit)

In the Matter of the Joint Applications of Great River Energy and Minnesota Power for a Certificate of Need and a Route Permit for the Menahga Area 115 kV Transmission Line Project in Hubbard, Wadena and Becker Counties

### Issues:

- Should the Commission find that the environmental assessment is adequate?
- Should the Commission adopt the applicants' proposed findings and conclusions and also suggested permit revisions?
- Should the Commission grant a certificate of need for the Menahga Area 115 kV Transmission Line Project?
- Should the Commission issue a route permit identifying a specific route and permit conditions for the Menahga Area 115 kV Transmission Line Project?

Staff: Cezar Panait | 651-201-2207 | [Cezar.Panait@state.mn.us](mailto:Cezar.Panait@state.mn.us)

---

### Relevant Documents

Application for Certificate of Need and Route Permit ..... January 15, 2015  
Commission Order Finding Application Complete ..... March 18, 2015  
DOC DER Comments ..... August 20, 2015  
DOC DER Supplemental Comments ..... October 2, 2015  
Notice of Hearing ..... October 2, 2015  
Environmental Assessment ..... September 28, 2015  
OAH Order on Petition to Intervene and Motion ..... October 14, 2015  
Proposed Findings of Fact and Conclusions ..... November 18, 2015  
OAH Summary of Public Testimony ..... November 18, 2015  
DOC EERA Comments and Recommendations ..... December 8, 2015

This document can be made available in alternative formats (i.e., large print or audio) by calling 651-296-0406 (voice). Persons with hearing or speech disabilities may call us through Minnesota Relay at 1-800-627-3529 or by dialing 711.

## **Attached Documents**

Attachment 1 – Proposed High-Voltage Transmission Line Route Permit

Attachment 2 – Comparison Maps of Applicants’ Preferred Route and Proposed Andersen Alignment

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.

---

### **I. STATEMENT OF THE ISSUES**

- Should the Commission find that the environmental assessment is adequate?
- Should the Commission adopt the applicants’ proposed findings and conclusions and also suggested permit revisions?
- Should the Commission grant a certificate of need for the Menahga Area 115 kV Transmission Line Project?
- Should the Commission issue a route permit identifying a specific route and permit conditions for the Menahga Area 115 kV Transmission Line Project?

### **II. PROJECT OVERVIEW**

Great River Energy and Minnesota Power (“Applicants”) have proposed to construct approximately 22.5 miles of new 115 kV transmission line from the existing Hubbard substation in Hubbard Township westward to a new Straight River substation in the SE ¼ of SW ¼ of Straight River Township, and then southward to a new Blueberry substation near the city of Menahga and to a new Red Eye substation approximately 3 miles north of Sebeka, MN.

The Project known as the “Menahga Area Project” will be located in Hubbard, Wadena and Becker counties and specifically entails: 1) construction of 4.5 miles of double-circuit 115 kilovolt (kV) transmission and approximately 2.5 miles of single-circuit 115 kV transmission, 2) construction of approximately 15.5 miles of primarily single-circuit 115 kV transmission, and 3) construction of the new Todd-Wadena Electric Cooperative Red Eye Distribution Substation (to serve the proposed Minnesota Pipe Line Company (MPL) Sebeka pump station); construction of the Minnesota Power Straight River Substation, and the construction of the Great River Energy Blueberry Substation; relocation of the existing Todd-Wadena Menahga Distribution Substation to the Blueberry Substation site and convert the voltage from 34.5 kV to 115 kV; and modify the existing Great River Energy Hubbard Substation and Minnesota Pipeline Substation.

The Applicants stated need for the project is to address transmission system overload issues in the Menahga area and to serve the new Todd-Wadena Red Eye substation and the new Sebekka pump station proposed by Minnesota Pipe Line Company as part of the Minnesota Pipe Line Reliability Project (see MPUC Docket No. PL-5/CN-14-320). The applicants indicated that the existing transmission system serving this area of the state has reached its maximum peak load-serving capability and is not sufficiently robust to serve the new pump station.

### **III. STATUTES AND RULES**

#### **A. Certificate of Need**

Under Minn. Stat. § 216B.243, subd. 2, no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the Commission. The Project is a large energy facility as defined by Minn. Stat. § 216B.2421, subd. 2(3), because it is a high-voltage transmission line with a capacity of 100 kV or more with more than 10 miles of its length in Minnesota or that crosses a state line.

In assessing the need for a proposed large energy facility the Commission must consider the factors listed under each of the criteria set forth in Minn. Stat. § 216B.243, subd. 3 and Minn. R. 7849.0120.

#### **B. Route Permit**

Under Minn. Stat. § 216E.03, subd. 1, no person may construct a high-voltage transmission line without a route permit from the Commission. A high-voltage transmission line may be constructed only along a route approved by the Commission.

Under Minn. Stat. § 216E.01, subd. 4, a high-voltage transmission line is defined as a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length. The Project would consist of approximately 22.5 miles of new 115 kV transmission line and, therefore, requires a route permit from the Commission.

The Project is subject to Minn. Stat. § 216E.03, subd. 7, which requires that high-voltage transmission lines be routed consistent with state policy and in a manner that minimizes adverse human and environmental impact while insuring continuing electric power system reliability and integrity and insuring that electric energy needs are met and fulfilled in an orderly and timely fashion. In determining whether to issue a permit for a high-voltage transmission line the Commission must consider the factors contained under Minn. R. 7850.4100. A route permit issued by the Commission must specify the design, routing, right-of-way preparation, facility construction, and any other conditions it deems appropriate.<sup>1</sup>

---

<sup>1</sup> Minn. Stat. § 216E, subd. 10.

Applicants submitted their route permit application under the alternative review process as outlined in Minn. Rules 7850.2800 – 7850.3900.

#### **IV. PROCEDURAL HISTORY**

On September 18, 2014, GRE and MP filed a notice plan petition for the project. The Commission approved the notice plan on December 8, 2014.

On January 15, 2015, GRE and MP filed a combined certificate of need and a route permit application for the project.

On March 18, 2015, the Commission issued an Order Finding Application Complete, Directing Use of the Informal Review Process, and Authorizing Joint Proceedings and Combined Environmental Review.

#### **V. ENVIRONMENTAL REVIEW**

Certificate of need applications for transmission lines are also subject to environmental review conducted by EERA staff; staff must prepare an environmental report (ER) for such projects.

Route permit applications for transmission lines are subject to environmental review conducted by EERA staff. Projects proceeding under the alternative permitting process require the preparation of an environmental assessment (EA).<sup>2</sup> An EA is a document which describes the potential human and environmental impacts of a proposed project and possible mitigation measures.

If an applicant has filed a certificate of need application and then files an application for a route permit (for the same project) prior to completion of the ER, EERA staff may elect to prepare an EA in lieu of an ER.<sup>3</sup> If an EA is prepared in lieu of an ER, the EA must include an analysis of alternatives to the project required by Minnesota Rule 7849.1500.<sup>4</sup> For the applicants' proposed project, EERA staff has elected to prepare one environmental review document for the project, an EA.

On February 27, 2015, the Commission and the Department of Commerce issued a Notice of Public Information and Environmental Assessment Scoping Meeting in accordance with Minn. R. 7850.2300. One public meeting was held in the city of Menahga on March 24, 2015 to provide project information and to identify issues and route alternatives to be addressed in the EA. Public comments on scoping issues and possible alternative routes to be considered in the scope of the EA were accepted until April 10, 2015.

---

<sup>2</sup> Minnesota Rule 7850.3700.

<sup>3</sup> Minnesota Rule 7849.1900.

<sup>4</sup> Id.

On May 26, 2015, the Deputy Commissioner of the Department of Commerce issued the EA Scoping Decision in accordance with Minn. R. 7850.3700, subp. 2. The scoping decision identified the issues to be addressed in the EA including potential human and environmental impacts, alternative sites or routes, and a schedule for completion of the EA.

On September 28, 2015, the EERA issued the Environmental Assessment and a Notice of Availability of EA was published in the EQB Monitor in accordance with Minn. R. 7850.3700, subd. 6. The EA contained a comprehensive description of the proposed Project, proposed route as well as alternatives to the Project; a discussion of alternatives required under Minn. R. 7849.1500, a discussion of potential impacts of the Project and any alternatives on the human and natural environment; reasonable mitigation measures that could be implemented to minimize any identified adverse impacts; and required permits and approvals.

## **VI. PUBLIC HEARING**

On October 19, 2015, administrative law judge James Mortenson presided over a public hearing on the proposed Menahga Area 115 kV transmission line project.<sup>5</sup> A comment period for submission of written comments into the record for the certificate of need and route permit applications was open until November 2, 2015.

The hearing procedures included a brief presentation of the proposed Project; an explanation of the process to be followed; introduction of documents to be included in the record; and an opportunity for any person to present and to ask questions of the applicant, EERA staff, and commission staff. The hearings continued until all persons had the opportunity to offer testimony and ask questions. A court reporter was present to transcribe the public hearings.

On November 18, 2015, Judge Mortenson filed a summary of public testimony from the public hearing. According to the judge's report at least 26 people attended the public hearing. 59 exhibits were entered into the record. Five people asked questions and made comments during the public hearing.

## **VII. PROPOSED FINDINGS OF FACT AND CONCLUSIONS**

On November 18, 2015, Great River Energy and Minnesota Power (applicants) provided proposed findings of fact and conclusions of law for the project (Report). The applicants also provided recommended revisions to the generic route permit template for the project.

The Report addressed only the routing of the transmission line. It includes 180 findings of fact, including a summary of public comments and government agency participation (findings 71 to 77), and 11 conclusions (identified as items 183-193).

The Report documented that the required process for a certificate of need and a route permit were followed, and presented findings of the decision criteria under Minn. Statute 216E and

---

<sup>5</sup> Notice of the hearing was mailed and published in accordance with Minn. Stat. § 216E.03, subd. 6 and Minn. R. 7850.2600.

Minn. R. 7850. The finding of facts included identification of the applicants; procedural requirements that were conducted; description of the proposed Project; an overview of the certificate of need; facts related to the route permit proceeding including alternative routes considered (both route alternatives proposed by the applicants and routes proposed through public participation); technical description of the transmission line structures, conductors, ROW widths; project schedule, costs; identification of public and government agency participation in the proceedings; application of statutory and rule factors to the proposed route and route alternatives; and facts related to the adequacy of the EA.

The Report's conclusions were:

1. The Commission has jurisdiction to consider the Application.
2. The Commission determined that the Application was substantially complete and accepted the Application on March 18, 2015.
3. The EA process is the alternative environmental review approved by the EQB for high voltage transmission lines. Accordingly, the EA process satisfies the requirements of the Minnesota Environmental Policy Act ("MEPA"), which does not require that an EIS be completed for the Project. EERA has conducted an appropriate environmental analysis of the Project for purposes of this Route Permit proceeding and the EA satisfies Minnesota Rule 7850.3700. Specifically, the EA and the record address the issues and alternatives identified in the Scoping Decision to a reasonable extent considering the availability of information, and the EA includes the items required by Minnesota Rule 7850.3700, Subpart 4, and was prepared in compliance with the procedures in Minnesota Rule 7850.3700.
4. Applicants gave notice as required by Minnesota Statutes Section 216E.04, Subdivision 4; Minnesota Rule 7850.2100, Subpart 2; Minnesota Rule 7850.2100, Subpart. 4.
5. Notice was provided as required by Minnesota Statutes Section 216E.04, Subdivision 6; Minnesota Rule 7850.3500, Subpart 1; Minnesota Rule 7850.3700, Subparts 2, 3, and 6; and Minnesota Rule 7850.3800.
6. A public hearing was conducted near the Proposed Route. Proper notice of the public hearing was provided, and the public was given the opportunity to speak at the hearing and to submit written comments. All procedural requirements for the Route Permit were met.
7. The evidence on the record demonstrates that the Proposed Route satisfies the Route Permit factors set forth in Minnesota Statutes Section 216E.04, Subdivision 8 (referencing Minnesota Statutes Section 216E.03, Subdivision 7) and Minnesota Rule 7850.4100.

8. There is no feasible and prudent alternative to the construction of the Project along the Proposed Route, and the Project is consistent with and reasonably required for the promotion of public health and welfare in light of the state's concern for the protection of its air, water, land, and other natural resources as expressed in the Minnesota Environmental Rights Act.
9. The evidence on the record demonstrates that the Proposed Route is the best route for the Project.
10. The evidence on the record demonstrates that the general Route Permit conditions are appropriate for the Project.
11. Any of the foregoing Findings more properly designated Conclusions are hereby adopted as such.

## **VIII. COMMENTS AND REPLY COMMENTS**

### **A. Donna and Curtis Andersen's position**

On December 2, 2015, Donna and Curtis Andersen and the Donna J. Andersen Trust (Andersens) through their attorney provided comments on the summary of public testimony and the applicants' proposed findings of fact and conclusions of law.

In their comments, the Andersens raised a number of concerns regarding the need for the project, scope of the project, raised issues about the Environmental Assessment findings and offered corrections to the ALJ's Summary of Testimony from the public hearing. Ms. Overland, the Andersen's attorney, also provided comments and proposed corrections to the Findings of Fact and Conclusions report that was submitted by GRE.<sup>6</sup> Ms. Overland requested time during the Agenda Meeting to address the issues presented in her written comments.

The Andersens' comments mainly object to the proposed transmission line running through their property, on the north side of the Hubbard Line Road because the proposed easement of 100 feet would cause a clear-cut of the forested area of their property along the road. Ms. Andersen commented that her land is in a DNR Woodland Stewardship Plan since 2007 and that she has worked with the Forest Service on a plan to manage this forest land. Her Woodland Stewardship Plan was entered into the record as Exit 54<sup>7</sup>.

The Andersens proposed that the line be routed on the south side of the Hubbard Line Road, which they contend it is a farm field without trees.

### **B. GRE and MP Reply Comments and Proposed Permit Template Revisions**

---

<sup>6</sup> Andersen Comments, eDockets ID [201512-116129-01](#).

<sup>7</sup> Exhibit 54, Document ID [201510-115069-03](#).

On November 20, 2015, Great River Energy and Minnesota Power filed a letter<sup>8</sup> with the Commission providing nine (9) specific recommended revisions to the Route Permit Template<sup>9</sup> for the . In their letter, the Applicants proposed revisions to permit template sections 4.0, 5.1, 5.2.8, 5.2.12, 5.2.13, 5.2.17, 9.1, 9.4, and 9.5.

Commission staff will not restate the Applicants' proposed revisions, but will address them individually as part of the EERA comments below.

On December 7, 2015 the Applicants filed comments in response to the Andersens' comments indicating that the Andersens' purported changes to the ALJ's Summary of Public Testimony and the Applicants' proposed findings were not contemplated by the procedural schedule in this proceeding and, as a result, the Applicant maintained that the Andersens' comments were not authorized and should be rejected. The Applicant responded to four main issues brought up by the Andersens, which it believed were misstatements of the record:

1. In the Environmental Assessment, comments submitted by the United States Fish and Wildlife Services ("USFWS") and the Minnesota Department of Natural Resources ("DNR") recommend minimizing tree clearing that could be used as roosting habitat for the Northern Long-Eared Bat, but the two agencies did not specifically recommend avoiding the Andersens' property. The Andersen's property has not been found to be populated with the Northern Long-Eared Bat.
2. Environmental setting near the Andersens' property; Andersens claim that Hubbard Line Road is not a "highway" or an established "transmission corridor" and as such it should be avoided. Also, the Andersen's claim that the land south of the Hubbard Line Road is a farm field, more suitable to a transmission line, versus their forested property. GRE commented that although Minn. Statute 216E does not specifically define the term "highway." However, Minn. Statutes Section 160.02, subd. 26 does provide a definition for the term "highway," which includes any roads designated as minimum-maintenance roads, such as Hubbard Line Road. Regarding the forested versus farm field land cover issue, GRE referred to EA Appendix D, maps 10-11 and Appendix E, map E-1 that show the land area south of Hubbard Line Road, in Section 31 as forested land.
3. The Andersens misrepresented the need for the 4.5-mile double circuit portion of the Project in their revisions to Finding 47, suggesting that it is possibly related to a pumping station. The Application clearly provides that "first 4.5 miles of this section of the Project (from the existing Great River Energy Hubbard Substation west to CR 115) is proposed to be a double circuit project to the north to address load-serving needs in the Osage area."<sup>10</sup>
4. The Andersens recommend a change to Finding 125 regarding the project's magnetic field levels and the effects on human health. The Andersens' suggested revision is

---

<sup>8</sup> GRE Letter to the Commission, Document ID [201511-115848-01](#).

<sup>9</sup> Route Permit Template, Document ID [20157-112081-01](#).

<sup>10</sup> Application, p.4-5.



contrary to the state of the science and this Commission's prior orders and must be disregarded.<sup>11</sup>

### **C. EERA's Comments and Recommendations**

EERA staff provided comments<sup>12</sup> to address public comments on the environmental assessment prepared for the project, the applicants' proposed findings and recommendations, the applicants' suggested permit revisions and the Andersen's comments on the summary of public testimony and the applicants' proposed findings and conclusions.

#### **1. EERA's Response to Public Comments on the EA**

In addressing the oral comments received during the public hearing from landowner Donna Andersen who owns a 78-acre parcel of mostly forested land in section 31 of Straight River Twp, EERA staff concluded that the EA inadvertently omitted this township section in the areas listed as of moderate biological significance areas. Ms. Andersen's property falls into both of these categories – it is a forested area and it is an area of biological significance (a rare and unique resource). The EERA and Ms. Andersen are in agreement regarding mitigation for potential impacts to the forested area of biological significance – impacts can be mitigated by placing the line away from this area.

EERA staff disagreed with the comments Ms. Overland provided on behalf of the Andersen family regarding the adequacy of the EA. EERA staff provided answers and pointed to sections of the EA where that information is presented.

Ms. Andersen also provided written comments into the record that closely followed the topics that she offered as oral comments during the public hearing. Ms. Andersen claims that the EA does not properly depict forested lands, specifically with respect to land on the south side of Hubbard Line Road. EERA disagreed and pointed to route maps included in the EA that indicate the area south of Hubbard Line Road near Ms. Andersen's property is forested (in part), but much less so than Ms. Andersen's property on the north side of Hubbard Line Road.

In regard to a claim made by Ms. Overland in her written comments that the project may generate elevated levels of magnetic fields, EERA responded that the project magnetic levels indicated in the EA were calculated based on expected average and peak loads, not the maximum ampacity of the conductors, as asserted by Ms. Overland. EERA staff asserted that maximum ampacity is not an appropriate analysis of amperage levels or of potential impacts due to magnetic fields associated with the transmission line.

#### **2. EERA's Comments on Proposed Findings of Fact and Conclusions (FOF)**

---

<sup>11</sup> See, e.g., In the Matter of the Application of ITC Midwest LLC for a Route Permit for the Minnesota-Iowa 345 kV Transmission Line Project in Jackson, Martin, and Faribault Counties, Docket Nos. ET6675/CN-12-1053 and ET6675/TL-12-1337, Final Environmental Impact Statement, at 67 (concluding that the Minnesota Public Utilities Commission's current EMF standards are adequately protective of human health and safety).

<sup>12</sup> EERA Comments and Recommendations, Document ID [201512-116307-01](#).

EERA staff provided comments on the Applicants' FOF and also provided recommended changes in an edited version of the FOF document, included as Attachment A to the comments. EERA staff had the following conclusions regarding the FOF report:

- EERA recommended that the conclusions be numbered separately from the findings (i.e. beginning 1, 2, 3, etc.). EERA staff has not undertaken this renumbering in Attachment A. EERA's references here utilize the numbering scheme provided in the applicants' proposed FOF.
- EERA staff recommended editing applicants' proposed Conclusion 185 to remove discussion of the EA and the Minnesota Environmental Policy Act. As noted above, the environmental review process for the Menahga project is statutorily prescribed by the Power Plant Siting Act, and is not a form of alternative environmental review as provided for by EQB rules.
- EERA staff recommended adding Conclusion 202 to note that modifying the applicants' proposed alignment near the Andersens property to place the alignment on the south side of Hubbard Line Road (Andersen alignment) mitigates potential impacts to trees and rare and unique natural resources and is appropriate for the project (see Attachment B).
- EERA staff recommended splitting applicants' proposed Conclusion 189 into two conclusions to better reflect the analysis in the EA and to accommodate the possibility of the Commission selecting a route other than the applicants' proposed route. EERA staff recommends Conclusion 202 to note that for the segment of the project between the Hubbard substation and the proposed Blueberry substation, the proposed route – with the Andersen alignment and the proposed Blueberry substation site – is the most appropriate route for the project.
- In Conclusion 204, EERA staff provided an option for the Commission to select either the proposed route or the 119th Ave. route alternative as the most appropriate route for the project between the proposed Blueberry substation and the proposed Red Eye substation. EERA staff finds that these two routing options are the most consistent with the routing factors of Minnesota Rule 7850.4100 and that the differences between them are minimal. The differences that do exist are discussed here.
  - The 119th Ave. route alternative minimize aesthetic impacts by placing the line near fewer residences – 7 residences versus 14 for the proposed route. However, one of these residences is within 51-100 feet of the anticipated alignment and no residences are at this distance for the proposed route. The number of residences near the anticipated alignment for the 119th Ave route alternative could be further reduced by utilizing a segment of the Pipeline South route alternative (see Attachment C) – making it 5 residences versus 14 for the proposed route.

- The proposed route minimizes aesthetic impacts by best utilizing existing infrastructure ROW and placing like with like. The proposed route follows existing infrastructure ROW for 95 percent of its length; the 119th Ave. route alternative follows existing infrastructure ROW for 89 percent of its length. Additionally, the roadway followed by the proposed route is a paved county road; the roadway followed by the 119th Ave. route alternative is a non-paved township road.
- The proposed route impacts slightly fewer forested acres than the 119th Ave. route alternative (17.8 acres versus 22.4 acres). In sum, the 119th Ave. route alternative places the line away from residences in a slightly more rural and forested setting, while the proposed route places the line along existing infrastructure ROW with relatively more residences.
- EERA staff recommended removing applicants' proposed Conclusions 190 and 191. Applicants' proposed Conclusion 190 uses the phrase "no feasible and prudent alternative" – a phrase that, to EERA staff's reading, implies a presumption that the applicants' proposed route should be granted if there are no feasible and prudent alternatives. EERA staff finds no such presumption in Minnesota Statute 216E.04 or in Minnesota Rule 7850.4100. Additionally, as discussed above, EERA staff believes there are feasible and prudent alternatives to the applicants' proposed route. Applicants' proposed Conclusion 191 is repetitive with applicant's proposed Conclusion 189 and is replaced by Conclusions 203 and 204.
- EERA staff recommended adding Conclusion 206 to mitigate potential impacts to the Alajoki Cemetery.
- EERA staff recommended adding Conclusion 207 to provide for a Phase I archaeological survey for the project as recommended by the State Historic Preservation Office.
- EERA staff recommended adding Conclusion 208 to require the development of an avian mitigation plan in consultation with the DNR and USFWS, as recommended by the DNR.
- EERA staff recommended adding Conclusion 209 to require the development of a vegetation management plan in consultation with the DNR, as recommended by the DNR.
- EERA staff recommended adding Conclusion 210 to require the mitigation strategies recommended by DNR for rare and unique natural resources.
- EERA staff recommended adding Conclusion 211 to require that the Commission be informed of any additional bat studies conducted for the project.

### **3. EERA's Comments on the Applicants' Proposed Revisions to the Generic Route Permit Template**

EERA reviewed and responded to each of the applicants' nine proposed revisions to the generic route permit template, rejecting four (permit template sections 4.0, 5.1, 5.2.8 and 5.2.12), accepting three (5.2.13, 5.2.17 and 9.1) and offering a compromise on the remaining two revisions (9.4 and 9.5). These proposed revisions, along with the proposals from the Applicants will be addressed together in a combined document described in the Commission staff analysis below.

### **4. EERA Comments on the Andersens' Comments on the Summary of Public Testimony and the Applicants' Proposed Findings**

EERA reviewed both the Andersens' comments on the summary of public testimony and the proposed changes to the Applicant's FOF and responded that it is not necessary to adopt or include any of the Andersens' revisions because the information is either already in the record, incorrect or not relevant to the project.

Regarding the Andersens' comments on the applicants' proposed FOF, EERA recommended these comments not be incorporated into the Commission's findings for the project because many of the comments are already reflected in EERA's proposed edits (Attachment A) – e.g., placing the anticipated alignment for the project on the south side of Hubbard Line Road near the Andersens' property (Andersens' proposed Findings 75, 76, 158, 162, 193). Second, several of the comments are not relevant and/or are incorrect as proposed (Andersens' proposed Findings 47, 63, 64, 125). Third, several of the comments are a continuation of the Andersens' comments on the EA and are inappropriate as findings (Andersens' proposed Findings 95, 131, 176). Lastly, several of the comments are directed to the need for the project and are not relevant with respect to routing (Andersens' proposed Findings 67, 167).

## **IX. STAFF ANALYSIS**

Based on information in the certificate of need and route permit applications; the analysis provided in the EA; public comments received in this matter; the ALJ Summary of Testimony; and other evidence in the record, staff provides the following discussion and recommendations.

### **A. Adequacy of the Environmental Assessment**

Staff has reviewed the EA and agrees with the proposed FOF that EERA: (1) conducted an appropriate environmental analysis of the Project for purposes of the proceedings; (2) addressed the issues and alternatives raised in scoping; (3) provided responses to the timely and substantive comments received during the EA scoping process; and (4) prepared the EA in compliance with the procedures in Minn. R. 7849.1500, 7850.3700 and 7850.4100. Therefore, staff recommends that the Commission find that the EA is adequate for the project.

### **B. ALJ Summary of Public Testimony Report**

Based on its review, staff recommends that the Commission accept the ALJ Summary of Public Testimony Report without any modifications.

### **C. Applicants' Proposed Findings of Fact and Conclusions**

Staff has reviewed the Applicants' proposed Findings of Fact and Conclusions report as well as the comments and revisions proposed by Ms. Overland on behalf of the Andersens, the reply comments from GRE and also the comments and recommendations received from EERA as well as the entire information available in the record. Based on the information in the record, staff believes that the FOF report should be adopted after including all the suggested revisions proposed by the Department, including renumbering the findings and conclusions separately (i.e. Findings 1, 2, 3, etc.; Conclusions 1, 2, 3, etc.).

The final proposed FOF report will be attached to these briefing papers as Attachment 1.

### **D. Certificate of Need**

Department of Commerce Division of Energy Resources (DER) provided its analysis of the application with respect to the need for the project in comments filed on August 20, 2015 and supplemental comments filed on October 2, 2015.

DER conducted its review of the project based on five broad categories as reflected in Minnesota Statutes and more specifically in Minn. Rules part 7849.0120. The five broad categories are:

- need analysis;
- link to planning process;
- analysis of the alternatives;
- socio-economic analysis; and
- policy analysis.

DER reviewed the applicants' proposed project and numerous alternatives for the project to address the local system overload issues and to serve the new pump station load, which included a local peaking generation alternative, distributed generation, renewable generation, various transmission solutions, upgrading the existing 34.5 kV distribution system, different voltage levels and a no-build alternative focusing on reactive power supply improvements, as well as demand side management. DER concluded that the proposed new 115 kV transmission line is the best and most cost-effective solution to address the power needs in the Menahga area and therefore recommended that the Commission approve the Applicants' Petition for a Certificate of Need.

Staff agrees with the conclusions and recommendation provided by the DER.

### **E. Route Permit Conditions**

Staff agrees with EERA's proposed modifications to the Generic Route Permit Template and suggests incorporating all the EERA's revisions into the final route permit. The final Route Permit will be attached to the briefing papers as Attachment 2.

#### **F. Designated Route**

Regarding selecting the final route for the 115 kV Menahga transmission project, staff agrees with the Department's analysis that the proposed route or the 119<sup>th</sup> Ave route alternative are the two most feasible routes for the Commission to select from. Staff also concurs with the Department's finding that selecting the "Andersen alignment" that would place the line on the south side of the Hubbard Line Road in Section 31 of Straight River Township would avoid clear-cutting of up to 5 acres of forested land on Andersen property, which the EA concluded is an area of biological significance. For the reasons detailed in the Department's analysis, staff agrees that including the Andersen alignment in the final route permit is appropriate, as depicted on the final route maps attached to these briefing papers.

**Commission Decision Alternatives****A. Environmental Assessment**

1. Determine that the environmental assessment and the record created at the public hearing addresses the issues identified in the environmental assessment scoping decision.
2. Take some other action deemed appropriate.

**B. Findings of Fact and Conclusions**

1. Approve and adopt the Applicants' proposed Findings of Fact and Conclusions for the Menahga Area 115 kV Transmission Line Project.
2. Approve and adopt the Findings of Fact and Conclusions to include the modifications proposed by the EERA.
3. Approve and adopt the Findings of Fact and Conclusion with the edits proposed by the Andersens.
4. Take some other action deemed appropriate.

**C. Certificate of Need**

1. Grant a certificate of need to Great River Energy and Minnesota Power for the Menahga Area 115 kV Transmission Line Project.
2. Do not grant a certificate of need for the Menahga Area 115 kV Transmission Line Project.
3. Take some other action deemed appropriate.

**D. High-Voltage Transmission Line Route Permit.**

1. Issue a high-voltage transmission line route permit identifying the Applicants' proposed route.
2. Issue a high-voltage transmission line route permit identifying the Applicants' proposed route with the "Andersen alternative" as recommended by EERA.
3. Issue a high-voltage transmission line route permit identifying the 119<sup>th</sup> Ave Route Alternative.
4. Decline to issue a route permit.

5. Take some other action deemed appropriate.

**E. Route Permit Conditions**

1. Accept the permit conditions as proposed by the Applicants.
2. Accept the revised permit conditions as proposed by DOC EERA and identified by Commission staff.
3. Take some other action deemed appropriate.

**Staff Recommendation:** A.1, B2, C1, D.2, and E2.