

- Removal of the 161 kV transmission lines from the two lakes would add an estimated \$7.8 million to the cost of the Project.
- ITC Midwest has proposed structures for the Project that are capable of carrying the 161 kV circuits that span the lakes to allow relocation of the lines in these areas when rebuilds are needed due to age or other considerations.

Staff agrees that removal of the 161 kV may likely create positive impacts to the lakes, however, the removal of the existing lines is not a necessary part of the Project and is not appropriate at this time. Therefore, staff does not recommend that the Commission require removal and rerouting of the 161 kV lines that span Fox Lake and Lake Charlotte as part of the Project.

Permit Language

Staff agrees with all of EERA's suggested modifications to only the conclusions and the permit language as suggested by the ALJ in his Report (**Attachment 3**). EERA proposed modifications to the following Conclusions in the ALJ Report that relate to general permit language:¹

- Noise Standards and Project Construction Hours (Conclusion 24)
- Interference with Communication Devices (Conclusion 25)
- Agricultural Impact Mitigation Plan (Conclusion 26)
- Vegetation Management Plan (Conclusion 28)
- Stormwater Pollution Prevention Plan (Conclusion 29)
- Construction Environmental Control Plan (Conclusion 30)
- Des Moines River Crossing (Conclusion 31)
- Archaeological and Historic Resources (Conclusion 32)

In addition, staff suggests that ALJ's Conclusion 33 (see below) should be ~~stricken as it does not provide adequate information for a permit condition~~ modified to specify the Department of Commerce as the state agency that prepares the right-of-way information. (e.g., what state agencies would be preparing the right-of-way information or what is relevant right-of-way information?)

The permittee shall distribute to relevant landowners information prepared by ~~state agencies~~ the Department of Commerce regarding landowner rights with respect to right-of-way negotiations concurrent with the permittee's first contact with these landowners regarding right-of-way acquisition.

¹ See EERA Exceptions to Administrative Law Judge's Report (September 23, 2014), Sec. IV., pp. 19-24: eDocket ID [20149-103237-02](#).

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COMMISSION DECISION ALTERNATIVES

A. Environmental Assessment

1. Find that the EIS meets the requirements of Minn. R. 7850.1500, subp. 10, in that it:
 - Addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application;
 - Provides responses to the timely substantive comments received during the draft environmental impact statement review process; and
 - Was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.
2. Take some other action deemed appropriate.

B. Findings of Fact, Conclusions of Law and Recommendation

1. Approve and adopt the ALJ's Findings of Fact, Conclusions of Law and Recommendation for the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project.
2. Approve and adopt the ALJ's Findings of Fact, Conclusions of Law and Recommendation for the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project with modifications to Conclusions 24, 25, 26, and 28-32 relating to permit conditions as proposed by EERA in its Exceptions to the ALJ's Report, and ~~strike~~ modify Conclusion 33 as recommended by Commission staff.
3. Approve and adopt the ALJ Findings of Fact, Conclusions of Law and Recommendation for the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project, with the modifications or combination thereof proposed by EERA in its Exceptions to the ALJ's Report.
4. Approve and adopt the ALJ Findings of Fact, Conclusions of Law and Recommendation for the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project, with the modifications or combination thereof proposed by No CapX 2020 in its Exceptions to the ALJ's Report.
5. Take some other action deemed appropriate.

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C. Certificate of Need

1. Grant a certificate of need for the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project.
2. Grant a certificate of need for the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project, and impose the conditions as proposed by DOC DER in its Exceptions to the ALJ's Report.¹
3. Do not grant a certificate of need for the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project.
4. Take some other action deemed appropriate.

D. High-Voltage Transmission Line Route Permit

1. Issue a high-voltage transmission line route permit identifying Modified Route A for the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project in Jackson, Martin, and Faribault Counties.
2. Issue a high-voltage transmission line route permit identifying alternative route I90-2 for the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project in Jackson, Martin, and Faribault Counties, as recommended by EERA.
3. Do not issue a route permit for the ITC Midwest Minnesota – Iowa 345 kV Transmission Line Project.
4. Take some other action deemed appropriate.

Staff Recommendation: A1, B2, C2, and D1

¹ Should the Commission choose this Decision Alternative, Conclusion 11 of the ALJ Report that indicates no conditions on the certificate of need are necessary should be stricken.

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Attachment 4 of Commission Staff's Briefing Papers
Section 5.1 of Proposed High-Voltage Transmission Line Route Permit
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5.1 Notification to Landowners

The Permittee shall provide all affected landowners with a copy of this permit and, as a separate information piece, the complaint procedures at the time of the first contact with the landowners after issuance of this permit. The Permittee shall contact landowners prior to entering the property or conducting maintenance along the route. At the time of first contact, the Permittee shall also provide all affected landowners with a copy of the Department of Commerce's Rights-of-Way and Easements for Energy Facility Construction and Operation fact sheet.¹

The Permittee shall work with landowners to locate the high-voltage transmission line to minimize the loss of agricultural land, forest, and wetlands, and to avoid homes and farmsteads.

¹ http://mn.gov/commerce/energyfacilities/documents/Easements%20Fact%20Sheet_08.05.14.pdf

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Attachment 4 of Commission Staff's Briefing Papers
Section 4.0 of Proposed High-Voltage Transmission Line Route Permit
Docket No. 12-1053 and 12-1337 on October 23, 2014

4.0 RIGHT-OF-WAY

The approved rights-of-way for the Project are as follows:

- 345 kV single-circuit structures, 161/345 kV double-circuit structures, and 69/161/345 kV triple-circuit structures shall be constructed and maintained within a 150-foot right-of-way. The Permittee will have vegetation management rights and will prohibit placement of other structures within the 150-foot right-of-way. The Permittee may trim or remove trees that pose a threat to the transmission facility within the 25-foot area adjacent to and on either side of the 150-foot right-of-way in accordance with the Vegetation Management Plan. ~~The Permittee may only trim or remove trees that pose a threat to the transmission facility within the outer 25 feet on either side of the center 150-foot right-of-way.~~
- 345 kV/161 kV double-circuit structures that cross through the Pilot Grove Lake Waterfowl Production Area shall be constructed and maintained within the existing 100-foot right-of-way.
- 161 kV/161 kV double-circuit capable and 161 kV single-circuit structures shall be constructed and maintained within a 100-foot right-of-way. The Permittee will have vegetation management rights and will prohibit placement of other structures within the 100-foot right-of-way. The Permittee may trim or remove trees that pose a threat to the transmission facility within the 25-foot area adjacent to and on either side of the 100-foot right-of-way in accordance with the Vegetation Management Plan. ~~The Permittee may only trim or remove trees that pose a threat to the transmission facility within the outer 25 feet on either side of the center 100-foot right-of-way.~~
- The Permittee shall utilize its existing rights-of-way associated with the existing single circuit 161 kV transmission line being replaced to the greatest extent possible.

This permit anticipates that the right-of-way will generally conform to the alignment identified on the attached route permit maps unless changes are requested by individual landowners and agreed to by the Permittee or for unforeseen conditions that are encountered or are otherwise provided for by this permit.

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Attachment 4 of Commission Staff's Briefing Papers
Section 4.0 of Proposed High-Voltage Transmission Line Route Permit
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Any alignment modifications within the designated route shall be located so as to have comparable overall impacts relative to the factors in Minn. R. 7850.4100, as does the alignment identified in this permit, and shall be specifically identified and documented in and approved as part of the plan and profile submitted pursuant to Section 9.1 of this permit.

Where the transmission line route parallels existing highway and other road rights-of-way, the transmission line right-of-way shall occupy and utilize the existing right-of-way to the maximum extent possible, consistent with the criteria in Minn. R. 7850.4100, the other requirements of this permit, and for highways under the jurisdiction of the Minnesota Department of Transportation (Mn/DOT) rules, policies, and procedures for accommodating utilities in trunk highway rights-of-way.