

Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date: January 22, 2015 Agenda Item # 3*

Company: **Great River Energy and Minnesota Power**

Docket No. **ET2, E015/CN-14-853**

In the Matter of the Application of Great River Energy and Minnesota Power
for a Certificate of Need for the Motley Area 115 kV Transmission Line
Project in Morrison, Cass and Todd Counties, Minnesota.

Issue(s): Should the Commission approve the proposed notice plan?
Should the Commission approve the exemption request?

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I. Relevant Documents

Notice Plan PetitionOctober 1, 2014
Great River Energy Supplemental Information to Notice Plan Petition.....October 17, 2014
Department of Commerce (EERA) Comments on Notice Plan PetitionOctober 21, 2014
Department of Commerce (DER) Comments on Notice Plan Petition.....October 21, 2014
Exemption Request Petition.....October 30, 2014
Notice of Comment Period on Exemption Request PetitionNovember 3, 2014
Great River Energy Reply Comments on Notice Plan PetitionNovember 10, 2014
Department of Commerce (DER) Comments on Exemption RequestNovember 14, 2014

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

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II. STATEMENT OF THE ISSUE

1. Should the Commission approve the notice plan for the proposed Motley Area 115 kV Transmission Line Project?
2. Should the Commission approve a variance to Minnesota Rule 7829.2550, subpart 6, on the timing of the implementation of the notice plan?
3. Should the Commission approve a variance to Minnesota Rule 7829.2500, subpart 5, which requires an applicant to publish a newspaper notice upon filing a certificate of need application?
4. Should the Commission approve the request for exemption from certain certificate of need application content requirements?

III. PROJECT OVERVIEW

Great River Energy (GRE) and Minnesota Power (MP) (together, the Applicants) intend on filing a combined certificate of need (CN) and Route Permit (Permit) application for their proposed Motley Area 115 kV transmission line project in Morrison, Cass and Todd counties (Project). GRE is the lead utility for the application. The Project is driven by Great River Energy's load-serving needs, including the need to serve a proposed new Minnesota Pipe Line (MPL) Company pumping station and Minnesota Power's load-serving needs.

The proposed project is a "large energy facility" as defined by Minnesota Statute, section 216B.2421, subdivision 2(3). Pursuant to Minnesota Statute, section 216B.243, subdivision 2, no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the Commission.

IV. PROCEDURAL BACKGROUND

On October 1, 2014, GRE and MP filed a notice plan petition for their proposed 115 kV transmission line project in the Motley Area in Morrison, Cass, and Todd counties. Initial comments on the notice plan petition were accepted until October 21, 2014, reply comments were accepted until November 10, 2014. On October 17, 2014, the Applicants filed supplemental information that stated the reason of their request for variance to Minnesota Rule 7829.2500, subpart 5. Publication in Newspapers.

On October 30, 2014, GRE also filed a request for exemption from certain certificate of need application requirements of Minnesota Rules, chapter 7849. A notice of comment period on the exemption request was issued by the Commission on November 3, 2014, requesting initial comments by November 17, 2014 and reply comments by December 1, 2014.

On October 21, 2014, the Minnesota Department of Commerce (Department), Division of Energy Environmental Review and Analysis (EERA) and Division of Energy Resources (DER) separately filed initial comments on the notice plan petition.

On November 10, 2014, GRE filed comments in response to EERA comments on the Notice Plan Petition.

On November 14, 2014, the DER filed initial comments on the exemption request.

V. NOTICE PLAN PETITION

The proposed notice plan is being reviewed in accordance with Minnesota Rule 7829.2550, which establishes criteria for evaluating notice plans when seeking a certificate of need for a high-voltage transmission line. The rule includes criteria for the types of notice, the content of notices, and the timing for implementation of the notice plan.

A proposed notice plan must include notice of the proposed project to the following persons by the method specified:

- direct mail notice to landowners reasonably likely to be affected by the proposed project;
- direct mail notice to all mailing addresses within the area likely to be affected by the project;
- direct mail notice to tribal governments and local governmental units (towns, cities, and counties) likely to be affected by the proposed project; and
- published notice in newspapers with general circulation in the areas likely to be affected by the proposed project.

A proposed notice plan must provide the following information in all notices that are required to be distributed:

- a map showing the location of the proposed project and any existing transmission facilities in the area;
- a description of the right-of-way requirements for the proposed line(s) and a statement that the applicant intends to acquire property rights for any needed land that the proposed project will require;
- a notice that the proposed project cannot be constructed without a determination of need by the Commission;
- the Commission's mailing address, telephone number and website address;
- the website address where the applicant will post or has posted its biennial transmission projects report, if the applicant is a utility subject to Minnesota Rules, chapter 7848;
- a statement that the Minnesota Department of Commerce will be preparing an environmental report for the proposed project;
- an explanation of how to get on the Commission's mailing list for the proceeding; and
- a statement that the requested certificate of need for the proposed project is governed by Minnesota law, including specifically Minnesota Rules, chapter 7849, and Minnesota Statutes 216B.243.

In accordance with Minnesota Rule 7829.2550, subpart 6, a notice plan must be implemented within 30 days of its approval by the Commission.

VI. Minnesota Department of Commerce, EERA and DER Comments

The Department concludes that the Applicant's Notice Plan for residents, landowners, and governmental entities is reasonable with the addition of Villard Township in Todd County to the list of government entities.

The Department reviewed the cover letters and maps provided by the Applicants and concluded that the Applicants' proposal for the resident/landowner notice, governmental notice, and newspaper notice generally contains the required information and is acceptable after inclusion of the EERA's edits as listed in the EERA's comments¹.

The Department concludes that enforcement of the rule would burden all parties involved by separating the provision of notice from the start of the proceeding. Granting the variance would not adversely affect the public interest since the Applicant's proposal would more closely tie the implementation of notice to the beginning of the CN proceeding. The Department is not aware that the variance would conflict with standards imposed by law. Therefore, the Department recommends that the Commission approve the Applicant's request to implement the notice plan no more than 60 days prior to the filing of the CN petition.

The Department recommends that the Commission grant the Applicants' request for a variance to the newspaper notification requirement of Minnesota Rules 7829.2500, subp. 5 since the Applicants will be filing a combined certificate of need and route filing and Minnesota Rules 7850.2100, subp. 4 requires that newspaper notice be filed within 15 days after submission of a route permit application.

VII. GRE Reply Comments

GRE agreed with the Department's recommendation and provided an updated example notice letter as Attachment A.

GRE also provided an additional viable route option and modified the example letter accordingly. The additional route option interconnects with the Minnesota Power "24" Line approximately one and one-half miles southeast of the previously proposed interconnection.

VIII. EXEMPTION REQUEST

The specific provision related to the exemption request is Minnesota Rule 7849.0200, subpart 6, providing an applicant the opportunity to request exemption from any data requirements of Minnesota Rules 7849.0010 to 7849.0400, before submitting an application for a certificate of need. Under the rule, a request for exemption must be filed at least 45 days before submitting a certificate of need application. An applicant may be exempted from certain data requirements if it shows that the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting alternative data.

¹ EERA October 21, 2014 Comments include redlined Attachment 1 to reflect the recommendation.

IX. Proposed Exemption Request

GRE is requesting certain exemptions from the application content requirements of Minnesota Rules, chapter 7849. The rules and GRE's scope of exemptions are described as follows:

1. Line Losses – Minnesota Rule 7849.0260, subparts A(3) and C(6)

GRE requested to supply overall system losses information in lieu of line-specific losses.

2. System-Wide Data – Minnesota Rule 7849.0270, subparts 1 and 2

GRE requested to supply demand data for the affected load area in lieu of providing system-wide data.

3. Customer Class Information – Minnesota Rule 7849.0270, subparts 2(B) and 2(C)

GRE requested to provide customer class information only as it relates to the proposed MPL pumping station.

4. Annual Peak Demand – Minnesota Rule 7849.0270, subpart 2(C)

GRE requested to provide data for the affected load area on an annual coincident peak basis.

5. Monthly Peak Demand – Minnesota Rule 7849.0270, subpart 2(D)

GRE requested to provide Minnesota Power substation and Great River Energy member cooperative substation demand data within the affected load area.

6. Revenue Requirements – Minnesota Rule 7849.0270, subpart 2(E)

GRE requested to provide a description of the general financial effect of the Project on Great River Energy member cooperatives and on Minnesota Power.

7. Weekday Load Factor – Minnesota Rule 7849.0270, subpart 2(F)

Full exemption requested.

8. Forecast Methodology – Minnesota Rule 7849.0270, subparts 3 through 5

GRE requested to provide forecast methodology for affected load area substations as reflected in the requests for certain exemptions from Minnesota Rule 7849.0270, Subpart 2.

9. System Capacity – Minnesota Rule 7849.0280 (A) and (H)

GRE requested to instead provide data for the affected load area for (A) and (H).

10. System Capacity – Minnesota Rule 7849.0280 (B) through (I)

Full exemption requested.

11. Conservation – Minnesota Rule 7849.0290

GRE requested to provide data on Minnesota Power programs and programs that Great River Energy makes available to member cooperatives serving the affected load area.

12. Consequences of Delay – Minnesota Rule 7849.0300 and No-Facility Alternative – Minnesota Rule 7849.0340

GRE requested exemption from the requirement to provide analysis using three confidence levels and instead, proposed to provide data regarding potential impacts caused by delay and the no build alternative on community service reliability in the affected load area.

X. Department of Commerce Comments

The Department agreed with the Applicants that the proposed data, focusing on demand in the local area, is relevant to the claimed need and provides better information than the required data. Therefore, the Department recommends that the Commission grant the exemption conditioned upon the provision of the proposed alternative data.

XI. STAFF DISCUSSION

Notice Plan

Staff has reviewed the notice plan petition, the Department's comments and the Applicants' reply comments and believes that the notice plan, with the modifications recommended by the Department DER and EERA satisfy the requirements outlined in statute and rule.

Staff recommends that the Commission approve the Applicants' request to implement the notice plan no more than 60 days prior to the filing of the certificate of need application and to vary the requirements for publishing a separate newspaper notice for the certificate of need filing, as it will be combined with the notice plan implementation. Staff also recommends the notice letter to be edited to show Hwikwon Ham as the Commission contact.

Exemption Request

Staff recommends that the Commission approve Applicants' exemption requests with the provision that the proposed alternative data described in its petition be provided. The Commission has granted similar requests in previous dockets proposing that affected load area data was more appropriate than system-wide data.

XII. COMMISSION DECISION ALTERNATIVES

A. Notice Plan Approval

1. Approve the proposed notice plan.
2. Approve the proposed notice plan as modified by GRE in its reply comments, with the additional modification proposed by staff.
3. Reject the proposed notice plan and indicate the deficiencies that need to be corrected.
4. Take some other action deemed appropriate.

B. Notice Plan Variance Timing of Implementation

1. Approve the requested variance to Minnesota Rule 7829.2550, subpart 6, on the timing of the implementation of the notice plan.
2. Reject the requested variance to Minnesota Rule 7829.2550, subpart 6.

C. Notice Plan Variance Publication in Newspapers

1. Approve the requested variance to waive Minnesota Rule 7829.2500, subpart 5, that requires an applicant to publish a newspaper notice upon filing a certificate of need application.
2. Reject the requested variance to waive Minnesota Rule 7829.2500, subpart 5.

D. Exemption Request

1. Grant the requested exemptions from Minnesota Rules 7849 set forth on pages 5 and 6 of the Briefing Paper, subject to GRE providing the alternative data as specified.
2. Deny the exemption request.
3. Take some other action deemed appropriate.

Staff Recommends: A2, B1, C1, and D1