

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
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In the Matter of the Application 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

ISSUE DATE: March 18, 2015

DOCKET NO. ET-2, E-015/CN-14-787

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ORDER FINDING APPLICATION COMPLETE, DIRECTING USE OF INFORMAL REVIEW PROCESS, AND AUTHORIZING JOINT PROCEEDINGS AND COMBINED ENVIRONMENTAL REVIEW

PROCEDURAL HISTORY

On January 15, 2015, Great River Energy and Minnesota Power (the Applicants) filed a joint certificate of need and route permit petition for their proposed 115 kilovolt (kV) transmission line project in Hubbard, Wadena, and Becker counties. Applicants have proposed to construct approximately 22.5 miles of new overhead 115 kV transmission line, and to construct and modify certain substations. Applicants stated that the need for the project is to address transmission overload issues in the Menahga area and to serve a new substation and new pump station proposed by Minnesota Pipe Line Company as part of the Minnesota Pipe Line Reliability Project.¹

The project includes:

- construction of 4.5 miles of new double-circuit 115 kV line and approximately 2.5 miles of single-circuit 115 kV line;
- construction of approximately 15.5 miles of primarily new single-circuit 115 kV transmission line;
- construction of three new substations;
- modifications to Great River Energy's existing Hubbard substation and the Minnesota Power Pipeline substation; and

¹ See Docket No. PL-5/CN-14-320, *In the Matter of the Application of Minnesota Pipe Line Reliability Project to Increase Pumping Capacity on Line 4 Crude Oil Pipeline in Hubbard, Wadena, Morrison, Meeker, McLeod, and Scott Counties.*

- relocation of the existing Todd-Wadena Menahga substation to the Blueberry substation site with a conversion of the voltage from 34.5 kV to 115 kV.

On January 21, 2015, the Commission issued a notice requesting comments on the completeness of the filing.

On January 30, 2015, Applicants filed a supplement to their application to correct the list of landowners along the proposed route (Corrected Appendix J).

On February 4, 2015, the Department of Commerce, Division of Energy Resources (the Department) filed comments recommending that the Commission find the certificate of need application substantially complete. The Department further recommended that the Commission order a contested case proceeding only if a party requests such a proceeding and provides reasonable grounds to have one.

Also on February 4, 2015, the Department of Commerce, Energy Environmental Review and Analysis staff (EERA) filed comments recommending that the Commission find the route permit application complete. The Department further stated its intent to prepare one environmental review document for the project – an environmental assessment. Finally, EERA analyzed the merits of establishing an advisory task force for the project and concluded that a task force is not warranted.

On February 26, 2015, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Regulatory Background

A. Certificate of Need

Before building a large energy facility in Minnesota, a utility must secure a certificate of need based on a finding that the facility is needed.² The term “large energy facility” includes any transmission line of at least 100 kV with at least ten miles in Minnesota.³ Applicants’ project qualifies as a large energy facility, triggering the certificate of need requirement. The information required in a certificate of need application, as well as the ultimate criteria for demonstrating need, are set forth in Minnesota Rules Chapter 7849.

B. Route Permit

Before building a high-voltage transmission line in Minnesota, a utility must get a route permit from the Commission.⁴ The term “high-voltage transmission line” includes any transmission line

² Minn. Stat. § 216B.243, subd. 2.

³ Minn. Stat. § 216B.2421, subd. 2(3).

⁴ Minn. Stat. § 216E.03, subd. 2.

longer than 1,500 feet that will operate at a voltage of at least 100 kilovolts.⁵ Applicants' project qualifies as a high-voltage transmission line, triggering the route permit requirement.

High voltage transmission lines that operate at a voltage between 100 and 200 kilovolts are eligible for the alternative permitting process under Minn. R. 7850.2800 to .3900.⁶ Because it will operate at 115 kilovolts, the project is eligible for the alternative permitting process.

Under the alternative review process, an application for a high-voltage transmission line must be submitted under Minn. R. 7850.3100, which requires the applicant to submit the items required under the full permitting process except for alternative routes.⁷

II. Completeness and Commission Review Process

The Commission has examined the record and concurs with the Department that Applicants' application is substantially complete for purposes of the certificate of need criteria. Further, the Commission has examined the record and concurs with the EERA that the application contains the information required under the route permit criteria and is therefore complete under Minn. R. 7850.3100. The Commission's finding of completeness is as to form only; it implies no judgment on the merits of the application. Further, comments more closely related to the merits of the application, rather than its completeness, can be most effectively addressed as the record is developed.

At this time there are no contested material facts, future factual disputes appear unlikely, and there are no other factors pointing to a need for contested case proceedings. The Commission will therefore authorize staff to develop the record and prepare this case for Commission action without contested case proceedings under Minn. Stat. §§14.57 *et seq.*, unless those proceedings are later determined to be necessary. Accordingly, the Commission will direct the use of the informal review process under Minn. R. 7829.1200 to develop the record for the certificate of need.

Under the informal review process, the Commission still asks the Office of Administrative Hearings to hold at least one public hearing, scheduled in conjunction with Commission staff. 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) 296-0406, to act as the staff member to facilitate citizen participation in the process.
- Request that the Department continue to study issues and indicate during the hearing process its position on the reasonableness of granting a certificate of need to Applicants.
- Require that Applicants facilitate in every reasonable way the continued examination of the issues by the Department and Commission staff.

⁵ Minn. Stat. § 216E.01, subd. 4.

⁶ Minn. R. 7850.2800, subp. 1.

⁷ Minn. R. 7850.3100.

- Request that Applicants place a compact disc or hard copy of the application for review in a government center and/or public library in each county where the proposed transmission line is located.
- Direct Commission staff to work with the administrative law judge and the staff of the Department to select a suitable location for a public hearing on the application.
- Direct Applicants to work with the staff of the Commission to arrange for publication of the notice of the hearings in newspapers of general circulation at least ten (10) days prior to the hearings in the form of visible display ads. Direct Applicants to obtain proof of publication of the ads from the newspapers selected.

Finally, the Commission will delegate administrative authority to the Executive Secretary as provided in Minn. R. 7829.3100.

III. Joint Proceedings and Combined Environmental Review

A. Joint Proceedings

Minn. Stat. § 216B.243, subd. 4, requires the Commission to conduct joint hearings on applications for a certificate of need and a site or route permit unless it is not feasible, more efficient, or otherwise in the public interest. In its combined application for a certificate of need and route permit for this project, Applicants stated that they preferred to have a joint hearing process.

B. Combined Environmental Review

Under Minn. R. 7849.1200, the Commissioner of the Department of Commerce is required to prepare an environmental report as part of the certificate of need process for a high voltage transmission line. If, as here, the route permit application for the project has been filed prior to completion of the environmental report, and the project qualifies for alternative review under Minn. R. 7850.2800, a combined environmental review for the certificate of need and route permit may be conducted.⁸ The combined review – an environmental assessment of the project – must be conducted under Minn. R. 7850.3700 and is filed in both the certificate of need and route permit proceedings.

Minn. Stat. § 216E.04, subd. 2(3), provides for an Alternative Review Process for transmission lines between 100 and 200 kilovolts; accordingly, the alternative permitting process under Minn. R. 7850.2800 to 7850.3900 applies. The Commission therefore requests that the EERA staff prepare an environmental assessment for the certificate of need and route permit application, instead of conducting two separate environmental reviews.

The Commission concurs that coordinating the certificate of need and route permit aspects of this project is in the public interest. Providing the public an opportunity to comment on all aspects of the proposed project at one hearing rather than two separate hearings is more efficient, reduces confusion, and is in the public interest. The Commission will therefore approve joint proceedings and combined environmental review for Applicants' certificate-of-need and route permit application.

⁸ Minn. R. 7849.1900, subp. 1.

IV. Advisory Task Force

The EERA evaluated several factors in analyzing whether an advisory task force should be appointed by the Commission under Minn. R. 7850.3600. The EERA analyzed the project's size, its complexity, the anticipated controversies, and sensitive resources, and concluded that an advisory task force is not warranted at this time. Further, no person has requested that a task force be appointed for this project.

The Commission concurs with EERA's analysis, and will decline to appoint an advisory task force at this time.

ORDER

1. The Commission hereby accepts Applicants' joint application for a certificate of need and route permit as complete.
2. The Commission directs the use of the informal review process described in this order to develop the certificate of need record.
3. The Commission approves joint hearings and combined environmental review for the certificate of need and route proceedings.
4. The Commission delegates administrative authority to the Executive Secretary.
5. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
Executive Secretary



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