COMMERCE DEPARTMENT

November 25, 2024

VIA EDOCKETS

Mr. Will Seuffert
Executive Secretary
Public Utilities Commission
121 Seventh Place East, Suite 350
Saint Paul, MN 55101-2147

Mr. Seuffert:

Department of Commerce, Energy Environmental Review and Analysis (EERA) staff has reviewed the Findings of Fact, Conclusions of Law, and Recommendations (report) issued by Administrative Law Judge (ALJ) Kimberly Middendorf for the Northland Reliability Project (project) proposed by Minnesota Power (MP) and Great River Energy (GRE), collectively referred to herein as "applicants."

EERA staff appreciates Judge Middendorf for the thorough and comprehensive analysis of the record. However, the staff respectfully takes exception to certain portions of the ALJ report, which are outlined and discussed below, along with suggested revisions and clarifications.

Discussion

1. **Section XIV. Summary of Route Recommendations.**
   There are four findings in Section XIV of the report – Findings 736 through 739. These findings summarize the route recommendations of the report. EERA staff supports Finding 738; staff believes the ALJ report properly incorporates EERA staff's proposed text for this finding.[1] Likewise, EERA staff supports Finding 739 and acknowledges that the ALJ report properly incorporates EERA staff's proposed text.[2] However, EERA staff believes that Findings 736 and 737 require revision. These findings are inconsistent with other findings in the ALJ report and are not supported by the record.

   Finding 736 states that the applicants' Co-Location Maximization Route (CMR), as modified, best satisfies the Commission's routing factors. The finding does not explain how the CMR has been modified. Finding 737 notes that the CMR well balances the Commission routing factors but that it should be modified to include route alternatives A3 and E4 or E5. For purposes of discussion here, EERA staff assumes the "as modified" text in Finding 736 refers to the explicit modifications proposed in Finding 737 ("route alternatives A3 and E4 or E5").

   Route Alternative A3
   EERA staff believes route alternative A3 is not the most appropriate route in the Iron Range Substation Region of the project. The applicants' proposed route (the CMR in this region) is most consistent with the Commission's routing criteria. Finding 717 of the ALJ report makes this clear:

[1] See EERA Reply Comments to Applicants' Proposed Findings, Conclusions, and Recommendations (October 3, 2024), (eDockets Nos, 202410-210700-01 (through -11)) (hereinafter EERA Reply Comments).
[2] *Ibid*.

> 717. In the Iron Range Substation Region, the Applicants' Proposed Route, which in this region is the same as the Co-Location Maximization Route, is most consistent with the Commission's routing criteria. In the EA, EERA compared the Applicants' proposed route with Alternative Routes A1 through A4.

Analysis in the environmental assessment (EA) also makes clear that the applicants' proposed route (the CMR in this region, identified as route alternative A2) is more consistent with the Commission's routing criteria than route alternative A3.[3] Route alternative A3 has more impacts on residences than the CMR.[4] Route alternative A3 introduces substantial reliability concerns with two crossings of existing transmission lines.[5] Route alternative A3 has environmental impacts similar to the CMR.[6] Accordingly, EERA staff believes that the report's suggested inclusion of route alternative A3 as a modification of the CMR is not supported by the record.

Route Alternatives E4 and E5

EERA staff believes route alternatives E4 and E5 are not the most appropriate routes in the Cole Lake to Riverton Region of the project. The CMR is most consistent with the Commission's routing criteria in this region. Finding 724 of the ALJ report makes this clear:

> 724. In the Cole Lake to Riverton Region, the Co-Location Maximization Route is most consistent with the Commission's routing criteria. In this region, the EA compared the Applicants' Proposed Route to Alignment Alternative 3 (AA3), Route Alternatives E1 through E5, Alignment Alternatives 8, 9, and 10 (AA8, AA9, and AA10), and Route Alternative G.

Analysis in the EA also makes clear that the CMR is more consistent with the Commission's routing criteria than route alternative E4 and E5.[7] In the Cole Lake to Riverton Region, the CMR and route alternatives are near a similar number of residences; however, route alternatives E4 and E5 includes residences that are within 75 feet of the proposed transmission line. Route alternatives E4 and E5 introduce substantial reliability concerns with six crossings of existing transmission lines,[8] as well as two Mississippi River crossings.[9]

In this region, the CMR greatly minimizes the introduction of new transmission line right-of-way. The CMR (route alternative E1 in this region) incorporates double-circuiting of existing transmission lines in the area to allow the utilization of an existing ROW by the project.[10] All other routing options in the Cole Lake to Riverton Region, including route alternatives E4 and E5, introduce more

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[3] See Northland Reliability Project Environmental Assessment (June 28, 2024), Chapter 6.1.2, p. 164. (eDockets Nos. 20246-208129-09 and 20246-208129-10).

[4] *Ibid*, Table 6-6, p. 165. (eDocket Nos. 20246-208159-07 and 20246-208129-10).

[5] *Ibid*.

[6] *Ibid*.

[7] Northland Reliability Project Environmental Assessment (June 28, 2024), Chapter 6.3.4. The CMR is route alternative E1 in the EA for the Cole Lake to Riverton Region. p. 255. (eDockets No. 20246-208129-12 and 20246-208129-11).

[8] *Ibid*.

[9] *Ibid*.

[10] *Ibid*. See also Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendation (herein ALJ Report) (November 8, 2024). Finding 113, p. 28. (eDocket Nos. 202411-211770-01 and 202411-211770-02).

new transmission line ROW than the CMR.[11] EERA staff believes that the ALJ's recommendation to include route alternatives E4 and E5 as CMR modifications is not substantiated by the evidence on record.

Based on the above discussion, EERA staff recommends editing Findings 736 and 737 as follows:

> 736. The record demonstrates that both the Applicants' Modified Proposed Route and Applicants' Co-location Maximization Route~~, as modified,~~ best satisfies the routing factors in Minn. Stat. § 216E.03, subd. 7 and Minn. R. 7850.4000 and 7850.4100.
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> 737. ~~The record demonstrates that the Applicants' Co-location Maximization Route appropriately balances the routing standards and criteria but should be modified to include route alternatives A3 and E4 or E5.~~ The Modified Proposed Route is estimated to cost approximately $173.7 million less than the Co-location Maximization Route using the mid-range estimate. The Co-location Maximization Route will require fewer new transmission line rights-of-way than the Modified Proposed Route.

Associated Edits

As discussed above, EERA staff believes that the inclusion of route alternative A3 and route alternatives E4 and E5, as modifications of the CMR, are not supported by the record. Thus, EERA staff recommends editing Findings 97 and Finding 116 as follows:

> 97. Route alternative A3 is 1.4 miles long and diverges from the Applicants' Proposed Route just west of County Road 10. From that point, route alternative A3 continues west for 0.5 mile, then turns southwest after crossing County Road 434, where it continues for approximately 0.85 mile, crossing the Swan River at a previously disturbed bridge location. Route alternative A3 would cross an existing transmission line in two locations (once to cross over the existing transmission line and once to cross back). It does not include any transmission line right-of-way sharing, paralleling, or double-circuiting. Route alternative A3 would ~~not greatly increase~~ result in greater potential impacts to residences, ~~although it~~ follows less existing high-voltage transmission line and increases the number of crossings of the existing 230 kV 92 Line. ~~Route alternative A3 strikes the most reasonable balance between the various competing policy objectives and concerns of stakeholders.~~
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> 116. Route alternative E4 is 11 miles long. Approximately 1 mile north of Miller Lake Road route alternative E4 heads southwest of the Applicants' Proposed Route and west of the town of Riverton, where it begins a route edging west around Hay Lake, with two Mississippi River crossings. Route alternative E4 then heads due south for approximately 4.5 miles. Route

[11] Northland Reliability Project Environmental Assessment (June 28, 2024), Section 6.3.4., p. 255. (eDocket Nos. 20246-208129-12 and 20246-208129-11).

alternative E4 would share existing transmission line right-of-way for approximately 8 of its 11 miles. Route alternative E4 would cross six existing transmission lines and would require at least two additional heavy-angle structures to accommodate 90-degree and angled turns along the route. In addition to requiring two crossings of the Mississippi River, route alternative E4 would require placement of the Project near residences (including three residences within 0-75 feet). Further, the proposed alignment for route alternative E4 crosses directly over the existing Riverton Substation. Existing features around the substation prevent routing around the substation within the route widths evaluated in the EA. ~~The Applicant contends that the Modified Proposed Route and the Co-location Maximization Route provide feasible and comprehensive routing alternatives through this area. Route alternative E4 impacts far fewer natural resources and residences, effecting the most reasonable balance between competing interests.~~

2. Conclusions of Law

EERA staff believes that the inclusion of route alternative A3 and route alternatives E4 and E5, as modifications of the CMR, are not supported by the record. Further, as noted in staff's reply comments, staff believes that there are two regions of the project where the most appropriate route for the project is a close call – the Long Lake Region and the Benton County Elk River Region.[12] In the Long Lake Region, staff believes that route alternative H1 or a combination of route alternatives H4 and H7 (the CMR, as proposed by the applicants) are most consistent with the Commission's routing criteria.[13]

In the Benton County Elk River Region, staff believes that both Route Alternative J2 and the CMR are consistent with the Commission's routing criteria. Staff provides additional discussion here regarding Route Alternative J2 and the CMR, particular the inclusion of the Elk River Alignment Alternative in the CMR, to aid the Commission as it evaluates the record before making a final routing decision.[14]

Finding 732 aligns with the EERA Response to Findings, which concludes that "The J route alternatives would avoid Elk River impacts; however, they present greater impacts to human settlements in the region."[15] This detail is further established in Finding 142, also consistent with the EERA Response to Findings, explaining that route alternative J2 would "require at least six heavy-angle structures to accommodate angled turns along the route."[16] Additionally, the J2 route alternative would "require more new rights-of-way for the Project and result in greater impacts to agricultural lands."[17] The J2 route alternative would also require "additional coordination with landowners on center-pivot irrigation systems."[18] Center-pivot irrigation systems may present project development and operational challenges.

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[12] EERA Reply Comments Cover Letter (eDocket Nos. 202410-210700-01 and 202410-210700-02).
[13] *Ibid*.
[14] *Ibid*.
[15] ALJ Report, Finding 732, p. 149. (eDocket Nos. 202411-211770-01 and 202411-211770-02).
[16] *Ibid*, Finding 142, p. 38.
[17] *Ibid.*
[18] *Ibid.*

Finding 144 describes the Elk River Alignment Alternative. This alignment alternative is part of the CMR in the Benton County Elk River Region. The Elk River Alignment Alternative consolidates existing lines within the Elk River region; however, it "would require 80 to 90 feet of additional right-of-way."[19] The consolidation and paralleling approach would also "increase the overall mid-range cost of the Project by approximately $21.6 million."[20] The report recognizes that this alignment alternative, if selected, would pose potential impacts to "floodplains, wetlands, vegetation, and wildlife."[21] Despite this concern, Finding 144 of the report concludes that "this alignment alternative is the overall best compromise among competing interests."[22]

A comparison of Route Alternative J2 and the CMR in this region reveals that both meet the Commission's routing factors; however, there are differences in how they do so. For example, the ALJ preferred the CMR, including the Elk River Alignment Alternative, in recognition of the applicable routing factors and public interest.[23] Additionally, the Commission's directive to the applicants to consolidate transmission lines wherever possible is achieved through the Elk River Alignment Alternative; the J2 route alternative does not meet this expectation.[24] While the ALJ considered and identified alternative route J2 for further consideration by the Commission, the EA featured the J2 route in only one out of five example full route options.[25]

EERA staff recommends editing select conclusions in the ALJ report as follows:

> 10. The record evidence demonstrates that the Co-location Maximization Route, ~~as modified herein, best~~ satisfies the Route Permit criteria set forth in Minn. Stat. § 216E.03, subd. 7(a) and Minn. R. 7850.4100 based on the factors in Minn. Stat. § 216E.03, subd. 7 and Minn. R. 7850.4000, although its estimated cost is approximately $173.7 million more than the Modified Proposed Route using the mid-range estimate. ~~The Co-location Maximization Route is shown in Attachment B.~~
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> 11. The record evidence demonstrates that the Co-location Maximization Route ~~(1) in the Iron Range Substation Region, utilizing route alternative A3, (2) in the Cole Lake Riverton Region, using route alternative E4 or E5,~~ (1~~3~~) in the Long Lake region, utilizing route alternatives H4 and H7 (as proposed by the Applicants) or route alternative H1 and (2~~4~~) in the Benton County Elk River region utilizing the applicant's Co-Location Maximization Route or route alternative J2 satisfies the Route Permit criteria set forth in Minn. Stat. § 216E.03, subd. 7(a) and Minn. R. 7850.4100 based on the factors in Minn. Stat. § 216E.03, subd. 7 and Minn. R. 7850.4000.

[19] *Ibid*, Finding 144, p. 39.
[20] *Ibid*.
[21] *Ibid*.
[22] *Ibid*.
[23] *Ibid*.
[24] Minnesota Public Utilities Commission, Order Accepting Applications as Complete and Establishing Procedural Requirements, October 5, 2023, Order #7, p. 4. (eDocket Nos. 202311-200529-01 and 202311-200529-02).
[25] ALJ Report, Finding 152, p. 42. (eDocket Nos. 202411-211770-01 and 202411-211770-02).

12. The record evidence demonstrates that constructing the Project along the Co-location Maximization Route ~~as modified~~ (1) in the Long Lake region utilizing route alternatives H4 and H7 (as proposed by the Applicants) or route alternative H1, and (2) in the Benton County Elk River region utilizing the Applicants' Co-location Maximization Route or route alternative J2 does not present a potential for significant adverse environmental effects pursuant to the Minnesota Environmental Rights Acts, Minn. Stat. §§ 116B.01-116B.13, and the Minnesota Environmental Policy Act, Minn. Stat. §§ 116D.01-116D.11.

14. The evidence in the record demonstrates that the Co-Location Maximization Route ~~modified~~ (1) in the Long Lake region utilizing route alternatives H4 and H7 (as proposed by the Applicants) or route alternative H1, and (2) in the Benton County Elk River region utilizing the Applicants' Co-location Maximization Route or route alternative J2 ~~utilizing route alternative A3 in the Iron Range Substation region, E4 or E5 in the Cole Lake Riverton region, H1 in the Long Lake region and/or route alternative J2 in the Benton County Elk River region~~ provides a reasonable and prudent route for the Project.

Report Attachments

During our review of the ALJ report, we noted that several references to attachments initially in the body of the EERA staff's October 3rd, 2024, Reply Comments, were placed in the document footnotes. The EERA incorporated in-text citations for these attachments within the body of our Reply Comments to facilitate the Commission's review and decision-making process, particularly in evaluating alternatives by region and route option. While several of these in-text citations were removed, some remain. We believe the report more accurately represents the Northland project when the supporting attachments are clearly identified through in-text citations. For reference, we have included a table in this letter that aligns the report findings by number with the corresponding in-text citations (Table 1). To the extent that they are helpful, staff refers the Commission to the attachments, particularly the maps, included with EERA's Response to Findings.

Staff appreciates that opportunity to provide these exceptions. We are available to answer any questions the Commission might have.

Sincerely,

James E. Sullivan

James E. Sullivan
Environmental Review Manager
Energy Environmental Review and Analysis

Table 1. Citations for ALJ Report Findings[26]

ALJ Report Finding Number	In-Text Citation
10	Attachment B
92	Appendix 3, Attachment D
94	Map 1, Appendix 3, Attachment D
100	Map 2a, Appendix 3, Attachment D
103	Map 2b, Appendix 3, Attachment D
105	Map 2c, Appendix 3, Attachment D
107	Map 2d, Appendix 3, Attachment D
108	Map 3a, Appendix 3, Attachment D
110	Map 3b, Appendix 3, Attachment D
113	Map 3c, Appendix 3, Attachment D
122	Map 3d, Appendix 3, Attachment D
123	Map 3e, Appendix 3, Attachment D
124	Map 4a, Appendix 3, Attachment D
128	Map 4b, Appendix 3, Attachment D
132	Table 1, Appendix 3, Attachment D
137	Map 4c, Appendix 3, Attachment D
138	Map 5, Appendix 3, Attachment D
139	Map 6a, Appendix 3, Attachment D
144	Map 6b, Appendix 3, Attachment D
145	Map 7a, Appendix 3, Attachment D
146	Map 7b, Appendix 3, Attachment D
148	Map 1, Appendix 4, Attachment D
149	Map 2, Appendix 4, Attachment D
150	Map 3, Appendix 4, Attachment D
151	Map 4, Appendix 4, Attachment D
152	Map 5, Appendix 4, Attachment D
153	Map 6, Appendix 4, Attachment D
156	Maps 7a through 7d, Appendix 4, Attachment D
157	Maps 8a through 8e, Appendix 4, Attachment D

[26] Attachments included with EERA's September 5, 2024, Response to Findings. Applicants' Attachment B, (eDocket Nos. 20249-210359-01 and 20249-210359-02; 20249-210359-07, 20249-210359-08, 20249-210359-09, and 20249-210359-10; 20249-210359-03, and 20249-210359-04), Attachment D, with EERA revisions, (eDocket Nos. 202410-210700-03, 202410-210700-04, 202410-210700-05, 202410-210700-06, 202410-210700-07, 202410-210700-08, 202410-210700-09, 202410-210700-10, 202410-210700-11, and 202410-210700-12).