

April 15, 2024

VIA eDOCKETS

Public Advisor
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

RE: EERA Hearing Comments
Minnesota Power HVDC Modernization Project
PUC Docket No. E-015/TL-22-611
OA# Docket No. 5-2500-39600

Dear Public Advisor,

Minnesota Department of Commerce, Energy Environmental Review and Analysis (EERA) offers the following comments on the HVDC Modernization Project (project) proposed by Minnesota Power. Comments address public comments received on the environmental assessment prepared for the project; corrections to the Environmental Assessment; recommended special permit conditions to mitigate potential impacts; and staff requested route permit changes.

Response to Substantive Comments on the Environmental Assessment

Comments on the environmental assessment (EA) were received during a comment period and at public hearings held on March 13, 2024, presided over by Administrative Law Judge Jim Mortenson.¹ Interested people had the opportunity to provide verbal comments at the hearings and written comments through March 28, 2024. Questions and comments posed at the public hearing were answered at the hearing to the extent possible.

A virtual public hearing was held at 12 p.m. on March 13, 2024, where a few people attended and asked questions, and an in-person hearing was held at 6 p.m. in Solway Township where about 10 people attended and asked questions.² Questions and comments posed at the public hearing were answered at the hearing to the extent possible. General questions were asked about the potential impacts of the project, including noise, vegetation, and wetlands, but comments were generally not associated with the analysis in the EA. Most questions were about the structure of the ATC Alternative or a limit imposed by the Environmental Quality Board (EQB) on the current substation. These topics are outside the scope of this project's environmental review. Thus, no specific response to comments made at the public hearings are provided here.

¹ Public Utilities Commission, March 1, 2024. *Notice of Public And Evidentiary Hearings, Availability Of Environmental Assessment Environmental Report, and Comment Period*, eDockets No. [20243-203994-01](#).

² Shaddix & Associates Virtual and Cloquet Public Hearing Transcripts, April 3, 2024, eDockets No. [20244-204998-01](#) and [-03](#).

Written hearing comments were filed and provided by the applicant, state agencies, and the World Organization for Landowner Freedom. Responses to comments and questions specific to the EA from these filings are provided below. No written comments were received from members of the public.

Minnesota Power

Minnesota Power outlined various mitigation measures in response to the EA in its comments submitted on March 28, 2024.³ Due to Minnesota Power's willingness to commit to these mitigation measures throughout the record, EERA recommends each measure be included as a special permit condition if the Commission decides to issue a route permit for the project (discussed further, below).

These commitments include maintaining the existing vegetation buffer between the proposed St. Louis County 345 kV/230 kV Substation and Morris Thomas Road, selecting a neutral color for the HVDC Converter Station that would better blend with the landscape, undertaking an additional noise study once final design of the project is complete and submitting it as a compliance filing prior to commencing construction, and a double-circuit crossing for the 230 kV transmission line at West Rocky Run Creek. EERA concurs that all mitigations offered by Minnesota Power could reduce potential impacts of the project.

American Transmission Company (ATC)

ATC provided context and clarifications on statements made in the EA in its comments submitted on March 28, 2024.⁴ ATC also offered generalized comments on statements in the EA that EERA does not respond to directly in this document. An example is EERA's objectivity and lack of expertise for costs of the proposed project compared to the ATC Alternative, where EERA used the best available information provided at the time amid an issue that is still debated in the contested case proceeding.

Clarifications made by ATC bring attention to an incorrect statement on total wetland impacts, suggest the EA incorrectly stated the intensity of environmental effects on several aspects of human settlement, and explain ATC's vegetation mitigation in the right-of-way near West Rocky Run Creek. EERA responds to each of these clarifications in turn.

Wetland Impacts

EERA agrees with ATC's request to correct the statement on page 114 of the EA which states, "Overall, potential impacts to wetlands are anticipated to be slightly greater for the ATC Alternative than the proposed project," to instead state, "Overall, potential impacts to wetlands are anticipated to be slightly **less** for the ATC Alternative than the proposed project." EERA will include this as an Errata to the EA as detailed later in this document.

Human Settlement

ATC indicates that the EA states on page 8 that project-related impacts to human settlements are anticipated to be minimal, which EERA does not contest. However, this part of the EA is intended to be a summary of all human settlement impacts, all of which were expected to be minimal except for cultural values. Thus, EERA doesn't believe a change is warranted to the EA for this item, because impacts summarized as a whole for human settlements are anticipated to be minimal.

³ Minnesota Power Comments on the Environmental Assessment, March 28, 2024, eDockets No. [20243-204709-02](#).

⁴ ATC Comments on the Environmental Assessment, March 28, 2024, eDockets No. [20243-204747-01](#).

Vegetation Near West Rocky Run Creek

EERA does not disagree that ATC offered a buffer of low-growing vegetation adjacent to West Rocky Run Creek in its direct testimony. EERA notes, however, that this vegetative mitigation measure does not change conclusions made in the Water Resources section of the EA. Minnesota Power would also retain a buffer of low-growing vegetation where new clearings for right-of-way would be adjacent to West Rocky Run Creek. As noted in the EA, the total length of new clearing is slightly less for Minnesota Power's proposed crossing compared with that for ATC's crossing. Thus, EERA believes the analysis in the EA is correct – the ATC Alternative presents slightly higher potential for warming impacts to West Rocky Run Creek.

Minnesota Department of Natural Resources (DNR)

In its comments in response to the EA submitted on March 28, 2024, the DNR suggested various mitigation measures be incorporated as special conditions in the route permit.⁵ These mitigation measures include coordination with the DNR on right-of-way restoration, mitigation methods for indirect impacts to surface waters, the use of downward facing lighting, use of non-chloride products for dust control, and use of wildlife friendly erosion control. EERA agrees with the DNR that incorporating these measures as special permit conditions will mitigate potential impacts of the project and recommends each measure be included as a special permit condition. Special permit conditions are detailed in a later section of this document.

The DNR also commented on the project's potential to need a public waters work permit and supported the applicant's proposal to double circuit its 230 kV line between the proposed St. Louis County Substation and Minnesota Power's Arrowhead Substation.

World Organization for Landowner Freedom (WOLF)

In its March 28, 2024, comments, WOLF discussed the validity of the ATC Alternative, the EQB's megavolt-amperes (MVA) substation limitation, an Operating and Maintenance Services Agreement, the authenticity of testimony, and noise modeling for the project.⁶ As discussed earlier, the EQB's substation limitation is outside of the scope of this project's environmental review. Additionally, eliminating consideration of the ATC Alternative cannot be done at this juncture because the Commission ordered its inclusion in the environmental review process on August 8, 2023.⁷

The Operating and Maintenance Services Agreement cited in WOLF's comments is legally separate from this proceeding, does not relate to the EA, and concerns the participating parties which appear to be Minnesota Power, ATC, and the Midwest Independent Transmission System Operator, not the Commission or EERA. However, the Commission will consider both the proposed project and the ATC Alternative's potential impacts on the future adequacy, reliability, and efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states when it determines whether to issue a certificate of need.⁸

⁵ DNR Comments on the Environmental Assessment, March 28, 2024, eDockets No. [20243-204708-01](#).

⁶ World Organization for Landowner Freedom Comments on the Environmental Assessment, March 28, 2024, eDockets No. [20243-204759-02](#).

⁷ Public Utilities Commission, August 8, 2023. Order Accepting Application As Complete, Authorizing Joint Review Under Informal Procedure, And Requesting Summary Proceeding, eDockets No. [20238-198074-02](#).

⁸ Minnesota Rule 7849.0120.

EERA does not have the expertise or authority to recommend whether aspects of Dagenais' Direct and Rebuttal Testimonies⁹ are credible or not as suggested by WOLF. The relevant aspects raised by WOLF discuss the EQB's limitation, maximum expected system losses, and whether a phase shifting transformer can be legally removed and decommissioned.

Lastly, WOLF requested noise modeling be completed prior to final certificate of need and permitting decisions. WOLF notes this is Commission practice for wind projects. Wind turbines have common noise issues that are distinct for wind projects and follow a different environmental review process than transmission lines. EERA finds Minnesota Power's proposed special permit condition to complete and file a noise study before construction commences is adequate for this type of project and proceeding.

Environmental Assessment Errata

The EA consistently refers to Minnesota Power's proposed St. Louis County 345 kV/230 kV Substation as the "Switchyard". Although there have been multiple naming conventions throughout the record provided by Minnesota Power for this building, EERA acknowledges that the St. Louis County 345 kV/230 kV Substation is not truly a switchyard and should not be referred to as such throughout the EA. The facility should be referred to as a "Substation." This correction is necessary as it intends to reduce confusion in the record.

EERA agrees with ATC's request to correct the statement on page 114 of the EA which states, "Overall, potential impacts to wetlands are anticipated to be slightly greater for the ATC Alternative than the proposed project," to instead state, "Overall, potential impacts to wetlands are anticipated to be slightly **less** for the ATC Alternative than the proposed project."

Recommended Permit Conditions

EERA finds the record supports the following special permit conditions suggested by Minnesota Power and the Department of Natural Resources that address mitigation for potential impacts as analyzed in the EA.

Minnesota Power

EERA staff find the following special conditions are amenable to Minnesota Power and appropriate to include in the Commission's route permit should it be granted for the project. Minnesota Power did not directly propose any additions or modifications to the sample route permit Commission staff filed on January 31, 2024.¹⁰

Vegetated Buffer

Minnesota Power committed to maintaining the existing vegetation buffer in the approximately 300 feet between the proposed St. Louis County 345 kV/230 kV Substation and Morris Thomas Road in its comments responding to the EA. The ATC Alternative does not include the St. Louis County 345 kV/230

⁹ ATC, Dagenais Direct Testimony, February 14, 2024, eDockets No. [20242-203435-01](#).

ATC, Dagenais Rebuttal Testimony, March 11, 2024, eDockets No. 20243-204233-04 (trade secret).

ATC, Dagenais Corrected Rebuttal Testimony, March 19, 2024, eDockets No. [20243-204471-02](#).

¹⁰ Public Utilities Commission, Sample Route Permit, eDockets No. [20241-202908-01](#).

kV Substation. If the proposed project is chosen instead of the ATC Alternative, EERA suggests including a special permit condition with the following language:

Vegetation Retention

The Permittee shall disturb or clear vegetation on the site only to the extent necessary to assure suitable access for construction, and for safe operation and maintenance of the project. The existing vegetative buffer specifically between the St. Louis County 345 kV/230 kV Substation and Morris Thomas Road shall be retained during construction of the project and for the life of the project.

EERA finds that sample permit conditions 5.3.6 Aesthetics, 5.3.9 Vegetation Management, and the proposed special Vegetation Management Plan condition also assist in mitigating vegetation removal for the project should the ATC Alternative be chosen.

Neutral Coloring

Minnesota Power committed to selecting a neutral color for the HVDC Converter Station that would better blend with the landscape in its comments responding to the EA. Whether the proposed project or the ATC Alternative is chosen, EERA suggests including a special permit condition with the following language:

HVDC Converter Station Aesthetics

The Permittee shall color its HVDC Converter Station to blend in with the natural landscape with a neutral color such as a shade of brown or green, or a combination thereof.

Noise Study

Minnesota Power committed to undertaking an additional noise study once final design of the project is complete in its comments responding to the EA. This commitment also offered to submit the additional noise study as a compliance filing prior to commencing construction for the project. Whether the proposed project or the ATC Alternative is chosen, EERA suggests including a special permit condition with the following language:

Noise Study

The Permittee shall file a pre-construction noise study at least 14 days prior to the pre-construction meeting. The pre-construction noise study shall include assumptions made, baseline noise conditions in the area, modeled noise levels, planned minimization and mitigation efforts, and equipment studied. The study shall compare modeled noise levels with the State of Minnesota's noise standards (Minnesota Rule 7030.0040).

Department of Natural Resources (DNR)

EERA staff find the following conditions requested by the DNR are appropriate to include in the Commission's route permit should it be granted for the project. All special permit conditions requested by DNR can apply whether the proposed project or the ATC Alternative is chosen. The DNR proposed additions to the sample route permit based on language recommended in the EA¹¹ or language used similarly in previously issued route permits.

¹¹ Department of Commerce, EERA. Environmental Assessment, Chapter 6, Recommendations, page 131. eDockets No. [20242-203954-02](#).

Restoration of Right-of-Way

The DNR recommended a special permit condition requiring coordination with the DNR to ensure that restoration efforts near West Rocky Run Creek provide adequate resource protection. The DNR did not suggest language for this condition as it appears to be unique. EERA suggests including a special permit condition with the following language:

Right-of-Way Restoration Near Trout Streams

The Permittee shall restore the right-of-way, forested habitat along existing right-of-ways, and any right-of-ways to be decommissioned affected by construction of the Transmission Facility. Restoration within the right-of-way near trout streams shall be coordinated with DNR fisheries staff to ensure that restoration in these areas provide adequate resource protection.

Steep Slopes

The DNR supported a special condition that would mitigate impacts to surface waters in response to statements made in the EA about the potential for indirect impacts due to grading of steep slopes for the HVDC Converter Station and increased impervious surface that may alter existing drainage patterns to the trout stream. The DNR did not suggest language for this condition as it appears to be unique. EERA suggests including a special permit condition with the following language:

Steep Slopes

To avoid indirect impacts to surface waters from steep slopes, increased impervious surfaces, erosion, and altered drainage patterns, the Permittee shall use rip rap or a similar material to stabilize steep slopes after construction to ensure the existing drainage pattern remains. The Permittee shall maintain a well vegetated buffer between West Rocky Run Creek and graded areas. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

Lighting

To ensure the use of downward facing lighting that minimizes blue hue, the DNR supported the example permit language provided in the EA. The example permit language is based on permits issued by the Commission previously for similar projects. EERA suggests including a special permit condition with the following language:

Facility Lighting

To reduce harm to birds, insects, and other animals, the Permittee shall utilize downlit and shielded lighting at all project facilities. Lighting utilized shall minimize blue hue. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

Dust Control

To ensure that chloride products are not used for dust control, the DNR supported the example permit language provided in the EA. The example permit language is based on permits issued by the Commission previously for similar projects. EERA suggests including a special permit condition with the following language:

Dust Control

To protect plants and wildlife from chloride products that do not break down in the environment, the Permittee is prohibited from using dust control products containing calcium chloride or magnesium chloride during construction and operation. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

Wildlife Friendly Erosion Control

To ensure use of wildlife friendly erosion control measures, the DNR recommended a special permit condition with language from a recently issued route permit in Docket TL-22-235.¹² EERA supports this recommendation and uses that language in this proposed special permit condition:

Wildlife-Friendly Erosion Control

The Permittee shall use only “bio-netting” or “natural netting” types and mulch products without synthetic (plastic) fiber additives.

EERA

Vegetation Management Plans (VMPs) have been routinely adopted in recent route permit dockets as special permit conditions to ensure they are properly coordinated with the Vegetation Management Plan Working Group (VMPWG) and submitted to the Commission with VMPWG approval before construction commences in order to properly document commitments.

The VMPWG has reviewed Minnesota Power’s draft VMP and concluded that they do not have comments. The VMPWG will review the VMP again if a route permit is issued. EERA suggests including a special permit condition with the following language:

Vegetation Management Plan

The Permittee shall develop a vegetation management plan (VMP), in coordination with the Vegetation Management Plan Working Group (VMPWG), using best management practices established by the DNR and BWSR. The Permittee shall file the VMP and documentation of the coordination efforts between the Permittee and the coordinating agencies with the Commission at least 14 days prior to the plan and profile required under this route permit. The Permittee shall provide all landowners along the route with copies of the VMP. The Permittee shall file an affidavit of its distribution of the VMP to landowners with the Commission at least 14 days prior to the plan and profile. The VMP shall include, at a minimum, the following:

- a) management objectives addressing short term (year 0-5, seeding and establishment) and long term (year 5 through the life of the Project) goals;*
- b) a description of planned restoration and vegetation activities, including how the route will be prepared, timing of activities, and how seeding will occur (broadcast, drilling, etc.), and the types of seed mixes to be used;*
- c) A description of tree removal/planting activities and the timing of such activities;*
- d) a description of how the route will be monitored and evaluated to meet management*

¹² Public Utilities Commission. Order Adopting Administrative Law Judge Report and Issuing Route Permit, eDockets [No. 202310-199800-01](#).

- goals;
- e) *a description of management tools used to maintain vegetation (e.g., mowing, spot spraying, hand removal, etc.), including timing/frequency of maintenance activities;*
 - f) *identification of any third-party (e.g., consultant, contractor, site manager, etc.) contracted for restoration, monitoring, and long-term vegetation management of the site;*
 - g) *identification of on-site noxious weeds and invasive species (native and non-native) and the monitoring and management practices to be utilized; and*
 - h) *a plan showing how the route will be revegetated and corresponding seed mixes.*

Best management practices should be followed concerning seed mixes, seeding rates, and cover crops.

Route Permit Modifications

Commission staff filed a sample route permit on October 2, 2023.¹³ EERA proposes several modifications to the sample route permit. All changes are shown in the markup version of EERA's proposed route permit in Attachment A of this document and are summarized in Table 1.

Modifications proposed by EERA are generally made to include language from recent Commission dockets that has been evolved by Commission and EERA staff. The modifications fall into two categories and are discussed in further detail in Table 1.

Technical Changes. Most of the modifications are minor, technical changes necessary to:

- Tailor the permit to this specific project (e.g., docket number, project location)
- Address typographical errors or technical inconsistencies (e.g., capitalization of terms, consistent use of terms)
- Facilitate consistency and clarity around compliance (e.g., consistently requiring pre-construction compliance filings "14 days prior to the pre-construction meeting," clarifying recordkeeping requirements, clarity and consistency in how certain compliance filings are named/referenced throughout the permit).

Updates to Standard Conditions: Some of the modifications update the permit to reflect the evolution of permit conditions that have routinely been adopted in recent dockets. In some cases, the modifications reflect the most updated version of standard permit condition language as it appears in other recent dockets. In other cases, the modifications update the permit to reflect the standardization of conditions that have been adopted as "special conditions" several times over in recent dockets and have become a standard expectation of permittees (e.g., Independent Third-Party Monitor).

¹³ Public Utilities Commission. *Sample Route permit*, eDockets No. [202310-199322-01](#).

Table 1: EERA Proposed Route Permit Modifications

Section Title	Permit Section Number		Proposed Modification
	Sample Permit	EERA Proposed	
Cover Page	NA	NA	-updates with Project-specific information
Route Permit	1	1	-updates with consistent term use
Pre-emption	1.1	1.1	-updates with active language and consistent term use
Project Location	2.1	2.1	-updates with Project-specific information
Conductors	2.3	2.3	-updates with consistent term use
Substations and Associated Facilities	2.2	2.4	-moved to the end of this section per recent route permit structure
Designated Route	3	3	-edit for consistent term use
Right-of-Way	4	4	-edit for consistent term use -updates with Project-specific information
Route Width Variations	4.1	NA	-removed this Section as it is provided as part of the Designated Route description
General Conditions	5	5	-edit for consistent term use
Route Permit Distribution	5.1	5.1	-edits to clarify compliance requirement
Access to Property	5.2	5.2	-add recordkeeping requirement to clarify compliance requirement
Construction and Operation Practices	5.3	5.3	-edits to remove reference to the route permit as projects are often modified over the course of review
Field Representative	5.3.1	5.3.1	-edit for clarity and consistency -add affidavit submittal to clarify compliance requirement
Employee Training Route Permit Terms and Conditions	5.3.2	5.3.2	-edits for clarity -add recordkeeping requirement to clarify compliance requirement
Independent Third-Party Monitoring	NA	5.3.3	-moved from Special Conditions to standard permit condition for route permits
Public Services, Public Utilities, and Existing Easements	5.3.3	5.3.4	-edits for clarity -add recordkeeping requirement to clarify compliance requirement
Temporary Workspace	5.3.4	5.3.5	-edits to clarify Permittee responsibility
Noise	5.3.5	5.3.6	-edit for clarity and consistency
Aesthetics	5.3.6	5.3.7	-edits to clarify Permittee responsibility -edit for consistency
Soil Erosion and Sediment Control	5.3.7	5.3.8	-edits for clarity and consistency

Section Title		Permit Section Number		Proposed Modification
		Sample Permit	EERA Proposed	
Wetlands and Water Resources		5.3.8	5.3.9	-edits for consistency -edits to clarify Permittee responsibility
Vegetation Management		5.3.9	5.3.10	-edit for consistency
Application of Pesticides		5.3.10	5.3.11	-edits for clarity and consistency -adds recordkeeping requirement to clarify compliance
Invasive Species		5.3.11	5.3.12	-edit 30 days to at least 14 days prior to pre-construction meeting for consistency
Noxious Weeds		5.3.12	5.3.13	-adds recordkeeping requirement to clarify compliance
Roads		5.3.13	5.3.14	-edits for clarity and consistency
Archaeological and Historic Resources		5.3.14	5.3.15	-edits for clarity and consistency -edits to clarify Permittee responsibility -adds recordkeeping requirement to clarify compliance
Avian Protection		5.3.15	5.3.16	-edits for clarity and consistency -adds recordkeeping requirement to clarify compliance
Restoration		5.3.16	5.3.17	-edits for consistency
Cleanup		5.3.17	5.3.18	-edits to clarify Permittee responsibility
Pollution and Hazardous Wastes		5.3.18	5.3.19	-edits for consistency
Damage		5.3.19	5.3.20	-adds recordkeeping requirement to clarify compliance
Electric Field		5.4.2	5.4.2	-edits to clarify Permittee responsibility
Interference with Communication Devices		5.4.3	5.4.3	-adds recordkeeping requirement to clarify compliance
Safety Codes and Design Requirements		5.5.1	5.5.1	-edits to clarify Permittee responsibility
Other Permits and Regulations		5.5.2	5.5.2	-edits for clarity and consistency -adds recordkeeping requirement to clarify compliance
Special Conditions	Vegetation Retention	NA	6.1	adds special condition per Minnesota Power's recommendation
	HVDC Converter Station Aesthetics	NA	6.2	adds special condition per Minnesota Power's recommendation
	Noise Study	NA	6.3	adds special condition per Minnesota Power's recommendation
	Restoration of Decommissioned Right-of-Way	NA	6.4	adds special condition per DNR recommendation

Section Title		Permit Section Number		Proposed Modification
		Sample Permit	EERA Proposed	
	Steep Slopes	NA	6.5	adds special condition per DNR recommendation
	Lighting	NA	6.6	adds special condition per DNR recommendation
	Dust Control	NA	6.7	adds special condition per DNR recommendation
	Wildlife Friendly Erosion Control	NA	6.8	adds special condition per DNR recommendation
	Vegetation Management Plan	NA	6.9	adds special condition per EERA recommendation
Delay in Construction		7	7	-edits for clarity and consistency
Complaint Procedures		8	8	-edit to clarify that staff from Commission or Commerce can assist with unresolved or longstanding complaints -edit to add time limit
Compliance Requirements		9	9	-edit for consistent term use
Pre-Construction Meeting		NA	9.1	-adds compliance requirements for a pre-construction meeting
Plan and Profile		9.1	9.2	-edits for clarity and consistency -adds recordkeeping requirement to clarify compliance
Status Reports		9.2	9.3	-adds compliance requirements for Construction Status Reports
In-Service Date		9.3	9.4	-edit for consistent term use
As-Builts		9.4	9.5	-edit for consistent term use
GPS Data		9.5	9.6	-edit for consistent term use
Right of Entry		NA	9.7	-added this standard permit condition back in as it was missing
Route Permit Amendment		10	10	-edit for consistent term use
Transfer of Route Permit		11	11	-changed text to a list format -add transferee submittal requirements
Revocation or Suspension of This Route Permit		12	12	-edit for consistent term use
Complaint Handling Procedures for Permitted Energy Facilities		NA	Attachment 1	-add Complaint Handling Procedures
Compliance Filing Procedures for Permitted Energy Facilities		NA	Attachment 2	-add Compliance Filing Procedures

Technical Changes

Most of these changes are minor technical changes that update the permit with the specifics of this Project (e.g., docket number, Project location), correct minor errors in the sample permit language, or provide better consistency across the permit (e.g., capitalization of terms, consistent use of terms).

In addition, EERA recommends several changes to facilitate consistency and clarity of permit compliance. As part of the technical assistance the Department provides to the Commission under Minnesota Statute 216E.03, subpart 11, EERA reviews compliance filings required by site and route permits issued by the Commission and assesses consistency of these filings with permit requirements. In order to fulfill this responsibility, EERA works to ensure that permit conditions are written in a manner that makes compliance requirements clear, direct, and consistent.

The proposed modifications are not meant to alter the substance of permit conditions but rather to provide clarity for the Permittee, Commission, EERA, and the public in assuring compliance. In general, EERA's proposed modifications include the following:

Active voice: Using active voice makes it abundantly clear who is responsible for taking actions required by the permit. For example, changing "personal litter.... shall be removed..." to "The Permittee shall remove personal litter..." eliminates any potential confusion about who is responsible for litter removal.

Compliance verification: In certain cases, requiring standard filings that "close the loop" on completion of mailings, postings, or notifications make it simpler to verify compliance. EERA recommends several changes, clarifying that the Permittee must document their action by filing an affidavit so the action is easier to verify.

Recordkeeping: In certain cases, clarifying recordkeeping requirements can ensure that if questions were to arise regarding compliance, they could be easily addressed. To this end, EERA recommends several changes clarifying expectations around records the Permittee should keep and make available upon request of Commission or Commerce staff. EERA believes this will aid in resolving potential compliance disputes. In addition, EERA recommends several changes that clarify that Commission or Commerce staff can ask for records or information to assist with evaluating compliance or reviewing complaints. This clarifies the obligation to coordinate with staff.

Updates To Standard Permit Conditions

EERA proposes one addition to the sample route permit to add what was formerly a special permit condition to the standard conditions in the body of the permit. Independent Third-Party Monitoring is routinely included in recently issued route permits.

Independent Third-Party Monitoring

EERA proposes moving the requirement for an Independent Third-Party Monitor from what is normally requested as a special condition to a standard condition. Due to the potential intensity of land disturbance for transmission lines and their associated facilities, third-party monitors have been required of many recently issued route permits¹⁴ to ensure compliance with permit conditions. EERA suggests the following language in line with recently issued route permits:

¹⁴ Special permit conditions requiring third-party monitors were included in the most recently issued route permits including Duluth Loop (21-141; eDockets No. [20234-194456-01](#)) and St. Joseph (22-235; eDockets No. [202310-199800-01](#)).

5.3.3 Independent Third-Party Monitoring

Prior to any construction, the Permittee shall propose a scope of work and identify an independent third-party monitor to conduct Transmission Facility construction monitoring on behalf of Commerce. The scope of work shall be developed in consultation with and approved by Commerce. This third-party monitor will report directly to and will be under the control of Commerce with costs borne by the Permittee.

The Permittee shall file with the Commission the scope of work and the name, address, email, and telephone number of the third party-monitor at least 30 days prior to commencing any construction or right-of-way preparation and upon any change in the scope of work or contact information that may occur during construction of the Project and restoration of the right-of-way.

EERA appreciates the opportunity to provide these comments. I am available to answer any questions you might have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jenna Ness', with a stylized flourish at the end.

Jenna Ness
EERA Environmental Review Manager