

The Commission met on **Thursday, December 17, 2015**, with Chair Heydinger and Commissioners Lange, Lipschultz, Tuma, and Wergin present. Commissioner Lange was not present for the first three agenda items.

The following matters were taken up by the Commission:

## **ENERGY AGENDA**

### **G-6956/M-15-856**

#### **In the Matter of Community Co-ops of Lake Park's (CCLP's) Petition for an Exemption for a Small Gas Utility Franchise**

Commissioner Lipschultz moved to take the following actions:

1. Approve the Petitioner's request for an exemption from the requirements of Minnesota Statutes section 216B.16 for service provided within the borders of the Municipalities listed in the petition, and for incidental service outside the borders of the Municipalities it serves, as listed in the petition, subject to the Petitioner making required compliance filings.
2. Require the Company to submit a revised copy of its Rates/Service & Regulation Book (Rate Book) in a compliance filings within 20 days of the Commission's order in this docket.
3. Include language in the order that under state law, CCLP continues to be responsible for submitting the following to the Commission:
  - a. Annual Cold Weather Rule reports as required under Minn. Stat. § 216B.096, subd. 11;
  - b. Annual tariff updates with Municipally approved rates to the Commission (Minn. Stat. § 216B.16, subd. 12 (c)); and
  - c. Any subsequent changes in rates, tariffs, and contracts for service outside the Municipalities at least 30 days in advance of implementation, under Minn. Stat. § 216B.16, subd. 12(b).
4. Clarify in the order that CCLP has an affirmative duty to inform the Commission if its customer base expands beyond the 2,000-customer exemption threshold.

The motion passed 4-0.

**G-011/GR-13-617**

**In the Matter of a Petition by Minnesota Energy Resources Corporation (MERC) for Authority to Increase Natural Gas Rates in Minnesota**

Commissioner Tuma moved to take the following actions:

1. Find that MERC is not required to refund amounts less than \$2 and authorize these amounts to be donated to the Salvation Army's Minnesota HeatShare Program; and
2. Find that amounts greater than \$2 are subject to Minnesota States chapter 345.

The motion passed 4-0.

Commissioner Tuma moved to take the following actions:

1. Require MERC to include in rate-case notices approved after this date a statement informing customers of the Department's website for unclaimed property.
2. Require that MERC request permission from the Department to waive the three-year holding period under Minn. Stat. § 345.39, subd. 1.
3. Require MERC to provide more detail in its future interim-rate-refund proposals, including
  - a. A brief narrative that describes the refunding process and data;
  - b. Steps taken to return amounts to inactive customers; and
  - c. A description of the steps MERC has taken, or is planning to take, to prevent the types of errors that have plagued its interim-rate-refund process in this case.

The motion passed 4-0.

**Docket No. ET-2/TL-15-423**

**In the Matter of the Application of Great River Energy for a Route Permit under the Alternative Permitting Process for the Palisade 115 kV Project in Aitkin County**

Commissioner Lipschultz moved that the Commission take no action on route alternatives and delegate administrative authority to the Executive Secretary.

The motion passed 4-0.

At this point, Commissioner Lange entered the hearing room; she participated in the remaining agenda items.

**PL-6668/CN-13-473**

**In the Matter of the Application of North Dakota Pipeline Company LLC for a Certificate of Need for the Sandpiper Pipeline Project in Minnesota**

**PL-6668/PPL-13-474**

**In the Matter of the Application of North Dakota Pipeline Company LLC for a Pipeline Routing Permit for the Sandpiper Pipeline Project in Minnesota**

Commissioner Wergin moved to grant the Sierra Club's petition to intervene for the limited purpose of protecting procedural rights and interest in the Line 3 matter.

The motion passed 5–0.

Commissioner Wergin moved to take the following actions:

1. Lift the stay on the certificate-of-need matter and rejoin the certificate-of-need docket with the route-permit docket;
2. Authorize the preparation of a combined EIS that addresses issues related to the certificate-of-need and route-permit dockets in accordance with Minnesota Statutes chapter 116D and Minnesota Rules chapter 4410;
3. Authorize the Department of Commerce to administer the EIS process in consultation with the Executive Secretary and enter into an agreement with the Department of Natural Resources and the Pollution Control Agency to ensure that the EIS fulfills the requirements of MEPA;
4. Refer or certify both dockets back to the administrative law judge and require joint contested-case proceedings;
5. Limit further record development in the certificate-of-need matter to avoid duplication;
6. Incorporate the existing certificate-of-need record;
7. Request that the Department return to the Commission for approval of alternative routes or route segments, in order to comply with Minn. R. 7852.1400; and
8. Rescind the November 16 and 23, 2015 notices requesting comments from parties on the *Draft Scoping Document for the Sandpiper Pipeline Environmental Review* filed by the Department of Commerce.

The motion passed 5–0.

Commissioner Wergin moved to require the issuance of the draft EIS prior to the filing of intervenor direct testimony.

The motion failed 2–3, with Chair Heydinger and Commissioners Lange and Lipschultz voting against the motion.

Commissioner Lipschultz moved to require the issuance of the final EIS prior to the filing of intervenor direct testimony.

The motion passed 4–1, with Commissioner Wergin voting against the motion.

**PL9/CN-14-916**

**In the Matter of the Application of Enbridge Energy, Limited Partnership for a Certificate of Need for the Line 3 Pipeline Replacement Project in Minnesota from the North Dakota Border to the Wisconsin Border**

**PL9/PPL-15-137**

**In the Matter of the Application of Enbridge Energy, Limited Partnership for a Route Permit for the Line 3 Pipeline Replacement Project in Minnesota from the North Dakota Border to the Wisconsin Border**

Commissioner Wergin moved to take the following actions:

1. Refer the certificate-of-need and route-permit applications to the Office of Administrative Hearings for joint contested-case proceedings.
2. Affirm the Commission’s August 12, 2015 *Order Finding Application Substantially Complete and varying Timelines; Notice of and Order for Hearing* to the extent the order is consistent with the decisions made on this day.
3. In the route-permit-referral order, request that the following items be incorporated into the existing procedural framework:
  - a. Request that the administrative law judge, in consultation with Commission staff, schedule a prehearing conference at a date, time, and place to be set by the administrative law judge.
  - b. Request that the administrative law judge assigned to the matter emphasize the statutory time frame for the Commission to make final decisions on applications and to strongly encourage the parties and participants to adhere to a schedule that conforms to the statutory time frame.
  - c. Request that the administrative law judge ask the parties, agencies, and the public to address whether the proposed project meets the selection criteria established in Minn. R. 7852.1900.
  - d. Request that the administrative law judge prepare a report setting forth findings, conclusions, and recommendations on the merits of the proposed project and a preferred route alternative, applying the routing criteria set forth in statute and rule; and provide comments and recommendations, if any, on the conditions and provisions of the proposed permit.

4. Authorize the preparation of a combined EIS that addresses issues related to the certificate-of-need and route-permit dockets in accordance with Minnesota Statutes chapter 116D and Minnesota Rules chapter 4410, and
  - a. Authorize the Department to administer the EIS process in consultation with the Executive Secretary.
  - b. Require completion of the draft EIS prior to conducting contested-case proceedings.
  - c. In order to comply with Minnesota Rules part 7852.1400, request that the Department return to the Commission for approval of alternative routes or route segments.
  - d. Rescind the December 8, 2015 notice requesting comments from parties on the *Line 3 Alternative Routes Report* filed by the Department.
5. Authorize combined environmental review that considers the cumulative impact of the Sandpiper Pipeline Project<sup>1</sup> and the Line 3 Project.
6. Approve the issuance of the generic pipeline-route-permit template attached to these briefing papers into the record.

Chair Heydinger proposed amending the motion to omit Motion Paragraph 4.b. Commissioner Wergin accepted the amendment.

The amended motion passed 5–0.

Commissioner Wergin moved to require completion of the draft EIS prior to conducting contested-case proceedings.

The motion failed 1–4; the Chair and Commissioners Lange, Lipschultz, and Tuma voted against the motion.

Commissioner Lipschultz moved to require competition of the final EIS prior to the filing of intervenor direct testimony.

The motion passed 4–1; Commissioner Wergin voted against the motion.

The Sierra Club withdrew its *Motion to Suspend or Extend or Reopen the Scoping Comment Period* filed September 23, 2015.

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<sup>1</sup> See *In the Matter of the Application of North Dakota Pipeline Company LLC for a Certificate of Need for the Sandpiper Pipeline Project*, Docket No. PL-6668/CN-13-473, and *In the Matter of the Application of North Dakota Pipeline Company LLC for a Pipeline Routing Permit for the Sandpiper Pipeline Project in Minnesota*, Docket No. PL-6668/PPL-13-474.

There being no further business, the meeting was concluded.

**APPROVED BY THE COMMISSION: February 10, 2016**

A handwritten signature in black ink that reads "Daniel P. Wolf". The signature is written in a cursive style with a large, prominent 'D' and 'W'.

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**Daniel P. Wolf, Executive Secretary**