

Minnesota Public Utilities Commission
Staff Briefing Papers

SUPPLEMENT

Meeting Date: April 17, 2014..... Agenda Item 3*

Company: Minnesota Power

Docket No. E015/GP-13-978

In the Matter of the Application of Minnesota Power for a Gas Pipeline
Routing Permit for the Laskin Energy Center Natural Gas Pipeline Project

Issue(s): Should the Public Utilities Commission grant a partial exemption from pipeline route selection procedures and issue a pipeline route permit for the approximately 5,900-foot, up to 10.75-inch outside diameter natural gas pipeline to serve the Laskin Energy Center located in the city of Hoyt Lakes, Minnesota?

What action should the Commission take regarding the notification requirement in Minn. Rules 7852.0600, Subp. 2?

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I. Relevant Documents

Minnesota Power – Other – Notification Letter Re: Newspaper Publication..... April 10, 2014

II. Statement of the Issue

Should the Public Utilities Commission grant a partial exemption from pipeline route selection procedures and issue a pipeline route permit for the approximately 5,900-foot, up to 10.75-inch outside diameter natural gas pipeline to serve the Laskin Energy Center located in the city of Hoyt Lakes, Minnesota?

What action should the Commission take regarding the notification requirement in Minn. Rules 7852.0600, Subp. 2?

III. Partial Exemption Noticing Requirement

Minnesota Statutes, Chapter 216G provide the framework for the pipeline routing requirements. There are no specific notification requirements in this section. The statute requires that the Commission adopt rules that, among other things: 1) provide notice of proposed pipeline routes to local units of government and to owners and leasees of property along routes being considered, 2) provide for public hearings on proposed pipelines routes, and 3) allow the Commission to provide exemptions from all or part of the pipeline routing permit application process if the pipeline will not have significant impact on humans or the environment.

Minn. Rules, Chapter 7852 governs the pipeline route process. Part 7852.0600 outlines the partial exemption process which requires that:

- 1) **File Application:** The Applicant is to file an application in accordance with the content requirements outlined in 7852.2100 to 7852.3000.
- 2) **Provide Notice of Application Acceptance:** The Applicant is to provide notice within 15 days of application acceptance via:
 - a. published newspaper notice of the proposed project in each county in which the route is to be located;
 - b. distribution of the application to other state agencies, regional development commission (RDC), soil and water conservation districts, watershed districts, county auditors, and township clerks; and,
 - c. distribution of the application and directions for commenting on the partial exemption to RDC, county, city and affected landowners.
- 3) **Comment Period:** The Commission is to allow a 30-day comment period from the date of the notices outlined in number 2;
- 4) **Public Meeting:** The Commission is to hold a public meeting in each county to allow the Commission to determine whether to grant the exemption (*there are no public meeting notification requirements outlined*);
- 5) **Commission Decision on Exemption:** The Commission shall decide in 90-days from the application acceptance whether to grant or deny a partial exemption based on the criteria outlined in Minn. Rules 7852.0700.

IV. Minnesota Power Supplemental Filing and Update

In response to staff's request that Minnesota Power file an affidavit of publication of the notice of application acceptance in a county publication, Minnesota Power filed an update on April 10,

2014. Upon requesting confirmation from the Mesabi Daily of the publication of the Notice, it was discovered that the newspaper publication of application acceptance did not occur.

Minnesota Power provided that it had complied with all other relevant notice requirements, that landowner notification was completed, and affidavits indicating such were previously submitted to the record. The only other landowner along the route (besides Minnesota Power) is the city of Hoyt Lakes. Minnesota Power directly contacted the Mayor who indicated that he would not attend the January 22, 2014, public meeting. Minnesota Power noted the application was available in the Hoyt Lakes and Duluth libraries and that no person had requested a copy of the application. Minnesota Power provided it had taken internal measures to ensure this does not occur in the future.

Minnesota Power proposed that the Commission approve the proposed Route Permit as drafted, with an additional condition – that the approval is not effective until 30-days after Minnesota Power provides published notice in the Mesabi Daily News and the Timberjay newspapers in compliance with 7852.0600, Subp. 2 .A.

Minnesota Power proposed the notice shall include:

- A) A summary of the Commission process to date;
- B) A clear description of the procedures to submit public comments; and
- C) Final Commission approval is contingent on the Commission’s review of any comments filed.

Minnesota Power requested that the Commission vary the 15-day requirement under Minn. Rules 7852.0600, Subp. 2. A. to allow additional time to provide newspaper notification. Minnesota Power will provide an affidavit once available.

Last, Minnesota Power requested that the Commission delegate the authority to the Executive Secretary to determine if a second public meeting is necessary based on any comments received in response to the published notice.

V. Staff Discussion

Staff believes Minnesota Power has proposed a reasonable remedy to the issue, but suggests a slight modification. Staff continues to believe that the partial exemption should be granted and a route permit issued to Minnesota Power, but as discussed above, conditional on further action by Minnesota Power and the Commission.

Staff recommends that Minnesota Power provide notification in the newspapers it identified (Mesabi Daily and Timberjay), include the information outlined, and allow 30 days for persons to submit comment. Additionally, staff believes that the Route Permit approval should be conditional on a letter from the Executive Secretary confirming that no additional process is necessary. If the comments reveal that additional process is necessary, Minnesota Power and staff will re-notice and hold an additional public meeting.

Staff believes this solution is appropriate due to the low level of impact this project is expected to have –the project is located entirely on the city of Hoyt Lakes or Minnesota Power owned land, is running through a developed area, is collocated for the majority of the length along transmission right-of-way, and is a pipeline intended to assist the Laskin Energy Center transition from a coal-fired to natural gas-fired facility (as approved by the Commission in Minnesota Power’s most recent Resource Plan). Staff believes it is likely due to these factors that no further comments will be received.

However, if the Commission leans toward requiring an additional public meeting, the most (time) consolidated approach may be to require full re-notice and an additional public meeting now (instead of waiting until the close of the noticing period). The process is intended to take 90-days, and to be reasonable, staff would recommend the noticing error remedy imposed on Minnesota Power not exceed that 90-day timeframe.

VI. Commission Decision Alternatives

A. Newspaper Notification Remedy

1. **Require newspaper notification of acceptance only.** (*Issue Route Permit and Require Compliance Filing*)

Vary Minn. Rule 7852.0600 Subp. 2. to allow greater than 15 days for Minnesota Power to publish notice of the application acceptance in a newspaper of general circulation in St. Louis County. Require an affidavit of publication be eFiled.

2. **Require newspaper notification of acceptance and comment period.** (*Conditional Route Permit Issuance or Take no Action on Route Permit Issuance*)

Vary Minn. Rule 7852.0600 Subp. 2. to allow greater than 15 days for Minnesota Power to publish notice of the application acceptance in a newspaper of general circulation in St. Louis County and establish a subsequent 30-day comment period on whether to grant or deny the partial exemption. Require an affidavit of publication.

3. **Require newspaper notification of acceptance and of notice of opportunity for public meeting.** (*Conditional Route Permit Issuance or Take no Action on Route Permit Issuance*)

Vary Minn. Rule 7852.0600 Subp. 2. to allow greater than 15 days for Minnesota Power to publish notice of the application acceptance in a newspaper of general circulation in St. Louis County, require Minnesota Power to include a notice of opportunity for a public meeting, and establish a period of 30 days for a person to submit comments or request an additional public meeting be held. Require an affidavit of publication.

4. **Issue a Route Permit conditional on Minnesota Power's newspaper publication and a letter from the Executive Secretary confirming that no additional process is necessary.** (*Conditional Route Permit Issuance*)

Vary Minn. Rule 7852.0600 Subp. 2. to allow greater than 15 days for Minnesota Power to publish notice of the application acceptance in a newspaper of general circulation in St. Louis County.

Issue a Route Permit conditional on 1) Minnesota Power's newspaper publication, 2) establish a period of 30 days for a person to submit comment or request an additional public meeting be held, 3) a letter from the Executive Secretary confirming that upon review of the comments no additional process is necessary. Require an affidavit of publication.

5. **Require re-notification and that an additional public meeting be held.** (*Take no action on Route Permit Issuance*).
6. **Find that a good faith effort was made to comply with the noticing requirements of the partial exemption process and issue a route permit.** (*Issue Route Permit*).
7. **Take some other action.**

B. Route Permit Issuance

1. Grant the partial exemption and issue the Route Permit (attached in the DOC's comments Part 2 of 2) to Minnesota Power for the Laskin Energy Center Project.
2. Grant the partial exemption and issue the Route Permit (attached in the DOC's comments Part 2 of 2) to Minnesota Power for the Laskin Energy Center Project with the Finding of Fact and Route Permit modifications proposed by Commission staff.
3. Grant the partial exemption and issue the Route Permit (attached in the DOC's comments Part 2 of 2) to Minnesota Power for the Laskin Energy Center Project with the Finding of Fact and Route Permit modifications proposed by Commission staff conditional on action listed in A.
4. Require Minnesota Power to file a set of Findings of Fact with citations and footnotes to each record reference as compliance filing.
5. Take some other action.

Staff Recommendation: A4 and B3.