

Minnesota Public Utilities Commission

Staff Briefing Papers

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?

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I. Relevant Documents

Application for a Pipeline Route Permit (5 parts)November 13, 2013
Commission Order Accepting Application..... December 20, 2013
Department of Transportation Comments February 5, 2014
Department of Natural Resources Comments (2 parts) February 5, 2014
Minnesota Power Proposed Findings of Fact February 5, 2014
Department of Commerce Comments (2 parts) February 28, 2014
Minnesota Power Reply Comments..... March 11, 2014

II. Statement of the Issues

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?

III. Project Background

On November 13, 2013, Minnesota Power filed an application for the Laskin Energy Center Natural Gas Pipeline Project under the Minnesota Public Utilities Commission's (Commission) partial exemption pipeline procedures found under Minnesota Rule 7852.0700.

Minnesota Power has proposed to construct an approximately 5,900-foot-long, 10.75-inch-outside-diameter, up to 1,480 pounds per square inch gauge (psig), natural gas pipeline from the Northern Natural Gas Pipeline to Minnesota Power's Laskin Energy Center in Hoyt Lakes, Minnesota. The requested route width is between 250 and 1,400 feet to provide flexibility for selection of centerline and construction right-of-way during the final pipeline design and field routing decisions.

The proposed route is located one mile west of Hoyt Lakes and traverses a developed and zoned industrial area with existing infrastructure, including road and transmission line rights-of-way. The pipeline is expected to be placed immediately adjacent to an existing transmission line easement for much of its length. The majority of land (63 percent) crossed by the Project is owned by Minnesota Power, with the remaining 37 percent owned by the city of Hoyt Lakes. A total of 13.5 acres of land will be disturbed for the construction of the pipeline. The project calls for a 100-foot construction right-of-way consisting of a 75-foot temporary right-of-way and a 30-foot permanent right-of-way. The depth of the proposed pipeline trench will typically be three feet below existing ground surface except at locations where additional depth (4.5 feet) is required pursuant to Minnesota Statute 216B.07, Subd. 1.

Associated above ground facilities would consist of one 100 by 100 foot gas delivery station where the new pipeline would connect with the existing Northern Natural Gas pipeline. Associated appurtenances include valves and flanges; an in-line inspection tool launcher and receiver; cathodic protection; alternating current mitigation; gas delivery and odorization stations; and pipeline markers at various locations (e.g., road crossings).

The maximum designed capacity of the natural gas pipeline is 1,500 standard cubic feet per hour (Mscfh) at up to 1,480 psig (pounds per square inch gauge). The proposed operating pressure of the pipeline will be from 0 to 1,480 psig.

The Project would allow for the conversion of the coal-fired station into a natural gas fired station. The total estimated cost of the proposed pipeline project is up to \$2 million. Construction has been targeted to begin as soon as August 2014, with a planned in-service date of May 2015.

IV. Partial Exemption Process

Minnesota Statutes § 216G.02 requires a pipeline routing permit issued by the Commission to construct and install certain intrastate pipelines designed to transport hazardous liquids. The pipeline routing requirements are outlined in Minnesota Rules, Chapter 7852.

The Commission has jurisdiction over the routing of pipelines with a nominal diameter of six inches or more that are designed to transport hazardous liquids and pipelines designed to be operated at a pressure of more than 275 pounds per square inch and carry natural gas.

The Commission's authority does not apply to interstate natural gas pipelines under authority of the federal Natural Gas Act or to pipeline owners or operators who are defined as a natural gas public utility in addition to other exclusions outlined in Minnesota Rules 7852.0300, Subp. 1.

An applicant may submit an application to the Commission for pipeline route selection and a pipeline route permit. If the applicant does not expect the proposed pipeline and associated facilities to have significant impacts on humans or the environment, it can submit an application for partial exemption from pipeline route selection procedures. In such a case, the Commission will decide whether to grant or deny the partial exemption within 90 days after Commission acceptance date of the partial exemption application.

Staff Discussion on Process

Staff has reviewed the regulatory requirements and summarized compliance with each process step in Table 1 – Partial Exemption Process attached to the end of this document.

Staff agrees with Minnesota Power and the Department of Commerce that the partial exemption process procedural steps were followed appropriately. However, staff has requested that Minnesota Power file to eDockets an affidavit of publication of the Notice of Public Meeting if available from the Mesabi Daily News. Minnesota Power cited in its Findings of Fact that it was published the week of January 6th, 2014 in the Mesabi Daily News.

V. Proposed Findings of Fact

Minnesota Power provided proposed Findings of Fact for the Commission's consideration. The Department of Commerce Energy Environmental Review and Analysis (DOC EERA) staff reviewed the proposed Findings and indicated that they were accurate except that the Findings did not contain citations to the record and were compiled prior to the receipt of the Minnesota Department of Natural Resources (DNR) and the Department of Transportation (MnDOT) comments and, therefore, did not reflect the comments of those agencies.

Staff Discussion

Staff has reviewed the proposed Findings and agrees with the DOC EERA staff they are an accurate representation of the record. Staff provides modifications to the findings to reflect the comments of the DNR and MnDOT and to reflect comments filed by Minnesota Power on March 11, 2014 (discussed in further detail below). Further, staff provided Table 2 - Criteria for

Partial Exemption from Pipeline Route Selection Procedures, below, which summarizes the criteria the Commission needs to consider in its determination on whether to grant a partial exemption and cites to where the information is located in the record. Staff believes in lieu of Finding of Fact citations, this table can be used in conjunction with the Findings of Fact to supplement the Commission decision. However, the Commission may decide to request Minnesota Power provide a compliance filing providing citations to the record, reflected as a decision option below.

Staff recommends that, at a minimum, the proposed Findings be modified to add the following findings to reflect the comments of the DNR and MnDOT:

Written comments were received by the DNR and MnDOT before the close of the February 5, 2014 deadline for filing of comments on the project. The DNR raised several issues in its comments. First, it recommended that native vegetation and wildlife-friendly erosion control mesh be used wherever possible during restoration. Second, that construction methods that reduce the introduction of invasive species should be utilized. Third, the DNR noted that the project is not likely to impact the wood turtle, a state-listed threatened species, however if encountered, the turtle should be moved by hand to the edge of the nearest river out of harm's way. All contractors should be made aware of the potential to encounter these turtles and any sightings should be reported to the DNR.¹ The MnDOT commented that Minnesota Power should coordinate the haul of any oversize loads and that if the Laskin Energy Center Natural Gas Pipeline Project or its associated facilities should happen to intersect with the trunk highway system, the Applicant will need to apply for and obtain permits for those locations.²

Further, the proposed Findings should be modified to reflect Minnesota Power's March 11, 2014 comments which request the flexibility to install a pipeline with a diameter *up to* 10.75-inches. Minnesota Power indicated that discussions with pipeline vendors have resulted in the potential available use of a smaller, less expensive pipeline that will provide the same specifications as proposed in the permit application. Staff believes this request is reasonable would not materially change the analysis conducted in this record and requests the references be modified to accommodate this change.

VI. Proposed Route Permit

The DOC EERA staff, in conjunction with Commission staff has compiled a Proposed Draft Route Permit based on previous permits issued by the Commission. Staff has few comments. Staff agrees with the DOC EERA that the comments provided by the DNR and MnDOT are adequately reflected in the standard permit conditions outlined in the permit (see conditions 4.7.7, condition 4.7.11, condition and condition 4.7.13).

¹ Doc. ID 20142-96207-01 and 20142-96207-02.

² Doc. ID 20142-96154-01.

Staff Discussion

Staff recommends the following changes to the proposed Route Permit:

- 1) All references to the 10.75-inch diameter pipeline be modified to read ‘*up to*’ 10.75-inch diameter pipeline (per Minnesota Power’s Mach 11, 2014 request).
- 2) The Compliance and Complaint Handling Proceedings be modified to reflect the most recent standard versions which request filings be made with the Commission and the eDockets system in lieu of the Department of Commerce. The most recent Compliance and Complaint Handling Procedures are attached to this paper.

VII. Recommendation

Staff agrees with Minnesota Power and the DOC EERA staff that the procedural requirements of the partial exemption process have been met.

The general standard provided in Minnesota Rule 7852.0700, Subp. 2 requires that:

In granting a partial exemption from the pipeline route selection procedures, the commission must determine that the proposed pipeline and associated facilities will not have a significant impact on humans or the environment. The commission shall evaluate the impacts that may be reasonably expected to occur from the proposed pipeline and associated facilities.

Staff has reviewed the criteria in Minnesota Rule and the Route Permit Application and believes that it adequately satisfies the requirements for granting a partial exemption from the pipeline route selection procedures. Staff compiled Table 2 - Criteria for Partial Exemption from Pipeline Route Selection Procedures (below) which indicates where each criterion is discussed in the record.

Staff recommends the Commission make the above noted modifications to Minnesota Power Findings of Fact and the DOC EERA proposed Draft Route Permit and that the Commission grant the partial exemption to Minnesota Power for the Laskin Energy Center Project and issue the Route Permit.

VIII. Commission Decision Alternatives

A. 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. Require Minnesota Power to file a set of Findings of Fact with citations and footnotes to each record reference as compliance filing.
4. Take some other action.

Staff Recommendation: A2.

MINNESOTA PUBLIC UTILITIES COMMISSION COMPLAINT HANDLING PROCEDURES FOR PIPELINES

A. Purpose

To establish a uniform and timely method of reporting complaints received by the permittee concerning permit conditions for site preparation, construction, cleanup and restoration, operation, and resolution of such complaints.

B. Scope

This document describes complaint reporting procedures and frequency.

C. Applicability

The procedures shall be used for all complaints received by the permittee and all complaints received by the Minnesota Public Utilities Commission (Commission) under Minn. R. 7829.1500 or Minn. R. 7829.1700 relevant to this permit.

D. Definitions

Complaint: A verbal or written statement presented to the permittees by a person expressing dissatisfaction or concern regarding site preparation, cleanup or restoration or other route and associated facilities permit conditions. Complaints do not include requests, inquiries, questions or general comments.

Substantial Complaint: A written complaint alleging a violation of a specific permit condition that, if substantiated, could result in permit modification or suspension pursuant to the applicable regulations.

Unresolved Complaint: A complaint which, despite the good faith efforts of the permittee and a person, remains to both or one of the parties unresolved or unsatisfactorily resolved.

Person: An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

E. Complaint Documentation and Processing

1. The permittee shall designate an individual to summarize complaints for the Commission. This person's name, phone number and email address shall accompany all complaint submittals.
2. A person presenting the complaint should to the extent possible, include the following information in their communications:
 - a. name, address, phone number, and email address;
 - b. date of complaint;
 - c. tract or parcel number; and
 - d. whether the complaint relates to a permit matter or a compliance issue.
3. The permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
 - a. docket number and project name;
 - b. name of complainant, address, phone number and email address;
 - c. precise description of property or parcel number;
 - d. name of permittee representative receiving complaint and date of receipt;
 - e. nature of complaint and the applicable permit condition(s);
 - f. activities undertaken to resolve the complaint; and
 - g. final disposition of the complaint.

F. Reporting Requirements

The permittee shall commence complaint reporting at the beginning of project construction and continue through the term of the permit. The permittee shall report all complaints to the Commission according to the following schedule:

Immediate Reports: All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to the Commission's Consumer Affairs Office at 1-800-657-3782 (voice messages are acceptable) or consumer.puc@state.mn.us. For e-mail reporting, the email subject line should read "PUC EFP Complaint" and include the appropriate project docket number.

Monthly Reports: By the 15th of each month, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be filed to Dr. Burl W. Haar, Executive Secretary, Public Utilities Commission, using the eDockets system. The eDockets system is located at: <https://www.edockets.state.mn.us/EFiling/home.jsp>

If no complaints were received during the preceding month, the permittee shall file a summary indicating that no complaints were received.

G. Complaints Received by the Commission

Complaints received directly by the Commission from aggrieved persons regarding site preparation, construction, cleanup, restoration, operation and maintenance shall be promptly sent to the permittee.

H. Commission Process for Unresolved Complaints

Commission staff shall perform an initial evaluation of unresolved complaints submitted to the Commission. Complaints raising substantial permit issues shall be processed and resolved by the Commission. Staff shall notify the permittee and appropriate persons if it determines that the complaint is a substantial complaint. With respect to such complaints, each party shall submit a written summary of its position to the Commission no later than ten (10) days after receipt of the staff notification. The complaint will be presented to the Commission for a decision as soon as practicable.

I. Permittee Contacts for Complaints and Complaint Reporting

Complaints may be filed by mail or email to:

Attn: Laskin Energy Center Natural Gas Pipeline Project Supervisor
James B. Atkinson
Environmental Siting and Permit Manager
30 West Superior Street
218-355-3561
jbatkinson@allete.com

This information shall be maintained current by informing the Commission of any changes by eFiling, as they become effective.

**MINNESOTA PUBLIC UTILITIES COMMISSION
COMPLIANCE FILING PROCEDURE FOR
PERMITTED ENERGY FACILITIES**

A. Purpose

To establish a uniform and timely method of submitting information required by the Commission energy facility permits.

B. Scope and Applicability

This procedure encompasses all compliance filings required by permit.

C. Definitions

Compliance Filing: A filing of information to the Commission, where the information is required by a Commission site or route permit.

D. Responsibilities

1. The permittee shall eFile all compliance filings with Dr. Burl W. Haar, Executive Secretary, Public Utilities Commission, through the eDockets system. The eDockets system is located at: <https://www.edockets.state.mn.us/EFiling/home.jsp>

General instructions are provided on the eDockets website. Permittees must register on the website to eFile documents.

2. All filings must have a cover sheet that includes:
 - a. Date
 - b. Name of submitter/permittee
 - c. Type of permit (site or route)
 - d. Project location
 - e. Project docket number
 - f. Permit section under which the filing is made
 - g. Short description of the filing

3. Filings that are graphic intensive (e.g., maps, engineered drawings) must, in addition to being eFiled, be submitted as paper copies and on CD. Paper copies and CDs should be sent to: 1) Dr. Burl W. Haar, Executive Secretary, Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, MN 55101-2147, and 2) Department of Commerce, Energy Environmental Review and Analysis, 85 7th Place East, Suite 500, St. Paul, MN 55101-2198.

The Commission may request a paper copy of any eFiled document.

Table 1 - Partial Exemption Process

	Process Step	Minn. Rule	Rule Reference	Requirement	Completed
1	Application Procedures	7852.0600 Subpart 1	7852.2000	... To apply for a partial exemption, a person must comply with the application procedures of part <u>7852.2000</u> ...	
2		7852.2000. Subpart 1 – Application Filing		Each application for a pipeline routing permit must be filed in the format and manner prescribed by this chapter.	Completed – See Minnesota Power Application (Doc. ID – 201311-93645-01 to 05)
3		7852.2000. Subpart 2 – Format		Applications must be filed on 8-1/2 by 11-inch paper except for drawings, illustrations, maps, and similar materials. The date of preparation and the applicant's name must appear on each document filed with the application.	Completed – See Minnesota Power Application (Doc. ID – 201311-93645-01 to 05)
4		7852.2000. Subpart 3 – Subsequent Filings		Any change or correction made to the application after filing must comply with subparts 2 and 6. In addition, each page of a change or correction to a previously filed page must be marked with the word "REVISED" and with the date the revision was made. The applicant shall send copies of changed or corrected pages to all persons required by subpart 6 and part <u>7852.0600</u> , subpart 2, item C.	Not Applicable
5		7852.2000. Subpart 4 – Application Filing and Acceptance		The commission shall accept, conditionally accept, or reject an application at its first regularly scheduled meeting after the application is filed with the commission, provided the application is filed at least 21 days before that meeting. The commission may conditionally accept or reject an application, but in both instances the commission shall inform the applicant which deficiencies, if corrected, will allow the application to be accepted. If an applicant has corrected the deficiencies or provided the commission with the deficient information 14 days in advance of a regularly scheduled commission meeting, the commission must reconsider acceptance of the application at that meeting. If the commission fails to act at the first scheduled meeting after the application is filed, the application is considered accepted. On acceptance or conditional acceptance of the application, the commission and the applicant shall initiate the actions required by part <u>7852.0600</u> , subpart 2, or <u>7852.0900</u> , as applicable. After acceptance of an application, the applicant shall provide any additional relevant information	Completed – See Commission Order dated December 20, 2013 (Doc. ID – 201312-94815-01)

				the commission considers necessary to process the application.	
6		7852.2000. Subpart 5 – Copies		The unbound original and 40 copies of the application must be filed with the commission.	Not Applicable - eFiled
7		7852.2000. Subpart 6 – Application Distribution		<p>The applicant shall provide copies of the application accepted by the commission to other state agencies who are not commission members, but have regulatory responsibilities for the proposed pipeline.</p> <p>The applicant shall send a copy of the accepted application to the Minnesota Historical Society, to the office of each regional development commission of a development region, soil and water conservation district, watershed district, watershed management district, auditor of each county, and to the clerk of each township and city, crossed by the proposed pipeline. Each county auditor, city clerk, or township clerk shall retain and file the application in a manner making it accessible to the public.</p> <p>The applicant shall also provide one copy of the application to any person upon written request made on or before the tenth day after the first day of the public hearing held in accordance with part <u>7852.1700</u>. The applicant shall maintain a list of the persons to whom copies are sent.</p>	Completed – See Minnesota Power Filing: Other – Letter with Affidavits of Mailing (Doc. ID. 20141-95154-01)
8	Application Content Requirements	7852.0600 Subpart 1	7852.2100 to 7852.3000	To apply for a partial exemption, a person must ... submit an application that contains the information identified in parts <u>7852.2100</u> to <u>7852.3000</u> .	Completed – See Commission Order dated December 20, 2013 (Doc. ID – 201312-94815-01) and Minnesota Power Application (Doc. ID – 201311-93645-02) at 1-4 Table 1 – Completeness Checklist.
9	Notice of Application	7852.0600 Subpart 2		<p>Within 15 days the applicant shall:</p> <p>A) Provide published notice, included a description of the proposed project, including size and type, and a map of the proposed pipeline route in each county in which the route is proposed to be located;</p> <p>B) Comply with the application distribution requirements of 7852.2000, subp. 6;</p> <p>C) Send by certified mail a copy of the partial exemption to</p>	<p>A) Proof of Publication Requested</p> <p>B) Completed on January 2, 2014 – See Minnesota Power Filing: Other – Letter with Affidavits of Mailing (Doc. ID. 20141-95154-01)</p> <p>C) See B.</p>

				the chair or chief executive of any regional development commission, county, incorporated municipality, organized town, and to affected landowners.	
10	Notice of the Dept. of Ag.	Minn. Stat. 216E.10		Pursuant to Minnesota Statutes § 216E.10, subdivision 3(b), an applicant for a permit under Chapter § 216G will notify the Commissioner of Agriculture if the proposed project will impact cultivated agricultural land. Minnesota Power does not anticipate this project will cross any agricultural lands.	Not Applicable.
11	Comment Period	7852.0600 Subpart 3		A person may file comments with the commission within 30 days after giving notice under subpart 2, item C, stating reasons why the commission should grant or deny the partial exemption.	Completed – See Notice of Public Information Meeting (Doc ID 201312-94937-01) - Comment Period was open from December 27 until February 14, 2014.
12	Public Meeting	7852.0600 Subpart 4		The commission shall conduct a public information meeting in each county in which the pipeline and associated facilities are proposed to be located. The purpose of the public information meetings is to assist the commission in determining whether to grant or deny the partial exemption.	Completed – See Notice of Public Information Meeting (Doc ID 201312-94937-01)
13	Commission Determination within 90 Days	7852.0600 Subpart 1 and 6		<p>7852.0600 Subp. 1: ... The commission shall decide whether to grant or deny the partial exemption within 90 days after commission acceptance of the partial exemption application.</p> <p>7852.0600 Subpart 2: When a partial exemption is denied, the applicant must be notified in writing of the reasons for denial. A denial is without prejudice to the applicant's right to an appearance before the commission, filing information after revisions are made to meet objections specified as reasons for the denial, or to request that the commission continue processing its application under full pipeline route selection procedures contained in parts <u>7852.0800</u> to <u>7852.1900</u> for a pipeline routing permit.</p>	

Table 2 - Criteria for Partial Exemption from Pipeline Route Selection Procedures

Minn. Rule 7852.0700, Subpart. 2 – Standard		In granting a partial exemption from the pipeline route selection procedures, the commission must determine that the proposed pipeline and associated facilities will not have a significant impact on humans or the environment. The commission shall evaluate the impacts that may be reasonably expected to occur from the proposed pipeline and associated facilities.	
Minn. Rule 7852.0700, Subpart. 3 - Criteria	A.	human settlement, existence and density of populated areas, existing and planned future land use, and management plans;	Minnesota Power Application at Section 8.1.1, 8.1.2 and 8.6 (Doc. ID – 201311-93645-02)
	B.	the natural environment, public and designated lands, including but not limited to natural areas, wildlife habitat, water, and recreational lands;	Minnesota Power Application at Section 8.1 generally and 8.1.3 (Doc. ID – 201311-93645-02)
	C.	lands of historical, archaeological, and cultural significance;	Minnesota Power Application at Section 8.3 (Doc. ID – 201311-93645-02)
	D.	economies within the route, including agricultural, commercial or industrial, forestry, recreational, and mining operations;	Minnesota Power Application at Section 8.2 and 8.7 (Doc. ID – 201311-93645-02)
	E.	pipeline cost and accessibility;	Minnesota Power Application at Section 3.5 (Doc. ID – 201311-93645-02)
	F.	use of existing rights-of-way and right-of-way sharing or paralleling;	Minnesota Power Application at Section 8.4 (Doc. ID – 201311-93645-02)
	G.	natural resources and features;	Minnesota Power Application at Section 8.1 (Doc. ID – 201311-93645-02)
	H.	the extent to which human or environmental effects are subject to mitigation by regulatory control and by application of the permit conditions contained in part <u>7852.3400</u> for pipeline right-of-way preparation, construction, cleanup, and restoration practices;	Minnesota Power Application at Section 8.1.9 (Doc. ID – 201311-93645-02)
	I.	cumulative potential effect of related or anticipated future pipeline construction; and	Minnesota Power Application at Section 8.5 (Doc. ID – 201311-93645-02)
	J.	relevant policies, rules, and regulations of the state and federal agencies and local government land use laws including ordinances adopted under Minnesota Statutes, section <u>299J.05</u> , relating to the location, design, construction, or operation of the proposed pipeline and associated facilities.	Minnesota Power Application at Section 9.0 (Doc. ID – 201311-93645-02)