STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF XCEL ENERGY AND ITC MIDWEST LLC FOR A CERTIFICATE OF NEED AND A ROUTE PERMIT FOR THE HUNTLEY-WILMARTH 345-KV TRANSMISSION LINE PROJECT	DOCKET NO. E-002, ET6675/CN-17-184 DOCKET NO. E-002, ET6675/TL-17-185 OAH Docket No. 82-2500-35157 (Combined)

REPLY BRIEF OF NORTH MANKATO

April 15, 2019

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INTRODUCTION

The background and history of North Mankato ("North Mankato" or the "City")'s participation in this proceeding are set forth in the City's Post-Hearing Brief, and are hereby incorporated by reference.

On March 22, 2019, Applicants Xcel Energy and ITC Midwest LLC ("Applicants") filed their Post-Hearing Brief and Proposed Findings of Fact and Conclusions of Law on the Route Permit Application for the Huntley-Wilmarth Transmission Project ("Huntley-Wilmarth Line" or "Project"). The Applicants recommended that the Minnesota Public Utilities Commission ("PUC" or "Commission") select either a modified Purple Route Alternative or the Green Route Alternative. The City of North Mankato supports the Applicants' recommendation to select the modified Purple Route Alternative. However, consistent with the City's position throughout this proceeding, the City opposes the Applicants' recommendation to select the Green Route Alternative. North Mankato continues to ask that the Presiding Judge issue a finding rejecting the northern portions of the Red and Green Route Alternatives in the vicinity of North Mankato, including Alternative Segments A and B. If the Certificate of Need is granted, then either the Purple, Purple-E-Red, or Blue Route Alternative should be selected over the Red or Green Route Alternative.

ARGUMENT

The Applicants have not met their burden to show that either the Red or Green Route Alternative is consistent with "state goals to conserve resources, minimize environmental impacts, and minimize human settlement and other land use conflicts."[1] The Applicants' recommendation of the Green Route Alternative is based on its lower cost compared to the cost

[1] Minnesota Rule 7850.4000.

of the Purple, Purple-E-Red, or Blue Route Alternative (all based on a single pole design—as the Applicants now recommend). But the Applicants recognize that the Green Route would have more human and environmental impacts than any other route. While the Green Route Alternative (with single pole design) is approximately 14 percent less expensive than the Purple Route Alternative (with single pole design), the cost savings of the Green Route Alternative are simply not worth the added impact on Minnesota residents.

The Applicants also continue to mischaracterize the impacts on North Mankato as "not significant," but the record demonstrates that impacts on North Mankato are very significant. North Mankato's comprehensive development plan ("Comprehensive Plan") predates the proposal to construct the Huntley-Wilmarth Line, and the Huntley-Wilmarth Line would have permanent adverse and significant impacts on North Mankato's plans for growth on which the City is depending, and would significantly impact the present quality of life, aesthetics, and recreation in North Mankato.

The alleged "cost savings" that would pass through to Minnesota residents if the Green Route is selected over a longer, more expensive route are minimal. The Huntley-Wilmarth Project is a regional project, where ratepayers outside of Minnesota are among the beneficiaries of any alleged cost savings that would be realized by selecting the Green Route. However, residents inside of Minnesota would bear 100 percent of the Green Route's environmental and land use impacts.

In their rationale for selecting the Green Route Alternative, the Applicants conflate the criteria used by the PUC to evaluate a certificate of need application with the criteria used by the PUC to select an appropriate route alternative. For example, the Applicants point to the Midcontinent Independent System Operator, Inc. ("MISO")'s analysis of cost savings to regional

ratepayers, including those outside Minnesota, and the reduced risk that MISO will order a variance analysis—but these factors, while perhaps relevant to the certificate of need criteria, are not relevant to, and should not influence, the evaluation of the statutory and rule criteria for route selection.

The Final Environmental Impact Statement ("EIS"), the testimony and briefing submitted by the Department of Commerce Division of Energy Resources ("DOC-DER"), and the Applicants' own analysis continue to demonstrate that the Purple, Purple-E-Red, or Blue Route Alternatives each better avoids residences, businesses, and other places where citizens congregate and that any of these routes should be selected over either the Red or Green Route Alternatives.

I. The Applicants Have Not Demonstrated That The Green Route Would Be Consistent With State Goals To Conserve Resources, Minimize Environmental Impacts, And Minimize Human Settlement And Other Land Use Conflicts

A. Contrary to Minnesota Rule 7850.4000, the Green Route Would Impose Significantly Greater Impacts on Human Settlement, Environmental, and Other Land Use Conflicts as Compared to All Other Routes

The Green Route Alternative does not satisfy Minnesota Rule 7850.4000, which requires that the transmission route selected be consistent with state goals to conserve resources, minimize environmental impacts, and minimize human settlement and other land use conflicts:

> No site permit or route permit shall be issued in violation of the site selection standards and criteria established in Minnesota Statutes, sections 216E.03 and 216E.04, and in rules adopted by the commission. The commission shall issue a permit for a proposed facility when the commission finds, in keeping with the requirements of the Minnesota Environmental Policy Act, Minnesota Statutes, chapter 116D, and the Minnesota Environmental Rights Act, Minnesota Statutes, chapter 116B, that the facility is consistent with state goals to conserve resources, minimize environmental impacts, and minimize human settlement and other land use conflicts and ensures the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.

Minnesota Rule 7850.4000. Not only would the Green Route Alternative fail to minimize environmental impacts, human settlement and other land use conflicts, but in fact there are more adverse impacts associated with the Green Route than any other route. Table 7 of Applicants Initial Brief underscores this conclusion:

Table 7: Applicants' Recommended Route Configurations – Summary of Impacts and Costs

Factor	Least Impact/ Cost	Moderate Impact/Cost	Most Impact/Cost
Human Settlement (Proximity to Residences)	Purple-BB-L Blue-CC-Q	Purple-E-AA1-Red-Q	**Green**, Red-Q
Human Settlement (Future Development Plans)	Purple-BB-L Purple-E-AA1-Red-Q	Blue-CC-Q	**Green,** Red-Q
Land-Based Economies (Agriculture)	Red-Q Purple-E-AA1-Red-Q	Purple-BB-L Blue-CC-Q	**Green**
Natural Environment (Forested Land)	Purple-BB-L Blue-CC-Q	Purple-E-AA1-Red-Q	**Green**, Red-Q
Use of Existing Corridors	Purple-E-AA1-Red-Q Red-Q	Purple-BB-L	**Green**, Blue-CC-Q
Cost	Green	Purple-BB-L Red-Q Blue-CC-Q	Purple-E-AA1-Red-Q

(emphasis added). This table reveals that the Green Route has greater adverse impacts in areas of Human Settlement (proximity to residences), Human Settlement (future development plans), Land-based Economies (agriculture), Natural Environment (forested land), and Use of Existing Corridors (four out of five factors that—according to applicants—distinguish the different impacts of the five routes). Applicants admit that the Green Route is in close proximity to

residences and has "relatively higher impacts on aesthetics, future development, agriculture, and forested land."[2]

Applicants' own analysis demonstrates that the Purple or a modified Purple Alternative would have the least impact in each of these categories except cost.[3] In fact, in explaining that selection of any route other than Purple (or a modified Purple) would result in greater human and environmental impacts along other routes, the Applicants state:

> Enforcement of Minn. R. 7850.4300 would pose an excessive burden on the utility and the public as *not allowing this crossing would result in greater human and environmental impacts along one of the other route alternatives, would likely increase Project costs, and would leave the Lakefield – Wilmarth 345 kV transmission line in place, across the state park while creating a new transmission line right-of-way elsewhere in the area*.

Applicants Post Hearing Br. (Routing) at 70-71 (emphasis added). The Applicants' rationale for recommending the Green Route Alternative is based solely on the Green Route's lower cost estimate:

> The policy choice of whether to maximize the net economic benefits of the Project rests with the Commission. In considering the cost factor, the route selected will impact the net economic benefits the Project provides. For example, the Green Route with a monopole design is the least expensive of the remaining options ($121.3 million (2016$)) and therefore would provide the highest net economic benefits. *However, the low cost of the Green Route comes with trade-offs including more homes within 200 feet of the anticipated alignment; potential for greater impacts to agriculture, forested land, and future development; and has the least amount of corridor sharing with existing transmission lines*.

Applicants Post Hearing Br. at 9 (emphasis added). But cost is only one of the PUC's criteria for route selection, and cost alone should not be allowed to outweigh all other factors, in particular in light of DOC-DER's conclusion that the cost estimates provided by the Applicants for the

[2] *Id*. at 76.

[3] *See id*. at Table 7.

Purple, Purple-E-Red, Blue, Red or Green Route Alternatives are "reasonable"[4] and that it "does not have any concerns with the Applicants' estimated Project cost,"[5] as well as the Applicants' statement "that all routes under consideration would provide positive economic benefits."[6]

The record shows that the Green Route (even if built with monopole design) imposes greater human and environmental impacts than any other route alternative (if built with monopole design).[7] In its Post-Hearing Brief, North Mankato explained that the Red and Green Route Alternatives would fail to adequately utilize paralleling with existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries compared to other proposed route alternatives, and would adversely impact committed investments, including investments in infrastructure made by state and local government to facilitate growth in and around the City.[8] Indeed, Minnesota Statutes sections 216E.03, subd. 7(e) requires the PUC to make specific findings that it has considered locating a proposed line along an existing high-voltage transmission route:

> The commission must *make specific findings that it has considered locating a route for a high-voltage transmission line on an existing high-voltage transmission route* and the use of parallel existing highway right-of-way and, to the extent those are not used for the route, the commission must state the reasons.

(emphasis added). Selection of the Green Route Alternative would be inconsistent with this provision because only 12 percent of the Green Route Alternative would utilize existing transmission line rights-of-way. Moreover, selection of the Green Route would result in two extra high voltage transmission lines in the same vicinity, a new Huntley-Wilmarth 345 kV

[4] *See* Exhibit No. DER-1 at 5 (Johnson Direct).

[5] DOC-DER Post Hearing Br. at 42.

[6] Exhibit No. XC-24 at 37:16-20 (Siebenaler Direct).

[7] *See* North Mankato Post-Hearing Brief at 6-17; Final EIS, Table 6-14 & § 6.12.

[8] Minn. Rule 7850.4100 at (H), (N).

single-circuit transmission line and the existing Huntley – South Bend 161 kV transmission line (*see* Final EIS, Map 3-1), precisely the situation that Minnesota Statute 216E.03, subd. 7(e) seeks to avoid. Compare this to Purple and Purple-E-Red Route Alternatives, which utilize 47 and 60 percent of existing rights-of-way (respectively).[9]

With respect to the northern portions of the Green Route Alternative (turning south of Belgrade Township in the North Mankato development area), there are no existing transmission line rights-of-way. Contrary to the Applicants' assertion, impacts to North Mankato's land use and development plans posed by the northern portions of the Green and Red Route Alternatives are significant because they would greatly impede the growth identified in North Mankato's Comprehensive Plan,[10] would significantly impact existing and planned residential areas, would interfere with the quality of life, aesthetics, and recreation in North Mankato,[11] and would impact several irretrievable public investments and commitments that have been made in reliance on and to implement North Mankato's Comprehensive Plan.[12] These impacts must be considered not simply in terms of impacts to human settlement as contemplated under Minnesota Rule 7850.4100, but also must be considered under Minnesota Statutes section 216E.03, subd. 7(b)(12), which requires the Commission and the ALJ to give "consideration of problems raised by other state and federal agencies and local entities."

North Mankato demonstrated that impacts posed by the northern portions of the Green and Red Route Alternatives (including Alternative Segments A or B) on its existing and proposed residential areas would be significant, and cannot be avoided if the northern portions of

[9] Final EIS, Table 6-2. *See also* North Mankato Post Hearing Brief at 20-21.

[10] North Mankato Post Hearing Brief at 6-13.

[11] *Id*. at 13-17.

[12] *Id*. at 21-22.

the Red and Green Route Alternatives are selected, including Alternative Segment A or B.[13] Among these impacts, North Mankato provided that the Red and Green Route Alternatives would come within 500 feet of 183 proposed and 22 existing homes.[14] North Mankato described the concerns of several North Mankato area residents who submitted comments and testimony in the record confirming the nature and extent of the impacts on their quality of life and recreation if the northern portions of the Red or Green Route or Alternative Segment A or B are selected.[15] These and other comments demonstrated that the Red and Green Routes' potential impacts on residential areas in North Mankato are significant, and do not comport with the expectations that residents had when purchasing property in or near North Mankato—including the expectation that utility infrastructure would be placed underground or away from residential areas.[16]

The Final EIS concluded that impacts posed by the Red and Green Route Alternatives are anticipated to be moderate to significant in the categories of aesthetics, zoning, and land use compatibility, and that the Green Route Alternative would pose additional impacts on archaeological and historic resources and agriculture.[17] The Final EIS continues to state that the Green and Red Routes "would adversely influence residential growth" in North Mankato and

[13] *Id*. at 6-13, 13-17, 19.

[14] North Mankato Post-Hearing Brief at 7-8.

[15] Comments of Glen Ruyter (Apr. 26, 2018). *See also* Comments of the City of North Mankato on the Draft EIS, at 4 (Jan. 28, 2019) (Exhibit No. NM-18).

[16] *See, e.g.*, Comments of Mark Braun (May 17, 2018) ("I favor Blue (Easternmost) or Purple (Westernmost) routes (Both/either Green & Red are too close to neighborhoods & parks in North Mankato, Minneopa area etc) – unless it could be underground.") (Apr. 17, 2018); Comments of Shelly Torbenson (Mar. 10, 2019) ("This portion of the route is too close to my home located on Balsam Drive . . . I am most concerned about the health hazards associated with this power line . . . We would not have made the decision to purchase our home so close to a power line for this reason. It does make common sense for this power line to be located in neighborhoods in neighborhoods with so many children. Thank you for hearing my concerns.") Comments of Misty Thompson (Mar. 6, 2019) ("This entire neighborhood's utilities are provided by underground services . . . . The proposed powerlines are on a much larger scale than the type that provide service to a neighborhood and are even more visually offensive.").

[17] *See* Final EIS, Table 6-14 & § 6.12.

that "the purple and purple-E-red routes best minimize impacts to planned land uses."[18] The Final EIS includes Table 6-14, which demonstrates that the merits of the Purple, Purple-E-Red, and Blue Routes exceed the merits of the Green Route:

Table 6-14 Relative Merits of Route Alternatives

Routing Factor/ Element	Purple Route	Green Route	Red Route	Blue Route	Purple-E Red Route	Summary
Human Settlements/ Aesthetics	●	○	○	◒	●	The purple and purple-E-red routes are near relatively fewer residences and follow existing infrastructure ROW.
Human Settlements / Displacement	◒	●	●	●	●	The purple route would displace one seasonal residence; all other routes would not require a displacement.
Human Settlements/ Zoning and Land Use Compatibility	●	◒ ○	◒ ○	◒	●	The green and red routes impact North Mankato's land use plans. The blue route impacts Mankato's land use plans.
Human Settlements / Public Services	●	●	●	◒	●	The blue route has potential to impact the Eastwood solar farm and possible future expansions of the Mankato Regional Airport.
Land-Based Economies / Agriculture	◒	○	●	○	●	Monopoles and double circuiting minimize agricultural impacts. The red and purple-E-red routes with monopole structures best minimize agricultural impacts.
Archaeological and Historic Resources	◒	◒	●	◒	●	The purple route ROW contains known archaeological resources. The green and blue routes are near historic homes and farmsteads.
Natural Environment / Flora	●	○	○	●	◒	The purple and blue routes minimize impacts to trees and forest vegetation. The red and green routes have the greatest impact on trees.

[18] *Id.* § 6.2.3.

Routing Factor/ Element	Purple Route	Green Route	Red Route	Blue Route	Purple-E Red Route	Summary
Use or Paralleling of Existing Rights-of-Way	●	◒	●	◒	●	The purple-E-red route shares the most ROW with existing infrastructure, followed by the red and purple routes. The green and blue routes follow field and section lines rather than existing infrastructure.
Costs Dependent on Design and Route	●	●	◒	◒	◒	H-frames and paralleling are less expensive than monopoles and double circuiting. The red and purple-E-red routes are more expensive due to double-circuiting. The blue route is more expensive due to length and double-circuiting.

Table 6-1 of the Final EIS shows the proximity of existing residences to the route alternatives. The Final EIS confirmed that the Red and Green Routes would be within 1,000 feet[19] of more than two times as many existing residences (126 and 144 residences, respectively) as the Purple Route or Purple-E-Red Route (51 and 61 residences, respectively), and almost three times as many existing residences as the Blue Route Alternative (43 residences).[20] As one moves closer to the proposed routes, these differences are only exacerbated—the Green Route Alternative would have six times as many residences (19) within 75 – 200 feet than the Purple Route) or Blue Route (3 residences each).

All of the above demonstrate that the Green Route Alternative, even with a monopole design, is simply inconsistent with state goals to conserve resources, minimize environmental impacts, and minimize human settlement and other land use conflicts.

[19] Final EIS, Table 6-1 depicts the number of existing residences within 1000 feet of each route alternative as follows: Purple (51 residences), Green (133 residences), Red (126 residences), Blue (43 residences), Purple-E-Red (61 residences).

[20] *Id*. at 6-4.

B. The Alleged "Cost Savings" of the Green Route Are Not Worth the Added Impact to Minnesota Residents

As stated above, the only discernable advantage of selecting the Green Route Alternative (with monopole design) is that its costs are estimated to be lower than the Purple, Purple-E-Red, or Blue Route Alternative (with monopole design).[21] However, the Purple, Purple-E-Red, and Blue Route Alternatives present fewer impacts than the Green Route in all or most relevant categories except cost.[22]

Moreover, the lower cost of the Green Route Alternative relative to the cost of other route alternatives does not necessarily mean that Minnesota ratepayers would receive a majority of the economic benefits associated with the reduced cost of the route. The benefit-to-cost ratio ("Benefit-to-Cost Ratio") for the Huntley-Wilmarth project was calculated as part of MISO's Transmission Expansion Plan ("MTEP") process, where the benefits are viewed from a regional point-of-view, not a local point-of-view. MISO's Benefit-to-Cost Ratio addresses benefits to the MISO region at large, which covers all or parts of fifteen U.S. states and one Canadian province. On the other hand, Minnesota residents will bear 100 percent of the added impact of a less expensive route. The Applicants explained MISO's process for allocating the costs of regional projects like the Huntley-Wilmarth Line:

> Under Attachment FF of the MISO Tariff, recovery of the Project costs will be governed by Attachment GG and Schedules 26 of the MISO Tariff. The MISO Tariff provides that 20 percent of the Project costs for an MEP are allocated to each pricing zone in MISO Classic based on load ratio share (LRS). The remaining 80 percent of the costs of an MEP are allocated to pricing zones based on the distribution of positive APC savings to the Local Resource Zones.

[21] Applicants Post-Hearing Br. (Routing) at 9.

[22] *See* Applicants Post-Hearing Br. (Routing) at Table 7.

Certificate of Need Application § 2.4.4.[23] The Applicants[24] and DOC-DER[25] further explained that pursuant to this process, Xcel expects to be allocated 16.96 percent of the final cost of the project, and that pursuant to Minnesota Statutes § 216B.16, subd. 7(b)(2), Xcel may only allocate costs to Minnesota Ratepayers after offsetting these costs by revenues received from charges to other regional transmission owners:[26]

> Minnesota utilities are permitted by statute to charge ratepayers for transmission project costs in their annual transmission riders prior to when the facilities are used and useful, and in addition to the transmission costs charged in base rates (extraordinary ratemaking), but such costs must be offset by revenues. For any Minnesota rate-regulated utility that owns a transmission project, the transmission project's capital and operation and maintenance costs are converted into Minnesota annual revenue requirements and recovered from retail ratepayers through base rates in general rate cases or TCR riders, which are then reflected on monthly utility bills for retail ratepayers. Generally speaking, Minnesota's rate-regulated utilities include and recover MISO Schedule 26 costs, net of revenues, from ratepayers through transmission riders that are reflected on monthly utility bills.

DOC-DER Post Hearing Br. at 45 (emphasis added). Therefore, the ultimate share of the Huntley-Wilmarth Project carried by Xcel's Minnesota retail customers may be much less than the 16.96 percent expected to be allocated to Xcel. Appendix J to the Certificate of Need Application provides a table estimating that 25 percent of the project's annual revenue requirement is expected to be recovered in Minnesota retail rates (whether from Xcel or other utilities that also will be allocated a percentage of project costs). Appendix J further demonstrates that the expected annual rate impact on Minnesota ratepayers would range from between $4,073,870 per year (which represents the lowest cost route option—the Purple Route with an H frame structure not ultimately recommended by Applicants), and $5,318,536 per year

[23] Because ITC has no load in Minnesota, ITC will not recover any of its costs in retail rates from Minnesota ratepayers.

[24] Exhibit No. XC-6 at 39 (CN Application).

[25] Exhibit No. DER-1 at 9 (Johnson Direct); DOC-DER Post-Hearing Br. at 44.

[26] Johnson Direct at 10:1-16.

(which represents the highest cost option—a 161 kV alternative, also not recommended by Applicants).[27] The cost differential is even less when looking at the two options that Applicants recommend (modified Purple Route Alternative versus Green Route Alternative). The relatively narrow cost range demonstrates that even choosing the most expensive route alternative would not present significant rate impacts for Minnesota ratepayers, and further illustrates that the alleged "cost savings" to Minnesota residents associated with the Green Route (as the least cost route) are simply not worth the added impact on Minnesota residents.[28]

C. The Applicants Conflate the Criteria Used by the PUC to Evaluate the Certificate of Need Application with the Statutory and Rule Criteria for Route Selection

Applicants argue that this proceeding provides "an opportunity for the Commission to consider a new way of evaluating one of its routing factors—a route's costs—through the lens of how those costs affect the projected net benefits of an economic project."[29] North Mankato disagrees. The fact that this project is classified by MISO as a Market Efficiency Project ("MEP") should not be of any particular relevance in terms of the routing decision such that greater emphasis is placed on cost than otherwise would occur, nor should the MISO regional Benefit-to-Cost Ratio supplant the evaluation of the statutory and rule criteria for route selection. While the MEP classification or the MISO regional Benefit-to-Cost Ratio might be relevant in terms of understanding and defending the *need* for the project, they are not meaningful, and certainly not determinative, in the context of the *routing* decision.

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[27] Exhibit No. XC-6 at Appendix J (CN Application).

[28] By comparison, in 2013 an ALJ recommended mitigation to bury 3.6 miles of distribution lines even though it increased the route's costs by $200,000, increasing rates to Xcel ratepayers by only $.000004/KWh. *In The Matter of the Application for a Route Permit for the Westgate 115 kV Transmission Line Rebuild* Project, Slip. Op., Docket No. OAH 65-2500-22873, et al., at PP 109, 332 (Sept. 30, 2013). To put this in perspective, the Average Minnesota household uses approximately 748 KWh per month. Energy Information Administration, *2017 Average Monthly Bill- Residential* (2017), *available at* https://www.eia.gov/electricity/sales_revenue_price/pdf/table5_a.pdf.

[29] Applicants Post-Hearing Br. (Routing) at 2.

The Applicants conflate the criteria used by the PUC to evaluate the Certificate of Need Application with the statutory and rule criteria for route selection that the PUC must use to select the best route alternative. Minnesota Statutes section 216B.243, subd. 3(3) states that in assessing the need for the project, the PUC shall evaluate, among other factors:

> the relationship of the proposed facility to overall state energy needs, as described in the most recent state energy policy and conservation report prepared under section 216C.18, or, in the case of a high-voltage transmission line, the relationship of the proposed line to regional energy needs, as presented in the transmission plan submitted under section 216B.2425[.]

Minnesota Statutes section 216B.2425 in turn provides that in lieu of a transmission plan, the PUC "may rely on available information and analysis developed by a regional transmission organization or any subgroup of a regional transmission organization and may develop and include additional information as necessary."

In this case, the regional transmission organization is MISO, and the relevant analysis provided by the Applicants is MISO's MTEP and the Benefit-to-Cost Ratio for the region assessed therein. This Benefit-to-Cost Ratio refers to cost savings realized in the greater Midwest region (measured in terms of adjusted production cost, or APC) versus costs paid by Xcel and ITC and passed through mostly (as explained above) to ratepayers outside Minnesota.[30] But, as Applicants indicated, this Benefit-to-Cost Ratio "does not evaluate other costs and benefits of the Projects, such as impacts on existing land uses."[31]

As distinct from the certificate of need criteria, the criteria for route selection are focused *exclusively* on impacts inside of Minnesota, *i.e.*, costs borne or saved by Minnesota residents versus human settlement, environmental, agricultural and other impacts felt by Minnesota residents:

[30] Applicants Post-Hearing Br. (Routing) at 15-16; Exhibit No. DER-3 at Schedule 7 (Landi Direct).

[31] *See* Exhibit No. XC-18 (Direct Testimony of Benjamin T. Abing) at 8:21-9:2.

> The commission's site and route permit determinations must be guided by the state's goals to conserve resources, minimize environmental impacts, minimize human settlement and other land use conflicts, and ensure the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.

Minnesota Statutes section 216B.16, subd. 7(a). Therefore, while the regional Benefit-to-Cost Ratio may be relevant in terms of satisfying the certificate of need criteria, it is not an appropriate metric to consider which route alternative is the best alternative under the PUC's statutory and rule criteria for route selection.

The route selection criteria provide that the Commission must consider route options that would provide "efficient, cost effective power supply and electric transmission infrastructure," not *the most* cost effective electric transmission infrastructure.[32] In light of DOC-DER's conclusion that the cost estimates provided by the Applicants for the Purple, Purple-E-Red, Blue, Red, and Green Route Alternatives are all "reasonable"[33] and statement that it "does not have any concerns with the Applicants' estimated Project cost,"[34] as well as the Applicants' statement "that all routes under consideration would provide positive economic benefits,"[35] either the Purple, Purple-E-Red, or Blue Route Alternative would constitute cost effective transmission infrastructure pursuant to Minnesota Statutes section 216B.16, subd. 7(a).

[32] *See, e.g.*, *Noble Flat Hill Windpark, LLC's Application for a 230 kV High Voltage Transmission Line Route Permit*, Slip. Op., PUC Docket No. TL-08-988, *et al.*, 2009 WL 5052459, at PP 187-194 (Dec. 2, 2009) (selecting more expensive option because it reduced impacts on humans and the environment); *In the Matter of the Application for a Pipeline Routing Permit for a Crude Oil Pipeline and Associated Above Ground Facilities*, Slip Op., Minn. PUC Docket Nos. PL-5/PPL-05-2003, 2007 WL 1804329, at *44 (Apr. 13, 2007) (same); *In the Matter of the Application for a Route Permit for the Hiawatha Transmission Line Project*, Slip. Op., Docket No. ET2/TL-09-38, 2010 WL 4004474, at Conclusions ¶ 9 (Oct. 8, 2010) (same).

[33] Ex. DER-1 at 5 (Johnson Direct).

[34] DOC-DER Post Hearing Br. at 42.

[35] Exhibit No. XC-24 at 37:16-20 (Siebenaler Direct).

Selecting the Green Route Alternative simply because it has the highest regional Benefit-to-Cost Ratio[36] would set a harmful precedent that a route providing greater cost savings to the region (including mostly areas outside of Minnesota) is considered to be the better route alternative despite it posing greater human and environmental impacts on Minnesota residents and despite all other route alternatives being deemed to "provide positive economic benefits."[37]

D. The Possibility of a MISO Variance Analysis Should Not Drive or Influence the Routing Decision

In discussing the merits of each route alternative in terms of cost, Applicants state that among the considerations related to costs is the MISO variance process.[38] Under Attachment FF of the MISO Tariff, if the cost of this Project exceeds or is projected to exceed 25 percent or more of the Project's baseline cost estimate, MISO is required to initiate a variance analysis.[39] Applicants state that any final route with a cost estimate of $135 million (2016$) or more will trigger a MISO variance analysis where MISO will investigate the facts and documentation, and at the conclusion of the process will decide to: (1) take no action; (2) institute a mitigation plan to alleviate grounds for variance; or (3) cancel the project.[40]

While it is important for the ALJ and the Commission to be aware of and understand MISO's variance process, they should not allow that process to drive or influence the route selection. As Applicants confirmed, other than requiring a variance analysis, the MISO Tariff does not require or dictate a particular outcome.[41] MISO is a party in this proceeding and is

[36] *See* Applicants Post-Hearing Br. (Routing) at Table 7.

[37] Exhibit No. XC-24 at 37:16-20 (Siebenaler Direct).

[38] Applicants' Post-Hearing Brief (Routing) at 67.

[39] *Id.*

[40] *Id.*

[41] *Id.*

aware of the cost estimates and issues for the various route alternatives, and continues to support the project:

> [T]he record demonstrates that the Project is necessary to provide adequate, reliable, and efficient transmission service, supports important policy objectives, is the least-cost means of satisfying these needs, and promotes the development of an effectively competitive electricity market that operates efficiently.

MISO Post-Hearing Br. (Need) at 4-7. Applicants also confirmed that "all route alternatives provide net economic benefits under MTEP17 and MTEP18, since the Benefit-to-Cost Ratio for each of the five routes is above 1.0. In other words, for all of the routes, the benefits exceed the costs." [42] Applicants explained that they would provide this information to MISO along with information regarding the factors the Commission took into account in making its route determination, and would support the Commission's decision in the MISO variance process if a variance process is conducted.[43] Moreover, the Applicants agreed with DOC-DER to adopt a rate cap to protect Minnesota Ratepayers from cost overruns beyond any mitigation ordered by the PUC.[44]

II. The Final EIS And The Applicants' Own Analysis Continue To Demonstrate That Either The Purple, Purple-E-Red, Or Blue Route Alternatives Should Be Selected Over Either The Green Or Red Route Alternative

On April 3, 2019, DOC-EERA published its Final EIS for the Huntley-Wilmarth Route Proceeding. North Mankato explained in its Post-Hearing Brief why the Purple, Purple-E-Red, or Blue Route Alternative should be selected over the Green or Red Route Alternative.[45] The Final EIS supports a conclusion that the Purple, Purple-E-Red, or Blue Route Alternative each is

[42] Applicants Post-Hearing Br. (Routing) at 66.

[43] *Id*. at 67-68.

[44] *See* DOC-DER Post-Hearing Br. at 48-49; Exhibit No. XC-26 at 2-3 (Stevenson Rebuttal); Exhibit No. DER-2 at 8 (Johnson Surrebuttal).

[45] *See* North Mankato Post-Hearing Br. at 22-26.

feasible and preferred as compared to either the Green or Red Route (with northern portions going through North Mankato) including Alternative Segments A or B.

As discussed in North Mankato's Post-Hearing Brief, the PUC has previously approved more expensive transmission route alternatives because they were feasible and prudent and posed fewer human and environmental impacts, in particular on residential areas. For example, in *The Matter of the Application for a Route Permit for the Hiawatha Transmission Line Project*, the PUC chose a significantly more expensive undergrounding option because it reduced impacts on residents and development plans set forth in Minneapolis's comprehensive plan:

> Although the cost of Route D is greater than the other alternatives, the factors favoring an underground transmission line in an urban area as densely populated as the Project Area justify the added expense to offset the human and environmental impact of the overhead alternatives.

See In The Matter of the Application for a Route Permit for the Hiawatha Transmission Line Project, Slip. Op., Docket No. ET2/TL-09-38, 2010 WL 4004474, at Conclusions ¶ 9 (Oct. 8, 2010).[46]

The Final EIS further supports the position that the Purple, Purple-E-Red, and Blue Route Alternatives are feasible route options that would better meet the PUC's criteria for route selection than either the Red or Green Route Alternative. For example, the Final EIS concluded that impacts to human settlements could be minimized by prudent routing.[47] With respect to minimizing impacts to North Mankato, there is no way to modify the northern portions of the Red or Green Route Alternative (including Alternative Segments A or B) to minimize such

[46] *Id.* at P 254 ("[o]verhead transmission lines would crowd and overwhelm adjoining land because of their size and stigmatize the area as less desirable, detracting from further redevelopment and investment. Much of the impact would be avoided with placement of the transmission line underground.").

[47] Final EIS at 5-4 – 5-5.

impacts, except perhaps to underground.[48] In this case, however, the ALJ and Commission have available to them other routing options. The Purple, Purple-E-Red, and Blue Route Alternatives better avoid residences, businesses, and other places where citizens congregate. This is corroborated by the Applicants' statement that the "Purple-BB-L and Purple-E-AA1-Red-Q [with monopole double-circuiting design] routes best minimize potential impacts to planned future land uses"[49] as compared to the Green Route Alternative.

The Applicants also stated that the Green and Red routes would pose significantly more impacts on forested land and forested wetland than the Purple, Blue, or Purple-E-Red Alternatives:

> The Green and Red-Q routes have twice the amount of forested land in their right-of-way compared to the Purple-BB-L and Blue-CC-Q routes, over 60 acres versus 30 acres. The forested areas near the Green and Red-Q routes are for a large part located adjacent to the Minnesota and Blue Earth rivers. Based on this data, the Purple-BB-L Route or the Blue-CC-Q Route have the least potential impacts on forested land and forested wetland while the Green Route and the Red-Q Route have the most potential impact on these natural resources.

Applicant's Post-Hearing Br. (Routing) at 59-60.

The record also demonstrates that the cost estimates of each of the Purple, Purple-E-Red Route, and Blue Route Alternatives are reasonable. DOC-DER confirmed that it "did not have any concerns with the Applicants' estimated Project cost"[50] and stated that the cost estimates provided by the Applicants for the five recommended routes are "reasonable."[51]

The facts of this case are similar to *Noble Flat Hill Windpark, LLC's Application for a 230 kV High Voltage Transmission Line Route Permit*, where a longer route was approved,

[48] North Mankato Post-Hearing Br. at 27-28.

[49] Applicants Post-Hearing Br. (Routing) at 53.

[50] DOC-DER Post Hearing Br. at 42.

[51] Exhibit No. DER-1 at 5 (Johnson Direct).

despite its higher cost relative to other route alternatives, because it was determined to have fewer human and environmental impacts. The ALJ in *Noble Flat Hill Windpark, LLC* found that the longer route better utilized existing right-of-way corridors, avoided a river crossing, and avoided passing near residential areas:

> 187. Route 1 uses existing right-of-way corridors for the entire 11.5 mile route. In contrast, Route 2 relies upon 4.8 miles new right-of-way to be obtained along portions of the 9.9 mile route. Route 2A relies upon 4.8 miles of new right-of-way on its 10.5 mile route.
>
> 188. By using the existing transmission corridor, Route 1 will have less impact on aesthetics than Routes 2 and 2A. Route 1 utilizes the existing MN Highway 9 corridor for its entire length.
>
> 189 Route 1 does not require a new crossing of the Buffalo River. In contrast, Routes 2 and 2A both require new crossings of the river, with related impacts on aesthetics and recreation, and may disturb tree cover that provides wildlife habitat.
>
> 190. Route 2 will pass through the City of Glyndon. This route will have a greater impact on residential areas within the city.
>
> 191. Route 1 will have less impact on agricultural production. By following the existing MN Highway 9 corridor, Route 1 has minimal impact on agricultural areas and production. . . . .
>
> . . .
>
> 194. *Applying all the factors required for assessing HVTL routes, Route 1 will have less impact on the environment and the community than Routes 2 and 2A.*

Noble Flat Hill Windpark, LLC's Application for a 230 kV High Voltage Transmission Line Route Permit, PUC Docket No. TL-08-988, *et al.*, 2009 WL 5052459, at PP 187-194 (Dec. 2, 2009) (emphasis added).[52]

Similar facts are present in this case, as Applicants admit:

> [T]he low cost of the Green Route comes with trade-offs including more homes within 200 feet of the anticipated alignment; potential for greater impacts to

[52] *See also In the Matter of the Application for a Pipeline Routing Permit for a Crude Oil Pipeline and Associated Above Ground Facilities*, Slip Op., Minn. PUC Docket Nos. PL-5/PPL-05-2003, 2007 WL 1804329, at *44 (Apr. 13, 2007) ("While the selected route is longer and hence more costly than earlier proposed routes, the changes resulting in a longer route are to minimize impact on humans and the environment, thereby supporting the overall goal of this process.").

> agriculture, forested land, and future development; and has the least amount of corridor sharing with existing transmission lines.
>
> In contrast, the Purple-BB-L Route for the Project would be more costly ($140.1 million (2016$))[] and would provide reduced net economic benefits. However, the Purple-BB-L Route has the fewest number of existing residences within 500 feet; avoids future development areas of the city of North Mankato; follows existing transmission line corridors for more than half of its length; includes the fewest acres of forested land within its right-of-way; and minimizes agricultural impacts with its double-circuit design.

Applicants' Post-Hearing Br. at 9-10. Consistent with *Noble Flat Hill Windpark, LLC*, the ALJ and PUC should not avoid selecting a longer, more expensive transmission route alternative if it is feasible and minimizes impacts on humans and the environment.

CONCLUSION

North Mankato asks that the Presiding Judge issue a finding rejecting the northern portions of the Red and Green Route Alternatives in the vicinity of North Mankato, including Alternative Segments A and B. If a Certificate of Need is granted, then the Purple, Purple-E-Red, or Blue Route Alternative should be selected over either the Red or Green Route Alternative.

Respectfully Submitted,

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PROOF OF SERVICE

I hereby certify that I have, this 15th day of April 2019, caused the foregoing document to be filed by electronic eDockets, and eServed, or sent by US Mail, as indicated, to all parties on the service list compiled for this proceeding.

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