

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben
Dan Lipschultz
Valerie Means
Matthew Schuerger
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Great
River Energy for a Route Permit for a 115 kV
High Voltage Transmission Line to
Accommodate the Lake Eunice Substation
Conversion in Becker County

ISSUE DATE: August 5, 2019

DOCKET NO. ET-2/TL-19-311

ORDER FINDING APPLICATION
COMPLETE AND REFERRING
MATTER TO THE OFFICE OF
ADMINISTRATIVE HEARINGS

PROCEDURAL HISTORY

On June 4, 2019, Great River Energy filed a route permit application under the alternative review process for its proposed 115 kilovolt (kV) transmission line and Lake Eunice Substation conversion project (the Project).

The Project involves removing a 0.8-mile segment of Great River Energy's existing 10.24-mile 41.6 kV transmission line between the Lake Eunice Substation and Great River Energy's 115 kV transmission line and constructing a new 115 kV transmission line in its place. Great River Energy is requesting approval of a 200-foot-wide route centered on the existing 41.6 kV transmission line alignment and a 400-foot-wide route around the Lake Eunice Substation. The final right-of-way for the new 115 kV transmission line will be 90 feet wide.

On June 7, 2019, the Commission issued a notice requesting comments on the following issues:

- Whether the route permit application contains the information required under Minn. R. 7850.3100;
- Whether there are any contested issues of fact with respect to the representations made in the route permit application;
- Whether an advisory task force should be appointed; and
- Whether there are any additional procedural requirements that should be considered.

Initial comments were accepted until June 21, 2019, and reply comments until June 28, 2019.

On June 21, 2019, the Department of Commerce Energy Environmental Review and Analysis unit (EERA) filed comments. No other responsive comments were filed.

On July 18, 2019, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Jurisdiction

Before building a high-voltage transmission line in Minnesota, a utility must get a route permit from the Commission.¹ The term “high-voltage transmission line” includes any transmission line longer than 1,500 feet that will operate at a voltage of at least 100 kilovolts.² Great River Energy’s proposed transmission line qualifies as a high-voltage transmission line, triggering the route-permit requirement.

High voltage transmission lines that operate at a voltage between 100 and 200 kV are eligible for review under the alternative permitting process under Minn. Stat. § 216E.04 and Minn. Rules, parts 7850.2800 to 7850.3900. Because it will operate at 115 kV, the project is eligible for the alternative permitting process.

II. The Project

The Project is intended to improve electrical service to Great River Energy’s members in the rural area southwest of Detroit Lakes, including Lake Eunice, Dunn, and Lake View townships. The proposed upgrades will allow over ten miles of 41.6 kV radial transmission line to be replaced by a 0.8 mile 115 kV loop-fed transmission line. The new line is intended to improve the reliability of the transmission facilities feeding the existing Lake Eunice Substation and, accordingly, the reliability of service to the approximately 2,000 members served off this substation.

III. EERA Comments

The EERA submitted comments explaining its completeness review of the route permit application and offered recommendations on certain procedures of the application review process. The EERA summarized its findings and recommendation as follows:

- Concluded that the route permit application meets the content requirement of Minn. R. 7850.3100 and recommended that the Commission accept the application as substantially complete.
- Recommended that the Commission take no action on an advisory task force at this time, due to the uncomplicated nature of the Project, the limited amount of controversy, and the absence of sensitive resources.
- Did not identify any disputed issues of fact with respect to the representations in the application, and recommended that the Commission request an Administrative Law Judge to preside over a Summary Report process.

IV. Application Completeness and Commission Review Process

Under the alternative review process, an application for a high-voltage transmission line must be submitted under Minn. Rules, part 7850.3100, which requires the applicant to submit the items

¹ Minn. Stat. § 216E.03, subd. 2.

² Minn. Stat. § 216E.01, subd. 4.

required under the full permitting process, except that the applicant is not required to propose alternative routes.³ The EERA reviewed the route permit application for completeness and concluded that it meets the requirements of Minn. Rules, part 7850.3100.

The Commission has examined the record and concurs with the EERA that the application contains the information required and is therefore complete under Minn. R. 7850.3100. The Commission's finding of completeness is as to form only; it implies no judgment on the merits of the application.

Under the alternative permitting process, the Commission still asks the Office of Administrative Hearings (OAH) to conduct at least one public hearing, scheduled in conjunction with Commission staff.⁴ The Commission will therefore refer this matter to the OAH for preparation of a Summary Report, as recommended by the EERA. A Summary Report includes a summary of the public comments received at the hearing and during the public comment period. An Administrative Law Judge (ALJ) will preside over the public hearing, which should be conducted upon completion of the Environmental Assessment.⁵

The Commission asks the ALJ to adhere to the timelines for the alternative review process recommended by the EERA in Table 1 of the agency's June 21, 2019, comments as closely as possible. At the completion of the process, the ALJ should send the complete hearing record including all written comments to the Commission within five days of the close of the record.

The Commission will also take the steps listed below to ensure adequate development of the record:

- Delegate administrative authority to vary time periods to its Executive Secretary under Minn. R. 7829.1275.
- Designate Charley Bruce as the Commission's Public Advisor to facilitate citizen participation in the process.
- Request that the EERA continue to study the issues and indicate during the hearing process through testimony or comment its position on the reasonableness of granting a route permit.
- Request that EERA present draft route alternatives to the Commission for its input prior to the issuance of the final scoping decision in its environmental assessment process.
- Require the Applicant to facilitate in every reasonable way the continued examination of the issues requested by the EERA or Commission staff.
- Require the Applicant to place a copy of the route permit application in the government center or public library located closest to the proposed project site.
- Direct the Applicant to work with Commission staff and the EERA staff to arrange for publication of the notices related to public information meetings and public hearings in

³ Minn. R. 7850.3100.

⁴ The hearing is not a contested case proceeding under Minn. Stat. 14.57–14.62 and Minn. R. 1405.0200 to 1405.2700, but instead a procedural step necessary to facilitate the alternative review process under Minn. R. 7850.3800.

⁵ Minn. R. 7850.3800.

newspapers of general circulation under the timelines prescribed in rule and statute, that such notice be in the form of visible display ads, and that proof of publication be obtained and provided to Commission staff.

The Commission also authorizes Commission staff to file a sample route permit in this docket.

V. Rule Variance Related to Scoping Decision

Under the alternative review process, the EERA is required to prepare an environmental assessment of the Project; prior to that step, the Department is required to provide the public with an opportunity to participate in the development of the scope of the environmental assessment by holding a public meeting and by soliciting public comments. If alternative routes are identified through the scoping process, the environmental assessment must contain information on the human and environmental impacts of both the proposed project and alternative routes.

Under Minn. R. 7850.3700, subp. 3, the scope of the environmental assessment must be determined by the Department within ten days after the closing of the public comment period. Minn. Stat. § 216E.04, subd. 5 anticipates, however, that the Commission will have the opportunity to identify other routes for consideration prior to environmental review of a project. The statute states that the environmental assessment must contain information on the proposed project, as well as on other routes identified by the Commission. The rule's ten-day timeline for determining the scope of the environmental assessment after the close of the public comment period constrains the Commission's ability to evaluate public input and identify other possible routes prior to environmental review.

Under Minn. Rules, part 7829.3200, the Commission has the authority to vary a rule if the following criteria are met:

- 1) Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- 2) Granting the variance would not adversely affect the public interest; and
- 3) Granting the variance would not conflict with standards imposed by law.

In this case, the Commission finds that the criteria for granting a variance to Minn. R. 7850.3700, subp. 3, are met:

- 1) Enforcement of the rule would impose an excessive burden on the public and those reasonably likely to be affected by the proposed project by limiting the Commission's input on and consideration of other route alternatives prior to the environmental review of the project.
- 2) Granting the variance would not adversely affect the public interest and would in fact serve the public interest by enabling a more comprehensive evaluation of public comment at the outset of the review process.
- 3) Granting the variance would not conflict with standards imposed by law, since the ten-day timeline is set by rule, not statute, and may therefore be varied.

The Commission will therefore vary the ten-day timeline to facilitate the Commission's input on whether additional routes should be considered. The Commission will request that the EERA

draft route alternatives for the Commission's consideration so that it can provide input into the Department's environmental assessment scoping decision.

ORDER

1. The Commission hereby accepts the application as complete and authorizes review under the alternative permitting process defined in Minn. Stat. § 216.04 and Minn. R. 7850.2800 to 7850.3900.
2. The Commission hereby refers the matter to the Office of Administrative Hearings for appointment of an Administrative Law Judge to prepare a Summary Report adhering to the timelines recommended by the EERA as set forth in this order.
3. The Commission hereby varies Minn. R. 7850.3700, subp. 3, to extend the 10-day timeline.
4. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
Executive Secretary



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