

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Phyllis A. Reha
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J. Dennis O'Brien
Betsy Wergin

Acting Chair
Commissioner
Commissioner
Commissioner

In the Matter of Xcel Energy's Application for a
Route Permit for the CapX 2020
Hampton-Rochester-La Crosse High Voltage
Transmission Line

ISSUE DATE: May 30, 2012

DOCKET NO. E-002/TL-09-1448

ORDER ISSUING ROUTE PERMIT AS
AMENDED

PROCEDURAL HISTORY

On January 19, 2010, Xcel Energy (Xcel) filed an application for a high-voltage transmission line route permit for the CapX 2020 Hampton-Rochester-La Crosse Transmission Line Project (the Project) under Minn. Stat. § 216E.03 and Minnesota Rules, part 7849.0200. On May 22, 2009, the Commission issued a certificate of need for the Project in Docket No. E-002/CN-06-1115.

On March 9, 2010, the Commission issued a Notice and Order for Hearing, referring the matter of the route permit to the Office of Administrative Hearings for contested case proceedings.

Between June 14 and June 16, 2011, six public hearings were held in Plainview, Pine Island, and Cannon Falls, all within the Project's vicinity.

The Administrative Law Judge (ALJ) assigned to the case held evidentiary hearings in St. Paul between June 20 and June 22, and on June 24, 2011.

On August 31, 2011, the Energy Facilities Permitting Unit of the Department of Commerce (DOC-EFP) filed its Final Environmental Impact Statement on the Project.

On February 8, 2012, the ALJ assigned to the case submitted her FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS (the ALJ's Report).

On February 23, 2012, Xcel Energy filed exceptions to the ALJ's Report. Exceptions were also filed jointly on February 23 by the following intervenors: North Route Group, NoCapX 2020, and United Citizens Action Network. Oronoco Township and American Transmission Company, LLC also intervened in this proceeding but did not file exceptions to the ALJ's Report.

On March 30, 2012, the DOC-EFP filed comments and recommended that the Commission adopt the ALJ's Report, with modifications, and issue a route permit to Xcel Energy; the DOC-EFP's filing also included its proposed Findings and Conclusions, reflecting the DOC-EFP's proposed changes to the ALJ's Report.

On April 12, 2012, the Commission met to consider the matter, and the record closed under Minn. Stat. § 14.61, subd. 2.

FINDINGS AND CONCLUSIONS

I. Background

Xcel Energy has requested a route permit for the Hampton-Rochester-La Crosse portion of the CapX 2020 Project. CapX 2020 is a joint initiative of 11 transmission-owning utilities in Minnesota, Wisconsin, and the surrounding region, who have developed a capacity expansion plan designed to meet the growth in electricity use expected by 2020¹.

In this case, the Project will provide transmission primarily to Rochester and Winona and will consist of approximately 80 miles of new 345 kilovolt (kV) transmission line, approximately 15 miles of 161 kV line, a new North Rochester Substation, and related transmission line interconnections.

More specifically, the Project includes the following:

- a new double-circuit capable 345 kilovolt (kV) transmission line from the proposed Hampton Substation near Hampton, Minnesota, to a proposed North Rochester Substation to be located between Zumbrota and Pine Island, Minnesota
- a new double-circuit capable 345 kV transmission line from the proposed North Rochester Substation to the Minnesota border near Kellogg, Minnesota
- a single circuit 345 kV line to be built in Wisconsin and to terminate at a new substation proposed in the La Crosse, Wisconsin area (subject to permitting requirements of the Wisconsin Public Service Commission)
- a new 161 kV transmission line between the proposed North Rochester Substation and the existing Northern Hills Substation, located in northwest Rochester

II. The Legal Standard

The Project is subject to Minn. Stat. Chapter 216E, which requires that high-voltage transmission lines be routed consistent with the state's goals to locate electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources.² In addition, the statute requires that route permit determinations be guided by the policy objective to conserve resources, minimize environmental impacts, minimize human settlement and other land

¹ These include: Xcel Energy, Dairyland Power Cooperative, Great River Energy, Central Minnesota Municipal Power Agency, Minnesota Power, Minnkota Power Cooperative, Missouri River Energy Services, Otter Tail Power Company, Rochester Public Utilities, Southern Minnesota Municipal Power Agency, and WPPI Energy.

² Minn. Stat. § 216E.02.

use conflicts, and ensure the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.³

In addition, Minn. Stat. § 216E.03, subd. 7 (e) requires the Commission to consider using existing routes as follows:

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.

The Project is also subject to environmental review under Minn. Stat. § 216E.03, subd. 5, which directs the Commissioner of the Department of Commerce (the Department) to prepare an Environmental Impact Statement (EIS) on proposed high voltage transmission lines to study and evaluate the impacts of proposed and alternative routes.

Furthermore, in designating a route, the Commission must consider the permitting criteria contained in Minn. Stat. § 216E.03, subd. 7 (b) and Minn. Rules, part 7850.4100.

Under Minn. Stat § 216E.03, subd. 7 (b), the criteria are as follows:

- (1) evaluation of research and investigations relating to the effects on land, water and air resources of large electric power generating plants and high-voltage transmission lines and the effects of water and air discharges and electric and magnetic fields resulting from such facilities on public health and welfare, vegetation, animals, materials and aesthetic values, including baseline studies, predictive modeling, and evaluation of new or improved methods for minimizing adverse impacts of water and air discharges and other matters pertaining to the effects of power plants on the water and air environment;
- (2) environmental evaluation of sites and routes proposed for future development and expansion and their relationship to the land, water, air and human resources of the state;
- (3) evaluation of the effects of new electric power generation and transmission technologies and systems related to power plants designed to minimize adverse environmental effects;
- (4) evaluation of the potential for beneficial uses of waste energy from proposed large electric power generating plants;
- (5) analysis of the direct and indirect economic impact of proposed sites and routes including, but not limited to, productive agricultural land lost or impaired;
- (6) evaluation of adverse direct and indirect environmental effects that cannot be avoided should the proposed site and route be accepted;
- (7) evaluation of alternatives to the applicant's proposed site or route proposed pursuant to subdivisions 1 and 2;
- (8) evaluation of potential routes that would use or parallel existing railroad and highway rights-of-way;
- (9) evaluation of governmental survey lines and other natural division lines of agricultural land so as to minimize interference with agricultural operations;

³ Minn. Stat. § 216E.03, subd. 7 (a) and Minn. Rules, part 7850.4000.

- (10) evaluation of the future needs for additional high-voltage transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications;
- (11) evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved; and
- (12) when appropriate, consideration of problems raised by other state and federal agencies and local entities.

Under Minn. Rules, part 7850.4000, the criteria are as follows:

- A. effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;
- B. effects on public health and safety;
- C. effects on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;
- D. effects on archaeological and historic resources;
- E. effects on the natural environment, including effects on air and water quality resources and flora and fauna;
- F. effects on rare and unique natural resources;
- G. application of design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generating capacity;
- H. use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries;
- I. use of existing large electric power generating plant sites;
- J. use of existing transportation, pipeline, and electrical transmission systems or rights-of-way;
- K. electrical system reliability;
- L. costs of constructing, operating, and maintaining the facility which are dependent on design and route;
- M. adverse human and natural environmental effects which cannot be avoided; and
- N. irreversible and irretrievable commitments of resources.

III. Public Involvement

Minn. Stat. § 216E.08 authorizes the Commission to establish advisory task forces, which assist in evaluating routes considered for designation. In this case, the Commission authorized the DOC-EFP to establish two task forces, the North Rochester to Mississippi River Task Force and the Hampton to Northern Hills Task Force.⁴

The task forces were established to assist the DOC-EFP in determining the scope of the EIS, to identify specific impacts and issues of local concern to be addressed in the EIS, and to help determine potential route alternatives to be assessed in the EIS. Each task force met three times. The North Rochester to Mississippi River Task Force identified eight alternatives for consideration in the EIS. The Hampton to Northern Hills Task Force identified seven alternatives for consideration in the EIS.

⁴ See the Commission's March 16, 2010 Order in this docket.

In addition, the DOC-EFP held six public information and EIS scoping meetings on May 4, 5, and 6, 2010 (both in the afternoons and evenings) to provide project information and to identify issues and route alternatives to be addressed in the EIS. Further, the ALJ held six public hearings on the Project on June 14, 15, and 16, 2011 (both in the afternoons and evenings).

The Commission also received dozens of public comments throughout the duration of these proceedings. At the Commission meeting on April 12, 22 members of the public spoke, both in opposition to, and in support of, the ALJ's Report.

IV. Environmental Impact Statement

The DOC-EFP issued a Draft EIS on March 21, 2011 and filed a Final EIS on August 31, 2011.

The Final EIS responds to substantive comments received during the Draft EIS review process and includes a comprehensive analysis of the affected environment and the potential impacts, the preferred and alternative route proposals, and mitigation strategies.

The Commission has reviewed the Final EIS under Minn. Rules, 7850.2500, subp. 10, which requires the Commission to make an adequacy determination of the Final EIS. Under that rule, the Final EIS is adequate if it:

- A. addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application;
- B. provides responses to the timely substantive comments received during the draft environmental impact statement review process; and
- C. was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.

On August 6, 2010, the Department issued a Scoping Decision, which identified the issues to be addressed in the EIS, including a discussion of the affected environment, potential impacts, and mitigative measures.⁵ It also identified the alternatives to be considered, including alternatives identified through public comment and by the advisory task forces, as well as alignment alternatives (alternatives that fell within Xcel's requested route widths).

And while no party objected to the adequacy of the Final EIS on any of the grounds listed above, North Route Group, NoCapX 2020, and United Citizens Action Network jointly stated, at the Commission meeting, that the Final EIS is inadequate due to missing information and factual errors. The intervenors stated that there was no discussion of impacts from co-locating the Chester Line, for which the Commission has issued a certificate of need in this Docket for which Xcel filed a separate route permit application.⁶ They also stated that the Final EIS incorrectly identifies transmission

⁵ The Scoping Decision was made under Minn. Rules, part 7850.2500, subp. 2.

⁶ Xcel proposed building a 161 kV line extending south from the North Rochester substation to the Chester substation but also stated that depending on the final routes chosen for the other lines in this Docket, it would consider the option of routing the proposed 345 kV from the new North Rochester Substation directly to Chester in lieu of building the 161 kV line. Xcel's route permit application for the Chester line was filed on September 19, 2011 in Docket No. E-002/TL-11-800.

infrastructure at a proposed crossing (Zumbro Dam Crossing) of the Zumbro River in Segment 3 of the Project; the intervenors stated that there are no lines crossing the Zumbro River at that location.

The DOC-EFP disagreed with those assertions, stating that the Final EIS is accurate, addresses the issues and alternatives identified in the Scoping Decision, and responds to substantive comments made during the draft EIS process. Xcel has not requested a route permit for the Chester Line, and therefore an evaluation of that portion will be conducted subsequent to Xcel's route permit application filing. Furthermore, the Final EIS accurately identifies a 345 kV transmission line to the west of the Zumbro Dam and does not show the line crossing the Zumbro River. That line is shown in the Final EIS as a line that runs cross-country and is not shown as a river crossing.

The Final EIS evaluates the Project's three segments: the Hampton to North Rochester Substation 345 kV section (Segment 1); the North Rochester Substation to Northern Hills Substation 161 kV section (Segment 2); and the North Rochester Substation to Mississippi River Substation section (Segment 3). Upon review of the Final EIS, the Commission finds that it contains a comprehensive analysis of the issues and the alternatives identified in the Scoping Decision.

Responses to substantive comments received during the draft environmental impact statement review process are both reflected in changes made to the Final EIS (using bold print) and included in Appendix O of the Final EIS. The Commission finds that the Final EIS adequately responds to the substantive comments received during the draft EIS process.

The Commission also finds that the Final EIS was prepared in compliance with the procedures in Minn. Rules, parts 7850.1000-7850.5600.

Based on its review of the Final EIS, the Commission finds that it is adequate under Minn. Rules, part 7850.2500, subp. 10.

V. The ALJ's Report

The Administrative Law Judge's Report is well reasoned, comprehensive, and thorough. The ALJ held four days of evidentiary hearings and six public hearings. She made 505 findings of fact and conclusions and made her recommendation based on those findings and conclusions.

The ALJ's Report contains an evaluation of the route alternatives using the route permitting criteria set forth in Minn. Stat. § 216E.03, subd. 7(b) and Minn. Rules, part 7850.4000, criteria which the Commission must consider in designating routes for high-voltage transmission lines.

Furthermore, the ALJ's Report⁷ reiterates the statute's overarching policy objective to "locate large electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources."⁸

Having itself examined the record and having considered the ALJ's Report, the Commission concurs in most of her findings, conclusions, and recommendation. In a few instances, however, the Commission will make modifications to the ALJ's Report, as delineated and explained below. On all

⁷ See ALJ's Report, Finding 112.

⁸ See Minn. Stat. § 216E.02, subd. 1.

other issues, the Commission accepts, adopts, and incorporates her findings, conclusions, and recommendation.

VI. Xcel's Preferred Modified Route – Segment 1

Xcel's preferred route for segment 1 of the 345 kV transmission line follows U.S. Highway 52 from the Hampton Substation to a proposed North Rochester Substation. Xcel subsequently made two alignment adjustments to the preferred route (the Modified Preferred Route) to address concerns raised by the Minnesota Department of Transportation (DOT) over freeway setbacks.

Xcel revised its proposed alignment and route width in the area directly west of Cannon Falls at the Highway 19 and U.S. 52 interchange. Further south, at the intersection with County Road 24, Xcel altered the alignment to follow a planned access road running behind businesses abutting the highway. Xcel stated that these revisions were developed in consultation with the DOT.

A. The ALJ's Recommendation

The ALJ evaluated the applicable route permitting criteria and concluded that a variant of Xcel's Modified Preferred Route would better balance the impact on human settlement and the natural environment, while honoring the statutory preference for using existing transmission and parallel existing highway right-of-way.

The variant, which is identified in the record as 1P-003, is approximately 5.5 miles long and diverges from the Modified Preferred Route at U.S. 52 at Harry Avenue in Canon Falls. It generally follows Harry Avenue to the south and runs along Stanton Trail for 0.5 miles, before turning east and following field lines and a portion of 323rd Street, then returning to U.S. 52 and the Modified Preferred Route.⁹

The ALJ evaluated data showing the number of homes within 500 feet of the alternatives in concluding that 1P-003 would impact fewer total homes.¹⁰ The ALJ's Report also states that use of the 1P-003 option would avoid not only homes but also St. Paul Lutheran Church and School (1P-003 does not include any schools within the route width).¹¹ It would parallel existing transmission lines on Harry Avenue, reaching a substation near a hydroelectric dam adjacent to the eastern boundary of Lake Byllesby Regional Park;¹² and it would use mostly existing road corridors and avoid potential conflicts with two future road projects.¹³

B. The Parties' Positions

1. Xcel Energy

Xcel filed exceptions to the ALJ's Report, opposing use of the 1P-003 route and requesting that the

⁹ The variant was identified in the Environmental Impact Statement Scoping Decision and analyzed in the draft and final Environmental Impact Statement.

¹⁰ See ALJ's Report, Finding 306.

¹¹ See ALJ's Report, Finding 247.

¹² See ALJ's Report, Finding 301.

¹³ See ALJ's Report, Finding 306.

Commission modify the ALJ's Report and authorize use of the Modified Preferred Route. Xcel disputed the ALJ's analysis of several permitting criteria, including impacts on human settlement, land use, and use of existing rights-of-way.

Xcel stated that it conducted a site review of 1P-003 and the comparable portion of the Modified Preferred Route, including the alignment adjustments at Highway 19 and County Road 24, and confirmed that house impacts would be lower if the line were constructed on the Modified Preferred Route. In addition, the two line adjustments that Xcel made in response to the DOT's concerns over freeway setbacks move the line further away from St. Paul Lutheran Church and School, structures that the ALJ stated would be bypassed with use of the 1P-003 alternative.

Xcel stated that the data on house count impacts relied upon by the ALJ does not reflect the two line adjustments made by Xcel and that the ALJ's house count analysis includes houses on both sides of the highway. While 1P-003 would affect 30 homes and the Modified Preferred Route would affect 43 homes, 15 of the 43 homes affected by the Modified Preferred Route would be separated from the line by U.S. 52. Xcel also stated that there are four homes in closer proximity to 1P-003 than to the Modified Preferred Route.

Additionally, Xcel stated that the Modified Preferred Route is consistent with industrial land use along the highway corridor, whereas the land along 1P-003 is primarily residential, includes park land, and would require a new corridor in a residential area. And 1P-003, although parallel in part to existing transmission lines, would require a greater percentage of the line to be placed cross-country and along fields, using a smaller percentage of existing roads.¹⁴ Further, clearance from the existing hydroelectric dam and substation would place the line closer to a natural river gorge, where Dakota County plans to build a recreational park trail and a bridge crossing of the Cannon River.¹⁵

Following 1P-003 would place the line through a portion of Lake Byllesby Regional Park north of the Canon River. A portion of the recreation area there was acquired using funds from the Land and Water Conservation Act of 1965 and would therefore require permission for locating the line within park property. Furthermore, Xcel stated that the Modified Preferred Route follows transmission line or road right-of-way for 72 percent of its length compared to 56 percent along route 1P-003, demonstrating that the Modified Preferred Route maximizes use of existing right-of-way.

2. The DOC-EFP

The DOC-EFP concurred with Xcel that the Modified Preferred Route has more existing right-of-way, has fewer impacts to natural resources and recreation, and is more compatible with existing land uses.

The DOC-EFP stated that route 1P-003 crosses five Native Plant Communities, as identified by the Minnesota County Biological Survey, as opposed to the two crossed by the Modified Preferred Route. Further, 1P-003 crosses four Sites of Biological Significance, as opposed to the two crossed by the Modified Preferred Route. And there is more acreage of native plant community (78.5 acres) within the route width of 1P-003, than the amount of acreage (61.1) within the route width of the

¹⁴ See Final EIS, Section 8.1.4.11, Figure 8.1.4 11-1; and Xcel's Exceptions to the ALJ's Report, Attachment 2.

¹⁵ See Final EIS at p. 106.

Modified Preferred Route; there is also more acreage (86.7) of Sites of Biological Significance along 1P-003 than the acreage (64.4) along the Modified Preferred Route.

The DOC-EFP also raised concerns that route 1P-003 would cross Lake Byllesby and the Cannon River on the eastern portion of the Lake Byllesby Important Bird Area, as established by the National Audubon Society; further, the Lake serves as habitat for ducks, herons, geese, gulls, tern, and shorebirds; and Sand Hill Cranes have been observed near the Lake during breeding season.

Additionally, the DOC-EFP stated that the 1P-003 route would require clearing of transmission line right-of-way through previously unfragmented floodplain forest community on both sides of the Cannon River and would parallel a planned Lake Byllesby Regional Park recreational trail and a bridge crossing of the Cannon River. The DOC-EFP concurred with Xcel that the Modified Preferred Route along U.S. 52 is more consistent with existing land use and concurred with Xcel's request that the Commission modify the ALJ's Report and authorize use of the Modified Preferred Route.

C. Commission Action

After careful review of the record, the Commission concurs with Xcel and the DOC-EFP that Xcel's Modified Preferred Route, following the existing corridor of U.S. Highway 52, best meets the route permitting criteria. The ALJ's Report includes a thorough analysis of Segment 1 using all the applicable routing criteria, and the Commission concurs in much of that analysis. However, the Commission also finds that certain criteria found by the ALJ to weigh in favor of the 1P-003 route, weigh more heavily in favor of the Modified Preferred Route option.

Relying on data comparing impacts on homes within 500 feet of the various route options, the ALJ found that fewer homes would be impacted by the 1P-003 route. Xcel's data, however, shows that there are more homes in closer proximity to the 1P-003 route than to the Modified Preferred Route. In addition, 1P-003 would require the line to be constructed cross-country along fields in a residential area and would present adverse impacts to the natural environment and recreation.

Placing the line through a portion of Lake Byllesby Regional Park would fragment previously undivided forest community on both sides of the Cannon River and would impact more native plant communities and Sites of Biological Significance than the Modified Preferred Route, as detailed by the DOC-EFP in its comments and the EIS. Furthermore, there is planned activity for a recreation trail in the Park and a planned bridge crossing of the Cannon River, both of which would be impacted by 1P-003.

The Commission also concurs with the DOC-EFP and Xcel that use of the existing corridor along U.S. 52 better corresponds with the industrial land use along the highway and is consistent with the statutory objective to site high-voltage transmission lines along parallel existing highway right-of-way.¹⁶

For all these reasons, the Commission finds that, on balance, Xcel's Modified Preferred Route better meets the applicable routing criteria; the Commission will therefore authorize use of Xcel's Modified Preferred Route in Segment 1.

¹⁶ Minn. Stat. § 216E.03, subd. 7 (e).

VII. Xcel's Modified Preferred Route – Segment 3

Xcel's Modified Preferred Route for Segment 3 of the 345 kV transmission line includes a crossing of the Zumbro River at the County Road 12 bridge, identified in the record¹⁷ as the White Bridge Road Crossing. In addition to the White Bridge Road Crossing, two other Zumbro River crossings were considered: the Zumbro Dam Crossing (a middle crossing) and the North Route Crossing (furthest north).

In its permit application, Xcel identified the White Bridge Road Crossing of the Zumbro River as the preferred route to maximize use of existing linear corridor across the river and to better avoid sensitive resources. Xcel stated that the Zumbro Dam Crossing by contrast, is in an area of high biodiversity significance and has the highest number of residences within 300 feet. And it is located in proximity to several recreational resources, including a campground and two summer camps.

The alternative route, the North Route Crossing, would cross at a location where there is no existing corridor and would impact natural resources more significantly than the other two routes and require a new corridor crossing of the Zumbro River. By the time of the Commission meeting, no party recommended the North Route Crossing. And although the White Bridge Road Crossing is Xcel's preferred route, Xcel did not subsequently file exceptions to the ALJ's recommendation to use the Zumbro Dam Crossing.

Oronoco Township, an intervenor, urged the Commission to adopt the ALJ's Report recommending the Zumbro Dam Crossing. North Route Group, NoCapX 2020, and United Citizens Action Network jointly opposed the North Route Crossing, as well as the Dam Crossing.¹⁸ The Department of Natural Resources (DNR) urged the Commission to authorize Xcel's preferred route, the White Bridge Road Crossing.

Oronoco Township initially recommended use of an alternative route – the 3A route - but at the Commission meeting stated that it supported the ALJ's recommendation to use the Zumbro Dam Crossing.¹⁹ The Township recommended avoiding Lake Zumbro, located in the area of the White Bridge Crossing, due to the impact on recreational activities such as fishing, boating, water skiing, tubing, swimming, and snowmobiling. The Township also stated that the Dam Crossing impacts fewer homes, parcels, structures, and archaeological and historic sites and is a shorter crossing by 225 feet of water area. The Township also raised concerns that crossing at the White Bridge Road would impact residential development.

North Route Group, NoCapX 2020, and United Citizens Action Network filed exceptions to the ALJ's Report, challenging the ALJ's finding that there is an existing transmission line at the Zumbro Dam Crossing. The intervenors recommended against the Dam Crossing, stating that there is no

¹⁷ See ALJ's Report, Finding 71.

¹⁸ These organizations represent affected landowners and residents within the vicinity of the preferred and alternative route options.

¹⁹ The 3A route heads south from the Hampton Substation for about one mile then straight east from the northern location of the substation, crossing the Zumbro River at the North Crossing.

existing aerial crossing there and that it is not consistent with the statutory preference for use of an existing high-voltage transmission route and the use of parallel existing highway right-of-way.²⁰

The DNR supported use of Xcel's preferred route for crossing the Zumbro River, stating that it has fewer impacts on natural resources and is more compatible with the policy of reducing deforestation and using parallel existing highway right-of-way. The DNR raised concerns about the Zumbro Dam Crossing, stating that it is located next to a Site of Biodiversity Significance ranked High by the Minnesota County Board of Biological Survey (compared to the White Bridge Crossing ranking of Moderate). The area includes two rare plant species: American ginseng and moschatel, a state-listed species of special concern. The Zumbro Dam area also includes the country's largest concentrations of the Blanding's turtle, a state-listed threatened species.

A. The ALJ's Recommendation

The ALJ evaluated Segment 3 using the applicable permitting criteria contained in Minn. Stat. § 216E.03, subd. 7 (b) in evaluating the various crossings of the Zumbro River. Based on her analysis, she concluded that several criteria weighed more heavily in favor of the Zumbro Dam Crossing.

She stated that slightly fewer homes (24 instead of 26) would be impacted by the Zumbro Dam Crossing, considering the number of homes impacted within 500 feet of the crossing.²¹ The ALJ also concluded that the Dam Crossing would follow an existing transmission line at the Dam and would avoid crossing Lake Zumbro, which is located at the White Bridge Road Crossing.²² She also found that the Dam Crossing is shorter and more direct, as well as less costly.²³ She therefore recommended that Xcel's Project cross the Zumbro River at the Zumbro Dam.

B. Commission Action

At the Commission meeting, Xcel and the DOC-EFP confirmed that there is no aerial transmission line at the river crossing at the Zumbro Dam, although there is a low-voltage transmission line (described by Xcel as equivalent to a distribution line) along the west side of the dam. In comparison to the Dam Crossing, which is somewhat less costly, the White Bridge Road Crossing along County Road 12 more closely adheres to the statutory objective of using existing highway right-of-way. There is no existing high-voltage transmission line route or parallel existing highway right-of-way at the Dam Crossing.

²⁰ NoCapX 2020 and U-CAN also argued that the proposed Mississippi River crossing (in Segment 3) at Alma, Wisconsin is not consistent with Minn. Stat. § 216E.03, subd. 3 and Minn. Rules, part 7850.1900, subp. 2(C), which require an applicant to propose "at least two routes." The Commission addressed this and similar concerns in its *Order Accepting Application as Compete and Requesting Proposal for Task Forces* on March 9, 2010, finding that an "eight mile overlap along Xcel's 103 mile preferred route and its 106 mile alternate route is warranted and does not run afoul of the two route requirements."

²¹ See ALJ's Report, Finding 488.

²² *Id.*

²³ Finding 227 of the ALJ's Report shows that the combined cost for the preferred route options in Segments 1 and 3 is approximately \$194 million; this includes crossing the Zumbro River at the White Bridge Road Crossing. Using the Zumbro Dam Crossing, the cost changes to approximately \$191 million.

The ALJ acknowledged that the difference in impacts on homes is slight; 26 homes are impacted within 500 feet of the White Bridge Road Crossing compared to the 24 homes within 500 feet of the Dam Crossing. Within 300 feet, however, there are two more homes impacted by the Dam Crossing than the White Bridge Crossing. And although Oronoco expressed concern that the preferred route would impact a planned residential area, Olmsted County's (where Oronoco Township is located) future land use map does not show the preferred route crossing any area identified as suburban development; it crosses less than one mile of an area identified as potentially suburban.²⁴

Furthermore, Oronoco Township's concerns about recreation at Lake Zumbro describe impacts primarily on motorized and commercial forms of recreation. However, as Xcel stated, there are comparable concerns at the Dam Crossing, where some of the same recreation (such as snowmobile trails) and other recreational resources, including a campground and two summer camps, will be impacted.

And although Oronoco Township also raised concerns about the number of archaeological (seven) and historic sites (14) in the area of the preferred route, those numbers are nearly equivalent to the number of archaeological sites (seven) and historic sites (11) affected by the Dam Crossing, which the Township supported. Further, there are archaeological and historic sites throughout all the route alternatives, and appropriate mitigation measures, such as line adjustments, must be implemented to minimize and avoid impacts to these resources.

And significantly, there are important differences in impacts on natural resources when comparing the White Bridge Road Crossing and the Dam Crossing. As the DNR stated, the Dam Crossing includes rare species and a Site of Biological Significance ranked High, would require more deforestation and clearing, and is less compatible with the objective of using a parallel existing highway right-of-way.

For all these reasons, the Commission finds that, on balance, the White Bridge Road Crossing of the Zumbro River better meets the applicable routing criteria; the Commission will therefore authorize Xcel to use its Modified Preferred Route in Segment 3 and cross the Zumbro River utilizing the White Bridge Road Crossing.

VIII. DOC-EFP Recommendations

The DOC-EFP recommended modifying three Findings and two Conclusions in the ALJ's Report, as well as adding five new findings and two new conclusions. In addition, the DOC-EFP recommended that the Commission make four modifications to the ALJ's Report recommended by North Route Group, NoCapX 2020, and United Citizens Action Network. These are explained below.

A. Finding 306 and Conclusion 7

The DOC-EFP concurred with Xcel's recommendation to modify Finding 306 and Conclusion 7 of the ALJ's Report to authorize use of Xcel's Modified Preferred Route in Segment 1, which follows U.S. Highway 52 through Cannon Falls. The modification is consistent with the Commission's decision herein, and the Commission will therefore modify Finding 306 to read as follows:

²⁴ See ALJ's Report, Finding 414.

In the area of the route by Cannon Falls in the vicinity of Highways 19 and 24, there are several routing challenges. Along the Modified Preferred Route on U.S. 52, there are homes and businesses as well as two future road projects (the railroad overpass and the County Road 24 interchange). However, the U.S. 52 corridor in this area is dominated by commercial and industrial land use and the two alignment modifications made by the Company are compatible with these planned road projects and move the line away from a church/school that abuts U.S. 52. When analyzing impacts to human settlement, the proximity of the homes to the line and the fact that house counts include houses across the freeway must be considered. Option 1P-003 would bypass U.S. 52 and use an alignment through a primarily residential area. Aerial maps of the two route options and existing homes and infrastructure demonstrate that more homes closer to the proposed alignment would be impacted on Option 1P-003. While a portion of this alternative segment would share an existing transmission line corridor, overall it would share less existing right-of-way than the Modified Preferred Route. The Modified Preferred Route, on balance, is the better route for the segment covered by Segment 1P-003 based on residential impacts, existing land use, and corridor sharing.

Consistent with the reasons for the change to Finding 306 above, the Commission will also modify Conclusion 7 to read as follows:

In Segment 1, ~~options 1P and 1P-003~~ the Modified Preferred Route best satisfies the route permit criteria set forth in Minn. Stat. § 216E.03, subds. 7(a) and (b) and Minn. Rules, parts 7850.4000 and 7850.4100.

B. Finding 13

North Route Group, NoCapX 2020, and United Citizens Action Network requested that Finding 13 of the ALJ's Report be modified to correct descriptions of their positions on portions of the routes in the three segments of the Project and to include their reasoning for opposing an alternative route. The DOC-EFP concurred with the recommended clarifications but disagreed that it was necessary to add the explanation.

The Commission concurs with the intervenors and DOC-EFP that the requested clarification is appropriate; the Commission also concurs with the DOC-EFP that additional reasoning in the Finding is not necessary. The Commission will therefore modify Finding 13 of the ALJ's Report to read as follows:

In Segment 1, ~~the North Route Group~~ NoCapX 2020 supports a route option that deviates from the preferred route and crosses the Cannon River at the eastern edge of Lake Byllesby, to avoid impacts to human settlement in the area of Highway 52 and County Road 19 in Cannon Falls. This could be one of several route options, and the North Route Group has not identified its preference by route option number. In Segment 2, the North Route Group, NoCapX 2020 and U-CAN advocated against route options 2C3-003-2 and 2C3-004-2. For Segment 3, the North Route Group, NoCapX 2020 and U-CAN support Applicant's preference of the Modified Preferred Route utilizing segments 3-P and 3P-002, filed testimony advocating against the northern alternative route (3A) in Segment 3, and ~~it supports the 3P route up to the point where it intersects with County Road 42. From there, from the intersection with County Road 42, Group recommends~~ supports use of the County Road 42 route option (3B-003).

C. Finding 110

Xcel recommended, and the DOC-EFP concurred, that Finding 110 should be modified to remove the phrase: *that potentially have significant environmental effect*. Finding 110 currently reads as follows:

State agencies are required to consider the environmental factors before making decisions, including the routing of high voltage transmission lines, *that potentially have significant environmental effect*, and shall not make a decision that is likely to cause pollution, impairment, or destruction of a natural resource so long as there is a feasible and prudent alternative consistent with the public health, safety and welfare.

The Commission concurs with Xcel and the DOC-EFP that this phrase is unnecessary and potentially confusing. The Commission will therefore remove it.

D. Findings 436, 464, and 488

The DOC-EFP concurred with North Route Group, NoCapX 2020, and United Citizens Action Network that Findings 436, 464, and 488 should be modified to clarify that there is no existing aerial transmission line crossing of the Zumbro River at the site of the Zumbro Dam. At the Commission meeting, Xcel confirmed that the clarification is accurate. The Commission will therefore modify Findings 436, 464, and 488 as follows.

Finding 436 is inaccurate and will be removed.

The last sentence of Finding 464 currently reads:

There is an existing aerial crossing at the dam, and its length would be 620 feet.

This sentence will be changed to read:

There is no existing aerial crossing at the dam. Its length would be 620 feet.

The second and third sentences of Finding 488 will be modified to read:

It would impact slightly fewer residences (24 homes, versus 26 on 3P). ~~It would follow an existing transmission line at the dam crossing,~~ and it would not involve a crossing of Lake Zumbro.

E. Finding 184

The DOC-EFP recommended that the Commission modify Finding 184 to clarify that the Zumbro River Dam Crossing was proposed by Xcel in its route permit application and was not proposed in the scoping process. The Commission concurs with the DOC-EFP and will therefore modify the last sentence of Finding 184 to read as follows:

In addition, a crossing at the Zumbro River Dam (3P-Zumbro-N or 3P-Zumbro-S was proposed ~~in the scoping process~~ by the Applicant as a route option in its route permit application.

F. New Findings and Conclusions

1. Route Widths

The DOC-EFP recommended that the Commission add one new finding and one new conclusion regarding route widths.

Under Minn. Stat. § 216E.01, subd. 8, the variable width of a route may be up to 1.25 miles (6,600 feet). Xcel requested a route width of 1,000 feet for the majority of the Project, but requested a route width of up to 1.25 miles in certain locations within Segment 1.²⁵

The DOC-EFP stated that after working with Xcel on narrowing route widths where possible, it would be helpful to add a Finding to the ALJ's Report reflecting efforts made to identify route widths as accurately as possible. The DOC-EFP therefore proposed the following Finding:

Applicant's revised route permit maps show locations where the route has been narrowed from 1,000 to 600 feet. The maps also show where Applicant continues to request widths of from 1,000 feet to 1.25 miles. The route widths depicted on Applicant's revised maps are allowable under the PPSA and represent a reasonable balancing of the Applicant's request for flexibility and the predictability of impacts on the environment and landowners.

The DOC-EFP, for the same reasons, proposed the following Conclusion (which, in effect, replaces Conclusion 9):

The Applicant's request for a route width of up to 1,000 feet is appropriate for much of the Project, except where the Applicant has identified on the record where a 1.25 mile route width is required, and except where a 600 foot route width has been identified as sufficient by the Applicant subsequent to the release of the ALJ's Findings, Conclusions, and Recommendation.

The Commission concurs with the DOC-EFP that these changes are useful in clarifying the careful balancing of specifying route widths to ensure predictability for landowners and others affected by a route and maintaining Xcel's flexibility to respond to those affected. The Commission will therefore modify the ALJ's Report to include the DOC-EFP's recommended Finding and Conclusion.

2. Adequacy of the Final EIS

The DOC-EFP also recommended that the Commission add two new findings and a conclusion to reflect the adequacy of the Final EIS. The DOC-EFP stated that the Final EIS addresses all issues and alternatives raised in the Scoping Decision, which is required under Minn. Rules, part 7850.2500. The DOC-EFP stated that the ALJ's Report describes the process the DOC-EFP followed in developing the scope of the EIS, a Draft EIS, and a Final EIS²⁶. The DOC-EFP, however, would like to add the following language to the ALJ's Report to expressly address the adequacy of the Final EIS. The DOC-EFP proposed the following two new Findings:

²⁵ See ALJ's Report, Findings 87 and 88.

²⁶ See ALJ's Report, Findings 27-58.

The Commission is required to determine the adequacy of the Final EIS. To be adequate, the Final EIS must, among other things, address the issues and alternatives identified in the Scoping Decision “to a reasonable extent considering the availability of information and the time limitations for considering the permit application.”

The evidence on the record demonstrates that the Final EIS is adequate because it addresses the issues and alternatives raised in the Scoping Decision, provides responses to the substantive comments received during the Draft EIS review process, and was prepared in compliance with Minnesota Rules, parts 7850.1000 to 7850.5600.

The DOC-EFP proposed the following Conclusion, consistent with the proposed findings:

DOC-EFP staff conducted an appropriate environmental analysis of the project for purposes of this route permit proceeding and the Final EIS satisfies Minn. Rules, part 7850.2500.

The Commission concurs that the proposed Findings and Conclusion are consistent with, and accurately reflect, the Commission’s decisions herein and will therefore adopt these modifications to the ALJ’s Report.

3. Commission’s Decision Regarding Segment 1

Finally, the DOC-EFP recommended adding the two paragraphs set forth below. The first contains findings of fact clearly established by record evidence, and the second states that the Commission relies on these facts in finding the Modified Preferred Route superior to Route 1P-003.

Other differences between the 1P and 1P-003 route segments relate primarily to potential impacts to natural and cultural resources. The Minnesota County Biological Survey has identified Native Plant Communities and Sites of Biological Significance in Dakota and Goodhue counties. The anticipated alignment of Route 1P-003 crosses a greater number (five) of Native Plant Communities than does the 1P alignment (two). The anticipated alignment of 1P-003 also crosses a greater number of Sites of Biological Significance (four) than does the 1P alignment (two). Within the route width of each route alternative, 1P-003 has more native plant community sites and acreage (9 sites and 78.5 acres) than does the 1P route (3 sites and 61.1 acres.) Route 1P-003 also has a greater number and acreage of Sites of Biological Significance (7 sites and 86.7 acres) than does the 1P route (3 sites and 64.4 acres).²⁷ There are more archaeological sites (four) and historic sites (54) within one-half mile of Route 1P than Route 1P-003 (three and 37, respectively).²⁸ Route 1P-003 crosses Lake Byllesby and the Cannon River on the eastern portion of the Lake Byllesby Important Bird Area (IBA) as established by the National Audubon Society. Lake Byllesby serves as important habitat for ducks, herons, geese, gulls, terns, and shorebirds. Sand Hill Cranes have been observed near Lake Byllesby during breeding season; though no confirmed nesting records exist. Route 1P crosses the Cannon River approximately one mile east of the Lake Byllesby IBA.²⁹ Route 1P-003 would cross the Little Cannon River, and necessitate clearing of transmission line right-of-way through a previously unfragmented floodplain forest community on both sides of the river.³⁰ Route 1P-003

²⁷ Final EIS at Appendix H.

²⁸ Final EIS at 100.

²⁹ Final EIS at 96.

³⁰ Final EIS, Appendix at A-11.

would parallel a planned Lake Byllesby Regional Park recreational trail and a bridge crossing the Cannon River that are proposed in the park's 2005 Master Plan, and planned for construction in 2013.³¹

The Modified Preferred Route, on balance, is the better route for the segment covered by Segment 1P-003 based on residential impacts, existing land use, natural resources impacts and corridor sharing. Route 1P shares more existing ROW, has fewer natural resource impacts, is more compatible with existing land uses, and has fewer recreational impacts.

The Commission concurs that this addition is accurate, helpful, and clarifying, and will adopt it.

IX. EFP Findings and Conclusions

The DOC-EFP submitted Findings and Conclusions that include modifications to the ALJ's Report. The Commission will adopt the DOC-EFP's Findings and Conclusions, consistent with the Commission's decisions described herein.

X. Changes to Draft Route Permit

The DOC-EFP also recommended technical corrections to sections 2, 3.3, and 4.8.2 of the draft route permit. The Commission concurs with those corrections and will adopt those changes. The Commission will also authorize additional clarifications to sections 4.1, 4.5, 4.6.2, 4.6.3, 5.3, 5.4, and 5.5 of the draft route permit, to the compliance filing procedures, and to the complaint procedures to require the submission of complaints to the Commission's Consumer Affairs Office. These changes are reflected in the attached route permit.

XI. Conclusion

With the decisions contained herein, the Commission finds that the Hampton–Rochester–La Crosse CapX 2020 Project satisfies the routing criteria contained in Minn. Stat. § 216E.03 and Minn. Rules, part 7850.4100 and meets the goal set forth in Minn. Stat. § 216E.02 to locate large electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. The Commission will therefore issue the route permit to Xcel Energy in the form attached.

ORDER

1. The Commission hereby accepts, adopts, and incorporates the findings, conclusions, and recommendation of the Administrative Law Judge, except as set forth in this Order.
2. The Commission hereby accepts, adopts, and incorporates the findings and conclusions of the DOC-EFP, except as set forth in this Order.
3. The Commission hereby finds that the Environmental Impact Statement is adequate.
4. The Commission hereby issues the high-voltage transmission line route permit, as attached, to Xcel Energy.

³¹ Final EIS at 106.

5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Phyllis Reha
David Boyd
J. Dennis O'Brien
Betsy Wergin

Vice Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Route Permit
Application for the CapX 2020
Hampton-Rochester-LaCrosse 345 kV
Transmission Line Project

ISSUE DATE: May 30, 2012

DOCKET NO. E-002/TL-09-1448

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER ISSUING AN HVTL ROUTE
PERMIT TO XCEL ENERGY FOR A 345
kV TRANSMISSION LINE AND A 161 kV
TRANSMISSION LINE FROM
HAMPTON, MINNESOTA TO THE
MISSISSIPPI RIVER CROSSING NEAR
KELLOGG, MINNESOTA**

The above-captioned matter came before the Minnesota Public Utilities Commission (Commission) on April 12, 2012, acting on an application by Xcel Energy for a route permit to construct a new 81 to 89-mile 345 kV transmission line and associated facilities in Dakota, Goodhue, Olmsted, and Wabasha counties, and a new 161 kV line approximately 15-18 miles long, with associated facilities in Dakota and Goodhue counties, Minnesota.

STATEMENT OF ISSUE

Should the Minnesota Public Utilities Commission find that the environmental impact statement adequately address the issues identified in the scoping decision? Should the Minnesota Public Utilities Commission issue a route permit identifying a specific route and permit conditions for the proposed Brookings to Hampton 345 kV transmission line project?

Based upon all of the proceedings herein, the Commission makes the following:

FINDINGS OF FACT

The Commission adopts the February 8, 2012, Administrative Law Judge's Findings of Fact, Conclusions and Recommendation for the Hampton-Rochester-LaCrosse Transmission Project related to PUC Docket No. E-002/TL-09-1448, with the following modifications:

Finding 13 is amended to correctly state the positions supported by the North Route Group, NoCapX 2020, and United Citizens Action Network:

13. In Segment 1, the ~~North Route Group NoCapX 2020~~ supports a route option that deviates from the preferred route and crosses the Cannon River at the eastern edge of Lake Byllesby, to avoid impacts to human settlement in the area of Highway 52 and County Road 19 in Cannon Falls. This could be one of several route options, and the North Route Group has not identified its preference by route option number. In Segment 2, the North Route Group, NoCapX 2020 and U-CAN advocated against route options 2C3-003-2 and 2C3-004-2. For Segment 3, the North Route Group, NoCapX and U-CAN support Applicant's preference of the Modified Preferred Route utilizing segments 3-P and 3P-002, filed testimony advocating against the northern alternative route (3A) in Segment 3, and it supports the ~~3P route up to the point where it intersects with County Road 42. From~~ from the intersection with County Road 42, the Group ~~recommends~~ supports use of the County Road 42 route option (3B-003).

Finding 110 is amended to be consistent with a prior Commission decision in *In the Matter of the Application of Northern States Power Co. for a High Voltage Transmission Line Route Permit for the Hiawatha 115 kV Transmission Project*, Docket No. E-002/TL-09-38, Order Issuing Route Permit as Amended at 4 (Feb. 10, 2012):

110. State agencies are required to consider environmental factors before making decisions on the matters including the routing of high-voltage transmission lines, ~~that potentially have significant environmental effect,~~ and shall not make a decision that is likely to cause pollution, impairment, or destruction of a natural resource so long as there is a feasible and prudent alternative consistent with the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land, and other natural resources from pollution, impairment, or destruction..

Finding 306 is amended as follows to reflect that the Commission does not accept Route Segment 1P-003 as recommended by the ALJ:

306. ~~There are, however, significant problems following US 52 through the Cannon Falls area in the vicinity of Highways 19 and 24, because of the proximity of homes, churches, schools, and businesses. Use of option 1P-003 would bypass this area and would impact fewer total residences; would avoid the church, school, and businesses; would parallel existing transmission lines and use mostly existing road corridors; and would provide the opportunity to avoid potential conflicts with two future road projects (the railroad overpass and the county road 24 interchange).~~In the area of the route by Cannon Falls in the vicinity of Highways 19 and 24, there are several routing challenges. Along the Modified Preferred Route on US 52, there are homes and business as well as two future road projects (the railroad overpass and the County Road 24 interchange). However, the US 52 corridor in this area is dominated by commercial and industrial land use and the two alignment modifications made by the Company are

compatible with these planned road projects and move the line away from a church/school that abuts US 52. When analyzing impacts to human settlement, the proximity of the homes to the line and the fact that the house counts include houses across the freeway must be considered. Option 1P-003 would bypass US 52 and use an alignment through a primarily residential area. Aerial maps of the two route options and existing homes and infrastructure demonstrate that more homes closer to the proposed alignment would be impacted on Option 1P-003. While a portion of this alternative segment would share an existing transmission line corridor, overall it would share less existing right-of-way than the Modified Preferred Route.

SUPPLEMENTAL FINDINGS OF FACT

Based on the analysis presented by Energy Facility Permitting staff, the Commission adopts additional findings below supporting the designation of Route Segment 1P rather than the Administrative Law Judge's recommendation of Route Segment 1P-003:

1. Other differences between the 1P and 1P-003 route segments relate primarily to potential impacts to natural and cultural resources. The Minnesota County Biological Survey has identified Native Plant Communities and Sites of Biological Significance in Dakota and Goodhue counties. The anticipated alignment of Route 1P-003 crosses a greater number (five) of Native Plant Communities than does the 1P alignment (two). The anticipated alignment of 1P-003 also crosses a greater number of Sites of Biological Significance (four) than does the 1P alignment (two). Within the route width of each route alternative, 1P-003 has more native plant community sites and acreage (9 sites and 78.5 acres) than does the 1P route (3 sites and 61.1 acres.) Route 1P-003 also has a greater number and acreage of Sites of Biological Significance (7 sites and 86.7 acres) than does the 1P route (3 sites and 64.4 acres).³⁰ There are more archaeological sites (four) and historic sites (54) within one-half mile of Route 1P than Route 1P-003 (three and 37, respectively).³¹ Route 1P-003 crosses Lake Byllesby and the Cannon River on the eastern portion of the Lake Byllesby Important Bird Area (IBA) as established by the National Audubon Society. Lake Byllesby serves as important habitat for ducks, herons, geese, gulls, terns, and shorebirds. Sand Hill Cranes have been observed near Lake Byllesby during breeding season; though no confirmed nesting records exist. Route 1P crosses the Cannon River approximately one mile east of the Lake Byllesby IBA.³² Route 1P-003 would cross the Little Cannon River, and necessitate clearing of transmission line right-of-way through a previously unfragmented floodplain forest community on both sides of the river.³³ Route 1P-003 would parallel a planned Lake Byllesby

³⁰FEIS at Appendix H.

³¹ FEIS at 100.

³² FEIS at 96.

Regional Park recreational trail and a bridge crossing the Cannon River that are proposed in the park's 2005 Master Plan, and planned for construction in 2013.³⁴

2. The Modified Preferred Route, on balance, is the better route for the segment covered by Segment 1P-003 based on residential impacts, existing land use, natural resources impacts and corridor sharing. Route 1P shares more existing ROW, has fewer natural resource impacts, is more compatible with existing land uses, and has fewer recreational impacts.

In keeping with the Applicant's commitment to work with EFP staff as noted by the Administrative Law Judge in Finding #87, after the ALJ Report was issued and the Administrative Law Judge identified a recommended route alternative, Applicant and EFP staff negotiated locations along the route where the 1,000-foot width could be narrowed to 600 feet. The Commission adopts the following additional finding concerning the route width:

3. Applicant's revised route permit maps show locations where the route has been narrowed from 1000 to 600 feet. The maps also show where Applicant's continue to request widths of from 1000 feet to 1.25 miles. The route widths depicted on Applicant's revised maps are allowable under the PPSA and represent a reasonable balancing of the Applicants' request for flexibility and the predictability of impacts on the environment and landowners.

The Commission adopts the following additional findings concerning the FEIS:

4. The Commission is required to determine the adequacy of the FEIS. To be adequate, the FEIS must, among other things, address the issues and alternatives identified in the Scoping Decision "to a reasonable extent considering the availability of information and the time limitations for considering the permit application."

5. The evidence on the record demonstrates that the FEIS is adequate because it addresses the issues and alternatives raised in the Scoping Decision, provides responses to the substantive comments received during the DEIS review process, and was prepared in compliance with Minnesota Rules 7850.1000 to 7850.5600.

CONCLUSIONS

Conclusion 7 is amended as follows to reflect that the Commission does not accept Route Segment 1P-003 as recommended by the ALJ.

7. In Segment 1, the Modified Preferred Route ~~options 1P and 1P-003~~ best satisfy^{ies} the route permit criteria set forth in Minn. Stat. § 216E.03, subs. 7(a) & (b), and Minn. R. 7850.4000 & 7850.4100.

³³ FEIS, Appendix at. A-11.

³⁴ FEIS at 106.

Conclusion 9 is amended to include additional narrowing of the route width in some locations:

9. The Applicants' request for a route width of up to 1,000 feet is appropriate for much of the Project, except where the Applicants have identified on the record where a 1.25 mile route width is required, and except where a 600 foot route width has been identified as sufficient by the Applicants subsequent to the release of the ALJ's Findings, Conclusions and Recommendation.

Conclusion 11 is amended to clarify that the Commission is adopting the ALJ's recommendation for Segment 3:

11. In Segment 3, the Modified Preferred Route including route option 3P-Zumbro-S ~~with~~and the 3P-004 option best satisfy the route permit criteria set forth in Minn. Stat. § 216E.03, subds. 7(a) & (b), and Minn. R. 7850.4000 & 7850.4100.

The Commission adopts the following additional conclusions:

15. EFP staff conducted an appropriate environmental analysis of the project for purposes of this route permit proceeding and the FEIS satisfies Minn. R. 7850.2500.

16. The conditions included in the route permit are reasonable and appropriate.

ORDER

Based on the Findings of Fact and Conclusions of Law modified herein and the entire record of this proceeding, the Commission hereby makes the following Order:

1. The findings, conclusions and recommendations contained in the Administrative Law Judge's February 8, 2012 Findings of Fact, Conclusions and Recommendation are adopted except as inconsistent with this Order or otherwise specified herein.
2. Specifically, the Commission declines to adopt the recommendation for route segment 1P-003 as contained in the February 8, 2012 ALJ Report, and instead grants a Route Permit that includes the entirety of the Applicant's Modified Preferred Route along Route 1P.
3. The Commission hereby grants the Applicant a Route Permit, in the form attached, to construct the high voltage transmission line requested between Hampton, Minnesota, and the Mississippi River Crossing near Kellogg, Minnesota, along the Applicant's Modified Preferred Route (1P) in Project Segment 1, along Route 2A in Project Segment 2, and along Routes 3P-Zumbro-S and 3P-004 in Project Segment 3, incorporating the Applicant's Modified Preferred Route between the North Rochester Substation and the Zumbro Dam, as recommended by the Administrative Law Judge.
4. This Order shall become effective immediately.

Approved and adopted this 30th day of May, 2012.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary

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