Energy Facility Permitting
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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF THE MINNESOTA DEPARTMENT OF COMMERCE ENERGY FACILITY PERMITTING STAFF

DOCKET NO. E6472/GS-06-668

Meeting Date:	July 6, 2006……Agenda Item #
Company:	Excelsior Energy
Docket No.	PUC Docket Number: E6472/GS-06-668 In the Matter of a Joint LEPGP Site Permit, HVTL Route Permit and Pipeline (Partial Exemption) Route Permit Application for the Mesaba Energy Project, a 1,200-Megawatt, IGCC power plant proposed by Excelsior Energy in Itasca County.
Issue(s):	Should the Minnesota Public Utilities Commission accept or reject the Joint Permit Application? Should the Commission authorize a citizen's advisory task force at this time? The selection of a public advisor by the Commission. Should the PUC approve electronic copies of the Joint Permit Application to affected landowners of the proposed pipeline route?
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The enclosed materials are work papers of the Department of Commerce Energy Facility Permitting (DOC-EFP) Staff. They are intended for use by the Public Utilities Commission and are based on information already in the record unless otherwise noted.

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Relevant Documents (in Commission Packet).

Excelsior Energy's Joint Permit Application and Excelsior Energy's Environmental Supplement dated June 16, 2006 (received June 19, 2006).

Documents Attached

1. Flow-chart schematic of the Full Review LEPGP/HVTL Permitting Process;
2. Flow-chart schematic of the Partial Exemption Pipeline Routing Process
3. Draft EIS Scoping Document.
4. General site location map (West Range Site).
5. General site location map (East Range Site).

(Note: Relevant documents and additional information can be found on eDockets (E6472/GS-06-668) or the PUC Facilities Permitting website http://energyfacilities.puc.state.mn.us/Docket.html?Id=16573)

Statement of the Issue

Should the Public Utilities Commission (Commission) accept or reject the Joint Permit Application for the Mesaba Energy Project filed by the Applicant for a large electric power generating plant (LEPGP), a high voltage transmission line (HVTL) and a natural gas Pipeline (Partial Exemption) to be located on the iron range in northern Minnesota.

Should the Commission authorize an advisory task force at this time?

The selection of a public advisor.

Can the applicant submit electronic copies, in lieu of paper copies, to the affected landowners along the proposed pipeline route?

Introduction and Background

Excelsior Energy, Inc (Excelsior) is proposing to construct and operate a coal-feedstock Integrated Gasification Combined Cycle ("IGCC") power plant. The proposed power plant will be constructed in two phases; each phase will be capable of producing approximately 606 MW (net) of baseload power.

The U.S. Department of Energy (DOE) selected the Mesaba Energy Project under the Clean Coal Power Initiative Round 2 solicitation for negotiation of a Cooperative Agreement. Under the Cooperative Agreement DOE would provide financial assistance for the proposed project. On October 5, 2005, DOE published a Notice of Intent (NOI) to prepare an Environmental Impact Statement in the Federal Register (70 FR 58207). It is DOE's intent to prepare, in cooperation with the Minnesota Department of Commerce and the Minnesota Public Utilities Commission, an EIS that will fulfill the requirements of both the Federal and State environmental review processes

Excelsior Energy filed a Joint Permit Application for a LEPGP site permit, a HVTL routing permit and a pipeline (partial exemption) routing permit on June 16, 2006. (See items in Relevant Documents)

The project is scheduled to begin construction in the second half of 2008 and to be in service in 2011.

Project Description

In the E-Gas^{TM} gasification process, coal, petroleum coke, or blends of coal and petroleum coke are crushed, slurried with water, and pumped into a pressurized vessel (the gasifer) along with purified amounts of oxygen. In the gasifer, controlled reactions take place, thermally converting feedstock materials into a gaseous fuel known as synthetic gas, or syngas. The syngas is cooled, cleaned of contaminants, and then combusted in a combustion turbine (CT), which is directly connected to an electric generator. The assembly of the CT and generator is known as a combustion turbine generator (CTG). The expansion of hot combustion gases inside the CT converts thermal energy to rotational energy that spins the generator and produces electricity. The hot exhaust gases exiting the CTG pass through a heat recovery steam generator (HRSG), a type of boiler, where steam is produced. The resulting steam is piped to a steam turbine that is connected to an electric generator. The expansion of steam inside the steam turbine spins the generator to produce an additional amount of electricity. When a CTG and a steam turbine generator (STG) are operated in tandem at one location to produce electricity, the combination of equipment is referred to as a combined cycle electric power plant. Combining the gasification process with the combined cycle design is known as integrated gasification combined cycle (IGCC).

Each phase consists of two CTG (approximately 220 MW each) and one STG (approximately 300 MW). Three gasifers, two on-line and one off-line during operation, will supply the CTG with syngas. Power generated from the project will be interconnected to the regional electrical grid via high voltage transmission lines, either at the Blackberry or Forbes substations depending on which site (i.e., West Range or East Range, respectively) is selected.

Regulatory Review Process

In accordance with the Power Plant Siting Act a site permit and a route permit are required before a large electric power generating plant (LEPGP) and high voltage transmission line (HVTL) can be constructed. The power plant siting act requirement became law in 1973 in Minnesota Statutes, 116C.51 through 116C.69. The rules to implement the permitting requirement for LEPGP and HVTL are in Minnesota Rules Chapter 4400. (See item #1 under the attached documents)

A LEPGP is defined as any electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more. A HVTL is defined as a conductor of electric energy and associated facilities designed for and capable of operating at a nominal voltage of 100 kilovolts or more either immediately or without significant modification.

A pipeline route permit from the Public Utilities Commission is required for the construction of certain pipelines (Minnesota Statutes 116I.015). (See item #2 under the attached documents) The PUC has jurisdiction over pipelines that are designed to carry natural gas and be operated at a pressure of more than 275 pounds per square inch. However, the PUC's authority does not apply to interstate natural gas pipelines regulated under the federal Natural Gas Act and to pipeline owners or operators who are defined as a natural gas public utility under Minn. Stat. Sec. 216B.02.

The application will be reviewed under the Full Review Process (Minnesota Rules 4400.1025 to 4400.1900) of the Power Plant Siting Act (Minnesota Statutes 116C.51 to 116C.69). For LEPGPs and HVTLs under the full permitting process the applicant is required to submit two sites and/or routes (i.e., a preferred and an alternate) for consideration. An alternate route is not required for the pipeline, since it is being reviewed under the partial exemption process.

As part of the permitting process, the Department of Commerce (DOC) is responsible for certain procedural requirements (i.e., public notice and meetings), issuing the Environmental Impact Statement (EIS) Scoping Decision and the preparation of an Environmental Impact Statement (EIS). A contested case hearing will also be conducted following completion of the draft EIS. The PUC has up to one year from the time the application is accepted to complete the process and make a final decision; that decision includes a determination on the adequacy of the EIS and the determination whether to grant the requested permits, as well as, site/route selection and permit conditions.

In preparation for the initial public information/EIS scoping meetings, the DOC Energy Facility Permitting (EFP) staff has developed a Draft Scoping Document (See item #3 in the attached materials).

The official process begins with the determination by the PUC that the application is substantially complete.

Minnesota Rule 4400.0675, Joint Processing, allows an applicant to combine applications for a LEPGP site permit, a HVTL route permit and a pipeline route permit into a single, joint filing. Excelsior Energy has filed a Joint Permit Application pursuant to this provision and has agreed to follow the longer timeline contained in Minnesota Rule Chapter 4400 (as opposed to the shorter process found in the pipeline partial exemption procedure in Minnesota Rules 4415.0035) for the pipeline routing process.

Alternative Sites

Applicants submitting a LEPGP site or HVTL route application under the full permitting process must provide a proposed and an alternative site and/or route for consideration. The applicants have proposed two separate LEPGP sites and two HVTL routes for each of the LEPGP sites.

The two LEPGP sites under consideration are located on the Iron Range. (See item # 4 and #5 in the attached documents) The applicant's preferred site, referred to as the West Range site (approximately 1,260 acres) is located just north of the city of Taconite in Itasca County, Minnesota. The alternative site, referred to as the East Range site (approximately 825 acres) is located about one mile north of the city of Hoyt Lakes in St. Louis County, Minnesota.

In the case of the West Range site, the generating facilities would connect to the power grid via new and existing high voltage transmission line (HVTL) corridors to a substation near the unincorporated community of Blackberry. In the case of the East Range site, the generating facilities would connect to the grid via existing HVTL corridors that lead to a substation near the unincorporated community of Forbes. The project would require reconstruction and/or reinforcement of the HVTL infrastructure within the final corridors selected.

In conjunction with both phases, additional network reinforcements would be required within other existing HVTL corridors leading to load centers and/or at substations down-network of the existing substations identified.

If the east range site (i.e., alternative site) is selected through the Power Plant Siting Act procedures, the natural gas pipeline would be constructed, owned and operated by Northern Natural Gas Company (Northern) pursuant to the provisions of Northern's blanket certification (FERC Docket No. CP82-401-000). In such an instance, no pipeline permit would be required from the PUC.

Public Advisor

Upon acceptance of an application for a site and/or route permit, the Commission shall designate a staff person to act as the public advisor on the project. (Minnesota Rule 4400.1450) The public advisor is someone who is available to answer questions from the public about the permitting process. In this role, the public advisor may not act as an advocate on behalf of any person.

The Commission can authorize the Department to name a staff member from EFP staff as the public advisor. Otherwise, the Commission could assign a PUC staff member as the public advisor.

Advisory Task Force

The Commission has the authority to appoint an advisory task force (Minnesota Statutes 116C.59, Subdivision 1). The PUC can charge the task force with identifying additional routes or with identifying particular impacts to be evaluated in the environmental impact statement. The Commission may establish additional charges, including a request that the task force express a preference for a specific route if it has one. However, by statute, an advisory task force expires once the scope of the EIS is finalized.

The Commission is not required to assign an advisory task force for every project. There are possible reasons in this case why the Commission may find a task force is unnecessary.

Public awareness of the project is high. The 2003 legislature, in Article 4 of the Laws of Minnesota 2003, special session chapter 11, (known as the "Prairie Island 2" bill) provided for a number of regulatory incentives for an "innovative energy project" on the Iron Range. The Iron Range project at the heart of this public discussion was the IGCC generation facility known as the "Mesaba Energy Project" that creates a synthetic gas from coal (coal gasification).

In addition, the public has had and will have numerous opportunities to participate in and have input into the process. On October 25 and 26, 2005, the DOE held two initial public informational and EIS scoping meetings; one in Taconite and one in Hoyt Lakes. The Department EFP staff will also be holding a pair of public information and EIS scoping meetings in the area in August, 2006. This essentially gives the public an additional opportunity to comment on the project and have input into the scoping process.

Later in the permitting process the public will have opportunities to provide input and comments at the draft EIS meeting, tentatively scheduled for December, 2006, and at the contested case hearing, tentatively scheduled for March, 2007.

Naming an advisory task force can potentially improve the level of public participation and involvement in the permitting process. Local input can help identify location specific site/route information. Historically, the Environmental Quality Board Chair has named an advisory task force in several instances involving major transmission projects. However, the Commission would need to decide if charging a task force with identifying additional sites/routes is practical or necessary.

In lieu of establishing an advisory task force, the Commission could direct the Department to establish a working group of affected local units of government (LUG) to provide input on local impacts and possible mitigation measures during EIS preparation. The working group could

participate by reviewing the relevant documents (i.e., draft EIS scope through final EIS) and providing local government perspective. In preliminary discussions the Arrowhead Regional Development Commission (ARDC) has expressed interest in partnering with DOC in such an effort.

The decision on whether to assign an advisory task force does not need to be made at the time of accepting the application. However, as guided by the rule and considering the efficiency of process, the Commission should make the determination as early in the process as possible. If the Commission does not name a task force, the rule (subp. 2) allows for a citizen to request that they do so. The Commission would then need to determine at their next meeting if a task force should be appointed.

EFP Staff Analysis and Comments

DOC EFP staff has completed a review of the applicable rules and the Applicant's Joint Permit Application for completeness. The Applicant must provide the information required by Minnesota Rules 4400.1150 and 4400.3150, and Minnesota Rules 4415.0115 to 4415.0170. This includes, but is not limited to, route descriptions and the potential impacts on the environment, the economy, health and human resources, and natural resources.

Minnesota Rule 4400.1250, subpart 3, states that the Commission can reject the application for deficiencies. However, the Commission can not find the application deficient if the required information can be provided by the applicant within 60 days and the lack of the information will not interfere with the public's ability to review the proposed project.

EFP staff has concluded the application is complete and that the Commission should accept the application with the understanding that if additional information is requested by the Department EFP staff these requests will be addressed promptly. The Applicant has indicated that they will comply with requests for additional information from the Commission, the Department, or other interested persons. Application acceptance allows the applicant and staff to initiate the requirements of the rules.

EFP staff believes that there is adequate opportunity for citizen participation within the Full Permit Review process and that a citizen advisory task force is not necessary to provide further input to EIS scoping. However, there does appear to be value in establishing a working group of affected LUGs.

The pipeline routing rules (Minnesota Rule Chapter 4415.0035, Subpart 2, Item C) require that an applicant applying for a partial exemption-pipeline routing permit provide a copy of the application to any affected landowner. Given the volume of the Joint Permit Application, and the fact that much of that material deals with the LEPGP sites, and the HVTL sites (both east and west range sites), the applicant has requested that this requirement be fulfilled with electronic copies of the Joint Permit Application in lieu of paper copies. Any affected landowner wishing to have a paper copy will receive one upon request.

Commission Decision Options

Application Acceptance

1a Accept the Joint Permit Application submitted by Excelsior Energy for the Mesaba Energy project, including the request for a LEPGP Site Permit, a HVTL Route Permit and a Pipeline (Partial Exemption) Route Permit. Accepting the Joint Permit Application marks the start date for the one year process and allows the DOC EFP Staff and the Applicants to initiate the actions required by Minnesota Rules 4400.1035 to 4400.1900 and Minnesota Rule Chapter 4415. These actions include providing project descriptions to landowners, publishing notice of information meetings, and initiating the scoping and EIS process required under the rules.

1b Reject the application as incomplete and issue an order indicating the specific deficiencies to be remedied before the application can be accepted.

Public Advisor

2a The Commission authorizes the Department to name a public advisor for the project.

2b The Commission appoints a PUC staff to be public advisor for the project.

Advisory Task Force

3a The Commission authorizes the establishment of a citizen advisory task force and authorizes DOC staff to develop and implement a proposed structure and charge for the task force.

3b The Commission authorizes the establishment of a local unit of government working group and authorizes DOC staff to develop and implement a proposed structure and charge for the working group.

3c The Commission does not elect to appoint a citizen advisory task force or LUG working group.

Application Dissemination

4a The Commission approves the dissemination of electronic copies of the Joint Permit Application to affected landowners of the proposed pipeline route, in lieu of paper copies, with the understanding that paper copies will be provided to any landowner that request such.

4b The Commission requires the applicant to comply with Minnesota Rule 4415.0035, Subpart2, item C, by submitting a paper copy to any affected landowner along the proposed pipeline route.

Other

5 Make some other decisions deemed more appropriate.

EFP Staff Recommendation: Staff recommends option numbers 1a, 2a, 3b and 4a.