



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

DOCKET NO. PL5/PPL-05-2003

Meeting Date: June 29, 2006.....Agenda Item # 17

Company: MinnCan Project/Minnesota Pipe Line Company

Docket No. **PUC Docket Number: PL5/PPL-05-2003**

**In the Matter of the Application of the Minnesota Pipe Line Company
for a Routing Permit for a Crude Oil Pipeline**

Issue(s): What additional pipeline alignments, route segments and route alternatives should be accepted by the PUC for consideration at a contested case hearing?

DOC Staff: Larry B. Hartman.....651-296-5089
Jeff Haase.....651-297-5648

The enclosed materials are work papers of the Department of Commerce Energy Facility Permitting Staff. They are intended for use by the Public Utilities Commission and are based on information already in the record unless otherwise noted.

Relevant Documents	Date	Doc #
Pipeline Routing Permit Application (Revised)	January 5, 2006	(1)

Documents Attached – Due to the large number of documents, they are organized by Attachments A, B, C and D as follows:

Attachment A – Background Materials

- A-1 Schematic of “Full Review for Pipeline Routing”
- A-2 Figure 1-Proposed Pipeline Route and Existing Pipeline Right-of-Way
- A-3 Notice of Application Acceptance and Public Information Meetings
- A-4 Guidance for Route Proposals

Attachment B – Alignment Modifications within the MPL Proposed Route

Morrison County – Milepost 135-140

- B-1 Schestak Alignment Modifications

Carver County – Milepost 231-232

- B-2 Hamburg Alignment Modification

Scott County – Milepost 267-269

- B-3 Seykora Alignment Modifications
- B-4 Elko/New Market Alignment Modifications

Dakota County – Milepost 274-2756.4.

- B-5 Diffley Alignment Modification

Attachment C – Route/Route Segment Proposals Outside of Proposed Route

Wadena/Todd Counties (Staples Area)

- C-1 Staples Route Segment (Alternatives 1-3)

Scott County (Belle Plaine Area)

- C-2 Potential Pipeline Route in Belle Plaine Area

Morrison, Benton, Sherburne, Anoka, Washington and Dakota Counties

- C-3 Route that uses MPL Existing Right-of-Way

Attachment D – Other Documents of Interest

- D-1 Route Segment Proposal from Minnesota Department of Natural Resources, Matt Langan, Division of Ecological Services, dated May 30, 2006.
- D-2 Route Segment Proposal from MPL on behalf of the city of Staples, dated May 30, 2006.
- D-3 Route Segment Proposal from Scott and Sheila Becker received May 5, 2006.
- D-4 Route Segment Proposal from MPL in the Belle Plaine area in Scott County dated May 30, 2006.
- D-5 Route Proposal from Mike and Richard Eischens for Morrison, Benton, Sherburne, Anoka, Washington and Dakota Counties, received May 30, 2006.
- D-6 DOC EFP staff information requests # 1, dated May 22, 2006.

- D-7** Letter from DOC EFP staff to Mike and Richard Eischens regarding route proposal, dated June 9, 2006.
- D-8** Letter from MPL to Burl Haar, June 16, 2006, regarding Eischens' route proposal.
- D-9** Letter from MPL transmitting first supplemental response to DOC Information Request No. 1, dated June 16, 2006.
- D-10** Email from Randy Piasecki, Planner /Coordinator, city of Zimmerman, dated June 16, 2006.
- D-11** Email from Senator Brian LeClair, dated June 17, 2006
- D-12** Letter from Carl Rosen, Professor and Extension Soil Scientist, Department of Soil, Water & Climate, University of Minnesota, dated June 14, 2006.

Note: Relevant Documents (Enclosed in Commission Packet, unless otherwise noted) See eDockets (05-2003) or the PUC website for the documents identified at:
<http://energyfacilities.puc.state.mn.us/Docket.html?Id=18339>

This document can be made available in alternative formats, i.e. large print or audio tape, by calling (651) 201-2202 (Voice) or 1-800-627-3529 (TTY relay service).

Statement of the Issue

Other than the Applicant's proposed (preferred) route and new (rerouted) proposed route segments, what other alignment modifications, route segments or route alternatives should the Public Utilities Commission (the PUC or Commission) accept for consideration at a contested case hearing in the matter of the application of Minnesota Pipe Line Company for a pipeline routing permit for the MinnCan Project?

Before the Commission addresses this issue, EFP staff would like to provide the Commission with an overview of the MinnCan Project and Department activities since Commission acceptance of the Pipeline Routing Permit application, followed by the proposed alignment modifications, route segment and route proposals.

Introduction and Background

Minnesota Pipe Line Company in order to meet continued growth in crude oil consumption in Minnesota and elsewhere in the upper Midwest is proposing to bring available Western Canadian crude oil to Minnesota's refineries by the addition of a new pipeline (MinnCan Project) to its existing pipeline system in Minnesota. However, in order to build a 24-inch diameter pipeline approximately 295 miles in length the Company must obtain two state authorizations from the Minnesota Public Utilities Commission. First, is a Certificate of Need presently pending before the Commission in Docket No. PL5/CN-06-2, which requires the Company to prove that there is a need for the proposed project, and second, is a pipeline routing permit (the instant docket), which authorizes the construction of the pipeline in a specific route.

In early January 2006, Minnesota Pipe Line Company (MPL or the applicant) filed two applications with the PUC; the first for a Certificate of Need (CON) and the second, for a pipeline routing permit. Both applications were accepted in an Order dated February 16, 2006.

Review of the pipeline routing permit application is taking place pursuant to the requirements of Minnesota Statutes 116I.015 and the Pipeline Route Selection Procedures in Minnesota Rules, parts 4415.0045 to 4415.0100. Attachment A-1 in the Commissioner's packet illustrates the procedural steps that are being followed in review of the MinnCan Project.

The MinnCan Project

MPL is proposing the construction of a new 24-inch diameter crude petroleum pipeline originating at the existing interconnection between the applicant's pipeline system and Enbridge's (formerly Lakehead Pipeline) crude oil pipeline system in Clearbrook, Minnesota, located in Clearwater County in northwestern Minnesota. See Attachment A-2 (Figure 1 Proposed Pipeline Route) in the Commissioner's packet.

The MPL proposed route for the MinnCan Project generally follows (parallels) and uses a portion of MPL's existing 65 to 70 foot wide pipeline right-of-way southward from the Clearbrook Station for about 112 of the first 119 miles in the counties of Clearwater, Hubbard, Wadena, Todd and Morrison. Near Cushing, Minnesota, in Morrison County, the MPL proposed route leaves the existing multiple-line crude oil pipeline right-of-way, which then requires a new permanent right-of-way approximately 50 feet in width, within MPL's preferred 1.25 mile wide route, for another 176 miles generally west and south of the Twin Cities area, in the counties of Morrison, Stearns, Meeker, Wright, McLeod, Carver, Sibley, Scott/ Rice and Dakota.

Construction of the proposed project is anticipated to require a 100-wide construction right-of-way at most locations. Where new permanent easements are required, MPL is planning to maintain a right-of-way 50 feet in width.

The project terminates at the Flint Hills Resources refinery in Rosemount, Minnesota, in Dakota County. The Rosemount terminus will provide a direct interconnection with the Flint Hills Resources refinery and a direct interconnection through existing pipeline facilities with the Marathon Petroleum Company's St. Paul Park Refinery. In addition, two new pump stations will be constructed; one in the existing terminal at Clearbrook and the other near the mid-point of the pipeline route (between Milepost 140 and 146) in Morrison County.

The proposed crude oil petroleum pipeline will have an outside diameter of 24-inches with a nominal wall thickness of 0.375 inches. The maximum allowable operating pressure will be 1,462 pounds per square inch (psi). The proposed pipeline and associated facilities (with two pump stations) will have an initial design capacity ranging from 60,000 to 165,000 barrels per day, with an ultimate capacity of 350,000 barrels per day if additional pumping stations are installed.

Regulatory Process and Procedures

Commission acceptance of the pipeline routing permit application on February 16, 2006, allowed Department of Commerce Energy Facility Permitting Staff to implement the procedural requirements of Minnesota Rules, parts 4415.0045 through 4415.0095 as shown in Attachment A-1 in the Commissioner's packet.

Between February 26 and March 4, 2006, the Department of Commerce EFP staff held 13 public information meetings, one in each county crossed by the proposed MinnCan pipeline alignment, as shown on the accompanying table. Published notice of these meetings appeared in 18 newspapers and information on the meetings was provided to more than 50 media outlets (newspapers, radio and TV stations). Notice was also published in the EQB Monitor and appeared on the PUC and DOC web pages. Notice was also mailed to 1,499 landowners on the proposed alignment and to 1,127 adjacent landowners. See Attachment A-3 (Notice of Application Acceptance and Public Information Meeting) in the Commissioner’s packet.

In conjunction with the Department’s public information meetings, MPL held an open house prior to each meeting to provide interested persons with an opportunity to find out more about the project and respond to questions. MPL provided county maps showing its proposed route and alignment within the route, copies of the proposed Agricultural Impact Mitigation Plan; Upland Erosion Control, Revegetation, and Maintenance Plan; Wetland and Waterbody Construction and Mitigation Procedures, and other project related information to interested persons.

The meetings were generally well attended and there continues to be a lot of public interest in this project based on the volume of e-mails and phone calls received by EFP and PUC staff. Approximately 925 people attended the information meetings/open houses and around 500 people have signed up to be added to the Department’s project mailing list.

DEPARTMENT OF COMMERCE PUBLIC INFORMATION MEETINGS

County	City	Number of People Attending	Date and Time
Clearwater	Bagley	18	March 13, 2006 11 a.m.-2 p.m.
Hubbard	Park Rapids	24	March 13, 2006 6-9 p.m.
Wadena	Menahga	26	March 14, 2006 11 a.m.-2 p.m.
Todd	Staples	50	March 14, 2006 4-7 p.m.
Morrison	Randall	106	March 15, 2006 11 a.m.-2 p.m.
Stearns	Albany	156	March 15, 2006 6-9 p.m.
Meeker	Litchfield	87	March 16, 2006 6-9 p.m.
Wright	Cokato	42	March 20, 2006 11 a.m. – 2p.m.
McLeod	Glencoe	68	March 20, 2006 6-9 p.m.
Carver	Norwood Young America	42	March 21, 2006 11 a.m.- 2 p.m.
Sibley	Green Isle	51	March 21, 2006 6-9 p.m.
Scott	New Prague	182	March 22, 2006 6-9 p.m.
Dakota	Farmington	72	March 23, 2006 6-9 p.m.

Public Meeting Summary

The Department's information meetings provided interested person with an overview of the Commission's role in the permitting of pipelines, which included an overview of the CON process and the steps involved in the route permit process as shown on the pipeline route permit schematic mentioned earlier (See Attachment A-1 in the Commissioner's packet). Staff also provided an overview of permits required or responsibilities of other state agencies (Pollution Control Agency, Department of Natural Resources, Department of Health, and the Minnesota Office of Pipeline Safety) for pipelines in Minnesota.

Federal pipeline safety requirements were also reviewed as well as county, municipal/city and township requirements.

Issues at the Public Meetings

Compensation, which includes easement payments as well as damages from pipeline construction (cropland, timber, fences), was the most frequent issue raised by the public. Location of the proposed pipeline was also a concern raised by many with respect to future development plans. It was often suggested that the proposed pipeline should follow existing rights-of-way (pipeline, highways or other types of linear facilities and/or property lines) as opposed to a new right-of-way. Some safety issues were also identified. Questions were raised about setbacks from the right-of-way, homes, water wells, and separation of parallel pipelines within a right-of-way, vertical separation when pipelines cross one another, depth of burial, and the crossing of drain tile. The issue of need was raised on several occasions, but people often acknowledged that there was a need for the new pipeline, but that it should be located elsewhere.

Question of Pipeline Location

On the portion of the pipeline route that requires new right-of-way (Greenfield route), it was suggested at several meetings that the Company should place the pipeline in its existing pipeline right-of-way through the counties of Morrison, Benton, Sherburne, Anoka, Washington and Dakota rather than acquire a new right-of-way that will disrupt future developments.

In order to insure that there is adequate information in the administrative record about the existing pipeline right-of-way the DOC EFP filed an information request with MPL on May 22, 2006. See Attachment D-6 in the Commissioner's packet.

Pipeline Safety and Minnesota Office of Pipeline Safety

The federal government establishes minimum pipeline safety standards under the [U.S. Code of Federal Regulations \(CFR\), Title 49 "Transportation", Parts 190 - 199](#). The Office of Pipeline Safety (OPS), within the U. S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), has overall regulatory responsibility for hazardous liquid and gas pipelines under its jurisdiction in the United States. Through certification by OPS, the state of Minnesota regulates, inspects, and enforces intrastate gas and liquid pipeline safety requirements. By signed agreement with OPS, Minnesota also inspects interstate liquid and gas pipeline safety requirements. This work is performed by the Minnesota Office of Pipeline Safety, within the State Fire Marshal Division of the Minnesota Department of Public Safety.

According to the Minnesota Office of Pipeline Safety, based on 2005 numbers, there are 2,096 miles of crude oil pipelines, 2,104 miles of refined product pipelines, and more than 5,400 miles of high pressure natural gas pipelines in the state.

It should be noted that pipeline routing rules apply only to the route of the pipelines. The pipeline routing rules do not set safety standards for the construction of pipelines. See Minnesota Statutes 116I.015 Subd.3.

Agricultural Impact Mitigation Plan

With the transfer of permitting authority from the EQB to PUC, other legislative changes were made in the permitting of both electric energy facilities and pipelines. Minnesota Statutes 2004, section 116C.61 Subdivision 3 was amended to include language that requires an applicant for a permit for a transmission line, power plant and pipeline to address agricultural concerns (Chapter 97 at Section 10 Subd 3b):

Section 116C.61, Subd. 3. An applicant for a permit under this section or under chapter 116I shall notify the Commissioner of Agriculture if the proposed project will impact cultivated agricultural land, as that term is defined in section 116I.01, subdivision 4. The commissioner may participate and advise the commission as to whether to grant a permit for the project and the best options for mitigating adverse impacts to agricultural lands if the permit is granted. The Department of Agriculture shall be the lead agency on the development of any agricultural mitigation plan required for the project.

EFP staff, the applicant and the Minnesota Department of Agriculture are coordinating actions on this requirement. A Draft Agricultural Mitigation Plan (AMP) was part of the pipeline routing permit application and that continues to be a work in progress and will be throughout the hearing. Mitigation of impacts to certified organic farms were not addressed in the draft plan. The Applicant and the Minnesota Department of Agriculture and other interested parties are reviewing this topic and this will be addressed at the hearing. The Draft AMP is a working document and subject to change based on review and comment by the public and what actions will best mitigate impacts to all types of agricultural lands that may be affected by the project.

A final AMP can be included as one of the conditions in a pipeline routing permit issued by the Commission.

Environmental Review

In 1989 the EQB approved of the pipeline routing rules as a substitute form of environmental review (Minnesota Rules 4410.3600). Therefore, the review process established for pipelines in Chapter 4415 fulfills the intent and requirements of the Minnesota Environmental Policy Act and parts 4410.0200 to 4410.6500. Consequently, a separate EIS is not required for pipeline projects in Minnesota. However, after routes are authorized by the Commission for consideration at the public hearing and prior to the public hearing, a comparative environmental analysis must be prepared by EFP staff or by the applicant and reviewed by the staff and submitted as prefiled testimony as required by Minn. Rule, part 1405.1900.

Route Proposal Process

The Commission is now being asked to decide **what routes and route segments will be considered at the contested case hearing**, now scheduled for August 24 to September 15, 2006, and in conjunction with the Certificate of Need proceeding. However, before proceeding with this decision, EFP staff would like to provide the Commission with some background information to establish a framework to assist the Commission in its deliberations.

If an applicant is applying for a pipeline routing permit under the pipeline route selections procedures process (Minn. Rule 4415.0045-4415.0100) the application must identify a proposed (preferred) route and evidence of consideration of alternative routes. MPL's application did identify a preferred route and evidence of consideration of alternative routes as described and shown in its "Environmental Assessment Supplement to the Pipeline Routing Permit Application" on pages 14 through 23. See relevant document # 1.

The pipeline routing rules at part 4415.0010 Subp. 32 define route as having a variable width from the minimum required for the pipeline right-of-way (approximately 50 feet) up to 1.25 miles and Subp 33 defines route segment as a portion of a route. The right-of-way, as defined in Subp. 31, is the interest in real property used or proposed to be used within a route to accommodate a pipeline and associated facilities.

MPL's proposed route is approximately 1.25 miles in width or five-eighths of a mile on either side of the MPL proposed location alignment. Within its preferred route MPL has identified a preliminary location alignment, which is subject to change within the preferred route boundaries. Pipeline alignment modifications or location changes within a route are common, and more likely to happen, than not happen. These changes are common because a pipeline proposer is working with landowners and governmental agencies to locate the pipeline in such a way as to limit disruption to existing and proposed land uses and making engineering design changes because of infrastructure issues, while factoring in additional environmental factors and limitations. Changes are also expected as the record in this matter is developed and also as a result of additional information or evidence that is expected to be entered into the record before the Administrative Law Judge.

Since the application was accepted in January 2006, MPL's proposed alignment within its preferred route has been modified in numerous locations pursuant to landowner requests, land use plans, engineering refinements, environmental information and constraints in a number of places. MPL's new route segment proposal in the Bell Plaine area in Scott County is an example of a design change. See Attachment C-2 and D-4 in the Commissioner's packet.

The pipeline routing rules, part 4415.0075, allow any person to propose an alternate route or route segment. The Department Notice of Application Acceptance and Public Information meeting provided guidance on how to propose an alternative route or route segments. EFP Staff also made available at all of the public meetings and posted on the PUC project web page a document referred to as "Guidance for Route Proposals" (See Attachment A-4 in the Commissioner's packet). All route proposals associated with this docket were due on May 30, 2006. **The public notice also indicated that all new route proposals must be approved by the PUC for consideration at the public hearing.**

By the May 30, 2006, route proposal deadline, several alignment modifications and route proposals were received.

Alignment modifications may be treated differently than route segment or route proposals by the Commission. The notice provided by the Department stated that:

If you are interested in only a minor location change or alignment modification within the MPL proposed 1.25 mile wide route, you do not need to submit a new route or route

segment proposal to the PUC. Recommendations for minor location changes or alignment modifications may be presented directly to the Administrative Law Judge at the public hearings which will be held later this year.

As noted above, it is not necessary for the Commission to take formal action on alignment modification proposals; however, some of the persons proposing alignment modifications requested that the Commission approve of alignment modifications proposed for consideration at the public hearing to insure development of a record.

Proposed Alignment Modifications and Route Alternatives

For purposes of presentation and discussion, this section presents the alignment modifications within the MPL proposed route by county and from a northerly to a southerly direction. That, in turn, is followed by the new route segments or route proposals that were submitted, also from a northerly to a southerly direction.

Alignment Modifications within the MPL Proposed Route

The following alignment modifications are within the MPL proposed route (See Attachment B in the Commissioner's Packet).

B-1 Morrison County – Milepost 135-140. Robert Schestak and Mari Lyn Ampe Schestak who own property in the vicinity of MP 137 in Morrison County have suggested four different alignment modifications (identified as Alternative 1, 2, 3 and 4) within the MPL proposed route that would avoid their parcel (Section 16, T 128, R 31). Their alignment modification proposals are shown on Attachment B-1 in the Commissioner's packet.

B-2 Carver County – Milepost 231-232. The city of Hamburg has proposed an alignment modification to the MPL proposed alignment, but still within the MPL preferred route. The city of Hamburg believes that its alignment modification proposal will allow for more orderly growth and development of the city. Their alignment proposal is shown on Attachment B-2 in the Commissioner's packet.

B-3 Scott County – Milepost 267-269. Robert Seykora of New Prague suggested two alignment modifications. Those alternative modifications are shown on Attachment B-3 "Seykora Route Alternative" in the Commissioner's packet. Alternative 1, would be "to put it on the property line fence to keep in line with what we expect to be future street routes" in sections 32 and 33 of Cedar Lake Township in Scott County. Alternative 2 would follow County Highway 86, which borders the Scott/Rice County line. The north side of the road would put the pipeline in Scott County and the south side of the highway in Rice County.

B-4 Scott County – Milepost 267-272. The new city of Elko/New Market also suggested three possible alignment modifications to avoid interference with planned infrastructure projects. Their suggested alternatives were not described with any specificity, so the three alternatives are generally located pursuant to the suggestions offered by Elko/New Market and are shown on Attachment B-4 "Elko/New Market Route Alternatives" in the Commissioner's packet.

B-5 Dakota County – Milepost 274-276. Atina and Martin Diffley, co-owners of Gardens of Eagan, a 100-acre federally registered, certified organic farm in the Township of Eureka (Section 21) have suggested a different alignment within the MPL route that would avoid the Gardens of Eagan. Thousands of letters of support for the Gardens of Eagan have been received and two resolutions of support for mitigation to organic farms have been passed by the Eureka Township and Dakota County Boards. See letter of support for Gardens of Eagan in the Commissioner’s packet (Attachment D-12). The Diffley proposal is shown on Attachment B-5 “Diffley Route Alternative” in the Commissioner’s packet.

Route Segment/Route Proposals

The following route segment/route proposals are generally outside of the MPL proposed route, although parts of them may be within the Company’s proposed route (See Attachment C in the Commissioner’s Packet).

Minn. Rule part 4415.0075, sets forth the requirements for proposing a route and or route segment outside of the proposed route. Unlike the alignment modifications proposed, where no specific Commission action is required or necessary, **the Commission must approve for consideration at public hearing the routes and route segments proposed by the applicant and may accept for public hearing any other route or route segments it considers appropriate for consideration. No route shall be considered at the public hearing unless accepted by the Commission before notice of the hearing.** A proposer of a route or route segment that the Commission has accepted for consideration at the hearing shall make an affirmative presentation of facts on the merits of the route proposal at the public hearing.

C-1 Wadena/Todd Counties (Staples Area) – Mileposts 97-105/106. Several different new route segments/route proposals were suggested in the Staples area that includes both the counties of Wadena and Todd. See Attachment C-1 “Staples Route Alternatives” in the Commissioners packet. Three different alternatives have been identified on this map.

The Minnesota Department of Natural Resources suggested a new route segment (Alternative 1) that passes west and south of the Staples area to avoid wetlands because it believes MPL’s preferred filed route and its existing right-of way would have more impacts on wetlands. See Attachment D-1 in the Commissioner’s packet for a description of DNR’s proposal.

Alternative 2 is being proposed by Minnesota Pipe Line on behalf of the city of Staples that would use the existing pipeline right-of-way through the Staples area rather than require a new right-of-way that passes north and east of the area. See Attachment D-2 in the Commissioner’s packet for an explanation of this proposal. This alternative was also suggested by Carol and Al Lisson, Orville and Marjorie Meyer, and the Minnesota Department of Natural Resources.

Scott and Sheila Becker proposed Alternative 3 which is a variation of MPL’s preferred route filed in its application, with a modification or route segment that requires new right-of-way and also uses the existing MPL right-of-way. See Attachment D-3 in the Commissioner’s packet for their reason for recommending this alternative.

C-2 Scott County – Mileposts 243-248. Minnesota Pipe Line is proposing a route segment alternative in the Belle Plaine area to avoid interference with plans to annex land located south and west of the city limits, which is crossed by the proposed pipeline route submitted to the PUC

on January 5, 2006. This proposed route segment is shown on Attachment C-2 “Potential Pipeline Reroute in the Belle Plaine Area” in the Commissioner’s packet. See Attachment D-4 from MPL for recommendations regarding this proposal. This proposal is supported by the city of Belle Plaine and Scott County.

C-3 Morrison, Benton, Sherburne, Anoka, Washington and Dakota Counties. Mike Eischens and Richard Eischens of New Prague submitted a letter on May 30, 2006, suggesting, what was a common theme at the Department’s public information meetings in Scott and Dakota counties, which was to place the proposed pipeline on MPL’s existing right-of-way that passes through the north and east side of the Twin Cities metropolitan area.

The Eischens stated that “The burden of proof for not placing the pipeline in the Company’s existing right of way is on the Company.” The Eischens also stated “Again, the Company has not adequately proved that it is not practical to put the pipeline in existing easements. We feel that the burden of proof lies on the Company as to why it cannot use its existing right of way for the Pipeline.”

The route suggested by the Eischens would follow MPL’s existing right-of-way through Morrison, Benton, Sherburne, Anoka, Washington and Dakota counties. This route proposal is shown on Attachment C-3 in the Commissioner’s packet. Attachment D-3 details their reasons for recommending this route alternative.

EFP staff reviewed the letter from Mike and Richard Eischens and noted that their suggested route satisfied two of the three requirements for a route proposal. In a letter to the Eischens, dated June 9, 2006, the Eischens were informed that they did not satisfy the data portion of 4415.0075 Subp. 3B. See Attachment D-5 in the Commissioner’s packet. However, this letter to the Eischens also indicated that EFP staff had issued an information request to the Company on May 22, 2006, (See Attachment D-6 in the Commissioner’s packet) asking for additional information on MPL’s existing right-of-way and that staff concluded that the Company’s response to this request may be used to satisfy this requirement rather than requiring duplicate information.

On June 16, 2006, MPL filed a letter with Dr. Haar indicating the “Eischens’ proposal should not be accepted for formal review by the Commission.” MPL’s letter did note that a full record will be developed, comparing the proposed route to the existing route.

On June 16, 2006, MPL supplied EFP staff information that was requested on May 22, 2006. EFP staff has provided the Commission with a copy of this information which includes: A) a comparative analysis discussion comparing impacts associated with construction on the Company’s preferred route versus on its existing route; B) the strip maps of the existing pipeline route in Washington County; C) selected views of the existing pipeline route; and D) maps of the preferred route similar in format to those provided in the Company’s June 9, 2006, Initial Response. This information is now a part of the administrative record in this proceeding.

DOC EFP Staff Analysis and Comments

Alignment Modifications

As indicated earlier, alignment modifications do not require any Commission action to be considered at the contested case hearing. However, Robert Schestak and Mari Lyn Ampe Schestak, property owners in Morrison County, and Atina and Martin Diffley, co-owners of Gardens of Eagan, and others have requested that the Commission formally accepted alignment modifications (B-1 through B-5) so a record can be developed on them at the contested case hearing. EFP staff believes this is a reasonable request.

Route Segment/Route Proposals

Several route segments/routes were proposed by the May 30, 2006 deadline for submittals. These route proposals were limited to the Staples areas (Wadena and Todd counties, where there were three different route proposals), one in the Belle Plaine area in Scott County and a proposal to use the existing right-of-way in the counties of Morrison, Benton, Sherburne, Anoka, Washington and Dakota.

EFP staff review of the route segment and route proposals has concluded that the proposals submitted by the May 30, 2006 deadline meet the requirements of Minn. Rule 4415.0075, taking into account the EFP staff information request # 1 and the ability of others to use the data and information provided by the applicant. (See Minn. Rules part 4415.0075 Subd.3 “unless the information is substantially the same as provided by the applicant.”)

Minn. Rules 4415.0075 Subpart 1. states:

The Commission shall accept for consideration at the public hearing the routes and route segments proposed by the applicant and may accept for public hearing any other route or route segment **it considers appropriate for further consideration**. No route shall be considered at the public hearing unless accepted by the Commission before the hearing. A proposer of a route or route segment that the Commission has accepted for consideration at the hearing shall make an affirmative presentation of facts on the merits of the route proposal at the public hearing.

Minn. Rule part 4415.0075 Subp. 4. states: If the proposal contains the required information, the Commission must consider acceptance of the route proposal for public hearing.

The route segment and route proposals identified as C-1 through C-3 and other information now in the administrative record demonstrate that the route segment and route proposals comply with the requirements of Minn. Rules part 4415.0075 and that the Commission must consider acceptance of the route proposals for public hearing.

A route or route segment proposal that meets the requirements of 4415.0075 does not have to be accepted by the Commission for consideration at the contested case, unless it was proposed by the applicant. Subpart 1 (above) states: “The Commission may accept for public hearing any other route or route segment it considers appropriate for further consideration.” However, there are no standards or guidelines to assist the Commission in determining what **should be considered as appropriate for further consideration**.

There are no objections to Commission acceptance of any of the route segment proposals in the Staples area (C-1, which includes 3 route segment alternatives) or in the Belle Plaine area C-2 for consideration at the public hearing. However, MPL and others are objecting to Commission acceptance of route (C-3) for consideration at the public hearing.

Objections to MPL Existing Right-Of-Way Route Proposal

MPL in its letter to Dr. Burl Haar, dated June 16, 2006, indicated that it does not believe the Eischens' proposal should be accepted for review by the Commission. See Attachment D-8 in the Commissioner's packet. Randy Piasecki, Planner Coordinator for the city of Zimmerman in Sherburne County in a June 16, 2006, email indicated that rapid growth in Zimmerman as well as in Sherburne and Anoka counties would make construction of additional pipelines extremely difficult and that buildings close to the existing easement would be negatively impacted. See Attachment D-10 in the Commissioner's packet. Senator Brian LeClair in an email on June 17, 2006, urged the ALJ, PUC and Department staff to terminate further consideration of the existing pipeline route through Washington County. See Attachment D-11 in the Commissioner's packet.

MPUC Decision Options

Alignment Modifications

- A. Recognize the alignment modification proposals (B-1 through B-5) and forward them to the ALJ in order to develop a record on them at the contested case hearing scheduled for PUC Docket No. PL5/PPL-05-2003. The Commission also recognizes that no formal Commission action is required on the alignment modifications within the MPL proposed route for them to be considered at the contested case hearing.

Route Segment and Route Proposals Outside of the MPL Proposed Route

- B. Accept for consideration at the contested case hearing the route segment proposals identified in C-1 in the Staples area in Wadena and Todd counties.
- C. Accept for consideration at the contested case hearing the route segment proposal identified in C-2 in the Belle Plaine area in Scott County.
- D. **With respect to the alternative route proposal to consider the existing route identified by the Eischens:**
 - 1. Accept for consideration at the contested case hearing the route segment proposal identified in C-3 in the counties of Morrison, Benton, Sherburne, Anoka, Washington and Dakota.
 - 2. Not accept for consideration at the contested case hearing the route segment proposal identified in C-3 in the counties of Morrison, Benton, Sherburne, Anoka, Washington and Dakota.

Other

- E. Make some other decision deemed more appropriate.

EFP Staff Recommendation: The DOC EFP staff recommends Commission adoption of decision options A, B and C, which includes the new MPL route segment proposals. The DOC staff is not making a recommendation on the Eischens' route proposal (C-3), which is addressed in decision option D.