



Energy Facility Permitting
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Saint Paul, MN 55155-2198
Minnesota Department of Commerce

September 13, 2006

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 30
St. Paul, MN 55101-2147

**Re: Comments and Recommendations of the Minnesota Department of Commerce
Energy Facility Permitting Staff
Docket No. E017/TL-06-1265**

Dear Dr. Haar –

Attached are the comments and recommendations of the Minnesota Department of Commerce Energy Facility Permitting Staff in the following matter:

**In the Matter of the Application for a Route Permit for the Appleton -Canby
115kV High Voltage Transmission Line**

The Department EFP staff recommends the Commission accept the application of Ottertail Power Company for a transmission line route permit under the alternative permitting process, appoint a public advisor, and determine that a Citizens Advisory Task Force is not necessary. Staff also recommends combining the environmental review and public hearings in this matter with the related Certificate of Need docket (E017/CN-06-677) for the same transmission line.

Staff is available to answer any questions the Commission may have.

Sincerely,

Jeffrey T. Haase
Project Manager
Energy Facilities Permitting
651-297-5648

Enclosures



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

DOCKET NO. E017/TL-06-1265

Meeting Date: September 21, 2006

Agenda Item # _____

Company: Ottertail Power Company

Docket No. E017/TL-06-1265

**In the Matter of the Application for a Route Permit for the Appleton to
Canby 115kV High Voltage Transmission Line**

Issue(s): Should the Commission accept the application as complete?
Should the Commission appoint a public advisor?
Should the Commission appoint a Citizen Advisory Task Force?
Should the Commission join the environmental review document in this docket
with the related Certificate of Need proceeding?
Should the Commission conduct a joint public hearing?

DOC Staff: Jeffrey T. Haase651-297-5648

Relevant Documents (in Commission Packet)

Initial Filing- Route Permit Application – Ottertail Power Company September 7, 2006

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.

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).

(Relevant documents and additional information can be found on eFilings (06-1265) or the PUC Facilities Permitting website: <http://energyfacilities.puc.state.mn.us>)

Statement of the Issues

Should the Commission accept the route permit application as complete? If complete and accepted, should the Commission appoint a public advisor? Should the Commission appoint an advisory task force? Should the Commission join the environmental review document in this docket with the related Certificate of Need proceeding (E017/CN-06-677)? Should the Commission conduct a joint public hearing(s)?

Introduction and Background

On September 7, 2006, Ottertail Power Company (OTP) filed a route permit application under the alternative review process for the Appleton to Canby transmission line project. The application for a Certificate of Need (CN) was filed on the same date, with both applications being presented in a single document. The Docket numbers for this project are E017/TL-06-1265 for the route permit and E017/CN-06-677 for the CN.

Project Area

The proposed Appleton to Canby transmission line project is located within Swift, Lac Qui Parle, and Yellow Medicine counties. The project will originate at the Appleton Substation near State Highway 7 in northwest Appleton, run generally south to the Dawson substation located near the intersection of State Highway 40 and US Highway 212, and terminate at the Canby relocated substation near US Highway 75 northeast of Canby. The project as proposed would follow the same route as an existing 41.6 kV transmission line and approximately 90 percent of the route parallels existing road right-of-way. With the exception of one mile east of Highway 75 near Dawson, the section of line from Canby to Dawson is already capable of 115 kV operation. The company will make slight modifications to the line at the Canby substation to accommodate the relocation of that substation. The location of the Canby substation will be determined as part of the Big Stone Transmission Project (TL-05-1275).

The project is located within the Prairie Grassland region of Minnesota. The route lies within the Minnesota River Prairie subsection of the Prairie Parkland Province under the Ecological Classification System. The Minnesota River Prairie is characterized by gently rolling terrain, except where it is split by the Minnesota River Valley. The primary use of the land around the route is for agricultural purposes; the majority of the route crosses cropland that is used to grow corn and soybeans.

There are two river crossings on the route, the Minnesota River south of Appleton and the Pomme de Terre River at Appleton. The river crossings will be at the same locations that the existing 41.6 kV line currently crosses. In addition the project crosses the Hegland Waterfowl

Production Area and Lac Qui Parle Wildlife Management Area in Lac Qui Parle County in the same locations that the existing 41.6 kV line currently crosses.

Project Description

Otter Tail Power Company is proposing to construct and operate a 115-kilovolt transmission line between a substation in Appleton, Minnesota, and a substation in Canby, Minnesota. The line is approximately 42 miles long and will replace an existing 41.6 kV line between the two substations. The line lies entirely in Minnesota, in the counties of Swift, Lac Qui Parle, and Yellow Medicine.

OTP proposes to rebuild an existing transmission line between the Appleton Substation and the Canby Substation. It will be rebuilt from 41.6 kV to 115 kV. Nearly the entire southern half of the line from the Dawson substation to the Canby substation is already capable of transmitting power at 115 kV. No physical changes will occur along the southern half of the line with the exception of a one mile segment west of the Dawson substation and east of U.S. Highway 75 and a short segment near the Canby substation.

OTP's proposed route begins at the Appleton substation on the northwest corner of the city of Appleton. The line follows section lines due south for three miles where the line meets MN State Highway 119. The line then cuts diagonally across Section 33 of Appleton Township in Swift County and crosses the Minnesota River where it travels due south along MN State Highway 119 about 20 miles to the Dawson substation. From the Dawson substation the line turns due west for about six miles along U.S. Highway 212, then turns due south at the intersection of Highway 212 and U.S. Highway 75. The line parallels Highway 75 for about 12 miles, where it cuts diagonally through Section 19 of Oshkosh Township in Yellow Medicine County and runs to the Canby substation.

Modifications will be made to the Canby, Dawson, Louisburg Junction, and Appleton substations. OTP is planning to move the existing Canby substation to a new location nearby; however, the new location of this substation is being determined as part of the Big Stone Transmission Project (TL-05-1275). The Dawson substation will have to be increased in size to accommodate the higher voltage line, the company will need to purchase additional land for the substation changes. Both the Louisburg Junction and Appleton substations have sufficient room for the necessary changes.

In addition to the above substation modifications the company will also eliminate the Appleton TV substation (a small substation south of Appleton), and serve this load from the Milan Junction substation. This will allow the company to remove two miles of existing 41.6 kV transmission line running to the east from MN State Highway 119. The company will also eliminate the South Appleton Junction bus, which will not be necessary when the line is energized to 115 kV.

Regulatory Process and Procedures

Eligibility and Completeness

High voltage transmission lines with a voltage between 100 kV and 200 kV are eligible for the Alternative Review Process (Minnesota Rule 4400.2010) of the Power Plant Siting Act

(Minnesota Statutes 116C.51 to 116C.69). Under the Alternative Review Process, an applicant is not required to propose any alternative sites or routes. The Department of Commerce Energy Facility Permitting Staff conducts a public information and scoping meeting, prepares an Environmental Assessment (EA), and a public hearing is required but it need not be a contested case hearing.

Route permit applications under the alternative review process must provide specific information about the proposed project, applicant, environmental impacts, alternatives and mitigation measures (Minnesota Rule 4400.2100). The Commission may accept an application as complete, reject an application and require additional information to be submitted, or accept an application as complete upon filing of supplemental information (Minnesota Rule 4400.2200).

The review process begins with the determination by the PUC that the application is complete. The PUC has six months to reach a decision from the time the application is accepted (Minnesota Rule 4400.2200).

Public Advisor

Upon acceptance of an application for a site or route permit, the Commission must 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 the EFP staff as the public advisor or assign a PUC staff member.

Advisory Task Force

The Commission may appoint an advisory task force (Minnesota Statute 116C.59). An advisory task force must, at a minimum, include representatives of local governmental units in the affected area. A task force can be charged with identifying additional routes or specific impacts to be evaluated in the EA and terminates when the DOC Commissioner issues a EA scoping decision. The PUC is not required to assign an advisory task force for every project.

If the Commission does not name a task force, the rules allow a citizen to request appointment of a task force (Minnesota Rule 4400.2650). The PUC would then need to determine at their next meeting if a task force should be appointed or not.

The decision whether to appoint an advisory task force does not need to be made at the time of accepting the application; however, it should be made as soon as practicable to ensure its charge can be completed prior to the EA scoping decision by the DOC Commissioner.

Environmental Review

Applications for Certificate of Need and route permits are both subject to environmental review, which is conducted by DOC EFP staff. In situations when a CN and a route permit application for the same project are considered simultaneously, the Commission may join environmental review documents and conduct environmental review following the siting and routing procedures (Minnesota Rule 4410.7060).

The most recent case of the PUC joining environmental review documents is found in the Mud Lake to Wilson Lake HVTL CN and route permitting dockets (CN-06-367 and TL-06-980). Environmental documents were also joined in the Big Stone Transmission CN and route permitting dockets (CN-05-619 and TL-05-1275).

Public Hearing(s)

Applications for Certificate of Need and route permits both require a public hearing to be held. In situations when CN and route permit applications for the same project are considered simultaneously, Minnesota Statute 216.243, subd. 4, states “Unless the commission determines that a joint hearing on siting and need under this subdivision and section 116C.57, subdivision 2d, is not feasible or more efficient, or otherwise not in the public interest, a joint hearing under those subdivisions shall be held.”

DOC EFP Staff Analysis and Comments

Completeness

DOC EFP staff conducted completeness review of the OTP Appleton to Canby route permit application and conclude that the Application meets the content requirements of Minnesota Rule 4400.2100 and is complete. Application acceptance allows staff to initiate and conduct the public participation and environmental review process.

Advisory Task Force

In analyzing the merits of establishing an Advisory Task Force for the project, staff considered four project characteristics: size, complexity, known or anticipated controversy and sensitive resources.

Project Size. At 42 miles, the project is relatively small, and given that approximately half of this length will not require modification to transmit power at the desired voltage level, the effective length of the line is about 21 miles.

Complexity. The project is relatively simple, calling for upgrade of an existing line along the same alignment, with significant portions requiring no physical changes.

Known/Anticipated Controversy. Since the project will follow the same route as the existing 41.6 kV line and no physical changes will occur along nearly the entire southern half of the line, it is not expected to generate controversy. In addition, the proposed project has been discussed in biennial transmission reports and no controversy surfaced through that process.

Sensitive Resource. While the project crosses two rivers, a waterfowl production area and a wildlife management area, it follows the same route as the existing 41.6 kV line in these areas.

Based on the analysis above, DOC EFP staff concludes that an advisory task force is not warranted in this case and that the alternative routing process provides adequate opportunities for the public to identify issues and route alternatives to be addressed in the EA.

Environmental Review

As in the GRE Mud Lake to Wilson Lake route permit application and CN dockets (TL-06-980 & CN-06-367), joining the Appleton to Canby route permit application and CN documents can provide due process, the required review, and an expeditious environmental analysis, while providing a consolidated and less confusing process for public participation.

DOC EFP staff concludes that it is feasible and in the public interest to join environmental review in these related dockets.

Public Hearing(s)

The Legislature has indicated that joint hearings are to be conducted in related CN and routing proceedings.

DOC EFP staff note that in this case, joint public hearings will provide a common forum for public comments, issues and testimony concerning need and route. This may help reduce public confusion about the difference between need and route proceedings. Joint hearings will be more efficient by allowing a single notification and procedure for the hearing(s), rather than two.

DOC EFP staff concludes that it is feasible and in the public interest to join environmental review in these related dockets.

PUC Decision Options:

A. Application Acceptance

1. Accept the Ottertail Power Company transmission line route permit Application under the alternative review process as complete.
2. Reject the route permit application as incomplete and issue an order indicating the specific deficiencies to be remedied before the Application can be accepted.
3. Find the Application complete upon the submission of supplementary information.
4. Make another decision deemed more appropriate.

B. Public Advisor

1. Authorize the Minnesota Department of Commerce Energy Facilities Permitting staff to name a public advisor in this case.
2. Appoint a PUC staff person as public advisor.
3. Make another decision deemed more appropriate.

C. Advisory Task Force

1. Determine that an advisory task force is not necessary.
2. Authorize DOC EFP staff to establish an advisory task force, and develop a proposed structure and charge for the task force.
3. Take no action on an advisory task force at this time.
4. Make another decision deemed more appropriate.

D. Environmental Review

1. Combine the environmental review documents and procedures in E017/CN-06-677 and E017/TL-06-1265 as allowed by Minnesota Rule 4410.7060 and authorize DOC EFP staff to initiate and conduct the environmental review process.
2. Decline to combine environmental review documents and procedures and authorize the DOC EFP staff to initiate and conduct separate environmental review processes.
3. Make another decision deemed more appropriate.

E. Joint Public Hearings

1. Join the public hearings in E017/CN-06-677 and E017/TL-06-1265. Authorize DOC EFP and PUC staff to request assignment of an Administrative Law Judge to schedule, notice, and preside over the joint public hearing(s), and implement other actions necessary to carry out the hearing process.
2. Find that joint public hearing(s) to consider both permitting and need in the dockets E017/CN-06-677 and E017/TL-06-1265 is not feasible, not in the public interest, or not more efficient than separate public hearing(s). Direct the PUC staff and DOC EFP staff to request the assignment of an ALJ from the Office of Administrative Hearings to schedule, notice, and preside over separate public hearings, and implement other actions necessary to carry out the hearing process.
3. Make another decision deemed more appropriate.

DOC EFP Staff Recommendations: Staff recommends options A1, B1, C1, D1, E1