



Energy Facility Permitting
85 7th Place East, Ste 500
Saint Paul, MN 55155-2198
Minnesota Department of Commerce

January 18, 2007

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: Comments and Recommendations of the Minnesota Department of Commerce Energy Facility Permitting Staff (PUC Docket No. E002,ET3/TL-06-1677)

Dear Sir:

Attached are the comments and recommendations of the Minnesota Department of Commerce (DOC) Energy Facility Permitting (EFP) Staff in the matter of the acceptance of an application for a HVTL Route Permit by Xcel Energy and Dairyland Power Cooperative.

The facility (i.e., Chisago County to Apple River 115/161 kV Transmission Project) for which the permit is requested comprises approximately 18.3 miles of new transmission lines, substation upgrades and a new Lawrence Creek Substation located near Taylors Falls.

The DOC EFP staff recommends acceptance of the HVTL permit application with the understanding that any additional information necessary for processing the application will be provided promptly. Staff is available to answer any questions the Commission may have.

Sincerely,

David E. Birkholz, DOC EFP Project Manager

cc: Bob Cupit, PUC Facility Planner
Deborah Pile, DOC EFP Supervisor



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

DOCKET No. E002,ET3 /TL-06-1677

Meeting Date: January 25, 2007

Agenda Item # _____

Company: Northern States Power Company (d/b/a Xcel Energy) and Dairyland Power Cooperative

Docket No. E002,ET3/TL-06-1677

In the Matter of the Application for a Route Permit for the Chisago County to Apple River 115/161 kV High Voltage Transmission Line

Issues: Should the Commission accept the application as complete?
Should the Commission appoint a public advisor?
Should the Commission appoint an advisory task force?

DOC Staff: David E. Birkholz651-296-2878

Relevant Documents

Route Permit Application January 5, 2007

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 (06-1677) or the PUC Facilities Permitting website: <http://energyfacilities.puc.state.mn.us/Docket.html?Id=18938>)

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?

Introduction and Background

On January 5, 2007, Xcel Energy and Dairyland Power Cooperative (Applicants) filed a route permit application under the alternative review process for the Chisago County to Apple River transmission line project (Project). Applicants also filed an application for a Certificate of Need (E002,ET3/CN-04-1176) on November 15, 2007, for the same transmission project.

Project Area

The Minnesota portion of the proposed Project is in Chisago County. The project area extends from the central part of the county south of North Branch through Lindstrom and through Taylors Falls, where it crosses the St. Croix River. The project area is mix of rural and developed areas and contains permanent residences and commercial areas. The area is rich in lakes, wetlands, forest and agricultural areas. An existing 69 kV transmission line delineates the proposed route.

Project Description

The Project includes:

- Replacing the existing 69 kV transmission line located between the Xcel Energy Chisago County substation and the proposed Lawrence Creek Substation near Taylors Falls, Minnesota with a new 115 kV transmission line,
- Replacing the existing 69 kV transmission line located between the proposed Lawrence Creek Substation and the St. Croix River crossing in Taylors Falls (including a portion proposed to be buried) with a new 161 kV transmission line, and
- Modifying the existing Chisago County, Lindstrom, and Shafer substations and constructing a new Lawrence Creek Substation.

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 under Minnesota Rule 4400.2000-2950 and Minnesota Statute 216E.04. Under the Alternative Review Process, an applicant is not required to propose any alternative routes.

Under this process, the Department of Commerce Energy Facility Permitting (DOC EFP) Staff conducts a public information and scoping meeting and prepares an Environmental Assessment (EA). 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 permit review process begins with the determination by the PUC that the application is complete, allowing staff to initiate the public participation and environmental review processes. The PUC has six months to reach a final 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 or some other individual it chooses.

Advisory Task Force

The Commission has the authority to appoint an advisory task force (Minnesota Statute 216E.08). An advisory task force generally comprises representatives of local governmental units and interested local persons. 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 an EA scoping decision.

The PUC is not required to assign an advisory task force for every project. However, If the Commission does not name a task force, Minnesota Rule 4400.2650 allows a citizen to request appointment of a task force. 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 an 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 under Minnesota Rule 4410.7060. An environmental assessment may be prepared in accordance with part 4400.2750 in lieu of the environmental report required under part 4410.7020.

Public Hearing

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 216B.243, subd. 4, states “Unless the commission determines that a joint hearing on siting and need under this subdivision and section 216E.03, subdivision 6, 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 reviewed the Chisago County to Apple River route permit application in terms of meeting the content requirements of Minnesota Rule 4400.2100. Staff finds that the Application is complete as to these requirements and recommends the PUC should accept the Application with the understanding that if additional information is requested by the DOC EFP staff, these requests will be addressed promptly. The Applicants have indicated that they will comply with requests for additional information from the Commission or the Department.

Advisory Task Force

An advisory task force may not be necessary in this case. Ninety-seven percent of the route as proposed replaces an existing high voltage transmission line. The only new right-of-way anticipated is to accommodate the new substation. Additionally, the constraints of the location through the area lakes substantially limit the number of available route alternatives. Several homes and businesses are near the proposed route; however this is routine in routing cases and always analyzed in the EA.

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 citizens to identify issues and route alternatives to be addressed in the EA.

Environmental Review

The Chisago County to Apple River route permit application and CN dockets are examples where joint environmental review 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 and supports Commission Staff's recommendation to prepare an EA in lieu of the Environmental Report.

Public Hearing

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

DOC EFP staff concludes that it is feasible and in the public interest to coordinate these related dockets and supports Commission Staff's recommendation to hold a joint hearing in these proceedings.

PUC Decision Options:

A. Application Acceptance

1. Accept the Chisago County to Apple River transmission line route permit Application as complete and authorize DOC EFP to begin the alternative review process under Minnesota Rules 4400.2000-2950.
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 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. Authorize DOC EFP staff to establish an advisory task force and develop a proposed structure and charge for the task force.
2. Determine that an advisory task force is not necessary.
3. Take no action on an advisory task force at this time.
4. Make another decision deemed more appropriate.

DOC EFP Staff Recommendations: Staff recommends options A1, B1 and C2