BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer	Chair
David C. Boyd	Commissioner
Marshall Johnson	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of the Application of the Nashwauk Public Utilities Commission for a Routing Permit for a Natural Gas Pipeline

ISSUE DATE: December 7, 2007

DOCKET NO. PL, E-280/GP-06-1481

ORDER AUTHORIZING FURTHER CONSIDERATION OF CERTAIN ALTERNATIVE ROUTES AND ROUTE SEGMENTS AND REQUIRING LANDOWNER NOTICE

PROCEDURAL HISTORY

On March 6, 2007, the Nashwauk Public Utilities Commission (Nashwauk) filed an application for a pipeline routing permit and partial exemption from pipeline route selection procedures for the Nashwauk to Blackberry natural gas pipeline project. The purpose of the pipeline is to provide natural gas fuel to operate the proposed Minnesota Steel Industries' taconite reduction plant and other potential industrial customers near the City of Nashwauk. The application was assigned to Docket No. E-280/GP-06-1481.

On April 3, 2007, the Commission issued an Order accepting Nashwauk's application under the partial exemption rules as complete.

On Wednesday, April 18, 2007, a public information meeting was held at the Taconite Community Center concerning the proposed pipeline route permit application.

On May 24, 2007, a second public information meeting was held at the Nashwauk City Hall and the public comment period was extended to June 8, 2007.

On July 12, 2007, Nashwauk submitted a request to the Commission to convert its original application for a partial exemption into a full proceeding pursuant to Minn. Rules, Chapter 7852 and submitted a revised pipeline routing permit application incorporating the requirements of the full Pipeline Route Selection Procedures on July 27, 2007.

On August 9, 2007, the Commission issued an Order granting Nashwauk's request to convert to the full pipeline route selection procedures and authorized the Department of Commerce (the Department) to establish a citizen advisory committee with a specific charge and structure.

On August 28, 2007, the Department held a third public meeting at the Taconite Community Center to inform the public of the conversion to the full review process, receive comments on route alternatives or modifications, and solicit input into the components of the comparative environmental analysis.

Also on that date, the Citizens Advisory Committee (the Advisory Committee) met for the first time and met three times from August 2007 to October 2007.

On October 26, 2007, the Advisory Committee released its report recommending that Alternative Routes 1, 2, P-1 and P-2 be carried forward for consideration during the contested case hearing. Consensus could not be reached on additional alternative routes and further discussion was tabled. The Advisory Committee also recommended that additional information be developed on an Alternative Route Segment (Advisory Committee Alternative Route Segment) and that comprehensive infrastructure planning be used so that the railroads, highways, transmission lines and pipeline lines necessary for a project such as the Minnesota Steel Industries Plant share common corridors.

On November 5, 2007, the Minnesota Department of Commerce - Energy Facility Permitting Staff (Energy Facility Permitting Staff) filed comments.

The Commission met on November 8, 2007 to consider this matter.

FINDINGS AND CONCLUSIONS

In this Order, the Commission decides what routes and route segments will be considered at the contested case hearing.

I. Background

Minn. Rules, Part 7852.1400 sets forth the requirements for proposing a route and or route segment outside of the proposed route. Unlike the alignment modification proposed by Mr. Michael Karna, 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.

II. Alignment Modification

Alignment modifications differ from route segment or route proposals in that they may be achieved within the boundaries of the applicant's preferred route. It is not necessary for the

Commission to take formal action on alignment modification proposals in order for them to be considered at the contested case hearing.

In this case, however, Mr. Michael Karna, a concerned citizen, has requested that the Commission formally accept his alignment. Although no formal Commission action is required on alignment modifications for them to be considered at the contested case hearing, the Commission will honor the request as a matter of courtesy and forward it to the Administrative Law Judge (ALJ). During the contested case hearing, Mr. Karna may explain his reasons for proposing this alignment modification.[1]

III. Alternative Routes or Route Segments

Minn. Rules, Part 7852.1400, Subp. 1 states in relevant part that in addition to the routes and route segments proposed by the applicant the Commission may accept for public hearing any other route or route segment that the Commission considers appropriate for further consideration.

The seven alternative routes or route segments requiring Commission approval as "appropriate for further consideration" pursuant to Minn. Rules, Part 7852.1400, subp. 1 in order to be included in the contested case proceeding are: 1) Alternative Route 1 - West Grand Rapids; 2) Alternative Route 2 - East Grand Rapids; 3) Alternative Route P-1; 4) Alternative Route P-2; 5) the CAC Alternative Route Segment; 6) the Karna Route Alternative; and 7) the White Alternative Route Segment.

Based on its review of the record developed regarding these seven proposals, the Commission concludes that Route Alternatives 1, 2, P-1, and P-2, and an Alternative Route Segment proposed by the Citizens Advisory Committee (CAC) are appropriate for further consideration in the contested case proceeding and that the Karna Alternative Route Segment and the White Alternative Route Segment are not.

A. Alternative Routes 1 and 2

The Department recommended that these two route alternatives go forward to the contested case hearing. These two routes, along with Alternative Route 3 (the applicant's preferred route), were among several gas pipeline routes and route segments considered and evaluated in the course of

[1] To this point, Minn. Rules, Part 7852.1400, Subp. 1 states: "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."

the Itasca County Infrastructure planning process,[2] which was conducted from 1999 to 2007. As such they have already been subject to considerable vetting and no conditions deemed fatal to the routes were found during that process.[3]

In recommending these routes for further consideration in the contested case proceeding, the Department stated that after consideration of human and environmental constraints, these two routes, along with the applicant's preferred route (Alternative Rote3) were identified. The Department stated that these two routes (Alternative Routes 1 and 2) represent viable alternatives to the preferred route and that there is ample data already withing the record to assemble the Comparative Environmental Analysis required by Minn. Rules, Part 7852.1500.

In these circumstances, the Commission finds that these alternative routes are appropriate for further consideration and will forward them to the ALJ for inclusion in the contested case proceeding.

B. Alternative Routes P-1 and P-2

The Department reported that these two routes were developed from citizen input during the partial exemption process. There are some drawbacks to these routes. They do increase the overall length of the pipeline and potentially impact a larger number of existing homes. In addition, routing the pipeline through the Nashwauk isthmus[4] presents some challenges. At the same time, these route alternatives meet the desires of many of the residents of the Trout Lake Township community and have at least been vetted to some extent via the partial exemption process and no fatal flaws have been found.

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[2] The Itasca County Infrastructure planning process combined improvements in roads, railroads, sewer, water, natural gas and power systems to enhance the economy of a historically economically challenged region of Minnesota and attract new business investment to the area. The Minnesota Steel facility in Nashwauk, the endpoint of all the routes examined in this Order, had been in planning for many years and was intended to be one of the primary components of the regional infrastructure upgrades.

[3] The Commission may approve alternative routes and alternative route segments proposed by parties other than the applicant only if the Commission determines that the proposal is "appropriate for further consideration." Minn. Rules, Part 7852.1400, Subp. 1. The decision on whether a proposal is appropriate or inappropriate for further consideration is committed to the Commission's sound discretion.

[4] The isthmus of land between the Hawkins Pit and the LaRue Pit (the Nashwauk isthmus) presents some severe technical issues relating to the development of a linear project such as the natural gas pipeline route through the city of Nashwauk, including the population density and the requirement to maintain a blast buffer zone (2000 feet) from a high pressure natural gas pipeline.

Moreover, much of the data required to build the Comparative Environmental Analysis already exist in the record and the applicant has expressed willingness to gather the additional data necessary to complete the Comparative Environmental Analysis. Given these considerations, the Department recommended that these route alternatives be forwarded to the contested case hearing. In these circumstances, the Commission finds that these alternative routes are appropriate for further consideration in the contested case proceeding.

C. Citizen Advisory Committee (Advisory Committee) Alternative Route Segment

The Advisory Committee's alternative route segment is an 8.9 mile distance connecting portions of two different alternative routes that were evaluated in Nashwauk's application and approved by the Commission for further consideration in this Order. Specifically, the Advisory Committee Alternative Route Segment connects the initial 7.5 miles of Alternative Route 2 with the final 10.4 miles of Alternative Route P-1, terminating at the Minnesota Steel Plant site west of Nashwauk, Minnesota. Like Alternative Routes P-1 and P-2, the Advisory Committee Alternative Route Segment is challenged by the Nashwauk isthmus.

The Department stated that it would be reasonable to include the Advisory Committee Alternative Route Segment in the Comparative Environmental Analysis and forward it to the public hearing for further consideration. The Commission agrees. As with the P-1 and P-2 Alternative Routes, the Nashwauk isthmus problem may well be found to be surmountable, in which case having analyzed the Advisory Committee Alternative Route Segment in the contested case hearing will allow a wider range of routes from which to choose the best.

D. The Karna Alternative Route

Nashwauk's consultant reported that the Karna route alternative was examined during the Itasca County Infrastructure project and was eliminated from further consideration primarily because it would require a gas pipeline to be installed through large wetland areas found in the southern two-thirds of the route length. The consultant also reported that the Karna Alternative Route includes 90-degree angle turns, which make it difficult to accommodate the pipeline construction radius requirements.

In addition, he reported, the route would greatly increase the number of wetland crossings in water, bog, and wetland areas that are deeper than the burial depth of the pipeline and present up to three feet of standing water. The consultant concluded that although in principle it may be technically possible to build through small wetland areas, gas pipeline construction through large wetland areas is more difficult and expensive than seeking higher and drier construction corridors. In addition, due to the extensive use of wetlands for this route, the consultant stated that future maintenance and access to the pipeline would not be practical.

The consultant also reported that near the middle part of the Karna Alternative Route there are large concentrations of existing homes near the areas where the proposed route intersects highways 10, 70, 12 and 169. Another condition reported by the consultant as an "extreme engineering problem with this route" is the technical issue of bringing the pipeline to the point at which Highway 65 passes through downtown Nashwauk because of the high density of residential units.

Finally, he reported that at a point just north of Nashwauk there is a narrow isthmus of land between the current active and future mining ore reserves. A blast buffer zone of 2,000 feet from a high pressure natural gas pipeline is required by mining practices and an existing 300 foot deep Hawkins mine pit on the western edge is not passable to the west of the City. The consultant concluded that the blast zone restriction coupled with the narrow passage by the Hawkins mine pit present a fatal flaw.

Following receipt of this information, the Department recommended that the Commission not forward this alternative route to the contested case hearing.

The Commission finds the consultant's report persuasive on this issue and notes that his report is not countered by anything in the record. Consequently, the Commission finds that the Karna Alternative Route is not appropriate for further consideration and will not forward it to the contested case proceeding.

E. The White Alternative Route Segment

The White Alternative Route Segment follows an abandoned pipeline for seven miles from the point it diverts from Alternative Route P-1 to the point where it rejoins Alternative P-1. As part of the expansion of state highway 169 in the early 1970s, the pipeline's owner, Northern Natural Gas (Northern), replaced and abandoned the portion of the pipeline that was within the highway right of way, 8,572 feet.

A consultant retained by Nashwauk assessed this alternative route segment and found that it had several significant drawbacks and a fatal flaw.

First, the consultant stated that the right of way for the White Alternative Segment now runs under and along the Highway 169 ROW. The consultant reasoned that if this ROW had to be abandoned because it could not serve Northern's existing 10" pipeline, it would be unlikely to be able to serve Nashwauk's 24" pipeline.

The consultant reported that the pipeline abandoned by Northern was approximately 10" in diameter and that any right of way for it would be unlikely to allow Nashwauk's proposed 24 inch diameter pipeline.

In addition, the consultant reported, the right of way for the abandoned pipeline has little ability to serve as a corridor to supply natural gas -- regardless of the alignment-- due to the ore reserves

locations. Using any corridor based upon the abandoned pipeline, the consultant stated, would require crossing ore reserves.

Finally, the consultant noted that the White Alternative Segment would require an alignment that places the pipeline through some parts of Nashwauk, raising the same fatal flaws found with respect to the Karna Alternative Route.

Following receipt of this information, the Department recommended that the Commission not forward this alternative route segment to the contested case hearing.

The Commission finds the consultant's report persuasive on this issue and notes that his report is not countered by anything in the record. Consequently, the Commission finds that the White Alternative Route Segment is not appropriate for further consideration and will not forward it to the contested case proceeding.

IV. Notices to Landowners

Consistent with previous Commission Orders in similar dockets, the Commission will direct Nashwauk to provide notice to potentially affected landowners and local units of government regarding the route alternatives approved by the Commission in this Order. Minnesota Rules 7829.2550 regarding notice plans for large electric transmission lines should be used as a guide for the notice content and distribution. Nashwauk will be directed to provide this notice as soon as practicable.

ORDER

1. Regarding the alignment modification proposed by Michael Karna, the Commission acknowledges this alignment modification proposal and hereby forwards it to the ALJ for consideration in the contested case hearing. The Commission clarifies that no formal Commission action is required on alignment modifications within the Nashwauk Public Utilities Commission's (Nashwauk's) proposed route to authorize their consideration at the contested case hearing.

2. Regarding the proposed route alternatives, the Commission accepts and forwards for consideration at the contested case hearing the following Route Alternatives: Route Alternative 1, 2, P-1, and P-2.

3. Regarding the proposed route segment alternatives, the Commission accepts and forwards for consideration at the contested case hearing the Citizen Advisory Committee's Advisory Committee's) Alternative Route Segment.

4. Nashwauk Public Utilities Commission (Nashwauk) shall work with Commission and Department staff to provide notice to potentially affected landowners and local governments for the route alternatives approved by the Commission. Minnesota Rules 7829.2550 regarding notice plans for large electric transmission lines shall be used as a guide for the notice content and distribution. Nashwauk shall provide this notice as soon as practicable.

5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

I, Margie DeLaHunt, being first duly sworn, deposes and says:

That on the 7th day of December, 2007 she served the attached

ORDER AUTHORIZING FURTHER CONSIDRATION OF CERTAIN ALTERNATIVE ROUTES AND ROUTE SEGMENTS AND REQUIRING LANDOWNER NOTICE.

MNPUC Docket Number: PL,E-280/GP-06-1481

XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid

XX By personal service

XX By inter-office mail

to all persons at the addresses indicated below or on the attached list:

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Margie DeLaHunt

Subscribed and sworn to before me,
a notary public, this 7th day of
December, 2007

Mary E. Reid
Notary Public

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