

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David Boyd
J. Dennis O'Brien
Phyllis Reha
Thomas Pugh
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Route Permit
Application by Otter Tail Power
Company, Minnesota Power, and
Minnkota Power Cooperative, Inc., for
a 230 kV Transmission Line from
Bemidji to Grand Rapids, Minnesota.

ISSUE DATE:

DOCKET NO. E017, EO15, ET-6/TL-07-
1327

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER ISSUING A HVTL PERMIT TO
OTTER TAIL POWER COMPANY,
MINNESOTA POWER, MINNKOTA
POWER COOPERATIVE INC.,
NORTHERN STATES POWER
COMPANY, A MINNESOTA
CORPORATION, AND GREAT RIVER
ENERGY, FOR THE BEMIDJI-GRAND
RAPIDS 230 kV TRANSMISSION
PROJECT

The above-captioned matter came before the Minnesota Public Utilities Commission (Commission) on October 28, 2010, acting on an application by Otter Tail Power Company, Minnesota Power, and Minnkota Power Cooperative for a route permit to construct a new 70-mile transmission line and associated facilities in Beltrami, Hubbard, Cass and Itasca counties.

STATEMENT OF ISSUE

Should the Minnesota Public Utilities Commission find that the environmental impact statement adequately addresses the issues identified in the scoping decisions? Should the Minnesota Public Utilities Commission issue a route permit identifying a specific route and permit conditions for the proposed Bemidji to Grand Rapids 230 kV transmission line project?

Based upon all of the proceedings herein, the Commission makes the following:

FINDINGS OF FACT

The Commission adopts the September 20, 2010, Administrative Law Judge's Findings of Fact, Conclusions and Recommendations for the Bemidji – Grand Rapids 230 kV Transmission Line Project related to Commission Docket E017, EO15, ET-6/TL-07-1327, with the following modifications:

Recommendation 2 is amended as follows to remove a new 115 kV breaker station at Nary Junction from the Project Description:

2. Grant a Route Permit to Applicants on behalf of themselves, Northern States Power Company, ~~and Xcel Energy~~ and Great River Energy for:
 - (a) The Applicants Preferred Route (also denominated as “Route 4”):
 - (b) Modifications and additions to three existing substations (Wilton Substation, Cass Lake Substation, and Boswell Substation) to accommodate the new transmission line facilities;~~;~~
~~and~~
 - ~~(c) A new 115 kV breaker station at Nary Junction.~~

Finding 58 is amended as follows to correct the spelling of Elizabeth Sherman:

58. Barry Babcock, of Laporte, Minnesota, spoke first on behalf of Elizabeth ~~Schurman~~ Sherman, a member of the Leech Lake Band. Ms. ~~Schurman~~ Sherman was concerned about the impacts to human health from the project. As a member of the Leech Lake Ban, Ms. ~~Schurman~~ Sherman was also concerned with the impacts to animal habitat, particularly of the habitat of eagles. Ms. ~~Schurman~~ Sherman also expressed concerns about eminent domain and tribal sovereignty. On his own behalf, Mr. Babcock urged conservation as an alternative to development of new transmission lines and generation plants. Mr. Babcock also expressed concern as to the environmental and health impacts of the Project.

Subheading F.2 is amended and moved above ALJ Finding 88 to describe other transmission improvements addressed in the Hearing Record, but not part of the Commission's Order:

F.2. 115 kV Line Thermal Improvements Other Bemidji Area Transmission Improvements Addressed in Hearing Record

Finding 107 is amended as follows:

107. The Power Plant Siting Act requires that route permit determinations... “

Finding 110 is amended as follows to clarify the distance of residences from an evaluated right-of-way:

110. The following summarizes the route alternatives potential to displace residents:

Comparison of Route Alternatives' Potential to Displace Residences

	Route 1	Route 2	Route 3	Route 4
Residences within <u>proposed</u> 125 feet of the right-of-way	3	15	25	0
Residences within the 1,000 foot route, <u>outside proposed right-of-way</u>	109	281	459	406 <u>118</u>

Finding 112 is amended as follows to incorporate the Applicants' pledge to avoid the potential displacement of homes:

112. Additionally, the Applicants pledge to further mitigate potential displacement by altering the alignment of the Project so as to avoid ~~those~~ placing-homes ~~that lie~~ in the right-of-way.

The table in Finding 114 is amended as follows to correct the estimated loss of trees:

Comparison of Route Alternatives' Impact on Forested Land (acres)

Forested Land	Route 1	Route 2	Route 3	Route 4
Total	579 <u>580</u>	439 <u>432</u>	823 <u>812</u>	581 <u>575</u>
Within CNF	294 <u>389</u>	202 <u>275</u>	324 <u>581</u>	249 <u>383</u>

Finding 116 is amended as follows to reflect the similarity between Routes 1 and 4 in the amount of tree loss in the CNF:

116. The total loss of trees associated with Route 4 is comparable to Route 1 ~~and results in significantly less tree loss within the CNF when compared to Route 1.~~

Finding 120 is amended to reflect a more robust understanding of natural resource use resulting from public comment and discourse with agencies during the development of the EIS and the mitigation required by the CNF:

120. The Project would impact food resources used by those conducting subsistence hunting, fishing, and gathering activities. While access and use of traditional hunting and gathering areas would not be restricted on a long-term basis, some temporary and long-term impact to the uses of those areas would result. During construction, vegetation within the right-of-way would be removed, and some animal species would also be affected. Once in operation, the primary impact to subsistence resources would be the long-term conversion of forested areas to managed shrubland or grassland within the Project right-of-way. Long-term Adverse impacts on ~~natural resource use, such as wild rice harvesting or berry picking, are likewise not expected.~~ The opportunities for berry picking would likely increase due to conversion of forest lands to grasslands and shrub lands within the transmission line right-of-way, and the Project would span rivers and deep-water wetlands so as to avoid existing wild rice resources. The Project would permanently convert approximately 575 acres of forested land. To the extent that

these forested areas are used to conduct traditional ceremonies or hunting/gathering activities, the experience of conducting these activities would be altered and the potential harvest levels could also be altered as a result of shifting or lost species.¹

Finding 125 is amended as follows to clarify that the primary effect on recreation and tourism would be aesthetic, and by locating the Project primarily in areas that already have visual intrusions, impacts would be minimized:

125. The primary impact to recreation and tourism from the Project would be from aesthetic changes in the landscape. Among the route alternatives, because ~~By locating~~ Route 4 is ~~primarily located~~ along existing transmission lines, pipeline rights-of-way and U.S. 2, it would have the least impacts upon recreation and tourism.²

Finding 131 is amended as follows to clarify the extent of the St. Regis Superfund Site. The source in the footnote is also changed accordingly.

131. Routes 1, and 3, and 4 avoid the St. Regis Superfund Site in Cass Lake. Route 2 traverses this site. While Route 4 largely avoids the Superfund Site it may cross the southern, eastern, and western administrative boundaries of the site.³

The table in Finding 133 is amended as follows to reflect the probable effects of the Project on agricultural uses in the right-of-way rather than the acreage contained in the wider route. The source in the footnote is also changed accordingly:

133. The following table shows the impacts of the route alternatives on agriculture:

Comparison of Route Alternatives on Agricultural Land (acres)

	Route 1	Route 2	Route 3	Route 4
	<u>210</u>	<u>117</u>	<u>503</u>	<u>191</u>
Long-term impacts to Agricultural Uses	<u>0.7</u>	<u>0.3</u>	<u>2.0</u>	<u>0.6</u>
Temporary impacts to agricultural and farmland uses	<u>52</u>	<u>31</u>	<u>119</u>	<u>47</u>

The table in Finding 137 is amended as follows to more accurately reflect the potential impacts to forested lands. The source in the footnote is also changed accordingly.

137. The record shows the following impacts on forested land:⁴

¹ Ex. 35A at 362, 371

² Ex. 24 (Route Permit Application at 8.22-3; see also Ex. 35-A at ~~391-93401-402~~)

³ Ex 35A at 33, 37, 533

⁴ Ex 35A at 425

Comparison of Route Alternatives on Forested Land (acres)

	Route 1	Route 2	Route 3	Route 4
Total	579 <u>580</u>	439 <u>432</u>	823 <u>812</u>	584 <u>575</u>
Within CNF	294 <u>389</u>	202 <u>275</u>	324 <u>581</u>	249 <u>393</u>

Findings 138 and 139 are amended as follows to correct the relationship of the various routes to the Ten Section area of the CNF. The source of the footnotes is also amended accordingly:

138. Route ~~2~~ 1 traverses the Ten Section area of the CNF; an area that is of cultural and biological importance to the LLBO. Routes 2 and 4 do not traverse the southern (and most highly-valued) portion of the Ten Section area of the CNF.⁵

Finding 139 is amended as follows to consolidate the discussion of the routes on the Ten Section area and to identify the impact of Route 1 on the Pike Bay Experimental Forest:

139. ~~Route 4 does not traverse the southern (and most highly-valued) portion of the Ten Section area of the CNF.~~ Route 1 would convert approximately 32 acres of the Pike Bay Experimental Forest, resulting in a loss of opportunity for silvicultural research. Routes 2, 3, and 4 avoid the Pike Bay Experimental Forest.⁶

Finding 141 is amended as follows to reflect a comparison of the routes with respect to forested land:

141. Route 2 would result in the least loss of forested land, while Routes 1 and 4 ~~traverses two more acres of forested land than Route 1, but 45 fewer acres within the CNF would result in a comparable loss of forested land, approximately 150 acres more than Route 2, and 220 acres less than Route 3.~~⁷

The table in Finding 155 is amended as follows to more accurately reflect the potential impacts to wetlands. The source in the footnote is also changed accordingly.

155. The wetland impacts of the route alternatives are summarized in the table below:⁸

Comparison of Route Alternatives' Impacts on Wetlands (acres)

	Route 1	Route 2	Route 3	Route 4
Total <u>NWI Wetland (within right-of-way)</u>	292	225	420 <u>370</u>	317
<u>Forested Total Wetland Type Conversion</u>	209	166	110 <u>269</u>	97 <u>226</u>
<u>Forested Wetland Type Conversion</u>	<u>80</u>	<u>52</u>	<u>118</u>	<u>92</u>

⁵ Ex. 35A. at 433

⁶ Ex. 35A. at 432

⁷ Ex. 35A at 425

⁸ Ex. 35A at 161

Finding 157 is amended as follows to compare potential wetland impacts by route:

157. Among the four alternatives, Route 2 has the least potential and Route 3 has the greatest potential for impact upon wetlands.⁹

Finding 158 is amended as follows to more accurately portray Route 4 in relation to the route with the least impact to wetlands.

158. Route 4 traverses 92 more acres of wetlands than Route 2, ~~but 69 fewer acres of forested wetlands. Among the four alternatives, Route 4 has the fewest impacts upon forest wetlands.~~ Route 4 would potentially result in the conversion of 60 more acres of total wetlands and 40 more acres of forested wetlands than Route 2.

Finding 160 is amended as follows to clarify that additional mitigation measures will be identified in additional wetland permits required for the Project:

160. Applicants have identified specific best management practices that they will use to minimize any impacts to wetlands. Additional wetland mitigation measures, including wetland replacement as necessary, will be identified in wetland permits for the Project that will be required by the US Army Corps of Engineers, the Minnesota Pollution Control Agency, and the Minnesota Department of Natural Resources.¹⁰

Finding 179 is amended as follows to reflect the determination of the Leech Lake Division of Resource Management and Minnesota Department of Natural Resources concern that the use of Route 1 would jeopardize the only known one-flowered broomrape population in Northern Minnesota:

179. The Minnesota Department of Natural Resources, the Chippewa National Forest, and the Leech Lake Division of Resource Management have ~~preliminarily concluded~~ determined that the disruptions to habitat associated with Project construction would have a short-term impact and would not likely affect mammal populations. The Minnesota Department of Natural Resources and the Leech Lake Division of Resource Management have determined that the use of Route 1 would jeopardize the only known one-flowered broomrape population in northern Minnesota.¹¹

Finding 183 has been amended to clarify the origin of additional mitigation measures identified in the EIS:

⁹ Ex. 35A at 161

¹⁰ Ex. 24 (Route Application), at 4-5 to 4-8 Ex 35A at 173-176

¹¹ Ex 35A at 262

183. As detailed above, Applicants and agencies have also identified the specific mitigation procedures that will be taken to address the various adverse environmental impact that could result from the Project.¹²

Finding 192 is amended as follows to correct the cost estimates for the route alternatives:

192. The estimated cost of constructing the Project in Route 4, Route 1, or Route 2 – each of which is approximately 68 to 70 miles long -- is between ~~\$65.4~~ 60.5 and ~~\$66.2~~ 65.4 million.¹³

Cost Comparison of Locating Project in Route Alternatives (\$ millions)

Project Component	Route 1	Route 2	Route 3	Route 4
230 kV Line (including adders for woodland/wetland construction)	\$54.5	\$ 52.8	\$ 91.6	\$55.8
Boswell Substation Expansion <u>Modifications</u>	\$ 1.0	\$ 1.0	\$ 1.0	\$ 1.0
Wilton Substation Expansion <u>Modifications</u>	\$ 1.5	\$ 1.5	\$ 1.5	\$ 1.5
Cass Lake Substation Expansion	N/A	\$5.2	N/A	\$ 5.2
New Cass Lake Substation	5.7	N/A	N/A	N/A
Nary Breaker Station	2.7	\$ 2.7 <u>N/A</u>	\$ 2.7 <u>N/A</u>	\$ 2.7 <u>N/A</u>
Total for 230 kV Line and Associated Facilities	\$ 65.4	\$ 65.7 <u>\$ 60.5</u>	\$ 98.6 <u>\$ 94.1</u>	\$66.2 <u>\$63.5</u>

Finding 194 is amended as follows to correct the relationship between the cost s of the route alternatives:

194. At an estimated cost of ~~\$114~~ 94.1 million, the cost to construct the Project along Route 3 is approximately 75 44 to 55 percent more than the cost of locating the Project along the shorter routes.

Finding 199 is amended as follows:

199. The principal impacts of the Project is will be the low-to-moderate visual impact of a high-voltage transmission line and the loss of treaty trust resources. ~~This~~ The visual impact would be experienced by the people who live and work in the areas adjacent to the line, people who use the areas around the Project for traditional activities, as well as those who come to these communities for recreation and tourism. The loss of treaty rights would be experienced by members of the Leech Lake Band of Ojibwe.

¹² Id. at § 8 mitigation recommendations in subsections 8.1 to 8.26; see also Ex. 35A (FEIS), Table ES-3 at ES-24 to ES-30.

¹³ ~~Ex. 29, (Lindholm Direct) at Schedule 2 Ex 35A, Final EIS, at 26.~~

