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**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

**COMMENTS AND RECOMMENDATIONS OF THE  
MINNESOTA OFFICE OF ENERGY SECURITY  
ENERGY FACILITY PERMITTING STAFF**

**DOCKET NO. E017, E015, ET-6/TL-07-1327**

Meeting Date: June 26, 2008

Agenda Item # \_\_\_\_\_

Company: Otter Tail Power Company, Minnesota Power, and Minnkota Power Cooperative

Docket No. E017, E015, ET-6/TL-07-1327

In the Matter of the Application for a Route Permit for the Bemidji – Grand Rapids  
230kV Transmission Project

Issue(s): Should the Commission accept the application?

DOC Staff: Suzanne Lamb Steinhauer .....651-296-2888

**Relevant Documents**

Application by Otter Tail Power Company, Minnesota Power, and Minnkota Power Cooperative  
for a High Voltage Transmission Line Route Permit.....June 4, 2008

PUC Order Authorizing Establishment of an Advisory Task Force for the Bemidji – Grand Rapids  
Transmission Project .....April 24, 2008

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Office of Energy Security 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.

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## **Documents Attached**

### 1. Project Vicinity Map

(Relevant documents and additional information can be found on eDockets (07-1222 (Certificate of Need) or 07-1327(Route Permit Application)) or the PUC Facilities Permitting website <http://energyfacilities.puc.state.mn.us/Docket.html?Id=19344>)

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## **Statement of the Issues**

Should the Commission accept or reject the application as substantially complete? If accepted, Should the Commission authorize the Department to appoint a public advisor? If accepted, should the Commission agree that the environmental review for the certificate of need and route permit should be combined?

## **Introduction and Background**

Otter Tail Power Company, Minnesota Power and Minnkota Power Cooperative (Applicants) propose to construct approximately 68 miles of 230 kilovolt (kV) High Voltage Transmission Line and associated facilities between Bemidji and Grand Rapids. The Bemidji – Grand Rapids Project is one of four Group 1 Projects of the Capacity Expansion 2020 (CapX2020) initiative. On June 4, 2008, the Applicants filed a route permit application for the Bemidji to Grand Rapids 230-kV Transmission Line Project (the “Project”).

The Applicants filed a certificate of need application for the Project on March 17, 2008 (E017, E015, ET-6/CN-07-1222).

### ***Permittees***

Ottertail Power Company, Minnesota Power and Minnkota Power Cooperative are the Applicants for the Project. The Applicants, along with Northern States Power and Great River Energy will be the Permittees for the HVTL Route Permit.

### ***Project Area***

The proposed Project is located in portions of Beltrami, Hubbard, Cass and Itasca counties. Communities within the Project area are Bemidji, Cass Lake, Bena, Zemple, Deer River and Cohasset. The Project would cross the Mississippi River. A large portion of the Project, up to 65 percent of the approximately 68-mile Project length, is located within the boundaries of the Leech Lake Reservation. The Project would also cross portions of the Chippewa National Forest (CNF) and the Bowstring State Forest. The Project crosses both private and public lands. Land cover along the Project is a mixture of deciduous and coniferous forests, wetlands, cropland and developed areas comprised of transportation, residential and commercial land uses.

### ***Project Description***

The proposed Project consists of a 230 kV transmission line between the Wilton 230 kV Substation, located just west of Bemidji, and the Boswell 230 kV Substation in Cohasset, Minnesota. It also includes improvements to both the Wilton and Boswell substations and a 230 kV substation to service Cass Lake. Depending upon the route selected, the Project may also include a new 115 kV breaker station at the existing Nary Junction.

The applicants have identified a preferred and alternate route, as well as three alternative segments, and three crossover segments between the preferred and alternative routes. Both routes follow existing road, pipeline or transmission rights-of-way for the majority of their length.

Route 1, the Applicant's preferred route, generally follows the Great Lakes Gas Transmission Company pipeline right-of-way from the Wilton Substation, located just west of Bemidji, to a point just east of Dear River. From this point it follows a Minnesota Power 115 kV transmission line to the Boswell Substation, located in Cohasset.

Route 2 generally follows US Highway 2 and Enbridge Pipeline rights-of-way between the Wilton and Boswell substations.

In addition to the preferred and alternate routes the applicants have proposed three alternative segments:

- Alternative Segment A would modify Route 1 to follow an existing 115 kV transmission line from Bemidji to Cass Lake
- Alternative Segment B would modify Route 1 to avoid the Ten Section Area and Pike Bay Experimental Forest of the CNF by going cross country on a new right-of-way
- Alternative Segment C would modify either routes 1 or 2 by replacing the existing Great River Energy 69 kV crossing of the Mississippi River with the proposed 230 kV transmission line and rerouting the 79 kV line to the south along a new right-of-way

The Applicants propose using wood H-frame structures for the majority of the Project. These structures would be 70 to 90 feet tall with spans of 600 to 1,000 feet between structures. For portions of the Project that would double-circuit with existing transmission lines, or where available right-of-way is constrained, the Applicants propose using steel single-pole self-supporting structures 80 to 115 tall with spans of 350 to 800 feet between structures.

The Applicants propose to acquire permanent right-of-way easements of approximately 125 feet. The Applicants are requesting a 1,000 foot wide route width to allow for flexibility in determining the actual right-of-way to accommodate landowner concerns.

## **Regulatory Process and Procedures**

Minnesota Statute 216E.03, subp. 2, states that no person may construct a electric transmission line greater than 100 kV and more than 1,500 feet without a route permit approved by the Commission.

Route permit applications must provide specific information about the proposed project, applicant, environmental impacts, alternatives and mitigation measures (Minnesota Rule 7849.5220). 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 7849.5230).

The review process begins with the determination by the PUC that the application is complete. The PUC has one year to reach a final decision from the time the application is accepted. The PUC may extend this limit for up to three months for just cause or upon agreement of the applicant (Minnesota Rule 7849.5340).

### ***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 7849.5250). 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***

Minnesota Statute 216E.08 authorizes the Commission to appoint an advisory task force (ATF) to assist with identifying additional routes or specific impacts to be evaluated in an EIS. A task force terminates when the OES Director issues an EIS scoping decision. The Commission authorized the OES to establish an ATF in an order dated April 24, 2008.

### ***Environmental Review***

Applications for both transmission line route permits and certificates of need are subject to environmental review, which is conducted by EFP staff. In addition to the EIS prepared for a HVTL route permit application, an Environmental Report (ER) must be prepared on a HVTL at the Certificate of Need Stage (Minnesota Rules, 7849.7030).

Both procedures require EFP staff to notice and conduct a public meeting on the Project to provide information take comments on the scope of the environmental review documents. The OES Director determines the scope of both the ER and EIS, and the environmental review documents must be completed and available prior to the public hearing (Minnesota Rules 7849.5300 and 7849.7090).

If an applicant for a certificate of need for a HVTL applies for a route permit prior to the completion of the environmental report, the commissioner may elect to prepare an EIS in lieu of the ER if the applicant and PUC agree to the additional time that will be required to prepare the EIS. If the EIS is prepared in lieu of an ER, the EIS shall include an analysis of the alternatives required in an ER (Minnesota Rules 7849.7100, subp. 2).

### ***Public Hearing***

Applications for transmission line route permits require that a contested case hearing be held after the draft environmental impact statement is prepared (Minnesota Rule 7849.5330). The Legislature has directed that Certificate of Need Proceedings and Route Permit proceedings be handled together where appropriate.

*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 . (Minnesota Statutes 216B.243, subd. 4)*

### ***Review Under the National Environmental Policy Act***

Minnkota Power Cooperative is requesting a loan for the Project from the Rural Utilities Service (RUS) of the United States Department of Agriculture. The RUS's decision to grant or deny the loan constitutes a federal action, and thus requires a review of project alternatives and environmental effects under the National Environmental Policy Act (NEPA), 42 USC §§ 4321-4347 and implementing regulations, 40 CFR 1500 -1508.

The Department and RUS both wish to minimize to the extent possible any duplication of procedures or work products as well as confusion of multiple review processes and dockets. To that end the Department and the RUS have entered into a memorandum of understanding to prepare a joint environmental review document that meets both Minnesota and federal environmental review requirements. Under this agreement, the Department would be the lead agency in preparing the EIS.

## **OES EFP Staff Analysis and Comments**

### ***Completeness Review***

Minnesota Rule 7849.5220, subpart 2C requires that the application contain at least two proposed routes for the proposed high voltage transmission line and identify the Applicant's preferred route and reasons for the preference.

As noted in the Project Description above, the Applicant has identified two 1,000 foot-wide routes. Both routes follow existing linear facilities (pipelines, transmission lines, roadways) for the majority of the routes. As shown in Attachment 1, these routes are located in close proximity to each other. Minnesota Statutes, section 216E.01, subd. 8 defines a route as follows,

*"Route" means the location of a high voltage transmission line between two end points. The route may have a variable width of up to 1.25 miles."*

Approximately 41 miles of Route 1 (or 60 percent of the route) is within 1.25 miles of Route 2 (within this length approximately 9 miles of the two routes overlap each other). Neither Statute nor Rules prescribe a minimum route width or the minimum distance between the preferred and alternate routes.

There are limited precedents to provide further guidance for route permit applications considered under the full permitting process, the two most recent are the Big Stone Project (PUC Docket No. ET6131, ET2, ET6130, ET10, ET6444, E017, ET9/TR-05-1275) and the Split Rock to Lakefield Junction 345/115 kV Powerlines (EQB Docket No. 03-73-TR-XCEL).

The Big Stone Transmission Project route permit application identified two possible routes for each of the proposed lines. For the most part the two routes were within 1 to 1.5 miles of each other and the routes overlapped for significant portions of each line.

The application for the Split Rock – Lakefield Junction 345 kV transmission project identified the applicant’s preferred route along I-90 and an alternate route double circuiting with an existing 161 kV transmission line located approximately 2 – 5 miles north of I-90.

Based on past precedent it seems reasonable to conclude that the application includes a preferred and alternate route.

After conducting a completeness review of the application, OES EFP staff concludes that the Application meets the content requirements of Minnesota Rule 7849.5220, subparts 2-3. The PUC’s acceptance of the Application will allow EFP staff to initiate and conduct the public participation and environmental review processes.

### ***Joint Proceedings***

The environmental review required under the National Environmental Policy Act must address both project need and environmental impacts. A working project schedule for a joint federal-state EIS anticipates that it would be complete by the end of June, 2009, within one year of the route permit application’s acceptance.

The Applicants have requested that the Certificate of Need and Route Permit proceedings be combined for the Project (Route Permit Application, at p. 4-2) and anticipate that one environmental review document, an EIS to be prepared jointly by OES and the RUS, will be prepared for the Project (Route Permit Application at p. 4-3).

In light of the Applicant’s request that the proceedings be combined and the need for review of both the need and routing concerns under the National Environmental Policy Act, EFP staff concludes that it is feasible, more efficient and in the public interest to combine the Certificate of Need and Route Permit environmental review documents and that hearings for the proceedings be combined to the extent reasonable.

## **Commission Decision Options**

### **A. Application Acceptance**

1. Accept the Bemidji – Grand Rapids 230 kV high voltage transmission line route permit application as complete and authorize the Energy Facilities Permitting staff to process the Application under the full review process (Minnesota Rules 7849.5200 – 7849.5330).
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.

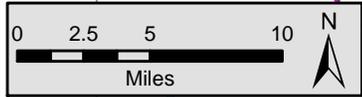
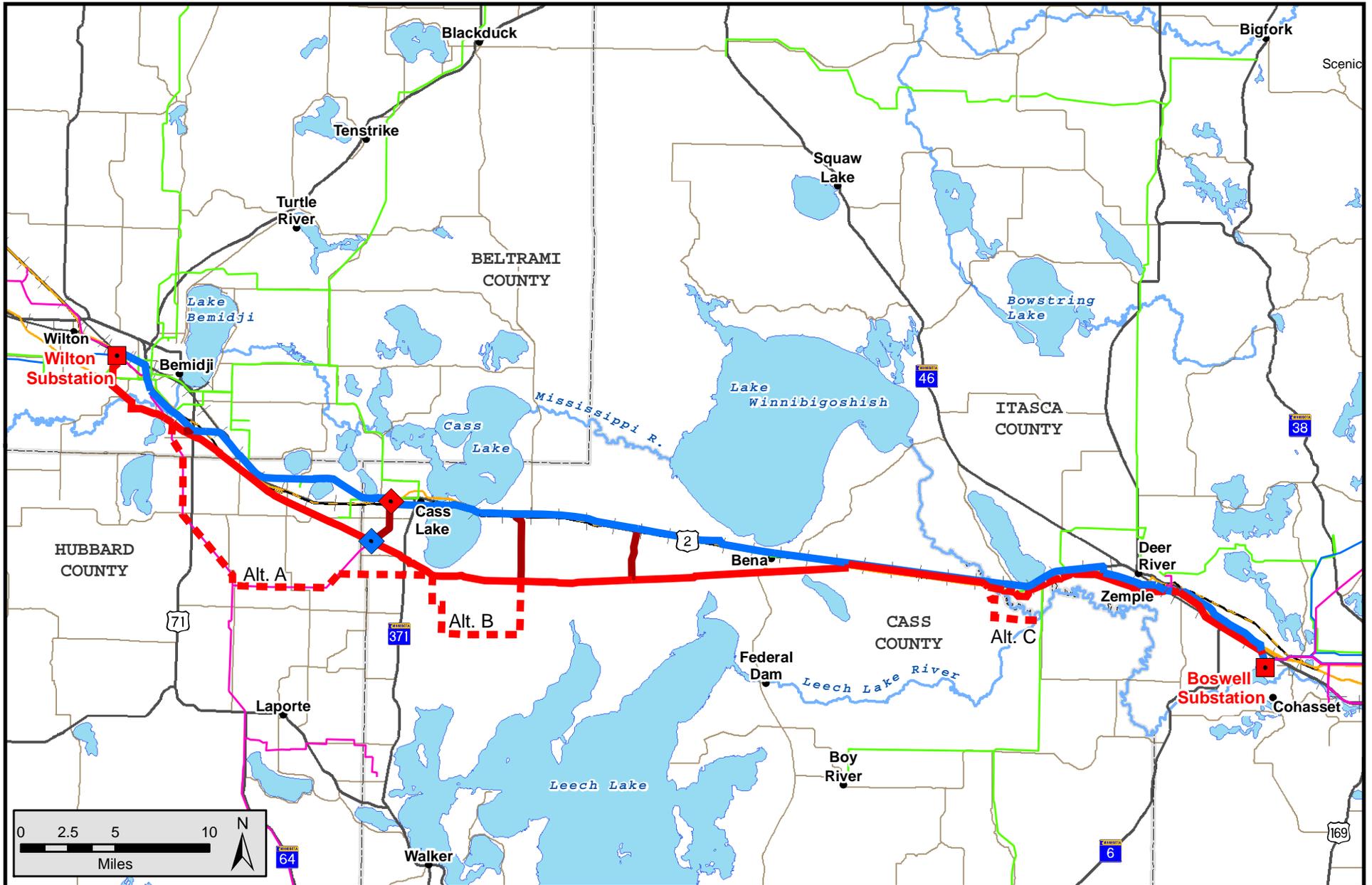
### **C. Joint Proceedings**

1. Agree that the environmental review for the certificate of need and route permit should be combined pursuant to Minnesota Rules 7849.7100, subpart 2, and combine hearings for the proceedings to the extent reasonable.
2. Determine that separate environmental review documents be prepared for the certificate of need and route permit proceedings and combine hearings for the proceedings to the extent reasonable.
3. Make another decision deemed more appropriate.

**EFP Staff Recommendations:** Staff recommends Options A1, B1 and C1.

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Map Document: (N:\GIS\Proj\Otertail\48496\map\_docs\mxd\MN route app\Report\Revised\Fig\_00\_Overview\_8x11.mxd)  
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<b>Proposed Route Segments</b>	Project Endpoint	Proposed Pipeline	<b>Existing Transmission Line</b>
Route 1	Potential Cass Lake Substation Expansion	Existing Pipeline	69 kV
Route 2	Potential New Substation	Major Road	115 kV
Alternate Route Segments	Major Lake	Railroad	230 kV
Routes 1 & 2	River		
Crossover Segments			

Project Vicinity Map  
 230 kV Bemidji to Grand Rapids  
 Transmission Line Project  
 Minnkota Power Cooperative,  
 Otter Tail Power Company & Minnesota Power