



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

DOCKET NO. ET2/TL-08-1474

Meeting Date: February 3, 2011 Agenda Item #1

Company: Great River Energy and Xcel Energy

Docket No: ET2/TL-08-1474

In the Matter of the Route Permit Application for a 345 kV Transmission Line from Brookings County, South Dakota, to Hampton, Minnesota.

Issue(s): For the remanded portion of the route, should the Minnesota Public Utilities Commission find that the environmental impact statement is adequate? Should the Minnesota Public Utilities Commission issue a route permit identifying a specific route and permit conditions for the remanded portion of the proposed Brookings to Hampton 345 kV transmission line project?

EFP Staff: Scott Ek

Relevant Documents

Route Permit Application December 29, 2008
Draft Environmental Impact Statement October 20, 2009
Final Environmental Impact Statement January 26, 2010
Theresa Ruhland letter May 5, 2010
Bimeda, Inc. letter May 6, 2010
Mark Katzenmeyer letter May 7, 2010

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OES EFP Comments and Recommendations	July 2, 2010
Commission Order Remanding to Office of Administrative Hearings	July 27, 2010
Commission Order Granting a Route Permit.....	September 14, 2010
U.S. Fish and Wildlife Service letter	October 29, 2010
Applicants' Brief on Remand	November 10, 2010
NoCapX & U-Can Remand Initial Brief	November 12, 2010
OES EFP Post Hearing Comments and Proposed Findings of Fact, Conclusions of Law, and Recommendation	November 16, 2010
Applicants' Reply Brief on Remand.....	November 16, 2010
ALJ Findings of Fact, Conclusions and Recommendation on Remand	December 22, 2010
ALJ Amendments to Findings of Fact, Conclusions, and Recommendation on Remand	December 23, 2010
Katzenmeyer Letter.....	January 3, 2011
Theresa Ruhland Letter.....	January 5, 2011
Steve Ruhland Letter.....	January 5, 2011
NoCapX & U-Can Remand Exceptions	January 6, 2011

Documents Attached

Figure 1 – Overview of Segment 4 Routes
Findings of Fact, Conclusions of Law, and Order
Route Permit Addendum (including web links to Segment 4 Route Maps)

Note: Relevant documents and additional information can be found on eDockets (Docket No. 08-1474) <https://www.edockets.state.mn.us/EFiling/search.jsp> or the Commission's website at: <http://energyfacilities.puc.state.mn.us/Docket.html?Id=19860>.

Statement of the Issues

For the remanded portion of the route, should the Minnesota Public Utilities Commission find that the environmental impact statement is adequate? Minnesota Rules 7850.1500, subpart 10, requires that an environmental impact statement must: a) address the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application; b) provide responses to the timely substantive comments received during the draft environmental impact statement review process; and c) be prepared in compliance with the procedures in Minnesota Rules 7850.1000 to 7850.5600. Should the Minnesota Public Utilities Commission issue a route permit identifying a specific route and permit conditions for the remanded portion of the proposed Brookings to Hampton 345 kV transmission line project?

I. Introduction and Background

On December 29, 2008, Great River Energy, a Minnesota cooperative corporation, and Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy (collectively, the applicants), filed a route permit application under the full permitting process for 237 - 264 miles of 345 kV transmission line and associated facilities between the existing Brookings County substation near White, South Dakota, and a newly proposed substation near Hampton, Minnesota.¹

The Commission met on July 13 and 15, 2010, to hear oral argument and consider the matter of a route permit for the proposed Brookings to Hampton 345 kV transmission line project. One of the principal contested issues in this matter is whether the transmission line should cross the Minnesota River at Le Sueur or at Belle Plaine. Subsequent to the administrative law judge (ALJ) issuing his report and recommendation favoring the crossing at Le Sueur, the U.S. Fish and Wildlife Service (USFWS) filed a letter on this issue dated June 10, 2010, stating that, "... an aerial crossing [of the Minnesota River] at Le Sueur is more likely to harm bald eagles than an aerial crossing at Belle Plaine. Again, since the Belle Plaine option is practicable, it appears unlikely that a BGEPA [Bald and Golden Eagle Protection Act] permit would be issued for an aerial crossing at Le Sueur."

Since the USFWS's letter bears directly on the river crossing issue, and because the ALJ and the parties had no opportunity to address the letter in the contested case process, the Commission, in a July 27, 2010, Order², remanded the issue of which route is preferable for crossing the Minnesota River to the ALJ for further contested case proceedings. The Commission requested the ALJ to hold a hearing regarding the USFWS letter and further develop the record with respect to that letter. The Commission also requested that the ALJ address which crossover route (Arlington or Gibbon) connecting the Modified Preferred Route to the Alternate Route and the Belle Plaine crossing would be preferable and to make findings of fact, conclusions of law, and recommendations in that regard.

On September 14, 2010, the Commission issued a route permit for the project. The Commission, in its Order, approved the findings of fact, conclusions of law, and order proposed by the Office of Energy Security (OES) and the OES's environmental impact statement (EIS) for Sections 1, 2, 3, 5, and 6 (including 6P-06) of the project, but did not approve those findings of fact, conclusions of law, and order and EIS with respect to Section 4 (segment CH) and did not issue a route permit for that section, the segment between the Cedar Mountain substation and the Helena substation.

¹ Route Permit Application.

² July 27, 2010, PUC Order Remanding to Office of Administrative Hearings, eDockets 20107-52970-01.

Segment 4 (Cedar Mountain Substation to Helena Substation)

Segment 4 is approximately 62 to 74 miles long and would pass through Renville, Sibley, Le Sueur and Scott counties. This segment would also be constructed and operated as a double-circuit 345 kV (*See* Figure 1).

Segment 4 route options are:

- The Modified Preferred Route for Segment 4, with an aerial crossing of the Minnesota River at Le Sueur.
- The Gibbon Crossover Route for Segment 4 connecting the Modified Preferred Route and Alternate Route in Sibley County with an aerial crossing of the Minnesota river west of Belle Plaine.
- The Arlington Crossover Route for Segment 4 connecting the Modified Preferred Route and Alternate Route in Sibley County with an aerial crossing of the Minnesota river west of Belle Plaine.

II. Regulatory Process and Procedural History

In accordance with Minnesota Rules 7850.1300, subpart. 2, “No person may construct a high voltage transmission line without a route permit from the commission. A high voltage transmission line may be constructed only within a route approved by the commission.” In this case, Minnesota Rules 7850.1000, subpart 9, defines a high-voltage transmission line as, “...a conductor of electric energy and associated facilities designed for and capable of operating at a nominal voltage of 100 kilovolts or more either immediately or without significant modification. Associated facilities shall include, but not be limited to, insulators, towers, substations, and terminals.”

The route permit application was reviewed under the Full Permitting Process (Minnesota Rules 7850.1700 to 7850.2700) of the Power Plant Siting Act (Minnesota Statutes 216E). The full procedural history of this docket is summarized in OES EFP staff’s July 2, 2010, briefing papers to the Commission.³

³ July 2, 2010, OES EFP Comments and Recommendations.

Public Hearings on Remand

A total of four public hearings in three different locations (Le Sueur, Arlington and Belle Plaine) along the remanded portion of the proposed project were held on October 4 and 5, 2010. An evidentiary hearing was held on October 6, 2010, at the Commission's Large Hearing Room in St. Paul, Minnesota. All of the public hearings and evidentiary hearings were presided over by Judge Richard Luis, an ALJ with the Office of Administrative Hearings. The hearings provided members of the public an opportunity to ask questions about the remanded portion of the project and to offer oral and written comments and submit other materials into the record. Judge Luis accepted written and emailed comments starting on the first day of the public hearings and ending on November 1, 2010. The record on the remand proceeding closed on November 24, 2010.⁴

Standards for Permit Issuance

The Power Plant Siting Act sets standards and criteria and outlines the factors to be considered in determining whether to issue a permit for a high-voltage transmission line (Minnesota Statutes 216E and Minnesota Rules 7850.4000). The law also allows the Commission to place conditions on high-voltage transmission line permits (Minnesota Statutes 216E.03 and Minnesota Rules 7850.4600).

III. Administrative Law Judge's Report on Remand

The ALJ released his findings of fact, conclusions, and recommendation on remand (ALJ Report) on December 22, 2010.⁵ The ALJ Report addresses transmission line siting for the remanded portion (Segment 4) of the proposed Brookings to Hampton 345 kV transmission line project. Specifically, the report addresses the issue of which route is preferable for crossing the Minnesota River (a river crossing at Le Sueur or Belle Plaine) and summarizes the additional procedural history and record with respect to the June 10, 2010, U.S. Fish and Wildlife Service (USFWS) letter, as ordered by the Commission.⁶ The ALJ also makes conclusions regarding the adequacy of the FEIS. The ALJ's report consists of three recommendations, 180 findings of fact, and 13 conclusions.

⁴ ALJ Finding 17.

⁵ Administrative Law Judge Report (ALJ Report). Findings of Fact, Conclusions, and Recommendation on Remand, filed 12/22/10 and 12/23/10, Doc. Id. 201012-57798-01 and 201012-57824-01.

⁶ July 27, 2010, PUC Order Remanding to Office of Administrative Hearings, eDockets 20107-52970-01.

A. ALJ Recommendations:

The ALJ made the following recommendations:

1. That the Commission determine that all relevant statutory and rule criteria necessary to obtain a Route Permit have been satisfied and that there are no statutory or other requirements that preclude granting a Route Permit based on the record.
2. That the Commission grant a Route Permit to Applicants on behalf of themselves and the participating CapX2020 utilities for the facilities described below:
 - A. For the segment between Cedar Mountain Substation and Helena Substation of the 345 kV transmission line between Brookings, South Dakota, and Hampton, Minnesota, and associated Facilities:
 - (1) The Modified Preferred Route, with an aerial crossing of the Minnesota River at Le Sueur; or
 - (1a) If the Modified Preferred Route is not granted a Permit, the ALJ recommends granting a Route Permit for the Alternate Route utilizing the Gibbon Crossover Route, with an aerial crossing of the Minnesota River at Belle Plaine; and
 - (2) A route width of 600 feet except for those locations identified by Applicants where Applicants are requesting a route width of 1,000 feet or up to 1.25 miles.
3. That Applicants be required to take those actions necessary to implement the Commission's Orders in this proceeding.

The ALJ Report includes Attachment 1, which accurately summarizes the comments made at the public hearings and the written comments that are a part of the record on remand, and indicates that the permitting process has been conducted in accordance with Minnesota Statutes 216E and Minnesota Rules 7850, identifies route impacts and mitigation measures, and draws conclusions based on the record.

The ALJ Report also presents findings of fact for each of the decision criteria under Minnesota Rules 7850.4100. The Commission may accept or reject the ALJ recommendations. The ALJ recommendations have no legal effect unless expressly adopted by the Commission in its final order. If the Commission wishes to adopt findings that are not consistent with the ALJ findings, it must explain its reasons for so doing.

B. Exceptions to the ALJ Report on Remand, and Deferred Exceptions from the Initial ALJ Report.

As provided for on page 38 of the ALJ report, “Under the Commission’s Rules of Practice and Procedure, Minnesota Rules 7829.0100 to 7829.3200, exceptions to this report, if any, by any party adversely affected must be filed within 15 days of the mailing date hereof with the Executive Secretary of the Public Utilities Commission....”

One party filed exceptions--NoCapX2020/UCAN. NoCapX2020/UCAN also had one exception involving the crossing of the Minnesota River in Section 4 that was deferred by the Commission for further review after remand.

In addition, three landowners filed letters taking exception to the ALJ’s Report on Remand. Mark and Shirley Katzenmeyer, Theresa Ruhland filed exceptions in addition to those deferred until after the remand proceeding. Steve Ruhland also exceptions to the ALJ Report on Remand.

NoCapX2020/UCAN Exceptions

NoCapX2020 and United Citizens Action Network (NoCapX2020/UCAN), parties to this proceeding, filed exceptions to the ALJ Report. [Note: The findings and conclusions included in the discussion in the following sections retain the same numbering used in the ALJ’s report. Amendments, changes, deletions and additions to the ALJ findings are shown by strikethrough and underlining. Please note that the ALJ footnotes have been omitted for formatting reasons.]

NoCapX2020/UCAN filed as exceptions a redlined version of the ALJ Report. Since NocapX/UCAN has not separately itemized its exceptions, OES EFP staff has grouped the numerous exceptions into issue categories separately numbered in the discussion below.

Exception 1. NoCapX2020/UCAN asserts that the application should be denied because neither the Belle Plaine nor the Le Sueur crossing of the Minnesota River is a feasible alternative.

NoCapX2020/UCAN argues that the United States Fish and Wildlife Service (“USFWS”) will not issue an eagle “take” permit for an aerial crossing of the Minnesota River at either Le Sueur or Belle Plaine because the Applicants must first take all practicable steps to avoid the taking of eagles. According to NoCapX2020/UCAN, an underground crossing is required to meet the requirements for an eagle take permit from the USFWS, because the take cannot practically be avoided by an aerial crossing.

EFP Staff Analysis: NoCapX2020/UCAN references the definition of “practicable” in 50 C.F.R. § 22.3, which provides as follows:

Practicable means capable of being done after taking into consideration, relative to the magnitude of the impacts to eagles, the following three things: the cost of remedy compared to proponent resources; existing technology; and logistics in light of overall project purposes.

The ALJ Report on Remand includes the following Findings:

165. Applying the three criteria in the federal regulation, the cost (\$400 million in 2007 dollars) of the remedy (undergrounding) is very high in relation to the cost of the rest of the Project (\$700 - \$800 million in 2007 dollars), existing technology will address the problem, and logistically, implementing the undergrounding alternative would be difficult. Under the rule criteria, undergrounding is not a practicable option for crossing the Minnesota River.

...

167. Due to the significant environmental impacts, construction challenges and costs, undergrounding at Le Sueur or Belle Plaine is not a superior alternative to the aerial crossing.

168. The record does not support an underground design at either of the Minnesota River crossings under consideration in the Remand Proceeding.

NoCapX2020/UCAN takes exception to these findings, recommending the following changes:

165. ~~A~~The federal permitting agency has yet to applying the three criteria in the federal regulation, specifically the cost (\$400 million in 2007 dollars) of the remedy (undergrounding) ~~is very high~~ in relation to the cost of the rest of the Project (\$700 - \$800 million in 2007 dollars), undergrounding is the only existing technology that will address the problem, and logistically, implementing the undergrounding alternative would be expensive but all undergrounding estimates noted it was constructible (sic). Id. difficult. However, ~~u~~Under the rule criteria, undergrounding is ~~not~~ a practicable option for crossing the Minnesota River.

...

167. Due to the significant environmental impacts, construction challenges and costs, ~~undergrounding~~crossing at Le Sueur or Belle Plaine is not a ~~superior alternative to the aerial crossing~~feasible.

168. The record does not support an ~~underground design~~ aerial crossing at either of the Minnesota River crossings under consideration in the Remand Proceeding.

NoCapX2020/UCAN does not address its rationale for its claim that the ALJ's findings are incorrect, nor does it include support for its claim that the Commission must wait for the federal permitting agency to apply the three criteria before the Commission can order an aerial crossing of the Minnesota River at either Belle Plaine or Le Sueur. NoCapX2020/UCAN also provides no legal support for its interpretation of the meaning of "practicable."

Recommendation: OES EFP staff recommends that the Commission reject this exception.

Exception 2. NoCapX2020/UCAN takes exception to the separate process for developing the Environmental Impact Statement which is within the jurisdiction of the Commissioner of Commerce. Throughout its Remand Exceptions, and particularly on pages 12-14, NoCapX2020/UCAN criticizes the process of developing the draft and final EIS as if it were part of the contested case proceeding. In a similar manner, in NoCapX2020/UCAN's exceptions following the initial ALJ report, NoCapX2020/UCAN took exception to the ALJ's alleged "failure to include in the ALJ Report that certain documents were not available on eDockets or introduced into the record until the time of the hearing."⁷

EFP Staff Analysis: As in NoCapX2020/UCAN's initial exceptions, much was made of the fact that agency letters, ATF reports, and other comments received during the DEIS scoping process and the subsequent DEIS comment process, were allegedly not made available prior to the hearings. NoCapX2020/UCAN considered this to be error, and inferred that the OES EFP staff intentionally failed to file them prior to the hearings in order to keep them from being viewed by the public.

Again, NoCapX2020/UCAN contends that OES EFP and others are responsible for "a recurrent procedural failure" with regard to documents related to the EIS scoping process and draft EIS comment process. NoCapX2020/UCAN's statements generally reargue the prior exceptions, denied by the Commission, relating to the process involved in developing a draft environmental impact statement, and the separate but related procedure involved in processing a route permit application. Addressing the exceptions in the July briefing papers, EFP staff stated:

As the Commission is well aware, the DEIS is developed by the OES for the Commission in a separate process that is under the authority of the Commissioner of the Department of Commerce. Once the Final EIS is issued, the Commission has authority to determine whether the EIS is "adequate" pursuant to Minn. R. 7850.1500, subp. 10. Since the EIS process is a Department of Commerce function (handled by the Energy Facility Permitting unit of the Office of Energy Security), comments related to EIS development are directed to and handled by the OES. There is no requirement or expectation that comments on scoping and the DEIS in this separate OES process be e-filed when received.⁸

EFP staff bundles comments at the end of environmental document scoping process for posting on the Commission's Energy Facilities Permitting website location and eDockets. The Final EIS includes the comments received on the DEIS and is likewise posted on the website location and eDockets.⁹

⁷ See OES July briefing papers at 11-14.

⁸ EFP staff notes that the documents received by OES were available on the Commission's Energy Facility Permitting webpage.

⁹ EFP July briefing papers at 13.

The Commission declined to accept NoCapX2020/UCAN's exceptions in its Order Granting Route Permit issued on September 14, 2010, stating:

As to NoCapX/UCAN's other proposed changes, however, the Commission finds the Department's summary of NoCapX/UCAN's proposed changes to the ALJ's Report and the OES's analysis of and recommendations regarding those changes to be reasonable. With respect to those proposed changes, therefore, the Commission will not adopt those proposed changes to the ALJ's Report.

Recommendation: OES EFP staff recommend no change to any findings related to the procedural issues raised by NoCapX2020/UCAN that reargue the prior exceptions. The appropriate vehicle for such arguments would have been in a motion for reconsideration of the September 14, 2010 Order Granting Route Permit.

Exception 3: NoCapX2020/UCAN takes exception to the Applicants "failure to disclose the identity of the ultimate owners of this transmission project." NoCapX2020/UCAN argues that the Applicants have failed to disclose ownership, stating only in the application that ownership has not been determined.

EFP Staff Analysis: NoCapX2020/UCAN notes that the Commission's Order in the CapX Certificate of Need docket issued on May 22, 2009, requires a compliance filing disclosing each project's transmission capacity, owners, and ownership structure. NoCapX2020/UCAN is concerned about the applicants transferring assets to ITC, which is not a public utility and does not have the power of eminent domain. They query, "What are Xcel and Great River Energy, as applicants, intending for the CapX 2020 lines."

Recommendation: The OES EFP staff makes no recommendation regarding this exception, or the Commission's directives in the Certificate of Need docket. OES EFP staff notes, however, that this question more appropriately may be addressed in the Certificate of Need docket.

Other NoCapX2020/UCAN suggested modifications to findings.

NoCapX2020/UCAN also suggest a number of other changes to the ALJ's Findings of Fact and Conclusions, which are not specifically addressed in these briefing papers. OES EFP staff is not addressing these "exceptions" individually since they either have been addressed by previous exceptions and resulting Commission Order, they are beyond the scope of the remand proceeding, and/or they are redundant, irrelevant, or unnecessary to address individually.

Deferred Exceptions/Landowner Letters Citing Exception to the ALJ Report

The documents filed by Theresa Ruhland, Bimeda, Inc. and Mark Katzenmeyer objecting to the initial ALJ Report were deferred by the Commission until the remand proceeding was complete. The September 14, 2010, Order Granting Route Permit specifically stated that the Commission would address their exceptions when the remanded issues had been returned to the Commission by the ALJ. The Order states:

As to the exceptions taken by Theresa Ruhland, Bimeda, Inc. and Mark Katzenmeyer related to the ALJ's recommended Minnesota River crossing at LeSueur, the Commission finds that the objections raised by these parties relate to the Minnesota River crossing in Segment 4. Since the river crossing route to be permitted for Segment 4 has been referred to the OAH in the Commission's July 27, 2010 Order in this matter for further development, the Commission will defer decision on the exceptions raised by these parties pending return of the river crossing issues from the OAH.¹⁰

The section from the July briefing papers addressing the earlier letters of exception filed by these participants is set forth below in its entirety. In addition, updates are included to address new exceptions to the ALJ's Report on Remand received from Theresa Ruhland, Shirley and Mark Katzenmeyer, and Steve Ruhland.

The excerpt from initial briefing Papers includes additional discussion in bold type for exceptions to the ALJ Report on Remand.

Three landowner participants, all of whom could be adversely affected by a Commission decision designating a route in this proceeding, also filed letters concerning the [initial] ALJ Report: Bimeda, Inc. (Bimeda),¹¹ Theresa Ruhland,¹² and Mark Katzenmeyer.¹³

All three relate to issues associated with the Modified Preferred Route and ALJ Recommendation 2 A (1) at and immediately east of the Le Sueur crossing of the Minnesota River.

EFP staff proposes the Belle Plaine river crossing, as discussed in Section V.A., thus is in agreement with the conclusion of Mr. Katzenmeyer's letter of exception. In addition, if the Commission selects a route crossing the Minnesota River at Belle Plaine (ALJ Recommendation 2 A (1a) or Alternative Crossover Route, *See* Section V.C.), neither the Myrick Alternative nor the Bimeda Adjustment would be required. The ALJ Recommendation 2 A (1a) and the Alternative Crossover Route as recommended by EFP staff would also alleviate concerns expressed in the exception letter from Ms. Ruhland.

Theresa Ruhland

Exception: Theresa Ruhland takes exception to the ALJ's findings that support the Recommendation 2. A. (1) which recommends the Applicants' Modified Preferred Route as further modified by Alternative 6P-06. Her letter addresses many of the findings in the ALJ Report, essentially arguing that Conclusion 9 should not be accepted by the Commission.

¹⁰ Order Granting Route Permit at 5.

¹¹ Bimeda, Inc., Exceptions to Recommendation of ALJ, filed 05/07/10, Doc. Id. 20105-50185-01.

¹² Theresa Rhuland, Letter, filed 05/0710, Doc. Id. 20105-50297-01.

¹³ Mark Katzenmeyer, Letter, filed 05/07/10, Doc. Id. 20105-50252-01.

Ms. Ruhland disagrees that the ALJ's preferred route is the best alternative for the transmission line. Conclusion 9 states:

9. The record demonstrates that the Modified Preferred Route, as further revised by Alternative 6P-06 in the Hampton area, is the best alternative for the 345 kV transmission line between Brookings County Substation and Hampton Substation.

Ms. Ruhland states that her "farm business will be severely impacted with CapX poles in the middle of most of our farm fields with the Route width and alignment adjustments for RES [Specialty Pyrotechnics] as detailed on page 72 and 73" of the ALJ Report. She states that the farm infrastructure (tile lines and soil tilth) will be severely compromised with invasive construction and subsequent monitoring/maintenance of the line. Ms. Ruhland describes the adverse impacts of existing 345 kV lines on her property, and states that the farming business would suffer far greater impacts with "dangerous obstacles" in the middle of the fields when using today's and future farm equipment, interference with GPS systems on equipment, the proven detrimental effects power lines have on honeybees which are vital to crop pollination and honey production, stray voltage impact on cattle, and the "extreme destruction of our land and fields as there is no way to get to poles in the middle of all our fields which will run the entire length and almost entire width of our farm."

Ms. Ruhland further details her extensive participation in this proceeding, noting that she had raised the issue of the RES pyrotechnics business as early as March of 2008 during the ATF process, but it was not until Applicants' filed the Rebuttal Testimony of Craig Poorker on November 20, 2009, that options were submitted to address the concerns of RES. She notes that the only options presented by Applicants both would place the line directly through her fields; she also questions the impacts as stated by Mr. Poorker.

Ms. Ruhland strongly urges the Commission to choose a line configuration that would eliminate the north-south corridor around RES Pyrotechnics and through the Ruhland farm in Derrynane Township. She believes that Judge Luis' alternate recommendation 2.A.(1a) would do this as it crosses the Minnesota River at Belle Plaine and then follows the Applicants' Alternate Route until it joins the preferred route at the north Helena substation. Ms. Ruhland also emphasizes the Belle Plaine river crossing--where there is an existing transmission line--would also eliminate conflicts associated with the Le Sueur river crossing that have been detailed by the USFWS and Mn/DOT, the resulting Myrick Street Alternative, and all Buck's Lake issues.

On Remand: Ms. Ruhland identifies the following findings in the ALJ Report of Remand as problematic or less than satisfactory:

Finding 27: (Concerning the modification to avoid RES Pyrotechnics due to explosives concerns) Ms. Ruhland notes that the issues concerning explosives and RES, stating that she and one other task force member raised the issues concerning RES very early on in the task force discussions. She questions why none of this was taken seriously by any of the professionals working on the route alternatives at that time. Ms. Ruhland further asserts that “it was the duty of CapX routing professionals to study and become knowledgeable with the nature of RES’s explosive material and storage guidelines well before formally siting both the preferred and alternate routes directly over RES.” Further, she questions why they waited until receiving a letter from RES’s lawyer before studying the nature of the business: “Had CapX professionals done any research on RES pyrotechnics they would have realized the incompatibility of explosives and high voltage power lines. Had CapX taken this into consideration at the beginning stages of routing and had they followed the law and identified a preferred and alternate route in this area rather than routing both preferred and alternate routes directly over RES pyrotechnics we would not have this unacceptable RES modified route pushing it into ours and his neighbor’s fields to avoid RES now.”¹⁴

Findings 71-74, 76: Ms. Ruhland asserts that the ALJ appears to dismiss the engineering challenges identified in the Remand Direct testimony of Applicants’ witnesses, Messrs. Leshner and Lennon, who identified a number of concerns that are not present on the Gibbon or Arlington Crossover Routes. She notes that the additional cross-hatched area (a Post Permit Application route modification) resulting from Mn/DOT’s scenic easement issues was identified late in the hearing process, and no detailed study has been done to address issues such as engineering, hydrology and soil conditions created by the Myrick Street Alternative.

Specifically, Ms. Ruhland identifies an issue regarding tree removal in the additional 7.6 acres of forested area required by the Myrick Alternative that has the potential to destabilize the ravine banks, creating further problems with mud slides and flooding along that area, particularly with the addition of access roads for each pole. The ALJ Report does not give consideration to this issue or to Mr. Lennon’s testimony that the Belle Plaine crossing is at a higher elevation that is less flood prone and has firmer soil.

Finding 36: Ms. Ruhland notes the testimony of Mr. Lennon at the October 5, 2010 hearing in Belle Plaine, where he stated that for estimating purposes you need to consider that the impacts would essentially be equivalent from one route to another. She asserts that the estimate for the construction of the line cannot be very accurate considering the additional costs identified for the Myrick Alternative.

¹⁴ Theresa Ruhland letter, at page 2.

Finding 93: (Concerning impact to public services) Ms. Ruhland addresses Superintendent Smith’s testimony regarding the Belle Plaine elementary school and the impact on future development. She appears to disagree with the assessment that the impact would be substantial.

Finding 96: Ms. Ruhland believes that her concerns about impact on farmland, especially farmland such as hers and her neighbors’ which will be greatly impacted by lines in the middle of her fields, have not been seriously considered with regard to the impact by construction and future maintenance and operation activities.

Finding 101: Ms. Ruhland identifies her farm as an additional historic site (century farm) not recognized in the record, which should be respected as such.

Ms. Ruhland recommends the Gibbon Crossover Route with an aerial crossing at Belle Plaine for Segment 4, noting that this is now the Applicants’ preferred route as well.

EFP Staff Analysis: The ALJ Report contains the following finding relating to the Ruhland property:

428. A significant portion of those permanent pole impacts will be borne by Theresa Ruhland. Mrs. Ruhland explained the placement of transmission poles on her farm fields would make farming more difficult as well as impact the landowner to the south. She testified that “[a]s proposed, I would have the CapX line about 800 feet to the south, 400 feet to the west, 5,000 feet to the north and the existing Xcel 345 line 5,200 feet to the east. We will be totally encompassed by either a double 345 or single 345 lines.”

The ALJ Report also includes details relating to some of Ms. Ruhland’s and her son Steve Ruhland’s participation and comments in Attachment 1 to the ALJ Report.¹⁵

As Ms. Ruhland stated in her letter, she has been actively involved in this proceeding since the beginning, and has provided input in developing the DEIS as well, even serving on one of the task forces. The Ruhland property is affected by all the alignment alternatives on the initial Preferred Route, the Alternate Route, and the Modified Preferred Route. EFP staff agrees with most of her comments. Ms. Ruhland correctly notes that her property could be avoided by choosing the ALJ’s alternate Recommendation 2.A.(1a).

¹⁵ The ALJ summarized Ms. Ruhland’s comments at the Lakeville afternoon hearing on December 12, 2009, and December 28, 2009, on pages 130-131, 139, 141, 144 and 151-152.

Further, if the Commission accepts the EFP staff's recommended [Gibbon] Crossover Route, the Ruhland property and the RES Pyrotechnics property will both be avoided, thereby alleviating all the Ruhlands' concerns, as well as the concerns addressed in the ALJ Report with respect to RES Pyrotechnics that relate to their respective properties.

Ms. Ruhland's comments in the remand proceeding are consistent with some of the concerns that OES EFP staff has noted in its analysis below recommending the Gibbon Crossover Route for Segment 4. OES EFP staff specifically notes that Ms. Ruhland's comments regarding the concerns she expressed early on in the task force process about the RES Pyrotechnics business were not addressed in the ALJ Report.

Bimeda, Inc.

Exception: Bimeda's suggestions reflect a change in the Myrick Alignment that would move the route from the northern part of Bimeda's property, where a tank farm storing flammable materials is located, to the southern part of Bimeda's property which it refers to as the "Bimeda Adjustment."¹⁶ Bimeda proposes the following changes to the ALJ's findings, conclusions, and recommendations:

[Finding] 496. If the Modified Preferred Route is selected, Applicants will design the line to ensure that the tanks are outside the right-of-way and will work with Bimeda on the final alignment of the line. By exceptions filed by Bimeda, Inc. on May 6, 2010, it has been represented to the Administrative Law Judge and to the Public Utilities Commission as follows: Bimeda has presented Applicant with the drawing affixed as Attachment 3, which generally depicts the Bimeda Adjustment. Business and legal representatives of Bimeda and Applicant have discussed the Bimeda Adjustment and a business representative of Applicant has visited Bimeda's property on May 5, 2010 regarding the Bimeda Adjustment. Applicant has suggested to Bimeda that the Bimeda Adjustment as generally depicted is constructible, conceptually acceptable, and would involve comparable project costs for the Applicant.

505. It is appropriate to select the Applicants' Myrick Alternative Route as modified by the Bimeda Adjustment within the Modified Preferred Route Segment in the Le Sueur area.

[Conclusion] 7. The record demonstrates that the Modified Preferred Route, as modified by adoption of Alternative 6P-06 between Lake Marion and Hampton Substations, and its Associated Facilities and as further modified by the Bimeda Adjustment, satisfies the route permit criteria set forth in Minnesota Statute § 216E.03, subd. 7 and Minnesota Rule 7850.4100.

¹⁶ Bimeda Exceptions at 2 (May 6, 2010 letter and attached modifications to findings.)

9. The record demonstrates that the Modified Preferred Route, as further revised by Alternative 6P-06 in the Hampton area and as further revised by the Bimeda Adjustment, is the best alternative for the 345 kV transmission line between Brookings County Substation and Hampton Substation.

10. The record demonstrates that it is appropriate to grant a Route Permit for the 345 kV transmission line and Associated Facilities along the Modified Preferred Route, modified by Alternative 6P-06, and as further modified by the Bimeda Adjustment.

[Recommendation] 2A(1): The Modified Preferred Route, with an aerial crossing of the Minnesota River at Le Sueur, modified further by Alternative 6P-06 between Lake Marion and Hampton; and further modified by an adjustment of that portion of the Myrick Alternative Alignment affecting the Bimeda, Inc. facility as graphically depicted on Attachment 3 affixed hereto as the approximate route (the “Bimeda Adjustment”). the Bimeda Adjustment modifies the Myrick Alternative Alignment so that (i) the route affecting Bimeda, Inc.’s property will be moved from the north side of Bimeda, Inc.’s property to the south side of Bimeda, Inc.’s property; and (ii) Mayo Park will not be impacted or only minimally impacted by the Myrick Alternative Alignment which incorporates the Bimeda Adjustment;

EFP Staff Analysis: Bimeda’s property is affected only if the Le Sueur river crossing is part of the permitted route. Thus, if the Commission accepts the ALJ’s recommended route choice, Bimeda’s property is affected. ~~However, as discussed herein, the Le Sueur crossing of the Minnesota River is no longer a viable alternative. Therefore, any concerns about the Bimeda property become moot.~~¹⁷

The [Gibbon] Crossover Route recommended by EFP staff would avoid entirely the river crossing at Le Sueur, and, therefore, the Bimeda property as well, and replace it with the alternative river crossing at Belle Plaine, which has been vetted through the full contested case process.

Mark Katzenmeyer

Exception: Mark Katzenmeyer of Le Sueur, Minnesota, filed an exceptions letter, stating that Tyrone Township in Le Sueur County, where his farm is located, has migratory waterfowl and swans that fly through and land year-round. He has between 2500-5000 on his farms alone, and he noted that his property includes wetlands and is an important resource for waterfowl and wildlife.

¹⁷ These last two sentences no longer apply on remand.

Like Ms. Ruhland, Mr. Katzenmeyer raises an exception to Recommendation 2.A.(1), which the ALJ found was the best alternative. Mr. Katzenmeyer believes that the river crossing at Belle Plaine would be a better alternative because of the existing transmission line, other problems associated with the Le Sueur river crossing, the USFWS recommendations, the scenic highway, and input from Mn/DOT.

On remand: Mark and Shirly Katzenmeyer filed additional exceptions to the ALJ's Report on Remand, stating that they have been and will be adversely affected by the ALJ's recommended decision.

Finding 75: (Existing transmission corridor at Belle Plaine). The Katzenmeyers note that the Myrick Alignment does not follow an existing 69 kV corridor, and instead would have a far greater impact to the forested area that it will cross. They contend that the Myrick Alignment is not consistent with state goals to minimize environmental impacts and conflicts with human settlement and other land use.

Finding 76: The Katzenmeyers refer to the ALJ's finding that Mr. Lennon and Mr. Leshner filed testimony about engineering challenges in the Le Sueur/Myrick Alternative Route Area that is summary/conclusory in nature and lacks references to detailed support such as cost studies or engineering data. They recommend several additional types of documentation be brought forward to support the engineering challenges.

Finding 86: (concerning aesthetics/visual quality) The Katzenmeyers recommend amending the finding to note the impacts on the Mayo Park in Le Sueur, the only recreational resource/park which Le Sueur residents have access to and which will "profoundly affect the quality of life for all Le Sueur residents."

Finding 88: (concerning the designation of the Minnesota River as "scenic" at the Belle Plaine crossing) The Katzenmeyers' concerns are addressed by the OES EFP staff's recommendation that the finding is incorrect as there is no scenic designation for this section of the Minnesota at either the Belle Plaine or the Le Sueur river crossing;

Finding 99: (concerning Supt. Smith's testimony about the projected population growth in Belle Plaine) The Katzenmeyers state that Smith's testimony is deceiving, since the projected growth for the next 20 years amounts to less than 225 people per year, hardly indicative of choosing the Le Sueur route over Belle Plaine on the basis of speculative impact on their capacity to expand based on the figures stated.

Finding 101: (concerning effect on archaeological and historic resources)
The Katzenmeyers state that consideration must be given to the property at 405 Myrick Street, Le Sueur, which will be for all future generations an historic site due to the visit of President Bush in 2004, and any future development of a history center or education center would be greatly impacted by the construction of the Modified Preferred Route with the Le Sueur river crossing.

Finding 161: The Katzenmeyers take issue with the ALJ's finding that the Modified Preferred Route with a Lower Minnesota River crossing at Le Sueur would minimize impacts to the Minnesota River Valley. They cite the impact on the recreational Mayo Park in Le Sueur, the homes along Myrick Street, and the sensitive area surrounding the ravines, in contrast to the opportunity to share the existing transmission corridor in Belle Plaine.

The Katzenmeyers also state their general opinion that the ALJ Report on Remand was not tightly focused by the ALJ, but rather is tainted by his opinion and belief.

EFP Staff Analysis: EFP staff agrees [with the initial comments of Mark Katzenmeyer] and further notes that in addition to ALJ recommendation (1a), the [Gibbon] Crossover Route recommended by EFP staff will also alleviate Mr. Katzenmeyer's concerns, as it avoids crossing the Minnesota River at Le Sueur. With regard to the exceptions of Mark and Shirley Katzenmeyer on remand, OES EFP staff shares some of the concerns as addressed in the EFP staff analysis below.

Steve Ruhland

Mr. Ruhland's exceptions to the ALJ's Report on Remand focus on the testimony in the record about the impacts to Belle Plaine, which he asserts are overstated and incorrect in the ALJ Report. He states that the statement that the crossing at Belle Plaine would severely limit future growth is "unfounded" and should be discounted as this portion is only a tiny portion of the city's expansion area. Further he asserts that the distances stated from the proposed line to the School property are much longer than what the maps show, and cost comparisons omit some important factors that will increase the cost to construct the line at Le Sueur. Mr. Ruhland concludes that when all these inaccuracies are considered, the Belle Plaine river crossing is superior in nearly every way to Le Sueur. He notes that electrical fields produced by the transmission line dissipate at 300 feet, far less than the distances of school property (0.4 miles) and the existing school (0.9 miles), ensuring that no detrimental effects will be caused by building the line in this area. Mr. Ruhland recommends giving greater weight to the additional costs and engineering constraints related to the Myrick Alternative. He also notes that his 400 head cattle feedlot operation will be severely impacted, as will his farming operations which currently use such activities as aerial applications for the production of crops. Poles placed in the middle of fields will affect the future viability of his family's business and livelihood.

EFP staff comments: Mr. Ruhland’s letter emphasizes some of the detrimental impacts of the Le Sueur crossing and the Modified Preferred Route for Segment 4. Staff notes that Mr. Ruhland’s farm, and that of his parents, Theresa and George Ruhland, are among the properties most significantly affected by a river crossing at Le Sueur.

EFP Staff’s recommended Gibbon Crossover Route would avoid these impacts to all landowners who filed exceptions: the Ruhlands, RES Pyrotechnics, Bimeda, and the Katzenmeyers.

C. Corrections and Additions to Findings of Fact, Conclusions of Law, and Order

The attached “Findings of Fact, Conclusions of Law and Order” developed by EFP staff includes the Findings of Fact from the ALJ’s December 22 and 23, 2010, “Findings of Fact, Conclusions and Recommendation” with a small number of corrections and additional findings identified below.

The following findings of fact and conclusions are intended to address what EFP staff believes are important corrections, additions, and changes necessary to support the referenced findings of fact and conclusions in the ALJ Report. All changes to the numbered paragraphs in the ALJ Report are shown by strikethrough and underlining. Internal footnotes have been omitted; only those footnotes which are required to support the change are included.

Finding of Facts No. 23

Finding 23 is incorrect. The Alternate Crossover Route (a/k/a Gibbon Crossover Route) was developed entirely by OES EFP staff, not the Applicants, and was analyzed in the EIS and described in the July 2, 2010, comments and recommendations¹⁸ submitted to the Commission. OES EFP staff relied exclusively on evidence in the record to develop the Gibbon Crossover Route. OES EFP staff does not know to what extent, if any, this incorrect impression may have influenced the ALJ in his recommendation. However, the OES EFP staff notes that a party developing an alternative jointly with OES EFP staff *after the close of the evidentiary record* may have been viewed by the ALJ as highly inappropriate, and, therefore, given less weight.

23. The ALJ Recommendation identified the Preferred Route, with modifications at the crossing point of the Minnesota River, as the better route for the 345 kV HVTL. The ALJ also noted that the Belle Plaine crossing was suitable. After the ALJ Recommendation was issued, the OES EFP developed another alternative ~~Applicants developed another alternative~~ to cross from the Preferred Route to the Alternate Route, ~~in consultation with OES~~, running from near Gibbon (known as the “the Gibbon Crossover Route” or “Alternate Crossover Route”). The Gibbon Crossover Route runs for approximately 69 miles.

¹⁸ July 2, 2010, OES EFP Comments and Recommendations, eDockets 20107-52219-01.

That route follows existing roads, railroad and transmission line rights of-way for approximately 47 miles (68 percent). The Gibbon Route was analyzed in the EIS and described in the July 2, 2010, OES EFP staff comments and recommendations to the Commission.

Findings of Fact No. 38 and 39

Finding 39 references the incorrect substation location. Per the Commission's Order, "The new Helena substation will be located along West 270th Street between Church Avenue and Aberdeen Avenue in Belle Plaine Township."¹⁹

In addition, Findings 38 and 39 are not necessary, as the Commission has already permitted the Cedar Mountain substation and Helena substation sites in its September 14, 2010, Order issuing a route permit for the project.

~~38. Applicants' proposed site for the Cedar Mountain Substation for the Modified Preferred Route is located in Camp Township, Renville County at the northwest corner of the intersection of County Road 3 and 640th Avenue. The new Cedar Mountain Substation will require five to eight acres of fenced and graded area depending on the final route selection and final substation design.~~

~~39. Applicants' proposed site for the Helena Substation for the Modified Preferred Route is located on the southeast corner of the intersection of 231st Avenue and 320th Street (County Road 28) in Derrynane Township in Le Sueur County. The new Helena Substation will require approximately five to eight acres of fenced and graded area depending on final route selection and final substation design.~~

Finding of Fact No. 46

The Minnesota Department of Transportation's (Mn/DOT) Utility Accommodation Policy applies to all trunk highways, not just freeways. A utility permit is required for every utility that occupies any portion of any trunk highway right-of-way. The amended language indicates the circumstance that would not require a permit from Mn/DOT.

46. In Route Segment 4, the Modified Preferred Route parallel to U.S. Highway 169 does not require a ~~Utility~~ Utility Permit because the affected section of U.S. Highway 169 is not a freeway. from Mn/DOT if the poles are more than 75 feet outside the highway right-of-way.

¹⁹ September 14, 2010, PUC Order Issuing a Route Permit at p. 4, eDockets 20109-54429-01.

Finding of Fact No. 53

Scenic easements near the rest area along U.S. Highway 169 in Le Sueur were identified in the testimony by Mn/DOT. Another scenic easement in the southeast quadrant of the intersection of U.S. Highway 169 and County State Aid Highway (CSAH) 53 (a/k/a German Road) was also identified in the testimony by Mn/DOT. Deleting the proposed finding would also require deleting the corresponding footnote. If the footnote is not deleted, it should be amended to read, "Mn/DOT does hold a scenic easement along Highway 169, east of CSAH 53, but an alignment within the Alternative Route is available that would avoid this scenic easement." Delete Finding 53 and corresponding footnote number 85.

- ~~53. — During the hearings on remand Mn/DOT indicated that there are no Mn/DOT scenic easements located along Route Segment 4 of the Project in Belle Plaine or Le Sueur (using the Myrick Alternative).~~

Finding of Fact No. 88

Finding 88 is amended to correctly note that the only portion of the Minnesota River designated as a Scenic River is the segment from Lac Qui Parle dam to Franklin where the Alternate Route crosses. The segments of the Minnesota River where the Modified Preferred Route crosses near Le Sueur and where the Alternate Route and crossover routes would cross near Belle Plaine are not designated scenic.

88. The aesthetic impacts differ among the Modified Preferred Route, Alternate Route, and Crossover Route. The Modified Preferred Route will cause the least amount of aesthetic impacts. The Modified Preferred Route is shorter in distance than the Alternate Route or Crossover Route.²⁰ As a result, the Modified Preferred Route will use fewer poles. In comparison to the Alternate Route and Crossover Route, there are fewer residences within 500 feet of the Modified Preferred Route at or near the Minnesota River.²¹ Also, the Alternate Route ~~and Crossover Routes (Belle Plaine Crossing)~~ crosses the Minnesota River where it is designated "scenic" whereas the Modified Preferred Route (Le Sueur Crossing) and the crossover routes (Belle Plaine crossing) does not cross the Minnesota River where it is designated "scenic".²²

Finding of Fact No. 95

Findings 91 and 94 illustrate that the applicants do not expect any long-term impacts to existing public services, public buildings or infrastructure for any of the routes. Furthermore the increased growth anticipated in the areas of Belle Plaine identified in Findings 92, 93 and 99 will likely require increased infrastructure that may include electric transmission and distribution.

²⁰ Ex. 102 at p. 9 (Poorker Direct); Ex. 2 at 5-6 (Application); Ex. 140 at p. 7 (Poorker Supplemental).

²¹ Ex. 102 at p. 17-18 (Poorker Direct); Ex. 2 at 4-10 (Application); Applicants January 19, 2010 Letter to the ALJ at Route Impact Table, filed 01/19/10, Doc. Id. 20101-46155-01.

²² Ex. 2 at p. 4-10 (Application).

95. ~~In light of the factors noted in the preceding Findings, the record, including the proceedings on Remand, indicates that~~ The Modified Preferred Route, will have fewer impacts on public services compared to the Arlington Crossover Route and the Gibbon Crossover Route will have similar impacts to public services.

Finding of Fact No. 100

The transmission line if sited near the area of Belle Plaine would not significantly impact the city of Belle Plaine's capacity for development and expansion to the west. The anticipated transmission centerline proposed east of the city of Belle Plaine is at least one-half to three-quarters of a mile from Oak Crest Elementary school in Belle Plaine and at least 1.3 miles from the city limits.

100. The record demonstrates that the Modified Preferred Route, the Arlington Crossover Route, and the Gibbon Crossover Route will have similar marginally less of an impacts to existing land-based economies than the Arlington Crossover Route or the Gibbon Crossover Route. The Modified Preferred Route will have ~~significantly~~ less impact on the capacity for expansion of existing development to the west of Belle Plaine than the Arlington Crossover Route or the Gibbon Crossover Route.

Finding of Fact No. 141

The differences between each route are slight and comparable to those differences identified in Findings 130 to 132 which indicate the routes are nearly equal with respect to right-of-way sharing.

141. The record demonstrates that, in Segment 4, the Modified Preferred Route, Arlington Crossover Route, and Gibbon Crossover Route nearly equally use or parallel ~~uses more~~ existing transportation, pipeline, and electrical transmission system right-of-way ~~than either of the two Crossover Routes.~~

Finding of Fact No. 157

Mn/DOT has indicated that the third sentence this is incorrect because specific concerns were expressed by Mn/DOT relating to Route Segment 4. Deleting the third sentence would resolve the problems.

157. Mn/DOT, USFWS, and MnDNR expressed concern with various aspects of the Modified Preferred Route. These concerns were addressed in the ALJ Recommendation. ~~Regarding Segment 4, Mn/DOT and MnDNR expressed no specific concerns.~~

Finding of Fact No. 166

Mn/DOT has indicated the second sentence is imprecise and prone to misinterpretation. With respect to both the Le Sueur and the Belle Plaine routes, there are alignments within the designated route that could encroach on Mn/DOT scenic easements, and other alignments that would avoid encroaching on the scenic easements. Deleting the second sentence would clarify the finding.

166. As discussed elsewhere in this Recommendation, the USFWS has not identified any impact to the eagle population that precludes issuance of a permit for aerial routing of the HVTL. ~~Mn/DOT has affirmatively stated that neither proposed crossing will affect any scenic easement held by Mn/DOT.~~ No undergrounding alternative has been identified that would significantly reduce the cost of that option.

Attachment 1, Oral Testimony at the Public Hearings, Paragraph 43

The amended language clarifies the last sentence of this paragraph by indicating the location of an alignment within the route that is available to avoid the scenic easement.

43. David Seykora from the Minnesota Department of Transportation noted that a scenic easement exists in the Belle Plaine area, but that easement will not impede the crossing of a 345 kV line at Belle Plaine along the line preferred by the Applicants. The easement ~~is~~ extends about 1500 feet east of ~~from~~ the intersection of Highway 169 and German Road (CSAH 53), and extends ~~extending~~ about 750 feet south of ~~the road.~~ Highway 169. An alignment of the 345kV line on the west side of German Road would avoid encroachment on the scenic easement.

Additional Findings

Section G. of the ALJ report provides findings in relation to the use of existing transportation, pipeline, and electrical transmission rights-of-way. The following finding should be added to acknowledge that the proposed crossing at Belle Plaine would follow an existing electric transmission right-of-way.

[New] The Alternate Route follows an existing 69 kV transmission line right-of-way at the crossing of the Minnesota River at Belle Plaine. The existing 69 kV transmission line is owned and operated by Great River Energy.²³

There are a number of additional findings in the ALJ's initial report that are not specifically at issue in this remand proceeding, but should be reaffirmed for Segment 4. They are the same as the original findings, and they need not be restated in their entirety. These findings are as follows:

²³ p. 5-10 (Application).

[New] Many of the findings in the ALJ's Findings of Fact, Conclusions of Law and Recommendation relate to the Project but are not specifically at issue in this remand proceeding. The following findings should be reaffirmed as applicable for the Project: Findings 187-218 (electric and magnetic fields, including stray voltage); Findings 357-395 (underground construction, co- location with U.S. Highway 169 bridge, co-location with self-supporting pier, and co-location with transmission line at Belle Plaine); Findings 481-505 (Myrick Alignment Alternative); Findings 419-430 (RES Specialty Pyrotechnics, Inc. ("RES" alignment adjustment); and Findings 521-530 (Cedar Mountain to Franklin 115 kV transmission line); and Findings 148-151 (statutory criteria under the Power Plant Siting Act.²⁴

[New] Many of the findings relating to application of statutory and rule criteria are not specifically at issue or provide introductory material to a discussion of a particular criterion can be reaffirmed for Segment 4 regardless the route selected. The following findings can be adopted for the three alternative routes considered for Segment 4: Findings 152 (introductory finding), Findings 159-162 (noise), Findings 165-166 (aesthetics), Findings 169-170 (cultural values), Finding 172 (recreation), Findings 178 and 181 (public services), Findings 219-220 (effects on land based economies), Findings 230-231 and 235 (effects on archeological and historic resources), Findings 217-219 (introductory and air quality), Findings 243-247 (water quality and resources), Findings 253-255 (flora), Findings 260- 263 and 265-266 (fauna), Findings 271-274 (effects on rare and unique natural resources), Finding 279 (application of various design considerations), Finding 285 (use or paralleling of existing right-of-way, survey lines, natural division lines and agricultural field boundaries), Finding 292 (use of existing transportation, pipeline, and electrical transmission system right-of-way), Finding 306 (electrical system reliability), Finding 308 (costs of constructing, operating, and maintaining the facility), Findings 314-317 (adverse human and environmental effects which cannot be avoided), Findings 321-324 (irreversible and irretrievable commitments of resources), Findings 327-328 (consideration of issues presented by state and federal agencies), and Findings 532-533 (route width flexibility).

D. Environmental Impact Statement

The ALJ concluded OES EFP has conducted an appropriate environmental analysis of the project for purposes of this route permit proceeding and the FEIS satisfies Minnesota Rule 7850.2500.²⁵ The ALJ further concluded that "The Commission's Remand of this proceeding did not change the locations to be examined for routing of the segment under consideration. All of those areas were included in the FEIS completed by the OES.

²⁴ In the Matter of the Route Permit Application for a 345 kV Transmission Line from Brookings County, South Dakota to Hampton, Minnesota, Docket No.: ET-2/TL-08-1474, Findings of Fact, Conclusions, and Recommendation (April 22, 2010 and amended April 30, 2010).

²⁵ Conclusion 3 at p. 36 (ALJ Report on Remand).

The record demonstrates that the FEIS is adequate for this routing decision because the FEIS addresses the issues and alternatives raised in the Scoping Decision, provides responses to the substantive comments received during the DEIS review process, and was prepared in compliance with Minnesota Rules 7850.1000 to 7850.5600.”²⁶

IV. OES EFP Analysis and Comments of Route Designation

The ALJ Report documents that the procedural requirements of Minnesota Statutes 216E and Minnesota Rules 7850 were followed, and presents findings of each of the decision criteria under Minnesota Rules 7850.4100. The Alternate Route utilizing the Gibbon Crossover Route, with an aerial crossing of the Minnesota River at Belle Plaine (Route Segment 4) addresses several issues raised throughout this proceeding.

Bald Eagle Issues

On October 29, 2010, USFWS sent applicants a letter²⁷ for inclusion in the record of the Remand Proceeding (USFWS Remand Comment). The USFWS comment on remand addressed the Bald and Golden Eagle Protection Act (BGEPA) permit issues which triggered this proceeding and stated in pertinent part:

To summarize, new information available to my agency leads us to conclude that we do not currently have sufficient biological evidence to determine conclusively that more bald eagles would be affected by one crossing alternative or the other. **Based upon this new information, our earlier recommendation of June 10, 2010 is suspended.**

Because the USFWS has indicated that they have insufficient evidence to declare one river crossing superior to the other, and that they are willing to, “work with the applicant to develop and process a BGEPA permit application for whichever route is selected by the Commission.” EFP staff no longer believes that the presence of eagles should be a factor when deciding which route should be selected to cross the Minnesota River. The evidence in the record of the Remand Proceeding does not show a marked difference between the impact on eagles to be expected from following either the Modified Preferred Route crossing the Minnesota River at Le Sueur or the Alternate Route crossing at Belle Plaine. There is no impact on eagles that precludes permitting of either crossing point.²⁸

Route Options

Applicants do not anticipate that construction of the 345 kV line in Route Segment 4 along the Modified Preferred Route or Alternate Route using either the Arlington or Gibbon Crossover Routes in Segment 4 would result in any displacement of residences or businesses.

²⁶ ALJ Finding 180.

²⁷ USFWS Remand Comment, eDockets Document No. 201011-56096-01 (emphasis in original).

²⁸ ALJ Finding 126.

Using any of the routes results in 6 homes being within 75 to 150 feet of the route centerline. The Gibbon Crossover Route, however, has 10 fewer homes within 500 feet of the proposed centerline and a lower resulting concentration of occupied homes per mile.²⁹

Additionally, Segment 4, of the Modified Preferred Route, Arlington Crossover Route, and Gibbon Crossover Route equally use or parallel existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries.³⁰ The irreversible and irretrievable commitments of resources is also similar for the Modified Preferred Routes, Arlington Crossover Route, and the Gibbon Crossover Route.³¹

The record also demonstrates that there are fewer archaeological and historic sites within the Gibbon Crossover Route and thereby lesser impact on those resources than either the Modified Preferred Route or the Arlington Crossover Route.³²

OES EFP staff point out that, in addition to the concerns voiced by landowners in their exceptions, there are still flaws and agency concerns relating to the Modified Preferred Route and a Le Sueur crossing of the Minnesota River that would not apply to the Gibbon Crossover with a aerial crossing of the river at Belle Plaine, including the following:

- Mn/DOT issues with the Highway 169 crossing area, including the rest stop and scenic easement areas.
- Concerns regarding a heron rookery which lies within the proposed Le Sueur/US 169 river crossing.
- Bimeda issues along a Myrick Street Alignment.
- RES Pyrotechnics, Inc./Ruhland issues.

In addition, the following findings from the ALJ's report provide additional support for selecting the Gibbon Crossover Route and Belle Plaine crossing of the Minnesota River over the Modified Preferred Route with regard to permitting and constructability issues.

- Mn/DOT has not identified any impediments to permitting the Arlington Crossover Route or the Gibbon Crossover Route if one of those routes is selected by the Commission.³³

²⁹ ALJ Finding 85.

³⁰ ALJ Finding 133.

³¹ ALJ Finding 154.

³² ALJ Finding 106.

³³ ALJ Finding 54.

- With regard to the Le Sueur crossing, Kevin Lennon testified that the severe slope and ravines along the Myrick Alternative limit possible locations where structures can be placed. He stated that this constraint may result in longer spans, wider easements, more tree clearing, and taller poles which may create greater aesthetic impacts. If spans were shortened to accommodate a level workspace, more poles would be required. Lennon testified that a crossing at Belle Plaine does not present similar alignment or pole placement limitations.³⁴
- Lennon also testified that the topography at the Belle Plaine crossing area presents fewer engineering and design challenges than a Le Sueur crossing. The primary engineering challenges at Le Sueur relate to the steep terrain and the retention ponds at the Le Sueur crossing. Access for repairs and maintenance is also a consideration. Because of the steeper terrain near Le Sueur, an access road to each structure location may have to be built to accommodate construction and maintenance equipment.³⁵
- Lennon testified that while retention ponds are an issue at both the Le Sueur and Belle Plaine crossings, the constraints are more significant at Le Sueur. The Myrick Alignment Alternative requires that the line be moved away from the retention ponds to the east side of US 169. This area is more flood prone and has unstable soils. At the Belle Plaine crossing, the elevation is higher, less flood prone and has relatively firmer soils.³⁶

The MnDNR has also stated that a river crossing at Belle Plaine would appear to be the most protective of the Minnesota River when compared to a Le Sueur crossing.³⁷

V. EFP Staff Recommendations

EFP staff has reviewed the record in this case relative to the standards, criteria and factors to be considered in determining whether to issue a permit for a high-voltage transmission line set forth in the Power Plant Siting Act and applicable Commission rules (Minnesota Statute 216E.03 and 216E.04; Minnesota Rules 7850.4000). Staff has also taken into account the input of state and federal agencies related to the permitability of various portions of the alternative routes under consideration, pursuant to Minnesota Statutes 216E.10, subdivision 3(a) and 216E.03, subdivision 7(b) (12).

In weighing the impacts of the alternative routes, staff was guided by the state's policy of choosing locations that minimize adverse human and environmental impacts while insuring continuing electric power system reliability and integrity (Power Plant Siting Act).

³⁴ ALJ Finding 72.

³⁵ ALJ Finding 73.

³⁶ ALJ Finding 74.

³⁷ ALJ Finding 119.

Under state law, a permit could be issued for either the Belle Plaine or the Le Sueur river crossing; however, in reviewing the record and information EFP staff continues to believe an aerial crossing of the Minnesota River at Belle Plaine using the Gibbon Crossover Route is the superior route among the available alternatives (ALJ's alternative recommendation 2.A.(1a)). The Gibbon Crossover, which uses a portion of the Applicants' Alternate Route between the Cedar Mountain and Hampton North substations and then crosses the Minnesota River at Belle Plaine, addresses all of the flaws and concerns related to the Modified Preferred Route with a Le Sueur river crossing, as identified in this brief and the record of the proceedings.

EFP staff recommends that the Commission amend the Brookings to Hampton 345 kV Route Permit that was issued September 14, 2010, to include a description of Segment 4 as identified in the Proposed Route Permit Addendum and official route maps for the segment (attached).

COMMISSION DECISION OPTIONS

A. Environmental Impact Statement Adequacy Determination

1. Find that the EIS meets the requirements of Minnesota Rules 7850.1500, subpart 10, for the remanded portion of the route (Segment 4) in that it:
 - (a) addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application;
 - (b) provides responses to the timely substantive comments received during the draft environmental impact statement review process; and
 - (c) was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.
2. Determine that the EIS for the remanded portion of the route (Segment 4) is not adequate.

EFP Staff Recommendation: Option A.1.(a), A.1.(b), and A.1.(c)

B. Adoption of Findings of Fact, Conclusions of Law and Order

1. Approve and adopt the attached EFP staff recommended Findings of Fact, Conclusions of Law and Recommendations for the remanded portion of the Great River Energy and Xcel Energy 345 kV Transmission Line from Brookings County, South Dakota, to Hampton, Minnesota, and issue an Order amending the permit to include a description of Segment 4 and official route maps for Administration Law Judge's recommended route 2. A. (1) described as:

The Modified Preferred Route for Segment 4, with an aerial crossing of the Minnesota River at Le Sueur.
2. Approve and adopt the attached EFP staff recommended Findings of Fact, Conclusions of Law and Recommendations for the remanded portion of the Great River Energy and Xcel Energy 345 kV Transmission Line from Brookings County, South Dakota, to Hampton, Minnesota, and issue an Order amending the permit to include a description of Segment 4 and official route maps for Administration Law Judge's recommended route 2. A. (1a) described as:

The Alternate Route utilizing the Gibbon Crossover Route, with an aerial crossing of the Minnesota River at Belle Plaine.

3. Adopt findings recommended by NoCapX2020/UCAN, Theresa Ruhland, Bimeda, Shirley and Mark Katzenmeyer, and/or Steve Ruhland.
4. Make some other decision deemed more appropriate.

EFP Staff Recommendation: Option B.2.

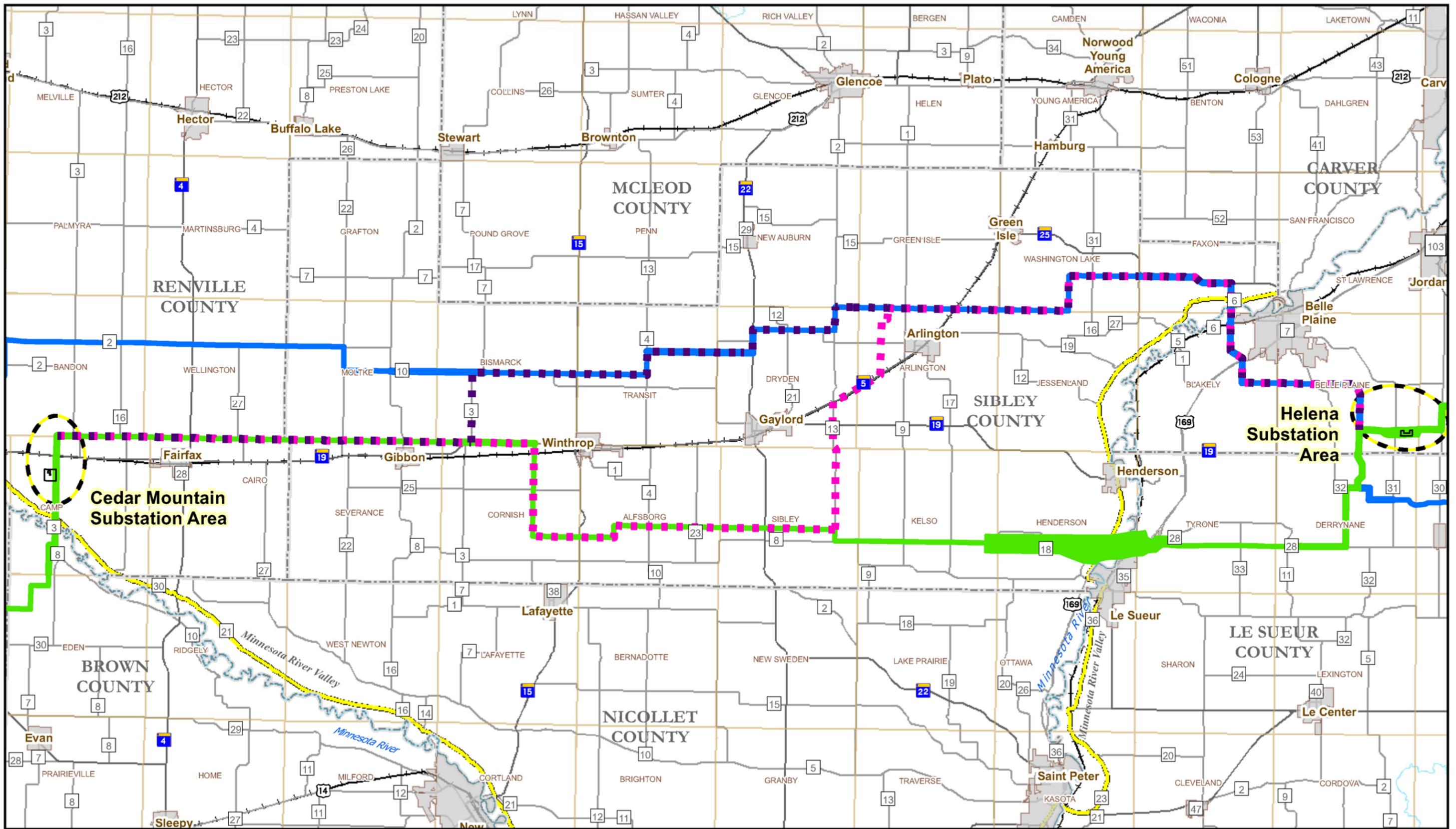


Figure 1 - Overview of Segment 4 Routes

	Applicant's Routes Modified Preferred Alternate	Crossover Routes Gibbon Crossover Arlington Crossover	Proposed Substation Areas New Permitted Substation	County City Township Scenic Byway
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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

Chair
Vice Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Route Permit
Application by Great River Energy and
Xcel Energy for a 345 kV Transmission
Line from Brookings County, South
Dakota to Hampton, Minnesota.

ISSUE DATE:

DOCKET NO. ET2/TL-08-1474

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER ISSUING AN HVTL ROUTE
PERMIT TO GREAT RIVER ENERGY
AND XCEL ENERGY**

The above-captioned matter came before the Minnesota Public Utilities Commission (Commission) on February 3, 2011, acting on an application by Great River Energy and Xcel Energy for a route permit to construct a new 237 to 262 mile transmission line and associated facilities in Lincoln, Lyon, Yellow Medicine, Chippewa, Redwood, Brown, Renville, Sibley, Le Sueur, Scott, Rice, and Dakota counties, Minnesota.

STATEMENT OF ISSUE

For the remanded portion of the route, should the Minnesota Public Utilities Commission find that the environmental impact statement is adequate? Should the Minnesota Public Utilities Commission issue a route permit identifying a specific route and permit conditions for the remanded portion of the proposed Brookings to Hampton 345 kV transmission line project?

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

FINDINGS OF FACT

The Commission adopts the December 22, 2010, Administrative Law Judge's Findings of Fact, Conclusions and Recommendation for the Brookings to Hampton Transmission Project related to PUC Docket No. ET2/TL-08-1474, and the December 23, 2010, Amendments to Findings of Fact, Conclusions, and Recommendation, with the following modifications:

Finding 23 is amended as follows to correctly reflect that the Alternate Crossover Route (a/k/a Gibbon Crossover Route) was developed entirely by OES EFP staff and was analyzed in the EIS and described in the July 2, 2010, comments and recommendations submitted to the Commission.

23. The ALJ Recommendation identified the Preferred Route, with modifications at the crossing point of the Minnesota River, as the better route for the 345 kV HVTL. The ALJ also noted that the Belle Plaine crossing was suitable. After the ALJ Recommendation was issued, the OES EFP developed another alternative ~~Applicants developed another alternative~~ to cross from the Preferred Route to the Alternate Route, ~~in consultation with OES,~~ running from near Gibbon (known as the "the Gibbon Crossover Route" or "Alternate Crossover Route"). The Gibbon Crossover Route runs for approximately 69 miles. That route follows existing roads, railroad and transmission line rights of-way for approximately 47 miles (68 percent). The Gibbon Route was analyzed in the EIS and described in the July 2, 2010, OES EFP staff comments and recommendations to the Commission.

Finding 46 is amended to correctly describe the Minnesota Department of Transportation's (Mn/DOT) Utility Accommodation Policy. A utility permit is required for every utility that occupies any portion of any trunk highway right-of-way. The amended language indicates the circumstance that would not require a permit from Mn/DOT.

46. In Route Segment 4, the Modified Preferred Route parallel to U.S. Highway 169 does not require a ~~Utility~~ Utility Permit ~~because the affected section of U.S. Highway 169 is not a freeway.~~ from Mn/DOT if the poles are more than 75 feet outside the highway right-of-way.

Finding 88 is amended to correctly note that the only portion of the Minnesota River designated as a Scenic River is the segment from Lac Qui Parle dam to Franklin where the Alternate Route crosses. The segments of the Minnesota River where the Modified Preferred Route crosses near Le Sueur and where the Alternate Route and crossover routes would cross near Belle Plaine are not designated scenic.

88. The aesthetic impacts differ among the Modified Preferred Route, Alternate Route, and Crossover Route. The Modified Preferred Route will cause the least amount of aesthetic impacts. The Modified Preferred Route is shorter in distance than the Alternate Route or Crossover Route.¹ As a result, the Modified Preferred Route will use fewer poles. In comparison to the Alternate Route and Crossover Route, there are fewer residences within 500 feet of the Modified Preferred Route at or near the Minnesota River.² Also, the Alternate Route ~~and Crossover Routes (Belle Plaine Crossing)~~ crosses the Minnesota River where it is designated “scenic” whereas the Modified Preferred Route (Le Sueur Crossing) and the crossover routes (Belle Plaine crossing) does not cross the Minnesota River where it is designated “scenic”.³

Finding 95 is amended to reflect impacts are similar to all routes.

95. ~~In light of the factors noted in the preceding Findings, the record, including the proceedings on Remand, indicates that t~~The Modified Preferred Route, will have fewer impacts on public services compared to the Arlington Crossover Route and the Gibbon Crossover Route will have similar impacts to public services.

Finding 100 is amended to clarify that the Alternate Route west of Belle Plaine would not significantly impact the city of Belle Plaine’s capacity for development and expansion to the west.

100. The record demonstrates that the Modified Preferred Route, the Arlington Crossover Route, and the Gibbon Crossover Route will have similar marginally less of an impacts to existing land-based economies than the Arlington Crossover Route or the Gibbon Crossover Route. The Modified Preferred Route will have significantly less impact on the capacity for expansion of existing development to the west of Belle Plaine than the Arlington Crossover Route or the Gibbon Crossover Route.

Finding 141 is amended to reflect that the differences between the routes are nearly equal with respect to right-of-way sharing.

141. The record demonstrates that, in Segment 4, the Modified Preferred Route, Arlington Crossover Route, and Gibbon Crossover Route nearly equally use or parallel ~~uses more~~ existing transportation, pipeline, and electrical transmission system right-of-way ~~than either of the two Crossover Routes.~~

¹ Ex. 102 at p. 9 (Poorker Direct); Ex. 2 at 5-6 (Application); Ex. 140 at p. 7 (Poorker Supplemental).

² Ex. 102 at p. 17-18 (Poorker Direct); Ex. 2 at 4-10 (Application); Applicants January 19, 2010 Letter to the ALJ at Route Impact Table, filed 01/19/10, Doc. Id. 20101-46155-01.

³ Ex. 2 at p. 4-10 (Application).

Finding 157 is amended. Mn/DOT has indicated that the third sentence this is incorrect because specific concerns were expressed by Mn/DOT relating to Route Segment 4. Deleting the third sentence would resolve the problems.

157. Mn/DOT, USFWS, and MnDNR expressed concern with various aspects of the Modified Preferred Route. These concerns were addressed in the ALJ Recommendation. ~~Regarding Segment 4, Mn/DOT and MnDNR expressed no specific concerns.~~

Finding 166 is amended to clarify that for both the Le Sueur and the Belle Plaine routes, there are alignments within the designated routes that could encroach on Mn/DOT scenic easements.

166. As discussed elsewhere in this Recommendation, the USFWS has not identified any impact to the eagle population that precludes issuance of a permit for aerial routing of the HVTL. ~~Mn/DOT has affirmatively stated that neither proposed crossing will affect any scenic easement held by Mn/DOT.~~ No undergrounding alternative has been identified that would significantly reduce the cost of that option.

Attachment 1, Oral Testimony at the Public Hearings, Paragraph 43 is amended clarify that an alignment within the route is available that avoids the scenic easement.

43. David Seykora from the Minnesota Department of Transportation noted that a scenic easement exists in the Belle Plaine area, but that easement will not impede the crossing of a 345 kV line at Belle Plaine along the line preferred by the Applicants. The easement is extends about 1500 feet east of from the intersection of Highway 169 and German Road (CSAH 53), and extends extending about 750 feet south of the road. Highway 169. An alignment of the 345kV line on the west side of German Road would avoid encroachment on the scenic easement.

Based on the record in this proceeding, the Commission does not adopt the following findings of fact:

Findings 38 and 39 are not necessary, as the Commission has already permitted the Cedar Mountain substation and Helena substation sites in its September 14, 2010, Order issuing a route permit for the project.

38. Applicants' proposed site for the Cedar Mountain Substation for the Modified Preferred Route is located in Camp Township, Renville County at the northwest corner of the intersection of County Road 3 and 640th Avenue. The new Cedar Mountain Substation will require five to eight acres of fenced and graded area depending on the final route selection and final substation design.
39. Applicants' proposed site for the Helena Substation for the Modified Preferred Route is located on the southeast corner of the intersection of 231st Avenue and 320th Street (County Road 28) in Derrynane Township in Le Sueur County. The new Helena Substation will require approximately five to eight acres of fenced and graded area depending on final route selection and final substation design.

Finding 53 is not correct, as Mn/DOT has indicated it does hold a scenic easement along Highway 169, east of CSAH 53.

53. During the hearings on remand Mn/DOT indicated that there are no Mn/DOT scenic easements located along Route Segment 4 of the Project in Belle Plaine or Le Sueur (using the Myrick Alternative).

SUPPLEMENTAL FINDINGS OF FACT

The following finding is added to acknowledge that the proposed crossing at Belle Plaine would follow an existing electric transmission right-of-way.

[New] The Alternate Route follows an existing 69 kV transmission line right-of-way at the crossing of the Minnesota River at Belle Plaine. The existing 69 kV transmission line is owned and operated by Great River Energy.

There are a number of additional findings in the ALJ's initial report that are not specifically at issue in this remand proceeding, but should be reaffirmed for Segment 4. They are the same as the original findings, and they need not be restated in their entirety. These findings are as follows:

[New] Many of the findings in the ALJ’s Findings of Fact, Conclusions of Law and Recommendation relate to the Project but are not specifically at issue in this remand proceeding. The following findings are reaffirmed as applicable for the Project: Findings 187-218 (electric and magnetic fields, including stray voltage); Findings 357-395 (underground construction, co-location with U.S. Highway 169 bridge, co-location with self-supporting pier, and co-location with transmission line at Belle Plaine); Findings 481-505 (Myrick Alignment Alternative); Findings 419-430 (RES Specialty Pyrotechnics, Inc. (“RES” alignment adjustment); and Findings 521-530 (Cedar Mountain to Franklin 115 kV transmission line); and Findings 148-151 (statutory criteria under the Power Plant Siting Act.⁴

[New] Many of the findings relating to application of statutory and rule criteria are not specifically at issue or provide introductory material to a discussion of a particular criterion apply to Segment 4 regardless the route selected. The following findings are adopted for the three alternative routes considered for Segment 4: Findings 152 (introductory finding), Findings 159-162 (noise), Findings 165-166 (aesthetics), Findings 169-170 (cultural values), Finding 172 (recreation), Findings 178 and 181 (public services), Findings 219-220 (effects on land based economies), Findings 230-231 and 235 (effects on archeological and historic resources), Findings 217-219 (introductory and air quality), Findings 243-247 (water quality and resources), Findings 253-255 (flora), Findings 260- 263 and 265-266 (fauna), Findings 271-274 (effects on rare and unique natural resources), Finding 279 (application of various design considerations), Finding 285 (use or paralleling of existing right-of-way, survey lines, natural division lines and agricultural field boundaries), Finding 292 (use of existing transportation, pipeline, and electrical transmission system right-of-way), Finding 306 (electrical system reliability), Finding 308 (costs of constructing, operating, and maintaining the facility), Findings 314-317 (adverse human and environmental effects which cannot be avoided), Findings 321-324 (irreversible and irretrievable commitments of resources), Findings 327-328 (consideration of issues presented by state and federal agencies), and Findings 532-533 (route width flexibility).

⁴ *In the Matter of the Route Permit Application for a 345 kV Transmission Line from Brookings County, South Dakota to Hampton, Minnesota*, Docket No.: ET-2/TL-08-1474, Findings of Fact, Conclusions, and Recommendation (April 22, 2010 and amended April 30, 2010).

CONCLUSIONS OF LAW

Conclusion 9, concluding that the Modified Preferred Route for Segment 4 is the best alternative for the 345 kV transmission line between Brookings County Substation and Hampton Substation, is not accepted.

Conclusion 10, concluding that it is appropriate to grant a Route Permit for the 345 kV transmission line and Associated Facilities along the Modified Preferred Route, is not accepted.

ORDER

Based on the Findings of Fact and Conclusions of Law modified herein and the entire record of this proceeding, the Commission hereby makes the following Order:

1. The findings, conclusions and recommendations contained in the Administrative Law Judge's December 22, 2010, Findings of Fact, Conclusions and Recommendation, and December 23, 2010, Amended Findings of Fact, Conclusions and Recommendation are adopted except as inconsistent with this Order or otherwise specified herein.

2. Specifically, the Commission declines to adopt Findings 38, 39, and 53; and Conclusions 9 and 10 of the December 22, 2010, Findings of Fact, Conclusions and Recommendation.

3. The Commission hereby grants the Applicants a Route Permit, in the form attached, to construct Segment 4 of the high-voltage transmission line requested between Brookings County, South Dakota and Hampton, Minnesota along the Alternate Route utilizing the Gibbon Crossover Route, with an aerial crossing of the Minnesota River at Belle Plaine.

BY ORDER OF THE COMMISSION

Burl W. Haar,
Executive Secretary

(S E A L)

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**ROUTE PERMIT ADDENDUM
TO
STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION**

**ROUTE PERMIT FOR CONSTRUCTION OF A HIGH-VOLTAGE
TRANSMISSION LINE AND ASSOCIATED FACILITIES
IN**

**LINCOLN, LYON, YELLOW MEDICINE, CHIPPEWA, REDWOOD,
BROWN, RENVILLE, SIBLEY, LE SUEUR, SCOTT, AND DAKOTA
COUNTIES**

**ISSUED TO
GREAT RIVER ENERGY AND
NORTHERN STATES POWER COMPANY**

PUC DOCKET No. ET2/TL-08-1474

In accordance with the requirements of Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850, this route permit is hereby issued to:

GREAT RIVER ENERGY AND NORTHERN STATES POWER COMPANY

Great River Energy and Northern States Power Company, d/b/a Xcel Energy, are authorized by this route permit to construct the 240-mile segment located within the State of Minnesota, of a new 345 kilovolt (kV) high-voltage transmission line from a new Hampton Substation in Dakota County, Minnesota, to the Brookings Substation in Brookings County, South Dakota.

The transmission line and associated facilities shall be built within the route identified in this permit, as portrayed on the official route maps, and in compliance with the conditions specified in this permit.

Approved and adopted this _____ day of _____

BY ORDER OF THE COMMISSION

Burl W. Haar,
Executive Secretary

On page 2, under I. Route Permit, revise as follows:

The Minnesota Public Utilities Commission (Commission) hereby issues this route permit to Great River Energy and Xcel Energy (Permittees) pursuant to Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850. This permit authorizes the Permittees to construct approximately ~~169~~ 240 miles of new 345 kV transmission line and associated facilities in Lincoln, Lyon, Yellow Medicine, Chippewa, Redwood, Brown, Renville, Sibley, Le Sueur, Scott, and Dakota counties, Minnesota.

On page 2, under II. Project Description, Section II.A., revise as follows:

A. High-Voltage Transmission Line

The route authorized in this Permit includes ~~five~~ six route segments (Segments 1,2,3,~~4~~,5, and 6) totaling approximately ~~169~~ 240 miles, constructed between (1) the Brookings County substation near White, South Dakota, and a new Hampton substation near Hampton, Minnesota and (2) the Lyon County substation near Marshall, Minnesota, and the Minnesota Valley substation near Granite Falls, Minnesota. See web links to the maps for the approved route segments on Attachment A.

On page 2, under II. Project Description, add the following paragraph immediately preceding Section II.A.(5).

4. Cedar Mountain Substation to Helena Substation

This segment is approximately 71 miles long passing through Renville, Sibley, and Scott counties. This segment will be constructed and operated as a double-circuit 345 kV on double-circuit structures.

On page 26, Attachment A, First sentence, revise as follows:

Web links to the maps for the ~~five~~ six route segments (Segments 1,2,3,~~4~~,5, and 6) authorized in this Route Permit are:

On page 26, Attachment A, Web links to maps authorized by the route permit, add the following immediately preceding **Segment 5** = HL on OES's Overview Map (Helena Substation to Lake Marion Substation):

Segment 4 = CH on OES's Overview Map (Cedar Mountain Substation to Helena Substation)

1 of 7: CH 1-12

<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={7496E40A-FC44-4C1C-966D-1999A79BDD6C}&documentTitle=20107-52223-01>

2 of 7: CH 13-24

<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={6FED95D7-803F-4DFC-A786-50732A72487E}&documentTitle=20107-52223-02>

3 of 7: CH 25-36

<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A29C3363-1205-4F33-9228-83E8963315B4}&documentTitle=20107-52223-03>

4 of 7: CH 37-48

<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={4E4A3071-916E-4029-B965-1CF768BFDBF1}&documentTitle=20107-52223-04>

5 of 7: CH 49-60

<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={3DCD794A-5D36-4806-A00B-5E10757CFE1B}&documentTitle=20107-52223-05>

6 of 7: CH 61-72

<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={B67CA9CC-037D-43B8-8212-4EA378600F85}&documentTitle=20107-52223-06>

7 of 7: CH 73-84

<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={2E7402B6-7C4F-43A1-93C7-554C0C9DE0FB}&documentTitle=20107-52223-07>