

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: July __, 2010

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 FOR A 345 kV
TRANSMISSION LINE FROM
BROOKINGS COUNTY, SOUTH DAKOTA
TO HAMPTON, MINNESOTA**

The above-captioned matter came before the Minnesota Public Utilities Commission ("Commission") on July 15, 2010, 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

Should the Minnesota Public Utilities Commission find that the environmental impact statement and the record adequately address the issues identified in the scoping decision? Should the Minnesota Public Utilities Commission issue a route permit identifying a specific route and permit conditions for 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 April 22, 2010, Administrative Law Judge's Findings of Fact, Conclusions and Recommendation for the Brookings to Hampton Transmission Project related to PUC Docket No. ET-2/TL-08-1474, and the April 30, 2010 Amendments to Findings of Fact, Conclusions, and Recommendation, with the following modifications:

Finding 38 is amended as follows to correctly reflect that the Final Environmental Impact Statement (FEIS) was not published in the EQB Monitor; and that only the notice of such was so published:

38. On February 8, 2010, notice of availability of the FEIS was published in the EQB Monitor.¹

Finding 59 is amended as follows to correctly reflect numbering of Route Alternative 5P-02 in the DEIS, which was referred to in the Scoping Decision as P-SCT-002:

59. The third route modification, identified as ~~P-SCT-002~~ 5P-02 in the DEIS (also renumbered as 5P-02 on maps used at the Hearings), is located between the Helena Substation and the Lake Marion Substation at the intersection of Aberdeen Avenue and 270th Street.² The Modified Preferred Route continues east for one mile to Delmar Avenue. At Delmar Avenue, the Modified Preferred Route continues north one mile until it joins the Preferred Route at 260th Street.

Finding 83 is amended to add new information available concerning the Applicants' delay of construction as contained in Xcel Energy's recent filing in the related CapX 2020 Certificate of Need proceeding (Docket No. ET-2/CN-08-1115):

83. Applicants expect to begin construction of the Project in the fourth quarter of 2010 and estimate that the Project will be completed by the third quarter of 2013. Applicants filed a letter in Docket No. ET2/CN-08-1115 on May 18, 2010, requesting a change in the originally proposed project start date to the second quarter of 2015.³

Finding 131 is amended to clarify that the number of additional route segments and alignment alternatives was further refined during preparation of the DEIS, and is thus not the same as was stated in the Scoping Decision:

131. On June 30, 2009, OES issued its Scoping Decision for the EIS. The Scoping Decision identified the topics to be covered in the Project EIS: Regulatory Framework; Project engineering and design; Project construction; and Human and environmental resources impacted by the project and each proposed route alternative. The Scoping Decision also determined that the EIS would address 47 of the proposed route alternatives. Upon further refinement during the DEIS preparation, four additional alternative route segments were discovered (51 total) and five of the alignment alternatives were found to be duplicates (reducing the total from 26 to 21).⁴

Finding 153 is amended to clarify the meaning of "displacement" with regard to the Administrative Law Judge's review and conclusions of Criterion A concerning displacement of homes, and permit conditions to minimized effects on human settlement:

¹ Notice of Availability of FEIS - EQB Monitor, filed 02/25/10, Doc. Id. 20102-47454-02.

² Ex. 102 at pp. 15-17 (Poorker Direct).

³ Applicants. May 17, 2010 Letter to Commission Requesting a Change in Proposed Construction Date, filed May 18, 2010, Docket ET-2, E-002, et al./CN-06-1115, Doc. Id. 20105-50557-02.

⁴ Ex. 23 (DEIS).

153. For purposes of this proceeding, displacement of a residence or business was defined to occur when a structure is located within the 150 foot right-of-way or 75 feet on each side of the proposed transmission centerline.

Finding 282 is amended to include additional information with which to support the ALJ's conclusions and EFP staff's suggested permit conditions concerning design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generation capacity:

282. For the proposed new substation sites, Applicants will acquire approximately 40 acres to allow for future transmission line interconnections. For the proposed new substation sites, the record supports the following new substation locations, which were outlined by the Applicants' witness, Mr. Craig Poorker:⁵

- The new Hazel Creek substation will be located at the southeast corner of the intersection of 520th Street (County Road B3) and 260th Avenue in section 18 of Minnesota Falls Township⁶
- The new Cedar Mountain Substation will be located at the northwest corner of the intersection of County Road 3 and 640th Avenue in Camp Township.⁷
- The new Helena Substation will be located at the southeast corner of the intersection of 231st Avenue and 320th Street (County Road 28) in Derrynane Township.⁸
- The proposed Hampton Substation North site will be located on the west side of Highway 52 near 215th Street on the north side of 215th Street⁹ or the proposed Hampton South site would be located on the south side of 215th Street. The record demonstrates that the Hampton North Substation site would be better located for any route chosen, as it would minimize the distance when connecting to the Prairie Island – Blue Lake 345 kV line.¹⁰

Finding 542 is amended to reflect that route widths of 1,000 feet and up to 1.25 miles are allowable under the Power Plant Siting Act depending on the circumstances at hand.

542. Applicants' request for a route width of 1,000 feet and where necessary up to 1.25 miles is ~~consistent with~~ allowable under the PPSA, but is not entirely—and appropriate given the circumstances of this Project to allow coordination with landowners and state and federal agencies to develop a final alignment and design.

⁵ Ex. 102 at pp. 21-25 (Poorker Direct).

⁶ Ex. 102 at Schedule 8 (Poorker Direct).

⁷ Ex. 102 at Schedule 9 (Poorker Direct).

⁸ Ex. 102 at Schedule 11 (Poorker Direct).

⁹ Ex. 102 at Schedule 13 at p. 1 (Poorker Direct).

¹⁰ Ex. 23 (DEIS).

Finding 543 is amended to reflect that the route widths designated by the Commission shall be as reflected in the 17 Tile Maps included in the Applicants' letter to the ALJ dated February 8, 2010, except for the area of the Redwood River crossing which is narrowed to 1000 feet:

543. Applicants' amended request for a 600 foot-wide route width, except for those areas where they continue to request a width of 1,000 feet to 1.25 miles, for the Modified Preferred Route, whether or not modified by Alternate 6P-06, ~~also is consistent with~~ allowable under the PPSA. With the exception of the increased route width requested by Applicants for crossing the Redwood River in Camp Township in Redwood County, the route widths depicted on Applicants' 17 Tile Maps represent a reasonable balancing of the Applicants' request for flexibility and a reasonable degree of predictability for landowners. For the Redwood River crossing depicted on Tile Map 9, Applicants' need for flexibility can be accommodated within a 1000 foot-wide route width designation.

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

536. The proposed route width is consistent with prior Route Permits issued by the Commission.

SUPPLEMENTAL FINDINGS OF FACT

Based on the analysis presented by Energy Facility Permitting staff, the Commission adopts additional findings below supporting the designation of the proposed Alternative Crossover Route, which includes Alternative 6P-6 as recommended by the Administrative Law Judge:

[Supplemental Finding] 1. Four North-South Connector Examples were evaluated in the DEIS.¹¹ The OES EFP staff used North-South Connector Example 2, analyzed in the DEIS, to develop a hybrid of the Crossover Route (the "Alternative Crossover Route").

2. The EFP staff-proposed Alternative Crossover Route is approximately 240 miles long, which is approximately seven miles shorter than the Crossover Route. This route alternative follows the Crossover Route until it turns north on County Highway 3 in Bismarck Township, Sibley County, and then continues north along North-South Connector Route 2 until it connects with the Applicant's proposed Alternative Route at County Highway 10.

¹¹ Ex. 23 at Appendix G (DEIS)

From there, the Alternative Crossover Route continues to follow the Alternative Route until it connects with the Crossover Route at 220th Street at the North Corner of the Northwest Section of the NW ¼ of Section 5 of Arlington Township. From its beginning off County Highway 19, the North-South Connector 2 between the Preferred Route and Alternate Route is approximately three miles long.

Segment 4 Sections of the Alternative Crossover Route and the Crossover Route

3. The Alternative Crossover Segment (71 miles) is approximately seven miles shorter than the Crossover Segment (78 miles). The total Route Area and right-of-way area required for the Alternative Crossover Segment are also less, with a corresponding decrease in the cost of construction for the Alternative Crossover Route as compared to the Crossover Route.

4. The Segment 4 of Alternative Crossover Route would impact seven fewer houses within 0-500 feet of the route centerline than Segment 4 of the Crossover Route.

5. The Alternative Crossover Segment would cross three fewer wetlands than the Crossover Segment.

6. The Alternative Crossover Segment has no known occurrences of threatened and endangered species and no occurrences of unique threatened endangered species within the proposed route, whereas the Crossover Segment crosses two areas of recorded endangered species and two occurrences of unique threatened endangered species.

7. The Alternative Crossover Segment anticipated right-of-way would cross 132 fewer acres of prime farmland/prime farmland if drained/farmland of statewide importance than the Crossover Segment.

8. The Alternative Crossover Segment and the Crossover Segment are similar in their impact on water quality and resources. The Alternative Crossover Segment would cross one more forested wetland than the Crossover Segment. While the Crossover Segment would cross 54 wetlands and 53 streams; the Alternative Crossover Segment would cross 53 wetlands and 52 streams.

9. MnDOT testimony and comments of Mr. Alvin Mueller, a landowner along the USFWS/MnDNR Connector route segment support the choice of the Alternative Crossover Route using North-South Connector Example #2.

10. Analysis of criteria demonstrate that other impacts are similar for both the Alternative Crossover Route Segment 4 and the Crossover Route Segment 4.

With regard to recreational impacts, both route segments will have similar impacts to WMAs, SNAs, WPAs, and state parks as the Crossover Route. There is no evidence in the record that the Alternative Crossover Segment will impact tourism, and flora and fauna.¹²

11. The Alternative Crossover Segment and the Crossover Segment are nearly equal in their use or paralleling of existing rights-of-way. Both segments also nearly equally use or parallel existing transportation, pipeline and electrical transmission system rights-of-way.¹³

North-South Connector Segments

12. The North-South Connector Example 2 (3 miles) is approximately eight miles shorter than the Crossover Segment (11 miles).

13. The North-South Connector Example 2 segment parallels existing road rights-of-way approximately 100 percent of its length. The USFWS/MnDNR Connector uses or parallels approximately 88 percent of existing road right-of-way. The USFWS/MnDNR Connector segment would follow no features for approximately 1.2 miles.

14. The USFWS/MnDNR Connector crosses two MCBS Biodiversity sites, whereas the North-South Connector crosses no MCBS Biodiversity sites.

The Alternative Crossover Route and the Crossover Route

15. Because the Crossover Route and the Alternative Crossover Route share common segments of the Modified and Alternate Routes with the exception of DEIS Segment 4, the differences realized can be found in the comparison between the Alternative Crossover Segment and Crossover Route Segment and the North-South Connector 2 and the USFWS/MnDNR Connector.

16. The record establishes that the Alternative Crossover Route, a hybrid of the Modified Preferred Route using the North Connector Route Example 2 instead of the USFWS/DNR Crossover Route,¹⁴ and its associated facilities, satisfies the route permit criteria set forth in Minn. Stat. § 216E.03, subd. 7, and Minn. R. 7850.4100.

¹² ALJ Report, at Finding 225.

¹³ Ex. 23, App. G (DEIS).

¹⁴ Comments Recommendations, figure *North/South Connector Comparison*.

CONCLUSIONS OF LAW

Conclusion 9, concluding 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, 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, modified by Alternative 6P-06 and further modified by the Bimeda Adjustment, is not accepted.

Conclusion 11 is amended to limit the Redwood River crossing on Tile Map 9 to 1,000 feet:

11. The record demonstrates that it is appropriate for the Route Permit to provide the requested route width of 600 feet, except for those locations where Applicants are requesting a route width of 1,000 feet or up to ~~1.25~~1.1 miles, as shown on ~~Attachment 2 to Applicants' Proposed Findings of Fact, Conclusions and Recommendations~~ Tile Maps 1-17, with the further exception of the Redwood River crossing depicted on Tile Map 9, which should be limited to 1,000 feet.

The Commission adopts the following additional conclusions:

17. The record establishes that the five Alignment Alternatives evaluated in the DEIS and identified in Finding 398, satisfy the route permit criteria set forth in Minnesota Statute § 216E.03, subd. 7 and Minnesota Rule 7850.4100.

18. The conditions included in the route permit are reasonable and appropriate.

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 April 22, 2010 Findings of Fact, Conclusions and Recommendation, and April 30, 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 536 and 542 and Conclusions 9 and 10 of the April 22, 2010 ALJ Report.

3. The Commission hereby grants the Applicants a Route Permit, in the form attached, to construct the high voltage transmission line requested between Brookings County, South Dakota and Hampton, Minnesota along the Alternative Crossover Route, including Alternative 6P-06.

BY ORDER OF THE COMMISSION

Burl W. Haar,
Executive Secretary

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