



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

DOCKET No. E280/TL-09-512

Meeting Date: July 29, 2010.....Agenda Item #

Company: Nashwauk Public Utilities Commission/Minnesota Power

Docket No. PUC Docket Number: E280/TL-09-512
In the Matter of the Application for a HVTL Route Permit for the
Essar Steel Transmission Project.

Issue(s): Should the Commission find that the Environmental Impact Statement and
the record adequately address the issues identified in the Scoping
Decision? Should the Commission issue a HVTL Route Permit
identifying specific routes and permit conditions for the proposed Essar
Steel HVTL project?

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Relevant Documents (in Commission Packet).

- Route Permit Application.....dated June 2009.
OES Scoping Decision.....dated October 26, 2009.
Final EIS.....dated May 2010.
ALJ Report.....dated June 3, 2010.

The enclosed materials are work papers of the Department of Commerce (Department) Office of
Energy Security (OES) Energy Facility Permitting (EFP) staff. They are intended for use by the
Public Utilities Commission (Commission) and are based on information already in the record
unless otherwise noted. This document can be made available in alternative formats; i.e. large
print or audio tape by calling (651) 201-2202 (Voice) or 1-800-627-3529 (TTY relay service).

Documents Attached.

1. Site map illustrating the four study areas in which the routes will be located.
2. Proposed Findings of Fact, Conclusions, Order.
3. Proposed HVTL Route Permit.

(Note: Relevant documents and additional information can be found on eDockets (E280/TL-09-512) or the PUC Energy Facilities Permitting website

<http://energyfacilities.puc.state.mn.us/Docket.html?Id=24526>)

Statement of the Issue

Should the Commission find that the Environmental Impact Statement (EIS) and the record adequately address the issues identified in the Scoping Decision? Should the Commission issue a high voltage transmission line (HVTL) route permit identifying specific routes and permit conditions for the proposed Essar Steel HVTL project?

Introduction and Background

Minnesota Statutes 216E.03, subd. 2, provides that no person may construct a high voltage transmission line without a route permit from the Commission. An HVTL is defined as a transmission line of 100 kV or more and greater than 1,500 feet in length in Minnesota Statutes 216E.01, subd. 4. The proposed transmission lines are HVTLs and therefore a route permit is required prior to construction. The application was submitted pursuant to the provisions of the Full Permitting Process outlined in Minnesota Rules 7849.5200 to 7849.5340.

Commission rules establish the requirements for submitting and processing a permit application. The applicant must identify in the application the preferred route for the transmission line and one alternative route. As part of the permitting process, the EFP staff prepares an environmental impact statement (EIS) on the project, and a contested case hearing conducted by an administrative law judge is held. The Commission has up to one year from the time the application is accepted to complete the process and make a decision on the permit.

Minnesota Statute 216B.243, subdivision 2, states that no Large Energy Facility shall be sited or constructed in Minnesota without issuance of a certificate of need by the Commission. The Essar Steel Transmission project meets the definition of a Large Energy Facility under Minn. Stat. 216B.2421, subd. 2. However, the applicant has stated that the proposed project meets the exemption criteria for construction of a high voltage transmission line that serves the demand of a single customer at a single location (Minn. Stat. § 216B.243, subd. 8, item 2). The single customer for this proposed project would be Essar Steel Minnesota (ESM). All four proposed 230 kV transmission lines would terminate at the two proposed 230 kV substations located at the ESM site. Therefore, if the Commission concurs with this position, a Certificate of Need would not be required for the proposed project.

Procedural History

On June 1, 2009, Nashwauk Public Utilities Commission (NPUC) and Minnesota Power (MP) submitted a high voltage transmission line (HVTL) Route Permit Application to the Commission for the proposed Essar Steel Transmission Project.

The EFP staff submitted its Comments and Recommendations to the Commission on June 21, 2009, concerning the completeness of the route permit application. Staff recommended 1) that the Commission accept the application as complete, 2) authorize the EFP to name a public advisor, and 3) authorize OES EFP staff to establish an advisory task force with the proposed structure and charge for the task force.

On June 25, 2009, the Commission considered the completeness of the HVTL Route Permit Application at its regularly scheduled meeting. The Commission Order, dated June 29, 2009, adopted the recommendations of the EFP. A subsequent Order, dated July 14, 2009, referred this matter to the Office of Administrative Hearings for a contested case proceeding, including the public hearing required as part of the review of the route permit application.

On Wednesday, July 29, 2009, the EFP held a public information/scoping meeting at the Taconite Community Center. The meeting started at 6:00 pm. The purpose of the meeting was to provide information to the public about the proposed project, to answer questions, and to allow the public an opportunity to suggest alternatives and impacts that should be considered during preparation of the environmental review document. Written comments were due no later than Friday, August 14, 2009.

Approximately 65 people attended the public information and scoping meeting; fourteen individuals took the opportunity to speak on the record. A court reporter was present to document oral statements. Fifteen written comments were received.

The major areas of concern expressed during the public comment period included: compatibility with existing and future land use plans (including farming and mining); health and safety issues; cost of the project and who pays; and questions concerning easement acquisition (including buy the farm provisions).

The EFP assembled an Advisory Task Force (ATF) for the NPUC/MP Essar Steel HVTL Project. The ATF role was to assist EFP staff in developing the scope of the Environmental Impact Statement (EIS) and in determining specific impacts and issues of local concern that should be assessed in the EIS.

The ATF met three times: Wednesday, August 5, 2009, Wednesday, September 2, 2009, and Wednesday, September 23, 2009. The meetings were held in the Taconite Community Center from 2:00 pm to 5:30 pm. The ATF, through a facilitated process, 1) discussed potential alternative routes and substation locations, 2) discussed potential impacts and possible mitigations, 3) discussed issues of local concern in consideration of the scope of the environmental review document

The ATF released a report on October 21, 2009. Task force members identified impacts and issues to be addressed in the environmental review document; these included impact to real property, potential health and safety issues, and impacts on mining. The task force could not find consensus around any particular route segment alternatives, or recommend any alternative routes outside those proposed; the ATF did recommend adjustments to some of the proposed alignments.

The OES released its EIS Scoping Decision on October 26, 2009. The OES provided a Notice of Scoping Decision to all parties on the project contact list.

The EFP released the draft EIS (DEIS) on February 12, 2010, for public comment. The deadline for comments on the DEIS was March 26, 2010. The EFP issued a Notice of Availability of Draft Environmental Impact Statement and Notice of Public Meeting, in accordance with Minn. R. 7850.2500, subp. 7 and Minn. R. 4410.2600. The notice announced the availability of the DEIS for public review and comment, as well as the public meeting to be held on March 10, 2010, at the Taconite Community Center. The notice also provided the deadline for submission of written comments on the DEIS.

The public meeting was held as provided for in the Notice of Availability of Draft Environmental Impact Statement and Notice of Public Meeting.

The DEIS meeting was attended by approximately 14 individuals, 5 of whom took the opportunity to speak on the record. OES staff led the presentation and presided over the public meeting. The public was encouraged to provide oral comments at the public meeting and to submit written comments to the EFP by March 26, 2010. A court reporter was present at the public meeting to ensure that all oral comments were recorded accurately.

There were three written comment letters submitted by the public, and there were two written comment letters submitted by public agencies, the Minnesota Department of Transportation (MNDOT) and the Minnesota Department of Natural Resources (MDNR). Additionally there was a written comment letter submitted by the Applicants.

Concerns expressed in the public comments on the DEIS included the affect of the HVTL alignment on real property, health and safety issues, and the treatment of EMF impacts.

None of the proposed routes would run parallel to a Minnesota's trunk highway (TH) close enough to occupy a portion of the highway right-of-way (ROW). However, there is potential for some routes (Route 1A and Route 3) to cross over trunk highways, requiring a Utility Permit from the MNDOT. The Department of Transportation's comment letter laid out MNDOT's policies on ROW encroachment and utility permits.

The Department of Natural Resources comments on the DEIS included several comments on the potential affect of the HVTL on natural resources; these included: Mineral Resources, a conifer stand utilized as a deer winter cover area, the crossing of lakes and streams, avian impacts, and potential impacts to rare, threatened or endangered plant species.

OES issued a Notice of Public Hearings on March 15, 2010, and provided the Notice to all individuals on the project contact list. The notice of the public hearings was published on March 28, 2010, in the *Hibbing Daily Tribune* and *Mesabi Daily News*; and on March 25, 2010, in the *Scenic Range News Forum*. Notice of the public hearings was also published in the *EQB Monitor* on March 8, 2010.

A combined public hearing and evidentiary hearing was held on April 7, 2010, at the Taconite Community Center.

The final EIS was released on May 19, 2010. In preparing the Final EIS, the EFP staff considered all comments to the extent practicable. Based on the comments received on the Draft EIS, EFP prepared responses and modified the EIS where appropriate. The EIS was also revised based on EFP's internal technical and editorial review of the DEIS (i.e., changes made to the EIS that were not in response to a comment received).

On June 3, 2010, the ALJ released his report; the ALJ recommended that the Commission issue a HVTL Route Permit to Minnesota Power and Nashwauk Public Utilities Commission for the construction of the proposed 230 kV transmission lines and associated substations. The ALJ also found the final EIS to be adequate, and prepared in compliance with Minnesota Rules 7850.1000 to 7850.5600.

Project Description

NPUC and MP propose to construct four 230 kV transmission lines and two 230 kV substations. The purpose of the project is to supply reliable electric power to a single source entity - Essar Steel Minnesota (ESM). ESM has obtained state approvals to reactivate the former Butler Taconite mine by developing new facilities, including a taconite pellet plant and steel production plant. The Essar taconite pellet facility is expected to commence initial operation by early 2011, with initial steel plant operation planned for early 2014, at which time the projected demand would be approximately 300 megawatts. Although not committed to, ESM has site approvals for a second steel slab melt line, which would increase the ESM facilities' total electric power requirements to approximately 500-550 megawatts if constructed and at full operation.

The four routes would require approximately 37 miles of new transmission lines (**See Study Area Maps**).

Study Area 1 – Shannon end of 94 Line to Essar Steel Plant Substation

Study Area 1 is bordered by MP's 230 kV Boswell to Shannon 94 Line (94 Line) to the north and the Steel property to the south. The east boundary is two miles east of Minnesota Trunk Highway (TH) 65 and the west boundary is two miles west of TH 65. The proposed transmission line would cross over rugged northern Minnesota forestland. TH 65 and a number of county and secondary roads cross the study area; no other major linear infrastructure (transmission lines, pipelines or railroads) are present. The transmission line routes within this study area would be approximately eight miles long.

Study Area 2 – Boswell end of 94 Line to Essar Mine Substation

Study Area 2 is bordered by the 94 Line on the north and west. The southern border is MP's 115 kV Boswell to Nashwauk 28 Line (28 Line) and the eastern border is the ESM property. The proposed transmission line would cross over rugged northern Minnesota forestland. There are a number of county and secondary roads within the study area. The 28 Line is the only other infrastructure right-of-way present. The transmission line routes within this study area would be approximately 10 miles long.

Study Area 3 – Blackberry Substation to Essar Steel Plant Substation

Study Area 3 is bordered by the City of Nashwauk on the northeast, 28 Line on the north and CSAH 10 to the west. The Blackberry Substation is located at the southern border and MP's 115 kV 62 and 63 Lines are located on the eastern border. The proposed transmission line would cross over rugged northern Minnesota forestland. U.S. Highway 169 travels east/west within the study area. There are a number of county and secondary roads, transmission lines, and gas pipelines within this study area. The transmission line routes within this study area would be approximately 15-18 miles long.

Study Area 4 – Essar Mine Substation to Essar Steel Plant Substation

Study Area 4 is located entirely within ESM property and would connect the two new substations. The ESM plant utility right-of-way, including a new railroad and several secondary roads are located within the study area. The transmission line routes within this study area would be approximately three miles long.

Essar Mine Substation

The Essar Mine Substation would occupy approximately 1.4 acres of land. This substation would be on the western side of the ESM property. The substation would be connected to the 94 Line, via Route 2 or 2A, and would also be connected to the Essar Steel Plant Substation via Route 4 or 4A.

Essar Steel Plant Substation

The Essar Steel Plant Substation would occupy 4.5 acres of land. This substation would be located on the northern portion of the ESM property. The substation would be connected to the Shannon end of the 94 Line, the Blackberry Substation, and the Essar Mine Substation.

EFP Staff Analysis and Comments

EFP staff has reviewed MP and NPUC's application for a HVTL Route Permit and the record. The proposed HVTL project was examined in detail in the EIS and at the public hearings. The proposed HVTL project is suitable for construction and operation at the proposed routes relative to the factors to be considered under Minnesota Rule 7850.4100.

The record supports several specific items that merit consideration relative to special conditions in the HVTL Route Permit for the Essar Steel HVTL project. These items include:

- Deer Wintering Area. Route 2, a 1.6 mile north-south portion west of Riley Lake passes through an area identified by the Minnesota Department of Natural Resources (MDNR)

as an important deer wintering area. The applicants shall work with representatives of the MDNR (Ecological Services) to select an alignment and/or overhead construction design within Route 2 that minimizes the impact to this resource (See HVTL Route Permit, Section IV.K.1);

- Botanical Survey. Known locations of state-listed threatened/endangered plants have been identified within the Study Area 3. These species (i.e., *Botrychium oneidense* and *Platanthera flava* var. *herbiola*) may also occur within the proposed Route 3 if suitable habitat exists. The applicants shall work with representatives of the MDNR (Ecological Services) to determine the need for botanical surveys on the anticipated alignment within Route 3 (See HVTL Route Permit, Section IV.K.2);
- Mineral Resources. Route 3, the proposed HVTL crosses the Biwabik Formation and has potential to impact State Trust minerals for which the MDNR has fiduciary responsibility to manage. The applicants shall work with representatives of the MDNR (Division of Lands and Minerals) to determine the most appropriate alignment and/or language (License to Cross Public Lands) to protect these resources (See HVTL Route Permit, Section IV.K.3);

Based on the analysis above, EFP staff makes the following recommendation.

Commission Decision Options

A. Approve and adopt the Findings of Fact, Conclusions of Law and Order for the Minnesota Power and Nashwauk Public Utilities Commission's Essar Steel HVTL project (PUC Docket No. E280/TL-09-512) which:

1. Determines that the environmental impact statement and record created at the public hearing address the issues identified in the EIS Scoping Decision;
2. Designates the four (Route 1, 2, 3, and 4) proposed routes and two substation locations (Essar Steel Mine and Essar Steel Plant) as the routes/sites for the construction/implementation of the Essar Steel HVTL project and associated facilities; and
3. Issue a HVTL Route Permit, with appropriate conditions, to MP and NPUC.

B. Approve and adopt the Findings of Fact, Conclusions and Order as above while modifying the permit conditions as deemed appropriate.

C. Amend the Findings of Fact, Conclusions and Order and Route Permit as deemed appropriate.

D. Make some other decision deemed more appropriate.

EFP Staff Recommendation: Staff recommends Option A.