

OAH Docket No. 8-2500-20664-2

MPUC Docket No. E-280/TL-09-512

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application for a High
Voltage Transmission Line Route Permit for the
Essar Steel Transmission Project

**SECOND
PREHEARING ORDER**

This matter came before Administrative Law Judge Eric L. Lipman during a September 30, 2009 Prehearing Conference. The conference was held at 1:00 p.m. on that date in the Commission's small hearing room.

The following persons noted their appearance: David R. Moeller, appeared on behalf of the Applicant Minnesota Power. Karen Finstad Hammel, Assistant Attorney General, appeared on behalf of the Department of Commerce Office of Energy Security (OES). Michael Kaluzniak, Minnesota Public Utilities Commission, appeared on behalf of the Public Utilities Commission (the Commission or MPUC).

Based on the discussions during the prehearing conference, and upon all of the files, the Administrative Law Judge makes the following:

ORDER

Jurisdiction and Procedure

1. By Order dated July 14, 2009, the Minnesota Public Utilities Commission (Commission) in E-280/TL-09-512 issued its Notice and Order for Hearing of the above-referenced matter. By the terms of that Order, the Commission referred this matter to the Office of Administrative Hearings to develop a record as to whether the proposed route of the project meets the criteria set forth in in Minn. Stat. § 216E.03, subdivision 7.

2. This scheduling order organizes proceedings such that transmittal of the Administrative Law Judge's report and a final decision by the Commission can occur within the time period set forth in Minn. Stat. § 216E.03, subdivision 9.¹

¹ See, E-Docket No. 200910-42785-01.

Parties and Intervention

3. Only the Applicants were named as a party by the Commission in its Notice and Order for Hearing.

4. Any person desiring to become a formal party must file a Petition to Intervene by 4:30 p.m. on **Wednesday, March 10, 2010**. Any person petitioning to intervene after that date may be restricted as to the scope of their participation. Any existing party that wishes to object must file an objection within seven days of service of the petition. Petitions to Intervene shall comply with Minn. R. 1400.6200.

5. Members of the public need not become formal parties in order to participate in the hearing. Members of the public may offer either oral or written testimony, and they may offer exhibits for inclusion in the record. As detailed below, several hearings for receiving public comment will be held.

6. Any person who desires to be placed on the service list as a non-party participant must file a written request with the Administrative Law Judge and provide a copy of this request to Michael Kaluzniak of the MPUC. Any person may subscribe to this docket so as receive electronic notices of filings through the E-Docket system.

Schedule

7. The following schedule is adopted for this proceeding:

Milestone	Date
Release Date for the Draft EIS	February 19, 2010
Applicant's Pre-Filing of Direct Testimony	March 1, 2010
Closing Date for Intervention	March 10, 2010
Public Meetings on the Draft EIS	March 18, 2010
Intervenor's Pre-Filing of Direct Testimony, Submission of OES Comments	March 19, 2010
Pre-Filing of Rebuttal Testimony, Submission of Additional OES Comments	March 30, 2010
Pre-Filing of any Surrebuttal Testimony and Closing Date for Comments on the Draft EIS	April 2, 2010
Contested Case Hearings	April 7, 2010
Closing Date for Post-Hearing Public Comments	April 19, 2010

Submission of Initial Post-Hearing Briefs, OES Comments	April 19, 2010
Submission of Response Post-Hearing Briefs, OES Comments	April 28, 2010
Issuance of Final EIS	May 14, 2010
ALJ Report	May 28, 2010

Procedure

8. This proceeding will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57 through 14.62; the rules of the Office of Administrative Hearings, Minn. R. 1400.5100 through 1400.8400; and, to the extent that they are not superseded by the Contested Case Rules, the Commission’s Rules of Practice and Procedure, Minn. R. 7829.0100 to 7829.3200.

Filing of Documents

9. Prefiled testimony and exhibits may be in any reasonable format that is understandable, logically organized, and capable of being cited by page and line number, paragraph number, or similar identifier.

10. All documents filed, including prefiled testimony, but excluding information requests and responses, shall be filed as follows:

a. The official record copy shall, whenever practicable, be filed using the E-file system. Prior to the issuance of the Report of the Administrative Law Judge, any exhibit that cannot be E-Filed must be filed by delivery or mailing to the Administrative Law Judge, at:

Honorable Eric L. Lipman
Administrative Law Judge
Office of Administrative Hearings

Mailing Address: P.O. Box 64620
St. Paul, MN 55164-0620

Street Address: 600 North Robert Street
St. Paul, MN 55101

b. After the Administrative Law Judge’s Report is issued, the parties shall file the original of all documents with the Executive Secretary of the Commission, as specified by the Commission.

11. Copies of all documents shall be served on the persons listed on the attached service list, in the manner indicated. E-filing is sufficient service on those persons so indicated on the official service list. The list will be revised as necessary by the Office of Administrative Hearings. Service shall be made according to the most current service list maintained on the MPUC E-Service system.

12. Pursuant to Minn. R. 1400.5100, subp. 9, and Minn. R. 7829.0400, subp. 1, the effective date of filing shall be the date the document is E-filed with the Commission.

13. Proof of service shall be filed with each filed document or within three business days thereafter.

14. Trade Secret and other nonpublic data shall be transmitted by United States Mail or courier, not by e-mail. Trade Secret and other nonpublic data filed with the Administrative Law Judge or Commission shall be prepared and marked in accordance with the Commission's September 1, 1999, Revised Procedures for Handling Trade Secret and Privileged Data. The Revised Procedures are accessible at: http://www.puc.state.mn.us/portal/groups/public/documents/pdf_files/000671.pdf.

Discovery

15. Discovery shall be by information request and response. Further discovery may be had in accordance with Minn. R. 1400.6700 - 1400.6900 by agreement or by motion to the Administrative Law Judge.

16. Information Requests shall normally be made by e-mail to the person from whom the information is sought and a copy shall be e-mailed to all parties. Information Requests containing references to other documents shall be sufficiently detailed to inform the other parties of the nature of the request. Information Requests and responses shall not be E-filed, sent to the Administrative Law Judge or sent to the Court Reporter. The party responding to the Information Request shall provide the information requested within ten business days after receipt of the request. There shall be a continuing obligation to update and supplement information responses. The information need not be supplied as a matter of course to other parties unless specifically requested by a party. Information Requests received after 4:00 p.m. on business days or on weekends or State holidays shall be considered to be received on the following business day, except that any U.S. Mail received during business hours shall be considered to be received on the same day.

17. In the event the information cannot be supplied within the required time, the responding party shall notify the requesting party as soon as reasonably possible in advance of the deadline of the reasons for not being able to supply the information and to work out a schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party. Notice of

such a motion should be made by Electronic mail, if practicable, and may be heard by telephone conference among the Administrative Law Judge and affected parties.

18. Parties asked to provide information they deem confidential or nonpublic may require the requesting party to comply with the terms of a reasonable protective agreement or the Minnesota Government Data Practices Act. A protective Order may be obtained upon application to the Administrative Law Judge.

Prefiled Testimony and Order of Testimony

19. At the hearing, prefiled testimony and exhibits shall be offered and received as hearing exhibits and exhibit numbers shall be assigned at that time. In the case of E-filed documents, the sponsoring party will provide the unique E-file system designation on the document. Prefiled testimony that is amended in total or that is not offered into the record shall be considered withdrawn and the sponsoring witness may not be cross-examined concerning the withdrawn testimony. Except for cause shown, all substantive revisions or corrections to any prefiled testimony shall be filed with the Administrative Law Judge and served on the parties no later than 4:30 p.m. on Friday, February 5, 2010. E-filing shall be used to the extent practicable.

20. Except for good cause shown, only matters that are offered in reply to another party's direct or evidence shall be offered in rebuttal exhibits.

21. Unless the parties agree otherwise, the order of testimony and questioning in the Stage One sessions of the hearing shall be: the Applicants, Intervenors in order of intervention, and OES.

Examination of Witnesses

22. Witnesses shall be permitted five minutes to summarize the key contentions in their prefiled testimony. Additional time may be allowed by the Administrative Law Judge, if necessary, or to permit a witness to respond to new issues raised by other parties in those instances in which no response was previously allowed.

23. Parties, if they are represented by counsel, shall examine and cross-examine witnesses through their attorneys. Any party not represented by counsel may examine and cross-examine witnesses through any one representative chosen by the party. Only parties may examine witnesses during the evidentiary hearing.

24. Except for good cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party files and serves an objection prior to commencement of the evidentiary hearing. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony that is not the subject of an objection shall be admitted during the evidentiary hearings without the necessity of laying foundation for the testimony.

25. This Order may be amended upon application to the Administrative Law Judge for good cause shown.

Dated: October 28, 2009

/s/ Eric L. Lipman

ERIC L. LIPMAN
Administrative Law Judge



MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

600 North Robert Street
Saint Paul, Minnesota 55101

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P.O. Box 64620
St. Paul, Minnesota 55164-0620

Voice: (651) 361-7900
TTY: (651) 361-7878
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October 28, 2009

All Parties on the Official Service List

**Re: *In the Matter of the Application for a High Voltage Transmission
Line Route Permit for the Essar Steel Transmission Project;
OAH Docket No. 8-2500-20664-2
MPUC Docket No. E-280/TL-09-512***

To the Parties:

The document listed below has been filed with the E-Docket system and served as specified on the attached service list.

Second Prehearing Order

Sincerely,

/s/ Eric L. Lipman

ERIC L. LIPMAN
Administrative Law Judge

Telephone: (651) 361-7842

ELL:mo
Encl.

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
P. O. BOX 64620
ST. PAUL, MINNESOTA 55164-0620

CERTIFICATE OF SERVICE

Case Title: <i>In the Matter of the Application for a High Voltage Transmission Line Route Permit for the Essar Steel Transmission Project</i>	OAH Docket No. 8-2500-20664-2 MPUC Docket No. E-280/TL-09-512
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Mary Osborn certifies that on Wednesday, October 28, 2009, she served a true and correct copy of the attached Second Prehearing Order; by placing it in the United States mail with postage prepaid, addressed to the following individuals:

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret
Bryan	Adams	badams.nashwauk@mcshi.com	Nashwauk Public Utilities Commission	301 Central Avenue Nashwauk, MN 55769	Paper Service	No
Julia	Anderson	Julia.Anderson@state.mn.us	MN Office Of The Attorney General	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes
Sharon	Ferguson	sharon.ferguson@state.mn.us	State of MN - DOC	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	Yes
Burl W.	Haar	burl.haar@state.mn.us	MN Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes
Karen Finstad	Hammel	Karen.Hammel@state.mn.us	MN Office Of The Attorney General	1400 BRM Tower 445 Minnesota Street St. Paul, MN 551012131	Electronic Service	Yes
Stacy	Kotch	Stacy.Kotch@state.mn.us	Minnesota Department of Transportation	395 John Ireland Blvd. St. Paul, MN 55155	Electronic Service	Yes
John	Lindell	agorud.ecf@state.mn.us	OAG-RUD	900 BRM Tower 445	Electronic Service	Yes

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret
Robert	Lindholm	rlindholm@allete.com	Minnesota Power	Minnesota St St. Paul, MN 551012130 30 West Superior Street Duluth, MN 55802	Paper Service	No
Eric	Lipman	eric.lipman@state.mn.us	Office of Administrative Hearings	PO Box 64620 St. Paul, MN 551640620	Paper Service	Yes
David	Moeller	dmoeller@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Paper Service	No
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	Ste 122 9100 W Bloomington Frwy Bloomington, MN 55431	Electronic Service	Yes