BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Ellen Anderson	Chair
Phyllis Reha	Vice Chair
David Boyd	Commissioner
J. Dennis O'Brien	Commissioner
Betsy Wergin	Commissioner

In the Matter of the Application for a Route Permit for the Fargo to St. Cloud 345 kV Transmission Line Project	**ISSUE DATE: June ___, 2011** **DOCKET NO. E002, ET2/TL-09-1056** **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER ISSUING AN HVTL ROUTE PERMIT TO XCEL ENERGY AND GREAT RIVER ENERGY**

The above-captioned matter came before the Minnesota Public Utilities Commission (Commission) on June 10, 2011, for action on an application by Xcel Energy and Great River Energy (Applicants), for a route permit to construct a new 180-mile transmission line project in Clay, Wilkin, Otter Tail, Grant, Douglas, Todd and Stearns counties.

Twelve public hearings were held in ten locations between November 16, and December 2, 2010. The hearings were presided over by Beverly Jones Heydinger, Administrative Law Judge for the Minnesota Office of Administrative Hearings (OAH). The hearings continued until all persons who desired to speak had done so. An evidentiary hearing was held on December 6-10, and 15, 2011, in St. Paul. The comment period closed on January 5, 2011.

STATEMENT OF ISSUE

Should the Commission find that the Environmental Impact Statement (EIS) addresses the issues raised in scoping? Should the Commission issue a route permit identifying a specific route and permit conditions for the Fargo to St. Cloud 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 25, 2011, Administrative Law Judge's *Findings of Fact, Conclusions and Recommendation* for the Fargo to St. Cloud Transmission Project related to OAH Docket No. 15-2500-20995-2 and PUC Docket No. E002, ET2/TL-09-1056, with the additions, changes, and deletions set forth below.

Finding 18 is amended to correctly reflect the recommendations of the Department of Natural Resources:

> 18. The Minnesota Department of Natural Resources (DNR) offered comments addressing the impact of the route alternatives on lands it owns and manages, the impact of the route alternatives on the environment, and mitigation. It requested that the Applicants avoid identified high bird-use areas and migration corridors, state managed resources and federally owned or managed resources, and the placement of lines between these areas. Recognizing that the route selection must take into account several criteria, the DNR recommended selection of Route A for the North Dakota to Alexandria segment. For~~, and the Modified Preferred Route from~~ the Alexandria to Sauk Centre segment, the DNR recommends following Route A east to Option 6, and then following Option 6 to the Preferred Route. On the expanded portion of the Preferred Route near the city of Sauk Centre, the DNR generally concurs with the alignment shown on sheets 50 and 51 (DEIS Appendix H), but encourages avoidance of the McCormick Lake WPA by changing alignment near the WPA. It recommended selection of ~~Route D or~~ Route G with Option 11 from Sauk Centre to St. Cloud.[1]

Finding 85, footnote 66 is amended to correctly cite to Minnesota Rule 7850.4100K for the finding that the Commission must consider electrical system reliability.

> 85: In selecting a route the Commission must consider the effect on electrical system reliability.[66]
>
> 66. Minn. R. ~~7800~~7850.4100 K.

Finding 144 is amended to correctly identify route segment AS-1 as Amended Scope Area 1:

> 144. After Applicants filed the Application, they incorporated two changes to the Preferred Route. The **Modified Preferred Route** is approximately 101 miles long. It includes a 17-mile east/west segment alternative near Barnesville and just north of 150th Street North, traveling

[1] DNR Comment Letter dated January 5, 2011 .

from I-94 to 70th Street South (identified in the DEIS as "~~Alternate~~Amended Scope Area 1" or **AS-1**). Public officials in the Fargo area urged the Applicants to consider routing the transmission line south of the original Preferred Route crossing of the Red River at Clay County Highway 8 because of expected growth to the south of Fargo, and to co-locate transmission lines with the United States Army Corps of Engineers' planned flood-control project (Diversion Project) to the extent possible.

Finding 174 is amended to correctly state that Options 2A and 2B run parallel to the Glacial Ridge Trail rather than the King of Trails Byway:

174. The Modified Preferred Route includes two scenic byway crossings in the North Dakota to Alexandria segment -- the crossing of the king of Trails Byway and the Glacial Ridge Trail. Route A includes one scenic byway crossing in this segment -- the King of Trails Byway. The Modified Preferred Route, Option 2A and Option 2B each parallel the ~~King of Trails Byway~~ Glacial Ridge Trail for one mile.

Finding 245 is amended to state the correct incremental cost for Option 2B:

245. Option 2A will add approximately $15.7 million to the cost of the Modified Preferred Route; Option 2B will add about ~~$14.6~~$1.0 million to the cost.

Finding 338 is amended as requested by the DNR to reflect discussions prior to the issuance of the DEIS:

338. In preparing the DEIS, OES ~~coordinated~~ consulted with the USFWS and DNR ~~and did not identify any areas of concern~~ with regard to this segment. The impact on habitat was also evaluated. Although both alternatives have relatively little impact, Route A impacts a WMA (220 acres within the Route, 12 within the right-of-way), and MCBS Site designated as Moderate (56 acres within the Route, 10 within the right-of-way), and five native plant communities (32 acres with the Route, 5 within the right-of-way. There are none within the Modified Preferred Route.

Finding 346 is amended to correctly state the DNR's recommendations:

346. The DNR would prefer to follow Route A to Option 6, then to avoid Minnesota County Biological Survey (MCBS) sites of biodiversity significance, rare features, and public lands, it is recommended to use Option 6 and then follow the Preferred Route east to the beginning of the Sauk Centre to St. Cloud segment. On the expanded portion of the Preferred Route near the city of Sauk Centre, the DNR concurs with the alignment shown on sheets 50 and 51 (DEIS Appendix H) to avoid the McCormick Lake Waterfowl Production Area (WPA) is recommended by changing alignment within the expanded right-of-way to

reduce possible effects to waterfowl. ~~and then go north to the Modified Preferred Route along 12th Street in Sauk Centre for the rest of the segment to avoid environmentally sensitive areas.~~ South of Option 6, Route A does not follow existing roads, trails or transmission lines. Route A will cross Hoboken Creek, Sauk River WMA and Native Plant communities, but would not appear to have a greater impact on the environment and residences than moving the Modified Preferred Route alignment closer to I-94 south of Sauk Centre.

Findings 306 and 347 are amended to reflect significant routing constraints and the uncertainty of future upgrades and expansions of the Sauk Centre Airport in light of information submitted by Applicants, the Federal Aviation Administration, the Minnesota Department of Transportation and the city of Sauk Centre:

306. ~~In the event that the Modified Preferred Route cannot be aligned~~ A more reasonable alternative to comply with federal and state aviation standards and address the City's objections to alignment along 12th Street~~, an alternative~~ is to follow the Modified Preferred Route to Option 6, then follow Option 6 and Route A to the point where Route A rejoins the Modified Preferred Route at the end of this segment. This would add about 3.5 miles to the length of the Modified Preferred Route, at an estimated cost of $1.7 million per mile. With certain limitations on the height of one or two transmission line structures, Option 6 and Route A around the City could be constructed to comply with the airport safety clearances.

347 ~~If MnDOT, the FAA and the City cannot find an acceptable alignment for the Modified Preferred Route, the~~ The transmission line should follow the Modified Preferred Route south from Alexandria to Option 6, along Option 6 to Route A, and follow Route A to the point of reconnection with the Modified Preferred Route south of Sauk Centre. This selection would avoid the airport, the developed part of the City and significantly reduce the number of freeway crossings. ~~If this alternative is selected, the~~ The Route Permit should require the Applicants to coordinate with the DNR to mitigate the alignment's impact.

Supplemental Findings 1-3 are adopted to clarify the Applicants' route width requests at the close of the contested case proceeding as requested by the ALJ and which are relevant to the permitted route.

Supplemental Finding 1. Applicants generally request a 1,000 foot route width, except in areas where they believe flexibility is needed to develop an alignment to avoid certain constraints (e.g., interstate connections, residences, or United States Fish and Wildlife (USFWS) areas) or in areas where USFWS Wildlife Production Areas (WPAs) must

be avoided."[2] For the portion of the route from the North Dakota border to Sauk Centre, Applicants request wider route segments identified as Widened Area Numbers 1, 4-10, and 12-27. For Route Segment G between Sauk Centre and the Quarry Substation at St. Cloud, Applicants request Widened Area Numbers 31-33 and 35.[3]

Supplemental Finding 2. The Applicants also request the following widened areas which were developed through the record as part of the Modified Preferred Route and recommended by the ALJ: 1) Option 13, a site-specific consideration to accommodate an existing personal use airstrip;[4] 2) the Minnesota-North Dakota border at a point approximately three miles south of the Applicants' initial Preferred Route and running 17 miles easterly, which was an amended scope request to modify the preferred route to avoid future Red River flood mitigation construction; and 3) an amended scope request to add 4.3 acres at the Alexandria Switching Station.[5]

Supplemental Finding 3. Areas where Applicants seek a narrowed route width were set forth in Table 1.5-2 in the DEIS.[6] The narrowed route widths are also depicted in the Applicants' Tile Maps.[7] The table produced by the Applicants is a reproduction of Table 1.5-2 in the DEIS which includes only portions of the DEIS' table that remain relevant in light of the ALJ's overall recommendation, with minor modifications and comments from the record in redline.[8]

Supplemental Finding 4 is adopted to reflect the various route widths included in the permit.

Supplemental Finding 4. Applicants revised route permit maps showing locations which narrow the route from 1,000 feet to a 600 foot-wide route width, except for those areas where they continue to request a specified width of 400 feet or 1,000 feet to 1.25 miles, for the ALJ's Recommended Route, are allowable under the PPSA. The route widths depicted on Applicants' revised maps represent a reasonable balancing of the Applicants' request for flexibility and a reasonable degree of predictability of impacts on the environment and landowners.

Conclusion 10 is amended to correctly state the route description for which the permit is granted:

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[2] Applicants' Exceptions to the ALJ Report at 3.
[3] Exhibit 1A at 2-13, Figure 2-4 (Route Permit Application).
[4] ALJ Report at ¶ 256 and Conclusion 8.
[5] Applicants' Exceptions to the ALJ Report at 3-4.
[6] Exhibit 22 at 1-34, Table 1.5-2 (DEIS "Areas with Decreased Route Width").
[7] Ex. 4.
[8] Applicants' Exceptions to the ALJ Report at 4.

10. For the Alexandria to Sauk Centre segment of the Route, the Modified Preferred Route from Alexandria to Option 6, to Route A until it rejoins the Modified Preferred Route, satisfies the route permit criteria set forth in Minn. Stat. § 216E.03, subd. 7 (a), 7(b), and Minn. R. 7850.4000, and 7850.4100. For this segment, the Modified Preferred Route with Option 6 and the Route A segment proceeding south of Sauk Centre presents a potential for significant adverse environmental effects, but there is no feasible and prudent alternative. The Modified Preferred Route is the best alternative on the record for the 345 kV transmission line from Alexandria to Sauk Centre.

Conclusion 11 is rejected as it is no longer necessary in light of the changes to Conclusion 10 above:

~~11. In the event that the Modified Preferred Route cannot be aligned to meet MnDOT airport clearance requirements and avoid 12th Street in Sauk Centre, the Modified Preferred Route should be followed from Alexandria to Option 6 and then follow Route A to the point where it rejoins the Modified Preferred Route.~~

Conclusion 15 is amended to reflect the route widths described in Supplemental Finding 4 above:

15. The record demonstrates that it is appropriate for the Route Permit to provide a 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 miles, as shown on Applicants revised tile maps. ~~The Route Permit should provide the Applicant's with a route width of up to 1,000 feet. The record is unclear as to the areas where the Applicants continue to seek a wider route width or narrower route width and that information should be provided to the Commission.~~

The ALJ's Conclusion 20 is rejected because the Route Permit includes a condition that provides for a process for handling issues that arise with regard to other agency requirements:

~~20. As a condition of the Route Permit the Applicants should seek approval from the Commission to place a portion of the transmission line underground if necessary to comply with restrictions imposed by the DNR or USFWS, consistent with Minn. R. 6135.1100 and 6135.1200.~~

Conclusion 21 is amended to be consistent with the conditions that are included in the Route Permit:

21. As a condition of the Route Permit, the Applicants should develop a Construction Environmental Control Plan, which shall include an Agricultural Impact Mitigation Plan, Avian ~~Protection~~ Mitigation Plan, ~~Environmental Management Plan,~~ Re-vegetation and Restoration Plan~~s~~,

and a Stormwater Pollution Prevention Plan~~, Environmental Mitigation Plan and all policies, permits, plans, and protocols,~~ to minimize and mitigate the potential impact associated with the construction and operation of the transmission line. The ~~control plan shall require the~~ Applicants shall ~~to~~ consult with the DNR concerning right-of-way management, use of bird diverters, and construction near water bodies, wetlands, native plant communities and breeding areas. The Applicants ~~should also be required to~~ shall retain and/or fund an environmental monitor to oversee implementation and compliance with the Construction Environmental Control Plan.

Based on the Findings of Fact the Commission makes the following:

CONCLUSIONS OF LAW

1. Any of the foregoing Findings more properly designated as Conclusions are hereby adopted as such.

2. The Public Utilities Commission has jurisdiction over the subject matter of this proceeding pursuant to Minnesota Statute 216E.03, subdivision 2.

3. The project qualifies for review under the full permitting process of Minnesota Statute 216E.03 and Minnesota Rule 7850.1700-2700.

4. The applicants, the Department of Commerce Energy Facility Permitting (EFP) unit, and the Public Utilities Commission have complied with all procedural requirements required by law.

5. EFP has completed an environmental impact statement of this project as required by Minnesota Statute 216E.03, subdivision 5, and Minnesota Rule 7850.2500.

6. The Public Utilities Commission has considered all the pertinent factors relative to its determination of whether a route permit should be approved as required by Minnesota Statute 216E.03, subdivision 7, and Minnesota Rule 7850.4100.

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

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

ORDER

1. A route permit is hereby issued to Northern States Power Company, dba Xcel Energy, and Great River Energy to construct approximately 180 miles of 345 kV transmission line between the North Dakota border south of Fargo, through Alexandria and continuing through to the Quarry Substation in St. Joseph Township. The Applicants are issued a route width of 600 feet along their proposed route except as noted in the permit conditions and denoted on the route maps. Applicants are also permitted to upgrade the Alexandria Switching Station and update the Quarry Substation as per their proposal.

2. The route permit shall be issued in the form attached hereto, with maps showing the approved route.

Approved and adopted this _____ day of June 2011.

BY ORDER OF THE COMMISSION

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Burl W. Haar,
Executive Secretary