BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Phyllis A. Reha	Vice Chair
David C. 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: April 12, 2012

DOCKET NO. E-002,ET-2/TL-09-1056

ORDER APPROVING MINOR ALTERATIONS AND ISSUING A ROUTE PERMIT AMENDMENT

PROCEDURAL HISTORY

On June 24, 2011, the Commission issued to Northern States Power Company d/b/a Xcel Energy and Great River Energy (collectively, the Permittees) a route permit to build a 213-mile, 345-kilovolt (kV) high-voltage transmission line between Fargo, North Dakota and St. Cloud, Minnesota along a specified route.[1]

On September 21, 2011, the Permittees filed a petition under Minn. Rules, parts 7850.4800 and 7850.4900, to make various minor changes to the approved route. On October 7, the Permittees supplemented their petition to supply an omitted page describing Route Adjustments 4.0 and 4.1 in Sterns County's Oak Township, 35 miles northwest of St. Cloud.

On November 21, 2011, the Minnesota Department of Commerce (the Department) filed comments favoring Adjustment 4.0 over 4.1, noting that the earlier route had received the benefit of greater scrutiny and procedural review.

On November 29, 2011, the petition came before the Commission – but the Permittees withdrew their request for a decision on Adjustments 4.0 and 4.1 pending further discussions with stakeholders.[2]

On December 21, 2011, the Permittees proposed Route Adjustment 4.2 in addition to Adjustments 4.0, 4.1, and the route authorized in the Commission's June 24, 2011 order (the Permitted Route).

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[1] Findings of Fact, Conclusions of Law, and Order (June 24, 2011), this docket.

[2] Order Approving Minor Alterations and Issuing a Route Permit Amendment (January 9, 2012), this docket.

On February 10, 2012, the Department filed comments received from landowners and state agencies. Among other comments, the Minnesota Department of Natural Resources recommended that the Petitioners install bird diverters to minimize the risk of birds colliding with the proposed transmission lines.

On February 29, 2012, the Department filed comments, concluding that the procedural requirements for ruling on the Permittee's minor alteration petition had been fulfilled.

On March 8, 2012, the petition came before the Commission. The Commission received recommendations from members of the public. The Commission also received comments from the Permittees, the Department of Commerce, and the Department of Natural Resources, but none of them offered a recommendation at that time.

FINDINGS AND CONCLUSIONS

I. Summary

In the order the Commission does the following:

- Approves Adjustment 4.2 as depicted on the Minor Alteration Application map relocating the transmission line outside the designated route, and issues the relevant Permit Amendment.

- Directs Permittees to work with the Minnesota Department of Natural Resources to place bird diverters in the necessary areas.

II. Introduction and Background

High-voltage transmission lines and the towers required to support them are disruptive to the natural environment and to residents, landowners, and communities along their routes. For that reason, both the Power Plant Siting Act,[3] which governs transmission routing decisions, and the rules enacted under that Act[4] require careful analysis of scores of factors before arriving at an approved route.

As the Commission was considering whether to grant a route permit for this project, the Permittees assured the Commission that they would work with landowners and residents along any approved route to reduce adverse effects as much as possible. This collaborative process resulted in various minor route change proposals, including the proposals under consideration in this order.

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[3] Minn. Stat. Chapter 216E; see § 216E.03 for routing criteria and considerations.

[4] Minn. Rules Chapter 7850; see parts 7850.4000 through 7850.4400 for routing criteria and considerations.

III. Route Alternatives

The four proposed route alternatives are described below.

A. The Permitted Route

Thirty-five miles northwest of St. Cloud, Sterns County's Oak Township is located just south of the City of Freeport. County Road 11 extends south from Freeport for roughly one mile, turns southwest for roughly 3000 feet, then turns south again, crossing County Road 30. Roughly 4000 feet to the west, Rimcrest Road parallels County Road 11 but terminates at its southern end into County Road 30, which runs east and west.

The Route Permit authorizes the Permittees to build the proposed transmission line extending south along Rimcrest Road, east along County Road 30, then turning south again at County Road 11.

This route has the advantage of paralleling an existing right-of-way. As the earliest proposal, this route has received the greatest degree of scrutiny from participants and received the support of an advisory task force.

However, this route passes near a Public Water Wetland with open water, and passes near wetlands registered with the National Wetland Inventory. It also passes within 500 feet of five residences, and within roughly 1000 feet of three more.

B. Adjustment 4.0

As noted above, both Rimcrest Road and County Road 11 travel south, turn southwest, then turn south again. While the Permitted Route follows Rimcrest Road where it turns southwest, Adjustment 4.0 continues south for an additional 800 feet before turning southwest. Adjustment 4.0 then reconnects with the Rimcrest right-of-way.

The chief advantage of Adjustment 4.0 is that it reduces the number of residences located within 500 feet of the line by one. In most other respects, this route would retain most of the advantages and disadvantages of the Permitted Route.

Adjustment 4.0 would, however, require an additional 0.6 miles of new right-of-way and would come in contact with land registered with the National Wetlands Inventory.

C. Adjustment 4.1

Where Adjustment 4.0 begins tapering southwest to intercept Rimcrest Road, Adjustment 4.1 instead routes the line east across agricultural land, intersecting County Road 11 as it jogs southwest. Adjustment 4.1 then routes the line along County Road 11 as it slopes southwest and then turns south.

Adjustment 4.1 passes within 500 feet of only two residences, and there are no additional residences within 1000 feet of the line. In addition, this route is slightly shorter than the prior

routes, resulting in fewer acres of agricultural land within the right-of-way and fewer poles required for the line. And this route avoids proximity to the Public Water Wetland passed by the Permitted Route and Route 4.0.

But Adjustment 4.1 would also bisect farmland under cultivation. The right-of-way would cover nine acres of land registered on the National Wetlands Inventory, and would require the placement of one or two poles within the wetland. This route would also cross four intermittent streams, drainages, or waterways, and would parallel the snowmobile trail that follows the shoulder of County Road 11.

Finally, a nearby landowner, Joel Elfering, objects to this adjustment. Although the line would not cross Mr. Elfering's land under either the original or the adjusted route - and no easement would be required in either case - the adjustment would move the line to within 150 - 175 feet of his residence.

D. Adjustment 4.2

Where Adjustment 4.1 follows County Road 11 as it turns southwest, Adjustment 4.2 crosses County Road 11 and then turns due south. After roughly 4000 feet – sometimes following a parcel line -- the transmission line then turns southwest until it intersects County Road 11, where it continues south.

In addition to all the advantages of Adjustment 4.1, Adjustment 4.2 has the advantage of passing within 500 feet of only one residence. In particular, this route passes roughly 1000 feet away from Joel Elfering's residence, and 845 feet from his property line.

Among its disadvantages, Adjustment 4.2 would cover more land outside existing rights-of-way -- including an additional acre of wetlands -- and travel over more cultivated farmland than any of the other alternatives. In addition to crossing intermittent streams, this route would cross one perennial stream.

The Elferings oppose Adjustment 4.2, but find it preferable to Adjustment 4.1.

IV. Comments

A. The Permittees

The Permittees began consulting with affected residents and landowners as soon as the route permit was issued. They reported that local interest in the transmission route was high and that neighbors often worked together in small groups, looking for non-controversial ways to move the line farther from residential and farmstead properties. They also reported that in several cases landowners not affected by the original route agreed to have the line moved onto their property to reduce its impact on their neighbors.

The Permittees stated that the four alternative routes proposed here are constructable, are supported by all landowners from whom easements would be required, and are comparable in cost

to the segments of the original route they would replace. The changes were also reported to be comparable to the original route segments in their effects on the human and natural environment. The Permittees acknowledge the value of following existing rights-of-way, but balanced this interest with the interest of minimizing consequences for human habitation.

For each proposed route change, the Permittees filed (1) a brief narrative description; (2) maps depicting the proposed change and the original segment it would replace; and (3) spreadsheets with side-by-side comparisons of each route's impact on the human and natural environment.[5]

The Permittees report that landowners are willing to sign easements for any of the alternatives.

B. The Department of Commerce

The Department concludes that Adjustment 4.0 easily qualifies as a minor alteration within the meaning of Minn. Rules, part 7850.4800, in that it clearly would "not result in significant changes in the human or environmental impact of the facility" relative to the Permitted Route.

Adjustments 4.1 and 4.2 deviate from the Permitted Route to a greater extent, making the application of part 7850.4800 less clear. While some commentors object that Adjustments 4.1 and 4.2 have not received the same scrutiny as routes proposed at earlier stages of the process, the Department concludes that all procedural steps for adopting a minor alternation have been fulfilled.

The Department initially recommended that the Commission approve Adjustment 4.0 because that alternative had received the benefit of greater scrutiny and procedural review than the other adjustments.[6] But in later comments[7] and during the Commission's hearing of March 8, 2012, the Department no longer identified a preferred route alternative.

C. Department of Natural Resources

The Department of Natural Resources observes that each of the proposed routes comes close to waterways that attract wildfowl, and consequently recommends that the Permittees install bird diverters. These devices are designed to make power lines more visible to birds, and thereby reduce the frequency with which birds collide with the lines.

D. The Public

Residents and owners of property along Rimcrest Road generally favor Adjustments 4.1 and 4.2, which would re-route the line away from their street. They note the benefit of minimizing the number of residences within proximity of the line. They express concern about the potential

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[5] Permittees' supplemental route adjustment application (December 1, 2011).

[6] Department comments (November 21, 2011).

[7] Department comments (February 29, 2012).

consequences of stray voltage for the twelve adults, twelve children, five dairy farms, and a hog farm in the vicinity. They also express concern that building a line along Adjustment 4.0 or the Permitted Route could harm the trumpeter swans and other wildlife in the lake and adjoining lands located near the intersection of Rimcrest Road and County Road 30. And they argue that, within the context of a 213-mile transmission line, any of the proposed route alternatives should be regarded as a minor alternation.

Joel Elfering and members of his extended family oppose routes such as Adjustments 4.1 and 4.2 that would move the transmission line closer to the Elfering house on County Road 11. They argue that these adjustments could cause greater harm to the natural environment, and that they have not received the same degree of environmental review as the earlier routes. Noting that Adjustment 4.1 and 4.2 arose later in the proceedings, these commentors argue that they have not received as much time as other commentors to analyze the options and raise objections.

While these commentors generally state a preference for the Permitted Route or Adjustment 4.0, some also state a preference for Adjustment 4.2 over 4.1.

V. Commission Action

The transmission routing rules provide for granting minor alternatives for permitted routes due to the need for flexibility. The details that make specific parts of a proposed route less appealing than originally understood – or that make a small deviation from the permitted route more appealing – are not always apparent at the time a route permit is under consideration. And when analyzing a transmission line route spanning more than 200 miles, these details must be correspondingly large before they will be accounted for in the route permit order.

Given this context, the Commission will approve Route Adjustment 4.2 for the reasons set forth below.

First, Adjustment 4.2 – as well as the other proposed adjustments – arose from a collaborative process among landowners that the Permittees pursued at the Commission's direction. Throughout these proceedings – and within the route permit itself – the Commission has directed the Permittees to continue working with affected residents and landowners to seek transmission line routes that would avoid homes and farmsteads. These landowners have appropriately identified routes that both meet their own needs while also meeting the needs of the Permittees for a route that is practical and buildable.

Second, the purpose and effect of Adjustment 4.2 is consistent with the purposes set forth in the route permit -- to minimize burdens on homes, farmsteads, agricultural land, and the natural environment. Adjustment 4.2 would reroute the transmission line in a manner that avoids many homes and farms completely, while bringing it no closer than 1000 feet to any other home or farm.

Further, all the adjustments were originally proposed by people living along the approved route and all have the support of all landowners from whom easements would be required. In fact, landowners not affected by the original route agreed to have the line moved onto their property to reduce its impact on their neighbors. This is precisely the sort of community involvement and

problem-solving on which successful routing can often depend, and unless there are strong countervailing factors at work, community concensus on local routing details deserves great deference.[8]

While some commentors recommend rejecting Adjustments 4.1 and 4.2 on the basis of greater environmental impact, these were close calls with which the Commission does not necessarily concur. This is especially true in light of the fact that Adjustment 4.2 would have beneficial effects on the human environment by placing the line farther from homes and farmsteads. The Commission notes that the Department of Natural Resources did not recommend rejection of any of the routes under consideration.

Balancing different kinds of environmental effects - and balancing environmental effects against other important factors such as cost and the reliability of the electrical supply - are unavoidable parts of the routing process. Here the balance favors adopting Adjustment 4.2.

Adjustment 4.2's failure to follow the existing right-of-way as closely as the original route does not compel the rejection of 4.2. Giving due consideration to using existing rights-of-way is an important routing principle set forth in statute and consistently observed by the Commission.[9] But careful consideration is not the same thing as adoption.

Here, careful consideration leads to the conclusion that the benefits of following existing rights-of-way are lower than the benefits of achieving greater distance between the line and proximate homes and farmsteads, and of honoring the consensus of affected landowners. It is only reasonable to expect more diversions from existing rights-of-way when acting on route adjustment proposals, which by definition involve a small number of unique situations requiring special consideration. Moreover, the main reason for requiring careful consideration of existing rights-of-way is to protect affected landowners; these protections are unnecessary when, as in the current case, affected landowners ask the Commission not to follow existing rights-of-way.

For all these reasons, the Commission will approve Route Adjustment 4.2 and will issue a route permit amendment incorporating that adjustment.

Finally, with the concurrence of the Permittees and the Department, the Commission will approve the Department of Natural Resources's proposal to require bird diverters. The Commission will direct the Permittees to install bird diverters on this route adjustment and to work with the Department of Natural Resources to identify the necessary areas to install them.

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[8] While some landowners whose land would not be crossed by the line objected to having it moved closer, every person owning land that would be crossed by a route alternative has consented to the route alternative.

[9] Minn. Stat. § 216E.03, subd. 7(b)(8) and 7(e).

ORDER

1. The Commission grants the Permittees' petition for a minor route alteration and approves Route Adjustment 4.2 as depicted on the Minor Alteration Application map, relocating the transmission line outside the designated route. The Commission issues the attached Permit Amendment authorizing those changes.

2. The Permittees shall work with the Minnesota Department of Natural Resources to place bird diverters in the necessary areas.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

PERMIT AMENDMENT

TO THE ROUTE PERMIT FOR CONSTRUCTION OF A HIGH VOLTAGE TRANSMISSION LINE AND SUBSTATION

IN CLAY, WILKIN, OTTER TAIL, GRANT, DOUGLAS, TODD AND STEARNS COUNTIES

ISSUED TO NORTHERN STATES POWER COMPANY AND GREAT RIVER ENERGY

PUC DOCKET No. E-002, ET-2/TL-09-1056

In accordance with the requirements of Minnesota Rules, part 7850.4800, this route permit amendment is hereby issued to:

NORTHERN STATES POWER COMPANY AND GREAT RIVER ENERGY

Northern States Power Company d/b/a Xcel Energy, and Great River Energy are authorized by this permit amendment to alter the route and alignment in Oak Township in Stearns County along the previously permitted Fargo to St. Cloud 345 kV Transmission Line Project as depicted on the attached official route adjustment map.

Approved and adopted this 12th day of April 2012

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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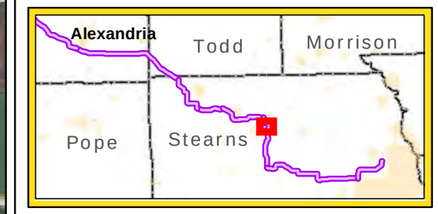

Legend

- Anticipated Alignment
- Anticipated Right-of-Way
- Permitted Route
- Adjusted Alignment
- Adjusted Right-of-Way
- Adjusted Route
- Residence
- Non-residential Structure
- PWI Stream
- NWI Wetland
- Waterfowl Production Area
- USFWS Wetland Easement
- Wildlife Management Area
- MnDOT Scenic Easement
- Center Pivot Irrigation
- Municipal Boundary
- Township Boundary
- Parcel Boundary

N W E S

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Fargo to St. Cloud 345 kV Transmission Line Project Route Adjustment 4.2

DATE: 04/09/12	DRAWN BY: MLTEICHERT
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