

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger  
David Boyd  
Nancy Lange  
J. Dennis O'Brien  
Betsy Wergin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

Tom Hillstrom  
Permit Project Lead  
Xcel Energy, Inc.  
800 Nicollet Mall  
Minneapolis, MN 55401

SERVICE DATE: July 18, 2013

DOCKET NO. E-002,ET2/TL-09-1056

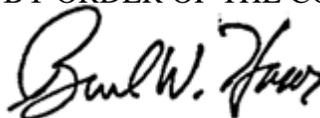
In the Matter of the Application for a Route Permit for the Fargo to St. Cloud 345 kV Transmission Line Project

The above entitled matter has been considered by the Commission and the following disposition made:

**Minor alterations approved without conditions.**

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar  
Executive Secretary



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June 20, 2013

Burl W. Haar, Executive Secretary  
Minnesota Public Utilities Commission  
127 7th Place East, Suite 350  
St. Paul, MN 55101-2147

In the Matter of the Application for a Route Permit for the Fargo to St. Cloud 345 kV  
Transmission Line Project (PUC Docket No. E002, ET2/TL-09-1056)

**Re: Approval of Four Minor Alterations – Alexandria to Border Portion**

Dear Dr. Haar:

Attached are the review and comments of the Minnesota Department of Commerce Energy  
Facility Permitting staff in the above matter.

Xcel Energy, Inc. and Great River Energy have submitted an application pursuant to Minnesota  
Rule 7850.4800 for approval of four minor alterations of the permitted route for the Fargo to  
Alexandria portion of the Fargo to St. Cloud 345 kV Transmission Line Project in Otter Tail and  
Grant counties.

This filing was made on May 22, 2013, by:

Tom Hillstrom  
Permit Project Lead  
Xcel Energy, Inc.  
800 Nicollet Mall  
Minneapolis, Minnesota 55401

EFP staff is available to answer any questions the Commission may have.

Sincerely,

A handwritten signature in black ink, appearing to read "David Birkholz", is written in a cursive style.

David Birkholz, EFP Staff

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## BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

### COMMENTS AND RECOMMENDATIONS OF MINNESOTA DEPARTMENT OF COMMERCE ENERGY FACILITY PERMITTING STAFF

DOCKET No. E002, ET2/TL-09-1056

Date: June 20, 2013

EFP Staff: David E. Birkholz .....651-296-2878

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**In the Matter of** the Application for a Route Permit for the Fargo to St. Cloud 345 kV  
Transmission Line Project

**Issue(s) Addressed:** These comments address the definition of a minor alteration, whether the requested four modifications are minor and whether, if accepted, any additional conditions should be applied.

Additional documents and information can be found on the EFP website  
<http://mn.gov/commerce/energyfacilities/Docket.html?Id=25053> or on eDockets  
<https://www.edockets.state.mn.us/EFiling/search.jsp> (Year "9" and Number "1056").

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## INTRODUCTION AND BACKGROUND

Xcel Energy and Great River Energy (Permittees) filed an application<sup>1</sup> with the Public Utilities Commission (Commission) for a route permit on October 1, 2009, to build a 345 kV transmission line from Fargo to St. Cloud (Project). The Commission issued an Order<sup>2</sup> approving a route permit on June 24, 2011. The Commission issued orders for permit amendments for route alterations on January 9, 2012<sup>3</sup> and April 12, 2012,<sup>4</sup> for alterations in the Alexandria to St. Cloud segment of the Project.

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<sup>1</sup> "Route Permit Application," Northern States Power, dba Xcel Energy and Great River Energy, October 1, 2009

<sup>2</sup> Minnesota Public Utilities Commission Order for a Route Permit, eDockets no. 20116-64023-01, June 24, 2011

<sup>3</sup> Order Approving Minor Alterations And Issuing a Route Permit Amendment, January 9, 2012

On May 23, 2013.<sup>5</sup> Permittees filed an application for approval of four minor alterations in the Fargo to Alexandria portion of the Project. On May 31, 2013,<sup>6</sup> in response to a request from Department of Commerce Energy Facilities Permitting (EFP), Permittees filed additional information on comparative environmental impacts between the approved route and the requested alterations.

## **REGULATORY PROCESS AND PROCEDURE**

Route Permit Condition III.A provides specific reasons for and conditions under which the transmission alignment or the actual route width may be modified through the standard Plan and Profile review process:

The designated route identifies an alignment that minimizes the overall potential impacts to the factors identified in Minnesota Rule 7850.4100 and which was evaluated in the environmental review and permitting process. Consequently, this permit anticipates that the actual right-of-way will generally conform to the alignment shown in the attached maps, unless changes are requested by individual landowners, unforeseen conditions are encountered, or are otherwise provided for by this permit.

Any alignment modifications within this designated route shall be located so as to have comparable overall impacts relative to the factors in Minnesota Rule 7850.4100 as does the alignment identified in this permit, and shall be specifically identified and documented in and approved as part of the Plan and Profile submitted pursuant to Section IV.A of this permit.

Route width variations outside the designated route may be allowed for the Permittee to overcome potential site specific constraints. These constraints may arise from any of the following:

- 1) Unforeseen circumstances encountered during the detailed engineering and design process.
- 2) Federal or state agency requirements.
- 3) Existing infrastructure within the transmission line route, including but not limited to roadways, railroads, natural gas and liquid pipelines, high voltage electric transmission lines, or sewer and water lines.
- 4) Planned infrastructure improvements identified by state agencies and local government units (LGUs) and made part of the evidentiary record during the record for this permit.

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<sup>4</sup> Order Approving Minor Alterations And Issuing a Route Permit Amendment, April 12, 2012

<sup>5</sup> "Application for Approval of Four Minor Alterations," Xcel Energy, May 6, 2013

<sup>6</sup> Additional Tables, Xcel Energy, May 31, 2013

Any alignment modifications arising from these site specific constraints that would result in right-of-way placement outside the designated route shall be located to have comparable overall impacts relative to the factors in Minn. Rule 7850.4100 as does the alignment identified in this permit and also shall be specifically identified in and approved as part of the Plan and Profile submitted pursuant to Part IV.A. of this permit.

The proposed route modifications are the responses of the Permittees to requests from the Department of Transportation (Mn/DOT) and landowners. However, the changes would place the alignments outside the permitted route, so the modifications do not qualify within the clause for changes of alignment within the route. In addition, since one modification is the result of a request from a state agency, rather than a requirement, it does not qualify for any of the four designated allowances for changing the route width detailed in the second part of the permit condition quoted above.

Therefore, the Permittee has requested to amend the Route Permit to allow the proposed change by filing Minor Alteration requests under Minnesota Rule 7850.4800, subp. 2. The rule states:

The application shall be in writing and shall describe the alteration in the large electric power generating plant or high voltage transmission line to be made and the explanation why the alteration is minor.

In subp. 1, the same rule states:

A minor alteration is a change in a large electric power generating plant or high voltage transmission line that does not result in significant changes in the human or environmental impact of the facility.

## **EFP ANALYSIS AND COMMENTS**

EFP evaluates minor alteration requests in relation to this subpart in the same manner it would evaluate changes in a Plan and Profile. To help develop the necessary information to facilitate an informed decision, EFP has provided Plan and Profile guidance<sup>7</sup> to permittees. This guidance clearly states the type of data and analysis that can provide EFP, and eventually the Commission, with the information necessary to evaluate whether a modification results in significant changes to the impacts of the facility.

In this case, the Permittee filed a table of comparative statistics for both the permitted routes and the modified routes. The Permittees' data in a purely numerical sense appeared to indicate that the modifications may have equal or lesser impacts than the original route. However, EFP requested and received from the Permittee additional information that assesses impacts relative to the routing factors found in Minnesota Rule 7850.4100 that are reviewed by the Commission in determining a route. EFP also assessed the requests using available data and maps.

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<sup>7</sup> Plan and Profile Guidance for Transmission Lines, DOC Energy Facility Permitting, June 2012

### ***Minor Alteration Request #1***

During the record development process, Mn/DOT made clear its preference to minimize the number of times the transmission line crosses Hwy 94, due to concerns for maintenance safety and avoiding traffic disruption during construction. Since limiting highway crossings is not strictly a federal or state requirement, the alignment change does not qualify under Route Condition III.A for route width variations outside the designated route. However, there is no Commission restriction from choosing to honor that state agency preference in essentially modifying the route width in this instance through a Minor Alteration. By moving the alignment just outside the designated route, the Permittees can avoid two crossings of the highway.

The Permittees have portrayed the affected landowners as finding the realignment "acceptable." The Commission notified the affected landowners of the comment period, so they have the opportunity to respond if they are not in agreement with the modification. None of the landowners' residences are within 150 feet of the originally permitted alignment or the alignment suggested in the minor alteration request.

EFP concludes that the original and modified alignments have comparable human and environmental impacts. Wetland and agricultural impacts are similar. The proposed solution to eliminate two highway crossings does create an alignment that does not parallel the highway to the same degree. However, moving the alignment slightly outside the existing route width to the east of the highway does eliminate the possibility of having existing non-residential structures within the right-of-way (ROW).

### ***Minor Alteration Request #2***

The second request is a continuation from the first alteration. It is a slight variation from the original alignment, just altering where the line goes east to avoid the Mn/DOT scenic easement, in order to accommodate a business interest of the landowner. The change does not differ in impact from the original except in that it actually parallels the highway for a greater distance. EFP concludes there are no human or environmental implications to discourage this alignment.

### ***Minor Alteration Request #3***

The third request continues from the second. The original alignment avoided non-residential structures that would have been in the ROW continuing southward; those buildings have subsequently been removed and no longer serve to obstruct the use of the suggested altered alignment.

The Permittees describe the alteration as avoiding proximity to lake lots and state the original alignment has two homes within 500 feet (vs. no homes in the altered alignment). EFP notes that proximity is a non-defined term, and that location within 500 feet of an alignment is not a factor to be considered under rule (7850.4100) or by any precedent. The Permittees more correctly point out in their additional filing of May 31, 2013, that, "No populated areas are crossed by the requested minor alteration or the PUC Anticipated Alignment."

The alteration request doesn't parallel any existing ROW, while the permitted alignment does (along secondary roads) for 40 percent of its length. It is not clear to EFP why the recommended alteration does not take advantage of paralleling Hwy 94. Regardless, the area in question is quite short, and all other impacts being essentially equivalent, EFP finds this particular alignment modification does not create significant changes in overall impacts.

#### ***Minor Alteration Request #4***

The fourth alteration request appears to reflect an interest of local landowners in moving the alignment further away from residential properties, although the maps appear to represent only one residence near the edge of the ROW.

The discussion in the Permittees' additional filing inaccurately states, "The requested minor alteration would move to the north side of the interstate and parallel the interstate for 47% of its length while the PUC Anticipated Alignment parallels the interstate for 80% of its length." The data was possibly inadvertently inserted from a different segment. The requested alteration stays on the south (west) side of Hwy 94; but more importantly and according to their own original information, the minor alteration request does not follow existing ROW of any kind. The original permitted alignment follows existing ROW for the entire segment.

In this instance, the justification for authorizing a minor alteration appears to reduce to weighing two factors considered in route selection, as per Minnesota Rule 7850.4100:

- A. effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services; and
- H. use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries;

It's difficult to argue that the transmission line as permitted has a negative impact on displacement, noise, cultural values, recreation or public services; any perceived impact would be aesthetic. On the other hand, the shift from use of existing ROW and natural boundaries is obvious. Again, the question to determine is if this causes "*significant* changes in the human or environmental impact of the facility." (Emphasis added.)

The extenuating circumstance is that the landowners requested this change, and the impact is on their own properties. The key argument is the determination of significance. On that standard, EFP concludes this particular alignment modification does not create a significant change in the impact of the transmission line.

#### ***Plan and Profile Review***

Permittees included Plan and Profile submissions for each of the requested minor alterations with their "Application for Approval of Four Minor Alterations." EFP cannot review these simultaneously with the review of the alterations as requested by Permittees, because the parameters for conducting that review are subject to the Commission's decisions on these minor alteration requests.

A Plan and Profile is the final technical filing for construction according to Permit Condition IV.A, including, "specifications and drawings for right-of-way preparation, construction, cleanup, and restoration for the transmission line. The documentation shall include maps depicting the plan and profile in relation to the *route and alignment approved per the permit.*" (Emphasis added.)

Unless the Minor Alterations are authorized by Order of the Commission, and EFP cannot assume a decision by the Commission, the requested alterations cannot be considered part of the route and alignment approved per the permit.

If the Commission issues an Order amending the permit to include these Minor Alterations, EFP will undertake a compliance review of the Plans and Profiles as filed with the Minor Alterations application. If the Commission does not approve the alterations, Permittees must make a new Plan and Profile filing using the originally approved route.

### **EFP Conclusions and Recommendation**

EFP concludes the requested modifications do not significantly change the human or environmental impact of the facility and are, therefore, minor.

EFP recommends the Commission approve Permittees' route modification requests.

Since the modifications are minor, and no new significant human or environmental impacts would be incurred, EFP also recommends that no additional permit conditions are necessary, noting that all permit conditions in the original permit applying to the anticipated alignment would apply equally to these alterations.