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January 27, 2010

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

**RE: Comments and Recommendation of the Office of Energy Security Energy
Facility Permitting Staff
Docket No. E002/TL-09-1315**

Dear Dr. Haar:

Attached are the Comments and Recommendation of the Office of Energy Security Energy Facility Permitting Staff in the following matter:

In the Matter of the Route Permit Application for the Pleasant Valley to Byron
161 kilovolt High Voltage Transmission Line in Dodge, Olmsted and Mower
Counties.

The OES EFP staff is also providing you with:

- A. Project Overview Map

Staff is available to answer any questions the Commission may have.

Sincerely,

/s/ MATT LANGAN
OES EFP Staff

Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

DOCKET NO. E002/TL-09-1315

Meeting Date: February 4, 2010

Agenda Item # __

Company: Northern States Power Company (Xcel Energy)

Docket No. E002/TL-09-1315

**In the Matter of the Application for a Route Permit for the Pleasant Valley to
Byron 161 kV Transmission Line Project**

Issues: Should the Commission accept the application as complete?

OES Staff: Matthew A. Langan651-296-2096

Relevant Document(s)

Route Permit Application December 3, 2009

The enclosed materials are work papers of the Office of Energy Security (OES) Energy Facility Permitting (EFP) staff. They are intended for use by the Public Utilities 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).

Attached Document(s)

Project Overview Map (Application)..... December 3, 2009

(Relevant documents and additional information can be found on eFilings (09-1315) or the PUC Facilities Permitting website: <http://energyfacilities.puc.state.mn.us/Docket.html?Id=25695>)

Statement of the Issues

Should the Commission accept the route permit application as complete? If complete and accepted, should the Commission allow EFP to name a public advisor? Should the Commission authorize EFP to develop a charge and convene an advisory task force? If accepted, should the Commission refer the matter to the Office of Administrative Hearings (OAH) for a contested case hearing pursuant Minn. Rules 1405 to be held jointly with Certificate of Need hearings?

Introduction and Background

On December 3, 2009, Xcel Energy submitted a high voltage transmission line (HVTL) Route Permit application to the Commission for the proposed Pleasant Valley to Byron 161kV Transmission Line Project (Project).

Project Description

The Project includes an approximately 18-mile, 161 kV HVTL that interconnects a substation in Pleasant Valley Township, Mower county, to a substation in the City of Byron, Olmsted county. The applicant's preferred route would be located primarily in Mower and Dodge counties, and the alternate route would be located in Mower and Olmsted counties.

The proposed structures are single-pole, weathering steel, brace-post type structures. The height of the poles will range from 70 to 90 feet, with the spans between poles ranging from 400 to 650 feet. The typical right-of-way width for the transmission line is 80 feet. The applicant has requested a route width of 400 feet. In one location, the applicant requests a route width of 1,000 feet to provide routing flexibility near an industrial site within the project area.

The estimated cost of the Project for facilities to be located in Minnesota is between \$10.5 and \$10.9 million (escalated dollars), depending on the final route selected. Construction of the Project is expected to begin in the first quarter of 2011 and be completed and the line in-service by fourth quarter 2011.

Regulatory Process and Procedures

Minnesota Statutes Section 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

Section 216E.01, subd. 4. The transmission line proposed here is an HVTL 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 7850.1700 to 7850.2700. Route permit applications under the full review process must provide specific information about the proposed project, applicant, environmental impacts, alternatives and mitigation measures (Minnesota Rule 7850.1900). An applicant under this process is required to propose a preferred route and at least one alternative route. EFP staff conducts public information and scoping meetings and prepares an Environmental Impact Statement (EIS), and a public contested-case hearing is required.

Minnesota Statute Section 216B.243, subd. 2 states that no large energy facility shall be sited or constructed in Minnesota without the issuance of a Certificate of Need (CON) by the Commission. A large energy facility is defined to include transmission lines between 100 kV and 200 kV if they are more than 10 miles long (Minnesota Statutes Section 216B.2421, subd. 2(2) and (3)). The 161 kV transmission line proposed for this project is greater than 10 miles in length. Therefore, a CON is required for the proposed project. The CON is being processed under a separate docket [E002/CN-08-992]

The Commission may accept an route permit application as complete, reject an application and require additional information to be submitted, or accept an application as complete upon filing of supplemental information (Minnesota Rule 7850.2000). The permit review process begins with the determination by the Commission that the application is complete, allowing staff to initiate the public participation and environmental review processes. The Commission has one year to reach a final decision from the time the application is accepted (Minnesota Rule 7850.2700).

Public Advisor

Upon acceptance of an application for a route permit, the Commission must designate a staff person to act as the public advisor on the project (Minnesota Rule 7850.2200). The public advisor is someone who is available to answer questions from the public about the permitting process and assist them in participating in that process. In this role, the public advisor may not act as an advocate on behalf of any person.

The Commission can authorize EFP to name a member from its staff as the public advisor or assign a Commission staff member. The role has typically been filled by an EFP staff member.

Advisory Task Force

The Commission can authorize an advisory task force (Minnesota Statute 216E.08). An advisory task force comprises representatives of local governmental units and may include other interested persons. A task force can be charged with identifying additional routes or specific impacts to be evaluated in the EIS and terminates when the OES Director issues an EIS scoping decision.

The Commission is not required to assign an advisory task force for every project. However, if the Commission does not name a task force, Minnesota Rule 7850.2400 allows a citizen to request appointment of a task force. The Commission would then need to determine at its next meeting if a task force should be appointed or not. The decision whether to appoint an advisory

task force does not need to be made at the time of accepting the application; however, it should be made as soon as practicable to ensure its charge can be completed prior to an EIS scoping decision by the OES Director.

Environmental Review

Applications for both transmission line route permits and certificates of need are subject to environmental review, which is conducted by EFP staff. In addition to the Environmental Impact Statement (EIS) prepared for a HVTL route permit application, an Environmental Report (ER) must be prepared on a HVTL at the Certificate of Need Stage (Minnesota Rules, 7849.1200.)

Both procedures require EFP staff to notice and conduct a public meeting on the Project to provide information and take comments on the scope of the environmental review documents. The OES Director determines the scope of both the ER and EIS, and the environmental review documents must be completed and available prior to the public hearing (Minnesota Rules 7850.2500 and 7849.1800.)

If an applicant for a certificate of need for a HVTL applies for a route permit prior to the completion of the environmental report, the commissioner may elect to prepare an EIS in lieu of the required ER. If combining the processes would delay completion of the environmental review, the applicant and the Commission must agree to the combination. If the documents are combined, OES includes in the EIS the analysis of alternatives required by part 7849.1500, but is not required to prepare an ER under part 7849.1200.

Public Hearing

Applications for transmission line route permits require that a contested case hearing be held after the draft environmental impact statement is prepared (Minnesota Rule 7850.2600). The Legislature has directed that Certificate of Need Proceedings and Route Permit proceedings be handled together where appropriate.

Unless the commission determines that a joint hearing on siting and need under this subdivision and section 216E.03, subdivision 6, is not feasible or more efficient, or otherwise not in the public interest, a joint hearing under those subdivisions shall be held. (Minnesota Statutes 216B.243, subd. 4)

The routing docket must be referred to the Office of Administrative Hearings (OAH) for conduct of the Minn. Rules Chapter 1405, contested case hearings. However, since the hearings must follow release of the draft EIS, the date for hearings cannot be set until the OES completes the EIS scoping process and determines the schedule for completion of the EIS. The Commission can refer the docket to OAH for hearing at this time, with the understanding that the OES will work with the OAH to establish a schedule once the EIS scoping process is complete.

EFP Staff Analysis and Comments

EFP staff reviewed and evaluated the Pleasant Valley to Byron 161 kV Transmission Line Project route permit application through its draft and final versions, and concludes that the application meets the content requirements of Minnesota Rule 7850.1900. Staff recommends that the Commission accept the Application as complete with the understanding that if additional information is requested by the EFP staff, these requests will be addressed promptly. The Applicants would be required to comply with requests for additional information from the Commission or the EFP.

Advisory Task Force

In analyzing the merits of establishing an advisory task force for a project, staff considers four characteristics: size, complexity, known or anticipated controversy, and sensitive resources.

Project Size. At approximately 18 miles, the project is relatively moderate in length, running mostly south to north along road rights-of-way and property lines. The requested route width is 400 feet in width to allow the project to be constructed on either side of the road rights-of-way.

Complexity. The proposed route is simple and straight forward. The majority of the proposed route parallels road rights-of-way and/or property lines. No residential or business displacements would result from the proposed project.

Known or Anticipated Controversy. The Applicant has met with local government officials before submitting an application. The City of Byron contacted OES regarding a future intersection planned for 280th Avenue and Highway 14, which is crossed by the applicant's preferred route. OES has also received phone calls from individual landowners expressing their concerns with the project. Concerns and desires for examination of alternative routes are common in the routing process. EFP staff will continue to educate officials and local residents throughout the process about the opportunities afforded the public to submit comments and suggestions for alternative routes.

Sensitive Resources. No impacts to sensitive resources have been identified by the applicant at this time. The applicant anticipates the project will avoid impacts to State and federal rare/endangered species and historic and cultural resources near the proposed routes. The proposed route will not directly affect any public-owned recreation areas.

There are no issues that represent unusual circumstances to be addressed in an application review process or would not otherwise be addressed in the OES environmental review process. No other sensitive resources have been identified at this time.

Based on the analysis above, staff concludes that an advisory task force is not warranted in this case. The full permitting process should provide adequate opportunities for the public to identify issues and route alternatives to be addressed in the EIS. Staff can also assist local landowners and governmental units in understanding the siting and routing process and identifying opportunities for participating in further development of alternative routes or permit conditions. Therefore, the staff recommendation is to take no action on a task force at time.

Public Hearing/Joint Proceeding

The Applicants have requested that the Certificate of Need and Route Permit proceedings be combined for the Project (Letter to Dr. Haar, 12/3/2009, submitted with application) and anticipate that OES will prepare one environmental review document - an EIS in lieu of an ER - for the Project.

Preparing an EIS in lieu of the ER will achieve process efficiencies. It will enable staff to solicit comments pertinent to the scoping of both the ER (CON process) and the EIS (siting process) at a single public information meeting. OES will then develop one scoping document and one environmental document for both applications. Combining the processes will not delay completion of the environmental review.

In light of the Applicant's request that the proceedings be combined and the ability to prepare an EIS in lieu of an ER, provided the EIS includes an analysis of the alternatives required in an ER, EFP staff concludes that it is feasible, more efficient and in the public interest to combine the Certificate of Need and Route Permit environmental review documents and that hearings for the proceedings be combined to the extent practicable.

Commission Decision Options

A. Application Acceptance

1. Accept the Xcel Energy Pleasant Valley to Byron 161 kV Transmission Line Route Permit Application as complete and authorize the Office of Energy Security to process the application under the full review process in Minn. Rule 7850.1700-2700.
2. Reject the route permit application as incomplete and issue an order indicating the specific deficiencies to be remedied before the Application can be accepted.
3. Find the Application complete upon the submission of supplementary information.
4. Make another decision deemed more appropriate.

B. Public Advisor

1. Authorize the Office of Energy Security to name a public advisor in this case.
2. Appoint a Commission staff person as public advisor.
3. Make another decision deemed more appropriate.

C. Advisory Task Force

1. Authorize the Office of Energy Security to establish an advisory task force and develop a proposed structure and charge for the task force.
2. Determine that an advisory task force is not necessary.
3. Take no action on an advisory task force at this time.
4. Make another decision deemed more appropriate.

D. Joint Proceedings

1. Refer the matter to the Office of Administrative Hearings (OAH) for a contested case hearing, pursuant Minn. Rules 1405, to be held jointly with CON hearings, as provided by Minnesota Statutes 216B.243, subd. 4.
2. Refer the matter to OAH for a contested case hearing, pursuant Minn. Rules 1405, to be held separately from the CON hearings.
3. Make another decision deemed more appropriate.

EFP Recommendations: Staff recommends options A1, B1, C3 and D1.

