

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd
J. Dennis O'Brien
Thomas Pugh
Phyllis A. Reha
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy and the City of Glencoe for a Certificate of Need for 115kV Transmission Line Upgrades to the Glencoe-Waconia 69 kV System

ISSUE DATE: February 1, 2011

DOCKET NO. E-002/CN-09-1390

ORDER FINDING APPLICATION COMPLETE AND INITIATING INFORMAL REVIEW PROCESS

PROCEDURAL HISTORY

On November 30, 2010, Xcel Energy and the City of Glencoe (the Applicants) filed an application for a certificate of need for construction of a set of 115 kilovolt (kV) transmission line upgrades near the cities of Glencoe, Waconia, and Young America.¹

On December 29, 2010, the Office of Energy Security of the Minnesota Department of Commerce (OES) filed comments recommending that the Commission find the application complete upon the submission of supplemental information requested.

On January 11, 2011, the Applicants filed reply comments and a supplement to their application for a certificate of need in response to the request for additional information identified by the OES.

On January 27, 2011, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Jurisdiction

Before building a large energy facility - including any high-voltage transmission line with a capacity of 100 kV or more with more than ten miles of its length in Minnesota² – a person must

¹ The Applicants proposed construction of approximately 2 miles of new 69 kV transmission line designed to 115 kV specifications, 6 miles of new 115 kV transmission line, and to upgrade approximately 20 miles of 69 kV transmission line to 115 kV capacity. The project also includes the construction of a new 115 kV Diamond Substation in Glencoe and an expansion of the existing Plato Substation to upgrade its distribution load to 115 kV and install a capacitor bank on the 69 kV transmission line.

² Minn. Stat. §216B.2421, subd. 2(3).

apply for a Certificate of Need demonstrating that the facility is needed.³ Because Applicants' transmission line upgrades qualify as a large energy facility, Applicants must apply for a Certificate of Need as set forth in Minn. Rules chapter 7849.

Minnesota Rules chapter 7849 sets forth the requirements for making an application for a Certificate of Need, as well as the ultimate criteria for demonstrating need. The Commission determines whether an application is substantially complete and may grant exemptions to filing requirements. Minn. Rules, part 7849.0200, subp. 5 and 6.⁴

Where material facts are in dispute, the Commission refers cases to the Office of Administrative Hearings for a contested case proceeding. Minn. Rules, part 7829.1000. Otherwise, the Commission may elect to address matters via expedited proceedings. Minn. Rules, part 7829.1200.

II. Application Completeness

OES reviewed Applicants' application to determine the extent to which it fulfilled the requirements of Minnesota Rules, parts 7849.0220, 7849.0240 and 7849.0260 through 7849.0340. The OES recommended that the Commission find the filing complete upon the submission by Applicants of the additional information requested by OES on December 29, 2010.⁵

The Commission has examined the record and concurs with the parties that with the supplemental information submitted by Applicants on January 11, 2011, the application is substantially complete for evidentiary development under the certificate of need statute⁶ and rules⁷

III. Process for Reviewing the Merits

Generally applications for a Certificate of Need are referred to the Office of Administrative Hearings for contested case proceedings to resolve factual disputes. But the Commission also has the discretion to evaluate Certificate of Need requests using an expedited notice and comment process.⁸ At this juncture, there appear to be no contested material facts; future factual disputes appear unlikely; and there are no other factors pointing to a need for contested case proceedings.

The Commission will therefore authorize staff to develop the record and prepare this case for Commission action without contested case proceedings under Minn. Stat. §§ 14.57 *et seq.*, unless those proceedings are later determined to be necessary.⁹ Staff will manage the development of the

³ Minn. Stat. §216B.243.

⁴ In an Order dated October 8, 2009, the Commission granted Pleasant Valley an exemption from some of the information requirements under Minn. Rules, Chapter 7849.

⁵ OES requested supplemental information from the City of Glencoe regarding Applicant's load and capability report pursuant to Minn. Rules 7849.0280 A to I. OES requested supplemental information from Xcel pursuant to Minn. Rules 7849.0280 H and I.

⁶ Minn. Stat. § 216B.243.

⁷ Minn. Rules, Chapter 7849.

⁸ Minn. Rules, part 7829.2500, subp. 9.

⁹ The OES did not recommend contested case proceedings at this juncture. However, the OES recommended that the Commission review any comments and reply comments of other parties, assess the explanation for any request for a contested case, and order a contested case if a party requests such a proceeding and provides reasonable grounds to do so.

record by establishing necessary comment periods and ensuring compliance with statutory requirements such as the submission of an Environmental Report and the holding of one or more public hearings.

Under the informal process the Commission still asks the Office of Administrative Hearings to hold at least one public hearing, scheduled in conjunction with Commission staff. The Commission will also take the steps listed below to ensure adequate development of the record:

- Direct the Applicant to cooperate with the OES and with Commission staff to develop the record.
- Ask that the Applicant place a CD or hard copy of the Application for review in a Government Center and/or public library in the vicinity of the project.
- Ask the OES to examine the application and other materials submitted in the case and to submit its analysis of the reasonableness of granting a certificate of need.
- Direct Commission staff to work with the Administrative Law Judge and the staff of the OES in selecting suitable locations for a public hearing on the application.
- Direct the Applicant to work with the OES and with Commission staff to arrange for publication of the notice of the hearings in newspapers of general circulation at least ten days prior to the hearings; directs that such notice be in the form of visible display ads; and directs that proofs of publication of such ads be obtained from the newspapers selected.

Finally, the certificate of need statute encourages public participation in certificate of need proceedings, requiring at least one hearing to obtain public opinion and requiring the Commission to designate an employee to facilitate citizen participation in the hearing process.¹⁰

The Commission has designated Michael Kaluzniak, Facilities Planner, to facilitate and coordinate public participation in this proceeding. He may be reached by telephone at (651) 201-2257, by fax at (651) 297-7073, and by e-mail at Mike.Kaluzniak@state.mn.us. His address is Suite 350, 121 7th Place East, St. Paul, Minnesota 55101-2147.

IV. Environmental Review

In the high voltage transmission line route permit docket associated with this project (Docket No. E-002/TL-10-249), the OES recommended that the Commission combine the environmental review (for the certificate of need) and environmental assessment (for the high voltage transmission line route process) into a single environmental review document. As grounds, OES stated that the high voltage route permit application was filed prior in time to the completion of the environmental review required for the certificate of need and prior to initiation of the scoping process for the environmental review.¹¹

¹⁰ Minn. Stat. §216B. 243, subd. 4.

¹¹ Docket No. E-002/TL-10-249, Informal Order (January 14, 2011).

OES asserted that the preparation of an environmental assessment in lieu of the environmental report will achieve process efficiencies, allowing the Energy Permitting Facilities staff to solicit comments pertinent to the scooping of both the environmental report and the environmental assessment in a single public informational meeting.

The Commission concurs that combining the environmental review for the certificate of need and routing dockets results in process efficiencies. The Commission will therefore authorize the OES to combine the environmental review processes, pursuant to Minn. Rule, part 7849.1900.

ORDER

1. Applicants' certificate of need application is accepted as substantially complete as of January 11, 2011.
2. The Commission directs the use of the informal review process to develop the record.
3. The Commission delegates to the Executive Secretary the authority to set time lines necessary for the proper development of the record.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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