

APPENDIX D
LANDOWNER LIST AND PUBLIC COMMENTS

Appendix D.1
Landowner List

Appendix D.1: Landowners

Table D.1 identifies the landowners affected by the Proposed Project.

Table D.1 Landowners Affected by the Proposed Project							
Agency	Contact Name	Title	Address 1	City	State	Zip	Other (PID #)
Three Rivers Park District				Plymouth	MN	55441	38 29-118-23 32 0005
Three Rivers Park District				Plymouth	MN	55441	38 29-118-23 32 0006
B N & Santa Fe RR Co	Property Tax Dept			Fort Worth	TX	76161	38 29-118-23 33 0008
NSP Property Tax Dept				Minneapolis	MN	55401	38 29-118-23 33 0009
B N & Santa Fe RR Co	Property Tax Dept			Fort Worth	TX	76161	38 30-118-23 42 0004
Paul & Nancy Fraser				Long Lake	MN	55356	38 30-118-23 44 0005
Paul Fraser				Long Lake	MN	55356	38 30-118-23 44 0006
David & Susan Wilson				Long Lake	MN	55356	38 30-118-23 44 0009
Robert & Mary Sansevere				Long Lake	MN	55356	38 31-118-23 11 0003
Kuruvilla Kallivayalil				Long Lake	MN	55356	38 31-118-23 11 0010
B N & Santa Fe RR Co	Property Tax Dept			Fort Worth	TX	76161	38 32-118-23 21 0006
MN DOT	Director R/W Operations			St Paul	MN	55155	38 32-118-23 22 0002
MN DOT	Director R/W Operations			St Paul	MN	55155	38 32-118-23 22 0003
Brian Kerber				Long Lake	MN	55356	38 32-118-23 22 0007

Appendix D.2
Public Comments

Sedarski, Joseph G

From: Sedarski, Joseph G
Sent: Monday, October 11, 2010 10:12 AM
To: 'Steve.Persian'
Cc: Persian, Kathy B.; Rogers, Christopher C; Kotz II, Eugene R
Subject: RE: Proposed Orono Substation Expansion and New 115V Transmission Line Project

Hi Steve,

Yes, Chris and I are working on this project together and his call does relate to the materials we sent out. I am copying Chris and Gene Kotz, the Xcel Project Manager, on this response. Please contact us with you comments, or if you have any questions regarding this project. We look forward to your comments.

Best Regards,
Joe

Joe Sedarski
Xcel Energy | Responsible By Nature
Senior Permitting Analyst
414 Nicollet Mall, MP8, Minneapolis, MN 55401
P: 612.330.6435 C: 612.816.5073 F: 612.573-1834
E: joseph.g.sedarski@xcelenergy.com

XCELENERGY.COM
Please consider the environment before printing this email

From: Steve.Persian [mailto:Steve.Persian@target.com]
Sent: Monday, October 11, 2010 9:38 AM
To: Sedarski, Joseph G
Cc: Persian, Kathy B.; Steve.Persian
Subject: Proposed Orono Substation Expansion and New 115V Transmission Line Project

Joseph,

Thank you for sending information about the proposed Orono Substation Expansion and New 115V Transmission Line Project. I've also received a call from Chris Rogers. I'm assuming this call is related to this project. If you could, please pass along this note appropriately.

My wife (Kathy) and I reviewed the packet of information you provided (dated September 28th, 2010) and we have a few concerns about the proposed project. Within the next week or so, we'll pass these along and plan to work through these concerns collaboratively.

Thanks,

Steve Persian
1005 Hunt Farm Road
Orono, MN. 55356

Sedarski, Joseph G

From: Rogers, Christopher C
Sent: Monday, October 25, 2010 10:42 AM
To: Peter Schoon
Subject: RE: EMF calcs

Peter,

Please keep in mind the EMF calculations are figured at worst case. They can vary quite a bit, as we saw with the readings we took from the existing 115kV line when I came to your home a few weeks ago.

I understand the concerns you and the Homeowners Association have. As requested, we are looking into the alternative of routing the new line on the north side of Hwy 12. Feasibility and impacts, such as the ones you listed below will be analyzed with any alternative routes.

Sincerely,

Chris Rogers
Xcel Energy | Responsible By Nature
Siting and Land Rights Agent
414 Nicollet Mall MP-8
Minneapolis, MN 55401
P: 612.330.6078 C: 612.202.0343 F: 612-573-1861
E: christopher.c.rogers@xcelenergy.com

-----Original Message-----

From: Peter Schoon [mailto:Peter@systemsupportsolutions.com]
Sent: Monday, October 25, 2010 10:00 AM
To: Rogers, Christopher C
Subject: RE: EMF calcs

Chris,

Thanks.

The EMF levels look pretty bad.

There is extreme resistance expressed by all members to placement of the line through Huntington Farms Home Owners' Association property.

Just a whole host of issues for us and folks on the east side of six as well:

1. Substantial property value reductions well in excess of \$1 million
2. EMF risks of childhood leukemia and adult brain cancers
3. Environmental issues
4. Wildlife issues
5. Hennepin County Mosquito Control District helicopter issues
6. Possibly Minnetonka Watershed issues

I really think now that you will have a better potential to getting something done if you can go on the north side of 12.

Very truly,

Peter M. Schoon
994 Hunt Farm Road
Orono, MN USA 55356

952 745-1111 x115 (desk, cell)

-----Original Message-----

From: Rogers, Christopher C [mailto:Christopher.C.Rogers@xcelenergy.com]

Sent: Monday, October 25, 2010 9:31 AM
To: Peter Schoon
Subject: RE: EMF calcs

Still waiting for Three Rivers Park to get back to me, I'll follow up with them again today.

Chris Rogers
Xcel Energy | Responsible By Nature
Siting and Land Rights Agent
414 Nicollet Mall MP-8
Minneapolis, MN 55401
P: 612.330.6078 C: 612.202.0343 F: 612-573-1861
E: christopher.c.rogers@xcelenergy.com

-----Original Message-----

From: Peter Schoon [mailto:Peter@systemsupportsolutions.com]
Sent: Monday, October 25, 2010 9:29 AM
To: Rogers, Christopher C
Subject: RE: EMF calcs

OK,

Thanks.

That should be good for now.

What have you learned about the northerly line routing (Baker site) so far?

Very truly,

Peter M. Schoon, Pres.

System Support Solutions, Inc.
994 Hunt Farm Road
Orono, MN USA 55356

952 745-1111 x115 (desk, cell)

Sedarski, Joseph G

From: Melanie Curtis [MCurtis@ci.orono.mn.us]
Sent: Monday, December 13, 2010 12:18 PM
To: Sedarski, Joseph G; Rogers, Christopher C
Subject: FW: Letter from Bruce Malkerson Regarding Land Use Application No. 10-3486
Attachments: Ltr to Orono Mayor and City Council.pdf

FYI

Melanie Curtis | 📞 952.249.4627 | ✉ mcurtis@ci.orono.mn.us

From: Terri J. Smith [mailto:tjs@mgmlp.com]
Sent: Friday, December 10, 2010 5:40 PM
To: Jim White; Cynthia Bremer; Lili McMillan; Jim Murphy (jmurphy@goldengate.net); Doug Franchot; 'lili4mayor@gmail.com'; Cynthia Bremer (cynthia.bremer@ogletreedeakins.com); Doug Franchot (doug@franchotassociates.com)
Cc: Jessica Loftus; Mike Gaffron; Lin Vee; Melanie Curtis; Soren Mattick; 'melissafogelberg@wellsfargo.com'; 'michael.kuruvilla@att.net'; 'pwfraser@gmail.com'; 'peter@systemsupport.com'; Bruce D. Malkerson; Howard A. Roston
Subject: Letter from Bruce Malkerson Regarding Land Use Application No. 10-3486

Please see the attached letter from Bruce Malkerson.

Terri Smith
 Legal Administrative Assistant to Bruce D. Malkerson
MALKERSON GUNN MARTIN LLP
 220 South Sixth Street, Suite 1900
 Minneapolis, MN 55402
 Direct Dial 612.455.6651 | Fax 612.455.2054
tjs@mgmlp.com | www.mgmlp.com

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MALKERSON GUNN MARTIN LLP

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220 SOUTH SIXTH STREET
MINNEAPOLIS, MINNESOTA 55402
TELEPHONE 612-344-1111
FACSIMILE 612-344-1414

Bruce D. Malkerson
Direct Dial No. 612.344.1699
Bruce.Malkerson@mgmlp.com

December 10, 2010

Mayor and City Council
City of Orono

Mayor Jim White (jwhite@ci.orono.mn.us)
3516 Ivy Place
Wayzata, MN 55391

City Council:

Cynthia Bremer (cbremer@ci.orono.mn.us)
1030 Tonkawa Road
Long Lake, MN 55356

Lili McMillan (lmcmillan@ci.orono.mn.us)
1275 Lyman Avenue
Wayzata, MN 55391

Jim Murphy (jmurphy@goldengate.net)
30 Orono Orchard Road North
Wayzata, MN 55391

Doug Franchot (dfranchot@ci.orono.mn.us)
2010 Colin Drive
Long Lake, MN 55356

Re: Land Use Application No. 10-3486
Xcel Energy – 3960 Sixth Avenue North
Substation Expansion CUP and Routing Permit Local Review

Dear Mayor and City Council:

We represent several of the neighbors who live on Hunt Farm Road in the City of Orono. We have just been retained to review the proposal by Xcel Energy ("Xcel") to expand the substation next to the eastern side of the neighborhood and to route a transmission line along the easterly edge of the neighborhood over a large, high quality wetland to Old Highway 12 and

thereafter northwesterly on the southerly side of Old Highway 12 in or along a large, high quality wetland to a point on a lot within the neighborhood (see enclosed map). We received the Staff Report on this matter at approximately 2:30 p.m. today, when it was first made available, to be reviewed by you next Monday and, therefore, unfortunately, we have to respond late on Friday and send our response directly to you by email and to your home addresses so that hopefully you will have an opportunity to review our comments before the Council meeting on Monday night. We apologize for having to do so.

We and our clients strongly recommend and request that the City Council not refer this matter back to the Public Utilities Commission ("PUC") for review and approval. In this case, Xcel has sought local review and approval from the City of Orono because the project meets the exemption set forth in the statute as set forth in the City's Staff Report.

The City Staff states that they recommend that you defer the review of this application back to the PUC pursuant to Minn. Stat. § 216.E05, subd. 1(b) and Rule 7850.5300, subpart 4. The City has no legal duty to do so.

We and our clients are concerned that if in fact this matter is referred back to the PUC, then the City will have limited opportunity to make sure that all environmental issues related to this proposed project are adequately addressed in the environmental assessment process. Moreover, and just as important, we and our clients know that the PUC does not have the expertise, and quite frankly, the desire to fully understand the impact of this project on the adjacent neighborhood, the wetlands that will be crossed by the new transmission line, and the substantial adverse impact of the new and larger substation and new transmission line on the value of the numerous homes in the neighborhood. Several of the homeowners have estimated that the reduction in value could be as high as 30% to 40% of the values of those homes if the project is built as currently proposed.

As you know, if this matter is not referred back to Xcel, then the City has the opportunity to approve or deny the required conditional use permit. During the analysis of the application for the conditional use permit, the City can hear testimony relating to the relevant issues and determine whether or not the conditional use permit should be granted or denied, or only granted with conditions to minimize the adverse impact on the neighborhood and the wetlands.

The conditional use permit standards set forth in the Orono Zoning Code are as follows:

Sec. 78-916. - Granting of permit.

(a) The planning commission may recommend and the council may grant a conditional use permit as the use permit was applied for or in modified form. On the basis of the application and the evidence submitted, the city must find that the proposed use at the proposed location is or will be:

(1) Consistent with the community management plan;

- (2) Compliant with the zoning code, including any conditions imposed on specific uses as required by article V, division 3 of the City Code;
- (3) Adequately served by police, fire, roads, and stormwater management;
- (4) Provided with an adequate water supply and sewage disposal system;
- (5) Not expected to generate excessive demand for public services at public cost;
- (6) Compatible with the surrounding area as the area is used both presently and as it is planned to be used in the future;
- (7) Consistent with the character of the surrounding area, unless a change of character is called for in the community management plan;
- (8) Compatible with the character of buildings and site improvements in the surrounding area, unless a change of character is called for in the community management plan;
- (9) Not expected to substantially impair the use and enjoyment of the property in the area or have a materially adverse impact on the property values in the area when compared to the impairment or impact of generally permitted uses;
- (10) Provided with screening and buffering adequate to mitigate undesirable views and activities likely to disturb surrounding uses;
- (11) Not create a nuisance which generates smoke, noise, glare, vibration, odors, fumes, dust, electrical interference, general unsightliness, or other means;
- (12) Not cause excessive non-residential traffic on residential streets, parking needs that cause a demonstrable inconvenience to adjoining properties, traffic congestion, or unsafe access;
- (13) Designed to take into account the natural, scenic, and historic features of the area and to minimize environmental impact;
- (14) All exterior lighting shall be so directed so as not to cast glare toward or onto the public right-of-way or neighboring residential uses or districts; and
- (15) Not detrimental to the public health, public safety, or general welfare.

An additional standard is as follows:

Sec. 78-946. - Conditional use permit for essential services.

A conditional use permit is required for all structures, including utility poles and rights-of-way, which are an integral part of a system for public transportation as for transmitting power, water, heat, communications, gas or sewage by any public utility. The council shall grant a conditional use permit only after a showing that the public safety, health and welfare will not be harmed by the essential services. Personal wireless services and commercial broadcasting antennas and towers shall not be considered essential services.

As you can see by the above standards, it is very important for the Orono Staff, Planning

Commission and Council to be involved in the application of these very local standards to this Xcel application once it is finally completed. Only the City Staff, Planning Commission and Council will have the expertise and experience with such important local issues, and quite frankly only those at the City will have the desire to make sure that these standards are adequately applied to this matter. It certainly may be that a conditional use permit will be approved by the City once the applicant goes through the process, but we believe that the City will also require those sort of modifications or conditions of approval that you would typically require in any type of project to make sure that the Ordinance tests for a conditional use permit are, in fact, met by the applicant.

We do not believe that the City Staff, the Planning Commission or the Council needs any special expertise or experience in matters relating to the electrical capacity of the substation or the transmission line itself. Those are not the issues here. The issues are purely and uniquely local land use issues. The City has extensive experience and expertise in those matters.

Unfortunately, we will not be able to attend the Council meeting on Monday night, but several members of the neighborhood will be present to ask you not to refer this matter away from the City, and to specifically ask you to fulfill your duty, and the duty of the City, to stay directly involved in this matter and vote on the conditional use permit so, to the extent the neighborhood needs protection, the City can work to provide that protection during the review and approval process.

We hope you will have a chance to inspect the neighborhood and talk to the neighbors before the Council meeting on Monday night. Thank you for this opportunity to comment.

Very truly yours,



Bruce D. Malkerson



Howard A. Roston

BDM/HAR/ts
Attachment

c: Jessica Loftus, City Administrator (jloftus@ci.orono.mn.us)
Mike Gaffron, Assistant City Administrator (mgaffron@ci.orono.mn.us)
Linda Vee, City Clerk (lvee@ci.orono.mn.us)
Melanie Curtis, Planning & Zoning Coordinator (mcurtis@ci.orono.mn.us)
Soren M. Mattick, City Attorney (smattick@ck-law.com)

City of Orono Mayor and City Council

December 10, 2010

Page 5

Melissa Fogelberg (melissafogelberg@wellsfargo.com)

Michael Kuruvilla (Michael.kuruvilla@att.net)

Paul Fraser (pwfraser@gmail.com)

Peter Schoon (Peter@systemssupport.com)

Sedarski, Joseph G

From: Melanie Curtis [MCurtis@ci.orono.mn.us]
Sent: Monday, December 13, 2010 12:17 PM
To: Sedarski, Joseph G; Rogers, Christopher C
Subject: FW: Row of ten-story power poles, highline wires and large electrical sub-station expansion

FYI – This was sent over the weekend.

Melanie Curtis | ☎ 952.249.4627 | ✉ mcurtis@ci.orono.mn.us

From: Peter Schoon [mailto:Peter@systemsupportsolutions.com]
Sent: Saturday, December 11, 2010 2:53 PM
To: Lili McMillan; Doug Franchot (doug@franchotassociates.com); Jessica Loftus; Jessica Loftus; Mike Gaffron; Lin Vee; Melanie Curtis; Jim White; Cynthia Bremer; Jim Murphy (jmurphy@goldengate.net); Doug Franchot; lili4mayor@gmail.com; Cynthia Bremer (cynthia.bremer@ogletreedeakins.com)
Cc: melissafogelberg@wellsfargo.com; michael.kuruvilla@att.net; pwfraser@gmail.com; 'Bruce D. Malkerson'; 'Howard A. Roston'; 'Peter Schoon'
Subject: Row of ten-story power poles, highline wires and large electrical sub-station expansion

Dear Concerned Orono Residents and Leaders,

Just ran across this...

The below link is of interest as it is a good example of a City (City of South St. Paul) granting a conditional use permit to Xcel Energy for a comparable 115KVA power line while requiring mitigation to human and environmental concerns. In this case, Xcel was issued the CUP on condition of the expenditure of \$4,610,000 dollars additional (\$5,000,000 vs. \$390,000).

In our case, mitigation could virtually be a wash if the project is just moved a few hundred feet North.

<http://www.powerlinefacts.com/South%20St%20Paul%20Resolution.htm>

But, to have the ability to affect the outcome, Orono, like South St. Paul, would have to “bite the bullet”, stay in the loop, and not abdicate authority to the PUC.

It is really not an overly complex set of criteria to consider as you will see from the above referenced decision, and I submit it does fall within the City of Orono’s normal authority domain.

Please don’t relinquish your opportunity to defend your city, its environment, and its citizens. This project will not only affect each and every one of us, but our children, grand children, and children’s grand children for years, and years, and years to come.

Very truly,

Peter M. Schoon
 994 Hunt Farm Road
 Orono, MN USA 55356

952 745-1111 x115 (desk, cell)

City of South St. Paul

Dakota County, Minnesota

RESOLUTION NO.2001-152

RESOLUTION RELATING TO THE APPLICATION BY
NORTHERN STATES POWER COMPANY d/b/a XCEL ENERGY
FOR A CONDITIONAL USE PERMIT FOR THE UPGRADE OF A
115kV TRANSMISSION LINE.

BE IT RESOLVED, by the City Council of the City of South St. Paul, Minnesota, as follows:

SECTION ONE

Recitals

1.01 Northern States Power Company, doing business as Xcel Energy ("NSP") filed an application for a conditional use permit to upgrade its existing 115kV transmission line within the City of South St. Paul by adding a second 115kV circuit and rebuilding the transmission line on monopole structures (the "Application").

1.02 A public hearing on the Application was held before the Planning Commission on June 6, 2001, following published and mailed notice as required by law. On June 13, 2001, the Planning Commission adopted its findings of fact, conclusions and recommendation with respect to the Application ("Planning Commission Recommendation"), which was forwarded to the City Council.

1.03 By resolution adopted June 18, 2001, the City Council extended the time to complete processing the Application to August 7, 2001, for the reasons stated in the resolution. A certified copy of the resolution was sent by certified mail to NSP on June 20, 2001, and a receipt therefore was signed by a representative of NSP.

1.04 The following documents and materials were provided to the Mayor and each Council member and constitute part of the record on the Application:

- Application;
- Supplement to Application, including aerial photo of transmission line route, southeast Metro transmission system diagram, structure drawing, H-frame photograph, computer generated monopole in South St. Paul residential area, Van Hoven reroute,
- EQB FIS negative declaration;
- Commonwealth Associates Inc. ("EAI") executive summary report for the Transmission Line Steering Committee;
- City Planner's report and recommendation to the Planning Commission;
- Power Line Task Force May 30,2001, communication to the Planning Commission;
- NSP slides presented to the Planning Commission On June 6, 2001;
- Power Line Task Force slides presented to the Planning Commission on June 6, 2001;
- Minutes of June 6,2001, Planning Commission meeting;
- Power Line Task Force June 13,2001 communication;
- Minutes of June 13, 2001, Planning Commission meeting; and
- Planning Commission resolution 2001-01 adopted June 13, 2001.

1.05 At its regular meeting on July 23, 2001, the City Council considered and discussed the Application and the record and heard Pat Cline, Dave Callahan, and Harold Bagley, Applicant representatives, who presented facts

and arguments in favor of the application and Roger Conant, Power Line Task Force, Joseph Turene, Sophie Voigt, and Edward Chapdelaine who presented facts and arguments in opposition to the Application.

1.06 At a special meeting on July 30, 2001, the City Council considered and discussed the Application, and the record. Based upon a preponderance of the evidence contained in the record related to the Application, and the arguments of proponents and opponents of the Application, the City Council makes the following findings of fact, conclusions and decision.

SECTION TWO Findings of Fact

2.01 Northern States Power Company, doing business as Xcel Energy ("NSP") filed an application for a conditional use permit to upgrade its existing 115kV transmission line within the City of South St. Paul by adding a second 115kV circuit and rebuilding the transmission line on monopole structures (the "Application").

2.62 A public bearing on the Application was held before the Planning Commission on June 6, 2001, following published and mailed notice as required by law. On June 13, 2001, the Planning Commission adopted its findings of fact, conclusions and recommendation with respect to the Application ("Planning Commission Recommendation").

2.03 By resolution adopted June 18, 2001, the City Council extended the time to complete processing the Application to August 7, 2001, for the reasons stated in the resolution. A certified copy of the resolution was sent by certified mail to NSP on June 20, 2001, and a receipt therefore was signed by a representative of NSP.

2.04 The existing transmission line is located on a 40-foot wide right-of-way (owned in fee by NSP) for about 3,000 feet within a built-up residential area within the City of South St. Paul. In the rest of the City the right-of-way is 50 feet wide. The right-of-way widths will not be expanded as part of the proposed project.

2.05 The present transmission line was originally constructed in the early 1920's, and modified in later years. Most, if not all, of the houses adjacent to the transmission line were constructed after the transmission line existed and subsequent owners purchased with knowledge of the existence of the line.

2.06 NSP Proposes to construct the existing transmission line and a new 115kV transmission line as a double circuit transmission line, which is required to provide continuous reliable electrical power to customers in the southeast suburban Minneapolis-St. Paul area, including the City of South St. Paul. The project will establish two independent circuits between the Red Rock substation and the Rogers Lake substation, which will prevent loss of electric service in the event of a line failure. CAI concurred in the need for the project. Opponents of the Application questioned the need for the project and its benefit to consumers in the City of South St Paul. However; the Weight of the evidence supports the need for the double circuit line.

2.07 The proposal is to construct the double circuit transmission line on monopoles which will be about 25 feet taller than the existing transmission line structures. The conductors of the existing line are about 25 feet above ground and the nearest are 7 feet from the edge of the 40-foot wide right-of-way. The lowest conductors of the proposed line would be about 25 feet above ground and about 10 feet from the edge of the 40-foot wide right-of-way

2.08 The noise level of the existing line at the edge of the 40-foot wide right-of-way is 20.9 dB(a); it is calculated to be 24.8 dB(a) for the double circuit lines. If the proposed double circuit line was constructed underground there would be no noise.

2.09 Electric and magnetic field strengths (EMF) were measured and calculated for the existing line and the double circuit line on the 40 foot wide right-of-way. The magnetic field for the existing line at the right-of-way edge is 101.3 milligrams (mG); for the double circuit line it will be 25.1 mG. If the double circuit line was constructed underground the magnetic field at the right-of-way edge would be 2.4 mG.

2.10 Opponents expressed concern that the new transmission line will result in devaluing property adjacent to the line and make the property unusable or difficult to sell. The FHA will not finance houses adjacent to transmission lines. NSP stated that FHA has financed house sales adjacent to transmission lines upon receiving advice from NSP that the line was constructed according to all applicable codes and requirements.

2.11 A study by Colliers Towle, Inc. of sale price comparisons among houses adjacent to transmission lines and those not adjacent to transmission lines average. Those adjacent to a line sold on the average for 0.5 percent less and took an average of 5.5 days longer to sell.

2.12 Some of the opponents were concerned about adverse health effects to persons living adjacent to the transmission line that may be caused by the electric and magnetic fields of the transmission line. They are fearful of the levels of these fields even though double circuiting will reduce these levels by about fifty percent.

2.13 NSP, on the other hand, refers to the decision of the Minnesota Environmental Quality Board concerning this project in which it determined that the proposed project does not have the potential for significant environmental effects and issued a negative declaration on the need for an environmental impact statement.

2.14 It appears that the scientific community has not conclusively demonstrated a lack of causal relationship between EMF and adverse health effects and that research about this issue continues. The research to date is inconclusive with regard to the issue of transmission lines and adverse health effects.

2.15 The estimated cost of construction of the double-circuit overhead 115kv transmission line through the residential portion in the City of South St. Paul is \$390,000; the estimated cost to underground the same segment is \$5,000,000.

2.16 The Proposed construction schedule for the Red Rock to Rogers Lake segment of the project is fall 2001-winter 2002 Red Rock substation construction, winter 2002-spring 2003 Rogers Lake substation line foundations and structures construction

SECTION THREE Conclusions

3.01 This matter is properly before the City Council pursuant to Subsection 1500.29, Subd. 4, of the South St. Paul City Code of 1992.

3.02 All persons who desired to be heard in favor or in opposition to the Application have been given an opportunity to present evidence and argument.

3.03 There is credible evidence of the need for the project.

3.04 The general characteristics of the residential neighborhood will not change because the configuration of an existing transmission line will only change. The monopoles will be approximately 25 feet higher than the existing H-frame structures and will be the same number. However, the monopoles will be significantly more visible in the local community and will have a greater impact on the landscape than the existing structures. If the proposed double circuit line was constructed underground, the visual impact would be eliminated.

3.05 There will be diminution or impairment of property values and FHA insured loans may not be available because of the presence of the transmission line

3.06 Noise levels will increase by approximately five decibels because of the proposed transmission line. Noise levels will not be a concern if the double circuit line is constructed underground.

3.07 Because of the uncertainty and inconclusiveness of the effects of EMF on health and welfare, the sensible action in the interest of public health, safety and welfare is to reduce exposure to EMF. While overhead construction of the double circuit line will reduce the magnetic field to 25.1 mG at the edge of the 40 foot right-of-way, undergrounding the double circuit line will reduce the magnetic field to a more acceptable level of 2.4 mG at the right-of-way edge.

3.08 An overhead transmission line would be more susceptible to damage from severe weather conditions and thus a greater threat to public safety than an underground transmission line

3.09 The proposed overhead double circuit transmission line would be detrimental to the health, safety and general welfare of the community and would seriously depreciate surrounding property values because of the cumulative effects of noise, visibility, EMF and susceptibility to adverse weather conditions. These effects would be either eliminated or reduced to an acceptable level if the double circuit line was constructed underground. In such case there would not be a detriment to the health, safety and general welfare of the community nor a serious depreciation of surrounding property values.

3.10 The proposed double circuit line will benefit the southeast metro area as well as the entire NSP system. Costs necessary to protect the public health, safety and general welfare should be a system-wide cost. The excess cost to bury the double circuit line are for the protection of the public health, safety and general welfare and should be borne by the entire NSP system and not by just by the City of South St. Paul or the NSP customers within the City who did not create the circumstances necessitating the construction of the transmission lines underground.

SECTION FOUR Decision

The City Council grants a conditional use permit to Northern States Power Company d/b/a Xcel Energy to construct a double circuit 115kV electric transmission line composed of the existing circuit and a new circuit, (the "transmission line") subject to the condition that the transmission line be constructed underground; provided, however, that the excess cost of underground construction be paid on a NSP system-wide basis, and if allocated to the City or to its NSP customers by order of the Minnesota Public Utilities Commission ("PUC") or other state agency having jurisdiction, this conditional use permit is denied, shall be null and void, and of no force or effect and the transmission line may not be constructed; provided further that construction of the transmission line may not commence until NSP has agreed to a system-wide allocation of the excess undergrounding cost, or the PUC has denied allocation of the excess cost to the City or its NSP customers, and such action has not been appealed.

The conditional use permit is also subject to the following conditions:

(1) Northern States Power Company d/b/a Xcel Energy will offer free of charge a lawn arid garden easement that is consistent with its utility usage to landowners adjacent to its fee right-of-way strip, that will be appurtenant to their property in perpetuity as long as its terms are complied with.

(2) In the event that the State of Minnesota or the Federal Government establishes standards for electric Or magnetic fields that are applicable to the proposed transmission line, Northern States Power Company d/b/a Xcel Energy shall comply with the standards and shall provide the City with sufficient information to ascertain compliance with the standards

(3) Should Northern States Power Company d/b/a Xcel Energy, after the issuance of this conditional use permit be issued, granted, obtain, consent to or otherwise receive a permit or authorization for the double circuit of the existing 115kV transmission line from the City of Inver Grove Heights, the City of Mendota Heights, the City of Sunfish Lake, or the City of Bloomington on a term or terms more favorable to the city than those

contained in this conditional use permit, the City of South St. Paul shall have the right to require Northern States Power Company d/b/a Xcel Energy to agree to a modification of this conditional use permit to incorporate the same or substantially similar more favorable terms, and Northern States Power Company d/b/a Xcel Energy by the acceptance of this conditional use permit agrees to promptly agree to the incorporation of such term(s).

Passed: August 6, 2001

Mayor

Approved: August 7, 2001

/s/ Kathleen A. Gaylord

Sedarski, Joseph G

From: Melanie Curtis [MCurtis@ci.orono.mn.us]
Sent: Monday, December 13, 2010 12:21 PM
To: Sedarski, Joseph G; Rogers, Christopher C
Subject: FW: Xcel Orono High Voltage Substation and Transmission
Importance: High

One more.

Melanie Curtis | ☎ 952.249.4627 | ✉ mcurtis@ci.orono.mn.us

From: melissafogelberg@wellsfargo.com [mailto:melissafogelberg@wellsfargo.com]
Sent: Monday, December 13, 2010 11:38 AM
To: Lili McMillan; Doug Franchot (doug@franchotassociates.com); Jessica Loftus; Jessica Loftus; Mike Gaffron; Lin Vee; Melanie Curtis; Jim White; Cynthia Bremer; Jim Murphy (jmurphy@goldengate.net); Doug Franchot; lili4mayor@GMAIL.COM; Cynthia Bremer (cynthia.bremer@ogletreedeakins.com)
Cc: michael.kuruvilla@att.net; Peter@systemsupportsolutions.com; pwfraser@GMAIL.COM; pfogelberg@GMAIL.COM
Subject: Xcel Orono High Voltage Substation and Transmission
Importance: High

Ladies and Gentlemen:

I have great concern about the proposed Xcel Orono substation and am, therefore, writing to request that the city accept jurisdiction over Xcel's application for a conditional use permit.

It appears to me that the pivotal consideration in approving or denying the application is whether the conditional use would be consistent with the City of Orono Community Management Plan. The Plan includes important considerations such as whether the proposed use would be compatible with the surrounding area as it is presently used, would be consistent with the character of the surrounding area, would be consistent with buildings and site improvement in the surrounding area, would impair use and enjoyment of surrounding property or have a material adverse impact on property values in the area, would take into account the natural and scenic features of the area and minimize environmental impact and would not be detrimental to the general welfare. The factors included in the Plan express the values and priorities of the residents of the community.

Who is better suited than the city itself to determine whether the application is consistent with the Community Management Plan? Certainly the Public Utilities Commission does not have the familiarity with the above factors that the city does.

Nor does the PUC have a stake in the impact of the substation on the Orono community. As it has been explained to me, the substation is being built for the benefit and convenience of Xcel and communities west of Orono. No one in Orono gains any benefit from the substation and power lines. It's not just adjacent homeowners who would be negatively affected by the substation--all residents have an interest in insuring that the Plan is respected so that the quality of life in the community is not harmed. Furthermore, to the extent the substation depresses property values, it also diminishes the tax base of the city. All of these things should be of substantial concern to the community and, therefore, to the City Council.

In my judgment, the City Council has a responsibility to its citizens not to relinquish control to the PUC. Instead, the council owes it to its citizens to retain control in order to ensure that their interests are carefully considered in the application review process.

I, unfortunately, will be unable to attend tonight's meeting. I am committed to participate in a Wills for Heroes clinic in Hopkins, which I cannot change. This is a program administered by the state bar association under which volunteer attorneys write wills and other estate planning documents for first responders. The fact that I am not at tonight's council meeting does not mean the issue on the agenda is not of tremendous importance.

Thank you for your consideration.

Melissa Fogelberg

1/4/2011

MPUC Docket No.
E002/TL-11-223

Melissa R. Fogelberg | 870 Hunt Farm Rd | Orono, MN 55356 | 484-252-1248

This message may contain confidential and/or privileged information. If you are not the addressee or authorized to receive this for the addressee, you must not use, copy, disclose, or take any action based on this message or any information herein. If you have received this message in error, please advise the sender immediately by reply e-mail and delete this message. Thank you for your cooperation.

Agenda for Council Meeting Set for Monday, December 13, 2010, 7:00 P.M.

Orono Council Chambers, 2780 Kelley Parkway, Orono, MN 55356

Directions: www.yahoo.com/maps - 952-249-4600 / www.ci.orono.mn.us

Roll Call

Pledge of Allegiance

Consent Agenda

1. Consent agenda items, including (*) asterisk items, are considered to be routine items to be enacted upon by one motion by the City Council under this section of the agenda. Items on the Consent Agenda are reviewed in total by the City Council and may be approved through one motion with no further discussion by the Council. Any item may be removed by any Council Member, staff member or person from the public for separate consideration. If you wish to remove any item from the Consent Agenda, please state the item number and description of the item. Memos regarding each of the Agenda items are available in the Public Packet - located in the lobby near the sign in sheet.

Approval of Minutes

- * 2. Regular Council Meeting of November 22, 2010
- * 3. Council Work Session of November 23, 2010
- * 4. Regular Council Meeting of December 6, 2010

Sale of Bonds

5. Consider the Award of the Sale of General Obligation Street Reconstruction, State-Aid and Capital Improvement Bonds – Resolution

Budget Adoption

6. Continuation of 2011 Budget Hearing – Adoption of 2011 Budget and Tax Levy
 - a. Adopt Final 2010 Levy Collectible in 2011 – Resolution
 - b. Adopt 2011 General Fund Budget – Resolution
 - c. Adopt the 2011 Special Revenue Funds Budgets – Resolution

Presentation

7. Old Crystal Bay Road Reconstruction Plan Update – Bonestroo

LMCD Report – Andrew McDermott, Representative

Planning Commission Comments – Kim Kang, Representative

Public Comments – (Limit 5 Minutes Per Person)

Planning Department Report

8. #10-3454 City of Orono – Zoning Text Amendment – Conditional Uses in the Residential Zoning Districts – Ordinance
9. #10-3467 Steven Schussler and Sunhi Ryan, 1935 Concordia Street – Variance – Denial Resolution
10. #10-3468 Dennis Batty on behalf of Irfan Habib, 3421-3425 Shoreline Drive – Preliminary Subdivision and Commercial Site Plan – Denial Resolution
11. #10-3471 Terry Schneider with Klingelhut Development on behalf of Woodhill Senior Cottages of Navarre, 2525 Shadywood Road – Conditional Use Permit/Site Plan/Preliminary Plat – Resolution

Agenda for Council Meeting Set for Monday, December 13, 2010, 7:00 P.M.

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Directions: www.yahoo.com/maps - 952-249-4600 / www.ci.orono.mn.us

12. #10-3486 Xcel Energy, 3960 Sixth Avenue North – CUP Substation Routing Permit
13. #10-3489 Susan and Justin Kelley and Claudia and Scott Weisberg, 2980 and 2990 Sussex Road – Lot Line Rearrangement/Vacation of Easement – **Public Hearing** – Resolution
14. #10-3493 Good Shepherd Lutheran Church, 3745 Shoreline Drive – Conditional Use Permit for Columbarium – Resolution

City Engineer's Report

15. Request For Payment No. 1, North Farm Road Sanitary Sewer Project
16. Request For Payment No. 1, Lift Station No. 12 Improvements
17. Request for Payment No. 2 and Final, Willow Drive South Mill and Overlay Project

Mayor/Council Report

City Administrator's Report

18. Purchase of Property Room and Evidence Management Software
19. Planning Commissioner Appointments
20. 2011 Fee Schedule – Ordinance
21. 2011 Official Calendar
22. Council Liaison to Planning Commission Meetings in 2011
23. Authorization to Disburse City Funds for Claims Received
24. Non-Waiver of Tort Limits
25. Approve Annual Transfers
26. 2011 Non-Union Employee Compensation Adjustments – Resolution
27. Amend Orono Health Reimbursement Arrangement (HRA) – Resolution
28. Amend Orono Flexible Spending Plan – Resolution
29. Municipal State Aid Bond Resolution
30. City Engineer Rate Schedule
31. Amendment 1 to Residential Recycling Grant Agreement
32. Wayzata Fire Service Agreement
33. Recognition of Officer William “Bill” Persell
34. Recognition of Officer Erick Dyer
35. Recognition of Officer Matt Siltala
36. Recognition of Adrienne Madson

City Attorney's Report

37. Hazardous Building Action at 200 Hollander Road – Resolution

38. Licenses & Permits

Liquor License Renewals

- * 39. **Bills**

Adjournment

Agenda for Council Meeting Set for Monday, December 13, 2010, 7:00 P.M.

Orono Council Chambers, 2780 Kelley Parkway, Orono, MN 55356

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Upcoming Issues and Events

2010

12/13 – Council Meeting, *Monday*, 7:00 p.m.

12/14 – Council Work Session, *Tuesday*, 6:30 p.m. - Cancelled

12/24 – HOLIDAY, Observance of Christmas, *Friday*

12/31 – HOLIDAY, Observance of New Year's Day, *Friday*

2011

01/05 – Planning Commission Work Session, *Wednesday*, 5:30 p.m.

01/10 – Council Work Session, *Monday*, 6:00 p.m.

01/10 – Council Meeting, *Monday*, 7:00 p.m.

01/17 – HOLIDAY, *Monday*, Martin Luther King, Jr. Day

01/18 – Planning Commission Meeting, *Tuesday*, 6:30 p.m. (*Council Liaison – Doug Franchot*)

01/24 – Council Meeting, *Monday*, 7:00 p.m.

**MINUTES OF THE
ORONO CITY COUNCIL MEETING
Monday, December 13, 2010
7:00 o'clock p.m.**

ROLL CALL

The Orono City Council met on the above-mentioned date with the following members present: Mayor James White, Council Members James Murphy, Cynthia Bremer, Lili McMillan, and Doug Franchot. Representing Staff were City Administrator Jessica Loftus, City Attorney Soren Mattick, Finance Director Ron Olson, City Clerk Lin Vee, Assistant City Administrator of Long-Term Strategic Planning Mike Gaffron, Planning Coordinator Melanie Curtis, City Engineer Tom Kellogg, and Recorder Jackie Young.

Mayor White called the meeting to order at 7:02 p.m., followed by the Pledge of Allegiance.

CONSENT AGENDA

Item Nos. 10, 15-18, 20-25, and 27-37 were added to the Consent Agenda and Item No. 9 was deleted from the agenda.

Murphy moved, Franchot seconded, to approve the Consent Agenda as amended. VOTE: Ayes 5, Nays 0.

APPROVAL OF MINUTES

***2. REGULAR COUNCIL MEETING OF NOVEMBER 22, 2010**

Murphy moved, Franchot seconded, to approve the minutes of the Orono City Council meeting of November 22, 2010, as submitted. VOTE: Ayes 5, Nays 0.

***3. COUNCIL WORK SESSION OF NOVEMBER 23, 2010**

Murphy moved, Franchot seconded, to approve the minutes of the Orono City Council Work Session of November 23, 2010, as submitted. VOTE: Ayes 5, Nays 0.

***4. REGULAR COUNCIL MEETING OF DECEMBER 6, 2010**

Murphy moved, Franchot seconded, to approve the minutes of the Orono City Council meeting of December 6, 2010, as submitted. VOTE: Ayes 5, Nays 0.

SALE OF BONDS

5. CONSIDER THE AWARD OF THE SALE OF GENERAL OBLIGATION STREET RECONSTRUCTION, STATE-AID AND CAPITAL IMPROVEMENT BONDS – RESOLUTION NO. 5997

Carolyn Drude, Ehlers, reported on the sale of \$4,460,000 general obligation street reconstruction, state-aid, and capital improvement bonds. The high bid was 3.1698 percent and the low bid was submitted by Morgan, Keegan & Company at 2.8571 percent. Drude stated overall the City received six bids, which

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(10. #10-3468 DENNIS BATTY ON BEHALF OF IRFAN HABIB, 3421-3425 SHORELINE DRIVE, Continued)

Batty stated if they withdraw their application, the property will likely remain as is and not be improved. Given the issue with the variances, the property likely will need to change dramatically and that they will be withdrawing their application.

VOTE ON MOTION TO RECONSIDER: Ayes 5, Nays 0.

Mattick recommended the applicant be required to submit his withdrawal in writing and to submit that to the City no later than Wednesday, December 15th, otherwise the original motion of denial would stand.

Bremer moved, McMillan seconded, Application #10-3468, Dennis Batty on behalf of Irfan Habib, 3421-3425 Concordia Street, to require that the applicant submit his request for withdrawal of his application by Wednesday, December 15, 2010. If the written request is not received by that date, the original motion denying the application will stand. VOTE: Ayes 5, Nays 0.

11. #11-3471 TERRY SCHNEIDER WITH KLINGELHUTZ DEVELOPMENT ON BEHALF OF WOODHILL SENIOR COLLATES OF NAVARRE, 2525 SHADYWOOD ROAD – CONDITIONAL USE PERMIT/SITE PLAN/PRELIMINARY PLAT – RESOLUTION NO. 6001 AND 6002

Terry Schneider, Applicant, was present.

McMillan stated she had a concern with the area by the wetland in the southwest corner and asked whether that area should be disturbed during construction and replanted.

Curtis asked whether McMillan is referring to the buffer area.

McMillan indicated it would be the buffer area and the area adjacent to that. McMillan stated she is unsure exactly what the applicant is proposing

Curtis stated the applicant is proposing to improve the area up to the buffer. The applicant has worked with the neighborhood on the landscape plan and a landscape professional has designed the plan. The noxious weeds and invasive weeds should be removed and brought up to the City's standards.

McMillan asked if the area of native grass planting is a requirement of the City.

Curtis indicated that is not a requirement of the City.

McMillan stated she knows the neighbors would like to retain as much of the screening as possible, and pointed out that native grass can create a bigger open area and eliminate some of the screening. McMillan stated she would like to make sure that the City is not forcing the applicant to re-vegetate and replant that area.

McMillan noted the City's Code requires removal of buckthorn in buffer areas, and that she personally has an issue with that since it tends to disturb the area. McMillan stated she is not sure what is proposed to be removed and what currently exists as it relates to the trees in the area. McMillan indicated she would like to ensure that large, mature trees are not eliminated and replaced with 6-inch trees.

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(11. #11-3471 TERRY SCHNEIDER WITH KLINGELHUTZ DEVELOPMENT ON BEHALF OF WOODHILL SENIOR COLLAGES OF NAVARRE, 2525 SHADYWOOD ROAD, Continued)

Curtis stated the City does not have a tree protection requirement outside the 0-75 foot zone and buffer areas.

Franchot asked whether the applicant has met with the neighbors and had this plan approved by them.

Schneider indicated the neighbors have reviewed the plan and are in favor of it. Schneider stated they have two buffer areas that will remain. One is along Kelly Avenue, which will remain as is, and the other buffer area is next to the wetlands. Some of the trees are actually located in the buffer zone and will be maintained. The buckthorn and other invasive weeds will be removed. The neighbors have agreed to some landscaping outside of the buffer area, which will leave a fairly dense area of screening.

McMillan stated she did not want to require the removal of existing hardwoods in order to replant other smaller trees.

Schneider stated under the buffer ordinance, they are able to plant certain new trees in the buffer zone. If they exist in the buffer and are not considered a noxious tree, they can stay.

McMillan noted there is reduced parking proposed due to the usage. McMillan asked whether future use of the property would be constrained by the limited parking and what would happen if the building is used for something else.

Curtis indicated the use would be contained due to the limited parking. There is a provision in the resolution that states this site is approved for the use proposed and that if someone else occupies the building, they would need to come back to have the conditional use permit amended.

Gaffron noted Item 6 of the resolution approving the conditional use permit states the following: "This conditional use permit approval is specifically for an assisted living facility, and future conversion to some other permitted or conditional use within the B-4 Zoning District is not guaranteed based on the parking limitations and possible other factors inherent within the approved site plan." Gaffron stated that language places the owners on notice that if the parking cannot handle a different use, they may not be granted a conditional use permit for that new use.

McMillan stated technically they may be required to add additional parking if the use changes.

Gaffron noted retail parking requirements would be significantly more and they would have to find a way to add additional parking.

McMillan asked whether there is something in the resolution governing the maintenance of the filtration system.

Gaffron indicated there is and that the Watershed District will also have a covenant concerning the maintenance.

Franchot moved, Murphy seconded, to adopt RESOLUTION NO. 6001, a Resolution Approving a Preliminary Plat and Vacation of Easements for Properties Located at 2525, 2535, and 2545 Shadywood Road. VOTE: Ayes 5, Nays 0.

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Monday, December 13, 2010
7:00 o'clock p.m.**

(11. #11-3471 TERRY SCHNEIDER WITH KLINGELHUTZ DEVELOPMENT ON BEHALF OF WOODHILL SENIOR COLLAGES OF NAVARRE, 2525 SHADYWOOD ROAD, Continued)

Franchot moved, Murphy seconded, to adopt RESOLUTION NO. 6002, a Resolution Approving a Conditional Use Permit and Site Plan for Properties Located at 2525, 2535, and 2545 Shadywood Road. VOTE: Ayes 5, Nays 0.

12. #10-3486 XCEL ENERGY, 3960 SIXTH AVENUE NORTH – CUP SUBSTATION ROUTING PERMIT

Joe Sedarski, Chris Rogers and Gene Cox were present on behalf of Xcel Energy.

Curtis stated in August Xcel Energy began the process of making an application to expand and upgrade their existing substation at 3960 Sixth Avenue North. This project includes a complete rebuild of the existing substation and an increase in operating voltage from 69 kilovolts to 115 kilovolts. A new transmission line is also proposed. The final route for the new, overhead transmission line has not yet been determined but will be subject to review and approval.

This type of project is typically reviewed and approved by the Public Utilities Commission (PUC). However, Xcel may seek local review and approval because their project meets the exemption set out in the Statute. The exemption applies to projects involving transmission lines between 100 and 200 kV, and substations with a voltage designed for and operating at 100 kV or more. Both are being proposed on this site. Pursuant to Minnesota Statute 216.E.05 and MN Rule 7850.5300, Xcel may seek local review and approval from the City via our conditional use permit process for their substation expansion and new transmission line route. Pursuant to MN Statute 216.E.05, Subd. 1(b) and MN Rule 7850.5300, Subpart 4, the City has 60 days in which to refer review and permitting back to the PUC. As the application is not yet complete, that 60-day clock has not begun.

City Zoning Code lists public service structures as an allowed conditional use within all districts in the City. Specifically, Section 78-393(6) applies to the RR-1A District where this property is located. Staff initially understood the local review sought by Xcel was only the CUP for the substation expansion. Staff now better understands that accepting Xcel's request for local review includes the substation and approval of the routing for the new transmissions line route. Because the review process cannot be split between the City and the PUC, the City must review either both aspects of this proposal or neither. In the opinion of Staff, the City does not have the appropriate level of expertise needed to fully review the routing of the new transmission lines.

Based on the City Attorney's discussions with the PUC, we believe the City's comments and recommendations on the application, specifically related to land use, screening, setbacks, etc., will be implemented in the PUC's review and approval of the project. The City does not have a history of reviewing this type of application and Staff would recommend the City defer the review of this application to the PUC pursuant to 216.E.05, Subd. 1(b), and Rule 7850.5300, Subpart 4.

Mayor White opened the public hearing at 8:49 p.m.

Michael Kuruvilla, 760 Hunt Farm Road, stated he is president of the Hunt Farm Road Homeowners Association. Kuruvilla stated an application is being put forward but that the homeowners association has concerns since this is located at their back door.

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(12. #10-3486 XCEL ENERGY, 3960 SIXTH AVENUE NORTH, Continued)

expansion and that the people of the City Council and Staff are the experts on the Community Management Plan. The homeowners association is requesting the City Council not relinquish their responsibility to the citizens by referring this to the PUC. This expansion would diminish their property values. The homeowners association is not going to tell Xcel where to build but they would like Xcel to consider alternative routes.

Peter Schoon, 994 Hunt Farm Road, indicated he was shocked by this project. The proposed towers and substation are rather monumental.

Schoon displayed some pictures of their neighborhood with some 110 foot poles superimposed on the pictures. Schoon pointed out that one of these towers would be in his back yard. The poles are also rather substantial in diameter and would be within 120 feet of the current smaller wood poles in his back yard. Xcel is proposing a row of three towers across the wetland. These towers would negatively impact the wetlands, the wildlife in the area, their quality of life, and from an aesthetic point of view, the equipment would destroy the area. Schoon indicated a number of different types of wildlife live in the area and he has a substantial number of photographs of the wildlife in the two and a half acre area.

The noise output is approximately 60 bp, which is equivalent to running a vacuum cleaner. Schoon stated this is a land use issue and that he would request the City Council retain their authority over this issue and not surrender it to the state.

Curtis displayed an aerial photograph of the area and the existing power lines.

Peter Dassel, Hunt Farm Road, stated he just moved into his house in October and that he has had to replace the septic system, new roof, and he is now facing this issue. Dassel stated the impact to his property is not as great as some of the other neighbors, but that the City cannot abdicate the wetland issues to the states.

Mattick indicated Staff is recommending that this application go to the PUC. The City would provide some input on the various issues, but that the PUC would decide the route.

Dassel questioned whether this is the best route and, based upon the impact to the wetlands, there should be some alternatives. Xcel needs to demonstrate avoidance and minimization of the wetlands and in his opinion there are other options out there that are not being considered. Dassel suggested that perhaps a different parcel of land be considered for this expansion.

Dassel stated based on a visual look, if the towers were located on the north side of 12, there would be less impact on the wetlands than on the south side of Highway 12. Dassel stated that impact could be borne out by a wetland delineation, which unfortunately cannot be accomplished until the spring sometime. Dassel requested the City Council give closer scrutiny to what is being proposed and the impacts to the neighbors.

Bremer noted MN Rule 78.50, Subpart 6, would allow review by the City, but that in her view the City does not have enough regulations on the books currently to deal with all aspects of this project. Bremer asked what type of regulations the City has currently to deal with this type of project.

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(12. #10-3486 XCEL ENERGY, 3960 SIXTH AVENUE NORTH, Continued)

Mattick stated Rule 78.50 speaks for itself and that the City needs to have something in place to regulate it. The City has it listed as a conditional use, but beyond that, the criteria to govern it would be the City's general CUP regulations as it relates to routing or sighting. Mattick noted the PUC would have a whole separate list of regulations than what the City has. The PUC would require an environmental assessment and other things that are not currently in the City's ordinances.

Mattick noted he has spoken with the PUC and they have indicated it is the City's call on whether they want to review the application. Orono has very few review criteria specific to the sighting or routing of the towers, which poses a problem for Staff. There is nothing in the City's ordinances regarding the height of the towers or the separation of the towers to give guidance to Staff.

Mattick stated the City Council does have the option to review the application if they are comfortable that there are enough regulations currently on the books to provide guidance to Staff on how to proceed.

Bremer noted an environmental assessment would be required and asked what that would entail.

Mattick stated it would look at the impact of the project on the wetland and things of that nature.

White asked whether alternative sites would be listed in the assessment.

Mattick indicated they would not be. Based on the size of the project, Xcel does not need to produce a certificate of need. Mattick pointed out that the PUC handles these sorts of things routinely and that there are legitimate questions that need to be asked but that he is not sure if Staff would be able to answer those questions. Mattick stated this is basically an approve or deny type of application based on the City's current regulations.

Bremer asked if the application is complete at this point and whether the 60 day time period has commenced.

Mattick stated they have received an application but it is not complete at this point.

Mike Kuruvilla commented the City Attorney has not seen the plan and the neighbors have not seen the plan and that a decision should not be made until that is done. The substation would fall under the City of Orono's land use plan.

White requested Mr. Kuruvilla ask a specific question regarding the project.

Kuruvilla stated the substation would come under the City's land use plan.

White noted that Mr. Kuruvilla has already pointed out that the City Council and the citizens are the best judges of the City's land use plan. White indicated the City Attorney is advising the City Council on the best way to proceed given the City's current regulations.

Mattick stated he is not suggesting that substations and routes do not affect the land because they do, but that the PUC would address that. The local authorities have the option on minor projects to review the application. The PUC administers these and reviews these differently than a city would. The City would consider this a conditional use and Xcel would be granted a conditional use permit if they meet all of the

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(12. #10-3486 XCEL ENERGY, 3960 SIXTH AVENUE NORTH, Continued)

City's criteria, which is pretty vague at this point. Mattick pointed out that this is not a typical land use application and that the PUC is not confined to your typical CUP criteria.

Mayor White asked whether Xcel currently has a right-of-way easement along the highway.

Chris Rogers indicated it would require additional easements. Rogers stated the plan depicted on the overhead shows the existing line in blue, which is a 115 kV line. The red line is the proposed route.

Mayor White asked whether the easements would be obtained from the state.

Rogers stated the route being proposed would have the poles pretty much along the railroad right-of-way and would involve obtaining private easements. The north/south route is basically a triangular shape and would run on Xcel property until it turns in a northwesterly direction.

White pointed out on the overhead the piece of property owned by Xcel.

Rogers indicated it is a 16-acre piece of property and consists largely of woods.

Dassel noted the easements would need to be obtained through condemnation proceedings against the homeowners association.

White concurred that Xcel would need to acquire an easement from the private landowners.

Murphy commented that this is similar to the Highway 12 project given the impact on the neighbors. Murphy asked for clarification on the proposed route.

Gene Cox stated the blue line is the existing 115 kV line and that the proposed line would go along the route depicted by the red dots. The existing line is currently at capacity. Commencing at Mr. Schoon's property, the three poles would be converted to a single pole structures with a concrete foundation. At that point there would then be a monopole design which will traverse the route of the red dots to the substation and back out. The monopole structures will have wires on each side since they are looping it into the substation and back out. The blue line would become a continuous loop that is severed at the red dot located on Mr. Schoon's property.

Rogers stated the last red dot is an existing three pole structure that currently exists on Mr. Schoon's property and Xcel would propose bringing the route in a northeasterly direction to almost the buffer area. The red line would be shifted northeasterly and further away from the private properties, which will help save trees and other vegetation.

Murphy asked what the three-pole structure is exactly.

Cox indicated it is actually three separate structures and that the existing blue line that goes through Mr. Schoon's property would consist of A-frame structures.

Murphy asked what other alternatives were considered.

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7:00 o'clock p.m.**

(12. #10-3486 XCEL ENERGY, 3960 SIXTH AVENUE NORTH, Continued)

Rogers stated they need to get from Point A, which is the substation, to Point B, which is the 115 kV line. Roger indicated they are willing to meet with Mr. Schoon and Mr. Kuruvilla again to discuss alternative routes. One of the options considered was to take it through Baker Park. Xcel did meet with Three Rivers Park in early November and Three Rivers Park has issued a two page letter outlining their criteria. That letter has been provided to Mr. Schoon and Mr Kuruvilla. The other alternative is to run it between Highway 12 and the railroad tracks, but that is not ideal since there is a force main located in that area as well as other utilities.

Rogers stated if the proposed route is followed, it would not be in the wetlands on Mr. Schoon's or Mr. Kuruvilla's property but would be closer to the railroad.

Murphy asked how much taller the new poles are.

Cox indicated the existing structures are between 60-70 feet and the new poles would be approximately 15 feet higher. The tallest structure would be the corner structure because they are transitioning from the A-frame structure into a vertical design.

Bremer asked why Xcel made application to the City rather than to the PUC.

Sedarski indicated one factor is the small size of the project and the other factor is to go to the City in the hopes that there will be local support for the project. The proposed route will impact relatively few property owners. Sedarski noted Xcel also has other projects scheduled around the same time.

Bremer asked what is incomplete about the application.

Sedarski indicated part of the process is to introduce the project to the public and to obtain public comment on the environmental assessment and the route alternatives. The PUC would not require Xcel to look at alternative routes. Xcel, however, does review that as a matter of course. Sedarski noted Xcel is not done with the environmental assessment.

Rogers indicated plans for the substation expansion and transmission lines have not yet been finalized and submitted.

Sedarski pointed out they did send letters to the affected landowners and they are in the process of collecting comments. Xcel has completed a wetlands delineation and that has been approved by the Watershed District.

Murphy asked what the general time line is for the project.

Cox stated the time line will be based on the permitting process they end up following. Cox stated this is a local project and the substation is a distribution substation, which would feed both commercial and residential properties. Cox stated permitting would typically be a six to eight month long process and construction would start sometime in 2012 depending on when the permitting process is complete.

Sedarski noted the six to eight month process would be if they go before the PUC.

McMillan asked what area would be upgraded as part of this project.

**MINUTES OF THE
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(12. #10-3486 XCEL ENERGY, 3960 SIXTH AVENUE NORTH, Continued)

Cox stated it would be essentially a 15-20 mile perimeter around the substation. The existing line is at capacity and does not have full protection because it does not have a shield wire. The 115kV line would provide for better voltage support, superior reliability and protection. Currently there is only one source of power to the area and with the upgrade, if one side of the service goes down, the other side would be able to provide power, which increases the reliability of the system.

Mayor White asked what noise level is generated.

Sedarski stated they do monitor the noise as part of the EA process and Xcel will be providing those numbers.

Dassel asked why this project would not require a full environmental impact statement.

Sedarski stated this process is not part of the environmental quality board where the environment assessment is used to determine whether an environmental impact statement is required. Xcel is requesting permitting from the City and the City has 60 days to decide whether to accept the application. In the environmental assessment there is information on the wetlands, and Xcel will review all the impacts and do whatever mitigation is necessary. Xcel follows certain construction techniques that are designed to minimize the impact to the wetlands and would do the construction during the winter.

Dassel noted impacts can also be felt outside the wetlands, such as runoff.

Sedarski indicated the environmental assessment will provide the design.

McMillan asked what the PUC process would entail.

Sedarski stated the process before the PUC would involve a similar process as the City's except for an environmental assessment being completed. Xcel would still hold a public meeting with the residents, which is not required under the PUC rules. Once application is filed, it typically takes six to eight months with the PUC. The PUC offers two options for review. The ultimate review process with the PUC does not require Xcel to look at alternate routes but the full permitting process does, which is the only difference between the two processes.

McMillan asked why this project does not require the full permitting process.

Sedarski indicated the voltage and the distance determines which process should be followed.

Mayor White closed the public hearing at 9:23 p.m.

Mayor White commented that in his view the City does not have the expertise or established criteria to handle this type of application.

McMillan indicated she is in agreement with Mayor White.

Murphy stated he is sympathetic to the concerns of the residents, but that in his view it would take a lot of time and energy on the part of the City to deal with this application and that Xcel will probably get what

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they want anyway. Murphy encouraged the residents to take their comments to the PUC, and suggested that the City work with the citizens as much as possible.

Mattick stated the City does have the opportunity to provide comments to the PUC on the application.

Michael Kuruvilla stated he would like Xcel to know that the residents are not against Xcel but that this is not a good spot for the substation or the transmission lines.

Franchot stated he is in agreement that the City should stand strong with the residents, but that he is unsure whether the City should handle this or turn it over to the PUC. Franchot stated he would like the answer to be that the City can do a better job on this application than the PUC, but that he is not sure whether that is really the case.

Franchot moved, McMillan seconded, Application #10-3486, Xcel Energy, 3960 Sixth Avenue North, to accept Staff's recommendation and refer this matter to the Public Utilities Commission.

Murphy commented it is likely that Xcel will come in below the maximum decibel level but that it will still seem noisy to the neighbors. Murphy again encouraged the residents to provide their comments to the PUC.

VOTE: Ayes 4, Nays 1, Bremer Opposed.

13. #10-3489 SUSAN AND JUSTIN KELLEY AND CLAUDIA AND SCOTT WEISBERG, 2980 AND 2990 SUSSEX ROAD – LOT LINE REARRANGEMENT/VACATION OF EASEMENT – PUBLIC HEARING – RESOLUTION NO. 6003

Curtis stated the applicants are requesting a lot line rearrangement for the properties located at 2980 and 2990 Sussex Road. The applicants would like to move the current lot line 53 feet to the south. Due to an error in publication timing for the vacation of easements, the Planning Commission's public hearing only applied to the lot line rearrangement. The City Council will hold the public hearing for the vacation as well as review the lot line rearrangement.

The appropriate utility companies were notified. They have provided comments on the vacation and only one, Xcel Energy, had a line which required a new easement.

Mayor White opened the public hearing at 9:50 p.m.

There were no public comments regarding this application.

Mayor White closed the public hearing at 9:50 p.m.

Bremer moved, Murphy seconded, to adopt RESOLUTION NO. 6003, a Resolution Approving a Lot Line Rearrangement and Easement Vacation for Properties Located at 2980 and 2990 Sussex Road. VOTE: Ayes 5, Nays 0.

Date Application Received: 8/23/10
Date Application Considered as Complete: INCOMPLETE

REQUEST FOR COUNCIL ACTION

Date: 1 December 2010
Item No. 12

Department Approval: Name: Melanie Curtis <i>MC</i>	Administrator Approval: <i>JG</i>	Agenda Section:
Title: Planning & Zoning Coordinator		

Item Description: Land Use Application #10-3486
Xcel Energy – 3960 Sixth Avenue N – Substation Expansion CUP & Routing Permit Local Review

List of Exhibits:

- Exhibit A - Xcel Fact Sheet & Aerial Photo
 - Exhibit B - Applicable Minnesota Rules and Statutes
-

Summary:

In August, Xcel Energy began the process of making an application to expand and upgrade their existing substation at *3960 Sixth Avenue North*. This project includes a complete rebuild of the existing substation and an increase in operating voltage from 69 kilovolts ("kV") to 115 kV. A new transmission line is also proposed. The final route for the new, overhead transmission line has not yet been determined but will be subject to review and approval.

This type of project is typically reviewed and approved by the Public Utilities Commission (PUC) however Xcel may seek local review and approval because their project meets the exemption set out in the Statute. The exemption applies to projects involving transmission lines between 100 and 200 kV, and substations with a voltage designed for and operating at 100 kV or more. Both are being proposed on this site. Pursuant to MN Statute §216.E.05 and MN Rule 7850.5300, Xcel may seek local review and approval from the City via our CUP process for their substation expansion and new transmission line route. Pursuant to MN Statute §216.E05, subdivision 1(b) and MN rule 7850.5300, subpart 4, the City has 60 days in which to refer review and permitting back to the PUC. As the application is not yet complete that 60 day clock has not begun.

City Zoning Code lists public service structures as an allowed conditional use within all districts in the City. Specifically Section 78-393(6) applies to the RR-1A District where this property is located. Staff initially understood the local review sought by Xcel was only the CUP for the substation expansion. We now better understand that accepting Xcel's request for local review includes the substation *and* approval of the routing for the new transmission line route. Because the review process cannot be split between the City and the PUC, the City must review either both aspects of this proposal or neither. In the opinion of staff, the City does not have the appropriate level of expertise needed to fully review the routing of the new transmission lines.

Based on the City Attorney's discussions with the PUC, we believe the City's comments and recommendations on the application, specifically related to land use, screening, setbacks, etc, will be implemented in the PUC's review and approval of the project. The City does not have a history of reviewing this type of application. Staff recommends the City defer the review of this application to the PUC pursuant to §216.E05, subd. 1(b) and Rule 7850.5300, subp. 4.

Planning Staff Recommendation

Staff recommends the Council decline the local review. Pursuant to MN Statute §216.E05, subd 1(b) and MN rule 7850.5300, subp 4, Council should refer Xcel's application back to the State to follow the PUC's review process.



PROPOSED ORONO SUBSTATION EXPANSION AND NEW 115kV TRANSMISSION LINE

FACT SHEET

PROJECT NEED: Northern States Power Company, doing business as Xcel Energy, plans to expand and upgrade its Orono Substation and build a new 115 kilovolt ("kV") overhead transmission line connecting the planned substation to an existing 115kV transmission line. The substation upgrade to 115kV and new transmission line will increase electric system reliability, reduce the risk of overloads, and will allow for additional load growth in the future.

PROJECT DESCRIPTION:

- The existing Orono Substation operates at 69kV and will be removed and replaced by a 115kV substation located adjacent to the current location, all within property owned by Xcel Energy.
- Once the new 115kV substation and associated transmission line work is completed, the 69kV substation components will be removed.
- Approximately ¼ mile of new double circuit 115kV transmission line will be routed out of the new substation north over Xcel Energy property, and then approximately ¼ mile northwesterly over privately owned land to connect to an existing 115kV transmission line.
- Proposed structures for the new transmission line will be 80-100 feet tall single steel poles with davit arms placed on concrete foundations.
- New easements will need to be obtained for the transmission line portion crossing over private property.
- Xcel Energy is seeking local review and approval of the project from the Minnesota Public Utilities Commission, and the City of Orono has agreed to take local jurisdiction for permitting the project.
- Xcel Energy has applied for a Conditional Use Permit ("CUP") with the City of Orono as required for the project.
- Once the CUP is approved by the City and State permitting requirements are met, construction is expected to begin in the fall of 2011 with completion of the new substation and transmission line by late 2012.



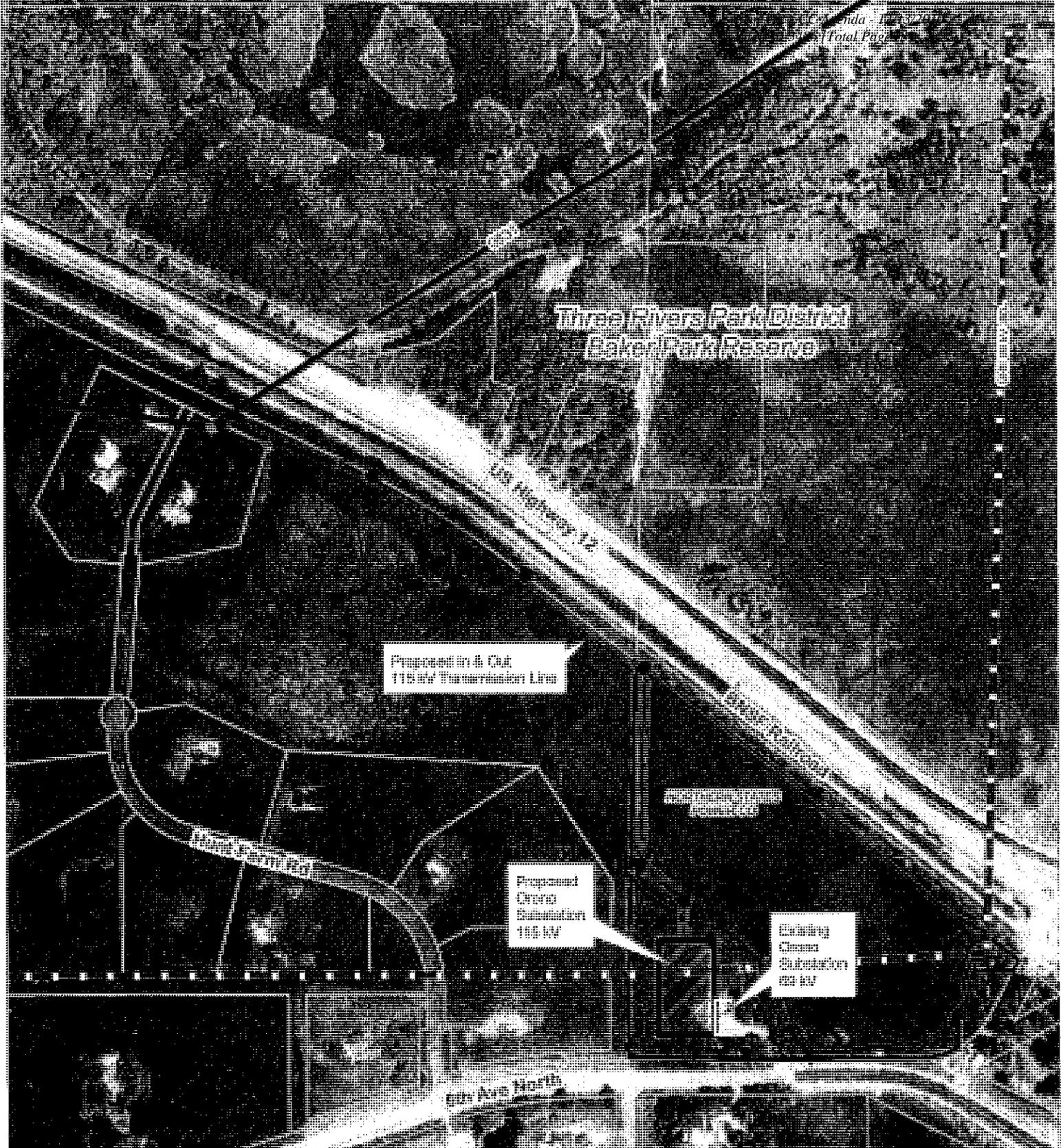
**Typical Double Circuit
Steel Single Pole**

CONTACTS:

Joe Sedarski, Sr. Permitting Analyst, Xcel Energy
Tel: (612) 330-6435 e-mail: joseph.g.sedarski@xcelenergy.com
Chris Rogers, Sr. Land Rights Agent, Xcel Energy
Tel: (612) 330-6078 e-mail: christopher.c.rogers@xcelenergy.com

MPUC Docket No.
E002/TL-11-223

September 1, 2010

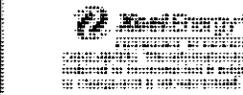


Legend

<ul style="list-style-type: none"> Existing Xcel Energy Line #0031 CRE-MED -- 115kV Existing CRE Line 00 -- 66kV (to be disconnected) MSP-MN Transmission Structure Proposed Crown Substation (115 kV) Existing Crown Substation (66 kV) 	<ul style="list-style-type: none"> Northern State Power Land Hennepin County Parcel Proposed In & Out Tap 115 kV Transmission Line (3 circuits) Approximate Wetland Boundary
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MPUC Docket No.
 E002/TL-11-223

Figure 1
Proposed Crown
Substation Project



O/E: Proposed transmission line and substation expansion locations are approximate.

216E.05 LOCAL REVIEW OF APPLICATIONS.

Subdivision 1. **Local review.** (a) Notwithstanding the requirements of sections 216E.03 and 216E.04, an applicant who seeks a site or route permit for one of the projects identified in this section shall have the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project. If local approval is granted, a site or route permit is not required from the commission. If the applicant files an application with the commission, the applicant shall be deemed to have waived its right to seek local approval of the project.

(b) A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request the commission to assume jurisdiction and make a decision on a site or route permit under the applicable provisions of this chapter. A local unit of government must file the request with the commission within 60 days after an application for the project has been filed with any one local unit of government. If one of the local units of government with jurisdiction over the project requests the commission to assume jurisdiction, jurisdiction over the project transfers to the commission. If the local units of government maintain jurisdiction over the project, the commission shall select the appropriate local unit of government to be the responsible governmental unit to conduct environmental review of the project.

Subd. 2. **Applicable projects.** Applicants may seek approval from local units of government to construct the following projects:

- (1) large electric power generating plants with a capacity of less than 80 megawatts;
- (2) large electric power generating plants of any size that burn natural gas and are intended to be a peaking plant;
- (3) high-voltage transmission lines of between 100 and 200 kilovolts;
- ~~(4)~~ substations with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;
- (5) a high-voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and
- (6) a high-voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line.

Subd. 3. **Notice of application.** Within ten days of submission of an application to a local unit of government for approval of an eligible project, the applicant shall notify the commission that the applicant has elected to seek local approval of the proposed project.

History: 2001 c 212 art 7 s 15; 2005 c 97 art 3 s 19

7850.5300 LOCAL REVIEW OF PROPOSED FACILITIES.

Subpart 1. **Local review.** An applicant who seeks a site or route permit for one of the projects identified in subpart 2 has the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project. If local approval is granted, a site or route permit is not required from the commission. If the applicant files an application with the PUC, the applicant shall be deemed to have waived its right to seek local approval of the project.

Subp. 2. **Eligible projects.** An applicant may seek approval from a local unit of government to construct the following projects:

A. a large electric power generating plant with a capacity of less than 80 megawatts;

B. a large electric power generating plant of any size that burns natural gas and is intended to be a peaking plant;

C. a high voltage transmission line of between 100 and 200 kilovolts;

D. a substation with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;

E. a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and

F. a high voltage transmission line rerouting to serve the demand of a single customer when at least 80 percent of the rerouted line will be located on property owned or controlled by the customer or the owner of the transmission line.

Subp. 3. **Notice to PUC.** Within ten days of submission of an application to a local unit of government for approval of an eligible project, the applicant shall notify the commission in writing that the applicant has elected to seek local approval of the proposed project. Within the same ten-day period, the applicant shall mail notice to those persons on the general notification list that a permit has been applied for from the local unit of government for the project and shall provide a description of the project and the name of a person with the local unit of government to contact for more information.

Subp. 4. **Referral to PUC.** A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request the PUC to assume jurisdiction and make a decision on a site or route permit. A local unit of government shall file the request with the commission within 60 days after an application for the project has been filed with any one local unit of government. If one of the local units of government with jurisdiction over the project requests the commission to assume jurisdiction, jurisdiction over the project transfers

to the commission and the applicant shall file under the applicable provisions of parts 7850.1000 to 7850.5600 for a permit from the commission.

Subp. 5. **Environmental review.** A local unit of government that maintains jurisdiction over a qualifying project shall prepare an environmental assessment on the project. The local unit of government shall afford the public an opportunity to participate in the development of the scope of the environmental assessment before it is prepared. Upon completion of the environmental assessment, the local unit of government shall publish notice in the EQB Monitor that the environmental assessment is available for review, how a copy of the document may be reviewed, that the public may comment on the document, and the procedure for submitting comments to the local unit of government. The local unit of government shall provide a copy of the environmental assessment to the PUC upon completion of the document. The local unit of government shall not make a final decision on the permit until at least ten days after the notice appears in the EQB Monitor. If more than one local unit of government has jurisdiction over a project, and the local units of government cannot agree on which unit will prepare the environmental assessment, any local unit of government or the applicant may request the commission to select the appropriate local unit of government to be the responsible governmental unit to conduct an environmental review of the project.

Subp. 6. **No local authority.** In the event a local unit of government that might otherwise have jurisdiction over a proposed large electric power generating plant or high voltage transmission line determines that it has no ordinances or other provisions for reviewing and authorizing the construction of such project or has no capability of preparing an environmental assessment on the project, the local unit of government shall refer the matter to the PUC for review.

Subp. 7. **Matters excluded.** When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the local unit of government shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

Statutory Authority: *MS s 116C.66; 216E.16*

History: *27 SR 1295; L 2005 c 97 art 3 s 19*

Posted: *September 18, 2009*

ORONO City Code Reference

Sec. 78-393. Conditional uses.

Within any RR-1A one-family rural residential district, no structure or land shall be used for the following uses without a conditional use permit:

(6) Public service structures, including but not limited to electric transmission lines, buildings, such as telephone exchange stations, booster or pressure regulating stations, wells, and plumbing stations, elevated tanks, lift stations and electrical power substations, provided no building shall be located within 50 feet from any lot line of an abutting lot in an R district. Prior to granting such permit it shall be found that the architectural design of service structures is compatible to the neighborhood in which it is to be located and thus will promote the general welfare. Public service structures that have been approved by the city at required public hearings for public improvements projects shall not require a conditional use permit, but such structures shall be subject to all other appropriate standards set forth in this section; amendments to approved plans involving design and/or placement of these structures will require written notice by the city to all affected property owners 14 days prior to the adoption of the amended plans by the council. Personal wireless services and commercial broadcasting antennas and towers shall not be considered public service structures.