

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

Acting Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for the Southwest Twin Cities Scott County – Westgate 115 kV Transmission Line Rebuild Project

ISSUE DATE: May 24, 2012

DOCKET NO. E-002/TL-11-948

ORDER REFERRING APPLICATION
TO THE OFFICE OF ADMINISTRATIVE
HEARINGS FOR SUMMARY
PROCEEDINGS

PROCEDURAL HISTORY

On April 12, 2012, Northern States Power Company d/b/a Xcel Energy (Xcel or the Applicant) filed an application for a route permit under the alternative permitting process set forth at Minn. Stat. Chapter 216E and Minn. Rules, parts 7850.2800 to 7850.3900.¹ The Applicant proposed converting or upgrading approximately 20 miles of 69 kV transmission line to 115 kilovolt (kV) capacity between the Scott County substation and the Westgate substation, and modifying the associated substation facilities located near the cities of Shakopee, Chaska, Chanhassen, Shorewood, Excelsior, Greenwood, Deephaven, Minnetonka, and Eden Prairie in Scott, Carver, and Hennepin Counties.

On April 30, 2012, the Energy Facility Permitting Staff of the Department of Commerce (DOC EFP) filed comments and recommendations on the application.

On May 10, 2012, the application came before the Commission.

¹ On March 9, 2012, Xcel filed an application for a certificate of need for the proposed transmission line upgrade of the 69 kV Scott County-Westgate system to 115 kV. Docket No. E-002/CN-11-332.

FINDINGS AND CONCLUSIONS

I. Summary

In this order, the Commission accepts Applicant's route permit application as substantially complete. In accordance with the alternative permitting process hearing procedures for route permits set forth in Minn. Rules, part 7850.3800, the Commission will refer the matter to the Office of Administrative Hearings for summary proceedings including evidentiary record development. The Commission asks the Administrative Law Judge to develop the evidentiary record and make findings, conclusions, and recommendations on the issues set forth below.

II. Background

Xcel's proposed transmission line upgrade is a high voltage transmission line (HVTL) as defined in Minn. Stat. § 216E.01, subd. 4, because it will be capable of operating at a nominal voltage of more than 100 kV. Because it is an HVTL, Xcel must obtain a route permit for it before constructing and operating it.

In addition, the project is eligible for consideration under the alternative permitting process, as the transmission line voltage would be between 100 and 200 kilovolts. Minn. Stat. § 216E.04 and Minn. Rules, part 7850.2800, subp. 1C.

III. Completeness of Xcel's Application

Route permit applications for high-voltage transmission lines reviewed under the alternative permitting process must provide specific information about the proposed project including, but not limited to, applicant information, route description, environmental impacts, and mitigation measures as defined in Minn. Rules, part 7850.3100.

The Commission may accept an application as complete, reject an application and require additional information to be submitted, or accept an application as complete upon filing of supplemental information.

The DOC EFP conducted a completeness review of the proposed transmission line upgrade HVTL route permit application. The DOC EFP concluded that the application meets the content requirements of Minn. Rules, part 7850.3100, and is substantially complete.

Having reviewed the application and the recommendation of the DOC EFP, the Commission agrees that the application generally meets the content requirements of Minn. Rules, part 7850.3100, and is substantially complete.

IV. Public Advisor

Upon acceptance of an application for a route permit, the Commission is to designate a staff person to act as the public advisor on the project pursuant to Minn. Rules, Part 7850.3400. The public advisor is available to answer questions from the public about the permitting process. In this role, the public advisor may not act as an advocate on behalf of any person.

The Commission will authorize Tricia DeBleeckere, Facilities Planner, Minnesota Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101-2147, (651) 201-2254 to act as the public advisor in this matter.

V. Commission Action

A. Jurisdiction

The Commission has jurisdiction over applications for route permits for large energy facilities, including the transmission line upgrade project at issue, under Minn. Stat. Chapter 216E and Minn. Rules Chapter 7850.

B. Referral to the OAH for Record Development

Xcel's application was submitted under the provisions of the alternative permitting process set forth in Minn. Rules, parts 7850.2800 to 7850.3900.

The Commission finds that it cannot resolve the issues raised in the application on the basis of the record before it. Those issues turn on specific facts that are best developed in proceedings conducted by an Administrative Law Judge. The Commission will therefore refer the matter to the Office of Administrative Hearings for factual development and analysis under the alternative hearing process set forth in Minn. Rules, part 7850.3800.

The Commission asks the Administrative Law Judge assigned to this matter to conduct summary proceedings to develop the record as described in this Order. The Commission further asks that the Administrative Law Judge strongly encourage the parties and participants to adhere to a schedule that allows the Commission to meet its statutory deadline for a decision on the project.²

Finally, the Commission asks the Administrative Law Judge to submit a report to the Commission setting forth findings, conclusions, and recommendations on the merits of the proposed transmission upgrade project and any associated issues. Following receipt of the Administrative Law Judge's report, the Commission will make its final decision in accord with Minn. Stat. Chapter § 216E.

The Administrative Law Judge assigned to this case is Manuel J. Cervantes. His address and telephone number are as follows: Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101; (651) 361-7945. The mailing address is: Office of Administrative Hearings, P. O. Box 64620, St. Paul, Minnesota 55164-0602.

C. Public Participation and Environmental Review

1. Public Hearing Procedures

The Commission asks the Administrative Law Judge to adapt the procedural framework set forth at Minn. Rules, part 7850.3800 to include the following features, which will facilitate comprehensive factual development and informed decision-making:

² Minn. Stat. § 216E.04, subd. 7.

- The Commission directs Commission staff to formally contact relevant state agencies, and request their participation in the development of the record and public hearings under Minn. Stat. § 216E.10, subp. 3.
- Throughout the course of the proceedings, the Commission asks that the Administrative Law Judge ask the parties, participants, and the public to address whether the proposed project meets the selection criteria established in Minn. Stat. § 216E.03, subd. 7 and Minn. Rules Chapter 7850.
- The Commission requests that the DOC EFP submit any post-hearing comments on the merits of the application and the record, as well as any recommendation(s), draft permit language, or specific permit provisions, under timelines established by the Office of Administrative Hearing. In the event the Department chooses to submit additional comments and those comments in part choose in and among competing alternatives, the DOC EFP shall identify the competing alternatives and clearly indicate why it made those choices.
- The Commission requests the Administrative Law Judge to prepare a report setting forth findings, conclusions, and recommendations on the merits of the transmission line upgrade project, applying the routing criteria set forth in statute and rule.

2. Issues to be Addressed

The issue to be addressed is whether the proposed project meets the selection criteria established in Minn. Stat. § 216E.03, subd. 7, and Minn. Rules Chapter 7850.

In addition to the Administrative Law Judge’s analysis of the merits and record associated with the project, the Commission also asks that the following questions be evaluated:

- A. Does a route alternative along Highway 7 in Segments 4-8 of the proposed project more closely meet the selection criteria established in Minn. Stat. § 216E.03, subd. 7, and Minn. Rules Chapter 7850?
- B. Have other issues raised by parties, participants, and the public that are relevant to the application been adequately addressed?

ORDER

1. Applicant’s route permit application for the Southwest Twin Cities Scott County – Westgate 115 kV transmission line rebuild is accepted as substantially complete as of the date of this Order.
2. Applicant shall promptly file the information requested by the Department of Natural Resources in its May 4, 2012 comments.

3. The Commission hereby refers this matter to the Office of Administrative Hearings for summary proceedings as set forth herein.
4. The Commission requests the Administrative Law Judge to strongly encourage parties and participants to adhere to a schedule which allows the Commission to reach its statutory deadline for a decision on the project.
5. The Commission directs Commission staff to contact state agencies on their participation in this matter.
6. The Commission requests that the DOC EFP submit any post-hearing comments on the merits of the application and the record, as well as any recommendation(s), draft permit language, or specific permit provisions, under timelines established by the Administrative Law Judge. In the event the DOC EFP chooses to submit additional comments and those comments in part choose in and among competing alternatives, the DOC EFP shall identify the competing alternatives and clearly indicate why it made those choices.
7. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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