BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

DOCKET NO. E002/TL-12-401

EFP Staff: William Cole Storm…….. (651) 296-3595
DATE:……..…….. July 31, 2012

In the Matter of the Application of Xcel Energy for a Route Permit for the Southwest Twin Cities Chaska Area 115 kV Transmission Line Rebuild Project

Issues Addressed: Application Acceptance; appointing a Public Advisor; and establishing an Advisory Task Force.

Documents Attached:
1. Route Permit General Vicinity Map
2. Draft Charge for an Advisory Task Force

Additional documents and information can be found on http://mn.gov/commerce/energyfacilities or on eDockets http://www.edockets.state.mn.us/EFilin/search.jsp (12-401).

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Introduction and Background

On July 10, 2012, Northern States Power Company (Xcel) and Great River Energy (GRE) submitted a high voltage transmission line (HVTL) Route Permit Application[1] under the alternative permitting process to the Commission for the proposed transmission line upgrade of the SWTC Chaska Area 69 kV transmission system to 115 kV.

On May 15, 2012, Xcel and GRE (Applicants) submitted an Application[2] to the Commission for a Certificate of Need (CN) for the proposed transmission line upgrade of the Chaska Area 69 kV system to 115 kV. The docket number for the CN proceedings is E002/CN-11-826.

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[1] Route Permit Application (RPA), eDockets Document ID 20124-73545-01
[2] Certificate of Need Application, eDockets Document ID 20125-74730-01

Project Location

The project is located in eastern Carver County and northern Scott County near and within the city of Chaska, and through Laketown, Dahlgren, and Jackson townships. The western end of the project area is located in Dahlgren Township, Carver County, west of Aue Lake at existing structure #142. The project extends north along the existing Great River Energy MV-VTT line through Laketown Township, and east through the city of Chaska. The project route continues across the Minnesota River into Jackson Township in Scott County to the eastern terminus of the project at the Scott County Substation.[3] (See the attached General Vicinity Map.)

Project Description and Purpose

The proposed project covers a total of approximately 12.75 miles, contains six segments, and primarily follows existing transmission line rights-of-way (ROW). The Applicants propose to:

- Upgrade approximately 6.1 miles of existing single circuit 69 kilovolt (kV) transmission line (Line #0740) to a single circuit 115 kV transmission line **(Segments 1 , 4, & 6)**;
- Change the operating voltage of approximately 2.9 miles of existing Great River Energy 69 kV transmission line to operate at 115 kV **(Segment 2)**;
- Construct two segments of new 115 kV single circuit transmission line totaling approximately 2.4 miles **(Segments 3 & 5)**;
- Abandon in place (de-energized under normal conditions) approximately 1.0 mile of existing 69 kV transmission line **(Segment 3a)**; and
- Remove approximately 0.39 miles of existing 69 kV transmission line through the middle of the city of Chaska **(Segment 5a).**
- Modify five substations (Scott County, Chaska, West Creek, Victoria and Augusta Substations).

The need for the proposed project was identified in the *Southwest Twin Cities Load Serving Study Review (Highway 212 Corridor 115 kV Conversion)* dated August 8, 2011 prepared by Xcel Energy Services Inc. The study was conducted to address the growing demand for electric power in the southwest Twin Cities area due, in part, to the proposed construction of a new 190,000 square-foot data center[4] in Chaska, Minnesota, that will add 20 megawatts of additional load to the area when it is fully operational.

According to the Applicants, without the proposed Scott County-Westgate 115 kV Transmission Line Rebuild Project transmission upgrades, overloading and low voltage conditions will worsen as the area experiences continued growth and development.[5]

The issues surrounding the need for the project are being handled through a separate certificate of need proceeding.

[3] RPA at 11
[4] UnitedHealth plans 2nd Twin Cities data center, Minneapolis | St. Paul Business Journal, http://www.bizjournals.com/twincities/stories/2010/03/22/story1.html?page=all (March 21, 2010).
[5] RPA at 13

State Regulatory Process and Procedures

Two separate approvals from the Commission are required for the construction/operation of the SWTC Chaska Area 115 kV transmission line project – a certificate of need (CN) and a route permit.

Minnesota Statute 216E.03, subd. 2 provides that no person may construct a high voltage transmission line without a Route Permit from the Commission. An HVTL is defined as a transmission line of 100 kV or more and greater than 1,500 feet in length in Minnesota Statute 216E.01, subd. 4. The proposed transmission lines are HVTLs and therefore a Route Permit is required prior to construction. The Application was submitted pursuant to the provisions of the Alternative Permitting Process outlined in Minn. Rules7850.2800-3900.

Minnesota Statute 216B.243, subd. 2 states that no Large Energy Facility shall be sited or constructed in Minnesota without issuance of a Certificate of Need by the Commission. The 115 kV single-circuit transmission lines proposed for the SWTC Chaska Area project is a "large energy facility" because it has a capacity in excess of 100 kV and is more than 10 miles long.

The SWTC Chaska Area project qualifies for review under the alternative permitting process authorized by Minnesota Statute 216E.04, subd. 2(3) and Minn. Rule 7850.2800, subp. 1(C) because the proposed HVTLs are between 100 and 200 kV. According to that same rule, since the Project qualifies for the alternative permitting process, the Applicant can choose to follow the procedures under Minn. Rule 7850.2800-3900 rather than the procedures for a full process under 7850.1700-2700. Xcel Energy and GRE have chosen to follow the alternative permitting process.

Route permit applications must provide specific information about the proposed project including, but not limited to, applicant information, route description, environmental impacts, alternatives, and mitigation measures (Minn. Rule 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 (Minn. Rule 7850.3200).

The review process begins with the determination by the Commission that the application is complete. The Commission has six months to reach a final decision on the route permit application from the date the application is determined to be complete. The Commission may extend this limit for up to three months for just cause or upon agreement of the applicant (Minn. Rule 7850.3900).

Environmental Review

Applications for high voltage transmission line route permits under the alternative permitting process are subject to environmental review, which is conducted by EFP staff under Minn. Rule 7850.3700. EFP staff will provide notice and conduct public information and scoping meetings to solicit public comments on the scope of the environmental assessment (EA). The Deputy Commissioner of the Department of Commerce will determine the scope of the EA.

An EA is a written document that describes the human and environmental impacts of a proposed project (and selected alternative routes) and methods to mitigate such impacts. The EA will be completed and made available prior to the public hearing.

Public Hearing

Applications for high voltage transmission line route permits under the alternative permitting process require a public hearing upon completion of the EA pursuant to Minn. Rule 7850.3800.

Minn. Rule 7850.3800 provides that the Commission shall appoint a person to act as the hearing examiner at the public hearing. The hearing examiner may be an employee of the Commission; however, the Commission may elect to ask an administrative law judge (ALJ) from the Office of Administrative Hearings to conduct the hearing held under this provision. The hearing examiner sets the date and place for the hearing and provides notice to the public. A portion of the hearing must be held in a county where the proposed project would be located.

The main task of the hearing examiner is to compile a complete record and forward the record to the Commission for decision. While not required by rule, Commission practice has been to arrange for a court reporter to transcribe the proceedings. The hearing examiner is not required to write a report and make a recommendation, unless the Commission specifically requests that the examiner perform those duties.

The hearing must be conducted in the following manner, as per Minn. Rule 7850.3800, although the hearing examiner may vary the order in which the hearing proceeds:

- The staff shall make a brief presentation to describe the project, explain the process to be followed, and introduce documents to be included in the record, including the application, the environmental assessment, and various procedural documents;
- the applicant shall introduce its evidence by way of testimony and exhibits;
- the public must be afforded an opportunity to make an oral presentation, present documentary evidence, and ask questions of the applicant and staff;
- the hearing examiner shall provide a period of not less than 10 days for the submission of written comments into the record after the close of the hearing; and
- the hearing examiner shall transmit the complete record created at the hearing, including all written comments, within five days of the close of the record, unless the hearing examiner is asked to prepare a report (Findings of Fact, Conclusions of Law, and Recommendation).

Joint Environmental and Hearing Processes

The Department of Commerce Energy Facility Permitting staff prepares an Environmental Report (ER) on proposed large electric power generating plants that come before the Commission for a determination of need (Minn. Rule 7849.1200). As previously stated, the proposed SWTC Chaska Area project falls within this definition. The ER must contain information on the human and environmental impacts of the proposed project associated with the size, type, and timing of the project, system configurations, and voltage. The environmental

report must also contain information on alternatives to the proposed project and address mitigating measures for anticipated adverse impacts.

Minn. Rule 7849.1900, Subpart 1, provides that in the event an applicant for a certificate of need for a HVTL applies to the Commission for a route permit prior to the time EFP completes the environmental report, EFP may elect to prepare an Environmental Assessment in lieu of the required environmental report. If combining the processes would delay completion of the environmental review, the applicant and the Commission must agree to the combination. If the documents are combined, EFP must include in the EA the analysis of alternatives required by 7849.7060, but is not required to prepare an environmental report under 7849.7030.

Minnesota Statute 216B.243, subd. 4 require a public hearing be held for the certificate of need to obtain public comments on the necessity of the project. Informal or expedited proceedings (i.e., non-contested) may be used when there are no material facts in dispute (Minn. Rule 7829.1200). When the Commission chooses to follow the informal or expedited proceeding, efficiencies may be achieved by combining the CN public hearing with the public hearing in the Route Permit process.

Public Advisor
Upon acceptance of an application for a route permit, the Commission must designate a person to act as the public advisor on the project (Minn. Rule 7850.3400). The public advisor is someone who is available to answer questions from the public about the permitting process. The public advisor assists the public at meetings and hearings, as well as by e-mail and telephone. In this role, the public advisor may not act as an advocate on behalf of any person. The Commission can authorize Commerce to name a staff member from the EFP staff as the public advisor or assign a Commission staff member.

Advisory Task Force
The Commission may appoint an advisory task force (Minnesota Statute 216E.08). An advisory task force must include representatives of local governmental units in the affected area. A task force can be charged with identifying additional routes or specific impacts to be evaluated in the EA and terminates when the Commerce Deputy Commissioner issues an EA scoping decision.

The Commission is not required to assign an advisory task force for every project. However, in the event that the Commission does not name a task force, the rules allow a citizen to request appointment of a task force (Minn. Rule 7850.3600). The Commission would then need to determine at its next meeting if a task force should be appointed or not.

The decision whether to appoint an advisory task force does not need to be made at the time of accepting the application; however, it should be made as soon as practicable to ensure its charge can be completed prior to the EA scoping decision by the Commerce Deputy Commissioner.

EFP Staff Analysis and Comments

EFP staff worked with the Applicants to review drafts of the Application. Subsequently, it has conducted a completeness review of the SWTC Chaska Area transmission line upgrade HVTL Route Permit application. The required contents of an application for a HVTL Route Permit are

outlined in Minn. Rule 7850.3100 and the inclusion of these required items is documented in a summary table (Table 1 Completeness Checklist) in the Applicants' application.[6]

EFP concludes that the Application meets the content requirements of Minn. Rule 7850.3100 and is substantially complete. Application acceptance allows initiation of the public participation and environmental review processes.

Environmental Review

EFP staff has concluded that combining the ER and EA into a single environmental review document is reasonable in this case (Minn. Rule 7849.1900 subp.1). The Route Permit Application was filed prior to the completion of the ER required for the CN and prior to initiation of the scoping process for the ER. Thus, preparing an EA in lieu of the ER will achieve process efficiencies without delaying the environmental review. It will also enable staff to solicit comments pertinent to the scoping of both the Environmental Report (CN process) and the Environmental Assessment (Route Permit process) in a single public process. EFP would then develop one scoping document and one environmental document for both processes.

Public Hearing

Because the Route Permit Application was filed so early in the CN process, efficiencies could be gained by coordinating the public hearing of the CN proceeding with the public hearing required in the Route Permit alternative review process.

In order to ensure a complete and accurate record for decision-making, EFP suggests that the Commission ask an administrative law judge (ALJ) from the Office of Administrative Hearings to conduct the public hearing for this project and request that the ALJ submit a report to the Commission setting forth findings, conclusions and recommendations on the merit of the proposed transmission line upgrade project and any associated issues.

Advisory Task Force

In analyzing the merits of establishing an Advisory Task Force for the project, EFP staff considered four project characteristics: size, complexity, known or anticipated controversy and sensitive resources. The proposed design information and preliminary environmental data contained in the HVTL route permit application was used to complete the following evaluation:

> **Project Size.** At approximately 13 miles, the SWTC Chaska Area Transmission Line project is a small length transmission line when compared to the majority of the HVTL applications that come before the Commission. At 115 kV, it is the minimum size voltage to trigger state permitting.
>
> For the rebuild portions of the proposed route, the new structures will be somewhat taller than the existing ones. The existing 69 kV structures within the proposed route are primarily wood pole structures with heights ranging from 50 feet to 90 feet with an approximate average height of 60 feet. The new single pole steel horizontal/braced post 115 kV structures will be approximately 60 to 90 feet tall with spans of approximately 300 to 400 feet. In instances where the transmission line spans over water or wetlands, H-frame or Y-

[6] RPA at 4

frame steel structures may be used. The H-frame or Y-Frame steel structures will be approximately 60 to 105 feet tall with spans of approximately 600 to 1400 feet.

A total of approximately 2.36 miles of new 75-foot-wide right-of-way will be required for portions (Segments 3 and 5) of the proposed route that do not have an existing 69 kV line. In the rebuild portions of the proposed route, the Applicants have stated that they will stay within the existing 69 kV line right-of-way (majority of which is 50-feet wide).

Given the project's short distance and the incremental increase in voltage, it is a relatively minor project in size.

Complexity.
The proposed route is located in portions of two counties, Carver and Scott, passing through the city of Chaska, and the townships of Laketown, Dahlgren and Jackson; the segments connect five stations. Due to the increased population density and levels of development found in urban areas, the routing of a transmission line through a city (Chaska in this case) can add complexity to the project.

There are currently 24 residences or farmsteads and one business within 100 feet of the existing 69 kV line; the closest commercial structure to the existing 69 kV line is approximately 32 feet from the line (Segment 4) near the intersection of Chestnut Street and 6th Street (Chaska Boulevard) in the city of Chaska. The closest residence is also within Segment 4 and is located 39 feet from the existing 69 kV line and is on the north side of Chaska Boulevard, west of the intersection with Chestnut Street.

However, the proposed route for the transmission line uses existing transmission rights-of-way for all but 2.36 miles of the project's length, including Segment 4, and the Applicants have stated that they will stay within the existing 69 kV line right-of-way for the rebuild portion. None the less, the Applicants have requested a route width of 100 feet on each side of the centerline along the existing transmission line route segments (segments 1, 4, & 6) and a route width of 200 feet on each side of the proposed centerline along new transmission route segments (segments 3 & 5) to allow for the flexibility to make minor alignment adjustments in order to work with landowners, avoid sensitive natural or built features, and to manage construction constraints.[8]

Given the limited size of the proposed project, the standard alternative review procedures (scoping process, environmental review document, and public hearing) will provide ample opportunities for concerned individuals or entities to raise and evaluate the issues associated with the proximity of the transmission line to structures along the route.

Known/Anticipated Controversy. EFP staff anticipates public interest around possible alternatives in those segments (segments 4, 5 & 5a) that pass through the city of Chaska. The Applicants, with input from the city, have deviated from the existing 69 kV ROW in this area, preferring to construct 0.58 miles of new right-of-way in this area.[13]

[13] RPA at 26 to 29

EFP anticipates that discussion of these segments will continue through scoping and assumes potential alternatives may be developed for this area during the scoping process. EFP has not received comment from the public on any other segment or issue at this time, although different alternatives may come up through the scoping process.

Sensitive Resources.

Segments 1 through 5 of the proposed route are significantly disturbed by human activity. Agriculture, development, and settlement have changed the original landscape in much of these areas. However, portions of Segment 6, through the Minnesota River valley, retain significant attributes of its original pre-settlement condition.[14]

Segment 6 crosses a Central Region Regionally Significant Ecological Area (RSEA) with an outstanding ranking where it crosses the Minnesota River. The DNR Central Region identified ecologically significant areas by conducting a landscape-scale assessment to inform regional scale land use decisions.

In addition, various large wetland complexes and small isolated wetlands are located throughout the project area; each segment of the project crosses or passes near water features. Segment 1 is near Aue Lake and wetlands; Segments 2, 3, 4, and 5 pass over Chaska Creek, its tributaries, wetlands, and Fireman's Clayhole; and Segment 6 crosses the Minnesota River.[15]

The results of the MnDNR Natural Heritage Database Search inquiry indicated that there are 11 known occurrences of rare species and sensitive natural communities within 0.5 miles of the proposed route. According to the Applicants, construction processes will be designed to avoid encroachment and effects on rare species and unique natural resources to the extent practicable.[18]

There are no Wildlife Management Areas, Waterfowl Production Areas or Game Refuges within one mile of the project. The Chaska unit of the Minnesota Valley National Wildlife Refuge is located approximately 0.5 miles south of the project area along the west bank of the Minnesota River.[19]

Finally, a portion of the new line through the city of Chaska (Segment 5) will be constructed near Fireman's Park I. The construction of the new line will require some vegetation and tree removal, which may result in an aesthetic change for the park.[20]

These sensitive resource issues, with the exception of the RSEA area, are typical of issues encountered in route permitting dockets. EFP believes that issues associated with the Minnesota River crossing and the RSEA can best be addressed through DNR's involvement in the permitting process.

[14] RPA at 52
[15] RPA at 77-82
[18] RPA at 89
[19] RPA at 82
[20] RPA at 69

Based on the analysis above, and the fact that the proposed route necessarily connects with five substations and replaces the transmission line within existing rights-of-way for the majority of the proposed route, EFP staff concludes that an advisory task force is not warranted at this time. In the event the Commission chooses to authorize Commerce to employ an advisory task force at this time, EFP staff has created and includes a proposed structure and charge (see attached).

The permitting process should provide adequate opportunities for the public to identify issues and route alternatives to be addressed in the environmental assessment. Staff can also assist local landowners and governmental units in understanding the siting and routing process and identifying opportunities for participating in further development of alternative routes or permit conditions.

* * * * *

Commerce EFP Recommendations

Commerce EFP staff recommends that the Commission:

1. Accept the HVTL Route Permit Application submitted by Xcel and GRE for the Chaska Area 69 kV to115 kV Upgrade Transmission Project as substantially complete and request that the Office of Administrative Hearings assign an administrative law judge to preside over the public hearing and submit a report setting forth findings, conclusions, and recommendations on the merit of the proposed transmission line upgrade project and any associated issues;
2. Authorize Commerce to appoint a public advisor in this matter; and
3. Determine that based on the available information, an advisory task force is not warranted at this time.

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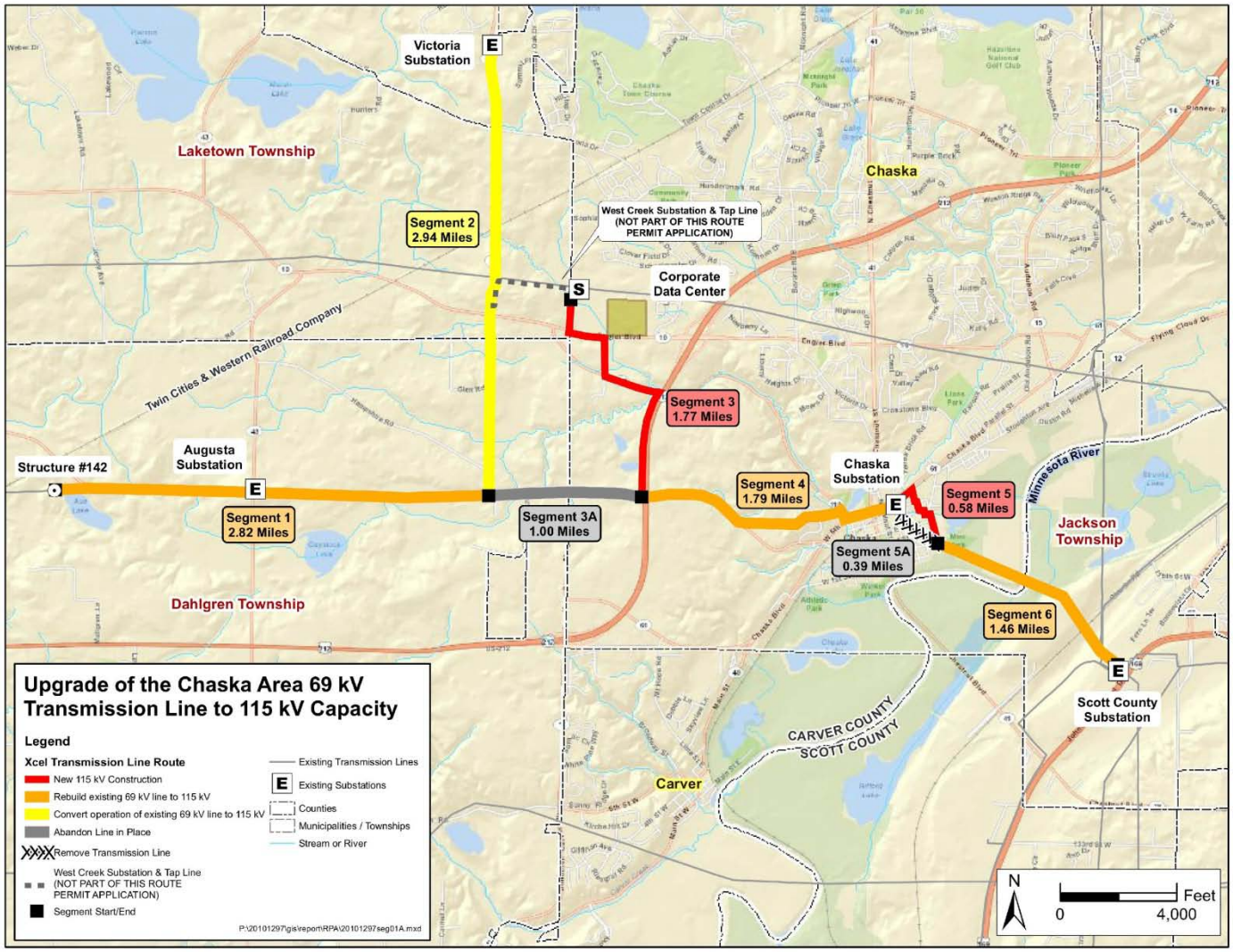
Upgrade of the Chaska Area 69 kV Transmission Line to 115 kV Capacity
Legend
Xcel Transmission Line Route
New 115 kV Construction
Rebuild existing 69 kV line to 115 kV
Convert operation of existing 69 kV line to 115 kV
Abandon Line in Place
Remove Transmission Line
West Creek Substation & Tap Line (NOT PART OF THIS ROUTE PERMIT APPLICATION)
Segment Start/End
Existing Transmission Lines
Existing Substations
Counties
Municipalities / Townships
Stream or River
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Victoria Substation
Laketown Township
Segment 2 2.94 Miles
West Creek Substation & Tap Line (NOT PART OF THIS ROUTE PERMIT APPLICATION)
Corporate Data Center
Chaska
Twin Cities & Western Railroad Company
Segment 3 1.77 Miles
Structure #142
Augusta Substation
Segment 1 2.82 Miles
Segment 3A 1.00 Miles
Segment 4 1.79 Miles
Chaska Substation
Segment 5 0.58 Miles
Segment 5A 0.39 Miles
Minnesota River
Jackson Township
Dahlgren Township
Segment 6 1.46 Miles
Scott County Substation
CARVER COUNTY
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In the Matter of the Route Permit Application for the Chaska Area 69 kV to 115 kV Upgrade Project in Scott and Carver Counties

PROPOSED
ADVISORY TASK FORCE STRUCTURE AND CHARGE
DOCKET NO. E002/TL-12-401

WHEREAS, the applicants submitted a route permit application for the proposed Chaska Area 115 kV transmission line project on July 10, 2012; and

WHEREAS, the Commission, under Minnesota Statute 216E.08, may establish an advisory task force (ATF) to assist it in carrying out its duties; and

WHEREAS, under that same statute the Commission shall provide guidance to the ATF in the form of a charge; and

WHEREAS, on _____, the Commission authorized Department of Commerce Energy Facility Permitting (EFP) to establish an ATF with the structure and charge herein noted;

THEREFORE, having reviewed this information, the Department of Commerce makes the following determination with regard to the structure and charge of an ATF relating to the above matter.

CHASKA AREA 115 KV ADVISORY TASK FORCE STRUCTURE & CHARGE

As authorized by the Commission, the Department of Commerce establishes an ATF to assist in identifying impacts and route alternatives to be evaluated in the environmental assessment to be prepared by EFP staff for the proposed Chaska Area 69 kV to 115 kV transmission line upgrade. The Chaska Area ATF members will be solicited, as required by Minnesota Statute 216E.08, subdivision 1, from the following governmental units:

- Metropolitan Council
- Carver County
- Dahlgren Township
- Laketown Township
- Scott County
- Jackson Township
- City of Chaska

The ATF will comprise no more than 7 members.

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The Department of Commerce charges the Chaska Area ATF with:

1. Identifying specific impacts and issues of local concern that may be included in the scoping decision document and evaluated in the environmental assessment, including issues regarding potential conflicts with local planning and zoning.

2. Identifying potential alternative transmission line routes or route segments and alignments that may be included in the scoping decision document and evaluated in the environmental assessment that may maximize positive impacts and minimize or avoid negative impacts of the project in specific areas of concern.

ATF members are expected to participate with EFP staff in up to three meetings and to assist staff with the development of a summary of the task force's work. Meetings will be facilitated by EFP staff or a facilitator engaged by EFP staff.

The ATF will expire upon completion of its charge or upon release of the environmental assessment scoping decision by the Department of Commerce, whichever occurs first.

EFP staff is directed to solicit and appoint, as appropriate, members of the ATF and to begin work on the above noted charge.

Signed this _____ day of _____, 2012

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

_____
William Grant, Deputy Commissioner