Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date: July 17, 2012 . . . . . Agenda Item # 1

Company: Northern States Power Company (Xcel Energy)

Docket No. E-002, ET2/CN-11-826

In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy and Great River Energy for a Certificate of Need for the Upgrade the Southwest Twin Cities (SWTC) Chaska Area 69 kV Transmission Line to 115 kV Capacity

Issue(s): Should the Commission accept the Application as complete?

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Relevant Documents

Initial Filing – Certificate of Need Application (8 parts) ……..…….…. May 15, 2012
C. Overland Comments …….…… May 25, 2012
Department of Commerce Comments ……...…… June 11, 2012
Xcel Energy and Great River Energy Reply Comments ….…….…… June 21, 2012
Xcel Energy and Great River Energy Reply Supplement ……..….…… June 21, 2012

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Statement of the Issue(s)

Should the Commission accept or reject the application as substantially complete?

Laws and Rules

The proposed facilities constitute a large energy facility pursuant to Minnesota Statutes §216B.2421, subd. 2 (3) because the transmission line is longer than 10 miles and has a capacity of 100 kilovolts (kV) or more. Minnesota Statute §216B.243, subd. 2 requires that large energy facilities obtain a Certificate of Need (CN) from the Commission. The required CN for the proposed project will be reviewed under Minn. Stat. §§ 216B.2421, 216B.243 and Minn. Rules Chapter 7849. Specifically, Minn. Rules 7849.0220, subp. 2 identifies the parts of the rules that apply to transmission lines, including 7849.0240, and 7849.0260 to 7849.0340.

The Commission will make a determination on the appropriate review process for the proposed project. Under Minnesota Rule 7829.1000, the Commission may elect to refer the matter to the Office of Administrative Hearings (OAH) for a contested case proceeding, or the Commission may authorize the use of the informal review process as described in Minnesota Rule 7829.1200.

Background and Project Description

On May 15, 2012, Xcel Energy and Great River Energy (collectively, the Applicants) filed a Certificate of Need application (Application) with the Commission seeking approval to rebuild the Chaska Area 69 kV transmission line to 115 kV Capacity in or near the City of Chaska, Minnesota.

The subject transmission line runs from southeast of Chaska in Scott County through Chaska, north to the Victoria Substation and west to Aue Lake located in Carver County. The project would entail the construction of approximately 2.6 miles of new 115 kV transmission line, the upgrade of approximately 9 miles of 69 kV transmission line to 115 kV capacity, the removal of approximately 0.4 miles of existing 69 kV line, abandonment of approximately 1 mile of existing 69 kV line and associated 115 kV reconfigurations & upgrades at the various 69 kV substation facilities along these transmission lines.

The Applicants have stated that the proposed project is needed in order to prevent overloading conditions on transmission facilities serving the City of Chaska are during contingencies; as well as to provide for further growth and development in the southwest region of the Twin Cities.

Position of the Parties

Xcel Energy

The Applicant states that its proposal satisfies the criteria of Minn. Stat § 216B.243 and Minnesota Rule 7849.0120 necessary to grant a CN as excerpted below[1].

1) Denial of the Project would have an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the Applicants' customers

• Denial of a Certificate of Need for this Project would result in adverse effects upon present and future adequacy, reliability, and efficiency because of low voltage conditions and overloading in the area. Low voltage conditions can damage customer equipment such as process controls, motor drive controls and automated machines. Overload on transmission facilities reduce the life, or damage the transmission equipment. Outages can be extremely costly and inconvenient.

2) A more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence

• The Study considered costs, system losses, technical performance, and other factors. The proposed transmission upgrades, including the size, type, and timing, were identified in the Study as the best performing option among alternatives reviewed. Applicants also examined other generation, transmission, and conservation alternatives.

3) The proposed transmission lines will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments

• The proposed Project will provide electric reliability and allow additional electric load and development to be added to the area grid.

• The Project upgrades will utilize existing rights-of-way to the maximum extent possible, thereby reducing the impact to the natural and socioeconomic environments.

4) The proposed transmission lines will comply with relevant policies, rules, and regulations of other state and federal agencies and local governments

• Applicant will secure all necessary permits and authorizations prior to commencing construction of the Project.

• The Project will comport with State of Minnesota laws, rules and policies for providing safe and reliable electric service to all customers.

[1] Certificate of Need Application, pages 19-21, May 15, 2012, Document ID # 20125-74730-02.

Applicants have stated that they intend to file an application for a Route Permit for the Project and request that the Certificate of Need and Route Permit proceedings be held jointly as per Minn. Stat. § 216B.243, subd. 4; and Minn. Stat. § 216E.03, subd. 6.

Legalectric, Inc.

On May 25, 2012, Comments were received from Carol Overland on behalf of Legalectric, Inc. In the Comments, Legalectric requested that a potential "high voltage solution" to address three separate projects as identified by the Department of Commerce (Department)[2] should be disclosed and addressed by the Commission as early as possible in the process.

Minnesota Department of Commerce

The Department Energy Regulation & Planning Unit (ERP) filed its comment on the Application on June 11, 2012. The Department does not have any disputes as to material facts and did not request that the Commission order a contested-case proceeding.

The Department concluded that the Applicants' Application met the completeness requirements with two exceptions.

1) *Minnesota Rules 7849.0330, subp. F requires a discussion of "the estimated work force required for construction and for operation and maintenance of the transmission facility." The Applicants did not request an exemption to this data requirement. The Department was unable to locate information on the size of the work force. Therefore, the Department recommends that in reply comments the Applicants clarify where the discussion of work force is located in the Petition or provide a discussion.*

2) *Minnesota rules 7849.0270, subp. 6 A requires "a description of the extent to which the applicant coordinates its load forecasts with those of other systems, such as neighboring systems and associate systems in a power pool or coordinating organization." Also, Minnesota Rules 7849.0270, subp. 6 B requires "a description of the manner in which such forecasts are coordinated, and any problems experienced in efforts to coordinate load forecasts." The Applicants did not request an exemption to this data requirement. The Department was unable to locate a description of forecast coordination. Therefore, the Department recommends that in reply comments the Applicants clarify where the discussion of forecast coordination is located in the Petition or provide a discussion.*[3]

The Department recommended that the Applicants clarify in reply comments the location of the discussion of the estimated work-force required for construction and for operation and maintenance; and the extent and manner to which the applicant coordinates its load forecasts with those of other systems. Alternatively, the Applicants should provide the missing data in reply comments.

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[2] DOC DER Comments on Commission Docket 11-332, page 4, May 3, 2012, Document ID # 20125-74427-01

[3] DOC DER Completeness Review, pages 3-4, June 11, 2012, Document ID # 20126-75515-01

Finally, the Department recommended that the Commission determine the Company's petition is substantially complete upon clarification of the above two items; and order a contested case if a party requests such a proceeding and provides reasonable grounds to do so.

Applicants' Reply Comments

The Applicants filed Reply Comments on June 21, 2012. In its reply, the Applicants agreed with the Department's review and conclusions.

The Applicants also noted in their Reply Comments that while there are two additional pending CN Applications for 115 kV transmission upgrade projects in this area currently before the Commission, combining these projects into one contested case hearing is unlikely to allow for a more efficient regulatory review. Xcel requests that the Commission find the Application complete.

Additionally, the Applicants agreed to provide the additional data as requested by the Department. The Applicants filed a Supplement in response to the Department on June 21, 2012.

Staff Analysis

Completeness Review

Staff agrees with the review and analysis of the Department. Staff recommends that the Commission determine the Application to be substantially complete upon submittal of the supplemental information as identified.

Review Process

Staff agrees with the Department's recommendation that the Commission direct the use of the informal review process at this time and only order a contested case upon consideration of a petition for one.

The informal review process consists of using initial and reply comments to develop the record in a proceeding rather than the more formal contested case procedures. The informal review process has been utilized for processing need applications on projects such as wind generation proposals and for some transmission line projects. The informal review process has been used successfully to develop a record on which the Commission can make the necessary determinations under law and rule.

The informal review process allows for substantive comments on the merits of a need application, while providing the same opportunities for members of the public to express their concerns without the more formal requirements of a contested case procedure. The informal review process allows participants to review the record, offer their opinions and suggestions without the requirement of hiring witnesses, developing testimony or preparing for cross examination. In addition, the informal review process allows for the public to participate at public hearings administered by an Administrative Law Judge.

The informal review process also provides an opportunity for the identification of contested issues of fact requiring a formal process. When an informal review process is initiated by the Commission, a Notice of Comments on the merits is issued. The Notice specifically requests the identification of questions of fact associated with an application. The process allows for contested issues to be raised through the reply comment process. Staff recommends that the Commission direct the use of the informal review process to examine the merits of Xcel's application. If a contested issue is identified during the informal process, staff will bring the question to the Commission for a determination. Staff also recommends the Commission adopt the Administrative Responsibilities identified below.

Alignment with the Routing Proceeding

Certificate of need applications are typically received and evaluated for completeness prior to, or simultaneous with, the submission of route permit applications. In this case, a Route Permit Application for the proposed project has not been received by the Commission; therefore it is not appropriate to evaluate a joint proceeding for the two dockets at this time.[4]

Administrative Responsibilities

To facilitate the review process, staff suggests the Commission delegate administrative authority to the Executive Secretary and adopt the following additional items:

- the name, telephone number, and e-mail address of the Commission employee designated as Public Advisor to facilitate citizen participation in the process;

- request that the Department continue to study issues and indicate during the hearing process its position on the reasonableness of granting a certificate to the Applicant;

- a requirement that the Applicant facilitate in every reasonable way the continued examination of the issues by the Department of Commerce and Commission staff;

- a request that the Applicant place a CD or hard copy of the Application for review in one or more Government Center(s) and/or Public Library(ies) in the vicinity of the project;

- a directive that Commission staff work with the Administrative Law Judge and the staff of the Department of Commerce in selecting suitable locations for a public hearing on the application; and

- a directive that the Applicant work with Commission staff and the Administrative Law Judge arrange for publication of the notice of hearings in newspapers of general circulation at least ten (10) days prior to the hearings, that such notice be in the form of visible display ads, and proofs of publication of such ads be obtained from the newspapers selected.

[4] The Commission has reserved Docket #TL/12-401 for the corresponding route permit process.

Commission Decision Options

With respect to the Project Application, the Commission could:

A. Completeness Determination

1. Accept the Application as complete as filed on May 15, 2012.
2. Accept the Application as complete upon the filing of the June 21, 2012 Supplement in response to the Department's recommendation.
3. Find the Application incomplete and specify the information deficiencies.
4. Make some other decision deemed more appropriate.

B. Review Process

1. Direct the use of the informal review process of comment and reply; delegate administrative authority to the Executive Secretary.
2. Direct the use of the contested case review process.
3. Make some other decision deemed more appropriate.

C. Delegation of Administrative Responsibilities

1. Adopt the administrative responsibilities as identified by staff above.
2. Make some other decision deemed more appropriate.

Staff Recommendation

Staff recommends alternatives **A.2., B.1., and C.1**