MINNESOTA
DEPARTMENT OF
COMMERCE

April 17, 2013

TO: William Grant, Deputy Commissioner
Division of Energy Resources
THROUGH: Deborah Pile, Director
FROM: William Cole Storm, Staff
EFP (Tel: 651-296-9535)
RE: Staff Recommendation on the Scoping Decision
Minnesota Power MP 39 Line Relocation HVTL Project
PUC Docket Number: E015/TL-12-1123

ACTION REQUIRED: Signature of the Deputy Commissioner on the attached Order, "Environmental Assessment Scoping Decision." Once signed, the Department of Commerce (DOC) Energy Facility Permitting (EFP) staff will mail the notice of the order to interested parties.

Background

On November 26, 2012, Minnesota Power (MP) submitted a high voltage transmission line (HVTL) Route Permit Application[1] under the alternative permitting process to the Commission for the proposed transmission line relocation of the MP Line 39.

United Taconite requested that Minnesota Power remove an existing 115 kV HVTL to accommodate United Taconite's plans to extend its mining operation located west of the city of Eveleth. The project (i.e., installation of 3.0 miles of HVTL) is needed to allow this existing line to be removed without degrading the area's high voltage transmission system.

The Commission released an Order on January 16, 2013, finding the route permit application to be complete and initiating the alternative review process.

Project Location
The project is located in St Louis County near and within the communities of Eveleth and Leonidas.

Project Description and Purpose
Minnesota Power proposes to construct an approximate 3.0-mile-long, 115 kV HVTL in St. Louis County near the city of Eveleth, Minnesota. Minnesota Power would also, at the request of United Taconite, remove approximately 1.9 miles of existing 39 Line that runs through United Taconite's north pit.

Of the three mile length of new transmission line, approximately 22 percent of land is owned by the Oliver Iron Mining Company, approximately 21 percent is owned by the USX Corporation, approximately 5 percent is owned by the United Taconite Company, and approximately 17 percent owned by the Minnesota DNR. The

[1] Route Permit Application (RPA), eDockets Document ID 201211-81223-01 to 05

remaining 35 percent is privately held land.[2]

State Regulatory Process — Scoping

Applications for high voltage transmission line route permits under the alternative permitting process are subject to environmental review, which is conducted by Department of Commerce (Department) Energy Facility Permit (EFP) staff under Minn. Rule 7850.3700.

The EFP staff is responsible for evaluating the HVTL route permit application and administering the environmental review process. The Commission is responsible for selecting the transmission line routes and issuing the HVTL route permit.

Environmental review under the alternative permitting process includes public information/scoping meetings and the preparation of an environmental review document, the Environmental Assessment (EA) (Minn. R. 7850.3700). The environmental assessment is a written document that describes the human and environmental impacts of the transmission line project (and selected alternative routes) and methods to mitigate such impacts.

The EA must be completed and made available prior to the public hearing.

The purpose of the scoping process is to provide the public with an opportunity to participate in the development of the scope of the EA by holding a public meeting and comment period through which public comment is solicited.

Once the comment period on the scope of the environmental review document expires, applicants are given an opportunity, per Minnesota Rule 7850.3700, subpart 2, item B, to respond to each request that an alternative be included in the environmental assessment.

A Certificate of Need is not required for the project because it is not classified as a large energy facility under Minnesota Statutes Sections 216B.243 and 216B.2421, subdivision 2(3). While the project is a HVTL with a capacity of 100 kV or more, it is not more than 10 miles long in Minnesota and it does not cross a state line. Therefore, the project is exempt from the Certificate of Need requirements.

Commission's Consideration of Alternatives

Under Minn. Rules, part 7850.3700, subp. 3, the scope of the environmental assessment must be determined by the Department within 10 days after close of the public comment period (March 21, 2013, in this case). However, Minn. Stat. § 216E.04, subd. 5, anticipates Commission input into the identification of routes, in addition to the applicant's proposed route, for inclusion in the environmental review of a project. Since the rule's 10-day timeline for determining the scope of the environmental assessment after the close of the public comment period constrains the Commission's ability to provide input, the Commission varied the 10-day timeline. The Commission extended the 10-day timeline to 40 days (which would be April 23, 2013), subject to the Executive Secretary's authority to seek additional time from the Commission.

[2] RPA at 4-1

Scoping Process Summary

On February 4, 2013, Commission staff sent notice of the place, date and times of the Initial Public Information and Scoping meeting to those persons on the General List maintained by the Department, the agency technical representatives list and the project contact list.[3]

Additionally, mailed notices were sent to those persons on Minnesota Power's property owners list and to the local units of government. Notice of the public meeting was also published in the local newspapers.

On Monday, February 25, 2013, Commission staff and EFP staff jointly held two public information/scoping meetings at the Leonidas Community Center in Eveleth. The meetings included two sessions, one starting at 2:00 pm and another starting at 6:00 pm. The purpose of the meeting was to provide information to the public about the proposed project, to answer questions, and to allow the public an opportunity to suggest alternatives and impacts (i.e., scope) that should be considered during preparation of the environmental review document.

Approximately 10 people attended the public information and scoping meetings; 2 individuals took the opportunity to speak on the record. A court reporter was present to document oral statements.[4]

A variety of topics were discussed during the presentation. Topics included: specifics on which lines and poles will be removed, and design/construction of any new poles; specifics on the proposed alignment; the concepts of route width and right-of-way/easement width; sources of power generation for this project; health and safety issues; property values; compensation for easements; and flexibility in siting the final alignment.

Written comments were due no later than Friday, March 11, 2013.

Three written comments were received: two from state agencies (Department of Natural Resources and Department of Transportation) and one from the St. Louis County Agricultural Inspector.[5]

The Department of Natural Resources (MDNR) in its comment letter discussed the use of wildlife friendly erosion control mats; issues associated with vegetation management and invasive species; policies regarding the crossing of public land and water; and various construction practices.

While not recommending any specific alternative routes in accordance with MR 7850.3700, the MDNR did encourage the consideration of alternative routes along existing corridors in its comment letter.

The Department of Transportation (MnDOT) in its letter recoginzed that it appears that the project area does not directly abut any state trunk highway; however, the agency did request that it be made aware of any changes to the proposed HVTL that may bring the project area close enough to occupy a portion of current MnDOT rights-of-way (ROW). Additionally, MnDOT requested that it be informed if the transportation and/or storage of structures have the potential to affect any MnDOT ROW.

[3] Notice of Public Information/Scoping Meeting, eDocket No. 20132-83532-01
[4] Oral Comments Received During Scoping, eDocket No. 20133-84874-01
[5] Written Comments Received During Scoping, eDocket No. 201133-84874-01 to -06

The St. Louis County Agricultural Inspector expressed concern with the potential movement of noxious and invasive weed species, specifically Tansy, Canada Thistle and Spotted Knap Weed. In his letter, the inspector discussed the precautions and permits that may be required to prevent the spread of these weeds.

The process for individuals to request that specific alternative routes, alternative route segments, and/or alignment modifications be included in the scope of the environmental review document was discussed at the public meeting.

Proposed Alternatives
No alternative routes were put forth during the EA scoping comment period.

Applicant Comments
On March 22, 2013, Minnesota Power filed its response to the comments received during the scoping period.[6]

In its response comments, Minnesota Power acknowledges that the Applicant will work with the MDNR and MnDOT, and will provide the EFP staff with the information it requires to adequately address these agencies' concerns in the environmental review document.

In regard to the MDNR's comment concerning following or using existing corridors, Minnesota Power stated that it did considered following Highway 101 west all the way to its intersecting point with the 37 Line (as opposed to deviating from Highway 101 for the remaining 4,000 feet as the proposed route does).[7]

Based on Minnesota Power's analysis and field reconnaissance of the area, Minnesota Power concluded that locating the transmission line along Highway 101 to its terminus with the 37 Line would result in more impacts (wetlands and human settlement) than the proposed alignment. Specifically, Minnesota Power stated that if Highway 101 were followed to the 37 Line, 3.29 acres of wetlands would be impacted versus the proposed route's 1.11 acres of wetland impacts for the proposed transmission line location. Further, Minnesota Power determined that following Highway 101 to the 37 Line would result in greater construction costs and would bring the line in close proximity to a residence located at the intersection of Minnesota Power's 37 Line and County Road 101. For these reasons, Minnesota Power did not propose a route following Highway 101 to the 37 Line in its Route Permit application.

Commission's Decision in Consideration of Alternatives
On April 11, 2013, the Commission at its regularly scheduled meeting considered what action, if any, the Commission should take in regards to the alternatives put forth during the scoping process; the Commission elected to take no action in this matter.

EFP Staff Analysis and Comments

The scoping process for environmental review in Minnesota is designed to identify and analyze "only those potentially significant issues relevant to the proposed project" and alternatives to the project.[8] With respect to

[6] Minnesota Power response to scoping comments, eDocket No. 20133-84953-01
[7] Minnesota Power response to scoping comments, eDocket No. 20133-84953-01
[8] Minnesota Rule 4410.2100, Subp. 1.

route and site alternatives, the Department is charged with including those alternatives which will "assist in the [Commission's] ultimate decision on the permit application."[9]

In analyzing which route and site alternatives proposed during the scoping process should be carried forward for evaluation in the environmental review document for a project, EFP staff considers five criteria:

1) Was the alternative submitted within the scoping period, i.e., prior to the end of the public comment period for scoping?

2) Does the alternative contain the information required in Minnesota Rule 7850.3700, including "an explanation of why the site or route should be included in the [environmental review document]"? EFP staff interprets this text to require that a commenter not only identify the route and site alternatives – to be included in the scope of the environmental review document – but also identify the potential impacts of the proposed project the alternative is intended to mitigate. The commenter need not provide extensive supporting data for their alternative, but must provide enough explanation such that the potential impact being mitigated by the route or site alternative is clear and understandable.

3) Is the alternative outside of areas prohibited in Minnesota Rule 7850.4300, e.g., state and national parks?

4) Does the alternative meet the applicant's stated need for the project?

5) Is the alternative feasible?

Based on these criteria, no requests for the consideration of an alternative route were received during the scoping period.

Additional guidance is provided to the Commission in Minnesota Statutes 216E.03, subdivision 7, item e, which requires the Commission to make specific findings as to the feasibility of locating the proposed transmission line along or within an existing HVTL or highway ROW.

This may have been the genesis for the MDNR's general statement that "routing along existing corridors should also be analyzed."

It should be noted that the Applicant's proposed route follows existing roads (i.e., County Road 101 and an unnamed heavy haul road) for approximately 52 percent of its length. The Applicant has stated in its route permit application that it developed the proposed route with consideration toward the State of Minnesota's policy of non-proliferation of new infrastructure corridors; discussions with interested stakeholders and landowners (including local, state, and federal agencies); and in consultation with United Taconite (the primary landowner in the area).[10]

Furthermore, in developing its proposed route, Minnesota Power evaluated and rejected an alternative HVTL route that also followed existing ROWs (i.e., HVTLs and railroad) for the majority of it length, originating east

[9] Minnesota Rule 7850.3700, Subp. 2.
[10] RPA, p. 4-2

of Eveleth in Gilbert Township and terminating southwest of Eveleth where it interconnected with the 37 Line Tap.[11] This route was rejected due to its considerable length and greater impact on private landowners.

The Environmental Assessment will include a discussion of the potential routes reviewed and rejected by the Applicant; EFP staff believes that this, along with the applicant's statements (HVTL RPA and applicant's post scoping comments) will provide the Commission with the necessary information to develop findings that satisfy the intent of Minnesota Statutes 216E.03.

These discussions, along with the typical HVTL routing impacts, have been incorporated into the EFP staff's recommendation on the Environmental Assessment Scoping Decision.

[11] RPA, p.4-2, figure B-9

MINNESOTA DEPARTMENT OF COMMERCE

In the Matter of Minnesota Power's Application for a HVTL Route Permit for the proposed MP 39 Line Relocation HVTL Project.

ENVIRONMENTAL ASSESSMENT SCOPING DECISION
PUC Docket No. E015/TL-12-1123

The above matter came before the Deputy Commission, Department of Commerce (Department) for a decision on the scope of the Environmental Assessment (EA) to be prepared for the Minnesota Power application for a Route Permit to construct the proposed MP 39 Line Relocation HVTL Project.

INTRODUCTION

On November 26, 2012, Minnesota Power (MP) submitted a high voltage transmission line (HVTL) Route Permit Application[1] under the alternative permitting process to the Commission for the proposed transmission line relocation of the MP Line 39.

The Commission released an Order on January 16, 2013, finding the route permit application to be complete and initiating the alternative review process.

There was no Advisory Task Force established for this routing docket.

Project Description
Minnesota Power proposes to construct an approximate 3.0-mile-long, 115 kV HVTL in St. Louis County near the city of Eveleth, Minnesota. Minnesota Power would also, at the request of United Taconite, remove approximately 1.9 miles of existing 39 Line that runs through United Taconite's north pit.

State Regulatory Background

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.

The MP Line 39 Relocation 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. Minnesota Power has chosen to follow the alternative permitting process.

[1] Route Permit Application (RPA), eDockets Document ID 201211-81223-01 to 05

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).

A Certificate of Need is not required for the project because it is not classified as a large energy facility under Minnesota Statutes Sections 216B.243 and 216B.2421, subdivision 2(3). While the Project is a HVTL with a capacity of 100 kV or more, it is not more than 10 miles long in Minnesota and it does not cross a state line. Therefore, the project is exempt from the Certificate of Need requirements

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 provides notice and conducts 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 determines 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.

On Monday, February 25, 2013, Commission staff and EFP staff jointly held two public information/scoping meetings at the Leonidas Community Center in Eveleth. The meetings included two sessions, one starting at 2:00 pm and another starting at 6:00 pm.

Written comments were due no later than Friday, March 11, 2013.

On March 29, 2013, EFP staff submitted a summary describing the scoping process to the Commission. On April 11, 2013, the Commission at its regularly scheduled meeting considered what action, if any, the Commission should take in regards to the alternatives to be considered in the EA; the Commission elected to take no action in this matter.

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Having reviewed the matter, consulted with Energy Facility Permitting staff, and in accordance with Minnesota Rule 7850.3700, I hereby make the Scoping Decision:

MATTERS TO BE ADDRESSED IN THE EA

The EA on the proposed MP 39 Line Relocation HVTL project will address and provide information on the following matters:

1.0 PROJECT DESCRIPTION

Purpose of the Transmission Line
Project Location
Route Description
Route Width
Rights-of-Way Requirements
Project Cost
Sources of Information

2.0 REGULATORY FRAMEWORK

CN Applicability
HVTL Route Permit Process
Environmental Review Process

3.0 ENGINEERING AND OPERATION DESIGN

Transmission Line Conductors
Transmission Line Structures

4.0 CONSTRUCTION

Transmission Line and Structures
Property/Right-of-Way Acquisition
Cleanup and Restoration
- Wildlife Friendly Erosion Control

Damage Compensation
Maintenance
- Herbicide Application and Wetlands/Public Waters
- Invasive Species Management

5.0 AFFECTED ENVIRONMENT, POTENTIAL IMPACTS, AND MITIGATIVE MEASURES

The EA will include a discussion of the following human and environmental resources potentially impacted by the project and its alternatives. Potential impacts, both positive and negative, of the proposed project and each alternative considered will be described. Based on the impacts identified, the EA will describe mitigative measures that could reasonably be implemented to reduce or eliminate the identified impacts. The EA will describe any unavoidable impacts resulting from implementation of the proposed project.

Environmental Setting
Socioeconomic Setting
Human Settlement
- Displacement

Noise
- Construction Activities

Aesthetics
- Visual and View-shed

Proximity to Structures
- Residences
- Businesses
- Schools/Daycares

- Hospitals
- Cemeteries
- Displacement
- Existing Utilities

Public Health and Safety
- Electric and Magnetic Fields
- Implantable Medical Devices
- Stray Voltage
- Tower Collapse
- Security of Facilities, placarding, emergency provisions

Recreation
- Parks (city, county, state, and federal)
- Trails (walking, bike)

Transportation and Public Services
- Emergency Services
- Airports
- Highways, Roads and Bike Paths
- Traffic (during construction)

Interference
- Radio and Television (digital and satellite)
- Internet (Wi-Fi)
- Cellular Phone
- Current and Future Infrastructure
- Emergency vehicle pre-emption devices

Archaeological and Historic Resources

Zoning and Compatibility/Federal, State and Local Government Planning

Land-Based Economies
- Agriculture
- Forestry

Property Values
- Residential
- Industrial
- Agriculture

Air Quality (As it pertains specifically to this transmission line only.)
- Henshaw Effect
- Construction (heavy equipment, dust)

Natural Resources
- Surface Water
  - Lakes
  - Surface/stormwater Flows
- Groundwater
  - Dewatering Requirements
- Wetlands
- Floodplains
- State Wildlife Management Areas/Scientific Natural Areas
- National Wildlife Refuge/Waterfowl Production Areas

Flora
- Invasive Species

Fauna
Avian Impacts (diverter methods)
Rare and Unique Natural Resources/Critical Habitat
Environmental Justice

6.0 REJECTED ALTERNATIVE ROUTES

The EA will include a discussion of route alternatives that were evaluated by the Applicants and/or through the scoping process and rejected.

7.0 REQUIRED PERMITS AND APPROVALS

The EA will include a list of permits that will be required for the project.

The above outline is not intended to serve as a "Table of Contents" for the EA document, and as such, the organization (i.e., structure of the document) of the information and the data may not be similar to that appearing in the EA.

ISSUES OUTSIDE THE SCOPE OF THE EA

The following issues will not be considered or evaluated in the EA:

- Any route alternative(s) not specifically identified in this scoping decision.
- The impacts of specific energy sources, such as carbon outputs from coal-generated facilities.
- The manner in which landowners are paid for transmission rights-of-way easements.

SCHEDULE

The EA is scheduled to be available in July, 2013.

Signed this 17th day of April, 2012

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

William Grant, Deputy Commissioner