

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
Commissioner
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Commissioner

In the Matter of the Application of Great River Energy for a Certificate of Need for a 115 kV Transmission-Line Project in the Elko New Market and Cleary Lake Areas in Scott and Rice Counties

ISSUE DATE: August 5, 2014

DOCKET NO. ET-2/CN-12-1235

ORDER GRANTING CERTIFICATE OF NEED

PROCEDURAL HISTORY

I. Application for Certificate of Need

On June 20, 2013, Great River Energy (Great River) filed an application for a certificate of need for a 115-kilovolt (kV) transmission-line project in Scott and Rice counties. Great River filed an application for a route permit on the same date.¹

On September 5, 2013, the Commission found the application complete, initiated an informal review process under Minn. R. 7829.1200 to develop the record, ordered joint proceedings and combined environmental review with the route-permit docket, and requested that the Minnesota Department of Commerce (the Department) prepare an environmental assessment of the project.

On December 18, 2013, the Department filed comments on Great River's application. The Department generally agreed that there was a need for the project but requested that Great River incorporate the Commission's externality costs and the future cost of carbon-dioxide regulation into its analysis of project alternatives.

On January 7, 2014, Great River filed reply comments providing this additional analysis.

On January 8, 2014, the Department recommended that the Commission grant a certificate of need for the project.

II. Environmental Assessment

On December 2, 2013, the Department issued a scoping decision identifying potential alternatives and mitigation measures to be addressed in an environmental assessment of the project.

On February 21, 2014, the Department issued its environmental assessment of the project.

¹ Docket No. ET-2/TL-12-1245.

On March 4, 2014, joint public hearings on the certificate-of-need and route-permit applications were held at the Elko New Market Public Library and Prior Lake High School.

On July 10, 2014, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Proposed Project

The project is designed to address low voltages and transmission-system overloads in the Elko New Market and Cleary Lake area. Great River proposes to rebuild 11.3 miles of existing 69 kV lines to 115 kV standards. Additionally, Great River proposes to construct 5.4 miles of new double-circuit 115 kV line between Minnesota Valley Electric Cooperative’s New Market Substation and Xcel’s Veseli Breaker Station. Great River anticipates starting construction in spring 2015 and energizing the lines in summer 2016.

Because the project involves constructing more than 10 miles of 115 kV transmission line, it qualifies as a “large energy facility,” for which Great River must obtain a certificate of need.²

II. The Legal Standard for a Certificate of Need

A. The Original Statutory Factors

As initially enacted, the certificate-of-need statute identified eight factors for the Commission to consider in evaluating the need for a proposed large energy facility³ and directed the Commission to “adopt assessment of need criteria to be used in the determination of need for large energy facilities pursuant to the section.”⁴

The statute also prohibited the Commission from granting any certificate of need unless the application demonstrated that the need for electricity could not be met more cost effectively through energy conservation and load management.⁵

B. The Commission’s Rules

In 1983, the Commission, in compliance with its statutory obligation to establish assessment-of-need criteria, adopted the certificate-of-need rules, Minn. R. ch. 7849. One of those rules, Minn. R. 7849.0120, addressed the eight factors identified in the statute and directed the Commission to issue a certificate of need when the applicant demonstrates that

² See Minn. Stat. §§ 216B.243, subd. 2 (providing that no “large energy facility” may be constructed without a certificate of need) and .2421, subd. 2(3) (defining “large energy facility” to include “any high-voltage transmission line with a capacity of 100 kilovolts or more with more than ten miles of its length in Minnesota”).

³ Minn. Stat. § 216B.243, subd. 3.

⁴ *Id.*, subd. 1.

⁵ *Id.*, subd. 3.

A. the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states;

B. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record;

C. by a preponderance of the evidence on the record, the proposed facility, or a suitable modification of the facility, will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health; and

D. the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

C. Additional Statutory Requirements

After the Commission adopted these rules, the Legislature amended the statute to add four more factors for the Commission to evaluate in assessing need:

(9) with respect to high-voltage transmission lines, the benefits of enhanced regional reliability, access, or deliverability to the extent these factors improve the robustness of the transmission system or lower costs for electric customers in Minnesota⁶;

(10) whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691 and 216B.2425, subdivision 7, and have filed or will file by a date certain an application for certificate of need or for certification as a priority electric transmission project under section 216B.2425 for any transmission facilities or upgrades identified under section 216B.2425, subdivision 7⁷;

(11) whether the applicant has made the demonstrations required under subdivision 3a⁸; and

(12) if the applicant is proposing a nonrenewable generating plant, the applicant's assessment of the risk of environmental costs and regulation on that proposed facility over the expected useful life of the plant, including a proposed means of allocating costs associated with that risk.⁹

⁶ *Id.*, subd. 3(9).

⁷ *Id.*, subd. 3(10).

⁸ *Id.*, subd. 3(11).

⁹ *Id.*, subd. 3(12).

III. The Department's Comments and Environmental Assessment

A. Comments

In its December 18, 2013 comments, the Department examined Great River's certificate-of-need application in light of the criteria established in statute and rule and explained why it believed the application met those criteria. An itemization of the criteria and the Department's recommendations regarding the criteria follows:

Statutory criteria	Where addressed in Department's December 18, 2013 comments	The Department's statement
Minn. Stat. § 216B.243, subd. 3(9)	III.A.2	The proposed line would have little further impact, positive or negative.
Minn. Stat. § 216B.243, subd. 3a, and § 216B.2422, subd. 4	Section III.B.1	These renewable-preference statutes do not apply.
Minn. Stat. § 216B.2426	Section III.C.3	The question of whether and how much distributed generation might be certified by the Commissioner of Commerce in the future is not relevant to this petition.
Minn. Stat. § 216B.1694, subd. 2(a)(5)	Section III.C.4	This statute does not apply.
Minn. Stat. § 216B.243 subd. 3(10) and § 216B.1691	Section III.E.3.a	Great River complied with the Renewable Energy Standard (RES) in 2012.
Minn. Stat. § 216B.1612(c)	Section III.E.3.b	Great River has met this statutory criterion.
Minn. Stat. § 216B.243, subd. 3(12)	Section III.E.4	This statute does not apply.
Minn. Stat. § 216B.243, subd. 3(10) and § 216B.2425, subd. 7	Section III.E.5	There is sufficient time to allow events to develop before certificate-of-need petitions are necessary for RES-related transmission projects.
Minn. Stat. § 216H.03	Section III.E.6	The proposed project will not contribute to, and in fact will reduce, statewide power-sector carbon-dioxide emissions.

Regulatory criteria: Minn. R. 7849.0120	Where addressed in Department's December 18, 2013 comments	The Department's statement
Subpart A(1)	Section III.A.1.a	Actual load for the area exceeds the level at which reliable service can be provided.
Subpart A(2)	Section III.B.2	Conservation will not be able to address issues related to meeting existing demand at the levels indicated by Great River.
Subpart A(3)	Section III.E.2	The Department is not aware of any promotional activities that may have triggered the need for the proposed project.
Subpart A(4)	Section III.C.1.a	A lower-voltage 69 kV rebuild could not meet the claimed need due to engineering considerations; a distributed-generation alternative would have far higher costs.
Subpart A(5)	Section III.D	Addressed in environmental assessment
Subpart B(1)	Section III.C.1.b	This subcriterion has been met.
Subpart B(2)	Section III.C.1.c	The internal cost of the proposed project and the internal cost of energy to be supplied by the proposed project are less than the alternatives.
Subpart B(3)	Section III.C.1.d	In reply comments, Great River should add the Commission's externality costs and internal cost of CO ₂ regulation values to the economic analysis of alternatives. ¹⁰
Subpart B(4)	Section III.C.2	The proposed project is designed to improve reliability; each of the alternatives would result in equivalent or inferior reliability.
Subpart C(1)	Section III.A.1.b	The proposed project is not directly related to overall state energy needs; it is necessary to restore reliable service in the local area.
Subpart C(2)	Section III.D	The Department relies on the environmental assessment for its analysis of impacts on the socioeconomic and natural environments.

¹⁰ After Great River provided further information in its reply comments, and the Department concluded that the Company had addressed the requirements of Minn. R. 7849.0120(B)(3).

Subpart C(3)	Section III.D	The Department relies on the environmental assessment for its analysis of impacts on the socioeconomic and natural environments.
Subpart C(4)	Section III.D	The Department relies on the environmental assessment for its analysis of impacts on the socioeconomic and natural environments.
Subpart D	Section III.E.1	The record does not demonstrate that Great River will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

Having analyzed the standards established in Minn. Stat. § 216B.243 and Minn. R. 7849.0120, the Department recommended that the Commission grant Great River Energy a certificate of need for the project.

B. Environmental Assessment

On February 21, 2014, the Department issued an environmental assessment analyzing the project’s potential impacts and examining the following alternatives to the project: (1) a “no build” alternative, (2) demand-side management, (3) purchased power, (4) facilities of a different size or type, (5) upgrading other transmission lines, and (6) distributed generation. Section 4 of the environmental assessment evaluated these alternatives in detail to determine their feasibility and availability. Section 5 examined the impacts of the proposed project on the affected environment.

IV. Commission Action

At the time of a final decision on a certificate-of-need application, the Commission determines whether the environmental assessment and the record created at the public hearing address the issues identified by the scoping decision. The Commission has reviewed the environmental assessment and finds that the assessment and the record created at the public hearing adequately address the issues identified by the scoping decision.

The Commission has reviewed the Department’s comments and will accept the Department’s findings and recommendations. The Commission has considered the factors identified in statute and rule and will grant Great River a certificate of need.

Based on the record, the Commission makes findings on these four points:

First, based on a consideration of the factors set forth in Minn. R. 7849.0120(A), the Commission concludes that denying the application would likely harm the future adequacy, reliability, or efficiency of the energy supply to Great River’s customers.

Second, based on a consideration of the factors set forth in Minn. R. 7849.0120(B), the Commission concludes that a more reasonable and prudent alternative to the project has not been demonstrated by a preponderance of the evidence in the record.

Third, based on a consideration of the factors set forth in Minn. R. 7849.0120(C), the Commission concludes that the preponderance of the evidence in the record demonstrates that the project will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health.

Fourth, based on a consideration of the factors set forth in Minn. R. 7849.0120(D), the Commission concludes that the record does not demonstrate that the design, construction, or operation of the project, or a suitable modification of the project, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

ORDER

1. The Commission finds that the environmental assessment and the record created at the public hearing address the issues identified in the environmental-assessment scoping decision.
2. The Commission grants Great River Energy a certificate of need for its proposed 115 kV transmission-line project in the Elko New Market and Cleary Lake areas in Scott and Rice counties.
3. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary



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