OAH Docket 11-2500-30809
PUC No. E002/TL-12-1151

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Xcel Energy for a Route Permit for the Kohlman Lake to Goose Lake 115 kV Transmission Line Upgrade Project in Ramsey County, Minnesota

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION

This matter was assigned to Administrative Law Judge Barbara L. Neilson to conduct a public hearing and prepare Findings of Fact, Conclusions and Recommendation on the application of Xcel Energy for a route permit for the Kohlman Lake to Goose Lake 115kV Transmission Line Upgrade Project in Ramsey County.

A public hearing was held on September 10, 2013, at 6:00 p.m. in White Bear Lake, Minnesota. The record remained open until September 20, 2013, for the receipt of public comments on the Project. Comments were received from the Minnesota Department of Natural Resources (MnDNR), the Minnesota Pollution Control Agency (MPCA), and the Metropolitan Council. The OAH record closed on October 8, 2013, upon receipt of post-hearing submissions filed by the Company and the Department of Commerce.

Valerie T. Herring, Briggs and Morgan, P.A., appeared on behalf of Northern States Power Company, doing business as Xcel Energy (Company or Xcel Energy). Sage Tauber, Permitting Analyst; Joe Samuel, Project Manager; Tim Mauseth, Land Rights Agent; and Riley Moldenhauer, Transmission Engineer, also participated in the hearing on behalf of the Company.

Raymond Kirsch, Environmental Review Manager, appeared on behalf of the Energy Facility Permitting unit of the Department of Commerce (EFP).[1]

Scott Ek, Energy Facility Planner, appeared on behalf of the staff of the Minnesota Public Utilities Commission (Commission).

Jamie Schrenzel, Principal Planner for the MnDNR's Environmental Review Unit, appeared on behalf of the MnDNR.

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[1] The name of the EFP unit was recently changed to the Energy Environmental Review and Assessment unit (EERA). *See* EERA's Initial Arguments and Analysis at 2. Because many of the exhibits in this matter refer to the EFP, that title will be used in this Report to avoid any confusion.

STATEMENT OF ISSUE

Has Applicant Xcel Energy satisfied the applicable factors set forth in Minn. Stat. §§ 216E.03 and 216E.04 and Minn. R. Chapter 7850[2] for a route permit for the Kohlman Lake to Goose Lake 115 kilovolt (kV) transmission line upgrade project in Ramsey County, Minnesota, in the cities of Maplewood, White Bear Lake, and Vadnais Heights (the Project)?

SUMMARY OF CONCLUSIONS

The Administrative Law Judge concludes that Xcel Energy has satisfied the criteria set forth in applicable statutes and rules and recommends that a route permit be granted for the Project.

Based on information contained in the Route Permit Application submitted to the Commission, the testimony at the public hearing, and the written comments and exhibits received in this proceeding, the Administrative Law Judge makes the following:

FINDINGS OF FACT

PROCEDURAL SUMMARY

1. Northern States Power Company d/b/a Xcel Energy is a Minnesota corporation headquartered in Minneapolis, Minnesota. It is a wholly owned subsidiary of Xcel Energy Inc., a utility holding company which is also headquartered in Minneapolis. Xcel Energy provides electricity services to approximately 1.3 million customers and natural gas services to approximately 425,000 customers in Minnesota. The Company currently owns and operates the existing 115 kV single circuit transmission lines and the substations that are the subject of this application.[3]

2. On October 22, 2012, Xcel Energy submitted a Notification to the Commission of its intent to file an application for a route permit under the alternative permitting process.[4] The Project includes removing approximately three miles of existing 115 kV single circuit transmission line, rebuilding a new 115 kV/115 kV double circuit transmission line in approximately the same alignment as the existing 115 kV transmission line to be removed, and associated modifications to the existing Kohlman Lake and Goose Lake Substations.[5] The Project extends from the Kohlman Lake Substation located south of Highway 694 in the City of Maplewood, north through White

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[2] Unless otherwise noted, all citations to Minnesota Statutes and Minnesota Rules are to the 2012 editions.
[3] Exhibit (Ex.) 2 at 6 (Application).
[4] Ex. 1 (Notification of Intent to File Route Permit Application). The Alternative Permitting Process is governed by Minn. Stat. § 216E.04 and Minn. R. 7850.2800 through 7850.3900. The statute and rules pertaining to the alternative permitting process incorporate several of the provisions set forth in Minn. Stat. § 216E.03 and Minn. R. 7850.1700-7850.2400, including the factors that are to be considered in designating sites and routes that are set forth in Minn. Stat. § 216E.03, subd. 7.
[5] Ex. 1 at 1.

Bear Lake and Vadnais Heights, to the Goose Lake Substation located northwest of the intersection of White Bear Parkway and Otter Lake Road in White Bear Township.[6][7]

3. On January 17, 2013, Xcel Energy filed its Route Permit Application (Application) for the Project with the Commission.[8]

4. On January 21, 2013, Xcel Energy mailed copies of the Application to the Commission, White Bear Township, the City of White Bear Lake, Ramsey County, the Metropolitan Council, the City of Maplewood, the City of Gem Lake, the Ramsey County Public Library, and the White Bear Lake Public Library.[9] The Company also hand-delivered a copy of the Application to the Commission on January 22, 2013.[10]

5. On January 30, 2013, Xcel Energy mailed the Notice of Application to landowners affected by the Project; local government units; and persons who are included on the Commission's mailing list to receive notification regarding power plants and transmission lines.[11]

6. On February 1, 2013, the Commission issued a Notice of Comment Period on Application Completeness informing interested parties that initial public comments could be filed by February 15, 2013, and reply comments could be filed by February 22, 2013. The comments were to focus on whether the route permit application contained the information required by Minn. R. 7850.3100; whether there were contested issues of fact regarding the representations made in the application; and whether an advisory task force should be appointed.[12]

7. On February 6, 2013, the Notice of Application was published in the North *St. Paul/Ramsey County/Maplewood Review* and the *White Bear Press*.[13]

8. On February 15, 2013, the EFP staff of the Department of Commerce filed comments recommending that the Commission accept the route permit application as substantially complete. After considering the Project's relatively small size and lack of complexity, the anticipated low level of controversy surrounding the Project, and the minimal potential impacts to ecologically sensitive resources posed by the Project, EFP staff determined that an advisory task force was not warranted as an aid to the environmental review scoping process for the Project.

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[6] *Id.*
[7] Ex. 1 (Notice of Intent to File Application).
[8] Ex. 2 (Application).
[9] Ex. 5 at 3 (Affidavits of Mailing).
[10] Ex. 5 at 2.
[11] Ex. 5 at 4-22.
[12] Ex. 3 (Notice of Comment Period on Application Completeness and Certificate of Service).
[13] Ex. 5 at 23-24 (Notice of Route Permit Application Submittal, including Affidavit of Publication).

9. As a result, EFP staff recommended that the Commission take no action on appointment of an advisory task force.[14]

10. On February 25, 2013, Xcel Energy filed the Affidavits of Mailing the Notice of Application and an Affidavit of Publication with the Commission.[15]

11. On March 15, 2013, the Commission issued an Order Finding Application Complete, Referring Application to the Office of Administrative Hearings, Granting Variance, and Appointing a Public Advisor.[16] As part of its Order, the Commission granted a variance of the ten-day timeline set forth in Minn. R. 7850.3700, subp. 3, with respect to determining the scope of the EA after the close of the public comment period, in order to facilitate the Commission's input on whether additional routes should be considered. The Commission referred the case to the Office of Administrative Hearings under the Alternative Permitting Process in Minnesota Rules Chapter 7850, and asked that the Administrative Law Judge: (1) emphasize the statutory timeframe for the Commission to make final decisions on the Application; (2) ask the parties to address whether the Project meets the selection criteria established in Minn. Stat. § 216E.03, subd. 7, and Minn. R. 7850.4100; (3) request that, prior to the public hearing, EFP staff submit comments on the merits of the Application, its Environmental Assessment ("EA"), evidence of compliance with environmental review procedures, and recommended permit language or specific provisions relative to permittable routes; and (4) prepare a report setting forth findings, conclusions, and recommendations on the merits of the Project, applying the routing criteria set forth in statute and rule, and provide comments, if any, on the language of the proposed permit.[17] In its Order, the Commission directed its staff to formally contact relevant state agencies to request their participation in the development of the record and public hearings and their submission of comments prior to the last day of the public hearing.[18] The Commission designated a public advisor[19] and determined that an advisory task force was not necessary.[20]

12. On March 20, 2013, the Commission issued a Notice of Public Information and EA Scoping Meeting.[21] The meeting notice was mailed to interested parties on March 20, 2013, and was published in the White Bear/Vadnais Heights Press and Ramsey County Review on April 10, 2013.[22]

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[14] EFP's Comments and Recommendations on Application Acceptance (Feb. 15, 2013) (Document ID 20132-83884-01); *see also* Ex. 7 at 5 (Revised Staff Briefing Papers); Ex. 8 at 1, 2, 4 (ORDER FINDING APPLICATION COMPLETE, REFERRING APPLICATION TO THE OFFICE OF ADMINISTRATIVE HEARINGS, GRANTING VARIANCE, AND APPOINTING A PUBLIC ADVISOR).
[15] Ex. 5 at 23-25.
[16] Ex. 8.
[17] *Id.* at 3-4, 5.
[18] *Id.* at 5.
[19] *Id.* at 4, 5.
[20] *Id.*
[21] Ex. 9 (Notice of Public Information and EA Scoping Meeting).
[22] *Id.* (*see* Certificate of Service of Margie DeLaHunt and Affidavit of Publication).

13. On March 26, 2013, Commission staff issued a memorandum to State Agency Technical Representatives requesting participation in record development and public hearings.[23]

14. On April 23, 2013, the Commission and EFP staff held a joint Public Information and EA Scoping Meeting in White Bear Lake. Interested persons were able to submit written comments regarding the scope of the EA until May 10, 2013.[24]

15. On May 28, 2013, EFP submitted a memorandum to the Commission setting forth its comments and recommendations regarding the EA scoping process for the Project. The EFP noted that no requests for consideration of a route alternative were received during the scoping period and indicated that it would recommend to the Deputy Commissioner of the Department of Commerce that the scoping decision for the Project include only the route proposed by Xcel Energy in its route permit application.[25]

16. On June 7, 2013, the Commission issued a Notice of Commission Meeting indicating, among other things, that it would consider at its June 20, 2013, meeting what action the Commission should take with respect to route alternatives to be evaluated in the EA for the Project and whether the Commission should authorize the development and filing of a permit template for review and comment during the permit proceedings.[26]

17. On June 20, 2013, the Commission voted to take no action on route alternatives to be evaluated in the EA (and thus allowed the Department of Commerce to proceed with issuing the scoping decision). The Commission also authorized the issuance of the generic route permit template.[27]

18. On June 27, 2013, the Deputy Commissioner of the Department of Commerce issued its EA Scoping Decision. Among other things, the Deputy Commissioner decided that the EA would only evaluate the route proposed by Xcel Energy in its route permit application.[28] The Department provided Notice of its Scoping Decision by electric filing, certified mail, e-mail, or U.S. Mail to interested parties and governmental units on the same date.[29]

19. On July 24, 2013, Commission staff issued a generic high-voltage transmission line route permit template for the Project.[30]

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[23] Ex. 10 (Memorandum Requesting State Agency Participation in Record Development and Public Hearings).
[24] Ex. 9 (Notice of Public Information and EA Scoping Meeting); Ex. 23 at 6 (EA).
[25] Ex. 12 at 4.
[26] Ex. 13 at 4 (Notice of Commission Meeting).
[27] Ex. 15 at 5 (Minutes of June 20, 2013, Commission Meeting).
[28] Ex. 16 (Scoping Decision for EA).
[29] Ex. 17 (Notice of Scoping Decision, including Certificate of Service of Sharon Ferguson).
[30] Ex. 18 (Generic Route Permit Template).

20. On July 24, 2013, the Administrative Law Judge issued a Notice of Prehearing Conference in this matter.[31]

21. The Prehearing Conference was held as scheduled at the Commission's offices on August 14, 2013. Kodi J. Church, Briggs and Morgan, PA appeared on behalf of Xcel Energy. She was accompanied by Sage Tauber, Permitting Analyst on behalf of Xcel Energy. Scott Ek of the Commission was present. Linda Jensen, Assistant Attorney General, appeared on behalf of EFP. Deborah Pile, Director of EFP, and Ray Kirsch, Environmental Review Manager for EFP, were also present. During the Prehearing Conference, the Company agreed to extend the six-month time period for the Commission's decision set forth in Minn. Stat. § 216E.04, subd. 7, to nine months after the Commission found the application to be complete.[32]

22. On August 16, 2013, the Administrative Law Judge issued the First Prehearing Order in this matter. The Order set forth a schedule for this proceeding to which all parties had agreed during the Prehearing Conference.[33]

23. On August 26, 2013, the Commission issued a Notice of Public Hearing stating that the public hearing in this matter would be held on September 10, 2013, at 6:00 p.m. The Notice was sent by electronic filing, electronic mail, courier, interoffice mail, or U.S. Mail on the same date to interested parties, governmental units and other public agencies.[34]

24. On August 28, 2013, the Notice of Public Hearing was also published in the *North St. Paul Ramsey County/Maplewood Review* and the *White Bear/Vadnais Heights Press*.[35]

25. On or about August 30, 2013, EFP issued the EA for the Project.[36]

26. On August 29, 2013, the EFP sent the EA to the MPCA, the MnDNR, MnDOT, Ramsey County, the Metropolitan Council, the Board of Water and Soil Resources, the U.S. Army Corps of Engineers, the Ramsey County Public Library, and the White Bear Lake Public Library.[37] On August 30, 2013, the EFP sent a Notice of EA Availability to other interested parties.[38]

27. On September 2, 2013, a Notice of Availability of the EA was published in the *EQB Monitor*, as required by Minn. R. 7850.3700, subp. 6.[39]

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[31] Ex. 19 (Notice of Prehearing Conference).
[32] Ex. 20 (First Prehearing Order); Transcript of First Prehearing Conference at 5.
[33] *Id.*
[34] Ex. 22 (Notice of Public Hearing, including Certificate of Service of Margie DeLaHunt).
[35] *Id.* (*see* Affidavit of Publication).
[36] Ex. 23 (EA).
[37] Ex. 25 (Certificate of Service of Caren Warner).
[38] Ex. 24 (Notice of EA Availability, including Certificate of Service of Sharon Ferguson).
[39] Ex. 26 (Notice in *EQB Monitor* of EA Availability).

28. On September 4, 2013, the Company mailed a Notice of the Public Hearing to property owners and other interested parties.[40]

29. On September 10, 2013, the Public Hearing was held as scheduled at the Best Western White Bear Country Inn, 4940 Highway 61 North, White Bear Lake, Minnesota.

DESCRIPTION OF THE PROJECT

30. Xcel Energy proposes to replace an existing single circuit 115 kV transmission line with a new double circuit 115 kV/115 kV transmission line. The proposed route is approximately 2.8 miles long and is located in White Bear Township and the cities of White Bear Lake, Vadnais Heights, and Maplewood, in northeast Ramsey County. The route follows an existing transmission line and railroad corridor between the Kohlman Lake and Goose Lake substations. The Project includes modifications to the substations and the installation of new equipment. The modifications will be made within the current footprint of the substations.[41]

31. Specifically, the Project involves: (1) removing 2.8 miles of existing single circuit 115 kV transmission line and approximately forty-one existing structures between the Kohlman Lake and Goose Lake Substations (Line #0885); (2) installing approximately forty-two new double circuit capable steel poles and 2.8 miles of new 115/115 kV double circuit transmission line between the Kohlman Lake and Goose Lake Substations; and (3) modifying the Kohlman Lake Substation to add a new 115 kV breaker-and-a-half bay; two new 115 kV, 3000A, gas circuit breakers and associated breaker isolation disconnects; two new panels for primary and secondary relaying and breaker control and protection; and associated steel, foundations, grounding, control cables, and conductor; and (4) modifying the Goose Lake Substation to add two new 115 kV, 2000A, gas circuit breakers and associated breaker isolation disconnects and other associated equipment; and associated steel, foundations, grounding, control cables, and conductor.[42]

32. The Project's single pole, double circuit structures are proposed to be galvanized or self-weathering steel. Approximately thirty-eight of the structures will range from eighty to ninety feet in height, and four of the structures will range from ninety to one hundred feet in height. The average span length between structures is proposed to be approximately 300 to 500 feet.[43]

33. The Project includes reconductoring a span of existing single circuit 115 kV line (circuit #1) between structures 124 and 123, just south of the Goose Lake Substation.[44]

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[40] Ex. 27 (Affidavit of Mailing of Sage Tauber).
[41] Ex. 2 at 1; Ex. 23 at 2.
[42] Ex. 2 at 9-11, 20.
[43] Ex. 2 at 21; Ex. 23 at 14.
[44] Ex. 23 at 10; Map B-7.

34. The Company proposes a 200-foot route width for the Project. To the extent possible, the Project will be built on approximately the existing centerline and within the existing railroad right-of-way.[45]

35. The Project is needed to reliably serve electrical loads in the northwest region of the Twin Cities metropolitan area by providing a redundant electrical transmission source to the area.[46] Electrical loads in that region are currently served from three sources: the Chisago County, Kohlman Lake, and Riverside/Terminal substations.[47] Planning studies completed during 2010 for voltage stability and compliance with standards of the North American Electric Reliability Corporation (NERC) identified this area as vulnerable to severe low voltages and thermal overloads.[48] The Project is necessary to meet NERC planning standards without decreasing load during transmission outages.[49]

36. The proposed transmission line will be designed to meet or exceed local and state codes, including the National Electric Safety Code, the NERC standards, and Xcel Energy standards.[50]

ROUTES EVALUATED

37. In this Alternative Permitting Process, Xcel Energy evaluated routes that used existing 115 kV transmission line right-of-way to the greatest extent.[51] The Company did not consider route alternatives that would create a new transmission line corridor.[52]

38. The route proposed in the Application exits the Kohlman Lake substation and proceeds northward along a section of the Bruce Vento Trail and across Interstate 694 (I-694). The route proceeds northward along the eastern edge of a railroad right-of-way, crossing over County Road E. The route continues northward along the railroad corridor, crossing Highway 61 and paralleling Hoffman Road. The route then jogs westward toward Otter Lake Road, with circuit #1 joining Xcel Energy line 0885 and circuit #2 joining Xcel Energy line 5519. Circuit #2 proceeds along Otter Lake Road to the Goose Lake Substation (Proposed Route).[53]

39. No alternative routes, alternative route segments, or alignment modifications were put forth during the EA scoping period or at any other time during this proceeding. The EA only evaluated the Proposed Route.[54]

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[45] *Id.* at 1-2.
[46] *Id.* at 1, 11-13.
[47] *Id.* at 11.
[48] *Id.* at 11.
[49] *Id.* at 1, 11-13.
[50] Ex. 2 at 21.
[51] Ex. 2 at 8; Ex. 23 at 12.
[52] Ex. 2 at 8; Ex. 23 at 13.
[53] Ex. 23 at 11-12; Figures 3-5; Maps B-2 through B-7.
[54] *Id.* at 13.

TRANSMISSION LINE STRUCTURE TYPES AND SPANS

40. For the Project, Xcel Energy proposes to use overhead construction with steel single pole, double circuit, davit arm structure with one shield wire and three phases on each side. The structures will range in height from eighty to one hundred feet.[55] The average height of the existing structures is approximately seventy-five feet. Thus, the new structures will be five to fifteen feet taller than the existing structures.[56]

41. The finish of the structures will be galvanized steel or weathering steel.[57]

42. Average spans between single pole structures are proposed to be 300 to 500 feet.[58]

43. The height and diameter of the structures and the spans between structures will vary depending on topography, existing infrastructure, and changes in route direction. "Angle" or "dead end" structures that facilitate a change in route direction will be somewhat larger in size in order to maintain appropriate tension on the transmission line.[59]

TRANSMISSION LINE CONDUCTORS

44. The proposed 115/115 kV transmission line conductors will be 795 thousand circular mils (KCmil) 26/7 Aluminum Core Steel Supported (ACSS) conductors or conductors of similar capacity.[60]

TRANSMISSION LINE ROUTE WIDTHS AND ANTICIPATED ALIGNMENT

45. Xcel Energy has requested a route width of 200 feet for the Project.[61]

46. The anticipated alignment for the Project is the alignment of the existing single circuit 115 kV transmission line that is being replaced.[62]

TRANSMISSION LINE RIGHT-OF-WAY

47. The right-of-way required for the Project is seventy-five feet.[63]

48. Xcel Energy currently has a license agreement with Burlington Northern Santa Fe Railroad (BNSF) to construct, operate, and maintain the existing transmission

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[55] Ex. 2 at 21; Ex. 23 at 11.
[56] Ex. 2 at 21; Ex. 23 at 15.
[57] Ex. 2 at 21, 22; Ex. 23 at 13.
[58] Ex. 23 at 13.
[59] Ex. 23 at 13.
[60] Ex. 2 at 21; Ex. 23 at 15.
[61] Ex. 2 at 18-19; Ex. 23 at 10.
[62] Ex. 2 at 8, 9; Ex. 23 at 10; Transcript of Public Hearing at 27 (Sept. 10, 2013) (Document ID 201310-92165-01).
[63] Ex. 2 at 18; Ex. 23 at 10.

line within the railroad right-of-way. The Company intends to work with BNSF to modify the existing license agreement where necessary to accommodate the Project.[64]

49. The Company anticipates that it will need to acquire some new right-of-way for the Project along the west side of Otter Lake Road (County Road 148) near the Goose Lake Substation, and along the Bruce Vento Trail near the Kohlman Lake Substation to maintain National Electric Safety Code (NESC) clearances.[65] Where new right-of-way must be acquired along the proposed route, Xcel Energy will seek to obtain a right-of-way of up to seventy-five feet wide.[66]

PROJECT SCHEDULE

50. The Company anticipates that construction of the Project will begin soon after permits are obtained, with an in-service date of summer 2015.[67]

PROJECT COSTS

51. Xcel Energy estimates that the Project will cost approximately $9.3 million. According to the Company, actual costs could be up to 30 percent higher or lower than this estimate.[68]

PERMITTEE

52. The permittee for the Project is Northern States Power Company.[69]

PUBLIC AND LOCAL GOVERNMENT PARTICIPATION

Public Comments

53. Three members of the public attended an informational meeting regarding the proposed Project that was held by Xcel Energy in White Bear Lake on June 6, 2012. Their comments focused primarily on the design, height, and location of the proposed new double circuit structures and the potential effects of the construction on private properties.[70]

54. Two written public comments were received by Xcel Energy relating to the Project around the time of the 2012 informational meeting. Dan Marier, who owns two properties in Gem Lake that are adjacent to the transmission lines, sent an email to Xcel Energy on May 23, 2012, in which he questioned why the new structures would be taller than the existing structures and contended that the additional pole height and lines associated with the proposed structures would make the transmission line more visible

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[64] Ex. 2 at 1-2; Ex. 23 at 10.
[65] *Id.*
[66] Ex. 2 at 2, 25; Ex. 23 at 10.
[67] Ex. 2 at 13; Ex. 23 at 18.
[68] Ex. 23 at 15.
[69] Ex. 2 at 6.
[70] *Id.* at 67-68 and Appendix D.3.

to neighboring properties. Mr. Marier stated that he did not want the locations of the new poles to differ from where they are presently located and expressed concern that the proposed Project would negatively affect neighboring properties.[71] Another area resident, Janet Franz, commented that she opposed increasing the height of the steel poles near her property along Otter Lake Road and suggested that vertical davit arms be added to the existing structures to ensure that the poles would be shielded by existing trees and would not be visible from her property.[72]

55. On April 23, 2013, Commission and EFP staff held a joint public informational and EA scoping meeting in White Bear Lake regarding the proposed Project. Four members of the public attended the meeting. One expressed concern about the electric and magnetic fields that would be produced by the Project. Another individual, who represented the Metropolitan Council, relayed the Council's concerns pertaining to wastewater sewers in the Project area.[73]

56. No one identified route alternatives during the EA scoping meeting or during the comment period that ended on May 10, 2013.[74]

57. One member of the public, James Lindner, spoke at the Public Hearing that was held on September 10, 2013, regarding the proposed Project. Mr. Lindner noted potential impacts to the Bruce Vento Trail and asked about construction practices for the Project. As a resident of the area, Mr. Lindner stated that he believed that the Project is needed to address reliability issues and would benefit the neighborhood as well as the region as a whole.[75]

Local Government and State Agency Participation

Metropolitan Council

58. The Metropolitan Council provided written comments regarding the proposed Project on February 26, 2013, in connection with the EA scoping process. In its comments, the Council asserted that the route proposed by Xcel Energy was close to existing wastewater interceptors in the area and asked that the Company consult with the Council's Interceptor Engineering Manager prior to initiating the Project.[76]

59. During the public hearing on September 10, 2013, the Company noted that it had received information from the Metropolitan Council concerning the location of the sewer lines and was continuing to coordinate with the Council to ensure that design and construction of the transmission line does not interfere with the wastewater lines.[77]

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[71] *Id.* at 68 and Appendix D.5.
[72] *Id.*
[73] Ex. 12 at 3 (Comments and Recommendations of EFP Staff).
[74] *Id.* at 3.
[75] Public Hearing Transcript at 28-31 (Document ID 201310-92165-01)
[76] Ex. 11 at 2-3; Ex. 12 at 3.
[77] Public Hearing Transcript at 28.

60. The Metropolitan Council submitted post-hearing comments on September 30, 2013, in which it noted that the EA adequately addresses the concerns raised by the Council in its February 26, 2013, letter. The Council urged the Company to consult with the Council's Interceptor Engineering staff regarding the anticipated placement of the foundation for transmission poles in the vicinity of the Council's interceptors prior to beginning construction of the Project in order to avoid any potential effects on the wastewater infrastructure.[78] In its Response to Public Comments, Xcel Energy reiterated that it will continue to work with the Metropolitan Council during the design and construction of the Project to avoid conflicts with the Council's wastewater infrastructure.[79]

Ramsey County

61. James Homolka, who is a project manager with Ramsey County and the County's land right-of-way manager, and also works in the Ramsey County Regional Railroad Authority, spoke during the public hearing on September 10, 2013. Mr. Homolka indicated that the Ramsey County Regional Railroad Authority owns a portion of the BNSF railroad right-of-way in the vicinity of the Project. He commented that it will be necessary for his office and the Xcel Energy team to conduct research and coordinate to make sure that the Company has the proper land rights to construct the project.[80]

62. In response to Mr. Homolka's comments, the Company stated that it is willing to coordinate the final design of the Project with Ramsey County and acquire all necessary permits for the work on the Project.[81]

Minnesota Department of Natural Resources (MnDNR)

63. Jamie Schrenzel, Principal Planner, Environmental Review Unit of the MnDNR, submitted a written comment on April 25, 2013, during the comment period relating to the scope of the EA for the Project. In its letter, the MnDNR noted the presence of a threatened species—the Blanding's Turtle—in the Project area and provided information about that species. The MnDNR attached a flyer and fact sheet providing its recommendations regarding Blanding's Turtles and urged the Company to identify the specific set of recommendations the Company intended to follow in its future Project plans and the EA. The MnDNR also indicated that a public water wetland may be intersected by the right-of-way, and a MnDNR License to Cross Public Lands and Waters may be required.[82]

64. On September 20, 2013, Ms. Schrenzel submitted post-hearing written comments in this proceeding on behalf of the MnDNR. The MnDNR's comments emphasized the presence of the Blanding's Turtle and Western Foxsnakes in the

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[78] Metropolitan Council Post-Hearing Comments, Sept. 30, 2013 (Document ID 201310-92082-01).
[79] Xcel Energy's Response to Public Comments at 2, Oct. 8, 2013 (Document ID 201310-92242-01).
[80] Public Hearing Transcript at 31-34 (Document ID 201310-92165-01).
[81] *Id.* at 35.
[82] Ex. 11 at 4-10; Ex. 12 at 3.

Project area, and requested that wildlife-friendly erosion control materials be used during construction of the Project. The MnDNR noted that it supported the vegetation removal approach set forth in Appendix F of the Application that leaves lower-growing vegetation within the right-of-way, and urged that this practice be used for initial clearing as well as for maintenance activity throughout the life of the Project. The MnDNR further recommended that native seed mixes be used in restoration activities to improve habitat and reduce the possibility of invasive species.[83] With respect to the generic route permit template, the MnDNR made the following language suggestions (new language is underlined):

a. 4.2.5, 2nd paragraph- The following language is suggested: "Certain low growing species can remain in the right-of-way, or native species can be planted, with landowner input..."

b. 4.2.7, 1st paragraph, last sentence- The following language is suggested: "All areas disturbed during construction of the facilities shall be returned to equal or better than preconstruction conditions with landowner input."

c. 4.2.7, 2nd paragraph- The following language is suggested to be added: "Native seed mixes shall be selected to the extent practical, with landowner input."

d. A paragraph should be added about cleaning equipment prior to entering the work site as a best management practice to avoid the spread of invasive species. This practice is now often included in utility plans and would be required for work in state lands.

e. 4.2.9 Should include language about avoiding impacts to state-listed species in any temporary work space outside of the permitted route.

f. Bird diverters are required on many transmission projects in the Special Conditions section. Including reference to bird diverters in a generic permit condition, while allowing for some flexibility in siting in the special conditions section may provide placeholder for this topic.[84]

65. In its Response to Public Comments, Xcel Energy stated that it is agreeable to the inclusion of the conditions set forth above, but requested that the phrase "with landowner input" included in the first three conditions be replaced with "with landowner input as requested." While it is reasonable to modify the permit language along the lines proposed the Company, the Administrative Law Judge suggests that the meaning of this language be further clarified by specifying whether the Company will be obliged to affirmatively consult with landowners, request their input and consider that input if it is provided, or merely consider input that landowners provide on

[83] MnDNR Post-Hearing Comments (Sept. 20, 2013) (Document IDs 20139-91556-01, 20139-91556-02, 20139-91556-03, 20139-91556-04, 20139-91556-05).
[84] *Id.* (emphasis in original).

their own initiative. The Company further noted that it intends to employ wildlife-friendly erosion control methods during the construction of the Project and will use native seed mixes during reconstruction activities in the right-of-way to prevent infestation by invasive species.[85]

Minnesota Department of Transportation (MnDOT)

66. Stacy Kotch, Utility Transmission Route Coordinator for MnDOT, provided a written comment dated May 7, 2013, in connection with the EA scoping process. MnDOT recommended that the EA identify and quantify any impacts the proposed transmission line may have on the safety or maintenance of the trunk highway system as well as any additional costs that may be imposed on the state trunk highway fund. MnDOT suggested that the EA assess the relationship between the placement of the transmission poles and the location of current and future highway activities. In addition, MnDOT asserted that road crossing permits would be required for the Project, asked the Company to coordinate with MnDOT staff before finalizing the design of crossings, and indicated that transmission line clearances for the Project would need to take into consideration the Gem Lake Bridge replacement and the use of Highway 61 as a house-moving route. MnDOT provided information on its Utility Accommodation Policy for inclusion and evaluation in the EA. Finally, MnDOT mentioned that there has been some discussion about turning Trunk Highway 61 back to Ramsey County at some point in the future, but stated that no work on Highway 61 or I-694 in the Project Area is anticipated at the present time.[86]

Minnesota Pollution Control Agency (MPCA)

67. On September 19, 2013, Craig Affeldt, Supervisor of the Environmental Review Unit of the MPCA's Resource Management and Assistance Division, submitted post-hearing comments on behalf of the MPCA. In its letter, the MPCA noted that the Company would be required to obtain a National Pollutant Discharge Elimination System/State Disposal System Construction Stormwater Permit (CSW Permit) from the MPCA if the total Project will disturb one acre or more of land and provided information and resources regarding this permit. The MPCA also stated that Goose Lake and an unnamed lake in the vicinity of the Project are both listed on the MPCA's Inventory of Impaired Waters, recommended that Xcel Energy use a mapping tool located on its website to identify special or impaired waters located near the Project, and indicated that impairments may affect the requirements set forth in the CSW Permit. With respect to the Project's potential impact on wetlands, the MPCA indicated that it will be necessary for the Company to obtain an MPCA Clean Water Act (CWA) Section 401 Water Quality Certification or waiver if the Project requires a Section 404 permit from the U.S. Army Corps of Engineers. Finally, the MPCA noted that several properties near the Project area have been identified as having actual or potential soil or groundwater contamination. It recommended that Xcel Energy make efforts prior to construction to determine if and where any contamination is likely to be encountered

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[85] Xcel Energy's Response to Public Comments at 2 (Oct. 8, 2013).
[86] Ex. 11 at 11-13.

during the Project and ensure that it properly manages any contaminated soil that is excavated during the Project. The MPCA recommended that the Company use various mapping tools and other resources that are available on its website.[87]

68. In its Response to Public Comments, the Company stated that it will use the MPCA's mapping tools to identify possibly contaminated soils and will use best management practices to ensure that contaminated soils are handled properly. In addition, the Company indicated that it will seek and comply with any applicable MPCA permits during construction of the Project.[88]

FACTORS TO BE CONSIDERED REGARDING ISSUANCE OF A ROUTE PERMIT

69. The Power Plant Siting Act (PPSA), Minnesota Statutes chapter 216E, requires that route permit determinations "be guided by the state's goals to conserve resources, minimize environmental impacts, minimize human settlement and other land use conflicts, and ensure the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure."[89]

70. Under the PPSA, the Commission and the Administrative Law Judge must be guided by the following responsibilities, procedures, and considerations:

> (1) evaluation of research and investigations relating to the effects on land, water and air resources of large electric power generating plants and high-voltage transmission lines and the effects of water and air discharges and electric and magnetic fields resulting from such facilities on public health and welfare, vegetation, animals, materials and aesthetic values, including baseline studies, predictive modeling, and evaluation of new or improved methods for minimizing adverse impacts of water and air discharges and other matters pertaining to the effects of power plants on the water and air environment;
>
> (2) environmental evaluation of sites and routes proposed for future development and expansion and their relationship to the land, water, air and human resources of the state;
>
> (3) evaluation of the effects of new electric power generation and transmission technologies and systems related to power plants designed to minimize adverse environmental effects;
>
> (4) evaluation of the potential for beneficial uses of waste energy from proposed large electric power generating plants;[90]

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[87] MPCA Post-Hearing Comments (Sept. 19, 2013) (Document ID 20139-91648-01).
[88] Xcel Energy's Response to Public Comments at 3 (Oct. 8, 2013).
[89] Minn. Stat. § 216E.03, subd. 7(a). These considerations are applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8.
[90] Factor 4 is not applicable because Xcel Energy is not proposing to site a large electric generating plant.

(5) analysis of the direct and indirect economic impact of proposed sites and routes including, but not limited to, productive agricultural land lost or impaired;

(6) evaluation of adverse direct and indirect environmental effects that cannot be avoided should the proposed site and route be accepted;

(7) evaluation of alternatives to the applicant's proposed site or route proposed pursuant to subdivision 1 and 2;

(8) evaluation of potential routes that would use or parallel existing railroad and highway rights-of-way;

(9) evaluation of governmental survey lines and other natural division lines of agricultural land so as to minimize interference with agricultural operations;

(10) evaluation of future needs for additional high-voltage transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications;

(11) evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved; and

(12) when appropriate, consideration of problems raised by other state and federal agencies and local entities.[91]

71. Minn. Stat. § 216E.03, subd. 7(e), also provides that the Commission "must make specific findings that it has considered locating a route for a high-voltage transmission line on an existing high-voltage transmission route and the use of parallel existing highway right-of-way and, to the extent those are not used for the route, the [C]ommission must state the reasons."

72. In addition, Minn. R. 7850.4100 mandates consideration of the following factors when determining whether to issue a route permit for a high voltage transmission line:

A. effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;

B. effects on public health and safety;

C. effects on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;

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[91] Minn. Stat. § 216E.03, subd. 7(b).

D. effects on archaeological and historic resources;

E. effects on the natural environment, including effects on air and water quality resources and flora and fauna;

F. effects on rare and unique natural resources;

G. application of design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generating capacity;

H. use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries;

I. use of existing large electric power generating plant sites;[92]

J. use of existing transportation, pipeline, and electrical transmission systems or rights-of-way;

K. electrical system reliability;

L. costs of constructing, operating, and maintaining the facility which are dependent on design and route;

M. adverse human and natural environmental effects which cannot be avoided; and

N. irreversible and irretrievable commitments of resources.[93]

73. There is sufficient evidence in the record for the Administrative Law Judge to assess the Proposed Route using the considerations and factors set out above.

APPLICATION OF STATUTORY AND RULE FACTORS TO THE PROPOSED ROUTE

74. The only route under consideration in this proceeding is Xcel Energy's Proposed Route.[94]

A. Effects on Human Settlement

75. The high voltage transmission line routing factors set forth in applicable Minnesota statutes and rules require consideration of the proposed transmission line route's effect on human settlement, including displacement of residences and

[92] This factor is not applicable because it applies only to power plant siting.
[93] Minn. R. 7850.4100.
[94] Ex. 23 at 13.

businesses; noise created during construction and by operation of the Project; and impacts to aesthetics, cultural values, recreation, and public services.[95]

76. The Project area is currently a highly-developed urban area with small patches of pre-settlement flora remaining (primarily in and around wetlands and lakes that are poorly suited for development). The area includes existing road and utility infrastructure including I-694, Trunk Highway 61, a railroad corridor, and water and electric utilities. It is zoned for residential, commercial, and industrial uses.[96]

Displacement

77. Thirty-nine residences are located within 200 feet of the proposed alignment for the Project. One of these residences is within 100 feet. In addition, forty-three commercial buildings are located within 200 feet of the proposed alignment. Four of these commercial buildings are within 100 feet. Although one residence and four commercial buildings are within 100 feet of the proposed alignment. There are no residences or commercial buildings within fifty feet of the proposed alignment.[97]

78. No residential or commercial displacement will occur as a result of the Project as proposed.[98]

Noise

79. The MPCA has established standards for the regulation of noise levels.[99] The most restrictive noise limits set by the MPCA are 60-65 A-weighted decibels (dBA) during the daytime and 50-55 dBA during the nighttime.[100]

80. During the construction of the Project, intermittent noise will be generated during daytime hours due to the operation of heavy equipment and increased traffic associated with construction personnel and supplies. If the MPCA daytime noise limits are exceeded, it is expected that the violation will be temporary in nature. It is not anticipated that the proposed Project will cause any noise in excess of the nighttime noise limits.[101]

81. Transmission lines produce noise under certain conditions. The level of noise depends on conductor conditions, voltage level, and weather conditions. Generally, activity-related noise levels during the operation and maintenance of

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[95] Minn. Stat. § 216E.03, subd. 7(b) (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8); Minn. R. 7850.4100(A).
[96] Ex. 23 at 21, 23.
[97] *Id.* at 24.
[98] *Id.*
[99] *Id.* at 25; *see generally* Minn. R. Ch. 7030.
[100] Ex. 23 at 26; Minn. R. 7030.0040, subp. 2.
[101] *Id.* at 26.

transmission lines are minimal and do not exceed the MPCA Noise Limits outside the right-of-way.[102]

82. The audible noise levels for the proposed Project are not predicted to exceed the MPCA Noise Limits.[103]

Aesthetics

83. Construction of the Project will occur in a highly developed urban area. The Project area is zoned for residential, commercial, and industrial uses and contains extensive infrastructure including I-694, Highway 61, a railroad, and supporting utilities.[104]

84. The Proposed Route follows the alignment of the existing single circuit 115 kV transmission line between the Kohlman Lake and Goose Lake substations. The existing transmission line structures are approximately 75 feet above ground. The majority of the structures proposed for the Project will range in height from 80 to 90 feet, with some structures up to 100 feet above ground. In addition, there will be six wires on the new structures instead of the three wires on the existing structures.[105]

85. The additional structure height and additional wires will make the new transmission line relatively more visible. However, the change is incremental in the sense that the proposed Project will merely replace an existing transmission line in a railroad corridor with a new one.[106]

86. In some areas of the Proposed Route, the structures will likely be an aesthetic improvement (replacement of lattice structures with single pole structures and painted structures with galvanized or self-weathering steel structures).[107]

87. The proposed modifications to the Kohlman Lake and Goose Lake substations will take place within the current fenced areas of those substations.[108]

88. It is expected that the Project will have minimal effects on aesthetics in the area.[109] Aesthetic impacts of the Project can be mitigated to some extent by the use of specific transmission line structure finishes. Xcel Energy proposes to use galvanized or self-weathering steel structures. No comments were received from local units of government indicating a preference for a particular type of structure finish.[110]

Cultural Values

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[102] *Id.* at 26-27.
[103] *Id.* at 27.
[104] *Id.* at 23.
[105] *Id.* at 24.
[106] *Id.*
[107] *Id.*
[108] *Id.* at 25.
[109] *Id.* at 24-25.
[110] Public Hearing Transcript at 26 (Sept. 10, 2013).

89. The region surrounding the Project area has cultural values tied to German, Irish, and Norwegian heritages. The area depends primarily on commerce and manufacturing. In 2010, the largest employment sector for the region surrounding the Project was health care and social assistance. Local community ties relate to work, worship, celebration, and recreation.[111]

90. The construction of the proposed Project is not expected to conflict with the cultural values of the area.[112]

Recreation

91. There is no evidence that any federal or state parks, forests, recreational areas, wildlife refuges, or wildlife protection areas will be affected by the Proposed Route.[113]

92. The Proposed Route is located adjacent to the Bruce Vento Regional Trail for approximately 2,000 feet just north of the Kohlman Lake substation. The Bruce Vento Trail is an asphalt trail used for biking, skating, walking, and skiing that is operated by Ramsey County. It currently ends at Buerkle Road. In July 2012, Xcel Energy conferred with Ramsey County Parks and Recreation staff to discuss the County's future plans to extend the Trail to the north in areas adjacent to the proposed Project and the potential for coordination between the two projects.[114]

93. Willow Marsh Reserve is located north of I-694 near the southern end of the Proposed Route. It is an undeveloped open space with wetlands and interpretive nature trails that is part of the park system of the City of White Bear Lake. It is adjacent to and on both sides of the Proposed Route (and the existing 115 kV transmission line) for approximately 2,000 feet. The City of White Bear Lake has requested that vegetation removal be limited near the Willow Marsh Reserve.[115]

94. Two parks operated by the City of White Bear Lake--McCarty Park and Stellmacher Park--are located approximately 1,500 feet and 1,000 feet, respectively, to the east of the centerline of the Proposed Route. The parks include playgrounds, picnic tables, and sports fields. In addition, the Gem Lake Hills golf course is located just south of the Goose Lake substation, approximately 600 feet west of the Proposed Route.[116]

95. In its Application, Xcel Energy indicated that it intends to work closely with Ramsey County, the City of White Bear Lake, and other government officials to minimize effects on recreational resources.[117]

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[111] Ex. 2 at 54.
[112] *Id.*
[113] *See* Ex. 2 at 54-55 and Ex. 23 at 47-49.
[114] Ex. 2 at 54; Ex. 23 at 47.
[115] Ex. 2 at 54-55; Ex. 23 at 48.
[116] Ex. 2 at 54; Ex. 23 at 48.
[117] Ex. 2 at 55.

96. It is anticipated that the impact of the proposed Project on recreation and tourism in the area will be minimal. Although it is possible that construction impacts will occur with respect to the Willow Marsh Reserve and the Bruce Vento Trail, the impacts are expected to be minimal and temporary. Long-term impacts, such as potential adverse aesthetic impacts due to taller structures and more conductors, are also predicted to be minimal and are not expected to affect recreation decisions or enjoyment of recreational resources in the Project area.[118]

Public Service and Infrastructure

97. Public services in the Project area include sewer and water services and existing and future transportation corridors and projects.[119]

98. A Metropolitan Council sewer line runs parallel to the Proposed Route on the western edge of the existing railroad corridor. Because the Proposed Route will follow the eastern edge of the corridor, no impacts to the sewer line are anticipated. However, the Proposed Route will cross the sewer line on the southern end of the Project, just north of I-694, and on the northern end of the Project near Goose Lake. The foundations for the transmission poles could damage the sewer line. To avoid potential damage to the sewer lines, poles should be sited to avoid the sewer lines (e.g., by spanning the sewer lines) and the use of heavy equipment near sewer lines should be avoided. The Metropolitan Council has requested that Xcel Energy provide detailed plans to the Council for review and comment prior to beginning construction of the Project.[120] The Company has agreed to do so.[121]

99. The Proposed Route crosses two State roadways (I-694 and Trunk Highway 61) and three County roadways (County Road E, County Road F, and County Road 146). These road crossings will occur in approximately the same alignment as the existing transmission line crossings.[122] Because the relevant portion of Highway 61 is designated as a house moving route, a minimum clearance from the roadway to an aerial crossing of twenty-four feet will be required.[123]

100. The City of Maplewood is planning future road improvements north of the Kohlman Lake substation. Xcel Energy has met with City engineers and intends to work with the City to ensure that the final design and pole placement will not interfere with the City's road improvement plan.[124] In addition, the Company will coordinate with Ramsey County and other affected municipalities as necessary to coordinate structure placement and anticipated transportation improvement plans.[125]

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[118] Ex. 23 at 48-49.
[119] *Id.* at 41-45.
[120] *Id.* at 44-45.
[121] Public Hearing Transcript at 28.
[122] Ex. 2 at 55; Ex. 23 at 41.
[123] Ex. 23 at 41.
[124] Ex. 2 at 55.
[125] *Id.* at 56.

101. It will be necessary for the Company to work with the appropriate State and County road authorities to obtain necessary permissions for the Project. In addition, the Company will be required to comply with MnDOT's policies pertaining to the placement of utilities along and across state highways.[126]

102. Impacts to roads and highways due to the proposed Project are expected to be minimal and temporary, primarily because the Proposed Route will cross roads and highways at the same location as the existing transmission line. Although minor and temporary impacts to roads may occur during construction, no long term adverse effects on roads or highways are anticipated.[127]

103. Although the electrical transmission system in the area will change as a result of the Project, no adverse impacts on electrical service are anticipated. Similarly, the construction and operation of the proposed Project is not expected to have an adverse impact on emergency services in the area.[128]

B. Effects on Public Health and Safety

104. Minnesota high voltage transmission line routing factors require consideration of the Project's effect on health and safety.[129]

Construction and Operation of Facilities

105. In its Route Permit Application, Xcel Energy asserted that its personnel will follow appropriate standards for the construction and installation of the proposed transmission line, and comply with applicable safety procedures during and after installation.[130]

106. The Project will be designed to meet or surpass local, state, NESC, NERC, and Xcel Energy standards regarding clearance to ground, clearance to crossing utilities, clearance to buildings, strength of materials, and right-of-way widths.[131]

107. The transmission lines will be equipped with protective devices that will de-energize the line if an accident occurs, such as a structure or conductor falling to the ground.[132]

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[126] *Id.* at 55; Ex. 23 at 41-42.
[127] Ex. 23 at 42.
[128] *Id.* at 45.
[129] Minn. Stat. § 216E.03, subd. 7(b)(1) (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8); Minn. R. 7850.4100(B).
[130] Ex. 2 at 21.
[131] *Id.* at 21, 40; Ex. 23 at 15.
[132] Ex. 2 at 41; Ex. 23 at 31.

108. Impacts to public health and safety resulting from the Project are anticipated to be minimal.[133]

Electric and Magnetic Fields (EMF)

109. The possible impact of EMF exposure on human health has been investigated by public health professionals during the past several decades.[134]

110. The primary research on magnetic fields began in 1979. Since that time, epidemiological studies have shown that there is an association between childhood leukemia and EMF exposure. There has not been shown to be a consistent association between EMF exposure and other diseases in children or adults. Studies have failed to show a cause and effect relationship between disease and EMF exposure at common EMF levels, and no biological mechanism for how EMF might cause disease has been established.[135]

111. In orders issued in 2007 and 2008, the Commission concluded that there is currently "insufficient evidence to demonstrate a causal relationship between EMF exposure and any adverse human health effects."[136]

112. More recently, the potential impacts of EMF on human health were at issue in the route permit proceeding for the Brookings – Hampton 345 kV transmission line. In that proceeding, Administrative Law Judge Richard Luis found:

> The absence of any demonstrated impact by [EMF] exposure supports the conclusion that there is no demonstrated impact on human health and safety that is not adequately addressed by the existing State standards for such exposure. The record shows that the current exposure standard for [EMF] is adequately protective of human health and safety.[137]

The Commission ultimately adopted this finding in its Order granting the route permit.[138]

113. Similarly, in the route permit proceeding for the St. Cloud – Fargo 345 kV transmission line, then-Administrative Law Judge Beverly Jones Heydinger found:

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[133] Ex. 23 at 31.
[134] Ex. 2 at 41-44; Ex. 23 at 32-33.
[135] Ex. 23 at 32-33.
[136] *In the Matter of the Application of Xcel Energy for a Route Permit for the Lake Yankton to Marshall Transmission Project in Lyon County*, Docket No. E-002/TL-07-1407, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER at 7-8 (Aug. 29, 2008); *In the Matter of the Application for a HVTL Route Permit for the Tower Transmission Line Project,* Docket No. ET-2, E015/TL-06-1624, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER at 23 (Aug. 1, 2007).
[137] *In the Matter of the Route Permit Application by Great River Energy and Xcel Energy for a 345 kV Transmission Line from Brookings County, South Dakota to Hampton, Minnesota*, PUC Docket No. ET-2/TL-08-1474, OAH Docket No. 7-2500-20283-2, FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATION, Finding 216 (April 22, 2010, as amended on April 30, 2010).
[138] *In the Matter of the Route Permit Application by Great River Energy and Xcel Energy for a 345 kV Transmission Line from Brookings County, South Dakota to Hampton, Minnesota,* PUC Docket No. ET-2/TL-08-1474, ORDER GRANTING ROUTE PERMIT (Sept. 14, 2010).

> Over the past 30 years, many epidemiological studies have been conducted to determine if there is a correlation between childhood leukemia and proximity to electrical structures. Some studies have shown that there is an association and some have not. Although the epidemiological studies have been refined and increased in size, the studies do not show a stronger related effect. In addition, a great deal of experimental, laboratory research has been conducted to determine causality, and none has been found.[139]

The Commission adopted this finding in an Order issued on June 24, 2011.[140]

114. There is no federal standard regarding allowable electric or magnetic fields produced by transmission lines, but a number of states have adopted regulations in this area.[141] The Commission has adopted a standard that limits the maximum electric field under transmission lines to eight kV/m measured at one meter above the ground at the edge of the right-of-way.[142]

115. The calculated electric fields for the Project are significantly less than the maximum limit of 8 kV/m that has been imposed by the Commission.[143] In addition, as a result of phase cancellation between circuits and lower projected currents on the double circuit line, magnetic fields associated with the new double circuit 115 kV line will be less than those currently produced by the existing single circuit 115 kV line.[144]

116. No adverse health impacts due to EMF exposure are anticipated as a result of the Project.[145]

117. Transmission lines do not create stray voltage since they do not directly connect to businesses, residences, or farms. Thus, no impacts due to stray voltage are anticipated in connection with the proposed Project.[146]

118. An electric field from a transmission line may induce a voltage on a nearby conductive object if the object is insulated from the ground. If the object is touched by a person or animal, this may result in a spark discharge or mild shock.[147] The proposed transmission line will be designed to meet the NESC requirement that any discharge be less than five milliAmperes. As noted above, the Project will also comply with the Commission's electric field limit of 8 kV/m, which was designed to prevent serious

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[139] *In the Matter of the Application for a Route Permit for the Fargo to St. Cloud 345 kV Transmission Line Project*, PUC Docket No. ET-2, E002/TL-09-1056, OAH Docket No. 15-2500-20995-2, FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATION, Finding 125 (April 25, 2011).
[140] *In the Matter of the Application for a Route Permit for the Fargo to St. Cloud 345 kV Transmission Line Project,* PUC Docket No. ET-2, E002/TL-09-1056, ORDER GRANTING ROUTE PERMIT (June 24, 2011).
[141] Ex. 23 at 33.
[142] *Id.*
[143] *Id.* at 34-35.
[144] *Id.* at 35.
[145] *Id.*
[146] Ex. 2 at 37; Ex. 23 at 39.
[147] Ex. 23 at 39.

hazards from shocks due to induced voltage under high voltage transmission lines.[148] No impacts due to induced voltage are anticipated from the Project.[149]

C. Effects on Land-Based Economies and Direct and Indirect Economic Impacts

Effect on Land-Based Economies

119. Minnesota's high voltage transmission line routing factors require consideration of the Project's impact on land-based economies, specifically agriculture, forestry, tourism, and mining.[150]

120. There are no agricultural, mining, or forestry operations in the area of the Proposed Route.[151]

121. There are relatively few opportunities for tourism along the Proposed Route given the highly developed urban area. The opportunities that exist are limited to recreational resources.[152] The potential impacts on recreational resources are discussed in Findings 90-95 above.

122. The impact of the Project on recreation and tourism is anticipated to be minimal and temporary in nature and limited to aesthetic effects.[153]

D. Effects on Archeological and Historic Resources

123. Minn. R. 7850.4100(D) requires consideration of the effects of the proposed Project on historic and archaeological resources.

124. Merjent, Inc., conducted a Phase 1a background research/literature review for the Project on behalf of Xcel Energy in January and February of 2012 concerning the likelihood that there are archaeological or historic sites in the Project area. Merjent concluded that there are no known archaeological or historic sites within one-half mile of the proposed route. In addition, because the Project will be located in an urban area that is already highly developed, Merjent determined that the potential for unrecorded archaeological resources in the Project area is low. On March 5, 2012, Merjent sent a consultation letter to the Minnesota State Historic Preservation Office (MnSHPO). In the letter, Merjent requested that MnSHPO provide comments on the Project and agree with its finding that no archaeological or historic resources would be adversely affected by the Project.[154]

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[148] *Id.* at 39-40.
[149] *Id.* at 40.
[150] Minn. Stat. § 216E.03, subd. 7(b)(5) (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8); Minn. R. 7850.4100(C).
[151] Ex. 23 at 46-47.
[152] *Id.* at 47.
[153] *Id.* at 48-49.
[154] Ex. 2 at 57 and Appendix H; Ex. 23 at 49.

125. In its response dated April 6, 2012, MnSHPO concluded that there are no properties in the Project area that are listed in the National or State Registers of Historic Places, and that no known or suspected archaeological properties would be affected by the Project.[155]

126. No impacts to archaeological or historic resources are anticipated as a result of construction of the Project along the Proposed Route.[156]

E. Effects on Natural Environment

127. Minnesota's high voltage transmission line routing factors require consideration of the proposed route's effect on the natural environment, including effects on air and water quality resources and flora and fauna.[157]

Air Quality

128. Construction of the Project will result in temporary air quality impacts caused by, among other things, construction vehicle emissions and fugitive dust from right-of-way preparation. In addition, ozone and nitrous oxide may be emitted during transmission line operation.[158]

129. No significant impacts to air quality are anticipated as a result of the Project. Ozone and nitrous oxide emissions are expected to be well below applicable state and federal standards and have a relatively minor impact on concentrations in the greater metropolitan area. Impacts to air quality due to construction dust are anticipated to be minor and temporary.[159]

Water Quality and Resources

130. The Project is located in the Twin Cities Mississippi River watershed of the Upper Mississippi River basin. Although there are several lakes and drainage ditches in the Project area, only wetlands are within the Proposed Route.[160]

131. During construction of the Project, there is potential for adverse impacts to existing surface water due to construction traffic, clearing of vegetation, and ground disturbances. These activities can speed water flow and expose previously undisturbed soils, increasing erosion and the potential for sediment to reach surface waters. These impacts can be mitigated, in part, by the use of best management practices to control soil erosion. If such practices are employed, potential impacts to surface waters are anticipated to be minimal. Xcel Energy has indicated that it will minimize material discharges to surface waters, stabilize disturbed soils upon completion of construction,

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[155] Ex. 2 at 57 and Appendix C.6; Ex. 23 at 49.
[156] Ex. 2 at 57; Ex. 23 at 49.
[157] Minn. Stat. § 216E.03, subd. 7(b)(1) and (2) (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8); Minn. R. 7850.4100(E).
[158] Ex. 23 at 40 (EA).
[159] Ex. 23 at 40-41.
[160] *Id.* at 50.

and employ the erosion control measures identified in the MPCA's Stormwater Best Management Practices Manual.[161]

132. Small sections of the Proposed Route are within the 100-year floodplain. However, impacts to the 100-year floodplain are anticipated to be minimal. The sections of the Project within the floodplain are relatively small and primarily located near the Kohlman Lake and Goose Lake substations. In addition, the Project will not introduce a greater number of structures than currently are present and no significant alterations will be made to the existing topography. Any effects caused by the Project are expected to be incremental and *de minimis* in nature.[162]

133. Potential effects to groundwater from the Project could occur as a result of the drilling and placement of concrete structure foundations, the leaching of soluble components of the concrete into groundwater, and the dewatering required to facilitate construction of the foundations. Direct impacts to groundwater as a result of the Project are anticipated to be minimal due to dewatering efforts and the relatively low solubility of concrete components.[163]

134. The Proposed Route crosses three freshwater emergent wetlands that cover approximately 11.8 acres. One of these wetlands is a public water wetland that will require a License to Cross from the MnDNR.[164] Xcel Energy stated in its Application that it will either confirm the applicability of existing licenses for any such crossings or obtain new utility crossing licenses prior to construction, as necessary.[165]

135. If the crossing of a wetland requires construction activities within the wetland, there is a strong potential for impacts. Transmission line construction typically involves activities that may impair the functioning of wetlands, such as the clearing of vegetation, the movement of soils, and construction traffic. Impacts to wetlands can be mitigated by avoiding or spanning them, using stabilization mats, working in wetlands when they are frozen, and using existing roads for the movement of equipment and materials.[166]

136. The Proposed Route avoids wetlands to a great extent. The Company anticipates that the careful placement of poles within the route will facilitate the spanning of wetlands. As a result, permanent impacts to wetlands are not anticipated as a result of the Project.[167]

Flora

137. Transmission lines have the potential to affect flora due to the removal or disturbance of vegetation during construction, the possible introduction of non-native

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[161] Ex. 2 at 61; Ex. 23 at 50, 52.
[162] Ex. 2 at 59-60; Ex. 23 at 51.
[163] Ex. 23 at 51.
[164] *Id.* at 52.
[165] Ex. 2 at 61.
[166] *Id.* at 52-53.
[167] *Id.* at 53.

species, and changes in soils, water flow, or other habitat that adversely affect plant growth.[168]

138. For the most part, the land in the Project area (including the area along the proposed route) is developed with urban and suburban land uses. Flora is limited primarily to parks in the Project area and to residential and commercial landscaping. The Proposed Route follows an existing transmission line and railroad corridor. The right-of-way for the existing transmission line contains minimal flora because it has been cleared and maintained for the safe operation of the line. The impact of any removal or trimming of flora will be incremental and minimal in nature.[169]

139. The primary way to mitigate effects on flora is to use prudent routing to avoid flora, especially trees. If impacts to flora cannot be avoided, they can be mitigated by choosing alignments that parallel and share right-of-way with existing infrastructure; engaging in construction during fall and winter months to limit plant damage; leaving compatible plants in the buffer zone of the transmission line right-of-way; replanting the transmission line right-of-way with low-growing native species; and avoiding the introduction of exotic or invasive species.[170]

140. The primary objective of Xcel Energy's vegetation management procedure for the Project is to keep transmission facilities clear of tall-growing trees, brush, and other vegetation that could grow close to the conductors and allow construction vehicle access to and between structures.[171]

141. Whenever feasible, Xcel Energy tries to manage vegetation within the right-of-way using the wire zone/border zone concept. This approach allows for different, yet compatible, vegetation types in separate zones. Grasses and forbs are allowed to grow in the wire zone, which is the area directly beneath the conductors, and low-growing woody plants and trees are allowed to grow in the border zone, which begins at the outside edge of the wire zone and extends to the edge of the right-of-way.[172]

142. Xcel Energy will minimize impacts on trees and flora by limiting tree clearing and vegetation removal to the transmission line right-of-way, areas necessary for construction access, and areas that affect the safe operation of the facilities.[173]

143. The Proposed Route avoids impacts to flora to a large degree by locating the Project along the existing 115 kV transmission line.[174]

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[168] Ex. 23 at 54.
[169] Ex. 23 at 54.
[170] *Id.* at 60.
[171] Ex. 2 at 29.
[172] Ex. 2 at 29, 62.
[173] Ex. 2 at 62.
[174] Ex. 23 at 54.

144. Significant impacts to flora are not anticipated in connection with the proposed Project.[175]

Fauna

145. Transmission lines have the potential to affect fauna due to temporary displacement, loss of habitat, and, for avian species, collisions with transmission line conductors.[176]

146. As noted above, the Proposed Route is located within a highly developed urban area with commercial and residential uses. The habitat in the Project area is not of high quality. Because of this, it is unlikely that the construction, operation, and maintenance of the Project would have a permanent effect on fauna present in the area.[177]

147. In general, it is anticipated that fauna within the Project area will have the ability to remove themselves from the potential dangers posed by Project construction and to survive their temporary displacement from the area. Construction of the transmission line is not expected to affect fish that inhabit bodies of water in the Project area.[178]

148. It is possible that raptors, waterfowl, and other bird species could be impacted by the Project through collision with transmission line conductors; however, impacts on avian species are anticipated to be minimal due to the relatively poor habitat for birds in the Project area.[179]

149. Xcel Energy is not currently planning to install bird diverters along the project, but intends to work with the MnDNR and the United States Fish and Wildlife Service (USFWS) to reevaluate the need for bird diverters as the Project design is finalized.[180]

150. Overall, impacts to fauna associated with the Project are anticipated to be minimal.[181]

E. Effects on Rare and Unique Natural Resources

151. Minnesota's high voltage transmission line routing factors require consideration of the effect of the proposed route on rare and unique natural resources.[182]

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[175] Ex. 23 at 54..
[176] *Id.* at 55.
[177] *Id.*
[178] *Id.*
[179] *Id.*
[180] Ex. 2 at 63; Ex. 23 at 56.
[181] Ex. 23 at 55.

152. A review of the MnDNR's Natural Heritage Information System (NHIS) did not identify any State-listed flora species within the Proposed Route or within a one-mile buffer around the Proposed Route.[183]

153. The NHIS identified one rare and unique animal species that is present within a one-mile radius of the proposed Project—the Blanding's Turtle, which is a state-listed threatened species.[184]

154. As discussed above, the MnDNR submitted a factsheet containing a number of recommendations for avoiding and minimizing impacts to the Blanding's Turtle populations in the Project Area.[185] Xcel Energy has indicated that it will construct the Project consistent with the MnDNR's recommendations for minimizing impacts to the Blanding's Turtle.[186]

155. In its post-hearing comments in this matter, the MnDNR noted the possibility of a population of Western Foxsnakes in the Project area. This snake species is listed in Minnesota as a Species in Greatest Conservation Need. The MnDNR recommended the use of wildlife-friendly erosion control materials to mitigate impacts of the Project on Western Foxsnakes as well as Blanding's Turtles.[187]

156. The Company intends to employ wildlife-friendly erosion control methods during the construction of the Project.[188]

157. The Project is anticipated to have minimal, if any, impacts on rare and unique species.[189]

G. Application of Various Design Considerations

158. Minnesota's high voltage transmission line routing factors require consideration of the Project's applied design options that maximize energy efficiencies,

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[182] Minn. Stat. §§ 216E.03, subd. 7(b)(1) (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8); Minn. R. 7850.4100(F).
[183] Ex. 2 at 64-65 and Appendix C.5; Ex. 23 at 56.
[184] *Id.*
[185] *See* Findings 62-63; MnDNR's Post-Hearing Comments (Sept. 20, 2013); and MnDNR's Comments regarding Scope of EA (April 25, 2013).
[186] *Id.* at 57.
[187] MnDNR Post-Hearing Comments (Sept. 20, 2013).
[188] Xcel Energy's Post-Hearing Response to Public Comments at 2 (Oct. 8, 2013).
[189] Ex. 23 at 55.

minimize adverse environmental effects, and could accommodate expansion of transmission or generating capacity.[190]

159. The Proposed Route is designed with sufficient capacity to meet both existing and anticipated distribution load in the Project area.[191]

H. Use or Paralleling of Existing Right-of-Way, Survey Lines, Natural Division Lines, and Agricultural Field Boundaries

160. Minnesota's high voltage transmission line routing factors require consideration of the proposed route's use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries.[192]

161. The Proposed Route maximizes the use of existing transmission line right-of-way. One hundred percent of the Proposed Route is within the right-of-way of the existing transmission line.[193]

162. Using existing corridors reduces and minimizes impacts on planned future residential areas, commercial properties, and environmental and sensitive resources.[194]

I. Use of Existing Transportation, Pipeline, and Electrical Transmission Systems or Rights-of-Way

163. Minnesota's high voltage transmission line routing factors require consideration of the proposed route's use of existing transportation, pipeline, and electrical transmission systems or rights-of-way.[195]

164. The Proposed Route maximizes the use of existing transportation and electrical transmission system rights-of-way. The Proposed Route uses an existing transmission line right-of-way for one hundred percent of its length, and uses an existing railroad right-of-way for approximately ninety percent of its length. The Project endpoints are existing substations, and modifications to the substations shall occur within their existing footprint.[196]

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[190] Minn. Stat. §§ 216E.03, subd. 7(a) and (b) (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8), Minn. R. 7850.1900, subp. 2(L) (applicable to the alternative review process under Minn. R. 7850.3100).
[191] Ex. 2 at 20.
[192] Minn. Stat. §§ 216E.03, subd. 7(b)(8) and (9) (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8); Minn. R. 7850.4100(H).
[193] Ex. 23 at 58.
[194] *Id.*
[195] Minn. Stat. §§ 216E.03, subd. 7(b)(8) (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8); Minn. R. 7850.4100(J).
[196] Ex. 23 at 58.

J. Electrical System Reliability

165. Minnesota's high voltage transmission line routing factors require consideration of the Project's impact on electrical system reliability.[197]

166. The Project will be constructed to meet NERC reliability requirements.[198]

K. Costs of Constructing, Operating, and Maintaining the Facility

167. Minnesota's high voltage transmission line routing factors require consideration of the proposed route's cost of construction, operation, and maintenance.[199]

168. Construction cost estimates are subject to change as they can be affected considerably by several variables such as the timing of construction, availability of construction crews and components, and the final route selected by the Commission.

169. The estimated cost of the Project along the Proposed Route is $9.3 million (plus or minus thirty percent), depending on final route selection and mitigation.[200]

170. For all of the overhead designs, operating and maintenance costs for the transmission line will be nominal for several years since the line will be new, and minimal vegetation maintenance will be required. Annual operating and maintenance costs for the 115 kV transmission voltages across Xcel Energy system are in the range of $300 to $500 dollars per mile of transmission line right-of-way. Transmission line inspections are typically performed by aircraft or helicopter on a regularly-scheduled basis.[201]

L. Adverse Human and Natural Environmental Effects Which Cannot be Avoided

171. Minnesota's high voltage transmission line routing factors require consideration for each proposed route of the adverse human and natural environmental effects which cannot be avoided.[202]

172. Unavoidable adverse impacts associated with the Project include the physical impacts to the land due to the construction of the Project.[203]

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[197] Minn. Stat. §§ 216E.03, subd. 7(b)(10) (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8); Minn. R. 7850.4100(K).
[198] Ex. 23 at 2.
[199] Minn. R. 7850.4100(L).
[200] Ex 2 at 13-14; Ex. 23 at 15.
[201] Ex. 2 at 14; Ex. 23 at 15.
[202] Minn. Stat. §§ 216E.03, subd. 7(b)(5) and (6) (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8); Minn. R. 7850.4100(M).
[203] Ex. 23 at 59.

173. During the construction of the Project, Xcel Energy will follow best management practices to minimize air quality and water quality impacts, implement measures to minimize vegetation impacts, restore the natural landscape as soon as practicable after construction or clearing activities, and implement measures identified by regulatory agencies.[204]

M. Irreversible and Irretrievable Commitments of Resources

174. Minnesota's high voltage transmission line routing factors require consideration of the irreversible and irretrievable commitments of resources that are necessary for each proposed route.[205]

175. Irreversible and irretrievable resource commitments are related to the use of nonrenewable resources and the effects that the use of those resources have on future generations. Irreversible effects result primarily from the use or destruction of a specific resource that cannot be replaced within a reasonable time frame. Irretrievable resource commitments involve the loss in value of an affected resource that cannot be restored as a result of action.[206]

176. There are few commitments of resources associated with this Project that are irreversible and irretrievable, but those few resources primarily relate to construction of the Project. Only construction resources, such as concrete, steel, and hydrocarbon fuels, will be irreversibly and irretrievably committed to this Project.[207]

Based on the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Public Utilities Commission and the Administrative Law Judge have jurisdiction to consider Xcel Energy's Application for a Route Permit.

2. The Company filed its Application for a Route Permit in this matter on January 17, 2013. The Commission determined that the Application was substantially complete and accepted the Application on March 25, 2013.[208]

3. Minnesota statutes and rules require Xcel Energy to provide notice of its Route Permit Application to landowners, local government units and the public within certain timeframes. Within fifteen days after submission of its Application for a Route Permit to the Commission, Xcel Energy is required to provide notice of its Application to property owners whose property is along any of the proposed routes for the transmission line; the regional development commission, county, incorporated

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[204] *See, e.g.,* Ex. 2 at 29-34, 59-64.
[205] Minn. Stat. §§ 216E.03, subd. 7(b)(11) (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8); Minn. R. 7850.4100(N).
[206] Ex. 23 at 59.
[207] *Id.*
[208] Ex. 2 (Application for Route Permit); Ex. 8 at 4 (Order Accepting Application as Complete).

municipalities, and towns in which any part of the route is proposed; and persons who have requested to be placed on a list maintained by the Commission for receiving notice of proposed high voltage transmission lines. The Company is also required to publish notice of the Application in a legal newspaper of general circulation in each county in which the site or route is proposed.[209]

4. As described in the Procedural Findings above, Xcel Energy fully complied with applicable statutory and rule provisions requiring it to notify property owners, public agencies, and persons on the list maintained by the Commission about its Application for a Route Permit within fifteen days after the Application was filed. The Company also published Notice of the Application in local newspapers; however, the Notice was not published until February 6, 2013 (twenty days after the date the Application was filed) rather than within fifteen days after the Application was filed with the Commission as required by the applicable statute. Under the circumstances, it is unlikely that the brief delay in publication of the Notice of Application interfered with the public's right to be informed about the project. The Administrative Law Judge concludes that the Company has substantially complied with the notice requirements contained in the applicable statutes and rules.[210]

5. Minnesota statutes and rules also require EFP and the Commission to provide certain notice to the public throughout the Route Permit process.[211]

6. As described in the Procedural Findings above, EFP and the Commission provided notice to the public throughout this proceeding in compliance with applicable statutory and rule provisions.[212]

7. The Commission is required to determine the completeness of the EA that was conducted by EFP with respect to this Route Permit proceeding. An EA is complete if the EA and the record created at the public hearing address the issues identified in the scoping decision.[213]

8. The EFP conducted an appropriate and complete environmental analysis of the Project for purposes of this Route Permit proceeding. Specifically, the EA addresses the issues and alternatives raised in scoping to a reasonable extent

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[209] Minn. Stat. §§ 216E.03, subd. 4 (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 4; Minn. R. 7850.2100, subps. 2 and 4 applicable to the alternative review process under Minn. R. 7850.3300).

[210] *See* Ex. 1 (Notice of Intent to File Application Pursuant to Alternative Permitting Process), Ex. 5 (Notice of Route Permit Application Submittal).

[211] Minn. Stat. § 216E.03, subd. 6 (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 6); Minn. R. 7850.2300, subp. 2 (applicable to the alternative review process under Minn. R. 7850.3500); Minn. R. 7850.3700, subps. 2, 3, and 6; Minn. R. 7850.3800, subp. 1.

[212] *See* Ex. 3 (Notice of Comment Period on Application Completeness); Ex. 9 (Notice of Public Information and EA Scoping Meeting); Ex. 17 (Notice of Scoping Decision); Ex. 22 (Notice of Public Hearing); Ex. 24 (Notice of Environmental Assessment Availability); Ex. 25 (Certificate of Service of Environmental Assessment to State Agency Representatives); Ex. 26 (Notice in EQB Monitor of EA Availability).

[213] Minn. R. 7850.3900, subp. 2.

considering the availability of information; includes the information required by Minn. R. 7850.3700, subp. 4; and was prepared in compliance with the procedures in Minn. R. 7850.3700.

9. A Public Hearing was conducted in the community near the proposed high voltage transmission line routes. Proper notice of the public hearing was provided, and members of the public were given the opportunity to speak at the hearing and to submit written comments. All procedural requirements for the Route Permit have been met.

10. The Proposed Route satisfies the route permit factors set forth in Minn. Stat. § 216E.03, subd. 7 (applicable to the alternative review process under Minn. Stat. § 216E.04, subd. 8) and Minn. R. 7850.4100.

11. The Proposed Route does not present a potential for significant adverse environmental effects pursuant to the Minnesota Environmental Rights Act or the Minnesota Environmental Policy Act.

12. The Proposed Route is the best alternative in the record for the double-circuit 115 kV transmission line between the Kohlman Lake and Goose Lake Substations.

13. The Route Permit should be granted for the double circuit 115 kV transmission lines along the Proposed Route.

14. It is appropriate for the Route Permit to require the Company to:

- consult and coordinate with local governments concerning the preferred finish—galvanized or self-weathering—of transmission line structures;
- consult and coordinate with Ramsey County and the Regional Railroad Authority to ensure that it has the proper land rights to construct the Project;
- consult and coordinate with the Metropolitan Council to avoid and mitigate potential impacts to the Council's sewer lines in the Project area;
- apply the erosion control measures identified in the MPCA's Stormwater Best Management Practices Manual;
- construct the Project consistent with MnDNR recommendations for minimizing impacts to the Blanding's Turtle and for utilizing wildlife-friendly erosion control materials;
- comply with the conditions set forth in Finding 63 above, as modified in Finding 64;

- obtain all required local state and federal permits and licenses and comply with the terms of those permits or licenses; and

- comply with all applicable rules and regulations.

15. Any of the foregoing Findings that are more properly designated as Conclusions are hereby adopted as such.

Based upon these Conclusions of Law, the Administrative Law Judge makes the following:

RECOMMENDATIONS

The Commission should issue to Xcel Energy the following permit for the Project:

A route permit for a high voltage transmission line with a route, route width, and anticipated alignment as described herein and depicted on Maps B-1 to B-7 of the Environmental Assessment, between the existing Kohlman Lake Substation and Goose Lake Substation in Ramsey County, Minnesota, and that includes the conditions and mitigation measures set forth above.

Date: November 18, 2013

Barbara L. Neilson

BARBARA L. NEILSON
Administrative Law Judge

NOTICE

Exceptions to this Report, if any, by any party adversely affected must be filed under the time frames established in the Commission's rules of practice and procedure, Minn. R. 7829.2700 and 7829.3100, unless otherwise directed by the Commission. Exceptions should be specific and stated and numbered separately. Oral argument before a majority of the Commission will be permitted pursuant to Part 7829.2700, Subpart 3. The Commission will make the final determination of the matter after the expiration of the period for filing exceptions, or after oral argument, if an oral argument is held.

The Commission may, at its own discretion, accept, modify, or reject the Administrative Law Judge's recommendations. The recommendations of the Administrative Law Judge have no legal effect unless expressly adopted by the Commission as its final order.