



## BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

DOCKET NO. E002/TL-12-1151

Date: February 15, 2013

EFP Staff: Ray Kirsch.....651-296-7588

#### **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**

**Issues Addressed:** These comments and recommendations address the completeness of the route permit application, possible contested issues of fact and appointment of an advisory task force.

Additional documents and information can be found on  
<http://mn.gov/commerce/energyfacilities/Docket.html?Id=33013> or on eDockets  
<https://www.edockets.state.mn.us/EFiling/search.jsp> (12-1151)

---

This document can be made available in alternative formats (i.e., large print or audio) by calling 651-296-0391 (voice). Persons with hearing or speech disabilities may call us through Minnesota Relay at 1-800-627-3529 or by dialing 711.

---

## **Introduction and Background**

On January 17, 2013, Northern States Power Company (Xcel Energy) filed a route permit application under the alternative permitting process to replace an existing 115 kV transmission line with a new double circuit 115 kV line, approximately 2.8 miles in length miles, in Ramsey County, Minnesota – the Kohlman Lake to Goose Lake 115 kV transmission line project.<sup>1</sup> On February 1, 2013, the Commission issued a notice soliciting comments on the completeness of the route permit application for the project.<sup>2</sup>

---

<sup>1</sup> Northern States Power Company Application to the Minnesota Public Utilities Commission for a Route Permit for the Kohlman Lake to Goose Lake 115/115 kV Double Circuit Transmission Line Project, January 17, 2013, eDockets Numbers [20131-82893-01](#), [20131-82893-02](#), [20131-82893-03](#), [20131-82893-04](#), [20131-82893-05](#), [20131-82893-06](#), [20131-82893-07](#), [20131-82893-08](#), [20131-82893-09](#), [hereinafter Route Permit Application].

<sup>2</sup> Notice of Comment Period on Application Completeness, February 1, 2013, eDockets Number [20132-83487-01](#).

### ***Project Purpose***

Xcel Energy indicates in its route permit application that the project is needed to meet North American Electric Reliability Corporation (NERC) planning standards. Electrical loads in northeast Ramsey County are served generally from three sources – the Chisago County, Kohlman Lake, and Riverside substations. Absent the proposed project, an outage at one of these substations would result in the inability to maintain electrical service in the area. The new double circuit 115 kV line will provide a redundant power source such that electrical service can be maintained should an outage occur.

### ***Project Description***

Xcel Energy proposes to replace an existing 115 kV transmission line with a new double circuit 115 kV line between the Kohlman Lake substation and the Goose Lake substation in northeast Ramsey County. The proposed route for the project is approximately 2.8 miles in length and follows an existing transmission line and railroad corridor. The new double circuit 115 kV line will be built, to the extent possible, on the same alignment as the existing line which it will replace.

Xcel Energy is requesting a 200 foot route width for the project. Xcel Energy proposes to use existing rights-of-way for the majority of the project and new right-of-way in two locations. In the areas where new right-of-way is necessary, Xcel Energy is proposing a right-of-way (easement) of 75 feet for the project. In addition to the new double circuit 115 kV line, the Kohlman Lake and Goose Lake substations will be modified and new equipment installed. All modifications will occur within the existing footprint of the substations.

## **Regulatory Process and Procedures**

In Minnesota, no person may construct a high voltage transmission line (HVTL) without a route permit from the Commission (Minnesota Statute 216E.03). A high voltage transmission line is defined as a conductor of electric energy designed for and capable of operation at a voltage of 100 kV or more and greater than 1,500 feet in length (Minnesota Statute 216E.01). The proposed project will consist of approximately 2.8 miles of new 115 kV transmission line and therefore requires a route permit from the Commission.

The voltage of the new transmission line will be less than 200 kV, its length less than ten miles, and it will not cross a state border. Thus, a certificate of need is not required for the project (Minnesota Statute 216B.2421).

### ***Route Permit Application and Acceptance***

In accordance with Minnesota Rule 7850.2800, applicants intending to submit a project under the Commission's alternative permitting process for transmission lines are required to provide a 10-day advance notice of this intent to the Commission before submitting their route permit application. On October 22, 2012, Xcel Energy filed a letter with the Commission indicating its

intent to submit a route permit application for the Kohlman Lake to Goose Lake 115 kV project under the alternative permitting process.<sup>3</sup>

On January 17, 2013, Xcel Energy filed a route permit application under the alternative permitting process for the Kohlman Lake to Goose Lake 115 kV project.<sup>4</sup> As the voltage of the new transmission line will be between 100 and 200 kV, the project qualifies for the Commission's alternative permitting process (Minnesota Rule 7850.2800).

Route permit applications for HVTLs must provide specific information about the proposed project including, but not limited to, applicant information, route description, and potential environmental impacts and mitigation measures (Minnesota Rule 7850.3100). Review under the alternative permitting process does not require the applicant to propose alternative routes in the permit application. However, if the applicant has evaluated and rejected alternative routes they must include these and the reasons for rejecting them in the route permit application (Minnesota Rule 7850.3100).

The Commission may accept an application as complete, reject an application and require additional information to be submitted, or accept an application as complete upon filing of supplemental information (Minnesota Rule 7850.2000). The environmental review and permitting process begins on the date the Commission determines that a route permit application is complete (Minnesota Rule 7850.2000); the Commission has six months from the date of this determination to reach a route permit decision (Minnesota Rule 7850.3900).

### ***Environmental Review***

Applications for HVTL route permits are subject to environmental review conducted by EFP staff (Minnesota Rule 7850.3700). Projects proceeding under the alternative permitting process require the preparation of an environmental assessment (EA). An EA is a document which describes the potential human and environmental impacts of the proposed project and potential mitigative measures. Staff will provide notice and conduct a public scoping meeting to solicit comments on the scope of the EA. The Department of Commerce determines the scope of the EA. The Department may include alternative routes suggested by the public in the scope of the EA if such alternatives will aid in the Commission's decision on the route permit application. The EA will be completed and made available prior to the public hearing for the project.

### ***Public Hearing***

Applications for HVTL route permits under the alternative permitting process require a public hearing upon completion of the environmental assessment (Minnesota Rule 7850.3800). The hearing would be conducted in the project area and in accordance with the procedures provided in Minnesota Rule 7850.3800.

---

<sup>3</sup> Notification of Intent to File a Route Permit Application Pursuant to the Alternative Permitting Process for the Kohlman Lake to Goose Lake Rebuild from 115 kV Single Circuit to 115/115 kV Double Circuit Transmission Line Project, October 22, 2012, eDockets Number [201210-79763-01](#).

<sup>4</sup> Route Permit Application.

***Public Advisor***

Upon acceptance of an application for a route permit, the Commission must designate a staff person to act as the public advisor on the project (Minnesota Rule 7850.3400). The public advisor is available to answer questions from the public about the permitting process. In this role, the public advisor may not act as an advocate on behalf of any person.

***Advisory Task Force***

The Commission may appoint an advisory task force as an aid to the environmental review process (Minnesota Statute 216E.08). An advisory task force must, at a minimum, include representatives of local governmental units in the project area. A task force assists EFP staff with identifying alternative sites or routes for the project and specific impacts to be evaluated in the EA. A task force expires upon issuance of the EA scoping decision by the Department or conclusion of its charge, whichever comes first.

The Commission is not required to appoint an advisory task force for every project. In the event that the Commission does not name a task force, citizens may request appointment of a task force (Minnesota Rule 7850.3600). If such a request were made, the Commission would then need to determine at a subsequent meeting if a task force should be appointed or not.

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

**EFP Staff Analysis and Comments**

EFP staff conferred with Xcel Energy staff about the Kohlman Lake to Goose Lake 115 kV project as the route permit application was being developed and provided comments on a draft of the application. Subsequently, staff conducted a completeness review of the January 17, 2013, Kohlman Lake to Goose Lake 115 kV Route Permit Application filed with the Commission relative to the content requirements of Minn. Rule 7850.3100. EFP staff believes that its comments on the draft application have been addressed and that the application meets the content requirements. The inclusion of the required contents outlined in Minn. Rule 7850.3100 is documented in a summary table (Table 1 Completeness Checklist) on pages 4 and 5 of application.

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

***Advisory Task Force***

EFP staff has analyzed the merits of establishing an advisory task force for the Kohlman Lake to Goose Lake 115 kV project.

In analyzing the need for an advisory task force for the project, EFP staff considered four characteristics: project size, project complexity, known or anticipated controversy, and sensitive resources.

- **Project Size.** At approximately 2.8 miles in length, the proposed project is one of the smaller transmission line projects to come before the Commission. The project will utilize transmission line structures that are slightly taller than those on the existing 115 kV transmission line.
- **Project Complexity.** The proposed project is relatively straightforward. The project is a replacement of an existing 115 kV transmission line with a double circuit 115 kV line on approximately the same alignment as the existing line and using primarily existing rights-of-way. The project is in a developed urban area and crosses several governmental units (the cities of Maplewood, Vadnais Heights and White Bear Lake, and White Bear Lake Township). Nonetheless, because of the proposed use of existing rights-of-way, EFP staff believes the project presents a relatively low level of complexity.
- **Known or Anticipated Controversy.** EFP staff anticipates a relatively low level of controversy with this project. Though the project is in an urban area, the proposed route and alignment utilize primarily existing rights-of-way. Xcel Energy has consulted with local governments and state and federal agencies regarding the project. Three citizens attended a public open house meeting conducted by Xcel Energy for the project in June 2012. EFP staff has received no comments on the project to date.
- **Sensitive Resources.** There are few ecologically sensitive resources in the project area. EFP staff anticipates that potential impacts to such resources will be minimal since the proposed route and alignment utilize primarily existing rights-of-way and follows an existing transmission line and railroad corridor.

Based on the above analysis, as well as the agency comments documented in the application, EFP staff believes that an advisory task force is not warranted as an aid to the environmental review scoping process for the Kohlman Lake to Goose Lake 115 kV project. The alternative permitting process provides adequate opportunities for citizens to identify issues and route alternatives to be addressed in the EA. EFP staff will assist citizens and governmental units in understanding the scoping process and the process for identifying issues and alternatives.

### ***Contested Issues and Public Hearing***

EFP staff is not aware, at this time, of any contested issues of fact with respect to the representations in the route permit application. However, issues may be identified during the Environmental Assessment scoping process. Related to these possible issues, EFP staff has evaluated potential public hearing scenarios for the project. EFP staff describes here for the Commission three different public hearing scenarios that have been used by the Commission for the alternative permitting process.

The Commission and EFP staff have, of late, utilized three different public hearing scenarios under the alternative permitting process:

- **Scenario 1 – Referral to the OAH.** Under this scenario the Commission has, at application acceptance, referred the docket to the OAH for a public hearing (summary

proceedings) under Minnesota Rule 7850.3800.<sup>5</sup> Under this scenario the administrative law judge (ALJ) develops findings of fact, conclusions of law, and recommendations for the project. EFP staff submits post-hearing comments, including a proposed permit, under timelines established by the ALJ.<sup>6</sup>

- **Scenario 2 – Authorize EFP Staff; ALJ Develops Findings, Conclusions, and Recommendations.** Under this scenario the Commission has, at application acceptance, authorized EFP staff to process the application pursuant to Minnesota Rules 7850.2800 to 7850.3900.<sup>7</sup> Under this scenario, EFP staff requests that the ALJ develop findings of fact, conclusions of law, and recommendations for the project.<sup>8</sup> EFP staff submits post-hearing comments, including a proposed permit, under timelines established by the ALJ.
- **Scenario 3 – Authorize EFP Staff; EFP Staff Develops Findings, Conclusions, and Recommendations.** Under this scenario the Commission has, at application acceptance, authorized EFP staff to process the application pursuant to Minnesota Rules 7850.2800 to 7850.3900.<sup>9</sup> Under this scenario, EFP staff requests that the ALJ provide a summary of testimony from the hearing. EFP staff develops findings of fact, conclusions of law, and a proposed permit for the project. Commission staff solicits comments on EFP staff's findings, recommendations and proposed permit.<sup>10</sup>

EFP staff believes that each of these scenarios supports robust record development and informed decision-making by the Commission.

The alternative permitting process under the Power Plant Siting Act is directed to projects that are relatively smaller in nature – and, though not explicitly stated, likely to be less controversial and to involve a relatively smaller number of landowners.<sup>11</sup> Accordingly, the public hearing process is designed to accommodate projects of this nature. For example, the hearing is not contested<sup>12</sup> and the hearing examiner need not be an ALJ.<sup>13</sup>

EFP staff notes that in the Certificate of Need (CN) process, when no person has alleged that there are contested material issues of fact at the application acceptance step, the Commission

---

<sup>5</sup> See, e.g., Commission Order Referring Application to the Office of Administrative Hearings for Summary Proceedings, May 24, 2012, eDockets Number [20125-74966-01](#), Southwest Twin Cities Scott County to Westgate 115 kV Transmission Line Rebuild Project, TL-11-948.

<sup>6</sup> Id.

<sup>7</sup> See, e.g., Commission Order, March 23, 2012, eDockets Number [20123-72887-01](#), Black Dog to Savage 115 kV Transmission Line Project, TL-11-795.

<sup>8</sup> See Administrative Law Judge's Findings of Fact, Conclusions, and Recommendation, OAH Docket No. 11-2500-22932-2, Commission Docket No. E002/TL-11-795, January 10, 2013, eDockets Number [20131-82594-01](#).

<sup>9</sup> See, e.g., Commission Order, November 4, 2011, eDockets Number [201111-68101-01](#), Enterprise Park to Crooked Lake 115 kV Transmission Line Project, TL-11-915.

<sup>10</sup> See, e.g., Notice Soliciting Comments, June 29, 2012, eDockets Number [20126-76282-01](#), Enterprise Park to Crooked Lake 115 kV Transmission Line Project, TL-11-915 [hereafter Enterprise Park Notice Soliciting Comments].

<sup>11</sup> Minnesota Statute 216E.04, Subd. 2. The statute limits the alternative permitting process to projects with relatively lower voltages, shorter lengths, and combinations of these factors.

<sup>12</sup> Minnesota Statute 216E.04, Subd. 6.

<sup>13</sup> Minnesota Rule 7850.3800. In practice, the Commission and EFP staff use an ALJ as the hearing examiner.

follows an informal notice and comment process, and requests the Office of Administrative Hearings to hold at least one public hearing. If contested issues are identified through the informal notice and comment process, the Commission can later modify the hearing request.

As with the CN process, EFP believes that the Commission need not decide which public hearing process best fits a particular alternative permitting process project at application acceptance. EFP staff believes that the Environmental Assessment scoping process provides further opportunity for identifying any contested issues of fact with respect to the representations made in the route permit application, akin to the Certificate of Need comment and reply process on merit.

Because the Commission reviews route alternatives proposed during the scoping process, the Commission could defer a decision on the appropriate public hearing process until after scoping and take it up during its review of route alternatives. This deferral would give the Commission more information as to the nature of the project, with such information guiding the Commission's decision on the public hearing process.

### **EFP Staff Recommendation**

EFP staff recommends that the Commission accept the route permit application for the Kohlman Lake to Goose Lake 115 kV project as substantially complete. Additionally, EFP staff recommends that the Commission take no action on an advisory task force at this time. EFP staff makes no recommendation on the public hearing process that is most appropriate for the project.