



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

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In the Matter of the Application of Minnesota Power for a Route Permit for the Deer River HVTL Project

Issues Addressed: Application Acceptance; contested issues of fact; appointing a Public Advisor; and establishing an Advisory Task Force.

Additional documents and information can be found on
<http://mn.gov/commerce/energyfacilities/Docket.html?Id=33156> or on eDockets
<http://www.edockets.state.mn.us/EFilein/search.jsp> (13-68).

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Introduction and Background

On April 16, 2013, Minnesota Power submitted a high voltage transmission line (HVTL) Route Permit Application under the alternative permitting process to the Commission for the proposed Deer River HVTL Project.

The Project is located east of Deer River. Minnesota Power proposes to replace an existing substation and approximately 7.5 miles of an existing 115 kV HVTL, with a larger substation and shorter segments of new and rebuilt 115 kV HVTL and a short segment of new double-circuit 230 kV HVTL.

Project Location

The project is located in Itasca County, immediately east of the city of Deer River.

Project Description and Purpose

Minnesota Power proposes to construct the Deer River HVTL Project to improve reliability and long-term load serving capability in the Deer River Area. As part of the Project, Minnesota Power proposes to:

- Construct approximately one mile of 115 kV HVTL;
- Construct approximately 0.3 miles of double-circuit 230 kV HVTL;
- Rebuild approximately 0.9 miles of existing 115 kV HVTL along the same right-of-way with new structures and conductors;
- Remove the existing Deer River Substation (a 115/23 kV facility) and replace it with a new Zemple Substation (a 230/115/23 kV facility) at the same location; and
- Remove approximately 7.5 miles of an existing 115 kV HVTL tap, which will no longer be necessary after the Project has been constructed.

The Project would use 100-foot right-of way for the 115 kV portions of the Project and a 130-foot right-of-way for the 230 kV portion of the Project. Minnesota Power is requesting a 1,000 foot route width within which to locate the newly constructed 115 kV transmission line and a 500-foot route for the 230 kV transmission line.

Regulatory Process and Procedures

Minnesota Statute 216E.03, subd. 2 provides that no person may construct an HVTL without a Route Permit from the Commission. An HVTL is defined as a transmission line of 100 kV or more and greater than 1,500 feet in length in Minnesota Statute 216E.01, subd. 4. The proposed transmission lines are HVTLs and therefore a Route Permit is required prior to construction. The Application was submitted pursuant to the provisions of the Alternative Permitting Process outlined in Minn. Rules 7850.2800-3900.

The Minnesota Power Deer River HVTL Project qualifies for review under the alternative permitting process authorized by Minnesota Statute 216E.04, subd. 2, and Minn. Rule 7850.2800, subp. 1, because the 115 kV portion of the Project is between 100 and 200 kV, and the 230 kV portion of the Project is less than five miles in length in Minnesota. According to that same rule, since the project qualifies for the alternative permitting process, the Applicant can choose to follow the alternative process procedures under Minn. Rule 7850.2800-3900 rather than the procedures for a full process under 7850.1700-2700. Minnesota Power has chosen to follow the alternative permitting process.

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

Route Permit Application and Acceptance

Route permit applications must provide specific information about the proposed project including, but not limited to, applicant information, route description, environmental impacts, alternatives, and mitigation measures (Minn. Rule 7850.3100). The Commission may accept an

application as complete, reject an application and require additional information to be submitted, or accept an application as complete upon filing of supplemental information (Minn. Rule 7850.3200).

The review process begins with the determination by the Commission that the application is complete. Application acceptance allows initiation of the public participation and environmental review processes. The Commission has six months to reach a final decision on the route permit application from the date the application is determined to be complete. The Commission may extend this limit for up to three months for just cause or upon agreement of the applicant (Minn. Rule 7850.3900).

Environmental Review

Applications for high voltage transmission line route permits under the alternative permitting process are subject to environmental review, which is conducted by EFP staff under Minn. Rule 7850.3700. EFP staff will provide notice and conduct a public scoping meeting to solicit public comments on the scope of the environmental assessment (EA). Following the close of the comment period, EFP staff will file comments on alternative route proposals with the Commission. The Commission may choose to take no action on the EFP recommendation or may propose additional routes for evaluation in the EA beyond those recommended by EFP staff. The Deputy Commissioner of the Department of Commerce will determine the scope of the EA.

An EA is a written document that describes the human and environmental impacts of a proposed project (and selected alternative routes) and methods to mitigate such impacts. The EA will be completed and made available prior to the public hearing.

Public Hearing

Applications for high voltage transmission line route permits under the alternative permitting process require a public hearing upon completion of the EA. The hearing would be conducted in the project area and in accordance with the procedures provided in Minn. Rule 7850.3800.

Public Advisor

Upon acceptance of an application for a route permit, the Commission must designate a person to act as the public advisor on the project (Minn. Rule 7850.3400). The public is available to answer questions for 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 (Minnesota Statute 216E.08, subd. 1). Minn. Rule 7850.3600 directs the Commission to determine whether to appoint a task force as early in the process as possible. Should the Commission appoint a task force, the Commission must specify in writing the charge to the task force. The charge to the task force includes, at minimum, identification of additional routes or specific impacts to be evaluated in the EA. A task force would terminate upon completion of its charge, designation by the Commission of alternate routes to be included in the EA, or upon a specific date set by the Commission. An advisory task force appointed to evaluate routes considered for designation must, at minimum, include at least one representative from the applicable Regional Development Commission, county, municipalities and one town board member (Minn. Statute 216E.08, subd. 1).

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

The decision whether to appoint an advisory task force does not need to be made at the time of accepting the application; 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 Minnesota Power about the Deer River HVTL Project as the route permit application was developed and provided comments on a draft of the application. Subsequently, EFP staff has conducted a completeness review of the Deer River HVTL Project filed with the Commission on April 16, 2013, relative to the application content requirements specified in Minn. Rule 7850.3100. Minnesota Power has included and the inclusion of these required items is documented in a summary table (Table 1 Completeness Checklist) on pages 4 through 6 of the application.

EFP staff believes that its comments on the draft application have been addressed and that the application meets the content requirements of Minn. Rule 7850.3100 and is substantially complete.

Advisory Task Force

In analyzing the merits of establishing an Advisory Task Force for the project, EFP staff considered four project characteristics: size, complexity, known or anticipated controversy and sensitive resources. The proposed design information and preliminary environmental data contained in the HVTL route permit application was used to complete the following evaluation:

Project Size: Minnesota Power proposes approximately 1.3 miles of new construction and one mile of a 115 kV rebuild and the replacement of a substation at the same location. As proposed, the construction of the project components would occur within an area of less than a square mile. As such, EFP staff considers the Project to be one of the smaller transmission projects to come before the Commission. The proposed structures are similar in size to structures currently existing in the area.

Complexity: The proposed route is located immediately outside of Deer River, entirely within Deer River Township. As stated above, the Project area itself is relatively compact. The Project would replace 7.5 miles of existing 115 kV HVTL with shorter lengths of 115 kV and 230 kV and a larger substation. EFP staff believes the Project represents a relatively low level of complexity.

Known/Anticipated Controversy: EFP staff anticipates a relatively low level of controversy with this Project. Minnesota Power estimates that eight people attended its January 2013 open house on the Project in Deer River. EFP staff anticipates that the discussion of the proposed route will continue through scoping and assumes potential

alternatives may be developed during the scoping process. EFP has not received comment from the public on any other potential alternatives or issues at this time, although different alternatives may come up through the scoping process.

Sensitive Resources. The Project is located in an area with a mixture of industrial and agricultural land uses. The Project does not cross any Wildlife Management Areas, Waterfowl Production Areas or Scientific and Natural Areas.

Although Itasca County is within the overall range of the Canada lynx, a federally-designated threatened species, Itasca County is outside of the critical habitat designated by the United States Fish and Wildlife Service. Given that lynx prefer dense forests, the industrial and agricultural character of the project area is unlikely to provide good habitat for the lynx.

Two bald eagle nests have been documents along the Deer River, approximately one-half mile from the Project. No other state-listed species are known to exist within one mile of the proposed transmission line.

Based on the analysis above, EFP staff believes that an advisory task force is not warranted at this time. EFP staff believes that the alternative permitting process provides adequate opportunity for citizens and state and local governmental units to identify issues and route alternatives to be addressed in the EA. As it has in prior projects, EFP staff will assist citizens and governmental units in understanding the scoping process and the process for identifying issues to be addressed and route alternatives to be considered.

Contested Issues

At this time, EFP staff is not aware of any contested issues of fact with respect to representations in the route permit application. Although issues may be identified during the scoping process required for development of the EA, EFP staff believes that the public hearing process allows for robust record development to inform the Commission's eventual route permit decision.

Commerce EFP Recommendations

Commerce EFP staff recommends that the Commission accept the route permit application for the Deer River HVTL Project as substantially complete. EFP staff recommends that the Commission take no action on an advisory task force at this time.