# APPENDIX B

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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| Beverly Jones Heydinger | Chair |
| David C. Boyd | Commissioner |
| J. Dennis O'Brien | Commissioner |
| Phyllis A. Reha | Commissioner |
| Betsy Wergin | Commissioner |

In the Matter of the Request of Minnesota Power for a Certificate of Need for the Great Northern Transmission Line

ISSUE DATE: February 28, 2013

DOCKET NO. E-015/CN-12-1163

ORDER APPROVING NOTICE PLAN, GRANTING VARIANCE REQUEST, AND APPROVING EXEMPTION REQUEST

## PROCEDURAL HISTORY

On October 29, 2012, Minnesota Power (the Company) filed a notice plan under Minn. R. 7849.2550 and on November 20, 2012, it filed a request for an exemption from certain data requirements under Minn. R. 7849.0200, subp. 6. These were filed in anticipation of the Company's certificate of need application for a high-voltage transmission line project.

On November 19, 2012, the Commission received comments on the notice plan from the Department of Commerce and from Carol Overland.

On December 10, 2012, Minnesota Power filed reply comments on its notice plan to address the comments of the Department and Carol Overland. The Company provided clarifying information and stated that it added two additional newspapers in Itasca County to its notice list based on requests it received at open house meetings it held to discuss the potential Project with the public.

On December 17, 2012, the Department filed comments on the Company's exemption request, recommending that the Commission approve it in part and deny it in part.

On January 16, 2013, Minnesota Power filed reply comments on its exemption request to address the Department's concerns.

On January 16, 2013, Carol Overland filed comments recommending that the Company's exemption requests be denied.

On January 23, 2013, the Department filed additional comments on both the proposed notice plan and exemption request, recommending that the Commission approve both, as clarified and modified.

On January 31, 2013, the Commission met to consider the matter.

## FINDINGS AND CONCLUSIONS

### I. Proposed Project

Minnesota Power intends to file a certificate of need application for two high-voltage transmission lines and associated facilities (the Project). These include a 500 kilovolt (kV) transmission line from the Manitoba/Minnesota border to the Blackberry Substation in Itasca County (approximately 250-300 miles); a 345 kV transmission line between the Blackberry Substation and the Arrowhead Substation near Hermantown (approximately 50 to 75 miles); and associated facilities. Prior to filing its certificate of need application, the Company filed a proposed notice plan and rule variance request, as well as a request for an exemption from certain certificate of need application data requirements. These are discussed below.

### II. Proposed Notice Plan

The Company filed a proposed notice plan, detailing its plan for providing notice of the Project as required under Minn. R. 7829.2550. In its filing, the Company requested a variance to the requirement that the notice plan be implemented within thirty days of Commission approval.[1] The Company requested to implement the notice plan within two to four weeks prior to filing its certificate of need application to allow notice of the Project to more closely coincide with the application filing.

The Department evaluated the proposed notice plan and requested that the Company provide further detail on how its plan meets the requirement to notify tribal governments and the governments of towns, statutory cities, home rule charter cities, and counties whose jurisdictions are reasonably likely to be affected by the proposed line.[2] In response, Minnesota Power provided a more detailed description of the government and tribal officials and administrators who will be notified of the Project. The Department therefore subsequently recommended that the Commission approve the plan, concluding that the notice plan meets the requirements of Minn. R. 7829.2550.

The Commission has reviewed the proposed notice plan and the filings and concurs with the Department that the proposed notice plan, with the additional information filed by the Company, meets the requirements contained in Minn. R. 7829.2550, and the Commission will therefore approve it.

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[1] See Minn. R. 7829.2550, subp. 6.

[2] See Minn. R. 7829.2550, subp. 3

## III. Variance Request

Under Minn. R. part 7829.3200, the Commission is authorized to vary any of its rules upon making the following findings:

(1) enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;

(2) granting the variance would not adversely affect the public interest; and

(3) granting the variance would not conflict with standards imposed by law.

The Department supported Minnesota Power's request to vary the rule requiring that an applicant implement its notice plan within 30 days of Commission approval. The Department recommended varying the rule, stating that enforcement of the rule would burden all parties involved by separating the provision of notice from the start of the proceeding; that enforcement of the rule would not adversely affect the public interest and would better tie the implementation of notice to the beginning of the certificate of need proceeding; and that the Department is not aware that the variance would conflict with standards imposed by law.

The Commission concurs with the parties and will vary the 30-day time line contained in Minn. Rules, part 7829.2550, subp. 6, making the following findings:

(1) Enforcing the 30-day time line would impose an excessive burden upon the public and upon parties to the proceeding by causing an undue delay between implementation of the notice plan and the start of the certificate of need proceeding.

(2) Varying the 30-day time line would not adversely affect the public interest and would in fact serve the public interest by ensuring a more orderly process consistent with enhancing public participation.

(3) Varying the 30-day time line would not conflict with any other standards imposed by law.

## IV. Exemption Request

Minnesota Power filed an exemption request under Minn. R. 7849.0200, subp. 6, for exemptions from certain application data requirements. The rule states that prior to submitting a certificate of need application, a person is exempt from any data requirement that is unnecessary to determine the need for the proposed facility or that may be satisfied by submitting another document. In this case, the Company originally requested exemptions to the following data requirements:

Minn. R. part 7849.0260, subps. A(3) and C(6) – Line Losses;
Minn. R. part 7849.0270, subps. 1 and 2 – Forecasting; System-Wide Data;
Minn. R. part 7849.0270, subps. 2(B) and 2(C) – Customer Class Information;
Minn. R. part 7849.0270, subp. 2(E) – System Revenue Requirements;
Minn. R. part 7849.0270, subp. 2(F) – Weekday Load Factor;
Minn. R. part 7849.0280, subps. (B) through (G) and (I) – System Capacity;

Minn. R. part 7849.0290 – Conservation;
Minn. R. part 7849.0300 – Consequences of Delay; and
Minn. R. part 7849.0340 – No-facility Alternative

The Department originally recommended denying exemptions from Minn. R. 7849.0270, subps. 1 and 2 and items 2(B) and 2(C), as well as Minn. R. 7849.0280 item (I), and granting exemptions to the others. By the time the Commission met to consider the matter, the parties had, however, reached agreement on the disputed items.

The Department concurred with Minnesota Power that the Company's proposed provision of alternative relevant data, including peak demand data and data from its Advanced Forecast Report on its industrial load growth, would be useful in examining the claimed need and capacity for the proposed transmission line. The Department therefore recommended granting the Company's request for exemptions from Minn. R. 7849.0270, subps. 1 and 2 and items 2(B) and 2(C), with the provision of the alternative relevant data. Further, Minnesota Power concurred with the Department's request that the Company provide information related to transfer capabilities of the Project and information about the integrated regional transmission system to satisfy Minn. R. 7849.0280, item (I).

The Commission has reviewed the filings of the parties and the Department's analysis of the exemption requests and concurs in that analysis. The Commission will therefore grant the requests as recommended by the Department and agreed to by the parties and will require the provision of alternative relevant data by Minnesota Power to satisfy the application data requirements.

In its exemption request, Minnesota Power stated that final Project ownership splits between itself and other entities have not been finalized but requested authorization to file the application in its name on behalf of itself and anticipated co-owners. The Department did not object but reiterated the role of the applicant or applicants in a certificate of need proceeding to demonstrate that the Project is needed. The Department emphasized the importance of obtaining relevant information on how the cost of the Project would affect ratepayers of other utilities, once the ownership splits are finalized.

The Commission appreciates the Department's analysis and will grant the Company's request to file as the applicant, recognizing the need for further information to develop the issue of project ownership. The Commission will therefore require Minnesota Power to submit a compliance filing containing its ownership information, as well as other information necessary to assess the impacts of the ownership structure on the Company's ratepayers.

## ORDER

1. The Commission hereby approves the proposed notice plan as modified by Minnesota Power in its reply comments and as described by the Department in its January 23, 2013 comments.

2. The Commission hereby grants the request for a rule variance to Minn. R. 7829.2550, subp. 6, and permits Minnesota Power to implement the notice plan within two to four weeks prior to filing its certificate of need application.

3. The Commission hereby grants Minnesota Power's exemption request, with the Company's provision of alternative relevant data, as modified and described in the Department's January 23, 2013 comments.

4. The Commission hereby grants Minnesota Power's request to be the applicant in this proceeding. The Company shall file its ownership information, along with all necessary information for the Commission and stakeholders to assess the impacts of ownership structure on the Company's ratepayers.

5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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