

December 16, 2015

Daniel P. Wolf, Executive Secretary  
Minnesota Public Utilities Commission  
127 7th Place East, Suite 350  
St. Paul, MN 55101-2147

RE: **Comments and Recommendations on Application Acceptance**  
Clearbrook-Clearbrook West 115 kV Transmission Project  
Docket No. ET6/TL-14-665

Dear Mr. Wolf:

Attached are the review and comments of the Minnesota Department of Commerce Energy Environmental Review and Analysis (EERA) staff on application acceptance in the following matter:

**The Application of Minnkota Power Cooperative, Inc. for a Route Permit for the Clearbrook-Clearbrook West 115 kilovolt (kV) Transmission Line and Substation Project in Clearwater County**

The application was filed on November 25, 2015, by:

John T. Graves, Environmental Manager  
Minnkota Power Cooperative, Inc.  
1822 Mill Road, P.O. Box 13200  
Grand Forks, ND 58208-3200

EERA staff recommends the Minnesota Public Utilities Commission (Commission) accept the route permit application for the proposed project as complete and take no action on an advisory task force. Staff also recommends obtaining a Summary Report from the Office of Administrative Hearings (OAH). Staff is available to answer any questions the Commission might have.

Sincerely,



David Birkholz  
Environmental Review Manager

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**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

**COMMENTS AND RECOMMENDATIONS OF  
MINNESOTA DEPARTMENT OF COMMERCE  
ENERGY ENVIRONMENTAL REVIEW & ANALYSIS STAFF**

**DOCKET NO. ET6/TL-14-665**

Date .....December 16, 2015  
EERA Staff..... David Birkholz, (651) 539-1838

**In the Matter of the Application of Minnkota Power Cooperative, Inc. for a Route Permit for the Clearbrook-Clearbrook West 115 kilovolt (kV) Transmission Line and Substation Project in Clearwater County**

**Issues Addressed:**

These comments and recommendations address the completeness of the Route Permit Application submitted for the project, whether there is a need for an advisory task force, if there are any potential disputed issues, and a recommendation on the review process.

**Figures and Tables:**

- Figure 1: Project Overview Map
- Table 1: Process Timing and Tentative Schedule
- Table 2: Application Completeness Checklist

Additional documents and information can be found at  
<http://mn.gov/commerce/energyfacilities/Docket.html?Id=33970> or on eDockets  
<https://www.edockets.state.mn.us/EFiling/search.jsp> (year="14" and number="665")

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*This document can be made available in alternative formats, i.e., large print or audio tape by calling 651-539-1530.*

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## Introduction and Background

On November 25, 2015, Minnkota Power Cooperative, Inc. (Minnkota) filed a route permit application<sup>1</sup> (RPA) under the alternative permitting process in Minnesota Rule 7850.2800-3900 to construct approximately 5.3 miles of new 115 kilovolt (kV) transmission and a new 115/4.16 kV substation (Project) in Clearwater County. On December 4, 2015, the Minnesota Public Utilities Commission (Commission) issued a notice<sup>2</sup> soliciting comments on the completeness of the RPA.

### *Project Purpose*

The proposed Project is designed to serve a planned pipeline pumping station in the Clearbrook, Minnesota area. Since the Project does not require a Certificate of Need by length or capacity for a large energy facility as defined in Minnesota Statute 216B.2421, further discussion of the Project purpose was not required for the filing of the Route Permit Application.

### *Project Description*

The proposed Project (**Figure 1**) includes construction of a new 5.3-mile long 115 kV electric transmission line and a new 115/4.16 kV substation. The proposed Project would start in Leon Township by tapping an existing Otter Tail Power 115 kV line via construction of a one-way line switch and terminate in Pine Lake Township at a new 115/4.16 kV substation to be named the Clearbrook West Substation.

## 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, Subd. 4). The proposed project will consist of 5.3 miles of new 115 kV transmission line and therefore requires a route permit from the Commission by capacity and length.

### *Route Permit Application and Acceptance*

Minnesota Rule 7850.2800 states 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. Minnkota provided that notice<sup>3</sup> on August 6, 2014.

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<sup>1</sup> Application for a Route Permit" (Application), Minnkota Cooperative Power, Inc., November 25, 2015, eDocket no. [201511-115970-01](#), [-02](#), [-03](#), [-04](#)

<sup>2</sup> Notice of Comment Period on Completeness, Commission, December 4, 2015, eDocket no. [201512-116178-01](#)

<sup>3</sup> Notice of Intent to Submit a Route Permit Application under the Alternative Permitting Process for the Clearbrook-Clearbrook West 115 kilovolt transmission line, August 6, 2014, eDocket no. [20148-102079-01](#)

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, subp. 1C).

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.

The Commission may accept an application as complete, reject it and require additional information to be submitted, or accept it 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. The Commission has six months from the date of this determination to reach a route permit decision; though the decision can be extended for three months for cause, or with the Applicant's agreement (Minnesota Rule 7850.3900).

### *Environmental Review*

Applications for HVTL route permits are subject to environmental review conducted by Department of Commerce (DOC) Energy Environmental Review and Analysis (EERA) 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. This is the only state environmental review document required for the project (Minnesota Statute 216E.04, subd. 5). Staff will provide notice and conduct a public scoping meeting to solicit comments on the scope of the EA.

The Department of Commerce Deputy Commissioner 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 EA (Minnesota Rule 7850.3800). The hearing would be conducted in the project area and in accordance with the procedures provided in the rule.

The hearing is typically presided over by an administrative law judge (ALJ) from the Office of Administrative Hearings (OAH). The Commission may request that the ALJ provide a summary of the hearing (Summary Report). Alternately, the Commission may request that the ALJ provide findings of fact, conclusions of law, and recommendations regarding the route permit application (Summary Proceeding). This hearing is not a contested case hearing and is not conducted under OAH Rule 1405.

Whether multiple alternatives are proposed or a significant number of disputed human and environmental issues exist are two determinants for electing a summary report or summary proceeding. In this case, EERA anticipates the process would require nine months (270 days) under a Summary Report. Requesting the ALJ to prepare findings, conclusions and recommendations under a Summary Proceeding would extend the length of the permitting process to 10.5 months (315 days). See attached **Table 1. Process Timing and Tentative Schedule**, for a comparison of schedules (with approximate dates) between the two processes.

#### *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 could assist EERA staff and the Commission with identifying alternative 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 DOC Deputy Commissioner.

### **EERA Staff Analysis and Comments**

EERA staff has discussed various options of this Proposed Project with the Applicant for several months. Generally, EERA staff consults with applicants during the preparation of a draft application. In this case, staff made a number of comments on the draft document. Staff has subsequently fully evaluated the submitted Route Permit Application against the application completeness requirements of Minnesota Rule 7850.3100 (see **Table 2. Application Completeness Checklist**).

Staff finds that the application contains appropriate and complete information with respect to these requirements, including descriptions of the proposed project, potential environmental impacts and mitigation measures, and any federal, state and local approvals that might be required for the Project.

EERA concludes that the Application meets the content requirements of Minnesota Rule 7850.3100 and is substantially complete. Application acceptance allows initiation of the public participation and environmental review processes. EERA requests that the Applicant continue to supply further information as necessary during preparation of the Environmental Assessment.

### *Advisory Task Force*

EERA staff has analyzed the merits of establishing an advisory task force for the Clearbrook-Clearbrook West 115 kV Project. In analyzing the need for an advisory task force, EERA staff considered four characteristics: project size, project complexity, known or anticipated controversy, and sensitive resources.

- **Project Size.** The proposed Project is approximately 5.3 miles of single-circuit 115 kV line and a new 115/4.16 kV substation. This is a relatively small project; it does not require a certificate of need, by voltage (it is less than 200 kV) or by length of transmission line (it is under ten miles).
- **Project Complexity.** The proposed Project is quite straightforward. The number of potential alternatives is constrained by the limited geographic area (Leon and Pine Lake townships) within which the Project is planned. The geography is limited by the need to connect to specifically located infrastructure (a pipeline pumping station). The Applicant has already explored and eliminated three alternative routes.<sup>4</sup>
- **Known or Anticipated Controversy.** The only reason the Project might be considered controversial is that it serves a pipeline pumping station. However, the pumping station itself is not part of the Project; it is part of the new Sandpiper Pipeline Project.<sup>5</sup> The anticipated impacts of that Project are currently under evaluation in a separate docket (PL6668/PPL-13-474).
- **Sensitive Resources.** Potential impacts to sensitive ecological resources are minimal, because much of the proposed Project is located within or adjacent to road or distribution line ROW. According to the NHIS database, no rare species communities or sites of biodiversity significance have been documented within one mile of the Project area.

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<sup>4</sup> Application at 3 (Figure 2)

<sup>5</sup> For information on the Sandpiper Project, see <http://mn.gov/commerce/energyfacilities/Docket.html?Id=33599>.

Given these Project characteristics, EERA sees little value in establishing an advisory task force. The Project area does not offer opportunity to alter the proposed route to a significant degree. EERA can engage the public and local governments throughout the public participation process to identify and evaluate potential refinements to the proposed route. Establishing an advisory task force in addition to those efforts would likely delay the permit review process unnecessarily.

### *Disputed Issues of Fact*

EERA staff is not aware of any disputed issues of fact with respect to the representations in the Route Permit Application. Alternative routes have not been proposed. The likelihood for significant disagreement appears minimal given the limited number of affected landowners and local governments. As a result, a summary proceeding should not be required.

### **EERA Staff Recommendation**

EERA staff recommends that the Commission accept the Route Permit Application for the Clearbrook-Clearbrook West 115 kV Project as substantially complete. EERA staff also recommends that the Commission take no action on an advisory task force at this time. Lastly, EERA recommends a Summary Report over the Summary Proceeding.

**Figure 1. Project Overview Map**

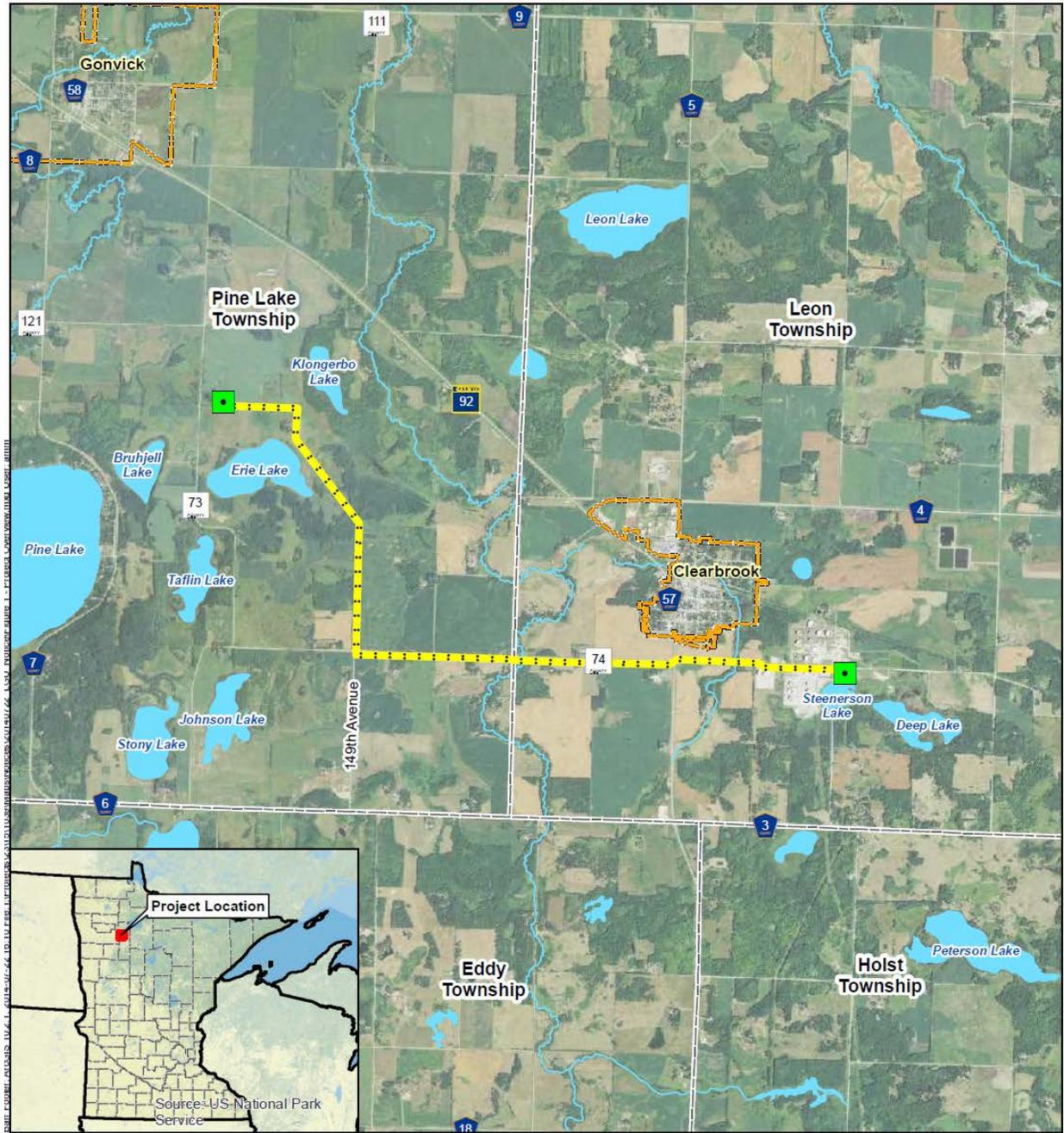
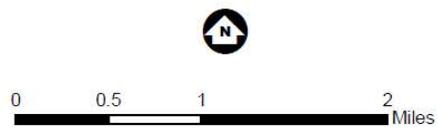


Image Source: 2013 Farm Service Agency

- Approximate Substation Location
- - - Proposed Clearbrook 115 kV
- Municipal Boundary
- Township Boundary
- ~ PWI Watercourse
- PWI Basin



**Figure 1**  
**PROJECT OVERVIEW**  
 Proposed Clearbrook West  
 115 kV HVTL Project  
 Minnkota Power  
 Clearwater County, MN

**Table 1. Process Timing and Tentative Schedule**

Approximate Date	Project Day	Alternative Review Process Step	Responsible Party
August 6, 2014		10-day Notice	Applicant
November 25, 2015		Application Filed	Applicant
December 16, 2015		Application Completeness Comments	Agencies/Public
December 23, 2015		Reply Comments	Applicant
January 14, 2016		Consideration of Application Acceptance	Commission
<b>Acceptance through Environmental Assessment</b>			
January 25, 2016	0	Application Acceptance Order	Commission
		Public/Scoping Meeting Notice	EERA/Commission
February 25, 2016	30	Public Information/Scoping Meeting	EERA/Commission
March 10, 2016	45	Scoping Comment Period Closes	EERA
March 25, 2016	60	Scoping Summary to Commission	EERA
April 21, 2016	85	Commission Review of Alternatives	Commission
May 2, 2016	95	Scoping Decision Issued	Commerce
August 1, 2016	185	Environmental Assessment Issued	EERA
		Public Hearing Notice	Commission
<b>Summary Report*</b>			
August 16, 2016	200	Public Hearing	OAH
August 30, 2016	215	Comment Period Closes	OAH
September 6, 2016	220	ALJ Submits Transcript and Comments	OAH
September 13, 2016	225	Draft Findings of Fact (FOF)	Applicant
September 27, 2016	240	Comments on Draft FOF/Technical Analysis	EERA
		Response to Hearing Comments	Applicant
		ALJ Submits Summary Report	OAH
October 27, 2016	<b>270</b>	Consideration of Route Permit Issuance	Commission
<b>Summary Proceeding**</b>			
August 16, 2016	200	Public Hearing	OAH
August 30, 2016	215	Comment Period Closes	OAH
September 6, 2016	220	ALJ Submits Transcript and Comments	OAH
September 13, 2016	225	Draft FOF	Applicant
September 27, 2016	240	Comments on Draft FOF/Technical Analysis	EERA
		Response to Hearing Comments	Applicant
October 27, 2016	270	ALJ Issues FOF and Recommendation	OAH
November 11, 2016	285	Exceptions to ALJ Report	EERA/Applicant
December 8, 2016	<b>315</b>	Consideration of Route Permit Issuance	Commission

\* **A summary report includes:**

- The hearing process consists of a public hearing (or multiple hearings depending on the project) and one comment period (closing at least 10 days after the last public hearing).
- An ALJ presides over the public hearing.
- ALJ provides a summary of the public hearing and comments only.
- Applicant provides proposed findings of fact, conclusions and a recommendation.
- EERA responds to comments on the EA; provides technical analysis; and responds to the applicant’s proposed findings.
- No exception period is provided.

\*\***A summary proceeding includes:**

- The hearing process is identical to the summary report process.
- An ALJ presides over the public hearing.
- Applicant provides proposed findings of fact, conclusions and a recommendation.
- EERA responds to comments on the EA; provides technical analysis; and responds to the applicant’s proposed findings.
- The ALJ provides a summary and findings of fact, conclusions and recommendations on alternatives and permit conditions
- An exception period pursuant to Minnesota Rule 7829.2700 is provided.

**Table 2. Application Completeness Checklist**

***Minnesota Rule 7850.3100 Contents of Application (Alternative Review)***

The applicant shall include in the application the same information required in part 7850.1900, except the applicant need not propose any alternative ... routes to the preferred ... route. If the applicant has rejected alternative ... routes, the applicant shall include in the application the identity of the rejected ... routes and an explanation of the reasons for rejecting them.

***Minnesota Rule 7850.1900 Application Contents***

Subpart 2. **Route permit for HVTL.** An application for a route permit for a high voltage transmission line shall contain the following information:

7850.1900, Subp. 2	Section	EERA Comments
A. a statement of proposed ownership of the facility at the time of filing the application and after commercial operation;	2.1	Minnkota will construct, own and operate the electric transmission line.
B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;	2.3	Minnkota Cooperative Power, Inc. will be the Permittee. The application does not anticipate transfer of the permit, so listing additional permittees is not necessary.

7850.1900, Subp. 2	Section	EERA Comments
C. at least two proposed routes for the proposed high voltage transmission line and identification of the applicant's preferred route and the reasons for the preference;	4.3	Additional routes are not required in alternative review applications per Minnesota Rule 7850.3100. However, the Applicant did consider three additional routes, and provided reasons for rejecting them.
D. a description of the proposed high voltage transmission line and all associated facilities including the size and type of the high voltage transmission line;	3.2, 4.1, 4.2.1, 4.4, 5.1	The Application describes the proposed electric transmission Project structures and equipment, associated facilities, the route width and right-of-way, and construction and maintenance details.
E. the environmental information required under subpart 3.	<i>See Minnesota Rule. 7850.1900, Subpart 3 below.</i>	
F. identification of land uses and environmental conditions along the proposed routes;	6.2.2, 6.2.9; 6.3, and generally Section 6	The Application discusses land use generally, and specifically throughout the sections, for example, recreation uses. Land use is also addressed as it relates to land-based economics like agriculture. Environmental conditions are discussed throughout Section 6.
G. the names of each owner whose property is within any of the proposed routes for the high voltage transmission line;	Appendix D	The Application includes an appendix listing landowners and parcels by Section, Township and Range.
H. United States Geological Survey topographical maps or other maps acceptable to the commission showing the entire length of the high voltage transmission line on all proposed routes;	1.1, Appendices B and C	Project overview maps are included in Section 1. Detailed route maps are provided in Appendix B. Appendix C includes environmental maps, including maps of land, water and cultural resources.

7850.1900, Subp. 2	Section	EERA Comments
I. identification of existing utility and public rights-of-way along or parallel to the proposed routes that have the potential to share the right-of-way with the proposed line;	6.2.10-12	The Application describes the existing services. Of note, the existing low-voltage distribution line along County Road 74 will be removed and buried (by Clearwater-Polk Electric Cooperative).
J. the engineering and operational design concepts for the proposed high voltage transmission line, including information on the electric and magnetic fields of the transmission line;	5.1, 5.2	The Application includes general design and engineering information. It also discusses the nature and potential impacts of EMF and other issues such as stray voltage.
K. cost analysis of each route, including the costs of constructing, operating, and maintaining the high voltage transmission line that are dependent on design and route;	3.5, 5.1.6	The Application splits out the costs of the HVTL and the substation, as well as maintenance costs.
L. a description of possible design options to accommodate expansion of the high voltage transmission line in the future;	4.5	The Project's facilities are designed to meet the current need as well as any future needs of the pumping station; no expansion is anticipated.
M. the procedures and practices proposed for the acquisition and restoration of the right-of-way, construction, and maintenance of the high voltage transmission line;	5.1.3-5	The Application discusses the process used to negotiate and acquire easements. It discusses construction, restoration and maintenance of the electric transmission line.
N. a listing and brief description of federal, state, and local permits that may be required for the proposed high voltage transmission line; and	7.4	The Application provides a list and description of potentially applicable permits or approvals from local, state and federal jurisdictions.

7850.1900, Subp. 2	Section	EERA Comments
O. a copy of the Certificate of Need or the certified HVTL list containing the proposed high voltage transmission line or documentation that an application for a Certificate of Need has been submitted or is not required.	2.4	The Application demonstrates a Certificate of Need is not required based on the statutory definition of a <i>large energy facility</i> .

***Minnesota Rule 7850.1900 Application Contents***

Subpart 3. **Environmental Information.** An applicant for ... a route permit shall include in the application the following environmental information for each proposed ... route:

7850.1900, Subp. 3	Section	EERA Comments
A. a description of the environmental setting for each ... route;	6.1	The Application provides a general description of the environmental setting of the Project.
B. a description of the effects of construction and operation of the facility on human settlement, including, but not limited to, public health and safety, displacement, noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;	6.2	The Application discusses each of the listed human issues.
C. a description of the effects of the facility on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;	6.3	The Application discusses each of the listed economies.
D. a description of the effects of the facility on archaeological and historic resources;	6.4, 7.2	The Application discusses the Project's efforts, including a Phase I survey, to establish the presence of cultural resources. It also discusses the Applicant's responsibilities under the National Historic Preservation Act Section 106.

7850.1900, Subp. 3	Section	EERA Comments
E. a description of the effects of the facility on the natural environment, including effects on air and water quality resources and flora and fauna;	6.5	The Application contains segments on each of the aspects of the natural environment listed in the rule.
F. a description of the effects of the facility on rare and unique natural resources;	6.6, 7.2	The Application relates the results of consulting with MNDNR, including the Natural Heritage Inventory System. The Applicant also consulted with the USFWS on compliance with the Endangered Species Act.
G. identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific ... route; and	6	Unavoidable impacts are generally associated with construction activities.
H. a description of measures that might be implemented to mitigate the potential human and environmental impacts identified in items A to G and the estimated costs of such mitigative measures.	6	Each segment of Section 6 provides mitigation options, should mitigation be deemed necessary, based on anticipated impact levels.