

APPENDIX F

Order Approving Notice Plan

THIS PAGE INTENTIONALLY BLANK

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
David C. Boyd
Nancy Lange
Dan Lipschultz
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Great River Energy and Minnesota Power for a Certificate of Need for the Menahga Area 115 kV Transmission Line Project in Hubbard, Wadena, and Becker Counties

ISSUE DATE: December 8, 2014

DOCKET NO. E-015/CN-14-787

ORDER APPROVING NOTICE PLAN AND GRANTING VARIANCES

PROCEDURAL HISTORY

On September 18, 2014, Great River Energy and Minnesota Power (the Applicants) filed a notice plan petition for their proposed 115 kV transmission line project in Hubbard, Wadena, and Becker counties (the Menahga Area Project, or project).¹

On October 8, 2014, the Minnesota Department of Commerce, Division of Energy Environmental Review and Analysis (EERA) filed comments and proposed certain minor modifications to the notice plan to 1) complete and correct notices that will be distributed via the plan, and 2) expand the distribution of notices to governmental entities.

Also on October 8, 2014, the Minnesota Department of Commerce, Division of Energy Resources (the Department), filed comments recommending that the Commission approve the Applicants' notice plan with the modifications recommended by the EERA. The Department also recommended that the Commission grant a variance to the rule requiring that a notice plan be implemented within 30 days of Commission approval. Finally, the Department recommended that the Commission reject the Applicants' request for a variance of the rule requiring additional newspaper notification of the certificate of need upon its filing.

On October 22, 2014, the Applicants filed comments in response to the Department's comments on the proposed notice plan.

On October 24, 2014, the Department filed supplemental comments on the proposed notice plan, and recommended that the Commission grant the Applicants' request for a variance to eliminate the need for potentially redundant newspaper notification of the certificate of need application upon its filing.

¹ Applicants plan to file a combined certificate of need and route permit application for the project early in 2015.

On November 24, 2014, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Proposed Project

Applicants have proposed to construct an approximately 22-mile 115 kV transmission line in the Menahga area in Hubbard, Wadena, and Becker counties, and to construct and modify certain substations. The project entails: 1) construction of 4.5 miles of new double-circuit 115 kV line and approximately 2.5 miles of single-circuit 115 kV line; 2) construction of approximately 15.5 miles of primarily new single-circuit 115 kV transmission line; and 3) construction of new distribution substations.

II. Proposed Notice Plan

The EERA and the Department coordinated their review of the Applicants' notice plan.

The agencies reviewed the Applicants' notice plan under Minn. R. 7829.2550, subp. 3, which requires an applicant to file a proposed notice plan designed to notify all persons reasonably likely to be affected by the proposed line. The rule requires such plans to include direct mail notice to landowners, tribal governments, local governments and other governmental entities, as well as to all mailing addresses within the area reasonably likely to be affected by the line; the rule also requires newspaper notice to members of the public in areas reasonably likely to be affected by the proposed line. The notice must contain information regarding the project, including a map of the proposed line and other existing facilities, as well as a statement that the line cannot be constructed unless the Commission certifies that it is needed.

The EERA reviewed the proposed notice plan and found that, in general, the plan is consistent with the requirements of Minn. R. 7829.2550. The EERA recommended certain modifications to the notice plan to 1) complete and correct notices that will be distributed via the plan, and 2) expand the distribution of notices to governmental entities.²

The Department agreed with the EERA's proposed modifications to the notice plan. With those modifications, the Department recommended its approval.

The Applicants agreed with the EERA's comments and suggested edits to the notice.

III. Rule Variances

The Applicants requested that the Commission grant variances to Minn. R. 7829.2500, subp. 5 and Minn. R. 7829.2550, subp. 6.

² The EERA's recommended revisions to the notice plan are located in Attachment 1 ("EERA Edits to Notice Content") to the EERA's October 8, 2014 comments in this docket.

A. Minn. R. 7829.2550, subp. 6

Minn. R. 7829.2550, subp. 6 requires the applicant to implement the proposed notice plan within 30 days of approval by the Commission. Applicants requested that the Commission direct the notices identified in this notice plan to occur no more than 60 days prior to the filing of the certificate of need application to allow the notice to more closely coincide with the certificate of need filing.

The Department noted that that the Commission has ordered a similar approach in other certificate of need dockets, and recommended that the Commission approve the request and grant a variance to Minn. R. 7829.2550, subp. 6 to allow implementation of the notice plan no more than 60 days prior to the filing of the route permit application.

B. Minn. R. 7829.2500, subp. 5

Applicants also requested that the Commission vary Minn. R. 7829.2500, subp. 5, which requires a person filing a certificate of need application to publish notice of the filing in newspapers of general circulation throughout the state. Applicants stated that they will publish newspaper notice of the certificate of need filing as part of the notice plan implementation no more than 60 days before the route permit application should the Commission grant its request to vary Minn. R. 7829.2550, subp. 6, as described above.

In comments filed October 24, 2014, the Department agreed that in this case, since the certificate of need and route permit applications will be filed simultaneously, a single notice informing the public of both applications could fulfill both rule requirements. The Department recommended that the Commission grant the Applicants' request for a variance to Minn. R. 7829.2500, subp. 5 to eliminate the need for potentially redundant newspaper notification of the certificate of need application upon its filing.

C. Commission Action

Under Minn. R. 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 Commission concurs with the parties and will vary the 30-day time line of Minn. R. 7829.2550, subp. 6. The Commission will also vary the requirement of Minn. R. 7829.2550, subp. 5 that an applicant publish a separate newspaper notice upon the filing of a certificate of need application, instead authorizing the newspaper notices for the notice plan and route permit application to be combined. In granting these variances, the Commission makes the following findings:

- 1) Enforcing the rules would impose an excessive burden upon the public and upon parties to the proceeding by separating the delivery of the notice from the start of the certificate of need proceeding;
- 2) Granting the variances would not adversely affect the public interest and would in fact serve the public interest since implementation of the notice would more closely coincide with the beginning of the certificate of need process; and
- 3) Varying the 30-day time line would not conflict with any other standards imposed by law.

ORDER

1. The Commission approves the proposed notice plan as modified by the EERA in its comments of October 8, 2014.
2. The Commission varies Minn. R 7829.2550, subp. 6, to permit implementation of the notice plan no more than 60 days prior to the filing of the certificate of need.
3. The Commission varies Minn. R. 7829.2550, subp. 5, to eliminate the need for potentially redundant newspaper notification of the certificate of need application upon its filing.
4. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary



This document can be made available in alternative formats (e.g., large print or audio) by calling 651.296.0406 (voice). Persons with hearing loss or speech disabilities may call us through their preferred Telecommunications Relay Service.