MINNESOTA DEPARTMENT OF COMMERCE

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February 4, 2015

Daniel Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: Comments and Recommendations of Department of Commerce
Energy Environmental Review and Analysis Staff
Docket No. ET2, E015/TL-14-797

Dear Mr. Wolf,

Attached are comments and recommendations of Department of Commerce, Energy Environmental Review and Analysis (EERA) staff in the following matter:

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

The application was filed on January 15, 2015, by:

> Carole Schmidt
> Great River Energy
> 12300 Elm Creek Blvd.
> Maple Grove, MN 55369

EERA staff recommends acceptance of the application as complete. Staff is available to answer any questions the Commission may have.

Sincerely,

Ray Kirsch
EERA Staff

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF MINNESOTA DEPARTMENT OF COMMERCE ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS

DOCKET NO. ET2, E015/TL-14-797

Date: February 4, 2015

EERA Staff: Ray Kirsch…….…….....651-539-1841

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

Issues Addressed: These comments and recommendations address the completeness of the application submitted for the project, the presence of contested issues, and the need for an advisory task force.

Documents Attached:
(1) Project Overview Map

Additional documents and information can be found on eDockets: https://www.edockets.state.mn.us/EFiling/search.jsp (14-797) and on the Department's website: http://mn.gov/commerce/energyfacilities/Docket.html?Id=33985.

This document can be made available in alternative formats (i.e. large print or audio) by calling 651-539-1530 (voice).

Introduction and Background

On January 15, 2015, Great River Energy and Minnesota Power (applicants) filed a joint certificate of need and route permit application to construct and operate a new 115 kilovolt (kV) transmission line and associated facilities in the Minnesota counties of Hubbard, Wadena and Becker.[1] On January 21, 2015, the Commission issued a notice soliciting comments on the completeness of the application, the presence of contested issues, and the need for an advisory

[1] Great River Energy and Minnesota Power, Application to the Minnesota Public Utilities Commission for a Certificate of Need and Route Permit for the Menahga Area 115 kV Transmission Line Project, January 15, 2015, eDockets Numbers 20151-106222-01, 20151-106222-02, 20151-106222-03, 20151-106222-04, 20151-106222-05, 20151-106222-06 [hereinafter CN and Route Permit Application].

task force.[2]

Project Purpose
Applicants indicate in their application that the proposed project is needed to relieve potential overloads on the existing 34.5 kV transmission system near the city of Menahga, Minn., and to serve a proposed, new oil pumping station in the area.

Project Description
Applicants propose to construct approximately 22.5 miles of new 115 kV transmission line from the existing Hubbard substation westward to a new Straight River substation, and then southward to a new Blueberry substation near the city of Menahga and to a new Red Eye substation (see attached map). The project is proposed to include a short section of double-circuit 115 kV line and modifications to existing substations.

Applicants are requesting a 500 foot route width for the project with a larger route width in select areas. Applicants indicate that the new 115 kV line will require a right-of-way (easement) of 100 feet. Transmission line structures for the new 115 kV line will be 60 to 90 feet in height, with a span between structures in the range of 275 to 400 feet. Applicants indicate that construction on the project is anticipated to commence in late spring 2016 and be completed by early 2017.

Regulatory Process and Procedures

In Minnesota, no person may construct a high voltage transmission line without a route permit from the Commission.[3] 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.[4] The proposed project includes approximately 22.5 miles of new 115 kV transmission line and therefore requires a route permit from the Commission.

The proposed project will operate at a voltage greater than 100 kV and will have a length in Minnesota greater than 10 miles; thus, the project, per Minnesota Statute 216B.2421, is a large energy facility and requires a certificate of need from the Commission.[5]

Applicants intending to submit a project under the Commission's alternative permitting process for high voltage transmission lines are required to provide a 10-day advance notice of this intent to the Commission before submitting their route permit application.[6] On December 11, 2014, applicants filed a letter with the Commission indicating their intent to submit a route permit application for the proposed project under the alternative permitting process.[7] Because the

[2] Notice of Comment Period on Completeness of Certificate of Need and Route Permit Application, January 21, 2015, eDockets Number 20151-106421-01.
[3] Minnesota Statute 216E.03.
[4] Minnesota Statute 216E.01.
[5] Minnesota Statute 216B.243.
[6] Minnesota Rule 7850.2800.
[7] Notice of Intent by Great River Energy and Minnesota Power to Submit a Route Permit Application under the Alternative Permitting Process, December 11, 2014, eDockets Number 201412-105229-01.

project will operate at a voltage between 100 and 200 kV, the project qualifies for the Commission's alternative permitting process.[8]

Route Permit Application and Acceptance

Route permit applications for high voltage transmission lines must provide specific information about the proposed project including information about the applicant(s), description of the project and proposed route, and discussion of potential environmental impacts and mitigation measures.[9] Review under the alternative permitting process does not require an applicant to propose alternative routes in their permit application.[10] However, if the applicant has evaluated and rejected alternative routes they must describe these routes and the reasons for rejecting them in their application.[11]

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.[12] The environmental review and permitting process begins on the date the Commission determines that a route permit application is complete;[13] the Commission has six months (or nine months, with just cause) from the date of this determination to reach a route permit decision.[14]

Environmental Review

Route permit applications are subject to environmental review conducted by Department of Commerce, Energy Environmental Review and Analysis (EERA) staff. Projects proceeding under the alternative permitting process require the preparation of an environmental assessment (EA).[15] An EA is a document which describes the potential human and environmental impacts of a proposed project and possible mitigation measures. Public information and scoping meetings will be held to solicit comments on the scope of the EA. The Department of Commerce (Department) determines the scope of the EA.[16]

<u>Certificate of Need and Joint Environmental Review</u>

As noted above, the applicants' proposed project requires a certificate of need. The applicants have filed a joint certificate of need and route permit application with the Commission for the project. Certificate of need applications for transmission lines are subject to environmental review conducted by EERA staff – staff must prepare an environmental report (ER) for the proposed project.[17]

[8] Minnesota Rule 7850.2800.
[9] Minnesota Rules 7850.1900 and 7850.3100.
[10] Minnesota Rule 7850.3100.
[11] *Id.*
[12] Minnesota Rule 7850.3200.
[13] *Id.*
[14] Minnesota Rule 7850.3900.
[15] Minnesota Rule 7850.3700.
[16] *Id.*
[17] Minnesota Rule 7849.1200.

If an applicant for a certificate of need applies for a route permit (for the same project) prior to completion of the ER, the Department may elect to prepare an EA in lieu of an ER.[18] If an EA is prepared in lieu of an ER, the EA must include an analysis of alternatives to the project required by Minnesota Rule 7849.1500.[19]

Public Hearing

Route permit applications under the alternative permitting process require that a public hearing be held after the EA for the project has been prepared.[20] If a route permitting process and a certificate of need process are proceeding concurrently, the Commission may order that a joint hearing be held to consider both permitting and need.[21]

Advisory Task Force

The Commission may appoint an advisory task force as an aid to the environmental review process.[22] An advisory task force must include representatives of local governmental units in the project area.[23] A task force would assist EERA staff with identifying specific impacts and alternative routes and sites to be evaluated in the EA for the project. A task force expires upon issuance of the EA scoping decision by the Department.[24]

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.[25] If such a request is 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.

EERA Staff Analysis and Comments

EERA staff has conferred with the applicants about the proposed project and has reviewed a draft application. EEEA staff believes that staff comments on the draft application have been addressed in the application submitted to the Commission. Staff has evaluated the application against the application completeness requirements of Minnesota Rule 7850.3100.[26] Staff finds that the application contains appropriate and complete information with respect to these requirements, including descriptions of the proposed project and potential environmental impacts

[18] Minnesota Rule 7849.1900.
[19] *Id.*
[20] Minnesota Rule 7850.3800.
[21] Minnesota Rule 7849.1900.
[22] Minnesota Statute 216E.08.
[23] *Id.*
[24] Minnesota Rule 7850.3600.
[25] *Id.*
[26] The completeness requirements of Minnesota Rule 7850.3100 (alternative permitting process) and Minnesota Rule 7850.1900 (full permitting process) are identical with one exception -- under the alternative permitting process an applicant is not required to propose alternative routes in their application; they must, however, describe any alternative routes evaluated and rejected prior to application submittal.

and mitigation measures. Accordingly, staff believes that the application meets the content requirements of Minnesota Rule 7850.3100 and is complete. The Commission's acceptance of the application will allow EERA staff to commence the environmental review process.

Joint Environmental Review

The Commission has before it a joint certificate of need and route permit application for the applicants' proposed project. It appears to EERA staff that the need and permitting processes for the project will proceed concurrently. Thus, at this time, EERA staff anticipates that it will prepare one environmental review document for the project, an EA. EERA staff believes that development of an EA in lieu of an ER for the certificate of need environmental review and joining it with the EA for the route permitting environmental review (joint environmental review) is relatively more efficient, will aid public participation in the certificate of need and route permitting processes, and will not delay these processes. Additionally, the applicants support combining the certificate of need and route permit proceedings into one proceeding.[27]

Contested Issues of Fact

EERA staff is not aware, at this time, of any contested issues of fact with respect to the representations in the application. However, issues may be identified during the EA scoping process.

Advisory Task Force

EERA staff has analyzed the merits of establishing an advisory task force for the applicants' proposed project. Staff concludes that a task force is not warranted for the project.

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

- **Project Size.** The applicants' proposed project is a 115 kV line approximately 22.5 miles in length. Transmission line structures will range from 60 to 90 feet in height. The project also includes three new substations. With respect to the length of the project, this is a transmission line project of intermediate size in Minnesota. There are shorter projects; there are much longer projects. With respect to the height of transmission line structures, the 115 kV structures are relatively small – that is, they are similar in height to existing poles used for electrical distribution in the project area. With respect to the substations, two of the substations (Straight River, Blueberry) are located where there are already existing distribution substations. The Blueberry substation will replace the

[27] CN and Route Permit Application, Section 2.3. To EERA staff's understanding, the proceedings include the environmental review and hearings for the respective processes (see Minnesota Rule 7849.1900 "Joint Proceeding"). Whether the hearings for the respective processes are joined is a decision for the Commission (Minnesota Rule 7849.1900, Subp. 4). The applicants note that a joint hearing is also supported by Minnesota Statute 216B.243, Subd. 4.; however, this statutory subdivision applies only to applications under the full permitting process and is not applicable here ("Unless the commission determines that a joint hearing on siting and need under this subdivision and section 216E.03, subdivision 6, is not feasible or more efficient, or otherwise not in the public interest, a joint hearing under those subdivisions shall be held").

existing Menahga distribution substation. On whole, these project size factors do not weigh in favor of a task force.

- **Project Complexity.** The proposed project is relatively straightforward. The project area (north central Minnesota) is generally rural and is a mix of cropland, forest and wetlands. The applicants propose to utilize existing transmission line and road rights-of-way to minimize impacts of the project. As noted above, two of the three new substations proposed for the project are located very near existing distribution substations. On whole, EERA staff believes the project presents a relatively low level of complexity.

- **Known or Anticipated Controversy.** To date, EERA staff has received one phone call, one email, and one letter concerning the project. The applicants have consulted extensively with local governments and state and federal agencies regarding the project. The applicants held an open house meeting in the project area. Subsequent to the open house, the applicants received one letter, three phone calls, and one email.[28] On whole, EERA staff anticipates a relatively low level of controversy concerning the project.

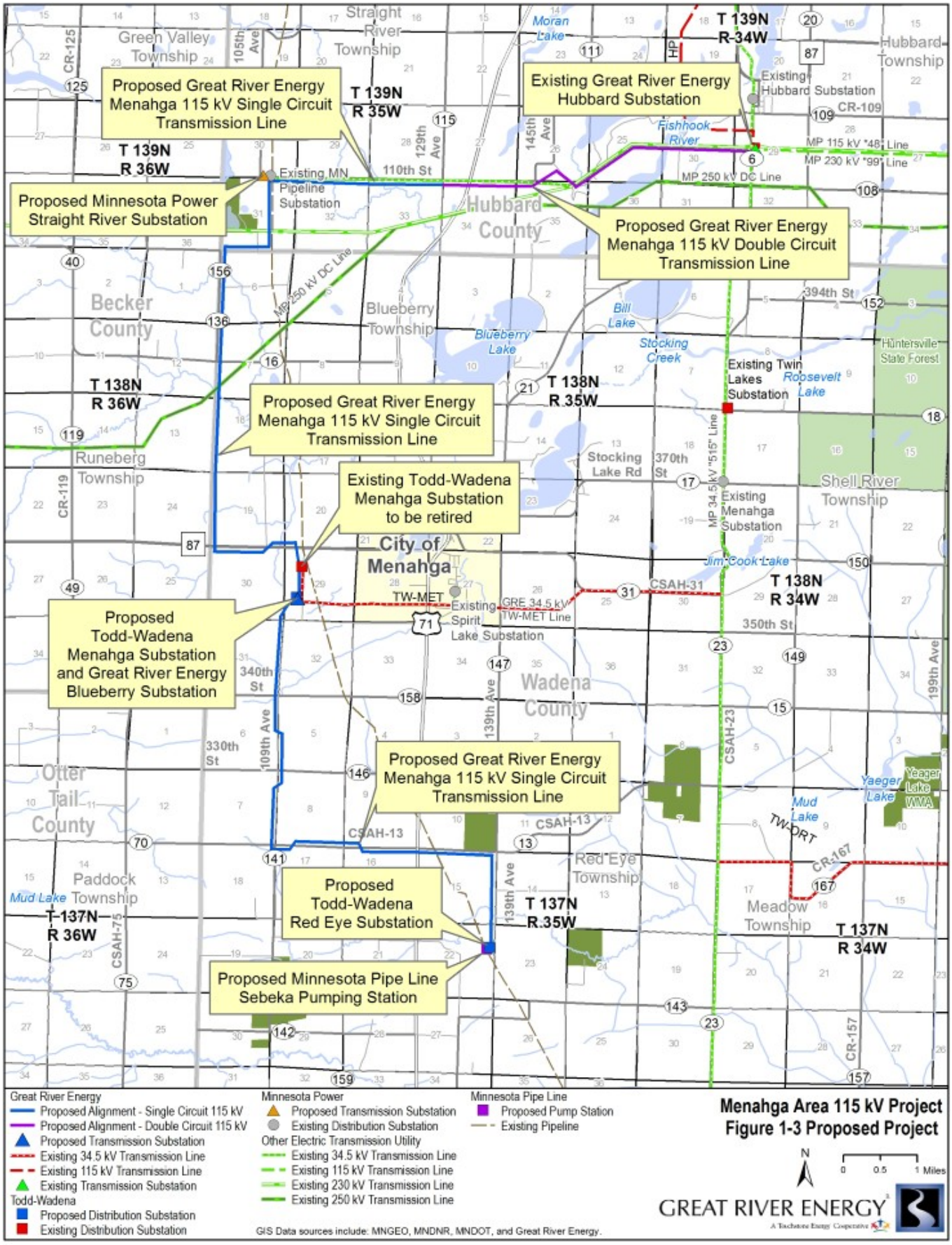
- **Sensitive Resources.** The project area is a mix of cropland, forest and wetlands. There are sensitive natural resources in the project area including public lands managed for habitat (e.g., wildlife management areas) and several rivers and streams. The project area includes habitat for the northern long-eared bat, which may soon be listed by the U.S. Fish and Wildlife Service as a threatened and endangered species.

  EERA staff anticipates that potential impacts to sensitive natural resources will be minimal because the applicants' proposed route utilizes, to a great extent, existing transmission line and road rights-of-way. Additionally, impacts to wetlands and waters can be avoided, in great part, by spanning these sensitive resources. On whole, EERA staff anticipates minimal impacts to sensitive resources in the project area.

Based on the above analysis, EERA staff believes that an advisory task force is not warranted for the project.

EERA Staff Recommendation

EERA staff recommends that the Commission accept the application for the Menahga Area 115 kV transmission line project as complete. Additionally, EERA staff recommends that the Commission take no action on an advisory task force at this time.

[28] CN and Route Permit Application, Section 1.10.

Project Overview Map