

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
Nancy Lange
Dan Lipschultz
John A. Tuma
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Minnesota
Power for a Route Permit for the Line 16
Reroute Project in St. Louis County

ISSUE DATE: May 14, 2015

DOCKET NO. E-015/TL-14-977

ORDER IDENTIFYING ADDITIONAL
ROUTES FOR ENVIRONMENTAL
REVIEW AND REFERRING
APPLICATION TO OFFICE OF
ADMINISTRATIVE HEARINGS

PROCEDURAL HISTORY

On March 17, 2015, the Commission issued an order accepting as complete Minnesota Power's application for a route permit to reroute approximately three miles of a 115-kilovolt high-voltage transmission line known as the 16 Line. The Company proposed to move a three-mile segment of the existing line to permit United Taconite to expand its taconite tailings basin.

The March 17 order also took initial procedural actions, including the following:

- Designating a Commission staff member to serve as public advisor under Minn. R. 7850.3400;
- Directing Commission staff to formally ask relevant state agencies to participate in the case;
- Directing Commission staff to electronically file in this docket a generic route permit template;
- Extending the time for the Department of Commerce (the Department) to determine the scope of the environmental assessment it is required to conduct under Minn. Stat. § 216E.04, subd. 5; and
- Asking the Department to present draft route alternatives to facilitate Commission input on the scope of the environmental assessment.

On April 16, 2015, the Department's Energy Environmental Review and Analysis (EERA) staff filed comments and recommendations on the scope of the environmental assessment. The EERA stated that no alternative to the route proposed by the Company had been proposed during the public comment period or at the public hearing, and that its own analysis led it to conclude that the proposed route was the only one that should be examined in the environmental assessment. On April 20, 2015, the Company filed comments concurring with the EERA.

On April 22, the Commission received briefing papers from its staff recommending further evaluation of two shorter, more direct alternatives to the route proposed by the Company. On April 27 and 29, the Company and the EERA filed comments stating that it appeared that these two routes would be more complex and expensive to build, because they would have to cross wetlands and peat soils. At the same time, both parties expressed their willingness to analyze any route alternatives identified by the Commission for inclusion in the environmental assessment.

On April 30, 2015, the application came before the Commission for further action.

FINDINGS AND CONCLUSIONS

I. The Environmental Assessment

Under the energy-facilities permitting statute, the Commission is to participate in identifying the routes to be examined in the environmental assessment.¹ The two route alternatives identified by Commission staff are more direct and therefore potentially less costly and disruptive than the route proposed by the Company. To ensure a robust routing analysis, the Commission will require that the two routes identified in the attached document, “MPUC Staff Scope Certification Recommendations,” be included in the environmental assessment prepared by the Department.

II. Referral to the Office of Administrative Hearings

This application was filed under the alternative review process authorized by Minn. Stat. § 216E.04 and Minn. R. 7850.2800–3900. The procedural framework for the alternative review process is set forth at Minn. R. 7850.3800, and it does not require full contested case proceedings in the absence of contested material facts.

The Commission does, however, normally refer these applications to the Office of Administrative Hearings for factual development, asking the administrative law judge to adapt the rules’ procedural framework to provide a reliable record for Commission action in accordance with statutory time frames. The Commission will refer this application under that process, asking the administrative law judge to adapt the process set forth in Minn. R. 7850.3800 to incorporate the following requests:

- A. That the administrative law judge assigned to the matter emphasize the statutory time frame (circa September 13, 2015) for the Commission to make final decisions on applications and to strongly encourage the parties and participants to adhere to a schedule that conforms to the statutory time frame.
- B. That the administrative law judge ask the parties, participants, and the public to address whether the proposed project and any alternatives to the proposed project meet the selection criteria established in Minn. Stat. § 216E.03, subd. 7 and Minn. R. 7850.4100.

¹ Minn. Stat. § 216E.04, subd. 5.

- C. That prior to the public hearing, the Department of Commerce EERA submit to the administrative law judge its environmental assessment comments and analysis of the route alternatives using the selection criteria established in Minn. Stat. § 216E.03, subd. 7, and Minn. R. 7850.4100; evidence of compliance with environmental review procedures; and recommended permit language or specific provisions relative to acceptable routes.
- D. That the administrative law judge prepare a report setting forth findings, conclusions, and recommendations on the merits of the proposed project, alternatives to the proposed project, and a preferred route alternative, applying the routing criteria set forth in statute and rule; and provide comments and recommendations, if any, on the conditions and provisions of the proposed permit.

The Commission will so order.

ORDER

- 1. The Commission identifies for inclusion in the Department's scoping decision and environmental assessment Routes AR2 and AR3, as set forth in the attached MPUC Staff Scope Certification Recommendations dated April 30, 2015. The Commission asks the Department to address in the environmental assessment the issues raised in that document.
- 2. The Commission refers this application to the Office of Administrative Hearings for a summary proceeding and asks that the administrative law judge assigned to the case adapt the existing procedural framework set forth Minnesota Rules, part 7850.3800, to incorporate the following requests:
 - A. That the administrative law judge assigned to the matter emphasize the statutory time frame (circa September 13, 2015) for the Commission to make final decisions on applications and to strongly encourage the parties and participants to adhere to a schedule that conforms to the statutory time frame.
 - B. That the administrative law judge ask the parties, participants, and the public to address whether the proposed project and any alternatives to the proposed project meet the selection criteria established in Minn. Stat. § 216E.03, subd. 7 and Minn. R. 7850.4100.
 - C. That prior to the public hearing, the Department of Commerce EERA submit to the administrative law judge its environmental assessment comments and analysis of the route alternatives using the selection criteria established in Minn. Stat. § 216E.03, subd. 7 and Minn. R. 7850.4100; evidence of compliance with environmental review procedures; and recommended permit language or specific provisions relative to acceptable routes.

D. That the administrative law judge prepare a report setting forth findings, conclusions, and recommendations on the merits of the proposed project, alternatives to the proposed project, and a preferred route alternative, applying the routing criteria set forth in statute and rule; and provide comments and recommendations, if any, on the conditions and provisions of the proposed permit.

3. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
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.

MPUC Staff Scope Certification Recommendations

Alternative Routes:

Route Alternative AR2 is designed to minimize removal of existing 16 Line transmission infrastructure while minimizing the overall project length. AR2 would originate at the northern point of the proposed route to an interconnection point immediately south of the proposed tailing basin expansion. The centerline of the AR2 alternative would be placed in Township 56, Range 17, Sections 17 and 20. The first segment (AR2/AR3) would primarily follow a north-south orientation in sections 17 & 20 and the second segment (AR2) would follow an east-west orientation in section 20.

Route alternative AR3 is designed to provide a direct north-south connection to approximately parallel the linear infrastructure of the proposed tailings basin and proceed directly south to the extent possible in order to connect to the existing 16 Line. The centerline of the AR3 alternative would be placed in Township 56, Range 17, Sections 17, 20 and 29.

Segment AR2/AR3 is common to both alternatives located in T56 R17 S19 & 20. From its origin, the route may parallel the railroad to accommodate necessary code clearance from the proposed tailings basin. At that point, it would approximately parallel the linear infrastructure of the proposed tailings basin such that it maintains necessary engineering code clearance for the construction and operation of the tailings basin.

Analysis of Human and Environmental Impacts

In order to provide a robust analysis of alternatives, the scope of the environmental assessment must provide an objective analysis of the human and environmental impacts of the project including those described below.

Land Ownership. The EA should identify the locations and impacted areas of state, county and private property.

Land Use. The EA should evaluate the relative suitability of the alternatives in relation to local zoning requirements (i.e. Saint Louis land use requirements zoning district requirements). Forest resources should be compared among the alternatives.

Soil Types. The EA should evaluate the soil types in relation in to the alternatives. Considerations include NWI soil data (including delineation of freshwater forested and shrub wetland areas), surficial and subsurface hydric soil classification, identification of delineated & drained wetlands and other factors identified by the US Army Corps of Engineers.

Human Settlement and Residential Land Use. Proximity analysis to human settlements should be compared among the alternatives.

Project Construction Costs. An indicative cost analysis for each alternative should be considered in the EA. This would entail multiplying the length of each alternative, adjusted to incorporate the cost of additional poles and angle structures. Data for the cost source should be taken from the applicant's most recently approved transmission costs recovery rider.

Maintenance Costs. The EA should evaluate the maintenance costs of aerial inspections for each alternative.

Engineering Constraints. The EA should identify engineering constraints related to achieving clearances identified in code surrounding existing and proposed infrastructure.

Anticipated route centerlines. In order to ensure a complete and objective analysis, the EA should identify locations that best minimize their individual impacts before any comparative analysis.