

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: March 17, 2015

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

ORDER FINDING APPLICATION  
COMPLETE, NAMING A PUBLIC  
ADVISOR, GRANTING VARIANCE,  
AND TAKING OTHER ACTION

**PROCEDURAL HISTORY**

On January 16, 2015, Minnesota Power submitted an application for a route permit for the Line 16 Reroute Project in St. Louis County. According to Minnesota Power, the project will involve the construction of an approximately 3.0-mile-long, 115 kV high-voltage transmission line. In addition, approximately three miles of existing transmission line will be taken out of service and removed to accommodate a tailing basin addition proposed by United Taconite.<sup>1</sup> Minnesota Power stated that its request was made pursuant to Minn. Stat § 216E.04 and Minn. R. 7850.2800 to 7850.3900 (the alternative permitting process).<sup>2</sup>

On January 26, 2015, the Commission issued a notice of comment period on the completeness of the application.

On February 3, 2015, the Department of Commerce, Energy and Environmental Review Analysis (EERA) staff filed comments recommending that the Commission accept Minnesota Power's application as complete. The EERA also concluded that the formation of an advisory task force at this time is not warranted.

On February 26, 2015, the Commission met to consider the matter.

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<sup>1</sup> Minnesota Power indicated in its application that the existing line is located on land leased from United Taconite and that the proposed project would be located on land owned by United Taconite, the State of Minnesota, St. Louis County, and one private landowner.

<sup>2</sup> Per the requirements of Minn. R. 7850.2800, on November 17, 2014, Minnesota Power submitted a letter to the Commission indicating its intent to submit the project under the alternative permitting process.

## **FINDINGS AND CONCLUSIONS**

### **I. Summary of Commission Action**

In this order, the Commission finds the route permit application complete, names a public advisor, and takes various procedural steps to further consideration of the project. These decisions are explained below.

### **II. Introduction**

Before building a high-voltage transmission line in Minnesota, a utility must get a route permit from the Commission.<sup>3</sup> The term “high-voltage transmission line” includes any transmission line longer than 1,500 feet that will operate at a voltage of at least 100 kilovolts.<sup>4</sup> Minnesota Power’s project qualifies as a high-voltage transmission line, triggering the route-permit requirement.

High-voltage transmission lines that operate at a voltage between 100 and 200 kilovolts are eligible for review under the alternative permitting process under Minn. R. 7850.2800 to 7850.3900. Because it will operate at 115 kilovolts, the project is eligible for the alternative permitting process.

### **III. Completeness of Application**

Under the alternative review process, an applicant must submit the items required under the full permitting process except alternative routes. The EERA reviewed the route permit application for completeness and concluded that it meets the requirements of Minn. R. 7850.3100.

The Commission has examined the record and agrees with the EERA that the application contains the information required and is therefore complete under Minn. R. 7850.3100. The Commission’s finding of completeness is as to form only; it implies no judgment on the merits of the application.

### **IV. Public Advisor**

Upon acceptance of an application for a route permit, the Commission is to designate a staff person to act as the public advisor on the project pursuant to Minn. R. 7850.3400. The public advisor is someone who is available to answer questions from the public about the permitting process. In this role, the public advisor may not act as an advocate on behalf of any person.

The Commission will designate Tracy Smetana, Minnesota Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101-2147, (651) 296-0406, to act as the public advisor in this matter.

### **V. Advisory Task Force**

The EERA evaluated several factors in analyzing whether an advisory task force should be appointed by the Commission under Minn. R. 7850.3600. The EERA analyzed the project’s size,

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<sup>3</sup> Minn. Stat. § 216E.03, subd. 2.

<sup>4</sup> Minn. Stat. § 216E.01, subd. 4.

its complexity, the anticipated controversies, and sensitive resources, and concluded that an advisory task force is not warranted at this time. Further, no person has requested that a task force be appointed for this project at this time.

The Commission concurs with the EERA's analysis and will decline to appoint an advisory task force for this project at this time.

## **VI. Variance**

Under the alternative review process, the EERA is required to prepare an environmental assessment of the project; prior to that step, the EERA is required to provide the public with an opportunity to participate in the development of the scope of the environmental assessment by holding a public meeting and by soliciting public comments.<sup>5</sup> If alternative routes are identified through the scoping process, the environmental assessment must contain information on the human and environmental impacts of both the proposed project and the alternative routes.<sup>6</sup>

Under Minn. R. 7850.3700, subp. 3, the scope of the environmental assessment must be determined by the EERA within ten days after close of the public comment period. Minn. Stat. § 216E.04, subd. 5 anticipates, however, that the Commission will have the opportunity to identify other routes for consideration prior to environmental review of a project. The statute states that the environmental assessment must contain information on the proposed project, as well as on other routes *identified by the Commission*. The rules' ten-day timeline for determining the scope of the environmental assessment after the close of the public comment period constrains the Commission's ability to evaluate public input and identify other possible routes prior to environmental review.

Under Minn. R. 7829.3200, the Commission has the authority to vary a rule if the following criteria are met:

- (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.

In this case, the Commission finds that the criteria for granting a variance to Minn. R. 7850.3700, subp. 3 are met.

- (1) Enforcement of the rule would impose an excessive burden on the public and those reasonably likely to be affected by the proposed project by limiting the Commission's ability to identify alternative routes and ensure their consideration in the environmental assessment.

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<sup>5</sup> Minn. R. 7850.3700, subp. 2, item A.

<sup>6</sup> Minn. R. 7850.3700, subp. 1.

- (2) Granting the variance would not adversely affect the public interest and would in fact serve the public interest by enabling a more comprehensive evaluation of public comment at the outset of the review process.
- (3) Granting the variance would not conflict with standards imposed by law since the ten-day timeline is set by rule, not statute, and may therefore be varied.

The Commission will therefore vary the ten-day timeline to provide sufficient time for the Commission to identify alternative routes for consideration, if any. The Commission will extend the ten-day timeline to 40 days, subject to the Executive Secretary's authority to seek additional time from the Commission.

## **VII. Next Procedural Steps**

To further the factual development of the record in this matter, the Commission will take the actions set forth below.

- Direct Commission staff to formally contact relevant state agencies to request their participation in the development of the record and public hearings under Minn. Stat. § 216E.10, subd. 3. Further, request state agencies to submit comments prior to the last day of the public hearing on this matter.
- Direct staff to electronically file a generic route permit template into the record of this proceeding.
- Request the Department to 1) begin the environmental review process and route selection, including identifying alternative site or routes; 2) conduct public scoping meetings and issue notices required in that process; and 3) perform related administrative tasks, including coordinating advisory task forces, if one is established.
- Request the Department to present draft route alternatives to facilitate Commission input to the Commissioner of Commerce on the scope of the environmental assessment prior to its issuance.

## **ORDER**

1. The Commission hereby accepts Minnesota Power's route permit application for the Line 16 Reroute Project as complete.
2. The Commission designates Tracy Smetana, Public Utilities Commission, as the public advisor in this matter.
3. The Commission hereby varies Minn. R. 7850.3700, subp. 3, extending the ten-day timeline to 40 days, and requests that the Department present draft route alternatives to facilitate Commission input into the Commissioner of Commerce's environmental assessment scoping decision.

4. The Commission requests the Department to 1) begin the environmental review process and route selection, including identifying alternative sites or routes; 2) conduct public scoping meetings and issue notices required in that process; and 3) perform related administrative tasks, including coordinating advisory task forces, if one is established.
5. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf  
Executive Secretary



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