



**Energy Facility Permitting**  
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September 12, 2012

Dr. Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101-2147

**RE: Comments and Recommendations of Department of Commerce  
Energy Facility Permitting Staff  
Docket No. ET6675/MC-12-898**

Dear Dr. Haar,

Attached are comments and recommendations of Department of Commerce, Energy Facility Permitting (EFP) staff in the following matter:

In the Matter of ITC Midwest LLC's Application for Approval of a Minor Alteration to Rebuild the Heron Lake to Lakefield Junction 161 kV Transmission Line in Jackson County, Minnesota.

The minor alteration application was filed on August 15, 2012, by:

David Grover  
ITC Midwest  
444 Cedar St., Suite 1020  
St. Paul, MN 55101

These comments are based on EFP staff's review of ITC Midwest's application and the record to date. EFP staff will review the entire record, including all public comments received on the application, and may submit additional comments to the Commission. Staff is available to answer any questions the Commission may have.

Sincerely,

A handwritten signature in black ink that reads 'Ray Kirsch'. The signature is written in a cursive, flowing style.

Ray Kirsch  
DOC EFP Staff

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**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

**COMMENTS AND RECOMMENDATIONS OF  
MINNESOTA DEPARTMENT OF COMMERCE  
ENERGY FACILITY PERMITTING STAFF**

DOCKET No. ET6675/MC-12-898

Date: September 12, 2012

EFP Staff: Ray Kirsch.....651-296-7588

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**In the Matter of ITC Midwest LLC’s Application for Approval of a Minor Alteration to Rebuild the Heron Lake to Lakefield Junction 161 kV Transmission line in Jackson County, Minnesota**

**Issues Addressed:** These comments address whether the Commission should authorize a minor alteration for the proposed rebuild of the Heron Lake to Lakefield Junction 161 kV transmission line.

**Documents Attached:**

(1) Complaint Handling Procedure

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**Introduction and Background**

On August 15, 2012, ITC Midwest, LLC (ITCM) submitted an application to the Commission for approval of a minor alteration to rebuild the Heron Lake to Lakefield Junction 161 kilovolt (kV) transmission line.<sup>1</sup> ITCM proposes to (1) reconstruct 11 miles of the existing line on new poles within the existing right-of-way, and (2) reconstruct and co-locate 6 miles of the existing line with a nearby 69 kV transmission line, creating a new segment of 161/69 kV double circuit line.

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<sup>1</sup> Application for Approval of a Minor Alteration to Rebuild the Heron Lake to Lakefield Junction 161 kV Transmission Line in Jackson County, Minnesota, ITC Midwest, LLC, August 15, 2012, eDockets Numbers [20128-77881-01](#), [20128-77881-02](#), [20128-77881-03](#), [20128-77882-01](#), [20128-77882-02](#), [20128-77882-03](#), [20128-77882-04](#), [20128-77882-05](#), [20128-77882-06](#), [20128-77882-07](#) [hereafter Minor Alteration Application].

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ITCM relates that the project is needed to address reliability, safety, and congestion concerns. The existing Heron Lake to Lakefield Junction 161 kV line was constructed in the 1950s on wooden H-frame structures. ITCM proposes replacing these structures with steel, monopole structures. ITCM notes that the 6 miles of proposed 161/69 kV double circuit line will remove the existing 161 kV line from the U.S. Fish and Wildlife Service's Timber Lake Waterfowl Production Area (WPA). This segment of double circuit line will proceed along an existing ITCM easement and along Jackson County Road 82. ITCM estimates an in-service date for the project of June 1, 2013.

## **Regulatory Process and Procedures**

A minor alteration is a change in a large electric power generating plant or high voltage transmission line that does not result in "significant changes in the human or environmental impact of the facility" (Minn. Rule 7850.4800). Minnesota Rule 7850.4800 outlines the required procedures for reviewing a minor alteration application. On August 23, 2012, the Commission issued a notice seeking public comment on ITCM's application for a minor alteration.<sup>2</sup>

The Commission may authorize the minor alteration or determine that the alteration is not minor and requires a full permitting decision (Minn. Rule 7850.4800, Subp. 3). The Commission may authorize the minor alteration but impose reasonable conditions on the approval (Minn. Rule 7850.4800, Subp. 3).

## **EFP Staff Analysis and Comments**

### ***Minor Alteration***

Department of Commerce, Energy Facility Permitting (EFP) staff has reviewed ITCM's minor alteration application and the record of public comments to date. Based on the application and record, EFP staff believes that the proposed project would not result in significant changes in the human or environmental impacts of ITCM's existing Heron Lake to Lakefield Junction 161 kV transmission line and is eligible for authorization as a minor alteration.

Minnesota Rule 7850.4800 provides a succinct but relatively unavailing standard for evaluating minor alteration applications – whether the proposed project will result in significant changes in the human and environment impacts of the existing facility. Thus, to flesh out this standard, EFP staff utilized the routing criteria of Minnesota Rule 7850.4100. These are the criteria considered by the Commission in permitting a new high voltage transmission line. These criteria provide appropriate detail for evaluating the significance of potential human and environmental impacts. For example, Minnesota Rule 7850.4100, subpart A, notes that an evaluation of impacts to human settlements should include impacts related to displacement, noise, aesthetics, cultural values, recreation, and public services.<sup>3</sup>

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<sup>2</sup> Notice of Comment Period on Minor Alteration Application, August 23, 2012, eDockets Number [20128-78054-01](#)

<sup>3</sup> Minnesota Rule 7850.4100, <https://www.revisor.mn.gov/rules/?id=7850.4100>.

EFP staff believes that for most all of the criteria of Minnesota Rule 7850.4100, the anticipated incremental impacts of ITCM's proposed rebuild will be minimal or positive. These criteria address impacts related to:

- Human settlements (displacement, noise, cultural values, recreation, public services),
- Public health and safety,
- Land-based economies (agriculture, forestry, tourism, and mining),
- Archaeological and historic resources,
- Natural environment (air quality, flora),
- Rare and unique natural resources,
- Electrical system reliability.

Additionally, EFP staff believes that there are criteria of Minnesota Rule 7850.4100 that are well met by the proposed rebuild. These criteria are:

- Use or paralleling or existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries,
- Use of existing transportation, pipeline, and electrical transmission systems or rights-of-way.

There are three criteria for which EFP staff believes incremental impacts will be minimal if mitigated as described in ITCM's application: (1) aesthetic impacts, (2) impacts to wetlands and streams, and (3) impacts to avian species.

**Aesthetic Impacts.** The transmission line structures proposed for the project will be significantly taller than existing structures – single circuit 161 kV structures will be approximately 25 ft. taller; double circuit 161/69 kV structures will be approximately 40 ft. taller. These changes in structure height will result in an incremental aesthetic impact; i.e., the structures will be more visible to residents. To some extent, the aesthetic impact will be mitigated by placement of the taller structures within existing rights-of-way. Additionally, there are relatively few residences along the proposed route for the project and approximately 50 percent of these residences have shelterbelts between the residence and the proposed route. Thus, though there will be an aesthetic impact, this impact is anticipated to be minimal and not a significant change.

**Impacts to Wetlands and Streams.** Impacts to the Timber Lake WPA and associated wetlands and streams will occur due to construction of the project, i.e., entering the WPA to remove existing structures. ITCM indicates that it will coordinate with the U.S. Fish and Wildlife Service (USFWS) to ensure that removal of existing structures from the WPA is done in a manner that avoids and mitigates impacts.<sup>4</sup> ITCM relates that the proposed removal of the existing 161 kV line from the Timber Lake WPA and its co-location with an existing 69 kV line is a routing solution which has been developed in collaboration with the USFWS and has the support of the agency.<sup>5</sup> This support suggests that, on balance, and recognizing that impacts will

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<sup>4</sup> Minor Alteration Application.

<sup>5</sup> Id.

occur with the removal of existing structures, such a removal is the preferable option. EFP staff concurs in this USFWS analysis and believes that impacts to wetland and streams in the Timber Lake WPA can be mitigated such that they will be minimal and not a significant change.

**Impacts to Avian Species.** In the area of the Timber Lake WPA, ITCM's proposed rebuild replaces two parallel transmission lines, one of which directly crosses the WPA, with one relatively taller, double circuit transmission line on the edge of the WPA. ITCM indicates that it has consulted with the Minnesota Department of Natural Resources (DNR) concerning the project and that ITCM will be installing bird diverters on the new 161/69 kV double circuit line along the WPA.<sup>6</sup>

Avian fatalities due to collisions with transmission lines are related to a number of factors, including the proximity of the lines to nesting and feeding habitat, the number of lines, the configuration of the lines on structures, and mitigation strategies such as bird diverters. EFP staff believes that ITCM's proposed rebuild may lead to a reduction in avian fatalities by removing a line from high value nesting and feeding habitat, reducing the number of lines at the WPA (from two to one) and by employing bird diverters. EFP staff believes that any incremental impacts to avian species resulting from the project will be minimal and not a significant change.

Finally, there are two additional considerations which argue that the incremental impacts of ITCM's proposed rebuild are not a significant change. First, 11 miles of the existing 161 kV transmission line (65 percent of the project's total length) will be rebuilt on the existing right-of-way. Thus, incremental impacts will be minimal and related primarily to construction. This segment of the project, were it to be considered as a separate element, would be exempt from Commission permitting requirements (Minn. Rule 7850.1500).

Second, ITCM indicates that it has negotiated voluntary easements with landowners along the proposed 161/69 kV double circuit segment of the project, and is not aware of any landowner objections to the project. This lack of objections may be considered an indication of how landowners perceive the significance (or not) of the impacts of the project. Here, the voluntary easements and lack of objections support a conclusion that the incremental impacts of the project are not a significant change.

### ***Conditions***

ITCM is proposing a substantial construction project – the rebuilding of a 17 mile long transmission line. Accordingly, EFP staff believes it would be appropriate to include conditions on any authorization of ITCM's minor alteration request – specifically, conditions addressing (1) use of a complaint procedure, (2) notice to landowners, and (3) notice to the Commission, as described below:

1. **Complaint Procedure.** Prior to the start of construction, ITCM shall submit to the Commission the procedure that will be used to receive and respond to complaints. The

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<sup>6</sup> Id. ITCM indicates that bird diverters will be placed on that portion of the line which parallels the WPA, including Section 19 of Delafield Township and Section 24 of Weimer Township.

procedure shall be in accordance with the requirements set forth in the Commission's standard complaint handling procedure (attached).

2. **Notification to Landowners.** ITCM shall provide all affected landowners with a copy of the Commission's order authorizing a minor alteration. ITCM shall provide all affected landowners with a copy of the complaint procedure upon contacting landowners to begin construction.
3. **Notification to Commission.**
  - a. At least ten days before the rebuilt line is to be placed into service, ITCM shall notify the Commission of the date on which the line will be placed into service and the date on which construction was complete.
  - b. Within 60 days after completion of construction, ITCM shall submit to the Commission geo-spatial information for all above ground structures associated with the project.

### **EFP Staff Recommendation**

EFP staff recommends that the Commission authorize ITCM's request for a minor alteration to rebuild the Heron Lake to Lakefield Junction 161 kV transmission line with the conditions noted above.

**MINNESOTA PUBLIC UTILITIES COMMISSION  
COMPLAINT HANDLING PROCEDURES  
FOR  
HIGH VOLTAGE TRANSMISSION LINES**

**1. Purpose:**

To establish a uniform and timely method of reporting complaints received by the permittee concerning permit conditions for site preparation, construction, cleanup and restoration, operation, and resolution of such complaints.

**2. Scope:**

This document describes complaint reporting procedures and frequency.

**3. Applicability:**

The procedures shall be used for all complaints received by the permittee and all complaints received by the Commission under Minn. Rule 7829.1500 or 7829.1700 relevant to this permit.

**4. Definitions:**

Complaint: A verbal or written statement presented to the permittee by a person expressing dissatisfaction or concern regarding site preparation, cleanup, restoration, or other transmission line route permit conditions. Complaints do not include requests, inquiries, questions, or general comments.

Substantial Complaint: A written complaint alleging a violation of a specific route permit condition that, if substantiated, could result in permit modification or suspension pursuant to the applicable regulations.

Unresolved Complaint: A complaint which, despite the good faith efforts of the permittee and a person(s), remains to both or one of the parties unresolved or unsatisfactorily resolved.

Person: An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

**5. Complaint Documentation and Processing:**

- A) The permittee shall designate an individual to summarize complaints for submission to the Commission. This person's name, phone number and e-mail address shall accompany all complaint submittals.
- B) A person presenting a complaint should to the extent possible, include the following information in their communications:
  - 1. Name of complainant, address, phone number, and e-mail address.
  - 2. Date of complaint
  - 3. Tract or parcel number
  - 4. Whether the complaint relates to (1) a route permit matter, (2) a transmission line and associated facility issue, or (3) a compliance issue.
- C) The permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
  - 1. Docket number and project name
  - 2. Name of complainant, address, phone number, and e-mail address
  - 3. Precise property description or parcel number
  - 4. Name of permittee representative receiving complaint and date of receipt.
  - 5. Nature of complaint and the applicable route permit conditions(s).
  - 6. Activities undertaken to resolve the complaint.
  - 7. Final disposition of the complaint.

**6. Reporting Requirements:**

The permittee shall report all complaints to the Commission according to the following schedule:

**Immediate Reports:** All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to the Commission's Consumer Affairs Office at 1-800-657-3782 or [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us). Voice messages are acceptable. For email reporting, the email subject line should read "EFP Substantial Complaint" and include the appropriate project docket number.

**Monthly Reports:** By the 15th of each month, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be eFiled to Dr. Burl W. Haar, Executive Secretary, Public Utilities Commission, using the State of Minnesota eDockets system.

If no Complaints were received during the preceding month, the permittee shall submit (eFile) a summary indicating that no complaints were received.

The permittee shall commence and continue to file monthly reports from the time of permit issuance through the 12 months following the notice of project completion. Thereafter, the permittee shall file a complaint report with the Commission within 14 days of the receipt of a new complaint through the term of the permit.

**7. Complaints Received by the Commission or Department of Commerce:**

Complaints received directly by the Commission or Department from aggrieved persons regarding site preparation, construction, cleanup, restoration, operation, and maintenance shall be promptly sent to the permittee.

**8. Commission Process for Unresolved Complaints:**

Commission staff shall perform an initial evaluation of unresolved complaints submitted to the Commission. Complaints raising substantial transmission line route permit issues shall be processed and resolved by the Commission. Staff shall notify the permittee and appropriate person(s) if it determines that the complaint is a substantial complaint. With respect to such complaints, each party shall submit a written summary of its position to the Commission no later than ten days after receipt of the staff notification. The complaint will be presented to the Commission for a decision as soon as practicable.

**9. Permittee Contact for Complaints and Complaint Reporting**

The permittee will eFile the permittee's contact person for complaints within 14 days of the order granting a route permit. The permittee will include the contact person and their associated contact information (mailing address, phone number, and email address) in the permit mailing to landowners and local governments.