

The Commission met on **Thursday, September 21, 2006**, with Chair Koppendray and Commissioners Nickolai, Pugh and Reha present.

Comment [COMMENT1]: Minutes by Eric Witte, Marcia Johnson, and Peter Brown. 7 motions were made.

The following matters were taken up by the Commission:

ENERGY

E-015/M-06-861

In the Matter of an Amendment to the Amended and Restated Electric Service Agreement Between United States Steel Keewatin Taconite and Minnesota Power

Commissioner Nickolai moved to do the following:

1. Approve the petition to amend and restate the electric service agreement between United States Steel Keewatin Taconite (Keewatin) and Minnesota Power.
2. Vary Minnesota Rules part 7825.3200 to allow the proposed amendment to take effect on May 1, 2006.
3. Require Minnesota Power to provide the following information in its 2007 annual automatic adjustment report:
 - An annual comparison between the total cost Minnesota Power actually charges to Keewatin during recall periods and the total cost that Minnesota Power would have charged to Keewatin if the charges were based strictly on the locational marginal price from the Midwest Independent Transmission System Operator, Inc., during the recall periods and for the year.
 - Calculations and supporting evidence showing how this agreement affects the rates charged to other Minnesota Power customers.

The motion passed 4-0.

E-001/M-06-935

In the Matter of Interstate Power and Light Company's Request for a Variance from Commission Rules Relating to Fuel Clause Adjustments

Commissioner Reha moved to do the following:

1. Grant the request of Interstate Power and Light Company (IPL) for a variance from Minnesota Rules part 7825.2400, subparts 8 and 9, to permit the inclusion of switchgrass as a fuel cost to be included in the monthly fuel adjustment calculation.
2. Direct IPL to file the results of the impending tests ("Campaign 3") when available, and to continue providing information comparing the costs of switchgrass used with those of other resources displaced by the use of switchgrass.

The motion passed 4-0.

E-002/M-05-1887

In the Matter of the Petition of Northern States Power Company d/b/a Xcel Energy for Approval of a Community-Based Energy Development Tariff

Commissioner Pugh moved to issue an Order waiving the 12 megawatt (MW) competitive bidding requirement established in the Commission's ORDER ACCEPTING COMPANY'S PROPOSAL WITH MODIFICATIONS AND REQUIRING FURTHER FILINGS (August 18, 2004) in Docket Nos. E-002/CI-93-6 and E-002/PR-93-630 when Northern States Power Company d/b/a Xcel Energy enters a power purchase agreement with a qualifying Community-Based Energy Development project.

The motion passed 4-0.

E-017/CN-06-677

In the Matter of the Application for a Certificate of Need for the Appleton-Canby 115kV High Voltage Transmission Line

Commissioner Nickolai moved to do the following:

3. Accept the Certificate of Need application submitted by Otter Tail Power Company (Otter Tail Power) as substantially complete, but require Otter Tail Power to provide additional information, including –
 - the major assumptions made in providing the information;
 - the number of customers for all customer classes combined;
 - the estimated annual revenue requirement per kilowatt-hours (kWh) for the system in current dollars;
 - a plot of the difference between the adjusted net capability and actual, planned, or estimated maintenance outages of generation and transmission facilities;
 - the anticipated consequences to the power pool should the proposed facility be delayed one, two, or three years;
 - a description of the changes in several resource requirements due to the no-build alternative; and
 - measures that would reduce the impact of the no-build alternative.
2. Combine the environmental review of the Certificate of Need process with the Environmental Assessment of the routing proposal.
3. Combine the public hearings of the Certificate of Need process with those required under the route permitting process.
4. Adopt a review process which shall begin with a comment and reply period. Scheduling authority for the review process is delegated to the Executive Secretary. If material contested facts are identified and any party requests a contested case proceeding by the date reply comments are due, the matter will be brought back to the Commission for expeditious referral to the Office of Administrative Hearings for a contested case proceeding.

5. Ask an Administrative Law Judge to conduct the required public hearing(s) and file a summary of those hearings with the Commission.

The motion passed 4-0.

E-017/TL-06-1265

In the Matter of the Application for a Route Permit for the Appleton to Canby 115kV High Voltage Transmission Line

Commissioner Nickolai moved to do the following:

6. Accept Otter Tail Power's transmission line route permit application under the alternative review process as complete.
7. Authorize the Minnesota Department of Commerce Energy Facilities Permitting (EFP) staff to name a public advisor in this case.
8. Determine that an advisory task force is not necessary.
9. Combine the environmental review documents and procedures in this docket and Docket No. E-017/CN-06-677 *In the Matter of the Application for a Certificate of Need for the Appleton-Canby 115kV High Voltage Transmission Line* as allowed by Minnesota Rules part 4410.7060 and authorize the EFP staff to initiate and conduct the environmental review process.
10. Join the public hearings in this docket and Docket Nos. E-017/CN-06-677 and authorize the EFP staff and Commission staff to request assignment of an Administrative Law Judge to schedule, notice, and preside over the joint public hearing(s) and implement other actions necessary to carry out the hearing process.

The motion passed 4-0.

E-002/TL-06-459

In the Matter of the Application of Xcel Energy for a Transmission Route Permit Under the Alternative Permitting Process for the Canon Falls Transmission Line Project in Goodhue and Dakota Counties

Commissioner Pugh moved to approve and adopt the proposed FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER which does the following:

1. Determines that the environmental assessment and the record created at the public hearing address the issues identified in the Environmental Assessment Scoping Decision (June 14, 2006).
2. Designates a corridor for the construction of a 0.98 mile (5,170 feet) double circuit 115 kilovolt (kV)/115 kV transmission line, 1.3 miles (6,945 feet) of two single circuit 115 kV transmission lines and the construction of a 161 kV/115 kV substation as proposed in Xcel Energy's High-Voltage Transmission Line (HVTL) Route Permit Application dated April 25, 2006.

3. Issues a HVTL route permit to Xcel Energy.

The motion passed 4-0.

ET-2/CN-06-857

In the Matter of the Application of Great River Energy and Others for a Certificate of Need for the CapX Brookings, S.D. -- Southeast Twin Cities 345-kV Transmission Project

E-002/CN-06-979

In the Matter of the Application of Northern States Power Company (d/b/a Xcel Energy) and Others for a Certificate of Need for the CapX Twin Cities-Rochester-La Crosse 345-kV Transmission Project

E-002/CN-06-1115

In the Matter of the Application of Northern States Power Company (d/b/a Xcel Energy) and Others for a Certificate of Need for the CapX Fargo-Alexandria-St. Cloud-Monticello 345-kV Transmission Project

Commissioner Nickolai moved to do the following:

1. Find that the utilities may include whichever facilities they wish in the application, but that the notices should identify all of those facilities and should include an overview map of all of those facilities.
2. Decline to address whether a joint hearing is required under the statutes because in the instant case a joint hearing is not likely to be feasible, more efficient than separate need and routing hearings, or in the public interest.
3. Direct the applicants to including the following information in their notices: The Commission plans to conduct two proceedings, a Certificate of Need proceeding to determine what facilities are needed, and a Route Permit proceeding to determine where the facilities should be built. Public participation is encouraged. Comments regarding need should be raised during the Certificate of Need proceeding. Comments regarding routing should be raised in the Route Permit proceeding.
4. Find that the language of the rules, the magnitude of the projects and the current status of planning warrants giving notice throughout the corridors identified by the applicants.
5. Direct the utilities at the notice plan stage to identify each of the applicants in the CapX proposal, including each applicant's address. Utilities may also list a lead contact for each of the transmission lines.
6. Vary Minnesota Rules part 7829.2550, subpart 6, using the three-part test in Minnesota Rules part 7829.3200 to allow the utilities to delay effecting the notice plan until closer to the time of application.

7. Find that the language submitted by the North American Water Office (NAWO) is inappropriate for a notice at this stage of a certificate of need proceeding.
8. Reject the proposed language submitted by Windustry to refine the project description.
9. Accept the proposed language changes submitted by Windustry to characterize more appropriately the nature of the certificate of need process, as follows:

A. Notice to be mailed to landowners, residents and local officials:

Our proposed transmission lines ~~cannot~~ will not be constructed unless the Minnesota Public Utilities Commission determines that the lines are needed and issues ~~without first obtaining~~ a Certificate of Need and Route Permits ~~from the Minnesota Public Utilities Commission.~~

B. Notice to be published in newspapers:

~~Before these~~ These lines ~~can be~~ will be built only if the Minnesota Public Utilities Commission determines that the ~~certify that the~~ lines are needed by issuing through a Certificate of Need process. If the Commission determines that the lines are needed, the Commission will also and then must determine where the lines should be located by issuing Route Permits.

10. Accept the Windustry proposal to delete the following language to remove industry advocacy with respect to need:

It has been some time since major new transmission infrastructure has been developed in Minnesota, and the existing system is reaching its capacity. New lines will be needed to meet the growing demand for electricity.

11. Direct the applicants to file a final copy of the notices and proof that the notice plan has been carried out in a timely fashion, including a list of the names and addresses of landowners, residents, and local and tribal governments receiving direct mailed notice.
12. Direct the applicants to refer to Docket No. ET-2, E-002, etc./CN-06-1115 *In the Matter of the Application of Great River Energy, Northern States Power Company (d/b/a Xcel Energy) and Others for a Certificate of Need for the CapX 345-kV Transmission Projects* in the notices and for future filings beyond the notice plans (e.g., for an exemption request filing and for the certificate of need application itself).
13. Direct applicants in Docket No. ET-2/CN-06-857 to modify their notice plan for the CapX Brookings, S.D. -- Southeast Twin Cities 345-kV Transmission Project as follows:

- A. They shall also publish notice in the Lakeville/Farmington *This Week* and the Renville *County Star Farmer News*.
- B. They shall also give governmental notice to the cities of Cologne, Hamburg, Biscay, Hendricks, Ghent, Seaforth, Heidelberg, and New Trier.
- C. They shall add to the governmental notice a description of general right-of-way requirements as well as a statement that the applicants intend to acquire property rights.
- D. They shall add a statement in the newspaper notice that the Department will be preparing an environmental report.
- E. In the notices mailed to landowners, residents and local officials, the applicants shall identify 1) any Certificate of Need filing requirement from which the Commission has granted the applicants an exemption pursuant to Minnesota Rules part 7849.0200, subpart 6, and 2) the site on the World Wide Web where the order granting the exemption may be found. Alternatively, if the applicants issue their notice before that order has been issued, the applicants shall add to the landowner, resident and governmental notices a description of the Certificate of Need filing requirements from which the Applicants seek or will seek exemptions.
- F. The notice shall address the entire transmission project for which the applicants will seek to demonstrate need in their coming Certificate of Need application. The applicants shall provide in the notices a map disclosing the entire scope of the project and show the end points of the line(s), include existing transmission facilities, and have proper titles and captions.
- G. The applicants shall change the first paragraph of the notice to be mailed to landowners, residents and local officials to state that the applicants are "writing to inform you of plans for the construction of new transmission lines...."
- H. The applicants shall change the first paragraph of the notice to be published in newspapers to state that they "propose to build invest in major new electric transmission infrastructure."
- I. The applicants shall change the second paragraph of all their notices to disclose the entire transmission project for which the applicants will seek to demonstrate need in their Certificate of Need application.
- J. The applicants shall change the language of the notice to be mailed to landowners and residents as follows: "...will work with affected landowners to and acquire easements for the transmission line."
- K. The applicants shall omit the phrase "*et seq.*" and instead identify the range of statutes and rules to which they are referring.

- L. The applicants shall add to the notice to be mailed to landowners, residents and local officials the following phrases: 1) "You can provide written comments to the Commission at several points in the process, and there will be public meetings and hearings in your area during the coming year." 2) "Applicants encourage you to get involved in these important electric energy decisions."
14. Direct applicants in Docket No. E-002/CN-06-979 to modify their notice plan for the CapX Twin Cities-Rochester-La Crosse 345-kV Transmission Project as follows:
- A. They shall also publish notice in the Prairie Island Indian Community newspaper *Tinta Winta*.
- B. They shall add to the governmental notice a description of general right-of-way requirements as well as a statement that the applicants intend to acquire property rights. In addition, they shall include copies of the letters to landowners and residents.
- C. The notice plan shall address the entire transmission project for which the applicants will seek to demonstrate need in their coming Certificate of Need application. The notice shall include a map with proper titles and captions, disclosing the entire scope of the project, the end points of the line(s), and existing transmission facilities.
- D. In the notices mailed to landowners, residents and local officials, the applicants shall identify any 1) Certificate of Need filing requirement from which the Commission has granted the applicants an exemption pursuant to Minnesota Rules part 7849.0200, subpart 6, and 2) the site on the World Wide Web where the order granting the exemption may be found. Alternatively, if the applicants issue their notice before that order has been issued, the applicants shall add to the landowner, resident and governmental notices a description of the Certificate of Need filing requirements from which the Applicants seek or will seek exemptions.
- E. The applicants shall change the first paragraph of the notice to be mailed to landowners, residents and local officials to state that the applicants are "writing to inform you of plans for the construction of new transmission lines...."
- F. The applicants shall change the first paragraph of the notice to be published in newspapers to state that they "propose to build ~~invest in~~ major new electric transmission infrastructure."
- G. The applicants shall omit the phrase "*et seq.*" and instead identify the range of statutes and rules to which they are referring.
- H. The applicants shall add to the notice to be mailed to landowners, residents and local officials the following phrases: 1) "You can provide written comments to the Commission at several points in the process, and there will be public meetings and

- hearings in your area during the coming year.” 2) “Applicants encourage you to get involved in these important electric energy decisions.”
15. Direct applicants in Docket No. E-002/CN-06-1115 to modify their notice plan for the CapX Fargo-Alexandria-St. Cloud-Monticello 345-kV Transmission Project as follows:
 - A. They shall also give governmental notice to the cities of Brooten and St. Augusta and ensure that the Rockville and St. Augusta areas are accurately depicted on the maps.
 - B. The notices shall state how people may add themselves to official mailing lists for this matter.
 - C. In the notices mailed to landowners, residents and local officials, the applicants shall identify 1) any Certificate of Need filing requirement from which the Commission has granted the applicants an exemption pursuant to Minnesota Rules part 7849.0200, subpart 6, and 2) the site on the World Wide Web where the order granting the exemption may be found. Alternatively, if the applicants issue their notice before that order has been issued, the applicants shall add to the landowner, resident and governmental notices a description of the Certificate of Need filing requirements from which the Applicants seek or will seek exemptions.
 - D. The applicants shall change the first paragraph of the notice to be mailed to landowners, residents and local officials to state that the applicants are "writing to inform you of plans for the construction of several new transmission lines...."
 - E. The applicants shall change the first paragraph of the notice to be published in newspapers to state that they "propose to build several ~~invest in~~ major new electric transmission lines."
 - F. The notice plan shall address the entire transmission project for which the applicants will seek to demonstrate need in their coming Certificate of Need application, and shall state the length in miles of each segment of the project, matching the descriptions set forth in the initial notice plan filings.
 - G. The applicants shall add to the notice to be mailed to landowners, residents and local officials the following sentences: 1) “You can provide written comments to the Commission at several points in the process, and there will be public meetings and hearings in your area during the coming year.” 2) “Applicants encourage you to get involved in these important electric energy decisions.”
 16. Direct the applicants to standardize the notices in Docket Nos. ET-2/CN-06-857, E-002/CN-06-979 and E-002/CN-06-1115 so that substantially identical language is used in each type of notice sent out to advise people of the Certificate of Need application.
 17. Approve the notice plans, as modified, subject to a final review by Commission staff of text, maps, mailing plans, and publication plans for consistency with this Order. Direct

staff to provide an opportunity for parties to review and comment on the notice plan before completing its review.

18. Direct the applicants to give notice throughout Welsh Township in Goodhue County, and Ravenna Township in Dakota County, about their proposed construction plans.
19. Direct the applicants to give notice of their construction plans to the public utilities commissions in neighboring states.
20. Direct the applicants to review the colors used on its maps to ensure that they are easy to read, and to label the amount of kilovolts carried by the direct current lines.

The motion passed 4-0.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION: NOVEMBER 22, 2006

Burl W. Haar, Executive Secretary