

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of an Application by Hutchinson
Utilities Commission for a Certificate of Need
to Construct a Large Natural Gas Pipeline

ISSUE DATE: December 24, 2001

DOCKET NO. G-252/CN-01-1826

ORDER EXTENDING PERIOD TO
DETERMINE ADEQUACY OF FILING

PROCEDURAL HISTORY

On December 13, 2001, the Hutchinson Utilities Commission (Hutchinson or the Applicant) submitted its application for a certificate of need. Hutchinson proposes to construct, own and operate an 89 mile long natural gas pipeline between Trimont, Minnesota and Hutchinson, Minnesota. The proposed pipeline is a "large energy facility" as defined in Minn. Stat. § 216B.2421, subd. 2(4). Therefore, Hutchinson must receive a certificate of need prior to construction under the provisions of Minn. Stat. § 216B.243.

Under Minnesota Rules, part 7851.0200, subp.7, the Commission is required to notify an applicant within 15 days of receipt of an application if the application is not substantially complete.

On December 18, 2001, the Commission met to consider this issue.

FINDINGS AND CONCLUSIONS

I. Hutchinson's Proposed Pipeline

The 89 mile long pipeline between Trimont, Minnesota and Hutchinson, Minnesota will connect with the Northern Border Pipeline Company in Martin County, Minnesota and provide an alternative to the Northern Natural Gas Company Pipeline. The pipeline will be used to transport natural gas to the City of New Ulm, New Ulm's electric generating facilities, the City of Hutchinson and Hutchinson Utilities Commission's electric generating facilities.

The proposed pipeline will be designed for a capacity of 60,000 Mcf/day through 46 miles of 16-inch diameter pipe (from Trimont to New Ulm) and 40,000 Mcf/day through 43 miles of 12-inch diameter pipe (from New Ulm to Hutchinson). The cost of this project has been estimated to be approximately 26 million dollars. Hutchinson proposes to begin construction in May, 2003 and have the pipeline in service by November, 2003.

II. Party Positions

A. Department of Commerce (DOC)

The DOC requested additional time to review the application for completeness. The DOC argued that, in fairness both to the DOC and the Applicant, the DOC should be permitted to complete its review for completeness. Because of the very short time-frame, it has not been possible for the DOC to complete this review.

B. The Applicant

The Applicant indicated its willingness to provide anything that was requested by the DOC. The Applicant requested that the procedure be allowed to go forward and that the matter be referred to the Office of Administrative Hearings for a contested case proceeding.

III. The Completeness Review

Minnesota Rules, part 7851.0200, subp.7 provides, in part, that the Commission notify an applicant within 15 days of the receipt of an application if the application is not substantially complete. Further, Minn. Rules, part 7829.2500, subp.7, in part, provides that a filing not rejected within 15 days must be considered accepted as in substantial compliance with applicable filing requirements.

The purpose of the completeness review is to ensure that the filing contains the kind and depth of information to begin the review process. It is meant to avoid using significant portions of the time allotted to the decision maker for the review process to be spent obtaining information that should have been in the filing.

IV. Commission Action

Since the deadline for informing Hutchinson of inadequacies in its filing is set by rule, extending the deadline requires a rule variance. The Commission may grant a variance to any of its rules upon finding that the following conditions apply:

- enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- granting the variance would not adversely affect the public interest;
- granting the variance would not conflict with standards imposed by law.

Minn. Rules, part 7829.3200.

The Commission finds that the requirements for granting a variance are met in this case.

Enforcing the 15 day initial review period would impose an excessive burden upon the Commission, the public, and upon parties to the proceeding. It would force the Commission to forgo its standard practice of considering comments on the adequacy of the filings as complex as the present one. Such comments are especially necessary here where the law requires a final

determination within six months of the date of the Applicant's filing.¹ If the Commission and intervening parties are to have adequate opportunity for meaningful review of the proposal, it is essential that any inadequacies in the filing be detected and remedied early.

Extending the 15 day initial review period would not adversely affect the public interest. In fact, it would serve the public interest by ensuring adequate examination of Hutchinson's filing within the statutory time frame.

Finally, extending the initial review period would not work to the detriment of any party or conflict with any standards imposed by law.

The Commission will therefore extend the initial review period to enable the DOC to complete its review of the filing. It is the Commission's intent to take up the issue of the completeness of the Applicant's filing at its January 3, 2002 agenda meeting.

ORDER

1. The provisions of Minn. Rules, parts 7829.2500, subp.7 and 7851.0200, subp.7 are hereby varied to allow parties more time to complete this review.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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¹ Minn. Stat. § 216B.243, subd.5 and Minn. Rules, part 7851.0200, subp.6.