

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott	Chair
Edward A. Garvey	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayner	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of Transmission Projects Reports
and Development of Certified List of
Transmission Line Projects

ISSUE DATE: March 20, 2002

DOCKET NO. E-999/TL-01-961

In the Matter of Rulemaking to Develop Rules
Governing Biennial Transmission Projects
Reports Under Minn. Stat. § 216B.2425

DOCKET NO. E-999/R-02-327

ORDER REQUIRING SUPPLEMENTAL
FILING, INITIATING COMMENT AND
REPLY PERIOD, AND OPENING
RULEMAKING DOCKET

PROCEDURAL HISTORY

The 2001 Legislature established the new biennial transmission projects approval process. Among other things, the legislation requires entities owning transmission facilities to file a transmission projects report with the Commission by November 1 of each odd-numbered year. See Minn. Stat. § 216B.2425, subd. 2 (2001).

On October 18, 2001, East River Electric Power Cooperative filed a letter indicating that it has no system inadequacies or high voltage transmission projects to report.

On October 29, 2001, Northwestern Wisconsin Electric Company filed a letter indicating that it has no plans for construction of transmission facilities in the reasonably foreseeable future.

On November 1, 2001, Moorhead Public Service filed a letter describing its system and indicating that it has no specific transmission system inadequacies to report.

On November 1, 2001, ten utilities (Minnesota Transmission Owners or MTO) jointly filed their report with the Commission. While the utilities described a number of transmission projects allegedly needed over the next several years, they did not ask certification of any of those projects during this cycle of the new process.

On November 1, 2001, Public Energy, Inc.¹ (PEI) also filed a transmission plan. PEI submitted a plan to maximize regional benefits of wind energy exports from southwestern Minnesota. PEI requested that its proposal be certified under the state's transmission plan statute. The proposal includes a number of low-voltage line additions or modifications and two new substations.

On November 5, 2001, Communities United for Responsible Energy (C.U.R.E.) and Minnesota Project (CURE-MP) submitted a transmission concept proposal for consideration in future transmission line proceedings, along with other recommendations for consideration by the Commission and the Department of Commerce (the Department).

On November 15, 2001, the Commission requested comments from interested persons.

On November 19, 2001, the Commission issued its ORDER DENYING RULEMAKING PETITION AND CONVENING WORKING GROUP.

Initial procedural comments were received from the following entities/persons: the Department, Northern States Power Company d/b/a Xcel Energy (Xcel), MTO, the Minnesota Environmental Quality Board Staff (EQB Staff), and the Izaak Walton League of America (IWLA), all on December 17, 2001; the Institute for Local Self-Reliance (ILSR) on December 18, 2001; Carol A. Overland on December 19, 2001; and C.U.R.E. on December 26, 2001.

On December 24, 2001, the Commission issued its ORDER DENYING PETITION AND EXPANDING THE SCOPE OF RECOMMENDATIONS OF THE WORKING GROUP.

On January 4, 2002, PEI submitted additional cost information for its November 1, 2001 proposal.

Reply and/or additional comments were received from the following entities/persons: John and Laura Reinhardt on January 9 and 10, 2002; Mark Oberg on January 9 and 11, 2002; the EQB Staff, MTO, and the North American Water Office (NAWO) on January 11, 2002; the Southwest Minnesota Energy Task Force (Task Force) on January 14, 2002; the ILSR on January 15, 2002; the Department on January 15, 2002; and C.U.R.E. on January 22, 2002.

The Commission met to consider this matter on February 28, 2002.

¹ The filing states: "Public Energy, Inc. is a Minnesota corporation established to engage in general business practices, including to act as a generation or transmission organization to serve local load and/or serve utilities that own or operate electric transmission lines in Minnesota, regionally, and elsewhere; to promote local energy development through energy planning and policy development, utilization of established and emerging renewable technologies; and for promotion and development of broadly dispersed generation."

FINDINGS AND CONCLUSIONS

I. INTRODUCTION

This docket concerns various aspects of the transmission projects approval process established in Minn. Stat. § 216B.2425, subd. 2 (2001).

This Order will address issues raised by three filings in this matter: 1) the MTO's joint report; 2) PEI's proposal; and 3) a transmission concept proposal jointly submitted by C.U.R.E. and the Minnesota Project.

In addition, the Order will open a rulemaking proceeding to provide guidance for the biennial transmission projects approval process required by Minn. Stat. § 216B.2425, subd. 2 (2001).

II. THE MTO'S JOINT REPORT

On November 1, 2001, ten utilities (Minnesota Transmission Owners or MTO) jointly filed their biennial transmission projects report with the Commission. While the utilities described a number of transmission projects allegedly needed over the next several years, they did not ask certification of any of those projects during this cycle of the new process.

MTO indicated that the November 1 filing deadline allowed insufficient time for utilities to prepare and assemble the information necessary to receive project approvals. MTO indicated, however, that its filing provided important information on issues affecting transmission planning in Minnesota.

III. THE COMMISSION'S ANALYSIS AND ACTION REGARDING THE MTO'S JOINT REPORT

The Commission has fully considered the comments of the parties. While recognizing that the MTO has not requested certification of any project at this time, the Commission will take this opportunity to promote a full and proper record for their next biennial filing by prescribing activity in three areas. The Commission will require the utilities to file supplemental information by the end of March, will establish a comment period for the end of April, and will direct the utilities to hold public hearings or meetings in preparation for making their next transmission plan filing (November 2003).

A. Supplemental Information

It is reasonable to expect the utilities to provide supplemental information to support their joint filing. The MTO's current filing does not provide sufficient discussion of needs, public input in the planning process, alternative ways of meeting needs, and specific information on alternatives (e.g., in the areas of cost, reliability measures, and environmental and social impacts) to be able to

certify any of the indicated projects. At a minimum, in preparing for meetings with the general public and in drafting their next biennial submission, the utilities should consider the comments filed in the current docket requesting such information.

Accordingly, the Commission will require the utilities to provide supplemental information on these subjects. To ensure comprehensive evaluation of all alternatives before their next biennial transmission projects filing, the Commission will require the utilities to file this supplemental information by the end of March 2002.

Specifically, the utilities will be directed to provide supplemental information, to the extent they are able, in the following areas:

1. the website address where the Mid-Continent Area Power Pool's (MAPP's) 2001 Update to the 2000 Regional Plan is available;
2. identification of projects by more sharply defined geographical areas (e.g., county) and by dates of need;
3. identification of any near-term projects that the utilities believe are needed to maintain or enhance reliability, the dates of expected certificate of need applications for those projects, and any response to the contention that the Commission could and should consider certifying such projects even in the absence of a utility's request;
4. a listing of projects that the utilities believe are exempt by virtue of having one or more applications pending before local governments by August 1, 2001;
5. a listing of projects likely to be submitted for certification in the filing or filings due November 1, 2003;
6. a discussion of national and regional planning standards, responding to Ms. Overland's allegation that MAPP utilities used the wrong criteria in creating their filing;
7. a discussion of the under-build option, including information on the electrical performance and physical characteristics of a low-voltage collection and transmission system and information on any reliability, safety, environmental, or other concerns that may be relevant;
8. a description of the form in which the utilities' low-voltage mapping information currently is available; and
9. any other information they believe would be helpful in this docket.

B. Written Comments

To ensure that the utilities are taking into account the thoughts of all interested parties, the Commission will establish a comment and reply period beginning after the utilities file the supplemental information (due by the end of March) specified above. The Commission will request written comments (due by the end of April) and replies (due by the end of May) regarding the substance of the MTO's current filing, supplemental information, and related issues, such as:

- what future utility filings under the new statute should contain,
- specific suggestions for ways utilities could solicit and respond to public input during their planning process,
- whether generation outlet projects should be considered for certification in this process, and
- any other issues the parties deem relevant.

C. Public Meetings or Hearings

Input from the public is an essential part of the transmission planning process. And since the utilities bear the burden of persuasion that their plans are reasonable and in the public interest, it is appropriate that they organize and conduct these public opportunities. It is anticipated that the utilities will advertise such meetings adequately and conduct them fairly.

Accordingly, the Commission will direct the utilities to set up their public information meetings in preparation for making certificate of need applications and for making their next transmission plan filing or filings in November 2003.

IV. THE PUBLIC ENERGY, INC. PROPOSAL

Public Energy, Inc. (PEI) asked for certification of “The Buffalo Ridge Transmission Plan: A Proposal to Maximize Regional Benefits of Wind Energy Exports for Southwestern Minnesota.” According to the filing, the proposal came out of The Ad Hoc Committee for Dispersed Wind Electricity, which was chaired by David Morris of the Institute for Local Self-Reliance.

The plan includes several new 115-kV and 161-kV transmission outlets from the Buffalo Ridge area. It also calls for 34.5-kV lines to be built on the transmission towers for the various 115-kV and 161-kV outlets, several reconducted lines, new and upgraded substations, and other equipment additions. The complete list of proposed work is listed on pages 5-6 of PEI’s filing.

PEI explained that this proposal builds on Option 3 in Xcel’s recent certificate of need filing, Docket No. E-002/CN-01-1958. PEI asserted that The Buffalo Ridge Transmission Plan offers several advantages (over the 345-kV plan proposed by Xcel). According to PEI, the plan was reviewed and unanimously approved by The Southwest Minnesota Energy Task Force.

V. COMMISSION ANALYSIS AND ACTION REGARDING PEI’S PROPOSAL

The Commission has carefully considered the arguments of PEI, C.U.R.E., and others that the Commission should allow PEI to choose its forum and should consider PEI’s proposal in this docket. This docket, however, is devoted to transmission project reports and Commission certification responsibilities under Minn. Stat. § 216B.2425.

Subdivision 2 of that statute states in relevant part:

Subd. 2. List development. (a) By November 1 of each odd-numbered year, each public utility, municipal utility, and cooperative electric association, or the generation and transmission organization that serves each utility or association, that owns or operates electric transmission lines in Minnesota shall jointly or individually submit a transmission projects report to the commission.

And Subdivision 3 of the statute states in relevant part:

Subd. 3. Commission approval. By June 1 of each even-numbered year, the commission shall adopt a state transmission project list and shall certify, certify as modified, or deny certification of the projects proposed under subdivision 2.

PEI is not a public utility, municipal utility, or cooperative electric association that owns or operates electric transmission lines in Minnesota. Nor is it a generation and transmission organization that serves a utility or association that owns or operates electric transmission lines in Minnesota. As such, PEI does not come under either the statutory reporting requirements or the certification procedures that are under consideration in this docket. In addition, PEI has not shown that it has the capacity to implement its plan and there is an on-going docket (E-002/CN-01-1958) where PEI's idea could be explored further, as an alternative to a project under active consideration.

In these circumstances, the PEI filing will not be considered further in this docket. PEI is encouraged to bring its plan, information and arguments into a docket that appears better suited to evaluate it, Xcel's wind-outlet proceeding, Docket No. E-002/CN-01-1958² where PEI's approach, properly developed, would appear to present an alternative to a project under active consideration.

VI. C.U.R.E. AND THE MINNESOTA PROJECT'S JOINT TRANSMISSION CONCEPT PROPOSAL

C.U.R.E. and Minnesota Project (CURE-MP) submitted a transmission concept proposal for consideration in future transmission line proceedings. The basic idea would be to place lower voltage (e.g., 34.5 kV) lines on existing and planned transmission poles to provide an "on ramp" for electrical energy from dispersed sources of generation. The filing includes certain other recommendations for consideration by the Department and Commission.

In written comments, C.U.R.E. recommended that the under-build concept raised in its filing should be developed in a second round of comments. C.U.R.E. stated that the technology is established and that the concept:

² The Commission notes that its finding and disposition of the PEI proposal in this docket is consistent with the recommendations of the Department, the EQB Staff, Xcel, MTO, and the Reinhardtts.

- 1) is economical by definition,
- 2) enhances reliability and interconnection opportunities,
- 3) is intended to facilitate development of dispersed renewable projects,
- 4) has significant local economic development potentials, and
- 5) has wide public support.

At the hearing on this matter, however, C.U.R.E. clarified that it was not seeking Commission certification of its proposal under Minn. Stat. § 216B.2425 and was advancing it in this docket to increase Commission understanding of the under-build concept.

VII. COMMISSION ANALYSIS AND ACTION REGARDING THE C.U.R.E. - MP CONCEPT PROPOSAL

As clarified by C.U.R.E. and consistent with the Commission's own analysis of Minn. Stat. § 216B.2425, the Commission believes that C.U.R.E.'s advocacy for the under-build concept in general may be advanced in the comment and reply period established in this Order, but any proposal to implement the under-build concept will be more germane to a specific transmission certificate of need or certification request.

VIII. RULEMAKING RELATED TO THE TRANSMISSION CERTIFICATION PROCESS UNDER MINN. STAT. § 216B.2425

In its January 15 Work Group Report³, the Department indicated general agreement among work group participants that rulemaking is necessary for the transmission certification process. The Department reported the results of a meeting of the work group held on January 10, 2002. The Department reported that although participants differed in the scope and timing of procedures to implement the new law, the meeting usefully discussed the range of issues, existing procedures, and future challenges.

The Department did not suggest specific rule language, but did comment on issues related to the statutorily required content. Overall, the Department indicated that the major challenge is to implement a procedure that develops a complete record and a written decision within the statutory time frame. The Department recommended that the Commission first design an approach and preliminary schedule for comment by interested persons. The Department suggested that the current certificate of need process and decision criteria could reasonably be used for guidance.

³ The Department's report listed the events leading up to the Commission's November 19, 2001 Order requesting that the Department initiate a work group to discuss rulemaking needs related to transmission certification processes. The report also summarized statutory and other changes affecting the certification processes.

Having reviewed the comments of all parties on this subject, the Commission concurs that rules covering the Biennial Transmission Plan reporting process (Minn. Stat. § 216B.2425) would be helpful and will initiate a rulemaking docket for that purpose.⁴

Next Steps in the Rulemaking Docket

The Commission is responsible to conduct the rulemaking procedure it has initiated and therefore, among other things, will form an Advisory Group to ensure appropriate representation of relevant stakeholders. The Commission appreciates the leadership the Department has provided in this process to date and invites that agency to take a leadership role in the Commission's Rulemaking Advisory Committee when that is formed.

ORDER

1. On or before March 30, 2002, the ten utilities (Minnesota Transmission Owners or MTO) shall make a supplemental filing which addresses the following issues:
 - the website address where MAPP's 2001 Update to the 2000 Regional Plan is available;
 - identification of projects by more sharply defined geographical areas (e.g., county) and by dates of alleged need;
 - identification of any near-term projects that the utilities believe are needed to maintain or enhance reliability, the dates of expected certificate of need applications for those projects, and any response to the contention that the Commission could and should consider certifying such projects even in the absence of a utility's request;
 - a listing of projects that the utilities believe are exempt by virtue of having one or more applications pending before local governments by August 1, 2001;
 - a listing of projects likely to be submitted for certification in the filing or filings due November 1, 2003;
 - a discussion of national and regional planning standards, responding to Ms. Overland's allegation that MAPP utilities used the wrong criterion in creating their filing;
 - a discussion of the under-build option, including information on the electrical performance and physical characteristics of a low-voltage collection and transmission system and information on any reliability, safety, environmental, or other concerns that may be relevant;
 - a description of the form in which the utilities' low-voltage mapping information currently is available; and
 - any other information they believe would be helpful in this docket.

⁴ *In the Matter of a Rulemaking to Develop Rules Governing Biennial Transmission Project Reports Under Minn. Stat. § 216B.2425, Docket No. E-999/R-02-327.*

2. On or before April 30, 2002, interested parties are requested to file written comments on the substance of the MTO filing and related issues, for example: additional comments of what future utility filings under the new statute should contain, specific suggestions for ways utilities could solicit and respond to public input during their planning process, whether generation outlet projects should be considered for certification in this process, and any other issues.
3. On or before May 31, 2002, interested parties are requested to file reply comments.
4. The utilities should concentrate on setting up their own public information meetings on projects included in the MTO Filing in preparation for making certificate of need applications and for making their next transmission plan filing or filings in November 2003.
5. PEI's proposal (the Buffalo Ridge Transmission Plan) will not be considered for certification in this docket. PEI is encouraged to bring its information and arguments for certification into Xcel's wind-outlet proceeding, Docket No. E-002/CN-01-1958.
6. The Commission hereby initiates a rulemaking procedure to develop rules governing biennial transmission project reports under Minn. Stat. § 216B.2425, the Biennial Transmission Plan Process. The Commission opens Docket No. E-999/R-02-327 specifically for that purpose.
7. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), (651) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).