

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of the Application of Otter Tail Power Company and Others for High-Voltage Transmission Facilities in Western Minnesota

ISSUE DATE: September 23, 2005

DOCKET NO. ET-6131, ET-2, ET-6130, ET-10, ET-6444, E-017, ET-9/CN-05-619

ORDER REQUIRING SUPPLEMENTARY NOTICE

PROCEDURAL HISTORY

On April 18, 2005, Otter Tail Power Company, for itself and on behalf of several other utilities, (the Applicants) submitted a draft Notice Plan for a prospective transmission project in western Minnesota.¹

On June 24, 2005, the Commission issued an Order approving the Applicants' Notice Plan, as modified by the Applicants in accordance with suggestions of the Department of Commerce (the Department), Laura and John Reinhardt, and the Commission itself.

On August 25, 2005, the Applicants submitted the required compliance filing to show that the amended Notice Plan had been carried out.

Also on August 25, 2005, the Applicants submitted for Commission approval a Supplemental Notice Plan in response to changes in the proposed project. The Supplemental Notice Plan limited the direct mailing of the Supplemental Notice to those additional landowners, mailing addresses, local and tribal governments and communities indicated on the Applicants' Revised Corridor Map.

The Commission met on September 15, 2005 to consider this matter.

FINDINGS AND CONCLUSIONS

¹ The other utilities were Central Minnesota Municipal Power Agency, Great River Energy, Heartland Consumers Power District, Hutchinson Utilities Commission, Montana-Dakota Utilities Co., Southern Minnesota Municipal Power Agency, and Western Minnesota Municipal Power Agency. Later, Hutchinson Utilities Commission was removed from the list of involved utilities.

I. Background

Pursuant to Minn. Rules, Part 7829.2550 (the Notice Plan Rule), all landowners, mailing addresses, local and tribal governments and communities that are "reasonably likely to be affected by the transmission line project" must be given notice before a Certificate of Need application for a high voltage transmission line is filed. At this point in their project, the Applicants have not finalized the specific route of their transmission line. Therefore, the Applicants have designated several "corridors" within which they will later choose a specific route for their transmission line.²

Since the specific route has not been specified and may lie anywhere within the corridor, all landowners, mailing addresses, local and tribal governments and communities within the corridors are deemed to be "reasonably likely to be affected by the transmission line project" within the meaning of Minn. Rules, Part 7829.2550 and have received a copy of the Notice approved by the Commission in its June 24, 2005 Order.

II. Applicants' Proposal

The Applicants have proposed to mail a Supplementary Notice pursuant to Minn. Rules, Part 7829.2550, subp. 5. The Applicants explained that subsequent to giving notice to those deemed "reasonably likely to be affected by the transmission line project" in the Commission's June 24, 2005 Order, they have decided to expand one corridor and create two new corridors for their project.

Specifically, the Applicants proposed to widen the northern boundary of a portion of its southern segment³, which is located northwest of Canby, in order to address concerns raised by the Minnesota Department of Natural Resources (DNR) regarding sensitive natural prairie grassland.⁴ In addition, the Applicants proposed to add a corridor immediately to the northeast of Granite Falls⁵ and a second alternative partial corridor to bypass Willmar to the south and interconnect

² In this Order, the corridors will be referred to by the colors given them in Exhibit 2 of the Applicants' August 25, 2005 filing. A copy of Exhibit 2 is attached and incorporated into this Order by reference.

³ The term "southern segment" used in this Order refers to the portion of the yellow corridor that is in Minnesota, i.e., the portion from the South Dakota/Minnesota border to Granite Falls.

⁴ This expansion is shown by **light orange** shading on Exhibit 2 of the Applicants' August 25, 2005 filing.

⁵ This new corridor is shown by **orange** shading on Exhibit 2 of the Applicants' August 25, 2005 filing.

with Xcel's existing 230kV line on the east side of Willmar.⁶

In light of the expanded corridor and the two new corridors, the Applicants acknowledged that it would be appropriate to issue a Supplementary Notice to landowners, mailing addresses, local and tribal governments and communities in those three new areas.

III. The Department's Initial Recommendation

In its original April 18, 2005 petition, the Applicants proposed and the Commission approved a Notice that indicated that the Applicants intended to propose building one of two alternatives, both of which would involve the construction of a 230kV transmission line. The Applicants have issued the approved Notices communicating that intent.

In its August 25, 2005 filing, however, the Applicants reported that they have concluded that a 230kV transmission line would no longer be adequate in the yellow corridor to achieve an optimal, integrated regional system. The Applicants stated, therefore, that they would need a 345kV transmission line in that corridor.

The Department stated that the Applicants' decision to build a 345kV line rather than a 230kV line makes a major change in the project that warrants a clear announcement and explanation to affected parties. The Department recommended that the Commission require the Applicants to notify the likely affected parties of that change and explain why the Applicants had made that decision.

The Department argued that as a matter of prudence to avoid potential future litigation over the notice issue the Applicants should send a new Notice to everyone who had received the Applicants' first notice, as well as to those whom the Applicants proposed to notify due to the expanded corridor and new corridors as proposed by the Applicants in their August 25, 2005 filing. The Department stated that the Commission could vary the three-month requirement of Minn. Rules, part 7829.2550, subd. 1 to expedite completion of the notification process.

IV. Joint Proposal

After discussion at the September 15, 2005 hearing, the Applicants and the Department proposed that the Applicants issue a Supplementary Notice pursuant to Minn. Rules, part 7829.2550, subp. 5 rather than restart the entire notification process.

They proposed that the Supplementary Notice inform recipients that the Applicants would be filing their application within two weeks after the Supplementary Notice was mailed and that the size of the line that would be built in the southern segment alternative would be a 345kV line, not "either a 230kV line or a 345kV line" as the Applicants had proposed in their August 25, 2005 filing.

⁶ This new partial corridor is shown by **light blue** shading on Exhibit 2 of the Applicants' August 25, 2005 filing.

They also agreed on the scope of persons and entities that should receive the Supplementary Notice. They proposed that the Supplementary Notice be mailed to

1) those landowners, mailing addresses, local and tribal governments and communities in the areas depicted in the orange shaded area (northeast side of Granite Falls) and in the light blue shaded areas (the newly proposed partial-corridor that bypasses Willmar to the south and then interconnects with Xcel's existing 230kV line on the east side of Willmar) on the Revised Corridor Map which is attached to the Applicants' August 25, 2005 filing; and

2) those landowners, mailing addresses, local and tribal governments and communities in the southern segment of the proposed Big Stone II transmission facilities, the segment in which the applicants have now determined they would propose construction of a 345kV line.

Finally, they proposed that the Supplementary Notice be accompanied by a brief letter from the Applicants explaining why they had decided that the line in the southern segment would have to be a 345kV line.

V. Commission Analysis and Action

The Commission finds that the parties' proposed Supplementary Notice, as described and proposed at the September 15, 2005 hearing, appropriately notifies those reasonably likely to be affected regarding the transmission line project that the Applicants will propose in their soon-to-be filed Application for a Certificate of Need. The Commission will approve and direct implementation of the parties' proposal.

The Applicants' previous Notice meets the requirements of the Commission's Notice Plan Rule as to those within the green corridor (Ortonville to Johnson and Johnson to Morris) and the blue corridor: Ortonville to Spicer. The Applicants have made no changes (substantial or otherwise) to the transmission line projects proposed for those corridors. No additional notice to those in the green and blue corridors, therefore, is warranted.

However, subsequent to the Commission's approval of a Notice Plan and the Applicants' Notice pursuant to that plan, the Applicants decided that their application will request authority for a new 345kV transmission line rather than for a new 230kV line from the Big Stone plant to Canby, as stated in the previous Notice. In addition, the Applicants will seek authority to convert the existing 115kV line from Canby to Granite Falls to a 345kV line rather than to a 230kV line as stated in the previous Notice.

The intent of the Commission's Notice Plan Rule is to give fair and formal notice to all persons

reasonably likely to be affected by transmission line projects proposed in Minnesota.⁷ In the context of the rule's fair notice requirement, the change from a 115kV or 230kV line to a 345kV line is a significant change in the Applicants' project. Accordingly, it is appropriate that persons and entities along the yellow corridor in Minnesota (the southern segment) be informed of this change in the Applicants' plans for that corridor. The Commission concludes that it is reasonable and appropriate that the persons and entities in the Minnesota portion of the yellow corridor, who have received the previous formal notice regarding smaller lines, should now receive a Supplemental Notice advising them of the Applicants' change to a 345kV line.

In addition, the Notice issued pursuant to the Commission's June 25, 2005 Order informed recipients that the Applicants expected to file their application for a Certificate of Need no earlier than July 18, 2005. The Applicants' August 25, 2005 filing suggested that the Supplementary Notice read: "...no earlier than September 1, 2005." At the September 15, 2005 hearing, the parties agreed that the Supplementary Notice should avoid possibly giving recipients the impression that the Applicants had already filed their application by listing a filing date that had already passed. They proposed to update the language by stating that the Applicants would file their application within two weeks of the mailing of the Supplementary Notice. The Commission finds that the parties' proposed language is reasonable and will approve it.

ORDER

1. The Applicants shall prepare a Supplementary Notice pursuant to Minn. Rules, part 7829.2550, subp. 5 clarifying that the Applicants' request for a Certificate of Need will request authority for a 345kV line in the southern segment of the proposed Big Stone II transmission facilities.
2. The Supplementary Notice shall clarify the anticipated filing date of the Applicants' application for a Certificate of Need to construct the transmission lines in question by including the following sentence:

The utilities expect to file an application for Certificate of Need with the Minnesota Public Utilities Commission ("PUC") within two weeks after the Supplementary Notice is mailed.
3. The Applicants shall mail the Supplementary Notice to the following:
 - a) those landowners, mailing addresses, local and tribal governments and communities in

⁷ In this case, a major part of the Applicants' yellow corridor is in South Dakota and, hence, not subject to the Commission's Notice Plan Rule. However, the portion of the yellow corridor from the Minnesota/South Dakota border to Granite Falls is subject Commission jurisdiction and, hence, the Commission's Notice Plan Rule and its fair notice requirement.

the areas depicted 1) in the light orange shaded area northwest of Canby, Minnesota; 2) in the orange shaded area (northeast side of Granite Falls); and 3) in the light blue shaded areas (the newly proposed partial-corridor that bypasses Willmar to the south and then interconnects with Xcel's existing 230kV line on the east side of Willmar);⁸ and

b) those landowners, mailing addresses, local and tribal governments and communities in the southern segment of the proposed Big Stone II transmission facilities, the segment in which the Applicants have now determined they will propose a 345kV line.

4. The Supplementary Notice shall be accompanied by a brief letter explaining why the Applicants have decided that any transmission line they will propose for the southern segment will be a 345kV line.
5. 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 651-201-2202 (voice) or 1-800-627-3529 (MN relay service).

⁸ All referenced areas and shadings appear on the Revised Corridor Map which is attached to the Applicants' August 25, 2005 filing and incorporated herein by reference.