

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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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

ISSUE DATE: November 3, 2006

DOCKET NO. ET-2/CN-06-857

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

DOCKET NO. 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 Fargo-Alexandria-St. Cloud-Monticello 345-kV Transmission Project

DOCKET NO. E-002/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 Project

DOCKET NO. ET-2, E-002, *et al.*/CN-06-1115

ORDER APPROVING NOTICE PLANS AND REQUIRING COMPLIANCE FILINGS

PROCEDURAL HISTORY

I. DOCKET NO. E-999/TL-05-1739: 2005 BIENNIAL TRANSMISSION FILING

On November 2, 2005, a consortium of utilities owning transmission lines in Minnesota reported on the needs of the transmission systems in their systems and throughout the state's transmission grid. In particular, Great River Energy (GRE), Northern States Power Company d/b/a Xcel Energy (Xcel), and others proposed a plan for achieving the transmission capacity expansion needed by 2020, dubbed "CapX 2020" (CapX). Part of that plan would involve building new

transmission facilities -- including more than 500 miles of 345-kilovolt (kV) transmission line in Minnesota, and up to 1630 miles of new transmission lines overall -- to provide the additional 6300 megawatts (MW) of electricity that they forecast customers will demand by 2020.¹

II. DOCKET NO. ET-2/CN-06-857

On June 9, 2006, GRE started the process of obtaining permits to build a segment of the CapX project. GRE proposed to build, among other things, a 345-kV transmission line from the Brookings County Substation near Brookings, South Dakota, to "Hampton Corner," a new substation northeast of Hampton, in the southeastern quadrant of the Twin Cities metropolitan area. GRE further proposed to build a 345-kV line from where the first line passes through Marshall, Minnesota, north to the Granite Falls area. These lines would pass through or near the southern Minnesota counties of Brown, Carver, Chippewa, Dakota, Le Sueur, Lincoln, Lyon, McLeod, Redwood, Renville, Rice, Scott, Sibley, and Yellow Medicine, as well as Brookings County, South Dakota. GRE asked the Commission to approve GRE's plan for giving public notice of this proposal, and stated that it planned to file a certificate of need application late in 2006.

GRE proposes to provide the following types of notice:

- direct mail notice to rural landowners with property in the areas where GRE thinks there is a reasonable likelihood that the lines would be built (the "notice corridors"),
- direct mail notice to others with rural mailing addresses within the notice corridors,
- direct mail notice to tribal governments and local units of government governing any part of the notice corridors, and
- general notice via published ads in local papers serving parts of the notice corridors.

On June 29, 2006, the Energy Division of the Minnesota Department of Commerce (the Department), Laura A. and John C. Reinhardt, and the U.S. Army Corps of Engineers filed comments, and GRE revised its proposed notice plan.

By August 1, 2006, the Commission had received reply comments from Carol A. Overland, GRE, and the Rural Minnesota Energy Board (RMEB).

The Commission met on September 21, 2006, to consider this matter.

III. DOCKET NO. E-002/CN-06-979

On June 30, 2006, Xcel started the process of obtaining permits to build another segment of the CapX project. Xcel proposed to build, among other things, a 150-mile, 345-kV line between the southeast quadrant of the Twin Cities -- beginning at either its Prairie Island substation or the new "Hampton Corner" substation noted above -- and continuing through Rochester to

¹ See *In the Matter of the 2005 Minnesota Biennial Transmission Filing*, Docket No. E-999/TL-05-1739, 2005 Minnesota Biennial Transmission Projects Report, Issue 2005-CX-1 "CapX 2020 Vision Plan."

La Crosse, Wisconsin. Xcel also proposed to build a new substation on the north side of Rochester with connecting 161-kV transmission lines into the city. The entire project would be built in or near the southeastern Minnesota counties of Dakota, Dodge, Goodhue, Houston, Olmsted, Rice, Steele, Wabasha, and Winona. Xcel asked the Commission to approve Xcel's plan for giving public notice of this proposal, and stated that it planned to file a certificate of need application late in 2006.

Similar to GRE, Xcel proposes to provide the following types of notice:

- direct mail notice to rural landowners with property in the notice corridors,
- direct mail notice to others with rural mailing addresses within the notice corridors,
- direct mail notice to tribal governments and local units of government governing any part of the notice corridors, and
- general notice via published ads in local papers serving parts of the notice corridors.

Consistent with previous Commission decisions,² Xcel proposes to forgo mailing notice to landowners and residents in certain incorporated cities where Xcel deems it unlikely that the transmission line would be routed. Erring on the side of caution, however, Xcel nevertheless proposes to give notice to—

- landowners and residents in Cannon Falls, Zumbrota, and Pine Island that are adjacent to Highway 52 because the highway could be considered a routing option;
- landowners and residents in Red Wing within the notice corridors in the Prairie Island area adjoining the Prairie Island Nuclear Generating Plant, in addition to notifying the leadership of the Prairie Island Indian Community and officials of Red Wing;
- landowners and residents in parts of Rochester along the route of the proposed 161-kV transmission line; and
- landowners and residents in La Crescent east of Highway 14.

By July 21, 2006, the Commission had received comments from the Department, the North American Water Office (NAWO), Ms. Overland, and the Reinhardts.

By August 1, 2006, the Commission had received reply comments from Ms. Overland and RMEB.

On August 10, 2006, Xcel filed reply comments.

The Commission met on September 21, 2006, to consider this matter.

² See *In the Matter of the Application of Northern States Power Company (d/b/a Xcel Energy) for a Certificate of Need for Three 115 kV Transmission Lines in Southwestern Minnesota*, Docket No. E-002/CN-06-154, ORDER APPROVING NOTICE PLAN AND REQUIRING COMPLIANCE FILING (April 28, 2006).

IV. DOCKET NO. E-002/CN-06-1115

On August 4, 2006, Xcel started the process of obtaining permits to build another component of the CapX 2020 project. Xcel proposed to build, among other things, a 250-mile, 345-kV line between a substation in the Fargo, North Dakota area and a substation near the Twin Cities. This line would pass through or near the central west Minnesota counties of Benton, Clay, Douglas, Grant, Otter Tail, Pope, Sherburne, Stearns, Stevens, Todd, Traverse, Wilkin, and Wright. Xcel asked the Commission to approve Xcel's plan for giving public notice of this proposal, and stated that it planned to file a certificate of need application late in 2006.

Again, Xcel proposes to provide the following types of notice:

- direct mail notice to rural landowners with property in the notice corridors,
- direct mail notice to others with rural mailing addresses within the notice corridors,
- general notice via published ads in local papers serving parts of the notice corridors, and
- direct mail notice to tribal governments and local units of government having part of their jurisdiction within the notice corridors.

Again, Xcel proposes to forgo mailing notice to landowners and residents in certain incorporated cities where Xcel deems it unlikely that the transmission line would be routed. Erring on the side of caution, however, Xcel nevertheless proposes to give notice to landowners and residents within the designated corridors in Monticello, St. Cloud, and cities along Interstate 94 and Highway 55.

By August 25, 2006, the Commission had received comments from the Department, the Reinhardts, and Windustry, a not-for-profit corporation promoting the generation of electricity through wind power.

On September 12, 2006, Xcel filed reply comments.

The Commission met on September 21, 2006, to consider this matter.

FINDINGS AND CONCLUSIONS

I. LEGAL BACKGROUND

Before building a large energy facility in Minnesota, a person must apply for a "Certificate of Need" demonstrating that the facility is needed. Minn. Stat. § 216B.243, subd. 2. In addition, the person must apply for a "Site Permit" or a "Route Permit" demonstrating that the facility's site or route minimizes adverse human and environmental consequences while maintaining the electric system's reliability. Minn. Stat. § 116C.53, subd. 1. The term "large energy facility" includes any transmission line of at least 100 kV with at least ten miles in Minnesota. Minn. Stat. § 216B.2421, subd. 2(3). Because each proposal filed by the applicants as part of CapX would surpass these thresholds, they qualify as large energy facilities.

Minnesota Rules chapter 7849 sets forth the requirements for making an application for a Certificate of Need, as well as the ultimate criteria for demonstrating need. Minnesota Rules chapter 4400 sets forth the requirements for obtaining a Site or Route Permit. To obtain either a Certificate of Need or a Site or Route Permit, an applicant must prepare a plan for notifying people who are reasonably likely to be affected by the proposed facility. Minn. Rules, parts 4400.1200, 4400.1350 and 7829.2550.

II. PARTY COMMENTS AND COMMISSION ACTION

A. Reorganizing Projects Addressed Within a Single Docket

1. Party Comments

The Department, Ms. Overland, the Reinhardts and Windustry argue that each proposed notice plan is incomplete because it addresses only one segment of a larger project that, according to the applicants, will be the subject of a single Certificate of Need application. While such a notice may achieve the purpose of informing potentially affected landowners, residents and local officials that their interests are at stake, the parties argue that it would fail to inform them of the nature and general content of the entire CapX proposal as required by Commission rules. Minn. Rules part 7829.2500, subp. 2. These parties argue that citizens need to understand the full CapX proposal in order to evaluate the applicants' claim that the project is designed to serve local need. In particular, Ms. Overland and the Reinhardts question whether the proposed transmission lines were designed to facilitate exporting electricity to neighboring states rather than to serve the needs of Minnesota ratepayers.

In addition, Ms. Overland proposes consolidating these matters with consideration of a proposed transmission line between Granite Falls, Minnesota and the proposed new Big Stone II power plant in South Dakota.

At the same time, Ms. Overland and the Reinhardts argue that the applicants' notice plans create needless confusion by combining references to unrelated transmission projects. They argue that parties will find it easier to analyze the applicants' integrated proposal if the Commission will refer unrelated projects to separate proceedings. In particular, the Reinhardts recommend addressing the 250-mile 345 kV transmission line from Fargo, North Dakota to Monticello, Minnesota, in a second docket, and addressing any 70-mile 230 kV transmission line around Bemidji in a third.

In any event, Ms. Overland and the Reinhardts recommend that the applicants draft their notice plans to address all the components of the Certificate of Need application. To this end, the Reinhardts recommend consolidating into a single docket all future proceedings pertaining to a single Certificate of Need application. Further, the parties recommend that any notice discussing the CapX proposal should address the entire proposal, identifying the proposal's endpoints and total length as well as the length of each individual segment within Minnesota.

While the applicants do not concede the arguments made by the other parties, they acknowledge that they plan to file a joint Certificate of Need application to avoid the repetition that would result from filing three separate applications. Thus they have no objection to consolidating the dockets. Similarly, they do not object to adding to their notices a short discussion of each proposed

segment of the CapX proposal that they incorporate into their Certificate of Need application, including the number of miles of transmission lines, as well as a discussion of the entire CapX proposal, including number of miles of transmission lines.

But they oppose incorporating consideration of the Big Stone II transmission line into this docket on grounds that doing so would impede the progress already made in that matter.³ Moreover, given the early stage of the proceedings, the applicants ask the Commission to refrain from assigning different components of their proposals to different dockets. Xcel argues that it can more efficiently present the information relevant to demonstrating the need for each component of the CapX program if the Commission considers them all in a single proceeding.

2. Commission Action

To alleviate any concern that the separate dockets deprive participants of the appropriate perspective from which to analyze the applicants' proposals, Commission will direct the applicants to modify their notice plans. Specifically, the Commission will direct the applicants to address the entire transmission project for which the applicants will seek to demonstrate need in their coming Certificate of Need application, and to disclose the length of the transmission lines being contemplated.

Moreover, to facilitate and coordinating the analysis of the CapX proposals, the Commission will direct all parties to file future documents pertaining to the applicant's Certificate of Need in Docket No. ET-2, E-002, *et al.*/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*.

But at this time the Commission will not otherwise interfere in the applicants' choice regarding which projects to include or exclude in its Certificate of Need application, and therefore in their notices. The applicants bear the burden of demonstrating that their proposals are needed. At this stage in the process the Commission will defer to their judgment about how best to demonstrate that need, including their judgment about which facilities to present in a single Certificate of Need application.

B. Giving Notice: Proposals to Expand Areas Receiving Notice

1. Party Comments

The Department recommends expanding the notice plans as follows: In Docket No. ET-2/CN-06-857, the Department recommends giving notice to the cities of Cologne, Hamburg, Biscay, Hendricks, Ghent, Seaforth, Heidelberg, and New Trier, and publishing notice in the Lakeville/Farmington *This Week* and the Renville *County Star Farmer News*. And in Docket No. E-002/CN-06-1115, the

³ See *In the Matter of the Application of Otter Tail Power Company and Others for Certification of Transmission Facilities in Western Minnesota*, Docket No. ET-6131, ET-2, ET-6130, ET-10, ET-6444, E-017, ET-9/CN-05-619; *In the Matter of the Application to the Minnesota Public Utilities Commission for a Route Permit for the Big Stone Transmission Project in Western Minnesota*, Docket No. ET-6131, ET-2, ET-6130, ET-10, ET-6444, E-017, ET-9/TR-05-1275.

Department recommends giving notice to the cities of Brooten and St. Augusta and to landowners and residents within a three-mile wide corridor through the corner of Silver Creek township and Monticello township.

In Docket No. E-002/CN-06-979, the Ms. Overland recommends publishing notice in the Prairie Island Indian Community newspaper *Tinta Winta*.

The applicants have no objection to any of these proposals except regarding the expansion of notice given around the corner of Silver Creek township and Monticello township. Xcel affirms its willingness to give notice broadly when it cannot tell where a transmission line would be routed, but argues that the topography of this region leaves the applicants with few realistic alternatives to its proposed route.

Ms. Overland recommends giving notice throughout Welsh Township in Goodhue County and Ravenna Township in Dakota County. She expresses skepticism about the applicants' proposal to build transmission lines close to Ravenna and Welsh Townships but not proposing to build a line or give notice within those townships. She states that an existing pipeline corridor runs through these townships and argues that legal precedent for routing new facilities along existing corridors⁴ creates reason to suspect that new transmission lines would ultimately be assigned to this route as well.

Xcel denies that the applicants have any plans for routing a transmission line through Ravenna or Welsh townships and argues that the applicants would have no reason to build such a line.

2. Commission Action

Because the harm of failing to give notice to someone whose interests are at stake outweighs the cost of giving notice to someone whose interests are not at stake, the Commission errs on the side of authorizing broader notice. In this spirit, the Commission will approve the Department's and Ms. Overland's proposals for publishing notice of the CapX proposal in the additional newspapers and mailing notice to the additional cities and throughout the townships of Ravenna and Welsh.

But Xcel's filings persuade the Commission that the applicants' notice plan appropriately targets notice to the landowners and residents around the corner of Silver Creek township and Monticello township who are reasonably likely to be affected by the proposed line. Consequently the Commission will decline to modify this notice corridor.

C. Giving Notice: Proposals to Reduce Areas Receiving Notice

1. Party Comments

The Reinhardtts recommend that the applicants refine their estimates of where the proposed transmission lines will go in order to better target the notice they will provide to residents and landowners. The Reinhardtts fear that the purpose of the notice will be undermined if the people are led to believe that there is little relationship between receiving the notice and having an interest at stake.

⁴ *People for Environmental Enlightenment and Responsibility v. Minnesota Environmental Quality Council*, 266 N.W. 2d 858 (Minn. 1978).

Xcel opposes the Reinhardts' recommendation to narrow the notice corridors. By giving more expansive notice, Xcel argues, the applicants err on the side of promoting public participation. While Xcel would prefer to avoid the bother and expense of giving broader notice, Xcel anticipates needing another year to complete the routing work necessary to identify the most likely construction corridors. Xcel anticipates that the applicants will have narrowed down the proposed routes by the time they file for Route Permits. In the meantime, they prefer to give notice in a manner that reduces the chances that a transmission line will be routed onto the property of someone who did not receive notice.

2. Commission Action

As noted above, the Commission prefers to err on the side of authorizing broader notice. Given the magnitude of the CapX proposal and the current status of the applicants' planning, the Commission finds the applicants' broad notice targeting to be reasonable and appropriate. The Commission will decline to require the applicants to refine their notice plans to target their notices more narrowly.

D. Giving Notice: Neighboring States

1. Party Comments

Given the regional nature of the CapX proposal, at hearing the Department recommended that the applicants file copies of their notices with the public utilities commissions of neighboring states. No other party spoke to this proposal.

2. Commission Action

The Commission finds the proposal to notify neighboring public utilities commissions to be reasonable. This practice reflects comity among the states. Moreover, the applicants propose to extend the CapX transmission lines into North Dakota, South Dakota and Wisconsin; if any of these states intend to object to those extensions, the Commission sees merit in learning this fact earlier rather than later. The Department's proposal will be approved.

E. Notice Content: Identifying Applicants

1. Party Comments

The Reinhardts and Windustry recommend that any notice disclose the identities and contact information for all applicants as was done in prior dockets.⁵ They argue that the Commission's rules contemplate that applicants would state their identities in their notices. Moreover, they argue that the failure to disclose this information would tend to obscure the size and nature of the CapX project. Finally, they suggest that customers may be more likely to believe that a notice pertains to them if they see that it comes from their own utility company.

⁵ See, for example, *In the Matter of the Application of Otter Tail Power Company and Others for High-Voltage Transmission Facilities in Western Minnesota*, Docket No. ET-6131, ET-2, ET-6130, ET-10, ET-6444, E-017, ET-9/CN-05-619.

The applicants argue that their notice plans comply with Commission rules. Xcel does not object to listing the utilities that have participated in CapX in the section of the notice materials describing the planning that gave rise to CapX, but Xcel argues that the public would derive more benefit from contacting a "lead" applicant who would be better prepared to address public concerns. Xcel notes that it may seek further clarification when seeking exemptions from the Certificate of Need filing requirements.

2. Commission Action

The Commission believes that the interest of all the parties can be accommodated. In the interest of public disclosure, the Commission will direct the applicants to identify in their direct-mail notices each of the applicants in the certificate of need project, including each applicant's address. At the applicants' discretion, for each line segment the notices may also list a lead contact person.

F. Notice Content: Advocacy

1. Party Comments

Applicants' proposed notices include the following language:

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.

NAWO, RMEB and Windustry take issue with these assertions. In order to place such language in context, they variously suggest the notices should contain statements about conservation, load management, distributed generation, improvements to existing transmission facilities, and renewable sources of electric generation. Alternatively, Windustry recommends omitting all such language from the notices.

Xcel favors retaining the language it had proposed in its notices. But Xcel would rather omit the disputed language than try to enumerate within the notice all the alternatives that parties may propose during hearings.

2. Commission Action

The Commission provides for public notice to advise people about the nature of a proposed large energy facility, the prospects that it will affect their interests, and the opportunities to participate in the decision-making process. Public notice is not an appropriate forum for arguing for or against the merits of the proposal; opportunities for these arguments will arise later in the process. Consequently the Commission will decline to require the applicants to include in the notices the language proposed by NAWA, RMEB and Windustry, but will direct the applicants to remove their own advocacy language as well.

G. Notice Content: Unstated Assumptions about New Electric Generators

1. Party Comments

NAWO, Ms. Overland, RMEB and Windustry argue that the CapX proposal reflects assumptions about the need for new large plants for generating electricity using non-renewable fuels and that

the applicants fail to disclose these assumptions in their notices. They ask that the applicants disclose the assumptions regarding new power plants that underlie the CapX proposal, or at least acknowledge that different assumptions would produce a different transmission plan.

The Reinhardts and Xcel oppose these requests, arguing that it is premature to address the substantive merits of the CapX proposal. But in response to parties' substantive concerns, Xcel states that the CapX proposal was developed by analyzing a variety of scenarios regarding the future supply of and demand for electricity, not on any one set of assumptions. Xcel disputes the suggestion that a collection of small, dispersed generators would obviate the need for additional transmission capacity. And because the proposed transmission lines would be capable of transmitting electricity generated from any fuel, Xcel questions the relevance of including a discussion of fuels in its notice plan.

2. Commission Action

In asking the notices to discuss the applicants' assumptions about electrical generation that underlie the CapX proposal, the parties assert that the applicants have developed such assumptions. The Commission will decline to make this factual finding based on the current state of the record.

The applicants bear the burden of demonstrating that their proposals are needed. While some parties deny that the applicants can demonstrate the need for these new transmission facilities without identifying new sources of generation, the Commission does not prejudge this question. At this stage in the process the Commission will defer to their judgment about how best to demonstrate the need for the various components of the CapX proposal.

H. Notice Content: "Buy the Farm"

1. Party Comments

When a utility proposes to use eminent domain to compel a property owner to sell some of his or her property to build a high-voltage transmission line, the owner may have a statutory right to demand that the utility buy his or her entire property. Minn. Stat. § 116C.63, subd. 4. Ms. Overland recommends that the applicants' notice advise the public of this "Buy the Farm" statute.

Xcel argues that the "Buy the Farm" statute is not sufficiently related to the Certificate of Need process to warrant explaining the statute in the context of the Certificate of Need notice.

2. Commission Action

Whatever the merits of requiring applicants to provide such notice eventually, it is premature to provide such notice now. No landowners are in threat of eminent domain until after the Commission has granted a Certificate of Need and a Route Permit. Consequently the Commission will decline to require the applicants to include information about the Buy the Farm statute in their Certificate of Need application notices.

I. Relationship Between Certificate of Need Process and Route Permit Process

1. Party Comments

The Reinhardts recommend that the Commission direct the applicants to prepare for joint hearings regarding both the need for and the routing of the proposed transmission lines. The Reinhardts argue that joint hearings facilitate public participation. Other states address these issues jointly, according to the Reinhardts, and statutes requires the Commission to address need and routing through a joint hearing unless combining the hearings would prove to be infeasible, inefficient or otherwise contrary to the public interest. Minn. Stat. § 326B.243, subd. 4.

But if the Commission elects to conduct its Certificate of Need proceedings separate from its Route Permit proceedings, the Reinhardts and Windustry ask that the applicants explain this process in their notices. In particular, the Reinhardts ask that the notice clarify that people should not wait until the routing proceeding to argue that the CapX transmission lines are not needed.

Windustry expresses concern that the draft notices imply that the Certificate of Need process is merely a procedural formality. Windustry asks that the notices clarify that during the Certificate of Need process the Commission will determine the extent to which any CapX segments are built based on whether the segments are needed and in the public interest.

Specifically, Windustry asks that notices mailed to landowners, residents and local governments state that the applicants' proposed transmission lines will not be constructed unless the Commission determines that the lines are needed and issues a Certificate of Need and Route Permits. In addition, Windustry asks that notices published in newspapers state that the proposed lines will be built only if the Commission determines, through the Certificate of Need process, that the lines are needed; if the Commission determines that the lines are needed, the Commission will also determine where the lines should be located by issuing Route Permits.

Applicants oppose conducting joint Certificate of Need and Route Permit hearings. The facts used to establish the need for additional transmission facilities are not closely related to the facts used to identify the optimal routing, Xcel argues, and CapX's size and complexity would make a joint proceeding unwieldy. Moreover, Xcel argues that the statute only requires joint hearings if an applicant simultaneously applies for a Certificate of Need and for routing authority. But the applicants had no objection to incorporating into their notices an explanation of the relationship between the Certificate of Need and the Route Permit processes.

2. Commission Action

Addressing both need and routing in a single proceeding has certain advantages; in particular, it's simpler to understand. When members of the public are motivated to participate in a hearing because they receive notice that they live within the path of a potential power line, they can't be frustrated by being told that it is too late to challenge the need for the line.

But a process that is simple to understand may be harder to implement. The problem of commentor confusion and frustration can be ameliorated though notice advising people about the relationship between the Certificate of Need process and the Route Permit process. But the CapX proposals are the largest transmission proposal the Commission has ever received, and the Commission finds no comparable way to ameliorate the complexity of conducting a hearing to

demonstrate the need for all aspects of the proposals while also selecting their routes throughout the state. The Commission concludes that the burden of conducting such joint hearings would outweigh any procedural benefits.

Because hearings addressing both CapX's Certificate of Need and the Route Permits would prove to be infeasible, inefficient and contrary to the public interest, the Commission finds that joint hearings are not required by statute. Instead, the Commission will conduct separate hearings addressing need and routing, and will direct the applicants to incorporate into their notices language explaining the relationship between Certificate of Need process and the Route Permit process as recommended by Windustry and the Reinhardts.

J. Miscellaneous Modifications and Plan Approval

1. Party Comments

The applicants ask the Commission to approve their proposed notice plans as modified. In addition to the modifications that the Commission requires the applicants to make, discussed above, the applicants have consented to make a number of other modifications as set forth in the Ordering paragraphs. But given the extent of the revisions, and the complexity inherent in consolidating three dockets, the applicants recommend that the Commission review their revised notice plans before implementation.

Having reviewed the filings, the Department finds that the applications generally fulfill the statutory and regulatory requirements for giving notice of an application for a Certificate of Need and are otherwise reasonable. Consequently the Department recommends approving the notice plans as modified. The Department also recommends that applicants submit their revised notice plans for review.

While the Reinhardts initially asked that the Commission reject the notice plans as filed, at hearing they recommended approving the notice plans as modified. They ask that all parties be permitted to comment on the applicants' revised notice plans before implementation, as the Commission has authorized in other dockets.

2. Commission Action

Based on the record of these cases, the Commission finds that the applicants' notice plans as modified herein will fulfill all legal requirements and serve the public interest. They will be approved.

Given the extent of modifications and the complexity arising from consolidating the CapX dockets, the Commission finds merit in the proposal to review the applicants' revised notice plans and to permit other parties to review them, too. The Commission will authorize its Executive Secretary to review and approve the notice plans' text, maps, mailing plans, and publication plans under the terms of this Order. The Commission will further direct its Executive Secretary to provide an opportunity for parties to review and comment on the notice plan before completing his review.

ORDER

1. While the applicants may include whichever projects they wish in their application for Certificate of Need, they shall address all those projects jointly in Docket No. ET-2, E-002, *et al./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* and shall reference this docket in their notices. Except as warranted to address local circumstances and routes, applicants shall standardize the notices sent to all landowners and residents throughout the state, to all local governments throughout the state, and to all newspapers throughout the state.
2. Applicants shall modify the content of their proposed notices as follows:
 - A. Notices 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.
 - B. Notices shall identify and provide an address for each party joining in the application for a Certificate of Need. Notices may also list a lead contact for each transmission line.
 - C. Notices shall including the following information:
 - Applicants propose to build several major new electric transmission lines.
 - 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. The proposed transmission lines will not be constructed unless the Commission determines that the lines are needed and issues a Certificate of Need and Route Permits.
 - Members of the public can provide written comments to the Commission at several points in the process, and there will be public meetings and hearings in their area during the coming year.
 - Members of the public are encouraged to get involved in these important electric energy decisions. Comments regarding need should be raised during the Certificate of Need proceeding; comments regarding routing should be raised in the Route Permit proceeding.
 - D. Notices shall state how people may add themselves to official mailing lists for this matter.
 - E. Notices shall refrain from using the Latin phrase “*et seq.*” and instead shall identify the range of statutes and rules to which the notice refers. In addition, notices shall omit language substantially as follows:

“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.”

3. Applicants shall modify the content of their proposed notices to be mailed to landowners, residents and governments as follows:
 - A. Notices shall state that the applicants will work with affected landowners to acquire easement rights for the transmission line.
 - B. Notices shall include a description of general right-of-way requirements as well as a statement that the applicants intend to acquire property rights.
 - C. Notices 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, notices shall provide a description of the Certificate of Need filing requirements from which the Applicants seek or will seek exemptions.
 - D. Notices shall include a map disclosing the entire scope of the project and showing the end points of the line(s), include existing transmission facilities, and have proper titles and captions. Applicants shall ensure that the cities of Rockville and St. Augusta are accurately depicted. Applicants shall 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.
4. Within their proposed notice to be mailed to governments, applicants shall include copies of the notices for landowners and residents.
5. Applicants shall include in their notice to be published in newspapers a statement that the Minnesota Department of Commerce will prepare a report on the environmental consequences of building the proposed lines.
6. Applicants shall modify their notice plans to give notice of their impending Certificate of Need application as follows:
 - A. Mail notice to the cities of Biscay, Brooten, Cologne, Ghent, Hamburg, Heidelberg, Hendricks, New Trier, St. Augusta and Seaforth.
 - B. Publish notice in the Lakeville/Farmington *This Week*, the Renville County *Star Farmer News*, and the Prairie Island Indian Community *Tinta Winta*.
 - C. Mail and publish notice within the appropriate corridor in Welsh Township in Goodhue County and Ravenna Township in Dakota County.

7. Applicants shall give notice of their impending Certificate of Need application to the public utilities commissions in neighboring states.
8. Applicants' proposed notices plans are approved as modified above, subject to a final review and approval. The Commission authorizes its Executive Secretary to review the applicants' notice text, maps, mailing plans, and publication plans, and approve the plans under the terms of this Order. The Executive Secretary shall provide an opportunity for parties to review and comment on the notice plan before completing this review.
9. Minnesota Rules part 7829.2550, subpart 6, directs applicants to implement their proposed notice plans within 30 days of this Order, but the Commission hereby varies this rule to allow applicants to delay implementing their notice plans until closer to the time they apply for a Certificate of Need for the CapX proposal.
10. Applicants shall implement their approved notice plans on a timely basis. Having done so, applicants shall 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 governments receiving direct mailed notice.
11. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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