

## GENERAL PROJECT INFORMATION

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### 2.1 Certificate of Need Requirement

Minnesota Statutes Section 216B.243, subdivision 2, provides that “No large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the [public utilities] commission pursuant to sections 216C.05 to 216C.30 and this section and consistent with the criteria for assessment of need.” A large energy facility is defined in Minnesota Statutes Section 216B.2421 subdivision 2(3) as, among other things, “any high-voltage transmission line with a capacity of 100 kilovolts or more with more than ten miles of its length in Minnesota.”

The proposed 115 kV transmission line will be located in Minnesota and will, in total, be approximately 22.5 miles long. Because the Project consists of a transmission line in excess of 100 kV and is more than ten miles in length, a CON is required.

The Commission has adopted rules for the consideration of applications for certificates of need. Minn. R. Ch. 7849. On September 23, 2014, Great River Energy, on behalf of Applicants, filed a Petition for Exemption under Minnesota Rule 7849.0200, subpart 6, requesting that the Applicants be exempt from certain filing requirements under Chapter 7849. The Commission approved the Exemption Petition on November 24, 2014, and issued its written Order on December 3, 2014 (Exemption Order). This Application contains the information required under Minnesota Rules Chapter 7849, as modified by the Commission in its Exemption Order. A copy of the Commission’s Exemption Order is provided in **Appendix B**.

The CON application content requirements are provided in **Appendix C** with cross references indicating where information can be found in this Application.

### 2.2 Route Permit

Minnesota Statutes Section 216E.03, subdivision 2, provides that “[n]o person may construct a high voltage transmission line without a route permit from the commission.” A high voltage transmission line (HVTL) is defined by Minnesota Statutes Section 216E.01, subdivision 4, as “a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length.” Because the Project includes a 115 kV transmission line that is greater than 1,500 feet, a Route Permit is required.

The rules that apply to the review of Route Permit applications are found in Minnesota Rules Chapter 7850. Minnesota Rule 7850.1900, subparts 2 and 3, set forth the information that must be included in a Route Permit application.

Minnesota Statutes Section 216E.04, subdivision 2(3) provides for an Alternative Review Process for transmission lines between 100 and 200 kilovolts; therefore, this Project qualifies for alternative review. The permitting timeline for the Alternative Review Process is shorter than the

timeline required for transmission lines over 200 kV. On behalf of Applicants, Great River Energy notified the Commission on December 11, 2014, pursuant to Minnesota Rule 7850.2800, subpart 2 of its intent to utilize the Alternative Review Process and file its Route Permit Application under Minnesota Rules 7850.2800 to 7850.3900. A copy of the notification letter is provided in **Appendix D**.

Under the Alternative Review Process, an applicant is not required to propose any alternative routes, but must disclose any other routes that were rejected by the applicant (Minn. Stat. § 216E.04, subd. 3.). Further, an Environmental Impact Statement is not required under the Alternative Review Process. Instead, the Department of Commerce is required to prepare an EA. Minn. Stat. § 216E.04, subd. 5. Unlike the full route permit process for higher voltage lines, which requires a formal contested case hearing, the Commission has discretion to determine what kind of public hearing to conduct. Minn. Stat. § 216E.04, subd. 6. In **Section 2.3** below, the procedures described are those required for the lower voltage lines under the Alternative Review Process.

The Route Permit application content requirements are provided in **Appendix E** with cross references indicating where information can be found in this Application.

## **2.3 Regulatory Process**

As a result of legislation passed in 2005, the Commission has jurisdiction over both Certificates of Need and Route Permits. 2005 Minn. Laws ch. 97, art. 3, § 17. Minnesota Statutes. Section 216E.02, subdivision 2, states that “[t]he commission is hereby given the authority to provide for site and route selection for large electric power facilities.” The legislature transferred these siting and routing responsibilities to the Commission to “ensure greater public participation in energy infrastructure approval proceedings and to better integrate and align state energy and environmental policy goals with economic decisions involving large energy infrastructure.” 2005 Minn. Laws ch. 97, art. 3, § 17.

Applicants chose to file for a CON and a Route Permit at the same time and in a single document, as it was efficient to compile the necessary information to request a Route Permit concurrently with the CON.

Combining the CON and the Route Permit proceedings into one proceeding is consistent with the goal of the Legislature to simplify public participation and to expedite agency review and decision-making. The Legislature provided in the 2005 Act transferring siting and routing authority to the Commission that “Unless the commission determines that a joint hearing on siting and need under this subdivision and section 216E.03, subdivision 6, is not feasible or more efficient or otherwise not in the public interest, a joint hearing under those subdivisions shall be held.” Minn. Stat. § 216B.243, subd. 4 and Minn. R. 7849.1900, subp. 4. A joint hearing in this case is certainly feasible, it is definitely efficient, and it will promote the public interest.

The regulatory process described in this section, then, is the process that is followed to satisfy all the requirements under the CON rules (Chapter 7849) and all the requirements under the Route Permit rules (Chapter 7850). In the end, the Commission can make a decision on the need and authorize construction along a designated route in one proceeding.

The Commission's rules establish requirements that apply prior to the submission of a CON application. Minn. R. 7829.2550, subp. 1, requires the applicant for a high voltage transmission line CON to submit a proposed plan for providing notice three months prior to the filing of the application. In this matter, Great River Energy, on behalf of Applicants, filed a proposed Notice Plan Petition with the Commission on September 18, 2014. The proposed Notice Plan incorporated the notice requirements of the Commission's Certificate of Need rules (Minn. R. 7829.2550). The Commission approved the Notice Plan Petition on November 24, 2014, and issued its written Order on December 8, 2014. A copy of the Commission's Order is provided in **Appendix F**.

In accordance with Minnesota Statute Section 216E.04, subdivision 4, upon filing this CON and Route Permit Application, Applicants will mail a notice of the filing to potentially affected landowners, to those persons who have registered their names with the Commission and expressed an interest in large energy projects, and to the area tribal government and local units of government whose jurisdictions are reasonably likely to be affected by the proposed Project. Minn. Stat. § 216E.04, subd. 4; Minn. R. 7850.2100. In addition, Applicants will publish notice in four local newspapers announcing the filing of this Application.

An electronic version of the Application will be available on eDockets in docket numbers 14-787 and 14-797. The Application will also be available on Great River Energy's transmission projects webpage (<http://www.greatriverenergy.com/deliveringelectricity/currentprojects/>) with a link to the Menahga Area 115 kV Project by clicking on either Hubbard, Wadena or Becker counties on the map.

Upon submission of an application for a CON or a Route Permit, the Department of Commerce, EERA has the obligation to conduct environmental review of the Project. Minn. R. 7849.1200 and 7850.3700. In this matter, because Applicants are applying for both a CON and a Route Permit, the environmental review will consider issues relating both to the need for the Project, including size, type, timing, voltage, and system configurations, and also to the proposed route, such as construction impacts, environmental features, and impacts on homeowners. EERA has the option to elect to combine the environmental review and prepare one document, an EA. Minn. R. 7849.1900. Applicants believe that combining the environmental review into one document is appropriate and preferable in this matter – it is more expeditious, it will be easier for the public to follow, and it is consistent with legislative intent to combine the need and routing processes.

The process EERA must follow in preparing the EA is set forth in Minnesota Rule 7850.3700. This process requires EERA to schedule at least one scoping meeting in the area of the proposed Project. The purpose of the meeting is to advise the public of the Project and to solicit public input into the scope of the environmental review. Applicants and EERA will both have representatives at the public meeting to answer questions and provide information for the public. The public meeting will be held within 60 days after the Application is accepted and deemed complete.

Once the public meeting has been held, EERA will issue a scoping decision describing the issues and alternatives that will be evaluated in the EA. EERA will prepare the EA based on the scoping decision. Upon completion of the EA, EERA will publish notice in the *EQB Monitor*, a

bi-weekly publication of the Environmental Quality Board (EQB) that can be accessed on the EQB webpage, [www.eqb.state.mn.us/monitor.html](http://www.eqb.state.mn.us/monitor.html), and will send notice to persons who have placed their names on the project mailing list (see **Section 1.10**). A copy of the EA will be available electronically through eDockets and the EERA webpage, and in print at local libraries.

After the EA is completed, the Commission will schedule a public hearing to again solicit public input and to create an administrative record. The Commission will select a person to preside at the hearing; it may be an administrative law judge (ALJ) from the Office of Administrative Hearings or another person acceptable to the Commission. The Commission will establish the procedures to be followed at the hearing. Minn. R. 7850.3800. The EA will become part of the record for consideration by the Commission. Interested persons will be notified of the date of the public hearing and will have an opportunity to participate in the proceeding. The hearing will likely be a joint hearing to consider both the CON and the Route Permit. Minn. R. 7849.1900 and 7850.3800.

Once the hearing is concluded, the ALJ will prepare a report based on the record and briefs filed by parties to the proceeding. After the ALJ issues the report, the matter will come to the Commission for a decision. At that time, the Commission may afford interested persons an opportunity to provide additional comments.

The Commission has one year from the time a CON Application is submitted to reach a final decision. Minn. Stat. § 216B.243, subd. 5. A route permit under the Alternative Permitting Process can be issued in six months after the Commission's determination that the Application is complete (Minn. Stat. § 216E.04, subd. 7); however, Minnesota Rule 7850.2700, Subpart 3 prohibits the Commission from making a final decision on a route permit until the CON is approved. Minn. Stat. § 216E.02, subd. 2.

Applicants anticipate that a final decision on the Certificate of Need and the Route Permit for this Project can be made by February 2016.

## **2.4 Public Participation**

Great River Energy held a public open house informational meeting on the Project on September 30, 2014, at the Menahga Senior Center in Menahga, Minnesota. Approximately 30 members of the public attended the open house.

The meeting was publicized in several local papers approximately one week prior to the open house, and landowners potentially impacted received a post card invitation. Tribal and local government officials and resource agencies were also invited by letter. Minn. Stat. § 216E.03, subd. 3a. Large aerial maps of the proposed Project, photos of proposed transmission structures, fact sheets, information on the permitting process and need for the Project, ROW information, and a post card for questions or comments were available at the open house.

Inquiries/concerns from the public included whether the transmission line will go through their property, proximity of the proposed line to houses, tree removal, Project schedule, compensation for easements, EMF and stray voltage, and possible impacts to center pivot irrigation systems. A DNR representative attended and pointed out state lands in the Project area and other resource issues (a designated trout stream, a high wildlife area, swan activity) to be considered in the area.

Subsequent to the open house, Applicants received: one written statement (a letter regarding the proximity of the proposed line to the Alajoki Cemetery, see **Sheet 17, Appendix G** for location of the cemetery), three telephone calls and one email requesting information on the Project and the proposed line location.

The need for the Project has also been discussed in the Minnesota Biennial Transmission Projects Report since 2007. The public participation process associated with the Biennial Transmission Projects Report provided the public and LGUs opportunities to offer comments and suggestions.

In accordance with the Notice Plan, on December 8, 2014, Great River Energy mailed 146 letters to landowners and residents within the expanded 1500-foot notice corridor, and mailed 124 letters to LGU officials, elected officials, and state and federal agencies. Great River Energy also published notice of the Project, in accordance with the Notice Plan, in the Northwoods Press, Detroit Lakes Tribune, Verndale Sun and The Review Messenger between December 10, 2014, and December 11, 2014.

## **2.5 Other Permits/Approvals**

In addition to the CON and Route Permit sought in this Application, several other permits may be required for the Project depending on the actual routes selected and the conditions encountered during construction. A list of local, state and federal permits that might be required for this Project is provided in **Table 2-1**.

### **2.5.1 Local Approvals**

Great River Energy will work with local units of government to address any concerns related to the following possible approvals.

#### Road Crossing/Right-of-Way Permits

These permits may be required to cross or occupy county, township, and city road ROW.

#### Over width/Loads Permits

These permits may be required to move over width or heavy loads on county, township, or city roads.

#### Driveway/Access Permits

These permits may be required to construct access roads or driveways from county, township, or city roadways.

**Table 2-1. List of Possible Permits**

Permit	Jurisdiction
<b>Local Approvals</b>	
Road Crossing/ROW Permits	County, Township, City
Lands Permits, Building Permits	County, Township, City
Overwidth Loads Permits	County, Township, City
Driveway/Access Permits	County, Township, City
<b>Minnesota State Approvals</b>	
Endangered Species Consultation	Minnesota Department of Natural Resources – Ecological Services
Licenses to Cross Public Waters and Lands	Minnesota Department of Natural Resources – Lands and Minerals
Utility Permit	Minnesota Department of Transportation
Wetland Conservation Act	Board of Water and Soil Resources
National Pollutant Discharge Elimination System Permit	Minnesota Pollution Control Agency
<b>Federal Approvals</b>	
Section 10 Permit	US Army Corps of Engineers
Section 404 Permit	US Army Corps of Engineers
Permit to Cross Federal Aid Highway	Federal Highway Administration
United States Fish and Wildlife Service	Endangered Species Consultation
<b>Other Approvals</b>	
Crossing Permit	Other Utilities such as Pipelines

## 2.5.2 State of Minnesota Approvals

### Endangered Species Consultation

The DNR Natural Heritage and Nongame Research Program collects, manages, and interprets information about nongame species. Consultation was requested from the DNR for the Project regarding rare and unique species. Great River Energy will work with the DNR to identify any areas that may require marking transmission line shield wires and/or to use alternate structures to reduce the likelihood of avian collisions.

### License to Cross Public Lands and Waters

The DNR Division of Lands and Minerals regulates utility crossings over, under, or across any State land or public water identified on the Public Waters and Wetlands Maps. A license to cross

Public Waters is required under Minnesota Statutes Section 84.415 and Minnesota Rules Chapter 6135. The proposed Project will require a license for the seven Public Waters crossed by the new transmission line. Great River Energy will file the license application with the DNR once the design of the transmission line is complete and will acquire the license prior to construction.

#### Utility Permit

A permit from the Minnesota Department of Transportation (MnDOT) is required for construction, placement, or maintenance of utility lines that occur adjacent or across the highway ROW. Great River Energy will file for this permit once the design of the transmission line is complete and will acquire the permit prior to construction.

#### Wetland Conservation Act

The Minnesota Board of Water and Soil Resources administers the state Wetland Conservation Act, under Minnesota Rules Chapter 8420. The proposed Project may require a permit under these rules if permanent impacts to wetlands are anticipated to result from construction. Great River Energy will apply for this permit (which is a joint application with the Section 404 permit) or for an exemption if applicable once the design of the transmission line is complete.

#### NPDES Permit

A National Pollutant Discharge Elimination System (NPDES) permit from the Minnesota Pollution Control Agency (MPCA) is required for stormwater discharges associated with construction activities disturbing equal to or greater than one acre. A requirement of the permit is to develop and implement a stormwater pollution prevention plan (SWPPP), which includes Best Management Practices (BMPs) to minimize discharge of pollutants from the site. This permit will be acquired if construction of the transmission line will cause a disturbance of greater than one acre.

### **2.5.3 Federal Approvals**

#### Section 10 Permit

The US Army Corps of Engineers (Corps) regulates impacts to navigable waters of the United States. There are no rivers in the Project area that are classified by the Corps as navigable.

#### Section 404 Permit

A Section 404 permit is required from the Corps for discharges of dredged or fill material into waters of the United States. If impacts exceed the permitting threshold, Great River Energy will apply for this permit once the design of the transmission line is complete.

#### United States Fish and Wildlife Service (USFWS)

Review of the Project was requested from the USFWS regarding federally-listed species or critical habitat. Great River Energy will work with the USFWS to identify any areas that may require marking transmission line shield wires and/or to use alternate structures to reduce the

likelihood of avian collisions. Any eagle or other migratory bird nests discovered during survey of the line or in the land acquisition process will be reported to the USFWS and Great River Energy will adhere to guidance provided.

#### **2.5.4 Other Approvals**

In the vicinity of the proposed transmission line, Minnesota Energy has a small regulator station in the southeast quadrant of 110<sup>th</sup> Street and 119<sup>th</sup> Avenue in the NW ¼ of the NW ¼ of Section 33 in Straight River Township; and an 8-inch steel natural gas pipeline located in Sections 20, 29, 31, 32 in Blueberry Township and Sections 6, 7, and 19 in Red Eye Township.

Great River Energy will work with Minnesota Energy to obtain any required crossing permits or engineering analysis of the pipeline. In areas that Great River Energy proposes to place the transmission line parallel and adjacent to the pipeline, no poles will be proposed to be placed in Minnesota Energy's easement.