

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of  
Minnesota Pipe Line Company for a  
Certificate of Need for a Crude Oil  
Pipeline  
And  
In the Matter of the Application of  
Minnesota Pipe Line Company for a  
Routing Permit for a Crude Oil Pipeline

**FIRST PREHEARING ORDER**

A prehearing conference was held before Beverly Jones Heydinger, Administrative Law Judge, on March 17, 2006 at the Public Utilities Commission, 350 Metro Square Building, 121 Seventh Place East, St. Paul, Minnesota. In addition, a telephone conference was held on March 30, 2006.

Appearances:

Eric F. Swanson, Winthrop & Weinstine, 225 South Sixth Street, Suite 3500, Minneapolis, MN 55402, appeared on behalf of Minnesota Pipeline Company.

Karen Finstad Hammel, Assistant Attorney General, and Valerie M. Smith, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, MN 55101, appeared on behalf of the Department of Commerce.

Commission staff Robert Cupit, Brett Ekness and David Jacobson were present at the prehearing conference.

Discussion was held among the participants concerning the proposed schedule. The Administrative Law Judge makes the following Prehearing Order.

**Intervention**

1. The parties to this matter are Minnesota Pipeline Company and the Department of Commerce.

2. Members of the public need not become formal parties to participate in the hearing. Members of the public may offer either oral or written

testimony, and they may offer exhibits for inclusion in the record. But any person desiring to become a formal party must file a petition to intervene.

3. Persons who wish to intervene in the Certificate of Need Proceeding are requested to file a written petition to intervene with the Administrative Law Judge no later than **April 17, 2006**, as set forth in Minn. R. pt. 1400.6200. Any objections to the petition shall be filed by **April 30, 2006**. Persons who wish to intervene in the Routing Permit Proceeding are requested to file a written petition to intervene with the Administrative Law Judge no later than May 30, 2006, as set forth in Minn. R. pt. 1400.6200. A petition shall be served upon all existing parties and the Commission. A Notice of Appearance shall be filed with the Petition.

### Schedule

4. For the Certificate of Need Proceeding, the following schedule is adopted:

Direct Testimony of MPL	April 17, 2006
Direct Testimony of Dept./intervenor	June 21, 2006
Rebuttal Testimony (all parties)	July 21, 2006
Contested Case hearings	August 15-Sept. 15, 2006
Post-hearing Brief	October 4, 2006
Reply Brief	October 13, 2006

5. For the Routing Permit Proceeding, the following schedule is adopted:

Proposals for alternative routes	May 30, 2006
Final determination of route to be considered – latest possible date	July 6, 2006
Comparative analysis of alternative routes and other prefiled testimony-latest possible date	July 20, 2006
Public information meetings and evidentiary hearing	August 15-Sept. 15, 2006
Post-hearing brief	October 4, 2006
Reply brief	October 13, 2006

6. The times and places for the public hearings and evidentiary hearings are being developed by the Department and Commission staff.

A final schedule will be approved by the Administrative Law Judge, and will be distributed to the parties as soon as it is available.

7. Prehearing Conference

A prehearing conference will be held on **June 7, 2006 at 9:30 a.m.** to review the proposals for alternative routes, if any, and to determine if the schedules above should be revised. At that prehearing, the schedule for publication of notice shall also be set.

8. The ALJ is aware of the time constraints set by statute. Prior to the enactment of Laws of 2005, Ch. 97, Art. 3, § 17, the Certificate of Need proceeding was completed before the Routing Permit proceeding began. The proposed schedule attempts to combine the processes while at the same time allowing sufficient public participation and assuring that the certificate of need proceeding concludes no later than the Routing Permit proceeding. In order to accommodate these concerns and give adequate public notice, the timeline for a recommendation to the PUC on the routing permit will extend beyond August 16, 2006. In the event that few or no alternative routes are proposed by the May 30, 2006, deadline the schedule will be reviewed at the prehearing conference on June 7, 2006 and shortened, if possible. If the schedule cannot be shortened, the Administrative Law Judge will notify the Commission of the proposed schedule.

### **Discovery**

9. All requests for information shall be made in writing to the person from whom the information is sought with a copy of the request provided to all parties of record. The responding party shall provide the information to the requesting party within eight business days of receipt. Copies of the requests and responses shall be sent to all parties of record. Copies of the requests and the responses should NOT be filed with the Administrative Law Judge or the Court Reporter. Only public versions of requests and responses shall be sent by electronic mail.

10. In the event the information cannot be supplied within eight business days, the responding party shall notify the requesting party in writing within five days of the request of the reason(s) it cannot provide the information, and the two parties shall work out a schedule for compliance. Requests and responses may be sent by facsimile transmission or electronic mail, with the assent of the recipient.

11. Information Requests and responses received by electronic mail or U.S. mail before 3:00 p.m. will be considered received the actual day received. Information requests and responses received after 3:00 p.m. will be considered received the following business day. A "business day" is defined as Monday through Friday, except for Minnesota state holidays. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party.

12. There shall be a continuing obligation to update and supplement information responses.

13. Parties asked to provide “Confidential Information” may require the requesting party to comply with the terms of the Protective Agreement in this matter.

14. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party. Hearings on such motions may be conducted by telephone conference call.

### **Prefiled Testimony**

15. Prefiled testimony shall be marked as an exhibit and offered for admission into the record at the hearing. Prefiled testimony that is amended, or not offered into the record, shall be considered withdrawn and no witness shall be cross-examined concerning the withdrawn testimony. Any new affirmative matter that is not offered in reply to another party’s direct case will not be allowed in rebuttal testimony and exhibits. Except for good cause shown, all revisions or corrections to any prefiled testimony shall be in writing and served upon the Administrative Law Judge and the parties no later than three days prior to the commencement of the evidentiary hearing.

### **Order of Testimony**

16. Unless the parties agree otherwise, the order of testimony for the Certificate of Need Proceeding shall be: Minnesota Pipeline Company, any intervenors, and the Department of Commerce. Questioning of the witnesses shall proceed in the same order, subject to change by agreement of the parties or further order of the Administrative Law Judge.

17. The Company’s witnesses shall stand for cross-examination in the Routing Permit Proceeding. Other persons who are present may present evidence and question the witnesses in a sequence determined by the Administrative Law Judge. At this time, there are no additional parties.

18. If a witness needs a day certain to offer testimony, the sponsoring party should submit to the Administrative Law Judge and other parties a request for testimony on a day certain.

### **Examination of Witnesses**

19. Witnesses shall be allowed ten minutes to summarize their prefiled testimony. For good cause shown, witnesses will be permitted to respond to any new matters not addressed in prefiled testimony through direct examination by counsel.

20. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

21. Except for good cause shown, objections by any party to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party states its objection by motion made to the Administrative Law Judge, and serves a copy of such objections on the parties, no later than **August 14, 2006**.

### **Procedure**

22. The rules of the Office of Administrative Hearings govern the conduct of the hearings, and the Professionalism Aspirations adopted by the Minnesota Supreme Court will be observed.

### **Filing of Documents**

23. All documents, including Prefiled Testimony **but excluding information requests and responses**, shall be filed as follows:

- A. Prior to the issuance of the Report of the Administrative Law Judge, the original of each document shall be filed with the Administrative Law Judge.
- B. After the Administrative Law Judge's Report is issued, the parties shall file the original of all documents with the Executive Secretary of the Commission.
- C. Service and filing of documents is governed by Minn. R. 1400.5550. However, an electronic copy should also be sent by electronic mail to persons whose electronic mail address is provided on the service list, if possible.
- D. A service list is attached hereto as Exhibit A and made a part hereof. Service of documents in the numbers required by this Prehearing Order shall be made according to the service list. This list will be amended as necessary to reflect the addition of parties. Corrections should be brought to the attention of the administrative law judge as soon as practicable.
- E. Pursuant to Minn. R. 1400.5100, subp. 9, and Minn. R. 7829.0400, subp. 1, the effective date of filing shall be the date the document is mailed or delivered to the Office of Administrative Hearings. Filings with the Administrative Law Judge may be made by electronic mail to [Beverly.Heydinger@state.mn.us](mailto:Beverly.Heydinger@state.mn.us), or by facsimile transmission to 612-349-2665. However, any filing sent



**EXHIBIT A**

**In the Matter of the Application of CenterPoint Energy  
Minnesota Gas, a Division of CenterPoint Energy Resources  
Corp., for Authority to Increase Natural Gas Rates in  
Minnesota**

PUC Docket No. PL-5/CN-06-02 (Certificate of Need),  
PUC Docket No. PL-5/PPL-05-2003 (Routing Permit).  
OAH Docket No. 15-2500-17136-2.

**Service List as of March 17, 2006.**

<p>Burl W. Haar (10 copies) Minnesota Public Utilities Commission 350 Metro Square Building 121 Seventh Place East St. Paul, MN 55101-2147 FAX: 651-297-7073</p> <p>Beverly Jones Heydinger (Original and 1 copy) Office of Administrative Hearings 100 Washington Square, Suite 1700 100 Washington Avenue South Minneapolis, MN 55401-2138 <a href="mailto:beverly.heydinger@state.mn.us">beverly.heydinger@state.mn.us</a></p> <p>For Certificate of Need: Valerie M. Smith Assistant Attorney General 1400 Bremer Tower 445 Minnesota Street St. Paul, MN 55101 <a href="mailto:valerie.smith@state.mn.us">valerie.smith@state.mn.us</a>, (651) 296-6170</p> <p>For Routing Permit: Karen Finstad Hammel Assistant Attorney General 1400 Bremer Tower 445 Minnesota Street St. Paul, MN 55101 <a href="mailto:karen.hammel@state.mn.us">karen.hammel@state.mn.us</a>, (651) 297-1852</p>	<p>Eric F. Swanson Winthrop &amp; Weinstine Suite 3500 225 South Sixth Street Minneapolis, MN 55402 <a href="mailto:eswanson@winthrop.com">eswanson@winthrop.com</a> (612) 604-6511</p> <p><b>NOTE:</b> If a document relates to both the Certificate of Need Proceeding <u>and</u> the Routing Permit Proceeding, <u>eight copies</u> must be filed with the Department of Commerce and an <u>original and two copies</u> with the ALJ.</p> <p>Courtesy Copy: William Donohue Office of General Counsel 360 McNamara Alumni Center 200 Oak Street SE Minneapolis, MN 55455</p>
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For the Commission staff:

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