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[Link to Final Agency Decision - CN](#)

OAH Docket No. 2-2500-17620-2

MPUC Docket Nos. E-017/CN-06-667

E-017/TL-06-1265

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

In the Matter of the Application for a Certificate of Need for the Appleton-Canby 115kV High Voltage Transmission Line, and
In the Matter of Ottertail Power Company's Application for a Route Permit for the Appleton-Canby 115kV High Voltage Transmission Line

**SUMMARY OF TESTIMONY
AT PUBLIC HEARINGS**

This matter was filed with the Minnesota Public Utilities Commission (“MPUC” or the Commission) by Otter Tail Power Company (OTP) on September 8, 2006.^[1] OTP requested a Certificate of Need (CN) and route permit for a 115 kilovolt high voltage transmission line (115 kV HVTL) between Appleton and Canby. The Commission ordered the two matters consolidated and referred the matter to the Office of Administrative Hearings for conducting public hearings under the alternate CN process.^[2] Administrative Law Judge (ALJ) Raymond R. Krause conducted public hearings in the afternoon and evening of January 25, 2007. The public hearings were held in the Dawson City Hall, 625 Chestnut Street, Dawson, Minnesota. The ALJ was present at both hearings and the opportunity was provided for members of the public to air their views regarding the need for, and proposed route of the 115 kV HVTL. The period for written public comments closed on February 5, 2007.

Description of the Project

OTP proposed upgrading the existing 41.6 kV line between the Appleton substation and the Canby substation to 115 kV (the Project). The overall length of the HVTL line between the two substations is 42 miles long. The proposed route is the same as the existing 41.6 kV line. Approximately halfway along the route is the Dawson substation. The existing HVTL from Dawson to the Canby substation is already capable of operating at 115 kV with only a few modifications.^[3]

The HVTL from Appleton to Dawson must be replaced in order to operate at 115 kV. The larger capacity HVTL requires taller poles, of 50 to 70 feet in height.^[4] Where the route follows a roadway, the required right-of-way is 40 feet. In all other locations,

the required right-of-way is up to 80 feet. OTP anticipates that only limited areas near the Canby substation will be added to the required right-of-way for the Project. The size of the Dawson substation will need to be increased to provide for larger equipment.^[5] OTP intends to enter new easement agreements with those landowners where additional right-of-way is needed. The Project is needed to meet the current and growing demands of their customers in northeastern Minnesota. OTP estimates the total cost of the Project at \$2.6 million.^[6] Much of the Project's cost is expected to be recovered through savings in capacity and reduced energy loss.^[7]

Hearing Notices

OTP provided notice of the public hearings by publication in the *Canby News*, *Swift County Monitor-News*, *Appleton Press*, *Granite Falls-Clarkfield Advocate-Tribune*, *Dawson Sentinel*, *Marshall Independent*, *Morris Sun Tribune*, *Ortonville Independent*, and *Montevideo American News*. The notice was mailed to landowners, public officials, media outlets, and persons who indicated an interest in CN matters.^[8]

Approximately 20 members of the public appeared at the afternoon public hearing and approximately 10 persons at the evening hearing. Before and after the hearings, OTP made a slide presentation available that included detailed information regarding the Project and depictions of the impact on voltages in the area under several scenarios.^[9] Several of the attendees offered testimony concerning the HVTL and related issues. The Administrative Law Judge established a deadline of February 5, 2007 for receipt of written comments from any interested person.

The Commission will issue an Order on OTP's application for Certification of Need and Route Permit after examination of this Summary, the hearing transcripts, all written filings submitted by the public and all filings and arguments submitted by the Applicants, the Minnesota Department of Commerce and other persons and entities interested in this matter. Under Minn. R. 4400.2950, subp. 1, the decision on a routing permit must be issued within 6 months of the determination by the Commission that the application was complete. The Commission's deadline for issuance of that Order is March 28, 2007.

Summary of Testimony in Dawson

Jeff Haase, Project Manager with the Department of Commerce's Energy Facilities Permitting Group made a presentation regarding the Department's environmental review for the Project. He also noted the comments that other Department staff had made regarding CN issues.^[10]

The CN environmental review conducted by the Department is summarized in a document entitled an Environmental Report. The Environmental Report is a general document discussing the potential human and environmental impacts the Project as well as any alternatives the Project as proposed. For routing, the Department's environmental review is summarized in a document entitled the Environmental Assessment. The Environmental Assessment is a more specific investigation into the

potential effects of the Project on a particular area. Those documents were combined for this proceeding in the Environmental Assessment. The Department also assessed possible mitigation of potential adverse effects of the Project.^[11] Due to the Commission's selection of the Alternative Review Process, no alternative routes were proposed or analyzed.^[12]

As part of the Environmental Assessment development process, a public meeting was held on October 4, 2006 to solicit input into the scope of the issues to be addressed by each study. A summary of that public meeting noted that right-of-way width, updating easement agreements, the length of line between poles, the period before further upgrades are needed, and the anticipated useful life of the lines were among the matters discussed. No issues were raised outside the draft scoping document for the Environmental Assessment.^[13]

The Environmental Assessment detailed the work needed to be performed for the Project, potential impacts and mitigation measures. No significant impacts requiring extraordinary mitigation measures were identified in the Environmental Assessment. Mitigation measures were detailed for the limited impacts (and potential impacts) caused by the Project.^[14]

The Department's CN review covered: need, preference for renewable and conservation alternatives, cost of alternatives, impacts to the socioeconomic and natural environments, and policy implications. These areas of review were conducted in light of the evidence of OTP reliably meeting customer demand, an assessment regarding required facilities, and a determination of what end points to the HVTL are required.^[15]

The Department noted that regional demand is greater than the transmission system's existing capacity when any one facility is unavailable due to storms or other circumstances. This lack of excess capacity leads the Department to conclude that new electrical facilities are needed to assure transmission system reliability. Renewable and conservation alternatives were considered, but neither of these options was determined to offer a viable alternative to the transmission upgrade of the Project. No viable alternative was found with a lower cost than the proposed transmission upgrade. Similarly, no viable alternative was found with lesser socioeconomic and natural environments than the Project. The Department concluded that the Project posed no significant policy implications.^[16]

Based on its assessments, the Department recommended that the Commission issue the required CN to OTP. Mr. Haase invited the attendees at the public hearing to comment on the Project and on the Department's assessment.^[17]

Al Koeckeritz, Project Manager for OTP, provided an overall description of the Project. OTP noted that the HVTL upgrade was intended to address the need for additional electricity in Dawson and the surrounding areas. This need is particularly acute in the summer when outages can affect a number of communities and other utilities due to existing limitations on transmission capacity. Using the existing right-of-

way was described as having the least impact on the environment and being the best way to serve exist customers.^[18]

Peggy Crosby inquired as to what changes would be made to the substation in Dawson. OTP responded that a modest expansion of the existing substation site was needed to accommodate larger equipment, but no significant changes would be made to the substation.^[19]

Randall Windingstad asked OTP for clarification as to what pole design was planned for the upgrade. OTP responded that a single-pole design was proposed. A depiction of the new poles was made available at the public hearings.^[20] Mr. Windingstad and Francis Buer also asked if OTP needed permission from South Dakota since the electricity originates from South Dakota generating plants. Mr. Haase explained that this proceeding was concerned only with the span between Appleton and Canby and that a different proceeding was addressing concerns about the need for generating capacity originating from South Dakota.^[21]

Roger Strom noted that he receives three-phase power and he asked if the proposal would affect the electricity that customers were currently receiving from OTP. OTP responded that there would be no detriment to the service provided and the only change would be in improved reliability of service.^[22]

Weldon Anderson inquired about the increases in width required for easements along the right-of-way. OTP explained that the existing easements were for five-foot strips for setting poles.^[23] Where the right-of-way is adjacent to a public road, the easements would be expanded to 40-foot bands, measuring from the edge of the road right-of-way. While this is a change from the existing standard, OTP does not anticipate any difference will be experienced by the affected land owner.^[24] The change in easements is intended to bring the existing right-of-way in line with modern standards for access and tree-trimming.^[25]

No objections to OTP's proposal were raised at the public hearings.

Summary of Written Comments

The Administrative Law Judge received a written comment from Matt Langan, Environmental Planner for the Minnesota Department of Natural Resources (DNR). The DNR reviewed the Environmental Assessment and made a number of suggestions to reduce potential environmental impacts arising from the Project. The use of best management practices in the installation of the HVTL was urged by the DNR, including: 1) operating within already-disturbed areas; 2) allowing only necessary vehicles into the vicinity; 3) prohibiting stockpiling and vehicle parking along the route; 4) avoiding plant damage by performing the HVTL upgrade in autumn or winter; 5) reducing runoff through the use of straw bales, silt fencing, and prompt completion of work along the route; and 6) reseeding with local species of plants to avoid invasive plants from disrupting existing ecosystems.^[26]

The DNR also made specific recommendations to adjust the height and placement of poles to avoid bird collisions with equipment, and to deny avian predators a perching habitat that could cause significant reductions in bird population. The DNR urged that the 115 kV line poles be kept to the same height as the existing poles to accomplish these objectives. As an alternative, the DNR suggested that the segments of the line traveling along or over mesic prairie sites in the Lac Qui Parle Wildlife Management Area (WMA) be relocated or run underground.^[27]

Where above-ground lines traverse the Lac Qui Parle WMA and for the distance that the HVTL runs parallel to State Highway 119, the DNR recommended installation of Swan Flight Diverters (SFDs). SFDs were recommended by the DNR to reduce avian collisions with the 115 kV HVTL, while reducing audible noise and radio interference. The DNR also recommended installation of SFDs at the crossing point of the West Branch Lac qui Parle River and along the width of that river's natural floodplain.^[28]

No other written comments from the public were received.

Dated this 8th day of February, 2007.

/s/ Raymond R. Krause
RAYMOND R. KRAUSE
Chief Administrative Law Judge

Reported: Shaddix and Associates, Jolene Carrow, Court Reporter
Transcripts Prepared

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- ^[1] OTP Application, (<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=3284703>).
- ^[2] Commission Orders, September 28, 2006
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=3340474> and
<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=3340476>).
- ^[3] OTP Application, Executive Summary, at 1.
- ^[4] OTP Application, Project Description, at 21.
- ^[5] Dawson Afternoon Hearing, Tr. at 17-18 (Koeckeritz).
- ^[6] OTP Application, Executive Summary, at 1-2.
- ^[7] OTP Application, Project Description, at 24.
- ^[8] OTP Affidavit of Service, January 23, 2007
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=3736529>).
- ^[9] OTP Public Hearing Presentation Slides
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=3758162>).
- ^[10] Dawson Afternoon Hearing, Tr. at 4 (Haase).
- ^[11] Dawson Afternoon Hearing, Tr. at 5 (Haase).
- ^[12] Dawson Afternoon Hearing, Tr. at 6 (Haase).
- ^[13] Summary of the Appleton to Canby Public Information & Scoping Meeting
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=3701257>).
- ^[14] Environmental Assessment, December 15, 2006
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=3636482>).
- ^[15] Dawson Afternoon Hearing, Tr. at 7 (Haase).
- ^[16] Dawson Afternoon Hearing, Tr. at 8 (Haase).
- ^[17] Dawson Afternoon Hearing, Tr. at 8-9 (Haase).
- ^[18] Dawson Afternoon Hearing, Tr. at 10-15 (Koeckeritz).
- ^[19] Dawson Afternoon Hearing, Tr. at 17-18 (Koeckeritz).
- ^[20] Dawson Afternoon Hearing, Tr. at 18-19 (Koeckeritz).
- ^[21] Dawson Afternoon Hearing, Tr. at 18-19 (Haase) and 22 (Koeckeritz).
- ^[22] Dawson Afternoon Hearing, Tr. at 21-22 (Koeckeritz).
- ^[23] OTP clarified in the evening hearing that these narrow easements allowed for tree trimming across a 40-foot band. Dawson Evening Hearing, Tr. at 11 (Koeckeritz).
- ^[24] Dawson Afternoon Hearing, Tr. at 23-24 (Koeckeritz).
- ^[25] Dawson Evening Hearing, Tr. at 11-12 (Koeckeritz).
- ^[26] DNR Comment, February 5, 2007.
- ^[27] *Id.*
- ^[28] *Id.*