

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

In the Matter of the Application for a
Route Permit for the Fargo to St. Cloud
345 kV Transmission Line Project

PREHEARING ORDER

A prehearing conference was held before Beverly Jones Heydinger, Administrative Law Judge, on May 18, 2010, at the Public Utilities Commission, 350 Metro Square Building, 121 Seventh Place East, St. Paul, Minnesota.

Appearances:

Lisa M. Agrimonti, Briggs and Morgan, P.A., and Jennifer Thulien Smith, Xcel Energy, appeared on behalf of Northern States Power Company and Great River Energy (Applicants). Laureen Ross McCalib, Great River Energy, and Darrin F. Lahr, Xcel Energy, were also present.

Karen Finstad Hammel, Assistant Attorney General, appeared on behalf of the Department of Commerce, Office of Energy Security, Energy Facility Permitting Staff (Department). David Birkholz, Project Manager, was also present.

Paula G. Maccabee, Attorney at Law, Just Change Law Offices, appeared on behalf of potential intervenor North Route Citizens Alliance (NoRCA).

Commission staff Bret Eknes was present.

David Seykora, Minnesota Department of Transportation, also attended.

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

IT IS HEREBY ORDERED:

Intervention

1. Members of the public need not become formal parties to participate in the hearing. They may offer either oral or written testimony, and they may offer exhibits for inclusion in the record. Any person may "subscribe" to the E-docket system to receive

electronic notice when documents are filed in the E-docket system in this matter. However, any person desiring to become a formal party must file a petition to intervene.

2. Persons who wish to intervene in this proceeding are requested to file a written petition to intervene with the Administrative Law Judge no later than **October 8, 2010**, as set forth in Minn. R. 1400.6200. Any objection to a petition shall be filed within seven business days of service of the petition. The petition shall be served upon all parties, pursuant to the E-service list in effect at the time of the petition. A Notice of Appearance shall be filed with the Petition.

3. The Department has agreed to provide a copy of this Order to the Local Governmental Units that may be affected by this proceeding and post a copy on its website.

4. The Environmental Impact Statement Scoping Document was issued on April 15, 2010. It is anticipated that the Draft Environmental Impact Statement will be available by the end of August, 2010, and the Final Environmental Impact Statement will be filed by January 7, 2011.

Schedule

5. The following schedule is adopted:

Direct Testimony	October 13, 2010
Rebuttal Testimony of Parties, Comments from OES	November 3, 2010
Surrebuttal Testimony, Comments from OES	November 12, 2010
Public Hearings	Nov. 15–19, Nov. 29 – Dec. 3, 2010
List of Proposed Exhibits and Witnesses	November 29, 2010
Evidentiary Hearing	December 6, 2010, continuing through December 17, 2010, as necessary

The Witness List shall state the order in which the party's witnesses are expected to testify.

5. Public hearings will be held at several locations to facilitate public participation. OES and the Applicants will develop a proposed list of locations, dates and times for review by the ALJ.

6. Public Comments may also be submitted in writing to the Administrative Law Judge and must be received by 4:30 p.m. on **January 5, 2010**. E-mail comments may be sent to routecomments.oah@state.mn.us.

7. The schedule for filing post-hearing briefs will be set at the close of the evidentiary hearing.

8. A telephone conference will be held on **September 15, 2010, at 9:30 a.m.** to review the hearing schedule. Parties will be sent call-in information.

Publication of Hearing Schedule

9. The staff and the Applicant shall develop a notice of hearing specifying the date, time and location of the hearing, for publication no fewer than 10 days and no more than 45 days in advance of the hearing, and shall serve notice as specified in Minn. Stat. § 216E.03, subd. 6. As required by Minn. R. pt. 7850.3800, subd. 1, a portion of the hearing must be held in one of the counties where the proposed high voltage transmission line will be located.

Date of Filing, Sending or Receipt

10. Any document that is filed, or is sent to request or in response to a request for discovery, or for any other purpose, after 4:30 p.m. on a business day, on a weekend day or on a Minnesota state holiday shall be considered filed, sent or received on the next business day.

Discovery

11. A party may serve requests for information on any other party. All requests for information shall be made in writing by e-mail, and the requesting party shall follow the e-mail with a copy of the request sent by regular U.S. mail or other delivery service to all parties, unless the party receiving the request agrees to e-mail service only. To the extent that a request includes material designated as Trade Secret or Nonpublic under the Minnesota Government Data Practices Act, Chapter 13, an e-mail request is required only between the requesting and responding party. Requests shall be sent to the person(s) designated to receive data requests.

12. The responding party shall provide the requested information to the requesting party within ten business days of receipt of the request. In accordance with Minn. R. 1400.6100, subpt. 1, the day that the information request is received shall not be counted in the ten-day period.

13. Responses to information requests shall be submitted by e-mail, and the responding party shall follow the e-mail with a copy of the response sent by regular U.S. mail or other delivery service, unless the party receiving the response agrees to e-mail service only. To the extent that a response includes material designated as Trade Secret or Nonpublic, an e-mail response is required only between the requesting party and the responding party.

14. In the event that due to the volume or nature of information included in a response, the responding party is unable to send the response by e-mail, the responding party shall send the response by facsimile, regular U.S. mail or other delivery service so that the requesting party receives the entire response by the date due, including any material designated as Trade Secret or Nonpublic. Responding parties may utilize CDs to convey large volumes of data. If the response is sent by facsimile, the responding party shall follow the facsimile with a copy of the response sent by regular U.S. mail or other delivery service.

15. There shall be a continuing obligation to update and supplement information responses with any responsive material that may subsequently be discovered or acquired by the responding party. The responsive information shall be supplied to each party that requested it.

16. A party that wishes to receive e-mail copies of requests or responses shall notify the requesting/responding party, who shall provide the information in that format. If the request or response contains material designated as Trade Secret or Nonpublic information, the providing party may seek a Protective Order in this matter before providing the information.

17. In the event the information cannot be supplied within ten business days, the responding party shall notify the requesting party as soon as reasonably possible in advance of the deadline of the reasons for not being able to supply the information and agree on a schedule of compliance with the requesting party.

18. 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

19. Prefiled testimony shall be marked as an exhibit with the case docket number and offered for admission into the record at the hearing. A hard copy shall be provided for that purpose and, if the document has been previously e-filed, the offering party shall provide the unique E-docket document identifying number. The Administrative Law Judge will assign a hearing exhibit number to the document at the time that it is offered into evidence at the hearing.

20. 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 substantive 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.

21. Each of the parties shall file testimony addressing its preferred route.

22. Typically, testimony is presented in question and answer format. However, narrative form is acceptable so long as each page and line of the testimony is numbered.

23. Each witness's testimony shall be separately e-filed and have its own e-docket document identification number. The description of the filing shall include the witness name (e.g., Doe Direct). If the schedules or attachments to the testimony are included, they should be referenced in the document name (e.g., Doe Direct and Scheds. 1-5). If the schedules as a group exceed 50 pages, they should be included in a separate e-filing (e.g., Doe Direct, Scheds. 1-5). If any one schedule exceeds 50 pages, it should be e-filed separately (e.g., Doe Direct, Sched. 3).

24. Any correction or revision to previously filed testimony or exhibits shall be separately e-filed and identify the specific document it corrects (e.g., Doe Direct, Errata or Revised).

25. One hard copy of the prefiled testimony and associated exhibits shall be sent to the Administrative Law Judge at the time of filing.

Order of Testimony

26. Unless the parties agree otherwise, the order of testimony shall be: the Applicants, intervenors, if any, in the order of intervention, and the Department. 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.

Examination of Witnesses

27. 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.

28. Parties shall examine and cross-examine witnesses through their attorneys, if the parties 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.

29. Except for good cause shown, objections by any party relative 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 **December 3, 2010**.

Procedure

30. The rules of the Office of Administrative Hearings and Minn. R. 7850.3100 *et seq.*, govern the conduct of the hearings, and the Professionalism Aspirations adopted by the Minnesota Supreme Court will be observed.

Filing of Documents (Excluding Information Requests and Responses)

31. The service list for the contested case proceeding shall be maintained and revised as necessary by the Office of Administrative Hearings.

32. Prefiled testimony and exhibits may be in any reasonable format that is understandable, logically organized, and capable of being cited by page and line number, paragraph number, or similar identifier.

33. The parties have agreed to file all documents, including prefiled testimony, using the E-Docket system of the Public Utilities Commission, the Department and the Office of Administrative Hearings. Such e-filing constitutes service on those offices and upon any other party that has agreed to accept e-filing as service, as specified on the E-service list.

34. Documents or exhibits that can not be e-filed shall be mailed by U.S. Mail or delivered to the parties.

35. The effective date of filing shall be the date the document is e-filed, mailed by U.S. Mail, or delivered to the Administrative Law Judge. Parties using the E-file system must retain the unique document identifier as proof of service through that system. Proof of service shall be filed with each document or within three business days thereafter.

36. The original and one copy of each document (except prefiled testimony) shall also be mailed or delivered to the Administrative Law Judge and one hard copy shall be mailed or delivered to the Commission staff. Only one copy of the prefiled testimony shall be mailed or delivered to the Administrative Law Judge and one copy to the Commission staff.

37. 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.

38. If trade secret or nonpublic data is filed with the Administrative Law Judge, it shall be prepared and marked in accordance with the Public Utilities Commission's September 1, 1999, Revised Procedures for Handling Trade Secret and Privileged Data. The procedures may be viewed at www.puc.state.mn.us/PUC/consumers/data-practices/index.html. The party submitting the data may request a Protective Order.

Court Reporter

39. A court reporter will be present at the hearing. Parties must make arrangements with the court reporter to obtain a copy of the transcript.

Request for Accommodation

40. No person has requested accommodation for a disability or appointment of an interpreter. The Office of Administrative Hearings shall be notified promptly if either an accommodation or interpreter is needed.

Subpoenas

41. Requests for subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the Administrative Law Judge pursuant to Minn. R. 1400.7000. A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at www.oah.state.mn.us.

Dated this 25th day of May, 2010.

s/Beverly Jones Heydinger
BEVERLY JONES HEYDINGER
Administrative Law Judge