

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

In the Matter of the Route Permit Application for
the Orono Substation Replacement and new
115 kV Transmission Line Project

**SUMMARY OF
PUBLIC TESTIMONY**

This matter came before Administrative Law Judge Eric L. Lipman for a public hearing on December 15, 2011. The public hearing was held at the City Hall in Orono, Minnesota and was convened to receive public testimony on a proposed high voltage transmission line and substation.

Earlier, on June 30, 2011, the Minnesota Public Utilities Commission (MPUC or Commission) issued an Order accepting the application from Northern States Power, doing business as Xcel Energy, for a high voltage transmission line Route Permit and approval of the proposed Orono Substation Replacement.¹ In this same Order, the Commission approved the use of an informal review and requested the Office of Administrative Hearings (OAH) to conduct at least one public hearing on the project.²

Ten persons attended the public hearings and, of those ten, six provided testimony during the public hearing.³ Interested persons were recognized for remarks during which they could submit testimony or make inquiries to the agency and applicant panelists. In all, the public hearing included two rounds of testimony from interested members of the public.⁴ This process continued until no person sought recognition.⁵

Following the adjournment of the public hearing, the record remained open for an additional 22 days within which interested persons were permitted to submit written comments. During the comment period, the parties to the proceeding, the Department

¹ Order, *In the Matter of the Application for a HVTL Route Permit for the Orono Substation Expansion and New 115 kV Transmission Line Project*, MPUC Docket No. E-002/TL-11-223 (June 30, 2011) (E-Docket No. 20116-64311-01).

² *Id.*

³ See, *Hearing Roster*, OAH 8-2500-22429-2 (E-Docket No. 201112-69736-02).

⁴ See, *Hearing Transcript*, OAH 8-2500-22429-2 at 2 (E-Docket No. 20121-69850-01).

⁵ *Id.*, at 57 - 58.

of Commerce and Xcel Energy agreed to further extend the comment period by an additional 25 days so as to allow comment on Xcel Energy's noise assessment study.⁶

Eight comments were received before 4:30 p.m. on Tuesday, January 31, 2012.⁷

The Commission will issue an order on the application following a review of this Summary, the hearing transcripts and the filings submitted into the hearing record.

Description of the Project

The Project, as proposed by the Applicant, would replace the existing 69 kV Orono Substation with a new 115 kV Substation at the same location. The Project would connect the new substation to the existing Xcel Energy 115 kV transmission line through a new set of double-circuited 115 kV transmission lines. The Project, as proposed, would also remove approximately 1,030 feet of 115 kV transmission line and replace it with approximately 1,100 feet of new single circuit 115 kV transmission line. While not part of the Route Permit requested by Xcel Energy, approximately 400 feet of the existing Great River Energy 69 kV transmission line would be rerouted around the new Orono Substation.⁸

Xcel Energy proposes to use steel single-pole structures with spans of approximately 300 to 500 feet between poles. The structure heights of these poles are anticipated to range between 70 to 90 feet for the single-circuit structures and between 75 to 115 feet for the double-circuit structures. Xcel Energy requested a route width of approximately 400 feet, or 200 feet either side of the proposed alignment. The anticipated right-of-way for the new transmission line would be 75 feet.⁹

The Project is located entirely within the city of Orono in Hennepin County. The Project will cost approximately \$5.3 million dollars.¹⁰

Procedural History

On June 7, 2011, Xcel Energy filed its application for an HVTL Route Permit and approval of the proposed Orono Substation replacement.¹¹

On December 2, 2011, the OES issued a Notice of Public Hearing giving advance notice of the public hearing to parties on the service list, interested persons,

⁶ *Notice of Comment Period*, OAH 8-2500-22429-2 at 1 (E-Docket No. 20121-70260-01).

⁷ *See, Hearing Transcript*, OAH 8-2500-22429-2 at 2 (E-Docket No. 20121-69850-01).

⁸ Order, MPUC Docket No. E-002/TL-11-223, *supra*.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Application*, MPUC Docket No. E-002/TL-11-223 (E-Docket No. 20116-63311-01).

landowners, and governmental units. On December 14, 2010, the Applicant filed an Affidavit of Publication of the Notice of Public Hearing.¹²

Summary of Public Testimony

Michael and Leena Kallivayalil, residents of the Huntington Farm neighborhood, assert that the Applicant's proposal for substation expansion relies too heavily on the fact that it already owns the underlying property, when, other nearby properties would be better suited to host the larger, upgraded station. Further, the Kallivayalils argue that the shielding techniques proposed by the Applicants are not adequate to address the visual and other impacts from an expanded substation.¹³

Melissa Fogelberg, a resident of the Huntington Farm neighborhood, joins the Kallivayalils in arguing that the substation expansion should not occur at the existing substation site. Specifically, Ms. Fogelberg argues that the applicant's proposal is at odds with both the City of Orono's land use plans as well as the efforts of the Minnesota Department of Transportations to improve the aesthetics of the Highway 12 corridor. Further, she submitted that any uncertainty as to the impacts to human health from electromagnetic field emissions from such facilities should be resolved in favor of homeowners by siting such stations as far away as possible from residential areas. She urges the Commission to withhold approval until the Applicant "has adequately, vigorously and diligently pursued other locations for the substation."¹⁴ Joining the Kallivayalils in asserting the mitigation measures proposed by the Applicants are inadequate to shield a facility of the proposed substation's size and dimension, in the alternative, she urges the Commission to consider the type of shielding methods used for substations in Britain and Japan.¹⁵

Kelly Grissman, Senior Manager of Planning for the Three Rivers Park District, testified as to the impacts that one of the transmission line routing alternatives would have to the Baker Regional Park Reserve. The Reserve is a 3,000 acre set of parcels that provide natural habitat, recreation and a trail system in Orono, Minnesota. Ms. Grissman asserted that the proposed routing would not benefit the reserve. Moreover, she argued that because the buffer zones which separate habitat and recreational areas in the reserve from Highway 12, would be narrowed under the routing alternative, that alternative would degrade the Reserve's plans and uses.¹⁶

Paul Fraser, a resident of the Huntington Farm neighborhood, concurred with Ms. Fogelberg's assessment that more could be done to shield and reduce the visual impacts from an expanded substation. Mr. Fraser argued that because the uses that

¹² *Affidavit of Publication*, OAH 8-2500-22429-2 (E-Docket No. 201112-69250-01).

¹³ *See, Hearing Transcript*, OAH 8-2500-22429-2 at 18 - 28 (E-Docket No. 20121-69850-01).

¹⁴ *Id.*, at 40.

¹⁵ *Id.*, at 39.

¹⁶ *Id.*, at 41 - 47.

are adjacent to the substation site are a park reserve and a residential area, more mitigation should be required before any application is approved by the Commission.¹⁷

Tom Luninski, a resident of Orono, inquired as to whether there would be a change in the capacity of the transmission line as a result of the project. Members of the Applicant panel confirmed that Xcel had no plans to change or upgrade the 0831 transmission line over the course of a 20-year planning period.¹⁸

Summary of Written Comments

Peter and Carla Schoon, residents of the Huntington Farms neighborhood and members of its neighborhood association, urged selection of a route alternative that runs along the north side of Highway 12. Additionally, the Schoons asserted that not enough effort was being made to minimize visual impacts of the proposed line and substation.¹⁹

Timothy Jason Admonius, a resident of the Huntington Farms neighborhood and a member of its neighborhood association, wrote to urge alternatives to the proposed route, but not that which would route the transmission line into the Baker Regional Park Reserve north of Highway 12.²⁰

Paul and Melissa Fogelberg, submitted written comments in advance of the public hearing. Those comments detail the inquiries and conclusions the Fogelberg's have made about alternatives to the proposed substation expansion. Specifically, the Fogelbergs assert that the benefits of avoiding additional land acquisition costs do not justify siting a substation of the size proposed by the Applicant at County Road 6 and Highway 12. The Fogelbergs urge a searching review by the Commission of the alternatives to the preferred substation location, and if there are no alternatives, permitting adjacent landowners to have a role in planning mitigation measures. Lastly, the Folgelbergs include photographs of substation mitigation methods that they assert have been effective in other locales.²¹

Michael and Leena Kallivayalil, residents of the Huntington Farm neighborhood, submitted written comments that followed their earlier testimony at the public hearing. In their written remarks, the Kallivayalil's again urged the selection of available properties in Orono that were not adjacent to residential neighborhoods for the substation expansion. Pointing to the potential health impacts, and the potential

¹⁷ *Id.*, at 48 - 54.

¹⁸ *Id.*, at 55 - 56.

¹⁹ See, Comments of Peter and Carla Schoon (December 5, 2011).

²⁰ See, Comments of Timothy Jason Admonius (December 6, 2011).

²¹ See, Comments of Paul and Melissa Fogelberg (December 15, 2011).

impacts to the value of nearby homes, the Kallivayalils' comments identify parcels that that they assert are more appropriate for the project.²²

Boe Carlson, Acting Superintendent of the Three Rivers Park District, submitted comments as the owner and operator of the Baker Regional Park Reserve. Superintendent Carlson wrote to oppose the Baker Reserve routing alternative. He asserts that routing the transmission line through the park reserve would violate the Land and Water Conservation Fund Act, the restrictive covenants placed on the uses for reserve land, and the mission, policies and practices of the Reserve. Additionally, Superintendent Carlson argues that because of the adverse impacts associated with this route alternative – particularly to habitat – that this alternative is an inferior choice to other routing options.²³

By way of a follow-on letter, Kelly Grissman, Senior Manager of Planning for the Three Rivers Park District, asserted that the kind of noise assessments made with respect to the proposed substation, should likewise be made as to the noise impacts that would occur if the proposed transmission line were routed along the Baker Reserve routing alternative. Ms. Grissman urges the Commission to direct that these assessments be undertaken if the Baker Reserve routing alternative is “seriously being considered as a viable option” She asserts that the removal of buffer areas associated with the proposed alternative would trigger undue noise impacts to those using the park reserve.²⁴

Michael P. Gafforn, Assistant City Administrator, submitted comments on behalf of the City of Orono. Like many of the residents of the Huntington Farms neighborhood, the City expressed concerns over the visual impacts of the proposed substation. Specifically, it urged the Commission to condition any approval of the application on the installation of effective, natural measures to screen the visual impacts of the proposed substation. In its comments it detailed a number of interventions that it regards as necessary – such as the installation of trees of certain types and height. Additionally, the City seeks an opportunity to have its engineer review finalized site plans before project construction begins.²⁵

Jamie Schrenzel, Principal Planner for the Minnesota Department of Natural Resources' Environmental Review Unit, submitted comments on behalf of the Department. She urged greater coordination between agency permitting activities, in general, and as to this project in particular, because the mitigation measures raise matters of common concern. Specifically, Ms. Schrenzel recommended that the mitigation plans require compliance with the winter construction methods required by Minn. R. 6135.1300, deployment of Swan Flight Diverters along the transmission line

²² See, Comments of Michael and Leena Kallivayalil (December 16, 2011).

²³ See, Comments of the Three Rivers Park District (January 5, 2012).

²⁴ See, Comments of the Three Rivers Park District (January 31, 2012).

²⁵ See, Comments of the City of Orono (January 6, 2012).

alignment so as to reduce collisions by trumpeter swans and annotation of project plans or materials so as to specify where these diverters will be placed.²⁶

Dated: March 5, 2012

s/Eric L. Lipman
ERIC L. LIPMAN
Administrative Law Judge

NOTICE

This report contains a summary of public testimony. It is not a final decision. Pursuant to Minn. R. 7850.3900, the Commission will make the final determination of following a review of the record from the administrative law judge.

²⁶ See, Comments of the Minnesota Department of Natural Resources (January 6, 2012).