

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

In the Matter of a Joint LEPGP Site Permit,
HVTL Route Permit and Pipeline (Partial
Exemption) Route Permit Application for
the Mesaba Energy Project

FIFTH PREHEARING ORDER

Because the Joint Draft EIS became available November 5, 2007, Excelsior Energy proposed an updated schedule for this matter. On November 16, 2007, a telephone scheduling conference was held among the Administrative Law Judge and the following persons:

Byron E. Starns and Matthew B. Seltzer, Leonard, Street and Deinard, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402, appeared on behalf of Excelsior Energy, Inc. (Excelsior Energy). Also appearing for Excelsior Energy were Robert Evans and Gordon Gray, Excelsior Energy, Inc., 1100 Wayzata Boulevard, Minnetonka, MN 55305.

William Cole Storm, State Planning Director, Department of Commerce, 85 7th Place East, Suite 500, St. Paul, MN 55101, appeared on behalf of the Department of Commerce.

Robert Cupit, Senior Facility Planner, Minnesota Public Utilities Commission, 121 East Seventh Place, Suite 350, St. Paul,, MN 55101-2147, named as the Commission's Representative in this matter, appeared on behalf of the Public Utilities Commission.

Based on the record and the agreement of the foregoing persons, the Administrative Law Judges make the following:

ORDER

1. The remaining schedule in this matter is modified to read as follows:

Date	Event or Filing Due
November 5, 2007	Draft EIS available

November 27-28, 2007	Joint Department of Commerce and Department of Energy public meetings on Draft EIS
December 21, 2007	Deadline for Excelsior to (i) provide notice of substitution of witnesses as to sponsorship of specific testimony and (ii) request permission to exempt specific witnesses from having to attend all Stage Two sessions
December 31, 2007	ALJ ruling on request to exempt specific witnesses from having to attend all Stage Two sessions
January 7-11, 2008	Service and publication of notice of hearing
January 11, 2008	Deadline for written public comments on Draft EIS to DOC and DOE
January 29, 2008, 1:00 p.m.	Stage One hearing session in Taconite
January 29, 2008, 6:00 p.m.	Stage Two hearing session in Taconite
January 30, 2008, 1:00 p.m.	Stage One hearing session in Hoyt Lakes
January 30, 2008, 6:00 p.m.	Stage Two hearing session in Hoyt Lakes
January 31, 2008, 10:00 a.m.	Reserved, Taconite
February 15, 2008	Deadline for written public comments to ALJ for inclusion into the record of contested case
February 29, 2008	Briefs and Proposed Findings
March 7, 2008	Final EIS
March 14, 2008	Deadline for Comments to ALJ on adequacy of Final EIS
March 21, 2008, anticipated	ALJ Report and Recommendation to Minnesota Public Utilities Commission ("PUC")
April 21, 2008, anticipated	Exceptions
May 22, 2008, anticipated	Final PUC Decision (hearing date)

June 2, 2008, anticipated Federal EIS Record of Decision
June 23, 2008, anticipated State Register publication

2. The persons previously admitted as Parties to this matter are Excelsior Energy, Xcel Energy, Minnesota Power,¹ and Public Energy—Mesaba.² The Fourth Prehearing Order (May 1, 2007), provided,

Unless excused by an Administrative Law Judge, failure of a party to file testimony when due shall result in that party being denied further participation as a party in this matter.

3. Excelsior had filed its direct testimony that was due January 15, 2007, and its supplemental filing that was due March 15, 2007. No other party filed their direct testimony that was due March 15, 2007. No party filed rebuttal testimony that was due May 15, 2007, or surrebuttal testimony that was due June 15, 2007.

4. Because they have failed to file testimony when due, Xcel Energy, Minnesota Power, and Public Energy—Mesaba are denied further participation as parties in this matter. They shall remain on the service list and may participate as members of the public and interested persons as set forth in the First Prehearing Order (January 19, 2007).

Dated: November 19, 2007

/s/ Steve M. Mihalchick

STEVE M. MIHALCHICK
Administrative Law Judge

¹ Second Prehearing Order (January 19, 2007).

² Third Prehearing Order (February 22, 2007).



MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

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November 19, 2007

All Parties on the Attached Service List

Re: *In the Matter of a Joint LEPGP Site Permit, HVTL Route Permit and Pipeline (Partial Exemption) Route Permit Application for the Mesaba Energy Project;*
MPUC Docket No. E-6472/GS-06-668
OAH Docket No. 12-2500-17512-2

Dear Parties:

The documents listed below have been filed with the E-Docket system and served as specified on the attached service list.

Fifth Prehearing Order
ALJ's Service List 11/19/07

Sincerely,

/s/ Steve M. Mihalchick

STEVE M. MIHALCHICK
Administrative Law Judge

Telephone: 651-361-7844
steve.mihalchick@state.mn.us

SMM:mo
Encl.

ALJ's SERVICE LIST 11/19/07

Re: In the Matter of a Joint LEPGP Site Permit, HVTL Route Permit and Pipeline (Partial Exemption) Route Permit Application for the Mesaba Energy Project

Serve one copy of the document or item, unless otherwise indicated, on the following persons. If you E-File a document on the PUC E-Filing system, persons with the E-File notation (**EF**) below need not be served a paper copy, unless otherwise indicated.

The Honorable Steve M. Mihalchick
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100 Washington Square, Suite 1700
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(**EF** plus 1 paper copy)

Sharon Ferguson
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198
(**EF** or 4 paper copies)

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Minneapolis, MN 55402

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Minnesota Center For Environmental Advocacy
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Overland Law Office
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In addition to E-filing or paper service, electronic copies should also be e-mailed to the following persons:

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CERTIFICATE OF SERVICE

Case Title: <i>In the Matter of a Joint LEPGP Site Permit, HVTL Route Permit and Pipeline (Partial Exemption) Route Permit Application for the Mesaba Energy Project</i>	OAH Docket No. 12-2500-17512-2 MPUC Docket No. E-6472/GS-06-668
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Mary Osborn certifies that on the 19th day of November, 2007, she served a true and correct copy of the **Fifth Prehearing Order**; by e-filing and electronic mail (as indicated on the Service List) to the following individuals:

All Individuals on Official Service List	