

**2003 ANNUAL HEARING
POWER PLANT SITING PROGRAM
SUMMARY OF PROCEEDINGS**

The following is a summary of the 2003 Annual Hearing of the Power Plant Siting (PPS) Program held on December 3, 2003, at the EQB offices in St. Paul, Minnesota. The summary follows the outline of the agenda prepared for the hearing.

I. INTRODUCTION

Power Plant Siting manager Alan Mitchell called the hearing to order at approximately 2:10 p.m. Alan Mitchell asked that everyone in attendance sign the registration sheet. Mr. Mitchell also noted that those in attendance may add themselves or others to the PPS project notification list by signing the form at the back of the room. He then asked each person present to introduce himself or herself. A list of those attending the annual hearing is attached to the staff report.

II. REGULATORY CHANGES

A. Rules Governing Environmental Review of Large Energy Facilities in Proceedings before the Public Utilities Commission, Rules 4410.7010 to 7070

Mr. Mitchell explained that the EQB staff has been working on these rules for the past year and a half and that the Board on November 20 adopted the final rule amendments. Pending approval by the Governor's Office, the final rules will be published in the State Register in the middle of January.

Mr. Mitchell went on to describe how the rules will be implemented. He stated that when an application for a certificate of need is filed with the Public Utilities Commission, the same information will be filed with the EQB and the EQB staff will prepare an environmental report on the project. The rules spell out a process for the EQB to follow in preparing the report, including providing opportunities for the public to be involved in development of the scope of the report. The EQB staff will deliver the finished report to the PUC and the EQB staff will be available to answer questions about the environmental report as a part of the PUC consideration of the application.

Mr. Mitchell went on to explain that the PUC is also in the process of amending its own rules for providing notice when certificate of need applications are submitted, and there is a reference in the EQB rules to that fact. Once the PUC rules are finalized, the EQB will consider whether amendments to its rules are appropriate. At the same time, the EQB is open to hear about other minor amendments to the language that might be made to chapter 4400 or the 4410 amendments. By way of example, Mr. Mitchell stated that one change that could be considered for the 4400 rules has to do with providing exceptions for minor projects at existing substations. He invited participants to suggest other minor or technical amendments they would like the EQB to consider.

B. Amendment of Pipeline Routing Rules, chapter 4415

Mr. Mitchell advised that the EQB is considering amending the pipeline rules in chapter 4415. He said that the EQB has gained quite a bit of experience this past year, particularly with the Hutchinson pipeline. The amendments will consider such changes as providing more notice early on, and the need for inspectors during construction, or more specificity in the route identification, and more conditions in the permits, such as expanded reporting requirements. The staff is hoping to have a draft set of amendments available by March of next year. The pipeline rules have not been amended since they were adopted in 1988 and had lower priority than amendment of the power plant siting rules.

C. Possible Legislation

Mr. Mitchell reported that the EQB does not have any major legislation under consideration. One area that might be considered relates to the fees for administration of permits for large power plants and high voltage transmission lines. The existing language was passed in 1973 and the formula is probably out of date as far as expenses go. However, the statutory limits have not been a problem up to this point because applicants have paid the EQB's actual costs, but it would be helpful to recognize that in the statute.

Carol Overland mentioned that one area that she thinks should be considered for legislative change has to do with the "Buy the Farm" language in the statutes (which allows a landowner whose property will be taken for a new transmission line to require the utility to take the entire farm). Carol would like to see the language apply to power lines under 200 kilovolts as well as those over 200 kV.

George Crocker asked if staff could comment on the Excelsior proposal and how that project fit in with state statutes and requirements. Mr. Mitchell responded that the EQB did not intend to do anything about the legislation. The statutes require a site permit for such a proposal and the EQB would go through the siting process if such a proposal were to be pursued. Mr. Mitchell reported that the EQB staff had met with the Excelsior representatives and told them that if Excelsior were to apply for a route permit for a high voltage transmission line, the EQB would probably consider the project to be a high voltage line of 345 kV or more because under the statute, once the EQB issued a permit, Excelsior could build a line of any voltage it wanted.

Carol Overland said that since the EQB is precluded under the statute from looking at need once a certificate of need is issued, and the Excelsior project was exempt from getting a certificate of need, what would it take to get the EQB to look at the need for that plant. Mr. Mitchell stated that it would take a change in the statute. Ms. Overland said that the EQB would have discretion to consider need for the Excelsior project. Mr. Mitchell responded that there were likely to be disagreements on that point if it should come to pass.

George Crocker of the North American Water Office stated that the SEED coalition that he is working with (Sustainable Energy for Economic Development) may have a legislative proposal or two. One area for legislative change relates to compensation to landowners for easements for transmission lines. He said that the purpose of the transmission system is changing. He said that transmission lines are used for economic transfer, that remote generators do not necessarily serve regulated monopolies. He said that the rules and statutes were promulgated at a time when the main reason for the high voltage system was for reliability purposes among jurisdictions. He and his group are looking at changes in the way acquisition and compensation are determined for easements for transmission lines to reflect the changes in the way the system is being used. Instead of the conventional one time, fair market value payment, a different method that recognizes the economic transfer over time should be implemented so landowners can be compensated on an annual, ongoing basis. Mr. Crocker invited participants to think about this issue so a new system can be created that is more equitable. He suggested that the public might continue to oppose new transmission lines if a more equitable method of compensating landowners were not developed.

Mr. Mitchell asked if anybody was actually drafting legislation on that point. Mr. Crocker responded that he is not aware of anything yet but he was hopeful that his group would be able to do that.

Todd Guerrero, counsel for Minnesota Transmission Owners, asked whether this new approach would involve different ways in which people have condemnation authority or something else. Mr. Crocker stated that the reason for transfer of power is so that consumers can obtain cheaper electricity (3 to 4 cents rather than 8 or 9 cents from native load). The issue is who makes that possible and who is compensated for it. Mr. Guerrero responded that the theory from Congress or the federal government is that opening up the system will reduce the costs for everybody.

Mr. Crocker replied that he understood what the feds are trying to do. But the reality is, and he hoped the industry would help grapple with this, is that the transmission system is not being used the way it was when the power plant siting rules were drafted. Now that there is electrical competition driven by the market place, the people who have their land taken are excluded from the benefits of the market and are disenfranchised. Mr. Crocker suggested that we figure out a way to allow the landowners to participate and be compensated. Otherwise, the routing of transmission lines will always be a tussle.

Mr. Guerrero replied that there is always a disconnect between what the federal government has said needs to happen for the benefit of consumers and what the states want to do with regard to construction of new transmission lines. He said that the emphasis seems to be on the state interests while ignoring the federal goals.

Mr. Crocker stated that the reason for that is because with the market as the driving force, there is a lot more benefit realized by large commercial and industrial consumers than by the average individual. Mr. Guerrero said he wasn't sure that was true. Mr. Crocker replied that it was true, that it was the individual consumers along transmission routes

who are asked to bear the burden so that the benefit can be realized primarily by large consumers. Individuals seek solace in state authority to protect them and hence there is a disconnect. He stated that if we could figure out a way to deal with the inequity, we might be able to get reconnected.

Mr. Mitchell asked Mr. Guerrero if the transmission owners or the utilities were looking at changing the statutes regarding routing of transmission lines. Mr. Guerrero replied, not that he knew of. He mentioned that one of the issues was some sort of regional certificate of need under an interstate compact of some sort, like the low level nuclear waste compacts. He said it would take Congressional approval but he wasn't aware of any legislation. He reiterated that the issue always causes a disconnect between what people are saying at the state level and what people are saying at the federal level.

Kristen Eide-Tollefson, Andy Brown, John Jaffrey, and Mike Sullivan took a moment to introduce themselves to the other participants.

III. PROJECT REVIEW

A. Discussion of projects completed in the past year

Mr. Mitchell advised the participants that there was a document available listing the projects that had been reviewed by the EQB in the past year. He pointed out that there had not been one single power plant or transmission line permitted in the last year. Last year, one wind project had been permitted and several environmental assessment worksheets had been prepared on smaller power plants.

Mr. Mitchell showed the participants a table indicating the number of wind turbines that had been permitted in the state and the number in operation. (Table is attached.) Larry Hartman added that another 57 turbines were under construction in one project and another 34 turbines under construction in a second project. Another 24 turbines are going to be installed in January.

Mr. Mitchell displayed a schematic showing the permitting process for wind permits, and announced that the schematic was available on the EQB website. (Schematic is attached.) He briefly described the process, and Mr. Hartman stated that wind permits have been taking about three to four months to process.

Todd Guerrero asked if there had been any contested cases involving wind projects. Mr. Hartman stated that wind projects are normally not contested. Mr. Mitchell added that the first wind project (Lake Benton II) was contested.

George Crocker asked whether more wind projects are expected and how many megawatts were involved. Mr. Hartman responded that the EQB does not have any pending applications for wind permits. He mentioned that the Trimont project was pending before the Public Utilities Commission.

Janet Gonzalez of the PUC staff reported that the Trimont project would come before the Commission on December 11 to determine whether the certificate of need application was complete. She reported that the Commission would decide whether to delegate the requirement to prepare an environmental report under the new 4410 rules to the EQB staff. Mr. Mitchell added that this would be the first environmental report prepared under the new 4410 rules.

B. Identification of pending and anticipated EQB projects

Mr. Mitchell reported that 2004 was going to be a busy year for projects. He displayed an overhead transparency with a list of anticipated projects.

Mr. Mitchell stated that the Faribault Energy Park project is underway and that Bill Storm was preparing an Environmental Impact Statement on the project because the EQB had decided that while the plant would burn natural gas as a primary fuel, the plant would also have the capability to burn fuel oil, so it was not eligible for the alternative review process. Mr. Storm advised that he was working on an EIS and that a draft should be available in February.

Mr. Mitchell called on Andy Brown, attorney for Calpine Corp., to report on the Calpine project. Mr. Brown responded that a certificate of need application would be filed with PUC in the first quarter of next year. Mr. Mitchell added that the EQB staff would prepare an environmental report on the project. Janet Gonzalez added that Calpine had filed a request with the PUC to be exempt from certain filing requirements, and that it would be around January 22 when the Commission will act on the request. Mr. Mitchell stated that the EQB had a copy of Calpine's submission to the PUC.

Mr. Mitchell turned to the next anticipated project – the addition of a couple of turbines at the Blue Lake Peaking Plant by Xcel Energy. Mr. Mitchell described the project generally and pointed out that there were maps available for persons who were interested in the location. The Blue Lake plant is along Highway 169 by the Ferry Street bridge and Canterbury Downs and Valley Fair. Mr. Mitchell explained that the certificate of need application and the site permit application could be combined into a joint proceeding because Xcel is on a fast track for construction.

The next project discussed was the Great River Energy transmission line in the Plymouth – Maple Grove area in Hennepin County. George Johnson described the project generally and indicated that after the first of the year the EQB would have a scoping document issued for the environmental assessment.

The next projects discussed were the Xcel Energy Buffalo Ridge area transmission lines, beginning with the 161 kV Lakefield to Fox Lake line. Mr. Mitchell explained that the application came in last week and will be up on the website shortly. He announced that a public meeting is scheduled for December 15. He also stated that Xcel recently provided the EQB staff with a list of upcoming transmission projects and that copies of the list were available if anyone wanted a list. There are a number of smaller projects on the list.

The next project discussed was the 345 kV Lakefield to Split Rock line. Mr. Mitchell reported that Xcel intends to file an application in the first couple of months of 2004 and that John Wachtler, who will be joining the EQB staff in December, will head up that project for the EQB. He reported that the EQB intended to put together a citizen advisory task force on the project and that a full Environmental Impact Statement would be prepared.

Jim Alders from Xcel Energy arrived at this point.

Mr. Mitchell stated that the new Nobles County substation and the 24 miles of new transmission line to the Chanarambie Sub would be part of the 345 kV proceeding.

The next project discussed was the Chisago transmission line project. Mr. Mitchell reported that a certificate of need was expected to be filed in the first part of 2004 and that the EQB would prepare an environmental report, although there could be joint proceedings involving need and the routing. Jim Alders clarified that the proposal was for a 115 kV transmission line from the Chisago County Sub to a new substation just outside Taylors Falls and then a 161 kV line from there. Carol Overland added that it was capacity that she was concerned about.

Mr. Mitchell stated that Great River Energy has a proposed transmission line project from Air Lake to Vermillion in Dakota County. The line as proposed is under ten miles in length which means a certificate of need is not required.

Mr. Mitchell then turned to a discussion of the pending wind projects. He mentioned that the Trimont project is pending before the Public Utilities Commission for a decision on some exemption requests and that the EQB staff has advised the PUC that it was willing to prepare an environmental report under the new rules even though the new rules aren't in effect yet. He indicated that the permit and the environmental report would probably proceed together.

Mr. Mitchell said he was not sure what the timing was for the Ivanhoe wind project. Larry Hartman added that the timing depended on the Lake Benton to White project but that an application could be submitted in the middle of 2004. The project will be between 100 and 150 MW.

Mr. Mitchell turned to the subject of possible pipelines. He said that there are no new pipeline projects identified on the list but that some of the new gas plants will have a short pipeline associated with them and a short transmission line to connect to the grid. He mentioned that Hutchinson might be thinking of building a tap to Brownton to serve an ethanol plant, but that no applications were in hand or anticipated.

Kristen Eide-Tollefson asked for clarification about the Blue Lake project. Mr. Alders explained that this project involves two combustion turbines, 160 megawatts each, for peaking purposes. Ms. Eide-Tollefson then asked about Xcel's 2002 Integrated Resource

Plan and the possibility of combining some wind with the Mankato gas plant. Mr. Alders explained that the Ivanhoe project is a result of the all-source bid, and that in addition, Xcel selected 200 megawatts from enXco and another 100 megawatts from Florida Power. So that in the all source bidding process there was a total of 450 megawatts. He indicated that all three of these selections were still in negotiations.

Kristen Eide-Tollefson asked about the location of the wind projects. The Florida Power project is located in Mower County. The enXco project is located in Murray County. Mr. Alders said projects in Murray County and Lincoln County will be affected by transmission outlet capacity. The Mower County project may require a short 115 line but is not transmission constrained.

Mr. Mitchell mentioned that he had various maps and other documents relating to many of these upcoming projects, and that if people were interested, these were available for inspection. He also mentioned that he has the transmission plan that was submitted to the PUC on November 1. He then transitioned into the next agenda item, the transmission mapping.

Mr. Mitchell introduced Norm Anderson of the Land Management Information Center. Mr. Anderson described how LMIC collected data on all the 69 kV and larger transmission lines in the state. He indicated that there still was data to collect, and he described the ongoing efforts to gather the missing data. He then proceeded to take the audience through a demonstration of the data using a computer setup. At one point he focused on the southwestern part of the state and looked at the area along I-90 where the Xcel 345 kV line is proposed to be constructed.

Mr. Anderson answered questions from the audience. One question that came up was whether this data would be available to the public. Mr. Mitchell stated that the EQB intended to make this data available to the public. The staff wanted to give the utilities one more opportunity to check the data relating to their lines before it was released.

The final agenda item was an opportunity for the public to ask questions or make comments that had not been raised previously. Mr. Mitchell explained that there would be an opportunity to submit written comments until December 19 and that the staff would prepare a brief report for the Board.

Carol Overland said that she was working on looking at areas in the state that would be candidate sites for distributed generation. Kristen Eide-Tollefson asked if anybody could suggest a good source of information on determining the appropriate amount of compensation when land was taken for transmission lines. Larry Hartman suggested she check out the statutes providing a tax credit for landowners who have transmission lines on their property.

Mr. Hartman mentioned that the staff was working with the Department of Commerce to pull together information about wind turbines and put that information into a data base.

The afternoon session was adjourned.

EVENING SESSION

Mr. Mitchell convened the evening session at about 7:05 p.m. The same agenda that was followed during the afternoon session was followed in the evening.

Mr. Mitchell began with introductions. The first item on the agenda was an overview of the rulemaking activities of the past year. He reported that the Board adopted the 4410 rule amendments on November 20. He stated that the EQB is continuing to look at technical amendments to both 4410 and 4400 and that if people had any suggestions for amendments, they should contact him.

Mr. Mitchell reported that the EQB is considering the amendment of the pipeline rules. He reported that there was no draft language at the moment but the staff was hoping to have some draft rules by March.

With regard to possible legislation, Mr. Mitchell stated that the EQB was looking at the possibility of amending the pipeline statute in chapter 116I and changing the statute in the power plant siting act relating to the payment of fees. Other than that no changes were under consideration.

Beth Soholt of the Izaak Walton League's Wind on the Wires Project raised a question about whether the Department of Commerce had considered seeking an extension of the state renewable tax credit. Susan Medhaug of the Department responded that the matter of continuing the tax credit was being discussed by the Department.

Mr. Mitchell reported that during the afternoon session participants raised the matter of the Buy the Farm provision and whether it should apply to transmission lines under 200 kV and the matter of the method of compensation to landowners whose property is taken for transmission lines. A brief discussion of those issues followed.

The next item discussed was the projects reviewed by the EQB in 2003. There was little discussion about these projects.

Mr. Mitchell then went through the same discussion that was held in the afternoon session about the number of wind turbines that had been permitted and constructed in the state. Beth Soholt asked how many wind turbines had been permitted but not built. Mr. Mitchell responded that the only ones were the 80 additional megawatts of turbines permitted under the Navitas permit (130 MW authorized) that had not been constructed.

Mr. Mitchell then reported that a schematic of the wind permitting process would be available on the EQB website and he briefly described the permitting process. Dr. Flower asked whether local permitting was quicker than the EQB permitting. Mr. Mitchell stated that the locals permit projects under 5 MW and that he wasn't sure how long it took counties to issue the necessary permits. He also stated that for other kinds of

power plants that qualify for local review, the EQB does get notice and stay abreast of the process.

Mr. Mitchell then turned to the upcoming projects. He gave a brief update of the Faribault Energy Park project and advised that an Environmental Impact Statement would be prepared and the matter would come before the Board for a final decision in June or July.

He reported on the Calpine natural gas plant planned for the Mankato area, and that the matter was before the Public Utilities Commission.

He stated that the Xcel Energy Blue Lake project was likely to be combined into a single process to consider both the certificate of need and the site permit. He reported that two turbines were planned for the Blue Lake plant and a third turbine was planned for a site in South Dakota, near Sioux Falls.

George Johnson reported on the Great River Energy 161 kV transmission line in Hennepin County. He stated that the two biggest issues to surface so far are alternative route segments and undergrounding. Mr. Mitchell added that the scoping order would go out in a week or so and that an Environmental Assessment would be available in February.

The discussion then turned to the Xcel Buffalo Ridge transmission lines. Mr. Mitchell stated that the permit application on the 161 kV Lakefield Junction to Fox Lake line had just been submitted and that a public meeting is scheduled for December 15. He mentioned that there are some routing issues in the City of Jackson area. He stated that a citizen advisory task force had been compiled and had met a few times. He then reported on the 345 kV line from Lakefield Junction to Split Rock, and that a permit application was expected within the first three months of next year.

Carol Overland asked how a citizen task force functioned when no permit application had been submitted. Mr. Mitchell explained that the EQB first gets the agreement of the applicant to create the task force in advance. He explained that the first couple of meetings are used to bring the task force up to speed on the process, but that after a couple of meetings, the task force is anxious to review an actual application. Mr. Mitchell said that the reason for creating the task force in advance of the application is because there may not be time for the task force to do its work if it isn't created until after the application is submitted because it has a limited life. Mr. Mitchell said that the task force focuses on the route and can make a recommendation for inclusion of route alternatives in the environmental review.

Mr. Mitchell said that a big issue with the 345 kV line is where to locate a new substation that will be a termination point for another new line, a 115 kV line, running about 20 miles north of the 345 corridor. Finally, Mr. Mitchell described a fourth Buffalo Ridge line running from a substation in Minnesota to a substation in South Dakota.

Mr. Mitchell then turned to the subject of the transmission mapping that the EQB has been doing for the past two years or so. Dave Birkholz gave the same computer presentation that Norm Anderson gave in the afternoon showing the mapping capability. He explained that this information would become available to the public.

Mr. Mitchell stated that the record would remain open until December 19 for the submission of written comments. He explained that the staff would summarize the proceedings today and prepare a brief report for the Board.

Mr. Mitchell asked whether a weekday hearing in the afternoon and evening was a convenient way to hold the annual hearing. Carol Overland suggested that there would be more people present if there were more specific projects to talk about.

Dr. Flower thanked the staff for inviting him and providing an opportunity to learn about the pending projects. He suggested that it would be helpful if the information on the transmission grid that is now available would be used to plan for what we would want our energy system to look like in the future.

The hearing ended at 8:10 p.m.