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November 19, 2012

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E015/CN-12-1163

Dear Dr. Haar:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Notice Plan - In the Matter of the Request by Minnesota Power for a Certificate of Need for the Great Northern Transmission Line.

The petition was filed on October 29, 2012. The petitioner is:

David R. Moeller
Senior Attorney
Minnesota Power
30 West Superior Street
Duluth, MN 55802
(218) 723-3963
dmoeller@allete.com

The Department recommends that the Minnesota Public Utilities Commission (Commission) **withhold approval** of the Company's Notice Plan until the Company provides in its *Reply Comments* clarification and explanation of its *Petition* as requested herein by the Department.

The Department will provide its recommendations after reviewing the Company's *Reply Comments* and is available to answer any questions the Commission may have.

Sincerely,

/s/ SACHIN SHAH
Rates Analyst

SS/ja
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. E015/CN-12-1163

I. INTRODUCTION

On October 29, 2012 Minnesota Power (MP or the Applicant) filed MP's *Notice Plan Petition In the Matter of the Request by Minnesota Power for a Certificate of Need for the Great Northern Transmission Line* (Notice Petition). The Notice Petition provides MP's proposed notice plan for a 500 kilovolt (kV) transmission line to be located between the province of Manitoba in Canada and the Blackberry Substation in Itasca County, Minnesota (approximately 225 to 300 miles), and a 345 kV double circuit transmission line between the Blackberry Substation and the Arrowhead Substation in St. Louis County near Hermantown, Minnesota (approximately 50 to 70 miles) (Project). The transmission line is intended to provide delivery and access to power generated by Manitoba Hydro's hydroelectric stations in Manitoba, Canada. The Notice Petition includes a draft notice for landowners and residents, a draft notice for governmental entities, and a draft newspaper notice.

Below are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) on the Notice Petition.

II. DEPARTMENT ANALYSIS

A. TYPES OF NOTICE

Minnesota Rules 7829.2550, subd. 3 requires types of notice as follows:

- direct mail notice, based on county tax assessment rolls, to landowners reasonably likely to be affected by the proposed transmission line;
- direct mail notice to all mailing addresses within the area reasonably likely to be affected by the proposed transmission line;

- direct mail notice to tribal governments and to the governments of towns, statutory cities, home rule charter cities, and counties whose jurisdictions are reasonably likely to be affected by the proposed transmission line; and
- newspaper notice to members of the public in areas reasonably likely to be affected by the proposed transmission line.

Regarding landowner and resident notice, the Applicant proposed to provide notice to all landowners whose property is located within the boundaries of or within one mile of the shaded corridor areas on the maps, and all commercial and residential mailing addresses located within and/or adjacent to the shaded areas on the maps. In addition, MP stated that it will attempt to identify every landowner on the Minnesota side of the United States-Canada border within one mile of the potentially affected border crossings and substations.

In addition to the notices that would go out pursuant to their notice plan filing, Minnesota Power stated its intent to conduct voluntary informational “open house” meetings at various venues from October 29th through November 8th, 2012. MP also stated that notices for these informational meetings are being published in area newspapers, and an open house meeting notification postcard has been mailed to landowners, local governments, and resource agencies, tribal representatives, and identified stakeholders in the affected area.

The Department concludes that the Applicant’s proposed plan for landowner and resident notice is reasonable.

Regarding newspaper notice, the Applicant listed and selected twenty five local newspapers. Generally, it appears that MP selected all of the newspapers in the counties affected by the proposed Project. Given that the Project potentially has regional impacts according to MP,¹ the Company included the Star Tribune newspaper as a state-wide newspaper to the newspaper notice list.

Regarding the regional implication stated by MP, the Department notes that the Midwest Independent System Operator (MISO), through its Northern Area Study Technical Review Group’s (TRG) and in the Manitoba Hydro Wind Synergy Study, is examining the issue of imports from Manitoba and the effects of those imports on associated transmission lines. As a result, the Department requests that MP, in its *Reply Comments*, provide additional explanation as to whether its Notice Plan will be impacted by MISO’s studies mentioned above.

In summary, the Department concludes that the Applicant’s proposed plan for newspapers notice is reasonable.

Regarding governmental notice, the Department’s review of MP’s list of governments proposed to receive notice indicates that the county, township, and city governments depicted on the Applicant’s map as hosting the proposed facilities are also on the notice list. Regarding tribal governments, MP identified three tribal governments within the proposed notice corridors.

¹ The proposed Project according to MP is intended to strengthen regional reliability and to facilitate increased imports from Manitoba of up to 1,100 MW to support the regional transmission system and to serve load.

The Department's Energy Regulation and Planning (ERP) staff briefly discussed the Notice Petition with the Department's Energy Facilities Permitting staff (EFP). Based on these discussions, the Department notes that the proposed notice plan should clarify how MP proposes to ensure that the appropriate governmental representative(s) within the counties, cities, townships, municipalities and tribal governments receives the notice. In addition, MP should explain how MP determined that the chosen representative is the appropriate person among the various staffs (administrator, clerk, Zoning Commissioner, council members, et cetera).

Therefore, the Department concludes that the Applicant's proposed plan for governmental entities needs additional clarification and explanation.

The Department notes two additional items regarding governmental notice. First, the proposed Project crosses the United States-Canada border from the province of Manitoba, Canada; MP stated that it will give notice of an impending Certificate of Need (CN) application to the public service commissions in North Dakota and Wisconsin and the Manitoba Hydro Electric Board. Second, the notice plan includes State and Federal Senators and Representatives whose districts are within the Notice Area. Such notice is beyond what is required by Minnesota Rules, but the Department certainly has no objection to this expanded notification.

In summary, the Department concludes that the Applicant's notice plan for residents and landowners is reasonable. However, the Department requests that MP: 1) clarify its proposed notice plan for governmental entities to ensure that the appropriate governmental representatives within the counties, cities, townships, municipalities and tribal governments receive the notice and 2) explain how MP chose the appropriate representatives among the various staffs.

B. CONTENT OF NOTICE

Minnesota Rules 7829.2550, subp. 4 require the notices to provide the following information:

- a map showing the end points of the line and existing transmission facilities in the area;
- a description of general right-of-way requirements for a line of the size and voltage proposed and a statement that the applicant intends to acquire property rights for the right-of-way that the proposed line will require;
- a notice that the line cannot be constructed unless the Minnesota Public Utilities Commission (Commission) certifies that it is needed;
- the Commission's mailing address, telephone number, and Web site;
- if the applicant is a utility subject to chapter 7848, the address of the Web site on which the utility applicant will post or has posted its biennial transmission projects report required under that chapter;

- a statement that the Environmental Quality Board² will be preparing an environmental report on each high-voltage transmission line for which certification is requested;
- a brief explanation of how to get on the mailing list for the Environmental Quality Board's proceeding; and
- a statement that requests for certification of high-voltage transmission lines are governed by Minnesota law, including specifically chapters 4410 and 7849 and Minnesota Statutes, section 216B.243.

The Department briefly reviewed the cover letters and maps provided by the Applicant and concludes that the Applicant's proposal for the resident/landowner notice, governmental notice, and newspaper notice generally contains the required information.

C. NOTICE TIMING

Minnesota Rules 7829.2550, subp. 6, requires the applicant to implement the notice plan within 30 days of its approval by the Commission. Regarding the timing of the implementation of the proposed notice plan, MP requested that the Commission modify the notice implementation rule to require implementation within 2 to 4 weeks prior to the filing of the Certificate of Need (CN) petition. The Commission has ordered a similar approach, typically a 30-day window, in several dockets.³

Minnesota Rules 7829.3200 governs such variance requests and establishes the following criteria:

1. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. granting the variance would not adversely affect the public interest; and
3. granting the variance would not conflict with standards imposed by law.

Enforcement of the rule would burden all parties involved by separating the provision of notice from the start of the proceeding. Granting the variance would not adversely affect the public interest since the Applicant's proposal would more closely tie the implementation of notice to the beginning of the CN proceeding. The Department is not aware that the variance would conflict with standards imposed by law. Therefore, the Department recommends that the Commission approve the Applicant's request to implement the notice plan (that may be subject to

² The Department notes that while the statutes have changed regarding routing authority and location of the staff preparing the environmental report, Minnesota Rules have not yet been updated to reflect these changes.

³ Examples include:

- November 3, 2006 in Docket No. E002, ET2, et al/CN-08-1115;
- November 29, 2007 in Docket No. E017, E015, ET6/CN-07-1222;
- November 12, 2008 in Docket No. E002/CN-08-992;
- January 26, 2010 in Docket No. E002/CN-09-1390; and
- August 17, 2010 in Docket No. E002/CN-10-694.

modification depending on the Company's *Reply Comments*) within 2 to 4 weeks prior to the filing of the CN petition.

III. DEPARTMENT RECOMMENDATION

The Department recommends that the Commission withhold approval of the Applicant's proposed notice plan. The Department recommends that MP, in its *Reply Comments*, provide the following:

- explain how its Notice Plan would be impacted by MISO's studies mentioned herein; and
- clarify its proposed notice plan for governmental entities to ensure that the appropriate governmental representatives within the counties, cities, townships, municipalities and tribal governments receive the notice and explain how MP chose the appropriate representatives among the various staffs.

Further, the Department recommends that the Commission grant MP a variance to Minnesota Rules 7829.2550, subp. 6 to allow implementation of the notice plan (that may be subject to modification depending on the Company's *Reply Comments*) within 2 to 4 weeks prior to the filing of the CN petition.

/ja

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. E015/CN-12-1163

Dated this 19th of November, 2012

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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