

# **WORKING DRAFT - Chapter 7850**

## **PUBLIC UTILITIES COMMISSION**

**FEBRUARY 2017**

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## 7850.1000 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 7850.1000 to 7850.5600, the following terms have the meanings given them.

Subp. 2. **Act.** "Act" means the Power Plant Siting Act of 1973, as amended, Minnesota Statutes, chapter 216E.

Subp. 3. **Associated facilities.** "Associated facilities" means buildings, equipment, and other physical structures that are necessary to the operation of a large electric power generating plant or a high voltage transmission line, including other transmission lines directly associated with a large electric generating facility that are necessary to interconnect the plant to the transmission system.

Subp. 4. **Commission.** "Commission" means the Public Utilities Commission.

Subp. 5. **Certified HVTL list.** "Certified HVTL list" means the transmission projects certified by the Public Utilities Commission as priority projects under Minnesota Statutes, section 216B.2425.

Subp. 5a. **Department.** "Department" means the department of commerce.

Subp. 6. **Developed portion of the plant site.** "Developed portion of the plant site" means the portion of the LEPGP site that is required for the physical plant and associated facilities.

Subp. 7. **Environmental assessment or EA.** "Environmental assessment" or EA means a written document that describes the human and environmental impacts of a proposed large electric power generating plant or high voltage transmission line and alternative routes or sites and methods to mitigate such impacts.

Subp. 8. **Environmental impact statement or EIS.** "Environmental impact statement" or "EIS" means a detailed written statement that describes proposed high voltage transmission lines and large electric power generating plants and satisfies the requirements of Minnesota Statutes, section 116D.04.

Subp. 9. **High voltage transmission line or HVTL.** "High voltage transmission line" or "HVTL" means a conductor of electric energy and associated facilities designed for and capable of operating at a nominal voltage of 100 kilovolts or more either immediately or without significant modification, and is greater than 1,500 feet in length. Associated facilities shall include, but not be limited to, insulators, towers, substations, and terminals.

Subp. 10. **Large electric power facilities.** "Large electric power facilities" means high voltage transmission lines and large electric power generating plants.

Subp. 11. **Large electric power generating plant or LEPGP.** "Large electric power generating plant" or "LEPGP" means electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more. Associated facilities include, but are not limited to, coal piles, cooling towers, ash containment, fuel tanks, water and wastewater treatment systems, and roads.

Subp. 12. **Mail.** "Mail" means either the United States mail or electronic mail by e-mail, unless another law requires a specific form of mailing.

Subp. 13. **Person.** "Person" means any individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Subp. 14. **PUC.** "~~PUC~~" ~~means the entire Public Utilities Commission, including the commission and staff;~~

Subp. 15. **Right-of-way.** "Right-of-way" means the land interest required within a route for the construction, maintenance, and operation of a high voltage transmission line.

Subp. 16. **Route.** "Route" means the location of a high voltage transmission line between two end points. A route may have a variable width of up to 1.25 miles within which a right-of-way for a high voltage transmission line can be located.

Subp. 17. **Route segment.** "Route segment" means a portion of a route.

Subp. 18. **Site.** "Site" means an area of land required for the construction, maintenance, and operation of a large electric power generating plant.

Subp. 19. **Utility.** "Utility" means any entity engaged or intending to engage in this state in the generation, transmission, or distribution of electric energy including, but not limited to, a private investor owned utility, a cooperatively owned utility, a public or municipally owned utility, a limited liability company, or a private corporation.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *15 SR 1598; 27 SR 1295; L 2005 c 97 art 3 s 19*

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#### **7850.1100 PURPOSE AND AUTHORITY.**

Parts 7850.1000 to 7850.5600 are prescribed by the Minnesota Public Utilities Commission pursuant to the authority granted to the commission in the Power Plant Siting Act, as amended, Minnesota Statutes, chapter 216E, to give effect to the purposes of the act.

It is the purpose of the act and the policy of the state to locate large electric power generating plants and high voltage transmission lines in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, the commission shall ~~must~~ choose locations that minimize adverse human and environmental impact while ensuring continuing electric power system reliability and integrity and ensuring that electric energy needs are met and fulfilled in an orderly and timely fashion. The commission ~~shall~~ must provide for broad spectrum citizen participation as a principle of operation. To ensure effective citizen participation, the commission ~~shall~~ must maintain a public education program on, but not limited to, the considerations identified in Minnesota Statutes, section 216E.03, subdivision 7.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *15 SR 1598; 27 SR 1295; L 2005 c 97 art 3 s 19*

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### **7850.1200 APPLICABILITY.**

Parts 7850.1000 to 7850.5600 establish the requirements for the processing of permit applications by the ~~Public Utilities~~ Commission for large electric power generating plants and high voltage transmission lines, including environmental review of such projects. ~~Requirements for environmental review of such projects before the commission are established in the applicable requirements of chapter 4410 and parts 7849.1000 to 7849.2100.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *October 13, 2009*

### **7850.1300 PERMIT REQUIREMENT.**

Subpart 1. **Site permit.** No person may construct a large electric power generating plant without a site permit from the commission. A large electric power generating plant may be constructed only on a site approved by the commission.

Subp. 2. **Route permit.** No person may construct a high voltage transmission line without a route permit from the commission. A high voltage transmission line may be constructed only within a route approved by the commission.

#### **Subp. 3. Expansion of existing facility.**

A. No person ~~shall~~ may increase the voltage of a high voltage transmission line without a route permit or other approval from the ~~PUC~~ commission.

B. No person ~~shall~~ may increase the voltage of a transmission line under 100 kilovolts to over 100 kilovolts without a route permit from the ~~PUC~~ commission.

C. Except as provided in part 7850.1500 or 7850.4800, no person ~~shall~~ may increase the generating capacity or output of an existing large electric power generating plant without a permit from the commission.

D. No person ~~shall~~ may increase the generating capacity or output of an electric power plant from under 50 megawatts to more than 50 megawatts without a site permit from the ~~PUC~~ commission.

Subp. 4. **Local authority.** A site permit from the commission is not required for a large electric power generating plant that is permitted by local units of government under Minnesota Statutes, section 216E.05. A route permit from the commission is not required for a high voltage transmission line that is permitted by local ~~governmental authorities~~ units of government under Minnesota Statutes, section 216E.05.

Subp. 5. **Commence construction.** No person may commence construction of a large electric power generating plant or a high voltage transmission line until a permit has been issued by the commission or by the appropriate local units of government if local review is sought. "Commence construction" means to begin or cause to begin as part of a continuous program the placement,

assembly, or installation of facilities or equipment, or to conduct significant physical site preparation or right-of-way preparation work for installation of facilities or equipment. Conducting survey work or collecting geological data or contacting landowners to discuss possible construction of a power plant or transmission line is not commencement of construction.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.1400 ~~SMALL EXEMPT PROJECTS.~~**

~~Subpart 1. **No PUC permit required.** A permit from the PUC commission is not required to construct a power plant of less than 50 megawatts or a transmission line ~~of that is either~~ less than 100 kilovolts or 1,500 feet in length or less. Proposers of such projects must obtain whatever approvals may be required by local, state, or federal units of government with jurisdiction over the project.~~

~~Subp. 2. **Environmental review.** Proposers of power plants of less than 50 megawatts or transmission lines of less than 100 kilovolts must comply with the environmental review requirements of chapter 4410, parts 7849.1000 to 7849.2100, and Minnesota Statutes, chapter 116D.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *October 13, 2009*

#### **7850.1500 EXCEPTIONS TO PERMITTING REQUIREMENT FOR CERTAIN EXISTING FACILITIES.**

Subpart 1. **No permit required.** The following projects are not considered construction of a large electric power generating plant or high voltage transmission line and may be constructed without a permit from the commission:

A. equipment additions at an existing substation that do not require expansion of the land needed for the substation and do not involve an increase in the voltage or changes in the location of existing transmission lines, except that up to the first five transmission line structures outside the substation may be moved to accommodate the equipment additions provided the structures are not moved more than 500 feet from the existing right-of-way;

B. high voltage transmission lines:

- (1) maintenance or repair of a high voltage transmission line within an existing right-of-way;
- (2) reconductoring or reconstruction of a high voltage transmission line with no change in voltage and no change in right-of-way, provided that any new structures that are installed are not designed for and capable of operation at higher voltage; or

(3) relocation of a high voltage transmission line that is required by a local or state agency as part of road, street, or highway construction; or

C. large electric power generating plants:

(1) maintenance or repair of a large electric power generating plant;

(2) modification of a large electric power generating plant to increase efficiency as long as the capacity of the plant is not increased more than ten percent or more than 100 megawatts, whichever is greater, and the modification does not require expansion of the plant beyond the developed portion of the plant site. If a subsequent modification results in a total of more than 100 megawatts of additional capacity, this provision does not apply. An increase in efficiency is a reduction in the amount of Btu's (British Thermal Units) required to produce a kilowatt hour of electricity at the facility;

(3) refurbishment of a large electric power generating plant that does not expand the capacity of the plant or expand the plant beyond the developed portion of the plant site and the refurbishment does not require a certificate of need from the public utilities commission;

(4) modification of a LEPGP powered by solar energy that is exempt from a certificate of need under Minnesota Statutes, section 216B.243, subd. 8(7), as long as the plant is not expanded beyond the developed portion of the plant site;

(45) conversion of the fuel source of a large electric power generating plant to natural gas, as long as the plant is not expanded beyond the developed portion of the plant site; or

(5 6) start-up of an existing large electric power generating plant that has been closed for any period of time at no more than its previous capacity rating and in a manner that does not involve a change in the fuel or an expansion of the developed portion of the plant site.

Subp. 2. **Minor alteration.** In the event a modification or other change in an existing substation, high voltage transmission line, or large electric power generating plant does not qualify for an exception under this part, the modification or change may qualify for a ~~minor alteration~~ change under part 7850.4800.

Subp. 3. **Notice.** Any person proposing to move transmission line structures under subpart 1, item A, or to reconductor or reconstruct a high voltage transmission line under subpart 1, item B, subitem (2), or to implement changes to a large electric power generating plant under subpart 1, item C, subitem (2), (3), (4), or (5), must notify the commission in writing at least 30 days before commencing construction on the modification or change.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *October 15, 2013*

**~~7850.1600 JOINT PROCEEDING.~~**

~~The proposer of a large electric power generating plant that will also require a high voltage transmission line may elect to apply for both a site permit for the large electric power generating~~



~~plant and a route permit for the high voltage transmission line in one application and in one process. The PUC on its own volition may elect to combine two pending applications if it is appropriate to consider both projects as part of one proceeding. An applicant may also combine an application for a pipeline routing permit if a natural gas or petroleum pipeline to a new large electric power generating facility will be required.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

**7850.1610 NOTICE LISTS.** The following notice lists must be established and maintained as described in this part.

Subpart 1. **General list.** The commission must maintain a list of persons who want to be notified of an application for a proposed site or route permit. Any person may request to have that person's name or an organization's name included on the list. The commission must make the list available to the applicant at the time the application is filed and upon request.

Subp. 2. **Project contact list.** The commission must maintain a project contact list for each proposed project. The project contact list must include the names of persons who have requested to receive notice of a proposed project. The commission must add a person's name to the list if the commission has reason to believe that the person would like to receive notices of a particular project. The commission must make the project contact list available to the applicant upon request.

Subp. 3. **Public agency contact list.** The commission must maintain a public agency contact list that includes public agencies likely to be interested in the proposed project. The list must include the following:

- A. the Department;
- B. the Office of the Attorney General;
- C. the United States Army Corps of Engineers;
- D. the Unites States Fish and Wildlife Service; and
- E. other state agencies, including:
  - (1) the Department of Natural Resources;
  - (2) the Pollution Control Agency;
  - (3) the Department of Transportation;
  - (4) the Department of Agriculture;

- (5) the Department of Health;
- (6) the Office of Pipeline Safety;
- (7) the Board of Water and Soil Resources;
- (8) the State Historic Preservation Office of the Minnesota Historical Society;
- (9) the Department of Employment and Economic Development; and
- (10) the Department of Labor and Industry.

Subp. 4. **Landowner list.** An applicant must maintain, and make available to the commission, the department, or the public upon request, a landowner list for its proposed project. For purposes of the landowner list, a landowner is the person whose name is listed on the property record of the county auditor. In a county where tax statements are mailed by the county treasurer, the landowner is the person whose name is listed on the property record of the county treasurer. The list must conform to the following:

A. For a route permit application, the list must include landowners whose property is along any route the applicant proposes in its route permit application, including a draft route permit application;

B. For a site permit application, the list must include landowners whose property is on or adjacent to any site the applicant proposes in its site permit application, including a draft site permit application;

C. For either a site or a route permit application, the list must be in a format that makes the list capable of being sorted both alphabetically by last name and by zip code; and

D. For either a site or route permit application, the list must be updated to include each landowner whose property is adjacent to a site or along a route that will be considered in either the scope of the environmental impact statement under part 7850.2530 or the scope of the environmental assessment under 7850.3730.

Subp. 5. **Local and tribal government contact list.** An applicant must maintain and make available to the commission and department, upon request, a list of local units of government, and their chief executives, located in the proposed project area. The list must include the following:

A. each regional development commission;

B. each county;

C. each incorporated municipality;

D. each town;

- E. each township;
- F. each statutory city;
- G. each home rule charter city;
- H. each tribal government;
- I. each watershed district; and
- J. each soil and water conservation district.

Subp. 6. **List maintenance.** Names must not be removed from a list, unless:

- A. an individual requests to be removed from the list; or
- B. the commission or applicant sends written notice to an individual on the list asking whether that person's name should remain on the list and no response is received within 30 days of the request.

### **PREAPPLICATION PROCEDURES**

#### **7850.1620 PREAPPLICATION MEETINGS; TRANSMISSION LINES.**

Subpart 1. **Meetings required.** Prior to filing a draft route permit application under part 7850.1640, an applicant must hold a public outreach meeting concerning routes that are under active consideration by the applicant, including routes the applicant intends to propose in its route permit application. The applicant must hold at least one public outreach meeting in each county where a high voltage transmission line route would be located.

Subp. 2. **Notice.** At least ten days prior to each meeting held, the applicant must notify the commission and the department of the date, time, and location of the meeting. The applicant must also mail, at least ten days prior to each meeting, notice of the meeting to landowners whose property is along a route identified under subpart 1. Notice to landowners must include the date, time, and location of each meeting.

Subp 3. **Public input.** At each public outreach meeting held, an applicant must provide the following:

- A. maps or other written materials that identify and describe each route;
- B. contact information for the commission, including the mailing address, the email address, and how to contact the commission's public advisor; and
- C. an opportunity for members of the public to offer oral or written comments on the proposed project.

Supb. 4. **Meeting summary.** An applicant must prepare a summary of each public outreach meeting held and comments received and must consider all comments received in deciding which routes to include in its draft application filed under part 7850.1640.

**7850.1630. NOTICE OF INTENT TO FILE.**

At least 90 days before filing a site or route permit application with the commission, an applicant must notify local units of government of the intended project, as required under Minnesota Statutes, section 216E.03, subd. 3a. This requirement does not apply to projects eligible for alternative review under Minnesota Statutes, section 216E.04.

**7850.1640. DRAFT PERMIT APPLICATION REQUIRED.**

Subpart 1. **Draft permit application.** At least 45 days prior to filing a site or route permit application with the commission, an applicant must file a draft permit application with the commission. At the time of filing, the applicant must request a docket number for the proposed project.

Subp. 2. **Draft site permit for LEPGP.** A draft site permit application must contain the following information:

- A. a statement of proposed ownership of the proposed LEPGP;
- B. the name of any permittee and the name of any other person to whom the permit would be transferred if transfer of the permit is contemplated;
- C. each proposed site for the proposed LEPGP;
- D. a description of the proposed LEPGP, including the size and type of the facility, and all associated facilities;
- E. the environmental information required under subpart 4;
- F. the name of each person who owns property within each proposed site;
- G. the engineering and operational design of the LEPGP at each of the proposed sites;
- H. a cost analysis of the LEPGP at each proposed site, including the costs of constructing and operating the facility, considering the facility's design;
- I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;
- J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;
- K. a listing and brief description of federal, state, and local permits that may be required for the project at each proposed site;

L. United States Geological Survey topographical maps or other maps showing the entire proposed project area;

M. a proposed application notice that includes the notice content requirements under part 7850.2100, subp. 2;

N. if the project is eligible for alternative review under part 7850.2800, a statement by the applicant confirming whether the applicant elects to follow the alternative review process, and if so, whether the applicant recommends that an administrative law judge be assigned to the case to prepare a report with findings, conclusions, and a recommendation;

O. whether the applicant intends to file both a certificate of need application and a site permit application, or intends to file multiple applications, and if so, whether the applicant intends to request that joint proceedings be held on the applications under part 7850.2140;

P. the name of each zoning authority with responsibility over each property within each proposed site and the present zoning classification of the property;

Q. whether the applicant intends to waive its right to exercise eminent domain; and

R. if the applicant is retaining the option to exercise eminent domain:

(1) the percentage of property within each proposed site that the applicant has obtained under contract; and

(2) the percentage of contiguous land within each proposed site that is subject to a fee interest by condemnation under Minnesota Statutes, section 216E.12, subd. 4.

Subp. 3. **Draft route permit for HVTL.** A draft route permit application must contain the following information:

A. a statement of proposed ownership of the facility as of the day of filing and after commercial operation;

B. the name of each permittee and the name of any other person to whom the permit would be transferred if transfer of the permit is contemplated;

C. each proposed route for the proposed HVTL;

D. a description of the proposed HVTL and all associated facilities including the size and type of the high voltage transmission line;

E. the environmental information required under subpart 4;

F. identification of land uses and environmental conditions along each proposed route;

G. the name of each person who owns property within any of the proposed routes;

H. United States Geological Survey topographical maps or other maps showing the entire length of the HVTL on all proposed routes;

I. identification of existing utility and public rights-of-way along or parallel to the proposed routes that have the potential to share the right-of-way with the proposed line;

J. the engineering and operational design concepts for the proposed HVTL, including information on the electric and magnetic fields of the transmission line;

K. cost analysis of each route, including the costs of constructing, operating, and maintaining the high voltage transmission line, considering the line's design;

L. a description of possible design options to accommodate expansion of the HVTL in the future;

M. the procedures and practices proposed for the acquisition and restoration of the right-of-way, construction, and maintenance of the HVTL;

N. a listing and brief description of federal, state, and local permits that may be required for the proposed HVTL;

O. a summary of transmission planning that concluded that the project is necessary, including its history of presentation in Minnesota Biennial Transmission Plans and Midcontinent Independent System Operator Transmission Expansion Plans;

P. a list of the date, time, and location of each public pre-application meeting schedule to held by the applicant, or for each public pre-application meeting held, a summary of comments received;

Q. a proposed application notice that includes the notice content requirements under part 7850.2100, subp. 2;

R. any differences between the list of landowners who received notice of the applicant's certificate of need application under part 7849.0130 and the list of landowners to whom the applicant will mail notice of its draft route permit application under part 7850.1640;

S. if the project is eligible for alternative review under part 7850.2800, a statement by the applicant confirming whether the applicant elects to follow the alternative review process, and if so, whether the applicant recommends that an administrative law judge be assigned to the case to prepare a report with findings, conclusions, and a recommendation;

T. whether the applicant intends to file both a certificate of need and a route permit application, or multiple permit applications, and if so, whether the applicant intends to request that joint proceedings be held on the applications under part 7850.2140;

U. whether the applicant intends to waive its right to exercise eminent domain; and

V. if the applicant is retaining the option to exercise eminent domain:

(1) the percentage of property within each proposed route that the applicant has obtained under contract; and

(2) for a HVTL with capacity of 200 kilovolts or more, the percentage of contiguous land within each proposed route that is subject to a fee interest by condemnation under Minnesota Statutes, section 216E.12, subd. 4.

Subp. 4. **Environmental information.** Each draft site or draft route permit application must contain the following information:

A. a description of the environmental setting for each site or route;

B. a description of the effects of construction and operation of the facility on human settlement, including, but not limited to, public health and safety, displacement, noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;

C. a description of the effects of the facility on land-based economies, including agriculture, forestry, tourism, and mining;

D. a description of the effects of the facility on archaeological and historic resources;

E. a description of the effects of the facility on the natural environment, including effects on air and water quality resources and flora and fauna;

F. a description of the effects of the facility on rare and unique natural resources;

G. identification of human and natural environmental effects that cannot be avoided if a specific site or route is approved; and

H. a description of measures that might be implemented to mitigate the potential human and environmental impacts identified in items A to G and the estimated costs of such mitigative measures.

#### **7850. 1650. NOTICE OF DRAFT APPLICATION.**

Subpart 1. **Notice recipients.** The applicant must mail written notice of the draft permit application to the following:

A. the general list;

B. the public agency contact list;

C. the landowner list; and

D. the local and tribal government contact list.

Subp. 2. **Notice content.** The notice sent under subpart 1 must contain the following

information:

A. the name of the applicant;

B. a statement that a draft permit application has been filed with the commission;

C. a statement that the applicant is required by the commission to mail the notice and that the commission will solicit comments on the draft application from interested persons;

D. a statement explaining how to obtain a copy of the draft permit application;

E. the commission's contact information, including physical address, phone number, and e-mail address;

F. a statement that the applicant could exercise the power of eminent domain under Minnesota Statutes, section 216E.12 to acquire land necessary for the project, along with the phrase, "your property could be in the final route selected"; and

G. the date on which the applicant intends to file its completed application with the commission.

Subp. 3. **Filing with commission.** The applicant must file a copy of the notice with the commission at the time the applicant mails the notice.

### **7850.1680. COMMENTS AND PROCESS.**

Subpart 1. **Comments.** The commission must request comments on the completeness of the draft application and on whether the commission should appoint an advisory task force for the proceeding under part 7850.2400.

Subp. 2. **Notice of comment period.** The commission must mail notice of the comment period to the general list, the project contact list, the public agency contact list, the landowner list, and the local and tribal government list. Initial comments must be filed within 21 days of the notice. Reply comments must be filed within 10 days of the expiration of the initial comment period. If the commission appoints an advisory task force, the commission must determine the charge of the task force under part 7850.2400.

Subp. 3. **Process Schedule.** Upon receipt of a draft permit application, commission staff must consult with the department and the applicant to set a proposed schedule for completing the permitting process within applicable statutory deadlines and must make the schedule available in the commission's electronic filing system. If an application includes a request by the applicant that joint proceedings be held on either multiple permit applications or on both a certificate of need and a permit application, the commission must set a schedule at the time the commission determines whether to hold joint proceedings under part 7850.2140.

Subp. 4. **Application Process.** After completing the draft application requirements, an applicant intending to proceed with the permitting process must follow the procedures for filing an application under rule parts 7850.1700 to 7850.1900.



## FILING REQUIREMENTS

### 7850.1700 PERMIT APPLICATION UNDER FULL PERMITTING PROCESS AND MANNER OF FILING.

Subpart 1. **Filing of application for permit.** A person seeking a site permit or route permit for a large electric power generating facility under this chapter must file three copies of the application for the permit with the PUC commission. Upon acceptance of the application, the commission will advise the applicant of how many copies of the application must be submitted to the PUC. The applicant must serve copies of the application on the department and the Office of the Attorney General. It must also provide copies of the application to the public agency contact list and the general list. An applicant subject to the electronic filing requirements contained in Minn. Stat. § 216.17, subd. 3, must follow those filing procedures.

Subp. 2. **Electronic copy.** ~~A person filing an application for a site permit or route permit shall provide the PUC with an electronic version of the application suitable for posting on the PUC's Web page.~~

**Cover letter and summary.** An application for a site or route permit must be accompanied by a cover letter signed by an authorized officer or agent of the applicant. The cover letter must specify the type of facility for which a permit is requested. The letter must also include, on a separate page, a summary of the filing sufficient to apprise potentially interested parties of the nature of the application and its general content.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

### 7850.1710 APPLICATION COMPLETENESS; SCHEDULE

Subpart. 1. **Completeness determination.** Within ten days of receipt of an application for a site or a route permit, the commission's executive secretary will determine whether the application is complete and notify the applicant in writing of the decision.

Subp. 2. **Incomplete application.** The executive secretary must not find that an application is incomplete if the missing information can be obtained from the applicant within 20 days from the date the application is found to be incomplete and the missing information will not interfere with the public's ability to review the proposed project. If the application is not complete, the executive secretary must set the matter for the earliest possible commission agenda meeting for further review by the commission, considering the applicant's availability and request for additional time. If, prior to the commission meeting, the applicant files the missing information, the executive secretary will pull the item from the agenda and notify the applicant in writing that the application is complete.

Subp. 3. **Joint application.** If the commission receives a request from an applicant that joint proceedings be held on multiple permit applications, or on applications filed under both chapters 7849 and 7850, joint proceedings will not begin until after the executive secretary determines that all applications are complete.

Subp. 4. **Process schedule update.** At the time the executive secretary makes a determination on completeness, staff must, after consulting the department and the applicant, update the process schedule with any changes, considering the applicable statutory deadlines for completing the permitting process. The updated schedule must be sent to the department and the applicant and be made available to the public upon request.

Subp. 5. **Statutory deadline; extension.** If, during the proceedings, the commission determines that the deadline for making a final decision on a permit application will not be met, the commission may extend the deadline under Minnesota statutes, section 216E.03, subd. 9, or section 216E.04, subd. 7.

## **7850.1800 PERMIT FEES.**

Subpart 1. **Requirement.** An applicant for a site permit or route permit ~~shall~~ must pay a fee to the department in accordance with Minnesota Statutes, section 216E.18. The estimated fee for processing the permit application must be determined at the time an application is filed and in accordance with Minnesota Statutes, section 216E.18.

Subp. 2. **Initial payment.** The applicant ~~shall~~ must submit with the application 25 percent of the total estimated fee, or up to 50 percent of the total estimated fee if the commission determines that the additional percentage is reasonably necessary to complete the site evaluation and design process. The commission ~~shall~~ must not process a permit application until the first portion of the fee is submitted. ~~The PUC department shall~~ must deposit all money received from the applicant for permit fees in a special account and notify the commission at the time of receipt of the application if payment has not been made.

Subp. 3. **Additional payments.** The applicant ~~shall~~ must pay an additional 25 percent of the fee within 90 days after the application has been accepted by the commission. Additional payments must be made within 30 days of notification by the commission that additional fees are necessary for completion of the permitting process. The department must notify the commission at the time of the final decision on a permit if any assessed fees have not been paid. The commission ~~shall~~ must not make a final decision on a permit application if any assessed fees have not been paid.

Subp. 4. **Final accounting.** At the end of the permitting process, including any judicial review of the commission's final decision, the ~~PUC department shall~~ must provide a final accounting to the commission and the applicant of the total cost of processing the permit application. The applicant may review all actual costs associated with processing an application and present objections to the commission. The application fees paid by the applicant ~~shall~~ must include the necessary and reasonable expenses incurred in processing the application, including, but not limited to, staff time, expenses for public notice and meetings and hearings, environmental review, administrative overhead, and legal expenses. The applicant ~~shall~~ must make the final payment within 30 days of notification or the ~~PUC department shall~~ refund any excess payments with 30 days of the final accounting.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## 7850.1900 APPLICATION CONTENTS.

Subpart 1. **Site permit for LEPGP.** ~~An application for a site permit for a large electric power generating plant must contain the following information:~~

- ~~A. a statement of proposed ownership of the facility as of the day of filing and after commercial operation;~~
- ~~B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;~~
- ~~C. at least two proposed sites for the proposed large electric power generating plant and identification of the applicant's preferred site and the reasons for preferring the site;~~
- ~~D. a description of the proposed large electric power generating plant and all associated facilities, including the size and type of the facility;~~
- ~~E. the environmental information required under subpart 3;~~
- ~~F. the names of the owners of the property for each proposed site;~~
- ~~G. the engineering and operational design for the large electric power generating plant at each of the proposed sites;~~
- ~~H. a cost analysis of the large electric power generating plant at each proposed site, including the costs of constructing and operating the facility that are dependent on design and site;~~
- ~~I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;~~
- ~~J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;~~
- ~~K. a listing and brief description of federal, state, and local permits that may be required for the project at each proposed site; and~~
- ~~L. a copy of the Certificate of Need for the project from the Public Utilities Commission or documentation that an application for a Certificate of Need has been submitted or is not required.~~

An application for a site permit must include at least two proposed sites, unless the applicant intends to propose a project that is eligible for alternative review under Minnesota Statutes, section 216E.04, in which case the applicant is not required to propose more than one site. An application for a site permit must include the information required for a draft site permit application under part 7850.1640, as well as the following:

- A. each proposed site, which must not overlap with any other proposed site;
- B. whether a proposed site is intended to mitigate potential impacts of any other proposed site;
- C. for all proposed projects, including those eligible for alternative review under part 7850.27800, each site the applicant has considered and rejected and the reasons for rejecting it;
- D. any change to a project affecting whether the project is eligible for alternative review under part 7850.2800;

E. a description of any change made to the information filed in the draft application and the reason for the change;

F. the location of each public library where the application is available to the public;  
and

G. the location of each government center where the application is available to the public.

Subp. 2. **Route permit for HVTL.** ~~An application for a route permit for a high voltage transmission line shall contain the following information~~ An application for a route permit must include at least two proposed routes, unless the applicant intends to propose a project that is eligible for alternative review under Minnesota Statutes, section 216E.04, in which case the applicant is not required to proposed more than one route. A route permit application must include the information required for a draft route permit application under part 7850.1640, as well as the following:

~~A. a statement of proposed ownership of the facility at the time of filing the application and after commercial operation;~~

~~B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;~~

~~C. at least two proposed routes for the proposed high voltage transmission line and identification of the applicant's preferred route and the reasons for the preference;~~

~~D. a description of the proposed high voltage transmission line and all associated facilities including the size and type of the high voltage transmission line;~~

~~E. the environmental information required under subpart 3;~~

~~F. identification of land uses and environmental conditions along the proposed routes;~~

~~G. the names of each owner whose property is within any of the proposed routes for the high voltage transmission line;~~

~~H. United States Geological Survey topographical maps or other maps acceptable to the commission showing the entire length of the high voltage transmission line on all proposed routes;~~

~~I. identification of existing utility and public rights of way along or parallel to the proposed routes that have the potential to share the right of way with the proposed line;~~

~~J. the engineering and operational design concepts for the proposed high voltage transmission line, including information on the electric and magnetic fields of the transmission line;~~

~~K. cost analysis of each route, including the costs of constructing, operating, and maintaining the high voltage transmission line that are dependent on design and route;~~

~~L. a description of possible design options to accommodate expansion of the high voltage transmission line in the future;~~

~~M. the procedures and practices proposed for the acquisition and restoration of the right of way, construction, and maintenance of the high voltage transmission line;~~

~~N. a listing and brief description of federal, state, and local permits that may be required for the proposed high voltage transmission line; and~~

~~O. a copy of the Certificate of Need or the certified HVTL list containing the proposed high voltage transmission line or documentation that an application for a Certificate of Need has been submitted or is not required.~~

A. each proposed route;

B. a list of proposed routes labeled alphabetically in text and maps;

C. each route the applicant has considered and rejected and the reasons for rejecting it, whether or not the project is eligible for alternative review under part 7850.2800;

D. any change to a project affecting whether the project is eligible for alternative review under part 7850.2800;

E. a description of any change made to the information filed in the draft application and the reason for the change;

F. the location of each library where the application is available to the public;

and

G. the location of each government center where the application is available to the public.

Subp. 3. **Environmental information.** ~~An applicant for a site permit or a route permit shall include in the application the following environmental information for each proposed site or route to aid in the preparation of an environmental impact statement: An application must include the information required for a draft site application under part 7850.1650 and must identify any change made to the information filed in the draft application.~~

~~A. a description of the environmental setting for each site or route;~~

~~B. a description of the effects of construction and operation of the facility on human settlement, including, but not limited to, public health and safety, displacement, noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;~~

~~C. a description of the effects of the facility on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;~~

~~D. a description of the effects of the facility on archaeological and historic resources;~~

~~E. a description of the effects of the facility on the natural environment, including effects on air and water quality resources and flora and fauna;~~

~~F. a description of the effects of the facility on rare and unique natural resources;~~

~~G. identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific site or route; and~~

~~H. a description of measures that might be implemented to mitigate the potential human and environmental impacts identified in items A to G and the estimated costs of such mitigative measures.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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#### **7850.2000 APPLICATION REVIEW.**

~~Subpart 1. **Review by commission.** Within ten working days of receipt of an application for a site permit or a route permit, the commission shall determine whether the application is complete and notify the applicant in writing of the acceptance or rejection of the application. If the commission rejects an application, the commission shall advise the applicant of the deficiencies in the application.~~

~~Subp. 2. **Resubmission of rejected application.** If the commission should reject an application, an applicant may decide to address the deficiencies identified by the commission and resubmit the application with additional information. In this event, the commission shall again review the application within ten days and determine whether the application is complete and advise the applicant of the commission's determination.~~

~~Subp. 3. **Reasons for rejection.** The commission shall not reject an application if the information that is missing can be obtained from the applicant within 60 days from the date of the application and the lack of the information will not interfere with the public's ability to review the proposed project.~~

~~Subp. 4. **Schedule.** The date of the commission's determination that an application is complete marks the start of the schedule for the commission to make a final decision on a permit application.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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#### **7850.2100 PROJECT NOTICE OF APPLICATION.**

~~Subpart 1. **Notification lists.** The PUC shall maintain the notification lists described in items A and B.~~

~~A. The PUC shall maintain a project contact list for each project for which an application for a permit has been accepted. The project contact list must contain the names of persons who want to receive notices regarding the project. Any person may request to have that person's name or an organization's name included on a project contact list. The PUC may add a person's name to the list if the PUC believes the person would like to receive notices about the particular project. The PUC shall provide an applicant with the project contact list upon request.~~

~~B. The PUC shall maintain a project contact list for each project for which an application for a permit has been accepted. The project contact list must contain the names of persons who want to receive notices regarding the project. Any person may request to have that person's name or an organization's name included on a project contact list. The PUC may add a person's name to the list if the PUC believes the person would like to receive notices about the particular project. The PUC shall provide an applicant with the project contact list upon request.~~

~~Subp. 2.~~ **Subpart 1. Notification to persons on general list, to local officials, and to property owners.** Within 15 days after submission of an application, the applicant shall must mail written notice of the submission to the following people:

~~A. those persons whose names are on the general list maintained by the PUC for this purpose;~~

~~B. each regional development commission, county, incorporated municipality, and township in which any part of the site or route or any alternative is proposed to be located; and~~

~~C. each owner whose property is adjacent to any of the proposed sites for a large electric power generating plant or within any of the proposed routes for a high voltage transmission line. For purposes of giving notice under this item, owners are those persons shown on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer, or any other list of owners approved by the commission.~~

A. the general list;

B. the project contact list;

C. the public agency contact list;

D. the landowner list;

E. the tribal and local government contact list by certified mail; and

F. for a utility, the general service list maintained under part 7829.0600;

**Subp. 32. Content of notice.** The notice mailed under subpart 2 ~~1~~ shall must contain the following information:

A. a description of the proposed project, including a map showing the general area of the proposed site or proposed route and each alternative;

B. a statement that a permit application has been submitted to the PUC commission, the name of the permit applicant, and information regarding how a copy of the application may be obtained

C. a statement that the permit application will be considered by the PUC commission under the provisions of parts 7850.1000 to 7850.5600 and the Power Plant Siting Act and describing the time periods for the PUC commission to act;

~~D. a statement that the PUC will hold a public meeting within 60 days and the date of the meeting if it is known at the time of the mailing;~~

~~E. the manner in which the PUC will conduct environmental review of the proposed project, including the holding of a scoping meeting at which additional alternatives to the project may be proposed;~~

~~F. the name of the PUC staff member who has been appointed by the commission to serve as the public advisor, if known, or otherwise, a general contact at the PUC;~~

G. the manner in which persons may register their names with the PUC commission on the project contact list and how to subscribe to the case using the commission's electronic filing system;

~~H. a statement that a public hearing will be conducted after the EIS is prepared;~~

I. a statement indicating whether a certificate of need or other authorization from the ~~Public Utilities~~ Commission is required for the project and the status of the matter if such authorization is required; and

J. a statement ~~indicating whether~~ that the applicant ~~may~~ could exercise the power of eminent domain under Minnesota Statutes, 216E.12, to acquire the land necessary for the project, along with the phrase, "your property could be in the final route selected". ~~and the basis for such authority; and.~~

~~K. any other information requested by the commission to be included in the notice.~~

Subp. 4~~3~~. **Publication of Newspaper notice.** Within 15 days after submission of an application, the applicant ~~shall~~ must publish notice in a legal newspaper of general circulation in each county in which a site, route, or any alternative is proposed to be located that an application has been submitted and a description of the proposed project. The notice must also state where a copy of the application may be reviewed.

Subp. 5 4. ~~Confirmation of notice. Compliance filing.~~ Within 30 days after providing the requisite notice, the applicant ~~shall~~ must ~~submit to the PUC documentation that all notices required under this part have been given~~ make a filing with the commission demonstrating compliance with these notice requirements. ~~The applicant shall document the giving of the notice by providing the PUC with~~ filing must include affidavits of publication or mailing and copies of the notice provided.

Subp. 6 5. **Failure to give notice.** The failure of the applicant to give the requisite notice does not invalidate any ongoing permit proceedings provided the applicant has made a bona fide attempt to comply, although the commission may extend the time for the public to participate if the failure has interfered with the public's right to be informed about the project.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## **7850.2110 COMMENTS ON APPLICATION.**

Subpart 1. Notice. The commission must request comments on the application and whether there are any changes from the draft permit application relevant to record development. The notice must also request comment on whether the case should be referred to the office of administrative hearings for contested case proceedings or whether the case should be developed using the alternative review procedures part 7850.3800. The notice must be sent to the project contact list. Initial comments must be filed within 20 days of the date of the notice. Reply comments must be filed within 14 days of the expiration of the initial comment period.

Subp. 2. Agency participation. Comments filed into the commission's electronic filing system by the department or the commission on behalf of another state or a federal agency participating in the process must appear as "on behalf of" the agency that authored the comments.

**7850.2120 COMMISSION REFERRAL.** After the close of reply comments, the commission must issue a notice of and order for hearing referring the case to the Office of Administrative Hearings for contested case proceedings, unless the project is an eligible project under part 7850.2800.

**7850.2140 JOINT PROCEEDINGS.** If the commission receives an application requesting that the commission conduct concurrent review of multiple permit applications, or on applications filed under both chapters 7849 and 7850, the commission must determine whether to hold joint proceedings, and set a process schedule, considering the following:

A. whether to hold joint public information and scoping meetings;

B. whether to hold joint public hearings; and

C. whether to hold joint proceedings to develop the record.

## **PUBLIC PARTICIPATION**

### **7850.2200 PUBLIC ADVISOR.**

Upon acceptance of an application for a site or route permit, the commission ~~shall~~ **must** designate a staff person to act as the public advisor on the project. The public advisor must be available to answer questions from the public about the permitting process. The public advisor ~~shall~~ **must** not give legal advice or other advice that may affect the legal rights of the person being advised, and the public advisor ~~shall~~ **must** not act as an advocate on behalf of any person.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## **7850.2300 PUBLIC INFORMATION AND SCOPING MEETING.**

Subpart 1. **Scheduling public information and scoping meeting.** ~~Upon acceptance of an~~ For each site or route permit application for a site or route permit filed under this chapter, the commission and the department shall ~~must~~ schedule a public information and scoping meeting to provide information to the public about the proposed project and to answer questions and to scope the environmental impact statement or the environmental assessment. The public meeting must be held no later than 60 days after acceptance of the application consistent with the process schedule. The public meeting must be held in a location that is convenient for persons who live near the proposed project.

Subp. 2. **Notice of public meeting.** ~~The PUC shall give at least ten days' notice of the public meeting by mailing notice to persons whose names are on the project contact list maintained pursuant to part 7850.2100, subpart 1. The PUC~~ At least 14 days before the public information and scoping meeting, the applicant shall also must publish notice of the public meeting in a at least one legal newspaper of general circulation in the area that is nearest to where the project is proposed to be located. Within ten days after receiving all affidavits of publication, the applicant must file a copy of each affidavit with the commission. If appropriate, the PUC commission may request the applicant to include notice of the public meeting in the notice to be provided by the applicant pursuant to part 7850.2100. At least 10 days before the meeting, the commission must mail notice of the meeting to the following;

- A. the project contact list;
- B. the public agency contact list;
- C. the landowner list; and
- D. the local and tribal government contact list.

Subp. 3. Notice content. The notice sent under subpart 2 above must include the following:

- A. a statement that a permit application has been submitted to the commission, the name of the permit applicant, and information on how to access a copy of the application;
- B. a statement that the commission and the department intend to hold a public information and scoping meeting;
- C. the date, time, and location of each scheduled meeting;
- D. a description of the proposed project, including a map showing the general area of the proposed site or proposed route and each alternative;
- E. a statement that the permit application will be considered by the commission under the provisions of parts 7850.1000 to 7850.5600 and the Act and describing the time periods for the commission to act;

F. a statement that the department will direct the portion of the meeting that includes scoping;

G. the manner in which the department will conduct environmental review of the proposed project, including a statement that alternatives not identified in the scoping process could be excluded from later analysis;

H. the name of and contact information for the commission's public advisor and a description of the public advisor's role;

I. the manner in which persons may register their names with the commission on the project contact list or how to register with the commission's electronic filing system;

J. a statement that a public hearing will be conducted after completion of either the draft EIS or the EA and that separate notice of the hearing will be sent to all persons receiving the notice;

K. a statement explaining whether a certificate of need or other authorization from the commission is required for the project and the status of the matter if such authorization is required;

L. the manner in which a person can access or receive a copy of the commission's referral of the case to the Office of Administrative Hearings; and

M. a statement notifying landowners and that the applicant could exercise the power of eminent domain under Minnesota Statutes, 216E.12, to acquire land necessary for the project, along with the phrase, "your property could be in the final route selected."

Subp. ~~3~~ **4. Conduct of public meeting.** ~~The commission shall appoint a person, who may be a PUC staff person, to conduct the public meeting. The public meeting must be conducted in an informal manner designed to encourage public participation. The public must be afforded an opportunity to present comments and ask questions. The PUC shall make available at the public meeting a copy of the application and other pertinent documents in the PUC files regarding the application. The staff shall must explain the permitting process to the persons in attendance. A transcript of the meeting need not be maintained, although the PUC commission may elect to keep an audio recording of the meeting. The scoping portion of the meeting will be conducted by the department as described in parts 7850.2500 and 7850.3700.~~

Subp. ~~4~~ **5. Applicant role.** ~~The applicant shall must provide representatives at the public meeting who are capable of answering general questions about the proposed project. The applicant must also make its application available at the meeting or provide in writing the electronic link to the application.~~

Subp. ~~5.~~ **EIS scoping.** ~~At the public meeting, the public must be provided an opportunity to comment on the scope of the environmental impact statement in accordance with part 7850.2500.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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#### **7850.2400 CITIZEN ADVISORY TASK FORCE.**

Subpart 1. **Authority.** The commission has the authority to appoint a citizen advisory task force. The commission ~~shall~~ must determine whether to appoint such a task force as early in the process as possible. The commission ~~shall~~ must establish the size of the task force and appoint its members in accordance with Minnesota Statutes, section 216E.08. ~~The commission shall advise of the appointment of the task force at the next monthly commission meeting.~~

Subp. 2. **Commission decision.** If the commission decides not to appoint a citizen advisory task force and a person would like such a task force appointed, the person may request that the commission create a citizen advisory task force and appoint its members. Upon receipt of such a request, the commission ~~shall~~ must place the matter on the agenda for the next regular ~~monthly~~ commission meeting.

Subp. 3. **Task force responsibilities.** Upon appointment of a citizen advisory task force, the commission ~~shall~~ must specify in writing the charge to the task force. The charge ~~shall~~ must include the identification of additional sites or routes or particular impacts ~~to be~~ that are recommended for either evaluated evaluation in the environmental impact statement. The commission may establish additional charges, including a request that the task force express a preference for a specific site or route if it has one. The department must file a report with the commission summarizing the work of the task force.

Subp. 4. **Termination of task force.** The task force expires upon completion of its charge, designation by the commission of alternative sites or routes ~~to~~ that will be either included in the environmental impact statement or developed in any subsequent hearing held on the proposed project, or upon the specific date identified by the commission in the charge, whichever occurs first.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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### **FULL PERMITTING PROCESS**

#### **7850.2450 FULL PERMITTING PROCESS.**

Parts 7850.2500 to 7850.2700 apply to all proposed projects not eligible for alternative review under part 7850.2800.

#### **7850.2500 EIS PREPARATION.**

Subpart 1. **EIS required.** ~~The commissioner of the Department of Commerce shall~~ must prepare an environmental impact statement on each proposed large electric power generating plant and high voltage transmission line for which a permit application has been accepted ~~by the~~

commissioner.

Subp. 2. **Scoping process.** ~~The commissioner of the Department of Commerce shall provide the public with an opportunity to participate in the development of the scope of the environmental impact statement by holding a public meeting and by soliciting public comments. The public meeting required under part 7850.2300 satisfies the requirement to hold a scoping meeting. The commissioner shall provide a period of at least seven days from the day of the public meeting for the public to submit comments on the scope of the EIS. The commissioner shall determine the scope of the environmental impact statement as soon after holding the public meeting as possible. Within five days after the decision, the commissioner shall mail notice of the scoping decision to those persons whose names are on either the general list or the project contact list. Once the commissioner has determined the scope of the environmental impact statement, the scope must not be changed except upon decision by the commissioner that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives.~~ At the public information and scoping meeting held under part 7850.2300, the department will conduct the scoping portion of the meeting. At the meeting, the department must provide the public with an opportunity to participate in the development of the scope of the environmental impact statement by soliciting public comments. Members of the public must be provided the opportunity to comment on the scope of the EIS, including environmental factors, and to submit supporting documentation. The applicant must be provided an opportunity to respond to public input.

Subp. 3. **Alternative sites or routes.** ~~During the public information and scoping process meeting, a person may suggest alternative sites or routes to evaluate in the environmental impact statement. A person desiring that a particular site or route be evaluated shall submit to the commissioner of the Department of Commerce, during the scoping process, an explanation of why the site or route should be included in the environmental impact statement and provide any other supporting information the person wants the commissioner department to consider. The commissioner department shall must provide the applicant with an opportunity to respond to each request that an alternative be included in the environmental impact statement and must ask the applicant to address the feasibility of each recommended alternative. The commissioner t shall include the suggested site or route in the scope of the environmental impact statement only if the commissioner determines that evaluation of the proposed site or route will assist in the commissioner's decision on the permit application.~~

Subp. 4. **Comment period.** The department must provide a ten-day comment period following the close of the meeting to allow interested persons an opportunity to submit written comments on the scope of the EIS.

### **7850.2520 NOTICE TO COMMISSION.**

The department must notify the commission, prior to filing its scoping decision under part 7850.2530 below, of the alternatives the department intends to include in the scope of the EIS. Commission consideration of the department's proposed alternatives must be completed by the time of the commission's decision on record development under part 7850.2120. The department must include in the scope of the EIS any alternative identified by the commission.

### **7850.2530. SCOPING DECISION.**

Subpart. 4-1. **Scope of EIS.** The scoping process must be used to reduce the scope and bulk of an environmental impact statement by identifying the potentially significant issues and alternatives requiring analysis and establishing the detail into which the issues will be analyzed. The department must include the suggested site or route in the scope of the environmental impact statement only if the department determines that evaluation of the proposed site or route will assist in the commission's decision on the permit application.

The scoping decision by the ~~commissioner of the Department of Commerce~~ shall must at least address the following:

- (A). the issues to be addressed in the environmental impact statement;
  - (B) the alternative sites and routes to be addressed in the environmental impact statement;
- and
- (C) the schedule for completion of the environmental impact statement.

Subp. 2. **Filing with commission.** The department must complete and file with the commission its scoping decision consistent with the process schedule.

Subp. 3. **Notice of decision.** Within five days after filing the scoping decision with the commission, the department must provide notice of the scoping decision to the project contact list, the public agency contact list, the landowner list, and the local and tribal government list.

Subp. 4. **Changes to scoping decision.** Once the department has determined the scope of the environmental impact statement, the scope must not be changed except upon decision by the department that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives.

### **7850.2540 SUPPLEMENTAL FILING BY APPLICANT.**

Subpart 1. **Supplemental filing.** If the commission determines that a route not proposed by the applicant will be examined in addition to the applicant's proposed routes, the applicant must file additional information on each alternative to support equivalent comparison of all routes under consideration. The filing must be made consistent with the process schedule.

Subp. 2. **Landowner list.** After the department issues the scoping decision under part 7850.2530, an applicant must update the landowner list to include any landowner, not previously on the list, whose property is adjacent to a site, or along a route, that will be considered in the scope of the EIS.

### **7850.2550 DRAFT EIS.**

Subpart. 5 1. **Matters excluded.** When the ~~Public Utilities Commission~~ commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission

line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the environmental impact statement ~~shall~~ must not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

Subp. ~~6~~ 2. **Draft EIS.** The draft environmental impact statement must be written in plain and objective language. The draft environmental impact statement ~~shall~~ must follow the standard format for an environmental impact statement prescribed in part 4410.2300 to the extent the requirements of that rule are appropriate. The draft EIS must be completed and filed with the commission consistent with the process schedule.

Subp. ~~7~~ 3. **Public review.** Upon completion of the draft environmental impact statement, the ~~commissioner of the Department of Commerce~~ shall must make the document available for public review by placing a copy of the document in a public library or other governmental office in each county where the each proposed site or route ~~project~~ may be located. The ~~commissioner~~ department ~~shall~~ must ~~send~~ mail notice of the availability of the draft environmental impact statement to each person on the landowner list and the project contact list ~~maintained under part 7850.2100, subpart 1.~~ The ~~commissioner~~ department ~~shall~~ must also place a notice in the EQB Monitor of the availability of the draft environmental impact statement. The ~~commissioner~~ department ~~shall~~ must post the environmental impact statement on the agency's Web page if possible.

Subp. ~~8~~ 4. **Informational Environmental review meeting.** The ~~commissioner of the Department of Commerce~~ shall must schedule an informational environmental review meeting to provide an opportunity for the public to comment on the draft environmental impact statement. The meeting must not be held sooner than 20 days after the draft environmental impact statement becomes available. The meeting must be held in a location convenient to persons who live near the proposed project. The ~~commissioner~~ department ~~shall~~ must ~~send~~ mail notice of the informational environmental review meeting to each person on the project contact list maintained under part 7850.2100, subpart 1. The ~~commissioner~~ department ~~shall~~ must also place notice in the EQB Monitor. The informational environmental review meeting may be held just prior to the holding of a contested case hearing on the permit application. The ~~commissioner~~ department ~~shall~~ must hold the record on the environmental impact statement open for receipt of written comments for not less than ten days after the close of the informational environmental review meeting.

Subp. ~~9~~. **Final EIS.** The ~~commissioner of the Department of Commerce~~ shall respond to the timely substantive comments received on the draft environmental impact statement consistent with the scoping decision and prepare the final environmental impact statement. The ~~commissioner~~ may attach to the draft environmental impact statement the comments received and its response to comments without preparing a separate document. The ~~commissioner~~ shall publish notice of the availability of the final environmental impact statement in the EQB Monitor and shall supply a press release to at least one newspaper of general circulation in the areas where the proposed sites or routes are located.

Subp. ~~10~~. **Adequacy determination.** The Public Utilities Commission shall determine the adequacy of the final environmental impact statement. The ~~commission~~ shall not decide the adequacy for at least ten days after the availability of the final environmental impact statement is announced in the EQB Monitor. The final environmental impact statement is adequate if it:

~~A. addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application;~~

~~B. provides responses to the timely substantive comments received during the draft environmental impact statement review process; and~~

~~C. was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.~~

~~If the commission finds that the environmental impact statement is not adequate, the commission shall direct the staff to respond to the deficiencies and resubmit the revised environmental impact statement to the commission as soon as possible.~~

~~Subp. 11. **Cost.** The applicant for a site permit or route permit shall pay the reasonable costs of preparing and distributing an environmental impact statement. The costs must not be assessed separately from the assessment under part 7850.1800 unless that assessment is inadequate to cover the commissioner's reasonable costs of considering the permit application.~~

~~Subp. 12. **Environmental review requirements.** The requirements of chapter 4410 and parts 7849.1000 to 7849.2100 do not apply to the preparation or consideration of an environmental impact statement for a large electric power generating plant or high voltage transmission line except as provided in parts 7850.1000 to 7850.5600.~~

**Statutory Authority:** *MS s 116C.66; 116D.04; 216E.16*

**History:** *27 SR 1295; 28 SR 951; L 2005 c 97 art 3 s 19*

**Published Electronically:** *October 13, 2009*

### **7850.2570 PUBLIC HEARING.**

Subpart. 1. **Hearing.** After the department files a draft EIS, a public hearing must be held on a site or route permit application as required under Minnesota statutes, section 216E.03, subd. 6.

Subp. 2. **Public hearing notice.** Notice of the hearing must be coordinated with the administrative law judge. The commission must give notice of the hearing at least ten days, but not more than 45 days, before the hearing. The notice must include the following:

A. the time, date, and location of each hearing; and

B. a statement notifying landowners that the applicant could exercise the power of eminent domain under Minnesota Statutes, 216E.12, to acquire land necessary for the project, along with the phrase, "your property could be in the final route selected."

Subp. 3. **Notice recipients.** The notice must be sent to the project contact list, the public agency contact list, the landowner list, and by certified mail to the local and tribal government list.

Subp. 3 4. **Newspaper notice.** The applicant must publish notice of the public hearing in a legal newspaper of general circulation in the county in which the public hearing is to be held. The



notice must be published at least 10 days before the date of the public hearing. The applicant must file a copy of the affidavit of publication with the commission within five days of receiving the affidavit.

#### **7850.2600 CONTESTED CASE HEARING.**

~~Subpart 1. **Hearing.** The PUC shall hold a contested case hearing after the draft environmental impact statement is prepared on all applications for a site permit or a route permit. The hearing must be conducted by an administrative law judge from the Office of Administrative Hearings pursuant to the contested case procedures of Minnesota Statutes, chapter 14. Notice of the hearing must be given in accordance with Minnesota Statutes, section 216E.03, subdivision 6. At least a portion of the hearing must be held in a county where the proposed large electric power generating plant or high voltage transmission line would be located.~~

~~Subp. 2. **Issues.** Once the commission has determined questions of need, including size, type, and timing; questions of system configuration; and questions of voltage, those issues must not be addressed in the contested case hearing.~~

~~Subp. 3. **Hearing.** If the commission determines that a hearing to consider both permitting and need issues is feasible, more efficient, and may further the public interest, the commission may decide to hold a hearing. The commission may also elect to hold a joint hearing with other states pursuant to Minnesota Statutes, section 216E.02, subdivision 3.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.2650. FINAL EIS.**

Subpart. 9 1. **Final EIS Contents.** The commissioner of the Department of Commerce shall must respond to the timely substantive comments received on the draft environmental impact statement consistent with the scoping decision and prepare the final environmental impact statement. The commissioner department may attach to the draft environmental impact statement the comments received and its response to comments without preparing a separate document.

Subp. 2. **Filing and public access.** The Final EIS must be completed and filed with the commission consistent with the process schedule. The commissioner department shall must publish notice of the availability of the final environmental impact statement in the EQB Monitor and shall must supply a press release, containing an electronic link to the final EIS, to at least one newspaper of general circulation in the areas where the proposed sites or routes are located. At the time the final EIS is filed with the commission, the department shall must certify to the commission the document's compliance with the adequacy factors in part 7850.2700, subp. 3 below.

Subp. 3. **Public comment.** Comments on the final EIS must be filed with the administrative law judge and are due 25 days after the day the final EIS is filed.

Subp. 4 4. **Cost.** The applicant for a site permit or route permit shall must pay the reasonable costs of preparing and distributing an environmental impact statement. The costs must not be assessed separately from the assessment under part 7850.1800 unless that assessment is

inadequate to cover the ~~commissioner's~~ department's reasonable costs of considering the permit application.

Subp. ~~42~~ 5. **Environmental review requirements.** The requirements of chapter 4410 and parts 7849.1000 to 7849.2100 do not apply to the preparation or consideration of an environmental impact statement for a large electric power generating plant or high voltage transmission line except as provided in parts 7850.1000 to 7850.5600.

### **7850.2675 PROCEDURE AFTER ADMINISTRATIVE LAW JUDGE REPORT.**

Subpart 1. **Parties.** Parties must file exceptions to an administrative law judge's report as required by part 7829.2700.

Subp. 2. **Participating agencies.** A state or federal agency participating in a route or site permit process under this chapter must file final comments in the case within the same time period that exceptions are due for parties under part 7829.2700.

### **7850.2700 FINAL DECISION.**

Subpart 1. **Timing.** The commission ~~shall~~ must make a final decision on a site permit or a route permit application within 60 days after receipt of the report of the administrative law judge. A final decision must be made within one year after the commission's determination that an application is complete. The commission may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Subp. 2. **EIS adequacy.** The commission ~~shall~~ must not make a final decision on a permit until the commission has found the environmental impact statement to be adequate.

Subp. ~~40~~ 3. **Adequacy determination.** The Public Utilities Commission ~~shall~~ must determine the adequacy of the final environmental impact statement. The commission ~~shall~~ must not decide the adequacy for at least ten days after the availability of the final environmental impact statement is announced in the EQB Monitor. The final environmental impact statement is adequate if it:

A. addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application;

B. provides responses to the timely substantive comments received during the draft environmental impact statement review process; and

C. was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.

If the commission finds that the environmental impact statement is not adequate, the commission ~~shall~~ must direct the ~~staff~~ department to respond to the deficiencies and resubmit the revised environmental impact statement to the commission as soon as possible.

Subp. 3 4. **Certificate of need decision.** The ~~PUC commission shall~~ must not make a final decision on a permit for a project that requires a Certificate of Need from the ~~Public Utilities Commission~~ commission until the applicant has obtained the necessary approval.

Subp. 4-5. **Notice.** The ~~PUC commission shall~~ must publish notice of its final permit decision in the State Register within 30 days of the date the commission makes the decision. The ~~PUC commission shall~~ must also publish notice in the EQB Monitor. The ~~PUC commission shall~~ must mail notice of its final permit decision to those persons whose names are on the project contact list. The ~~PUC commission shall~~ must post notice of the final decision on the agency's Web page, if possible.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

## ALTERNATIVE REVIEW PROCESS

### **7850.2800 ELIGIBLE PROJECTS.**

Subpart 1. **Eligible projects.** An applicant for a site permit or a route permit for one of the following projects may elect to follow the procedures of parts ~~7850.2800~~ 7850.3700 to 7850.3900 instead of the full permitting procedures in parts ~~7850.1700~~ 7850.2500 to 7850.2700:

- A. large electric power generating plants with a capacity of less than 80 megawatts;
- B. large electric power generating plants that are fueled by natural gas;
- C. high voltage transmission lines of between 100 and 200 kilovolts;
- D. high voltage transmission lines in excess of 200 kilovolts and less than five miles in length in Minnesota;
- E. high voltage transmission lines in excess of 200 kilovolts if at least 80 percent of the distance of the line in Minnesota will be located along existing high voltage transmission line rights-of-way;
- F. a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; ~~and~~
- G. a high voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line; and-
- H. large electric power generating plants that are powered by solar energy.

Subp. 2. **Notice to PUC commission.** An applicant for a permit for one of the qualifying projects in subpart 1, who intends to follow the alternative review procedures, ~~of parts 7850.2800 to 7850.3700,~~ shall must notify the PUC commission of such intent, in writing, at ~~least ten days before submitting an application for the project~~ the time the applicant files a draft permit application under part 7850.1640.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

**~~7850.2900 PERMIT APPLICATION UNDER ALTERNATIVE PROCESS.~~**

~~Part 7850.1700, regarding submission of a permit application, applies to projects being considered under the alternative permitting process.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**Published Electronically:** *September 18, 2009*

**~~7850.3000 PERMIT FEES.~~**

~~Part 7850.1800, regarding permit fees, applies to projects being considered under the alternative permitting process.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**Published Electronically:** *September 18, 2009*

**~~7850.3100 CONTENTS OF APPLICATION.~~**

~~The applicant shall include in the application the same information required in part 7850.1900, except the applicant need not propose any alternative sites or routes to the preferred site or route. If the applicant has rejected alternative sites or routes, the applicant shall include in the application the identity of the rejected sites or routes and an explanation of the reasons for rejecting them.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**Published Electronically:** *September 18, 2009*

**~~7850.3200 APPLICATION REVIEW.~~**

~~Part 7850.2000 regarding the commission's review of the application, applies to projects being considered under the alternative permitting process.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

**~~7850.3300 PROJECT NOTICE.~~**

~~Part 7850.2100, regarding obligations to give notice of the project, applies to projects being considered under the alternative permitting process.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**Published Electronically:** *September 18, 2009*

**~~7850.3400 PUBLIC ADVISOR.~~**

~~Part 7850.2200, regarding appointment of a public advisor, applies to projects being considered under the alternative permitting process.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**Published Electronically:** *September 18, 2009*

**~~7850.3500 PUBLIC MEETING.~~**

~~Subpart 1. **Public meeting.** Part 7850.2300, subparts 1 to 4, apply to projects being considered under the alternative permitting process.~~

~~Subp. 2. **Environmental assessment.** At the public meeting, the public shall be provided an opportunity to comment on the scope of the environmental assessment in accordance with part 7850.3700.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**Published Electronically:** *September 18, 2009*

**~~7850.3600 CITIZEN ADVISORY TASK FORCE.~~**

~~Part 7850.2400, regarding the appointment of a citizen advisory task force, applies to projects being considered under the alternative permitting process.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**Published Electronically:** *September 18, 2009*

**~~7850.3700 ENVIRONMENTAL ASSESSMENT PREPARATION.~~**

~~Subpart 1. **Environmental assessment required.** The commissioner of the Department of Commerce shall must prepare an environmental assessment on each proposed large electric power generating plant and each proposed high voltage transmission line ~~being reviewed under the alternative permitting process in parts 7850.2800 to 7850.3900~~, subject to the alternative review process. The environmental assessment must contain information on the human and environmental impacts of the proposed project and of alternative sites or routes identified by the commissioner ~~and the department~~ and shall must address mitigating measures for all sites or routes considered.~~

**Subp. 2. Scoping process.**

~~A. The commissioner of the Department of Commerce shall provide the public with an opportunity to participate in the development of the scope of the environmental assessment by holding a public meeting and by soliciting public comments. The public meeting required under~~

~~part 7850.3500 satisfies the requirement to hold a scoping meeting. The commissioner shall mail notice of the meeting to those persons on either the general list or the project contact list at least ten days before the meeting. The commissioner shall provide at least seven days from the day of the public meeting for the public to submit comments regarding the scope of the environmental assessment.~~

At the public information and scoping meeting held under part 7850.2300, the department will conduct the scoping portion of the meeting. At the meeting, the department must provide the public with an opportunity to participate in the development of the scope of the environmental impact statement by soliciting public comments. Members of the public must be provided the opportunity to comment on the scope of the EA, including environmental factors, and to submit supporting documentation. The applicant must be provided an opportunity to respond to public input.

**Subp. 3. Alternative sites or routes.**

~~B. The commissioner~~ department shall must include in the scope of the environmental assessment any alternative sites or routes proposed by the citizen advisory task force or by ~~any member agency of the Environmental Quality Board~~ the commission prior to the close of the scoping period. During the scoping process, any person may suggest an alternative site or route to evaluate in the environmental assessment. A person desiring that a particular site or route be evaluated ~~shall~~ must submit to the ~~commissioner~~ department, during the scoping process, an explanation of why the site or route should be included in the environmental assessment and all supporting information the person wants the ~~commissioner~~ department to consider. The ~~commissioner~~ department shall must provide the applicant with an opportunity to respond to each request that an alternative be included in the environmental assessment. The ~~commissioner~~ department shall must include the suggested site or route in the scope of the environmental assessment only if the ~~commissioner~~ department determines that evaluation of the proposed site or route will assist in the commissioner's ultimate decision on the permit application. Any person may also suggest specific human or environmental impacts that should be included in the environmental assessment.

Subp. 4. Public comment. The department must provide a ten-day comment period following the close of the meeting to allow interested persons an opportunity to submit written comments.

**7850.3720 NOTICE TO COMMISSION.**

The department must notify the commission, prior to filing its scoping decision under part 7850.3730 below, of the alternatives the department intends to include in the scope of the EA. Commission consideration of the department's proposed alternatives must be completed by the time of the commission's decision on record development under part 7850.2120. The department must include in the scope of the EA any alternative identified by the commission.

**7850.3730 SCOPING DECISION.**

Subpart. 3 1. **Scoping decision.** The commissioner of the Department of Commerce ~~shall~~ must determine the scope of the environmental assessment ~~within ten days after close of the public~~

~~comment period and shall mail notice of the scoping decision to those persons on the project contact list within five days after the decision consistent with the process schedule.~~ Once the commissioner has determined the scope of the environmental assessment, the scope ~~shall~~ must not be changed except upon a decision by the commissioner that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives. The commissioner ~~shall~~ must also determine as part of the scoping process a reasonable schedule for completion of the environmental assessment. The scoping decision by the commissioner department must identify:

- A. the alternative sites or routes, if any, to be addressed in the environmental assessment;
- B. any specific potential impacts to be addressed;
- C. the schedule for completion of the environmental assessment; and
- D. other matters to be included in the environmental assessment.

Subp. 2. **Notice of decision.** Within five days after filing the scoping decision with the commission, the department must provide notice of the scoping decision to the project contact list, the public agency contact list, the landowner list, and the local and tribal government contact list.

Subp. ~~5~~ 3. **Alternatives to be included in EA.** Any alternative identified by the commission and the applicant must be included and considered in the EA.

#### **7850.3740 SUPPLEMENTAL FILING BY APPLICANT.**

Subpart 1. **Supplemental filing.** If the commission determines that a route not proposed by the applicant will be examined in addition to the applicant's proposed routes, the applicant must file additional information on each alternative to support equivalent comparison of all routes under consideration. The filing must be made following consistent with the process schedule.

Subp. 2. **Landowner list.** After the department issues the scoping decision under part 7850.3730, an applicant must update the landowner list maintained under part 7850.1610 to include any landowner, not previously on the list, whose property is adjacent to a site, or along a route, that will be considered in the scope of the EA.

#### **7850.3750 ENVIRONMENTAL ASSESSMENT.**

Subpart. ~~4~~-1. **Content of environmental assessment.** The environmental assessment must include:

- A. a general description of the proposed facility;
- B. a list of any alternative sites or routes that are addressed;
- C. a discussion of the potential impacts of the proposed project and each alternative site

or route on the human and natural environment;

D. a discussion of mitigative measures that could reasonably be implemented to eliminate or minimize any adverse impacts identified for the proposed project and each alternative site or route analyzed;

E. an analysis of the feasibility of each alternative site or route considered; a list of permits required for the project; and

F. a discussion of other matters identified in the scoping process.

Subp. 5 2. **Time frame for completion of environmental assessment.** ~~The commissioner of the Department of Commerce shall complete the environmental assessment in accordance with the schedule established during the scoping process. In establishing the schedule for completion of the environmental assessment, the commissioner shall take into account any applicable statutory deadlines, the number and complexity of the alternatives and impacts to be addressed, the status of other proceedings affecting the project, and the interests of the public, the applicant, and the commissioner. The environmental assessment must be filed with the commission consistent with the process schedule.~~

Subp. 6 3. **Notification of availability of environmental assessment.** Upon completion of the environmental assessment, the ~~commissioner shall~~ department must file the EA with the commission and publish notice in the EQB Monitor of the availability of the environmental assessment. ~~and~~ The department must also mail notice of the availability of the document to those persons on the landowner list and on the project contact list. The ~~commissioner~~ department shall provide a copy of the environmental assessment to any public agency with authority to permit or approve the proposed project. The ~~commissioner~~ department shall must post the environmental assessment on the agency's Web page, ~~if possible.~~

Subp. 7 4. **Matters excluded.** When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the environmental assessment ~~shall~~ must not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

Subp. 8 5. **No additional environmental review.** An environmental assessment must be the only state environmental review document required to be prepared by the ~~commissioner of the Department of Commerce~~ on a project qualifying for review under the alternative review process. ~~No environmental assessment worksheet or environmental impact statement shall be required. Environmental review at the certificate of need stage before the Public Utilities Commission must be performed in accordance with parts 7849.1000 to 7849.2100.~~

Subp. 9 6. **Cost.** The cost of the preparation of an environmental assessment must be assessed to the applicant as part of the application fee pursuant to part 7850.1800.

**Statutory Authority:** *MS s 116C.66; 116D.04; 216E.16*

**History:** *27 SR 1295; 28 SR 951; L 2005 c 97 art 3 s 19*

**Published Electronically:** *October 13, 2009*



## 7850.3800 PUBLIC HEARING.

Subpart 1. **Public hearing.** ~~The PUC shall hold a public hearing once the environmental assessment has been completed. The commission must hold a public hearing, conducted by an administrative law judge, on a site or route permit application as required under Minnesota Statutes, section 216E.04. Notice of the hearing shall be given in accordance with Minnesota Statutes, section 216E.03, subdivision 6.~~ At least a portion of the hearing shall must be held in a each county where the proposed large electric power generating plant or high voltage transmission line would be located.

Subp. 2. **Public hearing notice.** The commission must give notice of the hearing at least ten days, but not more than 45 days, before the hearing. The notice must include the following:

A. the time, date, and location of each hearing; and

B. a statement notifying landowners that the applicant could exercise the power of eminent domain under Minnesota Statutes, 216E.12, to acquire land necessary for the project, along with the phrase, “your property could be in the final route selected.”

Subp. 3. **Notice recipients.** The notice must be sent to the following:

A. the project contact list;

B. the public agency contact list;

C. the landowner list; and

D. the local and tribal government contact list, by certified mail.

Subp. 2 4. **Hearing examiner.** ~~The commission shall appoint a person to act as the hearing examiner at the public hearing. The hearing examiner may be an employee of the PUC. The hearing examiner shall set the date and place for the hearing and provide notice to the public. The hearing examiner may make such rulings as are required to conduct the hearing in a fair, impartial, and expeditious manner, including the authority to maintain decorum at the hearing, to exclude repetitious or irrelevant testimony, to limit the amount of time for oral testimony, and to continue the hearing from time to time as needed. Persons may testify at the hearing without being first-sworn under oath. The hearing examiner shall ensure that the record created at the hearing is preserved and transmitted to the commission. An audio recording of the hearing must be made, unless the commission determines that a court reporter is appropriate. The hearing examiner shall must not prepare a report or make any recommendation to the commission unless the commission requests the ~~hearing examiner~~ administrative law judge to do so.~~

Subp. 3 5. **Hearing procedure.** The hearing must be conducted in the following manner, although the ~~hearing examiner~~ administrative law judge may vary the order in which the hearing proceeds:

A. the staff ~~shall~~ must make a brief presentation to describe the project, explain the process

to be followed, and introduce documents to be included in the record, including the application, the environmental assessment, and various procedural documents;

B. ~~the applicant shall introduce its evidence by way of testimony and exhibits the department shall~~ must introduce information for developing the record and offer the project's environmental assessment for inclusion in the record;

C. the public must be afforded an opportunity to make an oral presentation, present documentary evidence, and ask questions of the applicant and agency staff;

D. ~~the hearing examiner administrative law judge shall~~ must provide a period of not less than ten days for the submission of written comments into the record after the close of the hearing; and

E. ~~the hearing examiner administrative law judge shall~~ must transmit the complete record created at the hearing, including all written comments, to the commission within five days of the close of the record, unless the ~~hearing examiner~~ administrative law judge has been requested by the commission to prepare a report.

Subp. 4 6. **Issues.** Once the Public Utilities Commission has determined questions of need, including size, type, and timing; questions of system configurations; and questions of voltage, those issues must not be addressed in the public hearing.

Subp. 57. **Environmental assessment.** Interested persons may comment upon the environmental assessment at the public hearing. Comments on the environmental assessment ~~shall~~ must become part of the record in the proceeding but the commission ~~shall~~ must not be required to revise or supplement the environmental assessment document.

Subp. 8. **Public comment.** Public comments must be filed within ten days after the close of the public hearing.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## **7850.3900 FINAL DECISION.**

Subpart 1. **Timing.** The commission ~~shall~~ must make a final decision on a site permit or a route permit application within 60 days after receipt of the record from the ~~hearing examiner~~ administrative law judge. A final decision must be made within six months after the commission's determination that an application is complete. The commission may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Subp. 2. **Completeness of environmental assessment.** ~~At the time the commission makes~~ Before making a final decision on the permit application, the commission ~~shall~~ must determine whether the environmental assessment and the record created at the public hearing address the issues identified in the scoping decision.

Subp. 3. **Certificate of need decision.** The PUC ~~commission shall~~ must not make a final decision on a permit for a project that requires a certificate of need from the ~~Public Utilities Commission until the applicant has obtained the necessary approval from the Public Utilities Commission.~~

Subp. 4. **Notice.** The PUC ~~commission shall~~ must publish notice of its final permit decision in the State Register within 30 days of the day the commission makes the decision. The PUC ~~commission shall~~ must also publish notice in the EQB Monitor. The PUC ~~commission shall~~ must mail notice of its final permit decision to those persons whose names are on the project contact list. The PUC ~~commission shall~~ must post notice of the final decision on the agency's Web page, ~~if possible.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## **FACTORS FOR COMMISSION CONSIDERATION**

### **~~7850.4000 STANDARDS AND CRITERIA~~**

~~No site permit or route permit shall be issued in violation of the site selection standards and criteria established in Minnesota Statutes, sections 216E.03 and 216E.04, and in rules adopted by the commission. The commission shall issue a permit for a proposed facility when the commission finds, in keeping with the requirements of the Minnesota Environmental Policy Act, Minnesota Statutes, chapter 116D, and the Minnesota Environmental Rights Act, Minnesota Statutes, chapter 116B, that the facility is consistent with state goals to conserve resources, minimize environmental impacts, and minimize human settlement and other land use conflicts and ensures the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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### **7850.4100 FACTORS CONSIDERED.**

~~In determining whether to issue a permit for a large electric power generating plant or a high-voltage transmission line, the commission shall consider the following~~ In determining whether to issue a site or route permit under this chapter, the commission must consider the factors set forth in Minnesota Statutes, section 216E.03, subd. 7, as well as the following:

A. effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;

B. effects on public health and safety;

C. effects on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;

D. effects on archaeological and historic resources;

E. effects on the natural environment, including effects on air and water quality resources and flora and fauna;

F. effects on rare and unique natural resources;

G. application of design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generating capacity;

H. use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries;

I. use of existing large electric power generating plant sites;

J. use of existing transportation, pipeline, and electrical transmission systems or rights-of-way;

K. electrical system reliability;

L. costs of constructing, operating, and maintaining the facility which are dependent on design and route;

M. adverse human and natural environmental effects which cannot be avoided; and

N. irreversible and irretrievable commitments of resources.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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#### **~~7850.4200 FACTORS EXCLUDED.~~**

~~When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or a high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, questions of need, including size, type, and timing, questions of alternative system configurations, and questions of voltage shall not be factors considered by the commission in deciding whether to issue a permit for a proposed facility.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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### **7850.4300 PROHIBITED ROUTES.**

Subpart 1. **Wilderness areas.** No high voltage transmission line may be routed through state or national wilderness areas.

Subp. 2. **Parks and natural areas.** No high voltage transmission line may be routed through state or national parks or state scientific and natural areas unless the transmission line would not materially damage or impair the purpose for which the area was designated and no feasible and prudent alternative exists. Economic considerations alone do not justify use of these areas for a high voltage transmission line.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

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### **7850.4400 PROHIBITED SITES.**

Subpart 1. **Prohibited sites.** No large electric power generating plant may be located in any of the following areas:

- a. national parks;
- b. national historic sites and landmarks;
- c. national historic districts;
- d. national wildlife refuges;
- e. national monuments;
- f. national wild, scenic, and recreational riverways;
- g. state wild, scenic, and recreational rivers and their land use districts;
- h. state parks;
- i. nature conservancy preserves;
- j. state scientific and natural areas; and
- k. state and national wilderness areas.

Subp. 2. **Water use.** The areas identified in subpart 1 must not be permitted as a site for a large electric power generating plant except for use for water intake or discharge facilities. If the commission includes any of these areas within a site for use for water intake or discharge facilities, it may impose appropriate conditions in the site permit to protect these areas for the purposes for which they were designated. The commission ~~shall~~ must also consider the adverse effects of proposed sites on these areas which are located wholly outside of the boundaries of these areas.

Subp. 3. **Site exclusions when alternative sites exist.** No large electric power generating plant may be located in any of the following areas unless there is no feasible and prudent alternative. Economic considerations alone do not justify approval of these areas. These areas are:

- A. state registered historic sites;

- B. state historic districts;
- C. state wildlife management areas, except in cases where the plant cooling water is to be used for wildlife management purposes;
- D. county parks;
- E. metropolitan parks;
- F. designated state and federal recreational trails;
- G. designated trout streams; and
- H. the rivers identified in Minnesota Statutes, section 85.32, subdivision 1.

Subp. 4. **Prime farmland exclusion.** Use of prime farmland is subject to the following restrictions.

A. Except as set forth in B below, ~~No~~ large electric power generating plant site may be permitted where the developed portion of the plant site, excluding water storage reservoirs and cooling ponds, includes more than 0.5 acres of prime farmland per megawatt of net generating capacity, or where makeup water storage reservoir or cooling pond facilities include more than 0.5 acres of prime farmland per megawatt of net generating capacity, unless there is no feasible and prudent alternative. Economic considerations alone do not justify the use of more prime farmland. "Prime farmland" means those soils that meet the specifications of Code of Federal Regulations 1980, title 7, section 657.5, paragraph (a). These provisions do not apply to areas located within home rule charter or statutory cities; areas located within two miles of home rule charter or statutory cities of the first, second, and third class; or areas designated for orderly annexation under Minnesota Statutes, section 414.0325.

B. A solar-powered LEPGP is prohibited on prime farmland unless:

(1) the commission approves a farmland mitigation plan developed in consultation with the Minnesota department of agriculture; and

(2) at the time of the application, there is no local zoning ordinance prohibiting the construction of a solar-powered LEPGP on prime farmland.

Subp. 5. **Sufficient water supply required.** No site may be designated that does not have reasonable access to a proven water supply sufficient for plant operation. No use of groundwater may be permitted where removal of groundwater results in material adverse effects on groundwater, groundwater dependent natural resources, or higher priority users in and adjacent to the area, as determined in each case.

The use of groundwater for high consumption purposes, such as cooling, must be avoided if a feasible and prudent alternative exists.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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### **7850.4500 PERMIT APPLICATION REJECTION.**

The commission ~~shall~~ must reject a permit application at the time it is submitted if the application is for a facility to be located on a prohibited site or within a prohibited route or if the applicant fails to address in the application why no feasible and prudent alternative exists for sites or routes that may be authorized in such a situation.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## **PERMIT ADMINISTRATION AND LOCAL REVIEW**

### **7850.4600 PERMIT CONDITIONS.**

Subpart 1. **Generally.** The commission ~~shall~~ must impose in any site permit for a large electric power generating plant or route permit for a high voltage transmission line such conditions as the commission deems appropriate and are supported by the record.

Subp. 2. **HVTL permits.** When the commission issues a permit for a route for a high voltage transmission line, the commission ~~shall~~ must specify the design, route, right-of-way preparation, and facility construction and operation it deems necessary. The commission may impose a condition in the permit requiring the permittee to construct a high voltage transmission line that is capable of expansion in transmission capacity through multiple circuiting or design modifications.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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### **7850.4650 COMPLIANCE FILING.**

Subpart. 1. **Plan and profile.** At least 30 days prior to construction, the applicant must file a preliminary design plan for the project. The plan must include a profile of the project, including details on the location of the project, the location of the right-of-way showing its compliance with the route permit, and schemata and drawings showing the right-of-way preparation, construction, clean-up, and restoration for the project.

Subp. 2. **Commission decision.** The executive secretary must determine whether the plan and profile is consistent with the permit conditions for the project and notify the permittee in writing of the determination. The commission may request that the department provide technical compliance review and a recommendation. The commission delegates to its executive secretary the authority to make the determination and notify the permittee. Any subsequent changes to the plan and profile made by the permittee must be filed with the commission.

### **7850.4700 DELAY IN ROUTE OR SITE CONSTRUCTION.**

If construction and improvement of a route or site have not commenced four years after the permit has been issued by the commission, the commission ~~shall~~ must suspend the permit. If at that time, or at a time subsequent, the permittee decides to construct the proposed large electric

power generating facility or high voltage transmission line, the permittee ~~shall~~ must certify to the commission that there have been no significant changes in any material aspects of the conditions or circumstances existing when the permit was issued. The commission ~~shall~~ must mail notice of receipt of the certification request and notice of the commission meeting date to those persons on the general list, at least seven days before the commission's consideration of the matter, and the same notice to those persons on the project contact list, if such a list exists, the public agency contact list, and the local and tribal government contact list. The applicant must mail notice of its request to the landowner list. If the commission determines that there are no significant changes, it ~~shall~~ must reinstate the permit. If the commission determines that there is a significant change, it may order a new hearing and consider the matter further, or it may require the permittee to file a new application.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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### **7850.4800 ~~MINOR ALTERATION IN~~ CHANGES TO GENERATING PLANT OR TRANSMISSION LINE.**

Subpart 1. **Applicability.** ~~No person may make a minor alteration in a large electric power generating plant or high voltage transmission line without approval from the commission,~~ Changes to existing or permitted LEPGP and HVTL facilities or their locations must be approved by the commission, unless the action is exempt from review under part 7850.1500. A ~~minor alteration is a change in subject to commission approval includes a minor alteration in the location of a large electric power generating plant or high voltage transmission line or an amendment to a permit condition in a permit issued by the commission. that does~~ The change must not result in significant changes in the human or environmental impact of the facility. The requirements of this part apply to those facilities that have been permitted by the PUC commission and to those facilities that were not permitted by the PUC commission but meet the definition of a large electric power generating plant or high voltage transmission line under applicable law. Changes to a permit issued by the commission for facilities not yet constructed is subject to review under this part. For those large electric power generating plants or high voltage transmission lines for which no permit has been issued by the PUC commission, this part applies to minor alterations in the facility as it exists on February 18, 2003.

Subp. 2. **Application for minor alternation of a site or route.** A ~~person~~ permittee seeking authorization to make a minor alteration in a large electric power generating plant or high voltage transmission line ~~shall~~ must apply to the commission. The application ~~shall~~ must be in writing and ~~shall~~ must describe the alteration in the large electric power generating plant or high voltage transmission line to be made and the explanation why the alteration is minor. The applicant must mail its proposal to landowners reasonably likely to be affected by the alteration, to the project contact list, to the public agency contact list, and to the local and tribal units of government with jurisdiction over the area where the minor alteration is proposed. The commission ~~shall~~ must mail notice of receipt of the application to ~~those persons on the general list and to those persons on the project contact list if such a list exists~~ landowners along the route of the proposed alteration or adjacent to the site of the proposed alteration. The commission ~~shall~~ must provide at least a ten-day period for interested persons to submit comments on the application ~~or to request that the matter be brought to the commission for consideration.~~



Subp. 3. ~~**Commission decision** The commission shall decide within ten days after close of the public comment period whether to authorize the minor alteration, bring the matter to the commission for consideration, or determine that the alteration is not minor and requires a full permitting decision. The commission may authorize the minor alteration but impose reasonable conditions on the approval. The commission shall notify the applicant in writing of the commission's decision and send a copy of the decision to any person who requested notification or filed comments on the application.~~

Subp. 4. **Local review.** For those large electric power generating plants or high voltage transmission lines for which no permit has been issued by the PUC commission, the owner or operator of such unpermitted facilities may elect to seek approval of a minor alteration from the local unit of government if the facility qualifies for local review under Minnesota Statutes, section 216E.05.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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#### **7850.4900 AMENDMENT OF PERMIT CONDITIONS.**

Subpart 1. **Authority.** The commission may amend any of the conditions in a site permit for a large electric power generating plant or in a route permit for a high voltage transmission line issued by the PUC commission upon request of any person who claims to be affected by a permit condition.

Subp. 2. **Process.** The person requesting an amendment of a condition in a site permit or a route permit ~~shall~~ must submit an application to the commission in writing describing file with the commission a description of the amendment sought and the reasons for the amendment. The commission ~~shall~~ must mail notice of receipt of the application to landowners reasonably likely to be affected by the proposed change in the permit condition, those persons on to the general list, to those persons on the project contact list, and to the public agency contact list, and to the local and tribal units of government with jurisdiction over the affected area if such a list exists. The commission ~~shall~~ must provide at least a ten-day period for interested persons to submit comments on the application or to request that the matter be brought to the commission for consideration.

Subp. 3. ~~**Decision.** The commission shall decide within ten days after close of the public comment period whether to approve the amendment request or to bring the matter to the commission for consideration.~~

~~The commission shall notify the applicant in writing of the commission's decision and send a copy of the decision to any person who requested notification or filed comments on the application.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## **7850.4925 COMPLAINT PROCEDURES.**

Subp. 1. **Filing.** A person affected by an alleged permit violation, or a local unit of government on behalf of a complainant, may file a complaint with the permittee or with the commission. A complaint filed with either the permittee or the commission must include the following:

A. the complainant's contact information, including name, address, telephone number, and e-mail address if available;

B. the date of the complaint;

C. the facts giving rise to the dispute, including any permit condition at issue; and

D. the tract, parcel number, or description of any property affected;

Subp. 2. **Permittee complaint handling.** The permittee must provide a copy or description of the complaint to the commission within one business day of receiving the complaint. The permittee must attempt to informally resolve the complaint through correspondence, negotiation, or mediation.

Subp. 3. **Commission complaint handling.** Upon receiving a complaint, commission staff must provide a copy or description of the complaint to the permittee, and request a response from the permittee within 15 days. Commission staff must notify the complainant of the permittee's response and request the complainant's reply within 15 days. If commission staff determines that the complaint cannot be resolved informally through correspondence, negotiation, or mediation, staff must notify the permittee that the complaint has not been resolved. Anyone seeking formal commission action on a complaint must follow the procedures of Minnesota Rules, Chapter 7829.

## **7850.4950 REPORTS.**

By the 15th day of each month, a permittee must file with the commission a report of all complaints received during the preceding calendar month. The permittee must file monthly reports from the time the permit is issued until twelve months after project has been completed and notice of completion of the project has been filed with the commission. The report filed must include the following:

A. a description of the basis or subject of the complaint;

B. whether the complaint has been resolved, and if so, the outcome and whether the complainant is satisfied with the outcome; and

C. if no complaints were received, a statement notifying the commission that no complaints were received during the preceding month.

## **7850.5000 PERMIT TRANSFER.**

Subpart 1. **Application.** A permittee holding a large electric power generating plant site permit or a high voltage transmission line route permit may request the PUC commission to transfer

its permit. The permittee ~~shall~~ must provide the name of the existing permittee, the name and description of the entity to which the permit is to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer. The person to whom the permit is to be transferred ~~shall~~ must provide the PUC commission with such information as the PUC commission ~~shall~~ must require to determine whether the new permittee can comply with the conditions of the permit. The commission ~~shall~~ must mail notice of receipt of the application to those persons on the general list at least seven days in advance of the commission's consideration of the matter. The commission ~~shall~~ must provide the same notice to persons on the project contact list if such a list exists.

Subp. 2. **Approval of transfer.** The commission ~~shall~~ must approve the transfer if the commission determines that the new permittee will comply with the conditions of the permit. The commission, in approving the transfer of a permit, may impose reasonable additional conditions in the permit as part of the approval. ~~The commission may decide to hold a public meeting to provide the public with an opportunity to comment on the request for the transfer prior to making a decision.~~ A permittee must inform the commission of any ownership changes within ten days of the change.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## **7850.5100 PERMIT REVOCATION OR SUSPENSION.**

Subpart 1. **Initiation of action to revoke or suspend.** The commission may initiate action to consider revocation or suspension of a permit on its own motion or upon the request of any person who has made a prima facie showing by affidavit and documentation that a violation of the ~~a~~Act, parts 7850.1000 to 7850.5600, or the permit has occurred.

Subp. 2. **Hearing.** If the commission initiates action to consider revocation or suspension of a permit, the commission ~~shall~~ must provide the permittee with an opportunity ~~for a contested case hearing conducted by an administrative law judge from the Office of Administrative Hearings to~~ provide written comment and to appear at a commission meeting where the commission will consider the comments received and will consider whether any other steps, consistent with the commission's rules of practice and procedure under Chapter 7829, are necessary to decide the matter.

Subp. 3. **Finding of violation.** If the commission finds that a violation of the act, parts 7850.1000 to 7850.5600, or the permit has occurred, it may revoke or suspend the permit, require the utility to undertake corrective or ameliorative measures as a condition to avoid revocation or suspension, or require corrective measures and suspend the permit. In determining the appropriate sanction, the commission ~~shall~~ must consider the following:

- A. whether the violation will result in any significant additional adverse environmental effects;
- B. whether the results of the violation can be corrected or ameliorated; and
- C. whether a suspension or revocation of a permit or certificate will impair the utility's electrical power system reliability.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## **7850.5200 EMERGENCY PERMIT.**

Subpart 1. **Application for emergency permit.** Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line due to a major unforeseen event may apply to the commission for an emergency permit. The application must contain the following information:

- A. a description of the proposed large electric power generating plant or high voltage transmission line;
- B. an explanation of the major unforeseen event causing the emergency situation;
- C. a discussion of the anticipated impacts on the electric system if the proposed facility is not approved within 195 days;
- D. a copy of the written notification to the ~~Public Utilities~~ **Public Utilities** Commission of the major unforeseen event and the need for immediate construction; and
- E. as much of the information required under part 7850.1900 as the utility has available.

Subp. 2. **Public hearing.** The ~~PUC~~ **PUC** ~~commission shall~~ **must** hold a public hearing on the application for an emergency permit. The hearing must be held within 90 days after the application is submitted. The hearing must be held in accordance with part 7850.3800.

Subp. 3. **Final decision.** The commission ~~shall~~ **must** make a final decision on an emergency permit within 195 days after the commission's acceptance of the application. The ~~board~~ **commission** ~~shall~~ **must** grant the emergency permit if it finds the following:

- A. a demonstrable emergency exists;
- B. the emergency requires immediate construction;
- C. adherence to the procedures and time schedules specified in Minnesota Statutes, section 216E.03, would jeopardize the utility's electric power system or the utility's ability to meet the electric needs of its customers in an orderly and timely manner;
- D. the utility will implement mitigating measures to minimize the human and environmental impacts of the facility; and
- E. the utility will carry out the project in an expeditious manner consistent with the emergency.

Subp. 4. **Permit conditions.** The commission may impose reasonable conditions in an emergency permit.

Subp. 5. **Permit fee.** The applicant for an emergency permit ~~shall~~ **must** pay the same fee as would be required for a regular permit for the same project.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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### **7850.5300 LOCAL REVIEW OF PROPOSED FACILITIES.**

Subpart 1. **Local review.** An applicant who seeks a site or route permit for one of the projects identified in subpart 2 has the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project. If local approval is granted, a site or route permit is not required from the commission. If the applicant files an application with the PUC commission, the applicant ~~shall~~ must be deemed to have waived its right to seek local approval of the project.

Subp. 2. **Eligible projects.** An applicant may seek approval from a local unit of government to construct the following projects:

- A. a large electric power generating plant with a capacity of less than 80 megawatts;
- B. a large electric power generating plant of any size that burns natural gas and is intended to be a peaking plant;
- C. a high voltage transmission line of between 100 and 200 kilovolts;
- D. ~~a substation with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;~~
- E. a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and
- F. a high voltage transmission line rerouting to serve the demand of a single customer when at least 80 percent of the rerouted line will be located on property owned or controlled by the customer or the owner of the transmission line.

Subp. 3. **Notice to PUC commission.** Within ten days of submission of an application to a local unit of government for approval of an eligible project, the applicant ~~shall~~ must notify the commission in writing that the applicant has elected to seek local approval of the proposed project. Within the same ten-day period, the applicant ~~shall~~ must mail notice to those persons on the general notification list that a permit has been applied for from the local unit of government for the project and ~~shall~~ must provide a description of the project and the name of a person with the local unit of government to contact for more information.

Subp. 4. **Referral to PUC commission.** A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request the PUC commission to assume jurisdiction and make a decision on a site or route permit. A local unit of government ~~shall~~ must file the request with the commission within 60 days after an application for the project has been filed with any one local unit of government. If one of the local units of government with jurisdiction over the project requests the commission to assume jurisdiction, jurisdiction over the project transfers to the commission and the applicant ~~shall~~ must file under the applicable provisions of parts 7850.1000 to 7850.5600 for a permit from the commission.

Subp. 5. **Environmental review.** A local unit of government that maintains jurisdiction over a qualifying project ~~shall~~ must prepare an environmental assessment on the project. The local unit of government ~~shall~~ must afford the public an opportunity to participate in the development of the scope of the environmental assessment before it is prepared. Upon completion of the environmental assessment, the local unit of government ~~shall~~ must publish notice in the EQB Monitor that the environmental assessment is available for review, how a copy of the document may be reviewed, that the public may comment on the document, and the procedure for submitting comments to the local unit of government. The local unit of government ~~shall~~ must provide a copy of the environmental assessment to the PUC commission upon completion of the document. The local unit of government ~~shall~~ must not make a final decision on the permit until at least ten days after the notice appears in the EQB Monitor. If more than one local unit of government has jurisdiction over a project, and the local units of government cannot agree on which unit will prepare the environmental assessment, any local unit of government or the applicant may request the commission to select the appropriate local unit of government to be the responsible governmental unit to conduct an environmental review of the project.

Subp. 6. **No local authority.** In the event a local unit of government that might otherwise have jurisdiction over a proposed large electric power generating plant or high voltage transmission line determines that it has no ordinances or other provisions for reviewing and authorizing the construction of such project or has no capability of preparing an environmental assessment on the project, the local unit of government ~~shall~~ must refer the matter to the PUC commission for review.

Subp. 7. **Matters excluded.** When the ~~Public-Utilities~~ Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the local unit of government ~~shall~~ must not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## GENERAL ADMINISTRATION

### **7850.5400 ANNUAL PUBLIC HEARING.**

Subpart 1. **Annual public hearing.** The commission ~~shall~~ must hold an annual public hearing in November or December in St. Paul in order to advise the public of matters relating to the siting of large electric power generating plants and routing of high voltage transmission lines. The meeting must be conducted by the PUC commission staff. At the meeting, the PUC commission ~~shall~~ must advise the public of the permits issued by the PUC commission in the past year. The PUC commission ~~shall~~ must invite representatives of other state agencies to attend the meeting and be available to answer questions by the public. An audio recording of the hearing must be maintained.

Subp. 2. **Notice.** The PUC ~~commission shall~~ must provide at least ten days but no more than 45 days notice of the annual hearing by mailing notice to those persons who have requested notice and by publication in the EQB Monitor. The notice must be accompanied by a tentative agenda for the hearing.

Subp. 3. **Report.** The staff ~~shall~~ must prepare a report of the annual hearing within 60 days after the hearing and submit it to the commission. No action on the report is required.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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### **7850.5500 ANNUAL ASSESSMENT ON UTILITIES.**

For purposes of determining the annual assessment on a utility pursuant to the act, each utility ~~shall~~ must, on or before July 1 of each year, submit to the commission a report of its retail kilowatt-hour sales in the state and its gross revenue from kilowatt-hour sales in the state for the preceding calendar or utility reporting year. Upon receipt of these reports, the commission ~~shall~~ must bill each utility as specified in the act.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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### **7850.5600 PROGRAM ADVISORY TASK FORCE.**

The commission may appoint a program advisory task force to provide advice and recommendations concerning development, revision, and enforcement of any rule or program initiated under the act or parts 7850.1000 to 7850.5600. The commission ~~shall~~ must provide guidance to the program advisory task force in the form of a charge and through specific requests. The program advisory task force must be composed of as many members as may be designated by the commission and its membership must be solicited on a statewide basis. The program advisory task force and its chair must be appointed for a one-year term.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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