

May 8, 2017

VIA E-FILING

Ms. Kate Kahlert
Staff Attorney
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

**RE: Comments on Possible Amendments to Minnesota Rules, Chapters 7849 and 7850
PUC Docket No. E, ET, IP-999/R-12-1246**

Dear Ms. Kahlert:

Great River Energy and Minnesota Power respectfully submit these comments on the March 2017 draft changes to Minnesota Rules Chapters 7849 and 7850 and the Minnesota Public Utilities Commission's ("Commission") March 23, 2017 Notice of Comment Period ("Notice").

Great River Energy and Minnesota Power support the process and agree that rule amendments are needed to align, clarify, streamline, update, and enhance the effectiveness and efficiency of the certificate of need and siting processes. We agree that it is prudent to move the notice requirements for HVTLs in Minn. R. part 7829.2550 into Chapter 7849, where the bulk of the certificate of need requirements currently reside. Our initial comments on the draft rules are provided below. Great River Energy and Minnesota Power may provide additional comments in response to comments.

Minnesota Rule 7849

7849.0010 Definitions

Subpart 6a Delete "large" in large high voltage transmission line.

Subpart 17 – Minnesota service area – is that service area under Minn. Stat. 216B.37-43 or where transmission and distribution lines are located?

7849.0125 Notice Lists

Subpart 3 - Add Federal Aeronautics Aviation to federal agencies list.

Subpart 5 – Proposed project area is not defined. Does this include alternatives brought forward and additional notice even if alternatives not proposed by the applicant?

7849.0130 Project Notice

Subpart 3.C. Eminent domain – modify to say eminent domain is an available option, not that the applicant is retaining the option.

Subpart 5 Does every county in Minnesota have a radio station? [define as broadcast into a county versus a station located within a county?]

Subpart 7 Change “where notice was defective” to “where notice was deficient”

7949.0200 Application Form and Manner of Filing

Subpart 5 – changes to application – just electronic copies as done under subpart 1?

Subpart 6 Last sentence – which hearing is this referring to?

7949.0210 Filing Fees and Payment Schedule

Subpart 2 Payment schedule should reflect actual practice. Great River Energy provides the initial payment at application and PUC/DOC invoices twice per year.

7949.0250 Proposed LEGF and Alternatives Application

Subpart A (6) a map **of appropriate** scale.....

7949.0255 IPP

Subpart 1 what if the PPA is not approved (and conflict with subpart 4).

7849.0260 B (NERC report)

Most recent “applicable” reliability report from the North American Electric Reliability Corporation [there might not be applicable reports?]

7849.0280 System Capacity

Applicant only has a single reserve margin and it might change each year depending on MISO. Add language to make this current and singular.

7849.0400 Certificate of Need Conditions and Changes

Subpart 2.A “HVTL” for transmission facility.

Subpart 2.D – What is “large” for a transmission length addition or subtraction.

7849.1000 – SCHEDULE

Subpart 4 – How does the process schedule work in a contested case with an ALJ?

7849.1400 Process for Environmental Report Preparation

Subpart 2 (B) – Why the requirement for **two** newspaper notices (30 and 14 days prior to the information and scoping meeting)?

Subpart 4 – Does the applicant give a presentation?

7849.1410 Notice to Commission

EIS should be environmental report.

For combined with 7850 projects does this rule apply?

7849.1425 Scoping Decision

Subpart 2 Scoping decision is not mailed to landowner list or tribal/LGUs?

7849.1500 Environmental Report Content

Subpart 4 commissioner should be department.

7849.1525 Environmental Report; Filing

Subpart 1 Last sentence is incomplete.

7849.1900 Joint Proceeding

Subpart 4 commissioner should be department (two places).

7849.2100 Costs to Prepare Environmental Report

Subpart 2 agency should be department (two places).

The Commission should consider revisions to timing outlined in the rules for Commission review and approval of certain procedural steps, including the review of exemption requests

and determination of application completeness, to reflect actual timelines without requiring standard variances.

Minnesota Rule 7850

7850.1610 Notice Lists

Subp. 1 – General List – Could that be publically posted instead of requested each time?

Subp.4 Landowner list – how often to update?

A. and D.landowners whose property is **along** any route... what does along mean? Would a distance from proposed centerline be more appropriate?

7850.1620 Preapplication Meetings; Transmission Lines

Subpart 1. Need exemption for short projects with few landowners – in those cases we usually meet one-on-one

What if a small project crosses county line or follows county line?

Number and location of meeting (s) should be determined on project-by-project basis and should be left up to Applicant – we want good public input and will do what is best for a specific project.

Subpart 3. Public Input

B. Will PUC and DOC staff be designated at this point in the process?

Subpart 4. Meeting Summary

May be hard to record all comments in great detail from open house format.

7850.1640 Draft Permit Application Required

Subpart 3. Draft route permit for HVTL

U. Great River Energy and Minnesota Power would never waive our rights to eminent domain

V. Great River Energy and Minnesota Power would always retain the option to exercise eminent domain

(1) and (2) This should stricken– it is difficult to make a contiguous land determination at this stage. Many of the properties eligible for Buy the Farm have to go to court for that decision.

The language in U. and V. was added since the last draft seen by the Committee – Great River Energy and Minnesota Power are perplexed by these additions and do not think these are appropriate or beneficial addition to the proposed rules.

7850.1650 Notice of Draft Application – is there a timeframe associated with this?

Is there no 7850.1660 or 1670?

7850.1700 Permit Application and Manner of Filing

Subpart 1. An applicant should NOT be required to provide copies of the application to the General List – this is an onerous and unreasonable requirement.

7850.1710 Application Completeness; Schedule

Subpart 5. The Commission should be held to actually requesting an extension for making a final decision on a permit application– this has been very loose in the past

7850.1800 Permit Fees

Subpart 2 and 3. These subparts should reflect actual practice – Great River Energy typically submits one half of the estimated fee with the application, and then pays subsequent invoices from the DOC (and PUC if Certificate of Need), which are not on a set schedule.

Subpart 4. Should this be at the end of the construction process given ongoing review of Plan and Profile submittals and construction reports as required by route permits?

7850.1900 Application Contents

Subpart 2. (G) So applications need to be in government centers now in addition to libraries?

7850.2100 Notice of Application

Subpart 1 (E) Why **certified** mail to tribal and LGUs? Is this a requirement only for applicants or also for the commission and department (7850.2300 Subp. 2; 7850.2530 Subp. 3; 7850.3730, Subp.3)?

Subpart 2 needs to be re-numbered (G=D, I=E, J=F)

7850.2300 Public Information and Scoping Meeting

Subparts 2, 3 - What about content for the newspaper notice to be published by the applicant? Should be an abbreviated version of the notice mailed out by Commission– otherwise these get to be VERY lengthy newspaper ads.

Subpart 4 says “The scoping portion of the meeting will be conducted by the department...” – so is the information portion of the meeting conducted by the Commission?

Subpart 5 “Applicant must make its application available at the meeting or provide in writing the electronic link to the application”. Does this mean one copy of the

application marked “Desk Copy – Do Not Remove” or does this mean one copy to give away or have multiple copies available? Needs clarification.

7850.2400 Citizen Advisory Task Force

Subparts 3, 4 -environmental impact statement **or environmental assessment?**.....

7850.2550 Draft EIS

Subpart 4. Notice of environmental review meeting sent only to project contact list?
Not public agencies, landowners, tribal or LGUs?

7850.2675 – Procedure after ALJ Report

Subpart 2 – Should strike the word “participating” to have a consistent deadline for all federal and state agencies regardless of prior participation.

7850.2800 then goes to 7850.3700?

7850.3700 Environmental Assessment Preparation

Subpart 2 Should say ...‘the scope of the environmental assessment’, not ‘the scope of the environmental impact statement’

7850.3800 Public Hearing

Subpart 4 – Does hearing examiner mean Administrative Law Judge?

7850.4650 Compliance Filing

Subpart 1 – Provide clarity that the design plan may be done in segments as necessary.

7850.4800

Subpart 3 – eliminated. So what is timeframe for Commission decision?

7850.4925 Complaint Procedures

Subpart 2 - is the one business day requirement for providing to the Commission only for substantial complaints? Non-substantial complaints are typically communicated in the monthly reports.

7850.4950 Reports

The requirement “the permittee must file monthly reports from the time the permit is issued until twelve months after the project has been completed and notice of completion of the project has been filed with the commission” is new language in this draft. The requirement to submit reports for 12 months after a project is done is unreasonable. Suggested language:

The permittee must file monthly reports from the time construction begins (usually right of way clearing) until the time the project is complete (energized, restoration complete, as-builts and GPS submitted). For twelve months thereafter, the permittee must notify the commission of a complaint in the same manner as during project construction.

7850.5300 Local Review of Proposed Facilities

Subpart 3 – First sentence should read “within ten days of submission of an application to a local unit of government for approval of an eligible project **or at the time the local unit of government agrees to permit the project**, the applicant must notify the commission in writing that the applicant has elected to seek local approval of the proposed project”.

There have been instances recently where LGUs want to prepare the EA before an application is made, so this language provides for more timely notice to the commission that a local permit is being sought instead of waiting until an application is made.

7850.5400 Annual Public Hearing

Subpart 1 - states “the meeting must be conducted by the commission staff”. The annual public hearing is conducted by an Administrative Law Judge.

Subpart 3 – report of annual hearing prepared by staff or ALJ?

Thank you for the opportunity to participate in this important rule review and amendment process.

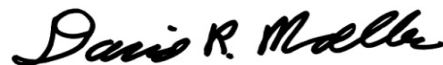
Sincerely,

GREAT RIVER ENERGY



Carole L. Schmidt
Supervisor, Transmission Permitting and Compliance

MINNESOTA POWER



David R. Moeller
Senior Attorney

STATE OF MINNESOTA)
) ss
COUNTY OF ST. LOUIS)

AFFIDAVIT OF SERVICE VIA
ELECTRONIC FILING

SUSAN ROMANS of the City of Duluth, County of St. Louis, State of Minnesota, says that on the **8th day of May, 2017**, she served Minnesota Power's and Great River Energy's Comments in Docket No. **E, ET, IP-999/R-12-1246** via electronic filing. Parties on the attached Official Service List were served as requested.



Susan Romans

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