

May 31, 2017

Daniel Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101-2147

RE: Possible Amendments to Rules Governing Certificates of Need and Site and Route Permits for Large Electric Power Generating Plants and High Voltage Transmission Lines, Chapters 7849 and 7850  
Docket No. E, ET, IP-999/R-12-1246

Dear Mr. Wolf,

Minnesota Department of Commerce, Energy Environmental Review and Analysis (EERA) staff submits these reply comments on the proposed February 2017 rule drafts of Chapters 7849 and 7850. EERA staff submits these comments in response to the Commission's request for comments of March 23, 2017.

EERA staff's reply comments are in two areas, as follows:

Notice to Landowners and Local and Tribal Governments

In initial comments, Great River Energy and Minnesota Power suggested two instances where notice should be provided to landowners and local and tribal governments. Providing notice to landowners and local and tribal governments is a current EERA practice, and, as such, EERA staff concurs with these suggestions:

- 7849.1425 Scoping Decision. EERA staff concurs that notice of the environmental report scoping decision should be sent to the landowner and local and tribal government lists (in addition to those lists in the proposed rule – the project contact list and the public agency list).
- 7850.2550 Draft EIS. EERA staff concurs that the notice of draft EIS availability and environmental review meetings should be sent to the landowner and local and tribal government lists (in addition to the lists in the proposed rule). EERA staff notes that though the proposed rule could be read as anticipating two notices regarding the draft EIS (subpart 3, notice of draft EIS availability and subpart 4, notice of environmental review meetings), in practice these are one and the same notice. Thus, the distribution lists in subpart 3 and subpart 4 should be the same.

### Draft Permit Application and Process

In initial comments, EERA staff, ITC Midwest LLC, and Xcel Energy addressed proposed language in Chapter 7850 regarding the submittal of a draft permit application and an associated comment period.

In its initial comments, EERA staff noted that, to EERA staff's understanding:

A draft permit application is suggested as a device for allowing the Commission to receive guidance on an application at a draft stage without triggering the requirement of Minnesota Statute 216E.03, Subd. 3, i.e., without requiring that the Commission make a determination on the completeness of an application within 10 days of receipt of an application.

EERA staff does not understand a draft permit application and associated comment period to be a means to formalize EERA staff's pre-application work with applicants. EERA staff intends to work with applicants and other state agencies to provide guidance on applications prior to, and outside of, the requirements of 7850.

EERA staff notes that, with the acceptance of its proposed edits to 7850, there is only one comment period on a permit application – a comment period on a draft application. This is consistent with current practice under 7850, the sole difference being that the application under current rules is an “application” and under the proposed rules is a “draft application.”

EERA staff's understanding is that the Commission need not make a determination on the completeness of a *draft application* within 10 days of receipt of such an application. The Commission could reasonably make a decision (through delegation to its Executive Secretary) on a *final application* within 10 days of receipt of such application. Thus, a draft application provides a means for the Commission to receive guidance, through a comment period, on a permit application, while complying with Minnesota Statutes section 216E.03, subdivision 3.

Staff is available to answer any questions the Commission may have.

Sincerely,



John Wachtler  
Director, Energy Environmental Review and Analysis