

**State of Minnesota**

County  
Ramsey

**District Court**

Judicial District:	SECOND
Court File Number:	
Case Type:	Civil Other/Miscellaneous Declaratory Judgment

State of Minnesota by Miguel Cabrera and  
Shannon Cabrera, M.D.  
Plaintiffs

vs

**Civil Summons**

Minnesota Public Utilities Commission  
and Northern States Power d/b/a Xcel  
Energy, Inc.  
Defendants

This Summons is directed to:

**MINNESOTA PUBLIC UTILITIES COMMISSION AND NORTHERN STATES  
POWER D/B/A XCEL ENERGY, INC.**

1. **You are being sued.** The Plaintiff has started a lawsuit against you. The *Complaint* is attached to this *Summons*. Do not throw these papers away. They are official papers that start a lawsuit and affect your legal rights, even if nothing has been filed with the court and even if there is no court file number on this *Summons*.

2. **You must BOTH reply, in writing, AND get a copy of your reply to the person/business who is suing you within 21 days to protect your rights.** Your reply is called an *Answer*. Getting your reply to the Plaintiff is called service. You must serve a copy of your *Answer* or *Answer and Counterclaim* (Answer) within 21 days from the date you received the *Summons* and *Complaint*.

ANSWER: You can find the *Answer* form and instructions on the MN Judicial Branch website at [www.mncourts.gov/forms](http://www.mncourts.gov/forms) under the “Civil” category. The instructions will explain in detail how to fill out the *Answer* form.

3. **You must respond to each claim.** The *Answer* is your written response to the Plaintiff's *Complaint*. In your *Answer* you must state whether you agree or disagree with each paragraph of the *Complaint*. If you think the Plaintiff should not be given everything they asked for in the *Complaint*, you must say that in your *Answer*.

4. **SERVICE: You may lose your case if you do not send a written response to the Plaintiff.** If you do not serve a written *Answer* within 21 days, you may lose this case by default. You will not get to tell your side of the story. If you choose not to respond, the Plaintiff may be awarded everything they asked for in their *Complaint*. If you agree with the claims stated in the *Complaint*, you don't need to respond. A default judgment can then be entered against you for what the Plaintiff asked for in the *Complaint*.

To protect your rights, you must serve a copy of your *Answer* on the person who signed this *Summons* in person or by mail at this address:

Carol A. Overland, Attorney at Law  
Legalelectric  
1110 West Avenue  
Red Wing, MN 55066

overland@legalelectric.org  
(612) 227-8638

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5. Carefully read the Instructions (CIV301) for the *Answer* for your next steps.

6. **Legal Assistance.** You may wish to get legal help from an attorney. If you do not have an attorney and would like legal help:

- Visit [www.mncourts.gov/selfhelp](http://www.mncourts.gov/selfhelp) and click on the "Legal Advice Clinics" tab to get more information about legal clinics in each Minnesota county.
- Court Administration may have information about places where you can get legal assistance.

**NOTE: Even if you cannot get legal help, you must still serve a written *Answer* to protect your rights or you may lose the case.**

7. **Alternative Dispute Resolution (ADR).** The parties may agree to or be ordered to participate in an ADR process under Rule 114 of the Minnesota Rules of Practice. You must still serve your written *Answer*, even if you expect to use ADR.

November 10, 2025

\_\_\_\_\_  
Date



\_\_\_\_\_  
Signature

Name: Carol A. Overland, Attorney at Law

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1110 West Avenue

City, State, Zip: Red Wing, MN 55066

Telephone: (612) 227-8638

E-mail: overland@legalelectric.org

**STATE OF MINNESOTA**

**DISTRICT COURT**

**COUNTY OF RAMSEY**

**SECOND JUDICIAL DISTRICT**

Case Type: Other Civil  
Court File# 62-CV-25-\_\_\_\_\_

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State of Minnesota, by Miguel Cabrera  
and Shannon Cabrera, M.D.

Plaintiffs,

Minnesota Public Utilities Commission and  
Northern States Power d/b/a Xcel Energy, Inc.

Defendants.

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**COMPLAINT FOR DECLARATORY  
AND  
INJUNCTIVE RELIEF UNDER MERA  
(Minn. Stat. Ch. 116B)**

Plaintiffs, State of Minnesota by Miguel Cabrera and Shannon Cabrera, M.D. (hereinafter “Cabreras”), for their Complaint against Defendants Minnesota Public Utilities Commission and Xcel Energy, state and allege as follows:

**I. INTRODUCTION**

*I.* Miguel Cabrera and Shannon Cabrera, M.D. bring this Complaint for Declaratory and Injunctive Relief under the Minnesota Environmental Rights Act, Minn. Stat. §116B.03, and Minn. Stat. §116B.10, based on the Minnesota Public Utilities Commission’s Order routing Xcel Energy’s 185 mile Minnesota Energy Connection radial transmission line over a 3.2 mile segment that includes a new crossing of the Mississippi River. The Minnesota Department of Natural Resources repeatedly commented that it “strongly preferred” at least two other routes utilizing existing transmission crossings, avoiding a new crossing of the Mississippi River, citing specific harm and damage that was likely to occur if Xcel Energy’s preferred Blue Line crossing were permitted.

2. On October 30, 2023, Xcel Energy submitted a revised application<sup>1</sup> for its 180 mile long “Minnesota Energy Connection” transmission line, a radial line from southwest Minnesota’s Lyon County to the north and east, connecting to the Sherco substation.
3. The stated purpose of this transmission line was to “preserve valuable interconnections rights” that would lapse if not utilized within a specific time frame after the closure of Xcel’s Sherco coal units.<sup>2</sup>
4. Three aspects of the project are novel, new to Minnesota, not previously considered by the Public Utilities Commission or any court. This transmission line is:
  - a. a private line owned exclusively by Xcel Energy, over which Xcel has exclusive decision making authority over generation interconnection;
  - b. a radial line where each end of the line does not have terminal endpoints connected to the grid and which requires voltage support to address the radial line’s voltage instability; and
  - c. an economic based project with the purpose of utilizing the “valuable interconnection rights” at the Sherco substation, interconnection rights which are only valid for a limited time after the closing, disconnecting, of Xcel’s Sherco coal units from that substation.
5. Following an “Evidentiary Hearing<sup>3</sup>,” on April 10, 2025, the Minnesota Public Utilities Commission (hereinafter “PUC”) adopted the Administrative Law Judge’s Recommendation<sup>4</sup>, with modifications, and granted a routing permit to Xcel Energy for its “Minnesota Energy Connection” transmission line on the “Blue Route,” the only route alternative that crosses the Mississippi River in a new location, a river crossing with no existing transmission or other infrastructure.<sup>5</sup>

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<sup>1</sup> Xcel Energy’s Minnesota Energy Connection Routing Application, online at PUC eDockets – Narrative: [202310-199981-02](#)

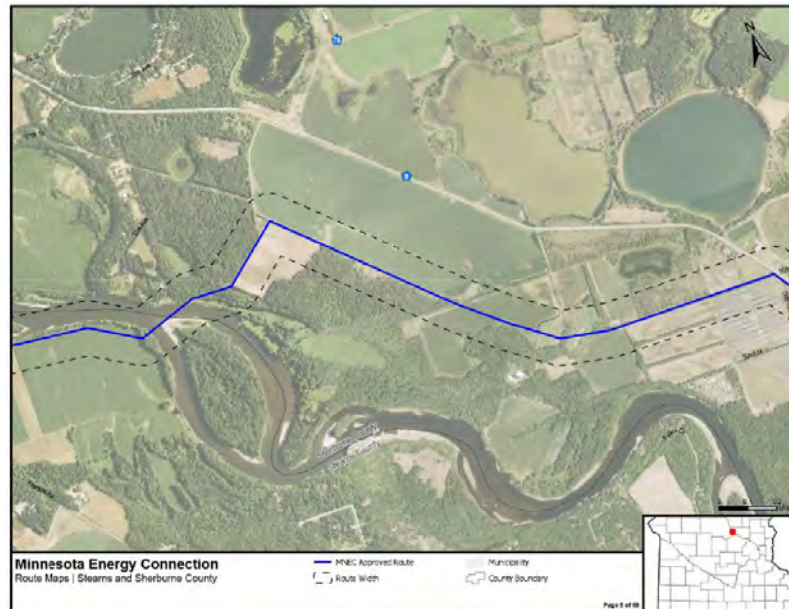
<sup>2</sup> Xcel Energy’s Minnesota Energy Connection Revised Certificate of Need Application, p. 40 fn. 46 & 47, May 18, 2023, online at PUC eDockets [20235-195956-02](#)

<sup>3</sup> Combined Hearing Exhibit List, eDockets [202410-211371-01](#); Hearing Transcript, 11/12/2024, attached.

<sup>4</sup> ALJ Recommendation, February 5, 2025, online at PUC eDockets [20252-214994-01](#)

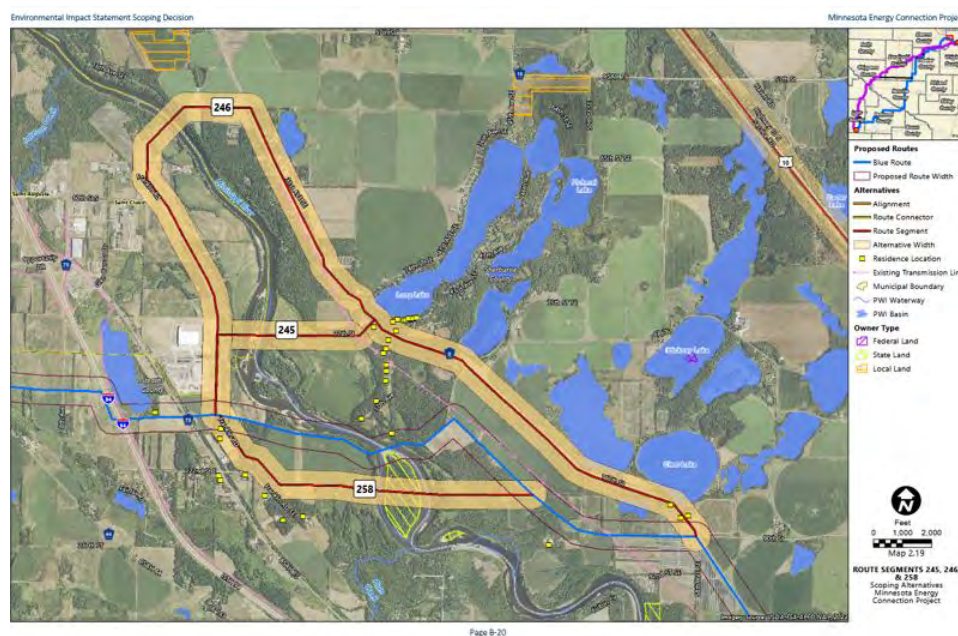
<sup>5</sup> PUC - Order Modifying and Adopting ALJ Report, Granting Certificate Of Need, and Issuing Route Permit, Minnesota Energy Connection Project, June 11, 2025, online at PUC eDockets [20256-219826-01](#)

6. Plaintiffs Miguel Cabrera and Shannon Cabrera, M.D. are aggrieved parties as a part of this crossing traverses their property on the Mississippi River shoreline:



PUC Order, Map 5 of 60, pdf p. 67 of 140, filed June 11, 2025 [20256-219826-01](#).

7. The segment of the Blue Route at issue is a 3.2 mile section of the 185 mile transmission line route, where Route Segment 246 heads north and Route Segment 258 heads south, and then extends to the southeast to where each intersects the Blue Route:



8. The map above shows the 3.2 mile segment of the Blue Route easement crossing directly over the Cabrerass' home, the yellow dot crossed by the red "alignment" edge of the easement where the Blue Route crosses the yellow hatch-marked island. Id.
9. This Complaint focuses on the routing of the Minnesota Energy Connection transmission line over the Mississippi River utilizing the "Blue Route" and a new crossing, and the failure of the Public Utilities Commission (hereinafter "PUC") to consider and give great weight to the environmental expertise of the Minnesota Department of Natural Resources (hereinafter "DNR") and to the DNR's specific Comments made in multiple filings stating that it "strongly preferred" two alternative routes that would use existing river crossings and not a new crossing due to specifically named likely impacts. The Order and Permit issued by the Commission does not adequately protect the Wild, Scenic, and Recreational Mississippi River from environmental harm.

## **II. PARTIES**

10. The Cabrerass are aggrieved landowners who own property and live within the designated Blue Line transmission line corridor in Sherburne County along the Mississippi River at the location chosen by Xcel Energy and the Public Utilities Commission for the Minnesota Energy Connection transmission line's crossing of the Mississippi River. As directly aggrieved landowners and as persons residing in Minnesota, Cabrerass have standing to bring this lawsuit. Minn. Stat. §116B.03, Subd. 1; see also *No Power Line, Inc. v. Minn. Environmental Quality Council*, 250 N.W. 2d 158, 160 (1976).
11. Shannon and Miguel Cabrera are natural persons as defined by the Minnesota Environmental Rights Act (hereinafter "MERA"), Minn. Stat. §116B.02, Subd. 2, and parties under MERA. Minn. Stat. §116B.03, Subd. 1.

12. The Cabrerias participated in the routing process, making comments orally and in writing, and proposed alternate routes for the Mississippi River crossing that were evaluated in the Draft and Final Environmental Impact Study<sup>6</sup>, then filed a Motion for Reconsideration after the permit was issued, which was denied without discussion. The Cabrerias have exhausted their administrative remedies. The statutory appeal period has elapsed. Minn. Stat. §116B.10, Subd. 1.

13. Defendant Minnesota Public Utilities Commission (hereinafter “PUC”) is the quasi-judicial entity with authority to route transmission in the state of Minnesota. Its mission is “to improve the lives of all Minnesotans by ensuring safe, reliable, and sustainable utility services at just and reasonable rates.”<sup>7</sup> Defendant Public Utilities Commission is a party as provided by MERA. Minn. Stat. §116B.03, Subd. 1.

14. Defendant Northern States Power Company, a Minnesota corporation, doing business as Xcel Energy, is the Applicant that applied for and was granted a Route Permit by the Minnesota Public Utilities Commission for approval to construct the Minnesota Energy Connection Project in Sherburne, Stearns, Kandiyohi, Wright, Meeker, Chippewa, Yellow Medicine, Renville, Redwood, and Lyon counties in Minnesota. Defendant Northern States Power Company, doing business as Xcel Energy, is a party as provided by MERA. Id.

### **III. STANDING, JURISDICTION AND VENUE**

15. The Cabrerias are natural persons, aggrieved by the routing Order and permit, residing in the state within the meaning of the Minnesota Environmental Rights Act. Minn. Stat. §116B.02, Subd. 2, and as used in Minn. Stat. §116B.03, Subd. 1 and Minn. Stat. §116B.10, Subd.1.

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<sup>6</sup> Cabrera Comments, November 25, 2024 [202411-212348-01](#) and [202411-212349-01](#); February 20, 2024 [20242-203668-02](#); February 21, 2024 [20242-203670-02](#); Kimball Public Meeting, Comment, Transcript, pps. 27-30, January 31, 2024; Redwood Falls Public Hearing, Transcript pps. 55-57, November 7, 2024.

<sup>7</sup> Online at <https://mn.gov/puc/about-us/what-we-regulate/background/>



16. The Cabrerias have standing because every natural person residing in Minnesota has the right to sue to protect the natural resources of this state and to bring civil action against anyone, including corporations and governmental agencies, to compel them to act and to ensure that they do not impair or destroy the state's natural resources. *State of Minnesota by Smart Growth Minneapolis*, 954 N.W.2d at 596; *Corwine v. Crow Wing County*, 244 N.W.2d 482, 490-91 (Minn. 1976); *Krmpotich v. City of Duluth*, 483 N.W.2d 55, 56 (Minn. 1992); see also Minn. Stat. §116B.03, Subd. 1; Minn. Stat. §116B.10, Subd.1.
17. “[E]ach person is entitled by right to the protection, preservation, and enhancement of air, water, land, and other natural resources within the State.” Minn. Stat. § 116B.01.
18. The Public Utilities Commission is an agency of the state, and this Court has jurisdiction of the claims for declaratory and equitable relief as asserted under the Minnesota Environmental Rights Act. Minn. Stat. §116B.10, Subd. 1.
19. Northern States Power, d/b/a as Xcel Energy proposed the Minnesota Energy Connection transmission project and chose as its preferred route the 3.2 mile segment of the Blue Route crossing of the Mississippi River, and submitted its application to the Public Utilities Commission in St. Paul, which approved the route and granted a permit on April 10, 2025.
20. Ramsey County is the home of the Public Utilities Commission, where the cause of action arose through the Commission's consideration and granting of a permit for this transmission route's crossing of the Mississippi River, and thus, venue for this action is proper in this court under Minn. Stat. §116B.03, Subd. 4.
21. This Complaint is a challenge to the 3.2 mile Mississippi River crossing segment, a small portion within the 185 mile transmission line route and routing permit issued by the Public Utilities Commission, and the appeal time has elapsed. Minn. Stat. §116B.10, Subd. 1.



**IV. TRANSMISSION LINE IS LIKELY TO CAUSE ENVIRONMENTAL DAMAGE AND PERMIT IS INADEQUATE TO PREVENT HARMS**

22. The routing, construction, and operation of this transmission project, as permitted by the PUC, is likely to cause pollution, impairment, or destruction," under Minn. Stat. § 116B.03, Subd. 1, broadly defined under Minn. Stat. § 116B.02, subd. 5 as inclusive of "any conduct which...is likely to materially adversely affect the environment."
23. MERA codifies the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction. Minn. Stat. § 116B.04 (b) (1985); *State Ex Rel. Swan Lake Area Wildlife Ass'n v. Nicollet County Bd. of County Commissioners*, 799 N.W.2d 619 (Minn. App. 2011).
24. A plaintiff's "prima facie showing" has two requirements. *State by Archabal v. County of Hennepin*, 495 N.W.2d 416, 421 (Minn. 1993). "First, the plaintiff must show the existence of a protectable natural resource." *Id.* Second, the plaintiff must show the "pollution, impairment or destruction"- as defined in Minn. Stat. § 116B.02, subd. 5 above - of that "natural resource" which is likely to be caused by the "conduct at issue." *Id.*
25. "Natural resources" are broadly defined under MERA:
- "Natural resources" shall include, but not be limited to, all (1)] mineral, [(2)] animal, [(3)] botanical, [(4)] air, [(5)] water, [(6)] land, [(7)] timber, [(8)] soil, [(9)] quietude, [(10)] recreational and [(11)] historical resources. [(12)] Scenic and [(13)] esthetic resources shall also be considered natural resources when owned by any governmental unit or agency.
- Minn. Stat. §116B.02, subd. 4 (emphasis and bracketed information added).
26. "Shall" is mandatory. Minn. Stat. § 645.44, subd. 16.
27. In MERA cases, the courts have broadly defined "natural resources." *State by Archabal*, 495 N. W.2d at 418 (Armory is a protected natural resource); *State by Powderly v.*

*Erickson*, 285 N.W.2d 84, 88 (Minn. 1979) (historical row houses are a protected natural resource); *Minnesota Public Interest Research Group v. White Bear Rod & Gun Club*, 257 N.W.2d 762, 770 (Minn. 1977) (lakes and wetlands are "natural resources"); *State by Fort Snelling State Park Ass' v. Minneapolis Park & Recreation Ba*, 673 N.W.2d 169, 174-75 (Minn. App. 2003) (historical polo grounds on Fort Snelling site are a protected natural resource); *State ex rel. Wacouta Twp. v. Brunkow Hardwood Corp.*, 510 N. W.2d 27, 29 (Minn. App. 1993) ("bald eagles and the trees in which they roost are a natural resource within the scope of MERA" and that "MERA's definition of natural resources is presumed to be broad"); *State by Drabik v. Martz*, 451 N.W.2d 893, 896-97 (Minn. App. 1990) (scenic and esthetic resources impacted by proposed radio tower protected natural resource).

28. This action against the state challenges the route permit issued for Xcel Energy's Minnesota Energy Connection transmission line under both Minn. Stat. §116B.03 and Minn. Stat. §116B.10. The permit was granted at the Commission's April 10, 2025 Agenda meeting, and the written order was filed on eDockets on June 11, 2025.<sup>8</sup> Notice of the Permit Decision was published in the EQB Monitor and the State Register on September 9, 2025.<sup>9</sup> The applicable statutory appeal period has elapsed. Minn. Stat. §116B.10, Subd. 1.

## **V. THE LAW OF ROUTING TRANSMISSION LINES**

29. Minnesota's law governing the routing of transmission changed significantly in the 2024 legislative session. Because this application was made prior to these changes, which are not

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<sup>8</sup> See supra PUC Order Modifying and Adopting Administrative Law Judge Report, Granting Certificate of Need, and Issuing Route Permit for the Minnesota Energy Connection Project, June 11, 2025, online at eDockets [20256-219826-01](#)

<sup>9</sup> State Register Notice of Permit Decision, September 9 2025, online at eDockets [20259-222815-01](#); EQB Monitor Notice of Permit Decision, September 9, 2025, online at eDockets [20259-222815-02](#)

retroactive, Minnesota Statutes ch. 216E, the Power Plant Siting Act, and Minnesota Rules 7850, are the statutes and rules in effect at that time of application and which govern routing process and decisions.

30. The Public Utilities Commission is responsible for regulating utilities, and in 2005, the legislature transferred the Power Plant Siting Act, Minn. Stat. ch. 216E, responsibility for routing transmission from the Environmental Quality Board to the PUC. Minn. Stat. §216E.02, Subd. 2. The Minn. R. ch. 7850 has remained unchanged.
31. “The mission of the [Public Utilities] Commission is to improve the lives of all Minnesotans by ensuring safe, reliable, and sustainable utility services at just and reasonable rates.<sup>10</sup>” The PUC as regulator has long been responsible for economic regulation, and projects are evaluated and granted a Certificate of Need based on statutory criteria and associated rules. Minn. Stat. §216B.243; Minn. R. ch. 7849.
33. The Commission, through a Consent Order, “[a]uthorized use of the informal review process for the Certificate of Need application under Minn. R. 7829.1200.” PUC Consent Order, May 2, 2023.<sup>11</sup>
34. Responsibility for routing and siting was transferred by the legislature from the Environmental Quality Board to the PUC in 2005. Minn. Stat. §216E.02, Subd. 2. The Department of Commerce is to handle Environmental Review. Minn. Stat. §216E.03, Subd. 5.
35. “The Minnesota Department of Commerce and its predecessor agencies have protected consumer interests and ensured a fair and competitive marketplace in our state.”<sup>12</sup> Per the

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<sup>10</sup> PUC Mission <https://mn.gov/puc/about-us/what-we-regulate/background/>

<sup>11</sup> PUC, Consent Order, May 2, 2023 available online at [2023-195506-01](https://mn.gov/puc/about-us/consent-orders/2023-195506-01/).

<sup>12</sup> Dept. Of Commerce Mission, online at <https://mn.gov/commerce/about/>

Dept. of Commerce website, “commerce” is the focus, and environmental protection, project review, and impact analysis is not an area of expertise:

#### Our priorities

- Protect the public interest through consumer protection, consumer education, assistance to consumers, safety, health and financial security, and lowering inequities.
  - Serve as a trusted public resource for consumers and businesses by listening and learning from the Minnesotans Commerce services, being effective stewards of public resources, advocating for Minnesota consumers and develop a policy, programmatic, and regulatory environment that meets their needs.
  - Reduce economic barriers within Commerce, provide regulatory oversight, and reduce disparities within those of all races, ethnicities, religions, economic statuses, gender identities, sexual orientations, (dis)abilities, and zip codes.
  - Ensure all, especially historically disadvantaged Minnesotans, are resilient to Minnesota's climate and engaged in advancing efforts to mitigate climate change.
  - Ensure a strong, competitive, and fair marketplace for Minnesotans.
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36. Early in review of this transmission line’s Certificate of Need and Route applications,

Xcel Energy requested exemption from many of the Certificate of Need data

requirements, and in a second Consent Order<sup>13</sup> Xcel was granted exemptions on June 28,

2022, specifically:

Approved the following exemptions from the certificate of need application data requirements conditioned on Xcel Energy providing alternative data:

- a. 7849.0260, subp. A (3) and C (6)—granted the requested exemption with the provision of the proposed alternative data;
- b. 7849.0260, subp. B (4) and B (8)—granted the requested exemption;
- c. 7849.0270—granted the requested exemption with the provision of the proposed alternative data and require Xcel to provide updated demand and energy forecasting data;
- d. 7849.0280, subp. B through I—granted the requested exemption with the provision of the proposed alternative data and required Xcel to state any updates to the quantity of new generation needed based upon the updated demand and energy forecasting provided under Minnesota Rules 7849.0270;
- e. 7849.0290, subp. F—granted the proposed exemption and required Xcel to present a summary of the conservation information in the IRP and CIP

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<sup>13</sup> PUC Consent Order, Exemptions, p. 1-2, June 28 2022, online at [20226-186932-01](https://www.puc.state.mn.us/energy/2022/2022-186932-01).

filings rather than replicate the data in the instant docket;

- f. 7849.0300 and 7849.0340—granted the requested exemption with the provision of the proposed alternative data; and
- g. 7849.0330, subp. G—granted the requested exemption with the provision of the proposed alternative data.

PUC Consent Order, p. 1-2, June 28 2022, online at [20226-186932-01](#).

37. The Minnesota Department of Natural Resources is charged with protection of natural resources and has significant environmental expertise.

**The mission of the Minnesota Department of Natural Resources (DNR) is to work with Minnesotans to conserve and manage the state's natural resources, to provide outdoor recreation opportunities, and to provide for commercial uses of natural resources in a way that creates a sustainable quality of life.<sup>14</sup>**

Additionally:

The Minnesota Department of Natural Resources works to integrate and sustain the interdependent values of a healthy environment, a sustainable economy, and livable communities. DNR's integrated resource management strategy shares stewardship responsibility with Minnesotans and partners to manage for multiple interests. DNR protects the state's natural heritage by conserving the diversity of natural lands, waters, and fish and wildlife that provide the foundation for Minnesota's recreational and natural resource-based economy (M.S. 84, M.S. 97A). DNR manages natural lands such as forests, wetlands, and native prairies; maintains healthy populations of fish and wildlife; and protects rare plant and animal communities throughout the state. DNR manages the state's water resources, sustaining healthy waterways and ground water resources. DNR provides access to enrich public outdoor recreational opportunities, such as hunting, fishing, wildlife-watching, camping, skiing, hiking, biking, motorized recreation, and conservation education through a state outdoor recreation system that includes parks, trails, wildlife management areas, scientific and natural areas, water trails, and other facilities (M.S. 86A). DNR supports natural resource-based economies, managing state forest lands for multiple forest values (M.S. 89), ensuring the maximum long-term economic return from school trust lands (M.S. 127A), and providing other economic opportunities in a manner consistent with sound natural

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<sup>14</sup> DNR charge and mission, online at <https://www.dnr.state.mn.us/aboutdnr/mission.html>

resource conservation and management principles.<sup>15</sup>

38. A fundamental case governing the routing of transmission lines and hierarchy of criteria and considerations is *People for Environmental Enlightenment and Responsibility (PEER), Inc. et al, petitioners, Appellants, v. Minnesota Environmental Quality Council, etc., Respondent, Northern States Power Company, Respondent*, 266 N.W. 2d 858, Minn. 1978).
39. The PEER decision established Minnesota's policy of nonproliferation of transmission routes to protect natural resources, its premise that protected natural resources are non-compensable, whereas most homes are compensable, and that consideration of and a balancing of compensable versus non-compensable resources is necessary is required only where "more than one form of noncompensable intrusion has been identified." PEER, at 864. The PEER court put it clearly:

An HVTL routing that impairs, pollutes, or destroys protected natural resources cannot be approved if there is a prudent and feasible alternative route available.

Id., p. 864. Further:

Because Minnesota is committed to the principle of nonproliferation... the fact that the utilization of Route 3 would require the condemnation of a number of homes is not, in and of itself, sufficient to overcome the law's preference for containment of powerlines.

Id.

40. "[C]ondemnation of a number of homes is not, in and of itself, sufficient to overcome the law's preference for containment of powerlines." Id.
41. The PEER court's presumption is that any transmission line would cause environmental damage where ever it was routed, that it would harm, cause damage to natural resources and the environment, and that damage to natural resources was to be avoided. Id., p.867, fn. 12, 868.

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<sup>15</sup> Id.

42. At the time of that decision, the transmission line exclusion criteria was very specific:

"(2) Transmission Line Avoidance Areas. In addition to exclusion areas, the following land use areas shall not be approved for HVTL routes when feasible and prudent alternatives with lesser adverse human and environmental effects exist. Economic considerations alone shall not justify approval of avoidance areas. Any approval of such areas shall include all possible planning to minimize harm to these areas. HVTL avoidance areas are: national parks; national historic sites and districts and natural landmarks; national monuments; national wildlife refuge areas; national wild, scenic, and recreational riverways; **state wild, scenic, and recreational rivers and their land use districts**; state parks; state registered historic sites; state historic districts; Nature Conservancy preserves; state scientific and natural areas; county parks; metropolitan parks; designated state and federal recreational trails; **designated state canoe and boating routes**; and any other area designated a transmission line avoidance area by the Council.

Id., p. 869 (emphasis added).

43. The Mississippi River crossing is a state wild, scenic, and recreational river, protected by county land-use districts on both sides of the river, and is a designated state water trail, a canoe and boating route.

44. The PEER decision was in 1978, and much has changed since then... but some routing and avoidance criteria remain:

#### **PROHIBITED ROUTES.**

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.

Minn. R. 7850.4300.

45. The purpose of Mississippi River's Wild and Scenic and Recreational designation is to conserve these natural resources:



## **Minnesota's Wild, Scenic, and Recreational Rivers Program**

The purpose of the State Wild and Scenic Rivers Act (M.S. 103F.301) is to preserve and protect the outstanding scenic, recreational, natural, historical, and scientific values of certain Minnesota rivers and their adjacent lands. The Act's intent is not to restore presettlement conditions, but rather to prevent damage to these rivers caused by intensive development and recreational overuse.

By law, the extent of lands covered by the program is a maximum of 320 acres per river mile on both sides of the river combined. All state, local, and special governmental units (councils, commissions, boards, districts, agencies, etc.), and all other authorities must exercise their powers so as to further the purpose of the Act and management plans adopted thereunder. In the case of conflict between a provision of the Minnesota Wild and Scenic Rivers Act and other state laws or existing ordinances, the more protective provision applies.

Management Plan, Mississippi Scenic Riverway, p 11 (2004).<sup>16</sup>

The purpose of this plan is to encourage a range of high quality recreation opportunities consistent with the river's designation and capacity for use. The development and maintenance of selected land and river-oriented recreational facilities will help protect the rights of private landowners, ensure quietude, prohibit trespassing, and maintain the essential quality of the scenic riverway.

Id., p. 76.

46. The siting hierarchy is that the routing of transmission must comply 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.” Minn. R. 7850.4000.

47. The Blue Line route, with modifications, was ultimately selected, including the 3.2 mile Blue Line Mississippi River crossing segment. The Blue Line was Xcel Energy's preferred route – proposed by Xcel in its routing application, studied in the Environmental Review process of scoping, the Draft EIS and Final EIS, the ALJ's

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<sup>16</sup> Mississippi Scenic Riverway, Management Plan, online at [https://files.dnr.state.mn.us/waters/watermgmt\\_section/wild\\_scenic/missplan\\_07-01-2004.pdf](https://files.dnr.state.mn.us/waters/watermgmt_section/wild_scenic/missplan_07-01-2004.pdf) DNR site states that this is the most recent plan, following one in 1976. A request has been made for the maps referenced in this Plan.

Recommendation, and ultimately the decision and Order of the Public Utilities Commission adopting the Recommendation of the Administrative Law Judge, with modifications.

**VI. CONSIDERATION OF AND PROTECTION OF THE MISSISSIPPI RIVER IS INADEQUATE**

48. The Environmental Impact Statement does not adequately disclose or consider impacts of a transmission line crossing at the location of the Blue Line crossing. Instead, impacts are minimized or disregarded, putting impacts on residences above likely impacts to protected natural resources.<sup>17</sup>

49. In the introduction to Region G, which covers the Mississippi River crossing, the FEIS states, “Aesthetic impacts can also be minimized by following existing transmission line ROW where elements of the built environment already define the viewshed and the addition of an additional HVTL would have an incremental impact.” FEIS, Region G, p. 411.

50. The Region G introduction goes on to describe the Mississippi Scenic Byway, the Wild and Scenic River, and clearly states that the Blue Route impacts would be “significant.”

The Mississippi River is a designated state water trail, which promotes water recreation (Minnesota Statutes § 85.31), and a wild and scenic river (Minnesota Statutes § 103F.305), which falls under certain protections put in place in Minnesota’s 1973 Wild and Scenic Rivers Act. As discussed in Section 12.6.9, Route Segment G1 (Blue Route) would parallel the Mississippi River (approximately 0.8 mile), which would increase the intensity of the aesthetic impact at this location. At the scenic byway location for Route Segments G1 (Blue Route) and G2, no existing transmission lines are present but existing development is present north of the anticipated alignments. Similarly, there are no existing transmission lines present where Route Segments G1 (Blue Route) and G2 cross the

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<sup>17</sup> Final Environmental Impact Statement – Main Text, in particular Region G with the Mississippi River crossing [20251-214220-01](#), and [20251-214220-02](#), [20251-214220-03](#), [20251-214220-04](#), [20251-214220-05](#), [20251-214220-06](#), [20251-214220-07](#), [20251-214220-08](#), [20251-214220-09](#), [20251-214220-10](#), [20251-214220-11](#), [20251-214220-12](#), [20251-214220-13](#)

Mississippi River and trees would need to be removed from the shoreline (Map N.205). Given the lack of development at the watercourse crossing, aesthetic impacts would be anticipated to be significant.

FEIS, Main Text, Region G, p. 411, eDockets [20251-214220-01](#).

51. That section later states, “Where the route segments cross the river, they would be parallel to an existing transmission line ROW,” with no identification of the crossing or existing transmission line ROW the statement refers to. Id.
52. In “Land-Use and Zoning,” the FEIS fails to address both the Stearns County or Sherburne County’s Shoreland Districts, which are protective of the Mississippi River shoreland, limiting development, tree cutting, and essentially any use of the land along the Mississippi shoreland and blufflands. These protective District Overlays were raised by the DNR in its comments and submitted as a limiting factor for consideration. These comments of the DNR were inexplicably not carried through into the FEIS:

**12.2.5 Land Use and Zoning**

Potential impacts to land use and zoning are discussed in Section 5.2.5. If Route Segment G1 (Blue Route) or Route Segment G2 is selected, potential impacts would occur to a planned residential development as discussed in Section 5.2.5.

The assessment for land use and zoning was completed for the project as a whole because existing conditions are determined by jurisdictional areas (counties) and do not coincide with the project’s regional boundaries.

FEIS, Land-Use and Zoning, Section 12.2.5, p. 418; see DNR July 10, 2023 Comment<sup>18</sup>, p. 2, noting to “Please be aware that in Sherburne County, most of the Mississippi River bank within the WSR [Wild and Scenic River] district is also in a Bluff Impact Zone and may be subject to additional restrictions.” Id.

53. The EIS disregards and discounts the Mississippi River Crossing in narrative and charts:

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<sup>18</sup> Combined Hearing Exhibits, Xcel-5, Route Permit Application Appendix E ([202310-199993-01](#)), DNR Comment, p. 28 of 110, July 10, 2023

**Table 12-3 Region G Route Segments Recreational Resources within Route Width**

Recreational Resource	Unit	Route Segment					
		G1 (Blue Route)	G2	G3 (Purple Route)	G4	G5	G6
Mississippi River State Water Trail and Wild and Scenic River	Crossings (linear feet) <sup>1</sup>	1 (3,478)	1 (3,478)	1 (1,008)	1 (1,008)	1 (1,008)	1 (1,008)
Great River Road Scenic Byway	Crossings (linear feet)	1 (1,141)	1 (1,141)	3 (12,344)	3 (12,344)	3 (12,344)	3 (12,344)
Snowmobile Trail <sup>2</sup>	Crossings (miles) <sup>1</sup>	2 (0.5)	2 (0.5)	5 (2.6)	5 (2.6)	5 (2.6)	5 (2.6)

<sup>1</sup> Linear feet totals are taken from the DNR Minnesota State Water Trails Dataset

<sup>2</sup> Snowmobile trails within Region G include: Sherburne County Snowmobile Trails, Stearns County Snowmobile Trails, Wright County Trails

FEIS, Section 12.2.8 Recreation, p. 419, eDockets [20251-214220-01](#),

54. The FEIS section on Recreation does mention the Mississippi and states that information can be found in FEIS Section 12.2.1, but that is only regarding aesthetics, and makes no reference to other sections of the FEIS with information about the Mississippi River.

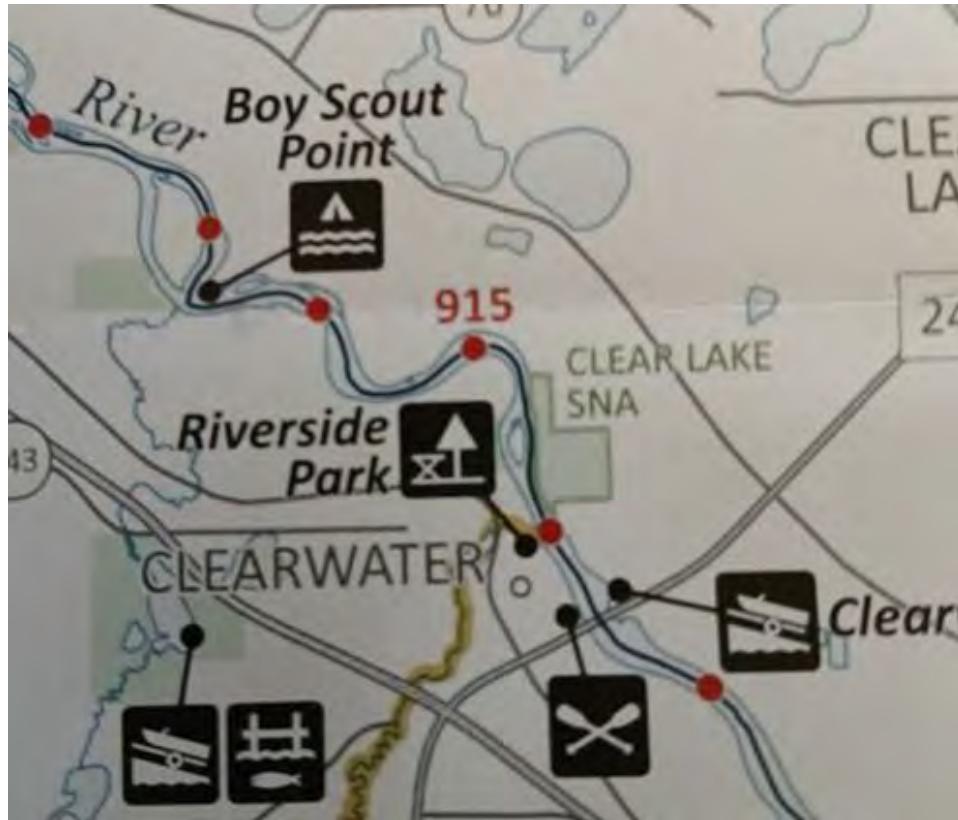
From the Recreation section:

The Mississippi River is designated as a state water trail and a wild and scenic river as described in Section 5.2.8 and is crossed by each of the route segments in Region G. (Map N.220 and Map N.205). Aesthetic impacts to the river are discussed in Section 12.2.1.

The Great River Road Scenic Byway (CR 75 NW) is south of the Mississippi River and is crossed by all the route segment in Region G. Aesthetic impacts to the scenic byway crossings are discussed in Section 12.2.1.

FEIS, p. 419.

55. In this “Recreation” section, there is no mention of the Boy Scout Point campsite between milemarker 916 and 917 on the Water Trail, noted on the DNR’s Water Trail map, nor is there any reference to the community’s naming of the island adjacent to the Boy Scout Point campsite the “Boy Scout Island.”:



DNR Interactive Watertrail Map [www.dnr.state.mn.us/watertrails/interactive\\_map/index.html](http://www.dnr.state.mn.us/watertrails/interactive_map/index.html)

#### 12.6.6 Public and Designated Lands

The ROI for public and designated lands is the route width. Public and designated lands often involve unique resources intended for protection and/or preservation and would be subject to short and long-term impacts depending upon their use (Section 5.6.6.2). Public and designated lands within the ROI are first identified and then further reviewed to better understand potential impacts such as vegetation clearing. Occupying public and designated lands would require coordination with the landowner (Section 5.6.6.3).

Route Segments G1 (Blue Route) and G2 cross a state Wild and Scenic River Bank; a total of 30 acres of the easement area is located within the ROI. Wild and Scenic River Banks are state scenic easements that are permanently protected private lands adjacent to state-designated Wild and Scenic Rivers with limited land alteration, vegetation removal, building, dumping, and placement of structures (reference (185)).

A state game refuge and Waterfowl Production Area are also present within the ROI and discussed in Section 12.6.12.

FEIS, p. 429.

The FEIS “Environmental” Section 12.1 makes no mention of the Mississippi, its recreational uses such as the Boy Scout Point camp area and state Wild and Scenic

designations, and its environmental protections.

56. In a comparison of Route segments 245 and 246, crossing the Mississippi, avoidance of a new crossing of the Mississippi is not mentioned, the river itself is not even mentioned in the narrative or the summary – the focus is only on property values:

### 12.9.3 Route Segment 245 and 246

Route Segment 245 departs the Blue Route at Franklin Road and traverses north. It turns east at the southern border of T34N, R30W, S5, continues northeast at the southwest corner of T34N, R30W, S4, and continues southeast at CR 8SE until it rejoins the Blue Route (Map N.204 through Map N.207). This route was proposed to avoid a decrease in property values to those who live along the river who expressed concern about aesthetic impacts.

Route Segment 246 departs the Blue Route at Franklin Road and traverses north following the curve of the road. It continues north about 1,200 feet at the western border of T123N, R27W, S8 then continues northeast. It turns east at the halfway parallel of T35N, R30W, S32, then continues southeast at River Road SE following the curve of the road until it rejoins the Blue Route (Map N.204 through Map N.207). This route was proposed for the same reasons as Route Segment 245.

**Table 12-17 Route 245 and 246 vs Their Equivalent Impacts Summary**

Resource	Summary
Paralleling Existing Infrastructure	Route Segment 246 parallels the most existing infrastructure (96%) followed by Route Segment 245 (75%). Their equivalent does not parallel existing infrastructure.
Human Settlement	The equivalent does not have any residences within 75-250 feet, while Route Segment 245 has 10 and Route Segment 246 has 25. Route Segment 246 has the most residences at every distance, while the equivalent has the least. Route Segment 245 would box in one property along its length in Sherburne County and create significant aesthetic impacts, as shown in Figure 12-11.
Land-Based Economies, Agriculture	Route Segment 246 intersects 2 more center pivot irrigation systems than the equivalent. Route Segment 245 intersects the same number of center pivot irrigation systems as the equivalent. The equivalent includes more acres of prime farmland but would likely result in less impacts to center pivot irrigation systems (Map 11.9).
Natural Environment – Surface Waters and Wetlands	Route Segment 245 crosses 1 watercourse; it also includes 4 acres of NWI wetlands (<1 acres of which are forested wetlands). Route Segment 246 crosses one watercourse and has 1 acre of NWI wetlands. The equivalent crosses two watercourses and one waterbody; it also includes 4 acres of NWI wetlands.
Natural Environment - Vegetation	According to the NLCD, the ROW of Route Segments 245, 246, and their equivalent would traverse approximately 9, 10, and 12 acres of forested landcover, respectively.
Natural Environment – Wildlife and Wildlife Habitat	The route widths of Route Segments 245, 246, and their equivalent intersect a Grassland Bird Conservation Area, with Route Segment 246 intersecting the most acreage (726 acres) and their equivalent intersecting the least (310 acres). All of their anticipated alignments cross the Grassland Bird Conservation Area. The route widths of Route Segments 245 and 246 intersect a Wildlife Action Network corridor polygon but neither of their anticipated alignments would cross it. The route width of their equivalent route avoids the Wildlife Action Network corridor polygon. The route widths of Route Segments 245, 246, and their equivalent intersect a State Game Refuge. The anticipated alignments for Route Segments 245 and 246 would traverse the northern edge of the State Game Refuge, while their equivalent would cross through the middle of it.



FEIS, Region 6, Segment alternatives for crossing Mississippi p. 448-449.

57. This section of the FEIS does note that “Route Segment 246 parallels the most existing infrastructure” (96%), yet in its depiction and analysis of Route Segment 246, the transmission alignment is placed on the opposite side of the County Road, along the development along the lake, and not utilizing the existing transmission corridor. Id.

## **V. ERRONEOUS PRIORITIZATION OF RESIDENCES AS ROUTING CRITERIA**

58. At each step, the choice of route stressed, counted, and relied on the number of residences near the proposed transmission corridor.

59. For example, in its consideration of various routing criteria, Xcel’s application states that “To minimize impacts on the environment and affected landowners, the Applicant identified areas to avoid within the Routing Study Area.”<sup>19</sup> Xcel lists “residences” at the top of the list.

60. Amongst the application’s 72 references to residences, a section of the application addresses residences along the routes, and Xcel notes that there are no homes within either proposed route right of way and there would be no displacement of residents:

### **6.2.2 Proximity to Residences**

In its development of the routes presented in this Application, the Applicant attempted to minimize impacts to residences. Table 6.2.2-1 summarizes the number of residences within and up to 500 feet from the Application alignments, based on desktop review of aerial imagery.

Table 6.2.2-1 Proximity of Residences to the Application Alignments		
Residence Proximity (Feet)	Purple Route	Blue Route
0-75	0	0
76-150	8	8
151-300	68	61
301-500	79	68
Total Residences	155	137

<sup>19</sup> Hearing Exhibit Xcel-2, Route Permit Application, p. 26, online at PUC eDockets [202310-199981-02](https://puc.docketmanager.com/documents/view.asp?document=199981&documentid=202310-199981-02)



There are no residences within the Purple Route Proposed Right-of-Way. There are eight residences within 150 feet of the Purple Route's Application alignment and 155 residences within 500 feet of the Application alignment. The closest residence is 106 feet east of the Application alignment.

There are no residences within the Blue Route Proposed Right-of-Way. There are eight residences within 150 feet and 137 residences within 500 feet of the Application alignment. The closest residence is 111 feet northwest of the Application alignment.

Id., p. 79. This chart shows that no homes would be within the right of way and none would be displaced. This chart also is not weighted in any way showing distance from right of way and extent of impacts, these are just numbers on a chart, with homes up to 500 feet away receiving the same consideration as ones 76 feet from the right of way, as one number in the total of residences.

61. The emphasis on residences was a primary reason for Xcel's preference of the Blue Route crossing of the Mississippi:

5 Q. WHY DOES XCEL ENERGY PREFER THE PREFERRED ROUTE'S CROSSING OF  
6 THE MISSISSIPPI RIVER?

7 A. The Preferred Route's crossing of the Mississippi River is adjacent to  
8 undeveloped land and crosses a narrow channel of the river. More specifically,  
9 when developing the Blue and Purple Routes, Xcel Energy considered six  
10 potential crossings of the Mississippi River (*see* Application § 3.3.1). Crossings  
11 1 through 4 considered by Xcel Energy were favorable due to Xcel Energy  
12 ownership of land on both sides of the Mississippi River; however, the land  
13 south and west of the river crossing is a residential area with limited availability  
14 for a 150-foot right-of-way. Crossing 5 considered by Xcel Energy would  
15 follow existing infrastructure at the river crossing but would result in  
16 residential impacts south and west of Sherco. Ultimately, Xcel Energy prefers  
17 Crossing 6, which is part of the Preferred Route (and the Blue Route).  
18 Although Crossing 6 does not have existing infrastructure at the crossing, it is  
19 located adjacent to undeveloped land and would cross at a narrow river  
20 channel. As compared to other potential crossings, this crossing of the  
21 Mississippi River minimizes impacts to residences.

Hearing Exhibit Xcel-16, Direct Testimony of Langan, p. 17.<sup>20</sup>

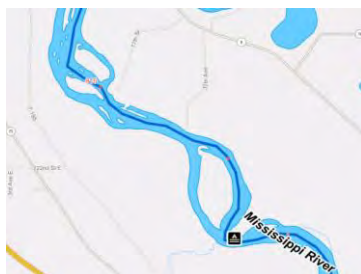
62. The proposed Blue Route crossing is the widest of crossing options, not narrow, and although adjacent to undeveloped land, it is routed on developed on.

63. This misplaced emphasis was carried through to the Recommendation of the ALJ, here residences and residential impacts take a high priority, citing Xcel's Langan's testimony.<sup>21</sup> From the Findings of Fact, Conclusions of Law, and Recommendation:

673. The Preferred Route is consistent with the Commission's routing criteria and best balances and minimizes potential impacts, considering each of those criteria (including, but not limited to, residential impacts, natural resources, reliability, and cost). The Blue Route, Purple Route, and an MDNR route may offer benefits as to one routing factor or another, but each invite countervailing negative impacts on other factors.<sup>673</sup>

64. Also citing Langan’s Testimony, the ALJ noted that, “378. Xcel Energy indicated that avoiding displacement and minimizing impacts on existing residences was a key consideration in its routing process.”<sup>22</sup>

65. Consistent with the MERA definition of “natural resources,” the Mississippi River, one of the longest rivers in the United States, is designated as a state Wild and Scenic River<sup>23</sup> in this area, and is “Section 8” of the Mississippi River State Water Trail<sup>24</sup>, with a campsite on a small peninsula directly south of the island that the transmission line would cross<sup>25</sup>.



<sup>20</sup> Direct Testimony of Langan, online at PUC eDockets [20249-210020-02](#).

<sup>21</sup> ALJ Recommendation, pps. 211, 380, 455, 458, 512, 601, 673.

<sup>22</sup> Hearing Exhibit Xcel-19 at 4, Langan Surrebuttal.

<sup>23</sup> Minn. Rules 6105.0060

<sup>24</sup> <https://www.dnr.state.mn.us/watertrails/mississippiriver/segments-maps.html#map8>

<sup>25</sup> [https://www.dnr.state.mn.us/watertrails/interactive\\_map/index.html](https://www.dnr.state.mn.us/watertrails/interactive_map/index.html)

62. The area of the crossing is a bald eagle nesting and foraging area, a center for non-motorized recreational watercraft, tourism, and it is protected by county bluffland and shoreland ordinances on both sides of the river,<sup>26</sup> and also raised in Comments of Robert Klaverkamp.<sup>27</sup>
63. This area of the Mississippi River is designated as a natural resource to be protected. See Minn. Stat. §103F.315.<sup>28</sup> As a state Wild and Scenic River and Section 8 of the Minnesota Water Trail, with the local land-use shoreland protections on both sides of the river, under the applicable transmission routing rules, transmission is prohibited. Minn. R. 7850.4400.

## **VI. CABRERAS DEMONSTRATE LIKELY DESTRUCTION AND IMPAIRMENT**

64. In this MERA action, Cabrerias must show that the conduct of the Public Utilities Commission and Xcel Energy, is likely to cause pollution, impairment, or destruction of natural resources located within the state. Minn Stat. §116B.03, Subd. 1.
65. The courts have also, consistent with the broad definition of "pollution, impairment, or destruction" under Minn. Stat. § 116B.02, subd. 5, broadly construed the term "materially adverse effects [on]... the environment". *Citizens for a Safe Grant v. Lone Oak Sportsmen's Club, Inc.*, 624 N.W.2d 796, 805 (Minn. App. 2001) (expressing the broad nature of "materially adverse affects" provision of MERA by "recognizing that there are instances when environmental regulations may not keep up with changing

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<sup>26</sup> See Stearns County Ordinance 439, Article 12 <https://www.ci.stcloud.mn.us/DocumentCenter/View/4077/Article-12---Overlay-Districts-and-Designated-Areas-7-08-24>; <https://content.civicplus.com/api/assets/8b957cd1-a288-4d0f-89b7-41e899d17730>

<sup>27</sup> Robert Klaverkamp, Kimball Public Hearing, Transcript pps. 73-75, 10/30/2024.

<sup>28</sup> Minn. Stat. §103F.305 SCENIC RIVER PROTECTION POLICY.

The legislature finds that certain of Minnesota's rivers and their adjacent lands possess outstanding scenic, recreational, natural, historical, scientific and similar values. It is in the interest of present and future generations to retain these values, and a policy of the state, and an authorized public purpose to preserve and protect these rivers.

conditions"); *State by Drabik*, 451 N. W.2d at 897 (concluding that MERA is "broad enough" to prevent materially-adverse effects on scenic and aesthetic resources from installation of radio tower on private property); *Minnesota Public Interest Research Group*, 257 N.W.2d at 781 (applying MERA as "a far-reaching legislative enactment").

66. Courts will consider the following five factors in determining whether the "conduct at issue" "is likely to materially adversely affect the environment":

- a. The quality and severity of any adverse effects of the proposed action on the natural resource affected;
- b. Whether the natural resources affected are rare, unique, endangered, or have historical significance;
- c. Whether the proposed action will have long-term adverse effects on natural resources, including whether the affected resources are easily replaceable (for example, by replanting trees or restocking fish);
- d. Whether the proposed action will have significant consequential effects on other natural resources (for example, whether wildlife will be lost if its habitat is impaired or destroyed); and
- e. Whether the affected natural resources are significantly increasing or decreasing in number, considering the direct and consequential impact of the proposed action.

*State by Schaller v. County of Blue Earth*, 563 N.W.2d 260, 267 (Minn. 1997); *White v. Minnesota Dep' of Natural Resources*, 567 N.W.2d 724, 738 (Minn. App. 1997).

67. In this case, as set forth by the DNR in Comments, and by the Cabrerias and others, this section of the Wild and Scenic Mississippi River and district is protected.<sup>29</sup> This section of the Mississippi River State Water Trail<sup>30</sup>, the shoreline and bluffland protected by the Counties<sup>31</sup>, viewshed of the natural area, necessary vegetation removal, tree

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<sup>29</sup> Minn. R. 7850.4400.

<sup>30</sup> Id., see also [https://files.dnr.state.mn.us/maps/canoe\\_routes/mississippi8.pdf](https://files.dnr.state.mn.us/maps/canoe_routes/mississippi8.pdf)

<sup>31</sup> *Spra* fn 15.

clearing along the river, erosion of the river bank, fragmentation and impacts to Sites of Biodiversity Significance, bird impacts, impairment of outstanding scenic, recreational, natural, historic, and scientific attributes of the area, and to avoid the braided section and the nearby island would likely be harmed if the transmission line crossed the Mississippi River utilizing Xcel Energy's Blue Route. See Minn. Stat. §116B.04, Subd.

2.

68. Stearns County has a protective Scenic River District and Island Preservation District:

**9.13 Scenic River District (SR District)**

9.13.1 Purpose The purpose of the Scenic River District is to protect and preserve the scenic, recreational and natural values of the Mississippi River by controlling development within a specified river corridor consistent with Minnesota Rules, parts 6105.0800-6105.0870 and Minnesota Rules, parts 6105.0010-6105.0250; or successor rules.

**9.16 Island Preservation District (IP District)**

9.16.1 Purpose The purpose of this district is to provide for the preservation and management of islands that are located within the County.

... and ...

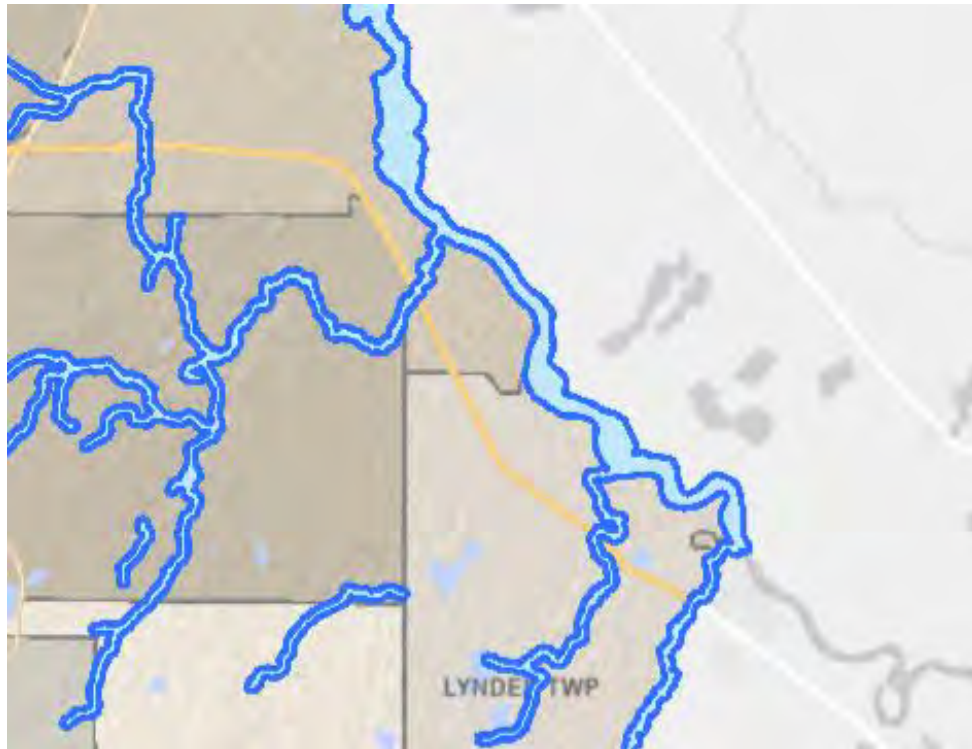
**10.2 Shoreland Overlay District**

10.2.1 Purpose The purpose of the Shoreland Overlay District is to protect and enhance the quality of surface waters by promoting the wise utilization of public waters and related land resources. All land within Shoreland located in Stearns County is hereby designated as Shoreland Overlay District and the standards set forth in this Section shall regulate development and other activities within the Shoreland Overlay District.

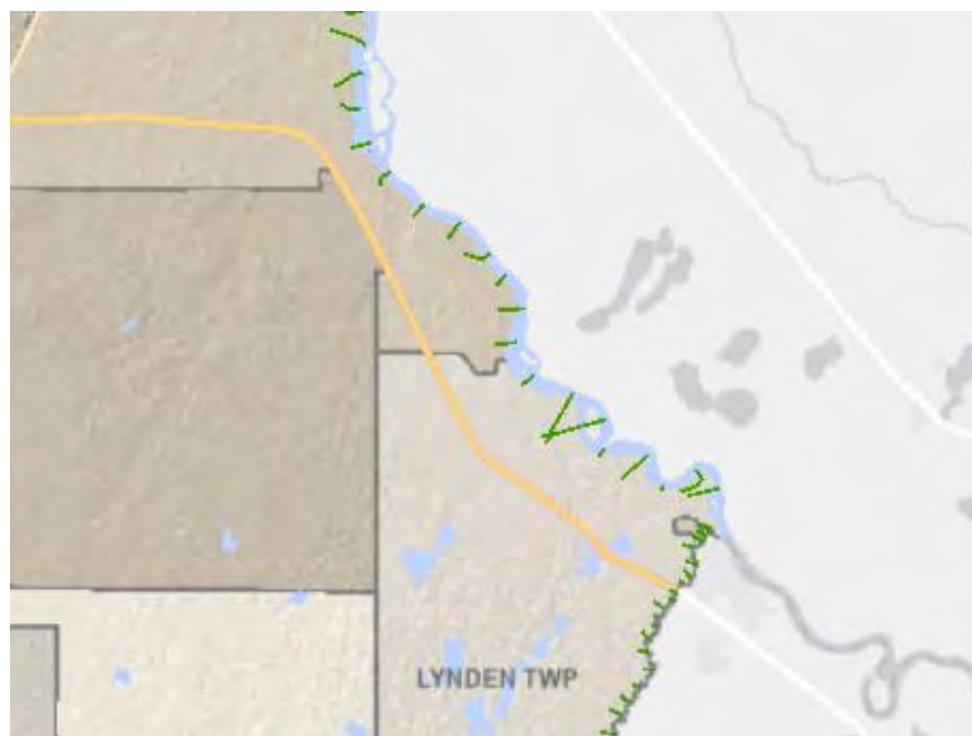
This Overlay District covers the Stearns County area of the Blue Route Mississippi River Crossing<sup>32</sup>:

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<sup>32</sup> See Stearns County GIS, 300' overlay: <https://datafi.wsbeng.com/#!/prod/county!mn!stearns!public>

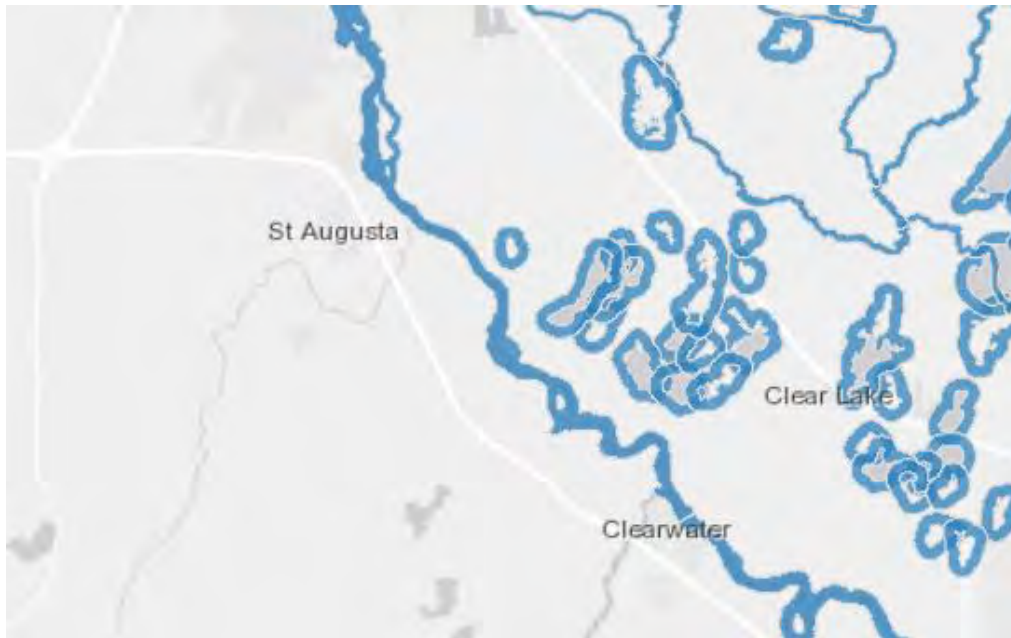


69. The Stearns County GIS also shows that the area is within the Mississippi River floodplain:





70. The Sherburne County side of the river is also within the county's Shoreland Protection District<sup>33</sup>



71. In their action against the state, the Cabrerias will also show the inadequacy of the permit issued by the Public Utilities Commission to protect, as above, this section of the Wild and Scenic Mississippi River and district, this section of the Mississippi River State Water Trail, the protected shoreland and bluff land, viewshed of the natural area, vegetation removal, tree clearing along the river, erosion of the river bank, fragmentation and impacts to Sites of Biodiversity Significance, bird impacts, impairment of outstanding scenic, recreation and tourism, natural, historic, and scientific attributes of the area, and to avoid the braided section and the nearby island.

Minn. Stat. §116B.10, Subd. 2.

72. The Cabrerias shall also demonstrate that, in light of affirmative defense options

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<sup>33</sup> See Sherburne County GIS Shoreland Overlay District: <https://data-sherburnegis.opendata.arcgis.com/datasets/shoreland-district/explore?location=45.435542%2C-93.999355%2C10.94>



available to Defendants, that there were reasonable and prudent route alternatives available and that routing using a new crossing of the Mississippi River, the conduct at issue, is not consistent with and reasonably required for promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction.

73. The Cabrerias shall also show that the stated primary purpose of this transmission project is economic, to allow Defendant Northern States Power d/b/a Xcel Energy, “to reuse Xcel Energy’s existing and valuable interconnection rights at the Sherco Substation resulting from the retirement of the three Sherco coal-fired generators.”

Hearing Exhibit Xcel-3, Route Permit Application (valuable interconnection rights):

- a. In its 2020-2034 Upper Midwest Integrated Resource Plan (IRP) filing (MPUC Docket No. E002/RP-19-368), Xcel Energy proposed to construct two 345 kV transmission lines (gen-ties) between Lyon County and the existing Sherco Substation to acquire needed renewable energy resources and also to reuse Xcel Energy’s existing and valuable interconnection rights at the Sherco Substation resulting from the retirement of the three Sherco coal-fired generators. p. 3.
- b. The Project enables Xcel Energy to reuse its valuable and existing transmission interconnection rights (approximately 2,000 MW total). These rights will be retained pursuant to the Federal Energy Regulatory Commission (FERC) Electric Tariff, Midcontinent Independent System Operator, Inc. (MISO) Attachment X. The FERC has granted current generation owners the right to reuse the associated transmission interconnection for new generation at those sites as the old generation retires as part of the energy transition from carbon-based fuels to renewable energy. Id.
- c. The proposed Project will connect new renewable energy generation to the electrical grid as coal operations cease at Sherco and will allow Xcel Energy to reuse its valuable and existing transmission interconnection rights. Interconnection rights are a valuable asset in part because the regional transmission grid is congested. p. 17.
- d. As discussed in the CN application, the proposed Project is needed to ensure that sufficient energy resources could be interconnected to the

Company's system in the timeframe needed to meet Xcel Energy's resource and capacity requirements, as well as achieve clean energy goals cost effectively and to make efficient reuse of the Company's interconnection rights at the Sherco Substation after the coal units retire. p. 20.

- e. During the IRP proceeding, Xcel Energy proposed a plan to connect to the required wind and solar resources. The plan requires two 345 kV transmission lines between Lyon County and the existing Sherco Substation. Connecting at the Sherco Substation allows reuse of Xcel Energy's existing and valuable interconnection rights. In the April 2022 IRP order, the Commission directed Xcel Energy to begin proceedings to obtain a CN and Route Permit for the two 345 kV transmission lines. p. 22.

74. The application notes that “[a]dditional details about reuse of existing interconnection rights and the estimated costs of MISO interconnection are provided in Xcel Energy's CN application, filed under Docket No. E002/CN-22-131<sup>34</sup>. Id., p. 18. Much of the language is word-for-word that in the Routing application. Id., p. 18. See Certificate of Need Application, p. 17 (The only way that Xcel Energy can retain its interconnection rights at Sherco is to directly connect Xcel Energy-owned generation to the Sherco Substation via a single-user generation tie line, like those proposed with this Project.); p. 71 (The identified need is to interconnect new generation to the Sherco POI... Further, to be able to utilize existing transmission interconnection rights at the Sherco POI, the proposed connection must be a radial connection per the MISO FERC Electric Tariff, Attachment X. Existing transmission lines are not radial. Therefore, upgrading existing transmission lines cannot meet the identified need.)<sup>35</sup>
75. The Integrated Resource Plan referenced above is the origin of the “need” claim for this transmission project and attempt to avoid Certificate of Need review for the project. In

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<sup>34</sup> Xcel Energy's Minnesota Energy Connection Revised Certificate of Need Application, May 18, 2023, online at PUC eDockets [20235-195956-02](https://www.puc.state.mn.us/edockets/20235-195956-02)

<sup>35</sup> See also CoN Application pps. 1, 3, 4, 5, 13, 14, 15, 20, 21, 40, 43, 44, 57, 74, 75.

discussing the “valuable transmission interconnection rights” on which this project is based, the Certificate of Need application cites the Integrated Resource Plan (IRP).<sup>36</sup>

76. Initially the transmission line was to equal the 1,996MW interconnection rights at the Sherco substation, and then it was upped to a double circuited line with 4,000MW capacity.<sup>37</sup>

77. The cost of this project stated in the Certificate of Need application of May, 2023, was \$1.14 billion.

78. In testimony of Joseph Samuel, as of September 6, 2024, it was between \$1,274 and \$1.302 billion<sup>38</sup>. One year later, as of a September 5, 2025 filing, the cost estimate has been updated to \$1.367 billion, “due to Federal tariffs, additional route length and complexity, and real estate acquisition.”<sup>39</sup> Xcel notes that material costs will fluctuate, and that “[t]he dynamism of the tariff risk is too uncertain to predict with reasonable certainty.” Id.

79. This cost of this privately owned and operated radial transmission line protecting and preserving Xcel Energy’s valuable interconnection rights<sup>40</sup>, interconnecting Xcel

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<sup>36</sup> See *In the matter of the 2020-2034 Upper Midwest Integrated Resource Plan of Northern States Power Company d/b/a Xcel Energy*, Docket No. E-002/RP-19-368, Order, p. 25, April 15, 2022 (Fourth, the Commission concurs that, before Xcel starts a new process for building the Sherco gen-tie line, Xcel should describe its efforts to work with local governments and stakeholders to address any anticipated land use and planning challenges. Specifically, the Commission will order Xcel to consult with stakeholders to discuss these plans.) online at eDockets [20224-184828-01](#)

<sup>37</sup> Hearing Exhibit Xcel-2, Route Application, pps. 1, 58, online at PUC eDockets [202310-199981-02](#); see also Hearing Exhibit Xcel-20, Surrebuttal Testimony of Joseph Samuel, p.3, online at eDockets [202410-211225-03](#); ALJ Recommendation, FoF 431, project would enable interconnection of more than 4,000 M, February 5, 2025, online at PUC eDockets [20252-214994-01](#).

<sup>38</sup> Hearing Exhibit Xcel 17, Direct Testimony of Joseph Samuel, p. 4-5, online at eDockets [20249-210020-03](#)

<sup>39</sup> Xcel Energy Compliance – Updated Project Cost Estimates, September 5, 2025, p. 1, online at eDockets [20259-222726-01](#)

<sup>40</sup> Hearing Exhibit Xcel-3, Route Permit Application, pps. pps.3, 17, 18, 20, 22, 63 (valuable interconnection rights) online at PUC eDockets [202310-199981-02](#); Xcel Energy’s Minnesota Energy Connection Revised Certificate of Need Application, pps. 1, 3-5, 13-17, 20-21, 40, 43, 44, 57, 71,75-76, May 18, 2023, online at PUC eDockets [20235-195956-02](#) (not entered as Hearing Exhibit).

owned projects, a cost updated to \$1,367 billion, and likely more, will be borne by the Xcel Energy ratepayers, not Xcel Energy's shareholders. Id.

**VII. CROSSING THE MISSISSIPPI AT A NEW LOCATION, RATHER THAN UTILIZING AN EXISTING LOCATION, WILL LIKELY MATERIALLY HARM NATURAL RESOURCES**

80. The Comments of the DNR laid out the likely impacts in detail. See Hearing Record, Ex. EERA-5, DNR Scoping Comments, February 21, 2024, p. 183-221 of Commerce-EERA group of Comments.<sup>41</sup>

81. These DNR Comments were not made an independent part of the record, and agency Comments were not identified in the "Combined Hearing Exhibit List." Instead, these Comments were entered in a jumble of all the Comments received, with 15 links to batches of "Public Scoping Comments" labeled EERA-4. The DNR's multiple Comments are within eDocket Document ID"20243-204514-03, pages 183-220 of the 227 page "Combined Hearing Exhibit List" filing.<sup>42</sup>

82. Xcel states that it met with the DNR three times before filing its application, December 19, 2022; March 16, 2023; and May 24, 2023. There is no documentation in the record regarding those meetings. ALJ Recommendation, Finding of Fact 239, disclosing meetings.<sup>43</sup>

83. In its application, Xcel admits that in the first written statement, "The MNDNR commented in a July 10, 2023 letter that 'The DNR strongly prefers a route that utilizes existing crossings over the Mississippi River, especially within a wild and scenic river

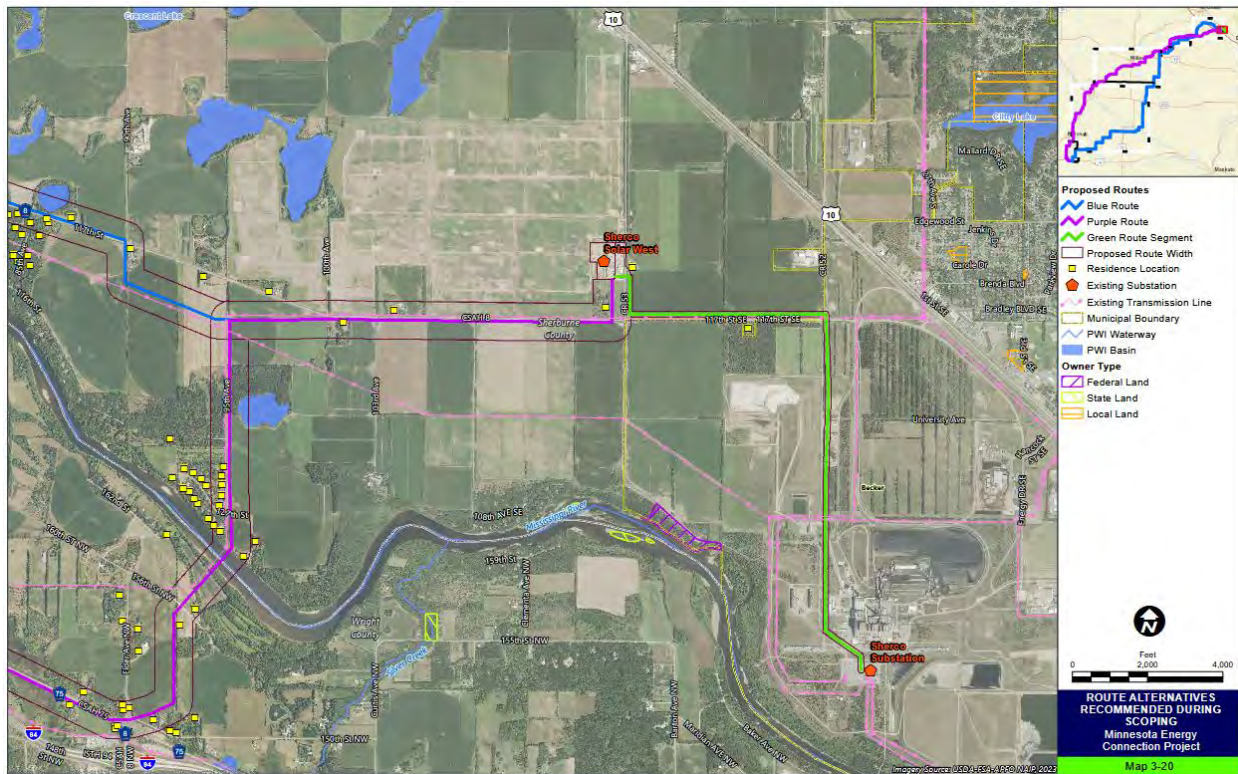
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<sup>41</sup> Evidentiary Hearing Combined Hearing Exhibit List, EERA-4, Public Scoping Comments, eDockets [20243-204514-03](#)

<sup>42</sup> Evidentiary Hearing Combined Hearing Exhibit List, eDockets [202410-211371-01](#), filed by Xcel 10/28/2024.

<sup>43</sup> ALJ Recommendation, February 5, 2025, online at PUC eDockets [20252-214994-01](#)

(WSR) district.” Xcel Hearing Exhibit Xcel-2, Route Permit Application, p. 37.<sup>44</sup> The DNR’s comment further states that “[o]f the route options provided, the only existing crossing is within Wright County. We would prefer this alternative.” Id. This map depicts the Purple Route crossing of the Mississippi River:



FEIS, Map 3-20, p. 22 of 67, “Map 1-8,” online at eDockets [20251-214220-02](https://www.secdockets.com/doc/20251-214220-02).

84. Additional crossings were added in the Scoping Decision for the EIS.<sup>45</sup>

85. In Scoping Comments, the DNR again reiterated its preference of the Purple Route to utilize an existing crossing and avoid a new crossing. In this Comment, the DNR provided more detail of environmental issues regarding the Blue Route:

<sup>44</sup> See Xcel Combined Exhibit List, [202410-211371-01](https://www.secdockets.com/doc/202410-211371-01), p. 5 of 8, Xcel-2, Application Narrative, p. 37, [202310-199981-02](https://www.secdockets.com/doc/202310-199981-02)

<sup>45</sup> Hearing Exhibit EERA-9, Scoping Decision Part 1 [20245-206732-02](https://www.secdockets.com/doc/20245-206732-02); Part 2 [20245-206732-04](https://www.secdockets.com/doc/20245-206732-04).



The proposed Blue Route would cross a large island and is at a section of the river where the river is more braided. Once the Blue Route crosses into Stearns County, it runs along the Mississippi River for approximately 2,600 linear feet. This route could require heavy tree clearing along the river. If these trees are removed the riverbank could become unstable.

Our agency is disappointed that there was not greater coordination across other Xcel Energy transmission line projects that connect to the Sherco Solar Substation. If a new crossing within the WSR district is necessary, it should be combined with other crossings of the Mississippi River to lessen the impact to WSR district. These impacts include altering the viewshed of this natural area, removing trees that are important to bank and bluff stability, and fragmenting sites that are mapped as Minnesota Biological Survey (MBS) sites of biodiversity significance.

#### **Designated Wild, Scenic, and Recreational Rivers**

Minnesota's Wild and Scenic Rivers Act provides statutory protection for rivers and adjacent lands that possess outstanding scenic, recreational, natural, historical and scientific attributes. The following state-designated river segments are within the project area:

- Mississippi River: from St. Cloud to Anoka (as provided by MN Rules, part 6105.0800)
- North Fork - Crow River: in Meeker County (as provided by MN Rules 6105.1000)
- Minnesota River: from Lac Qui Parle dam to Franklin (as provided by MN Rules 6105.1200)

The EIS should discuss potential impacts to these protected rivers, which are also public waters, and how they will be avoided, minimized, or mitigated.

Hearing Exhibit EERA-4, DNR Comments, p. 184-185 of 227, February 21, 2024, [20243-204514-01](#)

86. The DNR also addressed crossings of Public Waters, over which it has jurisdiction, and requested discussion of transmission tower placement in relation to river and stream banks and floodplains, setbacks from stream banks. The EIS is inadequate because it should include a robust discussion of methods to avoid, minimize, or mitigate potential impacts to these waters. Id.

87. In this comment, the DNR twice raised in order the hierarchy of environmental protection, to avoid, minimize, or mitigate. Id.

88. Following scoping, EERA released its Scoping Decision with additional Mississippi River crossing alternatives, in addition to other route segment alternatives. The

Mississippi River crossings of 245 and 246 were added for consideration in the DEIS based upon Plaintiffs' scoping comments and proposals:

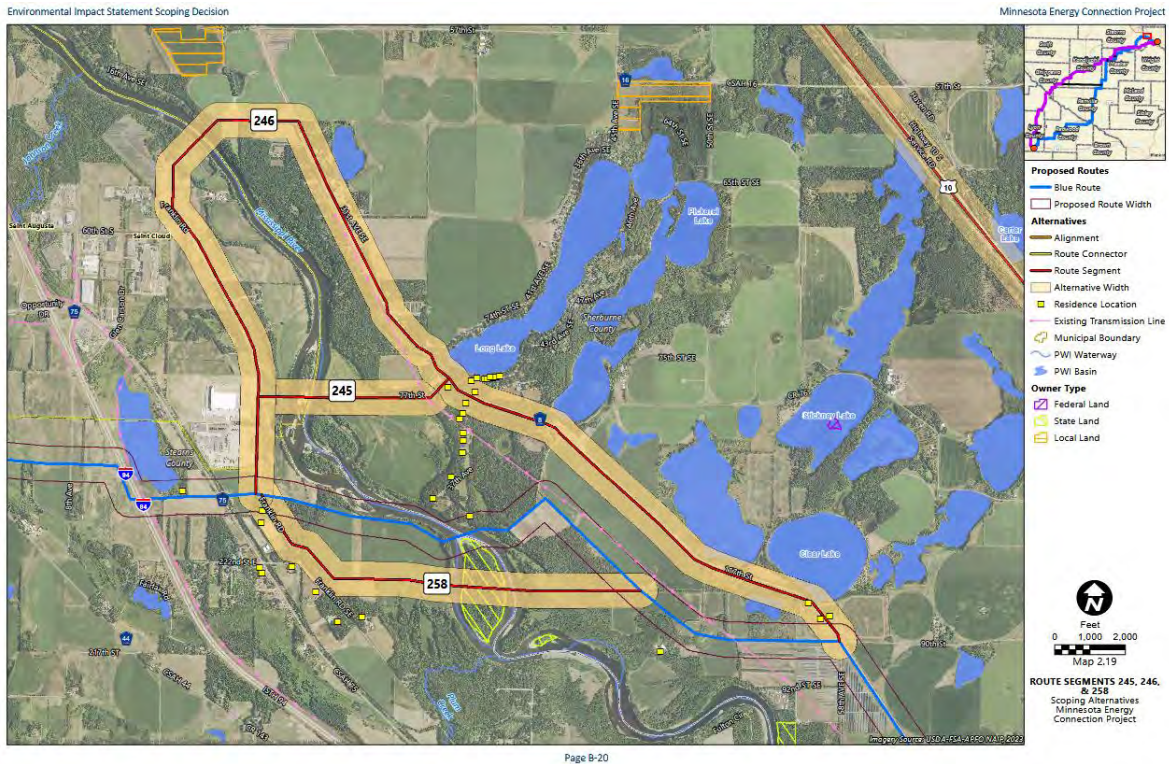
245	2.19	Route Segment	Blue	EERA received a scoping comment from Miguel Cabrera and Shannon Cabrera (#167) proposing Route Segment 245. This route segment departs the Blue Route at Franklin Road and traverses north. It turns east at the southern border of T34N, R30W, S5, continues northeast at the southwest corner of T34N, R30W, S4, and continues southeast at County Road 8 SE until it rejoins the Blue Route. The commenters noted potential impacts on public health/EMF/pacemaker, aesthetic impacts/property values, habitat/wildlife/rare species, and water resources.	Public
246	2.19	Route Segment	Blue	EERA received a scoping comment from Miguel Cabrera and Shannon Cabrera (#167) proposing Route Segment 246. This route segment departs the Blue Route at Franklin Road and traverses north following the curve of the road. It continues north about 1,200 feet at the western border of T123N, R27W, S8 then continues northeast. It turns east at the halfway parallel of T35N, R30W, S32, then continues southeast at River Road SE following the curve of the road until it rejoins the Blue Line. The commenters noted potential impacts on public health/EMF/pacemaker, aesthetic impacts/property values, habitat/wildlife/rare species, and water resources.	Public

Hearing Exhibit EERA-9, Scoping Decision, Part 1, p. 34-35 of 47<sup>46</sup>

<sup>46</sup> Online at PUC eDockets: [20245-206732-02](https://puc.utah.gov/edockets/20245-206732-02).



89. These route segment alternatives are depicted in Appendix B, Maps, in the DEIS on map 2.19, in Part 2<sup>47</sup>:



90. This Scoping Decision map has two inexplicable choices in marking route alignments on a map. First, the existing transmission line, depicted in pink on the map, ends to the northeast at the 31<sup>st</sup> Ave. N.E. notation. Second, the route follows County Road 8, rather than the existing transmission line. Cabreras proposed specific alternatives for consideration with specific considerations. The drafters of the DEIS positioned Route Segment 246 on the northwestern side of County Road 8, directly over a large number of lake homes, rather than paralleling the existing transmission line on the opposite side of County Road 8 which also would impact fewer residences. That choice was made by the drafters of the EIS and not consistent with the Comments

<sup>47</sup> Online at PUC eDockets [20245-206732-04](https://puc.docketsonline.com/20245-206732-04).

or routing criteria.

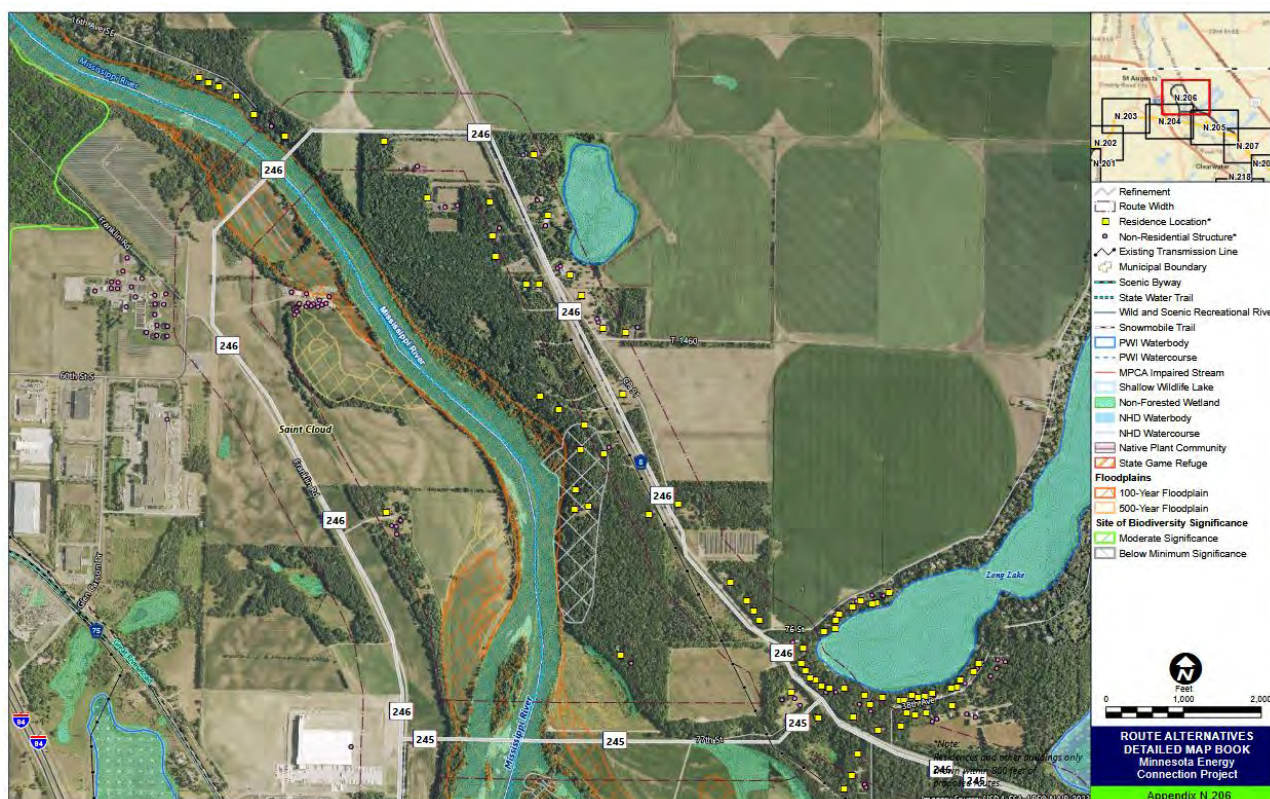
91. The importance of these mapping choices is reflected in the mischaracterization of Cabrereras' comments. In the DEIS, EERA misrepresented the Comments of the Cabrereras, claiming that "This route was proposed to avoid a decrease in property values to those who live along the river who expressed concern about aesthetic impacts." DEIS, p. 431. This is false. As above, in Scoping Comments, the Cabrereras, according to EERA's chart, noted many specific potential impacts, on public health/EMF/pacemaker, aesthetic impacts/property values, habitat/wildlife/rare species, and water resources.<sup>48</sup>
92. A broad identification of these issues is found in the Cabrereras' comments. Specific issues raised were area natural habitat, decline in biodiversity, habitat fragmentation, taking of eagles under migratory Bird Treaty Act, removal of vegetation and trees when routing along shoreline causing shoreline erosion, visual and noise impacts, impacts on tourism and recreation in area used for hunting, fishing, camping including camping on the island and at the Boy Scout Point camp, rock hunting, tubing, and kayaking on the Water Trail, and the protections of the Mississippi River Scenic Act.<sup>49</sup>
93. The Cabrereras proposed two route segment alternatives in comments of February 19 and 20<sup>th</sup>, alternatives which were roughly incorporated into the DEIS review as route segments 245 and 246 and attributed to them by Commerce. Id.

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<sup>48</sup> Hearing Exhibit EERA-9, Scoping Decision, Part 1, p. 34-35 of 47 [20245-206732-02](#).

<sup>49</sup> See Written comments of Miguel Cabrera November 25, 2024 [202411-212348-01](#), Written Comments of Shannon Cabrera, November 25, 2024 [202411-212349-01](#), Shannon and Miguel Cabrereras' Scoping Comment, February 20, 2024 [20242-203668-02](#); Cabrereras Scoping Comment, February 21, 2024 [20242-203670-02](#) ; Miguel Cabrera Comment, Kimball Public Meeting, Comment, Transcript, pps. 27-30, January 31, 2024. See also Miguel Cabrera, Public Hearing Comment, Redwood Falls, transcript pps. 55-57; and November 7, 2024.

94. The next map that was produced, the one used for DEIS evaluation, shows that there was a failure to put the existing transmission crossings of the river on the map, and that in Map N-206, an existing transmission line, rather than continue north and then across the river in alignment with route segment 246 utilizing that existing crossing, instead simply ends in a field! Also, the choice of routing it on the lake side of County Road 8, with many homes, exacerbated impacts on residences, when placing it on the transmission line side, rather than routing along existing infrastructure already routed through an area with far fewer homes than lakeside, would have had less of an impact.



Hearing Exhibit EERA-12, DEIS Maps, Appendix N P-11, map N 206<sup>50</sup>.

95. Again, the northwest stretch of the existing transmission line is not depicted, including the existing transmission crossing of the Mississippi. This version of Segment 246 is

<sup>50</sup> Online at PUC eDocketts [202410-210806-13](https://www.puc.state.mn.us/energy/202410-210806-13)



not routed along the existing transmission line, but instead, along County Road 8, involving many more residences than it would had the existing transmission line corridor been utilized. This routing choice was made despite the consistent comments of the DNR to utilize existing transmission corridors, and the DEIS findings showing advantages of both Route Segments 245 and 246 when compared to the “equivalent” Blue Route:

**Table 12-17 Route 245 and 246 vs Their Equivalent Impacts Summary**

Resource	Summary
Paralleling Existing Infrastructure	Route Segment 246 parallels the most existing infrastructure (96%) followed by Route Segment 245 (75%). Their equivalent does not parallel existing infrastructure.
Human Settlement	The equivalent does not have any residences within 75-250 feet, while Route Segment 245 has 10 and Route Segment 246 has 25. Route Segment 246 has the most residences at every distance, while the equivalent has the least.
Land-Based Economies, Agriculture	Route Segment 246 intersects 2 more center pivot irrigation systems than the equivalent. Route Segment 245 intersects the same number of center pivot irrigation systems as the equivalent. The equivalent includes more acres of prime farmland but would likely result in less impacts to center pivot irrigation systems (Map 11.9).
Natural Environment – Surface Waters and Wetlands	Route Segment 245 crosses 1 watercourse; it also includes 4 acres of NWI wetlands (<1 acres of which are forested wetlands). Route Segment 246 crosses one watercourse and has 1 acre of NWI wetlands. The equivalent crosses two watercourses and one waterbody; it also includes 4 acres of NWI wetlands.
Natural Environment - Vegetation	According to the NLCD, the ROW of Route Segments 245, 246, and their equivalent would traverse approximately 9, 10, and 12 acres of forested landcover, respectively.
Natural Environment – Wildlife and Wildlife Habitat	The route widths of Route Segments 245, 246, and their equivalent intersect a Grassland Bird Conservation Area, with Route Segment 246 intersecting the most acreage (726 acres) and their equivalent intersecting the least (310 acres). All of their anticipated alignments cross the Grassland Bird Conservation Area. The route widths of Route Segments 245 and 246 intersect a Wildlife Action Network corridor polygon but neither of their anticipated alignments would cross it. The route width of their equivalent route avoids the Wildlife Action Network corridor polygon. The route widths of Route Segments 245, 246, and their equivalent intersect a State Game Refuge. The anticipated alignments for Route Segments 245 and 246 would traverse the northern edge of the State Game Refuge, while their equivalent would cross through the middle of it.

Hearing Exhibit EERA-12, DEIS, Full Text, p. 432.<sup>51</sup>

96. The DEIS states that Route Segment 245 is 4.2 miles long, and Segment 246 is 6.9 miles long, with the Blue Route is 3.5 miles long. That means that Route Segment 245

<sup>51</sup> Online at PUC eDockets [202410-210801-01](https://www.puc.state.or.us/edockets/202410-210801-01).

is 0.7 miles longer, and Segment 246 is 3.4 miles longer, where the route is approximately 180 miles long. The additional length is nominal, for 245, an increase of 0.4% and for 246, an increase of 1.9% over the 180 mile length of the route.

97. During the PUC’s review of Xcel Energy’s transmission line application, Xcel filed a response to public comments in which it proffered a chart, together with narrative, presenting what it termed the “DNR Proxy Route.” Xcel’s “DNR Proxy Route” did not include any mention of the DNR’s “strongly preferred” Mississippi River Crossing utilizing either the Purple Route or Route Segment 246, both of which had existing crossings of the river.<sup>52</sup>
98. Though this “DNR Proxy Route,” included some of the DNR preferred route options, it excluded the “Region G” options that it “strongly preferred” for crossing the Mississippi River, specifically, the Purple Route and Route Segment 246.<sup>53</sup>
99. This “DNR Proxy Route” was discussed frequently in the Xcel and Administrative Law Judge’s Recommendation.<sup>54</sup> The effect of Xcel’s “DNR Proxy Route” will be detailed below.
100. On April 10, 2025, the Public Utilities Commission adopted the Recommendation of the Administrative Law Judge, with modifications, and issued a permit for routing of Xcel Energy’s Minnesota Energy Connection<sup>55</sup>, roughly 180 miles from the Garvin substation in Lyon County to the Sherco substation in Sherburne County:

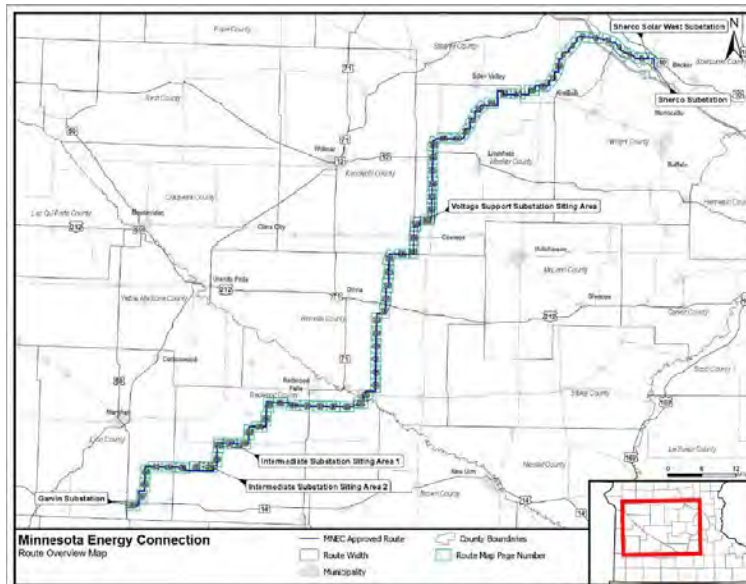
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<sup>52</sup> Xcel Energy Response to Hearing Comments, December 13, 2025, online at PUC eDockets [202412-212990-02](#).

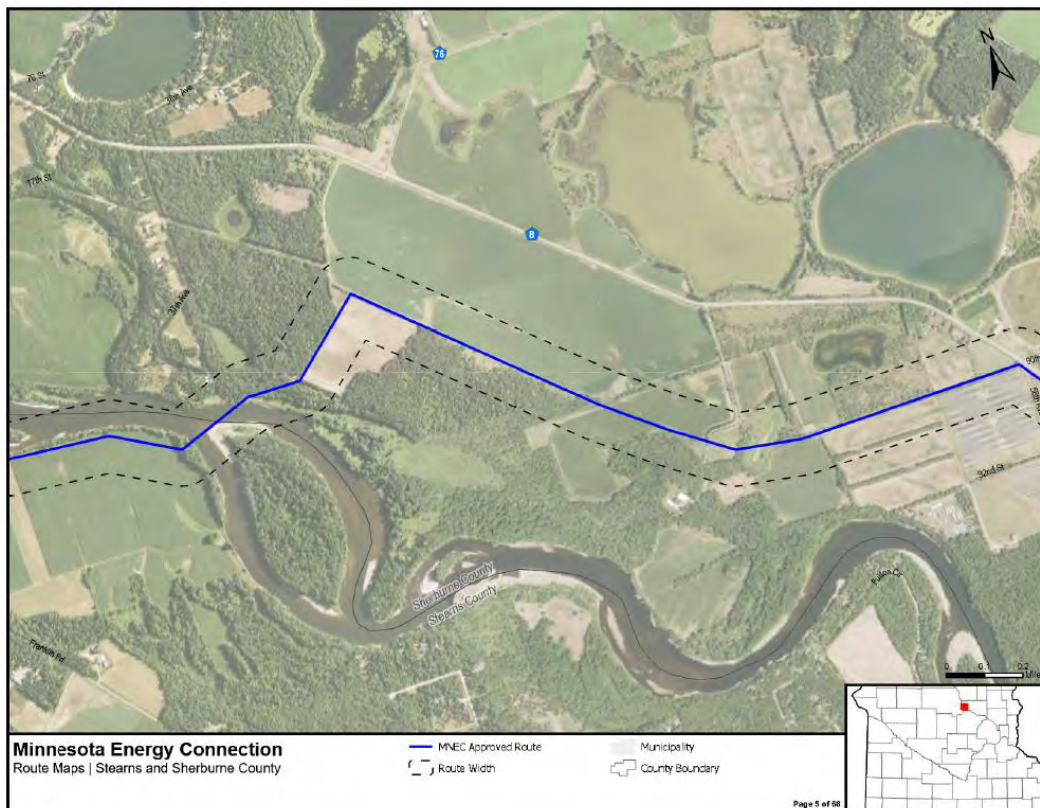
<sup>53</sup> Id.

<sup>54</sup> ALJ Recommendation, February 5, 2025, Findings of Fact (x2), 385, 378, 378, 457, 458 and Table 458, 459, 604, 609, 638, 645, 646 Table 11, 670 Table 17-2 of DEIS and FEIS, 671, online at PUC eDockets [20252-214994-01](#)

<sup>55</sup> PUC - Order Modifying and Adopting Administrative Law Judge Report, Granting Certificate Of Need, and Issuing Route Permit for the Minnesota Energy Connection Project, June 11, 2025, online at PUC eDockets [20256-219826-01](#)



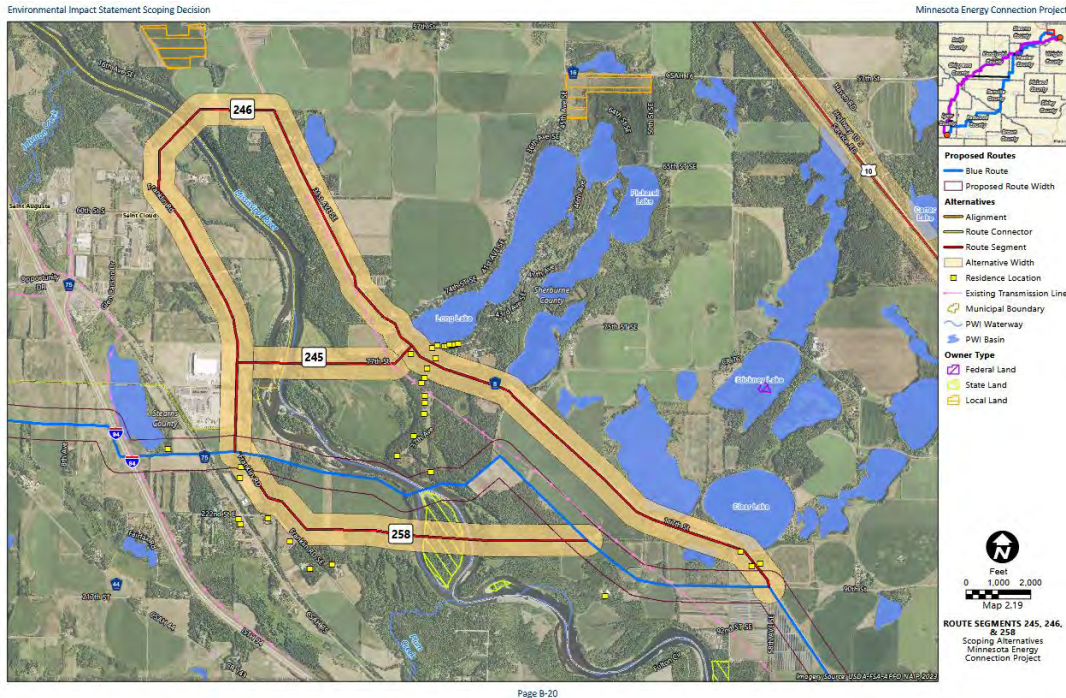
101. The Mississippi River crossing at issue is on the Blue Route, as depicted in these two maps below and expanded to the 3.2 mile length:



PUC Order, map 5 of 68, page 67 of the 140 page Order. June 11, 2025.<sup>56</sup>

<sup>56</sup> Online at PUC eDockets [20256-219826-01](https://puc.edockets.com/cases/20256-219826-01)





DEIS, Appendix B, Maps, in the DEIS on map 2.19, in Part 2 [20245-206732-04](#):

102. Four alternatives were proposed by the Cabrerias, roughly including Route Segments 245 and 246. From their Comments:

- Alternative 1: Prior to river crossing, along south border of field w Franklin Road, rather than north, then cross 100-200 yard to the South, past “Mississippi Island, on agricultural land where there are no houses.
- Alternative 2: Cross river 0.3 miles upstream at Island View County Park and then connect to County Road 8.
- Alternative 3: Cross river 1.8 miles to the North where there is an existing power line crossing and less environmental impact.
- Alternative 4: A system alternative to bury the lines, providing security and protection from storms deep freezes, floods, and fires.

Cabrerias Scoping Comment, February 20, 2024 [20242-203668-02](#);

103. The Cabrerias also commented on their preference of the Purple Route as a straight river crossing rather than the Blue Route’s route adjacent to undeveloped land but through developed land, following along the shoreline and a wide diagonal



crossing, wider than any alternatives, at an angle with heightened environmental impact.<sup>57</sup>

104. Another landowner on the Blue Line, Melody Vechal, noted the state Wild and Scenic River protections, and that it didn't make sense that she is not allowed to cut a tree with a diameter of more than 4" but Xcel could put up a large transmission line. She noted that the river is used for kayaking and people should be able to enjoy the wilderness setting.<sup>58</sup>

105. Robert Klaverkamp, a landowner on the Stearns County side of the Blue Route crossing of the Mississippi River, also brought up environmental concerns, including a bald eagle nest on his property in the trees along the river. He also raised the restrictions along the shoreline, and believed that a 75 foot setback was required.<sup>59</sup> As above, Sherburne and Stearns counties have protective Ordinances along the Mississippi River.

106. The multiple Comments of the DNR repeatedly stated the agency's "strong preference" for use of an existing Mississippi River crossing, giving two alternatives that would be better than the applicant's preference. These alternatives preferred by the DNR are essentially those preferred by the Cabrerias, the "Purple Route" crossing and Route Segment 246.

107. A portion of the transmission route runs between a large wetland complex and

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<sup>57</sup> Written comments of the Cabrerias: Miguel Cabrera November 25, 2024 [202411-212348-01](#); Shannon Cabrera, November 25, 2024 [202411-212349-01](#); Cabrerias Scoping Comment, February 20, 2024 [20242-203668-02](#); Cabrerias Scoping Comment, February 21, 2024 [20242-203670-02](#); Miguel Cabrera Comment, Kimball Public Meeting, Comment, Transcript, p. 27-30, January 31, 2024, Miguel Cabrera, Public Hearing Comment, Redwood Falls, transcript p. 55-57, November 7, 2024.

<sup>58</sup> Melody Vachal, Kimball public hearing, Transcript, p. 74-75, October 30, 2024.

<sup>59</sup> Robert Klaverkamp, Kimball Public Hearing, Transcript pps. 73-75, 10/30/24

commentors noted that the Mississippi River wetlands are federally protected.<sup>60</sup>

108. The many mature trees along Mississippi River banks provide an important ecosystem service that includes fish habitat, protection of fish habitat through shading, heat island mitigation, stormwater absorption, carbon sequestration, wildlife habitat, and improving airquality. The DNR also stated concerns about the impact of tree clearing and subsequent erosion to the riverbanks.

109. Ron Schabel, a landowner near Monticello, commented at the Monticello Public Hearing, and referenced the DNR’s Minn. R. 6105.1800 and that along the Mississippi River, there are no entering areas within 200 feet of designated state Wild and Scenic and Recreational riverland, and land use districts, that the transmission line should avoid steep slopes on both sides.<sup>61</sup>

**VIII. DNR COMMENTS WERE MISREPRESENTED BY XCEL “DNR PROXY ROUTE” AND THE DNR’S “STRONG PREFERENCE” OF USE OF EXISTING TRANSMISSION WAS BURIED**

110. The Public Utilities Commission has the responsibility of siting transmission lines<sup>62</sup>, yet is a utility regulatory body, with regulatory expertise, not environmental expertise.<sup>63</sup>

111. Commerce-EERA is charged with environmental review for the Commission but does not have the necessary expertise in environmental matters, and relies on consultants to compile the Draft and Final Environmental Impact Statements.<sup>64</sup>

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<sup>60</sup> <https://www.epa.gov/cwa-404/protection-wetlands-executive-order-11990>

<sup>61</sup> Ron Schabel, Monticello Public Hearing, Transcript pps. 26-27, October 29, 2024.

<sup>62</sup> Minn. Stat. §216E.02, Subd. 2.

<sup>63</sup> Its mission is “to improve the lives of all Minnesotans by ensuring safe, reliable, and sustainable utility services at just and reasonable rates.”<sup>63</sup>

<sup>64</sup> See Transcript, Prehearing Conference 2, p. 7 (timing of Draft EIS release depends on “availability of consultants.”), May 17, 2024.

112. The DNR is the agency charged with taking inventory of and protection of natural resources, the agency with the expertise regarding natural resources. DNR mission:

The mission of the Minnesota Department of Natural Resources (DNR) is to work with Minnesotans to conserve and manage the state's natural resources, to provide outdoor recreation opportunities, and to provide for commercial uses of natural resources in a way that creates a sustainable quality of life.<sup>65</sup>

113. Natural resources are to be protected when routing transmission, and consideration of residences is heightened if the residences are unique, and non-compensable. *People for Environmental Enlightenment and Responsibility (PEER), Inc. et al, petitioners, Appellants, v. Minnesota Environmental Quality Council, etc., Respondent, Northern States Power Company, Respondent, 266 N.W. 2d 858, Minn. 1978).*

114. As above the PEER decision established Minnesota's policy of nonproliferation of transmission routes to protect natural resources, and its premise that protected natural resources are non-compensable, whereas most homes are compensable, and that consideration of and a balancing of compensable versus non-compensable resources is necessary is required only where "more than one form of noncompensable intrusion has been identified." PEER, at 864.

115. The PEER court expressly prohibited destruction of natural resources where there is an alternative, such as the Purple Route or Route Segment 246 river crossings:

An HVTL routing that impairs, pollutes, or destroys protected natural resources cannot be approved if there is a prudent and feasible alternative route available.

Id., p. 864.

Because Minnesota is committed to the principle of nonproliferation... the fact that the utilization of Route 3 would require the condemnation of a number of

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<sup>65</sup> Online at <https://www.dnr.state.mn.us/aboutdnr/mission.html>

homes is not, in and of itself, sufficient to overcome the law's preference for containment of powerlines.

Id.

116. “[C]ondemnation of a number of homes is not, in an of itself, sufficient to overcome the law’s preference for containment of powerlines.” Id. Despite this clear directive, the number of residences affected by each route option was the focus of analysis, with multiple charts showing distances of the right-of-way edges and distances beyond from the centerline and the number of homes affected in each scenario. See FEIS Main Text, Region G; ALJ Findings and Recommendation; PUC Staff Briefing Papers; and Commission Order.
117. The PEER court’s presumption is that any transmission line would cause environmental damage where ever it was routed, that it would harm, cause damage to natural resources and the environment, and that damage to natural resources was to be avoided. Id., p.867, fn. 12, 868.
118. Courts typically defer to an agency based on the expertise of that agency, however, that long held precedent of Chevron has been turned on its head, and the dust is only now beginning to settle.<sup>66</sup>
119. The DNR met with Xcel Energy prior to its transmission line route application, and filed multiple comments for scoping and the DEIS.<sup>67</sup>
120. The ALJ’s Recommendation, when referencing DNR comments, did not cite hearing exhibits, and instead twice cited the non-record individual DNR comments, and

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<sup>66</sup> See also *Loper Bright Enterprises, et al. v. Gina Raimondo, Secretary of Commerce, et al, Relentless, Inc. et al. v. Department of Commerce, et al.*, 603 U.S. 369, 144 S. Ct. 2244, June 28, 2024, online at [https://www.supremecourt.gov/opinions/23pdf/22-451\\_7m58.pdf](https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf)

<sup>67</sup> Hearing Exhibit EERA-4 183-220 of 227 pages – note the DNR Comments are within the jumble of public comments within that 227 page exhibit.

at other times, cited Xcel’s “Response Comment” which mischaracterized the DNR’s Mississippi River crossing preferences and omitted reference to preference of the Purple Route or Route Segment 246. See Xcel Energy Response to Hearing Comments, December 13, 2025, online at PUC eDockets [202412-212990-02](#).

121. In the Xcel Energy Response Comment cited by the ALJ, Xcel concocted the notion of a “DNR Proxy Route, which, as above, omitted reference to the DNR’s Mississippi River crossing preference of the Purple Route or Route Segment 246. Id.

122. Omission of the DNR’s “strong preference” of Purple Route or Route Segment 246 in narrative and charts, included in the ALJ’s Recommendation, Exceptions, Staff Briefing Papers, and the Commission’s ultimate order, channeled the Mississippi River crossing to use of Xcel Energy’s preferred Blue Route and the new crossing of the Mississippi.

## **IX. AVAILABLE ALTERNATIVES RULE OUT AN AFFIRMATIVE DEFENSE**

123. Where Cabrerias have made a prima facie showing, the PUC and Xcel Energy may rebut that showing by providing contradictory evidence.

124. Defendants PUC and Xcel may also rebut with:

... an “affirmative defense, that there is no feasible and prudent alternative and the conduct at issue is consistent with and reasonably required for promotion of the public health, safety, and welfare in light of the state’s paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction.

Minn. Stat. § 116B.04(b).

125. The Defendants’ MERA-required “affirmative defense” to the plaintiff’s “prima facie showing” requires its proof that both (1) there is “no feasible and prudent alternative” to “the conduct at issue” and (2) “the conduct at issue” is “consistent with

and required for promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction." Minn. Stat. §116B.04(b).

126. As above, there are at least two feasible, reasonable, and prudent alternatives, alternatives that were both "strongly preferred" by the DNR, the Purple Route crossing and Route Segment 246. Again, neither was included in Xcel Energy's "DNR Proxy Route" and given due consideration by the ALJ, Commerce-EERA, PUC Staff, and/or the Commission.

127. Alternatives such as the Purple Route and Route Segment 246 may be excluded, but only if they meet any of the following criteria:

- Underlying need for or purpose of the project is not met.
- Significant environmental benefit over the proposed project is not provided.
- Another alternative is likely to be similar in environmental benefits but will have lesser socioeconomic impacts.

128. The feasible and prudent alternatives of the Purple Route and Route Segment 246 do not meet any of the exclusionary criteria.

129. In making a defense to the Cabrera's challenges, an important statutory consideration is that "(e)conomic considerations alone shall not constitute a defense hereunder." Minn. Stat. § 116B.04(b).

130. The Minnesota Energy Connection is overtly an economic based project, and the "need" for the project is stated clearly: Xcel's desire to "preserve its valuable interconnection rights."<sup>68</sup> There is no electrical reliability basis for this project. In fact, this project, as an approximately 180 mile radial line, increases instability of the

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<sup>68</sup> See e.g., Xcel Energy's Minnesota Energy Connection Routing Application, online at PUC eDockets – Narrative: [202310-199981-02](#)

regional grid, so much so that series compensation<sup>69</sup> must be added midway to provide voltage support at a cost of \$85.4 million.

Table 1  
Cost Cap Costs (millions 2024\$)  
Inclusive of Allowed Funds Used During Construction

Transmission Line Route Option/ Substations	Commission Approved Route 180 Miles	Purple Route / Green Segment Estimated Cost 174 Miles	Blue Route / Green Segment Estimated Cost 178 Miles	Preferred Route Estimated Cost 178 Miles
Transmission Line	\$851.5	\$811.7	\$783.7	\$789.0
Green Segment	\$6.6	\$6.6	\$6.6	\$6.6
Sherco Solar West Substation Modifications	\$12.7	\$12.1	\$12.1	\$12.1
Sherco Substation Modifications	\$11.1	\$10.6	\$10.6	\$10.6
Voltage Support Substation	\$85.4	\$85.4	\$85.4	\$85.4
Intermediate Substation	\$19.3	\$19.3	\$19.3	\$19.3
Garvin Substation	\$356.4	\$356.4	\$356.4	\$356.4
Management Reserve	\$24.0			
<b>Total</b>	<b>\$1,367</b>	<b>\$1,302</b>	<b>\$1,274</b>	<b>\$1,279</b>

Xcel Energy, Compliance – Updated Project Cost Estimates, p. 2, September 5, 2025.

**X. THERE ARE AT LEAST TWO FEASIBLE AND PROUECT PROJECT ALTERNATIVES**

131. As required for consideration under MERA, there are reasonable alternatives to the Blue Route Mississippi River crossing preferred by Xcel Energy and ultimately chosen by the PUC.

132. At least four alternatives to the Project have been considered in the EIS, and two of the route segments, the Purple Route Mississippi crossing and the Route Segment 246 crossing were “strongly preferred” by the DNR, yet not included in the charts showing

<sup>69</sup> Series Compensation is to be installed at a “Voltage Support” substation. From the application:

c. Voltage Support (Series Compensation) Substation

Xcel Energy proposes to construct a new 345 kV voltage support substation. This substation is currently proposed to include a Series Capacitor and one 150 MVAR STATCOM system per line. Selection of voltage support equipment will be dependent on the technologies available at the time of construction and the resources selected to interconnect to the line. A control building and road access will also be constructed at the site.

Xcel Energy Route Application, p. 27, online at eDockets [202310-199981-02](#); Hearing Exhibit Xcel-18, Direct Testimony of Jason Standing, p. 4-5, online at eDockets [20249-210020-04](#).



length of routes, cost comparisons, and residence counts, etc..

133. Either of these alternatives, the Purple Route Mississippi crossing and Route Segment 246, would create substantially less negative impact on natural resources than the Blue Line crossing. For example, the many mature trees along Mississippi River, and directly on the route selected by Xcel and the PUC provide an important ecosystem service that includes heat island mitigation, stormwater absorption, carbon sequestration, wildlife habitat, and improved airquality. Each of the impacts raised by the DNR in comments is likely if the transmission line is routed on the Blue Route over the Mississippi River.

**XI. THE DNR NOTED LIKELY LAND AND SOIL IMPACTS IN COUNTY SHORELAND AND BLUFFLAND PROTECTION ZONE.**

134. The Project will cause and contribute to significant negative impacts to the land and shoreline soils adjacent to the Mississippi River with the threat of additional erosion and destruction of land and soils caused by the removal of protective trees and vegetation and increase of impervious surface in close proximity to the shore. Frequent high water and ice heaving threatens the land, soil, and alters the pathway of the river.
135. Climate change increases extreme weather events such as heat waves so that large storms will become more frequent and more intense. A higher percentage of precipitation in Minnesota will come in the form of intense single-day events.
136. The proposed Project will have long term adverse effects on the land and soils along the shore impact and shoreland zone of the Mississippi River.
137. Areas of the transmission corridor travel through locations identified as floodplains.<sup>70</sup>

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<sup>70</sup> Stearns County GIS, select “floodplain” layer: <https://datafi.wsbeng.com/#!/prod/county!mn!stearns!public>

138. The Federal Emergency Management Association (FEMA) defines a floodplain as any area of land susceptible to being inundated by floodwaters from any source. This is typically the areas outside the channel or banks of a waterbody, but could be any kind of low-lying area of land. A floodplain’s natural functions impact storm runoff, water quality, vegetative diversity, wildlife habitat, and aesthetic qualities of our rivers and lakes. The Mississippi River floodplain is noted on the Stearns County GIS.<sup>71</sup>

## **CAUSES OF ACTION**

### **COUNT ONE: DECLARATORY JUDGMENT UNDER MERA**

139. Plaintiffs Cabrerass incorporate all preceding paragraphs as if fully set forth herein.

140. The Plaintiffs satisfy their “prima face showing” under MERA that the Project “is likely to cause the pollution, impairment, or destruction of the air, water, land or other natural resources located within the state.” Minn. Stat. §116B.03.

141. The Cabrerass have satisfied their “prima facie showing” under Minn. Stat. Ch. 116B (Minnesota Environmental Rights Act - MERA) that the Project “is likely to cause the pollution, impairment, or destruction of the air, water, land, or other natural resources located within the state” given the State’s “paramount concern” for the environment. Minn. Stat. § 116B.04; *State of Minnesota by Smart Growth Minneapolis v. City of Minneapolis*, 954 N.W.2d 584, 596 (Minn. 2021).

142. The 3.2 mile section of the 185 mile Minnesota Energy Connection transmission line is likely to cause impairment and destruction of the protected Mississippi River.

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<sup>71</sup> Id.

143. The DNR's Comments state unequivocally, repeatedly, that its "strong preference" is use of an existing transmission line crossing, either the Purple Route or Route Segment 246.

144. In its first written comment, in 2023, the DNR states:

**Mississippi River Crossing**

The DNR strongly prefers a route that utilizes existing crossings over the Mississippi River, especially within a wild and scenic river (WSR) district. Of the route options provided, the only existing crossing is within Wright County. We would prefer this alternative. We would also like to understand if continuing northwest along I-94 and connecting to the northern route alternative that avoids the trout stream and forest impacts in southern Stearns County would be feasible.

Xcel Energy is involved in the development of multiple HVTL projects right now that may need to cross the Mississippi River to connect to the Sherco Solar Substation. We suggest greater coordination across projects to co-locate as many crossings as possible, especially if a new crossing within the WSR is deemed necessary. Please coordinate further with DNR as these projects move forward to identify the least impactful solution for all projects currently in development.

Please be aware that in Sherburne County, most of the Mississippi River bank within the WSR district is also in a Bluff Impact Zone and may be subject to additional restrictions.

Hearing Exhibit Xcel-5, Appendix E of Route Permit Application (Revised), DNR Comment 7/10/2023, p. 28 of 110 (full Comment p. 27-33).

145. The initial written DNR Comment requested greater coordination with and from Xcel:

Xcel Energy is involved in the development of multiple HVTL projects right now that may need to cross the Mississippi River to connect to the Sherco Solar Substation. We suggest greater coordination across projects to co-locate as many crossings as possible, especially if a new crossing within the WSR is deemed necessary. Please coordinate further with DNR as these projects move forward to identify the least impactful solution for all projects currently in development.

Hearing Exhibit Xcel-5, Appendix E of Route Permit Application (Revised), DNR Comment 7/10/2023, p. 28 of 110 (full Comment p. 27-33).

146. That coordination did not occur:

Our agency is disappointed that there was not greater coordination across other Xcel Energy transmission line projects that connect to the Sherco Solar Substation. If a new crossing within the WSR district is necessary, it should be combined with other crossings of the Mississippi River to lessen the impact to WSR district. These impacts include altering the viewshed of this natural area, removing trees that are important to bank and bluff stability, and fragmenting sites that are mapped as Minnesota Biological Survey (MBS) sites of biodiversity significance.

Hearing Exhibit EERA-4, Document 20243-204514-03, p. 184-185 (of 227 page pdf).

147. Xcel Energy, the PUC, and Commerce-EERA did not give adequate consideration to the Comments of the DNR and the likely harm use of Xcel Energy's preferred Blue Route crossing would cause to the Mississippi River, a protected natural resource.

148. Xcel Energy, the Public Utilities Commission, and Commerce-EERA erroneously made avoidance of compensable residences a higher priority than protection of the state's non-compensable natural resources.

**THERE ARE FEASIBLE AND PRUDENT ALTERNATIVES AVAILABLE**

149. As above, there are at least two feasible and prudent alternatives available as an environmentally protective alternative to the Blue Route crossing of the Mississippi that have been evaluated in the Environmental Impact Statement, specifically DNR's strongly preferred Purple Route or Route Segment 246.

150. In its Comments, the DNR repeatedly stated it "strongly prefers a route that uses existing crossings over the Mississippi River, especially within a Wild and Scenic River (WSR) district. Minn. Stat. §103F.301." "Of the route options provided, the Purple Route in Wright County is the only route that uses an existing crossing. Our agency supports only the Purple Route crossing of the Mississippi River." Hearing Exhibit EERA-4, Document 20243-204514-03, p. 184 (of 227 page pdf). This comment was made long before the Draft Environmental Impact Statement was released which added Route Segments 244, 245 and 246. In later Comments, the DNR "strongly preferred" either the Purple Route, as above, or Route Segment 246, both of which utilized existing corridors to cross the Mississippi River.

151. The project's Mississippi River crossing is not compliant with the Public Utilities

Commission's own transmission routing rules requiring that:

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.

Minn. R. 7850.4300, see also Minn. R. 6120.3300, Subp. 5 (2015); Minn. R. 6120.5900 (2008).

152. A transmission crossing of a state protected Wild and Scenic and Recreational river and State Water Trail with shoreland protective land-use ordinances on both sides of the river is not the purpose for which the area was designated, and this crossing would materially damage or impair its purpose.
153. The Project's 3.2 mile segment length of the 18.5 mile Blue Line route that includes the Mississippi River crossing is crossing a protectable natural resources pursuant to Minn. Stat. § 116B.02.
154. The transmission project's crossing of the Mississippi is likely to materially adversely affect the environment by the pollution, impairment, or destruction of protectable natural resources located at and surrounding the project area within the meaning of MERA. Minn. Stat. § 116B.03.
155. The construction of the Minnesota Energy Connection's Mississippi River crossing using the Blue Line route as proposed will pollute, impair, or destroy natural resources by materially despoiling the water quality, air quality, historic resources, and scenic and aesthetic resources, in and around Stearns and Sherburne County, State of Minnesota.
156. The Public Utilities Commission has permitted, and Xcel Energy is constructing a Project that is likely to have a material adverse effect on protectable natural resources

and the construction would violate MERA.

157. As shown above, the Cabrerias have met their MERA-required “prima face showing.”

158. As shown above, the Cabrerias are further entitled to both (1) an immediate injunction enjoining Xcel Energy’s implementation and construction of the Project and (2) an order remanding to the PUC for amending the routing permit and ordering utilization of one of the available alternative routes to the Blue Route for the Mississippi River Crossing.

159. If modification to an alternative route is necessary and requires a supplemental EIS, that environmental review must be performed.

**COUNT TWO: INJUNCTIVE RELIEF UNDER MERA**

160. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

161. As Xcel Energy prepares to build this transmission line, securing land rights, taking soil samples, and other pre-construction activities, the Project poses a continuing and mounting threat to protectable natural resources including the Mississippi River and area surrounding the Blue Line crossing, in violation of MERA, and therefore cannot and should not be allowed in the manner and at the location planned, proposed, and approved. If Xcel Energy proceeds with securing land rights, preparation for construction, and construction, the natural resource of the Mississippi River will be harmed.

162. Based on the Minnesota Environmental Rights Act and the harms likely to occur, validated by the DNR, the agency charged with protection of natural resources, the Cabrerias have a high likelihood of success on the merits.

163. The balance of harms weighs in favor of need for protection of the natural



resources, as this section of the line in question is a 3.5 mile segment of a 185 mile transmission line; preparation work has barely begun, and Xcel Energy will not suffer harm if an alternate route is used, particularly when compared with environmental harms is the Blue Route crossing is used.

164. Protection of the Mississippi River, a primary natural resource of the state, is in the public interest.

165. Based on the foregoing and all materials to be submitted to the Court, Plaintiffs are entitled to temporary and permanent declaratory and injunctive relief regarding the threats posed by the Project to protected natural resources.

166. Because, as shown above, Plaintiffs have met their “prima facie showing,” a MERA claim has been stated and “relief” is compelled.

167. In the time since the transmission line route was permitted, Xcel Energy has begun to move forward with routing, securing easements, testing soils, working on final engineering, finalizing purchasing and scheduling.

168. Thus far, little or no activity has been observed near the Blue Line Mississippi River Crossing.

169. Because preparatory activity is anticipated in the immediate future, it is necessary to secure the status quo of this short 3.2 mile section of the 185 mile transmission project during the pendency of this proceeding.

### **PRAYER FOR RELIEF**

Plaintiffs respectfully request the following relief:

- a. A declaration in favor of Plaintiffs against the Public Utilities Commission and Xcel Energy that they have satisfied their MERA-required "prima facie showing" that the Project "is likely to cause the pollution, impairment, or destruction of the air, water, land or other

natural resources located within the state."

- b. A declaration in favor of Plaintiffs against the Public Utilities Commission and Xcel Energy that they have satisfied their MERA-required "prima facie showing" that the Project will violate environmental quality rules or standards and is thereby likely to cause the pollution, impairment, or destruction of the air, water, land or other natural resources located within the state.
- c. A temporary and permanent injunction immediately enjoining the Public Utilities Commission and Xcel Energy from constructing the Project during the pendency of this proceeding; and
- d. A recovery by Plaintiffs against the Public Utilities Commission and Xcel Energy of their reasonable costs, disbursements, and attorney fees incurred in bringing and successfully prosecuting this MERA action.
- e. Such other legal and equitable relief deemed appropriate by this Court.

LEGALECTRIC



Dated: November 10, 2025

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### **ACKNOWLEDGEMENT**

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.21, Subd. 1, costs, disbursements and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that it is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass; or committed a fraud upon the Court.

LEGALECTRIC/OVERLAND LAW OFFICE



Dated: November 10, 2025

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## APPENDIX A

Reference (not fn #)	Description
1	Xcel Energy's Minnesota Energy Connection Route Application, October 20, 2025, online at PUC eDockets <a href="#">202310-199981-02</a> (Hearing Exhibit 3)
2	Xcel Energy's Minnesota Energy Connection Revised Certificate of Need Application, May 18, 2023, online at PUC eDockets <a href="#">20235-195956-02</a> (Not entered as Hearing Exhibit)
3	Evidentiary Hearing Combined Hearing Exhibit List, eDockets <a href="#">202410-211371-01</a> , filed by Xcel 10/28/2024.
4	Evidentiary Hearing Transcript, November 11, 2024 – attached to Complaint
5	ALJ Recommendation, February 5, 2025, online at PUC eDockets <a href="#">20252-214994-01</a>
6	PUC - Order Modifying and Adopting Administrative Law Judge Report, Granting Certificate Of Need, and Issuing Route Permit for the Minnesota Energy Connection Project, June 11, 2025, online at PUC eDockets <a href="#">20256-219826-01</a>
7	PUC Order, Map 5 of 60, pdf p. 67 of 140, filed June 11, 2025 <a href="#">20256-219826-01</a>
8	Cabrera Comments, November 25, 2024 <a href="#">202411-212348-01</a> and <a href="#">202411-212349-01</a> ; February 20, 2024 <a href="#">20242-203668-02</a> ; February 21, 2024 <a href="#">20242-203670-02</a> ; Kimball Public Meeting, Comment, Transcript, pps. 27-30, January 31, 2024; Redwood Falls Public Hearing, Transcript pps. 55-57, November 7, 2024.
9	State Register Notice of Permit Decision, September 9 2025, online at PUC eDockets <a href="#">20259-222815-01</a>
10	EQB Monitor Notice of Permit Decision, September 9, 2025, online at PUC eDockets <a href="#">20259-222815-02</a>
11	PUC Mission <a href="https://mn.gov/puc/about-us/what-we-regulate/background/">https://mn.gov/puc/about-us/what-we-regulate/background/</a>
12	PUC, Consent Order, May 2, 2023 available online at PUC eDockets <a href="#">20235-195506-01</a> .
13	Dept. of Commerce Mission: Online at <a href="https://mn.gov/commerce/about/">https://mn.gov/commerce/about/</a>
14	PUC Consent Order, Exemptions, p. 1-2, June 28 2022, online at PUC eDockets <a href="#">20226-186932-01</a> .
15	Dept. of Natural Resources Mission and charge: <a href="https://www.dnr.state.mn.us/aboutdnr/mission.html">https://www.dnr.state.mn.us/aboutdnr/mission.html</a>
16	Mississippi Scenic Riverway Management Plan, online at <a href="https://files.dnr.state.mn.us/waters/watermgmt_section/wild_scenic/missplan_07-01-2004.pdf">https://files.dnr.state.mn.us/waters/watermgmt_section/wild_scenic/missplan_07-01-2004.pdf</a>
17	Final Environmental Impact Statement – Main Text <a href="#">20251-214220-01</a> , and <a href="#">20251-214220-02</a> , <a href="#">20251-214220-03</a> , <a href="#">20251-214220-04</a> , <a href="#">20251-214220-05</a> , <a href="#">20251-214220-06</a> , <a href="#">20251-214220-07</a> , <a href="#">20251-214220-08</a> , <a href="#">20251-214220-09</a> , <a href="#">20251-214220-10</a> , <a href="#">20251-214220-11</a> , <a href="#">20251-214220-12</a> , <a href="#">20251-214220-13</a> .

18	Combined Hearing Exhibits, Xcel-5, Route Permit Application Appendix E ( <a href="#">202310-199993-01</a> )
19	Hearing Exhibit Xcel- Direct Testimony of Langan, online at PUC eDockets <a href="#">20249-210020-02</a> .
20	Hearing Exhibit Xcel-19 at 4, Langan Surrebuttal.eDockets <a href="#">202410-211225-02</a>
21	DNR Watertrail Map <a href="https://www.dnr.state.mn.us/watertrails/mississippiriver/segments-maps.html#map8">https://www.dnr.state.mn.us/watertrails/mississippiriver/segments-maps.html#map8</a>
22	DNR Interactive Watertrail Map <a href="https://www.dnr.state.mn.us/watertrails/interactive_map/index.html">https://www.dnr.state.mn.us/watertrails/interactive_map/index.html</a>
23	Stearns County Ordinance 439 Stearns County Ordinance 439, Article 12 <a href="https://www.ci.stcloud.mn.us/DocumentCenter/View/4077/Article-12---Overlay-Districts-and-Designated-Areas-7-08-24">https://www.ci.stcloud.mn.us/DocumentCenter/View/4077/Article-12---Overlay-Districts-and-Designated-Areas-7-08-24</a> ; <a href="https://content.civicplus.com/api/assets/8b957cd1-a288-4d0f-89b7-41e899d17730">https://content.civicplus.com/api/assets/8b957cd1-a288-4d0f-89b7-41e899d17730</a>
24	DNR Canoe Routes <a href="https://files.dnr.state.mn.us/maps/canoe_routes/mississippi8.pdf">https://files.dnr.state.mn.us/maps/canoe_routes/mississippi8.pdf</a>
25	Stearns County GIS, 300' overlay: <a href="https://datafi.wsbeng.com/#!/prod/county!mn!stearns!public">https://datafi.wsbeng.com/#!/prod/county!mn!stearns!public</a>
26	Stearns County Ordinance 439, Article 12 <a href="https://www.ci.stcloud.mn.us/DocumentCenter/View/4077/Article-12---Overlay-Districts-and-Designated-Areas-7-08-24">https://www.ci.stcloud.mn.us/DocumentCenter/View/4077/Article-12---Overlay-Districts-and-Designated-Areas-7-08-24</a> ; Summary at: <a href="https://content.civicplus.com/api/assets/8b957cd1-a288-4d0f-89b7-41e899d17730">https://content.civicplus.com/api/assets/8b957cd1-a288-4d0f-89b7-41e899d17730</a>
27	Sherburne County GIS Shoreland Overlay District Sherburne County GIS Shoreland Overlay District: <a href="https://data-sherburnegis.opendata.arcgis.com/datasets/shoreland-district/explore?location=45.435542%2C-93.999355%2C10.94">https://data-sherburnegis.opendata.arcgis.com/datasets/shoreland-district/explore?location=45.435542%2C-93.999355%2C10.94</a>
28	PUC - Order, In the matter of the 2020-2034 Upper Midwest Integrated Resource Plan of Northern States Power Company d/b/a Xcel Energy, Docket No. E-002/RP-19-368, April 15, 2022, PUC eDockets <a href="#">20224-184828-01</a>
29	Hearing Exhibit Xcel-20, Surrebuttal Testimony of Joseph Samuel, p.3, online at eDockets <a href="#">202410-211225-03</a>
30	Hearing Exhibit Xcel 17, Direct Testimony of Joseph Samuel, p. 4-5, online at eDockets <a href="#">20249-210020-03</a>
31	Hearing Exhibit Xcel-3, Route Permit Application, pps.3, 17, 18, 20, 22, 63 (valuable interconnection rights) online at PUC eDockets <a href="#">202310-199981-02</a>
32	Xcel Energy's Minnesota Energy Connection Revised Certificate of Need Application, pps. 1, 3-5, 13-17, 20-21, 40, 43, 44, 57, 71,75-76, May 18, 2023, online at PUC eDockets <a href="#">20235-195956-02</a> (not entered as Hearing Exhibit).
33	Xcel Energy Compliance – Updated Project Cost Estimates, September 5, 2025, online at eDockets <a href="#">20259-222726-01</a>
34	Evidentiary Hearing Combined Hearing Exhibit List, EERA-4, DNR Comments in filing of Public Scoping Comments, eDockets <a href="#">20243-204514-03</a>
35	DNR Comments, February 21, 2024, Hearing Exhibit EERA-4, p. 184-185 of 227, online at PUC eDockets <a href="#">20243-204514-01</a>

36	Hearing Exhibit EERA-9, Scoping Decision, Appendix B, Maps, in the DEIS on map 2.19, in Part 2, online at PUC eDockets <a href="#">20245-206732-04</a> .
37	FEIS, Map 3-20, p. 22 of 67, “Map 1-8,” online at eDockets <a href="#">20251-214220-02</a> .
38	Written comments of Miguel Cabrera November 25, 2024 <a href="#">202411-212348-01</a> , Written Comments of Shannon Cabrera, November 25, 2024 <a href="#">202411-212349-01</a> . Shannon and Miguel Cabrerass’ Scoping Comment, February 20, 2024 <a href="#">20242-203668-02</a> ; Cabrerass Scoping Comment, February 21, 2024 <a href="#">20242-203670-02</a> ; Miguel Cabrera Comment, Kimball Public Meeting, Comment, Transcript, pps. 27-30, January 31, 2024. See also Miguel Cabrera, Public Hearing Comment, Redwood Falls, transcript pps. 55-57; and November 7, 2024.
39	Hearing Exhibit EERA-12, DEIS Maps, Appendix N P-11, map N 206 <a href="#">202410-210806-13</a> ; DEIS, Full Text, p. 432, <a href="#">202410-210801-01</a>
40	Xcel Energy Response to Hearing Comments, December 13, 2025, online at PUC eDockets <a href="#">202412-212990-02</a> .
41	Written comments of Miguel Cabrera November 25, 2024 <a href="#">202411-212348-01</a>
42	Written Comments of Shannon Cabrera, November 25, 2024 <a href="#">202411-212349-01</a> .
43	Shannon and Miguel Cabrerass’ Scoping Comment, February 20, 2024 <a href="#">20242-203668-02</a>
44	Cabrerass Scoping Comment, February 21, 2024 <a href="#">20242-203670-02</a>
45	Miguel Cabrera Comment, Kimball Public Meeting, Comment, Transcript, pps. 27-30, January 31, 2024
46	Miguel Cabrera Comment, Redwood Falls Public Hearing, Transcript pps. 55-57, November 7, 2024
47	Melody Vachon, Kimball Public Hearing, Transcript pps. 74-75, October 30, 2024
48	Robert Klaverkamp, Kimball Public Hearing, Transcript pps. 73-75, 10/30/24
49	Executive Order – Wetlands Protection <a href="https://www.epa.gov/cwa-404/protection-wetlands-executive-order-11990">https://www.epa.gov/cwa-404/protection-wetlands-executive-order-11990</a>
50	Ron Schabel, Monticello Public Hearing, Transcript pps. 26-27, October 29, 2024.
51	Transcript, Prehearing Conference 2, p. 7, May 17, 2024
52	Hearing Exhibit Xcel-18, Direct Testimony of Jason Standing, p. 4-5 series compensation, <a href="#">20249-210020-04</a> .
53	Xcel Energy Route Application, p. 27, series compensation, online at eDockets <a href="#">202310-199981-02</a>
54	Stearns County GIS, select “floodplain” layer: <a href="https://datafi.wsbeng.com/#!prod/county!mn!stearns!public">https://datafi.wsbeng.com/#!prod/county!mn!stearns!public</a>



1 EVIDENTIARY HEARING - 22-131 & 22-132 - 11-12-24  
2 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
3 OF THE STATE OF MINNESOTA  
4 FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
5  
6

7 In the Matter of the Route Permit Application for the  
8 Minnesota Energy Connection Project in Sherburne,  
9 Stearns, Kandiyohi, Wright, Meeker, Chippewa, Yellow  
10 Medicine, Renville, Redwood, and Lyon Counties in  
11 Minnesota

12 OAH DOCKET NO. 23-2500-39782  
13 PUC DOCKET NO. E-002/TL-22-132  
14

15 Virtually through WebEx and in  
16 Person at the Public Utilities Commission  
17  
18

19 Met, pursuant to Notice, at 10:00 in the  
20 morning on November 12, 2024.  
21  
22  
23

24 BEFORE: Judge Suzanne Todnem

25 REPORTER: Janet Shaddix Elling, RPR

1 APPEARANCES:

2 HALEY WALLER PITTS and LISA AGRIMONTI,  
3 Attorneys at Law, Fredrikson and Byron,  
4 hwallerpitts@fredlaw.com, lagrimonti@fredlaw.com,  
5 appeared for and on behalf of the Applicant.

6 XCEL ENERGY: Matt Langan

7 EERA STAFF: Andrew Levi

8 PUC STAFF: Scott Ek  
9  
10  
11  
12

13 WHEREUPON, the following proceedings were  
14 duly had and entered of record, to wit:  
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1 JUDGE TODNEM: All right. It is 10:00  
2 a.m. so we can get started.

3 This is the evidentiary hearing In the  
4 Matter of the Request for a Certificate of Need and  
5 Route Permit for the Minnesota Energy Connection  
6 Project in Sherburne, Stearns, Kandiyohi, Wright,  
7 Meeker, Chippewa, Yellow Medicine, Renville,  
8 Redwood, and Lyon Counties.

9 This is OAH Docket Number 23-2500-39782  
10 and PUC Docket Number E-002/TL-22-132, and the  
11 companion case number E-002/CN-22-131.

12 Today is November 12th, 2024, and it's  
13 10:00 a.m. We have convened in the small hearing  
14 room at the Offices of the Minnesota Public  
15 Utilities Commission.

16 My name is Suzanne Todnem and I'm an  
17 Administrative Law Judge with the Office of  
18 Administrative Hearings.

19 At this time I'd like the parties to  
20 state your appearances for the record, beginning  
21 with the Applicant.

22 MS. HALEY WALLER PITTS: Good morning,  
23 Your Honor.

24 Haley Waller Pitts, Fredrikson & Byron,  
25 on behalf of Xcel Energy.

1 MR. MATT LANGAN: Matt Langan, on behalf  
2 of Xcel Energy.

3 JUDGE TODNEM: Thank you.

4 And for Commerce?

5 MR. ANDREW LEVI: Andrew Levi, with the  
6 Minnesota Department of Commerce Energy  
7 Environmental Review and Analysis.

8 JUDGE TODNEM: Thank you.

9 And -- okay.

10 MR. SCOTT EK: Scott Ek, with the  
11 Minnesota Public Utilities Commission.

12 JUDGE TODNEM: Thank you.

13 The Office of Administrative Hearings is  
14 an independent agency in state government. It is  
15 not a part of or affiliated with the Minnesota  
16 Public Utilities Commission, the Minnesota  
17 Department of Commerce, or the Applicant in this  
18 matter.

19 The purpose of this hearing is to further  
20 develop evidence and argument on the issues in this  
21 case, which is whether Xcel Energy's application for  
22 the certificate of need and route permit should be  
23 approved by the Commission.

24 Xcel Energy has made an application to  
25 the Commission for a certificate of need for the

1 construction of a new 345 kilovolt double-circuit  
2 transmission line in Minnesota from the existing  
3 Sherburne County Generation Substation in the city  
4 of Becker, Minnesota to a new substation that would  
5 be built near the town of Garvin Minnesota.

6 The proposed high voltage transmission  
7 line is approximately 175 to 180 miles in length.  
8 The proposed transmission line qualifies as a large  
9 energy facility under Minnesota law.

10 Combined public hearings were held on  
11 October 29th and 30th and November 6th and 7th.

12 This project is being evaluated in  
13 combined proceedings before the Commission and the  
14 Office of Administrative Hearings.

15 That is, Xcel Energy's request for the  
16 issuance of the certificate of need and the route  
17 permit application were both addressed at the public  
18 hearings, as well as the Draft EIS, and will be  
19 addressed at this evidentiary hearing.

20 This hearing will address the question of  
21 whether Xcel Energy has established that its project  
22 meets the criteria of law and rule for the issuance  
23 of a certificate of need and, if so, what proposed  
24 route best meets statute and rule criteria.

25 According Minnesota Statute Section

1       216B.243, subdivision 3, no proposed large energy  
2       facility shall be certified for construction unless  
3       the Applicant can show that demand for electricity  
4       cannot be met more cost-effectively through energy  
5       conservation and load management measures, and  
6       unless the Applicant has otherwise justified its  
7       need.

8               In assessing need, the Commission shall  
9       evaluate the 12 factors set forth in Minnesota  
10      Statute 216B.243, subdivision 3, and the additional  
11      criteria set forth in Minnesota Rule Part 7849.0120.  
12      And pursuant to Minnesota Statute Section 216E.03,  
13      no person may construct a high voltage transmission  
14      line without a route permit from the Commission. A  
15      high-voltage transmission line may be constructed  
16      only along a route approved by the Commission.

17             In assessing proposed routes, the  
18      Commission shall evaluate the 14 factors in  
19      Minnesota Rule Part 7850.4100.

20             The Applicant, Xcel Energy, has the  
21      burden to show by a preponderance of the evidence  
22      that its proposed project meets each of the criteria  
23      prescribed by law and rule.

24             I have been assigned by the Commission to  
25      preside over this hearing to compile a record for

1 the Public Utilities Commission to consider in  
2 making a final decision on the Applicant's request  
3 for a certificate of need and route permit and to  
4 prepare a report consisting of findings of fact,  
5 conclusions of law, and recommendations on the route  
6 permit.

7 My report will apply the route permit  
8 criteria set forth in Minnesota Statute Section  
9 216E.03 and Minnesota Rule Part 7850.4100.

10 The purpose of my report is to summarize  
11 all the information presented in regard to the  
12 Applicant's request for a certificate of need and  
13 summarize and give a recommendation as to which  
14 proposed route should be selected if a certificate  
15 of need is granted by the Commission.

16 In order to ensure a fair disposition of  
17 this matter, it is important that we compile a  
18 record of the evidence and arguments that is as  
19 complete and accurate as possible.

20 So Minnesota Rule Part 1400.7100 provides  
21 that all parties have the right to present evidence,  
22 rebuttal testimony, and argument with respect to the  
23 issues, and to cross-examine witnesses.

24 At this time I would like to ask the  
25 parties if they intend to offer witnesses and whom,



1 and starting with the Applicant?

2 MS. HALEY WALLER PITTS: Thank you, Your  
3 Honor.

4 Xcel Energy filed prefiled testimony from  
5 Mr. Langan, Mr. Standing, and Mr. Samuel. And we do  
6 not have any additional witnesses to call at this  
7 time.

8 JUDGE TODNEM: And from the Department of  
9 Commerce?

10 MR. ANDREW LEVI: The Department provided  
11 the Draft EIS and other information is -- prior to  
12 these meetings. I'm available to answer questions  
13 today.

14 JUDGE TODNEM: All right. And do the  
15 parties anticipate or have any questions?

16 MS. HALEY WALLER PITTS: No, Your Honor.

17 JUDGE TODNEM: All right.

18 MR. ANDREW LEVI: No, Your Honor.

19 JUDGE TODNEM: All right. Thank you.

20 So in that case, after this hearing the  
21 parties will have the opportunity to present written  
22 argument in the form of post hearing briefs. The  
23 briefing schedule is as follows: The deadline for  
24 the public to submit written comments is November  
25 25th, 2024. Electronically submitted comments need

1 to be received by 4:30 p.m. and mailed comments must  
2 be post-marked on or by November 25th, 2024. The  
3 deadline for parties to file post hearing briefs,  
4 proposed findings, and responses to hearing comments  
5 filed by the Applicant is December 13th, 2024. And  
6 the deadline to file post hearing reply briefs and  
7 revised proposed findings is December 23rd of 2024.  
8 The Final Environmental Impact Statement shall be  
9 issued on or by January 22nd, 2025, with  
10 supplemental party filings by January 29th, 2025.

11 After the close of the public comment  
12 period and briefing periods I will prepare a written  
13 report consisting of findings of fact, conclusions  
14 of law, and a recommendation as to which route,  
15 assuming the certificate -- or if a certificate is  
16 granted, the Commission -- which route the  
17 Commission should permit for this project.

18 My report, however, is not a final  
19 decision, it is a recommendation that the Commission  
20 will then make a final decision on the certificate  
21 of need and route permit application at a separate  
22 meeting.

23 You can anticipate that my report will  
24 issued on before February 6th, 2025, and a final  
25 decision by the Commission is anticipated to follow

1 in March of 2025.

2 All right. Are there any other questions  
3 or comments from the parties before we, I guess,  
4 conclude?

5 MS. HALEY WALLER PITTS: Nothing from  
6 Xcel Energy. Thank you.

7 MR. ANDREW LEVI: Nothing from the  
8 Department of Commerce.

9 JUDGE TODNEM: And anything from the  
10 Commission that I've missed or you'd like to ask?

11 MR. SCOTT EK: Thank you, Your Honor.  
12 Nothing from the Commission.

13 JUDGE TODNEM: All right. Then, with  
14 that, we are adjourned.

15 Thank you.

16 UNIDENTIFIEDS: Thank you.

17 (Proceedings concluded.)  
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1 STATE OF MINNESOTA)  
2 ) ss.  
3 COUNTY OF HENNEPIN)  
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5

6 REPORTER'S CERTIFICATE  
7  
8

9 I, Janet Shaddix Elling, do hereby  
10 certify that the above and foregoing transcript,  
11 consisting of the preceding 10 pages is a  
12 correct transcript of my stenographic notes, and is  
13 a full, true and complete transcript of the  
14 proceedings to the best of my ability.

15 Dated November 30, 2024.  
16  
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18

19 /s/Janet Shaddix Elling  
20 JANET SHADDIX ELLING  
21 Registered Professional Reporter  
22  
23  
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