

Staff Briefing Papers

Meeting Date: March 26, 2026

Agenda Item: **2

Company: Great River Energy, ITC Midwest LLC, and Northern States Power dba Xcel Energy

Docket: E002, ET2, ET6675/CN-25-117

In the Matter of the Application for a Certificate of Need for the PowerOn Midwest 765 kV and 345 kV High Voltage Transmission Line Project

- Issues:**
- Should the Commission accept the certificate of need application as substantially complete?
 - Should the Commission authorize review of the certificate of need application using the informal process or refer the matter to the Court of Administrative Hearings for contested case proceedings?
 - Should the Commission consider any additional procedural items?

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✓ **Relevant Documents**

Date

Minnesota Public Utilities Commission (Commission or PUC) Order on Notice Plan and Exemptions from Certain Certificate of Need Application Content Requirements

11/26/2025

The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

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Joint Application to the Minnesota Public Utilities Commission for a Certificate of Need for PowerOn Midwest (13 parts including 3 parts also filed as Trade Secret)	02/03/2026
Initial Comments: Shakopee Mdewakanton Sioux Community	01/23/2026
Initial Comments: Leech Lake Band of Ojibwe	02/13/2026
Initial Comments: Dale Thomforde	02/18/2026
Initial Comments: Kyle Johnson	02/23/2026
Initial Comments: Carol Overland/Legalectric	02/23/2026
Initial Comments: PUC Energy Infrastructure Permitting (EIP) Staff	02/23/2026
Initial Comments: Minnesota Department of Commerce Division of Energy Resources (Department)	02/23/2026
Initial Comments: Minnesota Center for Environmental Advocacy, Citizens Utility Board of Minnesota, Sierra Club, Clean Grid Alliance, and Fresh Energy (collectively, the Joint Commenters)	02/23/2026
Initial Comments: Midcontinent Independent System Operator, Inc. (MISO)	02/23/2026
Reply Comments: Dale Thomforde	02/27/2026
Reply Comments: Carol Overland/Legalectric	02/27/2026
Reply Comments: Carol Overland/Legalectric	03/02/2026
Reply Comments: Great River Energy, ITC Midwest LLC, and Xcel Energy (collectively, the Applicants)	03/02/2026
Supplemental Comments: Applicants	03/09/2026
Supplemental Comments: Department	03/09/2026
Supplemental Comments: Trevor Scrabeck	03/09/2026
Supplemental Comments: North Route Group (NRG) and NO765MN (Part 1 and Part 2)	03/09/2026

Petition for Intervention: NRG and NO765MN

03/09/2026

Supplemental Comments: Dale Thomforde

03/10/2026

I. ISSUES

- Should the Commission accept the certificate of need application as substantially complete?
- Should the Commission authorize review of the certificate of need application using the informal process or refer the matter to the Court of Administrative Hearings for contested case proceedings?
- Should the Commission consider any additional procedural items?

II. PROJECT BACKGROUND

The PowerOn Midwest Project proposed by Great River Energy, ITC Midwest LLC, and Xcel Energy (collectively, the Applicants) would involve construction and operation of new 765 kilovolt (kV) and 345 kV high-voltage electric transmission lines across southern Minnesota as part of a broader proposed 3,600-mile new and upgraded regional transmission network in the Midwest.

In Minnesota, the PowerOn Midwest Project would include the following components:

1. Approximately 271 miles of new single-circuit 765 kV high voltage transmission line proposed between:
 - the South Dakota/Minnesota border and the Lakefield Junction Substation (Jackson County) (approximately 92 miles);
 - the Lakefield Junction Substation and the Minnesota/Iowa border (approximately 18 miles);
 - the Lakefield Junction Substation and the Pleasant Valley Substation (Mower County) (approximately 130 miles); and

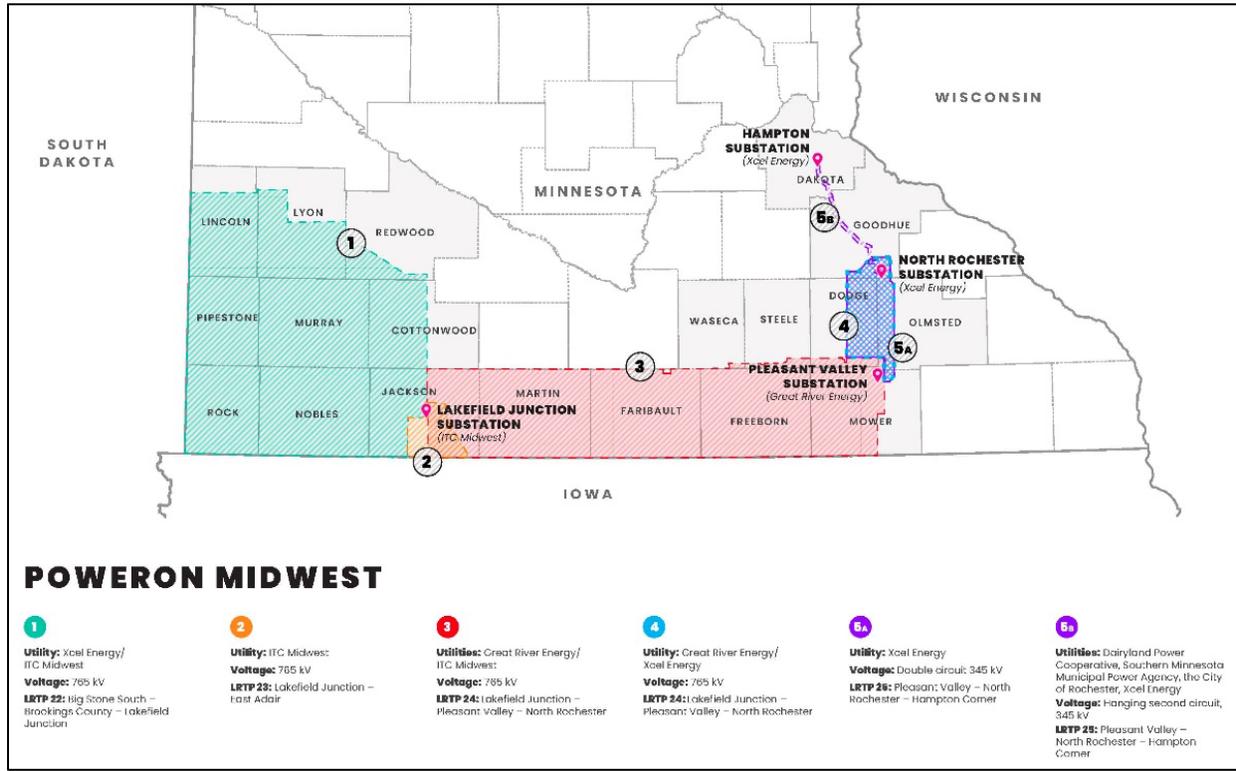
- the Pleasant Valley Substation and the North Rochester Substation (Goodhue County) (approximately 31 miles)
2. Approximately 31 miles of new 345 kV circuit between the Pleasant Valley Substation and the North Rochester Substation, accomplished by replacing existing single-circuit structures with new double-circuit-capable structures.
 3. A Second 345 kV circuit (approximately 38 miles) added between the North Rochester Substation and the Hampton Substation (Dakota County), using the existing double-circuit-capable structures.
 4. Expansions and upgrades at the Lakefield Junction, Pleasant Valley, North Rochester, and Hampton substations, including 345 kV transmission line connections between select existing and expanded substations.

The project is part of Midcontinent Independent System Operator, Inc. (MISO) Long Range Transmission Planning (LRTP) Tranche 2.1 Projects, approved in July 2024 under the MISO Transmission Expansion Plan 2024 (MTEP24). MISO and the Applicants have identified a need for up to 10,000 megawatts of additional electrical transmission capacity in Minnesota.

As described in the Certificate of Need Application and MTEP24, the project is intended to:

- address projected electric reliability overloads and support compliance with national electric reliability standards;
- improve efficiency in meeting current and future state and regional reliability needs;
- provide transmission capacity to serve forecasted residential, commercial, and industrial demand, thereby supporting long-term growth in Minnesota and the broader Midwest region; and
- support replacing aging or cost-inefficient generation with new generation resources, including carbon-free generation, while maintaining system reliability.

Project Overview Map



III. PROCEDURAL HISTORY

On November 26, 2025, in response to the Applicants’ October 1, 2025 request, the Commission issued an order approving the Applicants’ Notice Plan Petition and granting certain exemptions from the certificate of need application content requirements.

On February 2, 2026, the Applicants made a compliance filing describing the actions they took to implement the Commission-approved Notice Plan.

On February 3, 2026, the Applicants filed an application for a certificate of need for the proposed PowerOn Midwest Project.

On February 9, 2026, the Commission issued a notice requesting comments on: (1) whether the certificate of need application contained the information required under Minnesota Rules chapter 7849; (2) whether there are any contested issues of fact with respect to the representations made in the applications; and (3) whether the certificate of need application should be reviewed using the Commission’s informal process or be referred to the Court of Administrative Hearings for contested case proceedings. Initial comments were due February

23, 2026; reply comments were due March 2, 2026; and supplemental comments were due March 9, 2026.

By the close of the initial comment period, comment letters were filed by Energy Infrastructure Permitting (EIP) staff; the Minnesota Department of Commerce, Division of Energy Resources (Department); MISO; Minnesota Center for Environmental Advocacy, Citizens Utility Board of Minnesota, Sierra Club, Clean Grid Alliance, and Fresh Energy (collectively, the Joint Commenters); the Shakopee Mdewakanton Sioux Community; the Leech Lake Band of Ojibwe; Overland/Legalectric; and two interested members of the public (Thomforde and Johnson).

By the close of the reply comment period, comment letters were filed by the Applicants, Overland/Legalectric, and one interested member of the public (Thomforde).

By the close of the supplemental comment period, comment letters were filed by the Applicants; the Department; one interested member of the public (Scrabeck); and North Route Group (NRG) and NO765MN (NRG/NO765MN), represented by Carol Overland.

IV. RULES AND STATUTES

The statutes and rules relevant to certificate of need applications for large energy facilities that are high-voltage transmission lines include Minn. Stat. ch. 216B and Minn. R. chapters 7829 and 7849.

A. Requirements

Minn. Stat. § 216B.243, subd. 2, provides that no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the Commission. The proposed PowerOn Midwest Project meets the definition of a large energy facility because it would have a capacity greater than 200 kV and would be greater than 1,500 feet in length.

B. Application Completeness

Under Minn. R. 7849.0220, an application for a certificate of need for a large high-voltage transmission line must include all information required by parts 7849.0240, 7849.0260 to 7849.0340, and, if applicable, 7849.0270. The Commission may exempt certain data

requirements pursuant to Minn. R. 7849.0200, subp. 6.¹ Under Minn. R. 7849.0200, subp. 5, the Commission must notify the applicant within 30 days of the receipt of an application if the application is not substantially complete. On notification, the applicant may correct any deficiency and may resubmit the application. If the revised application is substantially complete, the date of its submission is considered the application date.

C. Procedural Treatment

Under Minn. R. 7829.2500, subp. 9, the Commission may choose one of two procedural methods to evaluate a certificate of need application: (1) the informal process designated under Minn. R. 7829.1200 (also known as the notice and comment process); or (2) referral to the Court of Administrative Hearings for contested case proceedings under Minn. Stat. §§ 14.57 et seq.

D. Environmental Report

Minn. R. 7849.1000 to 7849.2100, establish the requirements for preparing an environmental report for a large energy facility requiring a certificate of need. The environmental report describes the human and environmental impacts associated with the proposed project's size, type, and timing; evaluates system alternatives to the proposed project; and addresses measures to mitigate potential adverse impacts.

E. Timing

Under Minn. Stat. § 216B.243, subd. 5, the Commission must approve or deny a certificate of need application for a large energy facility within 12 months after an application is submitted. The Commission may extend that period for good cause or by consent of the parties.

V. COMMENTS

On February 9, 2026, the Commission issued a notice establishing comment periods on (1) the completeness of the certificate of need application and (2) the appropriate procedural framework for this matter. The notice provided for initial, reply, and supplemental comment periods.

¹ The Commission, in an Order dated November 26, 2025 (Exemptions Order, Document ID [202511-225329-01](#)), authorized exemptions from certain certificate of need application content requirements.

Comments were filed by EIP staff, the Applicants, the Department, MISO, the Joint Commenters, the Shakopee Mdewakanton Sioux Community, the Leech Lake Band of Ojibwe, Carol Overland/Legalectric, NRG/NO765MN, and three interested members of the public (Thomforde, Johnson, and Scrabeck). The comments are summarized below by decision topic: application completeness, procedural treatment, and administrative or other procedural requests.

A. Application Completeness

1. Comments Supporting Completeness or Identifying No Missing Information

EIP staff reviewed the environmental information required under Minn. R. 7849.0310 and concluded that the environmental information portion of the application is complete.

The Department recommended that the Commission find the application substantially complete. The Department also identified additional information it recommends the Applicants provide, as set out in Item D and Attachment 1 of its February 23 comment letter. However, the Department did not specify when that additional information should be submitted.

MISO and the Joint Commenters did not identify any missing information relevant to application completeness. MISO explained that the project is included in MISO's Long Range Transmission Planning (LRTP) Tranche 2.1 portfolio and stated that it reviewed portions of the application supporting the need for the project and found them accurate.

The Joint Commenters discussed the project's development through MISO's LRTP process and expressed general support for the project based on clean energy, reliability, and affordability objectives.²

The Shakopee Mdewakanton Sioux Community and the Leech Lake Band of Ojibwe likewise did not raise completeness concerns and instead provided consultation-related input. The Leech Lake Band of Ojibwe stated that it reviewed the project information consistent with its responsibilities under the National Historic Preservation Act and Section 106. Based on its records review, the Leech Lake Band of Ojibwe stated that it has no recorded historic properties within the project area, while noting that cultural resources may still be present.

² Joint Commenters Initial Comment Letter, February 23, 2026, Document ID [20262-228517-01](#).

2. Comments Asserting Incompleteness or Requesting Additional Information

Overland/Legalectric acknowledged that the application “arguably contains the information required” and is “essentially complete,” but nevertheless argued that the application should not be deemed complete. Her comments primarily objected to the Commission’s previously granted exemptions, expressed general opposition to the project, and critiqued the substance of the studies and analyses included in the application.

Interested members of the public Kyle Johnson, Dale Thomforde, and Trevor Scrabeck also did not identify any missing information required for an application completeness determination. Instead, they raised merits-based and policy concerns. Mr. Johnson and Mr. Thomforde primarily criticized the application’s alternatives analysis and proposed new additional alternatives including high-voltage direct-current (HVDC) configurations, undergrounding concepts, no-build options, and alternatives linked to other proposed projects. Mr. Scrabeck expressed general opposition to the project and urged the Commission to consider alternatives and rural impacts before granting a certificate of need, including a request to expand “buy the farm” eligibility and provide equitable compensation for property value loss.

In their initial comments in this docket, submitted as supplemental comments, NRG/NO765MN did not directly argue that the certificate of need application should be found incomplete. Instead, their filings appear to use certain alleged deficiencies in support of broader procedural requests, including a stay, intervention/discovery, consolidation or joint processing with other dockets/projects, and contested case referral.

3. Applicants’ Response

The Applicants recommended that the Commission find the application complete. In response to the Department, the Applicants stated that the additional information requested is not required for an application completeness determination and instead relates to broader questions requiring substantive analysis that is not available at this time. In response to Overland/Legalectric, Johnson, and Thomforde, the Applicants maintained that those critiques concern the merits of need and alternatives analysis rather than application completeness, and that additional alternatives may be proposed and evaluated during the environmental review scoping process. The Applicants also argued that Overland/Legalectric’s challenge to the previously granted exemptions is untimely and that the Commission’s Exemptions Order established the filing requirements governing completeness.

4. Staff Note

The Commission's Exemptions Order established the filing requirements applicable to completeness. Overland/Legalectric did not timely challenge that order through reconsideration, and it therefore remains in effect. The arguments contesting the exemptions fall outside the scope of this completeness review.

Reasonable alternatives, possibly including those identified by Mr. Johnson and Mr. Thomforde, may be proposed during environmental report scoping. Their critiques of the alternatives analysis and technology preferences in the application are more appropriately addressed during scoping and later phases of the proceeding rather than at the application completeness stage.

B. Procedural Treatment

1. Informal Process Recommended

The Department, MISO, and the Joint Commenters recommended that the Commission use the informal process to evaluate the application. They generally stated that they are not aware of contested issues of fact that would justify referral for contested case proceedings at this time.

2. Contested Case Recommended

Overland/Legalectric and NRG/NO765MN requested that the Commission refer the matter to the Court of Administrative Hearings for a contested case, and both broadly asserted that contested issues of fact exist regarding need, load forecasts, project costs, benefits, and alternatives. Staff does not believe the filings identify specific contested issues of fact with sufficient detail to demonstrate that contested case proceedings are necessary at this stage. However, the breadth of issues raised suggests that a contested case proceeding may warrant consideration later as the issues and positions are more fully developed.

Kyle Johnson and Dale Thomforde similarly argued that additional alternatives analysis is needed and proposed additional alternatives, but their filings likewise consist primarily of broad assertions and merits-based critiques rather than developed factual information demonstrating the need for contested case proceedings.

3. Applicants' Response

The Applicants recommended that the Commission proceed using the informal process and decline to refer the matter to the Court of Administrative Hearings at this time. They argued that commenters requesting a contested case (Overland/Legalectric, Johnson, and Thomforde) do not identify specific contested issues of fact that warrant contested case proceedings, and that many of the issues raised concern merits issues that will be further developed during environmental review and later stages of the proceeding. The Applicants also requested that any further contested case requests be raised through a petition to intervene and submitted before the close of the environmental scoping comment period so that the Commission may consider whether contested case proceedings are warranted when it determines the scope of the environmental report.

C. Administrative or Other Procedural Requests

1. Stay Certificate of Need Application and Combining with Another Docket

Overland/Legalectric and NRG/NO765MN requested that the Commission delay or stay the certificate of need proceeding until a route permit application is filed so that the matters may be processed together. Overland/Legalectric again asserted that “many contested issues of fact” exist, identifying broad topics such as need, load forecasts, project costs, capacity ratings, and alternatives; but did not fully develop those points. Overland/Legalectric also referenced Minn. Stat. § 216B.243, subd. 4, which provides for consideration of joint hearings on a certificate of need application and a route permit application.

In addition to staying the certificate of need application for the PowerOn Midwest Project, NRG/NO765MN, requested that the Commission stay the certificate of need application for another entirely different project/docket (the Gopher to Badger Project)³ and require consolidation or joint proceedings of the two dockets once all related route permit applications have been filed in each docket. NRG and NO765MN appear to rely primarily on Minn. R. 1400.6350 in support of their request to join these independent and separate dockets, while also citing Minn. Stat. § 216B.243, subd. 4 and Minn. Stat. § 216I.16 more generally in support of joint processing.

³ *In the Matter of the Application for a Certificate of Need for the Gopher to Badger Link 765 kV High Voltage Transmission Line Project*, PUC Docket ET3, E002/CN-25-121.

a. Applicants' Response

The Applicants disagreed with the request to stay the certificate of need proceeding and jointly process it with future route permit applications. The Applicants argued that joint hearings would not be “feasible or more efficient” because they plan to file three separate route permit applications beginning no earlier than February 2027, leaving roughly a year between the certificate of need filing and the first route permit filing. The Applicants further argued that a stay and joint processing would not serve the public interest because separate route permit proceedings would allow robust public participation and record development for each route under consideration.

Staff notes that the Applicants did not have an opportunity to respond to the filing by NRG/NO765MN because it was their initial filing in this matter and was submitted during the supplemental comment period.

b. Staff Note

With respect to Overland/Legalectric’s assertion that “many contested issues of fact” exist, staff again notes that the comments largely raise merits-based disagreements and do not identify specific contested issues of fact supported by developed information. Even if such issues were defined more clearly, staff does not believe that would justify staying the certificate of need proceeding for a year or more while waiting for the Applicants to file the route permit applications for the PowerOn Midwest Project.

Regarding Minn. Stat. § 216B.243, subd. 4, staff notes that the provision applies when both applications are before the Commission (*i.e.*, filed jointly). It does not require an applicant to file certificate of need and route permit applications simultaneously, nor does it require the Commission to stay a certificate of need proceeding until a route permit application is filed.

Regarding the request by NRG/NO765MN to join the PowerOn Midwest docket with the Gopher to Badger docket, staff notes that the request for joint or consolidated review of two separate projects appears both unusual and poorly supported. **These are distinct proceedings involving different applicants, different schedules, and different project-specific need determinations,** and combining them into a single review would likely create procedural confusion, reduce efficiency, and negatively affect public participation. In addition, the rules cited by NRG/NO765MN do not appear to directly support that request. Minn. R. 1400.6350 applies to consolidation of separate contested cases presenting substantially the same issues of fact and law; Minn. Stat. § 216B.243, subd. 4 addresses joint hearings on need and routing

when feasible and in the public interest; and Minn. Stat. § 216I.16 concerns public participation. None appears to provide a direct basis for combining two separate certificate of need dockets involving different projects.

2. Intervention and Discovery

NGO/NO765MN, in connection with their request for a stay and contested case proceeding, also requested intervention and the opportunity to conduct discovery so they could participate as parties. More specifically, they appear to request that the Commission stay the proceeding and delay active review of the application until a route permit application is filed, while at the same time allowing discovery on the merits to begin during that stay.

Staff notes that this appears unusual and procedurally difficult to support. A stay would generally suspend substantive review of the application, and staff is not aware of a clear procedural basis for allowing full merits discovery to proceed while the underlying application review is being held in suspension.

Instead, staff understands that if the Commission were to authorize a contested case proceeding, an Order for Hearing would be prepared referring the matter to the Court of Administrative Hearings, and the assigned administrative law judge would then determine the schedule and applicable procedural requirements, including intervention and discovery, pursuant to Minn. Stat. §§ 14.57 et seq.

3. Rule Variances

EIP staff recommended that the Commission vary Minn. R. 7849.1200 and 7849.1400 to reflect timing considerations and changes enacted in the Energy Infrastructure Permitting Act.

4. Noticing Matters

Overland/Legalectric requested additional notice to landowners and an extension of the completeness comment deadline, asserting that landowners did not receive the Commission's notice on completeness.

Staff notes that Minnesota statutes and rules do not require a public comment period on application completeness. As a best practice, the Commission has traditionally provided a short opportunity to comment and has consistently limited notice to the official service list, relevant state agencies, and tribal governments. Staff further notes that, if the Commission determines

the application is complete, it expects to mail notice to approximately 48,000 landowners informing them of the completeness decision and providing information about public information meetings. The Applicants similarly stated that landowner-wide notice occurs after a completeness determination and in connection with environmental review scoping and public hearings.

5. Tribal Coordination

The Shakopee Mdewakanton Sioux Community and the Leech Lake Band of Ojibwe requested continued coordination and the sharing of cultural resource information as it becomes available. In reply, the Applicants described additional outreach steps and stated that they have provided information to the Shakopee Mdewakanton Sioux Community and will continue coordinating with both tribal governments. The Applicants also stated that they have contacted the Ho-Chunk Nation and will add the Ho-Chunk Nation to the project mailing list.

VI. STAFF DISCUSSION

The following main issues are before the Commission:

- whether the certificate of need application is substantially complete;
- whether the Commission should proceed using the informal process to develop the record or instead refer the matter to the Court of Administrative Hearings for contested case proceedings; and
- whether the Commission should address the following administrative and procedural items: a stay request, rule variance, additional information request, and re-noticing.

A. Application Completeness

Staff recommends that the Commission find the certificate of need application substantially complete. No commenter identified missing information required for a completeness determination under the applicable statutes and rules. The comments asserting that the application is “incomplete” primarily raise merits-based concerns regarding need and alternatives, which are more appropriately addressed during environmental review scoping and later merits review.

B. Procedural Process

As discussed earlier in these briefing papers, when reviewing a certificate of need application, the Commission generally has discretion to develop the record through either the informal process or the contested case process. The difference is primarily about what the Commission needs the process to do.

Informal Process. The informal process is designed to efficiently gather information and public input when the issues can be addressed through written filings and a public hearing.

Under the informal process, the record is typically developed through written comment periods (initial and reply) and a public hearing at which members of the public may ask questions and provide testimony. The informal process is commonly used because it is streamlined and works well when significant public controversy is not expected. It allows the Commission to develop an adequate record without the additional procedural steps associated with a contested case.

Importantly, selecting the informal review process at the start does not necessarily foreclose a contested case later. The Commission may structure the procedural schedule so that requests for a contested case are considered later in the process (historically after the reply comment deadline on the merits) once parties and persons have had an opportunity to review the application and the record.

That said, the informal process has limits. It is not designed to resolve disputed facts through cross-examination or other formal evidentiary tools. If a case begins informally but later develops into one requiring formal factual development, the Commission may ultimately need to convert the matter to a contested case. In that event, the process may become more time-consuming and complex than if the Commission had referred the matter at the outset.

Contested Case Process. The contested case process is designed for matters involving disputed issues of material fact, or for circumstances in which the Commission cannot reach a sufficiently informed decision without a more formal evidentiary record.

In a contested case, an administrative law judge at the Court of Administrative Hearings manages the proceeding. Parties present evidence and expert testimony, and the hearing format allows cross-examination and more structured record development. The administrative law judge then issues a report with findings and recommendations for the Commission's consideration when making its final decision.

A notable point is that starting with a contested case does not always add significant time, particularly for large projects where public hearings would occur in either process. The main difference is whether the record needs formal tools to resolve disputed issues and support a defensible decision.

1. Benefits of a Contested Case Proceeding

Although there do not appear to be any clearly identified valid disputes regarding the material facts in the application, the scale and complexity of a transmission project of this length and voltage, combined with the fact that this is the first proposed 765 kV transmission line in Minnesota support development of a more formal and structured record. For those reasons, staff recommends that the Commission refer the matter to the Court of Administrative Hearings for a contested case proceeding.

C. Administrative and Other Procedural Items

1. Stay Certificate of Need Application

Staff does not recommend that the Commission stay the certificate of need proceeding pending the filing of route permit applications, for the reasons discussed earlier in this briefing paper. The Applicants stated in the certificate of need application that they intend to file route permit applications no earlier than the first quarter of 2027. While the certificate of need application did not state a specific reason for filing the applications at different times, it did include an anticipated overall project schedule based on the certificate of need proceeding beginning in first quarter 2026 and the route permit proceedings beginning in first quarter 2027.

Staff also notes that, in prior matters where the Commission stayed a certificate of need application to allow joint processing with a route permit application,⁴ the stay was generally agreed to by the applicant and based on the understanding that the route permit application would be filed within a relatively short timeframe, not a year or more later.

2. Combining Docket with Gopher to Badger

Staff does not recommend that the Commission combine the PowerOn Midwest docket with the Gopher to Badger docket, as requested by NRG/NO765MN. As indicated earlier in these

⁴ *In the Matter of the Application of Xcel Energy for a Certificate of Need for Two Gen-Tie Lines*, PUC Docket E-002/CN-22-131.

briefing papers, these are distinct proceedings involving different applicants, different procedural schedules, and different project-specific need determinations. Combining them into a single review would likely create procedural confusion, reduce efficiency, and negatively affect public participation.

3. Rule Variance

Staff recommends that the Commission vary Minn. R. 7849.1200 and 7849.1400 in this docket to account for timing considerations and to align the proceeding with changes enacted in the Energy Infrastructure Permitting Act. The Commission has granted similar variances in other recent certificate of need dockets.

4. Intervention and Discovery

Staff does not recommend that the Commission take action at this time on the requests for intervention and discovery by NRG/NO765MN. As discussed earlier in these briefing papers, if the Commission were to authorize a contested case proceeding, an Order for Hearing would be prepared referring the matter to the Office of Administrative Hearings. The assigned administrative law judge would then determine the schedule and procedural requirements for the case, including intervention and discovery, pursuant to Minn. Stat. §§ 14.57 et seq.

5. Additional Information Requested by the Department of Commerce

The Department identified additional information that it recommends the Applicants provide, as set out in Item D and Attachment 1 of its February 23 comment letter. The Department indicated that this information is not necessary for a completeness determination, but it did not recommend a deadline for providing the additional information in either its initial or supplemental comments.

Staff suggests that the Commission could require the Applicants to submit the additional information within 45 days after issuance of the Commission's written order. That approach would make the information available before the Commission considers the scope of the environmental report and well before merits review.

Alternatively, staff suggests the Commission request input from the Department and the Applicants regarding the need and appropriate timing for submission of the data.

6. *Re-Noticing*

Staff does not recommend additional landowner notice or an extension of the completeness comment deadline. Minnesota statutes and rules do not require a public comment period on application completeness. The Commission's completeness comment period is a best practice and historically has been noticed only to the official service list, relevant state agencies, and tribal governments. Again, after the Commission makes a completeness determination, it will provide landowners with notice of that decision and information regarding public information meetings and the review process.

If the Commission chooses to provide additional notice and extend the comment deadline it would also need to take no action on the certificate of need application.

COMMISSION DECISION OPTIONS

Certificate of Need Application

1. Accept the certificate of need application as substantially complete (Staff, Department, Applicants, Joint Commenters, and MISO).

Or

2. Reject the certificate of need application and indicate the specific deficiencies (Overland/Legalectric and Public Commenters).

Procedural Process

3. Defer consideration of any contested case requests until after the reply comment deadline on the merits.

Or

4. Direct that the certificate of need application be reviewed using the informal review process (Department, Applicants, Joint Commenters, and MISO).

If the Commission selects Decision Option 4, it may also consider Decision Options 5.

5. Request an administrative law judge at the Court of Administrative Hearings preside over the required public hearings and prepare a summary of public comments (Staff).

Or

6. Refer the certificate of need application to the Court of Administrative Hearings for contested case proceedings under Minn. Stat. §§ 14.57 et seq. (Staff, Overland/Legalectric, and NRG/NO765MN).

Requests to Stay Proceeding and/or Combine

7. Order joint proceedings on the certificate of need and route permit applications for the PowerOn Midwest Project and stay review of the certificate of need application until the route permit applications are filed (Overland/Legalectric and NRG/NO765MN).

If the Commission selects Decision Option 7, it may also consider the following additional procedural issues:

8. Authorize parties to proceed with discovery on the PowerOn Midwest Project during the stay (NRG/NO765MN).

And/or

9. Consolidate this proceeding with Docket No. ET3, E002/CN-25-121, *In the Matter of the Application for a Certificate of Need for the Gopher to Badger Link 765 kV High Voltage Transmission Line Project* and stay review until route permit applications for both projects have been filed (NRG/NO765MN).

Administrative and Other Requests

10. Vary Minnesota Rules 7849.1200 and 7849.1400, to align with the environmental review timing in the Energy Infrastructure Permitting Act and to reflect the legislative transfer of environmental review personnel and responsibilities related to large energy infrastructure projects from the Department of Commerce to the Commission (Staff).
11. Require the Applicants to file the additional information identified by the Department in Item D and Attachment 1 of its February 23 comment letter within 45 days after issuance of the Commission's written order (Staff and Department).
12. Provide additional notice to landowners regarding the application completeness comment period, extend the completeness comment deadline, and take no action on the certificate of need application at this time (Overland/Legalectric).

Petition for Intervention

If the Commission orders a contested case, the Commission may grant the petition for intervention or allow the administrative law judge assigned to the case decide the petition.

13. Grant the petition for intervention of NRG/NO765MN (NRG/NO765MN).
14. Request that the administrative law judge decide whether to grant the petition for intervention of NRG/NO765MN (Staff).

15. Deny the petition for intervention of NRG/NO765MN.

Staff Recommendation: 1, 6, 10, 11, and 14