

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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| David C. Boyd     | Chair        |
| J. Dennis O'Brien | Commissioner |
| Thomas Pugh       | Commissioner |
| Phyllis A. Reha   | Commissioner |
| Betsy Wergin      | Commissioner |

In the Matter of the Route Permit Application  
for a 345 kV Transmission Line from Brookings  
County, South Dakota to Hampton, Minnesota

ISSUE DATE: March 1, 2011

DOCKET NO. ET-2/TL-08-1474

ORDER GRANTING ROUTE PERMIT  
FOR REMANDED SEGMENT OF  
ROUTE

**PROCEDURAL HISTORY**

On December 29, 2008, Great River Energy, a Minnesota cooperative corporation, and Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy (collectively, the Applicants), filed a route permit application under the full permitting process of Minn. Rules, Parts 7850.1700 to 7850.2800 for 237 – 264 miles of 345 kV transmission line and associated facilities between the existing Brookings County substation near White, South Dakota, and a newly proposed substation near Hampton, Minnesota.

Following lengthy proceedings with much public input, the contested case hearing record closed on February 8, 2010. The Administrative Law Judge (ALJ) issued his Findings of Fact, Conclusions of Law and Recommendations on April 22, 2010.

On June 15, 2010, the Office of Energy Security of the Minnesota Department of Commerce (the OES) filed a letter and attachment it had received from the U.S. Fish and Wildlife Service (USFWS) dated June 10, 2010 regarding concerns it had identified with the proposed river crossings at Le Sueur. The letter stated in part:

... an aerial crossing [of the Minnesota River] at Le Sueur is more likely to harm bald eagles than an aerial crossing at Belle Plaine. Again, since the Belle Plaine option is practicable, it appears unlikely that a BGEPA [Bald and Golden Eagle Protection Act] permit would be issued for an aerial crossing at Le Sueur.

Based in significant part on the issues addressed in the USFWS letter and the comments filed by the OES on July 2, 2010, the Commission remanded for further proceedings the Cedar Mountain to

Helena 345 kV segment section of the route, which contains the Lower Minnesota River crossing at issue herein (Segment 4).<sup>1</sup>

The Commission requested that on remand the ALJ consider which route is preferable for crossing the Minnesota River – a crossing at Le Sueur or a crossing at Belle Plaine, and to address which connector, or crossover route to the Belle Plaine crossing is preferable (if the Belle Plaine crossing were selected). The Commission also asked the ALJ to address the letter filed by the U.S. Fish and Wildlife Service on June 10, 2010, and give the parties the opportunity to further develop the record with respect to the issues raised in that letter and to determine whether the ALJ wished to modify or augment his findings, conclusions, and recommendations with respect to the Cedar Mountain to Helena segment of the route.

On September 14, 2010, the Commission issued an ORDER GRANTING ROUTE PERMIT in this docket, adopting the Administrative Law Judge's (ALJ's) findings and recommendations for five of the six segments of the route considered (Segments 1, 2, 3, 5, and 6).<sup>2</sup>

Consistent with the Commission's July 27 Order remanding Segment 4 of the route, the Administrative Law Judge (ALJ) held further contested case proceedings which included pre-filed testimony, three days of public and evidentiary hearings, and additional written comments. Public comment was received on the remanded proceeding until November 1, 2010. The contested case record on the remand proceeding closed on November 24, 2010.

On December 22, 2010, the ALJ filed his Findings of Fact, Conclusions of Law and Recommendation on Remand.<sup>3</sup>

On February 3, 2011, the Commission met to consider the matter and the record closed under Minn. Stat. § 14.61, subd. 2.

## **FINDINGS AND CONCLUSIONS**

### **I. Summary of the Issues Posed and Commission Action Taken**

In this proceeding on remand, the Commission is asked to consider, for the proposed 62 – 74 mile Cedar Mountain to Helena 345 kV segment of the Applicants' high voltage transmission line (Segment 4),<sup>4</sup> which of the following three route options best complies with the route permit criteria set forth in Minn. Stat. § 216E.03, subd. 7 and Minn. Rules, Part 7850.4100:

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<sup>1</sup> Order Remanding to Office of Administrative Hearings, (July 27, 2010).

<sup>2</sup> The Commission's September 14, 2010 Order also designated the two substations for Segment 4 (the Cedar Substation and the Helena Substation).

<sup>3</sup> On December 23, 2010, the ALJ filed brief Amendments to the Findings of Fact, Conclusions, and Recommendation on Remand.

<sup>4</sup> The Cedar Mountain and Helena substations were approved by the Commission in its September 14, 2010 Order in this proceeding.

- The Modified Preferred Route<sup>5</sup> with an aerial crossing of the Minnesota River at Le Sueur;
- The Gibbon Crossover Route connecting the Modified Preferred Route and the Alternate Route<sup>6</sup> in Sibley County with an aerial crossing of the Minnesota River west of Belle Plaine; or
- The Arlington Crossover Route connecting the Modified Preferred Route and Alternate Route in Sibley County with an aerial crossing of the Minnesota River west of Belle Plaine.<sup>7</sup>

As more fully set forth herein, the Commission approves the Gibbon Crossover Route, connecting the Modified Preferred Route and the Alternate Route in Sibley County with an aerial crossing of the Minnesota River west of Belle Plaine, for primarily two reasons: 1) its use of an existing 69 kV transmission corridor right-of-way across the Minnesota River; and 2) the more positive environmental impact from the alignment and engineering advantages it offers over the Le Sueur Crossing route.

## **II. The ALJ's Report on Remand**

The ALJ issued his Findings of Fact, Conclusions of Law and Recommendations on Remand (ALJ Report on Remand) on December 22 and brief amendments to his Report on Remand on December 23, 2010. The ALJ's recommendations on remand were as follows:

1. That the Commission determine that all relevant statutory and rule criteria necessary to obtain a Route Permit have been satisfied and that there are no statutory or other requirements that preclude granting a Route Permit based on the record.

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<sup>5</sup> In the Application, Applicants identified a Preferred Route and an Alternate Route for the 345 kV transmission line. The portion of the Preferred Route considered in this proceeding (Route Segment 4) runs from west to east, from the proposed Cedar Mountain Substation. The proposed line runs eastward, north of Fairfax and Gibbon, Minnesota, turning south before reaching Winthrop, Minnesota, then running eastward south of Winthrop to Le Sueur. After crossing the Minnesota River at Le Sueur, the Preferred Route then heads eastward toward Heidelberg, turning north to the proposed Helena Substation located southeast of Belle Plaine. As later modified, using the Myrick Alignment, Route Segment 4 along the Preferred Route would run approximately 67 miles. This segment has been identified as the Modified Preferred Route.

<sup>6</sup> The Applicants identified the Alternate Route as running, from west to east, along the same line as the Modified Preferred Route to the east of Gibbon, where the Alternate Route turns north to run eastward along the north of Arlington, Minnesota. From there, the Alternate Route runs eastward and further north to a point to the west of Belle Plaine. From that location, the line runs south, crossing the Minnesota River, then traveling south and turning east to the Helena Substation. The Gibbon Crossover Route was analyzed in the OES's Environmental Impact Statement, but no party in the initial ALJ proceedings discussed or proposed that this route option be adopted for Segment 4 of the route.

<sup>7</sup> In the proceeding on remand, the ALJ considered two connector, or crossover routes between the Modified Preferred Route and the Alternate Route -- the Arlington Crossover route (as modified during the OES Environmental review) and the Gibbon Crossover. A map developed by OES staff indicating the three route options for Segment 4 of the route permit is attached to this Order.

2. That the Commission grant a Route Permit to Applicants on behalf of themselves and the participating CapX2020 utilities for the facilities described below:

A. For the segment between Cedar Mountain Substation and Helena Substation of the 345 kV transmission line between Brookings, South Dakota, and Hampton, Minnesota, and associated Facilities:

(1) The Modified Preferred Route, with an aerial crossing of the Minnesota River at Le Sueur; or

(1a) If the Modified Preferred Route is not granted a Permit, the ALJ recommends granting a Route Permit for the Alternate Route utilizing the Gibbon Crossover Route, with an aerial crossing of the Minnesota River at Belle Plaine; and

(2) A route width of 600 feet except for those locations identified by Applicants where Applicants are requesting a route width of 1,000 feet or up to 1.25 miles;

3. That Applicants be required to take those actions necessary to implement the Commission's Orders in this proceeding.<sup>8</sup>

The ALJ also recommended that the Commission find the OES's Environmental Impact Statement (EIS) adequate for this routing decision.

The ALJ's Report on Remand consists of a summary of the comments made at the public hearing and the written comments that are part of the record,<sup>9</sup> 180 findings of fact, 13 conclusions of law and three recommendations. Specifically, the ALJ's report addresses the issue of which route is preferable for the Lower Minnesota River crossing – near the City of Le Sueur or near Belle Plaine – and summarizes the additional procedural history and record with respect to the issues the Commission requested be addressed in its July 27, 2010 Order.

The ALJ concluded that the Modified Preferred Route for Segment 4, with an aerial crossing of the Minnesota River at Le Sueur is the best alternative for the 345 kV transmission line between Brookings county Substation and Hampton Substation.<sup>10</sup>

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<sup>8</sup> The ALJ's recommendations on remand changed from those included in his April 22, 2010 Findings, Conclusions, and Recommendation, for Segment 4 of the route. In the April 22 ALJ Report, the ALJ recommended the Modified Preferred Route, with an aerial crossing of the Minnesota River at Le Sueur; or, if the Commission did not grant a permit for the Modified Preferred route, the ALJ recommended granting a route permit for the Alternate Route utilizing the Crossover/Alternate route, with an aerial crossing of the Minnesota River at Belle Plaine (the Arlington Crossover route).

<sup>9</sup> See Attachment 1 of the ALJ's Report on Remand at 39-54.

<sup>10</sup> Conclusion 9, ALJ Report on Remand (December 22, 2010).

The ALJ Report on Remand thoroughly analyzes the criteria under Minn. Stat. § 216E.03, subd. 7(1)-(12) and Minn. Rules 7850.4100 for siting high-voltage power lines.

### **III. The OES's Recommendation**

#### **A. Background**

On July 2, 2010, the OES filed comments and recommendations following the ALJ's April 22, 2010 Findings, Conclusions and Recommendation and the submission of the June 10, 2010 USFWS letter. On the issue of which route should be approved to cross the Lower Minnesota River, the OES stated, based on the USFWS's letter, that an aerial crossing of the Minnesota River at Le Sueur was no longer a viable alternative.

OES reviewed the complete contested case record as to Segment 4 in the initial proceedings, the ALJ Report, exceptions, and the USFWS and Minnesota Department of Natural Resources (MnDNR) recommendations, and developed an alternative crossover route from data developed for the draft Environmental Impact Statement, and the Applicants' application – the Gibbons Crossover Route.

The OES then analyzed and compared the two possible north-south connector segments near Belle Plaine -- the Arlington Crossover route (recommended by the ALJ in the initial proceedings), and the Gibbon Crossover route.<sup>11</sup> As between the two crossover routes in the Belle Plaine area, the OES, in its July 2 comments, recommended the Gibbon Crossover route.

#### **B. OES Recommendations on Remand**

Following the proceedings on remand, OES filed comments on January 27, 2011. OES stated that it had reviewed the record in this case relative to the standards, criteria and factors to be considered in determining whether to issue a permit for a high-voltage transmission line set forth in the Power Plant Siting Act (Minn. Stat. § 216E.03 and 216E. 04) and applicable Commission Rules (Minn. Rules, Part 7850.400).

The OES also stated that it had taken into account the input of state and federal agencies related to the permitability of various portions of the alternative routes under consideration, pursuant to Minn. Stat. § 216E.10, subd. 3 (a) and Minn. Stat. § 216E.03, subd. 7(b) (12). The OES stated that in weighing the impacts of the alternative routes, it was guided by the state's policy of choosing locations that minimize adverse human and environmental impacts while insuring continuing electric power system reliability and integrity.

Based on its review of the entire record (including the administrative record developed before the ALJ resulting in his April 22, 2010 Findings and Recommendations as well as the record developed before the ALJ resulting in his Findings, Conclusions, and Recommendations on

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<sup>11</sup> See draft Environmental Impact Statement (DEIS) and final Environmental Impact Statement (final EIS) at Appendix G (the Arlington Crossover Route was referred to as “the USFWS/MnDNR Alternative” in the EIS and the Gibbon Crossover Route was referred to as “Crossover Area Example 2” in the EIS. The Gibbon Crossover Route, while referenced in the draft Environmental Impact Statement submitted by OES had not been evaluated as an alternative by the ALJ in the initial proceedings.

Remand), the OES recommended that the Commission approve and adopt its proposed Findings of Fact, Conclusions of Law, and Recommendations for the remanded portion of the Brookings to Hampton transmission line, which grant a route permit for the Gibbon Crossover Route connecting the Modified Preferred Route and the Alternate Route with an aerial crossing of the Minnesota River west of Belle Plaine.

The OES's proposed findings, conclusions and recommendation incorporate the majority of the ALJ's December 22, 2010, Findings of Fact, Conclusions of Law, and Recommendation on Remand and the ALJ's December 23, 2010 Amended Findings of Fact, Conclusions of Law, and Recommendation on Remand. The OES also identified certain corrections, additions, and changes to the ALJ's findings, as well as a supplemental finding to acknowledge that the proposed Crossing at Belle Plaine would follow an existing 69 kV transmission line right-of-way owned by Great River Energy.<sup>12</sup>

The OES also recommended that the Commission not accept the ALJ's Conclusions 9 and 10, which would authorize the Applicants to use the Modified Preferred Route, with an aerial crossing at Le Sueur, for Segment 4 of the route permit.

#### **IV. Exceptions to the ALJ's Report on Remand**

##### **A. NoCapX/UCAN's Exceptions to the ALJ's Report**

NoCapX and U-CAN filed exceptions claiming that documents submitted early in the course of the OES's preparation of the Environmental Impact Statement demonstrated that none of the river crossings proposed in this case was "feasible or constructible." They pointed to early comments filed by the United States Fish and Wildlife Service, the Minnesota Department of Transportation, and the Minnesota Department of Natural Resources raising environmental and aesthetic concerns about crossing the Minnesota River.

All three agencies have subsequently concluded, and stated on the record, that they do not oppose either of the two routes recommended by the Administrative Law Judge. The Commission concludes that the now-resolved concerns raised earlier by these three agencies do not warrant rejecting the proposed route permit.

Similarly, NoCapX and U-Can argued that the fact that the OES did not immediately file in this docket all comments submitted in the course of its preparation of the Environmental Impact Statement was a fatal procedural flaw; they pointed to no statutes or rules requiring those filings. The Commission rejected this claim in its original order and continues to reject it. Under Minn. Rules 7850.2500, the OES conducts a separate proceeding to prepare the Environmental Impact Statement.

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<sup>12</sup> See Applicants' December 29, 2008 Application for a route permit, Section 5.2.4 at page 5-10.

NoCapX and U-Can lastly argued that the route permit should be denied because applicants have allegedly failed to make a compliance filing on ownership issues required in the companion certificate of need case.<sup>13</sup> The Commission concurs with the OES that the proper proceeding in which to raise that issue would be the certificate of need case.

Finally, as to the substance of NoCapX and U-Can's position in this proceeding, the Commission concurs with the ALJ's Findings in the Report on Remand that undergrounding is not a practicable option for crossing the Minnesota River due to the significant environmental impacts, construction challenges and costs.<sup>14</sup>

Therefore, the Commission will not adopt the NoCapX/UCAN's proposed changes to the ALJ's Report on Remand.

#### **B. Exceptions by Theresa Ruhland, Bimedia, Inc. and Mark Katzenmeyer**

In these proceedings on remand, Theresa Ruhland, Bimedia, Inc. and Mark Katzenmeyer have urged the Commission to select the Alternate Route with a Minnesota River crossing at Belle Plaine, and have filed exceptions furthering that position.<sup>15</sup> By virtue of the Commission's decision to adopt the Alternate Route utilizing the Gibbon Crossover Route with an aerial crossing of the Minnesota River at Belle Plaine, all impacts to these landowners are avoided.

Therefore, the Commission will not adopt the proposed changes to the ALJ's Report on Remand submitted by the Ruhlands, Bimedia, Inc. and Mark Katzenmeyer.

#### **V. Public Comments During the Remand Proceeding**

The ALJ heard testimony at four public hearings in three different locations during the remand. These hearings were conducted in Le Sueur on October 4, 2010; Arlington on October 4, 2010; and twice in Belle Plaine on October 5. More than 250 persons attended the four public hearings, and some 48 persons testified. In addition, members of the public, state and federal agencies, and businesses submitted a large number of written comments.

In his Report on Remand, the ALJ summarized the extensive oral and written comments received on remand in Attachment 1.<sup>16</sup> The comments discussed concerns about the impact the routing decision would have on the public, landowners, businesses, and a school in the three route areas being considered, and addressed specific landowner concerns, as well as more widespread concerns including, but not limited to, the following:

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<sup>13</sup> In the Matter of the Application of Great River Energy, Northern States Power Company (d/b/a Xcel Energy) and Others for Certificates of Need for Three 345 kV Transmission Lines with Associated System Connections, Docket No. ET-2, E-002, et al./CN-06-1115

<sup>14</sup> See ALJ Report on Remand, Findings 162 – 168.

<sup>15</sup> These commentors each raised Exceptions to the ALJ's April 22, 2010 Findings, Conclusions and Recommendation for Segment 4, to use the Modified Preferred Route with an aerial crossing at Le Sueur as well as to the ALJ's Findings, Conclusions, and Recommendation on Remand.

<sup>16</sup> In the April 22, 2010 Findings, Conclusions and Recommendations, the ALJ summarized the extensive oral and written comments made in the initial proceedings, which also addressed Segment 4.

- Impact on existing farms and land-based economies for each of the three route options
- Engineering challenges due to the topography, steepness of terrain, and soil stability
- Effect on scenic easement areas, flood plains, and rights-of-way
- Impact on bald eagles and other avian species
- MNDOT issues with the Highway 169 crossing area, including the rest stop and scenic easement areas
- Concerns regarding a heron rookery which lies within the proposed Le Sueur/US 169 river crossing

At the hearing before the Commission, ten persons made oral comments addressing their concerns with the two route alternatives recommended by the ALJ on remand.

The Commission respects the concerns raised by landowners, businesses and local governments in this proceeding and the level of involvement of these participants. The Commission also recognizes that any route adopted will affect residents, landowners and businesses in the transmission path, and has carefully weighed the evidence presented and the issues raised.

## **VI. U. S. Fish and Wildlife Service, Minnesota Department of Natural Resource, and Minnesota Department of Transportation**

### **A. U.S. Fish and Wildlife**

Beginning in December 2008, the U.S. Fish and Wildlife Service (USFWS) began providing comments to Applicants regarding the project. Fish and Wildlife raised various concerns about how the proposed transmission lines at Le Sueur and Belle Plaine could negatively affect bald and golden eagle populations in those areas.<sup>17</sup>

USFWS initially supported a Minnesota River crossing at Le Sueur,<sup>18</sup> but subsequently indicated its support for the Le Sueur crossing only if a non-aerial construction method were used, having identified high concentrations of waterfowl during migratory periods and a heron rookery within the Le Sueur corridor.<sup>19</sup> If a non-aerial crossing were not feasible, USFWS subsequently

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<sup>17</sup> See Report on Remand, Findings 55 – 69.

<sup>18</sup> Report on Remand, Finding 58,

<sup>19</sup> Id., Finding 60.



recommended a Minnesota River Crossing at Belle Plaine, using either a non-aerial method or an aerial method combining the existing 69 kV line over the river and the project on the same structures.<sup>20</sup>

In response to the concerns raised by USFWS and the Minnesota Department of Transportation (MnDOT), Applicants evaluated several non-aerial construction methods: connecting the new transmission line to the U. S. Highway 169 bridge, attaching the line to a stand alone pier that would be constructed next to the Highway 169 bridge, and undergrounding the 345 kV transmission line. These construction methods were thoroughly evaluated by Applicants, and by the ALJ in his April 22, 2010 Report, and rejected.<sup>21</sup>

After the close of the initial administrative record before the ALJ, on June 10, 2010, USFWS sent a letter to Applicants, reiterating its opinion that the Belle Plaine crossing appeared practicable, and stating that it was unlikely a Bald and Golden Eagle Protection Act permit could be issued for a Le Sueur crossing.

Following commencement of the administrative proceedings on remand, on October 29, 2010, USFWS sent Applicants a letter addressing the issues which sparked the proceeding on remand, and suspending its recommendation of June 10, 2010. Based on new information available to the agency, it concluded that it did not have sufficient biological evidence to determine conclusively that more bald eagles would be affected by one crossing alternative or the other. USFWS stated that once the Commission selects a route for permitting, it will work with the Applicants to develop and process a permit application for whichever route is selected.

## **B. Minnesota Department of Natural Resources**

The Minnesota Department of Natural Resources (MnDNR) provided comments and responded to the concerns raised by USFWS. MnDNR provided written comments and recommendations to OES in November 2009, but did not state a preference for the crossing of the Minnesota River between Le Sueur or Belle Plaine. MnDNR also commented in this proceeding on remand, stating again that based on the currently available information, the two locations have roughly similar environmental effects,<sup>22</sup> and that it sees no strong difference in the impact on migratory bird populations for either a Le Sueur or Belle Plaine crossing.

## **C. Minnesota Department of Transportation**

The Minnesota Department of Transportation (MnDOT) also filed comments in this proceeding. On November 30, 2009, MnDOT filed a comment on the Draft Environmental Impact Statement, which advised that it would be unable to issue a Utility Permit for the proposed alignment in a

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<sup>20</sup> Id.

<sup>21</sup> See ALJ Report, Findings 357 – 375 (undergrounding) Findings 376 – 381 (co-locating along the Highway 169 bridge) and Findings 382 – 386 (co-locating along a newly constructed self-supported pier) April 22, 2010.

<sup>22</sup> See MDNR comments on remand (October 18, 2010).

segment of the Applicants' Modified Preferred Route at Le Sueur because the Modified Preferred Route would run through a scenic easement area located near the rest area adjacent to U.S. Highway 169.

Applicants thereafter reevaluated the alignment of the Modified Preferred Route in Segment 4 in the vicinity of the Minnesota River Valley Safety Rest Area to determine if there were any changes that could alleviate MnDOT's concerns. On December 14, 2009, Applicants developed a new alignment generally within the 4,700-foot wide route that avoided MnDOT's concerns regarding scenic easements at the Le Sueur Minnesota River crossing (the Myrick Alignment Alternative). MnDOT also noted that a scenic easement exists in the Belle Plaine area, but that easement will not impede the crossing of a 345 kV line at Belle Plaine along the line preferred by Applicants.<sup>23</sup>

At the Commission hearing on the proceeding on remand, MnDOT stated that it takes no position on any route -- its concern being with the road safety and efficiency of any route configuration selected.

## **VII. Commission Action**

### **A. Route Selection**

#### **1. The ALJ's Recommendations**

In this proceeding on remand to determine the route for Segment 4 of the Brookings to Hampton 345 kV transmission line, three options were considered by the ALJ – the Modified Preferred route with an aerial crossing of the Minnesota River at Le Sueur, the Alternate route using the Gibbon crossover route, with an aerial crossing of the Minnesota River at Belle Plaine, and the Alternate route using the Arlington crossover route with an aerial crossing of the Minnesota River at Belle Plaine. The ALJ concluded that all three routes considered meet the necessary statutory and rule criteria and constitute viable options for the Commission's consideration.<sup>24</sup>

The ALJ analyzed the route options in detail, and recommended that the Commission grant a route permit to the Modified Preferred route with the Minnesota River crossing at Le Sueur, or if that route was not selected, the Alternate Route, using the Gibbon Crossover Route with a Minnesota River crossing at Belle Plaine. The ALJ's Findings and Conclusions confirm that both route options satisfy the route permit criteria set forth in Minn. Stat. § 216E.03, subd. 7 and Minn. Rules, Part7850.4100.

#### **2. Both the Le Sueur Route and the Gibbon Crossover Route Alternatives Satisfy Relevant Route Permit Criteria**

The ALJ found and the Commission confirms that the record shows that the two routes displace no homes or businesses within 0 to 75 feet of the route centerline, and found that for both routes, there

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<sup>23</sup> The Proposed Findings of Fact, Conclusions of Law and Recommendation on Remand (attached hereto), paragraph 53, has been amended to clarify that an alignment within the route is available that avoids the scenic easement at Belle Plaine.

<sup>24</sup> Report on Remand, Conclusions 7 and 8.

are six homes within 75 to 150 feet of the route centerline. The Commission further confirms that the number of occupied homes per mile is similar for the two route alternatives (with the Modified Preferred Route having 0.7 and the Gibbon Crossover having 0.9).<sup>25</sup>

The ALJ found and the Commission confirms that there will be similar impacts on land based economies.<sup>26</sup>

The ALJ found and the Commission confirms that the Gibbon Crossover route has fewer archaeological and historic sites and has lesser impact on those resources than either the Modified Preferred route or the Arlington Crossover route.<sup>27</sup>

The ALJ found and the Commission confirms that the evidence in the record of the Remand Proceeding does not show a marked difference between the impact on eagles to be expected from following either the Modified Preferred Route crossing the Minnesota River at Le Sueur or the Alternate Route crossing at Belle Plaine. The ALJ found and the Commission confirms that there is no impact on eagles that precludes permitting either crossing point.<sup>28</sup>

The ALJ found and the Commission confirms that both the proposed routes nearly equally use or parallel existing rights-of-way, survey lines, natural division lines and agricultural field boundaries.<sup>29</sup>

The ALJ found and the Commission confirms that the record shows that the probable costs of the two routes are comparable.<sup>30</sup>

### **3. The Gibbon Crossover Route is the Preferable Route**

Having closely examined the record of this proceeding on remand, as well as the evidence presented regarding Segment 4 during the initial contested case, the Commission concurs with the ALJ in nearly all his Findings of Fact. The Commission, however, reaches a different conclusion from the ALJ. The Commission is persuaded, based on its own analysis as well as the recommendations of the OES and the Applicants, that the ALJ's alternate recommendation, the

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<sup>25</sup> Report on Remand, Finding 85.

<sup>26</sup> See OES January 27, 2011 Comments and revised Finding of Fact 100 in the attached Findings of Fact, Conclusions of Law and Recommendations for the remanded portion of the Route.

<sup>27</sup> Report on Remand, Finding 133.

<sup>28</sup> Report on Remand, Finding 126.

<sup>29</sup> The OES recommended and the Commission will adopt the OES modification to the ALJ's Finding 141 to reflect that the routes are very nearly equal in their use of existing transportation, pipeline and electrical transmission system right-of-way (with approximately 72 percent of the Modified Preferred route following existing transportation, pipeline and electrical transmission rights-of-way as compared to 68 percent for the Gibbon Crossover route).

<sup>30</sup> Report on Remand, Finding 36.

Gibbon Crossover Route connecting the Modified Preferred Route and the Alternative Route, with an aerial crossing of the Minnesota River west of Belle Plaine, is the preferable route for Segment 4 of the project.

The Commission first notes that it is unusual, at this stage of a route permit proceeding, to be faced with two route options, both recommended by the ALJ. However, after careful analysis of the record on remand, the Commission cannot concur with the ALJ's conclusions and recommendation that the Modified Preferred Route is the best alternative for Segment 4 of the Route permit.

Instead, the Commission accepts and adopts the modifications to the ALJ's Findings, Conclusions and recommended route proposed by the OES, as articulated and explained in the attached Findings of Fact, Conclusions of Law and Order Issuing an HVTL Route Permit to Great River Energy and Xcel Energy, for the reasons discussed below.

**a. Modifications to the ALJ's Findings and Conclusions Proposed by OES**

The OES's proposal modifies certain of the ALJ's Findings (Findings 23, 46, 88, 95, 100, 141, 157, 166, and Paragraph 43 of Attachment 1) for the reasons set forth in the OES's January 27, 2011 comments and the attached Findings of Fact, Conclusions of Law and Order as to Segment 4 of the Brookings to Hampton 345 kV Route Permit. The Commission concurs with these proposed modifications to the ALJ's Findings of Fact on Remand, and will adopt them.

The OES also proposed that the Commission not adopt Findings 38 and 39 as the Commission has already permitted the Cedar Mountain substation and Helena substation sites in its September 14, 2010 Order in this docket. OES also proposed that the Commission not adopt Finding 53 and its corresponding footnote 85. The Commission concurs that these Findings are not necessary to Segment 4 of the route permit, and will not adopt them.

In addition, the OES proposed adopting a supplemental Finding of Fact evidencing that the Alternate route follows an existing 69 kV transmission line right-of-way at the crossing of the Minnesota River at Belle Plaine.<sup>31</sup> The Commission concurs that this Finding is necessary and integral to its decision herein, and will adopt it.

Finally, the OES proposed that the Commission decline to adopt Conclusions 9 and 10 of the Report on Remand, which conclude that the Modified Preferred Route, with an aerial crossing of the Minnesota River at Le Sueur, is the best alternative for Segment 4 of the route. The Commission concurs, and does not accept and adopt these Conclusions for the reasons set forth herein.

Accordingly, the Commission will grant a route permit for the ALJ's alternate recommendation -- to use the Alternate route using the Gibbon Crossover route with an aerial crossing of the

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<sup>31</sup> OES January 27, 2011 comments at 23.

Minnesota River at Belle Plaine, as best satisfying the applicable statutory and rule criteria considering the human impact, the strong deference to existing easements for high-voltage transmission lines, and the impact on the environment.<sup>32</sup>

### **b. Commission Rationale**

The Commission finds that the Alternate Route using the Gibbon Crossover with an aerial crossing at Belle Plaine is the preferable choice for Segment 4, because, among other factors, it uses an existing transmission corridor and offers alignment and engineering advantages over the Le Sueur Crossing.

The Commission is guided in this decision by consideration of the legislative goals set by statute for route selection – to minimize environmental impacts and conflicts with human settlement while using existing easements whenever possible. Further, the Commission is mindful of Minn. Rule 7850.4100 (J), which requires consideration of a proposed route’s use of existing transportation, pipeline and electrical transmission corridors in granting a route permit for a high voltage transmission line. Importantly, the Commission’s longstanding policy and preference to locate a high-voltage transmission line in an existing high-voltage transmission corridor, has recently been enacted as law.<sup>33</sup>

As Applicants indicate in their December 29, 2008 Application for the route permit, the Gibbon Crossover route follows an existing 69 kV transmission line right-of-way at the crossing of the Minnesota River at Belle Plaine. (The Gibbon Crossover route follows the existing 69 kV line for approximately 0.5 miles before crossing the Minnesota River and for approximately 1.5 miles after crossing the river.) In contrast, the proposed Le Sueur crossing with the Myrick Alignment follows some roads, but also goes cross county across a forested area.<sup>34</sup> The Commission finds that the ability to use the existing transmission line right-of-way over the Minnesota River is a strongly preferential factor in support of the Gibbon Crossover route.

Further, the Commission finds that the Gibbon Crossing offers alignment and engineering advantages over the Le Sueur Crossing. During the course of this proceeding, Applicants developed a new alignment of the Le Sueur Crossing Route, which came to be known as the Myrick Alignment Alternative, to address issues raised by MnDOT regarding scenic easements.

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<sup>32</sup> The Power Plant Siting Act, Minn. Stat. § 216E, requires that route permit determinations “be guided by the state’s goals to conserve resources, minimize environmental impacts, minimize human settlement and other land use conflicts, and ensure the state’s electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.”

<sup>33</sup> During the 2010 legislative session the Minnesota Legislature amended Minn. Stat. § 216E.03 to add Subsection (e), requiring such consideration for future proceedings:

The commission must make specific findings that it has considered locating a route for a high-voltage transmission line on an existing high-voltage transmission route and the use of parallel existing highway right-of-way and, to the extent those are not used for the route, the commission must state the reasons.

<sup>34</sup> Ex. 164 at p. 6 (Leshner Remand Direct). As currently configured, Applicants moved the alignment for the Le Sueur crossing to the south of U.S. 169 along the Myrick Alignment.

The Applicants' experts testified, however, that the Le Sueur Route, with the Myrick Alignment, while workable, poses engineering challenges and design constraints, e.g., severe slopes and ravines that limit the locations where structures can be placed.<sup>35</sup>

This topography would likely result in longer spans, wider easements, more tree clearing, and taller poles which could also negatively affect aesthetic impacts. Conversely, if spans were shortened to accommodate level worksites, more poles would be required. Finally, because of the steeper terrain near Le Sueur, an access road to each structure might have to be constructed to accommodate construction and maintenance equipment. These issues are not present at Belle Plaine using the Gibbon Crossover.<sup>36</sup>

Applicants' expert also testified that retention ponds are an issue at both the Le Sueur and Belle Plaine crossings, but pose more significant challenges at Le Sueur.<sup>37</sup> Following the redesign of the Modified Preferred Route to address MnDOT concerns, the retention pond crossing at Le Sueur became more difficult. The Myrick Alignment Alternative caused the line to be moved away from the retention ponds to the east side of U.S. Highway 169. This area is more flood prone than the Belle Plaine crossing, and has unstable soils. On the other hand, at the Belle Plaine crossing, the elevation is higher and has firmer soils.<sup>38</sup>

The ALJ's recommendation to grant a route permit for the Modified Preferred Route, with an aerial crossing at Le Sueur, discounted the testimony offered by Applicants' experts regarding the issues with the Le Sueur/Myrick Alternative. The Commission disagrees, and will defer to the experience and expertise of the Applicants' engineers, whose testimony adds additional support for the choice of the Gibbon Crossover Route.

Further, the Commission is not persuaded that the concerns raised by the Belle Plaine School District as to the proximity of the current elementary school location and possible future high school warrant elimination of the Belle Plaine Crossing sites from consideration. The elementary school is located in the southwest corner of Belle Plaine, at least 0.4 - 0.5 miles from the proposed transmission corridor. Further, the need for and location of a new high school still remains uncertain, and its proposed location is in an area at least as far away from the transmission corridor as the elementary school.<sup>39</sup>

Further, comments that the Belle Plaine crossing might negatively affect future growth in the area are speculative at best. Population growth and economic development fluctuate in response to multiple factors, and there is no evidence in the record on the probable effect of this or other transmission lines on community growth. In fact, the only record evidence on Belle Blaine growth issues shows recent declines from projected growth rates, which bear no relationship to the proposed transmission line.

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<sup>35</sup> Ex. 164 at p. 5 (Lennon Remand Direct).

<sup>36</sup> Id.

<sup>37</sup> Id. at 6.

<sup>38</sup> Id.

<sup>39</sup> ALJ Report on Remand, Findings of Fact 92 and 93.

Finally, the Commission has thoroughly considered the entire record in this proceeding with respect to Segment 4. The record is robust, with significant public input into the process. The Commission finds that neither route has a significant advantage in terms of human impact.

## **B. Adequacy of the Environmental Impact Statement**

At the time when the Commission determines whether to issue a route permit, the Commission is to make a finding whether the OES's Environmental Impact Statement and the record created in the public hearing address the issues identified in the EIS Scoping Decision. Minn. Rules, Part 7850.1500, subp. 10 states:

### **Subp. 10. Adequacy determination.**

The Public Utilities Commission shall determine the adequacy of the final environmental impact statement. . . . The final environmental impact statement is adequate if it:

- A. addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application;
- B. provides responses to the timely substantive comments received during the draft environmental impact statement review process; and
- C. was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.

The OES issued the final EIS on January 26, 2010. Each of the three routes considered by the Commission in this proceeding was considered in the final EIS.<sup>40</sup>

The ALJ concluded the EIS prepared by OES contains an appropriate environmental analysis of the project for purposes of this route proceeding, and satisfies Minn. Rule 7850.2500.<sup>41</sup> The ALJ further found that the Commission's remand of this proceeding did not change the locations to be examined for routing of the segment under consideration.<sup>42</sup> Finally, the ALJ concluded that the record shows that the FEIS is adequate for this routing decision because it addressed the issues and alternatives raised in the Scoping Decision, provided responses to the substantive comments received during the draft EIS review process, and was prepared in compliance with Minn. Rules 7850.2500 to 7850.3700.

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<sup>40</sup> See FEIS and DEIS at Appendix G (the Arlington Crossover Route was referred to as "the USFWS/MnDNR Alternative" in the EIS and the Gibbon Crossover Route was referred to as "Crossover Area Example 2" in the EIS).

<sup>41</sup> ALJ Report on Remand, Conclusion 3 (December 22, 2010).

<sup>42</sup> ALJ Report on Remand, Finding of Fact 180 (December 22, 2010).

Based on its review, the Commission finds that the EIS meets the requirements of Minn. Rules, Part 7850.2500, subp. 10 and will approve it as to Segment 4 of the route, which is permitted in this Order.<sup>43</sup>

### **VIII. Prior Findings Adopted**

Many of the Findings of Fact in the ALJ's April 22, 2010 Findings, Conclusions, and Recommendations relate to the project, but are not specifically at issue in this proceeding on remand. The Commission reaffirms these Findings, which are included in the attached Findings of Fact, Conclusions of Law and Order Issuing an HVTL Route Permit to Great River Energy and Xcel Energy.

The Commission will so order.

### **ORDER**

1. The Commission approves and adopts the OES's proposed Findings of Fact, Conclusions of Law and Recommendation for the remanded portion of the Great River Energy and Xcel Energy 345 kV Transmission Line from Brookings County, South Dakota, to Hampton, Minnesota.
2. A copy of the OES's proposed Findings of Fact, Conclusions of Law, and Order approved in this Order, is attached.
3. The Commission approves the OES's final Environmental Impact Statement, finding that it meets the requirements of Minnesota Rules, Part 7850.2500, subp. 10, for the remanded portion of the route, as more fully set forth in the body of this Order, and issues the route permit for Section 4.
4. The Commission hereby amends the route permit issued September 14, 2010, in this docket to include a description of Segment 4 – for the segment between Cedar Mountain Substation and Helena Substation – and official route maps as:  
  
the Alternate Route utilizing the Gibbon Crossover Route, with an aerial crossing of the Minnesota River at Belle Plaine.
5. Attached is a copy of the approved route permit for Section 4.

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<sup>43</sup> The Commission's September 14, 2010 Order in this docket approved the EIS for the remaining segments of the route permit.



6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary



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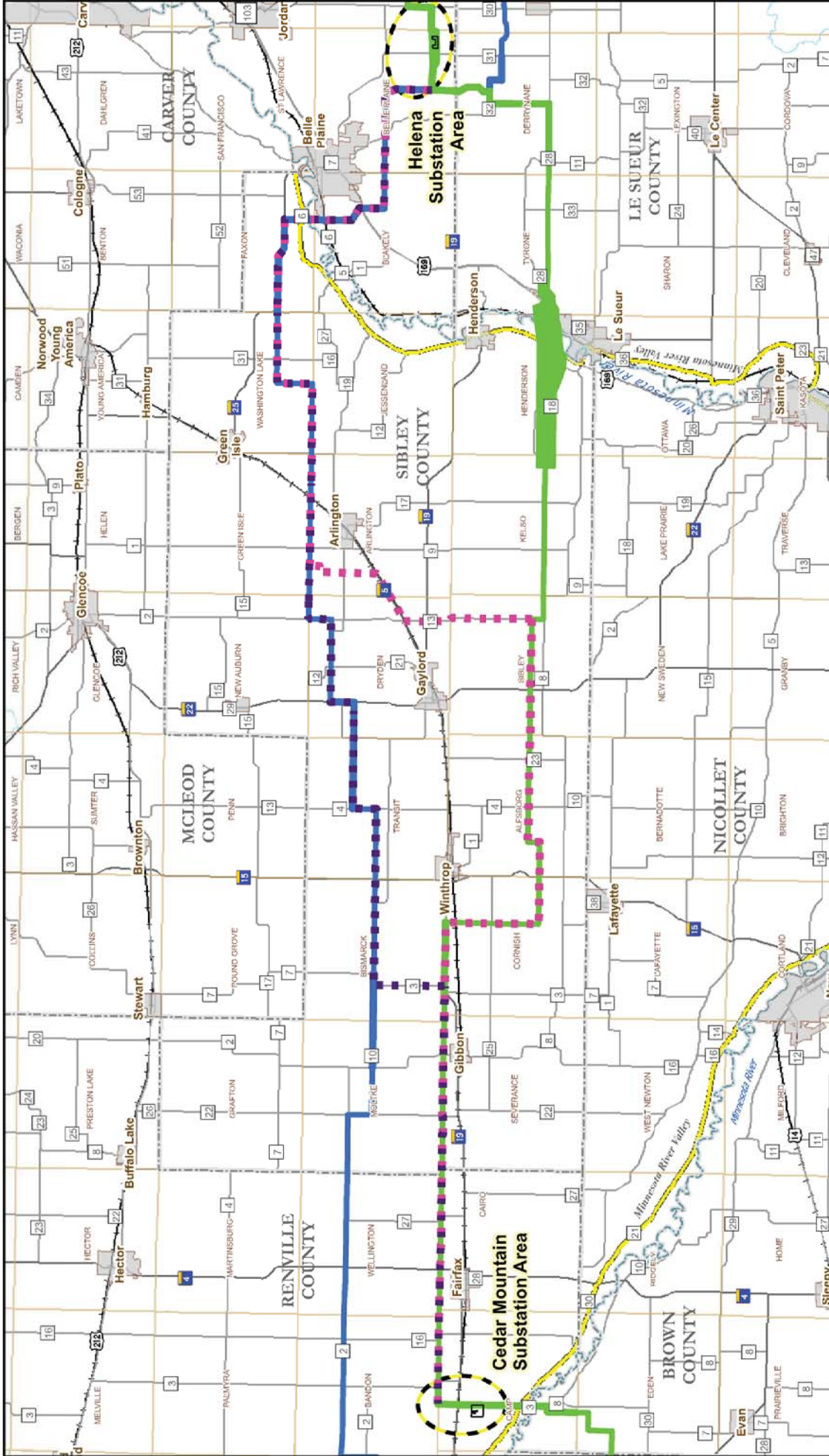


Figure 1 - Overview of Segment 4 Routes

Brookings County - Hampton  
345 kV Transmission Line

- █ Applicant's Routes Modified Preferred
- █ Applicant's Routes Alternate
- Crossover Routes
- Crossover Routes Gibbon Crossover
- Crossover Routes Arlington Crossover
- Proposed Substation Areas
- New Permitted Substation
- County
- City
- Township
- ~ Scenic Byway



## BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David Boyd  
Phyllis Reha  
Thomas Pugh  
J. Dennis O'Brien  
Betsy Wergin

Chair  
Vice Chair  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Route Permit  
Application by Great River Energy and  
Xcel Energy for a 345 kV Transmission  
Line from Brookings County, South  
Dakota to Hampton, Minnesota.

**ISSUE DATE: March 1, 2011**

**DOCKET NO. ET2/TL-08-1474**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER ISSUING AN HVTL ROUTE  
PERMIT TO GREAT RIVER ENERGY  
AND XCEL ENERGY**

The above-captioned matter came before the Minnesota Public Utilities Commission (Commission) on February 3, 2011, acting on an application by Great River Energy and Xcel Energy for a route permit to construct a new 237 to 262 mile transmission line and associated facilities in Lincoln, Lyon, Yellow Medicine, Chippewa, Redwood, Brown, Renville, Sibley, Le Sueur, Scott, Rice, and Dakota counties, Minnesota.

### STATEMENT OF ISSUE

For the remanded portion of the route, should the Minnesota Public Utilities Commission find that the environmental impact statement is adequate? Should the Minnesota Public Utilities Commission issue a route permit identifying a specific route and permit conditions for the remanded portion of the proposed Brookings to Hampton 345 kV transmission line project?

Based upon all of the proceedings herein, the Commission makes the following:

### FINDINGS OF FACT

The Commission adopts the December 22, 2010, Administrative Law Judge's Findings of Fact, Conclusions and Recommendation for the Brookings to Hampton Transmission Project related to PUC Docket No. ET2/TL-08-1474, and the December 23, 2010, Amendments to Findings of Fact, Conclusions, and Recommendation, with the following modifications:

Finding 23 is amended as follows to correctly reflect that the Alternate Crossover Route (a/k/a Gibbon Crossover Route) was developed entirely by OES EFP staff and was analyzed in the EIS and described in the July 2, 2010, comments and recommendations submitted to the Commission.

23. The ALJ Recommendation identified the Preferred Route, with modifications at the crossing point of the Minnesota River, as the better route for the 345 kV HVTL. The ALJ also noted that the Belle Plaine crossing was suitable. After the ALJ Recommendation was issued, the OES EFP developed another alternative ~~Applicants developed another alternative~~ to cross from the Preferred Route to the Alternate Route, ~~in consultation with OES,~~ running from near Gibbon (known as the "the Gibbon Crossover Route" or "Alternate Crossover Route"). The Gibbon Crossover Route runs for approximately 69 miles. That route follows existing roads, railroad and transmission line rights of-way for approximately 47 miles (68 percent). The Gibbon Route was analyzed in the EIS and described in the July 2, 2010, OES EFP staff comments and recommendations to the Commission.

Finding 46 is amended to correctly describe the Minnesota Department of Transportation's (Mn/DOT) Utility Accommodation Policy. A utility permit is required for every utility that occupies any portion of any trunk highway right-of-way. The amended language indicates the circumstance that would not require a permit from Mn/DOT.

46. In Route Segment 4, the Modified Preferred Route parallel to U.S. Highway 169 does not require a ~~Utility~~ Utility Permit ~~because the affected section of U.S. Highway 169 is not a freeway.~~ from Mn/DOT if the poles are more than 75 feet outside the highway right-of-way.

Finding 88 is amended to correctly note that the only portion of the Minnesota River designated as a Scenic River is the segment from Lac Qui Parle dam to Franklin where the Alternate Route crosses. The segments of the Minnesota River where the Modified Preferred Route crosses near Le Sueur and where the Alternate Route and crossover routes would cross near Belle Plaine are not designated scenic.

88. The aesthetic impacts differ among the Modified Preferred Route, Alternate Route, and Crossover Route. The Modified Preferred Route will cause the least amount of aesthetic impacts. The Modified Preferred Route is shorter in distance than the Alternate Route or Crossover Route.<sup>1</sup> As a result, the Modified Preferred Route will use fewer poles. In comparison to the Alternate Route and Crossover Route, there are fewer residences within 500 feet of the Modified Preferred Route at or near the Minnesota River.<sup>2</sup> Also, the Alternate Route ~~and Crossover Routes (Belle Plaine Crossing)~~ crosses the Minnesota River where it is designated “scenic” whereas the Modified Preferred Route (Le Sueur Crossing) and the crossover routes (Belle Plaine crossing) does not cross the Minnesota River where it is designated “scenic”.<sup>3</sup>

Finding 95 is amended to reflect impacts are similar to all routes.

95. ~~In light of the factors noted in the preceding Findings, the record, including the proceedings on Remand, indicates that t~~The Modified Preferred Route, will have fewer impacts on public services compared to the Arlington Crossover Route and the Gibbon Crossover Route will have similar impacts to public services.

Finding 100 is amended to clarify that the Alternate Route west of Belle Plaine would not significantly impact the city of Belle Plaine’s capacity for development and expansion to the west.

100. The record demonstrates that the Modified Preferred Route, the Arlington Crossover Route, and the Gibbon Crossover Route will have similar marginally less of an impacts to existing land-based economies than the Arlington Crossover Route or the Gibbon Crossover Route. The Modified Preferred Route will have significantly less impact on the capacity for expansion of existing development to the west of Belle Plaine than the Arlington Crossover Route or the Gibbon Crossover Route.

Finding 141 is amended to reflect that the differences between the routes are nearly equal with respect to right-of-way sharing.

141. The record demonstrates that, in Segment 4, the Modified Preferred Route, Arlington Crossover Route, and Gibbon Crossover Route nearly equally use or parallel ~~uses more~~ existing transportation, pipeline, and electrical transmission system right-of-way ~~than either of the two Crossover Routes.~~

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<sup>1</sup> Ex. 102 at p. 9 (Poorker Direct); Ex. 2 at 5-6 (Application); Ex. 140 at p. 7 (Poorker Supplemental).

<sup>2</sup> Ex. 102 at p. 17-18 (Poorker Direct); Ex. 2 at 4-10 (Application); Applicants January 19, 2010 Letter to the ALJ at Route Impact Table, filed 01/19/10, Doc. Id. 20101-46155-01.

<sup>3</sup> Ex. 2 at p. 4-10 (Application).

Finding 157 is amended. Mn/DOT has indicated that the third sentence this is incorrect because specific concerns were expressed by Mn/DOT relating to Route Segment 4. Deleting the third sentence would resolve the problems.

157. Mn/DOT, USFWS, and MnDNR expressed concern with various aspects of the Modified Preferred Route. These concerns were addressed in the ALJ Recommendation. ~~Regarding Segment 4, Mn/DOT and MnDNR expressed no specific concerns.~~

Finding 166 is amended to clarify that for both the Le Sueur and the Belle Plaine routes, there are alignments within the designated routes that could encroach on Mn/DOT scenic easements.

166. As discussed elsewhere in this Recommendation, the USFWS has not identified any impact to the eagle population that precludes issuance of a permit for aerial routing of the HVTL. ~~Mn/DOT has affirmatively stated that neither proposed crossing will affect any scenic easement held by Mn/DOT.~~ No undergrounding alternative has been identified that would significantly reduce the cost of that option.

Attachment 1, Oral Testimony at the Public Hearings, Paragraph 43 is amended clarify that an alignment within the route is available that avoids the scenic easement.

43. David Seykora from the Minnesota Department of Transportation noted that a scenic easement exists in the Belle Plaine area, but that easement will not impede the crossing of a 345 kV line at Belle Plaine along the line preferred by the Applicants. The easement is extends about 1500 feet east of from the intersection of Highway 169 and German Road (CSAH 53), and extends extending about 750 feet south of the road. Highway 169. An alignment of the 345kV line on the west side of German Road would avoid encroachment on the scenic easement.

Based on the record in this proceeding, the Commission does not adopt the following findings of fact:

Findings 38 and 39 are not necessary, as the Commission has already permitted the Cedar Mountain substation and Helena substation sites in its September 14, 2010, Order issuing a route permit for the project.

38. Applicants' proposed site for the Cedar Mountain Substation for the Modified Preferred Route is located in Camp Township, Renville County at the northwest corner of the intersection of County Road 3 and 640<sup>th</sup> Avenue. The new Cedar Mountain Substation will require five to eight acres of fenced and graded area depending on the final route selection and final substation design.
39. Applicants' proposed site for the Helena Substation for the Modified Preferred Route is located on the southeast corner of the intersection of 231<sup>st</sup> Avenue and 320<sup>th</sup> Street (County Road 28) in Derrynane Township in Le Sueur County. The new Helena Substation will require approximately five to eight acres of fenced and graded area depending on final route selection and final substation design.

Finding 53 is not correct, as Mn/DOT has indicated it does hold a scenic easement along Highway 169, east of CSAH 53.

53. During the hearings on remand Mn/DOT indicated that there are no Mn/DOT scenic easements located along Route Segment 4 of the Project in Belle Plaine or Le Sueur (using the Myrick Alternative).

### **SUPPLEMENTAL FINDINGS OF FACT**

The following finding is added to acknowledge that the proposed crossing at Belle Plaine would follow an existing electric transmission right-of-way.

[New] The Alternate Route follows an existing 69 kV transmission line right-of-way at the crossing of the Minnesota River at Belle Plaine. The existing 69 kV transmission line is owned and operated by Great River Energy.

There are a number of additional findings in the ALJ's initial report that are not specifically at issue in this remand proceeding, but should be reaffirmed for Segment 4. They are the same as the original findings, and they need not be restated in their entirety. These findings are as follows:

[New] Many of the findings in the ALJ’s Findings of Fact, Conclusions of Law and Recommendation relate to the Project but are not specifically at issue in this remand proceeding. The following findings are reaffirmed as applicable for the Project: Findings 187-218 (electric and magnetic fields, including stray voltage); Findings 357-395 (underground construction, co-location with U.S. Highway 169 bridge, co-location with self-supporting pier, and co-location with transmission line at Belle Plaine); Findings 481-505 (Myrick Alignment Alternative); Findings 419-430 (RES Specialty Pyrotechnics, Inc. (“RES” alignment adjustment); and Findings 521-530 (Cedar Mountain to Franklin 115 kV transmission line); and Findings 148-151 (statutory criteria under the Power Plant Siting Act.<sup>4</sup>

[New] Many of the findings relating to application of statutory and rule criteria are not specifically at issue or provide introductory material to a discussion of a particular criterion apply to Segment 4 regardless the route selected. The following findings are adopted for the three alternative routes considered for Segment 4: Findings 152 (introductory finding), Findings 159-162 (noise), Findings 165-166 (aesthetics), Findings 169-170 (cultural values), Finding 172 (recreation), Findings 178 and 181 (public services), Findings 219-220 (effects on land based economies), Findings 230-231 and 235 (effects on archeological and historic resources), Findings 217-219 (introductory and air quality), Findings 243-247 (water quality and resources), Findings 253-255 (flora), Findings 260- 263 and 265-266 (fauna), Findings 271-274 (effects on rare and unique natural resources), Finding 279 (application of various design considerations), Finding 285 (use or paralleling of existing right-of-way, survey lines, natural division lines and agricultural field boundaries), Finding 292 (use of existing transportation, pipeline, and electrical transmission system right-of-way), Finding 306 (electrical system reliability), Finding 308 (costs of constructing, operating, and maintaining the facility), Findings 314-317 (adverse human and environmental effects which cannot be avoided), Findings 321-324 (irreversible and irretrievable commitments of resources), Findings 327-328 (consideration of issues presented by state and federal agencies), and Findings 532-533 (route width flexibility).

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<sup>4</sup> *In the Matter of the Route Permit Application for a 345 kV Transmission Line from Brookings County, South Dakota to Hampton, Minnesota*, Docket No.: ET-2/TL-08-1474, Findings of Fact, Conclusions, and Recommendation (April 22, 2010 and amended April 30, 2010).



## **CONCLUSIONS OF LAW**

Conclusion 9, concluding that the Modified Preferred Route for Segment 4 is the best alternative for the 345 kV transmission line between Brookings County Substation and Hampton Substation, is not accepted.

Conclusion 10, concluding that it is appropriate to grant a Route Permit for the 345 kV transmission line and Associated Facilities along the Modified Preferred Route, is not accepted.

## ORDER

Based on the Findings of Fact and Conclusions of Law modified herein and the entire record of this proceeding, the Commission hereby makes the following Order:

1. The findings, conclusions and recommendations contained in the Administrative Law Judge's December 22, 2010, Findings of Fact, Conclusions and Recommendation, and December 23, 2010, Amended Findings of Fact, Conclusions and Recommendation are adopted except as inconsistent with this Order or otherwise specified herein.

2. Specifically, the Commission declines to adopt Findings 38, 39, and 53; and Conclusions 9 and 10 of the December 22, 2010, Findings of Fact, Conclusions and Recommendation.

3. The Commission hereby grants the Applicants a Route Permit, in the form attached, to construct Segment 4 of the high-voltage transmission line requested between Brookings County, South Dakota and Hampton, Minnesota along the Alternate Route utilizing the Gibbon Crossover Route, with an aerial crossing of the Minnesota River at Belle Plaine.

BY ORDER OF THE COMMISSION

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Burl W. Haar,  
Executive Secretary



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**ROUTE PERMIT ADDENDUM  
TO  
STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION**

**ROUTE PERMIT FOR CONSTRUCTION OF A HIGH-VOLTAGE  
TRANSMISSION LINE AND ASSOCIATED FACILITIES  
IN**

**LINCOLN, LYON, YELLOW MEDICINE, CHIPPEWA, REDWOOD,  
BROWN, RENVILLE, SIBLEY, LE SUEUR, SCOTT, AND DAKOTA  
COUNTIES**

**ISSUED TO  
GREAT RIVER ENERGY AND  
NORTHERN STATES POWER COMPANY**

**PUC DOCKET No. ET2/TL-08-1474**

In accordance with the requirements of Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850, this route permit is hereby issued to:

**GREAT RIVER ENERGY AND NORTHERN STATES POWER COMPANY**

Great River Energy and Northern States Power Company, d/b/a Xcel Energy, are authorized by this route permit to construct the 240-mile segment located within the State of Minnesota, of a new 345 kilovolt (kV) high-voltage transmission line from a new Hampton Substation in Dakota County, Minnesota, to the Brookings Substation in Brookings County, South Dakota.

The transmission line and associated facilities shall be built within the route identified in this permit, as portrayed on the official route maps, and in compliance with the conditions specified in this permit.

Approved and adopted this 1<sup>st</sup> day of March, 2011

BY ORDER OF THE COMMISSION

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Burl W. Haar,  
Executive Secretary

On page 2, under I. Route Permit, revise as follows:

The Minnesota Public Utilities Commission (Commission) hereby issues this route permit to Great River Energy and Xcel Energy (Permittees) pursuant to Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850. This permit authorizes the Permittees to construct approximately ~~169~~ 240 miles of new 345 kV transmission line and associated facilities in Lincoln, Lyon, Yellow Medicine, Chippewa, Redwood, Brown, Renville, Sibley, Le Sueur, Scott, and Dakota counties, Minnesota.

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On page 2, under II. Project Description, Section II.A., revise as follows:

**A. High-Voltage Transmission Line**

The route authorized in this Permit includes ~~five~~ six route segments (Segments 1,2,3,~~4~~,5, and 6) totaling approximately ~~169~~ 240 miles, constructed between (1) the Brookings County substation near White, South Dakota, and a new Hampton substation near Hampton, Minnesota and (2) the Lyon County substation near Marshall, Minnesota, and the Minnesota Valley substation near Granite Falls, Minnesota. See web links to the maps for the approved route segments on Attachment A.

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On page 2, under II. Project Description, add the following paragraph immediately preceding Section II.A.(5).

4. Cedar Mountain Substation to Helena Substation

This segment is approximately 71 miles long passing through Renville, Sibley, and Scott counties. This segment will be constructed and operated as a double-circuit 345 kV on double-circuit structures.

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On page 26, Attachment A, First sentence, revise as follows:

Web links to the maps for the ~~five~~ six route segments (Segments 1,2,3,~~4~~,5, and 6) authorized in this Route Permit are:

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On page 26, Attachment A, Web links to maps authorized by the route permit, add the following immediately preceding **Segment 5** = HL on OES's Overview Map (Helena Substation to Lake Marion Substation):

**Segment 4** = CH on OES's Overview Map (Cedar Mountain Substation to Helena

Substation)

1 of 7: CH 1-12

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-01>

2 of 7: CH 13-24

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-02>

3 of 7: CH 25-36

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-03>

4 of 7: CH 37-48

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-04>

5 of 7: CH 49-60

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6 of 7: CH 61-72

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-06>

7 of 7: CH 73-84

<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20107-52223-07>