

# BRIGGS

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March 31, 2011

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**VIA ELECTRONIC FILING**

Dr. Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
350 Metro Square Building  
121 Seventh Place East  
St. Paul, MN 55101

**Re: *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***  
**MPUC Docket No. ET-2/TL-08-1474**  
**OAH Docket No. 7-2500-20283-2**

Dear Dr. Haar:

Enclosed for filing please find the Answer of Great River Energy, a Minnesota cooperative corporation, and Northern States Power Company, a Minnesota corporation, to the Petition for Reconsideration of the March 1, 2010 Order Granting Route Permit for Remanded Segment of Route submitted by Ms. Vicki Wolter on behalf of multiple Sibley County and Scott County resident-petitioners. The petition, dated March 18, 2011, was served on March 21, 2011.

Sincerely,

/s/ Lisa M. Agrimonti  
Lisa M. Agrimonti

LMA/kjc  
Enclosure  
cc: Service Lists

**STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION**

Ellen Anderson	Chair
David Boyd	Commissioner
J. Dennis O'Brien	Commissioner
Phyllis Reha	Commissioner
Betsy Wergin	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

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

**PERMITTEES' ANSWER TO PETITION  
FOR RECONSIDERATION**

**I. INTRODUCTION**

Pursuant to Minnesota Rule 7829.3000, Great River Energy, a Minnesota cooperative corporation, and Northern States Power Company, a Minnesota corporation (“Xcel Energy”), (jointly, “the Permittees”), submit this response to the March 18, 2011 Petition for Reconsideration of the Order Granting Route Permit (“Petition”) submitted by Vicki Wolter on behalf of herself and 14 other landowners (collectively “Petitioners”). The Petition requests that the Minnesota Public Utilities Commission (“Commission”) reconsider its March 1, 2011 Order Granting Route Permit for Remanded Segment of Route (“Order”).

The Permittees appreciate the participation by the Petitioners during the proceeding. Written and oral submissions and presentations to the Administrative Law Judge (“ALJ”) and the Commission by many of the Petitioners helped inform the record on the Commission’s routing decision. The Permittees support the Commission’s route decision for the remanded Segment of the Route between Cedar Mountain Substation and the Helena Substation (“Segment 4”). The Commission fully examined a thorough record on the relative impacts of four routes for Segment 4<sup>1</sup> and properly determined that the Gibbon Crossover Route with a Belle Plaine

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<sup>1</sup> Three of the four routes considered for Segment 4 of the Project cross the Minnesota River at Belle Plaine: the Alternate Route, the Gibbon Crossover Route, and the Arlington Crossover Route. The fourth, the Modified Preferred Route, crosses at Le Sueur.

crossing of the Minnesota River is the appropriate route for the Project. The Commission's decision comports with the state's routing criteria set forth in the Power Plant Siting Act, Minnesota Statutes Chapter 216E and relevant rules, Minnesota Rules Chapter 7850.

The Petitioners do not raise any new arguments or identify record evidence that was not evaluated. Ample opportunity for public involvement and input was provided throughout both the original and Remand proceedings, leading to a lengthy record and substantial input by stakeholders. The Permittees therefore respectfully request that the Petition be denied.

## **II. BACKGROUND**

The issue of whether to cross the Minnesota at Belle Plaine or at Le Sueur has been a key consideration throughout the route development process. The Permittees held multiple public information Open Houses throughout the Project area, including Open Houses in Arlington and New Prague, as far back as September 2007.<sup>2</sup> The Permittees then submitted an application for a Route Permit ("the Application") in December 2008. The Application identified two routes, a Preferred Route and an Alternate Route. In Segment 4, between the Cedar Mountain Substation and the Helena Substation, the Alternate Route included a section from Faxon Township on the west side of the Minnesota River through Blakely Township on the east side to an area east of the intersection of 270<sup>th</sup> Street and Church Avenue in Belle Plaine Township ("Belle Plaine Section"). The Belle Plaine Section, which affects Petitioners, has remained unchanged throughout the original and the remand Route Permit proceedings.

The first public hearings were held by the Administrative Law Judge in December 2009. They included hearings in Henderson, Minnesota, approximately 11 miles from Belle Plaine, which were attended by approximately 300 people.<sup>3</sup> After the hearings, the ALJ issued a report with findings that the Le Sueur crossing and Belle Plaine crossing (with the Belle Plaine Section) were both permissible.<sup>4</sup>

In July 2010, the Commission remanded the proceeding to further develop the record regarding the appropriate Minnesota River crossing in response to comments

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<sup>2</sup> Application at Table 10-2.

<sup>3</sup> *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*, Docket No. ET-2/TL-08-1474, Findings of Fact, Conclusions and Recommendation, p. 159 (April 22, 2010).

<sup>4</sup> *Id.* at p. 99.

provided by the United States Fish and Wildlife Service (“USFWS”).<sup>5</sup> Four public hearings were held in the area in October 2010, including two at the Valley View Golf Course in Belle Plaine, Minnesota.<sup>6</sup> The hearings focused on the Gibbon Crossover Route, the Arlington Crossover Route, both utilizing the Belle Plaine Section, and the Modified Preferred Route, with a Minnesota River crossing at Le Sueur. More than 250 people attended the public hearings and 45 people, including seven of the Petitioners and the members of two other Petitioners’ families testified.<sup>7</sup> After the remand hearings, the ALJ issued a second report (“ALJ’s Second Report”)<sup>8</sup> and again found that both the Le Sueur and Belle Plaine crossing locations were permissible. The ALJ also recommended approval of the Modified Preferred Route, but noted that if the Le Sueur crossing were not selected, the Gibbon Crossover Route, with the Belle Plaine crossing, also satisfied the State’s routing criteria.

The Commission considered the entire record, including comments made at the February 3, 2011 Commission hearing by Ms. Wolter and others, and approved the Gibbon Crossover Route for Segment 4. The Commission reasoned, in part, that the Gibbon Crossover Route should be approved because “it uses an existing transmission corridor and offers alignment and engineering advantages over the Le Sueur Crossing.”<sup>9</sup> In contrast, the Le Sueur Crossing would require creating an entirely new transmission crossing as only a bridge currently exists at this location.<sup>10</sup>

### **III. DISCUSSION**

The Petition raises essentially three arguments: 1) that notice to affected landowners along the Belle Plaine Section was inadequate; 2) that engineering considerations were not supported in the record and 3) that the factors should have

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<sup>5</sup> *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*, Docket No. ET-2/TL-08-1474, Order Remanding to Office of Administrative Hearings (July 27, 2010).

<sup>6</sup> Ex. 45 (OES Affidavit of Published Notice of Public Hearings on Remand); Ex. 46 (OES Affidavit of Mailed Notice of Public Hearings on Remand).

<sup>7</sup> The seven Petitioners who spoke were Joel Bahr, Kevin Fahey, Mark Koepp, Glen Schultz, Gary Steinhagen, Maria Tracy, and Vicki Wolter. The two landowners whose interests were represented by family members were Marilyn M. Koepp and Alan Giles.

<sup>8</sup> *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*, Docket No. ET-2/TL-08-1474, Findings of Fact, Conclusions and Recommendation on Remand at Attachment 1 (Dec. 22, 2010 as amended Dec. 23, 2010). (“the ALJ’s Second Report”).

<sup>9</sup> Segment 4 Order at p. 13.

<sup>10</sup> Ex. 163 at p. 14 (Leshner Remand Direct).

been evaluated differently to support approval of the Modified Preferred Route. A review of the record and proceedings demonstrates that none of these warrants reconsideration of the Commission's decision or a reopening of the record.

The notices provided throughout the Route Permit proceeding were extensive. Minnesota statutes and rules require applicants and OES to provide certain notices to the public and local governments before and during the Route Permit process.<sup>11</sup> The ALJ's findings, as adopted by the Commission, provide that all required notices were given for the first hearings and the remand hearings.<sup>12</sup> In addition to the required published notices, notices of the remand hearings were mailed to all landowners within and adjacent to all routes under consideration, including those within the Belle Plaine Section.<sup>13</sup> The Petitioners' claims are unsubstantiated. More than half of the Petitioners appeared before the ALJ during the public hearings on remand and voiced their concerns. Moreover, the Petition does not identify any landowner within the approved route who lacked notice.

Petitioners' contention that the engineering considerations lacked foundation is likewise unsupported. The record contains the unchallenged testimony of Permittees' witness Kevin Lennon regarding engineering constraints at both the Le Sueur and Belle Plaine crossings. The Commission evaluated the entire record and concluded it would "defer to the experience and expertise of the Applicants' engineers" and properly determined that the Le Sueur crossing presents "more significant challenges" than the Belle Plaine crossing. The Minnesota Department of Transportation documents provided by Petitioners in Exhibits D and E, if considered, are not relevant to this analysis because the documents do not relate to the Belle Plaine crossing location, but a site approximately 2.25 miles northeast.<sup>14</sup>

Petitioners' last argument is that the Commission should reevaluate the routing factors to reach a different conclusion. The ALJ determined that both the Gibbon Crossover Route and the Modified Preferred Route were permissible. In deciding between two routes that satisfy the states routing factors, the Commission assessed all of the criteria and the full record developed after two sets of hearings and

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<sup>11</sup> Minn. Stat. § 216E.03, subd. 3a; Minn. Stat. § 216E.03, subd. 4; Minn. R. 7850.2100, Subp. 2; Minn. R. 7850.2100, Subp. 4.

<sup>12</sup> *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*, Docket No. ET-2/TL-08-1474, Administrative Law Judge Findings of Fact, Recommendation and Conclusions at pp. 4-8 and 94-99 (April 22, 2010 as amended April 30, 2010); ALJ's Second Report at pp. 35-37.

<sup>13</sup> Ex. 46 (OES Affidavit of Mailed Notice of Public Hearings on Remand).

<sup>14</sup> Ex. 163 at Schedule 9 (Leshner Remand Direct).

appropriately determined that the Gibbon Crossover Route should be approved. Permittees agree with and support the Commission's analysis including its rationale that: "The ability to use the existing transmission line right-of-way over the Minnesota River is a strongly preferential factor in support for the Gibbon Crossover [R]oute." The Commission's decision should stand.

#### **IV. CONCLUSION**

Based on the foregoing, Permittees respectfully request the Commission deny the request for reconsideration of its March 1, 2011 Order.

Dated: March 31, 2011

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*s/ Lisa M. Agrimonti*

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**Attorneys for Great River Energy, a  
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3733327

**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, MN**

**CERTIFICATE OF SERVICE  
MPUC Docket No. ET2/TL-08-1474  
OAH Docket No. 7-2500-20283-2**

Diane Bailey-Andersen certifies that on the 31st day of March 2011, she filed a true and correct copy of **Permittees' Answer to Petition for Reconsideration of the Order Granting Route Permit**, by posting on [www.edockets.state.mn.us](http://www.edockets.state.mn.us). Said document was also served via U.S. Mail and e-mail as designated on the Official Service List on file with the Minnesota Public Utilities Commission in the above-referenced docket.

*/s/ Diane Bailey-Andersen*  
Diane Bailey-Andersen



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