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May 10, 2011

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VIA E-FILING

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

**Re: In the Matter of the Application for a Route Permit for the Fargo to
St. Cloud 345 kV Transmission Line Project
MPUC Docket No. ET-2, E-002/TL-09-1056
OAH Docket No. 15-2500-20995-2**

Dear Dr. Haar:

Northern States Power Company, a Minnesota corporation, and Great River Energy, a Minnesota cooperative corporation, submit for filing through www.edockets.state.mn.us Applicants' Exceptions to ALJ Report in the above matter.

A copy of this filing is being served via e-mail or U.S. mail upon the persons designated on the attached Service List.

Sincerely,

/s/ Lisa M. Agrimonti

Lisa M. Agrimonti

LMA/jn
Enclosure
cc: Attached Service List

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**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 APPLICATION
FOR A ROUTE PERMIT FOR THE FARGO
TO ST. CLOUD 345-KILOVOLT
TRANSMISSION LINE PROJECT

DOCKET NO. ET-2/TL-09-1056

**APPLICANTS' EXCEPTIONS TO
ALJ REPORT**

I. INTRODUCTION

Northern States Power Company, a Minnesota corporation (“Xcel Energy”), on behalf of itself and its co-applicant, Great River Energy, a Minnesota cooperative corporation, (collectively “Applicants”) provide the Minnesota Public Utilities Commission (“Commission”) with certain observations and clarifications regarding the Findings of Fact, Conclusions and Recommendations (“Report”) issued by the Administrative Law Judge (“ALJ”) for the Fargo to St. Cloud 345 kV Project (“Project”). The 90-page report and 14-page summary of public comments contain full evaluation of the evidence presented in the hearings and the Final Environmental Impact Statement (“FEIS”).

Applicants appreciate the ALJ’s thorough analysis and generally support the ALJ’s recommendation. However, Applicants believe that a few issues should be clarified to ensure the Commission’s final decision is fully supported. Specifically, Applicants take exception to the following findings and conclusions and respectfully request that the Commission address these issues in its final Order:

Route widths—The ALJ’s Report states that it is unclear where Applicants seek a route width more or less than 1,000 feet wide, and recommends that Applicants provide clarification.¹ This response includes a list of areas where

¹ Finding 95; Concl. 15.

variable route widths are requested with record references for the Commission's consideration.

Sauk Centre route segment—The ALJ's Report recommends a northern alignment through Sauk Centre provided an alignment can be identified that would satisfy Minnesota Department of Transportation ("Mn/DOT") and Federal Aviation Administration ("FAA") requirements for the Sauk Centre Airport. In the alternative, the ALJ recommends a southern alignment. Based upon further review, Applicants believe that the southern alignment through Sauk Centre should be approved because it minimizes conflicts with potential airport expansions and modifications.²

Finding 245—This finding should be revised to state the correct incremental costs for Option 2B.

Conditions—The Report recommends several conditions relating to the development of construction and avian mitigation plans.³ Applicants believe that it would be more appropriate to require Applicants to submit an Agricultural Impact Mitigation Plan ("AIMP"), an avian mitigation plan, a re-vegetation plan, and a storm water pollution prevention plan ("SWPPP").

Applicants respectfully request that the Commission adopt the ALJ's Report with the narrow modified findings and conditions set forth in these Exceptions.

II. DISCUSSION

1) Route Widths.

The Report notes that Applicants request expanded route widths (greater than 1,000 feet) in some areas and narrowed route widths (400 feet) in other areas to accommodate specific concerns, but states that "[i]t is not clear in the record which of the route width deviations the Applicants are still seeking."⁴ The ALJ recommends that "[t]he Route Permit should provide the Applicants with a route width of up to

² Findings 306 and 347; Concls. 10 and 11.

³ Concl. 21.

⁴ Findings 93-95.

1,000 feet. The record is unclear as to the areas where the Applicants continue to seek a wider route width or narrower route width and that information should be provided to the Commission.”⁵

Applicants do generally request a 1,000-foot route width, except in areas where flexibility is needed to develop an alignment to avoid certain constraints (e.g., interstate connections, residences, or United States Fish and Wildlife (“USFWS”) areas) or in areas where USFWS Wildlife Production Areas (“WPAs”) must be avoided. The locations of expanded route widths were set forth in Exhibit 1A (Applicants’ Route Permit Application) at pages 2-12 to 2-13, Figure 2-4, and depicted in Exhibit 4 (Tile Maps).

For the portion of the Project from North Dakota to Sauk Centre, Applicants continue to request Widened Area Locations identified in the Application as Widened Area Numbers 1,⁶ 4-10,⁷ and 12-27.⁸ Applicants further request Widened Area Locations pertaining to Route G between Sauk Centre and the Quarry Substation, which include Widened Area Numbers 31-33 and 35.⁹

The Modified Preferred Route also contains widened areas not originally included in the Application, but which were developed through the record and which the ALJ recommended for adoption as part of the Modified Preferred Route. These areas include:

- Option 13 (Alliance Township Country Road 53; Alliance Township Sections 16 and 21). This is a site-specific consideration to accommodate an existing personal use airstrip.¹⁰

⁵ Concl. 15.

⁶ Widened Area Numbers 2 and 3 do not pertain to the Modified Preferred Route, and therefore are not requested for the final Permit.

⁷ Widened Area Number 11, along Interstate 94 near Moe Township (I-94 mileposts 96-95), was initially requested to avoid residences on the south side of I-94 and a USFWS WPA on the north side. Exhibit 4N. Testimony at the public hearings established that the residence closest to I-94 is dilapidated and abandoned, and the owner intends to remove it. Public Exhibits 7 and 8; Hegg, Public Hearing, Alexandria, Nov. 18, 2010, 6:30 p.m. at p. 29; Roth December 29, 2010 Email to ALJ Heydinger, Public Comment, eDocket Document No. 20111-58663-02 (eFiled Jan. 19, 2011). Accordingly, this widened area is no longer requested. Finding 263

⁸ Exhibit 1A at 2-12 to 2-13, Figure 2-4 (Applicants’ Route Permit Application).

⁹ Exhibit 1A at 2-13, Figure 2-4 (Applicants’ Route Permit Application).

¹⁰ Finding 256; Concl. 8. *See also* Ex. 2 at 14 and Sched. 4 (Lahr Direct); FEIS at 3-8; Ex. 4B.

- Minnesota-North Dakota border at a point approximately 3 miles south of the Applicant Preferred Route running 17 miles east of the Applicant Preferred Route. This was an amended scope request to modify the preferred route to avoid future Red River flood mitigation construction.¹¹
- Amended scope request to add 4.3 acres at the Alexandria Switching Station.¹²

Areas where Applicants seek a narrowed route width are set forth in Exhibit 22 at 1-34, Table 1.5-2 (DEIS “Areas with Decreased Route Width”). Applicants have reproduced the portions of the table that remain relevant in light of the ALJ’s overall recommendation, with minor modifications and comments from the record in redline below:

Narrow Area Location	Rationale for Decreased Route Width	Comments
North Dakota-Alexandria Applicant Modified Preferred Route		
South of I-94 in T135-R45-S9 in Wilkin County	Haugrud-Sillerud WPA	
North of I-94 in T135-R45-S10 in Wilkin County	Bellmore WPA	
North of I-94 in T134-R44-S35 in Otter Tail County	Sethre WPA	
T133-R43-S20 in Otter Tail County	Kunz WPA	
T143-R43-S19 in Otter Tail County	Wildung WPA	
T142-R43-S14, 23 in Otter Tail County	Knollwood WPA	
T131-R42-S5-6, 8-9 in Otter Tail County	Nicholson WPA	
T131-R42-S15-16 in Otter Tail County	Ten Mile WPA	
T130-R41-S17 in Grant County	Pelican Creek WPA	
T129-R41-S1 in Grant County	Bah Lakes WPA	
T129-R40-S9,16 in Douglas County	Zickur WPA	
T128-R39-S13 in Douglas County	Lobster Lake WPA	
Alexandria-Sauk Centre – Applicant Modified Preferred Route with Option 6¹³		
T126-R34-S5-6 in Stearns County	Zehrer WPA	
T126-R34-S23-24 in Stearns County	McCormick Lake WPA	WPA avoided by utilizing <u>Option 6 and Route A south of Sauk Centre, as set forth below.</u> ¹⁴
T125-R34-S24 in Stearns County	Schuman WPA	
T127-R36-S20 in Douglas County	Orange WPA	
Sauk Centre-St Cloud – <u>None for Route G</u>		

¹¹ Findings 144-146; Concl. 8; Ex. 22 at 1-31, Table 1.5-1 (DEIS); Exs. 4B and 4D.

¹² Finding 65; Concls. 8, 14; Ex. 22 at 1-31, Table 1.5-1 (DEIS).

¹³ See Section II.2 of this document (“Sauk Centre Alignment”), below.

¹⁴ Ex. 4S.

The above narrowed route widths are likewise depicted in Exhibit 4 (tile maps). Applicants respectfully request that the Commission approve the route widths identified above.

2) Sauk Centre Alignment.

The Sauk Centre Municipal Airport (“the airport”), located on the south side of Interstate 94, is a significant routing constraint within the Alexandria-Sauk Centre segment of the Project. Applicants requested flexibility during the Route Permit proceeding to work with Mn/DOT, FAA, and the City of Sauk Centre to develop an alignment within the Modified Preferred Route on the north side of Interstate 94. The ALJ Report recommends either the northern alignment along Interstate 94 that is contained within the Modified Preferred Route, or a southern alignment comprised of portions of Alternate Route A and Option 6 (“Southern Route Segment”).¹⁵

The airport operates a paved north/south main runway and a grass west/east crosswind runway, each of which has its own departure slopes and land use safety zones that restrict structure locations and heights on surrounding properties.¹⁶ The airport’s most recent approved Airport Layout Plan (2000) calls for upgrading and expanding both runways, but the plans are subject to revision and there is no timeframe for implementation.¹⁷

Applicants have further reviewed the potential alignments on the north and south sides of Interstate 94, the ALJ’s recommendation that the line avoid downtown Sauk Centre, and the uncertainty surrounding future airport plans. The Applicants have also evaluated the Sauk Centre wildlife management area (“WMA”) that the Project would cross on the Southern Route Segment. As the ALJ recognized, the Project would avoid the Sauk Centre area and the airport if the Project were constructed along the Southern Route Segment.¹⁸ In addition, the Minnesota Department of Natural Resources (“DNR”) has not identified any impediment to crossing the WMA, and none is anticipated. On balance, the Applicants believe that the Southern Route Segment should be authorized for the Project.

To authorize the Southern Route Segment, Applicants recommend the following modifications to the ALJ’s Report:

¹⁵ Concls. 10-11.

¹⁶ Findings 299-301.

¹⁷ Findings 299-300.

¹⁸ Finding 270.

Findings

306. ~~In the event that the Modified Preferred Route cannot be aligned~~ A more reasonable alternative to comply with federal and state aviation standards and address the City's objections to alignment along 12th Street, ~~an alternative~~ is to follow the Modified Preferred Route to Option 6, then follow Option 6 and Route A to the point where Route A rejoins the Modified Preferred Route at the end of this segment. This would add about 3.5 miles to the length of the Modified Preferred Route, at an estimated cost of \$1.7 million per mile. With certain limitations on the height of one or two transmission line structures, Option 6 and Route A around the City could be constructed to comply with the airport safety clearances.

347. ~~If MnDOT, the FAA and the City cannot find an acceptable alignment for the Modified Preferred Route,~~ The transmission line should follow the Modified Preferred Route south from Alexandria to Option 6, along Option 6 to Route A, and follow Route A to the point of reconnection with the Modified Preferred Route south of Sauk Centre. This selection would avoid the airport, the developed part of the City and significantly reduce the number of freeway crossings. ~~If this alternative is selected,~~ The Route Permit should require the Applicants to coordinate with the DNR to mitigate the alignment's impact.

Conclusions

10. For the Alexandria to Sauk Centre segment of the Route, the Modified Preferred Route from Alexandria to Option 6, to Route A until it rejoins the Modified Preferred Route, satisfies the route permit criteria set forth in Minn. Stat. § 216E.03, subd. 7 (a), 7(b), and Minn. R. 7850.4000, and 7850.4100. For this segment, the Modified Preferred Route with Option 6 and the Route A segment proceeding south of Sauk Centre presents a potential for significant adverse environmental effects, but there is no feasible and prudent alternative. The Modified Preferred Route is the

best alternative on the record for the 345 kV transmission line from Alexandria to Sauk Centre.

~~11. In the event that the Modified Preferred Route cannot be aligned to meet MnDOT airport clearance requirements and avoid 12th Street in Sauk Centre, the Modified Preferred Route should be followed from Alexandria to Option 6 and then follow Route A to the point where it rejoins the Modified Preferred Route.~~

3) Finding 245, Option 2B.

The Report recommends adoption of Option 2B as an 8.6-mile modification to the Modified Preferred Route in Erdahl and Evansville Townships.¹⁹ Applicants appreciate the ALJ's efforts with regard to Findings 150 to 155, which are intended to resolve apparent confusion in the record as to the proper delineation between Options 2A and 2B. Applicants are likewise in general agreement with the ALJ's conclusions regarding the location of Option 2B and do not take exception to the ALJ's recommendation to adopt Option 2B in lieu of the comparable segment of the Modified Preferred Route.

Applicants do wish to correct an error in Finding 245,²⁰ which provides:

Option 2A will add approximately \$15.7 million to the cost of the Modified Preferred Route; Option 2B will add about \$14.6 million to the cost.

The costs reflected in this finding and set forth in FEIS Table 3.2-1 are the total costs of Options 2A and 2B, respectively (calculated by multiplying the lengths of the options by \$1.7 million per mile), rather than the incremental cost of replacing a portion of the Modified Preferred Route with either Option 2A or Option 2B.²¹ Given that Option B is about 8.6 miles but replaces approximately 8 miles of the Modified Preferred Route,²² the correct incremental cost of Option 2B would be approximately \$1.0 million.

¹⁹ Finding 255, referencing Ex. 22 at Figure 1-5 (DEIS).

²⁰ This finding cites to the FEIS at 3-2, Table 3.2-1.

²¹ See FEIS at 3-2, Table 3.2-1.

²² Ex. 30 at Schedule 8, p. 1 of 9 (Lahr Rebuttal).

4) **Conditions.**

Conclusion 21 of the Report recommends development of a variety of plans, the retention of an environmental monitor, and further consultation with the Department of Natural Resources to mitigate potential impacts of construction and operation of the Project. The Company generally supports the recommendation, but believes that the most appropriate reports are the CapX2020 AIMP, an avian mitigation plan, a re-vegetation plan, and a SWPPP. The Company requests that the proposed condition, if adopted, be revised as follows:

As a condition of the Route Permit, the Applicants should develop a Construction Environmental Control Plan, which shall include an Agricultural Impact Mitigation Plan, Avian ~~Protection~~ Mitigation Plan, ~~Environmental Management Plan~~, Re-vegetation and Restoration Plans, and a Stormwater Pollution Prevention Plan; ~~Environmental Mitigation Plan and all policies, permits, plans, and protocols~~, to minimize and mitigate the potential impact associated with the construction and operation of the transmission line. The ~~control plan shall require the Applicants shall to~~ consult with the DNR concerning right-of-way management, use of bird diverters, and construction near water bodies, wetlands, native plant communities and breeding areas. The Applicants ~~should also be required to~~ shall retain and/or fund an environmental monitor to oversee implementation and compliance with the Construction Environmental Control Plan.

III. CONCLUSION

Applicants respectfully request that the Commission adopt the Report in its entirety with the exception of the minor modifications described above.

Dated: May 10, 2011

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3813551

*In the Matter of the Application for a Route
Permit for the Fargo to St. Cloud 345 kV
Transmission Line Project*

CERTIFICATE OF SERVICE
MPUC Docket No. ET-2, E-002/TL-09-1056
OAH Docket No. 15-2500-20995-2

Jane Nystrom certifies that on the 10th day of May, 2011, she filed a true and correct copy of **Applicants' Exceptions to ALJ Report**, by posting the same on 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.

/s/ Jane Nystrom

Jane Nystrom

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