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March 30, 2012

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: Comments and Recommendation of the Energy Facility Permitting Staff on a Route Permit (Docket No. E002/TL-09-1448)

Dear Dr. Haar:

Attached are the Comments and Recommendation of the Department of Commerce Energy Facility Permitting (EFP) Staff:

In the Matter of the Application for a Route Permit for the CapX2020 Hampton-Rochester-La Crosse High Voltage Transmission Lines.

EFP recommends issuance of a route permit as described in the attached draft permit and route maps.

The Route Permit Application was filed on January 19, 2010 by:

Thomas Hillstrom
CapX2020
414 Nicollet Mall, MP-8A
Minneapolis, MN 55401
612-330-6538

EFP staff is available to answer questions from the Commission.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Langan', written in a cursive style.

Matthew A. Langan
EFP Staff

Attachments



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**COMMENTS AND RECOMMENDATIONS OF THE
DEPARTMENT OF COMMERCE
ENERGY FACILITY PERMITTING STAFF**

DOCKET NO. E002/TL-09-1448

Meeting Date: April 12, 2012

Agenda Item # 1

Company: Northern States Power Company (dba Xcel Energy)

Docket No. E002/TL-09-1448

**In the Matter of the Application for a Route Permit for the CapX2020
Hampton-Rochester-La Crosse High Voltage Transmission Lines.**

Issues: Should the Commission find that the Environmental Impact Statement (EIS) adequately addresses the issues identified in the scoping decision? Should the Commission issue a route permit identifying a specific route and permit conditions for the proposed CapX 2020 Hampton-Rochester-La Crosse 345 kV and 161 kV transmission line?

EFP Staff: Matthew A. Langan 651-296-2096

Relevant Document(s)

Route Permit ApplicationJanuary 19, 2010
Public Utilities Commission Application Acceptance OrderMarch 9, 2010
Environmental Impact Statement Scoping DecisionAugust 6, 2010
Draft EISMarch 21, 2011
Final EISAugust 31, 2011
Exhibit List.....January 4, 2012
ALJ Findings of Fact, Conclusions of Law, and RecommendationFebruary 8, 2012

This document can be made available in alternative formats (i.e., large print or audio) by calling 651-296-0391 (voice). Persons with hearing or speech disabilities may call us through Minnesota Relay at 1-800-627-3529 or by dialing 711.

The enclosed materials are the work papers of the Department of Commerce Energy Facility Permitting Staff (EFP). They are intended for use by the Public Utilities Commission and are based on information already in the record unless otherwise noted.

Attached Document(s)

Proposed HVTL Route Project Overview
Proposed Findings of Fact, Conclusions of Law and Order
Proposed HVTL Route Permit
Proposed HVTL Route Permit Map Set (Available on eDockets)

(Relevant documents and additional information can be found on eDockets (09-1448))

Statement of the Issues

Should the Commission find that the Environmental Impact Statement (EIS) adequately addresses the issues identified in the Scoping Decision? Should the Commission issue a Route Permit identifying a route and permit conditions for the Hampton to Rochester to La Crosse Transmission Line?

Introduction and Background

On January 19, 2010, Xcel Energy filed a high voltage transmission line (HVTL) Route Permit application with the Commission under the full permitting process for the proposed CapX 2020 Hampton-Rochester-La Crosse Transmission Line Project (Project). The Project is over 200 kilovolts (kV) and requires a Certificate of Need (CN). An Order was issued by the Commission on May 22, 2009, granting a CN for the CapX2020 Phase I project, which includes the transmission lines in this route permit application.

Project Area

The Project consists of a route for a 345 kV transmission line, and a route for a 161 kV transmission line. The 345 kV transmission line would run from a planned substation in Vermillion Township, Minnesota, in Dakota County southeast of the Twin Cities, to a new substation in Pine Island Township in Goodhue County, Minn. The 345 kV transmission line would then travel east to the Mississippi River, where it crosses at a location near Kellogg, Minn., in Wabasha County. The 161 kV transmission line route runs between the new substation in Pine Island Township south to the existing Northern Hills Substation in Rochester, Minn., Olmsted County. A map that identifies an overview of the Project location is attached to these comments.

Project Description

In its route permit application, the Applicant proposed to construct a project comprising a 345 kV transmission line, a 161 kV transmission line, a new substation, and make modifications at two existing substations. The project is summarized below (using segments from the EIS):

1. Construct a new, overhead 345 kV transmission line from the planned Hampton Substation in Vermillion Township, Dakota County, Minn., to the new North Rochester substation in Pine Island Township, Goodhue County, Minn., following Route 1P;
2. Construct a new, overhead 161 kV transmission line from the new North Rochester Substation south to the existing Northern Hills Substation in Rochester, Minn., in Olmsted County following Route 2P;
3. Construct a new, overhead 345 kV transmission line from the new North Rochester Substation east toward the Mississippi River crossing near Kellogg, Minn., in Wabasha County following route 3P; and,
4. Make modifications and upgrades at the planned Hampton Substation and the existing Northern Hills Substation, as described in the route permit application and Environmental Impact Statement.

After the route permit application was filed with the Commission, but before the Office of Administrative Hearings conducted contested case hearings on this matter, the Applicant submitted to the record a "Modified Preferred Route" which affected the 345 kV routes in Segment 1 and Segment 3. For Route 1P, the Applicant proposed to expand the route width in Cannon Falls near the Highway 52 and County Road 19 interchange. This modification is described in Hearing Exhibits 94 and 95, and in the EIS at Appendix L. For Route 3P, the Applicant expressed its preference for a route segment that was recommended by the public during the EIS scoping process and included in the Department's EIS scoping decision. The Modified Preferred Route in Segment 3 is described in Finding 70 and footnote 91 of the ALJ's report and recommendation to the Commission. The Modified Preferred Route in Segment 3 incorporates a portion of Route 3P-002. This route is described throughout Section 8.3 of the EIS.

Regulatory Process and Procedures

The Project is over 200 kV and requires a Certificate of Need (CN). An Order from the Commission on May 22, 2009, granted a CN for the CapX2020 Phase I project, of which this line segment application is a part.

High voltage transmission lines with a voltage above 200 kV are required to undergo the Full Review Process under Minnesota Rule 7850.1700-2700 and Minnesota Statute 216E.04. Under the Full Review Process, an applicant is required to present a proposed and an alternative route. The application must provide specific information about the proposed project, applicant, environmental impacts, alternatives and mitigation measures (Minn. Rule 7850.1900). The

Applicant filed a route permit application with the Commission on January 19, 2010. The Commission accepted the application as complete in its March 9, 2010 Order.

Route permit applications for high voltage transmission lines are subject to environmental review in accordance with Minnesota Rules 7850.1700 to 7850.2700. Under this process (Minn. Rule 7850.2300), the Department of Commerce Energy Facility Permitting (EFP) staff conducted six public information and scoping meetings in the project area between May 4 and 6, 2010. The Department of Commerce issued an EIS Scoping Decision on August 6, 2010. EFP prepared a Draft EIS, which was published on March 21, 2011, and held six Draft EIS information meetings in the project area April 12 and 14, 2011. The Final EIS (Minn. Rule 7850.2500) was released on August 31, 2011.

A contested case hearing (Minn. Rule 7850.2600 and Minn. Rule 1405) was conducted by Administrative Law Judge (ALJ) Kathleen D. Sheehy. The contested case hearing included six public hearings in the project area between June 14 and 16, 2011, and evidentiary hearings in St. Paul, Minn., June 20 – 24, 2011. The ALJ report and recommendation was released on February 8, 2012. The ALJ recommended that the Commission issue a route permit to the Applicant along a route defined in her Conclusions.¹

Administrative Law Judge's Report

The ALJ released her Findings of Fact, Conclusions, and Recommendation (ALJ Report) on February 8, 2012.² The ALJ Report addresses transmission line siting for the applicant's high voltage transmission line route permit for the proposed Hampton-Rochester-LaCrosse 345 kV transmission line project. The ALJ report consists of one recommendation, 490 findings of fact, and 14 conclusions.

ALJ Recommendation:

The ALJ recommended the following for Segments 1, 2, and 3, with "appropriate conditions":

1. In Segment 1, route options 1P and 1P-003 best satisfy the route permit criteria set forth in Minn. Stat. § 216E, subs. 7(a) & (b), and Minn. R. 7850.4000 & 7850.4100.
2. In Segment 2, route option 2A best satisfies the route permit criteria set forth in Minn. Stat. § 216E.03, subs. 7(a) & (b), and Minn. R. 7850.4000 & 7850.4100.
3. In Segment 3, route option 3P-Zumbro-S with the 3P-004 option best satisfy the route permit criteria set forth in Minn. Stat. § 216E.03, subs. 7(a) & (b), and Minn. R. 7850.4000 & 7850.4100.

¹ "Findings of Fact, Conclusions and Recommendation," February 8, 2012, pp. 92-93.

² Findings of Fact, Conclusions, and Recommendation, Docket No. E-002/TL-09-1448 (Feb. 8, 2012); Doc. Ident. No. 20122-71372-01.

The ALJ's Report includes extensive references in footnotes to oral comments made at the public hearings and the written comments that are a part of the record in this proceeding. It does not include a separate summary of written and oral comments from the public.

The ALJ concluded that the procedural requirements of Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850 were appropriately followed. The ALJ identified route impacts and mitigation measures, and drew conclusions based on the record. The ALJ did not make findings and conclusions as to the adequacy of the Final EIS, nor did the Commission request such findings and conclusions.

The ALJ Report also presents findings of fact for each of the decision criteria under Minnesota Rules 7850.4100. The Commission may accept or reject the ALJ's recommendations. The ALJ's findings, conclusions, and recommendations have no legal effect unless expressly adopted by the Commission in its final order. If the Commission wishes to adopt findings that are not consistent with the ALJ findings, it must explain its reasons for so doing.

Exceptions to the ALJ Report

As provided for on page 93 of the ALJ Report, "Under the Commission's Rules of Practice and Procedure, Minnesota Rules 7829.0100 to 7829.3200, exceptions to this Report, if any, by any party adversely affected must be filed within 15 days of the mailing date hereof with the Executive Secretary of the PUC...Exceptions must be specific, relevant to the matters at issue in this proceeding, and stated and numbered separately. Proposed Findings of Fact, Conclusions, and Order should be included, and copies served upon all parties."

Two parties filed exceptions: the Applicant and the North Route Group (NRG), NoCapX 2020 (NoCapX), and United Citizens Action Network (UCAN). These exceptions and other EFP suggested additions and modifications to the ALJ Report are discussed below under the EFP Staff Analysis and Comments section.

EFP Staff Analysis and Comments

The HVTL in question is part of the larger CapX 2020 Phase 1 group of major transmission proposals. The Commission has previously issued a Certificate of Need to these projects in its May 22, 2009 Order and its August 10, 2009 modifying Order in docket no. E002, ET2/CN-06-1115. The only question to be determined in this docket is the selection of a final route.

[Note: The findings and conclusions included in the discussion in the following sections retain the same numbering used in the ALJ Report. Amendments, changes, deletions and additions to the ALJ findings are shown by strikethrough and underlining. Please note that the ALJ footnotes have been omitted for formatting reasons, except where necessary to address an exception.]

Applicant's Exceptions

The Applicant supports approval of the ALJ-recommended route, with the exception of Segment 1P-003 for the 345 kV transmission line, requests a clarification with regard to the segment between the North Rochester Substation and Kellogg, Minnesota, and suggests a modification of one finding based on a recent decision in another contested case.

Applicant's Exception 1

Applicant takes exception to the ALJ's recommendation for the Segment 1 345 kV transmission line, which includes Segment 1P-003. Applicant contends that the Modified Preferred Route for this segment (1P route) is the better route for the section covered by Segment 1P-003 "based on residential impacts, existing land use, and corridor sharing."

The 1P route follows U.S. Highway 52, a high traffic infrastructure corridor characterized by primarily industrial and commercial uses. In the area directly west of Cannon Falls at the Highway 19 and U.S. 52 interchange, the Applicant revised its proposed alignment and route width to address concerns raised by the Minnesota Department of Transportation's (Mn/DOT) permitting requirements which Mn/DOT advised would preclude permanent encroachment by the facilities or line "blow-out."³ In the southern part of this area at the intersection with County Road 24, the Applicant altered the alignment to follow a planned Mn/DOT access road running behind the businesses abutting the highway.⁴ Segment 1P-003 is an approximately 5.5 mile segment that follows the 1P route until just north of Cannon Falls, where it leaves US 52 and runs south for about two miles along Harry Avenue before reconnecting to the 1P route south of Cannon Falls.⁵

According to the Applicant, the raw numbers the ALJ considered in this area of the 1P-003 Segment and corresponding segment of the 1P route are misleading, as they obscure the real impact on human settlement (criterion A). The Applicant believes that looking at the raw number of homes within 500 feet of the alignment, as the ALJ did, makes the impact appear higher in the 1P route section than in Segment 1P-003.

Second, with regard to "land use" (Minn. Stat. § 216E.03, subd. 7(b)(2)), the Applicant states that the 1P route is more compatible with the industrial and commercial uses along U.S. 52, while the land use along Segment 1P-003 is primarily residential and park land, for which a permit is required to cross from Dakota County. The Applicant notes that Dakota County commented during the proceeding and provided a letter and a County Board resolution that recommended that the line not pass through the Lake Byllesby Regional Park, stating that the project could "significantly affect" Lake Byllesby Regional Park and/or the Byllesby Dam.⁶ After the ALJ Report was issued, Applicant conducted additional research, noting that there may be certain restrictions placed on portions of the park for which a permit from Dakota County would be required.⁷

³ NSP Exceptions at 3, citing ALJ Report at Finding 291.

⁴ *Id.*, citing Finding 293 and Exhibit 63.

⁵ ALJ Report at 45, ¶ 233.

⁶ NSP Exceptions at 6, *quoting* Dakota County Letter dated June 21, 2011; eDocket Doc. ID 20117-64779-01.

⁷ NSP Exceptions at 6-7.

Third, with regard to corridor sharing (criterion J), the Applicant notes that the 1P route follows transmission line or road right-of-way for 72 percent of its length compared to 56 percent for Segment 1P-003.⁸ The Applicant believes that 1P route should be selected based on these three factors, and recommends the relevant finding and conclusion be replaced with the following:

~~306. There are, however, significant problems following US 52 through the Cannon Falls area in the vicinity of Highways 19 and 24, because of the proximity of homes, churches, schools, and businesses. Use of option 1P-003 would bypass this area and would impact fewer total residences; would avoid the church, school, and businesses; would parallel existing transmission lines and use mostly existing road corridors; and would provide the opportunity to avoid potential conflicts with two future road projects (the railroad overpass and the county road 24 interchange). In the area of the route by Cannon Falls in the vicinity of Highways 19 and 24, there are several routing challenges. Along the Modified Preferred Route on US 52, there are homes and business as well as two future road projects (the railroad overpass and the County Road 24 interchange). However, the US 52 corridor in this area is dominated by commercial and industrial land use and the two alignment modifications made by the Company are compatible with these planned road projects and move the line away from a church/school that abuts US 52. When analyzing impacts to human settlement, the proximity of the homes to the line and the fact that the house counts include houses across the freeway must be considered. Option 1P-003 would bypass US 52 and use an alignment through a primarily residential area. Aerial maps of the two route options and existing homes and infrastructure demonstrate that more homes closer to the proposed alignment would be impacted on Option 1P-003. While a portion of this alternative segment would share an existing transmission line corridor, overall it would share less existing right-of-way than the Modified Preferred Route. The Modified Preferred Route, on balance, is the better route for the segment covered by Segment 1P-003 based on residential impacts, existing land use, and corridor sharing.~~

[Conclusion]7. In Segment 1, the ~~Modified Preferred Route options 1P and 1P-003~~ best satisfy~~s~~ the route permit criteria set forth in Minn. Stat. § 216E.03, subds. 7(a) & (b), and Minn. R. 7850.4000 & 7850.4100.

EFP Staff Analysis: Applicant’s rationale for preferring the section of the 1P route over 1P-003 is that the 1P route is the better route for the section covered by Segment 1P-003 “based on residential impacts, existing land use, and corridor sharing.” Applicant did not address the other criteria that must be considered and balanced in choosing a route. EFP staff offers the following discussion of all criteria in Minn. Stat. § 216E.03, subds. 7(a) & (b), and Minn. R. 7850.4000 and 7850.4100.

For some route selection criteria in Minnesota Statutes and Rules, outside of those the Applicant has already listed in its exceptions, there may be no significant difference in potential impacts

⁸ NSP Exceptions at 7.

between the two routes. For example, neither route segment crosses a Scenic Byway, or would create significant air quality impacts; both route segments would cross four trout streams. Other difference between the two routes may be minor in scale, such as the anticipated 1.9 additional acres of forested wetland crossed by the 1P route alignment as compared to the 1P-003 route alignment. EFP staff's analysis below addresses only what staff believes are the more substantial differences in the two routes using the criteria set forth in Minnesota Statute and Rule. These differences relate primarily to potential impacts to natural and cultural resources.

The Minnesota County Biological Survey has identified Native Plant Communities and Sites of Biological Significance in Dakota and Goodhue counties. The anticipated alignment of Route 1P-003 crosses a greater number (five) of Native Plant Communities than does the 1P alignment (two). The anticipated alignment of 1P-003 also crosses a greater number of Sites of Biological Significance (four) than does the 1P alignment (two). Within the route width of each route alternative, 1P-003 has more native plant community sites and acreage (9 sites and 78.5 acres) than does the 1P route (3 sites and 61.1 acres.) Route 1P-003 also has a greater number and acreage of Sites of Biological Significance (7 sites and 86.7 acres) than does the 1P route (3 sites and 64.4 acres.)⁹

There are more archaeological sites (four) and historic sites (54) within one-half mile of Route 1P than Route 1P-003 (three and 37, respectively.)¹⁰

Route 1P-003 crosses Lake Byllesby and the Cannon River on the eastern portion of the Lake Byllesby Important Bird Area (IBA) as established by the National Audubon Society. Lake Byllesby serves as important habitat for ducks, herons, geese, gulls, terns and shorebirds. Sand Hill Cranes have been observed near Lake Byllesby during breeding season; though no confirmed nesting records exist. Route 1P crosses the Cannon River approximately one mile east of the Lake Byllesby IBA.¹¹

Route 1P-003 would cross the Little Cannon River, and necessitate clearing of transmission line right-of-way through a previously unfragmented floodplain forest community on both sides of the river.¹²

Route 1P-003 would parallel a planned Lake Byllesby Regional Park recreational trail and a bridge crossing the Cannon River that are proposed in the park's 2005 Master Plan, and planned for construction in 2013.¹³

EFP Recommendation: Based on all criteria in Minn. Stat. § 216E.03, subs. 7(a) & (b), and Minn. R. 7850.4000 and 7850.4100, and considering the potential impacts associated with Route 1P and 1P-003, EFP staff recommends the Commission issue a permit for the Applicant's modified preferred route (1P) and adopt the changes to Finding # 306 and Conclusion 7 as proposed by the Applicant. EFP believes that on balance, Route 1P shares more existing ROW,

⁹ FEIS, Appendix H

¹⁰ FEIS at p. 100

¹¹ FEIS at p. 96

¹² FEIS, Appendix, p. A-11

¹³ FEIS at p. 106

has fewer natural resource impacts, is more compatible with existing land uses, and has fewer recreational impacts.

Applicant's Exception 2

The Applicant asserts that the ALJ Report is unclear about whether the Modified Preferred Route is included in the recommendation for Segment 3. The ALJ recommends Route 3P-Zumbro-S with the 3P-004 option for Segment 3, but is silent on whether this recommendation was intended to include the modifications Applicant made to the original Preferred Route for this segment.¹⁴ Based on input received during the scoping process, Applicant adjusted the Preferred Route in Segment 3 to develop the Modified Preferred Route, shifting the Preferred Route approximately one-half mile to the north through a two-mile segment east of US 52 near the North Rochester Substation siting area. The Applicant requests that the Commission clarify whether Route 3P-Zumbro-S incorporates the changes proposed by Applicant to the Preferred Route for this small section of Segment 3 near the North Rochester Substation siting area.¹⁵ Applicant notes that the ALJ Report appears to reference the Modified Preferred Route as the 3P route in Finding 15.

In Finding 70, the ALJ discusses the Applicants Modified Preferred Route in greater detail:

70. After filing the application, and based on input from the scoping process, the Applicant modified its original preferred route in Segment 3 to develop the Modified Preferred Route. The modification shifts the preferred route approximately ½ mile to the north through a two-mile segment east of US 52 near the North Rochester Substation siting area. In general, this alternative consolidates the preferred routes for the 345 kV and 161 kV lines in one corridor heading east from US 52 for two miles along the south side of 500th Street.⁹¹ At County Road 11, the 345 kV route turns south for one half mile. This consolidation would place the 345 kV and 161 kV structures adjacent to each other along 500th Street and one-half mile south on County Road 11. Although the preferred route was modified only in Segment 3, the Applicant now refers to its preferred route generally as the “Modified Preferred Route.”

⁹¹ This modification incorporates a portion of the 3P-002 route that is 1.75 miles in length.

EFP Staff Analysis: Finding 70 is the last paragraph in which the ALJ uses the term “Modified Preferred Route.” Nothing in the ALJ Report indicates that the ALJ rejects the Applicant’s modification of the preferred route, and staff is unaware of any public comment in the record from any landowner opposing this modification. The ALJ Report at pages 13-15 discusses the Segment 3 routes, and in Finding 70, notes that the Modified Preferred Route includes the route consolidation east of Highway 52 at Pine Island. Footnote #91 indicates that the ALJ concluded that alternative 3P-002 was part of the same modification as the consolidated segment identified in detail in Finding 70, and that Segment 3P, as referred to throughout the remainder of the Report, includes the entire modification.

¹⁴ NSP Exceptions at 8.

¹⁵ *Id.*

Based on Finding 70, EFP staff believes the ALJ did, in fact, intend the modified preferred route as the recommended route to get from the southern substation siting area to 3P-Zumbro-S (dam crossing).

EFP Recommendation: EFP staff recommends the Commission amend Conclusion 11 to clarify its understanding that when the 3P Segment is referenced throughout the ALJ Report and recommended by the ALJ that it includes the Applicant’s modification to the initial preferred route.

Applicant’s Exception 3

Applicant’s third exception relates to a recent Commission decision in another case brought by Applicant, and suggests the Commission may wish to modify Finding 110 to be consistent with that decision.¹⁶ Finding 110 provides:

110. State agencies are required to consider environmental factors before making decisions on the matters including the routing of high-voltage transmission lines, *that potentially have significant environmental effect*, and shall not make a decision that is likely to cause pollution, impairment, or destruction of a natural resource so long as there is a feasible and prudent alternative consistent with the public health, safety, and welfare and the state’s paramount concern for the protection of its air, water, land, and other natural resources from pollution, impairment, or destruction.

The phrase in italics is the language removed from the finding in the Hiawatha Order.

EFP Staff Analysis: The Commission removed the italicized phrase from the similar finding in the Hiawatha matter, finding this phrase “unnecessary and potentially confusing.”

EFP Recommendation: EFP recommends that the Commission remove the phrase “that potentially have significant environmental effect,” from Finding 110 in the ALJ Report for the same reason stated in the Hiawatha Order.

NRG/NoCapX/UCAN Exceptions

The exceptions filed by the North Route Group (NRG), NoCapX 2020 (NoCapX), and United Citizens Action Network (UCAN) suggest primarily editorial changes, provide some corrections for misstatements, and argue that the ALJ improperly considered “land use” as a criteria rather than “land-based economies.”

NRG, NoCapX 2020 and UCAN (NRG/NoCapX/UCAN), parties to this proceeding, filed exceptions to 33 of the numbered findings in the ALJ Report and to three of the headings.

¹⁶ See *In the Matter of the Application of Northern States Power Co. for a High Voltage Transmission Line Route Permit for the Hiawatha 115 kV Transmission Project*, Docket No. E-002/TL-09-38, Order Issuing Route Permit as Amended at 4 (Feb. 10, 2012) (“Hiawatha Order”).

NRG/NoCapX/UCAN is not challenging the ALJ's recommendation for any of the three route segments. Below, EFP staff has numbered their exceptions separately, but for those exceptions where no argument was provided, EFP staff does not attempt to posit a reason why NRG/NoCapX/UCAN believes it is necessary to make a change.

NRG/NoCapX2020/UCAN provided few citations to the record for its proposed changes and, for most of them, essentially no discussion as to why they believe the proposed changes should be made.¹⁷ Since NoCapX2020/UCAN's exceptions are in substantial part not consistent with the directive that they be specific, relevant to the matters at issue in this proceeding, and stated and numbered separately, the Commission could reasonably require NoCapX2020/UCAN to provide further explanation and support for its exceptions or determine to not take them into account in making its decision regarding the ALJ Report. The following discussion is provided should the Commission wish to address the exceptions separately.

NRG/NoCapX2020/UCAN Exception 1. Finding #12.

12. The North Route Group is comprised of landowners in existing farms and residences, and members are concentrated near the northern alternate Zumbro River Crossing, in Mazeppa Township and Pine Island Township to the west, and in Zumbro Township to the east. ~~generally composed of landowners, farmers, and residents living in the vicinity of the northern alternate route of Segment 3 (3A), running from the northern location of the proposed North Rochester substation to the Mississippi River. No party objected to its petition for intervention, which was granted.~~

EFP Staff Analysis: While NRG/NoCapX/UCAN may prefer alternative language in this and other findings, the ALJ's finding is not incorrect and EFP staff sees no reason to modify the finding if the change is not a substantive change that affects the ALJ's conclusions and recommendation or causes undue confusion. As the ALJ stated in the Report, exceptions must be specific, relevant to the matters at issue in this proceeding, and stated and numbered separately. When parties do not conform to this directive, it leaves the Commission and staff with the task of identifying the reason for the requested change and the relevance to the recommendation on disputed issues in the proceeding. At best, this requires informed speculation on the part of the Commission and staff. Thus, the EFP staff does not attempt to analyze individual exceptions such as this one.

EFP Recommendation: EFP staff recommends that the Commission reject Exception 1, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN.

NRG/NoCapX2020/UCAN Exception 2. Finding #13.

13. In Segment 1, the ~~North Route Group~~ NoCapX 2020 supports a route option that deviates from the preferred route and crosses the Cannon River at the eastern edge of Lake Byllesby, to avoid impacts to human settlement in the area of Highway 52 and County Road 19 in Cannon Falls. This could be one of several

¹⁷ Most of the citations included by NRG/NoCapX/UCAN are to its own briefs, not to the evidentiary record.

route options, and the North Route Group has not identified its preference by route option number. In Segment 2, the North Route Group, NoCapX 2020 and U-CAN advocated against route options 2C3-003-2 and 2C3-004-2. For Segment 3, tThe North Route Group, NoCapX and U-CAN support Applicant's preference of the Modified Preferred Route utilizing segments 3-P and 3P-002, filed testimony advocating against the northern alternative route (3A) in Segment 3 because the Segment 3 Alternate Route 3A has the greatest impacts across the spectrum of criteria, is less suitable for future expansion, with greater fragmentation, proliferation, and non-compensable impacts,^{fn} and it supports the 3P route up to the point where it intersects with County Road 42. From the intersection with County Road 42~~re~~, the Group ~~recommends~~ supports use of the County Road 42 route option (3B-003).

^{fn} North Route Group, Initial Brief, p.53.

EFP Staff Analysis: The ALJ incorrectly stated that the North Route Group supported a Lake Byllesby route option. It was only NoCapX 2020, who supported this deviation from the preferred route (1P). Other changes in Finding 13 restate the positions taken by NRG, NoCapX 2020, and UCAN in its briefing.

EFP Recommendation: The EFP staff does not believe it is necessary to include the suggested rationale for the Group's advocacy in this finding, since the ALJ did not recommend the 3A option, gave reasons for not recommending it over the 3P option, and no party has taken exception to the recommendation of Segment 3P. EFP staff recommends correcting Finding 13 as follows:¹⁸

13. In Segment 1, the ~~North Route Group~~ NoCapX 2020 supports a route option that deviates from the preferred route and crosses the Cannon River at the eastern edge of Lake Byllesby, to avoid impacts to human settlement in the area of Highway 52 and County Road 19 in Cannon Falls. This could be one of several route options, and the North Route Group has not identified its preference by route option number. In Segment 2, the North Route Group, NoCapX 2020 and U-CAN advocated against route options 2C3-003-2 and 2C3-004-2. For Segment 3, tThe North Route Group, NoCapX and U-CAN support Applicant's preference of the Modified Preferred Route utilizing segments 3-P and 3P-002, filed testimony advocating against the northern alternative route (3A) in Segment 3, and it supports the 3P route up to the point where it intersects with County Road 42. ~~From~~ from the intersection with County Road 42~~re~~, the Group ~~recommends~~ supports use of the County Road 42 route option (3B-003).

NRG/NoCapX2020/UCAN Exception 3. Finding #15.

15. Oronoco Township sponsored the testimony of two experts, who advocated in support of the northern alternative route (3A) for the 345 kV line in Segment 3.23 In the alternative, the Township supports the use of a combination route proposed

during the hearing, which follows the 3A route across the Zumbro River and then runs south to rejoin the Modified Preferred Route (3P). Oronoco contended that the White Bridge Road crossing would impact a greater number of current and future residents and would hamper future development in this area. The Township ~~took no position in testimony with regard~~ had no objections to the route for the 161 kV line in Segment 2.

EFP Staff Analysis: NRG/NoCapX/UCAN listed two citations for its proposed change to Finding 15. First, they cited the testimony of Oronoco Township witness Mr. Smith during the evidentiary hearing at Volume 2 of the hearing transcript, pages 71-72. Mr. Smith's testimony, however, does not support this change. In fact, in response to Ms. Overland's questioning, Mr. Smith, a consultant with Biko Associates hired by the Township, stated that "the 161 kV line was not part of the scope of work for Biko Associates on this, and so I am not aware of Oronoco Township's position on the 161 kV line."¹⁹ Second, Mr. Neil Stolp, a Township Supervisor, testified during the Pine Island public hearing on behalf of himself, not Oronoco Township.²⁰

EFP Recommendation: EFP staff recommends that the Commission reject Exception 3, since it appears to be incorrect, the citations provided by NRG/NoCapX/UCAN clearly do not support the proposed change, and NRG/NoCapX/UCAN has not otherwise supported the modification.

NRG/NoCapX2020/UCAN Exception 4. Finding #25.

25. When the Minnesota Department of Transportation made clear its intention to apply freeway standards that require placement of transmission poles 25 feet from the highway right-of-way along Highway 52, it became apparent that absent an exception to those standards, there is insufficient room to build the 1P route at the intersection of Highway 52 and County Road 19 in Cannon Falls without displacing at least one home. The Applicant promptly proposed an alignment using an expanded route width in this area, and it gave notice to the newly affected landowners by telephone and by mail on June 13, 2011, one day before the public hearings began.^{fn}

^{fn}20116-63548-01 PUBLIC 09-1448 TL NORTHERN STATES POWER COMPANY LETTER--AFFIDAVIT OF MAILING POTENTIAL ALIGNMENT HWY 10 06/14/2011

EFP Staff Analysis/Recommendation: Route segment 1P, as modified by Applicant to address Mn/DOT's concerns, includes a small section not included in the Draft EIS that affects 13 additional landowners.²¹ These landowners were given notice of the change by letter and by telephone calls from the Applicant on June 13, 2011, and some attended the public hearings and commented on the change.²² The changes are detailed in the Final EIS.²³ EFP staff

¹⁹ Evid. Hearing Tr., Vol. 2 at 72.

²⁰ Pub. Hearing Tr., Pine Island—1:30 p.m. (June 15, 2012).

²¹ Ex. 72: Applicant's Affidavit of Mailing.

²² Cannon Falls Public Hearing, 6/16/11 at 1:30 at pp. 110-116, and at pp. 117-120 (Strain).

recommends that the Commission reject Exception 4, since it appears to be unnecessary and has been addressed in the discussion above concerning Applicant's Exception 1. In addition, NRG/NoCapX/UCAN did not include a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 5. Finding #37.

37. On August 4, 2010, EFP filed the two ATF Reports and issues of concern. The Hampton to Northern Hills ATF recommended seven additional routes between Hampton and the Northern Hills Substation to be considered in the EIS. The North Rochester to Mississippi River ATF recommended eight additional routes between the North Rochester Substation and the Mississippi River to be considered in the EIS.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 5, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 6. Finding #38.

38. On August 6, 2010, EFP issued its EIS Scoping Decision that set forth the alternatives and issues to be addressed in the EIS. The EIS Scoping Decision included alternatives recommended in the ATF Report and suggested in the public meetings. On August 9, 2010, NoCapX 2020 and U-CAN appealed the Scoping Decision, which was denied.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 6, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change. In addition, NoCapX's appeal of the Scoping Decision is a part of the Department's processing of the EIS, and, to EFP staff's knowledge, neither the letter of appeal nor the Commissioner's denial of that appeal are included in the Evidentiary Record in this case.

NRG/NoCapX2020/UCAN Exception 7. Findings #59, #80, and #109 (concerning North Rochester to Chester 161 kV transmission line).

59. The two segments of 345 kV transmission line are 81 to 89 miles in length total and would traverse parts of Dakota, Goodhue, Olmsted, and Wabasha counties. The 161 kV line is approximately 15 to 18 miles long in Goodhue and Olmsted counties; it would connect the new North Rochester substation with an existing Northern Hills substation north of Rochester. On April 29, 2011, Applicants added the 161kV North Rochester – Chester 161 kV line for consideration in the FEIS and for co-location by the Commission.^{fn}

^{fn}. FEIS p. 147; Response to Applicant Comments p. O-209.

²³ FEIS at Appendix L

80. The North Rochester Substation would have to accommodate interconnections with the 345 kV line and the 161 kV line that are part of this Project and the Chester 161 kV line.¹⁰⁷ The North Rochester Substation must also accommodate interconnections with the existing Prairie Island to Byron 345 kV transmission line. To accommodate these interconnections, the new substation will include six 345 kV circuit breakers, a 345 kV/161 kV transformer, three 161 kV circuit breakers, a control house and associated line termination structures, switches, buswork, controls, and associated equipment.

¹⁰⁷ Ex. 2 at 32 (Hillstrom Direct); Ex. 14 (Schedule 12 to Hillstrom Direct; FEIS p. 147; Response to Applicant Comments p. O-209.

109. The Applicant initially estimated that the total cost of the project (preferred and alternate routes) would be between \$234 and \$243 million (2009 dollars). It estimated that the preferred 345 kV route in Segment 1 would be \$88 million and in Segment 3 would be \$106 million. It estimated the alternate route in Segment 1 would cost \$101 million, as would the alternate route in Segment 3. The 161 kV route in Segment 2 would cost \$16 million for the preferred route and \$17 million for the alternate route. There is no cost or cost-savings estimate provided for co-locating the Chester 161 kV line. The new North Rochester Substation is estimated to cost \$22 million, and improvements to the Northern Hills Substation would be \$2 million.

EFP Staff Analysis: NRG/NoCapX/UCAN's Exception 7, proposing changes to Findings #59, #80, and #109, implies that a new route was added late in the process for consideration in the Final EIS for this proceeding, and that information about the Chester 161kV line was omitted. This is an incorrect interpretation of the discussion of the North Rochester – Chester 161 kV transmission line project and Applicant's DEIS comments.

Applicant's comments on the Draft EIS included the following paragraph:

The [MPUC] granted a certificate of need for the project as well as a 161 kV transmission line from the North Rochester Substation to the Chester Substation. In the Certificate of Need proceeding, the Company stated that the North Rochester — Chester 161 kV transmission line could be co-located with a portion of the 345 kV transmission line. Certificate of Need Application at p. 2.2, *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 the Capx 345 kV Transmission Projects*, Docket No. ET-2, E-002, et al./CN-06-1115. The Company will be applying for a route permit and will propose that the 161 kV line be co-located with the 345 kV line from North Rochester to a point just east of the Zumbro River crossing, regardless of what 345 kV route is selected in this proceeding. As a result, the Company believes it may be appropriate for the FEIS to include a discussion regarding the North Rochester — Chester 161 kV line.

In response to this comment, EFP staff included the following discussion in the FEIS:

In addition to the proposed 345 kV and 161 kV routes discussed in the EIS, Northern States Power Company (Xcel Energy) has also been granted a certificate of need (CON) for a 161 kV transmission line from the North Rochester Substation to the Chester Substation. During the CON process, Xcel Energy indicated that the North Rochester – Chester line could be collocated with a portion of the proposed CapX 345kV transmission line. Xcel will be applying for a route permit for the North Rochester – Chester 161 kV transmission line, and will propose that the line be co-located with the CapX 345 kV line from North Rochester to just east of the Zumbro River crossing, regardless of the 345 kV route alternative selected.²⁴

Further, in order to keep the public fully informed about the related application to be filed at a later date, EFP staff requested that the Applicant include, in its oral statement at the beginning of the public hearings, a brief explanation about the North Rochester – Chester 161 kV line, its connection to this proceeding, and its plans to file a separate application for that project. The Applicant has since filed a separate application for the North Rochester – Chester 161 kV transmission line project.²⁵

EFP Recommendation: As can be seen from the Final EIS and the documents in Docket No. E002/TL-11-800, the North Rochester – Chester 161 kV line was not incorporated into this proceeding. Therefore, EFP staff recommends the Commission reject Exception 7, NRG/NoCapX/UCAN’s proposed changes to Findings of Fact #59, #80, and #109.

NRG/NoCapX2020/UCAN Exception 8. Finding #68.

68. In this segment there are 14 route alternatives, including the preferred and alternate routes. The public comment here was focused for the most part on the preferred and alternate routes, however, the ATF Final Report recommended sharing right of way and creating a parallel alignment where ever possible.^{fn} There was relatively little comment regarding the combined routes for Segments 2 and 3.

^{fn} Ex. 47, North Rochester to Mississippi River ATF Report.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 8, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 9. Finding #72.

72. East of the Zumbro River, the three river crossing options merge into two potential routes, 3A over highly sloped terrain, and 3P through relatively flat agricultural land.⁹⁷

⁹⁷ *Id.* at 10; Ex. 39-G.

²⁴ Hearing Ex. 113 at 147 (FEIS, Section 8.3).

²⁵ See *In the Matter of the Route Permit Application for the North Rochester to Chester 161 kV Transmission Line Project in the Goodhue, Wabasha and Olmsted Counties*, Docket No. E002/TL-11-800 (filed Sept. 20, 2011).

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 9, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 10. Finding #188

188. No impacts to floodplains are expected from the project, although counties or municipalities along the Mississippi River might require the Applicant to obtain floodplain permits. The number of structures in floodplains can be minimized by using taller or stronger structures that can span longer distances. The span of the flood plain at the 3A crossing is 2,000 feet and larger, taller and more costly structures would be required. The FEIS states that construction in flood plains should be avoided.^{fn}

^{fn} FEIS p. 54; see also Hillstrom Rebuttal, Schedule 15. p. 4 if 13; Between structures 22 and 23, the span is 1,477 feet, to the middle of the flood plain, and from structures 23 and 24, 1,461 feet, totaling a span of 2,938 feet over the Zumbro River and floodplain. The White Bridge Road route is a total of 1,680 feet span across the Zumbro River and floodplain, and the Dam Route is 1,155 but one or two structures is in the floodplain.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 10, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 11. Finding #384.

384. The DNR supported this route because, in its judgment, the White Bridge Road crossing would involve less tree clearing than the Zumbro Dam crossing and was preferred when considering a comparison of rare species and MCBS sites.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 11, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 12. Finding #396.

396. The 3A route heads south for about one mile then ~~straight~~ east from the northern location of the substation, passing through an area of Mazeppa Township that contains agricultural land, Steeplechase, two tree farms, again mostly on field lines and cross-country where there is no existing highway or transportation corridor. After crossing the Zumbro River (the north crossing), where there is no existing highway or transmission corridor, it and passes through an area with three tree farms and agricultural land, heads southeast and east until it connects to the Q-3 transmission line to cross the Mississippi River. This route is 42.02 miles in length.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 12, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 13. Finding #397.

397. The north crossing follows a property line ~~aeross-to~~ the Zumbro River at a location where there is no existing ~~linear-highway or transmission~~ corridor on either side of the river. The north crossing would require more clearing of forested areas compared to the White Bridge Road Crossing, would impact more MCBS and DNR Heritage site, and is in a 2,000 foot wide FEMA floodplain.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 13, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 14. Finding #399.

399. The DNR recommended against the 3A crossing of the Zumbro River because it is a greenfield crossing (no existing infrastructure) that could fragment forest and wildlife habitat, and recommended use of the White Bridge Road crossing because it would avoid the state-listed threatened turtle, and impact fewer sites of MCBS and DNR Natural Heritage.^{fn}

^{fn} DNR Comments, May19, 2011 and July 20, 2011.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 14, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 15. Finding #410.

410. Proximity to Residences Structures. All of the route options between North Rochester and the Mississippi River impact relatively low numbers of residences, with between 20 and 50 homes within 500 feet of the center line for this approximately 45-mile segment. The following table summarizes the proximity of homes from the center line of each route alternative in Segment 3: (Table omitted.)

NRG/NoCapX/UCAN states: “(‘Structures’ is not criteria).”

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 15, since it appears to be unnecessary. Furthermore, the context surrounding this word clearly demonstrates that the ALJ was discussing residences.

NRG/NoCapX2020/UCAN Exception 16. Finding #417.

417. Displacement. The criteria of Minn. R. 7850.4000 addresses “displacement.” Displacement would occur where a residence is within the right-of-way. Route 9 alternatives 3P-Kellogg, 3P-006, 3P-009, 3P-010, 3B-003, 3A-Kellogg, 2C3-001-3a, 2C3-001-3b, and 2C3-006-3 all have homes located within the right of way and might result in displacement. Along the 2C3 routes, houses located within the 200-foot right-of-way might also face displacement.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 16, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 17. Finding #418.

418. There is one pinch point on 3B-003, along County Road 84 just east of US 61, where two homes are located on opposite sides of the road directly across from each other; the other is on 3P-006, on White Bridge Road, where the line runs between adjacent residences that are both located close to the road. There is another pinch point on 3A west of the Zumbro River crossing surrounding structure 18, the “Kennedy Cluster” pinch point, that is not mitigatable by moving the alignment, any alignment would make it worse and could result in a displacement.^{fn}

^{fn} FEIS A-114 (Sheet Map MR-28); see FEIS p. 128; DEIS p. 148; Kennedy, Plainview 6:30, Tr. p. 77-83.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 17, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 18. Finding #419.

419. With regard to the 3B-003 route, the Applicant requested a wider route width to avoid displacement of the home that is in the right-of-way; the Applicant also believes that there is sufficient room at the pinch point on 3B-003 when the line is located on the north side of County Road 84. The Applicants have not provided any suggestions for potential mitigation of the “Kennedy Cluster” pinch point.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 18, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 19. Finding #425 and headings.

C. Effects on Land Use-Based Economies

424. Agriculture. The primary land-based economies in this segment are agricultural, including crops (corn and soybeans), livestock (turkeys, pigs, hogs, and cattle), dairy farms, and bee-keeping.

425. More than 70% of the land in this segment is designated as “prime farmland if drained or protected from flooding.” The percentage of prime farmland within the right-of-way is slightly higher in route options 3A, 3A-001, 3A-003, 3A-004, 3A-Crossover, 3A-Kellogg, and 2C3-003-3; these same routes tend to affect less land that is designated as “prime farmland if drained or protected from flooding. Prime Farmland at the North crossing is 6%, the Dam crossing 3% and the White Bridge Road 2%.^{fn}

^{fn} Applicant’s Brief, p. 45.

EFP Staff Analysis: NRG/NoCapX/UCAN asserts that “(‘Effects on Land Use’ is not a criteria (sic)),” and suggests changing the title of section C as set forth above. It appears that NRG/NoCapX/UCAN’s argument is that there should be no separate category in the ALJ Report; i.e., that “C. Effects on Land Use” and “D. Effects on Land Based Economies” should be combined in C., and that D. should be rejected. NRG/NoCapX/UCAN further contends that “Land Use” was a constant theme in this proceeding, and claims that the number of task force members was improperly limited and affected the substance of the hearing. To support this argument, NRG/NoCapX/UCAN cites to Minn. Stat. § 216E.10, subd. 1, emphasizing the following sentence: “Such [site or route] permit shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose governments.” EFP staff assumes that NRG/NoCapX/UCAN believes the ALJ’s discussion of land use relates to zoning requirements, for example, and means that she did not recognize or discuss the preemption in section 216E.10, subd. 1, because it did not come into play in this proceeding.

The ALJ’s discussion in both sections (C and D) relates to the items to be considered pursuant to Minn. Stat. § 216E.03, subd. 7(b) and the criteria in Minn. R. 7852.4100. “Effects on land based economies” and “effects on land use” mesh with one another, and also relate to standards and criteria discussed in Minn. R. 7852.4000 and Minn. Stat § 216E.03, subd. 7(a), which provide in pertinent part:

The commission shall issue a permit for a proposed facility when the commission finds...that the facility is consistent with state goals to conserve resources, minimize environmental impacts, and minimize human settlement and *other land use conflicts* and ensures the state’s electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.

Minn. R. 7852.4000 (2011).

The commission’s . . . route determinations must be guided by the state’s goals to conserve resources, minimize environmental impacts, and minimize human settlement and *other land use conflicts* and ensures the state’s electric energy

security through efficient, cost-effective power supply and electric transmission infrastructure.

Minn. Stat. § 216E.03, subd. 7(a).

Moreover, Minn. Stat. §216E.03, subd. 7(b) states that the Commission shall be guided by, but not limited to, the considerations listed therein. While it is correct that a Commission route or site permit preempts zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose governments, the ALJ was not addressing a preemption issue in sections C and D. The idea that the Commission cannot consider any criteria other than what is listed in Minn. R. 7852.4100 is nonsensical.

In fact, the ALJ Report adopted by the Commission in substantial part in the Fargo to St. Cloud route permit proceeding, included a separate section entitled “Land Use and Zoning,” in which the ALJ discussed land use in that proceeding.²⁶ Moreover, NoCapX and UCAN were parties in that proceeding and did not take issue with the ALJ’s findings in the Fargo to St. Cloud proceeding.

Recommendation: EFP staff recommends that the Commission reject Exception 19, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a reasonable rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 20. Finding #421.

421. The topography in this area is generally flat with a few rolling hills and some steeper slopes along river valleys. All of the 3A route alternatives and 2C3-003 experience large changes in topography, with slopes of 12% to 20% near the Zumbro River. All route alternatives except for 3B-003 follow the existing transmission line leading to the Mississippi River; this area has large elevation changes with slopes of more than 12 percent.⁵⁰⁶

⁵⁰⁶ Id. at 164; Ex. 39-G, Direct Testimony, Slope Map.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 20, the additional footnote to Finding #421, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 21. Finding #423.

~~423. In general, the route alternatives in this segment are not inconsistent with city or county ordinances or land use plans.~~

²⁶ See *In the Matter of the Application for A Route Permit for the Fargo to St. Cloud 345 kV Transmission Line Project*, Docket No. E-002, ET-2/TL-09-1056, Findings of Fact, Conclusions and Recommendation at 31 (April 25, 2011).

EFP Staff Analysis/Recommendation: The only reason given for rejecting Finding 423 is NRG/NoCapX/UCAN’s statement that the Power Plant Siting Act at Minn. Stat. § 216E.10, subd. 1, preempts city and county ordinances and land use plans. While this is a correct statement, the ALJ’s observation is not inconsistent with Minnesota Law, and the ALJ is not precluded from considering this fact. EFP staff recommends that the Commission reject Exception 21, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 22. Finding #427.

427. **Forestry.** Within the RJD State Forest, there are 53 DNR forest stands located within 500 feet of the route alternatives in this segment; timber plans for these stands are not currently available. There is a small, privately owned tree farm in the RJD State Forest in Township 109, Range 14, Section 15; all the 3A route alternatives and 2C3-003-3 would run through this tree farm. Several other tree farms and woodlots are in the vicinity of the proposed routes. Owners of these farms objected strongly to route options that would impact their property. If the HVTL is routed through a tree farm, no trees could grow or be replanted within the 150 foot ROW and potentially the area adjacent to the ROW. Tree crop would be permanently lost.^{fn}

^{fn} Ex. 39, NRG Testimony, p. 13.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 22, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 23. Heading.

E. Effects on ~~Cultural~~ Archeological and Historic Resources.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 23, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 24. Finding #432.

432. The Zumbro River cuts through deep, narrow valleys defined by rocky cliffs for much of its length below the Zumbro Dam eastward to Thielman. At that point, the valley widens, with farmland adjacent to the river. Canoeing and fishing are popular activities on the Zumbro River and its branches and forks. The wooded floodplain and steep slopes provide habitat for a number of rare reptiles and amphibians. Bird species ranging from large raptors, including eagles and other threatened and protected birds of prey to uncommon perching birds find foraging, nesting, and cover habitat in the floodplain forests and other habitats along the river.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 24, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 25. Finding #435.

435. All 3A alternatives and 2C3-003-3 would cross the Zumbro River along a property line approximately 2.2 miles north of the Zumbro Dam, on a greenfield route cross country on both sides.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 25, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change. EFP notes, however, that Finding 399, already includes the requested information.

NRG/NoCapX2020/UCAN Exception 26. Finding #439.

439. There are three impaired watercourses within Segment 3: the Zumbro River/Lake Zumbro Reservoir,^{fn} West Indian Creek, and the Mississippi River. All the route alternatives in this segment would require between two and four crossings of impaired streams.

^{fn} Hillstrom, Xcel Energy, DEIS Comments, FEIS ID #87, p. 0-209.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 26, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 27. Finding #450.

450. The DNR recommends the use of route 3B-003 to avoid additional impacts to state forest and possible natural resource impacts.^{fn}

^{fn} DNR Comment, June 29, 2011.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 27, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 28. Finding #455.

455. Mitigation of potential impacts on sensitive wildlife habitats must be addressed in the permitting process and coordinated through the Minnesota EIS process, the federal EIS process, the Wisconsin state permitting process, and the USFWS Special Use Permit process.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 28, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 29. Finding #463.

463. Unlike Segments 1 and 2, there are fewer existing corridors and fewer opportunities for sharing of right-of-way in Segment 3. All of the routes are roughly comparable in terms of sharing utility lines and roads (30% to 40%); they are also roughly comparable in terms of using field lines (30% to 40% of the route), except for 3P-Zumbro-N, 3A, 3A-001, 3A-003, and 3A-004, and 3A-Crossover, which incorporate fewer field lines and cut more cross-country than the other routes. All of the route alternatives in this segment follow field lines or cut cross-country for 60% to 70% of the total route distance. The White Bridge Road crossing uses the most transmission.^{fn}

^{fn} Applicant Brief, p. 60.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 29, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 30. Finding #464.

464. Two of the proposed Zumbro river crossings, White Bridge Road and the Zumbro Dam, utilize existing infrastructure crossings of the river, while the north crossing would require creation of a new corridor across the Zumbro River. There is a bridge, but no existing aerial crossing at White Bridge Road; this crossing would be 845 feet in length. There is an no existing aerial crossing at the dam,[;] Application, p. 8-53, 8.7.1.3; 8-55, 8.7.1.9 paragraph 2.~~and its~~ The length of the crossing at the dam would be 620 feet.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 30, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 31. Finding #479.

479. The RJD State Forest falls within the 1,000-foot route width of all route alternatives in this segment; however, there is significantly higher acreage (about three times more) of the RJD State Forest within the route width of options 3P-Zumbro-N, 3A, 3A-001, 3A-003, 3A-004, 3A-Kellogg, and 2C3-003-3 than other route alternatives. See Ex. 113, p. 181, map 8.3-40.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 31, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

NRG/NoCapX2020/UCAN Exception 32. Finding #487.

487. The 3A route options are shorter but more expensive, because the topography is more sloped. These routes would also have significant impacts to the RJD State Forest and businesses, including farms, tree farms, ~~and a resort,~~ and a pinch point of residences for which there is no mitigation.

EFP Staff Analysis/Recommendation: EFP staff recommends that the Commission reject Exception 32, since it appears to be unnecessary and has not been supported by NRG/NoCapX/UCAN with a rationale for the suggested change.

Additional Findings

The following findings of fact and conclusions are intended to address what EFP staff believes are important corrections, additions, and changes necessary to support the referenced findings of fact and conclusions in the ALJ Report. All changes to the numbered paragraphs in the ALJ Report are shown by strikethrough and underlining. Internal footnotes have been omitted; only those footnotes which are required to support the change are included.

EFP staff is recommending a number of refinements to and conditions for the route permit. In particular, staff has evaluated the need for a 1000 foot route width, has made recommendations where the ALJ had left indefinite conclusions, and reviewed the ALJ's conclusions concerning permit conditions.

Zumbro River Crossing. Finding #184.

EFP staff recommends that the Commission make the following change to the last sentence of Finding # 184 to correctly state that the Zumbro River dam crossing was proposed by the Applicant in its route permit application.

184. ...In addition, a crossing at the Zumbro River Dam (3P-Zumbro-S or 3P-Zumbro -S) was proposed ~~in the scoping process~~ by the Applicant as a route option in its route permit application.

Environmental Impact Statement

EFP staff has conducted an appropriate environmental analysis of the project for purposes of this route permit proceeding and the Final EIS satisfies Minnesota Rule 7850.2500. The record demonstrates that the Final EIS is adequate for this routing decision because (A) the Final EIS addresses the issues and alternatives raised in the Scoping Decision, (B) the Final EIS provides responses to the substantive comments received during the Draft EIS review process, (C) and the Final EIS was prepared in compliance with Minnesota Rules 7850.1000 to 7850.5600.

In Findings of Fact #27 — #58, the ALJ describes in detail the procedures taken by the EFP staff in developing the Final EIS, which are in compliance with Minnesota Rules 7850.1000 – 7850.5600. EFP staff addressed all issues and alternatives raised in the Scoping Decision, and

the numerous comments received during the Draft EIS review process are addressed in the 690-page Appendix O to the Final EIS.²⁷

EFP staff recommends the Commission adopt the following findings and conclusion concerning the Final EIS:

[New finding] The Commission is required to determine the adequacy of the Final EIS. To be adequate, the Final EIS must, among other things, address the issues and alternatives identified in the Scoping Decision “to a reasonable extent considering the availability of information and the time limitations for considering the permit application.”

[New finding] The evidence on the record demonstrates that the Final EIS is adequate because it addresses the issues and alternatives raised in the Scoping Decision, provides responses to the substantive comments received during the Draft EIS review process, and was prepared in compliance with Minnesota Rules 7850.1000 to 7850.5600.

[New conclusion] EFP staff conducted an appropriate environmental analysis of the project for purposes of this route permit proceeding and the Final EIS satisfies Minn. R. 7850.2500.

Route Width

In Conclusion #9 of the ALJ Report and Recommendation, the ALJ concludes that "the Applicant's request for a route width of 1000 feet except for those locations where the Applicant identified on the record where Applicant has requested a route width up to 1.25 miles is appropriate for the project." In Finding 87, the ALJ finds that "the Applicant has committed to working with EFP staff to further narrow this route width after issuance of this Report."

Applicants had originally requested a 1000 foot route (up to 1.25 mile in certain circumstances) to adjust for environmental variability. The Applicant's also proposed an anticipated alignment which was evaluated in the EIS. By verifying an anticipated alignment, the necessary range for variability with the route is lessened. The Applicant and staff have identified areas to narrow to a 600 foot route width where possible (final widths are represented on the attached permit maps). This process has precedent in the final route widths permitted in the Brookings, Monticello, and Fargo to St. Cloud CapX 2020 projects. The EFP staff recommends the following additional finding and conclusion be adopted:

[New Finding]. Applicant's revised route permit maps show locations where the route has been narrowed from 1000 to 600 feet. The maps also show where Applicant's continue to request widths of from 1000 feet to 1.25 miles. The route widths depicted on Applicant's revised maps are allowable under the PPSA and represent a reasonable balancing of the Applicant's request for flexibility and the predictability of impacts on the environment and landowners.

[New conclusion] The Applicant's request for a route width of up to 1,000 feet is appropriate for much of the Project, except where the Applicant has identified on the record

²⁷ Ex. 113, App. O (FEIS).

where a 1.25 mile route width is required, and except where a 600 foot route width has been identified as sufficient by the Applicant subsequent to the release of the ALJ's Findings, Conclusions and Recommendation.

The permit also specifies a requirement that within the route, changes from the anticipated alignment must have similar environmental impacts as to the original alignment.²⁸

The general adherence to an anticipated alignment and the diminished variability resultant of the narrowed route width achieve a positive balance between the flexibility necessary for the Applicant and the predictability anticipated by affected landowners; and offers a fair expectation of the actual environmental impacts of the route decision.

Crossing Structures

At highway crossings and at the Zumbro River crossing the Applicant proposes to install six conductors to facilitate the addition of a second circuit if the Commission would permit an additional transmission circuit at some point in the future. Installation of all six conductors during the initial construction mitigates conflicts and disruptions to highway facilities when the second circuit is added. The ALJ concluded that this configuration should be permitted.²⁹ In addition, the Commission approved this same condition in the Fargo to St. Cloud project (Route Permit Section IV.K.2).

The Applicant proposes to use transmission line structures that seek to balance and minimize the potential for impacts at the Mississippi River crossing. Resources in this area include the Snake Creek Management Unit of the Dorer Memorial Hardwood State Forest, McCarthy Lake State Wildlife Management Area (WMA), the Upper Mississippi River National Wildlife Refuge (Refuge), the Great River Road, and the Mississippi River. In the ALJ Report, Finding 96 finds:

"The Applicant and USFWS have evaluated five possible design options for the proposed river crossing that will offer trade-offs between structure height, easement width, and the number of planes of conductors while maintaining only three structures on Refuge land. The Applicant and agencies have arrived at an informal and general consensus that the preferable configuration is one that minimizes structure height and consolidates crossing wires in the fewest number of horizontal planes. The Applicant has committed to working closely with these agencies and EFP staff to identify the most appropriate structure design for the Alma crossing."

In the ALJ Recommendation for Project Segment 3, Finding 490 states:

"The Applicant should continue to coordinate its plans with the DNR and the Mississippi River Parkway Commission as to matters such as pole placement, pole type, and minimizing vegetation and wildlife impacts in the area near the McCarthy Lake WMA, the Refuge, and the Mississippi River."

²⁸ See Route Permit Section III.A.

²⁹ ALJ Conclusion 13

EFP has included a special permit condition in the attached permit relative to the ALJ's findings and recommendation for the Mississippi River crossing (Route Permit Section 5.3)

The attached "Findings of Fact, Conclusions of Law and Order" includes the Findings of Fact from the ALJ's February 8, 2012, "Findings of Fact, Conclusions and Recommendation" in their entirety, plus the changes recommended by EFP staff as discussed above. EFP Staff also has developed a recommended permit reflective of those findings.

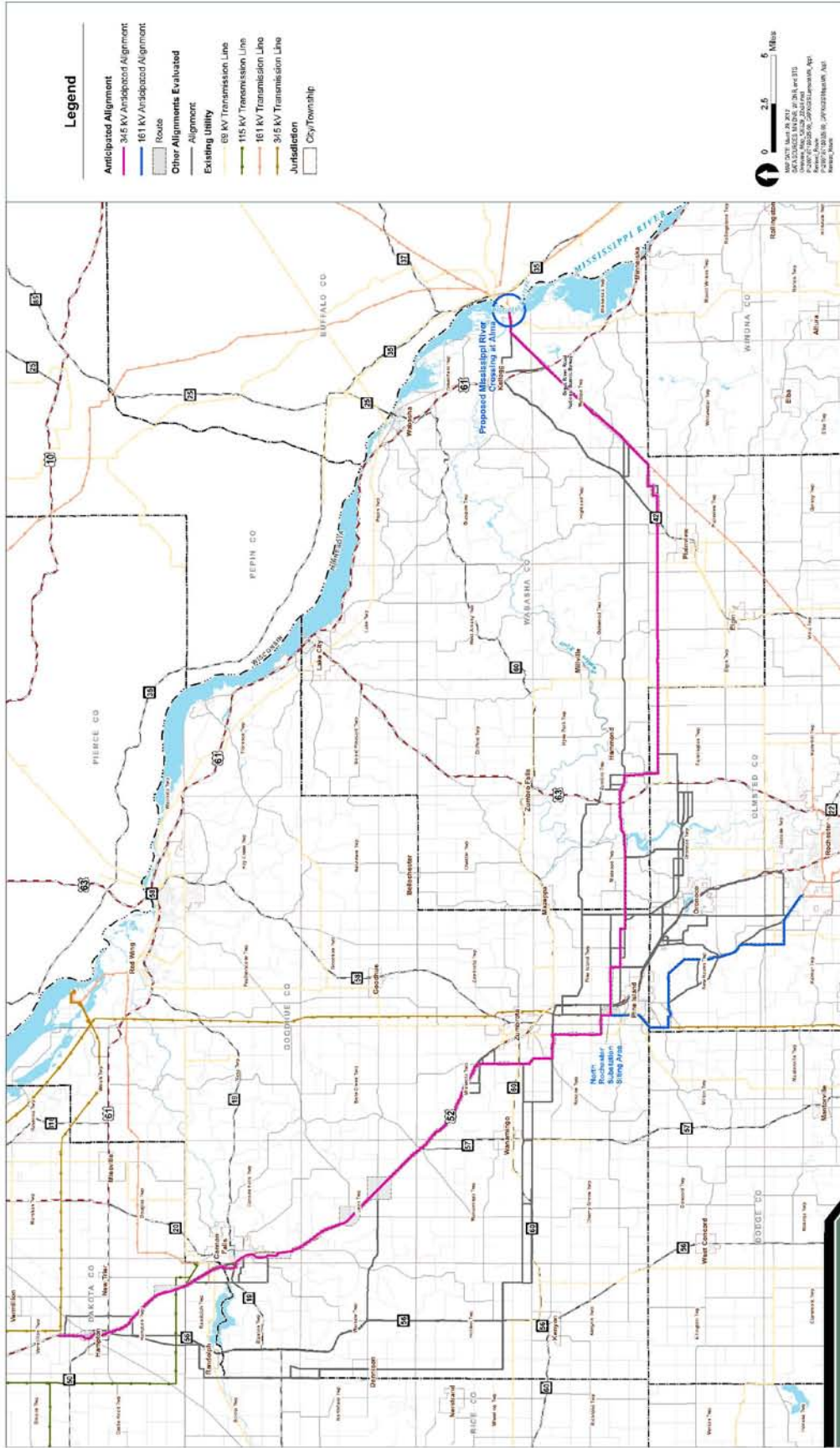
EFP recommends that the Commission:

1. Issue a Route Permit along the ALJ's recommended route, except that the route in Segment 1 should follow the Applicant's Modified Preferred Route (1P), instead of the ALJ-recommended 1P-003. The route permit should be issued with limitations on route width, and other conditions as per the discussion above; and
2. Authorize construction of the North Rochester Substation, and modifications to the Hampton and Northern Hills Substations.

Commission Decision Options:

- A. Approve and adopt the attached Findings of Fact, Conclusions of Law, and Order for the Hampton-Rochester-La Crosse Transmission Line Project, thereby:
 1. Determining the Environmental Impact Statement is adequate; and
 2. Issuing the high voltage transmission line Route Permit as attached, with appropriate conditions, to Northern States Power Company, dba Xcel Energy.
- B. Approve and adopt the Findings of Fact, Conclusions of Law, and Order as above while imposing any further permit conditions as deemed appropriate.
- C. Amend the Findings of Fact, Conclusions of Law, and Order and Route Permit as deemed appropriate.
- D. Make some other decision deemed more appropriate.

EFP Recommendation: Option A.



Project Overview
Map

Hampton • Rochester • La Crosse 345 kV Transmission Project

PUC Docket #
E002/TL-09-1448

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

Vice Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Route Permit
Application for the CapX 2020 Hampton-
Rochester-LaCrosse 345 kV Transmission
Line Project

ISSUE DATE: April __, 2012

DOCKET NO. E-002/TL-09-1448

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER ISSUING AN HVTL ROUTE
PERMIT TO XCEL ENERGY FOR A 345 kV
TRANSMISSION LINE AND A 161 kV
TRANSMISSION LINE FROM HAMPTON,
MINNESOTA TO THE MISSISSIPPI RIVER
CROSSING NEAR KELLOGG,
MINNESOTA**

The above-captioned matter came before the Minnesota Public Utilities Commission (Commission) on April 12, 2012, acting on an application by Xcel Energy for a route permit to construct a new 81 to 89-mile 345 kV transmission line and associated facilities in Dakota, Goodhue, Olmsted, and Wabasha counties, and a new 161 kV line approximately 15-18 miles long, with associated facilities in Dakota and Goodhue counties, Minnesota.

STATEMENT OF ISSUE

Should the Minnesota Public Utilities Commission find that the environmental impact statement adequately address the issues identified in the scoping decision? Should the Minnesota Public Utilities Commission issue a route permit identifying a specific route and permit conditions for 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 February 8, 2012, Administrative Law Judge's Findings of Fact, Conclusions and Recommendation for the Hampton-Rochester-LaCrosse Transmission Project related to PUC Docket No. E-002/TL-09-1448, with the following modifications:

Finding 13 is amended to correctly state the positions supported by the North Route Group, NoCapX 2020, and United Citizens Action Network:

13. In Segment 1, the ~~North Route Group NoCapX 2020~~ supports a route option that deviates from the preferred route and crosses the Cannon River at the eastern edge of Lake Byllesby, to avoid impacts to human settlement in the area of Highway 52 and County Road 19 in Cannon Falls. This could be one of several route options, and the North Route Group has not identified its preference by route option number. In Segment 2, the North Route Group, NoCapX 2020 and U-CAN advocated against route options 2C3-003-2 and 2C3-004-2. For Segment 3, (The North Route Group, NoCapX and U-CAN support Applicant's preference of the Modified Preferred Route utilizing segments 3-P and 3P-002, filed testimony advocating against the northern alternative route (3A) in Segment 3, and it supports the 3P route up to the point where it intersects with County Road 42. From from the intersection with County Road 42, the Group recommends supports use of the County Road 42 route option (3B-003).

Finding 110 is amended to be consistent with a prior Commission decision in *In the Matter of the Application of Northern States Power Co. for a High Voltage Transmission Line Route Permit for the Hiawatha 115 kV Transmission Project*, Docket No. E-002/TL-09-38, Order Issuing Route Permit as Amended at 4 (Feb. 10, 2012):

110. State agencies are required to consider environmental factors before making decisions on the matters including the routing of high-voltage transmission lines, ~~that potentially have significant environmental effect~~, and shall not make a decision that is likely to cause pollution, impairment, or destruction of a natural resource so long as there is a feasible and prudent alternative consistent with the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land, and other natural resources from pollution, impairment, or destruction..

Finding 306 is amended as follows to reflect that the Commission does not accept Route Segment 1P-003 as recommended by the ALJ:

306. ~~There are, however, significant problems following US 52 through the Cannon Falls area in the vicinity of Highways 19 and 24, because of the proximity of homes, churches, schools, and businesses. Use of option 1P-003 would bypass this area and would impact fewer total residences; would avoid the church, school, and businesses; would parallel existing transmission lines and use mostly existing road corridors; and would provide the opportunity to avoid potential conflicts with two future road projects (the railroad overpass and the county road 24 interchange).~~In the area of the route by Cannon Falls in the vicinity of Highways 19 and 24, there are several routing challenges. Along the Modified Preferred Route on US 52, there are homes and business as well as two future road projects (the railroad overpass and the County Road 24 interchange). However, the US 52 corridor in this area is dominated by commercial and industrial land use and the two alignment modifications made by the Company are

compatible with these planned road projects and move the line away from a church/school that abuts US 52. When analyzing impacts to human settlement, the proximity of the homes to the line and the fact that the house counts include houses across the freeway must be considered. Option 1P-003 would bypass US 52 and use an alignment through a primarily residential area. Aerial maps of the two route options and existing homes and infrastructure demonstrate that more homes closer to the proposed alignment would be impacted on Option 1P-003. While a portion of this alternative segment would share an existing transmission line corridor, overall it would share less existing right-of-way than the Modified Preferred Route.

SUPPLEMENTAL FINDINGS OF FACT

Based on the analysis presented by Energy Facility Permitting staff, the Commission adopts additional findings below supporting the designation of Route Segment 1P rather than the Administrative Law Judge's recommendation of Route Segment 1P-003:

1. Other differences between the 1P and 1P-003 route segments relate primarily to potential impacts to natural and cultural resources. The Minnesota County Biological Survey has identified Native Plant Communities and Sites of Biological Significance in Dakota and Goodhue counties. The anticipated alignment of Route 1P-003 crosses a greater number (five) of Native Plant Communities than does the 1P alignment (two). The anticipated alignment of 1P-003 also crosses a greater number of Sites of Biological Significance (four) than does the 1P alignment (two). Within the route width of each route alternative, 1P-003 has more native plant community sites and acreage (9 sites and 78.5 acres) than does the 1P route (3 sites and 61.1 acres.) Route 1P-003 also has a greater number and acreage of Sites of Biological Significance (7 sites and 86.7 acres) than does the 1P route (3 sites and 64.4 acres.).³⁰ There are more archaeological sites (four) and historic sites (54) within one-half mile of Route 1P than Route 1P-003 (three and 37, respectively).³¹ Route 1P-003 crosses Lake Byllesby and the Cannon River on the eastern portion of the Lake Byllesby Important Bird Area (IBA) as established by the National Audubon Society. Lake Byllesby serves as important habitat for ducks, herons, geese, gulls, terns, and shorebirds. Sand Hill Cranes have been observed near Lake Byllesby during breeding season; though no confirmed nesting records exist. Route 1P crosses the Cannon River approximately one mile east of the Lake Byllesby IBA.³² Route 1P-003 would cross the Little Cannon River, and necessitate clearing of transmission line right-of-way through a previously unfragmented floodplain forest community on both sides of the river.³³ Route 1P-003 would parallel a planned Lake Byllesby

³⁰FEIS at Appendix H.

³¹ FEIS at 100.

³² FEIS at 96.

Regional Park recreational trail and a bridge crossing the Cannon River that are proposed in the park's 2005 Master Plan, and planned for construction in 2013.³⁴

2. The Modified Preferred Route, on balance, is the better route for the segment covered by Segment 1P-003 based on residential impacts, existing land use, natural resources impacts and corridor sharing. Route 1P shares more existing ROW, has fewer natural resource impacts, is more compatible with existing land uses, and has fewer recreational impacts.

In keeping with the Applicant's commitment to work with EFP staff as noted by the Administrative Law Judge in Finding #87, after the ALJ Report was issued and the Administrative Law Judge identified a recommended route alternative, Applicant and EFP staff negotiated locations along the route where the 1,000-foot width could be narrowed to 600 feet. The Commission adopts the following additional finding concerning the route width:

3. Applicant's revised route permit maps show locations where the route has been narrowed from 1000 to 600 feet. The maps also show where Applicant's continue to request widths of from 1000 feet to 1.25 miles. The route widths depicted on Applicant's revised maps are allowable under the PPSA and represent a reasonable balancing of the Applicants' request for flexibility and the predictability of impacts on the environment and landowners.

The Commission adopts the following additional findings concerning the FEIS:

4. The Commission is required to determine the adequacy of the FEIS. To be adequate, the FEIS must, among other things, address the issues and alternatives identified in the Scoping Decision "to a reasonable extent considering the availability of information and the time limitations for considering the permit application."

5. The evidence on the record demonstrates that the FEIS is adequate because it addresses the issues and alternatives raised in the Scoping Decision, provides responses to the substantive comments received during the DEIS review process, and was prepared in compliance with Minnesota Rules 7850.1000 to 7850.5600.

CONCLUSIONS

Conclusion 7 is amended as follows to reflect that the Commission does not accept Route Segment 1P-003 as recommended by the ALJ.

7. In Segment 1, the Modified Preferred Route ~~options 1P and 1P-003~~ best satisfy~~s~~ the route permit criteria set forth in Minn. Stat. § 216E.03, subs. 7(a) & (b), and Minn. R. 7850.4000 & 7850.4100.

³³ FEIS, Appendix at. A-11.

³⁴ FEIS at 106.

Conclusion 9 is amended to include additional narrowing of the route width in some locations:

9. The Applicants' request for a route width of up to 1,000 feet is appropriate for much of the Project, except where the Applicants have identified on the record where a 1.25 mile route width is required, and except where a 600 foot route width has been identified as sufficient by the Applicants subsequent to the release of the ALJ's Findings, Conclusions and Recommendation.

Conclusion 11 is amended to clarify that the Commission is adopting the ALJ's recommendation for Segment 3:

11. In Segment 3, the Modified Preferred Route including route option 3P-Zumbro-S ~~with~~ and the 3P-004 option best satisfy the route permit criteria set forth in Minn. Stat. § 216E.03, subds. 7(a) & (b), and Minn. R. 7850.4000 & 7850.4100.

The Commission adopts the following additional conclusions:

15. EFP staff conducted an appropriate environmental analysis of the project for purposes of this route permit proceeding and the FEIS satisfies Minn. R. 7850.2500.

16. The conditions included in the route permit are reasonable and appropriate.

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 February 8, 2012 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 the recommendation for route segment 1P-003 as contained in the February 8, 2012 ALJ Report, and instead grants a Route Permit that includes the entirety of the Applicant's Modified Preferred Route along Route 1P.
3. The Commission hereby grants the Applicant a Route Permit, in the form attached, to construct the high voltage transmission line requested between Hampton, Minnesota, and the Mississippi River Crossing near Kellogg, Minnesota, along the Applicant's Modified Preferred Route (1P) in Project Segment 1, along Route 2A in Project Segment 2, and along Routes 3P-Zumbro-S and 3P-004 in Project Segment 3, incorporating the Applicant's Modified Preferred Route between the North Rochester Substation and the Zumbro Dam, as recommended by the Administrative Law Judge.
4. This Order shall become effective immediately.

Dated :