

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF SCOTT

FIRST JUDICIAL DISTRICT

Great River Energy, a Minnesota cooperative corporation, by its Board of Directors; Northern States Power Company (d/b/a Xcel Energy), a Minnesota corporation, by its Board of Directors; Western Minnesota Municipal Power Agency, a Minnesota municipal corporation and political subdivision, by its Board of Directors; Otter Tail Power Company, a Minnesota corporation, by its Board of Directors; and Central Minnesota Municipal Power Agency, a Minnesota municipal power agency, by its Board of Directors,

File No. 70-CV-12-8999

ORDER

Petitioners,

vs.

Esther Stoppelmann, as Trustee of the Robert Stoppelmann Irrevocable Trust, dated February 21, 2007, et al.,

Respondents.

The above-entitled matter came on for hearing before the undersigned Judge on July 31, 2012 at the Scott County Courthouse, Shakopee, Minnesota. Attorney Steven Quam appeared on behalf of the Plaintiff and attorney Rod Krass appeared on behalf of some Respondents; Bruce Gruetzmacher appeared pro se.

The parties reached agreement as to Respondents represented by Rod Krass involved with the Quick-Take Motion.¹ The only remaining issue for the Court to consider was relating to the Gruetzmacher property and whether to order Plaintiff to deposit \$340,000.00 with the Court, which is the appraised fair market value of their

¹ The court is still waiting to hear from the parties regarding the Commissioners to be appointed.

property or, as Plaintiff argues, only pay for the easement value which is \$6,900.00. Based upon all the files, records and proceedings herein, including the oral argument of counsel as well as written submissions of the parties, the Court makes the following:

FINDINGS OF FACT

1. The Gruetzmachers notified Petitioners of their election pursuant to Minn.Stat. §216E.12 subd. 4 (2011).

ORDER

1. Pursuant to *Coop. Power Ass'n v. Assand*, 288 N.W.2d 697 (Minn. 1980) and the Gruetzmacher's election under Minn.Stat. § 216E.12 subd. 4 (2011), the Court finds that they are entitled to the appraisal value the entire parcel which is \$340,000.00.
2. Further, based upon Minn.Stat. § 117.042 which states:

Whenever the petitioner shall require title and possession of all or part of the owner's property prior to the filing of an award by the court appointed commissioners, the petitioner shall, at least 90 days prior to the date on which possession is to be taken, notify the owner of the intent to possess by notice served by certified mail and before taking title and possession shall pay to the owner or deposit with the court an amount equal to petitioner's approved appraisal of value.

the Court finds that Petitioners shall deposit the appraised value of the fair market value of the property (\$340,000.00) with the Court.

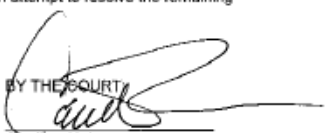
3. Petitioners shall engage in good faith negotiations pursuant to Minn.Stat.

§117.036 subd. 3 with the Gruetzmachers in an attempt to resolve the remaining issues.

DATED:

Per:
JUNE 24 2012

BY THE COURT



Caroline H. Lennon
District Court Judge