

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Route Permit Application for  
the Hollydale 115 kV Transmission Line Project  
in the Cities of Plymouth and Medina, Hennepin  
County

**SECOND  
PRE-HEARING ORDER**

A prehearing conference was held before Administrative Law Judge Eric L. Lipman on June 5, 2012, at the Saint Paul offices of the Minnesota Public Utilities Commission. The following persons noted their appearance:

Valerie T. Herring, Briggs & Morgan, LLP, appeared on behalf of the Applicants, Xcel Energy and Great River Energy.

Katherine McBride, Meagher & Geer, appeared on behalf of the Western Plymouth Neighborhood Alliance, Incorporated.

Karen Finstad Hammel, Assistant Attorney General, appeared on behalf of the Energy Facilities Permitting Unit of the Minnesota Department of Commerce (Department).

Bret Eknes and Michael Kaluzniak appeared on behalf of the Public Utilities Commission.

Based upon the record and the discussion among the participants at the prehearing conference, the Administrative Law Judge makes the following:

**ORDER**

**Parties to the Contested Proceedings and Intervention**

1. The Applicant, Xcel Energy, was designated as a party in the Commission's Notice and Order for Hearing.
2. The Motion for Intervention by the Western Plymouth Neighborhood Alliance, Incorporated is **GRANTED**.

3. Other persons who wish to intervene as parties in this proceeding must file a Petition to Intervene that complies with Minn. R. 1400.6200 with the Administrative Law Judge no later than **4:30 p.m. on Thursday, October 4, 2012**. Copies of the Petition to Intervene must be served upon all existing parties and the Commission. A Notice of Appearance must be filed with the Petition. Petitioners shall provide an electronic mail address on the Petition or Notice of Appearance.

4. Objections to such a petition must be filed within seven days of the filing of the Petition.

5. **Any person who is not affiliated with a party or a participant will be removed from the service list after October 4, 2012.** Interested members of the public who are not on the service list after October 4, 2012 are invited to receive notifications through the “Subscribe to Dockets” feature of the E-Docket system.

6. Members of the public need not become parties in order to participate in this matter. Members of the public may offer written testimony or exhibits, pursuant to Minn. R. 1405.0800. Any person who participates in a public or evidentiary hearing may be questioned by the parties and the Administrative Law Judge.

**Schedule**

7. The following schedule for proceedings is adopted:

Milestone	Timing
Energy Facilities Permitting unit (EFP) Issues EIS Scoping Decision	July 30, 2012
EFP Designates the Site for the Public Hearing	July 30, 2012
Pre-Filing of Applicant’s Direct Testimony	September 28, 2012
Deadline for Intervention	October 4, 2012
Pre-Filing of Intervenors’ Direct Testimony, Initial EFP Comments and Comments from the Public.	October 16, 2012
Target Date for Draft EIS Public Meeting	October 16 and 17, 2012
Pre-Filing of Rebuttal Testimony and EFP Comments	October 31, 2012
Deadline for Comments on Draft EIS	October 31, 2012
Deadline for Foundation Objections	November 5, 2012

Public Hearings Near the Project Area	November 5 and 7, 2012
Evidentiary Hearings on Routing at the Saint Paul offices of the MPUC	November 8 and 9, 2012 Beginning at 9:30 a.m.
Deadline for Public Comments on Routing	November 27, 2012
Target Date for Issuance of the Final EIS	November 27, 2012
Submission of the Applicants' Initial Post-Hearing Brief, Proposed Findings of Fact and Conclusions of Law	December 18, 2012
Submission of Response Briefs, Proposed Substitute Findings of Fact and Conclusions of Law	January 15, 2013
ALJ Report	February 14, 2013

## Discovery

8. A party may serve requests for information on any other party. All requests for information shall be made in writing by electronic mail. If expressly requested by another party, the requesting party shall follow the electronic mail message with a copy of the request sent by regular U.S. mail or other delivery service to all parties.

9. **Information requests shall NOT be eFiled or served on the Administrative Law Judge or the Court Reporter. Additionally, Responses to information requests shall NOT be eFiled or served on the Administrative Law Judge or Court Reporter.**

10. To the extent that a request includes material designated as Trade Secret or Nonpublic under the Minnesota Government Data Practices Act, Minn. Stat. Chap. 13, a request shall only be between the requesting party and responding party, and the requesting party shall follow the electronic mail message with a public version of the request sent by regular U.S. Mail or other delivery service to all parties. Requests shall be sent to the person(s) designated to receive data requests by the party from whom the information is sought. Any request received by electronic mail or other means after 4:30 p.m. on a business day, on a weekend day, or on a Minnesota state holiday, is considered received on the next business day.

11. The party responding to the request shall provide the requested information to the requesting party within eight business days of receipt of the information request. A business day does not include a weekend day or a Minnesota state holiday. In accordance with Minn. R. 1400.6100. subp. 1, the day that the

information request is received is not counted in the eight-day period. If the request is received after 4:30 p.m. on a business day, the following business day is also not counted in the calculation of the eight-day response period.

12. Public and Non-Public responses to information requests shall be submitted by electronic mail message. If expressly requested by another party, the responding party shall follow the electronic mail message with a copy of the response sent by regular U.S. mail or other delivery service. Any response received after 4:30 p.m. on a business day is considered to be received the following business day.

13. If the responding party is unable to send the response by electronic mail because of the volume or nature of information included in a response, the responding party shall send the response by facsimile, U.S. mail, or delivery service so that the requesting party receives the entire response including any material designated as Trade Secret or Nonpublic by the date due. Responding parties may utilize optical data storage (DVDs or CDs) to convey large volumes of data. If the response is sent by facsimile, the responding party shall follow the facsimile with a copy of the response sent by regular U.S. mail or other delivery service. There shall be a continuing obligation to update and supplement information responses with any responsive material that may subsequently be discovered or acquired by the responding party. The responsive information need not be supplied to other parties unless specifically requested by a party.

14. If the request or response contains material designated as Trade Secret or Nonpublic information, the providing party may require that the requesting party comply with the terms of the Protective Order in this matter before providing the information.

15. If the responsive information cannot be supplied within eight business days, the responding party shall notify the requesting party as soon as reasonably possible in advance of the deadline of the reasons for not being able to supply the information and attempt to work out a schedule of compliance with the requesting party.

16. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party. Such motions may be submitted informally by electronic mail. Notice of such motions will be made by electronic mail. Informal motions to address discovery requests and responses will usually be heard by telephone conference.

### **Prefiled Testimony**

17. Prefiled testimony and exhibits may be in any reasonable format that is understandable, logically organized, and capable of being cited by page and line number, paragraph number, or similar identifier.

18. A paper copy of prefiled testimony being offered for admission into the record at the hearing shall be provided for use at the hearing. The offering party will

identify the document as having been eFiled (with the unique eFile identifying number of the document). The Administrative Law Judge will assign a hearing exhibit number to the document at the time that it is offered for admission at the hearing.

19. Corrections to any prefiled testimony shall be identified and marked on the paper copy of the exhibit. Those changes will be eFiled as soon as practical after the hearing. A hearing exhibit list will be prepared that identifies each exhibit in the hearing record, with its hearing exhibit number and unique eFile identifying number. The eFiled documents constitute the official record of the proceeding, along with any supplemental record data that cannot be eFiled. Any supplemental record data will be identified by the Administrative Law Judge as included in the official record.

20. Prefiled testimony that is not offered into the record, or stricken portions of prefiled testimony that is offered, shall be considered withdrawn and no witness shall be cross-examined concerning the withdrawn testimony. Any new affirmative matter that is not offered in reply to another party's direct case will not be allowed in rebuttal testimony and exhibits. Except for good cause shown, all revisions or corrections to any prefiled testimony shall be in writing and served upon the Administrative Law Judge and the parties no later than three days to the commencement of the evidentiary hearing.

## **Witnesses**

21. Subject to change by agreement of the parties or further order of the Administrative Law Judge, the order of testimony shall be: the Applicants, Intervenors in the order of their intervention, and the Department of Commerce. Questioning of the witnesses shall proceed in the same order, followed by Commission staff and the Administrative Law Judge.

22. In the event that a witness must be scheduled for a day-certain to offer testimony, the sponsoring party should attempt to reach agreement with the other parties and then submit a request to the Administrative Law Judge.

23. Witnesses will be allowed ten minutes in which to summarize their prefiled testimony. In order for a witness to include new information in his or her summary, the party offering that witness' testimony must obtain the prior approval of the Administrative Law Judge upon a motion with a showing of good cause for not having addressed that information in prefiled testimony.

24. Parties shall examine witnesses through their attorneys if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through one representative chosen by the party.

25. Except for good cause shown, objections by any party as to the qualifications of a witness or the admissibility of any portion of a witness' prefiled testimony are waived unless the objecting party states its objection by motion made to the Administrative Law Judge, no later than **4:30 p.m. on Monday, November 5, 2012.**

## **Filing of Documents (Excluding Information Requests and Responses)**

26. Original documents shall be filed using the Commission's eFiling system where feasible, in accordance with Minn. Stat. § 216.17, subd. 3, and the Commission's standards. In any instance where the eFiling system cannot be used, the original document shall be filed by delivery or mail with the Administrative Law Judge.

27. An oversized exhibit may be received into the hearing record, with approval of the judge, provided that a duplicate original of the exhibit, conforming to the standards of Minn. R. 1400.5275, is submitted into the record.

28. The effective date of filing shall be the date the document is eFiled, mailed by U.S. Mail, or delivered to the Administrative Law Judge. Parties using the eFiling system should retain the unique document identifier as proof of filing through that system. Proof of service to the service list in this proceeding shall be filed with each document or within three business days thereafter.

29. Public copies of all documents that are filed shall be served by electronic mail according to the attached office service list by 4:30 p.m., and a hard copy shall also be mailed or delivered that day to the persons indicated on the official service list. The list will be revised as necessary by the Office of Administrative Hearings.

30. Copies of trade secret and other nonpublic data shall be transmitted by electronic mail, U.S. Mail or delivery service to the parties who have signed Exhibit A to the Protective Order (Third Pre-Hearing Order). Such documents may be served on the next business day following the filing of the public version.

31. After the Administrative Law Judge's Report is issued, the parties shall file the original of all documents with the Executive Secretary of the Commission in accordance with the Commission's standards.

32. Where Trade Secret or Nonpublic Data is filed with the Administrative Law Judge, that filing shall be prepared and marked in accordance with the Public Utilities Commission's September 1, 1999, Revised Procedures for Handling Trade Secret and Privileged Data. The procedures are available from the Commission's website at: <http://www.puc.state.mn.us/puc/energyfacilities/data-practices/index.html>. Access to nonpublic data shall be governed by the Protective Order (Third Pre-Hearing Order) to be issued in this proceeding.

Dated: July 5, 2012

          s/Eric L. Lipman            
ERIC L. LIPMAN  
Administrative Law Judge



## MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

600 North Robert Street  
Saint Paul, Minnesota 55101

**Mailing Address:**  
P.O. Box 64620  
St. Paul, Minnesota 55164-0620

Voice: (651) 361-7900  
TTY: (651) 361-7878  
Fax: (651) 361-7936

July 5, 2012

See Attached Service List

**Re: *In the Matter of the Route Permit Application for the Hollydale 115 kV Transmission Line Project in the Cities of Plymouth and Medina, Hennepin County***

**OAH 8-2500-22806-2  
MPUC E-002 / TL-11-152**

Dear Parties:

Enclosed herewith and served upon you is the Administrative Law Judge's **SECOND PRE-HEARING ORDER** in the above-entitled matter

Sincerely,

s/Eric L. Lipman

ERIC L. LIPMAN  
Assistant Chief Administrative Law Judge

Telephone: (651) 361-7842

ELL:dc  
Enclosures

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
ADMINISTRATIVE LAW SECTION  
600 NORTH ROBERT STREET  
PO BOX 64620  
ST. PAUL, MINNESOTA 55164-0620

**CERTIFICATE OF SERVICE**

In the Matter of the Route Permit Application for the Hollydale 115 kV Transmission Line Project in the Cities of Plymouth and Medina, Hennepin County	OAH 8-2500-22806-2 MPUC E-002 / TL-11-152
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Denise Collins, certifies that on the 5<sup>th</sup> day of July, 2012, she served a true and correct copy of the attached the **SECOND PRE-HEARING ORDER** by eService, and U.S. Mail, (in the manner indicated below) to the following individuals:



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**Service List Member Information**

**Electronic Service Member(s)**

Last Name	First Name	Email	Company Name	Delivery Method	View Trade Secret
Agrimonti	Lisa	lagrimonti@briggs.com	Briggs And Morgan, P.A.	Electronic Service	No
Anderson	Julia	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	Electronic Service	Yes
Carpenter	Tami	tamicarp@comcast.net	N/A	Electronic Service	No
Ferguson	Sharon	sharon.ferguson@state.mn.us	Department of Commerce	Electronic Service	No
Haar	Burl W.	burl.haar@state.mn.us	Public Utilities Commission	Electronic Service	Yes
Hammel	Karen Finstad	Karen.Hammel@ag.state.mn.us	Office of the Attorney General-DOC	Electronic Service	No
Herring	Valerie	vherring@briggs.com	Briggs and Morgan, P.A.	Electronic Service	No
Kotch	Stacy	Stacy.Kotch@state.mn.us	MINNESOTA DEPARTMENT OF TRANSPORTATION	Electronic Service	No
Lindell	John	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	Electronic Service	Yes
Maccabee	Paula	Pmaccabee@visi.com	Just Change Law Offices	Electronic Service	No
Parlow	Marsha	mparlow@greenergy.com	Great River Energy	Electronic Service	No
Sedarski	Joseph G.	joseph.g.sedarski@xcelenergy.com	Xcel Energy	Electronic Service	No
Thompson	SaGonna	Regulatory.Records@xcelenergy.com	Xcel Energy	Electronic Service	No

**Paper Service Member(s)**

Last Name	First Name	Company Name	Address	Delivery Method	View Trade Secret
Lipman	Eric	Office of Administrative Hearings	PO Box 64620, St. Paul, MN-551640620	Paper Service	Yes

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