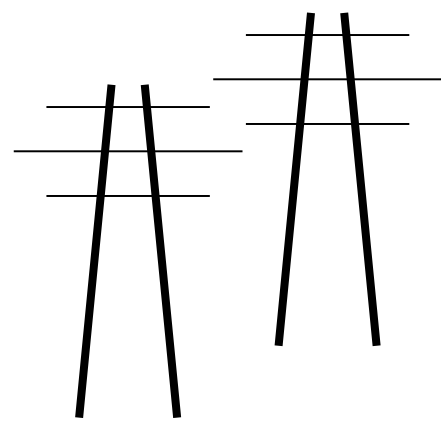


# Legalelectric, Inc.

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September 22, 2014

Kate Kahlert  
Public Utilities Commission  
121 – 7<sup>th</sup> Place East  
St. Paul, Mn 55101

RE: Comments of No CapX 2020 and United Citizens Action Network  
Rulemaking Advisory Committee 7849 & 7850

Dear Ms. Kahlert:

Attached please find ~~strikeout~~/underline comments of No CapX 2020 and United Citizens Action Network, and we support the Comments of North Route Group and Goodhue Wind Truth. These comments are not all inclusive. If I've missed something, that does not mean we support the proposed language!

**I'm particularly disturbed by the definition of utility in 7850.1000, Subp. 19.** This is an issue in a current docket, a big red flag error going beyond the law and which needs to be corrected. The addition of the language "a limited liability company, or a private corporation" is not supported by the statute:

**Minn. Stat. §216E.01, Subd. 10. Utility.**

"Utility" shall mean any entity engaged or intending to engage in this state in the generation, transmission, or distribution of electric energy including, but not limited to, a private investor-owned utility, cooperatively owned utility, and a public or municipally owned utility.

Also, it's clear that the Public Advisory role requires increased staffing and budget.

Please let me know if you have any questions or require further information.

Very truly yours,

Carol A. Overland  
Attorney at Law

**WORKING DRAFT – September 2014**

**CHAPTER 7849**

**PUBLIC UTILITIES COMMISSION**

**CERTIFICATE OF NEED; POWER PLANT OR LINE**

**7849.0010 DEFINITIONS.**

**Subp. 17. Macrocorridor.** The area under consideration for transmission lines applied for under this chapter, and containing routes to be considered under Power Plant Siting Act, Minn. Stat. Ch. 261E and Minn. R. 7850.

**7849.0130 PROJECT NOTICE.**

**Subp. 5. Notice content.** The notice must include the following information:

A. for an HVTL:

(1) a **verified** map showing:

(i) the end points of the line and existing transmission facilities in the area, including transmission facilities 69 kilovolts or greater; and

(ii) **macrocorridor with** shaded-in areas showing possible routes.

(2) a description of general right-of-way requirements for a line of the size and voltage proposed and a statement on whether the applicant intends to acquire property rights for the right-of-way that the proposed line will require;

B. for an LEFG:

(1) a **verified** map showing the location of the proposed facility;

(2) a description of the proposed project that identifies the proposed fuel source and includes the approximate size of the proposed facility; and

(3) a description of general right-of-way requirements for a facility of the size proposed and a statement that the applicant intends to acquire property rights for the right-of-way that the proposed facility will require.

**7849.1200 ENVIRONMENTAL REPORT.**

The commissioner of the Department of Commerce shall prepare an environmental report on a proposed high voltage transmission line or a proposed large electric power generating plant at the need stage. The environmental report must contain information on the human and environmental impacts

of the proposed project associated with the size, type, and timing of the project, system configurations, and voltage. The environmental report must also contain information on alternatives to the proposed project and shall address mitigating measures for anticipated adverse impacts. The commissioner shall be responsible for the completeness and accuracy of all information in the environmental report and sufficiency under Minn. Stat. Ch. §116D.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

**Posted:** *October 13, 2009*

#### **7849.1450 PUBLIC HEARING.**

Subsequent to the filing of the environmental report, the commission shall hold a public hearing designed to encourage members of the public to comment-express their views on the application, as required under Minnesota Statutes, section 216B.243, subdivision 4.

#### **7849.1800 ENVIRONMENTAL REPORT REVIEW TO ACCOMPANY PROJECT.**

Subpart 1. **PUC Commission decision.** The environmental ~~report, or environmental assessment or EIS prepared~~ review conducted pursuant to part 7849.1900, must be completed and copies provided to the ~~Public Utilities Commission~~ PUC Commission before the PUC Commission can hold any public or evidentiary hearing or render a final decision on an application for a certificate of need or for certification of a HVTL. However, the PUC Commission can commence the public hearing process by conducting prehearing matters. The ~~commissioner~~ department's staff shall participate in the PUC Commission proceeding, or contested case proceeding, and be available to answer questions posed by parties or participants about the environmental ~~report or environmental assessment or EIS~~ review and to respond to comments about the document. The environmental ~~report or environmental assessment or EIS~~ review must be considered by the PUC Commission in making a final decision on a certificate of need or HVTL certification request.

Subp. 2. **Completeness of environmental report.** At the time the PUC commission makes a final decision on a certificate of need application or a request for certification of a HVTL, the PUC commission shall determine whether the environmental report and the record created in the matter address the issues identified by the ~~commissioner~~ department in the decision made pursuant to part 7849.1400, subpart 7. The PUC Commission may direct the ~~commissioner~~ department to prepare a supplement to the environmental ~~report, or the environmental assessment or EIS~~ review of one is prepared pursuant to part 7849.1900, if the PUC commission determines that an additional alternative or impact should be addressed or supplemental information should be provided.

**Statutory Authority:** *MS s 116D.04*

**History:** *28 SR 951; L 2005 c 97 art 3 s 19*

**Posted:** *October 13, 2009*

**CHAPTER 7850 – September 2014**  
**PUBLIC UTILITIES COMMISSION**  
**SITE OR ROUTE PERMIT; POWER PLANT OR LINE**

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**7850.0100** [Renumbered 4410.7000]

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**7850.0200** [Renumbered 4410.7100]

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**7850.0300** [Renumbered 4410.7200]

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**7850.0400** [Renumbered 4410.7300]

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**7850.0500** [Renumbered 4410.7400]

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**7850.0600** [Renumbered 4410.7500]

**Published Electronically:** *September 18, 2009*

**7850.0700** [Renumbered 4410.7600]

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**7850.0800** [Renumbered 4410.7700]

**Published Electronically:** *September 18, 2009*

**7850.0900** [Renumbered 4410.7800]

**Published Electronically:** *September 18, 2009*

**7850.1000 DEFINITIONS.**

Subpart 1. **Scope.** As used in parts 7850.1000 to 7850.5600, the following terms have the meanings given them.

Subp. 2. **Act.** "Act" means the Power Plant Siting Act of 1973, as amended, Minnesota Statutes, chapter 216E.

Subp. 3. **Associated facilities.** "Associated facilities" means buildings, equipment, and other physical structures that are necessary to the operation of a large electric power generating plant or a high voltage transmission line.

Subp. 4. **Commission.** "Commission" means the Public Utilities Commission.

Subp. 5. **Corridor.** The area of land that contains all possible transmission route alternatives subject to environmental review and for consideration by the Commission as the final chosen route.

Subp. 5. **Certified HVTL list.** "Certified HVTL list" means the transmission projects certified by the Public Utilities Commission as priority projects under Minnesota Statutes, section 216B.2425.

Subp. 5a. **Department.** "Department" means the department of commerce.

Subp. 6. **Developed portion of the plant site.** "Developed portion of the plant site" means the

portion of the LEPGP site that is required for the physical plant and associated facilities.

Subp. 7. **Environmental assessment.** "Environmental assessment" means a written document that describes the human and environmental impacts of a proposed large electric power generating plant or high voltage transmission line, ~~and~~ alternative routes or sites identified by the commission, and methods to mitigate ~~such~~ potential impacts and satisfies the requirements of Minnesota Statutes, section 116D.04.

Subp. 8. **Environmental impact statement or EIS.** "Environmental impact statement" or "EIS" means a detailed written statement that describes proposed high voltage transmission lines and large electric power generating plants and satisfies the requirements of Minnesota Statutes, section 116D.04.

Subp. 9. **High voltage transmission line or HVTL.** "High voltage transmission line" or "HVTL" means a conductor of electric energy and associated facilities designed for and capable of operating at a nominal voltage of 100 kilovolts or more either immediately or without significant modification. Associated facilities shall include, but not be limited to, insulators, towers, substations, and terminals.

Subp. 10. **Large electric power facilities.** "Large electric power facilities" means high voltage transmission lines and large electric power generating plants.

Subp. 11. **Large electric power generating plant or LEPGP.** "Large electric power generating plant" or "LEPGP" means electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more. Associated facilities include, but are not limited to, coal piles, cooling towers, ash containment, fuel tanks, water and wastewater treatment systems, and roads.

Subp. 12. **Mail.** "Mail" means either the United States mail or electronic mail by e-mail, unless another law requires a specific form of mailing.

Subp. 13. **Person.** "Person" means any individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

~~Subp. 14. **PUC.** "PUC" means the entire Public Utilities Commission, including the commission and staff.~~

Subp. 15. **Right-of-way.** "Right-of-way" means the land interest required within a route for the construction, maintenance, and operation of a high voltage transmission line.

Subp. 16. **Route.** "Route" and "route alignment" means the location of a high voltage transmission line between two end points. A route may have a variable width of up to 1.25 miles within which a right-of-way for a high voltage transmission line can be located. For transmission projects that require a Certificate of Need, the route must be within the area defined in the Certificate of Need under Minn. R. Ch. 7849.

Subp. 17. **Route segment.** "Route segment" means a portion of a route, which in combination with other segments constitutes a route. A route segment may have a variable width of up to 1.25 miles within which a right-of-way for a high voltage transmission line can be located.

Subp. 18. **Site.** "Site" means an area of land required for the construction, maintenance, and operation of a large electric power generating plant.

Subp. 19. **Solar energy generating system.** "Solar energy generating system" means a set of devices whose primary purpose is to produce electricity by means of any combination of collecting, transferring, or converting solar-generated energy.

Subp. 20. **Utility.** "Utility" means any entity engaged or intending to engage in this state in the generation, transmission, or distribution of electric energy including, but not limited to, a private investor owned utility, a cooperatively owned utility, a public or municipally owned utility, ~~—a limited liability company, or a private corporation.~~ **THIS IS NOT IN THE STATUTE!** Minn. Stat. §216E.01, Subd. 10.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *15 SR 1598; 27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.1100 PURPOSE AND AUTHORITY.**

Parts 7850.1000 to 7850.5600 are prescribed by the Minnesota Public Utilities Commission pursuant to the authority granted to the commission in the Power Plant Siting Act, as amended, Minnesota Statutes, chapter 216E, to give effect to the purposes of the act.

It is the purpose of the act and the policy of the state to locate large electric power generating plants and high voltage transmission lines in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, the commission shall choose locations that minimize adverse human and environmental impact while ensuring continuing electric power system reliability and integrity and ensuring that electric energy needs are met and fulfilled in an orderly and timely fashion. The commission shall provide for broad spectrum citizen participation as a principle of operation. To ensure effective citizen participation, the commission shall maintain a public education program on, but not limited to, the considerations identified in Minnesota Statutes, section 216E.03, subdivision 7.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *15 SR 1598; 27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.1200 APPLICABILITY.**

Parts 7850.1000 to 7850.5600 establish the requirements for the processing of permit applications by the ~~Public Utilities Commission~~ for large electric power generating plants and high voltage transmission lines. Requirements for environmental review of such projects before the commission are established in ~~the applicable requirements of chapter 4410 and parts 7849.1000 to 7849.2100~~ 7850.4620 through 7850.4675 **and Minn. Stat. §116D.04.**

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *October 13, 2009*

#### **7850.1300 PERMIT REQUIREMENT.**

Subpart 1. **Site permit.** No person may construct a large electric power generating plant without a site permit from the commission. A large electric power generating plant may be constructed only on a site approved by the commission.

Subp. 2. **Route permit.** No person may construct a high voltage transmission line without a route permit from the commission. A high voltage transmission line may be constructed only within a route



approved by the commission.

**Subp. 3. Expansion of existing facility.**

A. No person shall increase the voltage of a high voltage transmission line without a route permit or other approval from the PUC commission.

B. No person shall increase the voltage of a transmission line under 100 kilovolts to over 100 kilovolts without a route permit from the PUC commission.

C. Except as provided in part 7850.1500 or 7850.4800, no person shall increase the generating capacity or output of an existing large electric power generating plant without a permit from the commission.

D. No person shall increase the generating capacity or output of an electric power plant from under 50 megawatts to more than 50 megawatts without a site permit from the PUC commission.

Subp. 4. **Local authority.** A site permit from the commission is not required for a large electric power generating plant that is permitted by local units of government under Minnesota Statutes, section 216E.05. A route permit from the commission is not required for a high voltage transmission line that is permitted by local governmental authorities under Minnesota Statutes, section 216E.05.

Subp. 5. **Commence construction.** No person may commence construction of a large electric power generating plant or a high voltage transmission line until a permit has been issued by the commission or by the appropriate local units of government if local review is sought. "Commence construction" means to begin or cause to begin as part of a continuous program the placement, assembly, or installation of facilities or equipment, or to conduct significant physical site preparation or right-of-way preparation work for installation of facilities or equipment. Conducting survey work or collecting geological data or contacting landowners to discuss possible construction of a power plant or transmission line is not commencement of construction.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

**7850.1400 ~~SMALL~~ EXEMPT PROJECTS.**

~~Subpart 1.~~ **No PUC commission permit required.** A permit from the PUC commission is not required to construct a power plant of less than 50 megawatts or a transmission line of less than 100 kilovolts. Proposers of such projects must obtain whatever approvals may be required by local, state, or federal units of government with jurisdiction over the project.

~~Subp. 2. **Environmental review.** Proposers of power plants of less than 50 megawatts or transmission lines of less than 100 kilovolts must comply with the environmental review requirements of chapter 4410, parts 7849.1000 to 7849.2100, and Minnesota Statutes, chapter 116D.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *October 13, 2009*

**7850.1500 EXCEPTIONS TO PERMITTING REQUIREMENT FOR CERTAIN EXISTING FACILITIES.**

Subpart 1. **No permit required.** The following projects are not considered construction of a large electric power generating plant or high voltage transmission line and may be constructed without a permit from the commission:

A. equipment additions at an existing substation that do not require expansion of the land needed for the substation and do not involve an increase in the voltage or changes in the location of existing transmission lines, except that up to the first five transmission line structures outside the substation may be moved to accommodate the equipment additions provided the structures are not moved more than 500 feet from the existing right-of-way;

B. high voltage transmission lines:

(1) maintenance or repair of a high voltage transmission line within an existing right-of-way;

(2) reconductoring or reconstruction of a high voltage transmission line with no change in voltage and no change in right-of-way, provided that any new structures that are installed are not designed for and capable of operation at higher voltage; or

(3) relocation of a high voltage transmission line that is required by a local or state agency as part of road, street, or highway construction; or

C. large electric power generating plants:

(1) maintenance or repair of a large electric power generating plant;

(2) modification of a large electric power generating plant to increase efficiency as long as the capacity of the plant is not increased more than ten percent or more than 100 megawatts, whichever is greater, and the modification does not require expansion of the plant beyond the developed portion of the plant site. If a subsequent modification results in a total of more than 100 megawatts of additional capacity, this provision does not apply. An increase in efficiency is a reduction in the amount of Btu's (British Thermal Units) required to produce a kilowatt hour of electricity at the facility;

(3) refurbishment of a large electric power generating plant that does not expand the capacity of the plant or expand the plant beyond the developed portion of the plant site and the refurbishment does not require a certificate of need from the public utilities commission;

(4) conversion of the fuel source of a large electric power generating plant to natural gas, as long as the plant is not expanded beyond the developed portion of the plant site; or

(5) start-up of an existing large electric power generating plant that has been closed for any period of time at no more than its previous capacity rating and in a manner that does not involve a change in the fuel or an expansion of the developed portion of the plant site.

Subp. 2. **Minor alteration.** In the event a modification or other change in an existing substation, high voltage transmission line, or large electric power generating plant does not qualify for an exception under this part, the modification or change may qualify for a ~~minor alteration~~ change under part 7850.4800.

Subp. 3. **Notice.** Any person proposing to move transmission line structures under subpart 1, item A, or to reconductor or reconstruct a high voltage transmission line under subpart 1, item B, subitem (2), or to implement changes to a large electric power generating plant under subpart 1, item C, subitem (2), (3), (4), or (5), must notify the commission in writing at least 30 days before commencing construction on the modification or change.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *October 15, 2013*

**7850.1600 JOINT PROCEEDING.**

**~~7850.5300~~ LOCAL REVIEW OF PROPOSED FACILITIES.**

Subpart 1. **Local review.** An applicant who seeks a site or route permit for one of the projects identified in subpart 2 has the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project. If local approval is granted, a site or route permit is not required from the commission. If the applicant files an application with the **PUC commission**, the applicant shall be deemed to have waived its right to seek local approval of the project.

Subp. 2. **Eligible projects.** An applicant may seek approval from a local unit of government to construct the following projects:

- A. a large electric power generating plant with a capacity of less than 80 megawatts;
- B. a large electric power generating plant of any size that burns natural gas and is intended to be a peaking plant;
- C. a high voltage transmission line of between 100 and 200 kilovolts;
- D. a substation with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;
- E. a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and
- F. a high voltage transmission line rerouting to serve the demand of a single customer when at least 80 percent of the rerouted line will be located on property owned or controlled by the customer or the owner of the transmission line.

Subp. 3. **Notice to **PUC commission**.** Within ten days of submission of an application to a local unit of government for approval of an eligible project, the applicant shall notify the commission in writing that the applicant has elected to seek local approval of the proposed project. Within the same ten-day period, the applicant shall mail notice to those persons on the general notification list that a permit has been applied for from the local unit of government for the project and shall provide a description of the project and the name of a person with the local unit of government to contact for more information.

Subp. 4. **Referral to **PUC commission**.** A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request the **PUC commission** to assume jurisdiction and make a decision on a site or route permit. A local unit of government shall file the request with the commission within 60 days after an application for the project has been filed with any one local unit of government. If one of the local units of government with jurisdiction over the project requests the commission to assume jurisdiction, jurisdiction over the project transfers to the commission and the applicant shall file under the applicable provisions of parts 7850.1000 to 7850.5600 for a permit from the commission.

Subp. 5. **Environmental review.** A local unit of government that maintains jurisdiction over a qualifying project shall prepare an environmental assessment on the project. The local unit of government shall afford the public an opportunity to participate in the development of the scope of the environmental assessment before it is prepared. Upon completion of the environmental assessment, the local unit of government shall publish notice in the EQB Monitor that the environmental assessment is available for

review, how a copy of the document may be reviewed, that the public may comment on the document, and the procedure for submitting comments to the local unit of government. The local unit of government shall provide a copy of the environmental assessment to the PUC commission upon completion of the document. The local unit of government shall not make a final decision on the permit until at least ten days after the notice appears in the EQB Monitor. If more than one local unit of government has jurisdiction over a project, and the local units of government cannot agree on which unit will prepare the environmental assessment, any local unit of government or the applicant may request the commission to select the appropriate local unit of government to be the responsible governmental unit to conduct an environmental review of the project.

Subp. 6. **No local authority.** In the event a local unit of government that might otherwise have jurisdiction over a proposed large electric power generating plant or high voltage transmission line determines that it has no ordinances or other provisions for reviewing and authorizing the construction of such project or has no capability of preparing an environmental assessment on the project, the local unit of government shall refer the matter to the PUC commission for review.

Subp. 7. **Matters excluded.** When the ~~Public Utilities C~~ommission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the local unit of government shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.1650. PREAPPLICATION PROCEDURES. TRANSMISSION LINES.**

Subpart 1. **Public outreach meetings.** Prior to filing a route permit application under this chapter, an applicant must hold at least one public information meeting in each county where a route or route alternative would be located. At least ten days prior to each meeting, the applicant must notify the commission and department of the date, time, and location of the meeting. In addition, the applicant must:

A. provide at least ten days' notice of the public meetings to persons whose property is along a route that the applicant intends to propose in its application;

B. present maps or other written materials that identify and describe each route that the applicant intends to propose for commission consideration;

C. solicit oral and written comments at the meeting and offer the opportunity for the submission of written comments after the close of the meeting;

D. make available a sign-up sheet for anyone interested in serving on an advisory task force for the proposed project.

E. consider public and agency comments in the selection of proposed and alternative routes that will be included in an application **and include comments in the application;**

F. prepare a summary of each meeting held and comments received.

Subpart 2. **Notice to commission.** At least 30 days prior to filing a permit application, an applicant must notify the commission of its intent to file an application. Commission staff must consult with the department and the applicant to set a proposed project schedule for completing the permitting process within applicable statutory deadlines. **The applicant must also identify persons included on the list to receive notice of the applicant's certificate of need application under part 7849.0130, subp. 3, who will not be included on the list to receive notice of the permit application under part 7850.2100. The applicant must include the reasons for not notifying those persons.**

Subpart 3. **Notice to local units of government.** Prior to filing a permit application, an applicant must notify local units of government as required under Minnesota Statutes, section 216E.03, subd. 3a.

Subpart 4. **Notice to adjacent state jurisdictions.** When a proposed site or route crosses state lines, the applicant shall inform interested agencies of planning and timing aspects of the project and solicit opportunities for interstate coordination.

### **7850.1700 PERMIT APPLICATION UNDER FULL PERMITTING PROCESS FILING REQUIREMENTS.**

Subpart 1. **Filing of application for permit.** A person seeking a site permit or route permit for a large electric power generating facility plant, high voltage transmission, or for large electric power facilities must file three copies of the application for the permit with the PUC commission. ~~Upon acceptance of the application, the commission will advise the applicant of how many copies of the application must be submitted to the PUC~~ The applicant shall serve copies of the filing on the department and the Office of the Attorney General and provide copies of the application to other state agencies with regulatory responsibilities in connection with the proposed facility and to other interested persons who request copies. An applicant subject to the electronic filing requirements contained in Minn. Stat. § 216.17, subd. 3, must follow those filing procedures.

Subp. 2. **Electronic copy.** A person filing an application for a site permit or route permit shall provide the PUC with an electronic version of the application suitable for posting on the PUC's Web page.

Subp. 2. **Cover letter and summary.** An application for a site or route permit must be accompanied by include a cover letter signed by an authorized officer or agent of the application. The cover letter must specify the type of facility for which a permit is requested. The application must also include, on a separate page, a brief summary of the filing, sufficient to apprise potentially interested parties of the nature of the application and its general content.

Subp. 3. **Completeness determination.** Within ten days of receipt of an application for a site or a route permit, the commission shall determine whether the application is complete. The commission shall notify the applicant in writing of its decision. The commission delegates to its staff the authority to make the initial determination of completeness and to notify the applicant.

Subp. 4. **Incomplete applications.** The commission shall not reject an application if the information that is missing can be obtained from the applicant within 20 days from the date of the application and the lack of the information will not interfere with the public's ability to review the proposed project. If the application is not complete, staff shall set the matter for the earliest possible commission agenda meeting for further review. If the matter is subsequently resolved between the applicant and commission staff, the item must be pulled from the agenda upon request of the applicant, and a determination of completeness made by staff.

Subpart 5. **Project schedule.** At the time the commission staff makes a determination on completeness, staff must set a project schedule to ensure that applicable statutory deadlines for the project are met. The schedule must be sent to the department, ~~and~~ the applicant, and **project list, eFiled, and** be made available to the public upon request.

Subp. 6. **Changes in project schedule.** The applicable statutory deadline under Minnesota statutes, section 216E.03, subd. 9, or section 216 E.04, subd. 7, can be extended by the commission for up to three months for just cause or upon agreement of the applicant.

### **7850.1750 REQUEST FOR JOINT PROCEEDINGS. ALL APPLICANTS.**

The application must state whether the applicant requests that joint proceedings be held on both a certificate of need and site or route permit application or whether the applicant requests that joint proceedings be held on multiple permit applications (**does this mean multiple 7850, or CoN and 7850**>). The application must clearly state whether the applicant requests that joint proceedings be held under this Chapter on both applications.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

### **7850.1800 PERMIT FEES – SEE part 7850.5700.**

### **7850.1900 SITE PERMIT APPLICATION CONTENTS.**

Subpart 1. **General requirements.** An application for a large electric power generating plant must include a proposed site that does not overlap with any proposed alternative site. The application must identify sites that are intended to mitigate known significant impacts of any other proposed site.

Subpart ~~1~~**2. **Site permit for LEPGP.**** An application for a site permit for a large electric power generating plant must contain the following information:

A. a statement of **proposed** ownership of the facility as of the day of filing and **proposed ownership after upon commencement of** commercial operation;

B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;

C. at least two proposed sites for the proposed large electric power generating plant, ~~and identification of the applicant's preferred site and the reasons for preferring the site;~~ as well as any site the applicant has considered and rejected and the reasons for rejecting it; for an eligible project under part 7850.2800, the applicant is not required to proposed a second site, but the applicant must identify any sites rejected and the reasons for rejecting them;

D. a description of the proposed large electric power generating plant and all associated facilities, including the size and type of the facility;

E. the environmental information required under ~~subpart 3~~ 7850.1955;

F. the **verified** names of the owners of the property for each proposed site;

G. the engineering and operational design for the large electric power generating plant

at each of the proposed sites;

H. a cost analysis of the large electric power generating plant at each proposed site, including the costs of constructing and operating the facility that are dependent on design and site;

I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;

J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;

K. a listing and brief description of federal, state, and local permits that may be required for the project at each proposed site; and

L. a copy of the Certificate of Need for the project from the Public Utilities Commission or documentation that an application for a Certificate of Need has been submitted or is not required.

M. the location of each library where the application is available to the public;

N. a statement that the application does not propose a site that is prohibited under part 7850.4400; and

O. United States Geological Survey topographical maps or other maps showing in comparable scale the entire proposed project area.

## **7850.1950 ROUTE PERMIT APPLICATION CONTENTS.**

Subp. 1. **General Requirements.** All proposed routes must be alphabetically labeled in text and maps. Proposed routes must be independently continuous between proposed endpoints. Overlap is allowed with justification included in the application. Routes comprising multiple route segments should also reflect consistent, simple and clear labeling. The application shall also include a description and summary map of all other routes that the applicant's analysis showed to be potentially feasible and prudent, based on the considerations in 7850.4000. Routes that were considered but rejected must be described and a summary map provided. Additional alternative route labeling must use alphabetical order. All proposed and alternative routes proposed in an application must be routes that were identified by the applicant during the pre-application process under part 7850.1650 or a result of information obtained during the pre-application process.

Subp. 2. **Route permit for HVTL.** An application for a route permit for a high voltage transmission line shall contain the following information:

A. a statement of ~~proposed~~ ownership of the facility at the time of filing the application and proposed ownership after commencement of commercial operation;

B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;

C. at least two proposed routes for the proposed high voltage transmission line ~~and identification of the applicant's preferred route and the reasons for the preference~~ unless the proposed project is an ~~alternate review~~ eligible project under part 7850.2800 where ~~alternate review is requested by applicant~~ and the applicant follows those procedures, in which case the applicant is not required to

proposed a second route but must comply with subpart 1 above;

D. a description of the proposed high voltage transmission line and all associated facilities including the size and type of the high voltage transmission line;

E. the environmental information required under subpart 3;

F. identification of land uses and environmental conditions along the proposed routes;

G. the verified names of each owner whose property is within any of the proposed routes for the high voltage transmission line;

H. United States Geological Survey topographical maps or other maps acceptable to the commission in comparable scale showing the entire length of the high voltage transmission line on all proposed routes;

I. identification of existing utility and public rights-of-way along or parallel to the proposed routes that have the potential to share the right-of-way with the proposed line;

J. the engineering and operational design concepts for the proposed high voltage transmission line, including information on the electric and magnetic fields of the transmission line;

K. cost analysis of each route, including the costs of constructing, operating, and maintaining the high voltage transmission line that are dependent on design and route;

L. a description of possible design options to accommodate expansion of the high voltage transmission line in the future;

M. the procedures and practices proposed for the acquisition and restoration of the right-of-way, construction, and maintenance of the high voltage transmission line;

N. a listing and brief description of federal, state, and local permits that may be required for the proposed high voltage transmission line; and

⊖. a copy of the Certificate of Need or the certified HVTL list containing the proposed high voltage transmission line or documentation that an application for a Certificate of Need has been submitted or is not required.

P. a summary of transmission planning that concluded that the project is necessary, including its history of presentation in Minnesota Biennial Transmission Plans and Midcontinent Independent System Operator Transmission Expansion Plans.

Q. the location of each library where the application is available to the public;

R. a statement that the application does not propose a route that is prohibited under part

7850.4300; and

S. a list of each pre-application meeting held and a summary of comments received.

#### **7850.1955. ENVIRONMENTAL INFORMATION.**

Subp. 3 1. **Environmental information Requirements.** An applicant for a site permit or a route permit shall include in the application the following environmental information for each proposed site or route to aid in the preparation of an environmental impact statement:

A. a description of the environmental setting for each site or route;

B. a description of the effects of construction and operation of the facility on human settlement, including, but not limited to, public health and safety, displacement, noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;



- C. a description of the effects of the facility on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;
- D. a description of the effects of the facility on archaeological and historic resources;
- E. a description of the effects of the facility on the natural environment, including effects on air and water quality resources and flora and fauna;
- F. a description of the effects of the facility on rare and unique natural resources;
- G. identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific site or route; and
- H. a description of measures that might be implemented to mitigate the potential human and environmental impacts identified in items A to G and the estimated costs of such mitigative measures.

Subp. 2. **Projects eligible for alternative review.** An applicant proposing a project that is eligible for alternative review and who selects to follow the procedures under part 7850.2800, must file the information in subpart 1 above and the information under part 7850.4675, subp. 6. The environmental information filed will be treated as a draft environmental assessment consistent with Minn. Stat. §116D.04.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.4500 1975 PERMIT APPLICATION REJECTION.**

The commission shall reject a permit application at the time it is submitted if the application is for a facility to be located on a prohibited site or within a prohibited route or if the applicant fails to address in the application why no feasible and prudent alternative exists for sites or routes that may be authorized in such a situation.

**(IS THIS THE ONLY INSTANCE WERE A PERMIT APPLICATION MAY BE REJECTED?)**

#### **~~7850.2000 APPLICATION REVIEW.~~**

~~Subpart 1. **Review by commission.** Within ten working days of receipt of an application for a site permit or a route permit, the commission shall determine whether the application is complete and notify the applicant in writing of the acceptance or rejection of the application. If the commission rejects an application, the commission shall advise the applicant of the deficiencies in the application.~~

~~Subp. 2. **Resubmission of rejected application.** If the commission should reject an application, an applicant may decide to address the deficiencies identified by the commission and resubmit the application with additional information. In this event, the commission shall again review the application within ten days and determine whether the application is complete and advise the applicant of the commission's determination.~~

~~Subp. 3. **Reasons for rejection.** The commission shall not reject an application if the information that is missing can be obtained from the applicant within 60 days from the date of the application and the lack of the information will not interfere with the public's ability to review the proposed project.~~

~~Subp. 4. **Schedule.** The date of the commission's determination that an application is complete~~

marks the start of the schedule for the commission to make a final decision on a permit application.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.2000 APPLICATION REVIEW NOTICE LISTS.**

~~Subpart 1.~~ **Notification lists.** The PUC commission shall maintain the notification lists described in ~~items A and B~~ below.

~~A.~~ Subp. 1. **General list.** The PUC commission shall maintain a list of persons who want to be notified of ~~the acceptance of an applications for a proposed site permits or route permits.~~ Any person may request to have that person's name or an organization's name included on the list. ~~The PUC may from time to time request that persons whose names are on the list advise the PUC whether they want to remain on the list, and the PUC may delete any names for which an affirmative response is not received within a reasonable time. A person whose name has been removed may request to have the name added back on the list. The PUC shall provide an applicant with the general list upon acceptance of an application. The commission must make the list available to the applicant at the time the application is filed and upon request.~~

~~B.~~ Subp. 2. **Project contact list.** The PUC commission shall maintain a project contact list for each project ~~for which an application for a permit has been accepted.~~ The project contact list must contain the names of persons who want to receive notices regarding the project. ~~Any person may request to have that person's name or an organization's name included on a project contact list. The PUC commission may add a person's name to the list if the PUC commission believes the person would like to receive notices about the particular project. The PUC commission shall provide an applicant with~~ must make the project contact list available to the applicant upon request.

~~Subp. 3.~~ **Public agency contact list.** The commission shall maintain an agency contact list that includes entities that are likely to be interested in the proposed project. The list must include the following:

A the department;

B the Office of the Attorney General;

C the United States Army Corps of Engineers;

D the United States Fish and Wildlife Service; and

E Minnesota state agencies, including:

(1) the Department of Natural Resources;

(2) the Pollution Control Agency;

(3) the Department of Transportation;

(4) the Department of Agriculture;

(5) the Department of Health;

(6) the Office of Pipeline Safety;

(7) Board of Water and Soil Resources;

(8) the Minnesota Historical Society; and

(9) the Department of Employment and Economic Development

Subp. 4. **Landowner list.** The applicant must maintain, **eFile**, and make available to the commission, ~~and~~ department, **and public** upon request a list of landowners. The list must include landowners whose property is along any proposed route or landowners whose property is on or adjacent to any proposed site. An owner is the person whose name is shown on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. The list must be alphabetical **by last name, in a searchable format**, and be grouped by zip code.

Subp. 5. **Local and tribal government contact list.** An applicant must maintain and must make available to the commission and department upon request a list of local units of government located in the proposed project area, including:

A each regional development commission;

B each county;

C each incorporated municipality;

**D. each town;**

E each township;

**F. each statutory city;**

**G. each home rule charter city;**

**H. each tribal government;** and

I. each watershed district.

Subp. 6. **List maintenance.** Names must not be removed from a list, unless:

A a request is made by an individual seeking to be removed from the list; or

**B a written notice by the commission or applicant, **eFiled, and copied to the Public Advisor**, is given to an individual asking for a response as to whether that person's name should remain on the list and no response is received within 30 days of the request.**

**7850.2100 PROJECT NOTICE OF APPLICATION FILING.**

~~Subpart 1. **Notification lists.** The PUC shall maintain the notification lists described in items A and B.~~

~~A. The PUC shall maintain a list of persons who want to be notified of the acceptance of applications for site permits or route permits. Any person may request to have that person's name or an organization's name included on the list. The PUC may from time to time request that persons whose names are on the list advise the PUC whether they want to remain on the list, and the PUC may delete any names for which an affirmative response is not received within a reasonable time. A person whose name has been removed may request to have the name added back on the list. The PUC shall provide an applicant with the general list upon acceptance of an application.~~

~~B. The PUC shall maintain a project contact list for each project for which an application for a permit has been accepted. The project contact list must contain the names of persons who want to receive notices regarding the project. Any person may request to have that person's name or an organization's name included on a project contact list. The PUC may add a person's name to the list if the PUC believes the person would like to receive notices about the particular project. The PUC shall provide an applicant with the project contact list upon request.~~

~~Subp. 2. **Notification to persons on general list, to local officials, and to property owners.** Within 15 days after submission of an application, the applicant shall mail written notice of the submission to the following people:~~

- ~~A. those persons whose names are on the general list maintained by the PUC for this purpose;~~
- ~~B. each regional development commission, county, incorporated municipality, and township in which any part of the site or route or any alternative is proposed to be located; and~~
- ~~C. each owner whose property is adjacent to any of the proposed sites for a large electric power generating plant or within any of the proposed routes for a high voltage transmission line. For purposes of giving notice under this item, owners are those persons shown on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer, or any other list of owners approved by the commission.~~

Subp 1. **Applicant notice.** Within 15 days after filing an application, the applicant shall mail notice of the application to the following:

- A. the landowner list;
- B. the general list;
- C. the public agency contact list;
- D. the local government contact list; and
- E. for a utility, the general service list maintained under part 7829.0600;

Subp. 2. **Newspaper and Radio notice.** Within 10 days after submission of an application, the applicant shall publish notice in a legal newspaper of general circulation in each county in which a site, route, or any alternative is proposed to be located that an application has been submitted and a description of the proposed project.

**Subp. 3. Content of notice.** The notice mailed under subpart 2 shall contain the following information:

- A. a description of the proposed project, including a map showing the general area of the proposed site or proposed route and each alternative;**
- B. a statement that a permit application has been submitted to the PUC, the name of the permit applicant, and information regarding how a copy of the application may be obtained;**
- C. a statement that the permit application will be considered by the PUC under the provisions of parts 7850.1000 to 7850.5600 and the Power Plant Siting Act and describing the time periods for the PUC**

to act;

~~D. a statement that the PUC will hold a public meeting within 60 days and the date of the meeting if it is known at the time of the mailing;~~

~~E. the manner in which the PUC will conduct environmental review of the proposed project, including the holding of a scoping meeting at which additional alternatives to the project may be proposed;~~

~~F. the name of the PUC staff member who has been appointed by the commission to serve as the public advisor, if known, or otherwise, a general contact at the PUC;~~

~~G. the manner in which persons may register their names with the PUC on the project contact list;~~

~~H. a statement that a public hearing will be conducted after the EIS is prepared;~~

~~I. a statement indicating whether a certificate of need or other authorization from the Public Utilities Commission is required for the project and the status of the matter if such authorization is required; and~~

~~J. a statement indicating whether the applicant may exercise the power of eminent domain to acquire the land necessary for the project and the basis for such authority, and inform of the option of Buy the Farm under Minn. Stat. §216E.12, Subd. 4; and,~~

~~K. any other information requested by the commission to be included in the notice.~~

~~Subp. 4. **Publication of notice.** Within 15 days after submission of an application, the applicant shall publish notice in a legal newspaper of general circulation in each county in which a site, route, or any alternative is proposed to be located that an application has been submitted and a description of the proposed project. The notice must also state where a copy of the application may be reviewed.~~

~~Subp. 5. **Confirmation of notice.** Within 30 days after providing the requisite notice, the applicant shall submit to the PUC documentation that all notices required under this part have been given. The applicant shall document the giving of the notice by providing the PUC with affidavits of publication or mailing and copies of the notice provided.~~

~~Subp. 6. **Failure to give notice.** The failure of the applicant to give the requisite notice does not invalidate any ongoing permit proceedings provided the applicant has made a bona fide attempt to comply, although the commission may extend the time for the public to participate if the failure has interfered with the public's right to be informed about the project.~~

Subp. 4. **Compliance filing.** Within 30 days after providing the requisite notice, the applicant shall file with the commission its demonstrated compliance with the notice requirements. The filing must include affidavits of publication or mailing and copies of the notice provided.

Subp. 5. **Bona fide attempt.** The failure of the applicant to give the requisite notice does not invalidate any ongoing permit proceedings provided the applicant has made a bona fide attempt to comply, although the commission may extend the time for the public to participate if the failure has interfered with the public's right to be informed about the project.

Subp. 6. **Other administrative notice.** For purposes of providing notice of all other administrative matters relating to a siting or routing docket, the commission shall provide notice to all persons on the project contact list. Notice about applications for a change under part 7850.4800 must be provided only to those persons and units of government reasonably likely to be affected by the change.

## **7850.2200 PUBLIC ADVISOR JOINT PROCEEDINGS.**

If the commission receives an application requesting that joint proceedings be held for concurrent review of multiple permits, the commission must set a project schedule under part 7850.2350, subp. 4, and must consider the following:

- A. whether to hold joint public meetings;
- B. whether to hold joint public hearings; and
- C. whether to hold joint proceedings to develop the record.

## **7850.2300 PUBLIC MEETING, INITIAL COMMENTS ON APPLICATION AND POSSIBLE ALTERNATIVES**

The commission shall request initial comments on the application, including on alternatives to the proposed project presented in the application, on whether the commission should appoint an advisory task force and on procedural treatment of the filing. The notice will be mailed to the project contact list, the public agency list, the local and tribal government list, and the landowner list. Initial comments must be filed within 30 days of the commission's determination that the application is complete. Reply comments must be filed within 14 days of the expiration of the initial comment period. Comments made by state or federal agencies must be promptly eFiled.

~~Subpart 1. **Scheduling public meeting.** Upon acceptance of an application for a site or route permit, the commission shall schedule a public meeting to provide information to the public about the proposed project and to answer questions and to scope the environmental impact statement. The public meeting must be held no later than 60 days after acceptance of the application. The public meeting must be held in a location that is convenient for persons who live near the proposed project.~~

~~Subp. 2. **Notice of public meeting.** The PUC shall give at least ten days' notice of the public meeting by mailing notice to persons whose names are on the project contact list maintained pursuant to part 7850.2100, subpart 1. The PUC shall also publish notice of the public meeting in a legal newspaper of general circulation in the area where the project is proposed to be located. If appropriate, the PUC may request the applicant to include notice of the public meeting in the notice to be provided by the applicant pursuant to part 7850.2100.~~

~~Subp. 3. **Conduct of public meeting.** The commission shall appoint a person, who may be a PUC staff person, to conduct the public meeting. The public meeting must be conducted in an informal manner designed to encourage public participation. The public must be afforded an opportunity to present comments and ask questions. The PUC shall make available at the public meeting a copy of the application and other pertinent documents in the PUC files regarding the application. The staff shall explain the permitting process to the persons in attendance. A transcript of the meeting need not be maintained, although the PUC may elect to keep an audio recording of the meeting.~~

~~Subp. 4. **Applicant role.** The applicant shall provide representatives at the public meeting who are capable of answering general questions about the proposed project.~~

~~Subp. 5. **EIS scoping.** At the public meeting, the public must be provided an opportunity to comment on the scope of the environmental impact statement in accordance with part 7850.2500.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

History: 27 SR 1295; L 2005 c 97 art 3 s 19

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#### **7850.2350 COMMISSION REFERAL AND PROCEDURAL TREATMENT.**

**Subp. 1. Referral.** After the close of reply comments under part 7850.2300, the commission must issue a notice of and order for hearing referring the case to the Office of Administrative Hearings for contested case proceedings. Only matters within the scope of the Power Plant Siting Act ~~commission's order~~ may be developed in the record. If the Administrative Law Judge determines that hearings cannot be completed within the time period set forth in the commission's order, the Administrative Law Judge shall notify the Applicants and inform the commission and provide an estimated completion date.

**Subp. 2. Advisory task force.** If the commission appoints an advisory task force, the commission must determine the charge of the task force consistent with part 7850.2375 below.

#### **7850.2375. ~~CITIZEN~~ ADVISORY TASK FORCE.**

Subp. 1. **Authority.** The commission has the authority to appoint an ~~citizen~~ public advisory task force. The commission shall determine whether to appoint such a task force as early in the process as possible. The commission shall establish the size of the task force and appoint its members in accordance with Minnesota Statutes, section 216E.08. In deciding whether to appoint an advisory task force, the commission will consider how to maximize public participation. ~~The commission shall advise of the appointment of the task force at the next monthly commission meeting.~~

Subp. 2. ~~Commission decision.~~ Request for Task Force. ~~If the commission decides not to appoint a citizen advisory task force and a person would like~~ such a task force appointed, the person may request that the commission create a citizen advisory task force and appoint its members. Upon receipt of such a request, the commission shall place the matter on the agenda for the next regular monthly commission meeting. (Streamlines!)

Subp. 3. **Task force responsibilities.** Upon appointment of an ~~citizen~~ public advisory task force, the commission shall specify in writing the charge to the task force. The task force members shall be provided with the project application, state agency siting and routing policies and comments, and all other information necessary to complete their charge. The charge shall include the identification of additional sites or routes to go to hearing and be included in environmental review for particular impacts to be evaluated in the environmental impact statement. The commission may establish additional charges, ~~including a request that the task force express a preference for a specific site or route if it has one.~~ (NOT authorized by statute)

Subp. 4. Task Force Membership. Task force membership shall consist of the statutory requirements of local governments, non-governmental organizations, and interested members of the public such that the entire affected area is represented and consistent with Minn. Stat. 216E.08.

Subp. 5. Task Force Documents and Reports. Task Force minutes, documents, and report shall be eFiled in the project docket and made part of the record prior to the DEIS meetings and public hearing.

Subp. 6. **Termination of task force.** The task force expires upon completion of its charge, designation by the commission of alternative sites or routes to go to hearing, and to be included in the environmental impact statement, or the specific date identified by the commission in the charge, whichever occurs first.

#### **7850.2400 ~~CITIZEN ADVISORY TASK FORCE~~ PUBLIC INFORMATION AND SCOPING MEETING.**

Subpart 1. **Scheduling public meeting.** ~~Upon acceptance of~~ For each site or route permit application for a site or route permit filed under this chapter, the commission shall schedule a will hold a public meeting to provide information to the public about the proposed project and to answer questions and to scope the environmental impact statement and on how the commission's procedural review will be conducted. The public meeting must be held ~~no later than 60 days after acceptance of the application~~ consistent with the Commission's and Office of Administrative Hearing's project schedule. The public meeting must be held in a location in each county in which the project is located that is convenient for persons who live near the proposed project. At the meeting, the department will provide the public with an opportunity to participate in the scope of the environmental review of the proposed project, as described in parts 7850.4620, subp. 2 and 7850.4650, subp. 2.

Subp. 2. **Notice recipients.** At least 14 days before the public information and scoping meeting, the commission will mail notice of the meeting to the following:

- A. the general list;
- B. the project contact list;
- C. the public agency contact list;
- D. the local and tribal government contact list; and
- E. the landowner list.

**Subp 3. Newspaper and Radio notice.** The PUC applicant shall also publish notice, at least fourteen days before the public meeting, of the public meeting in a legal newspaper of general circulation in the area where the project is proposed to be located. Within five days after receiving an affidavit of publication, the applicant must file a copy of the affidavit with the commission. If appropriate, the PUC may request the applicant to include notice of the public meeting in the notice to be provided by the applicant pursuant to part 7850.2100.

Subp. 4. **Notice content.** The commission's notice mailed under this subpart shall contain the following information:

- A. a description of the proposed project, including a map showing the general area of the proposed site or proposed route and each alternative;
- B. a statement that a permit application has been submitted to the PUC commission, the name of the permit applicant, and information regarding how to access a copy of the application may be obtained;
- C. a statement that the permit application will be considered by the PUC commission under the provisions of parts 7850.1000 to 7850.5600 and the Power Plant Siting Act and describing the time periods for the PUC commission to act;
- D. a statement that the PUC commission and the department will hold a public information and scoping meeting. The statement must include the date, time, and location of the each meeting;
- E. the manner in which the PUC department will conduct environmental review of the proposed project, including the holding of a scoping meeting at which additional alternatives to the project may be proposed directing the portion of the meeting that includes scoping;



F. the name of **and contact information for** the PUC commission staff member who has been appointed by the commission to serve as the public advisor, ~~if known, or otherwise, a general contact at the PUC~~ and a description of the public advisor's role;

G. the manner in which persons may register their names with the PUC commission on the project contact list;

H. whether an advisory task force has been authorized, and that a request may be made for an advisory task force and to participate in a task force.

I. a statement that a public hearing will be conducted after completion of the draft EIS or the EA is prepared and that additional mailed notice of the hearing will be provided to all persons receiving this notice;

J. a statement indicating whether a certificate of need or other authorization from the Public Utilities Commission is required for the project and the status of the matter if such authorization is required;

K. a statement indicating whether the applicant may exercise the power of eminent domain to acquire the land necessary for the project and the basis for such authority and Buy the Farm, Minn. Stat. §216E.12, Subd. 4; ~~and~~

L. ~~any other information requested by the commission to be included in the notice~~ the manner in which a person can access or receive a copy of the commission's referral of the case to the Office of Administrative Hearings and

M. a statement notifying landowners that their property could be in the final route selected.

Subp. ~~5. **Conduct of public meeting**~~ **Conduct of public meeting.** **Commission role.** The commission shall ~~appoint a person, who may be a PUC staff person, to~~ conduct the public meeting. The public meeting must be conducted in an informal manner designed to encourage public participation. The public must be afforded an opportunity to ~~present comments and~~ ask questions. ~~The PUC shall make available at the public meeting a copy of the application and other pertinent documents in the PUC files regarding the application.~~ The staff shall explain the permitting process to the persons in attendance. A transcript of the meeting need not be maintained, although the PUC commission ~~may elect to~~ shall keep an transcript or audio recording of the meeting consistent with Minn. Stat. §216E.09.

Subp. ~~6.~~ **Applicant role.** The applicant shall provide representatives at the public meeting who are capable of answering general questions about the proposed project.

**Subp. 7. Public role.** The public shall be encouraged to make oral comments and ask questions at the meeting. The public may make written comments, due 20 days after the final public meeting. (should be consistent with CoN, 20 days)

~~7850.2500 EIS PREPARATION.~~ See part 7850.4620.

#### **7850.2450 CONSIDERATION OF ALTERNATIVES.**

The department must notify the commission, prior to filing its scoping decision under part 7850.4620, subp. 2, or under part 7850.4650, subp. 4, of the alternatives the department intends to include in the scope of the EIS or EA. If the commission determines that alternatives other than those listed by the department

must be considered, the department must include those alternatives in the scope of the EIS or the EA.

#### **7850.2600 PUBLIC HEARING, CONTESTED CASE HEARING.**

Subpart 1. **Public Hearing.** ~~A public hearing must be held on a site or route permit application as required under Minnesota statutes, section 216E.03, subd. 6. The PUC shall hold a contested case hearing after the draft environmental impact statement is prepared on all applications for a site permit or a route permit. The hearing must be conducted by an administrative law judge from the Office of Administrative Hearings pursuant to the contested case procedures of Minnesota Statutes, chapter 14. Notice of the hearing must be given in accordance with Minnesota Statutes, section 216E.03, subdivision 6. At least a portion of the hearing must be held in a each county where the proposed large electric power generating plant or high voltage transmission line would be located.~~

Subp. 2. **Public hearing notice.** Notice of the hearing must be coordinated with the Administrative Law Judge and given at least ten days, but no earlier than 45 days, prior to the hearing. The notice must include a statement notifying landowners that their property could be in the final route selected, including through possible use of eminent domain proceedings. The notice must be mailed to the following:

- A. the public agency contact list;
- B. the project contact list and parties;
- C. the landowner list; and
- D. the local and tribal government list.

Subp. 3. **Newspaper and Radio notice.** The notice must be published by the applicant in a legal newspaper of general circulation and public service announcements in the county in which the public hearing is to be held. The notice is subject to commission approval, and the applicant must file a copy of the affidavit of publication with the commission within five days of receiving the affidavit.

Subp. 24. **Issues.** Once the commission has determined questions of need, including size, type, and timing; questions of system configuration; and questions of voltage, those issues must not be addressed in the contested case hearing.

~~Subp. 3. **Hearing.** If the commission determines that a hearing to consider both permitting and need issues is feasible, more efficient, and may further the public interest, the commission may decide to hold a hearing. The commission may also elect to hold a joint hearing with other states pursuant to Minnesota Statutes, section 216E.02, subdivision 3.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.2650 CONTESTED CASE PROCEDURES.**

~~The PUC shall provide for the conduct hold a contested case of and evidentiary hearings on all applications for a site permit or a route permit that require mandatory contested case hearings. The hearings proceedings and hearings held to develop the record must be conducted by an Administrative Law Judge from the Office of Administrative Hearings pursuant to the contested case procedures of Minnesota~~

Statutes, chapter 14 and OAH rules and must be held consistent with the project schedule.

#### **7850.2675 DEPARTMENT ANALYSIS.**

At the time the department files a draft EIS under part 7850.4630 or an EA under part 7850.4660, it shall assist in the factual development of the hearing record, promptly eFile agency comments, and include in its initial filing its draft EIS or its EA and a technical analysis of the application, including the following:

(A) the proposed project's probable compliance with applicable statutes and rules

(B) an analysis of the feasibility of each alternative site or route examined with respect to the factors to be considered in designating a site or route;

(C) a comparison of the human and environmental impacts of the proposed project and the impacts of the alternatives;

(D) the department's conclusions regarding relative impacts of all routes or sites studied based on the factors set forth in statute and rule;

(E) any general or project-specific permit conditions, permit modifications, or mitigation measures to eliminate or minimize adverse impacts and to meet required statutory, regulatory, or public-interest requirements.

The department's analysis of relative impacts or merits, as required above, must examine each alternative in relation to all other alternatives. The department must identify alternatives with fatal flaws and ones with common or similar impacts relative to the factors. Where factors differ among alternatives, the department must group the alternatives by identifying those needing no mitigation, those with negative impacts needing mitigation, and those with unavoidable impacts that cannot be mitigated. The department must update and revise its analysis as necessary and must file the final environmental review document consistent with the project schedule.

#### **7850.2700 FINAL DECISION.**

Subpart 1. **Timing.** The commission shall make a final decision on a site permit or a route permit application within 60 days after receipt of the report of the administrative law judge. A final decision must be made within one year after the commission's determination that an application is complete. The commission may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Subp. 2. **EIS adequacy.** The commission shall not make a final decision on a permit until the commission has found the environmental impact statement to be adequate.

Subp. 3. **Certificate of need decision.** The PUC commission shall not make a final decision on a permit for a project that requires a Certificate of Need from the ~~Public Utilities C~~ommission until the applicant has obtained the necessary approval.

Subp. 4. **Basis for decision.** The commission shall make a final decision based on the official record of the proceedings and the considerations in 7850.4000. The record closes after Exceptions are filed. Any additional public comment accepted at a commission meeting where a final decision is scheduled must be limited to the official record.

Subp. 45. **Notice.** The PUC commission shall publish notice of its final permit decision in the

State Register within 30 days of the date the commission makes the decision. The PUC shall also publish notice in the EQB Monitor. The PUC commission shall mail notice of its final permit decision to those persons whose names are on the project contact list. The PUC commission shall post notice of the final decision on the agency's Web page, ~~if possible~~.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

### **7850.2800 ELIGIBLE PROJECTS.**

Subpart 1. **Eligible projects.** An applicant for a site permit or a route permit for one of the following projects may elect to follow the procedures of parts ~~7850.23625, 7850.3800, 7850.3900, 7850.4650, and 7850.4660~~ instead of the full permitting procedures in parts ~~7850.1700 to 7850.2700~~:

- A. large electric power generating plants with a capacity of less than 80 megawatts;
- B. large electric power generating plants that are fueled by natural gas;
- C. high voltage transmission lines of between 100 and 200 kilovolts;
- D. high voltage transmission lines in excess of 200 kilovolts and less than five miles in length in Minnesota;
- E. high voltage transmission lines in excess of 200 kilovolts if at least 80 percent of the distance of the line in Minnesota will be located along existing high voltage transmission line rights-of-way;
- F. a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; ~~and~~
- G. a high voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line; and
- H. large electric power generating plants that are powered by solar energy and are individually or cumulatively under 50 MW. (authority for this?) (solar should be regulated – look at the problems with the many revoked wind permits – they’re being permitted when they shouldn’t be because there isn’t adequate review).

Subp. 2. **Notice to PUC.** An applicant for a permit for one of the qualifying projects in subpart 1, who intends to follow the alternative review procedures of parts ~~7850.2800 to 7850.3700~~, shall notify the PUC of such intent, in writing, at least ~~ten~~ thirty days before submitting an application for the project.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

### **~~7850.2900 PERMIT APPLICATION UNDER ALTERNATIVE PROCESS.~~**

~~Part 7850.1700, regarding submission of a permit application, applies to projects being considered under the alternative permitting process.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**Published Electronically:** *September 18, 2009*

**~~7850.3000 PERMIT FEES.~~**

~~Part 7850.1800, regarding permit fees, applies to projects being considered under the alternative permitting process.~~

~~**Statutory Authority:** *MS s 116C.66; 216E.16*~~

~~**History:** *27 SR 1295*~~

~~**Published Electronically:** *September 18, 2009*~~

**~~7850.3100 CONTENTS OF APPLICATION.~~**

~~The applicant shall include in the application the same information required in part 7850.1900, except the applicant need not propose any alternative sites or routes to the preferred site or route. If the applicant has rejected alternative sites or routes, the applicant shall include in the application the identity of the rejected sites or routes and an explanation of the reasons for rejecting them.~~

~~**Statutory Authority:** *MS s 116C.66; 216E.16*~~

~~**History:** *27 SR 1295*~~

~~**Published Electronically:** *September 18, 2009*~~

**~~7850.3200 APPLICATION REVIEW.~~**

~~Part 7850.2000 regarding the commission's review of the application, applies to projects being considered under the alternative permitting process.~~

~~**Statutory Authority:** *MS s 116C.66; 216E.16*~~

~~**History:** *27 SR 1295; L 2005-c 97 art 3 s 19*~~

~~**Published Electronically:** *September 18, 2009*~~

**~~7850.3300 PROJECT NOTICE.~~**

~~Part 7850.2100, regarding obligations to give notice of the project, applies to projects being considered under the alternative permitting process.~~

~~**Statutory Authority:** *MS s 116C.66; 216E.16*~~

~~**History:** *27 SR 1295*~~

~~**Published Electronically:** *September 18, 2009*~~

**~~7850.3400 PUBLIC ADVISOR.~~**

~~Part 7850.2200, regarding appointment of a public advisor, applies to projects being considered under the alternative permitting process.~~

~~**Statutory Authority:** *MS s 116C.66; 216E.16*~~

~~**History:** *27 SR 1295*~~

~~**Published Electronically:** *September 18, 2009*~~

### **7850.3500 PUBLIC MEETING.**

Subpart 1. **Public meeting.** Part 7850.2300, subparts 1 to 4, apply to projects being considered under the alternative permitting process.

Subp. 2. **Environmental assessment.** At the public meeting, the public shall be provided an opportunity to comment on the scope of the environmental assessment in accordance with part 7850.3700.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**Published Electronically:** *September 18, 2009*

### **7850.3600 CITIZEN ADVISORY TASK FORCE.**

Part 7850.2400, regarding the appointment of a citizen advisory task force, applies to projects being considered under the alternative permitting process.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**Published Electronically:** *September 18, 2009*

### **7850.3625 INFORMAL PROCEEDINGS.**

After the close of comments under part 7850.2300, the commission must determine the procedural treatment of the filing and whether to include alternatives in the scope of the EA. If the commission refers the case to the Office of Administrative Hearings for factual development of the record through informal proceedings conducted by an administrative law judge, the commission's referral must detail the request for developing the record. If the commission does not refer the case to the Office of Administrative Hearings, the commission must use its informal proceedings under rule part 7829.1200.

### **7850.3800 PUBLIC HEARING.**

Subpart 1. **Public hearing.** ~~The PUC shall hold a public hearing once the environmental assessment has been completed. Notice of the hearing shall be given in accordance with Minnesota Statutes, section 216E.03, subdivision 6. A public hearing must be held on a site or route permit application as required under Minnesota Statutes, section 216E.04. At least a portion of the hearing shall be held in a each county where the proposed large electric power generating plant or high voltage transmission line would be located. The hearing examiner administrative law judge shall not prepare a report or make any recommendation to the commission unless the commission requests the hearing examiner administrative law judge to do so.~~

Subp. 2. **Public hearing notice.** Notice of the hearing must be given at least ten days prior to the hearing. The notice must include a statement notifying landowners that their property could be in the final route selected, including through possible use of eminent domain proceedings. The notice must be mailed to the following:

A. the public agency contact list;

B. the project contact list. and

C. the landowner list.

~~Subp. 2. **Hearing examiner.** The commission shall appoint a person to act as the hearing examiner at the public hearing. The hearing examiner may be an employee of the PUC. The hearing examiner shall set the date and place for the hearing and provide notice to the public. The hearing examiner may make such rulings as are required to conduct the hearing in a fair, impartial, and expeditious manner, including the authority to maintain decorum at the hearing, to exclude repetitious or irrelevant testimony, to limit the amount of time for oral testimony, and to continue the hearing from time to time as needed. Persons may testify at the hearing without being first sworn under oath. The hearing examiner shall ensure that the record created at the hearing is preserved and transmitted to the commission. An audio recording of the hearing must be made, unless the commission determines that a court reporter is appropriate.~~

Subp. 3. **Hearing procedure.** The hearing must be conducted in the following manner, although the ~~hearing examiner~~ administrative law judge may vary the order in which the hearing proceeds:

A. the staff shall make a brief presentation to describe the project, explain the process to be followed, and introduce administrative documents ~~to be included in the record, including the application, the environmental assessment, and various procedural documents;~~

B. ~~the applicant shall introduce its evidence by way of testimony and exhibits~~ department shall introduce information for developing the record, **task force reports and documentation**, and offer the project environmental assessment for inclusion in the record;

C. the public must be afforded ~~an~~ reasonable opportunity to make an oral presentation, present documentary evidence, and ask questions of the applicant and agency staff;

D. ~~the hearing examiner~~ administrative law judge shall provide a period of not less than ten days for the submission of written comments into the record after the close of the hearing; and

E. ~~the hearing examiner~~ administrative law judge shall transmit the complete record created at the hearing, including all written comments, to the commission within five days of the close of the record, unless the ~~hearing examiner~~ administrative law judge has been requested by the commission to prepare a report.

Subp. 4. **Department analysis.** The department shall assist in the factual development of the record as prescribed in part 7850.2675.

Subp.5. **Record development.** Proceedings for developing the record must be consistent with the commission's **referral** decision under part 7850.3625.

Subp. 46. **Issues.** Once the Public Utilities Commission has determined questions of need, including size, type, and timing; questions of system configurations; and questions of voltage, those issues must not be addressed in the public hearing.

~~Subp. 5. **Environmental assessment.** Interested persons may comment upon the environmental assessment at the public hearing. Comments on the environmental assessment shall become part of the record in the proceeding but the commission shall not be required to revise or supplement the environmental assessment document.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## **7850.3900 FINAL DECISION.**

Subpart 1. **Timing.** The commission shall make a final decision on a site permit or a route permit application within 60 days after receipt of the record from the ~~hearing examiner~~ administrative law judge. A final decision must be made within six months after the commission's determination that an application is complete. The commission may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Subp. 2. **Completeness of environmental assessment.** ~~At the time the commission makes~~ Before making a final decision on the permit application, the commission shall determine whether the environmental assessment and the record created at the public hearing address the issues identified in the scoping decision whether it meets the requirements of Minn. Stat. §116D.04.

Subp. 3. **Certificate of need decision.** The ~~PUC~~ commission shall not make a final decision on a permit for a project that requires a certificate of need from the ~~Public Utilities Commission~~ commission until the applicant has obtained the necessary approval from the ~~Public Utilities Commission~~ commission.

Subp. 4. **Notice.** The ~~PUC~~ commission shall publish notice of its final permit decision in the State Register within 30 days of the day the commission makes the decision. The ~~PUC~~ commission shall also publish notice in the EQB Monitor. The ~~PUC~~ commission shall mail notice of its final permit decision to those persons whose names are on the project contact list. The ~~PUC~~ commission shall post notice of the final decision on the agency's Web page, ~~if possible~~.

Subp. 5. **Scope of decision.** When the completed review record under the alternative process requires a commission decision on a single site or route, the commission shall either grant or deny the application for a permit. If a permit is denied, it shall be denied without prejudice, and an applicant may file another application.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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## **7850.3910 PERMIT CONDITIONS.**

Subpart 1. **Generally.** The commission shall impose in any site permit for a large electric power generating plant or route permit for a high voltage transmission line such conditions as the commission deems appropriate and are supported by the record.

Subp. 2. **HVTL permits.** When the commission issues a permit for a route for a high voltage transmission line, the commission shall specify the design, route, right-of-way preparation, and facility construction and operation it deems necessary. The commission may impose a condition in the permit requiring the permittee to construct a high voltage transmission line that is capable of expansion in transmission capacity through multiple circuiting or design modifications.

## **7850.4000 STANDARDS AND CRITERIA CONSIDERATIONS IN DESIGNATING SITES AND ROUTES.**

~~No site permit or route permit shall be issued in violation of the site selection standards and criteria established in Minnesota Statutes, sections 216E.03 and 216E.04, and in rules adopted by the commission.~~



~~The commission shall issue a permit for a proposed facility when the commission finds, in keeping with the requirements of the Minnesota Environmental Policy Act, Minnesota Statutes, chapter 116D, and the Minnesota Environmental Rights Act, Minnesota Statutes, chapter 116B, 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.~~

Subpart 1. **State goals.** The commission's site and route permit determinations must be guided by the state's goals to conserve resources, minimize environmental impacts, minimize human settlement and other land use conflicts, and ensure the state's electric energy security through efficient, reliable, cost-effective power supply and electric transmission infrastructure, and maximize public participation, as required by the Power Plant Siting Act.

Subp. 2. **Considerations.** To facilitate the study, research, evaluation, and designation of sites and routes, the commission shall be guided by the following considerations:

A. evaluation of research and investigations relating to the effects on land, water and air resources of large electric power generating plants and high-voltage transmission lines and the effects of water and air discharges and electric and magnetic fields resulting from such facilities on public health and welfare, vegetation, animals, materials and aesthetic values, including baseline studies, predictive modeling, and evaluation of new or improved methods for minimizing adverse impacts of water and air discharges and other matters pertaining to the effects of power plants on the water and air environment;

B. environmental evaluation of sites and routes proposed for future development and expansion and their relationship to the land, water, air and human resources of the state;

C. evaluation of the future needs for additional high-voltage transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications;

D. evaluation of the effects of new electric power generation and transmission technologies, and systems related to power plants designed to minimize adverse environmental effects;

E. evaluation of the potential for beneficial uses of waste energy from proposed large electric power generating plants;

F. evaluation of adverse direct and indirect environmental effects that cannot be avoided should the proposed site and route be accepted;, including:

(1) effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;

(2) effects on public health and safety;

(3) effects on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;

(4) effects on archaeological and historic resources;

(5) effects on the natural environment, including effects on air and water quality resources and flora and fauna; and

(6) effects on rare and unique natural resources;

G. evaluation of alternatives to the applicant's proposed sites or routes

H. application of design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generating capacity;

I. use of existing large electric power generating plant sites;

J. use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries;

K. use of existing transportation, pipeline, and electrical transmission systems or rights-of-way;

L. electrical system reliability;

M. costs of constructing, operating, and maintaining the facility which are dependent on design and route;

N. evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved; and

O. when appropriate, consideration of ~~problems~~ **issues** raised by other state and federal agencies and local entities.

Subp. 3. **Stipulations.** The commission must make specific findings that it has considered locating a route for a high voltage transmission line on an existing high-voltage transmission route and the use of parallel existing highway right-of-way and, to the extent those are not used for the route, the commission must state the reasons. No site or route shall be designated which violates state agency rules.

#### **~~7850.4100 FACTORS CONSIDERED.~~**

~~In determining whether to issue a permit for a large electric power generating plant or a high voltage transmission line, the commission shall consider the following:~~

~~A. effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;~~

~~B. effects on public health and safety;~~

~~C. effects on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;~~

~~D. effects on archaeological and historic resources;~~

~~D. effects on the natural environment, including effects on air and water quality resources and flora and fauna;~~

~~E. effects on rare and unique natural resources;~~

~~F. application of design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generating capacity;~~

~~G. use or paralleling of existing rights of way, survey lines, natural division lines, and agricultural field boundaries;~~

~~H. use of existing large electric power generating plant sites;~~

~~I. use of existing transportation, pipeline, and electrical transmission systems or rights-of-way;~~

~~J. electrical system reliability;~~

~~K. costs of constructing, operating, and maintaining the facility which are dependent on design and route;~~

~~M. adverse human and natural environmental effects which cannot be avoided; and~~

~~N. irreversible and irretrievable commitments of resources.~~

~~**Statutory Authority:** *MS s 116C.66; 216E.16*~~

~~**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*~~

~~**Published Electronically:** *September 18, 2009*~~

#### **7850.4200 FACTORS EXCLUDED.**

~~When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or a high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, questions of need, including size, type, and timing, questions of alternative system configurations, and questions of voltage shall not be factors considered by the commission in deciding whether to issue a permit for a proposed facility.~~

~~**Statutory Authority:** *MS s 116C.66; 216E.16*~~

~~**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*~~

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#### **7850.4300 PROHIBITED ROUTES.**

Subpart 1. **Wilderness areas.** No high voltage transmission line may be routed through state or national wilderness areas.

Subp. 2. **Parks and natural areas.** No high voltage transmission line may be routed through state or national parks or state scientific and natural areas unless the transmission line would not materially damage or impair the purpose for which the area was designated and no feasible and prudent alternative exists. Economic considerations alone do not justify use of these areas for a high voltage transmission line.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295*

**Published Electronically:** *September 18, 2009*

#### **7850.4400 PROHIBITED SITES.**

Subpart 1. **Prohibited sites.** No large electric power generating plant may be located in any of the following areas:

- A. national parks;
- B. national historic sites and landmarks;
- C. national historic districts;
- D. national wildlife refuges;
- E. national monuments;
- F. national wild, scenic, and recreational riverways;
- G. state wild, scenic, and recreational rivers and their land use districts;
- H. state parks;
- I. nature conservancy preserves;

- J. state scientific and natural areas; and
- K. state and national wilderness areas.

Subp. 2. **Water use.** The areas identified in subpart 1 must not be permitted as a site for a large electric power generating plant except for use for water intake or discharge facilities. If the commission includes any of these areas within a site for use for water intake or discharge facilities, it may impose appropriate conditions in the site permit to protect these areas for the purposes for which they were designated. The commission shall also consider the adverse effects of proposed sites on these areas which are located wholly outside of the boundaries of these areas.

Subp. 3. **Site exclusions when alternative sites exist.** No large electric power generating plant may be located in any of the following areas unless there is no feasible and prudent alternative. Economic considerations alone do not justify approval of these areas. These areas are:

- A. state registered historic sites;
- B. state historic districts;
- C. state wildlife management areas, except in cases where the plant cooling water is to be used for wildlife management purposes;
- D. county parks;
- E. metropolitan parks;
- F. designated state and federal recreational trails;
- G. designated trout streams; and
- H. the rivers identified in Minnesota Statutes, section 85.32, subdivision 1.

Subp. 4. **Prime farmland exclusion.** No large electric power generating plant site may be permitted where the developed portion of the plant site, excluding water storage reservoirs and cooling ponds, includes more than 0.5 acres of prime farmland per megawatt of net generating capacity, or where makeup water storage reservoir or cooling pond facilities include more than 0.5 acres of prime farmland per megawatt of net generating capacity, unless there is no feasible and prudent alternative. Economic considerations alone do not justify the use of more prime farmland. "Prime farmland" means those soils that meet the specifications of Code of Federal Regulations 1980, title 7, section 657.5, paragraph (a). These provisions do not apply to areas located within home rule charter or statutory cities; areas located within two miles of home rule charter or statutory cities of the first, second, and third class; or areas designated for orderly annexation under Minnesota Statutes, section 414.0325.

Subp. 5. **Sufficient water supply required.** No site may be designated that does not have reasonable access to a proven water supply sufficient for plant operation. No use of groundwater may be permitted where removal of groundwater results in material adverse effects on groundwater, groundwater dependent natural resources, or higher priority users in and adjacent to the area, as determined in each case.

The use of groundwater for high consumption purposes, such as cooling, must be avoided if a feasible and prudent alternative exists.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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**~~7850.4500 PERMIT APPLICATION REJECTION.~~ See Part 7850.1975**

**7850.4500 PUBLIC PARTICIPATION ADVISOR.**

**Subp. 1. Public Participation.** The commission shall adopt broad spectrum citizen participation as a principal of operation. The form of public participation shall not be limited to public hearings and advisory task forces and shall be consistent with Minn. Stat. 215E.08.

**Subp. 2. Public Advisor.** ~~Upon acceptance of an application for a site or route permit, t~~The commission shall designate a staff person to act as the public advisor during project review for the sole purpose of assisting and advising those affected and interested citizens on how to effectively participate in site or route proceedings and deadlines for such participation. The public advisor must provide information and be available to answer questions from the public about the permitting process, including information about participation, comment periods, and intervention opportunities. The public advisor shall assist in soliciting interest and membership in any authorized Advisory Task Force. The public advisor shall not give legal advice or the advice that may affect the legal or due process rights of the person being advised, and the public advisor shall remain neutral and not act as an advocate on behalf of any person.

**7850.4600 PERMIT CONDITIONS. See part 7850.3910.**

~~Subpart 1. Generally. The commission shall impose in any site permit for a large electric power generating plant or route permit for a high voltage transmission line such conditions as the commission deems appropriate and are supported by the record.~~

~~Subp. 2. HVTL permits. When the commission issues a permit for a route for a high voltage transmission line, the commission shall specify the design, route, right of way preparation, and facility construction and operation it deems necessary. The commission may impose a condition in the permit requiring the permittee to construct a high voltage transmission line that is capable of expansion in transmission capacity through multiple circuiting or design modifications.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

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**7850.2500 4620 EIS PREPARATION.**

Subp. 1. **EIS required.** The commissioner of the **Department of Commerce** shall prepare an environmental impact statement on each proposed large electric power generating plant and high voltage transmission line for which a permit application has been accepted by the commissioner.

Subp. 2. **Scoping meeting.** The **department** shall hold a scoping meeting in conjunction with the commission's public information meeting, as described in part 7850.2400. At the meeting, the **department** shall provide the public with an opportunity to participate in the development of the scope of the environmental impact statement by soliciting public comments. Members of the public must be provided the opportunity to comment on the scope of the EIS, including environmental factors to propose site and route alternatives, and to submit supporting documentation. The applicant must be provided an opportunity to respond to public input.

Subp. 3. **Alternative sites or routes.** During the scoping process, a person may suggest alternative sites or routes to evaluate in the environmental impact statement. A person desiring that a particular site or route be evaluated shall submit to the commissioner of the **Department of Commerce**, during the scoping process, an explanation of why the site or route should be included in the environmental impact statement

and any other supporting information the person wants the ~~commissioner~~ department to consider. The ~~commissioner~~ department shall provide the applicant with an opportunity to respond to each request that an alternative be included in the environmental impact statement. The ~~commissioner~~ department shall include the suggested site or route in the scope of the environmental impact statement only if the ~~commissioner~~ department determines that evaluation of the proposed site or route will assist in the ~~commissioner~~ department's **commission's** decision on the permit application.

Subp. 4. **Scope of EIS.** The scoping process must be used to ~~reduce~~ **identify and define** the scope and bulk of an environmental impact statement by identifying the potentially significant issues and alternatives requiring analysis and establishing the detail into which the issues will be analyzed. The scoping decision by the ~~commissioner~~ of the Department of Commerce shall at least address the following:

- A. the issues to be addressed in the environmental impact statement;
- B. the alternative sites and routes to be addressed in the environmental impact statement; and
- C. the schedule for completion of the environmental impact statement.

Subp. 5. **Comment period.** The ~~department~~ must provide a **twenty**-day comment period following the close of the meeting to ~~allow~~ interested persons an opportunity to submit written comments.

Subp. 6. **Scoping decision.** The ~~department~~ must complete and file with the commission its scoping decision consistent with the project schedule. The scoping decision must include the issues and alternatives to be addressed in the EIS and the schedule for completion of the EIS.

Subp. 7. **Notice of decision.** Within five days after filing the scoping decision with the commission, the ~~department~~ shall **eFile and** provide notice of the scoping decision to those persons whose names are on the project contact list.

Subp. 8. **Alternatives to be included in EIS.** Any alternative identified by either the applicant or the commission must be included and considered in the scope of the EIS.

Subp. 9. **Applicant to supplement filing.** If the commission determines that a route not proposed by the applicant will be examined in addition to the applicant's proposed routes, the applicant will provide information for each additional alternative route to support equivalent comparison of the application content requirements in parts 7850.1900 and 7850.1955, as well as an analysis of the considerations in part 7850.4000. Within 30 days of the commission's order identifying each additional alternative, the applicant shall file the required information with the commission.

Subp. 10. **Landowner list.** An applicant must update the landowner list under part 7850.2000 to ensure that a landowner not previously identified is added to the list if that person's property is along a route that will be considered in the scope of the EIS. The applicant must ensure that the updated landowner list is **eFiled** and used in each future notice sent to that list.

#### **7850.4630 DRAFT EIS.**

Subpart 1. **Matters excluded.** When the ~~Public Utilities Commission~~ ~~commission~~ has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the environmental impact statement shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

Subpart 2. **Draft EIS.** The draft environmental impact statement must be written in plain and objective language. The draft environmental impact statement shall follow the standard format for an environmental impact statement prescribed in part 4410.2300 to the extent the requirements of that rule are appropriate. The draft EIS must be completed and filed with the commission consistent with the project schedule.

Subpart 3. **Public review.** Upon completion of the draft environmental impact statement, the ~~commissioner~~ department shall eFile and make the document available for public review by placing a copy of the document in a public library or other governmental office in each county where the proposed project may be located. The ~~commissioner~~ department shall send notice of the availability of the draft environmental impact statement to ~~each person~~ the landowner list, and the project contact list ~~maintained under part 7850.2100, subpart 1.~~ The ~~commissioner~~ department shall also place a notice in the EQB Monitor of the availability of the draft environmental impact statement. The ~~commissioner~~ department shall post the draft environmental impact statement on the agency's Web page ~~if possible.~~

Subpart 4. **Informational Environmental review meeting.** The ~~commissioner~~ department shall schedule an ~~informational~~ environmental review meeting to provide an opportunity for the public to comment on the draft environmental impact statement. The meeting must not be held sooner than 20 days after the draft environmental impact statement becomes available. The meeting must be held in each county in which the project is proposed at a location convenient to persons who live near the proposed project. The ~~commissioner~~ department shall send notice of the informational environmental review meeting to the landowner list and ~~each person on~~ the project contact list ~~maintained under part 7850.2100, subpart 1.~~ The ~~commissioner~~ department shall also place notice in the EQB Monitor and publish the notice on the department's website. ~~The informational environmental review meeting may be held just prior to the holding of a contested case hearing on the permit application.~~ The ~~commissioner~~ department shall hold the record on the environmental impact statement open for receipt of written comments for not less than ten days after the close of the informational environmental review meeting. Comments of agencies shall be promptly eFiled under agency name, and public comments shall be promptly eFiled.

## **7850.4640 FINAL EIS.**

Subpart 1. **Contents.** The ~~commissioner of the Department of Commerce~~ shall respond to the timely substantive comments received on the draft environmental impact statement consistent with the scoping decision and prepare the final environmental impact statement. The ~~commissioner~~ department may attach to the draft environmental impact statement the comments received and its response to comments without preparing a separate document. The Final EIS shall be completed, filed with the commission, and made available for public review consistent with the project schedule and prior to the public and evidentiary hearings.

Subp. 2. **Filing.** The ~~commissioner~~ department shall file a copy of the final EIS with the commission; publish notice of the availability of the final environmental impact statement in the EQB Monitor; and shall supply a press release to at least one newspaper of general circulation in the areas where the proposed sites or routes are located. At the time the final EIS is filed with the commission, the department shall certify to the commission the document's compliance with the adequacy factors in subp. 3 below.

Subpart. 3. **Adequacy determination.** The ~~Public Utilities Commission~~ commission shall determine the adequacy of the final environmental impact statement. The commission shall not decide the adequacy for at least ten days after the availability of the final environmental impact statement is filed with the commission and announced in the EQB Monitor. The final environmental impact statement is adequate if it:

A. addresses the issues raised in scoping and the alternatives identified by the applicant and the commission to a reasonable extent considering the availability of information and the time limitations for considering the permit application, provided those consideration do not impair the substantive merit of the document;

B. provides responses to the timely substantive comments received during the draft environmental impact statement review process; and

C. was prepared in compliance with the procedures in parts 7850.1000 to 7850.5600.

If the commission finds that the environmental impact statement is not adequate, the commission shall direct the ~~staff~~ department to respond to the deficiencies and resubmit the revised environmental impact statement to the commission as soon as possible.

Subpart 4. **Cost.** The applicant for a site permit or route permit shall pay the reasonable costs of preparing and distributing an environmental impact statement. The costs must not be assessed separately from the assessment under part 7850.1800 unless that assessment is inadequate to cover the ~~commissioner~~ department's reasonable costs of developing the environmental document.

Subpart 5. **Environmental review requirements.** The requirements of chapter 4410 do not apply to the preparation or consideration of an environmental impact statement for a large electric power generating plant or high voltage transmission line except as provided in parts 7850.1000 to 7850.5600.

**Subpart. 6. Other agency comments.** Agency comments must be promptly eFiled. A document filed into the commission's electronic filing system by the department or the commission on behalf of another state or a federal agency must appear as "on behalf of" the agency that authored the document.

## **7850.3700 4650 ENVIRONMENTAL ASSESSMENT PREPARATION.**

Subpart 1. **Environmental assessment required.** The ~~commissioner of the~~ Department of Commerce shall prepare an environmental assessment on each complete application for a proposed large electric power generating plant and each proposed high voltage transmission line ~~being reviewed under the alternative permitting process in parts 7850.2800 to 7850.3900~~ subject to the alternative review process. The environmental assessment must contain information on the human and environmental impacts of the proposed project and of alternative sites or routes identified by the ~~commissioner~~ department and shall address mitigating measures for all sites or routes considered.

### Subp. 2. **Scoping ~~process~~ meeting.**

A. The ~~commissioner of the~~ Department of Commerce shall provide the public with an opportunity to participate in the development of the scope of the environmental assessment by holding a public scoping meeting and by soliciting public comments. Members of the public must be provided the opportunity to comment on the scope of the EA, including environmental factors, propose alternative routes/sites, and to submit supporting documentation. ~~The public meeting required under part 7850.3500 satisfies the requirement to hold a scoping meeting. The commissioner shall mail notice of the meeting to those persons on either the general list or the project contact list at least ten days before the meeting.~~

Subp. 3. **Comment period.** The ~~commissioner~~ department shall provide at least seven days from the day of the public meeting for the public to submit written comments regarding the scope of the environmental assessment.

B. The ~~commissioner~~ department shall include in the scope of the environmental assessment any alternative sites or routes proposed by the citizen advisory task force or by any member agency of the Environmental Quality Board prior to the close of the scoping period. During the scoping process, any person may suggest an alternative site or route to evaluate in the environmental assessment. A person



desiring that a particular site or route be evaluated shall submit to the ~~commissioner~~ department, during the scoping process, an explanation of why the site or route should be included in the environmental assessment and all supporting information the person wants the ~~commissioner~~ department to consider. The ~~commissioner~~ department shall provide the applicant with an opportunity to respond to each request that an alternative be included in the environmental assessment. The ~~commissioner~~ department shall include the suggested site or route in the scope of the environmental assessment only if the ~~commissioner~~ department determines that evaluation of the proposed site or route will assist in the ~~commissioner~~ department's ultimate decision on the permit application. Any person may also suggest specific human or environmental impacts that should be included in the environmental assessment.

Subp. 34. **Scoping decision.** The ~~commissioner of the~~ Department of Commerce shall determine the scope of the environmental assessment ~~within ten days after close of the public comment period and shall mail notice of the scoping decision to those persons on the project contact list within five days after the decision consistent with the project schedule.~~ Once the commissioner has determined the scope of the environmental assessment, the scope shall not be changed except upon a decision by the commissioner that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives. The commissioner shall also determine as part of the scoping process a reasonable schedule for completion of the environmental assessment. The scoping decision ~~by the commissioner~~ must identify:

- A. the alternative sites or routes, if any, to be addressed in the environmental assessment;
- B. any specific potential impacts to be addressed;
- C. the schedule for completion of the environmental assessment; and
- D. other matters to be included in the environmental assessment.

**Subp. 5. Alternatives to be included in EA.** Any alternative identified by the commission must be included and considered in the EA.

**Subp. 6. Applicant to supplement filing.** If the commission determines that a route not proposed by the applicant will be examined in addition to the applicant's proposed routes, the applicant will provide information for each additional alternative route to support equivalent comparison of the application content requirements in parts 7850.1900 and 7850.1955, as well as an analysis of the considerations in part 7850.4000. Within 30 days of the commission's order identifying each additional alternative, the applicant shall file the required information with the commission.

**Subp. 7. Landowner list.** An applicant must update the landowner list under part 7850.2000 to ensure that a landowner not previously identified is added to the list if that person's property is along a route that will be considered in the EA. The applicant must eFile and ensure that the updated landowner list is used in each future notice to those included on the list.

## **7850.4660 ENVIRONMENTAL ASSESSMENT.**

Subp. 4 1. **Content of environmental assessment.** The environmental assessment must include:

- A. a general description of the proposed facility;
- B. a list of any alternative sites or routes that are addressed;
- C. a discussion of the potential impacts of the proposed project and each alternative site or route on the human and natural environment;

- D. a discussion of mitigative measures that could reasonably be implemented to eliminate or minimize any adverse impacts identified for the proposed project ~~and each alternative site or route analyzed;~~
- E. ~~an analysis of the feasibility of each alternative site or route considered;~~
- F. ~~a list of permits required for the project; and~~
- G. a discussion of other matters identified in the scoping process.

Subp. 5 ~~2~~. **Time frame for completion of environmental assessment.** ~~The commissioner of the Department of Commerce shall complete the environmental assessment in accordance with the schedule established during the scoping process. In establishing the schedule for completion of the environmental assessment, the commissioner shall take into account any applicable statutory deadlines, the number and complexity of the alternatives and impacts to be addressed, the status of other proceedings affecting the project, and the interests of the public, the applicant, and the commissioner. The environmental assessment must be filed with the commission consistent with the project schedule.~~

Subp. 6 ~~3~~. **Notification of availability of environmental assessment.** Upon completion of filing the environmental assessment with the commission, the ~~commissioner~~ department shall publish notice in the EQB Monitor of the availability of the environmental assessment and mail notice of the availability of the document to ~~those persons on the landowner list and the project contact list~~. The ~~commissioner~~ department shall provide a copy of the environmental assessment to any public agency with authority to permit or approve the proposed project. The ~~commissioner~~ department shall post the environmental assessment on the agency's Web page, ~~if possible~~.

Subp. 7 ~~4~~. **Matters excluded.** When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the environmental assessment shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

Subp. 8 ~~5~~. **No additional environmental review.** An environmental assessment must be the only state environmental review document required to be prepared by the ~~commissioner of the Department of Commerce~~ on a project qualifying for review under the alternative review process. ~~No environmental assessment worksheet or environmental impact statement shall be required. Environmental review at the certificate of need stage before the Public Utilities Commission must be performed in accordance with parts 7849.1000 to 7849.2100.~~

Subp. 9 ~~6~~. **Cost.** The cost of the preparation of an environmental assessment must be assessed to the applicant as part of the application fee pursuant to part 7850.1800.

**Statutory Authority:** *MS s 116C.66; 116D.04; 216E.16*

**History:** *27 SR 1295; 28 SR 951; L 2005 c 97 art 3 s 19*

**Published Electronically:** *October 13, 2009*

#### **7850.4700 DELAY IN ROUTE OR SITE CONSTRUCTION.**

If construction and improvement of a route or site have not commenced four years after the permit has been issued by the commission, ~~the commission shall suspend the permit is suspended~~. If at that time, or at a time subsequent, the permittee decides to construct the proposed large electric power generating facility or high voltage transmission line, the permittee shall certify to the commission that there have been no significant changes in any material aspects of the conditions or circumstances existing when the permit was issued. The commission shall mail notice of receipt of the certification request to those

persons on the general list at least ~~seven~~ten (10) days before the commission's consideration of the matter, and the same notice to those persons on the project contact list if such a list exists. If the commission determines that there are no significant changes, it shall reinstate the permit. If the commission determines that there is a significant change, it may order a new hearing and consider the matter further, or it may require the permittee to file a new application.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.4800 ~~MINOR ALTERATION IN~~ CHANGES TO GENERATING PLANT OR TRANSMISSION LINE.**

Subpart 1. **Applicability.** ~~No person may make a minor alteration in a large electric power generating plant or high voltage transmission line without approval from the commission. Changes to existing or permitted LEPGP and HVTL facilities or their locations must be approved by the commission, unless the action is exempt from review under part 7850.1500. A minor alteration is a change subject to commission approval includes in a minor alteration in the location of a large electric power generating plant or high voltage transmission line or an amendment to a permit condition in a permit issued by the commission. that does~~ The change must not result in significant changes in the human or environmental impact of the facility. The requirements of this part apply to those facilities that have been permitted by the PUC commission and to those facilities that were not permitted by the PUC commission but meet the definition of a large electric power generating plant or high voltage transmission line under applicable law. Changes in a facility permit which has been issued by the commission but not yet constructed is subject to review under this part. For those large electric power generating plants or high voltage transmission lines for which no permit has been issued by the PUC commission this part applies to minor alterations in the facility as it exists on February 18, 2003.

Subp. 2. **Application for minor alteration of site or route.** A ~~person~~ permittee seeking authorization to make a minor alteration in a large electric power generating plant or high voltage transmission line shall apply to the commission. The application shall be in writing and shall describe the alteration in the large electric power generating plant or high voltage transmission line to be made and the explanation why the alteration is minor. The applicant shall mail its proposal to the landowner list and the local government contact list. The commission shall mail notice of receipt of the application to ~~those persons on the general list~~ landowners along the route of the proposed alteration or adjacent to the site of the proposed alteration, and to those persons on the project contact list if such a list exists to the agency contact list, and to the local government contact list. The commission shall provide at least a ten-day period for interested persons to submit comments on the application ~~or to request that the matter be brought to the commission for consideration.~~

Subp. 3. **Commission decision Application for amendment of permit conditions.** ~~The commission shall decide within ten days after close of the public comment period whether to authorize the minor alteration, bring the matter to the commission for consideration, or determine that the alteration is not minor and requires a full permitting decision. The commission may authorize the minor alteration but impose reasonable conditions on the approval. The commission shall notify the applicant in writing of the commission's decision and send a copy of the decision to any person who requested notification or filed comments on the application.~~

The commission, upon its own motion, or upon petition by any affected person, before construction begins, may amend the conditions contained in any site or route permit issued by the commission. . The person requesting an amendment of a condition in a site permit or a route permit shall ~~submit an application~~ file with the commission to the commission in writing describing a description of the amendment sought and the reasons for the amendment. The commission shall mail notice of receipt of the petition to those ~~persons on the general list~~ landowners whose property is along the portion of the route or adjacent to the site affected by the proposed change in the permit condition, ~~and as well as~~ to those persons on the project contact list. The commission shall provide at least a ten-day period for interested persons to submit comments on the application or to request that the matter be brought to the commission for consideration.

Subp. 4. **Local review.** For those large electric power generating plants or high voltage transmission lines for which no permit has been issued by the ~~PUC~~ commission, the owner or operator of such unpermitted facilities may elect to seek approval of a minor alteration from the local unit of government if the facility qualifies for local review under Minnesota Statutes, section 216E.05.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.4900 AMENDMENT OF PERMIT CONDITIONS.**

~~Subpart 1. **Authority.** The commission may amend any of the conditions in a site permit for a large electric power generating plant or in a route permit for a high voltage transmission line issued by the PUC upon request of any person.~~

~~Subp. 2. **Process.** The person requesting an amendment of a condition in a site permit or a route permit shall submit an application to the commission in writing describing the amendment sought and the reasons for the amendment. The commission shall mail notice of receipt of the application to those persons on the general list and to those persons on the project list if such a list exists. The commission shall provide at least a ten-day period for interested persons to submit comments on the application or to request that the matter be brought to the commission for consideration.~~

~~Subp. 3. **Decision.** The commission shall decide within ten days after close of the public comment period whether to approve the amendment request or to bring the matter to the commission for consideration. The commission shall notify the applicant in writing of the commission's decision and send a copy of the decision to any person who requested notification or filed comments on the application.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.4900 COMPLAINT PROCEDURES.**

**Subp. 1. Filing.** A person in a dispute with a permittee over permit conditions may file a complaint with the permittee or the commission. The complaint must include the complainant's name, address, telephone number, and e-mail address if available. It must include the date of the complaint, the tract or parcel number affected, and the facts giving rise to the dispute, including the permit condition at issue.

**Subp. 2. Permittee complaint handling.** The permittee shall report all complaints filed under

subpart 1 to the commission in the following manner:

A. by the following business day, any substantial complaint must be reported to the commission. A substantial complaint is a complaint that, if substantiated, would require a permit amendment.

B. by the 15th of each month, the permittee shall file with the commission a report containing a summary of all complaints received during the preceding month and the status of each complaint. If no complaints were received, the permittee must include a statement to that effect in its monthly report filed with the commission.

C. the permittee shall continue filing monthly reports from the time the permit is issued until twelve months after the Notice of Project Completion. Thereafter, the permittee shall notify the commission of any complaint within fourteen days of receiving the complaint.

**Subp. 3. Commission complaint handling.** Complaints filed with the commission must be referred to the permittee for response and resolution.

**Subp. 4. Unresolved complaints.** Commission staff shall conduct an evaluation of unresolved complaints that includes notification to the permittee for response. Each party to the dispute must file a written summary describing the party's position of the dispute. The summary must be filed within 15 days of the commission's request for the filing.

#### **7850.4950 COMPLIANCE FILING.**

**Subp. 1. Plan and profile.** At least 60 days prior to construction, the applicant must file a preliminary design plan for the project. The plan must include a profile of the project, including details on the location of the project, the location of the right-of-way showing its compliance with the route permit, and schemata and drawings showing the right-of-way preparation, construction, clean-up, and restoration for the project.

**Subp. 2. Commission decision.** The commission must promptly notify the permittee of whether the plan and profile is consistent with the permit conditions for the project. The commission may request technical compliance review and a recommendation from the department. The commission delegates to its executive secretary the authority to make the determination and notify the permittee. Any subsequent changes to the plan and profile made by the permittee must be filed with the commission.

#### **7850.5000 PERMIT TRANSFER.**

Subpart 1. **Application.** A permittee holding a large electric power generating plant site permit or a high voltage transmission line route permit may request the PUC commission to transfer its permit. The permittee shall provide the name of the existing permittee, the name and description of the entity to which the permit is to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer. The person to whom the permit is to be transferred shall provide the PUC commission with such information as the PUC commission shall require to determine whether the new permittee can comply with the conditions of the permit. The commission shall mail notice of receipt of the application to those persons on the general list at least seven days in advance of the commission's consideration of the matter. The commission shall provide the same notice to persons on the project contact list if such a list exists.

Subp. 2. **Approval of transfer.** The commission shall approve the transfer if the commission determines that the new permittee will comply with the conditions of the permit. The commission, in approving the transfer of a permit, may impose reasonable additional conditions in the permit as part of the

approval. ~~The commission may decide to hold a public meeting to provide the public with an opportunity to comment on the request for the transfer prior to making a decision. A permittee must inform the commission of any ownership changes within ten days of the change.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.5100 PERMIT REVOCATION OR SUSPENSION.**

Subpart 1. **Initiation of action to revoke or suspend.** The commission may initiate action to consider revocation or suspension of a permit on its own motion or upon the request of any person who has made a prima facie showing by affidavit and documentation that a violation of the act, parts 7850.1000 to 7850.5600, or the permit has occurred.

Subp. 2. **Hearing.** If the commission initiates action to consider revocation or suspension of a permit, the commission shall provide the permittee with an opportunity ~~for a contested case hearing conducted by an administrative law judge from the Office of Administrative Hearings to provide written comment and to appear at a commission meeting where the matter will be decided.~~

Subp. 3. **Finding of violation.** If the commission finds that a violation of the act, parts 7850.1000 to 7850.5600, or the permit has occurred, it may revoke or suspend the permit, require the utility to undertake corrective or ameliorative measures as a condition to avoid revocation or suspension, or require corrective measures and suspend the permit. In determining the appropriate sanction, the commission shall consider the following:

- A. whether the violation will result in any significant additional adverse environmental effects;
- B. whether the results of the violation can be corrected or ameliorated; and
- C. whether a suspension or revocation of a permit or certificate will impair the utility's electrical power system reliability.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.5200 EMERGENCY PERMIT.**

Subpart 1. **Application for emergency permit.** Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line due to a major unforeseen event may apply to the commission for an emergency permit. The application must contain the following information:

- A. a description of the proposed large electric power generating plant or high voltage transmission line;
- B. an explanation of the major unforeseen event causing the emergency situation;
- C. a discussion of the anticipated impacts on the electric system if the proposed facility is not approved within 195 days;

D. a copy of the written notification to the ~~Public Utilities C~~commission of the major unforeseen event and the need for immediate construction; and

E. as much of the information required under part 7850.1900, 7850.1950, and 7850.1955 as the utility has available.

Subp. 2. **Public hearing.** The PUC commission shall hold a public hearing on the application for an emergency permit. The hearing must be held within 90 days after the application is submitted. The hearing must be held in accordance with part 7850.3800.

Subp. 3. **Final decision.** The commission shall make a final decision on an emergency permit within 195 days after the commission's acceptance of the application. The board shall grant the emergency permit if it finds the following:

- A. a demonstrable emergency exists;
- B. the emergency requires immediate construction;
- C. adherence to the procedures and time schedules specified in Minnesota Statutes, section 216E.03, would jeopardize the utility's electric power system or the utility's ability to meet the electric needs of its customers in an orderly and timely manner;
- D. the utility will implement mitigating measures to minimize the human and environmental impacts of the facility; and
- E. the utility will carry out the project in an expeditious manner consistent with the emergency.

Subp. 4. **Permit conditions.** The commission may impose reasonable conditions in an emergency permit.

Subp. 5. **Permit fee.** The applicant for an emergency permit shall pay the same fee as would be required for a regular permit for the same project.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

**~~7850.5300 LOCAL REVIEW OF PROPOSED FACILITIES.~~ See part 7850.1600.**

~~Subpart 1. **Local review.** An applicant who seeks a site or route permit for one of the projects identified in subpart 2 has the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project. If local approval is granted, a site or route permit is not required from the commission. If the applicant files an application with the PUC, the applicant shall be deemed to have waived its right to seek local approval of the project.~~

~~Subp. 2. **Eligible projects.** An applicant may seek approval from a local unit of government to construct the following projects:~~

- ~~A. a large electric power generating plant with a capacity of less than 80 megawatts;~~
- ~~B. a large electric power generating plant of any size that burns natural gas and is intended to be a peaking plant;~~
- ~~C. a high voltage transmission line of between 100 and 200 kilovolts;~~

D.—a substation with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;

E.—a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and

F.—a high voltage transmission line rerouting to serve the demand of a single customer when at least 80 percent of the rerouted line will be located on property owned or controlled by the customer or the owner of the transmission line.

~~Subp. 3. **Notice to PUC.** Within ten days of submission of an application to a local unit of government for approval of an eligible project, the applicant shall notify the commission in writing that the applicant has elected to seek local approval of the proposed project. Within the same ten day period, the applicant shall mail notice to those persons on the general notification list that a permit has been applied for from the local unit of government for the project and shall provide a description of the project and the name of a person with the local unit of government to contact for more information.~~

~~Subp. 4. **Referral to PUC.** A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request the PUC to assume jurisdiction and make a decision on a site or route permit. A local unit of government shall file the request with the commission within 60 days after an application for the project has been filed with any one local unit of government. If one of the local units of government with jurisdiction over the project requests the commission to assume jurisdiction, jurisdiction over the project transfers to the commission and the applicant shall file under the applicable provisions of parts 7850.1000 to 7850.5600 for a permit from the commission.~~

~~Subp. 5. **Environmental review.** A local unit of government that maintains jurisdiction over a qualifying project shall prepare an environmental assessment on the project. The local unit of government shall afford the public an opportunity to participate in the development of the scope of the environmental assessment before it is prepared. Upon completion of the environmental assessment, the local unit of government shall publish notice in the EQB Monitor that the environmental assessment is available for review, how a copy of the document may be reviewed, that the public may comment on the document, and the procedure for submitting comments to the local unit of government. The local unit of government shall provide a copy of the environmental assessment to the PUC upon completion of the document. The local unit of government shall not make a final decision on the permit until at least ten days after the notice appears in the EQB Monitor. If more than one local unit of government has jurisdiction over a project, and the local units of government cannot agree on which unit will prepare the environmental assessment, any local unit of government or the applicant may request the commission to select the appropriate local unit of government to be the responsible governmental unit to conduct an environmental review of the project.~~

~~Subp. 6. **No local authority.** In the event a local unit of government that might otherwise have jurisdiction over a proposed large electric power generating plant or high voltage transmission line determines that it has no ordinances or other provisions for reviewing and authorizing the construction of such project or has no capability of preparing an environmental assessment on the project, the local unit of government shall refer the matter to the PUC for review.~~

~~Subp. 7. **Matters excluded.** When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the local unit of government shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.~~

**Statutory Authority:** *MS s 116C.66; 216E.16*



**History:** 27 SR 1295; L 2005 c 97 art 3 s 19

**Published Electronically:** September 18, 2009

### **Minn. R. 7850.5300 ENFORCEMENT, PENALTIES.**

**Subp. 1. Criminal penalty.** Any person who violates this chapter or any rule promulgated hereunder, or knowingly submits false information in any report required by this chapter is guilty of a misdemeanor for the first offense and a gross misdemeanor for the second and each subsequent offense. Each day of violation shall constitute a separate offense.

**Subp. 2. Enforcement.** The provisions of this chapter or any rules promulgated hereunder may be enforced by injunction, action to compel performance or other appropriate action in the district court of the county wherein the violation takes place. The attorney general shall bring any action under this subdivision upon the request of the commission.

**Subp. 3. Civil penalty.** When the court finds that any person has violated this chapter, any rule hereunder, knowingly submitted false information in any report required by this chapter, or has violated any court order issued under this chapter, the court may impose a civil penalty of not more than \$10,000 for each violation. These penalties shall be paid to the general fund in the state treasury.

### **7850.5400 ANNUAL PUBLIC HEARING.**

Subpart 1. **Annual public hearing.** The commission shall hold an annual public hearing in November or December in St. Paul in order to afford interested persons an opportunity to be heard regarding any matters relating to the siting of large electric power generating plants and routing of high voltage transmission lines. At the meeting, the PUC commission shall advise the public of the permits issued by the PUC commission in the past year. The meeting must be conducted by the PUC commission staff. The PUC commission shall invite representatives of other state agencies to attend the meeting and be available to answer questions by the public. A transcript or an audio recording of the hearing must be maintained.

Subp. 2. **Notice.** The PUC commission shall provide at least ten days but no more than 45 days notice of the annual hearing by mailing notice to those persons who have requested notice, eService to those participating in commission dockets of the prior year, and by publication in the EQB Monitor. The notice must be accompanied by a tentative agenda for the hearing.

Subp. 3. **Report.** The staff shall prepare a report of the annual hearing within 60 days after the hearing and submit it to the commission. No action on the report is required.

**Statutory Authority:** MS s 116C.66; 216E.16

**History:** 27 SR 1295; L 2005 c 97 art 3 s 19

**Published Electronically:** September 18, 2009

### **7850.5500 ANNUAL ASSESSMENT ON UTILITIES.**

For purposes of determining the annual assessment on a utility pursuant to the act, each utility shall, on or before July 1 of each year, submit to the commission a report of its retail kilowatt-hour sales in the

state and its gross revenue from kilowatt-hour sales in the state for the preceding calendar or utility reporting year. Upon receipt of these reports, the commission shall bill each utility as specified in the act.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.5600 PROGRAM ADVISORY TASK FORCE.**

The commission may appoint a program advisory task force to provide advice and recommendations concerning development, revision, and enforcement of any rule or program initiated under the act or parts 7850.1000 to 7850.5600. The commission shall provide guidance to the program advisory task force in the form of a charge and through specific requests. The program advisory task force must be composed of as many members as may be designated by the commission and its membership must be solicited on a statewide basis. The program advisory task force and its chair must be appointed for a one-year term.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *27 SR 1295; L 2005 c 97 art 3 s 19*

**Published Electronically:** *September 18, 2009*

#### **7850.5700 PERMIT FEES.**

Subpart 1. **Requirement.** An applicant for a site permit or route permit shall pay a fee in accordance with Minnesota Statutes, section 216E.18. The estimated fee for processing the permit application must be determined in accordance with Minnesota Statutes, section 216E.18.

Subp. 2. **Initial payment.** The applicant shall submit with the application 25 percent of the total estimated fee, or up to 50 percent of the total estimated fee if the commission determines that the additional percentage is reasonably necessary to complete the site evaluation and design process. The commission shall not process a permit application until the first portion of the fee is submitted. The ~~PUC~~ commission shall deposit all money received from the applicant for permit fees in a special account.

Subp. 3. **Additional payments.** The applicant shall pay an additional 25 percent of the fee within 90 days after the application has been accepted by the commission. Additional payments must be made within 30 days of notification by the commission that additional fees are necessary for completion of the permitting process. The commission shall not make a final decision on a permit application if any assessed fees have not been paid.

Subp. 4. **Final accounting.** At the end of the permitting process, including any judicial review of the commission's final decision, the ~~PUC~~ commission shall provide a final accounting to the applicant of the total cost of processing the permit application. The applicant may review all actual costs associated with processing an application and present objections to the commission. The application fees paid by the applicant shall include the necessary and reasonable expenses incurred in processing the application, including, but not limited to, staff time, expenses for public notice and meetings and hearings, environmental review, administrative overhead, and legal expenses. The applicant shall make the final payment within 30 days of notification or the ~~PUC~~ commission shall refund any excess payments with 30 days of the final accounting.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** 27 SR 1295; L 2005 c 97 art 3 s 19

**Published Electronically:** September 18, 2009

**(Buy the Farm is a part of PPSA, though not sure how to incorporate this)**

**Minn. R. 7850.5800. EMINENT DOMAIN POWERERS; POWER OF CONDEMNATION.**

**Subdivision 1. Generally.**

Eminent domain and condemnation is available to public service corporations under Minn. Stat. §216E.12 and Minn. Stat. Ch. 117.

**Subd. 2. Conduct of proceedings.**

In eminent domain proceedings by a utility for the acquisition of real property proposed for construction of a route or a site, the proceedings shall be conducted in the manner prescribed in chapter 117, except as otherwise specifically provided in this section.

**Subd. 3. Buy the Farm - Contiguous land.**

(a) When private real property that is an agricultural or nonagricultural homestead, nonhomestead agricultural land, rental residential property, and both commercial and noncommercial seasonal residential recreational property, as those terms are defined in section 273.13 is proposed to be acquired for the construction of a site or route for a high-voltage transmission line with a capacity of 200 kilovolts or more by eminent domain proceedings, the owner shall have the option to require the utility to condemn a fee interest in any amount of contiguous, commercially viable land which the owner wholly owns in undivided fee and elects in writing to transfer to the utility within 60 days after receipt of the notice of the objects of the petition filed pursuant to section 117.055. Commercial viability shall be determined without regard to the presence of the utility route or site. Within 60 days after receipt by the utility of an owner's election to exercise this option, the utility shall provide written notice to the owner of any objection the utility has to the owner's election, and if no objection is made within that time, any objection shall be deemed waived. Within 120 days of the service of an objection by the utility, the district court having jurisdiction over the eminent domain proceeding shall hold a hearing to determine whether the utility's objection is upheld or rejected. The utility has the burden of proof to prove by a preponderance of the evidence that the property elected by the owner is not commercially viable. The owner shall have only one such option and may not expand or otherwise modify an election without the consent of the utility. The required acquisition of land pursuant to this subdivision shall be considered an acquisition for a public purpose and for use in the utility's business, for purposes of chapter 117 and section 500.24, respectively; provided that a utility shall divest itself completely of all such lands used for farming or capable of being used for farming not later than the time it can receive the market value paid at the time of acquisition of lands less any diminution in value by reason of the presence of the utility route or site. Upon the owner's election made under this subdivision, the easement interest over and adjacent to the lands designated by the owner to be acquired in fee, sought in the condemnation petition for a right-of-way for a high-voltage transmission line with a capacity of 200 kilovolts or more shall automatically be converted into a fee taking.

(b) All rights and protections provided to an owner under chapter 117 apply to acquisition of land or an interest in land under this section.

(c) Within 120 days of an owner's election under this subdivision to require the utility to acquire land, or 120 days after a district court decision overruling a utility objection to an election made pursuant to paragraph (a), the utility must make a written offer to acquire that land and amend its condemnation petition to include the additional land.

(d) For purposes of this subdivision, "owner" means the fee owner, or when applicable, the fee owner with the written consent of the contract for deed vendee, or the contract for deed vendee with the written consent of the fee owner.

**Subd. 5.Notification.** A utility shall notify by certified mail each person who has transferred any interest in real property to the utility after July 1, 1974, but prior to the effective date of Laws 1977, chapter 439, for the purpose of a site or route that the person may elect in writing within 90 days after receipt of notice to require the utility to acquire any remaining contiguous parcel of land pursuant to this section or to return any payment to the utility and require it to make installment payments pursuant to this section.

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