

Appendix E

**Commission Order on Exemption
Request and Notice Plan Petition**

**Appendix E
Mankato – Mississippi River Transmission Project
Certificate of Need and Route Permit Application
E002/CN-22-532 and E002/TL-23-157**



Minnesota Public Utilities Commission

Consent Items

Thursday, December 7, 2023

SUBMITTED FOR COMMISSION REVIEW:

Thursday, December 7, 2023

DEADLINE FOR COMMISSION REVIEW:

December 12, 2023

APPROVAL OF MINUTES:

No Minutes

CONSENT ITEMS

1. [Details 2016-131](#)

E002/M-13-867

Xcel Energy

In the Matter of a Petition for Approval of Northern States Power Company, dba Xcel Energy, for Approval of its Community Solar Garden Program.

Should the Commission approve Xcel's request, as filed on July 6, 2023, to streamline reporting requirements which eliminates duplicative filings and annualizes some quarterly filings for the Solar Rewards Community Solar Program? (PUC: Brown-Huss; DOC: Bahn)

2. [Details 2023-198](#)

E002/CN-22-532

Xcel Energy

In the Matter of the Application of Xcel Energy for a Certificate of Need for the Mankato to Mississippi River 345 kV Transmission Line Project

1. Should the Commission grant the exemptions to the certificate of need application content requirements as requested by Xcel Energy in its filing on October 17, 2023?
2. Should the Commission approve Xcel Energy's Notice Plan Petition for a Certificate of Need for the Mankato - Mississippi 345 kV Transmission Project? (PUC: Panait; DOC: Miltich; Rakow)

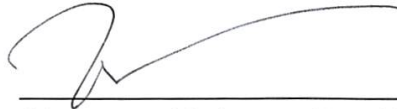
3. [Details 2023-199](#)

IP7114/CN-23-416

Iron Pine Solar Power, LLC

In the Matter of the Application of Iron Pine Solar Power, LLC for a Certificate of Need for a 230 kV Transmission Line in Pine County, Minnesota.

Should the Commission approve the Notice Plan submitted by Iron Pine Solar in preparation for its filing of a CN Application? (PUC: Lobby; DOC: Dietz)



December 12, 2023

Signature of Subcommittee Chair

Date

All noted documents are hereby approved by the Commission acting under its authority in M.S. § 216A.03, subd. 8. Subcommittee decisions take effect as decisions of the full Commission if no objections to them within ten days of receipt.

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
Joseph K. Sullivan	Commissioner
John A. Tuma	Commissioner

In the Matter of the Application of Xcel Energy
for a Certificate of Need for the Mankato to
Mississippi River 345 kV Transmission Line
Project

SERVICE DATE: December 12, 2023

DOCKET NO. E-002/CN-22-532

The above entitled matter has been considered by the Commission and the following disposition made:

- 1. Approved the proposed notice plan with the addition of the Winona Daily News to the list of newspapers.**
- 2. Approved the proposed variance to Minnesota Rules 7829.2500, Subp. 5 regarding duplicative notice.**
- 3. Approved the proposed variance to Minnesota Rules 7829.2550, Subp. 6 regarding notice timing.**

This decision is issued by the Commission’s consent calendar subcommittee, under a delegation of authority granted under Minn. Stat. § 216A.03, subd. 8 (a). Unless a party, a participant, or a Commissioner files an objection to this decision within ten days of receiving it, it will become the Order of the full Commission under Minn. Stat. § 216A.03, subd. 8 (b).

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order.

BY ORDER OF THE COMMISSION



Will Seuffert
Executive Secretary



To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

Appendix E

Mankato – Mississippi River Transmission Project
Certificate of Need and Route Permit Application

E002/CN-22-532 and E002/TL-23-157

November 13, 2023

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Mankato—Mississippi River Certificate of Need Notice Plan
Docket No. E002/CN-22-532

Dear Mr. Seuffert:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Application for a Certificate of Need for the Mankato—Mississippi River Transmission Project: Notice Plan Petition.

The Petition was filed by Monsherra. S. Blank, Director, Regulatory and Strategic Analysis, Northern States Power Company, doing business as Xcel Energy, on October 17, 2023.

The Department recommends **approval with modifications** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ LOUISE MILTICH
Assistant Commissioner of Regulatory Affairs

/s/ STEVE RAKOW
Analyst Coordinator

SR/ar
Attachment

Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E002/CN-22-532

I. INTRODUCTION

On October 18, 2023, Northern States Power Company, doing business as Xcel Energy (Xcel or the Company) submitted the Company's *Application for a Certificate of Need for the Mankato—Mississippi River Transmission Project: Notice Plan Petition* (Petition). The Petition provides Xcel's proposal to provide notice to all persons reasonably likely to be affected by the Mankato – Mississippi River 345 kilovolt (kV) transmission line (Project).

The proposed Project consists of the following elements:

- Segment 1 Wilmarth to West Faribault—a new 345 kV transmission line between the existing Wilmarth Substation and a point near the West Faribault Substation.
- Segment 2 West Faribault to North Rochester—a new 345 kV transmission line between a point near the existing West Faribault Substation and the existing North Rochester Substation.
- Segment 3 North Rochester to Mississippi River—a new 345 kV transmission line between the existing North Rochester Substation and the Mississippi River.¹
- Segment 4 North Rochester to Chester—relocation of a portion of a 161 kV transmission line which is needed because a portion of the new 345 kV line in Segment 3 would displace the 161 kV line between North Rochester and Chester that is currently double-circuited with an existing 345 kV line.

Xcel anticipates that portions of the proposed Project will be jointly owned by the Company, Dairyland Power Cooperative, Southern Minnesota Municipal Power Agency, and the City of Rochester, Minnesota. Xcel is leading the permitting efforts and intends to file a combined Certificate of Need (CN) and Route Permit Application for the proposed Project in early 2024.

Also on October 18, 2023, Xcel filed the Company's *Application for a Certificate of Need for the Mankato—Mississippi River Transmission Project: Request for Exemption from Certain Certificate of Need Application Content Requirements* (Exemption Petition). The Exemption Petition will be addressed in separate comments.

Below are the comments of the Minnesota Department of Commerce (Department) regarding the Petition.

¹ A portion of Segment 3 involves converting an existing 161/345 kV transmission line to 345/345 kV operation.

II. DEPARTMENT ANALYSIS

A. GOVERNING STATUTES AND RULES

Xcel filed the Petition pursuant to Minnesota Rule 7829.2550, Subp. 1 which states, in part “[t]hree months before filing a CN application for a high-voltage transmission line as defined by Minnesota Statutes, section 216B.2421, the applicant shall file a proposed plan for providing notice to all persons reasonably likely to be affected by the proposed line.”

Minnesota Statutes § 216B.2421 includes in its definition of a Large Energy Facility (LEF) “any high-voltage transmission line with a capacity of 200 kilovolts or more and greater than 1,500 feet in length.” Given that the proposed Project is a 345 kV transmission line substantially longer than 1,500 feet, the proposed Project falls within the definition of “large energy facility” and, therefore, requires a notice plan.

B. TYPES OF NOTICE

Xcel proposed to provide notice to the area shown in the Petition’s Attachment A, Figure 1 (Notice Area). The Notice Area is designed to encompass all potential routes that Xcel is considering for the proposed Project.

Minnesota Rules 7829.2550, Subp. 3, requires types of notice as follows:

- direct mail notice, based on county tax assessment rolls, to landowners reasonably likely to be affected by the proposed transmission line;
- direct mail notice to all mailing addresses within the area reasonably likely to be affected by the proposed transmission line;
- direct mail notice to tribal governments and to the governments of towns, statutory cities, home rule charter cities, and counties whose jurisdictions are reasonably likely to be affected by the proposed transmission line; and
- newspaper notice to members of the public in areas reasonably likely to be affected by the proposed transmission line.

The list of individuals and entities to be provided notice is to be compiled by Xcel as follows:

- Regarding landowner notice—Xcel will obtain a list of landowner names and addresses within the Notice Area using tax records.
- Regarding notice to mailing addresses—Xcel will obtain a list of mailing addresses in the Notice Area and remove addresses common to the landowner list.
- Regarding notice to tribal governments—Xcel provided a list of tribal governments and tribal government officials that will receive notice as Attachment B to the Petition.
- Regarding notice to local governmental jurisdictions—Xcel will provide direct mail notice to lead administration personnel in the towns, cities, home rule charter cities, and counties within

the Notice Area and to elected officials of those local units of government and to those State Senators and State Representatives whose districts are within the Notice Area. A complete list is in Attachment B to the Petition.

- Regarding newspaper notice—Xcel will provide notice in 11 local newspapers and the Star Tribune, a paper of statewide circulation. The list is provided in Table 1 of the Petition.

After reviewing the Petition’s Table 1, Figure 1 of Attachment A, and Attachment B, the Department concludes that Xcel’s general process for identification of individuals and local governmental organizations that should receive notice appears to meet the required notice in Minn. R. 7829.2550, Subp. 3.

Regarding the process for identification of newspapers, the Department notes that the Petition states that “[t]he proposed Project may traverse Blue Earth, Le Sueur, Waseca, Rice, Dodge, Olmsted, Goodhue, Winona, and Wabasha counties in Minnesota.” Each county in the list has a newspaper listed in Table 1 of the Petition except Winona county. To cover Winona County the Department recommends that the Minnesota Public Utilities Commission (Commission) add the Winona Daily News to the list of newspapers.

The Department recommends the Commission approve Xcel’s proposed list of notice recipients with the addition of the Winona Daily News to the list of newspapers.

C. *CONTENT OF NOTICE*

Minnesota Rules 7829.2550, Subp. 4 require the notices to provide the following information:

- a map showing the end points of the line and existing transmission facilities in the area;
- a description of general right-of-way requirements for a line of the size and voltage proposed and a statement that the applicant intends to acquire property rights for the right-of-way that the proposed line will require;
- a notice that the line cannot be constructed unless the Commission certifies that it is needed;
- the Commission's mailing address, telephone number, and website;
- if the applicant is a utility subject to chapter 7848, the address of the website on which the utility applicant will post or has posted its biennial transmission projects report required under that chapter;
- a statement that the Environmental Quality Board² will be preparing an environmental report on each high-voltage transmission line for which certification is requested;
- a brief explanation of how to get on the mailing list for the Environmental Quality Board's proceeding; and

² This function has since been transferred to the Commission and the Department.

- a statement that requests for certification of high-voltage transmission lines are governed by Minnesota law, including specifically chapter 4410, parts 7849.0010 to 7849.0400, and 7849.1000 to 7849.2100, and Minnesota Statutes, section 216B.243.

The Department reviewed the text of the proposed landowner/resident/governmental official notice provided in Attachment A of the Petition and concludes that the proposal contains the required information. The Department reviewed the text of the proposed newspaper notice provided in Attachment C of the Petition and concludes that the proposal contains the required information.

The Department recommends the Commission approve Xcel's proposed notice text.

D. DUPLICATIVE NOTICE

Xcel proposes to publish notice in the Star Tribune, a paper of statewide circulation. This notice will be published shortly before the CN application is filed. Thus, the Applicants request that the Commission vary the requirement under Minnesota Rules 7829.2500, Subp. 5 and remove the additional requirement to publish notice of the application in a statewide paper after the CN application is filed with the Commission.

Minnesota Rules 7829.3200 governs such variance requests and establishes the following criteria:

1. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. granting the variance would not adversely affect the public interest; and
3. granting the variance would not conflict with standards imposed by law.

Xcel concludes that the requirements for a variance are met as follows:

1. Enforcement would impose an excessive burden by requiring two newspaper notices in the same newspaper close in time to each other.
2. The public interest will not be adversely affected because notice in a statewide newspaper will be provided prior to the filing the CN petition.
3. Granting the variance will not conflict with any legal standards as notice of the proposed Project will still be provided in a statewide newspaper.

The Department agrees with Xcel's assessment and recommends that the Commission approve the proposed rule variance regarding duplicative notice.

E. NOTICE TIMING

Minnesota Rules 7829.2550, Subp. 6, requires the applicant to implement the notice plan within 30 days of its approval by the Commission. In this case Xcel request that the Commission grant a variance and direct the notices occur no more than 60 days and no less than one week prior to the filing of the CN application. As mentioned above Minnesota Rules 7829.3200 governs such variance requests.

Xcel concludes that the requirements for a variance are met as follows:

1. The notice requirements would burden all parties by separating notice provided to interested stakeholders from the start of the proceeding;
2. granting the variance would not adversely affect the public interest because the variance ties implementation of the notice to filing the CN petition; and
3. granting a variance would not conflict with standards imposed by law.

Regarding the second criterion, the Department notes that granting the variance would promote the public interest by avoiding separation between implementation of the notice plan and the start of the proceeding. The Department also agrees with Xcel that the Commission has approved similar variances in other CN proceedings, with the Commission's April 19, 2023 Order in Docket No. E017,ET02, E002, ET10, E015/CN-22-538 being a recent example. Therefore, the Department recommends the Commission approve Xcel's proposed variance.

III. DEPARTMENT RECOMMENDATION

Based on review of the Petition and applicable statutes and rules, the Department recommends the Commission:

- approve the proposed notice plan with the addition of the Winona Daily News to the list of newspapers;
- approve the proposed variance to Minnesota Rules 7829.2500, Subp. 5 regarding duplicative notice; and
- approve the proposed variance to Minnesota Rules 7829.2550, Subp. 6 regarding notice timing.