

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd	Chair
J. Dennis O'Brien	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner
Betsy Wergin	Commissioner

In the Matter of an Application by Northern States Power Company for a Route Permit for Two 115 kV High Voltage Transmission Lines in the Midtown Area of South Minneapolis, Hennepin County

ISSUE DATE: December 13, 2010

DOCKET NO. E-002/TL-09-38

ORDER GRANTING VARIANCE

**PROCEDURAL HISTORY**

On October 8, 2010, the Administrative Law Judge issued Findings of Fact, Conclusions and Recommendations (ALJ Report) on the application for a route permit for the proposed Hiawatha high-voltage transmission line.

On October 25, 2010, Xcel Energy (Xcel) and Hennepin County filed exceptions to the ALJ Report.

On November 4, 2010, the Midtown Greenway Coalition filed a petition seeking a variance to Minnesota Rules, Part 7829.2700, subp. 2, to allow for replies to the exceptions filed.

On November 4 and 5, 2010, the City of Minneapolis, the Seward Neighborhood Group, Inc., Hennepin County, Midtown Phillips Neighborhood Association, Inc. and the East Phillips Improvement Coalition filed letters in support of the Midtown Greenway Coalition's petition to allow replies to exceptions.

On November 15, 2010, Xcel filed a letter in support of the petition for a variance and to incorporate the reply comments into the record.

On December 2, 2010, the Commission met to consider the matter.

## **FINDINGS AND CONCLUSIONS**

### **I. The Legal Standard**

Minnesota Rules, part 7829.3200 provides that the Commission shall grant a variance to a given rule when it determines that the following three conditions are met:

- (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.

### **II. Commission Action**

The Commission's Rules of Practice and Procedure, Minn. Rule 7829.2700, subp. 2 provide that no replies to exceptions are permitted in cases subject to statutory deadlines. All routing proceedings are subject to statutory deadlines, but in this instance, the applicable one-year deadline has been suspended as a result of the new requirement that Xcel obtain a certificate of need for the Hiawatha Project. Accordingly, the allowance of replies will not impact the timing of the Commission's routing decision. No party has raised objections to the filing of replies to exceptions.

Under these circumstances, the Commission will grant a variance to Rule 7829.2700, subp. 2, and allow for replies to exceptions, making the following findings:

- (1) Enforcing the rule would impose an excessive burden upon the Commission and other interested parties to the proceeding, by jeopardizing the thoroughness of the Commission's decision making process;
- (2) Varying the rule would not adversely affect the public interest and would in fact serve the public interest, by allowing for a more complete and robust discussion of the issues presented in this proceeding;
- (3) Varying the rule to allow for replies to exceptions would not conflict with any other standards imposed by law.

The Commission will so order.

## ORDER

1. The Commission hereby varies Minn. Rules, part 7849.2700, subp. 2, and authorizes the filing of replies to exceptions, and the entry of replies in the record.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary



This document can be made available in alternative formats (i.e., large print or audio tape) by calling 651.296-0406 (voice). Persons with hearing or speech disabilities may call us through Minnesota Relay at 1.800.627.3529 or by dialing 711.