Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date:	May 14, 2015.. Agenda Item **6
Company:	Minnesota Power
Docket No.	E-015/CN-12-1163
	In the Matter of the Application of Minnesota Power for a Certificate of Need for the 500 kilovolt Great Northern High-Voltage Transmission Line Project from Manitoba, Canada – Minnesota Border to the Blackberry Substation near Grand Rapids, Minnesota
Issues:	Should the Commission adopt the Administrative Law Judge Report? Do the Environmental Report and record of the Public Hearing address the items identified in the scoping decision? Should the Commission grant a Certificate of Need for the proposed project? If approved, should the Commission include any additional conditions?
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Relevant Documents

Minnesota Power Application (25 parts) .... October 21, 2013
Order Accepting Application Complete .... January 8, 2014
DOC EERA Environmental Report Scoping Decision.. April 23, 2014
Minnesota Power Application Update .... May 15, 2014
DOC EERA Environmental Report .... July 14, 2014
Minnesota Power Testimony (9 parts) .... August 8, 2014
DOC DER Direct Testimony (4 parts).. September 19, 2014
LPI Direct Testimony (3 parts) .... September 19, 2014
Minnesota Power Rebuttal Testimony (3 parts) .... October 24, 2014
DOC DER Rebuttal Testimony .... October 24, 2014

Continued

Public Hearing Comments and Exhibits (7 parts)	November 3, 2014
Minnesota Power Surrebuttal Testimony (5 parts)	November 7, 2014
DOC DER Surrebuttal Testimony (3 parts)	November 7, 2014
LPI Surrebuttal Testimony	November 7, 2014
DOC DER Revised Surrebuttal (3 parts)	November 10, 2014
Public Comments (7 parts)	December 4, 2014
Issues Matrix	December 5, 2014
Minnesota Power Brief & Proposed Findings-of-Fact (3 parts)	December 19, 2014
DOC DER Brief	December 19, 2014
LPI Brief (4 parts)	December 19, 2014
RRANT Brief	December 19, 2014
Minnesota Power Reply Brief (2 parts)	January 16, 2015
DOC DER Reply Brief (3 parts)	January 16, 2015
Large Power Intervenors Reply Brief (5 parts)	January 16, 2015
RRANT Reply Brief	January 16, 2015
OAH Administrative Law Report and Recommendations	March 16, 2015
Large Power Exceptions to ALJ Report (2 parts)	March 31, 2015
DOC DER Letter (Corrected)	March 31, 2015
Minnesota Power Exceptions to ALJ Report (2 parts)	March 31, 2015

Enclosures

Attachment A - Summary of Filed Testimony
Attachment B - Summary of Exceptions to ALJ Report

Statement of the Issues

Should the Commission adopt the Administrative Law Judge Report? Do the Environmental Report and record of the Public Hearing address the items identified in the scoping decision? Should the Commission grant a Certificate of Need for the proposed project? Should the Commission include any additional conditions?

Proposed Project Overview

The Great Northern Transmission Line (Project) includes 500 kilovolt (kV) high voltage connections between the province of Manitoba in Canada and the Blackberry Substation in Itasca

County, Minnesota. Minnesota Power proposed the line to enable additional electric energy deliveries from Manitoba Hydro to meet existing and future energy needs. The transmission line would be approximately 220 miles in length and require a right-of-way of 200 feet in most areas. The project area includes the following counties: Beltrami, Itasca, Koochiching, Lake of the Woods, and Roseau, depending upon selection of the final route location.

The project would join with a new 90-130 mile transmission line in Canada to form a new international transmission interconnection from the Canada-United States border to the Blackberry Substation The project as proposed was designed to provide at least 750 megawatts (MW) of transfer capability; however subsequent analysis indicated that the project would provide 883 MW of transfer capability upon completion. Construction of the Project is anticipated to begin in 2016, with an in-service date of June 1, 2020.

The Project also includes expansion of the Blackberry Substation near Grand Rapids, Minnesota, as well as construction of a 500 kV Series Compensation Station located near the midpoint of the combined Manitoba and United States transmission line.

The Great Northern Transmission Line is part of a joint development effort between Minnesota Power and Manitoba Hydro to construct a new Canada-United States transmission interconnection. Manitoba Hydro proposes to construct and have sole ownership of the Canadian portion of the new interconnection to the project.

Statutes and Rules

Under Minnesota Statute 216B.243, subd. 2, “No large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the commission…”. Minnesota Statute 216B.2421, subd. 2 (3) defines a large energy facility as any high-voltage transmission line with a capacity of 100 kilovolts or more with more than ten miles of its length in Minnesota or that crosses a state line. Because the proposed project is greater than 200 kV, is longer than 1,500 feet, and crosses a state border, the proposed project requires a certificate of need from the Commission.

The criteria for granting a certificate of need are set forth in Minnesota Statutes section 216B.243, subdivision 3 and Minnesota Rules parts 7849.0120A–D. Under Minnesota Statutes section 243B.243, subd. 3 (2014) and Minn. Rule 7849.0120, the applicant bears the burden of proof by a preponderance of the evidence that it has satisfied Minnesota legal criteria for issuance of a certificate of need.

Procedural History

On October 21, 2013, Minnesota Power filed a certificate of need application for the proposed project.

On January 8, 2014, the Commission issued an Order Finding Application Complete, Granting Variance, and Referring Application to the Office of Administrative Hearings.

On January 10, 2014, the Residents and Ratepayers Against Not-So-Great Transmission (RRANT) filed a Petition to Intervene.

On January 14, 2014, the Large Power Intervenors (LPI) filed a Petition to Intervene.

On January 16, 2014, Xcel Energy, Otter Tail Power Company, Great River Energy and Missouri River Energy Services (Regional Utilities) filed a Notice of Appearance.

On January 17, 2014, Judge Ann O'Reilly from the Office of Administrative Hearings convened a Prehearing Conference at the Commission offices in Saint. Paul.

On January 29, 2014, the ALJ issued the First Prehearing Order in this matter, establishing the procedural schedule and granting the Petitions to Intervene of LPI and RRANT.

Public Information and Environmental Report (ER) scoping meetings were held between February 11-20, 2014 in the cities of Roseau, Baudette, International Falls, Thief River Falls, Bemidji, and Grand Rapids.

On April 22, 2014, Department of Commerce, Energy Environmental Review and Analysis (EERA) issued the Scoping Decision for the Environmental Report.

On May 15, 2014, Minnesota Power filed an update to two sections of the application. A revision to section 5 of the Application contained updated capital cost information relevant to the certificate of need docket and supplemental information to Section 4.3.1 of the certificate of need application.

On July 14, 2014, DOC EERA issued the Environmental Report.

On August 8, 2014, Minnesota Power filed its Direct Testimony in this matter.

On September 19, 2014, DOC DER and LPI filed their Direct Testimony.

Administrative Law Judge, Ann O'Reilly with the Office of Administrative Hearings presided over seven public hearings held in the following locations and on the dates: Roseau Civic Center, Roseau, Minnesota, on October 7, 2014; Lake of the Woods School, Baudette, Minnesota, on October 7, 2014; Littlefork Community Center, Littlefork, Minnesota, on October 8, 2014; North Beltrami Community Center, Kelliher, Minnesota, on October 14, 2014; Bigfork School Edge Center, Bigfork, Minnesota, on October 15, 2014; and Timberlake Lodge, Grand Rapids, Minnesota, on October 15, 2014.

On October 24, 2014, Minnesota Power and DOC DER filed Rebuttal Testimony.

On November 7, 2014, Minnesota Power, DOC DER and LPI filed Surrebuttal Testimony.

On November 12 and November 14, 2014, the ALJ presided over contested case evidentiary hearings in this matter.

On December 5, 2014, Minnesota Power, DOC-DER, LPI and RRANT submitted an Issues Matrix.

On December 19, 2014, Minnesota Power, DOC DER, and RRANT submitted Initial Briefs; and Minnesota Power submitted Proposed Findings of Fact, Conclusions of Law and Recommendation.

On January 16, 2015, the Parties submitted their Reply Briefs and DOC DER, LPI and RRANT submitted their Proposed Findings of Fact, Conclusions of Law and Recommendation.

On March 16, 2015, the Office of Administrative Hearings issued its Findings of Fact, Conclusions of Law and Recommendation (ALJ Report).

On March 31, 2015, the DOC DER, LPI, and Minnesota Power filed exceptions to the ALJ Report.

Project Ownership and Costs

Minnesota Power will initially possess 51 percent ownership of the project. Manitoba Hydro's subsidiary, 6690271 Manitoba, Ltd. (Manitoba Ltd.), will initially own 49 percent of the Project. Minnesota Power and Manitoba Ltd. will own the Project as tenants in common. Manitoba Ltd. has indicated that it plans to sell all or a portion of its share in the Project to one or more United States utilities before, during or after construction, and no later than mid-2016.

Minnesota Power has provided several estimates for the cost of constructing the project since filing its application. As the project was refined and developed, cost estimates were provided to reflect the new data and project specifications as described below

Date	Cost Range ($M, 2013 dollars)	Notes
October 2013	406 - 609	Proxy estimates from application & Donahue
April 15, 2014	495.5 - 647.7	Preliminary engineering evaluation, Donahue
July 2014	557.9 - 710.1	MISO Study incl. series compensator relocation
September 2014	677	FCA with MB Hydro & MISO

At the time of the evidentiary hearing, Minnesota Power estimated the cost of the project to be between $557.9 million and $710.1 million.[1] In September 2014, Minnesota Power and Manitoba Hydro entered into a multi-party Facilities Construction Agreement (FCA) with the Midcontinent Independent System Operator (MISO) which included a project cost range from $557.9 million and $710.1 million. The FCA also established the ownership percentages and financial responsibilities for the project.

Minnesota Power and Manitoba Hydro have entered into contracts to provide for the exchange of wind and hydro energy intended for transmission by the Project; and establishes the relative financial responsibilities of the two utilities referred to as the Manitoba Hydro Agreements.

In its 2010 Integrated Resource Plan (IRP), Minnesota Power identified projected increase in energy needs as well as an expected capacity deficit in the 2020 to 2035 timeframe due to customer load growth and diversification of its power supply. As a result, Minnesota Power indicated that it intended to pursue a 250 MW power purchase agreement (PPA) with Manitoba Hydro and build a new transmission line to deliver the power purchased. On February 1, 2013, the Commission approved the 250 MW PPA and associated Energy Exchange Agreement.[2]

Additionally, Minnesota Power executed a 133 MW Energy Sale Agreement and a 133 MW Energy Exchange Agreement (collectively referred to as Renewable Optimization Agreements, or ROA) with Manitoba Hydro on July 30, 2014. The ROA provides for an exchange of wind and hydro energy between Minnesota Power and Manitoba Hydro. Under the terms of the ROA, Minnesota Power customers are provided 230,000 megawatt hours (MWh) of additional annual carbon-free energy. Minnesota Power is also able to send additional energy from its wind-generating facilities to Manitoba Hydro when wind production is high and not needed for its customer load. In turn, when Manitoba Hydro is using Minnesota Power's wind power for their customer load, Manitoba Hydro is able to temporarily reduce hydropower generation by decreasing the flow of water through its plants. The energy "saved" during that process can be used later to generate electricity sent to Minnesota Power when wind energy production is low or customer needs are high. The Commission approved Minnesota Power’s Petition for approval of the 133 MW PPA on January 30, 2015.[3]

A Facilities Construction Agreement (FCA) was executed by Minnesota Power, Manitoba Hydro and MISO establishing the ownership percentages and financial responsibilities for the project on September 23, 2014. In acknowledgement of the additional capacity associated with the Project due to the addition of the 133 MW ROAs the FCA includes provisions requiring Manitoba Hydro to provide an additional five percent Contribution in Aid of Construction (CIAC) payment to Minnesota Power.[4]

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[1] Donahue *Rebuttal* Testimony, page 6.

[2] *Order*, Docket E-015/M-11-938, e-Filing Number **20122-70938-01** , February 1, 2013.

[3] *Order*, Docket E-015/M-14-960, e-Filing, Number **20151-106830-01** , January 30, 2015.

[4] Refer to ALJ *Order*, Findings #129-138, pages22-24, e-Filing Number **20153-108286-01** , March 16, 2015.

The following table identifies the financial responsibility for the project in relation to the sale of Manitoba Hydro (MH) ownership shares.[5]

	Final Structure	
Responsibility For:	100% MP Ownership	51% MP / 49% Other ownership
Investment:		
Minnesota Power (MP)	46.00%	46.00%
MH (CIAC)	54.00%	5.00%
MH-Assignee	NA	49.00%
Total	100.00%	100.00%
Revenue Req. - Capital Cost:		
MP Ratepayer	28.30%	28.30%
MH (ROA Fee)	17.70%	17.70%
MH (CIAC)	54.00%	5.00%
MH or Assignee	N/A	49.00%
Total	100.00%	100.00%
Revenue Req. - O&M:		
MP Ratepayer	33.30%	33.30%
MH (ROA Fee)	17.70%	17.70%
MH (CIAC)	49.00%	0.00%
MH or Assignee	N/A	49.00%
Total	100.00%	100.00%

Environmental Report

Department of Commerce Energy Environmental Review and Assessment (EERA) staff issued their environmental report on July 14, 2014. The environmental report describes the human and environmental impacts of the proposed project, alternatives to the project and methods to mitigate anticipated adverse impacts.

Public Hearing and Comments Received

Administrative Law Judge, Ann O'Reilly with the Office of Administrative Hearings presided over seven public hearings held in the following dates and locations: Roseau Civic Center, Roseau, Minnesota, on October 7, 2014; Lake of the Woods School, Baudette, Minnesota, on October 7, 2014; Littlefork Community Center, Littlefork, Minnesota, on October 8, 2014; North Beltrami Community Center, Kelliher, Minnesota, on October 14, 2014; Bigfork School Edge Center,

[5] Donahue *Rebuttal*, page 8

Bigfork, Minnesota, on October 15, 2014; and Timberlake Lodge, Grand Rapids, Minnesota, on October 15, 2014.

The hearings included presentations describing the proposed project, an explanation of the process to be followed and an opportunity for any person to present comments and to ask questions of the applicant, EERA, and Commission staff. A court reporter was present to transcribe the public hearing. Following the public hearing, a comment period for submission of written comments into the record was open until December 3, 2014.

Approximately 20 members of the public provided oral comments during the public hearings, with a majority of the comments involving questions and objections related to the route and route permit. Members of the public also asked questions of Minnesota Power related to the cost of the Project, its relationship to other Minnesota Power facilities, and Minnesota Power's contracts with Manitoba Hydro

The Midcontinent Independent System Operator submitted comments in support of the project stating that the project is the result of its collaborative transmission planning process and is necessary to address system needs and opportunities through a series of long-term, firm transmission service requests.

Minnesota Power entered two documents as part of the public comment period. The first was a copy of the Federal Energy Regulatory Commission (FERC) Order approving the Facilities Construction Agreement and the second was a copy of a letter from Gary Doer, the Canadian Ambassador to the United States, to the United States Environmental Protection Agency discussing the Project and its ability to lower emissions related to Minnesota Power's energy supply portfolio.

Evidentiary Hearing

Per the First Prehearing Order, Minnesota Power, DOC DER and LPI pre-filed testimony of their witnesses. A summary of all filed testimony is enclosed as Attachment A. On November 12 and 14, 2014, Administrative Law Judge, Ann O'Reilly with the Office of Administrative Hearings presided over the evidentiary hearing on the matter.

Administrative Law Judge Report

On March 16, 2015, the ALJ filed Findings of Fact, Conclusions of Law and Recommendations on behalf of the Office of Administrative Hearings. The ALJ's Report included 329 findings of fact, including a summary of public comment and government agency participation; 35 conclusions of law; and 4 recommendations.

The ALJ recommended that the Commission grant a Certificate of Need to Minnesota Power for the construction of the Great Northern Transmission Line and associated facilities consistent with the Findings of Fact and Conclusions of Law of the ALJ Report.

The ALJ recommended that Commission impose the following conditions on the Certificate of Need: (1) limit Minnesota Power's recovery in riders to an amount equal to 28.3 percent of the total capital costs of the Project or $201 million (in 2013 dollars), whichever is less; (2) allow Minnesota Power to request recovery of any excess costs only in a rate case where the costs will be subject to full prudence review; and (3) put Minnesota Power on notice that it will have the burden of demonstrating the prudence of any additional costs and show why it would be reasonable to recover the additional costs from ratepayers given the representations made in this proceeding.

The ALJ recommended that the Commission impose a condition requiring Minnesota Power to obtain prior approval from the Commission if it proposes to charge ratepayers for operation and maintenance costs greater than 33 percent of the Project's total O&M costs at any time in the future.

The ALJ also recommended that the Commission impose a condition requiring Minnesota Power to use the Commission's current externality values in all future certificate of need applications and certificate of need proceedings

Positions of the Parties[6]

Minnesota Power

In its initial brief, Minnesota Power asserted that the record conclusively demonstrates that the Great Northern Transmission Line Project meets each of the Commission’s four criteria for receiving a certificate of need, in that: (1) denial would adversely affect the future energy supply to Minnesota Power, Minnesota and the region; (2) no more reasonable and prudent alternative has been demonstrated by a preponderance of the evidence; (3) the Project will meet Minnesota Power, State and regional needs in a manner compatible with the natural and socioeconomic environments; and (4) Minnesota Power will comply with all applicable federal, State and local policies, rules and regulations.

Minnesota Power noted that no witness testified in opposition to granting a certificate of need. Minnesota Power contended that LPI’s recommended conditions pre-judged rate, cost recovery, and cost allocation decisions which will be made in later dockets where all ratepayers’ interests have the opportunity to be heard.

Minnesota Power agreed with the DOC DER that a “soft cap” on the recovery of costs related to

[6] NOTE – Because of the extensive record developed in the proceeding, staff has not provided a summary of individual testimony filed and instead provides summary information from the time of parties’ filing of initial briefs. Enclosed is Attachment A is summary of testimony filed during the contested case proceeding.

the project through use of a rider or in a general rate case should be used for the project. This approach has been used by the Commission in the past and enables the Commission to assess the prudence of the costs incurred going forward. Minnesota Power contended that a "hard cap" is contrary to Minnesota law, is not appropriate as part of a certificate of need approval, goes beyond prior Commission orders, and creates perverse incentives that may harm the public interest.

Minnesota Power filed their exceptions to the ALJ Report on March 31, 2015. Minnesota Power stated that their filing was for the purpose of clarifying the findings in order to ensure an accurate record and that none of the exceptions would entail any changes to the ALJ's conclusions and recommendations.

Large Power Intervenors

The Large Power Intervenors is a consortium of large industrial customers receiving electric service from Minnesota Power.[7] LPI filed its Petition to Intervene on January 16, 2014. LPI provided Direct Testimony on September 19, 2014, and Surrebuttal Testimony on November 7, 2014. LPI witnesses provided testimony in person at the evidentiary hearing on November 14, 2014. LPI did not oppose the need for the project, but expressed reservations about the increasing costs of the proposal and the recovery of those costs from ratepayers. LPI participated in the proceeding to ensure that Minnesota Power's investments in the project are prudent and recovered from customers in a fair manner.

LPI's brief provided analysis and recommendations related to the need criteria in Minn. Stat. 216B.243 and Minn. R. 7849. Additionally, LPI provided additional recommendations for the Commission's consideration as directed in the Commission's Order accepting the application as complete. Specifically, LPI noted that the Commission, in its January 8, 2014 Order, expanded the scope of analysis by expressly permitting parties to "raise and address other issues relevant to the application". LPI recommended that the Commission impose a "hard cap" on the recoverable costs associated with the project. LPI expressed its concern that Minnesota Power's estimated project costs are in 2013 dollars, and does not account for construction cost inflation.

LPI noted that Minnesota Power's evaluation of alternatives contains minimal analysis, relying instead on analysis performed in other commission dockets.

LPI noted that the difference between the projected costs of the project and its next best alternative (a combined cycle alternative) are very close. This caused LPI to question whether the

[7] LPI members include: ArcelorMittal USA (Minorca Mine); UPM-Blandin Paper Company; Boise Paper (Boise), a Packaging Corporation of America company, formerly known as Boise, Inc.; Enbridge Energy, Limited Partnership; Hibbing Taconite Company; Mesabi Nugget Delaware, LLC; NewPage Corporation; PolyMet Mining, Inc.; Sappi Cloquet, LLC; USG Interiors, LLC; United States Steel Corporation (Keetac and Minntac Mines); and United Taconite, LLC..

agreements with Manitoba Hydro, combined with the cost of the project remain the least cost option for Minnesota Power's capacity and energy needs. As a result, LPI recommended that a hard cap on recoverable project costs protected Minnesota Power ratepayers from the impact of the decision and ensured that a there is not a more reasonable, prudent, and cost effective alternative to the project.

LPI recommended that the following cost recovery provisions be included should the Commission grant the certificate of need:

1) Condition any grant of the Application upon approval of Minnesota Power's 133 MW Renewable Optimization Agreements (ROAs);
2) direct Minnesota Power to accrue allowance for funds used during construction (AFUDC) rather than permit it to seek current recovery of carrying charges during the construction period;
3) authorize ratemaking recovery through a rider as opposed to base rates; and
4) allocate the increase to customer classes based on base revenues excluding fuel and other riders.

RRANT

The Residents and Ratepayers Against Not-so-Great-Northern Transmission (RRANT), is an association of potentially directly affected landowners, farmers and residents and ratepayers within the immediate vicinity of the proposed Great Northern Transmission Line and in the service territory of Minnesota Power. This association opposed Minnesota Power's application for a Certificate of Need. RRANT did not file testimony in this proceeding.

In their initial brief, RRANT opposed the project on the basis that the project exists for economic reasons not recognized in the Certificate of Need statutory criteria, because it is grossly oversized when compared to the 383 MW need claimed by the Applicant, and because it is a segment of a much longer transmission line.

RRANT contended that Minnesota Power improperly relied on the Commission's approval of its PPA with Manitoba Hydro and MISO "approval" of the cost apportionment tariff and attempts to bootstrap the Certificate of Need approval to that PPA.

RRANT requested that the Certificate of Need be denied because the Applicant has not met its burden of proof and burden of production for a certificate of need. RRANT contended that the applicant has not justified its need.

Department of Commerce Division of Energy Resources Comments

DOC DER staff evaluated the proposed Project and agreed that Minnesota Power satisfied the burden of proof under applicable certificate of need criteria that the Commission uses to decide whether to grant or deny a certificate of need.

In direct testimony, DOC DER staff indicated that, based on their analysis, a 500-kV transmission line would have a lower internal cost and lower line losses (and therefore lower societal cost) than a 230-kV alternative. DOC DER staff stated that, unlike the western alternative, the project would help alleviate existing North Dakota- Manitoba impedance loop-flow conditions.

Regarding cost allocation and recovery of transmission costs, DOC DER staff concurred with Minnesota Power and recommended that the Commission take no action in this proceeding regarding future cost allocation and rate design issues that are to be addressed in future riders and general rate case proceedings.

The Department suggested that it would serve the public interest to clarify for Minnesota Power the terms of its future cost recovery. Specifically, the Department suggested that it may be reasonable to specify that: (1) Minnesota Power would be limited to recover in riders only the amount of costs proposed in this proceeding; (2) the Company could request recovery of costs above this amount only in a rate case, where those costs will be subject to full prudence review; and (3) Minnesota Power would have the burden of demonstrating the prudency of those additional costs and showing why it would be reasonable to recover them from ratepayers. The Department noted that the Commission employed this approach in a cost recovery proceeding for certain renewable energy facilities owned by Xcel Energy, to give the utility an incentive to minimize costs.

DOC DER noted in its initial brief that they do not have any unresolved issues with Minnesota Power.

Staff Discussion

Staff notes that parties (with the exception of RRANT) agree that the certificate of need should be approved. Staff reviewed the record, the public hearing transcripts and public comments and has identified no substantive concerns regarding the need for the proposed project. Staff largely agrees with the ALJ’s recommendation to grant the certificate of need.

Environmental Report

Staff has reviewed the environmental report and agrees with the ALJ that the environmental assessment and the record created at the public hearing addresses the issues identified in the scoping decision.

Exceptions to ALJ Report

Staff has reviewed the record and exemptions filed in this docket. A Summary of Exceptions to the ALJ Report is enclosed as Attachment B identifying each exception and staff's analysis and recommendations.

Conditions to the Certificate of Need

Staff concurs with the Department and the ALJ that it is more appropriate to address project construction cost recovery through a separate proceeding. By not taking at this time, the Commission retains flexibility to fully consider cost recovery and avoid potentially duplicative proceedings; however this decision may ultimately impact ratemaking at the federal level.

The ALJ Report provided additional recommendations to protect Minnesota Power's ratepayers and customers. Staff agrees that operations and maintenance cost should be allocated on a pro rata basis according to project ownership. The recommendations also direct Minnesota Power to provide environmental costs in its filings in order to improve evaluation of generation alternatives.

Commission Decision Alternatives

A. Findings of Fact, Conclusions of Law and Recommendation

1. Approve and adopt the ALJ's Findings of Fact, Conclusions of Law and Recommendation for Minnesota Power's proposed Great Northern Transmission Line Project
2. Adopt and incorporate staff supported changes to the ALJ Report Findings numbers 35, 76, 101, 105, 117, 125, 131, 132, 140, 142, 146, 148, 150, 152, 155, 169, 170, 182, 183, 184, 185, 292, 297, 298, 300, 310, 315, 316, 317, 318, 325, 328, and 329 for the reasons stated in Attachment B (Summary of Exceptions to ALJ Report).
3. Approve and adopt the ALJ's Findings of Fact, Conclusions of Law and Recommendation for Minnesota Power's proposed Great Northern Transmission Line Project as modified by the Staff Exception Table with further modification(s) identified during deliberation.
4. Take some other action deemed appropriate.

B. Environmental Report

1. Determine that the Environmental Report and the record created at the public hearing addresses the issues identified in the Environmental Report scoping decision.
2. Take some other action deemed appropriate.

C. Certificate of Need

1. Find that the probable result of denial would adversely affect the future adequacy, reliability, or efficiency of the energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states.
2. Find that a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record by parties or persons other than the applicant
3. Find that the consequences to society of granting the certificate of need are more favorable than the consequences of denying the certificate
4. Find that it has not been demonstrated on the record that the design, construction, or operation of the proposed facility will fail to comply with those relevant policies, rules, and regulations of other state and federal agencies and local governments
5. Grant a Certificate of Need for Minnesota Power's proposed Great Northern Transmission Line Project
6. Deny a Certificate of Need for Minnesota Power's proposed Great Northern Transmission Line Project.
7. Take some other action deemed appropriate.

D. Additional Conditions

1. Impose conditions as identified in the ALJ Report Recommendations 2, 3 and 4.
2. Take some other action deemed appropriate.

Staff Recommendation: A.1-2, B.1, C.1-5, and D.1.

20148-102147-03	MINNESOTA POWER	TESTIMONY--DIRECT TESTIMONY OF DAVID MCMILLAN	8/8/2014
20148-102147-05	MINNESOTA POWER	TESTIMONY--DIRECT TESTIMONY OF MICHAEL DONAHUE TRADE SECRET ATTACHMENT	8/8/2014
20148-102147-01	MINNESOTA POWER	TESTIMONY--FILING LETTER SERVICE LIST AND AFFIDAVIT	8/8/2014
20148-102147-06	MINNESOTA POWER	TESTIMONY--DIRECT TESTIMONY OF SCOTT HOBERG	8/8/2014
20148-102147-08	MINNESOTA POWER	TESTIMONY--DIRECT TESTIMONY OF ALLAN RUDECK TRADE SECRET ATTACHMENT	8/8/2014
20148-102147-02	MINNESOTA POWER	TESTIMONY--DIRECT TESTIMONY OF JAMES ATKINSON	8/8/2014
20148-102147-04	MINNESOTA POWER	TESTIMONY--DIRECT TESTIMONY OF MICHAEL DONAHUE - PUBLIC	8/8/2014
20148-102147-09	MINNESOTA POWER	TESTIMONY--DIRECT TESTIMONY OF CHRISTIAN WINTER	8/8/2014
20148-102147-07	MINNESOTA POWER	TESTIMONY--DIRECT TESTIMONY OF ALLAN RUDECK - PUBLIC	8/8/2014
20149-103387-02	MINNESOTA POWER	COMPLIANCE FILING--CONSTRUCTION AGMT BETWEEN MISO MP AND MANITOBA PUBLIC	9/29/2014
20149-103387-01	MINNESOTA POWER	COMPLIANCE FILING--COVER - SERVICE OF AGMT	9/29/2014
20149-103387-03	MINNESOTA POWER	COMPLIANCE FILING--CONSTRUCTION AGREEMENT BETWEEN MISO MP AND MANITOBA TRADE SECRET	9/29/2014
201410-103883-01	MINNESOTA POWER	PROTECTIVE AGREEMENT--EXHIBIT A - NONDISCLOSURE AGREEMENT	10/15/2014
201410-104117-01	MINNESOTA POWER	REBUTTAL--FILING LETTER, AFFIDAVIT AND SERVICE LIST	10/24/2014
201410-104117-03	MINNESOTA POWER	REBUTTAL--DAVID MCMILLAN REBUTTAL TESTIMONY AND SCHEDULES	10/24/2014
201410-104117-02	MINNESOTA POWER	REBUTTAL--MICHAEL DONAHUE REBUTTAL TESTIMONY AND SCHEDULE	10/24/2014
201411-104537-01	MINNESOTA POWER	SURREBUTTAL--FILING LETTER, AFFIDAVIT AND SERVICE LIST	11/7/2014
201411-104537-03	MINNESOTA POWER	SURREBUTTAL--SURREBUTTAL TESTIMONY OF ALLAN RUDECK, JR.	11/7/2014
201411-104537-04	MINNESOTA POWER	SURREBUTTAL--SCHEDULE 1 TO ALLAN RUDECK SURREBUTTAL TESTIMONY - PUBLIC	11/7/2014
201411-104537-05	MINNESOTA POWER	SURREBUTTAL--SCHEDULE 1 TO ALLAN RUDECK SURREBUTTAL TESTIMONY - TRADE SECRET	11/7/2014
201411-104537-02	MINNESOTA POWER	SURREBUTTAL--SURREBUTTAL TESTIMONY OF DAVID MCMILLAN	11/7/2014
201411-104642-01	MINNESOTA POWER	INFORMATION REQUESTS--SEPTEMBER 24, 2014 SUPPLEMENTAL RESPONSE TO DOC IR NO. 8	11/13/2014
201412-105033-01	MINNESOTA POWER	OTHER--FERC ORDER - EXHIBIT 64	12/1/2014
201412-105062-01	MINNESOTA POWER	COMMENTS--- AMBASSADOR DOER TO EPA	12/1/2014
201412-105592-01	MINNESOTA POWER	BRIEF--COVER LETTER, AFFIDAVIT AND SERVICE LIST	12/19/2014
201412-105592-02	MINNESOTA POWER	BRIEF--INITIAL BRIEF	12/19/2014

201412-105592-03	MINNESOTA POWER	BRIEF--PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION	12/19/2014
20151-106319-01	MINNESOTA POWER	REPLY BRIEF--COVER LETTER, SERVICE LIST AND AFFIDAVIT	1/16/2015
20151-106319-02	MINNESOTA POWER	REPLY BRIEF--REPLY BRIEF AND APPENDIX A	1/16/2015
20152-106980-01	MINNESOTA POWER	LETTER--LETTER TO ALJ	2/3/2015
20153-108780-02	MINNESOTA POWER	EXCEPTIONS TO ALJ--EXCEPTIONS	3/31/2015
20149-103162-03	DOC DER	TESTIMONY--RAKOW TS ATTACHMENTS TRADE SECRET	9/19/2014
20149-103162-04	DOC DER	TESTIMONY--SHAH DIRECT AND ATTACHMENTS	9/19/2014
20149-103162-01	DOC DER	TESTIMONY--COVER LETTER, AFFIDAVIT, SERVICE LIST	9/19/2014
20149-103162-02	DOC DER	TESTIMONY--RAKOW DIRECT AND ATTACHMENTS	9/19/2014
201410-104130-01	DOC DER	REBUTTAL--RAKOW	10/24/2014
201411-104535-03	DOC DER	SURREBUTTAL--RAKOW SURREBUTTAL	11/7/2014
201411-104535-02	DOC DER	SURREBUTTAL--JOHNSON SURREBUTTAL	11/7/2014
201411-104535-01	DOC DER	SURREBUTTAL--COVER LETTER - AFFIDAVIT - SERVICE LIST	11/7/2014
201411-104553-02	DOC DER	OTHER--RAKOW - REVISED SURREBUTTAL - CLEAN COPY	11/10/2014
201411-104553-03	DOC DER	OTHER--RAKOW - REVISED SURREBUTTAL - REDLINED COPY	11/10/2014
201411-104553-01	DOC DER	OTHER--ERRATA COVER LETTER - AFFIDAVIT - SERVICE LIST	11/10/2014
201412-105596-02	MINNESOTA DEPARTMENT OF COMMERCE	BRIEF	12/19/2014
20151-106315-03	DOC DER	REPLY BRIEF--REDLINED PROPOSED FINDINGS	1/16/2015
20151-106315-01	DOC DER	REPLY BRIEF--COVER LETTER	1/16/2015
20151-106315-02	DOC DER	REPLY BRIEF	1/16/2015
20149-103178-02	LARGE POWER INTERVENORS	TESTIMONY--TESTIMONY OF LANE KOLLEN - PUBLIC	9/19/2014
20149-103178-01	LARGE POWER INTERVENORS	TESTIMONY--TESTIMONY - SERVICE LETTER, CERTIFICATE OF SERVICE AND SERVICE LIST	9/19/2014
20149-103178-03	LARGE POWER INTERVENORS	TESTIMONY--TESTIMONY OF LANE KOLLEN - TRADE SECRET	9/19/2014
201410-104103-01	LARGE POWER INTERVENORS	PROTECTIVE ORDER--COVER/SERVICE LETTER, CERTIFICATE OF SERVICE AND SERVICE LIST RE NDAS	10/24/2014
201410-104103-04	LARGE POWER INTERVENORS	PROTECTIVE ORDER--EXHIBIT A - NONDISCLOSURE AGREEMENT - LANE KOLLEN	10/24/2014
201410-104103-05	LARGE POWER INTERVENORS	PROTECTIVE ORDER--EXHIBIT A - NONDISCLOSURE AGREEMENT - PHILIP HAYET	10/24/2014
201410-104103-02	LARGE POWER INTERVENORS	PROTECTIVE ORDER--EXHIBIT A - NONDISCLOSURE AGREEMENT - ANDREW P. MORATZKA	10/24/2014

201410-104103-03	LARGE POWER INTERVENORS	PROTECTIVE ORDER--EXHIBIT A - NONDISCLOSURE AGREEMENT - CHAD T. MARRIOTT	10/24/2014
201410-104103-06	LARGE POWER INTERVENORS	PROTECTIVE ORDER--EXHIBIT A - NONDISCLOSURE AGREEMENT - LEAH J. WELLBHORN	10/24/2014
201411-104534-01	LARGE POWER INTERVENORS	SURREBUTTAL--LANE KOLLEN	11/7/2014
201412-105600-03	LARGE POWER INTERVENORS	MOTION--CERTIFICATE OF SERVICE	12/22/2014
201412-105600-02	LARGE POWER INTERVENORS	MOTION--NOTICE OF MOTION & MOTION FOR EXTENSION OF TIME FOR FILING INITAL BRIEF	12/22/2014
201412-105602-02	LARGE POWER INTERVENORS	BRIEF--BRIEF - PUBLIC	12/22/2014
201412-105600-01	LARGE POWER INTERVENORS	MOTION--COVER LETTER	12/22/2014
201412-105602-04	LARGE POWER INTERVENORS	BRIEF--CERTIFICATE OF SERVICE	12/22/2014
201412-105602-03	LARGE POWER INTERVENORS	BRIEF--BRIEF - TRADE SECRET	12/22/2014
201412-105602-01	LARGE POWER INTERVENORS	BRIEF--COVER LETTER	12/22/2014
20151-106313-04	LARGE POWER INTERVENORS	REPLY BRIEF	1/16/2015
20151-106313-03	LARGE POWER INTERVENORS	REPLY BRIEF--LARGE POWER INTERVENORSCOMMENTS	1/16/2015
20151-106313-02	LARGE POWER INTERVENORS	REPLY BRIEF--POST HEARING REPLY BRIEF- LANE KOLLEN	1/16/2015
20151-106313-05	LARGE POWER INTERVENORS	REPLY BRIEF--CERT. OF SERVICE	1/16/2015
20151-106313-01	LARGE POWER INTERVENORS	REPLY BRIEF--COVER LETTER	1/16/2015
20153-108774-01	LARGE POWER INTERVENORS	EXCEPTIONS TO ALJ--SERVICE LETTER, CERTIFCATE OF SERVICE AND SERVICE LIST	3/31/2015
20153-108774-02	LARGE POWER INTERVENORS	EXCEPTIONS TO ALJ--EXCEPTIONS SUBMITTED BY LARGE POWER INTERVENORS	3/31/2015
201412-105597-01	RRANT	BRIEF--RRANT INITIAL BRIEF	12/19/2014
20151-106318-01	RRANT	REPLY BRIEF	1/16/2015

Docket 12-1163 Staff recommendations on Exceptions to the 3/16/15 ALJ Report Attachment B

Staff has not renumbered findings; the Order should adjust the finding numbers and references once approved by the Commission.

Finding Number	Sponsor	Proposed Language	Staff Recommendation	Reason for Accepting or Rejecting Change
35	MN Power	~~35. Minnesota Power served its Notice Plan on stakeholders and local governments on March 14, 2014.44.~~ ~~=~~ ~~44 Ex. 63 (Mailed Notice Plan).~~	Yes	MP correctly indicated that the March 14, 2014 filing was a compliance filing regarding implementation of the Notice Plan.
76	MP	76. On the United States side, Minnesota Power proposes to have 51 percent ownership of the Project initially. 109 Manitoba Hydro's subsidiary, 6690271 Manitoba, Ltd. (Manitoba Ltd.), ~~110~~ will own 49 percent of the Project.111 Minnesota Power and Manitoba Ltd. will own the Project as tenants in common. 112 = ~~110 Throughout this proceeding, Manitoba Hydro has referred to Manitoba Ltd. as "Manitoba Hydro."~~ ~~Therefore, it is difficult to decipher which entity is responsible for various obligations, including the contribution of construction payments and Must Take Fees provided for in the various agreements described in this Report.~~	Yes	The record does contain information related to the entities responsible for contribution of construction payments and Must Take Fees provided in the agreements. The statement itself is not false, but it is somewhat subjective and therefore staff agrees the deletion of the footnote is appropriate.
101	MP	~~101. Minnesota Power did not present specific evidence of increased need for energy or capacity in this proceeding, relying instead on the Commission's approval of its 2010 IRP~~.	Yes	This statement is somewhat contextual and its content is considered more fully in Finding 185 below.

105	MP	~~105. The 250 MW Agreements were approved by the Commission in 2012.157 Minnesota Power relies on the Commission's approval of its 2010 IRP and the 250 MW Agreements to establish the accuracy of its forecast of demand as well as the need for more electricity and capacity for its customers.~~ ~~=~~ ~~157 In the Matter of Minnesota Power's Petition for Approval of a 250 MW Power Purchase Agreement with Manitoba Hydro, PUC Docket No. E015/M-11-938, ORDER (February 1, 2012).~~		MP cited references to filings that provided evidence of the need for power and need for the project. Staff agrees that the point is not necessary and agrees the deletion is appropriate.
117	MP	~~117. Because the energy provided by the ROAs is in excess of the amount needed by Minnesota Power, the ROAs require Manitoba Hydro to pay for the additional transmission delivery costs for the energy associated with the 133 MW ESA through a monthly fee for the term of the EEA.179~~ ~~=~~ ~~[179] Ex. 43 at 18 (Rudeck Direct).~~	Yes	Finding 131 accurately represents the financial obligations related to the must take fee and therefore staff supports deletion of this finding.
125	MP	125. In acknowledgement of the additional capacity associated with the Project due to the addition of the 133 MW ROAs (resulting in a total transmission capacity of 883 MW as opposed to the original estimate of 750 MW), the FCA includes provisions requiring ~~Manitoba Hydro~~ Sub to provide an additional five percent Contribution in Aid of Construction (CIAC) payment to Minnesota Power.	Yes, as modified by staff	Staff recommendation: Replace the words "Manitoba Hydro" with "6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro (Manitoba Hydro Ltd.)" as shown in the Facilities Construction Agreement.

131	MP	131. Minnesota Power reduced its financial obligation for capital costs in the Manitoba Hydro Agreements through two contractual provisions. First, under the 133 MW ROAs, Manitoba Hydro is responsible for a Must Take Fee, which Minnesota Power asserts is equal to 17.7 percent of the Project's total capital and O&M costs. Second, in recognition of the additional transfer capacity, ~~Manitoba Hydro~~ Sub agreed to provide a five percent CIAC payment to Minnesota Power, further reducing Minnesota Power's total financial obligation.	Yes, as modified by staff	Staff recommendation: Replace the words "Manitoba Hydro" with "6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro" as shown in the Facilities Construction Agreement.
132	MP	132. As a 51 percent owner of the Project, Minnesota Power would normally be expected to pay 51 percent of both the Project's capital costs as well as on-going O&M costs. However, as a result of Manitoba Hydro's five percent CIAC obligation provided for in the FCA, Minnesota Power's financial responsibility for the Project's capital costs is reduced from 51 percent to 46 percent (51% - 5% CIAC = 46%).	Yes, as modified by staff	Staff recommendation: Replace the words "Manitoba Hydro" with "6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro" as shown in the Facilities Construction Agreement.
140	MP	140. For the purpose of this proceeding, it is important for the Commission to ensure that when Manitoba Ltd. divests itself of its shares, Minnesota Power ratepayers are not left liable for any more than 28.3 percent of the Project's capital costs or any more than 33.3 percent of the O&M expenses of the Project. Otherwise, ~~all of the~~ important financial justifications presented by Minnesota Power in support of the Project ~~are meaningless~~ could be lost.	Yes	Staff agrees that the clarifications improve the finding.
142	MP	~~142. As summarized below, the testimony provided by Minnesota Power witnesses was not entirely consistent with this table.~~	Yes	MP contends that the testimony provided is fully consistent with Finding #141 and should be deleted. Finding 147 and Recommendation 32 of the ALJ Report address these aspects of the financial obligations and ownership so staff does not object to its deletion.

146	MP	~~146. What is less clear in the record, however, is what happens with Manitoba Ltd.'s 49 percent share of the O&M expenses upon a transfer of all shares of the Project to Minnesota Power. Minnesota Power appears to assert, but no witness testified to the fact that, Manitoba Hydro will remain liable for 49 percent of the expenses.~~ 146. Regarding operations and maintenance expenses, the record demonstrates that whether Sub transfers its shares to Minnesota Power or assigns its shares to a third party, Minnesota Power will continue to be responsible for only 33.3 percent of the operations and maintenance costs associated with the Project. (Ex. 40, p. 8.)	Yes, as modified by staff	Staff recommends replacing the word "Sub" with "6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro",
148	MP	148. The Administrative Law Judge adopts this recommendation as a reasonable one, given the representations made by Minnesota Power in this proceeding ~~and the ambiguity in its witnesses' testimony~~.	Yes	Staff agrees with DER's recommendation for Finding 147 (subsequently incorporated into the ALJ Report).
150	LPI	150. If Minnesota Power ratepayers are suddenly responsible for more than 33.3 percent of the O&M expenses attributable to this Project as a result of a transfer of shares from Manitoba Ltd. to Minnesota Power (or another entity), the financial justification of the Project would substantially change. Additionally, the financial justification of the Project would disappear if the Project cost exceeds the cost of a reasonable alternative. Accordingly, a condition in the CON is required to prevent this from occurring.	N/A	Staff does not take a position on the additional language. Parties should present their positions regarding the project's benefits, including financial justifications.

152	MP	~~152. If Manitoba Ltd. transfers all or part of its 49 percent interest in the Project to another MISO transmission owner, Manitoba Hydro has no responsibility for the corresponding shares or financial obligations. In that scenario, Minnesota Power must ensure the new assignee will assume Manitoba' Ltd.'s 49 percent share of both the capital and O&M expenses as part of the transaction.~~ Staff Recommendation: 152. Should the sale of shares from 6690271 Manitoba Hydro Ltd, a wholly owned subsidiary of Manitoba Hydro, transfer to Minnesota Power and/or one of its subsidiaries, potential capital costs revenue requirements and operation and maintenance revenue requirements for those shares that may not be borne by Minnesota Power ratepayers	Yes, as modified by staff	MP asserts that after any transfer of all or part of Manitoba Hydro, Ltd.'s shares to a non-MP entity, Minnesota Power and its ratepayers will only bear 28.3 percent of the capital cost revenue requirements and only 33.3 percent of the operations and maintenance revenue requirements. Staff recommends that the record should clarify that only a pro-rated share of capital costs revenue requirements and operation and maintenance revenue requirements for those shares may be borne by Minnesota Power ratepayers if the transfer of shares is to Minnesota Power (or one of its subsidiaries).
155	MP	155. Minnesota Power represents to the Commission in this proceeding that it will not consent to any transfer of shares from Manitoba Ltd. to a third party unless the third party assumes all of Manitoba Ltd.'s 49 percent share in the Project expenses (both capital costs and O&M expenses). This is a material representation that Minnesota Power must be held accountable for in the future. Otherwise, Minnesota Power could be saddled with financial liability for the Project well in excess of the 28.3 percent of capital costs and the 33.3 percent of O&M costs asserted in this case. Such a change in financial circumstances would negate ~~the~~ important financial justifications for the Project articulated by Minnesota Power ~~for the Project itself~~.	Yes	Staff agrees that this recommendation provides clarification and more accurately reflects the record.
169	MP	1. Accuracy of Forecast for Demand	Yes, as modified	MP recommends deletion of Finding 169 in its entirety and provided replacement

		~~169. No specific evidence or testimony was presented by Minnesota Power in this proceeding to demonstrate a projected increase in the need for energy or capacity. Rather, the Company relies upon the analyses presented to the Commission in its 2010 Integrated Resource Plan,236 2013 Integrated Resource Plan,237 Petition for Approval of the 250 MW Agreements, 238 and Petition for Approval of the 133 MW ROAs.239~~ ~~=~~ ~~236 In the Matter of Minnesota Power's Application for Approval of its 2010-2024 Resource Plan, PUC Docket No. E015/RP-09-1088, PETITION (October 5, 2009).~~ ~~237 In the Matter of Minnesota Power's Application for Approval of its 2013-2027 Resource Plan, PUC Docket No. E015/RP-13-53, INITIAL FILING - RESOURCE PLAN (March 1, 2013).~~ ~~238 In the Matter of Minnesota Power's Petition for Approval of a 250 MW Power Purchase Agreement with Manitoba Hydro, PUC Docket No. E015/M-11-938, PETITION (September 16, 2011).~~ ~~239 In the Matter of Minnesota Power's Petition for Approval of a 133 MW Power Purchase Agreement with Manitoba Hydro, PUC Docket No. E015/M-14-960, PETITION (November 6, 2014).~~ The record demonstrates the Company's need for the power to be delivered under both the 250 MW Agreements and the ROAs, and made possible by the Project, including the testimony of Mr. Rudeck,8 the Commission Order approving the 250 MW Agreements,9 Minnesota Power's 2013 Advanced Forecast Report ("AFR"),10 the	by staff	language. Staff subsequently modified the original finding to more closely reflect the record in order to retain a more complete analysis.

		Company’s 2014 AFR,11 and its 2013 Resource Plan filing.12 8 Ex. 43, pp. 9-13. 9 Ex. 12. 10 Ex. 18. 11 Ex. 43, Schedule 1. 12 Ex. 20. Staff recommendation: 169. ~~No specific evidence or testimony was presented by Minnesota Power in this proceeding to demonstrate a projected increase in the need for energy or capacity. Rather, the Company~~ Minnesota Power relie~~s~~d in part upon the analyses presented to the Commission in its 2010 Integrated Resource Plan, 2013 Integrated Resource Plan, Petition for Approval of the 250 MW Agreements, and Petition for Approval of the 133 MW ROAs. The record also identifies the need for the power to be delivered under both the 250 MW Agreements and the ROAs, and made possible by the Project.240 = 240 Testimony of Mr. Rudeck (Ex. 43, pp. 9-13), the Commission Order approving the 250 MW Agreements (Ex. 12), Minnesota Power’s 2013 Advanced Forecast Report (AFR) (Ex. 18),MP’s 2014 AFR, (Ex. 43, Schedule1) 11 and MP’s 2013 Resource Plan filing (Ex. 20).		

170	MP	170. No evidence was presented by the other Parties to this proceeding to negate the accuracy of ~~the~~ Minnesota Power's forecasts for demand or its testimony regarding the need for the energy and capacity provided for in the 250 MW Agreements and ROAs and to be delivered by the Project. ~~presented by Minnesota Power in the other dockets.~~	Yes	Staff agrees that the changes provide clarity to the docket record. Ed. note – the phrase "or its testimony regarding the need for the energy and capacity provided for in the 250 MW Agreements and ROAs and to be delivered by the Project" was not indicated as an addition in MP's Exceptions but was added by staff.
182 183 184	MP	~~182. The Company's 2013 IRP did not identify the need for the 133 MW ROAs.~~ ~~183. It is unclear from the record whether the execution of the 133 MW ROAs is in response to the need for additional energy cited in the Commission's order approving Minnesota Power's 2013 IRP.259~~ 184. ~~Nonetheless, t~~The Commission approved the 133 MW ROAs in January 2015, adopting the DOC-DER's recommendation and ultimate conclusion that the 133 MW ROAs are needed to meet Minnesota Power's need for additional energy and capacity.260 = ~~259 Ex. 43 at 15-16 (Rudeck Direct).~~ 260 In the Matter of Minnesota Power's Petition for Approval of a 133 MW Power Purchase Agreement with Manitoba Hydro, PUC Docket No. E015/M-14-960, ORDER (January 30, 2015).	Yes	Staff agrees that the changes provide clarity to the docket record.

185	MP	~~185. In this proceeding, the DOC-DER did not perform an analysis of the 2010 AFR or 2013 AFR, nor did it develop alternative forecasts to determine if Minnesota Power has a need for energy and capacity. Rather, the DOC-DER concluded that the issue of need has been adequately reviewed and accepted by the Commission in the 2010 Resource Plan Docket, 250 MW PPA Docket, and 2013 Resource Plan Docket.261~~ ~~Therefore, the DOC-DER summarily concurs with Minnesota Power that a need exists for the proposed Project.262~~ ~~=~~ ~~261 Ex. 52 at 3-11 (Shah Direct).~~ ~~262 Id.~~ 185. In examining the need for the Project, the DOC-DER reviewed the analysis and conclusions drawn by the DOC-DER and Commission in the dockets approving the 250 MW Agreements and accepting Minnesota Power's 2010 and 2013 Resource Plans.17 Additionally, the DOC-DER provided the Regional Energy Information System (REIS) data Minnesota Power filed with the Department for reporting years 2009 through 2013 and specifically discussed the Company's 2013 AFR. DOC-DER witness Mr. Shah noted that the Department's specific analysis with respect to Minnesota Power's needs had already been conducted in the 2013 Resource Plan docket and in its review of the AFR. 18 Mr. Shah further noted that even after approving the 250 MW Agreements, the Commission found a need for additional capacity on the Minnesota Power system.19 Finally, he noted that other regional utilities have also indicated a need for transmission services with Manitoba Hydro,	No	Staff agrees that these changes improve the record, but that the DER's recommendations below are more precise and provide context to the original finding.

		indicating a broader regional need for the Project.20 16 Id., p. 12. 17 Ex. 52, pp. 4-11. 18 Id., pp. 8-11 and Schedule SS-2. 19 Id., p. 11. 20 Id., p. 12.		
185	DER	185. In this proceeding, the DOC-DER did not perform an analysis of the 2010 AFR or 2013 AFR, nor did it develop alternative forecasts to determine if Minnesota Power has a need for energy and capacity. Rather, the DOC-DER concluded that the issue of need has been adequately reviewed and accepted by the Commission in the 2010 Resource Plan Docket, 250 MW PPA Docket, and 2013 Resource Plan Docket, based on analyses conducted by the Department in those proceedings. Further, the Department noted that the requested certificate of need is required to deliver a generation resource that the Commission has already authorized. However, the Department confirmed in this proceeding that recent sales data for Minnesota Power shows that the 250 MW of generation continues to be needed to serve MP's customers reliably. Therefore, the DOC-DER confirmed that ~~summarily concurs with~~ Minnesota Power ~~that~~ a need ~~exists~~ for the proposed Project.	Yes	Staff agrees that this language most accurately reflects the record and provides context to the original finding.
292	LPI	292. ~~In the alternative, the DOC-DER recommended adoption of a "soft cap" rather than a "hard cap." Specifically, the DOC-DER suggested the Commission order that: (1) Minnesota Power be limited to recover in riders only the amount of costs proposed in this proceeding; (2) Minnesota Power be allowed to request recovery of~~	No	Staff agrees that cost allocation questions are not fully developed in this docket and that the matter is best left for future cost recovery proceedings.

		~~costs above this amount only in a rate case where costs will be subject to full prudence review; and (3) Minnesota Power be required to carry the burden of demonstrating the prudence of those additional costs and why it would be reasonable to recover them from ratepayers.447~~ MP is prohibited from recovering any Project costs in excess of the Company's calculation of the "as-spent" equivalent to the 2013 dollar estimate reflected in the Facilities Construction Agreement ("FCA"), excluding AFUDC.		
297	LPI	~~297. A "hard cap" is not reasonable because the Project still has to go through the routing process, and conditions could be added which would have the effect of increasing the cost of the Project. In addition, as the Commission recognized in the ITC Midwest Order, there can be unforeseen circumstances for any project that can lead to prudently incurred cost overruns. Thus, imposing a "hard cap" as a condition of the CON could preclude Minnesota Power from recovering its reasonable and prudent costs of service. Such a result would be contrary to Minnesota Statutes section 216B.16, subdivision 6, which requires the Commission to set rates at a level allowing the utility the opportunity to recover its "reasonable and prudent costs" of providing utility service.~~ ~~=~~ ~~453 Id.~~	N/R	LPI contended that MP has made substantial progress in selecting a route for the project and that the budget estimates include a $92M contingency that could address costs associated with route modifications. LPI contended that any cost escalations in excess of the cost of the combined-cycle alternatives should not be deemed reasonable or prudent in a subsequent rider or rate case proceeding. LPI contends that a "hard cap" is appropriate In this case where the project's cost of delivering energy and capacity are on virtual cost parity with the most reasonable generation alternative. Additionally, a "hard cap" is consistent with state law because nothing in Minnesota Statutes mandates that utilities be guaranteed a return on and above every investment. LPI recommends that the Commission exercise its discretion to modify the Recommendations and impose a "hard

				cap" on Minnesota Power's recoverable Project costs in the Commission's final order.
298	LPI	298. · ~~Moreover, LPI's recommendation for a "hard cap" is based on a faulty cost comparison by its expert. In doing the cost comparison, LPI witness Lane Kollen compared the 250 MW Agreements and the Project with a natural gas-fired alternative.453 This analysis does not include the economic and environmental benefits Minnesota Power ratepayers are expected to receive from the recently approved 133 MW ROAs. In addition, the analysis fails to consider that the Commission has already approved the 250 MW Agreements and the 133 MW ROAs. Cancellation of these contracts and substitution of a natural gas-fired facility would be inconsistent with the resource decisions already made by the Commission, and would likely involve contract cancellation costs that have not been included in LPI's analysis.~~	N/R	LPI contends that the conclusion lacks foundation and is not supported in the record. LPI noted that Mr. Kollen's testimony that the cost difference between the 250 MW Agreements and the combined-cycle alternative would be approximately $1.60/MWh over a 40-year period was unchallenged in both written and oral testimony. LPI contended that neither Minnesota Power nor any other party quantified any "economic" or "environmental" benefits of the 133 MW ROAs that would mitigate the cost of the 250 MW Agreements or the Project and that the ALJ did not cite record evidence on this point. Additionally, no party argued that "contract cancellation costs" should support the Application over the reasonable alternative. LPI contended that the Company's project cost estimates are almost certainly low to begin with because, as noted by the ALJ, "none of the estimates include construction cost inflation" and "none of the cost estimates . . . include financing costs to be incurred during construction," therefore Minnesota Power will likely seek to recover from customers either by capitalizing the financing costs as AFUDC or by

				recovering a current return of the financing costs through CWIP.
300	MP	300. The Administrative Law Judge further recommends the Commission cap Minnesota Power's rider requests at the lesser of: (1) 28.3 percent of the Project's total capital costs; or (2) $201 million (in 2013 dollars), the high end of Minnesota Power's current estimate of the amount customers will pay for the Project.	Yes	MP concurs with Finding 300 and Recommendation #2 of the ALJ Report regarding how a "soft cap" should be implemented. Regarding potential costs above current cost estimates, Minnesota Power would further agree to proactively report any significant changes to the projected total Project cost, both in its annual transmission rider filings and as a compliance filing in this docket.
310	LPI	310. The Commission has consistently approved transmission cost recovery (TCR) filings that provide for "a current return on construction work in progress" (CWIP). ~~To deny Minnesota Power the ability to make such a filing would mark a significant departure from Commission precedent as detailed below.~~	N/R	LPI contends that the ALJ erred in concluding that requiring AFUDC treatment "would mark a significant departure from Commission precedent" because none of the cases cited by the ALJ can be considered relevant precedent for treatment of Project costs in this case. Cited cases from the finding include MP's Petitions for rate adjustment mechanisms under its transmission cost recovery ride in Commission Dockets Numbers E-015/M-07-965 (2007), E-015/M-08-1176 (2008), E-015/M-10-799 (2010) and E-015/M-11-695 (2011).
315	LPI	315. Requiring AFUDC treatment of Project construction costs also has the potential to have adverse impacts on ratepayers although there is insufficient information at this time to draw a definitive conclusion. Providing a current return on CWIP provides customers a lower overall capital cost of approximately $55 million in nominal dollars as compared to recording AFUDCs. Given the timing delay in	N/R	LPI did not identify specific changes to the finding. LPI contents that Mr. Kollen's testimony supporting AFUDC treatment versus allowing a current return on CWIP is unchallenged in the record.

		recovery under these two methods, the lower overall capital costs may not result in a benefit to ratepayers. A number of assumptions would be necessary to draw a conclusion as to the net impact on ratepayers.		Minnesota Power acknowledged that full cost recovery would be achieved under either a current recovery of CWIP or an AFUDC approach. MP and Department witness Mr. Johnson conceded that, on a net present value basis, it is unclear whether ratepayers would pay more under one approach or the other.
316	LPI	316. Requiring AFUDC treatment of construction costs could also create the possibility of "rate shock" to customers once the Project is placed into service.475 Compared to AFUDC treatment, allowing a return on CWIP gradually phases in rate increases rather than creating a one-time rate adjustment for the entirety of the Project.	N/R	LPI did not propose specific changes to this finding and noted that the "rate shock" would have less to do with whether rates increase relative to the operational status of the project than with how the rates are communicated to its customers. LPI maintains that it is in the interest of all ratepayers to defer costs by accruing AFUDC.
317	LPI	317. Requiring AFUDC treatment of Project construction costs would harm Minnesota Power's cash flow, which, in turn, can lower its financial ratings and impose additional costs on ratepayers due to the higher cost of capital. The DOC-DER noted that while these harms are difficult to measure, standard recovery of Project costs through a return on CWIP may bring ratepayer benefits due to Minnesota Power's improved cash flow and stronger financial rating.	N/R	LPI contends that this statement is not supported in the record. LPI contends that Minnesota Power failed to demonstrate that accruing AFUDC would harm ratepayers or the company.
318	LPI	318. The Administrative Law Judge concludes the record in this case fails to demonstrate that requiring AFUDC treatment of Project construction costs will result in more reasonable rates than allowing a current return on CWIP. Therefore, the Administrative Law Judge recommends that the Commission not require AFUDC treatment at this time.	N/R	LPI contends that the ALJ erred in this conclusion because Minnesota Power did not show that any party would be harmed if the Commission required it to accrue AFUDC and LPI has provided a reasoned analysis challenging the appropriateness of current recovery on CWIP.

325	LPI	325. The Administrative Law Judge concludes that neither LPI's original TCR Rider recovery proposal nor its alternative proposal is supported by the record in this case. It would be unreasonable to mandate recovery of Project costs through the TCR Rider, either for the lifetime of the Project or for the next five years, because recovery through base rates may prove to be a more reasonable approach at some point. The Commission should retain the ability to address the issue in future proceedings to ensure that customers do not pay unreasonable rates.	N/R	LPI contends that the ALJ erred in not recommending that approval of the project be conditioned on LPI's recommendations for rider recovery for a minimum of five years after the project has placed in service. This would ensure transparency of the project's cost recovery and obviate inefficiencies and difficulties associated with tracking Minnesota Power's revenue requirement through multiple dockets.
328	LPI	328. In addition, because the issue of cost allocation was not identified in the Notice and Order for Hearing and was not raised until after the intervention deadline, not all customer groups have received a fair opportunity to participate and develop the record on this issue.	N/R	LPI disagrees with the ALJ's finding that "not all customer groups have received a fair opportunity to participate and develop the record on this issue because the Application sets forth a table explicitly estimating rate increases customer classes. LPI believes that all parties that would otherwise intervene in a cost recovery or rate case proceeding are parties to this docket.
329	LPI	329. For these reasons, the Administrative Law Judge concludes that the issue of cost allocation is best left to future cost recovery proceedings where all customer classes are on notice that ratemaking decisions will be made.	N/R	LPI contends that the ALJ erred in concluding that the issue of cost allocation is best left to future cost recovery proceedings because rider recovery filings are not served on all customers. The Commission should condition approval of the Application on the Company's allocation of costs among customer classes based on base revenues, excluding fuel and other riders.

Notes -

Proposed text to be added is indicated in blue underlined text.

Proposed deletion of text is indicated in ~~red stricken text.~~

In addition, Staff's recommended additions are included in green underlined text.

"N/R" indicates that staff has no recommendation on the finding.

For purposes of brevity, only modified footnotes to the findings are included.

Minor irregularities in numbering caused by software editing should be considered de minimis.