

PUBLIC SERVICE COMMISSION OF WISCONSIN

Minutes and Informal Instructions of the Open Meeting of
Tuesday, August 20, 2019

The Public Service Commission of Wisconsin (Commission) met as noticed. Present were Chairperson Valcq, Commissioner Nowak and Commissioner Huebsch.

5-CE-146 - Joint Application of American Transmission Company LLC, ITC Midwest LLC, and Dairyland Power Cooperative, for Authority to Construct and Operate a New 345 kV Transmission Line from the Existing Hickory Creek Substation in Dubuque County, Iowa, to the Existing Cardinal Substation in Dane County, Wisconsin, to be Known as the Cardinal-Hickory Creek Project

The Commission discussed this matter, determined that it was in the public interest to approve the joint application of American Transmission Company LLC (ATC), ITC Midwest LLC (ITC), and Dairyland Power Cooperative (collectively, applicants) to construct and operate the Cardinal-Hickory-Creek Project, and made the following preliminary determinations:

1. The proposed project will satisfy the reasonable needs of the public for an adequate supply of electric energy, and complies with the criteria listed in Wis. Stat. §§ 196.491(3)(d)2. and 196.491(3)(d)5.
2. The proposed project will provide usage, service or increased regional reliability benefits to the wholesale and retail customers or members in this state, and the benefits of the project are reasonable in relation to the cost of the proposed project as provided in Wis. Stat. § 196.49(3)(d)3t..
3. No Energy Priority Law alternatives exist that are cost-effective, technically feasible, and environmentally sound alternatives to the proposed project per Wis. Stat. §§ 1.12(4) and 196.025(1).
4. The proposed project would not have a material adverse impact on competition in the relevant wholesale electric service market under Wis. Stat. § 196.491(3)(d)7.
5. Given the requirements for issuance of a Certificate of Public Convenience and Necessity (CPCN) under Wis. Stat. §§ 1.12.(6), 196.025(1m), and 196.491(3)(d), the Commission authorizes:
 - a. For the Mississippi Routing Area, either the Nelson-Dewey or Stoneman river crossings, though the Commission stated a preference for the Nelson-Dewey crossing:

- ii. The applicants shall allow the Thomases at 826 USH 18, Dodgeville, WI 53533 to choose which offered modified alignment option on Subsegment Q02 to implement.
 - iii. Applicants shall work with appropriate staff of the Wisconsin Department of Natural Resources (DNR) to minimize the impacts of the proposed project on the Military Ridge State Trail.
 - iv. The applicants shall complete a new survey of human burial site IA-0067/BIA-0115 within the final project alignment to map the burial location and determine the presence, nature, and extent of any subsurface archaeological deposits. The results of the survey shall be used to design construction procedures that will avoid and protect the burial and related archaeological deposits. Archaeological monitors shall oversee ground-disturbing construction activities near the site.
 - v. The applicants shall complete new surveys of archaeological sites DA-1083, IA-0418, IA-0438, IA-0503, IA-0504, IA-0506, and the Margaret Peat Homestead within the final project alignment in order to determine boundaries, historic significance, integrity, and potential project effects. The results of the surveys shall be used to design construction procedures that will avoid and protect any site that is potentially eligible for listing in the National Register of Historic Places.
 - vi. The applicants shall assess the potential effects of the project on the National Register of Historic Places property, Thomas Stone Barn. The applicants shall work with the property owner to reduce or avoid any impacts to the property's historic character and use in heritage tourism.
- d. For the Dane County Routing Area, the Black Earth Creek South route:
 - i. The applicants shall remove the existing facilities associated with Line 6927 along Subsegment Y06B, release the existing easement rights associated with these facilities, and reimburse Dane County for the costs to restore the area within the utility right-of-way (ROW) back to its natural landscape in an amount not to exceed five percent more than the estimated costs for restoration set forth in Surrebutal-DC-Marsh-2.
- 6. The Final Decision shall include the following standard conditions included in electric transmission construction orders:
 - a. Specifying the facilities to be built

- b. Requiring notification if the cost of the project exceeds the authorized cost by more than 10 percent
- c. Requiring notification of any substantial change in project scope
- d. Specifying the authorized route
- e. Requiring notice if ownership of the project changes
- f. Requiring that all necessary permits be obtained for a construction spread before work begins on that construction spread
- g. Specifying a process for minor route adjustments
- h. Requiring the applicant to work with landowners and DNR to minimize impacts to wetlands

Commissioner Nowak dissented, in part, on the addition of the DNR to condition h.

- i. Requiring that the applicant provide a geographic information system database of the project as constructed
 - j. Requiring quarterly construction progress reports;
 - k. Requiring reporting of actual costs
 - l. Specifying the period during which the authorization is valid
 - m. Specifying a process to extend the period during which the authorization is valid
 - n. Specifying the date that the final decision takes effect
 - o. The applicants shall work with the applicable distribution utility to test for stray voltage at each agricultural confined animal operation along the approved route, prior to construction and after the project is energized. The applicants shall work with the distribution utility and farm owner to rectify any identified stray voltage problem arising from the construction or operation of the project. Prior to testing, the applicants shall work with the applicable distribution utility and commission staff to determine where and how they will conduct the stray voltage measurements. The applicants shall report the results of their testing to commission staff and,
 - p. Retaining jurisdiction
7. The same person shall be retained to serve the role of Independent Environmental Monitor (IEM) and Independent Agricultural Monitor (IAM) with stop work authority only when acting in the role of the IEM. The IEM/IAM would be independent of the applicants and their contractors, and shall report to the Commission.

Chairperson Valcq dissented and would have required separate IEM and IAMs with stop work authority for both.

8. The applicants shall develop and submit construction and mitigation plans (CMPs) on a segment-by-segment basis for the Commission staff's review to ensure all the requirements in the final decision are addressed sufficiently in each plan. At least 45 days prior to commencement of construction, ATC and ITC shall file their CMPs using the Commission's Electronic Record Filing System. ATC and ITC shall also include all updates to their CMPs with their quarterly construction plans. The CMP shall address

environmental and agricultural issues identified in this docket and include, at a minimum, roles and responsibilities of the IEM/IAM, a revegetation/restoration plan, an invasive species management plan, a sediment and erosion control plan, a wetland and waterway mitigation plan, a final sequencing and scheduling plan, and a post-construction monitoring plan.

9. The following additional conditions related to the construction activities and associated best management practices (BMPs) shall be included:
 - a. The applicants shall install and maintain proper erosion controls during construction to minimize run-off of topsoil and disturbances to natural areas.
 - b. The applicants shall use wide-track vehicles and matting to reduce soil compaction and rutting in sensitive soils and natural areas.
 - c. The applicants' revegetation plan shall include monitoring of the ROW for the presence of new or spreading invasive species for at least three growing seasons with results submitted to Commission staff annually.
 - d. The applicants shall conduct field surveys prior to construction to identify the locations and extent of invasive plant species on the approved route. These surveys shall be used to develop access plans and construction schedules that avoid the spread or introduction of invasive species.
 - e. The applicants shall follow BMPs from the DNR and Wisconsin Council on Forestry to comply with Wis. Admin. Code ch. NR 40 and prevent the introduction and spread of invasive species in the project area.
 - f. The applicants shall implement all necessary mitigation methods when working in and adjacent to waterways, including when working on slopes leading to waterways, to minimize the impacts of the project to waterways.
 - g. The applicants shall implement all necessary mitigation methods when working in and adjacent to wetlands, including when working on slopes leading to wetlands, to minimize the impacts of the project to wetlands.

10. Where the proposed project is double or triple circuited with an existing transmission line(s), the existing easement rights and ROW must be used for purposes of locating the new transmission line to the greatest extent practicable. In no segment of the approved route where the proposed transmission line is to be double or triple circuited with an existing transmission line(s) shall the combined width of existing and new ROW exceed 150 feet unless the applicants request and receive approval to exceed this width through the minor routing adjustment process provided herein. In those segments where the proposed project is built in single circuit configuration adjacent to existing transmission line corridors owned by applicants, the existing easement rights and right-of-way (ROW) must be used for purposes of locating the new transmission line to the greatest extent practicable to locate the new 345kv line as close to existing infrastructure as allowed under applicable law and operational standards, and to minimize the need to acquire additional ROW to the greatest extent practicable.

11. The following additional conditions related to avian impacts shall be included:

- a. The applicants shall work with DNR, Commission staff, and other applicable partners to create a project specific Avian Protection Plan that would include project specific bird mitigation strategies (i.e. reducing tower height, horizontal wire arrangement, and bird diverters) and consider pre- and post-construction surveys/studies.

Commissioner Nowak dissented, in part, on the inclusion of post-construction surveys/studies.

- b. The applicants shall work with DNR and Commission staff on the location along any approve route that should include the installation of bird diverters to minimize bird collisions.

Chairperson Valcq dissented, in part, and would have required additional conditions relating to the Avian Protection Plan.

12. The following additional conditions relating to agricultural resources shall be included:

- a. The applicants shall decompact soils in agricultural areas to allow soil structure to redevelop and reduce impacts to crop yields.
- b. Significant rutting shall be defined in environmental documents as ruts of 6 inches or greater. If project construction causes significant ruts in cropland or pasture, the applicants shall repair the ruts as soon as practicable.
- c. The applicants shall avoid or mitigate impacts to agricultural erosion controls and water management practices and facilities in farmland.
- d. The applicants shall keep renters of agricultural land, if known, as well as farm owners affected by the project up-to-date and informed of construction schedules and potential impacts so that farm activities can be adjusted accordingly.
- e. The applicants shall train and document appropriate construction procedures for lands with organic practices.
- f. The applicants shall work with landowners with agricultural buildings located within the approved ROW to minimize and mitigate impacts to farming operations.
- g. The applicants shall work with landowners with properties enrolled in tax incentive programs so as to minimize the impacts to their participation in the program and compensate them for any reduction in payments because of the project.
- h. The applicants shall work with the county drainage boards to minimize impacts to properties within drainage districts.

- i. If project construction activities during the growing season create inaccessible cropland or cropland that is too small or irregularly-shaped to be farmed, the applicants shall properly compensate the property owners for the temporary loss of the use of the land.
- j. Many of the proposed routes include double-circuiting an existing lower-voltage line onto the new poles with the new 345 kV line. This will require the removal or “wrecking out” of the existing structure. During the process of removing these poles, top soil can be mixed with poorer quality subsoils, topsoil can be lost, and compaction can occur to a greater extent than during typical construction techniques. Construction personnel shall be trained on the proper protection of agricultural fields and soils during the removal of existing poles (i.e. “wrecking out”) and a project-specific wreck out procedure document shall be included with the construction and mitigation plan(s). The applicants shall follow the procedure from a previous 345 kV ATC project.
- k. The applicants shall consult with affected landowners to determine the least damaging locations for transmission structures and off-ROW access roads.
- l. The applicants shall undertake post-construction monitoring to ensure that any damage to agricultural fields or operations from construction activities has been repaired or mitigated. Where construction activities have caused damage to agricultural fields or operations, the applicants shall work with landowners to address the problems as soon as practicable. Problems could involve construction debris, erosion control devices, altered or damaged fencing, altered field drainage, settled areas, or newly wet areas. This post-construction monitoring could be within the scope of work for the IEM/IAM and/or included in the construction and mitigation plan(s).

13. The following additional conditions related to endangered species shall be included:

- a. The applicants shall work with DNR and Commission staff to implement all of the actions listed in the Endangered Resources review for the Cardinal-Hickory Creek project, including recommended actions, to the extent practicable and feasible.
- b. The applicants shall work with the DNR Natural Heritage Conservation program prior to the commencement of construction to develop plans for additional surveys in areas where rare species information is lacking, particularly within and adjacent to Important Bird Areas and Conservation Opportunity Areas.

Chairperson Valcq dissented, in part, and would have included additional conditions relating to updating the endangered resources review.

14. The following additional conditions related to landowner rights and community impacts shall be included:

- a. The applicants shall work with landowners to develop mitigation strategies that optimize minimization of impacts to residences and property to the extent practicable.
- b. Depending on the route selected, the applicants shall consult with Alliant Energy, the DNR, the Prairie Enthusiasts, the Nature Conservancy, the Driftless Area Land Conservancy and any other landowners that have established/managed prairies to determine appropriate measures to avoid or minimize impacts during construction and ongoing management. The applicants shall document the results of this consultation to the Commission.

Chairperson Valcq dissented, in part, and would have required additional conditions relating to other mitigation strategies identified in the Final Environmental Impact Statement.

15. The following additional conditions related to seed mixes shall be included:

- a. The applicants shall implement pollinator-enhanced seed mixes in grassland areas to the greatest extent practicable. The applicants should work with DNR and Commission staff when determining where and when to use these seed mixes, and the contents of the mixes.
- b. In upland areas that are not agricultural crops, or road ROW, the applicants shall use a seed mix comprised of native grasses and forbs to minimize the spread of non-native plants and maintain species diversity. Pollinator-enhanced seed mixes should be considered in these areas. The applicants should work with DNR and Commission staff when determining where and when to use these seed mixes, and the contents of the mixes.
- c. In areas subject to DNR permitting, the applicants shall use a DNR approved seed mix.
- d. The applicants shall revegetate ROW with appropriate seed mixes, include native species to the greatest extent practicable, and select plant species with season-long sources of pollen and/or nectar to ROWs for declining pollinator species.

16. The applicants shall allow compatible tree and shrub species to grow within an approved ROW, particularly along the edge of existing forests or natural areas.

Commissioner Nowak dissented.

17. The Commission declines to include a condition addressing applicants use of eminent domain, and instead as part of the issuance of the Certificate for this project authorize the applicants to acquire all necessary property rights and interests necessary to construct and operate the project as approved in the Final Decision.

18. The proposed project complies with Wis. Stat. § 196.491(3)(d)6 and does not unreasonably interfere with the orderly land use and development for the areas involved.
19. The Commission has complied with the Wisconsin Environmental Policy Act pursuant to Wis. Stat. § 1.11 and Wis. Admin. Code ch. PSC 4. The proposed project will not have undue adverse impact on other environmental values as defined in Wis. Stat. § 196.491(3)(d)4.
20. The applicants' estimate the cost of the proposed project to be from \$474 million to \$560 million depending on the route selected. These costs include substation costs, distribution line relocation cost, and allowance for funds used during construction (AFUDC), but do not include changes resulting from the Commission's routing decisions.
21. The Commission accepts the applicants proposed basis for determining the annual fee and one-time environmental impact fee associated with the proposed project pursuant to Wis. Stat. § 196.491(3g).
22. The applicants shall be granted a CPCN for the proposed project, subject to conditions.

The Commission directed the Division of Energy Regulation and Analysis to draft an order in this docket, consistent with its discussion. The order shall be returned to the Commission for final review and approval.

The Commission adjourned the meeting at 1:47 p.m.



Steffany Powell Coker
Secretary to the Commission