

Biennial Report to the Legislature on the Minnesota Power Plant Siting Act - Minn. Stat. § 216E

January 15, 2013

Minnesota Public Utilities Commission

Beverly Jones Heydinger, Chair

Phyllis Reha, Vice Chair

David C. Boyd, Commissioner

J. Dennis O'Brien, Commissioner

Betsy Wergin, Commissioner

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Reporting Mandate

216E.18 BIENNIAL REPORT; APPLICATION FEES; APPROPRIATION; FUNDING.

Subdivision 1. **Biennial report.** Before November 15 of each even-numbered year the commission shall prepare and submit to the legislature a report of its operations, activities, findings, and recommendations concerning this chapter. The report shall also contain information on the commission's biennial expenditures, its proposed budget for the following biennium, and the amounts paid in permit application fees and in assessments pursuant to this section. The proposed budget for the following biennium shall be subject to legislative review.

Focus of this Report

This report specifically addresses the Public Utilities Commission's (Commission) responsibilities for the siting and routing of large electric energy facilities.

In 1973 the Minnesota Legislature passed the Power Plant Siting Act. Laws of Minnesota, 1973, Chapter 591, codified at Minnesota Statutes sections 116C.51 – 116C.69, and recodified as 216E in 2005. The Power Plant Siting Act requires that any person who wants to build a Large Electric Power Generating plant (LEPGP) or a High Voltage Transmission Line (HVTL), as those terms are defined in the Act, is required to obtain state approval for a specific site for the plant or a specific route for the transmission line.

The Siting and Routing Permits jurisdiction was transferred by 2005 legislation (Laws of Minnesota, 2005, Chapter 97) from the Minnesota Environmental Quality Board (MEQB) to the Commission. The 2005 legislation also transferred jurisdiction for wind farm siting (216F) and pipeline siting (216G) from the MEQB to the Commission. These separate energy related jurisdictions had been administered in conjunction with the power plant siting and transmission line routing jurisdiction under a single program at the MEQB, labeled the Power Plant Siting Program.

The transfer of the siting and routing jurisdiction to the Commission was made to enhance administrative efficiency. Previously, the determination on whether the energy facility was 'needed' was made by the Commission and the determination on 'where' the facility should be located was determined by the MEQB. The transfer consolidated the multiple permitting and planning requirements for large energy facilities into a single regulatory agency. The previous Commission/MEQB split decision-making authority caused confusion among the public and often led to significant delays. Additionally, enabling the two separate processes to develop in parallel was intended to achieve time and cost efficiencies. Consolidation benefits have arisen from the Commission's jurisdiction of electric generation resource planning (Minn. Stat. § 216B.2422) and electric transmission planning (Minn. Stat. § 216B.2425), in which environmental and locational factors can be considered jointly.

Reporting Agency Unit – Commission Energy Facilities Permitting

The Commission's Energy Facilities staff manages state oversight of proposals to construct or modify large energy facilities in Minnesota, which include fossil fuel electric generation units, transmission lines, wind power generation plants, and gas and petroleum facilities. The Commission's jurisdiction encompasses Certificate of Need as well as Site or Route Permits. Applications for projects subject to the Commission's jurisdiction are electronically filed with the Commission in compliance with state statutes and administrative rules. Joint processing of applications for a Certificate of Need and a Site or Route Permit is allowed. The Commission's procedures for review of proposed large energy facilities incorporate compliance with the Minnesota Environmental Policy Act and provide for broad spectrum public participation, including timely public notice and multiple opportunities for public comment. The Commission's decisions preempt local jurisdictional authority. In addition to the review of requested permits for large energy projects, the Public Utilities Commission has specific jurisdiction related to electric transmission planning.

Agency Organization - Commission and the Department of Commerce Energy Facility Permitting Unit

At the same time the Power Plant Siting Act jurisdiction was transferred to the Commission (in 2005), the staff supporting the Power Plant Siting Program at the MEQB were moved to the Division of Energy Resources (DER)¹ within the Minnesota Department of Commerce. See Minn. Stat. § 216E.03, subd. 11. This staff, the Energy Facilities Permitting unit (EFP), is directly administered by the Director of the DER. The EFP unit assists in compiling the Commission's record and commenting on Commission decisions regarding permit applications. The DOC staff typically retains 10 full time employees, however 3 positions are open at this time. Certain environmental review procedures are the exclusive jurisdiction of the DOC.

To facilitate this unique dual-agency arrangement, the Commission was granted authority to retain Energy Facility Permitting staff to ensure proper administrative processing of record development and decisions, coordinate with the DOC EFP unit, provide public information and assistance and advise the Commissioners prior to decisions. Additionally, defense of its decisions on appeal to the judicial branch remains a Commission responsibility. Commission costs to administer its actions on siting/routing dockets are recovered from fees charged to applicants. Currently the Commission has the equivalent of 2.5 full time employees that support this program.

¹ Previously known as the Department of Commerce, Office of Energy Security.

Program Overview

The DOC EFP unit independently manages application fees and the direct assessment, and has provided the following information upon request: **Biennial Expenditures**

Expenditures for permitting operations and activities:

Expenditure Type	FY 2011	FY 2012	Total
“Necessary and Reasonable Costs” Incurred by Permitting	\$1,720,282	\$866,552	\$2,568,834
Activity and Program Costs	\$729,770	\$863,193	\$1,592,963
TOTAL	\$2,432,052	\$1,729,745	\$4,161,797

“Necessary and reasonable costs” must be paid by applicants to cover costs incurred by the Commission and the permitting staff at DOC in acting on a permit application (for power plants and transmission lines, Minn. Stat. § 216E.18, Subd. 2, Subd. 3, Minn. Rules 7850.1800; for wind farms, Minn. Stat. § 216F.05, Minn. Rules 7854.1500; for pipelines, Minn. Stat. § 216G.02, Subd. 3, Minn. Rules 7852.4000).

Activity and program costs are paid by an assessment against applicants as authorized by Minn. Stat. § 216E.18, Subd. 4.

Proposed Budget and Assessment

It is anticipated that fiscal year 2013 will be similar to fiscal year 2012, with the exception that several large projects will most likely begin in calendar year 2013. At least two of the expected projects will likely require an environmental impact statement which may require use of external consultants, as is typical practice for proceedings of this nature.

Public Information and Participation

The ‘on-the-ground’ consequences of the state’s policies establishing the public interest in the construction of needed large energy facilities can affect many landowners, communities, governmental agencies and other entities. The Power Plant Siting Act emphasizes a principle of broad spectrum public participation. The Commission, and the DOC EFP unit, manage the Commission’s siting/routing programs with a strong emphasis on this principle. While the two agencies continue to provide substantial notice via regular mail, web-based information on the Commission and Department websites contains useful public guidance, and is continually



updated. The Commission website is currently undergoing a major revision which will be completed in 2013. See <http://www.puc.state.mn.us/puc/energyfacilities/siting-routing/index.html> or <http://energyfacilities.puc.state.mn.us/>.

In 2012, the Commission added a Public Advisor position to enhance the public's ability to effectively participate in Commission proceedings, particularly those involving facilities permitting. In addition, the Commission has authorized the DOC EFP unit to appoint project specific advisory task forces that include affected area residents and officials to assist in the review of a proposed facility when necessary.

The Power Plant Siting Act also requires the Commission to hold an annual hearing to advise the public of matters relating to the siting of large electric power generating plants and routing of high voltage transmission lines and to afford interested persons an opportunity to be heard regarding any aspects of the Commission's activities, duties or policies. Summary reports of hearings for the calendar years of 2010 and 2011 are available via the Commission's eDockets system in Dockets 10-222 and 11-324. The 2012 Annual Hearing (Dkt. No. 12-360) was held on December 21, 2012 and a summary report of that meeting will be forthcoming.

Operations and Activities in Biennium

Operations: Permits Processed

The following table shows the number and type of projects permitted or amended for fiscal years 2011 and 2012:

Energy Facility	FY 2011	FY 2012	FY 2011 - 2012
Power Plants	0	0	0
Transmission Lines	8	8	16
Pipelines	0	0	0
Wind Farms	6	6	12
Transmission Line Amendments and Minor Alterations	4	9	13
Wind Permit Amendments	3	5	8
TOTAL	21	28	49



A list of projects permitted in 2012 (through current) is provided below.

January 2012 – Mid-December 2012

Docket Number	Project Name	Project Description	Commission Decision and Date of Order
Permitted Transmission Line Projects			
10-134	Prairie Rose 115 kV Transmission Line (Prairie Rose Transmission, LLC)	Construction of an approximately 7 mile, 115 kV transmission line in Rock County from the Prairie Rose Wind Farm substation to the Minnesota- South Dakota border where the line continues for a total of approximately 30 miles. Environmental Assessment released in 2011.	Route Permit Issued January 13, 2012
09-38	Hiawatha 115kV Transmission Line (Xcel)	Construction of an approximately 1.5 mile, 115 kV underground transmission line and two substations in Hennepin County from the Hiawatha West substation to the Midtown North substation. Environmental Impact Statement filed in 2010. Environmental Report released in 2011.	Route Permit Issued February 10, 2012
10-1307	Savanna 115 kV Transmission Line (Great River Energy and Minnesota Power)	Construction of a new 115 kV transmission line in St. Louis and Carlton Counties between the new Savanna switching station and the Cedar Valley switching station; new 115 kV line between the Savanna switching station and the Cromwell substation; and upgraded 69 kV line between the Gowan substation and the Cromwell substation. Total of approximately 37 miles of new and upgraded transmission line. Environmental Assessment released in 2011.	Route Permit Issued March 7, 2012
11-318	Little Falls 115 kV Transmission Line (Great River Energy and Minnesota Power)	Construction of approximately 3.8 miles of 115 kV transmission line in Morrison County between the Minnesota Power Little Falls substation and the Crow Wing Power Little Falls substation. Environmental Assessment released in 2012.	Route Permit Issued March 26, 2012
11-223	Orono Substation Expansion and New 115 kV Transmission Line (Xcel)	Construction of approximately 0.6 miles of 115 kV transmission line in Hennepin County and replacement of existing Orono substation. Environmental Assessment released in 2011.	Route Permit Issued April 6, 2012
09-1448	Hampton to Rochester to La Crosse 345 kV and 161 kV Transmission Line (Xcel)	Construction of approximately 80 miles of 345 kV transmission line, approximately 15 miles of 161 kV transmission line and new North Rochester Substation in Dakota,	Route Permit Issued May 30, 2012



		Goodhue and Olmsted Counties. Environmental Impact Statement filed in 2011. Environmental Report released in 2008.	
11-915	Enterprise Park to Crooked Lake 115 kV Transmission Line (Great River Energy)	Construction of approximately 5.8 miles of 115 kV transmission line in Anoka County from the Enterprise Park substation to the Crooked Lake Substation. Environmental Assessment released in 2012.	Route Permit Issued August 24, 2012
11-867	Parkers Prairie 115 kV Transmission Line (Great River Energy)	Construction of approximately 2.1 miles of 115 kV transmission line in Otter Tail County from the Parkers Prairie substation to a connection with Great River Energy's existing Inman to Alexandria line. Environmental Assessment released in 2012.	Route Permit Issued August 28, 2012
11-800	North Rochester to Chester 161 kV Transmission Line (Xcel)	Construction of approximately 29 miles of 161 kV transmission line in Goodhue and Olmsted Counties. Environmental Assessment released in 2012.	Route Permit Issued September 12, 2012
Transmission Line Route Permit Amendments and Minor Alterations			
09-1056	Fargo to St. Cloud 345 kV Transmission Line (Xcel and GRE)	Request for 10 minor changes to the approved route (January 2012); request for a minor route alteration and a route adjustment to relocate the line outside the designated route (April 2012).	Approved, January 9, 2012 April 12, 2012
08-712	Southdale to Searcyville 115 kV Transmission Line (GRE and Minnesota Power)	Request for 2 minor changes to the approved route.	Approved, February 2, 2012
08-1474	Brookings to Hampton 345 kV Transmission Line (GRE and Xcel)	Request for 3 changes to clarify the provisions of the route permit and to authorize additional conductors at the crossing of Interstate 35 (February 2012); request for 4 minor changes to the approved route (July 2012); request for a minor change to use specialty structures (September 2012); and request for a minor change to the approved route (October 2012).	Approved, February 29, 2012 July 10, 2012 September 10, 2012 October 15, 2012
12-898	ITC Midwest Heron Lake to Lakefield Junction 161 kV Transmission Line Reroute and Rebuild (ITC Midwest)	Request for a minor change to rebuild the Heron Lake to Lakefield Junction 161 kV transmission line.	Approved, October 10, 2012



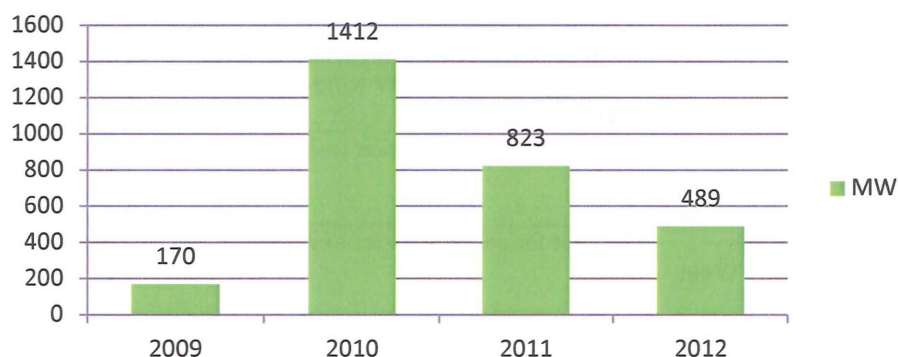
Permitted Wind Projects			
10-438	Prairie Wind Energy Project (Prairie Wind Energy, LLC)	A 100 MW wind project in Otter Tail County. Environmental Report filed in 2011.	Site Permit Issued March 19, 2012
11-863	CWS Wind Farm Project (CWS Wind Farm, LLC)	A 30.75 MW wind project in Nobles County. Separate environmental review document not required.	Site Permit Issued May 1, 2012
10-1240	Black Oak Wind Farm (Black Oak Wind, LLC)	A 42 MW wind project in Stearns County. Environmental Report released in 2012 (combined with Getty Wind).	Pending Order
11-831	Getty Wind Project (Getty Wind Company, LLC)	A 40 MW Wind Project in Stearns County. Environmental Report released in 2012 (combined with Getty Wind).	Pending Order
Wind Site Permit Amendments and Transfers with Conditions			
09-830	West Stevens Wind Project (West Stevens Wind, LLC)	Request to extend the timeframe for obtaining a power purchase agreement and to begin construction of a 20 MW wind project in Stevens County.	Approved, February 29, 2012
05-1220	Jeffers Wind 20 Project (Jeffers Wind 20, LLC)	Request for permit transfer to Jeffers Wind 20, LLC.	Approved, May 10, 2012
11-863	CWS Wind Farm Project (Zephyr Wind, LLC)	Request for permit transfer to Zephyr Wind, LLC.	Approved, July 18, 2012
09-360	Morgan Wind Farm (Morgan Wind Acquisition Group, LLC)	Request to extend the timeframe for obtaining a power purchase agreement and to begin construction of a 31.5 MW wind project in Redwood and Brown Counties.	Approved, July 26, 2012

Operations: Total Permitted Wind Capacity

For general information, the table and chart below show the total megawatts permitted of wind energy. Minnesota's current installed wind generation capacity is approximately 2,717 MW.²

	FY 2011	FY 2012	FY 2011 - 2012
Permitted Wind Generation Capacity, Megawatts (MW)	823	489	1,312

Permitted Wind Generation Capacity (MW)
FY 2009 - 2012



Activities

Five major areas of program activity over the past biennium are noteworthy for the resources expended:

- 1) **Wind Farm Siting.** The number of wind farms (large wind energy conversion systems, LWECS) permitted by the Commission has steadily declined, both in number of projects and generation capacity. The number of permit amendments and compliance filings has increased significantly. Areas of work related to wind farms include:
 - Collaborating with the Department of Commerce and Department of Natural Resources staff to determine next steps in bird and bat monitoring for wind farms.
 - Approval and use of updated wind site permit conditions, which is on-going.
 - Compilation of wind site data.
- 2) **Transmission Line Routing.** Staff is wrapping up the permitting of several large transmission projects, including the CapX 2020 Phase I transmission lines: Brookings to Hampton; St. Cloud to Monticello; Fargo to St. Cloud and Hampton to Rochester to

² U.S. Department of Energy, Installed Wind Capacity by State,
http://www.windpoweringamerica.gov/wind_installed_capacity.asp



LaCrosse. There has been a significant increase in the number of shorter and lower voltage transmission lines as well as minor alterations and amendment to permits already issued.

- 3) **Public Participation.** The Commission has implemented several new efforts to aid public participation in the permitting process:
 - The Commission has made improvements to its website to allow for better and direct commenting functions by the public. In addition, the Commission is currently implementing major changes to its website.
 - The Commission has clarified the permitting process and relationship with the DOC EFP staff to provide more transparency to the public about the Commission.
 - The Commission has added a full-time Public Advisor in its Consumer Affairs Unit to further aid public participation and communication in all Commission proceedings.
 - The Commission has implemented changes to its Notice format for clarity and uniformity.
- 4) **Rulemaking.** The Commission has initiated the process of rulemaking to amend provisions of Minn. Rules Chapters 7849 and 7850 by issuing a notice soliciting comment on ideas for improving the rules prior to issuing a draft set of rules.
- 5) **Memorandum of Understanding with the Department of Commerce.** The Commission has drafted a Memorandum of Understanding with the Department of Commerce to better refine and delineate roles of each agency. While the document has not yet been countersigned by the DOC, the Commission anticipates resolution shortly.

Administrative Rules

The Commission's siting/routing rules are in Minn. Rules Chapter 7850. The Commission has initiated a rulemaking and intends to review and propose amendments to these rules, and to the certificate of need rules in Minn. Rules Chapter 7849, in the next biennium. The purpose of these amendments would be to, among other things, obtain greater clarity, eliminate obsolete provisions, and strive for better coordination within and between these Chapters. Another part of this effort will be an evaluation of the two other authorities that were transferred to the Commission from the MEQB in 2005; i.e., the Wind Energy Conversion Systems Siting authority (Minn. Rules Chapter 7854) and the Pipeline Siting authority (Minn. Rules Chapter 7852).

Conclusions

Based on its administrative and procedural experience with the provisions of the Power Plant Siting Act, and the separate but corollary wind farm and pipeline siting acts, the Commission observes that the basic procedural model for the Power Plant Siting Act is sound, relevant and in the public interest. The Commission continues to make adjustments to its institutional procedures that support and improve compliance. However, the continuing dual agency role with the DOC EFP staff administering portions of the Commission's responsibilities has inherent challenges



and continues to be an area where the Commission is seeking improvements. As noted, the Commission has developed a Memorandum of Understanding (MOU) to clarify the DOC EFP staff role in acting on behalf of the Commission. The DOC EFP has provided very capable service to the Commission, but it is the Commission's continuing view that the staffing of this responsibility would better conform to the Commission's institutional operations if DOC EFP staff were moved to the Commission or operated as a Party in Commission proceedings.

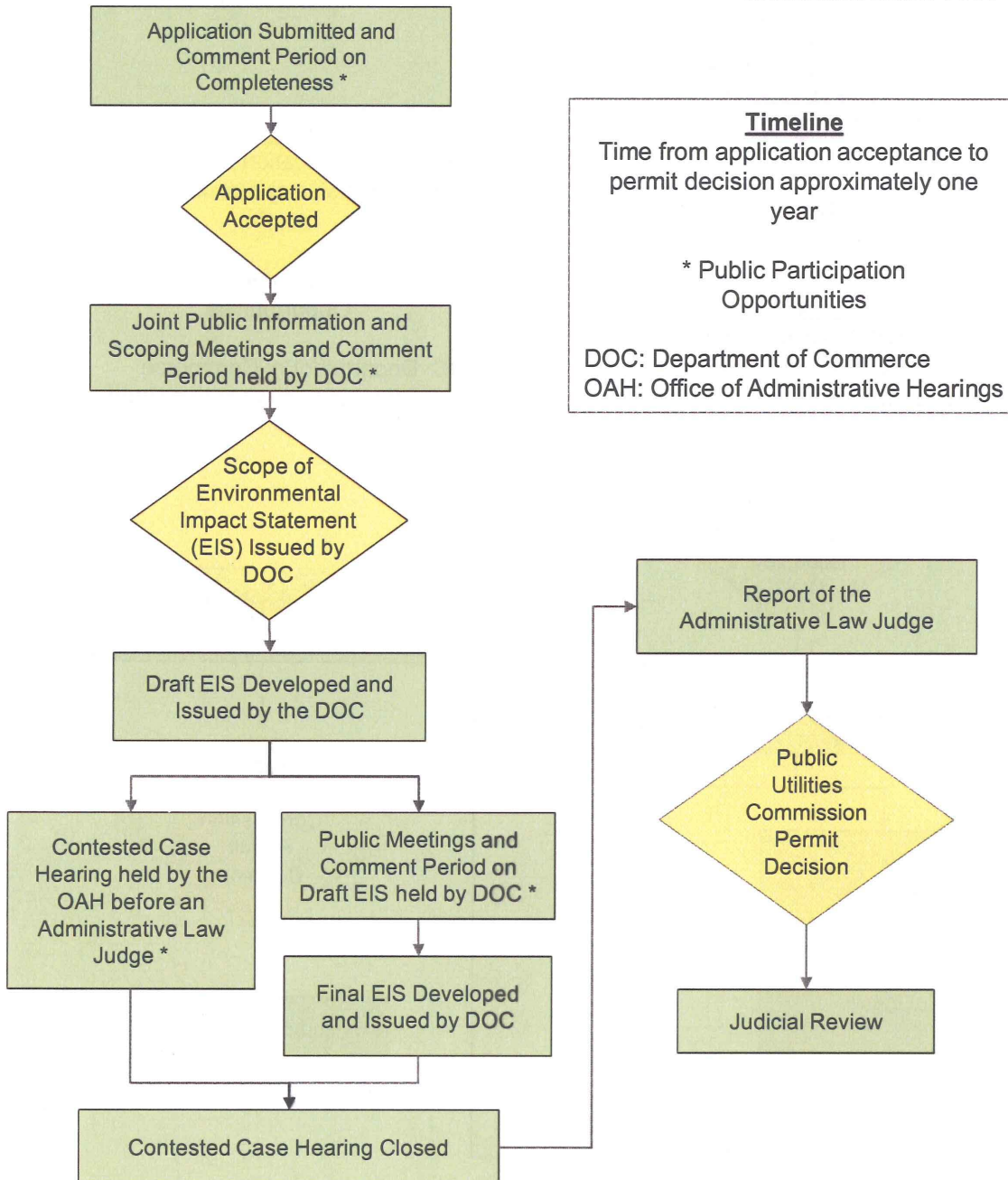
The siting/routing of large energy facilities can engender significant controversy. The Commission observes that, while not assured, public perception often recognizes the legitimacy of the state's policy and prescriptions matters. Nonetheless, while not achieved in every instance, the Commission is gratified that, for the most part, the public recognizes and values the State's policy and regulatory efforts in these cases. The credibility of the Commission's role and actions are critical in its management of sometimes controversial projects. Transparency in the regulatory review process is essential in establishing public trust in the Commission's decision-making and in maintaining the credibility in the overall review process. In addition, it is important to maintain a high degree of professionalism and experience to support this program.



STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

HVTL Routing and Power Plant Siting
Full Permitting Process

Minnesota Statute 216E
Minnesota Rules 7850



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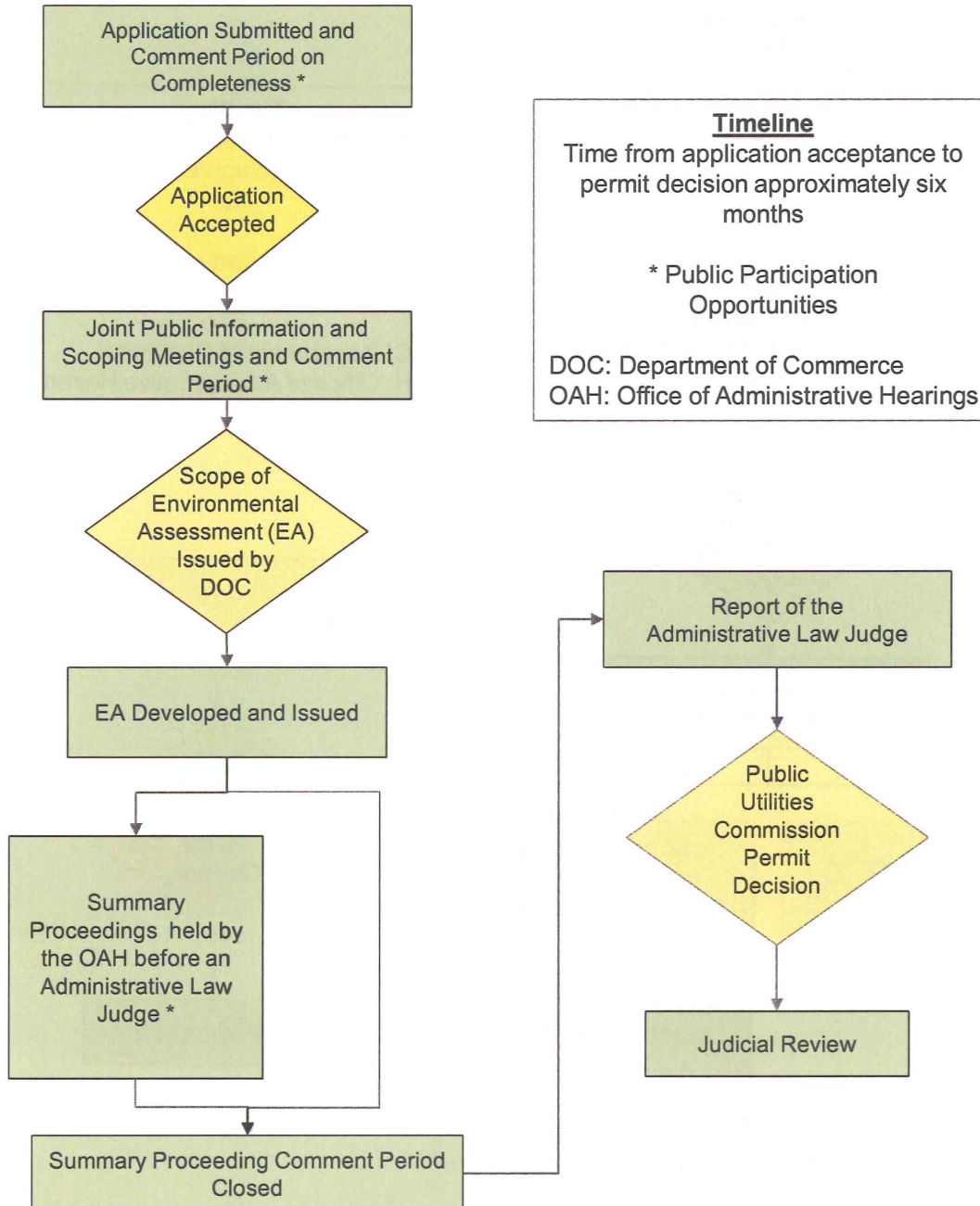
Attachment 2



STATE OF MINNESOTA
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HVTL Routing and Power Plant Siting
Alternative Permitting Process

Minnesota Statute 216E
Minnesota Rules 7850



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