



Request for City Council Committee Action From the Department of Public Works

Date: March 25, 2008

To: Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee

Subject: **CenterPoint Energy Resources Corp. vs City of Minneapolis. Condemnation of City Easements**

Recommendation:
Approve the execution of an agreement that defines City easement rights.

Previous Directives:
None

Prepared by: Don Elwood, P.E., Director of Transportation Planning and Engineering Services
Dennis Morris, Right of Way Section Supervisor

Approved by:

Steven A. Kotke, P.E., City Engineer, Director of Public Works

Presenters: Dennis Morris, Right of Way Supervisor, 673-3607
Corey Conover, Assistant City Attorney

Reviews

Permanent Review Committee (PRC):	Approval	NA	Date
Civil Rights Affirmative Action Plan	Approval	NA	Date
Policy Review Group (PRG):	Approval	NA	Date

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget (If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Business Plan: Action is within the plan. Action requires a change to plan.
- Other financial impact (Explain):
- Request provided to department's Finance Dept. contact when provided to the Committee Coordinator

Community Impact

Neighborhood Notification:
City Goals:
Comprehensive Plan:
Zoning Code:

Background/Supporting Information.

CenterPoint Energy Company is building a new 20 inch high pressure gas pipeline from Andover, Minnesota to the Riverside Power Plant in Minneapolis. This pipeline is being built as a part of the conversion of the Riverside Power Plant from coal to gas. The City advocated for this conversion and was a party to an agreement in front of the Minnesota Public Utilities Commission as a part of the “Minnesota Emissions Reduction Project” (MERP).

As this new gas pipeline makes its way from Andover to the Riverside Plant it is going to cross or be in close proximity to a variety of other public infrastructure including public infrastructure of the City of Minneapolis. This includes water and sewer lines. To provide easements for this line, CenterPoint Energy commenced a condemnation action in the district courts for Anoka County and Hennepin County. The City of Minneapolis was named a defendant in these condemnation actions as to one parcel in Anoka County and one parcel in Hennepin County in which the City was believed to have easements on private property.

While the City does not agree that CenterPoint Energy can condemn public easements as a part of the project, it did become clear that we needed to enter into a written protocol agreement to make it clear the process that we would use to accommodate the interests of the various utilities as this new line is built. The draft agreement we have reached with CenterPoint Energy is largely the same as the agreement that they reached with the Metropolitan Council regarding the easements and infrastructure for the Metropolitan Council sewer system. We have a pre-existing franchise agreement with CenterPoint Energy through its predecessor, Minnegasco that allows CenterPoint Energy use of the City streets and easements pursuant to the provisions of the franchise and pursuant to ordinances establishing the procedure for determining the location of CenterPoint Energy’s facilities in rights-of-way and easements.

The proposed agreement explicitly approves the proposed routing of the pipeline through four specific easements on private property as set out in paragraph 2 of the Agreement. The routing of the pipeline has been previously approved by the Minnesota Public Utilities Commission. The Agreement also sets out a general mutual consent to encroachment and provides that between two easements the prior easement shall have the paramount right to exercise their rights under the easement and that the subsequent or subordinate easement has to give way to the prior easement. The Agreement provides that the consent granted in the Agreement shall be perpetual and shall constitute a covenant “running with the land.”

RECOMMENDATION:

Staff recommends that the appropriate City officials be authorized to execute an Agreement with CenterPoint Energy regarding the route of their new gas line running from Andover, Minnesota to the Riverside Power Plant in Minneapolis and setting forth the protocol for handling the respective easement interests of the City and CenterPoint Energy.