

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Otter Tail Power Company/Northern States
Power Company
230 Kv Transmission Line/ Pierce, Rolette
Counties
Application

Case No. PU-2280-00-200

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

December 29, 2000

Appearances

Commissioners Bruce Hagen, Susan E. Wefald and Leo M. Reinbold.

Allen C. Hoberg, Director, Office of Administrative Hearings, 1717 North 9th Street, Bismarck, North Dakota, 58501-1882, as hearing examiner.

Bruce Gerhardson, Associate General Counsel, Otter Tail Power Company, 215 South Cascade Street, Fergus Falls, Minnesota 56537, on behalf of Otter Tail Power Company.

Jerry K. Rocheleau, 7400 35th Avenue Northeast, Rugby, North Dakota 58368, landowner and intervenor.

William W. Binek, Chief Counsel, Public Service Commission, State Capitol, 12th Floor, Bismarck, North Dakota 58505-0480, on behalf of the Public Service Commission.

Preliminary Statement

On April 26, 2000, Otter Tail Power Company (OTP), 215 South Cascade Street, Fergus Falls, Minnesota 56537, filed a letter with the Commission, indicating its intent to construct a new 230 kV transmission facility from Rugby, North Dakota, to the Canadian border north of Rolla, North Dakota, and indicated its intent to request a waiver of the required one-year waiting period for filing an application.

On May 11, 2000, the Commission assessed a filing fee of \$65,000 due upon filing of the siting application for the proposed electric transmission line.

On September 11, 2000, OTP and Northern States Power Company (NSP) filed an application for a Certificate of Corridor Compatibility and a Route Permit, and

\$65,000 filing fee, for the construction of approximately 53 miles of 230,000 volt (230 kV) three-phase alternating current electric transmission line from Rugby, North Dakota, to the Canadian border, north of Rolla, North Dakota. The proposed corridor and route is in Pierce and Rolette Counties. (Hereafter, OTP and NSP are jointly referred to as "Project Partners.")

In the application, the Project Partners request that the Commission waive procedures to allow for combining filing of applications for a Corridor Certificate and a Route Permit, to hold a single consolidated hearing on the waiver request and applications for Corridor Certificate and Route Permit, and to waive the requirement for mylar maps. More specifically, the Project Partners request the Commission: (1) waive the provisions of N.D.C.C. §49-22-13(2), and N.D. Admin. Code §69-06-01-02(3) insofar as they require separate public hearings on waiver requests; (2) waive the provisions of N.D.C.C. §§49-22-08 & 08.1, 49-22-13 and N.D. Admin Code §69-06-01-02 insofar as they require separate application filings, separate hearings on the filings, and certain time schedules; and (3) allow Geographic Information System criteria maps to substitute for the mylar maps and aerial photographs required by the Commission's Guidelines.

On September 21, 2000, the Project Partners filed a supplement and amendment to their Application to provide further justification for their request for waiver of procedures and timelines, to further describe how the Project Partners considered the relative value of each facility siting criteria in determining the proposed corridor and route, and to request a waiver of the one-year waiting period for filing an Application.

On September 27, 2000, the Commission deemed the application was complete, shortened the one-year waiting period for filing an Application, and issued a Notice of Filing and Notice of Hearing scheduling a consolidated public hearing for November 21, 2000, at 10:00 a.m. in the Otter Tail Power Company Community Room, 226 Main Ave. S., Rugby, North Dakota. The issues to be considered in the proceeding are:

1. Will the location, construction, and operation of the proposed electric transmission line produce minimal adverse effects on the environment, natural resources, and upon the welfare of the citizens of North Dakota?
2. Is the proposed electric transmission line compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed electric transmission line corridor minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?
4. Is it appropriate for the Commission to waive the procedures as requested in the application?

On November 15, 2000, the Project Partners filed a second amendment to their Application in order to make two slight changes to the proposed route. The first change proposes to move the route in Sections 8, 17, and 18 of Township 160N and Range 71W by 380 feet to the east, for approximately 1 mile, in order to ensure the transmission line will be more than 500 feet from an occupied residence. The second change proposes to move the route in Sections 3, 10, 15, and 22 of Township 157N and Range 72W by approximately 460 feet to the southeast to ensure that the transmission line excludes a Federal Wildlife Area.

The public hearing was conducted as scheduled. At the hearing the Project Partners requested that a third amendment to their Application be accepted. The third amendment proposed to move a one and one-half mile portion of the route in Sections 11 and 14 of Township 162N and Range 69W to the east approximately one-half mile, in order to ensure the transmission line will be more than 500 feet from a residence. The Commission request that this proposal be filed as late-filed exhibit 8C. Also at the hearing, landowner Jerry K. Rocheleau's request to intervene was granted.

On December 1, 2000, the Project Partners filed late-filed exhibit 8C as well as late-filed exhibit 10, Additional Information Analyzing Possible Alternate Routes; late-filed exhibit 11, Information Regarding Location of Rugby Substation; and late-filed exhibit 12, Information Regarding the Location of Structures on the Tuff Property.

On December 11, 2000 the Commission held a worksession to consider the evidence in this proceeding.

On December 15, 2000 the Project Partners filed a supplement to late-filed exhibit #10 which analyzes an additional alternate route.

Also on December 15, 2000 the Project Partners filed a copy of a signed statement by Thomas J. Samson to be added to late-filed exhibit 11.

December 21, 2000 the Project Partners filed late-filed exhibit 5A, a copy of a letter from Byron Olson regarding the need for a cultural resources inventory for the proposed alternate route in Section 14, T162N, R69W. The Project Partners also filed a letter explaining the addendum contained in the Thomas J Sampson letter in late-filed exhibit 11 and clarifying references to service lists for letters sent various agencies. Also included in the filing were 8-1/2 by 11 inch maps of of the corridor and route.

On December 26, 2000, Jerry K. Rocheleau filed a formal protest to the Public Service Commission of the route proposed by the Project Partners in the December 21, 2000 filing.

On December 28, 2000, the Commission held a final worksession in this proceeding.

Having heard and considered this matter, the Commission makes the following

Findings of Fact

1. OTP is a public utility under Title 49 of the North Dakota Century Code, headquartered at 215 South Cascade Street, Fergus Falls, Minnesota 56537. OTP serves customers in central and eastern North Dakota, as well as western Minnesota and northeastern South Dakota. NSP is a public utility under Title 49 of the North Dakota Century Code, headquartered at 414 Nicollet Mall, Minneapolis, Minnesota 55401-1993. NSP serves customers in North Dakota, as well as other states. OTP and NSP have made this Application jointly.
2. The Project Partners state the electric transmission facility is necessary to solve multiple transmission problems endemic to the north central North Dakota electric transmission system thereby providing benefits to the Project Partners' and other utilities' customers in the project area. The electric transmission facility will also connect at the North Dakota/Canadian border with facilities emanating south from Glenboro, Manitoba, and thereby alleviate the existing transmission constraints in the region.
3. Designation of a corridor and a route for a proposed transmission facility must be made in accordance with the criteria established pursuant to N.D. Admin. Code §69-06-08-02 and the considerations set out in N.D.C.C. §49-22-09.
4. The electrical load served by the transmission system of north central and eastern North Dakota has experienced slow, albeit steady growth over the past twenty years. The needs of this transmission system are addressed for the most part by North Dakota utilities that comprise the Mid-Continent Area Power Pool's (MAPP's) Red River Valley Subregional Planning Group (RRV SPG), in which the Project Partners participate.
5. The Project Partners propose to construct a new 230 kV transmission line approximately 53 miles long, from Rugby, North Dakota, to the Canadian border. The southern terminal of the proposed facility will be a substation southeast of Rugby, which will be constructed as part of the earlier proposed Harvey to Rugby 230 kV transmission facility (Case No. PU-401-99-586). The northern terminal will be at the Canadian border where the proposed facility will tie into a new 230 kV line emanating out of Glenboro, Manitoba, and being constructed by Manitoba Hydro.
6. The proposed facility will be constructed using wood pole H-frame structures, and possibly some steel structures. The structures will range from 65 to 100 feet high, and spans will range from 700 to 1000 feet. The structures will support three-phase conductors and two overhead shield wires for lightning protection. The conductors will be constructed of steel reinforced aluminum strands with the trade designation 954

MCM ACSR 54/7. All construction, testing, and operation will conform to the requirements of the National Electric Safety Code.

7. The total estimated cost of the project is \$13 million.

8. The Project Partners plan to begin easement acquisition by March 2001, vegetation clearing by November 2001, construction by November 2001, and energize the line by July 2002.

9. The Project Partners request approval of a corridor approximately six miles wide by 53 miles long, the center of which extends from Sections 11 and 12, Township 156N, Range 73W near Rugby, in a northerly direction to Sections 27 and 28, Township 164N, Range 69W at the Canadian border near Rolla. The Corridor was selected following evaluation of a Study Area approximately 30 miles wide by 45 miles long, or approximately 1,350 square miles.

10. The Project Partners contacted State and Federal agencies to notify them of the proposed corridor on October 6, 1999. In those initial contacts, the Project Partners described a corridor extending from Harvey to the Canadian border (the original intended length of the proposed facility). A second letter was sent on November 24, 1999 to present the proposed route, which also extended from Harvey to Rolla. A third letter was sent on April 20, 2000 to notify the agencies of a minor change in the proposed corridor from Rugby to the Canadian border. A fourth letter was sent on July 28, 2000 to provide the proposed route from Rugby to the Canadian border.

11. BlueStem, Incorporated (BlueStem), an environmental consulting firm, compiled data from numerous sources to analyze the biological, environmental, historic, and archeological conditions within the proposed corridor. The data included information received following agency consultations, data publicly available from other sources, and data collected during field examinations. BlueStem used a computerized geographic information system (GIS) to compile and analyze the data. This GIS was also used to produce maps showing the existence and non-existence of criteria (as defined in N.D. Admin. Code §69-06-08-02) within the corridor.

12. BlueStem determined that impacts to wetlands would be limited to, at most, placement of some structures into temporary or seasonal wetland edges. BlueStem determined that none of the structures would be placed in open water, which ensures that fill will not need to be placed into wetlands. BlueStem stated that boring holes for pole in these wetlands will create minimal impacts and wetland functions will not be affected in the long run.

13. The Project Partners will contact the U.S. Fish and Wildlife Service and request that they conduct a field determination to identify which of the structures are in wetlands. The Project Partners will request that a special use permit be granted for structures in wetland easements. The Commission finds that copies of such special

use permits should be filed with the Commission prior to construction of the transmission line.

14. The Project Partners will also contact the U.S. Army Corps of Engineers and request a Clean Water Act (Section 404) permit for placing structures in wetlands. The Commission finds that copies of such permits shall be filed with the Commission prior to construction of the transmission line.

15. No designated or registered national parks, memorial parks, historic sites, landmarks, natural landmarks, monuments, or wilderness areas are located within the corridor.

16. No designated or registered state parks or nature preserves are located within the corridor.

17. Several park and recreational facilities located in and near Rugby, Rolette, and Rolla are located within the corridor, however OTP will exclude these facilities from the route. No other such facilities are located within the corridor.

18. There are no areas within the corridor that are critical to the life stages of threatened or endangered species.

19. There are 3,275 acres of federal Waterfowl Production Areas within the corridor. The route will avoid all of these areas. There are no other designated or registered national historic districts, wildlife areas, wild, scenic, or recreational rivers, wildlife refuges or grasslands within the corridor.

20. BlueStem contracted with Powers Elevation Co., Inc. (historical and archeological consultant) to conduct archeological investigations along the route. A Class I (files search) was made along a six-mile wide corridor for the entire transmission line route between Harvey and the Canadian border, and a report summarizing those efforts was submitted to the North Dakota State Historical Preservation Officer (SHPO) and the Commission. Based on the report, the SHPO concurred that only selected portions of the route required Class III (intensive pedestrian ground search) inventories. The Cultural Resource Management Report prepared by Byron Olson of Powers Elevation Co., Inc. indicated that no historic sites, monuments, historical markers, or archaeological sites are located within the corridor. No known sites eligible for the National Historic Registry are located within the corridor.

21. No areas within the corridor are geologically unstable.

22. There are 278 rural residences within the corridor. There are also numerous residences and businesses within the corridor near the communities of Harvey and Rugby. The route will not come within 500 feet of any structure being used for a residence or business.

23. There are reservoirs within the corridor, totaling approximately 2000 acres of surface water. The Project Partners propose that the route avoid all such areas. No municipal water supplies are within the corridor.
24. No water sources for organized rural water districts are located within the corridor.
25. There are two irrigation permits located within the corridor—one in the southwest quarter of Section 6, T. 156N., R. 72W and one in the southeast quarter of Section 23 and the southwest quarter of Section 24, T. 158N., R. 72W. Both are in Pierce County. The Project Partners propose that the route avoid these areas.
26. No areas of recreational significance otherwise designated are located within the corridor.
27. The corridor is made up largely of agricultural production lands. The Project Partners propose that there will be minimal adverse impacts upon agricultural production along the route during construction and operation of the proposed facility. The United States Department of Agriculture Natural Resources Conservation Service investigated the proposed facility and reported that it saw "no potential environmental or human impacts with this project". The Service did request further information of the precise location of the route once it is finalized. The Project Partners have agreed to comply with this request.
28. The proposed facility is not expected to have any impact upon surface drainage patterns and ground water flow patterns.
29. The proposed facility is expected to have very minimal impacts upon noise-sensitive land uses. The North Dakota Department of Health recommended that all construction equipment be equipped with recommended mufflers in good working order and construction activities near homes and places of business be limited to normal working hours. The Project Partners have agreed to comply with this recommendation.
30. The proposed facility will be visible to landowners and community residents who live near the facility.
31. Eighteen gravel and sandpits are located within the corridor. Numerous inactive, unreclaimed gravel pits exist within the corridor. The route will avoid all active gravel and sandpits. No other extractive or storage resources are located within the corridor.
32. There are 15,883 acres of wetlands and lakes within the corridor. The U.S. Fish and Wildlife Service has an interest in some of these areas. Permits and mitigation will be required by the Service and the U.S. Army Corps of Engineers wherever wetlands are impacted. The Project Partners have agreed to obtain all required permits and comply with any mitigation requirements of these agencies. The Project Partners will also obtain permits where required for permanent easements held by the U.S. Fish and

Wildlife Service. The Commission finds that copies of such permits shall be filed with the Commission prior to construction of the transmission line.

33. Approximately 4,868 acres of woodlands and shelterbelts are located within the corridor. BlueStem states that approximately 13 to 14 acres of woodlands will be lost due to construction of the facility. The Project Partners agree to replace two trees for every tree that is removed and will contact landowners to determine preferred locations off of the right of way for replacement trees. For those landowners who do not desire replacement trees to be planted on their property, the Project Partners agree to plant replacement trees as directed by the Parks Department of Rugby, Rolla, and Rolette, North Dakota.

34. No impacts to radio and television reception and other communication or electronic control facilities are anticipated from the proposed facility.

35. The Project Partners request approval of a route within its proposed corridor, originating in Township 156N, Range 72W, Section 7 in Pierce County near Rugby, North Dakota, and proceeding in a Northerly direction for approximately 53 miles terminating in Township 164N, Range 69W, Section 26 in Rolette County at the Canadian border near Rolla, North Dakota. The right-of-way along the route will be 120 feet wide (60 feet on either side of the route).

36. The route will avoid all Federal Waterfowl Production Areas.

37. The route will avoid all Wildlife Management Areas managed by the North Dakota Game and Fish Department.

38. The route will not come within 500 feet of any structure being used for a residence or business.

39. The route will avoid all water reservoirs.

40. The route will avoid all irrigation permit areas.

41. The route will have no impact upon surface drainage patterns and ground water flow patterns.

42. The route will avoid all active gravel and sandpits.

43. Human health and safety are not expected to be impacted by the proposed facility. The North Dakota Department of Health investigated the proposed facility and concluded "impacts from the proposed construction will be minor and can be controlled by proper construction methods". The Project Partners have agreed to employ proper construction methods to insure the project will result in minimal impacts to human health and safety. The proposed facility will be designed and constructed to meet or exceed the standards of the National Electric Safety Code.

44. Animal health and safety is not expected to be impacted by the proposed facility.
45. Impacts of the proposed facility on agricultural plant life will be minimal, and landowners will be compensated for any losses. Native plant life will be impacted minimally and mitigation will be conducted by the Project Partners.
46. The Project Partners have adopted policies and practices that will maximize benefits and therefore this application should be given preference. Examples of such policies and practices are as follows: The Project Partners have policies to minimize and mitigate environmental impacts, to follow the National Electric Safety Code requirements and policies, to design their systems to efficiently transfer electricity, to insure worker and public health and safety and to insure cost effective methods of meeting its delivery obligations. Furthermore, the Project Partners have policies and practices that encourage training and utilization of available labor in this state for the general and specialized skills required. The Project Partners have also coordinated its existing facilities with the proposed facility to insure reliability and enhance efficiency.
47. In response to concerns expressed by Thomas J. Samson, landowner of property adjacent to the Rugby substation, the Project Partners discussed options for moving the substation or otherwise mitigating the visual impact of the substation. Samson and the Project Partners agreed that impacts could be mitigated by planting screening foliage. The Project Partners also agreed to use their best efforts to locate as far to the south as possible a 115 kV line that will run from an east-west 115 kV transmission line owned by Central Power Cooperative to the Rugby substation and back to the east-west line. The Project Partners agreed to consult with Samson to determine an appropriate screening cover. The Project Partners also agreed to report back to the Commission with the particular type of foliage that will be used. We find that the concerns of the landowner are adequately addressed by the agreement between the landowner and the Project Partners.
48. In response to concerns expressed by Dennis Tuff, landowner, the Project Partners reviewed options to mitigate the impact of structures placed upon Tuff's property. It was determined that spanning Tuff's property would require placing either one structure in approximately the center of the span or two structures near the edges of the property lines on each end of the span. The Project Partners agreed to confer with Tuff and determine his preference between these two options. We find this solution to adequately mitigate any concerns raised by Tuff. We find that the Project Partners should report to the Commission the option chosen by Dennis Tuff with a revised map showing the new structure locations.
49. In response to concerns expressed by Jerry K. Rocheleau, landowner/intervenor, the Project Partners analyzed six alternative routes in proximity to Rocheleau's property. Mr. Rocheleau expressed concern that the original proposed route would intersect the flight path of waterfowl and other birds resulting in high bird mortality. Mr. Rocheleau was also concerned about the visual impacts resulting from the original

proposed location of the facility. We find that Alternate Route #5 best mitigates Mr. Rocheleau's concerns by avoiding the bird flight path and avoiding the objectionable visual impact.

50. The Commission is aware that there are large numbers of migratory birds that pass through the area of the proposed transmission line. The Project Partners brought samples of bird deflectors to the hearing and stated that they will work with state and federal officials to identify areas along the route that could benefit from having bird deflectors installed. We find that the Project Partners should consult with the U S Fish and Wildlife Service and the North Dakota Game and Fish Department to determine where bird deflectors would be beneficial for the protection of wildlife. The Project Partners will be required to place bird deflectors on the transmission line as recommended or required by those agencies, and shall file a report with the Commission concerning the results of consultations with the agencies and the actions taken by the Project Partners.

51. The Project Partners, in conjunction with other members of the Red River Valley Subregional Planning Group of the Mid-Continent Area Power Pool considered several alternatives to resolve long identified problems with the 115 kV system between Devils Lake and Minot, including a Harvey – Devils Lake – St. Leon 230 kV facility and a Garrison – Mallard – Dunning 230 kV facility. The RRV SPG and MAPP determined that the most efficient and prudent project was a 230 kV electric transmission facility from Harvey to Glenboro, Manitoba. The application in this proceeding, for the Rugby to Canadian border facility, is the second phase of the Harvey to Glenboro facility. The proposed facility will provide significant load serving reinforcements in central North Dakota. The proposed facility is the most prudent and feasible method of serving this need.

52. We find that the proposed corridor and route are compatible with the environmental preservation and the efficient use of resources and will result in minimal adverse effects on the environment, natural resources, and upon the welfare of the citizens of North Dakota, while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

53. The Project Partners requested a waiver of the procedures concerning the provisions of N.D.C.C. §§49-22-08 & 08.1, 49-22-13, and N.D., Admin. Code §69-06-01-02 insofar as they require separate application filings, separate hearings on the filings, and certain time schedules. The Project Partners stated that the waiver should be granted because the proposed facility is of such design, location, and purpose that it will produce produce minimal adverse effects. We agree that a waiver should be granted for the consolidation of the application filings and for consolidation of hearings in one location. No waiver of time schedules is required for action by the Commission within the time period requested by the Project Partners.

54. The Project Partners requested a wavier to allow Geographic Information System criteria maps to substitute for the mylar maps and aerial photographs required

by the Commission's Guidelines. The Commission has often granted a waiver of this requirement and we agree to allow Geographic Information System criteria maps to substitute for the mylar maps and aerial photographs.

From the foregoing Findings of Fact, the Commission now makes its:

Conclusions of Law

1. The Commission has jurisdiction over the applicants, Otter Tail Power Company and Northern States Power Company, and over the subject matter of this application under N.D.C.C. Chapter 49-22.
2. The electric transmission line proposed by the Project Partners is a transmission facility as defined in N.D.C.C. §49-22-03(11).
3. The corridor is of such length, location, and purpose that it will minimize adverse effects upon the environment, and upon the welfare of the citizens of North Dakota, while ensuring continuing system reliability, integrity, efficient use of resources, and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.
4. The corridor is compatible with the environmental preservation and efficient use of resources.
5. It is appropriate for the Commission to issue the Project Partners a Certificate of Corridor Compatibility.
6. The route is compatible with the environmental preservation and efficient use of resources.
7. It is appropriate for the Commission to issue the Project Partners a Route Permit for the proposed facility.
8. It is appropriate for the Commission to waive the procedures as requested in the application concerning waiver of the provisions of N.D.C.C. §§49-22-08 & 08.1, 49-22-13, and N.D. Admin. Code §69-06-01-02 insofar as they require separate application filings and hearings in each county, and to allow Geographic Information System criteria maps to substitute for the mylar maps and aerial photographs required by the Commission's Guidelines.

From the foregoing Findings of Fact and Conclusions of Law, the Commission issues its:

Order

The Commission orders:

1. The Project Partners' application for a waiver concerning the provisions of N.D.C.C. §§49-22-08 & 08.1, 49-22-13, and N.D. Admin. Code §69-06-01-02 insofar as they require separate application filings and hearings in each county, and OTP's and NSP's application for a waiver to allow Geographic Information System criteria maps to substitute for the mylar maps and aerial photographs required by the Commission's Guidelines is GRANTED.
2. Certificate of Site Compatibility for a Transmission Facility Corridor No. 79 is issued to Otter Tail Power Company and Northern States Power Company under N.D.C.C. §49-22-08(5), designating a six-mile wide corridor as shown on the attached map.
3. Route Permit for the Construction of a Transmission Facility No. 89 is issued to Otter Tail Power Company and Northern States Power Company granting authority to construct the transmission line route in the location shown on the attached map.
4. The Project Partners shall hold a preconstruction conference prior to commencement of any construction, which must include a Project Partner representative from each company, their construction supervisor, and a representative of Commission Staff to ensure that the Project Partners fully understand the conditions set forth in this Order.
5. The Project Partners shall comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed transmission line, and shall obtain all other necessary licenses and permits, and shall provide copies for all licenses and permits to the Commission prior to construction of the transmission line.
6. The Project Partners shall inform the Commission of their intent to start construction on the transmission line prior to the commencement of construction, and once construction has started, the Project Partners shall keep the Commission updated on construction activities on a weekly basis.
7. The Project Partners shall construct and operate the transmission line in the manner described in their application as revised at the hearing and in late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.
8. The Project Partners shall promptly report to the Commission the presence in the permit area of any critical habitat of threatened or endangered species, or of bald or golden eagles which the Project Partners become aware of and which were not previously reported to the Commission.

9. If any cultural resource, paleontological, archeological, historical, or grave site is discovered during construction, it must be marked, preserved, and protected from further disturbances until a professional examination can be made by the State Historical Society, a report of such examination is filed with the Commission, and clearance to proceed is given by the Commission.
10. All pre-existing roads and lanes used during construction must be restored to a condition that will accommodate their previous use, and areas used as temporary roads or working areas during construction must be restored to their original condition.
11. Construction must be suspended when weather conditions are such that construction activities will cause irreparable damage, unless adequate protection measures approved by the Commission are taken.
12. Reclamation and clean-up along the right-of-way must be continuous and coordinated with construction.
13. Reclamation, fertilization, and reseeding is to be done by the Project Partners according to the National Resources Conservation Service recommendations, unless otherwise specified by the landowners and approved by the Commission
14. Project Partners' obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission line.
15. Trees and other woody vegetation must be replaced at a rate of two for every one removed along the route. The Project Partners shall contact landowners to determine preferred locations off of the right-of-way for replacement plantings. Trees and woody vegetation must be replaced with saplings that are two or more years old.
16. The Project Partners shall inspect replacement tree plantings once a year for three years and send a report to the Commission on or shortly before October 1 of each year documenting work completion and condition of woodlands planting. The first report shall also indicate the number and variety of plantings and locations and dates of the plantings. The Commission will monitor the survival rate of replacement tree plantings, and may order additional plantings if survival rates are less than 75%.
17. The Project Partners shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the route of the transmission line.
18. The Project Partners shall consult with the U S Fish and Wildlife Service and the North Dakota Game and Fish Department to determine where bird deflectors would be beneficial for the protection of wildlife. The Project Partners will be required to place bird deflectors on the transmission line as recommended or required by those agencies, and shall file a report with the Commission concerning the results of consultations with the agencies and the actions taken by the Project Partners.

19. The Project Partners shall obtain approval from the Commission or from Commission Staff prior to any changes in structure locations.

20. The Project Partners shall provide the Commission with a copy of the design specifications for the construction of the transmission line showing the location of the transmission line as built. The Project Partners shall provide this information within 3 months of the completion of the construction.

21. The authorization granted by this Order and Certificate is subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

PUBLIC SERVICE COMMISSION

**Susan Wefald
Commissioner**

**Bruce Hagen
President**

**Leo M. Reinbold
Commissioner**