

EXHIBIT 36



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Minnkota Power Cooperative, Inc.
Pillsbury-Fargo 230-KV Transmission Line
Siting Application

Case No. PU-08-48

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

June 6, 2008

Appearances

Commissioners Susan E. Wefald, Kevin Cramer and Tony Clark.

Jerome C. Kettleson, Attorney at Law, Pearce & Durick 314 East Thayer Avenue,
Bismarck, North Dakota 58501, on behalf of the Applicant, Minnkota Power Cooperative.

Gerad Paul, Staff Attorney, Minnkota Power Cooperative, Inc., 1822 Mill Road, P.O.
Box 13200, Grand Forks, North Dakota 58501 on behalf of Applicant, Minnkota Power
Cooperative.

William W. Binek, Chief Counsel, Public Service Commission, Capitol, Bismarck,
North Dakota 58505, on behalf of the Public Service Commission.

Allen C. Hoberg, Administrative Law Judge and Director, Office of Administrative
Hearings, 1701 N. 9 Street, Bismarck, ND 58501-1882, as Procedural Hearing Officer.

Preliminary Statement

On February 5, 2008, Minnkota Power Cooperative, Inc. (Minnkota) with its then co-
partner, Otter Tail Corporation dba Otter Tail Power Company (Otter Tail), filed a Letter of
Intent (LOI) to submit siting applications for a proposed 230 kV electric transmission line
and associated facilities to be constructed within Griggs, Steele, Barnes and Cass Counties
of North Dakota. It was further requested in the LOI that the Commission shorten the one-
year waiting period required between the submission of the LOI and the filing of an
application.

On February 13, 2008, the Commission acknowledged the Letter of Intent,
shortened the one year waiting period between filing a letter of intent and a siting
application to one day, and assessed a filing fee of \$100,000 due upon the filing of an
application.

On February 25 and 26, 2008, Minnkota held public informational meetings for area
residents in the early evening at Page, North Dakota and Mapleton, North Dakota.
Approximately 60 members of the public attended the meetings.

PU-08-48 Filed: 6/6/2008 Pages: 18
Findings of Fact, Conclusions of Law and Order -
with Cramer Concurring Opinion & Wefald
Concurring, Dissent in Part
Public Service Commission

On March 18, 2008, Minnkota and Otter Tail filed an Application for a Waiver of Procedure and Timelines, and Consolidated Certificate of Corridor Compatibility and Route Permit (Application) authorizing construction of approximately 56.6 miles of 230 kV transmission line and associated new substation referred to as the Pillsbury-Fargo Generation Outlet Project. The Application requested that the Commission waive procedures set forth in N.D.C.C. Sections 49-22-08 and 49-22-08.1 to allow for a single consolidated hearing for Corridor Certificate and Route Permit.

On April 9, 2008, RES Americas Development, Inc. and PEAK Wind Development, LLC filed a Petition to Intervene.

On April 17, 2008, Minnkota filed an amendment to the Application indicating the withdrawal of Otter Tail Power Company as an applicant and as an owner of the line; expanding the proposed transmission facility corridor in the area of Amenia, North Dakota; and increasing the length of the proposed transmission line from approximately 56.6 miles to 61.6 miles.

On April 18, 2008, Minnkota filed its objections to the Petition for Intervention by RES Americas Development, Inc. and PEAK Wind Development, LLC on April 9, 2008.

On, April 21, 2008, the Commission acknowledged the withdrawal of Otter Tail Corporation as an applicant, deemed the application complete, conditioned upon the filing of a map showing proposed final transmission line structure locations with said map filed by Minnkota on or before May 15, 2008. The Commission issued a Notice of Filing and Notice of Hearing, scheduling a public hearing to begin May 22, 2008 at 10 a.m. CDT at the City Auditorium in Casselton, North Dakota. The notice identified the following issues to be considered:

1. Will the location, construction, and operation of the proposed electric transmission facility 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 facility compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed electric transmission facility corridor and route 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 including the request for a single consolidated application for Corridor Certificate and Route Permit?

On April 23, 2008, the Commission denied the intervention request of RES Americas Development, Inc. and PEAK Wind Development, LLC, filed April 9, 2008.

On May 5, 2008, RES Americas Development, Inc., PEAK Wind Development, LLC., and Burchill Farms Incorporated filed a Petition to Intervene and Request for Shortened Notice and Response Period Expedited Consideration and Expedited Discovery.

On May 8, 2008, Minnkota Power Cooperative entered its objections to intervention by RES Americas Development, Inc., PEAK Wind Development, LLC and Burchill Farms Incorporated.

On May 9, 2008, the Commission, by Allen C. Hoberg, Administrative Law Judge, entered its Order denying intervention by RES Americas, Inc., PEAK Wind Development, LLC, and Burchill Farms Incorporated, filed May 5, 2008.

On May 15, 2008, Minnkota filed a map showing proposed final transmission line structure locations. The total distance of the line as determined in the final structure placement was found to be 61.1 miles.

A public hearing on Minnkota's amended Application was held as scheduled on May 22, 2008 in Casselton, North Dakota. Having allowed all interested persons an opportunity to be heard and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

Findings of Fact

1. Minnkota is a generation and transmission cooperative that supplies wholesale electricity to eleven member-owned distribution cooperatives, three in eastern North Dakota and eight in western Minnesota. Minnkota is headquartered in Grand Forks, North Dakota. Minnkota is the operating agent for Northern Municipal Power Agency (NMPA), which serves twelve municipal utilities in the same geographic region. Approximately one-half of Minnkota's electric load is located in North Dakota. Together, the Minnkota/NMPA Joint System currently serves more than 280,000 people.
2. Minnkota proposes to construct approximately 61.6 miles of 230 kV electric transmission line beginning at a new substation to be located in Section 7 of Ellsbury

Township, T143N, R56W, near Pillsbury, North Dakota and extending to the existing Maple River substation near Fargo, North Dakota. The purpose of the transmission line and associated Pillsbury substation is to transmit energy generated by proposed wind farm projects in Barnes, Steele and Griggs Counties to an interconnection with the regional transmission grid at the Maple River substation.

3. Construction and operation of the transmission facilities will conform to requirements of the National Electric Safety Code.

4. The estimated cost for materials and construction is approximately \$36 million.

5. Minnkota's originally proposed corridor and route generally followed an existing Cenex pipeline sited by the Commission in 1991 along railroad right-of-way and then paralleled an existing Minnkota 345 kV transmission line before interconnecting at the Maple River substation.

6. The majority of the proposed transmission line will be constructed using directly embedded mono-pole steel structures except that H-frame structures will be used on much of the east end of the project where the route is located adjacent to the existing 345-kV transmission line. The mono-pole steel structures will be approximately 90-130 feet in height with an average span between each structure of 600 feet and a maximum span of 900 feet under some circumstances. The H frame structures will be approximately 70 feet in height with an average span of approximately 900 feet and a maximum span of 1,000 feet under some circumstances.

7. Minnkota filed a reroute on April 15, 2008, explaining that input from landowners and the Amenia Township Board combined with the presence of airport communication towers, the proximity to the City of Amenia and an analysis of exclusion and avoidance areas caused Minnkota to propose a reroute to the area of the Rush River Watershed Resource District. The Rush River Watershed Resource District provided three and one-half miles of east to west right-of-way on property owned by the District and generally adjacent to a drainage structure. The reroute then turned south at 180th Avenue SE before crossing Section 2 of Rush River Township at its midpoint, and then proceeding south on 161th Avenue SE.

Alternate Rush River Township Reroute

8. During the May 22, 2008 hearing the Commission requested that Minnkota file Late-Filed Exhibit 2 exploring alternative reroutes in the northeast portion of Rush River Township because of landowner concerns regarding potential adverse impacts of electromagnetic fields or stray voltage to cattle in Section 2. Minnkota submitted the late-filed exhibit with a recommendation that the Commission approve an alternate reroute in the northeast portion of Rush River Township described as:

At the northeast corner of Section 4, Rush River Township at Pole No. 358, the transmission line turns south along the easterly section line of Sections 4 and 9; then from the southeast corner of Section 9 into Section 15 and continuing down a westerly section line one-half mile to the center of Section 15. From there the line would proceed on the north side of the center of Section 15 in an easterly direction through Section 14 until it crosses to the western edge of Section 13, where it would then meet with Pole No. 399 on the Line Structure Location Drawings filed on May 15, 2008.

8. Minnkota's recommended alternate reroute presented in Late-Filed Exhibit 2 is contingent upon completing cultural, biological, and wetlands surveys. The Commission finds that additional time for surveys and an opportunity for interested persons to be heard are needed before designating a transmission route within this northeastern portion of Rush River Township.

Reed Township Conditional Use Permit

9. At the May 22, 2008 public hearing testimony was received concerning Minnkota's request that the Commission act to supersede a provision in a conditional use permit granted by Reed Township in Cass County, North Dakota. Minnkota's proposed route is to be double circuited with the adjacent 345 kV Minnkota line for the Sheyenne River crossing along the eastern side of section 7 in Reed Township. Reed Township's conditional use permit includes a condition that the proposed transmission line be double circuited an additional $\frac{3}{4}$ mile across the remainder of section 7. Minnkota contends that the additional double circuiting would be cost prohibitive and result in less system reliability. Minnkota asks that Reed Township's condition to the conditional use be superseded and preempted, pursuant to N.D.C.C. § 49-22-16(2).

10. Minnkota proposes routing the new 230 kV transmission line 173 feet south of the centerline of the existing Minnkota 345 kV transmission line. Transmission structure placements are proposed to generally mirror existing 345 kV structure placements to the extent practicable to minimize potential visual, avian and structural impacts. The new structures would be approximately the same height or shorter than existing structures and placed at the same spacing and parallel to the existing structures so that the lines would be at approximately the same elevation. Minnkota notes that in a few locations it will be necessary for the proposed structure location to deviate from mirroring the placement of existing 345 kV structures, primarily to minimize impacts on wetlands.

11. The Commission directed that Minnkota prepare a late-filed exhibit exploring double circuiting across Section 7 of Reed Township and also across the adjacent Raymond Township. The resulting Late-Filed Exhibit 1 indicates that double circuiting the 345 kV line would require removal and replacement of the 345 kV structures along the double circuited portion of the route, which for Section 7 alone could cost as much as \$2.9 million

in construction costs plus up to \$24 million for replacement power purchases depending in part on how long the 345 kV line would be out of service for construction.

12. The Commission finds that double circuiting across all of Section 7, as required by the Reed Township conditional use permit, would be cost prohibitive and result in somewhat less system reliability.

13. The Commission finds that the condition to the conditional use permit as granted by the Reed Township Supervisors is unreasonably restrictive as it applies to this project because of reliability concerns and because of a significant increase in costs.

Evaluation Criteria

14. North Dakota Administrative Code Chapter 69-06-08 sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for a certificate of corridor compatibility and route permit. The criteria as set forth in Section 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria. A transmission facility route must not be sited within an Exclusion Area. A transmission facility route must not be sited within an Avoidance Area unless the applicant shows under the circumstances there are no reasonable alternatives. In determining whether an Avoidance Area should be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. In accordance with the Commission's Selection Criteria, a transmission facility may be approved if it is demonstrated that no significant adverse impacts will result from the location, construction and maintenance of the transmission facility. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility.

15. Minnkota evaluated a corridor width of 6 miles, except in an area near the city of Amenia, where the corridor width was increased to about 7 miles to accommodate a route change. The Commission finds the increased corridor width is reasonable and should be approved.

16. No exclusion areas have been identified along the proposed route.

17. Avoidance areas along the proposed route include ten occupied residences within 500 feet of the route. Minnkota has obtained written waivers from the owners of these residences.

18. Minnkota conducted a Class I Cultural Resources Inventory (CRI) of North Dakota State Historic Preservation Office (SHPO) files within the corridor and route of the transmission facility. A Class III CRI pedestrian survey of transmission structure locations

and the route has been completed and a survey report was filed with the Commission on May 27, 2008. Transmission facility locations will avoid any cultural resources identified during the survey. The Class III CRI of the transmission route determined that no cultural resources are anticipated to be impacted or indirectly impacted by the project.

19. Minnkota submitted substantial evidence to demonstrate that the proposed transmission facility would not have significant impact on the Selection Criteria set forth in Section 69-06-08-01(3) of the North Dakota Administrative Code. The proposed route would result in the loss of a minimal amount of woodlands. Those woodlands primarily consist of field or farmstead windbreaks and river crossings. Minnkota conducted a wetland delineation along the proposed route. There are numerous wetlands within the proposed corridor that are crossed by the proposed route. Two wetlands in Cass County are impacted by structure placement along the proposed route. One of those wetlands is located in section 20 of Reed Township and is a Water of the United States subject to the jurisdiction of the U.S. Army Corps of Engineers ("Corps of Engineers") under Section 404 of the Clean Water Act. The Corps of Engineers has issued Nationwide Permit 12 for the construction of utility line facilities in Waters of the United States and Minnkota will comply with Nationwide Permit 12 conditions. The other impacted wetland is an isolated wetland located in section 17 of Rich Township and is not subject to Corps of Engineers jurisdiction.

20. Minnkota submitted substantial evidence to demonstrate its commitment to maximize the benefits of the proposed transmission facility as far as is possible to meet the Policy Criteria set forth in Section 69-06-08-01(4), N.D. Admin. Code.

21. Temporary impacts to vegetation will occur in the right of way area and around each structure location during construction of the Generation Outlet Line. Permanent impact to vegetation will occur at each structure location.

22. Raptors, waterfowl and other bird species may be affected by the construction and placement of the proposed 230 kV transmission line. Minnkota will use bird-safe designs to help avoid potential impacts to avian species along the proposed route. The mirroring of H-frame structures placed in parallel with existing 345 kV structures will make the conductors of the existing and new lines easier for birds to see and avoid. The proposed H-frame design will also use suspension insulation with a clearance of approximately 84 inches in order to eliminate the potential for electrocution of raptors.

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

Conclusions of Law

1. The Commission has jurisdiction over this proceeding under Chapter 49-22 of the North Dakota Century Code.

2. The 230 kV transmission line proposed by Minnkota is a transmission facility as defined in Section 49-22-03(12), of the North Dakota Century Code.
3. The proposed project is of such length design, location and purpose that it will produce minimal adverse effects, as defined under Section 49-22-05.2, of the North Dakota Century Code.
4. The Application submitted by Minnkota meets the corridor and route evaluation criteria required by Chapter 49-22 of the North Dakota Century Code.
5. The location, construction, and operation of the proposed transmission facility will produce only minimal adverse effects of the environment and upon the welfare of the citizens of North Dakota.
6. The proposed transmission facility is compatible with the environmental preservation and the efficient use of resources.
7. The proposed transmission facility corridor and route will 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.
8. The proposed transmission facility corridor and route are of such length, design, location and purpose that they will produce minimal adverse affects.
9. The requested waivers of procedures and time schedules are justified based upon: the minimal impacts on the environment and the welfare of the citizens of North Dakota; the lack of objection to the proposed transmission facility by federal, state and local government bodies and agencies or by the vast majority of landowners along the route; and the objective to have area wind generation projects in operation by December 31, 2008.
10. The condition to the Conditional Use Permit required by Reed Township, Cass County is unreasonably restrictive as it applies to this case.
11. Additional time for routing criteria assessment and an opportunity for interested persons to be heard are needed before designating a route in the area of Minnkota's alternate reroute proposed in the northeastern portion of Rush River Township.

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

Order

The Commission orders:

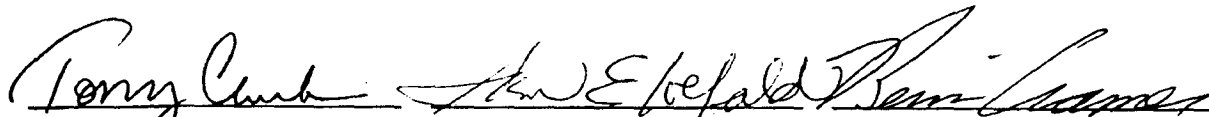
1. Minnkota's application for a waiver of procedures and time schedules is granted.
2. Certificate of Compatibility for a Transmission Facility Corridor No. 105 is issued to Minnkota, designating a corridor for its proposed transmission facility as described in Minnkota's amended application.
3. Route Permit for Construction of a Transmission Facility No. 115 is issued to Minnkota granting authority to construct the proposed transmission line and Pillsbury substation, except that no route is designated within the area of the alternate reroute proposed in the northeastern portion of Rush River Township.
4. Reed Township's condition to its Conditional Use Permit requiring double circuiting across all of section 7 is superseded.
5. Minnkota shall conduct a preconstruction conference prior to commencement of any construction, which must include a Minnkota representative, its construction supervisor, and a representative of Commission staff to ensure that Minnkota fully understands the conditions set forth in this Order.
6. Minnkota shall comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed transmission facility. Prior to commencing construction of any phase of the proposed project, Minnkota shall obtain all other necessary approvals and permits for construction of such phase and provide copies to the Commission prior to the construction of each such phase.
7. Minnkota shall inform the Commission of its intent to start construction on the transmission facility prior to the commencement of construction, and, once construction has started, Minnkota shall keep the Commission updated of construction activities on a weekly basis.
8. Minnkota shall construct and operate the transmission facility in the manner described in its Application and at the hearing, and in accordance with all applicable safety requirements.
9. Minnkota 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 that Minnkota becomes aware of and that were not previously reported to the Commission.

10. If any cultural resource, paleontological, archeological, historical, or grave site is discovered during construction, earth disturbing activities in the immediate vicinity of the discovery must be halted. The resource must be marked, preserved and protected from further disturbances until a professional examination can be made and consultation with the State Historical Preservation Office. A report of such examination must be filed with the Commission, and clearance to proceed must be given by the Commission.
11. 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 during construction must be restored to their original condition.
12. 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.
13. Reclamation along the right-of-way shall be continuous and coordinated with construction.
14. Reclamation, fertilization and reseeding is to be done by Minnkota according to the Natural Resource Conservation Service or USFWS recommendations for CRP, native prairie and other non-cropped lands unless otherwise specified by the landowner and approved by the Commission.
15. Minnkota shall comply with the Commission's Tree and Shrub Mitigation Specifications attached to this Order except that the width of clear cuts through windbreaks, shelterbelts and all other wooded areas shall be limited to 125 feet rather than 50 feet.
16. Minnkota's obligation for reclamation and maintenance of the right-of-way shall continue throughout the life of the Transmission facilities.
17. Minnkota shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the path of the transmission line.
18. Minnkota shall repair or replace all fences and gates removed or damaged during all phases construction and operation of the proposed transmission facilities.
19. Minnkota shall obtain approval from the Commission or from Commission staff prior to any changes in structure locations.
20. Minnkota shall provide the Commission with a copy of the facility alignment plan and profile drawings showing the facility as built (hardcopy and electronic versions), and an

electronic version of the as-built facility that can be imported into ESRI GIS mapping software, within 3 months of the completion of the construction.

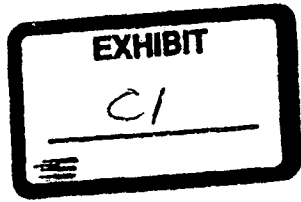
21. The authorizations granted by the corridor certificate and route permit are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

PUBLIC SERVICE COMMISSION


Tony Clark
Commissioner

Susan E. Wefald
President

Kevin Cramer
Commissioner




Case No. PU-08-48

Tree and Shrub Mitigation Specifications

Inventory

1. Trees and shrubs anticipated to be cleared, including those that are considered invasive species or noxious weeds (e.g., *Caragana arborescens*, *Elaeagnus angustifolia*, *Rhamnus cathartica*, *Tamarix chinensis*, *T. parviflora*, *T. ramosissima*, *Ulmus pumila*), shall be inventoried before cutting. The inventory shall record the location, number, and species of trees and shrubs.
2. In windbreaks, shelterbelts and other planted areas, trees or shrubs anticipated to be cleared, regardless of size, shall be inventoried for replacement.
3. In native growth areas, trees anticipated to be cleared that are 1 inch diameter at breast height ("dbh") or greater shall be inventoried for replacement.
4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way shall be inventoried for replacement.
5. In native growth areas outside the permanent right-of-way, shrubs shall be cut flush with the surface of the ground, taking care to leave the naturally occurring seed bank and root stock intact. If soil disturbance is necessary, the native topsoil shall be preserved and replaced after construction. Shrubs shall be allowed to regenerate naturally where native topsoil is preserved and replaced. Where native topsoil is not preserved and replaced, shrubs anticipated to be cleared shall be inventoried for replacement.
6. In native growth areas, trees and shrubs may be inventoried by actual count or by sampling method that will properly represent the woody




vegetation population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (NDPSC) and approved prior to the start of construction shall define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots shall be extrapolated to the total acreage of the wooded area to be cleared to determine the species and quantity of trees and shrubs to be replaced.

Clearing for Construction

7. Trees and shrubs shall be selectively cleared, leaving mature trees and shrubs intact where practical.
8. The width of clear cuts through windbreaks, shelterbelts and all other wooded areas shall be limited to 50 feet or less unless otherwise approved by the NDPSC.
9. If the area of trees or shrubs actually cleared differs from the area inventoried, the difference in number of trees and shrubs to be replaced shall be noted on the inventory.

Replacement

10. Prior to tree/shrub replacement, documentation identifying the number and variety of trees removed as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings shall be filed with the NDPSC for approval.
11. Tree replacement shall be on a 2 to 1 basis with 2-year-old saplings. Shrub replacement shall be on a 2 to 1 basis with stem cuttings.
12. Trees and shrubs shall be replaced by the same species or similar species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.

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13. Landowners shall be given the option of having replacement trees/shrubs planted off the right-of-way on the landowner's property or waiving that requirement in writing and allowing those replacement trees/shrubs to be planted at alternative locations.
 14. At the conclusion of the project, documentation identifying the actual number, variety, type, location and date of the replacement plantings shall be filed with the NDPSC.
 15. Tree/shrub replacements shall be inspected once a year for three years, on about the anniversary of the plantings, and, on or shortly before October 1 of each year, a report shall be submitted to the NDPSC documenting the condition of replacement planting and any woodlands work completed. If after three years from the anniversary of the plantings the survival rate is less than 75%, the NDPSC may order additional planting(s).

CONCURRING OPINION
Commissioner Kevin Cramer

June 6, 2008

Minnkota Power Coop., Inc.
Pillsbury-Fargo 230 kV Transmission Line
Complaint

Case No. PU-08-48

Electricity generated by renewable fuels is in high demand in our region and nation and North Dakota has what the market wants. The challenge is getting our product to the market and this transmission line is one of many new and proposed vehicles to do just that.

Unfortunately we all find ourselves forced into making major decisions within a very short time frame. The Federal Production Tax Credit (PTC) which creates the incentive for wind development in North Dakota and across the country is scheduled to expire this year. In order to receive the tax credit wind farms must be commissioned this year. That is, they must be generating and transmitting electricity by December 31, 2008 or lose the tax credit.

Congress has failed to renew the PTC which would give companies as well as vendors and suppliers the time to adequately plan for major investment and construction. This government imposed deadline also distorts natural markets, artificially tightening the supply-demand curve resulting in inflated construction costs which must be passed on to consumers.

What America really needs is a long term energy policy that sends signals that will inspire investment. Instead our congress passes short term legislation enhancing uncertainty in the future of energy development in our country.

Today the North Dakota Public Service Commission is voting to certify a corridor and permit a nearly 60 mile route for a 230kv transmission line from Pillsbury to a substation near Fargo. This line is designed to carry electricity generated in Barnes, Griggs and Steele Counties resulting in hundreds of millions of dollars of investment and thousands of dollars of local and state tax revenues.

Wind farms and transmission lines don't get built in a weekend so the clock is ticking while congress does nothing, creating the short timeline we find ourselves in today. In order for the projects to get built the planning and review processes must be shortened. We have done all we can to expedite the regulatory process while not compromising the integrity of our charge to protect the environment, cultural resources and people. We are also charged with continuing service reliability and integrity while ensuring energy needs are met in an orderly and timely fashion.

While I will vote for this order, two issues cause me some apprehension. One is the nagging question; is the line big enough? The applicant provided a thorough analysis comparing a 230kv line and a 345kv line. It is compelling testimony as the cost of a 345kv upgrade is high. Another developer, Peak Wind, testified that they'd be willing to pay the additional costs, but the short time frame seems to make it impossible to change the plans now and still meet congress' deadline for the PTC.

Furthermore, although the argument presented by Peak is compelling, I don't see where the PSC has the authority to order a 345kv capacity to an application for 230kv, especially if such a condition would likely kill the project altogether.

The other issue causing me to pause is the fact that this order supersedes a condition placed on the conditional use permit by a Township Board. Reed Township has conditioned their permit requiring the proposed 230kv line be double circuited with an existing 345kv line through one section. The existing line runs parallel to the proposed route for eight miles. At the request of a single landowner in Reed Township, the zoning board has placed the double circuit condition on the use permit. No other zoning board along the eight miles of parallel routes has imposed such a condition.

The PSC has the authority to issue a permit which supersedes and preempts local zoning conditions upon a finding that such conditions are unreasonably restrictive in view of existing technology, factors of cost or economics, or needs of consumers.


While it would appear this is a reasonable and easy condition to meet, there are complications.

I disagree with the finding in the order that double circuiting in Reed Township would result in "somewhat less reliability." The fact the lines are double circuited to cross the Sheyenne River already exposes the two lines to the consequences of a single catastrophic event. Expanding the double circuited portion by another mile would have a negligible impact on reliability. Clearly the technology is readily available to meet the township's demands.

The only issue that meets the legal standard for superseding local authority is cost. Double circuiting a mile of line requires the existing line be taken out of service during construction. This is a major outage that has not been planned for. It would require a purchase to replace the power unavailable during the outage at an estimated cost of \$24 million to be paid by consumers. The purchase cost of power during the outage combined with the additional costs of equipment and materials for the construction makes the township board's condition unreasonably restrictive in my view.

I believe the big challenges to sighting this and future transmission infrastructure would be met with little to no public opposition if time allowed for more and better planning.

If North Dakota is to realize the potential of being the "Saudi Arabia of Wind" we must facilitate the building of the infrastructure to do it. State officials are doing our part. The companies are doing their part. It would be nice to have a little help from the Washington politicians who seem more enamored with sticking it to baseball players on steroids than finding solutions to America's energy needs.


Kevin Cramer, Commissioner

CONCURRING OPINION, DISSENT IN PART
Commissioner Susan Wefald

June 6, 2008

Minnkota Power Cooperative, Inc.
Pillsbury-Fargo 230 kV Transmission Line
Siting Application

Case No. PU-08-48

I concur with all of the Commission's June 6 order except for paragraphs 12 and 13 in the Findings of Fact, paragraph 10 of the Conclusions of Law, and paragraph 4 of the Order. All of these sections relate to the Reed Township Conditional Use Permit. My fellow commissioners voted to supersede the Reed Township Conditional Use Permit. I disagree. Superseding of local land use planning authority should be reserved only for extraordinary circumstances.

Also, I recommend that the North Dakota Transmission Authority work with the North Dakota Public Service Commission on identifying renewable energy zones in our state, so that more effective and efficient transmission planning for energy development can occur in the coming years. It is unfortunate that the Pillsbury to Fargo 230 kV transmission line will only meet immediate needs, and will not meet the transmission needs that have been identified in the Valley City area even 5 years in the future.

Minnkota first brought the issue of the Reed Township Conditional Use Permit to the Commission's attention at the May 22, 2008 hearing in Casselton. The Commission had no information on this matter prior to the hearing.

At the hearing Minnkota provided testimony on the facts of this matter, which are contained in this order in Findings of Fact, paragraphs 9 and 10.

At the hearing, Minnkota provided testimony, but no specific figures about costs. So the Commission asked that a late filed exhibit be filed stating incremental costs for double circuiting the line in Reed Township, which is adjacent to the double circuited portion of the line crossing the Sheyenne River.

Late filed Exhibit 1 indicated that Reed Township's requirement for double circuiting across section 7 could cost up to \$2.9 million in construction costs, plus up to \$24 million for replacement power purchases depending in part on how long the 345 kV line would be out of service for construction. The Commission had no opportunity to cross-examine Minnkota about the \$24 million figure. Minnkota clarified in a supplement to Late Filed Exhibit 1, that \$24 million for replacement power represents a full four weeks of downtime with full loss of Coyote generating station availability and payment of peak market energy prices for replacement

energy throughout the entire four weeks. It appears that Minnkota's cost estimates are at least worse case and that actual costs of double circuiting are likely to be significantly less.

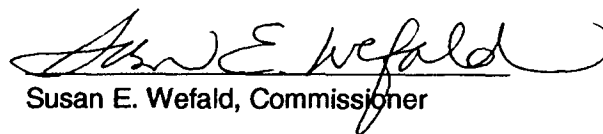
Minnkota raised concerns that double circuiting across the entire section 7 would degrade system reliability largely because of the increased probability that a catastrophic failure event such as weather, etc. could take out both lines if they were on the same structures. This is highly unlikely. The effect the double circuiting would have on reliability would likely be minimal. The proposed 230 kV line would be a radial line with the only purpose being to interconnect an intermittent wind generating resource to the power grid. The loss of that interconnection would have the same effect on system reliability as the wind not blowing.

Also, Minnkota's proposed parallel route across section 7 would significantly increase the amount of land use for transmission right of way in Reed Township. Reed Township made a reasonable condition when it required double circuiting of the lines in its township.

Although I am pleased that Minnkota is building this 230kV transmission line in North Dakota, this project needed more planning time and public input. This line will carry energy from two planned wind developments in the Valley City area; however, there are three planned wind developments in the Valley City area, and we already know that in a few years more transmission capacity may be needed. Developers need to deliver power to market by December 31, 2008 in order to be assured of receiving the Federal Production Tax Credit. Minnkota also announced in the past month that they plan to build a new 345 kV line from Center, North Dakota to the eastern part of the state.

There are ways to accommodate more electric capacity on transmission systems. These include double circuiting (placing two lines on an existing transmission system); building a new transmission system which includes not only the presently needed line, but room for an additional line in the future on the same system; using new technology to create more capacity on existing transmission lines; etc. At the hearing Minnkota testified that they already had ordered materials needed for the proposed 230 kV line, and had timetables in place for its construction. Therefore, although these options were brought up at the hearing, it was really too late in the process for significant changes to be made in the project.

Texas has a system in place where it designates renewable energy zones, and then plans transmission enhancements to these zones. This is working well for Texas - they are the state with the most wind development in the country. In North Dakota the Transmission Authority could work with the Commission on identifying several wind energy zones in North Dakota, and start planning now to make thorough, thoughtful transmission planning a reality in our state as well.


Susan E. Wefald, Commissioner

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 reseedling 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.

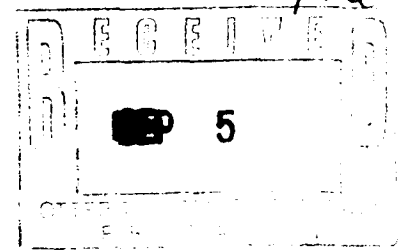
PUBLIC SERVICE COMMISSION

**Susan Wefald
Commissioner**

**Bruce Hagen
President**

**Leo M. Reinbold
Commissioner**

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION



Otter Tail Power Company Company
230 Kv Transmission Line/Pierce, Wells
Counties
Siting

Case No. PU-401-99-586

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

August 30, 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.

Todd Guerrero, Associate General Counsel, Otter Tail Power Company, 215 South Cascade Street, Fergus Falls, MN 56537, on behalf of Otter Tail Power Company.

Bruce Gerhardson, Svingen, Athens, Russell, Hagstrom and Haugrud, P.L.L.P., 125 South Mill Street, P.O. Box 697, Fergus Falls, MN 56538-0697, on behalf of Otter Tail Power Company.

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 October 26, 1999, Otter Tail Power Company (OTP), 215 South Cascade Street, Fergus Falls, MN 56537, filed a letter with the Commission, indicating its intent to construct a new 230 kV transmission facility from Harvey to Rolla, North Dakota, and indicated its intent to request a waiver of the required one-year waiting period for filing an application.

On November 18, 1999, the Commission shortened the waiting period to one day and assessed a filing fee of \$125,000 due upon filing of the siting application for the proposed electric transmission line.

On March 6, 2000, OTP filed an application for a certificate of corridor compatibility and a route permit, and \$70,000 filing fee, for the construction of approximately 42 miles of 230,000 volt (230 kV), three-phase alternating current electric transmission line from Harvey to Rugby, North Dakota. The proposed corridor and route is in Pierce and Wells Counties.

In the application, OTP requests that the Commission waive procedures to allow for combining filing of applications for a Corridor Certificate and a Route Permit, to waive the requirement for hearings on the applications for Corridor Certificate and Route Permit and to waive the requirement for mylar maps. OTP requests that the Commission not hold a public hearing on these waiver requests. More specifically, OTP requests 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) which require a public hearing 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, hearings on the separate 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 Commissions Guidelines. OTP's application was for a proposed facility from Harvey to Rugby, rather than from Harvey to Rolla as had been anticipated in OTP's letter of intent. Because this reduced the overall cost of the project, the filing fee for the Application was reduced to \$70,000.

On March 21, 2000, OTP filed a supplement to its application to provide further justification for its request for waiver of procedures and time lines and also to further describe how OTP considered the relative value of each facility siting criteria in determining the proposed corridor and route.

On April 6, 2000, OTP filed an amendment to its application in order to clarify that an additional substation will be constructed at the northerly terminus of the proposed facility.

On April 26, 2000, the Commission deemed the application was complete and issued a Notice of Filing and Notice of Hearing scheduling a consolidated public hearing for June 1, 2000, at 10:00 a.m. in the Harvey Armory, Kiwanis Room, 120 W 8th Street, Harvey, 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?

The public hearing was conducted as scheduled. At the time of the hearing OTP had not yet identified the location of structures along the proposed route. The Commission requested that OTP discuss with Commission staff how structure locations might be identified and how a route permit might be issued to keep this transmission facility on schedule.

On June 13, 2000, OTP filed a letter describing discussions with Commission staff regarding structure locations and route surveys as directed by the Commission. The letter also set forth suggestions for resolution of the final route location and impact issues. The Commission then considered the procedural aspects of this matter at its regularly scheduled administrative meeting on June 20, 2000.

On June 15, 2000, OTP filed a late filed exhibit consisting of a letter from the owner and operator of a radio tower located in the proposed corridor.

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.

2. OTP states 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 OTP's and other utilities' customers in the project area. The electric transmission facility will also provide a platform from which to construct additional facilities going north from Rugby for ultimate connection at the North Dakota/Canadian border with facilities emanating south from Glenboro, Manitoba.

3. Designation of a corridor 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), one of which is OTP.
5. OTP proposes to construct a new 230 kV transmission line approximately 42 miles long, from Harvey to Rugby, North Dakota. The southern terminal of the proposed facility will be an addition to the existing 230 kV substation at Harvey, North Dakota. The Northern terminal will be a new substation southeast of Rugby, North Dakota. The proposed facility will also include a new switching station near Balta, North Dakota, which will allow the proposed facility to tie into the existing 230 kV line running east/west from Velva to Devil's Lake, North Dakota.
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 \$14 million.
8. OTP plans to begin easement acquisition by June 2000, vegetation clearing by January 2001, construction by May 2001 and energize the line by July 2002.
9. OTP requests approval of a corridor approximately six miles wide by 42 miles long, running between central North Dakota and north central North Dakota. The Corridor was selected following evaluation of a Study Area approximately 30 miles wide by 42 miles long, or approximately 1,260 square miles.
10. OTP contacted State and Federal agencies to notify them of the proposed corridor on October 6, 1999. In those initial contacts, OTP described a corridor extending from Harvey to Rolla (the original intended length of the proposed facility). A contact was made to the agencies on April 20, 2000, to inform them that the proposed facility had been limited to the area between Harvey and Rugby.
11. Blue Stem, Incorporated (Blue Stem), 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. Blue Stem 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 proposed corridor.

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

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

14. Several park and recreational facilities located in and near Rugby are located within the proposed corridor, however OTP proposes to exclude these facilities from the proposed route. No other such facilities are located within the proposed corridor.

15. Habitat for Piping Plovers is found on four lakes within the proposed corridor. OTP proposes to locate the route over 1.5 miles from any of the Piping Plover habitat described above. There are no other areas within the proposed corridor that are critical to the life stages of threatened or endangered species.

16. The Dakota Skipper butterfly is located within the proposed corridor. OTP proposes that its route will be located away from areas in which the butterfly is found. There are no other areas within the proposed corridor where animals or plant species unique or rare to North Dakota would be irreversibly damaged.

17. There are 1,113 acres of federal Waterfowl Production Areas within the proposed corridor. OTP proposes that its route 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 proposed corridor.

18. There are two Wildlife Management Areas managed by the North Dakota Game and Fish Department, totaling 301 acres, within the proposed corridor. OTP proposes that its route avoid all of these Areas. There are no other designated or registered state wild, scenic, or recreational rivers, game refuges, game management areas, management areas, forests, forest management lands or grasslands within the proposed corridor.

19. Blue Stem contracted with Powers Elevation Co., Inc. (historical and archeological consultant) to conduct archeological investigations along the proposed route. A Class I (files search) was made along a six mile wide corridor for the entire proposed transmission line route between Harvey and Rolla 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 a 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 proposed corridor. No known sites eligible for the National Historic Registry are located within the proposed corridor. However, OTP has consulted with Powers Elevation with respect to a few sites, including: 1) Little Flower Cemetery (in Section 6, T. 156N, R.72W, Pierce County); 2) two stone circle sites (site 32PI401—in Section 22, T.152N, R.74W, Pierce County; and site 32PI31—in Section 3, T.151N, R.73W, Pierce County). OTP proposes that its route avoid the Little Flower Cemetery. For the stone circle sites, the archeological consultant and the State Historical Society agreed that OTP would not create adverse impacts to those sites so long as the route avoided them or exclusion zones could be created around the sites to prevent vehicular traffic from crossing in the area during construction. OTP has agreed to comply with these recommendations.

20. No areas within the proposed corridor are geologically unstable.

21. There are 174 rural residences within the proposed corridor. There are also numerous residences and businesses within the corridor near the communities of Harvey and Rugby. OTP proposes that its route not come within 500 feet of any structure being used for a residence or business.

22. There are reservoirs within the proposed corridor, totaling 106 acres of surface water. OTP proposes that its route avoid all such areas. No municipal water supplies are within the proposed corridor.

23. No water sources for organized rural water districts are located within the proposed corridor.

24. There are two irrigation permits located within the proposed corridor—one in Section 27, T.151N, R.73W. and one in Section 6, T.156N., R.72W, both in Pierce County. OTP proposes that its route avoid these areas.

25. No areas of recreational significance otherwise designated are located within the proposed corridor.

26. The corridor is made up largely of agricultural production lands. OTP proposes 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. OTP has agreed to comply with this request.

27. The proposed facility is not expected to have any impact upon surface drainage patterns and ground water flow patterns.

28. 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. OTP has agreed to comply with this recommendation.

29. The proposed facility will be visible to landowners and community residents who live near the proposed facility.

30. Nineteen gravel and sand pits are located within the proposed corridor. Numerous inactive, unreclaimed gravel pits exist within the proposed corridor. OTP proposes that its route avoid all active gravel and sand pits. No other extractive or storage resources are located within the proposed corridor.

31. There are 14,010 acres of wetlands and lakes within the proposed 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. OTP has agreed to obtain all required permits and comply with any mitigation requirements of these agencies. OTP will also obtain permits where required for permanent easements held by the U.S. Fish and Wildlife Service.

32. Approximately 2,060 acres of woodlands and shelter belts are located within the proposed corridor. OTP agrees to replace two trees for every tree that is removed and will contact land owners 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, OTP agrees to plant replacement trees as directed by the Parks Department of Rugby and Harvey, North Dakota.

33. One radio tower is located within the proposed corridor. OTP has coordinated with the owner and operator of the tower to avoid any interference with tower operations. OTP and the tower owner and operator anticipate that the proposed facility will have no adverse impact on the tower operations. No other impacts to radio and television reception and other communication or electronic control facilities are anticipated from the proposed facility. A letter from the owner of the radio tower, filed as a late filed exhibit, stated that the proposed transmission line is not likely to create interference or in any other way harmfully affect the operation of the radio tower.

34. 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". OTP has 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.

35. Animal health and safety is not expected to be impacted by the proposed facility.

36. 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 OTP.

37. OTP has adopted policies and practices that will maximize benefits and therefore OTP's application should be given preference. Examples of such policies and practices are as follows: OTP has policies to minimize and mitigate environmental impacts, to follow the National Electric Safety Code requirements and policies, to design its 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, OTP has policies and practices that encourage training and utilization of available labor in this state for the general and specialized skills required. Also the electricity transmitted across the proposed facility is largely committed for use in the State of North Dakota. OTP has also coordinated its existing facilities with the proposed facility to insure reliability and enhance efficiency.

38. OTP has identified a line intended to be the proposed route. However, OTP has not identified the location of each structure along this proposed route. We find that, until the location of structures has been identified, the Commission is not able to determine the ultimate impact of the project. Therefore, the Commission is not able to issue a permit for the route at this time. The Commission will extend the time period under which it is required to issue the route permit and thereby provide time for OTP to finalize the transmission facility route, assess the impacts, file the information as supplement to the application. After the application is supplemented, the Commission will determine a procedure to conclude the proceeding.

39. OTP, 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 Harvey to Rugby facility, is the first phase of the Harvey to Glenboro facility. The Harvey to Rugby electric transmission 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.

40. We find that the proposed corridor is 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.

41. OTP 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, hearings on the separate filings and certain time schedules. OTP stated that the waiver should be granted because the proposed facility would 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. We find no sufficient reason to grant a waiver of all hearings.

42. OTP requested a waiver to allow Geographic Information System criteria maps to substitute for the mylar maps and aerial photographs required by the Commissions 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 applicant, Otter Tail 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 OTP is a transmission facility as defined in N.D.C.C. §49-22-03(11).
3. OTP's proposed 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 insuring that energy needs are met and fulfilled in an orderly and timely fashion
4. OTP's proposed corridor is compatible with the environmental preservation and efficient use of resources.
5. It is appropriate for the Commission to issue OTP a Certificate of Corridor Compatibility.

6. 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, certain time schedules, 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 Commissions Guidelines.

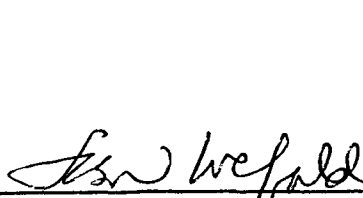
From the foregoing Findings of Fact and Conclusions of Law, the Commission issues its:

Order

The Commission orders:

1. OTP's 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, certain time schedules, and hearings in each county; and OTP's application for a waiver to allow Geographic Information System criteria maps to substitute for the mylar maps and aerial photographs required by the Commissions Guidelines is granted.
2. Certificate of Site Compatibility for a Transmission Facility Corridor No. 77 is issued to Otter Tail Power Company under N.D.C.C. § 49-22-08(5), designating a six-mile wide corridor as shown on the attached map.
3. 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 E. Wefald
Commissioner



Bruce Hagen
President



Leo M. Reinbold
Commissioner

March 3, 2008

RECEIVED

MAR 4 2008

PUBLIC SERVICE COMMISSION

Ms. Illona A. Jeffcoat-Sacco
Executive Director
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

RE: Letter of Intent to submit application for a Certificate of Corridor Compatibility and a Route Permit for a 230 kV transmission line associated with M-Power, LLC's Luverne Wind Farm, and Request for Waiver of One-Year Notice Period

Dear Ms. Jeffcoat-Sacco:

M-Power, LLC ("M-Power"), a North Dakota limited liability company, is filing this Letter of Intent ("LOI") to submit an application for a Certificate of Corridor Compatibility and Route Permit for a 230 kV transmission line pursuant to Chapter 49-22 of the North Dakota Century Code and Article 69-06 of the North Dakota Administrative Code. The proposed 230 kV transmission line will transport energy from M-Power's Luverne Wind Farm, a 150 MW project that M-Power intends to construct along the border of Griggs and Steele Counties, North Dakota, to a proposed substation to be constructed by Otter Tail Power Company ("Otter Tail") and Minnkota Power Cooperative, Inc. ("Minnkota") northwest of Pillsbury in Barnes County, North Dakota.

M-Power submitted a letter of intent for the Luverne Wind Farm on January 16, 2008 and a supplement to its letter of intent on January 18, 2008. Otter Tail filed a letter of intent on behalf of itself and Minnkota for the proposed substation and related 60-mile 230 kV transmission line on February 5, 2008.

M-Power's proposed 13-mile 230 kV transmission line is an integral part of M-Power's Luverne Wind Farm. The Luverne Wind Farm is structured as a community wind project, meaning that local landowners and members of the community have the opportunity to become members of M-Power and participate in ownership and decision-making. With respect to the right-of-way for the proposed 13-mile 230 kV transmission line, M-Power plans to acquire easements from those landowners within the transmission line route ultimately approved by the North Dakota Public Service Commission ("Commission").

Attorneys & Advisors
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www.fredlaw.com

Fredrikson & Byron, P.A.
200 North Third Street, Suite 150
Bismarck, North Dakota
58501-3879

Waiver Request

M-Power requests a waiver from Section 69-06-03-01 of the North Dakota Administrative Code, which establishes a one-year notice period between filing the LOI and filing the application for a Certificate of Corridor Compatibility and a Route Permit. Pursuant to Section 69-06-03-01, the Commission may approve a shorter notice period.

M-Power's request for a waiver is tied directly to the federal production tax credit ("PTC") legislation, which is a key incentive for the production of wind energy. M-Power originally planned to have its Luverne Wind Farm operational by late 2009 or early 2010. However, the PTC is currently set to expire on December 31, 2008 and, without the PTC, the Luverne Wind Farm would not be a viable project. Given the uncertainty regarding an extension of the PTC, M-Power now contemplates a construction and commercial operation schedule that would allow the Luverne Wind Farm to qualify for the PTC prior to its expiration on December 31, 2008. The transmission line that M-Power plans to construct will connect M-Power's Luverne Wind Farm to the grid and, thus, allow the wind turbines located at the Luverne Wind Farm to become eligible for the PTC.

As required by Section 69-06-03-02 of the North Dakota Administrative Code, M-Power provides the following information regarding the proposed transmission line:

Size and Type of Facility

The proposed overhead transmission line will be a 230 kV line, and will utilize wood "H" frame poles. The length of the line will be approximately 13 miles.

Area to be Served

The Luverne Wind Farm will consist of two phases, although both phases are contiguous and will be developed concurrently. The larger phase is 100 MW and will be owned by M-Power, with the generation sold to a regional utility under a Power Purchase Agreement ("PPA"). The second phase, consisting of 50 MW, will be sold to a regional utility at the time that portion of the project is ready for construction. The purchasing utility will build, own and operate the "Construction Ready" Project. The specific areas to be served by the PPA Project and the "Construction Ready" Project have not yet been designated. Delineation of the respective owners' shares of the overall project footprint is contingent upon the specification of the turbines to be used and siting constraints, both of which are yet to be determined.

The proposed 13-mile 230 kV transmission line will connect both phases of the Luverne Wind Farm to a proposed substation northwest of Pillsbury, North Dakota. The proposed substation will be owned and constructed by Otter Tail and Minnkota.

Map of the Study Area for the Proposed Corridor

Attached is a map that outlines the proposed study area for the transmission line corridor.

Anticipated Construction and Operation Schedule

M-Power intends to have the Luverne Wind Farm commercially operational no later than December 31, 2008 to ensure that it is eligible to receive the PTC. To meet the December 31, 2008 deadline, M-Power proposes to develop the transmission line on the following schedule:

April/May – File a combined application with the Commission for a Certificate of Corridor Compatibility and Route Permit. In addition, M-Power will file an application for a conditional use permit with Barnes County for the transmission line.

June – The Commission and Barnes County grant appropriate certificates and permits for the transmission line.

July/August – Begin construction of the transmission line.


September/October – Complete construction of the transmission line.

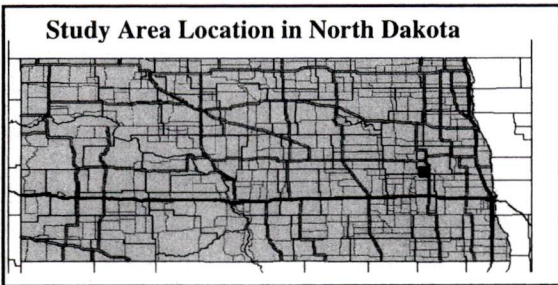
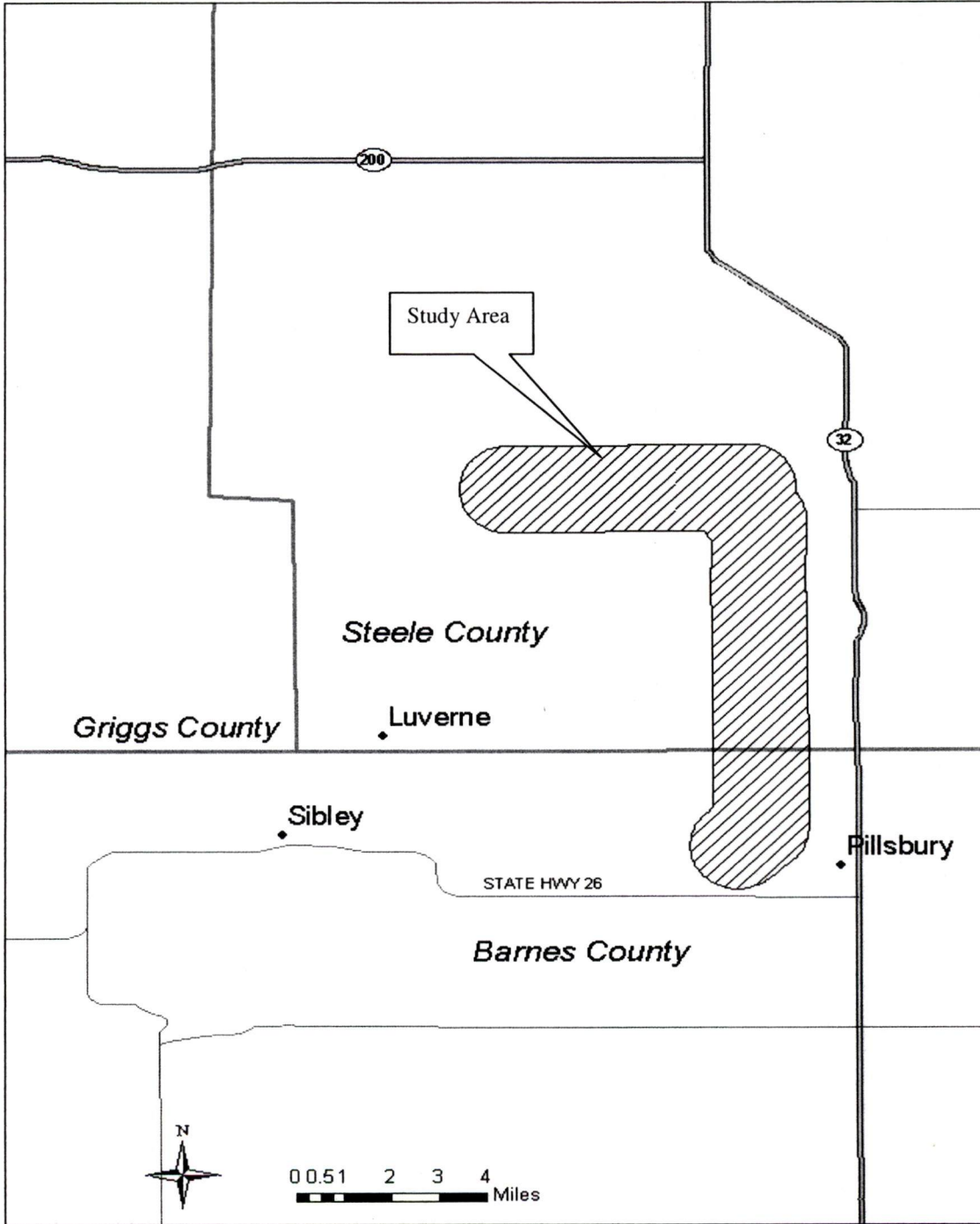
During the time period outlined above, permitting for and construction of the Luverne Wind Farm would follow a parallel path, with the appropriate certificates and permits issued in June, construction beginning in July, and completion of construction in October or November.

Estimated Total Cost of Construction

The capital costs for the M-Power 13-mile 230 kV transmission line are estimated at \$4,550,000.

We look forward to working with the Commission on this matter. If you have any questions regarding the proposed transmission line, the Luverne Wind Farm, or this Letter of Intent, please do not hesitate to contact me.

Sincerely,

LAWRENCE BENDER



**Proposed 230 KV Transmission Line
Study Area
Steele and Barnes Counties,
North Dakota**

**BASIN ELECTRIC
POWER COOPERATIVE**

1717 EAST INTERSTATE AVENUE
BISMARCK, NORTH DAKOTA 58503-0564
PHONE 701-223-0441
FAX 701/224-5336



April 25, 2007

Ms. Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480



Dear Ms. Jeffcoat-Sacco:

Pursuant to the provisions of Chapter 49-22 of the North Dakota Century Code and implementing rules, Basin Electric hereby notifies you of its intent to construct a 230 kV transmission line from the Western Area Power Administration's (**Western**) Belfield Substation east of Belfield, North Dakota, to a new 230 kV substation to be built south of Rhame, North Dakota.

1. Description of Size and Type of Facility and the Area to be Served

The facility would consist of a 230 kV transmission line approximately seventy (70) miles in length, beginning at Western's Belfield Substation east of Belfield, North Dakota, to a new 230 kV substation to be built south of Rhame, North Dakota and interconnected to the existing Miles City, Montana to New Underwood, South Dakota 230 kV line owned by Western, Basin Electric and MDU.

The transmission line is needed to increase the load-serving capacity and reliability of the interconnected transmission system in southwestern North Dakota, due primarily to expanding oil development and related increased electrical power usage in this area.

2. A Map of the Study Area for the Proposed Site or Corridor

The proposed facility will begin at the existing Belfield Substation and terminate at the new Rhame Substation.

A map of the area being studied for location of a corridor for the proposed facility is enclosed.

3. The Anticipated Construction and Operation Schedule

Construction on the Belfield to Rhame line would begin as soon as necessary approvals are obtained. Under schedules giving consideration to state and federal regulation, that construction may begin as late as early 2009, with the line being placed into operation in early 2010. We intend to begin right-of-way acquisition in March 2008 to meet our on-line schedule of early 2010.

4. An Estimate of the Total Cost of Construction

Basin Electric has not to date developed a definitive cost estimate for the Belfield to Rhame project, but preliminary figures indicate the cost of the facility would be approximately \$33 million.

Ms. Illona Jeffcoat-Sacco
April 25, 2007
Page Two

5. Additional Information

The considerable oil and gas development activity in southwestern North Dakota is causing an accelerated growth in requirements for electric power. Slope Electric Cooperative, a member of Upper Missouri Generation and Transmission Cooperative (a Class A member of Basin Electric), is currently restricting load growth due to existing high-voltage transmission limitations. Therefore, additional high-voltage transmission facilities are needed in this area to allow service to existing loads and anticipated load growth. Enclosed is a letter from Western addressing the existing high-voltage transmission load-serving limitations. The Belfield to Rhame Project will also provide significant reliability improvements, as well as load-serving increases in the area.

Basin Electric hereby requests the Commission shorten the one-year waiting period between filing a Letter of Intent and the filing of an Application for a Certificate of Corridor Compatibility as provided at Section 69-06-03-01 N.D.A.C. The Application, when filed, will also request Commission approval for Basin Electric to submit a consolidated Application for a Certificate of Corridor Compatibility and a Route Permit resulting in a consolidated hearing. We will be prepared to file the Application for a Certificate of Corridor Compatibility and Route Permit by January 2008.

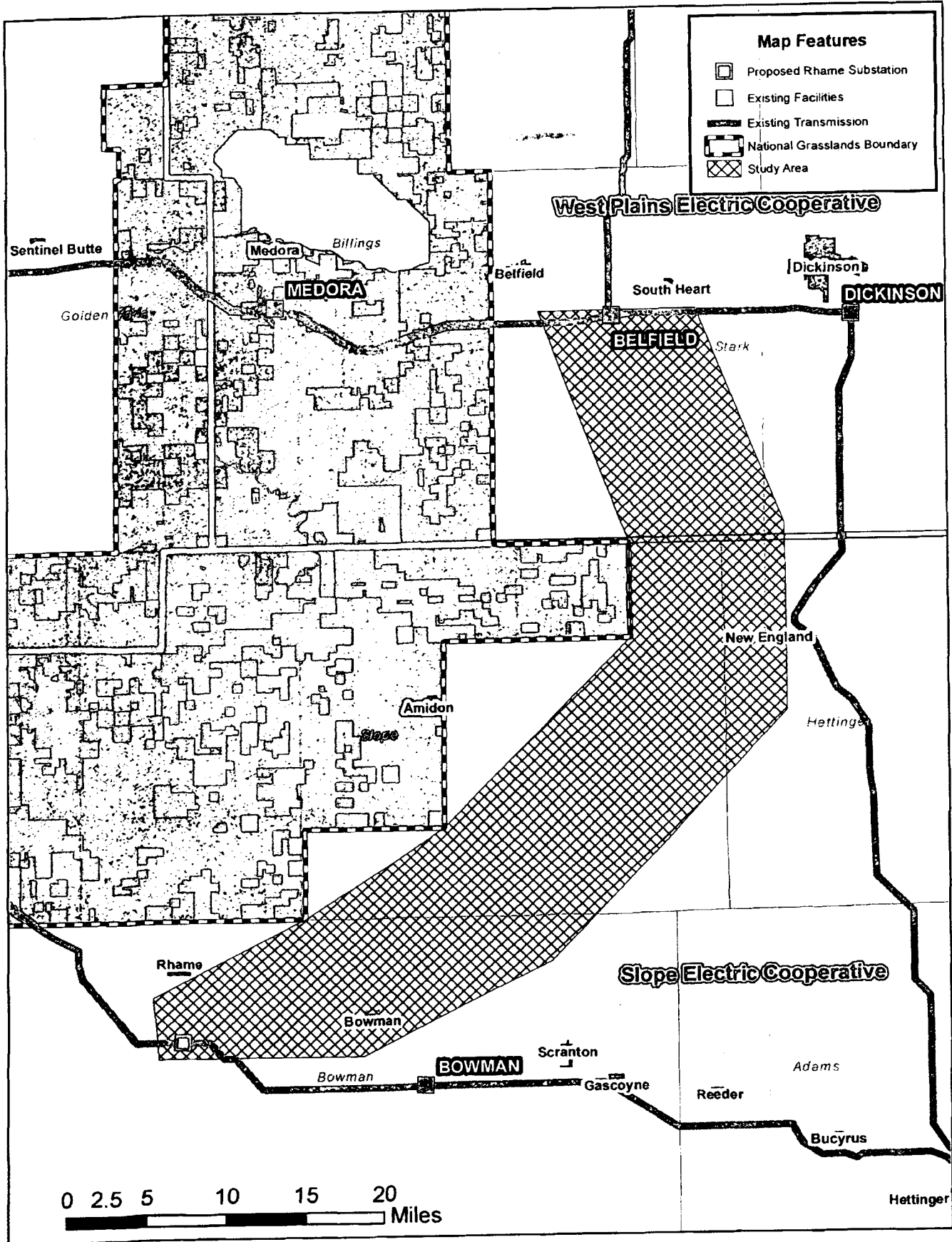
We would appreciate any assistance the Public Service Commission can provide to expedite the permitting process.

Sincerely,



Ronald R. Harper
CEO & General Manager

rrh/dfi/mw
Enclosures





Department of Energy
Western Area Power Administration
Upper Great Plains Customer Service Region
P.O. Box 35800
Billings, MT 59107-5800

B4402.BL

FEB 26 2007

Mr. David Raatz
Basin Electric Power Cooperative
1717 East Interstate Avenue
Bismarck, ND 58503

Dear Mr. Raatz:

This letter serves to inform Basin Electric and UMG&T of the updated maximum allowable load limit at the Little Missouri Substation. Western will subsequently provide an updated load limit prior to installation of 2 – 20-Mvar capacitor banks at the Dawson County Substation and the installation of the recommended 2 – 20-Mvar capacitor banks at the Little Missouri Substation. The Dawson County capacitor additions, being installed by Western, are presently scheduled to be in service early June 2007. Western understands that UMG&T is expediting the installation of the Little Missouri capacitors, and is awaiting further details on the scheduled installation of those banks.

As previously discussed, under-voltage load shedding (UVLS) protection must be installed at Little Missouri Substation to prevent potential voltage collapse of the 230-kV transmission system in the area given the current load level. The UVLS will allow additional load, as outlined below, to be served from the existing system, until such time as the Integrated System (IS) can be adequately expanded to serve the large load increases that you have noted in the recent load forecasts. Western normally does not utilize UVLS, however, insufficient lead time existed for Western to accommodate the recent load forecasts with other system changes or additions. Western has been coordinating with UMG&T in regards to the UVLS installation, which will trip the 115-kV feeder breakers at Little Missouri. Western further understands this installation will be completed March 1st, at which time the oil field customers wish to increase load above their present demand of approximately 46 MW.

Based on the present configuration and transformer tap of 235,750 kV (1.02 p.u.), the UVLS relay should be set to trip load if the 115-kV voltage drops below 0.90 p.u. (103.5 kV) for a duration of 5 seconds. It is our understanding that the UVLS scheme is designed to allow automatic arming or disarming at a specified load threshold via its internal logic and via operational arming and disarming via remote communication. Initially, Western requires that the UVLS scheme shall be armed continuously, and that the minimum load threshold setting be disabled. Western is still in the process of evaluating Operating Guides to allow disarming of the UVLS protection during non-stressed system conditions, e.g. light to modest system loads and transfers.

Based on completed installation of the UVLS protection scheme and worst case system stressed conditions (peak load, high transfer), the maximum Little Missouri load shall not exceed the following:

- **System Intact Limit = 70 MVA (63.0 MW @ 0.90 p.f.)**
(Or, with Western's approval: 66.5 MW @ 0.95 p.f., or 68.5 MW @ 0.98 p.f.)
- **Post Contingent Limit = 50 MVA (45.0 MW @ 0.90 p.f.)**
(Or, with Western's approval: 47.5 MW @ 0.95 p.f., or 49.0 MW @ 0.98 p.f.)

The post contingent load limit applies following the permanent loss of any section of the Miles City–Hettinger 230-kV circuit. Western will submit an Operating Procedure to Basin Electric and UMG&T prior to the installation of the UVLS protection scheme, outlining the procedures for the restoration of the Little Missouri load following a load shed.

As noted above, some additional load (in MW) can be served depending upon the power factor that can be maintained. The load limits noted above at 0.90 p.f. shall be observed, unless prior approval is granted by Western based upon documentation from the customer that the improved power factors (> 0.90 p.f.) can be maintained.

It is imperative that any additional Basin Electric member load proposed to be served between Hettinger and Baker be identified and forecast due to the stressed nature of the IS in this area. Western's supporting system studies, which identified the above limits, included a 4.5-MW load increase to the underlying 57 kV, as provided by UMG&T.

Western will notify you when these limits may be increased during the upcoming months as a result of any combination of the following; capacitor additions at Dawson County and Little Missouri, additional review of any other potential remedial actions for the 230-kV contingencies, etc. Western will also be working on an expedited basis with Basin Electric's Transmission Services department to identify long-term transmission solution(s) to fully accommodate the latest load forecasts provided by Basin Merchant.

If you have any questions, please telephone Frank Jarvenpaa at (406) 247-7384, or Steve Sanders at (406) 247-7436.

Sincerely,



for

Edward P. Weber
Transmission System Planning Manager

cc:

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