

EXHIBIT 3  
AW

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

M-Power, LLC  
230 kV Transmission Line Barnes/Steele County  
Siting Application

Case No. PU-08-107

CERTIFICATION RELATING TO ORDER PROVISIONS - ELECTRIC  
TRANSMISSION LINE SITING

I am \_\_\_\_\_, a representative of M-Power, LLC (M-Power) with authority to bind M-Power to requirements to be set forth by the Commission in its Order and I certify the following:

1. M-Power agrees to hold a preconstruction conference prior to commencement of any construction, which must include a M-Power representative, its construction supervisor, and a representative of Commission Staff to ensure that M-Power fully understands the conditions set forth in the Commission's order.
2. M-Power agrees to 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 of all licenses and permits to the Commission prior to construction of the transmission line.
3. M-Power agrees to inform the Commission of its intent to start construction on the transmission line prior to the commencement of construction, and once construction has started, that it shall keep the Commission updated on construction activities on a weekly basis.
4. M-Power agrees to construct and operate the transmission line in the manner described in its application, in any late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.
5. M-Power agrees to promptly report to the Commission the presence in the permit area of any critical habitat of threatened species, endangered species, bald eagles, or golden eagles that M-Power becomes aware of and which were not previously reported to the Commission.
6. M-Power understands that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office for approval prior to the start of any fieldwork and construction activity.

7. M-Power understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, 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.
8. M-Power understands and agrees that 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.
9. M-Power understands and agrees that 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.
10. M-Power understands and agrees that reclamation and clean up along the right-of-way must be continuous and coordinated with construction.
11. M-Power understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
12. M-Power understands and agrees that its obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission line.
13. Attached is a document titled Tree and Mitigation Specifications. M-Power agrees to comply with these specifications if the Commission chooses to include all or a portion of the requirements and conditions contained in this attachment in its Order.
14. M-Power agrees to work with landowners and residents to mitigate any increase in television and residential radio interference that results from the route of the transmission line.
15. M-Power understands and agrees that it must obtain approval from the Commission prior to any changes in the facility route or structure locations.
16. M-Power agrees to provide the Commission with a copy of the facility alignment drawings with alignment data 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.

17. M-Power understands and agrees that 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.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2008.

M-Power, LLC

By \_\_\_\_\_

Its \_\_\_\_\_



**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**M-Power, LLC**  
**Electric Generation/Wind – Griggs/Steele**  
**County**  
**Siting Application**

**Case No. PU-08-34**

**M-Power, LLC**  
**230 kV Transmission Line Barnes/Steele County**  
**Siting Application**

**Case No. PU-08-107**

**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 (Commission), 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 Commission.
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 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 Commission 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.
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 or 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 Commission.
15. Tree and 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 Commission 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 Commission may order additional planting(s).