

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-08-48

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Janet Marquart deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **12th** day of **June, 2008**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing original of:

CERTIFICATE OF CORRIDOR COMPATIBILITY NUMBER 105
ROUTE PERMIT NO. 115

and a photocopy of:

ORDER

The envelope was addressed as follows:

Jerome Kettleison, Attorney
Pearce & Durick
314 East Thayer Ave
Bismarck, ND 58501
Cert. No. 7008 0150 0003 3556 2377

Janet Marquart further deposes and says that on the **12th** day of **June, 2008**, she deposited in the United States Mail, Bismarck, North Dakota, **three** envelopes by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of each of the same.

The envelopes were addressed as follows:

Gerad Paul, Attorney
Minnkota Power Cooperative, Inc.
PO Box 13200
Grand Forks, ND 58208-3200
Cert. No. 7008 0150 0003 3556 2360

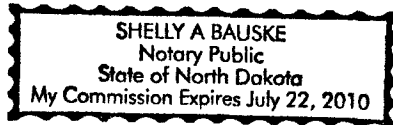
Wally Lang
Minnkota Power Cooperative, Inc.
PO Box 13200
Grand Forks, ND 58208-3200
Cert. No. 7008 0150 0003 3556 2346

Thomas D. Kelsch
Kelsch Kelsch Ruff & Kranda
PO Box 1266
Mandan, ND 58554-1266
Cert. No. 7008 0150 0003 3556 2353

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this 12th day of **June, 2008**

SEAL



Janet Marquart

Shelly A Bauske

Notary Public

**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.

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 Ellsby

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:

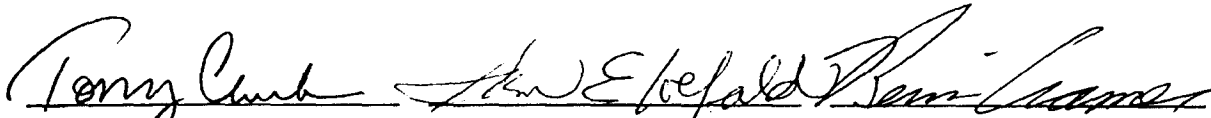
1. Minnkota's application for a waiver of procedures and time schedules is granted.
2. Certificate of Compatibility for a Transmission Facility Corridor No. 105 is issued to Minnkota, designating a corridor for its proposed transmission facility as described in Minnkota's amended application.
3. Route 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

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

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA
Certificate of Corridor Compatibility
Number 105

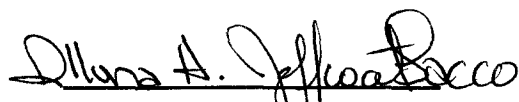
This is to certify that the Commission has designated a transmission facility corridor for Minnkota Power Coop., Inc. to construct and operate approximately 61.1 miles of 230 kV transmission line and associated facilities in Steele, Barnes, and Cass Counties of North Dakota.

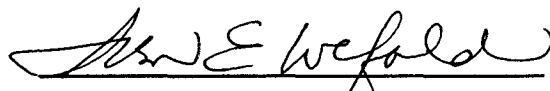
This certificate is issued in accordance with the Order of this Commission dated June 6, 2008 in Case No. PU-08-48 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, June 6, 2008.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Director


Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Route Permit No. 115

This is to certify that the Commission has designated a transmission facility route for Minnkota Power Coop., Inc. to construct and operate approximately 61.1 miles of 230 kV transmission line and associated facilities in Steele, Barnes and Cass Counties of North Dakota.

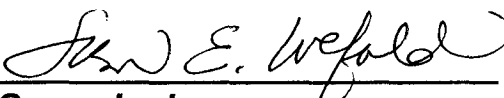
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Case No. PU-08-48

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 NSPSC 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/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).