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PUBLIC SERVICE COMMISSION

July 10, 2008

Ilona A. Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard; Dept. 408
Bismarck, ND 58505-0480

Re: *Pillsbury-Fargo Generation Outlet Project*
Case Number PU-08-48

Dear Ms. Jeffcoat-Sacco:

With this letter, Minnkota Power Cooperative, Inc. submits proposed Supplemental Findings of Fact, Conclusions of Law and Supplemental Order re Pillsbury-Fargo Generation Outlet Project in Case Number PU-08-48.

Pursuant to § 49-22-08 of the North Dakota Century Code, the Energy Conversion and Transmission Facility Siting Act, and rules promulgated thereunder, enclosed for filing please find:

1. Original and seven (7) copies of proposed Supplemental Findings of Fact, Conclusions of Law and Supplemental Order.

Should you have any questions with respect to this filing, please contact me.

Very truly yours,

PEARCE & DURICK

By 

Jerome C. Kettleison
Phone: (701) 333-0104

JCK/ef
Enclosures

79 **PU-08-48** Filed: 7/10/2008 Pages: 8
**Proposed Supplemental Findings of Fact,
Conclusions of Law and Supplemental Order**

Minnkota Power Coop., Inc.

Pearce&Durick, Jerome Kettleison

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

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

Case No. PU-08-48

**SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS OF LAW
AND SUPPLEMENTAL ORDER**

July __, 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.

Annette Bendish, 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 May 22, 2008, the Public Service Commission held a public hearing in Casselton, North Dakota to consider Minnkota Power Cooperative, Inc. Pillsbury-Fargo 230-kV transmission line, both corridor certification and route application.

After due consideration, the Public Service Commission designated a transmission facility corridor and issued its certificate in Case No. PU-08-48 for Certificate of Corridor Compatibility No. 105. At the same time, the Public Service Commission issued a Route Permit No. 115 permitting Minnkota Power Cooperative, 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. The route was designated, except in the area of an alternate reroute proposed in the northeastern portion of Rush River Township, Cass County, North Dakota.

During the May 22, 2008 hearing, the Commission requested that Minnkota file a 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, if the line was within less than one mile of their farm. 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:

Starting at the northeastern corner of the Northeast Quarter of Section 4 and moving south along the eastern section line of Section 4 and Section 9, then crossing over from the southeast corner of the Southeast Quarter of Section 9 into the Northwest Quarter of Section 15 continuing in a southerly fashion down the western section line ½ mile to the center of Section 15. Thence in an easterly direction along the north side of the east/west center line of the Section and continuing through Section 14 until it crosses to the western edge of Section 13.

Minnkota recommended the alternate reroute as presented in Late-Filed Exhibit 2 contingent upon completing cultural, biological and wetlands surveys. The Commission found that additional time for the survey and an opportunity for interested persons to be heard before designating a transmission route within the northeastern portion of Rush River Township would be appropriate.

On June 6, 2008, the Public Service Commission issued a Notice of Supplemental Hearing setting hearing on July 8, 2008 at 1:30 p.m., in the Commission Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota, for the purpose of designating an alternative route within the corridor in the northeast portion of Rush River Township.

The issues to be considered at the public hearing were:

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?

On July 8, 2008, a public hearing on reroute in the northeast corner of Rush River Township, Cass County, North Dakota was held at the Commission Hearing Room at the State Capitol in Bismarck, 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

Evaluation Criteria

1. 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 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.

2. No exclusion areas have been identified along the proposed route.
3. There are no avoidance areas along the proposed route.
4. Minnkota conducted a Class I Cultural Resources inventory of North Dakota State Historic Preservation Office files along the reroute in the area of the northeast portion Rush River Township. 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 July 7, 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.
5. 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. Minnkota conducted a wetland delineation along the proposed route. There are no impacted wetland along the reroute.
6. 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.
7. Edward Olson, Argusville, North Dakota, testified at both the May 22, 2008 Public Hearing and the July 8, 2008 Supplemental Public Hearing in this matter. At the Supplemental Hearing on July 8, 2008, Mr. Olson agreed he had requested that the Commission at its May 22, 2008 Hearing: ". . . try really hard to figure out a way to run that power line so it's at least at the very minimum one mile and more than likely two miles from our farm." (Transcript of 5/22/08 Public Hearing, Casselton, North Dakota, pg. 207, Ins. 15-18). The reroute being considered in this Supplemental Hearing for the transmission line in the area of Mr. Olson's farm is more than 1.5 miles from his farmstead.
8. Temporary impacts to vegetation will occur in the right of way area and around each structure location during construction of the reroute in Rush River Township. Permanent impact to vegetation will occur at each structure location.

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

Conclusions of Law

1. The Commission has jurisdiction over this supplemental proceeding under Chapter 49-22 of the North Dakota Century Code.
2. The 230-kV transmission line to be constructed in Rush River Township, Cass County, North Dakota as proposed by Minnkota, is a transmission facility as defined in Section 49-22-03(12), of the North Dakota Century Code.
3. The reroute in Rush River Township, Cass County, North Dakota, 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 Amended Application and the proposed reroute in Rush River Township, Cass County, North Dakota, to include the Late-Filed Exhibit 2, meet the route evaluation criteria required by Chapter 49-22 of the North Dakota Century Code.
5. The location, construction, and operation of the proposed reroute of the transmission facility will produce only minimal adverse effects to the environment and upon the welfare of the citizens of North Dakota.
6. The reroute of the proposed transmission facility in Rush River Township, Cass County, North Dakota is compatible with the environmental preservation and the efficient use of resources.
7. The proposed transmission facility reroute in Rush River Township, Cass County, North Dakota 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 reroute in Rush River Township, Cass County, North Dakota, is of such a length design, location and purpose that it will produce minimal adverse affects in the reroute area in Rush River Township, Cass County, North Dakota.
9. The requested waivers of procedures and time schedules as they effect the reroute 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. Routing criteria assessment has been completed and an opportunity has been given to interested persons to be heard before designating the route in the area of Minnkota's alternate reroute proposed in the northeastern portion of Rush River Township.

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

Supplemental Order Regarding Reroute

The Commission orders:

1. Minnkota's application for a waiver of procedures and time schedules as to the reroute as described herein is granted.
2. Route Permit for Construction of a Transmission Facility No. 115 is Supplemented to include granting authority to construct the proposed reroute of the transmission line within the area of the alternate reroute proposed in the northeastern portion of Rush River Township.
3. 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.
4. Minnkota shall inform the Commission of its intent to start construction in the reroute area prior to the commencement of construction, and, once construction has started, Minnkota shall keep the Commission updated of construction activities on a weekly basis.
5. Minnkota shall construct and operate the transmission facility in the reroute area in the manner described in its Application and at the hearing, and the Supplemental Hearing and in accordance with all applicable safety requirements.
6. 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.
7. 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.
8. 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.
9. 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. Reclamation along the right-of-way shall be continuous and coordinated with construction.
11. 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.

12. Minnkota shall comply with the Commission's Tree and Shrub Mitigation Specifications attached to the Commission's Order dated June 6, 2008.
13. Minnkota's obligation for reclamation and maintenance of the right-of-way shall continue throughout the life of the Transmission facilities.
14. 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.
15. Minnkota shall repair or replace all fences and gates removed or damaged during all phases construction and operation of the proposed transmission facilities.
16. Minnkota shall obtain approval from the Commission or from Commission staff prior to any changes in structure locations.
17. 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.
18. The authorizations granted by the 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

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

APPLICATION TO THE NORTH DAKOTA)
PUBLIC SERVICE COMMISSION FOR A)
WAIVER OF PROCEDURES AND TIMELINES,)
AND CONSOLIDATED CERTIFICATE OF)
CORRIDOR COMPATABILITY AND ROUTE)
PERMIT, PILLSBURY-FARGO GENERATION)
OUTLET PROJECT)

Docket No. PU-08-48

AFFIDAVIT OF SERVICE

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

Evelyn Froebe, being first duly sworn on oath, does depose and say: That she is over the age of eighteen years, and not a party to the above-entitled matter;

That on the 10th day of July, 2008, this affiant served a true and correct copy of the following document in the above-captioned action:

1. (Proposed) Supplemental Findings of Fact, Conclusions of Law and Supplemental Order

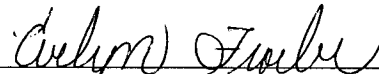
That copies of the above document were enclosed and secured in an envelope and addressed as follows:

Public Service Commission
State Capitol Building
600 E. Boulevard Avenue; Dept. 408
Bismarck, ND 58505-0480

Hand-Delivered – Original and 7 Copies

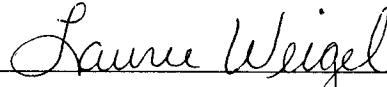
To the best of affiant's knowledge, information and belief, such address as given above was the actual post office address of the party intended to be so served.

That the above documents were duly served in accordance with the provisions of the North Dakota Rules of Civil Procedure.



Evelyn Froebe

Subscribed and sworn to before me this 10th day of July, 2008.



Notary Public

