

**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 ORDER**

**July 14, 2008**

**Appearances**

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

Jerome C. Kettleon, 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, State 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.'s (Minnkota) application for corridor certificate and route permit authorizing construction of a proposed Pillsbury-Fargo 230 kV electric transmission line and associated facilities.

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. On May 28, 2008, Minnkota submitted Late-Filed Exhibit 2 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.

On May 30, 2008, Minnkota filed Supplement to Late-Filed Exhibit 2. Minnkota recommended the alternate reroute as presented in Late-Filed Exhibit 2 contingent upon completing cultural, biological, and wetlands surveys.

On June 6, 2008, the Commission issued its Findings of Fact, Conclusions of Law and Order issuing Certificate of Corridor Compatibility No. 105 and Route Permit No. 115 designating a route for Minnkota's proposed transmission line except in the area of the alternate reroute proposed in the northeastern portion of Rush River Township, Cass County, North Dakota. The Commission found that additional time for environmental surveys and an opportunity for interested persons to be heard were needed before designating a transmission route within that area.

Also on June 6, 2008, the Commission issued a Notice of Supplemental Hearing scheduling a public hearing limited to issues relating to the proposed alternative route located in Rush River Township to begin on July 8, 2008 at 1:30 p.m., in the Commission Hearing Room, 12<sup>th</sup> Floor, State Capitol, Bismarck, 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?

On July 8, 2008, the Commission held a public hearing on the reroute in the northeast corner of Rush River Township, Cass County, North Dakota as scheduled. 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. 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 alternative reroute.
3. There are no avoidance areas along the proposed alternative reroute.
4. Minnkota conducted a Class I Cultural Resources Inventory (CRI) of North Dakota State Historic Preservation Office files along the alternative 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 identified along the proposed alternate 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 North Dakota Administrative Code section 69-06-08-01(4).

7. Edward and Jeanne Olson, Argusville, North Dakota, presented public testimony at both the May 22, 2008 public hearing and the July 8, 2008 supplemental public hearing. At the May 22, 2008 hearing, Mr. Olson requested that the Commission “. . . 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, lines 15-18). As a result, Minnkota developed and proposed the alternate reroute, which was requested during the May 22 hearing and was the subject of the July 8 hearing. Mr. Olson requested at the July 8 hearing that the reroute be rerouted again to a distance of two to five miles from his property due to concerns about potential adverse effects of electromagnetic fields or stray voltages to the Olson’s cattle.

8. The alternative reroute being considered in this Supplemental Hearing for the transmission line in the area of the Olson’s farm is at least one mile from their property and at least 1.5 miles from their farmstead. Given the time and expense of developing this alternative reroute to accommodate the Olson’s original request, the Commission finds that the Olson’s July 8 request for additional rerouting is not reasonable.

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

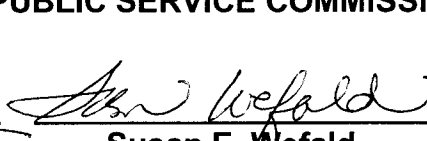
**Order**

The Commission orders:

1. First Amended Route Permit for Construction of a Transmission Facility No. 115 is issued to Minnkota granting authority to construct the proposed alternate reroute of the transmission line in the northeastern portion of Rush River Township.
2. This Order is supplemental to the Commission's June 6, 2008 Findings of Fact, Conclusions of Law and Order.

**PUBLIC SERVICE COMMISSION**

  
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**Tony Clark**  
Commissioner

  
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**Susan E. Wefald**  
President

  
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**Kevin Cramer**  
Commissioner

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**First Amended  
Route Permit No. 115**

*This is to certify that the Commission has designated a transmission facility route for 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.*

*This certificate is issued in accordance with the Orders of the Commission dated June 6, 2008 and July 14, 2008 in Case No. PU-08-48 and is subject to the conditions and limitations noted in those Orders.*

*Bismarck, North Dakota, July 14, 2008.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Director**

  
**Commissioner**