

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Allete, Inc.
230 kV Transmission Line / Morton & Oliver Counties
Siting Application**

Case No. PU-09-587

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

March 10, 2010

Appearances

Commissioners Kevin Cramer, Tony Clark, and Brian P. Kalk.

David R. Moeller, Attorney, Minnesota Power, 30 West Superior Street, Duluth, MN 55802, on behalf of the Applicant.

Annette Bendish, Legal Counsel, Public Service Commission, State Capitol, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Allen C. Hoberg, Administrative Law Judge, Office of Administrative Hearings, 1701 North Ninth Street, Bismarck, North Dakota 58501-1882, as Procedural Hearing Officer.

Preliminary Statement

On August 4, 2009, Minnesota Power, an operating division of Allete, Inc., submitted a letter of intent (LOI) to the Public Service Commission notifying the Commission of its intent to construct approximately 22 miles of 230 kV Transmission Line in south central North Dakota that will serve as a generator outlet for the 75.9 MW Bison I Wind Project in Oliver and Morton Counties. Minnesota Power requested the Commission shorten the one-year waiting period between filing a LOI and the filing of applications for a Certificate of Corridor Compatibility and a Route Permit.

By Motion dated August 26, 2009, the Commission acknowledged the LOI, shortened the one-year waiting period between filing a LOI and a Siting Application to two weeks, and assessed a filing fee of \$65,000.

On October 6, 2009, Minnesota Power submitted its combined applications for a Waiver of Procedures and Time Schedules, Certificate of Corridor Compatibility and a Route Permit for the proposed 230 kV transmission line (Application). On December 14, 2009, Minnesota Power filed an Amendment to these combined applications (Amended Application).

On December 31, 2009, the Commission issued a Notice of Filing and Notice of Hearing on Minnesota Power's Application and found the Application to be complete.

The Notice of Hearing identified the following issues to be considered:

1. Will the location, construction and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility locations 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 procedures and time schedules as requested, including the request for a single consolidated application for corridor certificate and route permit?

On January 13, 2010, Minnesota Power filed a Certification Relating to Order Provisions – Electric Transmission Line Siting, regarding certain conditions to which Minnesota Power agreed.

On February 1, 2010, at 10:00 a.m. CDT, a public hearing was held as scheduled in Center, North Dakota. Minnesota Power presented two witnesses and no members of the public offered comments.

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. Minnesota Power, an operating division of Allete, Inc., is a Minnesota corporation and Minnesota public utility as defined under Minn. Stat. § 216B.02, subd. 4.
2. Allete, Inc. is registered to conduct business in the State of North Dakota, as evidenced by a Certificate of Good Standing issued by the North Dakota Secretary of State on October 28, 2008.
3. Minnesota Power proposes to construct approximately 22.3 miles of 230 kV electric transmission line beginning at the Bison 1 Wind Project Substation located in Section 4 of T140N, R86W, near New Salem, North Dakota, and extending to the existing Square Butte substation near Center, North Dakota. The purpose of the Bison I Wind Project Transmission Line is to transmit energy generated by the Bison I Wind Project in Oliver and Morton Counties to an interconnection with the regional transmission grid and Minnesota Power's DC transmission line at the Square Butte substation.
4. The Commission issued a Certificate of Site Compatibility for the Bison I Wind Project in an Order dated September 29, 2009, in Case No. PU-09-151.

5. The Bison I Wind Project 230 kV transmission line will be constructed, owned and maintained by Minnesota Power. The transmission line will be approximately 22.3 miles long and will be located in Morton and Oliver Counties.
6. The total cost of the Bison I Wind Project 230 kV transmission line is estimated to be \$13 million.
7. The proposed transmission line and associated facilities will be designed and constructed to meet or surpass all relevant state codes and standards of the National Electric Safety Code, Avian Power Line Interaction Committee (APLIC) raptor-safe design standards, and Minnesota Power company standards.
8. The transmission line will predominantly use single circuit H-frame wood structures. Certain angle structures and dead-ends will consist of steel pole structures on reinforced concrete foundations to minimize impact on agricultural activities or special structures to avoid sensitive areas or to accommodate special engineering circumstances. The typical wood structure will be up to 110 feet tall and steel structures will be up to 150 feet tall.
9. The transmission line will be 3-phase. The proposed conductor will be 1,780 kcmil Aluminum Conductor, Steel Supported (ACSS). One 7/16 inch EHS (7-strand) shield wire will be used in conjunction with one 64mm²/528 optical ground wire (OPGW) to provide lightning protection and communication capability on the transmission line. The right-of-way will be 130 feet wide.
10. Minnesota Power stated that it has complied with all local land use and planning ordinances.
11. Minnesota Power stated that it met with local governmental units to provide a project overview and receive comments in 2009.
12. Minnesota Power stated that various local, state and federal agencies were contacted for input into the Project.
13. Section 49-22-16(3) of the North Dakota Century Code provides that an applicant for a route permit from the Commission shall obtain all permits that may be required to construct and operate the transmission facility.
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 a Route Permit for a transmission facility. The criteria as set forth in Section 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria.
15. North Dakota Administrative Code, Chapter 69-06-08 provides that Exclusion and Avoidance Areas may be located within a corridor, but at no point shall such an area encompass more than 50% of the corridor width, unless there is no reasonable alternative.
16. North Dakota Administrative Code, Section 69-06-08-02 provides that 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.

17. In accordance with the Commission's Selection Criteria, a corridor or route may be approved if it is demonstrated that any significant adverse impacts that will result from the location, construction and maintenance of the transmission facility will be at an acceptable minimum or managed at an acceptable minimum.

18. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits from the adoption of certain policies and practices.

19. Minnesota Power evaluated a corridor width of approximately 2.23 miles.

20. Minnesota Power submitted information in its Application, Amended Application and testimony at the February 1, 2010 hearing, concerning compliance with the Commission Exclusion and Avoidance Area Criteria as applied to the proposed corridor.

21. At no point within the proposed corridor does an Exclusion or Avoidance Area encompass more than 50% of the corridor width.

22. The proposed route does not include any Exclusion Areas. As described in Section 3.2 of the Amended Application, the 158 acre Wilbur Boldt Wildlife Management Area is partially located within the eastern edge of the proposed corridor. Also, North Dakota Land Department land that is used for grazing, leasing, or school trusts is located in the proposed corridor. However, these avoidance areas are not within the proposed route. State sensitive animal and plant species occur within the proposed corridor, but none are anticipated to be irreversibly damaged.

23. Minnesota Power has consulted with numerous local, state, and federal agencies, which are identified in Appendix C of the Application. Two agencies providing input were the North Dakota Game and Fish Department and the United States Fish and Wildlife Service (USFWS). Neither agency has objected to construction of the Project.

24. The North Dakota Game and Fish Department indicated its primary concern is with disturbance of native prairie and wetlands. Minnesota Power met with North Dakota Game and Fish Department to discuss the project area and plans to mitigate any impacts. Minnesota Power stated the disturbance of native prairie and wetlands will be minimal.

25. Concerns of the USFWS focused on migratory birds, wetlands, native grasslands, and threatened and endangered species. Minnesota Power will implement measures to avoid and minimize effects to wildlife at the proposed site by locating facilities away from habitat and wetlands when possible.

26. The whooping crane is a federally endangered species that may use the Project area during their spring and fall migration. The project occurs outside of the central migration corridor flyway where 50 percent of confirmed whooping crane sighting in North Dakota have occurred, but within an 80 mile corridor where 75 percent of sitings have occurred.

27. Minnesota Power has committed to marking the new 230 kV transmission line within the whooping crane corridor with bird flight diverters. Minnesota Power will also mark an equal

length of existing and previously unmarked transmission lines within the corridor, which will include the DC Line recently acquired from Square Butte Electric Cooperative. Minnesota Power is also participating in the development of a whooping crane Habitat Conservation Plan.

28. The proposed route does not include any Avoidance Areas. There are no rural residences or places of business within 500 feet of the proposed route.

29. A wetland delineation was conducted for the Bison I Wind Project Transmission Line and the results were submitted to the Commission. Wetlands will be avoided to the extent practicable during the construction phase of the project. If impacts to Clean Water Act jurisdictional waters are unavoidable and less than one-half acre, Minnesota Power will seek project authorization under a Section 404 US Army Corps of Engineers (USACE) Nationwide Permit (NWP) application. Permanent impacts to jurisdictional waters will be mitigated according to USACE requirements.

30. With respect to historical resources that are not designated as Exclusion Areas, Minnesota Power has consulted the North Dakota State Historic Preservation Office (SHPO). Class I and Class III Cultural Resource Inventories, including review of SHPO's site and managed files, were conducted by HDR Engineering, Inc. of Minneapolis, Minnesota, for the project area. To date, SHPO has concurred with the "No Historic Properties Affected" and "No Significant Site Affected" determinations for this project. HDR Engineering will be conducting an additional survey due to the revised location of a few of the project facilities. A recommendation will be forwarded to SHPO for review, and seeking concurrence from SHPO.

31. Minnesota Power submitted information in its Application, Amended Application and through its testimony that any significant adverse effects from the location, construction and maintenance of the transmission facility as they relate to the Selection Criteria listed at Section 69-06-08-1(3) North Dakota Administrative Code, will be at an acceptable minimum or will be managed and maintained at an acceptable minimum.

32. Minnesota Power submitted information in its Application, Amended Application and through its testimony to demonstrate its commitment to maximize the benefits of the proposed transmission facility to meet the Policy Criteria set forth in Section 69-06-08-1(4), North Dakota Administrative Code.

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 Minnesota Power is a transmission facility as defined in Section 49-22-03(12), of the North Dakota Century Code.

3. 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.

4. The Application and Amended Application submitted by Minnesota Power meet the corridor and route evaluation criteria required by Chapter 49-22 of the North Dakota Century Code.

5. 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.

6. The proposed transmission facility is compatible with the environmental preservation and the efficient use of resources.

7. The requested waivers of procedures is 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 majority of landowners along the route; and the objective to have a reliable integrated transmission system in North Dakota.

8. The proposed transmission facility is of such length, design, location, and purpose that it will produce minimal adverse effects.

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

Order

The Commission orders:

1. Minnesota Power's Application for a Waiver of Procedures and Time Schedules is granted.
2. Certificate of Corridor Compatibility for Transmission Facility Corridor No. 113 is issued to Minnesota Power, designating a Corridor for its proposed transmission facility as described in Minnesota Power's Application.
3. Route Permit for Transmission Facility No. 123 is issued to Minnesota Power granting authority to construct the proposed transmission line.
4. Notwithstanding North Dakota Century Code Section 49-22-03 (3), or any interpretation to the contrary, Minnesota Power agrees that in the event Minnesota Power desires to construct, within this Certificate of Corridor Compatibility, a new transmission facility that is not included in this Order, Minnesota Power shall apply for a Route Permit in the Corridor identified in this Order.
5. Minnesota Power shall conduct a preconstruction conference prior to commencement of any construction, which must include a Minnesota Power representative, its construction supervisor, and a representative of Commission staff to ensure that Minnesota Power fully understands the conditions set forth in this Order.
6. Minnesota Power will 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, Minnesota Power 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. Minnesota Power 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, Minnesota Power shall keep the Commission updated of construction activities on a weekly basis.
8. Minnesota Power 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. Minnesota Power 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 Minnesota Power becomes aware of and that were not previously reported to the Commission.
10. If any cultural resource, paleontological site, archeological site, historical site, 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 or working areas 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 Minnesota Power according to the United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) recommendations for CRP, native prairie and other non-cropped lands unless otherwise specified by the landowner and approved by the Commission.
15. Minnesota Power 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. Minnesota Power's obligation for reclamation and maintenance of the right-of-way shall continue throughout the life of the transmission facilities.
17. Minnesota Power 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.

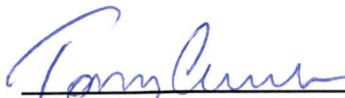
18. Minnesota Power shall, repair, replace or provide compensation for all fences and gates removed or damaged during all phases of construction and operation of the proposed transmission facilities.

19. Minnesota Power shall obtain approval from the Commission or from Commission staff prior to any changes in structure locations.

20. Minnesota Power shall provide the Commission with a copy of the facility alignment plan and profile drawings showing the facility as built (hard copy and electronic versions), and an electronic version of the as-built facility that can be imported into ESRI GIS mapping software, within three months of the completion of 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



Kevin Cramer
Chairman



Brian P. Kalk
Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Allete, Inc.
230 kV Transmission Line – Morton/Oliver Counties
Siting Application

Case No. PU-09-587

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. Two 2-year-old saplings must be planted for every one tree removed. Two shrubs must be planted with stem cuttings for every one shrub removed.

12. Except in the case of invasive or noxious species, 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. Invasive or noxious species must be replaced by similar non-invasive or non-noxious species suitable for North Dakota growing.

13. Landowners shall be given the option of having replacement trees and shrubs planted on the landowner's property, either on or off the right-of-way. The landowner must also be given the opportunity to waive those options in writing and allowing those replacement trees or shrubs to be planted off the landowner's property.

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).

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Route Permit

Certificate Number 123

This is to certify that the Commission has designated a transmission facility route for Allete, Inc.'s approximately 22.3 miles of 230 kV electric transmission line and associated facilities extending from the Bison 1 Wind Project substation to the existing Square Butte substation in Oliver and Morton Counties of North Dakota.

This certificate is issued in accordance with the Order of this Commission dated March 10, 2010 in Case No. PU-09-587 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, March 10, 2010.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Site Compatibility for a Transmission Facility Corridor

Certificate Number 113

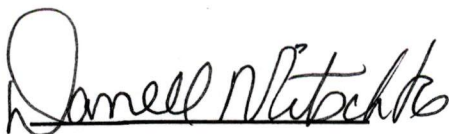
This is to certify that the Commission has designated a transmission facility corridor for Allete, Inc.'s approximately 22.3 miles of 230 kV electric transmission line and associated facilities extending from the Bison 1 Wind Project substation to the existing Square Butte substation in Oliver and Morton Counties of North Dakota.

This certificate is issued in accordance with the Order of this Commission dated March 10, 2010 in Case No. PU-09-587 and is subject to the conditions and limitations noted in the Order.

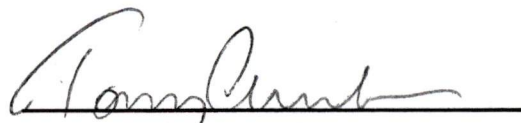
Bismarck, North Dakota, March 10, 2010.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner