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August 18, 2009

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

RE: Square Butte Electric Cooperative's and Minnesota Power's Joint Request to Transfer Transmission Facility Route Permits and Certificates of Corridor Compatibility

Dear Ms. Jeffcoat-Sacco:

Square Butte Electric Cooperative¹ ("Square Butte") and Minnesota Power² jointly request that the North Dakota Public Service Commission ("Commission") transfer transmission facility permits and certificates pursuant to N.D.C.C. § 49-22-07, as further described herein.

Square Butte owns the 463 mile +/- 250kV direct current transmission line ("DC Line") that runs between the Square Butte Substation in Center, North Dakota and Minnesota Power's Arrowhead Substation near Duluth, Minnesota. On August 11, 2008, as amended April 30, 2009, Square Butte, Minnkota Power Cooperative ("Minnkota") and Minnesota Power executed a series of agreements, subject to regulatory approvals, that will facilitate the transfer of the DC Line from Square Butte to Minnesota Power. Minnesota Power filed on May 14, 2009 for regulatory approval of the purchase of this important transmission facility with the Minnesota Public Utilities Commission ("MPUC") (MPUC Docket No. E015/PA-09-526). Pursuant to Sections 203 and 205 of the Federal Power Act, Federal Energy Regulatory Approval ("FERC") approval is necessary for Minnesota Power's purchase of the DC Line and associated tariff changes and Minnesota Power will soon file such request with FERC.

In addition to MPUC and FERC regulatory approvals necessary for Minnesota Power, Square Butte and Minnesota Power jointly request pursuant to N.D.C.C. § 49-22-07 that the Commission approve the transfer of three Route Permits and three Certificates of Corridor Compatibility issued to Square Butte for minor rerouting of the DC Line in North Dakota effective at closing of the transaction. *See* Exhibit A. No general route permit or certificate of corridor compatibility has ever been issued by the Commission for the DC Line. Under N.D.C.C. § 49-22-07: "A certificate or permit may be

¹ Square Butte Electric Cooperative was organized in May 1972 as a cooperative corporation under the laws of the State of North Dakota.

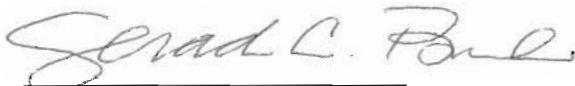
² Minnesota Power is an operating division of ALLETE, Inc. ALLETE's Certificate of Good Standing issued by the North Dakota Secretary of State was provided to the Commission in a letter dated October 31, 2008 in Case Nos. PU-08-847 and PU-08-848.

transferred, subject to the approval of the commission, to any person who agrees to comply with its terms, conditions, and modifications.” If the transfer request is approved by the Commission, Minnesota Power agrees, upon closing of the transaction, to comply with the terms, conditions and modifications contained in the applicable certificates and permits and other requirements of this Commission.

The original and ten copies of this transfer request are being filed with the Commission as required by N.D. Admin. Code 69-06-06-01.2.

If you have any questions, or need additional information, please contact Gerad Paul from Square Butte at 701-795-4209 or David Moeller from Minnesota Power at 218-723-3963.

Sincerely,



Gerad Paul
Staff Attorney
Square Butte Electric Cooperative



David R. Moeller
Attorney
Minnesota Power

Schedule 2.6 to Asset Purchase Agreement

PERMITS

Certificate of Corridor Compatibility for Transmission Facility – Certificate Number 70 – Issued by the Public Service Commission of the State of North Dakota in Case No. PU-551-95-451 – dated as of June 26, 1996

Route Permit for the Construction of a Transmission Facility – Permit Number 79 – Issued by the Public Service Commission of the State of North Dakota in Case No. PU-552-95-451 – dated as of June 26, 1996

Certificate of Corridor Compatibility for Transmission Facility – Certificate Number 76 – Issued by the Public Service Commission of the State of North Dakota in Case No. PU-551-00-56 – dated March 9, 2000

Route Permit for the Construction of a Transmission Facility – Permit Number 86 – Issued by the Public Service Commission of the State of North Dakota in Case No. PU-551-00-56 – dated March 9, 2000

Certificate of Corridor Compatibility for Transmission Facility – Certificate Number 78 – Issued by the Public Service Commission of the State of North Dakota in Case No. PU-551-00-407 – dated October 27, 2000

Route Permit for the Construction of a Transmission Facility – Permit Number 88 – Issued by the Public Service Commission of the State of North Dakota in Case No. PU-551-00-407 – dated October 27, 2000

**ANY OTHER PERMITS SUCH AS RIVER CROSSING, RAILROAD CROSSING, ETC.
to be provided by Square Butte**

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Square Butte Electric Coop
Transmission Line-Kidder County
Siting

Case No. PU-551-95-451

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

June 26, 1996

Appearances

Commissioners Susan E. Wefald, Bruce Hagen and Leo M. Reinbold.

Loren L. Johnson, Attorney-at-Law, Staff Attorney, Square Butte Electric Cooperative, P O Box 13200, Grand Forks, North Dakota 58208, on behalf of Square Butte Electric Cooperative.

William W. Binek, Chief Counsel, Public Service Commission, State Capitol, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Robert W. Senger, Public Service Commission, State Capitol, Bismarck, North Dakota 58505, as hearing examiner.

Preliminary Statement

On October 12, 1995, Square Butte Electric Cooperative (Square Butte) filed a letter with the North Dakota Public Service Commission (Commission) relating to the construction of a partial re-route of a portion of its 250 kilovolt electric transmission line in Kidder County, North Dakota, due to an emergency situation caused by the failure of its line. Square Butte requested a waiver of the normal one-year waiting period for filing an application. On November 22, 1995, the Commission granted the waiver and assessed a filing fee of \$5,000.

On December 22, 1995, Square Butte Electric Cooperative (Square Butte) filed a consolidated application for a waiver of procedures and time schedules, for a certificate of corridor compatibility, and a route permit for the construction and relocation of approximately 0.5 miles of 250 kilovolt (kV) electric transmission line in Kidder County, North Dakota. In the application, Square Butte requested waiver of provisions of law which require separate applications, separate notices of hearing, separate hearings,

and certain time schedules for a Certificate of Corridor Compatibility and for a Route Permit. Specifically Square Butte requested the Commission waive the provisions of N.D.C.C. §§ 49-22-08(5), 49-22-08.1(5), 49-22-13(1) and N.D. Admin. Code § 69-06-01-02(2) which require separate filings of such applications, separate hearings and certain time schedules; and (2) designate the corridor and route as identified in the application and issue the appropriate corridor and route permits. Square Butte also requested that the criteria maps contained in the application be allowed to substitute for a separate set of mylar maps, and that the Commission waive the requirement to furnish a set of stereo-pair aerial photographs.

The Square Butte line in its entirety is approximately 456 miles long from the Milton R. Young Generation Station situated near Center, North Dakota, in Oliver County, to the Arrowhead Converter Station situated near Duluth, Minnesota. The Square Butte unit of the Milton R. Young Generating Station of 430 MW is dedicated to providing power for Minnesota Power and Minnkota Power Cooperative, Inc. to service North Dakota and Minnesota electric customers.

On February 20, 1996, the Commission found the application complete and issued a Notice of Filing and Notice of Hearing, scheduling a public hearing on the application for May 21, 1996, commencing at 10:00 a.m. (DST) in the Kidder County Courthouse in Steele, North Dakota.

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

1. Does the location, construction, and operation of the transmission line produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Is the transmission line compatible with the environmental preservation and the efficient use of resources?
3. Does the transmission line 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 the transmission line of such length, design, location, or purpose that it will produce minimal adverse effects so that procedures and time schedules may be waived?
5. Did a demonstrable emergency exist which required immediate construction so that adherence to procedures and time schedules would jeopardize the utility's system?

6. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

A hearing was held as scheduled on May 21, 1996, in Steele, North Dakota.

Findings of Fact

1. Square Butte is a generation and transmission cooperative with headquarters in Grand Forks, North Dakota. Square Butte owns Unit #2 of the Milton R. Young Generating Station located near Center, North Dakota, and the associated 250 kV DC transmission line running from the Center plant site to the Arrowhead Terminal near Duluth, Minnesota.

2. In April, 1995, Square Butte received notification that two of its transmission towers located near McPhail's Lake had been sheared off by shifting ice. Square Butte witness, Raymond Burnstad, testified that the condition would not permit the line to transmit electricity, and it was necessary to take immediate action to resolve the problem which he considered an emergency. Square Butte constructed the short reroute around the water area in order to get the line back into service. We find that an emergency situation existed at that time.

3. Burnstad testified that the Square Butte transmission line was constructed in 1974 and 1975, prior to the enactment of the North Dakota Transmission Siting Act. He stated that because the line was constructed prior to the enactment of the siting law, it did not occur to Square Butte that a siting permit would be required for the reroute.

4. Square Butte decided that the best long term solution was to reroute the line around the water. To accomplish this it was necessary to deviate about 600 feet south of the original right-of-way, and replace the two damaged towers with three structures. The cost for completing the project was approximately \$210,000.

5. Burnstad testified that the damaged tower fragments were left in place until such time as the water recedes so that what remains of the towers can be unbolted from the footings and removed. He stated that if the area dries up again, Square Butte will remove the footings. Burnstad testified that the lake is not used for boating so there is no need to mark the location of the damaged towers with buoys or other warning devices.

6. Square Butte witness, Harvey Gappert, testified that Square Butte has obtained an easement from the landowner, Loren DeWitz, for the rerouted portion of the line. He stated that the easement requires Square Butte to monitor the presence of leafy spurge within the right-of-way for a five year period of time. Square Butte has arranged with

the Kidder County Weed Control Board of monitor the area and take any steps necessary to eliminate leafy spurge, and Square Butte will pay for the costs associated with the monitoring and control project.

7. Gappert testified there is some rutting that needs to be repaired and other clean-up work needs to be done in the easement area. Square Butte has arranged with an area farmer to reclaim and re-vegetate the disturbed areas.

8. BlueStem Incorporated (BlueStem) of Bismarck, North Dakota, was retained to perform an environmental assessment and to co-ordinate the application to the Commission on behalf of Square Butte.

9. Pamela Dryer, President of BlueStem, testified that Byron Olson of Powers Elevation was hired to prepare a cultural resource report. Olson conducted a Class III Resources Inventory of the transmission line corridor and route. No prehistoric sites or isolates and no historic sites were located by Mr. Olson, and he concluded that no known cultural resources were impacted.

10. Dryer testified that she reviewed the eleven factors set forth in N.D.C.C. § 49-22-09 to guide the evaluation and designation of corridors and routes. After a review of the factors, she concluded that the main impact is to grasslands and habitat for migratory birds, but that impact is minimal and short term. She concluded there are no irreversible or irretrievable commitments of natural resources from this project.

11. Dryer testified that there is habitat for one federally threatened species (piping plover) and one state rare animal species (Baird's sparrow), but it is her opinion that the re-route construction did not affect the piping plover's habitat or any individual's habitat.

12. Dryer testified that there are no avoidance areas or exclusion areas within the area of the re-routed line.

13. Section 49-22-07.2, N.D.C.C. authorizes the Commission to waive procedures, time, schedules, and public hearings otherwise required by the Siting Act, when the Commission finds that a proposed facility is of such length, design, location, or purpose that it will produce minimal adverse affects.

14. Square Butte requests waiver of provisions of law under North Dakota Century Code §49-22-07.2. Section 49-22-07.2, N.D.C.C. authorizes the Commission to waive procedures, time, schedules, and public hearings otherwise required by the Siting Act, when the Commission finds that a proposed facility is of such length, design, location, or purpose that it will produce minimal adverse affects.

15. Specifically, Square Butte requests waiver of North Dakota Century Code §49-22-08 and North Dakota Administrative Code §69-06-04-01 which require the

designation of a corridor and the issuance of a certificate of site compatibility; waiver of North Dakota Century Code §49-22-08.1(2) provision which requires serving a notice of the filing of a completed application for construction; waiver of North Dakota Administrative Code §69-06-05-01(4) provisions which require serving a copy of the application on the county auditor(s); waiver of North Dakota Century Code §49-22-13 and North Dakota Administrative Code §69-06-01-02(2) provisions which require public hearing(s) or notice(s) of public hearing(s) in each county in which any portion of the facility is located; waiver of North Dakota Administrative Code §69-06-01-02(3) provisions setting forth time schedules for publication of notices and for responding to published notices, and any other provisions that may be in conflict with the action requested in the application. Square Butte also requests that the maps contained in its application be allowed to substitute for a required set of mylar maps and that the Commission waive the requirement to furnish a set of stereo-pair aerial photographs. We find these requests to be reasonable.

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, N.D.C.C.
2. The transmission line proposed by Square Butte is a transmission facility as defined in section 49-22-03(11), N.D.C.C.
3. The transmission line is of such design, location, and purpose that it will produce minimal adverse affects, as defined in section 49-22-05.2, N.D.C.C.
4. The application submitted by Square Butte meets the corridor and route evaluation criteria required by chapter 49-22, N.D.C.C.
5. The location, construction, and operation of the transmission line will produce only minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
6. The transmission line is compatible with the environmental preservation and the efficient use of resources.
7. The transmission line 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 transmission line reroute was constructed under conditions that constituted an emergency.

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

Order

The Commission Orders:

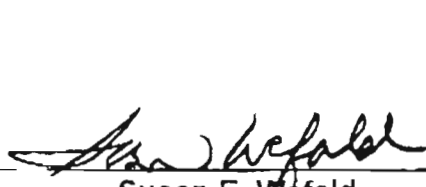
1. Square Butte's application for a waiver of procedures and time schedules is granted.
2. Certificate of Site Compatibility for a Transmission Facility Corridor No. 70 is issued to Square Butte Electric Cooperative, designating a corridor for its transmission line as shown on the attached map.
3. Route Permit for the Construction of a Transmission Facility No. 79 is issued to Square Butte Electric Cooperative, granting authority to construct the reroute of the transmission line in the location shown on the attached map.
4. Square Butte shall comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission line, and shall obtain all necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission.
5. Square Butte shall operate the transmission line in accordance with all applicable safety requirements.
6. Remaining reclamation, fertilization, and reseeding is to be done by Square Butte according to landowner preferences or the United States Soil Conservation recommendations or as approved by the Commission.
7. Square Butte's obligation for reclamation and maintenance of the right-of-way shall continue throughout the life of the transmission line. Square Butte shall monitor the presence of leafy spurge within the right-of-way for a five year period of time from the date of this order and pay for all costs associated with eliminating leafy spurge that appears in the right-of-way during that time period.
8. Square Butte shall remove the footings and remaining portions of the damaged structures when water levels in the lake recede sufficiently to permit first the removal of the remaining metal structures and finally the removal of the concrete footings and reclamation of the structure sites.

9. The authorization granted by this permit is subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

PUBLIC SERVICE COMMISSION



Bruce Hagen
Commissioner



Susan E. Wefald
President



Leo M. Reinbold
Commissioner

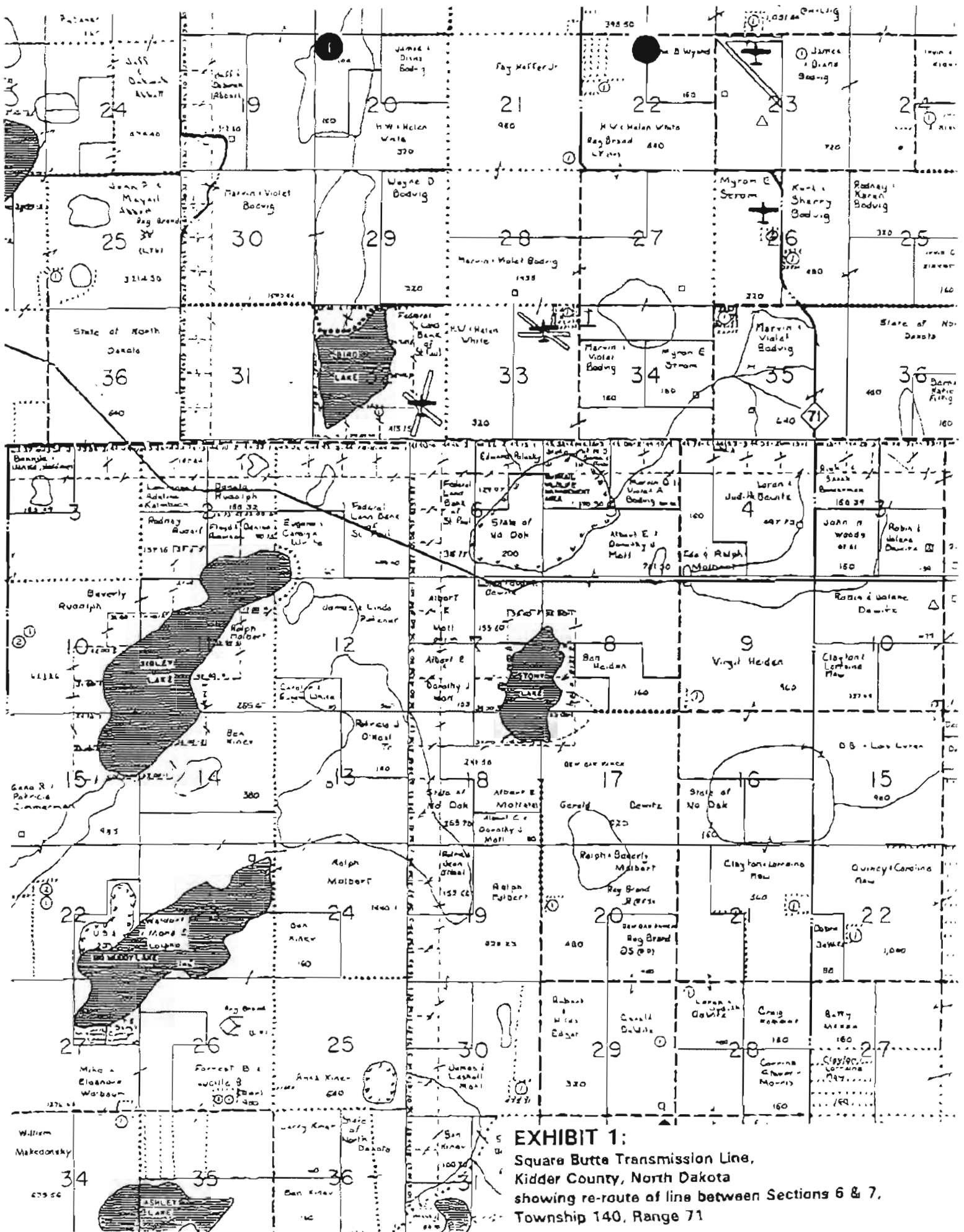


EXHIBIT 1:
 Square Butte Transmission Line,
 Kidder County, North Dakota
 showing re-route of line between Sections 6 & 7,
 Township 140, Range 71

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Corridor Compatibility for Transmission Facility

Certificate Number 70

This is to certify that the Commission has designated a transmission facility corridor for Square Butte Electric Cooperative to to construct a partial re-route of a portion of its 250 kilovolt electric transmission line. The corridor is described as follows:

approximately 0.5 miles long within a right-of-way located in the NE 1/4 of Section 7, Township 140N, Range 71W, Kidder County, North Dakota, commencing at a point on the north section line of Section 7, 11' east of the north quarter corner, thence southeasterly to an angle point 1187.4' west and 636.6' south of the northeast section corner of Section 7, thence a 55° 10' LT, thence northeasterly to an angle point 137.6' west and 36' south of the northeast section corner of Section 7, thence a 29° 44' RT, thence easterly to a point of egress 36' south of the northeast section corner of Section 7.


The facility may be routed in this designated corridor in compliance with the transmission facility routing criteria. This certificate is issued in accordance with the Order of the Commission dated June 26, 1996, in Case No. PU-551-95-451 and is subject to the conditions and limitations noted in the order.

Bismarck, North Dakota, June 26, 1996.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Route Permit for the Construction of a Transmission Facility

Permit Number 79

This is to certify that the Commission has designated a transmission facility route for Square Butte Electric Cooperative to construct a partial re-route of a portion of its 250 kilovolt electric transmission line. The route is described as follows:

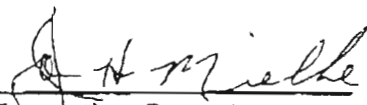
approximately 0.5 miles long within a right-of-way located in the NE 1/4 of Section 7, Township 140N, Range 71W, Kidder County, North Dakota, commencing at a point on the north section line of Section 7, 11' east of the north quarter corner, thence southeasterly to an angle point 1187.4' west and 636.6' south of the northeast section corner of Section 7, thence a 55° 10' LT, thence northeasterly to an angle point 137.6' west and 36' south of the northeast section corner of Section 7, thence a 29° 44' RT, thence easterly to a point of egress 36' south of the northeast section corner of Section 7.

This permit is issued in accordance with the Order of the Commission dated June 26, 1996, in Case No. PU-552-95-451 and is subject to the conditions and limitations noted in that order.

Bismarck, North Dakota, June 26, 1996.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Square Butte Electric Cooperative
250 kV Direct Current Line Reroute
Application**

Case No. PU-551-00-56

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

March 9, 2000

Appearances

Commissioners Leo M. Reinbold and Susan E. Wefald

Mark B. Bring, Staff Attorney, Square Butte Electric Cooperative, Inc., 1822 Mill Road, P.O. Box 13200, Grand Forks, ND 58208-3200, on behalf of Square Butte Electric Cooperative.

Illona Jeffcoat-Sacco, Director Public Utilities Division and Attorney-at-Law, Public Service Commission, State Capitol, Bismarck, North Dakota 58505-0480, on behalf of the Public Service Commission.

William W. Binek, Chief Counsel, Public Service Commission, State Capitol, Bismarck, North Dakota 58505-0480, as hearing examiner.

Preliminary Statement

On February 8, 2000, Square Butte Electric Cooperative (Square Butte) filed a Letter of Intent with the Commission, announcing its intent to relocate a portion of 250 kV Direct Current (DC) electric transmission line in Kidder County, North Dakota and requesting a waiver of the normal one-year waiting period for filing an application. On February 9, 2000, the Commission shortened the waiting period to one day and assessed a filing fee of \$5,000.

On February 24, 2000, Square Butte filed a consolidated application for a certificate of corridor compatibility, a route permit, and a waiver of certain procedures and time schedules. Specifically, Square Butte requests the Commission: (1) waive the provisions of N.D.C.C. §§ 49-22-08(2), (3) & (5), 49-22-08.1(5), 49-22-13(1) and N.D. Admin. Code § 69-06-01-02(2) which require separate filings of such applications, separate hearings and certain time schedules; and (2) designate the corridor and route as identified in the application and issue the appropriate corridor and route permits. Square Butte also requests that the criteria maps contained in the application be allowed to

substitute for a separate set of mylar maps, and that the Commission waive the requirement to furnish a set of stereo-pair aerial photographs.

On February 28, 2000, Square Butte filed additional information requested by Commission staff.

Also on February 28, 2000, the Commission deemed the application complete, found that an emergency exists and issued a Notice of Filing and Notice of Hearing scheduling a Public Hearing on less than 20 days notice under N.D.C.C. § 49-22-13(4) for March 9, 2000, in the Kidder County Courthouse. The notice identified the following issues to be considered:

1. Will the location, construction, and operation of the proposed transmission line produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Is the proposed transmission line compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed transmission line 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 the proposed transmission line of such length, design, location, or purpose that it will produce minimal adverse effects so that procedures and time schedules may be waived?
5. Does a demonstrable emergency exist which requires immediate construction so that adherence to procedures and time schedules would jeopardize the utility's system?
6. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

On March 9, 2000, a public hearing was held as scheduled at the Kidder County Courthouse. Having heard and considered this matter, the Commission makes its:

Findings of Fact

1. Square Butte is an electric generation and transmission cooperative headquartered at 1822 Mill Road, Grand Forks, North Dakota 58208. Square Butte owns and operates a 250 kV DC transmission line that begins at the Milton R. Young

generating station near Center, North Dakota and runs to Duluth, Minnesota, where it delivers 71% of the 430 MW output from Square Butte's Milton R. Young Unit 2 to Minnesota Power, Inc. The line is Square Butte's only conduit for delivering electricity to Minnesota Power markets.

2. Square Butte proposes to relocate approximately 1½ miles of the transmission line, a portion of which is now located in water ranging from 1 to 8 feet deep. The proposed re-route is approximately two miles in length and extends around the south side of wetlands known as McPhail's Lake or Spring Lake in Kidder County, North Dakota. The proposed corridor and route are located entirely within Kidder County in T 140N, R 71W, Sections 5, 6, 7, 8 and 18, and in T 140N, R 72W, Sections 1 and 12.

3. This section of line was rerouted once previously in April and May of 1995 (Case No. PU-551-95-451) after ice movement on McPhail's Lake had sheared off two structures resulting in a system failure. When this emergency reroute was completed it raised the minimum elevation of the affected structures to 1,723 feet msl (mean sea level). The water has now reached an elevation of 1,730 feet msl and the currently proposed reroute would raise the minimum elevation of the structures to 1,737 msl.

4. Square Butte states that a demonstrable emergency exists that justifies a waiver of procedures and time schedules. Square Butte believes that spring ice movement may severely damage the single-lattice aluminum structures that support the line and cause an outage of electric transmission. Additionally, the water is making it difficult to maintain the line and vertical clearances between the conductors and the water surface no longer comply with minimum requirements of the National Electrical Safety Code.

5. The proposed transmission line will be constructed using single-lattice aluminum or steel structures ranging from 55 to 145 feet in height and with spans of approximately 700 feet between structures. The structures will support two conductors and one overhead shield wire for lightning protection. Each conductor will be 2839.8 MCM (thousand circular mills) 72/7 ACSR (aluminum conductor steel reinforced) and the overhead shield wire will be 3/8-inch 7 strand extra high strength galvanized steel wire. All construction, testing and operation of the transmission line will conform to the requirements of the National Electrical Safety Code.

6. The total estimated cost for the project is approximately \$800,000.

7. Square Butte proposes to begin construction in mid-March, 2000, and energize the new line by mid-April. After frost leaves and the ground dries Square Butte intends to bury abandoned structure footings a minimum of six feet below the surface, except that Square Butte agrees to remove and dispose of abandoned structure footings when requested by landowners.

8. Square Butte's proposed route includes a 120 feet wide right-of-way and follows maximum ground elevations to avoid future flooding. Square Butte's proposed

transmission corridor extends for approximately ½ mile on either side of the proposed route.

9. The North Dakota State Historical Society reviewed the proposed route and corridor and found no historic properties affected.

10. There are several shelterbelts and small native wooded areas within the corridor, but no wooded areas or trees are found along the proposed route.

11. The Natural Resources Conservation Service (NRCS) noted the presence of Conservation Reserve Program (CRP) acres within the project area and recommends any revegetation of CRP lands be done with suitable CRP species. NRCS also suggests obtaining prior approval from the Kidder County Farm Service Agency (FSA) County Committee before disturbing established CRP land. Square Butte has contacted the FSA and will jointly review affected CRP acreage with an FSA representative after construction is completed to determine reseeding and other reclamation requirements.

12. Several agencies noted the presence of native prairie lands within the project corridor and recommend disturbed areas be revegetated with native species comparable to what currently exists.

13. There are numerous wetlands located within the proposed corridor and some are located along the proposed route. Structure placement will avoid these wetlands, some of which are protected under permanent easement by the U.S. Fish and Wildlife Service. These easement areas are found in portions of Sections 5, 7, 8 and 18, T 140N, R 71W. The Commission finds no reasonable alternative that would further avoid these wetland areas. The Service also has waterfowl production areas within the proposed corridor in Sections 6 and 18, T 140N, R 71W. The proposed route avoids both waterfowl production areas.

14. The McPhail Wildlife Management Area is located in the NW ¼ of Section 5, T 140N, R 71W along the edge of the proposed corridor. This wildlife area is presently under water and the proposed route is located a minimum of approximately ½ mile from the area.

15. McPhail or Spring Lake is a documented site used by piping plovers, a federal threatened species. Potential piping plover habitat is also located at the large wetland known as Mud Lake, directly west of Stony Lake. Piping plover nest on exposed shorelines of saline wetlands, which are currently not available because of high water conditions. The U.S. Fish and Wildlife Service typically recommends locating power lines at least one-half mile away from known or potential piping plover sites to reduce the likelihood of bird strikes and to reduce the ability of raptors to use the poles and wires as roosts when preying on piping plovers. However, in this case the Service recognizes its recommendation would be difficult to implement and believes moving the

existing transmission line out of Spring Lake will be beneficial to piping plovers in the long run.

16. Nancy Dietz, an environmental consultant, performed a field examination of biological and environmental conditions along the proposed route and corridor. She concluded no adverse impacts to threatened or endangered animal species or rare plant species.

17. An unoccupied raptor nest was spotted in existing structure 543, which is one of the structures to be removed after the reroute is energized. The North Dakota Game and Fish Department has no objection to removing the nest and Square Butte has received a permit to do so from the U.S. Fish and Wildlife Service.

18. Existing structure 541 is located in U.S. Army Corps of Engineers jurisdictional wetlands and Square Butte has received a permit from the Corps under Section 404 authorizing placement of fill materials when removing the structure.

19. Landowners present at the hearing expressed concerns about damage from construction traffic, especially if the ground thaws. Square Butte agreed to work with landowners to determine and implement appropriate damage mitigation procedures.

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

Conclusions of Law

1. The Commission has jurisdiction over the parties and subject matter of this proceeding.
2. The transmission line proposed by Square Butte is a transmission facility as defined in N.D.C.C. section 49-22-03(12).
3. The proposed project is of such design, location, and purpose that it will produce minimal adverse affects, as defined in N.D.C.C. section 49-22-07.2.
4. The application submitted by Square Butte meets the corridor and route evaluation criteria required by N.D.C.C. chapter 49-22.
5. The location, construction, and operation of the proposed transmission line relocation will produce only minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
6. The proposed transmission line relocation is compatible with the environmental preservation and the efficient use of resources.

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

9. A demonstrable emergency does exist which requires immediate construction such that adherence to procedures and time schedules would jeopardize the utility's system.

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

Order

The Commission Orders:

1. Square Butte's application for a waiver of procedures and time schedules is granted.

2. Certificate of Corridor Compatibility for Transmission Facility No. 76 is issued to Square Butte Electric Cooperative, designating a one mile wide corridor for its proposed transmission line reroute as shown on the attached map.

3. Route Permit for the Construction of a Transmission Facility No. 86 is issued to Square Butte Power Cooperative, granting authority to construct the transmission line reroute in the location shown on the attached map.

4. Square Butte shall hold a preconstruction conference prior to commencement of any construction, which must include a Square Butte representative, its construction supervisor, and a representative of Commission Staff to ensure that Square Butte fully understands the conditions set forth in this order.

5. Square Butte shall comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed transmission line, and shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction of the transmission line.

6. Square Butte shall inform the Commission of its intent to start construction on the transmission line prior to the commencement of construction, and once construction has started, Square Butte shall keep the Commission updated on construction activities on a weekly basis.

7. Square Butte shall construct and operate the transmission line in the manner described in Square Butte's application and in accordance with all applicable safety requirements.

8. Square Butte 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 which Square Butte becomes aware of and which were not previously reported to the Commission.

9. If any cultural resource, paleontological, archeological, historical, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made by the State Historical Society, a report of such examination is filed with the Commission, and clearance to proceed is given by the Commission.

10. 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.

11. 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.

12. Square Butte shall remove abandoned structure footings upon landowner request.

13. Minimum burial depth for abandoned structure footings is six feet from the top of the 60-inch diameter footing such that the burial trench is at least 11 feet deep.

14. When burying structure footings or performing other excavations, at least twelve inches of topsoil must be stripped and segregated from the subsoil whenever possible and replaced only after the subsoil is replaced.

15. Reclamation and clean-up along the right-of-way must be continuous and coordinated with construction.

16. Reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service and the Kidder County Farm Service Agency recommendations for CRP, native prairie and other lands unless otherwise specified by the landowner and approved by the Commission.

17. Trees or other woody vegetation must be replaced at a rate of two for every one removed. Square Butte shall contact landowners to determine preferred locations off of the right-of-way for replacement plantings. Trees and woody vegetation must be replaced with saplings that are two or more years old.

18. Square Butte's obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission line.

19. Square Butte shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the reroute of the transmission line.

20. Square Butte shall obtain approval from the Commission or from Commission Staff prior to any changes in structure locations.

21. Square Butte shall provide the Commission with a copy of the design specifications for the construction of the transmission line showing the location of the transmission line as built.

22. 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.

23. Square Butte shall work with landowners to determine and implement appropriate damage mitigation measures.

PUBLIC SERVICE COMMISSION


Leo M. Reinbold
Commissioner

(Absent)

Bruce Hagen
President


Susan E. Wefald
Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Corridor Compatibility for Transmission Facility

Certificate Number 76

This is to certify that the Commission has designated a transmission facility corridor for Square Butte Electric Cooperative to relocate approximately 1½ miles of existing 250 kilovolt Direct Current electric transmission line. The corridor is described as:

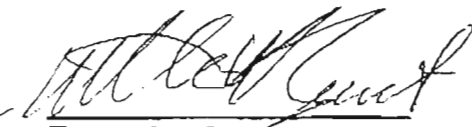
a one-mile wide corridor approximately three miles in length and extending 1/2 mile to either side of a center line beginning at a point in the SE ¼ of Section 5, T 140N, R 71W and extending southwesterly for approximately 1½ miles to a point in the SW ¼ of Section 7, T 140N, R 71W, then extending northwesterly for approximately 1½ miles to the NE ¼ of Section 1, T 140N, R 72 W.

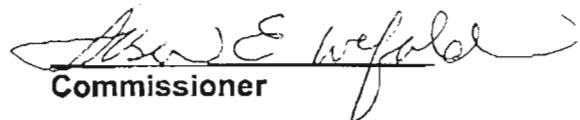
The facility may be routed in this designated corridor in compliance with the transmission facility routing criteria. This certificate is issued in accordance with the Order of the Commission dated March 9, 2000, in Case No. PU-551-00-56 and is subject to the conditions and limitations noted in the order.

Bismarck, North Dakota, March 9, 2000.

ATTEST:

PUBLIC SERVICE COMMISSION


acting Executive Secretary


Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Route Permit for the Construction of a Transmission Facility

Permit Number 86

This is to certify that the Commission has designated a transmission facility route for Square Butte Electric Cooperative to relocate approximately 1½ miles of 250 kilovolt Direct Current electric transmission line. The route is described as:

approximately two miles of new 250 kV DC transmission line beginning at structure 544 on Square Butte's existing 250 kV DC transmission line in the NW ¼ of Section 8, T 140N, R 71W and extending southwesterly for approximately one mile to a point in the SW ¼ of Section 7, T 140N, R 71W, then extending northwesterly for approximately one mile to tie back into the existing transmission line at structure 534 in the SE ¼ of Section 1, T 140N, R 72W.

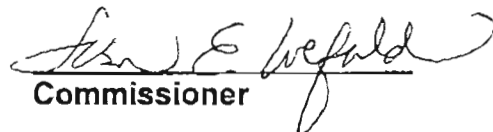
This permit is issued in accordance with the Order of the Commission dated March 9, 2000, in Case No. PU-551-00-56 and is subject to the conditions and limitations noted in that order.

Bismarck, North Dakota, March 9, 2000.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Square Butte Electric Cooperative
250-kV DC Line Reroute–Kidder County
Application

Case No. PU-551-00-407

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

October 27, 2000

Appearances

Commissioners Leo M. Reinbold and Susan E. Wefald

Mark B. Bring, Staff Attorney, Square Butte Electric Cooperative, Inc., 1822 Mill Road, P.O. Box 13200, Grand Forks, ND 58208-3200, on behalf of Square Butte Electric Cooperative.

William W. Binek, Chief Counsel, Public Service Commission, State Capitol, Bismarck, North Dakota 58505-0480, on behalf of the Public Service Commission.

Bonny M. Fetch, Administrative Law Judge, Office of Administrative Hearings, 1707 North 9th Street, Bismarck, North Dakota 58501-1882, as procedural hearing officer.

Preliminary Statement

On August 8, 2000, Square Butte Electric Cooperative (Square Butte) filed a Letter of Intent with the Commission, announcing its intent to relocate a portion of 250 kV Direct Current (DC) electric transmission line in Kidder County, North Dakota and requesting a waiver of the one-year waiting period for filing an application. On August 16, the Commission shortened the waiting period to one day and assessed a filing fee of \$5,000.

On September 18, 2000, Square Butte filed a consolidated application for a certificate of corridor compatibility, a route permit, and a waiver of certain procedures and time schedules. Specifically, Square Butte requests the Commission: (1) waive the provisions of N.D.C.C. §§ 49-22-08(2), (3) & (5), 49-22-08.1(5), 49-22-13(1) and N.D. Admin. Code § 69-06-01-02(2) which require separate filings of such applications, separate hearings and certain time schedules; and (2) designate the corridor and route as identified in the application and issue the appropriate corridor and route permits. Square Butte also requests that the criteria maps contained in the application be allowed to substitute for a separate set of mylar maps, and that the Commission waive the requirement to furnish a set of stereo-pair aerial photographs.

On September 27, 2000, the Commission deemed the application complete and issued a Notice of Filing and Notice of Hearing scheduling a Public Hearing for October 27, 2000, in the Kidder County Courthouse. The notice identified the following issues to be considered:

1. Will the location, construction, and operation of the proposed transmission line produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Is the proposed transmission line compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed transmission line 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 the proposed transmission line of such length, design, location, or purpose that it will produce minimal adverse effects so that procedures and time schedules may be waived?
5. Does a demonstrable emergency exist which requires immediate construction so that adherence to procedures and time schedules would jeopardize the utility's system?
6. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

On September 29, 2000, Square Butte filed a Motion for Expedited Order, requesting the Commission issue a decision on the application immediately upon conclusion of the hearing in order to accommodate construction scheduling objectives.

On October 27, 2000, a public hearing was held as scheduled at the Kidder County Courthouse in Steele, North Dakota. Having heard and considered this matter, the Commission makes its:

Findings of Fact

1. Square Butte is an electric generation and transmission cooperative headquartered at 1822 Mill Road, Grand Forks, North Dakota 58208. Square Butte owns and operates a 250 kV DC transmission line that begins at the Milton R. Young generating station near Center, North Dakota and runs to Duluth, Minnesota, where it delivers 71% of the 430 MW output from Square Butte's Milton R. Young Unit 2 to

Minnesota Power, Inc. The line is Square Butte's only conduit for delivering electricity to Minnesota Power markets.

2. Square Butte proposes to construct approximately 1.2 miles of new 250 kilovolt (kV) Direct Current (DC) electric transmission line around the west side of Horsehead Lake in Kidder County, North Dakota. The purpose is to relocate approximately 1.3 miles of Square Butte's existing Center to Duluth 250-kV transmission line, a portion of which is now flooded because of the rising waters of Horsehead Lake. The proposed corridor and route are located entirely within Kidder County in T 141N, R 72W, Sections 16, 17, 20, 21, 28 and 29.

3. The affected portion of line was originally constructed on dry land in 1975-76 at approximately 1710 feet msl (mean sea level). The water has now reached an elevation of approximately 1,730 feet msl and the proposed reroute would raise the minimum elevation of the structures to 1734 feet msl.

4. Square Butte states that the proposed facility is of such length, design, location and purpose that it will produce minimal adverse effects and that a demonstrable emergency exists that justifies a waiver of procedures and time schedules. Square Butte believes that spring ice movement may severely damage the single-lattice aluminum structures that support the line and cause an outage of electric transmission. Additionally, the water is making it difficult to maintain the line and vertical clearances between the conductors and the water surface no longer comply with minimum requirements of the National Electrical Safety Code.

5. The proposed transmission line will be constructed using eleven aluminum lattice structures installed on precast concrete foundations and ranging from approximately 60 to 70 feet in height with spans of approximately 700 feet between structures. The structures will support two conductors and one overhead shield wire for lightning protection. Each conductor will be 2839.8 MCM (thousand circular mills) 72/7 ACSR (aluminum conductor steel reinforced) and the overhead shield wire will be 3/8-inch 7 strand extra high strength galvanized steel wire. All construction, testing and operation of the transmission line will conform to the requirements of the National Electrical Safety Code.

6. The total estimated cost for the project is approximately \$600,000.

7. Square Butte plans to begin construction on approximately October 30, 2000, energize the new line by November 19, 2000 and remove the existing line by December 31, 2000. Square Butte intends to salvage existing structure footings or bury those that cannot be salvaged a minimum of six feet below the surface, except that Square Butte agrees to remove and dispose of abandoned structure footings when requested by landowners. Abandoned footings in water will be removed or buried when water recedes such that they become accessible.

8. Square Butte's proposed route includes a 120 feet wide right-of-way and primarily follows along section lines and maximum ground elevations. Square Butte's

proposed transmission corridor extends for approximately ½ mile on either side of the proposed route.

9. URS Corporation on behalf of the Federal Emergency Management Agency (FEMA) did an environmental assessment for this project. As a result of the assessment, the FEMA issued a Finding of No Significant Impact dated August 29, 2000.

10. A Class III cultural resource inventory conducted along the proposed route identified no cultural resources and no further study was recommended. The North Dakota State Historical Society reviewed the study and concurred with its findings.

11. There are some shelterbelts and small native wooded areas within the corridor, but no wooded areas or trees are found along the proposed route.

12. The proposed route passes primarily through hayland and pastureland, which Square Butte will reseed if necessary for regrowth. No Conservation Reserve Program acreage will be disturbed and the National Resource Conservation Service has determined the project would probably result in no net loss of prime farmland. Some agencies noted the presence of native prairie lands within the project corridor and recommend any disturbed areas be revegetated with native species comparable to what currently exists.

13. The proposed route avoids wetlands that are located within the proposed corridor, some of which are protected under permanent easement by the U.S. Fish and Wildlife Service. The proposed route spans a small intermittent stream in the NW ¼ of Section 28, T 141N, R 72W, but no structures would be placed in the drainage area. The Commission finds no reasonable alternative that would further avoid these wetland areas.

14. The U.S. Fish and Wildlife Service identified the project area as potential habitat for three federally threatened or endangered species: whooping crane (endangered), bald eagle (threatened), and piping plover (threatened). URS Corporation performed a reconnaissance and evaluated for the presence of favorable habitat as part of the environmental assessment. URS Corporation concluded that occurrence of these species in the project area is unlikely.

15. The North Dakota Game and Fish Department has identified the project area as known or potential habitat for grassland nesting birds such as Sprague's pipit (watched) and Baird's sparrow (state bird species of concern). The Department recommends construction not take place next year before July 15th to reduce impacts. The Department also recommends use of bird flight diverters and raptor protection modifications as necessary to avoid avian collisions. Square Butte will commence construction well after July 15th of this year using bird flight diverters and current guidelines for preventing raptor electrocution.

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

Conclusions of Law

1. The Commission has jurisdiction over the parties and subject matter of this proceeding.
2. The transmission line proposed by Square Butte is a transmission facility as defined in N.D.C.C. section 49-22-03(12).
3. The application submitted by Square Butte meets the corridor and route evaluation criteria required by N.D.C.C. chapter 49-22.
4. The location, construction, and operation of the proposed transmission line relocation will produce only minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The proposed transmission line relocation is compatible with the environmental preservation and the efficient use of resources.
6. The proposed transmission line 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.
7. The proposed transmission line relocation is of such length, design, location, and purpose that it will produce minimal adverse effects.
8. A demonstrable emergency does exist which requires immediate construction such that adherence to procedures and time schedules would jeopardize the utility's system.

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

Order

The Commission Orders:

1. Square Butte's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility for Transmission Facility No. 78 is issued to Square Butte Electric Cooperative, designating a one mile wide corridor for its proposed transmission line reroute as shown on the attached map.
3. Route Permit for the Construction of a Transmission Facility No. 88 is issued to Square Butte Power Cooperative, granting authority to construct the transmission line reroute in the location shown on the attached map.
4. Square Butte shall hold a preconstruction conference prior to commencement of any construction, which must include a Square Butte representative, its construction supervisor, and a representative of Commission Staff to ensure that Square Butte fully understands the conditions set forth in this order.
5. Square Butte shall comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed transmission line, and shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction of the transmission line.
6. Square Butte shall inform the Commission of its intent to start construction on the transmission line prior to the commencement of construction, and once construction has started, Square Butte shall keep the Commission updated on construction activities on a weekly basis.
7. Square Butte shall construct and operate the transmission line in the manner described in Square Butte's application and in accordance with all applicable safety requirements.
8. Square Butte 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 which Square Butte becomes aware of and which were not previously reported to the Commission.
9. If any cultural resource, paleontological, archeological, historical, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made by the State Historical Society, a report of such examination is filed with the Commission, and clearance to proceed is given by the Commission.

10. 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.
11. 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.
12. Square Butte shall remove abandoned structure footings upon landowner request.
13. Minimum burial depth for abandoned structure footings is six feet from the top of the 60-inch diameter footing such that the burial trench is at least 11 feet deep.
14. When burying structure footings or performing other excavations, at least twelve inches of topsoil must be stripped and segregated from the subsoil whenever possible and replaced only after the subsoil is replaced.
15. Reclamation and clean-up along the right-of-way must be continuous and coordinated with construction.
16. Reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service and the Kidder County Farm Service Agency recommendations for CRP, native prairie and other lands unless otherwise specified by the landowner and approved by the Commission.
17. Trees or other woody vegetation must be replaced at a rate of two for every one removed. Square Butte shall contact landowners to determine preferred locations off of the right-of-way for replacement plantings. Trees and woody vegetation must be replaced with saplings that are two or more years old.
18. Square Butte's obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission line.
19. Square Butte shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the reroute of the transmission line.
20. Square Butte shall obtain approval from the Commission or from Commission Staff prior to any changes in structure locations.
21. Square Butte shall provide the Commission with a copy of the design specifications for the construction of the transmission line showing the location of the transmission line as built.

22. 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.

23. Square Butte shall work with landowners to determine and implement appropriate damage mitigation measures.

PUBLIC SERVICE COMMISSION

**Susan E. Wefald
Commissioner**

**Bruce Hagen
President**

**Leo M. Reinbold
Commissioner**

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Route Permit for the Construction of a Transmission Facility

Permit Number 88

This is to certify that the Commission has designated a transmission facility route for Square Butte Electric Cooperative to relocate approximately 1.3 miles of 250 kilovolt Direct Current electric transmission line. The route is described as:

approximately 1.2 miles of new 250 kV DC transmission line beginning with structure 477 at a point on Square Butte's existing 250 kV DC transmission line in the NW ¼ of Section 21, T 141N, R 72W and extending south for approximately one mile to a point in the NW ¼ of Section 28, T 141N, R 72W, then extending southeasterly for approximately 0.2 mile to tie back into the existing transmission line at structure 487 in the NW ¼ of Section 28, T 141N, R 72W.

This permit is issued in accordance with the Order of the Commission dated October 27, 2000, in Case No. PU-551-00-407 and is subject to the conditions and limitations noted in that order.

Bismarck, North Dakota, October 27, 2000.

ATTEST:

PUBLIC SERVICE COMMISSION

Executive Secretary

Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Corridor Compatibility for Transmission Facility

Certificate Number 78

This is to certify that the Commission has designated a transmission facility corridor for Square Butte Electric Cooperative to relocate approximately 1.3 miles of existing 250 kilovolt Direct Current electric transmission line. The corridor is described as:

an approximately one-mile wide corridor approximately two miles in length located within T 141N, R 72W, Sections 16, 17, 20, 21, 28 and 29 and extending approximately 1/2 mile to either side of a center line beginning at a point in the SW 1/4 of Section 16, T 141N, R 72W and extending south for approximately 1.5 miles and then extending southeasterly for approximately 1/2 mile to a point in the NW 1/4 of Section 28, T 141N, R 72W.

The facility may be routed in this designated corridor in compliance with the transmission facility routing criteria. This certificate is issued in accordance with the Order of the Commission dated October 27, 2000, in Case No. PU-551-00-407 and is subject to the conditions and limitations noted in the order.

Bismarck, North Dakota, October 27, 2000.

ATTEST:

PUBLIC SERVICE COMMISSION

Executive Secretary

Commissioner