

Minnkota Power Cooperative, Inc.
Case No. PU-09-670

EXHIBIT U

Pursuant to N.D.C.C. § 24-07-03, thirty-three feet on either side of a section line is considered a public road:

In all townships in this state, outside the limits of incorporated cities, and outside platted townsites, additions, or subdivisions recorded pursuant to sections 40-50.1-01 through 40-50.1-17 or recorded prior to July 1, 1987, under former chapter 40-50, the congressional section lines are considered public roads open for public travel to the width of thirty-three feet [10.06 meters] on each side of the section lines.

As discussed in the testimony Minnkota Power Cooperative, Inc. (“Minnkota”), presented at the public hearings, Minnkota needs control over a 150-foot-wide right-of-way for its proposed Center to Grand Forks 345 kV Transmission Line Project (“Project”) in order to ensure that it can meet the conductor clearance requirements and other safety standards established by the North American Electric Reliability Corporation (“NERC”). As shown in Exhibit T, Minnkota’s policy is to abut, but not overhang, road and section line right-of-way so that it can ensure control over a 150-foot-wide right-of-way (75 feet on either side of the centerline of the transmission line).

If Minnkota were to overhang a road or section line right-of-way, the existing road easement or statutorily-established section line right-of-way would have priority over Minnkota’s easement. In other words, if the road authority decided to widen a road or the township/county decided to improve the section line right-of-way, or take any other action that would interfere with Minnkota’s ability to maintain control over a 150-foot-wide right-of-way centered on the transmission line, Minnkota would have to move its transmission line, at Minnkota’s expense (an expense that would be shared by its customers), in order to have the necessary 150-foot-wide right-of-way. Otherwise, Minnkota could not ensure that it would have control over sufficient right-of-way to satisfy the NERC requirements.

In addition, several counties have established setbacks from the edge of road right-of-way, the edge of roads, or the center of roads. For instance, Wells County requires a setback of 200 feet from state and county road right-of-way, while Sheridan County has a setback of between 125 feet and 250 feet from the edge of a road (depending on whether the road is a state highway, a secondary road, or a rural road), and Foster County has a setback requirement of 100 feet from the center of state and county roads. Minnkota requested, and received, variances from Wells County, Sheridan County and Foster County, among others, so that Minnkota’s right-of-way could abut the road right-of-way.