



MONTANA-DAKOTA

UTILITIES CO.

A Division of MDU Resources Group, Inc.

400 North Fourth Street
Bismarck, ND 58501
(701) 222-7900

December 11, 2012

Executive Secretary
ND Public Service Commission
State Capitol Building
Bismarck, ND 58505

Re: 88 MW Simple Cycle Combustion Turbine
Siting Application
Case No. PU-11-631

Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (Montana-Dakota) herewith submits Proposed Findings of Fact, Conclusions of Law and Order in the above referenced case.

The original and ten (10) copies are hereby filed with the Commission. The Proposed Findings of Fact, Conclusions of Law and Order have also been electronically submitted to the Commission.

Sincerely,

Tamie A. Aberle
Director of Regulatory Affairs

Attachments

Cc: Daniel Kuntz – MDU Resources Group, Inc.
Paul Sanderson – Zuger, Kirmis & Smith
Allen Hoberg – Administrative Law Judge

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co., a Division of MDU
Resources Group, Inc.
88 MW Simple Cycle Combustion Turbine
Siting Application

Case No. PU-11-631

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

December 21, 2012

Appearances

Commissioners Brian Kalk, Kevin Cramer, and Bonnie Fetch.

Daniel Kuntz, Associate General Counsel, MDU Resources Group, Inc., P.O. Box 5650, Bismarck, ND 58506-5650, on behalf of the Applicant Montana-Dakota Utilities Co.

Paul Sanderson, Attorney at Law, Zuger Kirmis & Smith, P.O. Box 1695, 316 North 5th Street, Bismarck, ND 58502-1695, on behalf of the Applicant Montana-Dakota Utilities Co.

Mark Gruman, Legal Counsel on behalf of the North Dakota Public Service Commission.

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

Preliminary Statement

On September 23, 2011, Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (Montana-Dakota) submitted a Letter of Intent (LOI) to submit an application for a Certificate of Site Compatibility for an 88 MW natural gas simple cycle combustion turbine and associated energy conversion facilities in Morton County, North Dakota (Project).

On September 18, 2012, Montana-Dakota filed an Application for a Certificate of Site Compatibility (Application) to authorize construction of the Project to be located on MDU's R.M. Heskett Station (Heskett Station) property in Morton County, North Dakota.

On October 10, 2012, the North Dakota Public Service Commission (Commission) deemed the Application complete and issued a Notice of Filing and Notice of Hearing, scheduling a public hearing for December 4, 2012, at 9:00 a.m. CST at the City Commission Meeting Room, 205 2nd Ave NW, Mandan, North Dakota, 58554.

The Notice 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?

On December 4, 2012, the public hearing was held as scheduled. Having allowed all interest 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. Montana-Dakota, is a Division of MDU Resources Group, Inc., and is registered to conduct business in the State of North Dakota. Montana-Dakota is a “utility” as defined at N.D.C.C. §49-22-03(13) engaged in the generation and transmission of electric energy.
2. Montana-Dakota proposes to construct, own, and operate an 88 MW natural gas simple cycle combustion turbine energy generation facility to be located on Montana-Dakota’s Heskett Station property in Morton County, North Dakota. The project area consists of approximately 14.9 acres, with 5.5 acres of permanent conversion.
3. Associated facilities to be constructed within the project area include:
 - a. Multi-purpose service building housing a secondary control room;
 - b. Maintenance shop;
 - c. Parts warehouse;
 - d. Electrical switchgear room;
 - e. Onsite Wastewater Treatment System (OWTS) including septic tank and leach field;
 - f. Electrical interconnection facilities;
 - g. Natural gas pipeline interconnection facilities and metering station; and
 - h. Additional space for other service-related equipment.
4. North Dakota Century Code §49-22-16 provides that no energy conversion facility site shall be designated if it violates any county or city land use, zoning, building rules, regulations, or ordinances. Montana-Dakota is in the process of obtaining all required construction and zoning permits from the City of Mandan and Morton County.

5. Montana-Dakota agreed to the conditions set forth in the Certification Relating to Order Provisions- Energy Conversion Facility Siting attached hereto.

Project Design

6. The Project consists of one natural gas-fired General Electric PG7121(EA) simple cycle combustion turbine packaged power plant designed to produce 88 MW of gross power output at average ambient site-specific conditions.
7. The combustion turbine is an internal combustion engine and the primary components are a rotating compressor, a combustion chamber, a rotating downstream turbine and an exhaust system. Ambient air is compressed in the compressor section. Fuel is then mixed with the compressed air and ignited in the combustion chamber. The combustion byproducts (exhaust gases) from the combustion chamber are routed downstream to the turbine. The high volume and velocity of the exhaust gases expand into the turbine and drive the turbine blades to generate mechanical power. An electric generator converts the mechanical power produced from the turbine to electrical power, which is then supplied to the high-voltage electric transmission grid by Montana-Dakota.
8. Montana-Dakota contemplates that construction of the Project will begin in the second quarter of 2013 and commercial operation will begin no later than the first quarter of 2015.

Siting Criteria

9. North Dakota Administrative Code Chapter 69-06-08 sets forth criteria to guide the Commission in evaluating the suitability of granting an application for a certificate of site compatibility. The criteria set forth in North Dakota Administrative Code §69-06-08-01, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria. With the exception of prime and unique farmland, an energy conversion facility must not be sited within an Exclusion Area. The exception for prime and unique farmland is if the Commission finds that the prime and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural production, then such exclusion shall not apply. An energy conversion facility must not be sited within an Avoidance Area unless the applicant shows that under the circumstances there is no reasonable alternative. 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; efficient use of resources; and alternative sites. In accordance with the Commission's Selection Criteria, an energy conversion facility shall be approved only if it is demonstrated that no significant adverse impacts will result from the location, construction, and operation of the facility. In accordance with

the Commission's policy criteria, preference may be given to an applicant demonstrating certain benefits of the energy conversion facility.

10. The Project site contains land classified as farmland. The Commission finds that the amount of farmland to be removed from use by the construction and operation of the Project will have a negligible impact on agricultural production and therefore the exclusion for prime or unique farmland shall not apply. No other Exclusion Areas defined by North Dakota Administrative Code §69-06-08-01(1) are present within the Project site.
11. No Avoidance Areas defined by North Dakota Administrative Code §69-06-08-01(2) are present within the Project site.
12. The proposed Project will not have a significant impact on the Selection Criteria set forth in North Dakota Administrative Code §69-06-08-01(3).
13. Montana-Dakota has demonstrated its commitment to maximize the benefits of the proposed Project as far as possible so as to meet the Policy Criteria set forth in North Dakota Administrative Code §69-06-08-01(4).

Environmental Analysis

14. The proposed energy conversion facility will not have a significant impact on demographics, cultural resources, recreational resources, land-based economics, geologic and groundwater resources, surface water and floodplain resources, wetlands, or rare and unique resources.
15. The proposed energy conversion facility will utilize best available control technologies to minimize air emissions and comply with United States Environmental Protection Agency and North Dakota Department of Health air quality standards. Montana-Dakota submitted an application for a Prevention of Significant Deterioration (PSD) Permit to construct the simple cycle turbine on May 4, 2012. The application was deemed complete on November 7, 2012 and is anticipated to be submitted for public comment soon.
16. Small quantities of hazardous materials will be used and generated by the proposed energy conversion facility. Montana-Dakota will minimize the use of such materials and employ proper management and disposal procedures of such materials.
17. Noise generated from the proposed energy conversion facility will not cause a perceptible increase in the existing sound levels measured and would remain in compliance with the City of Mandan's Ordinance No. 1090.

18. Montana-Dakota's anticipated use of the site may cause soil surface to become more prone to wind and water erosion and may result in soil compaction. Montana-Dakota will engage in erosion prevention and sediment control during and after construction. Once construction is completed, all unused land will be returned to its former condition and re-vegetated.
19. Montana-Dakota will apply *Avian Protection Plan Guidelines* to overhead transmission and construction facilities as appropriate to minimize possible impacts to bird species.

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

Conclusions of Law

1. The Commission has jurisdiction over this proceeding under North Dakota Century Code Chapter 49-22.
2. The energy conversion facility proposed by Montana-Dakota is an energy conversion facility as defined in North Dakota Century Code, § 49-22-03(5).
3. The proposed project is of such design, location and purpose that it will produce minimal adverse effects, as defined in North Dakota Century Code § 49-22-05.1.
4. The application submitted by Montana-Dakota meets the site evaluation criteria required by North Dakota Century Code Chapter 49-22.
5. The location, construction, and operation of the proposed energy conversion facility will produce only minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
6. The proposed energy conversion facility is compatible with environmental preservation and the efficient use of resources.
7. The proposed energy conversion facility 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 Commission has jurisdiction to ensure compliance with National Electric Safety Code Standards in the construction and operation of the proposed energy conversion facility.

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

Order

The Commission orders:

1. Certificate of Site Compatibility No. ____ is issued to Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., authorizing the construction, operation, and maintenance of an 88 MW natural gas simple cycle combustion turbine energy facility.
2. The site as described in the application is located adjacent to Montana-Dakota's Heskett Station in Morton County, North Dakota, and is designated as the site for construction of the energy conversion facility.
3. Within the permitted area, Montana-Dakota is authorized to site and construct one 88 MW natural gas simple cycle combustion turbine facility in the proposed location, along with other associated facilities as identified in the application.
4. Montana-Dakota shall submit an emergency response plan for the operation of the energy conversion facility prior to its commercial operation.
5. Montana-Dakota shall comply with the conditions set forth in the Certification Relating to Order Provisions-Energy Conversion Facility Siting attached hereto. Montana-Dakota shall confer with the Staff of the Commission to define the scope of the design specifications to be provided pursuant to paragraph 32 of the Certification Relating to Order Provisions-Energy Conversion Facility Siting.

PUBLIC SERVICE COMMISSION

Kevin Cramer
Commissioner

Brian P. Kalk
Chairman

Bonny M. Fetch
Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co
88 MW Simple Cycle Combustion Turbine
Siting Application

Case No. PU-11-631

CERTIFICATION RELATING TO ORDER PROVISIONS - ENERGY CONVERSION
FACILITY SITING

I am Garret Senger, a representative of Montana-Dakota Utilities Co ("Company") with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that the Certificate of Site Compatibility will be issued by the Commission subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
3. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed energy conversion facility including all city, township, and county zoning regulations.
4. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the energy conversion facility that requires said license or permit.
5. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the energy conversion facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated of construction activities on a weekly basis.
6. Company understands and agrees that the Certificate of Site Compatibility is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to

comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.

7. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order and the Certificate of Site Compatibility, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
8. Company agrees to construct and operate the energy conversion facility in accordance with all applicable safety requirements.
9. Company agrees to construct and operate the energy conversion facility in the manner described in Company's application, in any late filed exhibits, and supplemental materials, (Application). To the extent there are any conflicts or inconsistencies between Company's Application and the provisions in this Certification Relating to Order Provisions, the Certification provisions control.
10. Company agrees to report promptly to the Commission the presence in the permit area of any critical habitat of threatened species, endangered species, bald eagles, or golden eagles that Company becomes aware of and which were not previously reported to the Commission.
11. Company understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.
12. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, 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.
13. Company understands and agrees that all buried facility crossings of graded roads shall be bored unless the responsible governing agency specifically permits Company to open cut the road.
14. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the energy conversion facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.

15. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures approved by the Commission are taken.
16. During construction, at least 12 inches of topsoil, where available (or topsoil to the depth of cultivation, whichever is greater), over and along areas where facilities will be placed must be stripped and segregated from subsoil. Any area on which excavated subsoil will be placed must first be stripped of topsoil. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must not be placed within the footprint of the facilities, and must be placed over areas containing topsoil.
17. Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
18. Company understands and agrees that its obligation for reclamation and maintenance of energy conversion facility tower locations, associated facilities, roadways and rights-of-way will continue throughout the life of the energy conversion facility.
19. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
20. Company understands and agrees that it shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.
21. Company understands and agrees that it shall repair or replace all drainage tile broken or damaged as a result of construction and operation of the proposed energy conversion facility.
22. Company understands and agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the energy conversion facility.
23. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.

24. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
25. Company agrees that it shall, as soon as practicable upon the completion of the construction of the facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
26. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.
27. Company understands and agrees that it shall advise the Commission of any extraordinary events which take place at the site of the energy conversion facility, including injuries to any person, the death of any threatened or endangered species, within five business days of such event.
28. Company understands and agrees that it shall advise the Commission of the discovery of a large number of dead birds or bats on the site within five business days of such event.
29. Company understands and agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Company
30. Upon request, Company agrees to provide the Commission with engineering design drawings showing surveyed structure prior to construction.
31. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the energy conversion facility, or of any plans to modify the site plan for the energy conversation facility. Company understands and agrees to obtain written approval from the Commission prior to any modifications to the site plan or the energy conversion facility, associated facilities, and roadway locations. Approval may be granted after notice and opportunity for hearing.
32. Company agrees to provide the Commission with both an electronic and a paper copy of the design specifications for the construction of the energy conversation facility showing the location of the energy conversion facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the as-built facility design specifications that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or

geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.

33. Company understands and agrees that the authorizations granted by the Certificate of Site Compatibility for the energy conversion facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.
34. Company understands and agrees that in the event Company desires to construct, within any site granted by a Certificate of Site Compatibility in this proceeding, an energy conversion facility that was not requested in Company's application in this proceeding, Company shall apply for a Certificate of Site Compatibility for the facility.
35. Company shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined and clearance to proceed has been given by the Commission.
36. The certificate of site compatibility is subject to suspension or revocation and may, after hearing, be suspended or revoked for failure to comply with the Commission's order, requirements of the One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23, the conditions and criteria of the certificate or permit or subsequent modification, or failure to comply with applicable statutes, or rules, regulations, standards, and permits of other state or federal agencies.

Dated this 4th day of December, 2012

Montana-Dakota Utilities Co

By Darsh Singh DK

Its VP Regulatory Affairs, CAO