

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**NuStar Pipeline Operating Partnership L.P.  
8-inch Refined Products Pipeline – Cass County  
Siting Application**

**Case No. PU-15-674**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**February 24, 2016**

**Appearances**

Commissioners Julie Fedorchak, Randy Christmann, and Brian P. Kalk.

Mollie M. Smith, Attorney at Law, Fredrikson & Byron, P.A., 200 South Sixth Street, Suite 4000, Minneapolis, Minnesota 55402, on behalf of NuStar Pipeline Operating Partnership L.P.

Zachary E. Pelham, Special Assistant Attorney General, 314 East Thayer Avenue, Bismarck, North Dakota 58502, on behalf of the North Dakota Public Service Commission.

Allen C. Hoberg, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

**Preliminary Statement**

On September 17, 2015, NuStar Pipeline Operating Partnership L.P. (NuStar) filed applications for a certificate of corridor compatibility and a route permit concerning approximately 7.3 miles of 8-inch diameter pipeline and associated facilities for the transmission of refined petroleum products (Project). The Project will be located in Cass County, North Dakota.

Also on September 17, 2015, NuStar filed an application for waiver of procedures and time schedules established under North Dakota Century Code sections 49-22-07.2, 49-22-08, 49-22-08.1, and 49-22-13, and North Dakota Administrative Code chapter 69-06-06 and section 69-06-01-02, requiring separate filings, separate notices, and separate hearings on the certificate of corridor compatibility and route permit applications, and certain time schedules.

On November 4, 2015, the Commission found the applications for a certificate of corridor compatibility and a route permit complete, conditioned on receiving copies of environmental and cultural studies and location information concerning the portion of the Project to be sited within the proposed Cenex Fargo Terminal at least ten business days prior to the public hearing in this case.

Also on November 4, 2015, the Commission also issued a Notice of Filings and Public Hearing (Notice) scheduling a hearing for January 21, 2016, at 9:00 a.m. Central Time at the Harry D. McGovern Alumni Center, 1241 North University Drive, Fargo, North Dakota 58105.

The Notice identified the following issues to be considered with respect to the application for a waiver of procedures and time schedules:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects such that adherence to applicable procedures and time schedules may be waived?
2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

The Notice identified the following issues to be considered with respect to the applications for certificate of corridor compatibility and route permit:

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 January 6, 2016, NuStar filed a Motion to Amend Consolidated Application and Waiver Application concerning a proposed route adjustment.

Also on January 6, 2016, NuStar filed copies of environmental and cultural studies and location information concerning the portion of the Project to be sited within the proposed Cenex Fargo Terminal.

On January 21, 2016, the hearing was held as scheduled.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes the following findings of fact:

### **Findings of Fact**

1. NuStar is a Delaware limited partnership authorized to do business in the State of North Dakota, as evidenced by the corporate papers filed with the Commission on September 16, 2016, in Case No. PU-15-673.

#### **Size, Type, and Preferred Location of Facility**

2. The Project will consist of approximately 7.3 miles of 8-inch diameter pipeline and associated facilities for the transportation of refined petroleum products. The Project will be located in Cass County, North Dakota, and will be known as the "Laurel Interconnect Pipeline".

3. The Project will originate at a pump station within the proposed Cenex Fargo Terminal, to be located approximately 1.3 miles southeast of Prosper, North Dakota, and will terminate at an interconnect with NuStar's existing 10-inch refined petroleum products pipeline at Mapleton Junction, located approximately 2.0 miles southeast of Mapleton, North Dakota.

4. The maximum capacity of the Project will be 64,000 barrels per day, with an initial operational capacity of 24,000 barrels per day.

5. The pipe wall thickness will be 0.250 inches, with the exception of those sections of pipe to be installed using horizontal directional drilling methods, which will be 0.322 inches in thickness.

6. Above-ground facilities will include metering equipment, a pump station, two control buildings, two block valves, in-line tool launcher and receiver sites, a supervisory control and data acquisition (SCADA) system, and associated communications equipment.

7. The Project will be designed, constructed, operated, and maintained in compliance with Code of Federal Regulations Title 49 Part 195, Hazardous Liquids Pipeline Safety Regulations.

8. The total anticipated cost of the Project is approximately \$12 million.

#### **Study of Preferred Location**

9. NuStar evaluated a one-mile-wide study area centered on the proposed route (Study Area) for soils, land use, wetlands and waterbodies, trees and shrubs, and protected species and critical habitats.

10. NuStar conducted field surveys on a two-acre area within the proposed Cenex Fargo Terminal, a one-acre area at Mapleton Junction, a 300-foot-wide area extending south from 32nd Street SE along the proposed route adjustment, and a 200-foot-wide area centered on the proposed route with wider areas for additional temporary workspaces (Survey Area) for soils, land use, vegetation, wetlands and waterbodies, and wildlife, including protected species and critical habitats.

11. NuStar conducted a Class I cultural resource literature search on the Study Area and a Class III cultural resource inventory on the Survey Area.

12. The following agencies were contacted by NuStar and provided responses: the United States Army Corps of Engineers (USACE), the United States Air Force (USAF), the North Dakota Parks and Recreation Department (NDPRD), the North Dakota Department of Health (NDDOH), North Dakota State Water Commission (NDSWC), the North Dakota Department of Transportation (NDDOT), the North Dakota State Historic Preservation Office (NDSHPO), and the Cass County Weed Control Board (CCWCB).

13. In a response dated July 22, 2015, the USACE indicated that a Section 10 permit will not be required for the Project.

14. In a response dated July 22, 2015, the CCWCB Board requested additional information concerning noxious and troublesome weed control both during and after construction, and also inquired as to the source of grass seed mixes to be used in reseeded.

15. In a response dated July 28, 2015, the NDSWC recommended that NuStar contact Mapleton and Raymond Townships floodplain administrators concerning work within identified floodplains, and requested notification if any NDSWC-maintained water gaging stations or water wells are affected by the Project.

16. In a response dated August 3, 2015, the NDPRD indicated that the proposed route crosses a Recreation Trail Project administered by the NDPD, but will not affect state park lands managed by or Land and Water Conservation Fund recreation projects coordinated by the NDPRD. The NDPRD further indicated that no documented occurrences of species of concern or other significant ecological communities are known to occur within one mile of the Project.

17. In a response dated August 27, 2015, the USAF indicated that no ICBM missile launch sites or launch control facilities are located within 1,200 feet of the Project.

18. In a response dated September 10, 2015, the NDDOT indicated that the Project should have no adverse effect on NDDOT highways, and that any work within highway right-of-way will require authorization by NDDOT.

19. In a response dated December 4, 2015, the NDDOH indicated that environmental impacts associated with Project construction are expected to be minor and can be

controlled by proper construction methods. The NDDOH recommended that measures be taken to minimize fugitive dust emissions and that associated complaints be responded to in an efficient and effective manner; that care be taken during construction activities near waters of the state on order to minimize impacts to water bodies from disturbance and oil, gas, or fuel spills associated with construction equipment; that a stormwater discharge permit may be necessary; that construction should not take place during early morning or late evening hours; that noise levels be minimized by use of mufflers on construction equipment; that a spill response plan be developed; and that the pipeline be properly monitored for leaks. The NDDOH further indicated that no NDDOH-owned land exists within or adjacent to the Project, does not have any projects scheduled within the Project area, and that the Project is consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

20. In responses dated November 20, 2015, and December 18, 2015, the NDSHPO concurred with "No Significant Sites Affected" and "No Historic Properties Affected" recommendations, provided that the Project remains as described in information provided by NuStar to the NDSHPO.

#### Siting Criteria

21. The Commission has established criteria pursuant to North Dakota Century Code section 49-22-05.1 to guide the Commission in evaluating the suitability of granting a certificate of corridor compatibility and route permit. The criteria, as set forth in North Dakota Administrative Code section 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

22. NuStar evaluated the Project with respect to the Exclusion, Avoidance, Selection, and Policy criteria of the Commission.

23. A transmission facility route must not be sited within an Exclusion Area. Exclusion areas may be located within a corridor, but at no given point may such an area or areas encompass more than fifty percent of the corridor unless there is no reasonable alternative.

24. No Exclusion Areas are present within the Survey Area.

25. An Avoidance Area is a geographical area that may not be considered in the routing of a transmission facility unless the applicant shows that, under the circumstances, there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a transmission facility, the Commission may consider, among other things, the proposed management of adverse impacts, the orderly siting of facilities, system reliability and integrity, the efficient use of resources, and alternative routes.

26. No Avoidance Areas are present within the Survey Area.

27. In accordance with the Commission's Selection Criteria, a transmission facility route shall be designated if it is demonstrated that any significant adverse effects that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum.

28. NuStar has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria and has determined that no significant adverse impact will result from the location, construction, and operation of the Project.

#### Measures to Minimize Impact

29. NuStar testified that a SCADA system will be installed as part of the Project, which will monitor pressure, flow, and temperature continuously at a control center located in San Antonio, Texas. The control center will have the ability to remotely shut down the Project.

30. The block valves will be remotely as well as manually operable.

31. NuStar testified that a building will be constructed around the pump station to minimize noise impacts.

32. NuStar testified that one check valve will be installed below ground on private property at the request of a landowner in order to minimize impacts to farming operations and impacts from flooding.

33. NuStar testified that the following areas will be crossed by horizontal directional drilling: Interstate 94 and all other roads with the exception of Cass County Road 166, the Maple River River, the Lower Branch Rush River, and all wetlands and field drains. NuStar further testified that the pipeline will be installed at least 25 feet below the beds of the Maple and Lower Branch Rush Rivers, and that the pipe to be used at these crossings will be coated with an abrasion-resistant material.

34. NuStar testified that an in-line inspection tool will be used to perform an inspection of the pipeline before it is placed into service in order to verify its structural integrity.

35. NuStar testified that it will contract for three third-party safety and environmental inspectors to be present on-site during construction of the Project.

36. NuStar testified that it participates in the North Dakota One-Call Excavation System and is also a member of the North Dakota Common Ground Alliance.

37. NuStar testified that no permanent roads are anticipated to be constructed as part of the Project.

38. NuStar testified that no trees or shrubs are present within the Survey Area.

39. NuStar testified that in order to avoid the introduction of noxious weeds to the Project area, construction equipment and vehicles will be cleaned prior to mobilization, and only certified weed-free seed will be used.

40. NuStar testified that it will follow the recommendations as provided by federal and state agencies in their responses.

41. NuStar testified that all easements for the Project have been obtained.

From the foregoing Findings of Fact the Commission makes the following conclusions of law:

### **Conclusions of Law**

1. The Commission has jurisdiction over NuStar and the subject matter of these applications under North Dakota Century Code chapter 49-22.

2. NuStar is a utility as defined in North Dakota Century Code section 49-22-03(13).

3. The Project is a transmission facility as defined in North Dakota Century Code section 49-22-03(12).

4. The location, construction, and operation of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The location, construction, and operation of the Project are compatible with the environmental preservation and the efficient use of resources.

6. The Project 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 Project is of such design and location that it will produce minimal adverse effects, as defined under North Dakota Century Code section 49-22-07.2.

8. The Project is of such design and location that it will produce minimal adverse effects and, therefore, it is appropriate for the Commission to waive those certain procedures and time schedules as requested in the waiver application under North Dakota Century Code section 49-22-07.2.

From the Findings of Fact and Conclusions of Law, the Commission makes the following order:

## Order

The Commission orders:

1. NuStar's motion to amend its applications for a certificate of corridor compatibility, a route permit, and waiver of procedures and time schedules is granted.
2. NuStar's application for a waiver of procedures and time schedules is granted.
3. Certificate of Corridor Compatibility No. 181 is issued to NuStar, designating a corridor for the construction, operation, and maintenance of approximately 7.3 miles of 8-inch diameter pipeline and associated facilities for the transmission of refined petroleum products in Cass County, North Dakota. For purposes of the Certificate, the designated corridor is depicted as "Survey Area" in Hearing Exhibit No. 3.
4. Route Permit No. 193 is issued to NuStar, designating a route for the construction, operation, and maintenance of approximately 7.3 miles of 8-inch diameter pipeline and associated facilities for the transmission of refined petroleum products in Cass County, North Dakota. For purposes of the Permit, the designated route is depicted as "Proposed Laurel Pipeline" in Hearing Exhibit No. 3.
5. The January 20, 2016, Certification Relating to Order Provisions – Transmission Facility Siting (Certification) is incorporated by reference and attached to this Order.
6. To the extent that there are any conflicts or inconsistencies between Plains' applications in this proceeding and the Certification, the Certification provisions control.
7. NuStar is required to comply with all applicable laws, rules, and/or regulations in the event it desires to construct another or a different transmission facility than was specified in the application within the corridor granted in this proceeding.

### PUBLIC SERVICE COMMISSION

  
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**Randy Christmann**  
Commissioner

  
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**Julie Fedorchak**  
Chairman

  
\_\_\_\_\_  
**Brian P. Kalk**  
Commissioner

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 181**

*This is to certify that the Commission has designated a transmission facility corridor for NuStar Pipeline Operating Partnership L.P. for the construction, operation, and maintenance of approximately 7.3 miles of 8-inch diameter pipeline and associated facilities for the transmission of refined petroleum products in Cass County, North Dakota.*

*This certificate is issued in accordance with the Order of the Commission dated February 24, 2016 in Case No. PU-15-674 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, February 24, 2016*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Route Permit Number 193**

*This is to certify that the Commission has designated a transmission facility route for NuStar Pipeline Operating Partnership L.P. for the construction, operation, and maintenance of approximately 7.3 miles of 8-inch diameter pipeline and associated facilities for the transmission of refined petroleum products in Cass County, North Dakota.*

*This permit is issued in accordance with the Order of this Commission dated February 24, 2016 in Case No. PU-15-674 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, February 24, 2016.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
**Executive Secretary**

  
\_\_\_\_\_  
**Commissioner**

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

NuStar Pipeline Operating Partnership L.P.  
8-inch Refined Products Pipeline – Cass County  
Siting Application

Case No. PU-15-674

CERTIFICATION RELATING TO ORDER PROVISIONS  
TRANSMISSION FACILITY SITING

I am Gerald R. Koegeboehn, a representative of NuStar Pipeline Operating Partnership L.P. ("Company") with authority to bind the Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be 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 comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
3. 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 transmission facility that requires said license or permit.
4. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission 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.
5. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
6. Company understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for

the transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

**Construction:**

7. 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.
8. 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.
9. Company understands and agrees that topsoil removal will begin when the Commission's third-party construction inspector is present at the Project site to observe that topsoil is properly removed and kept segregated from subsoil until replacement occurs. Company shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.
10. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the transmission 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 on construction activities on a monthly basis.
11. Company understands and agrees that the pipeline will be buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in range land, 48 inches for cultivated land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines.
12. Company understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/ early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

13. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.
14. 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.
15. 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 and a report of such examination is filed with the Commission and the State Historical Society.
16. 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 are taken by Company.
17. Company agrees that the Commission may stop Project construction activities to prevent an imminent hazard from occurring before the Commission can take formal action with respect to said activities. For purposes of this provision, "imminent hazard" means a condition that presents a substantial likelihood of death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment. Other Project construction activities would be allowed to continue.

**Restoration and Maintenance:**

18. Company understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission 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.
19. 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 transmission 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.
20. 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.

21. Company will fulfil its obligation for reclamation and maintenance of the approved transmission facility right-of-way, transmission facility, and associated facilities continuing throughout the Company's ownership of the transmission facility.
22. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
23. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
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 understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.

**Communication with Landowners and PSC:**

26. Company understands and agrees that, prior to beginning construction of the transmission facility at a location, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement.
27. Company understands and agrees that it will file with the commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility.
28. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
29. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person.
30. Company agrees to report to the Commission, as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered species of which Company becomes aware and which were not previously reported to the Commission.

31. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility.
32. Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission 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 corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built 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 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.

**Route Adjustments Before or During Construction:**

34. Company agrees to utilize the following procedures if Company seeks a route adjustment before or during construction of the pipeline, pursuant under N.D.C.C. §49-22-16.3:
35. Company will specifically identify which subsection of NDCC 49-22-16.3 it is requesting the adjustment under. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application.
36. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before conducting any construction activities for any adjustment to the designated route within the designated corridor under NDCC 49-22-16.3(1), the Company will file:

- a. Certification and supporting documentation affirming that construction activities will be within the designated corridor, will not affect any known exclusion or avoidance areas within the designated corridor;
- b. Certification and supporting documentation, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, route and the route adjustment;
- c. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

37. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(2), within the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route within the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
  - i. the designated corridor, route and the route adjustment;
  - ii. all exclusion and avoidance areas within the portion of the designated corridor containing the route adjustment
- b. Certification and supporting documentation affirming:
  - i. That construction activities will be within the designated corridor
  - ii. That construction activities will not affect any known exclusion area
- c. All field studies performed on the portion of the designated corridor containing the route adjustment;
- d. Specific information about any mitigation measures Company will take within the adjustment area;
- e. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- f. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that:

1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
2. The initiation of the ten working days begins upon receipt of a complete filing, to include Company's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Company, in the person of the key contact referenced above, is informed of the reason additional time is necessary for extension and has no objection to an extension.

38. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(3), outside the designated corridor and not affecting any exclusion and avoidance area, before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:

- a. Certification and supporting documentation affirming that construction activities will not affect any known exclusion or avoidance areas,
- b. Certification and supporting documents stating the length of the proposed route outside of the corridor and a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, corridor adjustment, designated route and the route adjustment;
- c. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment; and
- d. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
- e. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

39. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(4), outside the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:

- i. the designated corridor, corridor adjustment, route and the route adjustment;
  - ii. all exclusion and avoidance areas within the adjustment area
- b. Certification that construction activities will not affect any known exclusion area;
  - c. Certification that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist within the designated corridor and route;
  - d. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
  - e. Provide specific information about any mitigation measures Company will take within the adjustment area;
  - f. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
  - g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that:

- 1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
- 2. The initiation of the ten working days begins upon receipt of a complete filing, to include Company's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Company, in the person of the key contact referenced above, is informed of the reason additional time is necessary for extension and has no objection to an extension.

- 40. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.

Dated this 20 day of January, 2016.

NUSTAR PIPELINE OPERATING PARTNERSHIP L.P.  
BY ITS GENERAL PARTNER, NUSTAR PIPELINE  
COMPANY, LLC

By Gerald R. Koegeboehn  
Gerald R. Koegeboehn

Its Vice President