

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern States Power Company
230 kV Transmission Line – McHenry & Ward Counties
Siting Application**

Case No. PU-17-102

ORDER ON TREE AND SHRUB MITIGATION SPECIFICATIONS

June 29, 2022

Preliminary Statement

The Commission's October 4, 2017, Findings of Fact, Conclusions of Law and Order In Case No. PU-17-102, issued Certificate of Corridor Compatibility No. 200 and Route Permit No. 211 to Northern States Power Company (NSP) for the 230 kV transmission line project.

On March 13, 2019, the Commission revised its Tree and Shrub Mitigation Specifications to update the process for mitigation reporting.

On January 13, 2022, Commission Staff sent a letter to NSP requesting the Tree & Shrub survival reports for 2020 and 2021.

On March 24, 2022, NSP responded to the January 13, 2022, Commission Staff letter. NSP's letter stated that the third party contracted to complete the replacement tree plantings and survival reports did not complete the reports for 2020 or 2021, and requested the Commission modify its compliance requirements to those in the revised March 13, 2019, Tree and Shrub Mitigation Specifications.

Discussion

The Tree and Shrub Mitigation Specifications (Specifications) attached to and made part of the Commission's October 4, 2017, Order required that two trees be planted for every one tree removed, and that two shrubs be planted for one shrub removed. The Specifications required that tree and shrub replacements be inspected annually, in September, for three years, with the first annual inspection at least one year from the anniversary date of the original plantings. The Specifications further required that a report of each annual report be submitted to the Commission by October 1 of each year, documenting the condition of plantings and any woodlands work completed as of September of each year.

During construction of the project, 1048 trees/shrubs were removed.

The Commission's March 13, 2019, Specifications were conceived to be goal or purpose oriented to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefits to landowners, farmers and ranchers, the community, wildlife and the environment. In lieu of annual reporting for three years, the Commission's March 13, 2019, Specifications require one final report filed by the company after two years that details the company's tree and shrub mitigation efforts and describes how the company's mitigation achieved the purpose stated above.

NSP has indicated a desire to comply with the March 13, 2019, version of the Tree and Shrub Mitigation Specifications instead of the version of the Tree and Shrub Mitigation Specifications adopted by the Commission's October 4, 2017 Order.

Having considered this matter, the Commission issues the following:

Order

The Commission Orders that its October 4, 2017, Findings of Fact, Conclusions of Law and Order is amended to replace the Tree and Shrub Mitigation Specifications adopted in that Order with the March 13, 2019, version of the Tree and Shrub Mitigation Specifications, attached to and made part of this Order.

PUBLIC SERVICE COMMISSION



Randy Christmann
Commissioner



Julie Fedorchak
Chair



Sheri Haugen-Hoffart
Commissioner

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Northern States Power Company
230 kV Transmission Line – McHenry & Ward Counties
Siting Application**

Case No. PU-17-102

Tree and Shrub Mitigation Specifications

Inventory

Prior to cutting or clearing trees or shrubs for construction:

- All trees one-inch or greater in diameter at breast height must be inventoried to record the location, number, and species.
- All shrubs and all coniferous trees of any diameter must be inventoried to record the location, number, and species.

Clearing

The maximum width of tree and shrub removal is 50 feet, unless otherwise approved by the Commission.

Replacement

1. Landowners must be given the option to have trees and shrubs that are removed from their property replaced on their property. The landowner may waive this option in writing. If the landowner waives this option, the company shall plant replacement trees and shrubs in an alternate location in the same region, if practical.
2. Trees and shrubs must be replaced on a minimum two-to-one basis. The company shall develop a Tree and Shrub Mitigation Plan (Plan) in consultation with landowners who are seeking replacement trees and shrubs and in accordance with USDA-NRCS-North Dakota Field Office Technical Guide: Windbreak and Woodland Tree Care and Management. The guidelines outlined in the Technical Guide shall be followed until filing of the Plan summary outlined in number 5 below.
3. The purpose of the company's Tree and Shrub Mitigation Plan is to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefit to landowners, farmers and ranchers, the community, wildlife and the environment.
4. The Plan, including the proposed number, variety, type, location, and approximate date for plantings, shall be filed with and approved by the Commission.
5. Two years after completion of the plan, the company must file a summary documenting how the plan achieved the purpose outlined in number 3 above. The summary must also report the number of surviving replacement trees and shrubs.
6. The Commission will consider, on a limited basis as conditions warrant, mitigation plans that provide long-term wildlife habitat and conservation benefits but do not involve the replanting of trees and shrubs.