



Public Service Commission State of North Dakota

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February 17, 2020

Matt Harris
Lead Assistant General Counsel
414 Nicollet Mall, 401-08
Minneapolis, Minnesota 55401

RE: GAS CAPACITY EXPANSION PROJECTS REQUEST FOR JURISDICTIONAL
DETERMINATION CASE NO. PU-21-35

Mr. Harris:

On January 14, 2021, on behalf of Northern States Power Company doing business as Xcel Energy (Xcel), you filed with the North Dakota Public Service Commission (PSC), a petition (the "Petition") for a finding under N.D.C.C. § 49-22.1-04 and the related definition of "Gas or liquid transmission facility" found in N.D.C.C. § 49-22.1-01(7) that:

- 24,000 feet of 12-inch, HP pipe generally south along 9th Street East in West Fargo and east along 32nd Ave South to 45th Street in Fargo does not meet the definition of "Gas or liquid transmission facility" and does not require a Site Certificate from the PSC.

The definition of a gas or liquid transmission facility is as follows:

7. "Gas or liquid transmission facility" means any of the following:
- a. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide. This subdivision does not apply to:
 - (1) An oil or gas pipeline gathering system;
 - (2) A pipeline with an outside diameter of four and one-half inches [11.43 centimeters] or less which will not be trenched and will be plowed in with a power mechanism having a vertical knife or horizontally directionally drilled, and its associated facilities; or
 - (3) A pipeline that is less than one mile [1.61 kilometers] long. For purposes of this chapter, a gathering system includes the pipelines and

associated facilities used to collect oil from the lease site to the first pipeline storage site where pressure is increased for further transport, or pipelines and associated facilities used to collect gas from the well to the gas processing facility at which end-use consumer-quality gas is produced, with or without the addition of odorant.

b. A liquid transmission line and associated facilities designed for or capable of transporting water from or to an energy conversion facility.

As specified in your letter, the Capacity Expansion will be the installation of 24,000 feet of 12-inch, HP pipe generally south along 9th Street East in West Fargo and east along 32nd Ave South to 45th Street in Fargo. and will operate at a hoop stress below 20 percent of SMYS.

When classifying a pipeline under the Siting Act, guidance may be obtained from Title 49 CFR Part 192. Part 192 applies to the transportation of natural gas by pipeline, which includes each of the recognized stages of gas pipeline transportation – gathering, transmission, and distribution. Under Title 49 CFR § 192.3, a distribution line is defined as a pipeline other than a gathering or transmission line. The Capacity Expansion does not fall under the definition of a gathering line as it does not transport gas from a production facility to a transmission line or main.

Under § 192.3, a transmission line is:

[A] pipeline, other than a gathering line, that:

(1) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center;

(2) operates at a hoop stress of 20 percent or more of SMYS; or

(3) transports gas within a storage field.

Note: A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

As stated in your letter, the line will not operate at a hoop stress of 20 percent or more of SMYS, or transport gas within a storage field. Therefore, the inquiry centers upon whether the pipeline is “functionally equivalent to a distribution main downstream of a distribution center” or pipeline transporting to a distribution center or large volume customer.

The Capacity Expansion has the characteristics of a distribution line. PHMSA guidance has stated that a distribution center is a “point where gas enters piping used primarily to deliver gas to customers who purchase it for consumption as opposed to customers who purchase it for resale.” Due to the characteristics and the intent to expand capacity to a distribution network along the pipeline, the Commission agrees “the proposed project described above is not transporting gas to a distribution center, storage facility,

large customers not down-stream from a distribution center, or within a storage field.” for the purposes of the Siting Act.

This determination does not set precedent, or apply to other State or Federal laws, regulations, or orders beyond N.D.C.C. Ch. 49-22. If there are changes to your proposed plan of construction that may cause the pipeline to fall within the jurisdiction of the Siting Act, please contact the Public Service Commission for further guidance. We thank you again for your request. If there is further assistance you need, or questions you may have, please do not hesitate to contact us.

On February 17, 2021, the PSC discussed your request at the administrative matters portion of its regular meeting. The PSC believes that the proposed Fargo/West Fargo capacity expansion is not a “transmission line” as intended in N.D.C.C. Ch. 49-22.1 or defined under federal law, and therefore the Certificate Requirement should not apply.

Sincerely,



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