

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

**Montana-Dakota Utilities Co.**  
**230 kV Transmission Line - Morton County**  
**Siting Application**

**Case No. PU-21-151**

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

**December 29, 2021**

**Appearances**

Commissioners Julie Fedorchak, Randy Christmann, and Brian Kroshus.

Paul Sanderson, Counsel, Evenson Sanderson PC, 1100 College Drive, Suite 5, Bismarck, ND 58501.

Brian L. Johnson, Special Assistant Attorney General, 600 E Boulevard Ave. Bismarck, North Dakota 58505, North Dakota Public Service Commission.

Hope L. Hogan, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14<sup>th</sup> Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

**Preliminary Statement**

On July 26, 2021, Montana-Dakota Utilities Co. (Montana-Dakota) filed a final Combined Application for a Certificate of Corridor Compatibility and Route Permit to construct, own and operate an approximately 1.5 mile long, 230-kilovolt (kV) electrical transmission line near the Heskett Station north of Mandan in Morton County, North Dakota (Project).

On August 4, 2021, the Commission deemed Montana-Dakota's application complete and issued a Notice of Filing and Hearing. The public hearing was scheduled to begin at 9:00 a.m. CDT on October 7, 2021, at Mandan City Hall, 205 Second Avenue Northwest, Mandan, ND 58554.

The Notice identified the following issues to be considered at the consolidated hearing:

1. Will construction, operation, and maintenance of the facility at the proposed location produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?

2. Is the proposed facility compatible with the environmental preservation and the efficient use of resources?

3. Will construction, operation, and maintenance of the facility at the proposed location 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 October 7, 2021, the public hearing was held as scheduled.

On November 19, 2021, Commission Staff issued a Notice of Noncompliance, because Montana-Dakota testified at the public hearing that transmission structures 1 through 6 had been constructed prior to filing an application with the Commission to obtain a certificate of corridor compatibility or a route permit.

On December 6, 2021, MDU filed a Supplement to its July 26, 2021 Combined Application for a Certificate of Corridor Compatibility and Route Permit (Supplement).

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

### **Findings of Fact**

1. Montana-Dakota Utilities Co. is a Delaware corporation duly authorized to do business in the State of North Dakota as a foreign corporation, and that it is doing business in the State of North Dakota as a public utility subject to the jurisdiction of and regulation by the North Dakota Public Service Commission (Commission) under Title 49, North Dakota Century Code.

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

2. Montana-Dakota proposes to construct, own and operate an approximately 1.5-mile long, 230 kV electrical transmission line within the city of Mandan, Morton County, North Dakota. The proposed transmission line will originate at Montana-Dakota's existing Mandan Substation and terminate at its existing Heskett Transmission Substation. The Project includes three segments of 230 kV electrical transmission line and will involve construction of two new proposed segments that will be connected by an existing 230 kV segment. The proposed route for the transmission line is identified on the Supplement's "Mandan Reroute Avoidance/Exclusion" map to "Exhibit 4 – Avoidance, Exclusion, and Siting Criteria Mapping Revised".

3. The Project is a replacement of existing facilities and will perform the same function as the current facilities. The line relocation is necessary because of the closure of Heskett Units 1 and 2 coal-fired generating stations.

4. Montana-Dakota seeks a Project corridor that is 200 feet wide as depicted on the Supplement's "Mandan Reroute Avoidance/Exclusion" map to "Exhibit 4 – Avoidance,

Exclusion, and Siting Criteria Mapping Revised” and identified precisely by the associated GIS map data (Survey Area).

5. The Project will be constructed using H-frame, three-pole guyed suspension with dead-end structures. Poles 7, 10, and 14 will require guy wires (dead-end structures). It is anticipated that 20 guys (and associated anchors) will be required for each of the dead-end structures and will extend 50 to 85 feet from the structure. Pole 15 will be placed as a temporary structure and is expected to be removed in 2022 when the transmission line crossing of the Missouri River is completed.

6. The total cost to construct the Project is approximately \$1.3 million.

#### Study of Preferred Location

7. Montana-Dakota initiated correspondence seeking comments from the following federal, state and local agencies regarding the Project:

- a. Federal: (1) Federal Aviation Administration; (2) U.S. Army Corps of Engineers; (3) U.S. Department of Defense; and (4) U.S. Fish and Wildlife Service.
- b. State: (1) North Dakota Office of Attorney General; (2) North Dakota Department of Agriculture; (3) North Dakota Department of Career and Technical Education; (4) North Dakota Department of Commerce; (5) North Dakota Department of Environmental Quality; (6) North Dakota Aeronautics Commission; (7) North Dakota Department of Human Services; (8) North Dakota Department of Transportation; (9) North Dakota Department of Trust Lands; (10) North Dakota Energy Development Impact Office; (11) North Dakota Game and Fish Department; (12) North Dakota Indian Affairs Commission; (13) North Dakota Industrial Commission; (14) North Dakota Department of Labor; (15) North Dakota Parks and Recreation Department; (16) North Dakota Soil Conservation Committee; (17) North Dakota State Water Commission; (18) Job Service of North Dakota; (19) North Dakota State Historic Preservation Office (SHPO); (20) North Dakota Office of the Governor; (21) North Dakota Transmission Authority; (22) North Dakota Pipeline Authority; and (23) North Dakota Geological Survey.
- c. Local: (1) Morton County Commission.

8. Montana-Dakota conducted an assessment that included a natural resource desktop review for federally listed threatened and endangered species and species managed under the North Dakota State Wildlife Action Plan, and an aquatic resource desktop review for wetlands across a one-mile wide area as depicted on the Supplement’s “Mandan Reroute Avoidance/Exclusion” map to “Exhibit 4 – Avoidance, Exclusion, and Siting Criteria Mapping Revised” (Study Area). A Class I cultural resource inventory was also conducted across the Study Area.

9. Montana-Dakota conducted surveys for wildlife, threatened and endangered species, critical habitats, wetlands, waterbodies, and trees/saplings/shrubs across the Survey Area.

10. Montana-Dakota conducted a Class III field survey across the Survey Area. The SHPO determined “that there has been a good faith effort to avoid impacts to significant sites”. Montana-Dakota also developed an Unanticipated Discovery Plan for Cultural Resources.

### Siting Criteria

11. The Commission has established criteria pursuant to North Dakota Century Code (NDCC) section 49-22-5.1 to guide the site, corridor, and route suitability evaluation and designation process. The criteria, as set forth in North Dakota Administrative Code (NDAC) section 69-06-08-02, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

12. Montana-Dakota evaluated the Project for Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria of the Commission.

13. An Exclusion Area is a geographic area that must be excluded in the consideration of a route for a transmission facility. An Exclusion Area 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. A transmission facility route must not be sited within an Exclusion Area.

14. Historic sites are Exclusion Areas. Montana-Dakota's surveys identified one such site within the Survey Area. SHPO agreed that “there has been a good faith effort to avoid impacts to significant sites”.

15. Montana-Dakota surveys identified no additional Exclusion Areas in the Survey Area.

16. An Avoidance Area is a geographic 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.

17. Areas within 500 feet of an inhabited rural residence are designated as Avoidance Areas. In the Survey Area, Montana-Dakota identified six Avoidance Areas related to inhabited rural residences; however, Montana-Dakota located the route greater than 500 feet from all of them.

18. Montana-Dakota surveys identified no additional Avoidance Areas in the Survey Area.

19. In accordance with the Commission's Selection Criteria set forth in NDAC section 69-06-08-02(3), a transmission facility corridor or route shall be approved only 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 that those effects will be managed and maintained at an acceptable

minimum. Montana-Dakota has analyzed the impacts of the Project in relation to all relevant Selection Criteria.

20. Family farms and ranches are a Selection Criteria. The Project will have no impacts to family farms and ranches.

21. Agricultural production is a Selection Criteria. A portion of the route will be constructed on agricultural land. Temporary impacts will be minimal during construction and no permanent changes in land use are anticipated.

22. Sound-sensitive land uses is a Selection Criteria. Residences near the Project are understood to be noise sensitive. Minimal noise will occur during construction, but no long-term noise impacts are anticipated.

23. The visual effect is a Selection Criteria. Because the Project is located near existing overhead transmission lines, there will be limited net change to the viewshed of nearby residences.

24. Wetlands, woodlands, and wooded areas are Selection Criteria. One pole structure will be placed within a potential wetland area. Impacts are anticipated to be minimal and consistent with use of USACE Nationwide Permit 57, with self-reporting. Montana Dakota will span one waterbody, which will not be temporarily or permanently impacted.

25. Animal health and safety is a Selection Criteria. No impacts to livestock are anticipated from the operation of the transmission line. Avian collisions are a possibility after completion of the transmission line. Montana-Dakota has mitigated such risk by co-locating the transmission line next to existing lines, which will help increase the visibility of the line, and help in minimizing collisions.

26. The adverse effects to Selection Criteria that will result from the construction, operation, and maintenance of the Project at this location will be at an acceptable minimum.

27. The Commission's Policy Criteria are set forth in NDAC section 69-06-08-02(4). The Commission may give preference to an applicant that will maximize benefits that result from the adoption of various policies and practices. There is no need for the Commission to give preference to the applicant in this proceeding.

#### Additional Measures to Minimize Impact

28. The Project will be constructed according to standards of the Rural Utilities Service, the National Electric Safety Code, the Institute of Electrical and Electronics Engineers, the American Society of Civil Engineers, the American Institute of Steel Construction, and the American Concrete Institute.

29. Montana-Dakota has prepared a Safety and Emergency Plan for the Project.

30. No trees, shrubs, or saplings will be removed as part of the Project.

31. After construction, Montana-Dakota will use a weed-free regionally specific seed mixture for revegetation in non-agricultural areas.

32. Montana-Dakota has agreed to a number of steps to minimize the impact of the Project, as indicated by the executed Certification Relating to Order Provisions – Transmission Facility Siting, which is incorporated by reference and attached to this Order.

From the foregoing Findings of Fact, the Commission makes the following:

### **Conclusions of Law**

1. The Commission has jurisdiction over the applicant, Montana-Dakota Utilities Co., and the subject matter of the application under NDCC Ch. 49-22.
2. Montana-Dakota is a utility as defined in NDCC section 49-22-03(13).
3. The Project is an electric transmission facility as defined in NDCC section 49-22-03(6).
4. The construction, operation, and maintenance of the transmission line at the proposed location will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. 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.
6. The construction, operation, and maintenance of the transmission line at the proposed location is compatible with environmental preservation and the efficient use of resources.

From the foregoing Findings of Fact and Conclusions of Law, the Commission issues the following:

### **Order**

The Commission orders:

1. Montana-Dakota shall construct and operate the facility in accordance with the Commission's Findings of Fact.
2. Certificate of Corridor Compatibility No. 224 is issued to Montana-Dakota Utilities Co. designating a corridor for the construction, operation, and maintenance of an approximately 1.5-mile 230 kV transmission line in Morton County, North Dakota. The approved corridor is 200 feet wide generally centered on the Project route from the Mandan Substation to the Heskett Substation. The approved corridor is identified on the Supplement's "Mandan Reroute Avoidance/Exclusion" map to "Exhibit 4 – Avoidance, Exclusion, and Siting Criteria Mapping Revised" and identified precisely by the associated GIS map data.

3. Route Permit No. 234 is issued to Montana-Dakota Utilities Co. designating a route in Morton County, North Dakota, for the construction, operation, and maintenance of an approximately 1.5-mile 230 kV transmission line. The designated route for this purpose is identified as the Route and Structure Locations on the Supplement's "Mandan Reroute Avoidance/Exclusion" map to "Exhibit 4 – Avoidance, Exclusion, and Siting Criteria Mapping Revised" and identified precisely by the associated GIS map data.
4. To the extent there are any conflicts or inconsistencies between Montana-Dakota's application and the Certification, the Certification provisions control.
5. Montana-Dakota shall obtain all other necessary licenses and permits prior to commencing construction on such portion of the Project for which the license and/or permit is required and shall provide copies of such licenses and permits to the Commission prior to construction of such portion.
6. Montana-Dakota 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 designated in this proceeding.

**PUBLIC SERVICE COMMISSION**

  
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**Randy Christmann**  
Commissioner

  
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**Julie Fedorchak**  
Chair

  
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**Brian Kroshus**  
Commissioner

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 224**

*This is to certify that the Commission has designated a transmission facility corridor for Montana-Dakota Utilities Company for the construction, operation, and maintenance of approximately 1.5 miles of 230 kV electric transmission line in Morton County.*

*This certificate is issued in accordance with the Order of the Commission dated December 29, 2021, in Case No. PU-21-151 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, December 29, 2021.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**



**Executive Director**



**Commissioner**

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

**Route Permit Number 234**

*This is to certify that the Commission has designated a transmission facility route for Montana-Dakota Utilities Co. for the construction, operation, and maintenance of approximately 1.5-miles of 230 kV electric transmission line in Morton County.*

*This permit is issued in accordance with the Order of this Commission dated December 29, 2021 in Case No. PU-21-151 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, December 29, 2021.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Montana-Dakota Utilities Co.  
230 kV Transmission Line – Morton County  
Siting Application**

**Case No. PU-21-151**

**CERTIFICATION RELATING TO ORDER PROVISIONS  
TRANSMISSION FACILITY SITING**

I am Jay Skabo, a representative of Montana-Dakota Utilities Co. (“Company”) with authority to bind Montana-Dakota Utilities Co. 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 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.
12. 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.

13. 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.
14. 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.
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 are taken by Company.
16. Company understands and agrees that the Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm.

**Restoration and Maintenance:**

17. 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.
18. 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.
19. 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.
20. Company will fulfill its obligation for reclamation and maintenance of the approved transmission facility right-of-way, transmission facility, and associated facilities continuing throughout the life of the transmission facility.
21. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.

22. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
23. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
24. 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 transmission facility.
25. 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.
26. 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:**

27. 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.
28. 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.
29. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
30. 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.
31. 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.

32. 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.
33. 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.
34. 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:**

36. Company agrees to utilize the following procedures if Company seeks a route adjustment before or during construction of the transmission line.
37. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application.
38. **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, 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.

39. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of an electric transmission line 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.

40. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before adjusting the route of an electric transmission line 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.

41. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of an electric transmission line 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

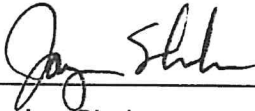
g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that:

42. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.
43. Company acknowledges and agrees that written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity.

Dated this 17 day of DECEMBER, 2021

Montana-Dakota Utilities Co.

By   
Jay Skabo

Its Vice President – Electric Supply