

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co.
12-inch Water Pipeline – Morton County
Siting Application

Case No. PU-22-34

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

May 4, 2022

Appearances

Commissioners Julie Fedorchak, Randy Christmann, and Sheri Haugen-Hoffart.

Allison Mann, Attorney, MDU Resources Group, Inc., 1200 West Century Avenue, Bismarck, ND 58503, on behalf of Montana-Dakota Utilities Co.

Brian Johnson, Special Assistant Attorney General, as Counsel for the North Dakota Public Service Commission, 600 E. Boulevard Avenue, Dept. 408, Bismarck, North Dakota 58505.

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

Preliminary Statement

On January 18, 2022, Montana-Dakota Utilities Co. (MDU), filed with the North Dakota Public Service Commission (Commission) a combined application for a certificate of corridor compatibility and route permit (Application) concerning the location of approximately 2,684 feet of 12-inch water pipeline, located in Morton County, North Dakota.

On January 28, 2022, MDU filed documents with the Commission to supplement its Application.

On February 3, 2022, the Commission provided notification of the Application to the townships with retained zoning authority, cities, and counties in which any part of the proposed pipeline corridor is located.

On February 23, 2022, the Commission deemed the Application complete and issued a Notice of Filing and Public Hearing (Notice) scheduling a public hearing for April

5, 2022, at 9:00 a.m. Central Time, at the Mandan City Hall, Ed “Bosh” Froehlich Meeting Room, 205 Second Avenue Northwest, Mandan, North Dakota 58554.

The Notice identified the following issues to be considered with respect to the Application:

1. Will construction, operation, and maintenance of the facilities at the proposed locations 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 construction, operation, and maintenance of the facilities at the proposed 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 April 5, 2022, the hearing was held as scheduled allowing any interested parties to present testimony in person. Exhibits 1 through 6 were admitted at the hearing.

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

Findings of Fact

1. Montana-Dakota Utilities Co. is a foreign corporation authorized to do business in North Dakota, as evidenced by the corporate papers filed with the Commission on February 2, 2022.

Size, Type, and Preferred Location of Facility

2. MDU intends to construct approximately 2684-feet of 12-inch water pipeline in Morton County, North Dakota (Project). The purpose of the Project is to transport water from the City of Mandan, ND’s 30-inch diameter municipal water pipeline to MDU’s Heskett Station for the purpose of fire suppression and evaporative cooling. The proposed facility corridor and pipeline route is identified in Hearing Exhibit 6.

3. The Project will be 12-inch diameter high-density polyethylene schedule dimension ratio 9 pipe. In order to make a connection to the City of Mandan’s 30-inch diameter municipal water pipeline a 12-inch diameter Class 350 ductile iron pipe will be used. An 18-inch diameter steel casing will be utilized in bored locations. The pipeline will have a maximum operating pressure of 144 pounds per square inch gauge and a maximum operating temperature of 80 degrees Fahrenheit.

4. The Project will have a flow rate capacity of up to 1,395 gallons per minute.
5. Aboveground facilities for the Project will include a permanent water meter building at the south end of the pipeline and a hydrant to be installed near the midpoint of the pipeline.
6. The estimated cost of the Project is \$1.6 million.

Study of Preferred Location

7. MDU initiated correspondence seeking comments from 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; (4) U.S. Fish and Wildlife Service.
 - b. State: (1) North Dakota (ND) Attorney General; (2) ND Department of Agriculture; (3) ND Department of Career and Technical Education; (4) ND Department of Commerce; (5) ND Department of Environmental Quality; (6) ND Aeronautics Commission; (7) ND Department of Human Services; (8) ND Department of Transportation; (9) ND Department of Trust Lands; (10) ND Energy Development Impact Office; (11) ND Game and Fish Department; (12) ND Indian Affairs Commission; (13) ND Industrial Commission; (14) ND Department of Labor; (15) North Dakota Parks and Recreation Department; (16) ND Soil Conservation Committee; (17) ND State Water Commission; (18) Job Service of ND; (19) ND State Historic Preservation Office (SHPO); (20) ND Office of the Governor; (21) ND Transmission Authority; (22) ND Pipeline Authority; and (23) ND Geological Survey.
 - c. Local: (1) Morton County Commission; and (2) City of Mandan.
8. MDU conducted a Class I cultural resource literature review, and a desktop analysis for wetlands, waterbodies, and other sensitive environmental resources, across a one-mile-wide area centered on the Project route (Study Area).
9. MDU conducted several surveys across an approximately 100-foot-wide area centered on the Project route (Survey Area). MDU conducted surveys for wetlands, waterbodies, threatened and endangered species, critical habitats, noxious weeds, and trees/saplings/shrubs.
10. MDU conducted a Class III cultural resources inventory across the Survey Area. The Class III report and addendum was submitted to the SHPO. In its response dated September 8, 2021, SHPO concurred with the finding of “no historic properties affected”.

Siting Criteria

11. The Commission has established criteria pursuant to North Dakota Century Code Section 49-22.1-03 to guide the site, corridor, and route suitability evaluation and designation process. 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.

12. MDU evaluated the Project for the 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 width unless there is no reasonable alternative. A transmission facility route must not be sited within an Exclusion Area.

14. MDU's studies and surveys did identify one Exclusion Area within the Survey Area; specifically, critical habitat for the piping plover along the Missouri River. Project impacts will not be in excess of existing disturbance and therefore will have no impact to the piping plover's critical habitat.

15. 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.

16. Historical resources which are not specifically designated as exclusion or avoidance areas are designated avoidance areas under North Dakota Administrative Code Section 69-06-08-02(2)(c). MDU's Class III Cultural Resources Inventory recorded one previously recorded site. Cultural and archeological resources identified within the survey area will be avoided; therefore, no impacts are expected.

17. MDU's surveys identified two Avoidance Areas within the Survey Area. The Missouri River was identified as a water supply source and the North Dakota Game and Fish Department has a recreational fishing facility along the Missouri River. Both of these identified Avoidance Areas will be avoided during construction.

18. MDU's studies and surveys did not record any other Avoidance Areas within the Survey Area.

19. In accordance with the Commission's Selection Criteria set forth in North Dakota Administrative Code 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. MDU has analyzed the impacts of the Project in relation to all relevant Selection Criteria.

20. Wetlands are a selection criteria. One wetland intersects the 100-foot wide Survey Area boundary but will be avoided using the horizontal drilling technique.

21. The Project will have no significant adverse effects on the Commission's Selection Criteria.

22. MDU analyzed the relevant Policy Criteria set forth in Section 69-06-08-02(4) of the North Dakota Administrative Code. There is no need for the Commission to give preference to the applicant in this proceeding.

Additional Measures to Minimize Impact

23. MDU has agreed to a number of steps to mitigate 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.

24. The Project will be constructed according to standards of the American Society for Testing and Materials (ASTM), the Occupational Safety and Health Administration (OSHA), the American Water Works Association (AWWA), the National Fire Protection Association (NFPA), the American Concrete Institute (ACI), the American Society of Mechanical Engineers (ASME), Federal Specifications (FS), and all other construction standards that may apply.

25. MDU has submitted its Safety and Emergency Plan, which is included in Hearing Exhibit 1, Appendix C.

26. MDU will employ standard monitoring and maintenance procedures to limit the spread of noxious weeds.

27. There are no anticipated impacts to trees, shrubs, and saplings, as the proposed Route avoids these areas.

28. MDU will secure General Construction Permit for Stormwater Discharge from the North Dakota Department of Environmental Quality.

29. MDU will take appropriate measures to ensure erosion controls and practices are followed and dust control measures minimize the impact to the Project disturbance area.

30. MDU will participate in the North Dakota One-Call notification system.

31. MDU will comply with all applicable safety laws and standards.

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

Conclusions of Law

1. The Commission has jurisdiction over the applicant, Montana-Dakota Utilities Co., and the subject matter of the Application under Chapter 49-22.1 of the North Dakota Century Code (NDCC).
2. MDU is a utility as defined in NDCC section 49-22.1-01(13).
3. The Project is a gas or liquid transmission facility as defined in NDCC section 49-22.1-01(7).
4. The construction, operation, and maintenance of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The Project is compatible with environmental preservation and the efficient use of resources.
6. The construction, operation, and maintenance of the Project minimizes 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.

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

Order

1. Montana-Dakota Utilities Co. shall construct, operate, and maintain the pipeline in accordance with the Commission's Findings of Fact.
2. Certificate of Corridor Compatibility No. 226 is issued to Montana-Dakota Utilities Co. designating a corridor generally 100-feet-wide for the construction, operation, and maintenance of approximately 2,684 feet of 12-inch diameter water pipeline and associated facilities in Morton County, North Dakota, as identified in Hearing Exhibit 6 and identified precisely by the associated GIS map data.
3. Route Permit No. 236 is issued to Montana-Dakota Utilities Co. designating a route for the construction, operation, and maintenance of approximately 2,684 feet of 12-inch diameter water pipeline and associated facilities in Morton County, North Dakota, as identified in Hearing Exhibit 6 and identified precisely by the associated GIS map data.

The designated route includes a route construction buffer of 15 feet on each side of the designated route, contingent upon not impacting an avoidance area unless MDU receives written authorization, from the Commission before conducting any associated construction activities, that MDU may impact the avoidance area. Construction activities must not impact an exclusion area.

4. The Certification Relating to Order Provisions – Transmission Facility Siting (Certification), executed March 21, 2022, is incorporated by reference and attached to this Order.

5. To the extent there are any conflicts or inconsistencies between MDU’s Application and the Certification, the Certification provisions control.

6. If a spill by MDU requires notification to any other state or federal agency, MDU will also inform the Commission of such spill within 24 hours of occurrence by leaving a message at the Commission’s Toll Free Number, with a follow-up email to the Commission’s Executive Secretary.

7. MDU 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.

8. MDU 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


Randy Christmann
Commissioner


Julie Fedorchak
Chair


Sheri Haugen-Hoffart
Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Certificate of Corridor Compatibility Number 226

This is to certify that the Commission has designated a transmission facility corridor for Montana-Dakota Utilities Co. designating a corridor generally 100-feet-wide for the construction, operation, and maintenance of approximately 2,684 feet of 12-inch diameter water pipeline and associated facilities in Morton County, North Dakota.

This certificate is issued in accordance with the Order of the Commission dated May 4, 2022, in Case No. PU-22-34 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, May 4, 2022.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Route Permit Number 236

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 2,684 feet of 12-inch diameter water pipeline and associated facilities in Morton County, North Dakota.

This permit is issued in accordance with the Order of this Commission dated May 4, 2022, in Case No. PU-22-34 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, May 4, 2022.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Montana-Dakota Utilities Co.
12-inch Water Pipeline Project – Morton County
Siting Application**

Case No. PU-22-34

**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 49-22.1 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 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:

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 reseedling 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 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.
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 agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
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:

35. 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. §49-22.1-15.
36. Company will specifically identify which subsection of NDCC 49-22.1-15 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.
37. **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 49-22.1-15(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.

38. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22.1-15(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.

39. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22.1-15(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.

40. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22.1-15(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.

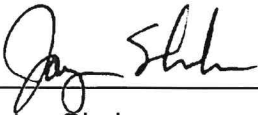
Company acknowledges and agrees that:

- 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.

- 41. 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 21st day of March, 2022.

MONTANA-DAKOTA UTILITIES CO.

By 

Jay Skabo

Its Vice President – Electric Supply