

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Minnkota Power Cooperative, Inc.
Milton R. Young Transmission Line Reroute - Oliver
Siting Application

Case No. PU-24-321

ORDER

September 27, 2024

Preliminary Statement

On August 26, 2024, Minnkota Power Cooperative, Inc. (Minnkota) filed applications for a corridor certificate, route permit and a waiver of procedures and time schedules authorizing the rerouting of two existing 230 kV electric transmission lines approximately 1,309 feet south of their current locations to accommodate Project Tundra (Application). The proposed rerouted corridor and route are within Township 141 North, Range 83 West, Sections 4 and 5 in Oliver County, North Dakota.

Minnkota requested the Commission waive procedures and time schedules under North Dakota Century Code (NDCC) chapter 49-22 and North Dakota Administrative Code (NDAC) article 69-06 to allow consolidated applications for corridor certificate and route permit and waive the requirement to hold a public hearing.

Also on August 26, 2024, the Commission issued a Notice of Filing and Notice of Opportunity for Public Hearing (Notice). The Notice provided until September 23, 2024, for receiving comments or requests for Hearing. No response was received. The Notice specified that if deemed appropriate, the Commission can determine the matter without a formal hearing.

The Notice identified the following issues 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 and 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 with respect to the consolidated application for a certificate of corridor compatibility and a 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 September 17, 2024, Minnkota filed an executed Certification relating to Order Provisions – Transmission Facility Siting along with supplemental information.

Discussion

1. Minnkota Power Cooperative, Inc. is a foreign corporation authorized to do business in the State of North Dakota as evidenced by the corporate papers filed with the Commission on January 9, 2012, in Case No. PU-12-28.

Size, Type, and Preferred Location of Facility

2. The Project consists of the rerouting two 230 kV line segments, one approximately 5,110 feet long and the second approximately 4,947 feet long located in Oliver County, North Dakota. The Project originates at two existing transmission towers approximately 2,000 feet west of the Milton R. Young power station and extend in a rough u shape to the south and east with connections to two existing transmission towers approximately 2,000 feet east southeast of the Milton R. Young power station. The two existing 230 kV transmission lines were constructed in approximately 1971 and extend from Milton R. Young station to Mandan, North Dakota and a substation approximately 4,000 feet east northeast of Milton R. Young power station respectively.
3. Minnkota seeks a project corridor that is 300 feet wide centered between the two line segments in the Project as depicted in Appendix A, Figure 1 of Minnkota's Application.
4. The Project will be constructed using approximately 15 structures. The structures will consist of one single pole steel switch structure, four dead end steel single-pole structures, and ten steel H-frame structures. The average height of the structures is 120 feet, but structures will range from 95 to 140 feet due to existing topography of the area. The structures will be directly embedded into the ground between 11 and 20 feet deep and three feet in diameter. The dead end and switch structures will have guy wires.
5. The total cost to construct the Project is approximately \$3.2 million.

6. Minnkota initially planned to begin construction of the Project in September 2024 and complete construction by December 2024, however its September 17, 2024, filing indicated that this schedule is dependent upon permitting and outage coordination of the Milton R. Young power station and may be pushed back to the second or third quarter of 2025.

7. The existing transmission lines utilize a Supervisory Control and Data Acquisition (SCADA) system to relay messages between interconnection points. The Project includes the necessary fiber upgrades to continually allow the segment to interconnect to and use the broader transmission line SCADA system during operations.

8. The nearest residential dwelling is more than two miles from the location of the Project.

9. No tree clearing is needed for the Project.

Study of Preferred Location

10. Minnkota analyzed a Study Area for the Project that is approximately one mile wide (0.5 miles on either side of the Project Route) and encompasses approximately 990 acres.

11. Minnkota conducted a Class I Cultural Resource Literature Search and a Class III Cultural Resource Inventory on a 300-foot-wide area centered on the Project routes (Survey Area).

12. Minnkota initiated correspondence seeking comments from the following federal, state and local agencies regarding the Project:

- a. Federal: (1) Bureau of Indian Affairs; (2) U.S. Army Corps of Engineers; (3) U.S. Department of the Interior, Regional Environmental Officer; (4) U.S. Environmental Protection Agency; (5) U.S. Fish and Wildlife Service; (6) U.S. Forest Service.
- b. State: (1) North Dakota Department of Environmental Quality; (2) North Dakota Game and Fish Department; (3) North Dakota Industrial Commission; (4) North Dakota State Historic Preservation Office (SHPO).
- c. Local: (1) Apache Tribe of Oklahoma; (2) Fort Belknap Indian Community of Montana; (3) Three Affiliated Tribes of North Dakota.

Siting Criteria

13. The Commission has developed criteria pursuant to NDCC section 49-22-05 to guide the corridor and route suitability evaluation and designation process. The criteria, as set forth in NDAC section 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

14. Minnkota evaluated the Survey Area and route regarding the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

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

16. Minnkota's surveys did not record any exclusion areas within the Survey Area.

17. An Avoidance Area is a geographical area that may not be considered in the routing of a transmission facility unless the applicant demonstrates that, under the circumstances there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a 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 sites. Economic considerations alone are not sufficient to establish no reasonable alternative.

18. Minnkota's surveys did not record any Avoidance Areas within the Survey Area.

19. The Commission's Selection Criteria is set forth in North Dakota Administrative Code section 69-06-08-02(3). A site shall be approved only if it is determined that any significant adverse effects resulting from the location, construction, and operation of the facility as they relate to the selection criteria will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum.

20. Minnkota analyzed the effects that may result from the location, construction, and operation of the Project.

21. No significant adverse impacts will result from the location, construction and operation of the Project.

22. The Commission's Policy Criteria is set forth in North Dakota Administrative Code section 69-06-08-02(4). The Commission may give preference to an application demonstrating certain benefits of the energy conversion facility. Minnkota has committed to maximizing benefits that result from implementing the policies and practices applicable to the Project.

Measures to Minimize Impact

23. Minnkota has agreed to actions to mitigate the impact of the Project as indicated by the Certification Relating to Order Provisions – Transmission Facility Siting executed September 17, 2024.

24. Minnkota will obtain any necessary permits prior to constructing the Project.
25. Minnkota will follow the line marking recommendations of the Avian Power Line Interaction Committee.
26. Minnkota's Project construction and design will meet the requirements of the National Electric Safety Code, Rural Utilities Service, and other applicable local or national building codes.
27. Minnkota has developed an Unanticipated Discoveries Plan, which will be used during construction of the Project.
28. The Project is located entirely within the Milton R. Young facility fence line and access to the site is restricted.
29. Minnkota will utilize the North Dakota One Call system during construction.
30. The Commission has jurisdiction over the applicant, Minnkota and over the subject matter of these applications under North Dakota Century Code Chapter 49-22.
31. Minnkota is a utility as defined in North Dakota Century Code Section 49-22-03(14).
32. The Project is an electric transmission facility as defined in North Dakota Century Code Section 49-22-03(6).
33. 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.
34. The location, construction, and operation of the Project is compatible with the environmental preservation and the efficient use of resources.
35. 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.

Order

The Commission orders:

1. Minnkota Power Cooperative, Inc's consolidated application for a certificate of corridor compatibility and for a route permit is granted.
2. Minnkota Power Cooperative, Inc's application for a waiver of procedures and time schedules is granted.

3. Certificate of Corridor Compatibility No. 234 is issued to Minnkota Power Cooperative, Inc. designating a corridor for the construction, operation, and maintenance of approximately one mile of 230 kV electric transmission lines in Oliver County, North Dakota. For purposes of this Certificate, the designated corridor consists of a 300-foot-wide area centered on the two designated routes as depicted in Appendix A of the Application.

4. Route Permit No. 244 is issued to Minnkota Power Cooperative, Inc. designating a route for the construction, operation, and maintenance of approximately one mile of 230 kV electric transmission line in Oliver County, North Dakota. For purposes of this Permit, the designated route is as depicted as item 3 in Appendix A of the Application.

5. Route Permit No. 245 is issued to Minnkota Power Cooperative, Inc. designating a route for the construction, operation, and maintenance of approximately one mile of 230 kV electric transmission line in Oliver County, North Dakota. For purposes of this Permit, the designated route is as depicted as item 4 in Appendix A of the Application.


6. The Certification Relating to Order Provisions – Transmission Facility Siting executed September 17, 2024, is incorporated by reference and attached to this Order.

7. To the extent there are any conflicts or inconsistencies between Minnkota's application and the Certification, the Certification provisions control.


8. Prior to commencing construction of any portion of the proposed Project, Minnkota shall obtain all other necessary licenses and permits for construction of such portion, and shall provide copies to the Commission prior to construction of that portion of the Project.

9. Minnkota is required to comply with all applicable laws, rules, and/or regulations in the event it desires to construct another or a different electric transmission facility than was specified in the application within the corridor designated in this proceeding.

PUBLIC SERVICE COMMISSION



Sheri Haugen-Hoffart
Commissioner



Randy Christmann
Chair



Julie Fedorchak
Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Certificate of Corridor Compatibility Number 234

This is to certify that the Commission has designated a transmission facility corridor for Minnkota Power Cooperative, Inc. for the construction, operation, and maintenance of approximately one-mile of 230 kV electric transmission lines and associated facilities in Oliver County, North Dakota.

This certificate is issued in accordance with the Order of the Commission dated September 27, 2024 in Case No. PU-24-321 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, September 27, 2024.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Route Permit Number 244

This is to certify that the Commission has designated a transmission facility route for Minnkota Power Cooperative, Inc. for the construction, operation, and maintenance of approximately one-mile of 230 kV electric transmission line and associated facilities in Oliver County, North Dakota. For purposes of this Permit, the designated route is as depicted as item 3 in Appendix A of the Application.

This permit is issued in accordance with the Order of this Commission dated September 27, 2024, in Case No. PU-24-321 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, September 27, 2024.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Route Permit Number 245

This is to certify that the Commission has designated a transmission facility route for Minnkota Power Cooperative, Inc. for the construction, operation, and maintenance of approximately one-mile of 230 kV electric transmission line and associated facilities in Oliver County, North Dakota. For purposes of this Permit, the designated route is as depicted as item 4 in Appendix A of the Application.

This permit is issued in accordance with the Order of this Commission dated September 27, 2024, in Case No. PU-24-321 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, September 27, 2024.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Minnkota Power Cooperative, Inc.
Milton R. Young Transmission Line Reroute - Oliver
Siting Application**

Case No. PU-24-321

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

I am Brendan Kennelly, a representative of Minnkota Power Cooperative, Inc. ("Company") with authority to bind 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 for an electric transmission line: 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. Once construction has started, Company shall keep the Commission updated on construction activities on a monthly basis.
10. 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.
11. 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.
12. 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.
13. 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.

14. 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.
15. 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:

16. 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.
17. 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.
18. 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.
19. 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.
20. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
21. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
22. 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.

23. 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.
24. 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:

25. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
26. 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.
27. 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.
28. 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.
29. 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.
30. 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:

31. Company agrees to utilize the following procedures if Company seeks a route adjustment before or during construction of the transmission line.

32. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application.

33.

34. **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.

35. **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;
- b. Specific information about any mitigation measures Company will take within the adjustment area;

- 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;
- d. 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;
- e. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

36. **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.

37. **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;

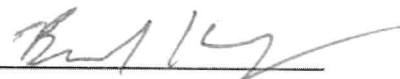
- c. Certification that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist within the designated corridor and route;
- d. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental 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:

- 38. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.
- 39. 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 17th day of September, 2024.

MINNKOTA POWER COOPERATIVE, INC.

By 
Brendan Kennelly

Its: Vice President of Power Delivery