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North Dakota Regulatory Process for High Voltage Transmission Lines

This fact sheet provides an overview of the regulatory approvals needed before a high voltage transmission line can be built in North Dakota. The CapX2020 utilities have prepared similar fact sheets for each of the jurisdictions involved in the CapX2020 projects. Visit www.capx2020.com for updated project information.

North Dakota Regulatory Process

A utility that wishes to construct a transmission facility in North Dakota first must inform the North Dakota Public Service Commission (PSC) with a Letter of Intent. Then, three applications must be filed and approved by the PSC before a high voltage transmission line can be built: a Certificate of Public Convenience and Necessity, a Certificate of Corridor Compatibility and a Route Permit. The Certificate of Corridor Compatibility and Route Permit proceedings examine related issues and therefore are similar.

Certificate of Public Convenience and Necessity

North Dakota Century Code Chapter 49-03 requires a determination that public convenience and necessity call for construction of the proposed facilities.

Certificate of Corridor Compatibility

North Dakota Century Code Chapter 49-22 governs proceedings to establish a corridor through which the proposed facilities may be routed.

Completeness Review: The PSC reviews the application for a Certificate of Corridor Compatibility and identifies any additional information needed to begin the review process. After the applica-

tion is found to be complete, the PSC notifies the appropriate people and agencies and publishes notice in a newspaper in each county in which the corridor is located. The PSC sets a hearing schedule and addresses any other deadlines and procedural matters.

Intervention: Anyone can attend the public meetings and present testimony without being listed as an official intervening party. Parties that formally intervene are typically represented by an attorney (though this is not required) and can present a formal case that may include: filing written testimony, cross examining witnesses and filing post hearing briefs. Parties must request intervenor status from the PSC. The PSC may set deadlines for formal intervention following its completeness determination.

Hearing on Certificate of Corridor Compatibility: The PSC may require a public hearing in each affected county as part of its review or it may consolidate the hearings. Notice is published prior to the start of the public hearings. Anyone can present testimony and express opinions concerning the proposal or alternatives.

Approval of Certificate of Corridor Compatibility

Application: Following the review of the application and the testimony and comments shared at the public hearings, the PSC designates a corridor for the proposed facilities or issues a decision explaining why it did not.

Route Permit

North Dakota Century Code Chapter 49-22 also requires a Route Permit. During Route Permit proceedings, the PSC examines alternative routes for the proposed facilities within the designated corridor.

Pre-Application Route Development Phase: Route development generally occurs in three stages during which applicants:

- Identify a study area; gather land use and resource information from federal, state and local agencies and governments; prepare maps.
- Identify routing options based on technical considerations, routing criteria and resource mapping.
- Compare and evaluate the routing options; select two or more routes to be included in a Route Permit application.

Completeness Review: The PSC reviews the application and identifies any additional information needed to begin the review process. After the PSC determines the application is complete, it notifies the appropriate people and agencies and publishes notice in a newspaper in each county where the approved corridor is located. The PSC sets a hearing schedule and addresses any other deadlines and procedural matters.

Intervention: Anyone can attend the public meetings and present testimony without being listed as an official intervening party. Parties that formally intervene typically are represented by an attorney (though this is not required) and present a formal case that includes: filing written testimony, cross examining witnesses and filing post hearing briefs. Parties must request intervenor status. The PSC sets deadlines for formal intervention after it determines the application is complete.

Hearing on Route Permit: The PSC may require a public meeting in each affected county as part of its review or it may consolidate the meetings. Notice is published prior to the start of the hearings. Anyone can present testimony and express opinions concerning the applicant's proposal or alternatives.

Approval of Route Permit Application: Following review of the application and the testimony and comments shared at the public hearing, the PSC approves a route for the proposed facilities within the designated corridor. However, the project may still be subject to other federal, state or local permitting considerations.

Concurrent Permitting in Other States: When a proposed high voltage transmission line involves a neighboring state, similar permitting processes are required and can be undertaken at the same time as the North Dakota process. For example, in Minnesota a transmission line project would require a Certificate of Need and Route Permit from the Minnesota Public Utilities Commission.

Federal Environmental Review: Before federal agencies grant loans or issue permits for transmission lines, the agencies must comply with requirements of the National Environmental Policy Act. Depending on the circumstances and the application of federal regulations, an Environmental Assessment or Environmental Impact Statement may be prepared. Federal environmental review is usually done concurrently or jointly with state environmental review.

Waiver of Procedures and Time Schedules: Upon a finding of minimal adverse effects or that a demonstrable emergency exists, the PSC may waive specified procedures and time schedules and may immediately issue certificates or permits.

Stay Informed

The best way to participate is to stay informed. Follow progress on the individual agency Web sites and on the CapX2020 Web site at www.capx2020.com.

North Dakota PSC: Can be contacted at (701) 328-2400 or by visiting www.psc.state.nd.us

Minnesota PUC: To view CapX 2020 filings, go to the PUC's Web site at www.puc.state.mn.us, click on E-dockets on the left-hand side, click on Search documents, and search for docket 06-1115. In the search field, "06" stands for the year 2006 (when the first CapX2020 document was filed). Use "06" for the year and "1115" in the second field, then press the search button.