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South Dakota Regulatory Process for High Voltage Transmission Lines

This fact sheet provides an overview of the regulatory process associated with the major approvals necessary before a high voltage transmission line can be built in South Dakota. The CapX 2020 utilities have prepared similar fact sheets for each of the jurisdictions involved in the CapX 2020 projects. Visit www.capx2020.com for updated project information.

South Dakota Regulatory Process

Decisions on need and routing for high voltage transmission lines are combined in South Dakota. The South Dakota Public Utilities Commission (PUC) reviews project applications and, if approved, grants an order for a permit for location, construction and operation of the proposed project. When reviewing an application, the PUC considers its compliance with relevant laws, the potential impact on the environment, social and economic conditions in the proposed project area, and the health, safety and welfare of nearby residents.

Facility Permit

South Dakota codified law Chapter 49-41B governs the state's regulatory process for permits to construct high voltage transmission lines. The PUC must decide whether to grant a permit to construct the proposed facility within 12 months of receiving the application.

Preliminary scoping/public meeting: The PUC permitting process begins with an informal public meeting held by the applicants. Multiple routes may be reviewed at the public meeting, but only one route is evaluated in the PUC review process. This meeting allows the public an opportunity to comment on the proposed transmission line route prior to the application filing.

Permit application: Applications must be filed with the PUC at least six months before the planned construction of the transmission lines.

Completeness review: The PUC reviews the application for completeness. If an application is not accepted, the PUC provides the reasons and allows the applicant to make changes. The PUC schedules public hearings once it accepts an application.

Legal notice: The applicant must notify in writing all landowners within a half mile of the proposed transmission line at least 30 days before the public hearings. The applicant also must publish notices in the official newspapers of the affected counties at least once a week for two consecutive weeks.

Pre-hearing conference: The PUC may require additional information prior to the hearing. The commission or the applicant may request a pre-hearing conference.

Public hearing: Within 30 days of a determination that the application is complete, the PUC will schedule a formal public hearing and notify the applicant, governments, landowners, the public and other relevant parties.

Intervention: Anyone can attend meetings and hearings. Parties to the permit proceedings include the PUC, the applicant and, upon timely application, municipalities, counties and government agencies in the area where the project is proposed; members of

the public living near the proposed route; and relevant non-profit organizations. Statements filed by parties to the permit proceedings become part of the record and are available to the public.

PUC decision: Within 12 months of the filing, the PUC must decide whether to grant the permit, and it must notify the applicant and parties to the proceeding of its decision within 10 days. A PUC order granting a permit includes approval of the route and allows construction to proceed.

Environmental Impact Statement (EIS): Under South Dakota codified law Chapter 34A-9 (the South Dakota Environmental Policy Act), prior to issuing a permit the PUC may prepare or require the preparation of an EIS to provide information about the project's potential environmental effects, ways to minimize these effects and possible alternatives to the project.

The type of project proposed determines whether an EIS is needed. If an EIS is required, a draft is prepared and circulated for comment to the relevant state and federal agencies and the public. The draft EIS, with comments, is made available to the public at least 30 days prior to the PUC's permitting decision. When the PUC approves a project that has been subject to an EIS, the commission must make an explicit finding that all legal requirements have been met and all feasible action will be taken to avoid or minimize any environmental problems addressed in the EIS. If a federal EIS is required, the state does not need to prepare one.

Concurrent permitting: Regulatory bodies in neighboring states oversee similar permitting processes.

Minnesota Public Utilities Commission

- Certificate of Need
- Route Permit

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 an Environmental Impact Statement may be prepared. Federal environmental review usually is done concurrently or jointly with state environmental review.

Stay informed

The best way to participate is to stay informed. Follow progress on the individual agency Web sites and on the CapX 2020 Web site at www.capx2020.com.

South Dakota PUC: Can be contacted at (605) 773-3201 or via the Web at www.puc.sd.gov.

Minnesota PUC: To view CapX 2020 filings, go to the PUC's Web site at www.puc.state.mn.us, click on E-documents 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 CapX 2020 document was filed). Use "06" for the year and "1115" in the second field, then press the search button.