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Energy Transmission Siting in North Dakota

An Overview of Procedures for Route Adjustments
Before or During Construction of Transmission Pipelines

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Introduction

- The North Dakota Energy Conversion and Transmission Facility Siting Act (the “Siting Act”) was enacted in 1975.
- Siting Act was enacted to insure that transmission facilities will produce minimal adverse effects on the environment.
- Transmission facilities cannot be located, constructed, and operated without corridor certificate and a route permit.

Introduction

- Companies desiring to construct transmission lines must make application for a corridor certificate and a route permit.
- Obtaining a corridor certificate and route permit is complex, time consuming and expensive.
- A Corridor certificate and route permit are effective for four (4) years.

Introduction

- Prior to 2013, any adjustment to a route required the Company make application to the Commission.
- Required a hearing or notice and opportunity for hearing.
- Process was very cumbersome and time consuming.
- Companies were reluctant to make adjustments.
- Siting Act was amended to simplify route adjustments.

Route Adjustments Generally

A. Statutory Route Adjustments

- Four categories of statutory route adjustments:
 - 1) route adjustments within a corridor, no exclusion or avoidance areas affected;
 - 2) route adjustments within a corridor, avoidance areas affected;
 - 3) route adjustments outside a corridor, no exclusion or avoidance areas affected;
 - 4) route adjustments outside a corridor, with avoidance areas affected.

Route Adjustments Generally

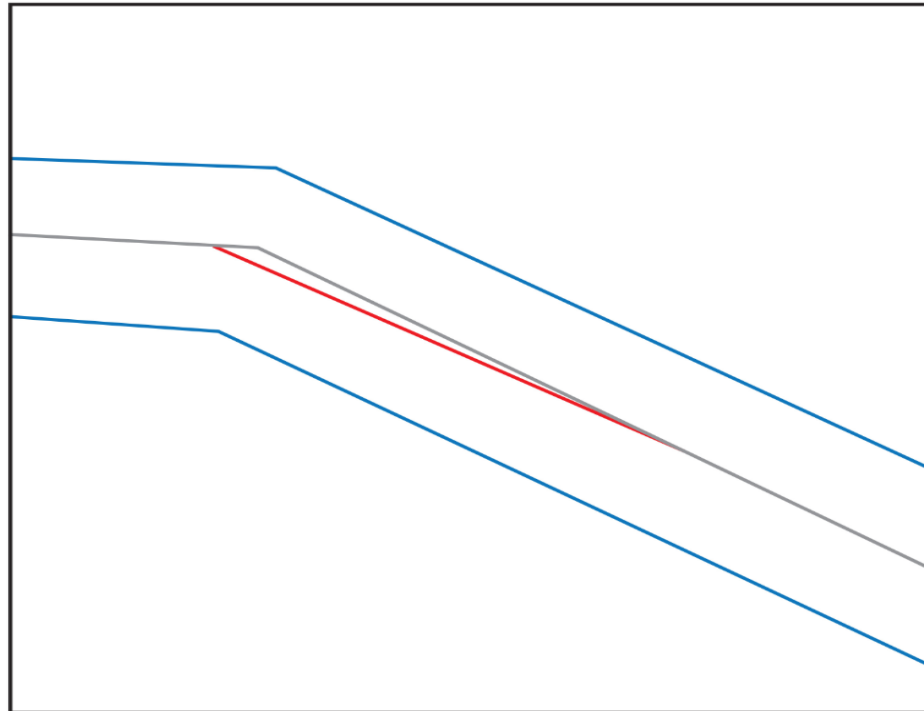
B. Non-Statutory Route Adjustments

- One category of non-statutory route adjustments:
 - 1) route adjustment for an unexpected find of cultural resource, archaeological site, or historical site.

Category 1 Route Adjustments

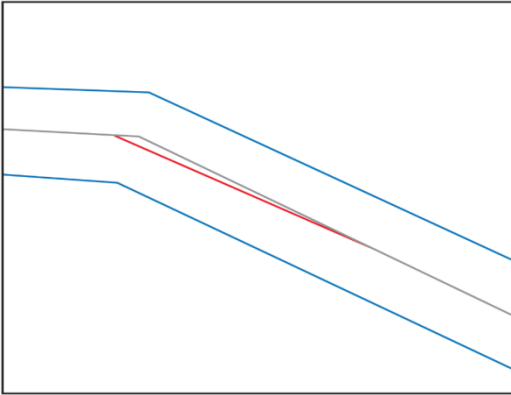
- Requirements for Category 1 Route Adjustments
 1. Documentation construction will be within the corridor;
 2. Documentation construction will not affect any known exclusion or avoidance areas; and
 3. Certification Company will comply with the Commission's order, laws, and rules.

Example of Category 1 Route Adjustment



- Category 1 Route Adjustments are the most common and are simplistic in nature.

Category 1 Route Adjustments



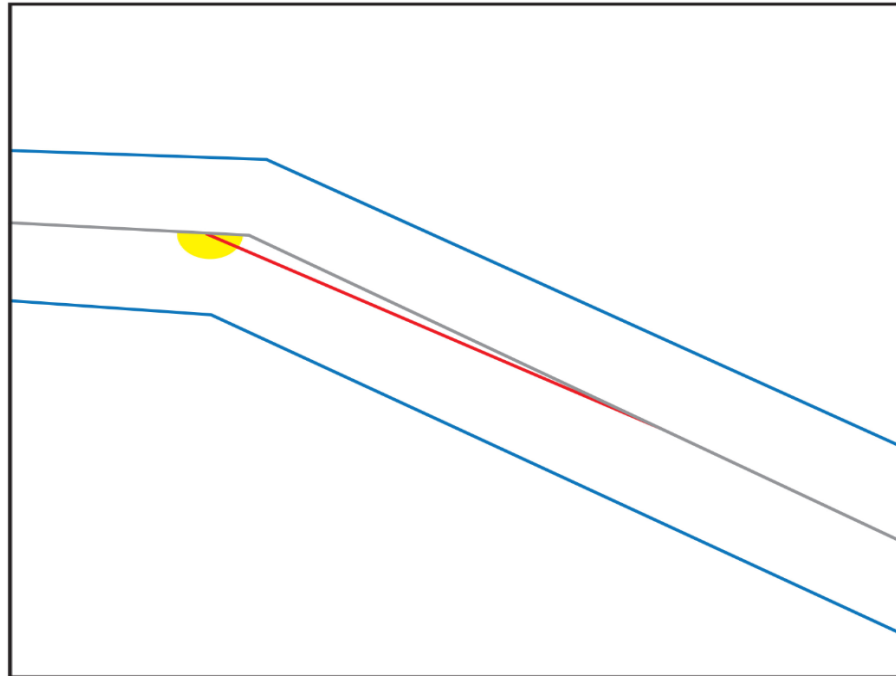
- Route is modified within the corridor.
- No exclusion or avoidance areas within the corridor.
- No written authorization of a Category 1 Route Adjustment is required prior to construction.

Category 2 Route Adjustments

Requirements for Category 2 Route Adjustments

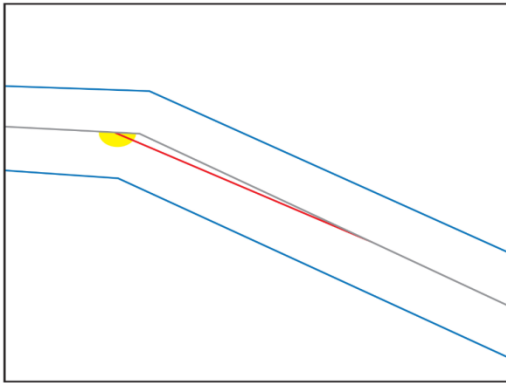
1. Documentation construction is within the corridor;
2. Documentation construction will not affect any known exclusion areas within the corridor;
3. Documentation of specific description of the avoidance area expected to be impacted;
4. Documentation each owner of real property on which the adjustment is to be located does not oppose the adjustment;
5. Documentation Company has good cause and a specific reason to impact the avoidance area, and a reasonable alternative does not exist; and
6. Documentation Company will comply with the Commission's order, laws, and rules.

Example of Category 2 Route Adjustment



- Category 2 Route Adjustments are also very common and simplistic in nature.

Category 2 Route Adjustments



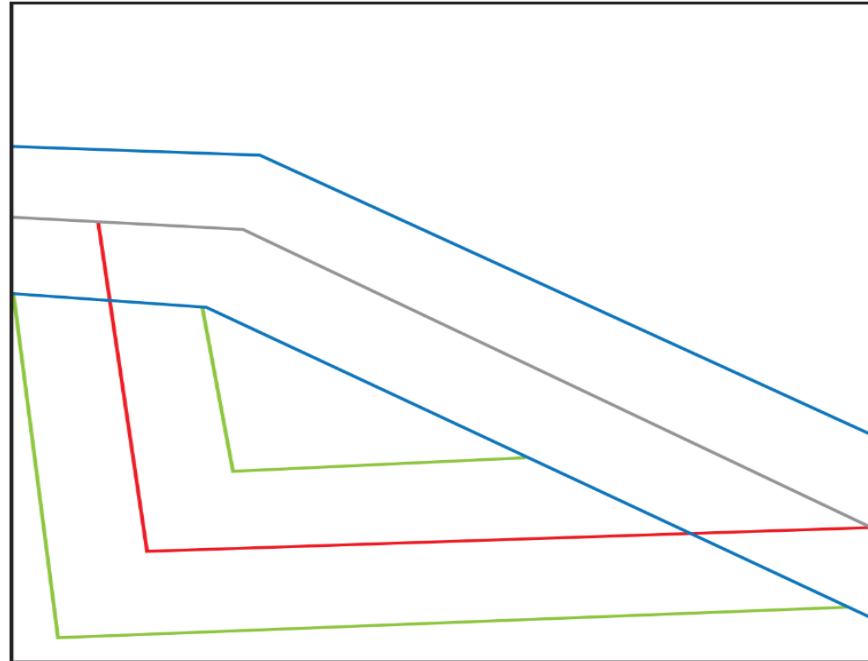
- Route is modified within the previously designated corridor, but may affect an avoidance area.
- The avoidance area, as depicted in yellow, is the only difference from a Category 1 route adjustment.
- The Commission must provide written acceptance of the Category 2 Route Adjustment prior to construction.

Category 3 Route Adjustments

Requirements for Category 3 Route Adjustments

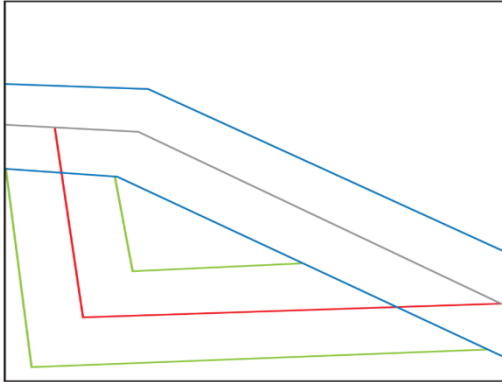
1. Documentation construction will not affect any known exclusion or avoidance areas;
2. Documentation route outside the corridor is no longer than one and one-half miles;
3. Documentation Company will comply with the Commission's order, laws, and rules;
4. Documentation affirming each owner of real property on which the adjustment is to be located does not oppose the adjustment.

Example of Category 3 Route Adjustment



- Category 3 Route Adjustments are also common, but require a more complex filing with additional information than that required for Category 1 or Category 2 Route Adjustments.

Category 3 Route Adjustments



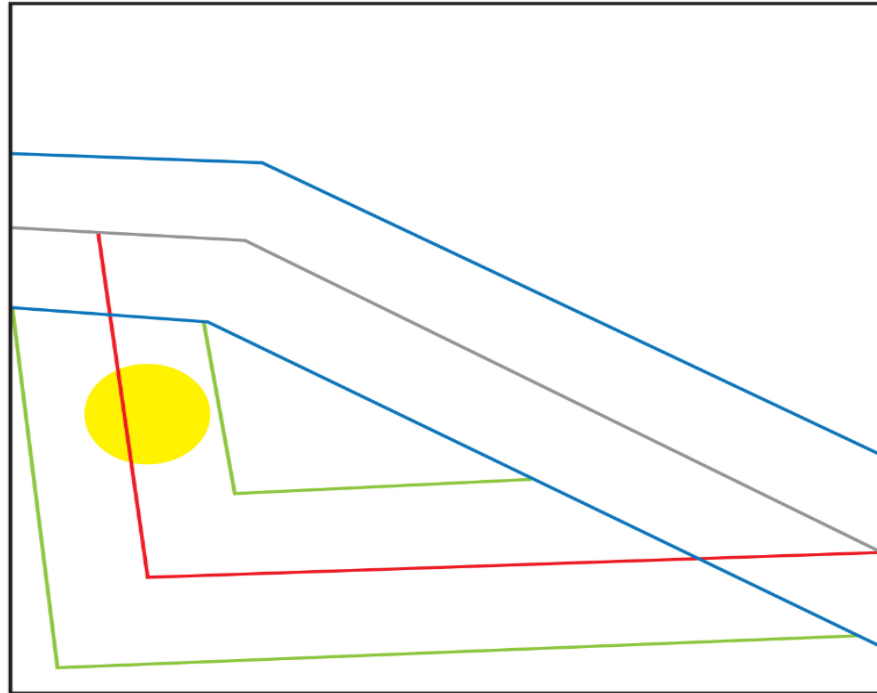
- Route falls outside of the previous corridor.
- There are no exclusion or avoidance areas within the new corridor.
- The adjustment cannot be longer than one and one-half (1.5) miles.
- No written authorization of a Category 3 Route Adjustment is required prior to construction.

Category 4 Route Adjustments

Requirements for Category 4 Route Adjustments

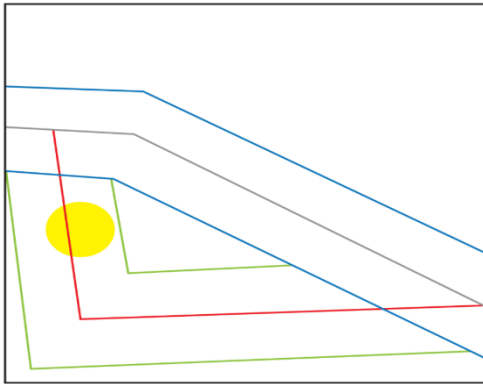
1. Documentation construction will not affect any known exclusion areas;
2. Documentation setting forth description of the avoidance area expected to be impacted;
3. Documentation Company has good cause and a specific reason to impact the avoidance area, and a reasonable alternative does not exist;
4. Documentation the route outside the corridor is no longer than one and one-half miles;
5. Documentation Company will comply with the Commission's order, laws, and rules; and
6. Documentation that each owner of real property on which the adjustment is to be located does not oppose the adjustment.

Example of Category 4 Route Adjustment



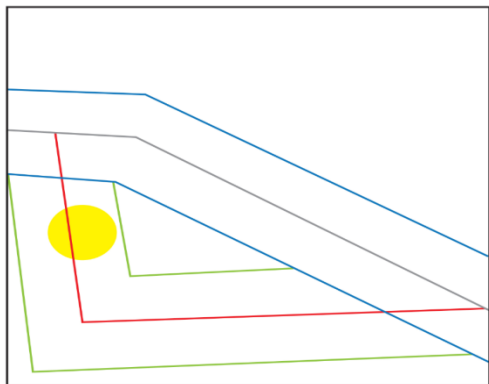
- Category 4 Route Adjustments are the least common and most complicated route adjustment type.

Category 4 Route Adjustments



- Route falls outside of the previously designated corridor, and the route adjustment may affect avoidance areas.
- A Category 4 Route Adjustment will require the adjusted corridor to be shown, along with the route adjustment.

Category 4 Route Adjustments



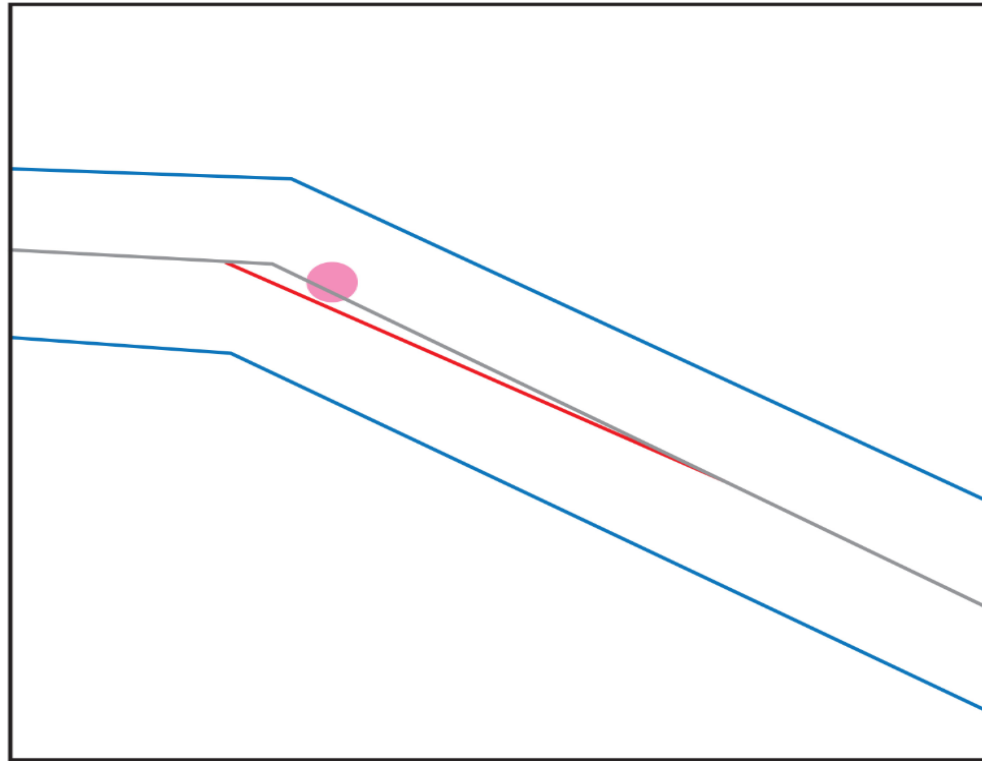
- Complexity of a Category 4 Route Adjustment necessitates a comprehensive understanding of the filing process prior to construction.
- Commission must provide written authorization of the Category 4 Route Adjustment request prior to construction.

Category 5 Non-Statutory Route Adjustments

Requirements for Category 1 Route Adjustments

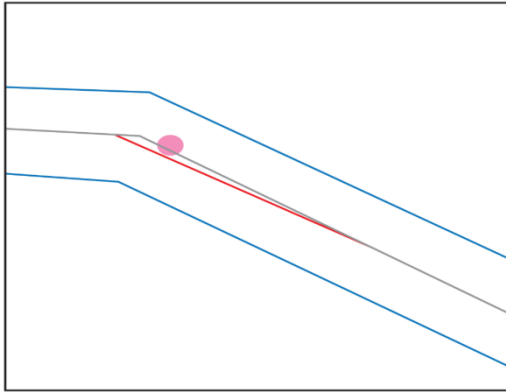
1. Resource or site must be marked, preserved, and protected until a professional examination and a report of such examination is filed with the Commission and the North Dakota State Historic Preservation Office (“SHPO”).
2. Following discovery of the Unexpected Find, clearance to proceed must be provided by the Commission.
3. Unexpected Find Route Adjustments are less common, but these adjustments can occur if a protected site is undiscovered prior to construction.

Example of Category 5 Non-Statutory Route Adjustment



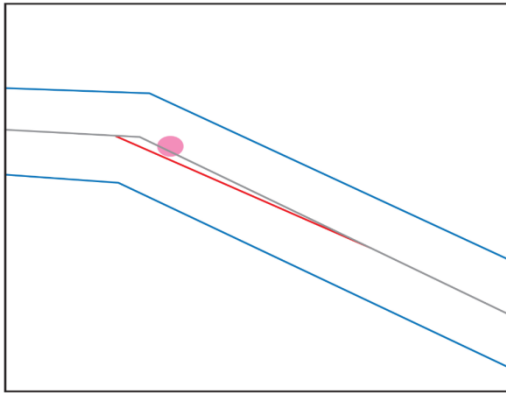
- Category 5 Route Adjustments are not common.

Category 5 Non-Statutory Route Adjustments



- Unexpected Find Route Adjustments are required when an archeological or similar site is encountered during construction.
- When area is encountered, construction activities must be halted and the site marked.

Category 5 Non-Statutory Route Adjustments



- Unexpected Find Route Adjustment, both the Commission and the SHPO must be notified and clearance to proceed must be given by the Commission.
- Commission must be notified of the Unexpected Find and the Company and Commission should work together to ensure the resource or site is not impacted.

Summary and Conclusions

- Statutory and non-Statutory route adjustments provide a process for adjusting a route approved by the Commission
 - The process is relatively straightforward.
 - The process does require a hearing or notice and opportunity for hearing.
 - The process is relatively quick.
 - Companies are less apprehensible about accommodating landowners requests for reroutes.

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