

CHAPTER 69-06-04
CERTIFICATE OF SITE COMPATIBILITY

Section

69-06-04-01 Application
69-06-04-02 Designation of Sites

69-06-04-01. Application.

1. **Form.** An application must be reproduced and bound to eight and one-half-inch by eleven-inch size. Accompanying maps must be folded to eight and one-half inches by eleven inches with the title block appearing in the lower right-hand corner.
2. **Contents.** The application must contain:
 - a. A description of:
 - (1) The type of energy conversion facility proposed;
 - (2) The gross design capacity;
 - (3) The net design capacity;
 - (4) The estimated thermal efficiency of the energy conversion process and the assumptions upon which the estimate is based;
 - (5) The number of acres that the proposed facility will occupy; and
 - (6) The anticipated time schedule for:
 - (a) Obtaining the certificate of site compatibility;
 - (b) Completing land acquisition;
 - (c) Starting construction;
 - (d) Completing construction;
 - (e) Testing operations;
 - (f) Commencing commercial production; and
 - (g) Beginning any expansions or additions.
 - b. Copies of any evaluative studies or assessments of the environmental impact of the proposed facility submitted to any federal, regional, state, or local agency.
 - c. An analysis of the need for the proposed facility based on present and projected demand for the product or products to be produced by the proposed facility, including the most recent system studies supporting the analysis of the need.
 - d. A description of any feasible alternative methods of serving the need.
 - e. A study area that includes the proposed facility site, of sufficient size to enable the commission to evaluate the factors addressed in North Dakota Century Code section 49-22-09.
 - f. A discussion of the utility's policies and commitments to limit the environmental impact of its facilities, including copies of board resolutions and management directives.

- g. A map identifying the criteria that provides the basis for the specific location of the proposed facility within the study area.
- h. A discussion of the criteria evaluated within the study area, including exclusion areas, avoidance areas, selection criteria, policy criteria, design and construction limitations, and economic considerations.
- i. A discussion of the mitigative measures that the applicant will take to minimize adverse impacts which result from the location, construction, and operation of the proposed facility.
- j. The qualifications of each person involved in the facility site location study.
- k. A map of the study area showing the location of the proposed facility and the criteria evaluated.
- l. An eight and one-half-inch by eleven-inch black and white map suitable for newspaper publication depicting the site area.
- m. A discussion of present and future natural resource development in the area.
- n. Map and GIS requirements. The applicant shall provide information that is complete, current, presented clearly and concisely, and supported by appropriate references to technical and other written material available to the commission. The information must provide the location of the proposed facilities, the proposed site, and the criteria evaluated.

Data must be submitted in the ESRI shapefile or geodatabase format. If the applicant cannot submit the data in the ESRI format, an alternate format may be submitted with written approval by commission staff. Data must include appropriate attribute data for the included features. Relevant and complete metadata in compliance with FGDC metadata standards must be provided with all files. Supporting documents such as base maps, figures, cross sections, and reports must be submitted in the portable document file (PDF). If the supporting documents were derived from GID/Cad files, the supporting GIS/Cad files must also be included in the submittal. Aerial photos (raster images) must be georeferenced and submitted in TIFF, GEOTIFF, or MrSID image file formats with the associated word files. Appropriate metadata must be provided with all files, such as the source for the raster images, dates of aerial photography, and the type of the imagery, color bands, i.e., black and white, color, color infrared, and any other pertinent data. All GIS base map data must be referenced to a published geographic or projected coordinate system. The appropriate systems would be North Dakota coordinate system of 1983, north and/or south zones US survey feet (NAD 83), UTM zone 13N or 14N meters (NAD 83), or geographic coordinate system (WGS 84) meters. The vertical datum must be the North American vertical datum of 1988. Tabular data (i.e., laboratory analytical data, water level evaluation data, monitor well construction data, well and boring X and Y location data, grain size analysis data, hydraulic conductivity data, etc.) must be submitted in either a Microsoft Excel or Microsoft Access database format or both if both are used. Textural data may be submitted in Microsoft Word or PDF format. The application may be submitted to the commission on the following media:

Compact disc (CD-ROM (CD-R)), digital versatile disc (DVD-R or DVD+R), or other media upon commission approval.

- 3. **Filing.** The applicant shall file an original and four copies of an application with the commission. The applicant shall provide additional paper copies upon commission request.
- 4. **Notice of filing.** The commission shall serve a notice of filing of a complete application on the following:

- a. The chairman of the board of county commissioners and the auditor of each county in which any part of the site is proposed to be located.
 - b. The chief executive officer of each city in a county in which any part of an energy conversion facility is proposed to be located.
 - c. The chief executive officer of each city within a proposed site for a transmission facility.
 - d. The agencies and officers entitled to notice as designated in section 69-06-01-05.
 - e. The state senators and representatives of each legislative district in which any part of the site is proposed to be located.
5. **Amendment of application.** The commission may allow an applicant to amend its application, consistent with North Dakota Century Code chapter 28-32 and North Dakota Administrative Code article 69-02, at any time during the pendency of an application. A rehearing may be required if the commission determines that a proposed amendment, which is received after the hearing process has been completed, materially changes the authority sought.
6. **Reapplication.** When a certificate is denied and the commission specifies a modification that would make it acceptable, the applicant may reapply. In a reapplication:
- a. The reapplication must be heard as specified in section 69-06-01-02.
 - b. The utility shall indicate its acceptance or rejection of the suggested modification.
 - c. If a suggested modification is rejected by the applicant, it shall propose an alternative modification.
 - d. Include a filing fee and any additional fees as specified in North Dakota Century Code chapter 49-22.
 - e. Reapplication must be made within six months of the order denying an application.

History: Amended effective August 1, 1979; April 1, 2013; January 1, 2022.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-08, 49-22-08.1

69-06-04-02. Designation of sites.

- 1. **Requirements of order.** An order approving the issuance of a certificate must contain findings that the application, with modifications, if any, meets the site or corridor evaluation process requirements of the Act.
- 2. **Modifications or special conditions.**
 - a. Any modifications or special conditions required by the commission are deemed to be accepted unless the applicant petitions for a rehearing.
 - b. If the applicant rejects any modifications or special conditions and proposes alternatives which it would accept, such a proposal shall be treated by the commission as an amendment to the application.
 - c. If the applicant rejects any modifications or special conditions without either requesting a rehearing or proposing alternatives, the commission shall rescind its order and deny the application.

3. **Issuance of a certificate.** When a site is approved, the commission shall issue a certificate in accordance with the order.

History: Amended effective April 1, 2011; April 1, 2013.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-08