

## Right-of-way acquisition and construction process in South Dakota

CapX2020 is a joint initiative of 11 transmission-owning utilities in South Dakota and the surrounding region to upgrade and expand the electric transmission grid to ensure continued reliable and affordable service.

Xcel Energy and Otter Tail Power Company are proposing to permit and construct a transmission line between the new Big Stone South substation near Big Stone City, S.D. and the Brookings County Substation near Brookings, S.D. This project is one of 16 multi-value projects (MVP) approved by the Midwest Independent Transmission System Operator (MISO) in December 2011. The information contained in this document is intended to provide you information on the general sequence of easement acquisition and construction processes as described below.

### LAND TITLE OWNERSHIP

CapX2020 will examine the public records for each parcel crossed by the transmission line. A title report will be prepared to determine the legal description of the property, establish the owners of record, and provide information regarding easements, liens, restrictions, encumbrances and other conditions of record.

### INITIAL LANDOWNER CONTACT

CapX2020 will compile a preliminary list of landowners who could be affected by the proposed project route. Landowners will be mailed an introductory letter and informational materials. A right-of-way representative will then follow-up with each landowner (or his or her representative) to discuss the project, confirm the ownership interests, describe the process and answer questions. The representative will also obtain landowner input regarding the project and the property. Project route maps are preliminary, as accurate road right-of-way and survey data are still being acquired.

### SURVEY AND SOIL BORINGS

In certain cases, CapX2020 will contact landowners in order for survey crews to enter the property to complete preliminary survey work or wetland delineation. A soil boring contractor may also need to take soil borings, which will proceed only after authorization is received to enter the property. The data obtained by the survey crews will be used to refine a preliminary design.

### STRUCTURE LOCATION STAKING

As the design is completed, survey crews will identify the transmission line's centerline and the location for each pole. This may allow the landowner an opportunity to review potential pole locations prior to entering an easement or option agreement.

### DOCUMENT PREPARATION

CapX2020 will prepare all documents required to complete each easement transaction. Typical documents might include easement, option agreement and clearing and construction access notice. The CapX2020 utilities that will own the line will be named as parties to these documents; one of them will be designated as the authorized agent to represent the operating companies when dealing with the landowner on easement and line issues.

### EASEMENT EVALUATION

CapX2020, with the assistance of qualified appraisers, will develop a compensation payment for each easement in a consistent, fair and equitable manner. In addition to the compensation payment for the easement, CapX2020 will offer landowners an incentive payment to acquire the easement through negotiation.

## NEGOTIATED AGREEMENT

A CapX2020 representative will meet with the landowner to present and discuss maps showing the proposed location of the easement and the line route across the landowner's parcel. In addition, the representative will present the compensation payment and the legal documents to the landowner, including the option agreement and easement document. After the issues have been discussed and the landowner's questions have been answered, the landowner will be allowed a reasonable amount of time in which to consider the transaction. The CapX2020 representative will work closely with the landowner to resolve concerns and reach agreement.

## ACQUISITION BY EMINENT DOMAIN (CONDEMNATION)

In some cases, the parties may not be able to reach a negotiated agreement. In those situations, CapX2020 will need to use the eminent domain process (also known as "condemnation") to acquire the easement. The condemnation procedure for a utility is governed under South Dakota Codified Laws Chapter 21-35

Prior to commencing the condemnation proceeding, CapX2020 will submit a written offer to purchase the easement, including information on how the offer was developed.

CapX2020 will remain available to negotiate with landowners while the condemnation process is underway. If the parties reach an agreement while the condemnation proceeding is pending, CapX2020 will take the steps necessary to dismiss the proceeding with respect to the settled parcel(s).

Landowners should consult with legal counsel regarding their rights with respect to eminent domain proceedings.

## THE CONSTRUCTION PROCESS

As part of the easement acquisition process, the CapX2020 representative will discuss with the landowner the construction schedule. During construction, the following may be required, if applicable:

- Construction access to the easement
- Temporary removal or relocation of certain fences
- Installation of temporary gates
- Early harvest of crops where possible
- Removal or relocation of equipment and livestock from the right-of-way
- Removal and disposal of vegetation
- Construction survey staking - pole locations and right-of-way limits
- Installation of pole foundations and disposal of excess soil material
- Erection of poles on foundations
- Stringing and attachment of wires (conductors)
- Construction clean-up and restoration
- Damage settlement

## RESTORATION AND CLEAN UP

The CapX2020 representative will assess and tabulate any damages incurred during construction and contact each property owner after construction is complete to settle claims for any such damages. After construction is complete, CapX2020 will restore the damaged property as close as possible to its original condition. If damage occurred to crops, fences or other property during construction, CapX2020 will fairly reimburse the landowner for those damages.